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DOUGLAS F. CARMAN, both as an individual and as Captain of Police in the City of Linwood, AND JOHN A. HAMILTON, both as an individual and as Detective Sergeant of Police in the City of Linwood,

Plaintiffs

v.

CITY OF LINWOOD, et al, jointly,
severally, and in the alternative,

Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CUMBERLAND COUNTY

Docket Number
CUM-343-14

Civil Action

SETTLEMENT AGREEMENT AND GENERAL RELEASE

1. Parties. The parties to this Settlement Agreement and General Release (hereinafter sometimes referred to as the "Agreement") are John A. Hamilton his heirs, executors, administrators, assigns, and representatives, attorneys, agents, servants, employees, and their successors (hereinafter collectively referred to as "Plaintiff"); and, the City of Linwood and all the agents, servants, employees, representatives, third party

administrators, attorneys and their respective insurance carriers including but not limited to XL Insurance and third party administrator Summit Risk Services, and all of their successors (hereinafter collectively referred to as "Defendant"). Plaintiff and Defendant are sometimes hereinafter referred to as the "Parties".

2. General Release. The Parties have chosen to enter into this Agreement in order to avoid further proceedings with respect to any and all claims of Plaintiff against Defendant, including but not limited to those brought or which may have been brought in the matter of *Douglas F. Carman, both as an individual and as Captain of Police in the City of Linwood, and John A. Hamilton, both as an individual and as Detective Sergeant of Police in the City of Linwood v. the City of Linwood, et al*, Superior Court of New Jersey, Cumberland County, Law Division, Docket Number CUM-L-343-14, or in any other action in any other forum for any type of dispute resolution. This Agreement is to resolve, finally and completely, all actual or potential claims, disputes, differences or controversies (collectively hereinafter sometimes referred to as "claims"), which did arise out of, refer to, or relate to the employment of the Plaintiff with the City of Linwood, for anything has happened on the planet earth up until the complete and final execution of this Agreement.

3. No Admission and No Admissibility. Plaintiff understands and agrees that the making of this Agreement shall not, in any way, be construed an admission or statement against interest by Defendant or former Defendant in the above-captioned action, of any guilt, liability, wrongdoing or non-

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compliance by Defendant with any Federal, State, or local law, or any collective bargaining agreement, or for any other alleged wrongdoing by Defendant of any type whatsoever; and, Plaintiff understands and agrees that the making of this Agreement shall not, in any way, be construed as an admission or statement against interest by any Defendant, nor shall this Agreement be admissible into evidence in any proceeding, hearing, action, forum, court or other setting for any dispute resolution whatsoever except for the enforcement of this Agreement. This Agreement is entered into solely to avoid the continuing expense and distraction of litigation in *Douglas F. Carman, both as an individual and as Captain of Police in the City of Linwood, and John A. Hamilton, both as an individual and as Detective Sergeant of Police in the City of Linwood v. the City of Linwood, et al*, Superior Court of New Jersey, Cumberland County, Law Division, Docket Number CUM-L-343-14.

4. Representations and Warranties of Plaintiff. Plaintiff hereby represents and warrants to Defendant that:

- a. Read Agreement. Plaintiff has read this Agreement in its entirety;
- b. Discussions with Counsel. Plaintiff has discussed all of this Agreement with his Attorney and is satisfied with the services of his Attorney and there is no aspect of this Agreement which Plaintiff has not discussed with his Attorney and Plaintiff fully understands all the provisions of this Agreement and all the legal and practical effect of this Agreement and Plaintiff has had adequate time to consider all terms and conditions of this Agreement.
- c. Plaintiff acknowledges that the following Defendants were dismissed from this law suit, with prejudice, prior to settlement of this law suit:

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James A. E. Baker, former Chief of Police for the City of Linwood; Donna Taylor, former City Council President of the City of Linwood; Richard DePamphlis, III, Mayor of the City of Linwood; Ralph Paolone, City of Linwood Councilman.

