

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

TIFFANY STUART et. al.,)	
)	
Plaintiffs,)	
vs.)	
)	Case No. 2:20-cv- 499
CITY OF PORTSMOUTH,)	
VIRGINIA,)	(Jury Trial Demanded)
)	
Defendant.)	
)	
)	
)	

**MEMORANDUM IN SUPPORT OF JOINT
MOTION TO APPROVE SETTLEMENT AGREEMENT**

Defendant, City of Portsmouth, Virginia (“City”) and the Plaintiffs, Paramedics employed at various times by the City, have reached a settlement agreement that will resolve all claims in the lawsuit, which alleged that the City failed to pay overtime in violation of the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* (“FLSA”) and the Virginia Gap Pay Act, Va. Code §§ 9.1-701 *et. seq* (“VGPA”). All Plaintiffs have been given the opportunity to review the settlement agreement and have given their written authorization to settle the claims according to the tentative agreement. For the reasons set forth below, because the proposed agreement satisfies the criteria for approval of an FLSA settlement, and Plaintiffs have authorized the settlement, Plaintiffs and the City request the Court enter an order: (1) approving the Settlement Agreement, which is incorporated herein by reference, as fair, reasonable, and just in all respects as to the Plaintiffs, and ordering the Parties to perform the Settlement Agreement in accordance with its terms; (2) reserving jurisdiction with respect to this Action for the purpose of enforcing the Settlement Agreement; and (3) dismissing Plaintiffs’ claims with prejudice upon final Court

approval of the Settlement Agreement.

The Settlement Agreement is attached as Exhibit 1 and the declaration of Plaintiffs' counsel, T. Reid Coploff, is attached hereto as Exhibit 2.

I. Claims Asserted in this Case and Procedural History

The Plaintiffs are or were single-role Paramedics employed by the Portsmouth Fire, Rescue, and Emergency Services ("City" or "Defendant"). Plaintiffs alleged three claims here. First, Plaintiffs alleged that Defendant failed to properly pay time-and-a-half overtime pay under the FLSA to the Plaintiffs for hours worked in excess of the statutory maximum. *See* Dkt. 1. Second, Plaintiffs alleged that Defendant failed to pay time-and-a-half overtime pay under the VGPA to the Plaintiffs when they took leave and worked additional unscheduled hours within the same week and worked in excess of the statutory maximum. *Id.* Third, Plaintiffs alleged that Defendant failed to pay time-and-a-half under the VGPA for unscheduled hours of work that fell below the applicable overtime threshold. *Id.*

In its Answer, the City denied that it violated the FLSA and the VGPA, or that it had any liability to Plaintiffs. *See* Dkt. 6. The City asserted several defenses, including without limitation, a good faith defense to liquidated damages and any willful violation of the FLSA. The City maintains that Plaintiffs were properly compensated for all hours worked as required by law and that the City complies with applicable laws. *See generally* Dkt. 6.

During the parties Rule 26(f) conference, the parties discussed their intent to engage in settlement negotiations prior to engaging in discovery. Defendant produced substantial pay and schedule data for all of the Plaintiffs so that Plaintiffs could calculate damages. On April 22, 2021, Plaintiffs submitted a settlement demand to Defendant. The parties participated in a Settlement Conference with the Court on May 26, 2021. Plaintiffs' Counsel, Defendant's

Counsel, and Plaintiffs Tiffany Stuart, Thomas Sasso and Bryan Spruill, members of the Plaintiffs' Settlement Team were present at the Settlement Conference. During the settlement conference, the Parties reached a tentative settlement. Subsequently, the parties reduced the agreement to writing. *See* Exh. 1. On June 17, 2021, Plaintiffs' Counsel sent each Plaintiff a letter informing the Plaintiff of the terms of the Settlement. The letter also provided the Plaintiffs with information about: (1) what the Plaintiffs are relinquishing by agreeing to the Settlement; (2) the specific amounts each Plaintiff will receive under the Settlement and how those amounts will be distributed; and (3) instructions on how to object to the settlement and attend the Fairness Hearing. Exh. 2, Coploff Dec. ¶ 14. All Plaintiffs signed a Settlement Authorization form, consenting to the proposed settlement agreement. The signed forms are attached to the settlement. *See* Exh. 1.

II. Terms of the Proposed Settlement

Counsel for the Parties have reduced the terms of the proposed Settlement to writing (the "Settlement Agreement"). Under the Settlement Agreement, the City will pay a total of \$109,630.47 (one hundred and nine thousand six hundred and thirty dollars and forty-seven cents) to resolve the Plaintiffs' FLSA and VGPA claims. Exh. 1, Settlement Agreement ¶ 2.1. The Settlement Amount will be divided and distributed to Plaintiffs as follows: (1) one check payable to Plaintiffs' Counsel, McGillivray Steele Elkin LLP, for statutory attorneys' fees and expenses in the amount of \$37,458.06; (2) one check payable to Plaintiffs' Counsel, McGillivray Steele Elkin LLP for liquidated damages in the amount of \$24,057.64; and (3) a set of payroll checks payable to individual Plaintiffs based on the gross back pay amounts set forth in Exhibit A to the Settlement Agreement less all applicable deductions and withholdings for that individual Plaintiff, constituting his or her share of the back pay award in the total amount of

\$48,115.27 (“the Back Pay Amount”). *Id.* These amounts are agreed to among the Parties to compromise, settle, and satisfy the Released Claims described in paragraph 3.1 of the Settlement Agreement, liquidated damages related to the Released Claims, and all attorneys’ fees and expenses related to the Released Claims.

