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21 UNITED STATES DISTRICT COURT  
22 CENTRAL DISTRICT OF CALIFORNIA

23 STACE CHEVEREZ, individually  
and on behalf of others similarly  
24 situated,

Plaintiff,

25 v.

26 PLAINS ALL AMERICAN  
27 PIPELINE, L.P., a Delaware limited  
partnership,  
28

Case No. 2:15-CV-04113-PSG-JEM

**NOTICE OF UNOPPOSED MOTION  
AND UNOPPOSED MOTION FOR  
CONSOLIDATION AND  
APPOINTMENT OF INTERIM CO-  
LEAD CLASS COUNSEL UNDER  
RULE 23(G) AND ENTRY OF CASE  
MANAGEMENT ORDER;  
MEMORANDUM IN SUPPORT**

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Defendant.

MARK HICKS, individually and on behalf of others similarly situated,

Plaintiff,

v.

PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, PLAINS PIPELINE, L.P., a Texas limited partnership, and JOHN DOES 1 through 10,

Defendants.

Case No. 2:15-CV-04573 PSG (JEMx)

ALEXANDRA B. GEREMIA, as Trustee for the Alexandra Geremia Family Trust dated 8/5/1998

Plaintiff,

v.

PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, PLAINS PIPELINE L.P., a Texas limited partnership,

Defendants.

Case No. 2:15-CV-4759 PSG (JEMx)

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KEITH ANDREWS, TIFFANI ANDREWS, SARAH RATHBONE, JOSH CHANCER, JOSEPH VIENS, CORT PIERSON, and WEIHAI ZHUANG, individually and on behalf of others similarly situated,  
  
Plaintiffs,  
  
v.  
  
PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, PLAINS PIPELINE, L.P., a Texas limited partnership, and JOHN DOES 1 through 10  
  
Defendants.

Case No. 2:15-CV-4989 PSG (JEMx)

ISLA VISTA SURF LESSONS, individually and on behalf of others similarly situated,  
  
Plaintiff,  
  
v.  
  
Plains All American Pipeline, L.P.,  
  
Defendant.

Case No. 2:15-CV-05118 PSG (JEMx)

RICHARD LILYGREN, individually and on behalf of others similarly situated,  
  
Plaintiff,  
  
v.  
  
PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, PLAINS PIPELINE, L.P., a Texas limited partnership,  
  
Defendants.

Case No. 2:15-CV-07051-MMM-PJW

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**NOTICE OF MOTION**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that as soon as this case may be heard before the Honorable Philip S. Gutierrez of the United States District Court, Central District of California, Western Division, located at Courtroom 880, Roybal Federal Building, 255 East Temple Street, Los Angeles, CA 90012. Plaintiffs Stace Cheverez, Mark Hicks, Alexandra B. Geremia, Keith Andrews, Tiffani Andrews, Josh Chancer, Cort Pierson, Sarah Rathbone, Joseph Viens, Weihai Zhuang, Isla Vista Surfing Lessons, and Richard Lilygren will and hereby do, move the Court for consolidation of related cases and for appointment of Interim Class Counsel, Co-lead Counsel, and Trial Counsel, as set forth in the [Joint Proposed] Case Management Order No. 1. This unopposed motion is made following the conference of counsel pursuant to L.R. 7-3 which took place over the course of several weeks.

Pursuant to Rule 42(a)(2) of Federal Rules of Civil Procedure, Plaintiffs move to consolidate six (6) class action cases currently pending before this Court, *Cheverez v. Plains All American Pipeline, L.P.*, 2:15-CV-4113; *Hicks v. Plains All American Pipeline L.P.*, 2:15-CV-4573; *Geremia v. Plains All American Pipeline, L.P., et al.*, 2:15-CV-4759; *Andrews v. Plains All American Pipeline, L.P., et al.*, 2:15-CV-4989; *Isla Vista Surfing Lessons v. Plains All American Pipeline, L.P.*, 2:15-CV-5118, and *Lilygren v. Plains All American Pipeline, L.P., et al.*, 2:15-CV-07051-MMM-PJW, as well as any additional cases that are hereafter filed in or removed to this Court and involve the subject matter at issue. All of these class action cases have been filed on behalf of a proposed class of businesses and private citizens whose livelihood and property have been adversely affected by the oil spill which occurred on May 19, 2015 in Santa Barbara County. Consolidating the cases will be the most efficient and effective way of litigating the claims on behalf of the proposed class.

1 Pursuant to Rule 23(g)(3) of the Federal Rules of Civil Procedure, Plaintiffs  
2 further seek the appointment of Interim Class Counsel, consisting of five firms:  
3 Lieff Cabraser Heimann & Bernstein, LLP; Keller Rohrback L.L.P.; Cappello &  
4 Noël LLP; Audet & Partners, LLP; and Kazerouni Law Group, APC. Each of these  
5 firms has filed at least one class action complaint and so has been retained by  
6 proposed class representatives willing to represent the interests of the proposed  
7 class. Lieff Cabraser and Keller Rohrback, who collectively have filed three of the  
8 six complaints on behalf of nine of the twelve plaintiffs, are proposed as Interim  
9 Co-Lead Counsel. Plaintiffs also seek the appointment of A. Barry Cappello of  
10 Cappello & Noël LLP as Lead Trial Counsel.

11 Counsel are experienced class action attorneys with particular expertise in  
12 cases involving oil spills and their impact on communities. Each firm has the  
13 resources necessary to efficiently prosecute this case on behalf of the proposed  
14 class.

15 Plaintiffs' unopposed motion is based on this notice, the memorandum of  
16 points and authorities below, and accompanying declarations of counsel in support  
17 of Plaintiffs' unopposed motion, the [Joint Proposed] Case Management Order  
18 No. 1, and any additional argument, filings, and evidence the Court may consider in  
19 connection with this motion.

## 20 **MEMORANDUM OF POINTS AND AUTHORITIES**

### 21 **I. INTRODUCTION**

22 Plaintiffs Stace Cheverez, Mark Hicks, Alexandra B. Geremia, Keith  
23 Andrews, Tiffani Andrews, Josh Chancer, Cort Pierson, Sarah Rathbone, Joseph  
24 Viens, Weihai Zhuang, Isla Vista Surfing Lessons, and Richard Lilygren  
25 (collectively, "Plaintiffs") respectfully move for consolidation, pursuant to Federal  
26 Rule of Civil Procedure 42, of the above-captioned cases filed against Plains All  
27 American Pipeline, L.P. and Plains Pipeline, L.P. (collectively, "Plains Pipeline" or  
28 "Plains"), as well as any additional cases that are later filed in or removed to this

1 Court and that are related to these cases.

2 As of this date, seven class action lawsuits have been filed against Plains,  
3 alleging similar legal and factual claims, all related to the May 19, 2015 Santa  
4 Barbara Oil Spill.<sup>1</sup> Plaintiffs' claims in all of these actions will require the Court to  
5 resolve "common questions of law or fact" and consolidation of the cases will  
6 eliminate duplication of efforts and make litigating the case more convenient and  
7 efficient for the parties and the Court.

8 Plaintiffs respectfully request that the Court appoint Lieff Cabraser Heimann  
9 & Bernstein, LLP; Keller Rohrback L.L.P.; Cappello and Noël LLP; Audet &  
10 Partners LLP; and Kazerouni Law Group APC, as Interim Class Counsel pursuant  
11 to Federal Rule of Civil Procedure 23(g), with Lieff Cabraser and Keller Rohrback  
12 serving as Interim Co-Lead Counsel. As detailed below, all counsel have the  
13 professional experience and economic resources to ensure the zealous prosecution  
14 of the class members' claims.

15 Accordingly, Plaintiffs request that the Court grant their motion to  
16 consolidate the six above-captioned federal cases filed against Plains, as well as any  
17 additional related cases that are hereafter filed in or removed to this Court, and  
18 appoint Interim Class Counsel, as proposed.

## 19 **II. FACTUAL AND PROCEDURAL BACKGROUND**

### 20 **A. Plaintiffs' Allegations**

21 On May 19, 2015, a 10- mile long, 24-inch oil pipeline in Santa Barbara,  
22 California, known as Line 901, ruptured, releasing over 100,000 gallons of crude  
23 oil onto pristine beaches and the Pacific Ocean. Plaintiffs allege that the oil spill has  
24 damaged the environment, disrupted marine life, spoiled property, and caused  
25 economic harm to local businesses. Plaintiffs in each of the cases allege

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26  
27 <sup>1</sup> *Savvy v. Plains All American Pipeline, L.P.* No. 2:15-CV-440-PSG-JEM is one of  
28 the seven cases filed but not included in this motion to consolidate. Counsel for  
*Savvy* will move for voluntary dismissal of that action.



