



Township Council
1 Municipal Plaza
Bloomfield, NJ 07003

Louise M. Palagano
Municipal Clerk

<http://www.bloomfieldwpnj.com>

Meeting: 08/11/14 07:00 PM

2014 RESOLUTION AGREEMENTS

RESOLUTION AUTHORIZING AND APPROVING SETTLEMENT OF LITIGATION

WHEREAS, employee number 87801 commenced an action against the Township of Bloomfield (The "Township") and the Bloomfield Board of Health (collectively referred to as the "Defendants") in or about August 2013 in the Superior Court of New Jersey, Law Division, Essex County, which was thereafter removed, by the Defendants, to the United States District Court for the District of New Jersey in or about October 2013; and

WHEREAS, after consultation with legal counsel for the Defendants, and following extensive negotiations between the parties, a proposed settlement was reached in the above matter; and

WHEREAS, the Defendants have determined, under all of the circumstances, that it is in its best interest to resolve the matter amicably, thereby concluding all litigation with employee number 87801; and

WHEREAS, the Defendants do not admit any liability or wrong doing whatsoever through and by this settlement and is taking this action solely as a matter of a business judgment and at the recommendation of its legal counsel;

NOW, THEREFORE, BE IT RESOLVED that the Township hereby approves the Attached Settlement Agreement and General Release with employee number 87801, and authorizes the appropriate party to sign same on behalf of the Township. The Township's attorney is further authorized to take all necessary and appropriate steps to implement the aforesaid Settlement Agreement and Release.

* * * * *

APPROVED AS TO FORM AND PROCEDURE
ON BASIS OF FACTS SET FORTH

Director of Law - Township Attorney

I hereby certify that the above resolution was duly adopted by the Mayor and Council of the Township of Bloomfield at a meeting of said Township Council held on August 11, 2014.

Louise M. Palagoni

 Municipal Clerk of the Township of Bloomfield

Michael J. Venezia

 Mayor of the Township of Bloomfield

✓ Vote Record - Resolution 3788						
		Yes/Aye	No/Nay	Abstain	Absent	
<input checked="" type="checkbox"/> Adopted						
<input type="checkbox"/> Adopted as Amended						
<input type="checkbox"/> Defeated	Elias N. Chalet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Withdrawn	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Tabled	Carlos Bernard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Approved	Wartyna Davis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Approved by Consensus	Joseph Lopez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Not Discussed	Carlos Pomares	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Tabled with No Vote	Michael J. Venezia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Discussed						
<input type="checkbox"/> Veto by Mayor						
<input type="checkbox"/> Approved No Vote						
<input type="checkbox"/> Deferred						

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (“Agreement”) is made this ____ day of July 2014, by and between the Township of Bloomfield, the Bloomfield Board of Health and their agents, past and present members, employees, attorneys, successors, heirs and assigns (collectively referred to as the “Township”) and Nancy Thompson (“Thompson”), and her agents, attorneys, successors, heirs and assigns (collectively the “Parties”);

WHEREAS, the Township and Thompson are parties to a lawsuit captioned Nancy Thompson v. Township of Bloomfield, Bloomfield Board of Health; United States District Court for the District of New Jersey, Civil Action No. 2:13-cv-06309-SRC-CLW; and

WHEREAS, the Parties have determined that it is in their best interests to resolve all disputes between them, without any admission of wrongdoing or liability;

NOW, THEREFORE, in consideration of the agreements contained herein and other good and valuable consideration, the Parties agree as follows:

Payment

1. The Township, through its insurance, has agreed to pay to Thompson seven thousand five-hundred dollars (\$7,500.00) (“Settlement Amount”), to be paid directly by Garden State Municipal JIF, in full and final settlement of any and all claims that Thompson has or may have, whether known or unknown, against the Township and its past and present members, officers, administrators, agents, employees, attorneys and their successors, heirs and assigns. The Settlement Amount shall be made payable to Joseph A. Fortunato Trust Account. Counsel will provide a Form W-9 in connection with this payment.

