

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

JONATHAN DANIEL,)	
)	
Plaintiff,)	No. 14 CV 01232
)	
vs.)	
)	Honorable Michael M. Mihm
THE CITY OF PEORIA, <i>et al.</i> ,)	Magistrate Judge Schanzle-Haskins
)	
Defendants.)	

RELEASE AND SETTLEMENT AGREEMENT

This **RELEASE AND SETTLEMENT AGREEMENT** (“Agreement”) is made by and between Jonathan Daniel and City of Peoria, Illinois, Jim Ardis, Patrick Urich, Christopher Setti, Sam Rivera, Steven Settingsgaard, James Feehan, Stevie Hughes, Jr., and Sonni Williams.

In summary, Plaintiff agrees to dismiss with prejudice City of Peoria, Illinois from the Complaint filed by him, *Jonathan Daniel vs. The City of Peoria, et al.*, 14-CV-01232 (Central District of Illinois), and to release City of Peoria from any claims or causes of action as set forth in detail below, in exchange for City of Peoria, Illinois’ agreement to pay a settlement amount of One Hundred Twenty Five Thousand and No/100 Dollars (\$125,000.00), to implement a directive relative to the future enforcement of Illinois’ statute on false personation of public officials, 720 ILCS 5/17-2(b) (“False Personation Statute Directive”), and to release Plaintiff from any claims or causes of action as set forth in detail below. Plaintiff further agrees to dismiss Defendants Jim Ardis, Patrick Urich, Christopher Setti, Sam Rivera, Steven Settingsgaard, James Feehan, Stevie Hughes, Jr., and Sonni Williams from the

lawsuit with prejudice and to release said Defendants from any claims or causes of action, as set forth below, in exchange for said Defendants' release of Plaintiff from any claims or causes of action as set forth in detail below.

AGREEMENT

1.0 Definitions. When used in this Agreement, the following definitions shall apply:

1.1 Plaintiff. The term "Plaintiff" shall refer to Jonathan Daniel.

1.2 Defendant(s). The term "Defendant" shall refer to City of Peoria, Illinois and, when used in the plural, shall also refer to its current or former employees named in the Lawsuit.

1.3 Individual Defendants. The term "Individual Defendants" shall refer collectively to Defendants Jim Ardis, Patrick Urich, Christopher Setti, Sam Rivera, Steven Settingsgaard, James Feehan, Stevie Hughes, Jr., and Sonni Williams.

1.4 Lawsuit. The term "Lawsuit" shall mean any and all claims against the Defendants which arose or could have arisen from the facts alleged in the lawsuit captioned *Jonathan Daniel vs. The City of Peoria, et al.*, 14-CV-01232 (Central District of Illinois).

1.5 Parties. The term "Parties" shall refer to the parties to this Agreement.

1.6 Plaintiff's Attorneys. The term "Plaintiff's Attorneys" shall refer to the attorneys of the Roger Baldwin Foundation of ACLU, Inc. and the law firms of Miller Shakman & Beem LLP and Schiff Hardin LLP.

2.0 Denial of Allegations in the Lawsuit. This action has been brought by Plaintiff in an Amended Complaint alleging numerous causes of action, including but not limited to

actions brought under 42 U.S.C. § 1983, the Illinois Constitution, the Privacy Protection Act, and state law intentional torts. The Defendants deny each and every allegation of wrongdoing, and deny liability and damages.

3.0 No Admission of Liability. The Parties and their respective attorneys acknowledge and agree that this settlement is made to avoid the uncertainty of the outcome of litigation, the expense in time and money of further litigation and for the purpose of judicial economy. The Parties acknowledge and agree that the settlement of this Lawsuit is not an admission of liability or wrongful conduct by or on the part of any Defendant and/or Defendant's future, current or former Council members, officers, agents and employees, that Defendants have agreed to settle this matter for economic reasons relative to the costs of further litigation, and that this settlement agreement shall not serve as evidence or notice of any wrongdoing by or on the part of any Defendant or agent. Nothing in this paragraph alters the obligation of the City of Peoria, Illinois and its agents to comply with Paragraph 9.0.

