

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RONICA JOHNSON, on behalf of herself and others similarly situated,	:	CIVIL ACTION
	:	
	:	No. 8:16-cv-02154-PJM
	:	
v.	:	
	:	
HEARTLAND DENTAL, LLC,	:	
	:	

**JOINT MOTION FOR APPROVAL OF THE ACCEPTANCE OF
OFFERS OF JUDGMENT AND AWARD OF ATTORNEY’S FEES AND COSTS**

Plaintiffs Ronica Johnson, Rachel Lockwood, and Shaketa Robinson (collectively “Plaintiffs”) and Defendant Heartland Dental, LLC (“Defendants”), respectfully move pursuant to 29 U.S.C. § 216(b) for Court approval of the resolution of the above-captioned action under the terms of the Acceptance of Offer of Judgments that were filed on November 10, 2016 and November 23, 2016, *see* Docs. 17 and 20, and the parties’ stipulated attorney’s fees and costs, *see* Doc. 26. As discussed in accompanying memorandum of law, the resolution of this Fair Labor Standards Act (“FLSA”) lawsuit should be approved because it is a fair and reasonable resolution of a *bona fide* dispute between the parties.

WHEREFORE, the parties respectfully request that the Court enter the accompanying proposed order.

Date: March 10, 2017

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RONICA JOHNSON, on behalf of herself and
others similarly situated,

v.

HEARTLAND DENTAL, LLC,

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: CIVIL ACTION
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**MEMORANDUM OF LAW IN SUPPORT OF JOINT
MOTION FOR APPROVAL OF THE ACCEPTANCE OF OFFERS
OF JUDGMENT AND AWARD OF ATTORNEY’S FEES AND COSTS**

Pursuant to the Court’s instructions in its February 23, 2017 Order, *see* Doc. 25, the parties respectfully submit this brief in support of their joint motion for approval of the Plaintiffs Ronica Johnson, Rachel Lockwood, and Shaketa Robinson (collectively “Plaintiffs”) acceptance of offers of judgment resolving their claims under the Fair Labor Standards Act (“FLSA”) for a total of \$28,091.09, *see* Docs. 17, 20. The parties also seek the Court’s approval of a stipulated amount of \$27,500.00 to Plaintiffs’ counsel for attorney’s fees and costs. *See* Doc. 26. As discussed herein, this proposed resolution of Plaintiffs’ FLSA claims is fair and reasonable and warrants judicial approval.

I. RELEVANT FACTS AND PERTINENT PROCEDURAL HISTORY

Originating Plaintiff Ronica Johnson (“Johnson”) initiated this lawsuit by filing a single count Complaint on June 16, 2016 asserting claims under the FLSA against Defendant Heartland Dental, LLC (“Defendant”). *See generally* Complaint (Doc. 1). According to its website, Defendant “is the largest dental support organization in the United States with more than 750 supported dental offices located in 33 states.” *See id.* at ¶ 7; Answer (Doc. 12) at ¶ 7. One of the services Defendant provides to its affiliated dental offices is staffing of employees who are paid directly by Defendant. *Id.* at ¶ 8. One of these positions is “Office Manager.” *Id.* at ¶ 9.

Plaintiffs alleged that Defendant classified some Office Managers as overtime exempt and paid them on a “salary basis” while it classified others as overtime eligible hourly employees. *Id.* at ¶¶ 9, 14-15.

Plaintiff Johnson alleged to have worked for Defendant as a salaried Office Manager from approximately June 2014 until May 2016 and was assigned to a dental office located in Mitchellville, Maryland. Johnson alleged that regardless of whether Office Managers were paid a salary or on an hourly basis, their basic job duties were essentially the same and consisted of performing routine office activities such as scheduling appointments, answering phones, and closing and opening the office. *See* Complaint (Doc. 1) at ¶¶ 10, 12. These duties, according to Johnson, were performed in accordance with standardized policies and protocols that were developed by Defendant. *Id.* at ¶ 13. Defendant denied these allegations. *See* Answer (Doc. 12) at ¶¶ 10, 12-13.

Johnson alleged that as a salaried Office Manager, she was regularly scheduled to work at least 45 hours in a week, *see* Complaint (Doc. 1) at ¶ 16, an allegation denied by Defendant, *see* Answer (Doc. 12) at ¶ 16. On such occasions, she alleges that she and other salaried Office Managers did not receive overtime premium pay. *Id.* at ¶ 17.

Johnson asserted her FLSA claims as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of the following collective: “All individuals who worked as salaried Office Managers for Defendant and were classified as exempt from the FLSA since June 16, 2013.” *Id.* at ¶ 21. Two other salaried Office Managers, Rachel Lockwood (“Lockwood”) and Shaketa Robinson (“Robinson”), filed consent forms to join (or “opt-in” to) this case. *See* Docs. 4, 13.

On September 30, 2016, Defendant filed its Answer to Johnson’s Complaint in which it denied violating the FLSA. *See generally* Answer (Doc. 12). Specifically, Defendant asserted

that Johnson and other salaried Office Managers were not entitled to overtime premium pay under the FLSA because they were exempt employees. *See id.* at Second, Ninth, and Tenth Affirmative Defenses. Defendant also asserted that if there were any violations of the FLSA, they were not willful in nature because any acts or omissions giving rise to this action were reasonable, in good faith and not undertaken with reckless disregard as to whether such actions or omissions violated the FLSA. *Id.* at Fifth Affirmative Defense; *see also id.* at Eighth Affirmative Defense.

Defendant served all three Plaintiffs with an Offer of Judgment pursuant to Fed. R. Civ. P. 68 on October 27, 2016. *See* Doc. 17. While disclaiming all liability, the Offer of Judgment listed specific monetary amounts for each Plaintiff that were exclusive of costs and reasonable attorney's fees, but offered to pay reasonable attorney's fees and costs under Rule 68. *Id.* Defendant represented that the amounts offered were "the maximum overtime payments to Plaintiffs, including liquidated damages, under the Fair Labor Standards Act." *Id.*

In order to consult with their clients and properly advise them of the ramifications of Defendant's Offer of Judgment, Plaintiffs' counsel asked that Defendant provide pertinent payroll data for all three Plaintiffs. As discussed above, the Complaint alleges that Plaintiffs were regularly scheduled to work at least 45 hours a week, but often worked more. For purposes of calculating Plaintiffs' alleged unpaid wages, Plaintiffs' counsel assumed that they worked 47.5 hours *each week* they were paid a salary by Defendant. According to Plaintiff's counsel, this estimated number of hours was based on discussions with the Plaintiffs as well as a review of the overtime hours recorded by Plaintiffs in weeks that they were paid as hourly/overtime eligible Office Managers for Defendant. Utilizing the "half-time" methodology for calculating unpaid overtime wages for misclassified salaried employees as required by the Fourth Circuit,

see Desmond v. PNGI Charles Town Gaming, L.L.C., 630 F.3d 351 (4th Cir. 2011), Plaintiffs' counsel calculated approximate alleged unpaid wages for each Plaintiff: Johnson - \$7,957.89; Lockwood - \$4,909.51; and Robinson - \$416.84. These calculations were for the full three-year statute of limitations period under the FLSA and were based on payroll data provided by Defendant and interviews with Plaintiffs.

Plaintiffs' counsel asserts that, after performing legal research on the interplay of FLSA collective actions and Fed. R. Civ. P. 68 and consulting with each of the Plaintiffs, Johnson and Lockwood instructed Plaintiffs' counsel to accept Defendant's Offer of Judgment of \$17,382.96 for Johnson and \$8,208.13 for Lockwood. Johnson's judgment represented approximately 2.18 times her alleged unpaid wages while Lockwood's judgment represented approximately 1.7 times her alleged unpaid wages.

Plaintiffs' counsel asserts that Robinson, however, instructed Plaintiffs' counsel to decline Defendant's original Offer of Judgment. In accordance with these instructions, Plaintiffs' counsel filed a "Notice of Partial Acceptance of Offer of Judgment" on November 10, 2016. *See* Doc. 17.

On November 11, 2016, Defendant served a second Offer of Judgment on Robinson in the amount of \$2,500.00 (representing approximately six times her alleged unpaid wages). *See* Doc. 20. Again, the Offer of Judgment was exclusive of costs and attorney's fees to be determined later by the Court. *Id.* Plaintiffs' counsel asserts that after their consultation, Robinson instructed that Defendant's new Offer of Judgment be accepted. *Id.* A notice accepting the Offer of Judgment by Robinson was filed on November 23, 2016. *Id.* On December 4, 2016, Defendant filed a consent motion asking that judgment be entered for all three Plaintiffs pursuant to Fed. R. Civ. P. 68. *See* Doc. 21.

Following the acceptance by Robinson of the revised Offer of Judgment, Defendant's offer, in the aggregate, was in excess of what Plaintiffs' counsel calculated to be the estimated unpaid wages and liquidated damages.

Six days after Robinson's acceptance of Defendant's Offer of Judgment was filed with the Court, the parties began to discuss Plaintiffs' counsel's anticipated petition for attorney's fees and costs pursuant to Fed. R. Civ. P. 54(d), L.R. 109.2 and 29 U.S.C. §216(b). After the exchange of multiple proposals, the parties agreed on December 21, 2016 to resolve Plaintiffs' counsel's fees and costs petition for a stipulated amount of \$27,500.00. The parties filed a stipulation outlining this agreement on March 10, 2017. *See* Doc. 26.

II. POTENTIAL LITIGATION RISKS FOR PLAINTIFFS

Had this matter not been resolved, Plaintiffs would have faced several hurdles in order to prevail. Some of these include:

A. The Administrative Exemption.

Absent the Offers of Judgment, Defendant would have relied in part on the FLSA's Administrative Exemption described in 29 C.F.R. § 541.200, *et seq.* To qualify for the Administrative Exemption, Defendant would have had to demonstrate that Plaintiffs plainly and unmistakably satisfied each of the following:

- were compensated on a salary or fee basis at a rate not less than \$455 per week;
- had the primary duty of performing office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- their primary duty included the exercise of discretion and independent judgment with respect to matters of significance.

See 29 C.F.R. § 541.200. While Plaintiffs clearly satisfied the salary requirement, the parties

would have vigorously litigated the second and third requirements of this exemption.

B. Plaintiffs' Ability to Demonstrate Hours Worked.

Assuming that Plaintiffs were able to prevail on Defendant's exemption defense, they still would have needed to: (i) demonstrate that they worked over 40 hours in a week as a salaried Office Manager; and (ii) provide reasonable estimates of the number of hours over 40 that they worked during such weeks. Allegedly, Defendant did not record the hours worked by Plaintiffs when they were salaried Office Managers. However, as this Court has previously observed:

In the absence of an exact record of hours, an employee seeking overtime compensation under the FLSA must prove that he has in fact performed work for which he was improperly compensated. *A prima facie* case can be made through an employee's testimony giving his recollection of hours worked . . . [and his case] is not to be dismissed nor should recovery for back pay be denied, because proof of the number of hours worked is inexact or not perfectly accurate. Once the employee produces evidence of the amount and extent of work, the burden shifts to the employer to come forward with evidence of the exact number of hours worked or with evidence to negate the reasonableness of the inference to be drawn from the plaintiff's evidence.

Turner v. Human Genome Scis., Inc., 292 F. Supp. 2d 738, 748 (D. Md. 2003) (citations and quotations omitted).

If this case had not been resolved, the parties would have spent significant time litigating Plaintiffs' estimates of hours worked. A finding that Plaintiffs' estimates were too high would have drastically limited or completely eliminated their potential recovery of unpaid wages.

C. Demonstrating that any alleged violations of the FLSA by Defendant were "Willful" in nature.

As discussed above, Defendant asserts that any alleged violations of the FLSA were not "willful" because "any acts or omissions giving rise to this action were reasonable, in good faith and not undertaken with reckless disregard as to whether such actions or omissions violated the

FLSA.” Answer (Doc. 12) at Fifth Affirmative Defense; *see also id.* at Eighth Affirmative Defense. Had this matter not been resolved the parties would have dedicated significant resources addressing this defense.

A finding of willfulness by Defendant is important for two reasons. First, if a violation of the FLSA “is not willful, the limitations period is two years, but the period is three years for willful violations.” *Calderon v. GEICO Gen. Ins. Co.*, 809 F.3d 111, 130 (4th Cir. 2015). “[O]nly those employers who either knew or showed reckless disregard for the matter of whether its conduct was prohibited by the [FLSA] have willfully violated the statute.” *Id.* (quoting *Desmond*, 630 F.3d at 358). It is the employee’s burden to demonstrate that an employer’s violation of the FLSA was the result of more than mere negligence. *Calderon*, 809 F.3d at 130. Lockwood worked as a salaried Office Manager in 2013. Absent a finding of willfulness by Defendant, she would not have been able to recover for this third year of her statute of limitations.

