

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

ARTICLE 1

This Settlement Agreement and General Release of All Claims ("Agreement") is made and entered into between Claimant [REDACTED] an individual, and Respondent San Dieguito Union High School District, a public entity, (the "District"). Wherever the "District" is used in this Agreement, it shall refer to the San Dieguito Union High District, its Board of Education, officers, directors, and employees, whether administrative, certificated or classified as well as its agents, representatives, attorneys and all successors in any interest. [REDACTED] and the District are sometimes referred to as "Party," individually, or collectively as the "Parties."

ARTICLE 2 RECITALS

2.1 [REDACTED] through her attorney of record, submitted a Claim Against the San Dieguito Union High School District on May 31, 2016 ("Claim"). The Claim related to physical injuries, and emotional distress arising out of such physical injuries, which occurred while [REDACTED] was a minor and a student in the District.

2.2 [REDACTED] now wishes to forever release and discharge the District from all claims asserted, or which may have been asserted, in the Claim and any subsequent litigation, including all claims arising from the events alleged in the Claim, as well as all other claims or causes of action, whether the right or injury is known or unknown, suspected or unsuspected, that could have been alleged, all on terms as set forth in this Agreement.

ARTICLE 3 AGREEMENT

NOW, THEREFORE, in consideration of the promises and agreements set forth, it is agreed by and between the Parties as follows:

3.1 Consideration compromise

3.1.1 The District agrees to pay to [REDACTED] the sum of ten thousand dollars (\$10,000.00) (the "Payment") and agrees to waive all costs associated with the Claim, including all claims for any attorney fees. The sum will be payable to Plaintiff's counsel's trust account. This settlement sum is due no later than thirty (30) days after receipt of this fully executed Agreement. The settlement made pursuant to this Agreement is made solely for the purpose of compromising disputed claims and avoiding the time, expense and uncertainty of litigation.

3.1.2 [REDACTED] acknowledges that no lawsuit has been filed in this matter and that no lawsuit will be filed against the District as a result of the Claim or any matter that could have been asserted in the Claim. [REDACTED] agrees to dismiss, abandon, forever waive, forever discharge and agrees not pursue the Claim presented on May 31, 2016 or any other potential or

actual claims, whether known or unknown, that she may have had against the District that may have arisen up to the date of this Agreement.

3.1.3 The Parties, and each of them, shall bear their own attorneys' fees, costs, and expenses incurred in or as a result of the Claim, including any and all fees, costs, and expenses incurred in the preparation of this Agreement.

3.1.4 It is expressly agreed and understood that if the Internal Revenue Service or any other governmental entity or any court of competent jurisdiction determines that [REDACTED] is liable for taxes, interest and/or penalties due on all or a part of the payment made to [REDACTED] as referenced herein, [REDACTED] shall be solely responsible for the full payment of any such federal, state, and local taxes, interest or penalties as may be due from her under this Agreement. It is also expressly agreed and understood that District bears no responsibility or liability whatsoever with regard to whether all or part of the consideration for this Agreement is determined to be subject to taxation.

ARTICLE 4

4.1.1 GENERAL RELEASE OF CLAIMS:

[REDACTED] for herself and for her heirs, assigns, executors, administrators, and successors, forever release and discharge the District and its employees, shareholders, principals, agents, officers, directors, attorneys, servants, representatives, predecessors, successors in interest, and assignees from all demands, liens, assignments, contracts, covenants, actions, suits, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, controversies, judgments, orders, and liabilities of whatever character, nature and kind, known or unknown, suspected or unsuspected, and whether or not concealed or hidden, including, but not limited to, any and all claims that were or may have been asserted in the Claim or for all events up to the date of this Agreement, or both. In furtherance of this release, [REDACTED] expressly, knowingly, and voluntarily waives all rights or benefits conferred upon her by the provisions of California Civil Code section 1542 or any similar state or federal law, or both. California Civil Code section 1542 provides as follows:

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

[REDACTED] expressly waives Civil Code section 1542 and expressly agrees and consents that the Release shall be given full force and effect in accordance with each and all of its express terms and provisions, relating to known and unsuspected claims, demands, or causes of action in the past, present, and future.

4.2 [REDACTED] agrees to hold harmless and to indemnify the District for and against any claim, lien, or debt that has or may arise from the incidents or events described, including, but not limited to, all medical liens.

ARTICLE 5 GENERAL PROVISIONS

5.1 This Agreement has been fully reviewed by the Parties and their respective counsel. The Parties expressly waive any common law or statutory rule of construction that ambiguities should be construed against the drafter of this Agreement.

5.2 The Parties agree that this Agreement constitutes a compromise, an accord and satisfaction of disputed claims, and shall not be treated as an admission of liability or fault by either Party, for any purpose.

5.3 The Parties further declare and represent that this Agreement contains the entire agreement between them and that the terms of this Agreement, including the RECITALS, are contractual and not a mere recital.

5.4 No waiver by any Party of any breach of this Agreement by any other Party shall operate or be construed as a waiver of any other or later breach. No waiver by any Party of any breach of this Agreement by any other Party shall be effective unless it is in writing and signed by the Party claimed to have waived such breach.

5.5 This Agreement may be amended only in a writing executed by the Parties.

5.6 The Parties represent and warrant that:

5.6.1 They have not assigned or transferred, or purported to assign or transfer, to any person or entity, any right or claim being released, or any portion of it, or any interest therein; and

5.6.2 They are the sole owners of each of the rights and claims that are alleged or constitute the claims being released.

5.6.3 They are executing this agreement voluntarily, without undue influence or coercion by any person or entity, with a full understanding of the terms of this Agreement and by advice of counsel.

5.6.4 Should any court, arbitrator, or tribunal of competent jurisdiction determine that any term or provision of this Agreement is unenforceable, such term or provision shall be deemed to be deleted as though it had never been a part of this Agreement, and the validity, legality, and enforceability of the remaining terms and provisions shall not be in any way affected or imperiled.

5.6.5 This Agreement shall be construed in accordance with the laws of the State of California. This Agreement shall not be construed against the Party preparing it but shall be construed as if all Parties jointly prepared this Agreement. Any uncertainty or ambiguity

shall not be interpreted against any one Party. Any action to enforce any of the provisions of this Agreement will commence in a court of competent jurisdiction in County of San Diego, California.

5.6.6 This Agreement shall be effective against any Party upon the facsimile transmission by that Party of an executed copy of the Agreement and the placement in the U.S. mail, postage prepaid, of an executed original.

5.6.7 This Agreement may be executed and delivered in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile signatures will suffice and be treated as originals.

5.6.8 By signing this Agreement, the Parties represent that they fully understand their right to review all aspects of this Agreement with an attorney of their choice, that they have had the opportunity to consult with an attorney of their choice, that they have carefully read and fully understands all the provisions of this Agreement and that they freely, knowingly and voluntarily enters into this Settlement Agreement and General Release of All Claims.

IN WITNESS WHEREOF, the undersigned have executed the Agreement on the date affixed by their signature.

Date: 8/27/17

Signature: 

Date: 9-28-17


Signature: 

Eric M. Dill
Superintendent
San Dieguito Union High School District

APPROVED AS TO FORM:

Dated: 9/5/17

Signature: 

David L. Beck, Esq.
Coast Law Group, LLP
Attorney for 

Dated: 9/29/17

Signature: 

Daniel R. Shinoff, Esq.
Jeffrey P. Wade, Jr., Esq.
ARTIANO SHINOFF
Attorneys for San Dieguito Union High
School District