4.0 Subject to Approval by the Peoria City Council. The Parties agree that all terms contained in this Agreement are subject to approval by the Peoria City Council. This Agreement cannot be enforced until such time that the Peoria City Council formally approves the Agreement and executes it.

5.0 Dismissal With Prejudice. In consideration of the hereinafter indicated settlement entered pursuant to this Agreement, and upon advice of counsel and receipt of a fully executed settlement agreement and receipt of payment as stated in Paragraphs 6.1 and 8.0, Plaintiff, Jonathan Daniel, agrees to dismiss City of Peoria, Illinois, from the lawsuit with

prejudice, with each side bearing its own costs and attorneys' fees. At the same time, and in consideration of Individual Defendants' agreement to release Plaintiff from any claims and causes of action as set forth below, Plaintiff, Jonathan Daniel, agrees to dismiss Individual Defendants from the lawsuit with prejudice, with each side bearing its own costs and attorney's fees.

6.0 Release and Discharge.

6.1 The undersigned, JONATHAN DANIEL, for the sole consideration of the release in Paragraph 6.5, the Payment Terms specified in Paragraph 8.0 and implementation and distribution of False Personation Statute Directive Terms specified in Paragraph 9.0, *infra*, and effective upon receipt of the Payment Terms specified in Paragraph 8.0 and the implementation and initial distribution of the False Personation Statute Directive Terms specified in Paragraph 9, does remise, release, acquit and forever discharge, City of Peoria, Illinois as well as its past, present and future employees, elected officials, agents, heirs, executors, administrators, insurers, officers, members, and directors of and from any and all past, present and future actions, claims, demands, setoffs, debts, sums of money, accounts, compensatory and punitive damages, attorneys' fees, financial obligations, actions, causes of action, suits at law or in equity, judgments, costs, of any nature whatsoever, including any and all claims for personal physical injuries, mental anguish and suffering and loss of normal life, which arose or could have arisen from the facts alleged or claims made in the Lawsuit, which Plaintiff owns, has or may have against the Released Parties, whether known or unknown, including without limitation, those at law, in tort (including actions under 42 U.S.C. § 1983, the Illinois Constitution, or the

Privacy Protection Act) or in equity. Nothing in this paragraph (6.1) releases Defendants from their obligations under this Agreement.

6.2 This release and discharge shall also apply to Defendants' past, present and future officers, attorneys, agents, servants, elected officials, affiliates, boards, councils, partners, predecessors and successors in interest, assigns, and all other persons, firms, or corporations with whom any of the former have been, are now or may hereafter be affiliated.

6.3 Plaintiff expressly waives and assumes risk for any and all claims for damages that exist as of this date, but of which Plaintiff does not know or suspect to exist whether through ignorance, oversight, error, negligence, or otherwise, which, if known, would materially affect Plaintiff's decision to enter into this Agreement. Plaintiff further agrees that he has accepted payment of the sum specified herein, the release in Paragraph 6.5, and implementation of the False Personation Statute Directive terms specified herein as a complete compromise of matters involving disputed issues of law and fact. Plaintiff assumes the risk that the facts or law may be other than Plaintiff believes. It is understood and agreed to by the Parties that this settlement is a compromise of a disputed claim and the payments are not to be construed as an admission of liability on the part of the Released Parties, by whom liability is expressly denied.

6.4 This release, on the part of Plaintiff, shall be a fully binding and complete settlement between Plaintiff and the Released Parties and their respective heirs, assigns and successors.

6.5 The Defendants hereby remise, release, acquit and forever discharge, the Plaintiff of and from any and all past, present and future actions, claims, demands, setoffs, debts, sums of money, accounts, compensatory and punitive damages, attorneys' fees, financial obligations, actions, causes of action, suits at law or in equity, judgments, costs, of any nature whatsoever, including any and all claims for personal physical injuries, mental anguish and suffering and loss of normal life, which arose or could have arisen from the facts alleged or claims made in the Lawsuit, which Defendants own, have or may have against the Plaintiff, whether known or unknown, including without limitation, those at law, in tort (including actions under 42 U.S.C. § 1983, the Illinois Constitution, or the Privacy Protection Act) or in equity.

