

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made by and between Plaintiffs, Linda Richardson ("Richardson"), individually and on behalf of her daughter, Shaina Harris ("Harris") and Harris, individually (Richardson and Harris being individually and jointly referred to herein "Plaintiffs"), on the one hand, the New Jersey Intergovernmental Insurance Fund (hereinafter, referred to as the "NJIF"), and Defendant, Borough of Wanaque ("Borough" or "Defendant"), on the other hand (the Plaintiffs, Defendant, and NJIF being hereinafter referred to individually as a "Party" and collectively as the "Parties"), shall be deemed entered into as of the date of signature of the last Party or Party representative to sign this Agreement.

### WITNESSETH

**WHEREAS**, on December 12, 2005, the Borough adopted the Juvenile Curfew Act of 2005, Ordinance No. 31-0-05 ("Curfew Act") pursuant to N.J.S.A. 40:48-2.52 et seq. and enacted it as Chapter 69 of the Borough's Code; and

**WHEREAS**, on April 10, 2013, Plaintiffs filed a Complaint in the Passaic County Superior Court challenging the constitutionality of the Curfew Act (the "Action"); and

**WHEREAS**, the Complaint was originally filed by Richardson, individually and on behalf of Harris who, at the time the Complaint was filed, was a minor; and

**WHEREAS**, Harris is now over the age of eighteen (18); and

**WHEREAS**, Defendants have denied all allegations asserted against them; and

**WHEREAS**, Defendants are provided with insurance as a result of the membership of the Borough in the NJIF; and

**WHEREAS**, the Parties have mutually agreed to resolve the claims that form the basis for the Action and wish to memorialize their settlement herein.

NOW THEREFORE, in consideration of the mutual promises, agreements and covenants made herein, the Parties hereby covenant and agree as follows:

1. Within thirty (30) days following: (a) receipt of fully executed copies of this Agreement and a Stipulation of Dismissal with Prejudice as to the Defendant in the form attached hereto as Exhibit A ("Stipulation"); (b) Plaintiffs providing each Plaintiffs' date of birth, current address and social security number; and (c) Plaintiffs' counsel providing the EIN of Plaintiffs' counsel, the NJIF shall make a payment of Fifty-Five Thousand Dollars (\$55,000.00) to Linda Richardson and Shaina Harris c/o Cole, Schotz, Meisel, Forman & Leonard, P.A. ("Settlement Sum") representing full and final satisfaction of Plaintiffs' attorneys' fees in the Action. Plaintiffs acknowledge and agree that they are entitled to no other payment or consideration from any Releasee regarding any Claims, as such terms are defined below. The Settlement Sum shall be made payable to "Linda Richardson and Shaina Harris c/o Cole, Schotz, Meisel, Forman & Leonard, P.A." and shall be delivered to:

Edward S. Kiel, Esq.  
Cole, Schotz, Meisel, Forman & Leonard, P.A.  
Court Plaza North  
25 Main Street  
Hackensack, New Jersey 07601

2. Within sixty (60) days following its receipt of fully executed copies of this Agreement and a Stipulation, the Borough shall repeal in its entirety the Curfew Act.

3. Each Plaintiff represents that there are no Medicare, Medicaid, ERISA or other liens outstanding in relation to the claims arising under the Action.

4. To the extent there are any federal or state tax liabilities relating to payment of the Settlement Sum, each Plaintiff acknowledges covenants and agrees that such liabilities are solely their responsibility. Each Plaintiff further covenants and agrees that they will indemnify

Defendant and the NJIIF for any taxes and/or penalties for which each Plaintiff is liable and that are sought from or assessed against Defendant and/or the NJIIF by any state or federal governmental agency, in connection with payment of the Settlement Sum.

