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 19 Marketing Company

20 **UNITED STATES DISTRICT COURT**  
 21 **NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO**

22 RICK DELAGARZA, individually, PAUL  
 GUTIERREZ, SAL LUCIDO, APRIL MOORE,  
 23 CHARLES GRIMMETT, ANTONIO GARCIA,  
 and BRIAN CASHWELL, individually and on  
 24 behalf of all similarly situated current and former  
 employees,  
 25 Plaintiffs,  
 26 v.  
 27 TESORO REFINING AND MARKETING  
 COMPANY and DOES 1 through 20, inclusive,  
 28 Defendants.

Case No. C 09-05803 EMC  
 Assigned to the Hon. Edward M. Chen  
**STIPULATION AND [PROPOSED]  
 ORDER TO CONTINUE CASE  
 MANAGEMENT CONFERENCE**

1 Pursuant to Civil L.R. 7-12, Plaintiffs Rick Delagarza, Paul Gutierrez, Sal Lucido, April  
2 Moore, Charles Grimmett, Antonio Garcia and Brian Cashwell (“Plaintiffs”) and Defendant  
3 Tesoro Refining and Marketing Company (“Tesoro”) (collectively, the “Parties”), by and  
4 through their undersigned counsel, hereby stipulate and agree as follows:

5 **WHEREAS**, a case management conference is currently scheduled in this matter for  
6 June 1, 2012, at 10:30 a.m.

7 **WHEREAS**, the Parties are engaged in substantial settlement negotiations with a high  
8 likelihood of success and hope to focus resources on settlement rather than continued litigation.

9 **WHEREAS**, the parties have participated in two all-day, private mediation sessions with  
10 Mediator Mark Rudy, on October 15, 2011 and May 14, 2012.

11 **WHEREAS**, a settlement proposal was made during the mediation and the Parties are  
12 now evaluating each other’s respective positions.

13 **WHEREAS**, the Parties response to the settlement proposal is due at 12:00 noon on the  
14 *same* day as the currently scheduled case management conference and, accordingly, the Parties  
15 do not believe that the case management conference earlier that morning would be productive or  
16 that a reasonable schedule for the case could be set while the potential settlement is pending.

17 **WHEREAS**, since the first mediation session, Tesoro has spent considerable time and  
18 dedicated substantial resources to gathering payroll data, consisting of the number of 12-hour  
19 shifts worked by, and the applicable wage rates for, each class member in this case (for a period  
20 covering 8 years) and in another action (for a period covering more than 4 years), *Burgess v.*  
21 *Tesoro Ref. & Mktg. Co.*, USCD Case No. 10-cv-05870 DMG (PLAx), which has been certified  
22 as a class action and is pending in the U.S. District Court for the Central District of California.  
23 The project requires the analysis of hundreds of thousands of daily time clock entries and  
24 calculation of corresponding wage rates, for which the underlying data is not stored in a single  
25 database. To determine the applicable wage rate and number of shifts worked, Tesoro has had to  
26 work from multiple databases and manually transform data into workable electronic formats.

27 **WHEREAS**, Tesoro has provided payroll data related to the Los Angeles refinery, which  
28 is the subject of *Burgess*, and the Golden Eagle refinery, which is the subject of the instant

1 action. Plaintiffs have spent considerable time and resources reviewing and analyzing the  
2 payroll data that has been provided, and the Parties are working to resolve outstanding data  
3 issues.

4 **WHEREAS**, the Parties are optimistic that settlement can be achieved within the next 60  
5 days.

6 **WHEREAS**, the Parties agree that judicial economy would be promoted by continuing  
7 the case management conference until July 13, 2012, or a date thereafter that is convenient for  
8 the Court.

9 **THEREFORE, THE PARTIES HERETO STIPULATE AND RESPECTFULLY**  
10 **REQUEST THAT THE COURT ORDER** that the case management conference scheduled for  
11 June 1, 2012, be continued to July 13, 2012, or the soonest available date thereafter.

12 DATED: May 30, 2012

SEYFARTH SHAW LLP

13  
14  
15 By /s/ Timothy M. Rusche  
16 Timothy M. Rusche  
17 Kristen M. Agnew  
Attorneys for Defendant  
Tesoro Refining and Marketing Company

18 DATED: May 30, 2012

GILBERT & SACKMAN  
A LAW CORPORATION

19  
20  
21 By /s/ Linda S. Fang  
22 Linda S. Fang  
Attorneys for Plaintiffs

23 **PURSUANT TO STIPULATION, IT IS SO ORDERED** that the case management  
24 conference currently set for June 1, 2012 shall be rescheduled for July 13, 2012 at 10:30 a.m.

25  
26 DATED: May 30, 2012.

HONORABLE EDWARD M. CHEN

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IT IS SO ORDERED

  
Judge Edward M. Chen

STIPULATION AND [PROPOSED]

MANAGEMENT CONFERENCE  
Case No. C 09-05803 EMC

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**CONSENT TO ELECTRONIC FILING**

Pursuant to General Order 45, paragraph X.B., I hereby attest that Linda S. Fang, a registered ECF user whose user ID and password will not be utilized in the filing of the Joint Stipulation to Continue the Case Management Conference, concurred in the filing.

DATED: May 30, 2012

SEYFARTH SHAW LLP

By /s/ Timothy M. Rusche  
Timothy M. Rusche  
Kristen M. Agnew  
Attorneys for Defendant  
Tesoro Refining and Marketing Company

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**CERTIFICATE OF SERVICE**

STATE OF CALIFORNIA        )  
  )    ss  
COUNTY OF LOS ANGELES    )

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Seyfarth Shaw LLP, 333 S. Hope Street, Suite 3900, Los Angeles, California 90071. On May 30, 2012, I served the within documents:

**STIPULATION AND [PROPOSED] ORDER TO CONTINUE CASE  
MANAGEMENT CONFERENCE**

- I sent such document from facsimile machine (213) 270-9601. I certify that said transmission was completed and that all pages were received and that a report was generated by facsimile machine (213) 270-9601 which confirms said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed to the parties listed below.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by placing the document(s) listed above, together with an unsigned copy of this declaration, in a sealed Federal Express envelope with postage paid on account and deposited with Federal Express at Los Angeles, California, addressed as set forth below.
- electronically by using the Court's ECF/CM System.

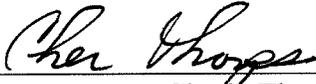
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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 30, 2012, at Los Angeles, California.

  
\_\_\_\_\_  
Cherie Thompson