

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

AHMAD JAWAD ABDUL JAMIL,  
AHMAD JAMSHID ABDUL JAMIL,  
AHMAD FARHAD ABDUL JAMIL,  
individual and on behalf of all employees  
similarly situated,  
  
Plaintiffs,  
  
v.  
  
WORKFORCE RESOURCES, LLC;  
BRISTOL BAY NATIVE  
CORPORATION; and DOES 1 through  
10, inclusive,  
  
Defendants.

Case No.: 18-CV-27 JLS (NLS)

**ORDER: (1) GRANTING  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT;  
(2) PROVISIONALLY CERTIFYING  
SETTLEMENT CLASS;  
(3) APPOINTING CLASS COUNSEL;  
(4) APPOINTING PLAINTIFFS  
AHMAD JAWAD ABDUL JAMIL,  
AHMAD JAMSHID ABDUL JAMIL,  
AND AHMAD FARHAD ABDUL  
JAMIL AS CLASS  
REPRESENTATIVES;  
(5) APPOINTING SETTLEMENT  
ADMINISTRATOR; (6) APPROVING  
NOTICE AND DIRECTING  
DISTRIBUTION OF NOTICE; AND  
(7) SETTING SCHEDULE FOR  
FINAL APPROVAL PROCESS**

(ECF No. 51)

Presently before the Court is Plaintiffs’ unopposed Motion for Preliminary Approval of Proposed Class Action Settlement (“Prelim. Approval Mot.,” ECF No. 51). Having

1 reviewed the terms of the Joint Stipulation re: Class Action Settlement and Release  
2 (“Proposed Settlement Agreement”), Prelim. Approval Mot. Ex. 1, ECF No. 51-1 at  
3 10–43; Plaintiffs’ arguments; and the law, the Court preliminarily concludes that the  
4 settlement falls within the range of reasonableness warranting preliminary approval, *i.e.*,  
5 that the settlement appears fundamentally fair, reasonable, and adequate. Accordingly, the  
6 Court **GRANTS** the Preliminary Approval Motion.

### 7 **GENERAL BACKGROUND**

8 Plaintiffs Ahmad Jawad Abdul Jamil, Ahmad Jamshid Abdul Jamil, and Ahmad  
9 Farhad Abdul Jamil filed a putative class action complaint against Workforce Resources,  
10 LLC (“Workforce”) in the Superior Court of California for the County of San Diego on  
11 September 27, 2017. *See* ECF No. 1-2 at 6–27. The allegations included failure to pay  
12 minimum wages; failure to pay overtime wages; failure to provide meal and rest periods;  
13 failure to provide accurate, itemized wage statements; and failure timely to pay wages due  
14 at separation in violation of various provisions of the California Labor Code. *See generally*  
15 *id.* Plaintiffs also alleged unfair business practices in violation of California Business and  
16 Professions Code section 17200. *See generally id.* Plaintiffs added Bristol Bay Native  
17 Corporation (“BBNC”) as a Defendant on November 13, 2017. *See* ECF No. 1-2 at 28  
18 –29.

19 Plaintiffs removed the action to federal court on January 24, 2018. *See* ECF No. 1.  
20 Defendants filed a motion to dismiss the meal and rest break claims on January 11, 2018,  
21 *see* ECF No. 3, while Plaintiffs filed a motion to remand the action to state court on  
22 February 14, 2018, *see* ECF No. 4, which the Court denied on May 21, 2018. *See* ECF No.  
23 12. Plaintiffs filed the operative First Amended Complaint on July 20, 2018, adding a  
24 claim for civil penalties under the Labor Code Private Attorneys General Act of 2004  
25 (“PAGA”). *See* ECF No. 22. Because Defendants’ prior motion to dismiss was dismissed  
26 as moot, *see* ECF No. 21, Defendants filed a renewed motion to dismiss Plaintiffs’ meal  
27 and rest break claims, *see* ECF No. 23, which the Court denied. *See* ECF No. 29.

28 ///

1 The Parties attended two Early Neutral Evaluation Conferences with the Honorable  
2 Nita L. Stormes, on April 23 and July 29, 2019, but were unable to reach a settlement. *See*  
3 *generally* ECF Nos. 38, 44. On September 24, 2019, the Parties attended a mediation  
4 conducted by Jill Sperber, Esq., during which they reached the Proposed Settlement  
5 Agreement presently before the Court. Declaration of Kevin Mahoney in Support of  
6 Prelim. Approval Mot. (“Mahoney Decl.,” ECF No.51-1) ¶ 4.

7 On April 9, 2020, the plaintiffs of a separate, related putative class action, *Abikar v.*  
8 *Bristol Bay Native Corporation*, No. 18CV1700 JLS (AGS) (S.D. Cal. filed July 25, 2018),  
9 filed a motion to intervene and objection to proposed settlement. *See* ECF No. 55. They  
10 have since withdrawn their motion and objection, *see* ECF Nos. 56, 57, leaving the instant  
11 Motion unopposed.

## 12 SETTLEMENT TERMS

13 The Parties have submitted a comprehensive Proposed Settlement Agreement  
14 detailing the substantive settlement terms, Prelim. Approval Mot. Ex. 1, ECF No. 51-1 at  
15 10–43, as well as a Proposed Notice of Settlement. Proposed Settlement Agreement Ex.  
16 A, ECF No. 51-1 at 44–50.

