

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PHILLIP LETTEN, et al.,

Plaintiffs,

vs.

SCOTT HALL, et al.,

Defendants.

Case No. 10-cv-12182

Hon. Avern Cohn

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Attorney for Defendants

Attorneys for Plaintiffs

**PLAINTIFFS' MOTION TO ENFORCE SETTLEMENT AGREEMENT,
IMPOSE SANCTIONS, AND AWARD ATTORNEY'S FEES**

Plaintiffs hereby move for enforcement of their settlement agreement. This case was settled over eight months ago, subject only to approval by city council. City council approved the settlement over three months ago. Plaintiffs' counsel have repeatedly implored defendants to carry out their obligations under the settlement agreement, to no avail. Plaintiffs therefore request the following immediate relief:

1. Enforcement of the settlement agreement by an order for specific performance.
2. Sanctions for the extraordinary delay caused by defendants.
3. Attorney's fees for having to bring this motion.

Local Rule 7.1(a) requires plaintiff to ascertain whether this motion will be opposed. Plaintiffs' counsel telephoned defendants' counsel on December 5, 2011, to explain the nature of this motion and its legal basis. Defendants' counsel did not answer, and her voicemail system was full such that no message could be left. Plaintiffs' counsel therefore sent defense counsel a letter by fax and email explaining the nature of this motion and its legal basis. Plaintiffs' counsel requested but did not obtain concurrence in the relief sought.

A supporting brief and evidentiary material accompany this motion.

Respectfully submitted,

/s/ Daniel S. Korobkin
Daniel S. Korobkin (P72842)
Michael J. Steinberg (P43085)
Kary L. Moss (P49759)
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Dated: December 6, 2011

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Attorney for Defendants

**BRIEF IN SUPPORT OF PLAINTIFFS' MOTION TO ENFORCE SETTLEMENT
AGREEMENT, IMPOSE SANCTIONS, AND AWARD ATTORNEY'S FEES**

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INTRODUCTION

Soon after this case began in June 2010, there were promising signs of an impressive settlement. Then-deputy city attorney Saul Green and corporation counsel Krystal Crittendon, along with defense counsel of record Jane Mills, met with plaintiffs' attorneys and agreed that the parties would negotiate a comprehensive settlement that would include revised city policies, police training, and a monetary payment. Negotiations continued over the next several months, and by this spring the parties had reached agreement on all material terms of settlement. Several more months elapsed while plaintiffs waited for city council to approve the settlement. City council finally did so on September 6, 2011.

Unfortunately, plaintiffs' subsequent efforts to bring this case to a swift resolution have been met with extraordinary periods of silence and inaction by the city. Plaintiffs have signed all necessary releases and other paperwork required by the city as a condition of settlement. The parties' agreement now requires the city to do two things. First, it must implement the police policy and training requirements enumerated in the settlement agreement. Second, it must pay plaintiffs and their counsel \$20,000 as agreed to in the settlement agreement. The city has failed to carry out these obligations for several months with no explanation or excuse.

Consequently, plaintiffs have little choice but to request the following immediate relief. First, this court should enforce the settlement agreement by an order of specific performance so that this case may be closed. Second, the court should impose sanctions for the extraordinary delay. Third, the court should award plaintiffs attorney's fees for having to bring this motion.

FACTS

This motion is based on the following facts:

1. On June 2, 2010, this case began as two separate civil actions alleging police misconduct in violation of 42 U.S.C. § 1983 and the First, Fourth, and Fourteenth Amendments. (Korobkin Declaration, ¶ 3.) The two cases were later consolidated under a single docket number and judge, Case No. 2:10-cv-12182-AC. (*Id.*; Dkt. ## 13-14.)

2. On August 9, 2010, plaintiffs' counsel met with then-deputy mayor Saul Green, corporation counsel Krystal Crittendon, and defense counsel Jane Mills. The parties agreed that instead of litigating the individual disputes, they would focus on revising the city's policies and implementing new police training regarding retaliation, citizen complaints, leafleting on a public sidewalk, and loitering. (Korobkin Declaration, ¶ 4.)

3. Between September 2010 and February 2011, attorneys for both sides (along with a representative of the Detroit police department) negotiated a comprehensive written settlement agreement on police policies, training, and monetary compensation to plaintiffs and their attorneys. (*Id.*, ¶ 5.)

4. On February 10, 2011, the parties' attorneys met with Judge Cohn at a status conference and reported that agreement had been reached regarding police policies and training, but that they had not yet reached a final agreement on monetary compensation. (*Id.*, ¶ 6.)

5. On March 29, 2011, the parties' attorneys met with Judge Cohn at a status conference and reported that agreement had been reached regarding monetary compensation, but that they had not yet reached a final agreement as to whether the court would retain jurisdiction over the settlement agreement after the case was dismissed. (*Id.*, ¶ 8.)

6. Also on March 29, 2011, the parties' attorneys reviewed the written settlement agreement line by line and finalized every part of the agreement with the exception of the term

that would provide for the court to retain jurisdiction. (*Id.*, ¶¶ 9-10 and Exhibit A, with annotations in the handwriting of defense attorney Jane Mills.)

7. On April 5, 2011, the parties' attorneys conferred by telephone and agreed that the court would not retain jurisdiction after the case was dismissed. They further agreed that the settlement was complete and ready for submission to city council for approval on or before April 8, 2011. Defense counsel stated to plaintiffs' counsel that she would sign the settlement agreement after it received final approval from city council. (Korobkin Declaration, ¶ 11.)

8. On April 6, 2011, plaintiffs' counsel sent the final version of the written settlement agreement to defense counsel by email, fax, and first-class mail. (*Id.*, ¶ 12 and Exhibit B.)

9. On May 17, 2011, the parties' attorneys met in Judge Cohn's chambers and agreed to release-of-liability language that plaintiffs would sign after city council's approval of the settlement agreement. (*Id.*, ¶¶ 13-14 and Exhibit C, with handwritten annotations and initials of defense attorney Jane Mills.)

10. On August 9, 2011, the parties' attorneys met with Judge Cohn at a status conference and reported that the case had been settled pending final approval by city council. In chambers, Judge Cohn drafted and read aloud the following proposed order, which the parties' attorneys agreed to verbally before it was entered: "This case has been settled. All that remains is final approval of the Detroit City Council. . . ." (*Id.*, ¶ 15.)

11. The next day, the above order was signed and entered by the court. (Dkt. # 22.)

12. On September 12, 2011, the parties' attorneys conferred by telephone. Defense counsel informed plaintiffs' counsel that city council had approved the settlement on September 6, 2011. She further stated that she would sign the written settlement agreement after plaintiffs

signed the city's release-of-liability forms which she would send to plaintiffs' counsel by September 16. (Korobkin Declaration, ¶ 17.)

13. On September 19, 2011, plaintiffs' counsel received release-of-liability forms in the mail, but the forms did not have the language agreed to by the parties at the May 17, 2011 status conference. Plaintiffs' counsel immediately sent defense counsel a letter listing the deficiencies and requesting corrected versions of the release forms. (*Id.*, ¶¶ 18-19 and Exhibit D.)

14. Several weeks elapsed while plaintiffs' counsel waited for defense counsel to correct the errors in the release-of-liability forms. Defense counsel left a voicemail for plaintiffs' counsel stating that she would revise the release-of-liability forms, but she never did. (*Id.*, ¶ 20.)

15. On October 13, 2011, plaintiffs' counsel sent defense counsel a letter stating that his office would prepare corrected versions of the release forms for plaintiffs to sign, at which point defense counsel was expected to sign the settlement agreement. (*Id.*, ¶¶ 21-22 and Exhibit E.)

16. On October 25, 2011, plaintiffs' counsel sent defense counsel fully executed release-of-liability forms and the written settlement agreement signed by plaintiffs' counsel. In his cover letter, plaintiffs' counsel asked defense counsel to promptly sign and return the settlement agreement. (*Id.*, ¶¶ 23-24 and Exhibit F.)

17. On November 8, 2011, the parties' attorneys conferred by telephone. Defense counsel acknowledged having received the October 25 mailing and specifically agreed to sign and return the settlement agreement by November 11, 2011. (*Id.*, ¶¶ 25-26 and Exhibit G.)

18. On November 23, 2011, plaintiffs' counsel mailed and faxed defense counsel a letter asking her to sign and return the settlement agreement immediately. (*Id.*, ¶¶ 26-27 and Exhibit H.)

19. Defense counsel did not respond to the November 23 letter. (*Id.*, ¶ 28.)

ARGUMENT

I. THE COURT SHOULD ORDER SPECIFIC PERFORMANCE OF THE SETTLEMENT AGREEMENT.

A. This court has the inherent power to enforce the settlement agreement.

The legal standard governing the relief sought by this motion is clear:

It is well established that courts retain the inherent power to enforce agreements entered into in settlement of litigation pending before them. A federal court possesses this power even if that agreement has not been reduced to writing. Before enforcing settlement, the district court must conclude that agreement has been reached on all material terms. The court must enforce the settlement as agreed to by the parties and is not permitted to alter the terms of the agreement.

Brock v. Scheuner Corp., 841 F.2d 151, 154 (6th Cir. 1988) (citations and internal quotation marks omitted).

B. The parties reached an agreement on all material terms.

In this case, the parties reached an agreement on all material terms. The following order was entered with the consent of the parties, and without objection: “This case has been settled. All that remains is final approval of the Detroit City Council. . . .” (Dkt. # 22.) City council gave final approval to the settlement on September 6, 2011. Therefore, as of September 6, 2011, there was a final enforceable agreement.

The terms of the settlement are memorialized in writing. (Exhibits A, B, C, and F.) Although defense counsel has not actually signed the settlement agreement, neither a written instrument nor a signature is required for an agreement to be enforceable. If “the objective acts of the parties reflect that an agreement has been reached,” each party is obligated to perform. *Re/Max Int’l, Inc. v. Realty One, Inc.*, 271 F.3d 633, 646 (6th Cir. 2001).

C. The city is in breach of the agreement.

The settlement agreement requires the city to adopt new policies, distribute copies of those policies within 30 days, read those policies aloud to police officers within 30 days, and take other actions regarding those policies within 30 days. (Exhibit F, ¶¶ 6-20.) It also requires the city to pay plaintiffs and their counsel \$20,000. (*Id.*, ¶ 21.) The city has not done any of those things.

D. Specific performance is the appropriate remedy.

A settlement agreement is essentially a contract, and state-law contract principles govern a federal court's enforcement of a settlement agreement. *See Limbright v. Hofmeister*, 566 F.3d 672, 674 (6th Cir. 2009); *Bamerilease Capital Corp. v. Nearburg*, 958 F.2d 150, 152 (6th Cir. 1992). Specific performance is an appropriate remedy for breach of contract where a damages remedy is inadequate or impracticable. *See Ruegsegger v. Bangor Twp. Relief Drain*, 127 Mich. App. 28, 31 (1983).

In this case, the court should order specific performance. With respect to paragraphs 6-20 of the settlement agreement (Exhibit F), a damages remedy would be inadequate. In settling this case, the parties agreed on new police policies and training as a component of the settlement because monetary compensation alone would not have accomplished substantial justice. They are entitled to the benefit of that bargain.

As for the monetary component of the settlement (paragraph 21 of the settlement agreement), the court should order immediate payment. Specific performance of the settlement agreement entails plaintiffs dismissing their claims against defendants in exchange for *all* of the city's promises in the settlement agreement—including payment of \$20,000 within a reasonable amount of time. It is not reasonable for the city to delay payment for several months without explanation. *See Green v. City of Detroit*, Case No. 09-cv-11589 (E.D. Mich. filed July 22,

2011, Pg ID 275) (Zatkoff, J.) (Exhibit I) (ordering payment of \$50,000 settlement within 10 days after four-month delay).

Accordingly, plaintiffs request that the court order the following relief:

- (1) specific performance of ¶¶ 6-20 of the settlement agreement (Exhibit F) to begin within 14 days of the court's order.
- (2) specific performance of ¶ 21 of the settlement agreement (\$ 20,000 payment in full) within 14 days of the court's order.
- (3) sworn statements to be filed with the court when performance has begun.
- (4) sworn statements to be filed with the court when performance is complete.

II. THE COURT SHOULD IMPOSE SANCTIONS FOR THE EXTRAORDINARY DELAY.

The City of Detroit's dilatory conduct in consummating and complying with settlement agreements is becoming notorious in this district. In *Green, supra*, Judge Zatkoff ordered the entire city council to appear before him and explain why it failed to take action on a settlement agreement for nearly three months. *See Green, supra* (order filed June 29, 2011, Pg ID 258) (Exhibit I). Judge Zatkoff noted that his was "not the only recent case where City Council has been egregiously dilatory in approving a settlement for a case that stemmed from alleged misconduct by City of Detroit police officers." *Id.*, Pg ID 257, slip op. at 3 n.1 (Exhibit I). Similarly, in *Anderson v. Gaines*, Case No. 09-cv-11193 (E.D. Mich. filed Mar. 7, 2011, Pg ID 97) (Exhibit J), Judge Roberts granted the plaintiffs' motion to enforce the settlement agreement and entered judgment for the plaintiffs. Judge Roberts also awarded sanctions based on the city's egregiously dilatory conduct: \$ 250 per day that the settlement remained unpaid, retroactive to the date of the plaintiffs' motion. *Id.* (Pg ID 99) (Exhibit J). Those sanctions

amounted to over \$20,000 on a \$25,000 settlement that, as in this case, went unpaid for approximately eight months. *See id.* (motion filed Dec. 16, 2010, Pg ID 88) (Exhibit J).

A similar sanction is appropriate here. When the parties agreed on a settlement figure, they agreed that payment would be made within a reasonable time. It has been over eight months since an agreement was reached in this case. Such a lengthy delay is inexcusable, and of course any further delay should not be countenanced. Plaintiffs therefore request sanctions as follows:

- (1) \$ 250 per day since November 11, 2011. (*See supra* p. 4, ¶ 17 and Exhibit G.)
- (2) \$ 250 for every day the settlement sum is unpaid after this motion is filed.
- (3) \$ 250 for every day after this motion is filed that performance of paragraphs 6-20 of the settlement agreement (Exhibit F) has not begun.

III. THE COURT SHOULD AWARD ATTORNEY'S FEES.

The court should also award attorney's fees for having to bring this motion. *See Anderson, supra* (order filed Mar. 7, 2011, Pg ID 99) (Exhibit J) (awarding over \$ 1,000 in fees under circumstances similar to this case). Attorney's fees may be awarded as a sanction for dilatory conduct. *See* 28 U.S.C. § 1927. Additionally, because this is a case brought under 42 U.S.C. § 1983, attorney's fees should be awarded because plaintiffs will be prevailing parties as a result of this court's order of specific performance. *See Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 451 (9th Cir. 2010); *Doe v. Hogan*, 421 F. Supp. 2d 1051, 1057 (S.D. Ohio 2006).

In this case, plaintiffs' counsel have spent well over six hours preparing this motion at a reasonable hourly rate of \$ 250. Plaintiffs therefore request a fee award in the amount of \$ 1,500. Plaintiffs are able to submit billing records upon request.

CONCLUSION

For the reasons stated above, plaintiffs request the following relief:

1. Enforcement of the settlement agreement by an order for specific performance.
2. Sanctions for the extraordinary delay caused by defendants.
3. Attorney's fees for having to bring this motion.

