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9  
10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN BERNARDINO**

12 YESENIA GUTIERREZ and KATHY CHAN,  
13 individually and on behalf of all others similarly  
situated,  
14 **Plaintiffs,**  
15 vs.  
16 ENVIRONMENTAL SYSTEMS RESEARCH  
17 INSTITUTE, INC., a California Corporation,  
18 **Defendant.**

Case No. CIVSB2300014

**PLAINTIFFS’ NOTICE OF MOTION AND  
MOTION FOR PRELIMINARY APPROVAL  
OF CLASS AND PAGA SETTLEMENT**

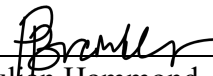
Date: June 9, 2025  
Time: 8:30 a.m.  
Dept: S26  
Judge: Hon. Christian Towns

1 NOTICE IS HEREBY GIVEN that, on June 9, 2025, at 8:30 a.m., or as soon thereafter as the  
2 matter may be heard, Plaintiffs Yesenia Gutierrez and Kathy Chan will and hereby do move this Court  
3 pursuant to Cal. Rules of Court, Rule 3.769, to enter the proposed Order filed herewith: (1) preliminarily  
4 approving the proposed class action settlement and finding that it is fair, adequate, and reasonable, and  
5 in the best interests of the absent class members; (2) preliminarily certifying the Classes, for  
6 settlement purposes only; (3) preliminarily appointing HammondLaw, P.C. as Class Counsel; (4)  
7 approving appointment of Settlement Services, Inc. as the settlement administrator; (5) approving and  
8 directing distribution of the proposed Class Notice to the settlement Classes and the procedures and  
9 schedule for submission of objections and requests for exclusion; and (6) setting a briefing schedule  
10 and date and time for a Final Approval Hearing.

11 This Motion is based upon this Notice of Motion; the Memorandum of Points and Authorities in  
12 Support hereof, Declaration of Plaintiffs' counsel Julian Hammond, Declaration of Plaintiff Yesenia  
13 Gutierrez, Declaration of Plaintiff Kathy Chan, Declaration of Defendant's counsel Alexandra P. Barlow,  
14 Declaration of Chris Nowlin, Declaration of Elizabeth Contreras-Martinez In Support of Cy Pres  
15 Distribution, the Proposed Order; the pleadings and prior filings in this case; and such other documentary  
16 and oral evidence or argument as may be presented to the Court at the hearing on this Motion.

17 Dated: May 15, 2025

Respectfully submitted,

19   
20 \_\_\_\_\_  
Julian Hammond  
Polina Brandler

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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
**COUNTY OF SAN BERNARDINO**

YESENIA GUTIERREZ and KATHY CHAN,  
individually and on behalf of all others similarly  
situated,  
  
Plaintiffs,  
  
vs.  
  
ENVIRONMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC., a California Corporation,  
  
Defendant.

Case No. CIVSB2300014

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS AND PAGA  
ACTION SETTLEMENT**

Date: June 9, 2025  
Time: 8:30 a.m.  
Dept.: S26  
Judge: Hon. Christian Towns

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## I. INTRODUCTION

Yesenia Gutierrez and Kathy Chan (“Plaintiffs”) seek preliminary approval of a non-reversionary \$4,910,000<sup>1</sup> settlement of their class and representative Private Attorneys’ General Act (“PAGA”) claims against Environmental Systems Research Institute, Inc. (“Defendant” or “Esri”) on behalf of approximately (1) 3,873 current and former California employees of Defendant subject to Defendant’s Bank Time Policy, whom Defendant classified as exempt at any time from November 15, 2018 to June 9, 2025<sup>2</sup> (“Alleged Misclassification Class”), and (2) 4,569 current and former California employees (exempt and non-exempt) of Defendant employed at any time from March 16, 2020 to June 9, 2025 (“Alleged Reimbursement Class”).<sup>3</sup> The Settlement Agreement is attached as Exhibit 1 to the Hammond Decl. The key financial terms of the settlement are as follows:

<b>Gross Settlement Amount</b>	<b>\$4,910,000.00</b>
Attorneys’ Fees	(up to \$1,636,666.67)
Litigation Costs	(up to \$50,000.00)
Settlement Administration Costs	(up to \$57,250.00)
General Release Payments to Plaintiffs	(up to \$15,000.00)
PAGA penalties	\$100,000.00
<b>Net Settlement Sum</b>	<b>\$3,051,083.33</b>
Employer-side payroll taxes (estimated)	\$128,145.50
Net Settlement Sum allocated to Misclassification Class (less employer-side payroll taxes)	\$2,007,612.83
Net Settlement Sum allocated to Reimbursement Class	\$915,325.00

<sup>1</sup> The Class and PAGA Settlement Agreement and Release (“Settlement Agreement” or “SA”) contains an escalator clause that, if triggered, allows Defendant to either pay an additional sum towards the Gross Settlement Amount (“GSA”) *or* to end the relevant class period(s) on an earlier date to avoid triggering the clause. SA § 4.12. Based on the data currently available, the escalator clause has been triggered as to both the Misclassification Class and the Reimbursement Class. Accordingly, if Defendant elects to pay an additional sum, the GSA will increase. The parties will update the Court at or before the hearing as to whether Defendant will elect to end the class periods earlier than June 9, 2025. Declaration of Julian Hammond (“Hammond Decl.”), filed herewith, ¶ 3, fn. 2.

<sup>2</sup> The Settlement Agreement provides that the class periods will end on “the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court”, which is June 9, 2025. SA §§ 2.3, 2.5. As discussed in fn. 1, above, the escalator clause allows Defendant to end either of the relevant periods on an earlier date.

<sup>3</sup> Approximately 4,199 of the Class Members are also Aggrieved Employees. SA §§ 2.34, 2.36.

1 The Settlement is a product of well-informed, arm’s-length settlement negotiations between  
2 experienced counsel, facilitated by a well-respected mediator, and preceded by extensive  
3 investigation and production of extensive informal discovery and class data. The Gross Settlement  
4 Amount represents 36% of Defendant’s realistic, risk-adjusted exposure (excluding PAGA), which  
5 is an excellent result in light of the many serious risks posed by continued litigation, including the  
6 risks of an adverse ruling on the misclassification theory, upon which all claims of the  
7 Misclassification Class Members hinge, as well as risks of non-certification and adverse findings on  
8 other merits issues. Class Members<sup>4</sup> will not be required to submit claim forms to receive payment.  
9 If approved, the Settlement will provide average recoveries to Alleged Misclassification Class  
10 Members (“Misclassification CMs”) of approximately \$887.43 gross and \$518.36 net, and to Alleged  
11 Reimbursement Class Members (“Reimbursement CMs”) of approximately \$322.39 gross, and  
12 \$200.33 net. Hammond Decl. ¶¶ 51-52. On a pay period basis, Misclassification CMs will receive  
13 approximately \$8.07 gross and \$4.71 net per pay period,<sup>5</sup> and Reimbursement Class Members will  
14 receive approximately \$3.33 gross and \$2.07 net per pay period.<sup>6</sup> *Id.*

15 For the reasons set forth below, the terms of the Settlement are fair and reasonable and satisfy  
16 the criteria for judicial approval. Accordingly, Plaintiffs respectfully request that the Court enter the  
17 proposed Order submitted herewith, which: grants preliminary approval of the Settlement,  
18 preliminarily certifies the Class for purposes of the Settlement, approves the content and form of the  
19 Class Notice and directs that notice be given to the Class Members, and schedules a hearing at which  
20 the Court will consider final approval of the Settlement.

## 21 **II. SUMMARY OF CLAIMS AND PROCEDURAL HISTORY**

### 22 **A. Parties and Pleadings**

23 Esri is a privately held geographic information systems (GIS) software developer  
24 headquartered in Redlands, California.<sup>7</sup> Esri offers a variety of GIS software products and services,  
25 including one of its best-known products – ArcGIS, the world’s leading ArcGIS mapping software.  
26 Esri’s software is used by thousands of companies, including 90% of Fortune 100 companies, as well

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27 <sup>4</sup> The Misclassification Class and Reimbursement Class and/or its members are together referred to  
28 herein as “Class Members” or “CMs.”

<sup>5</sup> Misclassification CMs worked a total of approximately 426,024 pay periods during the relevant  
period (November 20, 2018 to June 9, 2025). Hammond Decl. ¶ 51.

<sup>6</sup> Reimbursement CMs worked a total of approximately 442,560 pay periods during the relevant period  
(March 16, 2020 to June 9, 2025). Hammond Decl. ¶ 52.

<sup>7</sup> <https://www.esri.com/en-us/home>

1 as national, city and local governments, all 50 states, and 12,000 universities.<sup>8</sup> Plaintiffs and Class  
2 Members are employed by Esri in various areas, including engineering and design, solution  
3 engineering, information technology, business development, product management, finance and  
4 accounting. Hammond Decl. ¶ 10.

4 **B. Procedural Background and Claims Alleged**

5 On November 15, 2022,<sup>9</sup> Plaintiff Gutierrez filed this putative class action against Esri alleging  
6 that it: (1) failed to pay overtime wages at premium rates pursuant to Labor Code §§ 510, 1194 and  
7 Wage Order No. 4, § 3, (2) failed to pay all wages due upon termination pursuant to Labor Code  
8 §§ 201-203, (3) failed to issue accurate itemized wage statements pursuant to Labor Code § 226(a),  
9 (e), (4) failed to reimburse business expenses pursuant to Labor Code § 2802, and (5) unfair, unlawful,  
10 or fraudulent business practices pursuant to Bus. & Prof. Code §§ 17200 *et seq.* The original  
11 Complaint alleged the first three causes of action on behalf of allegedly misclassified computer  
12 software employees, and the fourth cause of action on behalf of all employees, whether exempt or  
13 non-exempt, for the failure to reimburse their home office business expenses incurred as a result of  
14 remote work during the COVID-19 pandemic. The fifth cause of action was alleged on behalf of all  
15 class members. Hammond Decl. ¶ 11.

15 On April 11, 2023, Gutierrez filed a First Amended Complaint adding Plaintiff Chan as a  
16 named plaintiff and adding a cause of action for civil penalties under the Labor Code's Private  
17 Attorneys General Act, Labor Code §§ 2698 *et seq.* ("PAGA"), pursuant to the initial and first  
18 amended PAGA notices. Hammond Decl. ¶ 12.

18 On January 9, 2023, Plaintiffs filed a second amended PAGA notice to include Chan as an  
19 alleged representative and to allege claims for (1) failure to pay overtime wages; (2) failure to pay all  
20 wages due upon termination; and (3) failure to issue accurate itemized wage statements, as alleged in  
21 the Complaint, on behalf of allegedly misclassified computer software employees. In or about  
22 October 2023, Plaintiffs informed Defendant that they would seek to amend their complaint to allege  
23 claims for unpaid overtime, failure to pay upon termination, and inaccurate wage statements on behalf

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24  
25 <sup>8</sup> <https://www.esri.com/en-us/about/about-esri/company>

26 <sup>9</sup> Due to issues with the filing service, Plaintiff Gutierrez did not receive conformed copies of her  
27 original complaint, assigned case number CIVSB2225691, until March 2023. Because of this,  
28 Gutierrez filed an identical complaint on January 4, 2023, in this case, case number CIVSB2300014.  
After conferring, Esri and Gutierrez agreed that the original Complaint would be dismissed and the  
Complaint in this case would be amended to extend the class period back to November 15, 2018,  
based on the original date of filing. SA § 1.2.

1 of all employees (not just computer software employees) subject to the Bank Time Policy. Hammond  
2 Decl. ¶ 13.

3 On April 17, 2024, Plaintiffs filed a third amended PAGA letter, seeking to represent all Esri  
4 employees classified as exempt in the State of California who have been paid allegedly on an hourly  
5 basis pursuant to their offer letters and Esri Bank Time Policy and adding claims for meal and rest  
6 break violations. *Id.* ¶ 14. On February 25, 2025, as part of the settlement and pursuant to the parties'  
7 stipulation, Plaintiffs filed a Second Amended Complaint adding claims based on the allegations and  
8 theories set out in Plaintiffs' third amended PAGA letter, including the addition of claims for alleged  
9 failure to provide meal breaks and alleged failure to permit and authorize rest breaks. *Id.* ¶ 15.

10 **C. Discovery, Investigation, and Settlement Efforts**

11 The parties engaged in extensive informal discovery that informed their settlement  
12 discussions. Defendant produced the personnel files of both Plaintiffs and three other employees,  
13 including their offer letters and wage statements, Esri's Bank Time Policy, Employee Handbooks, and  
14 an excel spreadsheet showing, for each putative Class Member, the following information for the  
15 period from November 15, 2018 through to July 15, 2024: his/her job title; hire date; termination date,  
16 if any; annualized salary; gross wages earned; effective hourly rate; bank hours accrued; and bank  
17 hour remaining as of the end of the year (positive or negative). Defendant's counsel also represented  
18 that if an employee had a negative bank balance in December or February, when Esri pays out unused  
19 banked hours for the previous year, the negative bank balances were forgiven and no deductions were  
20 made from the employee's paycheck. Hammond Decl. ¶¶ 18-19.

21 Based on Plaintiffs' analysis of the spreadsheet, Plaintiffs were able to calculate the number  
22 of Misclassification CMs the number of pay periods they worked during the relevant period, and the  
23 number of pay periods they worked remotely from home. *Id.* ¶ 19. In addition, Defendant provided  
24 the class size for all the Reimbursement CMs and the number of pay periods they worked remotely  
25 from home. *Id.* Defendant also provided Esri's office furniture expense reimbursement policy, the  
26 number of Reimbursement CMs who submitted reimbursement requests pursuant to that policy and  
27 the dollar amount Esri reimbursed them, and Esri's communications regarding its COVID-19 office  
28 closures and reopening. *Id.*

Plaintiffs' counsel also conducted their own research and investigation, gathered and reviewed  
publicly available documents about Esri, conducted online surveys of current and former employees  
(to which they received over 70 responses), conducted detailed interviews of several survey  
respondents and gathered additional documents from them. *Id.* ¶¶ 16-17.

1 The parties participated in a private mediation on October 1, 2024 with the assistance of a  
2 well-respected and skilled mediator Stephanie Chow. Prior to the session, Plaintiffs provided to the  
3 mediator and to the Defendant a detailed brief supported by the evidence obtained as part of informal  
4 discovery and through Plaintiffs’ counsel’s own research and investigation. The parties did not reach  
5 an agreement after the mediation session, and the mediator made a mediator’s proposal, which was  
6 ultimately accepted by the parties. Following the mediation, the parties agreed to settle the case on  
7 the terms memorialized in the Settlement Agreement. Hammond Decl. ¶¶ 20-23.

7 **D. Related Cases**

8 There were previously two related actions pending—an individual action in the San  
9 Bernardino Superior Court and a class action in Riverside County Superior Court. The individual  
10 case, styled *Arnold Castano v. Environmental Systems Research Institute, Inc.*, Case No.  
11 CIVSB2417865 (May 21, 2024, San Bernardino Cnty. Sup. Ct.), was dismissed with prejudice on  
12 December 17, 2024. Hammond Decl. ¶ 6. The plaintiff in the class action, styled *Laura Provonsha*  
13 *v. Environmental Systems Research Institute, Inc.*, Case No. CVRI2401687 (March 28, 2024  
14 Riverside Cnty. Sup. Ct.), filed an amended complaint carving out the claims alleged in the instant  
15 case from her complaint. Accordingly, *Provonsha* is no longer a related case. *Id.*

15 **III. SUMMARY OF SETTLEMENT TERMS**

16 The proposed settlement involves all claims of the Plaintiffs and Class Members against Esri,  
17 as set forth in the Second Amended Complaint. The details of the settlement are contained in the  
18 proposed Settlement Agreement, and a summary of the settlement terms is as follows:

19 1. Settlement Classes – The Settlement classes are defined as follows: The “Alleged  
20 Misclassification Class” is defined as “all current and former employees of Defendant in the State of  
21 California subject to Defendant’s Bank Time Policy and whom Defendant classified as exempt at any  
22 time from November 15, 2018 to [June 9, 2025].” The “Alleged Reimbursement Class” is defined  
23 as “all current and former employees (whether exempt or non-exempt) of Defendant in the State of  
24 California from March 16, 2020 to [June 9, 2025].”<sup>10</sup>

25 2. Gross Settlement Amount (“GSA”) – Esri will pay \$4,910,000, inclusive of  
26 employer’s-side payroll taxes arising from the wages portion of the settlement of Misclassification  
27 CMs. General Release Payments to the Plaintiffs, attorneys’ fees and litigation costs, and

27 <sup>10</sup> The relevant periods of the Settlement Classes are subject to an escalator clause, which allows  
28 Defendant to end either of the relevant periods on an earlier date if the escalator clause is triggered.  
*See* discussion at fn. 1, *supra*.

1 administration costs, subject to approval by the Court, will be deducted from the GSA. SA § 2.24.  
2 Plaintiffs are requesting that the Court award a total of \$15,000 in incentive awards (\$7,500 to  
3 Plaintiff Gutierrez, and \$7,500 to Plaintiff Chan) for their efforts and time spent on behalf of the  
4 Classes and for the general release into which they are entering as part of the settlement. SA § 3.6.  
5 Plaintiffs are also requesting that the Court award Plaintiffs' counsel out of pocket litigation costs of  
up to \$50,000 and attorneys' fees in the amount of \$1,636,666.67 - one-third of the GSA. SA § 3.5.

6 3. PAGA Settlement Amount – The Settlement allocates \$100,000 to the PAGA claim.  
7 SA § 2.37. The LWDA will be paid 75% of that amount and the remaining \$25,000 (“PAGA Fund”)  
8 will be paid on a pro-rata basis to the PAGA Group Members as follows: seventy (70%) percent of  
9 the PAGA Fund will be paid pro-rata to the members of the Alleged Misclassification PAGA Group<sup>11</sup>  
10 and thirty (30%) percent will of the PAGA Fund will be paid pro-rata to the members of the Alleged  
Reimbursement PAGA Group.<sup>12</sup> SA §§ 2.33, 2.37.

11 4. Net Settlement Sum (“NSS”) – The NSS is approximately \$3,051,083.33. Hammond  
12 Decl. ¶ 48. This is the amount remaining after subtracting from the GSA attorneys' fees, costs,  
13 general release payments to Plaintiffs, withholdings and taxes (from the portion of the NSS allocated  
14 to the Misclassification CMs), settlement administration costs, and the PAGA Settlement Amount.  
15 The employer-side payroll taxes are estimated to be \$128,145.50. Hammond Decl. ¶ 48.

16 5. Calculation of Individual Settlement Awards - The NSS will be allocated as follows:  
17 70% to the Misclassification Class (including withholdings and taxes); 30% to the Reimbursement  
18 Class. Each portion will be distributed among the members of each Class on a pro-rata basis based  
on the number of pay periods worked during the relevant period. SA § 4.5.

19 6. Class Notice – Within 15 business days of preliminary approval, Defendant will  
20 provide the Administrator with the information regarding Class Members necessary for the mailing  
21 of the Notice. SA § 4.2.1. Within 10 business days of receiving Class Data, and after updating the  
22 addresses, the Administrator will mail each Class Member a Notice substantially in the form attached  
23 as Exhibit A to the Settlement Agreement. SA § 4.2.3. For all returned Notices, the Settlement

24 \_\_\_\_\_  
25 <sup>11</sup> Alleged Misclassification PAGA Group means all current and former employees of Defendant in  
26 the State of California subject to Defendant's Bank Time Policy and whom Defendant classified as  
exempt at any time from February 5, 2022 to the date on which Plaintiffs' motion for Preliminary  
27 Approval is first scheduled to be heard by the Court. SA § 2.4.

28 <sup>12</sup> Alleged Reimbursement PAGA Group means all current and former employees of Defendant in the  
State of California from February 5, 2022 to the date on which Plaintiffs' motion for Preliminary  
Approval is first scheduled to be heard by the Court. SA § 2.6.

1 Administrator (Settlement Services, Inc.) will initiate a second mailing after skip tracing. *Id.*

2 7. Automatic Participation – The Settlement is non-reversionary, and each Class Member  
3 will automatically receive his/ her share of the NSA, unless he/ she opts out. SA §§ 4.3.5, 4.8.4.  
4 Each PAGA Group Member will receive a share of the PAGA Fund even if they opt out of the class  
5 settlement. SA §§ 4.3.8.

6 8. Opting Out or Objecting – CMs who wish to opt out must send a written Request for  
7 Exclusion to the Settlement Administrator within 45 calendar days of the date the Notices are mailed.  
8 SA §§ 2.49, 4.3. Any Class Member who properly requests to opt out will not be entitled to receive  
9 any payment under and will not be bound by the Settlement, except that they will still receive their  
10 share of PAGA Penalties and be bound by the release of PAGA claims. SA §§ 4.3.4, 4.3.8.  
11 Alternatively, a Class Member may object to the Settlement by sending the Settlement Administrator  
12 a written statement objecting to the Settlement or by appearing at the final approval hearing and  
13 making an oral objection. SA § 4.4.

14 9. Tax Consequences of Settlement Payments – For tax purposes, Settlement payments  
15 made to the Misclassification CMs will be treated as 40% wages and 60% as interest, penalties, and  
16 non-wage damages. Settlement payments made to the Reimbursement CMs will be treated as non-  
17 wage damages. SA § 4.6.1. PAGA payments will be allocated as penalties. SA § 4.6.2.

18 10. Uncashed Checks – Settlement checks not cashed within 180 days of the date of  
19 mailing will be voided and funds will be tendered to Child Advocates of San Bernardino County  
20 (CASA) as *cy pres* recipient under Cal. Code of Civ. Proc. § 384. SA § 4.8.3.

21 11. Scope of Release – Settlement CMs will release all claims alleged or that could have  
22 been alleged against Defendant based on the facts set out in the Complaints and PAGA Notices, as  
23 set out in SA §§ 2.45, 5.4, 5.5. Specifically, “for the Settlement Class Members of the Alleged  
24 Misclassification Class, released claims include, without limitation, claims under Labor Code  
25 sections 201-203, 226, 226(a), 226(e), 226.7, 510, 512, 1194, and 2698 et seq.; Business and  
26 Professions Code section 17200 et seq.; and Code of Civil Procedure section 1021.5. For the  
27 Settlement Class Members of the Alleged Reimbursement Class, released claims include, without  
28 limitation, claims under Labor Code sections 2802 and any derivative claims; Business and  
Professions Code section 17200 *et seq.*; and Code of Civil Procedure section 1021.5.” SA § 2.45.

#### 26 **IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS MERITED**

27 When a negotiated class action settlement is reached prior to certification, the Court may  
28 approve certification of a provisional settlement class. Cal. Rules of Court, Rule 3.769(d). A class  
is certifiable if (1) it is ascertainable and sufficiently numerous; (2) there is a well-defined community

1 of interest; and (3) a class action would be a superior method of adjudication. *Brinker Rest. Corp. v.*  
2 *Super. Ct.*, 53 Cal. 4th 1004, 1021 (2012).

3 **A. The Class Is Ascertainable and Sufficiently Numerous**

4 CMs here are “ascertainable” because they may be readily identified from Esri’s records. *See*  
5 *Reyes v. Bd. of Supervisors*, 196 Cal. App. 3d 1263, 1271 (1987); *Noel v. Thrifty Payless, Inc.*, 7 Cal.  
6 5th 955, 986 n.15 (2019). The Class is sufficiently numerous with approximately 3,873  
7 Misclassification CMs and approximately 4,569 Reimbursement CMs. Hammond Decl. ¶ 3.

8 **B. A “Community of Interest” Exists Among CMs**

9 The “community of interest” requirement has three factors: (1) common questions of law or  
10 fact that predominate; (2) class representatives with typical claims; and (3) class representatives who  
11 can adequately represent the class. *Fireside Bank v. Super. Ct.*, 40 Cal. 4th 1069, 1089 (2007).

12 **1. Common Questions of Law and Fact Predominate**

13 Where the defendant employer’s policies or conduct is uniformly directed at a class or classes  
14 of employees, as Plaintiffs contend it is here, the class-wide impact of the defendant’s policies  
15 satisfies the commonality requirement. *See Sav-On Drugs Stores, Inc. v. Super. Ct.*, 34 Cal. 4th 319,  
16 331 (2004) (upholding class certification, where the common issue was whether the employer  
17 properly classified grocery store managers as exempt from California’s overtime requirements).

18 Plaintiffs challenge Defendant’s compensation scheme and expense reimbursement policies,  
19 which Plaintiffs contend raise common questions of law and fact: whether Esri’s Bank Time Policy  
20 allowed for reductions in pay based on hours worked such that Esri lost the ability to properly classify  
21 Misclassification CMs as non-exempt employees; whether Esri could classify Misclassification CMs  
22 as exempt if, as matter of practice, Esri never reduced pay based on hours worked even if Esri’s Bank  
23 Time Policy allowed for such reduction; whether Reimbursement CMs incurred necessary and  
24 reasonable business expenses as a result of working remotely from home; and whether Defendant  
25 was required to reimburse them.

26 **2. Plaintiffs’ Claims Are Typical**

27 Plaintiffs contend that their claims are similar to those of all Misclassification CMs they seek  
28 to present because they were subject to the same Bank Time Policy, received the same standardized  
wage statements, and were subject to the same work from home and expense reimbursement policies,  
and, as a result, suffered the same types of injury, and seek the same types of relief as the members  
of the Classes. *See Seastrom v. Neways, Inc.*, 149 Cal. App. 4th 1496, 1502 (2007); Declaration of  
Kathy Chan (“Chan Decl.”), filed herewith, ¶¶ 2-6; Declaration of Yesenia Gutierrez (“Gutierrez  
Decl.”), filed herewith, ¶¶ 2-5.



1 complexity and likely duration of further litigation; (3) the risk of maintaining class action status  
2 through trial; (4) the extent of discovery completed and the stage of the proceedings; (5) the experience  
3 and views of counsel; and (6) the reaction of the class members to the proposed settlement. *Kullar v.*  
4 *Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116 (2008). Indeed, a settlement is initially “presumed to  
5 be fair” when (1) it “is reached through arm’s-length bargaining; (2) investigation and discovery are  
6 sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar  
7 litigation; and (4) the percentage of objectors is small.” *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43,  
8 52 (2008) (quoting *Dunk*, 48 Cal. App. 4th at 1802).

8 **1. The Settlement Was a Product of Informed, Non-Collusive Negotiations**

9 The settlement is the result of hard-fought extensive settlement negotiations between the  
10 parties, conducted at arm’s length, and informed by substantial factual and legal investigation.  
11 Plaintiffs and the Class have been represented by experienced counsel, who have successfully litigated  
12 numerous similar wage and hour class actions, and who litigated one such class action all the way  
13 through verdict and appeal – an exceedingly rare occurrence. Plaintiffs’ Counsel have been approved  
14 as adequate class counsel by federal and state courts. Hammond Decl. ¶¶ 7, 16-22. Class Counsel  
15 have spent a considerable amount of time prosecuting this case, including drafting multiple pleadings;  
16 conducted extensive investigation including reviewing publicly available documents and information  
17 concerning Defendant; surveying Class Members, and conducting detailed interviews of several  
18 respondents including gathering documents from them. Class Counsel also conducted extensive  
19 research of applicable law including an in-depth analysis of case law and United States Department  
20 of Labor and California Industrial Relations opinion letters regarding bank time policies, salary basis,  
21 and computer software exemption requirements; developed theories of the case; met and conferred  
22 with Defendant’s counsel regarding informal discovery and data needed to evaluate class claims for  
23 settlement; retained an expert to analyze data and documents produced by Defendant; and prepared a  
24 detailed mediation statement that included factual, legal, and damages analysis. After the parties  
25 agreed on a settlement in principle, Class Counsel engaged in post-mediation negotiations, including  
26 negotiating the terms of the Memorandum of Understanding and ultimately negotiating the settlement  
27 agreement and related documents. *Id.* ¶¶ 16, 19-23, 62.

25 **2. The Settlement Amount is Fair and Reasonable Considering Potential  
26 Recovery and the Risks of Litigating this Case**

27 Comparison of the extent of the class recovery to the strength of Plaintiffs’ case is the most  
28 important factor in analyzing the fairness of the settlement. *Kullar*, 168 Cal. App. 4th at 130. Based  
on the data produced by Defendant, Plaintiffs were able to establish a maximum theoretical exposure

1 for this case of approximately \$66 million. Although Plaintiffs believe that the CMs have strong  
2 claims, Plaintiffs recognize that they faced considerable risks on both the merits and certification and  
3 applied various discounts for settlement purposes, based on Defendant’s actual and potential defenses.  
4 Based on Plaintiffs’ analysis, the GSA here represents 36% of Defendant’s realistic, risk-adjusted,  
5 exposure on all class claims. Hammond Decl. ¶ 47.

6 The allocation of the settlement funds between the two sets of claims (unpaid wages and  
7 related claims and unreimbursed expenses) is reasonable and corresponds to the realistic value of each  
8 set of claims. Misclassification CMs will receive an average (pre-tax) award of approximately  
9 \$518.36 net and Reimbursement CMs will receive an average (pre-tax) award of \$200.33 net. For  
10 individuals who are members of both Classes, the average (pre-tax) awards will be \$718.69 net. These  
11 amounts are eminently reasonable given the material and substantial risks Plaintiffs faced of losing  
12 on the misclassification claim (which was the basis for all the claims except for the reimbursement  
13 claim), the risk of losing class certification, and the degree of risk involved in further litigation, as  
14 explained below.

15 **a. Claims Alleged on Behalf of the Misclassification Class and Risks**

16 Under California law, for employees to maintain their exempt status, they must be paid on a  
17 salary basis, save a few exceptions. *See* Lab. Code § 515(a)-(c); Wage Order No. 4, § 1(A)(2)(g),  
18 (3)(d). Under the “salary basis” test, an employee must “receive his full salary for any week in which  
19 he performs any work” and his salary may “not [be] subject to reduction” based on “quality or  
20 quantity of the work performed.” 29 C.F.R. § 541.118(a); *see also Negri v. Konig & Associates*, 216  
21 Cal. App. 4th 392, 397-98 (2013) (looking to federal law for the definition of “salary”); *Rhea v.*  
22 *General Atomics*, 227 Cal. App. 4th 1560, 1567-1568 (2014) (“because California law was patterned  
23 to some extent on federal law, the general approach in interpreting California law has been to use the  
24 federal salary basis test...”).

25 **i. Risks Inherent in Plaintiffs’ Underlying Misclassification Theory**

26 Plaintiffs’ claims alleged on behalf of the Misclassification Class are premised on the theory  
27 that Esri’s Bank Time Policy, which applied to the members of the Misclassification Class, violated  
28 the salary basis because it allowed pay to be reduced based on quantity of the work performed.  
Specifically, pursuant to the policy, Misclassification CMs were required to record and report their  
hours worked each week. Any hours worked over forty in a given week were banked as “comp” time  
for future use. If an employee worked fewer than forty hours in a given week, banked hours were  
used to make up the difference. If no banked hours were available, the employee would incur a  
negative bank balance. For example, if an employee worked 36 in a week, they would either need to

1 use four hours of banked time or face a negative balance of four hours. This negative balance would  
2 be offset in a subsequent week if the employee worked overtime, effectively cancelling out the deficit.  
3 With respect to negative balances, the Bank Time Policy stated that if an employee had a negative  
4 bank balance at the end of the year (or when bank time was balanced by Esri), the employee had to  
5 discuss it with his supervisor. Plaintiffs' theory of misclassification was grounded in this provision,  
6 as it formed the basis of Plaintiffs' argument that the Bank Time Policy made Misclassification CMs'  
7 pay subject to deductions by not automatically forgiving any negative balances. Hammond Decl. ¶¶  
8 24-25. Plaintiffs thus allege that by violating the salary basis test, Esri lost the ability to classify these  
9 employees as exempt. In addition, Plaintiffs allege that even those members of the Misclassification  
10 Class who were employed as computer software employees and could be classified as exempt while  
11 being paid on an hourly basis, still were not properly classified as exempt because they were not paid  
12 enough to meet the minimum pay requirements of the computer software exemption. *See* Wage Order  
13 No. 4, § 1(A)(3)(h). Hammond Decl. ¶ 26.

14 Based on their theory that Esri misclassified its employees as exempt, Plaintiffs allege that  
15 Esri was required, but failed, to: (1) pay overtime wages at the premium overtime rate, (2) provide  
16 off-duty meal and rest breaks, (3) issue accurate itemized wage statements, and (4) pay all wages due  
17 at the time of discharge from employment.

18 Defendant strongly denied the merits of Plaintiffs' misclassification claim. While the Bank  
19 Time Policy required Misclassification CMs to discuss their end-of-the-year negative bank balances  
20 with their supervisors, Defendant asserted that, as a matter of practice, it consistently forgave any  
21 negative balances. Defendant maintained that it never reduced pay based on the amount of work  
22 performed and instead always guaranteed a predetermined, weekly salary that exceeded the minimum  
23 salary required for exemption under both California state and federal law. Defendant pointed out that  
24 neither Plaintiff had ever had their pay reduced, and stated that review of all Misclassification CMs'  
25 pay records would show that employees consistently received the same pay each week. Hammond  
26 Decl. ¶ 27.

27 Finally, Defendant argued that Plaintiffs misunderstood the nature of its compensation  
28 system, which does not make deductions based on the number of hours worked, but rather rewards  
hard working employees with additional pay for hours worked over forty in week that it is not  
otherwise obligated to provide. *Id.* ¶ 28. Defendant's position found some support in case law. In  
*Coates v. Dassault Falcon Jet Corp.*, 961 F.3d 1039, 1043 (8th Cir. 2020), for example, the Eight  
Circuit explained that "the exemption is not lost if an exempt employee who is guaranteed [the  
minimum weekly salary amount] also receives additional compensation based on hours worked for

1 work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g. ...  
2 straight-time hourly amount ...), and may include paid time off.’ § 541.604(a).” The Eight Circuit  
3 further explained that “[e]mployers ‘may take deductions from [salaried employee] leave accounts”  
4 and may require exempt employees “to record and track hours,” so long as the employee’s  
5 predetermined salary is not reduced.” *Id.*, citing *Ellis v. J.R.’s Country Stores, Inc.*, 779 F.3d 1184,  
6 1200 (10th Cir. 2015). (citations omitted). And, “[a]n employer using an hourly-based payroll system  
7 may be entitled to summary judgment if there is no evidence of an actual practice of reducing the  
8 guaranteed minimum salary of exempt employees, and undisputed evidence shows that no exempt  
9 employee was paid less than this amount.” *Id.* at 1045.

10 Plaintiffs calculated Defendant’s maximum potential exposure on the claims alleged on behalf  
11 of the Misclassification Class and the realistic exposure based on Defendant’s actual and potential  
12 defenses to these claims, including defenses discussed above, as follows.

13 ii. Risks on the Overtime Claim

14 Based on the data provided by Defendant, Plaintiffs calculated Defendant’s maximum  
15 potential exposure for unpaid overtime as \$19,252,300. Hammond Decl. ¶¶ 30-31. However,  
16 Plaintiffs could not identify any instances of pay deductions based on negative bank balances, and  
17 Defendant asserted that no such deductions were made. Defendant also contended that Plaintiffs  
18 would not be able to certify this or their other claims. Plaintiffs believed that their claim had merit,  
19 but they recognized that even if they were able to certify the overtime claim, they faced a material  
20 and substantial risk of losing on the merits. For settlement purposes, Plaintiffs applied a 20% discount  
21 for the risk on class certification based on the potential that a court would find that different exemption  
22 defenses applied to different employees or that some employees had potentially inflated hours,  
23 particularly during the pandemic when they worked from home, and a further 70% discount for the  
24 risk of losing on the misclassification issue, reducing Defendant’s exposure to **\$4,620,552**.  
25 Hammond Decl. ¶ 32.

26 iii. Risks on the Meal and Rest Break Claims

27 Based on the data provided by Defendant, Plaintiffs calculated Defendant’s maximum  
28 exposure to the claims for missed meal and rest breaks, for settlement purposes, based on Plaintiffs’  
estimate that Esri owed at least one premium pay for each week during which a Misclassification  
Class Member worked. On that basis, Plaintiffs calculated unpaid premium pay to be \$20,762,279.64.  
Hammond Decl. ¶ 34. Defendant argued that Plaintiffs would lose on certification because a lack of  
a written meal/rest break policy alone, without a showing of an actual practice of denying breaks, is  
insufficient to certify meal and/or rest breaks claims. *See e.g. Dailey v. Sears, Roebuck and Co.*, 214

1 Cal. App. 4th 974, 1001-1002 (2013) (“the absence of a formal written policy explaining [putative  
2 class members’] rights to meal and rest periods does not necessarily imply the existence of a uniform  
3 policy or widespread practice of either depriving these employees of meal and rest periods or  
4 requiring them to work during those periods.”); *see also Cortes v. Market Connect Group, Inc.*, 2015  
5 WL 5772857, at \*6 (S.D. Cal. Sept. 30, 2015) (denying certification on a meal and rest break claim  
6 where plaintiff failed to produce evidence that defendant’s facially invalid policy actually reflected  
7 defendant’s in-store practice of implementing compliant meal and rest breaks). Moreover, Defendant,  
8 again, argued that Plaintiffs could not win these claims on the merits simply because Misclassification  
9 Class Members were paid a salary and were properly classified as exempt, and, as exempt employees,  
10 were not entitled to meal and/or rest breaks. Based on these arguments, Plaintiffs applied a 70%  
11 discount to the maximum exposure based on the risk of losing on the misclassification issues, a further  
12 50% discount for the risk of losing class certification and on the merits of the meal/ rest break claims  
if evidence showed that Class Members could freely take breaks, reducing Defendant’s realistic  
potential exposure to **\$3,114,341.95**. Hammond Decl. ¶ 35.

13 iv. Risks on the Wage Statement and Waiting Time Penalties Claims

14 Plaintiffs’ wage statement and waiting time penalties claims hinge on Plaintiffs’  
15 misclassification theory, and both claims are entirely derivative of Plaintiff’s overtime and meal and  
16 rest breaks claims. For settlement purposes, Plaintiffs calculated Defendant’s exposure to the wage  
17 statement penalties under Labor Code § 226(e) as \$11,565,538.95 and to the waiting time penalties  
18 under Labor Code § 203 as \$4,231,200. Hammond Decl. ¶ 38. Plaintiffs applied the following  
19 discounts for the risks Plaintiffs faced on both claims: a minimal 10% discount for the risk of losing  
20 on class certification, and a further 70% discount for the risk of losing on the misclassification issue.  
21 Plaintiffs also applied a further 50% discount based on Defendant’s good faith defense that it  
22 classified Misclassification CMs as exempt in good faith and any violation of § 226(a) or § 203 was  
23 not knowing and intentional, thus negating any liability. *Naranjo v. Spectrum Security Services, Inc.*,  
24 88 Cal. App. 5th 937, 944-951 (2023) (holding that a good faith dispute/defense precludes a “knowing  
25 and intentional” violation finding necessary for an award of penalties under § 226(e) and § 203);  
26 *Barnhill v. Roberts Saunders & Co.*, 125 Cal. App. 3d 1, 8-9 (1981) (an employer’s failure to pay  
27 wages is not “willful” if the legal duty to pay them was unclear at the time of the violation). Thus,  
28 Plaintiffs calculated Defendant’s potential exposure on these claims as **\$2,132,559.76** (\$1,561,347.76  
+ \$571,212.00). Hammond Decl. ¶¶ 39-40.

**b. Claims Alleged on Behalf of the Reimbursement Class and Risks**

1 As a result of the COVID-19 pandemic and the state of emergency declared in California,  
2 Defendant began requiring and/or expecting its employees to work remotely from home beginning  
3 on or about March 16, 2020. According to the documents provided by Defendant, Esri's main office  
4 in Redlands, California reopened in January 2022 and employees were permitted to return to work  
5 from the office on a voluntary basis. Hammond Decl. ¶ 41. Plaintiffs alleged, however, that many  
6 of the employees continued to work remotely from home at least on a hybrid basis. *Id.* Plaintiffs  
7 allege that as a result of working remotely, Defendant's employees paid out of pocket for their home  
8 internet and cell phone service in order to carry out their job duties, yet Defendant did not reimburse  
9 them for these out-of-pocket expenses in violation of Labor Code § 2802. *Id.* Plaintiffs calculated  
10 Defendant's maximum potential exposure for unreimbursed expenses as \$10,502,405.02  
(\$7,596,006.28 for the period between March 2020 and January 2022, and \$2,906,398.74 for the  
11 period after January 2022). *Id.* ¶ 42.

12 Defendant contended that any expenses incurred after January 2022 were not compensable as  
13 they were not necessary or reasonable (*see* Lab. Code § 2802(a), (c)) because all Reimbursement  
14 CMs could return to work from the offices, and any employee who chose not to did so out of his or  
15 her own convenience, not because Defendant required and/or expected them to. Defendant also  
16 argued that even before January 2022, and for most of the time after March 2020, Reimbursement  
17 CMs would work from the office because, unlike other employers, Defendant's California office in  
18 Redlands remained open and available to employees to work from. Hammond Decl. ¶ 43. Defendant  
19 also argued that it provided company phones to employees who wanted them and that those phones  
20 came equipped with wifi, which Reimbursement CMs could use to connect to the internet at home,  
21 in addition to make work calls. *Id.* Defendant also could have argued that Reimbursement CMs'  
22 work-related mobile phone usage was minimal, and that Plaintiffs' estimate of unreimbursed monthly  
23 expense was overinflated. *Id.* Finally, Defendant pointed to the fact that it provided reimbursement  
24 for home office furniture and that over 2,000 Reimbursement CMs (of the 3,300 who worked during  
25 height of the pandemic from March 2020 to January 2022), requested such reimbursement. Pursuant  
26 to these requests, Defendant paid \$459,485.90 in reimbursements. *Id.*

27 Defendant also argued that Plaintiffs would not be able to certify this claim because  
28 determining which employees incurred expenses, and whether those expenses were reasonable and  
necessary, would require individualized inquires. Defendant also disputed whether remote work was  
required or voluntarily chosen by employees for their own convenience. Finally, Defendant also could  
have argued that many employees moved out of state during the pandemic (e.g. to live with their  
parents, or extended families out of state) which would lead to further individualized inquiries

1 regarding where the employee was located, and whether the employee qualified for reimbursement  
2 under Labor Code § 2802. Hammond Decl. ¶ 44.

3 Based on Defendant’s actual and potential arguments discussed above, Plaintiffs applied a  
4 40% discount for the certification risk, and a further 40% discount for the merits risk. This reduced  
5 Defendant’s realistic damages on this claim to \$3,780,865.81. *Id.* ¶ 45. Plaintiffs applied no reduction  
6 to their estimated damages for the approximately \$500,000 that Defendant paid out in reimbursement  
7 because these reimbursements were for home office furniture and not ongoing home internet and  
8 mobile phone expenses. *Id.*

9 **c. The Allocations Between the Two Classes is Fair and Appropriate**

10 The allocation of the Settlement funds (70/30) between the Misclassification Class and the  
11 Reimbursement Class is fair and reasonable and is based on the realistic value of the claims of each  
12 Class. The realistic exposure on the claims of the Misclassification Class represents approximately  
13 72.3% of the total realistic exposure,<sup>13</sup> and realistic exposure on the claims of the Reimbursement  
14 Class represents approximately 27.7% of Defendant’s total realistic exposure.<sup>14</sup> *Id.* ¶ 49.

15 **3. The Amount Allocated to PAGA Penalty is Fair and Adequate**

16 Plaintiffs calculate Defendant’s maximum potential liability for PAGA penalties (based on  
17 court’s discretion) as approximately 2.86 million (10% of the maximum available penalties calculated  
18 at \$100 penalty for each pay period during the PAGA Period). Hammond Decl. ¶ 54; *see e.g.*  
19 *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529 (2018) (reducing PAGA penalties to 10%,  
20 based on “good faith attempts” to comply with meal break obligations); *see also* Jennifer Kramer, et  
21 al. “PAGA At 20: What Happens When Cases Go To Trial?” (2024) (analyzing 70 judgments in  
22 PAGA cases and finding that the median amount of penalties awarded was just 6.6% of the median  
23 requested).<sup>15</sup> The \$100,000 allocated to PAGA penalties represents approximately 3.5% of  
24 Defendant’s potential exposure to PAGA penalties. Hammond Decl. ¶ 55.

25 This allocation is fair and reasonable for several reasons. First, the overall settlement resulted  
26 in robust relief, particularly when measured against the material, substantial risks Plaintiffs faced on  
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28 <sup>13</sup> Defendant’s total realistic exposure is \$13,648,319.51. Hammond Decl. ¶ 46. Realistic exposure on  
the overtime, meal and rest break, wage statement, and waiting time penalties claims is \$9,867,453.70  
(\$9,867,453.70/ \$13,648,319.51 = 72.3%).

<sup>14</sup> Realistic exposure on the expense reimbursement claim is \$4,624,464.70 (\$3,780,865.81/  
\$13,648,319.51 = 27.7%).

<sup>15</sup> <https://stevepearlmediation.com/wp-content/uploads/2024/09/PAGA-at-20-CLA-LE-Law-Review.pdf>

1 the merits, which is what courts look at when assessing the amount attributed to PAGA penalties.  
2 *O'Connor v. Uber Techs., Inc.*, No. 201 F. Supp. 3d 1110, 1134 (N.D. Cal. Aug. 18, 2016) (where  
3 settlement for the class claims is robust, the purpose of PAGA may be fulfilled because by providing  
4 fair compensation to class members, the settlement has a deterrent effect on defendant and other  
5 employers, thus fulfilling the purpose of PAGA). Hammond Decl. ¶ 55. Second, Defendant could  
6 contend that Plaintiffs' PAGA claims would fail for the same reasons their underlying claims failed.  
7 Third, although class certification requirements do not apply to PAGA claims, "such claims can be  
8 stricken if they are found to be 'unmanageable,'" and because only CMs who actually incurred  
9 unreimbursed expenses during a particular pay period could recover PAGA penalties for those  
10 violations, Defendants could have disputed that there is a manageable way to determine who was  
11 entitled to such penalties. *See, e.g., Raphael v. Tesoro Ref & Mktg. Co.*, No. 2:15-cv-02862-ODW,  
12 2015 U.S. Dist. LEXIS 130532, at \*5 (C.D. Cal. Sept. 25, 2015). Plaintiffs will submit the proposed  
13 Settlement Agreement to the LWDA immediately after the filing of the instant Motion, along with  
14 all the Motion papers filed with the Court.

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**4. The Risk, Expense, Complexity, and Likely Duration of Further Litigation  
Support the Reasonableness of the Settlement**

26 If litigation were to proceed, Plaintiffs would face a serious risk posed by Defendant's actual  
27 and potential defense that Plaintiffs would not be able to certify their claims, that they would lose on  
28 the misclassification issues (as well as all the claims that are dependent on that theory), and that they  
would lose the reimbursement claim at least for the period after January 4, 2022. Hammond Decl. ¶¶  
56-57. Defendant also argued that it would take years before this case could go to trial. *Id.* ¶ 58.  
Even if this matter proceeded to trial, voluminous evidence would be needed to prove damages; expert  
testimony could be required to prove the damage calculations; and trial would be complex given the  
number of employees and claims involved. *Id.* Regardless of which side prevailed on the  
misclassification issue, on class certification, or at trial, an appeal would be likely, creating additional  
delay and uncertainty of any recovery. *Id.* This Settlement provides an efficient resolution of this  
dispute, and Class Members will obtain a substantial recovery now without the major risks and  
lengthy delays that further litigation would entail. *Id.* ¶ 59.

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**5. Extent of Discovery Completed and The Stage of the Proceedings**

36 As discussed in the Hammond Declaration, the Settlement was informed by substantial  
37 discovery and investigation. Hammond Decl. ¶¶ 16-19. Plaintiffs' data analysts analyzed key payroll  
38 data, including records of overtime hours worked; reviewed documents provided by Defendant;  
surveyed Class Members and conducted detailed interviews of many of those who responded to the

1 survey, including gathering documents from them; reviewed publicly available documents about Esri;  
2 and conducted in-depth research related to the misclassification issue. *Id.* Plaintiffs were therefore  
3 well-informed about the strengths and weaknesses of their claims, and well-positioned to conclude  
4 that this Settlement was an excellent outcome for the Classes.

5 **6. Views of Experienced Counsel Support the Settlement**

6 Class Counsel has extensive experience in class action litigation, and, in particular wage-and-  
7 hour and unreimbursed expense class actions, and has been repeatedly determined by numerous courts  
8 to be adequate class counsel. Hammond Decl. ¶ 7 & Ex. 1. Class Counsel considers the settlement to  
9 be fair, reasonable and overall an excellent result for the Classes, particularly when considering  
10 Defendant’s many defenses discussed above.<sup>16</sup> *Id.* ¶¶ 5, 47.

