

## Class and PAGA Action Settlement Notice

**A federal court authorized this notice. This is not a solicitation from a lawyer.**

**Why am I receiving this?** On February 22, 2023, the Court in this action granted preliminary approval of a proposed settlement as set forth in the Settlement Agreement available at [www.RefinerySettlement.com](http://www.RefinerySettlement.com) concerning the lawsuit noted above (the “Lawsuit”). You are receiving this notice because your employer’s records show that you are one of the people eligible to participate in the Settlement process.

**What is the Lawsuit about?** The people who brought the Lawsuit are known as “the Plaintiffs.” Plaintiffs brought this Lawsuit against Chevron U.S.A., Inc. and three of its contractors: Newtron LLC, Performance Mechanical, Inc. and Specialty Welding and Turnaround Services LLC. Plaintiffs allege that Chevron jointly employed its contractors’ employees and that its contractors failed to pay workers at Chevron’s California refineries for all hours worked, specifically for time spent on mandatory pre-shift transportation to their work sites and time spent putting on Nomex and other special protective clothing and gear before the start of each shift. For unpaid wages and other wage and hour violations, the Lawsuit covers the period from September 20, 2015 through February 22, 2023. For penalties under the Private Attorneys General Act (“PAGA”), the Lawsuit covers the period from July 17, 2018 through February 22, 2023.

**What is the Settlement?** The Plaintiffs, Chevron and Newtron (collectively, “the Parties”) have agreed to settle the Lawsuit for a payment of \$1,925,000.

**What is this notice?** This notice only summarizes the Settlement. For more information, visit [www.RefinerySettlement.com](http://www.RefinerySettlement.com).

Your legal rights are affected whether you act or do not act.  
Read this notice carefully.

<b>Summary of Your Legal Rights and Options</b>	
<b>Obtaining a payment under the Settlement</b>	<b>To receive a payment under the Settlement, you do not need to take any action.</b> You will be a member of the class and your rights will be represented by counsel for Plaintiffs. You will be bound by the result in the Lawsuit. You will not be allowed to bring your own case for the claims alleged in this Lawsuit as described above and you will give up your right to be part of any other case against Chevron or Newtron about the claims being resolved by this Settlement.
<b>Exclude yourself from the Settlement (“opt out”)</b>	Get no payment. Keep any rights to bring or join a case against Chevron or Newtron about the claims being resolved by this Settlement, except that you will still not be able to bring or participate in a PAGA action against Chevron or Newtron for the claims resolved by this Settlement. You will lose the ability to recover any monetary payment under the Settlement, except that you will still receive a share of the PAGA penalties under the Settlement.

<b>Object to the Settlement</b>	Write to the Court about why you do not like the Settlement, to help the Court decide whether to approve the Settlement. The Court cannot order that you receive more money from the Settlement even if it agrees with you.
<b>Do nothing</b>	If you do nothing, you will get a payment under the Settlement, <b>and you will release your claims that are covered by the Settlement and give up your right to assert those claims.</b>

These rights and options—**and the deadlines to exercise them**—are explained in this notice.

The Court has not yet decided whether to finally approve the Settlement. Payments will be made only if the Court approves the Settlement and after appeals, if any, are resolved. Please be patient.

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## **Basic Information**

### **1. Why did I get this notice package?**

The purpose of this notice is to let you know that the Parties in the case have reached a Settlement, subject to Court approval in the class and PAGA action known as *Clayborne v. Chevron U.S.A., Inc. et al.*, Case No. 19-cv-07624-JSW, pending in the United States District Court for the Northern District of California (the “Lawsuit”). You have received this notice because:

Your employer’s records show that you worked at Chevron’s Richmond or El Segundo refinery in California as an hourly worker.

The Court authorized that you be sent this notice because you have a right to know about the proposed Settlement of the Lawsuit, and about your options, before the Court decides whether to grant final approval of the Settlement. If the Court approves it and after any objections and appeals are resolved, a third-party administrator appointed by the Court will make the payments that the Settlement allows. This notice provides you with instructions on the options available to you under the Settlement.

### **2. What is this lawsuit about?**

In the Lawsuit, Plaintiffs allege that Chevron jointly employed its contractors’ employees and its contractors failed to pay hourly workers at Chevron’s California refineries for all hours worked, including for time spent on mandatory pre-shift transportation to their work sites, time spent putting on Nomex and other special protective clothing and gear before the start of each shift, and improperly docked hourly workers’ pay. The Lawsuit is for wages for those unpaid hours worked, damages and other penalties, and for PAGA penalties for those alleged violations.

Chevron and Newtron deny these allegations and assert that no wages, damages, penalties, or PAGA penalties are due to any workers who worked at Chevron’s California refineries through any contractors.

