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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STEVE RABIN and JOHN CHAPMAN,
on behalf of themselves, and all others
similarly situated,

Plaintiffs,

v.

PRICEWATERHOUSECOOPERS LLP,

Defendant.

Case No. 16-cv-02276-JST

**PLAINTIFFS' RENEWED MOTION FOR
CONDITIONAL COLLECTIVE ACTION
CERTIFICATION AND ISSUANCE OF
COURT-AUTHORIZED NOTICE
PURSUANT TO 29 U.S.C. § 216(b)**

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NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that, on November 1, 2018, at 2:00 p.m., in Courtroom 9 of this Court, located at 450 Golden Gate Avenue, 19th floor, San Francisco, California, before the Honorable Jon S. Tigar, Plaintiffs Steve Rabin and John Chapman hereby do and will move the Court for an order conditionally certifying the proposed collective pursuant to Section 216(b) of the Fair Labor Standards Act and Section 626(b) of the Age Discrimination in Employment Act (“ADEA”). As discussed in the following memorandum in support of the motion, this motion is made on the grounds that Plaintiffs’ allegations and the evidence in the record to date sufficiently show that Plaintiffs are similarly situated to the members of the proposed collective, warranting the issuance of notice so that potential collective members may learn of their rights and decide whether to join the lawsuit. This motion is based on this notice of motion and motion; the memorandum in support of the motion; the accompanying Declaration of Jahan C. Sagafi and the exhibits attached thereto; all matters of which the Court may take notice; and any oral or documentary evidence presented at the hearing on the motion.

For the reasons set forth below, Plaintiffs respectfully seek an order: (1) conditionally certifying the proposed collective; (2) approving Plaintiffs’ proposed notice and distribution plan; and (3) requiring Defendant PricewaterhouseCoopers LLP (“PwC”) to produce the collective member data discussed in the memorandum in support of the motion.

Plaintiffs have noticed the motion, per the Court’s Local Rules and the Court’s Calendar showing dates of unavailability, for Thursday, November 1, 2018, because both Mr. Sagafi and Ms. Stewart will be unavailable on the next available Thursday that is at least 35 days from today (October 25). Plaintiffs believe that the matter is suitable for disposition without oral argument.

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INTRODUCTION

1
2 This case challenges Defendant PwC’s alleged policy and practice of giving preference to
3 younger¹ applicants for Associate, Experienced Associate, and Senior Associate accounting
4 positions (the “Covered Positions”) and passing over qualified older applicants. This Motion
5 seeks certification of a nationwide ADEA collective of older applicants who, from October 18,
6 2013 onward, applied for a Covered Position in PwC’s Assurance or Tax lines of service, met the
7 minimum qualifications for the position, and were not offered the position. This collective
8 definition is narrower than the one proposed in Plaintiffs’ earlier 216(b) motion, as the earlier
9 definition did not address applicant qualifications, and thus included unqualified applicants.
10

11 Plaintiffs present substantial allegations and evidence that they are similarly situated to
12 the proposed collective, in the form of basic data analyses, PwC policy documents, statements by
13 PwC recruiting and hiring personnel, and the testimony of Plaintiffs and 24 other unsuccessful
14 older applicants. The result is that PwC has offered jobs to just 2.7% of older applicants,
15 compared to 17.6% of younger applicants; in other words, younger applicants get offers more
16 than six times as often.² As Figure 1 (on page 9) shows, had PwC offered older applicants jobs
17 at the same rate it had offered younger applicants jobs, 1,603 more older applicants would have
18 been hired.
19

20 As part of their showing below, Plaintiffs put to rest PwC’s argument that its decisions
21 whether to interview applicants could be dispositive as to qualifications. As the Court has noted,
22 Plaintiffs, though qualified, were sometimes rejected pre-interview. Plaintiffs also identify over
23 a dozen other proposed Collective Members who had the stated minimum qualifications but were
24

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¹ Herein, “younger” refers to under 40 years old; “older” refers to 40 years old and over.

28 ² Ex. 31 (Neumark Report) Table 1.

1 not interviewed. This is unsurprising when PwC’s focus on selecting candidates with the right
2 “fit” for interviews is taken into account, given its belief that older applicants do not “fit.” In
3 fact, as shown by Figure 1 (on page 9), younger applicants are 2.9 times more likely to be
4 selected for interviews than older applicants. That difference in interview selection rates,
5 combined with the fact that younger applicants vastly outnumber older applicants to begin with
6 (by a factor of 8.5x), results in 24.9 times more young interviewees in total than older
7 interviewees (26,730 compared to 1,075).³

9 In sum, the Court should not accept PwC’s argument that the interview decision
10 constitutes merely a screen for objective minimum qualifications.

11 Overall, Plaintiffs’ substantial evidence comfortably surpasses the modest burden at this
12 early stage, warranting conditional certification.

13 **FACTUAL BACKGROUND**

14 PwC is a global accounting and auditing firm with over 70,000 employees in the
15 Americas.⁴ PwC has a centrally managed and standardized recruitment and hiring process for
16 the Covered Positions that focuses on college campuses, rejects applicants who have “too much”
17 experience, and is infected by bias against older applicants. As a result, younger applicants are
18 538% more likely to get offers than older applicants.⁵ Although only approximately 30% of
19 American accountants are Millennials (those born between 1980 and 1995), PwC’s workforce
20 was recently estimated to be almost 80% Millennial,⁶ and 98% of its recent offers were extended
21
22
23

24 ³ See below p. 9, Fig. 1.

25 ⁴ See Ex. 69 (PwC’s Global Annual Review 2017). All exhibits referenced herein are attached to
the Declaration of Jahan C. Sagafi (“Sagafi Decl.”).

26 ⁵ Plaintiffs’ First Motion for Conditional Certification, Dkt. No. 199 (“Pls.’ Mot.”) at 15-16
nn.92-93 (citing Ex. 31 (Neumark Report ¶ 18 & Table 3).

27 ⁶ Ex. 34 (PwC’s NextGen: A global generational study), PWC_00018983; Bureau of Labor
28 Statistics, Labor Force Statistics from the Current Population Survey,

1 to younger workers.⁷

2 Because PwC is a gateway employer in the accounting industry, its hiring practices have
3 a significant impact on older workers seeking to join the profession. A PwC job can open the
4 door to future business opportunities; thus, PwC's discriminatory hiring policies and practices
5 deprive older workers of current employment as well as opportunities to advance in the industry
6 down the road.⁸

8 **I. PwC's Hiring Policies and Practices for Covered Positions Are Centralized and Uniform.**

9 **A. Central Controls Ensure Companywide Consistency in Hiring.**

10 PwC's "Sourcing Center of Excellence" ensures a "consistent approach" to hiring.⁹ The
11 Center's "Sourcing Leadership Team" has companywide authority to develop the policies and
12 procedures governing each step of the hiring process: sourcing, screening, interviewing, and
13 hiring.¹⁰ The Team ensures that PwC's policies are carried out as prescribed throughout the
14 country, and supervises Market Sourcing Leaders in different geographies and hiring tracks, who
15 help oversee the implementation of the Firm's recruiting strategies. In turn, Market Sourcing
16 Leaders supervise, manage, and train recruiters, who carry out the day-to-day hiring work.¹¹
17 PwC centrally manages template-generated job postings (called "requisitions") to ensure
18 "consistency."¹²

21 _____
22 <https://www.bls.gov/cps/cpsaat18b.htm> (last modified Feb. 8, 2017).

23 ⁷ See Ex. 33 (Second Supplemental Report) Table 8.