1 substantially the same claims against Plains. Among other things, Plaintiffs allege  
2 first that Plains is strictly liable under the Lempert-Keene-Seastrand Oil Spill  
3 Prevention and Response Act because Plains is a party responsible for Line 901  
4 which ruptured and released thousands of gallons of oil into the surrounding  
5 environment. Next, that Plains is strictly liable for its failure to safely operate an  
6 ultrahazardous activity. Third, that Plains negligently installed, maintained, and  
7 operated its pipelines and that as a result of this negligence, Line 901 ruptured and  
8 damaged the surrounding environment. Next, that Plains violated California's  
9 Unfair Competition Law, in that by failing to abide by the Lempert-Keene-  
10 Seastrand Act and other laws, Plains engaged in unlawful business practices.  
11 Additionally, Plaintiffs charge that Plains failed to install, maintain and operate its  
12 pipeline in a safe manner and that these alleged failures contribute to a public  
13 nuisance.

14 **B. The Pending Federal Cases**

15 Stace Cheverez is an urchin diver and a nearshore fisherman. Mr. Cheverez  
16 alleges that the oil spill caused economic harm to him and other urchin fishermen  
17 because they are unable to harvest sea urchins that were killed or unfit for  
18 consumption as a result of the presence of oil in urchin's habitats. Mr. Cheverez  
19 filed a class action on June 1, 2015, and he is represented by Lieff Cabraser  
20 Heimann & Bernstein and Keller Rohrback.

21 Plaintiff Mark Hicks is the owner of Captain Jack's Santa Barbara Tours,  
22 which is a business that offers kayaking, sailing, beach, wine tasting, and horseback  
23 tours including tours of Refugio Beach, where the discharged oil spilled into the  
24 Pacific Ocean. Mr. Hicks alleges that, as a direct result of the oil spill, tourism at  
25 Refugio Beach experienced a sharp decline, and customers who had purchased  
26 tours with Captain Jack's Santa Barbara Tours cancelled their reservations. This  
27 case was filed on June 16, 2015, and this Plaintiff is represented by Lieff Cabraser  
28 Heimann & Bernstein and Keller Rohrback.

1 Plaintiff Alexandra B. Geremia is Trustee for the Alexandra Geremia Family  
2 Trust. The Trust is the record owner of ocean and beachfront property just north of  
3 Refugio Beach. Ms. Geremia alleges that when the thousands of gallons of crude oil  
4 spilled into the ocean, much of it washed directly on her property and her  
5 neighbor's properties, affecting the use, enjoyment and the property value of  
6 Ms. Geremia's land. This case was filed on June 23, 2015 and this Plaintiff is  
7 represented by Cappello & Noël LLP.

8 Plaintiffs Keith and Tiffani Andrews are sea cucumber fishermen who, like  
9 Plaintiff Cheverez, allege that they have experienced economic harm because the  
10 oil spill destroyed the marine habitat where they fish. Plaintiff Sarah Rathbone runs  
11 a "boat to table" business where she purchases fresh fish from fishermen and  
12 delivers them to consumers. Ms. Rathbone alleges her business suffered economic  
13 harm because the oil spill destroyed the marine habitat in Santa Barbara, forcing her  
14 to drive far away at great personal expense to fulfill her orders. Plaintiff Josh  
15 Chancer is a public school teacher who supplements his income by working as a  
16 commercial fisherman during the holidays. The oil spill occurred in precisely the  
17 waters where Mr. Chancer fishes. He alleges economic harm because he was not  
18 able to fish after the oil spill. Plaintiff Joseph Viens owns several ATMs in state  
19 parks and beaches along the Gaviota Coast. He relies upon the income he receives  
20 when people – mostly tourists – withdraw money from his ATMs. Mr. Viens and  
21 Plaintiffs allege that the oil spill caused a sharp decline in tourism, which lead Mr.  
22 Viens to lose income as fewer people were using his ATMs. Plaintiff Cort Pierson  
23 is a sea urchin fisherman like Plaintiff Cheverez. Like Mr. Cheverez, Mr. Pierson  
24 alleges he has experienced economic harm since the urchins he fishes for were not  
25 fit for sale or consumption as a result of the oil spill. Plaintiff Weihai Zhuang relies  
26 upon sea cucumber fishermen, as he runs a business of processing and exporting  
27 sea cucumbers. He alleges the oil spill resulted in a decline in the number of sea  
28 cucumbers fit for sale and consumption, which in turn led to a decline in

1 profitability for Mr. Zhuang's business. This action was filed on July 1, 2015 and  
2 these Plaintiffs are represented by Lieff Cabraser and Keller Rohrbach.

3 Plaintiff Isla Vista Surf Lessons is a business that runs a surf school in Santa  
4 Barbara. It relies on the thriving tourism economy to fill its surf school. Plaintiffs  
5 allege tourism in Santa Barbara heavily declined as a direct result of the oil spill,  
6 and Isla Vista Surf Lessons alleges harm to its business as a result. This case was  
7 filed on July 7, 2015, and this Plaintiff is represented by Audet & Partners, LLP.

8 Plaintiff Richard Lilygren is a resident of Santa Barbara County, California,  
9 citizen of California, and an offshore oil platform operator by trade. He has worked  
10 in the oil and gas industry since 2002. At the time of the spill, Mr. Lilygren had  
11 been working for eleven years at the offshore oil platforms Hidalgo and Harvest,  
12 operated by Freeport-McMoRan near Point Arguello. On July 13, 2015, shortly  
13 after the spill and subsequent closure of Lines 901 and 903, Mr. Lilygren lost his  
14 job because Freeport-McMoRan's oil and gas facilities were shut down. He has  
15 been out of work since then, and unable to find comparable employment. This  
16 lawsuit was filed on September 4, 2015 and this Plaintiff is represented by Cappello  
17 and Noël LLP.

18 As detailed in the Complaints, Plaintiffs are individuals or small businesses  
19 who allege economic harm due to the damage in the surrounding environment,  
20 including beaches, ocean, and wildlife. In essence, all Plaintiffs' claims boil down  
21 to same core allegations: Plains failed to install, maintain, and operate its pipeline in  
22 a safe manner, Plains failed to adequately respond to the ensuing spill, and as a  
23 result, the Plaintiffs suffered economic harm. Plaintiffs seek to represent a class of  
24 persons and businesses injured by the spill.

### 25 **III. THE COURT SHOULD CONSOLIDATE THE SIX FEDERAL CASES**

26 The Court should consolidate the above-captioned federal cases, as well as  
27 any related cases hereafter filed in or removed to this Court, as "*In re Plains Oil*  
28 *Pipeline 2015 Santa Barbara Oil Spill.*" Where cases before the same court

1 “involve a common question of law or fact, the court may . . . consolidate the  
2 actions.” Fed. R. Civ. P. 42(a). “The district court has broad discretion under this  
3 rule to consolidate cases pending in the same district.” *Investors Research Co. v.*  
4 *U.S. Dist. Ct. for Cent. Dist. of Cal.*, 877 F.2d 777, 777 (9th Cir. 1989). “To  
5 determine whether to consolidate, a court weighs the interest of judicial  
6 convenience against the potential for delay, confusion and prejudice caused by  
7 consolidation.” *In re Oreck Corp. Halo Vacuum & Air Purifiers Mktg. & Sales*  
8 *Practices Litig.*, 282 F.R.D. 486, 490 (C.D. Cal. 2012) (quoting *Sw. Marine, Inc. v.*  
9 *Triple A Mach. Shop, Inc.*, 720 F. Supp. 805, 807 (N.D. Cal. 1989) and *Huene v.*  
10 *United States*, 743 F.2d 703, 704 (9th Cir. 1984)).

11 Here, each of the six actions presents common questions of law and fact. The  
12 cases were each filed against the same defendant or defendants and allege that  
13 Plains’ practices led to an oil spill that damaged the environment, property, wildlife,  
14 and tourism and fishing economy in Santa Barbara. These cases arise from the same  
15 events, involve the same or substantially related or similar questions of law and fact,  
16 and would entail substantial duplication of labor if not consolidated.

17 Consolidating these six cases and any later filed or removed cases will  
18 streamline the litigation and make it more efficient for the Court to resolve the  
19 similar legal and factual issues involved in each of these cases. Moreover,  
20 consolidation will not cause any inconvenience, delay, or extra expenses as these  
21 cases are at the same initial stage of litigation. Instead, consolidation will minimize  
22 delay and costs and make the litigation more convenient and cost-efficient for the  
23 parties and the Court. Plaintiffs therefore request that the Court consolidate the six  
24 federal cases and any other cases alleging similar claims that are hereafter filed in  
25 or removed to this Court. Should the Court consolidate the pending matters,  
26 Plaintiffs will file a proposed Consolidated Amended Complaint by September 21,  
27 2015.

