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10 MARATHON REFINING LOGISTICS SERVICES, LLC

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13

14 JANICE WOOD, ANTHONY ALFARO and
15 AARON DIETRICH on behalf of themselves and
others similarly situated,

16 Plaintiffs,

17 v.

18 MARATHON REFINING LOGISTICS
19 SERVICES LLC and DOES 1 THROUGH AND
INCLUDING 25,

20 Defendants.
21

Case No. 4:19-cv-04287-YGR

Hon. Yvonne Gonzales Rogers

**DEFENDANT’S ANSWER TO
PLAINTIFFS’ FIFTH AMENDED CLASS
ACTION COMPLAINT**

Complaint Filed: June 24, 2019
Fifth Amended Complaint Filed: June 17, 2022

1 Defendant Marathon Refining Logistics Services LLC (“Defendant” or “Marathon”) hereby
2 answers the Fifth Amended Complaint (“Complaint”) filed by Plaintiffs Janice Wood, Anthony Alfaro,
3 and Aaron Dietrich (“Plaintiffs”) in the above-captioned action.

4 1. Answering paragraph 1, Defendant admits that Plaintiffs purport to bring a class action
5 on behalf of themselves and others against Defendant but denies that a class action is appropriate.
6 Defendant denies the remaining allegations.

7 2. Answering paragraph 2, Defendant admits the parties have entered a stipulation, the
8 specific terms of which are set out at Dkt. 53. Defendant admits that Plaintiffs have quoted portions of
9 the stipulation, but denies that Plaintiffs have accurately or fully set out the complete terms and
10 conditions of the stipulation, the terms of which speak for themselves as reflected in the stipulation
11 itself. Defendant denies all remaining allegations in paragraph 2.

12 3. Answering paragraph 3, Defendant admits the parties have entered a stipulation, the
13 specific terms of which are set out at Dkt. 53. Defendant denies that Plaintiffs have accurately or fully
14 set out the complete terms and conditions of the stipulation, the terms of which speak for themselves as
15 reflected in the stipulation itself. Defendant denies all remaining allegations in paragraph 3.

16 4. Answering paragraph 4, Defendant admits that certain, but not all, Operators at its
17 refinery in Martinez, California have been scheduled to work 12 hour shifts. Defendant denies that
18 operators at Marathon’s Martinez refinery must regularly be available for designated 12 hour standby
19 “shifts” twice a day. Defendant asserts that the various collectively-bargained standby procedures,
20 practices and exceptions to which Plaintiffs and other Operators at the Martinez refinery consented
21 provide that the Union and employees determine participation and designation of standby, and that this
22 Union and employee-determined process varies by unit. Defendant denies the remaining allegations.

23 5. Answering paragraph 5, Defendant admits that certain, but not all, Operators at its
24 refinery in Martinez, California have negotiated and consented via their Union representatives to a
25 standby process that includes the referenced time periods, but that the practices vary by unit. Defendant
26 avers that the governing collective bargaining agreements, side letters, and shop practice provide for
27 exceptions not identified in Plaintiffs’ allegations. Defendant denies that the collectively-bargained
28 standby procedures “significantly constrain” Operators’ activities. Defendant admits that Operators,

1 when they are not contacted on standby, generally are not paid for standby when they have not reported
2 for work, have not been directed to work, nor been suffered or permitted to work, and were not under
3 Defendant's control. Defendant denies the remaining allegations.

4 6. Defendant denies the allegations in paragraph 6.

5 7. Answering paragraph 7, Defendant admits that certain, but not all, maintenance workers
6 at its refinery in Martinez, California have negotiated and consented via their Union representatives to a
7 standby process, but that the practice varies, and that the governing collective bargaining agreements,
8 side letters, and shop practice provide for exceptions not identified in Plaintiffs' allegations. Defendant
9 denies that the collectively-bargained standby procedures "significantly constrain" maintenance
10 workers' activities. Defendant admits that maintenance workers, when they are not contacted on
11 standby, generally are not paid for standby when they have not reported for work, have not been directed
12 to work, nor been suffered or permitted to work, and were not under Defendant's control. Defendant
13 denies the remaining allegations.