For the purposes of computing the gross amount of back pay and liquidated damages for each Plaintiff, Plaintiffs relied on payroll data for each Plaintiff produced by Defendant during pre-discovery settlement negotiations. The calculation methodology used by Plaintiffs was based on actual payroll records produced by the City for part of the recovery period from October 6, 2017 through February 2021. Plaintiffs extrapolated damages for time periods for which the Defendant did not provide data- the time period after February 2021 through June 11, 2021. Based on Plaintiffs calculations, the total amount of back pay for this period for all Plaintiffs is \$48,115.27. The additional settlement monies obtained for the Plaintiffs (i.e.- \$24,057.64) are treated as liquidated damages and equal approximately 50 percent of the back pay. Plaintiffs and their counsel are solely responsible for determining the allocations among Plaintiffs and determining distribution of funds. Exh. 1, ¶ 2.1.

In consideration of the payments provided, Plaintiffs will release the claims raised in their complaint through the date of the Court’s approval of the settlement. The release is set forth in ¶¶ 3.1, 3.2, 3.3, and 3.4 of the Settlement Agreement.

As explained further in Section V below, if the Court enters an Order approving this Agreement, the parties will execute the Settlement Agreement and the City will pay the Settlement Amount within 20 days of the Court’s Approval Order.

III. Applicable Factors for Approving FLSA Settlements

A settlement in an FLSA lawsuit is not effective unless it is approved by either a district court or the United States Department of Labor. *Lomascolo v. Parsons Brinckerhoff, Inc.*, 2009 U.S. Dist. LEXIS 89136, at *8 (E.D. Va. Sept. 29, 2009) (citing *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1353 (11th Cir. 1982)). FLSA settlements in this Circuit will be approved when the court determines that the settlement “is a fair and reasonable resolution of a bona fide dispute over FLSA provisions.” *Id.* In evaluating the fairness of settlements under the FLSA, this court has relied on six factors: (1) the extent of discovery that has taken place; (2) the state of the proceedings, including the complexity, expense, and likely duration of the litigation; (3) the absence of fraud or collusion in the settlement; (4) the experience of counsel who have represented the Plaintiffs; (5) the probability of Plaintiffs’ success on the merits; and (6) the amount of the settlement in relation to the potential recovery. *Devine v. City of Hampton, VA* 2015 U.S. Dist. LEXIS 177155 at *38 (E.D. Va. 2015) (citing *Patel v. Barot*, 15 F. Supp. 3d 648, 656 (E.D. Va. 2014)). Based on an analysis of these factors, as discussed below, the settlement is fair and reasonable and the parties request that it be approved.

IV. Application of the FLSA Factors to the Proposed Settlement

As discussed below, the parties believe that the proposed settlement terms in this case are fair and reasonable to the Plaintiffs and to the Defendant. The settlement represents a good faith compromise of the parties’ *bona fide* dispute regarding the amount of back pay and other relief to which the Plaintiffs are entitled to under the FLSA and VGPA. This compromise was reached after arms-length negotiations between the parties.

A. The Extent of Discovery

The parties did not engage in formal discovery. During the Rule 26(f) conference, the parties expressed interest in engaging in early settlement negotiations. Plaintiffs requested pre-discovery pay and hours data to calculate damages and submit a settlement demand. Defendant then produced substantial pay and schedule data which allowed Plaintiffs to calculate their damages. The parties reached a tentative settlement during the Settlement Conference on May 26, 2021. Given that the parties engaged in pre-discovery data exchange with the intent of resolving this matter and were able to reach a settlement acceptable to both sides, this factor weighs in favor of settlement approval.

B. The State of the Proceedings Including the Complexity and Expense of Further Proceedings.

Absent a settlement, the Court would have to decide the following issues that affect the calculation of damages: (1) whether the Defendant paid Plaintiffs overtime compensation at a rate of one and one-half times the regular rate for hours worked over the overtime threshold (*see* 29 U.S.C. § 207(a)); (2) whether Defendant counted the hours in which Plaintiffs were in a paid leave status toward the overtime threshold (*see* Va. Code §§ 9.1-701); (3) whether Defendant paid Plaintiffs overtime at a rate of one and one-half times the regular rate when Plaintiffs took leave and worked additional unscheduled hours within the same week and worked in excess of the statutory maximum (*see* Va. Code §§ 9.1-701); (4) whether Defendant paid Plaintiffs one and one-half times their regular rate of pay for all hours between their scheduled hours and the hourly maximum set forth in the FLSA (*see* Va. Code § 9.1-701); (5) whether the Defendant can avoid the imposition of otherwise mandatory liquidated damages by proving that its actions were in good faith and objective (*see* 29 U.S.C. §§ 216(b) and 260); and (6) whether the Plaintiffs can prove that they are entitled to a third year of liability because they have demonstrated that the

City's violation was willful. *See* 29 U.S.C. § 255 (extending the statute of limitations for willful FLSA violations from two years to three years).

Given the various arguments on each side supporting each side's position, it is unclear how the Court would decide these issues. Both parties would likely appeal an adverse decision following summary judgment and/or a trial on the issues. Accordingly, the expense of further proceedings is great, as is the complexity of the remaining issues. This factor weighs in favor of settlement approval.

