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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

HARRIETT MITCHELL, JASON SUMMERS and JOSEPH ADAMS, individually, on behalf of others similarly situated, and on behalf of the general public,

Plaintiffs,

vs.

CORELOGIC VALUATION SOLUTIONS, INC., CORELOGIC PLATINUM VALUATIONS SOLUTIONS, LLC, and DOES 1-10, inclusive

Defendants.

Case No. 8:17-cv-02274-DOC-DFM

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS, FAIR LABOR STANDARDS ACT (FLSA) COLLECTIVE, AND PRIVATE ATTORNEYS GENERAL ACT (PAGA) REPRESENTATIVE ACTION SETTLEMENT AND CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS

Judge: Hon. David O. Carter

Date: May 11, 2020
Time: 8:30 a.m.
Place: Courtroom 9D

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I. INTRODUCTION

During this time of great social and economic uncertainty, the result Plaintiffs have obtained for 524 appraisers in this case is extraordinary. With much of the American workforce sitting at home, whole sectors of industry shut down or severely hindered – including the real estate industry, which fuels Defendant's business – the $6 million in wages, penalties, and interest recovered here are especially meaningful and needed, this year, by appraisers who stand to benefit from this suit. Even in the best of times, class actions like this one – alleging off-the-clock overtime with meal and rest period violations – where most of the potential beneficiaries signed individual arbitration agreements – can be an uphill climb in litigation for workers and their advocates. Typically, such suits recover several hundred, or at best, several thousand dollars per class member, but here, the average net recovery is $7,160 each. This substantial cash recovery is in addition to a major reform of Defendant's business (assuming the economy resumes and the business survives), enjoining the policy that led Plaintiffs to bring this suit at the outset – giving "efficiency" incentives to those reporting fewer hours worked.

As the Court well knows, every step of this litigation, before now, has been a battle, with (among others) challenged motions concerning conditional and class certification, Rule 12(b)(6) and 12(c), temporary restraining orders and disqualification of counsel, to compel discovery and to compel arbitration. This case only resolved after two full-day mediations, and roughly three months of negotiations after the second mediation, during which the parties fought, at arms' length, over every detail of the settlement now presented for approval. Under all the circumstances, the Court should easily approve.

The Parties also ask the Court to resume jurisdiction over individuals who were sent to arbitration. In the alternative, the Parties have stipulated to a AAA Special Master for the arbitrants, but judicial economy and the parties' agreement to return to Court favors settlement approval once, here, in this Court.

II. THE PARTIES LITIGATED EXTENSIVELY BEFORE REACHING THIS SETTLEMENT.

On December 29, 2017, Plaintiffs filed this class and collective action alleging various California and federal statutory wage violations plus unfair competition in violation of California Business and Professions Code § 17200 et seq. (ECF No. 1). On March 15, 2018, Plaintiffs filed a First Amended Complaint, adding one named plaintiff and claims under PAGA and for waiting time penalties and meal and rest period violations. (ECF No. 33). After Defendant filed a motion to dismiss, Plaintiffs filed the Second Amended Complaint on April 27, 2018 to clarify the pleadings. (ECF No. 43). Defendant then filed a renewed motion to dismiss, which was partly granted and partly denied on August 7, 2018. (ECF No. 62). Plaintiffs filed the Third Amended Complaint shortly thereafter, on August 31, 2018, to conform to the Court's order on the motion to dismiss. (ECF No. 73). Defendant answered on October 3, 2018. (ECF No. 82).

On November 9, 2018, Plaintiffs filed a motion for conditional certification under the federal Fair Labor Standards Act (FLSA). (ECF No. 89). The Parties participated in a full-day mediation December 21, 2018. (Schwartz Dec. ¶ 4). After the mediation failed, the Court granted Plaintiffs' motion over Defendant's strenuous opposition on January 7, 2019 (ECF Nos. 104, 109), and 377 individuals filed FLSA consent-to-join forms. (Schwartz Dec. ¶ 3).

On February 12, 2019, during the opt-in period, Defendant filed a motion to compel arbitration, asserting that certain individuals had agreed to arbitrate their claims. (ECF No. 128). Plaintiffs opposed, but CoreLogic's motion to compel arbitration was granted on April 9, 2019. (ECF No. 189). Roughly 250 of the opt-ins are covered by the Court's order compelling arbitration. (Schwartz Dec. ¶ 3).

After Defendant communicated with undersigned counsel's clients (including named and opt-in Plaintiffs), Plaintiffs sought and the Court issued a temporary restraining order on February 22, 2019 (ECF No. 146), and a stipulated injunction

shortly thereafter. (ECF No. 163). After Defendant continued to seek settlements with opt-ins and putative class members *ex parte*, the Court further restricted Defendant's communications. (ECF No. 242, as modified by ECF No. 246).

On May 14, 2019, Plaintiffs filed a motion to compel responses to various requests for production of documents. (ECF No. 215). Following several hearings on the matter that narrowed the scope of the disputed documents, the Court largely granted Plaintiffs' motion. (ECF No. 241). Defendant produced over 76,000 pages of documents. (Schwartz Dec. ¶ 18).

On August 23, 2019, Plaintiffs moved for class certification under Rule 23. (ECF No. 253-1 (unredacted), ECF No. 254-1 (redacted)). After a dispute regarding privilege of two exhibits Plaintiffs included in its motion, Plaintiffs refiled their class certification motion to conform to the Court's order. (ECF Nos. 261-1, 267).

Contemporaneously, the parties began the arbitration process for those individuals compelled to arbitrate who filed in arbitration, filing arbitration demands for approximately 160 individuals. Following Defendant's refusal to pay mandatory arbitration fees in 110 cases, Plaintiffs filed a motion for an order of default, finding of jurisdiction, and sanctions on October 21, 2019 (ECF No. 273). The same day, Defendant filed a motion for judgment on the pleadings (ECF No. 274) and a motion to disqualify Plaintiffs' counsel (ECF No. 275) – the latter was referred to Magistrate Judge Douglas F. McCormick. (ECF No. 292).