### 17 I. Proposed Settlement Class

18 The proposed Settlement Class is defined to include “all non-exempt employees who  
19 worked for Workforce at Marine Corps Base Camp Pendleton in the position of Role  
20 Player, Interpreter, Amputee, and/or Team Lead at any time during the Class Period,”  
21 Proposed Settlement Agreement ¶ 1.4, while the Class Period is defined as “the period  
22 from September 27, 2013 through and including July 31, 2017.” *Id.* ¶ 1.8. The proposed  
23 Settlement Class amounts to approximately 1,089 members. Prelim. Approval Mot. at 10.  
24 Class Members have the option to opt out of the Settlement or to object to the Settlement  
25 within sixty days of the mailing of the Notice of Settlement. *Id.*

### 26 II. Proposed Monetary Relief

27 The Proposed Settlement Agreement provides that Defendants will pay a Maximum  
28 Settlement Amount of \$900,000. Proposed Settlement Agreement ¶ 3.6.1. The Maximum

1 Settlement Amount will be used to pay Plaintiffs’ Class Representative Service Awards in  
2 the amount of \$10,000 each, a Class Counsel Fees Award of \$300,000, a Class Counsel  
3 Costs Award of \$15,000, Settlement Administration Costs of \$35,000, and payment to the  
4 California Labor and Workforce Development Agency (“LWDA”) pursuant to PAGA. *Id.*  
5 at ¶¶ 3.6.1–3.6.1.5.

6 All Participating Class Members, *i.e.*, Class Members who do not submit a timely  
7 and valid Request for Exclusion, will receive a portion of the Net Distribution Fund “paid  
8 on a pro rata basis based on the numbers of shifts . . . worked . . . during the Class Period.”  
9 *Id.* at ¶ 3.6.1.6. In calculating the Individual Settlement Payments, the Settlement  
10 Administrator will “divide[ the Net Distribution Fund by] the total number of eligible shifts  
11 worked by Participating Class Members during the Class Period to determine the shift  
12 value,” then multiply the shift value and the total number of eligible shifts worked by each  
13 Participating Class Member during the Class Period. *Id.* Plaintiffs estimate that the  
14 average net distribution to individual members of the Settlement Class will be \$470 per  
15 member, if no Class Members opt out of the Settlement. Prelim. Approval Mot. at 15.  
16 After disbursing payments, any funds remaining in the Net Distribution Fund will be  
17 donated to the State of California’s Justice Gap Fund. Proposed Settlement Agreement  
18 ¶ 3.8.10.

19 In exchange for the monetary consideration, all Participating Class Members will  
20 release all “Released Class Claims” and “Released PAGA Claims” as defined in the  
21 Proposed Settlement Agreement. *Id.* ¶¶ 1.31–1.32.

22 **RULE 23 SETTLEMENT CLASS CERTIFICATION**

23 Before granting preliminary approval of a class action settlement agreement, the  
24 Court must first determine whether the proposed class can be certified. *Amchem Prods. v.*  
25 *Windsor*, 521 U.S. 591, 620 (1997) (indicating that a district court must apply “undiluted,  
26 even heightened, attention [to class certification] in the settlement context” to protect  
27 absentees).

28 ///

1 Class actions are governed by Federal Rule of Civil Procedure 23. To certify a class,  
2 each of the four requirements of Rule 23(a) must first be met. *Zinser v. Accufix Research*  
3 *Inst., Inc.*, 253 F.3d 1180, 1186 (9th Cir. 2001). Rule 23(a) allows a class to be certified  
4 only if:

- 5 (1) the class is so numerous that joinder of all members is  
6 impracticable;
- 7 (2) there are questions of law or fact common to the class;
- 8 (3) the claims or defenses of the representative parties are  
9 typical of the claims or defenses of the class; and
- 10 (4) the representative parties will fairly and adequately protect  
11 the interests of the class.

12 In addition to Rule 23(a)'s requirements, the proposed class must satisfy the  
13 requirements of one of the subdivisions of Rule 23(b). *Zinser*, 253 F.3d at 1186. Here,  
14 Plaintiffs seek to certify the Settlement Class under subdivision Rule 23(b)(3), *see* Prelim.  
15 Approval Mot. at 21–22, which permits certification if “questions of law or fact common  
16 to class members predominate over any questions affecting only individual class members”  
17 and “a class action is superior to other available methods for fairly and efficiently  
18 adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). The Court addresses each of these  
19 requirements in turn.

## 20 **I. Rule 23(a)**

### 21 **A. Rule 23(a)(1): Numerosity**

22 Federal Rule of Civil Procedure 23(a)(1) requires that a class must be “so numerous  
23 that joinder of all members is impracticable.” “[C]ourts generally find that the numerosity  
24 factor is satisfied if the class comprises 40 or more members and will find that it has not  
25 been satisfied when the class comprises 21 or fewer.” *Celano v. Marriott Int’l, Inc.*, 242  
26 F.R.D. 544, 549 (N.D. Cal. 2007). Here, the proposed Settlement Class consists of  
27 approximately 1,089 members, Prelim. Approval Mot. at 10, so joinder of all members

28 ///

1 would be impracticable for the purposes of Rule 23(a)(1). The numerosity requirement is  
2 therefore satisfied.

