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20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

21 **FOR THE COUNTY OF SANTA CLARA**

22 JESUS MONTOYA, an individual, on  
behalf of himself and others similarly  
23 situated,

24 Plaintiff,

25 vs.

26 FUJIFILM DIMATIX, INC., a Delaware  
stock corporation, and DOES 1 through 50,  
27 inclusive,

28 Defendants

Case No. 24CV429229

CLASS ACTION

Assigned for all purposes to:

Hon. Charles F. Adams

Dept.: 7

**CLASS AND PAGA ACTION SETTLEMENT  
AGREEMENT**

Class Complaint filed: January 16, 2024

First Amended Complaint: June 6, 2024

Trial Date: Not set

1 This “Class Action and PAGA Settlement Agreement” (“Agreement”) is made by and between  
2 plaintiff Jesus Montoya (“Plaintiff”) and Fujifilm Dimatix, Inc. (“Defendant”). The Agreement  
3 refers to Plaintiff and Defendant collectively as “the Parties,” or individually as “Party.”

4 **A. DEFINITIONS.**

5 1. “Action” means the above-captioned lawsuit alleging wage and hour violations against  
6 Defendant, originally filed on January 16, 2024, and amended to add a PAGA Cause of Action on  
7 June 6, 2024, in Santa Clara County Superior Court, Case No. 24CV429229.

8 2. “Administrator” means Apex Class Action administrators (“Apex”), and Apex is the  
9 neutral entity the Parties have agreed to appoint to administer the Settlement.

10 3. “Administration Costs” means the amount the Administrator will be paid from the  
11 Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the  
12 Administrator’s “not to exceed” bid the parties have received from Apex for \$8,700.00.

13 4. “Aggrieved Employee” means all Class Members who worked during the PAGA  
14 Period (i.e. the period from January 16, 2023, through June 25, 2025).

15 5. “Class” means all non-exempt, hourly-paid individuals that worked for Defendant in  
16 California during the Settlement Class Period (i.e. the period from January 16, 2020, through June  
17 25, 2025).

18 6. “Class Counsel” means Emil Davtyan, David Yeremian, Alvin B. Lindsay, Enoch J.  
19 Kim, Marta Manus, and the other attorneys of D.Law, Inc.

20 7. “Class Counsel Fees Payment” means an award of attorneys’ fees granted to Class  
21 Counsel and paid from the Gross Settlement Amount. The Parties have agreed Plaintiff will request  
22 approval from the Court of up to one-third of the Gross Settlement Amount, i.e. up to \$ 333,333.33.

23 8. “Class Counsel Litigation Expenses Payment” means the amount allocated from the  
24 Gross Settlement Amount to Class Counsel for reimbursement of reasonable expenses and costs  
25 incurred in the Action, not to exceed \$40,000.00. If Class Counsel Litigation Expenses Payment is  
26 less than \$40,000.00, the difference will remain in the Net Settlement Amount to be distributed to  
27 the Class Members.

28 9. “Class Data” means Class Member identifying information in Defendant’s possession

1 including the Class Member’s name, last-known mailing address, telephone number, Social Security  
2 number, hire dates, and termination dates.

3 10. “Class Member” means a member of the Class, as either a Participating Class Member  
4 or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as  
5 an Aggrieved Employee).

6 11. “Class Member Address Search” means the Administrator’s investigation and search  
7 for current Class Member mailing addresses using all reasonably available sources, methods, and  
8 means including, but not limited to, the “National Change of Address Database”, skip traces, and  
9 direct contact by the Administrator with Class Members.

10 12. “Class Notice” means the Court approved notice of settlement and hearing date for  
11 Final Approval, with a Spanish translation if the parties deem necessary, to be mailed to Class  
12 Members and incorporated by reference into this Agreement.

13 13. “Class Period” means the period from January 16, 2020 through June 25, 2025.

14 14. “Class Representative” means the named Plaintiff Jesus Montoya, in the Action  
15 seeking Court approval to serve as a Class Representative.

16 15. “Class Representative Enhancement Award” means the payment to the Class  
17 Representative for initiating the Action and providing services in support of the Action, and  
18 Defendant agreed not to object to a requested Enhancement Award of up to \$10,000.00 subject to  
19 Court approval.

20 16. “Court” means the Superior Court of California, County of Santa Clara.

21 17. “Defendants” means named Defendant Fujifilm Dimatix, Inc.

22 18. “Defense Counsel” means Elena R. Baca, Chris A. Jalian and Eric D. Distelburger of  
23 Paul Hastings LLP.

24 19. “Effective Date” means the date by which all of the following have occurred: (a)  
25 Defendant has not voided this Settlement pursuant to section G; (b) the Court enters Judgment upon  
26 Final Approval; and (c) the Judgment is final. The judgment is final as of the latest of the following  
27 occurrences: (a) if no Participating Class Member objects to the Settlement, the last date on which a  
28 notice of appeal from the Judgment may be filed, and none is filed; (b) if one or more Participating

1 Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from  
2 the Judgment; or (c) if a timely appeal from the Judgment is filed, the last of the following dates: (i)  
3 the last date by which a petition for review by the California Supreme Court of the California Court  
4 of Appeal’s decision affirming the Judgment may be filed, and none is filed; (ii) the last date by  
5 which a petition for a writ of *certiorari* to the United States Supreme Court of a decision by the  
6 California Court of Appeal or the California Supreme Court affirming the Judgment may be filed,  
7 and none is filed; or (iii) if a petition for review by the California Supreme Court, or a petition for a  
8 writ of *certiorari* to the U.S. Supreme Court, seeking review of the Judgment or of the California  
9 Court of Appeal’s decision on an appeal from the Judgment is timely filed, the date on which the  
10 highest reviewing court renders its decision denying the petition (where the immediately lower court  
11 affirmed the Judgment) or affirming the Judgment. The Effective Date of Release for the Class and  
12 PAGA Releases will be when the Effective Date has occurred, and the Gross Settlement Amount  
13 has been fully funded in the Qualified Settlement Fund.

14 20. “Final Approval” means the Court’s order granting final approval of the Settlement.

15 21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval  
16 of the Settlement.

17 22. “Gross Settlement Amount” means \$1,000,000.00 (One Million Dollars with Zero  
18 Cents), which is the total amount Defendant agrees to pay under the Settlement.

19 23. “Individual Class Payment” means the Participating Class Member’s pro rata share of  
20 the Net Settlement Amount calculated according to the number of Workweeks worked during the  
21 Class Period.