On November 20, 2019, the Court granted in part Defendant's motion for judgment on the pleadings. (ECF No. 295). On December 9, 2019, the Court issued a tentative ruling that it would grant class certification, but would consider the parties' oral argument, which was scheduled thereafter to reconvene for further argument in late January 2020. On December 11, 2019, Judge McCormick issued his report and recommendation (R&R) to deny Defendant's motion to disqualify Plaintiffs' counsel. (ECF No. 307). Defendant challenged the R&R, and the matter was also set for hearing in late January 2020. (ECF No. 316). On December 17,

2019, the Court granted in part Plaintiffs' motion for an order of default, finding of jurisdiction, and sanctions. (ECF No. 312). The Court ordered the 110 arbitrations in dispute to proceed, with Defendant paying the required fees. On January 8, 2020, the Court sanctioned Defendant in the amount of $86,355.62. (ECF No. 322).

The parties stipulated to the addition of a defendant, which the Court granted on January 10, 2020. (ECF Nos. 320 and 325). On Sunday, January 12, 2020, the parties met for a full-day mediation with renowned mediator Steven Rottman, at which time they agreed to the principal terms of the settlement. (Schwartz Dec. ¶ 5). The Parties filed and the Court granted a Notice of Settlement and Administrative Motion to Vacate All Pending Deadlines. (ECF Nos. 326 and 329). On March 17, 2020, after months of additional negotiations and dozens of back-and-forth exchanges, bilaterally and with the mediator's help, the Parties executed a detailed MOU. (Schwartz Dec. ¶ 5). As they negotiated the long-form agreement language, the Parties also filed, and the Court granted, requests to extend the deadline to file the instant motion for preliminary approval until March 30, April 6, and finally, April 13, 2020. (ECF Nos. 332, 335, 338). On April 10, 2020, the Parties finally executed the long-form Settlement Agreement for which Plaintiffs now seek approval. (Exhibit 1; Schwartz Dec. ¶ 6).

III. THE SETTLEMENT IS FAVORABLE FOR THE CLASS.

A. Proposed Settlement Terms

1. The Settlement Provides Prompt, Meaningful Relief to the Class and Creates Institutional Reform.

Under the proposed settlement, Defendant will pay $6 million for the claims of 524 Class Members (the breakdown of Class Members is described below). (Exhibit 1 ¶ 6; Exhibit A to Exhibit 1 ("Class List")). This common fund does not include the employer's share of payroll taxes nor third-party settlement administration costs, both of which Defendant will pay in addition to the Gross Settlement Amount. (Exhibit 1 ¶ 6(B), (C)). If more than 10% of Class Members

opt-out or reject the settlement, Defendant can void the deal all together, but otherwise, the Settlement is entirely non-reversionary. (Exhibit 1 ¶ 6(A), 13(I)). Defendant will fund the settlement plus the employers' share of payroll taxes within 90 days of final Court – and, if necessary, Special Master[1] – approval and judgment. (Exhibit 1 ¶ 7(F)). From the $6 million, the settlement calls for:

- Attorneys' fees, in the amount of $2 million, or one-third of the common fund – less than counsel's lodestar to date (Exhibit 1 ¶ 6(A)(3); 8);
- Attorneys' litigation costs, estimated not to exceed $150,000 (*Id.*; Schwartz Dec. ¶ 24);
- Enhancement awards, not to exceed $53,000: $15,000 each for Plaintiffs Mitchell, Adams, and Summers for their service to the Settlement Class and their enhanced releases, and $1,000 each for Class Members who were deposed (a total of $8,000) (Exhibit 1 ¶ 6(A)(2));
- PAGA Allocations of $60,000 total, with $45,000 to be distributed to California's Labor Workforce Development Agency ("LWDA") (Exhibit 1 ¶ 6(A)(4)).

The remaining amount—which Plaintiffs' counsel estimates to be approximately $3,752,000 ("Net Settlement Amount")—will provide an average net payment of approximately $7,160 each to Named and Opt-in Plaintiffs and the putative Rule 23 class action members, former Opt-in Plaintiffs who were compelled to but have not initiated arbitration ("Potential Arbitrants"), and all Arbitrants (collectively referred to as "Settlement Class Members"). (Exhibit 1 ¶ 2, 7(A); Schwartz Dec. ¶ 26). The distribution among the Settlement Class will be done fairly, with Settlement Class Members allocated a share of the Net Settlement

[1] The Parties' settlement consents to Court jurisdiction in seeking approval as to the entire Settlement Class. If the Court does not rule with respect to those in Arbitration, the Parties consent to a Special Master under Section O-7 of the AAA Employment Arbitration Rules. Exhibit 1 ¶1.

Amount based on Class Counsel's damages analysis that will consider the number of workweeks and location that each Class Member worked for Defendant during the relevant Class periods, with a reasonable minimum allocation amount per person. (Exhibit 1 ¶ 3, 7(B), (D), 13(A), (G)).

The Settlement Agreement also provides for significant injunctive relief. Within six months of an order granting preliminary approval of this settlement, Defendant agrees to (1) remove the efficiency component from its Incentive Compensation Plan; (2) provide residential staff appraiser training regarding Defendant's meal period and rest break policies and the availability of premium payments; and (3) revise pay stubs as necessary with regard to incentive compensation and co-efficient overtime. (Exhibit 1 ¶ 10). Defendant will provide documentation of these changes, along with a declaration of a corporate official regarding their implementation, in conjunction with final settlement approval. (*Id.*).

The allocations of any Class Members who do not participate in the settlement will be allocated *pro rata* to the participating Class Members at the time of settlement disbursement. If more than $10,000 of the initial class payments are uncashed, there will be a second distribution to those class members who cashed their checks. (Exhibit 1 ¶ 7(J)). If less than $10,000 of the initial class payments are uncashed, or any of the second checks are uncashed, any checks that remain uncashed after 90 days will be voided and the amount will be allocated to Legal Aid at Work, a leading provider of free legal services to workers with wage claims in California. (*Id.*; Schwartz Dec. ¶ 30).

The parties also stipulate to stay all pending arbitrations and consent to the jurisdiction of this Court for settlement approval. (Exhibit 1 ¶ 1). If the Court does not accept jurisdiction over the Arbitrants and Potential Arbitrants for purposes of settlement approval, the parties consent to a Special Master for purposes of approving the settlement as to Arbitrants, and agree that no further approval

procedures shall be required to finalize this settlement as to the Potential Arbitrants.[2] (*Id.*).

