

GENERAL RELEASE

THIS GENERAL RELEASE (hereinafter "this Release") is entered into by and between J.C. (hereinafter "Plaintiff") and BOROUGH OF CLEMENTON, Gene Richards, Anthony H. Ogozalek Jr., Randall Freiling, Donna Carns, Kimberly Morrell, Jenai Johnson, Sgt. Robert Worrick, and Charles Grover, and Clementon's past and present officers, employees and agents (hereinafter "Defendants").

WHEREAS, Plaintiff, J.C., filed a Complaint against Defendants and others in the United States District Court for the District of New Jersey, entitled J.C. v. Gene Richards, Anthony H. Ogozalek Jr., Randall Freiling, Donna Carns, Kimberly Morrell, Jenai Johnson, Sgt. Robert Worrick, Charles Grover, and Borough of Clementon, bearing Case Action No. 1:18-cv-13947-NLH, and has asserted claims against the in connection with alleged events arising out of Plaintiff's compliance with a Clementon Borough Ordinance; and

WHEREAS, the parties settled all controversies between them, including Plaintiff's claims bearing Case Action No. 1:18-cv-13947-NLH, and any and all related claims which could have been asserted, whether they are presently known or unknown; and

WHEREAS, vigorously and wholly deny each and every allegation made by Plaintiff, and enters into this settlement for reasons other than the merits of Plaintiff's claims, including to avoid the cost of litigation; and

NOW, for and in consideration of the Agreements, covenants and conditions herein contained, the adequacy and sufficiency of which is hereby expressly acknowledged by the parties hereto; it is agreed as follows:

1. Terms of Settlement:

- a. The Defendants hereby agree to pay J.C. the total settlement amount of \$ 2500.00, said settlement amount being fully and completely inclusive of all attorney's fees and costs incurred by counsel for Plaintiff and interest;
- b. Plaintiff agrees that, but for this General Release, he would not be entitled to the aforesaid payment and other terms of settlement described in the subsections under this paragraph;
- c. The settlement amount shall be paid by the Borough of Clementon in the form of one check delivered to Plaintiff. Payment shall be made within ~~thirty~~ 30 days upon receipt by George J. Botcheos, Esquire of an original of this Release executed by the Plaintiff and a W-9 executed by Plaintiff, and Child Support Judgment Searches for the Plaintiff as required by the applicable statute;

- d. **Tax Consequences.** This settlement amount is for non-economic damages including pain, suffering, humiliation, emotional distress, embarrassment, loss of enjoyment of life, disability, attorneys' fees and costs, said settlement amount being fully and completely inclusive of all claims of any nature, sort, or variety, including claims for costs incurred by Plaintiff. No part of the payment represents, or is intended to represent, payment for lost income or for punitive damages. The payment is not intended to represent economic gain to the Plaintiff. The parties understand and agree that an IRS Form 1099 designated in a settlement amount as "other income" will be issued. Plaintiff agrees to assume full liability for applicable state, federal and local taxes that may be required by law to be paid with respect to any settlement of payment described herein. Plaintiff further agrees that in the event that the Internal Revenue Service or any other taxing authority deems any tax, interest, penalties or other amounts to be due from the with respect to its settlement, Plaintiff will fully and completely indemnify the Defendants for any sums the Defendants may be required to pay, including reasonable costs. It is the intent of the parties that the payments in paragraph 1a above will be the Defendants' total payments to or for the benefit of Plaintiff. Plaintiff acknowledges and agrees that he is solely and completely responsible for any tax obligations, liabilities, or consequences arising out of the execution of this General Release and the payment under paragraph 1. Plaintiff acknowledges that neither Defendants, nor any of their representatives or attorneys, nor Plaintiff, has made any promise, representation, or warranty, express or implied, regarding the tax consequences of the payment under paragraph 1. Plaintiff is solely responsible for tax treatment of the sums paid pursuant to this General Release; and
- e. Plaintiff, J.C. certifies and warrants to the Defendants that he has no outstanding judgments for child support and that appropriate judgment searches have been conducted. Plaintiff agrees to provide a copy of said judgment searches to the Defendants in accordance with the applicable statute as part of the settlement. In the event Plaintiff has outstanding child support judgments, Plaintiff hereby agrees that he will satisfy all such outstanding judgments out of the proceeds of this settlement and that he will fully and completely indemnify the for any sums the may be required to pay, including reasonable attorney's fees and costs, with respect to any such outstanding judgments.
2. **Dismissal of Action.** Plaintiff understands and agrees that George J. Botcheos, Esquire, counsel for the Defendants, will file the executed original of the Stipulation of Dismissal with Prejudice with the United States District Court for the District of New Jersey, after all settlement funds are received by Plaintiff and clears its account. The Plaintiff understands and agrees that the terms of the aforesaid dismissal are expressly incorporated by reference within this General Release as if fully set forth herein.
3. **Release in Consideration for the Payment and the Consideration Provided for in this**

