

## SETTLEMENT AGREEMENT

**AND NOW**, the undersigned, in settlement of their dispute as described herein, hereby mutually covenant and agree as follows:

**WHEREAS**, Mrs. Scarpa (hereinafter, "Plaintiff") has commenced a civil action against Commissioner Frank Pawlowski, Captain John Dougherty, and Trooper Kenneth Edwards of the Pennsylvania State Police (hereinafter, "Defendants") in the United States District Court for the Middle District of Pennsylvania ("the Federal Action");

**WHEREAS**, the complaint alleges that Defendants violated Plaintiff's constitutional rights by issuing a citation against her based solely on speech protected by the First Amendment to the U.S. Constitution;

**WHEREAS**; the defendants dispute the claim and deny any liability;

**WHEREAS**, Plaintiff and Defendants now wish to settle the claims in the Federal Action in order to avoid the time and expense of litigation and without any admission of liability, which is expressly denied;

**THEREFORE**, the parties agree as follows:

- 1) No later than 30 days after the execution of this Agreement, Defendants' employer, the Pennsylvania State Police, will notify each of its troopers through per capita postmaster notice to all members and also by Command Staff Advisory to supervisors that troopers may not issue citations for the use of profane or offensive words or gestures, whether those words or gestures are directed at law enforcement personnel or at a member of the public. Counsel for the Defendants shall provide Plaintiff's counsel with written confirmation that this notice has been provided and date and means by which it was provided.

- 2) The Pennsylvania State Police agrees to provide additional training to all troopers and cadets on the First Amendment rights of an individual to expression by profane language or gestures and that members of the public may not be cited solely for the use of profane words or gestures, even when directed at law enforcement officers.
- 3) The Pennsylvania State Police shall develop a mandatory training update for new and continuing state law enforcement officers, by (60) days after the receipt of a copy of this Agreement executed by Plaintiff, The training shall be incorporated into academy training for troopers, and, for one year, in mandatory in-service trainings.
- 4) The training will be in the form of a written legal update provided to all cadets in the academy curriculum and to all incumbent troopers in their annual in service training and will outline the relationship between profane language and/or gestures, the First Amendment, and the Pennsylvania Disorderly Conduct statute.
- 5) The Pennsylvania State Police shall, by (60) days after the receipt of a copy of this Agreement executed by Plaintiff, revise the trainings materials used for cadet and in-service training modules regarding Disorderly Conduct as follows: the “lesson plan” on Disorderly Conduct will be revised by adding an instructor’s note after the text of the Disorderly Conduct statute which states:

“The term ‘obscene’ in section (3) does not refer to profanity, indecent speech or gestures. Members of the public may not be cited solely for the use of profane words or gestures, even when directed at law enforcement officers, because simple profanity by word or gesture is considered speech protected by the First Amendment.”

In addition, the same text will be set forth on a slide to be added to the PowerPoint presentation designed to accompany these training materials.

- 6) For a period of two years from the date of this Agreement, the Pennsylvania State Police shall implement procedures whereby supervisors review all citations by troopers issued under Pennsylvania's Disorderly Conduct Statute, 18 Pa. Cons. Stat. § 5503 (a) (3) to ensure that they are not issued solely for the use of profane words or gestures. The reviewing supervisor will immediately effect withdrawal of any non-compliant citation by appropriate and lawful means. Reviewing supervisors will certify on a monthly basis to Troop Commanders that this review has been performed.
- 7) Within (60) days after the receipt of a copy of this Agreement executed by Plaintiff, Defendants shall pay the total sum of \$17,500.00, inclusive of all attorney's fees and costs, and in full settlement of this matter and in full and complete satisfaction and discharge of any and all claims, rights, damages, demands, causes of action or liabilities of any nature, including any claims for bodily injury, reimbursement of record gathering and/ or docket costs, any and all medical claims, claims for loss of work, past present or future, or of loss or diminution of income , or any other rights including but not limited to any claims for actual damages, punitive damages, aggravation, inconvenience and/ or attorneys' fees, relating to any claims which have been or could have been asserted in the Federal Action.
- 8) Within ten (10) days of the receipt of a copy of this Agreement executed by each Defendant, Plaintiff's counsel shall file with the Court a joint stipulation of dismissal in which this agreement is incorporated by reference and in which the Court retains

jurisdiction over the Federal Action for purposes of enforcement of the terms of this Settlement Agreement.

- 9) Plaintiff agrees to indemnify and hold harmless Defendants from, and to satisfy in full, any and all claims or liens presently existing or that might exist in the future against the Plaintiff on the settlement fund herein by any person, entity, or corporation.
- 10) This Settlement Agreement may not be amended or supplemented, and no waiver of, or consent to, or departures from provisions hereof shall be effective, unless set forth in a writing signed by all parties.
- 11) It is further agreed and expressly understood that there are no other understandings or agreements, verbal or otherwise, in relation to any matter pertaining to this Settlement Agreement which are not expressly set forth herein.
- 12) This Settlement Agreement has been freely, knowingly, and voluntarily executed by Plaintiff, each undersigned Defendant and by an authorized representative of the Pennsylvania State Police after consultation with the legal counsel of their choice.
- 13) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile or electronic copy in any image format (e.g. .pdf, .jpg, .bmp).

**IN WITNESS WHEREOF**, and intending to be legally bound hereby, the undersigned have set their hands and signatures below.

\_\_\_\_\_ Date: \_\_\_\_\_  
Lona Scarpa

\_\_\_\_\_ Date: \_\_\_\_\_  
Mary Catherine Roper  
Counsel for Plaintiff

\_\_\_\_\_ Date: \_\_\_\_\_  
Frank Pawlowski

\_\_\_\_\_ Date: \_\_\_\_\_  
John Dougherty

\_\_\_\_\_ Date: \_\_\_\_\_  
Kenneth Edwards

\_\_\_\_\_ Date: \_\_\_\_\_  
On behalf of the Pennsylvania State Police

\_\_\_\_\_ Date: \_\_\_\_\_  
Barbara Christie  
Counsel for all Defendants