The parties will make reasonable efforts to ensure that payment of the Settlement Amount is tendered by the Township’s insurance carrier within thirty (30) days of approval by the Township of a fully executed Agreement.

Release

2. In exchange for the above consideration, Thompson hereby irrevocably and unconditionally waives, releases and forever discharges any claims or rights, whether known or unknown, for any and all claims that have or could have arisen prior to Thompson's execution of this Agreement, which she has or may have against the Township and its past and present members, officers, administrators, agents, employees, attorneys, successors, heirs and assigns, including, but not limited to, any claims for attorney's fees, back pay or front pay, any claims for emotional distress or pain and suffering, any claims involving tax liability stemming from this settlement and any claims arising under any federal, state or local law or ordinance, including, but not limited to, Title VII of the Civil Rights Acts of 1871 and 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Employee Retirement Income Security Act, the Federal Family and Medical Leave Act, the Fair Labor Standards Act, the Equal Pay Act, the Workers' Adjustment and Retaining Notification Act, the New Jersey Law Against Discrimination, the New Jersey Family Leave Act, the New Jersey Conscientious Employee Protection Act, the New Jersey Wage and Hour Law, the Employer-Employee Relations Act, the New Jersey Tort Claims Act, any collective negotiations agreement, any common law claim and any other claims for harassment, discrimination or retaliation of any kind, breach of contract, breach of promise, misrepresentation, negligence, fraud, estoppel, defamation, violation of public policy, wrongful or constructive discharge or any other tort, contractual or quasi-contractual claim. The Parties agree that neither has waived their right to enforce this Agreement in the event of a breach.

3. Upon receipt by Thompson of the Settlement Amount, Thompson releases and holds harmless the Township and its past and present members, officers, administrators, agents,

employees, attorneys, successors, heirs and assigns for any claim that may exist or arise regarding the receipt, distribution and/or allocation of the Settlement Amount between her and/or the State of New Jersey and the United States. It is expressly understood and agreed by Thompson that the absence of withholding by the Township is not in any way a representation as to the taxes that should or should not be paid on any portion of the Settlement Amount and Thompson acknowledges that it is her responsibility to make all necessary tax payments, to the extent required, and she agrees to indemnify and hold the Township harmless with respect to any amounts, including fines, penalties and interest, which should have been paid by her.

4. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, heirs and assigns.

Approval

5. This Agreement is subject to the formal approval by the Town Council of the Township of Bloomfield as well as the Bloomfield Board of Health.

Assent to Terms

6. Thompson acknowledges that she was given the opportunity to fully consider and review this Agreement for a period of up to twenty-one (21) days and seven (7) days from the execution of this Agreement to revoke this Agreement by delivering written notification to Stefani C Schwartz, Esq., Schwartz Simon Edelstein & Celso LLC, 100 South Jefferson Road, Suite 200, Whippany, New Jersey 07981. It is understood that if this Agreement is revoked, it will not be effective or enforceable and Thompson will not be entitled to the entire consideration described herein.

Medicare

7. Thompson represents that she is not and has not been a Medicare recipient, has not applied for Social Security Disability Insurance ("SSDI") benefits, has not received such benefits. Thompson further represents that there are no liens, claims or reimbursement rights including, without limitation, liens held by any hospital, ambulance service, or other medical provider, Medicare, Medicaid, insurance company, or attorney against the proceeds of this settlement or against the Township. Based on these representations, the Township will not include any government agency of the United States or its designee or other party as a co-payee on the settlement check(s). If such a lien, claim or reimbursement right is asserted against the settlement amounts or against the Township, then, in consideration of the payment(s) made to Thompson, Thompson agrees to fully indemnify and hold harmless the Township from any lien, claim or demand made pursuant to the MMSEA, MSP and/or arising from Thompson's failure to make any of the payments and satisfactions described in this paragraph.

Dismissal With Prejudice

8. The Parties agree to execute and file a Stipulation of Dismissal With Prejudice as annexed as Exhibit A.

No Further Employment

9. Thompson forever agrees that she will not seek employment with the Township or its agencies in any capacity at any time in the future. If Thompson breaches this part of the Agreement, she agrees that the Township is entitled to the portion of the Settlement Amount representing funds paid to her.

