

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NINA HUERTA (SBN: 229070)
nhuerta@lockelord.com
MATTHEW B. NAZARETH (SBN 278405)
mnazareth@lockelord.com
LOCKE LORD LLP
300 South Grand Avenue, Suite 2600
Los Angeles, CA 90071
Telephone: 213-485-1500
Fax: 213-485-1200

MATTHEW C. HELLAND, SBN 250451
helland@nka.com
DANIEL S. BROME, 278915
dbrome@nka.com
NICHOLS KASTER, LLP
235 Montgomery St.
Suite 810
San Francisco, CA 94104
Telephone: 415-277-7235
Facsimile: 415-277-7238

Attorneys for Defendant
CENERGY INTERNATIONAL
SERVICES, LLC

Attorneys for Plaintiffs DONNIE CUMMINGS
and CHARLES BEATY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DONNIE CUMMINGS, ET AL.,

Plaintiffs,

vs.

CENERGY INTERNATIONAL SERVICES, LLC,

Defendant.

) CASE NO. 1:17-cv-00484-LJO-JLT
)
) Hon. Lawrence J. O'Neill
)
) **NOTICE OF SETTLEMENT AND**
) **PARTIAL DISMISSAL; JOINT**
) **STIPULATION TO STAY PENDING**
) **SETTLEMENT APPROVAL; AND**
) **ORDER THEREON**

) Complaint filed: April 5, 2017
)
)
)
)

1 TO THE COURT AND THE CLERK OF COURT, PLEASE TAKE NOTICE THAT
2 Pursuant to Local Rule 143, Plaintiffs Donnie Cummings and Charles Beaty (collectively,
3 “Plaintiffs”), and Defendants Cenergy International Services, LLC (“Defendant” or “Cenergy”)
4 (together with Plaintiffs, the “Parties”), jointly file this Notice of Settlement, Partial Dismissal, and
5 Stipulation to Stay, with proposed order:

6 WHEREAS, Plaintiff Donnie Cummings and non-party Cummings Consulting, LLC have
7 entered into a settlement agreement with Cenergy that resolves Plaintiff Cummings’ claims in this
8 matter and Cenergy’s requests for indemnification (the “Cummings Settlement”);

9 WHEREAS, the Cummings Settlement does **not** resolve Plaintiff Cummings’ Fair Labor
10 Standards Act (“FLSA”) or state law claims against Chevron, which continue to go forward in
11 arbitration and in front of the United States District Court for the Northern District of California in
12 the matter of *McQueen v. Chevron Corp.*, Case No. 4:16-cv-02089-JSW (“*McQueen*”);

13 WHEREAS, Plaintiff Charles Beaty and non-party Drilling Consultants, Inc. have entered
14 into a settlement agreement with Defendant Cenergy and unnamed third parties Chevron
15 Corporation and Chevron U.S.A., Inc. (the “Beaty Settlement”);

16 WHEREAS, the Beaty Settlement **does** resolve Mr. Beaty’s FLSA claims that were
17 originally pled in the *McQueen* action;

18 WHEREAS, the Beaty Settlement is subject to Court approval in *McQueen* because it
19 releases FLSA claims;

20 WHEREAS, the Cummings Settlement requires that Plaintiff Cummings dismiss his claims
21 in this action with prejudice;

22 WHEREAS, the Beaty Settlement requires that Plaintiff Beaty dismiss his claims in this
23 action with prejudice, but only *after* approval of the settlement in *McQueen*;

24 WHEREAS, due to the Court’s calendar in *McQueen*, Plaintiff Beaty’s motion for settlement
25 approval will not be heard until August at the earliest;

26 WHEREAS, the Court has taken Cenergy’s Motion to Compel Arbitration (ECF No. 36)
27 under submission; and

28

1 WHEREAS, Cenergy's deadline to oppose Plaintiffs' Motion for Summary Judgment (ECF
2 No. 38) is currently Wednesday, May 30.

3 NOW THEREFORE, the Parties hereby stipulate that:

- 4 1. Plaintiff Donnie Cummings' claims are dismissed from this action with prejudice,
5 pursuant to Rule 41(a)(1)(A)(2) of the Federal Rules of Civil Procedure, with each
6 party to bear their own fees and costs;
- 7 2. Plaintiffs hereby withdraw their Motion for Summary Judgment (ECF No. 38)
8 without prejudice to refile;
- 9 3. The Parties jointly request that the Court stay this action and vacate all pending
10 motions and deadlines as to Plaintiff Beaty, and set an Order to Show Cause Re:
11 Dismissal for September 28, 2018, by which time the Parties will provide a status
12 update and/or request for dismissal as to Plaintiff Beaty.

13 **IT IS SO STIPULATED**

14
15 Dated: May 29, 2018

Respectfully submitted,

16 NICHOLS KASTER, LLP

17
18 By: /s/ Matthew C. Helland

Matthew C. Helland

Daniel S. Brome

Attorney for Plaintiffs,

20 DONNIE CUMMINGS and CHARLES BEATY

21 Dated: May 29, 2018

LOCKE LORD LLP

22
23 By: /s/ Nina Huerta

Nina Huerta

Attorney for Defendant

25 CENERGY INTERNATIONAL SERVICES, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Pursuant to the Parties' stipulation, set forth above:
IT IS SO ORDERED.

Dated: May 29, 2018

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE