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16 **JAMS**

17 JESSICA CHIOU, SAMUEL FALTER,
18 and VINCENT SALDIVAR, individually
19 and on behalf of all others similarly
20 situated,

21 Claimants,

22 v.

23 SUMO LOGIC, INC.,

24 Respondent.

JAMS Case No. 1220065681

**CLAIMANTS' UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND COLLECTIVE ACTION
SETTLEMENT**

Arbitrator: Deborah Crandall Saxe, Esq.

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1 **I. INTRODUCTION**

2 Claimants Jessica Chiou, Samuel Falter, and Vincent Saldivar (“Claimants”) and
3 Respondent Sumo Logic, Inc. (“Sumo Logic” or “Respondent”) (collectively with Claimants, the
4 “Parties”), have settled this class and collective action subject to Arbitrator approval.

5 The proposed Settlement¹ provides significant monetary relief to the Settlement Class²—
6 the average net settlement award per Settlement Class Member is approximately \$16,319—and
7 satisfies all the criteria for preliminary approval, including the requirements of JAMS Class
8 Action Procedures, Federal Rule of Civil Procedure 23 (incorporated by reference in the JAMS
9 rules), and the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b).

10 Accordingly, the Parties respectfully request that Arbitrator Deborah Crandall Saxe, Esq.
11 preliminarily approve the Settlement, preliminarily certify the California Class and conditionally
12 certify the Putative Collective, approve the form, content, and method of distributing the Notices,
13 and schedule a hearing for final approval of the Settlement, as set forth in greater detail below.³

14 **II. FACTUAL AND PROCEDURAL BACKGROUND**

15 **A. The Parties**

16 Sumo Logic is a software company based in Redwood City, California that sells a data
17 analytics platform to business clients. Demand ¶¶ 2-3.⁴ Claimants and Settlement Class
18 Members worked for Sumo Logic as Sales Development Representatives (“SDRs”)⁵ and in Mid-
19 Market Roles (“Mid-Markets”)⁶ (collectively with SDRs, “Sales Representatives”). *Id.* ¶ 1.

20 ¹ The Settlement Agreement and accompanying exhibits are attached as Exhibit 1.

21 ² “Settlement Class” means all Settlement Class Members, which is defined as all Putative
22 Collective Members, California Class Members, and PAGA Members. Settlement ¶ 1.10.

23 ³ A Proposed Preliminary Approval Award is attached as Exhibit 2.

24 ⁴ The Demand and accompanying exhibits are attached as Exhibit 3.

25 ⁵ SDR means any employee of Respondent who worked as a Sales Development
26 Representative, Senior Sales Development Representative, Inbound Sales Development
27 Representative, Outbound Sales Development Representative, Senior Outbound Sales
28 Development Representative, Business Development Representative, Outbound Business
29 Representative, Inside Sales Representative, SDR Team Leader, Sales Development Team Lead,
30 Federal Inside Sales Representative, or Mid-Market Outbound Business Representative.
31 Settlement ¶ 1.42.

32 ⁶ Mid-Market means any employee of Respondent who worked as an Account Executive,
33 Commercial Account Executive, Corporate Account Executive, Mid-Market Account Executive,
34 or SMB Account Executive. This Settlement does not include individuals who worked solely in

1 Claimants allege that Sumo Logic misclassified them and other similarly situated Sales
2 Representatives as exempt from overtime under the FLSA and California law and violated
3 various related California state law provisions. *Id.* ¶¶ 51-68.

4 **B. Investigation**

5 Before approaching Sumo Logic regarding these claims, Claimants' Counsel conducted a
6 thorough investigation which included corporate research regarding Respondent's business
7 locations, corporate ownership, past federal and state litigation; and factual and legal research into
8 the underlying merits of Claimants' claims, possible defenses, the proper measure of damages,
9 and the likelihood of class and collective certification. Stewart Decl. ¶ 12. Claimants' Counsel
10 conducted in-depth interviews with Claimants and several other Sales Representatives that helped
11 Claimants' Counsel determine the hours that Sales Representatives worked and the nature of their
12 duties, and reviewed Sales Representatives' job descriptions. *Id.* ¶ 13.

13 **C. Settlement Discussions**

14 On September 11, 2019, Claimants' Counsel contacted Sumo Logic and invited the
15 company to engage in pre-litigation settlement discussions. *Id.* ¶ 14. The Parties subsequently
16 agreed to explore a pre-suit mediation and to that end, executed an agreement to toll the statute of
17 limitations on behalf of Claimants and similarly situated Sales Representatives on October 28,
18 2019. *Id.* The Parties amended the tolling agreement on November 12, 2019, and identified Sam
19 Falter and Vincent Saldivar as additional Claimants. *Id.* ¶ 16.

20 In advance of mediation, Sumo Logic provided Claimants' Counsel with payroll data for
21 each Settlement Class Member as well as Claimants' personnel files, Sales Representatives' job
22 descriptions, and company compensation plans and other policies. *Id.* ¶ 17. The Parties
23 exchanged detailed mediation statements which outlined the key arguments they would make in
24 the course of the litigation. *Id.* Claimants' Counsel provided Sumo Logic with Claimants'
25 detailed declarations, which described their job responsibilities and hours worked and the
26 similarities they shared with other Sales Representatives. *Id.*

27 _____
28 an Enterprise role with the Respondent. Enterprise roles are not covered by this Settlement.
Settlement ¶ 1.20.

1 On February 13, 2020, the Parties participated in a full-day mediation session with the
2 assistance of experienced wage and hour class and collective action mediator Deborah Crandall
3 Saxe, Esq., and were unable to reach a resolution of the claims but agreed to continue settlement
4 discussions. *Id.* ¶ 18.

5 On May 21, 2020, the Parties participated in a second full-day mediation session with Ms.
6 Saxe during which they were again unable to reach an accord but agreed to continue settlement
7 discussions for a short additional period. *Id.* ¶ 19.

8 At all times, the Parties' settlement negotiations were highly adversarial, non-collusive,
9 and conducted at arm's length. *Id.* ¶ 20. During the two day-long sessions, the Parties discussed
10 their relative views of the law and the facts and potential relief for the proposed Settlement Class.
11 *Id.* ¶ 21. The negotiation process nearly broke down several times. *Id.* The mediator nonetheless
12 continued to work closely with the Parties to explore the possibility of settlement in a series of
13 email and telephone conversations. *Id.* On June 23, 2020, following a month of additional
14 negotiations, the Parties agreed to a settlement in principle and executed a memorandum of
15 understanding. *Id.* ¶ 22. The Parties then negotiated the final Settlement Agreement and
16 executed it on August 3, 2020. *Id.* On October 11, 2020, the Parties executed a new version of
17 the Settlement Agreement revised to address issues raised by the Arbitrator at the October 5, 2020
18 Arbitration Management Conference. *Id.*

19 **III. TERMS OF THE PROPOSED SETTLEMENT**

20 **A. Eligible Employees**

21 California Class Members are individuals employed by Sumo Logic in California as SDRs
22 between October 28, 2015 and October 28, 2019 or as Mid-Markets between October 28, 2015
23 and May 21, 2020.⁷ Settlement ¶ 1.6.

