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EXXON MOBIL CORPORATION

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

GABRIEL GUIMARY, an individual, for himself and those similarly situated,,

Plaintiff,

vs.

EXXON MOBIL CORPORATION, a New Jersey corporation doing business in California; and DOES 1 through 100, inclusive,

Defendant.

CASE NO.

[Santa Barbara Superior Court Case No. 18CV00845]

DEFENDANT EXXON MOBIL CORPORATION'S NOTICE OF REMOVAL OF ACTION TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA PURSUANT TO 28 U.S.C. §§ 1331, 1332, 1441 & 1446

[*Filed concurrently with Certification and Notice of Interested Parties; Declaration of Nicolas H. Pussetto; Civil Cover Sheet; Notice of Appearance of Counsel*]

[State Court Complaint Filed: February 20, 2018]

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

TO THE CLERK AND HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION, AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant Exxon Mobil Corporation ("Defendant" or "ExxonMobil"), by and through its counsel of record, hereby removes the matter of *Gabriel Guimary v. Exxon Mobil Corporation, et al.*, Case No. 18CV00845, pursuant to 28 U.S.C. sections 1331, 1332, 1441 and 1446, from the Superior Court for the County of Santa Barbara to the United States District Court for the Central District of California, Western Division.

Removal is proper on three separate and independent grounds: (1) federal question jurisdiction under the Outer Continental Shelf Lands Act ("OCSLA," 43 U.S.C. § 1331, *et seq.*), 28 U.S.C. §§ 1331, 1441(a) and 1446; (2) federal question jurisdiction under Section 301 of the Labor Management Relations Act of 1947 ("LMRA," 29 U.S.C. § 185), 28 U.S.C. §§ 1331, 1441(a) and 1446; and (3) diversity jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441(a), (b) and 1446. The following is a short and plain statement of the grounds for removal, together with a discussion of and enclosed true and correct copies of all process, pleadings, and orders to date.

I.

THE STATE COURT ACTION, CLAIMS ANDPROCEDURAL HISTORY

1. On or about February 20, 2018, Plaintiff Gabriel Guimary ("Plaintiff"), individually and on behalf of all other similarly situated current and former employees of Defendant, filed a Putative Class Action Complaint in the Superior Court of California for the County of Santa Barbara, Case No. 18CV00845 (the "Complaint"), together with a Civil Case Cover Sheet, Summons and Demand for Jury Trial.

2. On or about February 21, 2018, an Order and Notice of Case Assignment; Notice of Case Management Conference was filed by the state court, a true and correct copy of which is filed concurrently herewith and attached hereto as **Exhibit A**.

3. On February 22, 2018, Defendant's registered agent for service of process, CSC, was personally served with the Summons, Complaint, Demand for Jury Trial, Civil Case Cover Sheet and Notice of Service of Process discussed in paragraph 1 above, true and correct copies of which are filed concurrently herewith and attached hereto as **Exhibit B**. The Complaint alleges five causes of action, for: (1) failure to pay overtime and double-time premium wages; (2) failure to provide lawful meal and rest periods; (3) unfair competition; (4) failure to timely pay final wages due at termination; and (5) pay stub violations. While the Complaint does not expressly allege any claim or cause of action under federal law, it fails to disclose that the terms and conditions of Plaintiff's employment were at all relevant times subject to and governed by a Collective Bargaining Agreement ("CBA").

4. On or about February 23, 2018, Plaintiff filed a peremptory challenge to the then-assigned state court judge, a true and correct copy of which is filed concurrently herewith and attached hereto as **Exhibit C**.

5. On or about February 26, 2018, an Order and Notice of Case Re-Assignment was filed by the Court, a true and correct copy of which is filed concurrently herewith and attached hereto as **Exhibit D**.

6. On or about February 27, 2018, Plaintiff filed a Proof of Service of the Summons & Complaint, a true and correct copy of which is filed concurrently herewith and attached hereto as **Exhibit E**.

7. In compliance with 28 U.S.C. § 1446(a), the documents filed concurrently herewith and attached hereto as Exhibits A-E constitute true and correct copies of all process, pleadings and orders served on Defendant, as well as all documents filed in Santa Barbara Superior Court for Case No. 18CV000845.[1]

8. In accordance with 28 U.S.C. § 1446(d), the undersigned counsel certifies that a copy of this Notice of Removal and all supporting pleadings promptly will be served on Plaintiff's counsel (Michael A. Strauss, Aris E. Karakalos and Andrew C. Ellison, Strauss & Strauss, APC, 121 N. Fir Street, Suite F, Ventura, California, 93001) and filed with the Clerk of the Santa Barbara County Superior Court. Therefore, all procedural requirements under 28 U.S.C. § 1446 will be satisfied.

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 84(c)(2) and 1391, as well as 28 U.S.C. § 1441(a), because this is the judicial district and division of this Court in which Plaintiff alleges a substantial part of the events or omissions giving rise to his claims occurred and where, based on information and belief, Plaintiff resides. (*See* Exhibit B (Complaint, ¶¶ 13, 17, 18).) Further, Defendant, who is the only named Defendant, and who is the only Defendant at-issue herein, resides in Santa Barbara County for purposes of venue only pursuant to 28 U.S.C. § 1391(c)(2) at 12000 Calle Real, Goleta, California 93117-1207, which is within the Western Division of the Central District. (*See* Declaration of

[1]To the extent necessary, Defendant requests that the Court take judicial notice of the exhibits A-E attached to this Notice of Removal, as all are pleadings that were filed in the state court in this matter.

Nicolas H. Pussetto ("Pussetto Decl.,"), ¶ 6; *see also* Exhibit B (Complaint ¶¶ 14, 17).)

II.

TIMELINESS OF REMOVAL

10. Because Defendant was served with the Summons and Complaint on February 22, 2018, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) given that it has been filed within thirty days after the receipt of the Summons and Complaint, as required by that section. *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 353-55 (1999) (service of process is the official trigger for responsive action by a named defendant).

III.

FEDERAL QUESTION JURISDICTION UNDER THE OUTER CONTINENTAL SHELF LANDS ACT

11. This is a civil action that presents a federal question under a federal law, the OCSLA (43 U.S.C. § 1331, *et seq*.). Accordingly, this Court has original jurisdiction pursuant to 28 U.S.C. § 1331, and this case may be removed under 28 U.S.C. §§1441(a) and 1446.

12. Plaintiff defines the proposed class in this action as "all current and former hourly employees of Defendant Exxon, who, at any time within four years from the date of filing of this lawsuit, worked on oil platforms located off the shores of California." (*See* Exhibit B (Complaint, ¶ 19).) Additionally, throughout his Complaint Plaintiff alleges that the purported unlawful activity that is the subject matter of this lawsuit transpired on the Outer Continental Shelf. (*See* Exhibit B (Complaint).) The "Outer Continental Shelf" generally refers to those submerged lands lying more than three miles offshore, outside the territorial jurisdiction of the states. *See* 43 U.S.C. §§ 1331(a), 1301(a)(2); *Valladolid v. Pac. Operations Offshore, LLP*, 604 F.3d 1126, 1130 (9th Cir. 2010). Plaintiff's claims implicate a total of three oil platforms on which putative class members performed

work during the purported class liability period (February 20, 2014 to present). (*See* Pussetto Decl., ¶ 5.) All three platforms are fixed platforms located more than three miles from the California coast, and are thus connected to the seabed of the Outer Continental Shelf. (*See* Pussetto Decl., ¶ 5.) Indeed, Plaintiff alleges throughout his Complaint that the oil platforms at issue are connected to and located on the Outer Continental Shelf. (*See* Exhibit B (Complaint, generally).) Therefore, Plaintiff seeks recovery for work conducted exclusively on oil platforms located in territories subject to federal jurisdiction under the OCSLA.

13. Plaintiff's claims are removable under the OCSLA, which specifies that United States district courts shall have jurisdiction over all "cases and controversies arising out of, or in connection with...any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the minerals, of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such minerals….Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found…." 43 U.S.C. § 1349(b)(1). Indeed, the "OCSLA explicitly provides that district courts have federal question jurisdiction over claims occurring on the Outer Continental Shelf." *Barker v. Hercules Offshore, Inc.*, 713 F.3d 208, 220 (5th Cir. 2013) (internal citations omitted). Furthermore, removal is appropriate under the OCSLA in any case that would not have arisen "but-for" the existence of the "drilling and exploration operation." *In re Deepwater Horizon*, 745 F.3d 157, 163-64 (5th Cir. 2014); *see also Valdez v. Alliance Liftboats, LLC.*, Case No. 2:14-CV-444, 2015 WL 1168284 (S.D. Tex. Mar. 13, 2015) (explaining that "OCSLA provides original jurisdiction for removal even if the plaintiff does not plead it.").

14. Because Plaintiff's proposed class, as defined by Plaintiff, consists exclusively of individuals who work or have worked on oil platforms, all of which are located on and connected to the Outer Continental Shelf, Plaintiff's claims

herein unequivocally arise out of and/or in connection with operations involving the "exploration, development, or production of the minerals, of the subsoil and seabed of the outer Continental Shelf." Accordingly, federal question jurisdiction exists under OCSLA and removal is proper.

IV.

FEDERAL QUESTION JURISDICTION BASED ON LMRA SECTION 301 PREEMPTION

15. In addition to federal question jurisdiction under OCSLA, this is a civil action that also presents a federal question under LMRA section 301 and, accordingly, this Court has original jurisdiction pursuant to 28 U.S.C. § 1331, and this case may thus be removed under 28 U.S.C. § 1441.

16. Federal question jurisdiction under LMRA stems from the fact that Plaintiff's claims require interpretation of a CBA and thus are completely preempted by federal law under the LMRA. 29 U.S.C. § 185. Section 301 of the LMRA, codified at 29 U.S.C. § 185, provides that: "[s]uits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce…may be brought in a district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties." *Firestone v. S. Cal. Gas Co.*, 219 F.3d 1063, 1065 (9th Cir. 2000). To ensure uniform interpretations of CBAs, federal common law preempts the use of state contract law with respect to the interpretation and enforcement of CBAs. *See Lingle v. Norge Div. of Magic Chef, Inc.*, 486 U.S. 399, 413 (1988).

17. Moreover, all state law claims alleged by a union-represented employee that require interpretation of a CBA must be brought pursuant to Section 301 of the LMRA. *Allis-Chalmers Corp. v. Lueck*, 471 U.S. 202, 211 (1985). "The preemptive force of section 301 is so powerful that it displaces entirely any state cause of action for violation of a collective bargaining agreement…any state claim

whose outcome depends on analysis of the terms of the agreement." *Newberry v. Pac. Racing Ass'n*, 854 F.2d 1142, 1146 (9th Cir. 1988); *see Voorhees v. Naper Aero Club, Inc.*, 272 F.3d 398, 403 (7th Cir. 2001) (explaining that Section 301 is one of "only two areas in which the Supreme Court has found that Congress intended completely to replace state law with federal law for purposes of federal jurisdiction.").

18. Indeed, Section 301 specifically has been held to preempt California state law claims that are substantially dependent upon interpretation of a collective bargaining agreement. *Firestone*, 219 F.3d at 1065-67. This is so even where interpretation was required to evaluate the employer's defense to a plaintiff-employee's state law causes of action. *See Levy v. Skywalker Sound*, 108 Cal.App.4th 753, 768 (2003) (holding that employee's claim for unpaid wages preempted because it "rest[ed] entirely" on a claim that plaintiff was "entitled…to wages at the level set by the CBA.").

A. Plaintiff's Employment Was Governed By and Subject to a CBA.

19. Plaintiff was employed by Defendant as a "Maintenance Specialist" in Defendant's U.S. Production Santa Ynez Unit from January 12, 2015 to March 25, 2016.[2] (Pussetto Decl., ¶ 3; *see also* Exhibit B (Complaint, ¶¶ 11, 12, 25-28).) The terms and conditions of Plaintiff's employment with Defendant are subject to a CBA between Defendant's U.S. Production Santa Ynez Unit and the Federation of Santa Ynez Unit ExxonMobil Employees (the "Union"). (Pussetto Decl., ¶ 5, Ex. A.) A true and correct copy of the CBA in effect since October 2014 for proposed class members and applicable to Plaintiff's employment with Defendant is attached to the Pussetto declaration, filed concurrently herewith, as Exhibit A.

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[2]Plaintiff contends in his Complaint that he was employed as an "Operator." (Exhibit B (Complaint, ¶¶ 11, 12, 25-28).) However, at all relevant times Plaintiff was employed by Defendant as a Maintenance Specialist, which is a part of the same bargaining unit as "Operators." Pursuant to the CBA, Operators are paid at a higher rate than Maintenance Specialists. (Pussetto Decl., ¶¶ 3, 5 Ex. A (CBA, pg. 71 (Schedule A)).) Thus, the "amount in controversy" for Plaintiff's claims is even higher than stated in Section VI, herein *infra*, if the allegations of Plaintiff's complaint are taken as true.

20. The Union is a labor organization within the meaning of Section 2(5) of the NLRA and 301(a) of the LMRA. *See* 29 U.S.C. §§ 152(5) and 185(a).

21. Defendant is an employer within the meaning of the LMRA. *See* 29 U.S.C. § 152(2).

22. The "Witnesseth" section of the CBA specifically recognizes the Union as the "exclusive bargaining representative for…all production and maintenance employees employed in California….by [Defendant's U.S. Production Santa Ynez Unit] including all classifications in Schedule A…" for the purposes of "collective bargaining concerning the rates of pay, wages, hours, and other conditions of employment…." (Pussetto Decl., ¶ 5, Ex. A (CBA, pgs. 1, 2).) Schedule A, which appears on page 71 of the CBA, explicitly lists "Maintenance Specialist" as a classification within its rate schedule. (*Id.*)

B. Because They Require Considerable Interpretation of the CBA, Plaintiff's Claims are Preempted by the LMRA.

23. The Complaint makes no mention of the fact that Plaintiff was a member of the Union and employed pursuant to the terms of the CBA. However, a plaintiff may not "artfully plead" their complaint in order to conceal the true nature of the complaint. *Young v. Anthony's Fish Grottos, Inc.*, 830 F.2d 993, 997 (9th Cir. 1987) (holding that plaintiff's state law claim was preempted even though the operative complaint made no mention of a collective bargaining agreement); *Schroeder v. Trans World Airlines, Inc.*, 702 F.2d 189, 191 (9th Cir. 1983), overruled in part on other grounds in *Moore-Thomas v. Alaska Airlines, Inc.*, 553 F.3d 1241 (9th Cir. 2009). Therefore, the fact that Plaintiff has not made an explicit reference to Section 301 of the LMRA in his Complaint does not preclude removal. *See Milne Employees Ass'n v. Sun Carriers, Inc.*, 960 F.2d 1401, 1406 (9th Cir. 1991). The Court may properly look beyond the face of the Complaint to evaluate whether the claims alleged are in fact preempted by Section 301. *See Lippitt v. Raymond James Fin. Servs., Inc.*, 340 F.3d 1033, 1041 (9th Cir. 2003).

Furthermore, the Court may properly look to the facts stated in the Notice of Removal "to clarify the action a plaintiff presents and to determine if it encompasses an action within federal jurisdiction." *Schroeder*, 702 F.2d at 191.

24. The "complete preemption" doctrine provides that an artfully pled state law claim is properly "recharacterized" as a federal claim because the preemptive force of Section 301 is so strong that it "converts an ordinary state law complaint into one stating a federal claim for purposes of the well-pleaded complaint rule" and is removable to federal court. *Caterpillar Inc. v. Williams*, 482 U.S. 386, 393 (1987); *Franchise Tax Bd. V. Construction Laborers Vacation Trust*, 463 U.S. 1, 23 (1983) (providing that "if a federal cause of action completely preempts a state cause of action, any complaint that comes within the scope of the federal cause of action necessarily 'arises under' federal law.").

25. Here, the claims asserted by Plaintiff in his Complaint are "founded directly on rights created by collective bargaining agreements" and/or are substantially dependent on analysis and interpretation of a collective bargaining agreement. *See Hayden v. Reickerd*, 957 F.2d 1506, 1509 (9th Cir. 1991) (citing *Caterpillar Inc.*, 482 U.S. at 394). Thus, to analyze Plaintiff's claims the Court will necessarily need to interpret the provisions of the applicable CBA. That is, the Court cannot simply look to state law to resolve Plaintiff's artfully pled claims for breach of the CBA. Accordingly, Plaintiff's claims cannot be adjudicated without interpretation of a number of CBA provisions that govern Plaintiff's employment with Defendant.

26. Plaintiff alleges the following five claims in his Complaint: (1) failure to pay overtime and double-time premium wages; (2) failure to provide lawful meal and rest periods; (3) unfair competition; (4) failure to timely pay final wages due at termination; and (5) pay stub violations. (*See* Exhibit B (Complaint).) The relevant CBA addresses the terms and conditions governing hours worked, rates of pay, wages, meal and rest periods, overtime premium pay, "call-out" time, travel

time, as well as other relevant terms and conditions of employment, as discussed below. Articles XIV and XV of the CBA also provide mandatory grievance and arbitration procedures, and require that any disputes regarding an alleged violation of the CBA be submitted to final and binding arbitration for resolution. (Pussetto Decl., ¶ 5, Ex. A.) In order to resolve Plaintiff's claims herein the Court will be required, at minimum, to interpret all of these provisions.

27. **Hours, Wages, Overtime and Meal and Rest Periods.** The CBA sets forth the parties' mutual agreement regarding all matters pertaining to employee wages, including overtime pay (and how to calculate the regular rate of pay for purposes of overtime), reporting time pay, excess hours, call-outs, differential pay, training time pay, relocation pay, travel time pay (including transfer-travel time), holiday pay (including holiday premium pay and effect on overtime calculations), special shifts and assignments and related matters regarding wages, hours and the terms and conditions of employment. (Pussetto Decl., ¶ 5, Ex. A (CBA, pgs. 8-14, 22, 24-30, 35-38, 71-75).)[3] Working rules governing meal and rest breaks and laying out the conditions under which they may be taken during the period February 20, 2014 forward have also been adopted pursuant to Article XX of the CBA, and as such are subject to the grievance and arbitration provisions under Articles XIV and XV of the CBA. (Pussetto Decl., ¶ 5, Ex. A (CBA, pg. 65, Santa Ynez Unit Meal and Rest Period Guideline).)

28. The crux of Plaintiff's claims are that he was paid for 12 hours per day while working 7-day "hitches" on one of Defendant's offshore oil platforms, but he alleges he was entitled to be compensated for all hours spent on the platform (an additional 12 overtime hours per day) because he was under Defendant's

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[3]Schedule B of the CBA, which runs from pages 72-75, applies "only to employees assigned to offshore Santa Ynez Unit operations." Schedule B provides specific rules for affected employees in addition to those contained in the CBA, including with respect to shift times and lengths, travel time pay (including rates and when it will be treated as overtime), vacation pay and conditions, and holiday pay. (*Id.*) The CBA addresses and discusses all such matters for those employees not assigned to offshore Santa Ynez Unit operations. Further, the CBA controls with respect to any conflicts between itself and Schedule B.

control during those times. (*See* Exhibit B (Complaint, ¶¶ 9, 10, 31-38.).) The balance of Plaintiff's claims, including for purported meal and rest period violations, unfair competition, waiting time penalties and inaccurate itemized wage statements, are all derivative of this claim. (*Id.*) For example, Plaintiff contends that his wage statements were inaccurate because they did not detail this additional 12 hours per day of overtime he claims to be owed, and that he is owed waiting time penalties because Defendant did not pay him all wages allegedly due him at the time his employment ended because of Defendant's purported failure to pay him for an additional 12 hours of overtime pay for the 12 hours he was off- duty each day of his 7-day hitch throughout his employment. (*Id.*) Plaintiff claims that he never received a compliant meal or rest period, because he remained on the platform, purportedly under Defendant's control, during his entire shift. (*Id.*) Plaintiff explicitly states in paragraph 10 of the Complaint that his unfair competition claim "is predicated on" this theory. Plaintiff also alleges that his regular rate of pay for purposes of overtime was miscalculated. (*Id.* at ¶ 41.) The CBA expressly provides for overtime pay, including premium pay for hours worked over eight in a day or forty in a week, as well as premium pay for certain "call-outs," with calculation variances under certain circumstances, shift differentials and provisions with respect to how to calculate an employee's straight time pay for purposes of overtime. (Pussetto Decl., ¶ 5, Ex. A (CBA, pgs. 11, 12, 25-28).) The CBA and related work rules also provide for meal and rest periods under specified circumstances, and lay out the conditions under which employees are entitled to such breaks, both with and without pay. (Pussetto Decl., ¶ 5, Ex. A (CBA, pg. 14, Santa Ynez Unit Meal and Rest Period Guideline).) Put simply, the CBA governs the issues about which Plaintiff now seeks relief. Accordingly, this is a federal question LMRA dispute and removal is proper.