14 8. Defendant denies the allegations in paragraph 8.

15 9. Answering paragraph 9, Defendant admits that certain, but not all, Operators at its
16 refinery in Martinez, California have negotiated and consented via their Union representatives to a
17 standby process that includes the referenced time periods, but that the practices vary by unit. Defendant
18 denies that the collectively-bargained standby procedures prohibit the identified activities. Defendant
19 avers that the collective bargaining agreements, side letter agreements and shop practice provide for
20 Union and employee (rather than employer) designations as to who participates in standby, provide
21 exceptions not identified in Plaintiffs' allegations, and vary by unit. Defendant denies the remaining
22 allegations.

23 10. Defendant denies the allegations in paragraph 10.

24 11. Defendant denies the allegations in paragraph 11.

25 12. Defendant denies the allegations in paragraph 12.

26 13. Answering paragraph 13, the allegations are conclusions of law as opposed to allegations
27 of fact and, as such, no answer is required. To the extent this paragraph purports to contain any
28 allegations of fact or an answer is otherwise required, Defendant admits plaintiffs' allegations partially

1 quote Wage Order 1-2001, but denies the remaining allegations, including any allegation or inference
2 that reporting time pay is due or even applicable.

3 14. Answering paragraph 14, Defendant admits that maintenance workers and operators,
4 when they are not contacted on standby, generally are not paid for standby when they have not reported
5 for work, have not been directed to work, nor been suffered or permitted to work, and were not under
6 Defendant's control The remaining allegations contain conclusions of law as opposed to allegations of
7 fact and, as such, no answer is required. To the extent these remaining allegations purport to contain
8 any allegations of fact or an answer is otherwise required, Defendant denies the remaining allegations.

9 15. Defendant lacks sufficient knowledge and information about Plaintiff's current county of
10 residence to respond to the allegation and denies it on that basis. Defendant denies the remaining
11 allegations in paragraph 15.

12 16. Defendant lacks sufficient knowledge and information about Plaintiff's current county of
13 residence to respond to the allegation and denies it on that basis. Defendant admits the remaining
14 allegations in paragraph 16.

15 17. Defendant lacks sufficient knowledge and information about Plaintiff's current county of
16 residence to respond to the allegation and denies it on that basis. Defendant denies the remaining
17 allegations in paragraph 17.

18 18. Answering paragraph 18, Defendant admits it is a Limited Liability Company organized
19 under Delaware law, and operates refineries in California, with its headquarters located in Findlay, Ohio.
20 The remaining allegations contain conclusions of law as opposed to allegations of fact and, as such, no
21 answer is required.

22 19. Answering paragraph 19, Plaintiffs' allegations regarding DOE defendants are legal
23 conclusions and argument to which no answer is required. To the extent the allegations in this
24 paragraph contain any factual allegations, Defendant denies the allegations.

25 20. Answering paragraph 20, Plaintiffs' allegations regarding DOE defendants are legal
26 conclusions and argument to which no answer is required. To the extent the allegations in this
27 paragraph contain any factual allegations, Defendant denies the allegations.
28

1 21. Answering paragraph 21, Plaintiffs' allegations regarding DOE defendants are legal
2 conclusions and argument to which no answer is required. To the extent the allegations in this
3 paragraph contain any factual allegations, Defendant denies the allegations.

4 22. Answering paragraph 22, the allegations are conclusions of law as opposed to allegations
5 of fact and, as such, no answer is required.

6 23. Answering paragraph 23, the allegations are conclusions of law as opposed to allegations
7 of fact and, as such, no answer is required. Defendant admits that the Martinez refinery conducts
8 business within the Northern District, and admits that the state court from which the action was removed
9 is within the territory of the Northern District.

10 24. Answering paragraph 24, the allegations are conclusions of law as opposed to allegations
11 of fact and, as such, no answer is required.

