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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

CONCEPCION PORTILLO, as an individual and on behalf of all others similarly situated, Plaintiff, vs. FUJIFILM IRVINE SCIENTIFIC, INC., a California corporation; and DOES 1 through 100, Defendants.	Case No.: 30-2024-01416987-CU-OE-CXC [consolidated with Case Nos. No. 30-2024-01447990-CU-OE-CXC and 30-2024-01449400-CU-OE-CXC *[Assigned for all purposes to the Hon. David A. Hoffer, Dept. CX-103]* **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**
YASMINE VILLA, individually and on behalf of other similarly situated employees, Plaintiff vs. FUJIFILM IRVINE SCIENTIFIC, INC.; and DOES 1 through 25, inclusive, Defendants.	Date: August 24, 2026 Time: 1:30 p.m. Dept.: CX103 Reservation No.: 74866701

YASMINE VILLA, individually, and on behalf PAGA Employees pursuant to California Private Attorneys General Act,

Plaintiff,

vs.

FUJIFILM IRVINE SCIENTIFIC, INC., a California corporation; and DOES 1 through 100,

Defendants.

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TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on August 24, 2026 at 1:30 am in Department CX-103 of the above-entitled Court, located at 751 West Santa Ana Blvd, Santa Ana, CA 92701, Plaintiff Concepcion Portillo and Plaintiff Yasmine Villa (hereafter collectively referred to as "Plaintiffs"), individually and on behalf of a class of similarly situated individuals, will and hereby do move this Court for:

1. Preliminary approval of the proposed class settlement of this lawsuit;
2. Pursuant to section 382 of the California Code of Civil Procedure, provisional certification of the following Settlement Class, defined as follows:

   > All current and former non-exempt employees of Defendant Fujifilm Irvine Scientific, Inc. who worked in California at any time during the Class Period.
   >
   > The "Class Period" is defined as August 6, 2020 through the date the Court enters an Order Granting Preliminary Approval of the Settlement.

3. Preliminary appointment of Plaintiff Concepcion Portillo and Plaintiff Yasmine Villa as Class Representatives;
4. Preliminary appointment of Scott M. Lidman, Milan Moore, and Tiara Gose-Hardy of Lidman Law, APC; Paul K. Haines of Haines Law Group, APC; and Jonathan M. Genish, Barbara DuVan-Clarke and Annabel Blanchard of Blackstone Law, APC as Class Counsel;
5. The scheduling of a hearing to consider whether the Settlement should be finally approved and to permit a service award to Plaintiffs, Settlement Administration costs, civil penalties payable to the California Labor Workforce Development Agency and PAGA Employees, and attorneys' fees and costs to Class Counsel;
6. Appointment of Apex Class Action Administration as the third-party Settlement Administrator for mailing the court-approved Class Notice Packets; and
7. Approval of the proposed Class Notice Packet (which consists of Court Approved Notice of Class Action and PAGA Settlement and Hearing Date for Final Court Approval, Workweek Dispute & Change of Address Form, Request for Exclusion Form, and Objection Form) and

an order that it be disseminated to the proposed Settlement Class Members as provided in the Settlement Agreement.

This Motion is based on this notice of motion, the memorandum of points and authorities, the declarations of Scott M. Lidman, Milan Moore, Tiara Gose-Hardy, Paul K. Haines, Barbara DuVan-Clarke, Plaintiff Concepcion Portillo, Plaintiff Yasmine Villa, and Sean Hartranft of Apex Class Action Administration, and the exhibits attached thereto, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: June 1, 2026

Respectfully Submitted,
LIDMAN LAW, APC

By: ______________________
Scott M. Lidman

Attorney for Plaintiff
CONCEPCION PORTILLO

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Concepcion Portillo ("Plaintiff Portillo") initially brought this class and representative action against Defendant Fujifilm Irvine Scientific, Inc. ("Defendant") alleging various wage and hour and related violations. Plaintiff Portillo's primary allegations are that Defendant (1) failed to provide meal periods; (2) failed to authorize and permit all rest periods; (3) failed to provide accurate, itemized wage statements; (4) failed to indemnify all necessary business expenses; (5) failed to pay all wages owed upon termination; (6) engaged in unfair competition; and (7) is liable for civil penalties under the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Plaintiff Yasmine Villa ("Plaintiff Villa") brought a separate class action on December 20, 2024 against Defendant alleging the same wage and hour claims as Plaintiff Portillo and additionally alleged that Defendant failed to pay all minimum wages owed, failed to pay all overtime wages owed, failed to timely pay wages during employment, and violated the Fair Credit Reporting Act and California Investigative Consumer Reporting Agencies Act. Plaintiff Villa later filed a separate representative PAGA action against Defendant.

On January 16, 2026, Plaintiff Portillo's lawsuit and Plaintiff Villa's lawsuits were consolidated for the purposes of settlement.

Plaintiff Portillo and Plaintiff Villa (hereafter referred to collectively as "Plaintiffs") now respectfully request that this Court preliminarily approve this <u>non-reversionary</u>, class action settlement,[1] in which Defendant has agreed to pay One Million Thirty Thousand Dollars and Zero Cents (**$1,030,000.00**) to the following Settlement Class:

> All current and former non-exempt employees of Defendant Fujifilm Irvine Scientific, Inc. who worked in California at any time during the Class Period.

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[1] The Stipulation of Class and PAGA Action Settlement ("Settlement") is attached to the Declaration of Scott M. Lidman as Exhibit 2. The Notice Packet (Court Approved Notice of Class Action and PAGA Settlement and Hearing Date for Final Court Approval, Workweek Dispute & Change of Address Form, Request for Exclusion Form, and Objection Form) is attached to the Settlement as Exhibit C. All defined terms in this motion have the same definitions as used in the Settlement unless such terms are expressly defined herein.