### **3. What is a class and PAGA action?**

In a class action, one or more people, called “Class Representatives” (in this case, Shawn Clayborne) sue on behalf of people who have similar claims. In a class action, all people with similar class claims are called “Class Members.” Class Members do not need to do anything to be part of a class action. Once the Court decides that a case can proceed as a class action (as the Court here has done for purposes of this Settlement), all Class Members are included in the class by default, except for those who exclude themselves (excluding is described in sections 12-14, below). In a class action, the court resolves the issues for all Class Members together in one legal proceeding. Class Members for purposes of this Settlement is defined in section 5, below.

In a PAGA action, a plaintiff sends a letter to the California Labor and Workforce Development Agency (“LWDA”) describing the alleged Labor Code violations committed against that employee and other employees (“PAGA Members”) by the defendant(s). If the LWDA does not opt to pursue the alleged Labor Code violations, the plaintiff is allowed to sue the defendant(s) on behalf of the State of California, on behalf of him-/herself, and all other PAGA Members. PAGA Members cannot opt out of the settlement of a PAGA action. If the

settlement of a PAGA action is approved by the Court, the PAGA Members covered under the PAGA action will have their claims for PAGA penalties released, whether or not the PAGA Members opt out of the Settlement of the class action. The State of California receives 75% of the PAGA penalties, and the PAGA Members receive the other 25%.

The Honorable Jeffrey S. White, United States District Judge, is presiding over this class and PAGA action. He decided that this settlement can proceed on a class and PAGA basis.

#### **4. Why is there a settlement?**

The Court did not decide in favor of either party. Instead, both sides agreed to a settlement, which, if approved, brings the Lawsuit to an end. That way, Plaintiffs, Class Members, PAGA Members, Defendant Chevron, and Defendant Newtron avoid the cost, delay, and uncertainty of moving forward in litigation to trial and possible appeals, and the Class Members and PAGA Members can get compensation and penalties. The Class Representative and his attorneys (“Class Counsel”) believe that the Settlement is fair, reasonable, adequate and in the best interests of the Class Members and PAGA Members.

### **Who is in the Settlement**

#### **5. Who is included in the Settlement?**

The Settlement provides benefits to the Class Members and the PAGA Members.

The Class Members (also referred to as the “Participating Class Members” and in the Settlement Agreement) are hourly workers provided by contractors at Chevron’s California refineries from September 20, 2015 through February 22, 2023. PAGA Members are workers provided by contractors at Chevron’s California refineries from July 17, 2018 through February 22, 2023.

Together, these individuals are referred to as the “Settlement Group.”

### **The Settlement Benefits—What You Get**

#### **6. What does the Settlement provide?**

**Monetary relief.** Chevron and Newtron have agreed to pay \$1,925,000 to settle the claims of the Settlement Group members. Settlement Group members will receive money from the Settlement fund based on the number of weeks they worked at Chevron’s California refineries.

**Tax treatment of awards.** The Settlement Agreement allocates how payments made to you under this Settlement should be treated for tax purposes. Accordingly, payments to Settlement Group members are allocated for tax purposes as follows: thirty percent (30%) of all payments to Settlement Group members for Settlement of the class action will be allocated as wages, and normal payroll taxes and withholdings will be deducted from this portion of these monetary payments pursuant to applicable law. This portion of monetary payments will be reported on an IRS Form W-2. The remaining seventy percent (70%) of payments to Settlement

Group members for Settlement of the class action and one hundred percent (100%) of payments to Settlement Group members for Settlement of the PAGA action will be allocated as non-wage damages, penalties, PAGA penalties, and interest and will be reported on an IRS form 1099. You will be responsible for correctly reporting this for tax purposes and for paying any taxes on the amounts received. You will be responsible for the tax obligations and consequences of all payments received from the Settlement. Chevron, Newtron, Defendants' Counsel, and Class Counsel are not providing tax advice to you, and they make no representations regarding the tax characterization of any Settlement payments or any tax obligations of, or tax consequences to, any Settlement Group members.

**Unclaimed funds.** Any unclaimed funds will be given as a *cy pres* donation to the East Bay Community Law Center and Neighborhood Legal Services of Los Angeles County. East Bay Community Law Center is a Bay Area organization that seeks to address the underlying causes of economic and racial inequality to increase justice. Neighborhood Legal Services of Los Angeles County provides assistance to individuals and families to expand access to justice throughout Los Angeles County.

