IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOHN L. STINSON, JR., SHARIKA HORTON, NATHANIEL RAY JOHNSON, HELEN MARIE SCHLUETER, individually and behalf of other similarly situated individuals, Plaintiffs, v. LOCKHEED MARTIN CORPORATION Defendant.	)	CIVIL ACTION NO. 1:22-cv-01342-TWT

JOINT MOTION TO APPROVE SETTLEMENT AGREEMENT

John L. Stinson, Jr., Sharika Horton, Nathaniel Ray Johnson, Helen Marie Schlueter (together "Named Plaintiffs"), on behalf of themselves and the forty-four (44) individuals who have opted into this action jointly with Lockheed Martin Company hereby file this motion respectfully requesting the Court's approval of the settlement of the matter. Through this joint motion, the parties request that the Court (1) approve the proposed settlement as a fair, reasonable, and adequate resolution of a bona fide dispute; (2) approve the terms of the settlement and distribution of payments for back wages and liquidated set forth in the parties' Settlement Agreement; and (3) dismiss the case with prejudice. Plaintiffs, with the consent of

Defendant, further request that the Court (A) approve the attorneys' fees and costs requested; and (B) approve the award to Plaintiff Stinson for his agreement to reasonably cooperate with Defendant with regard to the enforcement of the present Settlement Agreement and Release should Defendant request his cooperation.

Respectfully submitted this 3rd day of May, 2023.

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1, I hereby certify that the foregoing document has been prepared using 14-point Times New Roman font and that it has been formatted in compliance with Local Rule 5. l(B).

Respectfully submitted this 3rd day of May, 2023.

/s/Douglas R. Kertscher
Douglas R. Kertscher
Counsel for Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2023, I electronically filed the foregoing **JOINT MOTION TO APPROVE SETTLEMENT AGREEMENT** with the Clerk of the Court using the CM/ECF system which will automatically send email notification of such filing to all counsel of record.

/s/Douglas R. Kertscher
Douglas R. Kertscher
Counsel for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
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JOHN L. STINSON, JR., SHARIKA HORTON, NATHANIEL RAY JOHNSON, HELEN MARIE SCHLUETER, individually and behalf of other similarly situated individuals,	)	CIVIL ACTION NO. 1:22-cv-01342-TWT
Plaintiffs,	)	
v.	)	
LOCKHEED MARTIN CORPORATION	)	
Defendant.	)	

MEMORANDUM IN SUPPORT OF JOINT MOTION TO APPROVE SETTLEMENT AGREEMENT

COME NOW, John L. Stinson, Jr., Sharika Horton, Nathaniel Ray Johnson, Helen Marie Schlueter (together "Named Plaintiffs"), on behalf of themselves and the forty-four (44) individuals who have opted into this action (the "Opt-In Plaintiffs," and together with Named Plaintiffs, the "Plaintiffs")[1], jointly with Lockheed Martin Company, have filed a Joint Motion to Approve Settlement

[1] David Roberts Williams additionally opted into the litigation but the Parties subsequently stipulated to his dismissal. *See* Dkt. 40.

Agreement. The Parties jointly move that the Court review and approve the terms of proposed Settlement Agreement of the Plaintiffs' claims brought in this Collective Action under the Fair Labor Standards Act as codified by 29 U.S.C. §216(b). Subject to approval of the Settlement Agreement, the Parties further move the Court (1) dismiss all claims with prejudice and (2) approve the proposed apportionment of the settlement proceeds. Please see Settlement Agreement attached as Exhibit "A."[2]

The grounds for this motion are that after an exchange of documents and pay data, the Parties have reached an arms-length settlement of this matter after extensive, bona fide settlement negotiations, including a mediation session; that the Named Plaintiffs believe that the proposed settlement is in the best interests of the collective as a whole; and that all Parties desire to conclude this matter without further expense, delay, and uncertainty of continued litigation. The proposed Notice of Opt-Ins sent to each Plaintiff specifically informs Plaintiffs of their obligation to be bound by a settlement on behalf of the Collective:

> "I choose to be represented in this matter by the named plaintiff's counsel, Hill, Kertscher & Wharton, LLP, in this action. I consent to be bound by any settlement of this action or adjudication of the Court."

[2] The Parties are contemporaneously provisionally filing the proposed apportionment of the settlement proceeds under seal.

See Dkt. 25-2. For the reasons described more fully below, Plaintiffs submit that the proposed settlement is a fair and reasonable resolution of bona fide disputes among the Parties.[3]

I. FACTUAL AND PROCEDURAL BACKGROUND

Defendant employed Plaintiffs as fire suppression personnel at its facilities in Marietta, Georgia, and Fort Worth, Texas. The Plaintiffs alleged that Defendant only paid a Plaintiff straight time for hours in excess of forty (40) through hour forty-eight (48) per week. Defendant raised various defenses, including the defense of "waiver" under the applicable collective bargaining agreement, a Section 301 defense pursuant to the Labor Management Relations Act, a "sleep time" defense as to the collective action members, the defense of offset as to some collective action members that had previously signed severance agreements, and that any violation was not willful.

Named Plaintiffs originally filed the action on April 6, 2022. [Dkt. 1]. Following a limited discovery period during which Plaintiffs' counsel took depositions of Defendants' witnesses, this Court conditionally certified a collective on November 9, 2022 [Dkt. 26]. The opt-in period closed on February 14, 2023,

[3] Defendant joins in this Memorandum with the exception of sections III.C. and III.D, to which it does not object.

and Defendant subsequently provided Plaintiffs' counsel with additional payroll information regarding the Opt-In Plaintiffs. Defendant and five representative Plaintiffs, including lead plaintiff John Stinson, conducted a full-day mediation on March 13, 2023.

II. SETTLEMENT NEGOTIATION AND TERMS

The Parties had a significant dispute regarding whether the action could proceed in light of the requirements of Section 301 of the Labor Management Relations Act,[4] and, if so, whether Plaintiffs outside the State of Georgia could participate.[5] Further, the Parties also disputed whether the two (2) or three (3) year

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[4] *See, e.g., Sejdija v. First Quality Maint., L.P.*, 2023 WL 2118029 (S.D.N.Y. Feb. 17, 2023) (citing cases). *See also Atchley v. Heritage Cable Vision Assocs.*, 101 F.3d 495, 501 (7th Cir. 1996) ("Federal law governing § 301 claims also includes a general requirement that employees must exhaust grievance and arbitration remedies provided in a collective bargaining agreement before filing suit."); *Vadino v. A. Valey Eng'rs*, 903 F.2d 253, 266 (3d Cir.1990) ("[C]laims which rest on interpretations of the underlying collective bargaining agreement must be resolved pursuant to the procedures contemplated under the LMRA.").

