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19 IN THE UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA – San Francisco

21 STEPHANIE OCHOA, *et al.*,
22 Plaintiffs,

23 vs.

24 MCDONALD'S CORP., *et al.*,
25 Defendants.

CASE NO. 3:14-cv-02098-JD

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

Judge: Hon. James Donato

Hearing Date / Time: Dec. 15, 2016 / 10:00 a.m.

Complaint Filed: March 12, 2014

Trial Date: None

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1 **I. INTRODUCTION**

2 Plaintiffs request preliminary approval of their proposed class action settlement with
3 defendants McDonald’s Corporation, McDonald’s USA, LLC, and McDonald’s Restaurants of
4 California, Inc. (“McDonald’s”).¹ To the knowledge of plaintiffs’ counsel, this is the first class
5 action settlement between McDonald’s and a certified class of crew members at franchisee-
6 operated restaurants anywhere in the country. The settlement provides significant monetary and
7 injunctive relief to class members, including 100% of the backpay, interest, and liquidated damages
8 that would have been recoverable at trial on the certified claims, plus a portion of class members’
9 potential recovery on claims that were *not* certified for trial. *See* Decl. of Barbara J. Chisholm
10 (“Chisholm Decl.”) ¶¶16 & Ex. A (Settlement Agreement) ¶¶26-27. As a result of this settlement,
11 which is the product of lengthy, arms-length negotiations following extensive and hard-fought
12 litigation, substantial discovery, and numerous in-person and telephonic mediation sessions
13 conducted by Magistrate Judge Jacqueline Corley, all class members will promptly receive
14 significant economic and non-economic benefits without facing the risks and delays of one or more
15 trials and appeals. For all of these reasons, plaintiffs and their counsel believe that this settlement
16 is fair, adequate, and well within the range of reasonableness.

17 The proposed Class Notice, which will be translated into Spanish and will be mailed (and
18 emailed, where addresses are available) in English and Spanish to all class members whose contact
19 information is known to the parties (using information generated through the mailing of the Class
20 Certification Notice) or can be obtained through reasonable skip-tracing efforts, will provide class
21 members the best practicable notice and will allow each class member a fair opportunity to
22 evaluate the settlement, including by describing the terms of the settlement, individual class
23 members’ estimated recovery, the scope of the releases, and an explanation of how to exercise their
24 settlement rights. The Class Notice and the full Settlement Agreement will also be available
25 online.

26
27 ¹ On August 31, 2016, the Court held a hearing on and orally granted final approval to plaintiffs’
28 settlement with The Edward J. Smith and Valerie S. Smith Family Limited Partnership (“Smith”).
See Dkt. 363. The Court has not yet issued a written order confirming that ruling.

1 For the reasons set forth below, plaintiffs request that this Court grant preliminary approval
2 of the settlement, approve the Class Notice, and establish a schedule for final settlement approval.

3 **II. FACTS AND CASE HISTORY**

4 **A. The Litigation**

5 This is a wage and hour lawsuit brought on behalf of current and former McDonald's
6 employees at five Bay Area restaurants operated by defendant The Edward J. Smith and Valerie S.
7 Smith Family Limited Partnership ("Smith") and its family members under franchise agreements
8 with McDonald's. Plaintiffs filed their initial Complaint on March 12, 2014 and their First
9 Amended Complaint on October 1, 2014, alleging that McDonald's and Smith are jointly and
10 severally liable for a broad range of California Labor Code violations. *See* Dkt. 1, 40. The
11 Complaints asserted 13 claims for relief challenging a series of common policies and practices by
12 which defendants systematically underpaid class members by: (1) failing to pay all earned wages
13 through September 2013 because of a consistent error in converting employee time punch data to
14 payroll data; (2) failing to pay daily overtime to class members who work overnight shifts as a
15 result of legally incorrect parameters of defendants' automated timekeeping and payroll system; (3)
16 failing to provide meal periods and rest breaks in the time and manner required by California law;
17 (4) failing to reimburse crew members for the time and money needed to iron and clean their
18 McDonald's uniforms; and (5) failing to provide wage statements that accurately list all wages
19 earned and that identify McDonald's as an employer. Plaintiffs' lawsuit also raised the
20 overarching issue of whether McDonald's is a joint employer of crew members at Smith's
21 restaurants or is otherwise liable for the relief requested under California law. *See id.* Plaintiffs
22 sought damages and injunctive relief. *See* Fed. R. Civ. P. 23(b)(2), 23(b)(3).

