

SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS IS A SETTLEMENT AGREEMENT AND GENERAL RELEASE ("Agreement") made by and between Thomas Hayden Barnes ("Plaintiff") and Ronald Zaccari, Valdosta State University, and Board of Regents of the University System of Georgia (collectively, "Settling Defendants").

Plaintiff filed a lawsuit against the Settling Defendants and others in the United States District Court for the Northern District of Georgia, captioned *Barnes v. Zaccari, et al.*, No. 1:08-cv-000-77-CAP, which was thereafter transferred to the Middle District of Georgia, captioned *Barnes v. Zaccari, et al.*, No. 7:12-cv-00089-HL (the "Lawsuit"). Plaintiff claimed that all Defendants wrongfully violated his rights under the First Amendment, violated his rights to Substantive and Procedural Due Process, violated his rights under the Americans With Disabilities Act and the Rehabilitation Act, and violated his contractual rights, which the Defendants denied.

The parties have arrived at an understanding with regard to a settlement of their differences and a full and final resolution of all issues in the Lawsuit as to all involved.

ACCORDINGLY, the parties acknowledge and agree as follows

1. **Notice Before Settlement.** Plaintiff understands that all of the consideration paid under this Agreement is being paid by the Georgia Department of Administrative Services ("DOAS") as administrator of the State Tort Liability Trust Fund and the Broad Form Policy and, by Munich Reinsurance America, Inc. providing excess insurance coverage to DOAS and its insureds, who are acting as independent contractors in connection with this settlement and not as an agent of any party released. Plaintiff hereby further acknowledges in writing that he has received this notice that the DOAS is acting as an independent contractor, waives any further notice of that fact, and acknowledges that the entities or individuals discharged under this Release have not consented in writing and thus are not precluded from the assertion of any claims that they may have or claim to have against the undersigned, pursuant to O.C.G.A. § 33-7-12.

2. **No Admission of Liability.** Nothing contained herein and no actions taken by any party with respect to this Agreement shall be construed as an admission by the party, person or entity of any act of wrongdoing or any liability of any kind, all such liability and wrongdoing being expressly denied.

3. **Dismissal of Lawsuit.** Within 3 days of the execution of the Agreement, the Lawsuit shall be dismissed with prejudice and without an award of costs or attorneys' fees to any party other than amounts set forth in this Agreement. Plaintiff hereby authorizes his attorneys to execute a stipulation for such dismissal, in the form attached to this Agreement as Exhibit A. Payment of the consideration specified in Paragraph 4 below shall be contingent upon such dismissal.

4. **Consideration.** Within seven (7) business days of the dismissal of the Lawsuit, the Settling Defendants shall pay Plaintiff's attorneys the total sum of Nine Hundred Thousand

Dollars (\$900,000.00) (the "Settlement Amount"). The Settling Defendants will pay the Settlement Amount by issuing one check in the amount of \$900,000 made payable to the law firm Davis Wright Tremaine LLP.

Plaintiff and his attorneys acknowledge and agree that the consideration described in this entire Paragraph 3 is adequate consideration for settlement of the Lawsuit. Plaintiff and his attorneys acknowledge and agree that the Settlement Amount shall constitute full, final, and complete payment, accord, satisfaction, and settlement of any and all monies, liabilities or other obligations claimed to be owed by Defendants to Plaintiff. Plaintiff and his attorneys acknowledge and agree that they are responsible for any and all tax consequences resulting from the payment of the Settlement Amount.

5 **Defendants' Bills of Costs.** In the underlying litigation, certain costs were taxed against the Plaintiff in favor of Defendants Gaskins, McMillan, Board of Regents, VSU, Keppler, Mast and Morgan. The Bills of Costs are held by DOAS and are enforceable only by DOAS. As additional consideration for the settlement, DOAS agrees not to collect or seek to collect on the Bills of Costs from the Plaintiff or Plaintiff's counsel.