28

1 **IV. THE COURT SHOULD APPOINT INTERIM CLASS COUNSEL**

2 Pursuant to Rule 23(g)(3) of the Federal Rules of Civil Procedure, “[t]he  
3 court may designate interim counsel to act on behalf of a putative class before  
4 determining whether to certify the action as a class action.” *See generally* MANUAL  
5 FOR COMPLEX LITIGATION (FOURTH) § 10.22. Courts appointing interim class  
6 counsel must consider the following four factors:

- 7 (i) the work counsel has done in identifying or investigating potential  
8 claims in the action;  
9 (ii) counsel’s experience in handling class actions, other complex  
10 litigation, and the type of claims asserted in the action;  
11 (iii) counsel’s knowledge of the applicable law; and  
12 (iv) the resources that counsel will commit to representing the class.

13 Fed. R. Civ. P. 23(g)(1)(A); *see also In re Oreck Corp.*, 282 F.R.D. at 492  
14 (applying the criteria of Rule 23(g) in assessing lead interim class counsel).

15 Additionally, courts “may consider any other matter pertinent to counsel’s ability to  
16 fairly and adequately represent the interests of the class.” Fed. R. Civ. P.  
17 23(g)(1)(B).

18 These factors support the appointment of Lieff Cabraser Heimann &  
19 Bernstein, LLP, Keller Rohrback L.L.P., Cappello & Noël LLP, Audet & Partners,  
20 LLP, Kazerouni Law Group, APC, as Interim Class Counsel, with Lieff Cabraser  
21 and Keller Rohrback serving as Interim Co-lead Class Counsel and A. Barry  
22 Cappello of Cappello & Noël LLP serving as Lead Trial Counsel. As detailed  
23 below, each of these firms has already invested significant time and effort into  
24 investigating the claims and analyzing the legal issues that will drive the litigation.  
25 Nelson Decl. at 3-7; Sarko Decl. at 5; Cappello Decl. at 8; Audet Decl. at 6;  
26 Kazerounian Decl. at 4, 7. These firms also have the specific subject matter and  
27 procedural expertise necessary to obtain the best results for the class, with  
28 collective experience litigating upwards of a thousand class action cases, including

1 complex cases involving the largest oil spills in our nation's history, including the  
2 1989 Exxon-Valdez spill in Alaska and the more recent Deepwater Horizon oil spill  
3 in the Gulf of Mexico, as well as California oil spills such as the Cosco Busan spill  
4 in San Francisco Bay in 2007 and the 1969 Santa Barbara Channel Oil Spill.  
5 Nelson Decl. at 11-13; Sarko Decl. at 8-9; Cappello Decl. at 2-3; Audet Decl. at 3,  
6 7; Kazerounian Decl. at 10. Moreover, the firms have the resources necessary to  
7 ensure an effective prosecution against a well-resourced defendant like Plains.  
8 Nelson Decl. at 14-15; Sarko Decl. at 8, 14-15; Cappello Decl. at 8; Audet Decl. at  
9 8; Kazerounian Decl. at 6.

10 With a proposed leadership structure limited to five law firms, Proposed  
11 Interim Class Counsel can apply their professional experience and qualifications to  
12 prosecute this case in a cost-effective and efficient manner that will protect and  
13 advance the rights of all class members. This structure also assures that class  
14 members will have the benefit of counsel who are extraordinarily experienced in  
15 litigating the complex legal issues raised by this case.

16 Proposed Interim Co-Lead Class Counsel Lief Cabraser and Keller  
17 Rohrback's duties will include directing, coordinating, and supervising the  
18 prosecution of Plaintiffs' claims, coordinating work with other Interim Class  
19 Counsel and other Plaintiffs' counsel to avoid duplication and inefficiency in filing  
20 of pleadings or discovery, managing discovery, retaining experts, communicating  
21 with the Court and opposing counsel, co-trying the case under the direction of Lead  
22 Trial Counsel Cappello & Noël, or conducting settlement negotiations on behalf of  
23 Plaintiffs and the putative class, and collecting and reviewing time and expense  
24 records from all Plaintiffs' counsel on a monthly basis.

25 Proposed Lead Trial Counsel, Cappello & Noël, and specifically former  
26 Santa Barbara City Attorney A. Barry Cappello, shall serve as Lead Trial Counsel  
27 and duties will include active involvement in matters relating to preparation of the  
28 trial of the case, discovery, court hearings, involvement in overall case strategy,

1 settlement matters, and leading the trial presentation for the Class.

2 Plains has advised the moving parties that it takes no position on Plaintiffs'  
3 request for appointment of Interim Class Counsel.

4 **A. Interim Class Counsel Have Diligently Investigated Relevant Facts**  
5 **and Law**

6 The first factor supports the appointment of these counsel as Interim Class  
7 Counsel. These firms are the first five firms to file complaints against Plains. As  
8 such, each of the Proposed Interim Class Counsel has been retained by proposed  
9 class representatives to bring suit. Each of these law firms has met with victims of  
10 the spill and has established attorney client relationships with one or more of the  
11 proposed class representatives. As alleged in Plaintiffs' complaints, the livelihoods  
12 of many Santa Barbara citizens have been substantially impacted by the spill, and  
13 have entrusted Class Counsel to represent them.

14 In interviewing class representatives, Proposed Interim Class Counsel drew  
15 upon their experience in managing complex litigation and oil spill cases in  
16 particular to analyze the legal issues at hand and strategize as to how to efficiently  
17 proceed on behalf of Plaintiffs.

18 After the complaints were filed, Proposed Interim Class Counsel conferred  
19 with each other to discuss coordination and case scheduling to combine and  
20 streamline efforts on behalf of the proposed class. Nelson Decl. at 6; Sarko Decl.  
21 at 7; Cappello Decl. at 8; Audet Decl. at 5-6; Kazerounian Decl. at 8.

22 Beginning on July 16, 2015, Proposed Interim Class Counsel met and  
23 conferred with Plains' counsel to discuss Plaintiffs' plans for coordination and  
24 appointment of Interim Class Counsel before filing this motion, as well as critical  
25 initial scheduling and discovery matters. Nelson Decl. at 7. Those conversations  
26 have continued and counsel for Plains has been apprised of the issues set forth in  
27 this memorandum and the [Joint Proposed] Case Management Order No. 1.  
28

1           **B. Proposed Interim Class Counsel Have The Experience Necessary**  
2           **To Represent The Best Interests Of The Putative Class And Have**  
3           **Extensive Knowledge Of The Applicable Law**

4           The second and third factors under Rule 23(g) also support the appointment  
5 of these counsel as Interim Class Counsel due to their substantial and extensive  
6 experience and accomplishments in complex litigation, and successful  
7 representation of plaintiffs in related litigation. Each firm has served as lead or co-  
8 lead counsel in numerous nationwide class actions and is highly knowledgeable  
9 regarding the law applicable to oil spills.

10           **1. Lief Cabraser's Experience**

11           Lief Cabraser is one of the oldest, largest, and most respected law firms in  
12 the country that exclusively represents plaintiffs. Lief Cabraser has been  
13 recognized repeatedly as one of the nation's top plaintiffs' law firms, has  
14 prosecuted several hundreds of class actions on behalf of plaintiff classes, has  
15 served as lead class counsel and in other court-appointed leadership roles in  
16 numerous cases, and has recovered more than \$91 billion for its clients. Nelson  
17 Decl. at 8-14. Twenty-two cases were resolved for over \$1 billion; another 37 cases  
18 resulted in verdicts or settlements at or in excess of \$100 million.

19           The National Law Journal has recognized Lief Cabraser as one of the  
20 nation's top plaintiffs' law firms for twelve years, including for 2015, and Lief  
21 Cabraser is a member of its Plaintiffs' Hot List Hall of Fame. In compiling the list,  
22 The National Law Journal examines recent verdicts and settlements and looked for  
23 firms "representing the best qualities of the plaintiffs' bar and that demonstrated  
24 unusual dedication and creativity." In 2014, The National Law Journal recognized  
25 Lief Cabraser as one of the 50 Leading Plaintiffs Firms in America and named the  
26 firm to its Midsize Hot List. Nelson Decl. at 8.

27           U.S. News and Best Lawyers have selected Lief Cabraser as a national "Law  
28 Firm of the Year" each year the publications have given this award to law firms.  
For 2011, 2012, and 2014, Lief Cabraser was recognized in the category of Mass



1 Torts Litigation/Class Actions – Plaintiffs. For 2013, the publications selected our  
2 firm as the nation’s premier plaintiffs’ law firm in the category of Employment Law  
3 – Individuals. For 2015, we have again been recognized in the category of Mass  
4 Torts Litigation/Class Actions – Plaintiffs. Only one law firm in each practice area  
5 receives the “Law Firm of the Year” designation. Nelson Decl. at 10.

6 Lieff Cabraser attorneys currently serve on the court appointed Plaintiffs’  
7 Steering Committee and as court appointed class counsel for the class settlements in  
8 the 2010 Deepwater Horizon oil spill in the Gulf of Mexico. Class action  
9 settlements in that case have resulted in payments to class members to date in  
10 excess of \$7 billion. Nelson Decl. at 11.