The "Class Period" is defined as August 6, 2020 through the date the Court enters an Order Granting Preliminary Approval of Settlement.

Additionally, for the purposes of this settlement only, PAGA Employees are defined as:

All current and former non-exempt employees of Defendant Fujifilm Irvine Scientific, Inc. who worked in California at any time during the PAGA Period.

The "PAGA Period" shall mean the time period between August 6, 2023, through the date the Court enters an Order Granting Preliminary Approval of the Settlement.

Significantly, Settlement Class Members do not need to file a claim to participate in the Settlement; they will automatically receive a payment unless they affirmatively opt-out. After deducting administration costs, Plaintiffs' service awards, attorneys' fees and costs, and PAGA Civil Penalties, the remaining Net Settlement Amount ("NSA") of approximately $548,676.67 will be distributed on a pro-rata basis to all Settlement Class Members who do not opt-out of the Settlement. There are approximately 438 Settlement Class members, which means the average payment to each Settlement Class member is currently expected to be approximately **$1,252.69**, which does not include $26,250.00 in PAGA Civil Penalties which will be distributed to PAGA Employees.

The proposed Settlement is well-within the range of possible approval in light of the significant legal and factual obstacles that Plaintiffs faced, the risks and costs of further litigation, and the tangible monetary benefits to be received by the Settlement Class. For the reasons discussed herein, Plaintiffs respectfully request that the Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

A. THE PARTIES, PROCEDURAL HISTORY, DISCOVERY, & ARMS-LENGTH NEGOTIATIONS

1. The Parties and Procedural History

Defendant is in the business of manufacturing cell culture media, reagents, and medical devices for researchers and clinicians. Declaration of Scott M. Lidman ("Lidman Decl."), ¶ 10. Plaintiff Portillo worked for Defendant as a non-exempt employee from the year 2022 through about January 17, 2024. *See* Declaration of Concepcion Portillo ("Portillo Decl."), ¶ 2. She worked as a Filling Technician in which her duties included, without limitation, filling containers. *Id*.

Plaintiff Villa worked for Defendant as a non-exempt employee approximately between December 2021 and October 2023. *See* Declaration of Yasmine Villa ("Villa Decl."), ¶ 2. She worked as a Liquid Technician and performed various duties for Defendant including, among other things, handling sterilization duties. *Id*.

On August 6, 2024, Plaintiff Portillo filed a putative class action complaint against Defendant ("*Portillo* Action"). Lidman Decl., ¶ 10. On August 6, 2024, Plaintiff Portillo submitted a letter to the California Labor & Workforce Development Agency ("LWDA") and Defendant advising of her intention of filing a PAGA claim based on the Labor Code violations alleged in the initial complaint in the *Portillo* Action. *Id*., **Exhibit 1**. On October 23, 2024, Plaintiff Portillo filed a First Amended Complaint ("FAC") adding a cause of action for civil penalties under the PAGA. Lidman Decl., ¶ 10.

On December 20, 2024, Plaintiff Villa filed a putative class action complaint against Defendant in Orange County Superior Court ("*Villa* Class Action"). Declaration of Barbara Duvan-Clarke ("Duvan-Clarke Decl."), ¶ 11. On October 23, 2024, Plaintiff Villa submitted a letter to the LWDA and Defendant advising of her intention of filing a PAGA claim based on the Labor Code violations alleged within the letter and the *Villa* Class Action. *Id*. at ¶ 10, **Exhibit 2**. On December 30, 2024, Plaintiff Villa filed a separate representative action in Orange County Superior Court alleging a single cause of action for civil penalties under the PAGA ("*Villa* PAGA Action"). Duvan-Clarke Decl., ¶ 12.

On January 16, 2026, the Court approved a stipulation between Plaintiffs and Defendant (collectively, the "Parties") to consolidate the *Portillo* Action, *Villa* Class Action, and *Villa* PAGA Action. Lidman Decl., ¶ 11. As such, Plaintiffs allege that Defendant: (1) failed to provide meal periods and pay premiums related thereto; (2) failed to authorize and permit all rest periods and pay premiums related thereto; (3) failed to provide accurate, itemized wage statements; (4) failed to indemnify all necessary business expenses; (5) failed to pay all wages owed upon termination; (6) engaged in unfair competition; (7) is liable for civil penalties under the PAGA; (8) failed to pay all minimum wages owed; (9) failed to pay all overtime wages owed; (10) failed to timely pay wages during employment; (11) violated the Fair Credit Reporting Act; and (12) violated the California Investigative Consumer

Reporting Agencies Act. *Id.*

2. Discovery and Arms-Length Negotiations

After agreeing to participate in private mediation, Defendant informally produced timekeeping and payroll data for the entire putative class. Lidman Decl., ¶ 12. After a detailed review of the time and payroll records for the putative class, Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs' case. *Id.* This informal discovery allowed the Parties to assess the merits and value of Plaintiffs' claims and Defendant's defenses thereto, if a settlement could not be reached.

On August 21, 2025, a mediation was held with Lisa Klerman, Esq., an experienced wage and hour class action mediator. Lidman Decl., ¶ 13. During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiffs' claims, and the legal basis for the claims and defenses. *Id.* Ultimately, the Parties agreed to the mediator's proposal and in the months that followed, the Parties finalized the terms of settlement and executed the settlement agreement. *Id.*, Exh. 2.

