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and VICTOR HAZLETT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DEREK L. MCGHEE and VICTOR
HAZLETT, on behalf of themselves and others
similarly situated,

Plaintiff,

v.

TESORO REFINING & MARKETING
COMPANY LLC; ANDEAVOR; ANDEAVOR
LOGISTICS LP; MARATHON REFINING
LOGISTICS SERVICES LLC; and DOES 1 to
100, inclusive,

Defendants.

Case No. 4:18-cv-05999-JSW

Assigned For All Purposes to the Honorable
Jeffrey S. White, Courtroom 5

**DECLARATION OF EVE HOWE IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

*[Filed concurrently with Notice of Motion and
Motion; Other Declarations in Support;
[Proposed] Order]*

Date: May 16, 2025

Time: 9:00 a.m.

Courtroom: 5

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1. I am an attorney at law licensed to practice in the State of California and before this Court. I am an associate in the law firm Lavi & Ebrahimian, LLP (“L&E”), which law firm is Counsel for Plaintiffs Derek L. McGhee and Victor Hazlett, on behalf of themselves and those similarly situated, and the California Labor Workforce Development Agency (“LWDA”), (collectively “Plaintiffs”), in the captioned consolidated class action (hereinafter, the “Action”). The facts stated herein are true of my own personal knowledge. This declaration is provided in support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.

3. Attached hereto as **Exhibit 2** is a true and correct copy of a confirmation of the submission of the Settlement to the LWDA.

4. On August 17, 2018, Plaintiff McGhee filed a class complaint against Defendants Tesoro Refining & Marketing Company, LLC; Andeavor; and Andeavor Logistics LP in Contra Costa County Superior Court.¹ See *McGhee v. Tesoro Refining & Mktg. Co. LLC*, Case No. C18-01699 (the “*McGhee Action*”). On September 28, 2018, Tesoro, Andeavor, and Andeavor Logistics removed the *McGhee Action* to federal court. See N.D. Cal. Case No. 4:18-cv-05999-JSW, ECF No.1. The operative Third Amended Complaint alleges that the defendants violated California’s wage and hour laws by not providing rest breaks and failing to pay premium wages for missed rest breaks; by disincentivizing off-premises meal periods and by failing to pay premium wages for missed meal periods; by failing to pay wages for all time worked at the minimum wage rate by engaging in rounding practices; by failing to pay wages for all time worked at the minimum wage rate for shift turnover duties; by failing to timely pay wages due at the time of termination; and by failing to provide accurate wage statements. In addition to alleging violations of the California Labor Code, the

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complaint also asserted claims under California Business & Professions Code section 17200 and PAGA, California Labor Code section 2698 *et seq.*, based on the same alleged Labor Code violations.

5. On April 22, 2021, Plaintiff Hazlett, represented by the same counsel as McGhee, filed a putative class action complaint against Defendant Marathon Refining Logistics Services LLC in Contra Costa County Superior Court. *See Hazlett v. Marathon Refining Logistics Servs. LLC*, Case No. C21-00808 (The “Hazlett Class Action”). On June 3, 2021, Marathon removed the *Hazlett* Class Action to federal court. *See* N.D. Cal. Case No. 3:21-cv-04238-EMC, ECF No. 1. The complaint in the *Hazlett* Class Action asserts the same claims as the *McGhee* Action, but for a later time period. It additionally expands the claim for failure to provide rest breaks and pay rest break premium wages from lab technicians only to all hourly non-exempt employees.

6. On July 20, 2021, Hazlett, again represented by the same counsel as McGhee, filed a PAGA complaint against Marathon in Contra Costa County Superior Court. *See Hazlett v. Marathon Refining Logistics Servs. LLC*, Case No. C21-01534 (the “Hazlett PAGA Action”). The complaint in the *Hazlett* PAGA Action asserts a PAGA claim based on the same alleged wage-and-hour violations at issue in the *Hazlett* Class Action.

7. On September 6, 2022, Hazlett and Marathon jointly requested a stay of the *Hazlett* Class Action pending a class certification ruling in the *McGhee* Action, and the court in the *Hazlett* Class Action granted on September 7, 2022. On February 14, 2023, this Court granted Plaintiffs’ motion for class certification in the *McGhee* Action. Dkt. 116.

MEDIATION

8. Given the overlap between the claims asserted in the *McGhee* Action, the *Hazlett* Class Action, and the *Hazlett* PAGA Action, and the fact that the same counsel represents Plaintiffs McGhee and Hazlett, the Parties decided to mediate all three actions together. On October 26, 2023, the Parties participated in an unsuccessful mediation with mediator Hunter Hughes. On May 20, 2024, the Parties participated in a mediation with experienced labor and employment mediator Monique Ngo-Bonnici. Following mediation, the parties continued arms-length negotiations. On June 25, 2024, Mediator Ngo-Bonnici issued a modified mediator’s proposal, which was accepted by both parties on July 12,

2024. Subsequently, the Parties fully executed a long-form Joint Stipulation of Class Action Settlement and Release (the “Settlement”) on February 4, 2025.

9. As stipulated in the Settlement, Plaintiffs filed a Joint Stipulation for Leave to File a Consolidated Third Amended Complaint (“CTAC”) in the *McGhee* Action on April 7, 2025 that adds the class claims from the *Hazlett* Class Action and the PAGA claims from the *Hazlett* PAGA Action and adds Marathon as a defendant.

10. Plaintiffs’ counsel diligently investigated the proposed Class Members’ claims against Defendants, including all applicable defenses and the applicable law. The settlement discussions before, during and after the mediation were conducted at arm’s length and included, inter alia, the exchange of information pursuant to both formal and informal discovery methods, including Plaintiff McGhee’s deposition, the deposition of Defendants’ person most qualified, and other relevant information, including extensive payroll data and Defendants’ collective bargaining agreements and meal and rest break policies, and subsequent analysis by Plaintiffs’ counsel and Plaintiffs’ expert. The litigious procedural history of this consolidated action, including Plaintiffs’ Motion for Class Certification and Defendants’ removal and efforts opposing class certification, including by seeking interlocutory review from the Ninth Circuit via Rule 23(f), further confirms the non-collusive nature of the settlement.

DAMAGES ANALYSIS

11. Based on the data produced by Defendants, during the period from August 17, 2014, through July 12, 2024, Defendants employed approximately 2,200 Class Members over the course of approximately 2,000,000 12-hour Qualifying Shifts, and each Class Member was paid approximately \$40 per hour. Based on our analysis, the maximum exposure for Plaintiffs’ claims were as follows:

12. With regard to Plaintiffs’ Minimum Wage claims, Plaintiffs alleged that employees were not paid for turnover time and time required to don and doff personal protective equipment (PPE). Additionally, Plaintiffs alleged that Defendants rounded employees’ daily hours worked to the nearest quarter of an hour. Assuming an average loss of 2 minutes due to turnover time², 3 minutes

² As discussed in Plaintiff McGhee’s Motion to Certify Class (Dkt. 106), Defendant Tesoro implemented a policy in each of its refineries by January 2018 that ended Plaintiffs’ unpaid turnover time claim. As the claim applies to less than

1 for donning and doffing PPE, and 2 minutes due to rounding³, each employee was not paid for
2 approximately 7 minutes per shift. Thus, the maximum that Plaintiffs could recover amounted to
3 approximately **\$9,333,333.33**. [Calculated as follows: 2,000,000 shifts X 7 minutes unpaid per day /
4 60 minutes per hour X \$40/hour average rate of pay = **\$9,333,333.33**.]

5 13. With regard to Plaintiffs' Meal Break Claim, Plaintiffs alleged that employees were
6 discouraged from leaving the premises during their meal breaks. Specifically, Defendants employed
7 policies wherein employees who took meal breaks off-premises were required to work an additional
8 30 minutes at the end of a workday. Thus, the maximum that Plaintiffs could recover amounted to
9 approximately \$80,000,000.00. [Calculated as follows: 2,000,000 shifts X \$40/hour average rate of
10 pay = \$80,000,000.00.] However, Defendants would likely argue that individual inquiry is required
11 to determine whether employees were actually prohibited from leaving the premises during meal
12 breaks. Additionally, Defendants have argued that this policy did not discourage employees from off-
13 premises lunch breaks, but rather, only rewarded employees for on-premises lunch breaks. Due to
14 these factors, Plaintiffs contend that there is a 10% likelihood of success on this claim on a class basis
15 resulting in a more realistic exposure of approximately **\$8,000,000.00**.

16 14. With regard to Plaintiffs' Rest Break Claim, Plaintiffs alleged that employees were
17 frequently unable to take rest breaks due to the nature of work at the refinery, and that they were not
18 paid rest period premium wages for missed rest breaks. Specifically, employees reported being unable
19 to take rest breaks due to events like "unit turnarounds," during which one or more of the units within
20 a department would be inspected and/or serviced, and "plant upsets" which happened when an
21 operational disruption occurred within the refinery. Thus, the maximum that Plaintiffs could recover
22 (assuming one missed rest break per five shifts due to the above events) amounted to approximately
23 \$16,000,000.00. [Calculated as follows: 2,000,000 shifts X \$40/hour average rate of pay / 5 =
24 \$16,000,000.00.] However, Defendants would likely argue that individual inquiry is required to
25 determine how frequently employees were actually unable to take breaks and whether they were paid

26 4 years of the approximately 10 year-long Class Period, Plaintiffs apply a 60% discount to the original assumption of 5
27 minutes of turnover time per shift.

28 ³ Plaintiffs' expert analyzed approximately 100,000 shifts from April 2018 to April 2020 and found that 68% of shifts
had unfavorable rounding of 4.6 minutes on average, 7% of shifts rounded evenly, and 25% of shifts had favorable
rounding of 4.5 minutes on average. Thus, Plaintiffs here assume an average loss of 2 minutes per shift due to rounding.

1 rest period premium wages for missed breaks. The lack of recording of rest breaks places an additional
2 burden on proving this claim. Additionally, Defendants claim that not all class members were entitled
3 to off-duty rest breaks due to the safety-sensitive nature of their work. Due to these factors, Plaintiffs
4 contend that there is a 10% likelihood of success on this claim on a class basis resulting in a more
5 realistic exposure of approximately **\$1,600,000.00**.

6 15. With regard to Plaintiffs' Wage Statement claim, the maximum that Plaintiffs could
7 recover amounted to approximately \$8,800,000.00. [Calculated as follows: 2,200 Class Members X
8 \$4,000 maximum penalty = \$8,800,000.00.] Plaintiffs allege that derivative of the aforementioned
9 violations, Defendants failed to provide employees with wage statements which accurately stated the
10 wages earned. However, Defendants argued that because this claim was derivative, the claim was
11 subject to their defenses. In addition, Defendants argued that Plaintiffs could not show that any
12 inaccuracy was based on a knowing and intentional failure—an element of a violation of Labor Code
13 section 226—or a violation of law in the manner required by Labor Code section 226. However,
14 Plaintiffs believe they could be successful on this claim at least in part due to rounding and
15 Defendant's written policies regarding meal breaks. As such, Plaintiffs contend that there is a 20%
16 likelihood of success on this claim on a class basis resulting in approximately **\$1,760,000.00** in wage
17 statement penalties.

18 16. With regard to Plaintiffs' Waiting Time penalties claim, the maximum that Plaintiffs
19 could recover amounted to approximately \$7,920,000.00. [Calculated as follows: 550 former
20 employees⁴ X 12 hours per workday X \$40/hour average rate of pay X 30 days = \$7,920,000.00.]
21 Because this claim was derivative, Defendants argued it was subject to the aforementioned defenses
22 that the employees received wages for the time they recorded and were provided legally required meal
23 and rest periods. In addition, Defendant argued that Plaintiffs could not show that any failure to pay
24 wages was willful—an element of Labor Code section 203—or a violation of law in the manner
25 required by Labor Code sections 201 and 202. However, Plaintiffs believes they could be successful
26 on this claim at least in part due to rounding and Defendant's written policies regarding meal breaks.

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28 ⁴ Plaintiffs assume 550 former employees out of 2,200 class members based on data from discovery in the *McGhee*
Action through April 20, 2020, which showed approximately 23% of class members were former employees.

As such, Plaintiffs contend that there is a 20% likelihood of success on this claim on a class basis resulting in approximately **\$1,584,000.00** in waiting time penalties.

17. With respect to the maximum PAGA exposure analysis, according to information produced by Defendants, there were an estimated total of around 2,200 Class Members, and approximately 400,000 pay periods.⁵ Thus, Plaintiffs estimated the absolute maximum, stacked, PAGA penalties across the PAGA Groups, combined, to be \$219,780,000, of which 25%, or \$54,945,000, would accrue to Class Members.⁶

18. Nonetheless, Plaintiffs recognize that PAGA claims generally settle for a mere fraction of multiple “stacked” PAGA penalties as is described above, and in fact more typically resolve for a reasonable fraction of the *unstacked* PAGA exposure. Here, since the claims for meal periods, rest periods, wage statements, and waiting time penalties are all premised at least partially on the same factual basis or theories (e.g., that class members were subject to the same policies regarding meal and rest breaks, and at times were unable to take meal and rest periods) stacking these penalties could arguably be overly punitive. Seeking only penalties for the primary violations results in far more reasonable and less punitive penalties that eliminate the “stacked” penalties for each Labor Code section violated as a result of the same conduct. As a result, Defendants could argue Plaintiffs and Class Members should only be able to recover penalties for the primary violations. If Defendants are correct on the “stacking” issue, the maximum theoretical penalties would be substantially less under Defendant’s view of the law, capping out at \$39,890,000 for the primary violations alleged.

