

THE HONORABLE PATRICK OISHI  
Department 24  
Noted for Consideration: May 21, 2019  
Without Oral Argument

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
COUNTY OF KING

REBECCA TATARSKY, WINONA WRIGHT, and  
ANTONY FARNESE, individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

BLUE RIBBON COOKING, LLC, a Washington LLC  
and VANESSA SMITH, individually and/or the  
marital community composed of VANESSA  
SMITH and JOHN DOE SMITH,

Defendants.

NO. 17-2-27465-8 SEA

**PLAINTIFFS' MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

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1 **I. INTRODUCTION**

2 Plaintiffs respectfully move the Court for preliminary approval of the class action  
3 settlement agreement reached between Plaintiffs and Defendants Blue Ribbon Cooking, LLC  
4 and Vanessa Smith (collectively, Blue Ribbon). The settlement requires Blue Ribbon to pay  
5 \$32,500 to class members to resolve claims that hourly-paid employees did not receive rest  
6 and meal breaks pursuant to Washington law and those employees were not paid for all hours  
7 worked. The settlement requires Blue Ribbon to pay up to \$100,000 for the benefit of the  
8 class, which includes \$4,000 for settlement administration expenses, a service award of \$500  
9 for each of the named Plaintiffs, and attorneys' fees and costs of up to \$62,000.

10 The settlement satisfies the requirements for preliminary approval because it was  
11 negotiated at arm's length, has no obvious deficiencies, treats all class members equally, and  
12 is within the range of possible approval. Thus, Plaintiffs respectfully request the Court take the  
13 following initial steps in the settlement approval process: (1) grant preliminary approval of the  
14 settlement, including the payments for Settlement Class Members, attorneys' fees and costs,  
15 service awards, and settlement administration expenses; (2) certify the Settlement Class for  
16 settlement purposes; (3) appoint Plaintiffs as representatives of the Settlement Class; (4)  
17 appoint the undersigned law firms as counsel for the Settlement Class (Class Counsel); (5)  
18 approve the proposed notice plan; (6) appoint JND as the Settlement Administrator; and (7)  
19 schedule the final fairness hearing and related dates.

20 **II. STATEMENT OF FACTS**

21 **A. Factual and procedural background.**

22 Blue Ribbon is a catering business and cooking school that has employed dozens of  
23 Washington residents. Wolk Decl. ¶ 2. Plaintiffs allege Blue Ribbon failed to provide hourly-  
24 paid employees with the rest and meal breaks pursuant to Washington law and failed to pay  
25 those employees for all hours worked. Second Amended Complaint ¶¶ 5.1-5.11. Plaintiffs also  
26  
27

1 allege Blue Ribbon misclassified salaried employees as exempt from overtime and failed to  
2 pay them overtime wages. *Id.* ¶¶ 5.12-5.13. Blue Ribbon denies liability.

3 Plaintiffs filed this lawsuit on October 20, 2017. Dkt. No. 1. Plaintiffs amended their  
4 complaint on January 30, 2018 and February 22, 2019 to add additional claims and Winona  
5 Wright and Antony Farnese as Plaintiffs. Dkt. Nos. 23, 36. The parties began discussing  
6 settlement in January 2018 and have engaged in limited discovery aimed at settlement  
7 negotiations, which has primarily included classwide payroll information. Wolk Decl. ¶ 3.  
8 Plaintiffs also interviewed dozens of Blue Ribbon employees. *Id.* ¶ 4.

9 Plaintiffs' counsel analyzed the payroll data and documents regarding Blue Ribbon's  
10 rest and meal break policies and identified 116 hourly-paid employees who worked during the  
11 class period. *Id.* ¶ 5. Approximately fifty-five employees, however, have signed sworn  
12 statements that Blue Ribbon provided them with all required breaks or separately settled  
13 their claims with Blue Ribbon. *Id.* ¶ 6. These individuals are excluded from the Proposed Class.  
14 *Id.* Plaintiffs calculated that the 62 Proposed Class Members would be entitled to \$45,626.56  
15 for unpaid wages if they prevailed on their claims. *Id.* ¶ 7.

