

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and General Release (the "Agreement") is made and entered into by and among Leo J. Kight, Jr. ("Mr. Kight") and Douglas P. Smith in his official capacity as Circuit Public Defender appointed by the Georgia Public Defender Standards Council to operate the Circuit Public Defender Office for the Towaliga Judicial Circuit ("Towaliga CPD") on this ___ day of November, 2014.

WHEREAS, Mr. Kight has filed a lawsuit against the Towaliga CPD, the Georgia Public Defender Standards Council, and W. Travis Sakrison, in his official capacity as Director of the Georgia Public Defender Standards Council (collectively "Defendants") in the Superior Court of Fulton County, Georgia encaptioned *Leo J. Kight Jr. v. Georgia Public Defender Standards Council, et al.*, Civil Action No. 2014-CV-247795 (the "Lawsuit"), which included personal tort and statutory claims, including but not limited to, claims brought under the Georgia Whistleblower Protection Act, O.C.G.A. § 45-1-14; and

WHEREAS, Mr. Kight, on the one hand, and Defendants, on the other hand, desire to finally and completely compromise, settle, resolve and forever extinguish any and all present claims that have been raised or could have been raised in the Lawsuit.

NOW THEREFORE, in consideration of the promises, covenants and actions described below, the receipt and sufficiency of which are acknowledged, Mr. Kight and the Towaliga CPD agree as follows:

1. Reinstatement of Mr. Kight into Assistant Public Defender Position.

On behalf of the Defendants, Mr. Kight will be reinstated as an assistant public defender. Such reinstatement shall be as an assistant public defender in the Brunswick Judicial Circuit. Mr. Kight's annual salary shall be \$70,000. Mr. Kight shall be provided all customary benefits (including, but not limited to, participation in the available state health plan) provided to similarly situated assistant public defenders occupying state-paid positions within the Brunswick Judicial Circuit and similar judicial circuits. In addition, Defendants and the Brunswick Circuit Public Defender shall not use or consider Mr. Kight's allegations in the Lawsuit or any conduct preceding Mr. Kight's reinstatement in connection with any decision impacting the terms of Mr. Kight's employment.

2. Reinstatement of Retirement Plan Benefits.

On behalf of the Defendants, all withdrawals by Mr. Kight of payments made to his retirement account, which amount totals \$7,446.23 ("Refund"), will be refunded. The Refund shall be effected by Defendants by making a payment to the Employees' Retirement System of Georgia ("ERS") for the account of Mr. Kight of all amounts Mr. Kight withdrew from his retirement account. In addition, Defendants shall reinstate Mr. Kight's retirement benefits and seniority rights such that Mr. Kight shall be eligible to participate in ERS as a full-time employee of the Brunswick CPD Office and shall have credit towards his retirement eligibility and

eventual benefit computation based upon his prior years of service and as if he continued in his position as an assistant public defender of the Towaliga CPD; provided, however, that Mr. Kight shall not receive creditable service for the time he was not employed by the Towaliga CPD.

3. Settlement Payment.

In consideration of the releases set forth herein of Mr. Kight's disputed claims for general damages, on behalf of the Defendants, Mr. Kight will receive \$100,000.00. Such amount shall be distributed as follows: \$65,589.64 to Mr. Kight and \$34,410.36 to Bondurant, Mixson & Elmore LLP and Caplan Cobb LLP as attorney's fees. Such payments shall be made on or before November 21, 2014. Defendants agree to issue an IRS Form 1099 for the entire amount of the payment, and Mr. Kight agrees to be responsible for and pay all federal, state, and local taxes applicable to such payment ("taxes").

The terms and conditions set out above are in compromise settlement of disputed claims, the validity, existence or occurrence of which is expressly denied by the Defendants.

4. Mutual Releases.

In consideration of the promises, covenants and actions of Defendants described in this Agreement, Mr. Kight, on behalf of himself and his representatives, agents, successors, and assigns hereby releases Defendants and all administrators, directors, supervisors, and other officials and employees thereof of and from all claims, demands, actions, causes of action, suits, damages, losses and expenses arising out of unfair or illegal employment practices and breach of contract asserted or which might have been asserted by or on behalf of Mr. Kight against the Defendants referenced in the case of *Leo J. Kight v. Georgia Public Defender Standards Council, et al.*, Civil Action No.: 2014-CV-247795 pending in the Superior Court of Fulton County; provided, however, that Mr. Kight shall be authorized to enforce the obligations contained in this Agreement.

In consideration of the promises, covenants and actions of Mr. Kight described in this Agreement, Defendants, on behalf of themselves and their representatives, successors and assigns, hereby release and discharge Mr. Kight from any and all claims, demands, actions, causes of action, suits, damages, losses and expenses which might have been asserted in the case of *Leo J. Kight vs. Georgia Public Defender Standards Council, et al.*, Civil Action No.: 2014-CV-247795 pending in the Superior Court of Fulton County; provided, however, that the Defendants shall be authorized to enforce the obligations contained in this Agreement.

