UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JASON COLLINS, **Plaintiff,** **v.** **DISTRICT OF COLUMBIA,** **Defendant.**	**Civil Action No. 21-cv-02941 (CJN)**

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement ("Agreement") is made and entered into by and among the Plaintiff in the above-captioned case and Defendant, the District of Columbia ("Defendant" or "the District") and is based on the following:

I. RECITALS

1.1 Plaintiff is a firefighter employee, working for the District of Columbia Fire and Emergency Medical Services Department ("FEMS") who has alleged that he received a $14 per diem payment for working during the COVID-19 pandemic from March 16, 2020 to July 25, 2020, but that the Defendant violated the Fair Labor Standards Act ("FLSA") by failing to include this per diem payment in the calculation of the Plaintiff's regular rate of pay for purposes of calculating overtime compensation. Plaintiff filed a Complaint in the U.S. District Court for the District of Columbia on November 8, 2021 (Case No. 1:21-cv-02941-CJN) ("Lawsuit") on behalf of himself and others similarly situated. The District identified 1,592 current and former FEMS employees who are similarly situated (referred to hereinafter as the "putative collective" or as "putative collective action members"). The members of the putative collective who sign a consent form and settlement release shall be referred to hereinafter as the "collective" or "collective action

members."

1.2 Plaintiff, the collective, and the Defendant (hereinafter collectively referred to as "the Parties") have agreed to settle the matters in dispute between and among them pursuant to the terms of this Agreement. Specifically, the Parties and their counsel have considered that the interests of all concerned are best served by compromise, settlement, and dismissal of the claims against Defendant with prejudice. The Parties have concluded that the terms of this Agreement are fair, reasonable, adequate, and in the Parties' mutual best interests.

1.3 The Parties agree that this Agreement is entered into solely on the basis of a compromise of disputed claims and this Agreement is not, and is not to be construed as, an admission by Defendant of any liability whatsoever.

1.4 The effective date of this Agreement shall be considered the date that Plaintiff files consent forms with the Court for all collective action members who wish to join in the lawsuit and settlement, which shall be 14 days after expiry of the opt-in period set forth in the below-contemplated settlement communication to the putative collective ("Effective Date").

II. JOINING THE COLLECTIVE ACTION AND SIGNING A SETTLEMENT RELEASE

2.1 Within 85 days of the signing of this Agreement, the Settlement Administrator retained by Plaintiff's Counsel will notify putative collective action members via email (if such contact information has been made available by Defendant): (a) that the previously agreed-on settlement will not proceed because the presiding judge informed the Parties of his belief that he did not have jurisdiction to approve such a settlement; (b) that a substantially similar settlement has been reached under which putative collective action members can receive essentially the same monetary amount as previously communicated under the prior settlement; (c) of an overview of the Settlement's terms, and an estimate of how much they would receive; (d) that participation in this Settlement requires signing (1) a consent form to join the above-captioned case as a Party

Plaintiff and designating Migliaccio & Rathod LLP as counsel, and (2) a settlement release, with both documents available on the settlement website, as well as an interactive portal to fill out the forms; (e) that if they choose to participate by signing the consent form and release, they will receive two payments of equal sums (one for Backpay and one for Liquidated Damages) and that the case will thereafter be dismissed with prejudice; (f) of a link to a settlement website with important case documents and an FAQ of the settlement. If a working email address is unavailable, then the notification shall be sent by U.S. mail. The communication will inform putative collective action members that they have 35 days from the date of the communication to sign and return the consent form and settlement release to participate in the settlement (the "opt-in period").

2.2 Within 14 days after the expiry of the opt-in period, Plaintiff's counsel shall file on the docket all the consent forms of collective action members received.

III. PAYMENT AND DISTRIBUTION

3.1 In consideration for the terms, conditions, and promises in this Agreement, pursuant to the paragraphs in this section, Defendant shall allocate the total sum of **$334,806.36** to resolve Plaintiff and the collective's FLSA claims with respect to the Defendant's alleged failure to properly calculate the regular rate of pay as a result of the Defendant's alleged failure to include the $14 per diem hazardous duty pay payments in the regular rate calculation, allegedly accruing for the period from March 16, 2020, through the Effective Date ("the Settlement Amount"), inclusive of attorneys' fees and expenses. Of that amount, **$234,806.36** constitutes Backpay Settlement Payments and Liquidated Damages Settlement Payments (divided equally between those two categories), **$5,000** constitutes a service award for the Named Plaintiff, and **$95,000** constitutes the costs of attorneys' fees and costs as well as claim administration.

