IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Abingdon Division

CHARLIE STACY and CLIFFORD ALLEN, individually and on behalf of all others similarly situated, *Plaintiffs*, v. JENNMAR CORPORATION OF VIRGINIA, INC. et al., *Defendants*.	Case No.: 1:21-cv-00015-JPJ-PMS

PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS AND COLLECTIVE ACTION SETTLEMENT, APPROVAL OF NOTICE, APPOINTMENT OF SETTLEMENT ADMINISTRATOR, PRELIMINARY APPROVAL OF ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS FOR NOTICE PURPOSES, AND RELATED RELIEF, AND INTEGRATED MEMORANDUM IN SUPPORT

TABLE OF CONTENTS

Table of Authorities

Cases

Statutes

Other

I. INTRODUCTION

Plaintiffs Charlie Stacy and Clifford Allen, individually and on behalf of the certified Rule 23 Virginia classes and the Fair Labor Standards Act ("FLSA") collective, respectfully move for entry of an Order preliminarily approving the Parties' Class and Collective Action Settlement Agreement; approving the proposed Notice and notice plan; appointing Angeion Group, LLC as Settlement Administrator; approving the proposed schedule for opt-outs, objections, final approval submissions, and the Final Approval Hearing; preliminarily approving Class Counsel's requested attorneys' fees, litigation costs and expenses, and service awards for notice purposes; and staying further case deadlines pending final approval proceedings. Defendants do not oppose this Motion.

This certified hybrid Rule 23/FLSA wage & hour action has been litigated for more than five years, and the proposed settlement was reached only after comprehensive pre-trial proceedings, including Phase I certification discovery, FLSA conditional certification, Rule 23 class certification, supplemental notice, amendment of the complaint, expansion of the FLSA collective to nationwide scope, Phase II merits discovery, expert discovery, extensive dispositive and decertification briefing, sanctions motion practice, an omnibus merits ruling, adoption of a two-phase bench-trial plan, and preparation for a July 2026 bench trial. *See* Exhibit 1, Declaration of Robert W.T. Tucci (hereinafter "Tucci Decl.") ¶¶ 10–25. The Court

has already certified the Virginia Rule 23 class and subclasses, authorized FLSA notice, expanded the FLSA collective nationwide, denied Defendants' motion for summary judgment and decertification, granted partial summary judgment to Plaintiffs on Defendants' FLSA de minimis defense, granted Plaintiffs' sanctions motion in part, and adopted the Parties' two-phase bench-trial framework. Docs. 32, 51, 52, 68, 152, 158, 161, 162; Tucci Decl. ¶¶ 12–24.

The Settlement Agreement creates a $3,000,000.00 common fund, inclusive of class/collective relief, attorneys' fees, litigation costs and expenses, settlement administration costs, and service awards, with Defendants separately paying the employer's share of applicable payroll taxes. Tucci Decl. ¶ 28. The Net Settlement Amount available for distribution to class and collective members is $1,705,844.49, allocated as follows: $1,446,842.20 to the Virginia Wage Class Fund, $200,986.25 to the Breach of Contract Class Fund, and $58,016.04 to the FLSA Class Fund. Tucci Decl. ¶¶ 29–30. That allocation is tied to a conservative settlement benchmark derived from Defendants' payroll and timekeeping data: 100% of Plaintiffs' rounding damages plus 1 minute of off-the-clock work, as calculated by Plaintiffs' expert, Dr. J. Michael DuMond. Tucci Decl. ¶ 31. Against that benchmark, the settlement provides 100.00% of baseline damages to the Breach of Contract Class, approximately 119% of baseline damages to the Virginia Wage Class, approximately 119% of baseline damages to the FLSA Class, and approximately

116% of baseline damages overall. Tucci Decl. ¶¶ 32–34. The settlement is also non-reversionary; any uncashed settlement checks will not revert to Defendants, but instead will be distributed *cy pres* to Southwest Virginia Legal Aid Society, subject to Court approval. Tucci Decl. ¶¶ 39, 45.

For notice purposes, Class Counsel also seek preliminary approval of their request for $1,000,000.00 in attorneys' fees, equal to one-third of the Settlement Amount; $209,155.51 in litigation costs and expenses; $50,000.00 in service awards, allocated equally between Named Plaintiffs Charlie Stacy and Clifford Allen; and administration costs of up to $35,000.00. Tucci Decl. ¶¶ 46–68. The fee request is supported by a lodestar cross-check: as of May 7, 2026, Class Counsel and their attorneys, paralegals, and staff had devoted 1352.4 hours to this matter, resulting in a lodestar of $710,101.50 before final approval, settlement administration, and any objection-related work. Tucci Decl. ¶¶ 49–50, 54. The requested fee therefore represents an approximate 1.41 lodestar multiplier, which is well within the range of reasonableness for a contingent, complex, certified wage & hour class and collective action litigated through the eve of trial. Tucci Decl. ¶¶ 50, 53, 56.

At the preliminary approval stage, the Court need not make final findings on settlement approval, fees, costs, service awards, or administration expenses. The question is whether the Court will likely be able to approve the settlement under Rule 23(e)(2), approve the FLSA component as a fair and reasonable resolution of a

bona fide dispute, and approve the notice plan. Fed. R. Civ. P. 23(e)(1)(B). For the reasons set forth below, Plaintiffs respectfully submit that the answer is yes and request that the Court grant preliminary approval, authorize notice, and set a final approval schedule.

II. FACTUAL AND PROCEDURAL BACKGROUND

Named Plaintiffs initiated this action on April 12, 2021, originally pleading a Virginia-wide FLSA collective action and Virginia Rule 23 state-law wage claims. Doc. 1; Tucci Decl. ¶ 10. Defendants answered the original Complaint on May 5, 2021, and the Parties agreed to bifurcate discovery into Phase I certification discovery and Phase II merits discovery. Docs. 3, 24; Tucci Decl. ¶¶ 10–11.

