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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

JAMES RUFFULO, et al., individually and on behalf of all others similarly situated, Plaintiffs, v. FARMERS INSURANCE EXCHANGE, et al., Defendants.	Case No. CV 23-1796 FMO (MAAx) **ORDER RE: MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Having reviewed and considered all the briefing filed with respect to plaintiffs' Motion for Preliminary Approval of Collective and Class Action Settlement (Dkt. 107, "Motion"), and the oral argument presented at the hearing on October 9, 2025, the court concludes as follows.

BACKGROUND

On March 9, 2023, James Ruffulo ("Ruffulo") and Valerie Yankus ("Yankus") (collectively, "plaintiffs") filed this putative class and collective action against Farmers Insurance Exchange, Farmers Group, Inc., Truck Insurance Exchange, and Fire Insurance Exchange (collectively, "defendants" or "Farmers"). (See Dkt. 1, Complaint). On March 11, 2024, plaintiffs filed the operative Third Amended Complaint (Dkt. 52, "TAC"), asserting claims for violations of: (1) the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201, et seq., (see id. at ¶¶ 153-61); (2) California's Fair Employment and Housing Act ("FEHA"), Cal. Gov't Code §§ 12900, et seq., (see id. at ¶¶ 162-87); and (3) California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code §§

17200, et seq. (See id. at ¶¶ 188-98). The claims were brought on behalf of farmers insurance agents who worked outside the state of California.[1] (See id. at ¶ 118, 133, 142).

With respect to the FLSA claim, plaintiffs allege that defendants misclassified them as independent contractors and thus failed to pay them for overtime work. (See Dkt. 52, TAC at ¶¶ 3-4, 153-61). As to FEHA, plaintiffs assert claims for: (1) age discrimination; and (2) failure to prevent age discrimination. (See id. at ¶¶ 162-87). Plaintiffs allege that in 2017, defendants instituted the Managing Underperforming Agents ("MUA") program "that was nothing more than a pretext to discard [insurance] agents on the basis of age and to replace them with 'new blood' – in other words, with younger insurance agents who would work under new and cheaper contracts." (Id. at ¶ 5). According to plaintiffs, "[w]hile Farmers compelled local district managers and/or supervisors to break the specific news to insurance agents that they were being terminated pursuant to the MUA program, the terminations themselves were directed from Farmers' nerve center in California[.]" (Id.). Finally, plaintiffs' UCL claim is based on the alleged violations of the FLSA and FEHA. (See id. at ¶¶ 188-98).

On March 17, 2025, the court granted in part and denied in part defendants' motion to dismiss. (Dkt. 82, Court's Order of March 17, 2025). The court granted the motion as to the UCL claim predicated on violations of the FLSA. (Id. at 7-8). The court denied the motion in all other respects. (Id.). Defendants filed their answers on March 31, 2025, (see Dkts. 83, 84), and on May 8, 2025, filed a Motion to Certify for Interlocutory Appeal the Court's Order of March 17, 2025 ("Motion to Certify"). (See Dkt. 89). After the parties briefed the Motion to Certify, (see Dkts. 92, 95), they filed a notice of settlement on June 25, 2025, (see Dkt. 96), and defendants withdrew the motion to certify. (See Dkt. 97).

The parties have defined the settlement classes as follows:

> FEHA Class: "[A]ll individuals not excluded pursuant to Section 4 who (i) signed a Farmers Agent Appointment Agreement or a Farmers Corporate

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[1] According to counsel, there are least six state court cases involving similar claims against Farmers that are limited to California-based agents. (Dkt. 106-1, Declaration of Seth R. Lesser ("Lesser Decl.") at ¶ 7)

> Agent Appointment Agreement; (ii) worked as a Farmers agent or Supervising Agent for an incorporated Farmers agency outside of the state of California at any time during the Settlement Class Period[;] (iii) whose appointment was terminated by Farmers in connection with the Managing Underperforming Agents Process [;] and (iv) who was 40 years of age or older on the effective date of their appointment's termination."[2] (Dkt. 106-2, Exh. 1, Class Action Settlement and Release Agreement ("Agreement") at § 1.8).
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> FLSA Collective: "[A]ll individuals not excluded pursuant to Section 5 who (i) signed a Farmers Agent Appointment Agreement or a Farmers Corporate Agent Appointment Agreement not containing an agreement to arbitrate; and (ii) worked as a Farmers agent or Supervising Agent for an incorporated Farmers agency outside of the state of California at any time during the Settlement Class Period[.]"[3] (Dkt. 106-2, Exh. 1, Agreement at § 1.13).[4]

The Settlement Class Period is from March 9, 2020, to September 30, 2025. (See Dkt. Exh. 1, 106-2, Agreement at § 1.34).

Pursuant to the settlement, defendants will pay up to $10 million, (see Dkt. 106-2, Exh. 1, Agreement at §§ 1.18, 8.2), which will be used to pay the class members, the class

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[2] Excluded from the FEHA class "is any person who during or before the Settlement Class Period: (i) settled the claims asserted in this Action, (ii) released the claims asserted in this Action as part of a settlement, (iii) received an adverse final judgment or order in a civil or administrative action involving the claims asserted in this Action, or (iv) received awards through civil or administrative actions for the claims asserted in this Action." (Dkt. 106-2, Exh. 1, Agreement at § 4.1).

[3] Excluded from the FLSA collective "is any person who during or before the Settlement Class Period: (i) settled the claims asserted in this Action, (ii) released the claims asserted in this Action as part of a settlement, (iii) received an adverse final judgment or order in a civil or administrative action involving the claims asserted in this Action, or (iv) received awards through civil or administrative actions for claims asserted in this Action." (Dkt. 106-2, Exh. 1, Agreement at § 5.1).

