

AYMAN KHATIB v. CITY OF MILWAUKEE

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release is made and entered into for and in consideration of the commitments set forth herein on this 1st day of November 2007, by and between Ayman Khatib (hereinafter referred to as "Plaintiff"), and the City of Milwaukee (hereinafter referred to as "Defendant" or "City").

WHEREAS, Plaintiff filed a Complaint with the United States District Court for the Eastern District of Wisconsin, Case Number 06-CV-1058 alleging, among other things, harassment, hostile work environment, discrimination and retaliation on the basis of race and National Origin with respect to his employment in the Milwaukee Police Department, in violation of the Civil Rights act of 1964, *as amended*, the United States Constitution, as well other state and federal laws; and

WHEREAS, Defendant answered the complaint and denies any and all liability or wrongdoing; and

WHEREAS, the parties wish to resolve the expense and disruption of litigation between them by amicably entering into this full and final settlement.

NOW, THEREFORE, in consideration of their mutual promises as set forth herein with their intention to be mutually and legally bound hereby, the parties covenant and agree as follows:

1. This agreement is subject to approval by the Common Council of the City of Milwaukee. It shall be deemed null and void, and have no force or effect, nor shall it be admissible for any purpose, in the event it is not so approved.

2. Plaintiff, for himself, his heirs, personal representatives, executors, administrators, successors, agents and assigns, does hereby release and forever discharge the Defendant, and all departments, officers, employees or agents thereof, and their successors, from any and all manner of action or actions, cause or causes of action, suits, debts, covenants, contracts, agreements, judgments, execution, claims, demands and expenses (including attorneys' fees and costs) whatsoever in law or equity, which he has had, now has or may have against the City for or by reason of any transaction, matter, cause or thing whatsoever up to the date of this Agreement, whether based on tort, express or implied contract, or any federal, state or local law, statute or regulation, specifically including, but not limited to, any and all claims under Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e, *et seq.*; the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.*; 29 U.S.C. § 621, *et seq.*, the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1101, *et seq.*; the Federal Rehabilitation Act of 1973, as amended, the Civil Rights Act of 1991; the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, *et seq.*; the federal and state Family and Medical Leave Act, the Municipal Employment Relations Act, the Federal Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. § 651, *et seq.*; 42 U.S.C. § 1981; 42 U.S.C. § 1983; the First or Fourteenth Amendments to the United States Constitution; the Wisconsin Fair Employment Act, and any other applicable statute or authority of law providing a cause of action as to their employment with the City that concern any claims which have arisen or could arise out of or be connected to the facts, issues or allegations made or referred to in *Khatib v. City of Milwaukee*, U.S.D.C. Case Number 06-CV-1058, as well as any EEOC or ERD complaint or charge concerning those facts, or related claims of retaliation.

3. The parties acknowledge that this agreement and release shall have no effect on, or release, Plaintiffs' claims for workers compensation or duty disability benefits concerning his employment with the City of Milwaukee.

4. The parties to this release and settlement agreement understand that, except as stated in paragraph 3 herein, it represents a complete release of any and all claims, that it is intended further to be mutual, and that none of the parties to this release may make further claims against the others.

5. Plaintiff agrees to execute a stipulation or joint motion to dismiss *Khatib v. City of Milwaukee*, U.S.D.C. Case Number 06-CV-1058 with prejudice and without further costs upon approval of this settlement by the Common Council. Plaintiff further agree to execute any other documents that may be required to completely dismiss his claim, complaint or action against the Defendant concerning the allegations raised in the pending complaint.

6. Plaintiff agrees to execute a general release of all claims in the form approved by the City Attorney, as described in the attached Exhibit A, upon approval of this settlement by the Common Council, and as a condition precedent to his receipt of any settlement funds herein.

7. In consideration of the general release, and the motion to dismiss the action, the City of Milwaukee will pay the total sum of Fifteen Thousand and no/100 Dollars (\$15,000.00) to or on behalf of the Plaintiff and his attorney Robert M. Mihelich as follows: To Ayman Khatib, the sum of Ten Thousand and no/100 Dollars (\$10,000.00); to The Law Offices of Robert M. Mihelich, the sum of Five Thousand and no/100 dollars (\$5,000.00) as attorney fees and costs.

8. With respect to the payments referred to in paragraph 5, the parties acknowledge and agree that said payments are in full and final settlement of all damages which plaintiff has,

or could have claimed in this matter, including without limitation compensatory damages, punitive damages, attorney fees, costs, wage loss, back pay, front pay, pension loss or other economic damages. The parties aver that based upon the evidence, plaintiff did not sustain wage loss, and the settlement payment does not represent back pay, front pay or other economic losses in this matter, and therefore, the City is not withholding state or federal income taxes or employment taxes that might be due or that may be determined to be due and owing from the aforementioned payment. Plaintiff and his attorney acknowledge and agree that plaintiff will be solely responsible for the payment of any state or federal taxes that may be due as a result of the payments herein, and agree to indemnify, defend and hold the City harmless from and against any and all loss, liability, damage, deficiency or claim arising out of the City not making withholdings from this amount for state and federal income and employment taxes. Plaintiff further acknowledges and agrees that the sum of Fifteen Thousand Dollars is the maximum amount Defendant will pay in this matter, irrespective any tax consequence to Plaintiff.