16 The parties participated in an all-day mediation with mediator Clifford Freed of WAMS  
17 on March 6, 2019. *Id.* ¶ 8. Before the mediation, Plaintiffs provided Blue Ribbon with their  
18 detailed damages analysis and the parties exchanged written submissions. *Id.* With Mr.  
19 Freed's assistance, the parties agreed upon the settlement terms for the Proposed Class and  
20 the named Plaintiffs' individual claims. *Id.*

21 **B. The terms of the proposed settlement.**

22 The full details of the class settlement are in the parties' Settlement Agreement. Wolk  
23 Decl. ¶ 9, Ex. A (Agreement).

24 1. The Settlement Class.

25 The proposed Settlement Class includes all individuals who worked as hourly-paid  
26 employees for Blue Ribbon at any time between October 20, 2014 and December 31, 2017,  
27



1 exclusive of any person who timely opts out of the Settlement. Agreement §§ VI(1)(d)-(f).  
2 Excluded from the class are fifty-four employees who signed declarations affirming they  
3 received all breaks while working for Blue Ribbon, except Nikole Barber, and those who signed  
4 settlement agreements releasing the claims at issue. *Id.* § VI(1)(e).

5 2. Settlement relief.

6 The agreement provides for a Class Fund of \$32,500 for payments to Settlement Class  
7 Members. Agreement § VI(1)(l). In addition, Blue Ribbon will pay settlement administration  
8 expenses, service awards for the named Plaintiffs, and Class Counsel’s attorneys’ fees and  
9 expenses. *Id.* § VI(1)(n)-(p). The total amount that Blue Ribbon may be required to pay is  
10 \$100,000. *Id.* § VI(1)(q).

11 a. *Payments to Settlement Class Members.*

12 Blue Ribbon will pay \$32,500 to Settlement Class Members. Agreement § VI(1)(l).  
13 Settlement Class Members will be paid a pro rata share and do not need to make claims to  
14 receive payments. *Id.* § VI(5)(b) & Ex. A. Each pro rata share will be based on the Settlement  
15 Class Member’s calculated damages as a portion of the total damages for all Settlement Class  
16 Members. *Id.* Class Counsel will base these calculations on payroll data provided by Blue  
17 Ribbon and will provide Blue Ribbon and the Settlement Administrator with their results. *Id.*  
18 §§ VI(5)(a)–(c). Any remaining funds from uncashed settlement checks will be donated to the  
19 Legal Foundation of Washington and the Fair Work Center. *Id.* § VI(9)(k). No funds will revert  
20 to Blue Ribbon. *Id.*

21 b. *Settlement administration expenses.*

22 Plaintiffs’ counsel has selected JND to serve as the Settlement Administrator.  
23 Agreement § VI(5)(c). JND will issue notice to Proposed Class Members by mail and email,  
24 trace undeliverable mailings, track responses, determine eligibility for settlement awards, and  
25  
26  
27

1 mail payments and tax forms. *Id.* §§ VI(8)(a)–(c). The expenses for settlement administration  
2 are capped at \$4,000. *Id.* §§ VI(5)(o), VI(8)(d); Wolk Decl. ¶ 10.

3 c. *Service awards to Plaintiffs*

4 Class Counsel will request service payments of \$500 each for the three named  
5 Plaintiffs to compensate them for the time they dedicated to this litigation and the risk they  
6 undertook in stepping forward. Agreement §§ VI(5)(n), VI(7); Wolk Decl. ¶ 11.

7 d. *Attorneys' fees and litigation costs.*

8 Class Counsel will request an award of attorneys' fees and costs of no more than  
9 \$62,000. Agreement §§ VI(5)(p), VI(6).

