

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made by and between the City of Eldora, Iowa (“Eldora”) and Jami Stupp (“Stupp”) (collectively referred to herein as the “Parties”).

Recitals

A. On or about June 26, 2019, Stupp filed a Complaint with the Iowa Civil Rights Commission, Case No. 12-18-72961, naming the City of Eldora, David Mitchell (“Mitchell”) and Julie Towne (“Towne”).

B. In the Response to the Complaint the City of Eldora, Mitchell, and Towne denied, and continue to deny, the allegations on which Stupp based her claims.

C. Stupp and Eldora now intend to resolve fully and completely any and all disputes, claims, issues and differences between them including, but not limited to, all claims alleged in the Complaint against Eldora, Mitchell, and Towne, and all other claims, demands, or causes of action which arose prior to the Effective Date of this Agreement.

Agreement

NOW THEREFORE, in consideration of the mutual promises and performance set forth herein, the sufficiency of which the Parties expressly acknowledge, the Parties hereby agree as follows:

1. **No Admission of Liability.** This Agreement shall not be construed as an admission by Eldora, Mitchell, or Towne of any wrongdoing or any violation of any federal, state, or local statute or ordinance or any enforceable right of Stupp. Eldora, Mitchell, and Towne specifically disclaim any wrongdoing whatsoever against Stupp on the part of themselves or their current or former employees or agents.

2. **Payment.** On or after the Effective Date as defined in paragraph (5)(f) below, Eldora or others on its behalf will pay the total sum of \$53,250.00 (Fifty-three thousand two hundred fifty and 00/100 Dollars) (“Settlement Amount”) in three checks, as described below:

A. A payroll check payable to Stupp in the amount of \$3,194.67 (Three Thousands One Hundred Ninety-Four and 67/100 Dollars) This entire payment will be designated as wages, and Eldora will withhold all standard taxes related to wages therefrom, including state income tax, federal income tax, and FICA. Eldora shall issue a W-2 to Stupp only for this payment. This check will be issued on or after the 30 days of the signing of this agreement.

B. A general check payable to Stupp in the amount of \$28,752.03 (Twenty-Seven Thousand Seven Hundred Fifty Two and 03/100 Dollars), designated as compensatory damages, including emotional distress. Eldora shall issue a 1099 to Stupp only for this payment.

C. A check payable to Newkirk Zwagerman, P.L.C. in the amount of \$21,303.30 (Twenty-One Thousand Three Hundred Three and 30/100 Dollars), for attorney's fees and costs. Eldora shall issue a 1099 to Newkirk Zwagerman, P.L.C. only for this payment.

Stupp agrees to pay all taxes, if any, which are required by law to be paid with regard to the Settlement Amount she receives pursuant to this Agreement.

3. **Dismissal of Claims.** Within seven (7) days after the check and fully executed Agreement noted within Paragraph 2 above have been delivered to counsel for Stupp, counsel for Stupp shall file a Dismissal with the Iowa Civil Rights Commission with each party responsible for its own costs and attorney fees, other than those set forth herein.

4. **Release of All Claims.** In consideration of the promises and performance set forth herein, Stupp hereby releases and forever discharges Eldora and its current and former parent companies, subsidiaries, directors, officers, shareholders, affiliates, employees, and agents (specifically including, but not limited to, David Mitchell and Julie Towne), the Iowa Community Assurance Pool, PERSI, and Sedgwick Claims Management Services, Inc. and its affiliates, and each of their officers, directors, employees, successors and assigns ("Releasees") from any and all demands, claims, causes of action, obligations, agreements, promises, representations, damages, suits and liabilities whatsoever, of any kind or nature, in law or in equity, that exist as of the date this Agreement is executed, whether developed or undeveloped, known or unknown, foreseen or unforeseen. Stupp acknowledges that Stupp consciously intends these consequences even as to claims for damages that may exist as of the date of this Agreement, but which Stupp does not know exist, and which, if known, would materially affect Stupp's decision to execute this Agreement, regardless of whether Stupp's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