The case then proceeded through extensive certification litigation. On July 28, 2021, Plaintiffs moved under FLSA § 216(b) to conditionally certify an FLSA collective of hourly employees in Virginia and to facilitate notice, which the Court granted on October 14, 2021. Docs. 26–27, 32; Tucci Decl. ¶ 12; *Stacy v. Jennmar Corp. of Va., Inc.*, No. 1:21-cv-00015, 2021 U.S. Dist. LEXIS 198258 (W.D. Va. Oct. 14, 2021). Plaintiffs then moved for Rule 23 certification of their Virginia state-law claims and for supplemental FLSA notice, both of which the Court granted on May 6, 2022. Docs. 35–36, 44, 51–52; Tucci Decl. ¶¶ 13–14; *Stacy v. Jennmar Corp. of Va., Inc.*, No. 1:21-cv-00015, 2022 U.S. Dist. LEXIS 82440 (W.D. Va. May 6, 2022); *Stacy v. Jennmar Corp. of Va., Inc.*, No. 1:21-cv-00015, 2022 U.S. Dist.

LEXIS 82441 (W.D. Va. May 6, 2022). Shortly thereafter, Plaintiffs moved for leave to amend and to modify the FLSA collective to nationwide scope; the Court granted both motions on August 25, 2022. Docs. 55–58, 68; Tucci Decl. ¶¶ 15–16; *Stacy v. Jennmar Corp. of Va., Inc.*, 342 F.R.D. 215 (W.D. Va. 2022). Plaintiffs filed their Amended Complaint on September 8, 2022, and Defendants answered on October 6, 2022. Docs. 70, 75; Tucci Decl. ¶ 17.

Following certification and amendment, the Parties completed Phase II merits discovery and expert discovery, including written discovery, payroll and timekeeping data, class and collective member information, policy documents, timekeeping and payroll materials, communications, corporate and facility-level records, and deposition testimony. Tucci Decl. ¶¶ 18–19. Plaintiffs also retained Dr. J. Michael DuMond and Berkeley Research Group to analyze Defendants' payroll and timekeeping data, including rounding effects, off-the-clock damages, damages by class/collective category, and settlement allocation issues. Tucci Decl. ¶ 20.

After discovery, the Parties engaged in extensive motion practice, including dispositive motions, decertification briefing, expert motion practice, and sanctions motion practice. Tucci Decl. ¶ 21. On September 30, 2025, the Court issued an omnibus Opinion and Order denying Defendants' motion for summary judgment and decertification, denying Plaintiffs' motion to exclude Defendants' expert,

granting Plaintiffs' sanctions motion in part, and granting Plaintiffs partial summary judgment on Defendants' FLSA de minimis defense. Doc. 152; Tucci Decl. ¶ 22.

The case was thereafter set for a July 6–24, 2026 bench trial. Doc. 158; Tucci Decl. ¶ 23. The Parties submitted a Proposed Joint Trial Plan, which the Court accepted by Minute Order, and which contemplated a two-phase trial: Phase One addressing liability and entitlement issues, including limitations and statutory enhancements, and Phase Two addressing remedies and administration if liability were found. Docs. 161, 162; Tucci Decl. ¶ 24. Against that advanced procedural backdrop, the Parties participated in multiple settlement efforts, including mediation. Tucci Decl. ¶ 25. After a February 10, 2026 mediation and subsequent arm's-length negotiations, the Parties reached the proposed Class and Collective Action Settlement Agreement now before the Court. Tucci Decl. ¶¶ 25, 69–74.

III. SUMMARY OF THE SETTLEMENT TERMS

The Settlement Agreement and proposed Notice are attached as Exhibits A and B to the Tucci Declaration. Tucci Decl. ¶¶ 26–27. The Settlement Agreement creates a $3,000,000.00 common fund, inclusive of class and collective relief, attorneys' fees, litigation costs and expenses, administration costs, and service awards, with Defendants separately paying the employer's share of applicable payroll taxes. Tucci Decl. ¶ 28. After deduction of fees, costs, service awards, and administration costs, the Net Settlement Amount available for distribution to class

and collective members is $1,705,844.49, allocated as follows: $1,446,842.20 to the Virginia Wage Class Fund; $200,986.25 to the Breach of Contract Class Fund; and $58,016.04 to the FLSA Class Fund. Tucci Decl. ¶¶ 29–30.

The allocation methodology is based on a conservative damages benchmark of 100% of Plaintiffs' rounding damages plus 1 minute of off-the-clock work, as calculated by Plaintiffs' expert, Dr. DuMond. Tucci Decl. ¶ 31. Under that benchmark, the baseline damages are $200,986.25 for the Breach of Contract Class, $1,219,424.41 for the Virginia Wage Class, and $48,860.01 for the FLSA opt-ins, for total baseline damages of $1,469,270.67. Tucci Decl. ¶ 32. Against that baseline, the settlement distributes $1,705,844.49, providing 100.00% of baseline damages to the Breach of Contract Class, approximately 119% of baseline damages to the Virginia Wage Class, approximately 119% of baseline damages to the FLSA Class, and approximately 116% of baseline damages overall. Tucci Decl. ¶¶ 33–34.

The settlement provides for automatic payments, so no claim form is required. Tucci Decl. ¶ 37. Settlement checks will expire 150 calendar days after the Effective Date, and any uncashed payments will not revert to Defendants but instead will be distributed *cy pres* to Southwest Virginia Legal Aid Society, subject to Court approval. Tucci Decl. ¶¶ 38–39, 45. The Settlement Agreement appoints Angeion Group, LLC as Settlement Administrator, and the proposed notice plan provides for

notice by mail, email, and text message, with re-mailing and address-updating procedures for returned mail. Tucci Decl. ¶¶ 40–41.