Respectfully submitted,

/s/ Daniel S. Korobkin

Daniel S. Korobkin (P72842)

Michael J. Steinberg (P43085)

Kary L. Moss (P43759)

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dkorobkin@aclumich.org

msteinberg@aclumich.org

Attorneys for Plaintiffs

Dated: December 6, 2011

CERTIFICATE OF SERVICE

I hereby certify that on December 6, 2011, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Daniel S. Korobkin
dkorobkin@aclumich.org

Jane K. Mills
millj@detroitmi.gov

Michael J. Steinberg
msteinberg@aclumich.org
bbove@aclumich.org

/s/ Daniel S. Korobkin
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INDEX OF EXHIBITS

Declaration of Daniel S. Korobkin

- | | |
|------------|--|
| Exhibit A: | Settlement Agreement Annotated 3/29/11 |
| Exhibit B: | Letter to Mills with Final Settlement Agreement 4/6/11 |
| Exhibit C: | Release Form Annotated 5/17/11 |
| Exhibit D: | Letter to Mills 9/19/11 |
| Exhibit E: | Letter to Mills 10/13/11 |
| Exhibit F: | Letter to Mills with Final Signed Settlement Agreement
and Signed Releases 10/25/11 |
| Exhibit G: | Letter to Mills 11/8/11 |
| Exhibit H: | Letter to Mills 11/23/11 |
| Exhibit I: | <i>Green v. City of Detroit</i> |
| Exhibit J: | <i>Anderson v. Gaines</i> |

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PHILLIP LETTEN, et al.,

Plaintiffs,

Case No. 10-cv-12182

vs.

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SCOTT HALL, et al.,

Defendants.

DECLARATION OF DANIEL S. KOROBKIN

1. I make this declaration from personal knowledge, and I am competent to testify to the matters stated herein if called upon to do so.

2. I am one of the plaintiffs' attorneys in the above-captioned case.

3. This case began as two separate civil actions alleging police misconduct in violation of 42 U.S.C. § 1983 and the First, Fourth, and Fourteenth Amendments. Both cases were opened on June 2, 2010. The two cases were later consolidated under a single docket number and judge, Case No. 2:10-cv-12182-AC. (*Id.*; Dkt. ## 13-14.)

4. On August 9, 2010, I met with then-deputy mayor Saul Green, corporation counsel Krystal Crittendon, and defense counsel Jane Mills. My two co-counsel on this case at the time, Jessie Rossman and Michael J. Steinberg, accompanied me to the meeting, which was held in Mr. Green's office. We discussed the nature of the plaintiffs' complaints and agreed that instead of litigating the individual disputes, we would focus on revising the city's policies and implementing new police training regarding retaliation, citizen complaints, leafleting on a public sidewalk, and loitering. We agreed that Ms. Mills would take the lead in negotiating on behalf of the city, and Ms. Rossman and I would negotiate on behalf of the plaintiffs.

5. Over the next several months, Ms. Rossman and I met several times with Ms. Mills and Michael Falvo, deputy chief and legal training coordinator for the Detroit Police Department. We negotiated a comprehensive settlement agreement on police policies, training, and monetary compensation to plaintiffs and their attorneys. The terms of the agreement and the new policies and training materials were memorialized in writing.

6. By the time we met with Judge Cohn at a status conference on February 10, 2011, we had reached agreement on all matters regarding police policies and training. We reported this fact to Judge Cohn. We also reported that we had not yet reached agreement on the monetary component of the settlement. Judge Cohn encouraged plaintiffs to accept the city's offer, which was \$ 20,000.

7. On February 17, after Ms. Rossman and I consulted with our clients, I informed Ms. Mills that we would accept the city's offer of \$20,000, contingent upon the city's agreement to carry out the policy and training portions of the settlement we had already negotiated.

8. On March 29, 2011, I attended a second status conference with Ms. Mills and Judge Cohn. We informed Judge Cohn that an agreement had been reached regarding monetary compensation. However, Ms. Mills objected to the term of our settlement agreement that would entail the court retaining jurisdiction over the settlement after plaintiffs' claims were dismissed. Ms. Mills stated that she would consult with Ms. Crittendon on that matter.

9. After the status conference ended, Ms. Mills and I remained in chambers and reviewed the written settlement agreement line by line. We came to a final agreement on every term except the term that would provide for the court to retain jurisdiction.

10. Attached as Exhibit A is a copy of the settlement agreement we reviewed in chambers on March 29, 2011. The handwritten annotations are those of Ms. Mills.

11. On April 5, 2011, Ms. Rossman and I spoke with Ms. Mills over the phone. Ms. Mills reported that she would not agree to the court retaining jurisdiction after plaintiffs' claims were dismissed. She asked, "Is that going to be a deal-breaker?" I replied that it was not and that plaintiffs agreed to the settlement without the retention-of-jurisdiction term. I told Ms. Mills that I would revise the written settlement agreement accordingly and send it to her right away. Ms. Mills agreed that she would submit it to city council for approval on or before April 8, 2011. Ms. Mills further stated that she would sign the settlement agreement after it received final approval from city council.

12. Attached as Exhibit B is a copy of the final version of the written settlement agreement I sent to Ms. Mills by email, fax, and first-class mail on April 6, 2011.

13. On May 17, 2011, I met with Ms. Mills in Judge Cohn's chambers for a third status conference. Ms. Mills had previously informed me that after city council approved the settlement, plaintiffs would be required to sign release-of-liability forms in order to receive payment. (*See* Exhibit B.) I had previously informed Ms. Mills that some of the language in the release-of-liability forms would need to be modified. (*See id.*) During the May 17 status conference, Ms. Mills and I agreed on the changes that would be made to the release-of-liability forms.

14. Attached as Exhibit C is a copy of the release-of-liability forms with the agreed-upon changes. The handwritten annotations and initials are those of Ms. Mills.

15. On August 9, 2011, I met with Ms. Mills and Judge Cohn for a fourth status conference. Ms. Mills reported that city council had not yet given final approval to the settlement agreement. In chambers, Judge Cohn drafted and read aloud the following proposed order, to which Ms. Mills and I both consented verbally:

This case has been settled. All that remains is final approval of the Detroit City Council. The Law Department of the City of Detroit, defendants' counsel, is directed to submit the necessary documents to the City Council to enable it to give final approval of the settlement at its September 06, 2011 meeting.

16. The next day, the above order was signed and entered by the court. (Dkt. # 22.)

17. On September 12, 2011, I spoke with Ms. Mills over the phone. Ms. Mills informed me that city council had approved the settlement on September 6, 2011. Ms. Mills further stated that she would sign the written settlement agreement after plaintiffs signed the city's release-of-liability forms. Ms. Mills stated that she would send the release-of-liability forms to me by September 16.

18. On September 19, 2011, I received the release-of-liability forms in the mail, but the forms did not have the language Ms. Mills and I had agreed upon on May 17, 2011. I immediately sent Ms. Mills a letter listing the deficiencies and asking her to prepare corrected versions of the release forms.

19. Attached as Exhibit D is my letter to Ms. Mills.

20. I did not receive a response from Ms. Mills for several weeks. On October 4, 2011, Mr. Steinberg placed a call to Ms. Mills requesting her immediate response. Ms. Mills returned the call and left a voicemail in which she agreed to revise the release forms as requested and send them to me by October 7, 2011.

21. On October 13, 2011, Mr. Steinberg and I attempted to call Ms. Mills, but she did not answer the phone and her voicemail was full such that we could not leave a message. Mr. Steinberg therefore sent Ms. Mills a letter stating that his office would prepare the correct versions of the release forms for plaintiffs to sign, at which point defense counsel was expected to sign the settlement agreement.

22. Attached as Exhibit E is Mr. Steinberg's letter to Ms. Mills, which was sent by first-class mail and fax.

23. On October 25, 2011, I sent Ms. Mills fully executed release-of-liability forms signed by plaintiffs and the written settlement agreement signed by me. In my cover letter, I asked Ms. Mills to promptly sign and return the settlement agreement.

24. Attached as Exhibit F is my letter to Ms. Mills with the signed release forms and signed settlement agreement attached.

25. On November 8, 2011, I called Ms. Mills to ask why she had not returned the settlement agreement. Ms. Mills acknowledged having received the October 25 mailing. She specifically agreed to sign and return the settlement agreement by November 11, 2011.

26. Attached as Exhibit G is my letter to Ms. Mills, sent by fax on November 8, 2011, confirming her agreement to sign and return the settlement agreement by November 11, 2011.

27. Attached as Exhibit H is another letter to Ms. Mills that I mailed and faxed to her on November 23, 2011.

28. I attempted to reach Ms. Mills again on December 2 and December 5. I left a voicemail with Ms. Mills' secretary and sent a letter to Ms. Mills by email and fax. I have not heard from her since November 8.

I make this declaration pursuant to 28 U.S.C. § 1746 and declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.


Daniel S. Korobkin

Executed the 6th day of December, 2011.

Exhibit A

Settlement Agreement Annotated 3/29/11

COD (initials)
9/1/10
OD
HwySettlement Agreement and Release

1. This Settlement Agreement and Release ("Agreement") is made the ____ day of _____, 2011 by and between Phillip Letten, Ken Anderson, the American Civil Liberties Union Fund of Michigan ("ACLU Fund of Michigan"), Officer Scott Hall, Officer LaShawn Peoples, and the City of Detroit ("the City") (collectively, the "Parties").
2. This Agreement fully and completely resolves *Letten v. Hall* (Case No. 10-cv-12182) and *Anderson v. Peoples* (Case No. 10-cv-12183), two civil actions filed by Phillip Letten and Ken Anderson on June 2, 2010, in the United States District Court for the Eastern District of Michigan, Southern Division, which are now consolidated as a single case, *Letten v. Hall* (Case No. 10-cv-12182) ("this Action").
3. Attorneys Daniel S. Korobkin and ~~Jessie J. Rossman~~¹⁵ are authorized to sign this Agreement on behalf of Phillip Letten, Ken Anderson, and the ACLU Fund of Michigan, and Jane K. Mills is authorized to sign this Agreement on behalf of Officer Scott Hall, Officer LaShawn Peoples, and the City.
4. Phillip Letten agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Hall, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Hall on July 31, 2009, including but not limited to those damages alleged in this Action.
5. Ken Anderson agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Peoples, the John Doe police officer named as Officer Peoples' co-defendant, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Peoples and the John Doe defendant on November 12, 2008, including but not limited to those damages alleged in this Action.
6. The City agrees to adopt "Training Directive – First Amendment Right to Distribute Non-Commercial Pamphlets and Handbills" ("First Amendment Training Directive"), attached as Exhibit 1.
7. The City agrees to distribute copies of the First Amendment Training Directive to all members of the Detroit Police Department ("Department") via an A-Distribution within 30 days of this Agreement.

8. The City agrees that the First Amendment Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
9. The City agrees to adopt "Training Directive – Retaliation" ("Retaliation Training Directive"), attached as Exhibit 2.
10. The City agrees to distribute copies of the Retaliation Training Directive to all members of the Department via an A-Distribution within 30 days of this Agreement.
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16. The City agrees to ensure that posters explaining its citizen complaint form are on public display in the lobby and/or entrance of every precinct station and at the Department headquarters within 30 days of this Agreement.
17. The City agrees to ensure that printed brochures explaining its citizen complaint form are placed in racks and/or display areas at every precinct station and at the Department headquarters within 30 days of this Agreement. This Agreement does not require the City to create racks and/or display areas where none exist.
18. The City agrees that a citizen may file a citizen complaint form even if there are charges pending against him or her.
19. The City agrees to distribute a written statement ^{re promissory} to ~~this effect~~ to all members of the Department via an A-Distribution within 30 days of this Agreement.

Re paragraph 18

20. The City agrees that this statement shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement.

the total amount of
21. The City shall pay \$ 20,000.00 to Phillip Letten, Ken Anderson, and their counsel at the ACLU Fund of Michigan.

11 22. [Jane -- Insert language here regarding expected timetable for approval by city council and cutting the check.] Counsel for the City agrees to provide monthly updates to the ACLU Fund of Michigan regarding the City Council's progress and the status of this Agreement until this Agreement receives final approval through the City's decisionmaking channels.

SE
20
07/24/11
23. In the event the City's obligations described in this Agreement do not receive final approval through the City's decisionmaking channels, this Agreement shall be null and void and this Action will be reinstated.

24
07/24/11
24. The Parties agree that the United States District Court shall retain jurisdiction to enforce the terms of this Agreement. *no*

25. The Parties agree to the form and content of the proposed order dismissing this Action pursuant to Fed. R. Civ. P. 41(a)(2), attached as Exhibits 4. The proposed orders shall be filed upon execution of this Agreement.

Signed and agreed to by:

DATE: _____

Jane K. Mills
City of Detroit Law Department
660 Woodward Ave, Ste 1650
Detroit, MI 48226

DATE: _____

Daniel S. Korobkin
ACLU Fund of Michigan
2966 Woodward Ave
Detroit, MI 48201

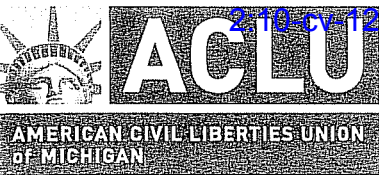
DATE: _____

Jessie J. Rossman

Jessie J. Rossman
ACLU Fund of Michigan
2966 Woodward Ave
Detroit, MI 48201

Exhibit B

Letter to Mills with Final Settlement Agreement 4/6/11



State Headquarters
2966 Woodward Avenue
Detroit, Michigan 48201
Phone 313.578.6800
Fax 313.578.6811
Email aclu@aclumich.org
www.aclumich.org

Legislative Office
P. O. Box 18022
Lansing, Michigan 48901
Phone 517.372.8503
Fax 517.372.8503
Email lansing@aclumich.org
www.aclumich.org

April 6, 2011

By email, fax, and first-class mail

Jane K. Mills
City of Detroit Law Department
660 Woodward Ave., Ste. 1650
Detroit, MI 48226

Re: *Letten, et al. v. Hall, et al.*, Case No. 2:10-cv-12182 (E.D. Mich.)

Dear Jane:

Thank you for taking the time to speak with Jessie and me yesterday. We understand this settlement is ready to be submitted to City Council by the end of the week.

Please review my changes to the release you prepared. Attached to the final executed version of the release should be the settlement agreement we reviewed and approved together in Judge Cohn's chambers. I have edited that document to reflect our most recent agreement.

The release refers to a Medicare Reporting and Indemnification Affidavit. Please send me a copy (fax or email will be fine) so I can review it.

Very truly yours,

Daniel S. Korobkin
Counsel for Plaintiffs

*the promises
contained within the
settlement
agreement
attached hereto;*

RELEASE
(with Medicare Affidavit)

Matter No:

Case. No:

KEN ANDERSON and PHILLIP LETTEN (hereinafter "Plaintiffs") in consideration of the sum of **Twenty-Thousand Dollars (\$20,000.00)**, an executed stipulation for the entry of an order dismissing the underlying civil action identified herein; and, an executed Medicare Reporting and Indemnification Affidavit, hereby releases the **City of Detroit**, a Michigan municipal corporation, LaShawn Peoples, Scott Hall, and each officer, employee, agent and representative (hereinafter collectively the "Defendants") from any and all liability, actions or claims, legal and equitable, known and unknown, arising ~~or accruing at any time prior to and through the date of this Release, which Plaintiff has or may have against Defendant, including without limitation any and all claims related to or arising~~ out of the events, transactions, and occurrences which are or could have been complained of in the civil action^s referenced above entitled **Ken Anderson v LaShawn Peoples and Phillip Letten v. Scott Hall**.