3 **B. Rule 23(a)(2): Commonality**

4 Federal Rule of Civil Procedure 23(a)(2) requires that there be “questions of law or  
5 fact common to the class.” Commonality requires that “the class members ‘have suffered  
6 the same injury.’” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349–50 (2011) (quoting  
7 *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157 (1982)). “The existence of shared legal  
8 issues with divergent factual predicates is sufficient, as is a common core of salient facts  
9 coupled with disparate legal remedies within the class.” *Hanlon v. Chrysler Corp.*, 150  
10 F.3d 1011, 1019 (9th Cir. 1998).

11 Here, the Settlement Class is defined as all “non-exempt employees who worked for  
12 Workforce at Marine Corps Base Camp Pendleton in the position of role player, interpreter,  
13 amputee, and/or team lead . . . at any time during the period from September 27, 2013  
14 through and including July 31, 2017.” Prelim. Approval Mot. at 2; *see also* Proposed  
15 Settlement Agreement ¶ 1.4. Common issues revolve around the questions of whether  
16 Defendants failed to compensate employees for all hours worked, including minimum  
17 wage and overtime, and whether Defendants failed to provide all required meal and rest  
18 periods. Prelim. Approval Mot. at 19–20. Accordingly, it is appropriate for these issues  
19 to be adjudicated on a class-wide basis, and Rule 23(a)(2) is satisfied. *See, e.g., Millan v.*  
20 *Cascade Water Servs., Inc.*, 310 F.R.D. 593, 605 (E.D. Cal. 2015) (holding that the  
21 commonality requirement was satisfied where all members of the class were subject to the  
22 same allegedly unlawful wage practices of the defendant).

23 **C. Rule 23(a)(3): Typicality**

24 To satisfy Federal Rule of Civil Procedure 23(a)(3), the named plaintiffs’ claims  
25 must be typical of those of the class. The typicality requirement is “permissive” and  
26 requires only that the named plaintiffs’ claims “are reasonably coextensive with those of  
27 absent class members.” *Hanlon*, 150 F.3d at 1020. “The test of typicality is ‘whether other  
28 members have the same or similar injury, whether the action is based on conduct which is

1 not unique to the named plaintiffs, and whether other class members have been injured by  
2 the same course of conduct.” *Hanon v. Dataprods. Corp.*, 976 F.2d 497, 508 (9th Cir.  
3 1992) (quoting *Schwartz v. Harp*, 108 F.R.D. 279, 282 (C.D. Cal. 1985)). “[C]lass  
4 certification should not be granted if ‘there is a danger that absent class members will suffer  
5 if their representative is preoccupied with defenses unique to it.’” *Id.* (citation omitted).

6 Here, Plaintiffs’ claims arise out of the same policies and practices of Defendants as  
7 those pertaining to the proposed Settlement Class. Specifically, Plaintiffs contend that  
8 Defendants failed to compensate Class Members for time spent donning and doffing  
9 uniforms and time spent riding Defendants’ buses to and from Camp Pendleton. Prelim.  
10 Approval Mot. at 5. Plaintiffs also contend that Defendants failed to provide adequate meal  
11 and rest breaks for Class Members. *Id.* at 6–7. As members of the proposed Settlement  
12 Class, Plaintiffs’ claims are identical to the claims of other Class Members. *Id.* at 20. The  
13 typicality requirement of Rule 23(a)(3) is therefore satisfied.

14 ***D. Rule 23(a)(4): Adequacy***

15 Federal Rule of Civil Procedure 23(a)(4) requires that the named representatives  
16 fairly and adequately protect the interests of the class. “To satisfy constitutional due  
17 process concerns, absent class members must be afforded adequate representation before  
18 entry of judgment which binds them.” *Hanlon*, 150 F.3d at 1020 (citing *Hansberry v. Lee*,  
19 311 U.S. 32, 42–43 (1940)). To determine legal adequacy, the Court must resolve two  
20 questions: “(1) do the named plaintiffs and their counsel have any conflicts of interest with  
21 other class members, and (2) will the named plaintiffs and their counsel prosecute the  
22 action vigorously on behalf of the class?” *Id.*

23 Here, there is no reason to believe that the named Plaintiffs and Class Counsel have  
24 any conflicts of interest with members of the proposed Settlement Class. Plaintiffs’ claims  
25 are identical to those of the other members of the proposed Settlement Class, Prelim.  
26 Approval Mot. at 20, and there is no evidence of any conflicts of interest in the record. *Id.*  
27 at 21.

28 ///

1           There also is no reason to believe that Plaintiffs and Class Counsel have failed  
2 vigorously to investigate and litigate this case to this point. Plaintiffs have retained  
3 competent counsel who has engaged in motion practice and negotiation to arrive at the  
4 Proposed Settlement. *See* Proposed Settlement Agreement ¶ 2.1. Furthermore, Class  
5 Counsel has significant experience litigating wage and hour class action matters. Mahoney  
6 Decl. ¶¶ 17–18. Accordingly, Plaintiffs and Class Counsel adequately represent the  
7 proposed Settlement Class, and Rule 23(a)(4)’s adequacy requirement is met.

## 8 **II. Rule 23(b)(3)**

9           Federal Rule of Civil Procedure 23(b)(3) permits certification if “questions of law  
10 or fact common to class members predominate over any questions affecting only individual  
11 class members” and “a class action is superior to other available methods for fairly and  
12 efficiently adjudicating the controversy.”

