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26 **Attorneys for Defendant**

27 SUPERIOR COURT OF THE STATE OF CALIFORNIA
28 FOR THE COUNTY OF KERN

29 LOUIS NEWELL, an individual, for himself)
30 and those similarly situated,)
31)
32 Plaintiff,)
33)
34 v.)
35)
36 ENSIGN UNITED STATES DRILLING)
37 (CALIFORNIA) INC., a California)
38 corporation; and DOES 1 through 100,)
39 inclusive,)
40)
41 Defendants.)

Case No. BCV-15-100367
[Assigned for all purposes to the Hon.
Lorna H. Brumfield, Dept. 17]
CLASS ACTION
**STIPULATION RE: CLASS
CERTIFICATION AND
DISPOSITIVE MOTIONS; AND
[Proposed] ORDER**

FILED
KERN COUNTY
OCT 27 2016
TERRY McNALLY, CLERK
BY _____ DEPUTY

1 **TO ALL INTERESTED PARTIES HEREIN AND TO THEIR ATTORNEYS OF**
2 **RECORD:**

3 Pursuant to California Rules of Court, Rule 3.762 *et seq.*, and the agreement of the
4 parties hereto, Plaintiff LOUIS NEWELL (“Plaintiff”) and Defendant ENSIGN UNITED
5 STATES DRILLING (CALIFORNIA) INC. (“Defendant”) herein (collectively referred to as
6 the “Parties”) hereby stipulate and agree, and seek a court order, as follows:

7 **I. RECITALS**

8 Whereas, this is a putative class action in which the Plaintiff, on behalf of himself and
9 all others similarly situated alleges that Defendant, with regard to its non-exempt employees
10 that stayed on oil platforms off the California coast for periods of 24 hours or more, failed to
11 provide all meal periods; pay minimum, overtime and doubletime wages; pay timely wages;
12 and that Defendant engaged in unfair business practices.

13 Whereas, Defendant denies each of Plaintiff’s allegations and objects to the defined
14 putative class.

15 Whereas, the deadline to file a class certification motion is presently scheduled for
16 October 31, 2016, pursuant to the prior scheduling order entered in this matter.

17 Whereas, the parties have met and conferred, and are in agreement that resolution of a
18 class-wide legal issue in the matter, by way of summary adjudication motion, would facilitate
19 resolution of the action and judicial economy if determined prior to the class certification
20 proceedings related to all other issues.

21 Whereas, the parties Joint Statement filed June 13, 2016 in this matter obligates the
22 parties to meet and confer to resolve any uncontroverted issues by written stipulation before
23 the class certification herein, and the parties here have done so.

24 Whereas, Code of Civil Procedure, section 437c(t) permits parties to move for summary
25 adjudication of a legal issue or a claim for damages other than punitive damages that does not
26 completely dispose of a cause of action or affirmative defense if, before filing such motion, (1)
27 the parties whose claims or defenses are put at issue submit a stipulation stating the issue or
28 issues to be adjudicated and a declaration from each stipulating party that the motion will

1 further the interest of judicial economy by decreasing trial time or significantly increasing the
2 likelihood of settlement; and (2) within 15 days of receipt of the stipulation and declarations,
3 the court notifies the parties that such motion may be filed.

4 Whereas, California Rules of Court, rule 3.762 *et seq.*, permits the court and counsel for
5 the parties latitude to schedule discovery, hearings, and other matters germane to resolution of
6 the action in the interest of judicial economy, and to enter into stipulations concerning such.

7 Whereas, California Rules of Court, rule 3.764, addressing motions to certify or
8 decertify a class, requires parties to endeavor to resolve any uncontroverted issues by written
9 stipulation and states that if all class issues are resolved by stipulation and approved by the
10 court before hearing, no hearing on class certification is necessary.

11 Whereas, California Rules of Court, rule 3.765(b) permits court orders maintaining a
12 class action limited to particular issues when appropriate.

13 Whereas, California Rules of Court, rule 3.766(b) requires the class proponent to
14 submit a statement regarding class notice and a proposed notice to class members, which must
15 state whether notice is necessary; whether class members may exclude themselves from the
16 action; the time and manner in which notice should be given; a proposal for which parties
17 should bear the costs of notice; and an estimate of the cost involved in giving notice, if the cost
18 will be shared or shifted.

