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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

STEPHEN V. WEAVER, ZUBEIR KHAN,
CHAD M. ESQUIVEL, SAMPSON
DANQUAH, and MARCO LAFON,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

AMENTUM SERVICES, INC.; and DOES 1
through 20, inclusive,

Defendants.

Case No. 37-2021-00049868-CU-OE_CTL

*Assigned for All Purposes to:
Hon. Marcella O. McLaughlin, Department
C-72*

**PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: February 28, 2025

Time: 9:30 a.m.

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	SUMMARY OF THE LITIGATION.....	2
III.	SUMMARY OF THE SETTLEMENT	4
A.	Terms of Settlement.....	4
B.	Proposed Opt-Out and Objection Process.....	5
C.	Proposed Release.....	6
IV.	LEGAL ARGUMENTS SUPPORTING PRELIMINARY APPROVAL.....	8
A.	Provisional Certification of the Class is Appropriate.....	8
1.	The Proposed Class is Numerous and Ascertainable.....	8
2.	A Well-Defined Community of Interest Exists Among Class Members....	8
3.	A Class Action is Superior to a Multitude of Individual Lawsuits.....	10
B.	The Settlement Meets the Standards for Preliminary Approval	10
1.	The Settlement is Entitled to a Presumption of Fairness	11
2.	The Settlement is Reasonable Given the Strengths of Plaintiffs’ Claims and the Risks and Expense of Litigation	12
C.	The Requested Class Representative Enhancement Awards for Plaintiffs	16
D.	The Requested Attorneys’ Fees and Costs.....	17
V.	CONCLUSION	18

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Bell v. Farmers Ins. Exch.</i> , 115 Cal. App. 4th 715 (2004).....	17
<i>Brinker Restaurant Corp. v. Superior Court</i> , 53 Cal. 4th 1004 (2012)	8, 9
<i>Capitol People First v. State Dep't of Developmental Servs.</i> , 155 Cal. App. 4th 676 (2007).....	9
<i>Cellphone Termination Fee Cases</i> 186 Cal. App. 4th 1380, 1389 (2010)	10, 17
<i>Chavez v. Netflix, Inc.</i> , 162 Cal. App. 4th 43 (2008).....	17
<i>Classen v. Weller</i> , 145 Cal. App. 3d 27 (1983).....	9
<i>Dunk v. Ford Motor Co.</i> , 48 Cal. App. 4th 1794 (1996).....	11
<i>Fireside Bank v. Superior Court</i> , 40 Cal. 4th 1069 (2007)	8
<i>Ghazaryan v. Diva Limousine, Ltd.</i> , 169 Cal. App. 4th 1524 (2008).....	10
<i>Kullar v. Foot Locker Retail, Inc.</i> , 168 Cal. App. 4th 116 (2008).....	12
<i>Linder v. Thrifty Oil Co.</i> , 23 Cal. 4th 429 (2000)	10
<i>Munoz v. BCI Coca-Cola Bottling Co. of L.A.</i> , 186 Cal. App. 4th 399 (2010).....	12
<i>North County Contractor's Ass'n., Inc. v. Touchstone Ins. Servs.</i> , 27 Cal. App. 4th 1085 (1994).....	10
<i>Ordonez v. Radio Shack, Inc.</i> , 2013 WL 210223 (C.D. Cal. Jan. 17, 2013)	15
<i>Rebney v. Wells Fargo Bank</i> , 220 Cal. App. 3d 1117 (1991).....	12

1	<i>Reyes v. Bd. of Supervisors</i> ,	
2	196 Cal. App. 3d 1263 (1987).....	8
3	<i>Sav-On Drug Stores, Inc. v. Superior Court</i> ,	
4	34 Cal. 4th 319 (2004)	8, 17
5	<i>See's Candy Shops, Inc. v. Superior Court</i>	13
6	210 Cal.App.4th 889 (2012)	
7	<i>Villa v. United Site Servs. of California, Inc.</i> ,	
8	2012 WL 5503550, at *8 (N.D. Cal. Nov. 13, 2012)	15
9	<i>Wershba v. Apple Computer, Inc.</i> ,	
10	91 Cal. App. 4th 224 (2001).....	13
11	Statutes	
12	Business and Professions Code § 17200, <i>et seq</i>	2, 3, 7
13	Civ. Code § 1542	7
14	Lab. Code § 203	16
15	Lab. Code § 226	16
16	Lab. Code § 2698, <i>et seq</i>	
17	(.California Private Attorneys General Act of 2004-PAGA).....	<i>passim</i>
18	Lab. Code § 2699(e)(2)	16
19	Lab. Code § 2699(f)	16
20	Lab. Code § 2699(l)(2).....	4
21	Lab. Code § 2699.3(a).....	2
22	Other Authorities	
23	Cal. R. Ct. 3.766(d)	6
24	Cal, R. Ct. 3.769 (d) and (f)	6
25	Treatises	
26	Conte & Newberg, <i>Newberg on Class Actions</i> , § 11.26 (4th ed. 2002)	10

1 **I. INTRODUCTION**

2 Pursuant to California Rules of Court 3.769 (d) and (e), Plaintiffs Stephen V. Weaver, Zubeir
3 Khan, Chad M. Esquivel, Sampson Danquah, and Marco Lafon (“Plaintiffs”) request that the Court grant
4 preliminary approval of a class action settlement of wage and hour claims, including claims under the
5 California Private Attorneys General Act of 2004, codified at Lab. Code § 2698, *et seq.* (“PAGA”),
6 against Defendant Amentum Services, Inc. (“Defendant”) (collectively, Plaintiffs and Defendant referred
7 to as, the “Parties”). The putative class consists of approximately 4,339 individuals, comprising (a) all
8 current and former non-exempt employees employed by Defendant, and Defendant’s subsidiary and
9 affiliate, URS Federal Services, LLC in California between May 30, 2017, through March 17, 2024; (b)
10 all current and former non-exempt employees employed by Defendant’s subsidiary and affiliate DynCorp
11 International LLC in California between November 20, 2020, through March 17, 2024; and (c) all current
12 and former non-exempt employees employed by Defendant’s subsidiary and affiliate PAE Shared
13 Services, LLC in California between September 20, 2022, through March 17, 2024. (individually, “Class
14 Member”; collectively, the “Class”). The basic terms of the Class and Representative Action Settlement
15 Agreement and Release (“Settlement Agreement” or “Settlement”)¹ provide for the following:

