

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This SETTLEMENT AGREEMENT AND GENERAL RELEASE (hereinafter referred to as "Agreement") is made and entered into by and between LUDMILLA ABRAHAMIAN (hereinafter referred to as "Plaintiff") and CITY OF GLENDALE and all divisions and departments (including the GLENDALE POLICE DEPARTMENT), as well as all current and former City Council members, employees, agents and attorneys (all of the aforementioned hereinafter referred to collectively as "Defendant") in the action entitled *Lola Abrahamian v. City of Glendale*, Case No. BC620382.

WITNESSETH:

WHEREAS, Plaintiff is employed by the CITY OF GLENDALE; and

WHEREAS, Plaintiff filed charges with the California Department of Fair Employment and Housing ("DFEH") and/or the Equal Employment Opportunity Commission ("EEOC") alleging, inter alia, discrimination, harassment and retaliation; and

WHEREAS, Plaintiff filed a lawsuit in the Los Angeles Superior Court, which lawsuit is entitled *Ludmilla Abrahamian v. City of Glendale, Case No. BC620382*; and

WHEREAS, all the above-referenced parties desire to settle fully and finally all differences between them, including, but not limited to, those differences embodied in the aforementioned lawsuit and all charges filed by Plaintiff with the DFEH and/or EEOC and all causes of action which any party may possess against the other arising out of the employment of Plaintiff with Defendant in any way whatsoever.

NOW, THEREFORE, in consideration of the promises herein contained, IT IS AGREED AS FOLLOWS:

1. Mutual and Complete Release

In return for the consideration provided in Paragraph 5 of this Agreement, to which Plaintiff would not otherwise be entitled, Plaintiff, for herself, her heirs and assignees, does hereby unconditionally release, discharge and hold Defendant harmless from, and covenants not to sue upon, each and every complaint, action, claim, right, charge, demand, liability, obligation, promise and agreement of any kind or nature that Plaintiff had, has now or might hereafter claim to have against Defendant as of the date of execution of this Agreement including, but not limited to, any and all claims for damages, expenses, attorneys' fees, costs, or injuries whatsoever sustained by Plaintiff, occasioned directly or indirectly by her employment with the City of Glendale or the alleged harassment, discrimination, distress, and retaliation arising out of said employment up through and including the date of execution of this Agreement, including, but not limited to those incidents alleged in the complaint on file in the above-referenced lawsuit and all charges filed by Plaintiff with the DFEH and/or EEOC and further from any actions, claims, rights, liabilities, charges or demands of any nature whatsoever which may be raised pursuant to

any law, constitution, statute, regulation, or any common law theory, whether in tort, contract, equity or otherwise (with all of the foregoing collectively referred to as "Claim(s)"). This release does not apply to any worker's compensation claims, past, present or future.

2. Unknown Claims

Plaintiff acknowledges and agrees that, for the consideration stated in Paragraph 5 of this Agreement and as a material inducement to Defendant to enter into this Agreement, this Agreement is intended as a full and complete release and discharge of any and all claims that Plaintiff may or might have had by reason of the happening of the incidents set forth in Paragraph 1 of this Agreement, and in accepting the consideration stated in Paragraph 5, after consulting with her representative or counsel of choice, Plaintiff hereby releases and discharges all such claims, and intends and does hereby release and discharge Defendant and all of said persons set forth in this Agreement, of and from any and all liability of any nature whatsoever for all damages, general or special, exemplary or punitive, or injury or injuries to Plaintiff specifically including, but not limited to, all expenses to which Plaintiff may have been put, and also including, but not limited to, all consequential damages on account of said incidents, as well as for all consequences, effects and results of such incidents and resulting damages, general, special exemplary or punitive, or injury or injuries, whether the same or any circumstances pertaining thereto are now known or unknown to Plaintiff or anyone else, or have already appeared or developed, or may now be latent or may in the future appear or develop, or become known to Plaintiff, or anyone else. Plaintiff understands and agrees FURTHER THAT ALL RIGHTS UNDER SECTION 1542 OF THE CALIFORNIA CIVIL CODE ARE HEREBY EXPRESSLY WAIVED. Plaintiff understands that Section 1542 of the California Civil Code provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Thus, notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of the Defendant, Plaintiff expressly acknowledges that this Agreement is intended to include in its effect, without limitation, all claims which Plaintiff does not know or suspect to exist in her favor at the time of execution hereof, and that this Agreement contemplates the extinguishment of any such claim or claims arising on or before the date of the execution of this Agreement.

Therefore, Plaintiff hereby assumes the risk of any damages, expenses, or injury which may now be latent or unexpected or which may hereafter appear, develop or occur as the result of said incidents, and Plaintiff will hold Defendant and all of its agents, representative, employees, and departments harmless from any and all claims therefor.

This release does not apply to any worker's compensation claims, past, present or future.

3. Non-Admission of Liability

It is understood that this settlement and the execution of this Agreement by Defendant is not an admission of any liability whatsoever for any wrongdoing with respect to Plaintiff by Defendant or by any person or department, but is in fact the compromise of a disputed claim.