10 3. Class Members' release

11 In exchange for the benefits provided under the settlement, Settlement Class  
12 Members will release all claims against Blue Ribbon that were brought or could have been  
13 brought based on facts alleged in the Complaint for failing to provide rest and meal breaks  
14 and to pay for all time worked. Agreement § VI(2). The release does not cover any periods of  
15 time that Settlement Class Members were classified by Blue Ribbon as exempt from overtime  
16 pay. *Id.*

17 **III. STATEMENT OF ISSUES**

18 Whether the Court should grant preliminary approval of the proposed settlement,  
19 preliminarily certify the Settlement Class, direct notice to Proposed Settlement Class  
20 Members, and schedule a final fairness hearing.

21 **IV. EVIDENCE RELIED UPON**

22 Plaintiffs rely on the declarations of Gregory Wolk and Toby Marshall in support of this  
23 motion and the settlement agreement.

## V. AUTHORITY AND ARGUMENT

### A. Class action settlement approval process.

As a matter of “express public policy,” Washington courts strongly favor and encourage settlements. *City of Seattle v. Blume*, 134 Wn.2d 243, 258, 947 P.2d 223 (1997); see also *Pickett v. Holland Am. Line Westours, Inc.*, 145 Wn.2d 178, 190, 35 P.3d 351 (2001) (“[V]oluntary conciliation and settlement are the preferred means of dispute resolution.”).

This is particularly true in class actions and other complex matters where the costs, delays, and risks of continued litigation might otherwise overwhelm any potential benefit the class could hope to obtain. See *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992).

The Manual for Complex Litigation describes a three-step process to approve class action settlements: (1) preliminary approval of the proposed settlement; (2) dissemination of notice of the settlement to all affected class members; and (3) a “fairness hearing” at which class members may be heard and evidence and argument concerning the fairness, adequacy, and reasonableness of the settlement may be presented. *Manual for Complex Litigation (Fourth)* §§ 21.632–21.634 (2004) (Ann. ed. 2017). This procedure safeguards class members’ due process rights and enables the court to fulfill its role as the guardian of class interests. See William B. Rubenstein, *Newberg on Class Actions* § 13:1 (5th ed. 2016) (*Newberg*).

Plaintiffs request the Court take the first step in the settlement approval process by granting preliminary approval of the proposed settlement, which is within the Court’s sound discretion. See *Pickett*, 145 Wn.2d at 190. At this stage, “the judge should make a preliminary determination that the proposed class satisfies the criteria set out in Rule 23(a) and at least one of the subsections of Rule 23(b).” *Newberg* § 13.18 (citation omitted).

### B. The settlement satisfies the criteria for preliminary approval.

Proposed class action settlements are not effective unless approved by the Court. CR 23(e). At the preliminary approval stage, courts “undertake *some* review of the settlement” but do not conduct the more thorough analysis required at the final approval stage. *Newberg* §13.10 (emphasis in original). Courts typically consider whether “the proposed settlement

1 appears to be the product of serious, informed, non-collusive negotiations, has no obvious  
2 deficiencies, does not improperly grant preferential treatment to class representatives or  
3 segments of the class, and falls within the range of possible [judicial] approval.” *Id.* (citation  
4 omitted). The proposed settlement satisfies these requirements.

5 1. The settlement is the product of serious, informed, and arm’s-length  
6 negotiations.

7 This settlement is the result of arms-length settlement negotiations between attorneys  
8 experienced in class action litigation and the legal and factual issues of this case. Plaintiffs’  
9 counsel has extensive experience in litigating wage-and-hour class actions. Wolk Decl. ¶¶ 17-  
10 30; Marshall Decl. ¶¶ 2-4. “When experienced and skilled class counsel support a settlement,  
11 their views are given great weight.” *Pickett*, 145 Wn.2d at 200 (citation omitted). Indeed, a  
12 “presumption of correctness is said to attach to a class settlement reached in arms-length  
13 negotiations between experienced capable counsel after meaningful discovery.” *Hughes v.*  
14 *Microsoft Corp.*, No. C98-1646C, 2001 WL 34089697, at \*7 (W.D. Wash. Mar. 26, 2001)  
15 (quoting *Manual for Complex Litigation* (Third) § 30.42 (1995)).