Agreement. Plaintiff personally and for his estate and/or heirs waives, releases and gives up any and all claims, demands, obligations, damages, including punitive damages, liabilities, causes of action and rights, in law or in equity, known and unknown, that he may have against the , its officers, agents, representatives and employees (present and former), and its respective successors and assigns, heirs, executors and personal or legal representatives, based upon any act, event or omission occurring before the execution of this Release including, but not limited to, any events related to, arising from, or in connection with Plaintiff's interactions with the Defendants, Gene Richards, Anthony H. Ogozalek Jr., Randall Freiling, Donna Carns, Kimberly Morrell, Jenai Johnson, Sgt. Robert Worrick, Charles Grover, and BOROUGH OF CLEMENTON. Plaintiff specifically waives, releases and gives up any and all claims arising from or relating to or association with the based upon any act, event or omission occurring before the execution of this settlement including, but not limited to, any claim that was asserted or could have been asserted under any federal and/or state statutes, regulations and/or common law, expressly including, but not limited to, any potential claim regarding:

- a. The National Labor Relations Act;
- b. Title VII of the Civil Rights Act of 1964;
- c. Sections 1981 through 1988 of Title 42 of the United States Code;
- d. The Employment Retirement Income Security Act of 1974.
- e. The Immigration Reform Control Act;
- f. The Americans with Disabilities Act of 1990;
- g. The Age Discrimination & Employment Act of 1967;
- h. The Fair Labor Standards Act;
- i. The Occupational Safety & Health Act;
- j. The Family & Medical Leave Act of 1993;
- k. The Equal Pay Act;
- l. The New Jersey Law Against Discrimination;
- m. The New Jersey Minimum Wage Law;
- n. The Equal Pay Law for New Jersey;
- o. The New Jersey Worker Health & Safety Act;
- p. The New Jersey Family Leave Act;
- q. The New Jersey Conscientious Employee Protection Act;
- r. Any anti-retaliation provision of any statute or law;
- s. Any other federal, state or local, civil or human rights law or any other local, state or federal law, regulation or ordinance, any provision of any federal or state constitution, any public policy, contract, tort or common law, or any losses, injuries or damages (including back pay, front pay, liquidated, compensatory or punitive damages, attorney's fees and litigation costs);
- t. Any common law claims for negligence, assault, battery, infliction of emotional distress and any and all other common law claims, including but not limited to, loss of consortium claims arising out of this litigation; and
- u. 42 U.S.C. § 1983, 1988.

This Agreement does not apply to any claims that cannot be released as a matter of law, such as those that arise after the date Claimant executes this Agreement or claims for ERISA plan benefits. This Agreement does not apply to any worker's compensation claim or claims that may be asserted by Plaintiff.

4. No Admission of Liability. It is expressly understood that neither the execution of this Agreement nor any other action taken by the in connection with Plaintiff's alleged claims or this settlement, constitutes an admission by the of any violation of any law, duty or obligation, or that any decisions or actions taken in connection with Plaintiff was unwarranted, unjustified, retaliatory, discriminatory, wrongful or otherwise unlawful. It is further understood that the Defendants have entered into this Agreement for reasons other than the merits of Plaintiff's claims including to avoid the cost of litigation and that the specifically deny any liability to Plaintiff or to any other person.
5. Entire Agreement. This Release contains the sole and entire Agreement between the parties hereto and fully supersedes any and all prior Agreements and understandings pertaining to the subject matter hereof. Plaintiff represents and acknowledges that, prior to executing this Release, he had ample time to obtain the advice of counsel prior to making the decision to execute the Release, and that Plaintiff has not relied upon any representation or statement not set forth in this Release made by any other party thereto, or his counsel or representatives, with regard to the subject matter of this Release. No other promises or Agreement shall be binding unless in writing, signed by the parties hereto, and expressly stated to represent an amendment to this Release.
6. Severability. Plaintiff agrees that if any Court declares any portion of this Agreement unenforceable, the remaining portion shall be fully enforceable.
7. Applicable Law. This General Release shall be construed and interpreted in accordance with the laws of the State of New Jersey. Plaintiff agrees that any action to enforce or interpret this Release shall only be brought in a court of competent jurisdiction of the State of New Jersey or the Federal Courts of New Jersey.
8. No Claims Permitted/Covenant Not to Sue. Plaintiff waives Plaintiff's right to file any charge or complaint on Plaintiff's own behalf and/or to participate as a complainant, a Plaintiff, or charging party in any charge or complaint which may be made by any other person or organization on Plaintiff's behalf, with respect to anything which has happened up to the execution of this General Release before any federal, state or local court or administrative agency against the Defendants, its employees, agents and representatives except if such waiver is prohibited by law. Should any charge or complaint be filed, Plaintiff agrees that Plaintiff will not accept any relief or recovery therefrom. Plaintiff confirms that no such charge, complaint or action exists in any forum or form other than the Complaint bearing Civil Action No. 1:18-cv-13947-NLH and covenants not to file any charge, complaint or action in any forum or form against the Defendants based upon anything which