- 16 (1) A non-reversionary Gross Settlement Amount of \$7,500,000.00 allocated to approximately
17 4,339 Class Members on a pro rata basis according to the number of weeks each Class Member
18 worked between May 30, 2017 and March 17, 2024 (the “Class Period”);
19 (2) An award of up to one-third of the Gross Settlement Amount (\$2,500,000.00) to Plaintiffs’
20 Counsel for services rendered on this matter, and up to \$55,000.00 in reimbursement of costs;
21 (3) Settlement Administration fees and costs of up to \$29,500.00;
22 (4) Class Representative Enhancement Awards of up to \$15,000.00 each to Plaintiffs Stephen V.
23 Weaver, Zubeir Khan, Sampson Danquah, and Chad M. Esquivel, and up to \$10,000 to Plaintiff
24 Marco Lafon; and

25
26 ¹ A true and correct copy of the fully-executed “Class and Representative Action Settlement Agreement
27 and Release” is attached as **Exhibit 1** to the Declaration of Alex J. Valle in Support of Plaintiffs’ Motion
28 for Preliminary Approval of Class Action Settlement (“Valle Decl.”), filed concurrently herewith. Unless
otherwise defined herein, all capitalized terms in this Motion will be used as such terms are defined and
used in the Settlement.

(5) Allocation of \$150,000.00 for settlement of claims for civil penalties under PAGA. Seventy-five percent (75%) of this payment will be paid to the California Labor and Workforce Development Agency (“LWDA Payment”), and twenty-five percent (25%) will be paid to the Net Settlement Amount for distribution to PAGA Settlement Group Members.

The Settlement satisfies the criteria for preliminary approval and falls well within the range of reasonableness given the risks and costs of continued litigation. The Settlement was reached through informed, arms-length bargaining at and after mediation between experienced attorneys. Plaintiffs estimate that each Class Member will receive an average recovery of approximately \$1,100 each.

As such, Plaintiffs request that the Court grant preliminary approval of the Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiffs as the Class Representatives, appoint Plaintiffs’ Counsel as Class Counsel, appoint Phoenix Settlement Administrators as the Settlement Administrator, authorize the Settlement Administrator to send notice of the Settlement, and set a final approval hearing date.

II. SUMMARY OF THE LITIGATION

A. Status of the Pleadings

On November 24, 2021, Plaintiff Stephen V. Weaver filed this class action on behalf of Defendant’s non-exempt employees and alleged the following claims: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to permit rest breaks; (5) failure to reimburse business expenses; (6) failure to provide accurate wage statements; (7) failure to pay all wages timely and upon separation of employment; and (8) violation of Business and Professions Code § 17200, *et seq.*, based on the preceding claims (the “Weaver Action”). Valle Decl., ¶ 3. On the same day, Plaintiff Weaver provided written notice to the LWDA and Defendant regarding Defendant’s alleged Labor Code violations, as required by Lab. Code § 2699.3(a). *Id.* at ¶ 4, Ex. 3.

On March 10, 2022, Plaintiff Weaver provided supplemental notice to the LWDA and Defendant of Plaintiff Zubeir Khan’s alleged Labor Code Claims. Valle Decl., ¶ 5. The LWDA did not respond to these notices, indicating it did not intend to investigate and allowing Plaintiff Weaver and Plaintiff Khan to bring a PAGA claim against Defendant. *Id.* As such, on September 19, 2022, Plaintiff Weaver and Plaintiff Khan filed their First Amended Complaint in the Weaver Action to add a claim for PAGA and to add Plaintiff

1 Khan to the action. *Id.* Plaintiff Esquivel sent notice to the LWDA and Defendant on August 25, 2023. *Id.*
2 at ¶ 6. On April 26, 2024, Plaintiff Weaver filed his Second Amended Complaint adding Plaintiff Chad
3 Esquivel to the Weaver Action. *Id.*

4 On February 9, 2022, Plaintiff Danquah provided his PAGA notice to Defendant and the LWDA
5 regarding his Labor Code Claims. Declaration of Esther Bylsma (“Bylsma Decl.”), ¶ 8, Exhibit 1. On April
6 15, 2022, Plaintiff Sampson Danquah initiated a separate action against Defendant, Case No. 37-2022-
7 00014222-CU-OE-CTL in the San Diego Superior Court, alleging a claim under PAGA (the “Danquah
8 PAGA Action”). *Id.* at ¶ 9. On January 19, 2023, Plaintiff Danquah filed a second complaint to add class
9 action claims for failure to pay overtime, failure to pay meal period and rest break premiums, failure to pay
10 minimum wages, failure to pay timely final wages, failure to pay timely wages during employment, failure
11 to provide compliant wage statement, failure to keep requisite payroll records, failure to reimburse business
12 expenses, and Violation of Business and Professions Code §§ 17200 *et seq.*, Case No. 37-2022-00014232-
13 CU-OE-CTL in the San Diego Superior Court (the “Danquah Class Action”). *Id.* at ¶ 14.

14 On April 24, 2023, Plaintiff Marco Lafon initiated his own action against Defendant, Case No. 37-
15 2023-00016985-CU-OE-CTL in San Diego County (the “Lafon Class Action”). Declaration of Marcus
16 Bradley (“Bradley Decl.”), ¶ 20. Plaintiff Lafon alleged claims against Defendant for Failure to Pay
17 Overtime Wages in Violation of Labor Code §§ 510 and 1198; Failure to Pay all Wages and Minimum
18 Wages in Violation of Labor Code §§ 1182, 1194, 197, 1198; Failure to Provide Meal Periods in Violation
19 of Labor Code §§ 226.7, 512, 516, and 1198; Failure to Comply with Cal. Labor Code §§ 6300 *et seq.*;
20 Failure to Timely Furnish Accurate Itemized Wage Statements in Violation of Labor Code § 226(a); Failure
21 to Timely Pay Wages During Employment in Violation of Labor Code § 204; Waiting Time Penalties
22 Pursuant to Labor code §§ 201, 203; Failure to Reimburse Business Expenses in Violation of Labor Code
23 § 2802; Failure to Provide Sick Pay in Violation of Labor Code § 246; Failure to Provide Fresh Drinking
24 Water pursuant to Labor Code § 2441; Failure to Provide Suitable Seating in Violation of Labor Code §
25 1198; Failure to Adopt Standards that Minimize Excessive Indoor Heat in Violation of California Labor
26 Code §§ 6720, 226.7; and Violation of Business & Professions Code § 17200 *et seq.* *Id.* at ¶ 24. Plaintiff
27 Lafon filed his PAGA action on September 25, 2023, Case No. 37-202300041519-CU-OE-CTL (the
28 “Lafon PAGA Action”). *Id.* at ¶ 22.

