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Attorneys for Plaintiff, Dale Wescott  
Our File No. 13-1152



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DALE WESCOTT	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
Plaintiff,	:	CAMDEN COUNTY
	:	
v.	:	DOCKET NO. <i>L-1101-14</i>
	:	
TOWNSHIP OF PENNSAUKEN AND	:	Civil Action
CHIEF MICHAEL COYLE,	:	
INDIVIDUALLY AND IN HIS OFFICIAL	:	
CAPACITY; and EDWARD	:	<b>COMPLAINT AND DEMAND</b>
GROCHOWSKI, INDIVIDUALLY AND	:	<b>FOR TRIAL BY JURY</b>
IN HIS OFFICIAL CAPACITY.	:	
	:	
Defendants,	:	

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Plaintiff, Dale Wescott, residing at 7210 Rudderow Avenue, City of Pennsauken, Township of Pennsauken and State of New Jersey, by way of Complaint against the Defendants says:

**FIRST COUNT - (CEPA VIOLATION)**

1. Defendant Township of Pennsauken is a public entity and duly exists and is incorporated under the laws of New Jersey.
2. At all times relevant hereto, Township of Pennsauken, specifically Pennsauken EMS was an employer of Wescott.

3. Defendant Township of Pennsauken is vested with funding, control and management of the Pennsauken Emergency Medical Services.

4. Defendant Chief Michael Coyle has been the Chief of Pennsauken EMS since its incorporation with Pennsauken Township since 1995.

5. Defendant Chief Michael Coyle is the supervisor for the Emergency Medical Services.

6. Defendant Edward Grochowski is the Township Administrator for the Township of Pennsauken.

7. Mr. Wescott has worked for the Pennsauken Emergency Medical Services for thirteen years.

8. Since Mr. Wescott has been with the department, and the Chief has run the EMS, there have been numerous illegal, improper and inappropriate actions.

9. Since Mr. Wescott has been employed by the EMS he has seen numerous illegal and improper acts, which he objected to including but not limited to:

a. Coyle hired his wife Debbie Coyle to be in charge of medical billing, in spite of a contract with D&M billing.

b. Mrs. Coyle works from home on a non-secure computer, does not use a time card, and receives a paycheck from EMS.

c. Kelly DiSanti, Chief Coyle's step-daughter, also works for the department.

d. DiSanti was recently promoted after taking a promotional exam where she placed fifth.

e. The Civil Service law requires that a candidate must be chosen from the top three scores.

f. Chief Coyle ignored the Civil Service Statute and placed Ms. DiSanti in the position.

g. Joseph Stringfellow was number two on the promotion list, however, he was not promoted and no petition for an exclusion from the Rule of Three was applied for by Chief Coyle.

h. Michael DiSanti, Chief Coyle's son-in-law also works for the department.

i. Michael DiSanti was promoted in spite of Plaintiff's objection to this promotion.

j. DiSanti was formerly charged with violence in the workplace against a fellow employee, yet was promoted above other well qualified candidates.

k. In addition to the nepotism and violation of Civil Service rules, Chief Coyle has as allowed ambulances to remain in service without appropriate equipment and, in some case, with contamination, including ambulances being dispatched with blood stains, used needles under the seats, and no working oxygen.

l. Some of the emergency medical technicians employed by Defendants have failed to obtain their required continuing education credits. Each EMT must receive forty-eight hours of core-curriculum and an additional twenty-six hours in training every five years. One EMT received only five hours of training in five years and when Chief Coyle was notified of that defect, he choose to ignore it.

m. Chief Coyle has refused to remove personnel no longer with the Department from emscharts.com. This failure to remove the former personnel allows them to access sensitive patient information.

n. Upon information and belief, on at least one occasion an employee has reported for duty in an impaired state.

o. Several staff members at a local nursing home reported that an EMS employee reported to a service call apparently impaired.

p. The officer then drove the emergency vehicle to the hospital, struck a parked car and fled the scene. When the incident was reported to Chief Coyle, he ordered that the on-duty supervisor not pursue any blood or alcohol testing on that the officer.