19 Whereas, California Rules of Court, rule 3.766(c) provides that, upon certification of a
20 class, the Court must make an order determining the topics described above, as well as the
21 content of the class notice and manner of giving the class notice pursuant to California Rules
22 of Court, rule 3.766(d)-(e).

23 Whereas, the parties recognize that a significant percentage of the claims at issue arise
24 out of or are related to putative class members' time spent on oil platforms located in federal
25 waters off the California coast.

26 Whereas, Defendant raised an affirmative defense asserting that, to the extent that
27 Plaintiff or any putative class member's state wage and hour claims arise out of or relate to
28 work performed on off-shore platforms subject to the Outer Continental Shelf Lands Act

1 (“OCSLA”), 43 U.S.C., § 1333, Plaintiff and the putative class members’ state claims are
2 preempted by the Fair Labor Standards Act of 1938. Plaintiff vigorously disputes Defendant’s
3 interpretation of the law in this regard.

4 Whereas, the Parties have each submitted declarations pursuant to Code of Civil
5 Procedure section 437c(t) in support of filing motions for summary adjudication, which are
6 attached to this Stipulation as Exhibits “A” and “B.”

7 Wherefore, the Parties agree as follows and seek a court order accordingly:

8 **II. STIPULATION**

9 Pursuant to the foregoing recitals, which are incorporated herein by this reference, and
10 subject to this Court’s approval, the parties hereby stipulate and agree as follows:

11 Motion / Cross-Motions for Summary Adjudication of Issues

12 1. As part of the meet and confer process, the parties have identified a dispositive
13 legal issue in the matter—whether offshore work performed on oil platforms located in federal
14 waters is subject to the OCSLA and, if so, whether federal wage and hour law applies, to the
15 exclusion of California wage and hour law; or if, instead, California law is adopted as
16 surrogate federal law or is otherwise applicable to the work performed by putative class
17 members in federal waters.

18 2. Pending the Court’s approval pursuant to Code of Civil Procedure section
19 437c(t), the Parties will file motions and cross-motions as to the above narrow legal issue
20 (“Motions for Summary Adjudication” or “MSA”), the hearing schedule for which will be
21 determined at a hearing 60 days after the Court certifies a limited purpose class (described
22 below) and notice of that certification has been provided to the proposed class members.

23 Limited Purpose Class Certification

24 3. The parties agree that the Court’s determination of the legal issue that is the
25 subject of the MSA shall not be contested as being applicable in this matter on a class-wide
26 basis (i.e., as part of any subsequent certification proceedings in the matter). In this regard, the
27 Parties stipulate to certify a class for the *limited purpose* of determining the legal merits of
28

1 Defendant's preemption defense as it relates to Defendant's non-exempt employees that
2 worked and stayed on oil platforms located in federal waters off the California coast for
3 periods of 24 hours or more, to the extent such employees' state wage and hour claims arise
4 from or relate to this fact ("MSA Class").

5 4. The parties agree that, solely for purposes of resolving the legal issues raised by
6 the MSA, the MSA Class satisfies the applicable standards for certification under Code of
7 Civil Procedure section 382, as follows:

- 8 a. The proposed limited purpose class is ascertainable in that all MSA Class
9 members can be identified through Defendant's employee and payroll records;
- 10 b. The proposed MSA Class is sufficiently numerous to warrant a class-wide
11 determination of the MSA in that MSA Class members are large enough that
12 joinder of all members would be impracticable;
- 13 c. The proposed limited purpose MSA Class shares an adequate community of
14 interest in that all MSA Class members worked and stayed on oil platforms
15 located in federal waters off the California coast for periods of 24 hours or more
16 and, consequently, Defendant seeks to defeat their state wage and hour claims on
17 the merits, to the extent they arise from or relate to this fact;
- 18 d. As they relate to the MSA, the claims of the class representative plaintiff is
19 typical of the claims of other MSA Class members in that, like other MSA Class
20 members, Plaintiff Newell spent time and worked on oil platforms located in
21 federal waters off the California coast for periods of 24 hours or more and,
22 consequently, has a similar interest as other MSA Class members in defeating
23 Defendant's preemption defense; and
- 24 e. The representative plaintiff and his counsel are "adequate" for purposes of
25 certifying the proposed MSA Class in that Plaintiff's counsel is qualified to
26 conduct the pending litigation and Plaintiff Newell does not have an interest
27 antagonistic to those of the MSA Class with regard to narrow issues to be
28 addressed by the MSA.