1 Pursuant to the Settlement, Plaintiffs filed the stipulation to add a Third Amended Complaint, adding
2 Plaintiff Lafon and Plaintiff Danquah, as well as causes of action for failure to provide suitable seating,
3 failure to pay sick wages, failure to comply with Cal-OSHA work place safety standards, and failure to
4 adopt standards that minimize excessive indoor heat, to the Weaver Action. Valle Decl., ¶ 7. Plaintiffs filed
5 the Third Amended Complaint on January 30, 2025. *Id.*

6 **B. Discovery, Mediation and Settlement.**

7 Through formal and informal discovery, Defendant produced significant amount of documents and
8 information, including Plaintiffs' personnel files, policy documents, the class members' contact
9 information, and class members' timekeeping and pay records. Valle Decl., ¶ 8; Byslma Decl., ¶¶ 13, 16,
10 18. After formal discovery and engaging in numerous discussions between the Parties' attorneys, the
11 Parties agreed to attend a private mediation session. Valle Decl., ¶ 8; Byslma Decl., ¶ 19

12 On January 17, 2024, the Parties attended a mediation session with Steven J. Serratore, Esq. Valle
13 Decl., ¶ 9. After a full day of mediation and negotiations following the mediation, the Parties agreed to
14 settle these matters on January 24, 2024. *Id.* The Parties spent the next several months negotiating the terms
15 of the Settlement, which was finalized in October 2024. *Id.* The negotiations were adversarial, conducted
16 at arm's length and tempered by the efforts of both sides to serve the interests of their clients. *Id.*

17 Plaintiffs submitted the Settlement and this Motion to the LWDA pursuant to Lab. Code §
18 2699(1)(2). *Id.* at ¶ 10, Ex. 2 (Confirmation of Submission to LWDA).

19 **III. SUMMARY OF THE SETTLEMENT**

20 **A. Terms of Settlement**

21 The Parties agreed to settle the class claims in exchange for a Gross Settlement Amount of
22 \$7,500,000. Valle Decl., Exhibit 1, § I(36). The Gross Settlement Amount will be used to make payments
23 for the following: (1) Individual Settlement Payments to Participating Class Members; (2) attorneys' fees
24 to Plaintiffs' Counsel of up to one-third of the Gross Settlement Amount; (3) reimbursement of Plaintiffs'
25 Counsel's litigation costs of up to \$2,500,000.00; (4) an Incentive Award to Plaintiffs each up to
26 \$15,000.00; (5) Settlement Administration fees and costs of \$29,500.00; and (6) a payment to the LWDA
27 of \$112,500.00 pursuant to PAGA. *Id.* at § III(10). Class Members' Individual Settlement Payments will
28 be distributed after final approval of the Settlement and Defendant funds the Gross Settlement Amount.

1 *Id.* at §§ III(9)-(10)(a). Individual Settlement Payments will be calculated by comparing the total Eligible
2 Workweeks for the Class to each individual Class Member’s Qualifying Eligible. *Id.* at § III(10)(a). The
3 Settlement Administrator will calculate the actual estimated recovery to include in the Class Notice and
4 provide the estimated low and high range of possible recovery at final approval.

5 The Parties have agreed to allocate \$150,000 of the Gross Settlement Amount to the resolution of
6 PAGA Settlement Group Members’ claims arising under PAGA. Valle Decl., Exhibit 1, §§ I(21), III(10).
7 Of this amount, 75% (\$112,500) will go to the LWDA and the remaining 25% (\$37,500) will be
8 distributed to the PAGA Settlement Group Members for time worked between July 16, 2021 through
9 March 17, 2024 (the “PAGA Period”), regardless of whether he or she opts out of the class settlement.
10 Valle Decl., Exhibit 1, §§ I(23)-(25), III(10). The PAGA Settlement Amount will be divided between all
11 PAGA Settlement Group Members in proportion to the number of biweekly pay periods that each PAGA
12 Settlement Group Member worked during the PAGA Period. *Id.* at § I(22).

13 The Individual Settlement Payments to Class Members will be allocated for tax purposes as
14 follows: 60% to wages; 40% to interest and penalties. Valle Decl., Exhibit 1, § III(4). The PAGA
15 Settlement Amount to be distributed to PAGA Settlement Group Members are to be considered 100%
16 penalties. *Id.* The employer-side payroll taxes on the portion allocated to wages will be paid by Defendant
17 separately from, and in addition to the Gross Settlement Amount. *Id.* at § I(36). No portion of the Gross
18 Settlement Amount will revert to Defendant. *Id.* at § III(10). Funds from uncashed or undeliverable checks
19 will be tendered by the Settlement Administrator to the State Controller Unclaimed Property Fund in the
20 name of the Class Member for whom the funds are designated. *Id.* at § III(11).

21 **B. Proposed Opt-Out and Objection Process**

22 The Settlement Administrator will send Class Members the Notice of Class Action Settlement
23 (“Class Notice”) by first-class mail to each Class Member’s last known address. Valle Decl., Exhibit 1, §
24 III(7)(a). The Class Notice provides information regarding the nature of the lawsuit, a summary of the
25 substance of the settlement terms, the formula for calculating Individual Settlement Payments, the
26 individual’s estimated payout, a statement that Class Members who take no action will release their
27 claims and receive settlement checks, instructions regarding how to dispute the calculations, instructions
28 regarding how to request exclusion or object to the Settlement, the date for the final approval hearing,

1 the amounts sought for attorneys' fees and costs, the Settlement Administration Costs, the class
2 representatives' Incentive Awards, the PAGA allocation, and information on how to access the court's
3 website to view the case records. *See* Valle Decl., Exhibit 1A (Class Notice).