2. The Settlement Process Provides Fair Notice and the Scope of the Release is Appropriate.

Defendant selected Simpluris as the Claims Administrator, a reputable administrator which Defendant is paying separately. The Claims Administrator will mail, email, and text the Notices to Settlement Class Members to their last-known addresses, email addresses, and phone numbers. (Exhibit 1 ¶ 13(C)).

The Class Notices describe the litigation, the Settlement terms, and options for Settlement Class Members to participate in, not participate in, or object to the settlement. (Exhibit A to Helland Dec.). The Notices provide information regarding the consequences of doing nothing, the basis of allocations and how to dispute such, the final approval hearing, and how class members may obtain additional information about the Settlement. (Exhibit A to Helland Dec.). The notice of settlement to putative California class members will advise them of their minimum settlement allocations and opportunity to opt-out of the settlement. (Exhibit A to Helland Dec.). The notice of settlement to current and Potential Arbitrants and Opt-ins will advise them of their minimum settlement allocations and their opportunity to accept or reject their settlement. (Exhibit A to Helland Dec.).

When the judgment becomes final, the Class Representatives and Settlement Class Members will release wage and hour claims that relate to the claims asserted in the lawsuit. Only the named Plaintiffs are required to execute a full, general release of all claims; their enhancements are consideration also for this general release. (Exhibit 1 ¶ 4, 9). Defendant agrees to release all claims brought in any counterclaims in arbitration as to all Class Members who participate in the settlement. (Exhibit 1 ¶ 5).

[2] Plaintiffs maintain that FLSA claims cannot be settled without Court approval, but agree not to challenge the validity of the Potential Arbitrants' FLSA releases in the event the Court does not accept jurisdiction for settlement approval.

B. Factors in Plaintiffs' Decision to Settle

Factual and legal factors Plaintiffs considered in electing to settle include:

1. Economic Uncertainty Favors this Settlement.

The Court will need little briefing on the current pandemic and its devastating impact on the economy, which threatens the viability of many businesses – including those in the residential real estate industry (which feeds CoreLogic's appraisal business).[3] The Court should consider the economic climate and Defendant's financial uncertainty in approving this settlement. *See Lane v. Facebook, Inc*., 696 F.3d 811, 823 (9th Cir. 2012) (rejecting objector's challenge to class action settlement where the lower court "meaningfully accounted for potential value of members' claims . . . and noted risks of bringing such claims to trial, and evidence indicated that one of defendants that could be subject to liability under [a particular theory] was on verge of bankruptcy."); *Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1376 (9th Cir. 1993) (evaluating class action settlement, finding, "Here one factor predominates to make clear that the district court acted within its discretion. That factor is [the defendant's] financial condition."). Now, sure money is worth more to Settlement Class Members than any time in recent memory.

2. The Uncertainty of a Trial Outcome and Individual Arbitrations, Likelihood of Appeal, and Delay in Payment Absent a Settlement Favor this Resolution.

The uncertainty of trial and appeals also provides a strong incentive for both Parties to settle. If Defendant were to prevail on liability at trial or in some or all of the arbitrations, Plaintiffs could recover nothing in this case. Even if Plaintiffs prevail at trial, post-judgment appeals could follow. Plaintiffs are cognizant of outcomes like *In re Farmers Ins. Exch., Claims Representatives' Overtime Pay*

[3] *See, e.g.,* Ellen Paris, *The Latest Numbers on Coronavirus' Impact on the Residential Real Estate Market*, Forbes (Apr. 2, 2020), https://www.forbes.com/sites/ellenparis/2020/04/02/the-latest-numbers-from-realtorcom-on-covid-19s-impact-on-the-residential-real-estate-market/#6d2994de10b2 (viewed Apr. 12, 2020).

Litig., 481 F.3d 1119 (9th Cir. 2007), which culminated after 5-6 years of litigation in a Ninth Circuit reversal of a $52.5 million verdict for the plaintiffs. *See also Rodriguez v. W. Publ'g Corp.,* 563 F.3d 948, 966 (9th Cir. 2009) ("While Objectors point out that much heavy-lifting had already been done, a number of serious hurdles remained . . . . Inevitable appeals would likely prolong the litigation, and any recovery by class members, for years. This factor, too, favors the settlement.").

The risk is compounded here, where the case is not a single action, but a combination of a court case and 160 individual arbitrations across the country. As Judge Wu of this Court recently recognized when approving a consumer class action settlement, "any assessment of this case must also consider the practical reality that, for the Class Members, arbitration presents a *significantly* worse risk-reward profile than pursuing this case through a class action vehicle." *Wilson v. Gateway, Inc.*, 2014 WL 12704846, at *5 (C.D. Cal. Oct. 6, 2014). The court in *Wilson* acknowledged that individual arbitration creates unique difficulties in the reality of litigation ("the Court assumes many Class Members would find the game to be not worth the candle"). *Id.* Indeed, research suggests that that plaintiffs in employment litigation are far less likely to succeed in arbitration than in court, and when they do succeed are likely to recover less. *E.g.*, Stone and Colvin, The Arbitration Epidemic: Mandatory arbitration deprives workers and consumers of their rights. Economic Policy Institute, Dec. 7, 2015, *available at* https://www.epi.org/files/2015/arbitration-epidemic.pdf, at 20.

Numerous other courts approving class settlements have considered arbitration provisions when evaluating the strengths of plaintiffs' case and the likelihood of maintaining class status. *E.g.*, *Lee v. JPMorgan Chase & Co.*, 2014 WL 12580237, at *9 (C.D. Cal. Nov. 24, 2014) (granting preliminary approval to overtime settlement); *Wilson v. Tesla, Inc.*, 2018 WL 4616358, at *7 (N.D. Cal. Sept. 26, 2018) (recognizing the difficulty of pursuing individual arbitrations);

Lundell v. Dell, Inc., 2006 WL 3507938, at *3 (N.D. Cal. Dec. 5, 2006) (arbitration made class litigation "complex and difficult and added to Class counsel's risk.").