11 Lieff Cabraser also served as court appointed co-lead counsel in the 1989  
12 Exxon Valdez oil spill in Prince William Sound, Alaska. That class case was tried  
13 on behalf of Alaska fisherman, and ultimately resulted in payments of more than \$2  
14 billion to the class. Nelson Decl. at 12.

15 Lieff Cabraser has served as court appointed lead counsel or co-lead counsel  
16 in a number of other important environmental cases, including the following:

17 *In re GCC Richmond Works Cases*, JCCP No. 2906 (Cal. Super. Ct.). Lieff  
18 Cabraser served as Co-Liaison Counsel and Lead Class Counsel in coordinated  
19 litigation arising out of the release on July 26, 1993, of a massive toxic sulfuric acid  
20 cloud which injured an estimated 50,000 residents of Richmond, California. The  
21 Coordination Trial Court granted final approval to a \$180 million class action  
22 settlement for exposed residents.

23 *In re Unocal Refinery Litig.*, No. C 94-04141 (Cal. Super. Ct.). Lieff  
24 Cabraser served as one of two Co-Lead Class Counsel and on the Plaintiffs’  
25 Steering Committee in this action against Union Oil Company of California  
26 (“Unocal”) arising from a series of toxic releases from Unocal’s San Francisco  
27 refinery in Rodeo, California. The action was settled in 1997 on behalf of  
28 approximately 10,000 individuals for \$80 million.

1           *West v. G&H Seed Co., et al.*, No. 99-C-4984-A (La. State Ct.). Lieff  
2 Cabraser represented a certified class of 1,500 Louisiana crawfish farmers who  
3 charged in a lawsuit that Fipronil, an insecticide sold under the trade name ICON,  
4 damaged their pond-grown crawfish crops. In 2004, the Court approved a \$45  
5 million settlement with Bayer CropScience, which during the litigation purchased  
6 Aventis CropScience, the original manufacturer of ICON. The settlement was  
7 reached after the parties had presented nearly a month's worth of evidence at trial  
8 and were on the verge of making closing arguments to the jury.

9           *Kingston, Tennessee TVA Coal Ash Spill Litig.*, No. 3:09-cv-09 (E.D. Tenn.).  
10 Lieff Cabraser represented hundreds of property owners and businesses harmed by  
11 the largest coal ash spill in U.S. history. On December 22, 2008, more than a billion  
12 gallons of coal ash slurry spilled when a dike burst on a retention pond at the  
13 Kingston Fossil Plant operated by the Tennessee Valley Authority (TVA) in Roane  
14 County, Tennessee. A wall of coal ash slurry traveled across the Emory River,  
15 polluting the river and nearby waterways, and covering nearly 300 acres with toxic  
16 sludge, damaging hundreds of properties. In the Fall of 2011, the court conducted a  
17 four week bench trial on the question of whether TVA was liable for releasing the  
18 coal ash into the river system. The issue of damages was reserved for later  
19 proceedings. In August 2012, the court found in favor of plaintiffs on their claims  
20 of negligence, trespass, and private nuisance. In August 2014, the case came to a  
21 conclusion with TVA's payment of \$27.8 million to settle the litigation.

22           *In re Sacramento River Spill Cases I and II*, JCCP Nos. 2617 & 2620 (Cal.  
23 Super. Ct.). On July 14, 1991, a Southern Pacific train tanker car derailed in  
24 northern California, spilling 19,000 gallons of a toxic pesticide, metam sodium, into  
25 the Sacramento River near the town of Dunsmuir at a site along the rail lines known  
26 as the Cantara Loop. The metam sodium mixed thoroughly with the river water and  
27 had a devastating effect on the river and surrounding ecosystem. Within a week,  
28 every fish, 1.1 million in total, and all other aquatic life in a 45-mile stretch of the

1 Sacramento River was killed. In addition, many residents living along the river  
2 became ill with symptoms that included headaches, shortness of breath, and  
3 vomiting. The spill is considered the worst inland ecological disaster in California  
4 history. Lieff Cabraser served as court appointed Plaintiffs' Liaison Counsel and  
5 Lead Class Counsel, and chaired the Plaintiffs' Litigation Committee in  
6 coordinated proceedings that included all of the lawsuits arising out of this toxic  
7 spill. Settlement proceeds of approximately \$16 million were distributed pursuant  
8 to Court approval of a plan of allocation to four certified plaintiff classes: personal  
9 injury, business loss, property damage/diminution, and evacuation.

10 *Kentucky Coal Sludge Litig.*, No. 00-CI-00245 (Cmmw. Ky.). On  
11 October 11, 2000, near Inez, Kentucky, a coal waste storage facility ruptured,  
12 spilling 1.25 million tons of coal sludge into waterways in the region and  
13 contaminating hundreds of properties. With co-counsel, Lieff Cabraser represented  
14 over 400 clients in property damage claims, including claims for diminution in the  
15 value of their homes and properties. In April 2003, the parties reached a  
16 confidential settlement agreement on terms favorable to the plaintiffs. Nelson Decl.  
17 at 13.

## 18 **2. Keller Rohrback's Experience**

19 Keller Rohrback has more than 25 years of experience representing injured  
20 parties in class actions nationwide. Sarko Decl., Ex. 1. The firm's nationally-  
21 recognized Complex Litigation Group routinely and successfully litigates matters  
22 involving environmental issues, mass torts, antitrust, consumer protection, breach  
23 of fiduciary duty, data breach and financial fraud and is a recognized leader in the  
24 field of complex class action matters. *Id.*

25 With more than 65 attorneys, the firm frequently serves as lead or co-lead  
26 counsel in some of the most prominent, high-stakes class action cases brought  
27 against corporate giants and Fortune 500 companies such as Enron, Worldcom,  
28 Citigroup, J.P. Morgan Chase, Duke Energy, Boeing, Dynegy, Wells Fargo, AIG,

1 Microsoft, Ford, and Merck, to name a few. Keller Rohrback has offices in Santa  
2 Barbara, Seattle, Phoenix and New York, and is experienced in handling complex  
3 class actions similar to this Action. *Id.* ¶¶ 8-9, Ex. 1. To date, the firm has achieved  
4 recoveries of more than \$7 billion on behalf of its clients and other class members.  
5 *Id.* The firm and its attorneys have received numerous awards, including Super  
6 Lawyer and Rising Star designations, the Beacon of Justice Award from the  
7 National Legal Aid & Defender Association, and the Washington Public Affairs  
8 Network's Founders Award.

9 A number of Keller Rohrback's lawyers emphasize environmental litigation.  
10 *Id.* ¶ 14. The firm routinely handles environmental litigation, involving such  
11 matters as chemical spills, home heating oil, contaminated drinking water,  
12 contaminated sediments, landfill leachate, metal smelting and finishing wastes, tank  
13 farms, chemical plants, and major manufacturing concerns. Current environmental  
14 cases include *Wishtoyo Found. v. Magic Mountain LLC, et al.*, No. 12-cv-05600  
15 (C.D. Cal.) and *Village of Rockton, Ill. v. Sonoco Prods. Co.*, No. 14-cv-50228  
16 (N.D. Ill.). *Id.* ¶¶ 8-14.

17 The members of the Complex Litigation Group, who will be primarily  
18 responsible for this case, have extensive experience in environmental law, litigating  
19 discovery issues, class certification motions, and substantive pretrial motions in  
20 complex class action cases, up to and through trial. (For detailed information on the  
21 following attorneys, *see* the attached resume. *Id.* ¶¶ 8-15, Ex. 1.) Lynn Sarko,  
22 managing partner of Keller Rohrback, represented class members in the Exxon  
23 Valdez Oil Spill litigation, and was appointed administrator of the Exxon and  
24 Alyeska Qualified Settlement Funds, the mechanisms through which compensatory  
25 and punitive damages were distributed to each class member. He was also a key  
26 member of the trial team that secured a jury verdict in excess of \$5 billion dollars  
27 against Exxon on behalf of fishermen, seafood processors, landowners,  
28 municipalities, area businesses, Native Americans, and tribal entities located in

1 Prince William Sound, Alaska, an accomplishment for which the team was awarded  
2 the Trial Lawyers' For Public Justice Trial Lawyers of the Year Award. The firm  
3 was responsible for quantifying and adjudicating the claims for over 30,000 class  
4 members.

5 Gretchen Freeman Cappio has been a member of Keller Rohrbach's Complex  
6 Litigation Group for more than 15 years. Ms. Cappio's practice focuses on a wide  
7 range of environmental contamination; and consumer and employee protection  
8 litigation. With other Keller Rohrbach attorneys, Ms. Cappio currently represents  
9 municipalities in the Midwest facing environmental contamination. Ms. Cappio's  
10 successes also include litigation that has resulted in safer baby products. She has  
11 had leadership roles in major litigation on behalf of young families, who discover  
12 their children's products are contaminated, such as *In re Mattel, Inc.*, multidistrict  
13 litigation regarding hazardous lead-contaminated and magnetic toys, and *In re BPA*  
14 *(bisphenol-A) Polycarbonate Plastic Prods. Litig.*, multidistrict litigation involving  
15 contaminated plastic baby bottles. In addition, Ms. Cappio served as co-lead  
16 counsel in a class action that fundamentally changed how home loans are modified  
17 at one of the largest banks in America: *In re JPMorgan Chase Mortg. Modification*  
18 *Litig.*, multidistrict litigation involving home mortgage modifications.

