

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

GARY P. COLOREZ, et al.,

Plaintiffs,

v.

Case No. 98-C-1195

CITY OF MILWAUKEE,

Defendant.

FINAL SETTLEMENT AGREEMENT

This Agreement is entered into between the twenty-eight plaintiffs in the above-captioned action and defendant, City of Milwaukee, with the intent to fully and finally resolve all issues relating to this case. The parties agree as follows:

1. Plaintiffs, each a Supervisor in one of three divisions of the City's Department of Public Works, filed the complaint in this action on December 8, 1998 alleging violations of the Fair Labor Standards Act and seeking, inter alia, back overtime pay. A bona fide dispute exists between the plaintiffs and the defendant as to whether defendant has committed any violation of the Act, whether plaintiffs are exempt or not under the applicable FLSA "duties" and "salary basis" tests, whether plaintiffs are entitled to damages of any type, including but not limited to compensatory and liquidated damages, attorneys' fees, and costs, and whether any alleged violations of the Act were willful or not.

2. After completion of discovery and filing of cross motions for summary judgement (including briefs, oral argument, and supplemental briefs), the parties are mutually desirous of fully and finally settling this case in accordance with the terms set forth in this Agreement.

3. The City agrees to pay \$130,000.00 to the 28 plaintiffs, which sum shall be allocated among them as shown on the Settlement Table (Attachment A), which Table is incorporated herein by reference. The amount allocated to each individual plaintiff is shown in the final column of the Settlement Table, which column is captioned, "Indiv'l Settlement." Plaintiffs understand that their individual payments are subject to standard payroll withholding practices. Plaintiffs agree that the amount received by each or otherwise paid pursuant to this agreement represent payments for the releases and discharges of all claims and forms of recovery at issue in this action as referenced in paragraph 6, below, agree that a bona fide dispute exists between the parties as to the precise amount of damages to which they would be entitled if the City were found liable in this case, and agree that the sums paid to each, when added to the sum payable to each under paragraph 4, below, includes a fair and reasonable approximation of the City's back overtime pay liability to each if such liability were found to exist.

4. The City further agrees to pay \$58,000.00 to Michael T. Leibig, out of which, however, \$350.00 will be distributed by him to each of the 28 plaintiffs, with the understanding that the balance remaining to Mr. Leibig after such payments shall constitute full payment to him and any co-counsel for all attorney's fees and costs associated with the present action (the distribution to his co-counsel to be handled by Mr.

Leibig), and with the further understanding that the \$350.00 allocated to each plaintiff out of this payment constitutes taxable income to them.

5. By entering into this Agreement, the City does not admit and hereby specifically denies liability to the plaintiffs or any other employee in any amount for any claim at issue in or relating in any way to the present litigation.

6. Each plaintiff releases and fully discharges the City and its elected officials, employees, and agents from any and all liability, damages, attorney's fees, costs, or any other forms of relief, and from any and all causes of action, complaints, claims, or demands, of any type, that relate in any way to local, state, or federal wage and hour laws, rules, regulations, or other obligations, of any type, that arise or exist at any time up to the date the present case is dismissed by the Court with prejudice; these releases and discharges do not apply to liability, damages, attorney's fees, costs, or other forms of relief, or to causes of action, complaints, claims, or demands, of any type, that relate solely to time periods after the present case is dismissed by the Court with prejudice. Each plaintiff agrees not to authorize, permit, cooperate with, or benefit from any suit against the City or its elected officials, employees, or agents involving any matter within the scope of the releases and discharges referenced in this paragraph.

7. Plaintiffs agree and understand that this Agreement is subject to Common Council approval and cannot become final or binding absent both such approval and the Court's dismissal as provided in paragraph 8, below. The City agrees to seek Common Council approval within a reasonable period of time after plaintiffs' and their attorneys' sign this Agreement and to issue payments as required in paragraphs 3 and 4 within a

reasonable time of the Common Council's approval of this Agreement and of the Court's dismissal as provided in paragraph 8, below.