[4] For ease of reference, the court at times will refer to the FEHA Class and FLSA Collective together as the "class" or "classes."

representatives' service awards, the settlement administrator, and attorney's fees and costs. (See id. at §§ 3.4, 8.1, 8.4, 8.5, 8.6). The settlement provides for up to 33.33% of the gross settlement amount in attorney's fees, (see id. at § 8.4); (Dkt. 114-1, Second Addendum to Class Action Settlement and Release Agreement ("Second Addendum") at § 8.4); (Dkt. 115, Supplement), and an incentive payment of $10,000 for each named plaintiff. (See Dkt. 106-2, Exh. 1, Agreement at § 8.5). The proposed settlement administrator, Epiq Class Action & Claims Solutions, Inc. ("Epiq"), will be paid no more than $114,000. (Id. at §§ 1.31, 3.4). The settlement amount will be allocated 55% to members of the FEHA Class ("FEHA Allocation") on a pro rata basis, and 45% to participating FLSA Collective members ("FLSA Allocation") based on the number of workweeks worked.[5] (See id. at §§ 8.1.1, 8.1.2, 8.1.2.1). According to plaintiffs, if all requested fees, costs, and awards are granted, the settlement provides a net recovery of approximately $13,000 to each FEHA Class member. (See Dkt. 106, Plaintiffs' Memorandum of Points and Authorities ("Memo") at 12).

In their Motion, plaintiffs seek, explicitly or implicitly, an order: (1) preliminarily approving the proposed settlement agreement; (2) certifying the proposed settlement classes; (3) appointing Ruffulo and Yankus as class representatives; (4) appointing Klafter Lesser LLP and Shegerian and Associates, Inc. as class counsel; (5) appointing Epiq as the settlement administrator; (6) approving and ordering dissemination of the proposed class notice program; and (7) scheduling a final approval hearing. (See Dkt. 107, Motion at 2); (Dkt. 106, Memo at 1, 23 n. 4, 33-34); (see also Dkt. 106-2, Exh. 1, Agreement).

LEGAL STANDARDS

I. CLASS CERTIFICATION.

At the preliminary approval stage, the court "may make either a preliminary determination

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[5] The FLSA Allocation will be "distributed proportionally based on the number of workweeks each FLSA Collective Member was appointed as a Farmers insurance agent during the Settlement Class Period." (Dkt. 106-2, Exh. 1, Agreement at § 8.1.2.1). Specifically, "each Participating FLSA Collective Member's share will be determined by dividing the FLSA Collective Allocation by the total number of workweeks that the FLSA Collective Members worked during the Settlement Class Period, then multiplying that sum by the total number of workweeks worked by the Participating FLSA Collective Member during the Settlement Class Period." (Id.).

that the proposed class action satisfies the criteria set out in Rule 23 . . . or render a final decision as to the appropriateness of class certification."[6] Smith v. Wm. Wrigley Jr. Co., 2010 WL 2401149, *3 (S.D. Fla. 2010) (citation and footnote omitted); see also Sandoval v. Roadlink USA Pac., Inc., 2011 WL 5443777, *2 (C.D. Cal. 2011) (citing Amchem Prods., Inc. v. Windsor, 521 U.S. 591, 620, 117 S.Ct. 2231, 2248 (1997) ("Parties seeking class certification for settlement purposes must satisfy the requirements of Federal Rule of Civil Procedure 23[.]"). In the settlement context, a court must pay "undiluted, even heightened, attention" to the class certification requirements. Amchem, 521 U.S. at 620, 117 S.Ct. at 2248; accord In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prods. Liab. Litig., 895 F.3d 597, 606 (9th Cir. 2018). "Such attention is of vital importance, for a court asked to certify a settlement class will lack the opportunity, present when a case is litigated, to adjust the class, informed by the proceedings as they unfold." Amchem, 521 U.S. at 620, 117 S.Ct. at 2248.

A party seeking class certification must first demonstrate that: "(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a). Courts refer to these requirements by the following shorthand: "numerosity, commonality, typicality and adequacy of representation[.]" Mazza v. Am. Honda Motor Co., Inc., 666 F.3d 581, 588 (9th Cir. 2012), overruled on other grounds by Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC, 31 F.4th 651 (9th Cir. 2022) (en banc). In addition to fulfilling the four prongs of Rule 23(a), the proposed class must meet at least one of the three requirements listed in Rule 23(b).[7] See Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338,

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[6] All "Rule" references are to the Federal Rules of Civil Procedure.

[7] Rule 23(b) is satisfied if:

> (1) prosecuting separate actions by or against individual class members would create a risk of:
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> (A) inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the

345, 131 S.Ct. 2541, 2548 (2011).

"Before it can certify a class, a district court must be satisfied, after a rigorous analysis, that the prerequisites of both Rule 23(a) and" the applicable Rule 23(b) provision have been satisfied. Olean Wholesale, 31 F.4th at 664 (internal quotation marks omitted); see Dukes, 564 U.S. at 345, 131 S.Ct. at 2548. A plaintiff "must prove the facts necessary to carry the burden of establishing that the prerequisites of Rule 23 are satisfied by a preponderance of the evidence." Olean Wholesale, 31 F.4th at 665. However, Rule 23(b)(3) issues regarding manageability are "not a concern in certifying a settlement class where, by definition, there will be no trial." In re Hyundai and Kia Fuel Econ. Litig., 926 F.3d 539, 556-57 (9th Cir. 2019) (en banc).

II. FAIRNESS OF CLASS ACTION SETTLEMENT.

Rule 23 provides that "[t]he claims, issues, or defenses of a certified class – or a class proposed to be certified for purposes of settlement – may be settled . . . only with the court's approval." Fed. R. Civ. P. 23(e). "The primary concern of [Rule 23(e)] is the protection of th[e] class members, including the named plaintiffs, whose rights may not have been given due regard by the negotiating parties." Officers for Just. v. Civ. Serv. Comm'n of the City & Cnty. of San

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> party opposing the class; or
> (B) adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests;
> (2) the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole; or
> (3) the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The matters pertinent to these findings include:
> (A) the class members' interests in individually controlling the prosecution or defense of separate actions;
> (B) the extent and nature of any litigation concerning the controversy already begun by or against class members;
> (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
> (D) the likely difficulties in managing a class action.

Fed. R. Civ. P. 23(b)(1)-(3).