## 7. What can I get from the Settlement?

Each Settlement Group member will receive some money, depending on (a) the number of weeks worked at Chevron's Richmond and/or El Segundo refineries from September 20, 2015 through February 22, 2023, (b) the number of weeks worked at Chevron's Richmond and/or El Segundo refineries from July 17, 2018 through February 22, 2023, (c) the number of weeks worked for Newtron at Chevron's Richmond and/or El Segundo refineries from September 20, 2015 through February 22, 2023 for settlement of class action, and from July 17, 2018 through February 22, 2023 for settlement of the PAGA action, and (d) whether the Class Member opts out of the Settlement.

## How You Get a Payment

### 8. When will I get my payment?

The terms and conditions of this Settlement are subject to Court approval. The Court will hold a hearing on June 30, 2023, to decide whether to approve the Settlement. If the Court approves the Settlement, and there are no appeals, **we estimate that checks will be mailed around September 8, 2023.** However, because it is always possible for there to be unexpected delays or appeals, the payments may be delayed by a year or more, or an appeals court may determine that the payments cannot be made. If the Court does not approve the Settlement, no payment will be distributed to any individual, the entire Settlement will be void and unenforceable, and the Parties shall be restored to the status quo ante, that is, their respective positions that existed in this lawsuit prior to entering into this Settlement Agreement.

The Settlement Administrator will provide regular updates of the status of the Settlement at [www.RefinerySettlement.com](http://www.RefinerySettlement.com). If your contact information changes, please promptly inform the Settlement Administrator.

## **Release Agreement**

### **9. What am I giving up to get a payment?**

**Release.** Unless you exclude yourself from the Settlement, you are staying in the Settlement Group and that means that you cannot sue, continue to sue, or be part of any other lawsuit against Chevron or Newtron about the legal issues resolved by this Settlement. It also means that all of the Court's orders will apply to you and legally bind you. If you do not exclude yourself, you are knowingly and voluntarily releasing and waiving the following claims against Chevron and Newtron: any claims against Chevron and Newtron (and the Released Parties as defined in the Settlement Agreement) up until February 22, 2023 including but not limited to all claims pertaining to minimum wage, off-the-clock work, overtime, hours of work, wage statements, record-keeping requirements, payment of wages, or payment of final wages, and including without limitation all federal claims (including FLSA), state claims (including any claims under the California Labor Code and PAGA), and local claims that were asserted or could have been asserted in this Action based on the allegations in the pleadings regarding events that occurred or are alleged to have occurred from September 20, 2015 through February 22, 2023 as to the Class Claims for unpaid wages and other wage and hour violations and from July 17, 2018 through February 22, 2023 as to PAGA claims for Labor Code violations.

## **The Lawyers Representing You**

### **10. Do I have a lawyer in this case?**

The Court appointed the following attorneys to represent you and the other Settlement Group members: Jahan Sagafi, Moira Heiges-Goepfert, and Kaelyn Mahar of Outten & Golden, LLP and Steve Elster of the Law Office of Steven Elster.

Together, these lawyers are called Class Counsel or Plaintiffs' Counsel. You will not be personally charged for these lawyers' work in securing the Settlement benefits for you and the other Settlement Group members. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **11. How will Class Counsel and Class Representative be paid?**

Class Counsel will ask the Court for attorneys' fees of up to 35% of the \$1,925,000 Settlement fund and reimbursement of out-of-pocket costs of up to \$45,000, consistent with the terms of the Settlement Agreement. In addition, Class Counsel will apply to the Court for a service award of up to \$15,000 for Class Representative Shawn Clayborne. (In a separate, individual settlement, David Pool, the other Plaintiff in this action, will receive \$16,000 from Performance Mechanical, Inc. ("PMI"), for settling his case against PMI on an individual basis.) Mr. Clayborne's service award is being requested in recognition of the time and effort incurred by him in securing the benefits of this Settlement for you and the other Settlement Group members. The Court will decide whether to approve Class Counsel's and the Class Representative's requests.

## **Excluding Yourself from the Settlement**

### **12. What does excluding yourself from the Settlement mean?**

If you want to preserve your right to sue Chevron or Newtron on your own about the legal issues in this case, then you need to take steps to remove yourself of the Settlement. This is called excluding yourself from—or opting out of—the Settlement.

### **13. How do I remove myself/opt out of the Settlement?**

To exclude yourself from (i.e., opt out of) the Settlement and not release any claims, you must send a letter saying that you want to be excluded from the Settlement, and that you understand that you will not receive money from it. You must include your (1) name, (2) signature, and (3) a statement that you wish to be excluded from the settlement, such as: “I decline to provide a release of claims and instead elect to exclude myself from the monetary relief provisions in the Settlement in *Clayborne v. Chevron U.S.A., Inc.* That means I will not be entitled to any money from the Settlement.”

Your opt-out request must be received or postmarked by May 22, 2023. Opt-out requests should be sent electronically or by mail to the Settlement Administrator, whose contact information is listed in section 22.

