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19 **UNITED STATES DISTRICT COURT**

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

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

23 Plaintiffs,

24 v.

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

27 Defendants.

Case No. C 09-05803 MHP

Assigned for all purposes to Hon. Marilyn Hall Patel

**JOINT STIPULATION TO CONTINUE  
 FURTHER CASE MANAGEMENT  
 CONFERENCE AND 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, on October 26, 2010, the Court granted the Parties’ stipulation to allow Plaintiffs to  
5 file a third amended complaint and continue the deadline to file motions regarding class certification to  
6 February 14, 2011, with oppositions to be filed on March 14, 2011, and replies to be filed on March 28,  
7 2011, and with motions to be heard on April 11, 2011, at 2:00 p.m. (Dkt. 78);

8 WHEREAS, in December 2010 and January 2011, Plaintiffs’ counsel and Tesoro’s counsel took  
9 or defended 10 depositions in another action currently pending in the U.S. District Court for the Central  
10 District of California, *Burgess, et al. v. Tesoro Refining and Marketing Co.*, USDC Case No. CV10-5870  
11 VBF (PLAx), where the deadline to file motions regarding class certification is January 31, 2011;

12 WHEREAS, Plaintiffs have requested to depose approximately 10 representatives, supervisors,  
13 and managers of Tesoro, including Tesoro’s former HR Manager, but scheduling conflicts and the trial  
14 schedules of Tesoro’s attorneys have created scheduling challenges;

15 WHEREAS, on January 13, 2011, Plaintiff Rick Delagarza notified Plaintiffs’ counsel by email  
16 that he was taking emergency leave from Tesoro and wished to be dismissed from the lawsuit;

17 WHEREAS, the remaining Plaintiffs anticipate that Tesoro will argue in opposition to Plaintiffs’  
18 motion for class certification that alleged differences among putative class members’ job classifications,  
19 duties and responsibilities, and wage rates, as well as other alleged differences among the various work  
20 units at the refinery, including alleged differences between so-called “process” and “non-process” units,  
21 preclude class certification;

22 WHEREAS, Mr. Delagarza was the only named Plaintiff who worked in a “process” unit during  
23 the relevant statutory period and the only Plaintiff who worked as a Shift Safety Inspector, the remaining  
24 Plaintiffs wish to add a new named plaintiff to represent putative class members who work in the  
25 “process” units and as Shift Safety Inspectors, among other reasons;

26 WHEREAS, Tesoro will not stipulate to allow Plaintiffs to add another plaintiff to the case, and  
27 Plaintiffs intend to file a motion to amend the complaint to add a plaintiff as soon as their counsel obtains  
28 confirmation that Mr. Delagarza still wishes to be dismissed from the case;

1 WHEREAS, Plaintiffs' counsel has been summoned for jury duty in Pasadena, CA, the week of  
2 January 31, 2011, and she is unable to attend the further case management conference currently  
3 scheduled for January 31, 2011, in San Francisco;

4 WHEREAS, there has been one other time modification 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. The further case management conference currently scheduled for January 31, 2011, at 3:00  
8 p.m., shall be moved to February 28, 2011, at 3:00 p.m.;
- 9 2. The deadline for any motions regarding class certification shall be moved from February  
10 14, 2011 to March 28, 2011;
- 11 3. The deadline for oppositions to any motions regarding class certification shall be moved  
12 from March 14, 2011 to April 25, 2011;
- 13 4. The deadline for replies to any motions regarding class certification shall be moved from  
14 March 28, 2011 to May 9, 2011; and
- 15 5. The hearing on any motions regarding class certification shall be moved from April 11,  
16 2011, at 2:00 p.m. to May 23, 2011, at 2:00 p.m.

17 IT IS SO STIPULATED.

18 Dated: January 26, 2011

**GILBERT & SACKMAN, A Law Corporation**

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

22 Dated: January 26, 2011

**SEYFARTH SHAW LLP**

23 By:  /s/ Timothy M. Rusche  
24 Timothy M. Rusche  
25 Attorneys for Defendant Tesoro Refining and  
Marketing Company

26 ~~PROPOSED~~ ORDER

27 PURSUANT TO STIPULATION ON PAGES 1-2, ABOVE, IT IS SO ORDERED.

28 Dated: 1/27/2011

Hon. Marilyn Hall Patel  
United States District Court