3.2 The District will allocate a total of **$234,806.36** to Plaintiff and the putative collective action members as reflected in Exhibit A, in full satisfaction of the claim for backpay and liquidated

damages against Defendant (the "Settlement Pool").[1] The District shall be entitled to apply all applicable deductions and withholdings to the backpay amount to be distributed to Plaintiff and each putative collective action member. To the extent that a putative collective action member does not sign a consent form and release, the funds allocated to that putative collective action member shall revert back to the District. The District will allocate **$95,000** to Migliaccio & Rathod LLP for attorney's fees and costs related to counsel's representation of Plaintiff and the collective action members in the Lawsuit as well as the costs to retain a settlement administrator to assist with settlement administration. Based on bids received, the Parties estimate that the settlement administration expense will be $16,500 of the $95,000. Plaintiff's counsel shall provide the Defendant with a W-9 for Migliaccio & Rathod LLP within three days after the Parties have executed this Agreement. The District will also pay a service award to Named Plaintiff Jason Collins in the amount of **$5,000**. Plaintiff's counsel shall provide the Defendant with a W-9 for Mr. Collins within three days after the Parties have executed this Agreement. These amounts are agreed to among the Parties to compromise, settle and satisfy the Released Claims and liquidated damages related to the Released Claims. (See Section 4.1 for definition of Released Claims).

3.3 The District shall reflect the Individual Backpay Amounts on each putative collective action member's W-2 form as set forth in Exhibit A to this Agreement, less applicable deductions.

3.4 The Parties agree that Plaintiff will retain the firm of the CPT Group to disseminate a settlement communication to putative collective action members, act as the independent Settlement Administrator, distribute Liquidated Damages Settlement Payments, and perform other tasks consistent with this Agreement. The Parties may be consulted by the Settlement

[1] Exhibit A lists "Active Collective Members" (i.e., current FEMS employees) and "Inactive Collective Members" (i.e., former FEMS employees).

Administrator with respect to any issues that arise with regard to settlement administration, and the Parties agree to work together in good faith to resolve such issues. The Settlement Administrator will be paid for all Settlement Administration Costs by Plaintiff.

3.5 The actions of the Settlement Administrator shall be governed by the terms of the Agreement. Counsel for both Parties may provide relevant information and guidance as needed by the Settlement Administrator in the performance of its duties and engage in related communications with the Settlement Administrator with notice and copies to one another, but without notice or copies to Plaintiff, the putative collective, or the Court unless requested by the Court.

3.6 Within 45 days of the execution of this Agreement by all Parties, Defendant shall pay Migliaccio & Rathod LLP **$95,000** by check or wire transfer to facilitate settlement administration.

3.7 Within 45 days of the execution of this Agreement by all Parties, Defendant shall pay Mr. Collins a **$5,000** service award by check or wire transfer.

3.8 Within 7 days of the Effective Date, the Settlement Administrator will tender a report (the "Settlement Administrator Report") to all counsel containing the following information: the Liquidated Damages Settlement Payments to Plaintiff and the collective. The maximum possible amount of Liquidated Damages Settlement Payments is $117,403.18.

3.9 On or before September 15, 2025, Defendant will pay $117,403.18 to the Settlement Administrator for deposit in an appropriate account.

3.10 The Parties shall have the right to inspect the records of the Settlement Administrator as it pertains to settlement administration, including inspection of imaged copies of the front and back of endorsed checks and any correspondence between the Settlement Administrator and the Parties relating to disputes over payments.

3.11 Plaintiff's counsel determined a method used to calculate the amounts to be paid to Plaintiff and each putative collective action member, based on the payroll and timekeeping data provided by Defendant for each individual putative collective action member. Damages were determined primarily on a *pro rata* basis. Each putative collective action member will receive at least 90.5% of wages (Backpay) allegedly owed under the formula for regular rate calculations as outlined by the Fair Labor Standards Act, as well as an equal amount (at least 90.5% of wages owed) in Liquidated Damages. The calculation methodology computes individual damages for each putative collective action member only for the claims asserted against Defendant in the above-captioned Lawsuit.

3.12 Within 50 days of the Effective Date, the Settlement Administrator will distribute Liquidated Damages Settlement Payments to the collective action members via check or digital payment (if elected by the collective action member). Defendant will issue Backpay Settlement Payments to putative collective action members vis-à-vis their payroll system (for current employees) in the first pay period 65 calendar days after the Effective Date, or otherwise by check, as set forth in paragraph 3.15.