But see contra Allis–Chalmers Corp. v. Lueck, 471 U.S. 202, 211 (1985) ("Of course, not every dispute concerning employment, or tangentially involving a provision of a [CBA], is preempted by § 301...."). Indeed, *Livadas v. Bradshaw*, 512 U.S. 107, 108, 114 S. Ct. 2068, 2070, 129 L. Ed. 2d 93 (1994) ("the bare fact that a [CBA] will be consulted in the course of state-law litigation plainly does not require the claim to be extinguished."); *Wynn v. AC Rochester*, 273 F.3d 153, 158 (2d Cir.2001) (holding that "simple reference to the face of the CBA" does not require 301 exhaustion).

[5] *See, e.g., Weirbach v. Cellular Connection, LLC*, 478 F. Supp. 3d 544, 549-52 (E.D. Pa. 2020) (citing cases); *McNutt v. Swift Transp. Co. of Ariz., LLC*, 2020 WL 3819239, at *7-9 (W.D. Wash. July 7, 2020); *Camp v. Bimbo Bakeries USA, Inc.*,

statute of limitations of 29 U.S.C. §255(a) applied, and whether there was liability in light of the sleep time provisions of 29 C.F.R. § 785.22(a). Finally, for the Plaintiffs who worked in Marietta and signed a release agreement during the pendency of this Action, whether Defendant was due a set-off against any finding of liability as to those Plaintiffs.[6]

Before engaging in settlement discussions, the Parties possessed sufficient information to make an informed decision regarding the likelihood of decertification, success via a dispositive motion or on the merits, and the potential

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2020 WL 1692532, at *5-8 (D.N.H. Apr. 7, 2020); *Maclin v. Reliable Reports of Tex., Inc.*, 314 F. Supp. 3d 845, 850 (N.D. Ohio 2018).

But see contra Aiuto v. Publix Super Mkts., Inc., 2020 WL 2039946 (N.D. Ga. Apr. 9, 2020) (holding "district courts in the Eleventh Circuit—including this Court—have declined to" apply the rule from *Bristol-Myers Squibb* discussed in Defendant's foreign authority).

[6] *See, e.g., See Martin v. Ind. Mich. Pwr. Co.*, 292 F.Supp.2d 947, 960 (W.D.Mich. 2002) (where the employer paid the employee $10,000 twenty-one months after the plaintiff initiated litigation and virtually on the eve of a trial, and the court calculated that the defendant owed just under $10,000 in past-due overtime pay plus liquidated damages in the same amount, the court applied the amount paid by the employer to the total amount of actual and liquidated damages otherwise owed but without reducing the liquidated damages); *Barker v. Billo*, No. 82-C-1548, 1984 WL 3171 (E.D.Wis. May 1, 1984) (offsetting FLSA award by monies voluntarily paid to the plaintiff in an unsuccessful attempt to settle an FLSA claim).

See, contra, Leite v. Tremron, Inc., 2012 WL 4049962, at *4 (S.D. Fla. Sept. 13, 2012) (employer could not use funds paid in a separation agreement containing a general release to set-off FLSA claims)*; Martin v. PepsiAmericas, Inc.*, 628 F.3d 738, 742–43 (5th Cir. 2010) (employer not entitled to set-off defense for money paid in separation agreement containing general release).

positive or adverse results that could be obtained through further litigation. Ultimately, the Parties had the opportunity to exchange and evaluate relevant documentation, and determined that settlement of all claims was most beneficial to the Parties.

The Plaintiffs wish to settle because although they believe their claims have been asserted in good faith and have considerable merit, they also recognize that Defendants have mounted considerable defenses to liability and damages. Defendants agree to settle to avoid the cost of preparing and trying this matter and in recognition of the theoretical exposure.

The Parties prepared a written Settlement Agreement, which at Attachment A, includes a breakdown of the distribution of back wages to each Plaintiff as well as the total award of back wages plus liquidated and other damages. The total award to each Plaintiff was adjusted to provide an additional amount to lead Plaintiff Stinson as outlined below. Thus, the Agreement provides that upon approval of the Settlement Agreement, and upon satisfaction of all conditions precedent to payment set forth in the Settlement Agreement:

1. All claims asserted in this action shall be dismissed with prejudice;

2. Plaintiffs agree to release any claims FLSA against Defendant;

3. Defendant shall pay an entire total settlement amount to Plaintiffs as set forth in Attachment A to the Settlement Agreement. This includes the $7,500.00 award to Plaintiff Stinson as described in Attachment A.

4. Defendant shall pay One Hundred Thousand Dollars and No Cents for attorneys' fees and litigation costs. Pursuant to the (reduced) fee agreement between Plaintiffs and Plaintiffs' Counsel,[7] Plaintiffs' Counsel will receive from each of the Plaintiffs, an attorneys' fee of Twenty-One and One-Half Percent (21.5%) of the total award payable to such Plaintiff.

5. Neither the payments pursuant to the Settlement Agreement nor the Order Approving Settlement shall constitute, nor shall heretofore be represented as, any admission, finding, conclusion, or judgment of any violation on behalf of the Defendant or liability to Plaintiffs, or any other violation whatsoever.

6. The Parties have had a full and informed opportunity to review and analyze all payroll and personnel data, time records, policies and procedures, and other records to make the necessary individualized calculations. Furthermore, the Parties reviewed and analyzed the defenses asserted by the Defendants. While the

[7] Plaintiffs' fee agreement with Plaintiffs' Counsel establishes a forty percent contingency fee; however, Plaintiffs' Counsel has agreed to reduce the fee.

Parties are not in agreement about all inferences that might properly be drawn from the evidence, they agree to the proposed settlement submitted to the Court.

7. Defendant denies any liability whatsoever, but the Parties recognize that these claims would require the Parties to incur substantial fees and costs to litigate to final judgment and that a "take nothing" judgment by jury trial would be uncertain. Plaintiffs and Defendant share concerns about litigation costs and the uncertainty of a favorable verdict. Plaintiffs believe that the amount they will receive pursuant to this settlement reflects a substantial portion, i.e., more than one-half, of what they expect to recover if they were to prevail at trial. Accordingly, Plaintiffs move this Court to approve settlement of this action, and Defendant does not oppose Plaintiffs' motion.

III. APPROVAL OF THE SETTLEMENT IS APPROPRIATE

FLSA claims raised in private litigation may be compromised when a district court approves the settlement. *See Lynn's Food Stores, Inc. v. U.S.*, 679 F.2d 1350, 1352-54 (11th Cir. 1982). While describing the circumstances when court approval of an FLSA case is appropriate, the Eleventh Circuit instructs the following:

> Settlements may be permissible in the context of a suit brought by employees under the FLSA for back wages because initiation of the action by the employees provides some assurance of an adversarial context. The employees are likely to be represented by an attorney who

> can protect their rights under the statute. Thus, when the Parties submit a settlement to the court for approval, the settlement is more likely to reflect a reasonable compromise of disputed issues than a mere waiver of statutory rights brought by an employer's overreaching. If a settlement in an employee FLSA suit does reflect a reasonable compromise over issues, such as FLSA coverage or computation of back wages that are actually in dispute, we allow the district court to approve the settlement in order to promote the policy of encouraging settlement of litigation.