12 25. Answering paragraph 25, the allegations contain conclusions of law as opposed to
13 allegations of fact and, as such, no answer is required. To the extent this paragraph purports to contain
14 any allegations of fact or an answer is otherwise required, Defendant admits plaintiffs' allegations
15 partially quote Wage Order 1-2001, but denies the remaining allegations, including any allegation or
16 inference that reporting time pay is due or even applicable.

17 26. Answering paragraph 26, the allegations are conclusions of law as opposed to allegations
18 of fact and, as such, no answer is required. To the extent this paragraph purports to contain any
19 allegations of fact or an answer is otherwise required, Defendant denies the allegations.

20 27. The Court struck references to Labor Code section 1198 from paragraph 27 in its Order
21 granting in part and denying in part Defendant's Motion to Strike Plaintiffs' Fifth Amended Complaint.
22 *See* Dkt. 120. Accordingly, no allegations remain and no response is required. To the extent a response
23 is required, Defendant denies the allegations.

24 28. Answering paragraph 28, the allegations are conclusions of law as opposed to allegations
25 of fact and, as such, no answer is required. To the extent this paragraph purports to contain any
26 allegations of fact or an answer is otherwise required, Defendant denies the allegations.

27 29. Answering paragraph 29, Defendant denies the allegations.

28 30. Answering paragraph 30, Defendant denies the allegations.

1 31. Answering paragraph 31, Defendant admits that certain, but not all, operators at its
2 refinery in Martinez, California have negotiated and consented via their Union representatives to a
3 standby process, but that the practice varies, and that the governing collective bargaining agreements,
4 side letters, and shop practice provide for exceptions not identified in Plaintiffs' allegations. Defendant
5 denies the remaining allegations.

6 32. Answering paragraph 32, Defendant admits that certain, but not all, maintenance workers
7 at its refinery in Martinez, California have negotiated and consented via their Union representatives to a
8 standby process, but that the practice varies, and that the governing collective bargaining agreements,
9 side letters, and shop practice provide for exceptions not identified in Plaintiffs' allegations. Defendant
10 denies the remaining allegations.

11 33. Answering paragraph 33, Defendant avers that Plaintiffs negotiated and consented via
12 their Union representatives to standby procedures, but denies that Plaintiffs have accurately and
13 completely described those agreements in their allegations, including their allegations regarding
14 discipline. Defendant further avers that the procedures varied, and that the governing collective
15 bargaining agreements, side letters, and shop practice provide for exceptions not identified in Plaintiffs'
16 allegations. Defendant denies the remaining allegations.

17 34. Answering paragraph 34, Defendant admits that operators and maintenance workers,
18 when they are not contacted on standby, generally are not paid for standby when they have not reported
19 for work, have not been directed to work, nor been suffered or permitted to work, and were not under
20 Defendant's control. Defendant denies the remaining allegations.

21 35. Answering paragraph 35, Defendant admits that Plaintiffs purport to bring a class action
22 against Defendant but denies that a class action is appropriate. Defendants further respond that the
23 remaining allegations are conclusions of law as opposed to allegations of fact and, as such, no answer is
24 required. To the extent the remaining allegations purport to contain allegations of fact or an answer is
25 otherwise required, Defendant denies those allegations.

26 36. Answering paragraph 36, Defendant admits that Plaintiffs purport to bring a class action
27 against Defendant but denies that a class action is appropriate. Defendants further respond that the
28 remaining allegations are conclusions of law as opposed to allegations of fact and, as such, no answer is

1 required. To the extent the remaining allegations purport to contain allegations of fact or an answer is
2 otherwise required, Defendant denies those allegations.

3 37. Defendant denies the allegations in paragraph 37..

4 38. Defendant denies the allegations in paragraph 38.

5 39. Defendant denies the allegations in paragraph 39.

6 40. Defendant denies the allegations in paragraph 40.

7 41. Defendant denies the allegations in paragraph 41.

8 42. Defendant denies the allegations in paragraph 42.

