

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

<b>CYNTHIA MURPHY,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:09CV00007
	)	
<b>DOLGENCORP, INC.,</b>	)	
	)	
Defendant.	)	

<b>TERESA HALE,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:09CV00014
	)	
<b>DOLGENCORP, INC.,</b>	)	
	)	
Defendant.	)	

**OPINION AND ORDER**

*C. Lance Gould, Beasley, Allen, Crow, Methvin, Portis & Miles, P.C., Montgomery, Alabama, for Plaintiffs, and Ronald E. Manthey, Morgan, Lewis & Bockius LLP, Dallas, Texas, for Defendant.*

In these related actions under the provisions of the Fair Labor Standard Act (“FLSA”), 29 U.S.C.A. §§ 201-219 (West 1998 & Supp. 2010), the parties have filed a Joint Motion for Order Approving Individual Settlements. Because the parties

condition approval on keeping the amount of the settlements confidential, and have not shown good cause for such secrecy, I will deny the motion.

The plaintiffs seek overtime pay on the ground that they did not fall within the executive exemption contained in the FLSA.<sup>1</sup> The parties now announce that they have reached settlements of the claims. Settlement of an employee's FLSA action must be approved by the court through "a stipulated judgment after scrutinizing the settlement for fairness." *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1353 (11th Cir. 1982).

In their motion, the parties advise that their settlements are "confidential," but that while not waiving such confidentiality, they "are willing to submit the exact amount of the settlement, or the settlement agreements themselves, for *in camera* inspection to enable the Court to assess the reasonableness of the settlements if requested to do so." (Mot. 6.)

Of course, I could not judge the fairness of any settlement without knowing the amount of money paid. In camera inspection of such essential evidence in these circumstances is the functional equivalent of a filing under seal. *See Dees v. Hydradry, Inc.*, No. 8:09-cv-1405-T-23TBM, 2010 WL 1539813, at \*11 n.21 (M.D.

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<sup>1</sup> *See Hale v. Dolgencorp, Inc.*, No. 1:09CV00014, 2010 WL 2595313 (W.D. Va. June 23, 2010) (denying defendant's Motion for Summary Judgment).

Fla. Apr. 19, 2010); *Bartelloni v. DeCastro*, No. 05-80910-CIV, 2007 WL 2155646, at \*1 (S.D. Fla. July 26, 2007). This court’s rules require a request for sealing to be supported by a statement of the reasons why sealing is necessary and provide that “[n]o confidentiality agreement or other agreement of the parties . . . will allow the filing of sealed documents without adherence to [the] provisions [of the rule]. W.D. Va. Gen. R. 9(g).

Because of the FLSA’s underlying policies, “the public’s right of access to judicial records and documents applies with particular force to settlement agreements in FLSA wage-settlement cases.” *Poulin v. Gen. Dynamics Shared Res., Inc.*, No. 3:09-cv-00058, 2010 WL 1257751, at \*2 (W.D. Va. Mar. 26, 2010), *reconsideration denied*, 2010 WL 1655962 (Apr. 23, 2010); *see Boone v. City of Suffolk, Va.*, 79 F. Supp. 2d 603, 609 (E.D. Va. 1999) (“[I]n an FLSA action, where federal law requires court approval for fairness before any settlement can be executed, the public has an interest in determining whether the Court is properly fulfilling its duties when it approves a back-wages settlement agreement.”).

The parties do not set forth in their motion any reasons for not publicly disclosing the amounts of the settlements, other than they are “confidential.” However, simply not wanting others to know of the details of a settlement is not

sufficient cause. *Allen v. Dolgencorp, Inc.*, No. 5:09-CV-18 (HL), 2010 WL 1172614, at \*1 (M.D. Ga. Mar. 25, 2010).<sup>2</sup>

For these reasons, it is **ORDERED** that the Joint Motion for Order Approving Individual Settlements is **DENIED** without prejudice.

ENTER: September 21, 2010

/s/ JAMES P. JONES  
United States District Judge

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<sup>2</sup> It is possible that sealing the settlement agreements for a limited period of time might be approved, if justified by good cause. *See id.*, order Apr. 8, 2010, at 2, ECF No. 35. In addition, if such limited sealing were permitted, the parties would be required to submit under seal the amount of the plaintiffs' overtime claims, liquidated damages claims, amount of plaintiffs' attorneys' fees and expenses paid from the settlements, and the basis for the calculations of the attorneys' fees. *See id.*