9. It is expressly understood and agreed between the parties that by entering into this Agreement, the Defendant in no way admits that it has violated any federal, state, local statute or ordinance, or contractual provision, or was otherwise negligent. It is further understood and agreed that this is a compromise settlement of disputed claims and that neither this Agreement nor the furnishing of the consideration provided for in this Agreement shall be deemed or construed at any time or for any purpose as an admission of liability by the Defendant. Liability for any and all claims for relief is expressly denied by the Defendant.

10. Plaintiff represents and certifies that he has carefully read and fully understand all of the provision and effects of this Settlement Agreement and General Release, and that his attorney has thoroughly discussed all aspects of this Agreement with him, that he is voluntarily

entering into this Agreement, and that neither the Defendant nor the Defendant's attorney(s) made any representation concerning the terms or effects of this Agreement other than those contained herein.

11. Plaintiff expressly acknowledge that the Settlement Agreement and General Release is intended to include in its effect, without limitation, all claims which have arisen and of which they know or should have known, had reason to know or suspects to exist in their favor at the time of the execution hereof concerning their employment with the City, including any claims for retaliation, in connection with the litigation referenced herein, and that this Settlement Agreement and General Release contemplates the extinguishment of any such claim or claims, consistent with the terms of this Agreement.

12. Each party to this Settlement Agreement and General Release agrees that in the event that any party breaches the Agreement the breaching party will indemnify and hold the non-breaching party harmless for any costs, damages or expenses, including reasonable attorneys' fees arising out of the breach of the Agreement by that party, or arising out of any suit or claim to enforce the Agreement.

13. This Settlement Agreement and General Release shall in all respects be interpreted, enforced and governed under the laws of the State of Wisconsin.

14. Should any provision of this Settlement Agreement and General Release be declared or be determined by any court to be illegal, invalid, and/or against public policy, the validity of the remaining parts, terms or provisions shall not be affected thereby, and said illegal and invalid provision or term shall be deemed not to be part of the Agreement.

15. This Settlement Agreement and General Release sets forth the entire Agreement between the parties hereto, and fully supersedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter hereof.

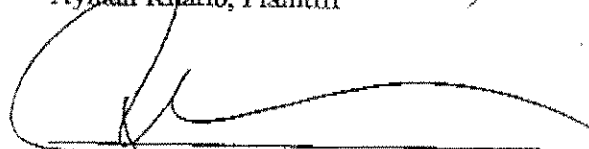
16. Plaintiff warrant that, other than his attorney, Robert M. Mihelich, no other person or other legal entity has any interest in any claims, demands, causes of action, obligations, damages or liabilities covered by this Agreement; that he has the sole right and exclusive authority to execute this Agreement and to receive the consideration hereunder; and that, other than any agreement they may have with their attorney, they have not sold, assigned, transferred, conveyed or otherwise disposed of any claim, demand, cause of action, obligation, damage, or liability covered by this Agreement.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Plaintiff and the Defendant (through their attorneys) have executed the foregoing Settlement Agreement and General Release.

Dated: 11-01-07


Aymen Khatib, Plaintiff

Dated: 11-5-07


Robert M. Mihelich
Attorney for Plaintiff

Dated: _____

Grant F. Langley, City Attorney
Miriam R. Horwitz, Assistant City Attorney
Attorneys for Defendants

RELEASE OF CLAIM

KNOW ALL PERSONS BY THESE PRESENT, That the undersigned, Ayman Khatib for and in the consideration of the mutual promises and payments set forth in the Settlement Agreement dated _____ in full compromise and settlement, does for himself, his heirs, executors and administrators forever releases and discharges the said City of Milwaukee, of and from any and all claims, demands, actions and causes of action for damages of any kind or nature whatsoever for back pay, front pay, pension loss and benefits, attorney's fees, costs, compensatory damages, punitive damages, or any other damages whatsoever, arising out his employment or his failure to be promoted to the rank of Captain of Police with the City of Milwaukee, or any retaliation claims in relation thereto, up to the date of this agreement, including, without limitation, any claims arising out of the Wisconsin Fair Employment Act, Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act, any state or federal family or medical leave act, any federal or state constitutional claims, and any other claims whatsoever under any federal, state or local anti-discrimination laws. This release does not affect claims under the Workers Compensation Act for the State of Wisconsin or for duty disability benefits from the Milwaukee Employees Retirement System.

The foregoing release has been read and understood by the undersigned before signing thereof. This release has been signed knowingly and voluntarily and after due consultation with an attorney representing the undersigned.

IN WITNESS WHEREOF I have hereunto set my hand and seal at Milwaukee, Wisconsin, this ~~1st~~ day of November, 2007.

TH SAIR

Ayman A. Khatib

STATE OF WISCONSIN)
) SS
 MILWAUKEE COUNTY)

The foregoing instrument was executed before me this ~~1st~~ ^{*7th*} day of November, 2007, by the above named releasor who duly acknowledged to me that he read the same, knew the contents and effect thereof, and affixed his signature thereto in my presence for the uses and purposes expressed in the foregoing release.

Qusair Bulduddin
 Notary Public, State of Wisconsin
 My Commission expires: *5/22/2011*

Exhibit 1