For notice purposes, Class Counsel will request $1,000,000.00 in attorneys' fees, representing one-third of the $3,000,000.00 Settlement Amount; $209,155.51 in litigation costs and expenses; service awards totaling $50,000.00, consisting of $25,000.00 to Charlie Stacy and $25,000.00 to Clifford Allen; and administration costs of up to $35,000.00. Tucci Decl. ¶¶ 46, 57, 62, 68.

IV. ARGUMENT

A. Legal Standard.

A certified class action may be settled only with Court approval. Fed. R. Civ. P. 23(e). At the preliminary approval stage, the Court asks whether it "will likely be able to" approve the settlement under Rule 23(e)(2) and enter judgment. Fed. R. Civ. P. 23(e)(1)(B). Rule 23(e)(2) requires consideration of whether the class representatives and class counsel have adequately represented the class, whether the proposal was negotiated at arm's length, whether the relief provided is adequate in light of the costs, risks, and delay of trial and appeal, the effectiveness of the proposed distribution method, the terms of any requested attorneys' fee award, and any agreement required to be identified under Rule 23(e)(3), and whether the proposal treats class members equitably relative to one another. Fed. R. Civ. P. 23(e)(2). At this stage, however, the Court need not make a final fairness

determination; it need only determine whether the proposed settlement falls within the range of reasonableness such that notice and a final approval hearing are warranted. *See Ovando v. Mountaire Farms Inc.*, No. 7:23-CV-4-M, 2025 U.S. Dist. LEXIS 118260, at *4–6 (E.D.N.C. May 15, 2025), *report and recommendation adopted*, 2025 U.S. Dist. LEXIS 118918, 2025 WL 1731997 (E.D.N.C. June 19, 2025); *Starr v. Credible Behavioral Health, Inc.*, Civil No. 20-2986 PJM, 2021 U.S. Dist. LEXIS 99783, at *13–15 (D. Md. May 25, 2021).

The Fourth Circuit also applies its traditional fairness and adequacy framework. Fairness focuses on the process that produced the settlement, including the posture of the case, the extent of discovery, the circumstances of negotiations, and the experience of counsel. Adequacy focuses on the substance of the settlement, including the relative strength of the plaintiffs' case, the risks and expense of further litigation, and the amount of settlement relief. *See In re Jiffy Lube Securities Litigation*, 927 F.2d 155, 158–59 (4th Cir. 1991); *Sharp Farms v. Speaks*, 917 F.3d 276, 293–94 (4th Cir. 2019); *In re Lumber Liquidators Chinese-Manufactured Flooring Products Marketing, Sales Practices & Products Liability Litigation*, 952 F.3d 471, 484–85 (4th Cir. 2020).

Because this is a hybrid Rule 23/FLSA settlement, the Court must consider both Rule 23 and the FLSA. *See Curtis v. Genesis Engineering Solutions, Inc.*, No. GJH-21-722, 2022 U.S. Dist. LEXIS 65582, at *4–6 (D. Md. Apr. 8, 2022); *Edelen*

v. American Residential Services, LLC, Civil Action No. DKC 11-2744, 2013 U.S. Dist. LEXIS 102373, at *27–30 (D. Md. July 22, 2013). For the FLSA component, courts approve a settlement when it resolves a bona fide FLSA dispute and represents a fair and reasonable compromise of disputed issues, considering factors such as the extent of discovery, the stage and complexity of the litigation, the absence of fraud or collusion, the experience and opinions of counsel, the probability of success on the merits, and the amount of the settlement. *See Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1354–55 (11th Cir. 1982); *Duprey v. Scotts Co. LLC*, 30 F. Supp. 3d 404, 407–09 (D. Md. 2014); *Lomascolo v. Parsons Brinckerhoff, Inc.*, No. 1:08-cv-01310, 2009 U.S. Dist. LEXIS 89136, at *23–24 (E.D. Va. Sept. 28, 2009); *Starr*, 2021 U.S. Dist. LEXIS 99783, at *11–13.

This case is already certified for Rule 23 purposes and has already proceeded through FLSA notice and opt-in procedures, so the Court need not provisionally certify a new settlement class as in cases settled before certification. *Cf. Hall v. Higher One Machines, Inc.*, No. 5:15-CV-670-F, 2016 U.S. Dist. LEXIS 131009, at *4–10, *17–19 (E.D.N.C. Sept. 26, 2016). Additionally, Defendants' decertification motion has been denied, and the settlement is supported by a detailed allocation methodology, time and expense records, and a developed litigation record. Tucci Decl. ¶¶ 12–24, 31–36, 46–61.

B. The Settlement Satisfies Rule 23(e) and Warrants Preliminary Approval.

1. Named Plaintiffs and Class Counsel have adequately represented the classes.

Rule 23(e)(2)(A) is satisfied. Named Plaintiffs Charlie Stacy and Clifford Allen have actively served the interests of the class and collective throughout this case. They assisted counsel in investigating the facts, provided information about Defendants' timekeeping and work practices, reviewed pleadings and settlement materials, participated in communications with counsel, provided written discovery responses and document productions, sat for depositions, supported certification and case-development efforts, remained available throughout the litigation, and helped Class Counsel evaluate the settlement. Tucci Decl. ¶¶ 63–64. They also accepted the risks and burdens associated with serving as named plaintiffs and agreed to broader general releases than absent class members in exchange for the requested service awards, subject to Court approval. Tucci Decl. ¶¶ 65–67.

Class Counsel have also adequately represented the classes. Mr. Tucci, Plaintiffs' lead counsel, has focused primarily on plaintiffs-side wage & hour collective and class litigation since the start of his career and has served as counsel or appointed class counsel in numerous wage & hour collective and class actions. Tucci Decl. ¶¶ 3–8. In this Action, Mr. Tucci was appointed Class Counsel, along with co-counsel, and has been actively involved in nearly every major phase of the case, including certification, amended pleadings, expansion of the FLSA collective, merits discovery, expert work, dispositive and decertification motion practice,

sanctions motion practice, mediation, trial planning, settlement negotiations, and preparation of the settlement approval papers. Tucci Decl. ¶ 8.