10. Mr. Westcott complained about each and every one of the above-described actions. Rather than curing the defects, the Pennsauken Police Department Internal Affairs Division began an investigation of Wescott. As part of that investigation, Mr. Wescott met with the Township Administrator, as well as a representative of the Police Internal Affairs Department.

11. Mr. Westcott was told he was going to be suspended pending a fitness for duty examination. He was assured that this would be completely confidential.

12. Shortly after the meeting took place, EMTs were openly discussing the terms of Mr. Wescott's suspension.

13. After being evaluated by a psychologist of the Township's choice, Plaintiff Westcott was determined to be fit for duty.

14. The Conscientious Employee Protection Act or CEPA, N.J.S.A. 34:19-3 prohibits an employer from taking retaliatory action against a whistle blowing employee.

15. Specifically, the Statute provides that an employer shall not take any retaliatory action against an employee because that employee:

c. Objects to, or refuses to participate in any activity, policy, or practice which the employee reasonably believes:

(1) is in violation of a law, or a rule or regulation promulgated pursuant to law, including any violation involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity, or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;

(2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity; or

(3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

N.J. Stat. § 34:19-3

16. Plaintiff was retaliated against and constructively discharged because he objected to activities which he believed to be in violation of New Jersey Statutes, regulations, and public policy.

17. As a direct and proximate result of Defendants' actions, the Plaintiff suffered damages including but not limited to emotional distress; embarrassment;

suffered loss of income and other benefits; injury to his reputation, and other personal injuries.

18. The Township Administrator was notified of the failings of the department.

19. The actions of the Defendants were outrageous and beyond the scope of all human decency thus justifying the imposition of punitive damage.

20. The willful indifference of the Defendants creates liability against the Defendants for punitive damages.

21. The Defendants' acts of retaliation were performed with malicious and reckless indifference to Plaintiff, Wescott's, protected civil rights.

22. The Defendants by its foregoing actions have retaliated against Ms. Wescott in direct violation of the New Jersey Contentious Employee Protection Act as set forth in N.J.S.A. 34:19-2.

**WHEREFORE**, Plaintiff, Wescott, demands judgment against the Defendants, jointly, severally, and in the alternative, for compensatory damages, including damages for emotional distress, loss of reputation, personal injury, back pay, front pay, consequential damages, punitive damages, pre and post judgment interest, reasonable attorneys' fees and the cost of suit and any other damages the Court deems equitable and just.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury as to all issues.

DESIGNATION OF TRIAL COUNSEL

Katherine D. Hartman, Esquire, of Attorneys Hartman, Chartered is hereby designated as trial counsel in the within matter.

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned hereby certifies that to the best of her knowledge the matter in controversy is not the subject of any other pending action or arbitration, and that she is not aware of any other parties who should be joined in this action at this time.

ATTORNEYS HARTMAN, CHARTERED

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

KATHERINE D. HARTMAN

Dated:

3/18/14

## SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release, effective as of the date set forth below, is given by, between and among Dale Wescott ("Wescott") and National Fire Insurance Company of Hartford ("National"), the insurer for the Township of Pennsauken, a Municipal Corporation, Chief Michael Coyle and Edward Grochowski.

### I. PREAMBLE

WHEREAS, Dale Wescott commenced a Civil Action on or about March 15, 2014 in the Superior Court of New Jersey, Law Division, Camden County, against the Township of Pennsauken, a Municipal Corporation, Chief Michael Coyle, and Edward Grochowski, which was assigned Docket No. CAM-L-1101-14, and

WHEREAS, National has issued a Public Officials Liability bearing policy no. 586121605 naming the Township of Pennsauken and its officers, servants and employees as insureds, which provides coverage to the Township of Pennsauken, Chief Michael Coyle and Edward Grochowski for the claims and causes of action asserted in Wescott's complaint, and

WHEREAS, without making any admission of liability and/or other concessions, and for the purpose of avoiding the expense and distraction of further litigation, Dale Wescott and National, desire to resolve the matter amicably and to settle and dispose of all claims, counterclaims, crossclaims, third-party complaints and/or potential claims as more specifically set forth hereunder, and

WHEREAS, Wescott and National fully intend and agree that the Township of Pennsauken, Chief Michael Coyle and Edward Grochowski are third party beneficiaries of this settlement with rights of enforcement of this Settlement Agreement and General Release and further, each agrees to be bound by this settlement agreement;

NOW, THEREFORE, Dale Wescott and National Fire Insurance Company of Hartford, intending to be legally bound, hereby agree to the terms and conditions set forth below.