24 ⁸ See, e.g., Ex. 9 (Chapman Decl.) ¶¶ 14-15; Ex. 23 (Tiruneh Decl.) ¶ 10; Ex. 13 (Barnhart Decl.)
25 ¶ 13; Ex. 29 (Zatek Decl.) ¶¶ 11-12; Ex. 26 (Wells Decl.) ¶ 12; Ex. 11 (Griffith Decl.) ¶¶ 14-16;
26 Ex. 13 (Hearn Decl.) ¶¶ 17-19; Ex. 14 (Huffman Decl.) ¶¶ 12-13; Ex. 25 (Treinen Decl.) ¶¶ 10-
27 11; Ex. 4 (Ahn Decl.) ¶ 9; Pls.' Mot. at 3 n.7 (collecting evidence).

28 ⁹ Ex. 35 (PwC Talent Selection Process - Overview), PWC_00006862, 66, 72.

¹⁰ *Id.* at PWC_00006870; Pls.' Mot. at 10 n.53 (collecting evidence).

¹¹ *Id.*

¹² Ex. 36 (PwC Recruitment Process: Campus), PWC_00011074; see Ex. 37 (The PwC
Recruitment Process: Experienced), PWC_00000710; Ex. 38 (Source1 Quick Reference Card –

1 Similarly, PwC applies a “consistent approach” to applicant interviews, known as the
 2 Talent Selection Process.¹³ To ensure that its interview process is applied “in a structured and
 3 consistent way,” PwC uses standardized interview questions and scoring guidelines.¹⁴ “[E]ach
 4 person who interview[s] candidates,” including partners, managers, and recruiters, must
 5 “complete [a] course” on how to use these uniform guidelines.¹⁵
 6

7 **II. PwC Systematically Advantages Young Applicants.**

8 PwC hires through two main “tracks”: (1) campus and (2) “experienced.”¹⁶ The campus
 9 track is PwC’s main focus, as it spends roughly eight times more on campus-track than
 10 experienced-track recruiting (█████ vs. █████).¹⁷ Over 99% of entry-level Associate offers are
 11 made through the campus track, and over 70% of offers overall are made through the campus
 12 track, leaving most older applicants with access to just 30% of the available Covered Positions at
 13 PwC.¹⁸
 14

15 **A. Campus Track Hiring Disadvantages Older Applicants.**

16 Through the campus track, PwC targets students via events, career center job
 17 announcements, and on-campus interviews.¹⁹ This disadvantages older applicants and
 18

19 Campus Job Posting Templates), PWC_00005914-15; Pls.’ Mot. at 11 nn.59-60 (collecting
 20 evidence).

21 ¹³ Ex. 35 (PwC Talent Selection Process - Overview), PWC_00006862.

22 ¹⁴ Ex. 39 (PwC Professional Interview Guide), PWC_00004935, 38; Ex. 40 (PwC Talent
 23 Selection Process – Behavior-Based Approach), PWC_00006894.

24 ¹⁵ Ex. 35 (PwC Talent Selection Process - Overview), PWC_00006862.

25 ¹⁶ Ex. 36 (PwC Recruitment Process: Campus), PWC_00011073-74; Ex. 37 (The PwC
 26 Recruitment Process: Experienced), PWC_00000707.

27 ¹⁷ Ex. 41 (Recruiting Overview, October 2014), PWC_0054710 at 4 (Recruiting Overview,
 28 October 2014), PWC_0054710 at 4 (detailing recruiting costs); Ex. 43xx (Human Capital 5 Yr
 Plan), PWC_00059918 at 26-27 (identifying the aforementioned programs as related to campus
 or intern recruiting and showing that in 2015, █████ was spend on campus versus █████ on
 experienced recruiting).

¹⁸ Ex. 31 (Neumark Report) Tables 4 & 5.

¹⁹ Ex. 36 (PwC Recruitment Process: Campus), PWC_00011074-77; Ex. 43 (Sourcing Update,
 Aug. 16, 2011), PWC_00041827 at 9, 23-24; Ex. 44 (Source1 Campus Recruiter Training

1 implements PwC's preference for younger workers in several structural ways. First, because
2 college students are disproportionately younger, a laser-focus on campus recruiting skews the
3 hiring young. Second, PwC recruits exclusively on campus to fill internships, and interns are
4 dramatically more likely to be hired than outsiders: 85-90% of interns "convert" into full-time
5 Associates, whereas just 28% of outside applicants to Associate positions are hired.²⁰ Those
6 former interns tend stay with PwC long enough to be promoted to Experienced or Senior
7 Associate positions, too, further limiting opportunities for outside applicants.²¹ Third, job
8 postings for some Associate positions list graduation date limits, excluding applicants who
9 graduated too long ago.²²

11 Critically, the few older applicants who overcome these structural hurdles and actually
12 apply to campus track positions are disfavored in the process: within the campus track, younger
13 applicants are five times more likely to get offers than older applicants in the same track.²³

15 **B. Experienced Track Applicants Have to Wait in Line Behind**
16 **Disproportionately Young Associate Incumbents.**

17 Having hired disproportionately younger entry-level Associates, PwC doubles down on
18 the structural advantages described above by giving these younger Associates a leg up in
19
20

21 _____
22 updated as of 3.24.16), PWC_00005929 at 27, 29.

23 ²⁰ Ex. 54 (email), PWC_00446227 (90% of interns are "conver[ted]" to full-time roles); Ex. 45
(Recruiting Trends - June 2016), PWC_00187926 at 13 (89% of summer 2015 interns
24 converted); Pls.' Mot. at 12 n.69 (collecting evidence); Ex. 31 (Neumark Report) Table 3.

25 ²¹ Ex. 46 (2010 Campus Hire Study), PWC_00495313 [REDACTED]

26 ²² See, e.g., Ex. 77 (Fall 2011 Assurance Associate Requisition, noting "Graduation Begin Date"
of December 31, 2010 and "Graduation End Date" of August 1, 2011), PWC_00413752, 754;
Ex. 78 (Fall 2014 Tax Associate Requisition, noting "Graduation Begin Date" of December 31,
2013 and "Graduation End Date" of August 31, 2014), PWC_00185701, 705.

27 ²³ Ex. 31 (Neumark Report) Table 2 (hiring rates of 31% and 6% for younger and older
28 applicants in campus track, respectively).

1 “experienced” hiring, to help them progress to the Experienced and Senior Associate positions.²⁴
2 Experienced and Senior Associate openings must be first posted “exclusively” for incumbent
3 employee applicants, hidden from outsiders; later, the positions may (or may not) be opened to
4 other gateways (e.g., external applicants, third-party recruiters, etc.).²⁵
5

6 **III. Bias Against Older Applicants Infects PwC’s Recruiting, Hiring, and Retention.**

7 **A. PwC Culture and Branding Prefers Millennial Workers.**

8 PwC publicly touts its preference for Millennial (or “Gen Y”) workers,²⁶ whom it
9 identifies as currently aged 22-38.²⁷ PwC has commissioned several studies on Millennial
10 preferences to help attract this target demographic.²⁸

11 In addition, PwC’s online marketing is designed to attract Millennials.²⁹ The public
12 persona that PwC portrays on social media is noticeably young,³⁰ and its website profiles twenty
13 prototypical associates who all appear to be under 40.³¹ PwC recruiters and management refer
14 affectionately to younger applicants as “kids” and “kiddos.”³²
15

16 _____
17 ²⁴ Ex. 47 (Experienced Recruiting Quality Study Review), PWC_00026915-16.

18 ²⁵ Ex. 48 (Source1 QRC - Talent Identification - Overview), PwC_00000542; Ex. 49 (Module 3
19 – Create Requisition), PwC_00006785.

20 ²⁶ Ex. 73, Bob Moritz, *The U.S. Chairman of PwC on Keeping Millennials Engaged*,
21 <https://hbr.org/2014/11/the-us-chairman-of-pwc-on-keeping-millennials-engaged> (Nov. 2014),
22 PWC_00039506 (describing PwC as having “strikingly young” workforce and having “always
23 employed large numbers of young people”).