3.13 In addition, the Settlement Administrator will, if necessary, issue for each Settlement Collective Action member an IRS Form 1099-MISC, checking box 3 "other income," showing the amount allocated to liquidated damages. The Settlement Administrator will mail the forms to those collective action members who are former employees and email to those collective action members who are current employees.

3.14 The District shall issue payment of the Backpay Settlement Payments within 65 days after the Effective Date. The District shall issue Backpay payments to collective action members who are currently employed by FEMS via the method each member has chosen to receive their regular paycheck, according to the records of the District's Office of Pay and Retirement

Services ("OPRS").

3.15 OPRS will issue paper checks in payment to collective action members who are (a) current employees of FEMS that have chosen to receive their regular paycheck via check and (b) former employees of FEMS. The administrator will send FEMS any updated address information that it has prior to the issuance of the checks so that FEMS can send the checks to the most recent address. For any checks returned to the District for lack of a correct address, the District will send a letter to the address on file concerning the returned payment. If the District does not receive a response, the payment is treated as unclaimed property subject to the provisions set forth in the Revised Uniform Unclaimed Property Act of 2021, D.C. Law 24-45 (Nov. 13, 2021, codified at D.C. Code § 41-151.01 *et seq*.). Each mailed check shall become void 180 days after issuance. Any checks not cashed pursuant to this section shall be deposited with the District of Columbia Office of the Chief Financial Officer Unclaimed Property Unit.

3.16 If the Settlement Administrator has remaining funds out of the allocated $117,403.18 for Liquidated Damage Settlement, the Settlement Administrator will hold those funds for an additional 60 days. After the additional 60 days, remaining funds can be used to pay the settlement administrator for any costs incurred by the settlement administrator, as documented by the settlement administrator using its standard rates and methods, that exceed the $16,500 initial estimate, as set forth in paragraph 3.2, to be capped at $25,000. Migliaccio & Rathod LLP must approve any additional payments paid to the settlement administrator from these remaining funds. After paying for any excess and documented settlement administration costs, any remaining funds will revert to the District of Columbia General Fund. The Settlement Administrator will send any remaining funds to the District by check or wire transfer.

3.17 If the District has remaining funds out of the allocated $117,403.18 for Backpay Settlement Payments after all payments have been issued by the District in accordance with

paragraphs 3.14, and 3.15, the District will hold those funds for an additional 60 days. After the additional 60 days, the District will retain the remaining funds.

3.18 Other than the withholding and reporting requirements stated in this Section, collective action members shall be solely responsible for the reporting and payment of their share of any federal, state and/or local income or other taxes on payments received pursuant to this agreement. All payments to putative collective action members shall be deemed to be paid solely in the year in which such payments are received by putative collective action members.

3.19 The Parties agree that neither this Agreement nor the payment required under this Agreement shall be subject to assignment.

IV. RELEASES

4.1 Subject to paragraph 2.1, Plaintiff and the collective action members for themselves, and their spouses and families, attorneys (if any), agents, executors, administrators, personal representatives, heirs, successors, any future estates, assigns and beneficiaries, and any and all of them (collectively, the "Releasers"), voluntarily and with the advice of counsel, fully and forever release, acquit, and discharge Defendant, its present or former officers, directors, subsidiaries, affiliates, parents, partners, employees, agents, attorneys, accountants, executors, administrators, personal representatives, heirs, successors and assigns, and any or all of them and all persons acting by, through, under, or in concert with any of them (collectively, the "Releasees"), in their personal, individual, official and/or corporate capacities, from all wage and hour claims asserted in the Lawsuit for the failure to include the $14 per diem payment in the regular rate of pay for purposes of FLSA overtime for the period from March 16, 2020, through the Effective Date (the "Released Claims").

4.2 As further consideration for the District's agreement to pay the Settlement Amount, Plaintiff and the collective action members agree that they and their agents, heirs, and assigns will

not file a suit or claim in any forum against the Defendant, to include all persons who are or have been agents, employees, officers, officials, attorneys or servants of the District, arising wholly or partially from events relating to the Released Claims brought by Plaintiff and, in the event that any such suit or claim is filed, to cooperate fully with the District to secure the prompt dismissal of such suit or claim. Plaintiff and the collective action members further agree to indemnify and hold harmless the Defendant against any and all actions, liens, damages, claims and demands asserted by or on behalf of his current attorneys for any fees or costs associated with representing Plaintiff and the collective action members in connection with this litigation, provided, however, that this undertaking does not apply to any action to enforce the Agreement in the event of the District's failure to comply with its terms.