5. Plaintiffs, for themselves and on behalf of their successors, heirs, beneficiaries, estates and assigns, (individually and collectively referred to herein as "Releasers"), do hereby fully and forever release, remit, acquit, remise, hold harmless and discharge (the "Release"), Defendant and the NJIIF, as well as the Defendant's and the NJIIF's past and present officials, agents, volunteers, attorneys, departments, officers and employees (for individuals, said Release runs to them in their official and personal capacities), and all of their respective heirs, successors and assigns (hereinafter, individually and collectively referred to as "Releasees"), jointly and individually, from any and all liabilities, claims, causes of action, charges, appeals, complaints, obligations, costs, losses, damages, injuries, attorneys' fees, and other legal responsibilities of any form or kind whatsoever, whether vested or contingent, known or unknown, which Releasers have or may have against Releasees from the beginning of time through the date of this Agreement, that arise out of or are related to the September 22, 2012, incident and the claims that were or could have been set forth in the Complaint or any amendment thereto, including, but not limited to, any claims in law, equity, contract, tort, public policy, any claims or causes of action for a violation of State or Federal constitutional rights based on a right to, among other things, peacefully use public areas, travel, associate, or direct the upbringing of children free of unwarranted governmental intrusion, any claim that an ordinance is unconstitutional in that it is, among other things, vague, arbitrary, discriminatory, it infringes upon protected conduct, it subjects persons to penal sanctions for the acts of others, or it violates equal protection laws, any claims which were raised or could have been raised in the Action, or any claims under the New

Jersey Constitution, or any other federal, state or local statute, ordinance or law whether known or unknown, unforeseen, unanticipated, unsuspected or latent, and any Claims which were raised or could have been raised in the Action, whether known or unknown, unforeseen, unanticipated, unsuspected or latent (all of the foregoing being collectively referred to as "Claims"). Without narrowing the foregoing release in any way, Plaintiffs specifically agree to hereby withdraw, waive, dismiss and forego any and all Claims they have or may have against Defendant, including but not limited to its Police Department and its police officers, based upon any and all State and Federal Constitution rights violations arising from the facts alleged in the Action. Notwithstanding anything set forth herein to the contrary, the Releasees do not waive any defenses or affirmative defenses in any pending or future litigation or claim, including, but not limited to the entire controversy doctrine, estoppel, joinder, etc., whether with regard to the Action, any Claims or otherwise.

6. Releasors covenant and agree that they will not file, re-file, appeal, initiate, or cause to be filed, re-filed or initiated any claim, suit, action or other proceeding based upon, arising out of, or related to any Claims released herein; nor shall they solicit, encourage, participate, assist or cooperate in any claim against any of the Releasees related to the subject matter of or claims in the Complaint, whether before a court or administrative agency, unless required to do so by law. If a court order or subpoena is served on Releasors requiring that they testify in any claim related to the subject matter of the Complaint in which Releasees have an interest, they agree to immediately notify and provide a copy of the court order or subpoena to the NJIIF's General Counsel c/o Eric J. Nemeth, P.C. 55 Madison Avenue, Suite 400, Morristown, New Jersey, 07960, phone (973-539-2122), fax (973-539-4677). Releasors shall provide the NJIIF's General Counsel with a copy of the court order or subpoena as soon as

possible and reasonably in advance of his/her appearance and/or compliance with the court order or subpoena.

7. Releasors acknowledge and agree that this Agreement is not an admission by the NJIIF and/or Defendant and/or any of their agents, employees or representatives of any wrongdoing or liability. Defendant specifically asserts that this Agreement has been entered into solely for purposes of economic expediency.

8. Plaintiffs represent and warrant that no other person or entity has any interest in the Claims that comprise or could have been raised in the Action, or in any other demands, obligations, or causes of action referred to in this Agreement, and that they have the sole right and exclusive authority to execute this Agreement and receive the benefits specified. Plaintiffs further represent that they have not sold, assigned, transferred, conveyed or otherwise disposed of any of the Claims which comprise the Action, or any other demands, obligations, or causes of action referred to in this Agreement. Plaintiffs further acknowledge that the only consideration for signing this Agreement are the terms stated in this Agreement, and that no other promise or agreement of any kind have been made to them or with them by any person or entity whatsoever to cause them to sign this Agreement; that they are competent to execute this Agreement; that they have been advised in writing and given the opportunity to consult advisors, legal or otherwise, of their own choosing; and that they fully understand the meaning and intent of this Agreement. No change to or modification of this Agreement shall be valid or binding unless it is in writing and signed by Plaintiffs and the NJIIF.