Id. at 1354. Courts should approve settlements that are "fair and reasonable resolution of a bona fide dispute" of the claims raised pursuant to the FLSA. *Id*. at 1355.

"The federal courts have long recognized a strong policy and presumption in favor of class settlements." *George v. Academy Mortgage Corporation (UT),* 369 F.Supp.3d 1356, 1376 (N.D.Ga. 2019). In the Eleventh Circuit and nationwide, there is a "policy of encouraging settlement of litigation." *Id*, quoting, *Lynn's Food Stores, Inc.*, 679 F.2d at 1354. "Class settlements minimize the litigation expenses of the parties and reduce the strain that litigation imposes upon already scarce judicial resources." *Dees v. Hydrady, Inc.*, 706 F. Supp 2d 1227, 1241 (M.D. Fla. 2010). "If the parties are represented by competent counsel in an adversary context, the settlement they reach will, almost by definition, be reasonable." *Bonetti v. Embarq Mgmt. Co.*, 715 F. Supp. 2d 1222, 1227 (M.D. Fla. 2009).

A. THE PROPOSED SETTLEMENT RESOLVES A BONA FIDE DISPUTE.

As set forth above, the Parties currently dispute numerous matters, including: whether the Labor Management Relations Act requires Plaintiffs to satisfy the conditions precedent under Section 301; whether this Court has personal jurisdiction over the Fort Worth participants; whether Defendant properly paid Plaintiffs paid overtime compensation; whether the Plaintiffs would be able to establish a willful violation of the FLSA to extend the statute of limitations to three (3) years; and whether to the severance agreement executed by a majority of the Plaintiffs entitled Defendant to a set-off. *See supra* at p.4-5. The Parties disagree about the merits of the Plaintiffs' claims, the viability of the Defendants' defenses, and recovery of damages. Counsel for the Parties have vigorously represented the positions of their respective clients over these disputes. The proposed settlement is the product of a serious amount of time looking into all the issues by Counsel for the Parties. At this stage of the proceedings, the Parties wish to enter into this settlement agreement to resolve with the groups that exists in this litigation.

Plaintiffs' counsel recognizes the expense and length of a trial in this matter, the costs of expert testimony, and the costs surrounding any appeals, which could take several years. They have taken into account the time invested in this case, which began in April 2022, with the likelihood of extensive formal discovery should the

matter proceed, and the uncertain outcome and risk of litigation, including a potential decertification. In negotiating the settlement, counsel had the benefit of broad, independently verified information regarding the Plaintiffs' claims. And based on their evaluation, Plaintiffs' counsel have determined the settlement is in the best interest of the Plaintiffs.

Furthermore, even if the Plaintiffs had prevailed on the merits, the Defendants would have likely appealed the judgment or verdict to the United States Eleventh Circuit Court of Appeals. Under such a scenario, the Plaintiffs would not see any monetary relief from this case, if any, until years from now.

B. THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE.

When scrutinizing FLSA settlements for fairness, courts generally evaluate: "(1) the existence of fraud or collusion behind the settlement; (2) the complexity, expense, and likely duration of the litigation; (3) the stage of the proceedings and the amount of discovery completed; (4) the probability of plaintiff's success on the merits; (5) the range of possible recovery; and (6) the opinions of the counsel." *Dees v. Hydradry, Inc.*, 706 F. Supp. 2d 1227, 1241 (M.D. Fla. 2010).

When the back pay and liquidated damages are aggregated, the proposed settlement affords each Plaintiff three years of back pay and more than 25% of his/her potential liquidated damages award. During litigation and settlement

negotiations, counsel experienced in FLSA litigation vigorously represented the Plaintiffs and Defendant. After discovery, both formal and informal, and investigation, all counsel agree that the proposed settlement represents a fair and reasonable compromise over the disputed issues that is in their respective clients' best interests. The Named Plaintiffs entered into the proposed settlement agreement voluntarily and represented that they knowingly and fully understood that they were relinquishing their claims in this matter in exchange for the agreed upon settlement.

C. THE PROPOSED ATTORNEYS' FEES AND COSTS ARE REASONABLE.

Plaintiffs request approval of attorneys' fees equal to twenty-one and one-half percent (21.5%) of the Settlement Fund created through Plaintiffs' Counsel's efforts. In addition to this 21.5% contingency, Lockheed Martin has agreed to pay Plaintiffs' Counsels' fees in the amount of $100,000. The combined sum of the $100,000 payment plus the 21.5% contingency fee equals less than 33% of the Settlement Fund. At the mediation, the Parties reached an agreement as to the Plaintiffs' recovery before Plaintiffs' Counsels' fees were considered.[8]

[8] *Bonetti v. Embarq Management Co.*, 715 F. Supp. 2d 1222, 1228 (M.D. Fla. 2009) ("[T]he best way to insure that no conflict has tainted the settlement is for the parties to reach agreement as to the plaintiff's recovery before the fees of the plaintiff's counsel are considered.").

This District has recently approved a FLSA contingency fee as high as 33% (though here, only a 21.5% contingency fee from the Plaintiff's is sought).[9] *George*, 369 F. Supp. 3d at 1381. In *George*, this district recognized the importance of contingency fees:

> the contingency retainment must be promoted to assure representation when a person could not otherwise afford the services of a lawyer.... A contingency fee arrangement often justifies an increase in the award of attorney's fees. This rule helps assure that the contingency fee arrangement endures. If this "bonus" methodology did not exist, very few lawyers could take on the representation of a class client given the investment of substantial time, effort, and money, especially in light of the risks of recovering nothing.

Id. Because this settlement involves a common fund, the Court should analyze this fee request under *Camden I Condominium Ass'n v. Dunkle*, 946 F.2d 768 (11th Cir. 1991). In *Camden I*, the Eleventh Circuit held, "we believe that the percentage of the fund approach is the better reasoned [as opposed to the *loadstar approach*] in a common fund case. Henceforth in this circuit, attorneys' fees awarded from a

[9] This Court approved attorney's fees in FLSA-only collective action settlement at one-third of $1,360,000 common fund. *Henderson v. 1400 Northside Drive, Inc.*, No. 1:13-CV-3767-TWT [Doc. No. 177] (N.D. Ga. Mar. 17, 2017) (J. Thrash).

common fund shall be based upon a reasonable percentage of the fund established for the benefit of the class." *Camden I Condo. Ass'n, Inc*, 946 F.2d at 774.[10]

The Eleventh Circuit has provided a set of factors the Court should use to determine a reasonable percentage to award Plaintiffs' Counsel:

> (1) the time and labor required;
> (2) the novelty and difficulty of the relevant questions;
> (3) the skill required to properly carry out the legal services;
> (4) the preclusion of other employment by the attorney as a result of his acceptance of the case;
> (5) the customary fee;
> (6) whether the fee is fixed or contingent;
> (7) time limitations imposed by the clients or the circumstances;
> (8) the results obtained, including the amount recovered for the clients;
> (9) the experience, reputation, and ability of the attorneys;
> (10) the "undesirability" of the case;
> (11) the nature and the length of the professional relationship with the clients; and
> (12) fee awards in similar cases.

