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14 MARATHON PETROLEUM LOGISTICS
SERVICES LLC and MARATHON PETROLEUM
15 COMPANY LP

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF LOS ANGELES

18 ROBERT VEGA, individually, on a
19 representative basis, and on behalf of all
20 others similarly situated;

21 Plaintiff,

22 vs.

23 MARATHON PETROLEUM LOGISTICS
SERVICES LLC, a Delaware Limited
24 Liability Company; MARATHON
PETROLEUM COMPANY LP, a
25 Delaware Limited Partnership; and DOES
1 through 20, inclusive;

26 Defendants.
27
28

Case No. 20STCV19405

ASSIGNED FOR ALL PURPOSES TO
JUDGE MAREN NELSON DEPT. 17

**REVISED JOINT STIPULATION OF
CLASS AND PAGA REPRESENTATIVE
ACTION SETTLEMENT AND RELEASE**

Trial Date: TBD
Complaint Filed: May 21, 2020

1 This Joint Stipulation of Class and PAGA Representative Action Settlement and Release (the
2 “Settlement Agreement” or “Settlement”) is made and entered into by and between the following
3 parties: Plaintiff Robert Vega (“Vega” or “Plaintiff”), individually, on a representative basis, and on
4 behalf of all others similarly situated whom he seeks to represent for settlement purposes, and
5 Defendants Marathon Petroleum Logistics Services LLC (“MPLS”) and Marathon Petroleum
6 Company LP (collectively “Defendants” or “Marathon Petroleum”) (collectively, the “Parties”).
7 Subject to the approval of the Court, the Parties agree that the above-captioned Action (defined below)
8 is compromised and settled pursuant to the terms and conditions set forth below.

9 **1. DEFINITIONS.**

10 Unless otherwise defined, capitalized terms used in this Settlement Agreement shall have the
11 meanings set forth below:

12 1.1 “**Action**” means the matter captioned *Robert Vega v. Marathon Petroleum Logistics*
13 *Services LLC, et al.*, Case No. 20STCV19405, pending in Los Angeles Superior Court.

14 1.2 “**Class Claims**” means all claims for any debts, liabilities, demands, obligations,
15 guarantees, penalties, damages, interest, attorneys’ fees, costs, and/or other amounts or relief
16 recoverable under state or other applicable law that Plaintiff asserted or could have asserted in the
17 Action – on behalf of himself and the putative Class Members – based on the facts alleged in Plaintiff’s
18 Complaint and/or arising out of a claim for Failure to Provide Accurate Itemized Wage Statements
19 (Lab. Code § 226), whether for economic or non-economic damages, restitution, injunctive relief or
20 statutory penalties.

21 1.3 “**Class Counsel**” means Brian J. Mankin, Esq. and Peter J. Carlson, Esq. of the law
22 firm Lauby Mankin & Lauby, LLP.

23 1.4 “**Class Counsel Costs Award**” means the expenses and costs incurred by Class
24 Counsel for Class Counsel’s litigation and resolution of this Action, as awarded by the Court, which
25 may not exceed Ten Thousand Dollars (\$10,000).

26 1.5 “**Class Counsel Fees Award**” means the attorneys’ fees for Class Counsel’s litigation
27 and resolution of this Action, as awarded by the Court, which may not exceed one-third of the Total
28 Settlement Amount, or Fifty-Five Thousand Dollars (\$55,000). Any attorneys’ fees or litigation costs

1 not awarded by the Court will be added to the Net Distribution Fund and distributed to Participating
2 Class Members.

3 1.6 **“Class Information”** means the full name, last known address, social security number,
4 and pay periods worked by Class Members and PAGA Employees where, in the same pay period, s/he
5 worked overtime and received a “Regular Rate Adj.” payment (sometimes also referred to as a
6 “Regular Rate Adj Sched” payment). Defendants will compile a Confidential Microsoft Excel
7 spreadsheet containing the Class Information developed in good faith using best efforts from its
8 records and provide it to the Settlement Administrator as a Confidential document pursuant to the
9 Stipulated Protective Order in this Action. Because Class Members’ sensitive personal information is
10 included in the Class Information, the Settlement Administrator shall maintain the Class Information
11 securely and in confidence pursuant to the Protective Order in this case. Access to such Class
12 Information shall be limited to employees of the Settlement Administrator with a need to use the Class
13 Information for administration of the Settlement. The Settlement Administrator will take all necessary
14 measures to adequately secure the information.

15 1.7 **“Class Members”** or **“Class”** means all current and former non-exempt employees
16 employed by Defendant Marathon Petroleum Logistics Services LLC in the State of California who,
17 in the same pay period, worked overtime and received a “Regular Rate Adj.” payment from April 6,
18 2019 through the Preliminary Approval Date.

19 1.8 **“Class Member Released Claims”** means the Class Claims from which Participating
20 Class Members are fully releasing the Released Parties under this Settlement from April 6, 2019
21 through the end of the Class Period, including all claims for any debts, liabilities, demands, obligations,
22 guarantees, penalties, damages, interest, attorneys’ fees, costs, and/or other amounts or relief
23 recoverable under state or other applicable law that Plaintiff asserted or could have asserted in the
24 Action – on behalf of himself and the putative Class Members – based on the facts alleged in Plaintiff’s
25 Complaint and/or arising out of a claim for Failure to Provide Accurate Itemized Wage Statements
26 (Lab. Code § 226), whether for economic or non-economic damages, restitution, injunctive relief or
27 statutory penalties.
28

1 1.9 **“Class Period”** means the period from April 6, 2019 through the Preliminary Approval
2 Date.

3 1.10 **“Complaint”** means the operative Complaint in the Action.

4 1.11 **“Complete and General Release”** means an irrevocable and unconditional release
5 given only by the named Plaintiff in the Action (*i.e.*, Vega), releasing the Released Parties from any
6 and all charges, complaints, claims, causes of action, debts, sums of money, controversies, agreements,
7 promises, damages and liabilities of any kind or nature whatsoever, both at law and equity, known or
8 unknown, suspected or unsuspected, arising from conduct occurring during or related to Plaintiff’s
9 employment and/or the Action, including but not limited to all of the Class Claims and including
10 without limitation all actions, claims and grievances, whether actual or potential, known or unknown,
11 related, incidental to or arising out of any act or omission committed or omitted by the Released Parties
12 during or related to Plaintiff’s employment with or separation from Marathon Petroleum, including
13 any and all actions, claims and grievances, whether actual or potential, known or unknown, related,
14 incidental that arose or may have arisen before or through the end of the Class Period and/or arising
15 out of Plaintiff’s employment with Marathon Petroleum and/or the cessation thereof. This release
16 includes a waiver of California Civil Code section 1542. This release by Plaintiff also includes, but is
17 not limited to, a release of all claims under (a) the California Civil Code, (b) the California Fair
18 Employment and Housing Act, (c) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §
19 2000e *et. seq.*, (d) the Employment Act of 1967, (e) the Civil Rights Act of 1991, (f) the Civil Rights
20 Act of 1866 and 1870, (g) 42 U.S.C. § 1981, as amended, (h) Executive Order 11246, (i) the Americans
21 with Disabilities Act 42 U.S.C. § 12101, *et. seq.*, as amended, (j) the Family and Medical Leave Act,
22 as amended, (k) the Equal Pay Act of 1963, as amended, (l) the Immigration and Reform Control Act,
23 as amended, (m) any other state, federal, and local law, regulation and ordinance dealing with
24 discrimination in employment, disability, wrongful discharge, and retaliation for exercising any right
25 or participating or engaging in any activity, (n) the Occupational Safety and Health Act, as amended,
26 (o) the Sarbanes-Oxley Act of 2002, as amended, (p) the Employment Retirement Income Security
27 Act of 1974, as amended (except vested benefits), (q) the Worker Adjustment and Benefit Protection
28 Act of 1990, as amended, (r) the Worker Adjustment and Retraining Notification Act, as amended, (s)

1 any federal, state or common law claim or cause of action for breach of contract, wrongful discharge,
2 constructive discharge, retaliation, defamation, slander, libel, intentional or negligent infliction of
3 emotional distress, misrepresentation, fraud, promissory estoppel, any other tort or negligence claim,
4 or obligations arising out of any of Defendant’s employment policies or practices, employee
5 handbooks, and/or any statements by any employee or agent of Defendant whether oral or written, and
6 (t) any federal, state or common law claim or cause of action for reinstatement, back pay, bonus,
7 attorneys’ fees, compensatory damages, costs, front pay, any form of equitable or declaratory relief,
8 liquidated damages, emotional distress, personal injury, punitive damages, pain and suffering, medical
9 expenses, damage to reputation, damage for personal, emotional or economic injury or damage of any
10 kind. This provision is intended by the Parties to be all-encompassing and to act as a full and total
11 release of any claims, whether specifically enumerated herein or not, that Plaintiff might have or have
12 had, that exists or ever has existed related to his employment with or separation from Defendants.