16 The settlement is the result of dedicated efforts to obtain and analyze data sufficient  
17 to evaluate the alleged claims. In January 2018, the parties agreed to engage in informal  
18 discovery to work toward a possible early resolution. Plaintiffs’ counsel spent considerable  
19 time identifying and interviewing class members, conducting a site visit to Blue Ribbon’s office  
20 to review documents, and analyzing documents. Wolk Decl. ¶¶ 4-6; *see also Hanlon v.*  
21 *Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998). Plaintiffs’ counsel used class member  
22 payroll data from Blue Ribbon to calculate the damages owed to class members for missed  
23 breaks and unpaid time. *Id.* ¶ 7. Based on these calculations, class member interviews, and  
24 information provided in discovery, Plaintiffs’ counsel was well-prepared for mediation and  
25 able to make an informed settlement demand. *Id.* ¶ 8. The parties attended an all-day  
26 mediation session with Mr. Freed and reached an agreement regarding the terms of proposed  
27 settlement on March 6, 2018. *Id.*

2. The settlement has no obvious deficiencies and does not grant preferential treatment to any class members.

The settlement treats all Settlement Class Members equally and provides relief that is proportional to damages calculated by Class Counsel. Agreement §§ VI(5)(a), (b). Settlement Class Members are not required to submit a claim form to be eligible for a payment. *Id.*, Ex. A ¶ 8.

The settlement excludes employees who signed declarations affirming they received all required breaks or signed releases covering the claims at issue. *Id.* § VI(1)(e); Wolk Decl. ¶ 6.<sup>1</sup> Thus, the settlement only excludes individuals who confirmed they did not suffer the same violations as Proposed Class Members or have otherwise settled their claims.

Class Counsel will request service payments of \$500 for each class representative in recognition of their efforts on behalf of the Proposed Class, which included assisting counsel with the investigation, litigation, and amending complaints, identifying potential class members, and preparing for mediation. Agreement §§ VI(1)(n), VI(7); Wolk Decl. ¶ 11. Ms. Wright and Mr. Farnese attended the mediation and Ms. Tatarsky was available by phone. *Id.* Service payments “are intended to compensate class representatives for work undertaken on behalf of a class” and “are fairly typical in class action cases.” *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 943 (9th Cir. 2015) (citation omitted); *see also Probst v. State of Washington Dep’t of Ret. Sys.*, 150 Wn. App. 1062 (2009) (affirming payment of \$7,500 to named plaintiff). Plaintiffs’ support of the settlement is not conditioned on the Court awarding any amount or an award at all. Wolk Decl. ¶ 11. Thus, Plaintiffs’ adequacy as class representatives is unaffected by the proposed service payments, which are proportional to the relief obtained for the proposed class. The awards to Settlement Class Members range from \$4.76 to \$3,844.70. *Id.* ¶ 7.

The settlement also provides for a separate payment to Class Counsel for attorneys’ fees and litigation costs. Agreement § VI(6). Where a prevailing plaintiff is entitled to statutory

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<sup>1</sup> Nikole Barber is not excluded from the Proposed Class. Wolk Decl. ¶ 6.

1 fee shifting under the relevant statute, it is appropriate to use a lodestar calculation to  
2 determine an attorney fee award. *See Morgan v. Kingen*, 141 Wn. App. 143, 162, 169 P.3d 487  
3 (2007). Class Counsel are entitled to attorneys' fees and costs under RCW 49.48.030, RCW  
4 49.46.090, RCW 49.52.070, and SMC 14.20.090.

5 To date, Class Counsel have incurred approximately \$110,696 in fees and \$3,931.47 in  
6 costs, for which they have not been compensated, and will continue to incur fees and costs  
7 through final approval and settlement administration. Marshall Decl. ¶ 5; Wolk Decl. ¶ 31.  
8 Class Counsel will file a motion for court approval of an award of fees and costs of no more  
9 than \$62,000. Agreement § VI(6). Thus, Class Counsel's compensation will be limited to only a  
10 fraction of the time spent prosecuting this case. This fee request is reasonable because Class  
11 Counsel has prosecuted this case efficiently, secured an excellent recovery for the Proposed  
12 Class, and avoided significantly higher fees by limiting formal discovery and obtaining an early  
13 resolution of this case.

