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16 **UNITED STATES DISTRICT COURT**  
17 **EASTERN DISTRICT OF CALIFORNIA**

18 RICHARD MARTINEZ, an individual, on  
19 behalf of the State of California, as a private  
20 attorney general,

21 Plaintiff,

22 v.

23 E & A PROTECTIVE SERVICES-BRAVO,  
24 LLC, a Virginia Limited Liability Company;  
25 and DOES 1 to 10, inclusive,

26 Defendants.

**CASE NO. 1:18-cv-00658-BAM**

**ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

(Doc. Nos. 21, 27)

Date: August 1, 2019

Time: 9:00 a.m.

Judge: Hon. Barbara McAuliffe

Dept.: Courtroom 8, 6<sup>th</sup> Floor

Action Filed: May 14, 2018

FAC Filed: November 6, 2018

27 The Motion for Preliminary Approval of a Class Action Settlement came before this Court  
28 on August 1, 2019, the Honorable Barbara A. McAuliffe presiding. The Court, having considered  
the motion and the papers submitted in support thereof, **HEREBY ORDERS THE FOLLOWING:**

1. The Court grants preliminary approval of the Settlement and the Settlement Class  
based upon the terms set forth in the Joint Stipulation of Settlement and Release of Class Action  
("Settlement Agreement") filed with the Declaration of Craig J. Ackermann on March 19, 2019,

1 and the Addendum to Joint Stipulation of Settlement and Release of Class Action (“Addendum”)  
2 filed with the Supplemental Declaration of Craig J. Ackermann on April 19, 2019. (Doc. Nos.  
3 21-3, 27-1.) All terms used herein shall have the same meaning as defined in the Settlement  
4 Agreement and Addendum. The settlement set forth in the Settlement Agreement and Addendum  
5 appears to be fair, adequate and reasonable to the Class.

6         2.         The Court finds that for settlement purposes the proposed settlement Class meets  
7 the standards of Federal Rule of Civil Procedure 23(a) and 23(b). Specifically, the Courts finds  
8 that the Class is sufficiently numerous because there are approximately 99 members in the  
9 Settlement Class. The Court also finds that the settlement Class satisfies the elements of  
10 commonality and predominance in that all Class Members share the same legal and factual  
11 questions of whether Defendant provided off-duty rest periods. The Court also finds that  
12 typicality is satisfied because Plaintiff was subject to the same uniform policies and practices as  
13 the Class. Lastly, the Court finds that adequacy is satisfied because the claims of Class Members  
14 and Plaintiff are coextensive and there is no conflict between Plaintiff and any other Class  
15 Member. Additionally, the Court finds Class Counsel have no conflicts of interest, have  
16 vigorously prosecuted this action, and have significant experience litigating class actions.

17         3.         The Settlement falls within the range of reasonableness and appears to be  
18 presumptively valid, subject only to any objections that may be raised at the final fairness hearing  
19 and final approval by this Court.

20         4.         A final fairness hearing on the question of whether the proposed Settlement,  
21 attorneys’ fees and costs to Class Counsel, and the Class Representative’s Service Award should  
22 be finally approved as fair, reasonable, and adequate as to the members of the Class is scheduled  
23 in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe on the date and time set  
24 forth in the implementation schedule in Paragraph 10 below.

25         5.         This Court approves, as to form and content, the Revised Notice of Proposed Class  
26 Action Settlement and Hearing Date for Court Approval (“Class Notice”), in substantially the  
27 form attached to the Addendum as **Exhibit 1**, except that the Parties shall add that any appearance  
28 by Counsel of a Class Member at the final fairness hearing shall be at the Class Member’s own

1 expense, and the Share Form in substantially the form attached to the Settlement Agreement as  
2 **Exhibit 2.** (Doc. Nos. 21-5, 27-2.) The Court approves the procedure for Class Members to  
3 participate in, to opt out of, and to object to, the Settlement as set forth in the Stipulation of  
4 Settlement.

5 6. The Court directs the mailing of the Class Notice, and the Share Form by first class  
6 mail to the Class Members in accordance with the Implementation Schedule set forth below. The  
7 Court finds the dates selected for the mailing and distribution of the Notice and the Share Form,  
8 as set forth in the Implementation Schedule, meet the requirements of due process and provide  
9 the best notice practicable under the circumstances and shall constitute due and sufficient notice  
10 to all persons entitled thereto.

11 7. It is ordered that the Settlement Class is preliminarily certified for settlement  
12 purposes only.

13 8. The Court appoints Plaintiff Richard Martinez as Class Representative, and  
14 appoints Craig J. Ackermann of Ackermann & Tilajef, P.C. and Jonathan Melmed of Melmed  
15 Law Group P.C. as Class Counsel.

16 9. The Court appoints Simpluris, Inc. as the Settlement Administrator.

17 10. The Court orders the following **Implementation Schedule** for further  
18 proceedings:

19			
20	a.	Deadline for Defendant to comply with notice provisions of Class Action Fairness Act, 28 U.S.C. § 1715.	August 11, 2019
21			
22	b.	Deadline for Defendant to Submit Class Member Information to Settlement Administrator	August 15, 2019
23			
24	c.	Deadline for Settlement Administrator to Mail Notice to Class Members	August 29, 2019
25			
26	d.	Deadline for Class Members to Postmark Share Forms with Challenges	October 28, 2019
27			
28			

1	e.	Deadline for Class Members to Postmark Requests for Exclusion	October 28, 2019
2	f.	Deadline for Class Members to submit Objections to Settlement	October 28, 2019
3			
4	g.	Deadline for Settlement Administrator to file Declaration of Due Diligence and Proof of Mailing	December 16, 2020
5			
6			
7	h.	Deadline for Class Counsel to file Motion for Attorneys' Fees and Expenses	October 18, 2019
8			
9	i.	Deadline for Class Counsel to file Motion for Final Approval of Settlement	December 19, 2019
10			
11	j.	<b>Final Approval/Fairness Hearing</b>	<b>January 14, 2020</b> <b>Time: 9:00 a.m.</b> <b>Dept: 8 (BAM)</b>
12			
13			
14	k.	Deadline for Settlement Administrator to mail the Settlement Awards, Service Award, and PAGA Payments, and to wire transfer the Attorneys' Fees and Costs (if Settlement is Effective)	February 14, 2020
15			
16			
17	l.	Settlement Administrator to File Proof of Payment of Settlement Awards, Enhancement Award, Attorneys' Fees and Costs (if Settlement is Effective)	May 14, 2020
18			
19			

20 11. If any of the dates in this Implementation Schedule falls on a weekend, bank or  
21 court holiday, the time to act shall be extended to the next business day.

22 IT IS SO ORDERED.

23 Dated: August 2, 2019

24 /s/ Barbara A. McAuliffe  
25 UNITED STATES MAGISTRATE JUDGE