11 **C. The Proposed Class Notice Content and Procedure Are Adequate**

12 The proposed Class Notice provides information to allow CMs to make an informed decision  
13 to accept or object to the settlement. *See Wershba v. Apple Comput., Inc.*, 91 Cal. App. 4th 224, 251-  
14 52 (2001). The proposed Notice informs CMs of (1) the material terms of the settlement, (2) the  
15 proposed fees and costs of Class Counsel and for settlement administration, (3) the proposed general  
16 release payments to each Named Plaintiff, (4) how CMs may opt out of, or object to, the Settlement;  
17 (5) details about the court hearing on settlement approval, and (6) how CMs can obtain additional  
18 information. *See* Cal. Rules of Court, Rule 3.766 and Exhibit A to the Settlement Agreement. In  
19 addition, the proposed Notice contains information about each CM’s estimated award under the  
20 distribution formula (and how they can challenge the data used in calculating their settlement awards),  
21 the tax treatment, and possible tax consequences of their awards.

22 The procedure for distribution of Notice has “a reasonable chance of reaching a substantial  
23 percentage of the [CMs].” *Cartt v. Super. Ct.*, 50 Cal. App. 3d 960, 974 (1975). The Notice will be  
24 sent by first class mail to the most recent address of each CM. SA § 4.2.3. If a Notice is returned as  
25 undeliverable, the Administrator will use skip tracing and resend it if a new address is identified. SA  
26 § 4.2.2-4.2.3.

27 **D. The Requested General Release Payments Are Preliminarily Reasonable**

28 If the Court grants preliminary approval, in conjunction with seeking final approval, Plaintiffs  
will move for approval of General Release Payments of \$7,500 each to recognize the time and effort  
they expended for the Class, the risk they undertook in bringing this case against their former

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<sup>16</sup> The final prong of the *Kullar* test – the reaction of the Class – will be evaluated at final approval.

1 employer, and the general release they are each giving Esri. Hammond Decl. ¶¶ 65-67; Chan Decl.  
2 ¶¶ 7-19; Gutierrez Decl. ¶¶ 5-14. The requested payments make up a very modest portion of class  
3 recoveries and fall well within the range of service payments typically awarded to class  
4 representatives in similar class actions. *See, e.g., Cellphone Termination Fee Cases*, 186 Cal. App.  
5 4th 1380, 1393 (2010) (affirming awards of \$10,000); *Cathers v. Mt. Saint Mary's University*, No.  
6 22STCV02941 (Los Angeles Cnty. Super. Ct., March 8, 2024) (granting award of \$7,500); *Beck v.*  
7 *University of San Francisco*, Case No. CGC-21-588930 (San Francisco Cnty. Super. Ct., February  
8 14, 2025) (granting awards of \$7,500 and \$5,000); *Vissing v. Coalition for the Common Good*, Case  
9 No. 23STCV07770 (Los Angeles Cnty. Super. Ct., March 28, 2025) (granting award of \$7,500).  
10 Although the requested awards are higher than the average settlement awards, they are not out of line  
11 with those awards. An average award for a members of both Classes will be about \$1,200 and the  
12 highest award will be about \$3,600. Hammond Decl. ¶ 66, fn. 12.

11 **E. The Requested Attorneys' Fees and Costs Are Preliminarily Reasonable**

12 Also in conjunction with final approval, Plaintiffs will move for an award of attorneys' fees of  
13 one-third of the GSA, or \$1,636,666.67. SA § 3.5. Courts in California have long recognized the  
14 equitable "common fund doctrine under which attorneys who create a common fund or benefit for a  
15 group of persons may be awarded their fees and costs out of that fund. The requested fee amount is  
16 fair, reasonable and represents the one-third of the GSA, which is in line with the prevailing  
17 guidelines establishes under California case law and academic literature, and routinely approved by  
18 California courts. *See, e.g., Laffitte v. Robert Half Internat. Inc.*, 1 Cal. 5th 480, 487, 596 (2016);  
19 *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n. 11 (2008) ("Empirical studies show that,  
20 regardless whether the percentage method or the lodestar method is used, fee awards in class actions  
21 average around one-third of the recovery.") The fee requested is also warranted in light of the  
22 contingent nature of representation, the risk Plaintiffs' counsel undertook that they would neither  
23 recoup their advanced costs nor be paid for their time, the excellent result achieved for the Classes,  
24 and skill Plaintiffs' counsel displayed in achieving that result. Hammond Decl. ¶¶ 60-62.

25 Plaintiffs have, to date, incurred approximately \$425,000 in reasonable attorneys' fees and  
26 anticipate that before the case is concluded they will incur an additional \$100,000 in fees. Plaintiffs  
27 anticipate that this additional time will be spent finalizing the instant motion papers, preparing for  
28 and attending the preliminary approval hearing, working with the settlement administrator to provide  
notice to the Class Members, respond to questions from Class Members during the notice process,  
preparing the final approval and fees motions and attending hearing on those motions, and seeing the  
settlement through to completion and final accounting. In a recent case of similar size and with

1 similar claims, following preliminary approval, Plaintiffs' counsel received and responded to  
2 questions about the settlement from more than 75 class members, and continued to respond to  
3 numerous questions from class members following final approval, including about timing of  
4 settlement awards, missing checks, and tax related inquiries. Hammond Decl. ¶ 62.

5 Plaintiffs will also request reimbursement for out-of-pocket litigation costs up to \$50,000. *See*  
6 SA § 3.5. Plaintiffs' counsel have thus far incurred approximately \$21,972.51 in reasonable litigation  
7 costs, and anticipate that they will incur additional costs related to the filing of the instant and the  
8 final approval motion, and final accounting declaration. These costs are commonly taxable and  
9 reimbursed costs, including court-filing and process-serving fees, mediation costs, and professional  
10 fees paid to a data analysts who assisted in analyzing the voluminous class data. Plaintiffs will submit  
11 a detailed breakdown of the actual costs incurred at the time of final approval. Hammond Decl. ¶ 63.

12 **F. The Cy Pres Designee is Appropriate**

13 The Settlement designates Child Advocates of San Bernardino County, as *cy pres* recipient  
14 under Code of Civ. Proc. § 384. SA § 4.8.3. CASA is a 501(c)(3) non-profit organization that directly  
15 serves the interests of children and youth in the foster care system. Funds received through this *cy*  
16 *pres* designation would be used to support services such as court advocacy, mentorship, and critical  
17 resource support for foster youth. Declaration of Elizabeth Contreras-Martinez ¶ 3. In compliance  
18 with § 382.4, Plaintiff's Counsel, Esri's counsel, and Esri certify that they have no connection to or  
19 relationship with CASA that could reasonably create the appearance of impropriety as between the  
20 selection of the recipient of the money or thing of value and the interests of the class. Hammond Decl.  
21 ¶ 70; Declaration of Chris Nowlin, ¶¶ 2-3; Declaration of Alexandra P. Barlow, ¶¶ 2-6.

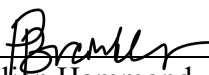
22 **VI. CONCLUSION**

23 The Settlement is well within the range of acceptable settlements and provides substantial  
24 monetary relief to the Classes. Accordingly, Plaintiffs request that the Court conditionally certify the  
25 Classes for settlement purposes, preliminarily approve the Settlement, and order that Notice be  
26 provided to the Classes as set forth in the proposed Order.

27 DATED: May 15, 2025

Respectfully submitted,

HAMMONDLAW, P.C.

28   
\_\_\_\_\_  
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Polina Brandler

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8  
9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
10 **COUNTY OF SAN BERNARDINO**

11 YESENIA GUTIERREZ and KATHY  
12 CHAN, individually and on behalf of all  
others similarly situated,  
13  
14 Plaintiffs,  
15  
16 vs.  
17 ENVIROMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC., a Delaware Corporation,  
18  
19 Defendant.

CASE NO. CIVSB2300014

**DECLARATION OF JULIAN HAMMOND IN  
SUPPORT OF PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS AND  
PAGA ACTION SETTLEMENT**

Date: June 9, 2025  
Time: 8:30 a.m.  
Dept.: S26  
Judge: Hon. Christian Towns

1 I, Julian Hammond, declare as follows:

2 **I. INTRODUCTION**

3 1. I am a member in good standing of the Bar of the State of California<sup>1</sup> and the principal of  
4 my own law firm HammondLaw, P.C. (“HammondLaw” or “Class Counsel” or “Plaintiff’s Counsel”) and  
5 counsel for the named Plaintiffs Yesenia Gutierrez and Kathy Chan (collectively, “Plaintiffs”) in the above  
6 captioned matter. I have personal knowledge of the facts set forth in this declaration and could competently  
7 testify to them.

8 2. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Approval of Class  
9 Action Settlement. A copy of the Settlement Agreement and Release (“Settlement Agreement”), including  
10 all exhibits to the Settlement Agreement, is attached as **Exhibit 1** hereto. The exhibits to the Settlement  
11 Agreement are as follows: Exhibit A – Notice of Settlement of Class Action; Exhibit B – Notice of Pay  
12 Periods; Exhibit C – [Proposed] Order Granting Preliminary Approval of Class and PAGA Settlement;  
13 and Exhibit D – [Proposed] Final Approval of Order and Judgment.

14 3. The settlement covers approximately 4,607 individuals, approximately 3,873 of whom are  
15 “current and former employees of Defendant in the State of California subject to Defendant’s Bank Time  
16 Policy and whom Defendant classified as exempt at any time from November 15, 2018 to the date on  
17 which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the  
18 Court” (“Alleged Misclassification Class” or “Misclassification Class” or “Misclassification CMs”), and  
19 approximately 4,569 of whom are “current and former employees (whether exempt or non-exempt) of  
20 Defendant in the State of California from March 16, 2020 to the date on which Plaintiffs’ motion for  
21 Preliminary Approval of this Settlement is first scheduled to be heard by the Court” (“Alleged  
22 Reimbursement Class” or “Reimbursement Class” or “Reimbursement CMs”). Accordingly, June 9, 2025  
23 is the last day of the relevant class periods.<sup>2</sup>

24 4. Plaintiffs are committed to representing the interests of the Class Members, and Plaintiff  
25 Chan is committed to representing the interests of the PAGA Group Members. Plaintiffs do not have any

26 \_\_\_\_\_  
27 <sup>1</sup> I am also an active member of the Bar of the State of New York and of the Washington State Bar  
28 Association. I am also admitted to practice as a Barrister-at-Law in both the New South Wales and  
Victorian Supreme Courts, located in Australia.

<sup>2</sup> Pursuant to the Settlement Agreement’s Escalator Clause, if the clause is triggered, Defendant may either  
pay an additional sum towards the Gross Settlement Amount (“GSA”) *or* to end the relevant class period(s)  
on an earlier date to avoid triggering the clause. SA § 4.12. Based on the data currently available, the  
escalator clause has been triggered as to both the Misclassification Class and the Reimbursement Class.  
The parties will update the Court at or before the hearing as to whether Defendant will elect to end the  
class periods earlier than June 9, 2025.

1 conflicts of interest with any of the Class Members or PAGA Group Members, and their interests are  
2 virtually coextensive with those of the Class Members and PAGA Group Members.

3 5. I consider the proposed settlement to be fair, reasonable, and an excellent result for the  
4 Classes, particularly in light of the strength and weaknesses of the case. The settlement will result in  
5 prompt and meaningful financial benefit to the Participating Class Members and will avoid all risks of  
6 potential litigation.

7 6. I am not aware of any related cases which will be impacted by the proposed settlement.  
8 There were previously two related actions pending, an individual action in the San Bernardino Superior  
9 Court (*Arnold Castano v. Environmental Systems Research Institute, Inc.*, Case No. CIVSB2417865 (May  
10 21, 2024, San Bernardino Cnty. Sup. Ct.)) and a class action in Riverside County Superior Court (*Laura  
11 Provonsha v. Environmental Systems Research Institute, Inc.*, Case No. CVRI2401687 (March 28, 2024  
12 Riverside Cnty. Sup. Ct.)). The plaintiff in the class action, styled *Laura Provonsha v. Environmental  
13 Systems Research Institute, Inc.*, Case No. CVRI2401687 (March 28, 2024 Riverside Cnty. Sup. Ct.), filed  
14 an amended complaint carving out the claims alleged in the instant case from her complaint.

## 15 **II. ATTORNEY EXPERIENCE**

16 7. HammondLaw has been certified as Class Counsel or Co-Class Counsel in over 100 class  
17 actions, more than half of which are wage and hour class actions and PAGA representative actions,  
18 representing tens of thousands of employees, including in the Superior Courts for the counties of Alameda,  
19 Los Angeles, Sacramento, San Bernardino, San Diego, San Francisco, Solano, Santa Clara, Monterey,  
20 San Joaquin, Placer, Orange, Contra Costa, Riverside and in federal District Courts in California in  
21 diversity jurisdiction cases based on state law, over the last twelve years. We have successfully settled  
22 dozens of expense reimbursement cases, misclassification cases, and other wage and hour and consumer  
23 class actions. We have successfully litigated one wage and hour class action all the way through to trial  
24 to verdict and appeal, which resulted in a published decision. *See Gola v. University of San Francisco*, 90  
25 Cal. App. 5th 548 (2023). In 2021, our firm also secured an important victory in an arbitration context in  
26 a consumer case, which also resulted in a published decision. *See Fisher v. MoneyGram International*, 66  
27 Cal. App. 5th 1084 (2021). I was also recently appointed as co-lead interim counsel in a large consumer  
28 class action. My firm's resume is attached as **Exhibit 2** hereto.

8. I believe that my firm's experience in the prosecution and resolution of wage and hour  
class actions and representative actions was a significant factor in this case proceeding to early mediation  
and favorable settlement with Defendant who retained highly-skilled and experienced counsel from  
Morrison & Foerster LLP.

1 **III. OVERVIEW OF THE CASE AND SETTLEMENT NEGOTIATIONS**

2 **A. Parties, Procedural Background and Claims Alleged**

3 9. Defendant Environmental Systems Research Institute, Inc. (“Esri”), is a privately held  
geographic information systems (GIS) software developer headquartered in Redlands, California.<sup>3</sup>

4 10. Plaintiffs and Class Members are employed by Esri in various areas, including engineering  
5 and design, solution engineering, information technology, business development, product management,  
6 finance and accounting.

7 11. On November 15, 2022,<sup>4</sup> Plaintiff Gutierrez initiated this lawsuit by filing a putative class  
8 action complaint alleging causes of action against Esri, based on a misclassification theory, for failure to  
9 pay its computer software employees for overtime, in violation of Labor Code § 510 and Wage Order No.  
10 3, § 3, failure to pay all wages due upon termination in violation of Labor Code §§ 201-203, failure to  
11 issue accurate itemized wage statements in violation of Labor Code § 226(a), (e). Plaintiff also alleged a  
12 cause of action against Esri for failure to reimburse business expenses pursuant to Labor Code § 2802, in  
13 connection with remote work from home as a result of the COVID-19 pandemic, as well as a cause of  
14 action for unfair, unlawful, or fraudulent business practices pursuant to Bus. & Prof. Code §§ 17200 *et*

15 12. On April 11, 2023, Gutierrez filed a First Amended Complaint adding Plaintiff Chan as a  
16 named plaintiff and adding a cause of action for civil penalties under the Labor Code’s Private Attorneys  
17 General Act, Labor Code § 2698.3 *et seq.* (“PAGA”), pursuant to the initial and first amended PAGA  
18 notices filed by Plaintiff Gutierrez.<sup>5</sup>

19 13. On January 9, 2023, Plaintiffs filed a second amended PAGA notice adding Plaintiff Chan  
20 as an alleged representative and to allege claims for the failure to pay overtime wages; failure to pay all  
21 wages due upon termination; and failure to issue accurate itemized wage statements, as alleged in the  
Complaint, on behalf of allegedly misclassified computer software employees.

22 \_\_\_\_\_  
23 <sup>3</sup> *Id.*

24 <sup>4</sup> Due to issues with the filing service, Plaintiffs Gutierrez did not receive conformed copies of her original  
25 complaint, assigned case number CIVSB2225691, until March 2023. Because of this, Gutierrez filed an  
26 identical complaint on January 3, 2023, in this case, case number CIVSB2300014. After conferring, Esri  
27 and Gutierrez agreed that the original Complaint would be dismissed and the Complaint in this case would  
be amended to extend the class period back to November 15, 2018, based on the original date of filing.  
SA § 1.2.

28 <sup>5</sup> Plaintiff Gutierrez worked outside the PAGA statute of limitations and is therefore not a PAGA  
representative in this case.

1 14. In or about October 2023, Plaintiffs informed Defendant that they would seek to amend  
2 their Complaint to allege claims for unpaid overtime, failure to pay upon termination, and inaccurate wage  
3 statements on behalf of all employees (not just computer software employees) subject to the Bank Time  
4 Policy. While Plaintiffs did not amend their Complaint to assert these claims until after the case settled,  
5 on April 17, 2024, they did file a third amended PAGA letter, seeking to represent all Esri employees  
6 classified as exempt in the State of California who have been paid allegedly on an hourly basis pursuant  
7 to their offer letters and Esri Bank Time Policy, and adding claims for meal and rest break violations.

8 15. On February 25, 2025, as part of the settlement and pursuant to the parties' stipulation,  
9 Plaintiffs filed a Second Amended Complaint adding claims based on the allegations and theories set out  
10 in Plaintiffs' third amended PAGA letter, including the addition of claims for alleged failure to provide  
11 meal breaks and alleged failure to permit and authorize rest breaks.

12 **B. Discovery and Investigation**

13 16. Prior to the filing of the case, our firm conducted an investigation into the facts and law  
14 underlying the alleged violations, including an in-depth analysis of case law and United States Department  
15 of Labor and California Industrial Relations opinion letters regarding bank time policies, salary basis, and  
16 computer software exemption requirements, and we carefully developed theories of the case. We  
17 conducted a detailed interview of Plaintiff Gutierrez as well as several other individuals employed at Esri  
18 during the relevant class periods, and collected documents from them related to their employment. Finally,  
19 we gathered and reviewed publicly available documents about the company, and researched other  
20 litigation against Esri.

21 17. We subsequently conducted a detailed interview of Plaintiff Chan, who was added as a  
22 named plaintiff as part of the first amended complaint. And, we conducted an online survey of current and  
23 former employees to which they received over 70 responses, some of whom we interviewed and gathered  
24 additional documents from.

25 18. The parties then agreed to engage in settlement discussions and attend a mediation. In  
26 response to Plaintiffs' discovery requests and in aid of mediation, Defendant produced the personnel files  
27 of both Plaintiffs and three other employees, including their offer letters and wage statements, Esri's Bank  
28 Time Policy, Employee Handbooks, and an excel spreadsheet showing, for each putative Class Member,  
the following information, for the period from November 15, 2018 through to July 15, 2024: his/her job  
title; hire date; termination date, if any; annualized salary; gross wages earned; effective hourly rate; bank  
hours accrued; and bank hour remaining as of the end of the year (positive or negative). Defendant's  
counsel also represented that if an employee had a negative bank balance in December or February, when

1 Esri pays out unused banked hours for the previous year, negative bank balances were forgiven and no  
2 deductions were made from the employee's paycheck.

3 19. Based on Plaintiffs' analysis of the spreadsheet, performed by an excel expert, Plaintiffs  
4 were able to calculate the number of Misclassification CMs and the number of pay periods they worked  
5 during the relevant period, as well as the number of formerly employed Misclassification CMs. In  
6 addition, Defendant provided the class size and pay periods for the Reimbursement CMs, and indicated,  
7 on the spreadsheet referenced above, all Misclassification CMs who worked remotely from home on a  
8 full-time basis. Defendant also provided Esri's office furniture expense reimbursement policy, the number  
9 of Reimbursement CMs who submitted reimbursement requests pursuant to that policy and the dollar  
10 amount Esri reimbursed them, and Esri's communications regarding its COVID-19 office closures and  
11 reopening.

### 12 **C. Mediation and Settlement Efforts**

13 20. The parties agreed to mediate their dispute with Stephanie Chow, a well-respected and  
14 skilled mediator, and to an informal exchange of documents in aid of mediation. Plaintiffs were able to  
15 make a damages assessment based on the data and documents produced by Defendant and based on their  
16 own extensive legal research.

17 21. Prior to the mediation, which took place on October 1, 2024, Plaintiffs submitted a detailed  
18 brief with a detailed factual, legal, and damages analysis, and supported by the evidence produced by  
19 Defendant.

20 22. The mediation was hotly contested. Defendant argued that it was fully compliant with the  
21 California Labor Code and that Plaintiffs would lose both on class certification and the merits and the  
22 parties did not reach an agreement after an all-day arm's-length mediation session.

23 23. Following the conclusion of the mediation session, the mediator issues a mediator's  
24 proposal, which was ultimately accepted by the parties. Over the next several months the parties engaged  
25 in further negotiations to finalize specific terms of the settlement memorialized in a formal settlement  
26 agreement that is presented to the Court for approval.

## 27 **IV. PLAINTIFFS' DAMAGES ANALYSIS**

### 28 **A. Claims Alleged on Behalf of the Misclassification Class**

#### **a. Plaintiffs' Underlying Misclassification Theory**

29 24. Based on their theory that Esri misclassified its employees as exempt, Plaintiffs allege that  
30 Esri was required, but failed, to: (1) pay overtime wages at the premium overtime rate, (2) provide off-

1 duty meal and rest breaks, (3) issue accurate itemized wage statements, and (4) pay all wages due at the  
2 time of discharge from employment.

3 25. Plaintiffs allege that Esri compensated Misclassification Class on an hourly basis and not  
4 a salary and therefore misclassified them as exempt. Specifically, Plaintiff allege that Defendant's Esri's  
5 Bank Time Policy, which applied to the members of the Misclassification Class, violated the salary basis  
6 because it allowed pay to be reduced based on quantity of the work performed. Pursuant to the Bank Time  
7 Policy, Misclassification CMs were required to record and report their hours worked each week. Any  
8 hours worked over forty in a given week were banked as "comp" time for future use. If an employee  
9 worked fewer than forty hours in a given week, banked hours were used to make up the difference. If no  
10 banked hours were available, the employee would incur a negative bank balance. For example, if an  
11 employee worked 36 in a week, they would either need to use four hours of banked time or face a negative  
12 balance of four hours. This negative balance would be offset in a subsequent week if the employee worked  
13 overtime, effectively cancelling out the deficit. The Bank Time Policy provided that if an employee had  
14 a negative bank balance at the end of the year (or when bank time was balanced by Esri), the employee  
15 had to discuss it with his/her supervisor. Because the Bank Time Policy did not automatically forgive  
16 negative balances, Plaintiffs argued that Misclassification CMs' pay was subject to deductions and  
17 therefore was not a salary and Misclassification CMs could not be classified as professionally exemption.

18 26. In addition, Plaintiffs allege that even those members of the Misclassification Class who  
19 were employed as computer software employees and could be classified as exempt while being paid on  
20 an hourly basis, still were not properly classified as exempt because they were not paid enough to meet  
21 the minimum pay requirements of the computer software exemption. *See* Wage Order No. 4-2001, §  
22 1(A)(3)(h).

23 27. Defendant strongly denied the merits of Plaintiffs' misclassification claim. Defendant  
24 asserted that, as a matter of practice, it consistently forgave any negative balances and always guaranteed  
25 a predetermined, weekly salary that exceeded the minimum salary required for exemption under both  
26 California state and federal law. Defendant pointed to the fact that neither Plaintiffs had ever had her pay  
27 reduced, and stated that review of all Misclassification CMs' pay records would show that employees  
28 consistently received the same pay each week.

29 28. Defendant argued that Plaintiffs misunderstood the nature of the Bank Time Policy in that  
30 its purpose and effect is not to deduct pay, but rather to reward hard working employees with additional  
31 pay for hours worked over forty in week that it is not otherwise obligated to pay. Defendant pointed to  
32 case law in support of its position.

1 29. Plaintiffs calculated Defendant’s maximum potential exposure on the claims alleged on  
2 behalf of the Misclassification Class and the realistic exposure based on Defendant’s actual and potential  
3 defenses to these claims, including defenses discussed above, as follows.

4 **b. Overtime Claim – Lab. Code §§ 510, 1194**

5 30. Plaintiffs allege that Esri was required to pay them at 1.5x their regular hourly rate for all  
6 hours worked over 8 in a day or over 40 in a week pursuant to Labor Code §§ 1194, 510. Based on the  
7 data provided by Defendant, Plaintiffs determined that Misclassification CMs worked a total of  
8 approximately 799,000 hours of overtime during the relevant period (November 15, 2018 and June 9,  
9 2025) and that their average regularly hourly rate was \$48.74. Plaintiffs were paid (or earned comp time)  
10 for their overtime hours at their regular hourly rate, but not at the required premium rate if they were non-  
11 exempt.

12 31. Thus, Plaintiffs calculated Defendant’s maximum potential exposure on the claim for  
13 unpaid overtime as \$19,252,300 (799,000 x 48.74 x 0.5).

14 32. Given the fact that Plaintiffs were not able to point to any instances of deductions based on  
15 negative bank balance, Defendant’s contention that such deductions did not take place, and case law that  
16 supported Defendant’s position,<sup>6</sup> Plaintiffs recognized that even if they were able to certify overtime  
17 claim, they faced a material and substantial risk of losing on the merits. Thus, for settlement purposes,  
18 Plaintiffs applied a 20% discount for the certification risk based on the potential that a court would find  
19 that different exemption defenses applied to different employees or that some employees had potentially  
20 inflated hours, particularly during the pandemic when they worked from home, and a further 70% discount  
21 for the risk that Plaintiffs would lose on their misclassification theory, thus reducing Defendant’s exposure  
22 to **\$4,620,552**.

23 **c. Meal and Rest Break Claims – Lab. Code §§ 226.7, 512**

24 33. Plaintiffs allege that as a result of Misclassification CMs being non-exempt Defendant was  
25 required to provide them with meal and rest breaks pursuant to Labor Code §§ 226.7, 512.  
26  
27  
28

---

24 <sup>6</sup> See e.g. *Coates v. Dassault Falcon Jet Corp.*, 961 F.3d 1039, 1043 (8th Cir. 2020) (explaining that “the  
25 exemption is not lost if an exempt employee who is guaranteed [the minimum weekly salary amount] also  
26 receives additional compensation based on hours worked for work beyond the normal workweek. Such  
27 additional compensation may be paid on any basis (e.g. ... straight-time hourly amount ...), and may  
28 include paid time off.’ § 541.604(a).” And further explaining that “[e]mployers ‘may take deductions  
from [salaried employee] leave accounts” and may require exempt employees “to record and track hours,”  
so long as the employee's predetermined salary is not reduced.” *Id.*, citing *Ellis v. J.R. ’s Country Stores, Inc.*, 779 F.3d 1184, 1200 (10th Cir. 2015). (citations omitted).

1 34. For settlement purposes and based on experience litigating similar cases and interviews of  
2 respondents, Plaintiffs estimated that Misclassification CMs were owed one premium pay per pay period  
3 for missed breaks. Based on the data provided by Defendant, Plaintiffs determined that Misclassification  
4 CMs worked a total of 426,024 pay periods during the relevant period (November 15, 2018 and June 9,  
5 2025). Thus, Plaintiffs calculated that Defendant's maximum potential exposure to missed meal and rest  
6 breaks was \$20,762,279.64.

7 35. Defendant argued that Plaintiffs would lose on certification because a lack of a written  
8 meal/rest break policy alone, without a showing of an actual practice of denying breaks, is insufficient to  
9 certify meal and/or rest breaks claims. And, even if it were sufficient, Defendant could argue that Plaintiffs  
10 would still lose on certification because individualized inquiries would be required in order to determine  
11 who missed rest or meal breaks, how often, and why. Defendant also argued that Plaintiffs could not win  
12 these claims on the merits simply because Misclassification CMs were paid a salary and were properly  
13 classified as exempt, and, as exempt employees, were not entitled to meal and/or rest breaks. Based on  
14 these arguments, Plaintiffs applied a 30% discount for the risk of losing at the class certification stage,  
15 and a 70% discount to the maximum exposure based on the risk of losing on the misclassification issues,  
16 reducing Defendant's realistic potential exposure to **\$3,114,341.95**.

17 **d. Wage Statement and Waiting Time Penalties Claims – Lab. Code §§ 226(a), 201-203**

18 36. Plaintiffs allege that as a result of Misclassification CMs being non-exempt, Defendant was  
19 required to provide them with accurate itemized wage statements that included their actual net and gross  
20 earnings (i.e. earnings for overtime and premium pay), and was required but failed to pay all formerly  
21 employed Misclassification CMs all wage due and owing at the time of discharge, pursuant to Labor Code  
22 §§ 226(a), (e), 201-203.

23 37. As with respect to other claims, Defendant contended that Plaintiffs would lose first and  
24 foremost because Misclassification CMs were paid a salary and were properly classified as professionally  
25 exempt.

26 38. Plaintiffs calculated Defendant's exposure to the wage statement penalties under Labor  
27 Code § 226(e) as \$11,565,538.95 and to the waiting time penalties under Labor Code § 203 as \$4,231,200.

28 39. Plaintiffs applied a minimal 10% discount to the exposure on both claims for the risk of  
losing on class certification, a further 70% discount for the risk of losing on the issue of misclassification.  
Plaintiffs also applied a further 50% discount based on Defendant's defense that even it violated § 226(a)  
or sections 201-203, its violation was not knowing and intentional because it had good faith defense based  
on its reasonable belief that Misclassification CMs were paid a salary and were properly classified as

1 exempt. If a court were to credit Defendant’s defense that its violations were not knowing and intentional,  
2 Plaintiffs recovery on these claims would be barred.

3 40. Thus, Plaintiffs calculated Defendant’s realistic potential exposure on the wage statement  
4 claim as **\$1,561,347.76** and on the waiting time penalties claim as **\$571,212.00** (for a combined total of  
5 **\$2,132,559.76**).

6 **e. Unreimbursed Expenses Claim – Lab. Code § 2802**

7 41. Plaintiffs allege that Esri required and/or expected its employees to work remotely from  
8 home beginning in or about March 16, 2020 due to the COVID-19 pandemic. As a result, employees  
9 incurred home office expenses, including the cost of home internet and cell phones, in order to carry out  
10 their job duties for Esri. Plaintiffs alleged that pursuant to Labor Code § 2802, Esri was required to  
11 reimburse its employees for the home office expenses they incurred, but failed to do so. In January 2022,  
12 Esri announced that it planned to have “a voluntary opening” and to “bring employees back to our offices  
13 over time at their own pace.” Plaintiffs alleged, however, that many of the employees continued to work  
14 remotely from home at least on a part-time basis.

15 42. Plaintiffs estimate that Reimbursement CMs incurred approximately \$100 in monthly  
16 expenses between March 2020 and January 2022 when all or most employees worked remotely on a full  
17 time basis, and on average \$20 per month between January 2022 and June 9, 2025 when employees  
18 worked remotely only one to two days a week. Based on the data provided by Defendant, Plaintiffs  
19 estimated that Reimbursement CMs worked remotely during 151,290 pay periods (or 75,960 months)  
20 between March 2020 and until January 2022, and 290,640 pay periods (or 145,319 months) months  
21 between January 2022 and June 9, 2025. Thus, Plaintiffs calculated Defendant’s maximum potential  
22 exposure for unreimbursed expenses as \$10,502,405.02 (\$7,596,006.28 for the period between March  
23 2020 and January 2022, and \$2,906,398.74 for the period after January 2022).

24 43. Defendant contended that any expenses incurred after January 2022 were not compensable  
25 as they were not necessary or reasonable (*see* Lab. Code § 2802(a), (c)) because Reimbursement CMs  
26 could return to work from the offices, and anyone who chose not to return did so out of their own  
27 convenience, not because Defendant required and/or expected them to. Defendant also argued that even  
28 before January 2022, and for most of the time after March 2020, Reimbursement CMs would work from  
the offices because *unlike other employers*, Defendant did not close its California location (i.e. the main  
Redlands campus) and it remained available to employees to work from throughout the pandemic.  
Defendant also argued that it provided company phones to employees who wanted them and that those  
phones came equipped with wifi, which Reimbursement CMs could use to connect to the internet at home.

1 Defendant also could have argued that Reimbursement CMs’ work-related mobile phone usage was  
 2 minimal, and that Plaintiffs’ estimate of unreimbursed monthly expense was overinflated. Finally,  
 3 Defendant pointed to the fact that it provided reimbursement for home office furniture and that over 2,000  
 4 Reimbursement CMs (of the 3,300 who worked during height of the pandemic (March 2020 to January  
 5 2022), requested such reimbursement. Pursuant to these requests, Defendant paid \$459,485.90 in  
 6 reimbursements.

7 44. Defendant also argued that Plaintiffs would not be able to certify their expense  
 8 reimbursement claim because it would require individualized inquires to determine which employees  
 9 incurred expenses, and which expenses incurred and of which employees were reasonable and necessary,  
 10 whether the employee was “required” to work remotely or chose to do so. Defendant also could have  
 11 argued that many employees moved out of state during the pandemic (e.g. to live with their parents, or  
 12 extended families out of state) which would lead to further individualized inquiries regarding where the  
 13 employee was located, and whether the employee qualified for reimbursement under Labor Code § 2802.

14 45. Plaintiffs applied a 40% discount for the certification risk and a further 40% discount for  
 15 the risk on the merits. This reduced Defendant’s realistic damages to \$3,780,865.81. Plaintiffs applied  
 16 no reduction to their estimated damages for the approximately \$500,000 that Defendant paid out in  
 17 reimbursement because these reimbursements were for home office furniture and not ongoing home  
 18 internet and mobile phone expenses.

19 **The Settlement is an Excellent Result**

20 46. Plaintiffs calculated maximum damages (excluding PAGA penalties and interest) as \$66  
 21 million and realistic exposure as \$13,648,319.51 as follows:

Claim	Maximum Damages	Realistic Exposure
Unpaid Overtime	\$19,252,300.00	\$4,620,552.00
Missed Meal/Rest Breaks	\$20,762,279.64	\$3,114,341.95
Wage Statements	\$11,565,538.95	\$1,561,347.76
Waiting Time Penalties	\$4,231,200.00	\$571,212.00
Unreimbursed Expenses (Lab. Code § 2802)	\$10,502,405.02	\$3,780,865.81
<b>Total</b>	<b>\$66,313,723.61</b>	<b>\$13,648,319.51</b>

1 47. The \$4,910,000 settlement compares favorably with the full relief I estimate for the  
2 Classes. The settlement represents 7.4% of the maximum theoretical exposure, and 36% of the realistic  
3 exposure, which is fair and reasonable. I consider this settlement to be an excellent result and one that is  
4 in the best interests of the Classes.

5 48. Under the Settlement Agreement, the Net Settlement Amount (“NSA”) will total  
6 approximately \$3,051,083.33,<sup>7</sup> if the Court grants the fees and costs requested by the Plaintiffs in full.  
7 Each Settlement Class Member will be automatically entitled to payment of a portion of the Net Settlement  
8 Amount (i.e., his or her “Individual Settlement Payment”). The settlement administrator informed  
9 Plaintiff’s counsel that employer-side payroll taxes are an estimated \$128,145.50.

10 49. The GSA/NSA will be allocated as follows: 70% of the NSA will be allocated to the  
11 Misclassification Class and 30% will be allocated to the Reimbursement Class. This allocation is fair and  
12 reasonable as it corresponds to the realistic recovery on the claims of the two classes. Realistic exposure  
13 on the claims of the Misclassification Class represents approximately 72.3% of the total realistic exposure,  
14 and realistic exposure on the claims of the Reimbursement Class represents approximately 27.7% of the  
15 total realistic exposure.

16 50. The amount that each Settlement Class Member will be eligible to receive under the  
17 Settlement will be determined based on the number of pay periods they worked during each relevant  
18 period.

19 51. The average gross recovery per Misclassification CM will be \$887.43 gross<sup>8</sup> and \$518.36  
20 net.<sup>9</sup> Misclassification CMs worked a total of approximately 426,024 pay periods during the relevant  
21 period (November 20, 2016 to June 9, 2025). Accordingly, their average per pay period recovery will be  
22 \$8.06 gross and \$4.71 net.

23 52. The average gross recovery per Reimbursement CM will be \$322.39 gross<sup>10</sup> and \$200.33  
24 net.<sup>11</sup> Reimbursement CMs worked a total of approximately 442,560 pay periods during the relevant  
25 period (March 16, 2020 to June 9, 2025). The average per pay period will be \$3.33 gross and \$2.07 net.

26 <sup>7</sup> \$4,910,000 – (\$1,636,666.67 (attorneys’ fees) + up to \$50,000 (litigation costs) + \$15,000 (General  
27 Release Payments) + \$57,250 (Settlement Administration costs) + \$100,000 (PAGA allocation)

28 <sup>8</sup> \$3,437,000 (70% of the GSA)/ 3,873

<sup>9</sup> \$2,007,612.83 (70% of the NSA, less employer-side tax withholdings)/ 3,873

<sup>10</sup> \$1,473,000 (30% of the GSA)/ 4,344

<sup>11</sup> \$915,325 (30% of the NSA) / 4,344

1 53. Misclassification CMs who are also members of the Reimbursement Class will receive  
2 higher overall recoveries as members of both classes.

3 **f. PAGA Allocation is Fair and Reasonable**

4 54. According to the data provided by Defendant, Aggrieved Employees worked a total of  
5 approximately 286,445 pay periods during the PAGA Period (February 5, 2022 through June 9, 2025).  
6 Accordingly, on the assumption that each of those pay periods had a violation, Defendant’s maximum  
7 potential exposure to PAGA penalties is \$28.6 million (calculated at \$100 initial penalty and assuming  
8 the Court would not allow “stacking” of PAGA penalties for each separate Labor Code violations).  
9 However, such valuation is unrealistic, and Plaintiffs have no expectation whatsoever that a court would  
10 award that amount. In *Gola v. University of San Francisco*, a case that Plaintiffs’ counsel litigated to  
11 verdict, the court awarded 15% of maximum PAGA penalties, after finding that Defendant was culpable.  
12 In the absence of bad faith and/or in the presence of showing of some good faith, courts often award lower  
13 penalties. Thus, Plaintiffs calculate Defendant’s potential exposure to PAGA penalties as \$2.86 million.

14 55. The \$100,000 allocated to the PAGA Settlement Fund represents approximately 3.5% of  
15 the potential PAGA penalties, which is fair and reasonable. First, the PAGA claim is subject to the same  
16 merits risks as the underlying non-PAGA claims, and the overall settlement resulted in significant relief,  
17 particularly when measured against the substantial risks Plaintiffs faced on the merits. *O’Connor v. Uber*  
18 *Techs., Inc.*, No. 201 F. Supp. 3d 1110, 1134 (N.D. Cal. Aug. 18, 2016) (where settlement for the class  
19 claims is robust, the purpose of PAGA may be fulfilled because by providing fair compensation to class  
20 members, the settlement has a deterrent effect on defendant and other employers, thus fulfilling the  
21 purpose of PAGA). Second, Defendant could contend that Plaintiffs’ PAGA claims would fail for the  
22 same reasons their underlying claims failed. Third, although class certification requirements do not apply  
23 to PAGA claims, “such claims can be stricken if they are found to be ‘unmanageable,’” and because only  
24 CMs who actually incurred unreimbursed expenses during a particular pay period could recover PAGA  
25 penalties for those violations, Defendants could have disputed that there is a manageable way to determine  
26 who was entitled to such penalties.

27 **The Risk, Expense, Complexity, and Likely Duration of Further Litigation**

28 56. Plaintiffs have determined that each alleged violation has merit as to some or all Class  
Members and is supported by evidence. Defendant has strongly asserted that there are valid defenses to  
those claims and denied any liability in the action but has stated that it desired to settle to avoid the expense  
and business disruption associated with further legal proceedings.

1 57. Plaintiffs recognize that if they elected not to settle and continued to litigate, they would  
2 face substantial uncertainties on the merits and certification. A court could find that Defendant's method  
3 of compensating Misclassification CMs constitutes a salary, and that Defendant properly classified them  
4 as exempt. This would eliminate all the claims alleged on behalf of the Misclassification Class. Even if  
5 Plaintiffs won on this issue, they could lose on class certification as to some or all of the claims. A court  
6 could also find that Defendant was not required to reimburse expenses given that Reimbursement CMs  
7 could work from the offices, at least after January 2022, and/or that Plaintiff's damages calculation was  
8 overinflated.

9 58. Continued litigation would result in significant additional costs and delay. Defendant  
10 argued that it would take years before this case could go to trial. Even if this matter proceeded to trial,  
11 voluminous evidence would be needed to prove damages; expert testimony could be required to prove the  
12 damage calculations; and trial would be complex given the number of employees and claims involved.  
13 Even if Plaintiffs prevail at trial, Defendant would likely appeal and that would further delay and jeopardize  
14 recovery. Continued litigation could take years and would put Class Members at a risk of recovering less  
15 than the settlement amount, or nothing at all.

16 59. This settlement provides an early resolution of the dispute, and Class Members (and the  
17 LWDA) will obtain a recovery in the relatively near future if the settlement is finally approved.

18 **V. Plaintiffs' Requested Attorney's Fees and Costs Award**

19 60. Plaintiffs will file a separate motion for the requested attorneys' fees and costs. The  
20 Settlement Agreement provides that Defendant will not oppose a request for attorneys' fees of up to  
21 \$1,636,666.67 (33.33% of the Gross Settlement) and out of pocket litigation costs of up to \$50,000. This  
22 is fair, reasonable and adequate to compensate Class Counsel for the substantial work they have already  
23 done to prosecute this Action, the risk they assumed to agree to take the case in the first place, the great  
24 expense spared to the Class by Class Counsel having achieved a successful resolution, the skill they  
25 brought to bear to achieve substantial financial recovery for the Classes, and the continued time and  
26 expense that Class Counsel will incur by administering the fair distribution of the settlement fund should  
27 this Court grant the settlement's approval.

28 61. My firm agreed to represent Plaintiffs on behalf of the putative Classes on a contingency  
basis, and further agreed to advance all litigation costs. Our significant financial outlays would have been  
entirely lost if the case were not won, which in this case in particular was a very real risk. The amount of  
Class Counsel's time that would have remained uncompensated in that event would have been substantial.  
Class Counsel also took on this case despite the known risks associated with Plaintiffs' claims as described

1 above and the unpredictable risks that are common to most complex employment class actions that  
2 develop only over the course of the litigation. Nevertheless, Class Counsel was able to obtain a very  
3 favorable settlement for the Classes.

4 62. Our firm has spent significant time litigating this case, including interviewing the named  
5 Plaintiffs and other employees who worked for Esri in California, reviewing documents provided by  
6 Plaintiffs and gathered from other employees and information obtained by our firm through our own  
7 research of publicly available information, conducting in-depth legal research, filing multiple pleadings,  
8 engaging in extensive informal discovery, analyzing data produced by Defendant, drafting a detailed  
9 mediation brief, attending a full-day mediation, negotiating the settlement for five months after the  
10 mediation, drafting the preliminary approval papers, and planning and strategizing throughout the case.  
11 Further, I anticipate that we will spend an additional 100 hours of attorney time to bring this case to  
12 conclusion, including: obtaining preliminary approval; overseeing the notice process; answering calls and  
13 questions from class members; preparing the final approval papers; attending the final approval hearing;  
14 and overseeing the distribution of the settlement funds.

15 63. The Settlement Agreement's award of litigation costs of up to \$50,000 is intended for  
16 commonly reimbursed out-of-pocket costs incurred by my firm, including filing and process-serving fees,  
17 professional fees paid to a data analysis and Excel expert who assisted in analyzing the voluminous class  
18 data Defendant produced, and professional fees paid to Stephanie S. Chow for a full-day mediation  
19 session, which was instrumental to reaching the Settlement.

20 64. If the Court grants preliminary approval and authorizes the dissemination of notice of the  
21 settlement to the Class, Class Counsel anticipates filing a Motion for Attorneys' Fees and Costs and  
22 Service Awards for Class Representatives that will be scheduled to be heard concurrently with the Motion  
23 for Final Approval. Class Counsel will submit their lodestar along with copies of time records and itemized  
24 costs with their motion for attorneys' fees and costs at that time.

## 25 **VI. General Release Payments to the Named Plaintiffs**

26 65. In my view, the requested General Release Payments of \$7,500 for each Plaintiff is fair  
27 and reasonable to compensate them for the critical role they played in stepping forward to bring this case,  
28 and the time and effort they expended to help secure the result obtained for the Classes. In agreeing to  
serve as class representatives, Plaintiffs formally agreed to accept the responsibilities of representing the  
interest of all Class Members. Plaintiffs also took on the danger of negative notoriety resulting from  
suing their former employer.

1 66. Plaintiffs expended effort on behalf of the class to help secure the result obtained. They  
2 had extensive conversations with Plaintiffs' Counsel, collected and provided documents and diligently  
3 assisted Class Counsel in the investigation for the case, in seeking informal discovery, and preparing for  
4 mediation. Plaintiff Chan also discussed the case with her former colleagues and referred them to  
5 Plaintiffs' Counsel to assist with additional gathering of documents and information. Plaintiffs'  
6 participation and assistance were critical to the success of this litigation and the enforcement of Labor  
7 Code protections. Without Plaintiffs' commitment to come forward and serve as lead plaintiffs and Class  
8 representatives in prosecuting this lawsuit, this litigation may not have been brought. None of the  
9 Plaintiffs' claims are antagonistic to the interests of the class. And, the requested awards are not out of  
10 line with the individual settlement awards. An average award for a member of both Classes will be about  
11 \$1,200 and the highest award will be about \$3,600.<sup>12</sup>

12 67. Finally, unlike other Class Members, Plaintiffs will enter into general releases as part of  
13 the settlement.

#### 14 **VII. Cy Pres**

15 68. The parties have chosen Child Advocates of San Bernardino County (CASA) as *cy pres*  
16 recipient under Cal. Code of Civ. Proc. § 384.

17 69. CASA is a 501(c)(3) non-profit organization which supports and promotes court-appointed  
18 volunteer advocacy for foster youth.

19 70. I certify that I do not and my associates do not have any connection to or relationship with  
20 C.A.S.A. that could reasonably create the appearance of impropriety as between the selection of the  
21 recipient of the money or thing of value and the interests of the class, nor does my law firm.


#### 22 **VIII. Settlement Administrator**

23 71. The parties have selected Settlement Services, Inc., a subsidiary of Epiq to administer this  
24 settlement. Settlement Services, Inc. has extensive experience in the settlement administration of wage  
25 and hour class actions like this one, having administered thousands of class action/PAGA settlements, and  
26 I understand that Defendant's Counsel, Morrison & Foerster LLP has retained them for the settlement  
27 administration of many other wage and hour cases. A true and correct copy of the settlement  
28 administrator's bid is attached hereto as **Exhibit 3**.

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12 There are approximately 341 pay periods in the period between November 15, 2018 and June 9, 2025,  
and approximately 272 pay periods in the period between March 16, 2020 and June 9, 2025. 341 x \$8.07  
(gross per pay period recovery for a Misclassification CM) + 272 x \$3.33 (gross per pay period recovery  
for a Reimbursement CM) = \$3,657.63.

1 I declare under penalty of perjury under the laws of the State of California and the United States  
2 that the foregoing is true and correct. Executed on May 15, 2025.

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4 \_\_\_\_\_  
5 Julian Hammond  
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# EXHIBIT 1

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16 ENVIRONMENTAL SYSTEMS  
RESEARCH INSTITUTE, INC.

17  
18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 COUNTY OF SAN BERNARDINO

20 YESENIA GUTIERREZ AND KATHY  
21 CHAN, individually and on behalf of all others  
similarly situated,

22 Plaintiffs,

23 v.