Second, Defendant could have avoided the FLSA’s liquidated damages provision if it demonstrated that “the act or omission giving rise to [the violation] 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. A finding that Defendant did not willfully violate the FLSA would have satisfied the good faith defense, *see Perez v. Mountaire Farms*, 650 F.3d 350, 375-76 (4th Cir. 2011), and eliminated Plaintiffs’ opportunity to recover liquidated or “double damages” in this case.

D. The Potential Ramifications of Failing to Exceed Defendant’s Offer of Judgment at Trial.

The threat of potential cost shifting under Fed. R. Civ. P. 68 if Plaintiffs had rejected the Offers of Judgment and ultimately failed to exceed them also weighs in favor of approving the

resolution of this matter. A finding that Plaintiffs were exempt and not entitled to overtime pay would have triggered the cost-shifting mechanism. Moreover, even if Defendant failed to satisfy their burden of demonstrating that Plaintiffs were exempt, the threat of cost-shifting would have remained if the factfinder determined that either: (i) Plaintiffs worked less overtime hours than they estimated; or (ii) any violation of the FLSA was not willful in nature eliminating an award of liquidated damages and Lockwood's ability to seek unpaid wages for a three-year statute of limitations. By accepting the Offers of Judgment, Plaintiffs will receive a significant recovery without delay or the risk of cost-shifting under Fed. R. Civ. P. 68.

III. ARGUMENT

As discussed herein, the Court should enter the accompanying proposed order approving the resolution of Plaintiffs' FLSA claims and the award of \$27,500.00 in attorney's fees and costs.

A. General Principles Pertaining to Judicial Review of FLSA Resolutions

In *Acevedo v. Phx. Pres. Grp., Inc.*, 2015 U.S. Dist. LEXIS 138337, *13-14 (D. Md. Oct. 8, 2015) (Messitte, J.), this Court described the legal standard applicable to approving the resolution of FLSA claims through acceptance of an offer of judgment pursuant to Fed. R. Civ. P. 68:

Congress enacted the FLSA to protect workers from the poor wages and long hours that may result from significant inequalities in bargaining power between employers and employees. To that end, the statute's provisions are mandatory and generally not subject to bargaining, waiver, or modification by contract or settlement. *See Brooklyn Sav. Bank v. O'Neil*, 324 U.S. 697, 706, 65 S. Ct. 895, 89 L. Ed. 1296 (1945). Court-approved settlement is an exception to that rule, 'provided that the settlement reflects a reasonable compromise of disputed issues rather than a mere waiver of statutory rights brought about by an employer's overreaching.' *Saman v. LBDP, Inc.*, 2013 U.S. Dist. LEXIS 83414, 2013 WL 2949047, at *2 (D. Md. June 13, 2013) (quoting *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1354 (11th Cir. 1982)).

In reviewing FLSA settlements for approval, ‘district courts in this circuit typically employ the considerations set forth by the Eleventh Circuit in *Lynn’s Food Stores*.’ *Saman*, 2013 U.S. Dist. LEXIS 83414, 2013 WL 2949047, at *3 (citing *Hoffman v. First Student, Inc.*, 2010 U.S. Dist. LEXIS 27329, 2010 WL 1176641, at *2 (D. Md. Mar. 23, 2010); *Lopez v. NTI, LLC*, 748 F. Supp. 2d 471, 478 (D. Md. 2010)). The settlement must ‘reflect[] a fair and reasonable resolution of a bona fide dispute over FLSA provisions.’ *Id.* The Court considers (1) whether there are FLSA issues actually in dispute, (2) the fairness and reasonableness of the settlement in light of the relevant factors from Rule 23, and (3) the reasonableness of the attorneys’ fees, if included in the agreement. *Id.* (citing *Lynn’s Food Stores*, 679 F.2d at 1355; *Lomascolo v. Parsons Brinckerhoff, Inc.*, 2009 U.S. Dist. LEXIS 89129, 2009 WL 3094955, at *10 (E.D. Va. Sept. 28, 2009); *Lane v. Ko-Me, LLC*, 2011 U.S. Dist. LEXIS 97870, 2011 WL 3880427, at *2-3 (D. Md. Aug. 31, 2011)).

Id. at *13-14.

1. A Bona Fide Dispute Exists Between the Parties

As discussed in Section II, *supra*, the parties dispute not only whether Plaintiffs were entitled to overtime pay, but also the number of overtime hours that they worked each week as salaried Office Managers. In addition, the parties disagree whether any alleged violations of the FLSA were willful in nature. Each of these issues would depend on further factual development and rulings of law. Thus, a *bona fide* dispute exists.

2. The Accepted Offers of Judgments Represent Fair and Reasonable Resolutions of the Bona Fide Dispute

As this Court observed in *Acevedo*:

If a *bona fide* dispute is found to exist, courts must then evaluate the fairness and reasonableness of the settlement based on the following factors:

- (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 opinions of [] counsel . . . ; and
- (6) the probability of plaintiffs’ success on the merits and the amount of the settlement in relation to the potential recovery.

2015 U.S. Dist. LEXIS 138337, at *15-16. Each of these factors favors approval of the

resolution of Plaintiffs' FLSA claims:

a. The Extent of Discovery.

As discussed in Section I, *supra*, Defendant served the Offers of Judgment shortly after filing its Answer and before formal discovery had commenced. However, Defendant did produce payroll data so that Plaintiffs' counsel could consult with Plaintiffs about the value of their claims in light of Defendant's Offers of Judgment. The amounts shown in Defendant's payroll data were extremely close to the amounts shown by Plaintiffs' own estimates. Thus, this factor weighs in favor of approval.

b. The Stage of the Proceedings, Including the Complexity, Expense and Likely Duration of the Litigation.

Had this matter not been resolved, it is possible that this litigation could have continued for several years requiring significant resources by both sides. The parties would have had to address potentially two stages of certification of the FLSA collective as well as the various defenses asserted by Defendant. This factor also weighs in favor approval.

c. The Absence of Fraud or Collusion in the Settlement.

Defendant served the Offers of Judgment without any prior notification of its intention to do so. Moreover, Robinson rejected Defendant's original offer. This procedural history demonstrates that the resolution of Plaintiffs' FLSA claims did not involve any fraud or collusion between the parties. Thus, this factor weighs in favor of approval.

d. The Experience of Counsel who have Represented the Plaintiffs

Plaintiffs' counsel possess extensive experience representing workers in wage and overtime cases on both an individual and class/collective basis. *See* Declaration of R. Andrew Santillo ("Santillo Decl.") attached as Exhibit 1 at ¶¶ 3-17; Declaration of Brian Markovitz ("Markovitz Decl.") attached as Exhibit 2 at ¶¶ 1-4. This experience allowed counsel to advise

Plaintiffs of the ramifications of Defendant's Offers of Judgment so that they could make an informed decision whether to accept them or not. This factor also weighs in favor of approval.

e. The Opinions of Counsel and the Probability of Plaintiffs' Success on the Merits and the Amount of the Settlement in Relation to the Potential Recovery.

Through Defendant's Offers of Judgment, Plaintiffs will each receive substantial awards representing 2.18, 1.7 and 6 times their respective alleged estimated unpaid wages. In the opinion of Plaintiffs' counsel, this represents a significant recovery in light of Defendant's anticipated defenses in this case. Thus, this factor similarly weighs in favor of approval of the resolution of Plaintiffs' FLSA claims.

B. The Requested Attorney's Fees and Costs Warrant Approval

Defendant has agreed to resolve Plaintiffs' claims for attorney's fees and costs for \$27,500.00. Since Plaintiffs' counsel has incurred \$1,988.62 in expenses, *see* Santillo Decl. (Ex. 1) at ¶ 21; Markovitz Decl. (Ex. 2) at ¶ 13, the settlement results in an attorney's fee payment of **\$25,511.38**.

The FLSA explicitly provides that "[t]he court in [an FLSA] action *shall* . . . allow a reasonable attorney's fee to be paid by the defendant, and costs of the action." 29 U.S.C. § 216(b) (emphasis supplied); *accord Acevedo v. Phoenix Preservation Group, Inc.*, 2015 U.S. Dist. LEXIS 163196 (D. Md. Dec. 3, 2015); *Spencer v. Central Services, LLC*, 2012 U.S. Dist. LEXIS 4927, *2-3 (D. Md. Jan. 13, 2012). The FLSA's language mandates that prevailing parties under the FLSA recover attorney's fees and costs. *See Spencer*, 2012 U.S. Dist. LEXIS 4927 at *3 ("The payment of attorney's fees and costs to employees who prevail on FLSA claims is mandatory"). Since Plaintiffs are prevailing parties through the entry of judgments against Defendant, there is no dispute that they are entitled to attorney's fees. *See Reyes v. Clime*, 2015

U.S. Dist. LEXIS 74150, *3 (D. Md. June 8, 2015). Consistent with the above principles, it is commonplace (and entirely consistent with the FLSA's legislative purpose) for FLSA attorney's fee awards to match or even exceed the amount of the plaintiff's recovered unpaid wages. *See Almendarez v. J.T.T. Enters. Corp.*, 2010 U.S. Dist. LEXIS 88043, *8-9 (D. Md. Aug. 25, 2010).

1. Attorneys' Fees Are Calculated According To The Lodestar Method.

"The court determines an attorneys' fees award by calculating the lodestar amount, which is defined as a reasonable hourly rate multiplied by hours reasonably expended." *Acevedo*, 2015 U.S. Dist. LEXIS 163196, at *4-5. Moreover, there is a "strong presumption" that the lodestar figure is reasonable. *See Reyes v. Clime*, 2015 U.S. Dist. LEXIS 74159, *4 (D. Md. June 8, 2016).

Here, as detailed in the accompanying declarations, Plaintiffs' counsel spent over 100 hours litigating this case to date. *See Santillo Decl. (Ex. 1) at ¶ 20; Markovitz Decl. (Ex. 2) at ¶ 12.* Utilizing the hourly rates provided in Appendix B of the Court's Local Rules, this represents a total lodestar of \$35,147.00, which is higher than the \$25,511.38 proposed fee award.

2. Consideration of the Johnson Factors Does Not Justify a Downward Adjustment of the Proposed Fee Award.

In assessing the reasonableness of the attorney fees sought by prevailing parties in FLSA litigation, courts within the Fourth Circuit frequently utilize the twelve factors identified by the Fifth Circuit in *Johnson v. Georgia Housing Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). *See Barber v. Kimbrell's Inc.*, 577 F.2d 216, 226 (4th Cir. 1978). These factors include: (1) the time and labor required in the case, (2) the novelty and difficulty of the questions presented, (3) the skill required to perform the necessary legal services, (4) the preclusion of other employment by the lawyer due to acceptance of the case, (5) the customary fee for similar work, (6) the contingency of a fee, (7) the time pressures imposed in the case, (8) the award involved and the

results obtained, (9) the experience, reputation, and ability of the lawyer, (10) the “undesirability” of the case, (11) the nature and length of the professional relationship between the lawyer and the client, and (12) the fee awards made in similar cases. *Id.* As discussed below, none of the *Johnson* factors justify a downward adjustment to the proposed fee award:

a. Time and Labor Required.

Plaintiffs’ counsel has dedicated over 100 hours of attorney time to this litigation to date. This time is detailed and justified by Plaintiffs’ counsel’s contemporaneous time records. *See* Santillo Decl. (Ex. 1) at Appendix B; Markovitz Decl. (Ex. 2). In sum, the “time and labor” factor does not justify a downward adjustment of the proposed fee award.

b. The Novelty and Difficulty of the Issues and the Skill Required to Perform the Legal Services Properly.

As discussed in Section II, *supra*, this litigation concerns a number of disputed issues of law and fact. Examples include, *inter alia*: (i) the viability of Defendant’s reliance on the Administrative Exemption defense; (ii) whether Plaintiffs could provide reasonable estimates of their hours worked each week as salaried Office Managers; (iii) would Defendant be able to demonstrate that any misclassification was not willful for purposes of liquidated damages; and (iv) whether a three-year statute of limitations period would apply.

Navigating these issues to provide a quick and efficient resolution for the Plaintiffs required detailed knowledge of the FLSA. In sum, the “novelty and difficulty of issues” factors does not justify a downward adjustment of the proposed fee award.

c. The Skill Requisite to Properly Perform the Legal Service.

Plaintiffs’ counsel’s declarations demonstrate that they have substantial experience and ability in employment litigation, but also specifically in the area of wage and overtime law. *See* Santillo Decl. (Ex. 1) at ¶¶ 1-17; Markovitz Decl. (Ex. 2) at ¶¶ 1-4. As such, the “skill required

to perform the legal services” factor does not justify a downward adjustment to the proposed fee award.

d. The Preclusion of Other Employment by Plaintiffs’ Counsel Due to Acceptance of the Case.