Class Counsel prosecuted the case for more than five years on a fully contingent basis and have not been paid for their time or reimbursed for their litigation costs and expenses. Tucci Decl. ¶¶ 47–48. Class Counsel's contemporaneous time records reflect 1352.4 hours and a lodestar of $710,101.50 through May 7, 2026, before completing final approval and administration-related work. Tucci Decl. ¶¶ 49–50, 54. That substantial investment of attorney and staff time supports the adequacy of Class Counsel's representation and the informed nature of the settlement.

2. The settlement was negotiated at arm's length.

Rule 23(e)(2)(B) is satisfied. The settlement was reached after multiple formal settlement efforts, including mediation, and subsequent arm's-length negotiations. Tucci Decl. ¶¶ 25, 69. The litigation has been adversarial throughout. The Parties litigated certification, amendment, expansion of the FLSA collective, merits discovery, expert issues, dispositive motions, decertification, sanctions, and trial planning before reaching settlement. Tucci Decl. ¶¶ 10–25. Plaintiffs and Class Counsel had sufficient information to evaluate the strengths and weaknesses of the claims and defenses before agreeing to settle. Tucci Decl. ¶ 71.

The settlement was not reached before the Parties understood the strengths and weaknesses of the case. It was reached after the Parties had the benefit of merits discovery, expert analysis, multiple Court rulings, and a concrete trial plan. Tucci Decl. ¶¶ 18–25, 69–74. These circumstances support a finding that the settlement resulted from informed, non-collusive, arm's-length negotiations.

3. The relief is adequate in light of the risks, costs, delay, and likely range of recovery.

Rule 23(e)(2)(C) strongly supports preliminary approval. Plaintiffs believe the certified classes and FLSA collective have strong claims. Tucci Decl. ¶ 72. The Court has certified the Virginia Rule 23 classes, authorized FLSA notice, expanded the FLSA collective nationwide, denied Defendants' summary judgment and decertification efforts, granted Plaintiffs' sanctions motion in part, and eliminated Defendants' FLSA de minimis defense. Docs. 32, 51, 52, 68, 152; Tucci Decl. ¶¶ 12–24. But continued litigation still presents meaningful risk regarding liability, damages, limitations, willfulness, good faith, entitlement to statutory enhancements, trial outcome, post-trial proceedings, appeal, and administration. Tucci Decl. ¶ 72.

At the Phase One bench trial, Plaintiffs would need to prove compensability, employer knowledge, the existence and frequency of off-the-clock work, the aggregate effect and legality of rounding, limitations issues, and entitlement to statutory enhancements. If Plaintiffs prevailed in Phase One, Phase Two would still require remedial calculations and administration. The adopted trial plan and the

Court's scheduling order confirm that continued litigation would have required substantial additional work and expense. Docs. 158, 161, 162; Tucci Decl. ¶¶ 23–24.

The settlement avoids those risks and provides substantial, certain monetary relief now. Tucci Decl. ¶¶ 72–74. The Settlement Amount of $3,000,000.00 is meaningful in relation to the remaining disputed issues, the costs of trial and post-trial proceedings, and the delay of any appeal. Tucci Decl. ¶¶ 28, 72–74. The settlement also provides direct monetary relief through automatic distribution rather than a claims-made process, making payment more effective and reducing barriers to recovery. Tucci Decl. ¶¶ 37, 42–44.

The adequacy of the settlement is further confirmed by the allocation methodology. Courts reviewing hybrid wage settlements have required parties to provide enough information to evaluate the relationship between settlement relief and likely damages. In *Graham v. Famous Dave's of America, Inc.*, the court denied an earlier preliminary approval motion because the parties had not supplied adequate information about unpaid wages, class size, costs, administration expenses, and differing FLSA/state-law recoveries; the court later granted preliminary approval after corrected submissions addressed those problems. Civil Action No. DKC 19-0486, 2022 U.S. Dist. LEXIS 151045, at *2–7 (D. Md. Aug. 22, 2022). Likewise, in *Hall*, the court declined preliminary approval where the record did not permit the

court to compare the settlement to likely trial recovery. 2016 U.S. Dist. LEXIS 131009, at *17–19.

Those concerns are absent here. The class/collective distribution is tied to a conservative, payroll- and timekeeping-based damages benchmark:, resulting in 100% of Plaintiffs' rounding damages plus 1 minute of off-the-clock work, as calculated by Plaintiffs' expert. Tucci Decl. ¶ 31. Under that benchmark, the Breach of Contract Class baseline damages are $200,986.25, the Virginia Wage Class baseline damages are $1,219,424.41, and the FLSA opt-in baseline damages are $48,860.01, for total baseline damages of $1,469,270.67. Tucci Decl. ¶ 32.

Against that baseline, the settlement allocates $200,986.25 to the Breach of Contract Class, $1,446,842.20 to the Virginia Wage Class, and $58,016.04 to the FLSA Class, for a total class/collective distribution of $1,705,844.49. Tucci Decl. ¶ 33. Thus, the Breach of Contract Class receives 100.00% of its baseline damages; the Virginia Wage Class receives approximately 119% of its baseline damages; the FLSA Class receives approximately 119% of its baseline damages; and the total class/collective distribution equals approximately 116% of the baseline damages. Tucci Decl. ¶ 34. This allocation is fair, reasonable, and administrable because it is based on objective payroll/timekeeping data, provides at least full recovery under a conservative settlement benchmark for each claim category, accounts for the different remedies and risks applicable to the Virginia statutory, Virginia common-

law, and FLSA claims, and permits automatic distribution without requiring class or collective members to submit claim forms. Tucci Decl. ¶¶ 35–36.