III. ARGUMENT

A. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES

California Rule of Court 3.769 conditions settlement of a class action on court approval, which is generally evaluated under the federal standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322 (requires trial court to determine "that the settlement is fair, reasonable and adequate to all concerned"); *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026 (requires the trial court to determine "whether a proposed settlement is fundamentally fair, adequate, and reasonable").

As further explained below, the Settlement Class satisfies the criteria for certification of a settlement class under California law.

1. Numerosity is Satisfied.

Here, the proposed Settlement Class consists of approximately 438 members and is therefore sufficiently numerous as to make joinder impracticable. *See* Lidman Decl., ¶ 14; *See, e.g., Bowles v. Sup. Ct.* (1955) 44 Cal.2d 574 (holding a class representing 10 beneficiaries of a trust sufficiently numerous). Thus, numerosity is satisfied.

Further, a class is "ascertainable" where the members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 916 (alterations in original). Here, the proposed Settlement Class is sufficiently defined such that the proposed Settlement Class is ascertainable through Defendant's personnel files and employee records maintained in the regular course of business.

2. <u>Commonality is Satisfied.</u>

The focus in a certification dispute is not the merits, but rather on what types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug Store, Inc. v. Superior Court (Rocher)* (2004) 34 Cal.4th 319, 327.

Here, Plaintiffs contend that Settlement Class Members' claims arise from Defendant's common, uniform policies and practices that applied to Settlement Class Members during the Class Period. Lidman Decl., ¶ 17. Specifically, Plaintiffs allege that Defendant's common and uniform policies and practices resulted in violations giving way to the alleged causes of action. *Id*. Plaintiffs allege that as a result of the common and uniform policies and practices that applied to all Settlement Class Members, their claims involve common questions of law and fact, including but not limited to: (1) whether Defendant provided all legally compliant meal periods; (2) whether Defendant authorized and permitted all legally compliant rest periods; (3) whether Defendant furnished legally compliant wage statements; (4) whether Defendant properly reimbursed employees for all necessary business expenses incurred; (5) whether Defendant paid all wages owed to its terminated/separated employees at the time of said termination/separation; (6) whether Defendant properly paid all minimum wages and/or overtime wages; (7) whether Defendant paid all wages during employment; (8) whether Defendant engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through the wage and hour policies and practices described above, and whether as a result Defendant owes restitution; (9) whether Defendant violated the Fair Credit Reporting Act; and (10) whether Defendant violated the California Investigative Consumer Reporting Agencies Act. *Id*.

These alleged practices result in common questions as to the affected Settlement Class

Members. *See e.g.*, *Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal.App.4th 701, 726.

3. Typicality is Satisfied.

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347 (finding typicality satisfied where named Plaintiff purchased the same goods as the putative class in a consumer class action).

Here, Plaintiffs' claims are typical of those held by the members of the proposed Settlement Class. First, Plaintiffs were employed by Defendant during the Class Period as non-exempt employees and were subject to Defendant's wage and hour policies at issue in this case. *See* Portillo Decl., ¶ 2; Villa Decl., ¶ 2. Second, Plaintiffs were allegedly injured by the same challenged policies that allegedly injured the Settlement Class as a whole. *See* Portillo Decl., ¶¶ 3-5; Villa Decl., ¶ 3. Given that Defendant's policies and practices applied to all non-exempt employees, Settlement Class Members possess a similar interest and have suffered similar alleged injuries as Plaintiffs. Accordingly, because Plaintiffs' claims and those of the Settlement Class all arise from the same conduct, typicality is satisfied.

4. Adequacy is Satisfied.

The adequacy requirement examines conflicts of interest between named parties and the class(es) they seek to represent. *Capital People First v. State Dept. of Developmental Services* (2007) 155 Cal.App.4th 676, 697.

Here, Plaintiffs contend there are no conflicts of interest between Plaintiffs and the Settlement Class they seek to represent. Portillo Decl., ¶ 11; Villa Decl. ¶ 10. Plaintiffs' interests are aligned with those of the Settlement Class Members, as they all seek monetary relief under the same facts and legal theories. *See* Portillo Decl., ¶¶ 3-5; Villa Decl., ¶ 3. Additionally, Class Counsel have extensive experience in wage and hour class action litigation and have vigorously litigated this case. *See* Lidman Decl., ¶ 2-8; Declaration of Milan Moore ("Moore Decl."), ¶¶ 2-5; Declaration of Tiara Gose-Hardy ("Gose-Hardy Decl."), ¶¶ 2-4; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-8.; and Declaration of Barbara DuVan-Clarke ("DuVan-Clarke Decl."), ¶¶ 2-8; *See McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450-51 (adequacy satisfied where there was no indication that Class Counsel were not qualified and the named plaintiff had no interests antagonistic to those of the proposed class).

B. **THE COURT SHOULD GRANT PRELIMINARY APPROVAL OF THE PROPOSED CLASS ACTION SETTLEMENT BECAUSE IT IS FAIR, ADEQUATE, AND REASONABLE**

Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *See In re Syncor ERISA Litig.* (9th Cir. 2008) 516 F.3d 1095, 1101. The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair. *See e.g.*, *Hanlon*, *supra*, 150 F.3d at 1027. There is an initial presumption of fairness where, as here, the settlement agreement was negotiated at arm's length by class counsel and with the assistance of an experienced wage and hour class action mediator. *See e.g. Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.