13 1.12 **“Court”** means the Superior Court of the State of California, County of Los Angeles.

14 1.13 **“Defendants”** means the named Defendants in the Action, Marathon Petroleum
15 Logistics Services LLC (“MPLS”) and Marathon Petroleum Company LP.

16 1.14 **“Defense Counsel”** means Jody Landry, Esq., Joshua D. Levine, Esq. and Kara A.
17 Cole, Esq. of the law firm Littler Mendelson, P.C.

18 1.15 **“Effective Date”** means the date by which this Settlement is finally approved as
19 provided herein, the Court’s Final Approval Order becomes binding, and Defendants have funded the
20 Settlement in accordance with the terms set forth in this Agreement. For purposes of this Settlement
21 Agreement, the Final Approval Order becomes binding and Effective upon the later of: (1) the day
22 after the last day by which a notice of appeal to the California Court of Appeal of the Final Approval
23 Order and/or of an order rejecting any motion to intervene may be timely filed, and none is filed, which
24 the Parties agree will be 65 calendar days after the notice of an order granting final approval of the
25 Settlement is served, provided there have been no appeals filed within that time, plus; (2) if such an
26 appeal is filed, and the appeal is finally resolved and results in affirmation of the Final Approval Order,
27 the day after the last date for filing a request for further review of the California Court of Appeals’
28 decision passes and no further review is requested; (3) if further review of the California Court of

1 Appeal’s decision is requested, the day after the request for review is denied with prejudice and/or no
2 further review of the decision can be requested, or (4) if review is accepted, the day after the California
3 Supreme Court affirms the Final Approval Order. The Effective Date cannot occur, and Defendants
4 will not be obligated to fund this Settlement, until and unless there is no possibility of an appeal, writ,
5 or further appeal that could potentially prevent this Settlement Agreement from becoming final and
6 binding.

7 1.16 “**Final Approval Hearing**” means the hearing held to determine whether the Court
8 will enter a Final Approval Order finally approving this Settlement.

9 1.17 “**Final Approval Order**” means the Court’s entry of an order finally approving the
10 Settlement and entering judgment in accordance therewith substantially in the form attached hereto as
11 **Exhibit C**.

12 1.18 “**Individual Settlement Payment**” means the amount payable from the Net
13 Distribution Fund that the Settlement Administrator will pay to each Participating Class Member, as
14 calculated pursuant to Paragraphs 4.2.5.1 and 4.2.5.2 below.

15 1.19 “**Net Distribution Fund**” means the Total Settlement Amount, less the amounts
16 allotted to: (1) the Class Counsel Fees Award (up to \$55,000), (2) the Class Counsel Costs Award (up
17 to \$10,000), (3) the Service Award for Plaintiff (up to \$5,000), (4) the 75% of the PAGA Award to be
18 paid to the California Labor and Workforce Development Agency (“LWDA”) (\$7,500); (5) Individual
19 Settlement Payments to Participating Class Members and PAGA Employees (as further specified
20 below); and (6) Settlement Administration Costs (up to \$6,000). Individual Settlement Payments to
21 Participating Class Members will be paid out of the Net Distribution Fund.

22 1.20 “**Notice of Objection**” means an objection to this Settlement by Class Members by (1)
23 appearing at the Final Approval Hearing and communicating an objection to the Court and/or (2)
24 submitting a written objection to the Settlement Administrator by the Response Deadline as further
25 set forth in Paragraph 8.2 below and the proposed Class Notice (Exhibit “A”).

26 1.21 “**Notice of Settlement**” or “**Class Notice**” means the Notice of Class Action
27 Settlement (in both English and Spanish versions) that the Settlement Administrator will mail to Class
28 Members to apprise them of this Settlement (substantially in the form attached hereto as **Exhibit A**).

1 1.22 **“PAGA Award”** means Ten Thousand Dollars (\$10,000) of the Total Settlement
2 Amount that the Parties have allocated to PAGA penalties (*i.e.*, the PAGA Award), 75% of which
3 (\$7,500) will be remitted to the LWDA and 25% (\$2,500) of which will remain in the Net Distribution
4 Fund and be distributed on a prorated basis based on the pay periods each PAGA Employee worked
5 during the PAGA Period. This payment will be considered part of the amount allocated to penalties
6 in the Individual Settlement Payments to Participating Class Members. Class Members who are also
7 PAGA Employees and submit a Request for Exclusion will receive only a payment for their prorated
8 portion of the 25% of the PAGA Award available for distribution to PAGA Employees (who cannot
9 opt out of the PAGA portion of the Settlement).

10 1.23 **“PAGA Claims”** means any and all claims Plaintiff asserted or could have asserted in
11 the Action under PAGA for Failure to Provide Accurate Itemized Wage Statements (Cal. Labor Code
12 §§ 226 and 2698, et seq.), on behalf of himself, the State of California and PAGA Employees for
13 damages recoverable under PAGA, including civil penalties, interest, attorneys’ fees, costs, and any
14 other relief recoverable under California Labor Code § 2698, et seq.

15 1.24 **“PAGA Employees”** means Class Members employed during the PAGA Period.
16 PAGA Employees cannot opt out of the PAGA portion of this Settlement. However, they may opt out
17 of the Settlement of the Class Claims provided they timely submit a Request for Exclusion.

18 1.25 **“PAGA Period”** means the period from April 6, 2019 through the Preliminary
19 Approval Date.

20 1.26 **“PAGA Released Claims”** means the PAGA Claims from which Plaintiff, the PAGA
21 Employees, and the State of California are fully releasing the Released Parties under this Settlement
22 from April 6, 2019 through the end of the PAGA Period, including any and all claims Plaintiff asserted
23 or could have asserted in the Action under PAGA based on the facts alleged in Plaintiff’s Complaint
24 for Failure to Provide Accurate Itemized Wage Statements (Cal. Labor Code §§ 226 and 2698, et seq.)
25 and/or based on the Class Member Released Claims, on behalf of himself, the State of California and
26 PAGA Employees for damages recoverable under PAGA, including civil penalties, interest, attorneys’
27 fees, costs, and any other relief recoverable under California Labor Code § 2698, et seq.

28

1 1.27 **“Parties”** means Plaintiff and Defendants and **“Party”** shall mean either Plaintiff or
2 Defendants.

3 1.28 **“Plaintiff”** or **“Class Representative”** means Plaintiff Robert Vega.

4 1.29 **“Participating Class Members”** means Class Members who do not submit a timely
5 Request for Exclusion from this Settlement.

6 1.30 **“Preliminary Approval Date”** means the date the Court enters the Preliminary
7 Approval Order.

8 1.31 **“Preliminary Approval Order”** means the Court’s entry of an order preliminarily
9 approving this Settlement (substantially in the form attached hereto as **Exhibit B**).

10 1.32 **“Released Parties”** means Defendants Marathon Petroleum Logistics Services LLC
11 and Marathon Petroleum Company LP, and each of their respective subsidiaries, affiliates and/or
12 parents, attorneys, and each of their respective successors and predecessors in interest; all of their
13 respective officers, directors, employees, administrators, fiduciaries, trustees, beneficiaries and agents;
14 and each of their past, present and future officers, directors, shareholders, employees, agents,
15 principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers.

16 1.33 **“Request for Exclusion”** means a timely written request by a Class Member to exclude
17 herself/himself from the Settlement, which must be completed and mailed in the manner set forth in
18 this Settlement Agreement and the Notice of Settlement.

19 1.34 **“Response Deadline”** means the date forty-five (45) calendar days after the Settlement
20 Administrator mails the Notice of Settlement to Class Members, or fourteen (14) calendar days after
21 the re-mailing of any Notice of Settlement to any Class Member, whichever is later, and shall be the
22 last date on which Class Members may timely postmark Requests for Exclusion or Notices of
23 Objection to the Settlement.

24 1.35 **“Service Award”** means the amount the Court awards Plaintiff for his efforts in
25 assisting with the prosecution of the Action and as consideration for executing this Settlement
26 Agreement and agreeing to a general release of all claims against Defendants, which shall not exceed
27 \$5,000. Plaintiff’s Service Award is subject to approval from the Court and will be paid only from
28

1 the Total Settlement Amount. Any portion of the Service Award not awarded by the Court will be
2 added to the Net Distribution Fund and distributed to Participating Class Members.

3 1.36 **“Settlement”** means the disposition of the Action pursuant to this Settlement
4 Agreement.