22 24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25%  
23 of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the  
24 PAGA Period.

25 25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

26 26. “LWDA” means the California Labor and Workforce Development Agency, the  
27 agency entitled, under Labor Code section 2699, subd. (i).

28 27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA

1 under Labor Code section 2699, subd. (i).

2 28. "Net Settlement Amount" means the Gross Settlement Amount, less the following  
3 payments in the amounts approved by the Court: PAGA Penalties, Class Representative  
4 Enhancement Award, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment,  
5 and the Administration Costs. The remainder is to be paid to Participating Class Members as  
6 Individual Class Payments.

7 29. "Non-Participating Class Member" means any Class Member who opts out of the  
8 Settlement by sending the Administrator a valid and timely Request for Exclusion.

9 30. "Operative Complaint" means the operative "First Amended Complaint" filed in the  
10 Action on June 6, 2024.

11 31. "PAGA Pay Period" means any pay period during which an Aggrieved Employee  
12 worked for Defendant for at least a portion of one day during the PAGA Period.

13 32. "PAGA Period" means the period from January 16, 2023 through June 25, 2025.

14 33. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

15 34. "PAGA Notice" means Plaintiff's January 16, 2024 letter to LWDA (LWDA Case No.  
16 LWDA-CM-1005290-24) and the Defendant providing notice pursuant to Labor Code section  
17 2699.3, subd.(a).

18 35. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the  
19 Gross Settlement Amount (\$50,000.00), allocated 25% to the Aggrieved Employees (\$12,500.00)  
20 and 75% to LWDA (\$37,500.00) in settlement of PAGA claims.

21 36. "Participating Class Member" means a Class Member who does not submit a valid and  
22 timely Request for Exclusion from the Class portion of the Settlement.

23 37. "Plaintiff" means Jesus Montoya, the named plaintiff in the Action.

24 38. "Preliminary Approval" means the Court's order granting preliminary approval of the  
25 Settlement.

26 39. "Release Effective Date" means the date Plaintiff, Class Members, and Aggrieved  
27 Employees effectively release all claims against the Released Parties. For the Participating Class  
28 Members and Aggrieved Employees, the Release Effective Date occurs on the date after the Court

1 enters Judgment, or if there is an objector, the date after any appeal period has passed, or if a timely  
2 appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues  
3 a remitter and the Defendant fully funds the Gross Settlement Amount.

4 40. “Released Class Claims” means the class claims being released on the Release  
5 Effective Date and as described below.

6 41. “Released PAGA Claims” means the PAGA claims being released on the Release  
7 Effective Date as described below.

8 42. “Released Parties” means: Defendant and all of Defendant’s former and present  
9 officers, directors, subsidiaries, affiliates, shareholders, members, agents, attorneys, insurers,  
10 predecessors, successors, owners, and assigns.

11 43. “Request for Exclusion” means a Class Member’s submission of a completed and  
12 signed Request for Exclusion form (enclosed with the Class Notice) to be excluded from the Class  
13 portion of the Settlement.

14 44. “Response Deadline” means sixty (60) days after the Administrator mails Class Notice  
15 to Class Members and shall be the last date on which Class Members may: (a) fax, email, or mail  
16 Requests for Exclusion from the Class portion of the Settlement, or (b) fax, email, or mail his or her  
17 objection to the Settlement. Class Members to whom Class Notice is resent after having been  
18 returned undeliverable to the Administrator shall have an additional 14 calendar days beyond when  
19 the Response Deadline has expired to provide an appropriate response.

20 45. “Settlement” means the disposition of the Action effected by this Agreement and the  
21 Judgment.

22 46. “Workweek” means any week during which a Class Member worked for Defendant  
23 for at least a portion of one day, during the Class Period, as recorded by Defendant’s time and payroll  
24 system.

25 **B. RECITALS.**

26 47. On January 16, 2024, Plaintiff commenced the Action by filing a complaint alleging  
27 causes of action against Defendant for (1) Failure to pay minimum wages, (2) Failure to pay wages  
28 and overtime under Labor Code section 510, (3) Meal period liability under Labor Code section

1 226.7, (4) Rest break liability under Labor Code section 226.7, (5) Violation of Labor Code section  
2 226, (6) Violation of Labor Code section 221, (7) Violation of Labor Code section 204, (8) Violation  
3 of Labor Code section 203, (9) Failure to maintain records required under Labor Code sections 1174  
4 and 1174.5, and (10), Violation of Business & Professions Code section 17200, et seq. On January  
5 16, 2024, and pursuant to Labor Code §2699.3, subd.(a), Plaintiff gave timely notice to the LWDA  
6 and Defendant that Plaintiff intended to proceed with a representative action under PAGA (LWDA-  
7 CM-1004014-24). On June 06, 2024, after the 65-day statutory period passed, Plaintiff filed his First  
8 Amended Complaint (Operative Complaint), which added claims for penalties under PAGA, Labor  
9 Code §2698.

10 48. Defendant denies the allegations in the Operative Complaint, denies any failure to  
11 comply with the laws identified in the Operative Complaint, and denies any and all liability for the  
12 causes of action alleged.

13 49. On February 25, 2025, the Parties participated in a mediation presided over by  
14 respected wage and hour mediator Hon. Carl J. West (Ret.) and were able to reach an agreement on  
15 general settlement terms.

16 50. In advance of mediation, Class Counsel conducted a thorough investigation into the  
17 facts of, and applicable law to, the Action. Plaintiff's counsel provided Defendant's counsel with a  
18 comprehensive listing of informal discovery items required to constructively mediate. Defendant  
19 responded by producing a representative sampling of timekeeping and corresponding payroll records  
20 for putative class members, along with relevant policy documents, an explanation of pay codes, and  
21 summary numbers for class members and workweeks and the like. Prior to mediation, Plaintiff  
22 therefore obtained and analyzed the production of payroll data for Class Members and the necessary  
23 policy documents through informal discovery to properly evaluate the strengths and weaknesses of  
24 the claims and engage in meaningful settlement discussions. Plaintiff's investigation was sufficient  
25 to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal.App.4th  
26 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-130 (2008)  
27 (“*Dunk/Kullar*”).

28 51. The Court has not granted class certification and the parties are stipulating to

1 conditional class certification for Settlement purposes only.

2 52. The Parties, Class Counsel and Defense Counsel represent that they are not aware of  
3 any other pending matter or action asserting claims that will be extinguished or affected by the  
4 Settlement.