- d. Voluntary Acts. Plaintiff is signing this Agreement freely and voluntarily, without coercion of any kind, and with full knowledge and understanding of its contents and that this Agreement is binding and final;
- e. No Reliance. Plaintiff is not relying in any way on any statements, representations, or promises by Defendant, except as specifically set forth in this Agreement;
- f. No Assignment or Transfer. Plaintiff has not assigned or transferred, or purported to assign or transfer, any claim covered or which may have been covered by this Agreement, or any portion of any claim or any interest in any such claim, to any person or entity;
- g. No Claims Filed. Except for the matter, *Douglas F. Carman, both as an individual and as Captain of Police in the City of Linwood, and John A. Hamilton, both as an individual and as Detective Sergeant of Police in the City of Linwood v. the City of Linwood, et al*, Superior Court of New Jersey, Cumberland County, Law Division, Docket Number CUM-L-343-14, Plaintiff has not filed, and will not file, in any court, agency, Division of the State of New Jersey on or any forum whatsoever, any charges, complaints or other claims against Defendant for anything that has happened up until now on the planet earth up until the complete and full execution of this Agreement.
- h. Taxes and Indemnification. Payment of the settlement amount set forth in Section 7 below is in full satisfaction and settlement of any and all claims for damages, which were made or which could have been alleged in the matter of *Douglas F. Carman, both as an individual and as Captain of Police in the City of Linwood, and John A. Hamilton, both as an individual and as Detective Sergeant of Police in the City of Linwood v. the City of Linwood, et al*, Superior Court of New Jersey, Cumberland County, Law Division, Docket Number CUM-L-343-14, including but not limited to any and all claims for damages allowed by law, equity, contract, and specifically including attorneys' fees and costs. Plaintiff also acknowledges

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and agrees that Defendant has made no representations as to the taxability or exemption from taxation of the amount specified in paragraph 7 below and further acknowledges and agrees that Plaintiff shall be solely responsible for any and all taxes due or owing on the amounts to be paid to him or paid to him as set forth in paragraph 7 of this Agreement (including but not limited to any FICA payments Plaintiff should pay for himself), including any and all additional payments. Plaintiff agrees to defend, indemnify and hold harmless Defendant against any and all associated audits, actions, suits, costs, claims and expenses, including payments, assessments, interest, penalties or other liabilities (including those due to failure to make proper withholding) which may be brought against Defendant in the future by governmental taxing authorities in any effort to recover any amounts which Plaintiff or Defendant may have been required to pay in taxes as related to this Agreement. However, Plaintiff will have no obligation to defend unless first provided with notice of the IRS action of any taxing authority and 30 days of opportunity to pay any alleged disputed amounts. Defendant must provide Plaintiff with prior and timely written notice of the legal process of any taxing authority and an opportunity to oppose the same. Such notice shall be sent by certified mail to Plaintiff.

5. Release of Claims by Plaintiff. In exchange for the promises made by and between Plaintiff and Defendant herein, Plaintiff:
- a. agrees to the dismissal with prejudice, without any award of costs or attorneys' fees, of the Complaint filed in the matter of *Douglas F. Carman, both as an individual and as Captain of Police in the City of Linwood, and John A. Hamilton, both as an individual and as Detective Sergeant of Police in the City of Linwood v. the City of Linwood, et al*, Superior Court of New Jersey, Cumberland County, Law Division, Docket Number CUM-L-343-14;
 - b. agrees to unconditionally and irrevocably release Defendant of and from any and all claims, known or unknown, that Plaintiff has, or may have had, against Defendant as of the date of the full and complete execution of this Agreement by the parties, including but not limited to any and all claims set forth in the matter of *Douglas F. Carman, both as an individual and as Captain of Police in the City of Linwood, and John A. Hamilton, both as an individual and as Detective Sergeant of Police in the City of Linwood v. the City of Linwood, et al*, Superior Court of New Jersey, Cumberland County, Law Division, Docket Number CUM-L-343-14, or otherwise arising