5 1.37 **“Settlement Administration Costs”** means the reasonable and necessary costs
6 incurred by the Settlement Administrator and awarded by the Court from the Total Settlement Amount,
7 which may not exceed Six Thousand Dollars (\$6,000), unless otherwise approved by the Parties and
8 Court. Settlement Administration Costs include but are not limited to: the costs of Class Notice, any
9 required reporting by the Settlement Administrator to federal and state agencies, establishing a
10 qualified settlement fund for Defendants to deposit the Total Settlement Amount (from which the
11 Settlement Administrator will pay the Court-approved Class Counsel Fees Award, the Class Counsel
12 Costs Award, the Service Award for Plaintiff, the PAGA Award, Settlement Administration Costs and
13 Individual Settlement Payments to Participating Class Members and PAGA Employees, as specified
14 herein); receiving and responding to inquiries from Class Members about the Settlement; calculating
15 and distributing settlement payments to Participating Class Members and PAGA Employees as
16 specified herein; calculating, processing, and remitting all withholding taxes or other legally-required
17 taxes (if any) and handling any required tax reporting; processing any Notices of Objection and
18 Requests for Exclusion; providing declarations and reporting to the Court and Parties; and performing
19 all of the tasks for which the Settlement Administrator is retained as further specified below and/or
20 which the Settlement Administrator must perform pursuant to orders of the Court. The Parties agree
21 that the Settlement Administration Costs shall be paid exclusively from the Total Settlement Amount
22 and that Defendants shall not be responsible for the payment of any additional Settlement
23 Administration Costs separate from or in addition to those paid from the Total Settlement Amount.

24 1.38 **“Settlement Administrator”** means Phoenix Settlement Administrators. Phoenix
25 Settlement Administrators is a California-based settlement administrator that specializes in class
26 action settlement administration and has been approved to administer, and successfully administered,
27 numerous class and PAGA settlements throughout the state for years. Additional information
28 regarding Phoenix Settlement Administrators is available at: <http://www.phoenixclassaction.com/> .

1 1.39 “Settlement Agreement” or “Settlement” or “Agreement” means this Joint
2 Stipulation of Class Action Settlement and Release executed by all Parties.

3 1.40 “Settlement Fund Account” means the bank account established pursuant to the terms
4 of this Settlement Agreement, from which all monies payable under the terms of this Settlement shall
5 be paid, as set forth herein.

6 1.41 “Total Settlement Amount” means One Hundred and Sixty-Five Thousand Dollars
7 (\$165,000), which is the maximum amount that Marathon Petroleum is providing under this
8 Settlement Agreement in order to settle the Action in its entirety. The Total Settlement Amount shall
9 constitute the entire consideration provided by Marathon Petroleum pursuant to this Settlement
10 Agreement and Marathon Petroleum shall not be required to pay any amount above the Total
11 Settlement Amount in connection with this Settlement.

12 1.42 “Void Date” means the date by which any checks issued to Participating Class
13 Members and PAGA Employees shall become void, *i.e.*, on the 181st calendar day after mailing.

14 1.43 “1542 Waiver” means an express waiver, to the fullest extent permitted by law, of the
15 provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar
16 provision under federal or state law, which Section provides:

17 A general release does not extend to claims that the creditor or releasing party
18 does not know or suspect to exist in his or her favor at the time of executing the
19 release and that, if known by him or her, would have materially affected his or
20 her settlement with the debtor or released party.

21 **2. RECITALS.**

22 2.1 The Parties.

23 Plaintiff Robert Vega is a former, unionized transport driver employed by Marathon Petroleum
24 Logistics Services LLC (“MPLS”) who separated from the company on June 10, 2019. Marathon
25 Petroleum Company LP is the parent company of MPLS and does not employ any non-exempt
26 employees in California.

27 2.2 Procedural History and Informal Discovery and Investigation. Plaintiff filed this
28 lawsuit on May 21, 2020. Plaintiff also submitted a notice letter to the California Labor and Workforce

1 Development Agency (“LWDA”) on July 25, 2019, (to exhaust his required administrative remedies
2 to bring a PAGA claim) before filing this lawsuit. Plaintiff’s operative Complaint alleges two causes
3 of action for: (1) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226); and (2)
4 PAGA Civil Penalties for Failure to Provide Accurate Itemized Wage Statements (Lab. Code §§ 2698,
5 et seq.).

6 In support of his two causes of action, Plaintiff alleged that Defendants’ wage statements did
7 not accurately reflect the actual overtime rate of pay (i.e. the amount of overtime compensation
8 Defendants actually paid for each overtime hour worked). More specifically, Plaintiff alleged that on
9 each occasion that a Class Member earned a “Reg Rate Adj Sched” payment and worked overtime in
10 a workweek, Defendant was required to calculate and pay overtime wages based on “one and one-half
11 times the regular rate of pay,” as mandated by Labor Code § 510(a). However, on such occasions,
12 Plaintiff alleges the wage statements that Defendants issued to the Class only reflected the erroneous
13 overtime rate of 1.5 times the base hourly rate, which failed to account for and include additional
14 compensation into the overtime rate calculation. Thus, Plaintiff alleges that the “Reg Rate Adj Sched”
15 line-item failed to state any applicable hours or the correct rate of pay for these overtime wages. As a
16 result, Plaintiff contends that Defendants violated Labor Code § 226(a)(9) on each occasion that it
17 failed to provide wage statements that informed the employees of the accurate overtime rate of pay
18 (i.e., the amount of overtime actually paid for each overtime hour worked).

19 Defendants answered Plaintiff’s Complaint on October 23, 2020, generally denying Plaintiff’s
20 claims and asserting affirmative defenses. Defendants dispute that MPLS’s wage statements were
21 inaccurate or that MPLS otherwise failed to comply with Labor Code section 226. Furthermore,
22 Defendants contend that even if Plaintiff could identify a technical error in some employees’ wage
23 statements (which Defendants dispute), his claims still fail for multiple reasons, including without
24 limitation because he cannot establish a “knowing and intentional” violation or establish that Plaintiff
25 and other employees suffered an “injury” as required by Labor Code section 226(e).

26 After answering Plaintiff’s Complaint on October 23, 2020, the Parties engaged in significant
27 written discovery related to the scope and parameters of the putative Class and putative PAGA
28 Employee group. Plaintiff responded to requests for production and Defendants responded to form

1 and special interrogatories, requests for admission, and requests for production of documents,
2 including providing responsive documents related to Plaintiff’s claims. Defendants’ document
3 production included responsive documents and policies related to Plaintiff’s claims (e.g., Marathon
4 Petroleum’s payroll and overtime policies, applicable collective bargaining agreements governing
5 overtime and shift differentials, and Plaintiff’s individual time and pay records during the Class
6 Period). After the exchange of written discovery, the Parties engaged in discussions regarding the
7 limited nature of Plaintiff’s two causes of action and the employees at issue who earned *both* “Reg
8 Rate Adj Sched” payments *and* overtime in the same pay period during the Class Period. On March
9 18, 2021, Defendants’ counsel also provided Plaintiff’s counsel with the approximate number of
10 current and former non-exempt employees employed by MPLS in California who, in the same pay
11 period, worked overtime and received a “Regular Rate Adj Sched” payment from May 21, 2019
12 through February 13, 2021 (the last date data was available) along with the approximate number of
13 workweeks in which this occurred.

14 Given the limited nature of the claims and employees at issue, the Parties conducted detailed,
15 arms-length negotiations through Class Counsel and Defense Counsel between May 7, 2021 through
16 June 25, 2021. The Parties’ discussions were based *inter alia* upon the Parties prior exchange of
17 written discovery, documents, and the Class statistics provided by Defendants as well as relevant case
18 law related to California’s wage statement requirements. After significant negotiations, including
19 multiple exchanges of written offers and counter-offers, and multiple telephone conferences between
20 counsel for the Parties, the Parties were eventually able to reach an agreement as to the key terms of
21 this Settlement. Shortly afterward, on July 9, 2021, the Parties notified the Court of the pending
22 Settlement and filed a Notice of Settlement and Joint Stipulation to Vacate Class Certification
23 Deadlines. The Parties also requested that the Court vacate the pending case deadline given the
24 pending settlement and to permit the parties time to complete this long-form Agreement. On July 27,
25 2021, the Court issued an Order vacating the pending class certification motion deadlines in light of
26 the Parties’ pending settlement.

27 2.3 Benefits of Settlement to Class Members and PAGA Employees.

28 Plaintiff and Class Counsel recognize the expense and length of continued proceedings

1 necessary to litigate their disputes through trial and any possible appeals. Plaintiff has also taken into
2 account the uncertainty and risk of the outcome of further litigation, the limited scope of claims alleged
3 in the Complaint, as well as the difficulties and delays inherent in such litigation. Plaintiff and Class
4 Counsel are likewise aware of the burdens of proof necessary to establish liability for the Class Claims
5 and PAGA Claims asserted in the Action, both generally and in response to Defendants' defenses, and
6 the potential difficulties in establishing damages for Class Members and PAGA Employees. Plaintiff
7 and Class Counsel have also taken into account Defendants' agreement to enter into a settlement that
8 confers substantial relief upon Class Members and PAGA Employees. Based on the foregoing,
9 Plaintiff and Class Counsel have determined the terms set forth in this Settlement Agreement to be
10 fair, adequate, and reasonable and in the best interests of the Class Members and PAGA Employees.