Francisco, 688 F.2d 615, 624 (9th Cir. 1982). Whether to approve a class action settlement is "committed to the sound discretion of the trial judge." Class Plaintiffs v. City of Seattle, 955 F.2d 1268, 1276 (9th Cir. 1992) (internal quotation marks omitted).

Approval of a class action settlement requires a two-step process – preliminary approval and the dissemination of notice to the class, followed by a later final approval. See Spann v. J.C. Penney Corp. ("Spann II"), 314 F.R.D. 312, 319 (C.D. Cal. 2016). "[T]he showing at the preliminary approval stage – given the amount of time, money, and resources involved in, for example, sending out . . . class notice[] – should be good enough for final approval." Id.; see also 4 Newberg on Class Actions § 13:10 (6th ed. 2024) ("[S]ending notice to the class costs money and triggers the need for class members to consider the settlement, actions which are wasteful if the proposed settlement [is] obviously deficient from the outset."). The court may grant preliminary approval and direct notice in a reasonable manner to all class members who would be bound by the settlement if the parties provide sufficient information to show that the court will likely be able to: (1) "approve the proposal under Rule 23(e)(2);" and (2) "certify the class for purposes of judgment on the [settlement] proposal." Fed. R. Civ. P. 23(e)(1)(B); see Macy v. GC Servs. Ltd. P'ship, 2019 WL 6684522, *1 (W.D. Ky. 2019) ("The standard for preliminary approval was codified in 2018, with Rule 23 now providing for notice to the class upon the parties' showing that the court will likely be able to approve the proposed settlement under the final-approval standard contained in Rule 23(e)(2)."") (internal quotation marks omitted); 4 Newberg on Class Actions § 13:10 (6th ed. 2024) ("In 2018, Congress codified this approach into Rule 23. Rule 23(e)(1)(B) now sets forth the grounds for the initial decision to send notice of a proposed settlement to the class[.]").

"At this stage, the court may grant preliminary approval of a settlement and direct notice to the class if the settlement: (1) appears to be the product of serious, informed, non-collusive negotiations; (2) has no obvious deficiencies; (3) does not improperly grant preferential treatment to class representatives or segments of the class; and (4) falls within the range of possible approval." Spann II, 314 F.R.D. at 319 (internal quotation marks omitted); see Bronson v. Samsung Elecs. Am., Inc., 2019 WL 5684526, *7 (N.D. Cal. 2019) (same); see also 2018 Adv.

Comm. Notes to Rule 23(e)(1) Amendments (The types of information that should be provided to the court in deciding whether to send notice – i.e., that it will likely approve the settlement under Rule 23(e)(2) and certify the class for purposes of settlement – "depend on the specifics of the particular class action and proposed settlement." "[G]eneral observations" as to the types of information that should be provided include, but are not limited to, the following: (1) "the extent and type of benefits that the settlement will confer on the members of the class" and if "funds are . . . left unclaimed, the settlement agreement ordinarily should address the distribution of those funds"; (2) "information about the likely range of litigated outcomes, and about the risks that might attend full litigation"; (3) "[i]nformation about the extent of discovery completed in the litigation or in parallel actions"; (4) "information about the existence of other pending or anticipated litigation on behalf of class members involving claims that would be released under the proposal"; (5) "[t]he proposed handling of an award of attorney's fees under Rule 23(h)"; (6) "any agreement that must be identified under Rule 23(e)(3)"; and (7) "any other topic that [the parties] regard as pertinent to the determination whether the proposal is fair, reasonable, and adequate.").

DISCUSSION

I. CLASS CERTIFICATION.

A. Rule 23(a) Requirements.

1. **Numerosity**.

A putative class may be certified only if it "is so numerous that joinder of all members is impracticable[.]" Fed. R. Civ. P. 23(a)(1). "Although the size of the class is not the sole determining factor, . . . where a class is large in numbers, joinder will usually be impracticable." A.B. v. Hawaii State Dep't of Educ., 30 F.4th 828, 835 (9th Cir. 2022) (internal quotation marks omitted). "As a general matter, courts have found that numerosity is satisfied when class size exceeds 40 members[.]" Slaven v. BP Am., Inc., 190 F.R.D. 649, 654 (C.D. Cal. 2000); accord Tait v. BSH Home Appliances Corp., 289 F.R.D. 466, 473 (C.D. Cal. 2012).

Here, the class is so numerous that joinder is impracticable. The FEHA settlement class includes approximately 255, (see Dkt. 106, Memo at 22), which easily exceeds the minimum

threshold for numerosity.[8]

2. **Commonality**.

The commonality requirement is satisfied if "there are questions of law or fact common to the class[.]" Fed. R. Civ. P. 23(a)(2). Proof of commonality under Rule 23(a) is "less rigorous" than the related predominance standard under Rule 23(b)(3). See Hanlon v. Chrysler Corp., 150 F.3d 1011, 1019 (9th Cir. 1998), overruled on other grounds as recognized by DZ Reserve v. Meta Platforms, Inc., 96 F.4th 1223, 1238 (9th Cir. 2024); Mazza, 666 F.3d at 589 (same). Commonality requires plaintiffs to demonstrate that their claims "depend upon a common contention . . . [whose] truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." Dukes, 564 U.S. at 350, 131 S.Ct. at 2551; see Wolin v. Jaguar Land Rover N. Am., LLC, 617 F.3d 1168, 1172 (9th Cir. 2010) (The commonality requirement demands that "class members' situations share a common issue of law or fact, and are sufficiently parallel to insure a vigorous and full presentation of all claims for relief.") (internal quotation marks omitted). "The plaintiff must demonstrate the capacity of classwide proceedings to generate common answers to common questions of law or fact that are apt to drive the resolution of the litigation." Mazza, 666 F.3d at 588 (internal quotation marks omitted). "This does not, however, mean that every question of law or fact must be common to the class; all that Rule 23(a)(2) requires is a single significant question of law or fact." Abdullah v. U.S. Sec. Assocs., Inc., 731 F.3d 952, 957 (9th Cir. 2013) (emphasis and internal quotation marks omitted); see Mazza, 666 F.3d at 589 (characterizing commonality as a "limited burden[,]" stating that it "only requires a single significant question of law or fact"). "The existence of shared legal issues with divergent factual predicates is sufficient, as is a common core of salient facts coupled with disparate legal remedies within the class." Hanlon, 150 F.3d at 1019.