C. Possibility of Fraud or Collusion

Given the parties' negotiations, the parties believe that there was no opportunity for and no possibility for fraud or collusion. The parties' Counsel represented their clients zealously and obtained what both sides consider to be an appropriate settlement.

D. Plaintiffs' Counsel's Experience in Wage and Hour Litigation

Plaintiffs' Counsel are locally and nationally known leaders in the field of wage and hour law. Exh. 2, Coploff Decl. ¶¶ 6, 8. The quality of representation is best demonstrated by the substantial benefit achieved for the Plaintiffs and the effective prosecution and resolution of the litigation. The substantial recovery obtained for the Plaintiffs is the direct result of the significant efforts of highly skilled and specialized attorneys who possess great experience in the prosecution of complex, multi-plaintiff wage and hour litigation. *Id.*

From the outset of the litigation, Plaintiffs' Counsel engaged in a concerted effort to obtain the maximum recovery for the Plaintiffs and committed considerable resources and time in the research, investigation, and prosecution of this case.

E. Probability of Plaintiffs' Success on the Merits

While Plaintiffs believe that their legal position is strong, “[w]hatever the relative merits of the parties’ legal positions, there is no risk-free, expense-free litigation.” *Sheick v. Auto. Component Carrier LLC*, 2010 U.S. Dist. LEXIS 110411, at *50 (E.D. Mich. Oct. 18, 2010). The parties dispute the liability issue and the two significant damages-related issues. The ultimate resolution of these issues through litigation could result in Plaintiffs failing on liability and, therefore, not recovering at all. Alternatively, if the Plaintiffs succeed on liability, they could obtain only a two-year recovery period and no liquidated damages or obtain a three-year recovery period and full liquidated damages.

1. Liquidated Damages

The FLSA provides that “[a]ny employer who violates the provisions of section 206 or section 207 of this title shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages.” 29 U.S.C. §216(b) (emphasis added); *see also Lockwood v. Prince George’s County*, 2000 U.S. App. LEXIS 15302 at *17 (4th Cir. June 29, 2000) (upholding a finding that fire investigators were entitled to FLSA overtime and an award of liquidated damages, noting that liquidated damages were “the norm” for FLSA violations).

The only potential defense to an award of liquidated damages is if the “employer shows to the satisfaction of the court that the act or omission giving rise to [the violation of the FLSA] . . . was in good faith *and* that [the employer] had reasonable grounds for believing that [its] act or omission was not a violation of the [FLSA].” 29 U.S.C. § 260 (emphasis added).¹ The burden of

¹ Under, the VGPA, if an employer can establish good faith, the employee remains entitled to interest at eight percent annually. *See* Va. Code Ann. § 9.1-704(A).

proving good faith under section 260 of the FLSA is on the employer, and the burden to do so is substantial. *Lockwood*, 2000 U.S. App. LEXIS 15302 at *18 (citing *Mayhew v. Wells*, 125 F.3d 216, 220 (4th Cir. 1997) (the employer bears a “plain and substantial burden”)); *see also Arasimowicz v. All Panel Systems*, 948 F. Supp. 2d 211, 226 (D. Conn. 2013) (the employer’s burden “is a difficult one”) (citations omitted).

While Plaintiffs believe that a full award of liquidated damages is mandatory on the record here, the City would argue the opposite. The City would argue that it acted reasonably and in good faith. Meanwhile, Plaintiffs would argue that the City does not have any evidence that it acted in good faith. Each side believes they have the better argument, and appeal would be possible regardless of this Court’s decision, which would result in delay and additional expense. Accordingly, settlement with 50 percent liquidated damages paid on top of the back pay within 20 days of Court Approval is reasonable for Plaintiffs.

2. Three-Year Statute of Limitations

The FLSA provides that non-willful violations are subject to a two-year statute of limitations. However, “when the [defendant’s] violation is willful, a three-year statute of limitations applies.” *Desmond v. PNGI Charles Town Gaming, LLC*, 630 F.3d 351, 357 (4th Cir. 2011) (citing 29 U.S.C. § 255(a)) (internal citations omitted). In 1988, the Supreme Court issued its decision in *McLaughlin v. Richland Shoe Company*, finding that an employer’s violation of the FLSA is willful within the meaning of Section 255(a) where it “either knew or showed reckless disregard for the matter of whether its conduct was prohibited by the statute.” 486 U.S. 128, 133 (1988). A violation is not willful if “an employer acts reasonably in determining its legal obligation.” *Id.* at 134. The Fourth Circuit has found that employers act recklessly when they have “notice, actual or constructive[,] of the existence and general requirements of the

FLSA.” *Chao v. Self Pride, Inc.*, 232 Fed. Appx. 280, 287 (4th Cir. 2007).

Plaintiffs believe they could carry their burden of proof of a willful violation based on evidence that would have come out during discovery showing that the City showed reckless disregard for whether its conduct was prohibited by the FLSA. The City, however, would argue that the Plaintiffs cannot prove a willful violation because it acted reasonably in determining its legal obligations. Based on the foregoing dispute, a settlement that pays a full three years of back pay (i.e. back to October 6, 2017) and extends up to June 11, 2021 is an excellent outcome for the Plaintiffs.

F. The Amount of the Settlement in Relation to the Potential Recovery

The potential recovery if Plaintiffs won full liquidated damages and a three-year recovery period for a willful violation² is \$96,230.54. If Plaintiffs were to lose on liquidated damages and the third year, the recovery would be approximately \$41,336.03. The range of potential recovery was in flux.