5 C. **MONETARY TERMS.**

6 53. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below,  
7 Defendant will pay \$1,000,000.00 (One Million Dollars with Zero Cents) to fully settle, resolve, and  
8 extinguish all claims asserted in the Action, including without limitation all claims asserted in the  
9 PAGA Notice. The Gross Settlement Amount is non-reversionary and does not include employer  
10 payroll taxes owed on the Wage Portion of the Individual Class Payments, which Defendant will  
11 pay separately.

12 54. Schedule for Payment of the Gross Settlement Amount: Defendant shall fully fund the  
13 Gross Settlement Amount and also fund the amounts necessary to fully pay Defendant's share of  
14 payroll taxes by transmitting the funds to the Administrator no later than fifteen (15) days after the  
15 Effective Date. This is a non-reversionary Settlement in which Defendant is required to pay the  
16 entire Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to  
17 Defendant. Defendant is separately and solely responsible for any employer payroll taxes owed as a  
18 result of this Settlement Agreement. Within fifteen (15) days of the Effective Date, Defendant will  
19 deposit money, in an amount equal to the Gross Settlement Amount, to pay (1) the Settlement Class  
20 per the terms of the final settlement agreement, and (2) court-approved Class Counsel Fees Payment,  
21 Class Counsel Litigation Expenses Payment, Administration Costs, and Class Representative  
22 Enhancement Award, and (3) PAGA penalties to be paid to the LWDA and to the Aggrieved  
23 Employees into a Qualified Settlement Fund established by the Settlement Administrator.

24 55. Cure Period, Interest Clause: If Defendant fails to make any payment of the Gross  
25 Settlement Amount by the deadlines set forth in Paragraph 54 and pursuant to the Administrator's  
26 payment timeline, and such failure continues for more than thirty (30) days after written notice from  
27 the Administrator of such failure, then the unpaid portion of the Gross Settlement Amount due will  
28 incur interest at the statutory rate for a judgment for wage under California law. Any such interest

1 accrued will be distributed pro rata to the Participating Class Members or otherwise as the Court  
2 directs. Defendant shall have no power over transferred funds, or to alter the schedule set forth in  
3 Paragraph 54 of this Agreement, absent court order. Any dispute between the Parties as to the  
4 meaning and/or application of Paragraph 54 will be submitted to the Court. No interest will accrue  
5 during the time that any Paragraph 54 issue is submitted to and is before the Court.

6       56. Payments from the Gross Settlement Amount. Subject to the terms and conditions of  
7 this Agreement, the Administrator will make and deduct the following payments from the Gross  
8 Settlement Amount in the amounts specified by the Court in the Final Approval:

9       56.1 To Plaintiff: A payment for the Class Representative Enhancement Award to the Class  
10 Representative, Jesus Montoya, of not more than \$10,000.00 (Ten Thousand Dollars) in addition to  
11 any Individual Class Payment and any Individual PAGA Payment the Class Representative is  
12 entitled to receive as a Participating Class Member. Defendant will not oppose Plaintiff's request for  
13 a Class Representative Enhancement Award that does not exceed this amount. As part of the motion  
14 for the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiff will  
15 seek Court approval for any Class Representative Enhancement Award. If the Court approves a Class  
16 Representative Enhancement Award less than the amount requested, the Administrator will retain  
17 the remainder in the Net Settlement Amount to be distributed to Participating Class Members. The  
18 Administrator will pay the Class Representative Enhancement Award using IRS Form 1099.  
19 Plaintiff assumes full responsibility and liability for employee taxes owed on the Class  
20 Representative Enhancement Award.

21       56.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the  
22 Gross Settlement Amount, that is up to \$ 333,333.33, and a Class Counsel Litigation Expenses  
23 Payment for actual costs, not to exceed \$40,000.00. Defendant will not oppose requests for these  
24 payments. Plaintiff and/or Class Counsel will file a motion requesting Class Counsel Fees Payment  
25 and Class Counsel Litigation Expenses Payment no later than 16 (sixteen) court days prior to the  
26 Final Approval Hearing, or as otherwise ordered by the Court. If the Court approves a Class Counsel  
27 Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested,  
28 the Administrator will allocate the remainder to the Net Settlement Amount for distribution to

1 Participating Class Members. Released Parties shall have no liability to Class Counsel or any other  
2 Plaintiff's counsel arising from any claim to any portion of Class Counsel Fees Payment and/or Class  
3 Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment  
4 and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel  
5 assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the  
6 Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies  
7 Defendant, from any dispute or controversy regarding any division or sharing of any of these  
8 payments.

9       56.3 To the Administrator: An Administration Costs payment not to exceed \$8,700.00  
10 except for a showing of good cause and as approved by the Court. To the extent the Administration  
11 Costs are less or the Court approves payment of less than \$8,700.00, the Administrator will retain  
12 the remainder in the Net Settlement Amount to be distributed to Participating Class Members.

13       56.4 To Each Participating Class Member: An Individual Class Payment is calculated by  
14 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all  
15 Participating Class Members during the Class Period, and (b) multiplying the result by each  
16 individual Participating Class Member's Workweeks.

17       56.4(a) Tax Allocation of Individual Class Payments. 20% of each Participating Class  
18 Member's Individual Class Payment will be allocated to wage claims (the "Wage Portion"). The  
19 Wage Portion is subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each  
20 Participating Class Member's Individual Class Payment will be allocated to interest and penalties  
21 (the "Non-Wage Portion"). The Non-Wage Portion is not subject to wage withholdings and will be  
22 reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability  
23 for any employee taxes owed on their Individual Class Payment.

24       56.4(b) Effect of Non-Participating Class Members on Calculation of Individual Class  
25 Payments. Non-Participating Class Members will not receive any Individual Class Payments. The  
26 Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement  
27 Amount for distribution to Participating Class Members on a pro-rata basis.

28       56.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of

1 \$50,000.00 (Fifty Thousand Dollars) will be paid from the Gross Settlement Amount, with 75%  
2 (\$37,500.00) allocated to the LWDA PAGA Payment and 25% (\$12,500.00) allocated to the  
3 Individual PAGA Payments. Aggrieved Employees cannot request exclusion.

4 56.5(a) The Administrator will calculate each Individual PAGA Payment by (a) dividing  
5 the amount of the Aggrieved Employees' 25% share of PAGA Penalties of \$12,500.00 by the total  
6 number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period, and  
7 (b) multiplying the result by each individual Aggrieved Employee's PAGA Pay Periods. Aggrieved  
8 Employees assume full responsibility and liability for any taxes owed on their Individual PAGA  
9 Payment.