19 Daniel Mensher's practice focuses primarily on complex environmental and  
20 aggregate litigation. Mr. Mensher has litigated water and waste cases across the  
21 country, including *Northwest Env'tl. Advocates v. US EPA, Nat'l Fish & Wildlife*  
22 *Serv.*, and *National Marine Fisheries Serv.*, a successful challenge to inadequate  
23 temperature standards – a water quality factor critical to salmon survival rates –  
24 under the Clean Water Act and Endangered Species Act. Mr. Mensher also secured  
25 a \$10 million clean-up fund to address landfill leachate contaminating groundwater  
26 and the Tualatin River in *Northwest Env'tl. Defense Ctr. v. Grabhorn, Inc.* Before  
27 joining the firm, Mr. Mensher was a Clinical Professor and Staff Attorney at  
28 Earthrise Law Center, the environmental law clinic at Lewis & Clark Law School

1 in Portland, Oregon. He has also served as a law clerk to the Honorable Rick  
2 Haselton, of the Oregon Court of Appeals.

3 Matthew Preusch, who is based in our Santa Barbara office, has gained  
4 significant experience with environmental law issues as an honors attorney in the  
5 Oregon Department of Justice's appellate and trial divisions, as case notes editor for  
6 the Environmental and Natural Resources Section of the Oregon State Bar  
7 Association, and during his ten years as a journalist, covering regional and national  
8 news for *The Oregonian*, *The New York Times*, and other publications before  
9 attending law school. His experience reporting on environmental issues inspired  
10 him to obtain a law degree, and Environmental and Natural Resources Certificate,  
11 from Lewis & Clark Law School.

12 Juli Farris is the partner-in-charge of the Santa Barbara office and divides her  
13 time between Seattle and Santa Barbara. As a member of the Complex Litigation  
14 Group for more than 20 years, she has significant experience coordinating and  
15 managing multi-party class action litigation in matters such as *In re Worldcom*  
16 *ERISA Litig.*, *In re Anicom Secs. Litig.*, *In re IKON, Inc. Secs. Litig.* and *In re*  
17 *Carpet Antitrust Litig.* She has represented clients in a wide array of subject  
18 matters, including antitrust, banking, securities, financial fraud, mass torts,  
19 environmental law, and civil and criminal appeals.

20 Since the May 19 spill at Refugio State Beach, Keller Rohrback attorneys  
21 and staff have invested significant time and resources speaking to fishers, and other  
22 impacted parties, and investigating the facts and law relevant to this litigation.  
23 Sarko Decl. ¶¶ 5-7. With an office in Santa Barbara, experience litigating in the  
24 Central District, and deep experience in the fields of mass tort and environmental  
25 litigation, Keller Rohrback is well suited to serve as Interim Co-Lead Class Counsel  
26 in this matter.

### 27 **3. Cappello & Noël Experience**

28 Proposed Interim Class Counsel and Proposed Lead Trial Counsel Cappello

1 & Noël has extensive trial experience in class actions and complex litigation.  
2 Cappello & Noël LLP is a litigation specialty firm based in Santa Barbara since  
3 1977 with a national practice in complex trials. Managing Partner A. Barry  
4 Cappello has been a trial lawyer for almost 50 years. After an extensive practice as  
5 a criminal prosecutor he served a seven year tenure as City Attorney of Santa  
6 Barbara (1970-1977). He was the chief litigator against Union Oil, Mobil, Gulf and  
7 Texaco for the 1969 Santa Barbara Channel Oil Spill. The case settled, just short of  
8 trial, for what was a huge sum in 1974, \$9.45 million, and led to a ban on new  
9 leases of offshore oil wells near Santa Barbara. Cappello Decl. at 2.

10 Mr. Cappello has obtained jury trial verdicts and settlements in excess of \$1  
11 billion. The background and experience of the attorneys at Cappello & Noël is  
12 described in more detail below, and in the Cappello Declaration. Cappello Decl. at  
13 3-7. Some examples of Cappello & Noël's notable cases and jury verdicts include:

14 *Banales, et al. v. City of Santa Barbara*, (S.B.S.C. No. 1468167) (Injunctive  
15 relief action under California Voting Rights Act to eliminate at-large elections for  
16 Santa Barbara, which has a Latino population of approximately thirty-eight percent  
17 (38%) but where only one Latino city council member was elected in ten years;  
18 after complaint was filed and motion practice and expert reports, city relented and  
19 agreed to a settlement requiring that it institute district elections, starting in 2015);

20 *Jewell v. Bank of Am.*, (Sonoma No. 112439) (\$37.5 million verdict, largest  
21 lender liability verdict at the time);

22 *American Aviation Indu. v. General Elec. Capital Corp.* (LASC No. 039965),  
23 (\$70.8 million jury verdict);

24 *Russomanno v. Russo, et al.*, LASC Nos. (LC031514 & LC036433) (\$54  
25 million verdict);

26 *Core Wealth Mgmt. v. Heller, et al.*, (SBSC No. 01157647) (breach of  
27 fiduciary duty and misappropriation of trade secrets; \$41.7 million jury verdict);

28 *Contempo Office Furniture v. Union Bank*, LASC No. 529764 (\$12.5 million

1 jury verdict);

2 *Gottesman v. Cathedral Oaks Athletic Club, et al.*, (SBSC No. 1246093)  
3 (drowning of four year-old boy in an exclusive club; \$16.2 million jury verdict);

4 and

5 *Eszlinger, et al. v. United Studios of Self Defense, Inc., et al.*, (OCSC No. 30-  
6 2010-00404621) (\$7.7 million jury verdict).

7 Cappello & Noël also has extensive class action experience, including:

8 *Jones, et al. v. Wells Fargo Bank, N.A., et al.*, (L.A. County Super.) (Unruh  
9 Act class action racially discriminatory lending practices, successfully tried to jury  
10 verdict and affirmed on appeal for plaintiff class);

11 *O’Conner v. Boeing, N.A.*, (C.D. Cal), No. CV-97-1554 DT (RCx)  
12 (originally certified as a class action involving 175 cancer victims against Boeing  
13 for toxic air contamination; settled after seven years for a confidential sum);

14 *In re Airline Travel Agency Comm’ Antitrust Litig.*, (D. Minn.) (MDL Dkt.  
15 No. 1058) (co-counsel) (conspiracy among five major airlines to fix commissions  
16 paid to travel agency; \$86 million class action settlement);

17 *Barela, et al. v. Ralphs Grocery Co., et al.*, (Los Angeles Super. Ct.  
18 Consolidated Case No. BC070061) (co-counsel) (class action involving an alleged  
19 agreement among major grocery chains to fix and maintain retail prices of milk sold  
20 in Southern California);

21 *In re AST Research Secs. Litig.* (C.D. Cal.), No. CV-94-1370 SVW (Shx)  
22 (co-counsel) (securities fraud class action);

23 *In re Paradise Mem’l Park Litig.*, (Los Angeles Super. Ct. Case No.  
24 BC130375) (co-counsel) (mishandling of decedents remains and the recycling of  
25 graves at a Los Angeles area cemetery);

26 *Advanta Nat’l Bank Credit Card Terms Litig.* (C.D. Cal.) Case No. 97-8319  
27 WDK (Mcx) (co-counsel) (failure to honor the fixed rate of interest charged on  
28 balance transfers); and



1           *O'Connor, et al. v. Blue Cross of Cal., et al.*, (Los Angeles Super. Ct. Case  
2 No. BC 118896) (failure to extend premium discounts to all customers).

3           Mr. Cappello is the leading trial lawyer and authority on suits against  
4 financial institutions. He is the author of the preeminent treatise *Lender Liability*,  
5 Fifth Edition (Juris Publishing). He has contributed numerous articles on complex  
6 business litigation, lender liability and advanced trial techniques to business, legal,  
7 accounting and trade publications. In 2014, he was named one of the Daily  
8 Journal's Top 100 Lawyers in California. Since 2007, he has been named one of  
9 the Top 100 Trial Attorneys in California by the National Trial Lawyers  
10 Association. He has been a "Southern California Super Lawyer" since 2007, and  
11 listed in "Best Lawyers in America" since 1992. After endowing the Trial Practice  
12 program at the UCLA School of Law, the moot courtroom was named after  
13 Mr. Cappello. He has lectured to students at UCLA School of Law on trial practice  
14 many times over the years. Cappello Decl. at 4.

