

SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AND RELEASE AGREEMENT (hereinafter referred to as the "Agreement") is entered into between **Doretha Waters-Rice** ("Waters-Rice"), individually and as guardian for minor plaintiff **Anequa Joyce** ("Joyce"), and **Glendon Durham** ("Durham") collectively referred to as "YOU" or "PLAINTIFFS" and **William Kennedy** ("Kennedy"), in both his official and individual capacity, **Jon Gansert** ("Gansert"), **Dennis R. Felsing** ("Felsing"), the **City of Sea Isle City**, its employees, agents and insurers, the **Atlantic County Municipal Joint Insurance Fund** ("ACMJIF") and **Municipal Excess Liability Fund** ("MEL") collectively referred to as "DEFENDANTS" or "WE" on the date last acknowledged below. (Waters-Rice, Joyce, Durham, Kennedy, Gansert, Felsing, ACMJIF and MEL will hereinafter be collectively referred to as the "Parties").

1. **PAYMENT BY DEFENDANTS.** In consideration for the release and other agreements provided for herein, We will pay **Waters-Rice** the sum of Three Hundred Fifty Thousand Dollars and Zero Cents (\$350,000.00), **Durham** the sum of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) and the minor **Joyce** the sum of One Hundred Thousand Dollars and Zero Cents (\$100,000.00).
2. **RELEASE BY PLAINTIFFS.** In consideration for the **DEFENDANTS'** payments outlined above, **PLAINTIFFS**, on behalf of themselves and their heirs, representatives, successors and/or assigns do hereby fully release, acquit and forever discharge the **DEFENDANTS** and their assigns, principals, inspectors, insurers, agents, managers, employees, agents, brokers, trustors, trustees, attorneys, representatives, subsidiaries, predecessors, successors, and/or any other related person or entity acting by, through or in concert with them, from any and all claims, causes of action, personal injuries, coverage, defense, indemnity, contribution, demands, damages, treble damages, compensatory damages, punitive damages, consequential damages, expenses, fees, attorneys' fees, costs, losses or liabilities, of whatever kind in nature, known or unknown, foreseen or unforeseen, incurred or to be incurred, which **PLAINTIFFS** now own or hold, or in the future might hold, against **DEFENDANTS** arising out of or in any way related to the allegations set forth in the litigation captioned, Anequa Joyce, a minor, by her mother and legal guardian; Glendon Durham; Doretha Waters-Rice, in her own right and

on behalf of Anequa R. Joyce and Glendon Durham v. City of Sea Isle City; Sea Isle City County Board of Education; Sea Isle City School; Joann Smith, individually, and in her official capacity as Chief School Administrator of Sea Isle City School; Angela Davenport, individually, and as agent, servant, and employee of Sea Isle City School; Gail Rodger, individually, and as agent, servant, and employee of Sea Isle City School; City of Sea Isle City, New Jersey, Police Department; William J. Kennedy, individually, and in his official capacity as the Chief of the Sea Isle City, New Jersey, Police Department, and in his official capacity as the President of the Sea Isle City Board of Education; Police Commissioner James Iannone, individually, and in his official capacity as the Police Commissioner of the Sea Isle City, New Jersey, Police Department; J. Gansert, individually, and as agent, servant, and employee of Sea Isle City, New Jersey, Police Department; Jane and John Does, 1-5, individually; Sgt. Dennis Felsing; Elizabeth Tegler, United States District Court for the District of New Jersey, Civil Action No. 04-5345 (hereinafter referred to as "The Lawsuit").