10 56.5(b) If the Court approves PAGA Penalties of less than the amount requested, the  
11 Administrator will allocate the remainder to the Net Settlement Amount to be distributed to  
12 Participating Class Members. The Administrator will report the Individual PAGA Payments on IRS  
13 1099 Forms.

14 **D. SETTLEMENT FUNDING AND PAYMENTS.**

15 57. Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on data  
16 gathered through mediation, it is estimated there were 313 Class Members who collectively worked  
17 a total of **41,000** Workweeks from January 16, 2020, through February 25, 2025, and 242 Aggrieved  
18 Employees who worked a total of approximately 8,418 PAGA Pay Periods from January 16, 2023,  
19 through February 25, 2025.

20 58. Class Data. Not later than twenty (20) days after the Court grants Preliminary Approval  
21 of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a  
22 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must  
23 maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and  
24 for no other purpose, and restrict access to the Class Data to Administrator employees who need  
25 access to the Class Data to effect and perform under this Agreement. Defendant has a continuing  
26 duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member  
27 identifying information and to provide corrected or updated Class Data as soon as reasonably  
28 feasible. Without any extension of the deadline by which Defendant must send the Class Data to the

1 Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to  
2 reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

3 59. Payments from the Gross Settlement Amount. The monies to be distributed to  
4 Participating Class Members (i.e. the Net Settlement Amount) and Aggrieved Employees shall be  
5 paid to them by the Administrator within 10 (ten) days following the receipt of the Gross Settlement  
6 Amount by the Settlement Administrator from Defendants.

7 60. The Administrator will issue checks for the Individual Class Payments and/or  
8 Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail. The face  
9 of each check shall prominently state the date (180 days after the date of mailing) when the check  
10 will be voided (“Void Date”). The Administrator will cancel all checks not cashed by the Void Date.  
11 The Administrator will send checks for Individual Settlement Payments to all Participating Class  
12 Members (including those for whom the Class Notice was returned undelivered). The Administrator  
13 will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-  
14 Participating Class Members who qualify as Aggrieved Employees (including those for whom Class  
15 Notice was returned undelivered). Before mailing any checks, the Administrator must update the  
16 recipients’ mailing addresses using the National Change of Address Database.

17 61. The Administrator must conduct a Class Member Address Search for all Class  
18 Members whose checks are returned undelivered without a USPS forwarding address. Within seven  
19 (7) days of receiving a returned check, the Administrator must re-mail checks to the USPS  
20 forwarding address provided or to an address ascertained through the Class Member Address Search.  
21 The Administrator need not take further steps to deliver checks to Class Members whose re-mailed  
22 checks are returned as undelivered. The Administrator shall promptly send a replacement check to  
23 any Class Member whose original check was lost or misplaced, requested by the Class Member prior  
24 to the void date.

25 62. For any Class Member whose Individual Class Payment check or Individual PAGA  
26 Payment check is uncashed and canceled after the Void Date, the Administrator shall transmit the  
27 funds represented by such checks to the California Controller's Unclaimed Property Fund in the  
28 name of the Class Member thereby leaving no “unpaid residue” subject to the requirements of

1 California Code of Civil Procedure Section 384, subd. (b).

2 63. The payment of Individual Class Payments and Individual PAGA Payments shall not  
3 obligate Defendant to confer any additional benefits or make any additional payments to Class  
4 Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5 **E. RELEASES OF CLAIMS.** On the Release Effective Date, Plaintiff, Class Members,  
6 Aggrieved Employees, and Class Counsel will release claims against all Released Parties as follows:

7 64. Plaintiff's Release. Plaintiff and his respective former and present spouses,  
8 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, releases  
9 and discharges Released Parties from all claims, transactions, or occurrences, known or unknown.  
10 Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section  
11 1542 of the California Civil Code, which reads:

12 *A general release does not extend to claims that the creditor or releasing party does not*  
13 *know or suspect to exist in his or her favor at the time of executing the release, and that if*  
14 *known by him or her would have materially affected his or her settlement with the debtor or*  
15 *Released Party.*

16 65. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement,  
17 or to any claims for vested benefits, unemployment benefits, disability benefits, social security  
18 benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the  
19 Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in  
20 addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless,  
21 that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different  
22 or additional facts or Plaintiff's discovery of them.

23 66. Release by Participating Class Members: All Participating Class Members, on behalf  
24 of themselves and their respective former and present representatives, agents, attorneys, heirs,  
25 administrators, successors, and assigns, release the Released Parties from any and all claims alleged  
26 or which could have reasonably been alleged based on the facts alleged in the Operative Complaint,  
27 including claims for: failure to pay for all hours worked/compensation due; failure to pay minimum  
28 wages; failure to pay overtime, including alleged failure to pay overtime at the proper regular rate

1 (including accounting for bonuses and premium payments); failure to provide meal periods; failure  
2 to provide rest periods; failure to pay reporting time pay; failure to provide payment of wages during  
3 employment and payment of wages at termination; failure to maintain and provide accurate and  
4 complete records; failure to reimburse for necessary business expenses; and any and all claims for  
5 alleged violations of California Labor Code §§ 90.5, 201, 202, 203, 204, 206.5, 210, 218, 218.5,  
6 218.6, 221, 226, 226.2, 226.3, 226.4, 226.7, 246, 248 *et seq.*, 248.1, 248.2, 248.5, 432.5, 510, 511,  
7 512, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198,  
8 1198.5, 1199, 1198.5, and 2802; the Fair Labor Standards Act; California Business & Professions  
9 Code § 17200 *et seq.*; California Code of Civil Procedure § 1021.5; and the California Industrial  
10 Welfare Commission Wage Orders MW-2014 (collectively, the “Released Class Claims”). The  
11 Released Class Claims apply to claims arising during the Class Period. Except as set forth in  
12 Paragraph 67 of this Agreement, Participating Class Members do not release any other claims,  
13 including claims for vested benefits, wrongful termination, violation of the Fair Employment and  
14 Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims  
15 based on facts occurring outside the Class Period.

