

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

United States Courts
Southern District of Texas
ENTERED

DEC 19 2001

Michael N. Milby, Clerk of Court

PASQUALE DI GIACOMO, *et al.*,

Plaintiffs

v.

PLAINS ALL AMERICAN PIPELINE, *et al.*,

Defendants

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CIVIL ACTION NO. H-99-4137
(Consolidated)

**FINAL JUDGMENT AND
ORDER OF DISMISSAL WITH PREJUDICE**

This court held a fairness hearing on the application of the parties for approval of the settlement set forth in the Stipulation of Settlement dated as of September 15, 2000 (the "Stipulation"). The parties provided notice of the settlement as required in this court's order of December 1, 2000. Based on the record and applicable law, this court ORDERS as follows:

1. This judgment incorporates by reference the definitions of the Stipulation. All terms used in this judgment have the same meanings as set forth in the Stipulation.
2. This court has jurisdiction over the subject matter of the litigation and over all parties to the litigation, including all members of the Settlement Class.

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3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this court certifies a Class of all Persons who purchased the Common Limited Partnership Units of Plains All American Pipeline LP during the period beginning November 17, 1998 through November 26, 1999, inclusive. Excluded from the Class are defendants, members of the immediate families of each of the individual defendants, any Person, firm, trust corporation, officer director or other individual or entity in which any defendant has a controlling interest, or which is related to or affiliated with any of the defendants, and the legal representatives, heirs, successors-in-interest, or assigns of any such excluded Person or entity.
4. With respect to the Class, this court finds and concludes that: (a) the Members of the Class are so numerous that joinder of all Class Members in the class action is impracticable; (b) there are questions of law and fact common to the Class which predominate over any individual questions; (c) the claims of the Representative Plaintiffs are typical of the claims of the Class; (d) the Representative Plaintiffs and their counsel have fairly and adequately represented and protected the interests of the Class members; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the

controversy, considering: (i) the interests of the Members of the Class in individually controlling the prosecution of the separate actions, (ii) the extent and nature of any litigation concerning the controversy already commenced by Members of the Class, (iii) the desirability or undesirability of continuing the litigation of these claims in this particular forum, and (iv) the difficulties likely to be encountered in the management of the class action.

5. Except as to any individual claim of those Persons (identified in Exhibit 1 hereto) who have validly and timely requested exclusion from the Class, the class action and all claims contained therein, as well as all of the Released Claims, are dismissed with prejudice as to the Representative Plaintiffs and the other members of the Settlement Class, and as against the Released Persons. The parties are to bear their own costs, except as otherwise provided in the Stipulation.
6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this court hereby approves the settlement set forth in the Stipulation and finds that said settlement is, in all respects, fair, reasonable and adequate to the Representative Plaintiffs, the Settlement Class, and each of the Settlement Class members, in light of the complexity, expense and

possible duration of further litigation; the discovery and investigation conducted; and the risks and difficulties of establishing liability, causation and damages. This court further finds that the settlement set forth in the Stipulation is the result of arm's-length negotiations among experienced counsel representing the interests of the Representative Plaintiffs, the Settlement Class members, and the Defendants. The settlement embodied in the Stipulation has been approved.

7. Upon the effective date, the lead plaintiffs and each of the Settlement Class Members shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged all released Claims against the Released Persons, whether or not such Settlement Class Member executes and delivers a Proof of Claim and Release.
8. All Settlement Class members are hereby forever barred and enjoined from prosecuting the Released Claims against the Released persons.
9. Upon the Effective Date, each of the Released Persons shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged each and all of the Settlement Class members and counsel to the representative Plaintiffs

from all claims (including Unknown Claims), arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Litigation or the Released Claims.

10. The Notice of Pendency and Proposed Settlement of Class Action given to the Class was the best notice practicable under the circumstances, including the individual notice to all Members of the Class who could be identified through reasonable effort. Said Notice provided the best notice practicable under the circumstance of those proceedings and the matters set forth therein, including the proposed settlement set forth in the Stipulation, to all Persons entitled to such notice, and said Notice fully satisfied the requirements of Federal Rule of Civil Procedure 23 and the requirements of due process.
11. The Plan of Allocation submitted by Plaintiffs' Co-Lead Counsel and any order entered regarding the attorney fees application shall in no way disturb or affect this Final Judgment and shall be considered separate from this Final Judgment.
12. Neither the Stipulation nor the settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the settlement: (a) is or may be deemed to be or may be

sued as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Defendants, or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Defendants in any civil, criminal or administrative proceeding in any court, administrative agency, or other tribunal. Defendants may file the Stipulation and/or the Judgment from this action in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

13. Without affecting the finality of this Final Judgment, this court retains continuing jurisdiction over: (a) implementation of this settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorney's fees, interest and expenses in the Litigation; and (d) all parties hereto for the purpose of construing, enforcing, and administering the Stipulation.

14. In the event that the settlement does not become effective in accordance with the terms of the Stipulation or in the event that the Settlement Fund, or any portion thereof, is returned to the Defendants, then this Final Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided.

SIGNED on December 19, 2001, at Houston, Texas.



Lee H. Rosenthal
United States District Judge