19. Plaintiffs also anticipate that Defendants would argue that the Court follow the logic in *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1209 and assess only the initial \$50 violation rate for each pay period with meal and rest period violations and that the rate of \$100 per subsequent violation should not apply to Defendant. If the Court decided that Defendants are correct

⁵ Plaintiffs assume 400,000 pay periods based on 2,000,000 qualifying shifts, using a conversion of 5 shifts to 1 pay period.

⁶ Potential penalties available as follows:

- PAGA Meal Breaks: (2,200 employees X \$50 [initial rate]) + (397,800 pay periods X \$100) = \$39,890,000
- PAGA Rest Breaks: (2,200 employees X \$50 [initial rate]) + (397,800 pay periods X \$100) = \$39,890,000
- PAGA Wage Statements: (400,000 pay periods X \$250) = \$100,000,000
- PAGA Labor Code 203: (400,000 pay periods X \$100) = \$40,000,000

1 about the initial/subsequent violation rate issue, then the worst-case scenario estimate would be
2 further reduced to \$20,000,000.00 [Calculated as follows: 400,000 pay periods X \$50 =
3 \$20,000,000.00.].

4 20. Plaintiffs' recovery on the maximum calculations also assumes that Plaintiffs' PAGA
5 claims could be tried in a manageable manner that comports with due process, which Defendants
6 vigorously dispute.

7 21. Furthermore, the Court has discretion under PAGA to reduce the amount of any
8 penalties awarded for equitable reasons. Defendants have consistently argued that PAGA penalties
9 would be curtailed in any event. Defendants deny any liability. Moreover, Defendants would argue
10 that even if Plaintiffs prevailed, the recoverable penalties under PAGA are minimal. Indeed, courts
11 to consider the issue have refused to "stack" PAGA penalties, and even reduced the penalties per
12 violation on equitable grounds. *See Carrington v. Starbucks Corp.* (Cal. Ct. App. Nov. 27, 2018) No.
13 D072392 (published Dec. 19, 2018) (approving PAGA penalty reduction to \$5 per pay period);
14 *accord Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809. Defendants will likewise argue that
15 Plaintiffs are not entitled to recover PAGA penalties at the subsequent violation rate of \$100 per pay
16 period. California's appellate courts have held that "[u]ntil the employer has been notified that it is
17 violating a Labor Code provision (whether or not the commissioner or court chooses to impose
18 penalties), the employer cannot be presumed to be aware [of the violation]" and therefore, until a
19 Court or the Commissioner issues a finding of a violation, the initial \$100 violation rate applies for
20 each pay period in which the alleged violation occurred. *Amaral v. Cintas Corp. No. 2* (2008) 163
21 Cal.App.4th 1157, 1209; *accord Amalgamated Transit Union Local 1309 v. Laidlaw Transit Srvcs.,*
22 *Inc.* (S.D. Cal. Aug. 10, 2009) 2009 WL 2448430, at *9 ("[u]nder California law, courts have held
23 that employers are not subject to heightened penalties for subsequent violations unless and until a
24 court or commissioner notifies the employer that it is in violation of the Labor Code"). Thus,
25 Defendants would argue that even if the Plaintiffs were able to establish any violation of meal and
26 rest periods under the Labor Code, the PAGA penalties assessed for these violations will be computed
27 at the \$50 rate, as opposed to the \$100 per pay period rate at maximum, and there is a chance that a
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1 further equitable reduction of the penalty to \$5 per pay period as approved in *Carrington* could apply
2 given Defendants' arguments that they complied with the Labor Code and/or it is protected by certain
3 exemptions/preemptions.

4 22. Accordingly, Plaintiffs' analysis accounts for the more realistic possibility of the court
5 imposing an unstacked, PAGA penalty, which discounts the non-derivative penalties by applying the
6 initial violation rate and a further equitable 80% discount (i.e., \$10 per pay period, higher than the \$5
7 per pay period the *Carrington* court applied) for equitable defenses, for an estimated PAGA penalty
8 exposure of **\$4,000,000.00**.

9 23. Plaintiffs and Class Counsel have a duty to "vigorously and tenaciously" protect the
10 interests of the class members. (*Simons v. Horowitz* (1984) 151 Cal.App.3d 834, 846.) Plaintiffs must
11 also seek to further the purpose of the PAGA which is to enforce the PAGA penalties to discourage
12 Labor Code violations and penalize an employer violating the law. (*Iskanian v. CLS Transportation*
13 (2014) 59 Cal.4th 348, 387 ["Representative actions under the PAGA ... directly enforce the state's
14 interest in penalizing and deterring employers who violate California's labor laws."].) Thus, the
15 purpose of PAGA is not focused on obtaining as much in penalties as possible, so much as enforcing
16 the Labor Code. (*Id.* at 383 ["the Legislature's purpose in enacting the PAGA was to augment the
17 limited enforcement capability of the Agency by empowering employees to enforce the Labor Code
18 as representatives of the Agency."].) To balance these goals of obtaining damages for the class
19 members, discouraging Labor Code violations and penalizing the employer when the settlement is
20 significantly less than the estimated damages, Class Counsel believed it appropriate to seek significant
21 relief focusing on claims with damages that would go to the class members whose rights they contend
22 were actually violated and suffered the most from the Labor Code violations. The amount paid in
23 settlement to these claims also serve the purpose of PAGA civil penalties to discourage Labor Code
24 violations and penalize Defendants for Plaintiffs' belief that Defendants violated the law.
25 Accordingly, Class Counsel believed it fair that the class members should receive the majority of the
26 damages when the settlement is less than the full estimate of liability because: (1) the class members
27 are the direct victims of the Labor Code violations; and (2) although not allocated as PAGA penalties,

1 the non-PAGA settlement amount furthers the purpose of the PAGA penalties, i.e., to discourage
2 Labor Code violations and penalize an employer violating the law. (*Iskanian*, 59 Cal.4th at 387.) (See
3 Lab. Code § 2699, subd. (e)(2) [court may award less than the statutory maximum PAGA penalties
4 if unjust, arbitrary and oppressive, or confiscatory]; *Amaral v. Cintax Corp. No. 2* (2008) 163
5 Cal.App.4th 1157, 1213-1214 [noting court’s discretion].)

6 24. It is extremely common in approved wage and hour class action cases that settle for
7 only a small portion of the total settlement to be allocated as PAGA penalties “in order to maximize
8 payments to class members.” (*Magadia v. Wal-Mart Assocs.* (N.D. Cal. May 31, 2019, No. 17-CV-
9 00062-LHK) 2019 U.S. Dist. LEXIS 91732, *90-91, citing as examples *Ceja-Corona v. CVS Pharm.,*
10 *Inc.* (E.D. Cal. Jan. 14, 2015) 2015 U.S. Dist. LEXIS 5118, 2015 WL 222500, at *2-3 [preliminarily
11 approving \$10,000 in PAGA penalties out of a total settlement amount of \$900,000]; *Thio v. Genji,*
12 *LLC* (N.D. Cal. 2014) 14 F. Supp. 3d 1324, 1330 [preliminarily approving \$10,000 in PAGA
13 penalties out of a total settlement amount of \$1,250,000]; *Franco v. Ruiz Food Prods.* (E.D. Cal. Nov.
14 27, 2012) 2012 U.S. Dist. LEXIS 169057, 2012 WL 5941801, at *14 [granting final approval of
15 \$10,000 in PAGA penalties out of a total settlement amount of \$2,500,000]; *Garcia v. Gordon*
16 *Trucking, Inc.* (E.D. Cal. Oct. 31, 2012) 2012 U.S. Dist. LEXIS 160052, 2012 WL 5364575, at *3
17 [granting final approval of \$10,000 in PAGA penalties out of a total settlement amount of
18 \$3,700,000]; *Chu v. Wells Fargo Invs., LLC* (N.D. Cal. Feb. 16, 2011) 2011 U.S. Dist. LEXIS 15821,
19 2011 WL 672645, at *1 [granting final approval of \$10,000 in PAGA penalties out of a total
20 settlement amount of \$6,900,000].) Like here, in these approved settlements, the parties generally
21 maximized statutory penalties and minimized PAGA penalties to focus on claims to the class
22 members, the persons who suffered the alleged Labor Code violations.

23 25. The proposed Settlement provides for a gross fund value of \$7,200,000 with a PAGA
24 allocation of \$100,000 with 75% (\$75,000) payable to the LWDA and 25% (\$25,000) distributed to
25 the Class Members and falls squarely within the range of reasonableness for PAGA allocations
26 outlined in the case law above.

27 26. Given Defendants’ many potential substantive and procedural defenses to Plaintiffs’
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claims and other factors (such as the additional time and expense it would take to litigate this case through summary judgment, trial and a potential appeal), in assessing the risk and time-discounted value of the claims, Class Counsel and Plaintiffs determined that the Settlement Fund was fair, reasonable, and in the best interest of the Class Members. Indeed, the Settlement Fund of \$7,200,000 represents approximately 27.4% of Plaintiffs' estimated maximum recovery under the Class and PAGA claims (i.e., $\$26,277,333.33 \times 0.274 = \sim \$7,200,000$) if Plaintiffs were to prevail on every claim.

27. The Settlement will result in immediate and certain payment to Class Members of meaningful amounts. In fact, Plaintiffs estimate that class members will receive approximately \$2.23 per shift that they worked for Defendants, with the average recovery expected to be more than \$2,000 per Class Member (this amount divides the anticipated Net Settlement Proceeds by total number of Class Members). Additionally, \$75,000 will further be paid to the State of California in connection with the PAGA settlement. The Settlement thus provides significant compensation to the Class Members and the State of California, and in light of all of the risks of summary judgment, trial, the risk of an adverse appeal on final judgment on one or more of the claims and subsequent effect to recovery under derivative claims and penalties, and the time entailed in ultimately reaching a potentially enforceable award, the Settlement amount is fair, reasonable, and adequate.

28. If Plaintiffs continued litigating this matter, the Class Members could potentially receive **nothing** if the Court agreed with Defendants' position or if Defendants were able to defeat the existing certification based on the individual inquiries that would be required regarding Plaintiffs' off the clock claims and meal and rest claims, etc. Furthermore, even if the Court agreed with Plaintiffs, Plaintiffs still would have to prove Defendants are liable for Plaintiffs' derivative claims and acted intentionally and *willfully* in order to receive the additional penalties under Labor Code §§ 203, 204, and 226, etc. As such, Plaintiffs' decision to settle this matter for \$7,200,000 was in the best interest of the Class Members and is an outstanding result, since it will result in Class Members receiving, on average, more than \$2,000 each.

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1 33. CPT will also create a website for the Settlement which will allow Class Members to
2 view the Class Notice in substantially the form attached as “**Exhibit A**” to the Settlement Agreement,
3 and Plaintiffs’ preliminary and final approval motions. The Settlement Administrator will also
4 establish a toll-free telephone number, fax number, and email address to receive Class Member calls,
5 faxes and emails.

6 34. The Notice of Settlement clearly explains the procedures and deadlines for objecting
7 to the Settlement, and the date, time and place of the Final Approval Hearing. The proposed Notice
8 of Settlement also sets forth the amounts of attorney’s fees and costs sought by Plaintiffs, as well as
9 an explanation of the procedure by which Class Counsel will apply for them. The Notice of Settlement
10 clearly states that the Settlement does not constitute an admission of liability by Defendants.
11 Accordingly, the Notice of Settlement complies with the standards of fairness, completeness, and
12 neutrality required of a settlement class notice disseminated under authority of the Court. Class
13 Counsel believes the direct mailing of the proposed Class Notice to Class Members to be the best
14 notice practicable under the circumstances.

15 35. Class Members will have 45 days from the mailing of the Notice of Settlement to
16 request exclusion from the Settlement or object to the Settlement. Any Class Member who does not
17 submit a timely request to exclude themselves from the Settlement will be deemed a Participating
18 Class Member.

19 36. Not later than 21 days before the Final Fairness Hearing, CPT will provide to Class
20 Counsel and Defense Counsel a signed declaration attesting to its diligence and compliance with the
21 obligations under the Settlement, providing data on Notices (mailed, remailed, returned
22 undeliverable, etc.), and providing details of the number of objections and an exclusion list.

23 37. CPT will also prepare and submit to Class Counsel and Defense Counsel a signed
24 declaration attesting to its disbursement of all payments as required by the terms of the Settlement
25 Agreement and/or as ordered by the Court.

26 38. CPT will supplement its declarations as needed or requested by the Parties.