1. **The Preliminary Approval Standard is Met**

To make a fairness determination, the Court should consider several factors, including: "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 230, 245. As discussed below, the proposed Settlement is fair, adequate, and reasonable in light of the overall balance of factors in this case.

a. **The Strength of Plaintiffs' Case**

Although Plaintiffs maintain that their claims are meritorious, Plaintiffs acknowledge that there were substantial risks and uncertainty in proceeding with litigation, and thus success at class certification and trial was far from certain.

b. **Risk, Expenses, Complexity, and Duration of Further Litigation**

Although the Parties engaged in informal discovery throughout this action, the Parties still had significant discovery to complete in formal litigation had the matter not settled. Lidman Decl., ¶ 41.

Moreover, Plaintiffs still had to file for class certification and faced the prospect of appeals in the wake of a disputed class certification ruling for Plaintiffs and/or an adverse summary judgment ruling. *Id*. Even if the classes sought to be certified by Plaintiffs were in fact certified, the Parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. *Id*. This Settlement avoids those risks and the accompanying expense. Thus, this factor supports preliminary approval.

c. Risk of Maintaining Class Action Status

Plaintiffs have not yet filed their motion for class certification and as such, the extent to which Plaintiffs' proposed classes were certifiable is not certain. Absent settlement, there was a risk that there would not be a certified class at the time of trial.

d. Overview of the Settlement Agreement

If the Court approves this Settlement, Defendant will pay a Gross Settlement Amount ("GSA") of $1,030,000.00.[2] Lidman Decl., ¶ 14, Exh. 2. Significantly, this Settlement is **non-reversionary**, and no Settlement Class member will have to submit a claim form to receive a Settlement Award. *Id.* Each Settlement Class member will automatically receive a Settlement Award unless he or she affirmatively opts out of the Settlement. Lidman Decl., ¶ 14. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount ("GSA"):	**$1,030,000.00**
Minus Court-approved attorneys' fees (1/3 of GSA):	$343,333.33
Minus Court-approved, verified costs (up to):	$35,000.00
Minus Court-approved Class Rep. Serv. Awards ($10,000/Pl.):	$20,000.00
Minus Settlement Administration Costs:	$7,990.00
Minus PAGA Civil Penalties:	$75,000.00

[2] Defendant represents that there are an estimated 44,857 Workweeks from Aug. 6, 2020 through the date of mediation (Aug. 21, 2025). If the actual number of Workweeks worked by the Settlement Class Members during the Class Period is more than 10% greater than this figure (*i.e.*, if there are more than 49,343 Workweeks worked by the Class Members), **before Notice is sent to Class Members**, Defendant may, at its election, opt to: (1) increase the GSA by a proportional amount above the 10% (*i.e.*, if there was an 11% increase in the number workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%); or (2) end the Class Period and PAGA Period on a date in which the total Workweeks does not exceed 49,343. *See* Settlement, ¶ 4.F.

Net Settlement Amount ("NSA"): $548,676.67

Defendant shall deposit the Gross Settlement Amount (including any increase to the Gross Settlement Amount pursuant to the Escalator Clause if such increase is triggered and Defendant makes the election to increase the GSA) and Defendant's share of all payroll taxes with the Settlement Administrator within thirty (30) days after the Effective Date. Lidman Decl., ¶ 14, Exh. 2 (Settlement, ¶ 4.C.). [3]

After deducting amounts for the Court-approved attorneys' fees and verified costs, Service Award to each Plaintiff, Settlement Administrator costs, and the PAGA Civil Penalties, the Settlement requires Defendant to pay a Net Settlement Amount ("NSA") of at least $548,676.67 on a pro-rata basis to all Settlement Class members who do not timely opt out. Lidman Decl., ¶ 14. This amount does not include $26,250.00 of the PAGA Civil Penalties to be paid to PAGA Employees. *Id*.

According to Defendant, there are approximately 438 total Settlement Class members who worked between August 6, 2020 and August 21, 2025. Lidman Decl., ¶ 15. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class Member's Settlement Award based on the following:

Each participating Settlement Class Member shall receive a proportionate settlement share based upon the number of Workweeks worked during the Class Period, the numerator of which is the Settlement Class Member's total Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all Settlement Class Members who worked during the Class Period. Settlement, ¶ 6.B. Thus, the average Individual Settlement Award is projected to be approximately **$1,252.69**. Lidman Decl., ¶ 14. There are approximately 44,857 workweeks from August 6, 2020 to August 21, 2025, which means the net value per workweek is approximately $12.23 ($548,676.67 NSA / 44,857 workweeks). Lidman Decl., ¶ 15. Therefore, the lowest estimated individual payment for an employee that worked one workweek during the relevant time period is $12.23, while the highest estimated individual payment for an employee that worked the entire relevant time period of approximately 263 workweeks is $3,216.49 ($12.23 x 263 workweeks). *Id*.

[3] The Effective Date means the first day after the latter of: (a) 60 days after the Court grants Final Approval of the Settlement if no timely appeal is filed; or (b) the date on which any appeal that has been filed is finally resolved such that there are no further rights of appeal or unresolved appellate proceeding(s). Lidman Decl., ¶ 11, Exh. 2 (Settlement, ¶ 4.B.).

In addition, Twenty-Six Thousand Two Hundred Fifty Dollars and Zero Cents ($26,250.00) of the PAGA Civil Penalties will be distributed to PAGA Employees. Settlement, ¶ 6.B.b. Each PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee's number of pay periods worked during the PAGA Period, and the denominator of which is the total number of pay periods worked by all PAGA Employees. *Id*. There is an estimated 264 PAGA Employees who collectively worked a total of 8,088 PAGA Pay Periods from August 6, 2023 to August 21, 2025 (date of mediation). Lidman Decl., ¶ 16. The average PAGA Payment to PAGA Employees is estimated to be $99.43, while the lowest PAGA payment is estimated to be $3.24, and the highest PAGA payment is estimated to be $346.68. *Id*.

