

SETTLEMENT AGREEMENT AND
RELEASE OF ALL CLAIMS

WHEREAS, plaintiff MAKYYLA MARIE HOLLAND, hereinafter, "PLAINTIFF", initiated the above-captioned lawsuit, hereinafter, the "ACTION", on or around March 29, 2022;

WHEREAS, PLAINTIFF filed the operative amended complaint on or around September 13, 2022, alleging constitutional and state law violations by BROOME COUNTY, DAVID E. HARDER, MARK SMOLINSKY, PARRIS GEORGE, ADAM VALLS, DAVID ALLEN, FRANKLIN BIRT, MICHAEL McCAFFERTY, MATTHEW SIMECK, DANIEL WEIR, JOSEPH DAVIS, NICHOLAS BIXBY, DOUGLAS DAILEY, ADAM WILCOX, BRIAN DOYLE, and COLIN RILEY, hereinafter, the "COUNTY DEFENDANTS" and ISHTIAQ HOSSAIN, M.D. and MAHMOOD AHMED, M.D., in connection with incidents involving PLAINTIFF alleged to have occurred between January 22, 2021 and July 2, 2021 in or around the Broome County Jail in Binghamton, Broome County, New York, hereinafter "INCIDENT", and DEFENDANTS filed their respective Answers on or about September 26, 2022 & September 28, 2022 denying any alleged constitutional and state law violations;

WHEREAS, the parties to the ACTION are desirous of resolving their dispute amicably;

WHEREAS, PLAINTIFF, by and through her attorneys, requested information from Broome County Department of Social Services on the existence and amount of any lien or claim for Medicaid or Public Assistance related to the INCIDENT;

WHEREAS, Broome County Department of Social Services confirmed that it has no record of any Medicaid or Public Assistance to PLAINTIFF in connection with the INCIDENT;

WHEREAS, PLAINTIFF and PLAINTIFF's attorneys are not aware of any liens or claims applicable to the proceeds of the settlement;

NOW THEREFORE, it is STIPULATED AND AGREED by and among the parties to this agreement, through their respective attorneys, subject to the conditions set forth herein and consideration of the covenants and promises contained herein, as follows:

FOR AND IN CONSIDERATION of the sum of ONE HUNDRED SIXTY THOUSAND DOLLARS AND NO CENTS (\$160,000.00), hereinafter, the "SETTLEMENT AMOUNT," and the policy-related relief described below, the sufficiency of which is hereby acknowledged, the undersigned, PLAINTIFF, her heirs, agents, estates, servants, successors, administrators and assigns, hereinafter "RELEASOR", hereby releases, remises, acquits, satisfies, and forever discharges the COUNTY DEFENDANTS as well as each of their estates, heirs, executors, successors in interest, assigns, predecessors, parent companies, suborders, subsidiaries, entities, business units, affiliates, owners, directors, members, managers, officers, partners, representatives, shareholders, attorneys, independent contractors, subcontractors, employees, insurers, underwriters, agents, subrogates, assigns, companies, leasers, lessees, franchisees, and servants, hereinafter, the "COUNTY RELEASED PARTIES", and CBH MEDICAL, P.C. AND SM DENTAL, P.C., EMPRO INSURANCE COMPANY, hereinafter, "CBH-SM-EMPRO", and ISHTIAQ HOSSAIN, M.D. and MAHMOOD AHMED, M.D. as set forth in the General Release executed by PLAINTIFF and past, present, and future officers, directors, members, shareholders, attorneys, trustees, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors, and successors in interest and assigns and all other person, firms, or corporations with whom any of the former have been, are now, or may hereafter be affiliated, hereinafter, collectively with CBH-SM-EMPRO, the "CBH SM EMPRO RELEASED PARTIES", and collectively with the COUNTY RELEASED PARTIES, the "RELEASED PARTIES", who are or might be liable directly or vicariously in any way from any and all claims, actions, causes of action,

demands, rights, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, liens, med pay, personal injury protection, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, expenses, compensation, rights, attorney fees, costs, loss of services, expenses, compensation and damages whatsoever, whether common law, statutory or extra contractual, which the RELEASOR now has or which may hereafter accrue in law or in equity in any way growing out of or resulting from the "INCIDENT". This SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS, and all terms herein, is collectively referred to hereinafter as the "AGREEMENT". RELEASOR and RELEASED PARTIES are collectively referred to hereinafter as the "PARTIES".