1 (See *Sav-On Drug Stores, Inc. v. Superior Court* (2000) 34 Cal.4th 319, 326.)

2 5. Following certification of the MSA Class for the limited purpose of determining
3 the legal merits of Defendant's preemption defense as it relates to the MSA Class, the parties
4 agree to the following procedures for notifying the putative class regarding this class
5 certification and providing putative class members an opportunity to be excluded from the
6 MSA Class and adjudication of the issues raised in the MSA:

7 a. Within 10 days after the Court certifies the MSA Class for the limited purpose of
8 adjudicating the issues raised in the MSA, the parties will jointly submit a
9 statement regarding class notice, pursuant to California Rules of Court, rule
10 3.766(b), which will include, among other things, a proposed order describing
11 the method of notifying putative class members of the certification, along with a
12 proposed notice and opt out form ("Notice Packet");

13 b. Within 30 days of the Court's order pursuant to California Rules of Court, rule
14 3.766(c), the parties will use a third party administrator, CPT Group, Inc., to
15 disseminate the Notice Packet as approved by the Court;

16 6. The putative class members, who will be bound by any ruling on the MSA,
17 include all members of the MSA Class who did not submit a timely and valid opt out form.
18 For purposes of the MSA, the members of the MSA Class shall be represented by Plaintiff and
19 shall include Plaintiff and all MSA Class members, excluding only those persons who
20 submitted timely and valid opt out form.

21 7. The parties agree that the ruling on the dispositive motion shall be considered a
22 "death knell" ruling and subject to immediate appeal. *See, e.g., Linder v. Thrifty Oil Co.*
23 (2000) 23 Cal.4th 429, 435; *Daar v. Yellow Cab Co.* (1967) 67 Cal. 2d 695, 699; *Wilner v.*
24 *Sunset Life Ins. Co.* (2000) 78 Cal. App. 4th 952, 957.

25 8. The parties further agree that, following a final ruling on the dispositive motion,
26 in the interests of judicial economy and resolution of the matter, the parties shall meet-and-
27 confer to schedule a second mediation of the matter, and participate in said mediation in good
28 faith.

1
2 Class Certification Proceedings

3 9. The current hearing schedule for Plaintiff's motion for certification shall be
4 vacated without prejudice to either party to move or oppose class certification at a later date,
5 other than the narrow certification agreed to in this Stipulation;

6 10. Defendant has not waived and specifically reserves the right to object to and
7 challenge any other classes of individuals or issues other than the limited purpose of
8 determining the legal merits of Defendant's preemption defense as it relates to the MSA Class;

9 11. At a hearing set by the Court at least 60 days after the Notice Packet has been
10 disseminated, the Parties will report the status of the class notice and opt out forms received
11 from MSA Class members, along with a joint proposal for the MSA hearing schedule; and

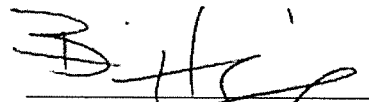
12 12. Prior to the a Case Status Conference following the Court's ruling on the MSA,
13 the parties agree to jointly file a proposed hearing schedule as to Plaintiff's anticipated motion
14 for certification on all remaining issues, as applicable.