Defendants expressly acknowledge that this mutual release does not limit or reduce their future obligations to Mr. Kight, including, but not limited to, Defendants' obligation to pay the salary and benefits set forth in this Agreement. Further, Defendants expressly acknowledge that this mutual release does not restrict or preclude Mr. Kight from initiating any administrative charge or complaint, lawsuit or arbitration proceeding arising out of future actions by Defendants or their agents that occur after the execution of this Agreement. Plaintiff acknowledges that this Agreement is not a contract of employment and that he remains an employee at will as any and

all other public defenders working at the Brunswick CPD. Plaintiff acknowledges that he is an employee at will like any other public defender working at the Brunswick CPD.

5. Dismissal of the Lawsuit.

In consideration of the mutual promises, covenants and actions described in this Agreement, the parties agree to dismiss the Lawsuit with prejudice. Upon the execution of this Agreement, the parties agree to file the Stipulation of Dismissal attached hereto as Exhibit A with the Superior Court of Fulton County.

6. Non-Admission of Liability.

Neither the fact that the parties have chosen to resolve the Lawsuit through this Agreement nor the terms of the Agreement itself should be construed by any person as an admission of liability or responsibility by any party for any claim that was asserted or could have been asserted in the Lawsuit.

7. Miscellaneous.

(a) Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of Georgia.

(b) Entire Agreement and Construction. This Agreement shall become effective and enforceable immediately upon its execution. This document contains all of the terms of the settlement between Mr. Kight and Defendants, and supersedes and invalidates any previous agreements or contracts, except to the extent that Mr. Kight has accepted employment with the Brunswick CPD. Because this Agreement is the product of negotiations between all parties, no party may be considered the drafter of the Agreement and no ambiguity in any provision shall be construed against any party on account of that party being considered the drafter of that provision or of this Agreement. This Agreement may not be modified except through a writing signed by all parties.

(c) Non-Assignment of Claims. The parties hereby acknowledge, understanding that the truth of said acknowledgment is necessary to the making of this Agreement, that they have not heretofore assigned or otherwise transferred any of the claims released by them through this Agreement.

(d) Severability. If any provision of this Agreement is unenforceable or is held to be unenforceable, such provision shall be fully severable, and this Agreement and its terms shall be construed and enforced as if such unenforceable provision had never been a part of this Agreement. Under such circumstances, the remaining provisions of the Agreement shall remain in full force and effect, and a court construing the unenforceable provision shall add to this Agreement and make a part of it, in lieu of the unenforceable provision, a provision as similar in terms and effect to such unenforceable provision as may be enforceable.

(e) Successors and Assigns. The parties' respective rights under this Agreement shall inure to the benefit of their successors, assigns, heirs, and transferees, except that nothing in this Agreement shall be construed to extend the Lease beyond the term specified therein.

(f) Counterparts. This Agreement may be executed in one or more counterparts, and each shall be considered one and the same instrument. A copy of this executed Agreement transmitted via facsimile or electronic mail shall have the same force and effect as an original ink signed copy.

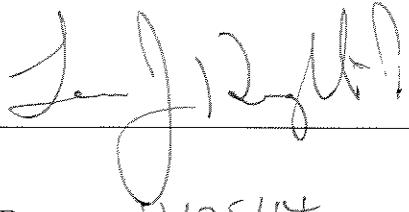
IN WITNESS WHEREOF, the Parties have voluntarily executed this Agreement. By executing this Agreement, each Party stipulates, agrees, and warrants as follows:

- (i) that the terms of this Agreement are reasonable;
- (ii) that the persons executing this Agreement have carefully read and understand all of the provisions of this Agreement and are voluntarily entering into this Agreement;
- (iii) that the person executing this Agreement on behalf of the Defendants are authorized to make the promises set forth herein on behalf of the parties identified herein and will not challenge or contest in any way the capacity or authority of any party hereto to enter into this Agreement and be obligated to perform the promises contained in this Agreement; and
- (iv) that the person executing this Agreement on behalf of the Defendants have the necessary and appropriate authority and capacity to execute this Agreement and to make this Agreement fully binding upon and enforceable against the entities he represents, including the Georgia Public Defender Standards Council, and Mr. Kight shall have recourse against those entities in the event of breach of this Agreement.

The undersigned set their hands and seals, with the approval of their undersigned attorneys, as of the date set forth above.

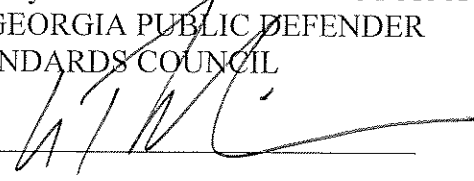
[signatures on next page]

LEO J. KIGHT, JR.



Date: 11/25/14

W. TRAVIS SAKRISON, in his official
capacity as EXECUTIVE DIRECTOR of
the GEORGIA PUBLIC DEFENDER
STANDARDS COUNCIL



Date: 11/20/14