

ALEXANDER, et al, v. CITY OF MILWAUKEE, et al
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 ____ day of _____, 2007, by and between Steven J. Alexander, Keith A. Balash, Charles A. Berard, Michael R. Brunow, James C. Cleveland, Joseph J. Farina, John Malloy Hagen, William E. Heinen, Wayne W. Jensen, Thomas P. Klusman, Edward N. Liebrecht, Ronald G. Quackenbush, Anthony T. Smith, Steven J. Spingola, Kim R. Stack, David C. Vahl and Michael D. Young (hereinafter referred to as “Plaintiffs”), and former Police Chief Arthur L. Jones, the City of Milwaukee, the Milwaukee Board of Fire and Police Commissioners, Robert (Woody) Welch, Carla Y. Cross, Eric M. Johnson, Leonard J. Sobczak and Ernesto A. Baca (in both their individual and official capacities), (hereinafter referred to as “Defendants”).

WHEREAS, Plaintiffs filed a Complaint with the United States District Court for the Eastern District of Wisconsin, Case Number 03-CV-0611 alleging, among other things, discrimination on the basis of race and gender with respect to promotions to the rank of Captain of Police, in violation of the Civil Rights act of 1964, *as amended*, the United States Constitution, as well other state and federal laws; and

WHEREAS, judgment was entered in Plaintiffs’ favor on August 29, 2005; and

WHEREAS, the Seventh Circuit Court of Appeals affirmed in part, and reversed and remanded the judgment in part for further proceedings consistent with its opinion on January 18, 2007; and

WHEREAS, the parties wish to resolve the expense and disruption of any further 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. Each of the seventeen named plaintiffs are, or at times material to this litigation were, white male lieutenants employed by the Milwaukee Police Department, and each plaintiff resides in or near Milwaukee, Wisconsin.

3. Each plaintiff, for himself, his heirs, personal representatives, executors, administrators, successors, agents and assigns, does hereby release and forever discharge the Defendants and their successors and 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 *Alexander, et al v. City of Milwaukee, et al*, U.S.D.C. Case Number 03-CV-0611, as well as any EEOC or ERD complaint or charge concerning those facts, or related claims of retaliation.

4. Plaintiffs agree to execute a stipulation or joint motion to vacate the judgment in *Alexander, et al v. City of Milwaukee, et al*, U.S.D.C. Case Number 03-CV-0611, and to dismiss that action with prejudice and without further costs upon approval of this settlement by the Common Council. Plaintiffs further agree to execute any other documents that may be required to extinguish or satisfy judgment, if the Court does not vacate the judgment upon the parties' joint motion or stipulation.

5. Plaintiffs agree to each individually execute general releases 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 of precedent to their receipt of any settlement fund herein.

6. In consideration of the general releases, the motion to dismiss the action and the motion to vacate the judgment, the City of Milwaukee will pay the total sum of 2.65 million (\$2,650,000.00) to or on behalf of the Plaintiffs and their attorney William R. Rettko as follows:

To Rettko Law Offices, S.C. as attorneys fees and costs, the sum of \$883,333.31.

To the following Plaintiffs in checks made payable to them individually:

Steven J. Alexander:	\$103,921.57
John Malloy Hagen:	\$103,921.57
Joseph J. Farina:	\$103,921.57
Wayne W. Jensen:	\$103,921.57
James C. Cleveland:	\$103,921.57
Ronald G. Quackenbush:	\$103,921.57
Michael R. Brunow:	\$7,657.57
Thomas P. Klusman:	\$20,641.57
Edward N. Liebrecht:	\$31,653.57
Anthony T. Smith:	\$25,700.57
Kim R. Stack:	\$19,371.57
David C. Vahl:	\$29,000.01
Michael D. Young:	\$13,465.57

To Allstate International Assignments, Ltd., the total sum of \$995,646.84, which sum consists of the following amounts for the benefit of the following plaintiffs:

Keith A. Balash:	\$103,921.57
Charles A. Berard:	\$103,921.57
Michael R. Brunow:	\$96,264.00
William E. Heinen:	\$103,921.57
Thomas P. Klusman:	\$83,280.00
Edward N. Liebrecht:	\$72,268.00

Anthony T. Smith:	\$78,221.00
Steven J. Spingola:	\$103,921.57
Kim R. Stack:	\$84,550.00
David C. Vahl:	\$74,921.56
Michael D. Young:	\$90,456.00

7. With respect to the payments referred to in paragraph 6, the parties acknowledge and agree that says payments are in full and final settlement of all damages which they have, 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, plaintiffs 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. Plaintiffs and their attorney acknowledge and agree that they 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. Plaintiffs further acknowledge and agree that the sum of 2.65 million dollars is the maximum amount defendants will pay in this matter, irrespective any tax consequence to plaintiffs individually or collectively.

8. It is expressly understood and agreed between the parties that by entering into this Agreement, the Defendants 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 Defendants. Liability for any and all claims for relief is expressly denied by the Defendants.

9. Plaintiffs represents and certifies that they have carefully read and fully understand all of the provision and effects of this Settlement Agreement and General Release, and that their attorney has thoroughly discussed all aspects of this Agreement with them, that they are voluntarily entering into this Agreement, and that neither the Defendants nor the Defendants' attorney(s) made any representation concerning the terms or effects of this Agreement other than those contained herein.

10. Plaintiffs 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.

11. 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.

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

13. Should any provision of this Settlement Agreement and General Release be declared or be determined by any court to be illegal, invalid, an/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.

14. 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.

15. Plaintiffs warrant that, other than their attorney, William R. Rettko, 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 they have 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, Plaintiffs and the Defendants (through their attorneys) have executed the foregoing Settlement Agreement and General Release.

Dated: _____

William R. Rettko
Attorney for Plaintiffs

Dated: _____

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