24 Putative Collective Members are individuals employed by Sumo Logic in California and
25 Colorado as SDRs between October 28, 2016 and October 28, 2019 or as Mid-Markets between
26 October 28, 2016 and May 21, 2020. *Id.* ¶ 1.35.

27 ⁷ Sumo Logic reclassified the SDR role to non-exempt status and began paying SDRs
28 overtime going forward in October 2019. Stewart Decl. ¶ 15. Sumo Logic has not reclassified
any of the Mid-Market roles. *Id.*

1 Private Attorneys General Act (“PAGA”) Members are individuals employed by Sumo
2 Logic in California as SDRs between June 24, 2019 and October 28, 2019 or as Mid-Markets
3 between June 24, 2019 and May 21, 2020. *Id.* ¶ 1.27.

4 **B. Settlement Amount**

5 The Settlement creates a Total Settlement Amount of \$4,470,000. Settlement ¶ 11.1(A).
6 The Total Settlement Amount covers: (1) settlement awards for no more than 192 California
7 Class Members and Putative Collective Members⁸ and associated taxes; (2); Service Awards of
8 up to \$12,500 each to Claimant Chiou, Claimant Falter, and Claimant Saldivar; (3) Claimants’
9 Counsel’s attorneys’ fees of up to one-third of the Total Settlement Amount; (4) reimbursement
10 of Claimants’ Counsels’ actual out-of-pocket litigation expenses of up to \$30,000; (5) the
11 Settlement Administrator’s fees and costs not to exceed \$20,000; (6) a Private Attorneys General
12 Act Fund (“PAGA Fund”) of \$44,700 (allocated 25% to PAGA Members and 75% to the
13 California Labor and Workforce Development Agency (“LWDA”)); and (7) arbitration fees and
14 costs. *Id.* ¶¶ 2(E), 4(B), 11.1, 11.2, 11.3, 11.4, 11.5(A), 11.5(B).

15 **C. Release of Claims**

16 California Class Members who do not opt out (“Participating California Class Members”)
17 will receive a Settlement Check without having to submit a claim form or take any action. *Id.* ¶¶
18 1.29, 1.44, 5(G). Participating California Class Members will release all “Released California
19 Claims.”⁹ *Id.* ¶ 12.1(A).

20 ⁸ The Settlement provides that if the number of Class Members increases by more than
21 5%, Sumo Logic will fund an additional amount in order to increase the Net Fund for each
22 additional claimant beyond the 5% threshold. Settlement ¶ 11.1(C).

23 ⁹ “Released California Claims” means California claims that were or could have been
24 alleged in Claimants’ demand based on the facts alleged, that accrued during the California Class
25 Member’s employment with Sumo Logic as an exempt-classified SDR and/or Mid-Market,
26 and/or in connection with separation of employment therefrom, relating back to the full extent of
27 the applicable statutes of limitations, including any period tolled by the Parties’ tolling
28 agreements, and continuing through October 24, 2019 for SDRs and May 21, 2020 for Mid-
Markets, including, without limitations, claims for unpaid wages, premium pay of any kind,
related penalties, interest, liquidated damages, attorneys’ fees, costs, and expenses pursuant to
California wage and hour law, such as, but not limited to, California Business and Professions
Code section 17200, California Labor Code sections 201, 202, 203, 204, 218.5, 226, 226.3, 226.7,
510, 512, 1194, 1198, 2699, and 2802, and the applicable California Industrial Commission Wage
Order. Settlement ¶1.37.

1 Participating Collective Members and California Class Members who timely submit a
2 Claim Form and/or cash or sign a Settlement Check will release the “Released Collective
3 Claims.”¹⁰

4 Additionally, PAGA Members will release the “Released PAGA Claims.”¹¹

5 The proposed Notice describes the Released Class, Collective, and PAGA Claims, and the
6 Settlement Checks will include an acknowledgement of the release of the Released Collective
7 Claims. Settlement ¶ 5(B); Ex. A-1 (California Class Notice) ¶ 10, Ex. A-2 (Collective Notice) ¶
8 10; Ex. D (PAGA Check Enclosure Letter).

9 Additionally, in consideration of the Service Awards, the named Claimants will agree to a
10 general release. Settlement ¶ 11.3(C), Ex. E.

11 **D. Notice**

12 To facilitate the notice process, Sumo Logic will produce the Class List seven days after
13 preliminary approval. Settlement ¶ 5(A).

14 Within 21 days after the preliminary approval award, the Settlement Administrator will
15 disseminate the Notices via First Class United States Mail, e-mail, and text message. *Id.* ¶ 5(B).
16 The e-mail and text notifications will include a link to a website where Settlement Class Members
17 may review information about the Settlement and submit claim forms. *Id.* Any physical mailing
18 will include a postage pre-paid return envelope. *Id.* The Notices will include a description of the
19 claims and the Settlement Agreement, information about the arbitration process, the estimated

20 ¹⁰ “Released Collective Claims” means claims that were or could have been alleged in
21 Claimants’ demand based on the facts alleged, that accrued during the Class Member’s
22 employment with Sumo Logic as an exempt-classified SDR and/or Mid-Market, , relating back to
23 the full extent of the applicable federal statute of limitations, including any period tolled by the
24 Parties’ tolling agreements, and continuing through October 24, 2019 for SDRs and May 21, 2020
25 for Mid-Markets, including, without limitations, claims for unpaid wages, premium pay of any
26 kind, related penalties, interest, liquidated damages, attorneys’ fees, costs, and expenses pursuant
27 to the Fair Labor Standards Act. Settlement ¶ 1.38.

28 ¹¹ “Released PAGA Claims” means claims that were or could have been alleged in
Claimants’ demand based on the facts alleged, relating to penalties collectible under the
California Private Attorneys General Act that accrued during the PAGA Member’s employment
as an SDR or Mid-Market, , relating back to the full extent of the applicable statute of limitations
and continuing through October 24, 2019 for SDRs and May 21, 2020 for Mid-Markets.
Settlement ¶ 1.39.

1 amount of each Settlement Class Member's Settlement Check, and the opportunity (and
2 consequences) of objecting or opting out (for California Class Members), participating by filing a
3 Claim Form and/or by cashing or otherwise negotiating a Settlement Check (for Collective
4 Members), and appearing at the Fairness Hearing, as applicable. *Id.* ¶ 5(B) & Ex. A-1, Ex. A-2.