This case involves common class-wide questions that are apt to drive the resolution of the litigation. The main issue in this action involves whether defendants improperly categorized class members as independent contractors, (see Dkt. 106, Memo at 1); (Dkt. 52, TAC at ¶¶ 3-4, 153-

[8] The FLSA Collective includes approximately 10,406 individuals. (See Dkt. 106, Memo at 1).

61), and whether its "MUA program discriminated on the basis of age under a disparate impact and/or disparate treatment theory[.]" (Dkt. 106, Memo at 22); (Dkt. 52, TAC at ¶ 5). Under the circumstances, the court finds that plaintiffs have satisfied the commonality requirement. See, e.g., Dixon v. Cushman & Wakefield Western, Inc., 2021 WL 3861465, *7 (N.D. Cal. 2021) ("[T]he commonality requirement is satisfied because there are common questions of law and fact arising out of [defendant's] allegedly unlawful employment practices that effected all putative class members[.]"); Erami v. JPMorgan Chase Bank, N.A., 2018 WL 6133654, *3 (C.D. Cal. 2018) (finding commonality requirement met where legal question was whether plaintiff and class members were properly classified as exempt).

3. **Typicality**.

"Typicality refers to the nature of the claim or defense of the class representative, and not to the specific facts from which it arose or the relief sought." Ellis v. Costco Wholesale Corp., 657 F.3d 970, 984 (9th Cir. 2011) (internal quotation marks omitted). To demonstrate typicality, the class representative's claims must be "reasonably co-extensive with those of absent class members[,]" although "they need not be substantially identical." Hanlon, 150 F.3d at 1020; see Ellis, 657 F.3d at 984 ("Plaintiffs must show that the named parties' claims are typical of the class."). "The test of typicality is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct." Ellis, 657 F.3d at 984 (internal quotation marks omitted).

Here, plaintiffs were subject to the same employment practice as the FEHA class members, i.e., their appointments were terminated pursuant to defendants' MUA program.[9] (See Dkt. 106, Memo at 23). Thus, their claims arise from the same nucleus of facts as those of the class and are based on the same legal theories. (See Dkt. 52, TAC at ¶¶ 5-8); see, e.g., Brown v. NFL Players Ass'n., 281 F.R.D. 437, 442 (C.D. Cal. 2012) (finding typicality requirement satisfied where the plaintiff's claims were based on "the same event or practice or course of conduct that g[ave]

[9] Plaintiffs were also subject to the same practice regarding agent classification, which resulted in defendants' failure to pay proper overtime wages. (See Dkt. 52, TAC at ¶¶ 118-132).

rise to the claims of other class members and . . . are based on the same legal theory") (internal quotation marks omitted); Spann v. J.C. Penney Corp. ("Spann I"), 307 F.R.D. 508, 519 (C.D. Cal. 2015), modified, 314 F.R.D. 312 (C.D. Cal. 2016) ("[P]laintiff's claims are based on the same facts and the same legal and remedial theories as the claims of the rest of the class members."). Additionally, the court is not aware of any facts that would subject plaintiffs "to unique defenses which threaten to become the focus of the litigation." Hanon v. Dataproducts Corp., 976 F.2d 497, 508 (9th Cir. 1992) (internal quotation marks omitted). In short, plaintiffs have satisfied the typicality requirement.

4. **Adequacy of Representation**.

"The named Plaintiffs must fairly and adequately protect the interests of the class." Ellis, 657 F.3d at 985 (citing Fed. R. Civ. P. 23(a)(4)). "To determine whether [the] named plaintiffs will adequately represent a class, courts must resolve two questions: (1) do the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?" Id. (internal quotation marks omitted). "Adequate representation depends on, among other factors, an absence of antagonism between representatives and absentees, and a sharing of interest between representatives and absentees." Id.

Here, the proposed class representatives, Ruffulo and Yankus, have no individual claims separate from the class claims, (see, generally, Dkt. 52, TAC), and do not appear to have any conflicts of interest with the absent class members. (See Dkt. 106, Memo at 24); see, e.g., Barbosa v. Cargill Meat Sols. Corp., 297 F.R.D. 431, 442 (E.D. Cal. 2013) ("[T]here is no apparent conflict of interest between the named Plaintiffs' claims and those of the other Class Members' – particularly because the named Plaintiffs have no separate and individual claims apart from the Class."). Thus, "[t]he adequacy-of-representation requirement is met here because Plaintiffs have the same interests as the absent Class Members[.]" See Barbosa, 297 F.R.D. at 442.

Finally, as noted earlier, adequacy "also factors in competency and conflicts of class counsel." Amchem, 521 U.S. at 626 n. 20, 117 S.Ct. at 2251 n. 20. Having reviewed the declaration filed by proposed class counsel, (see Dkt. 106-1, Lesser Decl. at ¶¶ 26-27); (Dkt. 106-

6, Exh. 5, CV and Firm Resume); (Dkt. 106-7, Exh. 6, Declaration of Erik Dos Santos ("Santos Decl.") at ¶¶ 1-13), the court is persuaded that there are no issues as to the adequacy of representation. See Barbosa, 297 F.R.D. at 443 ("There is no challenge to the competency of the Class Counsel, and the Court finds that Plaintiffs are represented by experienced and competent counsel who have litigated numerous class action cases.").

B. Rule 23(b) Requirements.

Certification under Rule 23(b)(3) is proper "whenever the actual interests of the parties can be served best by settling their differences in a single action." Hanlon, 150 F.3d at 1022 (internal quotation marks omitted). The rule requires two different inquiries, specifically a determination as to whether: (1) "questions of law or fact common to class members predominate over any questions affecting only individual members[;]" and (2) "a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3); see Spann II, 314 F.R.D. at 322-23 (same).