Confidentiality

10. The Parties agree to keep the existence and substance of this Agreement, the settlement giving rise to this Agreement and the sums of money paid and to be paid pursuant to this Agreement strictly confidential to the fullest extent permitted by law. The Parties are expressly forbidden from discussing this Agreement with any person, other than to each other, their immediate families, accountants, tax advisers and attorneys (“permitted disclosure”), and to any other individual or entity as necessary to implement the Agreement or to which they are legally obligated to respond (“legally-required disclosures”). In making any permitted disclosure, the Parties agree that they will tell the person to whom they are making the permitted disclosure that the existence and substance of this Agreement, the settlement giving rise to this Agreement and the sums of money paid and to be paid pursuant to this Agreement are to be held strictly confidential as permitted by law. The Parties specifically agree not to discuss the nature, terms and conditions of this Agreement with, among others, any representative of the media and any past, present or prospective employee of the Township or their agents or attorneys. The Parties understand that this provision is an integral and material part of this Agreement. If subpoenaed for any litigation or administrative action, Thompson will provide the Township notice within five (5) days of receipt of a subpoena by sending such notice via facsimile and U.S. Mail, postage prepaid, addressed to the Township’s counsel:

STEFANI C SCHWARTZ, ESQ.
SCHWARTZ SIMON EDELSTEIN & CELSO LLC
100 South Jefferson Road, Suite 200
Whippany, New Jersey 07981
Telephone: (973) 301-0001
Facsimile: (973) 993-3152

The Township may then move to quash the subpoena. If the Township makes such a motion,

Thompson will await receipt of an order determining the validity of the subpoena before responding to the subpoena, provided that such action by Thompson does not cause her to violate any legal obligation to comply with the subpoena.

No Admission

11. It is further specifically acknowledged and understood by the Parties that this Agreement and/or the payments contained herein are not an indication or admission of any liability or the violation of any law, statute or regulation or a breach of any duty by the Township, its past and present members, officers, administrators, agents, employees or their attorneys in connection with this action. It is further acknowledged that the consideration, or Settlement Amount, is not indicative of any action or inaction taken by the Township and its past and present members, officers, administrators, agents, employees or their attorneys. The Settlement Amount is being paid solely to alleviate the necessary time and expense of a trial, preparation therefore and/or further proceedings. This Agreement, and compliance with this Agreement, shall not be construed as an admission by any party of any liability whatsoever with respect to any matter. The Township, its past and present members, officers, administrators, agents, employees and their attorneys expressly deny liability. This Agreement may not be introduced into evidence or used in any other way in any other legal or administrative proceeding other than a proceeding seeking enforcement of the terms of this Agreement. Neither party shall be considered the "prevailing party" to this matter.

Law Governing

12. This Agreement shall be governed by the laws of the State of New Jersey and any dispute arising out of this Agreement shall be subject to the exclusive jurisdiction of the Courts of the State of New Jersey.

Severability

13. If any provision of this Agreement, or the application thereof, is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Agreement are declared to be severable.

Execution

14. This Agreement may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

Negotiated by Counsel

15. Thompson and the Township acknowledge that this Agreement is the result of arms length negotiations between the Parties, all of whom are represented by counsel. The Parties have consulted with their attorneys throughout the negotiations and have been fully advised of all of the ramifications of this Agreement, including the claims and rights that they are waiving herein and the affirmative obligations that they are agreeing to undertake. The Parties are fully satisfied with the services of their counsel with respect to both this Agreement and all other aspects of this case and they enter into this Agreement knowingly, willingly and without any coercion or improper inducements.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the date first written above.

TOWNSHIP OF BLOOMFIELD

NANCY THOMPSON

Dated: _____

Witness/Attest

Dated: _____

Dated: _____

Witness/Attest

Dated: _____

BLOOMFIELD BOARD OF HEALTH

Dated: _____

Witness/Attest

Dated: _____