29. **Wage Order 16 and California Labor Code § 514.** To the extent state law applies to Plaintiff's claims, section 514 of the California Labor Code and

sections 3(H) and 10(E) of Industrial Welfare Commission Wage Order 16 (Cal. Code Regs., § 11160) provide that the overtime, alternate workweek and meal break requirements under state law do not apply to employees covered by a valid CBA, so long as the CBA provides wages, hours of work, working conditions and premium wage rates for all overtime hours worked, and wages for all regular hours worked are not less than 30% more than the state's minimum wage. The CBA here meets all of these requirements. *Vranish v. Exxon Mobil Corp.,* 223 Cal.App.4th 103 (2014) (holding that where a valid collective bargaining agreement exists, employers and unions are free to bargain over the rate of overtime pay, as well as what hours will qualify as "overtime" for purposes of premium pay). (Pussetto Decl., ¶ 5, Ex. A (CBA, pgs. 8-14, 22, 24-38, 43-51, 71-75 (Schedule "A"), Santa Ynez Unit Meal and Rest Period Guideline.) Indeed, Schedule "A" of the CBA provides that the entry level hourly wage for a "Maintenance Specialist," the position Plaintiff held with Defendant at all relevant times, was $29.64 per hour (and could get as high as $35.06 per hour) effective January 1, 2015—several times in excess of the state minimum wage. (*Id.*) Additionally, section 11(E) of Wage Order 16 provides that the rest break requirements under state law do not apply to employees covered by a valid CBA that provides equivalent protection, which also is the case here. (The Labor Code does not require rest periods; they are only required as provided under the Wage Orders.) Furthermore, Sections 10(F) and 11(E) of Wage Order 16 provide that "where a valid collective bargaining agreement provides final and binding mechanism for resolving disputes regarding enforcement of the [meal and rest] period provisions, the collective bargaining agreement will prevail." Accordingly, the CBA must be interpreted to resolve Plaintiff's claims and removal is therefore proper under LMRA.

30. **Grievance and Arbitration Procedures.** The grievance and arbitration procedures set forth in the CBA cover any alleged violation of the CBA, and require that any disputes regarding any alleged violation of the CBA be

submitted to final and binding arbitration for resolution. (Pussetto Decl., ¶ 5, Ex. A (CBA, pgs. 52-56).) As discussed in paragraph 29 above, Plaintiff's claims must be arbitrated pursuant to the terms of the CBA. (Pussetto Decl., ¶ 5, Ex. A (CBA, pgs. 8-14, 22, 24-38, 43-56, 71-75, Santa Ynez Unit Meal and Rest Period Guideline).) The promotion of extra-judicial dispute resolution is another central purpose of Section 301 preemption. State court lawsuits removed on preemption grounds may be deferred to arbitration if the parties to the CBA have so agreed. *See, e.g., 14 Penn Plaza LLC v. Pyett,* 556 U.S. 247, 257 (2009) ("[I]n any contractual negotiation, a union may agree to the inclusion of an arbitration provision in a collective bargaining agreement in return for other concessions from the employer. Courts generally may not interfere in this bargained-for exchange.") *see also Livadas v. Bradshaw,* 512 U.S. 107, 123-24, fns. 17, 18 (1994). Here, the parties have so agreed, and thus Plaintiff's claims are subject to arbitration as discussed above. Accordingly, because an alleged violation of the CBA is subject to the CBA's grievance and arbitration procedures, and because all of Plaintiff's claims are in essence alleged violations of the relevant CBA, the Court will necessarily have to interpret the grievance and arbitration provisions to analyze Plaintiff's claims. That is, the Court will need to determine whether Plaintiff was first required to exhaust the grievance procedures set forth in the CBA, whether he did in fact exhaust those procedures, and whether Plaintiff agreed to arbitrate all or a portion of his claims. *See United Paperworks Int'l Union, AFL-CIO v. Misco, Inc.*, 484 U.S. 29, 37 (1987). Under the LMRA, all such questions are reserved for federal courts.

31. In summary, Plaintiff's claims are substantially dependent upon the interpretation of the previously discussed CBA terms, and interpreting them is thus essential to resolve Plaintiff's claims. Consequently, each of Plaintiff's claims are preempted by federal law pursuant to Section 301 of the LMRA. Removal to federal court is thus warranted.

V.

SUPPLEMENTAL JURISDICTION

32. Because they closely relate to, form part of the same case and emanate from the same employment relationship between Plaintiff and Defendant that is the subject of the federal question claims, this Court has supplemental jurisdiction over any of Plaintiff's remaining state law claims to the extent they are not completely preempted by Section 301 or are not so inextricably intertwined with or dependent on an interpretation of the CBA. *See* 28 U.S.C. § 1367. Indeed, as discussed above, all of Plaintiff's claims are derivative of the same legal theory and claim with respect to payment for 12 off duty hours spent by Plaintiff on Defendant's offshore oil platforms during his multi-day hitches. All the pleaded claims thus emanate from and form part of the same "case or controversy" under 28 U.S.C. § 1367, and should thus all be tried in one action. *See Nishimoto v. Federman-Backrach & Assoc.*, 903 F.2d 709, 714 (9th Cir. 1990). Considerations of efficiency, convenience, judicial economy and fairness to the litigants all strongly favor this Court exercising jurisdiction over all claims in this Complaint. *See Executive Software v. U.S. Dist. Court*, 24 F.3d 1545, 1557 (9th Cir. 1994). Accordingly, pursuant to 28 U.S.C. § 1441, Defendant is entitled to remove all of Plaintiff's claims to this Court.

VI.

DIVERSITY JURISDICTION

33. This is also a civil action of which this Court has original diversity jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(b) given that it is a civil action between citizens of different states, and the amount in controversy exceeds the sum on $75,000, exclusive of interests and costs, as set forth below.

A. Complete Diversity Exists: Plaintiff and Defendant are Citizens of Different States.

34. Diversity jurisdiction exists where there is diversity of citizenship between the parties at the time the lawsuit is filed. *See Grupo Dataflux v. Atlas Global Group*, 541 U.S. 567, 571 (2004). To establish citizenship for diversity purposes, a natural person must be a citizen of the United States and domiciled in a particular state. *Kantor v. Wellesley Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir. 1983). Persons are domiciled in the places where they reside with the intent to remain or to which they intend to return. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). Based on the allegations of the Complaint, Plaintiff was at all relevant times, including at the time of filing this Complaint, and still is a resident of the State of California, in the County of Los Angeles. (*See* Exhibit B (Complaint, ¶¶ 11-13).)

35. Under 28 U.S.C. § 1332, "a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business… ." A corporation's "principal place of business" is often referred to as its "nerve center," and is the place where the corporation's board and high level officers direct, control and coordinate its activities. *Hertz Corp. v. Friend*, 559 U.S. 77, 80-81, 92-93 (2010); *Harris v. Rand*, 682 F.3d 846, 851 (9th Cir. 2012); *Hoschar v. Appalachian Power Co.*, 739 F.3d 163, 172 (4th Cir. 2014) (nerve center is where company's "officers make significant corporation decisions and set corporate policy."). Plaintiff's Complaint names Defendant Exxon Mobil Corporation as Plaintiff's employer and, as discussed below, Defendant is the only Defendant who has been named in the instant matter. (*See* Exhibit B (Complaint, ¶ 11).) Defendant was not a citizen of the State of California at the time the Complaint was filed in state court, or at any relevant times, and is still not a citizen of the State of California, as it is a corporation incorporated under the laws of the State of New

Jersey, with its principal place of business in Irving, Texas. 28 U.S.C. § 1332(c)(1). (*See* Exhibit B (Complaint, ¶ 14); *see also* Pussetto Decl., ¶ 6.) Indeed, Irving, Texas is where Defendant's headquarters and executive and administrative offices are located, where it's primary executive, administrative, financial and management functions are conducted, and where it's high level officers direct, control and coordinate their activities. (*Id.*) Thus, under the "nerve center" test of diversity, Defendant's principal place of business is in the State of Texas. *Hertz Corp. v. Friend*, 559 U.S. 77, 80-81, 92-93 (2010). The "total activities test" of diversity is no longer used by court's to determine a corporation's "principal place of business" under 28 U.S.C. § 1332, and would not apply here in any event because Defendant's activities are not centralized in one or two states, nor is there a clear predominance of business activity in one state. *Hertz Corp. v. Friend*, 559 U.S. 77, 80-81, 92-93 (2010); *Santana v. Corr. Corp. of Am.*, 2011 U.S. Dist. LEXIS 50992, at *3 (S.D. Cal. May 12, 2011, No. 11-CV-138 JLS (CAB)) (noting that "Plaintiff premises his motion to remand on the now-outmoded 'total activities' test of a corporation's principal place of business"); *see Industrial Tectonics, Inc. v. Aero Alloy*, 912 F.2d 1090 (9th Cir. 1990) (Pussetto Decl., ¶ 6.) Accordingly, Defendant is not a citizen of the State of California for diversity purposes. 28 U.S.C. § 1332(c)(1).

36. Plaintiff's Complaint also names as defendants Does 1-100. However, none of Does 1-100 have been served by Plaintiff and, thus, pursuant to 28 U.S.C. § 1441(b)(1), the citizenship of defendants sued under fictitious names must be disregarded for purposes of determining diversity and removal. (*See* Exhibit B (Complaint).)

B. The Amount in Controversy Exceeds $75,000, Exclusive of Interests and Costs.

37. This action also meets the amount in controversy requirement. 28 U.S.C. § 1332(a) authorizes the removal of cases in which, among other factors

above, the matter in controversy exceeds the sum or value of $75,000.00, exclusive of interest and costs. Without admitting that Plaintiff could recover any damages or is owed anything, Defendant asserts that the amount in controversy in this action exceeds $75,000.00, exclusive of interest and costs.

38. The appropriate measure of the amount in controversy in a case removed on diversity grounds is the litigation value of the case, assuming that the allegations of the complaint are true and that a jury returns a verdict for the plaintiff on all claims in the complaint. *Theis Research, Inc. v. Brown & Bain*, 400 F.3d 659, 662 (9th Cir. 2004*); Harrod v. Bass Pro Outdoor World, LLC*, 2018 U.S. Dist. LEXIS 18760, at *5 (C.D. Cal. Feb., 2018, No. EDCV 17-02386-CJC (SHKx)) (explaining that "[i]n measuring the amount in controversy, the Court assumes the allegations in the complaint are true and the jury will return a verdict in favor or the plaintiff on all claims therein."); *Jackson v. American Bankers Ins. Co. of Fla.*, 976 F. Supp. 1450, 1454 (S.D. Ala. 1997); *Burns v. Windsor Ins. Co.*, 31 F.3d 1092, 1096 (11th Cir. 1994) (the amount in controversy analysis presumes that "plaintiff prevails on liability"); *Kenneth Rothschild Trust v. Morgan Stanley Dean Witter*, 199 F.Supp.2d 993, 1001 (C.D. Cal. 2002) (explaining that in determining whether the amount in controversy exceeds $75,000, the court must presume that the plaintiff will prevail on each and every one of his claims); *Korn v. Polo Ralph Lauren Corp.*, 536 F.Supp.2d 1199, 1205 (E.D. Cal. 2008); *Richmond v. Allstate Ins. Co.*, 897 F. Supp. 447, 449-50 (S.D. Cal. 1995) (amount in controversy to be determined upon analysis of claims made in complaint and potential recovery of punitive damages award and statutory or contractual attorneys' fees); *Angus v. Shiley Inc.*, 989 F.2d 142, 146 (3d Cir. 1993) (explaining that "the amount in controversy is not measured by the low end of an open-ended claim, but rather by reasonable reading of the value of the rights being litigated."). The ultimate inquiry is what amount is put "in controversy" by the plaintiff's complaint, not what a defendant will actually owe. *Korn*, *supra*, 536 F.Supp. 2d at

1205; *Rippee v. Boston Market Corp*., 408 F.Supp.2d 982, 986 (S.D. Cal. 2005); *see also Scherer v. Equitable Life Assurance Society of the United States*, 347 F.3d 394, 399 (2d Cir. 2003) (recognizing that the ultimate or provable amount of damages is not what is considered when determining the amount in controversy; rather, it is the amount put in controversy by the plaintiff's complaint). Further, in the class action context, at least one plaintiff-class member's claims must exceed $75,000, exclusive of interest and costs. *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 566 (2005). Thus, the allegations in the Complaint are relevant to the determination because they indicate what relief the plaintiff is seeking, and therefore provide a basis for estimating the amount in controversy. *Kenneth Rothschild Trust*, 199 F.Supp. 2d at 1001.

39. Without conceding that Plaintiff is entitled to damages or could recover damages in any amount whatsoever, the amount in controversy in this action exceeds $75,000.00. 28 U.S.C. § 1332(a). Although Plaintiff has failed to specify in his Complaint a dollar amount in damages that he is seeking in this case, the causes of action alleged and categories of damages requested demonstrate that the amount in controversy exceeds $75,000, exclusive of interest and costs. Where a plaintiff's state court complaint is silent as to the amount of damages claimed, the removing defendant need only establish that it is "more likely than not" that the plaintiff's claims exceed the jurisdictional minimum. *Sanchez v. Monumental Life Ins.*, 102 F.3d 398, 404 (9th Cir. 1996). "[That] burden is not 'daunting,' as courts recognize that under this standard, a removing defendant is *not* obligated to 'research, state, and prove the plaintiff's claims for damages.'" *Muniz v. Pilot Travel Centers LLC*, 2007 U.S. Dist. LEXIS 31515, at *8 (E.D. Cal. 2007) (quoting *McCraw v. Lyons*, 863 F. Supp. 430, 434 (W.D. Ky. 1994)). The Court also has discretion to accept "summary-judgment-type evidence to the amount in controversy at the time of removal." *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th Cir. 2004) (internal quotations omitted).

40. Plaintiff claims that Defendant failed to pay him overtime wages due for all hours worked, failed to provide him with lawful meal and rest periods, engaged in unfair competition, failed to timely pay him wages due at the time of termination, and failed to provide him with accurate itemized wage statements. (*See* Exhibit B (Complaint).) In the Complaint, among other things, Plaintiff seeks and demands judgment from Defendant, on a class wide basis, for premium overtime, as well as meal period and rest period premium wages for each day he worked for Defendant, attorneys' fees, statutory penalties under Labor Code section 203 equal to his daily rate of pay multiplied by 30, equitable/injunctive relief, for appointment of a receiver to perform an accounting of all monies owed to putative class members.[4] (*See* Exhibit B (Complaint, ¶¶ 10, 42-45, 54, 55, 59-63, 67, 71, 72, 76-78, Prayer for Relief).) Based on these claimed damages and defense counsel's experience and understanding in litigating these kinds of cases and familiarity with the range of recovery and reasonable attorneys' fees that may be incurred and to which Plaintiff may be entitled should he prevail, the amount in controversy exceeds $75,000, exclusive of interest and costs.

a. <u>Recovery of Unpaid Overtime Wages</u>. Plaintiff was employed by Defendant as a Maintenance Specialist in Defendant's U.S. Production Santa Ynez Unit from January 12, 2015 to March 25, 2016, a total of 63 weeks. (Pussetto Decl., ¶ 3; *see also* Exhibit B (Complaint, ¶¶ 11, 12, 24-28).) As detailed in Schedule A of the CBA, Plaintiff's starting rate of pay at the time he was hired was $29.64 per hour, and his pay increased during his employment and was $31.33 per hour at the time his employment with Defendant ended.[5] (Pussetto Decl., ¶¶ 3, 5,

[4]Plaintiff also claims he is entitled to the "maximum allowable penalty under [Labor Code] section 226(e)," which caps penalties at $4,000 per employee. (*See* Exhibit B (Complaint, ¶¶ 1, 6-10, 38, 73-78).) However, because section 226 has a one year statute of limitations, and Plaintiff filed his Complaint nearly two years after his employment with Defendant ended, he cannot recover any damages pursuant to Labor Code section 226.

[5]Notably, as stated above, Plaintiff actually contends in his Complaint that he was an "Operator." Because Operators are paid at a higher rate than Maintenance Specialists pursuant to the CBA, Plaintiff actually

Ex. A (CBA, pg. 71 (Schedule "A").) During his employment, Plaintiff alleges that he typically worked 7-day hitches during which time he was paid for 12 on-duty working hours each of the 7 days, but not compensated for the additional 12 hours per day he was off-duty unless called back to work, despite purportedly being entitled to pay for such hours. (Pussetto Decl., ¶¶ 3, 4; *see also* Exhibit B (Complaint, ¶¶ 9, 24-35, 41).) Each of Plaintiff's 7 day hitches was generally followed by a period of 7 days off. (*Id.*) Throughout his employment, Plaintiff reporting taking time off and/or being absent during four total hitches, and would presumably then have worked at least 29 full 7-day hitches. (Pussetto Decl., ¶¶ 3-5.)

i. Plaintiff contends that he should have been compensated for all 24 hours for each day of his 7-day hitch, with the 12 unpaid off-duty hours being compensated at overtime rates (*See* Exhibit B (Complaint, ¶¶ 1, 6-9, 24-35, 39-45).) Specifically, if Plaintiff was paid for these 12 hours as he contends, he claims he should have been compensated at two times his straight time rate for all hours worked over 12 in a day, for which he received no pay, and on the seventh day of each hitch should additionally receive double time for all hours worked between 8 and 12 (for which he has already received time and one-half overtime pay). (*Id.*) Because he reported working 29 full 7-day hitches, Plaintiff is thus presumably contending that he should be paid for 2,465 additional double time hours. (Pussetto Decl., ¶¶ 3-5, Ex. A (CBA, pgs. 11, 12, 24-28, 71 (Schedule "A"); *see also* Exhibit B (Complaint, ¶¶ 1, 6-9, 24-35, 39-45.) Accordingly, even using his starting straight time rate of $29.64 per hour, Plaintiff is claiming that he is owed at least $146,125.20 in unpaid overtime. (*Id.*)

b. <u>Meal and Rest Period Premiums</u>. Plaintiff further claims that, because he was always subject to Defendant's control while on its oil platforms, he

claims the amount in controversy in the instant matter is even higher than stated here. (Pussetto Decl., ¶ 5, Ex. A (CBA, pg. 71 (Schedule A)).)

was never provided with a compliant meal or rest break on any shift and, consequently, is owed two additional hours of pay for each day worked—one hour as a meal period premium penalty, and a second as a rest period penalty. (*See* Exhibit B (Complaint, ¶¶ 1, 7-9, 24-37, 46-56).) Accordingly, because Plaintiff reported working 29 7-day hitches, Plaintiff is claiming he is owed a total of 203 meal period premiums, and an additional 203 rest period premiums, for a total value of $12,033.84. (*Id.*; *see also* Pussetto Decl., ¶¶ 3-5, Ex. A (CBA, pgs. 11, 12, 71 (Schedule "A"), Santa Ynez Unit Meal and Rest Period Guideline.)

c. Recovery of Other Statutory Penalties.[6] Plaintiff additionally alleges that he is owed waiting time penalties because Defendant did not pay him all wages allegedly due him at the time his employment ended. (*See* Exhibit B (Complaint, ¶¶ 1, 6-10, 24-38, 64-78.).)

d. Recovery of Statutory Attorneys' Fees. The Complaint also alleges that Plaintiff is entitled to recover attorneys' fees, which are available to a prevailing plaintiff suing under the Labor Code. *See* Cal. Lab. Code §§ 218.5, 226, 1194 and 2802(c). (*See* Exhibit B (Complaint, Prayer for Relief).) Where underlying statutes authorize an award of attorney fees, those fees should be included in calculating the amount in controversy. *See Galt G/S/ v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir. 1998) (claims for attorneys' fees are to be included in the amount in controversy when an underlying statute or contract authorizes such an award, regardless of whether the award is discretionary or mandatory). "[T]he measure of fees should be the amount that can reasonably be anticipated at the time of removal, not merely those already incurred." *Simmons v. PCR Technology*, 209 F.Supp.2d 1029, 1035 (N.D.Cal. 2002).

e. Injunctive Relief. Plaintiff also seeks an injunction commanding certain action by Defendant. The amount in controversy may include

[6]Although he is not entitled to them based on the statute of limitations, Plaintiff also claims he is owed the "maximum allowable penalty under [Labor Code] section 226(e)," which is $4,000. (*Id.*)

the cost of complying with such an injunction, which further increases the amount in controversy. *Simmons, supra,* 209 F.Supp.2d at 1034. In determining the value of injunctive relief, courts may examine either the "the defendant's cost of compliance with an injunction or the plaintiff's benefit from the injunction." *Tompkins v. Basic Research*, 2008 WL 1808316 (E.D.Cal. 2008).