### II. FULL AND FINAL RELEASE

1. The parties incorporate the language of the Preamble as if set forth herein at length.
2. Dale Wescott, in return for good, valuable and mutual consideration set forth herein, intending to be legally bound and to legally bind his representative(s), executor(s), administrator(s) and assignee(s), hereby releases and forever discharges his claims, against, the Township of Pennsauken, Chief Michael Coyle, and Edward Grochowski, jointly and severally, and their respective representative(s), agent(s), officer(s), director(s) commissioner(s), servant(s) and employee(s), and National from any and all causes of action, claims and/or demands of every type, whether known or unknown, sustained or allegedly sustained, presented or which may have been presented by him arising from or in any way connected with any of the matters alleged by him in the civil action filed in the Superior Court, Law Division, Camden County Docket Number CAM-L-1101-14.



### III. DISMISSAL OF THE LAWSUIT

1. The Superior Court of New Jersey lawsuit, filed in the Superior Court of New Jersey of New Jersey, Law Division, Camden County, under Docket Number CAM-L-1104-14 entitled Dale Wescott vs. the Township of Pennsauken, et al. shall be dismissed with prejudice as a condition of this settlement agreement. It is agreed that each party shall bear its, his, her and/or their own costs including but not limited to attorneys' fees, witness' fees, expert fees, and/or other expenses which were incurred in the prosecution and/or defense of this action.

### IV. ADEQUATE CONSIDERATION AND DENIAL OF LIABILITY

1. **PAYMENT** - In exchange for Plaintiff's waiver and release of all claims against Defendants and upon receipt of a fully executed Settlement Agreement and General Release from the Plaintiff, Defendants will issue two negotiable instruments totaling a gross amount of \$87,000.00, as follows:

- a) The first check shall be made payable to Dale Wescott in the amount of \$52,265.65, and shall represent payment in full satisfaction of all claims including pain and suffering.
- b) The second check shall be made payable to Attorneys Hartman, Chartered, in the amount of \$34,734.35, (representing payment for attorneys' fees of \$26,132.82 plus costs of \$8,601.53).

2. Dale Wescott agrees that he will not seek anything further, including but not limited to any other payment from either National or the Township of Pennsauken, Chief Michael Coyle, and Edward Grochowski. The payments, as detailed above, shall be paid in consideration for making this release and shall be delivered to Attorneys Hartman Chartered located at 68 East Main Street in Moorestown, NJ, 08057, within thirty (30) days of receipt of the fully executed Settlement Agreement and General Release. The consideration acknowledged by National and the Defendants is a complete dismissal of any and all claims of Dale Wescott and his agreement as to the terms set forth in articles VI, VIII, XI, and XII, which are material to this Settlement.

3. This is a complete agreement by which the parties intend to be legally bound. Dale Wescott, agrees and acknowledges that he has accepted payment of good, valuable and mutual consideration, as a full, complete, final and binding compromise of all claims which were made or which could have been made in the above referenced Civil Action filed in the Superior Court of New Jersey, Law Division, Camden County under Docket No. CAM-L-1101-14. It is further agreed that payment of any good, valuable and/or mutual consideration shall not be considered an admission of liability and/or wrongdoing by any party or parties. Instead, the parties have entered into this Settlement Agreement and General Release solely to avoid the time, expense and continuing distraction of further litigation.

4. This Settlement Agreement and General Release is not intended to be used, and shall not be used, as evidence, or for any other purpose in any other action or proceeding. This Settlement Agreement and General Release is only evidence of the compromise by the parties hereto, as set forth herein, and may be admissible in evidence only to enforce the terms herein.