9 43. Answering paragraph 43, Defendant lacks sufficient knowledge and information about
10 Plaintiffs' beliefs and knowledge (such as what they are or are not aware of) to respond to the
11 allegations and denies them on that basis. Defendant denies the remaining allegations.

12 44. Answering paragraph 44, Defendant admits that at all times Plaintiffs' employment was
13 covered by the governing collective bargaining agreements, side letters, and Union and employer shop
14 practice, but denies that Plaintiffs have attached the complete set of such agreements. The remaining
15 allegations are conclusions of law as opposed to allegations of fact and, as such, no answer is required.
16 To the extent this paragraph purports to contain any allegations of fact or an answer is otherwise
17 required, Defendant denies those allegations.

18 45. Defendant denies the allegations in Paragraph 45.

19 46. Answering paragraph 46, Defendant admits that at all times Plaintiffs' employment was
20 covered by the governing collective bargaining agreements, side letters, and Union and employer shop
21 practice, but denies that Plaintiffs has attached the complete set of such agreements. Defendant admits
22 Plaintiffs have partially quoted the CBA attached at Exhibit B. Defendant denies the allegation that no
23 separate agreement was entered. Defendant lacks sufficient knowledge and information about Plaintiffs'
24 beliefs and knowledge to respond to the allegations and denies them on that basis. The remaining
25 allegations are conclusions of law as opposed to allegations of fact and, as such, no answer is required.
26 To the extent these remaining allegations purport to contain any allegations of fact or an answer is
27 otherwise required, Defendant denies those allegations.

1 47. Answering paragraph 47, Defendant admits that at all times Plaintiffs' employment was
2 covered by the governing collective bargaining agreements, side letters, and Union and employer shop
3 practice, but denies that Plaintiffs have attached the complete set of such agreements. Defendant admits
4 that the first sentence of paragraph 47 partially quotes the referenced CBA attached as Exhibit B. The
5 remaining allegations are conclusions of law as opposed to allegations of fact and, as such, no answer is
6 required. To the extent these remaining allegations purport to contain any allegations of fact or an
7 answer is otherwise required, Defendant denies those allegations.

8 48. Answering paragraph 48, the allegations are conclusions of law as opposed to allegations
9 of fact and, as such, no answer is required. Defendant admits Plaintiffs have partially quoted the Court's
10 order at Dkt. 24. To the extent this paragraph purports to contain any allegations of fact or an answer is
11 otherwise required, Defendant denies those allegations.

12 49. Answering paragraph 49 the allegations are legal argument and conclusions of law as
13 opposed to allegations of fact and, as such, no answer is required. To the extent this paragraph purports
14 to contain any allegations of fact or an answer is otherwise required, Defendant denies those allegations.

15 50. Answering paragraph 50, the allegations are legal argument and conclusions of law as
16 opposed to allegations of fact and, as such, no answer is required. To the extent this paragraph purports
17 to contain any allegations of fact or an answer is otherwise required, Defendant denies those allegations.

18 51. Answering paragraph 51, the allegations are legal argument and conclusions of law as
19 opposed to allegations of fact and, as such, no answer is required. To the extent this paragraph purports
20 to contain any allegations of fact or an answer is otherwise required, Defendant denies those allegations.

21 52. Answering paragraph 52, the allegations are legal argument and conclusions of law as
22 opposed to allegations of fact and, as such, no answer is required. To the extent this paragraph purports
23 to contain any allegations of fact or an answer is otherwise required, Defendant denies those allegations.

24 53. Answering paragraph 53, the allegations are legal argument and conclusions of law as
25 opposed to allegations of fact and, as such, no answer is required. Defendant admits Plaintiffs have
26 partially quoted the Court's order at Dkt. 24. To the extent this paragraph purports to contain any
27 allegations of fact or an answer is otherwise required, Defendant denies those allegations.
28

FIRST CAUSE OF ACTION

54. Answering this paragraph 54, Defendant incorporates the responses contained in the previous paragraphs of this Answer as if fully set forth herein.