11 2.4 Defendants' Reasons for Settlement. Defendants believe Plaintiff's individual and
12 representative claims are without merit and deny all of the allegations of wrongdoing and liability.
13 Defendants believe, however, that further litigation would be protracted, burdensome,
14 expensive, and contrary to the best interests of MPLS and its employees. Defendants have
15 already devoted substantial time, energy, and resources to defending this litigation, and unless
16 there is a settlement, that situation will continue. In light of this, Defendants believe the
17 Settlement is the best way to resolve the litigation while minimizing further burden and
18 expenditures.

19 **3. TERMS OF SETTLEMENT AGREEMENT.**

20 The Parties agree as follows:

21 3.1 Class Certification. Solely for the purposes of this Settlement, the Parties stipulate and
22 agree that the Court certify a class of Class Members.

23 3.2 Appointment of Class Representatives. Solely for the purposes of this Settlement, the
24 Parties stipulate and agree Plaintiff Robert Vega shall be appointed as representative for the Class.

25 3.3 Appointment of Class Counsel. Solely for the purposes of this Settlement, the Parties
26 stipulate and agree that Brian J. Mankin, Esq. and Peter J. Carlson, Esq. of the law firm Lauby Mankin
27 & Lauby, LLP shall be appointed as Class Counsel for the Class.
28

1 3.4 Appointment of Settlement Administrator. Solely for the purposes of this Settlement,
2 the Parties stipulate and agree that Phoenix Settlement Administrators shall be retained to serve as
3 Settlement Administrator. The Settlement Administrator shall be responsible for establishing a toll-
4 free telephone number and a Post Office Box for receipt of Class Member communications; reviewing
5 and responding to Class Member inquiries; establishing the number of relevant pay periods applying
6 to each Class Member based on Defendant's records; resolving any disputes or questions regarding
7 Class Member Information and the calculation of Individual Settlement Payments and pay period
8 calculations for Class Members and PAGA Employees (in accordance with Paragraph 10.1.4 below);
9 translating the Notice of Settlement into Spanish; preparing, printing and mailing English and Spanish
10 versions of the Notice of Settlement (*i.e.*, **Exhibit A**) to Class Members; receiving and reviewing
11 Requests for Exclusion and Notices of Objection, if any, submitted by Class Members; calculating
12 Individual Settlement Payments; providing weekly written status reports to Defense Counsel and Class
13 Counsel; providing a due diligence declaration for submission to the Court prior to the Final Approval
14 Hearing; mailing Individual Settlement Payments to Participating Class Members and PAGA
15 Employees; timely paying the PAGA Award, Service Award, Class Counsel Fees Award and Class
16 Counsel Costs Award to, respectively, the LWDA, Plaintiff, and Class Counsel pursuant to the terms
17 of this Settlement Agreement; printing and providing Participating Class Members, Plaintiff and Class
18 Counsel with IRS Forms 1099 as required under this Settlement and applicable law; providing a due
19 diligence declaration for submission to the Court upon the completion of the Settlement; issuing the
20 uncashed check funds to the California State Controller and any obligations related thereto, and for
21 such other tasks as the Parties mutually agree. The Settlement Administrator shall keep the Parties
22 timely apprised of the performance of all Settlement Administrator responsibilities. Any legally
23 mandated tax reports, tax forms, tax filings, or other tax documents required by administration of this
24 Settlement Agreement shall be prepared by the Settlement Administrator. Any expenses incurred in
25 connection with such preparation shall be a Settlement Administration Cost. The Parties agree to
26 cooperate in the Settlement Administration process and to make all reasonable efforts to control and
27 minimize Settlement Administration Costs. Each of the Parties represent they do not have any
28 financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement

1 Administrator that could create a conflict of interest. No person shall have any claim against the
2 Released Parties, Plaintiff, Class Counsel or the Settlement Administrator based on the mailings,
3 distributions or payments made in accordance with this Settlement Agreement.

4 3.5 Conditional Nature of Stipulation for Certification. Solely for the purposes of this
5 Settlement, the Parties stipulate and agree to the certification of the Class Claims asserted on behalf
6 of the Class Members. Should for whatever reason the Settlement not become effective, the fact that
7 the Parties were willing to stipulate to certification as part of the Settlement shall have no bearing on,
8 and shall not be admissible in connection with, the issue of whether the Class Claims or Class should
9 be certified in a non-Settlement context in the Action or in any other lawsuit. Marathon Petroleum
10 expressly reserves the right to oppose claim or class certification in this or any other action should this
11 Settlement not become final, effective and binding (*i.e.*, if the Effective Date is not reached).

12 **4. CONSIDERATION AND SETTLEMENT DISTRIBUTION.**

13 4.1 Settlement Value Provided by Defendants. The maximum value that Defendants are
14 providing under this Settlement Agreement in order to settle the Action is the Total Settlement Amount
15 of One Hundred and Sixty-Five Thousand Dollars (\$165,000). The Total Settlement Amount shall
16 constitute the entire consideration provided by Defendants pursuant to this Settlement Agreement and
17 Defendants shall not be required to pay any amount above the Total Settlement Amount in connection
18 with this Settlement for any purpose.

19 4.2 Distribution of the Monetary Portion of the Total Settlement Amount. The Total
20 Settlement Amount (\$165,000) shall be used to pay: (1) the Class Counsel Fees Award and Class
21 Counsel Costs Award; (2) the Settlement Administration Costs; (3) Plaintiff's Service Award; (4) the
22 PAGA Award; and (5) Individual Settlement Payments.

23 4.2.1 Class Counsel Fees Award and Class Counsel Costs Award. The Settlement
24 Administrator shall pay the Class Counsel Fees Award and Class Counsel Costs Award from the Total
25 Settlement Amount. Defendants agree not to oppose any application by Class Counsel for a Class
26 Counsel Fees Award not to exceed Fifty-Five Thousand Dollars (\$55,000), which will be distributed
27 to Lauby Mankin & Lauby, LLP. Defendants further agree not to oppose any application by Class
28 Counsel for a Class Counsel Costs Award not to exceed Ten Thousand Dollars (\$10,000) which will

1 be distributed to Lauby Mankin & Lauby, LLP. The Settlement Administrator shall pay the Court-
2 approved Class Counsel Fees Award and Class Counsel Costs Award within ten (10) calendar days
3 following the date on which Defendants fund the Settlement. Class Counsel agrees to provide the
4 Settlement Administrator with an executed IRS Form W-9 before the Class Counsel Fees Award and
5 Class Counsel Costs Award are issued. The Settlement Administrator shall issue an IRS Form 1099
6 to Class Counsel for the payments made pursuant to this Paragraph. In the event that the Court awards
7 less than the full amount requested for the Class Counsel Fees Award and/or Class Counsel Costs
8 Award, the un-awarded amount will be made available for distribution as part of the Net Distribution
9 Fund and distributed to Participating Class Members. This Settlement is not contingent upon the Court
10 awarding Class Counsel any particular amount in attorneys' fees and costs. Defendants' delivery of
11 the Total Settlement Amount to the Settlement Administrator as specified in this Settlement shall
12 complete Defendants' obligation to fund the Settlement, including without limitation Defendants'
13 obligation to pay the Court-awarded Class Counsel Fees Award and Class Counsel Costs Award.

14 4.2.2 Settlement Administration Costs. The Settlement Administrator shall be paid
15 Settlement Administration Costs from the Total Settlement Amount, in an amount not to exceed Six
16 Thousand Dollars (\$6,000). Should the Settlement Administration Costs exceed \$6,000, the Parties
17 agree that such additional reasonably incurred and necessary costs shall be paid exclusively from the
18 Total Settlement Amount, subject to Court approval. The Settlement Administrator shall receive the
19 Settlement Administration Costs within ten (10) calendar days following the date on which Defendants
20 fund the Settlement. In the event that the Court awards less than the full amount set aside for
21 Settlement Administration Costs, the un-awarded amount will be made available for distribution as
22 part of the Net Distribution Fund and distributed to Participating Class Members.

23 4.2.3 Plaintiff's Service Award. The Settlement Administrator shall pay Plaintiff's
24 Service Award from the Total Settlement Amount. Defendants agree not to oppose any application
25 by Plaintiff for a Service Award not to exceed a total of Five Thousand Dollars (\$5,000), as
26 consideration for his Complete and General Release of Claims and for his time and effort in
27 prosecuting the Action via Class Counsel. The Settlement Administrator shall pay the Service Award
28 to Plaintiff within ten (10) calendar days following the date on which Defendants fund the Settlement.