[10] *George v. Acad. Mortg. Corp. (UT)*, 369 F. Supp. 3d 1356, 1375 (N.D. Ga. 2019) (applying *Camden I* to determine attorney fee in hybrid Rule 23 class action/FLSA collective action; awarding 33% attorney fee); *Henderson v. 1400 Northside Drive, Inc.*, No. 1:13-CV-3767-TWT [Doc. No. 177] (N.D. Ga. Mar. 17, 2017) (J. Thrash) (approving attorney's fees in FLSA-only collective action settlement at one-third of $1,360,000 common fund).

George, 369 F. Supp. 3d at 1376. As set forth below, in consideration of the *Camden I* factors, the Court should conclude that the requested fee is appropriate, fair, and reasonable and should be approved.

1. *Application of the Camden I Factors Supports the Requested Fee.*

a. Achieving Settlement Required Substantial Time and Labor

Prosecuting and settling the claims in this action demanded considerable time and labor, making this fee request reasonable. *George*, 369 F. Supp. 3d at (approving a 33% contingency fee in an FLSA-Rule 23 hybrid claim). Plaintiffs' Counsel spent a substantial number of hours investigating the claims of many potential plaintiffs against Lockheed Martin and interviewed numerous current and former employees as witnesses and/or potential plaintiffs to gather information about Lockheed Martin's pay practices. Kertscher Decl. ¶ 2. Plaintiffs' Counsel expended significant resources researching and developing the legal theories and claims presented in the Complaint, as well as the multiple defenses raised by Lockheed Martin. Kertscher Decl. ¶ 3. Plaintiffs' Counsel engaged in discovery, including preparing for and take a Rule 30(b)(6) deposition of two persons to establish a basis to include Fort Worth in the collective action. Kertscher Decl. ¶ 4. Plaintiffs' Counsel expended significant resources reviewing a large volume of pay data to assess the claims and calculate potential damages. Kertscher Decl. ¶ 5. After an agreement in principle was reached

at mediation resulting in a signed term sheet, additional negotiations and discussions ensued. Kertscher Decl. ¶ 6.

b. The Issues Involved Were Novel and Difficult, and Required the Skill of Highly Experienced and Dilligent Attorneys.

Plaintiffs' Counsel conferred a significant benefit on the Plaintiffs on complex FLSA theories that intersect with union representation and a governing collective bargaining agreement. This result required the acquisition and analysis of large amounts of payroll data and the efforts of a highly skilled wage and hour attorney with expertise in FLSA violation issues. Kertscher Decl. ¶ 7.

The novelty and difficulty of the issues involved created significant risk for Plaintiffs Counsel. The risks were not merely one, but several. *See supra* at p.4-5. The first risk involved summary judgment denying liability on many Plaintiffs as well as defenses the materially decreased the potential damages recovery. Kertscher Decl. ¶ 8.

Plaintiffs were represented in this action by competent, experienced counsel with extensive experience in wage and hour collective action litigation. Kertscher Decl., ¶ 9. Plaintiffs' Counsel's "experience and expertise weighs in favor of approval." *George*, 369 F. Supp. 3d at 1378.

In evaluating the quality of representation by Plaintiffs' Counsel, "the Court should also consider the quality of opposing counsel." *Id*. Throughout the litigation, Defendant was represented by extremely capable counsel at Elarbee Thompson, a large law firm that specializes in wage and hour litigation.

c. Plaintiffs' Counsel Achieved an Excellent Result.

Given the net recovery of full overtime backpay for the maximum available statutory limitations periods and substantial liquidated damages, and some (incomplete) payment for attorneys' fees and expenses, in the face of significant litigation risks faced by the Plaintiffs here, the Settlement represents an extraordinary result. Kertscher Decl. ¶ 10. "Settling for close to the amount of full liability represents a respectable victory for the class members and therefore favors approval of settlement." *George*, 369 F. Supp. 3d at 1372. Rather than facing more years of costly and uncertain litigation, the Plaintiffs will receive an immediate cash benefit, and additional benefits including waiver of setoff or recoupment claims against them if the Settlement becomes final. Kertscher Decl. ¶ 11.

d. The Claims Presented Serious Risk.

The Settlement here is exceptional in light of the combined litigation risks summarized above in Section II. *See supra* at p.4-5. "Consideration of the 'litigation risks' factor under *Camden I* recognizes that counsel should be rewarded for taking

on a case from which other law firms shrunk." *George*, 369 F. Supp. 3d at 1380. Lead Plaintiff John Stinson contacted three to four law firms before contacting Plaintiffs' Counsel and none were willing to take on the case. Declaration of J. Stinson, ¶ 2. There was considerable risk of summary judgment being entered in Defendant's favor based on a finding that because Plaintiffs' FLSA claims were intertwined with the collective bargaining agreement, under Section 301, Plaintiffs' claims were pre-empted by the LMRA and must be resolved according to the procedures provided for in the CBA. *Sejdija v. First Quality Maint., L.P.*, No. 22-CV-4487 (JGK), 2023 WL 2118029, at *3 (S.D.N.Y. Feb. 17, 2023) (collecting cases).

e. Plaintiffs' Counsel Assumed Considerable Risk to Pursue This Action on a Pure Contingency Basis, and Were Precluded From Other Employment as a Result.

In undertaking to prosecute this complex case entirely on a contingent fee basis, Plaintiffs' Counsel assumed a significant risk of nonpayment or underpayment. Kertscher Decl. ¶ 12. That risk warrants an appropriate fee. Indeed, a "contingency fee arrangement often justifies an increase in the award of attorney's fees." *George*, 369 F. Supp. 3d at 1380.