15
16 **SO STIPULATED.**

17
18 DATED: October 25, 2016

PALAY HEFELFINGER, APC

19 By:

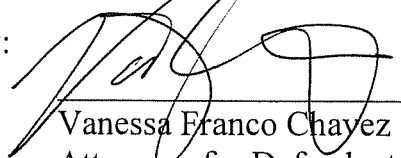


Brian D. Hefelfinger
Attorneys for Plaintiff and
the Putative Class

20
21
22
23
24 DATED: October 25, 2016

**KLEIN, DENATALE, GOLDNER,
COOPER, ROSENLIEB & KIMBALL, LLP**

25
26 By:



Vanessa Franco Chavez
Attorneys for Defendant

1 [PROPOSED] ORDER

2 Pursuant to the foregoing stipulation, and good cause appearing, it is hereby ordered as
3 follows:
4

5 1. All previously scheduled deadlines associated with the filing of Plaintiff LOUIS
6 NEWELL's motion for class certification shall be vacated, including Newell's October 31,
7 2016 deadline for filing his motion and Defendant ENSIGN UNITED STATES DRILLING
8 (CALIFORNIA) INC.'s January 30, 2017 deadline for filing its opposition to said motion;

9 2. The Case Status Conference currently set for March 15, 2017 at 8:15 a.m. in
10 Department 17 shall be vacated;

11 **Motion and Cross Motion for Summary Adjudication**

12 3. Pursuant to Code of Civil Procedure section 437c(t), the Parties are permitted to
13 file motions and cross-motions as to the following narrow legal issues—whether offshore
14 work performed on oil platforms located in federal waters is subject to the OCSLA and, if so,
15 whether federal wage and hour law applies, to the exclusion of California wage and hour law;
16 or if, instead, California law is adopted as surrogate federal law or is otherwise applicable to
17 the work performed in federal waters by Defendant's non-exempt employees that worked and
18 stayed on oil platforms located in federal waters off the California coast for periods of 24
19 hours or more, to the extent such employees' state wage and hour claims arise from or relate to
20 this fact ("Motions for Summary Adjudication" or "MSA");

21 **Limited Class Certification for the Purpose of the MSA**

22 4. A class shall be certified for the limited purpose of obtaining a ruling on the
23 MSA (as set forth above) as the MSA relate to Defendant's non-exempt employees that
24 worked and stayed on oil platforms located in federal waters off the California coast for
25 periods of 24 hours or more, to the extent such employees' state wage and hour claims arise
26 from or relate to this fact ("MSA Class");

27 5. The issue of class certification with regard to any other issues or putative class
28 members shall be reserved, and certification of the MSA Class does not prejudice either party

1 to move or oppose class certification as to any other issues or putative class members at a later
2 date;

3 **Notice of Certification to the MSA Class**

4 6. Within 10 days after this Order is issued, the Parties shall jointly submit a
5 statement regarding class notice, pursuant to California Rules of Court, rule 3.766(b), which
6 shall include, among other things, a proposed order describing the method of notifying MSA
7 Class members of the certification, along with a proposed notice and opt out form (“Notice
8 Packet”);

9 7. A hearing on the Notice Packet and method of notifying MSA Class members of
10 the certification will take place, if necessary, on **November 29, 2016** at 830 a.m., or
11 the Court’s next available date, unless the Court issues an order regarding the Notice prior to
12 that time;

13 8. Within 30 days of the Court’s order pursuant to California Rules of Court, rule
14 3.766(c) following such hearing, the parties will use a third party administrator, CPT Group,
15 Inc., to disseminate the Notice Packet as approved by the Court;

16 **Hearing Schedule Re: Class Notice and MSA**

17 9. A Case Status Conference regarding the status of the class notice and opt out
18 forms received from class members and to set the MSA hearing schedule will take place on
19 **February 20, 2017** at 830 a.m., or the Court’s next available date; and

20 10. The Parties shall jointly file a case status statement at least 15 calendar days
21 prior to the hearing on February 20, 2017, or other date set by the Court, describing the status
22 of the class notice and opt out forms received and proposing an MSA hearing schedule.

23
24 SO ORDERED.

25
26 DATED: 10/27/16

LORNA H. BRUMFIELD

Judge of the Superior Court

EXHIBIT "A"

1 Brian D. Hefelfinger, SBN 253054
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8
9 Attorneys for Plaintiff LOUIS NEWELL
10 and the Putative Class

11
12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF KERN, METROPOLITAN DIVISION**

15 LOUIS NEWELL, an individual, for himself and
16 those similarly situated,

17 Plaintiff,

18 v.