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1 **PLAINTIFF SERVICE AWARDS**

2 39. Named Plaintiffs are seeking service payments of \$10,000 each (totaling \$20,000) as
3 reasonable compensation for the critical role they played in this case, and the time, effort, and risks
4 undertaken in helping secure the result obtained on behalf of the Class Members. In agreeing to serve
5 as Class Representatives, these individuals formally agreed to accept the responsibilities of
6 representing the interests of all Class Members. Each Named Plaintiff worked closely with Class
7 Counsel on relevant discovery and took on the burden and stigma of being a class representative in
8 an employment action. Defendants do not oppose the requested payments to these representatives as
9 reasonable service awards and in consideration of the full releases given by Plaintiffs.

10 40. It is imperative that Plaintiffs McGhee and Hazlett (“Named Plaintiffs”) obtain just
11 compensation for the time, effort and risk associated with their fiduciary duties as class
12 representatives. Named Plaintiffs performed considerable services on behalf of the Classes since the
13 beginning of each action, collecting and gathering the requested documents and information, wage
14 statements and/or pay stubs, discussed the same with us, made themselves available each and every
15 single time that we called in order to answer questions about Defendants’ policies and procedures
16 produced in informal discovery or discussed during conversations with opposing counsel and co-
17 counsel or raised in pleadings filed in this matter. Named Plaintiffs provided Class Counsel with
18 factual information needed to prepare the complaints and the notice to the LWDA as well as the
19 amendments to the complaints. They collected relevant documents and produced those documents to
20 Class Counsel. Plaintiff McGhee was also deposed in connection with the Action. The Named
21 Plaintiffs were available during the relevant full-day mediations and continued to be engaged in
22 continued settlement negotiations that were ultimately required to reach a settlement in this case.
23 Based on the value of their foregoing efforts alone, I believe that the request of \$10,000 for each of
24 the Named Plaintiffs as an enhancement payment is justified. Furthermore, Named Plaintiffs are
25 providing a general release of claims exceeding the release applicable to Class Members, including a
26 Civil Code § 1542 waiver. The Named Plaintiffs have also placed themselves at significant risk for
27 liability for costs in this matter if Defendant were the prevailing party in the litigation. When viewed
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in the particular context of class actions based on claims related to employment, it is the Named Plaintiffs who—alone amongst fellow Class Members—bear the serious risk of retaliation by other employers who may discover and find it unappealing that such Named Plaintiffs were Class Representatives in a lawsuit against their former employers. Meanwhile, fellow Class Members stand to gain the substantial benefits (approximately \$2,000 per Class Member) from the resolution of this Action without incurring any risk. At this point in the approval process, the Named Plaintiffs’ requested payment should be approved and the Class Members provided with the opportunity to object to the requested enhancement.

41. Moreover, the service awards are fair when compared to those approved by this Court and in similar cases before other judges in the Northern District. In accordance with the Northern District’s Guidance for Class Action Settlement Approval, I have reviewed prior orders regarding service awards in this Court and the Northern District, and such orders support the service awards sought by Plaintiffs.

42. A true and correct visualization of results of my review of cases before this Court in table form, is provided below, for ease of reference.⁷

Award Approved by Order of:	Case, Case No., ECF No. of Final Approval Order	Claim	Service Award	Adjusted for CPI Inflation to February 2025 equivalent value ⁸
Senior District Judge Jeffrey S. White	<i>Ninau v. Regis Corporation</i> , Case No. 09-cv-04045 (ECF 68)	Wage and hour case; gross settlement amount \$750,000	\$5,000	\$7,208.97 (calculated from order granting prelim. approval February 2011) (ECF 51)

⁷ Service awards granted by other judges in the Northern District of California also support the reasonableness of the requested service awards to named plaintiffs. *See, e.g., Nucci v. Rite Aid*, Case no. 19-cv-01434-LB (N.D. Cal. May 26, 2022) (ECF 136) (Beeler, M.J.) (granting service awards of \$7,500 each to 3 plaintiffs; average class member claim was \$308); *Alvarez v. Farmers Ins. Exch.*, 2017 WL 2214585, at *1 (N.D. Cal. Jan. 18, 2017) (Orrick, J.) (“\$10,000 service award for each of the named Plaintiffs is reasonable and appropriate” where “Plaintiffs . . . assisted Class Counsel in the litigation of this case” and “took a significant risk by becoming a class representative in this action”); *Springer v. Custard Insurance Adjusters* (N.D. Cal. July 22, 2019) (ECF 96) (Orrick, J.) (“\$7,500 enhancement awards for 5 plaintiffs “reasonable in light of the risks and burdens undertaken by the Representative Plaintiffs in this Action, for their time and effort in bringing and prosecuting this matter on behalf of the Plaintiff Classes, and for the broader releases they are providing to Defendant.”); *Soto, et al. v. O.C. Communications, Inc.*, et al., Case No. 3:17-cv-00251-VC (N.D. Cal. Oct. 23, 2019) (ECF 304) (approving \$15,000 and \$10,000 service awards in hybrid FLSA/Rule 23 settlement); *Guilbaud v. Sprint/United Management Co., Inc.*, No. 3:13-cv-04357-VC (N.D. Cal. Apr. 15, 2016) (ECF 181) (approving \$10,000 service payments for each class representative in FLSA and California state law representative wage and hour action).

⁸ Calculator provided by Bureau of Labor Statistics hosted at <https://data.bls.gov/cgi-bin/cpicalc.pl>.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Senior District Judge Jeffrey S. White	<i>Canlas et al. v. Aircraft Service International, Inc.</i> , Case No. 16-cv-02355 (ECF 57)	Wage and hour case; gross settlement amount \$715,000; 461 class members	\$7,500	\$9,496.90 (calculated from order granting prelim. approval June 2018) (ECF 48)
16 17 18 19 20 21 22 23 24 25 26 27 28	Senior District Judge Jeffrey S. White	<i>Newirth et al. v. Aegis Senior Communities LLC</i> , Case No. 16-cv-03991 (ECF 229)	Gross settlement amount \$16.25M; ~10k class members; average class award <\$1,000	\$10,000	\$11,853.19 (calculated from order granting prelim. approval May 2021) (ECF 211)
	Senior District Judge Jeffrey S. White	<i>Lee et al. v. Ulta Salon, Cosmetics & Fragrance, Inc.</i> , Case No. 09-cv-04022 (ECF 60)	Wage and hour case; gross settlement amount \$1,400,000; 56 class members	\$7,500	\$10,961.90 (calculated from order granting prelim. approval August 2010) (ECF 45)
	Senior District Judge Jeffrey S. White	<i>Fuller v. Zep Inc., et al.</i> , Case No. 18-cv-02672 (ECF 62)	Class action and PAGA settlement; gross settlement amount \$1,500,000	\$30,000	\$37,311.10 (calculated from order granting prelim. approval August 2019) (ECF 53)

43. Plaintiffs are providing their own declarations which detail their efforts in the case and risks taken as representative Plaintiffs in this wage and hour action.

EXPERIENCE OF CLASS COUNSEL

44. Lavi & Ebrahimian, LLP is experienced and qualified to act as Class Counsel, to evaluate the class claims, to evaluate settlement versus trial on a fully informed basis, and to evaluate the viability of the defenses.

45. I, and the attorneys of the law firm of Lavi & Ebrahimian, LLP, nearly exclusively practice in the area of labor and employment law.

46. I graduated from the Harvard Law School in 2021. Since July 2023, I have been in practice with the law firm of Lavi & Ebrahimian, LLP, focusing almost exclusively in the area of employment law and specifically wage and hour class actions. In my role, I have been involved in numerous cases from mediation through post-settlement approval and reporting, including California

1 and Federal class actions, PAGA representative actions, and collective actions.

2 47. I am also familiar with the practice of Lead Counsel Joseph Lavi having worked as an
3 associate with Lavi & Ebrahimian, LLP, which has included reviewing Mr. Lavi's declarations in
4 support of motions for attorneys' fees and/or to seek appointment as Class Counsel. Mr. Lavi
5 graduated from law school in 2000 and has handled numerous cases in all aspects of employment and
6 labor law, including state and federal class actions, wrongful termination, discrimination, harassment
7 and retaliation cases. Mr. Lavi has tried employment cases in State and Federal court, and has argued
8 before various Courts of Appeals, on employment issues such as validity of Arbitration Agreements,
9 Application of Res Judicata in class action cases, and other employment issues. Mr. Lavi has been a
10 panelist and/or speaker for various Employment Law Continuing Legal Education Panels on issues
11 of employment law trials, how to proceed and conduct trials, and proving and winning punitive
12 damages. Mr. Lavi has been named a Southern California Super Lawyer in the area of Plaintiff's
13 employment litigation for Class Actions from 2011-2025. Mr. Lavi has settled dozens of wage and
14 hour class actions and is currently plaintiff's counsel in many others. Some of the class actions that
15 Mr. Lavi has handled against employers on wage and hour issues and have been approved as class
16 counsel include cases against the following: Kaiser Permanente which settled for \$6,510,000.00;
17 Hustler Casino which settled for \$980,000.00; Chevron Stations Inc., which settled for \$4,500,000.00;
18 Commerce Casino which settled for \$1,575,000.00; BP West Cost Products, which settled for
19 \$4,000,000.00; Kaiser Permanente which settled for \$3,600,000.00; Fuddruckers (as lead counsel)
20 which settled for \$900,000.00; Movado Retail Group, Inc. (as lead counsel) which settled for
21 \$728,000.00; Chuck-E-Cheese's (as lead counsel) which settled for \$1,900,000.00; Aero-Electric
22 Connector, Inc. (as lead counsel) which settled for \$1,500,000.00; Clougherty Packing, LLC (as lead
23 counsel) which settled for \$4,250,000.00; and Gruma Corporation (as lead counsel) which
24 defendants' petition to the United States Supreme Court in the matter was denied and the matter
25 settled for \$2,300,000.00. Mr. Lavi has been approved as class counsel by both Federal and California
26 Courts. Mr. Lavi and the other attorneys at Lavi & Ebrahimian who are available to assist me in this
27 case if needed are fully capable of adequately and fairly representing Plaintiffs and the proposed
28

Classes in this matter.

48. Lavi & Ebrahimiian, LLP, and has been appointed Class Counsel in over fifty contested proceedings including the following:

a. *Ischak v. Kaiser Foundation Hospitals, Inc.*, Los Angeles Superior Court Case No. BC343535;

b. *Santana v. El Pollo Loco, Inc.*, Los Angeles Superior Court Case No. BC369846;

c. *Edlin, et al. v. Fuddruckers, Inc.*, United States District Court, Central District of California, Case No. CV-07-3678-ABC;

d. *Chavez, et al. vs. CEC Entertainment, Inc. d/b/a Chukee-Cheeses*, Los Angeles Superior Court Case No. BC380996;

e. *Bustamante, et al. v. Teamone Employment Specialists*, Los Angeles Superior Court Case No. BC383266;

f. *Cervantes, et al. v. Kaiser Foundation Hospitals, Inc.*, Alameda Superior Court Case No. RG 0265835;

g. *Seng Savang v. Club One Casino*; Fresno Superior Court Case No. 05CECG02189;

h. *Norman, et al. v. Movado Retail Group, Inc.*, United States District Court, Central District of California, Case No. CV08-06691 SVW (PLA)

i. *Shand v. G.A.L.A., Inc. dba Giorgio Armani*, Los Angeles Superior Court Case No. BC342588;

j. *Solis v. Plycraft Industries, Inc.*, Los Angeles Superior Court Case No. BC374816;

k. *Campos v. HWB Carwash, Inc.*, Los Angeles Superior Court Case No. BC378990;

l. *Acosta, et al. v. Texwood Industries*, United States District Court, Central District of California, Case No. CV07-3237-DDP (PLAX);

m. *Arevalo v. Gruma Corporation*, Los Angeles Superior Court Case No. BC410322;

n. *Burrola v. American Promotional Events*, Los Angeles Superior Court Case No. BC412315;

o. *Cortez v. Trader Distribution Services*, Los Angeles Superior Court Case No.