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out of any relationship by and or between and or among Plaintiff and Defendant, including but not limited to any alleged violation of:

- The Rules and Regulations of the City of Linwood;
- The Rules and Regulations of the Linwood Police Department;
- Any Collective Bargaining Agreement;
- Any agreement for vacation, sick or personal leave pay or payment pursuant to any practice, policy, custom, handbook, manual, Collective Bargaining Agreement, or contract between Plaintiff and Defendant;
- Any public policy, contract (express, written or implied), any principle of tort, or common law claim;
- New Jersey Laws regarding Political Activities of Employees, Lie Detector Tests, Jury Duty, Employment Protection, Consumer Reports, Discrimination; and, any other federal, state, or local civil rights law or any other local, state, or federal law, regulation or ordinance;
- The Occupational Safety and Health Act;
- The Family and Medical Leave Act;
- The Equal Pay Act;
- Worker Adjustment and Retraining Notification Act;
- The New Jersey Law Against Discrimination;
- The New Jersey Civil Rights Act;
- The New Jersey Family Leave Act;
- The New Jersey State Wage and Hour Law;
- The New Jersey Conscientious Employee Protection Act;
- The New Jersey Equal Pay Law;
- The New Jersey Occupational Safety and Health Laws;
- The National Labor Relations Act;
- Title VII of the Civil Rights Act;
- The Civil Rights Act of 1991;
- §§1981 through 1988 of Title 42 of the United States Code;
- The Employee Retirement Income Security Act;
- The Fair Credit Reporting Act;
- The Americans with Disabilities Act;
- The Rehabilitation Act;
- The Fair Labor Standards Act;

6. Consideration from Plaintiff. Plaintiff specifically agrees as follows:

- a. Plaintiff does release and give up, in accord with this Agreement and General Release, any and all claims, demands, actions and causes of action against Defendant that Plaintiff has or had or might have had for anything that has happened up until the full and final execution of this Agreement and General Release.

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- b. Plaintiff does release and give up any and all claim(s) and right(s) against Defendant, including any and all claims for litigation expenses, attorneys' fees, or court fees, or other fees related to litigation which Plaintiff may have had or may have against Defendant for anything which has happened on the planet earth up until the date and time of the complete and full execution of this Agreement by the parties and Plaintiff specifically agrees to authorize and direct his attorneys to execute a Stipulation of Dismissal with Prejudice as may be required by Defendant to give full effect to this Agreement;
- c. Plaintiff agrees to take any and all steps necessary to effectuate the dismissal of any action(s) filed by Plaintiff against Defendant including but not limited to the filing in *Douglas F. Carman, both as an individual and as Captain of Police in the City of Linwood, and John A. Hamilton, both as an individual and as Detective Sergeant of Police in the City of Linwood v. the City of Linwood, et al*, Superior Court of New Jersey, Cumberland County, Law Division, Docket Number CUM-L-343-14, or any claims filed or which could have been filed in *Douglas F. Carman, both as an individual and as Captain of Police the City of Linwood, and John A. Hamilton, both as an individual and as Detective Sergeant of Police in the City of Linwood v. City of Linwood, et al*, Superior Court of New Jersey, Cumberland County, Law Division, Docket Number CUM-L-343-14, or in any actions filed by Plaintiff against Defendant in any other forum, court of law, or tribunal, and to specifically take any and all steps necessary to effectuate the dismissal of all the foregoing, including but not limited to the filing of a Stipulation of Dismissal with Prejudice, the execution of an Affidavit, the execution of a Consent Order, or making appearance before a court or before a hearing officer;
- d. Plaintiff does agree to be responsible for any liens, including but not limited to unemployment compensation liens, temporary disability liens, child support judgment(s) or liens, any medical provider liens, hospital or attorney liens; and, Plaintiff does agree that in the event any State Agency or other authority or person deems any amount to be due from Defendant with respect to any one or more of the above-cited liens, Plaintiff will indemnify Defendant for any sums Defendant may be required to pay to satisfy any such lien or a part thereof; and, Plaintiff further agrees to pay any reasonable and necessary attorney's fees incurred by Defendant in defense of any action brought against Defendant as a result of any such lien provided that Plaintiff will have no such obligation to pay reasonable and necessary attorney's fees incurred by Defendant in defense of any action brought