24 ENVIRONMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC., a California Corporation,

25 Defendant.  
26

Case No. CIVSB2300014

(Assigned for All Purposes to the Honorable  
Christian Towns Dept. S26 - SBJC)

**CLASS AND PAGA SETTLEMENT  
AGREEMENT AND RELEASE**

Date Action Filed: January 4, 2023  
Trial Date: Not Yet Set

1 This Class and PAGA Settlement Agreement and Release (the “Agreement”) is entered  
2 into by and between plaintiffs Yesenia Gutierrez (“Gutierrez”) and Kathy Chan (“Chan”)  
3 (together, “Plaintiffs”), on the one hand, individually and on behalf of all persons who are  
4 members of the classes to be certified for settlement purposes only as provided for herein and the  
5 PAGA Groups and the State of California, and defendant Environmental Systems Research  
6 Institute, Inc. (“Defendant” or “Esri”), on the other hand, subject to the approval of the Court. In  
7 consideration of the promises and mutual covenants and agreements herein contained, Plaintiffs  
8 and Defendant (collectively, the “Parties”) hereby covenant and agree as follows:

9 **1. RECITALS**

10 1.1 On November 15, 2022, Gutierrez filed a putative class action complaint (the  
11 “Original Complaint”) against Defendant in the Superior Court of the State of California, County  
12 of San Bernardino, entitled *Yesenia Gutierrez v. Environmental Systems Research Institute, Inc.*,  
13 Case No. CIVSB2225691 (the “Original Action”). The Original Complaint alleged five causes of  
14 action for (1) failure to pay overtime wages; (2) failure to pay all wages due upon termination; (3)  
15 failure to issue accurate itemized wage statements; (4) failure to reimburse business expenses; and  
16 (5) unfair, unlawful, or fraudulent business practices. With respect to (1)-(3), the Original  
17 Complaint alleged that Defendant misclassified employees in computer software roles. With  
18 respect to (4), the Original Complaint alleged that employees, whether exempt or non-exempt,  
19 were not reimbursed for all necessary business expenses.

20 1.2 Due to issues with the filing service, Gutierrez did not receive conformed copies of  
21 the Original Complaint until approximately March 2023. Because of this, Gutierrez filed an  
22 identical complaint on January 4, 2023 (the “Complaint”), alleging the same five causes of action  
23 as the Original Complaint, entitled *Yesenia Gutierrez v. Environmental Systems Research*  
24 *Institute, Inc.*, Case No. CIVSB2300014 (the “Action”). After conferring with Esri, Gutierrez and  
25 Esri agreed to dismiss the Original Action and that Gutierrez would amend the Complaint to  
26 extend the class period back to November 15, 2018.

27 1.3 On April 11, 2023, Gutierrez filed a First Amended Complaint, extending the class  
28 period back to November 15, 2018. The First Amended Complaint added Chan as a named

1 plaintiff and included an additional cause of action seeking civil penalties under the Labor Code  
2 Private Attorneys General Act of 2004 (“PAGA”), in addition to the five causes of action alleged  
3 in the Complaint.

4 1.4 Prior to the filing of the First Amended Complaint, Gutierrez filed her first PAGA  
5 letter against Defendant on October 12, 2022, alleging the same reimbursement claim as in the  
6 Original Complaint. In her first PAGA letter, Plaintiff named her employer as “ESRI Global,  
7 Inc.” She amended her PAGA letter on October 31, 2022 to correct her employer’s name to  
8 Environmental Systems Research Institute, Inc. (“Esri, Inc.”). On January 9, 2023, Plaintiffs filed  
9 a second amended PAGA letter to include Chan as an alleged representative and to allege claims  
10 for (1) failure to pay overtime wages; (2) failure to pay all wages due upon termination; and (3)  
11 failure to issue accurate itemized wage statements, as alleged in the Complaint. On April 17,  
12 2024, Plaintiffs filed a third amended PAGA letter, seeking to represent all Esri employees  
13 classified as exempt in the State of California who have been paid allegedly on an hourly basis  
14 and adding claims for meal and rest break violations.

15 1.5 On October 1, 2024, the Parties participated in a mediation conducted by  
16 Stephanie S. Chow of Mediated Negotiations. Following the mediation, the Parties agreed to  
17 resolve the Action, memorializing the key terms of the settlement in a memorandum of  
18 understanding fully executed as of December 9, 2024. As part of the settlement, the Parties  
19 agreed that Defendant shall stipulate to the filing of Plaintiffs’ Second Amended Complaint,  
20 which cover claims included in Plaintiffs’ third amended PAGA letter, including the addition of  
21 claims for alleged failure to provide meal breaks and alleged failure to permit and authorize rest  
22 breaks. The Parties filed this stipulation with the Second Amended Complaint on January 21,  
23 2025.

24 1.6 In preparation for the mediation on October 1, 2024, Plaintiffs asked for and  
25 Defendant provided substantial informal discovery, including production of various policies,  
26 employee headcounts and pay period counts relevant to various claims, time and payroll data,  
27 expense reimbursement data, and other information requested by Plaintiffs.  
28

1           1.7     In these and other ways, the Parties investigated the facts and analyzed the relevant  
2 legal issues regarding the claims and defenses in the Action. Based on this investigation and  
3 analysis, Plaintiffs believe the Action has merit, while Defendant believes the Action has no  
4 merit.

5           1.8     The Parties have each considered the uncertainties of continued litigation and the  
6 benefits to be obtained under the proposed settlement, and have considered the costs, risks, and  
7 delays associated with the continued prosecution of the Action and the likely appeals of any  
8 rulings in favor of either Plaintiffs or Defendant. At all times, the Parties' settlement negotiations  
9 have been non-collusive, adversarial, and at arm's length.

10          1.9     It is the Parties' intention and the objective of this Agreement to avoid the costs of  
11 further litigation and trial, and to settle and dispose of, fully and completely and forever, the  
12 claims released herein and described below.

## 13     **2.     DEFINITIONS**

14           As used in this Agreement, the terms set forth in this Section 2 shall have the meanings  
15 ascribed to them below.

16          2.1     **Action.** "Action" means the above-captioned action entitled *Yesenia Gutierrez*  
17 *and Kathy Chan v. Environmental Systems Research Institute, Inc.*, Case No. CIVSB2300014,  
18 currently pending in the Superior Court of the State of California, County of San Bernardino.

19          2.2     **Agreement.** "Agreement" means this Class and PAGA Settlement Agreement and  
20 Release, including all Exhibits referred to herein and attached hereto.

21          2.3     **Alleged Misclassification Class.** "Alleged Misclassification Class" means all  
22 current and former employees of Defendant in the State of California subject to Defendant's Bank  
23 Time Policy and whom Defendant classified as exempt at any time from November 15, 2018 to  
24 the date on which Plaintiffs' motion for Preliminary Approval of this Settlement is first scheduled  
25 to be heard by the Court.

26          2.4     **Alleged Misclassification PAGA Group.** "Alleged Misclassification PAGA  
27 Group" means all current and former employees of Defendant in the State of California subject to  
28 Defendant's Bank Time Policy and whom Defendant classified as exempt at any time from

1 February 5, 2022 to the date on which Plaintiffs’ motion for Preliminary Approval of this  
2 Settlement is first scheduled to be heard by the Court.

3           **2.5 Alleged Reimbursement Class.** “Alleged Reimbursement Class” means all  
4 current and former employees (whether exempt or non-exempt) of Defendant in the State of  
5 California from March 16, 2020 to the date on which Plaintiffs’ motion for Preliminary Approval  
6 of this Settlement is first scheduled to be heard by the Court.

7           **2.6 Alleged Reimbursement PAGA Group.** “Alleged Reimbursement PAGA  
8 Group” means all current and former employees (whether exempt or non-exempt) of Defendant in  
9 the State of California from February 5, 2022 to the date on which Plaintiffs’ motion for  
10 Preliminary Approval of this Settlement is first scheduled to be heard by the Court.

11           **2.7 Allocations.** “Allocations” means the amounts to be paid from the Net Settlement  
12 Sum to the Settlement Class Members and from the PAGA Funds to the PAGA Group Members,  
13 as provided in Section 4.5 of this Agreement.

14           **2.8 Chan.** “Chan” means plaintiff Kathy Chan.

15           **2.9 Class Counsel.** “Class Counsel” means the law firm of HammondLaw, P.C.

16           **2.10 Class Members or Classes.** “Class Members” or “Classes” means all members of  
17 the Alleged Misclassification Class and Alleged Reimbursement Class.

18           **2.11 Class Notice.** “Class Notice” means the Notice of Settlement of Class Action to  
19 be mailed to Class Members. The Class Notice shall be substantially in the form of **Exhibit A**  
20 hereto.

21           **2.12 Class Settlement Award.** “Class Settlement Award” means the amount that the  
22 Settlement Administrator determines is owed to a Class Member pursuant to the Plan of  
23 Allocation described in Section 4.5, below.

24           **2.13 Complaint.** “Complaint” means the complaint filed by Plaintiff Gutierrez in the  
25 Action on January 4, 2023.

26           **2.14 Complaints.** “Complaints” means the Original Complaint, the Complaint, the  
27 First Amended Complaint, and the Second Amended Complaint.  
28

1           2.15   **Court.** “Court” means the Superior Court of the State of California, County of  
2 San Bernardino.

3           2.16   **Defendant.** “Defendant” means defendant Environmental Systems Research  
4 Institute, Inc.

5           2.17   **Defendant’s Counsel.** “Defendant’s Counsel” means the law firm of Morrison &  
6 Foerster LLP.

7           2.18   **Effective Date.** “Effective Date” means either (a) the date sixty (60) calendar  
8 days after entry of the Final Judgment and Order Approving Settlement, if no motions for  
9 reconsideration and no appeals or other efforts to obtain review have been filed, or (b) in the  
10 event that a motion for reconsideration, an appeal or other effort to obtain review of the Final  
11 Judgment and Order Approving Settlement is filed, the date sixty (60) calendar days after such  
12 reconsideration, appeal, or review has been finally concluded and is no longer subject to review,  
13 whether by appeal, petition for rehearing, petition for review, or otherwise.

14           2.19   **Fee and Expense Award.** “Fee and Expense Award” means such award of  
15 attorneys’ fees and costs/expenses as the Court may authorize to be paid to Class Counsel for the  
16 services they have rendered to Plaintiffs, the settlement Classes, and the PAGA Groups.

17           2.20   **Fairness Hearing or Final Approval Hearing.** “Fairness Hearing” or “Final  
18 Approval Hearing” means the hearing at or after which the Court will make a final decision on  
19 whether to grant Final Approval of the Settlement as fair, reasonable, and adequate, implement  
20 the terms of the Agreement, and enter Judgment. The Fairness Hearing shall be scheduled for a  
21 date approximately ninety (90) calendar days after the Preliminary Approval Date, or as soon as  
22 thereafter as the Court is available.

23           2.21   **Final Approval or Judgment.** “Final Approval” or “Judgment” means the Final  
24 Judgment and Order Approving Settlement finally certifying the Settlement Classes and  
25 approving the Settlement and this Agreement, as contemplated in Section 4.7 of this Agreement.

26           2.22   **First Amended Complaint.** “First Amended Complaint” means the amended  
27 complaint filed in this Action on April 11, 2023.  
28

1           2.23   **General Release Payments.** “General Release Payments” means the  
2 compensation paid to Plaintiffs in consideration for their general release of their individual claims  
3 as set forth in Section 5.6, below, and in recognition of their effort and work in prosecuting the  
4 Action on behalf of the Class Members and negotiating the Settlement, separate and apart from  
5 the Class Settlement Award and PAGA Settlement Award they will receive, to be paid to them  
6 from the Gross Settlement Amount.

7           2.24   **Gross Settlement Amount.** “Gross Settlement Amount” means Four Million  
8 Nine Hundred Ten Thousand Dollars and No Cents (\$4,910,000.00), which is the maximum total  
9 amount that Defendant shall be required to pay for any and all purposes under this Agreement.  
10 The following shall be paid from the Gross Settlement Amount pursuant to the Plan of Allocation  
11 set forth in Section 4.5, below: (a) all Class Settlement Awards, (b) the PAGA Settlement  
12 Amounts, (c) the Fee and Expense Award, (d) the General Release Payments, (e) the Settlement  
13 Administration Costs, and (f) Withholdings and Taxes. Under no other circumstances shall  
14 Defendant pay any sum in excess of the Gross Settlement Amount in connection with the  
15 Settlement.

16           2.25   **Gutierrez.** “Gutierrez” means plaintiff Yesenia Gutierrez.

17           2.26   **LWDA.** “LWDA” means the California Labor and Workforce Development  
18 Agency.

19           2.27   **Net Settlement Sum.** “Net Settlement Sum” means the Gross Settlement Amount  
20 less the following: (a) the PAGA Settlement Amount, (b) the Fee and Expense Award, (c) the  
21 General Release Payments, (d) the Settlement Administration Costs, and (e) Withholdings and  
22 Taxes. 70% of the Net Settlement Sum (including and subject to Withholdings and Taxes) shall  
23 be allocated to Settlement Class Members of the Alleged Misclassification Class, and the  
24 remaining 30% (not including and not subject to Withholdings and Taxes) shall be allocated to  
25 Settlement Class Members of the Alleged Reimbursement Class.

26           2.28   **Notice of Pay Periods.** “Notice of Pay Periods” means the notice to be mailed to  
27 Class Members as an enclosure with the Class Notice notifying each Class Member and/or PAGA  
28

1 Group Member of the number of Pay Periods calculated for the Class Member and/or PAGA  
2 Group Member. The Notice of Pay Periods shall be substantially in the form of **Exhibit B** hereto.

3       2.29 **Notice Response Deadline.** “Notice Response Deadline” means forty-five (45)  
4 calendar days from the date of initial mailing of the Class Notice, or such other date set by the  
5 Court in the Preliminary Approval Order.

6       2.30 **Original Action.** “Original Action” means the putative class action Gutierrez  
7 filed against Defendant in the Superior Court of the State of California, County of San  
8 Bernardino, entitled *Yesenia Gutierrez v. Environmental Systems Research Institute, Inc.*, Case  
9 No. CIVSB2225691, which was dismissed.

10       2.31 **Original Complaint.** “Original Complaint” means the complaint filed by  
11 Gutierrez in the Original Action on November 15, 2022.

12       2.32 **PAGA.** “PAGA” means the Labor Code Private Attorneys General Act of 2004  
13 (Lab. Code, § 2698, et seq.).

14       2.33 **PAGA Fund.** “PAGA Fund” means 25% of the PAGA Settlement Amount,  
15 which is the portion to be paid to PAGA Group Members. 70% of the PAGA Fund shall be  
16 allocated to members of the Alleged Misclassification PAGA Group, and the remaining 30%  
17 shall be allocated to members of the Alleged Reimbursement PAGA Group.

18       2.34 **PAGA Group Members or PAGA Groups.** “PAGA Group Members” or  
19 “PAGA Groups” means all members of the Alleged Misclassification PAGA Group and Alleged  
20 Reimbursement PAGA Group.

21       2.35 **PAGA Notices.** “PAGA Notices” means the PAGA notice filed by Plaintiff  
22 Gutierrez with the LWDA regarding Defendant on or about October 12, 2022, the amended  
23 PAGA notice filed by Plaintiff Gutierrez with the LWDA regarding Defendant on or about  
24 October 31, 2022, the second amended PAGA notice filed by Plaintiff Gutierrez with the LWDA  
25 regarding Defendant on or about January 9, 2023, and the third amended PAGA notice filed by  
26 Plaintiffs with the LWDA regarding Defendant on or about April 17, 2024.

27  
28

1           2.36   **PAGA Period.** “PAGA Period” means from February 5, 2022 to and including  
2 the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled  
3 to be heard by the Court

4           2.37   **PAGA Settlement Amount.** “PAGA Settlement Amount” means One Hundred  
5 Thousand Dollars and No Cents (\$100,000.00) or such other amount approved by the Court, 75%  
6 of which (\$75,000.00) is to be paid to the LWDA and 25% of which (\$25,000.00) is to form the  
7 PAGA Fund to be paid to PAGA Group Members. The PAGA Settlement Amount is to be paid  
8 for resolution of the PAGA claims alleged in the Action, and which are included in the Released  
9 PAGA Claims.

10          2.38   **PAGA Settlement Award.** “PAGA Settlement Award” means the amount that  
11 the Settlement Administrator determines is owed to a PAGA Group Member pursuant to the Plan  
12 of Allocation described in Section 4.5, below.

13          2.39   **Parties.** “Parties” means plaintiffs Yesenia Gutierrez and Kathy Chan, on the one  
14 hand, individually and on behalf of all Settlement Class Members, and Plaintiffs on behalf of the  
15 PAGA Group and the State of California, and defendant Environmental Systems Research  
16 Institute, Inc., on the other hand.

17          2.40   **Pay Periods.** “Pay Periods” means the number of pay periods during which a  
18 Class Member and/or PAGA Group Member was employed by Esri in California for at least one  
19 day. Pay Periods as provided in this Agreement shall be calculated according to Defendant’s  
20 records. Settlement Class Members may dispute the number of Pay Periods they had during the  
21 Settlement Period by completing and returning the Notice of Pay Periods included with the Class  
22 Notice, which shall be substantially in the form of **Exhibit B** hereto.

23          2.41   **Plaintiffs.** “Plaintiffs” means plaintiffs Yesenia Gutierrez and Kathy Chan.

24          2.42   **Plan of Allocation.** “Plan of Allocation” means the manner in which the Net  
25 Settlement Sum shall be allocated to Settlement Class Members and the PAGA Fund shall be  
26 allocated to the LWDA and PAGA Group Members as set forth in Section 4.5, below.

27          2.43   **Preliminary Approval or Preliminary Approval Order.** “Preliminary  
28 Approval” or “Preliminary Approval Order” means the order preliminarily approving this

1 Settlement, which shall, among other things, provisionally certify the Settlement Classes for  
2 purposes of this Settlement only; determine that Plaintiffs adequately represent the Settlement  
3 Classes and shall be their class representatives; appoint Class Counsel as counsel for the  
4 Settlement Classes; approve Settlement Services, Inc. as the Settlement Administrator; approve  
5 the content and distribution of the Class Notice to the Class Members; set the Request for  
6 Exclusion Deadline and the deadline for objecting to the Settlement; and set the date for the  
7 Fairness Hearing, all as contemplated in Section 4.1, below.

8           **2.44 Preliminary Approval Date.** “Preliminary Approval Date” means the date upon  
9 which the Court enters the Preliminary Approval Order.

10           **2.45 Released Claims.** “Released Claims” means all claims, debts, liabilities,  
11 demands, obligations, damages, and actions or causes of action of any kind, including wage and  
12 hour claims related to allegations of employee misclassification and failure to reimburse business  
13 expenses, arising before or on the end date of the Settlement Period and that were alleged in the  
14 Original Complaint, the Complaint, the First Amended Complaint, and the Second Amended  
15 Complaint or any of the PAGA Notices or could have reasonably been alleged against any of the  
16 Released Parties based on the facts alleged in any of the Complaints or any of the PAGA Notices.  
17 Specifically, for the Settlement Class Members of the Alleged Misclassification Class, released  
18 claims include, without limitation, claims under Labor Code sections 201-203, 226, 226(a),  
19 226(e), 226.7, 510, 512, 1194, and 2698 et seq.; Business and Professions Code section 17200 et  
20 seq.; and Code of Civil Procedure section 1021.5. For the Settlement Class Members of the  
21 Alleged Reimbursement Class, released claims include, without limitation, claims under Labor  
22 Code sections 2802 and any derivative claims; Business and Professions Code section 17200 et  
23 seq.; and Code of Civil Procedure section 1021.5.

24           **2.46 Released PAGA Claims.** “Released PAGA Claims” means all claims that were  
25 or could have been asserted pursuant to PAGA arising out of or related to the Released Claims  
26 arising before or on the end date of the PAGA Period. Specifically, for the Alleged  
27 Misclassification PAGA Group, released PAGA claims include those based on, without  
28 limitation, alleged violations of Labor Code sections 201-203, 226, 226(a), 226(e), 226.7, 510,

1 512, 1194, and 2698 et seq. For the Alleged Reimbursement PAGA Group, released PAGA  
2 claims include those based on, without limitation, alleged violations of Labor Code sections 2802  
3 and any derivative Labor Code claims. The Released PAGA Claims are released by both the  
4 State of California and the PAGA Group Members as part of this Settlement.

5       2.47 **Released Parties.** “Released Parties” means Defendant; each of its respective  
6 present, former, or future parents, subsidiaries, affiliates, divisions, corporations in common  
7 control, predecessors, successors, and assigns; each of its respective present, past, or future  
8 officers, directors, employees, partners (both general and limited), shareholders, agents, attorneys,  
9 insurers, and any other successors, assigns, or legal representatives; and any other individual or  
10 entity which could be liable for any of the Released Claims or Released PAGA Claims.

11       2.48 **Request for Exclusion.** “Request for Exclusion” means a written request made by  
12 a Class Member to the Settlement Administrator seeking to be excluded from the Settlement  
13 Class.

14       2.49 **Request for Exclusion Deadline.** “Request for Exclusion Deadline” means  
15 forty-five (45) calendar days from the date of initial mailing of the Class Notice, or such other  
16 date set by the Court in the Preliminary Approval Order for submitting a Request for Exclusion to  
17 the Settlement Administrator.

18       2.50 **Second Amended Complaint.** “Second Amended Complaint” means the Second  
19 Amended Complaint attached to the Parties’ stipulation and proposed order filed on January 21,  
20 2025.

21       2.51 **Settlement.** “Settlement” means this Agreement and all actions taken pursuant to  
22 and in furtherance of this Agreement.

23       2.52 **Settlement Administration Costs.** “Settlement Administration Costs” means the  
24 amount approved by the Court to be paid for the services of the Settlement Administrator to  
25 perform the Settlement Administrator Duties, as specified in Section 4.2.2, below, estimated not  
26 to exceed Fifty-Seven Thousand Two Hundred Fifty Dollars and No Cents (\$57,250.00).

27       2.53 **Settlement Administrator.** “Settlement Administrator” means Settlement  
28 Services, Inc. or such professional, third-party administrator as may be approved by the Court,

1 which shall be responsible for administering the Settlement pursuant to the terms of the  
2 Agreement, the Class Notice, the Preliminary Approval Order, and the Judgment. The Settlement  
3 Administrator shall agree to confidentiality terms as may be required by Defendant regarding  
4 personnel, payroll, and any other data provided to the Settlement Administrator and shall work  
5 with Class Counsel and Counsel for Defendant to implement and administer appropriate fraud-  
6 prevention policies. The Settlement Administration Costs shall be paid out of the Gross  
7 Settlement Amount.

8       **2.54 Settlement Classes.** “Settlement Classes” means Plaintiffs and all Settlement  
9 Class Members.

10       **2.55 Settlement Class Members.** “Settlement Class Members” means each Class  
11 Member who does not submit a valid and timely Request for Exclusion.

12       **2.56 Settlement Fund.** “Settlement Fund” means the fund established and  
13 administered by the Settlement Administrator for the purpose of receiving and disbursing  
14 amounts to be paid to Settlement Class Members, PAGA Group Members, the LWDA, Plaintiffs,  
15 Class Counsel, and the Settlement Administrator pursuant to this Agreement. The Settlement  
16 Fund shall be funded by Defendant following the Effective Date in accordance with Section 4.8.1,  
17 below.

18       **2.57 Settlement Period.** “Settlement Period” means from November 15, 2018 to and  
19 including the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first  
20 scheduled to be heard by the Court.

21       **2.58 Withholdings and Taxes.** “Withholdings and Taxes” means all withholdings  
22 from the Class Settlement Awards required by law plus all federal, state, and local employment  
23 payroll taxes due in regard to the wages portion of Class Settlement Award, owed by a Settlement  
24 Class Member of the Alleged Misclassification Class or by Defendant. Withholdings and Taxes  
25 shall be deducted from the portion of the Net Settlement Sum allocated to the Alleged  
26 Misclassified Class.

1       **3. SETTLEMENT TERMS**

2           **3.1 Stay of Proceedings.** Subject to Court approval, the Parties agree to the entry of a  
3 formal stay of all proceedings in this Action, including with respect to California Code of Civil  
4 Procedure section 583.310, except such proceedings as may be necessary to implement and  
5 complete the settlement, including for the sole and limited purpose of Plaintiffs filing the motion  
6 for Preliminary Approval (as set forth in Section 4.1).

7           **3.2 Certification of the Settlement Class.** For purposes of settlement and the  
8 proceedings contemplated by this Agreement only, the Settlement Classes shall be provisionally  
9 certified and consist of Plaintiffs and all Settlement Class Members.

10           **3.3 Decertification of the Settlement Class If Settlement Not Approved.**  
11 Defendant does not consent to certification of the Settlement Classes or any settlement class for  
12 any purpose other than to effectuate the Settlement of the Action. If, for any reason, the  
13 Settlement does not become final, any certification of any Settlement Classes will be vacated and  
14 the Parties will be returned to their positions with respect to the Action as if the Agreement had  
15 not been entered into. In the event that Final Approval is not achieved: (a) any Court order  
16 preliminarily approving the certification of any class contemplated by this Agreement shall be  
17 null, void, and vacated, and shall not be used or cited thereafter by any person or entity; (b) the  
18 fact of the Settlement reflected in this Agreement, that Defendant did not oppose the certification  
19 of the Settlement Class under this Agreement, or that the Court preliminarily approved the  
20 certification of the Settlement Class, shall not be used or cited thereafter by any person or entity  
21 in any manner whatsoever, including without limitation any contested proceeding relating to the  
22 certification of any class; and (c) the Parties agree that they will be returned to their status quo  
23 ante positions, except that the Second Amended Complaint shall remain the operative complaint  
24 in the Action, with Defendant reserving all rights. In the event the terms and conditions of this  
25 Agreement are substantially modified by the Court, Plaintiffs and Defendant reserve the right to  
26 declare this Agreement null and void, in their sole discretion, within fourteen (14) calendar days  
27 after such modification; provided, however, the Party exercising this right shall be solely  
28

1 responsible for the Settlement Administrator's expenses incurred through the date of that Party's  
2 exercise, not to exceed the amount approved by the Court in the Preliminary Approval Order.

3       **3.4 Settlement Payment by Defendant.** In full settlement of the Released Claims  
4 and Released PAGA Claims and following the Effective Date, Defendant shall deliver the Gross  
5 Settlement Amount to the Settlement Administrator for establishment of the Settlement Fund, in  
6 accordance with Section 4.8.1, below.

7       **3.5 Attorneys' Fees and Costs.** Defendant agrees not to oppose Plaintiffs'  
8 application for attorneys' fees up to One Million Six Hundred Thirty-Six Thousand Six Hundred  
9 Sixty-Six Dollars and Sixty-Seven Cents (\$1,636,666.67) (33.33% of the Gross Settlement  
10 Amount) plus actual costs and expenses, subject to the Court's approval. Plaintiffs agree not to  
11 petition the Court for more than One Million Six Hundred Thirty-Six Thousand Six Hundred  
12 Sixty-Six Dollars and Sixty-Seven Cents (\$1,636,666.67) for attorneys' fees or more than Fifty  
13 Thousand Dollars and Zero Cents (\$50,000.00) for costs, and in no event shall Defendant be  
14 liable for any attorneys' fees or costs in excess of these amounts. The Fee and Expense Award  
15 shall represent payment for all claims for Class Counsel's attorneys' fees and costs, past and  
16 future, incurred in the Action. The Fee and Expense Award shall be paid from the Gross  
17 Settlement Amount, and Defendant shall not otherwise be required to pay for any portion of Class  
18 Counsel's attorneys' fees, costs, or expenses. The Fee and Expense Award shall be paid to Class  
19 Counsel following the Effective Date, in accordance with Section 4.8.2, below. An award by the  
20 Court of attorneys' fees or costs that is less than the amounts applied for will not be grounds for  
21 Plaintiffs or Class Counsel to challenge or withdraw from the Settlement, and any amounts not  
22 awarded in costs or fees will be included in the Net Settlement Sum.

23       **3.6 General Release Payments.** In consideration of their general release of their  
24 individual claims as set forth in Section 5.6, below and in recognition of their effort and work in  
25 prosecuting the Action on behalf of the Class Members and negotiating the Settlement, Gutierrez  
26 shall receive compensation in the sum of Seven Thousand Five Hundred Dollars and No Cents  
27 (\$7,500.00), and Chan shall receive compensation in the sum of Seven Thousand Five Hundred  
28 Dollars and No Cents (\$7,500.00). These General Release Payments are to be paid from the

1 Gross Settlement Amount and reported on IRS Form 1099-MISC. The General Release  
2 Payments are separate from and in addition to the Class Settlement Awards and PAGA  
3 Settlement Awards to be paid to Plaintiffs as Settlement Class Members and PAGA Group  
4 Members. It will not be grounds for Plaintiffs or Class Counsel to challenge or withdraw from  
5 the Settlement if the Court denies Plaintiffs' application for the General Release Payments or  
6 awards a lesser amount than that for which Plaintiffs apply, and any amounts not awarded in the  
7 General Release Payments will be included in the Net Settlement Sum.

8       **3.7 PAGA Settlement Amount.** Plaintiffs shall seek approval from the Court for a  
9 total payment of One Hundred Thousand Dollars and No Cents (\$100,000.00) for resolution of  
10 the PAGA claims alleged in the Complaint, the PAGA Notices, or any of them. 75% of the  
11 PAGA Settlement Amount shall be paid to the LWDA, and 25% of the PAGA Settlement  
12 Amount shall form the PAGA Fund to be paid to PAGA Group Members in accordance with the  
13 Plan of Allocation set forth in Section 4.5, below.

#### 14 **4. CLASS SETTLEMENT PROCEDURES**

15       **4.1 Preliminary Approval.** As soon as practicable, Plaintiffs shall move for  
16 Preliminary Approval of the Settlement in the Action. Plaintiffs' motion shall request the Court  
17 to:

18               4.1.1 Preliminarily approve this Agreement as fair, reasonable, and adequate;

19               4.1.2 Preliminarily approve the form, manner, and content of the Class Notice  
20 described in Section 4.2 and attached as **Exhibit A**, and the form, manner, and content of the  
21 Notice of Pay Periods described in Section 2.28 and attached as **Exhibit B**;

22               4.1.3 Set deadlines for the Settlement Administrator to provide the Class Notice,  
23 and for Class Members to opt out of or object to the Settlement;

24               4.1.4 Set the date and time for the Fairness Hearing;

25               4.1.5 Provisionally certify the Settlement Classes;

26               4.1.6 Stay all proceedings except for such proceedings as may be necessary to  
27 implement and complete the Settlement, including for the sole and limited purpose of Plaintiffs  
28 filing the motion for Preliminary Approval, until Final Approval;

1                   4.1.7 Appoint Plaintiffs as class representatives for the Settlement Classes for  
2 settlement purposes only;

3                   4.1.8 Appoint Class Counsel as class counsel for settlement purposes only; and

4                   4.1.9 Approve Settlement Services, Inc. as the Settlement Administrator.

5                   The Preliminary Approval Order shall be substantially the same as the proposed order  
6 attached as **Exhibit C**. Class Counsel shall draft the preliminary approval papers and give  
7 Defendant's Counsel a draft of the papers to review at least three (3) court days before they are  
8 filed.

9                   4.2     **Class Notice.** Subject to Court approval, the Parties agree that as soon as  
10 practicable after entry of the Preliminary Approval Order, the Settlement Administrator shall  
11 provide notice to the Settlement Classes pursuant to the following procedures:

12                   4.2.1   **Information Regarding Class Members.** Within fifteen (15) business  
13 days following entry of the Preliminary Approval Order, Defendant will provide the Settlement  
14 Administrator the following information with respect to each Class Member: (i) name, (ii) last  
15 known residence address, (iii) last known telephone number, (iv) Social Security number, and  
16 (v) the number of Pay Periods worked during the Settlement Period and the PAGA Period.  
17 Defendant will provide this information in two spreadsheets, one for the Alleged  
18 Misclassification Class and the other for the Alleged Reimbursement Class. The information  
19 Defendant provides to the Settlement Administrator, along with any updated contact information  
20 identified by the Settlement Administrator as set forth in Sections 4.2.2 and 4.2.3, below, shall be  
21 used solely to administer the Class Notice and Plan of Allocation process described herein, shall  
22 remain confidential, and shall not be disclosed to anyone, except pursuant to the express written  
23 authorization of Defendant or the individual in question, by order of the Court, or to the extent  
24 necessary to fulfill the Settlement Administrator's reporting obligations hereunder.

25                   4.2.2   **Settlement Administrator Duties.** The Settlement Administrator's duties  
26 shall include, without limitation: (i) printing the Class Notice (including exhibits thereto) and  
27 mailing it to the Class Members as directed by the Court; (ii) taking all steps reasonably  
28 necessary to ensure Class Members timely receive the Class Notice; (iii) resolving any disputes

1 by Settlement Class Members regarding their number of Pay Periods; (iv) taking receipt of and  
2 safeguarding the Gross Settlement Amount; (v) calculating and distributing Class Settlement  
3 Awards, PAGA Settlement Awards, the portion of the PAGA Settlement Amount payable to the  
4 LWDA, the General Release Payments, and the Fee and Expense Award, provided such amounts  
5 are approved by the Court; (vi) calculating and remitting all Withholdings and Taxes; (vii) issuing  
6 IRS Forms W-2 and 1099-MISC, as applicable; and (viii) filing such other reports with the taxing  
7 authorities as required by law, together with such other tasks as the Parties may mutually agree or  
8 the Court may order the Settlement Administrator to perform. The Settlement Administrator shall  
9 take all reasonable steps to ensure that (a) the highest percentage of Class Members receive the  
10 Class Notice; (b) Class Members who wish to participate in the Settlement are permitted to do so  
11 consistent with this Agreement; and (c) the Settlement Administrator has the most current and  
12 accurate addresses for Class Members, including but not limited to performing an initial National  
13 Change of Address database search on all Class Members who are former employees. In  
14 addition, the Settlement Administrator shall perform a standard search, also known as “batch,”  
15 “skip trace,” or “credit header” searches, on all addresses returned as undeliverable. The  
16 Settlement Administrator shall immediately re-mail the Class Notice to all updated addresses  
17 obtained through its efforts to locate the most current and accurate addresses for Class Members.  
18 The Settlement Administrator shall also establish and maintain a dedicated case website, on  
19 which it will post information of interest to the Class Members, and provide email and toll-free  
20 telephone support to Class Members; maintain appropriate databases to fulfill its duties; receive,  
21 control, and account for all returned Class Notices, disputes, requests for exclusion/opt-outs, and  
22 objections; and prepare and deliver reports to Class Counsel and Defendant’s Counsel on a  
23 weekly basis that communicate the status of the notice process, including the number of Class  
24 Notices mailed, returned, searched, and re-mailed as well as disputes, requests for exclusion, and  
25 objections. In addition to the duties identified above, the Settlement Administrator shall prepare  
26 final declarations, reports, and invoices that accurately describe the notice process, the level of  
27 participation, and actions taken to ensure the best possible notice of the Settlement was provided  
28 to Class Members.

1                   **4.2.3 Mailing of Class Notice to Class Members.** No later than ten (10)  
2 business days following receipt of the information to be provided under Section 4.2.1, above, the  
3 Settlement Administrator shall mail the Class Notice to all Class Members. The Settlement  
4 Administrator shall send a copy of the Class Notice in the form approved by the Court in its  
5 Preliminary Approval Order to Class Members, via first class United States mail, using the most  
6 current mailing address. Any Class Notices returned to the Settlement Administrator with a  
7 forwarding address shall be immediately re-mailed by the Settlement Administrator. The  
8 Settlement Administrator shall conduct one address search for any Class Member’s Class Notice  
9 that is returned without a forwarding address and shall, upon obtaining a new or different address,  
10 immediately re-mail the Class Member’s Class Notice. Plaintiffs, Defendant, and their respective  
11 counsel each agree that, other than as provided in this Agreement, they will not distribute or make  
12 available any documents, notices, or information regarding this Action or the Settlement to any  
13 Class Member, unless a specific request is first made by the Class Member.

14                   **4.3 Requests for Exclusion/Opt Outs.** Class Members who wish to be excluded  
15 from or opt out of the Settlement must submit a written, signed Request for Exclusion to the  
16 Settlement Administrator, within the Request for Exclusion Deadline.

17                   **4.3.1 Contents of Request.** The Request for Exclusion must contain (i) the full  
18 name, address, and telephone number of the person requesting to be excluded; (ii) the words  
19 “Request for Exclusion” at the top of the document; and (iii) the following statement:

20                   “I wish to be excluded from the Class Settlement in this case,  
21                   *Gutierrez, et al. v. Environmental Systems Research Institute, Inc.*,  
22                   San Bernardino Superior Court Case No. CIVSB2300014.”

23                   **4.3.2 Personal Signatures.** The Request for Exclusion must be personally  
24 signed by the Class Member who seeks to opt out. No Class Member may opt out by having a  
25 request to opt out submitted by an actual or purported agent or attorney acting on behalf of the  
26 Class Member. No opt out request may be made on behalf of a group of Class Members.

27                   **4.3.3 Timeliness.** For purposes of determining timeliness, Requests for  
28 Exclusion shall be deemed to have been submitted on the date postmarked by the U.S. Postal  
Service or other delivery service. The Settlement Administrator shall stamp the date received on

1 the original of any Request for Exclusion it receives. Not later than fifteen (15) calendar days  
2 after the Request for Exclusion Deadline set by the Court, the Settlement Administrator will  
3 inform Class Counsel and Defendant's Counsel of the total number of Class Members who timely  
4 submitted valid Requests for Exclusion. Not later than sixteen (16) court days before the date set  
5 for the Fairness Hearing, the Settlement Administrator shall serve copies of all date-stamped  
6 Requests for Exclusion on Class Counsel and Defendant's Counsel as well as a declaration  
7 describing the Class Notice procedures. The Settlement Administrator shall retain the originals of  
8 all Requests for Exclusion in its files. Counsel for the Parties shall not use or disclose the  
9 information thus received for any purpose other than the effectuation of the Settlement.

10 **4.3.4 Effect of Exclusion/Opt-Out.** Class Members who are excluded from or  
11 opt out of the Settlement cannot object to the Settlement. Only Settlement Class Members (i.e.,  
12 those Class Members who have not excluded themselves from or opted out of the Settlement)  
13 may object to the Settlement, in accordance with Section 4.4 of this Agreement.

14 **4.3.5 Non-Opt Outs Bound by Settlement.** Each Class Member who does not  
15 submit a Request for Exclusion substantially in compliance with this Section 4.3 within the  
16 deadline set by the Court shall be included in the Settlement as a Settlement Class Member and be  
17 bound by the terms of this Agreement and any Court order approving the terms of the Settlement,  
18 unless the Court deems such Class Member excluded at the time of the final Fairness Hearing.

19 **4.3.6 Resolution of Disputes.** In the event of any issue over the completeness,  
20 accuracy, timeliness, or validity of a Request for Exclusion, the Parties shall meet and confer in  
21 good faith for the purpose of resolving the issue and, if the issue cannot be resolved, shall submit  
22 the dispute to the Settlement Administrator for a final and binding determination that shall not be  
23 appealable.

24 **4.3.7 Defendant's Right to Rescind.** If more than five percent (5%) of the  
25 Class Members opt out of the Settlement, then Defendant shall have the option, in its sole  
26 discretion, to rescind this Agreement, in which case all of Defendant's obligations under this  
27 Agreement shall cease to be of any force or effect, and this Agreement shall be null and void. If  
28 Defendant exercises this option, it shall provide Plaintiffs with written notice of their election

1 within thirty (30) calendar days of the Request for Exclusion Deadline set by the Court, with a  
2 copy to the Settlement Administrator, at which point the Parties shall return to their respective  
3 positions that existed before the execution of this Agreement, and no term of this Agreement or  
4 any draft thereof, or the negotiation, documentation, or other part or aspect of the Parties'  
5 settlement discussions, shall have any effect or be admissible as evidence for any purpose in the  
6 Action, or in any other proceeding. Notwithstanding the foregoing, the Parties agree that in the  
7 event this Agreement is rescinded by Defendant pursuant to this Section 4.3.7, Plaintiffs' Second  
8 Amended Complaint shall remain the operative complaint in the Action, with Defendant  
9 reserving all rights, and Defendant shall pay the expenses incurred by the Settlement  
10 Administrator through the date of Defendant's election to rescind, not to exceed the amount  
11 approved by the Court in the Preliminary Approval Order.

12           **4.3.8 No Right to Exclusion by PAGA Group Members.** Because this  
13 Settlement resolves claims brought pursuant to PAGA by Plaintiffs acting as proxies and as  
14 Private Attorneys General of, and for, the State of California and the LWDA, the Parties agree  
15 that no PAGA Group Member has the right to exclude himself or herself from the Settlement.  
16 PAGA Group Members shall be bound by the terms of the Settlement, upon its approval by the  
17 Court, regardless of whether he or she requested exclusion as a Class Member, and thus is not a  
18 Settlement Class Member, and regardless of whether he or she cashes the PAGA Settlement  
19 Award issued to him or her.

20           **4.4 Objections.** Only Settlement Class Members (i.e., those Class Members who  
21 have not excluded themselves from the Settlement) may object to the Settlement.

22           **4.4.1 Manner of Objecting.** Settlement Class Members who wish to object to  
23 the Settlement do not need to submit their objection in writing, but if they wish to do so, they may  
24 submit to the Settlement Administrator a signed, written statement objecting to the Settlement.  
25 Any such written statement and any supporting briefs or other materials should be submitted to  
26 the Settlement Administrator no later than the Notice Response Deadline. Settlement Class  
27 Members may but are not required to appear at the Fairness Hearing. Settlement Class Members  
28

1 may appear at the Fairness Hearing to object to the Settlement without providing any prior notice  
2 to the Parties, their counsel, the Settlement Administrator, or the Court.

3           **4.4.2 Response to Objections.** At the same time Plaintiffs move for Final  
4 Approval pursuant to Section 4.7 of this Agreement, Plaintiffs shall also file a response to any  
5 written objections submitted by Settlement Class Members. Class Counsel must draft the  
6 response to the objections and give Defendant's Counsel a draft of the response to review at least  
7 three (3) court days before it is filed or as soon as practical under the circumstances. Defendant  
8 shall be permitted, but not required, to file their own response to any objections.

9           **4.4.3 No Right to Objections by PAGA Group Members.** Because this  
10 Settlement resolves claims brought pursuant to PAGA by Plaintiffs acting as proxies and as  
11 Private Attorney Generals of, and for, the State of California and the LWDA, the Parties agree  
12 that no PAGA Group Member has the right to object to the Settlement, whether or not he or she  
13 has objected thereto as a Settlement Class Member.

14           **4.5 Plan of Allocation: Calculation of All Settlement Awards.** The Settlement  
15 Administrator shall be responsible for the Allocations of the Net Settlement Sum to Settlement  
16 Class Members and of the PAGA Fund to PAGA Group Members and, thereby, for determining  
17 the Class Settlement Awards and the PAGA Settlement Awards, all to be paid on a pro rata basis  
18 as follows:

19           **4.5.1 Alleged Misclassification Class.** The Class Settlement Award for each  
20 Settlement Class Member of the Alleged Misclassification Class shall be his or her pro-rata share  
21 of 70% of the Net Settlement Sum (including and subject to Withholdings and Taxes) calculated  
22 as follows: The Settlement Administrator shall first calculate the sum total number of Pay Periods  
23 for all Settlement Class Members of the Alleged Misclassification Class. The Settlement  
24 Administrator shall then divide 70% of the Net Settlement Sum by this sum total number of Pay  
25 Periods, resulting in a per Pay Period value to be used in calculating Class Settlement Awards for  
26 the Alleged Misclassification Class. The Settlement Administrator shall then take this per Pay  
27 Period value and multiply it by the number of Pay Periods for each Settlement Class Member of  
28

1 the Alleged Misclassification Class, resulting in the Class Settlement Award plus Withholdings  
2 and Taxes for each Settlement Class Member of the Alleged Misclassification Class.

3           **4.5.2 Alleged Reimbursement Class.** The Class Settlement Award for each  
4 Settlement Class Member of the Alleged Reimbursement Class shall be his or her pro-rata share  
5 of 30% of the Net Settlement Sum (not including and not subject to Withholdings and Taxes),  
6 calculated as follows: The Settlement Administrator shall first calculate the sum total number of  
7 Pay Periods for all Settlement Class Members of the Alleged Reimbursement Class. The  
8 Settlement Administrator shall then divide 30% of the Net Settlement Sum by this sum total  
9 number of Pay Periods, resulting in a per Pay Period value to be used in calculating Class  
10 Settlement Awards for the Alleged Reimbursement Class. The Settlement Administrator shall  
11 then take this per Pay Period value and multiply it by the number of Pay Periods for each  
12 Settlement Class Member of the Alleged Reimbursement Class, resulting in the Class Settlement  
13 Award for each Settlement Class Member of the Alleged Reimbursement Class.

14           **4.5.3 Class Settlement Awards Payable Only to Settlement Class Members.**  
15 The Settlement Administrator shall pay Class Settlement Awards from the Net Settlement Sum  
16 and shall pay only those Class Settlement Awards payable to Settlement Class Members.

17           **4.5.4 Alleged Misclassification PAGA Group.** The PAGA Settlement Award  
18 for each member of the Alleged Misclassification PAGA Group shall be the member's pro-rata  
19 share of 70% of the PAGA Fund, calculated as follows: The Settlement Administrator shall first  
20 calculate the sum total number of Pay Periods for all members of the Alleged Misclassification  
21 PAGA Group. The Settlement Administrator shall then divide 70% of the PAGA Fund by the  
22 sum total number of Pay Periods for all members of the Alleged Misclassification PAGA Group,  
23 resulting in a per Pay Period value to be used in calculating PAGA Settlement Awards for these  
24 members. The Settlement Administrator shall then take this per Pay Period value and multiply it  
25 by the number of Pay Periods for each of these members, resulting in the PAGA Settlement  
26 Award for each member of the Alleged Misclassification PAGA Group.

27           **4.5.5 Alleged Reimbursement PAGA Group.** The PAGA Settlement Award  
28 for each member of the Alleged Reimbursement PAGA Group shall be the member's pro-rata

1 share of 30% of the PAGA Fund, calculated as follows: The Settlement Administrator shall first  
2 calculate the sum total number of Pay Periods for all members of the Alleged Reimbursement  
3 PAGA Group. The Settlement Administrator shall then divide 30% of the PAGA Fund by the  
4 sum total number of Pay Periods for all members of the Alleged Reimbursement PAGA Group,  
5 resulting in a per Pay Period value to be used in calculating PAGA Settlement Awards for these  
6 members. The Settlement Administrator shall then take this per Pay Period value and multiply it  
7 by the number of Pay Periods for each of these members, resulting in the PAGA Settlement  
8 Award for each member of the Alleged Reimbursement PAGA Group.

9 **4.5.6 Payment of Settlement Awards.** At its discretion, the Settlement  
10 Administrator may combine the Class Settlement Award and PAGA Settlement Award to be  
11 issued to an individual who is both a Settlement Class Member (of the Alleged Misclassification  
12 Class and/or Alleged Reimbursement Class) and a PAGA Group Member (of the Alleged  
13 Misclassification PAGA Group and/or Alleged Reimbursement PAGA Group). The Parties  
14 understand and acknowledge that a given person may be both a Settlement Class Member and a  
15 PAGA Group Member or may be a PAGA Group Member but not a Settlement Class Member,  
16 and vice versa. The Parties also understand and acknowledge that a given person may be a  
17 Settlement Class Member of the Alleged Misclassification Class and the Alleged Reimbursement  
18 Class or may be a Settlement Class Member of the Alleged Misclassification Class but not the  
19 Alleged Reimbursement Class, and vice versa. The Parties further understand and acknowledge  
20 that a given person may be a member of the Alleged Misclassification PAGA Group and the  
21 Alleged Reimbursement PAGA Group or may be a member of the Alleged Reimbursement  
22 Group but not the Alleged Misclassification PAGA Group.

23 **4.5.7 Using Class Information List to Determine Settlement Awards.** In  
24 order to determine the individual Class Settlement Awards and PAGA Settlement Awards, the  
25 Settlement Administrator shall use the information provided by Defendant pursuant to  
26 Section 4.2.1, above. In the event that any dispute arises with respect to a Settlement Award  
27 amount, the Settlement Administrator shall make the final determination after consultation with  
28 Class Counsel and Defendant's Counsel.

1           4.6   **Taxes.**

2           4.6.1   **Withholdings and Taxes.** The Parties agree that, for purposes of this  
3 Settlement, the portion of the Class Settlement Award allocated to Settlement Class Members of  
4 the Alleged Misclassification Class shall be allocated 40% to wages subject to Withholdings and  
5 Taxes and 60% to interest, penalties, and non-wage damages. The portion of the Class Settlement  
6 Award allocated to Settlement Class Members of the Alleged Reimbursement shall be fully  
7 allocated as non-wage damages. The entirety of each PAGA Settlement Award shall be allocated  
8 as penalties.