4 The Class Notice provides instructions for Class Members who choose to exclude themselves from
5 the Settlement. *See* Settlement Agreement §§ III(7)(e), Ex. 1A (Class Notice). To opt out, Class Members
6 are instructed to submit a Request for Exclusion to the Settlement Administrator by a specified date (45
7 days after the date of mailing of the Class Notice). *Id.* at § I(33), Ex. 1A. Class Members do not need to
8 submit a claim form to participate in the Settlement. *See* Valle Decl., Exhibit 1A. Class Members are
9 informed of how they can object to the Settlement, and the Class Notice informs Class Members of the
10 date, time, and location of the final fairness and approval hearing so that they can appear in person. *Id.*
11 Accordingly, the content of the Class Notice complies with the requirements of Cal. R. Ct. 3.766(d).

12 If Class Notice packets are returned as undeliverable, the Settlement Administrator will perform a
13 skip-trace or other search, and re-mail the Class Notice with an extended deadline, to opt out or object, of
14 20 days from the original deadline. Valle Decl., Exhibit 1, § III(7)(b). The initial 45-day notice period and
15 extension process ensures the notice program provides due process by giving Class Members enough time
16 to determine whether they want to participate in the Settlement. This means of notice is reasonably
17 calculated to apprise Class Members of the pendency of the action. *See* Cal. R. Ct. 3.766 (d)-(f).

18 C. Proposed Release

19 The release to be given by Class Members is limited to the Defendant and all its present and former
20 parent companies and successors-in-interest, direct and indirect subsidiaries, including DynCorp
21 International LLC, PAE Shared Services, LLC, URS Federal Services, LLC, and AECOM Management
22 Services, LLC, affiliates, joint ventures, owners, principals, agents, predecessors, successors, and related
23 parties and all of their past and present directors, officers, shareholders, members, managers, joint
24 employers, co-employers, integrated enterprises, representatives, employees, and any individual or entity
25 which could be liable for any of the Released Claims. ("Released Parties"). Valle Decl., Exhibit 1, § I(31).
26 Under the proposed release, Class Members who do not exclude themselves from the Settlement will be
27 deemed to have released or waived the following "Released Claims" against the Released Parties:
28

[a]ny and all claims alleged or could have been alleged based on the facts alleged in the operative class action complaints, which arose during the Class Period, whether known or unknown, including the failure to pay wages, the failure to pay overtime compensation, the failure to provide meal periods, the failure to provide rest periods, the failure to maintain or provide accurate itemized statements, the failure to maintain records, the failure to timely pay wages, the failure to pay wages due to discharged or quitting employees, the failure to reimburse for necessary business expenses, the failure to provide suitable seating, the failure to pay sick wages, the failure to comply with Cal-OSHA work place safety standards, the failure to adopt standards that minimize excessive indoor heat, the failure to provide fresh drinking water, and any other claims whatsoever that were or could have been alleged in this case, including without limitation all related claims for restitution and other equitable relief under Business and Professions Code § 17200, conversion, liquidated damages, punitive damages, waiting-time penalties, and Labor Code sections 200, 201, 202, 203, 204, 210, 218, 218.5, 223, 226, 226.3, 226.7, 246, 510, 512, 516, 558, 1174, 1174.5, 1182, 1182.11-1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2441, 2698, *et seq.*, 2800, 2802, 6300-6403, and 6720, and Code of California Civil Procedure section 1021.5; related California Code of Regulations, Title 8, Sections 11040(5), (14); the applicable IWC Wage orders for the same types of violations aforementioned; and all other related claims under local, state and/or federal law that could have been asserted based on the factual allegations of the TAC, and any other related claims and/or penalties.

Id. § I(30).

PAGA Settlement Group Members will also release the Released Parties from the following, regardless of whether PAGA Settlement Group Members opt out of the Class Settlement:

any and all claims....under the Private Attorney Generals Act of 2004 (“PAGA”) based on the exhaustion letters submitted by the Plaintiffs to the LWDA, which include any claims under PAGA arising out of or related to the allegations set forth in the operative complaint, including but not limited to claims for failure to provide meal periods, failure to provide rest breaks, failure to pay overtime wages, failure to pay minimum wage, failure to pay all wages due to discharged and quitting employees, failure to maintain required records, failure to furnish accurate itemized wage statements, failure to indemnify employees for necessary expenditures incurred in discharge of duties, failure to pay vacation pay, failure to provide and/or pay for accrued sick leave time and/or COVID benefits, failure to produce employee records, the failure to provide adequate seating accommodation, failure to provide fresh drinking water, and failure to adopt standards to minimize excessive indoor heat.

Id. § I(25).

Only the Plaintiffs will agree to a general release of any and all claims, whether known or unknown, which exist or may exist on Plaintiffs’ behalf as of the date of the Settlement, and a waiver of Civ. Code § 1542. Valle Decl., Exhibit 1, § I(30).

1 **IV. LEGAL ARGUMENTS SUPPORTING PRELIMINARY APPROVAL**

2 **A. Provisional Certification of the Class is Appropriate**

3 Class certification is appropriate when there exists (1) an ascertainable and sufficiently numerous
4 class, (2) a well-defined community of interest among class members, and (3) when certification would
5 be a fair and efficient means of adjudicating the action, rendering class litigation superior to alternative
6 means. *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1021 (2012).

7 **1. The Proposed Class is Numerous and Ascertainable**

8 Whether a class is “ascertainable” is “determined by examining (1) the class definition, (2) the
9 size of the class, and (3) the means available for identifying class members.” *Reyes v. Bd. of Supervisors*,
10 196 Cal. App. 3d 1263, 1271 (1987). Here, the Class consists of: (a) all current and former non-exempt
11 employees employed by Defendant, and Defendant’s subsidiary and affiliate, URS Federal Services, LLC,
12 in California between May 30, 2017, through March 17, 2024; (b) all current and former non-exempt
13 employees employed by Defendant’s subsidiary and affiliate DynCorp International LLC in California
14 between November 20, 2020, through March 17, 2024; and (c) all current and former non-exempt
15 employees employed by Defendant’s subsidiary and affiliate PAE Shared Services, LLC in California
16 between September 20, 2022, through March 17, 2024. Valle Decl., Exhibit 1, § I(4). Defendant’s records
17 show the Class consists of approximately 4,339 individuals, making joinder of all Class Members
18 impracticable. Valle Decl., ¶ 11. Further, the Class is readily ascertainable from Defendant’s business
19 records because all Class Members are current or former employees of Defendant. *Id.*

20 **2. A Well-Defined Community of Interest Exists Among Class Members**

21 “[T]he ‘community of interest requirement embodies three factors: (1) predominant common
22 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3)
23 class representatives who can adequately represent the class.’” *Fireside Bank v. Superior Court*, 40 Cal.
24 4th 1069, 1089 (2007) (quoting *Richmond v. Dart Industries, Inc.*, 29 Cal. 3d 462, 470 (1981)).

