

## **FULL AND FINAL RELEASE**

Case Name: *Tiffany Cross et al. v. City and County of San Francisco*

Case No.: **U.S.D.C. 3:18-cv-06097 EMC**

FOR GOOD AND VALUABLE CONSIDERATION, in the amount of \$225,500 (Two Hundred Twenty Five Thousand Five Hundred Dollars and no cents) (the "SETTLEMENT AMOUNT"), the sufficiency of which is hereby admitted and acknowledged, plaintiffs, individually and on behalf of their heirs, domestic partners, executors, administrators, and assigns, if any (hereinafter referred to individually and collectively as "RELEASORS"), hereby agree to fully and forever release and discharge the City and County of San Francisco, together with its elective and/or appointive boards, agents, servants, employees, consultants, departments, commissioners, and officers (hereinafter referred to individually and collectively as "SAN FRANCISCO"), from any and all claims, actions, causes of action, liabilities, damages, demands, attorneys' fees, expenses and costs (including without limitation court costs) of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, which have existed or may have existed, or which do exist, or which hereafter shall or may exist, and which (1) are alleged or set forth or attempted to be set forth in the pleadings on file in that certain action entitled "Cross, et al. vs. City and County of San Francisco, et al.," being Action No. 3:18-cv-06097 on the records of the United States District Court for the Northern District of California (hereinafter referred to as the "ACTION"), or (2) arise out of or are in any way related to any of the transactions, occurrences, acts or omissions set forth or alleged in any of the pleadings in the Action (hereinafter referred to collectively as the "CLAIMS"). As a condition of this settlement, plaintiffs have agreed to dismiss the individual defendants, and agree that although this release extends to claims against all City employees, including all individually named defendants, this settlement is for and between the City and County of San Francisco as the only defendant, and plaintiffs. Also as a condition of this settlement, the City and County of San Francisco's Department of Police Accountability has agreed to include "biased policing" as a category of citizen complaints. The DPA will recommend to the Commission a definition of "biased policing" as follows: "Bias Policing occurs when law enforcement inappropriately considers characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, socio-economic status, age, cultural group, disability, or affiliation with a non-criminal group when providing law enforcement services or enforcement. If the DPA has not initiated the process for Commission approval of that definition prior to the City's final approval of the settlement in this matter, it will do so within two weeks of the final approval.

RELEASORS represent and warrant that they have not assigned or transferred, or agreed to assign or transfer, or attempted to assign or transfer, to any third party or entity (including without limitation any insurer) any interest in any of the CLAIMS. RELEASORS agree to defend, indemnify and hold harmless SAN FRANCISCO against any loss, expense or liability, including without limitation reasonable attorneys' fees, arising from any breach of the foregoing. Furthermore, in the event that SAN FRANCISCO learns that RELEASORS have breached this warranty, SAN FRANCISCO may, at its sole option, elect to rescind this Full and Final Release, in which case RELEASORS shall immediately remit to SAN FRANCISCO the SETTLEMENT

AMOUNT, plus interest accruing thereon at a rate of ten percent per year, compounded monthly, from the date of payment thereof.

RELEASORS represent and warrant that either (a) there are no liens, including without limitation any medical reimbursement, unemployment or disability compensation liens, in existence which may attach to the SETTLEMENT AMOUNT or to any recovery paid to RELEASORS pursuant to the ACTION, or (b) to the extent there are any such liens, RELEASORS will pay and retire all such liens out of the SETTLEMENT AMOUNT. RELEASORS agree to defend, indemnify and hold harmless SAN FRANCISCO against any and all claims by any person or entity purporting to hold any lien, interest, or other claim, whether for medical care, unemployment and/or disability compensation, attorneys' fees, or otherwise, involving RELEASORS and arising in connection with any of the CLAIMS.

In reaching a settlement of the CLAIMS resulting in the execution of this RELEASE, RELEASORS and SAN FRANCISCO have considered and sought to protect the interests of the Centers for Medicare and Medicaid Services ("CMS"), the federal agency that runs Medicare. RELEASORS represent and warrant that RELEASORS are not Medicare eligible pursuant to 42 U.S.C. 1395c and will not become Medicare eligible within thirty months from the date of this RELEASE. RELEASORS and RELEASORS' counsel agree to defend, indemnify and hold harmless SAN FRANCISCO against any and all claims arising out of or related to the terms of this paragraph, including without limitation, any claims by CMS.

