

## **SETTLEMENT AGREEMENT**

Plaintiffs Verna Bailey, William Berry, Kenneth Jeffries, John Means, Gary Rodwell, and Johnston Williams (hereinafter “plaintiffs”) have pending in the United States District Court for the District of Maryland a lawsuit, *Maryland State Conf. of the NAACP Branches, et al. v. Maryland State Police*, Case No. 98-1098 (hereinafter “Case” or “Lawsuit”), against John Appleby, Vernon Betkey, Bernard Donovan, David Hughes, Michael Hughes, and Billy White (hereinafter “defendants”). The Maryland State Police (hereinafter “MSP”) is a former party which was granted summary judgment. The plaintiffs allege damages and violations of their constitutional rights by the defendants. Their specific claims are set forth in their Complaint and Amended Complaints.

The plaintiffs and the defendants (collectively the “parties”), along with the MSP, believe that it is in their interests to enter into this Settlement Agreement (hereinafter “Agreement”) to resolve the claims at issue in this dispute.

Therefore, the Parties and the MSP mutually agree as follows:

### **1. Approval of Agreement**

- 1.1 Defendants, together with the MSP, shall recommend to the Maryland Board of Public Works that it approve this Agreement. The effective date of this Agreement shall be the date of its filing with the Court, which the parties will do no more than seven days after approval of the Agreement by the Board of Public Works (hereinafter, the “Effective Date”).
- 1.2 If the Board of Public Works fails to approve this Agreement on or before May 16, 2008, then this Agreement shall be null and void.

### **2. Release and Dismissal**

- 2.1 Within seven days of the receipt of the payment or payments pursuant to paragraphs 3.1 and 3.2, plaintiffs shall deliver to defendants, through their counsel, a signed Stipulation of Dismissal with Prejudice (hereinafter “Dismissal”) of their Lawsuit, Case No. 98-1098. Defendants shall file the Stipulation of Dismissal With Prejudice with the Court.
- 2.2 Effective upon their signatures hereto, plaintiffs release any and all claims that they have or might have against defendants, the MSP, the State of Maryland, and any of their past, present, and future employees, officials, officers, agents, servants, representatives, attorneys, predecessors, successors in interest, assigns, and all other persons, firms, or corporations with whom any of the former have been, are now, or may in the future be affiliated, the details of which are set forth in their Complaint and Amended Complaints filed in the Lawsuit, for any acts or omissions occurring prior to the Effective Date of this Agreement.

- 2.3 This Agreement resolves any and all claims, including but not limited to claims for damages, costs, attorneys' fees, and other relief, and including, but not limited to, all claims pursuant to federal law.

### **3. Payments**

In consideration of the release and dismissal of all claims as set forth above, the State of Maryland shall pay to the individuals named below (the "Payee(s)") the sums outlined in Section 3:

- 3.1 Payments due at the time of settlement as follows:

Cash in the amount of \$300,000.00, payable by check or wire transfer to "Hogan & Hartson, LLP," within thirty days of the Effective Date of this Agreement. This payment covers all alleged damages for all plaintiffs, as well as attorney and court costs and fees.

### **4. Joint Statement**

- 4.1 The parties agree to the issuance of the following Joint Statement:

"In recent years, racial profiling has become widely recognized as an important civil rights issue, here in Maryland, and across the United States. The need to treat motorists of all races with respect, dignity, and fairness under the law is fundamental to good police work and a just society. The parties agree that racial profiling is unlawful and undermines public safety by alienating communities.

"In an effort to bring light to the issue of racial profiling in Maryland, plaintiffs Gary Rodwell, Kenneth Jeffries, John Means, William Berry, Johnston Williams, and Verna Bailey have expended years of hard work, perseverance, and devotion to this important goal. Across the nation, these plaintiffs' cases have been widely credited with raising awareness about the problem of racial profiling, and the need to respond to this issue.

The Maryland State Police is committed to preventing racial profiling because it is the right thing to do. As a result of the 2003

Consent Decree in this case and the Maryland State Police's commitment to fair and effective law enforcement, the Maryland State Police has taken measures to establish stronger policies prohibiting wrongful behavior by its troopers, to inform the public of the dangers of racial profiling and how to bring information about racial profiling to the attention of the State Police, and to implement greater management oversight of trooper conduct. The Maryland State Police adopted these policies, procedures and goals with an aim of assuring that all motorists are treated properly while the vital work of law enforcement is pursued.