is encompassed by the terms of this General Release. Except as prohibited by law, in the event that any such charge, complaint or action is filed by Plaintiff, it shall be dismissed with prejudice upon presentation of this General Release and Plaintiff shall reimburse the for the cost, including attorney's fees of defending any such action.

9. Inadmissibility of Release and Settlement Agreement. The parties agree that this Agreement and the terms relating to the settlement contained herein shall be inadmissible in any other proceeding(s) except in an action to enforce this Agreement.
10. Confidentiality. The parties acknowledge and agree that the Borough of Clementon, Gene Richards, Anthony H. Ogozalek Jr., Randall Freiling, Donna Carns, Kimberly Morrell, Jenai Johnson, Sgt. Robert Worrick, and Charles Grover may be obligated to disclose this agreement to persons under the New Jersey Open Public Records Act (OPRA) or common law. Notwithstanding the foregoing, Plaintiff agrees that he shall not disclose, or cause to be disclosed, the terms of this agreement, or the fact that this agreement exists, except to his immediate family, lawyers, accountants and/or tax advisors, or to the extent that may otherwise be required by law. In the event that this agreement is required to be disclosed pursuant to applicable law, Plaintiff agrees that his communication with any person or the media regarding the Action shall be limited to the statement that, "The claim was resolved to my satisfaction."
11. Liens. In reaching this Release, the parties have paid consideration and attention to possible entitlement to the Plaintiff, J.C., receipt of Medicare or Medicaid benefits under 42 U.S.C. § 1395 (y)(b)(2) to recover any overpayment made by Medicare. It is not the purpose of this Release to shift to Medicare or Medicaid the responsibility for the payment of medical expenses for the treatment of injury-related conditions. This settlement is intended to provide the Plaintiff, J.C., with a lump sum which will foreclose Defendants' responsibility for payments of any injury-related medical expenses including, but not limited to, funds for non-Medicare-covered or non-reimbursable medical expenses.

Plaintiff further agrees to hold harmless and indemnify from any cause of action including, but not limited to, an action to recover or recoup Medicare or Medicaid benefits or loss of Medicare or Medicaid benefits, if the Centers for Medicare and Medicaid Services determine that the money set aside was spent inappropriately or for any recovery sought by Medicare or Medicaid including past, present and future conditional payments. The settlement proceeds available to Plaintiff, J.C., shall be utilized for any claim for conditional payments made by Medicare or Medicaid including past, present and future.

Furthermore, in accordance with Perreira v. Rediger, 330 N.J. Super. 445 (App. Div. 2000), and all applicable law, Plaintiff personally guarantees and warrants that all liens and/or monetary obligations owed, whether public, private or otherwise, for any medical, wage or other benefits received by the Plaintiff, J.C., or paid by any third party on behalf of the Plaintiff, J.C., have been satisfied and paid off in their entirety out of the proceeds of this

settlement. Plaintiff further agrees and warrants that in the event any third party seeks to recover outstanding liens or judgment against the Plaintiff, J.C., from the Defendants with regard to the settlement, Plaintiff will fully and completely indemnify the Defendants for any sums the may be required to pay, including reasonable attorney's fees and costs.