16       67. Release by Aggrieved Employees: All Aggrieved Employees, including Non-  
17 Participating Class Members who are Aggrieved Employees, are deemed to release, on behalf of  
18 themselves and their respective former and present representatives, agents, attorneys, heirs,  
19 administrators, successors, and assigns, the Released Parties from all claims for PAGA civil  
20 penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the  
21 Operative Complaint and the PAGA Notice, including PAGA claims premised on: California Labor  
22 Code §§ § 90.5, 201, 202, 203, 204, 206.5, 210, 218, 218.5, 221, 226, 226.2, 226.3, 226.4, 226.7,  
23 227.3, 246, 248, 248.1, 248.2, 248.5, 351, 354, 432.5, 510, 511, 512, 551, 558, 558.1, 1174, 1174.5,  
24 1182.12, 1185, 1194, 1194.1, 1194.2, 1197, 1198, 1198.5, 1199, 2802, 2810.5, 2698, and 2699, *et*  
25 *seq.*; failure to pay for all hours worked/compensation due; failure to pay all minimum wages; failure  
26 to pay all overtime, including alleged failure to pay overtime at the proper regular rate (including  
27 accounting for bonuses and premium payments); failure to provide meal periods; failure to provide  
28 rest periods; failure to pay reporting time pay; failure to provide payment of wages during

1 employment and payment of wages at termination; failure to maintain and provide accurate and  
2 complete records; and failure to reimburse for necessary business expenses (“Released PAGA  
3 Claims”). The Released PAGA Claims apply to claims arising during the PAGA Period. The  
4 Released PAGA Claims do not include any Aggrieved Employees’ individual (*i.e.* non-  
5 representative) claim for wages or damages.

6 68. Release Effective Date: As of the Release Effective Date, as defined above, all  
7 Participating Class Members shall be enjoined from filing, joining or becoming a party, member or  
8 representative in any actions, claims, complaints, or proceedings in any state or federal court on an  
9 individual, representative, collective or class action basis, or from initiating any other proceedings  
10 regarding any of the Released Class Claims identified herein. In addition, upon the Release Effective  
11 Date, all eligible Aggrieved Employees shall be enjoined from filing, joining, or becoming a party,  
12 member or representative in any actions, claims, complaints, or proceedings in any state or federal  
13 court on an individual, representative, collective or class action basis, or from initiating any other  
14 proceedings to the extent such actions, claims, complaints, or proceedings are based on the Released  
15 PAGA Claims released through this Settlement

16 **F. MOTION FOR PRELIMINARY APPROVAL**. Plaintiff will prepare and file a  
17 motion for preliminary approval (“Motion for Preliminary Approval”).

18 69. Defendant’s Statement of Non-Opposition in Support of Preliminary Approval.  
19 Defendant may file a statement of non-opposition in support of preliminary approval to be filed with  
20 or after the Motion for Preliminary Approval documents.

21 70. Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary for obtaining  
22 Preliminary Approval, including: (i) a draft of the notice, memorandum in support, Motion for  
23 Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request  
24 for approval of the PAGA portion of the Settlement under Labor Code Section 2699, subd. (f)(2));  
25 (ii) a draft proposed Preliminary Approval order; (iii) a draft proposed Class Notice, (iv) a signed  
26 declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement  
27 and attesting to its willingness to serve; competency; operative procedures for protecting the security  
28 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other

1 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;  
2 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense  
3 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and  
4 disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or  
5 the Administrator; (vi) a signed declaration from Class Counsel firm attesting to its competency to  
6 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA  
7 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint  
8 (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2));  
9 and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and/or  
10 the Administrator. In their declarations, Plaintiff and Class Counsel shall aver that they are not aware  
11 of any other pending matter or action asserting claims that will be extinguished or adversely affected  
12 by the Settlement.

13         71. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly  
14 responsible for expeditiously finalizing the Motion for Preliminary Approval. Class Counsel will  
15 obtain a prompt hearing date for the Motion for Preliminary Approval, file the Motion for  
16 Preliminary Approval no later than 16 (sixteen) court days before the hearing, unless otherwise  
17 ordered by the Court, and deliver the Court's Preliminary Approval to the Administrator.

18         72. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for  
19 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense  
20 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by  
21 telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary  
22 Approval or conditions Preliminary Approval on any material change to this Agreement, Class  
23 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting  
24 in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the  
25 Court's concerns.

26                 **G. SETTLEMENT ADMINISTRATION.**

27         73. Selection of Administrator. The Parties have jointly selected Apex to serve as the  
28 Administrator and verified that, as a condition of appointment, the Administrator agrees to be bound

1 by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange  
2 for payment of Administration Costs. The Parties and their Counsel represent that they have no  
3 interest or relationship, financial or otherwise, with the Administrator other than a professional  
4 relationship arising out of prior experiences administering settlements.

5 74. Employer Identification Number. The Administrator shall have and use its own  
6 employer identification number for purposes of calculating payroll tax withholdings and providing  
7 reports to state and federal tax authorities.

8 75. Qualified Settlement Fund. The Administrator shall establish a settlement fund that  
9 meets the requirements of a “Qualified Settlement Fund” (“QSF”) under US Treasury Regulation  
10 section 468B-1 for the funding of the Gross Settlement Amount. Any interest that accrues on the  
11 Gross Settlement Amount sums paid into the QSF prior to distribution by the Administrator will  
12 become part of the Net Settlement Amount for distribution to Participating Class Members. The QSF  
13 will be fully funded in one payment as addressed above.

14 76. Notice to Class Members.

15 76.1 No later than five (5) calendar days after receipt of the Class Data, the Administrator  
16 shall notify Class Counsel that the list has been received and state the number of Class Members,  
17 Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.

18 76.2 Using best efforts to perform as soon as possible, and in no event later than 14  
19 (fourteen) days after receiving the Class Data, the Administrator will send to all Class Members  
20 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class  
21 Notice with Spanish translation as the parties have agreed substantially in the form attached to this  
22 Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar  
23 amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class  
24 Member, and the number of Workweeks and PAGA Pay Periods used to calculate these amounts.  
25 Before mailing Class Notice, the Administrator shall update Class Member addresses using the  
26 National Change of Address Database.

27 76.3 Not later than five (5) calendar days after the Administrator’s receipt of any Class  
28 Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using

1 any forwarding address provided by the USPS. If the USPS does not provide a forwarding address,  
2 the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to  
3 the most current address obtained. The Administrator has no obligation to make further attempts to  
4 locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second  
5 time.

6 76.4 The deadlines for Class Members' written objections, challenges to Workweeks and/or  
7 PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen days (14)  
8 days beyond the sixty (60) days otherwise provided in the Class Notice for all Class Members whose  
9 notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with  
10 the re-mailed Class Notice.

