

JESSENIA LEVY,

Plaintiff,

-vs-

CITY OF CLIFTON, a municipal corporation
of the State of New Jersey, CLIFTON POLICE
DEPARTMENT and DARREN BRODIE,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: PASSAIC COUNTY
DOCKET NO. PAS-L-2078-18

Civil Action

SETTLEMENT AGREEMENT AND
GENERAL RELEASE

THIS SETTLEMENT AGREEMENT and GENERAL RELEASE (“Agreement”) is entered into this date by and between Jessenia Levy (hereinafter referred to as “Plaintiff”) and Darren Brodie (hereinafter referred to as “Defendant”). For purposes of this Agreement, the term “Defendant” shall mean and include Darren Brodie and his executors, administrators, successors, assigns, agents and representatives. For purposes of this Agreement, the term “Plaintiff” shall mean and include Jessenia Levy and her executors, administrators, successors, assigns, agents and representatives. For purposes of this Agreement, the term “Parties” shall mean and include Plaintiff and Defendant.

WHEREAS, Plaintiff and Defendant have consulted with their respective attorneys prior to executing this Agreement, and have had an adequate opportunity within which to consider the Agreement; and

WHEREAS, Plaintiff and Defendant wish to settle this matter instead of proceeding forward with the subject litigation, including any potential appeals, attorney’s fee applications and any and all other claims, charges, complaints, grievances, disputes or other potential actions of any kind

whatsoever between them in a manner that will obviate the need to continue this litigation and that will preclude the bringing of any further claim, cause, proceeding or action against Defendant, and Defendant by providing Plaintiff with such adequate consideration as set forth herein and the terms herein encompassed having been agreed to; and

WHEREAS, Plaintiff acknowledges and agrees that all claims asserted against Defendant Darren Brodie and the City of Clifton and the Clifton Police Department have been or will be dismissed With Prejudice; and

WHEREAS, Plaintiff acknowledges and agrees that payment provided herein is full and complete consideration for (a) her agreement to voluntarily release, dismiss, waive and withdraw all claims, complaints, charges, administrative actions and civil actions of any kind against Defendant, (b) her agreement not to make any further claims against the Defendant, including any claims for attorneys fees, which arise out of the events which have transpired before and including the date of the execution of this Agreement; and (c) is conditioned upon the acceptance by Plaintiff of all of the terms and conditions of this Agreement; and

WHEREAS, this Agreement shall not be construed as an admission of any wrongdoing in any manner and Defendant expressly denies each and every allegation made by Plaintiff, and this Agreement is entered into for reasons other than the merits of the claims, and solely to avoid the time and expense of further litigation, including any potential appeals or attorney's fees applications; and

WHEREAS, in consideration of the mutual covenants and promises contained herein and intending to be legally bound, Plaintiff and Defendant hereto mutually agree as follows:

1. Dismissal of Parties. Plaintiff agrees to dismiss this litigation with prejudice and any and all Charges, Complaints, claims for attorney's fees, applications and appeals relating to the matter entitled Jessenia Levy v. The City of Clifton, et. als., filed in the Superior Court of New Jersey, Law

Division, Passaic County, Docket No. PAS-L-2078-18-17, against the City of Clifton and the Clifton Police Department prior to execution of this Agreement and against Defendant Brodie within 10 days of receipt of the payment set forth below in Paragraph 3. Plaintiff acknowledges that the settlement of this matter is contingent upon foregoing the continuation of this, or any, litigation of any and all pending claims of any kind regarding Defendant and Plaintiff's employment with The City of Clifton, the Clifton Police Department or any related entity, which arise out of events which have transpired before and including the date of the executions of this Agreement.

2. Release of Claims by Plaintiff Against Defendant. It is hereby understood and agreed that Plaintiff, for and in consideration of the Payment as outlined in Paragraph 3 below, does hereby irrevocably and unconditionally release and forever discharge for herself, her heirs, executors, administrators, representatives, and assigns, Defendant Brodie, his heirs, executors, administrators, representatives, and assigns, The City of Clifton and Clifton Police Department and any related entities and departments, including, but not limited to, its governing bodies, and any and all of its predecessors, successors, assigns, agents, employees, officers, members and representatives and each of its present and former directors, officers, administrators, supervisors, employees, attorneys, agents, insurance carriers, and all persons acting by, through, under or in concert with it, of and from all manner of action(s), cause(s) of action, and suit(s), including but not limited to, any claims, debts, sums of money, accounts, reckonings, bonds, bills, claims for attorney's fees, interest, expenses and costs, specialties, covenants, contracts, controversies, agreements, benefits, claims for back pay, front pay, vacation pay, sick pay, wages, compensation or increases pursuant to any collective bargaining agreement, promises, variances, trespasses, damages, judgments, executions, claims and demands of any nature whatsoever, in law or in equity, civil or criminal, vested or contingent, which she ever had, now has or asserts, or which she or her spouse, children, relatives, heirs, executors, representatives,

