

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made this ____ day of March 2022 by and between Plaintiff, Patrick J. Leonard (“Plaintiff” or “Leonard”), on the one hand, and the New Jersey Intergovernmental Insurance Fund (“NJIF”), for itself and on behalf of its insureds, the City of Bayonne (referred to herein as the “City”) and Joseph DeMarco (“DeMarco”) and DeMarco individually. Plaintiff, the NJIF and DeMarco shall be collectively referred to herein as “the Parties” or individually as a “Party”. The Agreement shall be deemed entered into as of the date of signature of the last Party or Party representative to sign this Agreement.

WITNESSETH

WHEREAS, Plaintiff filed suit against the City and DeMarco (jointly referred to herein as “Defendants”) in the New Jersey Superior Court, Hudson County under Docket No. HUD-L-2925-16 (the “Complaint”); and

WHEREAS, counsel for the Defendants removed the Complaint to U.S. District Court for the District of New Jersey, where it was assigned docket No. 2016 cv-05320; and

WHEREAS, counsel for the Defendants filed an answer to the Complaint and a counterclaim (the “Counterclaim”) against Plaintiff on behalf of DeMarco; and

WHEREAS, Plaintiff, NJIF and DeMarco have collectively agreed to resolve all claims that form the basis for the Complaint and Counterclaim and wish to memorialize their settlement herein.

NOW THEREFORE, in consideration of the mutual promises and covenants made herein, the Parties agree as follows:

1. As consideration for Plaintiff’s covenants, representations and other promises set forth in this Agreement, and following delivery to the NJIF of (a) an executed copy of this Agreement, (b) Plaintiff’s date of birth, social security number and current address, (c) a copy of a clear Charles Jones search, (d) a copy of the attached Stipulation of Dismissal with Prejudice executed by Plaintiff’s attorneys, and (e) an executed W-9 form from Plaintiff’s attorneys, the NJIF shall deliver to counsel for Plaintiff a check in the lump sum amount of \$125,000 (the “Settlement Sum”). The check in payment of the Settlement Sum shall be made payable to “the Trust Account of Bruno, Gerbino, Soriano & Aitken as attorneys for Patrick J. Leonard” and delivered to Vincent Gerbino, Esq. of Gerbino, Soriano & Aitken (defined herein as “Plaintiff’s Attorneys” or “counsel for Plaintiff”) within 30 days of the NJIF’s receipt of the executed settlement agreement at the following address:

Vincent Gerbino, Esq.
Gerbino, Soriano & Aitken
445 Broad Hollow Rd., Suite 420
Melville, NY 11747

Plaintiff acknowledges and agrees that no portion of the Settlement Sum shall be distributed to him or counsel for Plaintiff unless and until a check in the amount of three thousand dollars (\$3,000.00) has been delivered to counsel for DeMarco herein, said sum being in settlement of the Counterclaim (referred to herein as the "Counterclaim Settlement Sum") as set forth in paragraph 2 of this agreement

2. As partial consideration for the Settlement Sum, Leonard, for himself and on behalf of his successors, spouse, heirs, beneficiaries, estates and assigns (individually and collectively referred to herein as "Releasors") does hereby fully and forever release, remit, acquit, remise, hold harmless and discharge (the "Release") the City and the NJIF, as well as their respective past and present officials, agents, commissioners, attorneys, insurers, departments, volunteers, officers and employees (for individuals, said Release runs to them in their official and personal capacities), including but not limited to DeMarco, and all of their respective heirs, estates, successors and assigns, (hereinafter, individually and collectively referred to as "Releasees"), jointly and individually, from any and all liabilities, claims, causes of action, charges, appeals, complaints, obligations, costs, losses, damages, injuries, attorneys' fees and other legal responsibilities, of any form or kind whatsoever, whether vested or contingent, which Releasors have, had or may have against Releasees from the beginning of time through the date of this Agreement, including without limitation all claims contemplated or raised or possible of assertion in the Complaint, any claims in law, equity, contract, insurance obligation, tort, public policy, any claims or causes of action for breach of contract, negligence, retaliation, harassment and/or discrimination based upon, among other things, disability, handicap, sex, age or race, negligent or intentional infliction of emotional distress, mental and emotional anguish and distress, embarrassment, humiliation, loss of reputation, diminished earnings capacity, permanent damage to professional reputation, defamation, any claims arising under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 6, et seq. ("ADEA"); Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §§ 2000e, et seq., ("Title VII"); the Reconstruction Era Civil Rights Act, as amended, 42 U.S.C. §§ 1981, § 1983, et seq. ("Civil Rights Act"); the Civil Rights Act of 1991, as amended, 42 U.S.C. § 1981a, et seq. ("CRA of 1991"); the Americans with Disabilities Act, 42 U.S.C. §§ 12101, et seq. ("ADA"); the Family and Medical Leave Act, 29 U.S.C. §§ 2601, et seq. ("FMLA"); the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. ("FLSA"); the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, et seq. ("ERISA"); the Equal Pay Act, 29 U.S.C. § 201, et seq., (EPA"); the Rehabilitation Act of 1973, 29 U.S.C. §§ 701, et seq. ("RA"); the Pregnancy Discrimination Act, 42 U.S.C. §§ 2000, et seq. ("PDA"); the Whistleblower Protection Statutes, 10 U.S.C. § 2409, 12 U.S.C. § 1831j, 31 U.S.C. § 5328, 41 U.S.C. § 265, (collectively as "WPS"); the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq.; the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq. ("LAD") including but not limited to the Equal Pay Act, the New Jersey Family Leave Act, N.J.S.A. 34:11B-1, et seq. ("FLA"); the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq. ("CEPA"); New Jersey Worker Freedom from Intimidation Act, N.J.S.A. 34:19-9 et seq.; the New Jersey Wage and Hour Law, N.J.S.A. 34:11-56a, et seq. ("WHL"); the New Jersey Discrimination in Wages Law, N.J.S.A. 34:11-56.1, et seq. ("DWL"); the New Jersey Workers' Compensation Law, N.J.S.A. 34:15-39.1, et seq. ("NJWC"); and the New Jersey Wage Payment Law, N.J.S.A. 34:11-4.1, et seq. ("WPL), the United States Constitution, the New Jersey Constitution, or any other federal, state or local statute, ordinance or law whether such claims are known or unknown, unforeseen, unanticipated, unsuspected or latent, and any claims which were raised or could have been raised