11 76.5 If the Administrator, Defendant, or Class Counsel is contacted by or otherwise  
12 discovers any persons who believe they should have been included in the Class Data and should  
13 have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone,  
14 and in good faith in an effort to agree on whether to include them as Class Members. If the Parties  
15 agree, such persons will be Class Members entitled to the same rights as other Class Members, and  
16 the Administrator will send, via email or overnight delivery, a Class Notice requiring them to  
17 exercise options under this Agreement not later than 14 (fourteen) days after receipt of Class Notice,  
18 or the deadline dates in the Class Notice, whichever are later.

19 77. Requests for Exclusion (Opt-Outs).

20 77.1 Class Members who wish to exclude themselves (opt-out of) the Class portion of the  
21 Settlement must send the Administrator, by fax, email, or mail, a completed and signed Request for  
22 Exclusion form not later than 60 (sixty) days after the Administrator mails the Class Notice (plus an  
23 additional 14 (fourteen) days for Class Members whose Class Notice is re-mailed). To be valid, a  
24 Request for Exclusion form must be timely faxed, emailed, or postmarked by the Response Deadline.

25 77.2 The Administrator may not reject a Request for Exclusion form as invalid because it  
26 fails to contain all the information specified in the Class Notice. The Administrator shall accept any  
27 Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person  
28 as a Class Member and the Class Member's desire to be excluded.. If the Administrator has reason

1 to question the authenticity of a Request for Exclusion form, the Administrator may demand  
2 additional proof of the Class Member's identity. The Administrator shall make the initial decision  
3 regarding the validity of a Request for Exclusion form, but the Court may review any decision made  
4 by the Administrator.

5 77.3 Every Class Member who does not submit a timely and valid Request for Exclusion is  
6 deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound  
7 by all terms and conditions of the Settlement, including the Participating Class Members' releases  
8 under Paragraphs 66 and 67 of this Agreement, regardless of whether the Participating Class  
9 Member actually receives the Class Notice or objects to the Settlement.

10 77.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-  
11 Participating Class Member and shall not receive an Individual Class Payment or have the right to  
12 object to the class action components of the Settlement. Because future PAGA claims are subject to  
13 claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved  
14 Employees are deemed to release the Released PAGA Claims identified in Paragraph 67 of this  
15 Agreement and are eligible for an Individual PAGA Payment.

16 78. Challenges to Calculation of Workweeks. Each Class Member shall have 60 (sixty)  
17 days after the Administrator mails the Class Notice (plus an additional 14 (fourteen) days for Class  
18 Members whose Class Notice is re-mailed) to challenge the number of Workweeks and PAGA Pay  
19 Periods allocated to the Class Member in the Class Notice. The Class Member may challenge the  
20 allocation by communicating with the Administrator via fax, email or mail. The Administrator must  
21 encourage the challenging Class Member to submit supporting documentation. In the absence of any  
22 contrary documentation, the Administrator is entitled to presume that the Workweeks and PAGA  
23 Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class  
24 Data. The Administrator shall promptly provide copies of all challenges to the calculation of  
25 Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the  
26 Administrator's determination of the challenges. The Administrator shall make the initial decision  
27 regarding challenges to the calculation of Workweeks, but the Court may review any decision made  
28 by the Administrator.

1           79. Objections to Settlement.

2           79.1 Only Participating Class Members may object to the class action components of the  
3 Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or  
4 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment  
5 and/or Class Representative Enhancement Award.

6           79.2 Participating Class Members may send written objections to the Administrator, by fax,  
7 email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an  
8 attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A  
9 Participating Class Member who elects to send a written objection to the Administrator must do so  
10 not later than 60 (sixty) days after the Administrator's mailing of the Class Notice (plus an additional  
11 14 (fourteen) days for Class Members whose Class Notice was re-mailed).

12           79.3 Non-Participating Class Members have no right to object to any of the class action  
13 components of the Settlement.

14           80. Administrator Duties. The Administrator has a duty to perform or observe all tasks to  
15 be performed or observed by the Administrator contained in this Agreement or otherwise.

16           80.1 Website, Email Address and Toll-Free Number. The Administrator will establish,  
17 maintain and use an internet website to post information of interest to Class Members including the  
18 date, time, and location for the Final Approval Hearing and copies of the Agreement, Motion for  
19 Preliminary Approval, Preliminary Approval, Class Notice, Motion for Final Approval, motion for  
20 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative  
21 Enhancement Award, the Final Approval, and the Judgment. The Administrator will also maintain  
22 and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes  
23 and emails.

24           80.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will  
25 promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than  
26 five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the  
27 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and  
28 other identifying information of Class Members who have timely submitted valid Requests for

1 Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members  
2 who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion forms  
3 submitted (whether valid or invalid).

4 80.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports  
5 to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices  
6 mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or  
7 invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received  
8 and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments  
9 (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity  
10 of Requests for Exclusion and attach copies of all Requests for Exclusion forms and objections  
11 received.

12 80.4 Workweek and/or PAGA Pay Period Challenges. The Administrator has the authority  
13 to address and make the initial decision consistent with the terms of this Agreement on all Class  
14 Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. Although the  
15 Administrator shall may make the initial decision regarding challenges to the calculation of  
16 Workweeks, the Court may review any decision made by the Administrator.

17 80.5 Administrator’s Declaration. Not later than 14 (fourteen) days before the date by which  
18 Plaintiff is required to file the Motion for Final Approval, the Administrator will provide to Class  
19 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due  
20 diligence and compliance with all of its obligations under this Agreement, including, but not limited  
21 to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class  
22 Notices, attempts to locate Class Members, the total number of Requests for Exclusion it received  
23 (both valid or invalid), the number of written objections and attach the Exclusion List. The  
24 Administrator will supplement its declaration as needed or requested by the Parties and/or the Court.  
25 Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

26 80.6 Final Report by Settlement Administrator. Within 10 (ten) days after the Administrator  
27 disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel  
28 and Defense Counsel with a final report detailing its disbursements by employee identification

1 number only of all payments made under this Agreement. At least 15 (fifteen) days before any  
2 deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense  
3 Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments  
4 required under this Agreement. Class Counsel is responsible for filing the Administrator's  
5 declaration in Court.