1 Plaintiff agrees to provide the Settlement Administrator with an executed IRS Form W-9 before the
2 Service Award is issued. The Settlement Administrator shall issue appropriate tax form(s) to Plaintiff
3 for this payment. Plaintiff shall be solely and legally responsible for paying any and all applicable
4 taxes on the Service Award and shall hold Defendants and Released Parties harmless from any claim
5 or liability for taxes, penalties, or interest arising as a result of the Service Award. In the event the
6 Court awards less than the full amount requested for the Service Award, the un-awarded amount will
7 be made available for distribution as part of the Net Distribution Fund and distributed to Participating
8 Class Members. Plaintiff shall not have the right to revoke his agreement to the Settlement on the
9 grounds the Court does not approve any or all of the requested Service Award.

10 4.2.4 PAGA Award. The Settlement Administrator shall pay the PAGA Award
11 (\$10,000) from the Total Settlement Amount and distribute the PAGA Award within ten (10) calendar
12 days after the date when Defendants fund the Settlement following the Effective Date. Specifically,
13 within ten (10) calendar days after the date when Defendants fund the Settlement, the Settlement
14 Administrator shall mail a check payable to the California Labor & Workforce Development Agency
15 for seventy-five percent (75%) of the PAGA Award or Seven Thousand Five Hundred Dollars
16 (\$7,500). The remaining twenty-five percent (25%) or Two Thousand Five Hundred Dollars (\$2,500)
17 of the PAGA Award shall be included within the Net Distribution Fund for distribution to PAGA
18 Employees as part of the penalties component of the Individual Settlement Payments.

19 4.2.5 Individual Settlement Payments. The Settlement Administrator shall pay the
20 Individual Settlement Payments from the Net Distribution Fund and will mail them by First Class U.S.
21 Mail to Class Members' last known mailing address within ten (10) calendar days following the date
22 when Defendants fund the Settlement as specified in Paragraph 10.1.2 (Funding the Settlement) below.
23 Any checks issued to Participating Class Members shall remain valid and negotiable for one hundred
24 and eighty (180) calendar days from the date of their issuance and then shall become void on the 181st
25 day after mailing, *i.e.*, the Void Date. The Parties agree that any unclaimed funds in the Settlement
26 Fund Account as a result of the failure to cash Individual Settlement Payment checks by the Void Date
27 shall be transmitted by the Settlement Administrator to the California State Controller Unclaimed
28 Property Fund.

1 4.2.5.1 Settlement Payment Calculation: Individual Settlement Payments to
2 Participating Class Members and payments to PAGA Employees for their prorated portion of the
3 PAGA Award will be paid if, and only if, the Court issues the Final Approval Order and there is no
4 possibility of an appeal or a further appeal that could prevent this Settlement Agreement from
5 becoming final and binding according to its terms (*i.e.*, all conditions of the Effective Date are met
6 aside from funding by Defendants).

7 a. Pay Period Calculations for Individual Settlement Payments to
8 Participating Class Members: Defendants will identify the number of pay periods each of the
9 Participating Class Members worked during the Class Period ("Total Class Pay Periods") where, in
10 the same pay period, the employees worked overtime and received a "Regular Rate Adj." payment.
11 In identifying the number of pay periods meeting these criteria and determining who is a Class
12 Member, Defendants' business records identifying this information through Defendants' best efforts
13 will govern and are presumed to be accurate and correct. Any challenges regarding estimated pay
14 periods assigned to each Class Member (which will be specified in the Class Notice) must be raised
15 prior to the Response Deadline and finally decided by the Settlement Administrator prior to the Final
16 Approval Hearing. After taking into consideration any information and documentation provided by
17 Defendants, Participating Class Members and/or other current or former employees of Defendants, the
18 Settlement Administrator's determination of pay period calculations for individual settlement
19 payments to each Participating Class Member will be final and binding. The value of each pay period
20 shall be determined by the Settlement Administrator by dividing the Net Distribution Fund (less the
21 25% of the PAGA Award to be distributed to PAGA Employees) by the total number of pay periods
22 worked by all Participating Class Members during the Class Period where, in the same pay period,
23 these employees worked overtime and received a "Regular Rate Adj." payment ("Class Pay Period
24 Value"). To determine the Individual Settlement Payment for each Participating Class Member, the
25 Settlement Administrator will multiply the individual's Total Class Pay Periods by the Class Pay
26 Period Value. The Individual Settlement Payments will not be subject to withholdings because
27 Plaintiff's two claims for wage statement penalties and PAGA penalties are solely for the recovery of
28 penalties, and not wages.

1 b. Calculations for Payments to PAGA Employees for Their Portion of
2 PAGA Award: For PAGA Employees, Defendants will identify the number of pay periods each
3 PAGA Employee worked during the PAGA Period where, in the same pay period, these employees
4 worked overtime and received a “Regular Rate Adj.” payment (“Total PAGA Pay Periods”). (For
5 purposes of this case, and as specified in the definitions above, the Class Period and PAGA Period are
6 the same.) In identifying the number of pay periods meeting these criteria and determining who is a
7 PAGA Employee, Defendants’ business records identifying this information through Defendants’ best
8 efforts will govern and are presumed to be accurate and correct. Any challenges regarding estimated
9 pay periods assigned to each PAGA Employee must be raised prior to the Response Deadline and
10 finally decided by the Settlement Administrator prior to the Final Approval Hearing. After taking into
11 consideration any information and documentation provided by Defendants, PAGA Employees and/or
12 other current or former employees of Defendants, the Settlement Administrator’s determination of pay
13 period calculations for each PAGA Employee will be final and binding. The value of each PAGA
14 Pay Period shall be determined by the Settlement Administrator by dividing the 25% of the PAGA
15 Award allocated for PAGA Employees (*i.e.*, \$2,500) by the Total PAGA Pay Periods for all PAGA
16 Employees (“PAGA Pay Period Value”). A Class Member who is also a PAGA Employee will receive
17 a payment for their prorated portion of the PAGA Award even if s/he opt-outs of the Class settlement
18 and will be bound by the release of the PAGA Claims released through this Settlement. Any checks
19 issued to PAGA Employees shall remain valid and negotiable for one hundred and eighty (180)
20 calendar days from the date of their issuance and then shall become void on the 181st day after mailing,
21 *i.e.*, the Void Date. The Parties agree that any unclaimed funds as a result of the failure to cash
22 individual PAGA Award payments by the Void Date shall be transmitted by the Settlement
23 Administrator to the California State Controller Unclaimed Property Fund.

24 4.2.5.2 Tax Treatment of Settlement Payments. Each Individual Settlement
25 Payment shall be comprised entirely of non-taxable consideration for penalties and interest and for
26 which an IRS Form 1099 will issue. The Parties make no representations as to the tax treatment or
27 legal effect of the payments called for in this Settlement Agreement and Class Members and PAGA
28 Employees are not relying on any statement or representation by the Parties in this regard.

1 Participating Class Members and PAGA Employees will be solely responsible for the payment of any
2 taxes and penalties assessed on the payments described herein.

3 4.2.5.3 Circular 230 Disclaimer. The Parties acknowledge and agree that (1)
4 no provision of this Settlement, and no written communication or disclosure between or among the
5 Parties, Class Counsel or Defense Counsel and other advisers, is or was intended to be, nor shall any
6 such communication or disclosure constitute or be construed or be relied upon as, tax advice within
7 the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2)
8 the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax
9 counsel for advice (including tax advice) in connection with this Settlement, (b) has not entered into
10 this Settlement based upon the recommendation of any other party or any attorney or advisor to any
11 other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or
12 adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party;
13 and (3) no attorney or adviser to any other party has imposed any limitation that protects the
14 confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation
15 is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of
16 any transaction, including any transaction contemplated by this Settlement.

17 **5. RELEASES.**

18 5.1 Release. As of the Effective Date and Defendants' funding of the Total Settlement
19 Amount, Plaintiff, Participating Class Members, PAGA Employees and the State of California (acting
20 through Plaintiff as its authorized PAGA representative) release the Released Parties from all Class
21 Claims and PAGA Claims for the duration of the Class Period and PAGA Period, respectively. The
22 Class Period and PAGA Period include the period from April 6, 2019 through the Preliminary
23 Approval Date. The Class Member Released Claims include all claims for any debts, liabilities,
24 demands, obligations, guarantees, penalties, damages, interest, attorneys' fees, costs, and/or other
25 amounts or relief recoverable under state or other applicable law that Plaintiff asserted or could have
26 asserted in the Action – on behalf of himself and the putative Class Members – based on the facts
27 alleged in Plaintiff's Complaint and/or arising out of a claim for Failure to Provide Accurate Itemized
28 Wage Statements (Lab. Code § 226), whether for economic or non-economic damages, restitution,

1 injunctive relief or statutory penalties. The PAGA Released Claims include any and all claims Plaintiff
2 asserted or could have asserted in the Action under PAGA based on the facts alleged in Plaintiff's
3 Complaint for Failure to Provide Accurate Itemized Wage Statements (Cal. Labor Code §§ 226 and
4 2698, et seq.) and/or based on the Class Member Released Claims, on behalf of himself, the State of
5 California and PAGA Employees for damages recoverable under PAGA, including civil penalties,
6 interest, attorneys' fees, costs, and any other relief recoverable under California Labor Code § 2698,
7 et seq. It is the intent of the Parties that the Final Approval Order entered by the Court shall have full
8 *res judicata* (i.e., preclusive) effect and be final and binding upon Participating Class Members, PAGA
9 Employees and the State of California regarding the Class Member Released Claims and PAGA
10 Released Claims.

