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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 February 8, 2013, 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**, on August 8, 2012, this case was consolidated with *Burgess v. Tesoro Ref.*
12 *& Mktg. Co.*, USCD Case No. 10-cv-05870 DMG (PLAx), which has been certified as a class
13 action and is pending in the U.S. District Court for the Central District of California;

14 **WHEREAS**, the Parties have reached an agreement in principle resolving the “going
15 forward” issues that will require the negotiation of supplemental agreements to two separate
16 collective bargaining agreements governing the employment of class members in this action and
17 in *Burgess*, and the participation of two local bargaining committees of Plaintiffs’ labor union
18 and Tesoro labor negotiators, as well as ratification by the membership;

19 **WHEREAS**, a proposal regarding the monetary aspects of settlement was made during
20 the second mediation session, and the Parties are evaluating each other’s respective positions;

21 **WHEREAS**, since the first mediation session and now specifically in connection with
22 the proposed monetary settlement, the Parties have spent considerable time and dedicated
23 substantial resources to collecting and analyzing payroll data, consisting of the number of 12-
24 hour shifts worked by, and the applicable wage rates for, each class member in this case (for a
25 period covering 8 years) and in *Burgess* (for a period covering more than 4 years). The project
26 required the analysis of hundreds of thousands of daily time clock entries and calculation of
27 corresponding wage rates. The Parties are now extremely close to reaching an agreement on the
28 monetary aspects of settlement but must resolve final discrepancies between exposure analyses
and document the agreement;

1 **WHEREAS**, the Parties estimate that it will take at least an additional four weeks to
2 negotiate, draft, and reach a final agreement about the language in these documents;

3 **WHEREAS**, the Parties are optimistic that settlement can be achieved within the next 30
4 days; and

5 **WHEREAS**, the Parties agree that judicial economy would be promoted by continuing
6 the case management conference until March 1, 2013, or a date thereafter that is convenient for
7 the Court.

8 **THEREFORE, THE PARTIES HERETO STIPULATE AND RESPECTFULLY**
9 **REQUEST THAT THE COURT ORDER** that the case management conference scheduled for
10 February 8, 2013, be continued to March 1, 2013, or the soonest available date thereafter.

11 DATED: January 31, 2013

SEYFARTH SHAW LLP

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14 By /s/ Timothy M. Rusche

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

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17 DATED: January 31, 2013

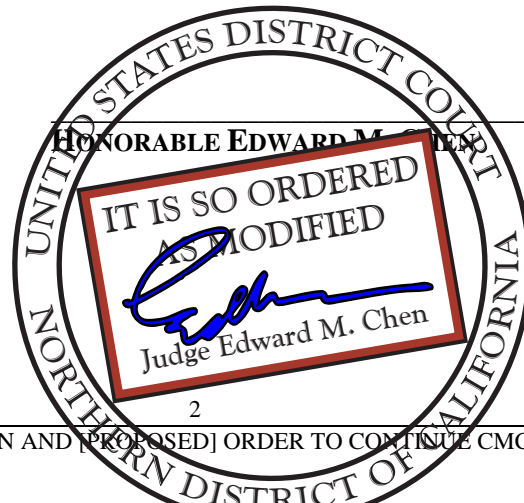
GILBERT & SACKMAN
A LAW CORPORATION

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20 By /s/ Linda S. Fang

Linda S. Fang
Attorneys for Plaintiffs

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22 **PURSUANT TO STIPULATION, IT IS SO ORDERED** that the case management
23 conference currently set for February 8, 2013 shall be rescheduled for March 7, 2013 at 10:30 a.m.

24
25 DATED: February 4, 2013.



1 **CERTIFICATE OF SERVICE**

2 I, Linda S. Fang, certify that on January 31, 2013, the foregoing document entitled:

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

5 was filed electronically in the Court’s ECF; thereby upon completion the ECF system
6 automatically generated a “Notice of Electronic Filing” as service through CM/ECF to registered
7 e-mail addresses of parties of record in the case, in particular on the following:

8 Timothy M. Rusche
9 trusche@seyfarth.com

10 William Dritsas
11 wdritsas@seyfarth.com

12 Kristen M. Agnew
13 kagnew@seyfarth.com

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct. Executed on January 31, 2013, at Los Angeles, California.

16 /s/ Linda S. Fang
17 Linda S. Fang

18 **ATTESTATION**

19 I, Linda S. Fang, am the ECF user whose ID and password were used to file the above
20 Stipulation and [Proposed] Order to Continue Case Management Conference. In accordance with
21 the Northern District of California’s General Order 45, X.B and Civil Local Rule 5-1(i)(3), I
22 hereby attest that I have obtained concurrence in the filing of this document from the other
23 signatory in this document.

24 /s/ Linda S. Fang
25 Linda S. Fang