

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

This Settlement Agreement and General Release of all Claims (the “Agreement”) is entered into by and between Barbara Robinson of Bangor, Maine—for herself, as representative of the estate of Scott Macomber, Sr. and on the behalf of any person or entity who might possess a claim or interest through her or through the estate of Scott Macomber, Sr., specifically including, but not limited to, Scott Macomber, Jr.— (hereafter collectively referred to as “Robinson”) and the City of Fall River, for itself as well as on behalf of its officers, agents or employees, specifically including Joshua Carreiro, Shane Galus and Jonathan Ferreira (hereafter “the City”) (hereafter collectively referred to as the “Parties”).

WHEREAS, Robinson has alleged certain wrongdoing in connection with an interaction among Scott Macomber, Sr., herself and police officers of the City on May 16, 2016;

WHEREAS, the City denies any and all allegations of wrongdoing whatsoever, further asserting that Robinson’s claims are factually and legally without merit;

WHEREAS, the Parties have agreed, in a spirit of cooperation and in order to avoid the burden and expense of extensive and prolonged legal proceedings, including trial, that it is in their mutual interest to resolve, fully and finally, all of their disputes, including all claims concerning, relating to or arising out of the legal action entitled *Robinson v. Carreiro, et al.*, now pending in the United States District Court for the District of Massachusetts and bearing docket number 19-10759-NMG (“the federal action”);

NOW THEREFORE, without adjudication of any of these matters on the merits, and without this Agreement being an admission or evidence of liability, or an admission of any fact related to these matters, or a waiver by the City of any defenses, the Parties mutually covenant and agree to the following provisions:

1. Payment Schedule and Other Consideration: The City shall pay to Robinson consideration in the amount of \$315,000.00 (“the settlement amount”). The settlement amount will be structured as follows: (1) \$50,000.00 shall become payable by the City within thirty (30) days after full execution of this Agreement; (2) \$132,500.00 shall be payable by the City within thirty (30) days of July 1, 2022; and, (3) \$132,500.00 shall be payable by the City within thirty (30) days of July 1, 2023. Payment of the settlement amount shall occur in the form of checks made payable to “Hedges & Tumposky, as attorneys for Barbara Robinson, representative of the estate of Scott Macomber[.]”

In addition to the settlement amount described in the preceding paragraph, the City agrees to pay, pursuant to Fed.R.Civ.P. 26 (b) (4) (E), the bill in the amount of \$2,550.00 associated with the deposition of the plaintiff’s expert. Dr. Peter Cummings (“the expert fee amount”). Payment of the expert fee amount shall occur in the form of a check made payable to “Hedges & Tumposky” within thirty (30) days after full execution of this Agreement

It is understood and agreed that the settlement amount and the expert fee amount will be the only compensation received by Robinson, her agents or her attorneys as a result of this Agreement and the City bears no further responsibility for any costs, fees or expenses, including any claim for attorneys’ fees pursuant to 42 U.S.C. § 1988 or any

other provision of federal or state law. Additionally, it is understood and agreed that Robinson shall be responsible for any and all taxes, liens, encumbrances, repayments or reimbursements arising out of the subject matter of this Agreement or the settlement amount and that the City and its attorneys have made no representations or warranties concerning the tax treatment of the settlement amount.

2. Stipulation of Dismissal: Contemporaneous with the execution of this Agreement, the Parties, through their counsel, shall execute and file a stipulation of dismissal in the federal action. The Parties understand and agree that such stipulation of dismissal shall indicate that the matter is to be dismissed with prejudice, without fees, costs or expenses and with the Parties waiving all rights of appeal.

3. Release: For the good and valuable consideration as referenced in Paragraph One of this Agreement, the sufficiency of which is hereby acknowledged, Robinson, for herself, on behalf of the estate of Scott Macomber, Sr. as well as on behalf of her, his or the estate's agents, heirs, family members, executors, administrators, predecessors, successors, assigns, insurers, legal representatives, attorneys and any other individual or entity acting for her, him or the estate in furtherance of any of her, his or its interests (collectively the "Releasers"), hereby forever irrevocably, absolutely and unconditionally releases and discharges the City and any of its agents and employees, including but not limited to Joshua Carreiro, Shane Galus and Jonathan Ferreira, in their respective individual and official capacities, as well as any other persons or entities associated with the matters herein described (collectively the "Releasees"), from any and all charges, claims, complaints, causes of action, grievances, suits, demands, liens, controversies, lawsuits, liabilities, obligations, debts, expenses, judgments, orders,

proceedings, whether of a civil or criminal nature, or any other legal or equitable matter seeking damages, compensation, benefits, costs, expenses, fees, reimbursement or any other legal or equitable relief, financial or otherwise, arising out of any and all claims or assertions of harm, loss, personal injury, property damage, loss of service or companionship, loss of consortium or society, civil rights violations, wrongful death or any other claim at law or in equity, whether contractual, constitutional or statutory in basis, whether sounding in tort or common law, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, including all those which could have been alleged in any judicial, quasi-judicial or administrative proceeding by the Releasors from the beginning of the world to the date of this Agreement, pertaining in any way to any and all matters or claims, known or unknown, and of basis whatsoever, arising out of or related, factually or legally, to the federal action.