11 5.2 Plaintiff Robert Vega's Complete and General Release. In consideration for the
12 promises and payments set forth in this Settlement Agreement, to which Plaintiff is otherwise not
13 entitled, Plaintiff Robert Vega agrees to provide a Complete and General Release and a 1542 Waiver
14 to the Released Parties, and each of them, upon the Effective Date occurring.

15 Plaintiff does not waive any right to file an administrative charge with the Equal Employment
16 Opportunity Commission ("EEOC") or the National Labor Relations Board ("NLRB"), subject to the
17 condition that Plaintiff agrees not to seek, or in any way obtain or accept, any monetary award,
18 recovery or settlement therefrom and agrees that he understands that such limitation does not in any
19 way restrict his ability to file and pursue such charge consistent with the confidentiality obligations
20 set forth in this Settlement Agreement. Plaintiff also does not waive any rights with respect to, or
21 release Released Parties from, any claims for California Workers' Compensation benefits (except that
22 Plaintiff hereby releases and waives any claims that, as a result of his separation, he is entitled to
23 additional benefits or payments). Further, Plaintiff does not release any claim for unemployment
24 compensation benefits. Finally, Plaintiff does not release any claim that cannot be released by private
25 contract, or for breach of the terms of the Settlement Agreement between Plaintiff and Defendants.

26 5.2.1 No Pending or Future Lawsuits by Plaintiff. Other than this Action and
27 Plaintiff's related July 25, 2019 PAGA letter submitted by Plaintiff and his counsel to the LWDA,
28 Plaintiff represents he does not have any pending lawsuits, administrative complaints or charges

1 against Defendants or the Released Parties in any local, state, or federal court or administrative agency.
2 Plaintiff further acknowledges that all claims raised in the Action shall be fully and finally
3 extinguished by virtue of this Settlement Agreement and the Court's Final Approval Order. Plaintiff
4 also represents he will not bring any action in the future in which Plaintiff seeks or may seek to recover
5 any damages from Defendants or the Released Parties whatsoever relating to or arising from Plaintiff's
6 hiring, employment with or separation from Defendants or any Released Party, other than an action to
7 enforce Plaintiff's rights under this Settlement Agreement.

8 **6. PROCESS FOR SEEKING PRELIMINARY APPROVAL OF THE SETTLEMENT.**

9 6.1 Motion for Preliminary Approval. As soon as practicable after execution of this
10 Settlement Agreement, Plaintiff will submit this Settlement Agreement to the Court for Preliminary
11 Approval, asking the Court to issue a Preliminary Approval Order approving the Settlement,
12 substantially in the form attached as **Exhibit B**. Plaintiff's submission will include this Settlement
13 Agreement, including **Exhibits A-C**, and any motions, memoranda and evidence as may be necessary
14 for the Court to determine that this Settlement Agreement is fair, adequate and reasonable.

15 6.2 LWDA Notice. Pursuant to California Labor Code section 2699(l), Class Counsel will
16 provide a copy of this Settlement Agreement to the LWDA concurrently with Class Counsel's filing
17 of the motion for Preliminary Approval. Class Counsel will also file a declaration in support of
18 Plaintiff's motion for Preliminary Approval confirming that Class Counsel has submitted the
19 Settlement Agreement to the LWDA in compliance with California Labor Code section 2699(l). The
20 Parties intend to and believe the notice pursuant to the procedures described in this Paragraph complies
21 with the requirements of the PAGA, and the Parties will request the Court adjudicate the validity of
22 the notice in the motion for Final Approval of the Settlement.

23 **7. SETTLEMENT NOTICE PROCEDURES.**

24 7.1 Class Information. No more than twenty-one (21) calendar days after entry of the
25 Preliminary Approval Order, Defendants shall provide the Settlement Administrator with the Class
26 Information for purposes of mailing the Notice of Settlement to Class Members.

27 7.2 Notice by First Class U.S. Mail. Upon receipt of the Class Information, the Settlement
28 Administrator will conduct a national change of address search for the most current address of all

1 former employee Class Members and will update such addresses as necessary. Fourteen (14) calendar
2 days after receipt of the Class Information, the Settlement Administrator shall mail the Notice of
3 Settlement (**Exhibit A**), in English and Spanish languages, to all Class Members by First Class U.S.
4 Mail. The address identified by the Settlement Administrator as the current mailing address shall be
5 presumed to be the best mailing address for each Class Member.

6 7.3 Undeliverable Notices. Any Notice of Settlement returned to the Settlement
7 Administrator as non-deliverable through the Response Deadline shall be re-mailed to the forwarding
8 address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall
9 perform a and a skip trace to locate a new address. If those measures are not successful, the Settlement
10 Administrator shall have no further obligation to mail the Notice of Settlement to a Class Member.
11 Class Members to whom the Notice of Settlement is re-sent shall have fourteen (14) calendar days
12 thereafter or until the Response Deadline has expired, whichever is later, to mail the Request for
13 Exclusion or Notice of Objection to the Settlement Administrator. The date of the postmark on the
14 return envelope shall be the exclusive means used to determine whether a Class Member has timely
15 mailed his/her Request for Exclusion or Notice of Objection on or before the relevant deadline. If a
16 Class Member's Notice of Settlement is returned to the Settlement Administrator more than once as
17 non-deliverable, then an additional Notice of Settlement shall not be re-mailed. If, for any reason, a
18 Notice of Settlement is non-deliverable, the Settlement Administrator will not mail an Individual
19 Settlement Payment to the Class Member. Rather, the Settlement Administrator will hold the
20 Individual Settlement Payment until the Void Date to make it available to the Class Member upon
21 request, with proof of identity. If the payment is not claimed by the Void Date, the funds shall be
22 delivered to the California State Controller Unclaimed Property Fund in the name of the Class Member
23 along with the funds for uncashed checks.

24 7.4 Notice Satisfies Due Process. Compliance with the notice procedures specified in this
25 Settlement Agreement shall constitute due and sufficient notice to Class Members of this Settlement
26 and shall satisfy the requirements of due process. Nothing else shall be required of, or done by, the
27 Parties, Class Counsel or Defense Counsel to provide notice of the proposed Settlement. In the event
28 the procedures in this Settlement Agreement are followed and the intended recipient of a Notice of

1 Settlement still does not receive the Notice, the intended recipient shall remain a Class Member and
2 will be bound by all terms of the Settlement and any Final Approval Order entered by the Court if the
3 Settlement becomes Effective.

4 **8. PROCEDURES FOR OPTING OUT AND OBJECTING.**

5 8.1 Requests for Exclusion (Opt-Outs). The Notice of Settlement shall state that Class
6 Members who wish to exclude themselves from the Settlement must submit a written Request for
7 Exclusion to the Settlement Administrator by the Response Deadline. To be valid, the Request for
8 Exclusion need not use specific language, but must be hand signed and contain sufficient information
9 to verify the employee's identity (e.g., the individual's full name, address, and employee number or
10 last four digits of her/his social security number) and confirm that the individual wishes to be excluded
11 from the Settlement and any payment and release associated with the settlement of the Class Claims
12 as set forth in this Agreement. If the Settlement Administrator receives a purported Request for
13 Exclusion that is unclear or incomplete in this regard, the Settlement Administrator shall make best
14 efforts to promptly follow up with the individual to obtain clarification and any additional information
15 needed prior to the Response Deadline. If the Request for Exclusion is not postmarked by the Response
16 Deadline and returned to the Settlement Administrator at the specified address, it will not be deemed
17 a timely and valid Request for Exclusion from the Class. The date of the postmark on the return
18 mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion has
19 been timely submitted. Any Class Member who submits a timely and valid Request for Exclusion
20 from the Class will not be entitled to any monetary recovery under the Settlement and will not be
21 bound by the terms of the Settlement as it relates to the Class Member's released Class Claims, with
22 the exception that if the Class Member is also a PAGA Employee, s/he will continue to be bound by
23 the release of the PAGA Claims (because Class Members cannot opt out of the PAGA portion of the
24 Settlement). Any Class Member who submits a timely and valid Request for Exclusion will not have
25 any right to object, appeal, or comment on the Settlement. Class Members who fail to submit a timely
26 and valid Request for Exclusion on or before the Response Deadline shall be members of the Class
27 (i.e., a Participating Class Member) and will be bound by all terms of the Settlement and the Final
28 Approval Order entered in this Action. No later than fourteen (14) calendar days after the Response

1 Deadline, the Settlement Administrator shall provide Defense Counsel with a complete list of all Class
2 Members who have submitted timely and valid Requests for Exclusion, including their full name and
3 social security number or employee number. The Settlement Administrator shall provide Class
4 Counsel with a summary report that includes only the number of Requests for Exclusion received by
5 the Settlement Administrator.