23 After extensive discovery, plaintiffs filed Motions for Class Certification and for Partial
24 Summary Judgment (the latter of which was mooted by plaintiffs' settlement with Smith). *See*
25 Dkt. 70, 224. McDonald's also filed a Motion for Summary Judgment challenging plaintiffs'
26 theories of joint and derivative liability, which this Court granted in part and denied in part on
27 September 24, 2015, concluding that McDonald's was not liable as a joint employer with direct
28 control but allowing plaintiffs to proceed against McDonald's on an ostensible agency theory. Dkt.

1 129, 289. On July 7, 2016, the Court granted plaintiffs’ motion for class certification of their
2 miscalculated wages, overtime payments, and uniform maintenance payments claims. Dkt. 319.
3 McDonald’s sought appellate review of the Court’s class certification order and plaintiffs took a
4 conditional cross-appeal, but the Ninth Circuit motions panel had not acted on those requests as of
5 the date of the Settlement. Dkt. 322; Chisholm Decl. ¶¶20. The Court scheduled the trial in this
6 matter to begin December 5, 2016. Dkt. 334 & 336. On October 13, 2016, the Court vacated all
7 pending pretrial and trial deadlines. Dkt. 380.

8 **B. Discovery and Pre-Trial Proceedings**

9 The parties have conducted an enormous amount of discovery—including numerous
10 depositions and reams of written discovery—concerning the merits of plaintiffs’ claims, class
11 certification issues, and defendants’ liability under various legal theories. Since this case was filed
12 in March 2014, defendants have produced hundreds of thousands of pages of documents, including
13 payroll and time records for the plaintiff class. *See* Chisholm Decl. ¶5.

14 Pursuant to the Court’s pre-trial scheduling orders, the parties exchanged updated lists of
15 potential trial witnesses in August and September 2016. *Id.* ¶9. The parties also exchanged expert
16 reports and rebuttal expert reports. *Id.* ¶9.

17 **C. Settlement Discussions**

18 Plaintiffs and McDonald’s began settlement discussions in the fall of 2015 under the
19 direction of Magistrate Judge Jaqueline Corley. *Id.* ¶12. Mediation efforts spanned numerous
20 sessions with Magistrate Judge Corley—including on one occasion with two other franchisees who
21 were sued jointly with McDonald’s in the spring of 2014 by other aggrieved crew members. *See*
22 *id.* ¶12; Dkt. 243, 281. After the Court certified the class against McDonald’s and set the case for
23 trial in December 2016, the parties again met with Magistrate Judge Corley. Chisholm Decl. ¶12.
24 With Magistrate Judge Corley’s assistance, the parties were ultimately able to reach a mutually
25 agreeable settlement in early October 2016, which they memorialized in a written memorandum of
26 understanding. *Id.* ¶13.

27 //

28 //

1 **III. THE SETTLEMENT AGREEMENT**

2 The Settlement requires that McDonald’s pay \$1.75 million to class members on a non-
3 reversionary basis, plus all costs of Class Notice and administration, plus court-awarded statutory
4 attorneys’ fees and costs to plaintiffs’ counsel up to a maximum amount of \$2 million (which is
5 less than half of the actual fees and costs plaintiffs’ counsel have incurred). Chisholm Decl. ¶22;
6 *id.* Ex. A ¶¶24, 33.

7 To implement the Settlement, McDonald’s will deposit \$3.75 million into a Qualified
8 Settlement Fund (“QSF”) within 30 days after preliminary approval. *Id.* ¶24. Shortly after the
9 Effective Date, which will occur after final approval and the expiration of any possibility of appeal,
10 the Settlement Fund will be distributed as follows, subject to Court approval: (1) a non-
11 reversionary sum of \$1,750,000, supplemented by the interest earned on the \$3.75 million
12 deposited by McDonald’s into the QSF, will be allocated among plaintiffs, members of the
13 certified class, and the California Labor and Workforce Development Agency (“LWDA”),
14 including (a) \$716,667 to Class Members for backpay, interest, and liquidated damages, (b)
15 \$350,000 to Class Members for wage statement penalties, (c) \$350,000 to Class Members for
16 waiting time penalties, (d) \$83,333 to Class Members for the employee portion of civil penalties
17 under the California Labor Code Private Attorneys General Act (“PAGA”), Cal. Labor Code §§
18 2698 *et seq.*, and (e) \$250,000 to the LWDA under PAGA for labor law enforcement and
19 education;² and (2) a payment of \$2,000,000 for plaintiffs’ counsel’s statutory attorneys’ fees and
20 litigations expenses, which shall be supported by a separate motion and subject to Court approval.
21 *Id.* ¶¶25-27, 33.