1 BC397208;

2 p. *Cueva v. Allied Industries, Inc.*, Los Angeles Superior Court Case No. BC399431;

3 q. *Del Toro v. Petco Animal Supplies, Inc.*, San Diego Superior Court Case No. 37-2009-
4 00103626-CU-OE-CTL;

5 r. *Garcia v. Home Cooking, Inc.*, Los Angeles Superior Court Case No. BC451148;

6 s. *Alcantar v. Amerimax Building Products, Inc.*, United States District Court, Central
7 District of California, Case No. CV 10-8916 DDP (CWx);

8 t. *Arancivias v. Clougherty Packaging, LLC dba Farmer John*, Los Angeles Superior
9 Court Case No. BC432406;

10 u. *Barajas v. Menzies Aviation, Inc.*, United States District Court, Central District of
11 California, Case No CV-10-02315-JEM;

12 v. *Barrera v. BHFC Operating, LLC dba Bottega Louie*, Los Angeles Superior Court
13 Case No. BC462603;

14 w. *Camacho v. American Textile Maintenance Co.*, Los Angeles Superior Court Case
15 No. BC452570;

16 x. *Cortes v. Monsanto Company*, Ventura Superior Court Case No. 56-2010-00366952-
17 CU-OE-VTA;

18 y. *Escobar v. Aero-Electric Connector, Inc.*, Los Angeles Superior Court Case No.
19 BC421009;

20 z. *Gomez v. Bacara Resort & Spa*, Santa Barbara Superior Court Case No. 1341987;

21 aa. *Gonzalez v. Ashley Furniture Industries, Inc.*, Los Angeles Superior Court Case No.
22 BC425708

23 bb. *Gonzalez v. Burrtec Waste Industries, Inc.*, Los Angeles Superior Court Case No.
24 BC436879;

25 cc. *Gutierrez v. Visterra Credit Union*, Riverside Superior Court Case No. RIC10020183;

26 dd. *Hernandez v. Kruse & Son, Inc.*, Los Angeles Superior Court Case No. BC411849;

27 ee. *Lopez v. Tecno Industrial Engineering*, Los Angeles Superior Court Case No.
28

1 BC411134;

2 ff. *Lowanga v. Continental Currency Services, Inc.*, Orange County Superior Court Case
3 No. 30-2011-0044011-CU-OE-CXC;

4 gg. *Aguilar v. PLS Financial Services, Inc.*, United States District Court, Central District
5 of California, Case No. CV 10-0415 ODW (FMOx)

6 hh. *Lozada v. Classic Party Rentals, Inc.*, Los Angeles Superior Court Case No.
7 BC443792;

8 ii. *Madrid v. OPI Products, Inc.*, Los Angeles Superior Court Case No. BC451489;

9 jj. *Martinez v. J. Fletcher Creamer & Son, Inc.*, United States District Court Case No.
10 CV 10-0968-PSG-FMOX;

11 kk. *Martinez v. Administaff Companies II, L.P.*, Los Angeles Superior Court Case No.
12 BC425799;

13 ll. *Martinez v. Morgans Hotel Group Management, LLC*, Los Angeles Superior Court
14 Case No. BC446744;

15 mm. *Sanchez v. La Brea Bakery, Inc.*, Los Angeles Superior Court Case No. BC456420;

16 nn. *Montenegro v. Ruggeri Marble and Granite, Inc.*, United States District Court, Central
17 District of California, Case No. CV-10-00711 JFW (PLAx);

18 oo. *Reed v. 99 Cents Only Stores*, Los Angeles Superior Court Case No. BC436793;

19 pp. *Santos v. Noble Management Group-California, LLC*, United States District Court,
20 Central District of California, Case No. CV 10-2594 DSF (VBKx)

21 qq. *Taylor v. U.S. Healthworks Holding Company, Inc.*, Orange County Superior Court
22 Case No. 30-2011-00473505;

23 rr. *Valencia Diaz v. Gene Wheeler Farms, Inc.*, Los Angeles Superior Court Case No.
24 BC436235;

25 ss. *Zad-Behtooie v. Valley Village*, Los Angeles Superior Court Case No. BC451490;

26 tt. *Bell v. Aidells Sausage Company, Inc.*, Alameda Superior Court Case No.
27 RG10523946;

28

1 uu. *Negrete v. Cenveo, Inc.*, United States District Court, Central District of California,
2 Case No. CV 11-09543 DSF (MRWx);

3 vv. *Bejar v. Exopack-Ontario, Inc.*, Orange County Superior Court Case No. 30-2011-
4 00518396-CU-OE-CXC;

5 ww. *Aguilar v. PLS Financial Services, Inc.*, United States District Court, Central District
6 of California, Case No. CV 10-0415 ODW (FMOx);

7 xx. *Sparks v. Larry Flynt dba Hustler Casino*, Los Angeles Superior Court Case No.
8 BC320172;

9 yy. *Morris v. Chevron Stations, Inc.*, Los Angeles Superior Court Case No. BC361380;

10 zz. *Marino v. BP West Coast Products, LLC*, Los Angeles Superior Court Case No.
11 BC357987.

12 49. Based on the documents and data reviewed, and the experience of Mr. Lavi and other
13 attorneys at Lavi & Ebrahimian, counsel for Plaintiffs believe that the settlement reached herein is a
14 fair, reasonable, and adequate result for the class members involved and should be approved by the
15 Court.

16 ATTORNEY'S FEES AND COSTS

17 50. In Plaintiffs' motion for attorney fees and costs to be submitted with the final approval
18 papers, Class Counsel will request a percentage of the common fund, up to 35% of the Settlement
19 Fund, or \$2,520,000.00, plus reimbursement of costs up to \$100,000.00.

20 51. Plaintiffs' counsel are still in the process of calculating a complete lodestar analysis of
21 Plaintiffs' counsel's hours from 2018 to the present. At final approval, Class Counsel will provide
22 detailed lodestar information to show the requested fee is reasonable under both the percentage
23 method and a lodestar "cross-check."

24 52. In this case, given the excellent results achieved and the effort expended litigating the
25 Actions, an upward adjustment from the percentage fee benchmark applicable to the Ninth Circuit is
26 warranted. There was no guarantee of compensation or reimbursement. Rather, counsel undertook
27 all risks of this litigation on a contingent fee basis. Defendants' vigorous and skillful defense further
28

1 confronted Class Counsel with the prospect of recovering nothing or close to nothing for their
2 commitment to the case.

3 53. Nevertheless, Plaintiffs and Class Counsel committed themselves to advancing
4 Plaintiffs' legal claims and maximizing the class recovery. During the litigation, counsel had to turn
5 away other less risky cases to remain sufficiently resourced for this one. Such challenges that Class
6 Counsel had to confront and the risks they had to absorb on behalf of the Classes are precisely the
7 reasons for multipliers in contingency fee cases.

8 54. Attorneys who litigate on a wholly or partially contingent basis expect to receive
9 significantly higher effective hourly rates, particularly in hard-fought cases where, as here, success is
10 uncertain. This does not result in any windfall or undue bonus. In the legal marketplace, a lawyer who
11 assumes a significant financial risk on behalf of a client rightfully expects compensation will be
12 significantly greater than if no risk was involved (*i.e.*, if the client paid the bill on a monthly basis),
13 and that the greater the risk, the greater the "enhancement." Adjusting court-awarded fees upward in
14 contingent fee cases to reflect the risk of recovering no compensation whatsoever for hundreds of
15 hours of labor simply makes fee awards consistent with the legal marketplace and, in so doing, helps
16 to ensure that meritorious cases will be brought to enforce important public interest policies and that
17 clients with meritorious claims will be better able to obtain qualified counsel.

18 55. Our firm maintains all records regarding costs expended on each case. I have reviewed
19 the records of costs expended in this matter. According to our records, our firm has incurred
20 approximately \$73,201.99 in costs in this matter to date. Plaintiffs will provide a cost detail index at
21 final approval.

22 **PROPOSED SCHEDULE**

23 56. Plaintiffs propose the following schedule of events from preliminary through final
24 approval.

25	Date of Preliminary Approval of the Settlement	
26	Deadline for Defendants to provide to Administrator a list containing, for each Class 27 Member, the following information: (1) name; 28 (2) last known mailing address; (3) email address	Within twenty-one (21) calendar days of the Order Granting Preliminary Approval

(to the extent such information is maintained by Defendants); (4) Social Security Number; and (5) the number of Qualifying Shifts worked by each Class Member during the Class Period ("Class Data").	
Deadline for Administrator to mail Notice	Within fourteen (14) calendar days after receipt of Class Data from Defendants
Deadline for Settlement Class Members to exclude themselves from the Settlement or to object to the Settlement	Within forty-five (45) calendar days after Notice is initially mailed to the class
Deadline for Settlement Class Members to dispute their number of Qualifying Shifts	Within thirty (30) calendar days after Notice is initially mailed to the class
Deadline for Administrator to provide Class Counsel and Defense Counsel with a signed declaration suitable for filing in Court attesting to its due diligence and compliance with obligations under the Settlement, including Notice process details.	At least twenty-one (21) calendar days before the Final Fairness Hearing
Deadline for filing Motion for Final Approval of Settlement	No later than 35 days prior to the Final Fairness Hearing and in accordance with Local Rule 7-2
Final Approval Hearing	
Effective Date	Seven (7) calendar days after all of the following conditions have been satisfied: (a) Execution of the Settlement Agreement by all Parties, Class Counsel, and Defense Counsel; (b) Submission of the Settlement Agreement to the Court, along with appropriate motions and requests for approval of this Settlement Agreement by the Court; (c) Preliminary Approval of the Settlement Agreement by the Court; (d) Mailing of the Settlement to the Settlement Class Members in accordance with the Court's Order of Preliminary Approval; (e) Expiration of the opt-out date as defined in the Settlement Notice; (f) Five percent (5%) or fewer of the Settlement Class Members submit timely

	and valid requests to opt out of the Settlement Class (or if more than five percent (5%) opt out, and Defendants do not exercise their right to rescind and void the Settlement Agreement); (g) A formal fairness hearing, and Final Approval. Except that, in the event there are written objections made prior to the formal fairness hearing, or an appeal of the Court's approval of the Settlement Agreement taken, then the Effective Date shall be the later of the following events: when the period for filing any appeal, writ or other appellate proceeding opposing the settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or any appeal, writ or other appellate proceeding opposing the settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or any appeal, writ or other appellate proceeding has upheld the Court's final order with no right to pursue further remedies or relief; (h) Dismissal with prejudice of both the Hazlett PAGA Action and the Hazlett Class Action; (i) Named Plaintiffs' execution of general releases referenced in Section VI of the Settlement.
Deadline for Defendants to pay the Administrator all amounts awarded and approved by the Court ("Payment Date")	Within thirty (30) calendar days of the Order Granting Final Approval
Deadline for Administrator to make all payments due under the Settlement	Within forty-five (45) calendar days of the Effective Date
Check-cashing deadline	One hundred eighty (180) calendar days after date of mailing all payments due under the Settlement
Initiate disbursement of uncashed, cancelled, or abandoned checks to Neighborhood Legal Service of Los Angeles County and the East Bay Community Law Center in name of relevant Class Members	One hundred eighty (180) calendar days after the check-cashing deadline

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I certify under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed on this 7th day of April 2025, at Beverly Hills, California.

/s/ Eve Howe

“EXHIBIT 1”

JOSEPH LAVI, SBN 209776
JORDAN D. BELLO, SBN 243190
VINCENT C. GRANBERRY, SBN 276483
LAVI & EBRAHIMIAN, LLP
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Beverly Hills, California 90211

Attorneys for Plaintiff DEREK L. MCGHEE AND
VICTOR HAZLETT

(Additional attorneys on next page)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DEREK L. MCGHEE, on behalf of himself and
others similarly situated,

Plaintiff,

v.

TESORO REFINING & MARKETING
COMPANY LLC; ANDEAVOR; ANDEAVOR
LOGISTICS LP; and DOES 1 to 100, inclusive,

Defendants.

CASE NO. 4:18-cv-05999-JSW

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND RELEASE**

Judge: Hon. Jeffrey S. White

Trial Date: None set

Date Action Filed: September 28, 2018

JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

Case No. 4:18-cv-05999-JSW

The signed document can be validated at <https://app.vinesign.com/Verify>

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15 SERVICES, LLC
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1 Plaintiffs Derek L. McGhee and Victor Hazlett, individually and on behalf of all similarly
2 situated current and former unionized hourly non-exempt employees employed by Defendants Tesoro
3 Refining & Marketing Company LLC, Andeavor, Andeavor Logistics LP, and Marathon Refining
4 Logistics Services LLC (“Defendants”) in California at their Carson, Wilmington, and Martinez
5 refineries and Martinez chemical plant (collectively “Plaintiffs”), and Defendants (each, individually,
6 a “Party” and collectively, the “Parties”), subject to the terms and conditions hereof and Final
7 Approval (as defined below), hereby enter into this Joint Stipulation of Class Action Settlement
8 and Release (“Settlement Agreement”). This Settlement Agreement is intended to fully, finally, and
9 forever compromise, release, resolve, discharge, and settle the released claims subject to the terms and
10 conditions set forth in this settlement.

11 I. DEFINITIONS

12 1. “Actions” shall mean, collectively, all of the following civil court actions: (1) *McGhee*
13 *v. Tesoro Refining & Marketing Company, LLC, et al.* (N.D. Cal. Case No. 4:18-cv-05999-JSW);
14 (2) *Hazlett v. Marathon Refining Logistics Services LLC* (N.D. Cal. Case No. 3:21-cv-04238-EMC);
15 and (3) *Hazlett v. Marathon Refining Logistics Services LLC* (Contra Costa Super. Ct. Case No. C21-
16 01534).

17 2. “Administrative Costs” shall mean all costs, including all fees, costs, and expenses of
18 the Class Administrator (as defined below), for administering the settlement process, including but not
19 limited to administering and reporting taxes in connection with the settlement, providing the Settlement
20 Notice (as defined below), various efforts to locate Settlement Class Members (as defined below), and
21 coordinating the payment of claims on behalf of the Settlement Class (as defined below).