Plaintiffs understand that the payment to be made under this Release represents the compromise of a disputed claim and payment is not be construed as an admission of liability on the part of Defendant.

As used in this Release, the term "Plaintiffs" includes each and every servant, agent, contractor, attorney, employee, representative, family member, heir, related corporation, subsidiary, division, affiliate, director, and officer of Plaintiffs, if any.

THIS RELEASE and the attached Medicare Reporting and Indemnification Affidavit, which by this reference is made a part hereof, constitute the entire understanding between Plaintiffs and Defendant. The provisions of this Release and said attachment are binding upon the respective heirs,

affiliates, executors, administrators, and successors of the Plaintiff forever.

The parties hereto acknowledge that receipt of the aforementioned sum is conditioned upon the approval of the Detroit City Council. Said parties understand that the Law Department will make reasonable efforts to achieve City Council approval and, subsequently, to promptly process an application for payment. Nevertheless, because these procedures take time (normally forty-five (45) - ninety (90) days) it is hereby acknowledged that Time is not of the Essence and no day certain for the issuance of any check can be given.

IN WITNESS WHEREOF, the Plaintiffs have affixed their signatures appearing below at _____, Michigan, on _____, 2011.

Witnessed By:

Signature **KEN ANDERSON**
Print Name: Plaintiffs Signature

Signature _____ Address _____
 Print Name: _____ Plaintiff's Signature _____

~~Attorney's Federal ID Number~~

STATE OF MICHIGAN)
)SS
COUNTY OF)

This Release was acknowledged before me this day of
 , 2011, by MICHELLE HEADEN who hereby declares under penalty of perjury under the
 laws of the State of Michigan that he or she is authorized in fact and law to execute this Release, and
 that all necessary approvals, if any are required, have been obtained beforehand.

NOTARY PUBLIC, COUNTY, MI
Print Name:
My Commission Expires:

Note: Should this release be signed by the Plaintiff outside of the State of Michigan that fact must be noted in the appropriate area above and the out of state notary must attach a certificate of notarial authority from the state he or she is authorized to act as a notary.

Settlement Agreement

1. This Settlement Agreement and Release ("Agreement") is made the ____ day of _____, 2011 by and between Phillip Letten, Ken Anderson, the American Civil Liberties Union Fund of Michigan ("ACLU Fund of Michigan"), Officer Scott Hall, Officer LaShawn Peoples, and the City of Detroit ("the City") (collectively, the "Parties").
2. This Agreement fully and completely resolves *Letten v. Hall* (Case No. 10-cv-12182) and *Anderson v. Peoples* (Case No. 10-cv-12183), two civil actions filed by Phillip Letten and Ken Anderson on June 2, 2010, in the United States District Court for the Eastern District of Michigan, Southern Division, which are now consolidated as a single case, *Letten v. Hall* (Case No. 10-cv-12182) ("this Action").
3. Attorneys Daniel S. Korobkin and/or Jessie J. Rossman are authorized to sign this Agreement on behalf of Phillip Letten, Ken Anderson, and the ACLU Fund of Michigan, and Jane K. Mills is authorized to sign this Agreement on behalf of Officer Scott Hall, Officer LaShawn Peoples, and the City.
4. Phillip Letten agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Hall, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Hall on July 31, 2009, including but not limited to those damages alleged in this Action.
5. Ken Anderson agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Peoples, the John Doe police officer named as Officer Peoples' co-defendant, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Peoples and the John Doe defendant on November 12, 2008, including but not limited to those damages alleged in this Action.
6. The City agrees to adopt "Training Directive – First Amendment Right to Distribute Non-Commercial Pamphlets and Handbills" ("First Amendment Training Directive"), attached as Exhibit 1.
7. The City agrees to distribute copies of the First Amendment Training Directive to all members of the Detroit Police Department ("Department") via an A-Distribution within 30 days of this Agreement.

8. The City agrees that the First Amendment Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
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18. The City agrees that a citizen may file a citizen complaint form even if there are charges pending against him or her.
19. The City agrees to distribute a written statement to this effect to all members of the Department via an A-Distribution within 30 days of this Agreement.

20. The City agrees that this statement shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement.
21. The City shall pay \$ 20,000.00 to Phillip Letten, Ken Anderson, and their counsel at the ACLU Fund of Michigan.
22. The Parties agree to the form and content of the proposed order dismissing this Action, attached as Exhibit 4. The proposed order shall be filed upon execution of this Agreement.

Signed and agreed to by:

Jane K. Mills
City of Detroit Law Department
660 Woodward Ave., Ste. 1650
Detroit, MI 48226

DATE: _____

Daniel S. Korobkin or Jessie J. Rossman
ACLU Fund of Michigan
2966 Woodward Ave.
Detroit, MI 48201

DATE: _____

Exhibit 1

First Amendment Training Directive



Detroit Police Department Training Directive

Numbered Directives shall
be retained by all members
Number: ~~10-04~~
Date: ~~11/0/10~~

SUBJECT: FIRST AMENDMENT RIGHT TO DISTRIBUTE NON-COMMERCIAL PAMPHLETS AND HANDBILLS

This Training Directive is intended to remind members of the department that the First Amendment protects the right of persons in public places to distribute non-commercial handbills and pamphlets. No permit or license is required and there are no statutes or ordinances that limit an individual's right to do so.

Detroit City Code Section 3-2-1 does **not** apply to non-commercial handbills, circulars, pamphlets or other written material. Section 3-2-1 states:

- a. It shall be unlawful for any person to distribute or cause to be distributed any **commercial** handbills, circulars or advertising cards that solicit patronage for goods, wares, merchandise, services, real estate or any other thing within the Loop or Loop District, which is defined in Section 1-1-2 of this Code as the area bounded on the south by the south line of East Jefferson Avenue and West Jefferson Avenue; on the east by the east line of St. Antoine; on the north by the north line of Columbia Street; and on the west by the west line of First Street.
- b. The provisions of this section **shall not apply to** established newspapers or periodicals **or to noncommercial** circulars, handbills, or cards which do not solicit patronage for profit.

Furthermore, there is no permit or license required to distribute noncommercial handbills or pamphlets.

The First Amendment to the United States Constitution protects, among other things, the right of freedom speech and expression. The United States Supreme Court has repeatedly made it clear that this constitutional right includes written as well as verbal expression. It is of the utmost importance that members understand -- and act in accordance with that understanding -- that the First Amendment protects a freedom of expression without regard to the content of the message or whether an officer or others find it offensive, contemptuous or objectionable.

Questions can be directed to the Police Legal Advisor at 596-2151.

Exhibit 2

Retaliation Training Directive

DPD Training Directive

~~DPD Training Directive~~

SUBJECT: RETALIATION

The First Amendment protects the rights of individuals to verbally oppose, verbally criticize, or verbally question police action without thereby risking arrest or a citation. Although the First Amendment does not protect the right to physically obstruct a police officer or refuse to comply with a lawful police order, verbally opposing, criticizing or questioning police action does not constitute physical obstruction or resistance. These expressions are not criminal and cannot be punished constitutionally.

An individual has the right to question the basis for a police stop, ask for the ordinance underlying a police stop, and express his displeasure with a police stop. This protection extends to expletives and other language that an officer may find annoying or provocative. In the face of such verbal challenges, an officer must exercise a higher degree of restraint than the average citizen.

It is unlawful to arrest or ticket an individual for speech that verbally opposes or verbally questions police action. It is similarly unlawful to retaliate against an individual who verbally opposes or verbally questions police action by arresting or ticketing them for another offense. An officer cannot arrest such an individual for another offense unless the same action would have been taken even in the absence of the speech.

This directive is constitutionally required. It also is in keeping with our Law Enforcement Code of Ethics, in which every officer pledges "to maintain courageous calm in the face of danger, scorn or ridicule; develop self restraint and be constantly mindful of the welfare of others."

Exhibit 3

Loitering Training Directive

SUBJECT: LOITERING

Members of the department are reminded that "loitering," by itself, is not a crime, and cannot be the basis for an arrest or an investigative stop.

The Constitution protects the right to loiter or remain in a public place for an innocent purpose, or for no purpose at all. Loitering is not a crime in itself and cannot be punished constitutionally. Merely being present in an area where illegal activity is taking place or tends to take place is not illegal.

Section 38-1-3 of the Detroit City Code provides:

It shall be unlawful for any person to loiter on any street, sidewalks, overpass or public place. For the purpose of this section, loitering is defined as the act of standing or idling in or about any street, sidewalk, overpass or public place ***so as to hinder or impede or tend to hinder or impede the passage of pedestrians or vehicles.***

No violation of section 38-1-3 occurs unless the person is engaged in conduct that hinders or impedes, or tends to hinder or impede, pedestrian or vehicle traffic. The act of standing or idling in or about a public place is not, by itself, a loitering offense.

Section 38-11-6 of the Detroit City Code provides:

A person shall not ***knowingly remain*** in any building, apartment, store, automobile, boat, boathouse, airplane, or any other place where any controlled substance is illegally sold, dispensed, furnished, given away, stored, or kept ***with the intent to unlawfully use or possess such controlled substance.***

No violation of section 38-11-6 occurs unless the person knows of a drug offense in that place *and* intends to commit a drug offense. Merely being present in a place where a drug offense occurs is not illegal.

Because loitering by itself is not a criminal offense, it does not give rise to the "reasonable suspicion" required to justify an investigatory stop. The reasonable suspicion standard is not satisfied merely by loitering in a high-crime area or near a place where illegal activity occurs. To justify an investigatory stop for loitering, there must be reasonable suspicion of unlawful conduct, purpose, or intent on the part of the person being stopped.

Exhibit 4

Stipulated Order of Voluntary Dismissal

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PHILLIP LETTEN, et al.,

Plaintiffs,

vs.

SCOTT HALL, et al.,

Defendants.

Hon. Avern Cohn

Case No. 10-cv-12182

STIPULATED ORDER OF VOLUNTARY DISMISSAL

A settlement having been reached in this matter, and the parties having stipulated to this order by and through counsel, it is hereby ORDERED that this case is DISMISSED WITH PREJUDICE.

Dated:

/s/

Hon. Avern Cohn
United States District Judge

Stipulated to by:

/s/

Jessie J. Rossman
Daniel S. Korobkin

/s/

Jane K. Mills

Counsel for Plaintiffs

Counsel for Defendants

Dated:

Dated:

Exhibit C

Release Form Annotated 5/17/11

RELEASE

(with Medicare Affidavit)

Matter No: **A37000**Case No: **2:10-cv-12182**

*the promise
contained within
the settled
Agreement
attached hereto;*

PHILLIP LETTEN AND KEN ANDERSON (hereinafter Plaintiff) in consideration of the sum of **Twenty Thousand Dollars and No Cents (\$20,000.00)**; an executed stipulation for the entry of an order dismissing the underlying civil action identified herein; and, an executed Medicare Reporting and Indemnification Affidavit, hereby releases the **City of Detroit**, a Michigan municipal corporation, and each officer, employee, agent and representative (hereinafter collectively the "Defendant") from any and all liability, actions or claims, legal and equitable, known and unknown, arising or accruing at any time prior to and through the date of this Release, which Plaintiff has or may have against Defendant, including without limitation any and all claims related to or arising out of the events, transactions, and occurrences which are or could have been complained of in the civil action^{JK-v} referenced above entitled **Phillip Letten v Scott Hall and Ken Anderson v. LaShawn Peoples**.

Plaintiff understands that the payment to be made under this Release represents the compromise of a disputed claim and payment is not be construed as an admission of liability on the part of Defendant.

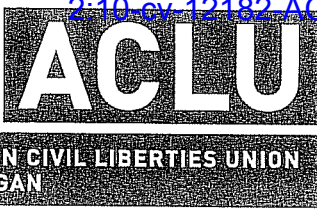
As used in this Release, the term "Plaintiff" includes each and every servant, agent, contractor, attorney, employee, representative, family member, heir, related corporation, subsidiary, division, affiliate, director, and officer of Plaintiff, if any.

THIS RELEASE and the attached Medicare Reporting and Indemnification Affidavit, which by this reference is made a part hereof, constitute the entire understanding between Plaintiff and Defendant. The provisions of this Release and said attachment are binding upon the respective heirs, affiliates, executors, administrators, and successors of the Plaintiff forever.

The parties hereto acknowledge that receipt of the aforementioned sum is conditioned upon the approval of the Detroit City Council. Said parties understand that the Law Department will make reasonable efforts to achieve City Council approval and, subsequently, to promptly process an application for payment. Nevertheless, because these procedures take time (normally forty-five (45) - ninety (90) days) it is hereby acknowledged that Time is not of the Essence and no day certain for the issuance of any check can be given.

Exhibit D

Letter to Mills 9/19/11



State Headquarters
2966 Woodward Avenue
Detroit, MI 48201-3035
Phone 313.578.6800
Fax 313.578.6811
Email aclu@aclumich.org
www.aclumich.org

Legislative Office
P. O. Box 18022
Lansing, MI 48901-8022
Phone 517.372.8503
Fax 517.372.5121
Email lansing@aclumich.org
www.aclumich.org

West Michigan Regional Office
89 Ionia NW, Suite 300
Grand Rapids, MI 49503
Phone 616.301.0930
Fax 616.456.1450
Email aclu@aclumich.org
www.aclumich.org

September 19, 2011

Jane Kent Mills
City of Detroit Law Department
660 Woodward Ave., Suite 1650
Detroit, MI 48226-3535

By First Class Mail and
Faxed to (313) 224-5505

Re: Letten v. Hall and Anderson v. Peoples

Dear Ms. Mills:

Thank you for your recent letter with the releases, affidavits, and proposed orders. There are several corrections that need to be made before the releases can be signed.

When we met in Judge Cohn's chambers on May 17, 2011, we agreed on several changes to the release. A copy of those changes, in your handwriting and with your initials, is enclosed. Those changes are as follows:

1. "the promises contained within the settlement agreement attached hereto" must be inserted to reflect that Mr. Letten and Mr. Anderson are releasing the City of Detroit and its defendant officers from liability in exchange for a monetary payment *plus* the policy and training agreement.
2. "or accruing at any time prior to and through the date of this Release, which Plaintiff has or may have against Defendant, including without limitation any and all claims related to or arising" must be deleted.

In addition, Mr. Letten's name is misspelled "Letter" throughout (probably as a result of spell-check's auto-correct function). You may wish to correct this typographical error.

Finally, we also agreed to a final version of the Settlement Agreement in Judge Cohn's chambers. A copy of the agreement is enclosed, along with the copy that has your handwritten notes reflecting your agreement to the final version. This agreement must be attached to all copies of the release that Mr. Letten and Mr. Anderson sign. I will expect that when their signed releases are returned to you, you will sign the Settlement Agreement on behalf of the City and the defendant officers. After you do so, I will sign a stipulation to dismiss the case.

If you have any questions or concerns, please call me. Otherwise please prepare a revised release that I may forward to my clients for their signature and notarization.