### 13 **A. Predominance**

14           “The Rule 23(b)(3) predominance inquiry tests whether the proposed classes are  
15 sufficiently cohesive to warrant adjudication by representation.” *Amchem Prods.*, 521 U.S.  
16 at 623. “Rule 23(b)(3) focuses on the relationship between the common and individual  
17 issues.” *Hanlon*, 150 F.3d at 1022.

18           Here, the Parties agree that all Class Members share “a common nucleus of facts and  
19 potential legal remedies.” Prelim. Approval Mot. at 22 (quoting *Hanlon*, 150 F.3d at 1011).  
20 Plaintiffs allege that employees were not paid all overtime wages as a result of Defendants’  
21 policies and practices and seek minimum wages and overtime wages on behalf of  
22 themselves and Settlement Class Members. *Id.* The potential legal remedies of the  
23 Settlement Class Members are identical. *Id.* The Court finds that the common wage and  
24 hour issues predominate over any individual issues. Accordingly, the predominance  
25 requirement of Rule 23(b)(3) is satisfied.

### 26 **B. Superiority**

27           The final requirement for certification pursuant to Federal Rule of Civil Procedure  
28 23(b)(3) is “that a class action [be] superior to other available methods for fairly and



1 effectively adjudicating the controversy.” The superiority inquiry requires the Court to  
2 consider the four factors listed in Rule 23(b)(3):

- 3 (A) the class members’ interests in individually controlling the  
4 prosecution or defense of separate actions;
- 5 (B) the extent and nature of any litigation concerning the  
6 controversy already begun by or against class members;
- 7 (C) the desirability or undesirability of concentrating the  
8 litigation of the claims in the particular forum; and
- 9 (D) the likely difficulties in managing a class action.

10 *See also Zinser*, 253 F.3d at 1190. A court need not consider the fourth factor, however,  
11 when certification is solely for the purpose of settlement. *See True v. Am. Honda Motor*  
12 *Co.*, 749 F. Supp. 2d 1052, 1066 n.12 (C.D. Cal. 2010); *see also Amchem*, 521 U.S. at 620  
13 (“Confronted with a request for settlement-only class certification, a district court need not  
14 inquire whether the case, if tried, would present intractable management problems, for the  
15 proposal is that there be no trial.”).

16 The superiority inquiry focuses ““on the efficiency and economy elements of the  
17 class action so that cases allowed under [Rule 23(b)(3)] are those that can be adjudicated  
18 most profitably on a representative basis.”” *Zinser*, 253 F.3d at 1190 (quoting 7A Charles  
19 Alan Wright, Arthur R. Miller & Mary Kay Kane, *Fed. Practice & Proc.* § 1780, at 562  
20 (2d ed. 1986)). A district court has “broad discretion” in determining whether class  
21 treatment is superior. *Kamm v. Cal. City Dev. Co.*, 509 F.2d 205, 210 (9th Cir. 1975).

22 Here, the Settlement Class Members’ claims involve the same factual and legal  
23 questions and all Settlement Class Members have the same potential legal remedies. *See*  
24 *Prelim. Approval Mot.* at 22. If all Settlement Class Members were to file claims on an  
25 individual basis, there would be over one thousand cases with similar questions and results.  
26 This immense quantity of individual cases would absorb significant resources from both  
27 the Court and the Parties. Furthermore, individual Settlement Class Members might not  
28 pursue litigation on their own due to high costs of individual litigation. Given all of the

1 above, class treatment is the superior method of adjudicating this controversy, and the  
2 superiority requirement of Rule 23(b)(3) is met.

### 3 **III. Conclusion**

4 For the foregoing reasons, the Court finds certification of the Settlement Class  
5 proper under Rule 23(b)(3). Accordingly, the proposed Settlement Class is **CERTIFIED**  
6 for settlement purposes only.

#### 7 **RULE 23 PRELIMINARY FAIRNESS DETERMINATION**

8 Having certified the proposed Settlement Class, the Court must next make a  
9 preliminary determination as to whether the Proposed Settlement Agreement is “fair,  
10 reasonable, and adequate” pursuant to Federal Rule of Civil Procedure 23(e)(1)(C).  
11 Factors relevant to this determination include:

12 The strength of the plaintiff’s case, the risk, expense, complexity,  
13 and likely duration of further litigation; the risk of maintaining  
14 class action status throughout the trial; the amount offered in  
15 settlement; the extent of discovery completed and the stage of the  
16 proceedings; the experience and views of counsel; the presence  
of a governmental participant; and the reaction of the class  
members to the proposed settlement.

17 *Hanlon*, 150 F.3d at 1026. “Where a settlement is the product of arms-length negotiations  
18 conducted by capable and experienced counsel, the court begins its analysis with a  
19 presumption that the settlement is fair and reasonable.” *Garner v. State Farm Mut. Auto*  
20 *Ins. Co.*, No. CV 08 1365 CW (EMC), 2010 WL 1687832, \*13 (N.D. Cal. Apr. 22, 2010)  
21 (quoting *Brown v. Hain Celestial Grp., Inc.*, No. 3:11-CV-03082-LB, 2016 WL 631880,  
22 at \*5 (N.D. Cal. Feb. 17, 2016)). “Additionally, there is a strong judicial policy that favors  
23 settlements, particularly where complex class action litigation is concerned.” *In re Syncor*  
24 *ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008) (citing *Class Pls. v. City of Seattle*, 955  
25 F.2d 1268, 1276 (9th Cir. 1992)).