22 3. “Attorney’s Fees and Costs” shall mean the amount to be paid to Class Counsel (as
23 defined below) under the terms of this Settlement Agreement.

24 4. “Claims Released” shall mean those Class and PAGA claims described in Paragraphs
25 67–68. Claims Released shall not mean any claims related to or derivative of Defendants’ on-call or
26 standby practices, which, as stated in Paragraph 67, shall not be released.

27 5. “Class Administrator” shall mean CPT Group, Inc., which is the entity that has been
28 selected to provide notice of this proposed class action settlement to the Settlement Class (as defined

below) and to perform other related functions to administer the settlement contemplated by this Settlement Agreement as described herein.

6. “Class Counsel” shall mean the attorneys representing Plaintiffs in the Actions: Joseph Lavi, Jordan D. Bello, and Vincent C. Granberry of LAVI & EBRAHIMIAN, LLP.

7. “Class Period” shall mean the period from August 17, 2014, through July 12, 2024.

8. “Court” means the judge of the United States District Court for the Northern District of California overseeing N.D. Cal. Case No. 4:18-cv-05999 (presently, the Honorable Jeffrey S. White).

9. “Credit” shall mean a Qualifying Shift (as defined below) for the time period of August 17, 2014, through July 12, 2024, worked by all Settlement Class Members (as defined below).

10. “Defense Counsel” shall mean the attorneys representing Defendants in the Actions: Catherine A. Conway, Jesse A. Cripps, Bradley J. Hamburger, Tiffany Phan, Madeleine F. McKenna, and Katie Geary of Gibson, Dunn & Crutcher LLP.

11. “Effective Date” shall mean seven (7) calendar days after *all* of the following conditions have been satisfied:

- i. Execution of this Settlement Agreement by all Parties, Class Counsel, and Defense Counsel;
- ii. Submission of this Settlement Agreement to the Court, along with appropriate motions and requests for approval of this Settlement Agreement by the Court;
- iii. Preliminary Approval (as defined below) of the Settlement Agreement by the Court;
- iv. Mailing of the Settlement Notice (as defined below) to the Settlement Class Members (as defined below) in accordance with the Court’s Order of Preliminary Approval (as defined below);
- v. Expiration of the opt-out date as defined in the Settlement Notice (as defined below);
- vi. Five percent (5%) or fewer of the Settlement Class Members (as defined below) submit timely and valid requests to opt out of the Settlement Class (as defined below) (or if more than five percent (5%) opt out, and Defendants do not

exercise their right to rescind and void the Settlement Agreement);

- vii. A formal fairness hearing, and Final Approval (as defined below). Except that, in the event there are written objections made prior to the formal fairness hearing, or an appeal of the Court's approval of the Settlement Agreement taken, then the Effective Date shall be the later of the following events: when the period for filing any appeal, writ or other appellate proceeding opposing the settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or any appeal, writ or other appellate proceeding opposing the settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or any appeal, writ or other appellate proceeding has upheld the Court's final order with no right to pursue further remedies or relief;
- viii. Dismissal with prejudice of both the *Hazlett* PAGA Action and the *Hazlett* Class Action;
- ix. Named Plaintiffs' execution of general releases referenced in Section VI below.

12. "Final Approval" means an order that finally and unconditionally grants final approval of this Settlement Agreement, enters final judgment with respect to the *McGhee* Action, and authorizes payments to the Class Administrator, the Settlement Class Members (as defined below), and Class Counsel as provided in this Settlement Agreement.

13. "Final Approval Hearing" means the hearing to be conducted by the Court, or any other court taking jurisdiction of this matter, to determine whether to finally approve the Settlement.

14. "Named Plaintiffs" or "Plaintiffs" shall mean Derek L. McGhee and Victor Hazlett.

15. "Order Granting Preliminary Approval" and "Preliminary Approval" refers to the Court order or statement of decision granting preliminary approval to this Settlement Agreement.

16. "Participating Settlement Class Members" shall mean all Settlement Class Members who do not submit timely and valid requests to opt out.

17. "Released Parties" shall mean Defendants Tesoro Refining & Marketing Company LLC, Andeavor, Andeavor Logistics LP, and Marathon Refining Logistics Services LLC, including each of their past and present successors, subsidiaries, parents, holding companies, sister and affiliated

1 companies, divisions and other related entities, as well as the successors, predecessors, shareholders,
2 subsidiaries, investors, parent, sister and affiliated companies, officers, directors, partners, assigns,
3 agents, employees, principals, heirs, administrators, attorneys, vendors, accountants, auditors,
4 consultants, fiduciaries, insurers, reinsurers, employee benefit plans, and representatives of each of
5 them, both individually and in their official capacities, past or present, as well as all persons acting by,
6 through, under, or in concert with, any of these persons or entities.

7 18. "Service Award" shall mean a Court-approved sum to be paid to the Plaintiffs in
8 accordance with Section V.A.

9 19. "Settlement Class" or "Settlement Class Members" shall mean all current and former
10 unionized hourly non-exempt employees employed by Defendants at the Carson, Wilmington, and
11 Martinez refineries and Martinez chemical plant from August 17, 2014, to July 12, 2024.

12 20. "Settlement Fund" refers to the gross settlement amount of Seven Million Two Hundred
13 Thousand Dollars (\$7,200,000.00), which is the total and maximum amount Defendants will be
14 required to pay under this settlement, except that Defendants will pay the employer share of any
15 applicable federal, state and local payroll taxes, in addition to the Settlement Fund. The Settlement
16 Fund will include the following elements: (i) payments to Settlement Class Members, as described
17 herein; (ii) payment to the State of California Labor and Workforce Development Agency ("LWDA")
18 under PAGA, as described herein; (iii) Service Awards to the Named Plaintiffs, as described herein;
19 (iv) Class Counsel's Attorneys' Fees and Costs, as described herein; and (v) Administrative Costs, as
20 described herein.

21 21. "Settlement Notice" refers to the official notice of settlement of class action, attached
22 hereto as Exhibit A.

23 22. "Qualifying Shift" shall mean a shift worked by a Settlement Class Member between
24 August 17, 2014, and July 12, 2024, inclusive.

25 II. RECITALS

26 A. Background and Procedural History

27 23. On August 17, 2018, Plaintiff McGhee filed a class complaint against Defendants
28 Tesoro Refining & Marketing Company, LLC, Andeavor, and Andeavor Logistics LP entitled *Derek*

1 *L. McGhee, on behalf of himself and others similarly situated v. Tesoro Refining & Marketing*
2 *Company, LLC; Andeavor; Andeavor Logistics LP; and DOES 1 through 100, inclusive*, Case No. c-
3 18-01699 in the Superior Court of the State of California, for the County of Contra Costa (the “*McGhee*
4 *Action*”). On September 28, 2018, Defendants removed the *McGhee Action* to the United States
5 District Court for the Northern District of California. N.D. Cal. Case No. 4:18-cv-05999-JSW, ECF
6 No. 1.

7 24. On April 22, 2021, Plaintiff Hazlett filed a class complaint against Defendant Marathon
8 Refining Logistics Services LLC entitled *Victor Hazlett, on behalf of himself and others similarly*
9 *situated, v. Marathon Refining Logistics Services LLC; and DOES 1 through 100, inclusive*, Case No.
10 C21-00808 in the Superior Court of the State of California, for the County of Contra Costa (the “*Hazlett*
11 *Class Action*”). On June 3, 2021, Defendant Marathon Refining Logistics Services LLC removed the
12 *Hazlett Class Action* to the United States District Court for the Northern District of California. N.D.
13 Cal. Case No. 3:21-cv-04238-EMC, ECF No. 1.

14 25. On July 20, 2021, Plaintiff Hazlett filed a Private Attorneys General Act (“PAGA”) *on*
15 *complaint against Defendant Marathon Refining Logistics Services LLC entitled Victor Hazlett, on*
16 *behalf of himself and others similarly situated, v. Marathon Refining Logistics Services LLC; and*
17 *DOES 1 through 100, inclusive*, Case No. C21-01534 in the Superior Court of the State of California,
18 for the County of Contra Costa (the “*Hazlett PAGA Action*”).

19 26. On December 21, 2021, Plaintiff Hazlett and Defendant Marathon Refining Logistics
20 Services LLC jointly requested a stay of the *Hazlett PAGA Action* pending final judgment in the
21 *Hazlett Class Action*, which the Contra Costa Superior Court granted on February 25, 2022.

22 27. On September 6, 2022, Plaintiff Hazlett and Defendant Marathon Refining Logistics
23 Services LLC jointly requested a stay of the *Hazlett Class Action* pending a class certification ruling
24 in the *McGhee Action*, which the Northern District of California granted on September 7, 2022.

25 28. On February 14, 2023, the United States District Court for the Northern District of
26 California granted class certification in the *McGhee Action*. Dkt. 116.

27 29. The *McGhee Action*, the *Hazlett Class Action*, and the *Hazlett PAGA Action*
28 collectively allege that Defendants violated California’s wage and hour laws by not providing rest

breaks and by failing to pay premium wages for missed rest breaks; by disincentivizing off-premises meal periods and by failing to pay premium wages for missed meal periods; by failing to pay wages for all time worked at the minimum wage rate by engaging in rounding practices; by failing to pay wages for all time worked at the minimum wage rate for shift turnover duties and for donning and doffing personal protective equipment; by failing to timely pay wages due at the time of termination; and by failing to provide accurate wage statements. In addition to alleging violations of the California Labor Code, Plaintiffs also asserted claims under California Business & Professions Code section 17200 and PAGA, California Labor Code section 2698 *et seq.*, based on the same alleged Labor Code violations.

30. For purposes of settlement, Plaintiffs seek to represent the Settlement Class.

31. On October 26, 2023, the Parties participated in an unsuccessful mediation with mediator Hunter Hughes.

32. On May 20, 2024, the Parties participated in mediation with Monique Ngo-Bonnici. The mediation was unsuccessful, but the parties continued arms-length negotiations.

33. On June 25, 2024, Mediator Ngo-Bonnici issued a modified mediator's proposal, which was accepted by both parties on July 12, 2024.

B. Parties' Statements and Recognition of the Benefits of the Settlement

34. Class Counsel has conducted extensive investigation into the facts of the Actions, including through extensive discovery undertaken by counsel for Plaintiffs. Class Counsel is aware of Defendants' practices and procedures through discovery and motion practice in the Actions. Furthermore, the Parties engaged in extensive negotiations and the exchange of data, documents, and information. Based on a thorough investigation and evaluation of this case, Class Counsel and Plaintiffs have concluded that the settlement with Defendants, for the consideration and on the terms set forth in this Settlement Agreement, is fair, reasonable, and adequate, and is in the best interest of the class in light of all known facts and circumstances, including the risk of significant delay, defenses asserted by Defendants, and numerous potential appellate issues.

35. Defendants deny each and all of the claims alleged by Plaintiffs in the Actions. Defendants expressly deny any and all charges of wrongdoing or liability arising out of any of the acts,

omissions, facts, matters, transactions, or occurrences alleged, or that could have been alleged, in the Actions. Nevertheless, Defendants have taken into account the uncertainty and risks inherent in any litigation and have also concluded that further conduct of the Actions would be protracted and expensive. Defendants, therefore, have determined that it is desirable and beneficial that the Actions be settled in the manner and upon the terms and conditions set forth in the Settlement Agreement. Neither this Settlement Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Settlement Agreement, is, may be construed as, or may be used as an admission, concession, or indication by or against Defendants of any fault, wrongdoing or liability whatsoever.

III. TERMS OF SETTLEMENT AGREEMENT

36. IT IS HEREBY STIPULATED AND AGREED by and among the Plaintiffs (for themselves and the Settlement Class) and Defendants, by and through their respective attorneys, that, subject to the approval of the Court, the Actions will be finally and fully compromised, released, resolved, discharged, and settled, and will be dismissed with prejudice as to Defendants, subject to the terms and conditions of this Settlement Agreement.

37. In the event that the Court does not execute an Order of Final Approval, or any such Order of Final Approval does not become final for any reason, or is modified in any material respect, the Effective Date does not occur, or that any of the conditions set forth herein do not occur, this Settlement Agreement shall be deemed null and void and shall be of no force or effect whatsoever, and shall not be referred to or utilized for any purpose whatsoever.

IV. CONSOLIDATION OF ACTIONS FOR SETTLEMENT PURPOSES ONLY

38. For purposes of this Settlement only, within fourteen (14) calendar days after the execution of this Agreement, the Parties will file a joint stipulation requesting that the Court allow Plaintiffs to file a mutually agreeable Consolidated Third Amended Complaint in the *McGhee* Action that (1) adds the class claims from the *Hazlett* Class Action, (2) adds the PAGA claims from the *Hazlett* PAGA Action, (3) adds the relevant Defendants from the *Hazlett* Class Action and *Hazlett* PAGA Action, and (4) asserts all claims in the *McGhee* Action, the *Hazlett* Class Action, and the *Hazlett* PAGA Action from August 17, 2014, through July 12, 2024. All proceedings relating to the approval

of the Settlement Agreement shall be before the Court. If the Settlement Agreement is not approved or the Court declines to allow the addition of the *Hazlett* Class Action and *Hazlett* PAGA action, the Parties shall revert to status quo as of June 25, 2024.

