

1 JAY SMITH (CA Bar No. 166105)
 (Email: js@gslaw.org)
 2 LINDA S. FANG (CA Bar No. 240245)
 (Email: lfang@gslaw.org)
 3 ADRIAN BARNES (CA Bar No. 253131)
 (Email: abarnes@gslaw.org)
 4 **GILBERT & SACKMAN**
A LAW CORPORATION
 5 3699 Wilshire Boulevard, Suite 1200
 Los Angeles, California 90010
 6 Tel: (323) 938-3000, Fax: (323) 937-9139

7 RICHARD P. ROUCO (*pro hac vice*)
 (Email: rrouco@wdklaw.com)
 8 **WHATLEY DRAKE & KALLAS, LLC**
 2001 Park Place North
 9 Birmingham, Alabama 35203
 Tel: (205) 328-9576, Fax: (205) 328-9669

10 Attorneys for Plaintiffs Rick Delagarza, Paul Gutierrez, Sal Lucido, April Moore, Charles Grimmett

11 WILLIAM J. DRITSAS (CA Bar No. 97523)
 (Email: wdritsas@seyfarth.com)
 12 **SEYFARTH SHAW LLP**
 13 560 Mission Street, 31st Floor
 San Francisco, California 94105
 14 Tel: (415) 397-2823, Fax: (415) 397-8549

15 TIMOTHY M. RUSCHE (CA Bar No. 230036)
 (Email: trusche@seyfarth.com)
 16 **SEYFARTH SHAW LLP**
 17 333 South Hope Street, Suite 3900
 Los Angeles, California 90071
 Tel: (213) 270-9662, Fax: (310) 201-5219

18 Attorneys for Defendant Tesoro Refining and Marketing Company

19 **UNITED STATES DISTRICT COURT**

20 **NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO**

21 RICK DELAGARZA, PAUL GUTIERREZ, SAL
 22 LUCIDO, APRIL MOORE, and CHARLES
 23 GRIMMETT, individually and on behalf of all
 similarly situated current and former employees,

24 Plaintiffs,

25 v.

26 TESORO REFINING AND MARKETING
 27 COMPANY and DOES 1 through 20, inclusive,

28 Defendants.

Case No. C 09-05803 MHP

Assigned for all purposes to Hon. Marilyn Hall Patel

**JOINT STIPULATION TO ADD PLAINTIFF
 AND EXTEND DEADLINE TO FILE
 MOTIONS REGARDING CLASS
 CERTIFICATION; ~~PROPOSED~~ ORDER**

1 Pursuant to L.R. 6-2 and 7-12, Plaintiffs Rick Delagarza, Paul Gutierrez, Sal Lucido, April
2 Moore, and Charles Grimmett, and Defendant Tesoro Refining and Marketing Company (“Tesoro”)
3 (collectively, “the Parties”), by and through their undersigned counsel, hereby stipulate as follows:

4 WHEREAS, Plaintiffs brought this case as a putative class action on behalf of all current and
5 former employees of Tesoro who worked at least one 8-, 10-, or 12-hour shift at its Martinez, California
6 facility between April 25, 2004 and the time class certification is granted (Dkt. 41);

7 WHEREAS, the Parties have engaged in extensive motion practice wherein Tesoro sought to
8 transfer and consolidate these actions with *USW v. Shell Oil Co., et al.*, USDC Case No. 08-3693 RGK
9 (Ex);

10 WHEREAS, on August 2, 2010, the Court issued an Order requiring any motions regarding class
11 certification to be filed by December 13, 2010, oppositions to be filed on January 10, 2011, and replies (if
12 no cross-motions) to be filed on January 24, 2011, and scheduling the hearing on any motions regarding
13 class certification for February 7, 2010, at 2:00 p.m. (Dkt. 70);

14 WHEREAS, the Parties have exchanged written discovery and they have produced hundreds of
15 pages of responsive documents;

16 WHEREAS, as a result of information learned during discovery, Plaintiffs believe it necessary to
17 add Antonio Garcia as an additional named plaintiff in the action to represent putative class members
18 who are or have been employed at the Golden Eagle chemical plant, which Plaintiffs contend is part of
19 the Golden Eagle facility that is the subject of this lawsuit and covered by a separate collective
20 bargaining agreement;

21 WHEREAS, the Parties have taken three depositions and they have tentatively scheduled three
22 additional depositions to take place by the end of November, 2010;

23 WHEREAS, Tesoro will need additional time to investigate Mr. Garcia’s employment history,
24 supplement its discovery responses to include documents related to Mr. Garcia, propound written
25 discovery directed to Mr. Garcia and take his deposition, and Plaintiffs will need time to respond to these
26 additional discovery requests;

27 ///

28 ///

1 WHEREAS, the Parties agree that it is in the interest of judicial economy and the preservation of
2 the Parties' resources to avoid unnecessary motions and to stipulate to adding Mr. Garcia as a named
3 plaintiff in the action;

4 WHEREAS, there have been no other time modifications in this case and the time modification to
5 which the Parties stipulate herein will not adversely affect the schedule for the case.

6 NOW, THEREFORE, the Parties agree and stipulate that:

- 7 1. Plaintiffs shall file a third amended complaint in the form attached as Exhibit A hereto
8 within one week of an Order approving this joint stipulation;
- 9 2. Tesoro shall respond to the third amended complaint within 30 days of the filing of
10 Plaintiffs' third amended complaint;
- 11 3. The deadline for any motions regarding class certification shall be moved from December
12 13, 2010 to February 14, 2011;
- 13 4. The deadline for oppositions to any motions regarding class certification shall be moved
14 from January 10, 2011 to March 14, 2011;
- 15 5. The deadline for replies to motions regarding class certification shall be moved from
16 January 24, 2011 to March 28, 2011; and
- 17 6. The hearing on the motions regarding class certification shall be moved from February 7,
18 2011, at 2:00 p.m. to April 11, 2011, at 2:00 p.m.

19 IT IS SO STIPULATED.

20 Dated: October 25, 2010

GILBERT & SACKMAN, A Law Corporation

21 By: /s/ Linda S. Fang
22 Linda S. Fang
23 Attorneys for Plaintiffs Rick Delagarza, Paul
24 Gutierrez, Sal Lucido, April Moore, Charles
Grimmett

25 Dated: October 25, 2010

SEYFARTH SHAW LLP

26 By: /s/ Timothy M. Rusche
27 Timothy M. Rusche
28 Attorneys for Defendant Tesoro Refining and
Marketing Company

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

~~PROPOSED~~ ORDER

pages 1-3,
PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 10/26/2010

Hon. Marilyn H. Patel
United States District Judge