9. Plaintiffs, for themselves and on behalf of all Releasors, and their Attorneys, covenant and agree that they shall not affirmatively disclose, disseminate or cause to be disclosed, the Settlement Sum of this Agreement or the negotiations leading up to this

Agreement. Plaintiffs and their attorneys are permitted to disseminate this Agreement if a third-party affirmatively requests a copy of the Agreement or the information contained therein.

10. The American Civil Liberties Union of New Jersey ("ACLU-NJ") shall provide Defendants advanced notice of any initial press release or other written announcement concerning the Agreement and/or the terms therein no later than two (2) hours before such release is made. Notice shall be made via electronic mail to the following addresses: enemeth@ejcounsel.com and jmmorris@mdmc-law.com. For the avoidance of doubt, the advanced notice provided hereunder is a courtesy only and does not give Defendant any right to amend, alter, modify, or otherwise suggest changes to any such release/announcement. Moreover, this notice requirement applies only to the initial press release and does not require notice for subsequent announcements including any reference to the Agreement in the ACLU-NJ newsletter, annual report, or other ACLU-NJ publications.

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

12. No waiver or any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

13. This Agreement shall inure to the benefit of and be binding upon the heirs, representatives, successors, and assignees of each of the Parties to it. Each of the Releasees who are not signatories to this Agreement is intended to be third-party beneficiaries of this Agreement. Each such Releasee shall be entitled to enforce this Agreement and each of its terms. Each Releasor not a signatory hereto is intended to and shall be bound by the terms,

restrictions and covenants herein. In the event of any breach of this Agreement, an aggrieved Releasee may move to enforce the terms hereof and shall be awarded legal fees if it is the prevailing party in such action.

14. This Agreement represents the entire agreement and understanding between the Parties, constitutes the complete, final and exclusive embodiment of their agreement with respect to the subject matter hereof, and supersedes and replaces any and all prior agreements and understandings, both written and oral, concerning the subject matter hereof. The terms of this Agreement are contractual and not mere recitals. This Agreement may not be changed or modified, except by a writing signed by the Parties hereto.

15. This Settlement Agreement will be governed by and construed under the laws of the State of New Jersey and shall not be construed for or against any party based on attribution of drafting to any party.

16. This Settlement Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.

17. Each Party represents that it has had the opportunity to consult with an attorney, and has carefully read and understands the scope and effect of the provisions of this Agreement, and signs this Agreement of its own free will. No Party to the Agreement has relied upon any representations or statements made by any other Party hereto which are not specifically set forth in this Agreement. The Parties each understand how this Agreement will affect their legal rights and voluntarily enter into this Agreement with such knowledge and understanding.


18. This Settlement Agreement is executed voluntarily and without any duress coercion or undue influence on the part or behalf of the Parties hereto, with the full intent of releasing all claims asserted in the Action. The Parties acknowledge that:

- (a) They have read this Agreement;
- (b) They have been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice or that they have voluntarily declined to seek such counsel;
- (c) They understand the terms and consequences of this Agreement and of the releases it contains;
- (d) They are fully aware of the legal and binding effect of this Agreement.



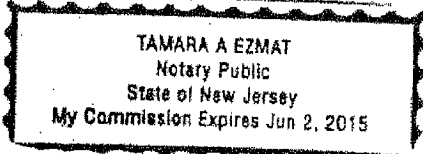
IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective

dates set forth below.

  
\_\_\_\_\_

Witness

Subscribed and Sworn to Before  
Me a Notary Public for the State  
of New Jersey, County of Passaic  
This 14 day of July 2014



LINDA RICHARDSON

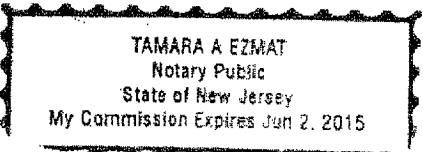
By:   
\_\_\_\_\_   
Linda Richardson

Date: July 14, 2014

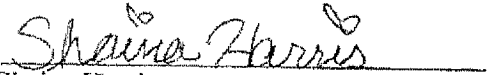
  
\_\_\_\_\_

Witness

Subscribed and Sworn to Before  
Me a Notary Public for the State  
of New Jersey, County of Passaic  
This 14 day of July 2014



SHAINA HARRIS

By:   
\_\_\_\_\_   
Shaina Harris

Date: July 14, 2014

THE NEW JERSEY  
INTERGOVERNMENTAL INSURANCE  
FUND

By: \_\_\_\_\_

Eric J. Nemeth, Esq. General Counsel  
New Jersey Intergovernmental Insurance  
Fund

Date:

Witness

IN WITNESS WHEREOF, the Parties have executed this Agreement on the  
respective dates set forth below.