#### 26 **I. Strength of Plaintiffs’ Case**

27 To succeed on the wage claims, Plaintiffs would have to prove that Defendants’  
28 failure to compensate Class Members for time spent donning and doffing uniforms and

1 riding Defendants’ buses to and from Camp Pendleton violated the California Labor Code.  
2 *See* Mahoney Decl. ¶ 5. Defendants argue that Class Members were paid for all time on  
3 the base, including time spent donning and doffing uniforms. *Id.* Defendants also argue  
4 that employees were not required to ride the Defendants’ buses, so Defendants had no  
5 requirement to compensate employees for time spent on the buses. *Id.*

6 Plaintiffs further allege that Defendants failed to provide adequate meal and rest  
7 breaks, while Defendants argue that Class Members were not entitled to meal and rest  
8 breaks because Class Members worked on federal property and were subject to the “federal  
9 enclave” doctrine. *Id.* ¶ 6. Some of Plaintiffs’ additional claims against Defendants, such  
10 as failure to provide accurate wage statements, also turn on the issues of whether Class  
11 Members were entitled to compensation for time spend on Defendants’ buses and whether  
12 Class Members were entitled to meal and rest breaks. *See id.* ¶¶ 7–8.

13 Given the considerable diversion between Plaintiffs’ and Defendants’ contentions,  
14 the Court finds that this factor weighs in favor of finding the Proposed Settlement  
15 Agreement fair, reasonable, and adequate.

## 16 **II. Risk, Expense, Complexity, and Likely Duration of Further Litigation**

17 Were the case to proceed to further litigation, the Parties would each bear substantial  
18 risk and a strong likelihood of protracted and contentious litigation. Defendants continue  
19 to dispute the validity of Plaintiffs’ claims, *see generally* Prelim. Approval Mot. at 4–10,  
20 as well as the appropriateness of class certification (absent settlement). *Id.* at 17. Plaintiffs  
21 acknowledge the existence of “[many unresolved legal and procedural issues” and “clear  
22 risk that if Defendants defeated Plaintiff[s’] Motion for Class Certification, Class Members  
23 would simply not receive any monetary recovery.” *Id.* at 17–18. The Court therefore finds  
24 that significant risk and uncertainty remains for both Parties. Accordingly, this factor  
25 weighs in favor of the Proposed Settlement Agreement being fair, reasonable, and  
26 adequate.

27 ///

28 ///

1 **III. Risk of Maintaining the Class Action Through Trial**

2 Defendants “strongly argued” that class certification was inappropriate in this  
3 matter. Prelim. Approval Mot. at 17. Weighed against the fact that Defendants do not  
4 object to a finding that the class certification requirements are met for purposes of the  
5 Proposed Settlement Agreement, this factor weighs in favor of the Proposed Settlement  
6 Agreement being fair, reasonable, and adequate.

7 **IV. Amount Offered in Settlement**

8 Defendants have agreed to pay the Maximum Settlement Amount of \$900,000, with  
9 no monies reverting back to Defendants. Prelim. Approval Mot. at 16; *see also* Proposed  
10 Settlement Agreement ¶ 3.6.1. This amount represents 83% of Defendants’ full exposure  
11 at trial, which is estimated to be approximately \$1,072,500, excluding attorney’s fees,  
12 interest, and cost. Mahoney Decl. ¶ 12. Less Plaintiffs’ Service Awards, Class Counsel  
13 Fees and Costs, Administrative Expenses, and payment to LWDA, the Maximum  
14 Settlement Amount will provide approximately \$520,000 to be divided among  
15 Participating Class Members. Mahoney Decl. ¶ 14; *see also* Proposed Settlement  
16 Agreement ¶¶ 3.61–3.6.6. The resulting average disbursement to the estimated 1,089  
17 Settlement Class Members will be approximately \$470 per member. Mahoney Decl. ¶ 14;  
18 Prelim. Approval Mot. at 16. Given the risks of litigation, the Court determines that the  
19 Maximum Settlement Amount is fair and reasonable and that this factor weighs in favor of  
20 settlement.

21 **V. Extent of Discovery Completed and Stage of Proceedings**

22 Plaintiffs assert that they have a “wealth of information,” including “timekeeping  
23 sheets, payroll, and compensation data, and Defendants’ written policies and procedures.”  
24 Prelim. Approval Mot. at 14. Prior to drafting the Proposed Settlement, the Parties engaged  
25 in motion practice; two Early Neutral Evaluation Conferences; and a mediation with Jill  
26 Sperber, Esq., “a well-known and experienced wage and hour class action mediator.” *Id.*  
27 at 3. Furthermore, Class Counsel asserts that the Proposed Settlement Agreement is “the  
28 product of extensive arms’ length negotiations by experienced counsel on both sides after

1 thorough discovery and recognition of the strengths and weaknesses of each other's  
2 positions.” Mahoney Decl. ¶ 13.

3 Accordingly, it appears the Parties have entered into the Proposed Settlement  
4 Agreement with a strong working knowledge of the relevant facts, law, and strengths and  
5 weaknesses of their respective claims and defenses. Given the above, this factor weighs in  
6 favor of the Proposed Settlement Agreement being fair, reasonable, and adequate.