39. Throughout the pendency of the settlement approval process, the Parties agree to keep the *Hazlett* Class Action and *Hazlett* PAGA Action stayed. By no later than seven (7) days of Final Approval, the Parties will take all necessary steps to effectuate a dismissal with prejudice of the *Hazlett* Class Action and *Hazlett* PAGA Action. Nothing in this Settlement Agreement will preclude the Parties from taking the necessary steps to effectuate dismissal of the *Hazlett* Class Action and *Hazlett* PAGA Action before Final Approval

V. DISTRIBUTION OF THE SETTLEMENT FUND

40. In consideration for settlement of the Actions and the release of claims of the Settlement Class, Defendants agree to pay the sum of Seven Million Two Hundred Thousand Dollars (\$7,200,000.00) (the "Settlement Fund"). Any Administrative Costs, Attorney's Fees and Costs, payment to the LWDA under PAGA, and Service Awards for the Named Plaintiffs shall be deducted from the Settlement Fund.

41. The occurrence of the Effective Date is a prerequisite to any distributions from the Settlement Fund.

42. This is a non-reversionary settlement in which Defendants are required to pay the entire Settlement Fund. No portion of the Settlement Fund will revert to Defendants.

43. The Parties have agreed to the appointment of CPT Group, Inc. to serve as the Class Administrator for the purpose of administering the settlement process.

A. Named Plaintiffs' Service Awards

44. In addition to the amounts determined to be due to the Named Plaintiffs as Participating Settlement Class Members under this Settlement Agreement, Class Counsel and Plaintiffs intend to apply to the Court for Service Awards for Named Plaintiffs, in the total amount of no more than Ten Thousand Dollars (\$10,000.00) per person. Plaintiffs intend to request the Service Awards as an enhancement for the Named Plaintiffs' roles in prosecuting the Actions, taking the risks of serving as the named representatives, providing factual information and documentation necessary to the

1 prosecution of the Actions, providing a General Release of all claims, maintaining contact with Class
2 Counsel, and other participation necessary to the successful prosecution of the Actions. Any Service
3 Award approved by the Court in conjunction with the Settlement shall be paid from the Settlement
4 Fund.

5 45. In exchange for this Service Award, the Named Plaintiffs agree not to publicize the
6 settlement and agree to execute a General Release as to any and all claims they might have against
7 Defendants and the Released Parties, whether such claim is known or unknown, in the form attached
8 hereto as Exhibit B, such form to be executed after Final Approval.

9 46. In the event that the Court denies, modifies, or reduces any request for a Service Award,
10 Plaintiffs reserve their right to appeal such an order, however, Plaintiffs, Class Counsel, and the
11 Participating Settlement Class Members may not seek to modify, revoke, cancel, terminate, or void this
12 Settlement Agreement and will not seek, request, or demand an increase in the Settlement Amount.

13 47. If Plaintiffs appeal the Court's ruling on Plaintiffs' request for a Service Award for
14 Named Plaintiffs, any ruling of any appellate court in such an appeal (regardless of its substance) shall
15 not constitute a material alteration of this Settlement Agreement, and shall not give Plaintiffs, Class
16 Counsel, or the Participating Settlement Class Members the right to modify, revoke, cancel, terminate,
17 or void this Settlement Agreement.

18 48. Notwithstanding the above, the Named Plaintiffs shall receive payment of Service
19 Awards only after executing and delivering to Defendants this Settlement Agreement, and a separate
20 General Release of all known and unknown claims against Defendants and the Effective Date has
21 passed.

22 **B. Attorney's Fees and Costs**

23 49. Class Counsel intends to request an award of Attorney's Fees equal to Thirty-Five
24 Percent (35%) of the Settlement Fund, currently estimated to be Two Million Five Hundred Twenty
25 Thousand Dollars and Zero Cents (\$2,520,000.00), and Attorney's Costs of up to One Hundred
26 Thousand Dollars and Zero Cents (\$100,000.00), to compensate Class Counsel for fees and costs
27 incurred for work already performed in the Actions, and the work remaining to be performed in
28 documenting the Settlement Agreement, securing Court approval of the Settlement Agreement,

1 administering the Settlement Agreement, obtaining dismissal of the Actions with prejudice, and
2 defending against any appeals, as well as all associated expenses. The exact amount awarded to Class
3 Counsel shall be subject to approval of the Court.

4 50. Class Counsel will submit an application for Attorney's Fees and Costs to the Court for
5 approval prior to the date of the Final Fairness Hearing. The Parties agree that, over and above the
6 total amount of court-approved Attorney's Fees and Costs award in the Actions, each of the Parties,
7 including all persons eligible to be Settlement Class Members, shall bear their own fees and costs
8 relative to the investigation, filing, prosecution or settlement of the Actions, the negotiation, execution,
9 or implementation of this Settlement Agreement, and/or the process of obtaining, administering or
10 challenging a Class Certification Order and/or Final Approval.

11 51. The Parties agree that Class Counsel shall be solely responsible for the division and
12 distribution of any and all Court-approved Attorney's Fees and Costs awarded in the Actions to Class
13 Counsel.

14 52. In the event that the Court denies, modifies, or reduces Class Counsel's request for
15 Attorney's Fees and Costs, then Class Counsel reserve their right to appeal such an order, however,
16 Plaintiffs, Class Counsel, and the Participating Settlement Class Members may not seek to modify,
17 revoke, cancel, terminate, or void this Settlement Agreement and will not seek, request, or demand an
18 increase in the Settlement Amount.

19 53. If Class Counsel appeal the Court's ruling on their request for Attorney's Fees and
20 Costs, any ruling of any appellate court in such an appeal (regardless of its substance) shall not
21 constitute a material alteration of this Settlement Agreement, and shall not give Plaintiffs, Class
22 Counsel, or the Participating Settlement Class Members the right to modify, revoke, cancel, terminate,
23 or void this Settlement Agreement.

24 54. All claims for attorneys' fees or costs or expenses that Class Counsel, Plaintiffs, and the
25 Participating Settlement Class Members may possess against Defendants have been compromised and
26 resolved in this Settlement Agreement and shall not be affected by any appeal that Class Counsel may
27 file.
28

1 **C. Administrative Costs**

2 55. The Administrative Costs associated with administering the settlement process shall be
3 deducted from the Settlement Fund. The Administrative Costs are estimated to be \$20,000.00. No
4 fewer than ten (10) court days prior to the Final Approval Hearing, the Class Administrator shall
5 provide the Court and all counsel for the Parties with a declaration detailing the Administrative Costs.
6 The Parties agree to cooperate in the settlement administration process and to make all efforts to control
7 and minimize the costs and expenses incurred in the administration of this Settlement.

8 **D. PAGA Penalty Allocation**

9 56. The total amount of the Settlement Fund allocated to PAGA penalties shall be One
10 Hundred Thousand Dollars (\$100,000.00), with seventy-five percent (75%) of the PAGA penalties,
11 seventy-five thousand dollars (\$75,000), paid to the California Labor and Workforce Development
12 Agency ("LWDA") and twenty-five percent (25%) of the PAGA penalties, twenty-five thousand
13 dollars (\$25,000), paid to the Settlement Class Members (irrespective of whether they opt out of the
14 Settlement Class). The twenty-five thousand dollars (\$25,000) paid to the Settlement Class Members
15 shall be referred to as the "PAGA Payment to Employees."

16 57. Pursuant to California Labor Code section 2699(l)(2), settlement of a PAGA action
17 must be approved by the Court and a copy of the proposed settlement will be provided to the LWDA
18 at the same time that it is submitted to the Court.

19 **E. No Effect on Benefits for Settlement Class Members**

20 58. Plaintiffs agree, on behalf of all Settlement Class Members, that this Settlement
21 Agreement and any payments under this Settlement Agreement shall not have any effect on the
22 eligibility or calculation of employee benefits with respect to the Settlement Class Members. This
23 Settlement Agreement does not represent any modification of any previously credited hours of service,
24 income, or other eligibility criteria under any employee pension benefit plan, employee welfare benefit
25 plan, or other program or policy sponsored by any union and/or any of the Released Parties.

26 59. Likewise, Plaintiffs agree, on behalf of all Settlement Class Members, that no payment
27 provided under this Settlement Agreement shall be considered "compensation" or "annual earnings for
28 benefits" in any year for purposes of determining eligibility for, or benefit accrual within, any employee

pension benefit plan, employee welfare benefit plan, or other program or policy sponsored by any union and/or any of the Released Parties.

F. Allocation of Net Settlement Proceeds to Settlement Class Members

60. The “Net Settlement Proceeds” shall equal the Settlement Fund minus the total of (i) court-approved Attorney’s Fees and Costs; (ii) court-approved Service Awards to the Named Plaintiffs; (iii) all Administrative Costs; and (iv) payment to the LWDA for PAGA penalties.

61. The Net Settlement Proceeds shall be allocated as follows for each Settlement Class Member:

- (i) The PAGA Payment to Employees will be divided by the total number of Settlement Class Members and each Settlement Class Member will receive their evenly divided pro-rata share. Each Settlement Class Members pro-rata share shall be referred to as the “Individual PAGA Allocation.”
- (ii) A Credit will be given to each Qualifying Shift worked by Participating Settlement Class Member during the Class Period. Any Participating Settlement Class Member who has no Qualifying Shifts or a partial Qualifying Shift shall be rounded up to receive at least one Credit.
- (iii) The value of each Credit (“Credit Value”) equals the Net Settlement Proceeds reduced by the PAGA Payment to Employees and then divided by the total number of Credits for all Participating Settlement Class Members.
- (iv) Each Participating Settlement Class Member’s “Individual Settlement Award” shall equal that individual’s total number of Credits multiplied by the Credit Value.

62. Each Participating Settlement Class Member’s Individual Settlement Award will be allocated as follows: forty percent (40%) to unpaid wages which will be reported to the IRS on Form W-2; thirty percent (30%) to penalties and thirty percent (30%) to interest, which will be reported to the IRS on Form 1099. The Individual PAGA Allocation will be allocated as 100% to penalties, which will be reported to the IRS on Form 1099.

63. The Class Administrator will issue the necessary IRS tax forms and make all necessary tax filings to effectuate the terms of this Settlement Agreement.

64. The payment by Defendants pursuant to this Agreement is for alleged failure to pay compensation due, interest on the compensation sum, penalties regarding the compensation sum, and all other claims as set forth in the Consolidated Third Amended Complaint. In accordance with both state and federal tax laws, the Administrator shall withhold such sums from each Settlement Class

1 Member's Individual Settlement Award as is required to comply with the allocation set forth in this
2 Agreement. After appropriate tax withholding from Individual Settlement Awards, the Class
3 Administrator shall pay over all such withheld funds to the appropriate state and federal taxing
4 authorities to comply with applicable law and shall do so as soon as practicable. In addition, the Class
5 Administrator shall make deductions from the wage portion of each Participating Settlement Class
6 Member's Individual Settlement Award for union dues consistent with the applicable collective
7 bargaining agreements. The Class Administrator shall also pay over all such union dues to the union.
8 The Class Administrator shall provide each Settlement Class Member with appropriate documentation
9 setting forth the amount of any tax, union dues, or other payment withheld, and employer contribution
10 made, in accordance with state and federal tax requirements.

11 65. The Class Administrator will notify Defendants of the amount of the employer share of
12 applicable federal, state, and local payroll taxes due and owing as to each Class Member no later than
13 three (3) calendar days after Final Approval. Defendants will pay that amount to the Class
14 Administrator separately and in addition to the Settlement Fund within thirty (30) calendar days of the
15 Order Granting Final Approval. The Class Administrator will also give Defendants an estimate of the
16 employer's share of these taxes within five (5) calendar days of sending out the Settlement Notice.

17 66. The Parties are not providing any advice regarding and have not made any
18 representations regarding the tax obligations or consequences, if any, related to this Settlement
19 Agreement, nor shall anything in this Settlement be relied upon as such within the meaning of United
20 States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. The Parties
21 agree that Defendants, Plaintiffs, Class Counsel, and each Participating Settlement Class Member are
22 solely responsible for determining the tax consequences of their respective payments made pursuant to
23 this Settlement Agreement and for paying taxes, if any, which are determined to be owed by each of
24 them on such payments (including penalties and interest related thereto) by any taxing authority,
25 whether state, local, or federal.