This allocation strongly supports preliminary approval. It provides substantial direct monetary relief, uses objective payroll/timekeeping data, avoids a claims-made structure, and does not require class members to submit claim forms to recover. Tucci Decl. ¶¶ 35–37. It also reflects the litigation risks inherent at trial. Plaintiffs could recover more if they prevail on higher off-the-clock assumptions and statutory enhancements, but Defendants continued to dispute liability, damages, and entitlement issues. Tucci Decl. ¶¶ 21–25, 72. The settlement reasonably balances those risks by delivering certain, prompt, automatic payments that exceed the conservative damages benchmark. Tucci Decl. ¶¶ 31–37, 73–74. *See Glymph-Dozier v. Grapevine of North Carolina, Inc.*, No. 1:21-CV-748, 2023 U.S. Dist. LEXIS 69352, at *16–18 (M.D.N.C. Apr. 20, 2023); *Lopez v. Boykin Farms*, Civil Case No. 5:22-cv-491-BO-RN, 2026 U.S. Dist. LEXIS 98313, at *7–10 (E.D.N.C. Mar. 16, 2026).

The proposed attorneys' fees, costs, service awards, and administration expenses are also transparent and subject to Court review. They will be disclosed in the Notice, and class members will have an opportunity to object before final approval. Tucci Decl. ¶¶ 42–44, 46–68. The Court may approve the requests with

final approval. At this stage, the requested amounts do not undermine preliminary approval.

4. The settlement treats class members equitably relative to one another.

Rule 23(e)(2)(D) is satisfied. The settlement treats class and collective members equitably relative to one another because the allocation follows the claims asserted and the damages associated with each claim category. Tucci Decl. ¶¶ 30–36. The Net Settlement Amount is divided into separate funds corresponding to the released claims: the Virginia Wage Class Fund, the Breach of Contract Class Fund, and the FLSA Class Fund. Tucci Decl. ¶ 30. Each fund is tied to the same conservative damages benchmark of 100% of rounding damages plus 1 minute of off-the-clock work. Tucci Decl. ¶ 31.

The allocation is equitable because no group receives less than full value under that benchmark. Tucci Decl. ¶¶ 32–35. The Breach of Contract Class receives exactly 100.00% of its benchmark damages. Tucci Decl. ¶ 34. The Virginia Wage Class and FLSA Class receive approximately 119% of their benchmark damages. Tucci Decl. ¶ 34. That structure is reasonable because the Virginia statutory wage claims and FLSA claims carried potential statutory enhancement exposure (i.e., potential liquidated damages), while the common-law-only period was compensated at 100% of the damages benchmark. Tucci Decl. ¶¶ 34–36. The allocation therefore accounts for the different legal theories, remedies, limitations periods, and litigation

risks applicable to each group while treating similarly situated class/collective members consistently within each fund. Tucci Decl. ¶¶ 35–36.

The settlement also respects the procedural distinction between Rule 23 and FLSA relief. The proposed Notice distinguishes between the Rule 23 Virginia classes and the FLSA Class, explains that Rule 23 class members may request exclusion, explains that the FLSA Class consists only of persons who filed and did not withdraw FLSA Consent Forms in this Action, describes the claims being released, and informs recipients that no claim form is required to receive payment. Tucci Decl. ¶¶ 42–44.

C. The FLSA Settlement Component Should Be Preliminarily Approved.

The FLSA component resolves a bona fide dispute. Plaintiffs allege Defendants failed to pay non-exempt employees for compensable pre- and post-shift work and failed to compensate employees properly under Defendants' rounding/timekeeping practices. Tucci Decl. ¶ 9. Defendants deny liability and damages, and the case involved contested issues concerning compensability, employer knowledge, limitations, willfulness, good faith, liquidated damages, damages methodology, and the scope of FLSA collective relief. Tucci Decl. ¶¶ 21–25, 72.

The settlement provides monetary relief to FLSA opt-ins through the FLSA Class Fund in exchange for a release of Federal Wage Claims as defined in the

Settlement Agreement. Tucci Decl. ¶¶ 28–34. The FLSA Class Fund equals $58,016.04, which is approximately 119% of the conservative baseline damages for the FLSA opt-ins. Tucci Decl. ¶¶ 30–34. The FLSA component therefore provides meaningful monetary relief while eliminating the risks of trial, post-trial litigation, and appeal. Tucci Decl. ¶¶ 72–74.

The settlement also respects the procedural distinction between Rule 23 class actions and FLSA collective actions. *See Curtis*, 2022 U.S. Dist. LEXIS 65582, at *20–22; *Edelen*, 2013 U.S. Dist. LEXIS 102373, at *5–7. The proposed Notice distinguishes between the Rule 23 Virginia classes and the FLSA Class and explains that the FLSA Class consists only of persons who filed and did not withdraw FLSA Consent Forms in this Action. Tucci Decl. ¶ 43. Thus, the settlement does not release FLSA claims of absent Rule 23 class members who did not opt into the FLSA collective.

That structure avoids the concern addressed in *Hays v. LRW Traffic Systems LLC*, where the court held that final approval of an FLSA settlement before notice and opt-in procedures could create jurisdictional and mootness problems, while recognizing that conditional certification and preliminary settlement approval before final approval can be appropriate. Civil No. JKB-24-3306, 2025 U.S. Dist. LEXIS 228201, at *6–13 (D. Md. Nov. 18, 2025). Here, the settlement is stronger procedurally because FLSA notice has already issued, opt-ins have already filed

consents, and final approval will occur only after settlement notice and an opportunity to object. Tucci Decl. ¶¶ 12–14, 42–44.

