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13 Attorneys for Defendant
14 CHEVRON U.S.A. INC.

15
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF CONTRA COSTA
18

19 JOANN BRADFORD, LIZA
20 MOSQUERIOLA, JASON ROHRBACH, and
BRIAN WHITE on behalf of themselves and
others similarly situated,

21 Plaintiff,

22 vs.

23 CHEVRON USA, Inc., and Does 1 Through
24 and Includes 25,

25 Defendant.
26
27
28

Case No. C19-01155

**DEFENDANT CHEVRON U.S.A. INC.'S
ANSWER TO PLAINTIFFS' FIRST
AMENDED COMPLAINT**

1 Defendant Chevron U.S.A. Inc., by and through its undersigned counsel, hereby responds
2 to the allegations contained in the unverified Amended Complaint (“Complaint”) of Plaintiffs
3 Joann Bradford, Liza Mosqueriola, Jason Rohrbach, and Brian White (collectively, “Plaintiffs”),
4 as follows:

5 **GENERAL DENIAL**

6 Pursuant to California Code of Civil Procedure Section 431.30(d), Defendant generally
7 denies each and every material allegation set forth in the First Amended Complaint. Defendant
8 specifically denies that it is in any way liable to Plaintiffs or any other current or former
9 employees sought to be represented, or that Plaintiffs have been damaged in any sum or sums.

10 **AFFIRMATIVE DEFENSES**

11 Defendant also asserts the following defenses, without admitting any obligations
12 regarding who bears the burden of proof or persuasion as to any one of them:

13 **FIRST DEFENSE**

14 **(Failure to State a Cause of Action)**

15 1. The First Amended Complaint, and each claim alleged therein, fails to state facts
16 sufficient to constitute a cause of action upon which relief can be granted.

17 **SECOND DEFENSE**

18 **(Statutes of Limitations)**

19 2. The First Amended Complaint, and each claim alleged therein, is barred in whole
20 or in part by all applicable statutes of limitation, including but not limited to California California
21 Civil Procedure Code section 338, and Business and Professions Code Sections 16750.1 and
22 17208, and/or the limitations period of the Twelve Hour Shift Letter of Agreement and/or any
23 relevant collectively bargained agreement.

24 **THIRD DEFENSE**

25 **(Federal Preemption under the Labor Management Relations Act)**

26 3. Plaintiffs’ claims are preempted in whole or in part by federal law, including the
27 National Labor Relations Act, 29 U.S.C. §§ 151, *et seq.*, and Section 301 of the Labor
28 Management Relations Act, 29 U.S.C. Section 185 (“LMRA”) because the resolution of

1 Plaintiffs' claims "depends upon the meaning of a collective-bargaining agreement." *Ramirez v.*
2 *Fox Television Station, Inc.*, 998 F.2d 743, 748 (9th Cir. 1993). The "preemptive force of section
3 301 is so powerful as to displace entirely any state claim based on a collective bargaining
4 agreement, and any state claim whose outcome depends on analysis of the terms of the
5 agreement." *Young v. Anthony's Fish Grottos, Inc.*, 830 F.2d 993, 997 (9th Cir.1987). Plaintiffs'
6 claims will necessarily require interpretation of the collective bargaining agreements between
7 Chevron Products Company (a division of CUSA) and the United Steelworkers, International
8 Union, AFL-CIO, Local 5 and its predecessor union, the Oil, Chemical and Atomic Workers
9 International Union, AFL-CIO, the unions representing the bargaining unit of which Plaintiffs
10 and the putative class were and are members. Plaintiffs and the putative class therefore cannot
11 maintain any of their claims.

12 **FOURTH DEFENSE**

13 **(Res Judicata/Collateral Estoppel)**

14 4. Plaintiffs' claims and the claims of other current and former employees sought to
15 be represented are barred, in whole or in part, by the doctrines of res judicata and/or collateral
16 estoppel.

17 **FIFTH DEFENSE**

18 **(Good Faith Dispute)**

19 5. Plaintiffs are not entitled to any penalty because, at all times relevant and material
20 herein, Defendant did not willfully fail to comply with any provisions of the California Labor
21 Code or applicable Wage Orders, but rather acted in good faith and had reasonable grounds for
22 believing that they did not violate the California Labor Code or the applicable Wage Order.

23 **SIXTH DEFENSE**

24 **(Lack of Standing)**

25 6. The First Amended Complaint, and each claim alleged therein, is barred for lack of
26 subject matter jurisdiction to the extent Plaintiffs and/or other alleged aggrieved employees lack
27 standing to bring their claims.

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1 **THIRTEENTH DEFENSE**

2 **(Estoppel)**

3 13. The First Amended Complaint, and each claim alleged therein, are barred in whole
4 or in part by the doctrine of estoppel.

5 **FOURTEENTH DEFENSE**

6 **(Consent)**

7 14. The First Amended Complaint, and each claim alleged therein, are barred to the
8 extent Plaintiffs and current and former employees they seek to represent consented to any
9 alleged activity or conduct.

10 **FIFTEENTH DEFENSE**

11 **(Laches)**

12 15. The First Amended Complaint, and each claim alleged therein, are barred in whole
13 or in part by the doctrine of laches.

14 **SIXTEENTH DEFENSE**

15 **(Adequate Remedy at Law)**

16 16. Plaintiffs' claims for injunctive and other equitable relief are barred because they
17 have an adequate and complete remedy at law.

18 **SEVENTEENTH DEFENSE**

19 **(Penalties Unjust, Arbitrary, and Oppressive, or Confiscatory)**

20 17. Plaintiffs are not entitled to recover any civil penalties because, under the
21 circumstances of this case, any such recovery would be unjust, arbitrary, and oppressive, or
22 confiscatory.