Very truly yours,

Daniel S. Korobkin

RELEASE

(with Medicare Affidavit)

Matter No: A37000

Case. No: 2:10-cv-12182

*the promise
contained within
the settled
Agreement
attached hereto;*

PHILLIP LETTEN AND KEN ANDERSON (hereinafter "Plaintiff") in consideration of the sum of **Twenty Thousand Dollars and No Cents (\$20,000.00)**; an executed stipulation for the entry of an order dismissing the underlying civil action identified herein; and, an executed Medicare Reporting and Indemnification Affidavit, hereby releases the **City of Detroit**, a Michigan municipal corporation, and each officer, employee, agent and representative (hereinafter collectively the "Defendant") from any and all liability, actions or claims, legal and equitable, known and unknown, arising or accruing at any time prior to and through the date of this Release, which Plaintiff has or may have against Defendant, including without limitation any and all claims related to or arising out of the events, transactions, and occurrences which are or could have been complained of in the civil action^{JK-V} referenced above entitled **Phillip Letten v Scott Hall and Ken Anderson v. LaShawn Peoples**.

Plaintiff understands that the payment to be made under this Release represents the compromise of a disputed claim and payment is not be construed as an admission of liability on the part of Defendant.

As used in this Release, the term "Plaintiff" includes each and every servant, agent, contractor, attorney, employee, representative, family member, heir, related corporation, subsidiary, division, affiliate, director, and officer of Plaintiff, if any.

THIS RELEASE and the attached Medicare Reporting and Indemnification Affidavit, which by this reference is made a part hereof, constitute the entire understanding between Plaintiff and Defendant. The provisions of this Release and said attachment are binding upon the respective heirs, affiliates, executors, administrators, and successors of the Plaintiff forever.

The parties hereto acknowledge that receipt of the aforementioned sum is conditioned upon the approval of the Detroit City Council. Said parties understand that the Law Department will make reasonable efforts to achieve City Council approval and, subsequently, to promptly process an application for payment. Nevertheless, because these procedures take time (normally forty-five (45) - ninety (90) days) it is hereby acknowledged that Time is not of the Essence and no day certain for the issuance of any check can be given.

IN WITNESS WHEREOF, the Plaintiff has affixed his/her signature appearing below at

_____, Michigan, on _____, 2011.

Witnessed By:

Signature
Print Name: _____

PHILLIP LETTEN
Plaintiff's Signature

Signature
Print Name: _____

Address

Attorney's Federal ID Number

KEN ANDERSON
Plaintiff's Signature

Address

STATE OF MICHIGAN _____)
_____)SS
COUNTY OF _____)

This Release was acknowledged before me this ____ day of _____, 2011, by **PHILLIP LETTEN AND KEN ANDERSON** who hereby declares under penalty of perjury under the laws of the State of Michigan that he or she is authorized in fact and law to execute this Release, and that all necessary approvals, if any are required, have been obtained beforehand.

NOTARY PUBLIC, _____ COUNTY, MI
Print Name: _____
My Commission Expires: _____

Note: Should this release be signed by the Plaintiff outside of the State of Michigan that fact must be noted in the appropriate area above and the out of state notary must attach a certificate of notarial authority from the state he or she is authorized to act as a notary.

Settlement Agreement

1. This Settlement Agreement and Release (“Agreement”) is made the ____ day of _____, 2011 by and between Phillip Letten, Ken Anderson, the American Civil Liberties Union Fund of Michigan (“ACLU Fund of Michigan”), Officer Scott Hall, Officer LaShawn Peoples, and the City of Detroit (“the City”) (collectively, the “Parties”).
2. This Agreement fully and completely resolves *Letten v. Hall* (Case No. 10-cv-12182) and *Anderson v. Peoples* (Case No. 10-cv-12183), two civil actions filed by Phillip Letten and Ken Anderson on June 2, 2010, in the United States District Court for the Eastern District of Michigan, Southern Division, which are now consolidated as a single case, *Letten v. Hall* (Case No. 10-cv-12182) (“this Action”).
3. Attorney Daniel S. Korobkin is authorized to sign this Agreement on behalf of Phillip Letten, Ken Anderson, and the ACLU Fund of Michigan, and Jane K. Mills is authorized to sign this Agreement on behalf of Officer Scott Hall, Officer LaShawn Peoples, and the City.
4. Phillip Letten agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Hall, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Hall on July 31, 2009, including but not limited to those damages alleged in this Action.
5. Ken Anderson agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Peoples, the John Doe police officer named as Officer Peoples’ co-defendant, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Peoples and the John Doe defendant on November 12, 2008, including but not limited to those damages alleged in this Action.
6. The City agrees to adopt “Training Directive – First Amendment Right to Distribute Non-Commercial Pamphlets and Handbills” (“First Amendment Training Directive”), attached as Exhibit 1.
7. The City agrees to distribute copies of the First Amendment Training Directive to all members of the Detroit Police Department (“Department”) via an A-Distribution within 30 days of this Agreement.

8. The City agrees that the First Amendment Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
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13. The City agrees to distribute copies of the Loitering Training Directive to all members of the Department via an A-Distribution within 30 days of this Agreement.
14. The City agrees that the Loitering Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
15. The City agrees to place a direct link to its online citizen complaint form on the main page of the Department’s website within 30 days of this Agreement.
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20. The City agrees that this statement regarding paragraph 18 shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement.
21. The City shall pay the total amount of \$ 20,000.00 to Phillip Letten, Ken Anderson, and their counsel at the ACLU Fund of Michigan.
22. The Parties agree to the form and content of the proposed order dismissing this Action, attached as Exhibit 4. The proposed order shall be filed upon execution of this Agreement.

Signed and agreed to by:

Jane K. Mills
City of Detroit Law Department
660 Woodward Ave., Ste. 1650
Detroit, MI 48226

DATE: _____

Daniel S. Korobkin
ACLU Fund of Michigan
2966 Woodward Ave.
Detroit, MI 48201

DATE: _____

Exhibit 1

First Amendment Training Directive



Detroit Police Department Training Directive

Numbered Directives shall
be retained by all members
Number: ~~10-01~~
Date: ~~11/0/10~~

SUBJECT: FIRST AMENDMENT RIGHT TO DISTRIBUTE NON-COMMERCIAL PAMPHLETS AND HANDBILLS

This Training Directive is intended to remind members of the department that the First Amendment protects the right of persons in public places to distribute non-commercial handbills and pamphlets. No permit or license is required and there are no statutes or ordinances that limit an individual's right to do so.

Detroit City Code Section 3-2-1 does **not** apply to non-commercial handbills, circulars, pamphlets or other written material. Section 3-2-1 states:

- a. It shall be unlawful for any person to distribute or cause to be distributed any **commercial** handbills, circulars or advertising cards that solicit patronage for goods, wares, merchandise, services, real estate or any other thing within the Loop or Loop District, which is defined in Section 1-1-2 of this Code as the area bounded on the south by the south line of East Jefferson Avenue and West Jefferson Avenue; on the east by the east line of St. Antoine; on the north by the north line of Columbia Street; and on the west by the west line of First Street.
- b. The provisions of this section **shall not apply to** established newspapers or periodicals **or to noncommercial** circulars, handbills, or cards which do not solicit patronage for profit.

Furthermore, there is no permit or license required to distribute noncommercial handbills or pamphlets.

The First Amendment to the United States Constitution protects, among other things, the right of freedom speech and expression. The United States Supreme Court has repeatedly made it clear that this constitutional right includes written as well as verbal expression. It is of the utmost importance that members understand -- and act in accordance with that understanding -- that the First Amendment protects a freedom of expression without regard to the content of the message or whether an officer or others find it offensive, contemptuous or objectionable.

Questions can be directed to the Police Legal Advisor at 596-2151.

Exhibit 2

Retaliation Training Directive

DPD Training Directive

~~DPD Training Directive~~

SUBJECT: RETALIATION

The First Amendment protects the rights of individuals to verbally oppose, verbally criticize, or verbally question police action without thereby risking arrest or a citation. Although the First Amendment does not protect the right to physically obstruct a police officer or refuse to comply with a lawful police order, verbally opposing, criticizing or questioning police action does not constitute physical obstruction or resistance. These expressions are not criminal and cannot be punished constitutionally.

An individual has the right to question the basis for a police stop, ask for the ordinance underlying a police stop, and express his displeasure with a police stop. This protection extends to expletives and other language that an officer may find annoying or provocative. In the face of such verbal challenges, an officer must exercise a higher degree of restraint than the average citizen.

It is unlawful to arrest or ticket an individual for speech that verbally opposes or verbally questions police action. It is similarly unlawful to retaliate against an individual who verbally opposes or verbally questions police action by arresting or ticketing them for another offense. An officer cannot arrest such an individual for another offense unless the same action would have been taken even in the absence of the speech.

This directive is constitutionally required. It also is in keeping with our Law Enforcement Code of Ethics, in which every officer pledges "to maintain courageous calm in the face of danger, scorn or ridicule; develop self restraint and be constantly mindful of the welfare of others."

Exhibit 3

Loitering Training Directive

SUBJECT: LOITERING

Members of the department are reminded that "loitering," by itself, is not a crime, and cannot be the basis for an arrest or an investigative stop.

The Constitution protects the right to loiter or remain in a public place for an innocent purpose, or for no purpose at all. Loitering is not a crime in itself and cannot be punished constitutionally. Merely being present in an area where illegal activity is taking place or tends to take place is not illegal.

Section 38-1-3 of the Detroit City Code provides:

It shall be unlawful for any person to loiter on any street, sidewalks, overpass or public place. For the purpose of this section, loitering is defined as the act of standing or idling in or about any street, sidewalk, overpass or public place ***so as to hinder or impede or tend to hinder or impede the passage of pedestrians or vehicles.***

No violation of section 38-1-3 occurs unless the person is engaged in conduct that hinders or impedes, or tends to hinder or impede, pedestrian or vehicle traffic. The act of standing or idling in or about a public place is not, by itself, a loitering offense.

Section 38-11-6 of the Detroit City Code provides:

A person shall not ***knowingly remain*** in any building, apartment, store, automobile, boat, boathouse, airplane, or any other place where any controlled substance is illegally sold, dispensed, furnished, given away, stored, or kept ***with the intent to unlawfully use or possess such controlled substance.***

No violation of section 38-11-6 occurs unless the person knows of a drug offense in that place *and* intends to commit a drug offense. Merely being present in a place where a drug offense occurs is not illegal.

Because loitering by itself is not a criminal offense, it does not give rise to the "reasonable suspicion" required to justify an investigatory stop. The reasonable suspicion standard is not satisfied merely by loitering in a high-crime area or near a place where illegal activity occurs. To justify an investigatory stop for loitering, there must be reasonable suspicion of unlawful conduct, purpose, or intent on the part of the person being stopped.

Exhibit 4

Stipulated Order of Voluntary Dismissal

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PHILLIP LETTEN, et al.,

Plaintiffs,

vs.

SCOTT HALL, et al.,

Defendants.

Hon. Avern Cohn

Case No. 10-cv-12182

STIPULATED ORDER OF VOLUNTARY DISMISSAL

A settlement having been reached in this matter, and the parties having stipulated to this order by and through counsel, it is hereby ORDERED that this case is DISMISSED WITH PREJUDICE.

Dated:

/s/

Hon. Avern Cohn
United States District Judge

Stipulated to by:

/s/

Jessie J. Rossman
Daniel S. Korobkin

/s/

Jane K. Mills

Counsel for Plaintiffs

Counsel for Defendants

Dated:

Dated:

COA (miller)
9/14/10 on file

Settlement Agreement and Release

1. This Settlement Agreement and Release ("Agreement") is made the ____ day of _____, 2011 by and between Phillip Letten, Ken Anderson, the American Civil Liberties Union Fund of Michigan ("ACLU Fund of Michigan"), Officer Scott Hall, Officer LaShawn Peoples, and the City of Detroit ("the City") (collectively, the "Parties").
2. This Agreement fully and completely resolves *Letten v. Hall* (Case No. 10-cv-12182) and *Anderson v. Peoples* (Case No. 10-cv-12183), two civil actions filed by Phillip Letten and Ken Anderson on June 2, 2010, in the United States District Court for the Eastern District of Michigan, Southern Division, which are now consolidated as a single case, *Letten v. Hall* (Case No. 10-cv-12182) ("this Action").
3. Attorneys Daniel S. Korobkin and ~~Jessie J. Rossman~~¹⁵ are authorized to sign this Agreement on behalf of Phillip Letten, Ken Anderson, and the ACLU Fund of Michigan, and Jane K. Mills is authorized to sign this Agreement on behalf of Officer Scott Hall, Officer LaShawn Peoples, and the City.
4. Phillip Letten agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Hall, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Hall on July 31, 2009, including but not limited to those damages alleged in this Action.
5. Ken Anderson agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Peoples, the John Doe police officer named as Officer Peoples' co-defendant, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Peoples and the John Doe defendant on November 12, 2008, including but not limited to those damages alleged in this Action.
6. The City agrees to adopt "Training Directive – First Amendment Right to Distribute Non-Commercial Pamphlets and Handbills" ("First Amendment Training Directive"), attached as Exhibit 1.
7. The City agrees to distribute copies of the First Amendment Training Directive to all members of the Detroit Police Department ("Department") via an A-Distribution within 30 days of this Agreement.

8. The City agrees that the First Amendment Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
9. The City agrees to adopt "Training Directive – Retaliation" ("Retaliation Training Directive"), attached as Exhibit 2.
10. The City agrees to distribute copies of the Retaliation Training Directive to all members of the Department via an A-Distribution within 30 days of this Agreement.
11. The City agrees that the Retaliation Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
12. The City agrees to adopt "Training Directive – Loitering" ("Loitering Training Directive"), attached as Exhibit 3.
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16. The City agrees to ensure that posters explaining its citizen complaint form are on public display in the lobby and/or entrance of every precinct station and at the Department headquarters within 30 days of this Agreement.
17. The City agrees to ensure that printed brochures explaining its citizen complaint form are placed in racks and/or display areas at every precinct station and at the Department headquarters within 30 days of this Agreement. This Agreement does not require the City to create racks and/or display areas where none exist.
18. The City agrees that a citizen may file a citizen complaint form even if there are charges pending against him or her.
19. The City agrees to distribute a written statement ^{re promissory} ~~to this effect~~ to all members of the Department via an A-Distribution within 30 days of this Agreement.

Re paragraph 18

20. The City agrees that this statement shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement.

the total amount of
21. The City shall pay \$ 20,000.00 to Phillip Letten, Ken Anderson, and their counsel at the ACLU Fund of Michigan.

cutting the check.
22. [Jane -- Insert language here regarding expected timetable for approval by city council and cutting the check.] Counsel for the City agrees to provide monthly updates to the ACLU Fund of Michigan regarding the City Council's progress and the status of this Agreement until this Agreement receives final approval through the City's decisionmaking channels.

SE
any
concerns
23. In the event the City's obligations described in this Agreement do not receive final approval through the City's decisionmaking channels, this Agreement shall be null and void and this Action will be reinstated.

NO
24. The Parties agree that the United States District Court shall retain jurisdiction to enforce the terms of this Agreement.

25. The Parties agree to the form and content of the proposed order dismissing this Action pursuant to Fed. R. Civ. P. 41(a)(2), attached as Exhibits 4. The proposed orders shall be filed upon execution of this Agreement.