26 **VI. CLAIMS RELEASED BY SETTLEMENT AGREEMENT**

27 67. In exchange for the payments by Defendants as described herein, upon Final Approval,
28 and except as to such rights or claims as may be created by this Settlement Agreement, the Participating

1 Settlement Class Members, including the Named Plaintiffs (who shall not opt out), jointly, severally,
2 shall, and hereby do fully release and discharge Defendants and Released Parties from any and all
3 claims, judgments, liens, losses, debts, liabilities, demands, obligations, guarantees, penalties, costs,
4 expenses, attorneys' fees, damages, indemnities, actions, causes of action, and obligations of every
5 kind and nature in law, equity or otherwise, known or unknown, suspected or unsuspected, disclosed
6 or undisclosed, contingent or accrued, occurring up to the execution of this Settlement Agreement and
7 arising out of the dispute which is the subject of the Actions or which could have been asserted in the
8 Actions based on the facts alleged, whether in contract, violation of any state or federal statute, rule or
9 regulation, arising out of, concerning or in connection with any act or omission alleged in the Actions
10 by or on the part of Released Parties, including, without limitation, those relating to the failure to pay
11 wages for all time worked at the minimum wage rate including for time spent donning and doffing,
12 failure to authorize or permit meal periods and/or pay meal period premium wages, disincentivizing or
13 discouraging off-premises meal periods, failure to provide rest breaks and rest break premium wages,
14 failure to provide accurate wage statements, failure to timely pay wages due at the time of termination
15 of employment, penalties relating to the failure to provide rest breaks, meal periods, and/or inaccurate
16 wage statements, or other alleged wage and hour violations and related record-keeping requirements,
17 including, without limitation, violation of Business & Professions Code section 17200, the applicable
18 California Industrial Welfare Commission Order, or any other California or federal laws relating to the
19 failure to pay wages and penalties based on the facts alleged in the Consolidated Third Amended
20 Complaint during the Class Period. ("Class Claims Released"). Class Claims Released include any
21 unknown claims that Participating Settlement Class Members do not know or suspect to exist in their
22 favor, which if known by them, might have affected this Settlement Agreement with Defendants and
23 release of Released Parties. The Claims Released do not include any workers' compensation claims,
24 claims for physical bodily harm, discrimination claims, or any other claims not directly related to the
25 Class Claims Released. The Class Claims Released also do not include claims related to or derivative
26 of Defendants' on-call or standby practices, including but not limited to the claims asserted in *Butel v.*
27 *Marathon Refining and Logistics Services LLC* (C.D. Cal. Case No. 2:23-cv-04547-DSF-JPR), or
28 *Wood v. Marathon Refining Logistics Services, LLC* (N.D. Cal. Case No. 4:19-cv-04287-YGR).

68. All Settlement Class Members, regardless of whether they opt out, will release their right to pursue PAGA claims and PAGA penalties through July 12, 2024, based on the facts alleged in the Actions (“PAGA Claims Released”). Settlement Class Members will not release the right to pursue PAGA claims related to or derivative of Defendants’ on-call or standby practices, including but not limited to the claims asserted in *Butel v. Marathon Refining and Logistics Services LLC* (C.D. Cal. Case No. 2:23-cv-04547-DSF-JPR), or *Wood v. Marathon Refining Logistics Services, LLC* (N.D. Cal. Case No. 4:19-cv-04287-YGR).

69. The Parties intend that this Settlement Agreement shall be binding on all Settlement Class Members, whether or not they actually receive a payment pursuant to this Settlement Agreement. This Settlement Agreement shall constitute, and may be pleaded as, a complete and total defense to any Claims Released if raised in the future.

70. The Named Plaintiffs and the Participating Settlement Class Members may hereafter discover facts in addition to or different from those they may now know or believe to be true with respect to the subject matter of the Claims Released, but, upon the Effective Date, they shall be deemed to have, and by operation of the Order Granting Final Approval shall have fully, finally, and forever settled and released any and all of the Class and PAGA Claims Released, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is intentional, negligent, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

71. The Parties agree that, for any claim that is not alleged in the Consolidated Third Amended Complaint, the statute of limitations has and will continue to run on those claims and no such claims will relate back to the filing of any of the pleadings in this Action.

VII. SCHEDULE FOR FINALIZING SETTLEMENT AGREEMENT

72. Plaintiffs and Defendants stipulate and agree to the following schedule and procedures for obtaining the Court’s approval of the Settlement Agreement, including seeking certification of the Settlement Class, notifying the Settlement Class, and processing all benefits provided under this Settlement Agreement:

1 **A. Seeking Preliminary Approval of Settlement Agreement**

2 73. Upon the execution of this Settlement Agreement, Plaintiffs will move the Court for
3 (a) preliminary approval of the Settlement Agreement, (b) approval of the Settlement Notice,
4 settlement notice procedure, and appointment of the Class Administrator, and (c) the scheduling of a
5 settlement fairness hearing on the question of whether the terms of this Settlement Agreement should
6 be finally approved as fair, reasonable, and adequate as to the Named Plaintiffs and the Settlement
7 Class (collectively, "Motion for Preliminary Approval"). As a part of this motion, Plaintiffs will submit
8 (and attach copy of) this Settlement Agreement.

9 74. Class Counsel shall provide Defendants with a reasonable opportunity to review and
10 provide comments to the Motion for Preliminary Approval before the motion and supporting papers
11 are filed with the Court.

12 75. Within ten (10) calendar days after the filing of the Motion for Preliminary Approval,
13 Defendants shall comply with the "Notification of Settlement" requirements of the Class Action
14 Fairness Act (28 U.S.C. § 1715). Prior to the date set for the preliminary approval hearing, Defendants
15 shall file a proof of service with the Court indicating compliance with 28 U.S.C. § 1715.

16 **B. Providing Class Data to Class Administrator**

17 76. Within twenty-one (21) calendar days of the Order Granting Preliminary Approval,
18 Defendants agree to provide to the Class Administrator a "class list" and the following information for
19 each Class Member: (a) name; (b) last-known address; (c) personal e-mail address, if available; (d)
20 social security number; and (e) number of Qualifying Shifts worked during the Class Period as
21 determined by Defendants' business records. The Class Administrator will review the data provided
22 by Defendants to calculate the Credit Value, each Class Member's Credits and projected individual
23 payment. If data concerns would interfere with the Class Administrator's ability to comply with the
24 deadlines set by the Court, the Parties agree to jointly apply to the Court for an extension of the schedule
25 provided herein to allow the Parties to resolve the concerns. The above-described information will be
26 provided to Class Administrator on a confidential basis, and the Class Administrator agrees to use this
27 information only for purposes of verifying the accuracy of the information. The Class Administrator
28 agrees not to use the information for any purpose other than the administration of the settlement of the

1 Actions and agrees not to disclose the information to any third party. Notwithstanding the foregoing,
2 the Class Administrator may disclose to Class Counsel the number of Qualifying Shifts worked by
3 Settlement Class Members.

4 **C. Settlement Notice**

5 77. If the Court grants Preliminary Approval of the Settlement Agreement, a Settlement
6 Notice shall be provided to the Settlement Class as follows:

7 a. Fourteen (14) calendar days after Defendants provide to the Class Administrator the
8 class list referenced in Paragraph 76 the Class Administrator shall send a Settlement
9 Notice to all Settlement Class Members by regular U.S. Mail, postage prepaid and
10 supplement with e-mail notice, if feasible. In order to provide the best notice
11 practicable, any Settlement Notice returned as undelivered shall be sent to the
12 forwarding address affixed thereto, if any. If no forwarding address is provided for
13 a Settlement Notice that is returned as undelivered, the Class Administrator will use
14 a reliable computer search method to locate a current address. If no current address
15 is located, the Settlement Notice for that individual will be deemed undeliverable.
16 If the procedures herein are followed, Defendants, Class Counsel, and the Class
17 Administrator shall be deemed to have satisfied their obligation to provide the
18 Settlement Notice to the Settlement Class. A copy of the proposed Settlement
19 Notice is attached hereto as Exhibit A.

20 b. The Settlement Notice shall, at a minimum, include the following: the number of
21 Qualifying Shifts worked by the Settlement Class Member, the estimated amount
22 the Class Member can expect to receive based on the number of Qualifying Shifts,
23 the contact information for Class Counsel, information informing Settlement Class
24 Members of their right to object and/or opt out, a statement that the Settlement
25 Agreement may have preclusive effect and participation in the Settlement shall
26 result in a release of Released Claims, notification that Settlement Class Members
27 are solely responsible for determining the tax consequences of payments made
28 pursuant to this Settlement Agreement; and notification that any payments under

1 this Settlement Agreement shall not have any effect on the eligibility or calculation
2 of employee benefits nor will it be considered compensation for determining
3 eligibility in any employee pension benefit plan, as discussed *ante* in Section V.E.

4 c. The Settlement Notice shall inform Settlement Class Members of their right to opt
5 out of the Settlement Class and be excluded from receiving any benefits for the Class
6 Claims Released under the Settlement Agreement by completing and mailing a
7 written opt-out request to the Class Administrator no later than forty-five (45)
8 calendar days after the postmark date of the Settlement Notice. Any member of the
9 Settlement Class who submits a timely and valid request to opt out will receive no
10 settlement payment for the Class Claims Released and will not be bound by the
11 terms of the Settlement Agreement nor have any right to object, appeal, or comment
12 thereon. Late-submitted opt-out requests will not be accepted by the Class
13 Administrator and shall not be effective. The Class Administrator will certify jointly
14 to Class Counsel and Defense Counsel which requests to opt out were valid and
15 timely submitted.

16 d. If a member of the Settlement Class disagrees with the number of Qualifying Shifts,
17 the member must complete and send a notice of dispute to the Class Administrator,
18 together with any supporting written documentation. Such documentation may
19 consist of official records, pay stubs, weekly schedules, or personal logs. To be
20 considered, the notice of dispute and supporting written documentation must be
21 received by the Class Administrator no later than thirty (30) calendar days after the
22 postmark date of the Settlement Notice.

23 e. The Class Administrator shall immediately notify both Class Counsel and Defense
24 Counsel of any disputes submitted by Settlement Class Members. The Class
25 Administrator shall share with both Class Counsel and Defense Counsel the notice
26 of dispute and any documentation submitted by a Settlement Class Member in
27 support of his or her dispute. The Class Administrator shall make the final
28 determination regarding the dispute based on the written documentation submitted

1 by the Settlement Class Member and any materials submitted by counsel within ten
2 (10) calendar days of receipt of the notice of dispute and supporting written
3 documentation, or no later than forty (40) calendar days after the postmark date of
4 the Settlement Notice. Defendants' business records will be entitled to greater
5 deference in reviewing the materials submitted. The Class Administrator shall
6 inform each Settlement Class Member of the final determination by a telephone call,
7 followed by an e-mail or regular U.S. Mail if no email for that Settlement Class
8 Member is available.

9 f. The Class Administrator shall create and maintain a website, which will include
10 links to the Settlement Notice, Motions for Preliminary and Final Approval, and
11 Motion for Attorney's Fees as they become available, until the Effective Date. The
12 website shall also include links to any other documents or information the Class
13 Administrator deems necessary to perform its duties. The Motion for Attorney's
14 Fees and any related filings shall be available on the website for a reasonable period
15 of time of no less than fourteen (14) calendar days prior to the deadline for class
16 members to file an objection to the Settlement Agreement.

17 g. At least twenty-one (21) calendar days before the Final Fairness Hearing, the Class
18 Administrator shall prepare a declaration of due diligence and proof of mailing with
19 regard to the mailing of the Settlement Notice and e-mail (if e-mail was deemed
20 feasible), and any attempts by the Class Administrator to locate the Settlement Class
21 Members ("Due Diligence Declaration"), to Class Counsel and Defense Counsel for
22 presentation to the Court. The Class Administrator will attach to the Due Diligence
23 Declaration a report showing the name of each individual who submitted a timely
24 and valid opt-out. Class Counsel shall be responsible for filing the Due Diligence
25 Declaration with the Court.

26 h. If at any point the Class Administrator determines that it needs additional time, the
27 Class Administrator shall inform the Parties regarding the situation, and the Parties
28 will seek from the Court a modification of the schedules contained in this Settlement

1 Agreement or any Court Order, to be consistent with the recommendations and
2 requests of the Class Administrator. However, the Class Administrator shall not
3 make a request for a time modification if the need for additional time is a result of
4 any party failing to provide information as required in this Settlement Agreement
5 on a timely basis. If a Party fails to provide required information according to this
6 schedule, any other Party reserves the right to seek the Court's intervention to ensure
7 compliance with the agreed terms of this Settlement Agreement.

8 **D. Objections to Settlement Agreement after Preliminary Approval**

9 78. Any Settlement Class Member who intends to object to the settlement or this Settlement
10 Agreement must submit a written objection, along with any supporting documents, to the Court or
11 Class Administrator, no later than forty-five (45) calendar days after the postmark date of the
12 Settlement Notice by mailing it to or filing it with the Court. The written objection must set forth, in
13 clear and concise terms, the legal and factual arguments supporting the objection. If the Class
14 Administrator receives any written objections, they will be filed with the Court before the Final
15 Approval Hearing.

16 79. Settlement Class Members who fail to make objections in the manner specified in
17 Paragraph 78 shall be deemed to have waived any and all objections and shall be foreclosed from
18 making any objection, whether by appeal or otherwise, to the settlement or this Settlement Agreement.
19 The postmark will be deemed the exclusive means for determining that the Notice of Objection is
20 timely.