RELEASORS certify that they have read Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

RELEASORS hereby waive application of Section 1542 of the Civil Code.

RELEASORS understand and acknowledge that, as a consequence of this waiver of Section 1542, even if RELEASORS should eventually suffer additional or further loss, damages or injury arising out of or in any way related to any of the events which gave rise to the CLAIMS, or any of them, RELEASORS will not be permitted to make any further claims against SAN FRANCISCO to recover for such loss, damages or injury. RELEASORS acknowledge that they intend these consequences even as to claims for personal injury or property damage that may exist as of the date of this Full and Final Release but which RELEASORS do not know exist, and which, if known, would materially affect RELEASORS' decision to execute this Full and Final Release, regardless of whether RELEASORS' lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

RELEASORS acknowledge that, in executing this Full and Final Release, they are acting on their own, independent judgment informed by their legal counsel. RELEASORS acknowledge having read this Full and Final Release and having been advised by their attorney as to its meaning and effect. RELEASORS acknowledge and warrant that their execution of this Full and Final Release is free and voluntary. RELEASORS further represent and warrant that, at the time they executed this Full and

Final Release, they were not in the period of first physical confinement, whether as an inpatient or outpatient, in a clinic or health facility (as defined in Sections 1203 and 1250 of the Health and Safety Code) as a result of the injury alleged to have given rise to any of the CLAIMS, and that as a result Business and Professions Code section 6152(b) cannot be used to invalidate this Full and Final Release.

RELEASORS acknowledge that this Full and Final Release contains and constitutes the entire agreement between RELEASORS and SAN FRANCISCO with respect to the CLAIMS. The terms of this Full and Final Release are contractual and not a mere recital. RELEASORS acknowledge that SAN FRANCISCO has made no representations, express or implied, to induce RELEASORS to enter into this Full and Final Release, other than as expressly set forth herein.

No aspect of this Full and Final Release or the settlement which led to it is intended to be nor at any time shall be construed, deemed, or treated in any respect as an admission by SAN FRANCISCO of liability for any purpose. It is expressly understood by RELEASORS that this Full and Final Release does not constitute an admission of the truth or accuracy of any of the allegations made in the complaint on file in the ACTION or of liability for any of the CLAIMS, and that SAN FRANCISCO expressly denies the allegations made in the complaint, as more fully set forth in the answer or other responsive pleadings on file in the ACTION.

If any of the provisions of this Full and Final Release or the application thereof is held to be invalid, its invalidity shall not affect any other provision or application of this Full and Final Release to the extent that such other provision or application can be given effect without the invalid provision or application, and to this end, the provisions of this Full and Final Release are declared and understood to be severable; provided, however, that should a court of competent jurisdiction hold that RELEASORS are entitled to sue SAN FRANCISCO upon any of the CLAIMS, and should RELEASORS bring or join in such a suit, then RELEASORS shall immediately remit to SAN FRANCISCO the SETTLEMENT AMOUNT, plus interest thereon accruing at a rate of ten percent per year, compounded monthly, from the date of payment thereof.

RELEASORS understand and acknowledge that both RELEASORS and SAN FRANCISCO shall bear their own legal expenses and costs incurred in connection with prosecuting or defending against the ACTION and any of the CLAIMS.

This Full and Final Release and the settlement which led to it have been fully negotiated with the assistance of counsel and should not be construed more strictly against one party than another.

This Full and Final Release may be executed in two or more counterparts, all of which counterparts shall be deemed originals.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Tiffany Cross, plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Shalonda Adams, plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Crystal Anthony, plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Arron Lee Mathews, plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Acacia McNeal, plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Darlene Rouse, plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
Tiana Reddic, plaintiff

APPROVED AS TO FORM:

DURIE TANGRI, LLP

Dated: \_\_\_\_\_

\_\_\_\_\_  
Whitney O'Byrne  
Attorney for Releasors

Dated: \_\_\_\_\_

SAN FRANCISCO CITY ATTORNEY'S  
OFFICE

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Margaret W. Baumgartner  
Deputy City Attorney