## V. DRAFTING OF DOCUMENT AND RELIANCE

1. This Settlement Agreement and General Release has been negotiated by Wescott, National, the Township of Pennsauken, Chief Michael Coyle, and Edward Grochowski through their respective attorneys. It is warranted, represented and agreed that this document has been completely read and that all of the terms of this document have been discussed with the individual party's attorney. Additionally, it is warranted, represented and agreed that the terms of this Settlement Agreement and General Release are fully understood and voluntarily accepted for the purpose of making a full and final compromise of any and all claims as set forth and described above in this Agreement.

2. Wescott understands that this Settlement Agreement and General Release precludes further litigation by, between and/or among National and the Defendants concerning the claims which have been more fully described above in this Agreement, and for anything that has happened up until now involving these parties.

## VI. COVENANTS NOT TO SUE

1. Wescott agrees not to commence or prosecute any action, charge and/or claim against one another in any action, charge and/or proceeding, in any manner, whether or not now known, based upon any one or more of the allegations which was included or which could have been set forth in the lawsuit filed in the Superior Court of New Jersey, Law Division, Camden County, bearing Docket No. CAM-L-1101-14 or as otherwise set forth above in this Agreement.

2. Wescott agrees and warrants that as a specific and material condition of this Settlement Agreement and Release he will not seek, either on a temporary, part-time or full time basis employment with the Township of Pennsauken in any capacity. This provision shall not prevent him from serving as a volunteer with the Township but not in any capacity or role that involves emergency services within the Township or its adjacent communities.

## VII. LIENS AND TAX IDEMNIFICATION

Wescott warrants and certifies that to his knowledge, no liens exist against the proceeds of this settlement or that if any liens do exist, they will be paid in full, or compromised and released by Wescott from the amount stated in paragraph IV of this Settlement Agreement and General Release. If a lien exists which is not satisfied as required by this Settlement Agreement and General Release, and a claim is made by anyone to enforce that lien, Wescott agrees to pay that lien in full. This is intended to include all liens, including but not limited to attorney's liens, medical provider liens, Medicare and Medicaid liens, worker's compensation liens, all statutory or common law liens, and judgment liens. Plaintiff further acknowledges and agrees that New Jersey Statute 2A:17-56.23b requires a search of child support judgment to be completed by Plaintiff's counsel prior to any distribution of the proceeds of the settlement. Accordingly, notwithstanding any other provision of this agreement, the proceeds of this settlement shall not be distributed until after a private judgment search company has completed such a search and certified in-writing to the Plaintiff's counsel that Plaintiff is not a child support debtor. In the event - that this or any such other search reveals the Plaintiff is a child support debtor, Plaintiff's counsel will contact the Probation Division of the Superior Court in accordance with N.J.S.A. 2A:17-56.23b to arrange for

satisfaction of the child support judgment, notwithstanding any other provision of this agreement.

2. Defendants make no representation or warranties regarding any tax obligations arising out of the payments made pursuant to this settlement as set forth above. Plaintiff acknowledges that he has not relied upon any tax advice from Defendants, or Attorneys Hartman, Chartered regarding any tax obligations with respect to the settlement payments. Plaintiff agrees that he is solely responsible for the payment of all taxes, if any, with respect to the payment set forth above. Defendants make no representation as to the tax treatment of the settlement sum or any portion thereof paid pursuant to this agreement. Plaintiff acknowledges that he bears the responsibility to pay all taxes on the settlement payments described above, if any are applicable, and shall hold harmless and indemnify Defendants from any and all claims and/or liability, including any tax, withholding liability, fine or penalty that may be incurred resulting from any failure by Defendants to withhold any taxes related to the settlement payment and/or Plaintiff's or his counsel's failure to pay any and all taxes for which Plaintiff or his counsel is responsible for relating to said settlement payment and expressly agrees to assume all tax responsibility for such payment.

3. Wescott specifically agrees to indemnify and hold harmless the Township of Pennsauken, Chief Michael Coyle, and Edward Grochowski and anyone who succeeds to their rights and responsibilities for any and all claims which may be assessed, levied or otherwise charged against the Township of Pennsauken, Chief Michael Coyle, and Edward Grochowski and anyone who succeeds to their rights and responsibilities, by any taxing and/or government or authority, including any charge, assessment and /or levy for additional taxes, fees, late fees, penalties on account of any obligation which Wescott may have incurred for federal or state taxes, withholding taxes, and/or employee FICA taxes arising from payments made pursuant to this Settlement Agreement and General Release.

