

SETTLEMENT AGREEMENT

This Settlement Agreement and General Release of All Claims ("Settlement Agreement") is entered into by and between plaintiff, Steven Foley ("Plaintiff") and defendants, City of Coronado and Aaron Mansker ("Defendants").

RECITALS

A. This Settlement Agreement is entered into between Plaintiff on his own behalf and on behalf his heirs, representatives, successors and assigns, and Defendants and their heirs, officers, directors, agents, attorneys, insurers, employees, council members, board members, agencies, and representatives.

B. Plaintiff filed an action in the Superior Court of the State of California, San Diego, Case No. GIC879075 (the "Action"). Plaintiff filed his First Amended Complaint on or about April 13, 2007. The Complaint(s) arose out of an incident that occurred on September 3, 2006 in Poway, California.

C. A settlement was reached and placed on the record on July 2, 2008. This Agreement is intended to incorporate and supplement the terms placed on the record in court on July 2, 2008.

AGREEMENTS

The settling parties agree as follows:

1.0 Release and Discharge

In consideration of the payment of \$5.5 million, Plaintiff hereby completely releases and forever discharges Defendants from any and all past, present or future claims, demands, obligations, actions, causes of action, wrongful death claims, rights, damages, costs, losses of services, expenses, and compensation of any nature whatsoever arising out of or related to the Action, and the events alleged in Plaintiff's controlling Complaint.

2.0 Payment Terms:

The Settlement Amount will be paid as follows:

- (1). The balance of the City's Self-Insured Retention (estimated to be approximately \$1.2 million) in 30 days.
- (2). 50% of the remaining sum (\$5.5 million less the monies paid in response to Paragraph 2.0(1)) on October 8, 2008; and
- (3). 50% of the remaining sum (\$5.5 million less the monies paid in response to Paragraph 2.0(1)) on November 6, 2008.

3.0 Attorney's Fees

The Settling Parties shall bear their own attorney's fees and costs. There is no prevailing party. There will be no award of or entitlement to attorney's fees.

4.0 Liens

Settling Plaintiffs agree to satisfy all liens including, but not limited to workers' compensation, attorneys fees, and medical liens.

5.0 Civil Code §1542 Waiver

The parties to this Settlement Agreement acknowledge they have been advised by legal counsel and are familiar with the provisions of California Civil Code Section 1542, and do hereby waive their rights thereunder.

For the protection of the undersigned Claimant, California law requires the following to appear in this form:

"It is unlawful to (a) present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance and (b) prepare, make or subscribe any writing with intent to present or use the same, and to allow it to be presented or used in support of any such claim. Any person who violates any provision of this section is punishable by imprisonment in the state prison or by fine not exceeding one thousand dollars (\$1,000) or both."

6.0 Compromise of Doubtful and Disputed Claims

This Agreement is the compromise of doubtful and disputed claims. The settling parties make no admissions of liability or fault by entering into this Agreement. Nothing contained in this Agreement can be construed as an admission of liability or fault on the part of any of the settling parties.

7.0 Delivery of Dismissal with Prejudice

Contemporaneously with the last payment due hereunder, counsel for Plaintiff will file a properly and fully executed Dismissal with Prejudice of the Action.

8.0 Entire Agreement and Successors in Interest

With the exception of the terms set forth on the record in court on July 2, 2008, this Agreement sets forth the entire agreement between the settling parties, and fully supersedes all prior understandings, representations, warranties, discussions, and agreements between the settling parties and/or their attorneys.

9.0 Execution of Agreement

This Agreement may be signed in counterparts, and facsimile signatures are as effective as original signatures.

APPROVED AS TO FORM:

DATED: _____

LEVINE, STEINBERG, MILLER & HUVER

By: _____

Harvey R. Levine, Esq.
Su L. Barry, Esq.

Attorneys for Plaintiff, Steven Foley

DATED: _____

THE COHEN LAW FIRM

By: _____

Jordan M. Cohen, Esq.
Roy E. LaFrancis, Jr., Esq.

Attorneys for Plaintiff, Steven Foley

DATED: _____

LYNBERG & WATKINS

By: _____

Norman J. Watkins, Esq.
Dana Alden Fox, Esq.
Matthew Harrison, Esq.

Attorneys for Defendants, City of Coronado and
Aaron Mansker

DATED: _____

MCDUGAL, LOVE, ECKIS, SMITH, BOEHMER
& FOLEY

By: _____

Steve Bochner, Esq.
Attorneys for Defendants, City of Coronado and
Aaron Mansker

I understand and agree to be bound by the terms of this Settlement Agreement:

DATED: _____

Plaintiff, Steven Foley

DATED: _____

Defendant, City of Coronado

DATED: _____

Defendant, Aaron Mansker