“It is obvious that if the attorneys were working on one case they could not be working on another.” *In re Wayne Farms LLC FLSA Litig.*, 2009 U.S. Dist. LEXIS 123871, *10 (S.D. Miss. Dec. 23, 2009). Such is the case here. As indicated by the accompanying declarations, Plaintiffs’ counsel have busy law practices, and, as such, the hours dedicated to the instant lawsuit precluded them from working on other matters. Thus, this factor does not warrant a downward adjustment to the requested fee award.

e. The Customary Fee.

The reasonableness of the requested \$25,511.38 fee award is evidenced by the fact Plaintiffs’ counsel’s lodestar based on Appendix B rates totals \$35,147.00. Thus, the “customary fee” factor does not justify a downward adjustment of the requested fee award.

f. Whether the Fee is Fixed or Contingent.

Plaintiffs’ counsel undertook this litigation on a contingency basis. As this Court has previously observed: “*Contingency cases are by nature risky.*” *Landaeta v. Da Vinci’s Florist, LLC*, 2011 U.S. Dist. LEXIS 122639 (D. Md. Oct. 24, 2011) (emphasis supplied); *see also Almendarez*, 2010 U.S. Dist. LEXIS 88043, at *17-18 (“Plaintiffs’ attorneys handled this case on a contingency basis, and thus bore a substantial risk”).¹ This is especially true here where even

¹ *Accord In re Ikon Office Solutions, Inc.*, 194 F.R.D. 166, 194 (E.D. Pa. 2000) (“there are inherent, substantial risks entailed in undertaking any contingency fee action”); *In re Lucent Technologies, Inc.*, 327 F. Supp. 2d 426, 438 (D.N.J. 2004) (“the intrinsically speculative nature of this contingent fee case enhances the risk of non-payment”); *In re Prudential-Bache Energy Income P’ships Sec. Litig.*, 1994 U.S. Dist. LEXIS 6621, *16 (E.D. La. May 18, 1994) (“Success

if Plaintiffs could demonstrate that they were not exempt and entitled to overtime premium pay, they would still have to demonstrate the hours worked. Thus, the “contingent fee” factor does not justify a downward adjustment of the requested fee award.

g. Time Limitations Imposed by the Client or the Circumstances.

As discussed above, had Plaintiffs’ FLSA claims not been resolved, the parties could have spent years litigating certification of the FLSA collective as well as the merits of Defendant’s reliance on the Administrative Exemption. Through the Offers of Judgment, Plaintiffs were able to obtain significant recoveries while avoiding this potential delay. Thus, the “time limitation” factor does not justify a downward adjustment of the requested attorney’s fee.

h. The Amount Involved and the Results Obtained.

As explained in Section II, *supra*, Plaintiffs’ recoveries in this case greatly exceed their alleged unpaid wages. These significant recoveries represent excellent results for the Plaintiffs. Thus, the “amount involved and results obtained” factor does not justify a downward adjustment of the proposed fee award.

i. The Experience, Reputation and Ability of Plaintiffs’ Counsel.

Plaintiffs’ counsel’s declarations also demonstrate that they have substantial experience and ability in the area of wage and overtime law and that they enjoy excellent reputations within their legal communities. *See* Santillo Decl. (Ex. 1) at ¶¶ 1-17; Markovitz Decl. (Ex. 2) at ¶¶ 1-4. Thus, the “experience, reputation and ability” factor does not justify a downward adjustment of the requested fee award.

j. The “Undesirability” of the Case.

Plaintiffs’ counsel would never describe a case it chose to prosecute on a contingency

is never guaranteed and counsel faced serious risks since both trial and judicial review are unpredictable.”).

basis as “undesirable.” However, that does not negate the challenges that this litigation entailed and inherent risks to Plaintiffs individually if Defendant’s Offers of Judgment were rejected. Thus, the “undesirability” factor does not justify a downward adjustment of the requested fee award.

k. The Nature and Length of the Professional Relationship with the Client.

The unpaid wage claims asserted in this case only concerned the relatively short time frame that each of the Plaintiffs worked for Defendant as salaried Office Managers. The likelihood that any of the three Plaintiffs will be seeking additional representation from Plaintiffs’ counsel is slim. Moreover, the unpaid wage claims asserted in this case do not lend themselves to continuous, long-term attorney-client relationships. Thus, this factor does not justify a downward adjustment of the requested fee award.

l. The Award in Similar Cases.

The calculation of unpaid wages in lawsuits challenging the classification of employees as overtime exempt can be very individualized based upon personal factors such as, *inter alia*, length of employment and hours worked. Thus, it is difficult to identify similar cases in size and scope. However, plaintiff-employees at times fail to recover unpaid wages for the full three year period plus liquidated damages. *See, e.g., Singer v. City of Waco, Tex.*, 324 F.3d 813, 829 (5th Cir. 2003) (plaintiffs recovered less than 4% of the damages sought); *Williams*, 657 F. Supp. 2d at 1314 (plaintiff recovers half of the compensation he was seeking). Based on the above, the “award in similar cases” factor, like all the other *Johnson* factors discussed herein does not justify a downward adjustment of the proposed fee award.

C. Plaintiffs Are Entitled To Reimbursement For Costs.

Plaintiffs, as prevailing parties, are also entitled to recover costs incurred in the

prosecution of this matter under the FLSA. *See* 29 U.S.C. § 216 (noting that a prevailing plaintiff can recover “costs of the action.”). Plaintiffs’ counsel are seeking \$1,988.62 in costs as part of the stipulated award of costs and fees in the amount of \$27,500.00. These costs include \$555.00 in filing fees and service of process fees; \$53.40 in photocopying expenses; and \$1,380.32 in Westlaw/Pacer research costs. *See* Santillo Decl. (Ex. 1) at ¶ 21; Markovitz Decl. (Ex. 2) at ¶ 13. These costs are reasonable and warrant Court approval.

IV. CONCLUSION

For the above reasons, the parties respectfully request that the Court sign and enter the accompanying proposed order approving the resolution of Plaintiffs’ FLSA claims and the award of attorney’s fees and costs.

Date: March 10, 2017

Respectfully submitted,

/s/ Brian J. Markovitz
Brian J. Markovitz, Esq.
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/s/ R. Andrew Santillo
R. Andrew Santillo, Esq.
WINEBRAKE & SANTILLO, LLC
Twining Office Center, Suite 211
715 Twining Road
Dresher, PA 19025

Counsel for Plaintiffs

/s/ Raymond C. Fay
Raymond C. Fay, Esq.
FAY LAW GROUP PLLC
1250 Connecticut Avenue, NW
Suite 200
Washington, DC 20036

Counsel for Defendant

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RONICA JOHNSON, on behalf of herself and
others similarly situated,

v.

HEARTLAND DENTAL, LLC,

:
: CIVIL ACTION
:
: No. 8:16-cv-02154-PJM
:
:
:
:
:
:

DECLARATION OF R. ANDREW SANTILLO, ESQ.

I, R. Andrew Santillo, declare, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following facts are true and correct:

1. I am an attorney at Winebrake & Santillo, LLC (“W&S”), 715 Twining Road, Suite 211, Dresher, PA 19025 and am personally familiar with the firm’s involvement in this litigation.
2. I submit this declaration to provide the Court with information concerning the fee lodestar and litigation expenses incurred by W&S during the litigation.

W&S’s Experience in the Field of Wage and Hour Litigation

3. Since its founding in January 2007, W&S has exclusively represented plaintiffs in employment rights litigation. W&S is a pure contingency fee law firm and is “at risk” in every matter it handles. W&S never requires a client to pay an hourly fee or retainer. If a matter does not result in a money recovery, W&S recovers no attorney’s fees and is not reimbursed for any of its out-of-pocket expenditures. This is a risky business. While W&S has enjoyed substantial success over the years, it also has invested thousands of attorney hours and tens of thousands of dollars on high-stakes litigation adventures that have fallen flat. *See, e.g., Resch v. Krapf’s Coaches, Inc.*, 785 F.3d 869 (3d Cir. 2015) (summary judgment entered against W&S clients in FLSA collective action); *Itterly v. Family Dollar Stores, Inc.*, 606 Fed. Appx. 643 (3d Cir. 2015) (summary judgment entered against W&S clients in PMWA class action); *Parker v. NutriSystem, Inc.*, 620

F.3d 274 (3d Cir. 2010) (summary judgment entered against W&S clients in FLSA collective action).

4. Many of W&S's cases are class or collective actions seeking damages on behalf of groups of employees. W&S has resolved 125 separate class/collective actions in courts throughout the United States. *See* Appendix A.

5. In addition, W&S has successfully resolved over 200 "individual" employment rights actions in which a single plaintiff (or a small group of named plaintiffs) alleges violations of federal or state employment laws. Indeed, on October 25, 2016, W&S received the Guardián Award from Friends of Farmworkers, Inc. in recognition of, *inter alia*, its work on behalf of low-wage workers in individual wage actions.

6. Various federal courts have issued opinions commenting on W&S's work in class/collective action lawsuits. *See, e.g., Schaub v. Chesapeake & Del. Brewing Holdings*, 2016 U.S. Dist. LEXIS 157203, *11 (E.D. Pa. Nov. 14, 2016) (W&S "provided highly competent representation for the Class"); *Tavares v. S-L Distribution Co., Inc.*, 2016 U.S. Dist. LEXIS 57689, *43 (M.D. Pa. May 2, 2016) (W&S and its co-counsel "are skilled and experienced litigators who have handled complex employment rights class actions numerous times before"); *Lapan v. Dick's Sporting Goods, Inc.*, 2015 U.S. Dist. LEXIS 169508, *7 (D. Mass. Dec. 11, 2015) (W&S and its co-counsel "have an established record of competent and successful prosecution of large wage and hour class actions."); *Kiefer v. Moran Foods, LLC*, 2014 U.S. Dist. LEXIS 106924, *49 (D. Conn. Aug. 5, 2014) (W&S and its co-counsel are "experienced class action employment lawyers with good reputations among the employment law bar"); *Young v. Tri County Sec. Agency, Inc.*, 2014 U.S. Dist. LEXIS 62931, *10 (E.D. Pa. May 7, 2014) (W&S "has particular experience with wage and overtime rights litigation," "has been involved in dozen of class action lawsuits in this area of law," and "have enjoyed great success in the field."); *Craig v. Rite Aid Corp.*, 2013 U.S. Dist.

LEXIS 2658, *45 (M.D. Pa. Jan 7, 2013) (W&S and its co-counsel “are experienced wage and hour class action litigators with decades of accomplished complex class action between them and that the Class Members have benefitted tremendously from able counsel’s representation”); *Cuevas v. Citizens Financial Group*, 283 F.R.D. 95, 101 (E.D.N.Y. 2012) (W&S has “been appointed class counsel for dozens of wage and hour class claims across the country”).

W&S Attorneys’ Individual Experience

7. Attorney **Peter Winebrake** (“Winebrake”) graduated in 1988 from Lehigh University (*magna cum laude*) and in 1991 from Temple University School of Law (*cum laude*), where he served as a Managing Editor of the *Temple Law Review*. Winebrake has been a member of the New York bar since 1993 and the Pennsylvania bar since 1997. He also is admitted in the following federal courts: (i) the United States Supreme Court; (ii) the United States Courts of Appeals for the First, Second, Third, Seventh, and Tenth Circuits; and (iii) the United States District Courts for the Eastern District of Pennsylvania, Middle District of Pennsylvania, Western District of Pennsylvania, Eastern District of New York, Northern District of New York, Southern District of New York, Northern District of Ohio, Northern District of Illinois, and District of Colorado.

8. Prior to founding W&S in January 2007, Winebrake held the following positions: (i) Law Clerk to Justice William R. Johnson of the New Hampshire Supreme Court (9/91-8/92); (ii) Assistant Corporation Counsel at the New York City Law Department’s General Litigation Unit (9/92-2/97); (iii) Associate at the Philadelphia law firm of Ballard Spahr Andrews & Ingersoll, LLP (2/97-12/98); (iv) Deputy City Solicitor and, later, Chief Deputy City Solicitor at the Philadelphia Law Department (12/98-2/02); and (v) Non-Equity Partner at the Philadelphia law firm of Trujillo Rodriguez & Richards, LLC (3/02-1/07).