41. Accordingly, Plaintiff's allegations satisfy the jurisdictional prerequisite for the amount in controversy. It cannot be said to a legal certainty that Plaintiff would not be entitled to recover the jurisdictional amount. *Anthony v. Security Pacific Financial Services, Inc.*, 75 F.3d 311, 315 (7th Cir. 1996); *Watson v. Blankenship*, 20 F.3d 383, 386-87 (10th Cir. 1994). Thus, the alleged claims, damages, penalties and fees requested in Plaintiff's Complaint clearly demonstrate the amount in controversy in this case exceeds well in excess of $75,000.

42. Furthermore, "[w]here the other elements of jurisdiction are present and at least one named plaintiff in the action satisfies § 1332(a)'s amount-in-controversy requirement, § 1367 authorizes supplemental jurisdiction over the claims of other plaintiffs in the same Article III case or controversy, even if those claims are for less than the requisite amount." *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 512-13 (2005). Accordingly, should this Court determine that Plaintiff's claims are not subject to the grievance and arbitration provisions under the CBA, the Court may exercise supplemental jurisdiction over the unnamed class members pursuant to 28 U.S.C. § 1367, and considerations of efficiency, convenience, judicial economy and fairness to the litigants would all strongly favor this Court exercising supplemental jurisdiction. (*Id.*)

43. By filing this Notice of Removal, Defendant has not and does not waive any defenses it might assert or its right to bring any application anywhere in relation to this litigation or its subject matter.

44. By filing this Notice of Removal, Defendant does not concede that Plaintiff is entitled to any of the damages pled, including those damages referenced

herein. To the contrary, the damages referenced herein are those which are alleged in connection with Plaintiff's Complaint to be "in controversy."

45. Defendant reserves the right to provide additional/supplemental evidence regarding the amount in controversy.

VII.

JOINDER

46. Defendant is not aware of any other defendant that exists and who has been named in the Complaint, or who has been properly joined and/or served with the Summons and Complaint. (*See* Exhibit B (Complaint).) Accordingly, Defendant is the only Defendant at-issue in this matter. (*Id.*)

WHEREFORE, having provided notice as is required by law, Defendant prays that the original action brought by Plaintiff and now pending against it in the Superior Court of the State of California, County of Santa Barbara, be removed to this Court on all the aforementioned grounds and for all the aforementioned reasons, and this Court accept jurisdiction of this action in its entirety.

DATED: March 26, 2018

STRADLING YOCCA CARLSON & RAUTH, P.C.

By: */s/ Jeffrey A. Dinkin*
Jeffrey A. Dinkin
John Wicker
Attorneys for Defendant

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA STREET ADDRESS: 1100 Anacapa Street CITY AND ZIP CODE: Santa Barbara CA 93101 BRANCH NAME: Anacapa	*FOR COURT USE ONLY* **FILED** SUPERIOR COURT of CALIFORNIA COUNTY of SANTA BARBARA **02/21/2018** Darrel E. Parker, Executive Officer BY Chavez, Terri Deputy Clerk
CAPTION: **Gabriel Guimary vs Exxon Mobil Corporation**	
ORDER AND NOTICE OF CASE ASSIGNMENT; NOTICE OF CASE MANAGEMENT CONFERENCE	CASE NUMBER: **18CV00845**

The above case is hereby assigned to Judge **Donna D Geck** for ALL purposes, including trial. All future matters, including ex-parte matters, are to be scheduled with the assigned judge. Counsel shall include the name of the assigned judge in the caption of every document filed with the court. The above-entitled case is hereby ordered set for:

Case Management Conference on **06/22/2018** at **8:30 AM** in **SB Dept 4** at the court address above.

PLAINTIFF SHALL GIVE NOTICE of this assignment to ALL parties brought into the case, including but not limited to defendants, cross-defendants and intervenors. A Proof of Service of this ORDER & NOTICE OF CASE ASSIGNMENT is to be filed with the Court within five (5) working days after service. Failure to give notice and file proof thereof or failure to appear may result in the imposition of sanctions. Pursuant to California Rule of Court 3.725, no later than fifteen (15) calendar days before the date set for the Case Management Conference, each party must file a Case Management Statement (Judicial Council form CM110). In lieu of each party filing a separate Case Management Statement, any two or more parties may file a joint statement.

At the Court's discretion counsel, parties and insurance representatives (if any) with full settlement authority may be required to attend a CADRe Information Meeting within ten (10) days of the Conference date.

Dated: 2/21/2018

Michael Carrozzo

Judge of the Superior Court
Michael Carrozzo

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this action and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown, and that the mailing of the foregoing and execution of this certificate occurred at (*place*): Santa Barbara, California on: 02/21/18.

Michael A Strauss
Strauss & Strauss APC
121 N Fir St Ste F
Ventura CA 93001

Darrel E. Parker, Executive Officer By Terri Chavez Deputy Clerk

EXHIBIT B

CSC

null / ALL
Transmittal Number: 17805613
Date Processed: 02/22/2018

Notice of Service of Process

Primary Contact: Joann Lee
Exxon Mobil Corporation
CORP-FB 1506
1301 Fannin
Houston, TX 77002

Electronic copy provided to: Karen Cunningham

Entity: Exxon Mobil Corporation
Entity ID Number 1685331

Entity Served: Exxon Mobil Corporation

Title of Action: Gabriel Guimary vs. Exxon Mobil Corporation

Document(s) Type: Summons/Complaint

Nature of Action: Class Action

Court/Agency: Santa Barbara County Superior Court, California

Case/Reference No: 18CV00845

Jurisdiction Served: California

Date Served on CSC: 02/22/2018

Answer or Appearance Due: 30 Days

Originally Served On: CSC

How Served: Personal Service

Sender Information: Michael A. Strauss
805-641-6600

Notes: Class Action matter for failure to pay wages

SUM-100

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
2/20/2018 10:39 AM
By: Terri Chavez, Deputy

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

EXXON MOBIL CORPORATION, a New Jersey corporation doing business in California; and DOES 1 through 100, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

GABRIEL GUIMARY, an individual, for himself and those similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

CASE NUMBER: *(Número del Caso):* 18CV00845

Santa Barbara Superior Court
1100 Anacapa Street, Santa Barbara, CA 93101

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Michael A. Strauss Esq. - Strauss & Strauss, APC, 121 N. Fir St., Ste. F, Ventura, CA 93001; (805) 641-6600

DATE: *(Fecha)* 2/20/2018 Clerk, by *(Secretario)* /s/ Terri Chavez , Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010)).

[SEAL] SUPERIOR COURT SANTA BARBARA CO. CAL.

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☒ on behalf of *(specify)*: Exxon Mobil Corporation, a New Jersey Corporation, doing business in California

under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify)*:
4. ☒ by personal delivery on *(date)*: 2/22/18

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§ 412.20, 465
www.courtinfo.ca.gov

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Michael A. Strauss - SBN 246718 ; Aris E. Karakalos - SBN 240802
STRAUSS & STRAUSS, APC
121 N. Fir Street, Suite F
Ventura, CA 93001
TELEPHONE NO.: (805) 641-6600 FAX NO.: (805) 641-6607
ATTORNEY FOR (Name): Plaintiff and the Putative Class

FOR COURT USE ONLY

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
2/20/2018 10:39 AM
By: Terri Chavez, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara
STREET ADDRESS: 1100 Anacapa Street
MAILING ADDRESS:
CITY AND ZIP CODE: Santa Barbara, CA 93101
BRANCH NAME:

CASE NAME:
Gabriel Guimary v. Exxon Mobil Corporation

CIVIL CASE COVER SHEET

☑ Unlimited (Amount demanded exceeds $25,000)
☐ Limited (Amount demanded is $25,000 or less)

Complex Case Designation
☐ Counter ☐ Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 18CV00845
JUDGE:
DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment
☐ Wrongful termination (36)
☑ Other employment (15)

Contract
☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property
☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer
☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review
☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint
☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition
☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☑ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. ☐ Large number of separately represented parties
   b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. ☐ Substantial amount of documentary evidence
   d. ☐ Large number of witnesses
   e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☑ monetary b. ☑ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): Five (5)
5. This case ☑ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: February 20, 2018
Aris E. Karakalos
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than $25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort
- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death) Tort
- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/ Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice– Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort
- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment
- Wrongful Termination (36)
- Other Employment (15)

Contract
- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease
    - Contract *(not unlawful detainer or wrongful eviction)*
  - Contract/Warranty Breach–Seller Plaintiff *(not fraud or negligence)*
  - Negligent Breach of Contract/ Warranty
  - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case–Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

Real Property
- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer
- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review
- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ–Administrative Mandamus
  - Writ–Mandamus on Limited Court Case Matter
  - Writ–Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment
- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment *(non-domestic relations)*
  - Sister State Judgment
  - Administrative Agency Award *(not unpaid taxes)*
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint
- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition
- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief From Late Claim
  - Other Civil Petition

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County of Santa Barbara
Darrel E. Parker, Executive Officer
2/20/2018 10:39 AM
By: Terri Chavez, Deputy

Attorneys for Plaintiff Gabriel Guimary and the Putative Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

GABRIEL GUIMARY, an individual, for himself and those similarly situated, Plaintiff, v. EXXON MOBIL CORPORATION, a New Jersey corporation doing business in California; and DOES 1 through 100, inclusive, Defendants.	Case No. 18CV00845 <u>PUTATIVE CLASS ACTION</u> COMPLAINT; DEMAND FOR JURY TRIAL

TO ALL INTERESTED PARTIES HEREIN AND TO THEIR ATTORNEYS OF RECORD:

COMES NOW, Plaintiff GABRIEL GUIMARY ("Plaintiff"), individually and on behalf of all other similarly situated current and former employees of Defendants EXXON MOBIL CORPORATION, a New Jersey corporation doing business in California (herein "Exxon") and Does 1 through 100, and each of them, for legal relief to redress unlawful violations of Plaintiff's rights under California law and the rights of those similarly situated.

Plaintiff bring his claims against Defendants as a California statewide class action pursuant to California Code of Civil Procedure section 382.

INTRODUCTION

1. California wage-and-hour laws apply within its territorial boundaries. *Sullivan v. Oracle Corp.*, 51 Cal.4th 1191, 1197. California's wage-and-hour laws apply to "wage earners of California" when they perform work in its coastal waters, including waters outside the state's territorial boundaries. *California Tidewater Marine W., Inc. v. Bradshaw*, 14 Cal. 4th 557, 579 (1996). Those same laws apply on oil platforms on the Outer Continental Shelf off the coast of California. *Newton v. Parker Drilling Mgmt. Servs., Ltd.*, --- F.3d ----, 2018 WL 706490, *15 (9th Cir. Feb. 5, 2018).

2. Defendants provide services to drilling operations off the California coast, including on fixed oil platforms on the Outer Continental Shelf. Defendants employ hourly employees who work on these oil platforms and travel between them when necessary. Defendants mandate that these hourly workers perform their work in "hitches," which are multiple-day shifts (varying in length) that begin and end in California and are also spent either on vessels traveling to, back from, or between oil platforms or on the oil platforms themselves.

3. The employees' hitches begin on California soil, where the employees wait for a vessel to transport them to an oil platform. While they wait, Defendants mandate that the employees attend safety briefings. The employees board their vessel and travel to an oil platform on the Outer Continental Shelf.

4. Some employees travel to and back from their designated platform by helicopter. The process is similar to trips aboard a vessel. The primary difference is the length of the trip.

5. Regardless of which method of travel the employees take to their platform, it is impossible for employees to take their own vessel and/or helicopter to reach the platform. They must use the transportation provided by Defendants.

6. During these hourly employees' hitches, they cannot realistically leave their vessel, helicopter, or oil platform. Their confinement ends only upon their return to California

soil, when they disembark from the vessel or helicopter.

7. California law mandates the payment of wages for every hour worked. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005). California employers must also pay overtime premium wages for all hours worked in excess of eight in one day or over 40 in one workweek and double-time premium wages for all hours worked in excess of 12 in one day. Lab. Code § 510(a).

8. California law defines as "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." 8 Cal. Code Regs. § 11160(2)(J). "An employee who is subject to an employer's control does not have to be working during that time to be compensated." *Morillion v. Royal Packing Co.*, 22 Cal.4th 575, 592 (2000). "'When an employer directs, commands or restrains an employee from leaving the work place ... and thus prevents the employee from using the time effectively for his or her own purposes, that employee remains subject to the employer's control. According to [the definition of hours worked], that employee must be paid.'" *Id.* at 583. An employer cannot exclude sleep time for employees working shifts of 24 hours. *Mendiola v. CPS Sec. Sols., Inc.*, 60 Cal. 4th 833, 848-49 (2015).

9. Defendants violated these key principles of California wage-and-hour law. Defendants' hourly employees were restrained to their workplace for the entirety of their hitches. They could not use the time effectively for their own purposes and always remained subject to Defendants' control. Defendants, in contravention of California law, maintained a policy and practice of paying their hourly employees for twelve hours each day. Defendants maintained a policy whereby it did not pay their hourly employees for controlled stand-by time, typically time spent on the platform between 6 p.m. and 6 a.m. (and relieving employees worked the 6 a.m. to 6 p.m. shift), even though this entire time was on-call time and even though their hourly employees were deprived several freedoms during this time. In short, Defendants violated California law by not treating as compensable hours worked every hour their hourly employees were restrained to the workplace, i.e., on Defendants' vessels and

platforms, including sleeping time, and spent on California soil.

10. Plaintiff is one of the hourly employees impacted by Defendants' illegal wage-and-hour policies. He seeks relief on a collective and class-wide basis challenging the unlawful business practices engaged in by Defendants of failing to properly compensate Plaintiff and all others similarly situated for all wages owed, denied meal and rest periods, and various other related penalties under California Labor Code. Plaintiff also seeks equitable relief under the California Unfair Competition Law, Business and Professions Code section 17200 *et seq.* (the "UCL"), which is predicated on Defendants' violation of California laws regarding the payment of wages. The UCL claim seeks to obtain disgorgement and restitution of all ill-gotten gains from the unlawful conduct alleged herein and an injunction preventing Defendants from continuing to violate California law.

THE PARTIES

11. At all times herein mentioned, Plaintiff Gabriel Guimary was an hourly employee of Defendants, working off the coast of and in the State of California, within the last four (4) years as an Operator.

12. Plaintiff stopped working for Defendants on or around March 2016.

13. At all times herein mentioned and relevant, Plaintiff was and is an individual residing in the State of California, in the County of Los Angeles.

14. At all times herein mentioned, Plaintiff is informed and believes and, based on such information and belief, thereon alleges that Exxon, is a New Jersey corporation, with its Principal Executive Offices in Irving, Texas, but which does business and maintains an office in the County of Santa Barbara, California, located at 12000 Calle Real, Goleta, California 93117-1207.

15. The true names and capacities, whether individual, corporate, associate, representative or otherwise, of the defendants identified herein as Does 1 through 100, inclusive, are unknown to Plaintiff, who therefore sue these defendants by said fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of Does 1 through 100 when they have been ascertained. Does 1 through 100 are in some manner legally

responsible for the wrongs and injuries alleged herein.

16. Each of the Defendants acted as the agent or employee of the others and each acted within the scope of that agency or employment.

VENUE AND JURISDICTION

17. Venue is appropriate in the Santa Barbara County Superior Court because, on information and belief, Defendant maintains an office and conducts business within said County. The unlawful employment practices complained of herein occurred within the State within said County as well as on oil platforms located off the shores of California.

18. Further, it is alleged that the unlawful employment practices complained of herein were authorized, approved or otherwise ratified by Defendants within Santa Barbara County, California.

CLASS ACTION ALLEGATIONS

19. Plaintiff brings the causes of action stated herein on his own behalf and on behalf of all persons similarly situated. The class consists of all current and former hourly employees of Defendant Exxon, who, at any time within four years from the date of filing of this lawsuit, worked on oil platforms off of the California coast for periods of 24 hours or more (hereinafter the "Putative Class").

20. The Putative Class represents over 25 persons and is so numerous that the joinder of each member of the putative class is impracticable.

21. There is a well-defined community of interest in the questions of law and fact affecting the class Plaintiff represents. The Putative Class members' claims against Defendants involve questions of common or general interest, in that each was employed by Defendants, and each was not paid wages owed based on the same failure to compensate for all hours during which they were subject to the control of Defendants, including hours in excess of their scheduled shifts and during meal and rest periods. These questions are such that proof of a state of facts common to the members of the Putative Class will entitle each member to the relief requested in this complaint.

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22. The members of the Putative Class that Plaintiff represents have no plain, speedy or adequate remedy at law against Defendants, other than by maintenance of this class action, because Plaintiff is informed and believes, and on such information and belief alleges, that the damage to each member of the Putative Class may be relatively small and that it would be economically infeasible to seek recovery against Defendants other than by a class action.

23. Plaintiff will fairly and adequately represent the interest of the Putative Class, because Plaintiff is a member of the Putative Class, and Plaintiff's claims are typical of those in the Putative Class.

24. Plaintiff is a former employee of Defendants, and was assigned to work on several platforms off the coast of California, but was assigned to stay overnight during his hitches on various platforms located off of California's coast, namely in Santa Barbara County.

25. Plaintiff was employed by Defendants during the four years preceding the filing of the Complaint.

26. Plaintiff worked as an Operator.

27. Plaintiff was at all relevant times herein alleged paid an hourly rate.

28. Plaintiff stopped working for Defendants on or around March 2016.

29. During the employment with Defendants, Plaintiff sometimes worked on an oil platform (or platforms) in the California coastal waters, performing non-exempt work.

30. During the employment with Defendants, Plaintiff sometimes worked onshore in California, performing non-exempt work. Each of Plaintiff's hitches (typically 7-day periods of work, but sometimes longer) began onshore in California and ended onshore in California.

31. Plaintiff typically received pay for only 12 hours each day while on the oil platforms, but nothing for the remaining 12 hours of restricted/controlled stand-by which were also spent on the platforms.

32. Plaintiff did not receive compensation for all hours worked on the platform.

33. Plaintiff could not reasonably leave the platform during his seven-day shift.

34. Plaintiff could not leave the platforms for his meal or rest periods.

35. As a consequence of not being able to leave the platform for his meal or rest periods, he would remain subject to Defendant's control, "on duty," and "on call" as those terms are defined under California law. All time subject to an employer's control is compensable, and on-duty and on-call meal and rest periods are not permitted under California law.

36. For each on duty meal or rest period, a California employer is required to pay its employees one extra hour of pay at their normal hourly rate (known as a meal or rest period "premium" wage).

37. Defendants did not pay Plaintiff one extra hour of pay for each on duty meal period. Nor did Defendants pay Plaintiff an extra hour of pay for each on duty rest period, as required by California law.

38. Plaintiff was denied accurate paycheck stubs, which lacked, among other things required under California law, the requisite amount of overtime/double-time, meal period, and rest period premium wages earned each pay period.

FIRST CAUSE OF ACTION

Failure to Pay California Overtime and Double-time Premium Wages

(Action Brought By Plaintiff On Behalf Of Himself

And the Putative Class Against All Defendants)

39. Plaintiff incorporates by reference and re-alleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

40. California law requires payment of overtime premium pay for all hours worked by non-exempt employees in excess of eight in one day or 40 hours in one week and for the first eight hours on the seventh-straight day of work in one workweek. Lab. Code § 510; 8 Cal. Code Regs. § 11160, subd. 3(A). It further requires payment of double-time premium pay for all hours worked by non-exempt employees in excess of twelve hours in one day or in excess of eight hours on the seventh-straight day of work in a single workweek. Lab. Code § 510; 8 Cal. Code Regs. § 11160, subd. 3(A).

41. Plaintiff and the Putative Class regularly worked hours for which they were not paid the overtime or double-time premium wages under California law. Defendants violated the California Labor Code's overtime and double-time provisions in numerous respects, including but not limited to the following:

a. Failing to compensate Plaintiff and the Putative Class at the proper overtime rate for all hours worked in excess of eight (8) in a workday, forty (40) in a workweek, or on the seventh (7th) straight day in a workweek or at the proper double-time rate for all hours worked in excess of twelve (12) in a workday or in excess of eight (8) on the seventh (7th) straight day of work in a workweek for the following categories of hours worked:

i. Time spent on the employer's premises due to the reasonable inability to leave;

ii. Time spent on-call on the employer's premises and engaged to wait as those terms are defined by California regulations and case law;

iii. Time spent donning, doffing, and retrieving job-related protective gear (such as fire-retardant clothing) before and after working their 12-hour shifts;

iv. Time spent "handing off" a shift to the relief employee and/or receiving such a hands off from the employee who was relieved;

v. All time spent traveling to and back from shore, including but not limited to time spent waiting for the ship to take them to the platform or back to shore;

vi. All time spent responding to alarms and drills or other calls to muster after hours; and

vii. To the extent such a claim is not subsumed by the aforementioned situations, time spent sleeping on the employer's premises; and

b. Failing to compensate Plaintiff and the Putative Class at the correct overtime rate of pay for overtime hours worked because Defendants failed to include the following in the Putative Class's regular hourly rates of pay:

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i. Compensation for performance-related bonuses;

ii. Compensation for meals provided by the employer; and

iii. Compensation for lodging provided by the employer.