1. **Predominance**.

"[T]he general rule [is] that predominance is easier to satisfy in the settlement context." Jabbari v. Farmer, 965 F.3d 1001, 1006 (9th Cir. 2020). "To determine whether a class satisfies the [predominance] requirement, a court pragmatically compares the quality and import of common questions to that of individual questions." Id. at 1005. "[T]he predominance analysis under Rule 23(b)(3) focuses on the relationship between the common and individual issues in the case, and tests whether the proposed class is sufficiently cohesive to warrant adjudication by representation." Abdullah, 731 F.3d at 964 (internal quotation marks omitted); see also Amchem, 521 U.S. at 623, 117 S.Ct. at 2249 ("The Rule 23(b)(3) predominance inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation."). "If a common question will drive the resolution [of the litigation], even if there are important questions affecting only individual members, then the class is sufficiently cohesive to warrant adjudication by representation." Jabbari, 965 F.3d at 1005 (internal quotation marks omitted); see Abdullah, 731 F.3d at 964 ("Rule 23(b)(3) requires [only] a showing that questions common to the class predominate, not that those questions will be answered, on the merits, in favor of the class.")

(internal quotation marks omitted) (brackets in original). Finally, the class damages must be sufficiently traceable to plaintiffs' liability case. See Comcast Corp. v. Behrend, 569 U.S. 27, 35, 133 S.Ct. 1426, 1433 (2013).

For the reasons discussed above, see supra at § I.A.2., the court is persuaded that common questions predominate over individual questions. See Tyson Foods, Inc. v. Bouaphakeo, 577 U.S. 442, 453, 136 S.Ct. 1036, 1045 (2016) ("When one or more of the central issues in the action are common to the class and can be said to predominate, the action may be considered proper under Rule 23(b)(3) even though other important matters will have to be tried separately, such as damages or some affirmative defenses peculiar to some individual class members.") (internal quotation marks omitted); Senne v. Kansas City Royals Baseball Corp., 934 F.3d 918, 938 (9th Cir. 2019) ("[P]redominance in employment cases is rarely defeated on the grounds of differences among employees so long as liability arises from a common practice or policy of an employer.") (internal quotation marks omitted). Finally, the relief sought applies to all class members and is traceable to plaintiffs' liability case. See Comcast, 569 U.S. at 35, 133 S.Ct. at 1433. In short, the court is persuaded that "[a] common nucleus of facts and potential legal remedies dominates this litigation." Hanlon, 150 F.3d at 1022.

2. **Superiority**.

"The superiority inquiry under Rule 23(b)(3) requires determination of whether the objectives of the particular class action procedure will be achieved in the particular case" and "necessarily involves a comparative evaluation of alternative mechanisms of dispute resolution." Hanlon, 150 F.3d at 1023 (internal citation omitted). Rule 23(b)(3) provides a list of four non-exhaustive factors relevant to superiority. See Fed. R. Civ. P. 23(b)(3)(A)-(D).

The first factor considers "the class members' interests in individually controlling the prosecution or defense of separate actions[.]" Fed. R. Civ. P. 23(b)(3)(A). "This factor weighs against class certification where each class member has suffered sizeable damages or has an emotional stake in the litigation." Barbosa, 297 F.R.D. at 444. Here, Ruffulo and Yankus do not assert any claims for emotional distress, nor is there any indication that the amount of damages any individual class member could recover is significant or substantially greater than the potential

recovery of any other class member. (See, generally, Dkt. 52, TAC). The alternative method of resolution – pursuing individual claims for a relatively modest amount of damages – would likely never be brought, as "litigation costs would dwarf potential recovery." Hanlon, 150 F.3d at 1023; see Leyva v. Medline Indus., Inc., 716 F.3d 510, 515 (9th Cir. 2013) ("In light of the small size of the putative class members' potential individual monetary recovery, class certification may be the only feasible means for them to adjudicate their claims. Thus, class certification is also the superior method of adjudication."); Bruno v. Quten Research Inst., LLC, 280 F.R.D. 524, 537 (C.D. Cal. 2011) ("Given the small size of each class member's claim, class treatment is not merely the superior, but the only manner in which to ensure fair and efficient adjudication of the present action."). In short, "there is no evidence that Class members have any interest in controlling prosecution of their claims separately nor would they likely have the resources to do so." Munoz v. PHH Corp., 2013 WL 2146925, *26 (E.D. Cal. 2013).

The second factor is "the extent and nature of any litigation concerning the controversy already begun by or against class members[.]" Fed. R. Civ. P. 23(b)(3)(B). While any class member who wishes to control his or her own case may opt out of the class, see Fed. R. Civ. P. 23(c)(2)(B)(v), "other pending litigation is evidence that individuals have an interest in controlling their own litigation." 4 Newberg on Class Actions § 4:70 (6th ed. 2024) (emphasis omitted). Here, there is no indication that any class member is involved in any other litigation concerning the claims in this case.[10] (See, generally, Dkt. 106, Memo at 26); see Barbosa, 297 F.R.D. at 444 ("The Court does not have any information that litigation concerning this controversy is currently being pursued by or against the class members; thus, this factor is neutral.").

The third factor is "the desirability or undesirability of concentrating the litigation of the claims in the particular forum[,]" and the fourth factor is "the likely difficulties in managing a class action." See Fed. R. Civ. P. 23(b)(3)(C)-(D). As noted above, "[i]n the context of settlement . . . the third and fourth factors are rendered moot and are irrelevant." Barbosa, 297 F.R.D. at 444; see Amchem, 521 U.S. at 620, 117 S.Ct. at 2248 ("Confronted with a request for settlement-only

[10] The only litigation that is pending against defendants regarding the issues in this case involve only California-based agents. (See Dkt. 106, Memo at 26).

class certification, a district court need not inquire whether the case, if tried, would present intractable management problems, . . . for the proposal is that there be no trial.") (citation omitted); In re Hyundai, 926 F.3d at 556-57 ("The criteria for class certification are applied differently in litigation classes and settlement classes. In deciding whether to certify a litigation class, a district court must be concerned with manageability at trial. However, such manageability is not a concern in certifying a settlement class where, by definition, there will be no trial.").