15           In endorsing the *Lender Liability* treatise, Michael Schill, the Dean of  
16 University of Chicago Law School, wrote, "As one of the greatest trial attorneys of  
17 our age, Barry Cappello's extraordinary success in the courtroom is reflected in  
18 every page of this authoritative treatise." Mr. Cappello received similar praise from  
19 the Dean Rachel Moran of UCLA School of Law, who wrote, "A. Barry Cappello,  
20 a pioneer and nationally recognized expert in the field of lender liability law, has  
21 taken his vast experience and translated it into a comprehensive, authoritative and  
22 informative new edition of *Lender Liability*." Cappello Decl. at 5.

#### 23           **4. Audet & Partners Experience**

24           Attorney William M. Audet, the founding partner of Audet & Partners, LLP,  
25 seeks the Court's authority to serve as Interim Class Counsel. As detailed in  
26 Mr. Audet's CV, Mr. Audet is experienced, committed and dedicated to the  
27 prosecution of complex class action cases such as the case before this Court. *See,*  
28 *generally*, Audet Decl. Exs. A & B. Mr. Audet was awarded a J.D. in 1983 and

1 earned an LL.M. in 1984.<sup>2</sup> After serving as a Clinical Lecturer at the University of  
2 Wisconsin School of Law (Madison) for three (3) years, Mr. Audet had the rare  
3 honor of serving as a law clerk in the United States Court of Appeals for the Ninth  
4 Circuit, and then serving as a law clerk for United States District Court Judge Fern  
5 M. Smith (serving as the Judge's first law clerk), and United States District Court  
6 Judge Alphonso Zirpoli (serving as the Judge's last law clerk). *See, generally,*  
7 *Audet Decl., Exs. A and B.* Since his three clerkships Mr. Audet has devoted his  
8 practice to representing plaintiffs in complex litigation. *Id.* Over the past twenty-  
9 plus years, Mr. Audet has had the privilege of serving in a leadership position in  
10 dozens of class action cases. *Id.* Mr. Audet is also the co-author of a well-respected  
11 book on Federal Discovery entitled *Audet & Faraday, Handling Federal Discovery*  
12 (19th ed.).

13 As noted in the Firm's Resume, the attorneys at Audet & Partners, LLP, have  
14 been appointed to leadership positions as Class Counsel in dozens of class  
15 actions. *Audet Decl., Ex. A.* In addition, the attorneys at the firm have successfully  
16 recovered collectively hundreds of millions of dollars for both class and non-class  
17 clients. Rather than repeat, *verbatim*, the firm's background, court appointments,  
18 and success, Audet & Partner, LLP's experience is described in more detail in the  
19 Audet Declaration, and the attached firm resume or Mr. Audet's CV. *Id.* at 3, 4, 8,  
20 and Exs. A & B.

21 In addition, relevant to this application, Mr. Audet was appointed as lead  
22 counsel in the *Cosco Busan Oil Spill Litig. (Chelsea, LLC, et al. v. Regal Stone,*  
23 *Ltd., et al., N.D. Cal., No. C-07-5800-SC).* *Audet Decl.* at 11. As lead counsel,  
24 Mr. Audet and his firm prosecuted the Class Claims, and recovered additional  
25 payments to class members for past and potential financial damages arising from

26 \_\_\_\_\_  
27 <sup>2</sup> In addition, in 2013, Mr. Audet was awarded a Doctorate of Law ("LL.D.") from  
28 Golden Gate University, School of Law for his commitment to the legal and  
academic community.

1 the oil spill. Here, the Santa Barbara Oil Spill has similar issues involving the  
2 impact a crude oil spill has on businesses and the environment.

3 In addition, the work performed to date by Audet & Partners, LLP to advance  
4 the litigation is a factor in selecting that firm as class counsel. Here, Audet &  
5 Partners, LLP has already conducted substantial factual and legal research in  
6 developing the claims of the Class. In addition, Mr. Audet expects to be able to  
7 work with other class counsel.

### 8 **5. Kazerouni Law Group Experience**

9 The Kazerouni Law Group has extensive experience in class action litigation  
10 which will ensure the interests of the putative class members are fully protected. A  
11 brief summary of a non-inclusive list of notable published decisions are as follows:

12 *Arthur v. SLM Corp.*, 10-CV-00198 JLR (W.D. Wash.) (Nationwide  
13 settlement achieving the then-largest monetary settlement in the history of the  
14 TCPA in the amount of \$24,150,000);

15 *Malta, et al. v. Wells Fargo Home Mortg., et al.*, 10-CV-1290 IEG (BLM)  
16 (S.D. Cal.) (Served as co-lead counsel for a settlement class of borrowers in  
17 connection with residential or automotive loans and violations of the TCPA in  
18 attempts to collect on those accounts. Obtained a common settlement fund in the  
19 amount of \$17,100,000);

20 *Conner v. JPMorgan Chase Bank, et al.*, 10-CV-1284-DMS (BGS) (S.D.  
21 Cal.) (Co-lead counsel for the settlement class of borrowers in connection with  
22 residential loans and TCPA violations stemming from the collection of those  
23 accounts. Settlement of \$11,973,558);

24 *Knell v. FIA Card Sers., N.A.*, 12-cv-426 AJB (WVG) (S.D. Cal.) (California  
25 class action settlement under Penal Code 632, *et seq.*, for claims of invasion of  
26 privacy. Settlement resulted in a common fund in the amount of \$2,750,000).

27 Kazerounian Decl. at 10.  
28

1           **C. Proposed Interim Co-Lead Class Counsel Have The Resources To**  
 2           **Prosecute This Action**

3           As illustrated in the firm résumés submitted with the accompanying  
 4           declarations, Proposed Interim Class Counsel are among the largest and most  
 5           experienced plaintiff firms in the United States, and have well demonstrated their  
 6           ability to prosecute this kind of case alongside a track record of success.

7           **D. Proposed Interim Co-Lead Counsel Will Litigate The Case**  
 8           **Efficiently**

9           As they have in other matters, Proposed Interim Co-Lead Class Counsel will  
 10          manage the case efficiently and work cooperatively with other Plaintiffs' counsel  
 11          and Plains to streamline the litigation. After conferring with Plains, Plaintiffs have  
 12          proposed a schedule to coordinate the filing of a Consolidated Amended Class  
 13          Action Complaint and to initiate discovery. Proposed Interim Co-Lead Class  
 14          Counsel will also coordinate work to avoid duplication and inefficiency in the  
 15          litigation and will assign tasks to attorneys' commensurate with experience and  
 16          expertise.

17          **V. STIPULATED DEFERRAL OF CLASS CERTIFICATION MOTION**  
 18          **AMONG PARTIES**

19          Local Rule 23-3 instructs that “[w]ithin 90 days after service for a purporting  
 20          to commence a class action . . . the proponent of the class shall file a motion for  
 21          certification that the action is maintainable as a class action, unless otherwise  
 22          ordered by the Court.” The Parties have met and conferred on this matter and agree  
 23          that it is more efficient to wait until the filing of any responsive motions to the  
 24          Consolidated Class Action Complaint to determine further filing dates. Once  
 25          initiating motions and any responses and replies are resolved, the parties will be in a  
 26          better position to determine what the most prudent course of action might be,  
 27          including the setting of class certification briefing schedule as well as a trial date.  
 28          The parties thus jointly request that the 90-day moving period be deferred.

1 **VI. STATUS CONFERENCE AND DOCUMENT PRESERVATION**

2 The parties request that this Court schedule a status conference so as to  
3 ensure the efficient management of this litigation. The parties will meet and confer  
4 prior to any status conference and have agreed on document preservation as  
5 reflected in the [Joint Proposed] Case Management Order No. 1.

6 Dated: September 15, 2015

Respectfully submitted,

7 LIEFF CABRASER HEIMANN &  
8 BERNSTEIN, LLP

9 By: /s/ Robert J. Nelson  
Robert J. Nelson

10 Robert L. Lieff (CSB No. 037568)  
11 Elizabeth J. Cabraser (CSB No. 083151)  
12 Robert J. Nelson (CSB No. 132797)  
13 RoseMarie Maliekel (CSB No. 276036)  
14 LIEFF CABRASER HEIMANN &  
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16 Lynn Lincoln Sarko  
17 (*Pro Hac Vice forthcoming*)  
18 Gretchen Freeman Cappio  
19 (*Admitted Pro Hac Vice*)  
20 Daniel Mensher  
21 (*Admitted Pro Hac Vice*)  
22 KELLER ROHRBACK L.L.P.  
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23 Juli Farris (State Bar No. 141716)  
24 Matthew J. Preusch (CSB No. 298144)  
25 KELLER ROHRBACK L.L.P.  
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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

STACE CHEVEREZ, individually  
and on behalf of others similarly  
situated,

Plaintiffs,

v.

PLAINS ALL AMERICAN  
PIPELINE, L.P., a Delaware limited  
partnership,

Defendant.