The claims Stupp is releasing include (without limiting the generality of the foregoing) all claims, demands, or actions which were or could have been asserted by Stupp in the Petition at Law; all claims arising under the Family and Medical Leave Act ("FMLA"), the Consolidated Omnibus Budget Reconciliation Act ("COBRA"); the Americans with Disabilities Act ("ADA"), the Fair Labor Standards Act ("FLSA"), the Employee Retirement Income Security Act of 1974, the Rehabilitation Act of 1973 ("ERISA"), the Civil Rights Act of 1868 (42 U.S.C. §§ 1981 and 1983); Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Age Discrimination in Employment Act ("ADEA"), the Worker Adjustment and Retraining Notification Act ("WARN Act"), the Equal Pay Act of 1963; the Iowa Civil Rights Act of 1965 as codified in Iowa Code Chapter 216; Iowa Code chapters 91A, 92, 729, and 729A; Iowa Code section 607A.45, Iowa Code section 49.109; any other federal, state, or local statute or regulation, including but not limited to those regarding employment, discrimination in employment, age discrimination, disability discrimination, employee benefits discrimination, harassment, sexual harassment, retaliatory discharge, payment of wages, the termination of employment, defamation, tortious interference with contract, tortious interference with economic advantage or other intentional torts; and any claims arising under the common law of the State of Iowa or any other state, except for claims which cannot be legally released.

5. **Agreement Not to Seek Re-Employment.** Stupp understands and agrees that she will not apply for employment directly with or otherwise seek to be hired by Eldora or any defendant named within the Petition. Stupp specifically agrees that this provision is appropriate and is not considered by her to be discriminatory or retaliatory in any manner. In the event Stupp applies for such employment, Eldora shall have no obligation to consider her application, and such failure shall not constitute legally actionable conduct.

6. **Interpretation of Agreement.** Each party to this Agreement and their attorneys has reviewed this Agreement, and accordingly, this Agreement shall not be construed for or against any party by reason of source of drafting. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision, or part of this agreement and release shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of such remaining portions, provisions, or parts.

7. **Warranty of Authority to Execute Agreement.** The signatories to this Agreement represent and warrant that each has the right and authority to execute this Agreement in their individual and/or representative capacity, as applicable. In entering into this Agreement, no Party has relied on any representations or warranties of any other Party, other than the representations or warranties expressly set forth within this Agreement. The Parties intend this Agreement to be legally binding. The Parties are legally able to give and entitled to receive the consideration being provided in settlement of Stupp's Claims. The Parties have not been involved in any bankruptcy or other insolvency proceedings at any time since the aforementioned Complaint was filed.

8. **Third Party Interests.** Stupp represents that she knows of no person or entity who/that has paid any amount on her behalf for which any other person or entity may seek, claim or attempt to recover as a subrogee of Stupp against Eldora. If such lienholder, subrogee, or any person/entity with a third-party interest exists, Stupp agrees to satisfy those third-party interests out of the settlement proceeds which Stupp receives and further agrees to indemnify Eldora for any such claims or interests that are asserted thereby. Stupp further represents that Stupp has not assigned any of the Claims to any other person or entity.

9. **Entire Agreement.** This Agreement constitutes the entire agreement, written and oral, of the parties hereto, and it supersedes and replaces all prior negotiations, proposed agreements, understandings, representations, and agreements, written or oral.

10. **Amendment, Modification; Waiver.** This Agreement may not be amended, modified, or changed unless the changes are in writing and signed by all of the Parties hereto. The waiver by any party hereto of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provision hereof, nor shall any failure to enforce any provision hereof operate as a waiver at such time or at any future time of such provision or of any other provision hereof.

11. **Additional Representations.** The Parties, without further consideration, agree to execute and deliver such other documents and take such other action as may be necessary to

affect delivery of the Settlement Amount and the dismissal of all claims with prejudice, each party paying their own costs, including, but not limited to execution of necessary documents to dismiss the Claims and Petition with prejudice and timely deliver payment of the Settlement Amount noted above.

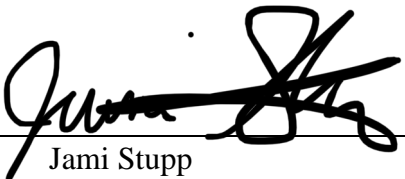
12. **Fees and Costs.** Each party hereto will bear its respective costs and fees, including attorneys' fees incurred in the litigation of this matter, with the exception of the payments noted within Paragraph 2 above.

13. **Choice of Law; Consent to Jurisdiction.** This Agreement will be governed by and construed under the laws of the state of Iowa. The Parties understand that they consent to the personal jurisdiction of the state and federal courts in Iowa with respect to any action seeking to enforce the terms of this Agreement.

14. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which, taken together, shall constitute one and the same instrument. Copies or facsimiles of signatures shall be the equivalent of original signatures.

Please read carefully. This document includes a release of substantial claims and rights you may have. By signing this document, you are acknowledging that you have read the foregoing document, that you understand its terms, and that you are freely and voluntarily signing the same after first bring advised to consult your own attorney.

Date: 4/7/20



Jami Stupp

Date: _____

The City of Eldora, Iowa

By: _____

Title: _____