The FLSA settlement was negotiated by counsel experienced in wage & hour litigation after extensive discovery, expert analysis, contested motion practice, mediation, and trial planning. Tucci Decl. ¶¶ 3–8, 18–25, 69–74. The FLSA component is therefore a fair and reasonable resolution of a bona fide FLSA dispute. *See Lynn's Food Stores*, 679 F.2d at 1354–55; *Duprey*, 30 F. Supp. 3d at 407–09; *Lomascolo*, 2009 U.S. Dist. LEXIS 89136, at *16–17; *Starr*, 2021 U.S. Dist. LEXIS 99783, at *11–13.

D. The Requested Attorneys' Fees and Litigation Costs Are Within the Range of Reasonableness and Should Be Preliminarily Approved for Notice Purposes.

Class Counsel request preliminary approval, for notice purposes, of their intended application for $1,000,000.00 in attorneys' fees and $209,155.51 in litigation costs and expenses. Tucci Decl. ¶¶ 46–61. The Court need not finally award these amounts now. Rather, Plaintiffs request that the Court find the requests sufficiently within the range of possible approval to be disclosed in the Notice and considered at final approval under Rule 23(h).

Both Rule 23 and the FLSA authorize reasonable attorneys' fees and costs. Fed. R. Civ. P. 23(h); 29 U.S.C. § 216(b). In common-fund settlements, courts within the Fourth Circuit commonly use the percentage-of-the-fund method, often cross-

checked against the lodestar. *See Singleton v. Domino's Pizza, LLC*, 976 F. Supp. 2d 665, 681–82 & n.6 (D. Md. 2013); *Jones v. Dominion Resources Services, Inc.*, 601 F. Supp. 2d 756, 765–66 (S.D.W. Va. 2009); *In re The Mills Corp. Securities Litigation*, 265 F.R.D. 246, 260–64 (E.D. Va. 2009). Courts have recognized that the percentage method aligns counsel's incentives with the class because it ties the fee to the overall result achieved. *See Jones*, 601 F. Supp. 2d at 759; *Starr*, 2021 U.S. Dist. LEXIS 99783, at *15–16. A one-third fee is commonly approved in complex class and wage & hour litigation where counsel prosecuted the case on a contingent basis, assumed meaningful risk, and obtained a substantial common fund. *See, e.g.*, *Singleton*, 976 F. Supp. 2d at 682–84; *Decohen v. Abbasi, LLC*, 299 F.R.D. 469, 481–82 (D. Md. 2014); *Starr*, 2021 U.S. Dist. LEXIS 99783, at *15–16.

The requested fee is reasonable under both the percentage method and a lodestar cross-check. The requested $1,000,000.00 fee equals one-third of the $3,000,000.00 Settlement Amount. Tucci Decl. ¶ 46. Class Counsel's contemporaneous time records reflect 1352.4 hours and a lodestar of $710,101.50 through May 7, 2026, before final approval and administration work. Tucci Decl. ¶¶ 49–50, 54. Thus, the requested fee represents an approximate 1.41 multiplier. Tucci Decl. ¶ 50. That multiplier is reasonable given the five-year litigation history, the contingent nature of the representation, the risk of nonpayment, the complexity of the hybrid class/collective wage claims, the scope of discovery and motion practice,

the advanced trial posture, and the result achieved. Tucci Decl. ¶¶ 47–56, 68. *See Lopez*, 2026 U.S. Dist. LEXIS 98313, at *9–10; *Glymph-Dozier*, 2023 U.S. Dist. LEXIS 69352, at *21–22.

The lodestar cross-check is conservative and well supported by comparable fee awards. Mr. Tucci's hourly rate in this case is $535. Tucci Decl. ¶ 51. That rate has been approved in similar wage & hour litigation in the Eastern District of Virginia. In *Haley v. FRC Balance LLC*, Judge Novak found reasonable a $535 hourly rate for Mr. Tucci and a $250 hourly rate for paralegal time in a single-plaintiff wage case. No. 1:23cv666 (DJN), 2025 U.S. Dist. LEXIS 14305, at *4–5 (E.D. Va. Jan. 27, 2025); Tucci Decl. ¶ 51. In *Murillo v. Axis Hospitality Construction, LLC*, Magistrate Judge Davis reviewed time records reflecting 51.1 hours at Mr. Tucci's $535 hourly rate, found the rate consistent with reasonable rates charged in the Eastern District of Virginia for like matters, found the hours reasonable, and recommended an award of $27,338.50 in FLSA attorneys' fees. Report and Recommendation at 21–22, *Murillo v. Axis Hospitality Construction, LLC*, No. 1:24-cv-01764-AJT-IDD (E.D. Va. Mar. 5, 2026), Doc. 200; Tucci Decl. ¶ 51.

Other recent wage & hour fee rulings involving Class Counsel likewise support the reasonableness of the lodestar cross-check. In *Blakeman v. Geneva Enterprises, LLC*, after contested fee briefing, the arbitrator accepted the *Vienna*

Metro matrix as persuasive evidence of reasonable rates for wage & hour litigation in the Northern Virginia market and awarded rates including $535 for Mr. Tucci, $750 for Gregg Greenberg and Michael Amster, $695 for Francisco Mundaca, $250 for paralegals, and $150 for legal assistants. Tucci Decl. ¶ 52. The arbitrator awarded $1,593,711.13 in aggregate fees and costs. Tucci Decl. ¶ 52. These prior awards support the reasonableness of the rates used in the lodestar cross-check here. Tucci Decl. ¶¶ 51–53.

The time records here reflect substantial attorney and staff time. Mr. Tucci recorded 1,061.5 hours, resulting in $567,902.50 in lodestar. Tucci Decl. ¶ 54. Gregg C. Greenberg recorded 101.7 hours, resulting in $76,275.00 in lodestar. Tucci Decl. ¶ 54. Francisco Mundaca recorded 27.8 hours, resulting in $19,321.00 in lodestar. Tucci Decl. ¶ 54. Other attorneys, paralegals, and staff recorded additional time necessary to prosecute the case through settlement, resulting in a total lodestar of $710,101.50. Tucci Decl. ¶¶ 49, 54.