The only factors in play here weigh in favor of class treatment. Further, the filing of separate suits by over 255 class members,[11] (see Dkt. 106, Memo at 22), "would create an unnecessary burden on judicial resources." Barbosa, 297 F.R.D. at 445. Under the circumstances, the court finds that the superiority requirement is satisfied.

II. FAIRNESS, REASONABLENESS, AND ADEQUACY OF THE PROPOSED SETTLEMENT.

A. The Settlement is the Product of Arm's-Length Negotiations.

Pursuant to Rule 23(e)(2)(B), the court must evaluate whether the settlement was negotiated at arm's length. Here, the settlement negotiations were supervised by a mediator and were conducted at arm's length. (See Dkt. 106-1, Lesser Decl. at ¶ 21); (Dkt. 106-8, Declaration of Hunter R. Hughes, III ("Hughes Decl.") at ¶ 5). Settlement was reached after plaintiffs' counsel reviewed "thousands of pages of documents" from parallel cases[,]" (Dkt. 106-1, Lesser Decl. at ¶ 8), and "spoke with a large number of MUA-affected agents[.]" (See id. at ¶ 12). Moreover, because Shergerian and Associates was counsel in one of the parallel cases, class counsel, which includes Shergerian and Associates, was able to review "expert statistical analysis of Farmers' data concerning the disparate impact of the MUA program." (See id. at ¶ 9).

Based on the evidence and record before the court, the court is persuaded that the parties thoroughly investigated and considered their own and the opposing party's positions. The parties had a sound basis for measuring the terms of the settlement against the risks of continued litigation, and there is no evidence that the settlement is the product of fraud or overreaching by,

[11] The FLSA Collective includes approximately 10,406 individuals. (See Dkt. 106, Memo at 1).

or collusion between, the negotiating parties. See, e.g., Spann II, 314 F.R.D. at 323-25 (finding no evidence that a class action settlement was the product of fraud or collusion between the parties); Rodriguez v. W. Publ'g Corp., 563 F.3d 948, 965 (9th Cir. 2009) (affirming final approval of class action settlement where there was "no evidence of fraud, overreaching, or collusion").

B. The Amount Offered in Settlement Falls Within a Range of Possible Judicial Approval and is a Fair and Reasonable Outcome for Class Members.

1. **Recovery for Class Members.**

As noted above, class members will share in a gross settlement amount of up to $10 million. (See Dkt. 106-2, Exh.1, Agreement at §§ 1.18, 8.2). Of that amount, 55% ($5,500,000) will be allocated to the FEHA Class, and 45% ($4,500,000) will be allocated to the FLSA Collective. (See id. at §§ 8.1.1, 8.1.2). According to plaintiffs, the settlement amount is fair because estimated damages for the FEHA Class totaled $71.3 million, but there were significant risks, including the fact that defendants have prevailed both at trial and twice at the summary judgment stage with respect to whether defendants misclassified agents as independent contractors – a threshold issue for both the FEHA and FLSA claims.[12] (See Dkt. 106, Memo at 3, 13-14); (Dkt. 106-1, Lesser Decl. at ¶ 20).

Under the circumstances, the court is persuaded that the settlement is fair, reasonable, and adequate, particularly when viewed in light of the litigation risks and the costs, and delay of trial and appeal. See Fed. R. Civ. P. 23(e)(1)(B)(i) & (e)(2)(C)(i); 2018 Adv. Comm. Notes to Rule 23(e)(1) (noting the types of information that should be provided to the court deciding whether to grant preliminary approval includes, among other things: (1) "the extent and type of benefits that the settlement will confer on the members of the class"; and (2) "information about the likely range of litigated outcomes, and about the risks that might attend full litigation"). Here, given the significant risks of litigation coupled with the delays associated with continued litigation, the court is persuaded that the settlement benefits to the class fall within the range of reasonableness. See,

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[12] Plaintiffs maintain that a reasonable damages amount for the FLSA claim is $30.625 million based on a relatively high 25% opt-in rate, (see Dkt. 106, Memo at 29); (see also Dkt. 106-1, Lesser Decl. at ¶ 18), but that claim faces the same risk – adverse decisions on agent misclassification. (See Dkt. 106, Memo at 29-30).

e.g., In re Mego Fin. Corp. Sec. Litig., 213 F.3d 454, 459 (9th Cir. 2000) (holding that "the [s]ettlement amount of almost $2 million was roughly one-sixth of the potential recovery, which, given the difficulties in proving the case, [was] fair and adequate"); Rodriguez v. W. Publ'g. Corp., 563 F.3d 948, 964 (9th Cir. 2009) (affirming settlement approval where the settlement represented 30% of the damages estimated by the class expert); In re Uber FCRA Litig., 2017 WL 2806698, *7 (N.D. Cal. 2017) (granting preliminary approval of settlement that was worth "7.5% or less" of the expected value); see also Linney v. Cellular Alaska P'ship, 151 F.3d 1234, 1242 (9th Cir. 1998) ("The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.") (internal quotation marks omitted).

2. **Release of Claims**.

The court must also consider whether the settlement contains an overly broad release of liability. See 4 Newberg on Class Actions § 13:15 (6th ed. 2024) ("Beyond the value of the settlement, courts have rejected preliminary approval when the proposed settlement contain[s] obvious substantive defects such as . . . overly broad releases of liability."); see, e.g., Fraser v. Asus Comput. Int'l, 2012 WL 6680142, *3 (N.D. Cal. 2012) (denying preliminary approval of proposed settlement that provided defendant a "nationwide blanket release" in exchange for payment "only on a claims-made basis[,]" without the establishment of a settlement fund or any other benefit to the class).