If you ask to be excluded, you will not get any Settlement payment, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit, and the Settlement would not affect any right you might have, if any, to pursue legal action against Chevron or Newtron on your own.

### **14. If I exclude myself, can I get money from this Settlement?**

If you exclude yourself, you will not receive money from the settlement of the class action, but you will still receive money from the settlement of the PAGA action (because you cannot opt out from the PAGA settlement). You will not be legally bound by anything that happens in this Lawsuit regarding the class action, but you will still be bound by the Settlement regarding the PAGA action (again, because you cannot opt out of it).

## **Objecting to the Settlement**

### **15. What does objecting to the Settlement mean?**

You can tell the Court what you think about the Settlement.

### **16. How do I tell the Court that I do not like the Settlement?**

If you are a Settlement Group member, you can object to the Settlement.

The Court cannot order a larger (or smaller, or otherwise different) settlement; it can only approve or deny the Settlement. If the Court denies approval, there will be no settlement at this time, no Settlement payments will be sent out, and the Lawsuit will continue.



Any objection to the proposed Settlement must be signed and in writing. Your statement must contain your name, the legal and factual basis for the objection, and whether it applies to you or the settlement of the class action, the settlement of the PAGA action, or the entire settlement. If you do not follow these instructions to make an objection, you will waive any objections and will be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written comments and objections and supporting papers must (a) clearly identify the case name and number (as *Clayborne v. Chevron U.S.A., Inc., et al.*, Case No. 19-cv-07624-JSW), (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, or by filing them in person at any location of the United States District Court for the Northern District of California, and (c) be filed or postmarked on or before May 22, 2023.

#### **17. What's the difference between objecting and excluding?**

Objecting is simply telling the Court that you do not like something about the Settlement. Excluding yourself from the settlement, as described above in section 12, means you want to preserve your right to sue Chevron or Newtron on your own about the legal issues in this case.

### **The Court's Final Approval Hearing**

The Court will hold a final approval hearing to decide whether to approve the Settlement. You may attend, and you may ask to speak, but you do not have to.

#### **18. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a final approval hearing at 9:00 a.m. on June 30, 2023, at the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, in Courtroom Six on the Second Floor, before the Honorable White, United States District Judge. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who wish to speak at the hearing, if any. The Court may also decide how much to pay Class Counsel and the Class Representative. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. The final approval hearing may be postponed without further notice to the Settlement Group. If you plan to attend the hearing, you should check [www.RefinerySettlement.com](http://www.RefinerySettlement.com) or the Court's PACER site at <https://ecf.cand.uscourts.gov> to confirm that the date has not been changed.

#### **19. Do I have to come to the hearing?**

No. Unless you opt out of the Settlement, Class Counsel will represent you and will answer any questions the Court may have. But you are welcome to come at your own expense. If you send a comment (including an objection), you do not have to come to Court to talk about it. As long as you submitted your objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

## 20. May I speak at the hearing?

You may ask the Court for permission to speak at the fairness hearing. To do so, you must send a letter to the Class Action Clerk at the address listed in section 16, saying that it is your “Notice of Intention to Appear at the Final Approval Hearing in *Clayborne v. Chevron U.S.A., Inc., et al.*, Case No. 19-cv-07624-JSW.” You must include your name and signature. Your Notice of Intention to Appear must be postmarked or emailed no later than May 22, 2023. This requirement may be excused upon a showing of good cause.

You cannot speak about the class Settlement at the hearing if you excluded yourself, because that aspect of the case no longer affects you.

## **If You Do Nothing**

### 21. What happens if I do nothing at all?

If you do nothing, you will receive a payment under the Settlement. You will also be bound by the result in the Lawsuit. You will not be allowed to bring your own case for the claims alleged in this Lawsuit as described above and you will give up your right to be part of any other case against Chevron or Newtron about the claims being resolved by this Settlement

## **Getting More Information**

### 22. Are there more details about the Settlement?

This Notice is intended to be a summary of the terms of the Settlement. The Stipulation of Settlement and Release, Third Amended Complaint, and this Notice are all available at [www.RefinerySettlement.com](http://www.RefinerySettlement.com).

You may also obtain this information by contacting the Settlement Administrator at Clayborne v. Chevron Settlement Administrator, PO Box 91461, Seattle, WA 98111, at [info@RefinerySettlement.com](mailto:info@RefinerySettlement.com), or at (844) 798-0758, Class Counsel at Outten & Golden LLP at (415) 638-8800 or at the Law Office of Steven Elster at (925) 324-2159, by accessing the Court docket in this case through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California at 1301 Clay Street, Oakland, CA 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

By order of the United States District Court for the Northern District of California.

Dated: APRIL 7, 2023