

SETTLEMENT AGREEMENT

Recitals

This Settlement Agreement (the AGREEMENT) is entered into between John Phelan ("PHELAN" or "PLAINTIFF"), Kenneth Huffer ("HUFFER" or "DEFENDANT") and Yamhill County. PLAINTIFF, DEFENDANT and Yamhill County together are referred to as "the PARTIES."

PLAINTIFF was Director of Public Works and employee of Yamhill County. . HUFFER is the County Administrator of Yamhill County and is entitled to full indemnity and defense by Yamhill County pursuant to the Oregon Tort Claims Act. HUFFER terminated PLAINTIFF'S employment on or about May 6, 2019, which PLAINTIFF maintained was wrongful.

PLAINTIFF brought a cause of action against DEFENDANT in the Yamhill County Circuit Court of Oregon, *John Phelan v. Kenneth Huffer*, docket number 19CV18122 ("the ACTION"), which included or would include claims for intentional interference with PLAINTIFF'S employment contract with Yamhill County, fraud, due process and civil rights violations under Section 1983, and related legal claims. DEFENDANT denies any and all liability alleged in the ACTION. HUFFER has asserted that Yamhill County is the sole and proper defendant in the ACTION, which PLAINTIFF disputes and would have included additional individuals in the ACTION.

The PARTIES, including Yamhill County, have agreed to resolve all matters involving PLAINTIFF'S employment and claims, through this AGREEMENT and mutual release of claims and as such, the following releases are intended to release all claims between PHELAN, HUFFER and Yamhill County.

The PARTIES agree to the following terms and conditions regarding the settlement of the ACTION, as well as any and all claims relating to the PLAINTIFF'S employment with Yamhill County, regardless of whether those claims have been brought in the ACTION.

Terms and Conditions

1. **No Admissions:** The PARTIES agree and stipulate nothing in this AGREEMENT shall be interpreted as an admission of wrongdoing by DEFENDANT.
2. **Payment:** In consideration for PLAINTIFF signing this AGREEMENT and upon providing a signed IRS Form W-9 to DEFENDANT, Yamhill County shall pay the following amounts, which total \$45,000, to:

i. \$29,848 payable and mailed directly to PLAINTIFF as general compensatory damages; and

ii. \$15,152 payable and mailed directly to Terrence Kay, P.C., 3155 River Road S, Suite 150, Salem OR 97302.

3. **Dismissal of Case:** Within seven days of the complete execution of this AGREEMENT, PLAINTIFF shall file with the Court a motion to dismiss the ACTION with prejudice and without an award of costs, litigation expenses, prevailing party fees or attorney fees to any party.

4. **Mutual Releases of Liability:** In consideration of the above payments and promises:

4.1 PLAINTIFF agrees to irrevocably and unconditionally release and covenant not to initiate any judicial proceeding or arbitration against DEFENDANT and Yamhill County, their predecessors, successors, subsidiaries, parent corporations, and all of their past, present and future officers, trustees, commissioners, shareholders, directors, agents, and employees, for any and all claims, liabilities, causes of action, debts, obligations, promises, agreements and demands, both in law and in equity, known or unknown, fixed or contingent, which they have, may have or claim to have, based upon or in any way related to PLAINTIFF's employment and separation from employment with Yamhill County. This release is comprehensive and includes any claim that PLAINTIFF could assert against HUFFER or Yamhill County based upon acts or omissions that occurred, or that could be alleged to have occurred before the execution of this AGREEMENT. This release also includes but is not limited to all claims based on: contract, negligent or intentional tortious conduct; express or implied contract; covenants of fair dealing and good faith; wrongful discharge, or other common-law claims.

