

SETTLEMENT AND RELEASE AGREEMENT

This Settlement, Waiver and Release Agreement (the "**Agreement**") is made as of May _____, 2018, (the "**Effective Date**"), by and between JOSEPH CABIBBO (hereinafter "**Plaintiff**") and BOROUGH OF FAIR LAWN, BOROUGH OF FAIR LAWN POLICE DEPARTMENT, CLARE CABIBBO, CAPTAIN PATTERSON, SGT. FERREIRA, SGT. LEITMAN (hereinafter "**the Defendants**"). In consideration of the covenants, promises and undertakings set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Plaintiff hereby agrees as follows:

1. **Denial of Liability.** This Agreement, and the settlement it represents, is entered into by the Defendants solely for the purpose of avoiding possible future expenses, burdens or distractions of litigation, and in no way constitutes an admission by the Defendants of any liability of any kind to Plaintiff or any wrongdoing in connection with or in any way related to the incident(s) alleged in the lawsuit entitled Joseph Cabibbo v. Borough of Fair Lawn, Case No.: 2:16-cv-4521-JLL-SCM *or* in connection with any other incident or event occurring prior to the execution of this Agreement specifically including the events, incidents and claims alleged in Joseph Cabibbo v. Borough of Fair Lawn, Case No.: 2:16-cv-4521-JLL-SCM. The Defendants specifically deny any and all liability in connection with any claims, causes of action or demands of Plaintiff which have been made or could have been made, or maintained or filed in any jurisdiction by Plaintiff against the Defendants, including but not limited to, any violation of law, (whether statutory or common law), negligence, rule or regulation and the Defendants deny that any violation of any such law, negligence, rule or regulation has ever occurred. The terms of this Agreement are limited to this Agreement and shall not be used for any other purpose.

2. **Settlement Payment and HIB Removal.** In furtherance of the negotiated settlement and release of all claims including any and all claims for attorney's fees or other litigation costs via any Federal or State statute or constitutional provision or available at common law the Defendants will: (1) pay to Plaintiff the sum of Thirty Five Thousand Dollars (\$35,000) which includes Plaintiff's attorneys fees and costs; and (2) following receipt of a fully executed, notarized copy of this Agreement and entry of an Order Approving Settlement and confirmation of the settlement by the Bergen County Joint Insurance Fund at the next meeting date after entry of the Order and upon either a return of all confidential materials or a certification from counsel that all such confidential materials have been destroyed pursuant to the Joint Discovery Confidentiality Order, including but not limited to each police officers' personnel files, medical files, internal affairs investigations or files and such other information as set forth in agreement, said payment and action constituting full and final satisfaction of any claims, causes of action or demands of Plaintiff which have been made or could have been made, or which are the subject matter of, arise from, or are in any way connected with, directly or indirectly, or related in any way to Joseph Cabibbo v. Borough of Fair Lawn, Case No.: 2:16-cv-4521-JLL-SCM, against the Defendants, including but not limited to, any violation of law (whether statutory or common law), negligence, rule or regulation.

3. **Compensation.** Within thirty (30) days of receipt of a fully executed, notarized copy of this Agreement, and receipt of a completed W-9 form for Law Offices of FAUGNO & ASSOCIATES, LLC. or thirty (30) days from receipt of an executed Order Approving Settlement and Directing the Deposit of Funds, whichever date is later, the insurance carrier(s) providing coverage to the Defendants shall in compliance with the Order Approving Settlement and Directing Deposit of Funds issue settlement checks totaling Thirty Five Thousand Dollars (\$35,000.00) in full and final satisfaction of all claims, causes of action or demands of Plaintiff including all claims for attorney's fees or costs and as consideration for Plaintiff's agreement not to disparage the Defendants and to keep this Agreement confidential.

4. **Release by Plaintiffs.** In consideration of the Settlement Payment made to Plaintiff by the Defendants hereunder, Plaintiff, their consultants, agents, heirs, trustees, estates, administrators, representatives, executives, attorneys, beneficiaries (past, present or future), principals, predecessors, successors, assigns and creditors knowingly, irrevocably and unconditionally release, renounce, remise, acquit and forever discharge the Defendants, its respective elected officials, officers, directors, employees, consultants, agents, affiliates, administrators, representatives, executives, attorneys, insurance carriers, insurance administrators, beneficiaries (past, present or future), departments, divisions, predecessors, successors and assigns, from any and all claims, demands, actions, rights, interests, costs, liabilities and expenses, including attorney's fees, (said payment being part of and specifically incorporated into this Agreement and representing full and final payment of all claims for attorney's fees), and causes of action of every kind and nature whatsoever, in law or in equity, in any jurisdiction, whether now known or unknown, that Plaintiff, or any person acting under them, may now have or claim at any future time to have, based in whole or in part upon any acts or omissions occurring prior to the Effective Date of this Agreement without regard to present actual knowledge of such acts or omissions, including specifically, but not by way of limitation, any claims, causes of action or demands of Plaintiff which have been made or could have been made, or which are the subject matter of, arise from, or are connected with, directly or indirectly, or related in any way to any lawsuit, administrative law proceeding or arbitration previously brought, (including but not limited to Joseph Cabibbo v. Borough of Fair Lawn, Case No.: 2:16-cv-4521-JLL-SCM, specifically including but not limited to and any violation of law, (whether constitutional, statutory or common law), negligence, rule or regulation, and including matters which may arise at common law or under any State, Federal or local law.