**LINDA RICHARDSON, individually, and  
on behalf of her minor daughter, SHAINA  
HARRIS**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Linda Richardson

Date:

**THE NEW JERSEY  
INTERGOVERNMENTAL INSURANCE  
FUND**

*Judith A. Casse*  
\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
*Eric J. Nemeth*

Eric J. Nemeth, Esq. General Counsel  
New Jersey Intergovernmental Insurance  
Fund

Date: 7/11/14

**BOROUGH OF WANAQUE**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Date:

**BOROUGH OF WANAQUE**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Date:

**COLE, SCHOTZ, MEISEL, FORMAN &  
LEONARD, P.A.**

(Solely as to Paragraph 9)

  
\_\_\_\_\_  
Witness

By:  \_\_\_\_\_

Date: 6/20/14

**AMERICAN CIVIL LIBERTIES UNION  
OF NEW JERSEY FOUNDATION**

(Solely as to Paragraphs 9 and 10)

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Date:

Katherine J. Malone  
Witness

BOROUGH OF WANAQUE

By: Therese Carroll

Date:

COLE, SCHOTZ, MEISEL, FORMAN &  
LEONARD, P.A.

(Solely as to Paragraph 9)

[Signature]  
Witness

By: [Signature]

Date: 6/30/14

[Signature]  
Witness

AMERICAN CIVIL LIBERTIES UNION  
OF NEW JERSEY FOUNDATION

(Solely as to Paragraphs 9 and 10)

By: [Signature]

Date: 7/21/14

**ERIC MCKINLEY**  
*My commission expires  
on June 21, 2015.*

Joseph M. Morris III, Esq.  
MCELROY, DEUTSCH, MULVANEY, & CARPENTER, LLP  
Attorney ID No. 013012002  
Three Gateway Center  
100 Mulberry Street  
Newark, New Jersey 07102-4079  
Telephone: (973) 622-7711  
Facsimile: (973) 622-5314  
Attorneys for Defendants, Borough of Wanaque

---

LINDA RICHARDSON, on behalf of  
herself and her minor child, SHAINA  
HARRIS,

Plaintiff,

vs.

BOROUGH OF WANAQUE

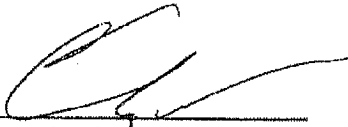
Defendants.

---

: SUPERIOR COURT OF NEW JERSEY  
: LAW DIVISION: PASSAIC COUNTY  
: DOCKET NO. L-1478-13

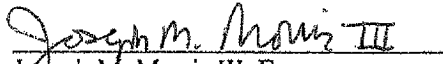
: **STIPULATION OF DISMISSAL WITH**  
: **PREJUDICE**

The matter in difference in the above-entitled action having been amicably resolved by and between Plaintiffs, Linda Richardson, individually and on behalf of her daughter, Shaina Harris ("Plaintiffs"), on the one hand, the New Jersey Intergovernmental Insurance Fund (hereinafter referred to as the "NJIF"), and Defendant, Borough of Wanaque ("Borough" or "Defendant"), on the other hand (the Plaintiffs, Defendant, and NJIF being hereinafter referred to individually as a "Party" and jointly as the "Parties"), is hereby stipulated and agreed by the attorneys for the respective parties that any and all claims by and between the Parties in the above action be and are hereby dismissed with prejudice and without costs to any of the Parties.



Edward S. Kidl, Esq.  
Cole, Schotz, Meisel, Forman & Leonard, P.A.  
Court Plaza North  
25 Main Street  
Hackensack, New Jersey 07601  
Attorney for Plaintiffs

Dated: 6/3/14



Joseph M. Morris III, Esq.  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
Three Gateway Center  
100 Mulberry Street  
Newark, NJ 07102-4079  
Attorneys for Defendants

Dated: 7/11/2014