Case No. 2:15-cv-04113-PSG-JEM

**[JOINT PROPOSED] CASE  
MANAGEMENT ORDER NO. 1**

MARK HICKS, individually and on  
behalf of others similarly situated,

Plaintiffs,

v.

PLAINS ALL AMERICAN  
PIPELINE, L.P., a Delaware limited  
partnership, PLAINS PIPELINE,  
L.P., a Texas limited partnership, and  
JOHN DOES 1 through 10,

Defendants.

Case No. 2:15-cv-04573 PSG (JEMx)

*[Caption Continues on next page]*

1 ALEXANDRA GEREMIA , as  
2 Trustee for the Alexandra Geremia  
3 Family Trust dated 8/5/1998

4 Plaintiffs,

5 v.

6 PLAINS ALL AMERICAN  
7 PIPELINE, L.P., a Delaware limited  
8 partnership, PLAINS PIPELINE  
9 L.P., a Texas limited partnership

10 Defendants.

Case No. 2:15-CV-4759 PSG (JEMx)

11 KEITH ANDREWS, TIFFANI  
12 ANDREWS, SARAH RATHBONE,  
13 JOSH CHANCER, JOSEPH VIENS,  
14 CORT PIERSON, and WEIHAI  
15 ZHUANG, individually and on  
16 behalf of others similarly situated,

17 Plaintiffs,

18 v.

19 PLAINS ALL AMERICAN  
20 PIPELINE, L.P., a Delaware limited  
21 partnership, PLAINS PIPELINE,  
22 L.P., a Texas limited partnership, and  
23 JOHN DOES 1 through 10,

24 Defendants.

Case No. 2:15-CV-4989 PSG (JEMx)

25 *[Caption Continues on next page]*

26 ISLA VISTA SURF LESSONS,  
27 individually and on behalf of others  
28 similarly situated,

Plaintiffs,

v.

Plains All American Pipeline, L.P.,

Defendant.

Case No. 2:15-cv-05118 PSG (JEMx)

RICHARD LILYGREN,  
individually and on behalf of others  
similarly situated,

Plaintiff,

Case No. 2:15-cv-07051-MMM-PJW



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v.  
PLAINS ALL AMERICAN  
PIPELINE, L.P., a Delaware limited  
partnership, PLAINS PIPELINE,  
L.P., a Texas limited partnership,  
Defendants.

All but one of the above-captioned cases have been assigned to the calendar of Judge Philip S. Gutierrez, Courtroom 880, Roybal Federal Building, 255 East Temple Street, Los Angeles, CA 90012. The matter of *Richard Lilygren v. Plains All American Pipeline, L.P., et al*, is currently awaiting reassignment, and will likely be related to the above-captioned actions and assigned to this Court.

The responsibility for the progress of litigation in federal courts falls not only upon the Court, but upon the attorneys in the action as well. In order “to secure the just, speedy, and inexpensive determination of every action,” Fed. R. Civ. P. 1, all counsel are ordered to familiarize themselves with the Federal Rules of Civil Procedure, the Local Rules of the Central District of California, this Court’s Standing Order, and this Case Management Order.

**I. AMENDMENT AND CONSOLIDATION OF PLEADINGS**

On June 1, 2015, the first class action complaint alleging harm caused by the May 19, 2015, rupture of Line 901 and the resulting oil spill was filed in this Court. Since that time, six more class action complaints alleging substantially the same violations stemming from the same actions and omissions have been filed and related to the first filed case. Additionally, class action complaints relating to Line 901 may also be filed in the future.

In an attempt to streamline the litigation process and relieve some burden on the parties and this Court, the Court finds that these related cases can and should be consolidated pursuant to Fed. R. Civ. P. 42(a). With respect to potential additional class actions relating to Line 901, the Court will assess the allegations of any such

1 matters and may elect to consolidate some or all of those matters as well, subject to  
2 a finding by this Court that such matters are substantially similar to the claims in  
3 the seven above-captioned consolidated matters already filed. With respect to these  
4 seven consolidated actions, Plaintiffs shall file a consolidated amended class action  
5 complaint (“Consolidated Class Action Complaint”) by September 21, 2015. The  
6 Consolidated Class Action Complaint shall be filed using the first-filed *Cheverez*  
7 case number. Within sixty (60) days of the filing of the Consolidated Class Action  
8 Complaint, Defendants shall answer, move, or otherwise file a responsive pleading,  
9 unless this action is stayed, as discussed *infra*. Plaintiffs shall likewise have sixty  
10 (60) days to respond to any motion filed in response to the Consolidated Class  
11 Action Complaint. The parties reserve their rights to seek additional time or to  
12 modify the deadlines set forth herein for good cause shown.

13 **II. APPOINTMENT OF INTERIM CLASS COUNSEL**

14 Counsel for Plaintiffs in the related cases have conferred and proposed an  
15 organizational structure. The Court has reviewed the qualifications of proposed  
16 Interim Class Counsel and has determined that the proposed Interim Class Counsel  
17 are highly regarded and experienced class action attorneys. In addition, the Court  
18 finds that these attorneys have significant and relevant experience prosecuting class  
19 actions and coordinated actions involving oil spills and toxic hazards. The Court  
20 also finds that Interim Class Counsel have sufficient resources to prosecute this  
21 action effectively. Pursuant to Rule 23(g), the Court hereby appoints the following  
22 firms as Interim Class Counsel: Lief Cabraser Heimann & Bernstein, LLP, Keller  
23 Rohrback L.L.P., Cappello & Noël LLP, Audet & Partners, LLP, and Kazerouni  
24 Law Group. Lief Cabraser and Keller Rohrback shall serve as Interim Co-Lead  
25 Counsel, and Cappello & Noël, A. Barry Cappello, shall serve as Lead Trial  
26 Counsel.

1 **III. STIPULATED DEFERRAL OF CLASS CERTIFICATION MOTION**  
2 **AMONG PARTIES**

3 Local Rule 23-3 instructs that “Within 90 days after service of a pleading  
4 purporting to commence a class action ... the proponent of the class shall file a  
5 motion for certification that the action is maintainable as a class action, unless  
6 otherwise ordered by the Court.” The Parties have met and conferred on this matter  
7 and agree that it is more efficient to wait until the filing of any responsive motions  
8 to the Consolidated Class Action Complaint to determine further filing dates  
9 relating to class certification and trial of the case. The 90-day moving period under  
10 Local Rule 23-3 is thus vacated and deferred until further order of this Court.

11 **IV. STATUS CONFERENCE**

12 This Court will hold a Status Conference on \_\_\_\_\_ so as to ensure the  
13 orderly and efficient management of this litigation.

14 **V. ISSUES FOR BRIEFING AND PROPOSED BRIEFING SCHEDULE**

15 Defendants’ counsel have sought Plaintiffs’ counsels’ stipulation to stay this  
16 action in light of the Oil Pollution Act (OPA). Plaintiffs have not agreed to such a  
17 stipulation. The parties have agreed to the following expedited briefing schedule on  
18 this issue: Defendants shall file their motion to stay by October 2, 2015; Plaintiffs  
19 shall file any opposition by October 16, 2015; Defendants shall file their reply by  
20 October 25, 2015. The Court will conduct a hearing on the motion to stay on  
21 \_\_\_\_\_, at which time the Court will also hold an initial Status Conference if  
22 one has not been scheduled previously.

23  
24 The parties continue to meet and confer on other pressing issues related to  
25 communications with class members, including Plaintiffs’ request that Defendants  
26 inform OPA claimants of the class actions, and Defendants’ request that Plaintiffs  
27 inform putative class members of the existence of the OPA claims process. Absent  
28 agreement on these issues, the parties shall propose a briefing schedule on any issue

1 still in dispute at or prior to the initial Status Conference.

2 **VI. STIPULATED DEFERRAL OF DISCOVERY UNTIL THE STATUS**  
3 **CONFERENCE**

4 The parties have stipulated to postpone discovery, including Initial  
5 Disclosures under Rule 26, until the status conference. The Parties do not presently  
6 agree on the extent to which discovery should be stayed or staged so as to focus  
7 initially on class certification issues and/or on whether federal limitations on  
8 depositions and written discovery should be modified in this action. The parties  
9 shall be prepared to discuss these issues with the Court during the scheduled status  
10 conference, and shall be prepared to brief these issues to whatever extent that the  
11 Court finds such briefing is necessary.