3. **HOLD HARMLESS AGREEMENT.** It also is understood and agreed that **PLAINTIFFS** intend to pursue their claims against the remaining defendants in **The Lawsuit** namely Sea Isle City Board of Education; Sea Isle City School; Joann Smith, individually, and in her official capacity as Chief School Administrator of Sea Isle City School; Angela Davenport, individually, and as agent, servant, and employee of Sea Isle City School; Gail Rodger, individually, and as agent, servant, and employee of Sea Isle City School; and, Elizabeth Tegler, individually, and as agent, servant, and employee of Sea Isle City School said remaining defendants being collectively referred to herein as the "**SCHOOL BOARD CO-DEFENDANTS.**" It is further understood and agreed that **PLAINTIFFS** have not released their claims against the **SCHOOL BOARD CO-DEFENDANTS**, and reserve their right to contend in **The Lawsuit** that the **SCHOOL BOARD CO-DEFENDANTS** rather than the settling **DEFENDANTS** are solely liable to the **PLAINTIFFS** for the claims and harm alleged in **The Lawsuit**. To protect the settling **DEFENDANTS** from and against any liability for contribution or indemnification arising out of the claims asserted by the **PLAINTIFFS** in **The Lawsuit**, the **PLAINTIFFS** agree to indemnify and hold

DEFENDANTS harmless from and against any and all claims, demands, obligations, actions, causes of action, damages, judgments and/or awards against **DEFENDANTS** by any or all of the **SCHOOL BOARD CO-DEFENDANTS**.

It also is understood and agreed that in the event **PLAINTIFFS** obtain, in **The Lawsuit** or any other action arising out of the same subject matter as **The Lawsuit**, a verdict and/or judgment against any other person or entity not herein released and such other party and/or any other person or entity asserts a claim and/or obtains a verdict and/or judgment against **DEFENDANTS** for contribution, indemnity or otherwise, **PLAINTIFFS** will mark any such verdict and/or judgment satisfied as to the party, person or entity against whom **PLAINTIFFS** have obtained the verdict and/or judgment to the extent necessary so as to extinguish the claim(s) against the **DEFENDANTS** for contribution, indemnity or otherwise. The purpose of this provision is to assure that **DEFENDANTS** are not exposed to any claim, verdict, or judgment in excess of the amount agreed upon as the consideration for the execution of this Agreement.

PLAINTIFFS also agree that they are personally responsible for all outstanding medical or other bills, service bills, repair bills, attorney invoices and/or related expenses. **PLAINTIFFS** promise that all outstanding bills or liens asserted by any third-party payor have either been paid in full or will be paid in full. **PLAINTIFFS** represent that no Medicare or Medicaid lien regarding any item of special damage exists. **PLAINTIFFS** agree to indemnify **DEFENDANTS** and hold **DEFENDANTS** harmless with respect to any third-party lien holder's claim asserted against **DEFENDANTS** in any way arising out of the incident giving rise to the litigation referenced above. **PLAINTIFFS** further agree to defend **DEFENDANTS** in connection with any such third-party lien holder's claim and to be responsible for all attorneys' fees and costs incurred in responding to such claim and in pursuing any breach of this covenant.

4. **DISMISSAL OF PLAINTIFFS' CLAIMS AGAINST DEFENDANTS IN THE LAWSUIT.** **PLAINTIFFS** agree to dismiss with prejudice all of their claims, demands, and causes of action against **DEFENDANTS** in **The Lawsuit**, with costs and attorneys' fees to be paid by the party incurring them, and agree to waive all

rights of appeal. **PLAINTIFFS** further agree to execute such additional documents, instruments and writings as may be necessary, proper, required, desirable or convenient for the purpose of obtaining the dismissal with prejudice of the aforementioned claims.