24 ²⁷ Ex. 50 (Our People Strategy), PWC_00012482.

25 ²⁸ Ex. 34 (PwC’s NextGen: A global generational study), PWC_00018981 (“PwC undertook a
26 massive generational study . . . to better understand the attitudes and goals of its Millennial
27 workforce.”); Ex. 50 (Our People Strategy), PWC_00012482 (stating PwC’s goal “to better
28 understand what will attract, motivate, and retain new generations”); Pls.’ Mot. at 6 n.28
(collecting evidence).

29 Ex. 58 (email), PWC_00036574

Pls.’ Mot. at 6 n.30 (collecting evidence).

³⁰ See, e.g., Ex. 70 (Instagram post); Ex. 71 (Facebook post); Pls.’ Mot. at 6 n.31 (collecting
evidence).

³¹ Ex. 72 (PwC, A Day in the Life).

³² Ex. 55 (email), PWC_00620128 (referring to campus candidates as “Mizzou Kiddos”); Ex. 56
(email), PwC_00753094 (“kids”); Ex. 57 (email), PWC_00755070 (“Tax kiddo”); Pls.’ Mot. at 6

1 **B. PwC Stigmatizes and Avoids Older Applicants.**

2 PwC’s age-conscious culture is also expressed in the way its employees interact with
3 older applicants. PwC recruiters and management (1) describe older candidates as “too old,”³³
4 (2) make thinly veiled references to applicants’ age (for example, calling them “non-traditional”
5 or the wrong “fit”),³⁴ (3) invoke negative stereotypes about older workers (for example, that
6 older workers are unwilling to work long hours or learn new technology);³⁵ (4) ask older
7 candidates whether they are comfortable working with younger coworkers;³⁶ and (5) ignore older
8 workers at recruiting events.³⁷

10 **C. PwC Rejects Applicants for Being “Too Experienced.”**

11 PwC apparently considers experience a negative quality. Because experience is
12 correlated with age, this too expresses and implements PwC’s disfavor for older applicants. PwC
13 recruiters repeatedly dismiss older candidates as “too experienced” or “overqualified.”³⁸ PwC
14

15
16 _____
17 n.27 (collecting evidence).

18 ³³ Ex. 59 (email), PWC_00755102 (describing applicants as “too old”); Ex. 60 (emails),
19 PWC_00753799-800 (rejecting candidate who was “older” for failure to have the right “fit”).

20 ³⁴ Ex. 61 (email), PWC_00001516 (“non-traditional student” and recruiter does not “want to lead
21 him on given his maturity”); Ex. 62 (emails), PWC_00390210-11 (describing rejected candidate
22 as “more mature than most of our new associates” and “nice guy” but not the right “cultural fit”);
23 Pls.’ Mot. at 7 n.35 (collecting evidence).

24 ³⁵ Ex. 18 (King Decl.) ¶ 13 (PwC employee assumed that PwC’s long working hours would not
25 be a good fit for 40+ year old candidate); Ex. 27 (Woolbright Decl.) ¶ 9 (interviewer emphasized
26 that older applicant would need to learn new systems); Pls.’ Mot. at 7 n.36 (collecting evidence).

27 ³⁶ Ex. 22 (Rabin Decl.) ¶ 10; Ex. 9 (Chapman Decl.) ¶ 9; Ex. 13 (Hearn Decl.) ¶ 11.

28 ³⁷ Ex. 12 (Halliday Decl.) ¶ 10 (older applicant ignored at campus recruiting events); Ex. 7
(Barnhart Decl.) ¶ 6 (same); Pls.’ Mot. at 7 n.38 (collecting evidence).

³⁸ See Ex. 52 (Blitz 6 Target List), PWC_00942529 (candidates rejected: “too senior”); Ex. 63
(email), PWC_00756411 (candidate rejected: “too experienced for our senior position.”); Ex. 64
(email), PWC_00666531 (candidate rejected: “too much experience for a senior associate”); Ex.
65 (email), PWC_0046389 (“We are passing on him. Too much experience for a Senior
Associate.”); Ex. 66 (email), PWC_00945466 (“Not interested in this one. Too much experience
for a senior associate.”); Ex. 67 (email), PWC_00689352 (candidate rejected because “[t]oo
much experience for a Senior Associate.”); Ex. 68 (email), PWC_00691489 (candidate rejected:
“way too much experience for a Senior Associate role.”).

1 often knows that these applicants are older (e.g., years of experience on a resume or application),
 2 and often rejects them without an interview.³⁹

3 **IV. As a Result, Older Applicants Are Hired Far Less Than Younger Applicants.**

4 PwC's data, analyzed by Plaintiffs' expert, Dr. David Neumark, shows that older
 5 applicants are disfavored at each step of PwC's hiring process. Dr. Neumark found that 11.8%
 6 of older workers are interviewed and 2.7% are hired for Covered Positions, compared to 34.4%
 7 and 17.6% for younger applicants.⁴⁰ See Fig. 1 below.
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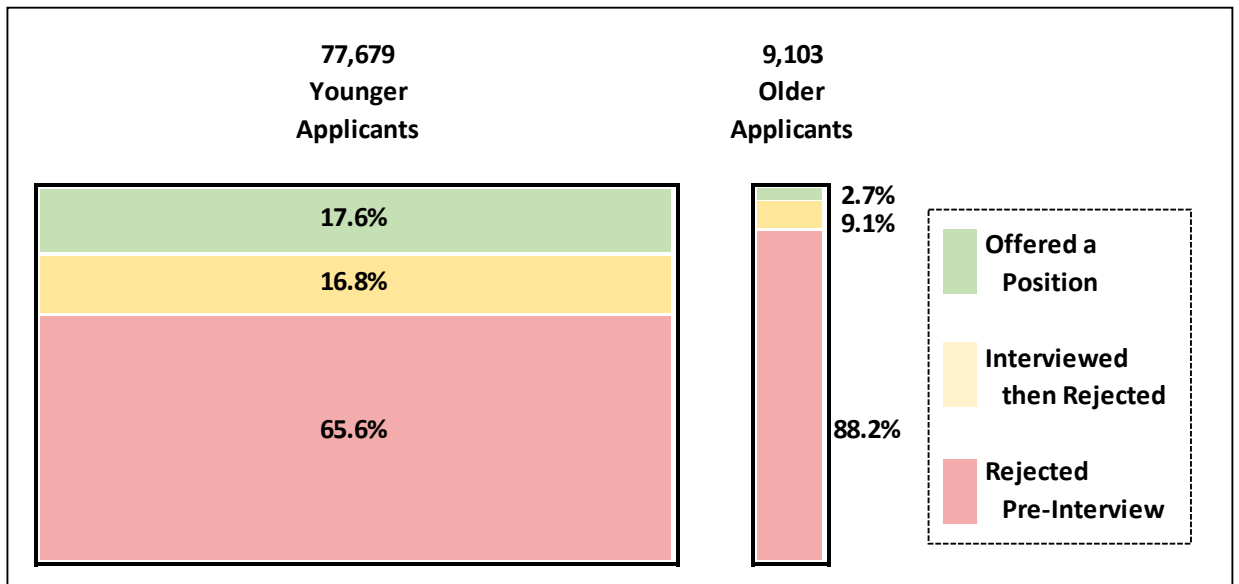
19 ³⁹ *Id.* Many qualified declarants were rejected pre-interview. Ex. 9 (Chapman Decl.) ¶¶ 6, 8
 20 (cum laude with Master's in accounting and passing all four parts of CPA exam); Ex. 4 (Ahn
 21 Decl.) ¶ 5; Ex. 1 (15 years of experience in taxation and accounting offices, eligible for CPA);
 22 Ex. 7 (Barnhart Decl.) ¶¶ 7-9 (GPA above 3.6, eligible for CPA exam, degree in accounting and
 23 finance); Ex. 11 (Griffith Decl.) ¶¶ 6-11; Exs. A, B (accounting and business management
 24 degrees, 3.9+ GPA, eligible for CPA exam, relevant accounting experience); Ex. 13 (Hearn
 25 Decl.) ¶¶ 6-9; Ex. A (accounting degree, CPA license, 10+ years accounting experience); Ex. 14
 26 (Huffman Decl.) ¶¶ 5-7; Ex. A (economics/accounting degree, CPA underway, 10+ years
 27 accounting experience); Ex. 15 (Iio Decl.) ¶¶ 6-8; Ex. A (20 years of audit and accounting
 28 experience, Master's in accounting, and CPA); Ex. 10 (Guerguerian Decl.) ¶¶ 5-7 (licensed CPA
 with Master's degree in accounting); Ex. 23 (Tiruneh Decl.) ¶¶ 4-7; Ex. A (honors degrees in
 accounting, degree in economics, passed CPA exam, 10+ years experience); Ex. 26 (Wells Decl.)
 ¶¶ 5-8; Ex. A (Master's in economics *magna cum laude*, CPA license, 7+ years accounting
 experience); Ex. 29 (Zatek Decl.) ¶¶ 6-8; Ex. A (taxation Master's, CPA, 20+ year tax
 experience with accounting firms).