42. Plaintiff and the Putative Class seek such overtime and double-time premium wages owed to them for the three-year period measured backward from the date of the filing of the initial Complaint in this matter. (In the Unfair Competition cause of action stated herein and brought pursuant to the UCL, Plaintiff and the Putative Class seek restitution of unpaid overtime and double-time wages due for the four-year period measured backward from the date of the filing of the initial Complaint in this matter.)

43. The exact amount of overtime and double-time premium wages owed will not be fully ascertained until discovery is completed. Until Defendants produce the necessary documents for an accounting, Plaintiff is unable to determine the exact amount of overtime and double-time premium wages owed.

44. Plaintiff seeks interest on all overtime and double-time premium wages owed to them for the three-year period measured backward from the date of the filing of the initial Complaint in this matter pursuant to Labor Code section 1194. (In the Unfair Competition cause of action stated herein and brought pursuant to the UCL, Plaintiff and the Putative Class seek interest on all unpaid overtime and double-time wages due for the four-year period measured backward from the date of the filing of the initial Complaint in this matter.)

45. Pursuant to Labor Code section 1194, Plaintiff requests the Court to award Plaintiff's reasonable attorney's fees and costs incurred in this action.

SECOND CAUSE OF ACTION

Failure to Provide Lawful Meal and Rest Periods

(Action Brought By Plaintiff On Behalf Of Himself

And the Putative Class Against All Defendants)

46. Plaintiff incorporates by reference and re-alleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

47. California law provides that no employer shall employ any person for a work period of more than five hours without a meal period of not less than 30 minutes. Lab. Code §§ 226.7, 512, 8 Cal. Code Regs. § 11160, subd. 10.

48. Employees are entitled to "a paid 10-minute rest period per four hours of work." *Bluford v. Safeway Stores, Inc.*, 216 Cal. App. 4th 864, 870; 8 Cal. Code Regs. § 11050, subd. 12(A). "State law prohibits on-duty and on-call rest periods. During required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time." *Augustus v. ABM Sec. Servs., Inc.*, 2 Cal. 5th 257, 385-386 (2016).

49. "If an employer fails to provide an employee a … meal … period in accordance with a state law…, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the … meal … period is not provided." Lab. Code § 226.7; 8 Cal. Code Regs. § 11160, subd. 10.

50. "If an employer fails to provide an employee a … rest … period in accordance with a state law…, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the … rest … period is not provided." Lab. Code § 226.7(c); 8 Cal. Code Regs. § 11160, subd. 10.

51. Defendants have intentionally and improperly denied meal and rest periods to Plaintiff and the Putative Class in violation of Labor Code sections 226.7 and 512 and 8 Cal. Code Regs. § 11160, subd. 10.

52. At all times relevant hereto, Plaintiff and the other members of the Putative Class have worked more than five hours in a workday (and often more than ten, fifteen hours, and twenty hours). At all relevant times hereto, Defendants have failed to provide meal periods for every five-hour work period and to provide rest periods for every four hours of work as required by California law, because Plaintiff and the Putative Class could not reasonably leave the work premises and were not relieved of all duty and subject to their employer's control for their meal and rest periods.

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53. Plaintiff and the other members of the Putative Class are informed and believe, and based upon that information and belief allege, that Defendants know or should have known that Plaintiff and the Putative Class were entitled to lawful meal and rest periods but purposely elected not to provide these mandated periods.

54. Plaintiff seeks meal and rest period premium wages owed to him and the Putative Class for the three-year period measured backward from the date of the filing of the initial Complaint in this matter. (In the Unfair Competition cause of action stated herein and brought pursuant to the UCL, Plaintiff and the Putative Class seek restitution of unpaid meal and rest period premium wages due for the four-year period measured backward from the date of the filing of the initial Complaint in this matter.)

55. The exact amount of meal and rest period premium wages owed will not be fully ascertained until discovery is completed. Until Defendants produce the necessary documents for an accounting, Plaintiff is unable to determine the exact amount of meal period premium wages owed.

56. Labor Code section 218.6 states, "[I]n any action brought for the nonpayment of wages, the court shall award interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2." Plaintiff and the Putative Class seek such interest on all meal and rest period premium wages owed to them for the three-year period measured backward from the date of the filing of the initial Complaint in this matter. (In the Unfair Competition cause of action stated herein and brought pursuant to the UCL, Plaintiff and the Putative Class seek interest on all unpaid meal and rest period premium wages due for the four-year period measured backward from the date of the filing of the initial Complaint in this matter.)

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THIRD CAUSE OF ACTION

Unfair Competition

(Action Brought By Plaintiff On Behalf Of Himself And the Putative Class Against All Defendants)

57. Plaintiff incorporates by reference and re-alleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as though fully set forth herein.

58. This cause of action is being brought pursuant to California Business and Professions Code section 17200 et seq. and California case law including *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. App. 4th 163 (2000).

59. It is alleged that Defendants have willfully failed to pay Plaintiff and the Putative Class, overtime, double-time, meal, and rest period premium wages under California law as alleged throughout this Complaint. The failure to pay such premium wages constitutes unfair business practices under California Business and Professions Code section 17200.

60. As a result of the conduct of Defendants, Defendants profited from breaking the law. Plaintiff and the Putative Class seek disgorgement of this unlawfully obtained benefit (plus interest thereon) for the four-year period measured backward from the date of filing of the initial Complaint in this matter.

61. California Business and Professions Code section 17203, under the authority of which a restitutionary order may be made, provides:

> Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use of employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204 and

> complies with Section 382 of the Code of Civil Procedure, but these limitations do not apply to claims brought under his chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state.

Bus. & Prof. Code § 17203.

62. As a result of the alleged aforesaid actions, Plaintiff and the Putative Class have suffered injury in fact and have lost money as a result of such unfair competition. It is requested that this Court order restitution under the UCL.

63. Plaintiff also seeks an injunction preventing Defendants from continuing to violate California's wage-and-hour laws.

FOURTH CAUSE OF ACTION

(Violation of Labor Code § 203 – Alleged by Plaintiff

Against All Defendants)

64. Plaintiff incorporates by reference and re-alleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as though fully set forth herein.

65. Pursuant to California Labor Code section 203, it is alleged that Defendants have willfully failed to pay without abatement or reduction all of the wages of Plaintiff.

66. Defendants are aware that they owe the wages claimed, yet have willfully failed to make payment.

67. As a result of Defendants willful failure to pay all wages owed at termination, Plaintiff seeks wages and penalties pursuant to Labor Code section 203. According to Labor Code section 203, these penalties consist of up to 30 days of pay for Plaintiff at his regular rate of pay, including overtime.

68. Plaintiff has been available and ready to receive wages owed to him.

69. Plaintiff has never refused to receive any payment, nor has Plaintiff been absent from his regular place of residence.

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70. Defendants' failure to pay wages due and owing to Plaintiff as indicated in prior paragraphs was willful. Defendants have knowingly refused to pay any portion of the amount due and owing Plaintiffs.

71. Pursuant to Labor Code sections 218.5, Plaintiff requests the Court to award him reasonable attorney's fees and costs incurred in this action.

72. Plaintiff also request all unpaid wages, Labor Code section 203 penalties and interest. The exact amount of actual wages and Labor Code section 203 penalties owed will not be fully ascertained until discovery is completed. Until Defendants produce the necessary documents for an accounting, Plaintiff is unable to determine the exact amount of wages and Labor Code section 203 penalties owed.

<u>FIFTH CAUSE OF ACTION</u>

Pay Stub Violations

(Action Brought By Plaintiff On Behalf Of Himself and the Putative Class Against All Defendants)

73. Plaintiffs incorporate by reference and re-alleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

74. California Labor Code section 226 provides, in relevant part:

> Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social

> security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Lab. Code § 226(a).

75. In this case, Defendants have failed to provide such wage deduction statements to Plaintiff and the Putative Class in that their wage deduction statements do not include, without limitation, their gross wages earned, all hours worked, net wages earned, or all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee.

76. Pursuant to Labor Code section 226(e), damages are appropriate. At this time, Plaintiff believes and alleges that he and the Putative Class are owed the maximum allowable penalty under section 226(e) because Defendants failed to provide adequate paycheck stubs.

77. However, the exact amount of damages under Labor Code section 226(e) will not be fully ascertained until discovery is completed. Until Defendants produce the necessary documents for an accounting, Plaintiff will be unable to determine the exact amount of damages under Labor Code section 226(e).

78. Pursuant to Labor Code section 226(e), Plaintiff requests the Court to award Plaintiffs' reasonable attorney's fees and costs incurred by Plaintiffs in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Putative Class demand judgment against Defendants, and each of them, as follows:

1. For overtime, double-time, meal period, and rest period premium wages owed under California law according to proof;

2. For prejudgment interest pursuant to Labor Code sections 218.6 and 1194 and Civil Code sections 3288 and 3291 on all amounts claimed;

3. For attorney's fees and costs pursuant to Labor Code sections 218.5, 226, 1194, and 2802(c);

4. For statutory penalties under Labor Code section 226;

5. For wages and penalties pursuant to Labor Code section 203.

6. For an equitable order/injunction, ordering Defendants to comply with California law and to pay all Putative Class members all wages and interest they are owed;

7. For an appointment of a receiver to perform an accounting of all monies owed to these employees;

8. For any and all injunctive relief this Court deems necessary pursuant to Business and Professions Code section 17203;

9. For costs of suit; and

10. For any other and further relief that the Court considers just and proper.

DATED: February 20, 2018

STRAUSS & STRAUSS, APC

By: ______________________

Michael A. Strauss
Aris E. Karakalos
Andrew C. Ellison
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff Gabriel Guimary hereby demands a trial by jury.

DATED: February 20, 2018

STRAUSS & STRAUSS, APC

By:

Michael A. Strauss
Aris E. Karakalos
Andrew C. Ellison
Attorneys for Plaintiff

EXHIBIT C

<table>
<tr><td>ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS):
Michael A. Strauss - SBN 246718
Strauss & Strauss, APC
121 N. Fir Street, Suite F, Ventura, CA 93001
ATTORNEY FOR (NAME): Attorney for Gabriel Guimary and the Putative Class</td><td>TELEPHONE NO.:
(805) 641-6600</td><td rowspan="3">FOR COURT USE ONLY

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA
02/23/2018
Darrel E. Parker, Executive Officer
BY Chavez, Terri
Deputy Clerk</td></tr>
<tr><td colspan="2">SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA
STREET ADDRESS: 1100 Anacapa Street
MAILING ADDRESS:
CITY AND ZIP CODE: Santa Barbara, CA 93101
BRANCH NAME: Anacapa</td></tr>
<tr><td colspan="2">PLAINTIFF: Gabriel Guimary

DEFENDANT: Exxon Mobil Corporation</td></tr>
<tr><td colspan="2">DECLARATION OF PREJUDICE CCP 170.6
(PEREMPTORY CHALLENGE)</td><td>CASE NUMBER:
18CV00845</td></tr>
</table>

Michael A. Strauss, Esq. declares
(NAME OF DECLARANT)

that he/ she is Attorney for Gabriel Guimary and the Putative Class a party to the within action hereinafter
(INSERT "ATTORNEY FOR" OR LEAVE BLANK)

called "case" therein as follows:

Gabriel Guimary, et al. v. Exxon Mobil Corporation
(NAME OR NAMES OF PARTIES)

that The Hon. Donna Geck, the Judge, Court Commissioner or Referee to
(NAME OF JUDGE/COMMISSIONER/REFEREE BEING DISQUALIFIED)

whom the case has been assigned is prejudiced against the Plaintiff Gabriel Guimary or the interest
(PLAINTIFF OR DEFENDANT)

of the Plaintiff Gabriel Guimary so that Declarant cannot or believes that he/she cannot have a fair
(PLAINTIFF OR DEFENDANT)

and impartial trial or hearing before such Judge, Court Commissioner or Referee.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Dated: February 23, 2018

(SIGNATURE OF DECLARANT)

EXHIBIT D

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA STREET ADDRESS: 1100 Anacapa Street CITY AND ZIP CODE: Santa Barbara CA 93101 BRANCH NAME: Anacapa	*FOR COURT USE ONLY* **FILED** SUPERIOR COURT of CALIFORNIA COUNTY of SANTA BARBARA **02/26/2018** Darrel E. Parker, Executive Officer BY Garcia, April Deputy Clerk
CAPTION: **Gabriel Guimary vs Exxon Mobil Corporation**	
ORDER & NOTICE OF CASE RE-ASSIGNMENT; NOTICE OF RESCHEDULED HEARING/CMC	CASE NUMBER: **18CV00845**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

The above case is hereby ordered re-assigned to **Thomas P Anderle** for ALL purposes, including trial. All future matters, including ex-parte matters, are to be scheduled with the new re-assigned judge.

The **Case Management Conference** now scheduled is rescheduled as follows:

06/26/2018 at **8:30 AM** in **SB Dept 3** of the court address above.

Dated: 2/26/2018 By Michael Carrozzo

Judge of the Superior Court
Michael Carrozzo

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this action and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown, and that the mailing of the foregoing and execution of this certificate occurred at (*place*): Santa Barbara, California on (*date*): 02/26/2018.

Michael A Strauss
Strauss & Strauss APC
121 N Fir St Ste F
Ventura CA 93001

Darrel E. Parker, Executive Officer By April Garcia, Deputy

EXHIBIT E

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)	FOR COURT USE ONLY
Aris Karakalos | SBN: 240802 Strauss & Strauss, APC 121 N. Fir Street, Suite F Ventura, CA 93001 TELEPHONE NO.: (805) 641-6600 | FAX NO. (805) 641-6607 | E-MAIL ADDRESS (Optional): Jackie@strausslawyers.com ATTORNEY FOR (Name): Plaintiff:	ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 2/27/2018 11:10 AM By: Johnny Aviles, Deputy
SANTA BARBARA COUNTY SUPERIOR COURT STREET ADDRESS: 1100 ANACAPA ST. 2ND FLOOR MAILING ADDRESS: CITY AND ZIP CODE: SANTA BARBARA, CA 93101 BRANCH NAME: ANACAPA DIVISION	
PLAINTIFF: Gabriel Guimary DEFENDANT: Exxon Mobil Corp.	CASE NUMBER: 18CV00845
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.: Guimary v. Exxon Mobil Corp.

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
   a. ☑ Summons
   b. ☑ Complaint
   c. ☐ Alternative Dispute Resolution (ADR) package
   d. ☑ Civil Case Cover Sheet *(served in complex cases only)*
   e. ☐ Cross-complaint
   f. ☑ other *(specify documents)*: **Summons; Complaint;Civil Case Cover Sheet**
3. a. Party served *(specify name of party as shown on documents served)*:
   Exxon Mobil Corporation, a New Jersey corporation doing business in California

   b. ☑ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a)*:
   Becky De George of CSC - Lawyers Incorporating Service - Registered Agents
4. Address where the party was served: **2710 Gateway Oaks Dr Ste 150N**
   Sacramento, CA 95833-3502
5. I served the party *(check proper box)*
   a. ☑ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date)*: **2/22/2018** (2) at *(time)*: **3:05 PM**

   b. ☐ **by substituted service.** On *(date)*: at *(time)*: I left the documents listed in item 2 with or in the presence of *(name and title or relationship to person indicated in item 3b)*:

   (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him of her of the general nature of the papers.

   (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.

   (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him of her of the general nature of the papers.

   (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., §415.20). I mailed the documents on *(date)*: from *(city)*: or ☐ a declaration of mailing is attached.

   (5) ☐ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

PETITIONER: Gabriel Guimary RESPONDENT: Exxon Mobil Corp.	CASE NUMBER: 18CV00845

c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,

(1) on *(date):* (2) from *(city):*

(3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. *(Attach completed* Notice and Acknowledgement of Receipt.) (Code Civ. Proc., § 415.30.)

(4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

d. ☐ **by other means** *(specify means of service and authorizing code section):*

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

a. ☐ as an individual defendant.
b. ☐ as the person sued under the fictitious name of *(specify):*
c. ☐ as occupant.
d. ☑ On behalf of: **Exxon Mobil Corporation, a New Jersey corporation doing business in California**
under the following Code of Civil Procedure section:

☑ 416.10 (corporation)
☐ 416.20 (defunct corporation)
☐ 416.30 (joint stock company/association)
☐ 416.40 (association or partnership)
☐ 416.50 (public entity)
☐ 415.95 (business organization, form unknown)
☐ 416.60 (minor)
☐ 416.70 (ward or conservatee)
☐ 416.90 (authorized person)
☐ 415.46 (occupant)
☐ other:

7. Person who served papers
a. Name: **Jeffrey W. Abegglen - Commercial Process Serving, Inc.**
b. Address: **674 County Square Drive, Suite 107 Ventura, CA 93003**
c. Telephone number: **(805) 650-9291**
d. The fee for service was: $ **85.00**
e. I am:

(1) ☐ not a registered California process server.
(2) ☐ exempt from registration under Business and Professions Code section 22350(b).
(3) ☑ registered California process server:
(i) ☐ owner ☐ employee ☐ independent contractor.
(ii) Registration No.: **2009-98**
(iii) County: **Sacramento**

8. ☑ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: **2/22/2018**

Commercial Process Serving, Inc.
674 County Square Drive, Suite 107
Ventura, CA 93003
(805) 650-9291
www.comproserve.net

Jeffrey W. Abegglen
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)

JEFFREY A. DINKIN, State Bar No. 111422
jdinkin@sycr.com
JOHN M. WICKER, State Bar No. 292023
jwicker@sycr.com
STRADLING YOCCA CARLSON & RAUTH, P.C.
800 Anacapa Street, Suite A
Santa Barbara, CA 93101
Telephone: (805) 730-6800
Facsimile: (805) 730-6801

Attorneys for Defendant
EXXON MOBIL CORPORATION

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

GABRIEL GUIMARY, an individual, for himself and those similarly situated,,

Plaintiff,

vs.

EXXON MOBIL CORPORATION, a New Jersey corporation doing business in California; and DOES 1 through 100, inclusive,

Defendant.

CASE NO.

[Santa Barbara Superior Court Case No. 18CV00845]

DECLARATION OF NICOLAS H. PUSSETTO IN SUPPORT OF DEFENDANT'S NOTICE OF REMOVAL

[*Filed concurrently with Notice of Removal of Action; Certification and Notice of Interested Parties; Civil Cover Sheet; Notice of Appearance of Counsel*]

[State Court Complaint Filed: February 20, 2018]

DECLARATION OF NICOLAS H. PUSSETTO

I, Nicolas H. Pussetto, declare as follows:

1. I am currently employed as the HR Advisor – US Production/EM Alaska for Defendant Exxon Mobil Corporation ("Defendant"). I am providing this declaration in support of Defendant's Notice of Removal. I have personal knowledge of the facts set forth in this declaration, which are known by me to be true and correct, and if called as a witness, I could and would competently testify to such facts under oath.

2. As HR Advisor – US Production/EM Alaska, I have access to and knowledge of records and other information pertaining to Defendant's current and former U.S. Production employees in California, including employee time and payroll records and applicable collective bargaining agreements.

3. Plaintiff Gabriel Guimary ("Plaintiff") was employed by Defendant in Defendant's U.S. Production Santa Ynez Unit as a "Maintenance Specialist," as that term is used in Schedule A of collective bargaining agreement ("CBA") attached hereto as Exhibit A, from January 12, 2015 to March 25, 2016. As detailed in Schedule A of the CBA, Plaintiff's starting rate of pay at the time he was hired was $29.64 per hour, and his pay increased during his employment and was $31.33 per hour at the time his employment with Defendant ended.

4. Based on Plaintiff's regular work schedule of 7 working days followed by 7 off days, as alleged in the Complaint, as well as Plaintiff's reported absences of taking time off and/or being absent during four total hitches, Plaintiff presumably would have worked 29 full 7-day hitches for Defendant during his employment.

