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16 LLC dba Shell Oil Products US

17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION**

19 DAVID GARDNER, STEVE MATTERN,  
20 BRIAN CERRE, and WILLIAM SULLIVAN  
individually and on behalf of all similarly situated  
current and former employees,

21 Plaintiffs,

22 v.

23 SHELL OIL COMPANY, SHELL OIL  
24 PRODUCTS COMPANY LLC, and EQUILON  
25 ENTERPRISES LLC dba SHELL OIL  
PRODUCTS US, and DOES 1 through 20,  
inclusive,

26 Defendants.  
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Case No. C 09-05876 CW (DMR)

Honorable Donna M. Ryu for Discovery Matters

**ORDER REGARDING FURTHER  
RESPONSES TO PLAINTIFFS'  
DISCOVERY REQUESTS**

1 Pursuant to an agreement between Plaintiffs David Gardner, Steve Mattern, Brian Cerri, and  
2 William Sullivan, and Defendant Equilon Enterprises LLC dba Shell Oil Products US (“Equilon”)  
3 regarding Plaintiffs’ First and Second Requests for Production of Documents and Plaintiffs’ Second Set  
4 of Interrogatories to Defendant Equilon, and good cause appearing, the Court hereby ORDERS the  
5 following:

6 1. On or before May 2, 2011, Equilon shall produce documents responsive to the following  
7 requests for production:

8 Request For Production No. 10: Equilon shall produce documents sufficient to determine the  
9 names and last-known addresses of all class members as defined in Plaintiffs’ Reply Brief in Support of  
10 their Motion for Class Certification (Dkt. 71).

11 Request for Production No. 14: Equilon shall produce documents that graphically depict the  
12 layout of Plaintiffs’ and class members’ work areas, including a layout of the Martinez refinery. If such  
13 documents do not exist, Equilon shall affirmatively represent such fact.

14 Request for Production No. 29: Equilon shall produce any and all documents signed by  
15 Plaintiffs, class members, or a USW representative that purports to waive a meal period. If such  
16 documents do not exist, Equilon shall affirmatively represent that such fact.

17 Request for Production No. 30: Equilon shall produce or identify any and all documents that it  
18 contends constitutes an “on duty” meal period agreement, as described in section 11 of the IWC Wage  
19 Orders. If such documents do not exist, Equilon shall affirmatively represent such fact.

20 2. On or before May 5, 2011, Equilon shall produce documents responsive to the following  
21 requests for production:

22 Request for Production No. 11: Equilon shall produce all (1) employee handbooks; (2) operating  
23 manuals or instructions for each unit; and (3) documents containing work rules or rules governing the  
24 conduct of employees that apply to Plaintiffs and class members. If such documents do not exist,  
25 Equilon shall affirmatively represent such fact.

26 Request for Production No. 12: Equilon shall produce documents that describe the duties of all  
27 job classifications included in the class definition as listed in Plaintiffs’ Reply Brief in Support of their

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1 Motion for Class Certification (Dkt. 71). If such documents do not exist, Equilon shall affirmatively  
2 represent such fact.

3 Request for Production No. 13: Equilon shall produce documents sufficient to identify each unit  
4 at the Martinez refinery and the function of each unit. If such documents do not exist, Equilon shall  
5 affirmatively represent such fact.

6 Request for Production No. 31: Equilon shall produce copies of all claims made since 2000  
7 alleging a violation of California's meal period requirements and/or applicable IWC Wage Order.  
8 Equilon shall produce all papers, pleadings or position statements related to such claims. If such  
9 documents do not exist, Equilon shall affirmatively represent such fact.

10 Request for Production No. 32: Equilon shall produce copies of all decisions, judicial opinions,  
11 court orders, administrative orders, proposed or final findings, proposed or final conclusions of law  
12 and/or consent decrees that concern claims under California's meal period requirements and/or  
13 applicable IWC Wage Order and that were asserted by any employee who worked a shift schedule at the  
14 Martinez refinery. If such documents do not exist, Equilon shall affirmatively represent such fact.

15 Request for Production No. 63: Equilon shall produce any and all documents that support the  
16 claim made in Brent Olsen's declaration that class members have "hours" of "free time" during a 12-  
17 hour shift. If such documents do not exist, Equilon shall affirmatively represent such fact.

18 3. On or before May 12, 2011, Equilon shall produce documents responsive to the following  
19 requests for production:

20 Request for Production No. 15: Equilon shall produce weekly schedules for each operating unit  
21 for each week from April 25, 2004 to the present. If such documents do not exist, Equilon shall  
22 affirmatively represent such fact.

23 Request for Production No. 16: Equilon shall produce Plaintiffs' and class members' payroll  
24 records for each pay period from April 25, 2004 to the present. The documents shall show for each  
25 Plaintiff and class member (1) the number of hours worked during each pay period; (2) the rate of pay;  
26 (3) the shifts worked; and (4) the job classification or position worked. If such documents do not exist,  
27 Equilon shall affirmatively represent such fact.

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1           Request for Production No. 62: Equilon shall produce for each operating unit at the Martinez  
2 refinery and for each year in the class period the weekly schedules that show the crew a class member is  
3 assigned to, the position the class members is scheduled to work during a shift, the shifts the class  
4 members is scheduled to work during a week, and/or the qualifications of each crew member. If such  
5 documents do not exist, Equilon shall affirmatively represent such fact.