Settlement Class members will have 60 calendar days from the mailing of the Notice Packet to opt-out, object to the Settlement, or challenge the calculation of Workweeks or PAGA Pay Periods, and will therefore have ample time to review the Notice Packet without unduly delaying the Settlement. *See* Settlement, ¶ 11.D. Those Settlement Class Members who do not opt-out of the Settlement will be bound by its terms and will release all claims against Defendant included within the Settlement, for the period between August 6, 2020 through the date the Court enters an Order Granting Preliminary Approval of the Settlement. *See* Settlement, ¶ 3.

e. <u>The Parties Engaged in Fair and Honest Negotiations.</u>

This Settlement was a result of serious, informed, non-collusive negotiations with the assistance of a mediator. As part of the informal discovery, Defendant produced time records and payroll data for the entire putative class. Lidman Decl., ¶ 12. Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs' case. *Id*. This informal discovery allowed the parties to assess the merits and value of Plaintiffs' claims and Defendant's defenses thereto, if a settlement could not be reached.

On August 21, 2025, the Parties participated in full-day mediation with Lisa Klerman, Esq., an experienced wage and hour class action mediator. Lidman Decl., ¶ 13. During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiffs' claims, and the legal basis for the claims and defenses. *Id.* As a result of the mediator's proposal, the Parties reached a settlement in principle and, since mediation, the Parties finalized the terms of settlement and executed a settlement agreement. *Id.*, Exh. 2.

Thus, the proposed Settlement is entitled to an initial presumption of fairness as it is the result of factual investigation and data analysis; the exchange of information and class data, including timekeeping and payroll records for the entire putative class; arm's length negotiations by counsel; and mediation before an experienced wage and hour class action mediator. *See* Lidman Decl., ¶¶ 12-13; *see Kullar*, *supra*, 168 Cal.App.4th at 130.

Further, there are no deficiencies in the Settlement. The Settlement does not grant preferential treatment to the class representatives or segments of the class, and is within the range of possible approval, as discussed in detail below. The Settlement will provide monetary relief to Settlement Class Members. The amounts proposed for Class Counsel's attorneys' fees and costs and class representative service awards are all reasonable and appropriate based on the facts of this case. Because the Settlement is devoid of obvious deficiencies, this factor supports preliminary approval.

f. Amount Offered in Settlement Given Realistic Value of Claims

The Settlement provides a fair and reasonable monetary recovery for the Settlement Class in the face of disputed claims. Plaintiffs' analysis of the maximum and realistic expected recoveries for each of the theories of liability pled is set forth below:

Unpaid Wage Violations: Plaintiffs allege that they and the other non-exempt employees were not paid for all time worked. Lidman Decl., ¶ 18. Specifically, Defendant required its employees to answer and respond to calls regarding the prior day's work while the employees were clocked out. *Id.* Accordingly, Plaintiffs contend that Defendant did not compensate Plaintiffs and other non-exempt employees for all minimum and overtime wages earned. *Id.* Based on an estimate of one hour of unpaid time per workweek, Plaintiffs calculated Defendant's exposure for unpaid wages at $1,342,121.44, including liquidated damages (44,857 unpaid hours x $14.96 avg. hourly rate x 2 [liquidated damages]). *Id.*

Defendant contends that it compensated Settlement Class members for all of their time worked. Lidman Decl., ¶ 19. Defendant asserts that Plaintiffs would be unable to certify this class given the individualized inquiries that would be required. *Id*. In light of these defenses, Plaintiffs discounted the maximum exposure by 40% for the risk of non-certification, and an additional 45% to account for Defendant's defenses on the merits, to arrive at an estimated exposure of $442,900.08. *Id*.

Regular Rate Violations: Plaintiffs allege Defendant failed to pay overtime, meal period premiums, and sick pay at the regular rate of pay. Lidman Decl., ¶ 20. Specifically, Plaintiffs allege that Defendant failed to include all non-discretionary income when calculating overtime, meal period premiums, and sick pay, resulting in an underpayment of wages. *Id*. As such, Plaintiffs' expert calculated Defendant's exposure for unpaid wages at $374,379. *Id*.

Defendant contends that any additional compensation received by non-exempt employees was discretionary and therefore not required to be included when calculating the regular rate of pay for the purposes of sick pay. Lidman Decl., ¶ 21. Defendant further asserts that Plaintiffs would be unable to certify this class given the individualized inquiries that would be required. *Id*. In light of these defenses, Plaintiffs discounted the maximum exposure by 20% for the risk of non-certification, and an additional 35% to account for Defendant's defenses on the merits, to arrive at an estimated exposure of $194,677.08. *Id*.

Meal Period Violations: Plaintiffs allege that they and the Settlement Class Members were not provided with all legally-compliant meal periods beginning before the end of the fifth hour of work, nor were they provided a second meal period when working shifts of more than 10.0 hours. Lidman Decl., ¶ 22. Accordingly, Plaintiffs' expert calculated Defendant's liability on the meal period claim at $845,327.00, inclusive of interest. *Id*.

Defendant counters that it has always maintained a lawful meal period policy. Lidman Decl., ¶ 23. Further, Defendant contends that it has always provided non-exempt employees with an opportunity to take legally compliant meal periods, and any non-compliant meal periods were solely the result of employee choice, rather than any policy or practice of Defendant, evidenced by a meal break waiver agreement. *Id*. Finally, Defendant contends Plaintiffs' meal period claim is not suited for class certification, given that individual inquiries would be required to assess which employees took non-compliant meal periods, how many meal periods were non-compliant or missed, and the reasons why a particular employee took a non-compliant meal period or missed a meal period during a particular shift. *Id*. Accordingly, Plaintiffs discounted the maximum exposure by 40% for the risk of non-certification, and an additional 30% to account for Defendant's defenses on the merits to arrive at an estimated exposure of $355,037.34. *Id*.

