

SETTLEMENT AGREEMENT AND MUTUAL GENERAL RELEASE

This Settlement Agreement and Mutual General Release (“Agreement”) is made and entered into by and between the City of Ojai (“City”), on the one hand, and Leslie Rule (“Rule”), on the other hand. Each of the City and Rule are referred to herein as a “Party” and jointly as the “Parties.”

RECITALS

A. On or about April 28, 2023, plaintiffs in the case entitled *Byrne, et al. v. Rule, et al.*, Case No. 2023CUMC008352 (“the *Byrne* matter”), filed their original complaint in the Ventura County Superior Court against Councilmember Rule and her attorney Jon Drucker (“Drucker”), alleging violations of the Brown Act. The plaintiffs subsequently filed an amended complaint on May 3, 2023 in the *Byrne* matter.

B. On or about May 3, 2023, Rule submitted to the City a request for defense and indemnification by the City in connection with the *Byrne* matter.

C. On or about June 27, 2023, during open session of the City Council meeting, the Council considered a request by Rule for indemnification in the *Byrne* matter. During the meeting Rule stated her attorney was working pro bono. The City Council voted to deny the request for indemnification without prejudice to Rule bringing the request at a later date.

D. On or about July 29, 2023, Rule and Drucker filed a special motion to strike pursuant to Code of Civil Procedure § 425.16 (“the Anti-SLAPP Motion”) in the *Byrne* matter.

E. On or about October 3, 2023, the trial court in the *Byrne* matter, Judge Benjamin F. Coats, issued a Minute Order granting defendants Rule and Drucker’s Anti-SLAPP Motion, dismissing the *Byrne* matter, and stating that the defendants were entitled to attorneys’ fees and costs.

F. On or about November 9, 2023, Rule and Drucker filed a motion for attorneys’ fees and costs in the *Byrne* matter seeking \$119,085 in attorneys’ fees and costs. The trial court reduced the rates for the attorneys and awarded Rule and Drucker attorneys’ fees and costs in the amount of \$79,950 payable by the *Byrne* plaintiffs.

G. On or about December 1, 2023, Rule submitted another request for indemnification to the City in regards to the *Byrne* matter. The City determined that the request for indemnification constituted a request to defend for payment of Rule’s attorneys’ fees and costs incurred for her defense in the *Byrne* matter. The City determined it does not have a mandatory duty to defend or indemnify Rule in the *Byrne* matter but could in its discretion, by vote of the City Council, decide to voluntarily defend or indemnify, in whole or in part, Rule in the *Byrne* matter. Rule disagrees with the City. Rule believes that the City’s duty to defend and indemnify her in the *Byrne* matter is mandatory.

H. There remains an ongoing disagreement between the Parties as to whether the City’s duty to defend and indemnify Rule in the *Byrne* matter is permissive or mandatory and Rule has stated that if the City does not pay her attorneys’ fees and costs in the *Byrne* matter she

will file suit against the City to recover her attorneys' fees and costs in the *Byrne* matter ("the Dispute").

I. The Parties wish to resolve the Dispute regarding the payment of attorneys' fees and costs to Rule for her defense in the *Byrne* matter.

J. After considering the substantial expense associated with litigating these matters, and wishing to build bridges for City leaders to work together for the benefit of all the residents of the City of Ojai, the Parties desire to settle all claims and disputes between and amongst them, arising out of, or related to the duty to indemnify or defend Rule in the *Byrne* matter and/or as to any other issues arising from the *Byrne* matter on the terms set forth below.

SETTLEMENT TERMS

Section 1. *Effective Date.*

The Effective Date of this Agreement is the date it is executed by the last of the Parties to execute it.

Section 2. *No Admission*

The Parties acknowledge that this Agreement is a compromise of disputed claims and shall not be construed as an admission by any Party of any liability or responsibility at any time for any purpose and cannot be used by any Party in any way in the *Byrne* matter. The City specifically and expressly denies any fault or liability to Rule or any other party with respect to the *Byrne* matter and, by entering into this Agreement, the City intends merely to avoid litigation.

Section 3. *Settlement Amount and Payment*

The City agrees to pay Rule up to \$125,000 in attorneys' fees and costs incurred by Rule in the *Byrne* matter. The Parties agree that any funds paid by the City under this Agreement are limited to compensating Rule for her defense in the *Byrne* matter and shall not be used to compensate for the defense of any other parties in the *Byrne* matter including, without limitation, Jon Drucker. No portion of funds paid under this Agreement shall be paid by the City to Drucker for any attorney's fees or costs in his capacity as a defendant or an attorney in the *Byrne* matter.