19 ENSIGN UNITED STATES DRILLING
20 (CALIFORNIA) INC., a California corporation;
21 and DOES 1 through 100, inclusive,

22 Defendants.

Case No. BCV-15-100367

**DECLARATION OF BRIAN D.
HEFELFINGER IN SUPPORT OF
MOTION FOR SUMMARY
ADJUDICATION PER CCP 437C(T)**

Assigned to: Hon. Lorna H.
Brumfield
Dept.: 17
Complaint Filed: 6/22/15
Trial Date: None Set

23 I, BRIAN D. HEFELFINGER, declare as follows:

24 1. I am an attorney at law duly licensed before all courts of the State of California
25 and before this Court. I am an attorney with Palay Hefelfinger, APC, attorneys of record for
26 Plaintiff LOUIS NEWELL ("Newell") and the putative class of employees described in the
27 operative complaint in this action.

28 2. I have personal knowledge of the facts contained in this declaration and, if
required to do so, I could and would competently testify to the matters set forth in this
declaration.

///

///

1 3. I make this Declaration pursuant to Code of Civil Procedure 437c(t)(1)(A) in
2 support of ENSIGN UNITED STATES DRILLING (CALIFORNIA) INC. (“Defendant” or
3 “Ensign”) and Plaintiff LOUIS NEWELL’s (“Newell”) Stipulation Re: Class Certification And
4 Class Action Scheduling.

5 4. This is a putative class action in which Newell, on behalf of himself and all others
6 similarly situated alleges that Ensign, with regard to its non-exempt employees that stayed on oil
7 platforms off the California coast for periods of 24 hours or more, failed to provide all meal
8 periods; pay minimum, overtime and double-time wages; pay timely wages; and that Ensign
9 engaged in unfair business practices.

10 5. In Ensign’s First Amended Answer to First Amended Complaint, Ensign denies
11 each of Newell’s allegations and objects to the defined putative class. Among the various
12 affirmative defenses raised in the operative Answer, Ensign raised an affirmative defense of
13 preemption based on the wage and hour claims arising out of or relating to work performed on
14 off-shore platforms which may be subject to the Outer Continental Shelf Lands Act (“OCSLA”),
15 43 U.S.C., § 1333 (“Ensign’s Preemption Defense”).

16 6. Counsel for the Parties, including myself, have continuously met and conferred
17 toward resolving the case. However, in order to do so, a key issue in this case—Ensign’s
18 Preemption Defense, will need to be ruled upon.

19 7. To that end, the Parties have engaged in streamlined discovery, designed to
20 ascertain the size of the class, number of shifts at issue, number of shifts on platforms in federal
21 waters as contrasted to state waters, and approximate hourly rates of pay for putative class
22 members.

23 8. Preliminarily, the Parties determined that there were 181 putative class members
24 who worked approximately 24,000 shifts at issue, of which 19,000 occurred on platforms in
25 federal waters.

26 9. Following this limited discovery, the Parties attended a private mediation on
27 January 27, 2016, which did not result in a resolution of the Parties’ disputes, but helped focus the
28 issues for determination.

1 10. Plaintiff has since taken two Person Most Knowledgeable depositions and,
2 pursuant to a stipulated *Belaire-West* notice and opt out procedure, has been provided with the
3 names and contact information of putative class members who did not opt out of providing such
4 information.

5 11. In their last Joint Case Management Conference Statement, the Parties jointly
6 proposed a hearing schedule for Plaintiff's motion for certification. At the Case Management
7 Conference, the Court set a deadline for Newell to file such motion by October 31, 2016.

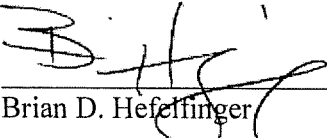
8 12. However, after further meeting and conferring among counsel, the Parties agree
9 that resolution of the merits of Ensign's Preemption Defense, by way of summary adjudication
10 motion, may help significantly to facilitate resolution of the action and judicial economy if
11 determined prior to the class certification proceedings related to all other issues.

12 13. A resolution of this issue, even though it will not dispose of any of Newell's
13 causes of action in their entirety, will further judicial economy in that such determination will
14 define the scope of putative class members and shifts at issue for (i) motions for certification, (ii)
15 trial purposes and (iii) damages calculations.