prior to the date of this Agreement, whether known or unknown, unforeseen, unanticipated, unsuspected or latent (all of the foregoing being collectively referred to as "Claims").

Plaintiff expressly understands and acknowledges that it is possible that unknown Claims exist or that present losses may have been underestimated in amount or severity. Plaintiff expressly accepts and assumes the risk of such unknown or underestimated losses or Claims and acknowledges and agrees that the benefits to be provided to him pursuant to this Agreement fully compensate him for such risks. Further, Plaintiff agrees that he will not seek further employment or appointment to any position with the City or any of its Boards or agencies.

In addition, as consideration for and following payment of the Counterclaim Settlement Sum, DeMarco hereby agrees to dismiss with prejudice all claims and causes of action that were asserted or were capable of assertion against Leonard in the Counterclaim, said dismissal being effected through the Stipulation of Dismissal with Prejudice provided in Paragraph 1, above.

3. Leonard promises and agrees that he will not file, re-file, appeal, initiate or cause to be filed or initiated any Claim or other proceeding based upon, arising out of, or related to any facts, Claims or causes of action subsumed within the Release, nor shall he solicit, encourage, participate, assist or cooperate in any Claim against any of the Releasees, whether before a court or administrative agency, unless compelled to do so by law.

4. This Agreement is not an admission by any the Defendants and/or any of their agents, employees or representatives of any wrongdoing or liability and is being entered into solely for the purpose of economic expediency. There are no prevailing parties in this matter. The Settlement Sum is inclusive of attorneys' fees and costs. None of the City, NJIIF, DeMarco or any other Releasee is obligated to pay any monies in excess of the Settlement Sum.

5. Plaintiff/Releasors agrees that they shall not disparage or engage in any act which is intended, or reasonably may be expected to harm the reputation, mission or operations of any Releasees.

6. Leonard represents and warrants that no other person or entity has any interest in the Claims that comprise or could have been raised in the Complaint or in any other demands, obligations, or causes of action referred to in this Agreement, and that he has the sole right and exclusive authority to execute this Agreement and receive the benefits specified. Leonard further represents that he has not sold, assigned, transferred, conveyed or otherwise disposed of any of the Claims which comprise the Complaint, or any other demands, obligations, or causes of action referred to in this Agreement. Plaintiff further acknowledges that the only consideration for signing this Agreement are the terms stated in this Agreement, and that no other promise or agreement of any kind has been made to him by any person or entity whatsoever to cause her to sign this Agreement; that he is competent to execute this Agreement; that he has been advised in writing and given the opportunity to consult advisors, legal or otherwise, of his own choosing; and that he fully understands the meaning and intent of this Agreement. No change to or modification of this Agreement shall be valid or binding unless it is in writing and signed by Plaintiff, the City and the NJIIF.

7. If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications and to this end the provisions of this Agreement are declared to be severable.

8. No waiver or any breach of any term or provision of this Agreement shall be construed as, nor shall it be, a waiver of any other term of this Agreement. No waiver shall be binding unless in writing and signed by the Party waiving the breach.

9. This Agreement shall inure to the benefit of and be binding upon the heirs, representatives, successors, and assignees of each of the Plaintiff and all Releasees. Each Releasee who is not a signatory to this Agreement is intended to be a third-party beneficiary of this Agreement. Each such person shall be entitled to enforce this Agreement and each of its terms.

10. This Agreement represents the entire agreement understanding between the Parties, constitutes the complete, final and exclusive embodiment of their agreement with respect to the subject matter hereof, and supersedes and replaces any and all prior agreements and understandings, both written and oral, concerning the subject matter hereof. The terms of this Agreement are contractual and not mere recitals. This Agreement may not be changed or modified, except by a writing signed by the Parties hereto.

