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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES WARREN ASH, et al.,
Plaintiffs,
v.
BAYSIDE SOLUTIONS, INC.,
Defendant.

Case No. 14-cv-02183-WHO

**ORDER REGARDING HEARING ON
MOTION FOR APPROVAL OF FLSA
SETTLEMENT**

A hearing on the parties' joint motion for approval of FLSA settlement is set for September 9, 2015. I have several concerns about the settlement that the parties may be able to address in advance of the hearing. On or before September 8, 2015, the parties (or plaintiffs) shall file with the Court a short brief and/or other materials addressing the following subjects:

(1) why the notice of collective action was sent to only 119 individuals, instead of approximately 140, as represented in the briefing on conditional certification.

(2) what efforts were made to notify individuals of the collective action, and why only 13 opted-in.

(3) the potential range of recovery of each opt-in plaintiff, including his or her approximate number of overtime hours worked, and his or her regular hourly rate.

(4) whether the dismissal of plaintiffs' class action claims is appropriate under Federal Rule of Civil Procedure 23(e). *See Diaz v. Trust Territory of Pac. Islands*, 876 F.2d 1401, 1408 (9th Cir. 1989); *Lyons v. Bank of Am., NA*, No. 11-cv-01232-CW, 2012 WL 5940846, at *1 n.1 (N.D. Cal. Nov. 27, 2012).

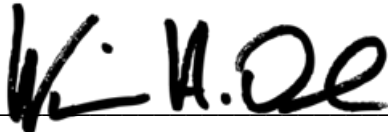
In addition, at the hearing on September 9, 2015, the parties should be prepared to discuss the scope of the named and opt-in plaintiffs' releases. Among other things, I will be interested in why the definition of "Released Persons" extends to "any party that . . . could have been named as

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a defendant in the litigation and any individual or entity which could be jointly liable with defendant and any other persons or entities acting on its behalf, including any party that was or could have been named as a defendant in the litigation.”

IT IS SO ORDERED.

Dated: August 31, 2015



WILLIAM H. ORRICK
United States District Judge