4. Full and Independent Knowledge

The parties agree that they have not been influenced to any extent whatsoever in making this release by any representations or statements regarding this release, the legal liability thereunder, or any other matters, made by the other parties who are hereby released, or by any person or persons representing the other parties.

Plaintiff represents and agrees that she **understands** that this Agreement is the result of extensive bargaining and negotiation between attorneys for Defendant and attorneys for Plaintiff and that during this bargaining and negotiation the subject of personal injuries, general and special damages, and punitive or exemplary damages were discussed, and Plaintiff hereby declares and represents that she is effecting this settlement and executing this Agreement after having carefully read the Agreement and having received full legal advice as to her rights from her attorneys. Plaintiff fully understands the final and binding effect of this Agreement, and that the only promises made to plaintiff to sign this Agreement are those stated herein, and that plaintiff is signing this Agreement voluntarily.

5. Promises of Plaintiff and Consideration by Defendant

A. City will commence payment of 4850 benefits to plaintiff for a maximum period of six months. The 4850 pay will be retroactive to July 2, 2017 and will cease on December 28, 2017 regardless of the status or outcome of plaintiff's medical condition, work status and/or retirement application.

B. The parties understand and agree that Plaintiff intends to apply for an Industrial Disability Retirement ("IDR"). If Plaintiff provides medical documentation that satisfies the disability retirement prerequisites under state law and CalPERS requirements, City will not oppose such application and will process it in accordance with the City's established procedures. It is further understood and agreed that if plaintiff is unable to obtain an IDR, all obligations set forth in Paragraphs 5 and 7 below shall become null and void.

C. If Plaintiff obtains an IDR, she will retire from the City of Glendale effective December 28, 2017. If Plaintiff obtains an IDR, Plaintiff further agrees that she will not institute or join any action, lawsuit, or process against Defendant for any alleged failure to promote her occurring between July 2, 2017 and December 28, 2017.

D. Upon Plaintiff's retirement from the City of Glendale on December 28, 2017 and execution of this Agreement, City shall issue payment to Plaintiff in the amount of Five-Hundred Fifty Thousand Dollars (\$550,000) (the "Settlement Amount"), the sufficiency of which is hereby acknowledged. Payment shall be made between January 1, 2018 and January 26, 2018.

The Settlement Amount shall constitute the full, complete and final settlement of all claims and matters by Plaintiff against Defendant. The Settlement Amount shall be made payable to the Law Offices of Gregory W. Smith Client Trust and shall represent the following:

- a. \$ 66,000.00 for lost wages;
- b. \$ 264,000.00 for alleged physical injuries/physical sickness and emotional distress arising therefrom;
- c. \$ 220,000.00 for attorney's fees.

E. Upon receipt of the payment set forth in Paragraph 5.D. above, Plaintiff shall dismiss with prejudice Case No. BC620382 currently pending in the Los Angeles County Superior Court.

6. Tax Treatment

A portion of the Settlement Amount described in paragraph 5.D. does not constitute payment of wages or severance pay, but rather settlement of disputed claims for personal physical injuries, physical sickness, and emotional distress arising therefrom. Accordingly, pursuant to Plaintiff's request, Defendant will not make personal income tax withholding, social security, unemployment, or other deductions required in connection with the payment of wages from such portion of the Settlement Amount. Defendant will issue a form 1099 to the Law Offices of Gregory W. Smith Client Trust Account only, reflecting the entire payment. Plaintiff shall be solely responsible for determining the tax consequences of such payment, reporting the same to the appropriate governmental authorities, and the payment of any taxes due thereon. Plaintiff shall defend, indemnify, and hold Defendants harmless from and against any and all losses, including but not limited to attorneys' fees, costs, back taxes, interest, and penalties, which Defendants may suffer as a result of such tax determination by Plaintiff, the reporting or non-reporting thereof, and/or the payment or failure to pay any tax thereon.

7. Retirement

Plaintiff represents and agrees that as a material inducement to Defendant to enter into this Agreement, Plaintiff hereby submits a resignation letter concurrent with the execution of this Agreement, acknowledging her intention to retire effective December 28, 2017.

8. Indemnification

As further material inducement to the parties hereto to enter into this Agreement, all parties agree to indemnify and hold each other harmless against any and all loss, costs, damages, or expenses, including, without limitation, attorneys' fees, incurred by any such party arising out of any breach of this Agreement by any party hereto.

Plaintiff further declares that in the event any third party has paid or **will** pay any expenses arising out of the aforementioned incidents on her behalf, or has any outstanding liens which are known or unknown to Plaintiff at this time, Plaintiff will indemnify and hold harmless Defendants from all claims or demands for reimbursement by such third party, or lienholder,

including providing Defendant with a legal defense and paying all costs thereof in the event of legal action by any such third party.