⁴⁰ Ex. 33 (Second Supplemental Neumark Report) ¶¶ 5-7, Table 8; Fig. 1.

Figure 1: Applicant Success Rate by Stage⁴¹

	Headcount		Relative
	Older	Younger	Young/Old
Total applicants	9,103	77,679	8.5x
- Interviewed	1,075	26,730	24.9x
- Offered a job	250	13,682	54.7x
% of Applicants interviewed	11.8%	34.4%	2.9x
% of Applicants offered jobs	2.7%	17.6%	6.4x
% of interviewees offered jobs	23.3%	51.2%	2.2x
Number of applicants who would have been offered jobs using younger applicant offer rate	1,603	13,682	

Figure 2. Illustration of Fate of Younger and Older Applicants⁴²



⁴¹ In Fig. 1, the bold numbers are from Dr. Neumark’s Second Supplemental Neumark Report, Table 8; the others are simple calculations by Plaintiffs’ counsel from those numbers.

⁴² Figure 2 is a proportionate graphical representation of Figure 1 (i.e., the width of the Younger Applicant box is roughly 77,679/9,103 the width of the Older Applicant box, and the colored boxes are proportionate based on headcount and percentages).

1 In other words, younger applicants are 2.9 *times* more likely to be interviewed and 6.4
 2 *times* more likely to be hired than older workers.⁴³ Even among applicants who are interviewed,
 3 51% of younger interviewees are ultimately hired, versus 23% of older interviewees.⁴⁴ Dr.
 4 Neumark found that older applicants fare significantly worse than younger applicants across all
 5 Associate, Experienced Associate, and Senior Associate positions, in both campus track and
 6 experienced track hiring, and concluded that results show “very strong statistical deviations from
 7 age-neutrality in hiring” and concluded that this evidence is “strongly consistent with
 8 discrimination in favor of younger applicants” and “against older applicants.”⁴⁵

10 ARGUMENT

11 **I. Plaintiffs’ Burden at the First Stage of Conditional Certification Is Low.**

12 Plaintiffs seek conditional certification of their ADEA claims pursuant to 29 U.S.C.
 13 § 626(b), which incorporates 29 U.S.C. § 216(b). These provisions allow plaintiffs to prosecute
 14 collective action claims on behalf of others “similarly situated.” 29 U.S.C. § 216(b). Issuance of
 15 notice informs “similarly situated” individuals who may be affected by the claims at issue and
 16 allows them to decide whether to join the case. *Deatrick v. Securitas Sec. Servs. USA, Inc.*, No.
 17 13-cv-5016-JST, 2014 WL 5358723, at *2 (N.D. Cal. Oct. 20, 2014) (citing *Hoffmann–LaRoche*
 18 *v. Sperling*, 493 U.S. 165, 170 (1989)). Collective actions promote justice by allowing resources
 19 to be pooled to facilitate the efficient resolution of common issues in a single proceeding. *Id.*

20 This case is at the first step of the two-step process for determining whether the proposed
 21 collective can proceed together in one case. At this step, Plaintiffs attempt to show that the
 22 proposed collective members are sufficiently “similarly situated” to issue notice and give them
 23

24
 25
 26 ⁴³ *Id.*

27 ⁴⁴ *Id.*

28 ⁴⁵ Ex. 31 (Neumark Report) ¶¶ 5, 14, 21.

1 an opportunity to join the case. *Rabin v. PricewaterhouseCoopers, LLC*, No. 16-cv-02276-JST,
 2 2018 WL 3585143, at *3 (N.D. Cal. July 26, 2018) (“*Rabin I*”). At this initial “notice stage,”
 3 plaintiffs need only offer “substantial allegations, supported by declarations or discovery,” that
 4 they and the potential collective members “were together the victims of a single decision, policy,
 5 or plan.” *Id.* (citation and internal quotation marks omitted). The initial determination, based on
 6 limited discovery, “is usually made under a fairly lenient standard and typically results in
 7 conditional class certification.” *Id.* (quoting *Leuthold v. Destination Am., Inc.*, 224 F.R.D. 462,
 8 467 (N.D. Cal. 2004) (Walker, J.)).

10 **II. The Court Found Sufficient Evidence of Common Discriminatory Policies and**
 11 **Practices in *Rabin I*.**

12 The Court correctly ruled in *Rabin I* that Plaintiffs have met their 216(b) burden by
 13 making an initial showing of common evidence of discrimination through uniform hiring policies
 14 and practices. *Rabin*, 2018 WL 3585143, at *4 (“Plaintiffs have adequately shown a uniform
 15 decision, policy, or plan on the basis of PwC’s centralized and uniform hiring policies, and the
 16 substantial evidence of age disparities in hiring.”). The Court’s findings as to PwC’s common
 17 allegedly discriminatory policies and practices are not only correct, but are also subject to the
 18 law of the case doctrine. Further, Plaintiffs have continued to review discovery since Plaintiffs’
 19 initial 216(b) motion, and additional, newly discovered evidence reinforces these findings.⁴⁶

21 Courts routinely grant conditional certification in employment cases with significantly
 22 less evidence than what Plaintiffs have presented. *See, e.g., Campeau v. NeuroScience, Inc.*, 86
 23 F. Supp. 3d 912, 915 (W.D. Wis. 2015) (granting conditional certification based on plaintiff’s
 24

25
 26
 27 ⁴⁶ *See generally* ECF No. 218-1 (Decl. of M. Stewart re Reply) ¶¶ 5-13 (describing PwC’s
 28 100,000+ document production and Plaintiffs’ document review efforts); *see also above* at p. 7
 n.37 (evidence of candidates rejected for having “too much experience”).

1 declaration and that of three opt-ins); *Gilbert v. Citigroup, Inc.*, No. 08-cv-0385-SC, 2009 WL
 2 424320, at *2 (N.D. Cal. Feb. 18, 2009) (plaintiff’s declaration and declarations of four other
 3 employees); *Escobar v. Whiteside Const. Corp.*, No. 08-cv-01120-WHA, 2008 WL 3915715, at
 4 *4 (N.D. Cal. Aug. 21, 2008) (Alsup, J.) (allegations in complaint and three declarations); *see*
 5 *also Coates v. Farmers Grp., Inc.*, No. 15-cv-01913-LHK, 2015 WL 8477918, at *8 (N.D. Cal.
 6 Dec. 9, 2015) (Koh, J.) (“a handful of declarations may suffice” to meet plaintiff’s burden at
 7 conditional certification).
 8

9 **A. Plaintiffs Offer Independent Support for The Court’s *Rabin I* Findings of**
 10 **Common Discriminatory Policies.**

11 The Court’s *Rabin I* findings of common discriminatory policies and practices are
 12 supported by substantial allegations and evidence that continue to mount as discovery proceeds.
 13 Accordingly, conditional certification should be granted.