Signed and agreed to by:

DATE: _____

Jane K. Mills
City of Detroit Law Department
660 Woodward Ave, Ste 1650
Detroit, MI 48226

DATE: _____

Daniel S. Korobkin
ACLU Fund of Michigan
2966 Woodward Ave
Detroit, MI 48201

DATE: _____

Jessie J. Rossman

Jessie J. Rossman
ACLU Fund of Michigan
2966 Woodward Ave
Detroit, MI 48201

Exhibit E

Letter to Mills 10/13/11



AMERICAN CIVIL LIBERTIES UNION
of MICHIGAN

State Headquarters
2966 Woodward Avenue
Detroit, MI 48201-3035
Phone 313.578.6800
Fax 313.578.6811
Email aclu@aclumich.org
www.aclumich.org

Legislative Office
P. O. Box 18022
Lansing, MI 48901-8022
Phone 517.372.8503
Fax 517.372.5121
Email lansing@aclumich.org
www.aclumich.org

West Michigan Regional Office
89 Ionia NW, Suite 300
Grand Rapids, MI 49503
Phone 616.301.0930
Fax 616.456.1450
Email aclu@aclumich.org
www.aclumich.org

October 13, 2011

Jane Kent Mills
City of Detroit Law Department
660 Woodward Ave., Suite 1650
Detroit, MI 48226-3535

By First Class Mail and
Faxed to (313) 224-5505

Re: Letten v. Hall and Anderson v. Peoples

Dear Ms. Mills:

When we spoke on the phone you told me that you would send me the correct version of the releases by the end of last week. I have not received them. I called you today but I cannot leave a message for you because your voicemail is full and does not direct calls to an assistant. It has now been over five weeks since the city council approved our settlement and over three weeks since Mr. Korobkin informed you of the corrections that needed to be made to the releases (to reflect the language you agreed to in writing during the May 17 status conference in Judge Cohn's chambers in May). The releases should have been prepared in their correct form a long time ago because this case has been settled pending final approval by the city council for many months. I realize you are very busy but it is time to bring closure to this case without further delay.

My office will prepare the releases and settlement agreement in the form that has already been agreed to by both parties, and Mr. Korobkin or I will send those to our clients for their notarized signature. Once those forms are returned to you bearing notarized signatures, I expect that you will sign the settlement agreement on behalf of your clients. At that point Mr. Korobkin or I will sign a stipulation to dismiss the case.

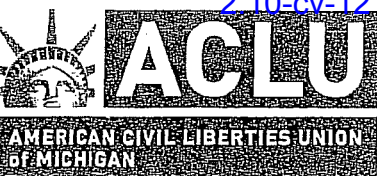
If you have any questions or concerns please contact me immediately.

Very truly yours,

Michael J. Steinberg, Legal Director
ACLU Fund of Michigan
Direct Dial: (313) 578-6814

Exhibit F

Letter to Mills with Final Signed Settlement Agreement and Signed Releases 10/25/11



State Headquarters

2966 Woodward Avenue
Detroit, Michigan 48201
Phone 313.578.6800
Fax 313.578.6811
Email aclu@aclumich.org
www.aclumich.org

Legislative Office

P. O. Box 18022
Lansing, Michigan 48901
Phone 517.372.8503
Fax 517.372.8503
Email lansing@aclumich.org
www.aclumich.org

October 25, 2011

By First Class Mail

Jane Kent Mills
City of Detroit Law Department
660 Woodward Ave., Suite 1650
Detroit, MI 48226-3535

Re: Letten v. Hall and Anderson v. Peoples

Dear Ms. Mills:

Enclosed are three copies of each plaintiff's release and affidavit, each bearing original notarized signatures. A copy of the settlement agreement is also attached to each release because its terms are incorporated by the release.

Also enclosed are two additional copies of the settlement agreement, each bearing my original signature. **Please promptly sign and return one of the copies in the enclosed self-addressed stamped envelope.** When I receive the fully executed settlement agreement I will stipulate to an order dismissing the case with prejudice.

You may send the check made out to the ACLU Fund of Michigan (Tax ID # [REDACTED]) to my attention at 2966 Woodward Ave., Detroit, MI 48201.

If you have any questions or concerns, please call me at (313) 578-6824.

Very truly yours,

Daniel S. Korobkin

Settlement Agreement

1. This Settlement Agreement and Release ("Agreement") is made the ____ day of _____, 2011 by and between Phillip Letten, Ken Anderson, the American Civil Liberties Union Fund of Michigan ("ACLU Fund of Michigan"), Officer Scott Hall, Officer LaShawn Peoples, and the City of Detroit ("the City") (collectively, the "Parties").
2. This Agreement fully and completely resolves *Letten v. Hall* (Case No. 10-cv-12182) and *Anderson v. Peoples* (Case No. 10-cv-12183), two civil actions filed by Phillip Letten and Ken Anderson on June 2, 2010, in the United States District Court for the Eastern District of Michigan, Southern Division, which are now consolidated as a single case, *Letten v. Hall* (Case No. 10-cv-12182) ("this Action").
3. Attorney Daniel S. Korobkin is authorized to sign this Agreement on behalf of Phillip Letten, Ken Anderson, and the ACLU Fund of Michigan, and Jane K. Mills is authorized to sign this Agreement on behalf of Officer Scott Hall, Officer LaShawn Peoples, and the City.
4. Phillip Letten agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Hall, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Hall on July 31, 2009, including but not limited to those damages alleged in this Action.
5. Ken Anderson agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Peoples, the John Doe police officer named as Officer Peoples' co-defendant, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Peoples and the John Doe defendant on November 12, 2008, including but not limited to those damages alleged in this Action.
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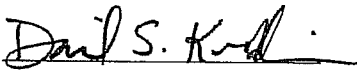
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21. The City shall pay the total amount of \$ 20,000.00 to Phillip Letten, Ken Anderson, and their counsel at the ACLU Fund of Michigan.
22. The Parties agree to the form and content of the proposed order dismissing this Action, attached as Exhibit 4. The proposed order shall be filed upon execution of this Agreement.

Signed and agreed to by:

Jane K. Mills
City of Detroit Law Department
660 Woodward Ave., Ste. 1650
Detroit, MI 48226

DATE: _____


Daniel S. Korobkin
ACLU Fund of Michigan
2966 Woodward Ave.
Detroit, MI 48201

DATE: 10/23/11

Exhibit 1

First Amendment Training Directive



Detroit Police Department Training Directive

Numbered Directives shall
be retained by all members
Number: ~~10-04~~
Date: ~~11/0/10~~

SUBJECT: FIRST AMENDMENT RIGHT TO DISTRIBUTE NON-COMMERCIAL PAMPHLETS AND HANDBILLS

This Training Directive is intended to remind members of the department that the First Amendment protects the right of persons in public places to distribute non-commercial handbills and pamphlets. No permit or license is required and there are no statutes or ordinances that limit an individual's right to do so.

Detroit City Code Section 3-2-1 does not apply to non-commercial handbills, circulars, pamphlets or other written material. Section 3-2-1 states:

- a. It shall be unlawful for any person to distribute or cause to be distributed any *commercial* handbills, circulars or advertising cards that solicit patronage for goods, wares, merchandise, services, real estate or any other thing within the Loop or Loop District, which is defined in Section 1-1-2 of this Code as the area bounded on the south by the south line of East Jefferson Avenue and West Jefferson Avenue; on the east by the east line of St. Antoine; on the north by the north line of Columbia Street; and on the west by the west line of First Street.
- b. The provisions of this section *shall not apply to* established newspapers or periodicals *or to noncommercial* circulars, handbills, or cards which do not solicit patronage for profit.

Furthermore, there is no permit or license required to distribute noncommercial handbills or pamphlets.

The First Amendment to the United States Constitution protects, among other things, the right of freedom speech and expression. The United States Supreme Court has repeatedly made it clear that this constitutional right includes written as well as verbal expression. It is of the utmost importance that members understand -- and act in accordance with that understanding -- that the First Amendment protects a freedom of expression without regard to the content of the message or whether an officer or others find it offensive, contemptuous or objectionable.

Questions can be directed to the Police Legal Advisor at 596-2151.

Detroit Police Department

Page 1 of 1

This Training Directive is for internal departmental use only, and violations of the procedures outlined in this Training Directive may form the basis for Departmental administrative sanctions. This document is not intended for third-party use or benefit. No criminal or civil duty or standard of care is intended to be or is created by the issuance of this Training Directive.

Exhibit 2

Retaliation Training Directive

DPD Training Directive

~~RECEIVED~~

SUBJECT: RETALIATION

The First Amendment protects the rights of individuals to verbally oppose, verbally criticize, or verbally question police action without thereby risking arrest or a citation. Although the First Amendment does not protect the right to physically obstruct a police officer or refuse to comply with a lawful police order, verbally opposing, criticizing or questioning police action does not constitute physical obstruction or resistance. These expressions are not criminal and cannot be punished constitutionally.

An individual has the right to question the basis for a police stop, ask for the ordinance underlying a police stop, and express his displeasure with a police stop. This protection extends to expletives and other language that an officer may find annoying or provocative. In the face of such verbal challenges, an officer must exercise a higher degree of restraint than the average citizen.

It is unlawful to arrest or ticket an individual for speech that verbally opposes or verbally questions police action. It is similarly unlawful to retaliate against an individual who verbally opposes or verbally questions police action by arresting or ticketing them for another offense. An officer cannot arrest such an individual for another offense unless the same action would have been taken even in the absence of the speech.

This directive is constitutionally required. It also is in keeping with our Law Enforcement Code of Ethics, in which every officer pledges "to maintain courageous calm in the face of danger, scorn or ridicule; develop self restraint and be constantly mindful of the welfare of others."

Exhibit 3

Loitering Training Directive

SUBJECT: LOITERING

Members of the department are reminded that "loitering," by itself, is not a crime, and cannot be the basis for an arrest or an investigative stop.

The Constitution protects the right to loiter or remain in a public place for an innocent purpose, or for no purpose at all. Loitering is not a crime in itself and cannot be punished constitutionally. Merely being present in an area where illegal activity is taking place or tends to take place is not illegal.

Section 38-1-3 of the Detroit City Code provides:

It shall be unlawful for any person to loiter on any street, sidewalks, overpass or public place. For the purpose of this section, loitering is defined as the act of standing or idling in or about any street, sidewalk, overpass or public place ***so as to hinder or impede or tend to hinder or impede the passage of pedestrians or vehicles.***

No violation of section 38-1-3 occurs unless the person is engaged in conduct that hinders or impedes, or tends to hinder or impede, pedestrian or vehicle traffic. The act of standing or idling in or about a public place is not, by itself, a loitering offense.

Section 38-11-6 of the Detroit City Code provides:

A person shall not ***knowingly remain*** in any building, apartment, store, automobile, boat, boathouse, airplane, or any other place where any controlled substance is illegally sold, dispensed, furnished, given away, stored, or kept ***with the intent to unlawfully use or possess such controlled substance.***

No violation of section 38-11-6 occurs unless the person knows of a drug offense in that place *and* intends to commit a drug offense. Merely being present in a place where a drug offense occurs is not illegal.

Because loitering by itself is not a criminal offense, it does not give rise to the "reasonable suspicion" required to justify an investigatory stop. The reasonable suspicion standard is not satisfied merely by loitering in a high-crime area or near a place where illegal activity occurs. To justify an investigatory stop for loitering, there must be reasonable suspicion of unlawful conduct, purpose, or intent on the part of the person being stopped.

Exhibit 4

Stipulated Order of Voluntary Dismissal

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PHILLIP LETTEN, et al.,

Plaintiffs,

vs.

SCOTT HALL, et al.,

Defendants.

Hon. Avern Cohn

Case No. 10-cv-12182

STIPULATED ORDER OF VOLUNTARY DISMISSAL

A settlement having been reached in this matter, and the parties having stipulated to this order by and through counsel, it is hereby ORDERED that this case is DISMISSED WITH PREJUDICE.

Dated:

/s/

Hon. Avern Cohn

United States District Judge

Stipulated to by:

/s/

Jessie J. Rossman

Daniel S. Korobkin

/s/

Jane K. Mills

Counsel for Plaintiffs

Counsel for Defendants

Dated:

Dated:

RELEASE

(with Medicare Affidavit)

Matter No.: A370007070 and 7332

Case No.: 2:10-cv-12182 and 12183

PHILLIP LETTEN and **KEN ANDERSON** (hereinafter "Plaintiffs") in consideration of the sum of **Twenty Thousand Dollars and No Cents (\$20,000.00)**; the promises contained within the settlement agreement attached hereto; an executed stipulation for the entry of an order dismissing the underlying civil action identified herein; and, an executed Medicare Reporting and Indemnification Affidavit, hereby release the **City of Detroit**, a Michigan municipal corporation, and each officer, employee, agent and representative (hereinafter collectively the "Defendant") from any and all liability, actions or claims, legal and equitable, known and unknown, arising out of the events, transactions, and occurrences which are or could have been complained of in the civil actions referenced above entitled **Phillip Letten v. Scott Hall** and **Ken Anderson v. LaShawn Peoples**.

Plaintiffs understand that the payment to be made under this Release represents the compromise of a disputed claim and payment is not to be construed as an admission of liability on the part of Defendants.

As used in this Release, the term "Plaintiffs" includes each and every servant, agent, contractor, attorney, employee, representative, family member, heir, related corporation, subsidiary, division, affiliate, director, and officer of Plaintiffs, if any.

THIS RELEASE, the promises contained within the settlement agreement attached hereto, and the attached Medicare Reporting and Indemnification Affidavit, which by this reference are made a part hereof, constitute the entire understanding between Plaintiffs and Defendants. The provisions of this Release and said attachments are binding upon the respective heirs, affiliates, executors, administrators, and successors of the Plaintiffs forever.

The parties hereto acknowledge that receipt of the aforementioned sum is conditioned upon the approval of the Detroit City Council. Said parties understand that the Law Department will make reasonable efforts to achieve City Council approval and, subsequently, to promptly process an application for payment. Nevertheless, because these procedures take time (normally forty-five (45) - ninety (90) days) it is hereby acknowledged that Time is not of the Essence and no day certain for the issuance of any check can be given.

IN WITNESS WHEREOF, the Plaintiff has affixed his signature appearing below at

Howell, Michigan on October 20 2011.

Witnessed By:

Jessica Fritz
Signature
Print Name: Jessica Fritz

Julia Sullivan
Signature
Print Name: Julia Sullivan

Phillip Letten
Signature
PHILLIP LETTEN
Plaintiff's Signature

Address

[Redacted]
Attorney's Federal ID Number

STATE OF Mi.)
COUNTY OF Livingston) SS

This Release was acknowledged before me this 20 day of October, 2011, by **PHILLIP LETTEN**, who hereby declares under penalty of perjury under the laws of the State of Michigan that he or she is authorized in fact and law to execute this Release, and that all necessary approvals, if any are required, have been obtained beforehand.

Deborah Ann Carlton
NOTARY PUBLIC

DEBORAH ANN CARLTON
NOTARY PUBLIC, STATE OF MI
COUNTY OF LIVINGSTON
MY COMMISSION EXPIRES Oct 2, 2013
ACTING IN COUNTY OF LIVINGSTON

State of Mi, County of Livingston

Print Name: Deborah Ann Carlton

My Commission Expires: 10/02/2013

Note: Should this release be signed by the Plaintiff outside of the State of Michigan that fact must be noted in the appropriate area above and the out of state notary must attach a certificate of notarial authority from the state he or she is authorized to act as a notary.

