

1 STAN S. MALLISON (Bar No. 184191)
2 Stanm@TheMMLawFirm.com
3 HECTOR R. MARTINEZ (Bar No. 206336)
4 Hectorm@TheMMLawFirm.com
5 DANIEL C. KELLER (Bar No. 332576)
6 Dkeller@TheMMLawFirm.com
7 MALLISON & MARTINEZ
8 1939 Harrison Street, Suite 730
9 Oakland, California 94612-3547
10 Telephone: (510) 832-9999
11 Facsimile: (510) 832-1101

12 Attorneys for Plaintiffs

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14 **UNITED STATES DISTRICT COURT**

15 **EASTERN DISTRICT OF CALIFORNIA – SACRAMENTO DIVISION**

16

17 LAGARION BROWN, ROY JACKSON,
18 YAPHETT SAUNDERS, ISAAC
19 SAUNDERS, HAKEEM ALLAMBIE, and
20 NICHLON GARRETT, individually and on
behalf of those similarly situated,

21

Plaintiffs,

22

vs.

23

24 TETRA TECH, INC., JESCO
25 ENVIRONMENTAL AND GEOTECHNICAL
26 SERVICES, INC., and DOES 1-20,

27

Defendants.

28

Case No.: **2:20-CV-01133-DAD-DMC**

CLASS ACTION

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

Date: November 16, 2022

Time: 10:00 am

Judge: Hon. Dennis M. Cota

Room: 304, 3rd Floor

Complaint Filed: June 3, 2020

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TABLE OF AUTHORITIES**CASES**

1	<i>Cellphone Termination Fee Cases,</i>	
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16	<i>Hanlon v. Chrysler Corp.,</i>	
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18	<i>Howell v. Advantage RN, LLC,</i>	
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28	<i>Litty v. Merrill Lynch & Co., Inc.,</i>	

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2	<i>Magadia v. Wal-Mart Associates, Inc.</i> ,	
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10	<i>Officers for Justice v. Civil Serv. Comm'n</i> ,	
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12	<i>Schiller v. David's Bridal, Inc.</i> ,	
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