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File#:

June 23, 2016

Via Lawyers Service

Honorable Garry J. Furnari, J.S.C.
Essex County Superior Court
470 Martin Luther King Jr Blvd.
Chambers 212
Newark, New Jersey 07102

RE: Keith Isaac v. City of Newark & Ras J. Baraka
Docket Number: ESX-L-1467-15

Dear Judge Furnari:

Please accept this letter brief in support of Plaintiff's motion to compel the parties' settlement agreement.

STATEMENT OF FACTS

The parties entered into a settlement agreement in which Newark agreed to pay Keith Isaac \$380,000 in exchange for dismissal of his lawsuit and a complete release of claims. (Exhibit A) The first payment was to be made within 60 days of the execution of the agreement. Per the e-mail exchange attached, Newark agreed that the 60-day period started April 12, 2016. The sixty days for payment expired on June 11, 2016. Isaac has made repeated requests to Newark for a statement of when the first settlement payment would be made and Newark has not given a date that payment will be made.

ARGUMENT

There can be no doubt that the parties entered into an enforceable settlement agreement. From the facts discussed above, and the exhibits attached, the parties clearly agreed to enter into a settlement in which all parties would agree to a mutual release of claims and Defendants agreed to pay Plaintiff \$380,000. New Jersey public policy strongly favors the enforcement of settlement agreements. "The policy of our court system is to encourage settlement and the court should 'strain' to uphold such agreements." *Bistricher v. Bistricher*, 231 N.J.Super. 143 (App. Div. 1987), citing *Dept. of Pub. Adv. v. N.J. Bd. of Public Utilities*, 206 N.J.Super. 523, 528 (App Div. 1985).

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Plaintiff is also entitled to specific enforcement of the terms of the settlement. To establish a claim for specific performance, a plaintiff must first show that the parties entered a contract, that the contract in question is valid and enforceable at law, *Jackson v. Manasquan Sav. Bank*, 271 N.J.Super. 136, 144 n. 8 (Law Div.1993); 25 Williston, Contracts (Lord ed., 2002), § 67:2 at 186, that the terms of the contract are “expressed in such fashion that the court can determine, with reasonable certainty, the duties of each party and the conditions under which performance is due,” *Salvatore v. Trace*, 109 N.J.Super., 83, 90 (App.Div.1969), *aff’d o.b.*, 55 N.J. 362, 262 A.2d 385 (1970); *accord Barry M. Dechtman, Inc. v. Sidpaul Corp.*, 89 N.J. 547, 552, 446 A.2d 518 (1982), and that an order compelling performance of the contract will not be “harsh or oppressive,” *Stehr v. Sawyer*, 40 N.J. 352, 357 (1963); *Ridge Chevrolet–Oldsmobile, Inc. v. Scarano*, 238 N.J.Super. 149, 155 (App.Div.1990). Finally, the party seeking specific performance “must stand in conscientious relation to his adversary; his conduct in the matter must have been fair, just and equitable, not sharp or aiming at unfair advantage.” *Kilarjian v. Vastola*, 379 N.J.Super. 277, 284 (Ch. Div. 2004), *quoting Stehr v. Sawyer*, 40 N.J. 352, 357 (1963). Here, Plaintiff has done everything required of him. Newark needs to meet its commitments.

CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that the Court compel Defendants’ performance of the terms of the settlement in this matter.

Respectfully submitted,



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Enclosure

CC: Barbara Johnson-Stokes, Esq.
Clerk, Law Division