The work included investigation, client communications, complaint drafting, conditional certification, Rule 23 certification, supplemental notice, amendment and expansion of the FLSA collective, discovery, review and analysis of payroll/timekeeping data, expert coordination, deposition preparation and review, mediation preparation, dispositive motion briefing, decertification briefing, sanctions motion practice, trial planning, settlement negotiations, drafting and

revising the Settlement Agreement, and preparing preliminary approval materials. Tucci Decl. ¶ 55. In Mr. Tucci's opinion, the requested attorneys' fee is reasonable given the result achieved, the contingent risk, the complexity of the case, the five-year duration of the litigation, the advanced procedural posture, the work performed, the rates reflected in Class Counsel's records, the rates approved in similar matters, and the lodestar cross-check. Tucci Decl. ¶ 56.

The requested $209,155.51 in litigation costs and expenses is also reasonable. Tucci Decl. ¶ 57. Class Counsel advanced litigation costs and expenses necessary to prosecute this case and obtain the proposed settlement. Tucci Decl. ¶ 58. The requested costs include approximately $166,239.50 in expert and economic-analysis expenses, primarily associated with Dr. DuMond and Berkeley Research Group's work on damages and allocation issues; approximately $14,072.44 in deposition transcript and court reporting expenses; approximately $16,621.31 in mediation fees; approximately $9,409.26 in prior class/collective notice and administration expenses; and approximately $2,813.00 in filing, service, PACER, travel, postage/courier, and other litigation expenses. Tucci Decl. ¶¶ 59–60. These costs were reasonably incurred and necessary to the prosecution, mediation, and settlement of this action. Tucci Decl. ¶ 61. Such categories are routinely reimbursable when reasonably incurred for the benefit of a class. *See In re Wachovia*

Corp. ERISA Litig., No. 3:09cv262, 2011 U.S. Dist. LEXIS 123109, at *30 (W.D.N.C. Oct. 24, 2011); *Edelen*, 2013 U.S. Dist. LEXIS 102373, at *42–44.

The requested fees and costs are especially reasonable at this preliminary stage because the request will be disclosed to class and collective members, Class Counsel will file a formal Rule 23(h) motion, and the Court will make a final determination after notice, any objections, and final approval briefing. Tucci Decl. ¶¶ 42–44, 68. *See* Fed. R. Civ. P. 23(h); *Curtis*, 2022 U.S. Dist. LEXIS 65582, at *22–24; *Starr*, 2021 U.S. Dist. LEXIS 99783, at *15–17.

E. The Requested Service Awards Are Within the Range of Reasonableness and Should Be Preliminarily Approved for Notice Purposes.

Class Counsel also request preliminary approval, for notice purposes, of service awards totaling $50,000.00, consisting of $25,000.00 to Charlie Stacy and $25,000.00 to Clifford Allen. Tucci Decl. ¶ 62. The Court need not finally approve those awards now, but should authorize disclosure of the requested amounts in the Notice and consider the request at final approval.

Service awards are routinely considered in class and collective actions to compensate named plaintiffs for their time, effort, risks, and service to the class. *See Berry v. Schulman*, 807 F.3d 600, 613 (4th Cir. 2015); *Decohen*, 299 F.R.D. at 483–84; *Edelen*, 2013 U.S. Dist. LEXIS 102373, at *44–46. Courts consider, among other things, the actions taken by the representatives to protect the class, the degree to

which the class benefited from those actions, the time and effort expended, any risks assumed, and the amount of the requested awards relative to the settlement. *See Starr*, 2021 U.S. Dist. LEXIS 99783, at *16–17; *Hoffman v. First Student, Inc.*, No.: WDQ-06-1882, 2010 U.S. Dist. LEXIS 27329, at *11 (D. Md. Mar. 23, 2010).

The requested service awards are appropriate here. Stacy and Allen served as Named Plaintiffs and class representatives for more than five years. Tucci Decl. ¶ 63. They assisted counsel in investigating the facts, provided information about Defendants' timekeeping and work practices, reviewed pleadings and settlement materials, participated in communications with counsel, provided written discovery responses and document productions, sat for depositions, supported certification and case-development efforts, remained available throughout the litigation, and helped Class Counsel evaluate the settlement. Tucci Decl. ¶ 64. They also accepted the risks and burdens associated with serving as named plaintiffs in wage & hour litigation against their former employer and related entities. Tucci Decl. ¶ 65.

Their service helped produce a $3,000,000.00 settlement for the certified classes and FLSA collective. Tucci Decl. ¶¶ 28, 73–74. The requested service awards are also supported by the broader releases the Named Plaintiffs agreed to provide. Unlike absent class members, Stacy and Allen agreed to broader general releases in exchange for the service awards, subject to Court approval. Tucci Decl. ¶ 66. In Mr. Tucci's opinion, the requested service awards are reasonable in light of Stacy's and

Allen's service to the classes and collective, the duration of the litigation, the benefits achieved, and the broader releases they agreed to provide. Tucci Decl. ¶ 67.

The requested awards fall within the range of awards approved in wage & hour class and collective actions where named plaintiffs actively participated and took on litigation risk. *See Ovando*, 2025 U.S. Dist. LEXIS 118260, at *15; *Mearidy v. nThrive Sols., Inc.*, No. 1:20CV387, 2021 U.S. Dist. LEXIS 157285, at *1 (M.D.N.C. Aug. 16, 2021); *Myers v. Loomis Armored US, LLC*, No. 3:18-cv-00532-FDW-DSC, 2020 U.S. Dist. LEXIS 62941, at *17-19 (W.D.N.C. Apr. 8, 2020); *Reynolds v. Fid. Invs. Institutional Operations Co.*, No. 1:18-CV-423, 2020 U.S. Dist. LEXIS 2718, at *4-5 (M.D.N.C. Jan. 7, 2020).