11. This Agreement will be governed by and construed under the laws of the State of New Jersey and shall not be construed for or against any Part based on attribution of drafting to any Party.

12. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on that part of each of the undersigned.

13. Plaintiff hereby covenants that if the Charles Jones search provided in Paragraph 1 discloses any outstanding judgement, or any other liens exist against the Settlement Sum, he will be obligated to and shall ensure that they are paid in full, compromised or satisfied and released by them prior to delivery of the Settlement Sum or out of the proceeds thereof. Plaintiff acknowledges and agrees that (a) no distribution of any of the funds in the Settlement Sum shall be paid to Plaintiff's Attorney until said liens and judgments are fully paid and satisfied, and (b) that if the Charles Jones search discloses a child support lien or judgement, in the event same is not removed from the record via a warrant of satisfaction by Plaintiff, the NJIIF shall have the right to apply the Settlement Sum directly to satisfaction of the judgement or lien. Further, if a lien exists which is not satisfied as required by this Agreement, and a claim is made by anyone to enforce that lien against the City or NJIIF, Plaintiff agrees that he will defend and indemnify the NJIIF from and against all such claims. This representation is intended to include all liens, past, present and future, including, but not limited to, governmental liens, Social Security liens, child support or custody liens, attorneys' liens, medical provider liens, Medicare and judgment liens. Plaintiff agrees to indemnify and hold the City and the NJIIF and all of their insurance carriers harmless in connection with any claim made by reason of liens against or tax obligations associated with payment of the Settlement Sum. If a claim is hereafter made against the City

and/or NJIIF or their insurance carriers by anyone seeking payment of the liens, Plaintiff will indemnify and hold the City and NJIIF and their insurance carriers harmless for any such liens and/or defending against such a claim, including, but not limited, attorneys' fees, costs of suit, and interest.

14. Plaintiff represents and warrants that he is not Medicare eligible and/or enrolled and that Medicare has not (pursuant to 42 U.S.C. §1395y(b) and the corresponding regulations) made any conditional payments for medical services or items provided to Plaintiff and arising from or relating to any claim, accident, occurrence, act, error, omission, bodily injury, disease, loss, or damages that are subject to the release herein. In consideration of the promises made by the NJIIF in this Agreement, including but not limited to payment of the Settlement Sum, Plaintiff agrees that he shall be responsible for satisfying any future claims for reimbursement of conditional payments that may be asserted by Medicare, and that the Releasees shall have no obligation to satisfy any such claims for reimbursement. Plaintiff and/or her estate agree to investigate and assume any responsibility and/or liability to pay any current Medicare liens that may be related to the injury in question. Further, Plaintiff and/or her estate agree to pay any future Medicare liens that may arise that are determined to be related to the injury that is the subject of the Action.

15. The Parties acknowledge and agree that an electronic signature/electronically executed versions of this Agreement, shall have the same force and effect as an original signature and/or originally executed hereof.

16. The Parties agree that all representations and warranties made herein shall survive settlement.

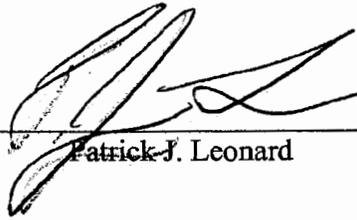
17. Each Party represents that it has had the opportunity to consult with an attorney and has carefully read and understands the scope and effect of the provisions of this Agreement and signs this Agreement of its own free will. No Party to the Agreement has relied upon any representations or statements made by any other Party hereto which are not specifically set forth in this Agreement. The Parties each understand how this Agreement will affect their legal rights and voluntarily enter into this Agreement with such knowledge and understanding.

18. In the event Plaintiff breaches any covenant contained in this Agreement, including but not limited to those contained in Paragraphs 2 and 5, he will be liable for the City's and NJIIF's attorney's fees, costs of suit and all damages the Court deems appropriate in the event the City and/or the NJIIF move(s) to enforce this Agreement.

19. This Settlement Agreement is executed voluntarily and without any duress, coercion or undue influence on the part or behalf of the Parties hereto, with the full intent of releasing all claims asserted in the Claim. The Parties acknowledge that:

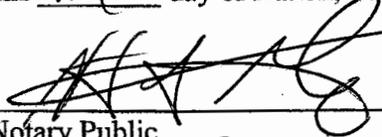
- (a) They have read this Agreement;
- (b) They have been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice or that they have voluntarily declined to seek such counsel;
- (c) They understand the terms and consequences of this Agreement and of the releases it contains; and
- (d) They are fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.



Patrick J. Leonard

Sworn to and subscribed before me
this 22nd day of March, 2022



Notary Public
VINCENT F. GERBINO ESQ.

Date:

Witness

Joseph DeMarco

The New Jersey Intergovernmental Insurance
Fund, On behalf of its insureds, the City of
Bayonne

Date:

Witness

Eric J. Nemeth, General Counsel, NJIIF