The City shall pay an advance of \$50,000 (the "Advance") to Rule within fifteen (15) days of the effective date of this Agreement.

Within thirty (30) days of issuance of the final non-appealable judgment by a court of competent jurisdiction in the *Byrne* matter regarding an award of attorneys' fees and costs (the "Final Award"), Rule shall submit the Final Award to the City, and the City shall pay, or Rule shall reimburse the City for the Advance, as follows:

- If Rule is awarded zero in attorneys' fees and costs in the Final Award, upon the submittal by Rule of the invoices for her attorneys' fees and costs which reflect she incurred at least \$125,000 in attorneys' fees and costs, and which may be reasonably redacted, the City shall pay Rule the full amount of \$125,000 less the advance of \$50,000 from the City. The City shall make payment to Rule within thirty (30) days of Rule's submittal of her invoices for attorneys' fees and costs.
- If Rule is awarded attorneys' fees and costs in the Final Award, the City shall pay the difference between \$125,000 and the amount (if any) Rule is able to collect from the *Byrne* plaintiffs after reasonable and diligent collections efforts, and less the Advance of \$50,000. The City shall make payment to Rule within thirty (30) days of Rule's submittal to the City of evidence of her reasonable collection efforts and the invoices for her attorneys' fees and costs which reflect she incurred at least \$125,000 in attorneys' fees and costs, and which may be reasonably redacted.
- If the difference between \$125,000 and the amount Rule is able to collect from the *Byrne* plaintiffs after reasonable diligent collections efforts ("the Uncollected Amount") is less than the \$50,000 Advance made under the Agreement, then Rule shall repay the difference between the Advance and the Uncollected Amount payable to the City. Rule shall promptly notify the City if the Uncollected Amount is less than \$50,000 and repay the City any amount due within thirty (30) days of the Final Award.

For monies owed by the City to Rule under this Agreement a warrant shall be issued by the City to Rule and payable as follows:

Leslie Rule
c/o Stephen C. Johnson, Esq.
S.C. Johnson & Associates P.C.
703 Pier Avenue
Hermosa Beach, CA 90254

Section 4. *Agreement is a Public Document*

The Parties acknowledge that this Agreement is a public document and is not confidential. The Agreement is subject to disclosure under the California Public Records Act or as otherwise required by state or federal law, a lawful subpoena, or court order. Nevertheless, nothing in this Agreement is intended to nor shall be deemed to waive the settlement privilege under California Evidence Code sections 1152 and 1154, under which the Parties expressly reserve all rights.

Section 5. *Mutual Release*

In consideration of the mutual promises and releases granted herein, the Parties hereby release and discharge each other and each of their respective successors, assigns, agents, attorneys, employees, representatives, trustees, affiliates, related persons, predecessors, and successors, from any and all claims, demands, damages, debts, liabilities, obligations, contracts, agreements, causes of action, suits, attorneys' fees, and costs, of whatever nature, character, form

or description, whether known or unknown, anticipated or unanticipated, which the releasing Parties have or may hereafter have or claim to have against each other by reason of any matter, act or omission arising from or related to any contract, liability, matter, cause, fact, or thing arising out of the facts and issues in the Dispute, having any connection with the events related to the Dispute.

Included in and as part of the above release, Rule agrees not to bring any claim or lawsuit against the City in connection with, nor to seek to join the City as a party to, the *Byrne* matter. Additionally, the above release is not intended to and shall not be deemed to impair the Parties' rights regarding any alleged Brown Act violations that are not related to or that are not fully resolved by final adjudication in the *Byrne* matter.

Section 6. *Civil Code Section 1542 Waiver*

Except as otherwise provided in this Agreement, the Parties hereby release and discharge each other from any and all past, present and future claims, demands, obligations, and causes of action relating in any way to the matters released herein, which any of them is unaware of or does not suspect to exist in their favor, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect the decision to enter into this Agreement, and to this end, waive all rights under Section 1542 of the Civil Code of California, which states in full:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

The Parties understand and acknowledge the significance and consequences of their specific waiver of Section 1542, and assume full responsibility for any injuries, damages, or losses that they may incur as a result of the execution of this waiver. Except as otherwise provided in this Agreement, the Parties intend that such waiver shall extend to waive, relinquish, and release all rights and benefits they have or may have had under any state or federal law which is similar to Section 1542. The Parties understand, intend, and agree that this Agreement is a complete compromise and release of any such claims.