This release also includes but is not limited to: claims for additional wages or salary, other forms of monetary relief (including but not limited to compensation or benefits for pain and suffering damages, punitive damages, and attorney fees); reinstatement; reemployment; or other equitable relief arising under federal, state or local laws, rules, ordinances or rules of decisions dealing with employment matters and discrimination and retaliation in employment including but not limited to: Oregon Revised Statutes Chapters 652, 653, 654, 659, 659A, Title VII of the Civil Rights Act of 1964, the Post Civil War Civil Rights Acts, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Older Worker Benefit Protection Act, the Employee Retirement Income Security Act, the Federal Family Medical Leave Act, the Oregon Family Leave Act, Federal and State wage and hour laws, all as amended. This waiver and release also includes any judicial proceeding or arbitration based on any claims that HUFFER or Yamhill County or any of their agents, employees, or representatives engaged in conduct prohibited on any

basis under any federal, state, or local statute, ordinance, regulation, or rule of decision, claims based on contract (including any applicable collective bargaining agreement) or tort (including a claim for constructive or wrongful discharge), and any claim for wages, attorney's fees, other expenses or costs. *By signing this AGREEMENT, PLAINTIFF is also specifically acknowledging and agreeing that he has been paid all wages due as a result of his employment with Yamhill County.*

4.2 HUFFER and Yamhill County agrees to irrevocably and unconditionally release and covenant not to initiate any judicial proceeding or arbitration against PLAINTIFF, his agents, representatives and attorneys for any and all claims, liabilities, causes of action, debts, obligations, promises, agreements and demands, both in law and in equity, known or unknown, fixed or contingent, which they have, may have or claim to have, based upon or in any way related to HUFFER or Yamhill County. This release is comprehensive and includes any claim that HUFFER or Yamhill County could assert against PLAINTIFF based upon acts or omissions that occurred, or that could be alleged to have occurred before the execution of this AGREEMENT. This release also includes but is not limited to all claims based on: contract, negligent or intentional tortuous conduct; express or implied contract; covenants of fair dealing and good faith; wrongful discharge, or other common-law claims.

4.3 All Known and Unknown Claims. In connection with such waiver, the PARTIES, and each of them, hereby acknowledge that they, and/or their attorneys or agents, may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to the subject matter of this AGREEMENT or the other parties hereto, but that *it is their intention to fully, finally and forever settle and release all matters known or unknown, suspected or unsuspected, which do now exist, may later exist, or heretofore have existed between the parties,* and each of them, by reason of any acts, circumstances or transactions occurring on or before the date of the execution of this AGREEMENT, arising out of or in connection with the PLAINTIFF's employment. In furtherance of such intention, the release herein given shall be and will remain in effect as a full and complete general release as to PLAINTIFF's employment, notwithstanding the discovery of or existence of any such additional or different claims of facts.

4.4 Facts May Be Different. Each of the PARTIES understand and expressly accept and assume the risks that the facts with respect to which the AGREEMENT is executed may later be found to be different from the facts now believed to be true, and they agree that this AGREEMENT shall remain effective, notwithstanding any such difference.

4.5 The PARTIES expressly intend this waiver and release to reach the maximum extent permitted by law.

5. **Entire Agreement:** This AGREEMENT, including all attachments, contains the entire agreement between the parties hereto, and the terms of this AGREEMENT are contractual, not mere recitals.

6. **Signatures:** A faxed or emailed copy of a signature shall be effective as an original and this AGREEMENT may be executed in counterparts

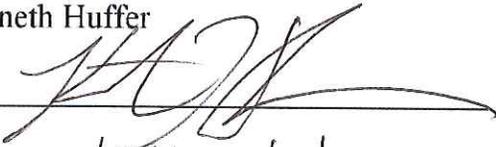
7. **Governing Law:** This AGREEMENT will be governed by the laws of the State of Oregon, without regard to principles of choice of law.

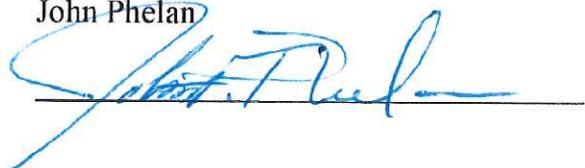
DEFENDANT

PLAINTIFF

Kenneth Huffer

John Phelan

By: 

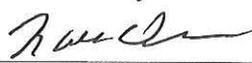


Its: County Administrator

8/22/19
Date

8-6-19
Date

Yamhill County

By: 

Its: Chair, Board of Commissioners

8/22/19
Date

Accepted by Yamhill County
Board of Commissioners on
8/22/19 by Board Order
19-310