

A RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF THE LITIGATION ENTITLED JASON STRONG V. TESSMANN ET AL. CASE NO. 16 CV 4885

WHEREAS, the Village of Barrington Hills (hereinafter the “Village”) is a named defendant in litigation currently pending in the U.S. District Court for the Northern District, captioned *Jason Strong v. Tessmann et al.*, Case No. 16 CV 4885; and

WHEREAS, plaintiff and defendants in the litigation have recently engaged in negotiations to resolve the litigation, on the terms as set forth in a written Release and Settlement Agreement, a copy of which is attached hereto and incorporated herein as Exhibit “A;” and

WHEREAS, payment of the Village’s participation in the settlement will be made by the insurance company which has provided coverage of this claim; and

WHEREAS, the President and Board of Trustees of the Village have determined that the terms of the Release and Settlement Agreement are acceptable to the Village and that it is in the best interest of the Village and its residents for the Village to resolve the instant litigation, under terms of the Release and Settlement Agreement set forth in Exhibit “A” in substantially similar form subject to final Attorney review.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Barrington Hills, located in the Counties of Cook, Kane, Lake and McHenry, Illinois, as follows:

SECTION ONE: The recitals set forth above are incorporated herein and made a part hereof.

SECTION TWO: The Village President is hereby authorized and directed to execute on behalf of the Village of Barrington Hills, the Release and Settlement Agreement attached hereto and incorporated herein by reference as Exhibit “A” in substantially similar form subject to final Attorney review.

SECTION THREE: This Resolution shall take effect immediately upon its passage and approval as provided by law.

Ayes: Nays: Absent:

PASSED AND APPROVED by the President and Board of Trustees of the Village of Barrington Hills, Illinois, this 28th day of August, 2017.

APPROVED:

ATTEST:

Village President

Village Clerk

RELEASE AND SETTLEMENT AGREEMENT

This **RELEASE AND SETTLEMENT AGREEMENT** ("Agreement") is made by and between Jason Strong ("Plaintiff") and the City of Waukegan, Lake County, Illinois, the Village of Vernon Hills, the Village of Round Lake Beach, the Village of Buffalo Grove, the Village of Libertyville, the Village of Lincolnshire, the Village of Barrington Hills, the City of North Chicago, and the City of Park City, (collectively "Defendants").

Subject to the terms and conditions of this Agreement, Plaintiff agrees to dismiss all Defendants with prejudice from the Complaint filed by him, *Jason Strong vs. Lucian Tessmann, et al*, 16-CV-4885 (Northern District of Illinois), release Defendants and their future, current and former officers, agents and employees as provided herein, and to comply with certain terms and conditions, as set forth *infra*, in exchange for the City of Waukegan, Lake County, Illinois, the Village of Vernon Hills, the Village of Round Lake Beach, the Village of Buffalo Grove, the Village of Libertyville, the Village of Lincolnshire, the Village of Barrington Hills, the City of North Chicago, and the City of Park City's agreement to pay a total settlement amount of Nine Million and No/100 Dollars (\$9,000,000.00) as further specified herein.

AGREEMENT

- 1.0 Definitions. When used in this Agreement, the following definitions shall apply:
 - 1.1 Plaintiff. The term "Plaintiff" shall refer to Jason Strong.
 - 1.2 Defendants. The term "Defendants" shall refer to the City of Waukegan, Lake County, Illinois, the Village of Vernon Hills, the Village of Round Lake Beach,

the Village of Buffalo Grove, the Village of Libertyville, the Village of Lincolnshire, the Village of Barrington Hills, the City of North Chicago, and the City of Park City.

1.3 Lawsuit. The term "Lawsuit" shall mean any and all allegations or claims against any Defendant that were contained, or could have been contained, in the lawsuit captioned *Jason Strong vs. Lucian Tessmann, et al*, 16-CV-4885 (Northern District of Illinois).

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

1.5 Plaintiff's Attorneys. The term "Plaintiff's Attorneys" shall refer to the Roderick and Solange MacArthur Justice Center and the Bluhm Legal Clinic, including their principals, officers, members and/or shareholders.

2.0 Denial of Allegations in the Lawsuit. This action has been brought by Plaintiff in a First Amended Complaint alleging numerous causes of action, including but not limited to actions brought under 42 U.S.C. § 1983 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 any Defendant's future, current or former Board members,

officers, agents and employees, and shall not serve as evidence or notice of any wrongdoing by or on the part of any Defendant or agent.

4.0 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, Plaintiff, Jason Strong agrees to dismiss Defendants City of Waukegan, Lake County, Illinois, Village of Vernon Hills, Village of Round Lake Beach, Village of Buffalo Grove, Village of Libertyville, Village of Lincolnshire, Village of Barrington Hills, City of North Chicago, and City of Park City from the lawsuit with prejudice, with each side bearing its own costs and attorneys' fees.