assigns or administrators hereafter can, shall or may have or may assert, for, upon or by reason of any matter, cause or thing whatsoever to the date hereof, it being the intention herein of Plaintiff to release Defendant from any and all claims of any and every nature, including attorney's fees, up to the date of this Agreement, unrestricted in any way by the nature of the claim, including, though not by way of limitation, all matters which were asserted or could have been asserted in all actions or claims identified above or any matter arising out of Plaintiff's employment with The City of Clifton, The Clifton Police Department, and any other state or federal statutory, constitutional, or common law claims. This includes, but is not limited to, claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et seq., the Civil Rights Act of 1866, as amended, 42 U.S.C. §1981, et seq., Executive Order 11246, as amended, 29 U.S.C. §621, et seq., the Americans with Disabilities Act, 42 U.S.C. §12101, et seq., the Older Workers Benefit Protection Act, 29 U.S.C. §626(f), the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1002, et seq., the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq., the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq., the New Jersey Family Leave Act, N.J.S.A. 34:11B, et seq., the Federal Family and Medical Leave Act, 29 U.S.C. §2601, et seq. & 5 U.S.C. §6381, et seq., the National Labor Relations Act, as amended, The Equal Pay Act, as amended, the New Jersey Wage and Hour Law, as amended, the New Jersey Worker Health and Safety Act, as amended, any anti-retaliation provision of any statute or law, worker compensation statutes, and any other applicable federal, state or local, constitutional or statutory provision, order or regulation, arising from any event or act of omission or commission. This release includes, but is not limited to, any and all rights, causes of action, claims or demands of any kind through the date of this release and further includes any alleged injuries or damages suffered at any time after the date of this release by reason of the continued effects

of any such acts which occurred on or before the date of this release including any claims to attorney's fees.

3. Settlement Payment. It is agreed that payment shall be made under this Agreement to Plaintiff and her counsel in funds totaling Eighty Thousand Dollars (\$80,000.00), inclusive of all attorney's fees and costs ("Settlement Payment"), to be paid as follows:

- \$80,000.00, payable to "Einhorn, Barbarito, Frost & Botwinick, PC and Jessenia Levy".

The Settlement Payment shall be made on or by thirty days after the execution of all settlement agreements and production of all closing documents. The Settlement Payment is intended by the mutual agreement of the Parties to be full compensation for all claims and potential claims, including, but not limited to, claims for attorney's fees and expenses. The Settlement Payment constitutes consideration in addition to anything of value to which Plaintiff may otherwise be entitled. Plaintiff and her counsel agree that they will be responsible for the payment of all applicable state, federal and local taxes with respect to the payments under this Agreement and will assume full liability with respect to same.

4. Waiver of Attorney's Fees and Costs. Plaintiff agrees that no payments, benefits, or other consideration shall be paid other than the Settlement Payment made pursuant to Paragraph 3 of this Agreement, including any additional attorneys fees or costs. Neither Plaintiff nor her attorney will claim, seek or request any payments, benefits or other consideration other than the Settlement Payment being made pursuant to Paragraph 3 of this Agreement.

5. No Admission of Liability. It is understood and agreed that execution of this Agreement is by mutual agreement to avoid the additional costs and expenses of further litigation, potential appeals and applications for attorney's fees and that the settlement of this matter does not

constitute an admission by any party of any wrongdoing or liability. Neither the Plaintiff nor the Defendant will ever claim to be the prevailing party in the above referenced matter or any other threatened litigation. Plaintiff acknowledges that this Agreement, or the terms contained herein, do not constitute an admission of any kind by Defendant of a past practice, current practice or as precedent or by the City of Clifton or Clifton Police Department.

6. No Claims Permitted / Covenant Not to Sue. Plaintiff represents that this matter is concluded in its entirety and she will not file any other complaint, charge or grievance against Defendant, the City of Clifton or the Clifton Police Department with any local, state or federal agency, court, or other entity, that she will not file any other at any time hereafter for any claims, known or unknown, that exist through and up to the date this agreement is executed, and that if any such agency assumes jurisdiction of any such complaint, charge or grievance against Defendant or the City of Clifton, on behalf of any party, that she will request that agency to withdraw from the matter. Plaintiff agrees not to voluntarily initiate, instigate or participate in the investigation or prosecution of any such action by any local, state or federal agency, court or other entity unless specifically subpoenaed to appear or otherwise required by court order or in an official governmental (state or federal) investigation. Plaintiff specifically, knowingly and voluntarily waives the right to damages or payment of any kind relating to any matter filed by any agency against Defendant. Nothing in this Agreement shall limit the Plaintiff's right to enforce the terms and conditions set forth herein.

7. Plaintiff understands and agrees that she will receive the net proceeds of the settlement sum only after any outstanding New Jersey child support judgments are satisfied. Plaintiff further understands and agrees that if any child support judgment exceeds the net proceeds of the settlement sum, that the entire settlement proceeds will be utilized to satisfy any outstanding child support judgment. As required by N.J.S.A. 2A:17-56.23(b), a child support judgment search has been

conducted by Plaintiff and provided to Defendant prior to any payment is issued pursuant to Paragraph 3.