Here, the settlement includes approximately 160 individuals who have already filed arbitration demands, and other individuals who were subject to the Court's order compelling arbitration but had not (yet) filed individual demands. For both groups, the value provided through this settlement is far superior to the risks of individual arbitration (where, among other things, Arbitrants were facing counter-claims as well). For those who had not yet filed, there is risk that the statute of limitations would have eroded their claims in the time since the Court ordered arbitration. *See, e.g., Wilson,* 2014 WL 12704846, at *5 (considering this risk factor). For both Arbitrants and Potential Arbitrants there is risk that individual arbitration presents a hostile forum, and for all arbitrations, the practical reality of litigating 160 individual claims means that those hearings would happen months or years later than trial in this case. Absent this settlement, hundreds of appraisers faced both significant delay and risk of non-recovery.

3. The Uncertainty of Certifying and Keeping Plaintiffs' Claims Certified Also Favors Settlement.

While Plaintiffs are confident in the strength of their claims and those of the class, their claims are not without risk. Substantial uncertainty remains as to whether the class claims would receive and maintain certification. The Court's decision on an eventual class certification motion may have drawn a Federal Rule of Civil Procedure 23(f) appeal. A decertification motion and resulting appeal could cause further delay. *See Campbell v. City of Los Angeles*, 903 F.3d 1090, 1102, 1120-1121 (9th Cir. 2018) (decertifying FLSA collective action re off-the-clock claims, 14 years after case began).

a. <u>Meal and Rest Break Claims</u>

The Court accompanied its tentative order granting class certification with statements suggesting the Court considered the matter a close question, and one that

it had not finally determined – even after three hours of oral argument – in light of the difficulty employers face in providing meal and rest periods to individuals working largely from home and/or on the road. Defendant was arguing that – even if some autonomously-working appraisers chose not to take breaks, there was no common policy preventing them from taking breaks, all certified that they took breaks, and many actually took breaks routinely, which should have defeated certification. *See, e.g.,* ECF No. 272, pdf pp. 10, 12-13, 23-25 of 32. That all appraisers recover substantial compensation in this Settlement, despite the risks of non-certification of these valuable claims, supports the Court's approval.

b. Off-the-Clock Claims

Off-the-clock cases of this nature have been certified in recent years. *See, e.g., Jimenez v. Allstate Ins. Co.*, 765 F.3d 1161, 1163 (9th Cir. 2014) (affirming class certification of off-the-clock claims). At the same time, conditional and class certification of off-the-clock cases is often denied. *See, Campbell*, 903 F.3d at 1102, 1120-1121 (decertifying off-the-clock claims). While Plaintiffs assert that Defendant maintains common policies causing Plaintiffs to work off the clock, Defendant and its expert challenged the viability of Plaintiffs' common proof model (comparing appraisal submission times to hours tracked in Kronos for compensation). Even if Plaintiffs certified their off-the-clock claims and prevailed on the merits, the damages phase would likely have required substantial expert costs and appraisers may have struggled to prove the extent of off-the-clock work – especially in light of routine certifications of the accuracy of their time submitted for compensation. (Schwartz Dec. ¶ 15). The Settlement Agreement avoids great uncertainties, allocating money to any Class Member who may have worked off-the-clock hours, without requiring each claimant to undergo a difficult process of documenting the nature and extent of his or her off-the-clock work. *See, e.g., In re Wells Fargo Loan Processor Overtime Pay Litig.*, 2011 WL 3352460, at *6 (N.D.

Cal. Aug. 2, 2011) (risks related to calculating off-the-clock damages supported settlement approval).

4. Willfulness versus Good Faith

Under FLSA and the California Labor Code, Plaintiffs must prove Defendant's alleged violations were willful for maximum recovery. *See Alvarez v. IBP, Inc.*, 339 F.3d 894, 910 (9th Cir. 2003) (defining FLSA standard for willfulness); *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 325 (2005) (defining willfulness standard under Labor Code § 203); *Willner v. Manpower Inc.*, 35 F. Supp. 3d 1116, 1131 (N.D. Cal. 2014) (defining standard for a "knowing and intentional" violation under Cal. Lab. Code § 226). Absent settlement, Defendant might have persuaded the triers of fact (this Court and dozens of arbitrators) they lacked the requisite intent, and would have argued in Court for decertification of penalty claims based upon individualized willfulness considerations. If Plaintiffs were unable to establish the proper intent, the FLSA statute of limitations would reduce to two years (from the current three years). *See* 29 U.S.C. § 255(a); Exhibit 1 ¶ 3(B). Defendants successfully asserting a good-faith defense would also bar Plaintiffs' claims under California Labor Code sections 203 and 226 and eliminate the collective's liquidated damages. *See* 29 U.S.C. § 260.

5. Interest and Penalties

The Parties agree two-thirds of the Settlement payment relates to interest and penalties. (Exibit 1, ¶ 7(H)). This estimate is reasonable because penalty claims are a significant proportion of the estimated damages exposure and because California's statutory prejudgment interest rate of seven to ten percent would have begun to accrue with the beginning of the Appraisers' work at CoreLogic. *See Bell v. Farmers Ins. Exch.*, 135 Cal. App. 4th 1138, 1150 (2006) (affirming 10% prejudgment interest rate provided by Cal. Civ. Code § 3289 applied to the accrual of unpaid wages under Cal. Lab. Code § 218.6); *but see Naranjo v. Spectrum Sec. Servs., Inc.*, 40 Cal. App. 5th 444, 474, 476 (2019), *review granted* (Jan. 2020)

(default interest rate of 7% applies re §226.7; "employer's failure, however willful, to pay section 226.7 statutory remedies does not trigger §203's derivative penalty provisions for untimely wage payments. The result is the same for §226…"). Defendants asserting a good-faith defense have long argued a court may deny both interest and liquidated damages. *See Brooklyn Sav. Bank v. O'Neil*, 324 U.S. 697, 715 (1945). California penalty recoveries are capped and limited by shorter statutes of limitations. *See Pineda v. Bank of Am., N.A.*, 50 Cal. App. 4th 1389, 1398 (2010) (one year under Cal. Lab. Code § 226 and up to three years under Cal. Lab. § 203); Cal. Lab. § 226(e)(1) ($4,000 maximum recovery). Thus, the Court should favorably view the Settlement's significant penalty and interest compensation.

IV. The Court Should Grant Preliminary Approval.

The Settlement is fair, adequate, and reasonable, justifying this Court's preliminary approval. Rule 23 certification for settlement purposes is appropriate.