22 Payments to class members will be calculated based principally upon the number of weeks
23 each class member worked during the class period (March 12, 2010 to November 5, 2016), with
24 former employees each receiving a separate, additional amount to compensate them on a per capita
25 basis for their waiting time penalties claims. *Id.* ¶26. The PAGA penalty payment of \$83,333 will

26 ² Under the settlement, these amounts will be adjusted proportionately to account for and distribute
27 any interest earned on the moneys in the Qualified Settlement Fund, and the payment of any
28 service awards, which plaintiffs intend to request in the amount of \$500 for each of the four named
plaintiffs (for a total of \$2,000).

1 be distributed on a pro rata basis for weeks worked after March 12, 2013 (the start of the PAGA
2 limitations period). *Id.* ¶31.

3 In addition to the monetary payments, the Settlement provides for the following injunctive
4 relief:

- 5 1. Within one month of preliminary approval of the Settlement, McDonald's shall develop
6 and present to Plaintiffs' counsel for review and comment a training deck that
7 McDonald's, within one month after final approval of the Settlement, shall make
8 available and offer to Smith that McDonald's present to all Smith owners, supervisors,
9 store managers, department managers, and shift managers. The training deck shall
10 provide training on the following topics with respect to whatever ISP or e*Restaurant
11 software is in use by Smith for scheduling and timekeeping purposes at the time of the
12 training (hereinafter "Software"):
 - 13 a. How Software currently calculates and flags whether an employee's time punches
14 reflect the number, length, and timing of meal periods and rest breaks that would
15 satisfy the parameters set by Smith, including but not limited to any parameters
16 established by Plaintiffs' settlement with Smith;
 - 17 b. Instructions on how the franchisee can change or customize the Labor Law settings
18 in Software;
 - 19 c. Information explaining how the franchisee could identify shifts on which an
20 employee's time punches reflect that a meal period was provided after five hours of
21 work, shifts on which an employee's time punches reflect that a meal period or rest
22 break has been combined with (or taken shortly before or after) another meal period
23 or rest break, and shifts on which an employee's time punches reflect a rest break
24 shortly before (e.g., within 10 minutes) of the end of the shift; and
 - 25 d. Information explaining how Smith could determine whether to pay an employee a
26 premium wage because the employee's time punches reflect a shift that is missing a
27 required meal period or rest break or reflect an untimely meal period or rest break.
- 28 2. McDonald's shall provide the training deck described above to Plaintiffs' counsel for
review and comment before providing the training to Smith. McDonald's shall review
and accept Plaintiffs' counsels' reasonable, good faith requests for modification or
clarification of the training deck.
3. Nothing in this agreement shall preclude McDonald's from making clear in this or any
other training to Smith owners, supervisors, store managers, department managers, and
shift managers that McDonald's does not directly, indirectly, or through an agent
employ the workers in the Smith restaurants, and that Smith's use of Software for
scheduling and timekeeping purposes is optional, and not required by McDonald's.
4. After such training has taken place, McDonald's will report to Plaintiffs' counsel the
names, positions, and date of training for each Smith owner, supervisor, store manager,
department manager, shift manager, and other Smith employee or agent who attends the
training described above, to the extent McDonald's has such information.

1 *Id.* ¶¶18-22. This is in addition to the Court-supervised injunctive relief previously agreed to by
2 Smith.

3 Before the deadline for class members to object or opt out, class counsel will file a motion
4 for statutory attorneys' fees and expenses, with a total amount not to exceed \$2,000,000. *Id.* ¶33.
5 The fees and costs that class counsel have already incurred are more than twice as great as the
6 amount for which they intend to seek Court approval, with plaintiffs' litigation expenses alone
7 totaling more than \$270,000. Chisholm Decl. ¶22. Before the final approval hearing, plaintiffs
8 will also apply to the Court for an award of \$500 to each of the four named plaintiffs for the
9 considerable services they rendered to the class, and for which they are providing broader releases.
10 *Id.* Ex. A ¶34; *see also* Chisholm Decl. ¶16; *Rodriguez v. West Pub. Corp.*, 563 F.3d 948, 958-59
11 (9th Cir. 2009).