6 8.2 Notices of Objections. The Notice of Settlement shall state that Class Members who
7 wish to object to the Settlement have the opportunity to do so by (1) appearing at the Final Approval
8 Hearing and communicating their objection to the Court and/or (2) submitting a written Notice of
9 Objection to the Settlement Administrator by the Response Deadline. Only Participating Class
10 Members (i.e., Class Members who do not opt out) are permitted to object to the Settlement
11 Agreement. The Class Notice will request, but not require, that Class Members who wish to submit a
12 written Notice of Objection include their: (1) full name, address, and employee number or last four
13 digits of their social security number; and (2) hand sign the Notice of Objection. The Class Notice
14 will also request that Class Members submitting a written Notice of Objection (3) state the case name
15 and number, i.e., *Robert Vega v. Marathon Petroleum Logistics Services, LLC, et al.*, Case No.
16 20STCV19405, pending in Los Angeles Superior Court, and the basis for the objection. Class
17 Members do not need to submit a written Notice of Objection to appear at the Final Approval Hearing
18 to voice their objection to the Court. Class Members who fail to submit a Notice of Objection and/or
19 appear at the Final Approval Hearing to communicate their objection to the Court shall be deemed to
20 have waived any objections and shall be foreclosed from making any objections to the Settlement
21 following the Final Approval Hearing. The Settlement Administrator shall forward all written
22 objections to Class Counsel and Defense Counsel within 3 days of receipt.

23 8.3 No Solicitation of Exclusions or Objections. The Parties agree to use their best efforts
24 to carry out the terms of this Settlement. At no time shall any of the Parties or their counsel seek to
25 solicit or otherwise encourage Class Members to submit a Notice of Objection to or Request for
26 Exclusion from the Settlement or to appeal from the Court's Final Approval Order. Class Counsel
27 shall not represent Class Members with respect to any objections or appeals to this Settlement.
28

1 8.4 Option to Terminate Settlement. Defendants, at their sole discretion, shall have the
2 right, but not the obligation, to revoke the Settlement if ten percent (10%) or more of the total number
3 of Class Members timely submit a Request for Exclusion. Defendants shall exercise their revocation
4 right, if at all, within fourteen (14) calendar days of the Response Deadline by providing written notice
5 to Class Counsel. If Defendants exercise a right to void the Settlement pursuant to this Paragraph, this
6 Settlement Agreement and any related settlement documents shall be null and void, and any class
7 certified for settlement purposes will be vacated. In such an event, neither this Settlement Agreement,
8 related settlement documents, nor the negotiations leading to the Settlement may be used as evidence
9 for any purpose, and Defendants shall retain the right to challenge all claims and allegations in the
10 action, to assert all applicable defenses, and to dispute the propriety of class certification on all
11 applicable grounds.

12 **9. FINAL APPROVAL PROCEDURES.**

13 9.1 Settlement Administrator Declaration in Support of Final Approval. No fewer than
14 thirty (30) calendar days prior to the Final Approval Hearing, the Settlement Administrator shall
15 provide the Parties with a declaration of due diligence detailing the actions taken by the Settlement
16 Administrator to administer the Settlement to date, proof of mailing with regard to the mailing of the
17 Notice of Settlement, all attempts to locate Class Members, and detailing all incurred and anticipated
18 Settlement Administration Costs. Class Counsel shall be responsible for working with the
19 Administrator to timely submit the declaration of due diligence to the Court.

20 9.2 Motion for Final Approval. As soon as practicable after the Response Deadline,
21 Plaintiff will file a motion for Final Approval, asking the Court to issue a Final Approval Order
22 substantially in the form attached as **Exhibit C**. Plaintiff's submission will include any motions,
23 memoranda and evidence as may be necessary for the Court to determine that this Settlement
24 Agreement is fair, adequate and reasonable.

25 9.3 Final Approval Hearing. The Parties will request that the Court hold a Final Approval
26 Hearing approximately 120 days after the Preliminary Approval Date or as soon thereafter as the
27 Court's calendar permits, where objections, if any, may be heard and the Court shall determine whether
28 the Settlement should be finally approved, and if so, the amounts payable for: (1) Class Counsel Fees

1 Award; (2) the Class Counsel Costs Award; (3) Plaintiff's Service Award; (4) Individual Settlement
2 Payments; and (5) Settlement Administration Costs.

3 9.4 Entry of Final Approval Order. If the Court approves this Settlement at the Final
4 Approval Hearing, the Parties shall request that the Court enter a Final Approval Order, substantially
5 in the form of **Exhibit C**. After granting final approval of the Settlement and entering judgment, the
6 Court shall retain jurisdiction over the Parties to enforce and implement the terms of the judgment.

7 **10. ADMINISTERING THE SETTLEMENT.**

8 10.1 Funding and Allocation of Settlement.

9 10.1.1 Settlement Accounting. No more than ten (10) calendar days after the Final
10 Approval Order, the Settlement Administrator will provide the Parties with an accounting of all
11 anticipated payments from the Settlement Fund Account, including: (1) the total amount of Individual
12 Settlement Payments; (2) the PAGA Award; (3) Plaintiff's Service Award; (4) the Class Counsel Fees
13 Award; (5) the Class Counsel Costs Award; and (6) Settlement Administration Costs, all as specified
14 in this Settlement Agreement and approved by the Court.

15 10.1.2 Funding the Settlement. Within fifteen (15) calendar days following the date
16 when all conditions of the Effective Date have been satisfied (aside from funding by Defendants),
17 Defendants shall fund the Settlement by providing the Total Settlement Amount to the Settlement
18 Administrator.

19 10.1.3 Distributing The Settlement: The Settlement Administrator shall deposit the
20 funds in the Settlement Fund Account and will disburse the funds in the manner and at the times set
21 forth in this Settlement Agreement, including paying the Individual Settlement Payments, Class
22 Counsel Fees Award, Class Counsel Costs Award, Settlement Administration Costs, Plaintiff's
23 Service Award, and PAGA Award within ten (10) calendar days following the date on which
24 Defendants fund the Settlement.

25 10.1.4 Resolving Disputes Regarding Class Information & Pay Periods: Defendant's
26 business records will govern for purposes of administering the settlement. Defendant will use its best
27 efforts to identify, collect, and provide accurate Class Information to the Settlement Administrator.
28 Defendants' business records are presumed to be accurate and correct.

1 Each Class Member’s estimated pay periods worked during the Class Period where, in the
2 same pay period, the employee worked overtime and received a “Regular Rate Adj.” payment will be
3 specified in the Class Notice. Class Members can challenge the estimated pay periods by submitting
4 information and documentation to the Settlement Administrator on or before the Response Deadline
5 to support the challenge. The Settlement Administrator will notify Class Counsel and Defendants’
6 counsel of any challenges and give Defendants the opportunity to investigate the challenge. The
7 Settlement Administrator’s determination will be final and binding and must be made prior to the Final
8 Approval Hearing. In resolving disputes, any timely and successful challenges will potentially affect
9 only how the Net Distribution Fund is apportioned to Participating Class Members and PAGA
10 Employees but cannot result in Defendants paying any greater amount to fund this Settlement than the
11 maximum Total Settlement Amount specified in this Settlement Agreement.

12 Class Members, PAGA Employees, and other current or former employees have no right to
13 assert any claim that they were improperly excluded from the Settlement or that their individual
14 payment was improperly calculated through ignorance, oversight, error or otherwise after the
15 Settlement Administrator’s distribution of Individual Settlement Payments in accordance with this
16 Agreement and the Court’s Final Approval Order.

17 10.2 No Effect on Employee Benefits. The Individual Settlement Payments made to
18 Participating Class Members and PAGA Payments made to PAGA Employees under this Agreement
19 shall not be utilized to calculate any additional benefits under any Collective Bargaining Agreements,
20 union-sponsored benefits, and/or benefit plans to which any Participating Class Members or Class
21 Members or PAGA Employees may be eligible, including, but not limited to: profit-sharing plans,
22 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any
23 other benefit plan. Rather, it is the Parties’ intention that this Agreement will not affect any rights,
24 contributions, or amounts to which any Participating Class Members, Class Members and PAGA
25 Employees may be entitled under any benefit plans.

