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7 Attorneys for Plaintiff XXX and the Putative Class

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 XXX, an individual,
for himself and those similarly situated,

12 Plaintiff,

13 v.
14

15 XXX,
a XXX corporation doing business in California;
16 and DOES 1 through 100, inclusive,

17 Defendants.
18
19
20

Case No. 3:18-CV-01815-TSH

PUTATIVE CLASS ACTION

PLAINTIFF'S INITIAL DISCLOSURES

Assigned to Hon. XXX

21 Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, plaintiff XXX ("Plaintiff")
22 makes the following initial disclosures (the "Disclosures") related to this action.

23 **INTRODUCTION**

24 These Disclosures are made without the waiver, intentional or otherwise, of all privileges
25 provided by law, including without limitation, the attorney-client privilege and the attorney work
26 product doctrine. Plaintiff expressly reserves the further right not to disclose information subject to
27 privilege, attorney work-product or privacy, and expressly reserve all objections as to the
28 discoverability, admissibility and/or relevance of all information disclosed herein.

1 The Disclosures herein are based upon information reasonably available to Plaintiff at this time.
2 Furthermore, the Disclosures are limited to the status of the case to-date. Plaintiff has not completed
3 the investigation of this matter, and discovery has only recently commenced. Additional investigation
4 and discovery regarding Plaintiff's claims and Defendant's defenses may reveal other information that
5 may be applicable. Plaintiff reserves the right to revise, withdraw and/or supplement the Disclosures
6 made herein, pursuant to law and as future events warrant.

7 **STATUTORY AUTHORITY**

8 Federal Rules of Civil Procedure, Rule 26(a) provides:

9 **(a) Required Disclosures.**

10 **(1) Initial Disclosure.**

11 **(A) In General.** Except as exempted by Rule 26(a)(1)(B) or as otherwise
12 stipulated or ordered by the court, a party must, without awaiting a
13 discovery request, provide to the other parties:

14 **(i)** the name and, if known, the address and telephone number of each
15 individual likely to have discoverable information--along with the subjects
16 of that information--that the disclosing party may use to support its claims
17 or defenses, unless the use would be solely for impeachment;

18 **(ii)** a copy – or a description by category and location – of all documents,
19 electronically stored information, and tangible things that the disclosing
20 party has in its possession, custody, or control and may use to support its
21 claims or defenses, unless the use would be solely for impeachment;

22 **(iii)** a computation of each category of damages claimed by the disclosing
23 party--who must also make available for inspection and copying as under
24 Rule 34 the documents or other evidentiary material, unless privileged or
25 protected from disclosure, on which each computation is based, including
26 materials bearing on the nature and extent of injuries suffered; and

27 **(iv)** for inspection and copying as under Rule 34, any insurance agreement
28 under which an insurance business may be liable to satisfy all or part of a

1 possible judgment in the action or to indemnify or reimburse for payments
2 made to satisfy the judgment.

3 **PLAINTIFFS' INITIAL DISCLOSURES (AS OF MAY 10, 2018)**

4 **1. WITNESSES**

5 Pursuant to Fed. R. Civ. P., Rule 26(a)(1)(A)(i), Plaintiff is presently aware of the following
6 individuals who may have discoverable information which Plaintiffs may use to support their claims
7 (exclusive of witnesses to be used solely for impeachment):

- 8 a. All hourly employees of XXX ("XXX") who, at any time within four years from the date
9 of filing of this lawsuit, worked on oil platforms off the California coast for periods of
10 24 hours or more (i.e., the putative class members). These individuals have knowledge
11 about their job duties, the job requirements and practices applicable to the putative class,
12 and the hours worked by the putative class. Plaintiff is informed and believes that
13 Defendant is in possession of the names and contact information of these individuals.
- 14 b. All managers of the putative class members described above, in par. (a), who, at any time
15 within four years from the date of filing of this lawsuit, managed workers on oil platforms
16 off the California coast. These managers presumably have knowledge about the putative
17 class members' job duties, the job requirements and practices, and the hours worked.
18 Plaintiff is informed and believes that Defendant is in possession of the names and
19 contact information of these managers.
- 20 c. All persons who, at any time within four years from the date of filing of this lawsuit,
21 worked on Defendant's oil platforms off the California coast. These persons (even if not
22 employed directly by XXX) presumably have knowledge about the putative class
23 members' job duties, the job requirements and practices, and the hours worked. These
24 persons can be employed by other employers, including, but not limited to XXX. Plaintiff
25 is informed and believes that Defendant, among others, may be in possession of the
26 names and contact information of these persons.