12 The Settlement provides that the Putative Class List will be prepared within 10 days after
13 preliminary approval and will include any updated contact information obtained through
14 administration of the settlement with Smith or as a result of the September 6, 2016 Class Notice
15 mailing. Chisholm Decl., Ex. A ¶10(b). The Claims Administrator will mail personalized notices
16 of the Settlement to all class members within 10 days of receiving the Putative Class List. *Id.*
17 ¶10(d). Each Notice will explain the principal Settlement terms, including the deadlines for opting
18 out and objecting, which class members must submit claim forms (those not on the class list or who
19 do not receive a mailed notice), and how class members may challenge information regarding their
20 dates of employment. *Id.* ¶¶10(e), 38. The Claims Administrator will make Claim Forms available
21 to all class members, even those who need not file a Claim Form to receive their settlement share.
22 The deadline for opting out or objecting to the Settlement will be 60 days from the postmarked date
23 of Class Notice; the deadline for submitting a Claim Form or challenging dates of employment will
24 be 90 days from the postmarked date of Class Notice. *Id.* ¶10(e). All settlement documents will be
25 translated into Spanish, and English and Spanish versions will be mailed to Class Members. *Id.*
26 ¶1(g).

27 Upon the Effective Date, all Class Members who have not opted out will be deemed to have
28 released McDonald's from all claims that were or could have been asserted against them in the

1 First Amended Complaint based upon the facts alleged. *Id.* ¶40. If no objections are filed, the
2 Effective Date will be the date of entry of judgment. *Id.* ¶1(k). If objections are filed and
3 overruled and no appeal is taken, the Effective Date will be 30 days after the district court enters
4 the Final Judgment. *Id.* If an appeal is taken from the district court’s overruling of objections to
5 the settlement and/or from the Final Judgment (other than an appeal limited solely to a challenge to
6 the denial or reduction in the amount of requested attorneys’ fees and litigation expenses), the
7 Effective Date shall be 30 days after the appeal is withdrawn or after all appellate review thereof is
8 exhausted and an appellate decision exhausting such review and affirming the Final Judgment
9 becomes final. *Id.*

10 The Claims Administrator will distribute payments to class members within 14 days after
11 the Effective Date. *Id.* ¶¶25-26. Any amounts uncashed 120 days after the date of distribution
12 (including after re-mailing of checks to any forwarding or otherwise updated addresses) will be
13 redistributed among all other class members in proportion to their initial settlement shares. *Id.* ¶31.
14 If the total amount of remaining funds after redistributions does not exceed \$40,000, these funds
15 will be donated as *cy pres* to Bay Area Legal Aid. *Id.* ¶39. The parties will work together in good
16 faith to minimize costs of notice and administration and to promote efficiency amongst the
17 settlements in this case. *Id.* ¶7.

18 **IV. THE SETTLEMENT SHOULD BE PRELIMINARILY APPROVED**

19 The Court’s review of a class action settlement requires two steps. *See Nat’l Rural*
20 *Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 525 (C.D. Cal. 2004). First, the Court must
21 decide whether to grant preliminary approval and order notice to the class to inform them of their
22 rights and of their opportunity to be heard at a fairness hearing, where “arguments and evidence
23 may be presented in support of and in opposition to the settlement.” *McNamara v. Bre-X Minerals*
24 *Ltd.*, 214 F.R.D. 424, 426 (E.D. Tex. 2002); *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d
25 934, 945-47 (9th Cir. 2015); *Nat’l Rural Telecomms. Coop.*, 221 F.R.D. at 525; 4 Newberg, §11.25
26 (quoting Manual for Complex Litig., Third, at 237). Second, it must hold the final fairness hearing
27 and assess if the settlement is “fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). A “strong
28 judicial policy . . . favors settlements, particularly where complex class action litigation is

1 concerned.” *Class Plaintiffs*, 955 F.2d at 1276 (citations omitted).

2 **A. The Terms of Settlement Are Fair, Reasonable, and Adequate, and Are Well**
3 **Within the Range of Possible Approval**

4 At the preliminary stage, a settlement will be found presumptively fair if it “appears to be
5 the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not
6 improperly grant preferential treatment to class representatives or segments of the class, and falls
7 within the range of possible approval.” *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078,
8 1079 (N.D. Cal. 2007) (quoting *Schwartz v. Dallas Cowboys Football Club, Ltd.*, 157 F. Supp. 2d
9 561, 570 n.12 (E.D. Pa. 2001)); *accord Monterrubio v. Best Buy Stores, L.P.*, 291 F.R.D. 443, 454-
10 55 (E.D. Cal. 2013).