Settlement Agreement

1. This Settlement Agreement and Release ("Agreement") is made the ____ day of _____, 2011 by and between Phillip Letten, Ken Anderson, the American Civil Liberties Union Fund of Michigan ("ACLU Fund of Michigan"), Officer Scott Hall, Officer LaShawn Peoples, and the City of Detroit ("the City") (collectively, the "Parties").
2. This Agreement fully and completely resolves *Letten v. Hall* (Case No. 10-cv-12182) and *Anderson v. Peoples* (Case No. 10-cv-12183), two civil actions filed by Phillip Letten and Ken Anderson on June 2, 2010, in the United States District Court for the Eastern District of Michigan, Southern Division, which are now consolidated as a single case, *Letten v. Hall* (Case No. 10-cv-12182) ("this Action").
3. Attorney Daniel S. Korobkin is authorized to sign this Agreement on behalf of Phillip Letten, Ken Anderson, and the ACLU Fund of Michigan, and Jane K. Mills is authorized to sign this Agreement on behalf of Officer Scott Hall, Officer LaShawn Peoples, and the City.
4. Phillip Letten agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Hall, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Hall on July 31, 2009, including but not limited to those damages alleged in this Action.
5. Ken Anderson agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Peoples, the John Doe police officer named as Officer Peoples' co-defendant, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Peoples and the John Doe defendant on November 12, 2008, including but not limited to those damages alleged in this Action.
6. The City agrees to adopt "Training Directive – First Amendment Right to Distribute Non-Commercial Pamphlets and Handbills" ("First Amendment Training Directive"), attached as Exhibit 1.
7. The City agrees to distribute copies of the First Amendment Training Directive to all members of the Detroit Police Department ("Department") via an A-Distribution within 30 days of this Agreement.

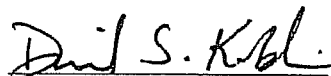
8. The City agrees that the First Amendment Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
9. The City agrees to adopt "Training Directive – Retaliation" ("Retaliation Training Directive"), attached as Exhibit 2.
10. The City agrees to distribute copies of the Retaliation Training Directive to all members of the Department via an A-Distribution within 30 days of this Agreement.
11. The City agrees that the Retaliation Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
12. The City agrees to adopt "Training Directive – Loitering" ("Loitering Training Directive"), attached as Exhibit 3.
13. The City agrees to distribute copies of the Loitering Training Directive to all members of the Department via an A-Distribution within 30 days of this Agreement.
14. The City agrees that the Loitering Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
15. The City agrees to place a direct link to its online citizen complaint form on the main page of the Department's website within 30 days of this Agreement.
16. The City agrees to ensure that posters explaining its citizen complaint form are on public display in the lobby and/or entrance of every precinct station and at the Department headquarters within 30 days of this Agreement.
17. The City agrees to ensure that printed brochures explaining its citizen complaint form are placed in racks and/or display areas at every precinct station and at the Department headquarters within 30 days of this Agreement. This Agreement does not require the City to create racks and/or display areas where none exist.
18. The City agrees that a citizen may file a citizen complaint form even if there are charges pending against him or her.
19. The City agrees to distribute a written statement regarding paragraph 18 to all members of the Department via an A-Distribution within 30 days of this Agreement.

20. The City agrees that this statement regarding paragraph 18 shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement.
21. The City shall pay the total amount of \$ 20,000.00 to Phillip Letten, Ken Anderson, and their counsel at the ACLU Fund of Michigan.
22. The Parties agree to the form and content of the proposed order dismissing this Action, attached as Exhibit 4. The proposed order shall be filed upon execution of this Agreement.

Signed and agreed to by:

Jane K. Mills
City of Detroit Law Department
660 Woodward Ave., Ste. 1650
Detroit, MI 48226

DATE: _____



Daniel S. Korobkin
ACLU Fund of Michigan
2966 Woodward Ave.
Detroit, MI 48201

DATE: 10/23/11

Exhibit 1

First Amendment Training Directive



Detroit Police Department Training Directive

Numbered Directives shall
be retained by all members
Number: ~~10-01~~
Date: ~~11/01/10~~

SUBJECT: FIRST AMENDMENT RIGHT TO DISTRIBUTE NON-COMMERCIAL PAMPHLETS AND HANDBILLS

This Training Directive is intended to remind members of the department that the First Amendment protects the right of persons in public places to distribute non-commercial handbills and pamphlets. No permit or license is required and there are no statutes or ordinances that limit an individual's right to do so.

Detroit City Code Section 3-2-1 does not apply to non-commercial handbills, circulars, pamphlets or other written material. Section 3-2-1 states:

- a. It shall be unlawful for any person to distribute or cause to be distributed any *commercial* handbills, circulars or advertising cards that solicit patronage for goods, wares, merchandise, services, real estate or any other thing within the Loop or Loop District, which is defined in Section 1-1-2 of this Code as the area bounded on the south by the south line of East Jefferson Avenue and West Jefferson Avenue; on the east by the east line of St. Antoine; on the north by the north line of Columbia Street; and on the west by the west line of First Street.
- b. The provisions of this section *shall not apply to* established newspapers or periodicals *or to noncommercial* circulars, handbills, or cards which do not solicit patronage for profit.

Furthermore, there is no permit or license required to distribute noncommercial handbills or pamphlets.

The First Amendment to the United States Constitution protects, among other things, the right of freedom speech and expression. The United States Supreme Court has repeatedly made it clear that this constitutional right includes written as well as verbal expression. It is of the utmost importance that members understand -- and act in accordance with that understanding -- that the First Amendment protects a freedom of expression without regard to the content of the message or whether an officer or others find it offensive, contemptuous or objectionable.

Questions can be directed to the Police Legal Advisor at 596-2151.

Detroit Police Department

Page 1 of 1

This Training Directive is for Internal departmental use only, and violations of the procedures outlined in this Training Directive may form the basis for Departmental administrative sanctions. This document is not intended for third-party use or benefit. No criminal or civil duty or standard of care is intended to be, or is, created by the issuance of this Training Directive.

Exhibit 2

Retaliation Training Directive

SUBJECT: RETALIATION

The First Amendment protects the rights of individuals to verbally oppose, verbally criticize, or verbally question police action without thereby risking arrest or a citation. Although the First Amendment does not protect the right to physically obstruct a police officer or refuse to comply with a lawful police order, verbally opposing, criticizing or questioning police action does not constitute physical obstruction or resistance. These expressions are not criminal and cannot be punished constitutionally.

An individual has the right to question the basis for a police stop, ask for the ordinance underlying a police stop, and express his displeasure with a police stop. This protection extends to expletives and other language that an officer may find annoying or provocative. In the face of such verbal challenges, an officer must exercise a higher degree of restraint than the average citizen.

It is unlawful to arrest or ticket an individual for speech that verbally opposes or verbally questions police action. It is similarly unlawful to retaliate against an individual who verbally opposes or verbally questions police action by arresting or ticketing them for another offense. An officer cannot arrest such an individual for another offense unless the same action would have been taken even in the absence of the speech.

This directive is constitutionally required. It also is in keeping with our Law Enforcement Code of Ethics, in which every officer pledges "to maintain courageous calm in the face of danger, scorn or ridicule; develop self restraint and be constantly mindful of the welfare of others."

Exhibit 3

Loitering Training Directive

SUBJECT: LOITERING

Members of the department are reminded that "loitering," by itself, is not a crime, and cannot be the basis for an arrest or an investigative stop.

The Constitution protects the right to loiter or remain in a public place for an innocent purpose, or for no purpose at all. Loitering is not a crime in itself and cannot be punished constitutionally. Merely being present in an area where illegal activity is taking place or tends to take place is not illegal.

Section 38-1-3 of the Detroit City Code provides:

It shall be unlawful for any person to loiter on any street, sidewalks, overpass or public place. For the purpose of this section, loitering is defined as the act of standing or idling in or about any street, sidewalk, overpass or public place ***so as to hinder or impede or tend to hinder or impede the passage of pedestrians or vehicles.***

No violation of section 38-1-3 occurs unless the person is engaged in conduct that hinders or impedes, or tends to hinder or impede, pedestrian or vehicle traffic. The act of standing or idling in or about a public place is not, by itself, a loitering offense.

Section 38-11-6 of the Detroit City Code provides:

A person shall not ***knowingly remain*** in any building, apartment, store, automobile, boat, boathouse, airplane, or any other place where any controlled substance is illegally sold, dispensed, furnished, given away, stored, or kept ***with the intent to unlawfully use or possess such controlled substance.***

No violation of section 38-11-6 occurs unless the person knows of a drug offense in that place *and* intends to commit a drug offense. Merely being present in a place where a drug offense occurs is not illegal.

Because loitering by itself is not a criminal offense, it does not give rise to the "reasonable suspicion" required to justify an investigatory stop. The reasonable suspicion standard is not satisfied merely by loitering in a high-crime area or near a place where illegal activity occurs. To justify an investigatory stop for loitering, there must be reasonable suspicion of unlawful conduct, purpose, or intent on the part of the person being stopped.

Exhibit 4

Stipulated Order of Voluntary Dismissal

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PHILLIP LETTEN, et al.,

Plaintiffs,

vs.

SCOTT HALL, et al.,

Defendants.

Hon. Avern Cohn

Case No. 10-cv-12182

STIPULATED ORDER OF VOLUNTARY DISMISSAL

A settlement having been reached in this matter, and the parties having stipulated to this order by and through counsel, it is hereby ORDERED that this case is DISMISSED WITH PREJUDICE.

Dated:

/s/ _____
Hon. Avern Cohn
United States District Judge

Stipulated to by:

/s/ _____
Jessie J. Rossman
Daniel S. Korobkin

/s/ _____
Jane K. Mills

Counsel for Plaintiffs

Counsel for Defendants

Dated:

Dated:

RELEASE

(with Medicare Affidavit)

Matter No.: A370007070 and 7332

Case No.: 2:10-cv-12182 and 12183

PHILLIP LETTEN and **KEN ANDERSON** (hereinafter "Plaintiffs") in consideration of the sum of **Twenty Thousand Dollars and No Cents (\$20,000.00)**; the promises contained within the settlement agreement attached hereto; an executed stipulation for the entry of an order dismissing the underlying civil action identified herein; and, an executed Medicare Reporting and Indemnification Affidavit, hereby release the **City of Detroit**, a Michigan municipal corporation, and each officer, employee, agent and representative (hereinafter collectively the "Defendant") from any and all liability, actions or claims, legal and equitable, known and unknown, arising out of the events, transactions, and occurrences which are or could have been complained of in the civil actions referenced above entitled **Phillip Letten v. Scott Hall** and **Ken Anderson v. LaShawn Peoples**.

Plaintiffs understand that the payment to be made under this Release represents the compromise of a disputed claim and payment is not to be construed as an admission of liability on the part of Defendants.

As used in this Release, the term "Plaintiffs" includes each and every servant, agent, contractor, attorney, employee, representative, family member, heir, related corporation, subsidiary, division, affiliate, director, and officer of Plaintiffs, if any.

THIS RELEASE, the promises contained within the settlement agreement attached hereto, and the attached Medicare Reporting and Indemnification Affidavit, which by this reference are made a part hereof, constitute the entire understanding between Plaintiffs and Defendants. The provisions of this Release and said attachments are binding upon the respective heirs, affiliates, executors, administrators, and successors of the Plaintiffs forever.

The parties hereto acknowledge that receipt of the aforementioned sum is conditioned upon the approval of the Detroit City Council. Said parties understand that the Law Department will make reasonable efforts to achieve City Council approval and, subsequently, to promptly process an application for payment. Nevertheless, because these procedures take time (normally forty-five (45) - ninety (90) days) it is hereby acknowledged that Time is not of the Essence and no day certain for the issuance of any check can be given.

IN WITNESS WHEREOF, the Plaintiff has affixed his signature appearing below at

2966 WOODWARD, Michigan on OCT 21, 2011.
DETROIT MI 48201

Witnessed By:

Elizabeth Young
Signature

Print Name: Elizabeth Young

Paul Teden
Signature

Print Name: Paul Teden

Ken Anderson
Signature

KEN ANDERSON

Plaintiff's Signature

Address: [REDACTED]

[REDACTED]
Attorney's Federal ID Number

STATE OF Michigan)

COUNTY OF Wayne) SS

This Release was acknowledged before me this 21st day of October, 2011, by **KEN ANDERSON**, who hereby declares under penalty of perjury under the laws of the State of Michigan that he or she is authorized in fact and law to execute this Release, and that all necessary approvals, if any are required, have been obtained beforehand.

Daniel S. Korobkin
NOTARY PUBLIC

State of Michigan, County of Washtenaw

Print Name: Daniel S. Korobkin

My Commission Expires: 11/20/2017

Note: Should this release be signed by the Plaintiff outside of the State of Michigan that fact must be noted in the appropriate area above and the out of state notary must attach a certificate of notarial authority from the state he or she is authorized to act as a notary.

Settlement Agreement

1. This Settlement Agreement and Release ("Agreement") is made the ____ day of _____, 2011 by and between Phillip Letten, Ken Anderson, the American Civil Liberties Union Fund of Michigan ("ACLU Fund of Michigan"), Officer Scott Hall, Officer LaShawn Peoples, and the City of Detroit ("the City") (collectively, the "Parties").
2. This Agreement fully and completely resolves *Letten v. Hall* (Case No. 10-cv-12182) and *Anderson v. Peoples* (Case No. 10-cv-12183), two civil actions filed by Phillip Letten and Ken Anderson on June 2, 2010, in the United States District Court for the Eastern District of Michigan, Southern Division, which are now consolidated as a single case, *Letten v. Hall* (Case No. 10-cv-12182) ("this Action").
3. Attorney Daniel S. Korobkin is authorized to sign this Agreement on behalf of Phillip Letten, Ken Anderson, and the ACLU Fund of Michigan, and Jane K. Mills is authorized to sign this Agreement on behalf of Officer Scott Hall, Officer LaShawn Peoples, and the City.
4. Phillip Letten agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Hall, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Hall on July 31, 2009, including but not limited to those damages alleged in this Action.
5. Ken Anderson agrees, on behalf of himself, agents, family members, friends, partners, associates, attorneys, heirs and assigns, to release Officer Peoples, the John Doe police officer named as Officer Peoples' co-defendant, the City, and all other employees and agents of the City from any and all claims, demands, damages, actions, causes of action, suits or injuries of any kind or nature whatsoever, known or unknown, to person, property or otherwise, which have resulted or may in the future arise out of his encounter with Officer Peoples and the John Doe defendant on November 12, 2008, including but not limited to those damages alleged in this Action.
6. The City agrees to adopt "Training Directive – First Amendment Right to Distribute Non-Commercial Pamphlets and Handbills" ("First Amendment Training Directive"), attached as Exhibit 1.
7. The City agrees to distribute copies of the First Amendment Training Directive to all members of the Detroit Police Department ("Department") via an A-Distribution within 30 days of this Agreement.

8. The City agrees that the First Amendment Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
9. The City agrees to adopt "Training Directive – Retaliation" ("Retaliation Training Directive"), attached as Exhibit 2.
10. The City agrees to distribute copies of the Retaliation Training Directive to all members of the Department via an A-Distribution within 30 days of this Agreement.
11. The City agrees that the Retaliation Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
12. The City agrees to adopt "Training Directive – Loitering" ("Loitering Training Directive"), attached as Exhibit 3.
13. The City agrees to distribute copies of the Loitering Training Directive to all members of the Department via an A-Distribution within 30 days of this Agreement.
14. The City agrees that the Loitering Training Directive shall be read aloud to every Department shift for a span of one week during roll call as an Administrative Message/Teletype within 30 days of this Agreement, and then again to every shift for a span of one week 6 months after the first reading.
15. The City agrees to place a direct link to its online citizen complaint form on the main page of the Department's website within 30 days of this Agreement.
16. The City agrees to ensure that posters explaining its citizen complaint form are on public display in the lobby and/or entrance of every precinct station and at the Department headquarters within 30 days of this Agreement.
17. The City agrees to ensure that printed brochures explaining its citizen complaint form are placed in racks and/or display areas at every precinct station and at the Department headquarters within 30 days of this Agreement. This Agreement does not require the City to create racks and/or display areas where none exist.
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19. The City agrees to distribute a written statement regarding paragraph 18 to all members of the Department via an A-Distribution within 30 days of this Agreement.