6 **Plaintiff's Release of Claims.** For and in consideration of the amounts paid and other consideration described in Paragraph 3 above, Plaintiff, for himself, his heirs, assigns, legal representatives, officers, employees and members, hereby release, covenant not to sue, and forever discharge the State of Georgia, the Board of Regents of the University System of Georgia, Valdosta State University, Russ Mast, Kurt Keppler, Victor Morgan, and Ronald Zaccari, including all affiliated entities, past and present trustees, officers, directors, past and present employees and agents, successors, attorneys and insurers (the "Released Parties") from all claims, demands, charges, obligations, damages and liabilities of every kind and nature and from all actions and causes of action which he may now have or may have or maintain hereafter against the Released Parties, whether known or unknown, past, present, or future, relating in any way to events occurring before the date of this Release. This Release includes, but is not limited to, any and all claims arising under the United States Constitution, the Georgia State Constitution, all other state and federal statutes, and common law. This Release also includes any claims for damages, emotional distress, embarrassment, humiliation, costs, interest or attorneys' fees, and any claims asserted or that could have been asserted in the Lawsuit, or as a result thereof.

7. **Applicable Law.** This Agreement shall be construed under the laws of the State of Georgia, without regard to choice of law principles.

8. **Warranty and Capacity to Execute Agreement.** Plaintiff represents and warrants that he is the Plaintiff in the Lawsuit and that he is competent and of legal age to contract. Plaintiff represents and warrants that no other person or entity has or has had any interest in the claims, demands, obligations, or causes of action referred to in the Complaint or this Agreement and Plaintiff has the sole right and exclusive authority to execute this Agreement and receive the sums specified in this Agreement; and that Plaintiff has not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in the Complaint or this Agreement, and that no person or entity (other than his attorneys) has any lien to the settlement proceeds.

9. Miscellaneous.

- a. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one Agreement.
- b. This Agreement shall be deemed to have been drafted by all parties hereto.
- c. Facsimile signatures shall be accepted and considered to be original signatures.

10. Entire Agreement. This Agreement contains the entire agreement and understanding of the parties and there are no promises or terms of settlement, other than those contained herein.

11. Severability. Should any provision of this Settlement and General Release be declared or determined by any court to be illegal or invalid, the remaining parts, terms, and provisions shall not be affected thereby, and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

12. Signatures. This Agreement will become binding and effective upon the exchange of facsimile or emailed .pdf copies of the required signatures.

The Plaintiff hereby acknowledges this Agreement as witnessed by his signature below.

This 16th day of July, 2015.

Sworn to and subscribed before me
this 16 day of July, 2015.


Notary Public

My Commission Expires:
12/15/17




Thomas Hayden Barnes
Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

THOMAS HAYDEN BARNES,

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Plaintiff,

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*

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v.

*

Case No. 7:12-cv-00089-HL

*

RONALD M. ZACCARI, *et al.*,

*

*

Defendants.

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STIPULATION FOR DISMISSAL WITH PREJUDICE

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the parties through their counsel of record hereby stipulate and agree that this case shall be dismissed in its entirety, with prejudice. Other than amounts set forth in a settlement agreement between certain parties, there shall be no award by this Court of attorney's fees or costs to any party.

Dated: July 23, 2015

By: /s/ Robert Corn-Revere

Robert Corn-Revere
Lisa Beth Zyberman
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20006-3401
bobcornrevere@dwt.com
lisazyberman@dwt.com
(202) 973-4200

By: /s/ David C. Will

David C. Will
Royal-Will
Georgia Bar #760150
4799 Sugarloaf Parkway, Bldg. J
Lawrenceville, GA 30044
dwill@royallaw.net
(770) 814-8022

Counsel for Defendants

Cary Wiggins
Georgia Bar #757657
Wiggins Law Group
260 Peachtree Street, N.W., Suite 401
Atlanta, GA 30303
cary@wigginslawgroup.com
(404) 659-2880

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2015, I electronically filed the foregoing Stipulation for Dismissal With Prejudice with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Robert Corn-Revere

Robert Corn-Revere
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20006-3401
bobcornrevere@dwt.com