1 **2. DOCUMENTS**

2 Pursuant to Fed. R. Civ. P. Rule 26(a)(1)(A)(ii), Plaintiff is presently aware of the following
3 categories of documents that are within their possession, custody and control which Plaintiffs may use
4 to support their claims (exclusive of materials to be used solely for impeachment):

- 5 a. Payroll and other personnel file documents provided to and maintained by the Plaintiff.
6 Said documents are maintained by XXX, as well as, in part, by Plaintiff, and are located
7 at 121 N. Fir St., Suite F, Ventura, CA 93001.
- 8 b. All documents signed by Plaintiff as a condition of obtaining or holding employment
9 with XXX, including his personnel file. Said documents are maintained by XXX, and
10 some are held by Plaintiff, and are located at 121 N. Fir St., Suite F, Ventura, CA 93001.
- 11 c. Safety manuals, handbooks, transportation policies, travel logs maintained by XXX or
12 other third party relating to XXX's conducting business on platforms on the Outer
13 Continental Shelf off the coast of California. Said documents are maintained by XXX.
- 14 d. Declarations of putative class members in support of Plaintiffs' motion for class
15 certification (exclusive of work-product). Said documents are, or will be, located at 121
16 N. Fir St., Suite F, Ventura, CA 93001.
- 17 e. The pleadings, declarations, exhibits, and memoranda file by XXX herein. Said
18 documents are located at 121 N. Fir St., Suite F, Ventura, CA 93001.
- 19 f. Time records maintained for all putative class members. Said documents are maintained
20 by XXX.
- 21 g. Contracts between XXX and any third party relating to XXX's conducting business on
22 platforms on the Outer Continental Shelf off the coast of California. Said documents are
23 maintained by XXX.
- 24 h. Plaintiff reserves the right to amend this once other documents are made known to him
25 through regular discovery procedures, or otherwise.

26 **3. DAMAGES**

27 Plaintiff and the putative class have suffered damages from possible unpaid overtime and, if
28 applicable, double-time pay and meal/rest period premiums. In the alternative, damages from unpaid

1 minimum wages, plus liquidated damages thereon, are owed. Plaintiffs and the putative class further
2 are owed interest thereon at 10% per annum.

3 Plaintiffs seek the overtime and double-time wages owed (or, in the alternative, minimum wages
4 plus liquidated damages), and interest thereon, going back to the filing of the initial complaint in this
5 action. The overtime claim is currently dismissed, but Plaintiff is hopeful that it will be revived prior to
6 the need for an interlocutory appeal.

7 The exact amount of the wages owed at this time is unknown. The precise figure will depend
8 on how many overtime and double-time hours constitute “hours worked” under the applicable law and
9 regulations, for the relevant time-period. Defendant is in possession of information concerning the hours
10 worked and the time spent by putative class members offshore (though Plaintiff believes that
11 Defendant’s calculations do not include all hours worked, as such hours have been defined under
12 California statutes and case law, and that the true number of hours worked vastly exceeds the number
13 stated in Defendant’s records) and the number of putative class members, so Plaintiff cannot accurately
14 calculate the damages for this element of his claims. Plaintiff believes that the overtime/double-time
15 wages (without interest) owed could exceed \$XXX. In the alternative, Plaintiff believes that the
16 minimum wages (without interest) owed could exceed XXX.

17 Plaintiff and the putative class additionally seek meal and rest period premiums based on the
18 Defendant’s failure to provide all lawful meal periods during the four years preceding the Complaint in
19 this action. Plaintiff and the putative class further are owed interest thereon at 10% per annum. The
20 exact amount of the meal and rest period premiums owed at this time is unknown. The precise figure
21 will depend on how many workdays the putative class members have worked within the relevant time
22 period, as well as the workers’ applicable hourly rates of pay – information that we have yet to receive
23 from Defendant, despite informal and formal requests. Defendant is in possession of information
24 concerning the number of hours and days worked, the rates of pay, and the number of putative class
25 members, so Plaintiff cannot accurately calculate the damages for this element of his claims at present.
26 Plaintiff believes that the meal period premiums owed exceed \$XXX (estimated). Plaintiff believes that
27 the rest period premiums owed exceed \$XXX (estimated).

1 Plaintiffs and the putative class additionally seeks available penalties under Labor Code sections
2 203. The precise amount of Labor Code penalties will depend on the number of violations that have
3 occurred within the statutory period(s), which in turn hinges on the number of resigned/terminated
4 putative class members, the number of workweeks worked, and related variables within the relevant
5 time period. Defendant is in possession of information concerning the resigned/terminated employees,
6 hours worked, the time spent by putative class members offshore, and the number of putative class
7 members, so Plaintiffs cannot accurately calculate the damages for these potential claims, at present.
8 Plaintiff believes that the Section 203 penalties owed approach \$XXX (estimated).

9 **4. INSURANCE**

10 This section of Fed. R. Civ. P. Rule 26, specifically subd. (a)(1)(A)(iv), is not applicable to the
11 Plaintiff and the putative class herein.

12 DATED: XXX

STRAUSS & STRAUSS, APC

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14
15 By: _____
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17 Aris E. Karakalos
18 Attorneys for Plaintiff and the
19 Putative Class
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