9. Winebrake has personally handled through conclusion well over 750 civil actions in the United States District Courts and has tried at least 15 federal cases to verdict. The great

majority of these civil actions have arisen under the Nation's civil rights or employment rights laws. At the appellate court level, Winebrake has argued appeals involving complex and important issues of class action law. *See, e.g., Cuevas v. Citizens Financial Group, Inc.*, 526 Fed. Appx. 19 (2d Cir. 2013); *Knepper v. Rite Aid Corp.*, 675 F.3d 249 (3d Cir. 2012); *McNulty v. H&R Block, Inc.*, 843 A.2d 1267 (Pa. Super. 2004).

10. Winebrake serves *pro bono* on the Mediation Panel of the United States District Court for the Middle District of Pennsylvania, and the Martindale-Hubbell Peer Review Rating System gives him an "AV-Preeminent" rating. Winebrake has lectured on employment law at the Vanderbilt University School of law, the Wharton School of Business at the University of Pennsylvania; the Beasley School of Law at Temple University; the University of Pennsylvania Law School; the Earle Mack School of Law at Drexel University; the Pennsylvania Bar Institute; the Workplace Injury Law & Advocacy Group; the American Association of Justice; the National Employment Lawyers Association; the National Employment Lawyers Association of New York; and the Ohio Association of Justice.

11. Attorney **R. Andrew Santillo** ("Santillo") graduated in 1998 from Bucknell University and in 2004 from the Temple University School of Law, where he served as Editor-in-Chief of the *Temple Political & Civil Rights Law Review*. Santillo has been a member of the Pennsylvania and New Jersey bars since 2004. He also is admitted to the following federal courts: (i) the United States Court of Appeals for the Third Circuit and (ii) the United States District Courts for the Eastern District of Pennsylvania, Middle District of Pennsylvania, Western District of Pennsylvania, District of New Jersey, Northern District of Illinois, District of Colorado, and Eastern District of Michigan.

12. Prior to joining W&S as an equity partner in 2008, Santillo was an associate at the firm of Trujillo Rodriguez & Richards, LLC where he participated in the litigation of complex class

action lawsuits arising under federal and state wage and hour, securities, and antitrust laws.

13. The Martindale-Hubbell Peer Review Rating System gives Santillo an “AV-Preeminent” designation. Santillo has lectured on wage and hour law topics for Bloomberg BNA; the Pennsylvania Bar Institute; the National Employment Lawyers Association; the Workers’ Injury Law & Advocacy Group; the Ohio Association of Justice; and the Philadelphia Chinatown Development Corporation. In addition to handling hundreds of wage and overtime rights cases in the federal trial courts, Santillo has argued several important wage and overtime cases decided by the Third Circuit Court of Appeals. *See Resch v. Krapf’s Coaches, Inc.*, 780 F.3d 869 (3d Cir. 2015); *McMaster v. Eastern Armored Services*, 780 F.3d 167 (3d Cir. 2015).

14. Attorney **Mark Gottesfeld** (“Gottesfeld”) graduated in 2006 from Lehigh University (*magna cum laude*) and in 2009 from Drexel University Earle Mack School of Law (*cum laude*), where he served as an editor on the *Drexel University Earle Mack School of Law Review*. During law school, Gottesfeld served as a Judicial Intern to Pennsylvania Superior Court Judge Jack A. Panella.

15. Gottesfeld has been a Member of the Pennsylvania and New Jersey bars since 2009 and a member of the New York bar since 2010. He also is admitted to the United States District Courts for the Eastern District of Pennsylvania, Middle District of Pennsylvania, Western District of Pennsylvania, and District of New Jersey.

16. Prior to joining W&S as an associate in 2010, Gottesfeld worked at the Philadelphia firm of Saltz, Mongeluzzi, Barrett & Bendesky, P.C.

17. Gottesfeld has lectured on wage and hour issues at the Ohio Association of Justice.

Hours Spent by W&S and the Resulting Fee Lodestar

18. W&S attorneys use the firm’s case management system to contemporaneously record each case-related activity and the amount of time spent performing the activity in six minute

increments.

19. W&S's work on this litigation is reflected in the contemporaneous time records attached at Appendix B. These records have been redacted to exclude the substance of attorney-client communications, and the mental impressions of W&S attorneys.¹

20. As indicated in the time records, W&S has spent **55.3 hours** and incurred a total fee lodestar of **\$17,636.00** when using the hourly rates outlined in Appendix B to the Court's Local Rules:²

NAME	TITLE	TOTAL HOURS	HOURLY RATE	TOTAL
Peter Winebrake	Partner	2.4	\$400.00	\$960.00
R. Andrew Santillo	Partner	47.3	\$320.00	\$15,136.00
Mark J. Gottesfeld	Associate	5.6	\$275.00	\$1,540.00
TOTALS		55.3		\$17,636.00

Out-of-Pocket Litigation Expenses of W&S

21. To date, W&S incurred a total of **\$158.40** in costs and expenses in connection with this litigation. The major expense categories (and associated expense amounts) include: \$53.40 for photocopying costs and \$105.00 for service of process fees..

I HEREBY DECLARE, UNDER PENALTY OF PERJURY AND PURSUANT TO 28 U.S.C. § 1746, THAT THE ABOVE FACTS ARE TRUE AND CORRECT:

March 10, 2017

Date



R. Andrew Santillo

¹ Of course, un-redacted versions of the time records are available for the Court's *in camera* inspection.

² These hourly rates are significantly **lower** than the rates that other district courts have used to perform lodestar crosschecks to award attorney's fees to the undersigned counsel in wage and hour class and collective actions. *See Tavares*, 2016 U.S. Dist. LEXIS 57689, at *53 (utilizing \$600/hr for Winebrake and \$400/hr for Santillo); *Ford v. Lehigh Valley Restaurant Group, Inc.*, 2016 U.S. Dist. LEXIS 31732, *3 n.2 (M.D. Pa. Mar. 10, 2016) (same); *Young v. Tri County Sec. Agency, Inc.*, 13-cv-5371, 2014 U.S. Dist. LEXIS 62931, *27 (E.D. Pa. May 7, 2014) (same); *see also Sakalas v. Wilkes-Barre Hospital Co.*, 2014 U.S. Dist. LEXIS 63823, *19 (M.D. Pa. May 8, 2014) (utilizing an "aggregate lodestar hourly billing rate of \$500.56" in subjecting W&S's attorney fees to a lodestar crosscheck).

Appendix A

Winebrake & Santillo, LLC - Class/Collective Wage and Overtime Settlements and Judgments

Case Name	Court	Judge	Approval/Judgment	Type	Co-Counsel?
Otto v. Pocono Medical Center, 4:06-cv-01186-JEJ	M.D. Pa.	John E. Jones, III	5/4/2007	Collective	No
Rodriguez-Fargas v. Hatfield Quality Meats, Inc., 2:06-cv-01206-LS	E.D. Pa.	Lawrence F. Stengel	5/29/2007	Class	Yes
Miller v. Antenna Star Satellites, Inc., 3:06-cv-00647-ARC	M.D. Pa.	A. Richard Caputo	5/29/2007	Collective	Yes
Sisko v. Wegmans Food Markets, Inc., 3:06-cv-00433-JMM	M.D. Pa.	James M. Munley	8/27/2007	Class	No
Evans/Smith, v. Lowe's Home Centers, Inc., 3:03-cv-00438/3:03-cv-00384-ARC	M.D. Pa.	A. Richard Caputo	9/4/2007	Collective	Yes
Diehl/Smith v. Lowe's Home Centers, Inc., 3:06-cv-01464/3:03-cv-00384-ARC	M.D. Pa.	A. Richard Caputo	1/4/2008	Class	Yes
Malec v. Kost Tire & Muffler, et al., 3:07-cv-00864-ARC	M.D. Pa.	A. Richard Caputo	1/2/2008	Collective	No
Dunn v. National Beef Packing Company, LLC, 4:07-cv-01599-JEJ	M.D. Pa.	John E. Jones, III	5/27/2008	Collective	No
Blasi v. United Financial Management Group, Inc., 3:06-cv-01519-JMM	M.D. Pa.	James M. Munley	6/19/2008	Collective	No
Palmer v. Michael Foods, Inc., 3:07-cv-02136-TIV	M.D. Pa.	Thomas I. Vanaskie	11/25/2008	Collective	No
Coluccio v. U.S. Remodelers, Inc., 1:09-cv-00819-JHR	D.N.J.	Joseph H. Rodriguez	12/15/2009	Collective	No
Shabazz v. Asurion Corporation, 3:07-cv-00653-AT	M.D. Tenn.	Aleta A. Trauger	2/26/2009	Collective	Yes
In re Cargill Meat Solutions Corp. Wage and Hour Litig., 3:06-cv-00513-WJN	M.D. Pa.	William J. Nealon	3/6/2009	Collective	Yes
Golpe v. The Wedge Medical Center, P.C., 2:08-cv-04504-JF	E.D. Pa.	John P. Fullam	3/11/2009	Collective	No
Banks, v. New Vitae, Inc. and Tri County Respite, Inc., 5:08-cv-04212-LS	E.D. Pa.	Lawrence F. Stengel	3/26/2009	Collective	No
Weatherly v. Michael Foods, Inc., 8:08-cv-00153-JFB	D. Neb.	Joseph F. Bataillon	4/15/2009	Collective	Yes
Gallagher v. Bayada Nurses, Inc., No. 071000392	Phila.C.C.P.	Idee C. Fox	4/21/2009	Class	No
Ray v. Krapf's Coaches, Inc., 2:08-cv-05097-DS	E.D. Pa.	David R. Strawbridge	9/10/2009	Collective	No
Miller v. Titanium Metals Corporation, 2:07-cv-04759-GP	E.D. Pa.	Gene E.K. Pratter	9/30/2009	Collective	No
Mayan v. Rydholm Express, Inc., 2:07-cv-02658-LS	E.D. Pa.	Lawrence F. Stengel	12/2/2009	Collective	No
Herd v. Specialty Surfaces International, Inc., 2:08-cv-01790-JCJ	E.D. Pa.	J. Curtis Joyner	1/26/2010	Collective	No
Morales v. Aaron Healthcare, Inc., 2008-C-5128	Lehigh.C.C.P.	Brian Johnson	2/1/2010	Class	No
In re Pilgrim's Pride Fair Labor Standards Act Litig., 1:06-cv-01832-HFB	E.D. Ark.	Harry F. Barnes	4/2/2010	Collective	Yes
Williams v. Owens & Minor, Inc., 2:09-cv-00742-JD	W.D. Pa.	Jan E. Dubois	7/28/2010	Collective	No
Crisostomo v. Exclusive Detailing, Inc., 2:08-cv-01771-SRC-MAS	D.N.J.	Michael A. Shipp	9/15/2010	Collective	Yes
Gallagher v. Lackawanna County, 3:07-cv-00912-CCC	M.D. Pa.	Christopher C. Connor	10/5/2010	Collective	No
Herrarte v. Joe Jurgielewicz & Sons, Ltd., 5:09-cv-02683-RK	E.D. Pa.	Robert F. Kelly	10/27/2010	Collective	No
King v. Koch Foods of Mississippi, LLC, 3:06-cv-00301-DPJ	S.D. Miss.	Daniel P. Jordan	11/29/2010	Collective	Yes
McEvoy v. The Container Store, Inc., 1:09-cv-05490-KMW	D.N.J.	Karen M. Williams	12/17/2010	Collective	No
Hilborn v. Sanofi Pasteur, 3:09-cv-02032-ARC	M.D. Pa.	A. Richard Caputo	1/18/2011	Collective	No
Alexander/Campbell/Marrero v. KRA Corporation, 09-cv-02517/10-cv-01778/09-cv-02516-JF	E.D. Pa.	John P. Fullam	1/28/2011	Collective	Yes
Duvall v. Tri County Access Company, Inc., 2:10-cv-00118-RCM	W.D. Pa.	Robert C. Mitchell	3/30/2011	Class	No
Gibbons v. V.H. Cooper & Company, Inc., 3:10-cv-00897-JZ	N.D. Ohio	Jack Zouhary	4/18/2011	Class	Yes
Turner v. Mercy Health System, No. 080103670	Phila.C.C.P.	Idee C. Fox	4/20/2011	Class	Yes
Vanston v. Maxis Healthy System, No. 080605155	Phila.C.C.P.	Idee C. Fox	4/20/2011	Class	Yes
Dixon v. Dunmore Oil Company, 3:09-cv-00064-ARC	M.D. Pa.	A. Richard Caputo	4/27/2011	Collective	No
In re Tyson Foods, Inc., 4:06-cv-00143-CDL	M.D. Pa.	Clay D. Land	9/15/2011	Collective	Yes
Cover v. Feesers, Inc., 1:10-cv-00282-JEJ	M.D. Ga.	John E. Jones, III	10/11/2011	Collective	No
Muschultz v. Holcomb Behavioral Health Systems, 5:11-cv-02980-JKG	M.D. Pa.	James K. Gardner	12/15/2011	Collective	No
Johnson v. Krapf's Coaches, Inc., 2:11-cv-06974-BMS	E.D. Pa.	Berle M. Schiller	2/22/2012	Collective	No
McCray v. The Progressions Companies, Inc., 2:11-cv-07364-HB	E.D. Pa.	Harvey Bartle, III	3/2/2012	Collective	No
Slator v. Allscripts-Missys Healthcare Solutions, Inc., 1:10-cv-01069-GLS-RFT	N.D.NY	Gary L. Sharpe	4/4/2012	Collective	No
Smith v. Ameriplan Corporation, 4:10-cv-00075-ALLM	E.D. Tx.	Amos L. Mazzant	8/9/2012	Collective	Yes
In re Creditron Financial Corp. (Lepkowski v. Creditron Financial Corp.), 08-11289-TPA	W.D. Pa. Bkr.	Thomas P. Agresti	8/31/2012	Collective	No
Fazio v. Automotive Training Center, 2:11-cv-06282-DS	E.D. Pa.	David R. Strawbridge	9/24/2012	Collective	No
Jean-Charles v. AAA Warman Home Care LLC, No. 110702236	Phila.C.C.P.	Mary Collins	9/28/2012	Class	No
Thomas v. Cescaphe Limited, LLC, 1:11-cv-04359-BMS	E.D. Pa.	Berle M. Schiller	10/3/2012	Class	No
Harkin v. LA Weight Loss, LLC, 2:12-cv-01411-AB	E.D. Pa.	Anita Brody	11/8/2012	Collective	No
Grajales v. Safe Haven Quality Care, LLC, 2010-cv-15102	Dauphin C.C.P.	Andrew H. Dowling	11/8/2012	Class	No
Grayson v. Register Tapes Unlimited, Inc., et al., 8:11-cv-00887-RWT	D. Md.	Roger W. Titus	11/26/2012	Collective	Yes
Craig v. Rite Aid Corporation 4:08-cv-02317-JEJ	M.D. Pa.	John E. Jones, III	1/7/2013	Class	Yes