## 7 **VI. Experience and Views of Counsel**

8 “The recommendations of plaintiff’s counsel should be given a presumption of  
9 reasonableness.” *Boyd v. Bechtel Corp.*, 485 F. Supp. 610, 622 (N.D. Cal. 1979). Here,  
10 Plaintiffs’ Counsel finds the Proposed Settlement “fair and reasonable because it provides  
11 substantial and immediate benefits to the class members.” Mahoney Decl. ¶ 13.  
12 Furthermore, the presumption of reasonableness is warranted in this case given Class  
13 Counsel’s extensive experience in employment law class action litigation and settlements.  
14 *See* Mahoney Decl. ¶¶ 17–18. This factor therefore weighs in favor of finding the proposed  
15 Settlement Agreement fair, reasonable, and adequate.

## 16 **VII. Attorney’s Fees Provision**

17 In the Ninth Circuit, a district court has discretion to apply either a lodestar method  
18 or a percentage-of-the-fund method in calculating a class fee award in a common fund case.  
19 *Fischel v. Equitable Life Assur. Soc’y of U.S.*, 307 F.3d 997, 1066 (9th Cir. 2002). When  
20 applying the percentage-of-the-fund method, an attorney’s fees award of “twenty-five  
21 percent is the ‘benchmark’ that district courts should award.” *In re Pac. Enters. Sec. Litig.*,  
22 47 F.3d 373, 379 (9th Cir. 1995) (citing *Six Mexican Workers v. Ariz. Citrus Growers*, 904  
23 F.2d 1301, 1311 (9th Cir. 1990)); *Fischel*, 307 F.3d at 1006. A district court, however,  
24 “may adjust the benchmark when special circumstances indicate a higher or lower  
25 percentage would be appropriate.” *In re Pac. Enters. Sec. Litig.*, 47 F.3d at 379 (citing *Six*  
26 *Mexican Workers*, 904 F.2d at 1311. “Reasonableness is the goal, and mechanical or  
27 formulaic application of either method, where it yields an unreasonable result, can be an  
28 abuse of discretion.” *Fischel*, 307 F.3d at 1007.

1 Here, Defendants have agreed not to oppose Class Counsel’s request for the Court  
2 to approve attorney’s fees in the amount of up to \$300,000 and litigation fees up to \$15,000.  
3 See Proposed Settlement Agreement ¶¶ 3.6.1.2–3.6.1.3. This request equals one-third of  
4 the Maximum Settlement Amount, or approximately thirty-three percent, and exceeds the  
5 “benchmark” of twenty-five percent. At this point, the Court finds no reason to award fees  
6 that exceed that Ninth Circuit’s benchmark. Class Counsel will need to show what special  
7 circumstances exist warranting a higher percentage in their motion for attorney’s fees.

### 8 **VIII. Class Representative Service Award Provision**

9 The Ninth Circuit recognizes that named plaintiffs in class action litigation are  
10 eligible for reasonable incentive payments. *Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th  
11 Cir. 2003). The district court must evaluate each incentive award individually, using  
12 “relevant factors includ[ing] the actions the plaintiff has taken to protect the interests of the  
13 class, the degree to which the class has benefitted from those actions, . . . [and] the amount  
14 of time and effort the plaintiff expended in pursuing the litigation.” *Id.* (citing *Cook v.*  
15 *Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998)).

16 Here, the Parties have agreed to a Service Award of \$10,000 to each named Plaintiff,  
17 totaling \$30,000 in Service Awards. Proposed Settlement Agreement ¶ 3.6.1.1. The Court  
18 is not convinced that an award of \$10,000 to each named Plaintiff is reasonable where the  
19 average payment the Settlement Class Members will receive is \$470. See *Sandoval v.*  
20 *Tharaldson Emp. Mgmt., Inc.*, 2010 WL 2486346, 10 (E.D. Cal. 2010) (finding a service  
21 award of \$12,500 unreasonable where class members would receive an average payment  
22 of \$749.60). In the aggregate, Plaintiffs’ Service Awards will amount to more than 3% of  
23 the Maximum Settlement Amount, which is higher than what other courts have approved.  
24 See *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267 (N.D. Cal. 2015) (collecting  
25 cases where incentive awards were under 1% of the settlement) (citing *Sandoval*, 2010 WL  
26 2486346 at 10).

27 The Service Award is explained as “warranted due to [Plaintiffs] time and effort.”  
28 Mahoney Decl. ¶ 15. Plaintiffs gathered documents, answered questions, provided Class

1 Counsel with information, were “involved weekly for the benefit of the class,” participated  
2 in the Early Neutral Evaluation Conferences, and participated in the mediation. *Id.*; Prelim.  
3 Approval Mot. at 15–16. At this, stage the Court preliminarily approves the proposed  
4 \$10,000 Service Award to each named Plaintiff; however, before final approval of the  
5 Service Award, the Court requests that named Plaintiffs provide documentation detailing  
6 the time and effort they expended in pursuit of this litigation and the actions they took to  
7 benefit the Settlement Class in its motion for final approval. Without such information,  
8 the Court may lower the requested Service Award.

### 9 **IX. Conclusion**

10 For the reasons stated above, the Court **GRANTS** Plaintiffs’ unopposed Preliminary  
11 Approval Motion.

### 12 **PROPOSED SETTLEMENT NOTICE**

13 Pursuant to Federal Rule of Civil Procedure 23(c)(2)(B), “[f]or any class certified  
14 under Rule 23(b)(3) the court must direct to class members the best notice that is  
15 practicable under the circumstances, including individual notice to all members who can  
16 be identified through reasonable effort.” Because the Court has determined that  
17 preliminary certification is appropriate under Rule 23(b)(3), the mandatory notice  
18 procedures required by Rule 23(c)(2)(B) must be followed.