14 **1. Plaintiffs’ Allegations and Initial Presentation of Evidence Reveal that**
 15 **PwC Has Uniform, Centralized Hiring Policies and Practices.**

16 PwC “utilizes a central hiring system, with companywide policies and procedures for
 17 each step of the hiring process, including job postings, interviewing, and hiring.” *Rabin I*, 2018
 18 WL 3585143, at *1. In addition, PwC relies on common sourcing and screening policies,
 19 resulting in a uniform approach to hiring for the Covered Positions regardless of geography.⁴⁷
 20 For example, PwC recruiters use a single “recruitment marketing platform” and uniform
 21 practices to manage candidate relationships.⁴⁸
 22

23 PwC exercises centralized control over recruiting and hiring at the corporate-level,
 24 ensuring that recruiters nationwide implement PwC policies and practices on a day-to-day
 25

26 ⁴⁷ *See above* Factual Background § I.A., 3-4; Pls.’ Reply in Support of First Mot. for Conditional
 Collective Action Certification, Dkt. No. 218 (“Pls.’ Reply”) at 2-3.

27 ⁴⁸ *Id.*; *see also Rabin I*, 2018 WL 3585143, at *1 (PwC “maintains a central recruiting
 28 database”).

1 basis.⁴⁹ This evidence strongly supports certification. *See Pines v. State Farm Gen. Ins. Co.*,
 2 No. 89 Civ. 631, 1992 WL 92398, at *3 (C.D. Cal. Feb. 25, 1992) (certifying collective based in
 3 part on “centralized nature of the hiring process”); *Moore v. Publicis Groupe SA*, No. 11 Civ.
 4 1279, 2012 WL 2574742, at *10-11 (S.D.N.Y. June 29, 2012) (same, based on “centralized
 5 corporate policies” governing compensation and job responsibilities).

6
 7 **2. Plaintiffs Have Offered Evidence that PwC’s Uniform Hiring Policies
 8 and Practices Are Tainted by Discrimination.**

9 Plaintiffs have also offered evidence that, as a national policy, PwC prefers younger
 10 workers and disfavors older workers throughout its recruitment and hiring processes, regardless
 11 of location or position.⁵⁰

12 PwC publicly touts its “strikingly young” workforce and takes concrete, intentional, and
 13 lasting steps to recruit, hire, and retain young workers to the exclusion of older applicants.⁵¹
 14 These steps include: limiting non-college students’ access to the “campus gateway” (PwC’s
 15 primary recruiting mechanism for Associate positions);⁵² weeding out candidates with “too much
 16 experience” and limiting access to some job postings based on graduation date parameters;⁵³
 17 implementing a biased campus recruiting policy that disproportionately screens out older
 18 students;⁵⁴ and implementing recruiting strategies aimed at attracting younger applicants, to the
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 20
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22 ⁴⁹ *See above* Factual Background § I.A., 3-4; Pls.’ Reply at 2-3.

23 ⁵⁰ *See above* Factual Background § III, 6; Pls.’ Reply at 3-4 & nn.2-4; *see also Rabin I*, 2018 WL
 24 3585143, at *1 (highlighting evidence of PwC recruitment and human resources strategies
 suggesting that the company “favors younger employees and disfavors older applicants”).

25 ⁵¹ *See above* Factual Background § III.A., 6.

26 ⁵² *See above* Factual Background § II, II.A., 4-5; Ex. 44 (Source1 Campus Recruiter Training),
 PWC_00005929 at 33; Pls.’ Reply at 3. Even one year of post-grad experience is enough to
 27 push an applicant out of the campus track and into the less-desirable experienced track. Ex. 51
 (Assurance/Tax VIP Campus Referral Process), PWC_00063880-882.

28 ⁵³ *See above* Factual Background § II.A. at p. 5 n.21; § III.C. at p. 7 n.37.

⁵⁴ *See above* Factual Background § II.A., 4-5; *see also Rabin I*, 2018 WL 3585143, at *2.

1 exclusion of older applicants.⁵⁵ As a policy, PwC exclusively hires interns from colleges, 85-
 2 90% of whom it then hires as full-time Associates.⁵⁶ Thus, the campus pipeline is stocked with
 3 young workers who have great fortune in progressing through the ranks, limiting opportunities
 4 for external hires, especially older workers.⁵⁷

5
 6 In addition, hiring through the “experienced” candidate track is much more limited, and
 7 as in the campus process, PwC recruiters’ and managers’ contact with older candidates is tainted
 8 with age bias, including stereotyping (can’t work long hours, technologically inept) and name-
 9 calling (“non-traditional,” “old,” “wrong fit”).⁵⁸

10 Such initial evidence of a discriminatory corporate culture supports certification. *See*
 11 *Beauchamp v. Penn Mut. Life Ins. Co.*, No. 10 Civ. 7170, 2011 WL 3268161, at *2, *4-6 (E.D.
 12 Pa. July 29, 2011) (certifying collective based on evidence of “culture of age discrimination”
 13 from executives’ statements encouraging hiring younger workers over older ones); *Gentrup v.*
 14 *Renovo Servs., LLC*, No. 07 Civ. 430, 2010 WL 6766418, at *3 n.6 (S.D. Ohio Aug. 17, 2010)
 15 (“ADEA cases commonly rely on . . . statements of bias or anecdotal evidence to show
 16 discriminatory motive even in cases involving a large class of plaintiffs.”); *cf. Buckner v.*
 17 *Lynchburg Redevelopment & Hous. Auth.*, 262 F. Supp. 3d 373, 378-79 (W.D. Va. 2017)
 18 (“overqualified” and “bad fit” can be pretext for age discrimination); *E.E.O.C. v. Wheeler Cty.*,
 19 No. 07 Civ. 1350, 2009 WL 2044813, at *9 (D. Or. July 8, 2009) (“[T]he Ninth Circuit cautioned
 20 that “reliance on ‘overqualification’ as a disqualifying factor in hiring can easily mask age
 21
 22
 23
 24

25 ⁵⁵ *See above* Factual Background § III.A., 6.

26 ⁵⁶ *See above* Factual Background § II.A. at p. 4 n.19.

27 ⁵⁷ *Id.* n.20.

28 ⁵⁸ *See above* Factual Background § III.B. at p. 7 n.33; Pls.’ Reply at 4; *see also Rabin I*, 2018
 WL 3585143, at *1, *4 (finding PwC’s contention that ageist comments were “anomalous”
 unpersuasive at notice stage).

1 discrimination.”) (internal quotations and citation omitted); *Morris v. Progressive Health Rehab.*
 2 *LLC*, No. 05 Civ. 10, 2007 WL 908646, at *6-7 (M.D. Ga. Mar. 22, 2007) (comment that
 3 plaintiff “didn’t fit in with this company” constituted “direct evidence of discrimination based
 4 upon age”); *Maddow v. Procter & Gamble Co.*, 107 F.3d 846, 852 (11th Cir. 1997) (“old and
 5 mature” was circumstantial evidence of age discrimination).

7 **3. Statistical Evidence Shows that Younger Applicants Are Far More**
Likely to Be Hired.