9           4.6.2   **Tax Reporting.** When reporting Class Settlement Awards and PAGA  
10 Settlement Awards for tax purposes, the amount of each Class Settlement Award allocated to  
11 wages under Section 4.6.1 shall be reported by the Settlement Administrator on IRS Form W-2 as  
12 wages, and the remainder of any Class Settlement Award, together with any PAGA Settlement  
13 Award, shall be reported by the Settlement Administrator on IRS Form 1099-MISC as interest,  
14 penalties, and non-wage damages.

15           4.6.3   **Settlement Class Member and PAGA Group Member Obligations.**  
16 Each Settlement Class Member and/or PAGA Group Member receiving a Class Settlement  
17 Award and/or PAGA Settlement Award shall be responsible for paying applicable federal, state,  
18 and local income taxes, if any, on all amounts such person receives pursuant to this Agreement,  
19 and Defendant shall have no liability therefor.

20           4.6.4   **Settlement Administrator Responsibilities Regarding Taxes.** It shall be  
21 the responsibility of the Settlement Administrator or its designee to timely and properly withhold  
22 all applicable Withholdings and Taxes from Class Settlement Awards and to prepare and deliver  
23 the necessary tax documentation for signature by all necessary parties and, thereafter, to pay  
24 Withholdings and Taxes to the appropriate authorities, and to file all necessary information and  
25 other tax returns. Payments to Settlement Class Members, PAGA Group Members, Plaintiffs,  
26 and Class Counsel pursuant to this Agreement shall be reported on IRS Forms W-2 and/or 1099-  
27 MISC, as applicable, and shall be provided to the respective Settlement Class Members, PAGA  
28 Group Members, Plaintiffs, Class Counsel, and all applicable governmental entities as required by

1 law. All Withholdings and Taxes deposited with the applicable government entities in  
2 accordance with this Agreement shall be part of, and paid out of, the Class Settlement Award of  
3 each Settlement Class Member of the Alleged Misclassification Class.

4 **4.6.5 Tax Expenses Resulting from Settlement Administration.** All  
5 reasonable and direct expenses and costs incurred by or at the direction of the Settlement  
6 Administrator in connection with the administration of the Settlement (including, without  
7 limitation, expenses of tax attorneys and/or accountants incurred in providing advice to the  
8 Settlement Administrator, and mailing and distribution costs and expenses relating to the filing, or  
9 failure to file, the informational and other tax returns described above) shall be considered a cost  
10 of administration of the Settlement and shall be part of the Settlement Administration Costs, to be  
11 paid out of the Gross Settlement Amount.

12 **4.6.6 No Claims.** No person shall have any claim against Defendant, Counsel  
13 for Defendant, Plaintiffs, the Class Members, Class Counsel, or the Settlement Administrator  
14 based on mailings, distributions, and payments made in accordance with or pursuant to this  
15 Agreement.

16 **4.7 Final Approval and Entry of Judgment in the Action.** Following the Request  
17 for Exclusion Deadline and before the Fairness Hearing, on or before the date set by the Court,  
18 Plaintiffs shall move for Final Approval of the Settlement in the Action. The Final Judgment and  
19 Order Approving Settlement shall be substantially the same as the proposed order attached as  
20 **Exhibit D.** Class Counsel shall draft the final approval papers and give Defendant's Counsel a  
21 draft of the papers to review at least three (3) court days before they are filed.

22 **4.8 Distribution of Settlement Payments.** After the Effective Date, the Class  
23 Settlement Awards and PAGA Settlement Awards shall be distributed to Settlement Class  
24 Members and PAGA Group Members in accordance with the procedures set forth below:

25 **4.8.1 Remittance of Gross Settlement Amount.** Within ten (10) business days  
26 from the Effective Date, Defendant will remit the Gross Settlement Amount to the Settlement  
27 Administrator for the establishment of the Settlement Fund.

28

1                   4.8.2   **Delivery of Payments.** Within ten (10) business days from Defendant’s  
2 remittance to the Settlement Administrator of the Gross Settlement Amount, the Settlement  
3 Administrator shall establish the Settlement Fund and distribute (a) the Fee and Expense Award  
4 to Class Counsel, (b) the Class Settlement Award and PAGA Settlement Award checks to  
5 Settlement Class Members and PAGA Group Members, (c) the portion of the PAGA Settlement  
6 Amount payable to the LWDA, (d) the General Release Payments to Plaintiffs, (e) the  
7 Withholdings and Taxes arising from the Class Settlement Awards to the appropriate government  
8 entities, and (f) the Settlement Administration Costs to itself. Also within ten (10) business days  
9 from Defendant’s remittance of the Gross Settlement Amount, the Settlement Administrator shall  
10 provide Class Counsel and Defendant’s Counsel an anonymized written report listing each  
11 Settlement Class Member and PAGA Group Member and the amount of the Class Settlement  
12 Award and PAGA Settlement Award to be paid to each such person. Class Counsel shall hold the  
13 information contained in this report in strictest confidence and not use or disclose it for any  
14 purpose, except on the written authorization of Defendant’s or by order of the Court. No  
15 payments shall be made or distributed unless and until the orders and Judgment described in this  
16 Agreement are final (meaning that the right to appeal or otherwise seek review of such orders or  
17 the Judgment has expired) and on the condition that no appeals from the orders and the Judgment  
18 have been filed. Additionally, by no later than the date set by the Court in its Final Approval  
19 order, the Settlement Administrator shall file a report with the Court setting forth (1) the total  
20 amount of money paid to the Settlement Class Members as Class Settlement Awards, (2) the total  
21 amount of money paid to PAGA Group Members as PAGA Settlement Awards, (3) the portion of  
22 the PAGA Settlement Amount paid to the LWDA, (4) the Fee and Expense Award paid to Class  
23 Counsel, and (5) the total amount of uncashed funds to be distributed to the *cy pres* beneficiary  
24 designated by the Parties in Section 4.8.3, below.

25                   4.8.3   **Negotiation of Settlement Checks.** Any checks tendered to Settlement  
26 Class Members and PAGA Group Members shall remain valid and negotiable for one hundred  
27 and eighty (180) calendar days from the date of their issuance and shall thereafter be  
28 automatically cancelled if not cashed by the Settlement Class Member or PAGA Group Member

1 within that time, after which the Settlement Class Member's and/or PAGA Group Member's right  
2 to participate in the Settlement shall be extinguished, although the individual shall remain a  
3 Settlement Class Member and/or PAGA Group Member bound by the Judgment entered in the  
4 Action. After one hundred and eighty (180) calendar days, any amounts from uncashed checks  
5 shall be transmitted to Child Advocates of San Bernardino County (C.A.S.A.), in accordance with  
6 Code of Civil Procedure section 384(b). Administration of the Settlement shall be completed no  
7 later than two hundred and seventy (270) calendar days from the Effective Date.

8           **4.8.4 Non-Reversionary Settlement.** No portion of the Gross Settlement  
9 Amount will revert to Defendant.

10           **4.8.5 Discharge of Obligations.** Defendant shall fully discharge its obligations  
11 to Plaintiffs, the Settlement Class Members, the PAGA Group Members, and the State of  
12 California through the remittance of the Gross Settlement Amount to the Settlement  
13 Administrator as set forth in Section 4.8.1, above, regardless of whether checks representing  
14 individual Class Settlement Awards and/or PAGA Settlement Awards are actually received  
15 and/or negotiated by the payee. Once Defendant has complied with its obligation set forth in  
16 Section 4.8.1, above, it will be deemed to have satisfied all terms and conditions under this  
17 Agreement, shall be entitled to all protections afforded to them under this Agreement, and shall  
18 have no further obligations under the terms of the Agreement, regardless of what occurs with  
19 respect to the further administration of the Settlement. Without prejudice to any other remedies,  
20 the Settlement Administrator shall hold Defendant harmless from and against all liabilities,  
21 claims, causes of action, costs, and expenses (including legal fees and expenses) arising out of  
22 any failure to timely or properly compensate Class Members and PAGA Group Members as  
23 provided for in this Agreement.

24           **4.9 Questions and Disputes.** In the event that questions or disputes arise regarding  
25 the entitlement of any Class Member or PAGA Group Member under this Agreement, counsel for  
26 each Party shall cooperate to provide to counsel for the other Party and the Settlement  
27 Administrator all available information reasonably necessary to resolve them. Such information  
28 shall be provided in either electronic form or hard copy, as the Settlement Administrator may

1 reasonably request. If the Parties cannot resolve any dispute concerning the entitlement of any  
2 Class Member or PAGA Group Member under this Agreement, the dispute(s) shall be submitted  
3 to the Settlement Administrator, who shall resolve the dispute(s) and whose decision shall be final  
4 and binding. In such a dispute, the information provided by Defendant will be presumed  
5 accurate.

6           **4.10 Notification and Certification by Settlement Administrator.** The Settlement  
7 Administrator shall keep Class Counsel and Defendant's Counsel apprised of the status of the  
8 claims administration process and its distribution of all sums pursuant to this Agreement. Upon  
9 completion of administration of the Settlement, the Settlement Administrator shall provide a  
10 detailed, written certification of such completion to the Court and counsel for the Parties.

11           **4.11 Nullification of Settlement Agreement if Settlement Not Approved.** In the  
12 event (a) the Court does not preliminarily approve the Settlement as provided herein; (b) the  
13 Court does not finally approve the Settlement as provided herein or in the event said approval is  
14 reversed on appeal; (c) the Court does not enter the Judgment in the action as provided herein; or  
15 (d) the Settlement does not become final for any other reason, including the exercise of  
16 Defendant's right to rescind the Settlement under Section 4.3.7, above, this Agreement shall be  
17 null and void *ab initio* (with the exception of this Section, Section 3.3, and Section 4.3.7) and any  
18 order or Judgment entered by the Court in furtherance of this Settlement shall be treated as  
19 withdrawn or vacated by stipulation of the Parties. In such case, the Parties shall be returned to  
20 their respective statuses as of October 1, 2024, except that the Second Amended Complaint shall  
21 remain the operative complaint in the Action, with Defendant reserving all rights. In the event an  
22 appeal is filed from the Judgment, or any other appellate review is sought before the Effective  
23 Date, administration of the Settlement shall be stayed pending final resolution of the appeal or  
24 other appellate review.

25           **4.12 Escalator Clause.** It is estimated in connection with the negotiation of this  
26 Settlement that approximately 3,654 Alleged Misclassification Class Members and 4,179 Alleged  
27 Reimbursement Class Members were employed during the relevant periods. The Parties agree  
28 that if the actual number of members of the Alleged Misclassification Class exceed 3,654 by

1 more than 5% and/or if the actual number of members of the Alleged Reimbursement Class  
2 exceed 4,179 by more than 5%, the portion of the Gross Settlement Amount allocated in this  
3 Agreement to the claims of the Alleged Misclassification Class and/or the portion allocated to the  
4 claims of the Alleged Reimbursement Class, as applicable, shall increase by the same number of  
5 percentage points above 5% by which the number of members of the Settlement Class(es)  
6 exceeds 5%. Alternatively, at Defendant's option and in lieu of increasing the Gross Settlement  
7 Amount, if the actual number of members of the Alleged Misclassification Class exceeds 3,654  
8 by more than 5%, the end date of the relevant period for the Alleged Misclassification Class shall  
9 be set as one day before the hiring date of the most recently hired exempt Esri employee in  
10 California subject to Esri's Bank Time Policy and whose inclusion in the Alleged  
11 Misclassification Class would otherwise cause the number of Alleged Misclassification Class to  
12 exceed 3,836; if the actual number of members of the Alleged Reimbursement Class exceed  
13 4,179 by more than 5%, the end date of the relevant period for the Alleged Reimbursement Class  
14 shall be set as one day before the hiring date of the most recently hired Esri employee in  
15 California and whose inclusion in the Alleged Reimbursement Class would otherwise cause the  
16 number of Alleged Reimbursement Class to exceed 4,387.

## 17 **5. ENTRY OF JUDGMENT AND RELEASES**

18 **5.1 Obtaining Approval.** As soon as practicable after execution of this Agreement,  
19 Class Counsel shall, with the cooperation of Counsel for Defendant as reasonably requested by  
20 Class Counsel, take all necessary steps to secure Preliminary Approval and Final Approval of the  
21 Agreement by the Court, including responding to any objectors, intervenors, or other persons or  
22 entities seeking to preclude approval of this Agreement.

23 **5.2 Entry of Judgment.** The Final Judgment and Order Approving Settlement in the  
24 Action shall include a provision for entry of judgment in accordance with this Agreement, with  
25 each Party to bear all of his, her, or its own costs and attorneys' fees, except as expressly set forth  
26 herein.

1           **5.3 Notification to the LWDA.** Plaintiffs shall submit to the LWDA a copy of the  
2 Judgment within ten (10) days after its entry, in accordance with Labor Code section 2699,  
3 subdivision (I)(3).

4           **5.4 Settlement Class Release.** Upon the Effective Date, all Settlement Class  
5 Members shall be deemed to have, and by operation of the Judgment shall have, expressly  
6 released, waived, and relinquished the Released Claims. Settlement Class Members shall not sue  
7 or otherwise make a claim against any of the Released Parties for any of the Released Claims and  
8 shall be barred from filing any actions, claims, complaints, or proceedings regarding the Released  
9 Claims with the California Division of Labor Standards Enforcement, or from initiating any other  
10 proceedings against any of the Released Parties regarding any of the Released Claims. Settlement  
11 Class Members' release, waiver, and relinquishment of the Released Claims shall preclude them  
12 from participating in any judgment or settlement of claims that are the subject of the Released  
13 Claims in any other class, collective, or representative action.

14           **5.5 PAGA Release.** Upon the Effective Date, the State of California, by and through  
15 Chan as an agent and proxy of the State of California, shall be deemed to have, and by operation  
16 of the Judgment shall have, expressly released, waived, and relinquished the Released PAGA  
17 Claims. The LWDA and all PAGA Group Members shall be barred from pursuing recovery of  
18 any civil penalties from any of the Released Parties for any of the Released PAGA Claims.

19           **5.6 Plaintiffs' General Release.** In addition to their release of the Released Parties  
20 from the Released Claims and Released PAGA Claims as set forth in Sections 5.4 and 5.5, above,  
21 effective upon the Effective Date, Gutierrez and Chan each hereby expressly release and waive  
22 any and all claims, demands, rights, liabilities, and causes of action they have or have ever had  
23 against any of the Released Parties, whether for economic damages, noneconomic damages,  
24 exemplary damages, penalties, restitution, injunctive or declaratory relief, interest, attorneys'  
25 fees, costs, or any other forms of monetary or non-monetary relief in any way arising out of or  
26 relating to any facts, transactions, events, policies, occurrences, acts, disclosures, statements,  
27 omissions, or failures to act from the beginning of time to the date they sign this Agreement,  
28 including but not limited to any claims arising from or related to their employment with Esri or

1 the termination of that employment. This general release by Gutierrez and Chan shall become  
2 effective upon the Effective Date and include all statutory claims, common law claims (including  
3 but not limited to those sounding in contract, tort, and equity), and claims for compensation to the  
4 fullest extent permitted by law. Gutierrez and Chan further agree not to sue or otherwise make a  
5 claim against any of the Released Parties for any of the claims that are released pursuant to this  
6 Section 5.6.

7           **5.7 Waiver of Civil Code Section 1542.** Gutierrez and Chan each acknowledge that  
8 the general release herein includes potential claims and costs that may not be known or suspected  
9 by them to exist, and they each hereby expressly and affirmatively waive and relinquish any and  
10 all rights and benefits which may otherwise exist relating to the claims released in Section 5.6,  
11 above, pursuant to Civil Code section 1542 and any similar law of any state or territory of the  
12 United States. Civil Code section 1542 states as follows:

13                           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
14                           THAT THE CREDITOR OR RELEASING PARTY DOES NOT  
15                           KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT  
16                           THE TIME OF EXECUTING THE RELEASE AND THAT, IF  
                              KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY  
                              AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR  
                              OR RELEASED PARTY.

17 **6. ADDITIONAL PROVISIONS**

18           **6.1 No Admission of Liability.** Esri contends that all of its employment practices  
19 comply and have complied with all applicable laws and regulations; that all Class Members and  
20 all PAGA Group Members were and are properly classified and reimbursed for all necessary  
21 business expenses (when applicable); and that Esri has not engaged in any unlawful conduct,  
22 whether willful or not, and whether knowing and intentional or not, with respect to anything  
23 alleged in the Action. Defendant denies any wrongdoing or legal liability arising out of any of  
24 the facts or conduct alleged in the Action and contends that all of Plaintiffs' claims lack merit and  
25 Defendant has valid defenses to each of them. This Agreement reflects the compromise and  
26 settlement of disputed claims between the Parties, and its provisions and any and all drafts,  
27 communications, or discussions relating thereto do not constitute, are not intended to constitute,  
28 and will not under any circumstances be deemed to constitute an admission by Defendant as to

1 the merits, validity, or accuracy of any of the allegations or claims in the Action, nor a waiver of  
2 any defense.

3           **6.2 Parties Represented by Counsel.** The Parties hereby acknowledge that they have  
4 been represented in negotiations for and in the preparation of this Agreement by independent  
5 counsel of their own choosing, they have read this Agreement and have had it fully explained to  
6 them by such counsel, and they are fully aware of the contents of this Agreement and of its legal  
7 effect.

8           **6.3 Voluntary Agreement.** This Agreement is executed voluntarily and without  
9 duress or undue influence on the part of or on behalf of any Party, or of any other person, firm, or  
10 entity. Each Party has made such investigation of the facts pertaining to this Agreement and of  
11 all other matters pertaining hereto as he, she, or it deems necessary.

12           **6.4 Notices.** The Parties, Class Counsel, and Defendant's acknowledge and agree that  
13 for the purposes of any claims, actions, or proceedings arising out of this Agreement, notice  
14 provided to Class Counsel shall be deemed notice to Plaintiffs and to Class Members. All  
15 notices, requests, demands, and other communications required to be given to counsel for the  
16 Parties under this Agreement shall be in writing and shall be delivered personally, faxed, emailed  
17 or mailed, postage prepaid, by first class United States mail, addressed as follows:

18           To Class Members or to Plaintiffs:

19           Julian Hammond (jhammond@hammondlawpc.com)  
20           Polina Brandler (pbrandler@hammondlawpc.com)  
21           Ari Cherniak (acherniak@hammondlawpc.com)  
22           HAMMONDLAW, P.C.  
23           1201 Pacific Avenue, Suite 600  
24           Tacoma, WA 98402  
25           Telephone: (310) 601-6766  
26           Facsimile: (310) 295-2385

27           To Defendant:

28           Byung-Kwan Park (BPark@mofocom)  
29           William N. Lawther (WLawther@mofocom)  
30           MORRISON & FOERSTER LLP  
31           425 Market Street  
32           San Francisco, California 94105-2482  
33           Telephone: 415.268.7000

1 Facsimile: 415.268.7522

2 6.5 **No Press Releases/Public Comment.** Absent Defendant's express written  
3 consent, Plaintiffs and/or Class Counsel shall not (a) discuss, reveal, disclose, publicize, or  
4 promote the terms of this Settlement, or the negotiations leading to this Settlement, to any third  
5 party (including but not limited to the media, the legal community, or the public at large) and/or  
6 (b) issue any press releases and/or initiate any contact with the media regarding the Settlement,  
7 and/or otherwise advertise and/or publicize the Settlement. Nothing in this Agreement is  
8 intended to prevent Plaintiffs and/or Class Counsel from disclosing and/or discussing the terms of  
9 this Settlement (i) with the Court, (ii) with any Settlement Class Member, (iii) with the Settlement  
10 Administrator, (iv) with the LWDA, or (v) as otherwise required by law to fulfill Plaintiffs'  
11 and/or Class Counsel's obligations to effectuate the Settlement, and/or in court filings in other  
12 cases by Class Counsel in connection with a class action approval process, class certification,  
13 and/or class-wide settlement approval.

14 6.6 **Employment Verification.** Defendant agrees that Plaintiffs may direct  
15 prospective employers or other individuals or entities to Esri's HR Department, who can be  
16 contacted at [voe@esri.com](mailto:voe@esri.com), for employment verification purposes. The response to such a  
17 request will consist of dates of employment, position held, and nothing else.

18 6.7 **Authorization.** The Parties hereto represent and warrant that each signatory  
19 hereto has the full right and authority to enter into this Agreement and bind the Party on whose  
20 behalf he, she, or it has executed this Agreement.

21 6.8 **Agreement Binding on Successors in Interest.** This Agreement shall be binding  
22 on and inure to the benefit of the respective successors, assigns, heirs, and personal  
23 representatives of the Parties.

24 6.9 **Time Periods.** The time periods and dates set forth in this Agreement with respect  
25 to the giving of notices and hearings are subject to approval and modification by the Court or the  
26 written stipulation of counsel for the Parties.  
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1           6.10   **Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to  
2 accomplish the terms of this Agreement, including but not limited to execution and delivery of  
3 any and all additional papers, documents, and other assurances and taking such other action that  
4 may be reasonably necessary to implement the terms of this Agreement. The Parties and their  
5 counsel shall use their best efforts, including all efforts contemplated by this Agreement and any  
6 other efforts that may become necessary by order of the Court, to effectuate this Agreement and  
7 the terms set forth herein.

8           6.11   **Entire Agreement.** The Exhibits to this Agreement are integral parts of this  
9 Agreement and are hereby incorporated and made a part of the Agreement. This Agreement  
10 contains the entire agreement between the Parties and constitutes the complete, final, and  
11 exclusive embodiment of their agreement with respect to the subject matter hereof. This  
12 Agreement is executed without reliance upon any promise, representation, or warranty by any  
13 Party or representative of any Party, other than those expressly set forth herein. Any  
14 inconsistency between this Agreement and the attached Exhibits will be resolved in favor of this  
15 Agreement.

16           6.12   **Headings.** The various headings used in this Agreement are solely for the  
17 convenience of the Parties and shall not be used to interpret this Agreement.

18           6.13   **No Construction Against Drafter.** This Agreement shall be deemed to have been  
19 drafted jointly by the Parties, and any rule that a document shall be interpreted against the drafter  
20 shall not apply to this Agreement.

21           6.14   **Amendment and Modification.** Except as expressly provided in Section 6.9,  
22 above, with respect to time periods and dates set forth herein, this Agreement may not be  
23 amended, altered, or modified except in writing and signed by the Parties hereto, their successors  
24 in interest, or their duly authorized representatives, and approved by the Court.

25           6.15   **Governing Law.** This Agreement is entered into in accordance with the laws of  
26 the State of California and shall be governed by and interpreted in accordance with those laws.

27           6.16   **Jurisdiction of the Court.** Any dispute regarding the interpretation or validity or  
28 otherwise arising out of this Agreement, or relating to the Action, the Released Claims, or the



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Dated: \_\_\_\_\_

YESENIA GUTIERREZ

\_\_\_\_\_  
On behalf of herself and the Settlement Class

Dated: \_\_\_\_\_

KATHY CHAN

\_\_\_\_\_  
On behalf of herself, the Settlement Class, the State of California, and all PAGA Group Members

Dated: \_\_\_\_\_


ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.

By: \_\_\_\_\_

APPROVED AS TO FORM:

Dated: February 7, 2025

HAMMONDLAW, P.C.

By:   
Julian Hammond

Attorneys for Plaintiffs  
YESENIA GUTIERREZ and KATHY CHAN

Dated: \_\_\_\_\_

MORRISON & FOERSTER LLP

By: \_\_\_\_\_  
Byung-Kwan Park

Attorneys for Defendant  
ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.

# Exhibit A

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

YESENIA GUTIERREZ and KATHY  
CHAN, individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

ENVIRONMENTAL SYSTEMS  
RESEARCH INSTITUTE, INC., a  
California Corporation,

Defendant.

Case No. CIVSB2300014

**NOTICE OF SETTLEMENT OF  
CLASS ACTION**

**ATTENTION:** If you were employed by Environmental Systems Research Institute, Inc. in California at any time during the period from November 15, 2018 to [the date on which Plaintiffs' motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court] (the "Settlement Period"), you may be a Class Member eligible to receive money from a proposed Settlement in the above-captioned class action lawsuit.

**PLEASE READ THIS NOTICE CAREFULLY.** This Notice relates to the proposed Settlement. If you are a Class Member, it contains important information affecting your rights to participate in the Settlement as further described below. This Notice advises you of the terms of the Settlement and your rights and options under it.

To be eligible for your share of the Settlement, you are not required to make a claim. However, to ensure receipt of your share, you must update the Settlement Administrator, Settlement Services, Inc., with any change of address.

*What is this proposed Settlement about?*

This action was originally filed against defendant Environmental Systems Research Institute, Inc. ("Defendant" or "Esri") on November 15, 2022 and refiled on January 4, 2023 (the "Action"). The operative second amended complaint (the "Complaint"), filed on [DATE], names plaintiffs Yesenia Gutierrez and Kathy Chan (collectively, "Plaintiffs") and asserts claims against Defendant for alleged (1) failure to pay overtime wages, (2) failure to provide meal breaks, (3) failure to permit and authorize rest breaks, (4) failure to pay all wages due upon termination, (5) failure to issue accurate itemized wage statements, (6) failure to reimburse business expenses, (7) unfair, unlawful, or fraudulent business practices, and (8) civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA"). The first five claims are based on Plaintiffs' allegation that Defendant misclassified its employees in California

Page 1

If you have questions, contact the Settlement Administrator at [redacted] or [Insert Email] **EXHIBIT A**

subject to Defendant’s Bank Time Policy as exempt. Claim (6) (failure to reimburse business expenses) is based on Plaintiffs’ allegation that employees (whether exempt or non-exempt) were not reimbursed for all business expenses they were purportedly required or expected to incur in connection with working remotely during the COVID-19 pandemic and thereafter. Claim (7) (for unfair, unlawful, or fraudulent business practices) and claim (8) (civil penalties sought under PAGA) are based on these same theories of liability. The Complaint and all the other complaints in the Action are referred to collectively as the “Complaints,” and all of the PAGA notices filed by plaintiff Kathy Chan with the California Labor and Workforce Development Agency (“LWDA”) are referred to collectively as the “PAGA Notices.”

Under the proposed Class Settlement, Defendant agrees to make payments (“Class Settlement Awards”) to Class Members who do not opt out of the Settlement (“Settlement Class Members”). These Class Settlement Awards will be based on the number of pay periods during the Settlement Period that each Settlement Class Member was employed by Defendant in California for at least one day (“Pay Periods”) compared to the total number of Pay Periods for all Settlement Class Members, as more fully described below.

Defendant also agrees to pay the Settlement Administration Costs, General Release Payments to both of the Plaintiffs, a PAGA Settlement Amount to be paid to the LWDA and PAGA Group Members in settlement of the PAGA claims, and a Fee and Expense Award to Plaintiffs’ counsel (“Class Counsel”), all subject to the Court’s approval. Defendant’s maximum total obligation under the proposed Settlement is \$4,910,000, subject to escalation only to the extent described below.

The proposed Settlement is not an admission of liability by Defendant. Throughout the course of litigation in the Action, Defendant has denied any liability or wrongdoing, or that any compensable injury arose out of any of the matters alleged in the Action. Defendant contends that it has complied with all applicable laws and regulations regarding all of those matters.

Class Counsel believes that the proposed Settlement is in the best interests of the Class Members. Further proceedings would be very expensive and take a long time. Moreover, no one can predict the precise outcome of the disputed issues in this case. Therefore, Class Counsel believes that the proposed Settlement is fair, reasonable, and adequate for the Class Members.

The Court has preliminarily approved the proposed Settlement as fair, reasonable, and adequate. The final determination of those issues will be made at the Final Approval Hearing to be held on [Final Approval Hearing Date] at [Final Approval Hearing Time] (“Final Approval Hearing”).

#### Summary of the proposed Settlement

Defendant has agreed to pay \$4,910,000 (“Gross Settlement Amount”) to resolve all claims that were alleged in any of the Complaints or any of the PAGA Notices or that could have been alleged based on the facts alleged in any of the Complaints or any of the PAGA Notices, for Settlement Class Members’ release of claims described below, and for the release of PAGA

claims by the State of California and PAGA Group Members. This amount is subject to escalation if the number of members of the Alleged Misclassification Class exceed 3,654 by more than 5% and/or if the number of members of the Alleged Reimbursement Class exceed 4,179 by more than 5%. If finally approved by the Court, the proposed Settlement will distribute money as follows:

**Class Settlement Awards to Settlement Class Members:** Settlement Class Members (Class Members who do not exclude themselves from the Settlement) will each be paid a Class Settlement Award, which is their pro-rata share of the Net Settlement Sum, calculated as follows:

The Class Settlement Award for each Settlement Class Member of the Alleged Misclassification Class shall be his or her pro-rata share of 70% of the Net Settlement Sum (including and subject to Withholdings and Taxes) calculated as follows: The Settlement Administrator shall first calculate the sum total number of Pay Periods for all Settlement Class Members of the Alleged Misclassification Class. The Settlement Administrator shall then divide 70% of the Net Settlement Sum by this sum total number of Pay Periods, resulting in a per Pay Period value to be used in calculating Class Settlement Awards for the Alleged Misclassification Class. The Settlement Administrator shall then take this per Pay Period value and multiply it by the number of Pay Periods for each Settlement Class Member of the Alleged Misclassification Class, resulting in the Class Settlement Award plus Withholdings and Taxes for each Settlement Class Member of the Alleged Misclassification Class.

The Class Settlement Award for each Settlement Class Member of the Alleged Reimbursement Class shall be his or her pro-rata share of 30% of the Net Settlement Sum (not including and not subject to Withholdings and Taxes), calculated as follows: The Settlement Administrator shall first calculate the sum total number of Pay Periods for all Settlement Class Members of the Alleged Reimbursement Class. The Settlement Administrator shall then divide 30% of the Net Settlement Sum by this sum total number of Pay Periods, resulting in a per Pay Period value to be used in calculating Class Settlement Awards for the Alleged Reimbursement Class. The Settlement Administrator shall then take this per Pay Period value and multiply it by the number of Pay Periods for each Settlement Class Member of the Alleged Reimbursement Class, resulting in the Class Settlement Award for each Settlement Class Member of the Alleged Reimbursement Class.

“Alleged Misclassification Class” means all current and former employees of Defendant in the State of California subject to Defendant’s Bank Time Policy and whom Defendant classified as exempt at any time from November 15, 2018 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

“Alleged Reimbursement Class” means all current and former employees (whether exempt or non-exempt) of Defendant in the State of California from March 16, 2020 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

“Pay Periods” means the number of pay periods during which a Class Member and/or PAGA Group Member was employed by Esri in California for at least one day during the applicable periods for each Class Member and/or PAGA Group Member. Pay Periods shall be calculated according to Defendant’s records.

“Net Settlement Sum” means the Gross Settlement Amount less the following: (a) the PAGA Settlement Amount, (b) the Fee and Expense Award, (c) the General Release Payments, (d) the Settlement Administration Costs, and (e) Withholdings and Taxes, all of which are described below. 70% of the Net Settlement Sum (including and subject to Withholdings and Taxes) shall be allocated to Settlement Class Members of the Alleged Misclassification Class, and the remaining 30% (not including and not subject to Withholdings and Taxes) shall be allocated to Settlement Class Members of the Alleged Reimbursement Class.

Each Settlement Class Member and/or PAGA Group Member receiving a Class Settlement Award and/or PAGA Settlement Award shall be responsible for paying applicable federal, state, and local income taxes, if any, on all amounts such person receives pursuant to the Agreement, and Defendant shall have no liability therefor.

**Fee and Expense Award to Class Counsel:** Upon approval by the Court, Defendant will pay attorneys’ fees and reimburse litigation costs and expenses to Class Counsel (HammondLaw, P.C.). The proposed Settlement permits Class Counsel to request up to 33.33% of the Gross Settlement Amount (\$1,636,666.67) as their fees for prosecuting this case and up to \$50,000 for reimbursement of their costs and expenses incurred in the Action. You are not personally responsible for any of Class Counsel’s attorneys’ fees, costs, or expenses.

**PAGA Settlement Amount:** The proposed Settlement provides for a payment of \$100,000 for resolution of the PAGA claims alleged in the Complaints, the PAGA Notices, or any of them. Of that amount, 75% (or \$75,000) of the PAGA Settlement Amount shall be paid to the LWDA and 25% (or \$25,000) of the PAGA Settlement Amount shall form the PAGA Fund to be paid to PAGA Group Members pro rata, based on the number of Pay Periods worked. PAGA Group Members include members of the Alleged Misclassification PAGA Group and Alleged Reimbursement PAGA Group.

**Other Payments:** The proposed Settlement provides for a General Release Payment of \$7,500 to Plaintiff Gutierrez and a General Release Payment of \$7,500 to Plaintiff Chan. The proposed Settlement further provides for payment estimated not to exceed \$57,250 to the Settlement Administrator, Settlement Services, Inc., for its services in mailing the Class Notice and administering the Settlement.

*What are my rights and options?*

**You can exclude yourself from the Class Settlement:** If you do not want a Class Settlement Award and do not want to be bound by any of the proposed Class Settlement’s terms, including the release of the Released Claims discussed below, you must make a timely written Request for Exclusion. Your Request for Exclusion must contain (i) your full name, address, and telephone

number; (ii) the words “Request for Exclusion” at the top of the document; and (iii) the following statement:

“I wish to be excluded from the Class Settlement in this case, *Yesenia Gutierrez, et al. v. Environmental Systems Research Institute, Inc.*, San Bernardino Superior Court Case No. CIVSB2300014.”

Your Request for Exclusion must be personally signed by you. Any Request for Exclusion submitted by someone else on your behalf will not be valid. Your Request for Exclusion must be mailed to the Settlement Administrator at the below address and must be postmarked by **[DATE – 45 calendar days from the date of initial mailing of the Class Notice, or such other date set by the Court in the Preliminary Approval Order for submitting a Request for Exclusion to the Settlement Administrator]**.

*Yesenia Gutierrez, et al. v. Environmental Systems Research Institute, Inc.*  
**[Settlement Services, Inc.’s Mailing Address]**

You should not request exclusion if you wish to receive money from the Class Settlement.

You do not have the right to be excluded from the PAGA Settlement, whether or not you exclude yourself from the Class Settlement.

1. **You can object to the Class Settlement:** You can object to the Settlement before the Court’s final approval of the Settlement. To object, you should submit a signed, written objection to the Settlement Administrator by **[DATE – 45 calendar days from the date of initial mailing of the Class Notice, or such other date set by the Court in the Preliminary Approval Order]**. You may submit a supporting brief or other materials to the Settlement Administrator with your signed, written objection, no later than **[DATE – 45 calendar days from the date of initial mailing of the Class Notice, or such other date set by the Court in the Preliminary Approval Order]**. You may also appear, even if you do not submit a written objection, and object to the Settlement at the Final Approval Hearing currently set for **[Final Approval Hearing Time]** on **[Final Approval Hearing Date]**, in Department S26 - SBJC of the Superior Court of California, County of San Bernardino, located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, California 92415-0210. If you submit a written objection, you are not required to appear, either personally or through counsel, at the Final Approval Hearing in order for your written objection to be considered. You may object to the Settlement only if you do NOT submit a Request for Exclusion.

You do not have the right to object to the PAGA Settlement, whether or not you object to the Class Settlement.

2. **You can dispute the number of your Pay Periods:** A Notice of Pay Periods form is attached as Form A to this Notice. It provides your number of Pay Periods during the Settlement Period according to Defendant’s records. If you do not agree with the number of

your Pay Periods shown on the form, you may dispute the number by completing the Notice of Pay Periods form and mailing it to the Settlement Administrator by [**DATE – 45 calendar days from mailing Class Notice / Notice Response Deadline**].

3. **You can do nothing:** You can do nothing. If you do nothing, you will be bound by the proposed Settlement terms and you will be entitled to receive a Class Settlement Award as described above.

To the extent you are a PAGA Group Member, you will receive a PAGA Settlement Award, regardless of whether you exclude yourself from the Class Settlement, object to the Class Settlement, dispute the number of your Pay Periods, or do nothing.

*What claims am I releasing by participating in the Class Settlement?*

In exchange for the consideration given by Defendant in the proposed Settlement, all Class Members who do not opt out of the Class Settlement (the Settlement Class Members) will expressly release, waive and relinquish, and will be deemed to have released, waived and relinquished, all Released Claims against all Released Parties. The State of California, by and through Plaintiff Chan as its agent and proxy, will expressly release, waive and relinquish, and will be deemed to have released, waived and relinquished, all Released PAGA Claims against all Released Parties. All PAGA Group Members (whether they are a Settlement Class Member or not) will be barred from pursuing recover of any civil penalties, as agents or proxies of the State of California, for any of the Released PAGA Claims.

“Released Claims” means all claims, debts, liabilities, demands, obligations, damages, and actions or causes of action of any kind, including wage and hour claims related to allegations of employee misclassification and failure to reimburse business expenses, arising before or on the end date of the Settlement Period and that were alleged in the Original Complaint, the Complaint, the First Amended Complaint, and the Second Amended Complaint or any of the PAGA Notices or could have reasonably been alleged against any of the Released Parties based on the facts alleged in any of the Complaints or any of the PAGA Notices. Specifically, for the Settlement Class Members of the Alleged Misclassification Class, released claims include, without limitation, claims under Labor Code sections 201-203, 204, 226, 226(a), 226(e), 226.7, 510, 512, 1194, and 2698 et seq.; Business and Professions Code section 17200 et seq.; and Code of Civil Procedure section 1021.5. For the Settlement Class Members of the Alleged Reimbursement Class, released claims include, without limitation, claims under Labor Code sections 2802 and any derivative claims; Business and Professions Code section 17200 et seq.; and Code of Civil Procedure section 1021.5.

“Released PAGA Claims” means all claims that were or could have been asserted pursuant to PAGA arising out of or related to the Released Claims arising before or on the end date of the PAGA Period. Specifically, for the Alleged Misclassification PAGA Group, released PAGA claims include those based on, without limitation, alleged violations of Labor Code sections 201-203, 204, 226, 226(a), 226(e), 226.7, 510, 512, 1194, and 2698 et seq. For the Alleged Reimbursement PAGA Group, released PAGA claims include those based on, without limitation,

alleged violations of Labor Code section 2802 and any derivative Labor Code claims. The Released PAGA Claims are released by both the State of California and the PAGA Group Members as part of this Settlement.

“Released Parties” means Defendant; each of its respective present, former, or future parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors, and assigns; each of its respective present, past, or future officers, directors, employees, partners (both general and limited), shareholders, agents, attorneys, insurers, and any other successors, assigns, or legal representatives; and any other individual or entity which could be liable for any of the Released Claims or Released PAGA Claims.

All Settlement Class Members intend and are deemed to intend that this Settlement shall be effective as a bar to any and all Released Claims against any and all Released Parties.

The Settlement Class Members further agree not to sue or otherwise make a claim against any of the Released Parties arising out of or related to any of the Released Claims. The Settlement Class Members further agree that their release, waiver, and relinquishment of the Released Claims shall preclude them from participating in any judgment or settlement of claims that are the subject of any of the Released Claims in any other class, collective, or representative action.

All PAGA Group Members (whether a Settlement Class Member or not) shall be barred from bringing, joining, or otherwise participating in a PAGA representative action or otherwise making, joining, or otherwise participating in a claim against any of the Released Parties for any of the Released PAGA Claims. The State of California shall be barred from pursuing recovery of any civil penalties from any of the Released Parties for any of the Released PAGA Claims.

When is the next Court hearing?

A Final Approval Hearing will be held before the Honorable Christian Towns in Department S26 - SBJC of the Superior Court of California, County of San Bernardino, located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, California 92415-0210, on [Final Approval Hearing Date] at [Final Approval Hearing Time] to determine whether the Settlement is fair, reasonable, and adequate. Judge Towns will be asked to approve the plan for distributing the Class Settlement Awards, the Fee and Expense Award to Class Counsel, the General Release Payments to the Plaintiffs, the PAGA Settlement Amount, and payment to the Settlement Administrator for its services. A motion for final approval of these items should be on file with the Court no later than [redacted], 2025 and will be available for review after that date. This hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing.

What if I need more information?

Capitalized terms in this Notice have the same meaning they are given in the Class and PAGA Settlement Agreement and Release (“Agreement”), filed with the Court on [DATE] as an attachment to Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. For the

precise terms and conditions of the Settlement, you should consult the detailed Agreement and the Preliminary Approval Order, which is also on file with the Court. You may access key documents filed in this case by visiting the case website maintained by the Settlement Administrator at www.[INSERT].com . You may also access documents filed in this case by visiting <https://www.sb-court.org/divisions/civil-general-information/court-case-information-and-document-sales>. To navigate to the filed documents, you will need to click on “Accept” at the bottom of the page, which will redirect you to the Court Access Portal page. From the Court Access Portal page, you will need to click on “Search” and then click on “CASE INFORMATION” from the drop-down menu. You may then search for filings by entering the case number located at the top of this Notice into the “CASE NUMBER SEARCH” query. If you have any questions, you can contact the Settlement Administrator at [REDACTED].

You can also contact Class Counsel at:

HammondLaw, P.C.  
Julian Hammond (SBN 268489)  
jhammond@hammondlawpc.com  
(310) 601-6766  
Polina Brandler (SBN 269086)  
(310) 810-3246

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION  
ABOUT THIS SETTLEMENT**

# Exhibit B

## NOTICE OF PAY PERIODS

*Yesenia Gutierrez, et al. v. Environmental Systems Research Institute, Inc.*  
San Bernardino Superior Court, Case No. CIVSB2300014

To: [Class Member Name]

Your potential individual Class Settlement Award in the Settlement of the class action lawsuit listed above is based on the number of pay periods during which you were employed by Environmental Systems Research Institute, Inc. (“Defendant” or “Esri”) in California for at least one day from either November 15, 2018 or March 16, 2020—depending on whether you are a member of the Alleged Misclassification Class, the Alleged Reimbursement Class, or both—to and including [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court] (“Pay Periods”). According to Defendant’s records, you had a total of:

Pay Periods from November 15, 2018 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court]; and

Pay Periods from March 16, 2020 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

If you wish to participate in the Class Settlement and you agree with the number of your Pay Periods shown above, then you do not need to take any further action. You will receive your Class Settlement Award once the Settlement becomes final.

If you **do not agree** with the number of your Pay Periods shown above, please insert in the space below the number of pay periods during which you believe you were employed by Esri in California for at least one day from either November 15, 2018 or March 16, 2020—depending on whether you are a member of the Alleged Misclassification Class, the Alleged Reimbursement Class, or both—to and including [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

The number of Pay Periods you believe is correct for you:

Pay Periods from November 15, 2018 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court]; and

Pay Periods from March 16, 2020 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

**EXHIBIT B**

- I am enclosing documentation to support the number of my Pay Periods being different from the number of Pay Periods shown for me by Defendant's records, as shown above.
- I am *not* enclosing documentation to support the number of my Pay Periods being different from the number of Pay Periods shown for me by Defendant's records, as shown above.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(signature)

If you wish to dispute the number of your Pay Periods shown above, you must complete, sign, and date this Notice of Pay Periods form and mail it with any supporting documentation to the Settlement Administrator, Settlement Services, Inc., at [ADDRESS], postmarked no later than \_\_\_\_\_, 2025 [DATE – 45 calendar days after mailing of Class Notice / Notice Response Deadline].

If you dispute the number of your Pay Periods, the Settlement Administrator will resolve the dispute, and its decision will be final and binding. In resolving the dispute, the information provided by Defendant will be presumed accurate.

Form A

**EXHIBIT B**

# Exhibit C

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

YESENIA GUTIERREZ and KATHY CHAN,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

ENVIRONMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC., a California Corporation,

Defendant.

Case No. CIVSB2300014

(Assigned for All Purposes to the Honorable  
Christian Towns, Dept. S26 - SBJC)

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
AND PAGA SETTLEMENT**

Date Action Filed: January 4, 2023  
Trial Date: Not Yet Set

1 This matter has come before the Honorable Christian Towns in Department S26 - SBJC of  
2 the Superior Court of the State of California, for the County of San Bernardino, on an unopposed  
3 Motion for Preliminary Approval of Class Action Settlement of the above-captioned Action  
4 (“Motion”). The Court, having duly considered the Motion, good cause appearing, hereby orders  
5 as follows:

6 1. Capitalized terms in this Order shall have the same meaning they are given in the  
7 Class and PAGA Settlement Agreement and Release (“Agreement”) filed with the motion.

8 2. The Court preliminarily approves the Settlement based on the terms set forth in the  
9 Agreement. The Settlement appears to be fair, adequate, and reasonable, in the best interests of the  
10 absent Class Members, and presumptively valid, subject only to any objections that may be raised  
11 at or before the Final Approval Hearing.

12 3. A Final Approval Hearing on the question of whether the proposed Settlement, Fee  
13 and Expense Award, General Release Payments, PAGA Settlement Amount, Settlement  
14 Administration Costs, and Class Settlement Awards to the Settlement Class Members should  
15 finally be approved as fair, reasonable, and adequate as to the Settlement Class Members is  
16 scheduled for \_\_\_\_\_, 2025, at \_\_:\_\_.m. in Department S26 - SBJC of this Court.

17 4. The Court approves as to form and content the Class Notice attached hereto as  
18 Exhibit 1 and incorporated by reference. The Court approves the procedure for Class Members to  
19 request exclusion from or to object to the Settlement as set forth in the Class Notice. The Court  
20 approves as to form and content the Notice of Pay Periods attached to the Class Notice, which shall  
21 be mailed to Class Members with the Class Notice.

22 5. The Court directs the mailing of the Class Notice in accordance with the  
23 Implementation Schedule set forth below. The Court finds that the manner and mode of giving  
24 notice to Class Members meet the requirements of due process and provide the best notice  
25 practicable under the circumstances, and shall constitute due and sufficient notice to all persons  
26 entitled thereto.

27 6. In the event that the Settlement is not finally approved or is not effectuated for  
28 whatever reason, the Parties will be returned to their status quo ante positions, except that the

1 Second Amended Complaint shall remain the operative complaint in the Action, with Defendant  
2 reserving all rights.

3 7. The Classes are preliminarily certified for settlement purposes only.

4 8. The Court preliminarily approves HammondLaw, P.C. as Class Counsel.

5 9. The Court provisionally appoints Settlement Services, Inc. as the Settlement  
6 Administrator.

7 10. The Court orders the following Implementation Schedule for further proceedings:  
8

9 Deadline for Defendant to submit Class Member 10 information to Settlement Administrator.	_____, 2025 (15 business days from entry of this Order.)
11 Settlement Administrator mails Class Notice to Class 12 Members.	_____, 2025 (10 business days from receipt of Class Member information from Defendant.)
13 Notice Response Deadline for Class Members to mail 14 Requests for Exclusion.	_____, 2025 (45 calendar days from initial mailing of Class Notice.)
15 Notice Response Deadline for submitting to the 16 Settlement Administrator any objections to Settlement.	_____, 2025 (45 calendar days from initial mailing of Class Notice.)
17 Deadline for Class Counsel to file Motion for Final 18 Approval of Settlement and Fee and Expense Award.	_____, 2025
19 Fairness Hearing and Final Approval. 20 <i>[at least ninety (90) calendar days after the Preliminary 21 Approval Date, or as soon thereafter as the Court is 22 available]</i>	_____, 2025 at __:__.m.

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**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
The Honorable Christian Towns  
Judge of the Superior Court

# Exhibit D

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

YESENIA GUTIERREZ and KATHY CHAN,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

ENVIRONMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC., a California Corporation,

Defendant.

Case No. CIVSB2300014

(Assigned for All Purposes to the Honorable  
Christian Towns, Dept. S26 - SBJC)

**[PROPOSED] FINAL APPROVAL  
ORDER AND JUDGMENT**

Date Action Filed: January 4, 2023  
Trial Date: Not Yet Set

1 This matter has come before the Court on an unopposed Motion for Final Approval of  
2 Class Action Settlement (“Motion”). A Fairness Hearing was held on [Fairness Hearing Date],  
3 following the Court’s order preliminarily approving the Settlement and notice of the Settlement  
4 to the Class with an opportunity for Class Members to request exclusion or object to the  
5 Settlement. The Court, having duly considered the Motion, good cause appearing, hereby orders,  
6 adjudges, and decrees as follows:

7 1. Capitalized terms in this Order and Judgment have the same meaning they are  
8 given in the Class and PAGA Settlement Agreement and Release (“Agreement”) attached as  
9 Exhibit [X] to the Declaration of [NAME] in support of the Motion for Preliminary Approval of  
10 Class Action Settlement, filed [FILING DATE].