5. I have reviewed the Complaint in the above-captioned matter, including the definition of the proposed class contained in Paragraph 19. The members of the proposed class, including Plaintiff, have worked or are currently

working on a total of three different oil platforms off the California coast. All three of these oil platforms are located more than three (3) miles from the California coast and are connected to the seabed of the Outer Continental Shelf. The members of the proposed class, including Plaintiff, are represented by the Federation of Santa Ynez Unit ExxonMobil Employees (the "Union"), and their employment is governed by the CBA between Defendant's U.S. Production Santa Ynez Unit and the Union, including the Santa Ynez Unit Meal and Rest Period Guideline, adopted pursuant to the CBA prior to February 20, 2014, the enforcement of which is subject to the CBA's grievance and arbitration provisions. A true and correct copy of the active CBA between Defendant and the Union in effect for the proposed putative class members and applicable to Plaintiff's employment with Defendant is attached hereto as **Exhibit A.**

6. Defendant does business and maintains an office in the County of Santa Barbara, State of California. Defendant is incorporated under the laws of the State of New Jersey, and its principal place of business and headquarters is located in Irving, Texas.

I declare under penalty of perjury under the laws of the State of California and the State of Texas, and the laws of the United States of America, that the foregoing is true and correct.

Executed on this 25 day of March, 2018, at Houston, Texas.

Nicolas H. Pussetto

EXHIBIT A

COLLECTIVE BARGAINING AGREEMENT

Between

ExxonMobil Production Company,
(a division of ExxonMobil Corporation)

U.S. Production
Santa Ynez Unit

And

Federation of
Santa Ynez Unit
ExxonMobil Employees

Reprinted - October 2014

11

TABLE OF CONTENTS

COLLECTIVE BARGAINING AGREEMENT

STATE OF CALIFORNIA

This Agreement is made and entered into by and between ExxonMobil Production Company, U.S. Production (a division of Exxon Mobil Corporation), Santa Ynez Unit, hereinafter called "ExxonMobil" or "the Company" and Federation of Santa Ynez Unit ExxonMobil Employees, hereinafter called "Federation".

WITNESSETH:

WHEREAS, ExxonMobil recognizes the Federation as the exclusive bargaining representative for the unit of employees described as follows: all production and maintenance employees employed in California, Washington, and Oregon by the Santa Ynez Unit of ExxonMobil Production Company, U.S. Production (hereinafter referred to as SYU) including all classifications in Schedule A or any subsequent Schedule, excluding all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the National Labor Relations Act and Certification and case No. 21 RC12415, dated January 21, 1972, as modified by subsequent agreement of the parties.

WHEREAS ExxonMobil and Federation have engaged in collective bargaining concerning the rates of pay, wages, hours, and other conditions of employment of the employees in the Production and Maintenance Unit, and pursuant to said bargaining have reached the agreement set out below:

NOW, THEREFORE, the Company and the Federation agree as follows:

Article I

SCOPE

A. This agreement covers only employees in the Production and Maintenance Unit referred to above. Occupations in the Production and Maintenance Unit on the date of this agreement are listed in the attached Schedule A. Should ExxonMobil create new occupations or change the title of existing occupations, ExxonMobil will prepare a revised Schedule A and forward copies to the Federation.

B. Upon certification by Federation as to its official representatives and officers to represent employees in the bargaining unit, ExxonMobil will recognize and deal with such representatives and officers, subject to the provisions of this contract.

C. Official representatives of Federation, including members of the Federation council and officers shall be paid their regular rate of pay for time spent during their working hours in conference with Management of ExxonMobil, provided, however, the Company shall never be obligated to pay more than fourteen such employees for working hours spent in any one conference with Management. If Federation representatives are scheduled to be on duty at a time set for attending a meeting with Management, each of them shall make the necessary arrangement with the immediate supervisor before attending such meeting. *(Revised 1/10/96)*

D. ExxonMobil shall retain all rights of management, without qualification, except to the extent that such rights are specifically limited by express provisions of this agreement. ExxonMobil and Federation agree that the relations between them shall be governed by the terms of this agreement only; and they both waive such rights as they may have to bargain with regard to any matter not covered by this agreement, except the right to bargain for amendments to or changes in this agreement as provided for herein.

E. Except for the provisions expressly set out herein, there are no agreements between the parties either expressed or implied. However, this agreement may be amended or supplemented at any time by mutual agreement of ExxonMobil and Federation. Any such amendment or supplemental agreement shall be effective only if it is reduced to writing and signed on behalf of ExxonMobil by the SYU Production Manager and on behalf of Federation by its officers. Should either party desire to propose changes in or additions to this agreement, representatives of Management designated by ExxonMobil will meet and bargain with representatives of Federation at a time or times mutually convenient and agreeable.

F. ExxonMobil agrees to furnish a printed copy of this agreement to each present employee and to each new employee when hired.

Article II

DURATION OF AGREEMENT

This agreement shall be and remain in force and effect for two years through March 1, 1995, and for consecutive two-year periods thereafter, unless terminated by either party on sixty (60) days written notice prior to the end of any contract period. *(Revised 2/1/95)*

Article III

DUES DEDUCTION AND MEMBERSHIP

A. It is agreed that upon authorization in writing on the form set forth in Paragraph D below, ExxonMobil will deduct Federation dues from such employee, from the pay of such employee, upon the understanding that the authorization shall continue in effect during the period of this agreement with the Federation. An employee may cancel their authorization by giving thirty (30) days written notice to the Secretary-Treasurer of the Federation. ExxonMobil shall assume no responsibility in connection with the cancellation of an employee's authorization. It is further agreed that ExxonMobil shall assume no responsibility in connection with such deductions, except to forward the sum of money deducted as requested by the employee to the Secretary-Treasurer of the Federation.

B. The question of membership or non-membership in the Federation is one of free individual decision of the employee. No employee shall be intimidated or coerced by the Company or the Federation regarding their

membership or non-membership in the Federation.

C. Within thirty (30) days of execution of this agreement and by December 31st of each succeeding year for as long as this agreement is in force, ExxonMobil will send an authorization letter, as set forth in Paragraph D below, to every current full-time employee represented under this agreement who is not currently paying

Federation dues. ExxonMobil will present to any new employee in the bargaining unit during the term of this agreement the authorization letter set forth in Paragraph D.

D. Date: ________________
ExxonMobil Production Company
(a division of Exxon Mobil Corporation)
U. S. Production
P. O. Box 4967
Houston, Texas 77210-4697
Attention: Human Resources

Commencing with the last payroll period of the calendar month following receipt of this authorization, and for the duration of the agreement between ExxonMobil Production Company, U.S. Production and Federation of Santa Ynez Unit ExxonMobil Employees dated ________________, you are authorized and directed to withhold from my earnings of each month my dues as established by said Federation and to pay all amounts so withheld to such officer of the Federation as the Federation may designate.

Signed: __________________________

Social Security #: __________________

Date: ____________________________

Article IV

RATES OF PAY AND OCCUPATIONS

A. Employees covered by this agreement shall be paid the applicable rates as set out in Schedule A except as otherwise noted in this agreement.

B. Hourly-paid employees whose regular schedules require work in more than one occupation will be paid the appropriate rate for each occupation in accordance with the time worked in each occupation.

C. When employees are temporarily assigned for as long as thirty minutes to perform work in an occupation other than their regular occupation, they will be paid the rate applicable to the occupation in which they are working for the time worked therein; provided, however, when the occupation in which they are working has a lower hourly rate they will continue to receive the rate applicable to their regular occupation except when they are working on their scheduled off day, or working on an extra shift over and above their regular schedule on a job regularly assigned to another employee, in which event they will be paid the rate applicable to the occupation in which they are working. (This provision does not apply when employees of one occupation may assist or work with employees in other occupations without their being assigned to a specific occupation.)

D. Employees who are qualified to perform the duties of a beat or job and are temporarily assigned to work with another employee for the purpose of orientation to the beat or job shall be paid at the rate applicable to the occupation associated with the beat or job. Employees who are temporarily assigned to work with another employee for the purpose of training, or skill development, shall be considered "in training" and shall be paid at their normally assigned occupational rate.

E. ExxonMobil agrees to pay at least the prevailing scale of wages for similar work as determined by the rates paid for such work by the leading integrated oil companies in California.

F. ExxonMobil shall have the right to establish and alter the duties of occupations, to create, fill, and place into effect new occupations, or combined occupations, and to determine from time to time the number of employees, if any, to be assigned to any occupation or job covered by this agreement. Should ExxonMobil elect to create or combine an occupation or occupations, ExxonMobil shall notify Federation in advance of the effective date. Upon request of Federation, ExxonMobil shall bargain upon the rate of pay for the new or combined occupation, and if no agreement is reached prior to such effective date, the new or combined occupation shall be placed into effect at the rate proposed by ExxonMobil. If a different rate is agreed upon prior to the next anniversary date of this contract following the effective date of the new or combined occupation, the agreed rate shall be made retroactive to such effective date.

G. ExxonMobil and the Federation expressly agree that the most efficient method of accomplishing the work to be performed by the bargaining unit, as covered by this agreement, requires that every member of the bargaining unit be available to perform any duties for which they are qualified and as may be assigned as bargaining unit work. Any classification of employees in this agreement (e.g., Sr. Technician-Mechanical, Sr. Technician-Electrical, etc.) shall not be interpreted as any limitation on ExxonMobil's right to assign work to bargaining unit members to perform for which they are qualified.

Article V

SHIFT DIFFERENTIAL PAY

A. Shifts and Shift Rates

1. For the purpose of determining shift differential pay, the following shifts are designated:

Day Shift - 8:00 a.m. to 4:00 p.m.
Evening Shift - 4:00 p.m. to midnight
Morning Shift - Midnight to 8:00 a.m.

The designation of these shifts with the starting and ending times shown above shall not be construed to prevent ExxonMobil from establishing shifts with other starting and ending times.

2. "A shift differential of one dollar per hour shall be paid for all hours worked within the morning shift, and fifty cents per hour for all hours worked within the evening shift."

a. Employees scheduled to work a shift other than one of the shifts designated above shall receive for their entire shift the differential, if any, applicable to the shift designated in Subparagraph 1 above within which more than 50 percent of their scheduled shift falls. If the employee's scheduled shift falls exactly 50 percent within each of two shifts designated in Subparagraph 1 above, then they shall receive for their entire shift the higher differential.

b. Employees who are required to begin work before their scheduled shift or work continuously after their scheduled shift shall receive for all such hours the differential, if any, applicable to their scheduled shift, provided however, when employees work continuously before or after their scheduled shift for four hours or more, then the employees shall receive for all hours worked before or after the end of their scheduled shift the differential, if any, applicable to the time in which such work was performed, or the differential applicable to their scheduled shift, whichever is greater.

3. When overtime and shift differentials are both applicable, the straight-time rate used to compute the overtime shall include any applicable shift differential.

Article VI

EXPENSE ALLOWANCES

A. **General**

1. The Company will reimburse any employee for actual and reasonable expenses incurred in carrying out an assignment for the Company. In order to be eligible for an expense allowance of any kind, the employee must have actually incurred an authorized expense on behalf of the Company or for the Company's convenience.

2. Employees who are given a temporary assignment requiring them to change their place of abode shall be reimbursed for actual living expenses while on the assignment, including travel expense to the place of work and travel expense in returning to the point of their regular assignment. If the temporary assignment does not require a change in place of abode, but caused employees to incur out-of-pocket expense over and above their expenses on their regular assignment, they shall be reimbursed for the actual amount of such additional expense.

3. Employees returning from Military Service shall be allowed the moving and traveling expenses applicable to a regular transfer for the Company's convenience if instructed to report at a location other than the one at which they were working when called to Military Service.

4. If an employee works a period of two or more hours continuously beyond his assigned work tour, the Company will provide or reimburse such employee for a suitable meal at reasonable intervals. Normally, depending on requirements of operations, such meals will be provided upon completion of two hours work beyond the scheduled work tour and upon completion of each additional four hours continuous work.

Employees who are required to continue work after the meal period shall receive their regular pay for the meal period. Employees who have completed their work assignment shall be eligible for reimbursement of reasonable and actual costs of such meal, however, the employee will not be paid for time spent consuming the meal.

B. **Expenses Allowed on Transfers**

1. **Definitions:**

a. *A transfe*r for the purpose of this article is a change in an employee's place of work from one Field Headquarters to any other Field Headquarters, other than temporary assignment. A Field Headquarters is the place an individual normally reports to work.

b. *Company convenience transfers* are personnel movements to augment or replace working forces needed to carry on operations in a particular area. There are two types of Company convenience transfers:

(1) transfers initiated by the Company,

(2) transfers requested by the employee and authorized by Management because the transfer serves as a convenience to the Company.

c. *Employee convenience transfers* are exchanges in place of work mutually agreed upon between two or more employees or transfers requested by the employee and authorized for the employee's convenience only. Such transfers are made on the employees' time and at their own expense.

2. **Transfer Expense Allowances Applicable to Company Convenience Transfers**

a. No allowances of any kind will be paid unless one of the following situations develop as a result of the transfer.

(1) Employees are required to move their residence because the change in Field Headquarters would have added at least 35 miles (one way) to the distance to work if the employees had not moved to a new residence.

(2) Employees are required, because of having been transferred, to travel, in going to and from the place they report to work, 35 or more miles (one way) further than they traveled prior to being transferred.

If either of the above situations result, the following provisions of this Subparagraph 2 shall be applicable, subject to the provisions of Paragraph D of Article XIII.

b. **Purpose**. The purpose of these relocation expense allowances is to facilitate the transfer of employees from one Field Headquarters to another at the Company's convenience. Employee convenience transfers are excluded from these provisions.

c. **Administration**. The provisions of this program as they are set out in this article shall be administered by Management, and all determinations and decisions as to the details of such administration shall rest solely with Management. Reimbursement for all relocation expense provisions under the entire Section B of this agreement will require approval by the SYU Production Manager. Each item of expense will be carefully reviewed to assure that payments under this Agreement are appropriate. The applicable portions of existing guidelines (Resettlement Administrative Guide and supplemental letters in effect as of September

1, 1980) will be used by Management to assist in its decisions with regard to all provisions of the agreement dealing with relocation expense allowances.

d. **Permanent Transfer Requiring a Change in Residence**

(1) When an employee accepts a transfer that requires a change in residence meeting the requirements for a company convenience transfer as defined in this Article, the following additional conditions must be met in order to be eligible for reimbursement under this provision:

(2) Employees must relocate their residence closer to their new Field Headquarters assembly point than the distance from their old residence to the new Field Headquarters assembly point such that their commute will be reduced by up to 30%.

(3) Employees must relocate their residence to within an 80 mile radius of their new Field Headquarters assembly point.

e. The following shall apply when an employee is required to move his/her residence under the conditions set forth in this Article, Paragraph b.

(1) **Travel and Moving Expenses**. The following expenses will be assumed by the Company:

(a) The cost of packing, moving, storing (for a reasonable time, when necessary), and unpacking of household goods, and insurance covering such moving and storing.

(b) Travel expenses for the employee and members of the employee's household to the new location or automobile mileage at the appropriate allowances in addition to the cost of lodging and meals en route.

(2) **Real Estate**. If an employee owns a home at the location from which the employee has been transferred, the Company will undertake to purchase the home at its appraised fair market value and arrange for its sale or reimburse the employee for real estate brokerage fees and closing costs under the following procedure:

(a) *Home Sale Agreement.* The employee will have 30 days after notification of the fair market value or until the effective date of transfer, whichever is later, in which to enter into a home sale agreement with the Company. The fair market value shall be determined in accordance with the Resettlement Administrative Guide and supplemental letters in effect as of September 1, 1980. The employee should request an appraisal as soon as possible after accepting the transfer but no later than the effective date of the transfer.

(b) *Direct Sale Other Than Home Sale Agreement*. A transferred employee who does not enter into a home sale agreement may make a direct sale of the home and be reimbursed for legal expenses, brokerage fees, and other normal and necessary selling costs actually incurred and customarily borne by the seller. To be eligible for reimbursement, the employee must furnish the Company with a copy of a firm contract of sale before the effective date of the employees transfer or within 30 days from the date the employee receives notification of the fair market value, whichever is later. The employee must also furnish applicable receipts to support the costs of that sale.

(c) *Reimbursement for Canceling Leases*. If an employee is renting a residence at the time of the transfer and has a lease on the property for a specified period, an attempt should be made by the employee to sublease. If the employee is unable to do so, the actual cost of canceling the lease shall be reimbursed by the Company. Such cost should normally not exceed the unexpired portion of the lease or three months lease rental, whichever is less.

(3) **Home Selection Trip**. Management will determine when a home selection trip is appropriate depending on the distance involved and the particular circumstances of the move. When approved, the Company will reimburse an employee for the expense of a round trip by the employee and a member of the employee's immediate family to assist in the selection of a home. Reimbursement of these expenses will occur only if the transfer is accepted. The employee is eligible to receive up to five (5) days for the home selection trip. This trip will be taken during the employee's scheduled days off unless specific approval for a deviation is given by the Operations Superintendent.

(4) **Interim Relocation Expenses at the New Location**. Management will determine when interim relocation expenses at the new location are appropriate depending on the distance involved and the particular circumstances of the move. When approved,

the Company will reimburse an employee for temporary lodging and other reasonable and necessary expenses of the type normally associated with travel at the new location prior to establishment of the employee's new residence. The employee is eligible to receive reimbursement for up to five (5) days for interim living expenses.

(5) **Purchase of Home at New Location**.

(a) The Company will reimburse an employee for transaction taxes, closing fees, legal expenses, and mortgage acquisition expenses actually incurred by the employee and customarily borne by the purchaser of real estate in the area where the purchase occurred for the purchase of a home at the employee's new location provided the purchase is made within one (1) year from date of transfer.

(b) If the employee owned a home at the location from which the employee has been transferred and acquires a mortgage on a home at the new location at a higher contract interest rate, mortgage interest assistance shall be determined in accordance with the Resettlement Administrative Guide and supplemental letters in effect as of September 1, 1980.

(6) **Relocation Payment**. The Company will pay each employee at the time the employee is permanently transferred an amount equal to one (1) month's pay at the straight time rate. For wage-hour employees, the one (1) month's pay shall be calculated as a product of the base straight time hourly rate in effect as of the date of the new assignment and a factor of 173.333 (one month average).

(7) **Income Tax Assistance**. The Company will make additional payments to provide income tax assistance to the employee, based on tables developed by the Company, for additional federal, state, and city income taxes resulting from the reimbursement, or payment on the employee's behalf by the Company of that portion of the employee's moving expenses that are covered under this Agreement, and are not deductible expenses for income tax purposes.

3. **Advance Expense Allowance**

Employees who have been notified of their transfer for the Company's convenience may, at their option, be advanced up to one-half of the transfer allowance to which they will be entitled as a result of the transfer.

C. **Use of Personal Car**

Employees who are authorized by Management to use their personally-owned automobiles on Company business, shall be reimbursed on the following basis:

1. When use of personal car is authorized for actual performance of assigned job, or for purposes other than actual performance of assigned job, or when the personally-owned automobile is used to complete a Company convenience transfer, or when it is used in lieu of other forms of transportation to reach a point to which an employee is instructed by Management to appear, or is used to get to and from work in the case of a "call-out" as defined in Article VIII, reimbursement for the expense of using the car shall be at the current prevailing mileage rate.

2. While the Company does not provide any insurance protecting the employee's interest in using their personal car on Company business, the reimbursement rates include insurance costs. The employees, therefore, are expected to provide and pay for insurance for their own protection. *(Revised 2/1/95)*

Article VII

HOURS OF WORK

A. The workweek shall begin at 12:01 a.m. Monday and end at 12:00 midnight the following Sunday. The workday shall begin at midnight and end the following midnight for employees assigned to onshore operations.

B. ExxonMobil shall establish regular schedules of work for each employee and if such schedules are changed by the Company without 48-hour advance notice, premium pay provided for in Article VIII, Paragraph A4 shall be due. A change in work schedule of less than five workdays shall not be considered a change in a regular work schedule.

C. ExxonMobil shall have the right to require employees to work on scheduled days off or in excess of scheduled working hours. No provision of this agreement shall be construed as a guarantee that any employee will receive any specified number of hours of work per day or per week. ExxonMobil will endeavor to schedule days off consecutively.

Article VIII

OVERTIME AND PREMIUM PAY

A. Employees shall be paid one and one-half times the applicable straight-time rate for:

1. Time worked on a holiday.

2. Time worked in excess of 40 hours in a workweek.

3. Time worked in excess of eight hours in any workday, provided however, the following shall not be considered overtime under this Subparagraph 3.

a. Time worked in excess of eight hours in a workday as a result of a change in regular work schedule.

b. Time worked in excess of eight hours in a workday as a result of scheduled shift changes with less than sixteen hours between such shift changes.

c. Time worked in excess of eight hours in a workday as a result of returning to a regular work schedule after completing one or more shifts of a changed schedule lasting for less than five workdays, if overtime was paid at the beginning of the changed schedule.

d. Time worked in excess of eight hours in a workday in order to make up time lost during the same workweek, however, if the employee is working a gang or crew that works overtime, or the employee alone is instructed to work overtime to complete a job, then the overtime rate shall be applicable for time worked in excess of eight hours in a workday.

e. Time worked in excess of eight hours in a workday as a result of schedule change for the employee's convenience only, or as a result of exchanging shifts by mutual consent for the employee's convenience only.