55. Answering paragraph 55, the allegations are conclusions of law as opposed to allegations of fact and, as such, no answer is required. To the extent this paragraph purports to contain any allegations of fact or an answer is otherwise required, Defendant admits plaintiffs' allegations partially quote Wage Order 1-2001, but denies the remaining allegations, including any allegation or inference that reporting time pay is due.

56. Defendant denies the allegations in paragraph 56.

57. The Court struck the references in paragraph 57 pertaining to Lab. Code section 1198 in its Order granting in part and denying in part Defendant's Motion to Strike Plaintiffs' Fifth Amended Complaint. *See* Dkt. 120. Defendant denies the remaining allegations.

58. Defendant denies the allegations in paragraph 58.

SECOND CAUSE OF ACTION

59. Answering this paragraph 59, Defendant incorporates the responses contained in the previous paragraphs of this Answer as if fully set forth herein.

60. Answering paragraph 60, the allegations are conclusions of law as opposed to allegations of fact and, as such, no answer is required. To the extent this paragraph purports to contain any allegations of fact or an answer is otherwise required, Defendant admits that Labor Code Sections 201 and 202 set forth provisions regarding the timing of wage payments and section 203 provides for certain penalties, but denies the remaining allegations.

61. Defendant denies the allegations in paragraph 61.

62. Defendant denies the allegations in paragraph 62.

63. Defendant denies the allegations in paragraph 63.

THIRD CAUSE OF ACTION

64. Answering this paragraph 64, Defendant incorporates the responses contained in the previous paragraphs of this Answer as if fully set forth herein.

1 that it did not violate the California Labor Code because, among other things, it complied with the Labor
2 Code, had lawful policies and procedures regarding standby consented to by Plaintiffs' via their Union,
3 and paid employees all wages owed.

4 **SECOND DEFENSE**

5 (Good Faith)

6 Plaintiffs, and the individuals they seek to represent, are not entitled to Labor Code section 203
7 penalties because a good faith dispute exists as to whether reporting time was owed at termination for
8 Union-negotiated standby processes, including for the alleged instances at issue, where the employees
9 were never contacted and never reported to work, such that Defendants cannot be held to have willfully
10 failed to comply with the requirements of the applicable Labor Code sections.

11 **THIRD DEFENSE**

12 (Due Process/Excessive Fines Unconstitutional)

13 Although Defendant denies that it committed or had responsibility for any act that could support
14 the recovery of penalties in this lawsuit, if and to the extent any such act or responsibility is found,
15 recovery of penalties against Defendant is confiscatory and unconstitutional under numerous provisions
16 of the United States Constitution and the California Constitution, including the excessive fines clause of
17 the Eighth Amendment, the due process clauses of the Fifth Amendment and Section 1 of the Fourteenth
18 Amendment, and other provisions of the United States Constitution, and the excessive fines clause of
19 Section 17 of Article I, the due process clause of Section 7 of Article I, and other provisions of the
20 California Constitution.

21 **FOURTH DEFENSE**

22 (Failure to Mitigate Damages or Avoid Consequences)

23 Plaintiffs and the current or former employees on whose behalf they brought the action have
24 failed to mitigate or avoid their damages or other alleged harm because they failed to take any steps to
25 report or avoid the Labor Code violations alleged in the Complaint.
26
27
28

1 **FIFTH DEFENSE**

2 (LMRA Preemption)

3 Plaintiffs and the current or former employees on whose behalf he brought the action were and
4 are at all times represented by a Union and subject to governing collectively-bargained agreements, side
5 letter agreements, and governing Union and employer shop practice. Plaintiffs' claims require
6 interpretation of those governing agreements, side letters and shop practice, and are therefore completely
7 preempted by the Labor Management Relations Act. Due to Plaintiffs' admitted failure to exhaust the
8 grievance and arbitration process provided in the governing agreements, Plaintiffs' claims are
9 completely preempted.