The plaintiffs applaud these efforts, and urge the Maryland State Police to continue its vigilance in the years ahead. All agree that good law enforcement and equitable treatment of the public go hand in hand. The parties have been engaged in the lawsuit for nearly 10 years and now find that it is in their best interests and the best interests of the community to bring finality to the case. While the parties have agreed to terms acceptable to both to end the lawsuit, the parties remain committed to condemning unlawful racial profiling in the future. The State and the plaintiffs are gratified that this chapter has been brought to a close and look forward to working together to maintain Maryland's leadership on this issue."

## **5. Meetings**

For two years, starting from the Effective Date, the State will have a designee of the MSP Superintendent meet with representatives of plaintiffs on a semi-annual basis to continue discussion of these issues. The meetings shall take place at MSP Headquarters or another mutually agreeable location. Participants shall be responsible for all of their own expenses in participating. Such meetings may be excused or cancelled upon express consent of both parties. In order to encourage a candid and fruitful exchange of views, these discussions are intended to be negotiations and discussions undertaken for the purpose of resolving disputed claims and are therefore entitled to the protections afforded by Federal Rule of Evidence 408 and Maryland Rule 5-408.

## **6. Production/Disclosure of Records**

- 6.1 In connection with their request for copies of complaints against individual troopers, plaintiffs have cited Attachment C to the 2003 Consent Decree (the "Decree"). The MSP will take the initiative to seek clarification on this issue from the Court within two weeks of the Effective Date of the settlement of this matter. If the Court rules that the plaintiffs are entitled to the unredacted complaints pursuant to the 2003 Consent Decree, then the MSP will produce the unredacted complaints. If the Court rules that the complaints are not subject to disclosure under the Consent

Decree, then the MSP will not agree to produce the complaints under this Agreement. Finally, if the Court determines that the complaints are producible, but only in an altered form, then the MSP will produce them accordingly.

## 6.2 Standard Operating Procedures, General Orders and Training Material

Within thirty days of the Effective Date, the MSP will make a one-time disclosure to plaintiffs of materials concerning traffic stops, specifically: general orders, standard operating procedures, and training materials.

## 7.

### **Consultant**

- 7.1 The MSP will retain an independent consultant to review its accomplishment of the terms of the 2003 Consent Decree. The consultant will produce a report, a copy of which will be provided to plaintiffs, that will explain his or her findings regarding the MSP's progress in meeting the implementation steps agreed to in the Decree, and a statement concerning whether MSP has accepted the recommendations made by the consultant, rejected them, or accepted them with modifications. Recommendations made by the consultant shall be advisory to the Superintendent and may be considered by him in his discretion. MSP will not reject the recommendations of the consultant without reasonable cause, and will explain such cause to the plaintiffs. The consultant is not to act as the agent of plaintiffs or an arm of the Court as a monitor or overseer.
- 7.2 The plaintiffs have proposed retention of the consultant originally retained under the 2003 Consent Decree, Dr. Eli B. Silverman. Dr. Silverman is acceptable to the MSP, provided he is willing and able to serve as a consultant.
- 7.3 The MSP will fund this consultation up to a sum of \$100,000. If Dr. Silverman is not willing and able, or if he cannot perform the evaluation as described above for \$100,000 or less, the MSP will select a new independent consultant following the protocol originally used to select Dr. Silverman, as outlined in the 2003 Consent Decree, with a maximum payment by the MSP of \$100,000.

## **8. Forum**

### **8.1 Format**

The Superintendent of the MSP, the MSP supervisor currently in command of the John F. Kennedy Highway Barrack, any other MSP personnel deemed appropriate by the Superintendent; and a representative of the senior management of the Office of the Attorney General of Maryland, selected by the Attorney General, will host a one-time, private, moderated forum with an agenda approved in advance by the plaintiffs and the MSP. The above-listed individuals from the MSP and the Office of the Attorney General will attend in addition to the plaintiffs and representatives of the ACLU and the NAACP. The forum will occur at MSP headquarters or some other mutually agreeable location, at a mutually agreeable date and time, and for a mutually agreeable length of time.

The MSP will seek to have the United States Department of Justice (“DOJ”) moderate this forum. If a moderator from DOJ is not available or willing, then the parties will mutually agree upon an impartial, third party to moderate this private forum.