25 **a. Common Questions Predominate**

26 To assess whether common questions predominate, courts focus on whether the theories of
27 recovery advanced are likely to prove amenable to class treatment. *See Sav-On Drug Stores, Inc. v.*
28 *Superior Court*, 34 Cal. 4th 319, 327 (2004). In other words, courts determine whether the elements

1 necessary to establish liability are susceptible of common proof, even if the class members must
2 individually prove their damages. *Brinker, supra*, 53 Cal. 4th at 1021-1022, 1024.

3 Plaintiffs alleged that Defendant maintained uniform employment policies and/or practices that
4 illegally deprived Class Members of lawful wages, meal periods, rest breaks, accurate wage statements,
5 and waiting time pay. Valle Decl., ¶ 12. Plaintiffs' allegations present common legal and factual questions
6 of, *inter alia*, whether Defendant applied the same scheduling, timekeeping, minimum and overtime pay,
7 meal period, and rest break policies to all Class Members; whether these policies and practices resulted in
8 Labor Code violations; whether Defendant's conduct was intentional; and whether Class Members are
9 entitled to penalties. *Id.* These common questions could be resolved using Class Members' schedules, time
10 punches, and payroll records, Defendant's corporate representative's testimony, written communications
11 between Defendant and Class Members, and Class Member declarations. *Id.* Thus, the Court can and
12 should exercise its discretion to grant conditional class certification for settlement purposes.

13 *b. Plaintiffs' Claims are Typical of the Class Claims*

14 The typicality requirement is satisfied when the legal theories and facts supporting a plaintiff's
15 claims are substantially similar to other class members. *See Classen v. Weller*, 145 Cal. App. 3d 27, 46
16 (1983). Here, Plaintiffs allege that they and other Class Members were employed by Defendant and
17 injured by Defendant's common wage and hour policies and practices, including Defendant's scheduling,
18 timekeeping, minimum wage pay, overtime pay, meal period, and rest break policies. Valle Decl., ¶ 13.
19 Through documents and information exchanged in formal and informal discovery, including production
20 of thousands of pages of documents by Defendant, Plaintiffs confirmed that these common policies and
21 practices similarly affected Plaintiffs and the Class. *Id.* Thus, Plaintiffs' claims arise from the same
22 employment practices and are based on the same legal theories as applicable to other Class Members.

23 *c. Plaintiffs and Plaintiffs' Counsel Will Adequately Represent the Interests*
24 *of the Proposed Class*

25 Certification requires adequacy of both the proposed class representative(s) and proposed class
26 counsel. With respect to the class representative, a plaintiff must adequately represent and protect the
27 interests of other members of the class and demonstrate that his or her claim is not inconsistent with the
28 claims of other members of the class. *See Capitol People First v. State Dep't of Developmental Servs.*,

1 155 Cal. App. 4th 676, 696-697 (2007). Here, Plaintiffs’ interests are coextensive with the interests of
2 the Class. Plaintiffs demonstrated the ability to advocate for the interests of the Class by initiating this
3 litigation, gathering documents and information, responding to discovery, sitting for depositions, being
4 available on the day of mediation to answer questions, meeting with their attorneys on several occasions
5 to understand the claims and theories of liability at issue, assisting attorneys in preparing for mediation,
6 reviewing the proposed settlement agreement to understand its legal effect, and obtaining a fair
7 settlement on behalf of Class Members who stand to recover a substantial amount under the Settlement.
8 Declaration of Stephen Weaver (“Weaver Decl.”), ¶ 9; Declaration of Sampson Danquah (“Danquah
9 Decl.”), ¶¶ 5-6; Declaration of Zubeir Khan (“Khan Decl.”), ¶ 9; Declaration of Marco Lafon (“Lafon
10 Decl.”), ¶¶ 18-22, 26; Declaration of Chad Esquivel (“Esquivel Decl.”), ¶ 9.

11 Likewise, Aegis Law Firm, PC; Schneider Wallace Cottrell Konecky LLP; Lawyers for Justice,
12 and Bradley/Grombacher LLP have expended considerable time and effort on this case and will continue
13 to do so through final approval. *See generally*, Valle Decl., Byslma Decl.; Declaration of Ryan Slinger
14 (“Slinger Decl.”), ¶¶ 7-8, Bradley Decl., ¶ 25. Accordingly, Plaintiffs should be appointed Class
15 Representative, and Plaintiffs’ Counsel should be appointed Class Counsel.

16 **3. A Class Action is Superior to a Multitude of Individual Lawsuits**

17 Class treatment is superior to other methods of adjudication when the probability is small that each
18 class member will come forward to prove his or her claim and when the class approach would deter and
19 redress the alleged wrongdoing. *See Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 435, 446 (2000);
20 *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524, 1537-1538 (2008). Here, none of the other
21 4,339 Class Members had shown any interest in bearing the expense and burden of litigating their own
22 claims. Valle Decl., ¶ 26. Thus, a class action is the superior method for seeking relief.

23 **B. The Settlement Meets the Standards for Preliminary Approval**

24 Preliminary approval is warranted if the settlement falls within a “reasonable range.” *See North*
25 *County Contractor’s Ass’n, Inc. v. Touchstone Ins. Servs.*, 27 Cal. App. 4th 1085, 1089-90 (1994); Conte
26 & Newberg, *Newberg on Class Actions*, § 11.26 (4th ed. 2002). In reviewing the fairness of a class action
27 settlement, due regard should be given to what is ““otherwise a private consensual agreement between
28 the parties.”” *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1389 (2010). The inquiry “must

1 be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of
2 fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as
3 a whole, is fair, reasonable and adequate to all concerned.” *Id.*

4 Reasonableness and fairness are presumed where (1) the settlement is reached through “arms-
5 length bargaining”; (2) investigation and discovery are “sufficient to allow counsel and the court to act
6 intelligently”; (3) counsel is “experienced in similar litigation”; and (4) the percentage of objectors “is
7 small.” *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996). The Settlement satisfies the first
8 three factors. Plaintiffs will analyze the fourth factor at the final approval stage.