6 **F. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on data gathered  
7 through the February 25, 2025, mediation, it is estimated that there are 313 Class Members who  
8 collectively worked a total of **41,000** Workweeks from January 16, 2020, through February 25, 2025.  
9 If it is determined that the total number of Workweeks is greater than **45,100** as of June 25, 2025  
10 (i.e. a 10% increase or more than 41,000 workweeks), the Gross Settlement Amount will be  
11 increased by the same number of percentage points above 10% by which the actual number of  
12 Workweeks exceeds 45,100. For example, if the total Workweeks for the Class Period is 45,510,  
13 representing an 11% increase in the number of Workweeks, then the Gross Settlement Amount will  
14 increase by 1%. Alternatively, Defendant may elect not to increase the Gross Settlement Amount,  
15 and instead, to modify the end date of the Class Period and PAGA Period to stay within the ten  
16 percent cushion, i.e., 45,100 Workweeks. If this provision is triggered so as to increase the Gross  
17 Settlement Amount, the Parties agree that the portion of the Gross Settlement Amount allocated to  
18 attorneys' fees will increase proportionally such that the total amount of attorneys' fees remains one  
19 third of the Gross Settlement Amount after the upward adjustment required by this provision is  
20 implemented.

21 **G. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for  
22 Exclusion identified in the Exclusion List exceeds ten percent (10%) of the total of all Class  
23 Members, or a number of Class Members whose settlement shares would be worth more than 10%,  
24 Defendant may, but is not obligated, to elect to withdraw from the Settlement. The Parties agree that,  
25 if Defendant withdraws, the Settlement shall be *void ab initio*, have no force or effect whatsoever,  
26 and that neither Party will have any further obligation to perform under this Agreement; provided,  
27 however, Defendant will remain responsible for paying all Administration Costs incurred to that  
28 point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than

1 twenty (20) days after the Administrator sends the final Exclusion List to Defense Counsel; late  
2 elections will have no effect.

3 **H. MOTION FOR FINAL APPROVAL.** Not later than 16 (sixteen) court days before  
4 the calendared Final Approval Hearing, unless otherwise scheduled by the Court, Plaintiff will file  
5 in Court, a Motion for Final Approval of the Settlement that includes a request for approval of the  
6 PAGA portion of the settlement under Labor Code section 2699, subd. (l); a proposed Final  
7 Approval; and a proposed Judgment (collectively “Motion for Final Approval”).

8 81. Response to Objections. Each Party retains the right to respond to any objection raised  
9 by a Participating Class Member, including the right to file responsive documents in Court no later  
10 than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by  
11 the Court.

12 82. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final  
13 Approval on any material change to the Settlement (including, but not limited to, the scope of release  
14 to be granted by Class Members), the Parties will expeditiously work together in good faith to  
15 address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The  
16 Court’s decision to award less than the amounts requested for the Class Representative Enhancement  
17 Award, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or  
18 Administration Costs shall not constitute a material modification to the Agreement within the  
19 meaning of this paragraph.

20 83. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment,  
21 the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of  
22 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and  
23 (iii) addressing such post-Judgment matters as are permitted by law.

24 84. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and  
25 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class  
26 Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties, their respective  
27 counsel, and all Participating Class Members who did not object to the Settlement as provided in  
28 this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment

1 and appellate proceedings, the right to file motions to vacate judgment, motions for new trial,  
2 extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to  
3 oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations  
4 to perform under this Agreement will be suspended until such time as the appeal is finally resolved  
5 and the Judgment becomes final.

6 85. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the  
7 reviewing court vacates, reverses, or modifies the Judgment in a manner that requires a material  
8 modification of this Agreement (including, but not limited to, the scope of release to be granted by  
9 Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously  
10 work together in good faith to address the appellate court's concerns and to obtain Final Approval  
11 and Judgment, sharing, on a 50-50 basis, any additional Administration Costs reasonably incurred  
12 after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class  
13 Representative Enhancement Award, Class Counsel Fees Payment and/or Class Counsel Litigation  
14 Expenses Payment shall not constitute a material modification of the Judgment within the meaning  
15 of this paragraph, as long as the Gross Settlement Amount remains unchanged.

16 **I. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil  
17 Procedure §384, the Parties will work together in good faith to jointly submit a proposed amended  
18 judgment.

19 **J. ADDITIONAL PROVISIONS.**

20 86. No Admission of Liability, Class Certification or Representative Manageability for  
21 Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.  
22 Nothing in this Agreement is intended or should be construed as an admission by Defendant that any  
23 of the allegations in the Operative Complaint has merit or that Defendant has any liability for any  
24 claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's  
25 defenses in the Action have merit. The Parties agree that class certification and representative  
26 treatment is for purposes of this Settlement only. If, for any reason, the Court does not grant  
27 Preliminary Approval, Final Approval, or enter Judgment, Defendant reserves the right to contest  
28 certification of any class for any reason, Defendant reserves all available defenses to the claims in

1 the Action, and Plaintiff reserves the right to move for class certification on any grounds available  
2 and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to  
3 settle the Action will have no bearing on, and will not be admissible in connection with, any litigation  
4 (except for proceedings to enforce or effectuate the Settlement and this Agreement).

5 87. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and  
6 Defense Counsel separately agree that, until the Motion for Preliminary Approval is filed, they and  
7 each of them will not disclose, disseminate and/or publicize, or cause or permit another person to  
8 disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly,  
9 specifically or generally, to any person, corporation, association, government agency, or other entity  
10 except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep  
11 this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report  
12 income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in  
13 response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees  
14 to immediately notify the other Party of any judicial or agency order, inquiry, or subpoena seeking  
15 such information. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree not to,  
16 directly or indirectly, initiate any conversation or other communication, before the filing of the  
17 Motion for Preliminary Approval, with any third party regarding this Agreement or the matters  
18 giving rise to this Agreement except to respond only that "the matter was resolved," or words to that  
19 effect. This paragraph does not restrict Class Counsel's communications with Class Members in  
20 accordance with Class Counsel's ethical obligations owed to Class Members.

21 88. No Solicitation. The Parties separately agree that they and their respective counsel and  
22 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from  
23 the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to  
24 communicate with Class Members in accordance with Class Counsel's ethical obligations owed to  
25 Class Members.

26 89. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement  
27 together with its attached exhibits shall constitute the entire agreement between the Parties relating  
28 to the Settlement, superseding any and all oral representations, warranties, covenants, or

1 inducements made to or by any Party.

2 90. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and  
3 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate  
4 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its  
5 terms, and to execute any other documents reasonably required to effectuate the terms of this  
6 Agreement including any amendments to this Agreement.