7.0 Liens. Plaintiff, JONATHAN DANIEL, represents that there are no liens, and acknowledges that the Released Parties have materially relied on that representation in entering into this Agreement. The Defendants represent that they have not received notice of and are not otherwise aware of any lien or claim of a lien against Plaintiff. In consideration of this settlement entered pursuant to this Agreement, and upon advice of counsel, Plaintiff, for himself, his heirs, representatives, successors and assigns agrees to defend, indemnify and hold harmless the Released Parties and their attorneys, from any and all claims, losses, damages, obligations, or expenses, including attorneys' fees and costs, incurred, or which may be incurred, by reason of any lien or any other claim, counter-claim, cross-claim, or suit, including suit for contribution, indemnity or interest held by any person, entity or corporation against any monies received or to be received by Plaintiff under this settlement

entered pursuant to this Agreement, including but not limited to any attorneys' liens, physicians' liens, Medicare/Medicaid liens, or Social Security liens.

8.0 Payment Terms. In consideration for the releases set forth in Paragraph 6 above, Defendant City of Peoria agrees to pay the total amount of ONE HUNDRED TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$125,000.00) as follows:

8.1 Single Payment. Defendant, pursuant to this Agreement, shall issue payment to "Jonathan Daniel and the Roger Baldwin Foundation of ACLU, Inc." in the amount of ONE HUNDRED TWENTY FIVE THOUSAND AND NO/100 DOLLARS. Plaintiff agrees, understands, and acknowledges that all monies owed by Defendant pursuant to this Agreement are to be paid to Jonathan Daniel and the Roger Baldwin Foundation of ACLU, Inc. The payment shall be delivered to Plaintiff's attorneys at the Roger Baldwin Foundation of ACLU either by mailing a valid check return receipt, or by use of a commercial carrier, or by electronic funds transfer.

8.2 Individuals Have No Obligation to Pay. It is expressly agreed that any individuals who have been sued in the Lawsuit shall not be responsible for payment of any sum under this Agreement.

8.3 Discharge of Obligation to Pay. Effective on the date that Plaintiff receives the full amount specified in Paragraph 8.1, to Jonathan Daniel and the Roger Baldwin Foundation of ACLU, Inc., Plaintiff releases and forever discharges Defendant from any and all obligation to make payment under this Agreement, including from Plaintiff's Attorneys' non-payment or underpayment to Plaintiff for any reason whatsoever.

8.4 Hold Harmless. In the event of a dispute between Plaintiff and Plaintiff's Attorneys concerning the payment of settlement proceeds directly to Plaintiff (including any non-payment or underpayment), should any claim be asserted against Defendant or its past, current, or future officers, employees or agents, then Plaintiff's Attorneys agree to defend, indemnify and hold harmless Defendant and its past, current, or former officers, employees or agents from such claim. Delivery confirmation of payment (i.e., delivery confirmation by mail, commercial carrier or electronic funds transfer) shall constitute sufficient evidence to trigger Plaintiff's Attorneys' obligation under this Paragraph.

9.0 False Personation Statute Directive Terms. In consideration of the releases set forth in Paragraph 6 above, Defendant agrees to implement the False Personation Statute Directive (attached hereto as Exhibit 1), including but not limited to announcing and distributing Exhibit 1 to all current City of Peoria police officers at roll call and certifying to the ACLU that they have done so. Defendant City of Peoria further agrees that it will continue to abide by the terms of the False Personation Statute Directive until and unless a specific change in circumstances, such as a modification in the governing law or a change in the interpretation of the law by the Peoria County State's Attorney's office, provides Defendant a good faith belief that adherence to the terms of the False Personation Statute Directive are no longer appropriate. Defendant agrees that before any decision to no longer abide by the terms of said directive is implemented, Defendant will first consult with the Roger Baldwin Foundation of ACLU, Inc., and explain the basis for any intent to deviate from the terms of the False Personation Statute Directive, and provide it with an opportunity to persuade Defendant that the terms of the False Personation Statute

Directive should remain in effect. Defendant further agrees that, in the event no agreement can be reached regarding any deviation from or modification to the terms of the False Personation Statute Directive, Defendant will not effectuate any such deviation or modification before first providing Roger Baldwin Foundation of ACLU, Inc. a reasonable opportunity to bring a legal challenge to any contemplated action regarding the False Personation Statute Directive.