Finally, Plaintiffs' engagement agreement with Plaintiffs' Counsel provided for a 40% contingency fee, but Plaintiffs' Counsel agreed to accept 21.5% from the

Plaintiffs as it's full attorneys' fees. *See McLendon v. PSC Recovery Sys.*, No. 1:06-CV-1770-CAP, 2009 WL 10668635, at *3, 2009 U.S. Dist. LEXIS 136999, at *6-7 (N.D. Ga. June 2, 2009) (counsel "contracted [with plaintiff] for a 40% contingency fee with Class Counsel to pay expenses as they were incurred. Because Class Counsel has substantially lowered its fee expectations from the time of contract with the clients, and from the market rate in other complex litigation, a 33.33% fee award is appropriate."). This reduced (21.5%) contingency fee was made possible, in part, because of the excellent result obtained and negotiation of partial payment of fees by Defendant.

f. The Requested Fee Comports With Fees Awarded in Similar Cases.

The fee sought here is in line with fees typically awarded in similar cases. Courts within this Circuit have awarded attorney's fees of approximately one-third of a common fund in FLSA and wage and hour cases. *See, e.g., George*, 369 F. Supp. 3d at 1383 (approving 33% of common fund as attorneys' fees); *Henderson*, No. 1:13-CV-3767-TWT [Doc. No. 177] (J. Thrash) (approving attorney's fees in FLSA-only collective action settlement at one-third of $1,360,000 common fund); *Duque v. 130 NW 40th St, LLC*, 2016 U.S. Dist. LEXIS 189154, at *3, n.9 (S.D. Fla. 2016) (*citing Kimmel v. Venture Construction Co.*, No. 1:10-cv-01388-RLV (N.D. Ga. 2010) (Dkt. 70) (approving 30% of common fund as attorneys' fees and costs);*Reyes*

v. AT&T Mobility Servs., LLC, No. 10-20837-CV, 2013 WL 12219252, at *3 (S.D. Fla. June 21, 2013) (ordering one-third of the total maximum settlement fund in FLSA collective action). This is consistent with awards in this Circuit of approximately one-third of a common fund in other types of cases. *See, e.g., Lunsford v. Woodforest Nat'l Bank*, No. 1:12-CV-103-CAP, 2014 WL 12740375, at *11 (N.D. Ga. May 19, 2014) (finding award of fees at one-third of common fund "falls within this accepted range and is in accord with this Court's prior fee rulings.")

Plaintiffs' request for approval of Plaintiffs' Counsel's 21.5% fee falls within the range of the private marketplace, where contingency-fee arrangements are often between 30 and 40 percent of any recovery. Kertscher Decl. ¶ 13; *see also Reyes v. AT & T Mobility Servs., Ltd. Liab. Co.*, No. 10-20837-Civ, 2013 WL 12219252, at *3, 2013 U.S. Dist. LEXIS 202820, at *10 (S.D. Fla. June 21, 2013) (approving fees from FLSA collective action settlement, holding "Class Counsel's request for one-third of the settlement fund is also consistent with the trend in this Circuit. *See, e.g., Wolff v. Cash 4 Titles*, No. 03-22778-CIV, 2012 U.S. Dist. LEXIS 153786, 2012 WL 5290155, at *4 (S.D. Fla. Sept. 26, 2012) ("One-third of the recovery is considered standard in a contingency fee agreement.")). The record here leaves no

doubt that Plaintiffs' fee request is appropriate and comports with attorneys' fees awarded in similar cases.

D. THE PROPOSED AWARD TO PLAINTIFF STINSON IS REASONABLE.

Mr. Stinson's $7,500 award properly compensates him for his agreement to "reasonably cooperate with Defendant with regard to the enforcement of the present Settlement Agreement and Release should Defendant request his cooperation" created by the Settlement Agreement. The payment represents less than one percentage (1%) of the Settlement Fund, and the payment amounts are fair and reasonable in view of the efforts of Plaintiff Stinson's agreement to continue his efforts cooperating with Lockheed to enforce the Settlement Agreement.

CONCLUSION

The Parties and their counsel agree that the settlement agreement is a reasonable compromise of the claims alleged by the Plaintiffs in light of the procedural posture of the case, the litigation risks, the risks of decertification, as well as the costs and risks applicable to both sides. The Parties engaged in meaningful discovery and investigation as well as in a full-day mediation session. Because the settlement agreement is a reasonable compromise and compensates the Parties for a portion of the alleged unpaid overtime hours, the Plaintiffs respectfully request that the Court grant approval of the settlement and dismiss all

claims with prejudice as set forth in the proposed Agreed Order of Approval.

Respectfully submitted this 3rd day of May, 2023.

/s/Douglas R. Kertscher
Douglas R. Kertscher
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Counsel for Defendant

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1, I hereby certify that the foregoing document has been prepared using 14-point Times New Roman font and that it has been formatted in compliance with Local Rule 5.1(B).

Respectfully submitted this 3rd day of May, 2023.

/s/Douglas R. Kertscher
Douglas R. Kertscher
Counsel for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOHN L. STINSON, JR., SHARIKA HORTON, NATHANIEL RAY JOHNSON, HELEN MARIE SCHLUETER, individually and behalf of other similarly situated individuals, Plaintiffs, v. LOCKHEED MARTIN CORPORATION Defendant.	)	CIVIL ACTION NO. 1:22-cv-01342-TWT

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2023, I electronically filed the foregoing **MEMORANDUM IN SUPPORT OF MOTION TO APPROVE SETTLEMENT AGREEMENT** with the Clerk of the Court using the CM/ECF system which will automatically send email notification of such filing to all counsel of record.

/s/Douglas R. Kertscher
Douglas R. Kertscher
Counsel for Plaintiffs

EXHIBIT A

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release of Claims ("Agreement") is entered into by and between John L. Stinson, Jr., Sharika Horton, Nathaniel Ray Johnson, Helen Marie Schlueter, individually and on behalf the individuals identified in Attachment A ("Named Plaintiffs") and Lockheed Martin Company ("Defendant"). Together, Plaintiffs (defined below) and Defendant are referred to as the "Parties."

RECITALS

WHEREAS, on April 26, 2022, Plaintiffs filed a Civil Action Complaint against Defendant in the United States District Court for the Northern District of Georgia, Atlanta Division, styled *John L. Stinson, Jr., Sharika Horton, Nathaniel Ray Johnson, Helen Marie Schlueter, individually and on behalf of other similarly situated individuals, Plaintiffs v. Lockheed Martin Company, Defendant,* Civil Action No. 1:22-cv-01342-TWT, (hereinafter referred to as the "Litigation"); and

WHEREAS, pursuant to the Litigation, Plaintiffs claim unpaid overtime compensation in violation of the Fair Labor Standards Act, 29 U.S.C. § 203 ("FLSA Claims"); and

WHEREAS, on November 9, 2022, the federal district court judge approved a conditional collective action pursuant to 29 U.S.C.§216(b) defined as:

> Current and former Fire Fighters that worked for Lockheed Martin Corporation at either the Marietta, Georgia or Fort Worth, Texas location at some time during the period beginning three years prior to the date of this Order to the present, who had fire suppression duties as a job function. With respect to individuals that have already filed a Consent to Join this action, they shall be considered part of the collective if they worked as a current or former Fire Fighters that worked for Lockheed Martin Corporation at either the Marietta, Georgia or Fort Worth, Texas location at some time during the period beginning three years prior to the filing of his/her consent to join, who had fire suppression duties as a job function .