The requested awards will be disclosed in the Notice, are subject to objection, and will be finally determined by the Court. Tucci Decl. ¶¶ 42–44, 68. Preliminary approval for notice purposes is appropriate.

F. The Proposed Notice and Notice Plan Should Be Approved.

Rule 23(c)(2)(B) requires "the best notice that is practicable under the circumstances," including individual notice to class members who can be identified through reasonable effort. Fed. R. Civ. P. 23(c)(2)(B). The notice must clearly and concisely state, in plain language, the nature of the action, the class definition, the class claims/issues/defenses, the right to appear through counsel, the right and procedure to request exclusion, the time and manner for requesting exclusion, and

the binding effect of a class judgment. *Id.* Rule 23(e)(1) likewise requires notice in a reasonable manner to all class members who would be bound by a proposed settlement. Fed. R. Civ. P. 23(e)(1). In a hybrid Rule 23/FLSA case, the notice must carefully explain the different procedures and consequences applicable to Rule 23 class claims and FLSA collective claims. *See Curtis*, 2022 U.S. Dist. LEXIS 65582, at *22–23.

The proposed Notice and notice plan satisfy those requirements. The proposed Notice is attached as Exhibit B to the Tucci Declaration. Tucci Decl. ¶ 27. The Settlement Agreement appoints Angeion Group, LLC as Settlement Administrator. Tucci Decl. ¶ 40. The proposed notice plan provides for notice by mail, email, and text message, and provides for re-mailing and address-updating procedures for returned mail. Tucci Decl. ¶ 41.

The proposed Notice is written in plain language and adequately informs class and collective members of the nature of the case, the settlement terms, the settlement amount, the allocation, the requested attorneys' fees and costs and service awards, the release, the right to opt out of the Rule 23 settlement, the right to object, the right to appear through counsel, and the final approval process. Tucci Decl. ¶ 42. It also adequately explains the hybrid nature of this settlement by distinguishing between the Rule 23 Virginia classes and the FLSA Class, explaining that Rule 23 class members may request exclusion, explaining that the FLSA Class consists only of

persons who filed and did not withdraw FLSA Consent Forms, describing the claims being released, and informing recipients that no claim form is required to receive payment. Tucci Decl. ¶ 43. In Mr. Tucci's opinion, notice by mail, email, and text message is the best notice practicable under the circumstances and is reasonably calculated to reach class and collective members. Tucci Decl. ¶ 44.

This level of detail is appropriate. In *Graham*, the court's concerns regarding misleading or incomplete notice language were resolved only after corrected settlement and notice materials supplied clearer information. 2022 U.S. Dist. LEXIS 151045, at *2–7, *21–25. The proposed Notice here avoids those problems by separating the Rule 23 opt-out process from the FLSA release, identifying the settlement funds and requested deductions, explaining the automatic-payment structure, and disclosing the requested fees, costs, service awards, administration costs, and *cy pres* treatment. Tucci Decl. ¶¶ 42–44.

The Notice and notice plan should therefore be approved.

G. The Proposed Schedule Should Be Approved.

Plaintiffs request that the Court approve the following schedule, with dates to be set by the Court:

Event	Deadline
Angeion disseminates Notice by mail, email, and text	Within 15 calendar days after entry of the Preliminary Approval Order
Opt-out deadline	45 days after Notice is first mailed
Objection deadline	45 days after Notice is first mailed

Administrator files declaration regarding notice, opt-outs, objections, and administration (to be filed with Plaintiffs' final approval motion)	No later than 14 days before Final Approval Hearing
Plaintiffs file motion for final approval, for attorneys' fees, costs, and service awards	No later than 14 days before Final Approval Hearing
Final Approval Hearing	On a date convenient for the Court and no earlier than 90 days after CAFA notice

The Final Approval Hearing should be scheduled only after the 90-day CAFA waiting period has been satisfied. *See* 28 U.S.C. § 1715(d). Defendants must serve CAFA notice within ten days after Plaintiffs file this motion and file proof of service of the CAFA notices on the docket. *See id.* Because Plaintiffs filed this motion on May 15, 2026, Defendants' CAFA notice would be due by May 25, 2026.

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter the accompanying proposed Order preliminarily approving the Settlement Agreement, approving the proposed Notice and notice plan, appointing Angeion Group, LLC as Settlement Administrator, preliminarily approving the requested attorneys' fees, litigation costs and expenses, and service awards for notice purposes, setting the final approval schedule, staying case deadlines, and granting such other relief as the Court deems appropriate.

Respectfully submitted this May 15, 2026,

/s/ Robert Tucci
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Counsel for Plaintiffs and the Class

CERTIFICATE OF SERVICE

On May 15, 2026, I served ☐ *the original* ☒ *a true copy* of the foregoing document entitled:

- **PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS AND COLLECTIVE ACTION SETTLEMENT, APPROVAL OF NOTICE, APPOINTMENT OF SETTLEMENT ADMINISTRATOR, PRELIMINARY APPROVAL OF ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS FOR NOTICE PURPOSES, AND RELATED RELIEF, AND INTEGRATED MEMORANDUM IN SUPPORT**

on all the appearing and/or interested parties in this action as follows:

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☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Silver Spring, Maryland in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing this affidavit.

☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business practice of ZIPIN, AMSTER, & GREENBERG LLC for collection and processing correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by the USPS for overnight delivery.

☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via electronic transmission through either the Court's CM/ECF

system, via electronic mail, or an electronic service provider to the addressee(s) listed above on the date below.

☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to the addressed named above.

I declare under penalty of perjury under the laws of the Commonwealth of Virginia that the foregoing is true and correct.

Executed on May 15, 2026, at Silver Spring, Maryland.

/s/ Robert Tucci
Robert Tucci