A. Class Action Settlements Are Encouraged.

Federal law strongly encourages settlements in the context of class actions. *See, e.g.*, *Franklin v. Kaypro Corp.*, 884 F.2d 1222, 1229 (9th Cir. 1989) ("[O]verriding public interest in settling and quieting litigation" is "particularly true in class action suits.") (quotations omitted). The Court should grant preliminary approval because this settlement falls within the range of reasonableness for possible final approval. *See Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982); Conte & Newberg, *Newberg on Class Actions* § 11.25 (4th ed. 2002).

B. The Settlement Satisfies the Rule 23 Requirements.

The Court has conditionally certified an FLSA collective action class. (ECF Nos. 104, 109). For the reasons stated in their briefing regarding Plaintiffs' motion for class certification, which the Court issued a tentative order granting, Plaintiffs believe that the appraisers meet the requirements for Class Certification under Rule 23. *See, inter alia,* ECF Nos. 267, 281. As described in the earlier briefing and argument, the questions of law and fact regarding meal and rest breaks, wage

statements, overtime pay, and off-the-clock work present questions common to the Class that predominate, and Mitchell is typical of the Rule 23 class of appraisers, and will adequately protect the Class's interests. Adams and Summers are typical and adequate to protect the appraisers with arbitration clauses. (Schwartz Dec ¶ 17)

C. The Settlement Is Fair, Adequate, and Reasonable.

In deciding whether to approve a proposed class action settlement, the Court must determine whether a proposed settlement is "fair, adequate and reasonable." *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982);; *see also* Fed. R. Civ. P. 23(e)(1)(C). In approving non-collusive class settlements, courts take into account "all the normal perils of litigation as well as the additional uncertainties inherent in complex class actions." *In re Beef Indus. Antitrust Litig.*, 607 F. 2d 167, 179 (5th Cir. 1979). The trial court considers relevant factors, such as "the strength of Plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1291 (9th Cir.1992); *Carter v. Anderson Merchandisers, LP*, 2010 WL 144067 (C.D. Cal. Jan. 7, 2010) (Philips, J.). Where a settlement is reached on terms agreeable to all parties, a court should disapprove of the settlement "only with considerable circumspection." *Jamison v. Butcher & Sherrerd*, 68 F.R.D. 479, 481 (E.D. Pa. 1975). Here, the factors weigh heavily in favor of granting preliminary approval.

1. The Settlement Is Non-Collusive and Was the Product of Extensive Negotiations Among Experienced Counsel.

As the Court is well aware, this matter has been contentiously litigated, including such heated disputes as over sanctions, disqualification, and a TRO. Plaintiffs' counsel, highly experienced in such cases, poured thousands of hours

into this litigation before agreeing to this favorable settlement. Schwartz Dec. ¶ 19, 23. The proposed Settlement was the product of arm's-length, hard-fought negotiations, including two full-day mediations with highly experienced class action mediators and months of additional negotiations. *Id.* ¶ 4-5; *see also Satchell v. Fed. Exp. Corp.*, 2007 WL 1114010, at *4 (N.D. Cal. Apr.13, 2007) ("The assistance of an experienced mediator in the settlement process confirms that the settlement is non-collusive."). After the first mediation failed to resolve the case, Plaintiffs prevailed on their motion for conditional certification and filed their motion for class certification of a California class, along with battling numerous other motions. The Court should easily find that this Settlement is an arms'-length deal among capable counsel experienced in similar litigation, and therefore entitled to a presumption of fairness. *See, e.g., White v. Experian Info. Sols., Inc.*, 2009 WL 10670553, at *13 (C.D. Cal. May 7, 2009) (Carter, J.).

2. The Court Should Weigh the Strength of Plaintiffs' Case Against the Many Risks of Continued Litigation.

As discussed in Section III.B, *supra*, the case has significant strengths, but there are also considerable risks to further litigation and to maintaining class status.

3. The Amount Offered in Settlement Weighs Strongly in Favor of Preliminary Approval.

The Settlement will provide Class Members with significant up-front cash payments and the long-term benefit for all current and future appraisers of having a new Incentive Compensation Plan without the efficiency metric, awareness of the availability of premiums for missed meal and rest breaks, and paystubs that reflect incentive compensation and co-efficient overtime. The Settlement also relieves all Class Members compelled to arbitration from (what Plaintiff believes to be retaliatory) counter-claims brought by Defendant. If all eligible Appraisers participate in the suit, the average payment per Class member will be over $11,450/gross, $7,100/net (Schwartz Dec. ¶ 7).

The settlement's monetary relief compares favorably with the estimated full relief for Class Members' claims. As explained in further detail in Counsel's appended declaration, the estimated value of the claims is approximately $23 million, before liquidated damages and interest (*see Rodriguez*, 563 F.3d at 955 (court may calculate settlement reasonableness without considering certain penalties)), assuming five hours of off-the-clock work per week, three missed meals and rest periods per week, full waiting time and wage statement penalties, and complete recovery of PAGA penalties.[4] (Schwartz Dec. ¶ 8). The best-day damages could have been as follows:

FLSA Overtime for Opt-ins (unliquidated)	$6,452,937.86
California Overtime for California Class	$3,135,007.86
Meal and Rest Premiums	$3,967,086.00
TOTAL UNPAID WAGES	**$13,555,031.71**
Waiting Time Penalties	$561,000.00
Wage Statement Penalties	$804,950.00
PAGA Penalties (Full Recovery)	$8,035,000.00
TOTAL EXPOSURE	**$22,955,981.71**

(*Id.*) The $6 million recovered is thus approximately 44% of potential unpaid wages ($13,555,031.71), and 26% of potential damages plus penalties–a strong result.[5]

[4] This amount assumes Plaintiffs succeeded in winning liability for the collective, the class, every single individual Arbitrant, and all Potential Arbitrants who were compelled to arbitration but had not yet filed. (Schwartz Dec. ¶ 8).

[5] Of course, there are many ways Plaintiffs could achieve recovery significantly below that best-day amount, well below the settlement amount. For example, if Plaintiffs recovered overtime for the class and the collective, and 70% of the individuals who have already filed in arbitration (and none of the individuals who were compelled but have not yet filed) based on 4 hours per week for a two-year (non-willful) period and without liquidated damages, the overtime claim would be worth $3.67 million. If Plaintiffs prevailed on wage statement and waiting time claims, but not meal or rest period claims, and the PAGA penalties were reduced by 50%, the total damages would be $5.5 million. (Schwartz Dec. ¶ 8.)