Payment of the SETTLEMENT AMOUNT shall be made as follows: Within thirty (30) days, the COUNTY RELEASED PARTIES shall pay or cause to be paid ONE HUNDRED FORTY THOUSAND DOLLARS AND NO CENTS (\$140,000.00) and the CBH-SM-EMPRO shall pay or cause to be paid TWENTY THOUSAND DOLLARS AND NO CENTS (\$20,000.00) to PLAINTIFF by depositing such sums in an escrow account maintained by the New York Civil Liberties Union Foundation.

For and in further consideration, and in addition to the SETTLEMENT AMOUNT, BROOME COUNTY has adopted and implemented the policy entitled LGBTI (Lesbian, Gay, Bisexual, Transgender, Intersex) Guidelines for Safe Confinement, hereinafter, the POLICY, attached to this AGREEMENT as Exhibit A, effective beginning August 1, 2023.

In consideration for the SETTLEMENT AMOUNT and POLICY, the RELEASOR represents and covenants that the RELEASOR will dismiss with prejudice any pending actions against any of the RELEASED PARTIES arising in whole or in part out of the INCIDENT and will refrain from filing any other actions, lawsuits, proceedings, claims, charges, or complaints

against any of the RELEASED PARTIES arising in whole or in part out of the INCIDENT with any local, state, or federal agency, self-regulatory organization, administrative, arbitration forum, court, or other entity.

The RELEASOR represents and covenants that the RELEASOR makes no claim against any other person in this ACTION for vicarious liability for any alleged acts or omissions of CBH MEDICAL, P.C. and SM DENTAL, P.C., including but not limited to its medical and mental health staff, members, employees and/or agents, ISHTIAQ HOSSAIN, M.D. and MAHMOOD AHMED, M.D. arising from the INCIDENT and will not prosecute or assert any claim or action against any other person or entity for liability for any acts or omissions of CBH MEDICAL, P.C. and SM DENTAL, P.C., including but not limited to its medical and mental health staff, members, employees and/or agents, ISHTIAQ HOSSAIN, M.D. and MAHMOOD AHMED, M.D. arising from the INCIDENT;

The RELEASOR and RELEASED PARTIES have agreed to settle in order to avoid the inconvenience, distractions, and inherent uncertainties associated with any legal proceeding, and the additional legal fees and expenses of continuing this dispute. This AGREEMENT represents a compromise of a disputed claim and any liability, wrongdoing, malfeasance, misfeasance, or negligence on the part of the RELEASED PARTIES is expressly denied.

The RELEASOR agrees and acknowledges that no promise, inducement, or agreement, not expressly contained in this AGREEMENT, has been made to her. This AGREEMENT supersedes all previous agreements or understandings, whether written or oral, and contains the entire agreement by and among the RELEASOR and RELEASED PARTIES with respect to the INCIDENT. This AGREEMENT may not be altered, modified, or amended except in a writing signed by the RELEASOR and RELEASED PARTIES. The RELEASOR represents and warrants

that she has the authority to enter into this AGREEMENT, and she intends to be legally bound by it.

The RELEASOR represents and warrants that no other person or entity has any interest in the claims, demands, obligations, or causes of action referred to in this AGREEMENT; that she has the sole right and exclusive authority to execute this AGREEMENT and to receive the sums specified in it; and that there has not been, nor will there be, an assignment or other transfer of any claim, interest right which the RELEASOR may have arising in whole or in part out of the INCIDENT or in any way connected to the INCIDENT.

The RELEASOR and RELEASED PARTIES agree and acknowledge that the sums received pursuant to this AGREEMENT are in satisfaction of the RELEASOR's claims for compensatory damages for alleged physical injuries and emotional distress arising from physical injuries. In entering into this AGREEMENT, it is understood and agreed that the RELEASOR relied wholly upon the RELEASOR'S own judgment, belief, and knowledge of the nature, extent, and duration of any injuries and damages. No representations or statements made by the RELEASED PARTIES or by any person or persons representing the RELEASED PARTIES or by any physician employed or engaged by the RELEASED PARTIES regarding any injuries and damages or regarding any other matters arising in whole or in part out of the INCIDENT, or in any way connected to the INCIDENT has influenced the RELEASOR to any extent whatsoever in entering into this AGREEMENT.

The RELEASOR hereby declares that she has had the benefit of advice from her attorneys, and the terms of this AGREEMENT have been completely read and are fully understood and voluntarily accepted for the purpose of making a full and final compromise of any and all claims arising in whole or in part from the INCIDENT.