5. **AGREEMENT CONDITIONED UPON COURT APPROVAL OF SETTLEMENT AND ALLOCATION OF SETTLEMENT PROCEEDS.** This **Agreement** is conditioned upon court approval of the terms and conditions contained herein (including the allocation of the settlement proceeds) since Joyce is a minor, and Durham was a minor when **The Lawsuit** was commenced. The **PLAINTIFFS** promptly will seek court approval by way of a "Friendly hearing" in the United States District Court for the District of New Jersey. The **DEFENDANTS** shall pay the settlement proceeds in full within ten (10) days after the Court's approval of this **Agreement** and the settlement embodied herein.
6. **NO ADMISSION.** It is hereby stipulated between the **Parties** that this **Agreement** constitutes the settlement of disputed claims in order to avoid further trouble, litigation, and expense, and that nothing herein shall constitute or imply an admission of liability of any kind by the **Parties**, and any and all such liability is expressly denied.
7. **ACKNOWLEDGMENT OF CONSIDERATION.** The **Parties** acknowledge that the covenants contained in this **Agreement** provide good and sufficient consideration for every promise, duty, release, obligation and right contained in this **Agreement**.
8. **CHOICE OF LAW.** The **Parties** agree that this **Agreement**, and any disputes arising out of it, shall be governed under the laws of the State of New Jersey and/or federal law to the extent applicable in light of the federal claims asserted in **The Lawsuit**.
9. **CAREFUL REVIEW AND UNDERSTANDING OF AGREEMENT.** The **Parties** represent that they have carefully read this **Agreement** and understand its terms and conditions without reservation or exception. The **Parties** acknowledge that they have had ample opportunity to consult with legal counsel of their choice regarding this **Agreement**, have not relied on any representations or statements of each other or their counsel with respect to the subject matter of this **Agreement**.

10. **BINDING EFFECT.** This **Agreement** shall be binding upon and inure to the benefit of the **Parties** and their officers, directors, shareholders, employees, heirs, descendants, beneficiaries, assigns, agents, brokers, trustors, trustees, attorneys, representatives, subsidiaries, predecessors, successors and/or any other related person or entity acting by, through or in concert with them.
11. **SEVERABILITY.** If any portion or portions of this **Agreement** may be held by a court of competent jurisdiction to conflict with any federal, state, or local law, and as a result such portion or portions are declared to be invalid and of no force and effect in such jurisdiction, all remaining provisions of this **Agreement** shall otherwise remain in full force and effect and be construed as if such valid portion or portions had not been included herein.
12. **DUPLICATE ORIGINALS.** This **Agreement** may be executed in duplicate original counterparts, each of which shall be considered an original for all purpose.
13. **COOPERATION.** The **DEFENDANTS** shall, upon request of the **PLAINTIFFS**, appear and testify live at the trial of **The Lawsuit**, without the necessity of subpoenas having to be served upon them. **PLAINTIFFS** agree that they will send notice to the counsel who represented the individual **DEFENDANTS** in **The Lawsuit**, as well as to the City Solicitor, Paul J. Baldini, whose address is 4413 New Jersey Avenue, Wildwood, New Jersey 08260.
14. **EXECUTION.** The **Parties** understand and agree to the terms of this **Agreement**. The **Parties** intend to be legally bound by this **Agreement**. As evidence, the **Parties** have signed below.

Witness:

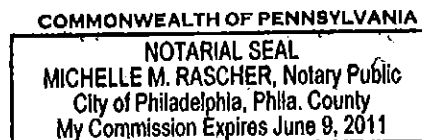
Pamela Glahnt Thurmond

Doretha Waters-Rice
Doretha Waters-Rice, Individually

Sworn to and subscribed before me
this 19th day of May, 2010.

Michelle M. Rascher

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Michelle M. Rascher

Notary Public

Witness:

Pamela Elchert Thurmond

Doretha Waters Rice

Doretha Waters-Rice, as Guardian for the
Minor Plaintiff, Anequa Joyce

Sworn to and subscribed before me
this 19th day of May, 2010.

Michelle M. Rascher

Notary Public

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

MICHELLE M. RASCHER, Notary Public
City of Philadelphia, Phila. County
My Commission Expires June 9, 2011

Witness:

Pamela Elchert Thurmond

Glendon Durham

Glendon Durham

Sworn to and subscribed before me
this 19th day of May, 2010.

Michelle M. Rascher

Notary Public

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

MICHELLE M. RASCHER, Notary Public
City of Philadelphia, Phila. County
My Commission Expires June 9, 2011

Prepared by: Robert P. Merenich

Revised by: Steven M. Coren