#### VIII. WHO IS BOUND

1. Wescott, National, the Township of Pennsauken, Chief Michael Coyle, and Edward Grochowski and anyone who succeeds to their rights and responsibilities, and all heirs, executors, and administrators, are bound by this Settlement Agreement and General Release.

2. It is understood and agreed that the Township of Pennsauken, Chief Michael Coyle and Edward Grochowski and anyone who succeeds to their rights and responsibilities, and their heir heirs, executors and administrators are third party beneficiaries of and have the right to seek enforcement of the terms and conditions of this Settlement Agreement and General Release.

#### IX. ENTIRE AGREEMENT

1. This Settlement Agreement and General Release contains the entire agreement between Wescott, National and the third party beneficiaries, the Township of Pennsauken, Chief Michael Coyle, and Edward Grochowski with regard to the matters set forth herein. There are no other understandings and/or agreements, verbal or otherwise, by, between and/or among the parties, except those set forth herein or contained in the public official's liability policy between National and its insureds.

2. This Settlement Agreement and General Release may not be modified, except upon written consent of Wescott, National, the Township of Pennsauken, Chief Michael Coyle, and Edward

Grochowski.

3. Wescott agrees that he has been given a reasonable period of time to consider the terms of this Settlement Agreement and General Release. Dale Wescott acknowledges that he has reviewed the terms of this Settlement Agreement and General Release and the effect of signing this Agreement with legal counsel of his choosing.

#### X. WARRANTY OF CAPACITY TO EXECUTE AGREEMENT

1. Wescott represents and warrants that no other person or entity has any interest in the claims, demands, obligations or causes of action referred to in this Settlement Agreement with Releases except as otherwise set forth herein, and that he has the sole right and exclusive authority to execute this Settlement Agreement and General Release and that Dale Wescott has the sole right and exclusive authority to receive the sum specified in it; and that he has not sold, assigned transferred, conveyed or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Release.

#### XI. CONFIDENTIALITY

1. The settling parties shall keep the terms of this Release and Settlement Agreement absolutely confidential. The settling parties shall not engage in discussions of this litigation and settlement with anyone else, and if someone else inquires, shall state only that the case settled. Without limitation, the settling party shall not disclose any terms of the settlement, shall not give even a ball park figure, or in any way hint at the amount of the settlement, shall not express any satisfaction or dissatisfaction with the settlement, and shall not discuss or describe the allegations; provided, that the settling parties may disclose the terms of this Release to the following persons:

- (a) their attorneys;
- (b) their insurers;
- (c) their spouse;
- (d) their tax preparers or financial institutions to the extent reasonably necessary to obtain services from them; and
- (e) any federal, state, judiciary or regulatory authority as may be required by law.

2. The settling parties may not disclose the settlement or the terms thereof or the amount thereof to the media or in any form of social media. The parties understand and agree that this confidentiality provision is material to the parties, that disclosure of the terms of this settlement will cause irreparable harm and may be enforced by the entry of preliminary and final injunctions and subsequent claims for damages. In the event that any party successfully brings an action against any other party for breach of this term, the successful party shall be entitled to reasonable attorney's fees and costs.

3. The parties further agree that there shall be no public filings concerning this lawsuit, this settlement or any payment made hereunder, except as may be required by the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1.1 to 13, the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-6 to 21 and any other applicable statute or regulation or source of law.

## XII. REFERENCES AND MUTUAL NON-DISPARAGEMENT

1. In the event that any person or entity contacts the Township of Pennsauken, its Department of Human Resources, Chief Michael Coyle or Edward Grochowski to seek information concerning Dale Wescott's employment with the Township, consistent with the provisions of the Open Public Records Act, N.J.S.A. 47:1A-1.1 to 13 the Township and its responding officers, employees, agents or servants may reveal the dates of Dale Wescott's employment, his title or position, his compensation and that he left the employment of the Township in good standing.