8. The parties agree to submit to the Court the Stipulation for Dismissal and Judgment appended as Attachment B to this Agreement, which Stipulation is incorporated herein by reference, so as to obtain an order from the Court dismissing this case with prejudice and without costs and an entry of judgment to this effect; such dismissal and judgment are to be based upon the terms and conditions of this Agreement, which Agreement shall be attached to and incorporated by reference into the Stipulation when it is submitted to the Court. The parties agree that this present Agreement shall become final and binding only if and when such dismissal and judgment are obtained from the Court, and with Common Council approval as specified in paragraph 7, above.

9. This Agreement is a jointly negotiated instrument, no provision of which shall be construed against either party upon grounds of sole authorship.

10. This Agreement requires the signatures of each plaintiff and their attorneys; plaintiffs' attorneys, in signing this Agreement, release the City from any attorney's fees or costs associated with this action except as specified in paragraph 4, above.

12. By signing this Agreement, each plaintiff acknowledges he or she has read and understands it and freely and voluntarily agrees to its terms.

Dated: _____, 2001

GARY P. COLOREZ, Plaintiff

Dated: _____, 2001

TODD A. HENRY, Plaintiff

Dated: _____, 2001

TERRY L. WOBICK, Plaintiff

Dated: _____, 2001

PAULA L. OLESZAK, Plaintiff

Dated: _____, 2001

ELIZABETH KIEREN, Plaintiff

Dated: _____, 2001

MICHAEL J. PRONOLD, Plaintiff

Dated: _____, 2001

RICHARD A. LIMON, Plaintiff

Dated: _____, 2001

JUAN MALDONADO, JR., Plaintiff

Dated: _____, 2001

PAMELA KUPTZ, Plaintiff

Dated: _____, 2001

BILLY J. SMITH, Plaintiff

Dated: _____, 2001

MARILYN JACKSON, Plaintiff

Dated: _____, 2001

JEFFREY L. SMITH, Plaintiff

Dated: _____, 2001

KENNETH J. BONTEMPO, Plaintiff

Dated: _____, 2001

WILLIAM MULLINS, Plaintiff

Dated: _____, 2001

MICHAEL CYRULIK, Plaintiff

Dated: _____, 2001

GARY P. HALVORSEN, Plaintiff

Dated: _____, 2001

GARY LASSANSKE, Plaintiff

Dated: _____, 2001

RICHARD A. LAND, Plaintiff

Dated: _____, 2001

PAUL H. ERBER, Plaintiff

Dated: _____, 2001

RAUL FIGUEROA, Plaintiff

Dated: _____, 2001

ROBERT STEADMAN, Plaintiff

Dated: _____, 2001

MARY E. BENGSCHE, Plaintiff

Dated: _____, 2001

SAMUEL GAMBOA, Plaintiff

Dated: _____, 2001

JOSEPH CAPUTA, Plaintiff

Dated: _____, 2001

JOHN C. HAGEN, Plaintiff

Dated: _____, 2001

MICHAEL R. DANIELS, Plaintiff

Dated: _____, 2001

JAMES M. POWALISZ, Plaintiff

Dated: _____, 2001

GARY N. KADOW, Plaintiff

Dated: _____, 2001

Michael T. Leibig
ZWERDLING, PAUL, LEIBIG,
KAHN, THOMPSON & WOLLY, PC
1421 Prince Street, Suite 400-A
Alexandria, VA 22314
Attorney for the Plaintiffs

Dated: _____, 2001

Judith O. O'Connell
PETERSON, JOHNSON & MURRAY
733 North Van Buren Street, Sixth Floor
Milwaukee, WI 53202
Attorney for the Plaintiffs

GRANT F. LANGLEY
City Attorney

Dated: _____, 2001

By: _____
Donald L. Schriefer

State Bar No. 01010693
Assistant City Attorney
200 East Wells Street
Milwaukee, WI 53202-3551