8. No Employment. Plaintiff agrees and acknowledges that she will not seek employment with the City of Clifton or any agency or instrumentality thereof, at any time now or in the future.

9. Medicare. Plaintiff warrants that she is not a Medicare beneficiary as of the date of this Release, and therefore no conditional payments have been made by Medicare. Plaintiff also represents her own search reveals no Medicare or Medicaid liens of which she is aware. Plaintiff acknowledges and agrees that it is her responsibility, not the responsibility of Releasees, its attorneys or insurer(s), to reimburse Medicare for any conditional payments made by Medicare on behalf of Plaintiff. Plaintiff will indemnify, defend, and hold Releasees, harmless from any and all claims, liens, Medicare conditional payments and rights to payment, known or unknown. Plaintiff has not shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. Sec. 1395y(b) and this matter was resolved in compliance with both state and federal law. Plaintiff acknowledges and understands that any present or future action or decision by Medicare or the Centers for Medicare and Medicaid Services on this Release, or Plaintiff's eligibility or entitlement to Medicare or Medicare payments, will not render this Release void or ineffective, or in any way affect the finality of this Release.

10. Knowing and Voluntary Agreement. The Parties represent and acknowledge that they have had a reasonable amount of time to consider this Agreement, and that in executing this Agreement rely entirely upon their own judgment, beliefs and interests and the advice of their counsel, and they do not rely and have not relied upon any representation or statement made by the other party, or by any agents, representatives or attorneys of the other party, with regard to the subject matter,

basis or effect of this Agreement or otherwise, other than as specifically stated in this Agreement. The parties specifically acknowledge that all releases contained herein are knowing and voluntary.

11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, predecessors, successors and assigns.

12. Applicable Law. This Agreement is made under the laws of the State of New Jersey and shall be governed by and construed in accordance with such laws.

13. Entire Agreement. The terms and conditions contained herein constitute the entire understanding and agreement between Plaintiff and Defendant with respect to the settlement of the above-referenced matter. Plaintiff acknowledges that in executing this document, she has not relied upon any statement, promise or representation, oral or written, not set forth herein. No change or modification of this Agreement shall be valid unless the same is in writing and signed by Plaintiff and Defendant.

14. Severability. Should any provision of this Agreement be declared or be determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity and enforceability or the remaining parts, terms or provisions shall not be affected thereby and said illegal, unenforceable or invalid part, term or provision shall be deemed not to be part of this Agreement.

15. The Parties to this Agreement hereto represent and warrant that each of them is authorized to make, execute and deliver this Agreement and that each has been represented by counsel and has been fully apprised of and understands all of the terms of this Agreement and the legal ramifications of the entry of same.

16. The Parties agree that nothing in this Agreement will prevent them from suing to enforce the terms of this Agreement.

17. The Parties may execute this Agreement in separate counterparts, all of which taken together shall constitute the Agreement.

ACKNOWLEDGMENT

By Plaintiff's signature, she acknowledges and represents that (i) she has carefully reviewed and fully understands each of the provisions of this Agreement, (ii) she understands the legal ramifications of executing this Agreement, (iii) each term and condition in this Agreement has been thoroughly and carefully negotiated and considered by her, (iv) she has had the opportunity to confer with counsel of her own choosing prior to execution of this Agreement, (v) she has voluntarily executed this Agreement without representation or inducement by Defendant except as provided in this Agreement, (vi) she has been given sufficient opportunity to consider this Agreement before signing it, and (viii) she has been advised to consult with an attorney prior to executing this Agreement, and has had an opportunity to consult with an attorney and has indeed consulted with an attorney.

Plaintiff acknowledges that the only consideration he has received in connection with this Agreement is that set forth herein. No other promise, inducement, threat, agreement or understanding of any kind or description has been made with Plaintiff in connection with her employment, this litigation or otherwise to cause her to enter into this Agreement.

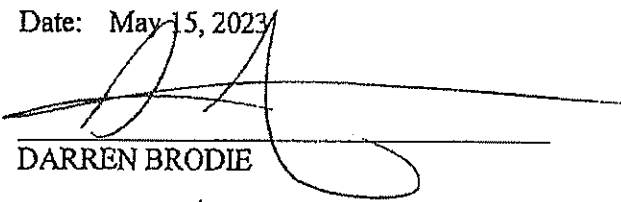
EACH PARTY HERETO ACKNOWLEDGES RECEIPT OF A TRUE EXECUTED COPY OF THIS AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date executed and intending to be legally bound hereby.

Jessenia Montagna
Jessenia Montagna (May 15, 2023 10:34 EDT)

JESSENIA LEVY

Date: May 15, 2023


DARREN BRODIE

Date: 5/15/23