Winebrake & Santillo, LLC - Class/Collective Wage and Overtime Settlements and Judgments

Case Name	Court	Judge	Approval/Judgment	Type	Co-Counsel?
Knecht v. Penn Psychiatric Center, 2:12-cv-00988-CSMW	E.D. Pa.	Carol S. Moore Wells	3/6/2013	Collective	No
Thompson v. RGT Management, Inc., 2:11-cv-02573-AJT	W.D. Tenn.	Arthur J. Tarnow	3/21/2013	Collective	Yes
Kelsh v. First Niagara Financial Group, Inc., 2:12-cv-01202-PBT	E.D. Pa.	Petrese B. Tucker	4/8/2013	Class	No
Stewart v. World Communications Charter School, 2:12-cv-04993-RB	E.D. Pa.	Ronald L. Buckwalter	5/9/2013	Class	No
Edelen v. American Residential Services, LLC, 8:11-cv-2744-DKC	D. Md.	Deborah K. Chasnaw	7/22/2013	Class	Yes
Ciarrocchi v. Neshaminy Electrical Contractors, Inc., 2:12-cv-06419-JHS	E.D. Pa.	Joel H. Slomsky	9/5/2013	Collective	No
LeClair v. Diakon Lutheran Social Ministries, Case No. 2010-C-5793	Lehigh.C.C.P.	Michele A. Varricchio	8/14/2013	Class	Yes
Essame v. SSC Laurel Operating Company, LLC, 8:10-cv-03519-WGC	D. Md.	William G. Connely	10/16/2013	Class	Yes
Ming v. SNI Enterprises, L.P., 5:11-cv-03873-RBS	E.D. Pa.	Barclay R. Surrick	11/29/2013	Collective	No
Bolletino v. Cellular Sales of Knoxville, Inc. 3:12-cv-00138-TC-HBG	E.D. Tenn.	Tena Campbell	11/29/2013	Collective	Yes
Wagner v. Cali, 5:12-cv-03226-JLS	E.D. Pa.	Jeffrey L. Schmehl	1/23/2014	Collective	No
Ginter/Robinson-Gibbs v. RBS Citizens, N.A., 1:12-cv-00008-M-PAS/1:13-cv-00182-PAS	D.R.I.	John J. McConnell, Jr.	2/4/2014	Class	Yes
Glatts v. Crozer-Keystone Health System, No. 090401314	Phila.C.C.P.	Mark I. Bernstein	2/6/2014	Class	Yes
Galowitch v. Wells Fargo Bank, N.A., No. 130302298	Phila.C.C.P.	Mark I. Bernstein	3/5/2014	Class	No
Young v. Tri County Security Agency, Inc., 2:13-cv-05971-BMS	E.D. Pa.	Berle M. Schiller	5/7/2014	Class	No
Cuevas v. Citizens Financial Group, Inc., 1:10-cv-05582-RM	E.D.N.Y.	Robert M. Levy	5/7/2014	Class	Yes
Sakalas v. Wilkes-Barre Hospital Company, LLC, 3:11-cv-00546-RDM	M.D. Pa.	Robert D. Mariani	5/8/2014	Class	Yes
Kershner v. Hat World, Inc., No. 120803352	Phila.C.C.P.	Jacqueline F. Allen	5/29/2014	Class	No
Sacknoff v. Lehigh County, 5:13-cv-04203-EGS	E.D. Pa.	Edward G. Smith	7/18/2014	Collective	No
Oliver v. Abercrombie & Fitch Stores, Inc., No. 121102571	Phila.C.C.P.	Jacqueline F. Allen	7/21/2014	Class	No
Kiefer v. Moran Foods, Inc., 3:12-cv-00756-WGY	D. Conn.	William G. Young	7/31/2014	Class	Yes
Lynch v. Lawrenceburg NH Operations, LLC, 1:13-cv-00129-WJH	M.D. Tenn.	William J. Haynes	9/26/2014	Collective	Yes
Farley v. Family Dollar Stores, Inc., et al., 1:12-cv-00325-RPM	D. Colo.	Raymond P. Moore	10/30/2014	Class	Yes
Warcholak v. Payless ShoeSource, Inc., No. 130901010	Phila.C.C.P.	Idee C. Fox	10/30/2014	Class	Yes
Young v. Catherine's, Inc., 2:13-cv-03288-CMR	E.D. Pa.	Cynthia M. Rufe	11/12/2014	Collective	Yes
Morrow v. County of Montgomery, 2:13-cv-01032-DS	E.D. Pa.	David R. Strawbridge	11/26/2014	Collective	Yes
Anderson v. The Scotts Company, LLC, No. 131100504	Phila.C.C.P.	Idee C. Fox	12/3/2014	Class	Yes
Eucedo v. Millwood, Inc., 3:12-cv-00895-MEM	M.D. Pa.	Malachy E. Mannion	12/9/2014	Class	Yes
Reid v. Newalta Environmental Services, Inc., 1:13-cv-03507-CMA-CBS	D. Colo.	Christine M. Arguello	2/19/2015	Collective	Yes
Stallard v. Fifth Third Bank, 2:12-cv-01092-MRH	W.D. Pa.	Mark R. Hornak	2/25/2015	Collective	Yes
Magloire v. The Ellison Nursing Group, LLC, No. 120203202	Phila.C.C.P.	Jacqueline F. Allen	3/12/2015	Class	No
Beal v. Claire's Stores, Inc., No. 131001989	Phila.C.C.P.	Idee C. Fox	3/18/2015	Class	Yes
Beck v. Bed Bath & Beyond Inc., No. 131100176	Phila.C.C.P.	Idee C. Fox	3/18/2015	Class	Yes
Jones v. Alliance Inspection Management, LLC, 2:13-cv-01662-NBF-CRE	W.D. Pa.	Nora Barry Fischer	3/23/2015	Collective	No
Menendez v. Precise Point, Inc., et al., No. 140300610	Phila.C.C.P.	Mary Collins	3/25/2015	Class	No
Calarco v. Healthcare Services Group, Inc., 3:13-cv-00688-RDM	M.D. Pa.	Robert D. Mariani	4/7/2015	Collective	No
Kelkis v. TruGreen Limited Partnership, No. 121101024	Phila.C.C.P.	Jacqueline F. Allen	5/14/2015	Class	Yes
Chung v. Wyndham Vacation Resorts, Inc., 3:14-cv-00490-RDM	M.D. Pa.	Robert D. Mariani	6/15/2015	Collective	No
McMaster v. Earstern Armored Services, Inc., 3:11-cv-05100-TJB	D.N.J.	Toniann J. Bongiovanni	6/24/2015	Collective	No
Valincius v. Express, Inc., No. 140702282	Phila.C.C.P.	Idee C. Fox	6/24/2015	Class	No
Hoelsworth v. New York & Company, Inc., No. 140403750	Phila.C.C.P.	Patricia A. McInerney	7/27/2015	Class	No
Puglisi v. TD Bank, N.A., 2:13-cv-00637-GRB	E.D.N.Y.	Gary R. Brown	7/30/2015	Class	Yes
Mazzarella v. Fast Rig Support, LLC et al, 3:13-cv-02844-MEM	M.D. Pa.	Malachy E. Mannion	7/31/2015	Collective	No
Lappas v. The Scotts Company, LLC, No. 140904450	Phila.C.C.P.	Idee C. Fox	8/5/2015	Class	Yes
Pew v. Finley Catering Co., Inc., 2:14-cv-04246	E.D. Pa.	Marilyn Heffley	8/10/2015	Collective	No
James v. Ann, Inc., et al, No. 140903652	Phila.C.C.P.	Gary S. Glazer	8/17/2015	Class	No
Carroll v. Guardian Home Care Holdings, Inc., 3:14-cv-01722-WJH	M.D. Tenn.	William J. Haynes, Jr.	8/31/2015	Class	Yes
Morris v. M.D. Enterprises, et al, 3:15-cv-00018-ARC	M.D. Pa.	A. Richard Caputo	10/5/2015	Class	No
Worthington v. Kymar Home Care, Inc. et al., No. 141203411	Phila.C.C.P.	Gary S. Glazer	10/9/2015	Class	No
Acevedo v. Moon Site Management, Inc., 2:13-cv-06810	E.D. Pa.	Timothy R. Rice	10/15/2015	Class	Yes
Neal v. Air Drilling Associates, Inc., 3:14-cv-01104-JMM	M.D. Pa.	James M. Munley	12/8/2015	Collective	No

Winebrake & Santillo, LLC - Class/Collective Wage and Overtime Settlements and Judgments

Case Name	Court	Judge	Approval/Judgment	Type	Co-Counsel?
Ross v. Baha Petroleum Consulting Corp., 4:14-cv-00147-DLH-CSM	D.N.D.	Daniel L. Hovland	1/8/2016	Collective	Yes
Pacheco v. Vantage Foods, Inc., 1:14-cv-01127-CCC	M.D. Pa.	Christopher C. Connor	2/11/2016	Class	Yes
Ford et al v. Lehigh Valley Restaurant Group, Inc., 3:14-cv-00227-JMM	M.D. Pa.	James M. Munley	3/11/2016	Class	No
LaPan v. Dick's Sporting Goods, Inc., 1:13-cv-11390-RGS	D. Mass.	Richard G. Stearns	3/25/2016	Class	Yes
Stanek v. Keane Frac NC, LLC, 3:15-cv-01005-RDM	M.D. Pa.	Robert D. Mariani	3/25/2016	Class	No
Harrison v. Flint Energy Services, Inc., 4:15-cv-00962-MWB	M.D. Pa.	Matthew W. Brann	4/15/2016	Collective	No
Tavares v. S-L Distribution Co., Inc., 1:13-cv-01313-JEJ	M.D. Pa.	John E. Jones, III	5/2/2016	Class	Yes
Eld v. TForce Energy Services, Inc., Inc., 2:15-cv-00738-CB	W.D. Pa.	Cathy Bissoon	5/17/2016	Collective	No
Metzler, et al. v. Weis Markets, Inc., CV-15-2103	Northumberland, C.C.P.	Charles H. Saylor	6/6/2016	Class	Yes
Alvarez, et al. v. KWLT, LLC, 5:14-cv-07075-JFL	E.D. Pa.	Joseph F. Leeson	6/9/2016	Collective	Yes
Hughes v. ACHIEVA Support, GD-15-003562	Allegheny C.C.P.	R. Stanton Wettick, Jr.	7/7/2016	Class	No
DiClemente v. Adams Outdoor Advertising, Inc., 3:15-cv-00596-MEM	M.D. Pa.	Malachy E. Mannion	7/8/2016	Collective	No
George Johnson v. Kestrel Engineering, Inc., 2:15-cv-02575-EAS-EPD	S.D. Ohio	Edmund A. Sargus, Jr.	9/22/2016	Collective	Yes
Iwaskow v. JLLJ, Inc., 3:15-cv-01934-ARC	M.D. Pa.	A. Richard Caputo	9/28/2016	Collective	No
Fischer et al. v. Kmart Corporation, 3:13-cv-04116-DEA	D.N.J.	Douglas E. Arpert	11/2/2016	Class	Yes
Cikra et al v. Lami Products, LLC, 2:15-cv-06166-WB	E.D. Pa.	Wendy Beeststone	11/10/2016	Class	Yes
Schaub v. Chesapeake & Delaware Brewing Company, LLC, 2:16-cv-00756-MAK	E.D. Pa.	Mark A. Kearney	11/14/2016	Class	No
Wajert v. Infocision Management Corporation, 2:15-cv-01325-DSC	W.D. Pa.	David S. Cercone	12/1/2016	Collective	No
DeLair v. CareAll Management, LLC, 3:15-cv-01095-AAT	M.D. Tenn.	Aleta A. Trauger	12/14/2016	Collective	Yes
Waggoner v. U.S. Bancorp, 5:14-cv-01626-SL	N.D. Ohio	Sara Lioi	12/26/2016	Collective	Yes
Loveland-Bowe v. National Healthcare Corporation, 3:15-cv-01084-WDC	M.D. Tenn.	Waverly D. Crenshaw, Jr.	1/5/2017	Collective	Yes
Paine v. Intrepid U.S.A., Inc., 3:14-cv-02005-WDC	M.D. Tenn.	Waverly D. Crenshaw, Jr.	1/6/2017	Collective	Yes
Flatt v. LHC Group, Inc. et al, 2:16-cv-00014-KHS	M.D. Tenn.	Kevin H. Sharp	3/1/2017	Collective	Yes