14 3. The settlement falls within the range of possible judicial approval.

15 Settlement Class Members will recover approximately 71% of unpaid wages for missed  
16 rest and meal breaks and unpaid time, which Class Counsel calculates to be \$45,626.56. Wolk  
17 Decl. ¶ 7. The damages calculations are based on Blue Ribbon's payroll data, which shows the  
18 total hours worked and wages earned each pay period. *Id.* Because reviewing hand-written  
19 timecards would have been prohibitively time-consuming and expensive, calculations are  
20 based on the assumption that Proposed Class Members missed all required rest and meal  
21 breaks and that Blue Ribbon automatically deducted thirty minutes of time from every shift  
22 over five hours. *Id.* Thus, recovery of 71% of potential unpaid wages is an excellent recovery,  
23 especially considering the possibility that some Settlement Class Members may have taken a  
24 portion of their breaks but did not record such breaks. *See, e.g., Rodriguez v. W. Publ'g Corp.*,  
25 563 F.3d 948, 964-66 (9th Cir. 2009) (approving settlement amount to thirty percent of  
26 estimated damages).

1 This settlement avoids any potential obstacles to recovery and provides relief to  
2 Settlement Class Members without further delay. First, although Plaintiffs and Class Counsel  
3 are confident this case is appropriate for class treatment, Blue Ribbon would have opposed  
4 class certification and likely argued that different policies applied to different employees.  
5 Plaintiffs recognize the risk that the Court would decline to certify the Proposed Class, leaving  
6 only the claims of the named Plaintiffs. Second, Blue Ribbon has denied liability and  
7 maintained that class members took required breaks even if those breaks were not recorded.  
8 Indeed, Blue Ribbon obtained over fifty declarations from employees asserting that they  
9 obtained all required breaks. This factual issue would present a challenge for Plaintiffs.

10 Third, Plaintiffs face a risk that a jury will award only a small fraction of the damages.  
11 Class Counsel's damages calculation is based on the assumption that Proposed Class Members  
12 missed all unrecorded rest and meal breaks. Wolk Decl. ¶ 7. But Blue Ribbon has argued its  
13 employees were able to take their breaks, even if they were unrecorded. *Id.* Interviews with  
14 employees revealed that while they were not able to take all required breaks, some were able  
15 to take a portion of their breaks. *Id.* ¶ 4. A jury could have found that only a small fraction of  
16 breaks or no breaks were missed.

17 Finally, continued litigation would also be expensive and time-consuming, requiring  
18 the parties to engage in formal discovery and depositions. Wolk Decl. ¶ 3. Plaintiffs would  
19 then need to move for class certification and each party would likely move for summary  
20 judgment. In addition, trial is always risky and even if Plaintiffs prevailed they would likely face  
21 an appeal. *See Nat'l Rural Telecommc'ns Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal.  
22 2004) ("The Court shall consider the vagaries of litigation and compare the significance of  
23 immediate recovery by way of the compromise to the mere possibility of relief in the future,  
24 after protracted and expensive litigation.") (citation omitted).

1 **C. Preliminary certification of the Settlement Class is appropriate.**

2 Preliminary certification of the Settlement Class for settlement purposes is appropriate  
3 under CR 23(a) and (b)(3).

4 1. The Settlement Class meets the requirements of CR 23(a).

5 To be certified, a class must meet the threshold requirements of CR 23(a): numerosity,  
6 commonality, typicality, and adequacy of representation. The numerosity requirement is  
7 satisfied because the Settlement Class consists of approximately 62 individuals. *See* CR  
8 23(a)(1); *Miller v. Farmer Bros. Co.*, 115 Wn. App. 815, 821, 64 P.3d 49 (2003). Commonality is  
9 satisfied when there is “a single issue common to all members of the class.” *Smith v. Behr*  
10 *Process Corp.*, 113 Wn. App. 306, 320, 54 P.3d 665 (2002). The common issues of law and fact  
11 include whether Blue Ribbon failed to provide hourly employees with required rest and meal  
12 breaks, failed to ensure that hourly employees took those breaks, and failed to pay hourly  
13 employees for all hours worked. *See* CR 23(a)(2). The typicality requirement is satisfied  
14 because Plaintiffs’ claims arise from the same course of conduct that gives rise to the claims of  
15 other Settlement Class Members and is based on the same legal theory. *See* CR 23(a)(3);  
16 *Pellino v. Brink’s Inc.*, 164 Wn. App. 668, 267 P.3d 383, 392 (2011).