19 Where there is a class settlement, Federal Rule of Procedure 23(e)(1) requires the  
20 court to “direct notice in a reasonable manner to all class members who would be bound  
21 by the proposal.” “Notice is satisfactory if it ‘generally describes the terms of the  
22 settlement in sufficient detail to alert those with adverse viewpoints to investigate and to  
23 come forward and be heard.’” *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 962 (9th Cir.  
24 2009) (quoting *Churchill Vill., LLC v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004)); *see*  
25 *also Grunin v. Int’l House of Pancakes*, 513 F.2d 114, 120 (8th Cir. 1975) (“[T]he  
26 mechanics of the notice process are left to the discretion of the court subject only to the  
27 broad ‘reasonableness’ standards imposed by due process.”).

28 ///

1 Here, Parties intend to notify the Class Members through first-class mail. *See*  
2 Proposed Settlement Agreement ¶ 3.7.6. Defendants will provide the Settlement  
3 Administrator with the Employee List containing each Class Member’s “full name, last  
4 known address, last known telephone number, social security number, date of birth, and  
5 the number of shifts worked in a Role Player Position . . . during the Class Period.” *Id.*  
6 ¶¶ 1.14, 3.7.5. Within fourteen days of receiving this information, the Settlement  
7 Administrator will send the Notice to all Class Members. *Id.* ¶ 3.7.6. Before sending the  
8 Notice, the Settlement Administrator will update all addresses using a national change of  
9 address search and a skip trace. *Id.* The Settlement Administrator will make “reasonable  
10 efforts” to obtain forwarding mailing addresses for any Notices returned as non-  
11 deliverable. *Id.* ¶ 3.7.7. The Proposed Notice includes a description of the Action, the  
12 terms of the Proposed Settlement, and an explanation of Class Members’ rights to  
13 participate in, object to, or opt-out of the Settlement. *See* Proposed Notice.

14 Having thoroughly reviewed the Proposed Notice, the Court finds that both the  
15 method and content of the Proposed Notice comply with Rule 23. Accordingly, the Court  
16 **APPROVES** both the content of the Proposed Notice and the proposed notification plan.

### 17 CONCLUSION

18 For the foregoing reasons, the Court **GRANTS** Plaintiffs’ Preliminary Approval  
19 Motion (ECF No. 51) and **ORDERS**:

20 1. **PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT**  
21 **AGREEMENT:** The Settlement Agreement is **PRELIMINARILY APPROVED** as fair,  
22 reasonable, and adequate pursuant to Federal Rule of Civil Procedure 23(e).

23 2. **PRELIMINARY CLASS CERTIFICATION:** Pursuant to Federal Rule of  
24 Civil Procedure 23(b)(3), this action is **PRELIMINARILY CERTIFIED**, for settlement  
25 purposes only, as a class action on behalf of the following Settlement Class Members with  
26 respect to the Released Class Claims and Released PAGA Claims asserted in this Action:

27 “all non-exempt employees who worked for Workforce at Marine Corps Base Camp  
28 ///



1 Pendleton in the position of Role Player, Interpreter, Amputee, and or/Team Lead . . . at  
2 any time during the Class Period.” Proposed Settlement Agreement ¶ 1.4.

3       **3. CLASS REPRESENTATIVE, CLASS COUNSEL, AND**  
4 **SETTLEMENT ADMINISTRATOR:** Pursuant to Federal Rule of Civil Procedure 23,  
5 the Court **PRELIMINARILY CERTIFIES**, for settlement purposes only, Plaintiffs  
6 Ahmad Jawad Abdul Jamil, Ahmad Jamshid Abdul Jamil, and Ahmad Farhad Abdul Jamil  
7 as Class Representatives and Mahoney Law Group, APC as Class Counsel. Additionally,  
8 the Court **APPROVES AND APPOINTS** Simpluris as the Settlement Administrator.

9       **4. NOTICE:** The Court **PRELIMINARILY APPROVES** the form and  
10 substance of the Proposed Notice set forth in Exhibit A to the Settlement Agreement. *See*  
11 ECF No. 51-1 at 44–50. The form and method for notifying the Class Members of the  
12 Settlement Agreement and its terms and conditions satisfy the requirements of Federal  
13 Rules of Civil Procedure 23(c)(2)(B) and 23(e). The Court further concludes that the  
14 Notice Procedure constitutes the best notice practicable under the circumstances. As  
15 provided in the Settlement Agreement, the Settlement Administrator **SHALL PROVIDE**  
16 notice to the Class Members and respond to Class Member inquiries. Within fourteen (14)  
17 days of the date of this Preliminary Approval Order, Defendants **SHALL PROVIDE** the  
18 Settlement Administrator with the Employee List. Within twenty-one (21) days of  
19 receiving the Employee List, the Settlement Administrator **SHALL DISSEMINATE** the  
20 Notice in the form and manner provided in the Proposed Settlement Agreement.