26 **11. MISCELLANEOUS PROVISIONS.**

27 11.1 No Admission of Liability. Defendants, on behalf of themselves and the respective
28 Released Parties, specifically deny all of the allegations in the operative Complaint and in the July 25,

1 2019 PAGA letter Plaintiff filed with the LWDA prior to bringing the Action. Defendants further
2 deny the allegations that the Class Members and PAGA Employees were harmed by the conduct
3 alleged in the Action. This Settlement Agreement is a compromise of highly disputed claims. Nothing
4 contained in this Settlement Agreement and no documents referred to herein and no action taken to
5 carry out this Settlement Agreement may be construed or used as an admission by or against
6 Defendants or any of the Released Parties of any fault, wrongdoing, or liability whatsoever.
7 Defendants reserve the right to assert any and all available defenses to the Claims in this Action in the
8 event this Settlement does not become final and binding for any reason.

9 11.2 Nullification of Settlement Agreement. In the event: (1) the Court does not enter the
10 Preliminary Approval Order as provided herein; (2) the Court does not enter a Final Approval Order
11 as provided herein; or (3) the the Effective Date does not occur for any other reason, this Settlement
12 Agreement shall be null and void and any order entered by the Court in furtherance of this Settlement
13 shall be treated as void from the beginning. In such case, the Parties shall be returned to their
14 respective statuses as of the date and time immediately prior to the execution of this Settlement
15 Agreement and the Parties shall proceed in all respects as if this Settlement Agreement had not been
16 executed, except that any Settlement Administration Costs already incurred by the Settlement
17 Administrator shall be paid by the Parties in equal shares. In the event an appeal is filed from the
18 Court's Final Approval Order or from an order rejecting any motion to intervene, or any other appellate
19 review is sought, Settlement administration shall be stayed pending final resolution of the appeal and
20 Defendant will not be required to fund this Settlement until and unless the Effective Date is reached.

21 11.3 Exhibits and Headings. The terms of this Settlement Agreement include the terms set
22 forth in **Exhibits A-C** attached, which are incorporated by this reference as though fully set forth
23 herein. All **Exhibits A-C** to this Settlement Agreement are an integral part of the Settlement. The
24 descriptive headings of any paragraphs or sections of this Settlement Agreement are inserted for
25 convenience only and do not constitute a part of this Settlement Agreement.

26 11.4 Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
27 except such proceedings necessary to implement and complete the Settlement, pending the Final
28 Approval Hearing to be conducted by the Court.

1 11.5 Amendment or Modification. This Settlement Agreement may be amended or
2 modified only by a written instrument signed by Defense Counsel and Class Counsel or their
3 successors-in-interest.

4 11.6 Entire Agreement. This Settlement Agreement and the attached **Exhibits A-C**
5 constitute the entire agreement among the Parties, and no oral or written representations, warranties
6 or inducements have been made to any Party concerning this Settlement Agreement or its **Exhibits A-**
7 **C** other than the representations, warranties and covenants contained and memorialized in the
8 Settlement Agreement and **Exhibits A-C**.

9 11.7 Authorization to Enter Into Settlement Agreement. Defense Counsel and Class
10 Counsel warrant and represent they are expressly authorized by the Parties whom they represent to
11 negotiate this Settlement Agreement and to take all appropriate actions required or permitted to be
12 taken by such Parties pursuant to this Settlement Agreement to effectuate its terms. The person signing
13 this Settlement Agreement on behalf of Marathon Petroleum Logistics Services LLC and Marathon
14 Petroleum Company LP represents and warrants that s/he is authorized to sign this Settlement
15 Agreement on behalf of the respective entities. Plaintiff represents and warrants he is authorized to
16 sign this Settlement Agreement and that he has not assigned any Class Claim or PAGA Claim covered
17 by this Settlement to a third-party. The Parties and their counsel agree to cooperate with each other
18 fully and to use their best efforts to effect the implementation of the Settlement. Such cooperation
19 includes, but is not limited to, execution of such other documents and the taking of such other actions
20 as may be reasonably necessary to fulfill the terms of this Settlement. In the event the Parties are
21 unable to reach agreement on the form or content of any document needed to implement the Settlement
22 or on any supplemental provisions that may become necessary to effectuate the terms of this
23 Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

24 11.8 Binding On Successors and Assigns. This Settlement Agreement shall be binding
25 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

26 11.9 California Law Governs. All terms of this Settlement Agreement and **Exhibits A-C**
27 hereto shall be governed by and interpreted according to the laws of the State of California.

28

1 11.10 Participation in Drafting Settlement Agreement. The Settlement shall not be construed
2 in favor of or against any of the Parties by reason of their participation in the drafting of this Settlement
3 Agreement.

4 11.11 Invalidity of Any Provision. Before declaring any provision of this Settlement
5 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent
6 possible consistent with applicable precedent so as to define all provisions of this Settlement
7 Agreement valid and enforceable.

8 11.12 Publicity. Plaintiff Vega and Class Counsel agree to discuss the terms of this
9 Settlement only in filings submitted to a court or court hearings to establish their adequacy to serve as
10 a class representative and/or Class Counsel in this Action, in declarations submitted to a court in
11 support of a motion for attorneys' fees in this Action, and in discussions with Class Members in the
12 context of administering this Settlement. Plaintiff and Class Counsel agree not to otherwise publicize
13 this Settlement, including, but not limited to, issuing press releases, posting summaries online, or
14 otherwise speaking to the press regarding the terms of this Settlement. If Plaintiff or Class Counsel
15 are contacted by members of the press or others, they will respond only that the lawsuit exists and has
16 been resolved.

17 11.13 Notices. Unless otherwise specifically provided, all notices, demands or other
18 communications in connection with this Settlement Agreement shall be in writing and sent to:

19
20 **To Plaintiff:**

21 BRIAN J. MANKIN, Bar No. 216228
brian@lmlfirm.com
22 PETER J. CARLSON, Bar No. 295611
peter@lmlfirm.com
23 LAUBY MANKIN & LAUBY, LLP
4590 Allstate Drive
24 Riverside, CA 92501
Telephone: 951.320.1444
25 Fax No.: 951.320.1445

To Defendant:

JODY A. LANDRY, Bar No. 125743
jlandry@littler.com
26 JOSHUA D. LEVINE, Bar No. 239563
jdlevine@littler.com
KARA A. COLE, Bar No. 306515
kcole@littler.com
LITTLER MENDELSON, P.C.
501 W. Broadway, Suite 900
27 San Diego, CA 92101.3577
Telephone: 619.232.0441
28 Fax No.: 619.232.4302


1 11.14 Execution by Class Members. It is agreed it is impossible or impractical to have each
2 Class Member execute this Settlement Agreement. The Notice of Settlement will therefore advise all
3 Class Members of the binding nature of the Settlement and its released Class Claims and PAGA
4 Claims, which release shall have the same force and effect as if each Participating Class Member
5 executed this Settlement Agreement individually.

6 11.15 Execution by Plaintiff. Plaintiff, by signing this Settlement Agreement, is bound by
7 the terms herein and further agrees not to submit any Request for Exclusion from or Notice of
8 Objection to the Settlement. Any such Request for Exclusion or Notice of Objection shall therefore
9 be void and of no force or effect.

10 11.16 Counterparts. This Settlement Agreement shall become effective upon its execution
11 by all of the undersigned. The Parties may execute this Settlement Agreement in counterparts, which
12 shall have the same force and effect as if each had signed the same instrument. Copies of the executed
13 Settlement Agreement shall be effective for all purposes as though the signatures contained therein
14 were original signatures.

15 IT IS SO AGREED:

16 Dated: 07/20/22, 2022


Robert Vega (Jul 20, 2022 08:44 PDT)

ROBERT VEGA
PLAINTIFF

19 Dated: _____, 2022

By: _____

Name: _____

Title: _____

DEFENDANT MARATHON PETROLEUM
LOGISTICS SERVICES LLC

23 Dated: _____, 2022

By: _____

Name: _____

Title: _____

DEFENDANT MARATHON PETROLEUM
COMPANY LP

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APPROVED AS TO FORM:

Dated: July 20, 2022



BRIAN J. MANKIN
PETER J. CARLSON
LAUBY MANKIN & LAUBY, LLP

Attorneys for Plaintiff
ROBERT VEGA

Dated: July 21, 2022



JODY LANDRY
JOSHUA LEVINE
KARA COLE

Attorneys for Defendants
MARATHON PETROLEUM LOGISTICS
SERVICES LLC and MARATHON
PETROLEUM COMPANY LP

END OF DOCUMENT