5 The Settlement Administrator will use all commercially reasonable means to confirm
6 Settlement Class Members' addresses and obtain new addresses and e-mail addresses, as
7 necessary. *Id.* ¶ 5(C). In the event that a Notice is returned as undeliverable, physically or
8 electronically, the Settlement Administrator will attempt to obtain the correct address (or e-mail
9 address) of such person, including up to two skip traces, and shall attempt a re-mailing provided it
10 obtains a more recent address. *Id.*

11 The Settlement Administrator will send a reminder via e-mail, text, and First Class United
12 States Mail postcard to each Putative Collective Member who has not opted in after the initial
13 dissemination of the Notice. *Id.* ¶ 5(D) & Ex. C.

14 California Class Members will have 60 days from the date of the initial mailing to submit
15 an opt-out form (the "Bar Date"), except for California Class Members to whom Notice was re-
16 mailed, who will have the later of the following: 60 days from the initial mailing or 45 days from
17 the date of re-mailing, whichever is later. *Id.* ¶ 5(E). Putative Collective Members will have the
18 same amount of time to file a Claim Form. *Id.* Putative Collective Members who return their
19 Claim Forms by the Bar Date will be deemed Participating Collective Members. *Id.*

20 To be effective for the purposes of becoming a Participating Collective Member, a Claim
21 Form must be post-marked, faxed, emailed, submitted/completed online, or otherwise received by
22 the Settlement Administrator by the Bar Date and include a signature in the designated area. *Id.*
23 To the extent a mailed Claim Form does not bear a post-mark, the Claim Form will be deemed
24 timely if the Settlement Administrator receives it within three days of the Bar Date. *Id.* Putative
25 Collective Members who were unable to file the Claim Form by the Bar Date due to good cause,
26 such as change of address, military service, hospitalization, or other extraordinary circumstances,
27 as determined by the Settlement Administrator, shall have until three days before the Fairness
28 Hearing in which to return their Claim Form and become a Participating Collective Member. *Id.*

1 **E. Distribution of Settlement Class Member Funds**

2 California Class Members do not need to take any action to participate in the Settlement
3 and will automatically receive a Settlement Check if they do not opt out. Settlement ¶ 5(G).

4 Putative Collective Members will be eligible to participate in the settlement and receive a
5 Settlement Check if they submit a timely and valid Claim Form.¹² *Id.* ¶ 5(E).

6 PAGA Members will be entitled to an additional PAGA Amount based on weeks worked
7 in the PAGA Period. *Id.* ¶ 11.5(B).

8 The portion of the Total Settlement Amount allocated to California Class Members will
9 not revert to Sumo Logic. *Id.* ¶ 11.1(D)(1). Rather, if there are amounts allocated to
10 Participating California Class Members remaining in the Net Fund after the 150-day check-
11 cashing deadline expires, the Settlement Administrator will redistribute the remaining funds to
12 Participating California Class Members who cashed their checks unless a redistribution would
13 be impractical on the basis that the amount remaining is less than the cost of a second
14 distribution. *Id.* In that case, any remaining amounts will be donated to Bet Tzedek Legal
15 Services (“Bet Tzedek”) as a *cy pres* recipient.¹³ *Id.*

16 The portion of the Net Fund allocated to Putative Collective Members who do not
17 become Participating Collective Members and who are not also Participating California Class
18 Members, as well as the portion of the Net Fund allocated to Participating Collective Members
19 who are not also Participating California Class Members but who do not timely cash their
20 checks after the 150-day deadline, will revert to Respondent. *Id.* ¶ 11.1(D)(2).

21 Any PAGA payment check not cashed shall revert to the California unclaimed property
22 fund under the name of the PAGA Member. *Id.* ¶ 11.1(D)(3).

23 The Parties have agreed to use robust efforts to ensure that checks are received by all

24
25 ¹² Putative Collective Members who elect not to participate in the Settlement will not
26 become Participating Collective Members and therefore will not release any FLSA claims.
Settlement ¶ 12.1(B).

27 ¹³ Bet Tzedek is a proper *cy pres* beneficiary because it provides legal services to low-
28 income communities and workers, including services related to their employment rights, which is
work which is closely aligned with the claims at issue in this case. Stewart Decl. ¶ 25; *see also*
Six Mexican Workers v. Arizona Citrus Growers, 904 F.2d 1301, 1307 (9th Cir. 1990).

1 eligible Settlement Class Members. The Settlement commits the Parties and the Settlement
2 Administrator to engage in extensive outreach to accomplish this goal. *Id.* ¶¶ 4(E), 5(B)-(D).

3 **F. Arbitration Process**

4 The Parties have agreed to this post-dispute class and collective action arbitration process
5 for the sole purpose of obtaining approval of the Settlement in order to avoid Court congestion
6 during the global pandemic and expedite payments to Settlement Class Members during the
7 current economic crisis. Settlement ¶ 2(A). The Parties have stipulated to the appointment of the
8 Ms. Saxe to act as the Arbitrator¹⁴ and have agreed to waive their right seek to vacate any
9 decision of Arbitrator Saxe. Settlement ¶¶ 2(A), (D).

10 All Notices, Claim Forms, Settlement Checks, and related communications to Settlement
11 Class Members will include clear and conspicuous language regarding the arbitration of the
12 action, and explain how Participating Collective Members, Participating Class Members, and
13 PAGA Members consent to and are bound by such process. *Id.* ¶ 5(I) & Ex. A-1, Ex. A-2, Ex. B,
14 Ex. C, Ex. D.

15 The Arbitration fees and costs will be paid from the Total Settlement Amount. Settlement
16 ¶ 2(E).

17 **G. Plan of Allocation**

18 The Settlement Administrator will determine the settlement amount for each Settlement
19 Class Member pursuant to a formula which allocates one point for each Eligible Workweek
20 worked outside of California and one and one-fifteenth (1.15) points for each Eligible Workweek
21 worked in California, to reflect the relative value of each claim. *Id.* ¶¶ 11.5(A)(1)-(2). The
22 allocation will also account for the payments Sumo Logic made to Settlement Class Members for
23 wage and hour claims in or around October 2019 when those Settlement Class Members were
24 current employees. Settlement Class Members will receive a proportionate amount of the sum of
25 the Net Settlement Amount and these prior payments. Settlement Class Members who received a
26 prior payment will receive an award less the prior payment received from Respondent. *Id.* ¶

27 ¹⁴ The Parties stipulated to arbitration in an action previously mediated by the same neutral
28 in order to conserve arbitration costs and further expedite payments to Class Members. Stewart
Decl. ¶ 24.