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against Defendant as a result of any such lien provided that Plaintiff will have no such obligation to pay reasonable and necessary attorneys' fees incurred by Defendant in defense of such lien related claims unless Plaintiff is first provided by Defendant with notice of such lien related claims and Plaintiff is provided 30 days of opportunity to pay or otherwise fully resolve any such lien related claims against Defendant.

- e. Plaintiff agrees not to file any claim(s) or lawsuit(s) or action(s) of any kind or type for any benefits or damages against Defendant for anything which may have happened on the planet earth up to the date of the full and final execution of this Agreement and Plaintiff agrees that he will take all necessary action(s) to effectuate the dismissal and the withdrawal with prejudice of any charge(s), complaint(s), or cause(s) of action filed or which may have been filed on his behalf against Defendant in any court, forum or tribunal.
- f. Plaintiff agrees to fully execute any and all supplemental documents, and take any additional action(s) that may be necessary or appropriate to give full force and effect to the terms of this Agreement.

7. Consideration of Defendant. In exchange for the promises made by Plaintiff, and the execution by Plaintiff of this Agreement, Defendant agrees to pay to Plaintiff on the terms and conditions set forth below, the amount specified below.

Within thirty-days following the execution of the Agreement

- a. Within thirty-days following the execution of the Agreement Defendant shall pay to Plaintiff, subject to paragraph 4(h), a total payment in the amount of One Hundred Forty Three Thousand, Eighty Eight Dollars and Sixty Seven Cents \$143,088.67, which is allocated to Plaintiff's claims for emotional distress, physical pain, suffering and loss of enjoyment of life, by a single check from the appropriate insurance carrier of Defendant which check shall be forwarded to the attorney for Plaintiff, Sebastian Ionno and made payable to John A. Hamilton.

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8. Entire Agreement. This Agreement sets forth the entire agreement between the Parties, and fully supersedes any prior agreement(s) or understanding(s) between the Parties and the Parties acknowledge there has been no reliance on any representations, promises, or agreements of any kind in connection with this Agreement, except for those set forth in this Agreement.

9. Modification. This Agreement may not be modified, except upon express written consent of the Parties to this Agreement.

10. Joint Negotiation. This Agreement is a product of joint negotiation by, between and among the Parties and is not to be construed for or against any one of the Parties by virtue of the fact that the Parties or anyone or more of them participated in the preparation of this Agreement.

11. Enforceability. In the event that any provision(s) contained in this Agreement is declared invalid, illegal, or unenforceable by any court of competent jurisdiction, and cannot be modified to be enforceable, excluding the general release language, or payment referred to in paragraph 7(a) such provision(s) shall immediately become null and void, leaving the remainder of this Agreement in full force and effect. Moreover, if any such provision(s) determined to be invalid, illegal, or unenforceable can be made valid, legal, or enforceable by modification thereof, then the party for whose benefit the provision(s) exists may make such modification(s) as necessary to make the provision(s) valid, legal, and enforceable.

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12. New Jersey Law. This Agreement shall be governed and conformed in accordance with the laws of the State of New Jersey.

13. Acknowledgements. By executing this Agreement, Plaintiff acknowledges that he:

- a. read the entire Agreement;
- b. understands the entire Agreement and that, by executing the same, he is giving up important rights;
- c. the Agreement was negotiated his behalf by his attorneys with his knowledge and consent.

14. Date of Agreement. This Agreement has been executed by Plaintiff on the 05 day of APRIL, 2016.

Sworn and Subscribed to
before me this 5th day of

April 2016

Sebastian B. Ianno

Notary Public of New Jersey

Sebastian B. Ianno, Esq.

Attorney at Law

State of New Jersey



John A. Hamilton