

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between James E. Burnes (“Burnes” or “Plaintiff”) and the City of Norwalk, Mark Suda, Marc Lepore, Owen Lee, Richard Holmes, Taranjit Singh, Kyle Lipeika, Stephen Cowf (collectively the “Defendants”), (sometimes collectively referred to as the “Parties”) and is effective as of the date indicated below.

WHEREAS, on or about 2019 Burnes commenced a civil action in the District Court of Connecticut captioned James E. Burnes vs. Mark Suda, et al, docket number 3:19-cv-1740, alleging violations of federal civil rights statutes (the “Civil Action”); and

WHEREAS, Defendants dispute these allegations and have interposed defenses and counterclaims to same; and

WHEREAS, the parties are desirous of resolving all matters between them.

NOW, THEREFORE, in consideration of these promises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

1. Defendants shall withdraw and/or dismiss all counterclaims in the Civil Action.
2. Defendants shall return Plaintiff’s two (2) Iphone 6 cell phones to the Plaintiff.
3. Upon the successful filing of said withdrawals and/or dismissals, Burnes shall withdraw and/or dismiss the Civil Action.
4. Burnes, on his own behalf and on behalf of his agents, employees, representatives, attorneys, successors and assigns as debtor-in-possession, hereby agrees to release, acquit and forever discharge Defendants and any and all of their subsidiaries, affiliates officers, directors, predecessors, heirs, executors, administrators, successors, assigns, employees, attorneys, and representatives of and from any and all manner of action and actions, cause and causes of action, suits, proceedings, debts, controversies, damages (including but not limited to punitive, contractual, extra-contractual and/or consequential), judgments, executions, claims and demands whatsoever, in law or in equity, known or unknown, asserted or unasserted, **EXCEPT THAT** Burnes retains his rights to seek compliance with the terms and provisions of this Agreement. The Parties shall execute and cause to be executed any and all general releases necessary to fulfill the intent of this paragraph.

5. Defendants, and any and all of their agents, affiliates, officers, directors, predecessors, heirs, executors, administrators, successors, assigns, employees, attorneys, and representatives agree to release, acquit and forever discharge Burnes and each of his representatives, successors and assigns of and from any and all manner of action and actions, cause and causes of action, suits, proceedings, debts, controversies, damages (including but not limited to punitive, contractual, extra-contractual and/or consequential), judgments, executions, claims and demands whatsoever, in law or in equity, known or unknown, and asserted or unasserted **EXCEPT THAT** the Defendants retain their rights to seek compliance with the terms and provisions of this Agreement. The Parties shall execute and cause to be executed any and all general releases necessary to fulfill the intent of this paragraph.

6. Notwithstanding anything to the contrary in this Agreement, the release provisions set forth in this Agreement shall not constitute a release of any claims or causes of action pertaining to the enforcement of this Agreement arising out of or based upon a breach of this Agreement.

7. The Parties expressly acknowledge that this Agreement is being made as a compromise and settlement of disputed issues; that execution of and compliance with this Agreement, including any consideration paid in furtherance of this Agreement, is not and shall not be construed to be an admission by any party of any liability or obligation to any other party or as an admission of any liability or obligation by any party to any third party; that each party expressly denies any fault or liability on its part; that no party shall seek to utilize or assert this Agreement or any consideration paid in furtherance of this Agreement, as an admission against any other party in connection with any proceeding, action, or claim; and that the Parties enter into this Agreement solely to resolve the existing issues between them on an amicable basis and to avoid the time, inconvenience, burden, expense, and uncertainty of a protracted dispute.

8. The Parties hereby resolve, settle, and compromise all claims, demands, and/or causes of action which have been, or were capable of being, asserted by any Party against the other, up to and including the date of this Agreement.

9. The Parties to this Settlement Agreement agree that, beginning from the date this Settlement Agreement is executed, the terms of this Agreement shall be kept strictly confidential, and shall not be revealed to anyone who is not a party to this Agreement except if required to do so (1) by an order of a court of competent jurisdiction or subpoena, (2) by any governmental or

regulatory authority (e.g. The United States Internal Revenue Service), (3) in connection with any application for professional liability insurance, (4) by their attorneys, and/or (5) as may be required by law. In addition, the Parties may, at their discretion, disclose the terms of this Agreement to (1) individuals, as necessary, for the preparation of tax returns and related documents and trust and estate planning, or (2) immediate family members, with the express understanding that the terms shall not be further disclosed to any other third parties. Except for the fact that the Action has been settled, and that they cannot discuss it any further, the Parties and their counsel agree not to make public or to voluntarily disclose the contents or terms (including, but not limited to, the monetary provisions) of this Agreement or the allegations which formed the basis of the Action to any person, agency, or body, including but not limited to state or federal courts, and the news media, except under court order or as otherwise explicitly required by law. Parties represent that they have not informed anyone to date of the terms of this Agreement, including the consideration referred to herein with the exception of their attorneys and tax preparers or the Mayor and the Police Chief of the City of Norwalk and their executive staff, if any.