16 14. Also, I believe that resolution of this issue (the Ensign Preemption Defense), will
17 significantly increase the likelihood of settlement. This is especially true in light of the Parties'
18 agreement to attempt further mediation following a final ruling on a motion for summary
19 adjudication.

20 15. Based on the foregoing, the Parties are in agreement herein that summary
21 adjudication of the legal issue of the Ensign Preemption Defense in this matter is substantially
22 likely to further the interest of judicial economy by decreasing trial time and/or significantly
23 increasing the likelihood of settlement, as defined within *Code of Civil Procedure* § 437c.

24 I declare under penalty of perjury and the laws of the State of California that the foregoing
25 is true and correct. Executed this 20th day of October, 2016, in Ventura, California.

26
27
28


Brian D. Hefelfinger

EXHIBIT "B"

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2 Vanessa Franco Chavez, SBN 266724
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4 COOPER, ROSENLIEB & KIMBALL, LLP
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9 Email: dcooper@kleinlaw.com
10 vchavez@kleinlaw.com

11 Attorneys for Defendants ENSIGN UNITED
12 STATES DRILLING (CALIFORNIA) INC.

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF KERN, METROPOLITAN DIVISION**

15 LOUIS NEWELL, an individual, for himself and
16 those similarly situated,

17 Plaintiff,

18 v.

19 ENSIGN UNITED STATES DRILLING
20 (CALIFORNIA) INC., a California corporation;
21 and DOES 1 through 100, inclusive,

22 Defendants.

Case No. BCV-15-100367

**DECLARATION OF O. VANESSA
FRANCO CHAVEZ IN SUPPORT OF
MOTION FOR SUMMARY
ADJUDICATION PER CCP 437C(T)**

Assigned to: Hon. Lorna H.
Brumfield
Dept.: 17
Complaint Filed: 6/22/15
Trial Date: None Set

23 I, VANESSA FRANCO CHAVEZ, declare as follows:

24 1. I am an attorney at law duly licensed before all courts of the State of California
25 and before this Court. I am a partner with the firm of Klein, DeNatale, Goldner, Cooper,
26 Rosenlieb, & Kimball, LLP, the attorneys of record for Defendant, ENSIGN UNITED STATES
27 DRILLING (CALIFORNIA) INC. ("Ensign").

28 2. I have personal knowledge of the facts contained in this declaration and, if
required to do so, I could and would competently testify to the matters set forth in this
declaration.

///

1 3. I make this Declaration pursuant to Code of Civil Procedure 437c(t)(1)(A) in
2 support of Ensign and Plaintiff LOUIS NEWELL's ("Newell") Stipulation Re: Class Certification
3 and Dispositive Motions.

4 4. This is a putative class action in which Newell, on behalf of himself and all others
5 similarly situated alleges that Ensign, with regard to its non-exempt employees that stayed on oil
6 platforms off the California coast for periods of 24 hours or more, failed to provide all meal
7 periods; pay minimum, overtime and doubletime wages; pay timely wages; and that Ensign
8 engaged in unfair business practices.

9 5. In Ensign's First Amended Answer to First Amended Complaint, Ensign denies
10 each of Newell's allegations and objects to the defined putative class. Among the various
11 affirmative defenses raised in, Ensign raised an affirmative defense asserting that, to the extent
12 that Plaintiff or any putative class member's state wage and hour claims arise out of or relate to
13 work performed on off-shore platforms subject to the Outer Continental Shelf Lands Act
14 ("OCSLA"), 43 U.S.C., § 1333, Newell and the putative class members' state claims are
15 preempted by the Fair Labor Standards Act of 1938 ("Ensign's Preemption Defense").

16 6. Counsel for the Parties, including myself, have continuously met and conferred
17 toward resolving this case. However, in order to do so or to at least narrow the issues for trial, a
18 key issue in this case will need to be resolved—Ensign's Preemption Defense.

19 7. To that end, the Parties have engaged in streamlined discovery, designed to
20 ascertain the size of the class, number of shifts at issue, number of shifts on platforms in federal
21 waters as contrasted to state waters, and approximate hourly rates of pay for putative class
22 members.