2. Wescott, National, the Township of Pennsauken, Chief Michael Coyle and Edward Grochowski mutually agree to forbear from making, causing to be made, publishing, ratifying or endorsing any and all disparaging remarks, derogatory statements or comments made to any party with respect to any party to this litigation or the Township of Pennsauken and its Emergency Medical Squad. Further, the parties hereto agree to forbear from making any public or non-confidential statement with respect to any claim or complaint against either party without the mutual consent of each of them, to be given in advance of any such statement. This includes comments or statements on any form of social media, including but not limited to sites such as Facebook, Linked-in, or Instagram.

3. The parties recognize that it is impossible to control or limit the statements, comments and remarks that other Township employees may make about Wescott and this matter. Nonetheless the Township, Coyle and Grochowski will encourage Township employees from refraining to make disparaging remarks, derogatory statements or comments about Wescott and his service with the Township.

4. The parties understand and agree that this mutual non-disparagement is material to the agreement, that violation of the terms of this settlement will cause irreparable harm and may be enforced by the entry of preliminary and final injunctions and subsequent claims for damages. In the event that any party successfully brings an action against any other party for breach of this term, the successful party shall be entitled to reasonable attorney's fees and costs.

## XIII. CONTROLLING LAW

1. This Settlement Agreement and General Release shall be construed and interpreted in accord with the laws of the State of New Jersey. In the event that any provision of this Agreement is found to be illegal and/or unenforceable, such provision shall be severed and/or modified to the extent necessary to make it enforceable, and as so severed and/or modified, the remained of this Agreement shall remain in full force and effect.

2. In the event that any provisions contained in this Settlement Agreement and General Release is declared invalid, illegal, or unenforceable by any court of competent jurisdiction, and cannot be modified to be enforceable, excluding the general release language, such provisions shall immediately become null and void, leaving the remainder of this Settlement Agreement and General Release in full force and effect.

3. Moreover, if any such provision determined to be invalid, illegal, or unenforceable can be made valid, legal, or enforceable by modification thereof, then the party for whose benefit the provision exists may make such modification as necessary to make the provision valid, legal and enforceable.

XIV. EXECUTION

1. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, shall be deemed to be one and the same instrument.

XV. SIGNATURES

AGREED BY PLAINTIFF:

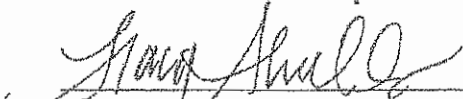
  
Date Wescott, PLAINTIFF

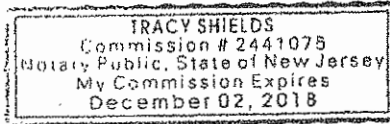
May 17, 2016  
(date of signing)

I CERTIFY that on this 17<sup>th</sup> day of May, 2016, DALE WESCOTT came before me and acknowledged under oath, to my satisfaction, that this person is named in and personally signed this document and signed, sealed and delivered this document as his/her act or deed.

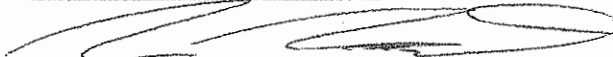
Sworn and subscribed by me

this 17<sup>th</sup> day of May, 2016.

  
Notary Public



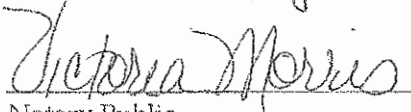
AGREED BY DEFENDANTS:

  
Print Name: Chris Longest, JWF Specialty (date of signing) 5-28-16  
on behalf of National Fire Insurance Company of Hartford  
On Behalf of Defendants, Pennsauken Township, Edward Grochowski, and Michael Coyle

I CERTIFY that on this 25<sup>th</sup> day of May, 2016, Chris Longest, JWF Specialty, on behalf of, of National Fire Insurance Company of National Fire Insurance Company of Hartford, came before me and acknowledged under oath, to my satisfaction, that this person is named in and personally signed this document and signed, sealed and delivered this document as his/her act or deed.

Sworn and subscribed by me

this 25<sup>th</sup> day of May, 2016.

  
Notary Public