4.3 Plaintiff and the collective action members agree that they are entering into this Agreement knowingly, voluntarily, and with full knowledge of its significance. By accepting payment, Plaintiff and each collective action member affirms that he/she has not been coerced, threatened, or intimidated into agreeing to the terms of this Agreement, and he/she has been advised to consult with their attorney should they have any questions.

4.4 This Agreement creates no obligations or duties on the Parties other than as stated specifically in this Agreement. This Agreement does not create any rights that can be relied upon or enforced by individuals who are not the Parties to this Agreement. The Parties stipulate, agree and acknowledge that this Agreement is not intended to create any third-party beneficiaries.

V. DISMISSAL OF CLAIMS

5.1 Plaintiff agrees to dismissal of all claims asserted in the Lawsuit against Defendant, as specified and described in Paragraph 4.1, with prejudice. Within 7 days from the Effective Date, Plaintiff will dismiss the claims asserted in the Lawsuit.

VI. NO ADMISSION OF LIABILITY

6.1 Nothing contained herein shall be deemed to be an admission by the Defendant, the District of Columbia and FEMS, or any of the present or former officials, employees, representatives and agents of the Defendant of the truth of any of the allegations contained in the complaint, or an admission that Defendant or any of the present or former officials, employees, representatives and agents of Defendant have in any manner or way violated Plaintiff's or the putative collective's rights, or the rights of any other person or entity, as defined in the Constitution, statutes, ordinances, rules or regulations of the United States, the District of Columbia, or any other rules, regulations or bylaws.

VII. CONTINUED JURISDICTION

7.1 The United States District Court for the District of Columbia shall have continuing jurisdiction to construe, interpret and enforce the provisions of this Agreement, and to hear and adjudicate any dispute or litigation arising from this Agreement or the issues of law and facts asserted in or related to the instant action.

VIII. PARTIES' AUTHORITY

8.1 The signatories hereby represent that they are fully authorized to enter into this Agreement and to bind the Parties hereto to the terms and conditions hereof.

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

8.3 Any signature made and transmitted by facsimile or email for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement.

8.4 The individual signing for the Defendant is its official acting within the scope of his or her authority. The Parties stipulate, agree and warrant that they will not challenge or contest in any way the capacity or the authority of any Party to make the agreements, covenants and stipulations.

IX. MUTUAL FULL COOPERATION

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

9.2 If any term or other provision of this Agreement is determined to be invalid, illegal, or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated here are not affected in any manner materially adverse to any Party. Upon such a determination that any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated here are fulfilled to the extent possible.

X. MODIFICATION

10.1. This Agreement and its attachments may not be changed, altered, or modified, except in writing and signed by the Parties hereto.

XI. ENTIRE AGREEMENT

11.1. This Agreement and its attachments constitute the entire agreement between the Parties concerning the subject matter hereof. No extrinsic oral or written representations or terms

shall modify, vary or contradict the terms of this Agreement. In the event of any conflict between this Agreement and any other settlement-related document, the Parties intend that this Agreement shall be controlling.

XII. CHOICE OF LAW/JURISDICTION

12.1. This Agreement shall be subject to, governed by, construed, enforced, and administered in accordance with the laws of the District of Columbia. This Agreement shall be construed as a whole according to its fair meaning and intent, and not strictly for or against any party, regardless of who drafted or who was principally responsible for drafting this Agreement or any specific term or condition thereof.

XIII. MISCELLANEOUS

13.1 This Agreement shall be construed without regard to any presumption or other rule of law requiring construction against the Party who drafted it.

13.2 Provided that all Parties execute a copy of this Agreement, the Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute the same instrument. Executed copies of this Agreement may be delivered by facsimile transmission, electronic mail, or other comparable means. This Agreement shall be deemed fully executed and entered on the date of execution by the last signatory.

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

Plaintiff, Jason Collins

DATED: 06/18/2025

BRIAN L. SCHWALB
Attorney General for the District of Columbia

CHAD COPELAND
Deputy Attorney General
Civil Litigation Division

Jason Rathod

Jason S. Rathod
Migliaccio and Rathod LLP
412 H St. NE
Washington DC 20002

Counsel for Plaintiff

DATED: 06/18/2025

Fernando Amarillas

FERNANDO AMARILLAS [974858]
Assistant Deputy Attorney General

HELEN M. RAVE [90003876]
Assistant Attorney General
Equity Section
400 Sixth Street, N.W., Suite 10100
Washington, D.C. 20001
(202) 735-7520
helen.rave@dc.gov

Counsel for Defendant

DATED: 6/26/2025