4. Time worked on the first shift of a changed work schedule where the hours have been changed and where 48 hours advance notice has not been given. If notice at the beginning of an employee's shift would have constituted 48 hours notice, notification at any time during that shift shall constitute 48 hours notice.

5. Time worked continuously prior to or after an employee's scheduled shift.

6. Time worked on an employee's scheduled off day if the employee is required to work. If the employee is working on an off day at the employee's own request, this provision shall not apply.

7. Time worked on a "call-out". A "call-out" occurs when employees who have finished their work and left the premises are called back for duty outside of their regular working hours, necessitating an additional trip to the place of work, and includes only the hours worked outside of normal working hours. Employees shall be paid overtime rates for all such hours worked, with a minimum of four hours straight-time pay. In the event no work is required of employees so called back, they shall be paid for four hours at their regular straight-time rate and no overtime.

8. Time spent in Company-requested training/schools/ seminars on an employee's scheduled off day. *(Revised 2/1/95)*

B. Excluding those employees who are given at least eight hours' notice not to report to work, when employees report to their regular shift and then shall not be required to work or shall be required to work less than four hours, they shall be paid for four hours at their regular straight-time rate, including any shift differential applicable to the hours during which they reported and no overtime.

C. Except on regular work schedule changes, no employees shall be required by the Company to take off a scheduled workday to offset time worked on a scheduled day off, or in anticipation of working a scheduled day off. Employees who have worked longer than a normal work week shift will not be required to take off equivalent time later during the workweek. Employees may, with the approval of the Field Superintendent, exchange off days of work shifts for their own convenience without involving overtime, provided such exchanges do not result in working more than sixteen hours continuously or more than forty hours in a workweek.

D. When overtime pay is applicable under this agreement, any part of the first hour that is worked in excess of eight hours in a workday or forty hours in a workweek shall be counted as one full hour. Thereafter, excess time that is less than a full hour shall be adjusted upward to the next quarter of an hour.

E. Two overtime or premium rates will not be paid for the same hours. In determining when overtime is due for work performed in excess of forty hours in a workweek, there shall be deducted all hours for which rate and one-half was paid under some other provision of this Agreement, except as provided in Article XI, Section F, Paragraph 4. In determining when overtime is due for worked performed in excess of eight hours in a workday, there shall be deducted from the hours worked in excess of eight, all hours in the workday for which rate and one-half was paid under some other provisions of this Agreement.

Article IX

TRAVEL TIME

A. Except as otherwise specifically provided herein, all employees covered by this Agreement shall travel on their own time to and from the place where they have been instructed to report for duty on their scheduled assignments.

B. **Transfer-Travel Time**

1. Transfer-travel time shall be allowed only when the employees are required as a result of transfer at Company convenience to move either their own place of abode or the residence of their family. Time to be allowed will, at the option of employees, if operations permit, be given at the time they move their household belongings or their own place of abode.

2. For purposes of allowing transfer-travel time, the definition of “transfer” as given in Article VI, Expense Allowances, shall apply.

3. Transfer-travel time shall be computed on the basis of one hour for each 40 miles between the points of transfer. Employees shall be released from duty for the amount of time so computed for the purpose of traveling to the location of their new assignment, and they shall be paid for such transfer-travel time at the straight-time rate applicable to the occupation

to which they were assigned at the time they transferred. Transfer-travel time shall not be counted as “hours worked” for the purpose of determining when employees are entitled to overtime pay for completing 40 hours of work.

Article X

EXCUSED ABSENCES WITH PAY

A. **Jury Service and Election Judges**

Employees covered by this Agreement shall be allowed the regularly scheduled rates of pay, exclusive of overtime, which they would have received during the time they are absent from work performing jury service or serving as election judge in a county, state, or national election. When employees can do so without undue hardship or inconvenience, they shall be expected to work their regular shift upon dismissal from jury service or from service as an election judge, however, no employees shall be required to work their scheduled shift if doing so would deprive them of sufficient rest before reporting either to jury service or for work.

B. **Witness Duty**

Pay shall be allowed for excused absences caused by witness duty only if the employee appears at the request of the Company. Time thus allowed shall be counted in the 40 hour workweek.

C. **Death in Immediate Family**

Employees who experience a death in their immediate family, as defined herein, shall be excused from work at their regularly scheduled rates of pay for a period not to exceed three regular scheduled workdays upon authorization of the Field Superintendent.

The term "immediate family" shall mean: wife, husband, child, brother, sister, mother, father, grandmother, grandfather, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, and daughter in-law, and any other individuals who are members of an employee's immediate household. Immediate family also shall mean the above-named relatives of an employee's wife or husband. *(Revised 8/31/04)*

D. **Sickness or Accident Disability While On the Job**
If employees do not complete a scheduled shift because of sickness or accident disability, they shall be allowed pay for all remaining hours of their scheduled shift. Time thus allowed shall be counted in the 40-hour workweek. If the work on the scheduled shift was at premium or overtime rates, the time allowed shall be at such rate.

E. **Reporting to Company Doctors for Medical Examinations**
Employees not receiving disability benefits who report to Company doctors for physical examinations in connection with Company convenience transfer, securing chauffeur's license, or other matters of such nature that the Company requires physical examinations, shall be allowed pay for all time spent in securing examination, including travel time. Such time allowed shall be considered time worked in applying the provisions of this agreement covering overtime pay.

F. **War Veterans Reporting to Military Doctors**

War veterans who are ordered or requested by the Armed Forces to report to military doctors for periodic physical examination shall be excused from work at their regularly scheduled rates of pay for a reasonable period of time provided that letters of verification from military authorities are presented to the Field Superintendent. Whether employee's military service was before or after their employment with the Company shall have no bearing on their eligibility to this benefit. Time allowed shall be counted in the 40-hour workweek.

G. **Scout Leaders**

Subject to approval of the Operations Superintendent, employees who are Scout Leaders may be excused from work at their regularly scheduled rates of pay for a period not to exceed one week to attend a scout encampment.

H. **Selective Service**

Employees shall be excused from work at their regularly scheduled rates of pay for a reasonable period of time to register for the draft by the Armed Forces or to report to the official Draft Board or induction center for physical examination in connection with military service.

I. Time Off for Serious Illness/Accident in Immediate Family

Employees who experience a serious illness/accident in their immediate family, as defined herein, shall be excused from work at their scheduled rates of pay for a period not to exceed three regularly scheduled workdays upon authorization of the Field Superintendent.
The term "immediate family" shall mean relatives or members of an employee's family who reside in the employee's household. In addition, the following relatives who may reside outside the employee's household may qualify provided the illness is serious to the extent that there is an apparent and logical need for the employee's presence: employee's father, mother, or children.
(Revised 9/24/97)

Article XI

HOLIDAYS

A. The Company recognizes the following days as holidays:

New Year's Day	January 1
Washington's Birthday	Third Monday in February
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Thanksgiving Day	Fourth Thursday in November
Thanksgiving Friday	Friday after Thanksgiving
Christmas Day	December 25

A floating holiday to be determined as follows: when the Christmas Holiday is a Monday or Thursday, the floating holiday shall be the day after the Christmas Day Holiday. Otherwise, the floating holiday shall be the day before the Christmas Day Holiday.

B. The Company shall suspend operations on a holiday whenever the Company considers it practical to do so.

C. Employees who work on one of the above holidays will be paid for all hours worked at one and one-half times their straight-time rate of pay, including any applicable shift differential.

D. In addition to any pay for working on a holiday, each employee will receive a holiday allowance, including any applicable shift differential. This allowance will be as follows:

1. If the holiday falls on an employee's scheduled off day, the holiday allowance will be eight hours pay at the straight-time rate of the occupation worked if work is performed on the holiday, or at the straight time rate of the occupation worked on the last workday preceding the holiday if no time is worked on the holiday.

2. If the holiday falls on a day the employee is scheduled to work, then regardless of whether the employee works or is given the day off, the employee's holiday allowance will be eight hours pay or pay for the number of hours the employee is normally scheduled to work, whichever is greater.

3. If the holiday occurs during an employee's vacation or while the employee is receiving sickness or accident benefits or while on an excused absence for 15 days or less, the employee will receive the allowance provided for in Subparagraph 1 above if the holiday falls on one of the employee's normal off days, and the employee will receive the allowance provided for in Subparagraph 2 above if the holiday falls on one of the employee's normal workdays.

4. No holiday allowance will be paid employees who are on an excused absence in excess of 15 days or who are suspended for disciplinary reasons, except as provided in Subparagraph 3 above.

E. The applicable shift differential to be included in any holiday allowance paid under this Article is:

1. The shift differential, if any, applicable to the hours worked when an employee works on a day observed as a holiday.

2. The shift differential, if any, the employee would have received had the employee worked when the day observed as the holiday falls on the employee's scheduled workday and the employee does not work.

3. The shift differential, if any, paid on the last day the employee worked prior to the day observed as the holiday when the holiday falls on the employee's scheduled off day and the employee does not work.

F. In determining what hours should be counted toward 40 hours for the purpose of computing overtime due for work performed in excess of 40 hours in a workweek, the following rules shall apply to employees eligible for a holiday allowance:

1. When the holiday falls on the employee's scheduled day off and the employee does not work, no time will be counted toward the 40 hours.

2. When the holiday falls on an employee's scheduled day off and the employee does work, no time will be counted toward the 40 hours since the time worked will be paid at one and one-half times the straight-time rate.

3. When the holiday falls on an employee's scheduled day of work and the employee does not work, the number of hours the employee is normally scheduled to work will be counted toward the 40 hours.

4. When the holiday falls on an employee's scheduled day of work and the employee does work, the number of hours in a normal scheduled workday will be counted toward the 40 hours.

G. In no event will the holiday allowance be paid on the basis of overtime rate.

Article XII

VACATIONS

A. The Company agrees to grant all employees vacation with pay after six months of service under the following schedule:

Vacation Service	Weeks of Vacation
1 year	2*
2 years - 4 years	2
5 years - 9 years	3
10 years - 19 years	4
20 years - 29 years	5
30 years or more	6

* Eligible for one of these two weeks after six months of employment.

Service for the purposes of this Article shall be Company accredited service computed in accordance with the Company's service rules, the last year of which shall have been continuous active service. In scheduling vacations, the Company will give consideration to employees' preferences as to time, however, the Company reserves the right to schedule vacations.

B. Employees shall take their vacation during the calendar year in which they become eligible. Vacations shall not accumulate from year to year, except:

1. when employees become eligible too late in the calendar year to take their full vacation during that year, their vacation shall be extended into the next calendar year a sufficient number of days to enable them to receive their full vacation; or

2. when the Company is unable to schedule employees for a vacation to which they are entitled in one year, the employees may take the vacation the following year.

C. Employee's vacation pay shall be computed at the rate or rates applicable to their regular occupation, and their vacation pay shall include any regularly scheduled overtime and shift differential pay which they would have received had they been working their normal assigned schedule. In the case of employees regularly assigned to a combination of two or more occupations, their vacation pay shall be determined on the basis of what they would have received had they worked. If employees have been on a temporary assignment for as much as 80 percent of the last 90 calendar days, their vacation pay shall be on the basis of the normal hourly rate for the temporary assignment. If such employees have worked at more than one occupation on such temporary assignments, their vacation pay shall be on the basis of the weighted average normal hourly rates for the assignments for less than 80 percent of the last 90 calendar days, their vacation pay shall be determined on the basis of the rate applicable to their regular assignment prior to going on the temporary assignments.

D. When employees leave the service of the Company without having taken vacation for which they are eligible, they shall be paid for such vacation.

E. Employees who are to be demoted shall be entitled to take their vacation to which they are eligible prior to the date they are scheduled for demotion.

F. Employees may, at their option and with Management's approval, defer one or two weeks of their vacation for an indefinite time subject to the following conditions:

1. In order to defer vacation in any calendar year, the deferment request must be made prior to February 1, and deferrals of less than one-week increments will not be permitted.

2. No more than two weeks of vacation may be deferred, but employees who have taken a deferred vacation may again defer one or two weeks, subject to the condition in "1." above.

3. The deferred vacation is to be reserved for emergencies and non-emergency situations subject to the following conditions:

(a) a maximum of one week per calendar year may be taken for non-emergency situations;

(b) the remainder of the deferred vacation not taken for non-emergency situations may be taken for emergencies. An "emergency" is considered to be a situation in the employee's personal affairs which would normally and reasonably require that they be excused from work, such as severe illness of close relatives or serious and urgent family and personal problems, whether occurring in the year in which the week of vacation is deferred or later. Nothing contained in this sub-section shall alter employee's rights under Article X.

4. Employee's vacation pay while taking the deferred vacation shall be the same as would be allowed for a regular vacation.

5. One week of deferred vacation, but only one week per year, may be taken in increments of less than five days at a time, provided prior approval is secured from the Field Superintendent. Any remaining weeks of deferred vacation in a single calendar year must be taken in increments of one week at a time.

Article XIII

ASSIGNMENTS OF PERSONNEL

A. **Definitions**

For the purpose of this agreement, the following definitions shall apply:

1. *Seniority* is the amount of Company service accredited under the service rules applicable to all ExxonMobil employees. Seniority is broken when employees:

   a. Resign
   b. Are discharged
   c. Are laid off for more than one year.

   Should employees whose seniority is broken thereafter be employed by ExxonMobil, they shall not be entitled to include in their seniority any accredited service earned before the break.

2. A *promotion* is a change, other than of a temporary nature, in an employee's occupation to an occupation with a higher rate of pay, unless otherwise provided herein.

3. A *demotion* is a change, other than of a temporary nature, in an employee's occupation to an occupation with a lower rate of pay, unless otherwise provided herein.

4. A *vacancy* is the situation existing when ExxonMobil determines there are fewer employees in an occupation than are needed in SYU.

5. A *surplus* is the situation existing when ExxonMobil determines there are more employees than are needed in an occupation in SYU.

6. *Field Headquarters* is the place an individual normally reports to work.

7. A *transfer* is a change in an employee's place of work from one Field Headquarters to any other Field Headquarters, regardless of whether a change in rate of pay is involved. A lateral transfer is one in which the employee is transferred in the same or an equal occupation.

8. *Equal occupations* are occupations carrying the same base rate of pay.

9. A *layoff* is a removal of an employee from the Company's payroll because of lack of work.

B. Posting

Before selecting an employee to fill a vacancy in an occupation shown in Schedule A, the Company will post for a minimum of fourteen days a notice that the vacancy exists, identifying the Field Headquarters where the employee will be utilized. Employees may during this period express their desire to fill the vacancy by notifying their supervisors in writing. The Company may promote or transfer any employee to fill the vacancy but will first consider those employees who have expressed their desire for the assignment.

The Company will not be required to post a notice of a vacancy when there is a surplus in SYU in the same, equal, or higher occupation. Pending the assignment of an employee to a vacancy in accordance with the foregoing or in filling temporary vacancies, the Company shall be entitled to assign to the vacancy an available, qualified employee.

C. Promotions

When a vacancy is filled by a promotion, the best qualified person will be promoted. The Company recognizes that in determining qualifications length of service is one of the factors that must be considered. If qualifications are equal, the Company will promote the employee with the most seniority. Promotions will be made on an SYU-wide basis.

D. Transfers and Demotions

1. Where a surplus exists in an occupation at a Field Headquarters, the employee in that occupation assigned to that Field Headquarters with the least seniority (called the "surplus employee") shall be reassigned in accordance with the following procedure:

a. The surplus employee shall be given the following options:

(1) The employee may elect to fill any vacancy that exists in the employee's occupation or any equal occupation at any Field Headquarters in SYU provided the employee is qualified; or

(2) The employee may elect to be demoted to a lower occupation in which a vacancy exists at any Field Headquarters in SYU provided the employee is qualified; or

(3) The employee may elect to be reassigned in accordance with provisions of Paragraph b set out below.

b. Should there be no vacancy for the surplus employee to fill under Paragraph a(1) or a(2) above, or should the surplus employee elect not to accept the available assignments, then the surplus employee shall be reassigned in the following manner:

(1) The surplus employee shall displace the one employee in SYU in the surplus employee's occupation with the least amount of seniority, however, if there is no employee in that occupation in SYU with less seniority than the surplus employee, then

(2) The surplus employee shall displace the one employee with the least seniority of all employees assigned in the surplus employee's occupation equal to the surplus employee's occupation, however, if the surplus employee is not qualified to replace this employee, or if there is no employee in SYU in such equal occupations with less seniority than the surplus employee, then

(3) The surplus employee shall be demoted, in the manner set out below, to the next lower occupation for which the employee is qualified and in which there are one or more employees in SYU with less seniority than the surplus employee. The surplus employee shall be demoted to such occupation by displacing the one employee in SYU in such lower occupation with the least amount of seniority. If there are two or more lower equal occupations for which an employee is qualified and in which there are one or more employees with less seniority than the surplus employee, then such lower equal occupations shall be treated as single occupations for the purpose of determining the employee to be displaced under this subparagraph.

E. Layoffs

1. When ExxonMobil determines that a layoff of

employees in the Production and Maintenance Unit should take place, the following procedure shall be applicable:

a. The employees in SYU with the least service shall be the first laid off, provided that a qualified replacement is available.

b. In the event the Company hires new employees in the bargaining unit within twelve months after a layoff, those laid off will be offered employment in the reverse order to that in which the layoff occurred, provided they are still qualified and their past service with ExxonMobil was satisfactory.

c. In the event any former employee is given notice at the former employee's last known address, by oral advice direct to the former employee or by written notice, of opportunity of reemployment and does not accept the employment offer within forty-eight hours thereafter, the former employee shall lose all right to consideration by the Company. Any employee accepting reemployment shall be required to appear for work within a reasonable time, which in no event will exceed five days from the date of acceptance.

F. Miscellaneous

1. The following assignments, which the Company may elect to make from time to time, shall not

be considered promotions or demotions under this Article even though a change in rate of pay is involved; a change in the amount of time an employee assigned to a combination occupation works in each of the occupations making up the combinations; an assignment of an employee from one occupation to an equal occupation.

2. Without regard to other provisions hereof, an employee may be temporarily assigned to work in the same or a different occupation at a different Field Headquarters or in a different occupation at the same Field Headquarters. The rate of pay for such an assignment will be that provided in Article IV, Paragraph C.

3. Regardless of any provision hereof, the Company in no event shall be required to assign or retain an employee on any job or occupation for which the employee is not qualified. The Company shall determine qualifications under this contract, and the good-faith decision of the Company shall be conclusive.

4. The provisions of this Agreement shall in no way limit the right of the Company to select employees at its discretion to fill assignments not listed in Schedule A. An employee in the bargaining unit who is moved to a job with the Company outside the bargaining unit (other than a temporary assignment) and who returns to the bargaining unit shall be, at the option of the Company:

a. Assigned to fill any vacancy in the bargaining unit in the occupation held at the time the employee left the bargaining unit or any equal occupation; or

b. Returned to the occupation and Field Headquarters to which the employee was last assigned in the bargaining unit (if this assignment results in a surplus at that Field Headquarters, the provisions of Paragraph D1 of this Article shall be applicable); or

c. Displace the one employee in SYU (in the occupation last held by the returning employee) with the least amount of seniority, provided the employee being returned has more seniority than the employee to be displaced.

5. The Company shall have the right to schedule employees to work in more than one occupation. For the purpose of determining whether such combination occupations have a rate of pay higher, lower, or equal to another occupation, the hourly earnings for the regularly scheduled workweek shall be determined on a weighted-average basis.

6. It is recognized that certain former occupations no longer exist as a result of being combined with other occupations. For the purpose of applying the various provisions of this Article XIII, an employee who was assigned to such a former occupation will be considered as having been assigned to the occupation with which it was combined. This same

rule shall apply to occupations that are combined in the future.

7. It is recognized that regular ExxonMobil employees transferred into the bargaining unit shall enter the bargaining unit no higher than the Maintenance Specialist (hired before 10/1/84) classification as set forth in Schedule A.