The settlement (exclusive of statutory fees and expenses) is \$72,172.91. While this is not a complete victory for Plaintiffs, it is more than \$31,000 higher than their worst potential outcome on the damages issues and includes an additional nearly 75 percent in liquidated damages when using a two-year statute of limitations or 50 percent in liquidated damages when using a three-year statute of limitations. Given the substantial litigation risks going forward for

² Under the settlement, Plaintiffs will recover \$37,458.06 in statutory fees and expenses from the Defendant. As set forth in the Coploff Declaration, from August 7, 2020 through April 22, 2021, the fees and expenses equaled \$37,458.06. Exh. 2, Coploff Decl. ¶ 9. The recording of time and services by McGillivray Steele Elkin LLP was done on a contemporaneous basis, and that information was accurately extracted from the firm’s billing records to prepare the summary fee listing that was provided to opposing counsel. Exh. 2, ¶ 10. According to the Coploff Declaration, all of the time and expenses were, in fact, necessarily and reasonably expended on behalf of the Plaintiffs in this case. *Id.* at 11. An award of fees and expenses is mandatory under the FLSA to the prevailing plaintiff. 29 U.S.C. § 216(b).

both sides, as well as the delay and expense related to obtaining final decisions on the outstanding issues, the settlement is fair, reasonable, and adequate and the result of arms-length bargaining with qualified, experienced counsel representing authorized, knowledgeable settlement teams. For this reason, too, the settlement should be approved.

V. Conditions and Timetable for Finalization and Approval

Assuming the Court concludes at the Fairness Hearing that the terms of the settlement are fair and reasonable, the City will pay the Settlement Amount within 20 days after the date that the Court enters an Order approving this agreement.

VI. Conclusion

For all of the above reasons, the parties believe this proposed settlement will successfully provide appropriate overtime compensation for Plaintiffs. Accordingly, the parties respectfully submit that the proposed settlement is fair and reasonable and should be approved by the Court.

August 2, 2021

Respectfully submitted,

/s/ T. Reid Coploff
T. Reid Coploff (VA Bar No. 78388)
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Counsel for Plaintiffs

/s/ James A. Cales III
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Facsimile 757-393-5062
challengerd@portsmouthva.gov

Counsel for Defendant

CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of the Memorandum in Support of Joint Motion to Approve Settlement Agreement and exhibits were electronically filed on the following counsel for defendant on this 2nd day of August, 2021.

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/s/ T. Reid Coploff
T. Reid Coploff

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA
NORFOLK DIVISION**

TIFFANY STUART et. al.,)	
)	
Plaintiffs,)	
vs.)	
)	Case No. 2:20-cv- 499
CITY OF PORTSMOUTH,)	
VIRGINIA,)	(Jury Trial Demanded)
)	
Defendant.)	
)	
)	
)	

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into by and among all the Parties in the captioned case, namely Plaintiffs, each of whom are identified on Exhibit A attached hereto, and who have consented to be party Plaintiffs in the captioned case, and the Defendant, the City of Portsmouth, Virginia (the “City” or “Defendant”), and is based on the following:

I. RECITALS

1.1 Plaintiffs are 15 individuals employed or formerly employed by the City as single-role paramedics. On October 6, 2020, they filed a complaint in this Court seeking overtime pay pursuant to the Fair Labor Standards Act (“FLSA”) and the Virginia Gap Pay Act (“VGPA”), Va. Code Ann. §§ 9.1-701 *et seq.*

1.2 In the captioned case, Plaintiffs alleged that the City failed to properly pay them overtime compensation pursuant to the FLSA and VGPA and that, as a result, they were entitled to backpay, liquidated damages, a three-year statute of limitations, and attorneys’ fees and costs.

1.3 The Parties participated in a settlement conference on May 26, 2021. Counsel for the Parties, as well as representatives of the Parties who were authorized to agree to a settlement that they could recommend to the absent party Plaintiffs and to the City, respectively, participated.

1.4 The Parties have agreed to settle the matters in dispute between and among them pursuant to the terms of this Agreement. Specifically, the Parties and their counsel have considered that the interests of all concerned are best served by compromise, settlement, and dismissal of the Plaintiffs' FLSA and VGPA law claims. The Parties have concluded that the terms of this Agreement are fair, reasonable, adequate, and in the Parties' mutual best interests.

1.5 The Parties, through their counsel, by separate motion, will seek judicial approval of this Settlement Agreement. In the event the proposed settlement contained in this Agreement is not finally approved by the Court, this Agreement will no longer have any effect and the Parties will revert to their respective positions as of the date and time immediately prior to the execution of this Agreement.