6           Request for Production No. 64: To the extent not covered in any prior requests for production,  
7 Equilon shall produce documents showing all 12-hour shifts worked by Plaintiffs from April 25, 2004 to  
8 the present. If such documents do not exist, Equilon shall affirmatively represent such fact.

9           Request for Production No. 65: To the extent not covered in a prior request for production,  
10 Equilon shall produce documents showing all wages, penalties, or all other forms of compensation paid  
11 to Plaintiffs during the class period. If such documents do not exist, Equilon shall affirmatively represent  
12 such fact.

13           4.       On or before May 2, 2011, Equilon shall provide further, substantive answers to the  
14 following interrogatories propounded in Plaintiffs' Second Set of Interrogatories:

15           Interrogatory No. 6: Equilon shall provide an explanation for why the request seeking an  
16 admission that Equilon had a policy during the class period requiring class members to remain on the  
17 premises of the refinery during their work shifts, unless given permission to leave the refinery, is not  
18 entirely accurate.

19           Interrogatory No. 7: Equilon shall provide a supplemental explanation for its response to  
20 Plaintiffs' request that Equilon admit that during the class period there was a policy prohibiting class  
21 members from leaving their work areas unattended. Equilon shall provide facts (i.e. name of supervisor,  
22 unit, crew, time period, etc.) showing that class members were allowed to leave their work area  
23 unattended. If there no such facts, Equilon shall state so in its response.

24           Interrogatory No. 8: Equilon shall provide an explanation for why Plaintiffs' request seeking an  
25 admission that Equilon did not have a practice of providing class members with relief to take an off duty  
26 meal break is not entirely accurate as phrased.

27           Interrogatory No. 9: Equilon shall provide a supplemental explanation for its response to  
28 Plaintiffs' request that Defendant admit that during the class period class members did not have

1 scheduled or designated meal periods. Equilon shall provide facts (i.e. name of supervisor, unit, crew,  
2 time period, shifts, etc.) showing that class members had scheduled and/or designated meal periods. If  
3 such facts do not exist, Equilon shall state so in its response.

4 5. On or before May 10, 2011, Equilon shall provide further, substantive answers to the  
5 following interrogatories propounded in Plaintiffs' Second Set of Interrogatories:

6 Interrogatory No. 13: Equilon shall provide the information requested in this interrogatory  
7 regarding all instances of discipline of class members for leaving the refinery during a work shift  
8 without permission or state that there are no facts responsive to the interrogatory.

9 Interrogatory No. 14: Equilon shall provide the information requested in this interrogatory  
10 regarding all instances of discipline of class members for failing to respond to one or more radio calls or  
11 state that there are no facts responsive to the interrogatory.

12 Interrogatory No. 15: Equilon shall provide the information requested in this interrogatory  
13 regarding all instances of discipline of class members for sleeping or napping during a work shift or  
14 state that there are no facts responsive to the interrogatory.

15 Interrogatory No. 16: Equilon shall provide the information requested in this interrogatory  
16 regarding all instances of discipline of class members for reading unauthorized materials during a work  
17 shift or state that there are no facts responsive to the interrogatory.

18 Interrogatory No. 17: Equilon shall provide the information requested in this interrogatory  
19 regarding all instances of discipline of class members for watching movies, DVDs or television during a  
20 work shift or state that there are no facts responsive to the interrogatory.

21 Interrogatory No. 18: Equilon shall provide the information requested in this interrogatory  
22 regarding all instances of discipline of class members for accessing the Internet for personal reasons for  
23 more than fifteen (15) minutes during a work shift or state that there are no facts responsive to the  
24 interrogatory.

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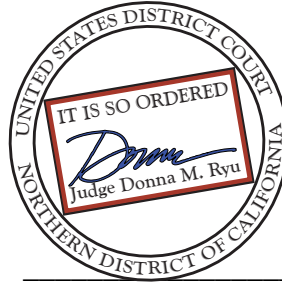
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1           6.       In the event there is further dispute over the adequacy and/or timeliness of Equilon's  
2 responses to the discovery identified in this Order, Plaintiffs shall have leave to bring such discovery  
3 disputes to the Court's attention within 10 days of each of the above-listed deadlines, pursuant to Court's  
4 procedure for resolution of discovery disputes.

5           IT IS SO ORDERED.



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8 Dated: 4/18/2011

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Hon. Donna M. Ryu  
U.S. District Court, Northern District of California

1 **CERTIFICATE OF SERVICE**

2 I, Linda S. Fang, certify that on April 15, 2011, the foregoing document entitled:

3 **[PROPOSED] ORDER REGARDING FURTHER RESPONSES**  
4 **TO PLAINTIFFS' DISCOVERY REQUESTS**

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

8 Angel Gomez  
9 agomez@ebglaw.com

10 Deanna Ballesteros  
11 dballesteros@ebglaw.com

12 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
13 true and correct. Executed on April 15, 2011, at Los Angeles, California.

14 /s/ Linda S. Fang  
15 Linda S. Fang