5. **Satisfaction of Liens and Indemnification.** Plaintiff understands and agrees that all outstanding medical bills, counseling bills and liens, specifically including but not limited to Medicare and Medicaid liens, and child support liens and tax liens, to the extent required to be paid by law, shall be paid/satisfied by Plaintiff out of the proceeds of this settlement. Plaintiff agrees to indemnify the Defendants and its insurer for any amount which they can be deemed to pay as a result of Plaintiff's non-compliance with the obligation assumed herein.

6. **Authority.** Plaintiff warrants that: (i) he has full authority to execute this Agreement; (ii) execution of this Agreement does not require the consent of any third party; (iii)

all matters which are released in this Agreement have not been assigned, transferred or disposed of in fact, by operation of law or in any other manner.

7. **Covenant of Non-Disparagement.** Plaintiff covenant never to disparage or speak ill of the Defendants, its affiliates, subsidiaries, officers, directors, employees or elected officials in regard to the subject litigation and the settlement of the litigated claims and to abide by the continuing force of the Discovery Confidentiality Order.

8. **Confidentiality.** Plaintiff JOSEPH CABIBBO covenants not to divulge, disclose, or make available in any manner, or to any person or entity, other than their present legal counsel or financial advisor, the terms of this Agreement and settlement, except to the extent necessary for the payment of Federal and State income taxes, if any, or when compelled by law or required by law or as necessary to enforce rights under this Agreement. Plaintiff further covenants and agrees to instruct and command his attorneys not to divulge, disclose, use or make available in any manner to any other attorney not associated with Plaintiff's present attorney's firm any document or information obtained, derived or learned directly or indirectly during preparation for and during the course of the present law suit.

9. **General.**

(a) **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Plaintiff and the Defendants and their respective heirs, representatives, successors and assigns.

(b) **Signatures.** By their signatures below, Plaintiff represents that he has read this Agreement in full, have voluntarily entered into this Agreement upon advice of legal counsel, or with the full opportunity to consult legal counsel, agree that it is in their best interests to enter into this Agreement, and acknowledge their belief that this Agreement represents a fair and reasonable settlement.

(c) **Complete Understanding.** This Agreement constitutes the complete understanding between Plaintiff and the Defendants. All prior and contemporaneous conversations, negotiations, promises, possible and alleged agreements, representations, covenants and warranties covering the subject matter hereof are merged herein. No separate or additional oral agreements in any way related to the subject matter hereof shall be permitted. No alteration or modification of any provision of this Agreement shall be valid unless made in writing and signed by both Plaintiff and the Defendants.

(d) **No Other Claims.** Plaintiff represents and warrants that, no civil charge, grievance or complaint has been made in any forum, or otherwise has been filed by them or on their behalf against the Defendants.

(e) **Notices.** All notices, requests and demands related to this Agreement to or upon the respective parties hereto shall be in writing and may be served by personal delivery or certified mail/return receipt requested and addressed as follows (or to such other address as may be designated in writing by the respective parties hereto):

To: The Defendants c/o
Ronald P. Mondello, Esq.
Ronald P. Mondello, P.C.
0-100 27th Street
Fair Lawn, NJ 07410

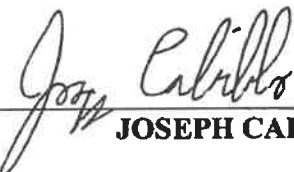
To: Plaintiff c/o

Paul Faugno, Esq.
FAUGNO & ASSOCIATES, LLC
120 State Street
Hackensack, NJ 07601

(f) **Severability.** If, at any time after the Effective Date of this Agreement, any provision of this Agreement shall be held by any court or tribunal of competent jurisdiction to be illegal, void, or unenforceable, such provision shall be of no force and effect. The illegality or unenforceability of such provision, however, shall have no effect upon, and shall not impair the enforceability of, any other provision of this Agreement.

(g) **Governing Law.** This Agreement shall be governed by the laws of the State of New Jersey, (without regard for the conflicts of laws principals thereof). The parties hereto irrevocably consent to the exclusive jurisdiction of a competent court in the State of Jersey, for all matters arising under this Agreement.

PLAINTIFF acknowledges that he has consulted with his attorney, have read and fully understand the terms of this Settlement Agreement and Release and has voluntarily and freely executed this agreement acknowledging his acceptance of its terms this 7 th day of May, 2018.



JOSEPH CABIBBO

Witness:

On this 1 day of May, 201st ~~08~~ JOSEPH CABIBBO personally appeared before me, acknowledged that he understood its terms and executed this Settlement Agreement and Release.

Name: Louise Faugno
Title: Office Manager

Louise M. Faugno
Notary Public of NJ
Commission Expires
February 5, 2023