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

TIFFANY STUART, et al.,

Plaintiffs,

v. **CIVIL NO. 2:20-cv-499**

CITY OF PORTSMOUTH, VA,

Defendant.

ORDER

This matter comes before the Court upon the Joint Motion for Approval of Settlement Agreement and FLSA Release ("Joint Motion") filed by Tiffany Stuart, Stephanie Adams, Alyssa Babcock, Megan Beatty, Christine Cherry Cifelli, Lauren Collins, Madalyn Dubinsky, Madison Gray, Joseph Hooflong, Laurel Lapp, Samantha Ryan, Thomas Sasso, Bryan Spruill, and Andrea Vahey (collectively, "Plaintiffs") and the defendant, City of Portsmouth, Va ("Defendant"), (collectively, the "Parties"). ECF No. 20. For the reasons stated herein, the Joint Motion is **GRANTED.**

I. BACKGROUND

On October 6, 2020, Tiffany Stuart, Stephanie Adams, Alyssa Babcock, Megan Beatty, Christine Cherry Cifelli, Lauren Collins, Madalyn Dubinsky, Madison Gray, Joseph Hooflong, Laurel Lapp, Thomas Sasso, Bryan Spruill, and Andrea Vahey (collectively, "Plaintiffs"),[1] filed a Complaint in this matter against Defendant City of Portsmouth, VA. ECF No. 1. Plaintiffs, or

[1] Samantha Ryan was added as a Plaintiff on January 5, 2021. ECF No. 13.

"Paramedics" in Portsmouth Fire, Rescue and Emergency Services, id. at 3, allege that Defendant "has not counted the hours in which Plaintiffs and other similarly situated employees were in a paid leave status toward the 40-hour overtime threshold" in violation of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. (the "FLSA") and the Virginia Gap Pay Act (the "VGPA"). ECF No. 1 at 5. Specifically, Plaintiffs contend that if "Plaintiffs take paid leave and then work additional, unscheduled hours of work within the same workweek, Defendant compensates Plaintiffs with only straight time compensation instead of time-and-a-half overtime compensation for the unscheduled hours, regardless of whether the actual hours worked, exclusive of paid leave, exceed 40 hours . . . ." Id. at 6. As a result, Plaintiffs argue, they "Plaintiffs have been unlawfully deprived of overtime compensation and other relief for the maximum period allowed under the law." Id. at 7.

On October 30, 2020, Defendant filed its Answer to the Complaint. ECF No. 6. On May 26, 2021, the parties filed a Notice of Settlement. ECF No. 18. On August 2, 2021, the Parties filed the instant Joint Motion for Approval of Settlement Agreement and FLSA Release ("Joint Motion for Approval"). ECF No. 20. Plaintiffs included a copy of the Fair Labor Standards Act Settlement Agreement ("Settlement Agreement"), ECF No. 21-1. On the same day, the Plaintiffs filed their Memorandum in Support of Parties' Joint Motion for Approval of Settlement Agreement ("Memorandum in Support of Approval"). ECF No. 21. The Court now considers the Joint Motion for Approval. ECF No. 20.

II. STANDARD OF REVIEW

Claims for violations of the FLSA "can only be settled when the settlement is supervised by the Department of Labor or a court." Galvez v. Americlean Servs. Corp., No. 1:11cv1351, 2012 WL 1715689, at *2 (E.D. Va. May 15, 2012) (citing Taylor v. Progress Energy, Inc., 415 F.3d 364, 374 (4th Cir. 2005)). Where employees sue employers for alleged violations of the FLSA,

"the parties must present any proposed settlement to the district court, which may enter a stipulated judgment after scrutinizing the settlement for fairness." Patel v. Barot, 15 F. Supp. 3d 648, 654 (E.D. Va. 2014) (internal citations and marks omitted).

A court should approve a proposed settlement if it determines the settlement "reflects a reasonable compromise over issues actually in dispute." Galvez, 2012 WL 1715689, at *2. In making this determination, courts assess:

> (1) the extent of discovery that has taken place;
> (2) the stage 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.