21 80. Settlement Class Members who timely submit a written objection have the option to
22 appear at the Final Approval Hearing, either in person or through their own counsel. To appear, Class
23 Members must include a statement about the intent to appear at the Final Approval Hearing ("Notice
24 of Intention to Appear") in the objection. No member of the Settlement Class shall be entitled to be
25 heard at the Final Approval Hearing unless the Class Member submits the Notice of Intention to
26 Appear, without permission of the Court. The Notice of Intention to Appear must include copies of
27 any papers, exhibits, or other evidence that the objecting Settlement Class Member will present to the
28 Court in connection with the Final Approval Hearing.

1 81. The filing of an objection allows Class Counsel or Defense Counsel, upon reasonable
2 notice, to take the deposition of the objecting Settlement Class Member, and to seek any documentary
3 evidence or other tangible things that are relevant to the objection. Failure by the Settlement Class
4 Member to make himself or herself available for a deposition or comply with expedited discovery
5 requests may result in the Court striking the Settlement Class Member's objection and otherwise
6 denying him or her the opportunity to make an objection or be further heard.

7 **E. Duties of the Parties in Connection with Final Court Approval**

8 82. In connection with Final Approval, Class Counsel and Defense Counsel will submit a
9 proposed Judgment and a proposed Order Granting Final Approval of Class Action Settlement:
10 approving the settlement, adjudicating the terms thereof to be fair, reasonable, and adequate, and
11 directing consummation of all terms and provisions as provided in this Settlement Agreement.

12 **F. Timing and Manner of Payments**

13 83. Within sixty (60) calendar days after either Preliminary Approval of the Settlement
14 Agreement or after Defendants receives an election statement from the Class Administrator, whichever
15 is later, Defendants shall execute the election statement provided by the Administrator which shall be
16 affixed to the initial tax return of the Qualified Settlement Fund in order to establish the start date of
17 the Qualified Settlement Fund. The Settlement Fund shall thereafter be administered and distributed
18 as set forth in this Agreement. All interest with respect to the Settlement Fund shall accrue to the
19 benefit of the Participating Settlement Class. The monetary relief to the Participating Settlement Class,
20 all fees and expenses of the Settlement Administrator, and any and all taxes arising out of any interest
21 or other income derived from the Settlement Fund shall be paid from the Settlement Fund. Upon
22 calculation of the individual payments, and no later than three (3) calendar days after Final Approval,
23 the Class Administrator shall advise Defendants of the amount of the employer's share of payroll taxes.
24 Defendants will provide that amount to the Class Administrator within thirty (30) calendar days after
25 Final Approval.

26 84. Within thirty (30) calendar days of the Order Granting Final Approval, Defendants will
27 wire the Settlement Fund Seven Million Two Hundred Thousand Dollars (\$7,200,000.00) to fund the
28 Settlement to the Administrator, which shall be deposited by the Settlement Administrator into a

1 Qualified Settlement Fund established pursuant to Internal Revenue Code §1.468B-1. These funds
2 shall be under the exclusive control of the Administrator and shall be used solely for the purpose of
3 fulfilling the terms of the Agreement.

4 85. The Class Administrator shall take all reasonable efforts to make payments from the
5 Settlement Fund within forty-five (45) calendar days after the Effective Date. The Class Administrator
6 will make the payment to the LWDA and Class Counsel from the Settlement Fund. In addition, the
7 Administrator will send individual checks by regular U.S. Mail to the address on file with the Class
8 Administrator. Each Settlement Class Member who is entitled to a payment under this Settlement
9 Agreement will receive a single check for the total of his or her settlement payment (less applicable
10 payroll deductions required by federal, state, and local law for the wage portion of the payment and
11 union dues, as described in Paragraphs 83 and 64 respectively).

12 86. Checks sent to Settlement Class Members under this Settlement Agreement shall remain
13 valid and negotiable for one-hundred and eighty (180) calendar days from the date of their mailing,
14 and thereafter may be automatically canceled if not cashed by the payee within that time. The Class
15 Administrator will provide notice to Plaintiffs' Counsel of any uncashed checks and the Administrator
16 shall have responsibility to attempt to locate the impacted Class Members and re-issue checks with an
17 expiration date ninety (90) calendar days following the re-issuing of the checks. In the event any
18 Settlement Class Member(s) cannot be located within one-hundred and eighty (180) calendar days of
19 the expiration of the initial settlement checks, uncashed settlement check(s) will be awarded cy pres to
20 the Neighborhood Legal Service of Los Angeles County and the East Bay Community Law Center,
21 with fifty percent of the total amount of uncashed settlement check(s) being awarded to each
22 organization, except that, in the event more than Five Hundred Thousand Dollars (\$500,000.00)
23 remains uncashed after one-hundred and eighty (180) calendar days of the expiration of the initial
24 settlement checks, uncashed settlement check(s) will be redistributed equally amongst the Participating
25 Settlement Class Members who timely cashed their checks during the initial distribution. There will
26 only be one redistribution. Defendants will not be responsible for the employer's share of taxes for
27 any uncashed settlement checks and shall be returned the proportional amount of the employer's share
28 of taxes from any uncashed settlement checks. No person shall have any claim against Defendants,

Released Parties, Defense Counsel, the Named Plaintiffs, any member of the Settlement Class, Class Counsel, or the Class Administrator based on distributions and payments made in accordance with this Settlement Agreement.

VIII. OTHER PROVISIONS

A. Voiding the Settlement Agreement

87. A failure of the Court to approve any material condition of this Settlement Agreement which effects a fundamental change of the terms of the settlement shall render the entire Settlement Agreement voidable and unenforceable as to Plaintiffs and Defendants, at the option of either Party. Each Party may exercise its option to void this Settlement Agreement as provided above by giving notice, in writing, to the other and to the Court at any time prior to Final Approval.

88. If more than five percent (5%) of the Settlement Class submits timely and valid requests to opt out pursuant to the terms and procedures of the Settlement Notice, this entire Settlement Agreement shall become voidable and unenforceable as to Plaintiffs and Defendants, at Defendants' sole discretion. Defendants may exercise such option by giving notice, in writing, to Class Counsel and to the Court at any time prior to Final Approval.

B. Notices

89. Except for notices to Settlement Class Member, which are required herein to be made to or by the Class Administrator, all notices, requests, demands and other communications related to or in connection with this Agreement shall be in writing, and shall be provided by appropriate method depending on the urgency (e.g., personal delivery, facsimile, overnight delivery, or first-class U.S. mail) to:

TO PLAINTIFFS AND SETTLEMENT CLASS:

Joseph Lavi
Jordan D. Bello
Vincent C. Granberry
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, CA 90211

TO DEFENDANTS:

Catherine A. Conway
Jesse A. Cripps
Bradley J. Hamburger
Tiffany Phan
Madeleine F. McKenna
Katie Geary
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, California 90071
Telephone: 213.229.7000
Facsimile: 213.229.7520

1 **C. Mutual and Full Cooperation**

2 90. Plaintiffs and Defendants, by and through their respective counsel, agree to fully
3 cooperate with each other to accomplish the approval by the Court and of the terms of this Settlement
4 Agreement, including, but not limited to, execution of such documents and to take such other action as
5 may reasonably be necessary to implement the terms herein. The Parties agree to use their best efforts,
6 including all efforts contemplated by this Settlement Agreement, and any other efforts that may become
7 necessary by Order of the Court, or otherwise, to effectuate this Settlement Agreement.

8 91. The Parties agree that they will not attempt to encourage any Settlement Class Members
9 to object to the proposed settlement or to opt out. Plaintiffs and Class Counsel will make every
10 reasonable effort to accurately explain the benefits of this Settlement Agreement in response to any
11 questions from any member of the Settlement Class.

12 **D. No Admission of Liability**

13 92. Nothing herein shall constitute any admission by Defendants of wrongdoing or liability
14 or of the truth of any factual allegations in the Actions. To the contrary, Defendants have denied and
15 continue to deny each and every material factual, procedural, and/or legal allegation and alleged claim
16 asserted in the Actions. To this end, the settlement of the Actions, the negotiation and execution of
17 this Agreement, and all acts performed or documents executed pursuant to or in furtherance of this
18 Agreement or the settlement are not, shall not be deemed to be, and may not be used as, an admission
19 or evidence of any wrongdoing or liability on the part of Defendants, or any of them, or of the truth of
20 any of the factual allegations in the operative complaints, and are not, shall not be deemed to be, and
21 may not be used as, an admission or evidence of any fault or omission on the part of Defendants, or
22 any of them, in any civil, criminal or administrative proceeding in any court, administrative agency or
23 other tribunal.

24 **E. Binding Nature of Settlement Agreement**

25 93. This Settlement Agreement shall be binding upon, and inure to the benefit of, the
26 successors or assigns of the Released Parties. The Named Plaintiffs and the Settlement Class represent,
27 covenant, and warrant that they have not, directly or indirectly, assigned, transferred, or encumbered
28

any claim, demand, action, cause of action, or rights released in the Claims Released in this Settlement Agreement.

94. This Settlement Agreement may be amended or modified only by a written instrument signed by Class Counsel and the Named Plaintiffs, as well as Defense Counsel and Defendants. No rights under this Settlement Agreement may be waived except in writing.

95. This Settlement Agreement and any attached exhibits constitute the entire Settlement Agreement between the Named Plaintiffs, Settlement Class, and Defendants relating to the terms contained herein. All prior or contemporaneous settlement agreements, understandings, and statements, whether oral or written, whether express or implied, and whether by a Party or its counsel, are merged herein. No oral or written representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

96. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any of its provisions.

F. Dispute Resolution

97. Except as authorized herein, all disputes concerning the interpretation, implementation, calculation, or payment of the Settlement Amount or other disputes regarding compliance with this Settlement Agreement will be resolved by the Court.

G. Enforcement Action.

98. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorney's fees and costs, including expert witness fees in connection with any enforcement actions.

H. Restriction on Publicity

99. Plaintiffs agree that they and Class Counsel will not issue any press release or press statement, or initiate media coverage, regarding Defendants, the Released Parties, or this Settlement

1 Agreement. Should the media inquire or ask for information about the settlement or this
2 Settlement Agreement, Class Counsel and Plaintiffs shall decline to comment.

3 **I. Governing Law and Joint Drafting of Settlement Documents**

4 100. All terms of this Settlement Agreement and related documents shall be governed by and
5 interpreted according to the laws of the State of California, without respect to choice of law provisions
6 of any state.

7 101. Class Counsel and Defense Counsel have arrived at this Settlement Agreement as a
8 result of a series of arm's-length negotiations, taking into account all relevant factors, present and
9 potential.

10 102. This Settlement Agreement has been drafted jointly by Class Counsel and Defense
11 Counsel and, therefore, in any construction or interpretation of this Settlement Agreement, the same
12 shall not be construed against any of the Parties.

13 103. The Named Plaintiffs, Settlement Class, and Class Counsel agree that none of the
14 documents provided to them by Defendants shall be used for any purpose other than the prosecution
15 and settlement of the Actions. Specifically, none of the documents provided shall be used to pursue
16 any subsequent claims or litigation against Defendants or the Released Parties.

17 **J. Counterparts**

18 104. This Agreement may be executed in one or more counterparts, which may be filed with
19 the Court. All executed counterparts, and each of them, shall be deemed to be one and the same
20 instrument. Once available, a complete set of executed counterparts shall be filed with the Court. All
21 executed copies of this Agreement and photocopies thereof (including facsimile and/or emailed copies
22 of the signature pages) shall have the same force and effect and shall be as legally binding and
23 enforceable as the original.

24 **K. Parties' Authority**

25 105. The signatories hereto represent that they are fully authorized to enter into this
26 Settlement Agreement and are fully authorized to bind the Named Plaintiffs, Settlement Class, and
27 Defendants to all terms stated herein.

28 [SIGNATURE PAGE FOLLOWS]

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READ CAREFULLY BEFORE SIGNING

PLAINTIFF DEREK L. MCGHEE

Dated: Jan, 24, 2025

Derek L. McGhee

Derek L. McGhee, Plaintiff

PLAINTIFF VICTOR HAZLETT

Dated: Jan 27, 2025

Victor Hazlett

Victor Hazlett, Plaintiff

TESORO REFINING & MARKETING COMPANY,
LLC, ANDEAVOR, ANDEAVOR LOGISTICS LP,
AND MARATHON REFINING LOGISTICS
SERVICES LLC ("DEFENDANTS")

Dated: Feb 4, 2025

Molly R. Benson

Molly R. Benson, Chief Legal Officer and Corporate
Secretary, Marathon Petroleum Corporation
Defendants

VH

DLM

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APPROVED AS TO FORM ONLY

Dated: Feb. 4, 2025

GIBSON, DUNN & CRUTCHER



Catherine A. Conway
Attorneys for Defendants Tesoro Refining & Marketing
Company, LLC, Andeavor, Andeavor Logistics LP, and
Marathon Refining Logistics Services, LLC

Dated: 1/28, 2025

LAVI & EBRAHIMIAN, LLP



Joseph Lavi
Attorneys for Plaintiffs Derek L. McGhee and Victor
Hazlett

“EXHIBIT A”

PLACEHOLDER

“Exhibit 2”