Appendix B

Winebrake & Santillo, LLC Time Detail Report
Johnson et al. v. Heartland Dental, LLC, 8:16-cv-02154-PJM (D. Md.)

<u>Attorney/Staff</u>	<u>Date</u>	<u>Task</u>	<u>Detail</u>	<u>Time</u>
Winebrake	6/20/2016	Legal Papers/Research	REVF CPL, AS DOCKETED AND CK CMS TO MAKE SURE ALL ENTERED. (.2)	0.2
Winebrake	7/5/2016	Meeting	MTG W/ MJG RE STATUS OF SERVICE. (.1)	0.1
Winebrake	7/5/2016	Meeting	MTG W. RAS RE CASE STATUS AND PLAN GOING FORWARD. (.1)	0.1
Winebrake	10/3/2016	Legal Papers/Research	REV ANSWER. (.1)	0.1
Winebrake	10/4/2016	Legal Papers/Research	REV ANSWER AND CK TO MAKE SURE DEF CSL ENTERED. (.1)	0.1
Winebrake	10/30/2016	Legal Papers/Research	REV DEF'S RULE 68 OFFER AND EMAIL TO TEAM RE SAME. (.2)	0.2
Winebrake	10/30/2016	Legal Papers/Research	REV CT'S SCHEDULING ORDER. (.1)	0.1
Winebrake	11/9/2016	Phone Call	PC W/ RAS AND ONE OF THE PLFS RE RULE 68 AND MTG W/ RAS RE SAME. (.2)	0.2
Winebrake	11/10/2016	Legal Papers/Research	REV RAS DRAFT OF PARTIAL ACCEPTANCE OF RULE 68 AND MAKE SOME EDITS AND MEET W/ HIM RE SAME AND RE PLAN GOING FORWARD. (.2)	0.2
Winebrake	11/11/2016	Meeting	MTG W/ RAS AND MJG RE STRATEGY AND LINK IN BM TO DISCUSS SAME. (.3)	0.3
Winebrake	11/13/2016	Legal Papers/Research	REV SECOND RULE 68 OFFER THE NON-ACCEPTING PLAINTFF AND EMAIL TO TEAM RE SAME. (.1)	0.1
Winebrake	12/20/2016	Meeting	MTG W/ RAS RE RECENT DEVELOPMENTS AND STARTEGY; LINK IN BM AND DISCUSS SAME. (.2)	0.2
Winebrake	1/27/2017	Legal Papers/Research	REV CT ORDER AND VAR ACC EMAILS. (.1)	0.1
Winebrake	2/27/2017	Meeting	MTG W/ RAS RE NEED TO DO APPROVAL MOTION, ETC, AND DIVISION OF LABOR W. MARKOWITZ'S FIRM. (.1)	0.1
Winebrake	2/27/2017	Phone Call	PC W/ RAS RE STRATEGY GOING FORWARD, ETC. (.2)	0.2
Winebrake	2/27/2017	Legal Papers/Research	REV CT ORDER REQUIRING APPROVAL MOTION AND VAR ASSOCIATED EMAILS. (.1)	0.1
Santillo	3/18/2016	Administrative	OPEN IN NEEDLES. SEE NOTES IN T-DRIVE FROM REFERRING COUNSEL. ATTEMPTED TO CALL CLIENT AND LEAVE A MESSAGE (.5)	0.5
Santillo	3/18/2016	Phone Call	PC WITH POTENTIAL CLIENT. [REDACTED] (.4)	0.4
Santillo	4/5/2016	Investigation	REVIEW DOCUMENTS FROM CLIENT AND MEET WITH PDW RE SAME. [REDACTED] (.7)	0.7
Santillo	4/5/2016	Phone Call	PC WITH CLIENT. [REDACTED] (.1)	0.1
Santillo	4/25/2016	Meeting	MEET WITH PDW [REDACTED] (.2)	0.2
Santillo	5/3/2016	Phone Call	PC WITH BM. [REDACTED] (.2)	0.2
Santillo	6/14/2016	Legal Papers/Research	BEGIN TO RESEARCH COMPANY AND DRAFT COMPLAINT (3.2)	3.2
Santillo	6/15/2016	Legal Papers/Research	EDIT DRAFT COMPLAINT AND CIRCULATE TO BM (.8)	0.8
Santillo	6/16/2016	Legal Papers/Research	MULTIPLE PCS TO BM RE DRAFT COMPLAINT. REVIEW EDITS AND FINALIZE AND SEND SAME (.8)	0.8
Santillo	6/16/2016	Legal Papers/Research	DRAFT AND CIRCULATE CONSENT FORM (.3)	0.3
Santillo	6/16/2016	Legal Papers/Research	READ DOCKETED COMPLAINT AND PC WITH BM RE SAME (.3)	0.3
Santillo	6/23/2016	Phone Call	PC WITH BM RE CONSENT FORMS (.1)	0.1

Attorney/Staff	Date	Task	Detail	Time
Santillo	6/30/2016	Incoming Correspondence	PC WITH BM'S ASSISTANT, REVIEW NEW CONSENT FORM AND EMAIL EXCHAGNE WITH BM RE SAME (.2)	0.2
Santillo	7/1/2016	Legal Papers/Research	WORK ON PRO HAC MOTION (.1)	0.1
Santillo	7/6/2016	Phone Call	PC WITH BM RE [REDACTED] (.2)	0.2
Santillo	9/2/2016	Legal Papers/Research	WORK ON INVESTIGATION AND CIRCULATE DRAFTS OF DOCUMENTS TO CO-COUNSEL (1.2)	1.2
Santillo	9/7/2016	Legal Papers/Research	FILE PROOF OF SERVICE FORM (.1)	0.1
Santillo	9/28/2016	Legal Papers/Research	READ DEFENDANT'S ENTRY OF APPEARANCE, UPDATE CMS. READ MOTION FOR AN EXTENSION. EMAILS WITH BM RE SAME. DRAFT SHORT NON-OPPOSITION FOR BM TO FILE (.6)	0.6
Santillo	9/29/2016	Incoming Correspondence	EMAIL EXCHANGE WITH CO-COUNSEL RE OPTOIN (.1)	0.1
Santillo	10/3/2016	Legal Papers/Research	READ ANSWER AS DOCKETED AND FILE CONSENT FORM AND EMAIL BM RE SAME (.5)	0.5
Santillo	10/3/2016	Phone Call	PC WITH BM RE DEF ANSWER AND READ SAME (.3)	0.3
Santillo	10/18/2016	Legal Papers/Research	READ COURT ORDER AND PC WITH BM RE SAME. EMAIL TO DEF COUNSEL RE CONFERENCE (.4)	0.4
Santillo	10/24/2016	Incoming Correspondence	VARIOUS EMAILS AMONG DEF COUNSEL AND BM RE SCHEDULE (.2)	0.2
Santillo	10/27/2016	Incoming Correspondence	EMAILS WITH DEF COUNSEL RE SCHEDULING CALL (.1)	0.1
Santillo	10/27/2016	Legal Papers/Research	READ OFFER OF JUDGMENT AS SERVED (.1)	0.1
Santillo	10/27/2016	Phone Call	PC WITH DEF COUNSEL RE SCHEDULE AND PREP FOR SAME (.7)	0.7
Santillo	10/27/2016	Phone Call	PC W/ BM RE OFFER OF JUDGMENT AND PC WITH DEF COUNSEL (.3)	0.3
Santillo	10/27/2016	Legal Papers/Research	READ SCHEDULING ORDER, DRAFT, EDIT AND REVISE MOTION TO EXTEND DEADLINES AND SEND TO DEF COUNSEL (.7)	0.7
Santillo	10/27/2016	Legal Papers/Research	DRAFT, EDIT AND REVISE PROPOSED STIP TO CONDITIONAL CERT AND CONSENT FORM AND SEND SAME TO DEF (.6)	0.6
Santillo	11/1/2016	Phone Call	PC WITH PDW AND BM RE OFFER OF JUDGMENT ISSUES (.4)	0.4
Santillo	11/1/2016	Legal Papers/Research	BEGIN TO RESEARCH VARIOUS RULE 68 ISSUES (1.1)	1.1
Santillo	11/2/2016	Phone Call	REVIEW PAYROLL DATA AND PC WITH SHAKETA ROBINSON. [REDACTED]	0.3
Santillo	11/4/2016	Meeting	MEET WITH MJG AND PDW RE RULE 68 OFFER STRATEGY (.4)	0.4
Santillo	11/7/2016	Incoming Correspondence	EMAILS WITH DEF COUNSEL AND CO-COUNSEL RE RULE 68 (.2)	0.2
Santillo	11/9/2016	Phone Call	PC WITH SHAKETA ROBINSON. [REDACTED] (.3)	0.3
Santillo	11/9/2016	Phone Call	PC WITH BM RE OFFER OF JUDGMENT (.2)	0.2
Santillo	11/9/2016	Legal Papers/Research	DRAFT RULE 68 OFFER ACCEPTANCE (.2)	0.2
Santillo	11/10/2016	Phone Call	PCS WITH BM. DRAFT AND FINALIZE ACCEPTANCE OF RULE 68. MEET WITH PDW RE SAME AND FILE SAME. SERVE ON DEFENDANT VIA EMAIL AND FIRST CLASS MAIL. SEND COPY OF NEW NOTICE AND UPDATED DOCUMENTS. (.7)	0.7
Santillo	11/11/2016	Legal Papers/Research	TWO SEPARATE PCS WITH DEF COUNSEL AND PCS WITH BM RE SAME. EDIT PROPOSED STIP TO CONDITIONAL CERT AND NOTICE AND SEND SAME TO DEF. DRAFT, EDIT, REVISE AND FINALIZE MOTION TO AMEND SCHEDULING ORDER (2.6)	2.6
Santillo	11/11/2016	Phone Call	READ NEW OFFER OF JUDGMENT SENT BY DEFENDANT, PC WITH BM RE SAME AND EMAIL TO PDW RE SAME (.4)	0.4
Santillo	11/14/2016	Incoming Correspondence	EMAIL EXCHANGE WITH DEFENDANT RE DEPOSITION OF JOHNSON (.1)	0.1