8 PwC’s policies and practices have a clear, measurable negative impact on older
 9 applicants, regardless of location or job title. Plaintiffs’ expert labor economist, Dr. David
 10 Neumark, analyzed PwC’s hiring data and found “very strong statistical deviations from age-
 11 neutrality in hiring,” which is “strongly consistent” with discriminatory hiring.⁵⁹

13 The magnitude and significance of these statistical deviations are striking. The results are
 14 12 or more standard deviations from chance outcomes; the chance that they result from age-
 15 neutral processes is far less than one in a billion.⁶⁰ Dr. Neumark found similar disparities in both
 16 the campus and experienced hiring tracks; older applicants are rejected at a far higher rate even
 17 when they apply as college students or recent graduates.⁶¹ Overall, a younger applicant at PwC
 18 is 538% more likely to be hired than an older applicant.⁶² *See generally* Figs. 1 & 2 (page 9).
 19 This pattern is far from representative of the accounting industry as a whole.⁶³

21 Statistical evidence of discrimination is highly relevant, and courts regularly rely on far
 22 less robust statistical disparities in certifying collective actions. *See, e.g., Barrett v. Forest Labs.,*
 23
 24

25 ⁵⁹ *See* Ex. 31 (Neumark Report) ¶¶ 5, 14, 21; *Rabin I*, 2018 WL 3585143, at *3.

26 ⁶⁰ Ex. 31 (Neumark Report) ¶ 18 & Table 3.

27 ⁶¹ *Id.* at Table 2; Pls.’ Mot. at 16 & nn.97-99 (collecting evidence).

28 ⁶² Ex. 31 (Neumark Report) ¶¶ 14-20 & Table 1, Table 3; *Rabin I*, 2018 WL 3585143, at *3.

⁶³ *See above* p. 2 at n.5; § IV, 8-10.

1 *Inc.*, No. 12 cv. 5224, 2015 WL 5155692, at *3 (S.D.N.Y. Sept. 2, 2015) (relying on statistics
2 showing 2.5-3.6 standard deviations in certifying an EPA collective); *Pagliolo v. Guidant Corp.*,
3 No. 06 Civ. 943, 2007 WL 2892400, at *3 (D. Minn. Sept. 28, 2007) (granting conditional
4 certification in part because plaintiffs “demonstrated a pattern based on their preliminary
5 statistical analysis” showing disparate impact); *see also* Pls.’ Reply at 6 (citing cases).

7 **B. Law of the Case Precludes Reconsideration of the Court’s Finding of a**
8 **Common Policy or Practice.**

9 The law of the case doctrine provides that “a court is generally precluded from
10 reconsidering an issue that has already been decided by the same court, or a higher court in the
11 identical case.” *United States v. Alexander*, 106 F.3d 874, 876 (9th Cir. 1997) (citations
12 omitted). “[I]n order to maintain consistency during the course of a single lawsuit,
13 reconsideration of legal questions previously decided should be avoided.” *Rodriguez v. SGLC*
14 *Inc.*, No. 08 Civ. 01971, 2013 WL 6844549, at *2-3 (E.D. Cal. Dec. 24, 2013) (internal
15 quotations and citations omitted). Generally, any “[i]ssues that a district court determines during
16 pretrial motions become law of the case.” *Id.* The doctrine applies to all issues “decided
17 explicitly or by necessary implication in [the] previous disposition.” *United States v. Lummi*
18 *Nation*, 763 F.3d 1180, 1185 (9th Cir. 2014).

19 Courts nevertheless retain discretion to depart from the law of the case where “(1) the
20 first decision was clearly erroneous; (2) an intervening change in the law has occurred; (3) the
21 evidence on remand is substantially different; (4) other changed circumstances exist; or (5) a
22 manifest injustice would otherwise result.” *Alexander*, 106 F.3d at 876. Absent such
23 circumstances, courts should not depart from past rulings. *Id.*

24 Here, the Court’s finding of common discriminatory policies constitutes the law of the
25 case for purposes of the first-stage 216(b) analysis. The Court found that “Plaintiffs have
26
27

1 adequately shown a uniform decision, policy, or plan,” satisfying the first part of the 216(b)
2 inquiry. *Rabin I*, 2018 WL 3585143, *4. The Court stopped short of granting conditional
3 certification because “unqualified” and “deterred applicants” were not similarly situated to the
4 Plaintiffs – i.e., Plaintiffs failed to establish the second part of the first-stage analysis. *Id.* at *1.
5 The law has not changed; the evidence is not “substantially different” (in fact, the evidence
6 supporting conditional certification is even stronger). Especially given the conditional nature of
7 the 216(b) decision, which effectively necessitates later, more intensive reassessment (after
8 discovery is complete, on a decertification motion), no changed circumstances would justify
9 departing from the Court’s decisions in *Rabin I* at this early stage of the case.

11 **III. The Modified Proposed Collective Warrants Stage-One Certification.**

12 Plaintiffs have remedied the deficiency identified in *Rabin I*: Plaintiffs’ revised
13 collective excludes both unqualified applicants and deterred applicants. The revised definition of
14 the collective is:

16 All individuals who, from October 18, 2013 forward, applied for a
17 Covered Position (Associate, Experienced Associate, and Senior
18 Associate) in PwC’s Tax or Assurance lines of service, met the
19 minimum qualifications for the position to which they applied,
20 were age 40 or older at the time of application, and were not hired.

21 Based on the limited discovery available, “minimum qualifications” for entry-level
22 Associate positions comprise a bachelor’s degree in a relevant field, a GPA of 3.0 or higher, and
23 a commitment to obtain a CPA license. For Experienced Associate and Senior Associate
24 positions, the minimum qualifications comprise a CPA license or commitment to obtain one, and
25 additional relevant experience (1-2 years for Experienced Associates, and 2-4 years for Senior
26 Associates). This understanding comports with available discovery, PwC’s representations, the
27 parties’ briefing, and the Court’s findings as to what constitutes “minimum qualifications” for
28

1 the positions at issue.⁶⁴

2 **A. The Modified Collective Resolves the Court’s Concerns.**

3 This framing addresses the concern raised in *Rabin I* and *Heath* that ADEA plaintiffs
 4 must demonstrate basic qualifications to establish a prima facie case of age discrimination. *Id.* at
 5 *5 (citing *Heath v. Google Inc.*, 215 F. Supp. 3d 844, 857 (N.D. Cal. 2016) (Freeman, J)). In
 6 *Heath*, the court rejected plaintiff’s proposed collective because it included applicants with “no
 7 plausible qualifications for the job,” such as a “lawyer applying for a software engineer
 8 position.” *Id.* Here, because the modified collective requires members to possess the “minimum
 9 qualifications” for the positions to which they applied, the problematic hypothetical of the
 10 unqualified lawyer applicant is eliminated.⁶⁵

11
 12 **B. PwC’s Decision Whether To Interview Candidates Is Irrelevant To**
 13 **“Similarly Situated” Inquiry.**

14 PwC claims that “the vast majority” of applicants are weeded out in the initial screening
 15

16 _____
 17 ⁶⁴ See, e.g., Ex. 74 (Assurance Associate), PWC_00415692; Ex. 75 (Experienced Associate),
 18 PWC_00377813; Ex. 76 (Senior Associate); Pls.’ Mot. at 9 n.47-49 (collecting evidence);
 19 Defendant PricewaterhouseCoopers LLP’s Response in Opposition to Plaintiff’s Motion for
 20 Conditional Certification, Dkt No. 211 (“PwC Opp”). at 13 (noting “strict qualifications” of a
 degree in a relevant field, minimum GPA, and, for Experienced and Senior Associate positions,
 relevant work experience); Pls.’ Reply at 12 (reciting PwC’s stated minimum qualifications);
Rabin I, 2018 WL 3585143, at *5 (same).