10. The Parties agree that their agents, estates, descendants, heirs, successors, assigns, officers, directors, shareholders, members, and/or partners shall not make, disclose, publish, publicize or disseminate or cause to be made, disclosed, published, publicized or disseminated in any manner, any negative, disparaging or derogatory comments or information regarding any other Party to this Settlement Agreement or about any other Party's current and former officers, directors, attorneys, accountants, insurers, members, shareholders, agents, servants, employees, nominees, representatives, predecessors, successors, assigns, parents, subsidiaries and/or affiliates including, without limitation, any comments or information about the services, prospects, reputation, organization, management and/or operations of any such Party.

11. Should any provision of this Agreement be declared or determined by any court to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provisions shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision, had never been a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision,

there shall be deemed added automatically as a part of this Agreement, a provision as similar in terms to such illegal, invalid or enforceable provision as may be possible and be legal, valid and enforceable.

12. This Agreement contains the entire agreement between and among the Parties and supersedes any and all prior agreements, arrangements, or understandings between or among the Parties related to the subject matter of this Agreement. All prior and contemporaneous negotiations and agreements are deemed incorporated into this Agreement or to have been abandoned if not so incorporated into this Agreement. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally and may be amended or modified only in writing signed by all Parties.

13. Attorneys and Notice Address: Any notices that must be given under this Agreement shall be sent by regular mail or fax to the Parties' attorneys, who are identified as follows:

BURNES: Scott M. Charmoy, Charmoy & Charmoy, 1465 Post Road East, Suite 100, Westport, CT 06880, phone 203-255-8100, email scottcharmoy@charmoy.com.

DEFENDANTS: For City of Norwalk: M. Jeffry Spahr, Deputy Corporation Counsel
City of Norwalk, 125 East Avenue, Norwalk, Conn. 06851, (203)-854-7750,

JSPAHR@norwalket.org; For all other Defendants, David C. Yale, Hassett & George, P.C., 945 Hopmeadow Street, Simsbury, CT 06070, (860) 527-0353, dyale@hgesq.com; Elliot B. Spector, Hassett & George, P.C., 945 Hopmeadow St., Simsbury, CT 06070, 860-676-1115, espector87@gmail.com

The parties agree to reasonably advise the other of any change of attorney or that attorney's address.

14. The Parties generally agree to cooperate and take all actions reasonably necessary to consummate the terms of this Agreement.

15. The Parties each acknowledge and represent that they have been apprised of sufficient, relevant information and data furnished by their own lawyers and other information relevant to their respective claims and the releases set forth herein. The Parties each further acknowledge and represent that, in executing this Agreement, they have not relied on any

inducements, promises or representations made by the other parties hereto or may person representing or serving such other parties, except as such are contained in this Agreement.

16. Each party hereto assumes the risk of any misinterpretation or mistake, and if any party hereto should subsequently discover that any fact relied upon in entering this Stipulation was untrue, or that its understanding of the facts and law was incorrect, it shall not be entitled to set aside this Stipulation or any Court order approving it by reason thereof.

17. Each person executing this Agreement hereby certifies and acknowledges that they have read this Agreement in its entirety and fully understand its contents and effect, that such person has full authority to so execute, and that the party has voluntarily executed this Agreement of its, his or her own free will after consulting with its legal counsel, or has declined to seek such advice.

18. Whenever the context so requires herein, the masculine shall include the feminine and neuter, and the singular shall include the plural, and conversely. Likewise, any misspellings or other misidentification of the parties, entities, or other names contained herein shall not affect the validity of this agreement as to the provisions affecting same.

19. The Parties acknowledge that this Agreement has been the result of substantial negotiations and that they are aware of its content and of its legal effect. Accordingly, this Agreement will not be construed against any Party on the grounds that such Party drafted this Agreement. Instead, this Agreement shall be interpreted as drafted equally by the Parties.

20. This Agreement may be executed in counterpart originals, and the signature pages thereof may be combined to form a complete original hereof. Email or facsimile copy of the signature(s) below shall be deemed an original. The Agreement will be enforceable even if the Parties sign different copies. If multiple copies are signed, then each copy will be considered an original and, when taken together with other signed copies, will constitute one Agreement that will bind and be effective as to all the Parties.

21. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, heirs, executors, administrators, successors and assigns.

22. This agreement shall not be effective until signed by the last of the Parties.

AGREED:

PLAINTIFF

James E. Burnes

Date

DEFENDANT

M. JEFFERY SPANON
Name:
For the City of Norwalk
Duly Authorized

10/1/2021

Date

DEFENDANT

Mark Suda #5024
9/29/21

Date

DEFENDANT

Marc Lepore
9/29/2021

Date

DEFENDANT

Owen Lee
9/29/21

Date

DEFENDANT

Richard Holmes
9/29/21

Date

DEFENDANT

X
Taranjit Singh
X
Date

DEFENDANT

Kyle Lipeika
09/29/2021
Date

DEFENDANT

Stephen Cowf
9/29/21
Date