10 **SIXTH DEFENSE**

11 (Failure to Exhaust Administrative Remedies)

12 Plaintiffs' claim for civil penalties pursuant to the Private Attorneys General Act of 2004, Labor
13 Code § 2698 et seq., is barred to the extent Plaintiffs failed to timely and fully exhaust her administrative
14 remedies before the Labor and Workforce Development Agency of the State of California and/or the
15 Department of Industrial Relations.

16 **SEVENTH DEFENSE**

17 (Manageability)

18 Plaintiffs' claim for civil penalties pursuant to the Private Attorneys General Act of 2004, Labor
19 Code § 2698 et seq., is not proper for treatment as a representative action under PAGA because, among
20 other reasons, the representative action is not manageable.

21 **EIGHTH DEFENSE**

22 (Inability To Pursue Penalties Under California Labor Code § 2698 et seq.)

23 Plaintiffs' PAGA claim is barred because Plaintiffs seek PAGA penalties for alleged violations
24 of the Labor Code that already contain a statutory or other civil penalty.

25 **NINTH DEFENSE**

26 (Waiver)

27 Because of Plaintiffs' own acts and/or omissions, in consenting via their collective bargaining
28 representatives to Union-negotiated standby processes, in which Plaintiffs and other employees

1 determined and elected their participation in standby, Plaintiffs are barred by the equitable doctrine of
2 waiver from maintaining this action or pursuing any cause of action alleged in the Complaint against
3 Defendant.

4 **TENTH DEFENSE**

5 (Estoppel/Consent)

6 Plaintiffs and the employees they seek to represent, having negotiated for and having consented
7 to a collectively-bargained standby processes, in which Plaintiffs and other employees determined and
8 elected their participation in standby, and having never grieved, challenged, or sought modification of
9 that process, are barred by the equitable doctrine of estoppel from maintaining this action or pursuing
10 any cause of action alleged in the Complaint against Defendant.

11 **ELEVENTH DEFENSE**

12 (Offset)

13 To the extent that Plaintiffs and the employees they seek to represent are entitled to reporting
14 time pay and any derivative penalties or payments (which Defendant denies), Defendant is entitled to an
15 offset for any payments of wages or other penalties or remuneration provided to those parties, including
16 in overlapping putative class and representative actions.

17 **TWELFTH DEFENSE**

18 (Unclean Hands)

19 Plaintiffs and the employees they seek to represent, having negotiated for and having consented
20 to an allegedly oppressive collectively-bargained standby processes, in which Plaintiffs and other
21 employees determined and elected their participation in standby, and having never grieved, challenged,
22 or sought modification of that allegedly oppressive process are barred by the doctrine of unclean hands.

23 **THIRTEENTH DEFENSE**

24 (Inability To Establish Liability)

25 Plaintiffs and the employees they seek to represent, having negotiated for and having consented
26 to a collectively-bargained standby processes, in which individual units could and did determine their
27 own unique standby process and agree to informal, undocumented trading of standby cannot establish if,
28

1 when, or how often any of them were on mandatory standby subject to the alleged obligation to remain
2 at the ready to receive calls requesting that they cover a work shift.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Defendant prays for judgment as follows:

- 5 1. That Plaintiffs take nothing by their Complaint;
- 6 2. That Plaintiffs' Complaint be dismissed with prejudice;
- 7 3. That Plaintiffs and the individuals they seek to represent be denied each and every
8 demand and prayer for relief in their action:
- 9 4. That Plaintiffs are not adequate representatives and/or an aggrieved employees to bring
10 an action under the standards of California Labor Code Section 2698 *et seq.*;
- 11 5. That Defendant be awarded attorneys' fees and costs of suit as available pursuant to
12 applicable law; and for other and further relief as the Court deems just and proper.

13
14
15 DATED: September 8, 2022

Respectfully submitted,

SEYFARTH SHAW LLP

By: /s/ Timothy M. Rusche

Timothy M. Rusche
Michael W. Kopp
Attorneys for Defendant
MARATHON REFINING LOGISTICS
SERVICES, LLC