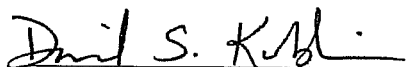
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21. The City shall pay the total amount of \$ 20,000.00 to Phillip Letten, Ken Anderson, and their counsel at the ACLU Fund of Michigan.
22. The Parties agree to the form and content of the proposed order dismissing this Action, attached as Exhibit 4. The proposed order shall be filed upon execution of this Agreement.

Signed and agreed to by:

Jane K. Mills

City of Detroit Law Department
660 Woodward Ave., Ste. 1650
Detroit, MI 48226

DATE: _____



Daniel S. Korobkin
ACLU Fund of Michigan
2966 Woodward Ave.
Detroit, MI 48201

DATE: 10/21/2011

Exhibit 1

First Amendment Training Directive



Detroit Police Department Training Directive

Numbered Directives shall
be retained by all members
Number: 10-04
Date: 11/01/10

SUBJECT: FIRST AMENDMENT RIGHT TO DISTRIBUTE NON-COMMERCIAL PAMPHLETS AND HANDBILLS

This Training Directive is intended to remind members of the department that the First Amendment protects the right of persons in public places to distribute non-commercial handbills and pamphlets. No permit or license is required and there are no statutes or ordinances that limit an individual's right to do so.

Detroit City Code Section 3-2-1 does not apply to non-commercial handbills, circulars, pamphlets or other written material. Section 3-2-1 states:

- a. It shall be unlawful for any person to distribute or cause to be distributed any *commercial* handbills, circulars or advertising cards that solicit patronage for goods, wares, merchandise, services, real estate or any other thing within the Loop or Loop District, which is defined in Section 1-1-2 of this Code as the area bounded on the south by the south line of East Jefferson Avenue and West Jefferson Avenue; on the east by the east line of St. Antoine; on the north by the north line of Columbia Street; and on the west by the west line of First Street.
- b. The provisions of this section *shall not apply to* established newspapers or periodicals *or to noncommercial* circulars, handbills, or cards which do not solicit patronage for profit.

Furthermore, there is no permit or license required to distribute noncommercial handbills or pamphlets.

The First Amendment to the United States Constitution protects, among other things, the right of freedom speech and expression. The United States Supreme Court has repeatedly made it clear that this constitutional right includes written as well as verbal expression. It is of the utmost importance that members understand -- and act in accordance with that understanding -- that the First Amendment protects a freedom of expression without regard to the content of the message or whether an officer or others find it offensive, contemptuous or objectionable.

Questions can be directed to the Police Legal Advisor at 596-2151.

Detroit Police Department

Page 1 of 1

This Training Directive is for internal departmental use only, and violations of the procedures outlined in this Training Directive may form the basis for Departmental administrative sanctions. This document is not intended for third-party use or benefit. No criminal or civil duty or standard of care is intended to be, or is, created by the issuance of this Training Directive.

Exhibit 2

Retaliation Training Directive

SUBJECT: RETALIATION

The First Amendment protects the rights of individuals to verbally oppose, verbally criticize, or verbally question police action without thereby risking arrest or a citation. Although the First Amendment does not protect the right to physically obstruct a police officer or refuse to comply with a lawful police order, verbally opposing, criticizing or questioning police action does not constitute physical obstruction or resistance. These expressions are not criminal and cannot be punished constitutionally.

An individual has the right to question the basis for a police stop, ask for the ordinance underlying a police stop, and express his displeasure with a police stop. This protection extends to expletives and other language that an officer may find annoying or provocative. In the face of such verbal challenges, an officer must exercise a higher degree of restraint than the average citizen.

It is unlawful to arrest or ticket an individual for speech that verbally opposes or verbally questions police action. It is similarly unlawful to retaliate against an individual who verbally opposes or verbally questions police action by arresting or ticketing them for another offense. An officer cannot arrest such an individual for another offense unless the same action would have been taken even in the absence of the speech.

This directive is constitutionally required. It also is in keeping with our Law Enforcement Code of Ethics, in which every officer pledges "to maintain courageous calm in the face of danger, scorn or ridicule; develop self restraint and be constantly mindful of the welfare of others."

Exhibit 3

Loitering Training Directive

SUBJECT: LOITERING

Members of the department are reminded that "loitering," by itself, is not a crime, and cannot be the basis for an arrest or an investigative stop.

The Constitution protects the right to loiter or remain in a public place for an innocent purpose, or for no purpose at all. Loitering is not a crime in itself and cannot be punished constitutionally. Merely being present in an area where illegal activity is taking place or tends to take place is not illegal.

Section 38-1-3 of the Detroit City Code provides:

It shall be unlawful for any person to loiter on any street, sidewalks, overpass or public place. For the purpose of this section, loitering is defined as the act of standing or idling in or about any street, sidewalk, overpass or public place ***so as to hinder or impede or tend to hinder or impede the passage of pedestrians or vehicles.***

No violation of section 38-1-3 occurs unless the person is engaged in conduct that hinders or impedes, or tends to hinder or impede, pedestrian or vehicle traffic. The act of standing or idling in or about a public place is not, by itself, a loitering offense.

Section 38-11-6 of the Detroit City Code provides:

A person shall not ***knowingly remain*** in any building, apartment, store, automobile, boat, boathouse, airplane, or any other place where any controlled substance is illegally sold, dispensed, furnished, given away, stored, or kept ***with the intent to unlawfully use or possess such controlled substance.***

No violation of section 38-11-6 occurs unless the person knows of a drug offense in that place *and* intends to commit a drug offense. Merely being present in a place where a drug offense occurs is not illegal.

Because loitering by itself is not a criminal offense, it does not give rise to the "reasonable suspicion" required to justify an investigatory stop. The reasonable suspicion standard is not satisfied merely by loitering in a high-crime area or near a place where illegal activity occurs. To justify an investigatory stop for loitering, there must be reasonable suspicion of unlawful conduct, purpose, or intent on the part of the person being stopped.

Exhibit 4

Stipulated Order of Voluntary Dismissal

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PHILLIP LETTEN, et al.,

Plaintiffs,

vs.

SCOTT HALL, et al.,

Defendants.

Hon. Avern Cohn

Case No. 10-cv-12182

STIPULATED ORDER OF VOLUNTARY DISMISSAL

A settlement having been reached in this matter, and the parties having stipulated to this order by and through counsel, it is hereby ORDERED that this case is DISMISSED WITH PREJUDICE.

Dated:

/s/ _____
Hon. Avern Cohn
United States District Judge

Stipulated to by:

/s/ _____
Jessie J. Rossman
Daniel S. Korobkin

/s/ _____
Jane K. Mills

Counsel for Plaintiffs

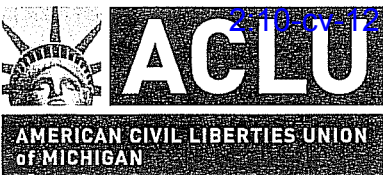
Counsel for Defendants

Dated:

Dated:

Exhibit G

Letter to Mills 11/8/11



State Headquarters
2966 Woodward Avenue
Detroit, Michigan 48201
Phone 313.578.6800
Fax 313.578.6811
Email aclu@aclumich.org
www.aclumich.org

Legislative Office
P. O. Box 18022
Lansing, Michigan 48901
Phone 517.372.8503
Fax 517.372.8503
Email lansing@aclumich.org
www.aclumich.org

November 8, 2011

By Fax Only: (313) 224-5505

Jane Kent Mills
City of Detroit Law Department
660 Woodward Ave., Suite 1650
Detroit, MI 48226-3535

Re: Letten v. Hall and Anderson v. Peoples

Dear Ms. Mills:

Following our telephone conversation today, this is to confirm that you will sign and return the settlement agreement to me by the end of this week.

When I receive the fully executed settlement agreement I will stipulate to an order dismissing the case with prejudice.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel S. Korobkin". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Daniel S. Korobkin

Exhibit H

Letter to Mills 11/23/11



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ACLU

AMERICAN CIVIL LIBERTIES UNION
of MICHIGAN

State Headquarters

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Detroit, MI 48201-3035
Phone 313.578.6800
Fax 313.578.6811
Email aclu@aclumich.org
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Legislative Office

P. O. Box 18022
Lansing, MI 48901-8022
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West Michigan Regional Office

89 Ionia NW, Suite 300
Grand Rapids, MI 49503
Phone 616.301.0930
Fax 616.456.1450
Email aclu@aclumich.org
www.aclumich.org

November 23, 2011

By Fax and First Class Mail

Jane Kent Mills
City of Detroit Law Department
660 Woodward Ave., Suite 1650
Detroit, MI 48226-3535

Re: Letten v. Hall and Anderson v. Peoples

Dear Ms. Mills:

On October 25—four weeks ago—I sent you my clients' signed releases in the above-captioned case(s) on the condition that you would promptly sign our settlement agreement and return it to me in the stamped envelope I provided. On Tuesday, November 8, we spoke on the phone and you agreed that you would sign the settlement agreement and return it to me by Friday, November 11. Two weeks have passed since we spoke, and I have yet to receive it.

We reached a final agreement in this case in early April, over seven months ago. A delay this long is unjustified. As City Council has approved the settlement and my clients have completed and signed all the forms and releases you required of them, there is absolutely no reason for further delay.

Accordingly, please sign our settlement agreement, return it to me immediately, and take the appropriate steps to ensure that the City of Detroit carries out its obligations pursuant to that agreement. If you are unable or unwilling to do so, I will have little choice but to seek court-ordered enforcement of our agreement, sanctions, and attorney's fees. I trust such a drastic measure will be unnecessary.

Thank you for making this a top priority.

Very truly yours,

Dan Korobkin



Exhibit I

Green v. City of Detroit

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARCON GREEN and
HAROLD McKINNEY,

Plaintiffs,

Case No. 09-11589

v.

HON. LAWRENCE ZATKOFF

CITY OF DETROIT, a municipal corpora-
tion, MICHAEL OSMAN, and MICHAEL
PARISH, jointly and severally,

Defendants.

NOTICE TO APPEAR AND SHOW CAUSE

AT A SESSION of said Court, held in the
United States Courthouse, in the City of Port Huron,
State of Michigan, on the 29TH day of June, 2011

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

On March 10, 2011, following an extensive period of discovery and the opportunity for the parties to file dispositive and other motions, the Court conducted a Final Pre-trial Conference in this case. At that time, Eric Frey (co-counsel for both Plaintiffs) and John Schapka (counsel for all Defendants) discussed settling the case, but the parties did not reach any agreement. On March 11, 2011, in an e-mail authored by Gerald Posner (co-counsel for Plaintiffs) and copied to Mr. Schapka, the Court was notified that a settlement had been reached with respect to all claims before this Court. The e-mail also indicated that the City Council for the City of Detroit ("City Council") would need to approve the settlement on behalf of Defendants.

The Court has been advised that Mr. Schapka submitted all necessary paperwork to City Council on March 31, 2011. On two occasions since March 31, 2011 (specifically, May 4, 2011 and June 7, 2011), the Court emailed Mr. Posner and Mr. Schapka to inquire about the status of the settlement, specifically, whether City Council had approved (or rejected) the proposed settlement. On both occasions, the Court was informed that the settlement is being held up by members of City Council or, more specifically, members of the Internal Operations Sub-Committee, a three-member subsection of City Council, because of concerns regarding indemnification related to Defendant Michael Osman and Defendant Michael Parish. The Court also has been advised that these delays have “become a common problem with [City of Detroit] police department cases[.]” At no time has anyone even provided the Court with a date by or upon which City Council will begin to consider (let alone approve or reject) the settlement agreed to by Plaintiffs, counsel for Plaintiffs, the individual Defendants and counsel for Defendants.

Thus, it appears to the Court that this is a case where:

- (A) Counsel for the Plaintiffs and counsel for Defendants engaged in good faith efforts to reach a reasonable resolution of the claims brought by Plaintiffs;
- (B) Counsel for Plaintiffs and counsel for Defendants promptly set forth the terms of the settlement in written documents, and counsel for Defendants promptly submitted such settlement documents to City Council;
- (C) Approval of the settlement documents by City Council is a necessary step to resolving and closing this case;
- (D) Approval of City Council is the only remaining task required for formal settlement of this case (or, in the alternative, rejection of the settlement by

City Council will enable the Court to set this case for trial, as all pre-trial proceedings are complete);

- (E) City Council has taken no action with respect to the proposed settlement, even though Mr. Schapka provided City Council with the proposed settlement nearly three months ago;
- (F) City Council and/or its Internal Operations Sub-Committee does not have a scheduled date upon which the proposed settlement will even be considered (to say nothing of approved or rejected);
- (G) City Council has been and continues to be deliberately indifferent to taking any action with respect to considering - and approving or rejecting - the proposed settlement; and
- (H) City Council's deliberate indifference has had, and will continue to have, a significant detrimental effect on: (a) the economy and efficiency of the judicial system, generally,¹ and this Court, specifically, (b) the rights and interests of the Plaintiffs to this action, (c) the rights and interests of Defendants Osman and Parish, (d) the rights and interests of the residents of the City of Detroit, and (e) the rights and interests of the many non-residents of the City of Detroit who pay taxes to the City of Detroit.

¹The Court notes that this is not the only recent case where City Council has been egregiously dilatory in approving a settlement for a case that stemmed from alleged misconduct by City of Detroit police officers. *See Anderson v. Gaines, et al.*, No. 09-11193 (Docket #29, March 7, 2011) (Order imposing sanctions against the City of Detroit in the amount of approximately \$20,000 in a case settled for about \$25,000 because City Council failed to approve/reject a settlement for many months after the settlement was submitted to City Council).

Based on: (a) the deliberate indifference of City Council to take action with respect to the proposed settlement submitted to it nearly three months ago, and (b) the broad repercussions such inaction has with respect to specific members of this community, the members of this community as a whole, and the judicial system, the Court finds it necessary to fashion a means of facilitating a prompt resolution of this case.

Now, therefore, for the reasons set forth above and for the purpose of prompting resolving this case, the Court hereby ORDERS that:

- (1) All members of the City Council shall appear before the Court at 9:30 a.m. on Tuesday, July 26, 2011, in the Federal Building and U.S. Courthouse, 526 Water Street, Port Huron, Michigan, 48060, for a hearing regarding the manner of resolving this case;
- (2) At 9:30 a.m. on Tuesday, July 26, 2011, all members of the City Council shall be prepared to show cause before the Court why: (i) the City of Detroit; (ii) City Council as a whole; and/or (iii) certain members of City Council should not be sanctioned for failure to take timely action with respect to the proposed settlement of this case, a proposed settlement that City Council has had in its possession for nearly three months;
- (3) Counsel for Plaintiffs, the Plaintiffs, counsel for Defendants and the individual Defendants shall appear before the Court at 9:30 a.m. on Tuesday, July 26, 2011, in the Federal Building and U.S. Courthouse, 526 Water Street, Port Huron, Michigan, 48060, for a hearing regarding the manner of resolving this case;
- (4) At the conclusion of the hearing, absent a formal settlement entered on the record,

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(i) a firm trial date for this case shall be scheduled; and (ii) no settlement shall be accepted by the Court, except upon the imposition of such sanctions as the Court deems necessary and appropriate;

(5) Counsel for Defendants shall immediately provide the individual Defendants and every member of City Council with a copy of this Notice to Appear and Show Cause; and

(6) Counsel for Plaintiffs shall immediately provide the Plaintiffs with a copy of this Notice to Appear and Show Cause.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: June 29, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on June 29, 2011.

s/Marie E. Verlinde

Case Manager

(810) 984-3290

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARCON GREEN and
HAROLD McKINNEY,

Plaintiffs,

Case No. 09-11589

v.