Here, FEHA Class members who do not exclude themselves from the settlement will:

> release and forever discharge the Released Parties with respect to any and all claims . . . whether arising under federal, state, or other applicable law, whether known or unknown, actual or potential, suspected or unsuspected, direct or indirect, or contingent or fixed that have been alleged, could have been alleged, or in the future might be alleged, that reasonably arise out of or reasonably relate to the facts and/or claims set forth in the Operative Complaint during the Settlement Class Period relating to Plaintiffs' second through fourth causes of action under FEHA . . . including, but not limited to,

> Plaintiffs' claims that they and the FEHA Class Members were misclassified as independent contractors, rather than employees, that the termination of their contracts was discriminatory, pretextual and/or unlawful, and that they and the FEHA Class Members were discriminated against and/or subject to unlawful employment practices in violation of FEHA and any other state and/or federal workplace discrimination laws[.]

(Dkt. 106-2, Exh. 1, Agreement at § 13.3). FLSA Collective members will:

> release and forever discharge the Released Parties with respect to any and all claims . . . whether arising under federal, state, or other applicable law, whether known or unknown, actual or potential, suspected or unsuspected, direct or indirect, or contingent or fixed that have been alleged, could have been alleged, or in the future might be alleged, that reasonably arise out of or reasonably relate to the facts and/or claims set forth in the Operative Complaint during the Settlement Class Period relating to Plaintiffs' first cause of action under the FLSA for alleged unpaid overtime and corresponding portions of Plaintiffs' fifth cause of action for violation of the UCL, including, but not limited to: a) Plaintiffs' claims that they and the FLSA Collective Members were misclassified as independent contractors, rather than employees; and b) that Defendants failed to fully, completely, and timely compensate Plaintiffs and the FLSA Collective Members for all hours of overtime worked.

(Dkt. 106-2, Exh. 1, Agreement at § 13.4). With the understanding that, under the release, settlement class members are not giving up any claims unrelated to those asserted in this action, the court finds that the release adequately balances fairness to absent class members and recovery for the class with defendants' business interest in ending this litigation. See Fraser, 2012 WL 6680142, at *4 (recognizing defendant's "legitimate business interest in 'buying peace' and moving on to its next challenge" as well as the need to prioritize "[f]airness to absent class member[s]").

C. The Settlement Agreement Does Not Improperly Grant Preferential Treatment to the Class Representatives.

Pursuant to Rule 23(e)(2)(D), the court must evaluate whether the settlement "treats class members equitably relative to each other." The Ninth Circuit has "repeatedly held that reasonable incentive awards to class representatives are permitted," In Re Apple Inc. Device Performance Litig., 50 F.4th 769, 785 (9th Cir. 2022) (internal quotation marks omitted), and has instructed "district courts to scrutinize carefully the awards so that they do not undermine the adequacy of the class representatives." Radcliffe v. Experian Info. Sols. Inc., 715 F.3d 1157, 1163 (9th Cir. 2013). The court must examine whether there is a "significant disparity between the incentive awards and the payments to the rest of the class members" such that it creates a conflict of interest. See id. at 1165 (noting that the court cast doubt, but did not rule on, "whether class representatives could be expected to fairly evaluate whether awards ranging from $26 to $750 is a fair settlement value when they would receive $5,000 incentive awards."). "In deciding whether [an incentive] award is warranted, relevant factors include the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation." Cook v. Niedert, 142 F.3d 1004, 1016 (7th Cir. 1998).

Here, the Agreement provides for a service payment of up to $10,000 for each plaintiff. (See Dkt. 106-2, Exh. 1, Agreement at § 8.5). Although plaintiffs appear to have been diligent and taken on substantial responsibility in litigating this case, (see Dkt. 106-1, Lesser Decl. at ¶ 25), the court believes that a $10,000 service award is excessive. Under the circumstances here, the court tentatively finds that an incentive payment of no more than $5,000 is appropriate. See Dyer v. Wells Fargo Bank, N.A., 303 F.R.D. 326, 335 (N.D. Cal. 2014) (finding an incentive award of $5,000 reasonable).

D. Class Notice and Notification Procedures.

Upon settlement of a certified class, "[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal[.]" Fed. R. Civ. P. 23(e)(1)(B). Rule 23(c)(2) requires the "best notice that is practicable under the circumstances, including individual

notice" of particular information. See Fed. R. Civ. P. 23(c)(2)(B) (enumerating notice requirements for classes certified under Rule 23(b)(3)).

"The standard for the adequacy of a settlement notice in a class action under either the Due Process Clause or the Federal Rules is measured by reasonableness." Wal-Mart Stores, Inc. v. Visa U.S.A., Inc., 396 F.3d 96, 113 (2d Cir. 2005), superseded by rule on other grounds by, Moses v. N.Y. Times Co., 79 F.4th 235, 243 (2d Cir. 2023); Low v. Trump Univ., LLC, 881 F.3d 1111, 1117 (9th Cir. 2018) ("The yardstick against which we measure the sufficiency of notices in class action proceedings is one of reasonableness.") (internal quotation marks omitted). A class action settlement notice "is satisfactory if it generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard." Churchill Vill., L.L.C. v. Gen. Elec., 361 F.3d 566, 575 (9th Cir. 2004) (internal quotation marks omitted); see also Gooch v. Life Invs. Ins. Co. of Am., 672 F.3d 402, 423 (6th Cir. 2012) (noting settlement notices "are sufficient if they inform the class members of the nature of the pending action, the general terms of the settlement, that complete and detailed information is available from the court files, [and] that any class member may appear and be heard at the hearing[.]") (internal quotation marks omitted). The notice should provide sufficient information to allow class members to decide whether they should accept the benefits of the settlement, opt out and pursue their own remedies, or object to the terms of the settlement but remain in the class. See In re Integra Realty Res., Inc., 262 F.3d 1089, 1111 (10th Cir. 2001) ("The standard for the settlement notice under Rule 23(e) is that it must 'fairly apprise' the class members of the terms of the proposed settlement and of their options.") (internal quotation marks omitted).