10.0 Tax. Plaintiff acknowledges and agrees that neither the Defendants nor any of their representatives have made any tax representations or conclusions nor provided any tax advice to Plaintiff. Plaintiff acknowledges he sought his own tax advice and legal counsel with respect to these matters and shall be responsible for any taxes, penalties and interest payable on this settlement amount.

11.0 Attorneys' Fees. Plaintiff and Plaintiff's Attorneys release, waive and relinquish any claims or rights against the Released Parties to attorneys' fees, costs and expenses allegedly incurred or due in the Lawsuit pursuant to 42 U.S.C. § 1988, or under any other statute, rule or common law provision. Each party hereto shall bear all attorneys' fees and costs arising from the actions of its own counsel in connection with the Agreement, the matters and documents referred to herein, and all related matters.

12.0 Review by Attorney. The Parties to this Agreement agree that they have read and understand this Agreement, and that this Agreement has been reviewed by their respective attorneys. The Parties to this Agreement agree and understand that no promises or representations other than those that appear in this Agreement have been made to them by the other party or by any attorney representing the other party.

13.0 Entire Agreement. This Agreement constitutes the entire agreement between the Parties to the Agreement, and there are no other covenants, agreements, promises, terms, provisions, conditions, undertakings or understandings, either oral or written, between the Parties.

14.0 Headings. The headings, captions, numbering system, etc. are inserted only as a matter of convenience and may under no circumstances be considered in interpreting the provisions of the Agreement.

15.0 Counterparts. This Agreement may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original and all of which are identical.

16.0 Applicable Law, Place of Performance. All obligations contained in this Agreement are to be performed in City of Peoria, Illinois.

17.0 Date of Agreement. This Agreement shall be dated on the last date that appears on the execution pages.

18.0 Construction of this Agreement. Terms contained herein shall not be construed against a party merely because that party or its attorney is or was the principal drafter. It is understood and agreed that should any provision, portion or term of this Agreement be declared unlawful, null, void, against public policy or illegal, such declaration or determination shall have no effect upon the enforceability of the remaining provisions, portions or terms of this Agreement and this Agreement shall remain in full force and effect.

19.0 Modification of Agreement. This Agreement may not be changed, modified or assigned except by written agreement of the Parties.

20.0 Cooperation In Dismissal of Lawsuit. All Parties to this Agreement agree to cooperate in seeking the dismissal of the Lawsuit with prejudice, as well as to file any supplementary documents and to take all additional actions which are consistent with and which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

21.0 Representation of Authority. The person signing on behalf of any Defendant represents and warrants that he or she is authorized to sign on behalf of the Defendants and that the agreement is binding on the Defendants.

AGREED:

JONATHAN DANIEL

Date

Counsel for Jonathan Daniel
Roger Baldwin Foundation of ACLU, Inc.
180 North Michigan Avenue, Suite 2300
Chicago, Illinois 60601

Date

Counsel for Jonathan Daniel
Miller Shakman & Beem, LLP
180 North LaSalle Street, Suite 3600
Chicago, Illinois 60601

Date

Counsel for Jonathan Daniel
Schiff Hardin LLP
233 South Wacker Drive, Suite 6600
Chicago, Illinois 60606

Date

CITY OF PEORIA, ILLINOIS

Date

JIM ARDIS

Date

PATRICK URICH

Date

CHRISTOPHER SETTI

Date

SAM RIVERA

Date

STEVEN SETTINGSGAARD

Date

JAMES FEEHAN

Date

STEVIE HUGHES, JR.

Date

SONNI WILLIAMS

Date

Counsel for City of Peoria, Illinois, Jim Ardis,
Patrick Urich, Christopher Setti, Sam Rivera,
Steven Settingsgaard, James Feehan,
Stevie Hughes, Jr., and Sonni Williams
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Date