21 ⁶⁵ A lawyer *could* be qualified for an entry-level Associate position if she met PwC’s
 22 requirements of an adequate GPA, relevant degree, and commitment to obtain a CPA license.
 23 One public policy served by the ADEA is to allow the 45-year-old lawyer who has been laid off
 or desires a career change to move into a new industry without facing artificial barriers to
 24 employment. See Special Committee on Aging, U.S. Senate, America’s Aging Workforce:
 Opportunities and Challenges, at 22 (2017) (“Researchers have shown that age discrimination in
 25 the hiring process is a particularly significant challenge for older workers and may be
 undermining their ability to transition between jobs or reenter the workforce.”) (citation omitted).
 Her ability to move freely across industries promotes the health of the American economy. See
 26 *EEOC v. Wyoming*, 460 U.S. 226, 231 (1983) (citing Wirtz Report, finding that age
 discrimination “deprived the national economy of the productive labor of millions of individuals
 27 and imposed on the governmental treasury substantially increased costs in unemployment
 insurance and federal Social Security benefits.”).

1 process because they fail to meet PwC’s “strict” minimum qualifications.⁶⁶ This framing only
 2 tells part of the story. PwC’s interview decision process is the second stage in a multi-stage
 3 recruiting and hiring process, and it considers more than minimum qualifications. Specifically:
 4 (1) first, PwC identifies and targets potential candidates, steering some into the application
 5 process and others away, (2) second, PwC determines which applicants to interview, and (3)
 6 third, PwC decides which applicants receive offers. Each of these steps is based on
 7 qualifications and other factors, and each step is infected with bias against older applicants.
 8 Here, Plaintiffs primarily challenge the bias in steps two and three.
 9

10 At this early stage, Plaintiffs have already amassed substantial evidence that the interview
 11 screen decision (step two, above) is not simply a *minimum* qualifications screen. First, PwC
 12 instructs recruiters to select for interview only candidates that have intangible qualities,⁶⁷ such as
 13 “the ability to self-motivate,” that are unrelated to minimum qualifications and subject to bias.⁶⁸
 14 As a result, older candidates are “screened out” before an interview at an alarmingly higher rate
 15 than their younger counterparts. Figure 1 shows that younger applicants are 2.9 times more
 16 likely to get interviewed than older applicants (34.4% vs. 11.8%).
 17

18 Second, at least 18 of Plaintiffs’ 24 declarants met the minimum qualifications for the
 19 positions to which they applied but were not interviewed.⁶⁹ PwC might be able to dismiss as a
 20 fluke its inadvertent rejection of one or two qualified older applicants before an interview, but 18
 21 pre-interview rejections is a feature of the system, not a “bug.” Several declarants describe
 22
 23

24 ⁶⁶ PwC Opp. at 15.

25 ⁶⁷ Despite PwC’s argument that the initial screening process is “age-blind,” recruiters can easily
 26 approximate candidates’ age in phone calls, in-person recruiting events and resumes, and several
 27 declarants have offered evidence of age-based screening at the initial pre-interview stage. Pls.’
 Reply at 13 & nn.24-26 (collecting evidence).

28 ⁶⁸ Ex. 35 (Guidelines for Campus Referrals), PWC_00010166-67.

⁶⁹ See, e.g. above n.38.

1 comments and actions by PwC that suggest age-based screening at the pre-interview stage.⁷⁰ For
 2 example, Michael Narey, who went back to school to pursue a career in accounting, was told by
 3 a PwC campus recruiter that he was not the right “fit” for a campus associate-level position, even
 4 though he had similar qualifications as his younger student peers.⁷¹ Likewise, Nii-Ama Akuete’s
 5 progress in the application process abruptly halted when PwC saw his resume (which revealed
 6 that, although he was qualified, he had graduated from college in 1991, apparently disqualifying
 7 him from an interview).⁷²

9 Third, the power of PwC’s interview screen – filtering 86,782 applicants down to 27,805
 10 interviewees⁷³ – suggests that it accomplishes more than merely weeding out facially unqualified
 11 applicants: it also reflects judgment calls about which applicants are the best “fit,” an inquiry that
 12 is subject to bias. It is important to remember that these are introductory accounting positions
 13 with very modest minimum qualifications (e.g., 3.0 GPA, many possible college majors, no
 14 CPA, and no experience for the entry-level Associate position).⁷⁴ And accounting applicants are
 15 a self-selecting group; it is unlikely that droves of college dropouts or lawyers are applying to be
 16 entry-level accountants at PwC.

18 This evidence strongly supports Plaintiffs’ statistical analyses and the theory that PwC
 19 recruiters exercised discretion in a discriminatory manner to the detriment of older candidates,
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 22 ⁷⁰ Ex. 5 (Akuete Decl.) ¶ 13; Ex. 19 (Narey Decl.) ¶ 3; Ex. 12 (Halliday Decl.) ¶ 10.

23 ⁷¹ Ex. 19 (Narey Decl.) ¶ 3.

24 ⁷² Ex. 5 (Akuete Decl.) ¶ 13.

25 ⁷³ See also Ex. 33 (Second Supplemental Neumark Report) ¶¶ 5-7, Table 8 (reporting relative
 26 unlikelihood of older candidate progressing through each stage of PwC hiring process); *above* at
 27 p. 9, Fig. 1; Fig. 2; See also generally, Ex. 32 (Supplemental Neumark Report).

28 ⁷⁴ Ex. 74 (Assurance Associate), PWC_00415692; Ex. 75 (Experienced Associate),
 PWC_00377813; Ex. 76 (Senior Associate); Pls.’ Mot. at 9 nn.47-49 (collecting evidence); see
 also Ex. 30 (Def.’s R&Os to Plfs.’ Third Set of Interrogatories, Rog. 1) (Associate, Experienced
 Associate, and Senior Associate are the three lowest positions in the Tax and Assurance LOS,
 beneath Manager, Senior Manager, Director, Managing Director, Partner, and Principal.).

1 even at the pre-interview stage. In short, PwC’s pre-interview screen would be a poor proxy for
 2 a minimum qualification screen.

3 **C. Plaintiffs Are Similarly Situated to the Collective.**

4 As the Court has found, Plaintiffs are similarly situated to qualified applicants, regardless
 5 of whether PwC found the applicant to be a sufficiently good “fit” to merit an initial interview.

6 As the Court observed in *Rabin I*, Plaintiffs were “facially qualified on each occasion they
 7 applied.” *Rabin I*, 2018 WL 3585143, at *11 n.9. Namely, Plaintiff Rabin graduated with
 8 distinction from the Keller School of Management with an MBA and a concentration in
 9 Accounting.⁷⁵ By the time Plaintiff Rabin applied to PwC in October 2013 and August 2015, he
 10 had obtained his CPA license in Illinois and California, and had provided audit, accounting, and
 11 tax services for various organizations over the course of 10+ years.⁷⁶ Plaintiff Chapman first
 12 applied to PwC in Fall 2013.⁷⁷ At that time, he had over ten years of experience as a bookkeeper
 13 and had obtained his Bachelor of Science in Economics from the University of Missouri with a
 14 3.63 GPA.⁷⁸ Plaintiff Chapman continued applying for PwC over a three-year period, from Fall
 15 2013 to Spring 2016. During that time, he graduated *cum laude* with a 3.52 GPA from the
 16 Master’s in Accounting program at the University of Missouri and passed all four sections of the
 17 CPA exam.⁷⁹ Due to his strong academic performance, he qualified for membership in Beta
 18 Alpha Psi, an accounting honors society.⁸⁰

19 Despite meeting PwC’s minimum qualifications, Plaintiffs were not interviewed by PwC
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25 ⁷⁵ Rabin Decl. ¶ 5.

26 ⁷⁶ *Id.* ¶ 6.

27 ⁷⁷ Chapman Decl. ¶ 4.

28 ⁷⁸ *Id.* ¶ 6.

⁷⁹ *Id.*

⁸⁰ *Id.*

1 after some of their applications.⁸¹ This is another reminder that PwC’s interview screen is not
 2 simply a screen for minimum qualifications, but actually filters out much more (such as
 3 applicants who do not “fit” or have “too much” experience). Plaintiffs are similarly situated to
 4 other qualified applicants, regardless of whether such applicants passed PwC’s interview screen.