The result also compares very favorably with numerous other off-the-clock wage-and-hour class action settlements approved by this and other Ninth Circuit courts. *See, e.g.*, *Ma*, 2014 WL 360196, at *3 (Carter, J.) (approving final settlement where settlement provided 9-18% of the total value of the action and average payment was $2,528.44 for each of 1,004 class members)); *Cuzick v. Zodiac U.S. Seat Shells, LLC*, 2017 WL 4536255, at **1-2 (N.D. Cal. Oct. 11, 2017) (granting preliminary approval for $952,000 gross settlement of off-the-clock, and meal and rest break claims, for 1,168 individuals for a gross average recovery of approximately $800 per person); *Ogbuehi v. Comcast of California/Colorado/Florida/Oregon, Inc.*, Case No. 13:-cv-00672 (E.D. Cal. June 9, 2015), Dkt. #30 (attached as Schwartz Dec., Exh. 2) (granting final approval, for a settlement providing $100,000 gross to be distributed to the 88 class members, for a gross average payment of $1,136.26, constituting 10.5% of the maximum estimated value of the claims); *O'Sullivan v. AMN Servs., Inc.*, 12-cv-2125 (N.D. Cal. 2014), Dkt. #84 (attached as Schwartz Dec., Exh. 3) (approving gross settlement of $3 million for 4,246 class members who filed claims ($478.12 net average payment) where total exposure before penalties and interest was estimated at $108 million, for a recovery of less than 3% of full relief); *Tijero v. Aaron Brothers, Inc.*, 301 F.R.D. 314, 319 (N.D. Cal. 2013) (granting preliminary approval for $800,000 in settlement involving approximately 269,941 workweeks, or $3.00 gross per workweek, in off-the-clock and missed breaks case).[6]

4. The Extent of Discovery Completed and the Stage of the Proceedings also Favors Preliminary Approval.

The Parties: took sixteen depositions, including all named Plaintiffs and the deposition of FRCP 30(b)(6) witnesses and other managers for the Defendant; exchanged over 76,000 pages of relevant discovery; briefed conditional and class

[6] By way of contrast, the per-workweek recovery here is approximately $85. (Helland Dec. ¶ 4).

certification, motions to compel, dismiss, and on the pleadings, sanctions, and disqualification motions; mediated with two top mediators; initiated 160 individual arbitrations; and negotiated for months. (Schwartz Dec ¶ 18-19). The Parties are well-prepared to reach this settlement.

5. The Considerable Experience and Strongly Supportive Views of Counsel Weigh in Favor of Preliminary Approval.

Plaintiffs' counsel strongly recommends approval of this settlement. (Schwartz Dec. ¶ 2; Helland Dec. ¶ 4). Counsel for Plaintiffs have collectively represented hundreds of thousands of employees in wage/hour class actions like this one and have had settlements approved repeatedly by District Courts in the Ninth Circuit and other courts. (Schwartz Dec. ¶ 23; ECF No. 254-2 ¶ 18-21; Helland Dec. ¶ 2). Undersigned counsel have led the State Bar of California 7500+-member Labor and Employment Law Section, the State Bar's Advanced Wage and Hour Seminar, the California Employment Lawyers Association Annual Conference and Wage and Hour Conference, the Editorial Board of the BNA Fair Labor Standards Act Treatise, and have published and spoken at dozens of conferences and seminars regarding wage and hour class actions, with a special focus on class action settlements. (Schwartz Dec. ¶ 23; Helland ¶ 3).

"The recommendations of plaintiffs' counsel should be given a presumption of reasonableness." *Boyd v. Bechtel Corp.*, 485 F. Supp. 610, 622 (N.D. Cal. 1979); *see also Rodriguez*, 563 F.3d at 965 ("we put a good deal of stock in the product of an arms-length, non-collusive, negotiated resolution"). The monetary relief for Class Members is substantial, and the injunctive relief will go a long way towards eliminating the practices that triggered the legal violations at issue in this case.

6. The Reaction of the Class Members to the Proposed Settlement.

At final approval, after notice distribution, the Court can consider this factor.

7. The Presence of a Government Participant.

There has been no government participant in this case. Plaintiffs exhausted their PAGA claim and the LWDA chose not to intervene or otherwise take any action in this case. (ECF Nos. 73 ¶ 110-11, 278 p. 14; Schwartz Decl. ¶ 32).

8. All Additional Settlement Terms are Fair.

The Settlement avoids the pitfalls of other, unsuccessful settlements. All Settlement Class Members will receive class/collective action notices, and their claims are only extinguished after they have a full opportunity to review and respond to those notices. (Exh. 1 ¶¶ 4, 7(A), (E), (I), 13(D)-(G)). Other than the named Plaintiffs, the Settlement Class Members are waiving only their wage and hour claims. (*Id.* ¶¶ 4(A)). The enhancements to the Class Representatives, attorneys' fees, PAGA allocation, and *cy pres* designee are appropriate.

a. The Incentive Awards are Fair.

Plaintiffs request approval of incentive payments to the three individuals who served as Named Plaintiffs and the eight additional Class Members who were deposed. In total, they represent less than 1% of the gross settlement amount.

Enhancement awards should be evaluated using "'relevant factors, includ[ing] the actions the Plaintiff has taken to protect the interests of the class, the degree to which the class has benefited from those actions, … the amount of time and effort the Plaintiff expended in pursuing the litigation…and reasonabl[e] fear[s] of workplace retaliation.'" *Staton v. Boeing Co.*, 327 F.3d 938, 963 (9th Cir. 2003); *see also Van Vranken v. Atlantic Richfield Co.,* 901 F. Supp. 294, 299 (N.D. Cal. 1995) (listing similar factors for evaluating appropriateness of enhancement award).