1 11.5(A)(4). Settlement Class Members whose prior payments exceed their allocated settlement
2 amount will receive a minimum settlement payment of \$500. *Id.* ¶ 11.5(A)(4)(b).

3 PAGA Members will be entitled to an additional PAGA Amount based on weeks worked
4 in the PAGA Period. *Id.* ¶ 11.5(B).

5 **H. Tax Characterization**

6 One-third of the individual settlement payments to Participating California Class and
7 Collective Members will be treated as wages subject to normal tax withholdings and reported to
8 taxing authorities on an IRS Form W-2. *Id.* ¶ 11.6(A). The remaining portion of each
9 Participating California Class and Collective Member's individual settlement Payment will be
10 treated as liquidated damages, statutory penalties, and interest, and will not be subject to tax
11 withholding; an IRS Form 1099 shall be issued for this portion. *Id.* Participating California
12 Class and Collective Members will be responsible for the employee portion of taxes associated
13 with these payments and the Settlement Administrator will pay the employer's portion of
14 payroll taxes from the Total Settlement Amount. *Id.* ¶ 11.6(D).

15 **I. Settlement Administrator**

16 The Parties have selected JND Class Action Administration ("JND") as the settlement
17 claims administrator ("Settlement Administrator"). Settlement ¶ 4(A). JND has agreed to
18 administer the settlement for an amount not to exceed \$20,000.00, which includes all service
19 fees, costs, and expenses. *Id.* ¶ 4(B).

20 **J. Service Awards and Attorneys' Fees and Costs**

21 Subject to Arbitrator approval at the Final Approval stage, Claimants' Counsel will
22 request a Service Award of \$12,500.00 for each Claimant as compensation for their services
23 rendered to the Class Members. Settlement ¶ 11.3(A). These amounts will be separate and apart
24 from any other recovery to which Claimants will be entitled under the Settlement as Settlement
25 Class Members. *Id.* ¶ 11.3(B). These payments are intended to recognize (a) the time and effort
26 that Claimants have expended on behalf of the Class in assisting Claimants' Counsel with the
27 investigation and settlement of their and the Settlement Class Members' claims, and the
28 consequent value they have conferred to the Settlement Class Members, and (b) the broader

1 releases they are agreeing to in the Settlement, *see id.*, Ex. E.

2 At the Final Approval stage Claimants' Counsel will also request an award of not more
3 than one-third of the settlement fund for attorneys' fees¹⁵ plus not more than \$30,000.00 for costs
4 and expenses. Settlement ¶ 11.2(A).

5 **IV. ARGUMENT**

6 **A. JAMS Class Action Settlement Procedure**

7 JAMS Class Action Procedures require Arbitrator approval of class settlements. *See*
8 JAMS Class Action Procedure Rule 6(a)(3), (b). This approval process includes three steps: (1)
9 preliminary approval of the proposed settlement after submission to the Arbitrator of a written
10 motion for preliminary approval; (2) dissemination of notice of settlement to class members; and
11 (3) a written motion for final approval followed by a final settlement approval hearing at which
12 class members may be heard regarding the settlement and argument concerning the fairness,
13 adequacy, and reasonableness of the settlement may be presented. Herbert B. Newberg & Alba
14 Conte, *Newberg on Class Actions* ("Newberg"), § 13.1 (5th ed.); *Nat'l Rural Telecomm. Coop. v.*
15 *DirecTV, Inc.*, 221 F.R.D. 523, 525 (C.D. Cal. 2004) (describing settlement approval process in
16 which "the [c]ourt first determines whether a proposed class action settlement deserves
17 preliminary approval and then, after notice is given to class members, whether final approval is
18 warranted"); *see also generally* JAMS Class Action Procedure Rule 6.

19 Preliminary approval requires two elements. First, the Arbitrator must determine that the
20 California Class meets the requirements for class certification, pursuant to JAMS Class Action
21 Procedure Rule 3, which incorporates the requirements of Fed. R. Civ. P. 23(a) and (b); and

22 ¹⁵ Courts have routinely awarded fees in this range. *See, e.g., In re Pacific Enter. Sec. Litig.*,
23 47 F.3d 373, 379 (9th Cir. 1995) (affirming fee award equal to 33% of the common fund);
24 *Moreno v. Beacon Roofing Supply, Inc.*, No. 19 Civ. 185, 2020 WL 3960481, at *8-9 (S.D. Cal.
25 July 13, 2020) (approving \$100,000 in attorneys' fees or 43% of the common fund and noting
26 that "[i]n cases where the common fund is under \$10 million, fees are often above 25%");
27 *Contreras v. Worldwide Flight Servs., Inc.*, No. 18 Civ. 036, 2020 WL 2083017, at *8 (C.D. Cal.
28 Apr. 1, 2020) (awarding one-third of the settlement fund); *Puglisi v. TD Bank., N.A.*, No. 13 Civ.
637, 2015 WL 4608655, at *1 (E.D.N.Y. July 30, 2015) (same); *Behzadi v. Int'l Creative Mgmt.*
Partners, LLC, No. 14 Civ. 4382, 2015 WL 4210906, at *2 (S.D.N.Y. July 9, 2015) (same);
Garcia v. Gordon Trucking, Inc., No. 10 Civ. 0324, 2012 WL 5364575, at *10 (E.D. Cal. Oct. 31,
2012) (awarding 33.3% fee).

1 second, the Arbitrator must make a preliminary determination that the settlement is fair,
2 reasonable, and adequate. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1025-26 (9th Cir. 1998).

3 **B. Certification of the California Class Is Appropriate.**

4 For settlement purposes, the parties have agreed to certification of the California Class.
5 “The validity of use of a temporary settlement class is not usually questioned.” Alba Conte &
6 Herbert B. Newberg, 4 Newberg on Class Actions § 11:22 (4th ed. 2002).

7 **1. The Prerequisites of Fed. R. Civ. P. 23(a) Are Satisfied.**

8 **a. The California Class is Sufficiently Numerous.**

9 Fed. R. Civ. P. 23(a)(1) requires that the class be so numerous that joinder of all members
10 would be “impracticable.” Fed. R. Civ. P. 23(a)(1). Here, the California Class meets this
11 requirement because it is estimated to include 147 members who worked in California. Stewart
12 Decl. ¶ 28; *Whiteway v. FedEx Kinko’s Office & Print Servs., Inc.*, No. 05 Civ. 2320, 2006 WL
13 2642528, at *4 & n.3 (N.D. Cal. Sept. 14, 2006) (“numerosity may be *presumed* at a level of forty
14 members”) (emphasis in original).