II. PAYMENT AND DISTRIBUTION

2.1 In consideration for the terms, conditions, and promises in this Agreement, the City, in accordance with paragraph 2.2 and 2.4, shall pay or cause to be paid to Plaintiffs a total of \$109,630.47 ("the Settlement Amount"). The Settlement Amount will be divided and distributed to Plaintiffs as follows: (1) one check in the amount of \$37,458.06, payable to Plaintiffs' counsel, McGillivray Steele Elkin LLP, representing reimbursed attorneys' fees and expenses (the "Attorneys' Fees Amount"); Plaintiffs' counsel shall provide the City with a W-9 within two days after the Parties have executed this Agreement; (2) one check in the amount of \$24,057.64, payable to Plaintiffs' counsel, McGillivray Steele Elkin LLP, representing liquidated damages to Plaintiffs (the "Liquidated Damages Amount"), which will be distributed by Plaintiffs' counsel to

individual Plaintiffs; and (3) a set of payroll checks payable to individual Plaintiffs, totaling a pre-tax amount of \$48,115.27 (“the Back Pay Amount”), which shall be distributed to individual Plaintiffs in accordance with the pre-tax amounts set forth in Exhibit A to this Agreement, to which the City shall be entitled to apply all applicable deductions and withholdings for that individual Plaintiff (the “Individual Back Pay Amounts Less Applicable Deductions”). These amounts are agreed to among the Parties to compromise, settle, and satisfy the Released Claims described in paragraph 3.1 below, liquidated damages related to the Released Claims, and all attorneys’ fees and expenses related to the Released Claims.

2.2 The City shall pay the Settlement Amount within 20 days after the date that the Court enters an Order approving this Agreement. After this 20-day period, interest shall accrue on any unpaid Settlement Amount at the rate set forth in 28 U.S.C. § 1961.

2.3 Plaintiffs’ counsel McGillivray Steele Elkin LLP will be responsible for distributing to each Plaintiff listed in Exhibit A his/her respective share of the Liquidated Damages Amount.

2.4 The City will be responsible for distributing the Back Pay Amounts by sending to Plaintiffs’ counsel the payroll checks that represent each Plaintiff’s Individual Back Pay Amount Less Applicable Deductions, along with a document identifying all deductions and withholdings.

2.5 Plaintiffs and their counsel determined the method used to calculate the amounts to be paid to each Plaintiff. For purposes of computing the gross amount of back pay and liquidated damages for each Plaintiff, Plaintiffs relied on the payroll information provided by the City for the entire recovery period.

2.6 Plaintiffs and their counsel, McGillivray Steele Elkin LLP, will defend, release, and hold the City harmless from any and all claims or causes of action arising from the allocation and distribution of the Settlement Amount.

2.7 The City shall issue W-2 forms to the Plaintiffs that reflect the Individual Back Pay Amounts set forth in Exhibit A to this Agreement, Less Applicable Deductions. Plaintiffs' counsel shall distribute to each Plaintiff receiving liquidated damages a Miscellaneous Income Form 1099 reflecting the amount paid to that Plaintiff as liquidated damages. Each Plaintiff agrees that he or she will be responsible for his or her individual tax liability associated with the liquidated damages payments made to him or her under this agreement. Plaintiffs and Plaintiffs' counsel agree that they shall indemnify and hold the City harmless in the event of any dispute concerning whether taxes are owed by any Plaintiff on the liquidated damages part of the settlement.

III. RELEASE AND WAIVER OF CLAIMS

3.1 Plaintiffs hereby release, acquit, and forever discharge the Defendant from all claims set forth in the above-referenced action through the date that the Settlement is approved by the Court. Plaintiffs agree and acknowledge that, with respect to such claims, Plaintiffs are waiving not only their right to recover money or other relief in any action that they might institute but also that they are waiving their right to recover money or other relief in any action that might be brought for such claims on their behalf by any other person or entity including, but not limited to, the Commonwealth of Virginia, the United States Department of Labor ("DOL"), or any other (U.S. or foreign) federal, state, or local agency or department.

3.2 All Plaintiffs shall be deemed to and shall have waived, released, discharged, and dismissed all Released Claims as set forth in Paragraph 3.1, with full knowledge of any and all

rights they may have, and they hereby assume the risk of any mistake in fact in connection with the true facts involved or with regard to any facts which are now unknown to them.

3.3 All Plaintiffs understand and agree that, to the fullest extent permitted by law, they are precluded from filing or pursuing any legal claim or action of any kind against any entity at any time in the future, or with any federal, state or municipal court, tribunal or other authority arising out of the Released Claims.

3.4 All Plaintiffs agree that they are entering this Agreement knowingly, voluntarily, and with full knowledge of its significance. Each Plaintiff affirms that he/she has not been coerced, threatened, or intimidated into agreeing to the terms of this Agreement, and he/she has been advised to consult with an attorney.

IV. DISMISSAL OF CLAIMS

4.1 Plaintiffs agree to dismissal of all claims asserted in the Lawsuit against the City with prejudice as specified in paragraph 3.1, upon the Parties' execution of the Settlement Agreement and the Court's Order approving the Settlement Agreement.

V. NO ADMISSION OF LIABILITY

5.1 The City does not admit any allegations made against it in this lawsuit. Nothing contained in this Agreement shall be deemed an admission of liability or of any violation of any applicable law, rule, regulation, order, or contract of any kind.

VI. CONTINUED JURISDICTION

6.1 The U.S. District Court for the Eastern District of Virginia shall have continuing jurisdiction to construe, interpret and enforce the provisions of this Agreement, and to hear and adjudicate any dispute or litigation arising under this Agreement.

VII. PARTIES' AUTHORITY

7.1 The signatories hereby represent that they are fully authorized to enter this Agreement and to bind the parties hereto to the terms and conditions hereof. By signing the settlement authorizations attached as Exhibit B, the individual Party Plaintiffs signify their full understanding, agreement, and acceptance of the Agreement.

7.2 All of the Parties acknowledge that they have been represented by competent, experienced counsel throughout all negotiations which preceded the execution of this Agreement, and this Agreement is made with the consent and advice of counsel who have jointly prepared this Agreement.