By initiating and lending their names to this lawsuit, the three Named Plaintiffs took great professional risk. *See Rutti v. Lojack Corp.*, 2012 WL 3151077, at **5-6 (C.D. Cal. July 31, 2012) (Carter, J.) (citing research, noting the "strong disincentives for employees to participate in a class action against their current or former employer, particularly when the suit requires an affirmative opt-

in, as does the FLSA"); *Ross v. U.S. Bank Nat'l Ass'n*, 2010 WL 3833922, at *4 (N.D. Cal. Sept. 29, 2010) (service awards based on "willingness to serve as representatives despite the potential stigma that might attach to them … from taking on those roles"). All Named Plaintiffs feared retaliation and indeed, Mr. Adams was terminated from CoreLogic during the pendency of this case and Ms. Mitchell has not been able to secure additional appraisal work since joining this case. (Mitchell Dec. ¶ 3, Summers Dec. ¶ 3, Adams Dec. ¶ 3). The Named Plaintiffs were substantially involved in the litigation, including educating Class Counsel about their job duties and Defendant's policies and procedures. (Schwartz Dec. ¶ 28; Mitchell Dec. ¶ 4-5, Summers Dec. ¶ 4-5, Adams Dec. ¶ 4-5). The Named Plaintiffs reviewed documents, produced documents in response to discovery requests and in preparation for their depositions, provided declarations in support of conditional certification, and made themselves available for mediation. (*Id.*). All were deposed, two attended the first mediation, and all were available for the second mediation. (*Id.*). Furthermore, the Named Plaintiffs agreed to a general release of claims as to Defendant. (Exhibit 1 ¶ 4(B)). *See, e.g.*, *Selk v. Pioneers Mem'l Healthcare Dist.*, 159 F. Supp. 3d 1164, 1179 (S.D. Cal. 2016) (consideration for broader release appropriate); *Gong-Chun v. Aetna, Inc.*, 2012 WL 2872788, at *25 (E.D. Cal July 12, 2012) (general release of claims favors larger service award). Despite the stress and other health problems that they have suffered as a result of this case, the Named Plaintiffs have remained committed throughout the more than two years since this case was filed, spending hundreds of hours to further the case. (Mitchell Dec. ¶4-6, Summers Dec. ¶ 4-5, Adams Dec. ¶ 4-6).

The eight deponents also strengthened the class and collective claims by corroborating the allegations in this case in multiple locations, thereby enhancing the case's overall value by increasing Defendant's potential exposure. (Schwartz Dec. ¶ 29). Their efforts to step forward on behalf of the Class should be rewarded. *See, e.g., Hightower v. JPMorgan Chase Bank, N.A.*, 2015 WL 9664959, at *12

(C.D. Cal. Aug. 4, 2015) (Gutierrez, J.) (approving $1,000 award for each class member who was deposed).

Under similar facts, this Court and others have awarded substantial enhancement payments to Class Representatives. *See, e.g., Boyd v. Bank of America,* 8:13-cv-00561-DOC (Dkt. #397) (Jan. 19, 2016), p. 3 ¶9 (Carter, J.) ($25,000/each for staff appraiser class representatives); *Boyd v. Bank of America,* 2014 WL 6473804, at *7 (Carter, J.) ($15,000 for review appraiser class representative from $5.8 million settlement); *Carter v. XPO Logistics, Inc.*, 2019 WL 5295125, at *4 (N.D. Cal. Oct. 18, 2019) (approving awards of $20,000 each for five named plaintiffs); *Galeener v. Source Refrigeration & HVAC, Inc.*, 2015 WL 12977077, at *2 (N.D. Cal., Aug. 21, 2015) ($25,000 service award); *In re Pep Boys Overtime Actions*, 2008 WL 11343369, at *3 (C.D. Cal. Nov. 12, 2008) ($20,000/each for seven named plaintiffs); *Glass v. UBS Fin. Servs.*, Inc., 2007 WL 221862, at *16 (N.D. Cal. Jan. 26, 2007) ($25,000/each).

Undersigned counsel believes that $15,000 each for Named Plaintiffs and $1,000 each for deponents is the minimum amount which would viably promote the public policy interest in encouraging those with wage claims to assert them despite the fears associated with doing so. Schwartz Dec. ¶ 28; *Almero v. Quest Diagnostics*, 2010 WL 11558137, at *3 (C.D. Cal. Dec. 6, 2010) (Carter, J.) ("a class representative is entitled to some compensation for the expense he or she incurred on behalf of the class lest individuals find insufficient inducement to lend their names and services to the class action.").

b. The Court Should Award Attorneys' Fees of One Third of the Common Fund.

The U.S. Supreme Court "has recognized consistently that a litigant or a lawyer who recovers a common fund … is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). The Ninth Circuit's benchmark for fees in this context is 25 percent of the gross

settlement amount. *Glass*, 2007 WL 221862, at *14. However, the choice of "the benchmark or any other rate must be supported by findings that take into account all of the circumstances of the case." *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048 (9th Cir. 2002)).

Here, Plaintiffs' counsel's request for an upward departure to one third of the common fund ($2 million) is justified because of the significant injunctive relief secured, counsel's thousands of hours of uncompensated work resulting in a lodestar above the amount sought,[7] and the various victories Plaintiffs' counsel has secured in the face of Defendant's efforts, which the Court has previously recognized through a temporary restraining order (ECF Nos. 146, 163) and sanctions order (ECF No. 322).

Injunctive relief should be considered in making a fee award. *See, e.g.*, *In re Bluetooth Headset Prod. Liability Litig.*, 654 F.3d 935, 941 (9th Cir. 2011) (considering that benefits to the class went beyond the settlement fund); *Vizcaino*, 290 F.3d 1043 at 1048-50 ("Non-monetary benefits" to class are "a relevant circumstance" in fee analysis). Also, that counsel seeks fees below their current lodestar give the request a presumption of reasonableness, inasmuch as counsel's lodestar would be entitled to a presumption of reasonableness. *See, e.g., Katz v. China Century Dragon Media, Inc.,* 2013 WL 11237202, at *8 (C.D. Cal. Oct. 10, 2013) (Kronstadt, J.) (citing *Fischel v. Equitable Life Assur. Society of U.S.,* 307 F.3d 997, 1007 (9th Cir. 2002) ("There is a strong presumption that the lodestar figure represents a reasonable fee.")). Finally, Courts consider not only the results achieved and the skill and quality of work – which Plaintiffs submit are high on all counts – but also the risk of litigation and the contingent nature of the fee and

[7] With their fee petition, which they will file publicly before the close of the opt-out period (*see In re Bluetooth Headset*, 654 F.3d at 943, 947-50), Plaintiffs' Counsel will provide the Court with a detailed breakdown of their hours worked and fees incurred for a lodestar cross-check. Schwartz Dec. ¶ 22; Helland Dec. ¶ 5.

financial burden carried by the Plaintiffs' counsel, especially onerous at their small firms. *See, e.g.*, *Boyd,* 2014 WL 6473804, at *10 ("Firms of this [small] size face even greater risks in litigating large class actions with no guarantee of payment. The Court finds that the considerable risk in this case due to the uncertain legal terrain, coupled with Counsel's contingency fee arrangement, weigh in favor of an increase from the benchmark rate.").