### **8.2 Attendance**

While all the plaintiffs, the ACLU, the NAACP, the MSP representatives and the representative of the Attorney General are invited to attend the forum, plaintiffs' attendance is not mandatory. If the parties jointly agree not to hold the forum, it will not occur, and no sanctions will be sought by either party.

## **9. Other Terms**

- 9.1** The terms and conditions of this Agreement do not constitute an admission by the State of Maryland, its officers, employees, or former employees, and shall not be construed or interpreted as such. The State of Maryland, the MSP, its officers, employees, or former employees, including the defendants in this Lawsuit, deny that there has been any violation of State or federal law and deny all liability under any law.
- 9.2** This Agreement shall be governed by Maryland law.
- 9.3** This Agreement contains the entire agreement of the parties. No other representations by any party have been relied upon in entering into this Agreement.
- 9.4** This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

We agree to the above terms:

April 1, 2008  
Date

Verna Bailey  
R.B.

Date

William Berry

Date

Kenneth Jeffries

Date

John Means

Date

Gary Rodwell

Date

Johnston Williams

Date

Maryland State Police  
By: Superintendent Terrence Sheridan

Date

Office of the Attorney General of Maryland  
By: David R. Moore, Esq.

Date

Martin A. Price, Esq.  
Hogan & Hartson LLP

Date

Deborah A. Jeon, Esq.  
ACLU Foundation of Maryland

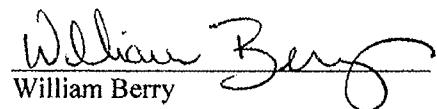
We agree to the above terms:

Date

3-28-08

Date

Verna Bailey

  
William Berry

Date

Kenneth Jeffries

Date

John Means

Date

Gary Rodwell

Date

Johnston Williams

Date

Maryland State Police  
By: Superintendent Terrence Sheridan

Date

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ACLU Foundation of Maryland

We agree to the above terms:

Date

Verna Bailey

Date

William Berry

Date

3/28/08

Kenneth R. Jeffries  
Kenneth Jeffries

Date

John Means

Date

Gary Rodwell

Date

Johnston Williams

Date

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ACLU Foundation of Maryland

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Date

Verna Bailey

Date

William Berry

Date

28 Mar 2008

Date

Kenneth Jeffries

  
John Means

Date

Gary Rodwell

Date

Johnston Williams

Date

Maryland State Police  
By: Superintendent Terrence Sheridan

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Date	John Means
Date	Gary Rodwell  Johnston Williams
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Date	Martin A. Price, Esq. Hogan & Hartson LLP
Date	Deborah A. Jeon, Esq. ACLU Foundation of Maryland

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William Berry

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Kenneth Jeffries

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John Means

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Gary Rodwell

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Johnston Williams

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Maryland State Police  
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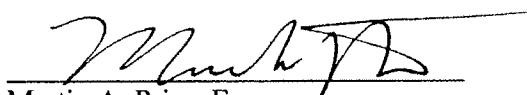
Date

Office of the Attorney General of Maryland  
By: David R. Moore, Esq.

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Date

4/1/2008

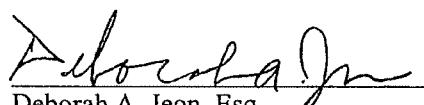
  
Martin A. Price, Esq.  
Hogan & Hartson LLP

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Date

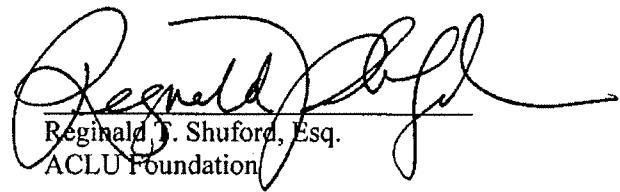
Deborah A. Jeon, Esq.  
ACLU Foundation of Maryland

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Date	John Means
Date	Gary Rodwell
Date	Johnston Williams
Date	Maryland State Police By: Superintendent Terrence Sheridan
Date	Office of the Attorney General of Maryland By: David R. Moore, Esq.
Date	Martin A. Price, Esq. Hogan & Hartson LLP
<u>March 27, 2008</u> Date	 Deborah A. Jeon, Esq. ACLU Foundation of Maryland

03.31.08

Date

  
Reginald T. Shuford, Esq.  
ACLU Foundation

Date

William J. Mertens, Esq.

Date

3/31/08

Date

Reginald T. Shuford, Esq.  
ACLU Foundation

William J. Mertens  
William J. Mertens, Esq.