VIII. MUTUAL FULL COOPERATION

8.1 The Parties agree to use their best efforts and to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement and effectuate the terms of this Agreement.

IX. MODIFICATION

9.1 This Agreement and its attachment may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court.

X. ENTIRE AGREEMENT

10.1 This Agreement and its attachments constitute the entire agreement between the Parties concerning the subject matter hereof. No extrinsic oral or written representations or terms shall modify, vary or contradict the terms of this Agreement. In the event of any conflict between this Agreement and any other settlement-related document, the parties intend that this Agreement shall be controlling.

XI. CHOICE OF LAW/JURISDICTION

11.1 This Agreement shall be subject to, governed by, construed, enforced, and administered in accordance with the laws of the Commonwealth of Virginia, both in its procedural and substantive aspects, and shall be subject to the continuing jurisdiction of the United States District Court for the Eastern District of Virginia. This Agreement shall be construed as a whole according to its fair meaning and intent, and not strictly for or against any Party, regardless of who drafted or who was principally responsible for drafting this Agreement or any specific term or condition thereof.

XII. VOIDING THE AGREEMENT

12.1 In the event this Agreement does not obtain judicial approval for any reason, this Agreement shall be null and void in its entirety, unless expressly agreed in writing by all parties.

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IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date indicated below:

McGILLIVARY STEELE ELKIN LLP
1101 Vermont Street N.W., Suite 1000
Washington, D.C. 20005

By: 

T. Reid Coploff
Counsel for Plaintiffs

CITY OF PORTSMOUTH, VIRGINIA

By: 

Burke Stromberg
Interim City Attorney

Dated: 7/16/21

Dated: 7/30/2021

EXHIBIT A


#	First Name	Last Name	BACKPAY AMOUNT	LIQUIDATED DAMAGES AMOUNT
1	Stephanie	Adams	\$ 3,065.72	\$ 1,532.86
2	Alyssa	Babcock	\$ 1,490.91	\$ 745.46
3	Megan	Beatty	\$ 4,153.90	\$ 2,076.95
4	Christie	Cherry Cifelli	\$ 4,317.90	\$ 2,158.95
5	Lauren	Collins	\$ 3,422.16	\$ 1,711.08
6	Madalyn	Dubinsky	\$ 5,992.70	\$ 2,996.35
7	Madison	Gray	\$ 1,019.20	\$ 509.60
8	Melanie	Gray	\$ 531.54	\$ 265.77
9	Joseph	Hoefling	\$ 4,072.70	\$ 2,036.35
10	Laurel	Lapp	\$ 4,070.04	\$ 2,035.02
11	Samantha	Ryan	\$ 2,567.96	\$ 1,283.98
12	Thomas	Sasso	\$ 580.50	\$ 290.25
13	Bryan	Spruill	\$ 2,524.72	\$ 1,262.36
14	Tiffany	Stuart	\$ 1,627.47	\$ 813.74
15	Andrea	Vahey	\$ 8,677.85	\$ 4,338.92
			\$ 48,115.27	\$ 24,057.64

Exhibit B

Settlement Form

I, Stephanie Adams hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$3,065.72 in back pay and \$1,532.86 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

6/18/2021

Date

Settlement Form

I, Alyssa Babcock hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$1,490.91 in back pay and \$745.46 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

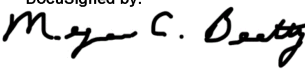

Plaintiff

28 JUN 2021
Date

Settlement Form

I, Megan Beatty hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$4,153.9 in back pay and \$2,076.95 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

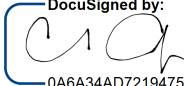
6/17/2021

Date

Settlement Form

I, Christie Cherry Cifelli hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$4,317.9 in back pay and \$2,158.95 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

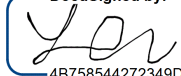
6/18/2021

Date

Settlement Form

I, Lauren Collins hereby authorize my attorneys, McGillivray Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$3,422.16 in back pay and \$1,711.08 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivray Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

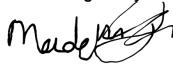
6/17/2021

Date

Settlement Form

I, Madalyn Dubinsky hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$5,992.7 in back pay and \$2,996.35 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

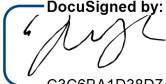
6/20/2021

Date

Settlement Form

I, Madison Gray hereby authorize my attorneys, McGillivray Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$1019.20 in back pay and \$509.60 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivray Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

6/22/2021

Date

Settlement Form

I, Melanie Gray hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$531.54 in back pay and \$265.77 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

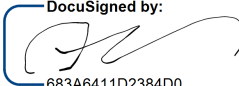
6/21/2021

Date

Settlement Form

I, Joseph Hoefling hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$4,072.70 in back pay and \$2,036.35 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff


6/17/2021

Date

Settlement Form

I, Laurel Lapp hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$4,070.04 in back pay and \$2,035.02 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

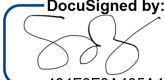
6/18/2021

Date

Settlement Form

I, Samantha Ryan hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$2,567.96 in back pay and \$1,283.98 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

6/17/2021

Date

Settlement Form

I, Thomas Sasso hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$580.50 in back pay and \$290.25 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Thomas Sasso
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Plaintiff

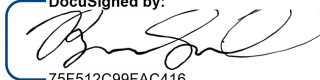
6/17/2021

Date

Settlement Form

I, Bryan Spruill hereby authorize my attorneys, McGillivary Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$2,524.72 in back pay and \$1,262.36 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivary Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