23 8. Preliminarily, the Parties determined that there were 181 putative class members
24 who worked approximately 24,000 shifts, of which approximately 19,000 occurred on platforms
25 in federal waters.

26 9. Following this limited discovery, the Parties attended a private mediation on
27 January 27, 2016, which did not result in a resolution of the Parties' disputes, but helped focus the
28 issues for determination.

1 10. Plaintiff has since taken two Person Most Knowledgeable depositions and,
2 pursuant to a stipulated *Belaire-West* notice and opt out procedure, has been provided with the
3 names and contact information of putative class members who did not opt out of providing such
4 information.

5 11. In their last Joint Case Management Conference Statement, the Parties jointly
6 proposed a hearing schedule for Plaintiff's motion for certification. At the Case Management
7 Conference, the Court set a deadline for Newell to file such motion by October 31, 2016.

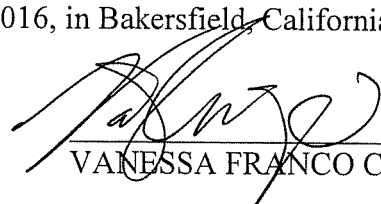
8 12. However, after further meeting and conferring among counsel, the Parties agree
9 that resolution of the merits of Ensign's Preemption Defense, by way of summary adjudication
10 motion, may significantly help facilitate resolution of the action and further judicial economy if
11 determined prior to the class certification proceedings related to all other issues.

12 13. A resolution of this issue, even though it will not dispose of any of Newell's
13 causes of action in their entirety, will further judicial economy in that such determination will
14 define the scope of putative class members and shifts at issue for (i) motions for certification, (ii)
15 trial purposes, and (iii) calculation of damages, if any.

16 14. Also, I believe resolution of this issue (the Ensign Preemption Defense) will
17 significantly increase the likelihood of settlement, especially in light of the Parties' agreement to
18 attempt mediation following a final ruling on a motion for summary adjudication.

19 15. Based on the foregoing, the Parties are in agreement herein that summary
20 adjudication of the legal issue of the Ensign Preemption Defense in this matter is substantially
21 likely to further the interest of judicial economy by decreasing trial time and/or significantly
22 increasing the likelihood of settlement, as defined within *Code of Civil Procedure* § 437c.

23 I declare under penalty of perjury and the laws of the State of California that the foregoing
24 is true and correct. Executed this 25 day of October, 2016, in Bakersfield, California.

25
26 
27 VANESSA FRANCO CHAVEZ
28

1 Case No. BCV-15-100367

2
3 **PROOF OF SERVICE**

4 STATE OF CALIFORNIA, COUNTY OF KERN

5 I am employed in the County of Kern, State of California. I am over the age of eighteen
6 years and not a party to the within action; my business address is 4550 California Ave., Second
7 Floor, Bakersfield, CA 93309. My email address is kratekin@kleinlaw.com.

8 On October 25, 2016, I served the following document(s) described as

9 **STIPULATION RE: CLASS CERTIFICATION AND DISPOSITIVE MOTIONS; AND**
10 **[PROPOSED] ORDER**

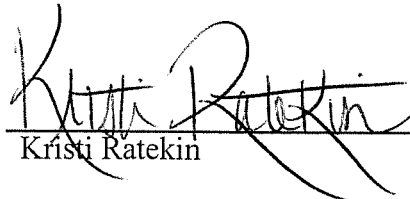
11 on the interested parties in this action by placing a copy thereof enclosed in sealed envelopes
12 addressed as follows:

13 **SEE ATTACHED LIST**

14 **BY MAIL** I enclosed such document in sealed envelope(s) with the name(s) and
15 address(s) of the person(s) served as shown on the envelope(s) and caused such envelope(s) to be
16 deposited in the mail at Bakersfield, California. The envelope(s) was/were mailed with postage
17 thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and
18 processing correspondence for mailing. It is deposited with the U.S. postal service on that same
19 day in the ordinary course of business. I am aware that on motion of party, service is presumed
20 invalid if postal cancellation date or postage meter date is more than one day after date of deposit
21 for mailing in affidavit.

22 Executed on October 25, 2016, at Bakersfield, California.

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

25 
26 Kristi Ratekin

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SERVICE LIST

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