9 **1. The Settlement is Entitled to a Presumption of Fairness**

10 *a. The Settlement is the Result of Arm’s-Length Negotiations*

11 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence
12 to the contrary is offered. Thus, there is a presumption that settlement negotiations are conducted in good
13 faith. Here, the Settlement was the product of a full day mediation session with a respected mediator
14 after formal and informal discovery. Valle Decl., ¶¶ 8-9. The negotiations were adversarial, conducted
15 at arm’s length and tempered by the efforts of both sides to serve the interests of their clients. *Id.* at ¶ 9.
16 The amounts of Plaintiffs’ requested Class Representative Enhancement Awards were not negotiated
17 until after the Parties agreed to the Gross Settlement Amount and many other terms. *Id.* at ¶ 27.

18 *b. Plaintiffs’ Counsel Conducted Sufficient Investigation and Discovery*

19 Plaintiffs’ Counsel thoroughly investigated the class claims, applicable law, and potential
20 defenses. *See generally*, Valle Decl. In particular, Plaintiffs’ Counsel assessed the value of the class
21 claims using Defendant’s data and documents produced through formal and informal discovery. Valle
22 Decl., ¶¶ 8, 13-15; Slinger Decl., ¶ 8; Bylsma Decl., ¶¶ 8-19. Plaintiffs’ Counsel extensively reviewed
23 policy documents and Class Members’ time and pay records to perform a thorough exposure analysis.
24 *Id.* Accordingly, Plaintiffs’ Counsel fully understood the strengths and weaknesses of the claims before
25 the Parties reached a settlement. *Id.* at ¶ 14.

26 *c. Plaintiffs’ Counsel is Experienced in Similar Litigation*

27 Plaintiffs are represented by Aegis Law Firm, PC; Schneider Wallace Cottrell Konecky LLP; and
28 Bradley/Grombacher LLP. Plaintiffs’ Counsel prosecute wage and hour class actions on behalf of

employees and others who have had their rights violated. Valle Decl., ¶¶ 29-41; Bylsma Decl., ¶¶ 5-7; Slinger Decl., ¶¶ 2-6; Bradley Decl., ¶¶ 3-13. The attorneys working on this case have been appointed class counsel in many cases, through both contested motions and settlement approval motions. *Id.* Thus, Plaintiffs' Counsel has extensive experience in similar litigation and should be Class Counsel.

2. The Settlement is Reasonable Given the Strengths of Plaintiffs' Claims and the Risks and Expense of Litigation

Courts have discretion to approve class settlements by assessing several factors, including the "strength of plaintiffs' case, risk, expense, complexity and likely duration of further litigation and risk of maintaining the class action through trial." *Munoz v. BCI Coca-Cola Bottling Co. of L.A.*, 186 Cal. App. 4th 399, 407 (2010); *see Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129 (2008).

While Plaintiffs and their counsel believed and continue to believe this is a strong case for certification, the significant risks and expenses associated with class certification and liability proceedings were taken into account. Valle Decl. ¶ 16; Bylsma Decl., ¶ 25; Slinger Decl., ¶. To determine if the amount offered at mediation was reasonable, Plaintiffs' Counsel weighed that figure against many risk factors. Valle Decl. ¶ 17. If Plaintiffs continued to prosecute the claims rather than accept a settlement, Plaintiffs would have faced deadlines to file a motion for class certification, had to have engaged in more formal written discovery and taken depositions, expended time and resources to resolve disputes, prepared and filed potential dispositive motions and/or discovery motions, and engaged in extensive trial preparation. *Id.* at ¶ 18. An adverse ruling at any one of these stages could have prevented the Class from obtaining any recovery. *Id.*

a. Exposure Analysis

A settlement does not have to provide 100% of the damages sought to be considered a fair and reasonable settlement. *See Rebney v. Wells Fargo Bank*, 220 Cal. App. 3d 1117, 1139 (1991). Rather, compromise is expected:

Compromise is inherent and necessary in the settlement process . . . even if "the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated," this is no bar to a class settlement because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation."

1 *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 250 (2001) (citation omitted). Here, Plaintiffs
2 contend that their claims are based on Defendant’s common, class-wide policies and procedures, and that
3 liability could be determined on a class-wide basis without dependence on individual assessments of
4 liability. Valle Decl., ¶ 15. Although the amount of Defendant’s potential exposure – if proven – is
5 substantial, the legitimate and serious risks of succeeding at class certification and trial compelled a
6 serious consideration of the benefit of a settlement. *Id.* at ¶ 17.

7 Rate of Pay Claims: Plaintiffs’ regular rate claims were premised on the theories that Defendant
8 failed to properly calculate the overtime rate of pay and sick pay rate to include non-discretionary
9 bonuses, shift differentials, and shift premiums. Valle Decl., ¶ 19. Plaintiffs retained an expert to analyze
10 Class Members’ employment data, and valued these claims at approximately \$600,000. *Id.* However,
11 Defendant argued that (1) as a military and/or government contractor, it operates on federal properties
12 and under the “federal enclave” exemption federal law pre-empted the application of California law
13 governing the aforementioned claims; (2) some of the Class Members had already released their claims
14 in the settlement in *Koutny v. PAE Aviation and Technical Services, LLC*, case no. 21C-0106 in Kings
15 County, which was approved in 2023; and (3) employees were subject to collective bargaining
16 agreements that pre-empted Class Members’ overtime claims. *Id.* As such, Plaintiffs discounted this
17 claim based on the risk they would not be able to certify this claim, and if they did, that Defendant’s
18 defenses would result in a reduced recovery at trial. *Id.*

19 Minimum and Overtime Wages Claims: Plaintiffs’ minimum wage and overtime claims were
20 premised on the theories that Defendant (1) rounded Class Members’ recorded shift start and/or end times
21 to the Class Members’ scheduled shift time; (2) failed to compensate employees for undergoing security
22 screenings prior to the start of their shifts; and (3) that the aforementioned theories generated overtime
23 for employees who worked more than 8 hours in one day. Valle Decl., ¶ 20. Plaintiffs retained an expert
24 to analyze Class Members’ time and pay data, and calculated that these claims could be worth up to \$15
25 million. *Id.* However, Defendant argued that (1) as a military and/or government contractor, it operates
26 on federal properties that pre-empted California law governing the aforementioned claims under the
27 “federal enclave” exemption; (2) rounding did not occur, but even if it did, the rounding was neutral
28 under *See’s Candy Shops, Inc. v. Superior Court*, 210 Cal.App.4th 889 (2012); (3) it was not acting as