6/22/2021

Date

Settlement Form

I, Tiffany Stuart hereby authorize my attorneys, McGillivray Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$1,627.47 in back pay and \$813.74 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivray Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Tiffany Stuart

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Plaintiff

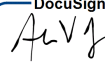
6/17/2021

Date

Settlement Form

I, Andrea Vahey hereby authorize my attorneys, McGillivray Steele Elkin LLP, to settle my wage and hour overtime claim against the City of Portsmouth, Virginia for total payment of \$109,630.47. I understand that the amount comprises \$48,115.27 in backpay, \$24,057.64 in liquidated damages, and \$37,458.06 in reimbursement of attorneys' fees and expenses. My individual gross settlement amount is \$8,677.85 in back pay and \$4,338.92 in liquidated damages. I also acknowledge the following:

1. That I have been provided the settlement amounts for each plaintiff
2. That I have had the opportunity to discuss this settlement proposal with McGillivray Steele Elkin LLP, including the opportunity to ask questions and seek any additional information if I so desire.
3. That this settlement proposal represents a compromise of disputed claims, including claims for backpay, liquidated damages, and interest.
4. That I have the right to consult with an independent attorney about the terms of the settlement proposal.
5. That this settlement proposal is not final unless approved by each plaintiff, by the appropriate officials of the City of Portsmouth, Virginia, and by the U.S. District Court for the Eastern District of Virginia.

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Plaintiff

6/17/2021

Date

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

TIFFANY STUART et. al.,)	
)	
Plaintiffs,)	
vs.)	
)	Case No. 2:20-cv- 499
CITY OF PORTSMOUTH,)	
VIRGINIA,)	(Jury Trial Demanded)
)	
Defendant.)	
)	
)	
)	

DECLARATION OF T. REID COPLOFF

I, T. Reid Coploff, do hereby affirm, under penalty of perjury, that the following representations contained in this Declaration are true and correct to the best of my personal knowledge:

1. I am a partner in the law firm of McGillivray Steele Elkin LLP, the law firm serving as Plaintiffs’ counsel in this case. As a result, I am familiar with the services performed and expenses incurred on behalf of the Plaintiffs. I have carefully examined the records maintained by this firm on a contemporaneous basis regarding legal services and hours of work, as well as actual expenses incurred.

2. I am a 2009 graduate of the George Washington University Law School where I graduated with honors and was the 2009 recipient of the Laurence E. Siebel Memorial Award for Excellence in Labor and Employment. I am admitted to the bars of the state of Virginia and the District of Columbia and am admitted to practice before the United States Courts of Appeals for the District of Columbia and Federal Circuit; and the United States District Courts for the District of Columbia, District of Colorado, and Eastern District of Virginia; and the United States Court of Federal Claims.

3. I joined this law firm as an associate attorney in 2010 and became a partner with the firm in January 2018.

4. I received the 2015 Frances Perkins Public Service Award from the American Bar Association for pro bono work I performed, along with Gregory K. McGillivray, to assist in obtaining the release from prison in Vietnam of three labor activists who were unjustly imprisoned for organizing a strike at a factory.

5. I have more than 12 years of civil litigation experience with particular emphasis in collective actions on behalf of employees in Fair Labor Standards Act ("FLSA") cases. I also have substantial familiarity with the work of the Plaintiffs who work or worked as Paramedics in the City of Portsmouth, Virginia based on my participation in this case, as well as my firm's service as counsel to the International Association of Fire Fighters and the Virginia Professional Fire Fighters.

6. In the last 12 years, among other things, I have specialized in pay cases arising under the FLSA and state wage and hour laws. I have participated in the successful litigation of more than 50 FLSA actions on behalf of employees in various proceedings throughout the country, including in U.S. federal courts and at arbitration. I have also served as counsel in numerous multi-plaintiff actions that were resolved successfully and resulted in millions of dollars paid to the plaintiffs. *See, e.g., Abad v. United States*, 1:14-cv-00444 (Fed. Cl.) (nationwide FLSA action on behalf of 6,108 border patrol agents which settled for \$80 million); *Abrego v. United States*, 1:14-cv-445 (Fed. Cl.) (nationwide FLSA action on behalf of 764 border patrol agent canine handlers which settled for \$34 million); *Ware v. T-Mobile*, 1:11-cv-0411 (M.D. Tenn.) (represented 6,328 call center workers in a nationwide FLSA collective action involving a systemic regular rate violation that resulted in a settlement);