11 2. This Court has jurisdiction over the subject matter of this Action, all claims  
12 alleged herein, and all Parties hereto, including plaintiffs Yesenia Gutierrez and Kathy Chan  
13 (“Plaintiffs”), all Class Members, and defendant Environmental Systems Research Institute, Inc.  
14 (“Defendant”).

15 3. The Court finds that the Class Members have been provided proper and adequate  
16 notice, meeting the requirements of due process. The Court finds, based on the evidence  
17 submitted, that the Class Notice and related documents, as well as the methodology used to  
18 implement the Settlement, including providing notice to Class Members, (a) complied with this  
19 Court’s Preliminary Approval Order, (b) constituted the best practicable notice under the  
20 circumstances, (c) constituted notice that was reasonably calculated, under the circumstances, to  
21 apprise Class Members of the pendency of the Action and the proposed Settlement and of their  
22 right to participate in the Settlement, to opt out of the Settlement, to object to the Settlement, and  
23 to appear at the Fairness Hearing, and (d) met all applicable requirements of due process, the  
24 Code of Civil Procedure and other applicable authorities.

25 4. The Court finds that adequate time has been provided for Class Members to  
26 respond to the Class Notice, including by opting out of the Settlement or objecting to the  
27 Settlement or to Plaintiff’s Motion for Approval of Fee and Expense Award.  
28

1           5.       The Court finds that the Settlement, the terms of which are set forth in the  
2 Agreement, is fair, adequate, and reasonable as to the settling Parties, including the Settlement  
3 Class Members, and is in the best interests of all those affected by the Settlement. The Court  
4 finds that the Settlement was the result of vigorously contested litigation and good-faith arm's-  
5 length negotiations, and is reasonable based on the risks, expense, and complexity of the Action  
6 and the likelihood of success in it. The Court hereby grants final approval of the Parties'  
7 Settlement, as set forth in the Agreement, and enters Judgment accordingly. The Parties are  
8 directed to perform the terms of the Agreement and to report to the Court when that performance  
9 has been completed.

10           6.       The Court has already determined solely for purposes of this Settlement, by way  
11 of its Preliminary Approval Order, that the Settlement Classes satisfy the applicable standards for  
12 certification under the Code of Civil Procedure. The Settlement Classes, which will be bound by  
13 this Final Approval Order and Judgment, include all Class Members who did not submit a timely  
14 and valid Request for Exclusion. The Class Members who have opted out of the Settlement by  
15 submitting a timely and valid Request for Exclusion are listed on Exhibit 1 hereto. For purposes  
16 of the Settlement and this Final Approval Order and Judgment, the Settlement Classes shall be  
17 represented by Plaintiffs and shall include Plaintiffs and all members of the Alleged  
18 Misclassification Class and the Alleged Reimbursement Class—i.e., all current and former  
19 employees of Defendant in the State of California subject to Defendant's Bank Time Policy and  
20 whom Defendant classified as exempt at any time from November 15, 2018 to [DATE – the date  
21 on which Plaintiffs' motion for Preliminary Approval of this Settlement is first scheduled to be  
22 heard by the Court], and all current and former employees (whether exempt or non-exempt) of  
23 Defendant in the State of California from March 16, 2020 to [DATE – the date on which  
24 Plaintiffs' motion for Preliminary Approval of this Settlement is first scheduled to be heard by  
25 the Court]—excluding only those persons listed in **Exhibit 1**.

26           7.       The Court appoints Plaintiffs as class representatives for the Settlement Classes.

27           8.       The Court appoints Class Counsel identified in the Agreement as class counsel for  
28 the Settlement Classes, finding that Class Counsel is adequate and qualified, and has, and can

1 continue, to fully and faithfully represent the interests of Plaintiffs and the Settlement Class  
2 Members.

3 9. Settlement Class Members shall be paid their respective shares of the Net  
4 Settlement Sum, as provided in the Agreement.

5 10. The portion of the PAGA Settlement Amount to be paid to the California Labor  
6 and Workforce Development Agency (“LWDA”) and the portion of the PAGA Settlement  
7 Amount to be paid to PAGA Group Members shall be paid as provided in the Agreement. The  
8 LWDA and all PAGA Group Members shall be and hereby are bound by this Final Approval  
9 Order and Judgment.

10 11. The Settlement Administrator shall timely and properly prepare and deliver  
11 necessary tax documentation to all necessary parties and to report all necessary information to  
12 the applicable government entities as required by law.

13 12. The unopposed application of Class Counsel’s Fee and Expense Award is hereby  
14 granted. The Court finds that the Class Counsel’s attorneys’ fees are reasonable from the  
15 perspective of the percentage-of-recovery method and that Class Counsel’s hourly rates are  
16 reasonable based on evidence of Class Counsel’s experience, services rendered, and market rates  
17 for San Bernardino attorneys with comparable experience. The Court finds that Class Counsel’s  
18 litigation costs and expenses are reasonable and were reasonably incurred in the prosecution of  
19 this action. The sum of \$ \_\_\_\_\_ as attorneys’ fees, and costs not to exceed the sum of  
20 \$ \_\_\_\_\_, shall be paid to Class Counsel, with payment to be made as provided for in the  
21 Agreement. A General Release Payment in the amount of \$ \_\_\_\_\_ shall be paid to Plaintiff  
22 Yesenia Gutierrez, and a General Release Payment in the amount of \$ \_\_\_\_\_ shall be paid  
23 to plaintiff Kathy Chan, with the payments to be made as provided for in the Agreement.  
24 Settlement Services, Inc. shall be paid Settlement Administration Costs of \$ \_\_\_\_\_, in  
25 accordance with the terms of the Agreement. Except as expressly set forth in this Final Approval  
26 Order and Judgment, the Parties shall bear their own attorneys’ fees and costs.

27 13. Any portion of the Settlement Fund remaining after administration of the  
28 Settlement has been completed shall be transmitted to [REDACTED], as provided in the

1 Agreement.

2 14. The Settlement Administrator is hereby directed to make the payments set forth  
3 herein, in accordance with the terms and conditions of the Agreement.

4 15. By no later than \_\_\_\_\_, the Settlement Administrator shall file  
5 a report setting forth (1) the total amount of money paid to the Settlement Class Members as  
6 Class Settlement Awards, (2) the total amount of money paid to PAGA Group Members as  
7 PAGA Settlement Awards, (3) the portion of the PAGA Settlement Amount paid to the LWDA,  
8 and (4) the Fee and Expense Award paid to Class Counsel. (Code Civ. Proc., § 384, subd. (b).)

9 16. All Class Members, except those who timely opted out of the Settlement (listed in  
10 Exhibit 1 hereto), are bound by this Final Approval Order and Judgment, and by the previously  
11 approved Agreement. Each Settlement Class Member is hereby deemed to have fully, finally,  
12 and forever released, relinquished, and discharged Defendant and all Released Parties, as defined  
13 in the Agreement, from the Released Claims described in the Agreement.

14 17. All PAGA Group Members and the LWDA are bound by this Final Approval  
15 Order and Judgment, and by the previously approved Agreement. The State of California is  
16 hereby deemed to have expressly released, waived, and relinquished the Released PAGA Claims.  
17 All PAGA Group Members are hereby barred from bringing, joining, or otherwise participating  
18 in a PAGA representative action or otherwise making, joining, or otherwise participating in a  
19 claim against any of the Released Parties for any of the Released PAGA Claims. The State of  
20 California shall be barred from pursuing recovery of any civil penalties from any of the Released  
21 Parties for any of the Released PAGA Claims.

22 18. This Final Approval Order and Judgment, the Agreement, the Settlement it  
23 reflects, and any and all acts, statements, documents, or proceedings relating to the Settlement  
24 are not, and shall not be construed as, or used as an admission by Defendant, or a finding by this  
25 Court of any fault, wrongdoing, or liability on the part of Defendant, or of the validity of any of  
26 the Released Claims or the Released PAGA Claims or of the existence or amount of any  
27 damages.

28 19. In the event the Effective Date does not occur, this Final Approval Order and

1 Judgment shall be null and void and shall be vacated, *nunc pro tunc*, except insofar as expressly  
2 provided to the contrary in the Agreement, and without prejudice to the status quo ante rights of  
3 Plaintiffs, Settlement Class Members, and Defendant.

4 20. Judgment is hereby entered in accordance with the Agreement and the Settlement.  
5 Without affecting the finality of this Final Approval Order and Judgment in any way, the Court  
6 shall retain jurisdiction over the implementation of the Settlement, including enforcement and  
7 administration of the Agreement and the releases given in connection therewith, and any other  
8 matters related or ancillary to the foregoing.

9 IT IS SO ORDERED, ADJUDGED, AND DECREED.

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12 Dated: \_\_\_\_\_  
13 The Honorable Christian Towns  
14 Judge of the Superior Court  
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# EXHIBIT 2

### Approved Consumer Settlements

- ***Smith-Washington et al v TaxAct***, Case No. 3:23-cv-00830 (N.D. Cal.) (December 30, 2024) (certifying HammondLaw as class counsel for \$23.5 million settlement of privacy claims on behalf of 10.3 million nationwide customers of TaxAct) (appeal pending);
- ***Dominguez, et al. v. All-Pro Bail Bonds, Inc., et al***, Case No. 21CV381890 (Santa Clara County Superior Court) (September 21, 2023) (certifying HammondLaw as class counsel for \$2,300,000 settlement of Civil Code § 1799.91 claims on behalf of 33,792 non-spousal co-signers of All Pro bail bond premium financing agreements);
- ***Rodriguez v River City Bank***, Case No. 1-13-cv-257676 (Sacramento County Superior Court) (October 26, 2022) (certifying HammondLaw as class counsel for \$140,000 settlement of Cal. Bus. Prof. Code §§ 17200, Civil Code § 1798.80 and 1798.100 claims on behalf of 16,417 River City Bank customers);
- ***Siciliano et al. v. Apple***, Case No. 1-13-cv-257676 (Santa Clara County Superior Court) (November 2, 2018) (certifying HammondLaw as co-class counsel for \$16,500,000 settlement of Cal. Bus. Prof. Code §§ 17603, 17200, and 17535 claims on behalf of 3.9 million California subscribers to Apple InApp subscriptions);
- ***Gargir v. SeaWorld Inc.***, Case No. 37-2015-00008175-CU-MC-CTL (San Diego County Superior Court) (October 21, 2016) (certifying HammondLaw as co-class counsel in \$500,000 settlement of Cal. Bus. Prof. Code §§ 17603, 17200, and 17535 claims class action on behalf of 88,000 subscribers to SeaWorld’s annual park passes);
- ***Davis v. Birchbox, Inc.***, Case No. 3:15-cv-00498-BEN-BGS (S.D. Cal.) (October 14, 2016) (certifying HammondLaw as co-class counsel in \$1,572,000 settlement of Cal. Bus. Prof. Code §§ 17603, 17200, and 17535 claims on behalf of 149,000 subscribers to Birchbox’s memberships);
- ***Goldman v. LifeLock, Inc.*** Case No. 1-15-cv-276235 (Santa Clara County Superior Court) (February 5, 2016) (certifying HammondLaw as co-class counsel in \$2,500,000 settlement of Cal. Bus. Prof. Code §§ 17603, 17200, and 17535 claims on behalf of 300,000 California subscribers to Lifelock’s identity protection programs).
- ***Kruger v. Kiwi Crate, Inc.*** Case No: 1-13-CV-254550 (Santa Clara Cnty. Super. Ct. February 19, 2015) (certifying HammondLaw as class counsel in settlement of Cal. Bus. Prof. Code §§ 17603, 17200, and 17535 claims on behalf of approximately 5,400 subscribers to Kiwi Crate).

### Lead Counsel or Executive Committee

- ***In Re Betterhelp, Inc. Data Disclosure Cases***, Case No. Case No. 3:23-cv-01033-RS (ND Cal) (July 24, 2024)(former partner appointed as Co-lead counsel on behalf of a class of natural persons in the United States Protected Health

Information was allegedly intercepted by unauthorized third parties in connection with BetterHelp's online mental health platform).

- ***In re Ashley Madison Customer Data Security Breach Litigation***, Case No. 4:15-cv- 02669 JAR (E.D. Mis.) (November 20, 2017) (HammondLaw appointed to the executive committee in \$11.2 million settlement on behalf of 39 million subscribers to ashleymadison.com whose information was compromised in the Ashley Madison data breach)

### **Contested Class Counsel**

- ***O'Connor et al v HRL Laboratories, LLC***, Case 37-2022-00048942-CU-OE-CTL San Diego County Superior Court, (November 22, 2024) (certifying HammondLaw as co-class counsel in a wage and hour class action for a class of approximately 700 California employees who worked remotely for HRL Laboratories between March 13, 2020 and February 28, 2022);
- ***Uzair v. Google***, Case No. 18CV328915, Santa Clara County Superior Court (July 2, 2024) (certifying HammondLaw as co-class counsel in a consumer class action on behalf of all persons in California who paid for at least one renewal term of a Google subscription billed through the Google Play Store from May 30, 2014 to the present);
- ***Martinez v Knight Transportation***, Case No. 1:16-cv-01730-SKO (E.D. Cal.) (December 3, 2018) (certifying HammondLaw as co-class counsel in wage and hour class action on behalf of approximately 5,600 truck drivers);
- ***Moss et al. v. USF Reddaway, Inc.***, Case No. 5:15-cv-01541 (C.D. Cal.) (June 30, 2017) (certifying HammondLaw as co-class counsel in wage and hour class action on behalf of approximately 500 truck drivers);
- ***Siciliano et al. v. Apple***, Case No. 1-13-cv-257676 (Santa Clara County Superior Court) (April 21, 2017) (certifying HammondLaw as co-class counsel on behalf of a class of nearly 4 million Apple customers in California who purchased third-party developer's automatically renewing In App subscriptions through Apple iTunes's store);

### **Approved California Wage and Hour Cases**

- ***Beck et al v University of San Francisco***, Case No. 21STCV38365 (Los Angeles County Superior Court) (February 14, 2025) (certifying HammondLaw as class counsel for \$3,888,888 settlement of Labor Code §§ 1194, 226(a), 226.7, 510, 512, 2802, and 2699 claims on behalf of 3,689 instructors and other employees);
- ***Fox et al v. Verkada***, Case No. 23-CIV-00193 (San Mateo County Superior Court) (November 8, 2024) (certifying HammondLaw as class counsel for \$5,907,342.70 settlement of FLSA claims, and Labor Code §§ 512, 226.7, 510, 1194, 226(a), 201-203, 2802 claims on behalf of 1,355 employees);
- ***Broersma v Platt College Los Angeles LLC***, Case No. 20STCV47502 (Los Angeles County Superior Court) (August 30, 2024) (certifying HammondLaw as co-class counsel for \$885,500 settlement of Labor Code §§ 1194, 226(a), 226.7,

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510, 512, 201-203, 204, 1174, 1174.5, 2802, and 2699 claims on behalf of 731 non-exempt hourly employees);

- ***Fligsten et al. v Musicians Institute***, Case No. 21STCV38365 (Los Angeles County Superior Court) (August 7, 2024) (certifying HammondLaw as class counsel for \$900,000 settlement of Labor Code §§ 1194, 226(a), 226.7, 510, 512, 201-203, 2802, and 2699 claims on behalf of 452 instructors; and Labor Code § 2802 claims on behalf of 130 remote workers);

- ***Pahl et al. v Colorado Technical Institute, et al.***, Case No. 34-2022-00322588 (Sacramento County Superior Court) (June 28, 2024) (certifying HammondLaw as class counsel for \$900,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 201-203, 2802, and WARN Act claims on behalf of 246 adjunct instructors; and Labor Code § 2802 claims on behalf of 180 remote workers);

- ***Peters v Life Pacific University***, Case No. 22STCV06988 (Los Angeles County Superior Court) (April 26, 2024) (certifying HammondLaw as class counsel for \$138,000 settlement of Labor Code §§ 1194, 226.2, 226.7, 201-203, and 2802 claims on behalf of 61 adjunct instructors and Labor Code § 2802 claims on behalf of 137 remote workers);

- ***Teraoka v California Baptist University***, Case No. CVRI2201866 (Riverside County Superior Court) (March 21, 2024) (certifying HammondLaw as class counsel for \$99,000 settlement of Title IX claims on behalf of 361 male student athletes);

- ***Cathers v Mount Saint Mary's University***, Case No. 22STCV02491 (Los Angeles County Superior Court) (March 8, 2024) (certifying HammondLaw as class counsel for \$1,110,000 settlement of Labor Code § 1194, 226.2, 226.7, 226(a), 201-203, and 2802 claims on behalf of 690 adjunct instructors);

- ***Foster et al v Embry Riddle Aeronautical University***, Case No. CVRI2202995 (Riverside County Superior Court) (February 2, 2024) (certifying HammondLaw as co-class counsel for \$559,482 settlement of Labor Code § 1194, 226.2, 226.7, 226(a), 201-203, 1400, and 2802 claims on behalf of 123 part-time instructors);

- ***Serna v Gurnick Academy of Medical Arts***, Case No. 22-CIV01185 (San Mateo County Superior Court) (January 18, 2024) (Labor Code § 2699 et seq. representative action settlement for \$545,000 for violation of Labor Code §§ 201-203, 226(a), 226.7, 246, 510, 512, 558, 1194, and 2802 on behalf of 884 employees);

- ***Lundgren v Otis College of Art and Design***, Case No. 22STCV14633 (Los Angeles County Superior Court) (January 2, 2024) (certifying HammondLaw as class counsel for \$990,000 settlement of Labor Code §§ 1194, 226.2, 226.7, 226(a), 201-203, and 2802 claims on behalf of 606 adjunct instructors and Labor Code § 2802 claims on behalf of 335 remote workers);

- ***Knapp et al. v Pepperdine University***, Case No. 22STCV16736 (Los Angeles County Superior Court) (December 6, 2023) (certifying HammondLaw as class counsel for \$407,000 settlement of Labor Code § 2802 claims on behalf of 1,497 adjunct instructors);

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- ***Meyer et al v Visa Inc. et al.***, Case No. CGC-21-593058 (San Francisco County Superior Court) (November 17, 2023) (certifying HammondLaw as class counsel for \$2,700,000 settlement of Labor Code § 2802 and 432.5 claims on behalf of 4,973 employees);
- ***Davila v Concentrix Solutions Corporation et al.***, Case No. RG20079700 (Alameda County Superior Court) (November 17, 2023) (certifying HammondLaw as class counsel for \$385,000 settlement of Labor Code § 2802 claims on behalf of 262 employees);
- ***Pasno et al v Hibu, Inc.***, Case No. 22STCV01361 (Los Angeles County Superior Court) (September 27, 2023) (certifying HammondLaw as class counsel for \$140,000 settlement of Labor Code §§ 1194, 510, 226(a), 201-203, and 2802 claims on behalf of 141 sales representatives);
- ***Jackson v University of Redlands***, Case No. CIVSB2133143 (San Bernardino County Superior Court) (September 18, 2023) (certifying HammondLaw as class counsel for \$700,000 settlement of Labor Code §§ 1194 and 226(a) claims on behalf of 310 adjunct instructors and Labor Code § 2802 claims on behalf of 1,100 employees);
- ***Martinez v Knight Transportation***, Case No. 1:16-cv-01730-SKO (E.D. Cal.) (September 11, 2023) (certifying HammondLaw as co-class counsel \$400,000 settlement of Labor Code §§ 1194, 226.2, 226.7, 203, and 2802 claims on behalf of 5,648 truck drivers);
- ***Brandmeier v Columbia Southern University***, Case No. 22CV013638 (Alameda County Superior Court) (August 28, 2023) (certifying HammondLaw as class counsel for \$320,000 settlement of Labor Code §§ 201-203, 226(a)-(e), 226.2, 226.7, 1194, 510, 2802, and 2699 claims on behalf of 51 instructors);
- ***Angelina Harrold v California Family Health LLC dba California Family Fitness***, Case No. 34-2022-00323409 (Sacramento County Superior Court) (August 17, 2023) (Labor Code § 2699 et seq. representative action settlement for \$223,000 for violation of Labor Code §§ 1194, 510, 226.7, 512, 226(a), 201-203, and 2802 on behalf of 374 fitness instructors);
- ***Carr et al v Konica Minolta Business Solutions U.S.A., Inc.***, Case No. 21CV001245 (Alameda County Superior Court) (June 27, 2023) (certifying HammondLaw as class counsel for \$1,247,907.53 settlement of Labor Code §§ 1194, 226(a), 226.7, 510, and 201-203 claims on behalf of 269 sales representatives and Labor Code § 2802 claims on behalf of 890 other employees);
- ***Costa v. University of Antelope Valley***, Case No. 21STCV18531 (Los Angeles County Superior Court) (May 17, 2023) (Labor Code § 2699 et seq. representative action settlement for \$156,232.78 for violation of Labor Code §§ 1194, 226(a), 226.2, 226.7, 510, 512, 203, and 2802 on behalf of 55 instructors and Labor Code § 2802 claims on behalf of 54 other employees);
- ***Harris v Southern New Hampshire University***, Case No. RG21109745 (Alameda County Superior Court) (May 12, 2023) (certifying HammondLaw as co-class counsel for \$1,475,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 510 512, 201-203, and 2802 claims on behalf of 480 adjunct instructors);
- ***Castillo v Holy Names University***, Case No. HG21097245 (Alameda County Superior Court) (May 2, 2023) (certifying HammondLaw as class counsel

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for \$970,701.38 settlement of Labor Code §§ 226(a), 226.2, 226.7, 512, 1194, 201-203, and 2802 claims on behalf of 454 part-time instructors; Labor Code § 2802 claims on behalf of 563 other employees who worked remotely; and Labor Code § 226(a) claims on behalf of 682 employees who received inaccurate wage statements);

- ***Marantz v Laguna College of Art and Design***, Case No. 30-2021-01194814-CU-OE-CXC (Orange County Superior Court) (April 21, 2023) (certifying HammondLaw as class counsel for \$825,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 512, 201-203, and 2802 claims on behalf of 295 adjunct instructors; and Labor Code § 2802 claims on behalf of 191 other employees);

- ***Glor v iHeart Media + Entertainment***, Case No. 22CV005286 (Alameda County Superior Court) (February 14, 2023) (certifying HammondLaw as class counsel for \$1,220,000 settlement of Labor Code §§ 226(a), 510, 1194, and 201-203 claims on behalf of 206 account executives and Labor Code § 2802 claims on behalf of 1,154 other employees);

- ***Cassidy v Keyence Corporation of America***, Case No. 21CV382350 (Santa Clara County Superior Court) (February 8, 2023) (Labor Code § 2699 et seq. representative action settlement for \$300,000 for violation of Labor Code §§ 226(a), 512, 203, and 2802 on behalf of 151 sales representatives and Labor Code § 2802 claims on behalf of 18 other employees);

- ***Burleigh v. Brandman University***, Case No. 30-2020-01172801-CU-OE-CXC (Orange County Superior Court) (January 27, 2023) (certifying HammondLaw as class counsel for \$1,550,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 512, 201-203, claims on behalf of 1,757 adjunct instructors and Labor Code § 2802 claims on behalf of 555 other employees);

- ***Burleigh v. Walden University LLC and Laureate Education, Inc.***, Case No. RG21106062 (Alameda County Superior Court) (December 9, 2022) (certifying HammondLaw as co-class counsel for \$815,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 203, 2802, and 2699, claims on behalf of 244 adjunct instructors);

- ***Burleigh v. National University***, Case No. MSC21-00939 (Contra Costa County Superior Court) (August 26, 2022) (certifying HammondLaw as co-class counsel for \$925,000 settlement of Labor Code § 2802 claim on behalf of 1,802 instructors);

- ***Parson v. La Sierra University***, Case No. CVRI2000104 (Riverside County Superior Court) (May 19, 2022) (certifying HammondLaw as class counsel for \$578,220 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 203, claims on behalf of 381 adjunct instructors and Labor Code § 2802 claims on behalf of 739 other employees);

- ***Chindamo v. Chapman University***, Case No. 30-2020-01147814-CU-OE-CXC (Orange County Superior Court) (April 15, 2022) (certifying HammondLaw as co-class counsel for \$1,150,00 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 203, claims on behalf of 1,374 adjunct instructors and Labor Code § 2802 claims on behalf of 4,120 other employees);

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- ***Sweetland-Gil v. University of the Pacific***, Case No. STK-CV-UOE-2019-0014682 (San Joaquin County Superior Court) (March 4, 2022) (certifying HammondLaw as class counsel for \$1,800,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of 1,100 adjunct instructors);
- ***Senese v. University of San Diego***, Case No. 37-2019-00047124-CU-OE-CTL (San Diego County Superior Court) (February 8, 2022) (certifying HammondLaw as co-class counsel for \$3,892,750 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of 2,071 adjunct instructors);
- ***Solis et al. v Concordia University Irvine***, Case No. 30-2019-01114998-CU-OE-CXC (Orange County Superior Court) (February 3, 2022) (certifying HammondLaw as class counsel for \$890,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 203, and 2802 claims on behalf of 778 adjunct instructors);
- ***McCoy et v Legacy Education LLC***, Case No. 19STCV2792 (Los Angeles County Superior Court) (November 15, 2021) (Labor Code § 2698 et seq. representative action settlement for \$76,000 for violation of Labor Code §§ 1194, 226(a), 226.7, 512, 203, and 2802 on behalf of 31 instructors);
- ***Merlan v Alliant International University***, Case No. 37-2019-00064053-CU- OE-CTL (San Diego County Superior Court) (November 2, 2021) (certifying HammondLaw as co-class counsel for \$711,500 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of 803 adjunct instructors);
- ***Stupar et al. v University of La Verne***, Case No. 19STCV33363 (Los Angeles County Superior Court) (October 14, 2021) (certifying HammondLaw as class counsel for \$2,450,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 512, and 203 claims on behalf of 1,364 adjunct instructors);
- ***Normand et al. v Loyola Marymount University***, Case No. 19STCV17953 (Los Angeles County Superior Court) (September 9, 2021) (certifying HammondLaw as class counsel for \$3,400,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of 1,655 adjunct instructors);
- ***Veal v Point Loma Nazarene University***, Case No. 37-2019-00064165-CU-OE-CTL (San Diego County Superior Court) (August 27, 2021) (certifying HammondLaw as class counsel for \$711,500 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of 670 adjunct instructors);
- ***Pillow et al. v Pepperdine University***, Case No. 19STCV33162 (Los Angeles County Superior Court) (July 28, 2021) (certifying HammondLaw as class counsel for \$940,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of 1,547 adjunct instructors);
- ***Moore et al v Notre Dame De Namur University***, Case No. 19-CIV-04765 (San Mateo County Superior Court) (July 1, 2021) (certifying HammondLaw as class counsel for \$882,880 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of 397 adjunct instructors);
- ***Mooiman et al. v Saint Mary's College of California***, Case No. C19-02092 (Contra Costa County Superior Court) (June 10, 2021) (certifying HammondLaw as class counsel for \$1,700,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of 760 adjunct instructors and Labor Code § 226(a) claim on behalf of 2,212 other employees);

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- ***Peng v The President and Board of Trustees of Santa Clara College***, Case No. 19CV348190 (Santa Clara County Superior Court) (April 21, 2021) (certifying HammondLaw as class counsel for \$1,900,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of 1,017 adjunct instructors and Labor Code Code § 226(a) claim on behalf of 5,102 other employees);
- ***Morse v Fresno Pacific University***, Case No. 19-CV-04350 (Merced County Superior Court) (April 6, 2021) (certifying HammondLaw as class counsel for \$1,534,725 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 512 and 203 claims on behalf of 861 adjunct instructors);
- ***Miner, et al. v. ITT Educational Services, Inc.***, Case No. 3:16-cv-04827-VC (N.D. Cal.) (March 19, 2021) (certifying HammondLaw as class counsel for \$5,200,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 512 and 2802 claims on behalf of 1,154 adjunct instructors);
- ***Harris-Foster v. University of Phoenix***, Case No. RG19019028 (Alameda County Superior Court) (March 17, 2021) (certifying HammondLaw as class counsel for \$2,863,106 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7 and 2802 putative class action on behalf of 3,447 adjunct instructors);
- ***Granberry v. Azusa Pacific University***, Case No. 19STCV28949 (Los Angeles County Superior Court) (March 5, 2021) (certifying HammondLaw as class counsel for \$1,112,100 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7 and 2802 claims on behalf of 1,962 adjunct instructors);
- ***Ott v. California Baptist University***, Case No. RIC1904830 (Riverside County Superior Court) (January 26, 2021) (certifying HammondLaw as co-class counsel for \$700,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7 and 512 claims on behalf of 958 adjunct instructors);
- ***Pereltsvaig v. Cartus Corporation***, Case No. 19CV348335 (Santa Clara County Superior Court) (January 13, 2021) (certifying HammondLaw as class counsel in \$300,000 settlement of Labor Code §§ 226.8(a), 1194, 226(a), 226.7, 510, 512, and 2802 claims on behalf of 126 instructors);
- ***Morrison v. American National Red Cross***, Case No. 19-cv-02855-HSG (N.D. Cal.) (January 8, 2021) (certifying HammondLaw as class counsel in a \$377,000 Settlement of Labor Code §§ 1194, 226(a), 226.7, 510, 512 and 2802 claims on behalf of 377 instructors);
- ***Brown v. Cernx***, Case No. JCCP004971 (Alameda County Superior Court) (July 14, 2020) (certifying HammondLaw as co-class counsel in \$350,000 settlement of Labor Code §§ 1194, 226, 226.7, 510, 512, and 2802 claims on behalf of 309 couriers);
- ***Stempien v. DeVry University***, Case No. RG19002623 (Alameda County Superior Court) (June 30, 2020) (certifying HammondLaw as class counsel for \$1,364,880 settlement Labor Code §§ 1194, 226, 226.2, 226.7, and 2802 claims on behalf of 498 adjunct instructors);
- ***McCoy v. Concorde.***, Case No. 30-2017-00936359-CU-OE-CXC (Orange County Superior Court.) (July 2, 2019) (certifying HammondLaw as class counsel for \$2,500,000 settlement of Labor Code §§ 1194, 226, 226.7, and 512 putative claims on behalf of 636 adjunct instructors);

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- **Hogue v. YRC**, Case No. 5:16-cv-01338 (C.D. Cal.) (June 24, 2019) (certifying HammondLaw as co-class counsel for \$700,000 settlement of Labor Code §§ 1194, 226.2, 226.7, and 2802 claims on behalf of 225 truck drivers);
- **Sands v. Gold's Gym**, Case No. BC660124 (Los Angeles Alameda County Superior Court)(March 20, 2019) (Labor Code § 2698 *et seq.* representative action settlement for \$125,000 for violation of Labor Code § 1194, 2802 and 246 *et seq.* claims on behalf of 106 fitness instructors);
- **Garcia v. CSU Fullerton.**, Case No. 30-2017-00912195-CU-OE-CXC (Orange County Superior Court) (February 15, 2019) (certifying HammondLaw as class counsel for \$330,000 settlement of Labor Code §§ 1194, 226, 226.7, and 512 claims on behalf of 127 adjunct instructors);
- **Pereltsvaig v. Stanford**, Case No. 17-CV-311521 (Santa Clara County Superior Court) (January 4, 2019) (certifying HammondLaw as class counsel for \$886,890 settlement of Labor Code §§ 1194, 226, 226.7, 512, 2802 and 2699 claims on behalf of 398 adjunct instructors);
- **Moss et al. v. USF Reddaway, Inc.**, Case No. 5:15-cv-01541 (C.D. Cal.) (July 25, 2018) (certifying HammondLaw as co-class counsel for \$2,950,000 settlement of Labor Code §§ 1194, 226, 226.7, and 201-203 claims on behalf of 538 truck drivers);
- **Beckman v. YMCA of Greater Long Beach**, Case No. BC655840 (Los Angeles County Superior Court) (June 26, 2018) (Labor Code § 2698 *et seq.* representative action settlement for \$92,500 for violation of Labor Code § 1194 and 226(a) claims on behalf of 101 fitness instructors);
- **Maldonado v. Heavy Weight Transport, Inc.**, Case No. 2:16-cv-08838 (C.D. Cal.) (December 11, 2017) (certifying HammondLaw as co-class counsel for \$340,000 settlement of Labor Code §§ 1194, 226, 226.2, 226.7, 226, 201-203, and 2699 claims on behalf of 160 truck drivers);
- **Hillman v. Kaplan**, Case No. 34-2017-00208078 (Sacramento County Superior Court) (December 7, 2017) (certifying HammondLaw as class counsel for \$1,500,000 settlement of Labor Code §§ 1194, 226, 226.7, 201-203 and 2802 claims on behalf of 506 instructors);
- **Bender et al. v. Mr. Copy, Inc.**, Case No. 30-2015-00824068-CU-OE-CXC (Orange County Superior Court) (October 13, 2017) (certifying HammondLaw as co-class counsel for \$695,000 settlement of Labor Code §2802 claims on behalf of approximately 250 outside sales representatives);
- **Rios v. SoCal Office Technologies**, Case No. CIVDS1703071 (San Bernardino County Superior Court) (September 6, 2017) (certifying HammondLaw as co-class counsel for \$495,000 settlement of Labor Code §2802 claims on behalf of approximately 180 outside sales representatives);
- **Russell v. Young's Commercial Transfer, Inc.**, Case No. PCU265656 (Tulare County Superior Court) (June 19, 2017) (certifying HammondLaw as co-class counsel for \$561,304 settlement of Labor Code §§ 1194, 226, 226.2, and 201-203 claims on behalf of 962 truck drivers);
- **Keyes v. Valley Farm Transport, Inc.**, Case No. FCS046361 (Solano County Superior Court) (May 23, 2017) (certifying HammondLaw as co-class

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counsel for \$497,000 settlement of Labor Code § 226, 1194, 512 and 2698 *et seq.* claims on behalf of 316 truck drivers);

- ***Numi v. Interstate Distributor Co.***, Case No. RG15778541 (Alameda County Superior Court ) (March 6, 2017) (certifying HammondLaw as co-class counsel for \$1,300,000 settlement of Labor Code §§ 1194, 226.2 and 2802 claims on behalf of approximately 1,000 truck drivers);
- ***Keyes v. Vitek, Inc.***, Case No. 2016-00189609 (Sacramento County Superior Court) (February 17, 2017) (\$102,000 settlement of PAGA representative action for violation of Labor Code § 226.8 on behalf of 90 truck drivers);
- ***Martinez v. Estes West dba G.I. Trucking, Inc.***, Case. BC587052 (Los Angeles County Superior Court) (April 4, 2017) (certifying HammondLaw as co-class counsel for \$425,000 settlement of Labor Code §§ 1194, 226, and 201-203 claims on behalf of approximately 156 truck drivers);
- ***Sansinena v. Gazelle Transport Inc.***, Case No. S1500-CV- No 283400 (Kern County Superior Court) (December 8, 2016) (certifying HammondLaw as co-class counsel for \$264,966 settlement of Labor Code §§ 1194, 226, and 201-203 claims on behalf of approximately 314 truck drivers);
- ***Cruz v. Blackbelt Enterprises, Inc.***, Case No. 39-2015-00327914-CU-OE-STK (San Joaquin County Superior Court) (September 22, 2016) (certifying HammondLaw as co-class counsel for \$250,000 settlement of Labor Code §§ 1194, 226, and 201-203 claims on behalf of approximately 79 truck drivers);
- ***Araiza et al. v. The Scotts Company, L.L.C.***, Case No. BC570350 (Los Angeles County Superior Court) (September 19, 2016) (certifying HammondLaw as co-class counsel for \$925,000 settlement of Labor Code §226, 510, 512 and 2802 claims on behalf of approximately 570 merchandisers; and Labor Code 226(a) claims on behalf of approximately 120 other employees);
- ***Dixon v. Hearst Television, Inc.***, Case No. 15CV000127 (Monterey County Superior Court) (September 15, 2016) (certifying HammondLaw as class counsel for a \$432,870 settlement of Labor Code § 2802 claims on behalf of approximately 55 outside sales representatives);
- ***Garcia et al. v. Zoom Imaging Solutions, Inc.*** SCV0035770 (Placer County Superior Court) (September 8, 2016) (certifying HammondLaw as co-class counsel for \$750,000 settlement of Labor Code § 510, 512, 1194 and 2802 claims on behalf of approximately 160 sales representatives and service technicians);
- ***O'Beirne et al. v. Copier Source, Inc. dba Image Source***, Case No. 30-2015-00801066-CU-OE-CXC (Orange County Superior Court) (September 8, 2016) (certifying HammondLaw as co-class counsel for \$393,300 settlement of Labor Code § 2802 claims on behalf of approximately 132 outside sales representatives);
- ***Mead v. Pan-Pacific Petroleum Company, Inc.***, Case No. BC555887 (Los Angeles County Superior Court) (August 30, 2016) (certifying HammondLaw as co-class counsel for \$450,000 settlement of Labor Code §§ 1194, 226, and 201-203 claims on behalf of approximately 172 truck drivers);
- ***Lange v. Ricoh Americas Corporation***, Case No. RG136812710 (Alameda County Superior Court) (August 5, 2016) (certifying HammondLaw as co-class

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counsel for \$1,887,060 settlement of Labor Code § 2802 claims on behalf of approximately 550 sales representatives);

- ***Alcazar v. US Foods, Inc. dba US Foodservice***, Case No. BC567664 (Los Angeles County Superior Court) (March 18, 2016) (certifying HammondLaw as co-class counsel for a \$475,000 settlement of Labor Code §§ 1194, 226, and 201-203 claims on behalf of approximately 634 truck drivers);
- ***Harris v. Toyota Logistics***, Case No. C 15-00217 (Contra Costa County Superior Court) (February 9, 2016) (certifying HammondLaw as co-class counsel for \$550,000 settlement of Labor Code §§ 1194, 226, and 201-203 claims reached on behalf of approximately truck 125 drivers);
- ***Albanez v. Premium Retail Services Inc.***, Case No. RG1577982 (Alameda County Superior Court) (January 29, 2016) (Private Attorney General Act Settlement for \$275,000 on behalf of approximately 38 employees);
- ***Garcia et al v. Sysco Los Angeles, et al.***, Case No. BC560274 (Los Angeles County Superior Court) (November 12, 2015) (certifying HammondLaw as co-class counsel for a \$325,000 settlement on behalf of approximately 500 truck drivers);
- ***Cooper et al. v. Savage Services Corporation, Inc.***, Case No. BC578990 (Los Angeles County Superior Court) (October 19, 2015)(certifying HammondLaw as co-class counsel for \$295,000 settlement on behalf of approximately 115 truck drivers);
- ***Gallardo et al. v. Canon Solutions America, Inc.***, Case No. CIVDSS1500375 (San Bernardino County Superior Court) (August 5, 2015) (certifying HammondLaw as co-class counsel for \$750,000 settlement of Labor Code § 2802 claims on behalf for approximately 320 outside sales representatives);
- ***Glover v. 20/20 Companies, Inc.***, Case No. RG14748879 (Alameda County Superior Court) (August 3, 2015) (Private Attorney General Act Settlement for \$475,000 on behalf of approximately 273 independent contractors);
- ***Mayton et al v. Konica Minolta Business Solutions USA, Inc.***, Case No. RG12657116 (Alameda County Superior Court) (June 22, 2015) (certifying HammondLaw as co-class counsel for \$1,225,000 settlement of Labor Code § 2802 claims on behalf for approximately 620 outside sales representatives);
- ***Garza, et al. v. Regal Wine Company, Inc. & Regal III, LLC***, Case No. RG12657199 (Alameda County Superior Court) (February 21, 2014) (certifying HammondLaw as class counsel for \$1.7 million settlement on behalf of approximately 317 employees);
- ***Moy, et al. v. Young's Market Co., Inc.***, Case No. 30-2011-00467109- CU-OE-CXC (Orange County Superior Court) (November 8, 2013) (certifying HammondLaw as co-class counsel for \$2.3 million settlement of Labor Code § 2802 claims on behalf of approximately 575 sales representatives);
- ***Gagner v. Southern Wine & Spirits of America, Inc.***, Case No. 3:10-cv-10-04405 JSW (N.D. Cal.) (December 11, 2012) (certifying HammondLaw as co-class counsel for \$3.5 million settlement of Labor Code § 2802 claims reached on behalf of approximately 870 sales representatives);

- ***Downs, et al. v. US Foods, Inc. dba US Foodservice***, Case No. 3:10-cv-02163 EMC (N.D. Cal.) (September 12, 2012) (certifying HammondLaw as co-class counsel for \$3 million settlement of Labor Code § 2802 claims reached on behalf of approximately 950 truck drivers).

### **Approved Washington State Wage and Hour Cases**

- ***Ortiz v Expedia***, Case No. 23-2-11268-7 (King County Superior Court) (January 8, 2025) (certifying HammondLaw as class counsel for \$135,000 settlement of Seattle Municipal Code § 14.20, *et seq* claims on behalf of approximately 2,210 employees);
- ***Duffy v Seattle University***, Case No. 23-2-08067-0 (King County Superior Court) (December 20, 2024) (certifying HammondLaw as class counsel for \$92,000 settlement of Seattle Municipal Code § 14.20, *et seq* claims on behalf of approximately 999 employees);
- ***Ebersole v Seattle Pacific University***, Case No. 23-2-13734-5 (King County Superior Court) (December 13, 2024)(certifying HammondLaw as class counsel for \$65,660 settlement of Seattle Municipal Code § 14.20, *et seq* claims on behalf of approximately 500 employees);
- ***Clever v Weyerhaeuser***, Case No. 23-2-13734-5 (King County Superior Court) (September 27, 2024)(certifying HammondLaw as class counsel for \$114,712,50 settlement of Seattle Municipal Code § 14.20, *et seq* claims on behalf of approximately 127 employees);
- ***Rector v Egencia***, Case No. 23-2-11362-4 (King County Superior Court) (September 20, 2024)(certifying HammondLaw as class counsel for \$69,500 settlement of Seattle Municipal Code § 14.20, *et seq* claims on behalf of approximately 84 employees);
- ***Stone v Interstate Distributor Co.***, Case No. 15-2-14612-3 (Pierce County Superior Court) (July 24, 2020)(certifying HammondLaw as co-class counsel for \$885,000 settlement of Washington Minimum Wage Act claims behalf of approximately 867 truck drivers);
- ***Smith et al. v T-W Transport, Inc***, Case No. 17-2-02864-3 (Spokane County Superior Court) (December 13, 2019) (certifying HammondLaw as co-class counsel for \$1,375,000 settlement of Washington Minimum Wage Act claims behalf of approximately 1,221 truck drivers);
- ***Newton v Oak Harbor Freight Lines***, Case No. 16-12-11137-8 (November 8, 2019)(certifying HammondLaw as co-class counsel for \$65,000 settlement of Washington Minimum Wage Act claims behalf of approximately 41 truck drivers);
- ***Hedglin v. Swift Transportation Company of Arizona, L.L.C.***, Case No. 3:16-cv-05127-RJB (W.D. WA – Tacoma) (July 8, 2019) (certifying HammondLaw as co-class counsel for \$2,490,000 settlement of Washington Minimum Wage Act claims behalf of approximately 2,784 truck drivers)

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- ***Lepine v. Petsmart, Inc.***, Case No. 3:17-cv-05488-BHS (W.D. WA – Tacoma) (February 25, 2019) (certifying HammondLaw as co-class counsel for \$700,000 settlement of Washington Minimum Wage Act claims on behalf of approximately 424 pet groomers);
- ***Lepine v. Petco Animal Supplies Stores, Inc.***, Case No. 3:17-cv-05483-RBL (W.D. WA- Tacoma) (November 9, 2018) (certifying HammondLaw as co-class counsel for \$700,000 settlement of Washington Minimum Wage Act claims on behalf of approximately 911 pet groomers);
- ***Kidwell v. Haney Truck Line***, Case No. 16-2-0488 (Thurston County Superior Court) (May 4, 2018) (certifying HammondLaw as co-class counsel for \$277,500 settlement of Washington Minimum Wage Act claims behalf of approximately 466 truck drivers)
- ***McMakin v. Dominos***, Case No. 16-2-20655-7 (King County Superior Court) (June 2, 2017) (certifying HammondLaw as co-class counsel for \$177,000 settlement of Washington Minimum Wage Act claims behalf of approximately 77 truck drivers);
- ***Eilerman v. McLane Company Inc.***, Case No. 3:16-cv-05303-BHS (W.D. WA – Tacoma) (May 17, 2017) (certifying HammondLaw as co-class counsel for \$775,000 settlement of Washington Minimum Wage Act claims behalf of approximately 251 truck drivers)

# EXHIBIT 3

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Tallahassee, Florida 32308

November 18, 2024

**CONFIDENTIAL**

**VIA EMAIL**

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Re: Settlement Administration Estimate

Polina, All,

Below is a cost estimate<sup>1</sup> for the administration of your pending settlement based on the information you provided over email, with a list of the assumed duties and related variables. Please note that we have made specific assumptions that affect the overall estimated cost. If you believe that any of the variables we chose are inaccurate or unrealistic, please let us know and we will happily revise our estimate.

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<sup>1</sup> Please note that providing estimates requires us to rely on certain information provided by the client as well as make a number of significant assumptions. Accordingly, these estimates are not intended to limit SSI's actual fees and expenses, which due to the scope of actual services or changes to the underlying facts or assumptions, may be less or more than estimated.

1. Case Start-up, Data Handling and Initial Programming. The Class Member data will be sent to us via email or secure upload in a single (1) Excel spreadsheet that will include the name, last known address, Email Address, Social Security Number (“SSN”) and any other relevant employment data for each Class Member. We will document and track all activity related to each Class Member, including mailings, undeliverable mail, etc. Any additional spreadsheets received will result in increased administration costs. Assumption: approximately 4,179 Class Members. Estimated Cost: \$3,500.
2. Phone Support. We will obtain a toll-free number that will be used throughout the administration by Class Members with inquiries, with address changes, etc. The line will be staffed with bilingual (English/Spanish) phone agents on Mondays through Fridays from 9:00 am to 5:30 pm EST. Assumptions: 1) ~5% of the Class calls, ~210 calls; and 2) the line will be active for 18 months. Estimated Cost: \$3,500.
3. Static Website. We will build and host a website where Class Members can obtain information, review case-related documentation and file changes of address online. Assumptions: 1) we will have a minimum of 14 days to obtain the desired domain name and set up the website; 2) the website will be in English only; 3) the website will be live for 18 months; and 4) the website will not allow for the uploading of documents. Estimated Cost: \$6,250.
4. Email and Fax Support. Estimated Cost: \$1,000.
5. Notice Translations. Notice translations are NOT required. Estimated Cost: \$0.
6. Notice Mailing. We will print and mail the Notice to each Class Member. Prior to mailing, we will update the Class Member addresses using the United States Postal Service’s (“USPS”) National Change of Address (“NCOA”) database. Assumptions: 1) the Notice will be approximately ten (10) pages (5 sheets) in length, in English only; and 2) the Notices will be mailed via oversized USPS First-Class mail. Estimated Cost: \$7,000.
7. Returned Undeliverable Notices. Notices returned as undeliverable by the USPS will be date-stamped and recorded in our database. Those with forwarding addresses will be remailed to the addresses provided. Those returned without forwarding addresses will be traced, and Notices will be remailed to the address returned by the trace. Assumption: a total of 630 (~15%) original Notices will be returned as undeliverable and 65 with PO forwarding address. Estimated Cost: \$3,000.
8. Remailing or Emailing of Individual Notices upon Request. Estimated Cost: \$1,500.
9. Processing of Opt-Outs, Objections and Miscellaneous Mail. Estimated Cost: \$1,000.
10. Weekly Statistics Reports. We will provide weekly reports during the Notice period which will include number of Notices returned undeliverable, number of Notices that are

remailed and re-emailed, the number of opt-outs and objections received, etc. Estimated Cost: \$600.