1 an employer during security screenings, as it did not have any control over employees because the
2 screenings were conducted by United States military personnel rather than Defendant; (4) some of the
3 Class Members had already released their claims in the settlement in *Koutny v. PAE Aviation and*
4 *Technical Services, LLC*, case no. 21C-0106 in Kings County, which was approved in 2023; and (5)
5 employees were subject to alternative workweek schedules established by collective bargaining
6 agreements that pre-empted these claims from generating overtime wages. *Id.* As such, Plaintiffs
7 discounted this claim based on the serious risk that they would not be able to certify these claims, and if
8 they did, the AWS could prevent Plaintiffs from recovery any overtime and any recovery for minimum
9 wage violations would be greatly reduced. *Id.*

10 Meal Period Claims: Plaintiffs' theory of liability for meal period violations was based on
11 Defendant's failure to provide timely meal periods and failure to pay premiums when the records showed
12 violations. Valle Decl., ¶ 21. Plaintiffs' expert found the damages for meal periods could reach as much
13 as \$45 million. *Id.* However, Defendant argued that (1) as a military and/or government contractor, it
14 operates on federal properties and under the "federal enclave" exemption federal law pre-empted the
15 application of California law governing the aforementioned claims; (2) its employees were subject to
16 federal motor carrier exemptions that pre-empted this claim; (3) its employees were subject to Federal
17 Aviation Administration exemptions that pre-empted this claim; (4) it had already paid some meal period
18 premiums during the Class Period; and (5) some employees had already released their claims in the
19 settlement in *Koutny v. PAE Aviation and Technical Services, LLC*, case no. 21C-0106 in Kings County,
20 which was approved in 2023. *Id.* Moreover, Defendant could argue that it had compliant meal period
21 policies that authorized employees to take meal periods as required under the Labor Code. *Id.* If
22 Defendant was successful in asserting any of the defenses it raised at class certification and/or trial,
23 Plaintiffs could risk recovering only nominal value for this claim. *Id.* As a result, Plaintiffs significantly
24 discounted this claim. *Id.*

25 Rest Break/Working Environment Claims: Plaintiffs' rest break and excessive heat claims were
26 based on the allegations that Defendant failed to provide coverage for Class Members to take timely and
27 duty-free rest breaks and recovery periods in order to keep up with freight or important and sensitive
28 projects. Valle Decl., ¶ 22. Additionally, Plaintiffs' suitable seating claim was based on the allegation

1 that Defendant failed to provide chairs, seats, and/or stools to employees who opened boxes, where the
2 chairs would not have interfered with job duties. *Id.* Similarly, Plaintiffs’ drinking water claim was based
3 on the theory that Defendant failed to provide drinking water to Class Members. *Id.* Lastly, Plaintiffs’
4 Cal-OSHA claim was based on the allegations that Defendant’s facilities were dirty, had poor lighting
5 and were poorly maintained, such that it failed to maintain a safe and healthful working environment. *Id.*
6 If Plaintiffs could prove a 100% violation rate, then damages could reach up to \$59 million. *Id.*

7 However, Defendant argued that (1) as a military and/or government contractor, it operates on
8 federal properties and under the “federal enclave” exemption federal law pre-empted the application of
9 California law governing the aforementioned claims; (2) its employees were subject to federal motor
10 carrier exemptions that pre-empted this claim; (3) its employees were subject to Federal Aviation
11 Administration exemptions that pre-empted this claim; and (4) some employees had already released
12 their claims in the settlement in *Koutny v. PAE Aviation and Technical Services, LLC*, case no. 21C-0106
13 in Kings County, which was approved in 2023. Valle Decl., ¶ 22. Moreover, proving a 100% violation
14 rate would be challenging given Defendant could argue it maintained compliant rest break policies,
15 certification would have required Class Member declarations, and Defendant surely would have obtained
16 opposing declarations stating that they received duty-free and uninterrupted rest breaks/recovery periods
17 or they were voluntarily waived. *Id.*; *see also Ordonez v. Radio Shack, Inc.*, 2013 WL 210223, at *11
18 (C.D. Cal. Jan. 17, 2013) (“Because of the competing testimony before the Court, plaintiff’s evidence
19 that defendant may have an illegal, written rest break policy is insufficient for this Court to find that
20 common issues predominate.”); *Villa v. United Site Servs. of California, Inc.*, 2012 WL 5503550, at *8
21 (N.D. Cal. Nov. 13, 2012) (“Indeed, Plaintiff’s own evidence confirms that the written policy does not
22 generate uniform practices.”). The working condition claims also would have been difficult to certify as
23 each claim did not apply to all employees, and could be subject to individual inquiry. *Id.* Given the
24 calculated 100% violation rate and the strength of Defendant’s arguments, Plaintiffs discounted these
25 claims significantly. *Id.*

26 Reimbursement of Business Expenses: Plaintiffs’ reimbursement claim was based on the theories
27 that Defendant required its drivers to purchase oil and other maintenance items for Defendant’s trucks, and
28 required its employees to use their personal cell phones to communicate with Defendant’s managers and

1 supervisors, and required employees to purchase boots. Valle Decl., ¶ 23. Plaintiffs’ expert estimated that
2 this claim could be worth as much as \$2.3 million. *Id.* However, Defendant’s practice was to reimburse
3 employees \$100 for the cost of boots, Defendant could argue it did not know that drivers were purchasing
4 oil and maintenance items, and it did not require employees to use their phones for business purposes. *Id.*
5 Moreover, even if this claim was certified, recovering the maximum amount for all Class Members for
6 each month worked would be difficult. *Id.* As such, Plaintiffs significantly discounted this claim. *Id.*