Here, class members will receive direct notice via email or mail, (see Dkt. 106-2, Exh. 1, Agreement at § 6.1.2); (Dkt. 106, Memo at 5), which will include a Notice of Settlement Class Action ("FEHA Notice"), (Dkt. 114-1, Exh. A, FEHA Notice at ECF 7-13), and a Notice of Settlement of Collective Action ("FLSA Notice"). (Dkt. 114-1, Exh. C, FLSA Notice at ECF 15-21). The Notices describe the nature of the action and the claims asserted in the operative complaint. (See Dkt. 114-1, Exh. A, FEHA Notice at ECF 8); (Dkt. 114-1, Exh. C, FLSA Notice at ECF 16); see also Fed. R. Civ. P. 23(c)(2)(B)(i) & (iii). They provide the definitions of the classes, (see Dkt.

114-1, Exh. A, FEHA Notice at ECF 8); (Dkt. 114-1, Exh. C, FLSA Notice at ECF 16); see also Fed. R. Civ. P. 23(c)(2)(B)(ii), and explain the terms of the settlement, including the settlement amount, the distribution of that amount, and the release, as well as the proposed attorney's fees and expenses, and incentive payments. (See Dkt. 114-1, Exh. A, FEHA Notice at ECF 7, 9, 11-12); (Dkt. 114-1, Exh. C, FLSA Notice at ECF 17-20). The FEHA Notice includes an explanation that lays out the class members' options under the settlement: they may remain in the class, object to the settlement but still remain in the class (including by appearing through their own attorney), or exclude themselves from the settlement and pursue their claims separately against defendants. (See Dkt. 114-1, Exh. A, FEHA Notice at ECF 10-11); see also Fed. R. Civ. P. 23(c)(2)(B)(iv)-(vi). The FLSA Notice also lays out the collective members options, including the need to opt-in. (See Dkt. 114-1, Exh. C, FLSA Notice at ECF 15, 18-19). Finally, the FEHA and FLSA Notices explain the procedures for objecting to the settlement and provides information about the Final Approval Hearing. (See Dkt. 114-1, Exh. A, FEHA Notice at ECF 10-13); (Dkt. 114-1, Exh. C, FLSA Notice at ECF 18-21).

Based on the foregoing, the court finds there is no alternative method of distribution that would be more practicable, or any more reasonably likely to notify the class members. In addition, the court finds that the procedure for providing notice and the content of the Class Notices constitute the best practicable notice to class members and comply with the requirements of due process.

E. Summary.

The court's preliminary evaluation of the settlement does not disclose grounds to doubt its fairness "such as unduly preferential treatment of class representatives or segments of the class, inadequate compensation or harms to the classes, . . . or excessive compensation for attorneys." Manual for Complex Litig. § 21.632 at 321 (4th ed. 2023); see also Spann II, 314 F.R.D. at 323 (same).

CONCLUSION

Based on the foregoing, IT IS ORDERED THAT:

1. Plaintiffs' Motion for Preliminary Approval of Collective and Class Action Settlement

(Document No. 107) is **granted** upon the terms and conditions set forth in this Order.

2. The court preliminarily certifies the classes, as defined in § 1.8 & 1.13 of the Settlement Agreement, (Dkt. 106-2, Exh. 1, Agreement), for the purposes of settlement.[13]

3. The court preliminarily appoints plaintiffs James Ruffulo and Valerie Yankus as class representatives for settlement purposes.

4. The court preliminarily appoints Klafter Lesser LLP and Shegerian and Associates, Inc., as class counsel for settlement purposes.

5. The court preliminarily finds that the terms of the settlement are fair, reasonable and adequate, and comply with Rule 23(e) of the Federal Rules of Civil Procedure.

6. The court approves the form, substance, and requirements of the proposed notice program. (See Dkt. 114-1, Exh. A, FEHA Notice); (Dkt. 114-1, Exh. C, FLSA Notice). The proposed manner of notice of the settlement set forth in the Settlement Agreement constitutes the best notice practicable under the circumstances and complies with the requirements of due process.

7. The court appoints Epiq as settlement administrator. Epiq shall complete dissemination of class notice, in accordance with the proposed notice plan, no later than **February 16, 2026**.

8. Plaintiffs shall file a motion for attorney's fees and costs, as well as any incentive payments, no later than **March 2, 2026**, and notice it for hearing for the date of the final approval hearing set forth below.

9. Any class member who wishes to: (a) object to the settlement, including the requested attorney's fees, costs and incentive award; (b) exclude him or herself from the settlement; and/or (c) opt in to the FLSA Collective must file his or her objection to the settlement, or request exclusion, and/or Opt-In form no later than **April 9, 2026**, in accordance with the FEHA Notice, FLSA Notice, and this Order.

10. Plaintiffs shall, no later than **April 30, 2026**, file and serve a motion for final approval

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[13] The court also finds that the FLSA Collective should be preliminarily certified. See, e.g., Campbell v. City of Los Angeles, 903 F.3d 1090, 1112-13 (9th Cir. 2018) (noting that the FLSA "imposes a lower bar than Rule 23").

of the settlement and a response to any objections to the settlement. The motion shall be noticed for hearing for the date of the final approval hearing set forth below.

11. Defendants may file and serve a memorandum in support of final approval of the Settlement Agreement and/or in response to objections no later than **May 7, 2026.**

12. Any class member who wishes to appear at the final approval (fairness) hearing, either on his or her own behalf or through an attorney, to object to the settlement, including the requested attorney's fees, costs or incentive awards, shall, no later than **May 14, 2026**, file with the court a Notice of Intent to Appear at Fairness Hearing.

13. A final approval (fairness) hearing is hereby set for **June 4, 2026**, at **10:00 a.m.** in Courtroom 6D of the First Street Courthouse, to consider the fairness, reasonableness, and adequacy of the Settlement Agreement as well as the award of attorney's fees and costs to class counsel, and incentive awards to the named plaintiffs.

14. All proceedings in the Action, other than proceedings necessary to carry out or enforce the Settlement Agreement or this Order, are stayed pending the final fairness hearing and the court's decision whether to grant final approval of the settlement.

Dated this 5th day of January, 2026.

_____/s/_____
Fernando M. Olguin
United States District Judge