The Court should not hesitate to approve preliminarily the fees sought.

c. The Allocation is Reasonable.

The settlement fund will be allocated based on Class Counsel's damages analysis, with a reasonable minimum allocation amount per person that will consider the number of workweeks and location that each Class Member worked for Defendant during the relevant Class periods. (Exhibit 1 ¶ 3, 7(B), 13(A), (G)). Class Counsel performed detailed individualized damages calculations, using payroll data provided by Defendant. The settlement will be allocated proportionately based on these damages calculations. To reflect the significant uncertainty that individuals who were previously compelled to arbitration, but who have not yet filed in arbitration, would face in proceeding, and the risk associated with a running statute of limitations, a 50% reduction was applied in allocating the settlement to individuals who were compelled but have not yet filed. This allocation is straightforward and fair. *See*, *e.g.*, *Bisaccia v. Revel*, 2019 WL 3220275, at *2 (N.D. Cal. July 17, 2019) (granting final approval where "settlement payments will be calculated proportionately based on individualized damages calculations using payroll data provided by Defendant.").

The PAGA portion of a settlement must be reviewed and approved by the Court. Cal. Lab. C. § 2699(l)(2). Neither the Act nor state law squarely address the standard of review for PAGA claims. *See, e.g. Flores v. Starwood Hotels & Resorts Worldwide, Inc.* 253 F.Supp.3d. 1074, 1075 (C.D. Cal. 2017) (Guilford, J.) ("[N]either the California legislature, nor the California Supreme Court, nor the

California Courts of Appeal, nor the California Labor & Workforce Development Agency (LWDA)" has definitively addressed the standard of review for PAGA). "[C]lass action requirements . . . need not be met when an employee's representative action against an employer is seeking civil penalties under [PAGA]." *Arias v. Sup. Ct.*, 46 Cal.4th 969, 975 (2009). PAGA settlements must be considered in the context of "the overall settlement of the case" and need not allocate any portion of the recovery to PAGA penalties to warrant court approval. *Nordstrom Com'n Cases,* 186 Cal.App.4th 576, 589 (2010).

Here, the $60,000 PAGA allocation is 1% of the Settlement Fund, and .75% of the estimated value of the PAGA claims. (Schwartz Dec. ¶ 35). This amount is reasonable as compared to the allocation ratios approved for other class actions with PAGA claims around the Ninth Circuit. *See, e.g.*, *Boyd,* 2014 WL 6473804, at *8 (approving PAGA penalties worth 0.32% of gross settlement); *Viceral v. Mistras Grp. Inc.*, 2017 WL 661352, at ** 1, 3 (N.D. Cal. Feb. 17, 2017) (approving PAGA penalties worth 0.33% of gross settlement and worth 0.15% of total estimated value of PAGA claims); *Alexander v. FedEx Ground*, 2016 WL 1427358, at *2 (N.D. Cal. Apr. 12, 2016) (0.7% PAGA allocation); *Vazquez v. USM Inc.*, 2016 WL 612906, at *1 (N.D. Cal. Feb. 16, 2016) (0.67%); *Cruz v. Sky Chefs*, 2014 WL 7247065, at *3 (N.D. Cal. Dec. 19, 2014) (0.57%).

d. The Requested *Cy Pres* Beneficiary Is Appropriate.

Plaintiffs' Counsel requests that the Court designate Legal Aid at Work (legalaidatwork.org) as the *cy pres* recipient. (Exhibit 1 ¶ 7(J)). Legal Aid at Work meets the *Dennis v. Kellogg Co*., 697 F.3d 858, 865 (9th Cir. 2013) test, "that there be a driving nexus between the plaintiff class and the *cy pres* beneficiaries." The present case seeks to enforce wage protections, and about 250 Class Members (including all named Plaintiffs) performed their work in California. (Schwartz Dec. ¶ 30). Legal Aid at Work is the leading provider of direct legal services in employment law for low-wage workers in California. (*Id.*).

V. THE COURT SHOULD RESUME JURISDICTION OF ALL CLAIMS.

"[A]rbitration is a matter of contract . . . ." *AT & T Techs., Inc. v. Commc'ns Workers of Am.*, 475 U.S. 643, 648 (1986). Since the contracting parties control the scope of their agreement to arbitrate, the parties' agreement to return to this Court for settlement approval is entirely appropriate and consistent with federal law. Moreover, the AAA Employment Rules expressly contemplate a party seeking judicial intervention for "interim measures." *See* Rule 32, AAA Employment Arbitration Rules, found at https://adr.org/sites/default/files/EmploymentRules_Web_2.pdf. Judicial approval of this settlement advances public policy favoring efficient, cost-effective resolution of disputes and eliminates the risk, cost, uncertainty, and delay that would result from fractural settlement approval in two (or more) forums.

VI. CONCLUSION

Plaintiffs submit that the settlement is fair, adequate and reasonable. Plaintiffs and their counsel believe that the settlement is in the best interests of the Plaintiffs and the Class, and is a favorable result under the FLSA and PAGA. Under the applicable class, collective, and representative action standards, Plaintiffs request that the Court grant this unopposed motion and: preliminarily approve the Settlement Agreement; certify, for settlement purposes only, the class of appraisers described herein; name Bryan Schwartz Law and Nichols Kaster as Class Counsel; name Harriett Mitchell, Jason Summers, and Joseph Adams as Class Representatives; appoint Simpluris as Claims Administrator; authorize mailing the Notice to the Settlement Class; and schedule a final approval hearing date.

DATED: April 13, 2020

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