<u>Rest Period Violations</u>: Plaintiffs allege that they and Settlement Class Members were also not authorized and permitted to take all required rest periods due to Defendant's rest period practices. Lidman Decl., ¶ 24. Assuming a 100% violation rate for 205,834 shifts, Plaintiffs' expert calculated Defendant's maximum exposure for the alleged rest period violations at approximately $7,062,455.00, including interest. *Id*.

Defendant contends it has always maintained and enforced lawful rest period policies and practices, and that Settlement Class Members were authorized and permitted to take all off-duty rest periods in compliance with California law. Lidman Decl., ¶ 25. Defendant also argues that Plaintiffs' rest period claim is inherently unsuited for class treatment as it requires an individualized inquiry into whether each Settlement Class Member was in fact authorized and permitted to take a compliant rest period, which would devolve into an unmanageable series of mini-trials. *Id*. Accordingly, Plaintiffs discounted the maximum exposure by 70% for the risk of non-certification, and an additional 65% to account for Defendant's defenses on the merits to arrive at an estimated exposure of $741,557.78. *Id*.

<u>Wage Statement Violations</u>: Plaintiffs further allege that Defendant issued inaccurate wage statements in violation of Labor Code § 226 as a result of the alleged unpaid wages and unpaid meal and rest period premium wages described above. Lidman Decl., ¶ 26. Plaintiffs calculated Defendant's maximum exposure for wage statement violations at approximately $795,600.00 ([264 x $50] + [7,824 x $100]). *Id*.

Defendant argues that its alleged wage statement violations could not be shown to be "knowing and intentional," and that Plaintiffs cannot show that they or any other employee "suffer[ed] injury" as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of penalties. Lidman Decl., ¶ 27. As such, Plaintiffs discounted the calculated exposure by 20% for a risk of non-certification and an additional 30% for a risk of being unsuccessful on the merits, to arrive at an estimated total of approximately $445,536.00. *Id*.

Failure to Reimburse Violations: Plaintiffs allege Defendant failed to reimburse non-exempt employees for all necessary business expenses incurred. Lidman Decl., ¶ 28. Specifically, Defendant required Plaintiff and non-exempt employees to use their personal cell phones for work-related purposes but did not reimburse the non-exempt employees for such usage in violation of Labor Code § 2802. *Id*. Therefore, Plaintiffs' expert calculated Defendant's potential exposure for unreimbursed business expenses at approximately $412,271.00, including interest. *Id*.

Defendant contends employees were not required to use their personal electronic devices to communicate with team members and would only do so at their own volition. Lidman Decl., ¶ 29. Defendant further contends that any purportedly necessary expenses incurred by non-exempt employees were minimal. *Id.* In light of these defenses and Defendant's argument that the Court would exercise its discretion to reduce any civil penalty due to its good faith efforts to comply with applicable law, Plaintiffs discounted the maximum recovery on this claim by 80% for the risk of non-certification, and an additional 65% to account for the risk that Defendant could prevail on its defenses, to arrive at a projected total of approximately $28,858.97. *Id*.

Waiting Time Penalties: Plaintiffs allege that Defendant is also liable for waiting time penalties under Labor Code section 203 as a result of its failure to pay all wages at the time of separation of employment. Lidman Decl., ¶ 30. Based on the data provided by Defendant, there were approximately 250 Settlement Class Members who separated their employment with Defendant during the relevant time period who could be entitled to waiting time penalties. *Id*. Therefore, Plaintiffs calculated Defendant's maximum exposure for waiting time penalties at approximately $1,736,703.00 (250 former employees x $27.56 avg hourly rate x 8.4 hours/day x 30 days). *Id*.

Defendant asserts it has strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiffs' underlying claims, precluding imposition of penalties. Lidman Decl., ¶ 31. Accordingly, Plaintiffs discounted the maximum exposure by 35% for the risk of non-certification, and an additional 45% to account for Defendant's defenses on the merits, to arrive at an estimated exposure of approximately $620,871.32. *Id*.

FRCA Violations: Plaintiffs allege that Defendant conducted a background check without disclosures and prior authorization from employees. Lidman Decl., ¶ 32. Plaintiffs assigned value of $250,000.00 to this claim. *Id*.

Defendant argues that its alleged FRCA violation could not be shown to be reckless and/or intentional and that Plaintiffs cannot show that they or any other employee "suffer[ed] injury" as a result of the alleged FRCA violation. Lidman Decl., ¶ 33. Defendant asserts that Plaintiffs would be unable to certify this class given the individualized inquiries that would be required. *Id*. In light of these defenses, Plaintiffs discounted the maximum exposure by 40% for the risk of non-certification, and an additional 45% to account for Defendant's defenses on the merits, to arrive at an estimated exposure of $82,500.00. *Id*.

<u>PAGA Civil Penalties</u>: Plaintiffs also seek civil penalties under the PAGA as a result of the foregoing alleged Labor Code violations. Lidman Decl., ¶ 34. Plaintiffs calculated Defendant's maximum exposure at $4,137,000.00 based on each unique Labor code violation for failure to pay all minimum and overtime wages due, meal period violations, rest period violations, wage statement violations, and failure to pay all wages upon termination. *Id*.