Attorney/Staff	Date	Task	Detail	Time
Santillo	11/15/2016	Phone Call	PC WITH BM RE LATEST OFFER OF JUDGMENT AND STRATEGY GOING FORWARD (.4)	0.4
Santillo	11/16/2016	Phone Call	PC WITH SHAKETA ROBINSON. [REDACTED] (.2)	0.2
Santillo	11/17/2016	Legal Papers/Research	DRAFT, EDIT, REVISE AND CIRCULATE DECLARATION TEMPLATE, EMAILS WITH BM RE SAME (.6)	0.6
Santillo	11/18/2016	Legal Papers/Research	COMPLETE DECLARATION FOR SHAKETA ROBINSON AND SEND JOHNSON AND LOCKWOOD THEIRS. PCS WITH BM RE SAME (.6)	0.6
Santillo	11/22/2016	Phone Call	PC WITH BM RE STRATEGY GOING FORWARD (.2)	0.2
Santillo	11/22/2016	Phone Call	VM FOR SHAKETA ROBINSON (.0)	0.0
Santillo	11/22/2016	Phone Call	PC WITH SHAKETA ROBINSON AND OBTAINED DECLARATION (.1)	0.1
Santillo	11/22/2016	Legal Papers/Research	READ DEF OPPOSITION TO MOTION TO ALTER DEADLINES AND PC WITH BM RE SAME (.2)	0.2
Santillo	11/22/2016	Legal Papers/Research	DRAFT NEW ACCEPTANCE OFFER OF JUDGMENT (.2)	0.2
Santillo	11/23/2016	Legal Papers/Research	FINALIZE, FILE AND SERVE ACCEPTANCE OF NEW OFFER OF JUDGMENT (.2)	0.2
Santillo	11/29/2016	Phone Call	PC WITH DEF COUNSEL AND FOLLOW-UP PC WITH BM RE SAME (.3)	0.3
Santillo	12/2/2016	Phone Call	RUN TIME AND PC WITH BM RE MOTION FROM DEF AND T&E (.3)	0.3
Santillo	12/2/2016	Phone Call	PC WITH DEF COUNSEL. [REDACTED] (.2)	0.2
Santillo	12/5/2016	Legal Papers/Research	READ DEF MOTION TO ENTER JUDGMENT AND PC WITH BM RE STRATEGY GOING FORWARD (.2)	0.2
Santillo	12/7/2016	Phone Call	PC WITH DEF COUNSEL. [REDACTED] C WITH MARKOVITZ RE SAME (.2)	0.2
Santillo	12/20/2016	Phone Call	PCS WITH DEF COUNSEL AND BM RE [REDACTED] (.5)	0.5
Santillo	12/21/2016	Incoming Correspondence	EMAIL EXCHANGE WITH DEF RE FEE ISSUE (.1)	0.1
Santillo	12/22/2016	Phone Call	PC WITH MARKOVITZ RE NEXT STEPS (.2)	0.2
Santillo	1/4/2017	Incoming Correspondence	EMAIL TO BM RE WHETHER HE CALLED CHAMBERS (.1)	0.1
Santillo	1/5/2017	Phone Call	PC FRM SHAKETA ROBINSON [REDACTED] (.1)	0.1
Santillo	1/11/2017	Meeting	MEET WITH PDW AND PC WITH BM RE STATUS. [REDACTED] (.3)	0.3
Santillo	1/13/2017	Outgoing Correspondence	PC WITH BM RE MOTION FOR STATUS CONFERENCE. SEND EMAIL TO DEF COUNSEL RE SAME (.1)	0.1
Santillo	1/20/2017	Phone Call	PC WITH BM RE MOTION FOR STATUS CONFERENCE. (.2)	0.2
Santillo	1/27/2017	Phone Call	PC WITH BM AND CALL WITH DEF COUNSEL AND COURT (.2)	0.2
Santillo	2/6/2017	Phone Call	PC WITH SHAKIDA ROBINSON RE STATUS (.2)	0.2
Santillo	2/24/2017	Legal Papers/Research	READ JUDGE'S ORDER AND EMAILS WITH DEF COUNSEL RE SAME (.3)	0.3
Santillo	2/27/2017	Phone Call	PC WITH DEF COUNSEL RE MOTION FOR APPROVAL OF THE RESOLUTION AND CALL WITH PDW PRIOR RE SAME (.6)	0.6
Santillo	3/2/2017	Legal Papers/Research	BEGIN TO RESEARCH AND WORK ON APPROVAL OF RULE 68 ACCEPTANCE AND ATTORNEY'S FEES AND EMAILS WITH CO-COUNSEL RE SAME (6.3)	6.3
Santillo	3/3/2017	Legal Papers/Research	ADDITIONAL WORK ON APPROVAL MOTION (5.8)	5.8
Santillo	3/4/2017	Legal Papers/Research	ADDITIONAL WORK ON APPROVAL PAPERS (5.1)	5.1
Santillo	3/7/2017	Legal Papers/Research	REVIEW BM'S EDITS TO APPROVAL MOTION. CIRCULATE SAME TO DEF COUNSEL. DRAFT, EDIT AND CIRCULATE TO DEF COUNSEL STIP RE FEES AND COSTS (.5)	0.5
Santillo	3/10/2017	Legal Papers/Research	WORK ON FINALIZING APPROVAL BRIEF AND EMAILS WITH DEF COUNSEL RE SAME (1.9)	1.9

<u>Attorney/Staff</u>	<u>Date</u>	<u>Task</u>	<u>Detail</u>	<u>Time</u>
Gottesfeld	9/1/2016	Incoming Correspondence	READ EMAIL FROM RAS RE: SERVICE OF SUMMONS AND COMPLAINT. (.1)	0.1
Gottesfeld	9/1/2016	Legal Papers/Research	ARRANGED FOR SERVICE OF SUMMONS AND COMPLAINT. ENSURED THAT PROPER REGISTERED AGENT FOR SERVICE WAS LISTED ON SUMMONS. (.3)	0.3
Gottesfeld	9/7/2016	Incoming Correspondence	REC'D EMAIL FROM PROCESS SERVER RE: SERVICE OF SUMMONS AND COMPLAINT. (.1)	0.1
Gottesfeld	9/7/2016	Outgoing Correspondence	EMAIL TO CO-CSL RE: SERVICE OF SUMMONS AND COMPLAINT. (.1)	0.1
Gottesfeld	9/30/2016	Phone Call	PC FROM SHAKETA ROBINSON [REDACTED]	0.1
Gottesfeld	9/30/2016	Outgoing Correspondence	EMAIL TO CO-CSL RE: [REDACTED] (.1)	0.1
Gottesfeld	9/30/2016	Phone Call	PC W/ SHAKETA ROBINSON [REDACTED]	0.2
Gottesfeld	9/30/2016	Outgoing Correspondence	SENT EMAIL TO SHAKETA ROBINSON [REDACTED] (.2)	0.2
Gottesfeld	9/30/2016	Outgoing Correspondence	EMAIL TO CO-CSL RE: [REDACTED] (.1)	0.1
Gottesfeld	9/30/2016	Incoming Correspondence	REC'D EMAIL FROM DOCUSIGN ATTACHING SIGNED CONSENT FORM FROM SHAKETA ROBINSON. FORWARDED TO RAS. (.1)	0.1
Gottesfeld	10/3/2016	Phone Call	PC W/ BM RE: DEF'S ANSWER. (.1)	0.1
Gottesfeld	11/4/2016	Legal Papers/Research	LEGAL RESEARCH RE: RULE 68. (3.0)	3.0
Gottesfeld	11/8/2016	Legal Papers/Research	ADD'L LEGAL RESEARCH RE: RULE 68. (1.1)	1.1

<u>Attorney/Staff</u>	<u>Hourly Rate</u>	<u>Hours</u>	<u>Lodestar</u>
Winebrake	\$400.00	2.4	\$960.00
Santillo	\$320.00	47.3	\$15,136.00
Gottesfeld	\$275.00	5.6	\$1,540.00
TOTAL		55.3	\$17,636.00

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

RONICA JOHNSON, on behalf of herself and others similarly situated,	:	
	:	CIVIL ACTION
v.	:	
	:	No. 8:16-cv-02154-PJM
	:	
HEARTLAND DENTAL, LLC,	:	
	:	

DECLARATION OF BRIAN J. MARKOVITZ

I, Brian J. Markovitz, being over the age of eighteen, make this declaration on personal knowledge of the following facts:

I am a partner at Joseph, Greenwald & Laake, P.A., a Greenbelt, Maryland-based litigation law firm, and I am competent to testify about the matters contained herein. I submit this declaration in order to provide the Court with facts supporting Plaintiffs' petition for purposes of determining recoverable attorney's fees and costs under 29 U.S.C. § 216(b). For work performed during the course of this litigation, the Court should utilize the rate of \$390.00 an hour for me, which is within the Appendix B rates for an attorney of my experience and also was my customary billing rate for 2016.

Education, Bar Admissions, and Professional Background

1. I graduated from the Georgetown University Law Center in 2000, receiving the American Bar Association Section of Labor and Employment Law Award for Excellence for the 2000 graduating class. While I was in law school, I also authored the note, *Public School Teachers as Plaintiffs in Defamation Suits Do They Deserve Actual Malice?*, 88 Geo. L.J. 1953 (2000). I have practiced in the field of state and federal litigation since 2001, prior

to that I spent approximately a year at the United States Office of Special Counsel working on whistleblower protection.

2. I am admitted to practice law in the state and federal courts of Maryland and the District of Columbia. I was admitted to practice law in Maryland in 2000, this Court in 2003, in the District of Columbia in 2004, and in the U.S. District Court for the District of Columbia in 2005. I also have been admitted to practice before the U.S. Court of Appeals for the Fourth Circuit since 2003 and the United States Supreme Court since 2008.
3. I have been a member of the Metropolitan Washington Employment Lawyers Association (MWELA), the Washington D.C. affiliate of the National Employment Lawyers Association (NELA), since approximately 2002, among other associations. I focus my practice on the litigation of employment related cases, include Fair Labor Standards Act (“FLSA”) matters, primarily representing plaintiffs, and also False Claims Act work.
4. I have represented both employees and employers in hundreds of cases involving employment disputes, including on FLSA matters. In this respect, I have served as the primary attorney of record and have been responsible for drafting pleadings, both taking and defending depositions, drafting discovery, drafting briefs in support of and in opposition to motions, representing plaintiffs at mediation and settlement conferences, and trying cases. My practice concentrates on employment law and related matters, and as such we are quite selective in the types and nature of cases we accept. We currently are litigating several dozen employment-related cases in state and federal courts from

Maryland, the District of Columbia, and other states and several matters currently pending before the EEOC.

5. We routinely decline dozens of requests from potential clients to represent them on an hourly fee basis each year. Had this firm not expended its time and resources prosecuting Plaintiffs' claims, it would have expended its time and resources on other cases and compensable work, much of which would have paid full hourly rates. Consequently, as a result of working on this matter, Joseph, Greenwald and Laake, P.A. has forgone the opportunity to perform other work where it would have been able to charge its full hourly rates for its employees' time.
6. All attorneys and legal assistants within Joseph, Greenwald and Laake, P.A. are required to record on a daily basis descriptions of services performed on each client matter, indicating the time spent on each matter, and enter these descriptions into the computer on "Prolaw," a timekeeping and accounting program.
7. In this matter, Joseph, Greenwald and Laake, P.A. followed its customary timekeeping practice. Attorneys, paralegals, and law clerks record their time in Prolaw' computer database, and work summaries were prepared from the computerized time slips.
8. Work summaries are prepared from these time slips on a monthly basis, and reviewed on a monthly basis by me for accuracy, redundancy, and unproductive time.
9. Specifically and in summary, the total number of hours worked by Joseph, Greenwald and Laake, P.A.'s employees through March 9, 2017 related to the efforts on Plaintiffs' behalf relating to the successful prosecution of their claims in this matter was approximately forty-five hours.

10. The rates that we are requesting here were our customary rates actually charged to our hourly paying clients as of last year as I currently am charged at a rate of \$415.00 an hour. When we began first investigating this matter in 2016, my hourly rate was \$390.00 an hour. During these times, we had clients pay these hourly rates for my services.

**Hours Spent by Joseph, Greenwald & Laake, P.A.
and the Resulting Fee Lodestar**

11. As previously indicated, I worked on this litigation. Work by this law firm through March 8, 2017 is reflected in our contemporaneous time records, which are attached as Exhibit 1.¹

12. As indicated below, the time spent on this litigation by this law firm through March 9, 2017 totals **approximately forty-five hours** and results in a total fee lodestar of **\$17,933.50**.²

NAME	TITLE	TOTAL HOURS	HOURLY RATE	TOTAL
Brian J. Markovitz, Esq.	Partner	44.90	\$390.00	\$17,511.00
TOTALS		44.90		\$17,511.00

Actual Out-of-Pocket Litigation Expenses of Joseph, Greenwald & Laake

13. This firm incurred a total of \$1,830.22 in un-reimbursed costs and expenses in connection with this litigation. These expenses are summarized below:

Court Fees and Filing Fees	\$450.00
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¹ Our contemporaneous time records are recorded in six (6) minute increments and maintained in the firm's time sheets case management system. The time records have been redacted to prevent the public disclosure of any information that potentially is covered by the attorney-client privilege or the work product doctrine or information personal to a party-plaintiff.


² Undersigned expects to spend additional time on March 10, 2017 that is not included in this estimate as it could not be processed prior to the filing of the memorandum.