17 The adequacy of representation requirement is satisfied because Plaintiffs’ interests  
18 are not antagonistic to the interests of the Settlement Class and the Settlement Class is  
19 represented by qualified counsel. *See Hansen v. Ticket Track, Inc.*, 213 F.R.D. 412, 415 (W.D.  
20 Wash. 2003). The settlement of the named Plaintiffs’ individual claims does not create a  
21 conflict of interest between Plaintiffs and the Settlement Class. Plaintiffs’ individual claims are  
22 distinct from the rest and meal break and unpaid time claims of the Proposed Class. Ms.  
23 Tatarsky separately settled claims that she was retaliated against for complaining about Blue  
24 Ribbon’s wage-and-hour policies for \$6,000. Second Amended Complaint ¶¶ 6.1-6.9; Wolk  
25 Decl. ¶ 12. Ms. Wright and Mr. Farnese settled claims that Blue Ribbon misclassified them as  
26 exempt from overtime and failed to provide overtime pay. Wolk Decl. ¶¶ 13-14. Blue Ribbon  
27 paid \$21,000 to Ms. Wright and \$2,000 to Mr. Farnese. *Id.* Plaintiffs intended to pursue the



1 misclassification claim on behalf of a proposed class, but Plaintiffs learned through discovery  
2 that only nine individuals were allegedly deprived of such overtime wages. Second Amended  
3 Complaint ¶¶ 5.12-5.13; Wolk Decl. ¶ 15. As a result, it would have been difficult for Plaintiffs  
4 to pursue the claim on a classwide basis, given the risk that the Court would decline to certify  
5 a class of only nine employees.

6 The named Plaintiffs vigorously advocated on behalf of the Proposed Class and  
7 accepted reduced individual settlement amounts in order to ensure a significant class  
8 recovery. For instance, Plaintiffs' counsel calculated Ms. Wrights' unpaid overtime damages to  
9 be \$52,151.90. Wolk Decl. ¶ 13. *Id.* But Ms. Wright settled her claim for only 40% of that  
10 amount. *Id.* By contrast, Settlement Class Members will receive approximately 71% of their  
11 calculated damages. Further, Plaintiffs' support of the class settlement was not contingent on  
12 the settlement of their individual claims. Wolk Decl. ¶ 16; *see Saucedo v. NW Mgmt. & Realty*  
13 *Servs., Inc.*, 290 F.R.D. 671, 683 (E.D. Wash. 2013) (holding class representatives who brought  
14 individual and class claims could adequately represent the class and noting that a conflict only  
15 arises where "the named representative's interest in pursuing individual claims undermines  
16 his or her incentive to vigorously prosecute the class-wide claims"); *Singer v. Becton Dickinson*  
17 *& Co.*, 08-CV-821-IEG (BLM), 2010 WL 2196104, at \*1 (S.D. Cal. June 1, 2010) (granting final  
18 approval of classwide settlement where parties separately settled the class representative's  
19 misclassification claim).

20 2. The Settlement Class meets the requirements of CR 23(b)(3).

21 CR 23(b)(3) requires that common questions predominate over any questions affecting  
22 only individual class members, and that a class action is superior to other available methods  
23 for the fair and efficient adjudication of the controversy. *Chavez v. Our Lady of Lourdes Hosp.*  
24 *at Pasco*, 190 Wn.2d 507, 514, 415 P.3d 224 (2018). Predominance is satisfied when "there is  
25 a common nucleus of operative facts in each class member's claim." *Id.* at 516. "The relevant  
26 inquiry is whether the issue shared by class members is the dominant, central, or overriding  
27

1 issue in the litigation.” *Id.* This requirement is satisfied because all Settlement Class Members  
2 were subject to the same alleged conduct by Blue Ribbon, namely, Blue Ribbon’s alleged  
3 failure to provide required breaks and automatic deduction of thirty minutes of pay for meal  
4 breaks regardless of whether employees took those breaks.