11. Award Calculations. The award calculations will be straight forward. Estimated Cost: \$800.
12. Qualified Settlement Fund (QSF) Administration. We will establish a QSF through the IRS, obtain a unique Employer Identification Number for the QSF and establish a non-interest-bearing bank account for the Fund. We will be responsible for computing and deducting any required withholdings and deductions, including the employer's share of payroll taxes. We will also be responsible for making all tax payments for the QSF, including employer payroll taxes, the electronic filing of the W-2 and 1099-MISC Tax Forms, and the filing of the Forms 941 and 1120SF. Assumptions: 1) the QSF will be open in no more than two calendar years (2025-2026); 2) taxes will be calculated for the state of California only; 3) The Defendant will provide us with their CA EDD number; 4) awards will be paid in a single (1) round in 2025; 5) awards will be reported to the taxing authorities when issued; 6) we will not request a refund from the IRS for taxes paid to Class Members with uncashed checks; 7) we will verify SSN's, EIN's or TIN's with the Social Security Administration (SSA); and 8) soon after the uncashed checks become stale, all unclaimed amounts will be paid to a cy pres beneficiary, or will escheat to the states of last known residence and the account will be closed shortly thereafter. Estimated Cost: \$7,000 if unclaimed funds are paid to a cy pres beneficiary and \$8,000 if unclaimed funds escheat.
13. OFAC Review. We will perform an OFAC review prior to issuing awards to any Class Member and will perform outreach to those from whom we require additional information. Estimated Cost: \$1,500.
14. Paying Attorney's Fees and Costs, Mailing Service Award Check(s). We will issue a wire or wires or mail via FedEx a check or checks for the attorney's fees and costs. We will also print and mail the Service Award check(s) with 1099-MISC tax form(s). Assumption: the check(s) will be mailed via regular USPS First-class mail. Estimated Cost: \$500.
15. Mailing of Award Checks. We will design, print, and mail award checks to all Class Members who have not excluded themselves from the Class. Assumptions: 1) approximately 4,179 award checks mailed; and 2) all award checks will be mailed via regular USPS First-Class mail. Estimated Cost: \$5,000.
16. Processing of Returned Undeliverable Award Checks. We will trace all award checks returned as undeliverable and mail letters requesting the Class Member call us to confirm their identity. Upon confirmation we will re-mail or reissue their award check. Assumption: approximately 420 (~10%) Award Checks returned as undeliverable. Estimated Cost: \$2,500.

17. Follow-Up Re: Uncashed Checks. We will reissue checks upon request after the expiration of 90 days from the initial check mailing date. No additional follow-up from SSI will be required. Assumption: approximately 200 checks reissued. Estimated Cost: \$2,000.
18. Weekly Statistics Reports. We will provide weekly reports during the check negotiation period which will include number of checks negotiated and not negotiated, the number of award checks returned as undeliverable, and any other information as required by the Parties. Estimated Cost: \$600.
19. Tax Forms. We will be responsible for printing and mailing the W-2 and 1099-MISC Tax Forms to award recipients in a single tax year, 2025. Estimated Cost: \$5,000.
20. Processing of Returned Tax Forms. Estimated Cost: \$1,000.
21. Miscellaneous Reports, Conferencing and Supervision. Estimated Cost: \$3,000.
22. Conclusion. We estimate that the services discussed above, based on the assumptions specified, will cost approximately \$56,250 if unclaimed funds are paid to a cy pres beneficiary and \$57,250 if unclaimed funds escheat.

Please let us know if there are any additional duties or services that need to be added to our estimate, or if you need us to revise this estimate in any way.

For your information, our hourly rates are:

Data Entry:	\$50 to \$55 an hour
Misc. Clerical:	\$50 to \$55 an hour
Claims Processing Staff:	\$60 to \$65 an hour
Phone Agents:	\$55 to \$65 an hour
Programming:	\$165 an hour
Case Management:	\$110 to \$175 an hour
Senior Case Management:	\$250 an hour

Sincerely,

Robert HYTE  
Director of Operations

## TERMS AND CONDITIONS

The following Terms and Conditions apply to all services provided by Settlement Services, Inc. ("SSI") to its Client(s) as set forth in the attached Proposal:

**1. SERVICES.** Subject to the terms hereof, SSI agrees to provide the services specified in the Proposal attached hereto (the "Proposal"). Such services are hereinafter referred to as "Services." The parties agree and understand that none of the Services constitute legal advice.

### **2. CHARGES FOR SERVICES.**

**2.1. FEES.** As full compensation for the Services, the Client agrees to pay SSI its fees as outlined in the Proposal. Fees may include mark-ups and in some cases, SSI may receive a rebate (or credit) from a publication vendor. All fees will be listed in the fee section of SSI's invoices. The Client acknowledges that the fees contained in the Proposal were negotiated at arm's length and may vary depending on the circumstances and the length of the case for which the Services are being provided hereunder. Additionally, the Client acknowledges that the fees quoted in the Proposal are, unless otherwise specifically agreed to by SSI, estimates, based on information provided to SSI by the Client, and no representation is made by SSI that the estimated fees shall equal the actual fees charged by SSI to the Client. SSI's hourly rates may be adjusted from time to time by SSI in its reasonable discretion, although rates generally are changed no more frequently than on an annual basis.

**2.2. EXPENSES.** The Client agrees to pay SSI for expenses reasonably incurred by SSI in connection with the performance of the Services. These will be listed in the expense (non-fee) section of SSI's invoices and may include, but not be limited to, postage, post office box, brokerage fees, costs of messenger and delivery service, travel, translation, filing fees, and other similar expenses. The items listed in the expense section of SSI's invoice will be billed at cost except for certain internal expenses, such as copies and faxes, which will be charged in accordance with SSI's current standard rate.

**2.3. PAYMENT.** SSI shall invoice the Client for its fees and expenses on a regular basis, and the Client shall pay SSI within thirty (30) days of its receipt of each such invoice, through wire transfer or other payment method approved in writing in advance by SSI. Late payments are subject to a 1.5% monthly interest charge. Notwithstanding the foregoing, SSI may require advance payment for certain expenses associated with print notice, media publication, and postage. Where the Client requires services that are unusual or beyond the normal business practices of SSI, or are otherwise not provided for in the Proposal, the cost of such services shall be charged to the Client at a competitive rate. Client agrees that it will use its best efforts to include provisions reasonably acceptable to SSI in any relevant court order, settlement agreement or similar document that provide for the payment of SSI's fees and expenses hereunder. No agreement to which SSI is not a party shall reduce or limit the full and prompt payment of SSI's fees and expenses as set forth herein and in the Proposal.

**3. BANK ACCOUNTS.** Client agrees that, at its request, SSI shall be authorized to establish accounts with financial institutions as agent for the Client or as otherwise agreed to between Client and SSI. All Client accounts established by SSI, unless otherwise instructed by Client, shall be deposit accounts of commercial banks with capital exceeding \$1 billion and an S&P rating of "A" or higher ("Approved Bank"). In some cases, SSI may derive financial benefits resulting from settlement funds and other moneys on deposit or invested with a bank, including for example discounts or credits provided on certain banking services and service fees. It is acknowledged and agreed that SSI shall have no responsibility or liability for any diminution of a settlement fund that may result from any deposit made with a bank including any losses resulting from a default by the Approved Bank or other credit losses. In the event the Client fails to provide direction or is otherwise unresponsive to SSI following a period of nine (9) months from SSI's last communication, in the absence of court-ordered instructions otherwise, Client authorizes SSI to take all reasonable and necessary actions to close the case for which SSI is providing Services hereunder, including but not limited to transferring, returning or otherwise disposing of any remaining funds in a bank account in a manner that is reasonable and appropriate under the circumstances.

**4. TERMINATION.** Either party may terminate these Terms and Conditions upon written notice to the other party in the event of any material breach by either party hereto, if the party receiving such notice (i) fails to cure such breach within thirty (30) days after notice by the non-breaching party or (ii) in the case of any breach which requires more than thirty (30) days to effect a cure, fails to commence and continue in good faith efforts to cure such breach, provided that such cure shall be effected no later than ninety (90) days after receipt of such notice of such breach. Any such termination shall be effective at the end of such thirty (30) days or ninety (90) days, as the case may be. Waiver of any such material breach by either party hereto shall not be construed as limiting any right of termination for a subsequent default or material breach. Termination of these Terms and Conditions shall in no event relieve the Client of its obligation to make any payments due and payable to SSI in respect of Services rendered prior to termination. In the event that Services are terminated, and upon Client's written request, SSI shall work with Client to facilitate the transfer of data, files or other materials furnished by Client to SSI or received by SSI in connection with the Services. Client agrees to pay for such transfer in accordance with SSI's then existing rates for such services.

**5. INDEPENDENT CONTRACTOR.** SSI shall perform the Services as an independent contractor of Client and nothing herein shall be construed, either directly or indirectly, to create a joint venture partnership, agency or employment relationship between SSI and client.

**6. CONFIDENTIAL INFORMATION.** In connection with the provision of Services, each of the Client and SSI on behalf of themselves and their respective employees, agents and representatives, agree to keep confidential all information received from the disclosing party that is marked or otherwise identified in writing as confidential or proprietary, or which the receiving party should reasonably recognize from the circumstances surrounding the disclosure to be confidential or proprietary ("Confidential Information"); provided however that in the event of a request to disclose Confidential Information in connection with a legal, governmental or administrative proceeding, prompt notice of such request shall be given to the disclosing party so that the disclosing party may seek an appropriate protective order or other remedy, or waive compliance with this Section. If the Client seeks a protective order or other remedy, SSI, at the expense of the Client, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with this Section, or SSI reasonably believes that it is legally required to produce any such confidential information, SSI will disclose only that portion of the material that its legal counsel determines it is required to disclose, at the expense of the Client. Confidential Information shall not include: (a) information that is or becomes generally known or available to the public by publication, commercial use or otherwise through no fault of the receiving party; (b) information that is known by the receiving party prior to the time of disclosure to the receiving party; (c) information that is obtained from a third party who, to the receiving party's knowledge, has the right to make such disclosure without restriction; or (d) information independently developed by the receiving party. This provision shall survive expiration or termination of these Terms and Conditions.

**7. OWNERSHIP RIGHTS.** The Client and SSI each understand that the software programs and other materials furnished by SSI or developed, used, or enhanced by SSI during the performance of the Services are the sole property of SSI. The term “program” shall include, without limitation, data and claim processing programs, check printing programs, specifications, applications, routines, sub-routines, procedural manuals, and documentation. The Client agrees that any ideas, concepts, know-how or techniques relating to data processing or the claims management software used, developed, or enhanced by SSI during the performance of the Services shall be the exclusive property of SSI. Client further agrees not to disclose, copy, reveal, decompile, or reverse engineer, in whole or in part, the software programs or any other programs or materials furnished to Client by SSI. Fees and expenses paid by the Client to SSI do not vest in the Client any rights in any of material or property furnished by SSI as such material is only being made available for the Client’s use during and in connection with the Services provided by SSI hereunder. This provision shall survive expiration or termination of these Terms and Conditions.

**8. LIMITATION ON DAMAGES.** Under no circumstances will SSI be liable to the Client for any special, consequential or incidental damages incurred by the Client relating the performance of Services hereunder, regardless of whether the Client’s claim is for breach of warranty, contract, tort (including negligence), strict liability or otherwise. In no event shall SSI’s liability to the Client for any claims, losses, costs, fines, penalties or damages, including court costs and reasonable attorney’s fees (collectively, “Losses”), whether direct or indirect, arising out of or in connection with the performance of Services hereunder, exceed the total amount billed or billable to the Client for the portion of the particular Services which gave rise to the Losses. This provision shall survive expiration or termination of these Terms and Conditions.

**9. INDEMNIFICATION.** Client shall indemnify and hold harmless SSI, its parent company, and their directors, officers, employees, affiliates and agents against any Losses incurred by SSI arising out of or in connection with or related to (a) any gross negligence or willful misconduct by the Client, its employees, agents or representatives, or any misrepresentations made by such persons to third parties in connection with the Services provided hereunder; (b) any breach of these Terms and Conditions by the Client; (c) the handling or processing of any claim, data or payment by SSI in accordance with the Client’s instructions, or applicable court order, law and/or regulation; (d) the transfer by or on behalf of Client of any data (including personal information) to SSI; or (e) SSI following any instructions and/or directions from Client in providing the Services. This provision shall survive expiration or termination of these Terms and Conditions.

**10. FORCE MAJEURE.** To the extent performance by SSI of any of its obligations hereunder is substantially prevented by reason of any act of God, strike, lock-out or other industrial or transportation disturbance, fire, lack of materials, law, regulation or ordinance, terrorism, war or war conditions, or by reason of any other matter beyond SSI’s reasonable control, then such performance shall be excused and at SSI’s option, be deemed suspended during the continuation of such prevention and for a reasonable time thereafter.

**11. NOTICE.** Any notice or other communication required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier. Any such notice shall be deemed given when so delivered personally, or, if mailed, five (5) days after the date of deposit in the United States mail, or, if sent by overnight courier, one (1) business day after delivery to such courier. Notice should be provided to a responsible officer or principal of the Client and SSI, as the case may be.

**12. RETURN/DESTRUCTION OF DOCUMENTS.** Upon the conclusion of the case and in the absence of court-ordered retention instructions, SSI will return or destroy all documents and information received by SSI in connection with the Services provided hereunder in accordance with its internal corporate records and information management policies. SSI shall bill the Client for storage in accordance with the Proposal or otherwise at SSI’s then standard rates. This provision shall not pertain to routine data back-ups.

**13. GOVERNING LAW; DISPUTE RESOLUTION; JURISIDICION.** These Terms and Conditions will be governed by and construed in accordance with the laws of the State of New York (without reference to its conflict of law provisions). In the event there is a dispute arising out of, relating to or in connection with these Terms and Conditions, the parties agree to attempt in good faith to resolve the dispute through negotiations between senior officers of each of the parties’ respective organizations with the authority to settle the relevant dispute. If the dispute cannot be resolved amicably in a timely manner, the parties agree to submit to the jurisdiction of the court supervising the underlying case for which the Services are being provided. In the event the underlying case is not being adjudicated by a court, or the court in the underlying case declines to exercise jurisdiction, the parties agree that the dispute shall be conclusively determined by arbitration as provided by the rules of JAMS, or its successor, located in New York, New York. The parties agree to cooperate with JAMS and with one another in selecting an arbitrator from the JAMS panel of neutrals and in scheduling the arbitration proceedings. The arbitrator’s decision and authority shall be controlled by the terms of these Terms and Conditions. The parties agree that they will share equally in the costs of arbitration. This provision shall survive expiration or termination of these Terms and Conditions.

**14. CLIENT DATA.** Client represents and warrants that prior to the transfer by or on behalf of Client of any data to SSI, Client has provided all notices and/or obtained all necessary consents and approvals from all persons, entities and/or authorities in accordance with all applicable laws, regulations and/or court orders. Client further represents and warrants that in order to provide the Services, SSI is permitted to process any such data it receives by or on behalf of Client in accordance with Client’s instructions, or applicable court order, law and/or regulation.

**15. SEVERABILITY.** Any term or provision in these Terms and Conditions held to be invalid or unenforceable by any court, such term or provision shall be severed here from and shall not affect the legality or enforceability of the remaining terms and provisions.

**16. ASSIGNMENT.** These Terms and Conditions and the rights and obligations of SSI and the Client hereunder shall bind and inure to the benefit of their respective successors and assigns.

**17. GENERAL.** These Terms and Conditions, together with the Proposal, contain the entire agreement between the parties with respect to the subject matter hereof, and supersede and replace any existing agreement entered into by SSI and the Client relating generally to the subject matter hereof. These Terms and Conditions may be modified only in a writing signed by SSI and the Client. The paragraph headings herein are included only for convenience, do not in any manner modify or limit any of the provisions herein and may not be used in the interpretation of these Terms and Conditions.

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7 *Attorneys for Plaintiffs*

8  
9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN BERNARDINO

12  
13 YESENIA GUTIERREZ and KATHY CHAN,  
individually and on behalf of all others  
14 similarly situated,

15 Plaintiffs,

16 v.

17 ENVIRONMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC., a California Corporation,

18 Defendant.  
19  
20  
21  
22  
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Case No. CIVSB2300014

**EXHIBIT 1 TO THE DECLARATION OF  
JULIAN HAMMOND IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
AND PAGA ACTION SETTLEMENT**

Date: June 9, 2025

Time: 8:30 a.m.

Dept: S26

Judge: Christian Towns

# EXHIBIT 1

(Corrected Ex. 1 to Decl. of J. Hammond)

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15 Attorneys for Defendant  
16 ENVIRONMENTAL SYSTEMS  
RESEARCH INSTITUTE, INC.

17  
18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 COUNTY OF SAN BERNARDINO

20 YESENIA GUTIERREZ AND KATHY  
21 CHAN, individually and on behalf of all others  
similarly situated,

22 Plaintiffs,

23 v.

24 ENVIRONMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC., a California Corporation,

25 Defendant.  
26  
27  
28

Case No. CIVSB2300014

(Assigned for All Purposes to the Honorable  
Christian Towns Dept. S26 - SBJC)

**CLASS AND PAGA SETTLEMENT  
AGREEMENT AND RELEASE**

Date Action Filed: January 4, 2023  
Trial Date: Not Yet Set

1 This Class and PAGA Settlement Agreement and Release (the “Agreement”) is entered  
2 into by and between plaintiffs Yesenia Gutierrez (“Gutierrez”) and Kathy Chan (“Chan”)  
3 (together, “Plaintiffs”), on the one hand, individually and on behalf of all persons who are  
4 members of the classes to be certified for settlement purposes only as provided for herein and the  
5 PAGA Groups and the State of California, and defendant Environmental Systems Research  
6 Institute, Inc. (“Defendant” or “Esri”), on the other hand, subject to the approval of the Court. In  
7 consideration of the promises and mutual covenants and agreements herein contained, Plaintiffs  
8 and Defendant (collectively, the “Parties”) hereby covenant and agree as follows:

9 **1. RECITALS**

10 1.1 On November 15, 2022, Gutierrez filed a putative class action complaint (the  
11 “Original Complaint”) against Defendant in the Superior Court of the State of California, County  
12 of San Bernardino, entitled *Yesenia Gutierrez v. Environmental Systems Research Institute, Inc.*,  
13 Case No. CIVSB2225691 (the “Original Action”). The Original Complaint alleged five causes of  
14 action for (1) failure to pay overtime wages; (2) failure to pay all wages due upon termination; (3)  
15 failure to issue accurate itemized wage statements; (4) failure to reimburse business expenses; and  
16 (5) unfair, unlawful, or fraudulent business practices. With respect to (1)-(3), the Original  
17 Complaint alleged that Defendant misclassified employees in computer software roles. With  
18 respect to (4), the Original Complaint alleged that employees, whether exempt or non-exempt,  
19 were not reimbursed for all necessary business expenses.

20 1.2 Due to issues with the filing service, Gutierrez did not receive conformed copies of  
21 the Original Complaint until approximately March 2023. Because of this, Gutierrez filed an  
22 identical complaint on January 4, 2023 (the “Complaint”), alleging the same five causes of action  
23 as the Original Complaint, entitled *Yesenia Gutierrez v. Environmental Systems Research*  
24 *Institute, Inc.*, Case No. CIVSB2300014 (the “Action”). After conferring with Esri, Gutierrez and  
25 Esri agreed to dismiss the Original Action and that Gutierrez would amend the Complaint to  
26 extend the class period back to November 15, 2018.

27 1.3 On April 11, 2023, Gutierrez filed a First Amended Complaint, extending the class  
28 period back to November 15, 2018. The First Amended Complaint added Chan as a named

1 plaintiff and included an additional cause of action seeking civil penalties under the Labor Code  
2 Private Attorneys General Act of 2004 (“PAGA”), in addition to the five causes of action alleged  
3 in the Complaint.

4 1.4 Prior to the filing of the First Amended Complaint, Gutierrez filed her first PAGA  
5 letter against Defendant on October 12, 2022, alleging the same reimbursement claim as in the  
6 Original Complaint. In her first PAGA letter, Plaintiff named her employer as “ESRI Global,  
7 Inc.” She amended her PAGA letter on October 31, 2022 to correct her employer’s name to  
8 Environmental Systems Research Institute, Inc. (“Esri, Inc.”). On January 9, 2023, Plaintiffs filed  
9 a second amended PAGA letter to include Chan as an alleged representative and to allege claims  
10 for (1) failure to pay overtime wages; (2) failure to pay all wages due upon termination; and (3)  
11 failure to issue accurate itemized wage statements, as alleged in the Complaint. On April 17,  
12 2024, Plaintiffs filed a third amended PAGA letter, seeking to represent all Esri employees  
13 classified as exempt in the State of California who have been paid allegedly on an hourly basis  
14 and adding claims for meal and rest break violations.

15 1.5 On October 1, 2024, the Parties participated in a mediation conducted by  
16 Stephanie S. Chow of Mediated Negotiations. Following the mediation, the Parties agreed to  
17 resolve the Action, memorializing the key terms of the settlement in a memorandum of  
18 understanding fully executed as of December 9, 2024. As part of the settlement, the Parties  
19 agreed that Defendant shall stipulate to the filing of Plaintiffs’ Second Amended Complaint,  
20 which cover claims included in Plaintiffs’ third amended PAGA letter, including the addition of  
21 claims for alleged failure to provide meal breaks and alleged failure to permit and authorize rest  
22 breaks. The Parties filed this stipulation with the Second Amended Complaint on January 21,  
23 2025.

24 1.6 In preparation for the mediation on October 1, 2024, Plaintiffs asked for and  
25 Defendant provided substantial informal discovery, including production of various policies,  
26 employee headcounts and pay period counts relevant to various claims, time and payroll data,  
27 expense reimbursement data, and other information requested by Plaintiffs.  
28

1           1.7     In these and other ways, the Parties investigated the facts and analyzed the relevant  
2 legal issues regarding the claims and defenses in the Action. Based on this investigation and  
3 analysis, Plaintiffs believe the Action has merit, while Defendant believes the Action has no  
4 merit.

5           1.8     The Parties have each considered the uncertainties of continued litigation and the  
6 benefits to be obtained under the proposed settlement, and have considered the costs, risks, and  
7 delays associated with the continued prosecution of the Action and the likely appeals of any  
8 rulings in favor of either Plaintiffs or Defendant. At all times, the Parties' settlement negotiations  
9 have been non-collusive, adversarial, and at arm's length.

10          1.9     It is the Parties' intention and the objective of this Agreement to avoid the costs of  
11 further litigation and trial, and to settle and dispose of, fully and completely and forever, the  
12 claims released herein and described below.

## 13     **2.     DEFINITIONS**

14           As used in this Agreement, the terms set forth in this Section 2 shall have the meanings  
15 ascribed to them below.

16          2.1     **Action.** "Action" means the above-captioned action entitled *Yesenia Gutierrez*  
17 *and Kathy Chan v. Environmental Systems Research Institute, Inc.*, Case No. CIVSB2300014,  
18 currently pending in the Superior Court of the State of California, County of San Bernardino.

19          2.2     **Agreement.** "Agreement" means this Class and PAGA Settlement Agreement and  
20 Release, including all Exhibits referred to herein and attached hereto.

21          2.3     **Alleged Misclassification Class.** "Alleged Misclassification Class" means all  
22 current and former employees of Defendant in the State of California subject to Defendant's Bank  
23 Time Policy and whom Defendant classified as exempt at any time from November 15, 2018 to  
24 the date on which Plaintiffs' motion for Preliminary Approval of this Settlement is first scheduled  
25 to be heard by the Court.

26          2.4     **Alleged Misclassification PAGA Group.** "Alleged Misclassification PAGA  
27 Group" means all current and former employees of Defendant in the State of California subject to  
28 Defendant's Bank Time Policy and whom Defendant classified as exempt at any time from

1 February 5, 2022 to the date on which Plaintiffs’ motion for Preliminary Approval of this  
2 Settlement is first scheduled to be heard by the Court.

3           2.5     **Alleged Reimbursement Class.** “Alleged Reimbursement Class” means all  
4 current and former employees (whether exempt or non-exempt) of Defendant in the State of  
5 California from March 16, 2020 to the date on which Plaintiffs’ motion for Preliminary Approval  
6 of this Settlement is first scheduled to be heard by the Court.

7           2.6     **Alleged Reimbursement PAGA Group.** “Alleged Reimbursement PAGA  
8 Group” means all current and former employees (whether exempt or non-exempt) of Defendant in  
9 the State of California from February 5, 2022 to the date on which Plaintiffs’ motion for  
10 Preliminary Approval of this Settlement is first scheduled to be heard by the Court.

11           2.7     **Allocations.** “Allocations” means the amounts to be paid from the Net Settlement  
12 Sum to the Settlement Class Members and from the PAGA Funds to the PAGA Group Members,  
13 as provided in Section 4.5 of this Agreement.

14           2.8     **Chan.** “Chan” means plaintiff Kathy Chan.

15           2.9     **Class Counsel.** “Class Counsel” means the law firm of HammondLaw, P.C.

16           2.10    **Class Members or Classes.** “Class Members” or “Classes” means all members of  
17 the Alleged Misclassification Class and Alleged Reimbursement Class.

18           2.11    **Class Notice.** “Class Notice” means the Notice of Settlement of Class Action to  
19 be mailed to Class Members. The Class Notice shall be substantially in the form of **Exhibit A**  
20 hereto.

21           2.12    **Class Settlement Award.** “Class Settlement Award” means the amount that the  
22 Settlement Administrator determines is owed to a Class Member pursuant to the Plan of  
23 Allocation described in Section 4.5, below.

24           2.13    **Complaint.** “Complaint” means the complaint filed by Plaintiff Gutierrez in the  
25 Action on January 4, 2023.

26           2.14    **Complaints.** “Complaints” means the Original Complaint, the Complaint, the  
27 First Amended Complaint, and the Second Amended Complaint.  
28

1           2.15   **Court.** “Court” means the Superior Court of the State of California, County of  
2 San Bernardino.

3           2.16   **Defendant.** “Defendant” means defendant Environmental Systems Research  
4 Institute, Inc.

5           2.17   **Defendant’s Counsel.** “Defendant’s Counsel” means the law firm of Morrison &  
6 Foerster LLP.

7           2.18   **Effective Date.** “Effective Date” means either (a) the date sixty (60) calendar  
8 days after entry of the Final Judgment and Order Approving Settlement, if no motions for  
9 reconsideration and no appeals or other efforts to obtain review have been filed, or (b) in the  
10 event that a motion for reconsideration, an appeal or other effort to obtain review of the Final  
11 Judgment and Order Approving Settlement is filed, the date sixty (60) calendar days after such  
12 reconsideration, appeal, or review has been finally concluded and is no longer subject to review,  
13 whether by appeal, petition for rehearing, petition for review, or otherwise.

14           2.19   **Fee and Expense Award.** “Fee and Expense Award” means such award of  
15 attorneys’ fees and costs/expenses as the Court may authorize to be paid to Class Counsel for the  
16 services they have rendered to Plaintiffs, the settlement Classes, and the PAGA Groups.

17           2.20   **Fairness Hearing or Final Approval Hearing.** “Fairness Hearing” or “Final  
18 Approval Hearing” means the hearing at or after which the Court will make a final decision on  
19 whether to grant Final Approval of the Settlement as fair, reasonable, and adequate, implement  
20 the terms of the Agreement, and enter Judgment. The Fairness Hearing shall be scheduled for a  
21 date approximately ninety (90) calendar days after the Preliminary Approval Date, or as soon as  
22 thereafter as the Court is available.

23           2.21   **Final Approval or Judgment.** “Final Approval” or “Judgment” means the Final  
24 Judgment and Order Approving Settlement finally certifying the Settlement Classes and  
25 approving the Settlement and this Agreement, as contemplated in Section 4.7 of this Agreement.

26           2.22   **First Amended Complaint.** “First Amended Complaint” means the amended  
27 complaint filed in this Action on April 11, 2023.  
28

1           2.23    **General Release Payments.** “General Release Payments” means the  
2 compensation paid to Plaintiffs in consideration for their general release of their individual claims  
3 as set forth in Section 5.6, below, and in recognition of their effort and work in prosecuting the  
4 Action on behalf of the Class Members and negotiating the Settlement, separate and apart from  
5 the Class Settlement Award and PAGA Settlement Award they will receive, to be paid to them  
6 from the Gross Settlement Amount.

7           2.24    **Gross Settlement Amount.** “Gross Settlement Amount” means Four Million  
8 Nine Hundred Ten Thousand Dollars and No Cents (\$4,910,000.00), which is the maximum total  
9 amount that Defendant shall be required to pay for any and all purposes under this Agreement.  
10 The following shall be paid from the Gross Settlement Amount pursuant to the Plan of Allocation  
11 set forth in Section 4.5, below: (a) all Class Settlement Awards, (b) the PAGA Settlement  
12 Amounts, (c) the Fee and Expense Award, (d) the General Release Payments, (e) the Settlement  
13 Administration Costs, and (f) Withholdings and Taxes. Under no other circumstances shall  
14 Defendant pay any sum in excess of the Gross Settlement Amount in connection with the  
15 Settlement.

16           2.25    **Gutierrez.** “Gutierrez” means plaintiff Yesenia Gutierrez.

17           2.26    **LWDA.** “LWDA” means the California Labor and Workforce Development  
18 Agency.

19           2.27    **Net Settlement Sum.** “Net Settlement Sum” means the Gross Settlement Amount  
20 less the following: (a) the PAGA Settlement Amount, (b) the Fee and Expense Award, (c) the  
21 General Release Payments, (d) the Settlement Administration Costs, and (e) Withholdings and  
22 Taxes. 70% of the Net Settlement Sum (including and subject to Withholdings and Taxes) shall  
23 be allocated to Settlement Class Members of the Alleged Misclassification Class, and the  
24 remaining 30% (not including and not subject to Withholdings and Taxes) shall be allocated to  
25 Settlement Class Members of the Alleged Reimbursement Class.

26           2.28    **Notice of Pay Periods.** “Notice of Pay Periods” means the notice to be mailed to  
27 Class Members as an enclosure with the Class Notice notifying each Class Member and/or PAGA  
28

1 Group Member of the number of Pay Periods calculated for the Class Member and/or PAGA  
2 Group Member. The Notice of Pay Periods shall be substantially in the form of **Exhibit B** hereto.

3       2.29 **Notice Response Deadline.** “Notice Response Deadline” means forty-five (45)  
4 calendar days from the date of initial mailing of the Class Notice, or such other date set by the  
5 Court in the Preliminary Approval Order.

6       2.30 **Original Action.** “Original Action” means the putative class action Gutierrez  
7 filed against Defendant in the Superior Court of the State of California, County of San  
8 Bernardino, entitled *Yesenia Gutierrez v. Environmental Systems Research Institute, Inc.*, Case  
9 No. CIVSB2225691, which was dismissed.

10       2.31 **Original Complaint.** “Original Complaint” means the complaint filed by  
11 Gutierrez in the Original Action on November 15, 2022.

12       2.32 **PAGA.** “PAGA” means the Labor Code Private Attorneys General Act of 2004  
13 (Lab. Code, § 2698, et seq.).

14       2.33 **PAGA Fund.** “PAGA Fund” means 25% of the PAGA Settlement Amount,  
15 which is the portion to be paid to PAGA Group Members. 70% of the PAGA Fund shall be  
16 allocated to members of the Alleged Misclassification PAGA Group, and the remaining 30%  
17 shall be allocated to members of the Alleged Reimbursement PAGA Group.

18       2.34 **PAGA Group Members or PAGA Groups.** “PAGA Group Members” or  
19 “PAGA Groups” means all members of the Alleged Misclassification PAGA Group and Alleged  
20 Reimbursement PAGA Group.

21       2.35 **PAGA Notices.** “PAGA Notices” means the PAGA notice filed by Plaintiff  
22 Gutierrez with the LWDA regarding Defendant on or about October 12, 2022, the amended  
23 PAGA notice filed by Plaintiff Gutierrez with the LWDA regarding Defendant on or about  
24 October 31, 2022, the second amended PAGA notice filed by Plaintiff Gutierrez with the LWDA  
25 regarding Defendant on or about January 9, 2023, and the third amended PAGA notice filed by  
26 Plaintiffs with the LWDA regarding Defendant on or about April 17, 2024.

27  
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1           2.36   **PAGA Period.** “PAGA Period” means from February 5, 2022 to and including  
2 the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled  
3 to be heard by the Court

4           2.37   **PAGA Settlement Amount.** “PAGA Settlement Amount” means One Hundred  
5 Thousand Dollars and No Cents (\$100,000.00) or such other amount approved by the Court, 75%  
6 of which (\$75,000.00) is to be paid to the LWDA and 25% of which (\$25,000.00) is to form the  
7 PAGA Fund to be paid to PAGA Group Members. The PAGA Settlement Amount is to be paid  
8 for resolution of the PAGA claims alleged in the Action, and which are included in the Released  
9 PAGA Claims.

10          2.38   **PAGA Settlement Award.** “PAGA Settlement Award” means the amount that  
11 the Settlement Administrator determines is owed to a PAGA Group Member pursuant to the Plan  
12 of Allocation described in Section 4.5, below.

13          2.39   **Parties.** “Parties” means plaintiffs Yesenia Gutierrez and Kathy Chan, on the one  
14 hand, individually and on behalf of all Settlement Class Members, and Plaintiffs on behalf of the  
15 PAGA Group and the State of California, and defendant Environmental Systems Research  
16 Institute, Inc., on the other hand.

17          2.40   **Pay Periods.** “Pay Periods” means the number of pay periods during which a  
18 Class Member and/or PAGA Group Member was employed by Esri in California for at least one  
19 day. Pay Periods as provided in this Agreement shall be calculated according to Defendant’s  
20 records. Settlement Class Members may dispute the number of Pay Periods they had during the  
21 Settlement Period by completing and returning the Notice of Pay Periods included with the Class  
22 Notice, which shall be substantially in the form of **Exhibit B** hereto.

23          2.41   **Plaintiffs.** “Plaintiffs” means plaintiffs Yesenia Gutierrez and Kathy Chan.

24          2.42   **Plan of Allocation.** “Plan of Allocation” means the manner in which the Net  
25 Settlement Sum shall be allocated to Settlement Class Members and the PAGA Fund shall be  
26 allocated to the LWDA and PAGA Group Members as set forth in Section 4.5, below.

27          2.43   **Preliminary Approval or Preliminary Approval Order.** “Preliminary  
28 Approval” or “Preliminary Approval Order” means the order preliminarily approving this

1 Settlement, which shall, among other things, provisionally certify the Settlement Classes for  
2 purposes of this Settlement only; determine that Plaintiffs adequately represent the Settlement  
3 Classes and shall be their class representatives; appoint Class Counsel as counsel for the  
4 Settlement Classes; approve Settlement Services, Inc. as the Settlement Administrator; approve  
5 the content and distribution of the Class Notice to the Class Members; set the Request for  
6 Exclusion Deadline and the deadline for objecting to the Settlement; and set the date for the  
7 Fairness Hearing, all as contemplated in Section 4.1, below.

8           **2.44 Preliminary Approval Date.** “Preliminary Approval Date” means the date upon  
9 which the Court enters the Preliminary Approval Order.

10           **2.45 Released Claims.** “Released Claims” means all claims, debts, liabilities,  
11 demands, obligations, damages, and actions or causes of action of any kind, including wage and  
12 hour claims related to allegations of employee misclassification and failure to reimburse business  
13 expenses, arising before or on the end date of the Settlement Period and that were alleged in the  
14 Original Complaint, the Complaint, the First Amended Complaint, and the Second Amended  
15 Complaint or any of the PAGA Notices or could have reasonably been alleged against any of the  
16 Released Parties based on the facts alleged in any of the Complaints or any of the PAGA Notices.  
17 Specifically, for the Settlement Class Members of the Alleged Misclassification Class, released  
18 claims include, without limitation, claims under Labor Code sections 201-203, 226, 226(a),  
19 226(e), 226.7, 510, 512, 1194, and 2698 et seq.; Business and Professions Code section 17200 et  
20 seq.; and Code of Civil Procedure section 1021.5. For the Settlement Class Members of the  
21 Alleged Reimbursement Class, released claims include, without limitation, claims under Labor  
22 Code sections 2802 and any derivative claims; Business and Professions Code section 17200 et  
23 seq.; and Code of Civil Procedure section 1021.5.

24           **2.46 Released PAGA Claims.** “Released PAGA Claims” means all claims that were  
25 or could have been asserted pursuant to PAGA arising out of or related to the Released Claims  
26 arising before or on the end date of the PAGA Period. Specifically, for the Alleged  
27 Misclassification PAGA Group, released PAGA claims include those based on, without  
28 limitation, alleged violations of Labor Code sections 201-203, 226, 226(a), 226(e), 226.7, 510,

1 512, 1194, and 2698 et seq. For the Alleged Reimbursement PAGA Group, released PAGA  
2 claims include those based on, without limitation, alleged violations of Labor Code sections 2802  
3 and any derivative Labor Code claims. The Released PAGA Claims are released by both the  
4 State of California and the PAGA Group Members as part of this Settlement.

5       **2.47 Released Parties.** “Released Parties” means Defendant; each of its respective  
6 present, former, or future parents, subsidiaries, affiliates, divisions, corporations in common  
7 control, predecessors, successors, and assigns; each of its respective present, past, or future  
8 officers, directors, employees, partners (both general and limited), shareholders, agents, attorneys,  
9 insurers, and any other successors, assigns, or legal representatives; and any other individual or  
10 entity which could be liable for any of the Released Claims or Released PAGA Claims.

11       **2.48 Request for Exclusion.** “Request for Exclusion” means a written request made by  
12 a Class Member to the Settlement Administrator seeking to be excluded from the Settlement  
13 Class.

14       **2.49 Request for Exclusion Deadline.** “Request for Exclusion Deadline” means  
15 forty-five (45) calendar days from the date of initial mailing of the Class Notice, or such other  
16 date set by the Court in the Preliminary Approval Order for submitting a Request for Exclusion to  
17 the Settlement Administrator.

18       **2.50 Second Amended Complaint.** “Second Amended Complaint” means the Second  
19 Amended Complaint attached to the Parties’ stipulation and proposed order filed on January 21,  
20 2025.

21       **2.51 Settlement.** “Settlement” means this Agreement and all actions taken pursuant to  
22 and in furtherance of this Agreement.

23       **2.52 Settlement Administration Costs.** “Settlement Administration Costs” means the  
24 amount approved by the Court to be paid for the services of the Settlement Administrator to  
25 perform the Settlement Administrator Duties, as specified in Section 4.2.2, below, estimated not  
26 to exceed Fifty-Seven Thousand Two Hundred Fifty Dollars and No Cents (\$57,250.00).

27       **2.53 Settlement Administrator.** “Settlement Administrator” means Settlement  
28 Services, Inc. or such professional, third-party administrator as may be approved by the Court,

1 which shall be responsible for administering the Settlement pursuant to the terms of the  
2 Agreement, the Class Notice, the Preliminary Approval Order, and the Judgment. The Settlement  
3 Administrator shall agree to confidentiality terms as may be required by Defendant regarding  
4 personnel, payroll, and any other data provided to the Settlement Administrator and shall work  
5 with Class Counsel and Counsel for Defendant to implement and administer appropriate fraud-  
6 prevention policies. The Settlement Administration Costs shall be paid out of the Gross  
7 Settlement Amount.

8       **2.54 Settlement Classes.** “Settlement Classes” means Plaintiffs and all Settlement  
9 Class Members.

10       **2.55 Settlement Class Members.** “Settlement Class Members” means each Class  
11 Member who does not submit a valid and timely Request for Exclusion.

12       **2.56 Settlement Fund.** “Settlement Fund” means the fund established and  
13 administered by the Settlement Administrator for the purpose of receiving and disbursing  
14 amounts to be paid to Settlement Class Members, PAGA Group Members, the LWDA, Plaintiffs,  
15 Class Counsel, and the Settlement Administrator pursuant to this Agreement. The Settlement  
16 Fund shall be funded by Defendant following the Effective Date in accordance with Section 4.8.1,  
17 below.

18       **2.57 Settlement Period.** “Settlement Period” means from November 15, 2018 to and  
19 including the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first  
20 scheduled to be heard by the Court.

21       **2.58 Withholdings and Taxes.** “Withholdings and Taxes” means all withholdings  
22 from the Class Settlement Awards required by law plus all federal, state, and local employment  
23 payroll taxes due in regard to the wages portion of Class Settlement Award, owed by a Settlement  
24 Class Member of the Alleged Misclassification Class or by Defendant. Withholdings and Taxes  
25 shall be deducted from the portion of the Net Settlement Sum allocated to the Alleged  
26 Misclassified Class.

1     **3.     SETTLEMENT TERMS**

2             **3.1     Stay of Proceedings.** Subject to Court approval, the Parties agree to the entry of a  
 3 formal stay of all proceedings in this Action, including with respect to California Code of Civil  
 4 Procedure section 583.310, except such proceedings as may be necessary to implement and  
 5 complete the settlement, including for the sole and limited purpose of Plaintiffs filing the motion  
 6 for Preliminary Approval (as set forth in Section 4.1).

7             **3.2     Certification of the Settlement Class.** For purposes of settlement and the  
 8 proceedings contemplated by this Agreement only, the Settlement Classes shall be provisionally  
 9 certified and consist of Plaintiffs and all Settlement Class Members.

10            **3.3     Decertification of the Settlement Class If Settlement Not Approved.**  
 11 Defendant does not consent to certification of the Settlement Classes or any settlement class for  
 12 any purpose other than to effectuate the Settlement of the Action. If, for any reason, the  
 13 Settlement does not become final, any certification of any Settlement Classes will be vacated and  
 14 the Parties will be returned to their positions with respect to the Action as if the Agreement had  
 15 not been entered into. In the event that Final Approval is not achieved: (a) any Court order  
 16 preliminarily approving the certification of any class contemplated by this Agreement shall be  
 17 null, void, and vacated, and shall not be used or cited thereafter by any person or entity; (b) the  
 18 fact of the Settlement reflected in this Agreement, that Defendant did not oppose the certification  
 19 of the Settlement Class under this Agreement, or that the Court preliminarily approved the  
 20 certification of the Settlement Class, shall not be used or cited thereafter by any person or entity  
 21 in any manner whatsoever, including without limitation any contested proceeding relating to the  
 22 certification of any class; and (c) the Parties agree that they will be returned to their status quo  
 23 ante positions, except that the Second Amended Complaint shall remain the operative complaint  
 24 in the Action, with Defendant reserving all rights. In the event the terms and conditions of this  
 25 Agreement are substantially modified by the Court, Plaintiffs and Defendant reserve the right to  
 26 declare this Agreement null and void, in their sole discretion, within fourteen (14) calendar days  
 27 after such modification; provided, however, the Party exercising this right shall be solely  
 28

1 responsible for the Settlement Administrator's expenses incurred through the date of that Party's  
2 exercise, not to exceed the amount approved by the Court in the Preliminary Approval Order.

3       **3.4 Settlement Payment by Defendant.** In full settlement of the Released Claims  
4 and Released PAGA Claims and following the Effective Date, Defendant shall deliver the Gross  
5 Settlement Amount to the Settlement Administrator for establishment of the Settlement Fund, in  
6 accordance with Section 4.8.1, below.

7       **3.5 Attorneys' Fees and Costs.** Defendant agrees not to oppose Plaintiffs'  
8 application for attorneys' fees up to One Million Six Hundred Thirty-Six Thousand Six Hundred  
9 Sixty-Six Dollars and Sixty-Seven Cents (\$1,636,666.67) (33.33% of the Gross Settlement  
10 Amount) plus actual costs and expenses, subject to the Court's approval. Plaintiffs agree not to  
11 petition the Court for more than One Million Six Hundred Thirty-Six Thousand Six Hundred  
12 Sixty-Six Dollars and Sixty-Seven Cents (\$1,636,666.67) for attorneys' fees or more than Fifty  
13 Thousand Dollars and Zero Cents (\$50,000.00) for costs, and in no event shall Defendant be  
14 liable for any attorneys' fees or costs in excess of these amounts. The Fee and Expense Award  
15 shall represent payment for all claims for Class Counsel's attorneys' fees and costs, past and  
16 future, incurred in the Action. The Fee and Expense Award shall be paid from the Gross  
17 Settlement Amount, and Defendant shall not otherwise be required to pay for any portion of Class  
18 Counsel's attorneys' fees, costs, or expenses. The Fee and Expense Award shall be paid to Class  
19 Counsel following the Effective Date, in accordance with Section 4.8.2, below. An award by the  
20 Court of attorneys' fees or costs that is less than the amounts applied for will not be grounds for  
21 Plaintiffs or Class Counsel to challenge or withdraw from the Settlement, and any amounts not  
22 awarded in costs or fees will be included in the Net Settlement Sum.

23       **3.6 General Release Payments.** In consideration of their general release of their  
24 individual claims as set forth in Section 5.6, below and in recognition of their effort and work in  
25 prosecuting the Action on behalf of the Class Members and negotiating the Settlement, Gutierrez  
26 shall receive compensation in the sum of Seven Thousand Five Hundred Dollars and No Cents  
27 (\$7,500.00), and Chan shall receive compensation in the sum of Seven Thousand Five Hundred  
28 Dollars and No Cents (\$7,500.00). These General Release Payments are to be paid from the

1 Gross Settlement Amount and reported on IRS Form 1099-MISC. The General Release  
2 Payments are separate from and in addition to the Class Settlement Awards and PAGA  
3 Settlement Awards to be paid to Plaintiffs as Settlement Class Members and PAGA Group  
4 Members. It will not be grounds for Plaintiffs or Class Counsel to challenge or withdraw from  
5 the Settlement if the Court denies Plaintiffs' application for the General Release Payments or  
6 awards a lesser amount than that for which Plaintiffs apply, and any amounts not awarded in the  
7 General Release Payments will be included in the Net Settlement Sum.

8       3.7     **PAGA Settlement Amount.** Plaintiffs shall seek approval from the Court for a  
9 total payment of One Hundred Thousand Dollars and No Cents (\$100,000.00) for resolution of  
10 the PAGA claims alleged in the Complaint, the PAGA Notices, or any of them. 75% of the  
11 PAGA Settlement Amount shall be paid to the LWDA, and 25% of the PAGA Settlement  
12 Amount shall form the PAGA Fund to be paid to PAGA Group Members in accordance with the  
13 Plan of Allocation set forth in Section 4.5, below.

#### 14     **4.     CLASS SETTLEMENT PROCEDURES**

15       4.1     **Preliminary Approval.** As soon as practicable, Plaintiffs shall move for  
16 Preliminary Approval of the Settlement in the Action. Plaintiffs' motion shall request the Court  
17 to:

18             4.1.1 Preliminarily approve this Agreement as fair, reasonable, and adequate;

19             4.1.2 Preliminarily approve the form, manner, and content of the Class Notice  
20 described in Section 4.2 and attached as **Exhibit A**, and the form, manner, and content of the  
21 Notice of Pay Periods described in Section 2.28 and attached as **Exhibit B**;

22             4.1.3 Set deadlines for the Settlement Administrator to provide the Class Notice,  
23 and for Class Members to opt out of or object to the Settlement;

24             4.1.4 Set the date and time for the Fairness Hearing;

25             4.1.5 Provisionally certify the Settlement Classes;

26             4.1.6 Stay all proceedings except for such proceedings as may be necessary to  
27 implement and complete the Settlement, including for the sole and limited purpose of Plaintiffs  
28 filing the motion for Preliminary Approval, until Final Approval;

1                   4.1.7 Appoint Plaintiffs as class representatives for the Settlement Classes for  
2 settlement purposes only;

3                   4.1.8 Appoint Class Counsel as class counsel for settlement purposes only; and

4                   4.1.9 Approve Settlement Services, Inc. as the Settlement Administrator.

5                   The Preliminary Approval Order shall be substantially the same as the proposed order  
6 attached as **Exhibit C**. Class Counsel shall draft the preliminary approval papers and give  
7 Defendant’s Counsel a draft of the papers to review at least three (3) court days before they are  
8 filed.

9                   4.2     **Class Notice.** Subject to Court approval, the Parties agree that as soon as  
10 practicable after entry of the Preliminary Approval Order, the Settlement Administrator shall  
11 provide notice to the Settlement Classes pursuant to the following procedures:

12                   4.2.1   **Information Regarding Class Members.** Within fifteen (15) business  
13 days following entry of the Preliminary Approval Order, Defendant will provide the Settlement  
14 Administrator the following information with respect to each Class Member: (i) name, (ii) last  
15 known residence address, (iii) last known telephone number, (iv) Social Security number, and  
16 (v) the number of Pay Periods worked during the Settlement Period and the PAGA Period.  
17 Defendant will provide this information in two spreadsheets, one for the Alleged  
18 Misclassification Class and the other for the Alleged Reimbursement Class. The information  
19 Defendant provides to the Settlement Administrator, along with any updated contact information  
20 identified by the Settlement Administrator as set forth in Sections 4.2.2 and 4.2.3, below, shall be  
21 used solely to administer the Class Notice and Plan of Allocation process described herein, shall  
22 remain confidential, and shall not be disclosed to anyone, except pursuant to the express written  
23 authorization of Defendant or the individual in question, by order of the Court, or to the extent  
24 necessary to fulfill the Settlement Administrator’s reporting obligations hereunder.