4. Finality: By execution of this Agreement, Robinson specifically expresses her understanding and intention that the purpose of this Agreement is to discharge absolutely the City for any and all claims encompassed within the scope of this Agreement. Robinson acknowledges, and assumes entirely the risk, that the damages any Releasor claims to have suffered might be different than now known, or might become progressively worse or more extensive than now is known, anticipated or expected. Moreover, Robinson hereby releases and hold the City harmless from any cause of action or claim which may be asserted because the legal, tax or other consequences of this Agreement become other than that which currently is anticipated.

5. Fees, costs and expenses: The Parties understand and agree that each shall bear all of her or its own attorneys' fees, costs or expenses related, in any way, to the

matters referred to in this Agreement. The Parties understand and agree that each shall have absolutely no obligation with respect to any attorneys' fees, costs or expenses of any other litigant except as described in Paragraph 1.

6. Non-admission: This Agreement reflects the resolution and compromise of disputed claims and, as indicated, is not to be construed, in any fashion, as an admission of liability by the City, by which liability is denied expressly, as an admission as to any fact or waiver of any defense, or as a concession that Robinson's claims have any merit. It is understood that Joshua Carreiro, Shane Galus and Jonathan Ferreira are not funding any portion of the settlement amount or the expert fee amount and that they were not decision-makers with respect to the agreement to resolve the federal action. It also is understood that this Agreement is made solely in order to avoid the costs and expenses of further litigation or future claims, as well as the inherent uncertainties associated with such matters. Further, the terms of this Agreement are agreed not to be admissible or used in any forum for any reason, other than for matters involving enforcement of the terms of this Agreement.

7. Representations and Recitals: In entering into this Agreement, the Parties represent that they have read completely the terms and provisions of this Agreement and have had the opportunity to inquire of attorneys of their choosing about these terms and conditions prior to execution, and that those terms and conditions are fully understood and knowingly and voluntarily accepted by them.

8. Competency and Non-Assignment: In entering into this Agreement, Robinson and Paul Coogan, Mayor of the City of Fall River, represent that they are at least eighteen years of age; that they have reviewed and understand this Agreement; that

they understand the consequences of entering into this Agreement; and that they enter this Agreement freely, voluntarily and with full authority to do so. Robinson further represents and warrants that there has been no assignment or transfer of any interest or right in any action or claim released through this Agreement and that she, and she alone, possesses the right to enter into this Agreement and to bind her and the Releasors to the terms and conditions of this Agreement.

9. Tax and Other Liabilities: Robinson agrees to hold the City harmless and indemnify from, and to assume responsibility for, any liability owed and for any obligation relating to any discharge of liens, claims for reimbursement or insurance subrogation, claims, actions, suits, demands or proceedings arising out of this Agreement or the federal action including, but not limited to, any claims related to social welfare or other governmental benefits paid, any governmental liens, any insurance benefits or any services provided by any person or entity related to the subject matter of this Agreement.

10. Entire Agreement: This Agreement constitutes the entirety of the understanding between and among the Parties with regard to the subject matter set forth herein and supersedes all prior and contemporaneous agreements, understandings and representations between or among the Parties, oral or written, concerning the subject matter hereof. This Agreement may be modified only by a writing signed by the Parties, and shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

The Parties acknowledge that Robinson and the City each has participated in the drafting of this Agreement and, for interpretive purposes, each provision will be deemed to have been drafted jointly by the Parties. The Parties intend for this Agreement to be

construed and interpreted in accordance with the plain meaning of its language, and not presumptively construed against any actual or purported drafter of any specific language contained within the Agreement.

11. Invalidity: If any of the provisions herein are determined to be invalid by a court or government agency of competent jurisdiction, the invalid provisions shall be severed from the Agreement and all other provisions shall remain valid and enforceable to the maximum extent compatible with applicable law, so long as such construction does not alter the rights or obligations of the Parties materially or deprive Robinson or the City of consideration for the undertakings and promises contained within this Agreement. No waiver of any term or provision of this Agreement shall be construed to be, nor shall be, binding unless the party waiving the term or provision consents in writing.

IN WITNESS WHEREOF, the Parties by their representatives hereunto duly authorized, have executed this Agreement and it shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the Parties hereto.

This Agreement may be executed in counterparts and exchanged via PDF signatures through counsel with a mutual waiver of original signature pages. The Parties agree that PDF signature pages circulated via e-mail shall constitute original signature pages for the purposes of this Agreement.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY—SIGNATURE
BLOCKS ON FOLLOWING PAGE]

PLAINTIFF BARBARA ROBINSON, REPRESENTATIVE OF THE ESTATE OF
SCOTT MACOMBER, SR.,

Barbara
Robinson

Digitally signed by Barbara Robinson
DN: cn=Barbara Robinson, o, ou,
email=wckdwmn67@gmail.com, c=US
Date: 2022.04.13 15:29:22 -04'00'

Barbara Robinson

Dated: 04/13/2022

THE CITY OF FALL RIVER,


Paul Coogan, Mayor

Dated: 4-14-22

APPROVED AS TO FORM, MANNER AND EXECUTION FOR THE CITY OF FALL
RIVER,


Alan Rumsey, Corporation Counsel

Dated: 26 April 2022