15 **b. There Are Common Questions of Law and Fact.**

16 Commonality is satisfied where that there are “questions of law or fact common to the
17 class.” Fed. R. Civ. P. 23(a)(2). In examining the commonality factor, the Supreme Court has
18 stated that the focus is on whether there are common issues of fact among class members and
19 whether class treatment will “generate common *answers* apt to drive the resolution of
20 the litigation.” *Abdullah v. U.S. Sec. Assocs.*, 731 F.3d 952, 957 (9th Cir. 2013) (citing *Wal-Mart*
21 *Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011) (emphasis in original)).

22 Here, commonality is satisfied because Claimants have alleged a single policy of
23 classifying all Sales Representatives as exempt from overtime protections, and the other claims—
24 meal and rest breaks, wage statements, and timely pay claims—are largely derivative of the
25 misclassification question. Commonality is therefore satisfied.

26 **c. The Typicality Requirement is Met.**

27 Fed. R. Civ. P. 23(a)(3) requires that the “claims or defenses of the representative parties
28 [be] typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). Typicality “focuses

1 on the similarity between the lead plaintiff's legal theories and those of the people he or she
2 purports to represent." *Whiteway*, 2006 WL 2642528, at *6. Typicality is established if
3 "representative claims are . . . reasonably co-extensive with those of absent class members; they
4 need not be substantially identical." *Hanlon*, 150 F.3d at 1020.

5 Here, Claimants' claims are typical of the California Class's claims because they worked
6 as Sales Representatives in California and were subject to the same policy of exempt
7 classification and related violations. Claimants' claims, therefore, arise from the same set of facts
8 and legal theories and the typicality requirement is satisfied.

9 **d. The Adequacy Requirement is Satisfied.**

10 Fed. R. Civ. P. 23(a)(4) requires that class representatives fairly and adequately protect the
11 interests of the class. Fed. R. Civ. P. 23(a)(4). The adequacy requirement is met where class
12 representatives: (1) have common, and not antagonistic, interests with unnamed class members,
13 and (2) will vigorously prosecute the interests of the class through qualified counsel. *Amchem*
14 *Products, Inc. v. Windsor*, 521 U.S. 591, 625 (1997); *Hanlon*, 150 F.3d 1020.

15 Here, Claimants possess the same type of interests and suffered the same type of injury as
16 the other California Class Members. Claimants have hired adequate counsel who have extensive
17 experience in employment class action litigation and arbitration and have prosecuted the case
18 vigorously on behalf of the California Class. Stewart Decl. ¶ 30.

19 **2. The Prerequisites of Fed. R. Civ. P. 23(b)(3) Are Satisfied.**

20 **a. Common Questions Predominate Over Any Individual Issues.**

21 "The Rule 23(a)(3) predominance inquiry tests whether proposed classes are sufficiently
22 cohesive to warrant adjudication by representation." *Hanlon*, 150 F.3d at 1022 (quoting *Amchem*,
23 521 U.S. at 623). "The predominance inquiry asks whether the common, aggregation-enabling,
24 issues in the case are more prevalent or important than the non-common, aggregation-defeating,
25 individual issues." *Tyson Foods v. Bouaphakeo*, 136 S. Ct. 1036, 1045 (2016) (internal quotation
26 marks omitted). Common questions predominate when "resolution of some of the legal or factual
27 questions that qualify each class member's case as a genuine controversy can be achieved through
28 generalized proof, and if these particular issues are more substantial than the issues subject only

1 to individualized proof.” *Moore v. PaineWebber, Inc.*, 306 F.3d 1247, 1252 (2d Cir. 2002). In a
2 misclassification action like this one, courts certify class claims where there is evidence that class
3 members share “similarities” with respect to their duties and other considerations “relevant to the
4 misclassification question.” *Greko v. Diesel U.S.A., Inc.*, 277 F.R.D. 419, 428 (N.D. Cal. 2011).

5 Here, several pieces of common evidence demonstrate that the misclassification question
6 predominates over any individual issues. First, Sumo Logic’s uniform classification supports
7 certification, confirming “that the employer believes some degree of homogeneity exists among
8 the employees.” *Wells Fargo Home Mortg. Overtime Pay Litig.*, 571 F.3d 953, 957 (9th Cir.
9 2009). Second, Sumo Logic’s corporate policies define what class members primarily do (inside
10 sales). Third, Sumo Logic’s payroll data demonstrates that class members do not meet the
11 commission earnings prong of the commissioned sales exemption, without the need for any
12 individualized inquiry. This evidence, taken together, reveals that common questions of fact and
13 law predominate.

14 **b. Superiority is Satisfied.**

15 Fed. R. Civ. P. 23(a)(3)’s final requirement is that “resolution of the issues on a class wide
16 basis [be] superior to other available methods available for the fair and efficient adjudication of
17 the controversy.” *Tierno v. Rite Aid Corp.*, No. 05 Civ. 2520, 2006 WL 2535056, at *11 (N.D.
18 Cal. Aug. 31, 2006). This requirement is satisfied here because “there is no indication[] that class
19 members seek to individually control their cases, that individual litigation is already pending in
20 other forums, or that this particular forum is undesirable for any reason.” *Id.* Furthermore, Class
21 Members likely lack the resources or incentives to secure experienced, qualified counsel or to see
22 litigation through to completion on their own. In addition, individual lawsuits from hundreds of
23 individuals would be wasteful and inefficient. *See Whiteway*, 2006 WL 2642528 at *11 (“A class
24 action is superior to multiple individual lawsuits. The needless expenditure of additional time,
25 effort and money that would be attendant to numerous individual suits is greatly reduced, and the
26 potential for differing outcomes is avoided as well.”). Accordingly, certification of the California
27 Class is superior to any other method of resolving this matter, as it will promote economy,
28 expediency, and efficiency.

1 **3. Claimants' Counsel Should be Appointed as Class Counsel.**

2 JAMS Class Action Procedures and the parallel Fed. R. Civ. P. 23(g) requirements
3 provide that in certifying a class, a court should appoint class counsel, taking into consideration
4 four factors: (i) the work counsel has done in identifying or investigating potential claims in the
5 action; (ii) counsel's experience in handling class actions, other complex litigation, and the types
6 of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the
7 resources that counsel will commit to representing the class. Fed. R. Civ. P. 23(g)(1)(A).

8 The proposed Class Counsel easily satisfy these criteria. Claimants' Counsel have
9 conducted extensive investigation of this case; have vast experience in prosecuting and litigating
10 large-scale wage and hour collective and class actions such as this; have extensive knowledge of
11 this area of the law, have prosecuted numerous misclassification actions on behalf of workers in
12 the past; and have the resources to effectively prosecute this case. Stewart Decl. ¶¶ 3-11.