7 91. Cooperation. The Parties and their counsel will cooperate with each other and use their  
8 best efforts, in good faith, to implement the Settlement by, among other things, modifying the  
9 Agreement, submitting supplemental evidence and supplementing points and authorities as  
10 requested by the Court. In the event the Parties are unable to agree upon the form or content of any  
11 document necessary to implement the Settlement, or on any modification of the Agreement that may  
12 become necessary to implement the Settlement, the Parties will seek the assistance of mediator Kelly  
13 Knight for resolution.

14 92. No Prior Assignments. The Parties separately represent and warrant that they have not  
15 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber  
16 to any person or entity and portion of any liability, claim, demand, action, cause of action, or right  
17 released and discharged by the Party in this Settlement.

18 93. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are  
19 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied  
20 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part  
21 10, as amended) or otherwise.

22 94. Modification of Agreement. This Agreement, and all parts of it, may be amended,  
23 modified, changed, or waived only by an express written instrument signed by all Parties or their  
24 representatives, and approved by the Court.

25 95. Agreement Binding on Successors. This Agreement will be binding upon, and inure to  
26 the benefit of, the successors of each of the Parties.

27 96. Applicable Law. All terms and conditions of this Agreement and its exhibits will be  
28 governed by and interpreted according to the internal laws of the State of California, without regard

1 to conflict of law principles.

2 97. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation  
3 of this Agreement. This Agreement will not be construed against any Party on the basis that the Party  
4 was the drafter or participated in the drafting.

5 98. Confidentiality. To the extent permitted by law, all agreements made, and orders  
6 entered during Action and in this Agreement relating to the confidentiality of information shall  
7 survive the execution of this Agreement.

8 99. Headings. The descriptive heading of any section or paragraph of this Agreement is  
9 inserted for convenience of reference only and does not constitute a part of this Agreement.

10 100. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall  
11 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend  
12 or federal legal holiday, such date or deadline shall be on the first business day thereafter.

13 101. Notice. All notices, demands, or other communications between the Parties in  
14 connection with this Agreement will be in writing and deemed to have been duly given as of the  
15 third business day after mailing by United States mail, or the day sent by email or messenger,  
16 addressed as follows:

17 To Plaintiff:

18 **D.LAW, INC.**  
19 David Yeremian  
20 [d.yeremian@d.law](mailto:d.yeremian@d.law)  
21 Alvin B. Lindsay  
22 [a.lindsay@d.law](mailto:a.lindsay@d.law)  
23 Enoch J. Kim  
24 [e.kim@d.law](mailto:e.kim@d.law)  
25 Marta Manus  
26 [m.manus@d.law](mailto:m.manus@d.law)  
27 450 N. Brand Blvd., Suite 840  
28 Glendale, CA 91203  
Telephone: (818) 962-6465  
Facsimile: (818) 962-6469

25 To Defendant:

26 **PAUL HASTINGS LLP**  
27 Elena R. Baca (SBN 160564)  
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8 San Francisco, CA 94111  
9 Telephone: (415) 856-7000  
10 Facsimile: (415) 856-7100

11 102. Execution in Counterparts. This Agreement may be executed in one or more  
12 counterparts by facsimile, electronically (i.e. DocuSign), or by email which for purposes of this  
13 Agreement shall be accepted as an original. All executed counterparts and each of them will be  
14 deemed to be one and the same instrument if counsel for the Parties will exchange between  
15 themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove  
16 the existence and contents of this Agreement.

17 103. Stay of Litigation. The Parties agree that upon the execution of this Agreement the  
18 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree  
19 that upon the signing of this Agreement pursuant to CCP section 583.330 to extend the date to bring  
20 a case to trial under CCP section 583.310 for the entire period of this settlement process.

21 104. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.  
22 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by  
23 Defendant in connection with the mediation, other settlement negotiations, or in connection with the  
24 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be  
25 used in any way that violates any existing contractual agreement, statute, or rule of court. Not later  
26 than 90 days after the date when the Court discharges the Administrator's obligation to provide a  
27 declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and  
28 electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of  
the Administrator's obligation, Defendant makes a written request to Class Counsel for the return,  
rather than the destructions, of Class Data.

105. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,  
the Parties request that the Court first attempt to construe the provisions valid to the fullest extent

1 possible consistent with applicable precedents, so as to define all provisions of this Agreement valid  
2 and enforceable.

3 106. Severability. In the event that one or more of the provisions contained in this  
4 Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such  
5 invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense  
6 Counsel and Class Counsel, on behalf of the Parties, the Class Members, and the Aggrieved  
7 Employees, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision  
8 had never been included in this Agreement.

9 **IT IS SO AGREED.**

10 By the Parties:

11 DATED: 9/4/2025

Signed by:

*Jesus Montoya*

B82AAA0CBD56425...

Plaintiff Jesus Montoya

12  
13  
14 DATED: \_\_\_\_\_

Defendant FUJIFILM DIMATIX, INC

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

Position: \_\_\_\_\_

15  
16  
17  
18 Approved by counsel:

19 DATED: 9/04/2025

**D.LAW, INC.**

20  
21 By: 

22 David Yeremian  
23 Alvin Lindsay  
24 Enoch J. Kim  
25 Marta Manus  
26 Counsel for Plaintiff Jesus Montoya

27 DATED: \_\_\_\_\_

**PAUL HASTINGS LLP**

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

Elena R. Baca  
Chris A. Jalian  
Eric D. Distelburger  
Attorneys for Defendant, FUJIFILM DIMATIX, INC

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6 Counsel and Class Counsel, on behalf of the Parties, the Class Members, and the Aggrieved  
7 Employees, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision  
8 had never been included in this Agreement.

9 **IT IS SO AGREED.**

10 By the Parties:

11 DATED: \_\_\_\_\_

12 \_\_\_\_\_  
Plaintiff Jesus Montoya

13 

14 DATED: Sept. 3, 2025

15 \_\_\_\_\_  
Defendant FUJIFILM DIMATIX, INC

16 By: Steven A. Billow

17 Position: President & CEO

18 Approved by counsel:

19 DATED: \_\_\_\_\_

20 **D.LAW, INC.**

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

22 David Yeremian  
23 Alvin Lindsay  
24 Enoch J. Kim  
Marta Manus  
Counsel for Plaintiff Jesus Montoya

25 DATED: Sept. 8, 2025

26 **PAUL HASTINGS LLP**

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

28 Elena R. Baca  
Chris A. Jalian  
Eric D. Distelburger  
Attorneys for Defendant, FUJIFILM DIMATIX, INC