DLS:km/39682

SETTLEMENT TABLE

ID	Last Name	First Name	1997 Earnings	1998 Earnings	1999 Earnings	2000 Earnings	2001 Earnings	2002 Earnings	2003 Earnings	2004 Earnings	2005 Earnings	2006 Earnings	2007 Earnings	2008 Earnings	2009 Earnings	2010 Earnings	2011 Earnings	2012 Earnings	2013 Earnings	2014 Earnings	2015 Earnings	2016 Earnings	2017 Earnings	2018 Earnings	2019 Earnings	2020 Earnings	2021 Earnings	2022 Earnings	2023 Earnings	2024 Earnings	2025 Earnings	2026 Earnings	2027 Earnings	2028 Earnings	2029 Earnings	2030 Earnings	2031 Earnings	2032 Earnings	2033 Earnings	2034 Earnings	2035 Earnings	2036 Earnings	2037 Earnings	2038 Earnings	2039 Earnings	2040 Earnings	2041 Earnings	2042 Earnings	2043 Earnings	2044 Earnings	2045 Earnings	2046 Earnings	2047 Earnings	2048 Earnings	2049 Earnings	2050 Earnings	2051 Earnings	2052 Earnings	2053 Earnings	2054 Earnings	2055 Earnings	2056 Earnings	2057 Earnings	2058 Earnings	2059 Earnings	2060 Earnings	2061 Earnings	2062 Earnings	2063 Earnings	2064 Earnings	2065 Earnings	2066 Earnings	2067 Earnings	2068 Earnings	2069 Earnings	2070 Earnings	2071 Earnings	2072 Earnings	2073 Earnings	2074 Earnings	2075 Earnings	2076 Earnings	2077 Earnings	2078 Earnings	2079 Earnings	2080 Earnings	2081 Earnings	2082 Earnings	2083 Earnings	2084 Earnings	2085 Earnings	2086 Earnings	2087 Earnings	2088 Earnings	2089 Earnings	2090 Earnings	2091 Earnings	2092 Earnings	2093 Earnings	2094 Earnings	2095 Earnings	2096 Earnings	2097 Earnings	2098 Earnings	2099 Earnings	2100 Earnings
1	Colorez	Gary P.	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
2	Henry	Todd A.	\$46,276.90	\$49,195.07	\$95,471.97	\$2,642,543.21	0.03612882	130,000.00	\$4,697.00																																																																																																	
3	Wobick	Terry L.	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
4	Oleszak	Paula	\$38,343.91	\$40,422.71	\$78,766.62	\$2,642,543.21	0.02980713	130,000.00	\$3,875.00																																																																																																	
5	Kieren	Elizabeth	\$44,034.62	\$46,715.92	\$90,750.54	\$2,642,543.21	0.03434212	130,000.00	\$4,464.00																																																																																																	
6	Pronold	Michael J.	\$44,835.24	\$47,599.34	\$92,434.58	\$2,642,543.21	0.0349794	130,000.00	\$4,547.00																																																																																																	
7	Limon	Richard A.	\$44,133.70	\$46,825.92	\$90,959.62	\$2,642,543.21	0.03442124	130,000.00	\$4,475.00																																																																																																	
8	Maldonado, Jr	Juan	\$48,856.31	\$28,155.00	\$77,011.31	\$2,642,543.21	0.02914288	130,000.00	\$3,789.00																																																																																																	
9	Kuptz	Pamela	\$43,435.39	\$46,055.93	\$89,491.32	\$2,642,543.21	0.0338656	130,000.00	\$4,402.00																																																																																																	
10	Smith	Billy J.	\$48,856.00	\$50,308.95	\$99,164.95	\$2,642,543.21	0.03752633	130,000.00	\$4,878.00																																																																																																	
11	Jackson	Marilyn	\$45,550.36	\$48,393.39	\$93,943.75	\$2,642,543.21	0.0355505	130,000.00	\$4,622.00																																																																																																	
12	Smith	Jeffrey L.	\$43,786.92	\$46,440.93	\$90,227.85	\$2,642,543.21	0.03414432	130,000.00	\$4,439.00																																																																																																	
13	Bontempo	Kenneth J.	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
14	Mullins	William	\$44,133.70	\$46,825.92	\$90,959.62	\$2,642,543.21	0.03442124	130,000.00	\$4,475.00																																																																																																	
15	Cyruilk	Michael	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
16	Halvorsen	Gary P.	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
17	Lassanske	Gary	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
18	Land	Richard A.	\$44,133.70	\$46,825.92	\$90,959.62	\$2,642,543.21	0.03442124	130,000.00	\$4,475.00																																																																																																	
19	Erber	Paul H.	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
20	Figuroa	Raul	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
21	Steadman	Robert	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
22	Bengsch	Mary E.	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
23	Gamboa	Samuel	\$44,084.16	\$46,770.92	\$90,855.08	\$2,642,543.21	0.03438168	130,000.00	\$4,470.00																																																																																																	
24	Caputa	Joseph	\$44,133.70	\$46,825.92	\$90,959.62	\$2,642,543.21	0.03442124	130,000.00	\$4,475.00																																																																																																	
25	Hagen	John C.	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	
26	Daniels	Miachael R.	\$48,094.15	\$50,484.82	\$98,578.97	\$2,642,543.21	0.03730458	130,000.00	\$4,850.00																																																																																																	
27	Powalisz	James M.	\$43,638.30	\$46,275.93	\$89,914.23	\$2,642,543.21	0.03402564	130,000.00	\$4,423.00																																																																																																	
28	Kadow	Gary N.	\$48,856.31	\$50,484.82	\$99,341.13	\$2,642,543.21	0.037593	130,000.00	\$4,887.00																																																																																																	