13 **C. Conditional Certification of the Putative Collective is Appropriate.**

14 Employees alleging violation of their rights under the FLSA may bring a claim seeking
15 relief on their own behalf and on behalf of "other employees similarly situated." 29 U.S.C. §
16 216(b). At the conditional certification stage, courts determine whether the proposed collective
17 should be given notice. *Campbell v. City of Los Angeles*, 903 F.3d 1090, 1109 (9th Cir. 2018).
18 This stage is lenient; loosely akin to a plausibility standard. *Hernandez v. Dutton Ranch Corp.*,
19 No. 19 Civ. 817, 2020 WL 1274908, at *1 (N.D. Cal. Mar. 17, 2020) (quoting *Campbell*, 903
20 F.3d at 1109). Plaintiffs are similarly situated when they share "a similar issue of law or fact
21 material to the disposition of their FLSA claims." *Campbell*, 903 F.3d at 1117.

22 Here, Claimants have demonstrated that conditional certification is appropriate by
23 identifying a common policy that classifies them as exempt from overtime under the FLSA. *See*
24 *Karl v. Zimmer Biomet Holdings, Inc.*, No. 18 Civ. 4176, 2019 WL 2775567, at *2 (N.D. Cal.
25 July 2, 2019) (sales representatives similarly situated where they alleged they were victims of a
26 common misclassification policy).

27 **D. The Settlement Meets the Requirements for Preliminary Approval.**

28 Once the Arbitrator has found class and collective certification proper, the next step of the

1 preliminary approval process is to assess whether the settlement is “fundamentally fair, adequate,
2 and reasonable.” *Hanlon*, 150 F.3d at 1026; *see also* JAMS Class Action Procedures Rule 6(a)(2)
3 (requiring an Arbitrator to find that a class resolution is “fair, reasonable and adequate”).

4 At the preliminary approval stage, the Arbitrator “need only determine whether the
5 proposed settlement is within the range of possible approval such that there is a reason to notify
6 the class members of the proposed settlement and to proceed with a fairness hearing.” *Palacios v.*
7 *Penny Newman Grain, Inc.*, No. 14 Civ. 1804, 2015 WL 4078135, at *7 (E.D. Cal. July 6, 2015)
8 (citation and quotation marks omitted). Typically, the first-stage analysis considers only
9 “obvious deficiencies,” with preliminary approval granted if the settlement is non-collusive and
10 within the range of possible final approval. *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d
11 1078, 1079 (N.D. Cal. 2007); *see also Ruch v. AM Retail Grp., Inc.*, No. 14 Civ. 5352, 2016 WL
12 1161453, at *11 (N.D. Cal. Mar. 24, 2016) (“Preliminary approval of a settlement is appropriate
13 if the proposed settlement appears to be the product of serious, informed, non-collusive
14 negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to
15 class representatives or segments of the class, and falls within the range of possible approval.”)
16 (internal quotation omitted); Alba Conte & Herbert B. Newberg, 4 *Newberg on Class Actions*, §
17 11.41 (4th ed. 2006).

18 When considering whether to grant approval, courts often “put a good deal of stock in the
19 product of an arms-length, non-collusive, negotiated resolution.” *Rodriguez v. W. Publ’g Corp.*,
20 563 F.3d 948, 965 (9th Cir. 2009). Approval is appropriate here because the proposed
21 Settlement was reached through vigorous, hard-fought, arm’s-length negotiation between
22 lawyers with significant experience. Stewart Decl. ¶ 23.

23 Courts may also assess the following factors, which are assessed in greater detail at final
24 approval. These factors are addressed below: “the extent of discovery completed and the stage of
25 the proceedings,” “the amount offered in settlement,” “the strength of the plaintiffs’ case,” “the
26 risk, expense, complexity, and likely duration of further litigation,” “the risk of maintaining class
27 action status throughout the trial,” and “the experience and views of counsel.” *Hanlon*, 150 F.3d
28 at 1026. In addition, courts review “the presence of a governmental participant” and “the reaction

of the class members to the proposed settlement.” *Id.* The former is not relevant, and the latter cannot be gauged at this stage.

1. **The Settlement Provides Substantial Relief for Settlement Class Members.**

“[P]erhaps the most important factor” courts consider in determining whether to grant preliminary approval is “plaintiffs’ expected recovery balanced against the value of the settlement offer.” *Cotter v. Lyft, Inc.*, 176 F. Supp. 3d 930, 935 (N.D. Cal. 2016) (citations and internal quotation marks omitted).

Here, the proposed Settlement provides substantial relief to the Settlement Class relative to the theoretical maximum recovery. Stewart Decl. ¶ 31. The average net award (after deduction for attorneys’ fees, costs, service awards, and administration) Settlement Class Members stand to recover is approximately \$298.79 per workweek, with an estimated average net total payment of \$16,319 per Settlement Class Member if all of the approximately 192 Settlement Class Members participate.¹⁶ *Id.* By Claimants’ Counsel’s estimation, the Total Settlement Amount represents approximately 53% of Settlement Class Members’ unpaid wages—not including liquidated damages or California Labor Code and PAGA penalties—based on an estimate that Settlement Class Members worked ten hours of overtime in 90% of workweeks (to account for periods of vacations, leave, and other days off). This recovery is substantial given the litigation risks and the risks in recovering the full extent of possible damages and penalties, as described further below. *See, e.g., In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (gross recovery of approximately 16.67% of potential recovery adequate in light of litigation risks); *Villegas v. J.P. Morgan Chase & Co.*, No. 09 Civ. 261, 2012 WL 5878390, at *6 (N.D. Cal. Nov. 21, 2012) (preliminarily approving a settlement where the gross amount represented approximately 15% of the potential recovery).

¹⁶ This is the average settlement award of all Class Members who did not receive a prior payment from Sumo Logic in October 2019. Those Class Members will receive an equal average award when their settlement award and prior payment is summed, unless their prior payment was more than what they would have received under the settlement, and then they will receive a nominal payment of \$500.

1 The Settlement provides that \$44,700 of the Total Settlement Amount will be allocated to
2 the Settlement of the PAGA Group's claims,¹⁷ which represents approximately 1% of the Total
3 Settlement Award.¹⁸ Ex. 1 (Settlement Agreement) § 1.23; Stewart Decl. ¶ 32. Claimants
4 estimated maximum PAGA penalties at approximately \$1,296,220 based on the above Labor
5 Code violations. Stewart Decl. ¶ 32. The PAGA Fund therefore represents approximately 3.45%
6 of Claimants' maximum theoretical PAGA recovery. *Id.* This recovery is reasonable because of
7 courts' discretion to reduce PAGA penalties (Cal. Lab. Code § 2699(e)(2)) and well within the
8 range that courts routinely approve. *See, e.g., Ruch v. AM Retail Grp., Inc.*, No. 14 Civ. 05352,
9 2016 WL 5462451, at *7 (N.D. Cal. Sept. 28, 2016) (approving PAGA recovery that represented
10 less than 2% of maximum potential recovery); *McLeod v. Bank of Am., N.A.*, No. 16 Civ. 03294,
11 2018 WL 5982863, at *2, *4 (N.D. Cal. Nov. 14, 2018) (same).