9. Acknowledgment of Waiver of Claims under ADEA and OWBPA

The Age Discrimination in Employment Act of 1967 (“ADEA”) makes it illegal for an employer to discharge any individual or otherwise discriminate with respect to the nature and privileges of an individual's employment on the basis that the individual is age forty or older. The Older Workers Benefit Protection Act (“OWBPA”, 29 U.S.C. §§ 626, et. seq., Pub L 101-433, 104 Stat. 978 (1990)) further augments the ADEA and prohibits the waiver of any right or claim under the ADEA unless the waiver is knowing and voluntary.

By entering into this Agreement, Plaintiff acknowledges that she is knowingly and voluntarily, for just compensation in addition to anything of value to which Plaintiff was already entitled, waiving and releasing any rights she may have under the ADEA and/or OWBPA. Plaintiff further acknowledges that she has been advised and understands, pursuant to the provisions of the ADEA and OWBPA, that:

- (a) This waiver/release is written in a manner understood by Plaintiff ;
- (b) Plaintiff is aware of and has been advised of her rights under the ADEA and OWBPA, and of the legal significance of her waiver of any possible claims she currently may have under the ADEA, OWBPA, or similar age discrimination laws;
- (c) Plaintiff is entitled to a reasonable time of at least twenty-one days within which to review and consider this Agreement, and the waiver and release of any rights she may have under the ADEA, the OWBPA, or similar age discrimination laws, but she may, in the exercise of her own discretion, sign or reject this Agreement at any time before the expiration of the twenty-one days;
- (d) The waivers and releases set forth in this Agreement shall not apply to any rights or claims that may arise under the ADEA and/or OWBPA after the effective date of this Agreement;
- (e) Plaintiff has been advised by this writing that she should consult with an attorney prior to executing this release;
- (f) Plaintiff has discussed this waiver and Agreement with, and been advised with respect thereto by, her counsel of choice named herein and that she does not need any additional time within which to review and consider this Agreement;
- (g) Plaintiff has seven days following the parties' full and complete execution of this Agreement to revoke the Agreement; and

- (h) This Agreement shall not be effective until the occurrence of that effective date of the right to revoke this Agreement.

10. No Filings by Plaintiff

Plaintiff represents that she has no pending complaints or charges against Defendant, or any agent, employee, or representative thereof, with any local, state or federal agency or court, other than the aforementioned civil lawsuit. Plaintiff represents and agrees that she will not file any other charges or complaints against Defendant, its agents, representatives, or employees with any local, state or federal agency or court at any time hereafter based upon any matter related to Plaintiff's employment with the City of Glendale up through the date of execution of this Agreement, or to any matter arising out of the facts alleged in the civil complaints of Plaintiff or any previously-filed EEOC and DEEH claims referenced above, or otherwise arising on or before the date of execution of this Agreement.

11. Attorneys' Fees

Other than set forth above, Plaintiff and Defendant will bear their own expenses and attorney's fees in connection with the above-referenced lawsuit.

12. Entire Agreement

This Agreement 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, and may be signed in counterparts.

This Agreement cannot be amended, altered, modified or superseded except by a written agreement so stating, signed by Plaintiff and Defendant, and each of them, or their representatives.

13. This Agreement is executed and delivered in the State of California and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with the laws of the State of California.

14. Should any provisions of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provision shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

15. This Agreement shall not be construed against any one party, but shall be construed as if jointly prepared by the parties hereto. Any uncertainty or ambiguity shall not be interpreted against any one party.

16. It is further understood and agreed that if, at any time, a violation of any term of this Agreement is asserted by any party hereto, that party shall have the right to seek specific

performance of that term and/or any other necessary and proper relief, including but not limited to damages, from any court of competent jurisdiction in Los Angeles County, and the prevailing party shall be entitled to recover its reasonable costs and attorneys' fees.

17. This Agreement may be executed as one or more counterparts, and each such counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy or facsimile transmission of the Agreement, including **signatures**, shall be deemed to constitute evidence of the Agreement having been executed.

18. The date of the last signature placed hereon shall hereinafter be known as the "date of execution of this AGREEMENT."

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE INCLUDES
A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.


Plaintiff LUDMILLA ABRAHAMIAN:

Dated: 10-6-17

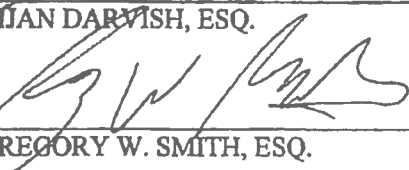

LUDMILLA ABRAHAMIAN

Counsel for LUDMILLA ABRAHAMIAN:

Dated: 10/09/2017


BIJAN DARVISH, ESQ.

Dated: 10/09/2017


GREGORY W. SMITH, ESQ.

Defendant CITY OF GLENDALE:

Dated: 10/10/17


YASMIN K. BEERS, ASSISTANT CITY MANAGER,
Authorized Representative of CITY OF GLENDALE

Counsel for Defendant:

MICHAEL J. GARCIA, CITY ATTORNEY

Dated: 10/10/17


ANN M. MAURER, ESQ.
Chief Assistant City Attorney