12. Medicare Set-Aside. It is further expressly understood and agreed, to the extent applicable, Plaintiff covenants that he will set aside funds necessary in an approved Medicare Set-Aside Account, to pay for any anticipated future medical and/or healthcare needs of Plaintiff, for any injury and/or condition that requires treatment that arises from the injuries related and/or caused by the accident in question. In the alternative, Plaintiff shall, in concert and consultation with appropriate counsel, aver and covenant that he does not presently anticipate that he will require medical and/or healthcare treatment for any injuries and/or conditions related and/or arising from the Claims set forth herein. Further, should funds not be placed in an approved Medicare Set-Aside Account for Plaintiff, and care and treatment for injuries and/or conditions allegedly related to the Claims referenced herein be subsequently sought, then Plaintiff covenants and represents to the Released Parties, its insurance carriers, its attorneys and others in privity with them, that Plaintiff will not submit nor seek payment for said medical care from Medicare and/or any other government funded program. This covenant and representation shall be included as part of the indemnification obligations of Plaintiff stated herein.
13. Warranty of Capacity to Execute. Plaintiff represents and warrants that no other person or entity has or has had any interest in the claims, demands, obligations, or causes of action referred to in this General Release and that Plaintiff has the sole right and exclusive authority to execute this General Release and receive the sum specified above. Plaintiff further agrees to defend and indemnify against claims by any other person or entity that asserts an interest in the same claims, demands, obligations or causes of action referred to in this General Release. Plaintiff represents and warrants that he has not sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this General Release.
14. Strict Adherence. The failure of the parties to insist upon strict adherence to any term of this General Release and Settlement Agreement on any occasion shall not be considered a waiver thereof or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of the Agreement.
15. No Assignment. No party to this General Release may assign any of its benefits or delegate any of its duties thereunder without the express written consent of all other parties evidenced by a duly authorized and executed written instrument.
16. No Waiver of Breach. The waiver of any provision of this General Release shall not be construed or operate as a waiver of any subsequent breach.

17. Effective Date. This General Release will become effective on the date on which the parties have executed this General Release.

J.C.

BY SIGNING THIS AGREEMENT, PLAINTIFF, ~~John Spierhinski~~, AGREES THAT:

- a. PLAINTIFF HAS READ IT;
- b. PLAINTIFF UNDERSTANDS IT AND KNOWS THAT PLAINTIFF IS GIVING UP IMPORTANT RIGHTS, AND THAT PLAINTIFF IS GIVING UP SUCH RIGHTS OR CLAIMS IN EXCHANGE FOR A PAYMENT TO WHICH PLAINTIFF WAS NOT ALREADY ENTITLED;
- c. PLAINTIFF AGREES TO ABIDE BY ALL OF PLAINTIFF'S OBLIGATIONS IN SAID AGREEMENT;
- d. PLAINTIFF'S ATTORNEY NEGOTIATED THIS SETTLEMENT AGREEMENT AND RELEASE WITH PLAINTIFF'S KNOWLEDGE AND CONSENT;
- e. PLAINTIFF HAS BEEN ADVISED TO CONSULT WITH PLAINTIFF'S ATTORNEY PRIOR TO EXECUTING THIS SETTLEMENT AGREEMENT AND RELEASE, AND HAS IN FACT DONE SO;
- f. PLAINTIFF HAS SIGNED THIS SETTLEMENT AGREEMENT AND RELEASE KNOWINGLY AND VOLUNTARILY.

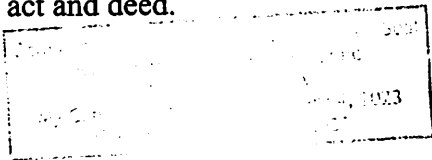
PLEASE READ CAREFULLY. THIS AGREEMENT HAS IMPORTANT LEGAL CONSEQUENCES.

By: J.C.
J.C.

WITNESS

DATED: 11-8-19
PA County of Philadelphia
STATE OF ~~NEW JERSEY~~, ~~COUNTY OF CAMDEN~~, SS.

I CERTIFY that on 11/08/, 2019, J.C. personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person) is named in and personally signed this document; and signed, sealed and delivered this document as his or his act and deed.



A. Lewis
Notary Public

My Commission Expires: 02/04/23

DATED: 11.8.2019 _____

Prepared by:

George J. Botcheos, Esquire
George J. Botcheos, chartered
1202 Laurel Oak Road, Suite 208
Voorhees, NJ 08043
(856) 258-6270

ADDENDUM

1 C. Full payment must be made within seven (7) days replacing 30 days.

3. 10 If the subject comes up I will say the matter was settled in replace of "The claim was resolved to my satisfaction". As she pointed out it is public record, and also the release indicates the same elsewhere.

1. C. Plaintiff will not be giving any judgment searches

J.C.
J.C.

Dated: 11-8-19