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

GARY P. COLOREZ, et al.

Plaintiffs,

v.

Case No. 98-C-1195

CITY OF MILWAUKEE,

Defendant.

STIPULATION FOR DISMISSAL AND JUDGMENT

Plaintiffs, by their attorneys, Michael T. Leibig of Zwerdling, Paul, Leibig, Kahn, Thompson & Wolly, P.C., and Judith O. O'Connell of Peterson, Johnson & Murray, and defendant City of Milwaukee by Grant F. Langley, City Attorney, by Donald L. Schriefer, Assistant City Attorney, stipulate and agree as follows:

1. The parties have negotiated a Final Settlement Agreement by which they seek to fully and finally resolve the present FLSA action. A fully executed copy of the Final Settlement Agreement is attached as Exhibit A and incorporated by reference hereto for the Court's review. The City's Common Council has approved the Final Settlement Agreement as required in paragraph 7 of that Agreement.
2. Pursuant to paragraph 8 of the Final Settlement Agreement, the parties request the Court, after its review of that Agreement, to dismiss this action with prejudice and without costs

based upon the terms and conditions of that Agreement, and to direct the Clerk to enter judgment accordingly.

ZWERDLING, PAUL, LEIBIG, KAHN,
THOMPSON & WOLLY, P.C.

Dated: _____, 2001

BY: _____

Michael T. Leibig
1421 Prince Street, Suite 400-A
Alexandria, VA 22314
Attorney for the Plaintiffs

PETERSON, JOHNSON & MURRAY

Dated: _____, 2001

BY: _____

Judith O. O'Connell
State Bar No. _____
733 North Van Buren Street, 6th Floor
Milwaukee, WI 53202
Attorney for the Plaintiffs

GRANT F. LANGLEY
City Attorney

Dated: _____, 2001

BY: _____

Donald L. Schriefer
Assistant City Attorney
State Bar No. 01010693
800 City Hall
200 East Wells Street
Milwaukee, WI 53202
Attorneys for the Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

GARY P. COLOREZ, et al.

Plaintiffs,

v.

Case No. 98-C-1195

CITY OF MILWAUKEE,

Defendant.

ORDER FOR DISMISSAL AND JUDGMENT

As requested by the parties in their Stipulation for Dismissal and Judgment, this action is dismissed with prejudice and without costs based upon the terms and conditions of the parties' Final Settlement Agreement, which Agreement the parties included as Appendix A to their Stipulation for Order and Judgment. The Clerk is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin this ____ day of _____, 2001.

BY THE COURT:

Honorable J.P. Stadtmueller
Chief Judge
United States District Court
Eastern District of Wisconsin