The RELEASOR hereby acknowledges and agrees that RELEASOR expressly waives and assumes the risk of any and all claims for damages against the RELEASED PARTIES that were or could have been asserted in this ACTION but of which the RELEASOR does not know or suspects to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect RELEASOR'S decision to enter into this AGREEMENT. The RELEASOR understands that this claim is being settled as a business decision only and that payment of the sum and POLICY specified herein are being made as a complete compromise of matters involving disputed issues of law and fact and the RELEASOR thereby assumes the risk that the facts or law may be otherwise than RELEASOR believes.

The RELEASOR hereby acknowledges and agrees, that any and all liens against RELEASOR, including, but not limited to liens resulting from the payment of medical expenses, and/or any unpaid medical expenses and/or liens resulting from payment of Worker's Compensation benefits, Medicaid, Medicare, Social Security, and/or Social Services Department benefits are exclusive and sole responsibility of RELEASOR. PLAINTIFF will have the sole responsibility to satisfy any lien or claim asserted against the settlement proceeds or arising from the settlement. PLAINTIFF and PLAINTIFF's attorneys are not aware of any liens or claims applicable to the proceeds of the settlement, and Broome County Department of Social Services confirmed that it has no record of any Medicaid or Public Assistance to PLAINTIFF in connection with the INCIDENT. Further, PLAINTIFF agrees to pay any future Medicare liens that may arise that are determined to be have resulted from the INCIDENT.

The RELEASOR agrees to indemnify, defend, and hold harmless the RELEASED PARTIES, its agents, servants, employees, and attorneys from any and all liens, either known or unknown, asserted against the settlement proceeds. RELEASED PARTIES have confirmed no

Social Services Department benefits liens conferred on RELEASOR exist.

It is understood and expressly agreed to by the RELEASOR that any and all obligations, allocations, or other considerations relating to future medical expenses arising from the INCIDENT, including but not limited to Medicare obligations, are the sole and exclusive responsibility of RELEASOR. RELEASOR agrees to indemnify, defend, and hold harmless the RELEASED PARTIES, its insurance carriers, agents, servants, employees, and attorneys from any and all claims, demands, judgments, arising from any future medical care or obligation arising under Medicare in connection with the INCIDENT.

RELEASOR agrees to indemnify, defend, and hold harmless RELEASED PARTIES including RELEASED PARTIES' and past, present, and future officers, directors, shareholders, attorneys, trustees, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors, and successors in interest and assigns and all other person, firms, or corporations with whom any of the former have been, are now, or may hereafter be affiliated, from any action, cause of action, claim, penalty, statutory fine, and attorneys' fees arising from the INCIDENT, that were or could have been asserted in this ACTION , including, but not limited to, an action to recover or recoup Medicare benefits paid or a loss of Medicare benefits or for any recovery sought by Medicare, including past, present, and future payments, benefits, and/or liens, and including any such claims, actions, causes of actions, enforcement proceedings, penalties, liabilities, and similar sanctions under the Medicare Secondary Payer Act. RELEASOR further agrees to waive any and all potential future claims arising from the INCIDENT, that were or could have been asserted in this ACTION , against RELEASED PARTIES and insurers, including their past, present, and future officers, directors, shareholders, attorneys, trustees, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors, and successors in

interest, and assigns, and all other persons, firms, or corporations with whom any of the former have been, are now, or may hereafter be affiliated, under the Medicare Secondary Payer Act, 42 USC § 1395y (including any and all amendments thereto) and its accompanying federal regulations, 42 CFR §§ 411.1, et seq., including 42 CFR §§ 411.46 & 411.47. It is the parties' intention and purpose under this paragraph to provide for the full protection and indemnification of RELEASED PARTIES and insurers, including their past, present, and future officers, directors, shareholders, attorneys, trustees, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors, and successors in interest, and assigns, from and against any claims, actions, causes of action, enforcement proceedings, penalties, fines, liabilities, and other sanctions that were or could have been asserted in the ACTION, or in any other forum, under the requirements, regulations, and provisions of the Medicare Secondary Payer Act and its accompanying regulations.

PLAINTIFF will hold harmless and indemnify EmPRO Insurance Company, its affiliates, and CBH MEDICAL, P.C. and SM DENTAL, P.C., including but not limited to its medical and mental health staff, members, employees and/or agents, ISHTIAQ HOSSAIN, M.D. and MAHMOOD AHMED, M.D. on any claim or action for contribution, indemnification, or subrogation arising out of any act or omission of CBH MEDICAL, P.C. and SM DENTAL, P.C., including but not limited to its medical and mental health staff, members, employees and/or agents, ISHTIAQ HOSSAIN, M.D. and MAHMOOD AHMED, M.D. which were alleged or could have been alleged in this ACTION;

The RELEASOR and RELEASED PARTIES agree that this settlement does not constitute an admission of negligence on part of the RELEASED PARTIES.

