

SETTLEMENT AGREEMENT

This agreement is entered into by and between the City of Milwaukee, in its own right and on behalf of its various departments, commissions, agencies, employees, including the Milwaukee Fire Department, the Fire and Police Commission, and all agents thereof, including Jane French all of whom are hereinafter referred to as “City”, and James D. Nelson, James W. Heller, Scott F. Franken, Scott M. Van Roo, Kenten K. Kais, James L. Merchant, Richard A. Kaiser, Luke Jones, Frank D. Alioto, Michael E. Nowak and James S. Mueller, hereinafter referred to as “plaintiffs”.

WHEREAS, plaintiffs have filed a complaint alleging race and/or gender discrimination in violation of Title VII of the Civil Rights Act of 1964, and in violation of 42 U.S.C. §§ 1981 and 1983, in the United States District Court for the Eastern District of Wisconsin, Case No. 03-C-0984 against the City of Milwaukee, and

WHEREAS, the parties wish to effect a final settlement of all complaints, claims, charges, demands and liabilities, of any kind or nature whether filed or unfiled, arising from plaintiffs employment, the promotional examination for Fire Captain and/or their failure to be promoted to the rank of Fire Captain, including, without limitation, all claims arising out of the facts and circumstances which gave rise to the foregoing lawsuit, and

WHEREAS, the parties further wish to avoid the expense, burden and uncertainties of further litigation in this matter,

NOW, THEREFORE,

It is hereby stipulated and agreed as follows:

1. This agreement is in resolution of disputed claims and causes of action, and does not constitute an admission of liability by the City for any claim or cause of action, whether filed or unfiled.
2. 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.
3. The City will pay a total of Eighty Thousand and no/100th dollars (\$80,000.00) for all damages of any nature whatsoever that have been or could have been brought, payable to the trust account of attorney John F. Fuchs for distribution among all plaintiffs, inclusive of all damages for each and every plaintiff, and for all attorney fees and costs. This payment includes, without limitation, any claims for compensatory damages, punitive damages, back pay, front pay or other equitable relief. The payment herein shall be reported by the City on a 1099 Form and the plaintiffs and their attorneys shall be responsible for any tax consequences to themselves as a result of this payment, and shall hold the City harmless from any claim, demand or penalty concerning tax liability as a result of this payment.
4. In the future, and so long as any plaintiff is an active employee of the Fire Department, the Department of Employee Relations agrees to assign candidates at random and without regard to race or gender to oral examination panels (when the oral examination is a component in the testing process) for Fire Department promotional examinations.
5. In the future, and so long as any plaintiff is an active employee of the Fire Department, the Department of Employee Relations agrees that the component

weights for Fire Department promotional examinations will be communicated to candidates before the examination is administered.

6. For and in consideration of the City's payment of the sums specified herein, all plaintiffs hereby release, waive and hold the City harmless for any and all claims for payment of any damages, attorney fees, or costs.
7. Based upon the settlement, plaintiffs and their attorneys will execute any and all documents that may be necessary to dismiss the litigation, Nelson, et al v. City of Milwaukee, et al, Case No. 03-C-0984 with prejudice, and without costs or attorney fees.
8. Each plaintiff and his attorney agree to execute the attached release, which is incorporated as **Exhibit 1**, meeting the approval of the City Attorney as to form and execution.
9. The parties to this release and settlement agreement understand that 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.
10. Before signing this agreement, each plaintiff states that he has read the agreement, has had a full and complete opportunity to consider its terms, and that he understands the agreement, and knows that he is giving up all of his claims or potential claims, including for additional attorney's fees and costs, other than those designated above, against the releasees. He is aware of his right to consult with an attorney and, in fact, has consulted with an attorney before signing this agreement. Each plaintiff has signed this agreement knowingly and voluntarily.

Dated at Milwaukee, Wisconsin, this _____ day of _____, 2005.

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

James D. Nelson

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

James W. Heller

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

Scott F. Franken

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

Scott M. Van Roo

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

Kenten K. Kais

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

James L. Merchant

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

Richard A. Kaiser

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

Luke Jones

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

Frank D. Alioto

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

Michael E. Nowak

Subscribed and sworn to before me
this ____ day of _____, 2005.

Notary Public, State of Wisconsin
My Commission _____

James S. Mueller

John F. Fuchs
Attorney for Plaintiffs

GRANT F. LANGLEY
City Attorney

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State Bar No. 01016150
Attorneys for the City of Milwaukee

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