21       **5. REQUESTS FOR EXCLUSION:** Requests for Exclusion from the  
22 Settlement must be submitted by mail to the Settlement Administrator and postmarked no  
23 later than sixty (60) days of the initial mailing of the Notice to the Class Members  
24 (“Response Deadline”). Class Members who do not submit a timely and valid Request for  
25 Exclusion from the Settlement on or before the Response Deadline shall be Participating  
26 Class Members bound by all terms of the Settlement and any Final Approval Order entered  
27 in this Action.

28 ///

1           6.     **OBJECTIONS:** Objections to the Settlement must be mailed to the Court as  
2 instructed in the Notice, no later than the Response Deadline. To be valid, the Notice of  
3 Objection: (a) must contain the full name, address and last four digits of the social security  
4 number of the Class Member; and (b) must be signed by the Class Member. The Notice  
5 of Objection should also state the basis for the objection and whether the Class Member  
6 intends to appear at the Final Approval Hearing.

7           7.     **FINAL APPROVAL HEARING:** The Court **SETS** a Final Approval  
8 Hearing for November 5, 2020 at 1:30 p.m., in Courtroom 4D of the Edward J. Schwartz  
9 United States Courthouse, 221 W. Broadway, San Diego, CA 92101, to consider:

- 10           a.     the fairness, reasonableness, and adequacy of the Proposed Settlement  
11                 Agreement;
- 12           b.     Plaintiffs' request for an award of attorneys' fees and costs;
- 13           c.     the Class Representative Service Awards;
- 14           d.     dismissal with prejudice of the action with respect to Defendants; and
- 15           e.     the entry of Final Judgment in this action.

16 At the Final Approval Hearing, the Parties also shall be prepared to update the Court on  
17 any new developments since the filing of the Motion, including any untimely submitted  
18 opt-outs, objections, and claims or any other issues as the Court deems appropriate. The  
19 date and time of the Final Approval Hearing **SHALL BE INCLUDED** in the Notice to be  
20 mailed to all Class Members.

21           8.     **MOTION FOR FINAL APPROVAL OF CLASS ACTION**  
22 **SETTLEMENT:** No later than twenty-eight (28) days before the Final Approval Hearing,  
23 the Parties **SHALL FILE** a Motion for Final Approval of Class Action Settlement. The  
24 Motion **SHALL INCLUDE AND ADDRESS** any objections received as of the filing date.  
25 In addition to the class certification and settlement fairness factors, the motion **SHALL**  
26 **ADDRESS** the number of putative Class Members who have opted out and the  
27 corresponding number of claims and their value.

28 ///

1           9.     **APPLICATION FOR ATTORNEY FEES, COSTS, AND CLASS**  
2 **REPRESENTATIVE SERVICE AWARD:** No later than twenty-eight (28) days before  
3 the Final Approval Hearing, Class Counsel **SHALL FILE** an application for attorneys'  
4 fees, costs, and Class Representative Service Awards. Class Counsel **SHALL PROVIDE**  
5 documentation detailing the number of hours incurred by attorneys in litigating this action,  
6 supported by detailed time records, as well as hourly compensation to which those  
7 attorneys are reasonably entitled. Class Counsel **SHALL ADDRESS** the appropriateness  
8 of any upward or downward departure in the lodestar calculation, as well as reasons why a  
9 percentage-of-the-fund approach to awarding attorney fees may be preferable and the  
10 appropriateness of any upward or downward departure from the 25% benchmark. Class  
11 Counsel **SHALL BE PREPARED** to address any questions the Court may have regarding  
12 the application for fees at the Final Approval Hearing.

13           12.    **MISCELLANEOUS PROVISIONS:** In the event the Proposed Settlement  
14 Agreement is not consummated for any reason, the conditional class certification **SHALL**  
15 **BE** of no further force or effect. Should the Settlement not become final, the fact that the  
16 Parties were willing to stipulate to class certification as part of the Settlement **SHALL**  
17 **HAVE** no bearing on, nor be admissible in connection with, the issue of whether a class  
18 should be certified in a non-settlement context.

19           11.    **SCHEDULE:** The Court orders the following schedule for further  
20 proceedings:

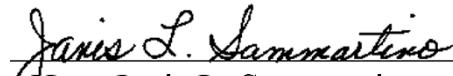
<b>Event</b>	<b>Date</b>
Deadline for Defendants to send Settlement Administrator the Employee List	Within 14 days of the date of this Order
Deadline for Settlement Administrator to mail Proposed Notice	Within 21 days of receipt of the Employee List
/// ///	

1 2 3	Deadline for Objections and Requests for Exclusion	Within 60 days of the date the Settlement Administrator mails the Notice to Class Members
4 5 6 7	Deadline for Claims Administrator to prepare and Class Counsel to file Declaration of Compliance with Class Notice requirements	No later than 30 days prior to the Final Approval Hearing
8 9 10	Deadline for Class Counsel to file motion for attorney's fees and costs and Class Representative Service Awards	No later than 28 days prior to the Final Approval Hearing
11 12 13	Deadline for the Parties to file a motion for final approval of class action settlement	No later than 28 days prior to the Final Approval Hearing
14 15	Final Approval Hearing	November 5, 2020 at 1:30 p.m.

16           10.   **STAY:** At the request of the Parties, pending the Final Approval Hearing, all  
17 proceedings in the Action, including all current deadlines other than those set forth herein,  
18 are **STAYED** until further Order from this Court.

19           **IT IS SO ORDERED.**

20  
21 Dated: June 9, 2020

  
22 Hon. Janis L. Sammartino  
23 United States District Judge