12 In sum, the \$4,470,000 common fund constitutes fair, reasonable, and adequate
13 compensation for Settlement Class Members, in light of potential value of their claims.

14 **2. Claimants Faced Significant Risks in the Absence of Settlement.**

15 "Approval of a class settlement is appropriate when 'there are significant barriers
16 plaintiffs must overcome in making their case.'" *Betancourt v. Advantage Human Resourcing,*
17 *Inc.*, No. 14 Civ. 1788, 2016 WL 344532, at *4 (N.D. Cal. Jan. 28, 2016) (citation omitted).
18 Claimants face substantial obstacles to a full and timely recovery here. Stewart Decl. ¶ 35.

19 First, there was a risk that Claimants would not succeed in certifying or maintaining the
20 class and collective through trial. *Id.* ¶ 37. Sumo Logic would likely argue that differences

21
22 ¹⁷ Claimants Falter and Saldivar gave notice to the LWDA of their intent to pursue PAGA
23 penalties as required by Cal. Lab. Code § 2699.3. Stewart Decl. ¶ 33. Claimants will amend the
24 demand after the 65-day exhaustion period expires on August 28, 2020, to allege PAGA claims,
25 per Cal. Lab. Code § 2699.3(a)(2)(A), and at that time submit the arbitration demand to the
26 LWDA as required by Cal. Lab. Code § 2699(l)(1). *Id.* Contemporaneously with filing this
27 motion, Claimants' Counsel submitted a copy of the proposed settlement to the LWDA, as
28 required by Cal. Lab. Code § 2699(l)(2). *Id.*

¹⁸ Courts that look at the proportion of the PAGA settlement to the overall settlement
recovery have approved proportionate recoveries in this range. *See, e.g., Van Kempen v.*
Matheson Tri-Gas, Inc., No. 15 Civ. 660, 2017 WL 3670787, at *10 (N.D. Cal. Aug. 25, 2017)
(1.4 percent); *Chu v. Wells Fargo Investments, LLC*, Nos. 05 Civ. 4526, 06 Civ. 7924, 2011 WL
672645, at *1 (N.D. Cal. Feb. 16, 2011) (less than 1 percent).

1 among Sales Representatives’ job titles, job duties, or compensation levels preclude class
2 certification or warrant decertification of a collective, if certified. Although Claimants disagree,
3 Claimants recognize that obtaining and maintaining class certification is always a significant
4 obstacle. *Id.*

5 Second, a trial on the merits would involve significant risks for Claimants on liability
6 issues. Sumo Logic would argue that Sales Representatives were properly classified as
7 overtime-exempt (as “administrators,” outside salespeople, commissioned salespeople, or some
8 combination of exemptions). *Id.* ¶ 38. Although Claimants believe that Sales Representatives’
9 job duties do not qualify them for any of the relevant exemptions, Claimants’ Counsel
10 recognizes that each exemption inquiry is highly contextual and litigation of exemption
11 defenses inherently poses significant risks. *Id.*

12 Third, a trial on the merits would entail various risks for Claimants in establishing
13 damages. Sumo Logic would claim that Settlement Class Members did not miss meal or rest
14 breaks and dispute the number of hours Sales Representatives claim to have worked. *Id.* ¶ 39.
15 Without contemporaneous records of time worked and breaks taken (which Sumo Logic did not
16 maintain), proving the existence and extent of overtime hours worked and breaks missed would
17 be an evidentiary challenge. *Id.*

18 To establish a third year of liability and liquidated damages under the FLSA, as well as
19 waiting time and wage statement penalties, Claimants faced risk to overcome Sumo Logic’s
20 various state of mind defenses—that any violations were not willful, knowing, or intentional,
21 and that compliance was attempted in good faith. *Id.* ¶ 40.

22 To recover maximum PAGA penalties, Claimants would need to establish that penalties
23 should be stacked, and defeat Sumo Logic’s likely argument that plaintiffs may recover
24 heightened PAGA penalties only after a court or the Labor Commissioner has determined that
25 the employer violated the Labor Code. *See, e.g., Amaral v. Cintas Corp. No. 2*, 163 Cal. App.
26 4th 1157, 1209 (2008); *see also* Stewart Decl. ¶ 41.

27 Although Claimants would dispute each of Sumo Logic’s arguments, a class trial and the
28 formal discovery process to prepare for it likely would be long, arduous, and risky; and even if

1 Claimants prevailed on each of their claims, they might face a lengthy post-trial damages phase
2 and appeals process. Stewart Decl. ¶ 42. In light of the myriad risks and delay that litigation
3 would entail, the proposed Settlement is in the best interests of the Settlement Class Members.
4 *Id.*

5 **3. The Extent of Discovery Supports Settlement.**

6 A settlement requires adequate discovery. The touchstone of the analysis is whether “the
7 parties have sufficient information to make an informed decision about settlement[,]” including
8 formal or informal discovery. *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d at 459.

9 Here, the Parties engaged in sufficient mediation discovery to recommend settlement,
10 including the exchange of substantial data, documents, and witness statements. Stewart Decl. ¶
11 17. The Parties also exchanged extensive mediation statements which outlined the evidence
12 and the key arguments they would make in the course of the litigation. *Id.* This information
13 exchanged was more than sufficient to create an understanding of the amount that is in
14 controversy and the realistic range of outcomes of the litigation.

15 **4. Counsel’s Experience and Views Support Approval.**

16 “Great weight is accorded to the recommendation of counsel, who are most closely
17 acquainted with the facts of the underlying litigation.” *Nat’l Rural Telecomms. Coop.*, 221
18 F.R.D. at 528 (citations and internal quotations omitted). “Parties represented by competent
19 counsel are better positioned than courts to produce a settlement that fairly reflects each party’s
20 expected outcome in litigation.” *Rodriguez*, 563 F.3d at 967 (citations, internal quotations and
21 modifications omitted).

22 Here, Claimants’ Counsel Outten & Golden LLP are some of the most experienced and
23 sophisticated plaintiffs’ employment lawyers in the area of class action employment litigation in
24 the country. Based on their extensive experience and expertise in this particular area of the law,
25 Claimants’ Counsel believe that the Settlement is fair, reasonable, and adequate. Claimants’
26 Counsel specialize in prosecuting nationwide employment class actions, and over the past many
27 years have successfully—and unsuccessfully—litigated many such cases, putting them in a strong
28 position to weigh the strengths and weaknesses of Claimants’ claims. Stewart Decl. ¶ 4.