Article XIV

GRIEVANCES

A. Employees, the Federation, and the Company will cooperate in immediately preparing and answering grievances, in order that they may be disposed of promptly and fairly. Should the Federation or the employee fail to process a grievance within the time limits set out below, the grievance may not be processed further without consent of the Company and shall not be subject to arbitration. Should the Company fail to answer a grievance within the time limits set out below, the grievance may be appealed to the next step in the grievance procedure or to arbitration from the last step in the grievance procedure without awaiting a reply from the Company. For the purpose of this agreement, a grievance is defined as an alleged violation of this agreement. Employees may take up personal complaints and problems, not involving an alleged violation of this agreement, with their supervisors without following the procedure set out herein.

B. Grievances of employees arising under this agreement shall be presented to the Field Superintendent of the aggrieved employee no later than fifteen days after the occurrence of the event complained of either by the employee, the employee's representative of Federation, or if preferred, jointly with the employee and representative. The Field Superintendent shall give an oral reply either at the time the grievance is presented or within

ten calendar days thereafter. If the grievance is not thus satisfactorily settled, the grievance may be appealed in accordance with the procedure set out below.
(Revised 1/10/96)

1. If the answer of the Field Superintendent is not satisfactory, the grievance may be appealed by an Officer and the local representative by written notice to the Operations Superintendent within ten calendar days after the reply is given by the Field Superintendent. The Operations Superintendent shall hear the grievance within ten calendar days after receiving the appeal and shall give a reply in writing within ten calendar days after hearing the grievance. *(Revised 1/10/96)*

2. If the answer of the Operations Superintendent is not satisfactory, the grievance may be appealed by the Officers by written notice to the Production Manager within ten calendar days after the reply is given by the Operations Superintendent. The Production Manager shall hear the grievance within fifteen calendar days after receiving the appeal and shall give an answer in writing within ten calendar days after hearing the grievance. *(Revised 1/10/96)*

C. Notwithstanding any of the foregoing provisions, an individual employee shall have the right to present grievances to the Company at any step in the above procedure without the assistance or presence of a Federation representative provided however, that the local representative, and one Officer, will be given the opportunity to be present at any adjustment of such grievance made at the Operations Superintendent level, and the Officers will be given the opportunity to be present at any adjustment of such grievance made at the Production Manager level.

D. If a grievance is not satisfactorily disposed of under the foregoing procedure, it may be submitted to arbitration in accordance with Article XV if it is subject to arbitration under the provisions of that Article and the Federation wishes to make such a submission.

E. The time limits provided for in this Article for filing and appealing grievances and submitting replies to grievances may be extended in individual cases by mutual agreement of the parties in writing. However, if not so extended in writing, the time limits set forth herein shall be considered of the essence of this Agreement and failure of the aggrieved employee or the Federation to abide by the time limits as set for each individual case shall constitute a forfeiture and waiver of all subsequent rights they would otherwise have under this Article.

Article XV

ARBITRATION

A. When the decision of the Production Manager on any grievance appealed to the Production Manager under the procedure set out in Article XIV is not satisfactory to Federation, and when such issue involves an alleged violation of this contract, then upon written demand of Federation, the dispute may be referred to an Arbitration Board, provided that such demand is made within thirty (30) days following the decision of the Production Manager. The Board shall be composed of one member appointed by ExxonMobil, one member appointed by the Federation, and a third member selected as provided below.

B. Upon receipt of the written demand for arbitration, ExxonMobil and the Federation shall reduce to writing the question to be submitted to the Arbitration Board. After the question has been agreed upon, each party shall promptly name its respective arbitrator. These arbitrators shall then choose by mutual agreement a third arbitrator, who shall be Chairman of the Arbitration Board. If the two arbitrators are unable to agree upon the third arbitrator within thirty (30) days, they shall request the American Arbitration Association to furnish a panel of five qualified arbitrators and the third arbitrator shall be selected from this panel by alternately striking names until four have been stricken. A toss of the coin shall determine which member of the Arbitration Board shall strike the first name. The remaining one shall be the third arbitrator and Chairman of the Arbitration Board. No issues shall be considered by the Arbitration Board except those that are submitted in writing to it. The Arbitration Board may not by its decision add to, take away from, or modify this agreement, nor shall an Arbitration Board have the authority to inflict a punitive award against ExxonMobil or the Federation. The decision of a majority of the Arbitration Board shall be final and binding upon ExxonMobil and Federation for the duration of this agreement.

C. Each party will bear the cost and expenses of its arbitrator and witnesses, but the fees and expenses of the Chairman of the Arbitration Board shall be borne equally by the parties.

Article XVI

DISCIPLINE AND DISCHARGE

A. The Company may discipline or discharge employees for just cause. The commission of any of the following offenses may, at the discretion of ExxonMobil, be cause for discharge without prior notice:

1. Violation of any criminal law or the commission of any offense such as the following: carrying prohibited weapons; fighting or attempting bodily injury to another (provided that employees shall not be penalized for defending themselves when improperly attacked); stealing; making fraudulent records; malicious mischief resulting in the injury or destruction of property of other employees of the Company; or any conduct which violates the common decency or morality of the community.

2. Violation of any established safety rule. Among these are: carelessness in regard to accidents and safety of fellow employees; violation of rules governing employees in repairing or oiling of moving machinery; smoking or carrying matches other than safety matches or having open lights or fires within prescribed limits where such practice is forbidden; failure to wear fresh air breathing apparatus, goggles, or other safety equipment when required by safety rules.

3. Failure to report immediately accidents or personal injuries to delegated authority wherever possible.

4. Falsifying or refusing to give testimony when accidents are being investigated, or for false statements when application for employment and physical examination is being made.

5. Insubordination (including refusal or failure to perform work assigned) or use of profane or abusive language toward fellow employees or officials of the Company.

6. Absence from duty without notice to and permission from immediate supervisor, except in case of sickness or cause beyond the employee's control of a character that prevents giving notice.

7. Harboring a disease which on account of the individual's own carelessness will endanger fellow workers.

8. Neglect or carelessness resulting in damage to the Company's property or equipment.

9. Obtaining material at warehouses, plants, stations, or other assigned places on fraudulent orders.

10. Sleeping while on duty.

11. Offering or receiving money or other valuable consideration in exchange for a job, better working place, or any change in working conditions.

12. Introduction, possession, or use on the property of the Company of intoxicating liquors or illegal drugs, narcotics, and substances.

13. Reporting for or being at work in an unfit condition, such as being under the influence of intoxicants, narcotics, drugs, etc.

14. Intimidation or coercion of one employee by another employee because of membership or non-membership in any church, society, fraternity, union, or other labor organization.

15. Disloyalty to the State or Federal Government or to the Company.

16. Membership in an organization which advocates the overthrow of the United States government through violence or subversion.

17. Excessive number of garnishments of an employee's wages in any twelve-month period. (Three shall be presumed to be excessive.)

18. Any unauthorized disclosure of confidential Company information or willful violation of the Company's Conflict of Interest or Antitrust Policies.

For committing an offense not on the above list, employees with one or more years of continuous active service shall not be discharged without first having been notified in writing that the commission of an additional offense or repetition of the offense or offenses will make them subject to dismissal.

B. When an employee is discharged or suspended without pay as a disciplinary measure, and a grievance is filed as a result of such discharge or suspension, the matter shall be handled as any other grievance under the provisions of this agreement, except that any such grievance shall begin at the level of the SYU Production Manager. If such a grievance is filed, and if the dismissal or suspension is not sustained, the employee shall receive pay for the time lost from work pending the decision, and all references to the dismissal or suspension shall be removed from the employee's active service record except a statement to the effect that charges were brought and dismissed may be entered therein. If the employee and/or the Federation fail to protest in writing within seven days after the employee is discharged or suspended without pay, no future action shall be taken by such employee or the Federation, and the termination or suspension shall become final.

C. Employees with less than one year of continuous active service may be immediately terminated for any reason at Management's discretion. Warning notices as provided for above shall not be necessary.

Article XVII

CONTRACT LABOR

A. The Company's right to contract work shall be subject only to the following limitations:

B. The Company will not contract work customarily performed by employees covered by this agreement for the purpose of causing a layoff of employees qualified to perform the work with available Company-owned equipment.

C. The Company will avoid, where possible, entry into work which is periodic, seasonal, or temporary. Certain types of work, such as cement work, carpentry, painting, road building, etc., are obviously periodic, seasonal, or temporary in nature and ordinarily will be done by contract, since this type of work is not a primary function of the Production Department.

D. In completing a job begun by ExxonMobil employees, it is not intended that contract labor be used as a means of keeping regular Company employees from acquiring overtime when overtime is necessary.

E. The provisions of this Article XVII shall not be construed as requiring that ExxonMobil engage in unsound or unsafe business practices.

Article XVIII

BENEFITS

A. This agreement shall not prevent employees covered hereunder from participating in the applicable published benefit plans and programs of the Company, relating without limitation to those set out below. However, the Company shall be entitled to create new benefit plans and programs and to administer, interpret, change, or discontinue all such plans and programs in accordance with the provisions thereof.

1. The benefit plans and programs referred to above are:

   Annuity
   Thrift
   Disability (Sickness and Accident)
   Survivor Insurance
   Group Life Insurance
   Group Hospitalization Insurance
   Group Dental Assistance Plan
   Military Leaves of Absence
   Coin-Your-Ideas System
   Service Emblems, Watches, and Awards
   Education Refund Policy
   Discounts on Company Products

2. In addition to the plans and programs set out above, holidays, vacations, and excused absences are specifically covered elsewhere in this agreement.

In the event the Company creates any new benefit plans applicable to the employees covered by this agreement or makes any substantial changes in the provisions of existing benefit plans and programs, the Company shall notify the Federation of such new plans or changes in benefit plans and the effective date thereof in advance of the effective date.

Article XIX

SAFETY AND SANITATION

A. The Company will use every reasonable means of protecting the safety of its employees and will put into effect any reasonable precautions to achieve safe working conditions for all employees. The Company will welcome suggestions from all employees for such future precautions as may be deemed advisable by them.

B. The Company will promote sanitary and healthful working conditions based on sound medical principles and accepted industrial standards.

Article XX

WORKING RULES

A. The Company will from time to time, as it deems advisable adopt working rules as a means of directing the working force, directing and controlling operations, maintaining discipline and standards of individual and group conduct. Such rules shall not be in conflict with any provisions of this agreement.

Article XXI

BULLETIN BOARDS

A. The Company will provide and maintain bulletin boards at locations as may be agreed upon from time to time by the Operations Superintendent and the location Federation representative. Such bulletin boards may be used by Federation for the posting of notices which are of general interest to its members, provided no notice or bulletins of a controversial or political character shall be posted. Nor will the boards be used for maliciously attacking any individual or the Company or for advertising or other solicitation not relating to Federation or Company matters. The Federation and Company jointly will remove from the bulletin boards any matter which does not comply in all aspects with the provisions of this Article.

Article XXII

NO WORK STOPPAGE

A. Federation agrees that neither it nor any of the employees covered by this agreement will collectively or individually engage in or participate, directly or indirectly, in any strike, slowdown, stoppage, or other interference of production or work during the term of this agreement. The Company agrees that there shall be no lockout during the term of this agreement. The provisions of this article are unconditional, and neither the Company nor the union shall be excused from its obligations under this article for any reasons.

Article XXIII

VALIDITY

A. If any court shall hold any part of this agreement invalid, such holding shall not invalidate any other part of this agreement.

B. Notwithstanding anything contained in this agreement, the Company shall at all times be free to comply with any and all laws, regulations, and rulings pertaining to the matters covered hereby, and such compliance by the Company shall not be a violation of this agreement.

Article XXIV

RIGHTS OF FEDERATION REPRESENTATIVES AND OTHER EMPLOYEES

A. The official acts of officers and representatives of Federation shall be construed as the official acts of Federation, not of the individual, and shall not reflect upon the work or the standing of such person.

B. The Company and Federation shall refrain from any and all forms of interference, intimidation, and coercion by word or deed, in the rights of any employees to exercise their freedom of action in joining or not joining any labor organization, church, society, or fraternity.

C. The Company and the Federation shall refrain from any form of discrimination and/or harassment against any employees because of race, religion, color, sex, national origin, mental condition, age, marital status, Federation activities, or physical handicap.

Article XXV

EFFECTIVE DATE

This agreement was originally executed the 5th day of April, 1989. On the effective date of the agreement, March 1, 1989, all other agreements between the parties were superseded and canceled.

The reprinting of this agreement between the parties, including revisions, is authorized by their duly authorized officers, and is effective April 16, 1997. All future revisions will be duly noted by (revision date) and distributed.

EXXONMOBIL PRODUCTION COMPANY
(a division of Exxon Mobil Corporation)
U.S. PRODUCTION

R. D. Schilhab
Production Manager

FEDERATION OF SANTA YNEZ UNIT EXXONMOBIL EMPLOYEES

R. S. Harris
President

P. A. Rodriquez
Onshore Vice President

B. S. Velasquez
Offshore Vice President

N. D. Kinchen
Secretary/Treasurer

Schedule A
Production and Maintenance Unit

RATE SCHEDULE
Effective January 1, 2015

A. **Hourly**

Occupation Title	**Hourly Rate of Pay**
Maintenance Foremen	$48.41
Sr. Technician-Mechanical	$45.01
Sr. Technician-Electrical	$45.01
Senior Operator	$45.01
Technician	$40.56
Operator	$40.56
Maintenance Specialist - A (After 36 months)	$35.06
Maintenance Specialist - B (After 24 months)	$32.79
Maintenance Specialist - C (After 12 months)	$30.49
Maintenance Specialist - D (Entry Rate)	$29.64

Schedule B
OFFSHORE WORK

A. The following rules apply only to employees assigned to offshore Santa Ynez Unit operations.

1. For employees assigned offshore and working a 7-7 schedule, a change in assigned shift will not constitute a changed work schedule unless such change results in a change of scheduled days off.

2. The workweek for employees assigned offshore and working a 7-7 schedule shall be designated by the Company to begin on a particular hour of a particular day for a particular employee or group of employees. The workweek as designated shall consist of seven 24-hour consecutive periods. The workday shall begin at midnight and end the following midnight. All employees will be furnished notice of any changes in the designated workweek.

3. In establishing and revising scheduled work periods for employees working a 7-7 schedule, the Company shall not schedule employees to change out on Sunday except in case of an emergency; and to the extent feasible, based on operating requirements as determined by Management, the Company shall not schedule employees to change out on Saturday.

4. Boat Travel Time

   a. All time spent in boat travel between the dock and such offshore operations shall be counted toward the forty hour workweek.

b. The following provision shall apply to employees assigned offshore and working a 7-7 schedule: travel time between the onshore assembly point and the offshore quarters and other work locations if not a part of the normal work tour will be paid at a travel time rate equal to the occupational rate including applicable shift differential.

c. The provisions of Article VIII, Paragraph D, shall not be applicable to any boat travel time to and from any offshore operation.

5. An offshore employee who regularly works a 7-7 schedule may, at their option and with Management's approval, carry over one week of vacation to the following year, subject to the following conditions:

a. In order to carry over a week of vacation in any calendar year, an employee must make the request by January 1 of that year. However, there is an exception: an employee who transfers from another schedule to a 7-7 schedule in a particular year will have 30 days from the effective date of transfer to make such a request.

b. The week of vacation that may be carried over must be an "odd week" for which the employee is eligible for one of these reasons:

(1) By completing service which entitles him to an odd number of weeks of vacation.

(2) By deferring vacation for an indefinite period of time under the provision of Paragraph F of Article XII and thereby having an odd number of weeks of vacation remaining.

c. An employee's vacation pay while taking the days of carry-over vacation shall be the same as would be allowed for a regular vacation taken at that time.

d. A maximum of one week's vacation can be carried over. The carry-over vacation must be taken in the succeeding year unless the employee notifies Management by January 1 of that succeeding year that he/she wishes to carry over one week into the subsequent year.

6. For employees assigned to a 7-7 work schedule, the holiday allowance shall be:

a. If the holiday falls on a day the employee does not work, the allowance will be eight (8) hours normal straight-time pay; however, if the holiday falls on a day that the employee is normally scheduled to work, but the employee does not work because the employee is on vacation, then the allowance will be equal to eight hours normal straight-time pay or the number of hours the employee would have worked according to the employee's normal schedule, whichever is greater. *(Revised 1/4/14)*

b. Eight hours normal straight-time pay or the number of hours at normal straight-time rates actually worked on the holiday, not to exceed 12. *(Revised 2/1/95)*

c. A vacation shall not be extended as a result of a holiday for employees assigned to a 7-7 work schedule.

7. ExxonMobil will provide, to the extent possible and practical, meals of high quality and of a balanced nutritional value.

NOTE: In cases where the provisions of this Schedule B are in conflict with other provisions of this Agreement, the provisions of this Schedule shall govern.

Schedule C
ONSHORE WORK
(Deleted 11/21/95)

Schedule D
LAS FLORES CANYON WORK
(Added 3/30/92)

A. The following rules apply only to employees assigned to Las Flores Canyon operations.

1. Work schedules covered by the provisions of this Schedule D:

Normally Scheduled

Work Schedule	Workday Hours
7-7 (modified)	12
4-4	12
4-3 / 3-4	12

2. For employees assigned to work the 4-3 / 3-4 work schedule, employees will be assigned to work one week consisting of four consecutive workdays (Monday through Thursday), and one week consisting of three consecutive workdays (Monday through Wednesday). Associates will alternate between the four-day workweek and the three-day workweek. The 4x3 / 3x4 work schedule applies only to the onshore Maintenance / Technical Group. *(Revised 2/2005)*

3. For employees assigned to Las Flores Canyon and working a work schedule listed in A.1 above, a change in assigned shift will not constitute a

changed work schedule unless such change results in a change of scheduled days off.

4. For employees with work schedules described in Paragraph A.1. of this schedule, the workweek shall be designated by the Company to begin on a particular hour of a particular day for a particular employee or group of employees. The workweek as designated shall consist of seven 24-hour consecutive periods. The workday shall begin at midnight and end the following midnight. All affected employees will be furnished notice of any changes in the designated workweek.

5. In establishing and revising scheduled work periods for employees with work schedules described in Paragraph A.1. of this Schedule, the Company shall not schedule employees to change out on Sunday except in case of an emergency; and to the extent feasible, based on operating requirements as determined by Management, the Company shall not schedule employees to change out on Saturday.

6. A Las Flores Canyon employee assigned to a work schedule described in Paragraph A.1. of this Schedule may, at their option and with Management approval, carry over one week of vacation to the following year, subject to the following conditions:

a. In order to carry over a week of vacation in any calendar year, an employee must make the request by January 1 of that year. However, there is an exception: an employee who transfers from another schedule to a work schedule listed in A.1. above will have 30 days from the effective date of transfer to make such a request.

b. The week of vacation that may be carried over must be an "odd week" for which the employee is eligible for one of these reasons:

(1) By completing service which entitles him to an odd number of weeks of vacation.

(2) By deferring a week of vacation for an indefinite period of time under the provision of Paragraph F of Article XII, and thereby having an odd number of weeks of vacation remaining.

c. An employee's vacation pay while taking the days of carry over vacation shall be the same as would be allowed for a regular vacation taken at that time.

d. A maximum of one week's vacation can be carried over. The carried over vacation must be taken in the succeeding year unless the employee notifies Management by January 1 of that succeeding year that he/she wishes to carry over one week into the subsequent year.

7. For employees with work schedules described in Paragraph A.1 of this Schedule, the holiday allowance shall be: *(Revised 2/1/95)*

   a. If the holiday falls on a day the employee does not work, the allowance will be eight (8) hours normal straight-time pay; however, if the holiday falls on a day that the employee is normally scheduled to work, but the employee does not work because the employee is on vacation, then the allowance will be equal to eight hours normal straight-time pay or the number of hours the employee would have worked according to the employee's normal schedule, whichever is greater. *(Revised 1/4/14)*

b. Eight hours normal straight-time pay or the number of hours at normal straight-time rates actually worked on the holiday, not to exceed 12. *(Revised 2/1/95)*

c. A vacation shall not be extended as a result of a holiday for employees assigned to work schedules described in Paragraph A.1.

8. For employees assigned to Las Flores Canyon with work schedules described in Paragraph A.1 of this Schedule, hours worked in a workday in excess of eight, but less than or equal to the Normally Scheduled Workday Hours (as set forth in Paragraph A.1 of this Schedule), shall not be considered overtime hours under any applicable California Wage Orders

as set forth in the California Code of Regulations or under Article VIII.A.3.

9. Employees assigned to work the morning shift will receive the shift differential rate of $1.50 per hour.

10. This Schedule shall remain in force and effect for six months from the date of execution and for consecutive six month periods thereafter, unless expressly terminated by either party on thirty (30) days written notice prior to the end of any six-month period.

NOTE: In cases where the provisions of this Schedule D are in conflict with other provisions of this Agreement, the provisions of this Schedule shall govern.

