

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This settlement agreement is entered into on this ____ day of February 2022, by and between Rise Against Hate.Org and Township of Montclair and Angelese Bermúdez Nieves.

RECITALS

WHEREAS, on or about December 2, 2021, Plaintiff instituted an action entitled Rise Against Hate.Org v. Township of Montclair et al., Docket No. ESX-L-9266-21, by way of Verified Complaint and Order to Show Cause pursuant to the Open Public Records Act ("OPRA"), N.J.S.A. § 47:1A-1 to -18 and the Common Law Right of Access, challenging Defendants' response to an OPRA request dated September 17, 2021 (hereinafter the "denial of access lawsuit"); and

WHEREAS, Defendants deny all allegations asserted against them in the denial of access lawsuit; and

WHEREAS, the Parties wish to amicably resolve all issues in this denial of access lawsuit via settlement agreement in order to avoid additional costs and further delays.

TERMS AND CONDITIONS

NOW THEREFORE, intending to be legally bound hereby and in consideration of the mutual covenants, conditions, obligations, and promises contained herein, the parties agree as follows:

1. **Records Production.** Defendants shall produce the spreadsheet comprising the list of subscribers to the Township's newsletter, specifically email addresses listed in random order, without any corresponding identifying information. The Parties agree that this production will constitute a complete response to Plaintiff's underlying September 17, 2021, OPRA request.

2. **Consideration.** Defendants shall pay to Plaintiff's counsel, Law Offices of Eric A. Shore, the sum of \$3,500.00, which shall fully satisfy Plaintiff's alleged right to attorneys' fees and litigation costs pursuant to N.J.S.A. § 47:1A-6. Law Offices of Eric A. Shore shall provide Defendants with a W-9 form and recognizes that it is solely responsible for the payment of all taxes related to the Settlement Sum, and shall indemnify and hold harmless Defendants for any amounts found due and owing to tax authorities for any tax liabilities for which Law Offices of Eric A. Shore is responsible.

3. **Dismissal.** Plaintiff agrees to dismiss this denial of access lawsuit with prejudice upon Defendants' satisfaction of their obligations under this agreement. The Parties shall execute and file with the court a Stipulation of Dismissal to that effect following the production of records described above and the payment of attorneys' fees.

4. **Release.** This Agreement shall serve as a full and final release of all claims, counterclaims, cross-claims, and any other legal rights or privileges, known or unknown, that were asserted, or which could have been asserted, in the denial of access lawsuit regarding the handling of the subject OPRA request, as well as any defenses or claims that Defendants had or could have asserted against Plaintiff relating to the allegations in the denial of access lawsuit. This release shall not waive the Parties' claims/rights regarding enforcement of this Settlement Agreement. Both Plaintiff and Defendants agree to waive any and all rights to appeal, reconsideration, or further review of this matter by any court, administrative agency, or other forum.

5. **Non-Admission of Liability.** This Agreement does not in any way constitute an admission of liability or wrongdoing by any of the Defendants and/or any of their agents, employees or representatives concerning the allegations raised in the denial of access lawsuit.

6. **Binding Effect.** This Agreement shall bind the parties and their respective heirs, successors, assigns, officers, employees, officials, and agents.

7. **Proper Authority.** Both parties represent that this Agreement has been voluntarily executed by the persons with the legal authority to do so.

8. **Full and Final Agreement.** This Agreement represents the entire agreement and understanding between the Parties to this Agreement, 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 to this Agreement.

9. **Severability.** Should any part of this Agreement be invalidated by a court of competent jurisdiction, that part shall be severed and the balance of the Agreement shall remain in full force and effect.

10. **Counterparts.** This Agreement may be signed in counterparts and shall be binding as if all parties executed the original thereof. A facsimile or electronically-transmitted signature shall have the same effect as an original signature.

11. **Governing Law.** This Agreement shall be governed by the laws of the State of New Jersey. Any disputes arising out of or related to this Agreement shall be venued in the Superior Court of New Jersey, Law Division, Essex County vicinage.

12. **Attorney Review.** Each signatory to this Agreement represents that he/she 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 his/her own free will. No signatory to this Agreement has relied upon any representations or statements made by any other signatory hereto other than those specifically set forth in this Agreement. Each signatory to this Agreement understands how this Agreement will affect that party's legal rights, and each signatory voluntarily enters into this Agreement with such knowledge and understanding.

13. **Attestation.** The signatories to this Agreement 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;
- (c) They fully understand the terms and consequences of this Agreement and of the releases it contains;
- (d) They are fully aware of the legal and binding effect of this Agreement;
- (e) Person who signs for the parties attest that they have legal authority to bind the entity they are suing for.

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates set forth below. **AGREED, STIPULATED, AND SETTLED BY AND BETWEEN:**

RISE AGAINST HATE.ORG

BY:

2022-09-17 14:28:19 UTC - 188.84.128.47
697126e47149-4a59-9286-ec307097a738

DATED: 02/17/2022

TOWNSHIP OF MONTCLAIR

BY:



DATED:

2/8/22