Because all of the considerations indicate that the Settlement is fair, adequate, and reasonable, the Arbitrator should grant preliminary approval of the Settlement.

E. The Proposed Notice Is Clear and Adequate.

JAMS Class Action Procedures Rule 6 provides that notice of a proposed settlement “be provided in a reasonable manner to all class members who would be bound by a proposed settlement[.]” JAMS Class Action Procedures, Rule 6(a)(1). Class members should be afforded an opportunity to request exclusion or object to the settlement. *Id.* Rule 6(c), (d); *see also* Fed. R. Civ. P. 23(c)(2)(B) (analogous provision that notice must inform class members that a settlement “will exclude from the class any member who requests exclusion[.]” stating when and how members may elect to be excluded).

Similarly, JAMS Class Action Procedures Rule 4 provides that notice of a class determination should be provided via the best practical means to all members who can be identified through reasonable effort. JAMS Class Action Procedures, Rule 4; *see also* Fed. R. Civ. P. 23(e)(1)(B) (analogous federal rule providing for “direct[ing] notice in a reasonable manner to all class members who would be bound by the proposal”). JAMS Class Action Procedures Rule 4 further requires that notices be “concise[.]” and “state in plain, easily understood language” several enumerated categories of information. *See* JAMS Class Action Procedures, Rule 4(1)-(7).

Notice of a class settlement is generally satisfactory if it “describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard.” *Churchill Village, L.L.C. v. General Electric*, 361 F.3d 566, 575 (9th Cir. 2004) (citation and internal quotations omitted). Notice mailed to “each class member who can be identified through reasonable effort” generally constitutes reasonable notice. *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 176 (1974).

Here, the Notices provide the required information and are clear and concise. *See* Settlement, Ex. A-1, Ex. A-2. The Notices include a description of the claims and the Settlement;

1 information about the arbitration process; the allocation of the Settlement fund, including the
2 calculation of each Settlement Class Member's settlement share, the requests for the Service
3 Awards and Claimants' Counsel's attorneys' fees and costs, and the other payments that will be
4 deducted from the Settlement fund; the opportunity (and consequences) of objecting, opting out,
5 or participating in the Settlement; the opportunity to appear at the Fairness Hearing (including
6 through one's own counsel); and the identities and biographies of the class representatives, class
7 counsel, and the Arbitrator. *Id.* ¶ 5(B) & Ex. A-1, Ex. A-2. The notice is written in plain English
8 and is organized and formatted so as to be as clear as possible. It is based on one of the model
9 notice forms provided by the Federal Judicial Center on its website. The notice encourages
10 Settlement Class Members to contact Class Counsel or the Settlement Administrator with any
11 questions, and provides their telephone, mail, e-mail, and web contact information.

12 The manner of dissemination of the Notices is also consistent with modern best practices
13 set forth by the Federal Judicial Center and negotiated and agreed upon by all counsel.
14 Settlement, Ex. A-1 & A-2. The Settlement Administrator will use all commercially reasonable
15 means to confirm Settlement Class Members' addresses and obtain new addresses as necessary,
16 including electronic mail addresses, *id.* ¶ 5(C); disseminate the notices via physical mailings, e-
17 mail, text message, and a website, *id.* ¶ 5(B); and disseminate reminder notices, *id.* ¶ 5(D).

18 The foregoing notice plan provides the best notice practicable under the circumstances
19 and will provide Settlement Class Members with a full and fair opportunity to consider the terms
20 of the proposed Agreement and make a fully informed decision on whether to participate, object,
21 or opt out of the Settlement.

22 **F. A Final Approval Hearing Should Be Scheduled.**

23 The last step in the settlement approval process is the fairness hearing, after which the
24 Arbitrator will make a final determination that the settlement "is fair, reasonable, and adequate."
25 JAMS Class Action Procedures Rule 6(a)(2). The following schedule sets forth a proposed
26 sequence for the relevant dates, assuming the Arbitrator grants preliminary approval of the
27 Settlement:
28

<u>Event</u>	<u>Date</u>
Preliminary Approval of Settlement	October 19, 2020
Deadline for Respondents to Provide Class List to JND and Claimants' Counsel	October 26, 2020 [7 days from Preliminary Approval Award]
Deadline to Mail Class Notice to Settlement Class	November 9, 2020 [21 days from Preliminary Approval Award]
Deadline for California Class Members to Submit Opt-Out Form and for Collective Members to Submit Claim Form	January 8, 2021 or February 22, 2021 [60 days from date of initial mailing or 45 days from date of remailing] (126 days after Preliminary Approval Award)
Deadline to file Motions for Final Approval, Attorneys' Counsel Costs & Fees, and Class Representative Service Awards ("Application for Final Approval")	February 8, 2021 [112 days from Preliminary Approval Award] ¹⁹
Fairness hearing	February 24, 2021 [128 days from Preliminary Approval Award]

V. **CONCLUSION**

Claimants' motion is filed in connection with the Parties' Settlement Agreement.

Therefore, Respondent Sumo Logic is not opposed to the relief sought for settlement purposes.

¹⁹ To avoid undue delay, this assumes that re-mailings may not be conducted in the last 14 days of the 60-day claim period, such that the deadline to submit Claim Forms, Opt-Outs, and Objections will have expired for most, if not all, Settlement Class Members, and Claimants may file the Application for Final Approval by this point. The longest potential period for receipt of materials following re-mailings will be 126 days after the Preliminary Approval Award; accordingly, in the event that the re-mailing deadline extends the Deadline for submission of Claim Forms, Opt-Outs, and Objections any later than the deadline for the Application for Final Approval for a handful of Settlement Class Members, Claimants will supplement their Application for Final Approval 2 days prior to the Fairness hearing.

1 For the foregoing reasons, Claimants respectfully request that the Arbitrator:²⁰
2 (1) conditionally certify the proposed California Class under JAMS Class Action Procedures and
3 Fed. R. Civ. P. 23 solely for purposes of effectuating this Settlement; (2) designate the action as a
4 collective action under the FLSA; (3) appoint Claimants as Class Representatives; (4) appoint
5 Claimants' counsel as Class Counsel; (5) grant preliminary approval of the Parties' Settlement;
6 (6) approve the dissemination of the proposed Notices pursuant to JAMS Class Action Procedures
7 Rules 4 and 6; and (7) schedule a final approval hearing.

8 Dated: New York, New York
9 October 12, 2020

Respectfully submitted,

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25 *Attorneys for Claimants and the Proposed*
26 *Class and Collective*

27 _____
28 ²⁰ A Proposed Preliminary Approval Award is attached as Exhibit 2 to the Stewart Declaration.