Legal Reseach (Westlaw/PACER)	\$1,380.32
TOTAL	\$1,830.32

14. The above expenses are reflected on the books and records of this firm, which are available for submission to the Court upon request. These books and records are prepared from expense vouchers, receipts, and check records, and are accurate regarding all the expenses incurred.
15. Therefore, total fee and costs are approximately \$19,341.32 through March 9, 2017.

I HEREBY DECLARE, SUBJECT TO PENALTY OF PERJURY AND PURSUANT TO 28 U.S.C. § 1746, THAT THE FOLLOWING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: March 10, 2017



Brian J. Markovitz, Bar No. 15859

JOSEPH, GREENWALD & LAAKE, P.A.
6404 Ivy Lane, Suite 400
Greenbelt, MD 20724
(301) 220-2200

Joseph Greenwald & Laake PA**Time and Expenses For Client**

Date	Prof	Trans No	Matter Description Narrative	Com P	Units	Price	Value
Matter ID: 022740-001							
Client Sort: Johnson, Ronica							
Soft Cost							
Initials:							
08/18/2016		195820	Westlaw Research July 2016	WL	1.00	1,149.81	1,149.81
09/26/2016		204346	Westlaw Research August 2016	WL	1.00	214.11	214.11
11/03/2016		215392	Pacer Services - 3rd Quarter	PC	1.00	9.50	9.50
11/03/2016		215448	Pacer Services - 2nd Quarter	PC	1.00	6.90	6.90
					Initials:	4.00	1,380.32
					Soft Cost	4.00	1,380.32
Hard Cost							
Initials:							
07/21/2016		188366	COURTS/USDC-MD-PG Filing Fees New complaint	FF	1.00	400.00	400.00
08/17/2016		195209	US COURTS - Filing Fees	FF	1.00	50.00	50.00
					Initials:	2.00	450.00
					Hard Cost	2.00	450.00
Fee							
Initials: BJM							
04/28/2016	BJM	165778	Ronika Johnson - call with client re: class, research on Heartland Dental and [REDACTED]	T	2.40	390.00	936.00
04/29/2016	BJM	165780	Ronika Johnson - research on defendant company [REDACTED] including overtime, call with ARS re: status, call with PNC re: status.	T	3.70	390.00	1,443.00
05/03/2016	BJM	166336	Ronica Johnson - meeting with client and document review.	T	1.60	390.00	624.00
06/15/2016	BJM	179808	Drafting and edit complaint, communications with cocounsel.	T	0.50	390.00	195.00
06/16/2016	BJM	179809	Call with client re: facts and finalizing complaint, civil cover sheet.	T	2.90	390.00	1,131.00
06/23/2016	BJM	181878	Call with client re: status and potential opt-ins, call with ARS re:	T	0.40	390.00	156.00

Joseph Greenwald & Laake PA**Time and Expenses For Client**

Date	Prof	Trans No	Matter Description Narrative	Comp	Units	Price	Value
07/06/2016	BJM	184779	Call with cocounsel, [REDACTED] [REDACTED] research on proper communications with putative class members and accompanying case law for FLSA matters.	T	4.60	390.00	1,794.00
07/14/2016	BJM	186905	[REDACTED]	T	0.70	390.00	273.00
07/27/2016	BJM	190261	Call with ARS re: status on potential opt-ins.	T	0.20	390.00	78.00
08/02/2016	BJM	191682	[REDACTED] call with cocounsel; meeting with client	T	1.20	390.00	468.00
08/09/2016	BJM	193126	[REDACTED] research on FLSA collective requirements	T	0.20	390.00	78.00
09/23/2016	BJM	204143	[REDACTED] [REDACTED] research on FLSA collective requirements	T	2.60	390.00	1,014.00
10/27/2016	BJM	213416	Call with ARS re: conference call, email to opposing counsel, review of joint motion for extension of deadlines.	T	0.50	390.00	195.00
10/28/2016	BJM	213767	Call with ARS re: strategy on offer of judgment and conditional certification.	T	0.40	390.00	156.00
11/01/2016	BJM	214259	Call with cocounsel re: offer of judgement and collective action issues related to offer of judgment.	T	0.50	390.00	195.00
11/09/2016	BJM	217306	Calls with clients re: offer of judgment, call with cocounsel re: same.	T	0.60	390.00	234.00
11/10/2016	BJM	217420	Calls with client and opt-in re: offer of judgment, call with cocounsel re: offer of judgment.	T	0.60	390.00	234.00
11/11/2016	BJM	217835	Calls with opposing counsel re: offer of judgment, settlement, and notice issues, review of motion to modify scheduling order.	T	0.70	390.00	273.00
11/16/2016	BJM	219184	Drafting affidavits.	T	0.60	390.00	234.00
11/17/2016	BJM	219265	Calls with clients, drafting declarations.	T	0.70	390.00	273.00
11/18/2016	BJM	220538	Call with ARS re: opt-ins, calls with clients re: declarations, call with ARS re: facts from clients, drafting declarations.	T	1.30	390.00	507.00
11/21/2016	BJM	220589	Call with ARS re: offer of judgment.	T	0.20	390.00	78.00

Joseph Greenwald & Laake PA**Time and Expenses For Client**

Date	Prof	Trans No	Matter Description Narrative	Com P	Units	Price	Value
11/28/2016	BJM	222216	Call with ARS re: offers of judgment.	T	0.20	390.00	78.00
12/07/2016	BJM	225311	Call with ARS re: settlement talks.	T	0.20	390.00	78.00
01/18/2017	BJM	233731	Drafting motion for status conference, call with ARS re: motion, review of defendant's changes.	T	0.50	390.00	195.00
03/06/2017	BJM	245903	Drafting memorandum for rule 68, affidavit in support, research on case law, communication with client re: status.	T	2.10	390.00	819.00
03/07/2017	BJM	246902	Drafting memorandum for court approval of rule 68, drafting affidavit in support and finding of facts, review of local rules for memorandum, call with cocounsel.	T	6.80	390.00	2,652.00
03/08/2017	BJM	246903	Drafting memorandum for court approval of rule 68, drafting affidavit in support and finding of facts, review of local rules for memorandum, call with cocounsel, drafting conclusions of law and fact.	T	3.50	390.00	1,365.00
03/09/2017	BJM	246904	Drafting memorandum for court approval of rule 68, drafting affidavit in support and finding of facts, review of local rules for memorandum, call with cocounsel, drafting conclusions of law and fact.	T	4.50	390.00	1,755.00
			Initials: BJM		44.90		17,511.00
			Fee		44.90		17,511.00
			Client Sort: Johnson, Ronica		50.90		19,341.32
			Matter ID: 022740-001		50.90		19,341.32
			Grand Total:		50.90		\$19,341.32

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

RONICA JOHNSON, on behalf of herself and others similarly situated,	:	
	:	CIVIL ACTION
	:	
v.	:	No. 8:16-cv-02154-PJM
	:	
	:	
HEARTLAND DENTAL, LLC,	:	
	:	

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the Court’s February 23, 2017 Order, the parties submit the following undisputed facts and conclusions of law:

FINDINGS OF FACT

1. Originating Plaintiff Ronica Johnson (“Johnson”) initiated this lawsuit by filing a single count Complaint on June 16, 2016 asserting claims under the FLSA against Defendant Heartland Dental, LLC (“Defendant”). (Doc. 1).
2. Defendant is a dental support organization in the United States with more than 750 supported dental offices located in 33 states. (Doc. 12 at ¶7).
3. Johnson and the opt-in Plaintiffs performed the position “Office Manager.” (*Id.* at ¶9)
4. Plaintiffs worked for Defendant as a salaried Office Manager (or “S Office Manager”) from approximately June 2014 until May 2016 and was assigned to a dental office located in Mitchellville, Maryland. (Doc. 1 at ¶¶10, 12)
5. Johnson asserted her FLSA claims as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of the following collective: “All individuals who worked as salaried Office

Managers for Defendant and were classified as exempt from the FLSA since June 16, 2013.” *Id.* at ¶ 21.

6. Two other salaried Office Managers, Rachel Lockwood (“Lockwood”) and Shaketa Robinson (“Robinson”), filed consent forms to join (or “opt-in”) to this case. *See* Docs. 4, 13.

7. On September 30, 2016, Defendant filed its Answer to Johnson’s Complaint in which it denied violating the FLSA. (Doc. 12).

8. Defendant served all three Plaintiffs with an Offer of Judgment pursuant to Fed. R. Civ. P. 68 on October 27, 2016. *See* Doc. 17.

9. Johnson and Opt-in Plaintiff Lockwood instructed Plaintiffs’ counsel to accept Defendant’s Offers of Judgment of \$17,382.96 for Johnson and \$8,208.13 for Lockwood.

10. Opt-in Plaintiff Robinson, however, declined Defendant’s original Offer of Judgment.

11. Plaintiffs’ counsel filed a “Notice of Partial Acceptance of Offer of Judgment” on November 10, 2016. *See* Doc. 17.

12. On November 11, 2016, Defendant served a second Offer of Judgment on Robinson in the amount of \$2,500.00, which was accepted and filed on November 23, 2016. *See* Doc. 20.

13. On December 4, 2016, Defendant filed a consent motion asking that judgment be entered for all three Plaintiffs pursuant to Fed. R. Civ. P. 68. *See* Doc. 21.

14. Defendant’s Offers of Judgment to Plaintiffs were exclusive of attorney’s fees and costs. The parties agreed on December 21, 2016 to resolve Plaintiffs’ counsel’s fees and costs petition for \$27,500.00. The parties filed a stipulation outlining this agreement on March 10,

2017. See Doc. 26.

CONCLUSIONS OF LAW

15. In determining whether a Rule 68 offer of judgment is appropriate for Court approval, courts must determine if the resolution “reflects a fair and reasonable resolution of a *bona fide* dispute over FLSA provisions.” *Acevedo v. Phx. Pres. Grp., Inc.*, 2015 U.S. Dist. LEXIS 138337, *13-14 (D. Md. Oct. 8, 2015). In approving the offer of judgment and resolving a *bona fide* dispute, the Court considers “(1) whether there are FLSA issues actually in dispute, (2) the fairness and reasonableness of the settlement in light of the relevant factors from Rule 23, and (3) the reasonableness of the attorneys’ fees, if included in the agreement.” *Id.* (citations omitted).

16. *Bona fide* disputes exist over whether the Plaintiffs are owed overtime pay or are exempt under the administrative exemption and also over the number of hours that they worked each week.

17. The settlement is fair and reasonable because considerable expense will be incurred to prosecute this matter and the litigation is likely to take considerable amount of time to resolve, resulting in a delay of compensation to Plaintiffs, should they receive any at all.

18. Finally, the attorneys’ fees sought are below the amount actually incurred and are based upon Appendix B rates and appropriate Lodestar method and *Johnson* Factors. Therefore, all factors are met, and the offers of judgment are fair and reasonable.

19. Pursuant to general principles pertaining to judicial review of FLSA resolutions, the Lodestar method, and the *Johnson* Factors, the Parties’ proposed offer of judgment and stipulation regarding attorneys should be approved for \$17,382.96 for Johnson, \$8,208.13 for Lockwood, and \$2,500.00 for Robinson, as well as \$27,500.00 in attorneys’ fees and costs.

Date: March 10, 2017

Respectfully submitted,

/s/ Brian J. Markovitz

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Counsel for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RONICA JOHNSON, on behalf of herself and
others similarly situated,

v.

HEARTLAND DENTAL, LLC,

:
: CIVIL ACTION
:
: No. 8:16-cv-02154-PJM
:
:
:
:

ORDER

AND NOW, this ____ day of _____, 2017, upon consideration of the parties “Joint Motion for Approval of the Acceptance of Offers of Judgment and Award of Attorney’s Fees and Costs” (Doc. 27), the accompanying Memorandum of Law, and all other papers and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Motion is **GRANTED** and the Accepted Offer of Judgments (Docs. 16, 20) are **APPROVED** as a fair and reasonable resolution of a *bona fide* dispute under Section 16(b) of the Fair Labor Standards Act, 29 U.S.C. §216(b);
2. Pursuant to Fed. R. Civ. P. 68, judgment is entered in favor of the Plaintiffs totaling \$28,091.09 in the following individual amounts: Ronica Johnson - \$17,382.96; Rachel Lockwood - \$8,208.13; and Shaketa Robinson - \$2,500.00;
3. The award of \$27,500.00 in attorney’s fees and costs for Plaintiffs’ counsel is hereby **APPROVED** pursuant to Fed. R. Civ. P. 54(d), L.R. 109.2 and 29 U.S.C. §216(b); and
4. The Court will retain jurisdiction over any disputes pertaining to the enforcement of this order.

BY THE COURT:

Peter J. Messitte
United States District Judge

Copies to:

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