25                   4.2.2   **Settlement Administrator Duties.** The Settlement Administrator’s duties  
26 shall include, without limitation: (i) printing the Class Notice (including exhibits thereto) and  
27 mailing it to the Class Members as directed by the Court; (ii) taking all steps reasonably  
28 necessary to ensure Class Members timely receive the Class Notice; (iii) resolving any disputes

1 by Settlement Class Members regarding their number of Pay Periods; (iv) taking receipt of and  
2 safeguarding the Gross Settlement Amount; (v) calculating and distributing Class Settlement  
3 Awards, PAGA Settlement Awards, the portion of the PAGA Settlement Amount payable to the  
4 LWDA, the General Release Payments, and the Fee and Expense Award, provided such amounts  
5 are approved by the Court; (vi) calculating and remitting all Withholdings and Taxes; (vii) issuing  
6 IRS Forms W-2 and 1099-MISC, as applicable; and (viii) filing such other reports with the taxing  
7 authorities as required by law, together with such other tasks as the Parties may mutually agree or  
8 the Court may order the Settlement Administrator to perform. The Settlement Administrator shall  
9 take all reasonable steps to ensure that (a) the highest percentage of Class Members receive the  
10 Class Notice; (b) Class Members who wish to participate in the Settlement are permitted to do so  
11 consistent with this Agreement; and (c) the Settlement Administrator has the most current and  
12 accurate addresses for Class Members, including but not limited to performing an initial National  
13 Change of Address database search on all Class Members who are former employees. In  
14 addition, the Settlement Administrator shall perform a standard search, also known as “batch,”  
15 “skip trace,” or “credit header” searches, on all addresses returned as undeliverable. The  
16 Settlement Administrator shall immediately re-mail the Class Notice to all updated addresses  
17 obtained through its efforts to locate the most current and accurate addresses for Class Members.  
18 The Settlement Administrator shall also establish and maintain a dedicated case website, on  
19 which it will post information of interest to the Class Members, and provide email and toll-free  
20 telephone support to Class Members; maintain appropriate databases to fulfill its duties; receive,  
21 control, and account for all returned Class Notices, disputes, requests for exclusion/opt-outs, and  
22 objections; and prepare and deliver reports to Class Counsel and Defendant’s Counsel on a  
23 weekly basis that communicate the status of the notice process, including the number of Class  
24 Notices mailed, returned, searched, and re-mailed as well as disputes, requests for exclusion, and  
25 objections. In addition to the duties identified above, the Settlement Administrator shall prepare  
26 final declarations, reports, and invoices that accurately describe the notice process, the level of  
27 participation, and actions taken to ensure the best possible notice of the Settlement was provided  
28 to Class Members.

1                   **4.2.3 Mailing of Class Notice to Class Members.** No later than ten (10)  
2 business days following receipt of the information to be provided under Section 4.2.1, above, the  
3 Settlement Administrator shall mail the Class Notice to all Class Members. The Settlement  
4 Administrator shall send a copy of the Class Notice in the form approved by the Court in its  
5 Preliminary Approval Order to Class Members, via first class United States mail, using the most  
6 current mailing address. Any Class Notices returned to the Settlement Administrator with a  
7 forwarding address shall be immediately re-mailed by the Settlement Administrator. The  
8 Settlement Administrator shall conduct one address search for any Class Member's Class Notice  
9 that is returned without a forwarding address and shall, upon obtaining a new or different address,  
10 immediately re-mail the Class Member's Class Notice. Plaintiffs, Defendant, and their respective  
11 counsel each agree that, other than as provided in this Agreement, they will not distribute or make  
12 available any documents, notices, or information regarding this Action or the Settlement to any  
13 Class Member, unless a specific request is first made by the Class Member.

14                   **4.3 Requests for Exclusion/Opt Outs.** Class Members who wish to be excluded  
15 from or opt out of the Settlement must submit a written, signed Request for Exclusion to the  
16 Settlement Administrator, within the Request for Exclusion Deadline.

17                   **4.3.1 Contents of Request.** The Request for Exclusion must contain (i) the full  
18 name, address, and telephone number of the person requesting to be excluded; (ii) the words  
19 "Request for Exclusion" at the top of the document; and (iii) the following statement:

20                   "I wish to be excluded from the Class Settlement in this case,  
21                   *Gutierrez, et al. v. Environmental Systems Research Institute, Inc.*,  
22                   San Bernardino Superior Court Case No. CIVSB2300014."

23                   **4.3.2 Personal Signatures.** The Request for Exclusion must be personally  
24 signed by the Class Member who seeks to opt out. No Class Member may opt out by having a  
25 request to opt out submitted by an actual or purported agent or attorney acting on behalf of the  
26 Class Member. No opt out request may be made on behalf of a group of Class Members.

27                   **4.3.3 Timeliness.** For purposes of determining timeliness, Requests for  
28 Exclusion shall be deemed to have been submitted on the date postmarked by the U.S. Postal  
Service or other delivery service. The Settlement Administrator shall stamp the date received on

1 the original of any Request for Exclusion it receives. Not later than fifteen (15) calendar days  
2 after the Request for Exclusion Deadline set by the Court, the Settlement Administrator will  
3 inform Class Counsel and Defendant's Counsel of the total number of Class Members who timely  
4 submitted valid Requests for Exclusion. Not later than sixteen (16) court days before the date set  
5 for the Fairness Hearing, the Settlement Administrator shall serve copies of all date-stamped  
6 Requests for Exclusion on Class Counsel and Defendant's Counsel as well as a declaration  
7 describing the Class Notice procedures. The Settlement Administrator shall retain the originals of  
8 all Requests for Exclusion in its files. Counsel for the Parties shall not use or disclose the  
9 information thus received for any purpose other than the effectuation of the Settlement.

10 **4.3.4 Effect of Exclusion/Opt-Out.** Class Members who are excluded from or  
11 opt out of the Settlement cannot object to the Settlement. Only Settlement Class Members (i.e.,  
12 those Class Members who have not excluded themselves from or opted out of the Settlement)  
13 may object to the Settlement, in accordance with Section 4.4 of this Agreement.

14 **4.3.5 Non-Opt Outs Bound by Settlement.** Each Class Member who does not  
15 submit a Request for Exclusion substantially in compliance with this Section 4.3 within the  
16 deadline set by the Court shall be included in the Settlement as a Settlement Class Member and be  
17 bound by the terms of this Agreement and any Court order approving the terms of the Settlement,  
18 unless the Court deems such Class Member excluded at the time of the final Fairness Hearing.

19 **4.3.6 Resolution of Disputes.** In the event of any issue over the completeness,  
20 accuracy, timeliness, or validity of a Request for Exclusion, the Parties shall meet and confer in  
21 good faith for the purpose of resolving the issue and, if the issue cannot be resolved, shall submit  
22 the dispute to the Settlement Administrator for a final and binding determination that shall not be  
23 appealable.

24 **4.3.7 Defendant's Right to Rescind.** If more than five percent (5%) of the  
25 Class Members opt out of the Settlement, then Defendant shall have the option, in its sole  
26 discretion, to rescind this Agreement, in which case all of Defendant's obligations under this  
27 Agreement shall cease to be of any force or effect, and this Agreement shall be null and void. If  
28 Defendant exercises this option, it shall provide Plaintiffs with written notice of their election

1 within thirty (30) calendar days of the Request for Exclusion Deadline set by the Court, with a  
2 copy to the Settlement Administrator, at which point the Parties shall return to their respective  
3 positions that existed before the execution of this Agreement, and no term of this Agreement or  
4 any draft thereof, or the negotiation, documentation, or other part or aspect of the Parties'  
5 settlement discussions, shall have any effect or be admissible as evidence for any purpose in the  
6 Action, or in any other proceeding. Notwithstanding the foregoing, the Parties agree that in the  
7 event this Agreement is rescinded by Defendant pursuant to this Section 4.3.7, Plaintiffs' Second  
8 Amended Complaint shall remain the operative complaint in the Action, with Defendant  
9 reserving all rights, and Defendant shall pay the expenses incurred by the Settlement  
10 Administrator through the date of Defendant's election to rescind, not to exceed the amount  
11 approved by the Court in the Preliminary Approval Order.

12 **4.3.8 No Right to Exclusion by PAGA Group Members.** Because this  
13 Settlement resolves claims brought pursuant to PAGA by Plaintiffs acting as proxies and as  
14 Private Attorneys General of, and for, the State of California and the LWDA, the Parties agree  
15 that no PAGA Group Member has the right to exclude himself or herself from the Settlement.  
16 PAGA Group Members shall be bound by the terms of the Settlement, upon its approval by the  
17 Court, regardless of whether he or she requested exclusion as a Class Member, and thus is not a  
18 Settlement Class Member, and regardless of whether he or she cashes the PAGA Settlement  
19 Award issued to him or her.

20 **4.4 Objections.** Only Settlement Class Members (i.e., those Class Members who  
21 have not excluded themselves from the Settlement) may object to the Settlement.

22 **4.4.1 Manner of Objecting.** Settlement Class Members who wish to object to  
23 the Settlement do not need to submit their objection in writing, but if they wish to do so, they may  
24 submit to the Settlement Administrator a signed, written statement objecting to the Settlement.  
25 Any such written statement and any supporting briefs or other materials should be submitted to  
26 the Settlement Administrator no later than the Notice Response Deadline. Settlement Class  
27 Members may but are not required to appear at the Fairness Hearing. Settlement Class Members  
28

1 may appear at the Fairness Hearing to object to the Settlement without providing any prior notice  
2 to the Parties, their counsel, the Settlement Administrator, or the Court.

3           **4.4.2 Response to Objections.** At the same time Plaintiffs move for Final  
4 Approval pursuant to Section 4.7 of this Agreement, Plaintiffs shall also file a response to any  
5 written objections submitted by Settlement Class Members. Class Counsel must draft the  
6 response to the objections and give Defendant’s Counsel a draft of the response to review at least  
7 three (3) court days before it is filed or as soon as practical under the circumstances. Defendant  
8 shall be permitted, but not required, to file their own response to any objections.

9           **4.4.3 No Right to Objections by PAGA Group Members.** Because this  
10 Settlement resolves claims brought pursuant to PAGA by Plaintiffs acting as proxies and as  
11 Private Attorney Generals of, and for, the State of California and the LWDA, the Parties agree  
12 that no PAGA Group Member has the right to object to the Settlement, whether or not he or she  
13 has objected thereto as a Settlement Class Member.

14           **4.5 Plan of Allocation: Calculation of All Settlement Awards.** The Settlement  
15 Administrator shall be responsible for the Allocations of the Net Settlement Sum to Settlement  
16 Class Members and of the PAGA Fund to PAGA Group Members and, thereby, for determining  
17 the Class Settlement Awards and the PAGA Settlement Awards, all to be paid on a pro rata basis  
18 as follows:

19           **4.5.1 Alleged Misclassification Class.** The Class Settlement Award for each  
20 Settlement Class Member of the Alleged Misclassification Class shall be his or her pro-rata share  
21 of 70% of the Net Settlement Sum (including and subject to Withholdings and Taxes) calculated  
22 as follows: The Settlement Administrator shall first calculate the sum total number of Pay Periods  
23 for all Settlement Class Members of the Alleged Misclassification Class. The Settlement  
24 Administrator shall then divide 70% of the Net Settlement Sum by this sum total number of Pay  
25 Periods, resulting in a per Pay Period value to be used in calculating Class Settlement Awards for  
26 the Alleged Misclassification Class. The Settlement Administrator shall then take this per Pay  
27 Period value and multiply it by the number of Pay Periods for each Settlement Class Member of  
28

1 the Alleged Misclassification Class, resulting in the Class Settlement Award plus Withholdings  
2 and Taxes for each Settlement Class Member of the Alleged Misclassification Class.

3           **4.5.2 Alleged Reimbursement Class.** The Class Settlement Award for each  
4 Settlement Class Member of the Alleged Reimbursement Class shall be his or her pro-rata share  
5 of 30% of the Net Settlement Sum (not including and not subject to Withholdings and Taxes),  
6 calculated as follows: The Settlement Administrator shall first calculate the sum total number of  
7 Pay Periods for all Settlement Class Members of the Alleged Reimbursement Class. The  
8 Settlement Administrator shall then divide 30% of the Net Settlement Sum by this sum total  
9 number of Pay Periods, resulting in a per Pay Period value to be used in calculating Class  
10 Settlement Awards for the Alleged Reimbursement Class. The Settlement Administrator shall  
11 then take this per Pay Period value and multiply it by the number of Pay Periods for each  
12 Settlement Class Member of the Alleged Reimbursement Class, resulting in the Class Settlement  
13 Award for each Settlement Class Member of the Alleged Reimbursement Class.

14           **4.5.3 Class Settlement Awards Payable Only to Settlement Class Members.**  
15 The Settlement Administrator shall pay Class Settlement Awards from the Net Settlement Sum  
16 and shall pay only those Class Settlement Awards payable to Settlement Class Members.

17           **4.5.4 Alleged Misclassification PAGA Group.** The PAGA Settlement Award  
18 for each member of the Alleged Misclassification PAGA Group shall be the member's pro-rata  
19 share of 70% of the PAGA Fund, calculated as follows: The Settlement Administrator shall first  
20 calculate the sum total number of Pay Periods for all members of the Alleged Misclassification  
21 PAGA Group. The Settlement Administrator shall then divide 70% of the PAGA Fund by the  
22 sum total number of Pay Periods for all members of the Alleged Misclassification PAGA Group,  
23 resulting in a per Pay Period value to be used in calculating PAGA Settlement Awards for these  
24 members. The Settlement Administrator shall then take this per Pay Period value and multiply it  
25 by the number of Pay Periods for each of these members, resulting in the PAGA Settlement  
26 Award for each member of the Alleged Misclassification PAGA Group.

27           **4.5.5 Alleged Reimbursement PAGA Group.** The PAGA Settlement Award  
28 for each member of the Alleged Reimbursement PAGA Group shall be the member's pro-rata

1 share of 30% of the PAGA Fund, calculated as follows: The Settlement Administrator shall first  
2 calculate the sum total number of Pay Periods for all members of the Alleged Reimbursement  
3 PAGA Group. The Settlement Administrator shall then divide 30% of the PAGA Fund by the  
4 sum total number of Pay Periods for all members of the Alleged Reimbursement PAGA Group,  
5 resulting in a per Pay Period value to be used in calculating PAGA Settlement Awards for these  
6 members. The Settlement Administrator shall then take this per Pay Period value and multiply it  
7 by the number of Pay Periods for each of these members, resulting in the PAGA Settlement  
8 Award for each member of the Alleged Reimbursement PAGA Group.

9 **4.5.6 Payment of Settlement Awards.** At its discretion, the Settlement  
10 Administrator may combine the Class Settlement Award and PAGA Settlement Award to be  
11 issued to an individual who is both a Settlement Class Member (of the Alleged Misclassification  
12 Class and/or Alleged Reimbursement Class) and a PAGA Group Member (of the Alleged  
13 Misclassification PAGA Group and/or Alleged Reimbursement PAGA Group). The Parties  
14 understand and acknowledge that a given person may be both a Settlement Class Member and a  
15 PAGA Group Member or may be a PAGA Group Member but not a Settlement Class Member,  
16 and vice versa. The Parties also understand and acknowledge that a given person may be a  
17 Settlement Class Member of the Alleged Misclassification Class and the Alleged Reimbursement  
18 Class or may be a Settlement Class Member of the Alleged Misclassification Class but not the  
19 Alleged Reimbursement Class, and vice versa. The Parties further understand and acknowledge  
20 that a given person may be a member of the Alleged Misclassification PAGA Group and the  
21 Alleged Reimbursement PAGA Group or may be a member of the Alleged Reimbursement  
22 Group but not the Alleged Misclassification PAGA Group.

23 **4.5.7 Using Class Information List to Determine Settlement Awards.** In  
24 order to determine the individual Class Settlement Awards and PAGA Settlement Awards, the  
25 Settlement Administrator shall use the information provided by Defendant pursuant to  
26 Section 4.2.1, above. In the event that any dispute arises with respect to a Settlement Award  
27 amount, the Settlement Administrator shall make the final determination after consultation with  
28 Class Counsel and Defendant's Counsel.

1           4.6   **Taxes.**

2                   4.6.1   **Withholdings and Taxes.** The Parties agree that, for purposes of this  
3 Settlement, the portion of the Class Settlement Award allocated to Settlement Class Members of  
4 the Alleged Misclassification Class shall be allocated 40% to wages subject to Withholdings and  
5 Taxes and 60% to interest, penalties, and non-wage damages. The portion of the Class Settlement  
6 Award allocated to Settlement Class Members of the Alleged Reimbursement shall be fully  
7 allocated as non-wage damages. The entirety of each PAGA Settlement Award shall be allocated  
8 as penalties.

9                   4.6.2   **Tax Reporting.** When reporting Class Settlement Awards and PAGA  
10 Settlement Awards for tax purposes, the amount of each Class Settlement Award allocated to  
11 wages under Section 4.6.1 shall be reported by the Settlement Administrator on IRS Form W-2 as  
12 wages, and the remainder of any Class Settlement Award, together with any PAGA Settlement  
13 Award, shall be reported by the Settlement Administrator on IRS Form 1099-MISC as interest,  
14 penalties, and non-wage damages.

15                   4.6.3   **Settlement Class Member and PAGA Group Member Obligations.**  
16 Each Settlement Class Member and/or PAGA Group Member receiving a Class Settlement  
17 Award and/or PAGA Settlement Award shall be responsible for paying applicable federal, state,  
18 and local income taxes, if any, on all amounts such person receives pursuant to this Agreement,  
19 and Defendant shall have no liability therefor.

20                   4.6.4   **Settlement Administrator Responsibilities Regarding Taxes.** It shall be  
21 the responsibility of the Settlement Administrator or its designee to timely and properly withhold  
22 all applicable Withholdings and Taxes from Class Settlement Awards and to prepare and deliver  
23 the necessary tax documentation for signature by all necessary parties and, thereafter, to pay  
24 Withholdings and Taxes to the appropriate authorities, and to file all necessary information and  
25 other tax returns. Payments to Settlement Class Members, PAGA Group Members, Plaintiffs,  
26 and Class Counsel pursuant to this Agreement shall be reported on IRS Forms W-2 and/or 1099-  
27 MISC, as applicable, and shall be provided to the respective Settlement Class Members, PAGA  
28 Group Members, Plaintiffs, Class Counsel, and all applicable governmental entities as required by

1 law. All Withholdings and Taxes deposited with the applicable government entities in  
2 accordance with this Agreement shall be part of, and paid out of, the Class Settlement Award of  
3 each Settlement Class Member of the Alleged Misclassification Class.

4 **4.6.5 Tax Expenses Resulting from Settlement Administration.** All  
5 reasonable and direct expenses and costs incurred by or at the direction of the Settlement  
6 Administrator in connection with the administration of the Settlement (including, without  
7 limitation, expenses of tax attorneys and/or accountants incurred in providing advice to the  
8 Settlement Administrator, and mailing and distribution costs and expenses relating to the filing, or  
9 failure to file, the informational and other tax returns described above) shall be considered a cost  
10 of administration of the Settlement and shall be part of the Settlement Administration Costs, to be  
11 paid out of the Gross Settlement Amount.

12 **4.6.6 No Claims.** No person shall have any claim against Defendant, Counsel  
13 for Defendant, Plaintiffs, the Class Members, Class Counsel, or the Settlement Administrator  
14 based on mailings, distributions, and payments made in accordance with or pursuant to this  
15 Agreement.

16 **4.7 Final Approval and Entry of Judgment in the Action.** Following the Request  
17 for Exclusion Deadline and before the Fairness Hearing, on or before the date set by the Court,  
18 Plaintiffs shall move for Final Approval of the Settlement in the Action. The Final Judgment and  
19 Order Approving Settlement shall be substantially the same as the proposed order attached as  
20 **Exhibit D.** Class Counsel shall draft the final approval papers and give Defendant's Counsel a  
21 draft of the papers to review at least three (3) court days before they are filed.

22 **4.8 Distribution of Settlement Payments.** After the Effective Date, the Class  
23 Settlement Awards and PAGA Settlement Awards shall be distributed to Settlement Class  
24 Members and PAGA Group Members in accordance with the procedures set forth below:

25 **4.8.1 Remittance of Gross Settlement Amount.** Within ten (10) business days  
26 from the Effective Date, Defendant will remit the Gross Settlement Amount to the Settlement  
27 Administrator for the establishment of the Settlement Fund.  
28

1                   **4.8.2 Delivery of Payments.** Within ten (10) business days from Defendant's  
2 remittance to the Settlement Administrator of the Gross Settlement Amount, the Settlement  
3 Administrator shall establish the Settlement Fund and distribute (a) the Fee and Expense Award  
4 to Class Counsel, (b) the Class Settlement Award and PAGA Settlement Award checks to  
5 Settlement Class Members and PAGA Group Members, (c) the portion of the PAGA Settlement  
6 Amount payable to the LWDA, (d) the General Release Payments to Plaintiffs, (e) the  
7 Withholdings and Taxes arising from the Class Settlement Awards to the appropriate government  
8 entities, and (f) the Settlement Administration Costs to itself. Also within ten (10) business days  
9 from Defendant's remittance of the Gross Settlement Amount, the Settlement Administrator shall  
10 provide Class Counsel and Defendant's Counsel an anonymized written report listing each  
11 Settlement Class Member and PAGA Group Member and the amount of the Class Settlement  
12 Award and PAGA Settlement Award to be paid to each such person. Class Counsel shall hold the  
13 information contained in this report in strictest confidence and not use or disclose it for any  
14 purpose, except on the written authorization of Defendant's or by order of the Court. No  
15 payments shall be made or distributed unless and until the orders and Judgment described in this  
16 Agreement are final (meaning that the right to appeal or otherwise seek review of such orders or  
17 the Judgment has expired) and on the condition that no appeals from the orders and the Judgment  
18 have been filed. Additionally, by no later than the date set by the Court in its Final Approval  
19 order, the Settlement Administrator shall file a report with the Court setting forth (1) the total  
20 amount of money paid to the Settlement Class Members as Class Settlement Awards, (2) the total  
21 amount of money paid to PAGA Group Members as PAGA Settlement Awards, (3) the portion of  
22 the PAGA Settlement Amount paid to the LWDA, (4) the Fee and Expense Award paid to Class  
23 Counsel, and (5) the total amount of uncashed funds to be distributed to the *cypres* beneficiary  
24 designated by the Parties in Section 4.8.3, below.

25                   **4.8.3 Negotiation of Settlement Checks.** Any checks tendered to Settlement  
26 Class Members and PAGA Group Members shall remain valid and negotiable for one hundred  
27 and eighty (180) calendar days from the date of their issuance and shall thereafter be  
28 automatically cancelled if not cashed by the Settlement Class Member or PAGA Group Member

1 within that time, after which the Settlement Class Member's and/or PAGA Group Member's right  
2 to participate in the Settlement shall be extinguished, although the individual shall remain a  
3 Settlement Class Member and/or PAGA Group Member bound by the Judgment entered in the  
4 Action. After one hundred and eighty (180) calendar days, any amounts from uncashed checks  
5 shall be transmitted to Child Advocates of San Bernardino County (C.A.S.A.), in accordance with  
6 Code of Civil Procedure section 384(b). Administration of the Settlement shall be completed no  
7 later than two hundred and seventy (270) calendar days from the Effective Date.

8           **4.8.4 Non-Reversionary Settlement.** No portion of the Gross Settlement  
9 Amount will revert to Defendant.

10           **4.8.5 Discharge of Obligations.** Defendant shall fully discharge its obligations  
11 to Plaintiffs, the Settlement Class Members, the PAGA Group Members, and the State of  
12 California through the remittance of the Gross Settlement Amount to the Settlement  
13 Administrator as set forth in Section 4.8.1, above, regardless of whether checks representing  
14 individual Class Settlement Awards and/or PAGA Settlement Awards are actually received  
15 and/or negotiated by the payee. Once Defendant has complied with its obligation set forth in  
16 Section 4.8.1, above, it will be deemed to have satisfied all terms and conditions under this  
17 Agreement, shall be entitled to all protections afforded to them under this Agreement, and shall  
18 have no further obligations under the terms of the Agreement, regardless of what occurs with  
19 respect to the further administration of the Settlement. Without prejudice to any other remedies,  
20 the Settlement Administrator shall hold Defendant harmless from and against all liabilities,  
21 claims, causes of action, costs, and expenses (including legal fees and expenses) arising out of  
22 any failure to timely or properly compensate Class Members and PAGA Group Members as  
23 provided for in this Agreement.

24           **4.9 Questions and Disputes.** In the event that questions or disputes arise regarding  
25 the entitlement of any Class Member or PAGA Group Member under this Agreement, counsel for  
26 each Party shall cooperate to provide to counsel for the other Party and the Settlement  
27 Administrator all available information reasonably necessary to resolve them. Such information  
28 shall be provided in either electronic form or hard copy, as the Settlement Administrator may

1 reasonably request. If the Parties cannot resolve any dispute concerning the entitlement of any  
2 Class Member or PAGA Group Member under this Agreement, the dispute(s) shall be submitted  
3 to the Settlement Administrator, who shall resolve the dispute(s) and whose decision shall be final  
4 and binding. In such a dispute, the information provided by Defendant will be presumed  
5 accurate.

6           **4.10 Notification and Certification by Settlement Administrator.** The Settlement  
7 Administrator shall keep Class Counsel and Defendant's Counsel apprised of the status of the  
8 claims administration process and its distribution of all sums pursuant to this Agreement. Upon  
9 completion of administration of the Settlement, the Settlement Administrator shall provide a  
10 detailed, written certification of such completion to the Court and counsel for the Parties.

11           **4.11 Nullification of Settlement Agreement if Settlement Not Approved.** In the  
12 event (a) the Court does not preliminarily approve the Settlement as provided herein; (b) the  
13 Court does not finally approve the Settlement as provided herein or in the event said approval is  
14 reversed on appeal; (c) the Court does not enter the Judgment in the action as provided herein; or  
15 (d) the Settlement does not become final for any other reason, including the exercise of  
16 Defendant's right to rescind the Settlement under Section 4.3.7, above, this Agreement shall be  
17 null and void *ab initio* (with the exception of this Section, Section 3.3, and Section 4.3.7) and any  
18 order or Judgment entered by the Court in furtherance of this Settlement shall be treated as  
19 withdrawn or vacated by stipulation of the Parties. In such case, the Parties shall be returned to  
20 their respective statuses as of October 1, 2024, except that the Second Amended Complaint shall  
21 remain the operative complaint in the Action, with Defendant reserving all rights. In the event an  
22 appeal is filed from the Judgment, or any other appellate review is sought before the Effective  
23 Date, administration of the Settlement shall be stayed pending final resolution of the appeal or  
24 other appellate review.

25           **4.12 Escalator Clause.** It is estimated in connection with the negotiation of this  
26 Settlement that approximately 3,654 Alleged Misclassification Class Members and 4,179 Alleged  
27 Reimbursement Class Members were employed during the relevant periods. The Parties agree  
28 that if the actual number of members of the Alleged Misclassification Class exceed 3,654 by

1 more than 5% and/or if the actual number of members of the Alleged Reimbursement Class  
2 exceed 4,179 by more than 5%, the portion of the Gross Settlement Amount allocated in this  
3 Agreement to the claims of the Alleged Misclassification Class and/or the portion allocated to the  
4 claims of the Alleged Reimbursement Class, as applicable, shall increase by the same number of  
5 percentage points above 5% by which the number of members of the Settlement Class(es)  
6 exceeds 5%. Alternatively, at Defendant's option and in lieu of increasing the Gross Settlement  
7 Amount, if the actual number of members of the Alleged Misclassification Class exceeds 3,654  
8 by more than 5%, the end date of the relevant period for the Alleged Misclassification Class shall  
9 be set as one day before the hiring date of the most recently hired exempt Esri employee in  
10 California subject to Esri's Bank Time Policy and whose inclusion in the Alleged  
11 Misclassification Class would otherwise cause the number of Alleged Misclassification Class to  
12 exceed 3,836; if the actual number of members of the Alleged Reimbursement Class exceed  
13 4,179 by more than 5%, the end date of the relevant period for the Alleged Reimbursement Class  
14 shall be set as one day before the hiring date of the most recently hired Esri employee in  
15 California and whose inclusion in the Alleged Reimbursement Class would otherwise cause the  
16 number of Alleged Reimbursement Class to exceed 4,387.

## 17 **5. ENTRY OF JUDGMENT AND RELEASES**

18 **5.1 Obtaining Approval.** As soon as practicable after execution of this Agreement,  
19 Class Counsel shall, with the cooperation of Counsel for Defendant as reasonably requested by  
20 Class Counsel, take all necessary steps to secure Preliminary Approval and Final Approval of the  
21 Agreement by the Court, including responding to any objectors, intervenors, or other persons or  
22 entities seeking to preclude approval of this Agreement.

23 **5.2 Entry of Judgment.** The Final Judgment and Order Approving Settlement in the  
24 Action shall include a provision for entry of judgment in accordance with this Agreement, with  
25 each Party to bear all of his, her, or its own costs and attorneys' fees, except as expressly set forth  
26 herein.

1           5.3     **Notification to the LWDA.** Plaintiffs shall submit to the LWDA a copy of the  
2 Judgment within ten (10) days after its entry, in accordance with Labor Code section 2699,  
3 subdivision (J)(3).

4           5.4     **Settlement Class Release.** Upon the Effective Date, all Settlement Class  
5 Members shall be deemed to have, and by operation of the Judgment shall have, expressly  
6 released, waived, and relinquished the Released Claims. Settlement Class Members shall not sue  
7 or otherwise make a claim against any of the Released Parties for any of the Released Claims and  
8 shall be barred from filing any actions, claims, complaints, or proceedings regarding the Released  
9 Claims with the California Division of Labor Standards Enforcement, or from initiating any other  
10 proceedings against any of the Released Parties regarding any of the Released Claims. Settlement  
11 Class Members' release, waiver, and relinquishment of the Released Claims shall preclude them  
12 from participating in any judgment or settlement of claims that are the subject of the Released  
13 Claims in any other class, collective, or representative action.

14           5.5     **PAGA Release.** Upon the Effective Date, the State of California, by and through  
15 Chan as an agent and proxy of the State of California, shall be deemed to have, and by operation  
16 of the Judgment shall have, expressly released, waived, and relinquished the Released PAGA  
17 Claims. The LWDA and all PAGA Group Members shall be barred from pursuing recovery of  
18 any civil penalties from any of the Released Parties for any of the Released PAGA Claims.

19           5.6     **Plaintiffs' General Release.** In addition to their release of the Released Parties  
20 from the Released Claims and Released PAGA Claims as set forth in Sections 5.4 and 5.5, above,  
21 effective upon the Effective Date, Gutierrez and Chan each hereby expressly release and waive  
22 any and all claims, demands, rights, liabilities, and causes of action they have or have ever had  
23 against any of the Released Parties, whether for economic damages, noneconomic damages,  
24 exemplary damages, penalties, restitution, injunctive or declaratory relief, interest, attorneys'  
25 fees, costs, or any other forms of monetary or non-monetary relief in any way arising out of or  
26 relating to any facts, transactions, events, policies, occurrences, acts, disclosures, statements,  
27 omissions, or failures to act from the beginning of time to the date they sign this Agreement,  
28 including but not limited to any claims arising from or related to their employment with Esri or

1 the termination of that employment. This general release by Gutierrez and Chan shall become  
2 effective upon the Effective Date and include all statutory claims, common law claims (including  
3 but not limited to those sounding in contract, tort, and equity), and claims for compensation to the  
4 fullest extent permitted by law. Gutierrez and Chan further agree not to sue or otherwise make a  
5 claim against any of the Released Parties for any of the claims that are released pursuant to this  
6 Section 5.6.

7           **5.7 Waiver of Civil Code Section 1542.** Gutierrez and Chan each acknowledge that  
8 the general release herein includes potential claims and costs that may not be known or suspected  
9 by them to exist, and they each hereby expressly and affirmatively waive and relinquish any and  
10 all rights and benefits which may otherwise exist relating to the claims released in Section 5.6,  
11 above, pursuant to Civil Code section 1542 and any similar law of any state or territory of the  
12 United States. Civil Code section 1542 states as follows:

13           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
14           THAT THE CREDITOR OR RELEASING PARTY DOES NOT  
15           KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT  
16           THE TIME OF EXECUTING THE RELEASE AND THAT, IF  
              KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY  
              AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR  
              OR RELEASED PARTY.

17       **6. ADDITIONAL PROVISIONS**

18           **6.1 No Admission of Liability.** Esri contends that all of its employment practices  
19 comply and have complied with all applicable laws and regulations; that all Class Members and  
20 all PAGA Group Members were and are properly classified and reimbursed for all necessary  
21 business expenses (when applicable); and that Esri has not engaged in any unlawful conduct,  
22 whether willful or not, and whether knowing and intentional or not, with respect to anything  
23 alleged in the Action. Defendant denies any wrongdoing or legal liability arising out of any of  
24 the facts or conduct alleged in the Action and contends that all of Plaintiffs' claims lack merit and  
25 Defendant has valid defenses to each of them. This Agreement reflects the compromise and  
26 settlement of disputed claims between the Parties, and its provisions and any and all drafts,  
27 communications, or discussions relating thereto do not constitute, are not intended to constitute,  
28 and will not under any circumstances be deemed to constitute an admission by Defendant as to

1 the merits, validity, or accuracy of any of the allegations or claims in the Action, nor a waiver of  
2 any defense.

3           **6.2 Parties Represented by Counsel.** The Parties hereby acknowledge that they have  
4 been represented in negotiations for and in the preparation of this Agreement by independent  
5 counsel of their own choosing, they have read this Agreement and have had it fully explained to  
6 them by such counsel, and they are fully aware of the contents of this Agreement and of its legal  
7 effect.

8           **6.3 Voluntary Agreement.** This Agreement is executed voluntarily and without  
9 duress or undue influence on the part of or on behalf of any Party, or of any other person, firm, or  
10 entity. Each Party has made such investigation of the facts pertaining to this Agreement and of  
11 all other matters pertaining hereto as he, she, or it deems necessary.

12           **6.4 Notices.** The Parties, Class Counsel, and Defendant's acknowledge and agree that  
13 for the purposes of any claims, actions, or proceedings arising out of this Agreement, notice  
14 provided to Class Counsel shall be deemed notice to Plaintiffs and to Class Members. All  
15 notices, requests, demands, and other communications required to be given to counsel for the  
16 Parties under this Agreement shall be in writing and shall be delivered personally, faxed, emailed  
17 or mailed, postage prepaid, by first class United States mail, addressed as follows:

18           To Class Members or to Plaintiffs:

19           Julian Hammond (jhammond@hammondlawpc.com)  
20           Polina Brandler (pbrandler@hammondlawpc.com)  
21           Ari Cherniak (acherniak@hammondlawpc.com)  
22           HAMMONDLAW, P.C.  
23           1201 Pacific Avenue, Suite 600  
24           Tacoma, WA 98402  
25           Telephone: (310) 601-6766  
26           Facsimile: (310) 295-2385

27           To Defendant:

28           Byung-Kwan Park (BPark@mofocom)  
            William N. Lawther (WLawther@mofocom)  
            MORRISON & FOERSTER LLP  
            425 Market Street  
            San Francisco, California 94105-2482  
            Telephone: 415.268.7000

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Facsimile: 415.268.7522

**6.5 No Press Releases/Public Comment.** Absent Defendant’s express written consent, Plaintiffs and/or Class Counsel shall not (a) discuss, reveal, disclose, publicize, or promote the terms of this Settlement, or the negotiations leading to this Settlement, to any third party (including but not limited to the media, the legal community, or the public at large) and/or (b) issue any press releases and/or initiate any contact with the media regarding the Settlement, and/or otherwise advertise and/or publicize the Settlement. Nothing in this Agreement is intended to prevent Plaintiffs and/or Class Counsel from disclosing and/or discussing the terms of this Settlement (i) with the Court, (ii) with any Settlement Class Member, (iii) with the Settlement Administrator, (iv) with the LWDA, or (v) as otherwise required by law to fulfill Plaintiffs’ and/or Class Counsel’s obligations to effectuate the Settlement, and/or in court filings in other cases by Class Counsel in connection with a class action approval process, class certification, and/or class-wide settlement approval.

**6.6 Employment Verification.** Defendant agrees that Plaintiffs may direct prospective employers or other individuals or entities to Esri’s HR Department, who can be contacted at [voe@esri.com](mailto:voe@esri.com), for employment verification purposes. The response to such a request will consist of dates of employment, position held, and nothing else.

**6.7 Authorization.** The Parties hereto represent and warrant that each signatory hereto has the full right and authority to enter into this Agreement and bind the Party on whose behalf he, she, or it has executed this Agreement.

**6.8 Agreement Binding on Successors in Interest.** This Agreement shall be binding on and inure to the benefit of the respective successors, assigns, heirs, and personal representatives of the Parties.

**6.9 Time Periods.** The time periods and dates set forth in this Agreement with respect to the giving of notices and hearings are subject to approval and modification by the Court or the written stipulation of counsel for the Parties.

1           6.10   **Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to  
2 accomplish the terms of this Agreement, including but not limited to execution and delivery of  
3 any and all additional papers, documents, and other assurances and taking such other action that  
4 may be reasonably necessary to implement the terms of this Agreement. The Parties and their  
5 counsel shall use their best efforts, including all efforts contemplated by this Agreement and any  
6 other efforts that may become necessary by order of the Court, to effectuate this Agreement and  
7 the terms set forth herein.

8           6.11   **Entire Agreement.** The Exhibits to this Agreement are integral parts of this  
9 Agreement and are hereby incorporated and made a part of the Agreement. This Agreement  
10 contains the entire agreement between the Parties and constitutes the complete, final, and  
11 exclusive embodiment of their agreement with respect to the subject matter hereof. This  
12 Agreement is executed without reliance upon any promise, representation, or warranty by any  
13 Party or representative of any Party, other than those expressly set forth herein. Any  
14 inconsistency between this Agreement and the attached Exhibits will be resolved in favor of this  
15 Agreement.

16           6.12   **Headings.** The various headings used in this Agreement are solely for the  
17 convenience of the Parties and shall not be used to interpret this Agreement.

18           6.13   **No Construction Against Drafter.** This Agreement shall be deemed to have been  
19 drafted jointly by the Parties, and any rule that a document shall be interpreted against the drafter  
20 shall not apply to this Agreement.

21           6.14   **Amendment and Modification.** Except as expressly provided in Section 6.9,  
22 above, with respect to time periods and dates set forth herein, this Agreement may not be  
23 amended, altered, or modified except in writing and signed by the Parties hereto, their successors  
24 in interest, or their duly authorized representatives, and approved by the Court.

25           6.15   **Governing Law.** This Agreement is entered into in accordance with the laws of  
26 the State of California and shall be governed by and interpreted in accordance with those laws.

27           6.16   **Jurisdiction of the Court.** Any dispute regarding the interpretation or validity or  
28 otherwise arising out of this Agreement, or relating to the Action, the Released Claims, or the



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Dated: 2/7/2025

YESENIA GUTIERREZ

*Yesenia Gutierrez*

On behalf of herself and the Settlement Class

Dated: 2/7/2025

KATHY CHAN

*KChan*

On behalf of herself, the Settlement Class, the State of California, and all PAGA Group Members

Dated: 2/12/2025

ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.

Signed by:  
*Chris Nowlin*  
By: 28205C344C534D3...

APPROVED AS TO FORM:

Dated: February 7, 2025

HAMMONDLAW, P.C.

By: *Julian Hammond*  
Julian Hammond

Attorneys for Plaintiffs  
YESENIA GUTIERREZ and KATHY CHAN

Dated: February 10, 2025

MORRISON & FOERSTER LLP

By: *Byung-Kwan Park*  
Byung-Kwan Park

Attorneys for Defendant  
ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.

# Exhibit A

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

YESENIA GUTIERREZ and KATHY  
CHAN, individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

ENVIRONMENTAL SYSTEMS  
RESEARCH INSTITUTE, INC., a  
California Corporation,

Defendant.

Case No. CIVSB2300014

**NOTICE OF SETTLEMENT OF  
CLASS ACTION**

**ATTENTION:** If you were employed by Environmental Systems Research Institute, Inc. in California at any time during the period from November 15, 2018 to [the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court] (the “Settlement Period”), you may be a Class Member eligible to receive money from a proposed Settlement in the above-captioned class action lawsuit.

**PLEASE READ THIS NOTICE CAREFULLY.** This Notice relates to the proposed Settlement. If you are a Class Member, it contains important information affecting your rights to participate in the Settlement as further described below. This Notice advises you of the terms of the Settlement and your rights and options under it.

To be eligible for your share of the Settlement, you are not required to make a claim. However, to ensure receipt of your share, you must update the Settlement Administrator, Settlement Services, Inc., with any change of address.

*What is this proposed Settlement about?*

This action was originally filed against defendant Environmental Systems Research Institute, Inc. (“Defendant” or “Esri”) on November 15, 2022 and refiled on January 4, 2023 (the “Action”). The operative second amended complaint (the “Complaint”), filed on [DATE], names plaintiffs Yesenia Gutierrez and Kathy Chan (collectively, “Plaintiffs”) and asserts claims against Defendant for alleged (1) failure to pay overtime wages, (2) failure to provide meal breaks, (3) failure to permit and authorize rest breaks, (4) failure to pay all wages due upon termination, (5) failure to issue accurate itemized wage statements, (6) failure to reimburse business expenses, (7) unfair, unlawful, or fraudulent business practices, and (8) civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004 (“PAGA”). The first five claims are based on Plaintiffs’ allegation that Defendant misclassified its employees in California

If you have questions, contact the Settlement Administrator at [redacted] or [Insert Email]**EXHIBIT A**

subject to Defendant's Bank Time Policy as exempt. Claim (6) (failure to reimburse business expenses) is based on Plaintiffs' allegation that employees (whether exempt or non-exempt) were not reimbursed for all business expenses they were purportedly required or expected to incur in connection with working remotely during the COVID-19 pandemic and thereafter. Claim (7) (for unfair, unlawful, or fraudulent business practices) and claim (8) (civil penalties sought under PAGA) are based on these same theories of liability. The Complaint and all the other complaints in the Action are referred to collectively as the "Complaints," and all of the PAGA notices filed by plaintiff Kathy Chan with the California Labor and Workforce Development Agency ("LWDA") are referred to collectively as the "PAGA Notices."

Under the proposed Class Settlement, Defendant agrees to make payments ("Class Settlement Awards") to Class Members who do not opt out of the Settlement ("Settlement Class Members"). These Class Settlement Awards will be based on the number of pay periods during the Settlement Period that each Settlement Class Member was employed by Defendant in California for at least one day ("Pay Periods") compared to the total number of Pay Periods for all Settlement Class Members, as more fully described below.

Defendant also agrees to pay the Settlement Administration Costs, General Release Payments to both of the Plaintiffs, a PAGA Settlement Amount to be paid to the LWDA and PAGA Group Members in settlement of the PAGA claims, and a Fee and Expense Award to Plaintiffs' counsel ("Class Counsel"), all subject to the Court's approval. Defendant's maximum total obligation under the proposed Settlement is \$4,910,000, subject to escalation only to the extent described below.

The proposed Settlement is not an admission of liability by Defendant. Throughout the course of litigation in the Action, Defendant has denied any liability or wrongdoing, or that any compensable injury arose out of any of the matters alleged in the Action. Defendant contends that it has complied with all applicable laws and regulations regarding all of those matters.

Class Counsel believes that the proposed Settlement is in the best interests of the Class Members. Further proceedings would be very expensive and take a long time. Moreover, no one can predict the precise outcome of the disputed issues in this case. Therefore, Class Counsel believes that the proposed Settlement is fair, reasonable, and adequate for the Class Members.

The Court has preliminarily approved the proposed Settlement as fair, reasonable, and adequate. The final determination of those issues will be made at the Final Approval Hearing to be held on [Final Approval Hearing Date] at [Final Approval Hearing Time] ("Final Approval Hearing").

#### Summary of the proposed Settlement

Defendant has agreed to pay \$4,910,000 ("Gross Settlement Amount") to resolve all claims that were alleged in any of the Complaints or any of the PAGA Notices or that could have been alleged based on the facts alleged in any of the Complaints or any of the PAGA Notices, for Settlement Class Members' release of claims described below, and for the release of PAGA

claims by the State of California and PAGA Group Members. This amount is subject to escalation if the number of members of the Alleged Misclassification Class exceed 3,654 by more than 5% and/or if the number of members of the Alleged Reimbursement Class exceed 4,179 by more than 5%. If finally approved by the Court, the proposed Settlement will distribute money as follows:

**Class Settlement Awards to Settlement Class Members:** Settlement Class Members (Class Members who do not exclude themselves from the Settlement) will each be paid a Class Settlement Award, which is their pro-rata share of the Net Settlement Sum, calculated as follows:

The Class Settlement Award for each Settlement Class Member of the Alleged Misclassification Class shall be his or her pro-rata share of 70% of the Net Settlement Sum (including and subject to Withholdings and Taxes) calculated as follows: The Settlement Administrator shall first calculate the sum total number of Pay Periods for all Settlement Class Members of the Alleged Misclassification Class. The Settlement Administrator shall then divide 70% of the Net Settlement Sum by this sum total number of Pay Periods, resulting in a per Pay Period value to be used in calculating Class Settlement Awards for the Alleged Misclassification Class. The Settlement Administrator shall then take this per Pay Period value and multiply it by the number of Pay Periods for each Settlement Class Member of the Alleged Misclassification Class, resulting in the Class Settlement Award plus Withholdings and Taxes for each Settlement Class Member of the Alleged Misclassification Class.

The Class Settlement Award for each Settlement Class Member of the Alleged Reimbursement Class shall be his or her pro-rata share of 30% of the Net Settlement Sum (not including and not subject to Withholdings and Taxes), calculated as follows: The Settlement Administrator shall first calculate the sum total number of Pay Periods for all Settlement Class Members of the Alleged Reimbursement Class. The Settlement Administrator shall then divide 30% of the Net Settlement Sum by this sum total number of Pay Periods, resulting in a per Pay Period value to be used in calculating Class Settlement Awards for the Alleged Reimbursement Class. The Settlement Administrator shall then take this per Pay Period value and multiply it by the number of Pay Periods for each Settlement Class Member of the Alleged Reimbursement Class, resulting in the Class Settlement Award for each Settlement Class Member of the Alleged Reimbursement Class.

“Alleged Misclassification Class” means all current and former employees of Defendant in the State of California subject to Defendant’s Bank Time Policy and whom Defendant classified as exempt at any time from November 15, 2018 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

“Alleged Reimbursement Class” means all current and former employees (whether exempt or non-exempt) of Defendant in the State of California from March 16, 2020 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

“Pay Periods” means the number of pay periods during which a Class Member and/or PAGA Group Member was employed by Esri in California for at least one day during the applicable periods for each Class Member and/or PAGA Group Member. Pay Periods shall be calculated according to Defendant’s records.

“Net Settlement Sum” means the Gross Settlement Amount less the following: (a) the PAGA Settlement Amount, (b) the Fee and Expense Award, (c) the General Release Payments, (d) the Settlement Administration Costs, and (e) Withholdings and Taxes, all of which are described below. 70% of the Net Settlement Sum (including and subject to Withholdings and Taxes) shall be allocated to Settlement Class Members of the Alleged Misclassification Class, and the remaining 30% (not including and not subject to Withholdings and Taxes) shall be allocated to Settlement Class Members of the Alleged Reimbursement Class.

Each Settlement Class Member and/or PAGA Group Member receiving a Class Settlement Award and/or PAGA Settlement Award shall be responsible for paying applicable federal, state, and local income taxes, if any, on all amounts such person receives pursuant to the Agreement, and Defendant shall have no liability therefor.

**Fee and Expense Award to Class Counsel:** Upon approval by the Court, Defendant will pay attorneys’ fees and reimburse litigation costs and expenses to Class Counsel (HammondLaw, P.C.). The proposed Settlement permits Class Counsel to request up to 33.33% of the Gross Settlement Amount (\$1,636,666.67) as their fees for prosecuting this case and up to \$50,000 for reimbursement of their costs and expenses incurred in the Action. You are not personally responsible for any of Class Counsel’s attorneys’ fees, costs, or expenses.

**PAGA Settlement Amount:** The proposed Settlement provides for a payment of \$100,000 for resolution of the PAGA claims alleged in the Complaints, the PAGA Notices, or any of them. Of that amount, 75% (or \$75,000) of the PAGA Settlement Amount shall be paid to the LWDA and 25% (or \$25,000) of the PAGA Settlement Amount shall form the PAGA Fund to be paid to PAGA Group Members pro rata, based on the number of Pay Periods worked. PAGA Group Members include members of the Alleged Misclassification PAGA Group and Alleged Reimbursement PAGA Group.