WHEREAS four (4) Named Plaintiffs and forty-five (45) individuals filed consents to join the Litigation ("Opt-In Plaintiffs") (collectively "Plaintiffs"); and

WHEREAS the Parties stipulated to voluntarily dismissing David William Roberts pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) because the pay roll data

showed that he did not fall within the scope of the Court's November 9, 2022 Conditional Certification Order, Dkt. 26; and

WHEREAS, a bona fide dispute exists regarding wages owed to Plaintiffs; and

WHEREAS, the Parties desire to enter into an agreement resolving and settling the Litigation; and

WHEREAS, Plaintiffs warrant and represent that they, individually and collectively, have not assigned any of the FLSA Claims against Defendant that and that no attorneys other than Douglas R. Kertscher and Julie H. Burke of the law firm of Hill, Kertscher & Wharton, LLP have a claim for attorneys' fees and/or costs arising from Plaintiffs' FLSA Claims released in this Agreement; and

WHEREAS, this Agreement constitutes a good faith settlement of all of Plaintiffs' claims and allegations that were asserted in the Litigation and shall not be deemed in any manner an admission, finding, or indication, for any purposes whatsoever, that the Defendant, or any of its officers, employees, and/or other agents acted contrary to law or violated the rights of Plaintiffs or any other person at any time. The Parties agree that they shall not discuss or communicate the terms of the Agreement with any person or entity except amongst themselves and their counsel.

NOW THEREFORE, the Parties, intending to be legally bound, and in consideration of the mutual recitals, covenants and other good and valuable consideration recited herein, the receipt and legal sufficiency of which each Party hereby acknowledges, agree as follows:

SETTLEMENT TERMS

1. Consideration. Defendant shall cause the payments to be made as set forth in Attachment A. No payment shall be made to a Plaintiff until after s/he has signed this Agreement. If after ninety (90) days of Plaintiffs' Counsel's receipt of the gross amounts set forth in Attachment A, a Plaintiff has not signed this Agreement, Plaintiffs' counsel shall transmit to Defendant's counsel the corresponding pay roll check and the amount of liquidated or other damages for such Plaintiff. This Agreement must be executed by the Named Plaintiffs prior to seeking Court approval as set forth below but shall not be rendered void or unenforceable if one or more Opt-In Plaintiffs fails to execute it. Defendant waives any right to offset any settlement payments based on any severance, separation, or release agreement executed by a Plaintiff in 2022 in favor of Defendant pursuant to collective bargaining with such Plaintiff's collective bargaining representative.

2. Court Approval of Agreement and Dismissal with Prejudice. The Parties agree that within five (5) business days after all the Named Plaintiffs and the Defendant

have executed this Agreement, they shall file a Joint Motion to Approve Settlement and Dismiss Lawsuit with Prejudice (along with a proposed order) to the United States District Judge before whom this Litigation is pending for the purposes of obtaining court approval in accordance with the Fair Labor Standards Act, 29 U.S.C. §201 et seq. Such Motion shall seek approval to file the financial terms under seal and shall seek judicial approval of the Agreement and dismissal with prejudice of all of Plaintiff's claims against Defendants. The Parties will cooperate and take all necessary steps to effectuate final judicial approval of this Agreement and dismissal of the Litigation. The failure to secure the dismissal of the Litigation *with prejudice*, for whatever reason, will nullify Plaintiffs' and Plaintiffs' counsel's right to the settlement payments. If the District Court does not approve this Agreement, the Parties shall work cooperatively in an effort to make such modifications as necessary to obtain judicial approval, although either Party shall have the right to declare this Agreement void ab initio.

3. Taxes. Plaintiffs agree to pay all taxes, if any, which may be deemed owing on the payments made pursuant to Attachment A, except for Defendant's portion of FICA and other employer portion tax contributions associated with the payments designated as unpaid wages. Plaintiffs further agree that they will indemnify and hold Defendant and any related and affiliated entities harmless from and against any taxes, penalties and/or interest that might arise from any challenge by the Internal Revenue Service or similar state or local agency to Plaintiff's tax treatment of any amounts paid to them, except for any challenge associated with Defendant's responsibility for the employer portion of FICA and other employer portion tax contributions associated with the payments designated as unpaid wages.

4. No Admission of Liability. The Parties acknowledge that the Settlement Payment was agreed upon as a compromise and final settlement of disputed claims and that payment of the Settlement Payment is not, and may not be construed as, an admission of liability by Defendant and is not to be construed as an admission that Defendant engaged in any wrongful, tortious or unlawful activity. Defendant specifically disclaims and denies any liability to Plaintiffs.

5. Full Payment for Work Performed. Plaintiffs acknowledge that, with the payments set forth in this Agreement, they have been fully compensated by Defendant for all unpaid wages for hours allegedly worked, including unpaid minimum wages, overtime wages, liquidated damages, attorneys' fees, costs, and any other damages allegedly owed by Defendant, and that no other form of compensation or other damage of any kind is owed to them by Defendant.

6. Agreement is Legally Binding. The Parties intend this Agreement to be legally binding upon and shall inure to the benefit of each of them and their respective successors, assigns, executors, administrators, heirs and estates.

7. Entire Agreement. The recitals set forth at the beginning of this Agreement are incorporated by reference and made a part of this Agreement. This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior negotiations and/or agreements, proposed or otherwise, written or oral, concerning the subject matter hereof. Furthermore, no modification of this Agreement shall be binding unless in writing and signed by each of the Parties hereto.

Plaintiffs state that the only consideration for their decision to execute and their execution of the Agreement are the terms stated herein and that there are no other promises or arrangements of any kind which have caused them to execute the Agreement; that they have been advised to and have consulted with their attorneys regarding the terms, conditions and the final and binding effect of this Agreement; and she understands the meaning of the Agreement and its final and binding effect.

8. Severability. Each provision of this Agreement shall be considered separable, distinct and severable from the other and remaining provisions, and any breach, invalidity or unenforceability of any provision shall not impair the operation, validity or enforceability of those provisions that are valid and, to the extent allowed by law, such invalid or otherwise unenforceable provision may be modified by a court of competent jurisdiction so as to render it enforceable. Notwithstanding the foregoing sentence, if Paragraph 4 is found to be invalid by a court of competent jurisdiction, the entire Agreement is invalid.

9. Governing Law and Choice of Forum. This Agreement is made and entered into within and shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Georgia, without regard to the principles of conflicts of laws. Any action to enforce this Agreement shall be brought only in a proper state or federal court within the State of Georgia.