11 Given the many years of hard-fought, high-stakes litigation preceding the parties’
12 agreement, which included full briefing and decisions on McDonald’s motion for summary
13 judgment and plaintiffs’ motion for class certification, and extensive preparations for a jury trial
14 scheduled to begin in December 2016, there can be no doubt that the parties negotiated the present
15 settlement in good faith and at arm’s length. *See* Chisholm Decl. ¶¶6-10.

16 Substantial discovery, investigation, research, and litigation over the past two and a half
17 years, including this Court’s decisions on summary judgment and class certification, enabled
18 experienced class action counsel to assess the strengths and weaknesses of plaintiffs’ claims and
19 the benefits of the settlement. Class counsel believe that the settlement is fair, reasonable,
20 adequate, and in the best interest of the class members in light of all known facts and
21 circumstances, including the risk of significant delay and the possible defenses to this litigation.
22 *Id.* ¶14. Plaintiffs and their counsel believe that this is the first ever employment class action
23 settlement with McDonald’s involving a certified class of crew members working in franchise-
24 operated stores, and it is certainly by far the largest. *Id.* ¶15. The settlement provides that class
25 members will receive more than 100% of the back pay, liquidated damages, and interest potentially
26 available for the claims this Court previously certified, while also providing class members with a
27 large portion of the corresponding penalties, as well as a portion of the back pay, liquidated
28 damages, and interest associated with the *uncertified* claims (which plaintiffs would otherwise have

1 pursued on appeal, regardless of the outcome of trial). *Id.* ¶16. This monetary relief is in addition
2 to the more than \$500,000 in payments directly to the class (not counting attorneys’ fees, costs, or
3 payments to the LWDA) provided by the class settlement with Smith.

4 This substantial recovery for the class is especially significant given the substantial risks
5 facing the class. Those risks include McDonald’s pending Rule 23(f) petition to the U.S. Court of
6 Appeals for the Ninth Circuit, which sought to reverse this Court’s class-certification ruling;
7 McDonald’s motion seeking to strike plaintiffs’ representative PAGA claims; the possibility of a
8 loss on the merits at trial, either as to plaintiffs’ ostensible-agency theory of liability or on any of
9 the underlying substantive claims; and the possibility that a favorable judgment at trial might be
10 reversed on appeal. *Id.* ¶¶8, 20. Additionally, even if the class were to prevail on all claims at trial
11 and to fully preserve that judgment on appeal, the class members’ ultimate recovery would be
12 delayed by years; under the Settlement the predominantly low-income and minimum-wage worker
13 class members will enjoy the benefit of an immediate, certain, and significant recovery. *Id.* ¶20.

14 This settlement also requires McDonald’s to provide meaningful injunctive relief that
15 directly addresses plaintiffs’ underlying legal claims, and which supplements and integrates with
16 the injunctive relief in plaintiffs’ settlement with Smith that was approved by the Court earlier this
17 year. The new injunctive relief requires McDonald’s to make training available to Smith on the
18 use of McDonald’s software and techniques for using the software to ensure compliance with
19 California’s laws governing overtime, meal periods and rest breaks. *Id.* ¶19. It will benefit current
20 and future employees at the Smith-operated McDonald’s restaurants by helping to ensure that the
21 meal-and-rest-break, overtime, and other wage-and-hour violations alleged in this lawsuit no
22 longer occur. *Id.* The relief will take effect 30 days after preliminary approval. *Id.*

23 In reaching this settlement, class counsel negotiated the amount of recovery for the Class
24 separately from the amount of the maximum award of fees and cost plaintiffs would request. *Id.*
25 ¶21. Class counsel will submit a separate motion in support of plaintiffs’ request for an award of
26 statutory attorneys’ fees and costs, and will explain why the requested award, which is less than
27 half of the fees and costs counsel has actually incurred, is reasonable.