February 28, 1989

To: Federation Officers

In response to the Federation’s request, this letter will evidence my understanding that the Federation and Management will meet to discuss future operating plans for the SYU expansion Project’s LFC onshore operations. As a first step, Management will solicit the Federation’s ideas, questions, and corresponding justifications for the appropriate operating system for LFC onshore operations.

/s/L. R. Howard
Division Operations Manager

February 28, 1989

To: Federation Officers

In response to the Federation's request, we agree to the following general guidelines for conducting formal communication/ bargaining meetings between Management and the Federation:

Management agrees to schedule and conduct periodic Management/ Federation communication meetings every three to four months.

Bargaining meetings will normally be held in conjunction with the scheduled communication meetings on an asneeded basis (normally on a twice per year basis).

We agree with the Federation that it is in the best interest of both parties to continue the current practice of positive and constructive communication on an ongoing basis.

/s/L. R. Howard
Division Operations Manager

February 28, 1989

To: Federation Officers

In response to the Federation's request, Management agrees to provide time off without pay for Federation Officers and Representatives to conduct Federation business. It is expected that these requests will be infrequent (typically not to exceed three times per year), and that the Federation will provide proper advance notice and obtain approval from the Operations Superintendent prior to scheduling these meetings.

/s/L. R. Howard
Division Operations Manager

February 28, 1989

To: Federation Officers

It has recently come to my attention that some exempt field personnel have been performing work ordinarily done by hourly employees. As you are aware, it is our intention that exempt personnel will only perform work of this nature during training assignments and in emergency situations; hourly or contract personnel should be utilized in all other cases, even if it requires a call out.

/s/L. R. Howard
Division Operations Manager

February 28, 1989

To: Federation Officers

In response to the Federation's request, Management has agreed to reissue the January 1987 Division Procedures for Resolving Work Schedule and Military Reserve Duty Conflicts. It is Management's intent to comply with all laws (e.g., Gramm-Rudman) and work with employees on an individual basis when conflicts arise.

/s/L. R. Howard
Division Operations Manager

September 2, 1998

Luis A. Rodriguez
President
Federation of Santa Ynez Unit
ExxonMobil Employees

The purpose of this letter is to clarify representation of those employees who may be assigned to the POPCO facilities in the event ExxonMobil acquires POPCO. Any employees assigned to the POPCO facility will be considered a part of the LFC onshore operations and will be covered by the Collective Bargaining Agreement as "production and maintenance employees employed in California by the Santa Ynez Unit of ExxonMobil Production Company, U.S. Production" Wage rates for those employees are found in Schedule "A" and work rules are found in Schedule "D" of the CBA.

/s/R. D. Schilhab
Production Manager

This agreement is to be effective March 1, 1989.

Executed April 5, 1989

Reprinted April 16, 1997.

EXXONMOBIL PRODUCTION COMPANY
(A Division of ExxonMobil Corporation)
U.S. PRODUCTION

R. D. Schilhab
Production Manager

FEDERATION OF SANTA YNEZ UNIT
EXXONMOBIL EMPLOYEES

R. S. Harris
President

P. A. Rodriquez
Onshore Vice President

B. S. Velasquez
Offshore Vice President

N. D. Kinchen
Secretary/Treasurer

Santa Ynez Unit
Expansion Supplement

FEDERATION MANAGEMENT
SYU EXPANSION PROPOSAL

LAS FLORES CANYON
WORK SCHEDULE AND PAY PRACTICES

- 7 days on, 7 days off
  - Modified vs. True
  - Seven full twelve hour work days
  - Maintain current rates in Schedule A
  - Maintain current classifications and relief pay
  - If Management and Federation mutually agree, Associates can change to 4&4 (or back to 7&7) with 30 days notice

- Overtime after 40 hours per week, 12 hours per day
  - Overtime paid at time and a half
  - Work week ends Sunday at midnight
  - Change day is Thursday
  - 8 hours of scheduled overtime per hitch
  - Equivalent to being paid 88 straight time hours per hitch

- Shifts
  - Twelve hours per day
  - 6:00 a.m. to 6:00 p.m. (day)
  - 6:00 p.m. to 6:00 a.m. (morning)
  - Two Sr. Operators, one Sr. Operator - Lab and five Operators working mornings per hitch

- Expect some technical work will also be done on shift (based on operational need; greater number during start-up, decreasing as facility is lined out)
- Employees who work mornings get shift differential of $1.00/hour
- Company will have six months from first oil to evaluate morning shift Operators for satisfactory performance; the replacement procedure for an unsatisfactory performer would be as follows:
  + Laterally move to day shift
  + Offer morning position to other Operators based on seniority
  + If no interest, least senior person is assigned to morning shift

• Associates will have on duty lunch period
- Facilitates ridesharing by having majority of people with same hours
- Allows more time at home
- No common lunch period will be scheduled
- Lunch will be taken as time is available to maximize productive work time
- Associates will not leave the work site
- Assumes pass on will be handled in the current manner
- Federation will encourage Associates to rideshare
  + Advantages to employees (less fatigue, lowers transportation expense)
  + Helps Company avoid additional costs in future
  + If Associates who carpool are held over to work overtime, ExxonMobil will provide transportation home

+ If an Associate is required to work extensive overtime, the Company will continue to consider safety first by providing lodging or in scheduling future work

- Provisions will be outlined in new “Schedule D” for LFC operations

FEDERATION/MANAGEMENT
SYU EXPANSION PROPOSAL

PORT ARANSAS
TEMPORARY ASSIGNMENTS

- Currently expect up to 8 hourly employees will go on temporary assignments for several months to help oversee pre-commissioning of topside modules

- Associates will be asked to go beginning in March

- Criteria for selecting Associates will include safety performance, skill areas which are needed, ability to teach, and ability to relieve behind and maintain current operations

  - Current Associates will relieve in temporary assignments behind those who go to Port Aransas
    - Promotions will occur when definite date for topside loadout is established

- Work schedule will be 14 days on, 14 days off; Sunday to Sunday

	Su	Mo	Tu	We	Th	Fr	Sa	
ST	8	8	8	8	8	8	0	
OT	0	4	4	4	4	4	12	
	Su	Mo	Tu	We	Th	Fr	Sa	Su
ST	0	8	8	8	8	8	0	8
OT	10	4	4	4	4	4	12	0

- Work week ends Sunday at midnight
- Temporary schedule for Port Aransas only
- Associates will be kept on their same schedule and kept whole versus their normal pay when they return unless they request a location with a different schedule (i.e. LFC)
- Travel day will be Sunday (estimated at eight hours)
- Travel will be paid at straight time rate
- Middle Sunday will be planning/training day
- Total pay equals ~207 straight time equivalent hours
- Current shift workers will continue to receive their normal shift pay
- If required to work beyond the normal schedule on days off, overtime will be paid

• Associates will stay in rental condominiums (two bedroom)
- On the beach, 20 minutes to work location
- Two employees per condo, one per room
- Fully equipped with kitchens
- Maid service provided

• Two employees per rental car

• Normal expense guidelines apply (meals, etc.)

FEDERATION/MANAGEMENT
SYU EXPANSION PROPOSAL

BIDDING

- Bid initial Senior positions on new platforms
  - Currently plan eight Sr. Operators, eight Sr. Technicians (four Mechanical, four I&E)
  - Award Federation lateral transfer requests first
  - Select qualified Associates to fill remaining jobs approximately two months prior to when topsides are ready to be staffed (current estimate is 10/92)
  - Successful bidders may need to stay in current position for extended period for operational reasons prior to going to new facility
    + Letter of commitment will be given to employees regarding their future assignment
  - Bid behind those who move at the time they go to new Assignment

- Bid all LFC positions second quarter 1992
  - Consider lateral transfer requests first
  - Select qualified Associates to fill remaining jobs
  - Bid behind those who move at the time they go to LFC
  - Successful bidders may need to stay in current position for extended period for operational reasons prior to going to new facility
    + Letter of commitment will be given to employees regarding their future assignment

- The Company will inform and discuss with the Federation Council when all onshore and offshore jobs have been bid on and assigned to current qualified Western Division Federation Associates
  - Consideration will be given to Western Division Federation Associates who may be qualified for skilled positions not initially filled through the bidding process
  - After that, if LFC positions remain open, those jobs can be offered at levels above Maintenance Specialist to ExxonMobil employees until first oil at LFC
  - Successful bidders may need to stay in current position for extended period for operational reasons prior to going to new facility
    + Letter of commitment will be given to employees regarding their future assignment

- Starts bidding process early

- Allows current Seniors to be considered for location/ shift preferences

- Identifies current employees who want to go to LFC

- Promotions will be awarded when jobs are needed, contingent upon maintaining satisfactory performance

- Bid remaining positions prior to actual staffing of new Facilities

FEDERATION/MANAGEMENT
SYU EXPANSION PROPOSAL

OS&T DEMOBILIZATION

- It is the intent of Federation and the Company to work together to try to avoid a surplus situation
  - Permit conditions require the OS&T to be shut down within three months after Las Flores Canyon start-up

- Plan to fill OS&T technical positions up to the number of future offshore slots
  - After that, some positions may be contracted

- Do not plan to contract OS&T operating positions

- Will utilize ExxonMobil employees for relief if qualified
  - Contract gang work and relieve up to extent possible
  - OS&T technical jobs will be contracted once all future technical jobs are filled

FEDERATION/MANAGEMENT
SYU EXPANSION PROPOSAL

FEDERATION COMMUNICATION MEETINGS

- It is ExxonMobil's intent to pay for elected Representatives who attend meetings with Management as follows:
  - Consistent with current pay guidelines
  - Up to 17 official representatives of the Federation for time spent in conference with Management
  - As facilities or fields are sold or taken out of service, this number will be reduced by two for OS&T, one for WTU, one for Belmont Island, and one for Northern California fields

FEDERATION/MANAGEMENT
SYU EXPANSION PROPOSAL

TRANSFERS FOR SYU EXPANSION

- Consider lateral transfer requests of Western Division Federation members for LFC and offshore
  - When positions are available
  - Consider operational needs of onshore fields

- Bids for offshore positions from Associates at LFC will not be considered until three years after first oil

- Offer ExxonMobil Equity Loss Protection Program to represented employees who are transferred for Las Flores Canyon

- Offer ExxonMobil spousal relocation assistance for spouses of Associates who are transferred for SYU expansion staffing
  - Reimbursement for expenses associated with job search at new location
  - Can utilize either of two national firms; Drake Beam Morin or Options Resource and Career Center

  or
  - Be reimbursed for actual costs up to $2,000
  - Expenses covered include resume preparation, job search counseling, agency fees, or other actual expenses (i.e. travel, hotel, etc.).
  - Spouses must be employed at time of transfer to qualify for assistance

NOTES

USE ONLY

U.S. Production Organization

Santa Ynez Unit

MEAL AND REST PERIOD GUIDELINE

The following ExxonMobil US Production - SYU guideline is applicable to all US Production - SYU non-exempt employees.

Guidelines are in effect as of 9/1/2008 and are subject to future revision

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Section 1 – Basic Requirements

The following guidance on meal and rest periods assumes that employees are scheduled 12 hours and work 12 hours each day.

Meal Periods

- Employees are entitled to and the employer will make available an opportunity for employees to take a 30-minute, uninterrupted, meal period before the end of the 5th hour of work (this means, if the shift starts at 6a.m. the meal must start at or before 11a.m.).
- The first meal period cannot be waived.
- Employees will be relieved of all duty and will not be interrupted for the full 30-minute period. See below for procedures when this guideline is unavoidably violated.
- The second meal period has been waived by Federation on behalf of represented employees, but the second meal period is not waived if:
    - o the employee works more than 12 hours during the work day.

Rest Periods

- Employees are authorized and permitted to take a 10 minute; continuous, paid rest period for each four hours worked.
- The 10 minute rest periods should be taken in the middle of each 4-hour work period.
- Employees are relieved of all work duties during this rest period.
- There are three rest periods in a twelve hour shift. Employees are not required to take these periods and taking them or not are an employee's choice.

Record keeping

- Requirement: employees will keep records on their time sheets of the beginning and end of <u>meal periods</u> and total hours worked daily.
- Rest period documentation is not required.

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Section 2 – How will this work?

Working Hours
- Employees will work a 12 hour schedule.

Meal Periods

A. Meal Periods for all employees
- To the extent possible and practical, supervisors will schedule the first meal period for all employees.
  - Due to business circumstances, employees may not be able to take their meal period exactly as scheduled.
  - Nonetheless, meal periods must begin before the end of the fifth hour of work.
- Employees will be relieved of all job duties while on a meal period.
- Employees offshore and onshore are not prohibited from leaving the worksite (i.e. quarters, galley and TV room are not part of the worksite for offshore employees).
- The second meal period is waived by the company and Federation.
- If an employee is scheduled more than 12 hours in a day (e.g., first day out operations offshore) the employee will be scheduled for a 2nd meal period.

B. Meal Periods for Board Operators
- Board Operators will have their meal periods scheduled. The relief will be either:
  1. **qualified personnel** paid at the appropriate rate for the job performed, or
  2. **employees in training** paid at the employee's normal rate for training.
- Management reserves the right to schedule relief for board operators as appropriate.

Rest Periods
- Rest periods are authorized and may be taken in 10 minute time periods every 4 hours. The choice to take rest periods is the employees' choice.
- Rest periods may be taken at employees' work stations at employee's option.
- Due to business circumstances, employees may need to adjust their rest period schedules.
- Employees are encouraged to take all of their rest periods and supervisors should not do or say anything that discourages employees from taking their rest periods.

Certification Requirements
- Upon submission of timesheets, employees will be responsible to document for each day,
  - total hours worked,
  - if a rest or meal period was missed or interrupted and
  - if a meal started at a different time than scheduled.

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Section 3 – What if I miss or can't take a Meal or Rest Period?

Missed Meal/Rest Period definition

- Due to urgent business needs, employee is prevented from taking a meal or rest period.
    - o 1st meal period must commence prior to the end of the 5th hour of work.
    - o Rest periods will generally occur in 10 minute rest periods every 4 hours.

Interrupted Meal Periods definition

- Due to urgent business needs, employee must return to work before completing his or her meal or rest period.

Additional Pay for Missed Meal or Rest Periods

- Whenever a meal period is missed or interrupted due to the needs of the business, the employee will be entitled to receive an amount equal to one (1) additional straight time hour of pay for that day.
- <u>If a rest period being taken is interrupted or a rest period is denied, the employee may be entitled to receive one (1) additional straight time hour of pay for that day.</u>
- <u>Employees may receive no more than two (2) hours of straight time pay for each day</u>. One for meal periods and one for rest periods.
- Straight time pay will be at the occupation worked for the day and will include the appropriate shift differential.

Required Documentation for missed or interrupted Meal or Rest Period

- In the event of a missed or interrupted meal or rest period the employee is required to fill out a **Missed Meal/Rest Period Form (Section 6)**.
- The form requires the employee to explain the reason the meal or rest period was missed or interrupted and to obtain approval.
- Employees are required to submit the completed form to their supervisor as soon as possible during the shift, and at the latest, the end of the workday during which the meal or rest period(s) was missed.
- In the event a rest period is not taken, it will be presumed that not taking the rest period was the employee's voluntary choice, unless the employee brings the matter to the attention of his/her supervisor either immediately when the rest period is missed or as soon as possible thereafter
- Supervisors will file these forms with the employee timesheets on site. There is no need to send these forms in to timekeeping.

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Section 3 (cont) – What if I miss or can't take a Meal or Rest Period Scenarios?

Scenario	Answer
Offshore Employee is riding in on the boat to GPL when he/she is scheduled to have a rest period.	The employee should take the time to rest on the boat on the way to shore. Rest periods are paid by the company.
An employee decides, on his or her own accord, to not take a rest or meal period when scheduled and charge an hour on his or her timesheet.	The employee does not have to take his or her rest period and will be compensated for the time worked. The employee will not receive a payment for a missed rest period. But the supervisor should not do or say anything that may discourage that employee from taking his or her rest period.
A senior operator calls an employee back to work when he or she is on an off duty meal period for an operational need.	Employee will receive an amount equal to one hour of wages for an interruption. The employee should follow the steps in section 3 to receive the payment for this interruption. If business permits the employee to finish the meal period later, the supervisor may allow this later in the shift.
An employee is scheduled more than 12 hours in a day (e.g., first day out operations offshore).	The employee will be scheduled for a 2nd meal period. **Note:** after 12 hours of work the company and employee cannot waive the 2nd meal period.
An employee is required to carry a radio while on a meal or rest period.	Carrying the radio in itself is not an interruption or missed meal or rest period; however, if the employee is called back to work (on the radio) while on a meal or rest period it could be considered an interruption.

Section 4 –Complaint Procedure

Complaint Procedure

- In the event any employee believes this Guideline is being violated by his/her local management -- for example, an employee has been required to work through a meal period without being paid and/or without being permitted to fill out and submit a Missed or Interrupted Meal/Rest Period Form -- that employee must promptly notify USP Human Resources regarding the matter as soon as possible and no later than the next business day.

- Promptly notifying USP HR gives ExxonMobil USP the opportunity to investigate the matter and, if appropriate, take corrective action which can minimize or eliminate any loss by the employee.

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Section 5 – Timesheet

SEMI-MONTHLY TIME REPORT - U. S. EAST PRODUCTION

Employee Name:	John Smith	Personnel Number	123456
Organization Unit:	98765432 — Work Location: IMBSYU HA-HE-HO TECH A	Permanent Payscale Group & Level	MNTCSPEC04
Permanent Cost Center:	654978 — Period End Date: January 15, 2008	Permanent Payscale Area:	G6

Day	Date	Payscale Group & Level	Shift Code	Work Hours & Shift: REG ST HRS	REG UNS ST HRS	PRE1 CMRP	OS15 SCH OT HRS	ON15 UNS OT HRS	EXCPT Code	Comments*	Beat # or WBS (AFE)	ADJ Code	ADJ Amount
Tue	1/1	OPER01	1	8		1	4		CMRP	California Meal and Rest Period Interrupted meal period			
Wed	1/2	MNTCSPEC04	1	8			4	1		Meal started at 1055--Shift ended at 1900			
Thu	1/3	MNTCSPEC04	1	8			4						
Fri	1/4												
Sat													
Sun	1/6												
Mon	1/7												
Tue	1/8												
Wed	1/9												
Thu	1/10												
Fri	1/11												
Sat	1/12												
Sun	1/13												
Mon	1/14												
Tue	1/15												

Note, the different codes for working different jobs and the shift code will be considered for payments

Enter the 1hr California meal and rest period pay for each day (if applicable)

Note that up to 2 hours may be applicable for each day

Add comments (e.g., missed meal/rest period; interrupted meal/rest period; late meal period)

No comments are necessary if there are no exceptions to your normal schedule

If no meal or rest periods were interrupted or missed turn in the timesheet

1. Completing the timesheet with no changes means: that all of the meal periods were offered and, if taken, were at the appropriate times.
2. That no rest periods were denied by management

Hours Worked Summary

SFT CD	SCH ST HRS	UNSCH ST HRS	PREM	SCH OT HRS	UNSCH OT HRS	Total Hours:
1	24		1	12	1	38
2						
3						
						Error
					Grand Total ->	38

*Please note if the meal period started at a different time than scheduled

Employee / Preparer Name:

Approver Name:

Approver Signature:

Approver E-mail:

Reporting Time Period:
From: 1/1/2008
To: 1/15/2008

Approver Phone:

Reviewed Timesheet for Accuracy: ☐

By signing this timesheet I certify that I received all meal and rest periods, uninterrupted and in a timely manner, unless otherwise recorded above.

Schedule Change:
☑ Temporary Schedule Change - The hours reflected in this timesheet vary from my permanent schedule in the SAP system. This schedule change is expected to last less than 90 days.

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Section 6 – Missed period form

MISSED OR INTERRUPTED MEAL/REST PERIOD FORM

This form is used when:
(1) an Associate was unable to take his/her meal or rest period due to business need; or
(2) a meal period was interrupted because the Associate was requested or required to return to work before it was completed.

Associates need to submit the completed form to their Supervisor during the work day and no later than the end of the shift in which the meal or rest period was missed or as soon as possible thereafter.

Name:______________________ Personnel No.: ____________________

Date of Missed/Interrupted Meal/Rest Period(s): ________
Time of Missed/Interrupted Meal/Rest Period(s) _________

Type (Circle Applicable): **Meal** **Rest** Number Missed: _____________

Reason for missed/interrupted meal/rest period(s): (check the appropriate reason or explain in "other")

___ Not able to take continuous and/or uninterrupted rest period or meal period due to business needs; describe:____

___ Other ____

Associate's Signature: _________________________________

Date: ___________________

Supervisor's signature: _________________________________

Date: ___________________