**Other Payments:** The proposed Settlement provides for a General Release Payment of \$7,500 to Plaintiff Gutierrez and a General Release Payment of \$7,500 to Plaintiff Chan. The proposed Settlement further provides for payment estimated not to exceed \$57,250 to the Settlement Administrator, Settlement Services, Inc., for its services in mailing the Class Notice and administering the Settlement.

*What are my rights and options?*

**You can exclude yourself from the Class Settlement:** If you do not want a Class Settlement Award and do not want to be bound by any of the proposed Class Settlement’s terms, including the release of the Released Claims discussed below, you must make a timely written Request for Exclusion. Your Request for Exclusion must contain (i) your full name, address, and telephone

number; (ii) the words “Request for Exclusion” at the top of the document; and (iii) the following statement:

“I wish to be excluded from the Class Settlement in this case, *Yesenia Gutierrez, et al. v. Environmental Systems Research Institute, Inc.*, San Bernardino Superior Court Case No. CIVSB2300014.”

Your Request for Exclusion must be personally signed by you. Any Request for Exclusion submitted by someone else on your behalf will not be valid. Your Request for Exclusion must be mailed to the Settlement Administrator at the below address and must be postmarked by **[DATE – 45 calendar days from the date of initial mailing of the Class Notice, or such other date set by the Court in the Preliminary Approval Order for submitting a Request for Exclusion to the Settlement Administrator]**.

*Yesenia Gutierrez, et al. v. Environmental Systems Research Institute, Inc.*  
**[Settlement Services, Inc.’s Mailing Address]**

You should not request exclusion if you wish to receive money from the Class Settlement.

You do not have the right to be excluded from the PAGA Settlement, whether or not you exclude yourself from the Class Settlement.

1. **You can object to the Class Settlement:** You can object to the Settlement before the Court’s final approval of the Settlement. To object, you should submit a signed, written objection to the Settlement Administrator by **[DATE – 45 calendar days from the date of initial mailing of the Class Notice, or such other date set by the Court in the Preliminary Approval Order]**. You may submit a supporting brief or other materials to the Settlement Administrator with your signed, written objection, no later than **[DATE – 45 calendar days from the date of initial mailing of the Class Notice, or such other date set by the Court in the Preliminary Approval Order]**. You may also appear, even if you do not submit a written objection, and object to the Settlement at the Final Approval Hearing currently set for **[Final Approval Hearing Time]** on **[Final Approval Hearing Date]**, in Department S26 - SBJC of the Superior Court of California, County of San Bernardino, located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, California 92415-0210. If you submit a written objection, you are not required to appear, either personally or through counsel, at the Final Approval Hearing in order for your written objection to be considered. You may object to the Settlement only if you do NOT submit a Request for Exclusion.

You do not have the right to object to the PAGA Settlement, whether or not you object to the Class Settlement.

2. **You can dispute the number of your Pay Periods:** A Notice of Pay Periods form is attached as Form A to this Notice. It provides your number of Pay Periods during the Settlement Period according to Defendant’s records. If you do not agree with the number of

your Pay Periods shown on the form, you may dispute the number by completing the Notice of Pay Periods form and mailing it to the Settlement Administrator by [DATE – 45 calendar days from mailing Class Notice / Notice Response Deadline].

3. **You can do nothing:** You can do nothing. If you do nothing, you will be bound by the proposed Settlement terms and you will be entitled to receive a Class Settlement Award as described above.

To the extent you are a PAGA Group Member, you will receive a PAGA Settlement Award, regardless of whether you exclude yourself from the Class Settlement, object to the Class Settlement, dispute the number of your Pay Periods, or do nothing.

*What claims am I releasing by participating in the Class Settlement?*

In exchange for the consideration given by Defendant in the proposed Settlement, all Class Members who do not opt out of the Class Settlement (the Settlement Class Members) will expressly release, waive and relinquish, and will be deemed to have released, waived and relinquished, all Released Claims against all Released Parties. The State of California, by and through Plaintiff Chan as its agent and proxy, will expressly release, waive and relinquish, and will be deemed to have released, waived and relinquished, all Released PAGA Claims against all Released Parties. All PAGA Group Members (whether they are a Settlement Class Member or not) will be barred from pursuing recover of any civil penalties, as agents or proxies of the State of California, for any of the Released PAGA Claims.

“Released Claims” means all claims, debts, liabilities, demands, obligations, damages, and actions or causes of action of any kind, including wage and hour claims related to allegations of employee misclassification and failure to reimburse business expenses, arising before or on the end date of the Settlement Period and that were alleged in the Original Complaint, the Complaint, the First Amended Complaint, and the Second Amended Complaint or any of the PAGA Notices or could have reasonably been alleged against any of the Released Parties based on the facts alleged in any of the Complaints or any of the PAGA Notices. Specifically, for the Settlement Class Members of the Alleged Misclassification Class, released claims include, without limitation, claims under Labor Code sections 201-203, 204, 226, 226(a), 226(e), 226.7, 510, 512, 1194, and 2698 et seq.; Business and Professions Code section 17200 et seq.; and Code of Civil Procedure section 1021.5. For the Settlement Class Members of the Alleged Reimbursement Class, released claims include, without limitation, claims under Labor Code sections 2802 and any derivative claims; Business and Professions Code section 17200 et seq.; and Code of Civil Procedure section 1021.5.

“Released PAGA Claims” means all claims that were or could have been asserted pursuant to PAGA arising out of or related to the Released Claims arising before or on the end date of the PAGA Period. Specifically, for the Alleged Misclassification PAGA Group, released PAGA claims include those based on, without limitation, alleged violations of Labor Code sections 201-203, 204, 226, 226(a), 226(e), 226.7, 510, 512, 1194, and 2698 et seq. For the Alleged Reimbursement PAGA Group, released PAGA claims include those based on, without limitation,

alleged violations of Labor Code section 2802 and any derivative Labor Code claims. The Released PAGA Claims are released by both the State of California and the PAGA Group Members as part of this Settlement.

“Released Parties” means Defendant; each of its respective present, former, or future parents, subsidiaries, affiliates, divisions, corporations in common control, predecessors, successors, and assigns; each of its respective present, past, or future officers, directors, employees, partners (both general and limited), shareholders, agents, attorneys, insurers, and any other successors, assigns, or legal representatives; and any other individual or entity which could be liable for any of the Released Claims or Released PAGA Claims.

All Settlement Class Members intend and are deemed to intend that this Settlement shall be effective as a bar to any and all Released Claims against any and all Released Parties.

The Settlement Class Members further agree not to sue or otherwise make a claim against any of the Released Parties arising out of or related to any of the Released Claims. The Settlement Class Members further agree that their release, waiver, and relinquishment of the Released Claims shall preclude them from participating in any judgment or settlement of claims that are the subject of any of the Released Claims in any other class, collective, or representative action.

All PAGA Group Members (whether a Settlement Class Member or not) shall be barred from bringing, joining, or otherwise participating in a PAGA representative action or otherwise making, joining, or otherwise participating in a claim against any of the Released Parties for any of the Released PAGA Claims. The State of California shall be barred from pursuing recovery of any civil penalties from any of the Released Parties for any of the Released PAGA Claims.

When is the next Court hearing?

A Final Approval Hearing will be held before the Honorable Christian Towns in Department S26 - SBJC of the Superior Court of California, County of San Bernardino, located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, California 92415-0210, on [Final Approval Hearing Date] at [Final Approval Hearing Time] to determine whether the Settlement is fair, reasonable, and adequate. Judge Towns will be asked to approve the plan for distributing the Class Settlement Awards, the Fee and Expense Award to Class Counsel, the General Release Payments to the Plaintiffs, the PAGA Settlement Amount, and payment to the Settlement Administrator for its services. A motion for final approval of these items should be on file with the Court no later than [REDACTED], 2025 and will be available for review after that date. This hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing.

What if I need more information?

Capitalized terms in this Notice have the same meaning they are given in the Class and PAGA Settlement Agreement and Release (“Agreement”), filed with the Court on [DATE] as an attachment to Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. For the

precise terms and conditions of the Settlement, you should consult the detailed Agreement and the Preliminary Approval Order, which is also on file with the Court. You may access key documents filed in this case by visiting the case website maintained by the Settlement Administrator at [www.\[INSERT\].com](http://www.[INSERT].com). You may also access documents filed in this case by visiting <https://www.sb-court.org/divisions/civil-general-information/court-case-information-and-document-sales>. To navigate to the filed documents, you will need to click on “Accept” at the bottom of the page, which will redirect you to the Court Access Portal page. From the Court Access Portal page, you will need to click on “Search” and then click on “CASE INFORMATION” from the drop-down menu. You may then search for filings by entering the case number located at the top of this Notice into the “CASE NUMBER SEARCH” query. If you have any questions, you can contact the Settlement Administrator at [REDACTED].

You can also contact Class Counsel at:

HammondLaw, P.C.  
Julian Hammond (SBN 268489)  
jhammond@hammondlawpc.com  
(310) 601-6766  
Polina Brandler (SBN 269086)  
(310) 810-3246

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION  
ABOUT THIS SETTLEMENT**

# Exhibit B

## NOTICE OF PAY PERIODS

*Yesenia Gutierrez, et al. v. Environmental Systems Research Institute, Inc.*  
San Bernardino Superior Court, Case No. CIVSB2300014

To: [Class Member Name]

Your potential individual Class Settlement Award in the Settlement of the class action lawsuit listed above is based on the number of pay periods during which you were employed by Environmental Systems Research Institute, Inc. (“Defendant” or “Esri”) in California for at least one day from either November 15, 2018 or March 16, 2020—depending on whether you are a member of the Alleged Misclassification Class, the Alleged Reimbursement Class, or both—to and including [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court] (“Pay Periods”). According to Defendant’s records, you had a total of:

Pay Periods from November 15, 2018 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court]; and

Pay Periods from March 16, 2020 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

If you wish to participate in the Class Settlement and you agree with the number of your Pay Periods shown above, then you do not need to take any further action. You will receive your Class Settlement Award once the Settlement becomes final.

If you **do not agree** with the number of your Pay Periods shown above, please insert in the space below the number of pay periods during which you believe you were employed by Esri in California for at least one day from either November 15, 2018 or March 16, 2020—depending on whether you are a member of the Alleged Misclassification Class, the Alleged Reimbursement Class, or both—to and including [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

The number of Pay Periods you believe is correct for you:

Pay Periods from November 15, 2018 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court]; and

Pay Periods from March 16, 2020 to [DATE – the date on which Plaintiffs’ motion for Preliminary Approval of this Settlement is first scheduled to be heard by the Court].

**EXHIBIT B**

- I am enclosing documentation to support the number of my Pay Periods being different from the number of Pay Periods shown for me by Defendant's records, as shown above.
- I am *not* enclosing documentation to support the number of my Pay Periods being different from the number of Pay Periods shown for me by Defendant's records, as shown above.

Dated: \_\_\_\_\_ (signature)

If you wish to dispute the number of your Pay Periods shown above, you must complete, sign, and date this Notice of Pay Periods form and mail it with any supporting documentation to the Settlement Administrator, Settlement Services, Inc., at [ADDRESS], postmarked no later than \_\_\_\_\_, 2025 [DATE – 45 calendar days after mailing of Class Notice / Notice Response Deadline].

If you dispute the number of your Pay Periods, the Settlement Administrator will resolve the dispute, and its decision will be final and binding. In resolving the dispute, the information provided by Defendant will be presumed accurate.

Form A

# Exhibit C

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

YESENIA GUTIERREZ and KATHY CHAN,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

ENVIRONMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC., a California Corporation,

Defendant.

Case No. CIVSB2300014

(Assigned for All Purposes to the Honorable  
Christian Towns, Dept. S26 - SBJC)

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
AND PAGA SETTLEMENT**

Date Action Filed: January 4, 2023  
Trial Date: Not Yet Set

1 This matter has come before the Honorable Christian Towns in Department S26 - SBJC of  
2 the Superior Court of the State of California, for the County of San Bernardino, on an unopposed  
3 Motion for Preliminary Approval of Class Action Settlement of the above-captioned Action  
4 (“Motion”). The Court, having duly considered the Motion, good cause appearing, hereby orders  
5 as follows:

6 1. Capitalized terms in this Order shall have the same meaning they are given in the  
7 Class and PAGA Settlement Agreement and Release (“Agreement”) filed with the motion.

8 2. The Court preliminarily approves the Settlement based on the terms set forth in the  
9 Agreement. The Settlement appears to be fair, adequate, and reasonable, in the best interests of the  
10 absent Class Members, and presumptively valid, subject only to any objections that may be raised  
11 at or before the Final Approval Hearing.

12 3. A Final Approval Hearing on the question of whether the proposed Settlement, Fee  
13 and Expense Award, General Release Payments, PAGA Settlement Amount, Settlement  
14 Administration Costs, and Class Settlement Awards to the Settlement Class Members should  
15 finally be approved as fair, reasonable, and adequate as to the Settlement Class Members is  
16 scheduled for \_\_\_\_\_, 2025, at \_\_:\_\_.m. in Department S26 - SBJC of this Court.

17 4. The Court approves as to form and content the Class Notice attached hereto as  
18 Exhibit 1 and incorporated by reference. The Court approves the procedure for Class Members to  
19 request exclusion from or to object to the Settlement as set forth in the Class Notice. The Court  
20 approves as to form and content the Notice of Pay Periods attached to the Class Notice, which shall  
21 be mailed to Class Members with the Class Notice.

22 5. The Court directs the mailing of the Class Notice in accordance with the  
23 Implementation Schedule set forth below. The Court finds that the manner and mode of giving  
24 notice to Class Members meet the requirements of due process and provide the best notice  
25 practicable under the circumstances, and shall constitute due and sufficient notice to all persons  
26 entitled thereto.

27 6. In the event that the Settlement is not finally approved or is not effectuated for  
28 whatever reason, the Parties will be returned to their status quo ante positions, except that the

1 Second Amended Complaint shall remain the operative complaint in the Action, with Defendant  
 2 reserving all rights.

3 7. The Classes are preliminarily certified for settlement purposes only.

4 8. The Court preliminarily approves HammondLaw, P.C. as Class Counsel.

5 9. The Court provisionally appoints Settlement Services, Inc. as the Settlement  
 6 Administrator.

7 10. The Court orders the following Implementation Schedule for further proceedings:  
 8

9 Deadline for Defendant to submit Class Member information to Settlement Administrator.	_____, 2025 (15 business days from entry of this Order.)
11 Settlement Administrator mails Class Notice to Class Members.	_____, 2025 (10 business days from receipt of Class Member information from Defendant.)
14 Notice Response Deadline for Class Members to mail Requests for Exclusion.	_____, 2025 (45 calendar days from initial mailing of Class Notice.)
16 Notice Response Deadline for submitting to the Settlement Administrator any objections to Settlement.	_____, 2025 (45 calendar days from initial mailing of Class Notice.)
19 Deadline for Class Counsel to file Motion for Final Approval of Settlement and Fee and Expense Award.	_____, 2025
21 Fairness Hearing and Final Approval. <i>[at least ninety (90) calendar days after the Preliminary Approval Date, or as soon thereafter as the Court is available]</i>	_____, 2025 at __:__.m.

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**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

By:

\_\_\_\_\_  
The Honorable Christian Towns  
Judge of the Superior Court

# Exhibit D

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

YESENIA GUTIERREZ and KATHY CHAN,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

ENVIRONMENTAL SYSTEMS RESEARCH  
INSTITUTE, INC., a California Corporation,

Defendant.

Case No. CIVSB2300014

(Assigned for All Purposes to the Honorable  
Christian Towns, Dept. S26 - SBJC)

**[PROPOSED] FINAL APPROVAL  
ORDER AND JUDGMENT**

Date Action Filed: January 4, 2023  
Trial Date: Not Yet Set

1 This matter has come before the Court on an unopposed Motion for Final Approval of  
2 Class Action Settlement (“Motion”). A Fairness Hearing was held on [Fairness Hearing Date],  
3 following the Court’s order preliminarily approving the Settlement and notice of the Settlement  
4 to the Class with an opportunity for Class Members to request exclusion or object to the  
5 Settlement. The Court, having duly considered the Motion, good cause appearing, hereby orders,  
6 adjudges, and decrees as follows:

7 1. Capitalized terms in this Order and Judgment have the same meaning they are  
8 given in the Class and PAGA Settlement Agreement and Release (“Agreement”) attached as  
9 Exhibit [X] to the Declaration of [NAME] in support of the Motion for Preliminary Approval of  
10 Class Action Settlement, filed [FILING DATE].

11 2. This Court has jurisdiction over the subject matter of this Action, all claims  
12 alleged herein, and all Parties hereto, including plaintiffs Yesenia Gutierrez and Kathy Chan  
13 (“Plaintiffs”), all Class Members, and defendant Environmental Systems Research Institute, Inc.  
14 (“Defendant”).

15 3. The Court finds that the Class Members have been provided proper and adequate  
16 notice, meeting the requirements of due process. The Court finds, based on the evidence  
17 submitted, that the Class Notice and related documents, as well as the methodology used to  
18 implement the Settlement, including providing notice to Class Members, (a) complied with this  
19 Court’s Preliminary Approval Order, (b) constituted the best practicable notice under the  
20 circumstances, (c) constituted notice that was reasonably calculated, under the circumstances, to  
21 apprise Class Members of the pendency of the Action and the proposed Settlement and of their  
22 right to participate in the Settlement, to opt out of the Settlement, to object to the Settlement, and  
23 to appear at the Fairness Hearing, and (d) met all applicable requirements of due process, the  
24 Code of Civil Procedure and other applicable authorities.

25 4. The Court finds that adequate time has been provided for Class Members to  
26 respond to the Class Notice, including by opting out of the Settlement or objecting to the  
27 Settlement or to Plaintiff’s Motion for Approval of Fee and Expense Award.  
28

1           5.       The Court finds that the Settlement, the terms of which are set forth in the  
 2 Agreement, is fair, adequate, and reasonable as to the settling Parties, including the Settlement  
 3 Class Members, and is in the best interests of all those affected by the Settlement. The Court  
 4 finds that the Settlement was the result of vigorously contested litigation and good-faith arm's-  
 5 length negotiations, and is reasonable based on the risks, expense, and complexity of the Action  
 6 and the likelihood of success in it. The Court hereby grants final approval of the Parties'  
 7 Settlement, as set forth in the Agreement, and enters Judgment accordingly. The Parties are  
 8 directed to perform the terms of the Agreement and to report to the Court when that performance  
 9 has been completed.

10           6.       The Court has already determined solely for purposes of this Settlement, by way  
 11 of its Preliminary Approval Order, that the Settlement Classes satisfy the applicable standards for  
 12 certification under the Code of Civil Procedure. The Settlement Classes, which will be bound by  
 13 this Final Approval Order and Judgment, include all Class Members who did not submit a timely  
 14 and valid Request for Exclusion. The Class Members who have opted out of the Settlement by  
 15 submitting a timely and valid Request for Exclusion are listed on Exhibit 1 hereto. For purposes  
 16 of the Settlement and this Final Approval Order and Judgment, the Settlement Classes shall be  
 17 represented by Plaintiffs and shall include Plaintiffs and all members of the Alleged  
 18 Misclassification Class and the Alleged Reimbursement Class—i.e., all current and former  
 19 employees of Defendant in the State of California subject to Defendant's Bank Time Policy and  
 20 whom Defendant classified as exempt at any time from November 15, 2018 to [DATE – the date  
 21 on which Plaintiffs' motion for Preliminary Approval of this Settlement is first scheduled to be  
 22 heard by the Court], and all current and former employees (whether exempt or non-exempt) of  
 23 Defendant in the State of California from March 16, 2020 to [DATE – the date on which  
 24 Plaintiffs' motion for Preliminary Approval of this Settlement is first scheduled to be heard by  
 25 the Court]—excluding only those persons listed in **Exhibit 1**.

26           7.       The Court appoints Plaintiffs as class representatives for the Settlement Classes.

27           8.       The Court appoints Class Counsel identified in the Agreement as class counsel for  
 28 the Settlement Classes, finding that Class Counsel is adequate and qualified, and has, and can

1 continue, to fully and faithfully represent the interests of Plaintiffs and the Settlement Class  
2 Members.

3 9. Settlement Class Members shall be paid their respective shares of the Net  
4 Settlement Sum, as provided in the Agreement.

5 10. The portion of the PAGA Settlement Amount to be paid to the California Labor  
6 and Workforce Development Agency (“LWDA”) and the portion of the PAGA Settlement  
7 Amount to be paid to PAGA Group Members shall be paid as provided in the Agreement. The  
8 LWDA and all PAGA Group Members shall be and hereby are bound by this Final Approval  
9 Order and Judgment.

10 11. The Settlement Administrator shall timely and properly prepare and deliver  
11 necessary tax documentation to all necessary parties and to report all necessary information to  
12 the applicable government entities as required by law.

13 12. The unopposed application of Class Counsel’s Fee and Expense Award is hereby  
14 granted. The Court finds that the Class Counsel’s attorneys’ fees are reasonable from the  
15 perspective of the percentage-of-recovery method and that Class Counsel’s hourly rates are  
16 reasonable based on evidence of Class Counsel’s experience, services rendered, and market rates  
17 for San Bernardino attorneys with comparable experience. The Court finds that Class Counsel’s  
18 litigation costs and expenses are reasonable and were reasonably incurred in the prosecution of  
19 this action. The sum of \$ \_\_\_\_\_ as attorneys’ fees, and costs not to exceed the sum of  
20 \$ \_\_\_\_\_, shall be paid to Class Counsel, with payment to be made as provided for in the  
21 Agreement. A General Release Payment in the amount of \$ \_\_\_\_\_ shall be paid to Plaintiff  
22 Yesenia Gutierrez, and a General Release Payment in the amount of \$ \_\_\_\_\_ shall be paid  
23 to plaintiff Kathy Chan, with the payments to be made as provided for in the Agreement.  
24 Settlement Services, Inc. shall be paid Settlement Administration Costs of \$ \_\_\_\_\_, in  
25 accordance with the terms of the Agreement. Except as expressly set forth in this Final Approval  
26 Order and Judgment, the Parties shall bear their own attorneys’ fees and costs.

27 13. Any portion of the Settlement Fund remaining after administration of the  
28 Settlement has been completed shall be transmitted to [REDACTED], as provided in the

1 Agreement.

2 14. The Settlement Administrator is hereby directed to make the payments set forth  
3 herein, in accordance with the terms and conditions of the Agreement.

4 15. By no later than \_\_\_\_\_, the Settlement Administrator shall file  
5 a report setting forth (1) the total amount of money paid to the Settlement Class Members as  
6 Class Settlement Awards, (2) the total amount of money paid to PAGA Group Members as  
7 PAGA Settlement Awards, (3) the portion of the PAGA Settlement Amount paid to the LWDA,  
8 and (4) the Fee and Expense Award paid to Class Counsel. (Code Civ. Proc., § 384, subd. (b).)

9 16. All Class Members, except those who timely opted out of the Settlement (listed in  
10 Exhibit 1 hereto), are bound by this Final Approval Order and Judgment, and by the previously  
11 approved Agreement. Each Settlement Class Member is hereby deemed to have fully, finally,  
12 and forever released, relinquished, and discharged Defendant and all Released Parties, as defined  
13 in the Agreement, from the Released Claims described in the Agreement.

14 17. All PAGA Group Members and the LWDA are bound by this Final Approval  
15 Order and Judgment, and by the previously approved Agreement. The State of California is  
16 hereby deemed to have expressly released, waived, and relinquished the Released PAGA Claims.  
17 All PAGA Group Members are hereby barred from bringing, joining, or otherwise participating  
18 in a PAGA representative action or otherwise making, joining, or otherwise participating in a  
19 claim against any of the Released Parties for any of the Released PAGA Claims. The State of  
20 California shall be barred from pursuing recovery of any civil penalties from any of the Released  
21 Parties for any of the Released PAGA Claims.

22 18. This Final Approval Order and Judgment, the Agreement, the Settlement it  
23 reflects, and any and all acts, statements, documents, or proceedings relating to the Settlement  
24 are not, and shall not be construed as, or used as an admission by Defendant, or a finding by this  
25 Court of any fault, wrongdoing, or liability on the part of Defendant, or of the validity of any of  
26 the Released Claims or the Released PAGA Claims or of the existence or amount of any  
27 damages.

28 19. In the event the Effective Date does not occur, this Final Approval Order and

1 Judgment shall be null and void and shall be vacated, *nunc pro tunc*, except insofar as expressly  
2 provided to the contrary in the Agreement, and without prejudice to the status quo ante rights of  
3 Plaintiffs, Settlement Class Members, and Defendant.

4 20. Judgment is hereby entered in accordance with the Agreement and the Settlement.  
5 Without affecting the finality of this Final Approval Order and Judgment in any way, the Court  
6 shall retain jurisdiction over the implementation of the Settlement, including enforcement and  
7 administration of the Agreement and the releases given in connection therewith, and any other  
8 matters related or ancillary to the foregoing.

9 IT IS SO ORDERED, ADJUDGED, AND DECREED.

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12 Dated: \_\_\_\_\_

\_\_\_\_\_   
The Honorable Christian Towns  
Judge of the Superior Court

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## Certificate Of Completion

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Signatures: 1

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## Signer Events

Chris Nowlin

CNowlin@esri.com

Director, HR

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## Signature

Signed by:

28205C341C534D3...

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Sent: 2/10/2025 5:54:06 PM

Resent: 2/12/2025 11:29:17 AM

Viewed: 2/12/2025 11:37:06 AM

Signed: 2/12/2025 11:37:23 AM

## Electronic Record and Signature Disclosure:

Accepted: 2/12/2025 11:37:06 AM

ID: d02dbb76-9014-4163-8f9e-1af4800c4da9

## In Person Signer Events

## Signature

## Timestamp

## Editor Delivery Events

## Status

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## Agent Delivery Events

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## Intermediary Delivery Events

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## Certified Delivery Events

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## Carbon Copy Events

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## Witness Events

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## Timestamp

## Notary Events

## Signature

## Timestamp

## Envelope Summary Events

## Status

## Timestamps

Envelope Sent

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2/10/2025 5:54:06 PM

Certified Delivered

Security Checked

2/12/2025 11:37:06 AM

Signing Complete

Security Checked

2/12/2025 11:37:23 AM

Completed

Security Checked

2/12/2025 11:37:23 AM

## Payment Events

## Status

## Timestamps

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If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

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Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact Morrison and Foerster LLP:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [johnmaglio@mofo.com](mailto:johnmaglio@mofo.com)

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To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [rgonzalez@mofo.com](mailto:rgonzalez@mofo.com) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

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- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Morrison and Foerster LLP as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Morrison and Foerster LLP during the course of your relationship with Morrison and Foerster LLP.

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 4 HAMMONDLAW, P.C.  
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 6 (310) 601-6766  
 7 (310) 295-2385 (Fax)

8 Attorneys for Plaintiffs and the Putative Classes

9  
 10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 11 COUNTY OF SAN BERNARDINO

12  
 13 YESENIA GUTIERREZ and KATHY CHAN,  
 14 individually and on behalf of all others similarly  
 situated,

15 Plaintiffs,

16 vs.

17 ENVIRONMENTAL SYSTEMS RESEARCH  
 18 INSTITUTE INC. a California Corporation,

19 Defendant.

Case No.: CIVSB2300014

**DECLARATION OF ELIZABETH  
 CONTRERAS-MARTINEZ IN SUPPORT OF  
 CY PRES DISTRIBUTION TO CASA OF  
 SAN BERNARDINO**

DECLARATION OF ELIZABETH CONTRERAS-MARTINEZ

CEO, Child Advocates of San Bernardino County

I, Elizabeth Contreras-Martinez, declare as follows:

1. I am the Chief Executive Officer of Child Advocates of San Bernardino County also known as "CASA" of San Bernardino County, a nonprofit organization that provides court-appointed volunteer advocacy for children and youth in the foster care system throughout San Bernardino County.

2. I understand that CASA of San Bernardino County has been designated as the proposed cy pres recipient of uncashed checks in the above-captioned matter. I submit this declaration in support of that designation.

3. CASA of San Bernardino County is a mission-aligned, qualified nonprofit organization that directly serves the interests of children and youth in the foster care system. Funds received through this cy pres designation would be used to support services such as court advocacy, mentorship, and critical resource support for foster youth.

4. To the best of my knowledge, neither I nor any staff or board member of CASA of San Bernardino County has any personal or professional relationship with the attorneys representing (or who have represented) the parties in this matter, including Julian Hammond, Polina Brandler, Ari Cherniak of HammondLaw P.C., or Andrew Turnbull, Alexandra Preece Barlow, and William Lawther of Morrison & Foerster, or Tritia Murata or Kwan Park formerly of Morrison & Foerster.

5. CASA of San Bernardino County confirms that no conflicts of interest exist that would make this cy pres designation inappropriate.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this <sup>12</sup>th day of May 2025, in San Bernardino County, California.

Elizabeth Contreras-Martinez

Elizabeth Contreras-Martinez

Chief Executive Officer

CASA of San Bernardino County

1 ANDREW R. TURNBULL (*pro hac vice* pending)  
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9 Attorneys for Defendant  
ENVIRONMENTAL SYSTEMS  
10 RESEARCH INSTITUTE, INC.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN BERNARDINO

14 YESENIA GUTIERREZ and KATHY CHAN,  
15 individually and on behalf of all others  
similarly situated,

16 Plaintiffs,

17 v.

18 ENVIRONMENTAL SYSTEMS RESEARCH  
19 INSTITUTE, INC., a California Corporation,

20 Defendant.

Case No. CIVSB2300014

(Assigned for All Purposes to the Hon.  
Christian Towns, Dept. S26)

**DECLARATION OF CHRIS NOWLIN IN  
SUPPORT OF PLAINTIFFS YESENIA  
GUTIERREZ'S AND KATHY CHAN'S  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS AND PAGA  
SETTLEMENT**

21 Date Action Filed: January 4, 2023  
22 Trial Date: Not Yet Set

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**DECLARATION OF CHRIS NOWLIN**

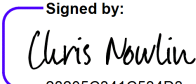
I, Chris Nowlin, declare:

1. I am the Chief Human Resources Officer at Environmental Systems Research Institute, Inc. (Esri), a defendant in this action. I submit this Declaration in support of Plaintiffs Yesenia Gutierrez’s and Kathy Chan’s Motion for Preliminary Approval of Class and PAGA Settlement. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness, could and would testify as to their accuracy.

2. The proposed *cy pres* recipient for the settlement in this matter is Child Advocates of San Bernardino County (C.A.S.A.).

3. I am not aware of any relationship between Child Advocates of San Bernardino County (C.A.S.A.) and Esri or anyone at Esri that might create a conflict or the appearance of impropriety regarding Esri’s agreement to designate Child Advocates of San Bernardino County (C.A.S.A.) as the *cy pres* recipient in this action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on 5/12/2025 in Redlands, California.

Signed by:  
  
28205C341C634D3...  
Chris Nowlin

1 ANDREW R. TURNBULL (*pro hac vice* pending)  
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8 Facsimile: 858.720.5125

9 Attorneys for Defendant  
ENVIRONMENTAL SYSTEMS  
10 RESEARCH INSTITUTE, INC.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN BERNARDINO

14 YESENIA GUTIERREZ and KATHY CHAN,  
15 individually and on behalf of all others  
similarly situated,  
16 Plaintiffs,  
17 v.  
18 ENVIRONMENTAL SYSTEMS RESEARCH  
19 INSTITUTE, INC., a California Corporation,  
20 Defendant.

Case No. CIVSB2300014  
(Assigned for All Purposes to the Hon.  
Christian Towns, Dept. S26)  
**DECLARATION OF ALEXANDRA P.  
BARLOW IN SUPPORT OF PLAINTIFFS  
YESENIA GUTIERREZ'S AND KATHY  
CHAN'S MOTION FOR PRELIMINARY  
APPROVAL OF CLASS AND PAGA  
SETTLEMENT**  
Date Action Filed: January 4, 2023  
Trial Date: Not Yet Set

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1 **DECLARATION OF ALEXANDRA P. BARLOW**

2 I, Alexandra P. Barlow, declare:

3 1. I am a partner at the law firm of Morrison & Foerster LLP and an active licensee  
4 and member in good standing of the State of Bar of California. I represent Defendant  
5 Environmental Systems Research Institute, Inc. (Esri) in this action. I submit this Declaration in  
6 support of Plaintiffs Yesenia Gutierrez’s and Kathy Chan’s Motion for Preliminary Approval of  
7 Class and PAGA Settlement. I have personal knowledge of the facts set forth in this Declaration,  
8 and if called as a witness, could and would testify as to their accuracy.

9 2. The proposed *cy pres* recipient for the settlement in this matter is Child Advocates  
10 of San Bernardino County (C.A.S.A.). According to its website, the organization’s mission is to  
11 “improve the quality of life for youth in foster care, juvenile care, and [] foster care alumni with  
12 stable and consistent mentoring, advocacy, and supportive services. C.A.S.A. recruits, screens,  
13 trains, and provides professional support and supervision to community volunteers who serve as  
14 Court appointed Special Advocates [] for children and youth in foster care.” *See* COURT  
15 APPOINTED SPECIAL ADVOCATES FOR CHILDREN, SAN BERNARDINO COUNTY,  
16 <https://www.casaofsb.org/support-casa/cy-pres-awards.html> (last visited May 14, 2025).

17 3. According to Morrison & Foerster’s records, no one at Morrison & Foerster has  
18 recently served on Child Advocates of San Bernardino County (C.A.S.A.)’s board or were  
19 involved in any similar capacity with the organization.

20 4. I am informed that Child Advocates of San Bernardino County (C.A.S.A.) is a  
21 local program within the network of the California Court Appointed Special Advocates  
22 Association (“California CASA Association”), which in turn is a member of the National  
23 CASA/GAL Association for Children. I am informed that Morrison & Foerster briefly provided  
24 pro bono legal services to California CASA Association and Child Advocates of San Bernardino  
25 County (C.A.S.A.) in two matters in 2007. I am informed that both matters were closed in 2007.  
26 I am not otherwise aware of Morrison & Foerster having any former or current relationship with  
27 Child Advocates of San Bernardino County C.A.S.A.


28 5. The Morrison & Foerster Foundation (the “Foundation”) is a charitable foundation

1 affiliated with, but separate from, our firm and is funded primarily by our lawyers and staff  
2 members. The Foundation has supported underserved communities and equal access to justice of  
3 all kinds for approximately 38 years. I am informed that the Foundation has not donated to Child  
4 Advocates of San Bernardino County (C.A.S.A.) but has made some donations to Court  
5 Appointed Special Advocate programs in other cities and counties outside California.

6 6. Neither I nor any other Morrison & Foerster attorneys on this case are aware of  
7 any relationship between Child Advocates of San Bernardino County (C.A.S.A.) and our firm or  
8 anyone at our firm that might create a conflict or the appearance of impropriety regarding Esri's  
9 agreement to designate Child Advocates of San Bernardino County (C.A.S.A.) as the *cy pres*  
10 recipient in this action.

11 I declare under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct.

13  
14 Dated: 5/14/2025

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16 Signed by:  
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18 4358E8D8879A4BC...  
19 Alexandra P. Barlow

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 6 (310) 295-2385 (Fax)

7 *Attorneys for Plaintiffs*

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 9 COUNTY OF SAN BERNARDINO  
 10

11 YESENIA GUTIERREZ and KATHY CHAN,  
 12 individually and on behalf of all others  
 similarly situated,

13 Plaintiffs,

14 v.

15 ENVIRONMENTAL SYSTEMS RESEARCH  
 16 INSTITUTE, INC., a California Corporation,

17 Defendant.

Case No. CIVSB2300014

**DECLARATION OF YESENIA  
 GUTIERREZ IN SUPPORT OF MOTION  
 FOR PRELIMINARY APPROVAL**

Date: June 9, 2025  
 Time: 8:30 a.m.  
 Dept: S26  
 Judge: Christian Towns

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1 I, Yesenia Gutierrez, declare as follows:

2 1. I am a named Plaintiff and putative Class Representative in this matter. I am over  
3 18 years of age. I have personal knowledge of the following facts and could and would testify  
4 competently to them.

5 **My Employment At Esri**

6 2. I was employed by Esri in California as a UX Architect from approximately July  
7 2020 until February 2021. Esri classified me as an exempt employee and paid me on an hourly  
8 basis (not salary). During my employment, I routinely worked overtime, but I never received  
9 overtime pay (i.e., 1.5 times my regular rate for more than 40 hours per week). Rather, Esri had a  
10 “Bank Time” policy that treated my overtime hours as “banked” hours, meaning that I had the  
11 option of getting paid for those hours to during a later pay period, or getting paid out for them now.  
12 Either way, my overtime hours were paid out at my regular hourly rate.

13 3. During my employment, I had to record at least 40 hours per week in Esri’s  
14 timekeeping system. If I recorded less than 40 hours of work per week, Esri would deduct the  
15 missing hours from my sick leave, vacation time, or “banked” hours. According to the Bank Time  
16 policy, if I had a negative bank balance at the end of the year, I would need to discuss it with my  
17 supervisor.

18 4. Additionally, because I was classified as an “exempt” employee, I was not provided  
19 off-duty meal or rest breaks, and Esri did not pay me premium pay for missed breaks, even though  
20 I often worked through my breaks due to time pressure.

21 **My Time and Efforts Devoted to this Case**

22 5. I first spoke with my attorneys about this case in early October 2022. During our  
23 initial conversation, we discussed the details of my employment with Esri including its remote work  
24 requirements; my work schedule including how often I worked overtime and how Esri compensated  
25 me for that time pursuant to its “bank” policy. This initial call lasted approximately half an hour.

26 6. During that call, we also discussed the duties of a class representative. I understood  
27 that I would be required to put the interests of the Class Members before my own and to make  
28 decisions that are in the best interests of the Class. I was also aware that filing this lawsuit was  
reputationally risky for me. I work as a product manager for the State of California’s Office of Data  
and Innovation and oversee a lot of high-profile initiatives that come directly from Governor  
Newsom. Having my name on a lawsuit of this size was a high stakes decision that was not easy to  
make. I decided to bring this lawsuit anyways because I wanted to help people who were having a

1 particularly difficult time during the COVID shutdown and be an advocate for my former Esri  
2 colleagues. And, I wanted Esri to be an equitable employer who takes care of its employees who  
3 need help.

4 7. Following that initial call, I spent about two hours searching through my emails and  
5 records for relevant documents to send to my attorneys including emails, offer letter, compensation  
6 policies, and W2s. I also signed a personnel file request that my attorneys sent to Esri.

7 8. In mid-October 2022, my attorneys sent me a draft complaint to review and approve  
8 for filing. I spent about two hours carefully reviewing the Complaint, and compiling a list of  
9 questions to discuss with my attorneys before approving the lawsuit.

10 9. In September 2024, my attorneys notified me that a full-day mediation was  
11 scheduled with Esri for October 2024, and sent me a copy of a detailed mediation brief to review.  
12 I spent about 1.5 to two hours reviewing the brief to make sure all of my claims asserted in the  
13 Complaint were included. I then had three or four follow up phone calls with my attorneys to clarify  
14 the facts and claims that were discussed in the brief.

15 10. Although I did not attend the mediation due to a scheduling conflict, I made sure to  
16 stay available by phone throughout the day so that my attorneys could contact me if needed, as they  
17 asked me to do.

18 11. Following the mediation, my attorneys explained to me that the case had not settled  
19 at mediation, but that a mediator made a proposal that the parties could accept or reject. I discussed  
20 the terms of the mediator's proposal with my attorneys, and decided to accept it on behalf of the  
21 Class because I thought it was a very good result. Thereafter, my attorneys informed me that Esri  
22 accepted the mediator's proposal as well, and that they and Esri's attorneys would draft a  
23 Memorandum of Understanding to memorialize the basic terms of settlement. In or about  
24 November 2025, my attorneys sent me the Memorandum of Understanding to review and sign.  
25 After I reviewed the Memorandum of Understanding, I discussed it with my attorneys, and then  
26 signed it.

27 12. In February 2025, my attorneys sent me the long-form Settlement Agreement to  
28 review and sign. I also spent time going over the Settlement Agreement with my attorneys before  
I signed it.

13. Altogether, I spent approximately four hours carefully reviewing and discussing  
with my attorneys the Memorandum of Understanding and the Settlement Agreement, as well as  
discussing the settlement process with my attorneys, including what my role would be once the

1 Settlement was filed, how the Class Notice process would work, and generally what the next steps  
2 in the approval process would be.

3 14. Although it is hard to be precise, given that it has been well over two years since I  
4 began communicating with my lawyers about this case, I estimate that I have spent at least 15 hours  
5 working on this case. This estimate is conservative because it is based only on the specific tasks  
6 identified above, and because it does not include additional time I will spend on this case before it  
7 is completed many months from now.

8 I declare under penalty of perjury under the laws of the United States and the State of California  
9 that the foregoing is true and correct. Executed on 5/6/2025

10 *Yesenia Gutierrez*  
11 YESENIA GUTIERREZ

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF SAN BERNARDINO

YESENIA GUTIERREZ and KATHY CHAN,  
 individually and on behalf of all others  
 similarly situated,

Plaintiffs,

v.

ENVIRONMENTAL SYSTEMS RESEARCH  
 INSTITUTE, INC., a California Corporation,

Defendant.

Case No. CIVSB2300014

**DECLARATION OF KATHY CHAN IN  
 SUPPORT OF MOTION FOR  
 PRELIMINARY APPROVAL**

Date: June 9, 2025

Time: 8:30 a.m.

Dept: S26

Judge: Christian Towns

1 I, Kathy Chan, declare as follows:

2 1. I am a named Plaintiff and putative Class Representative in this matter. I am over  
3 18 years of age. I have personal knowledge of the following facts and could and would testify  
4 competently to them.

5 **My Employment at Esri**

6 2. I was employed by Esri in California from October 2018 to September 2022 as a  
7 financial analyst.

8 3. According to my offer letter, Esri classified me as an exempt employee. Esri did not  
9 pay me 1.5 times my regular hourly rate for overtime. Instead, Esri had a “Bank” time policy that  
10 worked as follows: I had to track my hours worked and submit them to Esri. Each bi-weekly  
11 timesheet had to add up to 80 hours, whether based on time worked or a combination of time  
12 worked, sick leave, holiday, and/or vacation time. Then, if I worked more than 80 hours, my  
13 overtime hours would be “banked” meaning that I could choose to get paid for them at a later date  
14 or use them as time off. The banked hours were credited at a rate of 1:1, i.e. one hour of time off  
15 for one banked hour, and one hour of pay at my regular hourly rate for one banked hour. In other  
16 words, I was not paid an overtime rate for hours worked over 40 in a week (or 8 in a day).

17 4. If I worked less than 40 hours in a week, those “missing” hours would be taken out  
18 of my earned sick time, vacation time, or “banked” time. If I did not have any sick, vacation, or  
19 bank time, then I would incur a “negative” bank balance. According to the Bank Time policy, if I  
20 had a negative bank balance at the end of the year, I would have to discuss it with my supervisor.,  
21 although as far as I recall, I never ended the year with a negative balance.

22 5. In addition, I was never told by anyone at Esri that I was entitled to off-duty meal  
23 and rest breaks, and Esri did not pay me premium pay for missed breaks when I worked through  
24 my lunch or rest breaks.

25 6. In March 2020, like many other employees, I shifted to remote work due to the  
26 COVID-19 shutdown. I paid out of pocket for my home office expenses, including high speed  
27 internet and cellphone. Esri did not reimburse me anything for these monthly expenses.

28 **My Decision to Act as a Class Representative**

1 After speaking to my attorneys about my work experience at Esri, I decided to join  
2 this lawsuit as a named Plaintiff and Class Representative. I was concerned that joining the lawsuit  
3 would make me appear litigious and impact my ability to find other jobs in the future. Nonetheless,

1 I decided to proceed because I felt it was important to ensure that Esri was held accountable for any  
2 Labor Code violations and that my colleagues and I suffered.

3 8. I believe that my claims are typical of those of the Class Members on whose behalf  
4 I allege unpaid overtime, missed breaks, wage statement, waiting time penalties, and unreimbursed  
5 expense claims, and my interests are aligned with their interests. I am fully committed to  
6 representing the interests of the Class Members. I understand that I am required to put the interests  
7 of the Class Members before my own and to make decisions that are in the best interests of the  
8 Class, which is what I have done thus far and will continue to do until this case is concluded.

8 **My Time and Efforts Devoted to this Case**

9 9. I first spoke with my attorneys about my claims in late 2022. During our initial  
10 conversation, we discussed the details of my employment with Esri including my job duties and  
11 responsibilities; how I recorded time using Esri's timekeeping system; Esri's pay policies including  
12 its Bank Time Policy; how Esri classified me; and my transition from on-site to remote work due  
13 to COVID-19. We also discussed this lawsuit, which had been filed by another former employee  
14 of Esri (Yesenia Gutierrez), and what my duties and obligations as a Class Representative would  
15 be if I joined the lawsuit. This initial conversation lasted between 1 and 1.5 hours.

16 10. Following that call, I spent about an hour searching through my records to find my  
17 offer letter and wage statements to e-mail to my attorneys.

18 11. Subsequently, my attorneys asked me to look for additional documents related to  
19 my employment and to look through my contacts for former colleagues who would be willing to  
20 speak to my attorneys about their experience at Esri in order to aid the investigation of this case. I  
21 located and provided my attorneys with names of several former Esri colleagues.

22 12. Thereafter, in about January 2023, my attorneys sent me a draft PAGA Notice to  
23 review and approve. I carefully reviewed the PAGA Notice to make sure that the facts that  
24 described my employment experience were accurate and that I agreed with everything the Notice  
25 stated.

26 13. In March 2023, my attorneys sent me a draft Amended Complaint, adding me as a  
27 Named Plaintiff, Class Representative, and PAGA Plaintiff. I carefully reviewed the Complaint  
28 before approving it for filing. I total, I estimate I spent one hour reviewing and approving the PAGA  
Notice and the Complaint.

14. In September 2024, I reviewed the mediation brief in preparation for the upcoming  
mediation with Esri scheduled for October 1, 2024. After I reviewed the brief, I discussed it my

1 attorneys. We also discussed my attorneys' views as to the strength and weaknesses of each claim,  
2 and generally what to expect at mediation. I spent at least one hour reviewing the brief and speaking  
3 to my attorneys.

4 15. Although I was not able to attend the entire mediation due to work obligations, I did  
5 take a few hours off work to meet the mediator and answer any questions she had. I also made sure  
6 to be available by phone through the entire day, as my attorneys asked me to do, in case they needed  
7 to reach me for questions or to discuss a proposed settlement.

8 16. After the mediation concluded, my attorneys told me that the case did not settle, but  
9 that the mediator made a settlement proposal, which each party could accept or reject. I discussed  
10 the terms of the mediator's proposal with my attorneys and agreed to accept it on behalf of the  
11 Class. Several days after the mediation session, my attorneys informed me that a settlement had  
12 been reached.

13 17. My attorneys subsequently sent me a Memorandum of Understanding, which I  
14 reviewed, discussed with my attorneys, and approved. Approximately three months later, my  
15 attorney sent me a long-form Settlement Agreement to review. I reviewed the Settlement  
16 Agreement and discussed it with my attorneys before signing it. I spent approximately one to 1.5  
17 hours reviewing these documents, discussing them with my attorneys, and discussing the timeline  
18 for finalizing the settlement.

19 18. I estimate that, to date, I have spent at least 12 hours on the tasks described above.  
20 However, this estimate only captures time spent on the tasks that demanded my attention for  
21 significant blocks of time since I started working on this case nearly 2.5 years. There are numerous  
22 emails and calls with my attorneys which were relatively short and which are difficult for me to  
23 estimate. I also communicated about this case with some of my former colleagues, and spent time  
24 here and there searching for documents, which are not captured in this declaration.

25 19. I have done my best to represent the interests of the Class Members by promptly  
26 responding to my attorneys whenever they reached out to me, searching for documents, reviewing  
27 and approving case documents, and reaching out to former colleagues about the case. I am very  
28 proud of the result this case achieved. I believe that the settlement provides a meaningful recovery  
for the members of the Class and provides incentives to employers to comply with the Labor Code.

I declare under penalty of perjury under the laws of the United States and the State of California  
that the foregoing is true and correct. Executed on 5/8/2025.

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KATHY CHAN

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