Section 7. *Governing Law*

This Agreement is executed and delivered in the State of California and the rights and obligations of the Parties hereunder shall be construed and enforced in accordance with the laws of the State of California

Section 8. *Notices.*

Any notice to be given under this Agreement shall be in writing and delivered by United States Certified Mail, return receipt requested, or by Federal Express (or other overnight carrier)

with recipient signature required. Notice shall be effective three (3) days after delivery. Notice shall be delivered as follows:

To Leslie Rule with a copy to her counsel which shall constitute sufficient notice:

S.C. Johnson & Associates P.C.
703 Pier Avenue, #703
Hermosa Beach, CA 90254
Attention: Stephen C. Johnson, Esq.

and

To the City:
401 South Ventura Street
Ojai, CA 93023

with a copy to (which shall constitute sufficient notice):

Meyers Nave
555 Capitol Mall, Suite 1200
Sacramento, CA 95814
Attention: Adam Lindgren, Esq.

Section 9. *Voluntary Agreement.*

The Parties each represent to and in favor of the other that they are fully capable of executing this Agreement, understand its contents, and that they have consulted legal counsel of their choosing concerning this Agreement before signing it.

Section 10. *Reliance on Advice of Counsel*

Each of the Parties represents and warrants that, in connection with the negotiation and execution of this Agreement, they have been represented by counsel, that they have executed this Agreement after receiving the advice of such counsel, that they have read and understand the provisions and terms of this Agreement, and that they have had an adequate opportunity to conduct an independent investigation of all facts and circumstances with respect to all matters that are the subject of this Agreement.

Section 11. *Attorneys' Fees and Costs.*

The City will bear its own costs and attorneys' fees incurred in connection with all matters resolved by this Agreement. Rule will bear her own costs and attorneys' fees incurred in connection with all matters resolved by this Agreement except to the extent as set forth in Section 3 of this Agreement regarding Settlement Amount and Payment.

Section 12. *Entire Agreement.*

This Agreement constitutes a single integrated contract expressing the entire agreement of the Parties hereto. This Agreement shall supersede and render null and void any and all prior agreements between the Parties, concerning the subject matter of this Agreement. The Parties agree that there are no representations, agreements, arrangements, or understandings, either written or oral, between or among the Parties relating to the subject matter of this Agreement which are not fully expressed herein.

Section 13. *Construction.*

This Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party based upon attribution of drafting to any Party.

Section 14. *Interpretation.*

Wherever required by the context of this Agreement, the singular shall include the plural, and the plural shall include the singular. Masculine forms include feminine and neuter forms as well. The captions of the various sections of this Agreement are solely for the convenience of the Parties, are not part of this Agreement, and shall not be used to interpret or construe any of its provisions.

Section 15. *Signing in Counterparts.*

This Agreement may be signed in Counterparts, each of which shall be deemed an original, but all of which together constitute one and the same Agreement. Facsimiled and scanned pdf signatures shall be deemed originals.

Section 16. *Validity of Agreement.*

Should any clause, sentence, paragraph or other part of this Agreement be finally adjudged by any court of competent jurisdiction to be unconstitutional, invalid, or in any way unenforceable, such adjudication shall not affect, impair, invalidate or nullify the remainder of the Agreement, but shall affect only the clause, sentence, paragraph or other parts so adjudged.

THE UNDERSIGNED ACKNOWLEDGE THAT THEY HAVE CAREFULLY READ THE ENTIRE CONTENTS OF THIS AGREEMENT AND THAT IT HAS BEEN FULLY EXPLAINED TO THEM. THE UNDERSIGNED UNDERSTAND THAT THIS AGREEMENT IS A FULL AND FINAL COMPROMISE, RELEASE, AND SETTLEMENT OF THE CLAIMS, ACTIONS, AND CAUSES OF ACTION, PAST, PRESENT AND FUTURE, THAT ARE SET FORTH ABOVE. THE UNDERSIGNED FURTHER ACKNOWLEDGE THAT IN EXECUTING THIS AGREEMENT THEY WERE NOT INFLUENCED NOR DID THEY RELY UPON ANY DECLARATIONS, REPRESENTATIONS, OR PROMISES OF THE OTHER OR THE OTHER'S ATTORNEYS WHICH ARE NOT CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto evidence their agreement and have executed this AGREEMENT as of the date last written below.

Dated: February __, 2025

LESLIE RULE

By: _____

LESLIE RULE

Dated: February __, 2025

CITY OF OJAI

By: _____

MAYOR ANDY GILMAN

APPROVED AS TO FORM:

Dated: February __, 2025

S.C. JOHNSON & ASSOCIATES P.C.

By: _____

STEPHEN C. JOHNSON
Attorneys for LESLIE RULE

Dated: February __, 2025

MEYERS NAVE

By: _____

ADAM LINDGREN
Attorneys for CITY OF OJAI

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