5 Resolution of 62 claims in one action is far superior to individual lawsuits and  
6 promotes consistency and efficiency of adjudication. *See* CR 23(b)(3); *Chavez*, 190 Wn.2d at  
7 518-23. This is especially true given the low value of each Settlement Class Members’ claim  
8 because one “primary function of the class action is to provide a procedure for vindicating  
9 claims that, taken individually, are too small to justify individual legal action but which are of  
10 significant size and importance if taken as a group.” *Chavez*, 190 Wn.2d at 514 (citation and  
11 marks omitted)

12 **D. The proposed notice program should be approved.**

13 When a certified class action is settled, “notice of the proposed dismissal or  
14 compromise shall be given to all members of the class in such manner as the court directs.”  
15 CR 23(e). To protect absent class member rights, class members should receive the best notice  
16 practicable regarding the settlement. *See* CR 23(c)(2). The best practicable notice is that which  
17 is “reasonably calculated, under all the circumstances, to apprise interested parties of the  
18 pendency of the action and afford them an opportunity to present their objections.” *Mullane*  
19 *v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

20 Proposed Class Members can be identified through Blue Ribbon’s records, which  
21 include each employee’s last known mailing and email addresses. Blue Ribbon will provide the  
22 Settlement Administrator with this information. Agreement § VI(8)(b). If the Court grants  
23 preliminary approval, the Settlement Administrator will send notice by mail and email. *Id.* §  
24 VI(8)(a). If any notice is returned as undeliverable, the Settlement Administrator will attempt  
25 to obtain an updated address and resend the notice. *Id.* § VI(9)(e). This approach will ensure  
26 direct notice reaches as many Proposed Class Members as possible. Proposed Class Members  
27

1 will have thirty days from the initial mailing of the notices to object to or opt out of the  
2 settlement. *Id.* §§ VI(1)(j), VI(9)(c)(2)-(3).

3 The language of the proposed notice is plain and easily understood. The notice  
4 provides all of the information needed to evaluate and respond to the settlement, including:  
5 (1) the nature of this litigation; (2) the general terms of the proposed settlement; (3) a  
6 statement of each class member's rights under the settlement, (4) an explanation of how class  
7 members can object to or exclude themselves from the settlement; (5) the identity of Class  
8 Counsel and that Class Counsel will seek payment of their attorneys' fees and costs; (6) the  
9 service payments that Class Counsel will seek for the named Plaintiffs; (7) the website created  
10 by Class Counsel; (8) a telephone number that class members can call with questions; and (9)  
11 the date and time of the final approval hearing. *Id.*, Ex A; *see also* Newberg § 8:17.

12 **E. Schedule for final approval.**

13 The last step in the settlement approval process is a fairness hearing at which the  
14 Court will make its final evaluation. Plaintiffs propose the following schedule:

15

Event	Deadline
Blue Ribbon to provide class list to Settlement Administrator	Within 21 days of preliminary approval order
Settlement Administrator to distribute notice	Within 30 days of preliminary approval order
Notice deadline (last day to submit requests for exclusion and objections)	30 days after notice distribution
Settlement Administrator to report on exclusions and objections	Within 14 days of notice deadline
Deadline for Plaintiffs to move for final approval and for fees and costs	Within 14 days of the notice deadline
Fairness hearing	To be set by the Court, but no fewer than 28 days after the notice deadline

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**VI. CONCLUSION**

Plaintiffs respectfully request that the Court grant their motion.

**VII. LCR 7(B)(5)(B)(VI) CERTIFICATION**

I certify that this brief contains 4,192 words in compliance with the Local Civil Rules.

RESPECTFULLY SUBMITTED AND DATED this 13th day of May, 2019.

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