23 **EIGHTEENTH DEFENSE**

24 **(Action Unconstitutional)**

25 18. Plaintiffs' purported claims for violation of PAGA are barred because they violate
26 the due process provisions of the United States and California Constitutions, including, but not
27 limited to, the due process clauses of the Fifth and Fourteenth Amendments to the United States
28 Constitution.

1 **NINETEENTH DEFENSE**

2 **(Primary Jurisdiction Doctrine)**

3 19. Pursuant to the primary jurisdiction doctrine, the PAGA claim should be abated,
4 stayed, or dismissed and Plaintiffs should be left to pursue their administrative remedies with all
5 relevant state, federal, and local agencies, including, but not limited to, the California Labor and
6 Workforce Development Agency.

7 **TWENTIETH DEFENSE**

8 **(Due Process)**

9 20. The First Amended Complaint, including the allegations on behalf of others set
10 forth therein, is barred because the use of a representative action, based upon the facts and
11 circumstances of this case, would constitute a denial of Defendant's rights to due process under
12 the United States and California Constitutions.

13 **TWENTY-FIRST DEFENSE**

14 **(Excessive Fine)**

15 21. Although Defendant denies that it has committed or has responsibility for any act
16 that could support the recovery of civil penalties in this lawsuit, if and to the extent any such act
17 or responsibility is found, recovery of civil penalties against Defendant is unconstitutional under
18 the excessive fines clause of the Eighth Amendment of the United States Constitution and the
19 excessive fines clause of Section 17 of Article 1 of the California Constitution.

20 **TWENTY-SECOND DEFENSE**

21 **(Constitutional Right to Equal Protection)**

22 22. An award of penalties against Defendant would be an unconstitutional denial of
23 Defendant's rights to equal protection under both the United States and California Constitutions.

24 **TWENTY-THIRD DEFENSE**

25 **(No Violation of Underlying State Law)**

26 23. Defendant is not liable for a violation of PAGA because it is not liable to Plaintiffs
27 and/or alleged aggrieved employees for any alleged violation of any underlying state laws,
28 including any Wage Orders issued by the California Industrial Welfare Commission.

1 **TWENTY-FOURTH DEFENSE**

2 **(Arbitration)**

3 24. Plaintiffs' First Amended Complaint and each claim therein, or some of them, may
4 not be litigated in court because some or all of Plaintiffs' claims and those of some or all of the
5 individuals they seek to represent are subject to mandatory, final, and binding arbitration.

6 **TWENTY-FIFTH DEFENSE**

7 **(Exclusive Remedy)**

8 25. Plaintiffs' claims are barred, in whole or in part, because under the applicable
9 union contract governing Plaintiffs' employment, Plaintiffs' exclusive remedy for the alleged
10 actions in the First Amended Complaint must be had through the union's established grievance
11 procedures.

12 **TWENTY-SIXTH DEFENSE**

13 **(Waiver/Release)**

14 26. Defendant is informed and believes, and based upon such information and belief
15 avers, that by their conduct and/or based on a written waiver or release, Plaintiffs and the putative
16 aggrieved employees have waived and/or released some or all of the causes of action asserted in
17 the First Amended Complaint.

18 **TWENTY-SEVENTH DEFENSE**

19 **(Settlement and Release)**

20 27. Defendant is informed and believes, and based upon such information and belief
21 avers, that some or all of the purported causes of action in the First Amended Complaint are
22 subject to the doctrine of settlement and release.

23 **TWENTY-EIGHTH DEFENSE**

24 **(Justification and/or Privilege)**

25 28. Defendant is informed and believes, and based upon such information and belief
26 avers, that some or all of the purported causes of action in the First Amended Complaint are
27 barred in whole or in part because Defendant's acts and omissions were justified and/or
28 privileged.

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WHEREFORE, Defendant prays for judgment as follows:

- Dated: February 21, 2020

By

DB2/ 38162525.1

1 **PROOF OF SERVICE**

2 I, Luz Marie Ramirez, declare:

3 I am a citizen of the United States and employed in Santa Clara County, California. I am
4 over the age of eighteen years and not a party to the within entitled action. My business address
5 is 1400 Page Mill Road, Palo Alto, CA 94304. On February 21, 2020, I served a copy of the
6 within document(s):

7 **DEFENDANT CHEVRON U.S.A. INC.'S ANSWER TO**
8 **PLAINTIFFS' FIRST AMENDED COMPLAINT**

- 9 ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set
10 forth below on this date before 5:00 p.m.
- 11 ☒ by placing the document(s) listed above in a sealed envelope with postage thereon
12 fully prepaid, the United States mail at Palo Alto, California addressed as set forth
13 below.
- 14 ☐ by placing the document(s) listed above in a sealed envelope and affixing a pre-
15 paid air bill, and causing the envelope to be delivered to a agent for delivery.
- 16 ☐ by personally delivering the document(s) listed above to the person(s) at the
17 address(es) set forth below.
- 18 ☒ by transmitting via e-mail or electronic transmission the document(s) listed above
19 to the person(s) at the e-mail address(es) set forth below.

20 Kristina L. Hillman
21 Jannah V. Manansala
22 Alexander S. Nazarov
23 Weinberg, Roger & Rosenfeld
24 A Professional Corporation
25 1001 Marina Village Parkway, Suite 200
26 Alameda, California 94501
27 Tel: (510) 337-1001
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Attorneys for Plaintiffs

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage

meter date is more than one day after date of deposit for mailing in affidavit.

Executed on February 21, 2020, at Palo Alto, California.

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


Luz Marie Ramirez

DB2/ 38371223.1