10. Counterparts. This Agreement may be executed by the Parties in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall become effective upon its approval by the court.

11. Drafting. The Parties acknowledge that they have jointly agreed to the terms and language used herein and that no ambiguity will be construed against any party for having "drafted" this Agreement.

12. Authority to Execute Agreement. By signing below, each Party warrants and represents that the person signing this Agreement on its or his/her behalf has authority to bind that Party and that the Party's execution of this Agreement is not in violation of any bylaw, covenants and/or other restrictions placed upon them by their respective entities.

13. **Language.** Plaintiffs' counsel hereby represents that they have discussed this agreement fully with Plaintiffs and are fully satisfied that they understand the Settlement Agreement and agrees with its terms.

14. **Costs and expenses.** Except as set forth in Attachment A, the Parties shall bear their own costs and attorneys fees, including the fees of the mediator.

AGREED TO BY THE PARTIES, WITH INTENT TO BE LEGALLY BOUND

PLANTIFFS:

		SIGNATURE AND DATE
Arens, David T.	FW	
Barnes, Gary Lee II	FW	
Campbell, Donald	FW	
Hoes, Glen E.	FW	
Ives, Wesley	FW	
Landry, Elizabeth	FW	
May, Scott James	FW	
Morley, Joseph	FW	
Phillips, Steve	FW	
Rutledge, Ronnie	FW	
Schultz, Ronald	FW	
Aultman, Jeff	ATL	
Boyd, Tonya	ATL	
Brooks, Daniel	ATL	
Brown, Andrew	ATL	
Campbell, Michael	ATL	
Carroll, Jerry Scott	ATL	
Carter, Charles Lenton Jr.	ATL	
Cooper, Hasani A.	ATL	

Dean, Andy V.	ATL	
Dillard, Franklin Lee	ATL	
Fouts, William	ATL	
Frierson, Cornell	ATL	
Grant, Richard	ATL	
Harris, Craig	ATL	
Holtzclaw, Ronald Walter	ATL	
Horton, Sharika	ATL	DocuSigned by: Sharika Horton 40314D69BE6B4B3 4/17/2023
Johnson, Nathaniel Ray	ATL	DocuSigned by: Nathaniel Johnson D832FB79CB2D4AA 4/18/2023
Jones, Calvin	ATL	
Kirk, David	ATL	
Lee, Kenneth A.	ATL	
Lindemann, Eric	ATL	
Lipscomb, Willie	ATL	
Miller, Brian	ATL	
Mosley, Curtis	ATL	
Reese, Mandel D.	ATL	
Riffey, Charles	ATL	
Schlange, Stephen	ATL	
Schlueter, Helen M.	ATL	DocuSigned by: B2CCAFDDBC4F4B9 4/17/2023
Smith, Leroy	ATL	

Stinson, John	ATL	DocuSigned by: John L. Stinson 444D80FF86DF42F 4/18/2023
Tate, Cydney	ATL	
Thomas, Martinez	ATL	
Tourison, Marshall	ATL	
Walker, William	ATL	
White, Christopher	ATL	
White, Efrem	ATL	
Young, Kevin	ATL	

Reviewed and approved by:

Douglas R. Kertscher
Julie Burke
Hill, Kertscher & Wharton, LLP
3625 Cumberland Blvd., Suite 1050
Atlanta, GA 30339

Counsel for Plaintiffs

DEFENDANT:

LOCKHEED MARTIN COMPANY

Signature: Angela Carruth

By (Print): Angela Carruth

Title: Chief Counsel- Litigation

Date: 4/26/23

ATTACHMENT A

Within sixty (60) days of entry of an Order approving settlement of the Litigation and dismissal *with prejudice*, Defendant shall initiate the delivery to Douglas R. Kertscher and Julie H. Burke of the law firm of Hill, Kertscher & Wharton, LLP, as follows:

1. One Hundred Thousand Dollars and No Cents ($100,000.00) payable to Hill, Kertscher & Wharton, LLP as attorneys' fees, provided that Plaintiffs, at least sixty (60) days previously, have delivered to Douglas H. Duerr of Elarbee, Thompson, Sapp & Wilson, LLP an Internal Revenue Service Form W-9 completed by Hill, Kertscher & Wharton, LLP. In addition, for each Plaintiff who satisfies the conditions precedent to receive Settlement funds, Plaintiffs' Counsel shall receive from such Plaintiff a contingency attorneys' fee of twenty-one and a half percent (21.5%) of each such Plaintiffs' Total Damages (as shown in the chart below) payment, which shall be deducted by Plaintiffs' Counsel from such Plaintiff's award of liquidated or other damages prior to disbursement to such Plaintiff.

2. Plaintiff Stinson shall receive an award of Seven Thousand Five Hundred Dollars and No Cents ($7,500.00) from the total Settlement Fund of Eight Hundred Forty-Nine Thousand Nine Hundred Ninety-Six Dollars and Seventy-Two Cents payable to Plaintiffs as described in Paragraphs 3 and 4, below. In exchange for his receipt of these funds, Plaintiff Stinson agrees to reasonably cooperate with Defendant with regard to the enforcement of the present Settlement Agreement and Release should Defendant request his cooperation. Amounts payable to the remaining Plaintiffs shall be adjusted on a pro rata basis as determined by theoretical maximum of back wages due under the FLSA based on the date they joined the Litigation.

3. payable to the Hill, Kertscher & Wharton, LLP Trust Account, which shall disburse to Plaintiffs as liquidated or other damages and which shall file such forms with the appropriate tax authorities as required.

4. , less legally required deductions and withholdings, in separate payroll checks to the following Plaintiffs as show in the unpaid wages column of the below chart:

[REMAINDER OF PAGE INTENTIONALLY BLANK]

NAME	LOCATION	UNPAID WAGES	LIQUIDATED OR OTHER DAMAGES	TOTAL DAMAGES
Arens, David T.	FW			
Barnes, Gary Lee II	FW			
Campbell, Donald	FW			
Hoes, Glen E.	FW			
Ives, Wesley	FW			
Landry, Elizabeth	FW			
May, Scott James	FW			
Morley, Joseph	FW			
Phillips, Steve	FW			
Rutledge, Ronnie	FW			
Schultz, Ronald	FW			
FW SUBTOTAL				
Aultman, Jeff	ATL			
Boyd, Tonya	ATL			
Brooks, Daniel	ATL			
Brown, Andrew	ATL			
Campbell, Michael	ATL			
Carroll, Jerry Scott	ATL			
Carter, Charles Lenton Jr.	ATL			
Cooper, Hasani A.	ATL			
Dean, Andy V.	ATL			
Dillard, Franklin Lee	ATL			
Fouts, William	ATL			
Frierson, Cornell	ATL			
Grant, Richard	ATL			
Harris, Craig	ATL			
Holtzclaw, Ronald Walter	ATL			
Horton, Sharika	ATL			
Johnson, Nathaniel Ray	ATL			
Jones, Calvin	ATL			
Kirk, David	ATL			
Lee, Kenneth A.	ATL			
Lindemann, Eric	ATL			
Lipscomb, Willie	ATL			
Miller, Brian	ATL			
Mosley, Curtis	ATL			
Reese, Mandel D.	ATL			
Riffey, Charles	ATL			
Schlange, Stephen	ATL			
Schlueter, Helen M.	ATL			
Smith, Leroy	ATL			
Stinson, John	ATL			
Tate, Cydney	ATL			
Thomas, Martinez	ATL			
Tourison, Marshall	ATL			
Walker, William	ATL			
White, Christopher	ATL			
White, Efrem	ATL			
Young, Kevin	ATL			
ATL SUBTOTAL				
TOTALS				