Patel, 15 F. Supp. 3d at 656 (quoting In re Dollar General Stores FLSA Litigation, No. 5:09–MD–1500, 2011 WL 3841652, at *2 (E.D.N.C. Aug. 23, 2011) (internal marks omitted)); see also Poulin v. Gen. Dynamics Shared Res., Inc., No. 3:09cv00058, 2010 WL 1813497, at *1 (W.D.Va. May 5, 2010); Lomascolo v. Parsons Brinckerhoff, Inc., No. 1:08cv1310, 2009 WL 3094955, at *10 (E.D. Va. Sept. 28, 2009).

In order for a court to properly assess a settlement, the "record [must be] adequate to allow it to reach an 'intelligent and objective opinion of the probabilities of ultimate success should the claim be litigated and form an educated estimate of the complexity, expense and likely duration of such litigation, and all other factors.'" Lomascolo v. Parsons Brinckerhoff, Inc., No. 1:08cv1310, 2009 WL 3094955, at *10 (E.D. Va. Sept. 28, 2009) (quoting Flinn v. FMC Corp., 528 F.2d 1169, 1173 (4th Cir. 1975)). Moreover, "the public has a genuine interest in determining whether the court is properly fulfilling its duties when it approves an FLSA settlement agreement." Patel, 15 F. Supp. 3d at 654.

In addition to the settlement itself, the court must review "the reasonableness of counsel's

legal fees to assure both that counsel is compensated adequately and that no conflict of interest taints the amount the wronged employee recovers under a settlement agreement." Carr v. Rest Inn, Inc., No. 2:14-cv-609, 2015 WL 5177600, at *3 (E.D. Va. Sept. 3. 2015) (quoting Silva v. Miller, 307 F. App'x 349, 351 (11th Cir. 2009)). "The Court evaluates the reasonableness of attorneys' fees by comparing the requested amount to the lodestar amount, which is defined as a reasonable hourly rate multiplied by hours reasonably expended." Id. at *9 (internal quotations omitted).

III. DISCUSSION

Plaintiffs state that "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." ECF No. 21 at 5. Plaintiffs argue that they though they did not engage in formal discovery, Defendant produced "substantial pay and schedule data which allowed Plaintiffs to calculate their damages. . . . Given that the parties engaged in pre-discovery data exchange with the intent of resolving this matter and . . . reach[ed] a settlement . . . this factor weighs in favor of settlement approval." Id. at 6. Particularly important to this Court's analysis is Plaintiffs' representation that

> Plaintiffs' Counsel are locally and nationally known leaders in the field of wage and hour law. . . . 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

Id. at 7.

Having applied the standard of review to a thorough analysis of the pleadings, the Parties'

Joint Motion for Approval, ECF No. 20, the Settlement Agreement signed by both parties, ECF No. 21-1, and Plaintiffs' Memorandum in Support of Parties' Joint Motion for Approval of Settlement Agreement, ECF No. 21, the Court **FINDS** that the settlement reflects a reasonable compromise over issues actually in a bona fide dispute, and that it is fair and equitable to all parties. Further, upon review of Plaintiff's representation regarding attorney's fees, the Court **FINDS** that such requested fees are reasonable. ECF No. 21.

IV. CONCLUSION

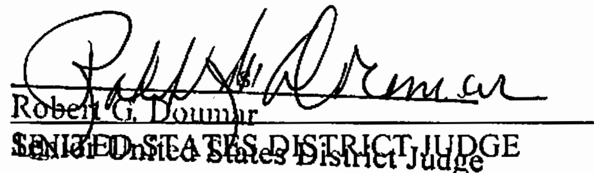
Accordingly, the Joint Motion for Approval of Settlement filed by the Plaintiffs and the Defendant, ECF No. 20, is **GRANTED**.

As such, the Fair Labor Standards Act Settlement Agreement, ECF No. 20-1, is hereby **APPROVED**.

The Parties are hereby **ORDERED** to file with this Court the proposed Stipulated Order of Dismissal, in accordance with The Fair Labor Standards Act Settlement Agreement, ECF No. 21-1, which the Parties entered, within **twenty-one (21) days** from the date of this Order.

The Clerk is **DIRECTED** to forward a copy of this Order to all Counsel of Record.

IT IS SO ORDERED.



Robert G. Doumar
Senior United States District Judge
UNITED STATES DISTRICT JUDGE

Norfolk, VA
August 10, 2021