5
 6 Unlike plaintiffs in *Heath*, 215 F. Supp. 3d 844, and *Trinh v. JP Morgan Chase & Co.*,
 7 No. 07 Civ. 1666, 2008 WL 1860161 (S.D. Cal. Apr. 22, 2008), who provided “no evidence
 8 beyond [their] own speculative beliefs” as to a similarly situated collective, Plaintiffs here have
 9 offered unusually robust evidence for the first stage of 216(b) that they are similarly situated to
 10 the proposed collective (qualified applicants who were subject to PwC’s common discriminatory
 11 hiring policies and practices). The modified, limited collective merits conditional certification,
 12 so that notice of the existence of these claims can be sent to the affected individuals.

13
 14 **IV. The Court Should Approve Plaintiffs’ Proposed Notice Plan.**

15 Plaintiffs’ Notice plan furthers the “legitimate goal of avoiding a multiplicity of
 16 duplicative suits,” *Hoffman-La Roche*, 493 U.S. at 172, and should be approved. Plaintiffs’
 17 proposed Notice is modeled after the Federal Judicial Center’s model class action notices, and
 18 uses neutral, straightforward language to provide background (and clarifying that the Court has
 19 not yet ruled on the merits), allowing recipients to learn of their rights and options.⁸²

20
 21 The Notice attaches a Consent to Join (“CTJ”) form similar to that which existing opt-ins
 22 have used.⁸³ Plaintiffs propose the standard methods for disseminating notice (mail and email,

23
 24 _____
 25 ⁸¹ See Rabin Decl. ¶¶ 12-13; Chapman Decl. ¶¶ 8-10; *Rabin I*, 2018 WL 3585143, at *11 n.9
 (noting that Rabin and Chapman did not pass the initial screen interviewed for some
 applications).

26 ⁸² See Ex. 1 (Proposed Notice).

27 ⁸³ See Ex. 2 (Proposed CTJ). Exhibit 2 is the proposed CTJ, followed by a single page (the
 28 backside of the CTJ) facilitating the provision of contact information with CTJs. This helps
 counsel follow up with individuals who submit imperfectly legible CTJs.

1 with a reminder near the end of the opt-in period), and for allowing potential collective members
2 to opt in (by website, email, mail, and fax).

3 E-mail notice is increasingly standard. *See, e.g., Alvarez v. Farmers Ins. Exch.*, No. 14-
4 cv-574-WHO, 2014 WL 4685031, at *5 (N.D. Cal. Sept. 19, 2014); *Walton v. AT&T Servs., Inc.*,
5 No. 15-cv-3653-VC, ECF. No. 107 at 3 (N.D. Cal. Sept. 15, 2016) (“*Walton Order*”); *Margulies*
6 *v. Tri-Cty. Metro. Transp. Dist. of Oregon*, No. 13 Civ. 475, 2013 WL 5593040, at *21 (D. Or.
7 Oct. 10, 2013); *Lewis v. Wells Fargo & Co.*, 669 F. Supp. 2d 1124, 1128 (N.D. Cal. 2009)
8 (Wilken, J.).

9
10 In addition, allowing web-based submission of CTJ forms is increasingly common. *See,*
11 *e.g., Godhigh v. Savers, LLC*, No. 16-CV-02874-WHO, 2016 WL 7406659, at *1-2 (N.D. Cal.
12 Dec. 22, 2016) (Orrick, J.); *Walton Order* at 3; *Deatrick*, 2014 WL 5358723, at *6; *Woods v.*
13 *Vector Mktg. Corp.*, No. 14-cv-0264-EHC, 2015 WL 1198593, at *4 (N.D. Cal. Mar. 16, 2015);
14 *Zaborowski v. MHN Gov’t Servs., Inc.*, No. 12-cv-5109-SI, ECF No. 96 at 1 (N.D. Cal. May 23,
15 2013).⁸⁴

16
17 Lastly, a reminder notice toward the end of the opt-in period is commonly allowed.⁸⁵
18 *Deatrick*, 2014 WL 5358723, at *5 (ordering issuance of reminder postcards over defendant’s
19 objection); *see also Walton Order* at 3 (approving use of reminder notice); *Sanchez v. Sephora*
20 *USA, Inc.*, No. 11-cv-03396-SBA, 2012 WL 2945753, at *6 (N.D. Cal. July 18, 2012)
21 (authorizing reminder notice); *Harris v. Vector Mktg. Corp.*, 716 F. Supp. 2d 835, 847 (N.D. Cal.
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24
25 ⁸⁴ Other courts have allowed online submission as well. *See, e.g., Kesley v. Entm’t U.S.A. Inc.*,
26 67 F. Supp. 3d 1061, 1073 (D. Ariz. 2014); *Mark v. Gawker Media LLC*, No. 13 Civ. 4347, 2014
27 WL 5557489, at *1, *3 (S.D.N.Y. Nov. 3, 2014); *Jones v. JGC Dallas LLC*, No. 11 Civ. 2743,
2012 WL 6928101, at *4-5, *8 (N.D. Tex. Nov. 29, 2012), *report and recommendation adopted*,
2013 WL 271665, at *1 (N.D. Tex. Jan. 23, 2013); *Carlson v. Leprino Foods Co.*, No. 05 Civ.
798, 2006 WL 2375046, at *1-2, *4 (W.D. Mich. Aug. 15, 2006).

28 ⁸⁵ *See Ex. 3 (Proposed Reminder Postcard).*

1 2010) (Chen, J.) (rejecting argument that reminder notice is “harassing” or “invasive”). People
2 sometimes intend to join but fail to do so promptly due to life’s other pressing obligations; a
3 reminder of the deadline can help them act on their intentions.

4
5 For similar reasons, Plaintiffs propose that class members have 90 days during which to
6 determine whether to join. *See Flores v. Velocity Express, Inc.*, No. 12-cv-05790-JST, 2013 WL
7 2468362, at *9-10 (N.D. Cal. June 7, 2013) (Tigar, J.) (90 days); *Deatrick*, 2014 WL 5358723, at
8 *5-6 (90 days); *Sanchez*, 2012 WL 2945753, at *6 (60 days; noting that 60-90 is typical in this
9 District); *Cancilla v. Ecolab, Inc.*, No. 12-cv-03001-CRB, 2014 WL 11171549, at *1 (N.D. Cal.
10 Apr. 3, 2014) (90 days); *Gee v. Suntrust Mortg., Inc.*, No. 10-cv-1509-RS, 2011 WL 722111, at
11 *4 (N.D. Cal. Feb. 18, 2011) (90 days). A 90-day period will allow people to learn about the
12 case, ask questions, and make this important decision in a considered manner.

13
14 To facilitate notice, Plaintiffs request that PwC update the class list produced on August
15 22, 2017, including mailing addresses, email addresses, and telephone numbers, as before. *See*
16 *Lewis*, 669 F. Supp. 2d at 1129-30 (ordering production of potential collective members’ email
17 addresses and telephone numbers); *Alvarez*, 2014 WL 4685031, at *4-5 (same); *Ramirez v.*
18 *Ghilotti Bros. Inc.*, 941 F. Supp. 2d 1197, 1211 (N.D. Cal. 2013) (Breyer, J.) (same). In updating
19 the class list, PwC will need to follow a third-party vendor process as before. *See* ECF No. 130
20 (Discovery Order re Vendor-Generated Age Process).

21
22 **CONCLUSION**

23 For the foregoing reasons, Plaintiffs respectfully request that the Court conditionally
24 certify the proposed Collective of qualified applicants.

25 Respectfully submitted,

26 Dated: August 27, 2018

27 By: /s/ Jahan C. Sagafi
Jahan C. Sagafi

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