Thompson, et al. v. DirecTV, et al., CA 3:07-cv-4112 (M.D. Tenn.) (FLSA collective action involving off the clock claims of 1,400 technicians who installed DirecTV satellite dishes and equipment; settlement approved by court in 2016 following decisions on summary judgment); *Morrison v. Fairfax County, VA*, Case No. 1:14-cv-0005 (settlement approved by Court in 2016 for \$7,850,000 following U.S. Court of Appeals for the Fourth Circuit ruling in plaintiffs' favor, holding that fire captains are first responders entitled to overtime pay); *Abadeer, et al. v. Tyson*, C.A. No. 3:09-cv-00125 (M.D. Tenn.) (FLSA/Rule 23 hybrid for unpaid donning and doffing performed by hourly-paid meat processing workers at Tyson's Goodlettsville, TN plant; \$7,750,000.00 settlement following summary judgment rulings); *Carton v. Sterling InfoSystems*, C.A. No. 1:10-cv-07827-RJS (S.D.N.Y.) (court-approved settlement for salespeople following minimal early discovery); *McManus v. City of Ceres*, Case No. 1:17-cv-00355-DAD-BAM (C.D. Cal.) (court-approved settlement in 2018 for 20 fire fighters in FLSA claim regarding miscalculation of the regular rate of pay); *Turner v. City of Flagstaff*, Case No: CV-18-08227-PCT-DWL (D. Ariz.) (court- approved settlement in 2019 for 31 fire fighters in FLSA claim regarding miscalculation of the regular rate of pay); *Jacobs v. City of Belmont*, Case No.: 4:18-cv-05823-HSG (N.D. Cal.) (court-approved settlement of \$446,000 in 2019 for 23 fire fighters in FLSA claim regarding miscalculation of the regular rate of pay); *Klinefelter v. City of Clearwater*, Case NO: 8:12-cv-01394-JSM-AEP (M.D. Fla.) (court-approved settlement in 2013 for 159 fire fighters in FLSA claim regarding improper offsets from overtime owed); *Links v. City of San Diego*, Case No. 3:17-cv-00996-H-KSC (S.D. Cal.) (court-approved settlement in 2018 of more than \$300,000 for six plaintiff paramedics in FLSA claim regarding use of incorrect overtime threshold); *Agena v. United States*, Case No. 17-1186C (Fed. Claims) (settlement of \$150,000 in 2019 for FLSA misclassification case for four

information technology specialists in Pearl Harbor, Hawaii); *Havrilla v. United States*, Case No. 14-204C (Fed. Claims) (settlement in 2017 after summary judgment of more than \$345,000 for five small arms repairers for performing uncompensated work during meal periods); *Becker v. United States*, Case No. 13-857C (Fed. Claims) (settlement of more than \$440,000 in 2016 in FLSA misclassification claim for seven police sergeants); *Adkins v. United States*, Case No. 15-995C (Fed. Claims) (nationwide FLSA action on behalf of 275 border patrol agent canine handlers which settled for \$6.7 million); *Antunez v. United States*, No. 1:16-cv-1378 (Fed. Claims) (nationwide FLSA action on behalf of 59 border patrol agent canine handlers which settled for \$884,000). As such, I have significant experience in multi-plaintiff wage and hour actions.

7. In my role as lead counsel, I engaged in correspondence, developing case strategy, and negotiating a settlement to resolve this matter.

8. During the past eight months of litigating this case as well as during prelitigation investigation, Plaintiffs' Counsel have not been paid for any of the work that they have performed. This uncompensated work has been substantial and includes: (1) interviewing plaintiffs; (2) preparing and filing the complaint; (3) engaging in prelitigation settlement negotiations; (4) reviewing documents; (5) preparing and/or reviewing extensive damages calculations using thousands of lines of data from Defendants' payroll data; (6) preparing for and participating in a face-to-face settlement conference; (7) preparing and drafting settlement papers including the settlement agreement and the motion and memorandum in support of settlement approval; and (8) engaging and overseeing communications to and with the 15 Plaintiffs about the status of the case and settlement discussions.

9. On April 22, 2021, Plaintiffs provided a settlement demand to Defendant. Through that date, Plaintiffs' attorneys' fees and expenses totaled \$37,458.06. Of course, additional fees and expenses have accrued since that date related to settlement and mediation.

10. The recording of time and services by McGillivray Steele Elkin LLP was done on a contemporaneous basis, and that information has been accurately extracted from the firm's billing records.

11. All of the time and expenses expended in this matter have been, in fact, necessarily and reasonably expended on behalf of the Plaintiffs in this case.

12. Our firm has a total of 16 attorneys and, for that reason, must carefully monitor the amount of time required by existing cases in determining whether to accept or pursue other matters. In addition, this case had the potential to require substantial time and effort which was a factor considered by our firm in deciding what fee-generating cases and other matters it could, and could not, pursue during this time frame.

13. On May 26, 2021, following opening statements by representatives of Plaintiffs and Defendant, and approximately one and a half hours of exchanging proposals and counter proposals, the parties reached a deal in principle. The authorized settlement team approved and recommended that Plaintiffs accept the settlement agreement. Thereafter, the parties reduced that settlement to writing.

14. On May 26, 2021, Plaintiffs filed a Joint Notice of Settlement. On June 17, 2021, Plaintiffs' counsel sent each Plaintiff a letter informing the Plaintiff of the terms of the settlement agreement and the risks and delay associated with continued litigation. The letter also provided the Plaintiffs with information about: (1) what the Plaintiffs are relinquishing by agreeing to the settlement; (2) the specific amounts each Plaintiff will receive under the

Settlement Agreement and how and when those amounts will be distributed; and (3) filing objections to the Settlement Agreement and how to attend the Fairness Hearing. To date, no Plaintiff has submitted an objection to the Settlement and each signed a settlement authorization form authorizing Plaintiffs' counsel to enter the settlement.

15. The Plaintiffs have been given an opportunity to object to the settlement and, instead, each signed a settlement authorization form.

16. The parties' negotiations were principled, with each side basing their offers and counter-offers on Defendant's actual payroll data, the record, and the parties' individual assessments of litigation risks.

I declare under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the foregoing is true and correct.

/s/ T. Reid Coploff

Dated: August 2, 2021

T. Reid Coploff