HON. LAWRENCE ZATKOFF

CITY OF DETROIT, a municipal corpora-
tion, MICHAEL OSMAN, and MICHAEL
PARISH, jointly and severally,

Defendants.

ORDER

AT A SESSION of said Court, held in the
United States Courthouse, in the City of Port Huron,
State of Michigan, on the 22nd day of July, 2011

**PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE**

On the morning of July 22, 2011, the Court issued an Order Adjourning Order to Appear, wherein the Court granted Defendants' motion to adjourn a show cause hearing scheduled for July 26, 2011, to July 28, 2011. In early afternoon of July 22, 2011, counsel for Defendants communicated to the Court that the Detroit City Council had approved the \$50,000 settlement in this case that had been approved by all counsel, the Plaintiffs and the individual defendants on or about March 11, 2011. In other words, Detroit City Council finally approved a settlement that had been pending for approximately four months while in the hands of Detroit City Council, subject only to approval by the Detroit City Council.

As the Detroit City Council's approval of the settlement resolves this matter, the Court shall

not require the members of Detroit City Council to appear before the Court on July 28, 2011, to show cause why Detroit City Council had not taken action to approve or reject the settlement submitted to them on March 31, 2011. Accordingly, the Court ORDERS that neither the members of Detroit City Council, Plaintiffs, named Defendants or counsel for either party need appear before the Court on July 28, 2011, as set forth in the Order Adjourning Order to Appear (Docket #41). In order to be clear, however, all such persons are notified that the Order to Show Cause issued to the members of Detroit City Council is not being dismissed at this time.

As Detroit City Council took nearly four months to approve such settlement and Plaintiffs and Plaintiffs' counsel have been awaiting payment of the \$50,000 settlement amount for more than four months, however, the Court concludes that prompt payment of the \$50,000 settlement to Plaintiffs and Plaintiffs' counsel is not only warranted but also necessary to satisfy the interests of justice. Accordingly, the Court hereby ORDERS that Defendants pay Plaintiffs (and Plaintiffs' counsel, as appropriate) the aggregate sum of \$50,000 on or before August 2, 2011.

Upon receipt of such amount by Plaintiffs (and/or Plaintiffs' counsel), the parties shall prepare a stipulation and proposed order dismissing this cause of action, with prejudice, and submit such stipulation and proposed order of dismissal to the Court. The Court FURTHER ORDERS that the parties submit such stipulation and proposed order of dismissal, with prejudice, to the Court on or before August 9, 2011.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: July 22, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on July 22, 2011.

S/Marie E. Verlinde

Case Manager

(810) 984-3290

Exhibit J

Anderson v. Gaines

2:09-cv-11193-VAR-DAS Doc # 25 Filed 12/16/10 Pg 1 of 6 Pg ID 88

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONICA ANDERSON, Individually,
And JOHN BLOUNT, By his Next Friend
Lamonica Anderson
Plaintiffs,

Case No. 2:09cv 11193
Hon. Victoria A. Roberts

V

DETROIT POLICE OFFICERS BASHAWN GAINES,
SAMUEL GALLOWAY, ANNE MOTT
ALEXANDER ROTHs and OFF. MAZINSKI
in their individual capacities, and CITY OF DETROIT,
a municipal corporation,
Defendants,

KENNETH D. FINEGOOD P36170
KENNETH D. FINEGOOD, P.L.C.
Attorney for Plaintiff
29566 Northwestern Hwy, Suite 120
Southfield, MI 48034
248-351-0608
Fax: 248-359-2997

JERRY ASHFORD (P-47402)
Attorney for Defs City of Detroit et al
600 Woodward Ave.,
1650 First National Building
Detroit, MI 48226
313-224-4550

MOTION TO ENFORCE SETTLEMENT AND
ENTER JUDGMENT IN FAVOR OF PLAINTIFF

Plaintiffs, through their attorney Kenneth D. Finegood, P.L.C. moves this Honorable Court to issue its order enforcing the settlement agreement previously entered into between plaintiff and defendant and to enter judgment thereon, as follows:

1. This is a police misconduct case settled by agreement of counsel on July 19, 2010 as a result of a facilitative mediation conducted by Magistrate Donald Scheer, in the amount of \$25,000.00, to be paid in favor of plaintiffs in exchange for a full and final release.
2. That the terms of the settlement were set forth in open court on July 1, 2010.
3. That undersigned counsel was informed that the settlement agreement was referred to

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the Detroit City Counsel for approval on or about September 21, 2010.

4. That undersigned counsel was informed that the settlement agreement was resubmitted to the Detroit City Council on or about October 29, 2010.

5. That as of the date of filing this motion, defendant has failed or refused to provide settlement documents, issue a settlement draft and has been unable to provide plaintiff with a "date certain" for receipt of the settlement proceeds, despite numerous calls to the City of Detroit Law Department.

6. That plaintiff sought concurrence of counsel by telephone conference on December 16, 2010 , and said concurrence was denied.

7. In accordance with the authority cited in the attached brief in support of this motion, this Court is empowered to enforce the settlement agreement by way of entry of judgment and may assess reasonable costs and fees incurred by plaintiff in having to bring the instant motion.

WHEREFORE, plaintiff prays as follows:

- A. That this Court enforce the parties' settlement agreement by way of Judgment in favor of plaintiff and against defendants in the amount of \$25,000.00 and
- B. That defendants be assessed costs in the sum of \$1,020.00 for costs and attorney fees in bringing this motion, plus per diem sanctions in the amount of \$250.00 per day for each day that the settlement/judgment remains unpaid and
- C. Such other and further relief as this Court deems appropriate.

S/ Kenneth D. Finegood
Kenneth D. Finegood, P.L.C.
29566 Northwestern Hwy Ste 120
Southfield, MI 48034
248-351-0608
KDFesq44@AOL.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONICA ANDERSON, Individually,
And JOHN BLOUNT, By his Next Friend
Lamonica Anderson
Plaintiffs,

Case No. 2:09cv 11193
Hon. Victoria A. Roberts

V

DETROIT POLICE OFFICERS BASHAWN GAINES,
SAMUEL GALLOWAY, ANNE MOTT
ALEXANDER ROTHs and OFF. MAZINSKI
in their individual capacities, and CITY OF DETROIT,
a municipal corporation,
Defendants,

KENNETH D. FINEGOOD P36170
KENNETH D. FINEGOOD, P.L.C.
Attorney for Plaintiff
29566 Northwestern Hwy, Suite 120
Southfield, MI 48034
248-351-0608
Fax: 248-359-2997

JERRY ASHFORD (P-47402)
Attorney for Defs City of Detroit et al
600 Woodward Ave.,
1650 First National Building
Detroit, MI 48226
313-224-4550

**BRIEF IN SUPPORT OF MOTION TO ENFORCE SETTLEMENT AND ENTER
JUDGMENT IN FAVOR OF PLAINTIFF**

This is a police misconduct matter involving allegations of excessive force against defendant Detroit police officer occurring August 20, 2008. Parties appeared for facilitative mediation on July 19, 2010 and agreed to a full and final settlement in the amount of \$25,000.00 in favor of plaintiff subject to City Counsel approval. Terms of the settlement were set forth on the record in open court before the Honorable Donald Scheer. Despite this matter having been submitted and resubmitted for City Counsel approval, defendant has failed to provide settlement documents or provide information regarding when a settlement draft will be forthcoming.

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Despite multiple calls to the City Law Department regarding status of the settlement draft, no information has been forthcoming upon when settlement funds will be forthcoming.

It is well established that courts retain the inherent power to enforce agreements entered into in settlement of litigation pending before them. *Aro Corp. v. Allied Witan Co.*, 531 F.2d 1368, 1371 (6th Cir. 1976). In fact, a district court has the inherent power to enforce an agreement entered into in settlement of pending litigation even if that agreement has not been reduced to writing. *Bowater N.Am. Corp. v. Murray Machinery*, 773 F.2d 71, 77 (6th Cir. 1985).

Before enforcing a settlement, a district court must conclude that agreement has been reached on all material terms. *Brock v. Scheuner Corp.*, 841 F.2d 151, 154 (6th Cir. 1988). “The court must enforce the settlement as agreed to by the parties and is not permitted to alter the terms of the agreement.” *Brock*, 841 F.2d at 154.

“The power of a trial court to enter a judgment enforcing a settlement agreement has its basis in the policy favoring the settlement of disputes and the avoidance of costly and time consuming litigation.” *Kukla v. National Distillers Prodcs., Co.*, 483 F.2d 619, 621 (6th Cir. 1973). Such a judgment is in the nature of a consent judgment. *Id.*; see also *Re/MaxInternational, Inc.*, 271 F.3d at 650 (“Once concluded, a settlement agreement is as binding, conclusive, and final as if it had been incorporated into a judgment.”).

The United States Supreme Court, in *Kokkonen v Guardian Life Insurance Co of America*, 511 US 375, 378, 114 S Ct 1673, 128 L Ed. 2d 391 (1994), indicated that, “when dismissal of a case is pursuant to FRCP 41(a)(2)... the parties’ compliance with the terms of the settlement contract (or the court’s “retention of jurisdiction” over the settlement contract), may, in the court’s discretion, be one of the terms set forth in the order.”

The 6th Circuit has long approved summary enforcement of settlement agreements "in order to promote the . . . speedy and reasonable resolution to disputes," *Bobonik v Medina Gen*

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Hosp, 126 FApp'x 270, 273 (6th Cir 2005) (citing *Aro Corp v Allied Witan Co*, 531 F2d 1368, 1372 (6th Cir 1976)), a benefit that accrues regardless of the source of jurisdiction. Furthermore, a district court may rely on any basis of jurisdiction to summarily enforce a settlement agreement that produced the dismissal of an earlier federal suit. *Limbright v Hofmeister*, 566 F3d 672, 675 (6th Cir Mich. 2009).

This Court has ancillary jurisdiction over the settlement agreement, as it has been incorporated into the Order of this Court. In *Kokkonen*, the Supreme Court recognized that one of purposes of the federal courts' ancillary jurisdiction is "to enable a court to function successfully, that is, to manage its proceedings, vindicate its authority, and effectuate its decrees." *Id.* at 379-80. The *Kokkonen* Court also held that a district court may, on motion by a party and without the filing of a new suit, summarily enforce a settlement agreement if the court has ancillary jurisdiction over the breach claim. *Id.*

Here the parties placed their agreement on the record in open court, almost five months ago. This Honorable Court has issued its order to plaintiff to show cause why this matter should not be dismissed.

Where as here, a party to the settlement fails to perform, the court may enter a judgment encompassing the settlement terms, *Re/MaxInternational, Inc., supra*. The court also has the inherent power to award sanctions against defendants by reason of their delay and the attendant cost and inconvenience visited upon plaintiff as a result.

CONCLUSION AND RELIEF REQUESTED

It is undisputed that the parties entered into a binding settlement agreement, whereby defendants agreed to pay plaintiff \$25,000.00. Defendants, however have delayed payment beyond a reasonable time. Under the authority cited above, this court has the inherent power to

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enforce the settlement agreement by way of entry of judgment. The court also has the authority to impose sanctions on defendants for failing to promptly honor their agreement.

WHEREFORE, plaintiff prays as follows:

D. That this Court enforce the parties' settlement agreement by way of Judgment in favor of plaintiff and against defendants in the amount of \$25,000.00 and

E. That defendants be assessed costs in the sum of \$1,000.00 for costs and attorney fees in bringing this motion, plus per diem sanctions in the amount of \$250.00 per day for each day that the settlement/judgment remains unpaid after January 1, 2011.

F. Such other and further relief as this Court deems appropriate.

S/ Kenneth D. Finegood
Kenneth D. Finegood, P.L.C.
29566 Northwestern Hwy Ste 120
Southfield, MI 48034
248-351-0608
KDFesq44@AOL.com
(P36170)

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2010 I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Jerry L. Ashford (P-47402)
660 Woodward, Ste. 1650
Detroit, MI 48226
313-237-3089
ashfj@detroitmi.gov

S/ Kenneth D. Finegood
Kenneth D. Finegood, P.L.C.
29566 Northwestern Hwy Ste 120
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248-351-0608
KDFesq44@AOL.com
(P36170)

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONICA ANDERSON, Individually
and JOHN BLOUNT, By his Next Friend
Lomonica Anderson,

Plaintiffs,

vs

Case No: 09-11193
Honorable Victoria A. Roberts

DETROIT POLICE OFFICERS BASHAWN
GAINES, ET AL,

Defendants.

_____ /

ORDER GRANTING MOTION

On Friday, March 4, 2011, the Court held oral argument on Plaintiffs' Motion to Enforce Settlement and Enter Judgment in Favor of Plaintiffs.

Plaintiffs' Motion is **GRANTED**. The Court will enter a Judgment in favor of Plaintiffs in the amount of \$25,000.00.

This matter is dismissed. The Court retains jurisdiction for the limited purpose of enforcing the terms of the settlement agreement.

IT IS ORDERED.

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: March 7, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on March 7, 2011.

s/Carol A. Pinegar

Deputy Clerk

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONICA ANDERSON, Individually
and JOHN BLOUNT, By his Next Friend
Lomonica Anderson,

Plaintiffs,

vs

Case No: 09-11193
Honorable Victoria A. Roberts

DETROIT POLICE OFFICERS BASHAWN
GAINES, ET AL,

Defendants.

_____ /

JUDGMENT

Consistent with the Order Granting Motion to Enforce Settlement and Enter
Judgment in Favor of Plaintiffs,

IT IS ORDERED that Judgment is entered in favor of Plaintiffs in the amount of
\$25,000.00.

Dated at Detroit, Michigan on March 7, 2011.

David J. Weaver
Clerk of the Court

Approved:

BY: S/Carol A. Pinegar

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONICA ANDERSON, Individually
and JOHN BLOUNT, By his Next Friend
Lomonica Anderson,

Plaintiffs,

vs

Case No: 09-11193
Honorable Victoria A. Roberts

DETROIT POLICE OFFICERS BASHAWN
GAINES, ET AL,

Defendants.

_____ /

ORDER AWARDING SANCTIONS

On March 4, 2011, the Court held oral argument on Plaintiffs' Motion to Enforce Settlement and Enter Judgment in Favor of Plaintiffs.

For the reasons stated on the record, it is ordered that the City of Detroit pay sanctions in the amount of \$250 per day, for the period beginning on December 6, 2011 through March 4, 2011, as well as \$1,020 for expenses incurred to enforce the settlement. These payments must be made by Friday, April 1, 2011. If the Judgment (see Order dated March 7, 2011) is not paid by April 1, 2011, Plaintiff may file a motion for additional interest and sanctions.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: March 7, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on March 7, 2011.

s/Carol A. Pinegar _____
Deputy Clerk