12 **VII. EVIDENCE PRESERVATION**

13 All parties and their counsel are reminded of their duty to preserve evidence  
14 that may be relevant to this action. The duty extends to documents, data, and  
15 tangible things in the possession, custody and control of the parties to this action,  
16 and any employees, agents, contractors, or other nonparties who possess materials  
17 reasonably anticipated to be the subject of discovery in this action. “Documents,  
18 data, and tangible things” is to be interpreted broadly to include writings, records,  
19 files, correspondence, reports, memoranda, calendars, diaries, minutes, electronic  
20 messages, voice mail, e-mail, telephone message records or logs, hard drives,  
21 backup data, removable computer storage media such as tapes, discs and cards,  
22 printouts, document image files, Web pages, databases, spreadsheets, software,  
23 books ledgers, journals orders, invoices, bills, vouchers, check statements,  
24 worksheets, summaries, compilations, computations, charts, diagrams, graphic  
25 presentations, drawings, filings, digital or chemical process photographs, video,  
26 phonographic, tape or digital records or transcripts thereof, drafts, jottings and  
27 notes, studies or drafts of studies or other similar such material. Information that  
28 serves to identify, locate, or link such material, such as file inventories, file folders,

1 indices, and metadata, is also included in this definition. Preservation includes the  
2 obligation not to alter any such thing as to its form, content or manner of filing.  
3 Until the parties reach an agreement on a preservation plan or the Court orders  
4 otherwise, each party shall take reasonable steps to preserve all documents, data  
5 and tangible things containing information potentially relevant to the subject matter  
6 of this litigation. Each counsel is under an obligation to the Court to exercise all  
7 reasonable efforts to identify and notify parties and nonparties, including employees  
8 of corporate or institutional parties of the contents of this paragraph. Failure to  
9 comply may lead to dismissal of claims, striking of defenses, or imposition of  
10 adverse inferences or other dire consequences.

11 Before any devices, tangible things, documents, and other records which are  
12 reasonably calculated to lead to admissible evidence are destroyed, altered, or  
13 erased, counsel shall confer to resolve questions as to whether the information  
14 should be preserved. If counsel are unable to agree, any party may apply to this  
15 Court for clarification or relief from this Order upon reasonable notice.

16 **SO ORDERED**, dated this \_\_\_\_\_ day of September, 2015.

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Hon. Philip S. Gutierrez

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Elizabeth J. Cabraser (State Bar  
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Robert J. Nelson (State Bar No. 132797)  
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23 UNITED STATES DISTRICT COURT  
24 CENTRAL DISTRICT OF CALIFORNIA

25 STACE CHEVEREZ, individually  
and on behalf of others similarly  
26 situated,  
Plaintiff,

27 v.

28 PLAINS ALL AMERICAN

Case No. 2:15-cv-04113-PSG-JEM

**DECLARATION AND  
ATTESTATION OF ROBERT J.  
NELSON REGARDING  
UNOPPOSED MOTION FOR  
CONSOLIDATION AND  
APPOINTMENT OF INTERIM CO-**

1 PIPELINE, L.P., a Delaware limited  
2 partnership,  
3 Defendant.

**LEAD CLASS COUNSEL UNDER  
RULE 23(G) AND ENTRY OF CASE  
MANAGEMENT ORDER;  
MEMORANDUM IN SUPPORT**

4 MARK HICKS, individually and on  
5 behalf of others similarly situated,  
6 Plaintiff,  
7 v.

Case No. 2:15-cv-04573 PSG (JEMx)

8 PLAINS ALL AMERICAN  
9 PIPELINE, L.P. , a Delaware  
10 limited partnership, PLAINS  
11 PIPELINE, L.P., a Texas limited  
12 partnership, and JOHN DOES 1  
through 10,  
Defendant.

13 ALEXANDRA B. GEREMIA, as  
14 Trustee for the Alexandra Geremia  
Family Trust dated 8/5/1998  
15 Plaintiff,

Case No. 2:15-CV-4759 PSG (JEMx)

16 v.  
17 PLAINS ALL AMERICAN  
18 PIPELINE, L.P. , a Delaware  
19 limited partnership, PLAINS  
20 PIPELINE L.P., a Texas limited  
21 partnership,  
22 Defendant.

23 [caption continues on next page]

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KEITH ANDREWS, TIFFANI ANDREWS, SARAH RATHBONE, JOSH CHANCER, JOSEPH VIENS, CORT PIERSON, and WEIHAI ZHEUNG, individually and on behalf of others similarly situated,  
  
Plaintiff,  
  
v.  
  
PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, PLAINS PIPELINE, L.P., a Texas limited partnership, and JOHN DOES 1 through 10  
  
Defendant.

Case No. 2:15-CV-4989 PSG (JEMx)

ISLA VISTA SURF LESSONS, individually and on behalf of others similarly situated,  
  
Plaintiff,  
  
v.  
  
Plains All American Pipeline, L.P,  
  
Defendant.

Case No. 2:15-cv-05118 PSG (JEMx)

RICHARD LILYGREN, individually and on behalf of others similarly situated,  
  
Plaintiff,  
  
v.  
  
PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, PLAINS PIPELINE, L.P., a Texas limited partnership,  
  
Defendants.

Case No. 2:15-CV-07051-MMM-PJW



1 I, Robert J. Nelson, am the ECF user whose identification and password were  
2 used to file: Notice of Unopposed Motion and Unopposed Motion for  
3 Consolidation and Appointment of Interim Co-Lead Class Counsel Under Rule  
4 23(g) and Entry of Case Management Order; Memorandum in Support; [Joint  
5 Proposed] Order; and Supporting Declarations, including the declarations of Lynn  
6 Lincoln Sarko, A. Barry Cappello, William M. Audet, and Abbas Kazerounian. I  
7 hereby attest that Mr. Sarko, Mr. Cappello, Mr. Audet, and Mr. Kazerounian have  
8 concurred in this filing.

9 I declare under penalty of perjury that the foregoing is true and correct.  
10 Executed in San Francisco, California on September 15, 2015.

11 Dated: September 15, 2015

LIEFF CABRASER HEIMANN &  
BERNSTEIN, LLP

12 By: /s/ Robert J. Nelson  
13 Robert J. Nelson

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23 UNITED STATES DISTRICT COURT  
24 CENTRAL DISTRICT OF CALIFORNIA

25 STACE CHEVEREZ, individually  
and on behalf of others similarly  
26 situated,  
Plaintiff,

27 v.

28 PLAINS ALL AMERICAN

Case No. 2:15-cv-04113-PSG-JEM

**CERTIFICATE OF SERVICE OF  
ELECTRONIC CASE FILING**

1 PIPELINE, L.P., a Delaware limited  
2 partnership,  
3  
4 Defendant.

4 MARK HICKS, individually and on  
5 behalf of others similarly situated,  
6  
7 Plaintiff,  
8  
9 v.  
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11 PLAINS ALL AMERICAN  
12 PIPELINE, L.P. , a Delaware  
13 limited partnership, PLAINS  
14 PIPELINE, L.P., a Texas limited  
15 partnership, and JOHN DOES 1  
16 through 10,  
17  
18 Defendant.

Case No. 2:15-cv-04573 PSG (JEMx)

12 ALEXANDRA B. GEREMIA, as  
13 Trustee for the Alexandra Geremia  
14 Family Trust dated 8/5/1998  
15  
16 Plaintiff,  
17  
18 v.  
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20 PLAINS ALL AMERICAN  
21 PIPELINE, L.P. , a Delaware  
22 limited partnership, PLAINS  
23 PIPELINE L.P., a Texas limited  
24 partnership,  
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26 Defendant.  
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Case No. 2:15-CV-4759 PSG (JEMx)

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KEITH ANDREWS, TIFFANI ANDREWS, SARAH RATHBONE, JOSH CHANCER, JOSEPH VIENS, CORT PIERSON, and WEIHAI ZHEUNG, individually and on behalf of others similarly situated,  
  
Plaintiff,  
  
v.  
  
PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, PLAINS PIPELINE, L.P., a Texas limited partnership, and JOHN DOES 1 through 10  
  
Defendant.

Case No. 2:15-CV-4989 PSG (JEMx)

ISLA VISTA SURF LESSONS, individually and on behalf of others similarly situated,  
  
Plaintiff,  
  
v.  
  
Plains All American Pipeline, L.P,  
  
Defendant.

Case No. 2:15-cv-05118 PSG (JEMx)

RICHARD LILYGREN, individually and on behalf of others similarly situated,  
  
Plaintiff,  
  
v.  
  
PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, PLAINS PIPELINE, L.P., a Texas limited partnership,  
  
Defendants.

Case No. 2:15-CV-07051-MMM-PJW

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**CERTIFICATE OF SERVICE**

I, Robert Nelson, hereby certify that on this 15<sup>th</sup> day of September, 2015, I electronically filed **NOTICE OF UNOPPOSED MOTION AND UNOPPOSED MOTION FOR CONSOLIDATION AND APPOINTMENT OF INTERIM CO-LEAD CLASS COUNSEL UNDER RULE 23(G), CASE MANAGEMENT ORDER, AND SUPPORTING DECLARATIONS** with the Clerk of the United States District Court for the Central District of California using the CM/ECF system, which shall send electronic notification to all counsel of record.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed in San Francisco, California on September 15, 2015.

/s/ Robert J. Nelson  
Robert J. Nelson