7 Waiting Time and Wage Statement Penalty Claims: Plaintiffs’ Counsel also considered the arguable
8 presence of various penalties, and weighed the potential recoveries against probable defenses. Valle Decl.,
9 ¶ 24. Specifically, Defendant could argue that Plaintiffs could not prove the “willful” prong needed to
10 obtain waiting time penalties under Lab. Code § 203. *Id.* Additionally, Defendant could argue that Plaintiffs
11 could not show that Class Members suffered an “injury” as a result of wage statement violations, as
12 required by Cal. Lab. Code § 226. *Id.* Although the Class arguably could have seen a payout of
13 approximately \$19 million for waiting time penalties and \$9 million for wage statement penalties, Plaintiffs
14 would not recover any of these derivative penalties if they failed to prove the underlying claims. *Id.* Thus,
15 Plaintiffs discounted these claims appropriately. *Id.*

16 PAGA Claim: The PAGA claim presented even higher hurdles. Although Plaintiffs’ Counsel
17 found Defendant’s exposure could potentially reach approximately \$9,200,600 under Lab. Code §
18 2699(f), assuming the initial penalty rate of \$100 for each pay period, Plaintiffs would have to prove a
19 violation in every pay period. Valle Decl., ¶ 25. Most importantly, the Court would have discretion to
20 reduce the PAGA award based on whether the amount of the award would be “unjust, arbitrary and
21 oppressive, or confiscatory.” Lab. Code § 2699(e)(2). In theory, the Court could reduce the award by
22 99% if it so wished. Valle Decl., ¶ 25. Plaintiffs were doubtful they could recover any PAGA penalties,
23 especially if a large class judgment was entered for the same violations. *Id.* Accordingly, Plaintiffs could
24 not place a high value on the PAGA penalties, and therefore allocated \$150,000 of the Gross Settlement
25 Amount to settle these claims. *Id.*

26 **C. The Requested Class Representative Enhancement Awards for Plaintiffs**

27 Plaintiffs seek Class Representative Enhancement Awards of up to \$15,000 each to Plaintiffs
28 Stephen V. Weaver, Zubeir Khan and Chad M. Esquivel for accepting the responsibilities of representing

1 the interests of the Class and assuming risks and potential costs that were not borne by any other Class
2 Members. Valle Decl., Exhibit 1, § I(7). A named plaintiff is eligible for payment that reasonably
3 compensates him or her for undertaking and fulfilling a fiduciary duty to represent absent class members.
4 *See Cellphone Termination Fee Cases, supra*, 186 Cal. App. 4th at 1393; *Bell v. Farmers Ins. Exch.*, 115
5 Cal. App. 4th 715, 726 (2004).

6 Here, Plaintiffs had the option to pursue their claims individually, but instead chose to pursue this
7 class action, delaying individual recovery until approval of a class action settlement. Valle Decl., ¶ 26.
8 Throughout the case, Plaintiffs assisted counsel in gathering the evidence necessary to prosecute the class
9 claims, maintained regular contact with counsel, sat for depositions, responded to discovery, were
10 available on the day of mediation and communicated with their attorneys during the day of mediation to
11 answer critical questions, and reviewed the Settlement to make sure it was fair to the Class. Weaver
12 Decl., ¶ 9; Danquah Decl., ¶¶ 5-6; Khan Decl., ¶ 9; Lafon Decl., ¶¶ 18-22, 26; Esquivel Decl., ¶ 9. No
13 action would likely have been taken by Class Members individually, and no compensation would have
14 been recovered for them, but for Plaintiffs services on behalf of the Class. Valle Decl., ¶ 24.

15 By actively pursuing this action, Plaintiffs furthered the California public policy goal of enforcing
16 the State's wage and hour laws. *See Sav-On Drug Stores, Inc., supra*, 34 Cal. 4th at 340. The requested
17 Class Representative Enhancement Awards for Plaintiffs' service as the class representatives and for a
18 general release of all employment claims is reasonable and should be preliminarily approved. At the final
19 approval stage, Plaintiffs will further support the request for Incentive Award by declaration addressing
20 the factors for the award. Valle Decl., ¶ 28.

21 **D. The Requested Attorneys' Fees and Costs**

22 The purpose of an attorneys' fee award in class action litigation is to reward counsel who invested
23 in a case despite the risk of non-payment and achieved a substantial positive result for the class.
24 Attorneys' fees are awarded as a matter of equity, and courts routinely award attorneys' fees equaling
25 one-third or more of the potential value of the common fund. *See Chavez v. Netflix, Inc.*, 162 Cal. App.
26 4th 43, 66, n.11 (2008) ("Empirical studies show that, regardless of whether the percentage method or
27 the lodestar method is used, fee awards in class actions average around one-third of the recovery").
28

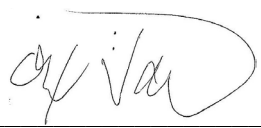
1 Plaintiffs seeks appointment of Aegis Law Firm, PC; Schneider Wallace Cottrell Konecky LLP;
2 Lawyers for Justice, PC; and Bradley/Grombacher LLP as Class Counsel. The attorneys performed
3 significant work and expended litigation costs in prosecuting the matter with no guarantee of any
4 payment. Valle Decl., ¶ 42; *see generally*, Bylsma Decl.; Bradley Decl., ¶ 25; Slinger Decl., ¶¶ 7-8.
5 Plaintiffs' Counsel seeks preliminary approval of up to one-third of the Gross Settlement Amount for
6 attorneys' fees, which is currently \$2,500,000, and up to in reimbursement of litigation costs which is
7 currently estimated at \$55,000. Given the work performed in this matter, the extensive information
8 exchange, and substantial recovery obtained on behalf of Plaintiffs and the Class, Plaintiffs' Counsel
9 achieved a settlement through efficient and diligent work. *See generally*, Valle Decl.; Bylsma Decl., ¶¶
10 8-20. At final approval, Plaintiffs' Counsel will fully brief the merits of its request for the award of
11 attorneys' fees and litigation costs. Valle Decl. ¶ 43.

12 **V. CONCLUSION**

13 The Parties have negotiated a fair and reasonable Settlement of the class claims in light of the risks
14 present in this case. Plaintiffs have appropriately presented the materials and information necessary for
15 preliminary approval, and therefore, respectfully requests that the Court preliminarily approve the
16 Settlement and schedule a date to conduct the final approval hearing.

17
18 Dated: January 30, 2025

AEGIS LAW FIRM, PC

19
20 By: 

Alex J. Valle

Attorneys for Plaintiffs