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOHN L. STINSON, JR., SHARIKA HORTON, NATHANIEL RAY JOHNSON, HELEN MARIE SCHLUETER, individually and behalf of other similarly situated individuals, Plaintiffs**,** **vs.** **LOCKHEED MARTIN CORPORATION,** Defendant**.**	CIVIL ACTION FILE NO.: **1:22-cv-01342-TWT**

DECLARATION OF DOUGLAS R. KERTSCHER

I, Douglas R. Kertscher, declare as follows:

1. My name is Douglas R. Kertscher. I am over the age of 21 and am competent to testify in this matter. The statements contained herein are based on my own personal knowledge. I make this declaration freely and of my own will. I make this declaration under penalty of perjury in the United States of America.

2. Plaintiffs' Counsel spent a substantial number of hours investigating the claims of many potential plaintiffs against Lockheed Martin and interviewed

numerous current and former employees as witnesses and/or potential plaintiffs to gather information about Lockheed Martin's pay practices.

3. Plaintiffs' Counsel expended significant resources researching and developing the legal theories and claims presented in the Complaint, as well as the multiple defenses raised by Lockheed Martin.

4. Plaintiffs' Counsel engaged in discovery, including preparing for and taking a Rule 30(b)(6) deposition of two persons to establish a basis to include Fort Worth in the collective action.

5. Plaintiffs' Counsel expended significant resources reviewing a large volume of pay data to assess the claims and calculate potential damages.

6. After an agreement in principle was reached at mediation resulting in a signed term sheet, additional negotiations and discussions ensued.

7. Plaintiffs' Counsel conferred a significant benefit on the Plaintiffs on complex FLSA theories that intersect with union representation and a governing collective bargaining agreement. This result required the acquisition and analysis of large amounts of payroll data and the efforts of an experienced wage and hour attorney with expertise in FLSA violation issues.

8. The novelty and difficulty of the issues involved created significant risk for Plaintiffs' Counsel. The risks were not merely one, but several. The first

risk involved summary judgment denying liability on many Plaintiffs as well as defenses that materially decreased the potential damages recovery.

9. Plaintiffs were represented in this action by competent, experienced counsel with extensive experience in wage and hour collective action litigation.

10. Given the net recovery of full overtime backpay for the maximum available statutory limitations periods and substantial liquidated damages, and some (incomplete) payment for attorneys' fees and expenses, in the face of significant litigation risks faced by the Plaintiffs here, in my view this Settlement represents an extraordinary result.

11. Rather than facing more years of costly and uncertain litigation, the Plaintiffs will receive an immediate cash benefit, and additional benefits including waiver of setoff or recoupment claims against them if the Settlement becomes final.

12. In undertaking to prosecute this complex case entirely on a contingent fee basis, my law firm assumed a significant risk of nonpayment or underpayment.

…

13. Plaintiffs request for approval of Plaintiff's counsel's fee of 21.5% to each Plaintiff falls below the range of the private marketplace, where contingency-fee arrangements are often between 30 and 40 percent of any recovery. I repeatedly enter into contingency-fee arrangements in the course of my practice and my agreements fall within this range.

PURSUANT TO 28 U.S.C. § 1746, I VERIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATE OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

Date: May 3, 2023

Douglas R. Kertscher

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOHN L. STINSON, JR., SHARIKA HORTON, NATHANIEL RAY JOHNSON, HELEN MARIE SCHLUETER, individually and behalf of other similarly situated individuals, Plaintiffs, **vs.** **LOCKHEED MARTIN CORPORATION,** Defendant.	CIVIL ACTION FILE NO.: **1:22-cv-01342-TWT**

DECLARATION OF JOHN L. STINSON, JR.

I, John L. Stinson, Jr., declare as follows:

1. My name is John L. Stinson, Jr. I am over the age of 21 and am competent to testify in this matter. The statements contained herein are based on my own personal knowledge. I make this declaration freely and of my own will. I make this declaration under penalty of perjury in the United States of America.

2. Before I retained Hill, Kertscher & Wharton LLP to bring a lawsuit against Lockheed Martin to recover unpaid overtime, I contacted another

employment law firm to see if they were willing to help me bring this lawsuit, and they were not willing to take on the case.

PURSUANT TO 28 U.S.C. § 1746, I VERIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATE OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

Date: 4/18/2023

DocuSigned by:
John L. Stinson
444D8DEF88DE42E...

John L. Stinson

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOHN L. STINSON, JR., SHARIKA HORTON, NATHANIEL RAY JOHNSON, HELEN MARIE SCHLUETER, individually and behalf of other similarly situated individuals, Plaintiffs, v. LOCKHEED MARTIN CORPORATION Defendant.	)	CIVIL ACTION NO. 1:22-cv-01342-TWT

[PROPOSED] ORDER GRANTING MOTION TO APPROVE SETTLEMENT AGREEMENT

This matter came before the Court on the parties' Consent Motion for Approval of FLSA Settlement and Dismissal of Action. Based on the memoranda, exhibits, and all the files and proceedings here, the Court makes the following:

1. The Parties' Joint Motion for Settlement Approval of FLSA Settlement is **GRANTED**;

2. The Parties' Settlement Agreement is approved as a fair, reasonable, and adequate resolution of a bona fide dispute;

3. The Parties' proposed settlement terms and distribution of payments set forth in the Settlement Agreement are **APPROVED**;

4. Plaintiffs' Counsel's request for fees and litigation costs in the amount of $100,000 paid by Defendant and Plaintiffs' Counsel's request for fees and litigation costs of Twenty-One and One-Half Percent (21.5%) of the total award payable to such Plaintiff from each of the Plaintiffs is **GRANTED**; and

5. This case is **DISMISSED WITH PREJUDICE**.

SO ORDERED this __ day of _____, 2023.

_____
Honorable Thomas W. Thrash, Jr.
UNITED STATES DISTRICT JUDGE