Defendant argues that Plaintiffs' PAGA claim will fail for the same reasons that their underlying claims will fail. Lidman Decl., ¶ 35. Defendant also maintains that, given its good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Defendant liable for any of Plaintiffs' claims. *Id*. Therefore, Plaintiffs discounted the maximum exposure figure by 45% for a risk of being unsuccessful on the merits, and an additional 65% to account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of $796,372.50. *Id*.

g. <u>The Settlement Is Within the Range of Possible Approval</u>

Using these estimated figures for each of the claims described above, Plaintiffs predicted the realistic total recovery for the Settlement Class would be approximately $3,708,311.06. Lidman Decl., ¶ 36. The proposed settlement of $1,030,000.00 therefore represents approximately 27.7% of the reasonably forecasted recovery for the Settlement Class. *Id*. Indeed, the percentage of the liability exposure recovered in this case is within the range of percentages routinely approved by courts. *See, e.g., Glass v. UBS Finan. Servs.* (N.D. Cal. 2007) Case No. C-06-4068 MMC, 2007 WL 221862, *4 (approving settlement representing 25% to 35% of potential damages); *Dunleavy v. Nadler* (9th Cir. 2000) 213 F.3d 454, 459 (approving settlement representing about one-sixth of potential recovery); *Nat'l Rural Telecomm. Coop. v. DirecTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 527 ("it is well-settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery that might be available to the Settlement Class members at trial"). Thus, Plaintiffs submit that the proposed settlement is within the range of possible approval, such that notice should be provided to the Settlement Class so that they can consider the Settlement. The Court will have the opportunity to again assess the reasonableness of the Settlement after the Settlement Class has had the opportunity to opt-out or object. Preliminary approval is appropriate as the settlement will provide tangible monetary relief to Settlement Class members and will still provide an average recovery to Settlement Class members of ***over $1,200***.

h. The Experience and Views of Counsel/Attorneys' Fees and Costs

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiffs are represented by competent, experienced counsel who possess extensive experience prosecuting and defending wage-and-hour class actions, and who have been appointed as class counsel in numerous cases alleging similar claims. *See* Lidman Decl., ¶¶ 2-8; Moore Decl., ¶¶ 2-5; Gose-Hardy Decl. ¶¶ 2-4; Haines Decl., ¶¶ 2-8; DuVan-Clarke Decl., ¶¶ 2-8. Class Counsel conducted an in-depth review of Defendant's timekeeping and payroll records and drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs' case. *See* Lidman Decl., ¶¶ 12, 18-35. The Settlement was also reached with the assistance of an experienced wage and hour class action mediator. Lidman Decl., ¶ 13. This factor strongly supports preliminary approval of the Settlement. *See Kullar*, *supra*, 168 Cal.App.4th at 130.

California courts recognize an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of a settlement. *See e.g., Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506 (holding "the percentage of fund method survives in California class action cases"). Class Counsel's request for fees of one-third of the GSA is well within the range of reasonableness and, indeed, is considered the typical rate for common fund settlements.

Historically, courts have awarded percentage fees in the range of 20% to 50%, depending on the circumstances of the case. *See* 4 Newberg on Class Actions § 14.6 (4th Ed. 2013).

Here, Class Counsel will apply for an attorneys' fees award of one-third of the GSA, which is currently estimated to be $343,333.33, and up to $35,000.00 in verified costs reimbursement. *See* Lidman Decl., ¶ 37 and Exh. 2 (Settlement, ¶ 4.D.(4)). Plaintiffs submit the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Lidman Decl., ¶ 37. Further, Plaintiffs have provided written approval of the split of attorneys' fees in this action. Lidman Decl., ¶ 38. Class Counsel has incurred substantial attorney fees conducting pre-filing investigation, analyzing Plaintiffs' claims, conducting legal research, analyzing timekeeping and payroll records, preparing for and attending mediation, negotiating and revising the long-form settlement agreement, preparing this Motion, and otherwise litigating the case. Lidman Decl., ¶ 37. Class Counsel expects to expend additional attorney time in attending the hearing on this Motion, overseeing the Notice process, fielding questions from Settlement Class members, preparing the final approval papers, and attending the final approval hearing. *Id*.

Class Counsel submits that the request for attorneys' fees is reasonable when viewed as an overall percentage of the settlement in light of the substantial risks, significant work undertaken, the positive results obtained for the class, and the efficiency with which the Parties conducted the litigation. Should the Court grant preliminary approval, Class Counsel will seek an award of attorneys' fees and verified litigation costs at the time of seeking final approval of the Settlement, which will include a lodestar analysis.

i. <u>Administration Costs</u>

Apex Class Action Administration's ("Apex") fees and expenses are estimated not to exceed $7,990.00. *See* Declaration of Sean Hartranft in support of Plaintiff's Motion for Preliminary Approval filed concurrently herewith ("Hartranft Decl."). This request is reasonable in light of the proposed class size of approximately 438 Settlement Class Members, and the costs and expenses associated with administering the Notice Packets and distributing the awards, including translating the documents to Spanish by a Court certified translator.

j. Class Representative Service Awards

"[I]ncentive awards are fairly typical in class action cases . . . and are intended to compensate class representatives for work done on behalf of the class [and] to make up for financial or reputational risk undertaken in bringing the action." *In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-94.