To the extent that any term or provision of the AGREEMENT is deemed void or not in compliance with the applicable law, that term or provision alone will be void, while all other terms and provisions will be enforceable. The PARTIES shall have the opportunity to negotiate and modify any such provision to conform to such law.

RELEASOR and RELEASED PARTIES shall bear their own attorneys' fees and costs incurred in the litigation and through the execution of this AGREEMENT. Should it be necessary to enforce any term of this AGREEMENT, the prevailing party shall be entitled to reasonable attorneys' fees and costs expended to enforce this AGREEMENT. Notwithstanding the foregoing, should it be necessary or appropriate to challenge or enforce implementation of the POLICY, any application for an award of attorneys' fees and costs in connection with such challenge shall be made on a case by case basis.

The RELEASOR hereby acknowledges full and final settlement and satisfaction of any and all claims, demands, actions, and causes of action of whatever kind or character which RELEASOR has or may have against the RELEASED PARTIES by reason of the INCIDENT including, but not limited to, any claims for bad faith or excess judgment.

This AGREEMENT shall be construed and interpreted in accordance with the laws of the State of New York. This Court (the United States District Court for the Northern District of New York) will retain jurisdiction to enforce the terms of this AGREEMENT.

This AGREEMENT may be executed in counterparts, which, collectively, shall constitute one original. In addition, for the RELEASOR, facsimile signatures on the AGREEMENT with notarization are deemed acceptable and a photocopy may be used in place of originals for any purpose. For the RELEASED PARTIES, digital or facsimile signatures are deemed acceptable and the signature of counsel shall bind them.

**I HAVE READ THIS AGREEMENT AND UNDERSTAND AND AGREE TO THE
TERMS AND CONDITIONS CONTAINED IN IT.**

FOR THE RELEASOR:

By: 
MAKYyla MARIE HOLLAND

STATE OF NEW YORK)
) ss
COUNTY OF NEW YORK)


On the 23rd day of August, 2023, before me personally appeared Makyya Marie Holland, who presented government-issued identification or who is known to me to be the person described in and who executed the foregoing SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS, and who acknowledged to me that she executed it as her own free act and deed.



Notary Public

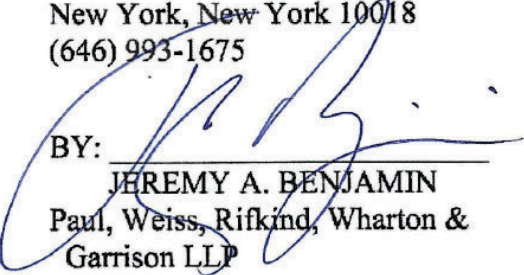
Trevor J. Hill
Notary Public, State of New York
No. 01HI6181594
Qualified in Westchester County
Certificate Filed in New York County
Commission Expires 02/04/2024

FOR THE PLAINTIFF

DATED: August 23, 2023

BY: 
SHAYNA MEDLEY
Transgender Legal Defense &
Education Fund, Inc.
520 8th Avenue, Suite 2204
New York, New York 10018
(646) 993-1675

BY: 
ROBERT HODGSON
New York Civil Liberties
Union Foundation
125 Broad Street, 19th Floor
New York, New York 10004
(212) 607-3300

BY: 
JEREMY A. BENJAMIN
Paul, Weiss, Rifkind, Wharton &
Garrison LLP
1285 Avenue of the Americas
New York, New York 10019-6064
(212) 373-3502

Counsel for Makyya Holland

FOR THE RELEASED PARTIES:

DATED: 8/23/23


BY: 

ROBERT G. BEHNKE

Broome County Attorney
Broome County Attorney's Office
Edwin L. Crawford County Office
Building
PO Box 1766
60 Hawley Street
Binghamton, New York 13902

Counsel for the County Released Parties

DATED: August 23, 2023

BY: 

JONATHAN E. SYMER

THE LAW OFFICES OF
STEINBERG, SYMER & PLATT, LLP
22 IBM Road, Suite 201
Poughkeepsie, New York 12601
(845) 471-4455

Counsel for the CBH SM EMPRO Released Parties