5.0 Release and Discharge.

5.1 The undersigned, JASON STRONG, for the sole consideration of the Payment Terms specified in Paragraph 8.0, *infra*, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release, acquit and forever discharge, Defendants City of Waukegan, Lake County, Illinois, Village of Vernon Hills, Village of Round Lake Beach, Village of Buffalo Grove, Village of Libertyville, Village of Lincolnshire, Village of Barrington Hills, City of North Chicago, and City of Park City, as well as their past, present and future employees, elected officials, agents, heirs, executors, administrators, insurers, officers, members, directors (hereafter, the "Released Parties") 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 without limiting the

generality of the foregoing, any and all claims for personal physical injuries, mental anguish and suffering and loss of normal life, which arose or could have arisen from or relate to the facts alleged or claims made in the Lawsuit, which Plaintiff owns, has or may have against the Released Parties, whether known or unknown from the beginning of time until the effective date of this Agreement, including without limitation, those at law, in tort (including actions under 42 U.S.C. § 1983) or in equity.

5.2 This release and discharge shall also apply to Defendants' past, present and future officers, attorneys, agents, servants, elected officials, affiliates, boards, 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.

5.3 Plaintiff acknowledges and agrees that the release and discharge set forth above is a general release. 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 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.

5.4 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.

6.0 Liens. Plaintiff, JASON STRONG, represents that there are no liens, and acknowledges that the Released Parties have materially relied on that representation in entering into this Agreement. 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.

7.0 Payment Terms. In consideration for the releases set forth in Paragraph 6 above, Defendants agree to pay the total settlement amount of NINE MILLION AND NO/100 DOLLARS (\$9,000,000.00) as follows:

7.1 Payments. Defendant City of Waukegan, pursuant to this Agreement, shall issue payment to Plaintiff Jason Strong and Plaintiff's Attorneys in the amount of SIX MILLION AND NO/100 DOLLARS (\$6,000,000.00). Defendants Lake County, Illinois, Village of Vernon Hills, Village of Round Lake Beach, Village of Buffalo Grove,

Village of Libertyville, Village of Lincolnshire, Village of Barrington Hills, City of North Chicago, and City of Park City, pursuant to this Agreement, shall each issue payment to Plaintiff Jason Strong and Plaintiff's Attorneys in the amount of THREE HUNDRED THIRTY-THREE THOUSAND THREE HUNDRED THIRTY-THREE AND 33/100 DOLLARS (\$333,333.33).

7.2 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.

7.3 Discharge of Obligation to Pay. Effective on the date that Defendants transmit the amounts specified in Paragraph 8.1, either by mailing a valid check return receipt, or by use of a commercial carrier, or by electronic funds transfer to Plaintiff Jason Strong and Plaintiff's Attorneys, Plaintiff releases and forever discharges Defendants 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.

7.4 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 any Defendant or its past, current, or future officers, employees or agents, then Plaintiff's Attorneys agree to defend, indemnify and hold harmless Defendants and their 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.

8.0 Tax. The settlement proceeds are being paid to Plaintiff for his claim of wrongful incarceration. Plaintiff acknowledges and agrees that neither the Defendants nor any of their attorneys or 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.

9.0 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.

10.0 Publicity. The Parties agree that Defendants may publicly disclose the amount that they have paid in this Agreement. Nothing about this Agreement prevents Plaintiff from disclosing the total amount of money he has received from Defendants for settlement of his claims. Moreover, Plaintiff may share the exact amount received from Defendants with his attorneys, financial advisors, tax consultants, and as necessary to comply with any court orders.

11.0 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.

12.0 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.

13.0 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.

14.0 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.

15.0 Applicable Law, Place of Performance. This Agreement shall be construed under and in accordance with the laws of the State of Illinois. All obligations contained in this Agreement are to be performed in Lake County, Illinois. Suit to enforce this Agreement must be filed in either Lake County, Illinois or in the Northern District of Illinois.

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

17.0 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.

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

19.0 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.

AGREED:

JASON STRONG, Plaintiff

Date

Counsel for Plaintiff Jason Strong
Roderick and Solange MacArthur Justice
Center and Bluhm Legal Clinic
Northwestern University School of Law
357 East Chicago Avenue
Chicago, Illinois 60611

Date

Defendant City of Waukegan
by Sam Cunningham, Mayor

Date

Defendant Lake County, Illinois
by Aaron Lawlor, County Board Chairman

Date

Defendant Village of Vernon Hills

Date

Defendant Village of Round Lake Beach

Date

IRMA on behalf of Defendant
Village of Buffalo Grove
by Margo Ely, Executive Director

Date

IRMA on behalf of Defendant
Village of Libertyville
by Margo Ely, Executive Director

Date

Defendant Village of Lincolnshire

Date

Defendant Village of Barrington Hills
by Martin McLaughlin, President

Date

Defendant City of North Chicago

Date

Defendant City of Park City
by Steve Pannell, Mayor

Date