1 For all of these reasons, the proposed settlement readily satisfies the standards for
2 preliminary approval.

3 **B. The Settlement Ensures Adequate Notice to Class Members**

4 Under Rule 23(e), the Court upon preliminary approval must “direct notice in a reasonable
5 manner to all class members who would be bound” by the proposed settlement. That notice must
6 be the “best notice that is practicable under the circumstances.” Fed. R. Civ. P. 23(c)(2)(B).
7 Notice is satisfactory “if it generally describes the terms of the settlement in sufficient detail to
8 alert those with adverse viewpoints to investigate and to come forward and be heard” and provides
9 notice “that the court will exclude from the class any member who requests exclusion.” *Churchill*
10 *Village, LLC v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004); *In re Online DVD-Rental Antitrust*
11 *Litig.*, 779 F.3d at 945-47; *see also* Fed. R. Civ. P. 23(c)(2)(B)(v). Such notice is reasonable if
12 mailed to each member of a settlement class “who can be identified through reasonable effort.”
13 *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 176 (1974).

14 Here, the form and manner of the class notices and claim forms have been negotiated and
15 agreed upon by all counsel and will be translated into Spanish and mailed (and emailed, where
16 available) in both English and Spanish. The class notices will inform class members of, among
17 other things: (1) the nature of this action and the essential terms of the settlement; (2) the allocation
18 of the settlement funds, including an estimate of each class member’s settlement share, the amounts
19 payable to the LWDA for PAGA claims, and the requests for class representative service payments
20 and for attorneys’ fees and expenses; (3) how to participate, opt out, or object to the settlement; (4)
21 this Court’s procedures for final approval; and (5) how to obtain additional information. The class
22 notices are written to be as clear as possible. The notices encourage class members to contact class
23 counsel with any questions, and designate a Spanish-speaking contact in class counsel’s offices.
24 *See* Newberg on Class Actions §8.17 (5th ed. 2013); *Gooch v. Life Investors Ins. Co. of Am.*, 672
25 F.3d 402, 423 (6th Cir. 2012). These are the same basic provisions that the Court previously
26 approved with respect to the Smith settlement.

27 The proposed delivery method and deadlines are also reasonable, and are similar to the
28 procedures approved for the Smith settlement. The Claims Administrator will send notices to class

1 members by first-class mail at addresses that have been updated through the administration of the
 2 Smith settlement and as a result of the September 6, 2016 mailing regarding certification of class
 3 claims against McDonald's. *See* Chisholm Decl. Ex. A ¶10(b), (d). If a class member's address
 4 has changed and no forwarding address is available, the Claims Administrator will use electronic
 5 search procedures to obtain a current address (just as it did with respect to previous class notice
 6 mailings for both the Smith settlement and the certification of claims against McDonald's). *Id.*
 7 ¶10(f). Class members will have 60 days to object to or opt out from the settlement, and will have
 8 90 days after the initial notice is mailed to file any required claim form or to contest dates of
 9 employment. *Id.* ¶¶11-13; *see also id.* ¶1(f) (claim form only required if class member did not
 10 receive notice at home address or is not on the class list).

11 The parties believe that these time periods are fair and reasonable, provide adequate time
 12 for the Claims Administrator to attempt delivery of any returned notices, and allow sufficient time
 13 for class members who may not receive notice by mail to submit claim forms and participate in the
 14 Settlement if they choose to do so.

15 **V. PROPOSED SCHEDULING ORDER**

16 The following schedule sets forth a proposed sequence for the relevant dates and deadlines
 17 assuming the Court preliminarily approves the Settlement.

Event	Time Limits According to Agreement
Deadline to provide Class List	10 calendar days after Preliminary Approval Order
Deadline to mail Class Notice	10 calendar days after receiving Class List
Deadline for filing fees motion	At least 28 days before opt-out deadline (within 32 days after Class Notice is mailed)
Deadline for opting out or filing objections	60 days after the Class Notice is mailed
Deadline for filing Claim Forms or challenging dates of employment	90 days after the Class Notice is mailed
Deadline for filing Motion for Named Plaintiffs' Service Awards	35 days prior to Final Approval Hearing
Deadline to file Motion for Final Approval	35 days prior to Final Approval Hearing
Final Approval Hearing	To be set by the Court, but no sooner than 120 days after the Preliminary Approval Order

1 **VI. CONCLUSION**

2 For the foregoing reasons, plaintiffs respectfully request that this Court: (1) grant
3 preliminary approval to the parties' settlement; (2) approve the distribution of the proposed class
4 notices and claims forms; (3) appoint CPT Group, Inc. as the claims administrator; and (4)
5 schedule a final approval hearing. A proposed order is submitted herewith.

6
7 Date: October 28, 2016

Respectfully submitted,

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