Here, as part of the Settlement, Plaintiffs will separately apply for a service award at the time of seeking final approval of the proposed class action settlement in the amount of $10,000.00 each for their services to the Settlement Class. Lidman Decl., ¶ 39, Exh. 2 (Settlement, ¶ 4.D.(3)); Portillo Decl., ¶ 12; Villa Decl., ¶ 12. As will be fully briefed at the time of final approval, Plaintiffs' requested service award is intended to recognize the time and effort Plaintiffs expended on behalf of the Settlement Class, including providing substantial factual information and documents to Class Counsel, multiple conferences with Class Counsel to discuss the claims and theories at issue in the litigation, as well as the significant risks Plaintiffs undertook by agreeing to serve as the named plaintiffs. *See* Lidman Decl., ¶ 39; Portillo Decl., ¶¶ 2-11; Villa Decl., ¶¶ 2-11.

k. Concurrent Pending Cases

Class Counsel is not aware of any concurrent pending cases involving similar claims against Defendant. *See* Lidman Decl., ¶ 40; Moore Decl., ¶ 7; Gose-Hardy Decl., ¶ 6; Haines Decl., ¶ 10.

l. PAGA Civil Penalties

The parties have agreed to a PAGA award of $75,000.00 and in accordance with California Labor Code section 2699(i), the LWDA will receive 65% of the amount attributable to PAGA Civil Penalties – or $48,750.00. Settlement ¶ 4.D.(5). This $75,000.00 represents 7.2% of the $1,030,000.00 Gross Settlement Amount and is well above the range approved by Courts. *See, e.g.*, *In re M.L. Stern Overtime Litig.*, No. CV 07-0118 BTM (JMAx), 2009 WL 995864, at *1 (S.D. Cal. Apr. 13, 2009) (approving PAGA settlement of 2 percent, or $20,000); *Hopson v. Hanesbrands, Inc.*, No. CV 08-0844 EDL, 2008 WL 3385452, at *1 (S.D. Cal. Apr. 13, 2009) (approving a PAGA settlement of 0.3 percent, or $1,500); *Nordstrom Comm'n Cases*, 186 Cal. App. 4th 576, 589 (2010) (approving settlement of wage and hour class action claims and PAGA claims under which no money was allocated to the PAGA claims).

m. <u>Payroll Taxes and Tax Allocation</u>

The Settlement provides that the employer's share of payroll taxes shall be paid separately from, and in addition to, and the Gross Settlement Amount. Settlement ¶ 4.E.

n. <u>Uncashed Funds</u>

The Settlement provides Settlement Class members with 180 days from the date the Settlement Administrator mails the checks to cash any and all payments. Settlement ¶ 6.E. Any funds remaining after 180 days escheat to the California Secretary of State-Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member. *Id*. As all settlement funds will be distributed to the Settlement Class members, there will be no residue and it is unnecessary to designate *cy pres* recipients.

C. THE COURT SHOULD ORDER DISTRIBUTION OF THE PROPOSED NOTICE TO SETTLEMENT CLASS MEMBERS

Before the final approval hearing, the Court requires adequate notice of the settlement be given to all class members. This Court should order distribution to the Settlement Class of the proposed Notice Packet by first-class regular U.S. Mail, postage prepaid, using last known mailing address information provided by Defendant, as updated by the Settlement Administrator through the National Change of Address database. *See* Settlement, ¶ 11.C. The Notice Packets, which shall include the Court Approved Notice of Class Action and PAGA Settlement and Hearing Date for Final Court Approval, Workweek Dispute & Change of Address Form, Request for Exclusion Form, and Objection Form, will be mailed in both English and Spanish. Settlement, Exh. C. This manner of giving notice is the "best notice practicable" under the circumstances because it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 173. Here, Plaintiffs propose that the Settlement be administered by Apex, an experienced class action settlement administrator. *See generally* Hartranft Decl. and attached exhibits. Settlement Class Members' addresses will be ascertainable through Defendant's personnel and payroll records, which Defendant will provide to Apex within 20 days of preliminary approval of the Settlement. *See* Settlement ¶ 11.A. Within 10 business days of receipt of the Class Data, Apex will run the addresses through the United States Postal Service Notice of Change of Address database (which provides updated addresses for any individual who has moved in the previous four years and has notified the U.S. Postal Service of a forwarding address) and mail the notices to Settlement Class members. *See* Settlement ¶ 11.C. To the extent that any notices are returned, within five (5) business days after receipt of any Class Notice returned as undelivered, Apex will re-mail the Class Notice using any forwarding address provided by the U.S.P.S. or conduct a Class Member Address Search to track any Class Member's current mailing address. *See* Settlement ¶ 11.G.

The content of the proposed Notice Packet satisfies California Rule of Court 3.766(d) because it advises Settlement Class members of the nature of the claims, basic contentions and denials of the parties, and the key terms of the Settlement, the 60-day deadline to opt-out or object to the Settlement and the procedures by which to do so, explains the recovery formula and expected recovery amount for each Settlement Class Member, provides them the opportunity to contest their total workweeks and PAGA Pay Periods included in the notice, and advises them that they will be bound by the terms of the Settlement if they do not opt-out. *See* Lidman Decl., Exh. 2 (Settlement, Exh. C). This manner of giving notice satisfies California Rule of Court 3.766(e) as the most reliable and cost-effective method of reaching Settlement Class members.

IV. <u>CONCLUSION</u>

For the foregoing reasons, Plaintiffs respectfully request that the Court preliminarily approve the proposed Settlement, provisionally certify the Settlement Class, enter the Proposed Order Granting Preliminary Approval of Class Action Settlement submitted concurrently herewith, and set a hearing for final approval of the Settlement on January 11, 2027 at 1:30 p.m..

Dated: June 1, 2026

Respectfully submitted,
LIDMAN LAW, APC

By: ______________________
Scott M. Lidman
Attorney for Plaintiff
CONCEPCION PORTILLO