

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

This Settlement Agreement and Release is made and entered into by and between the following:

“Plaintiff”	MARCELL LEWIS; all other persons at any time named or who should have been joined as Plaintiffs in the Lawsuit, but were not; and all of the heirs, executors, administrators, successors, and assignees of the foregoing persons ;
	and
“Defendants”	CITY OF ANTIOCH; and all of their agents, representatives, insurers, employees, all police/law enforcement officers, attorneys, successors, assigns, council/Board members, and all other persons, in privity with them or any one of them, jointly and/or severally.

RECITALS

- A. Plaintiffs filed a Complaint on September 12, 2024 against Defendants in the United District Court, Northern District of California, Case Number 3:23-cv-01895-VC (hereinafter, the “Action” or “Lawsuit”), alleging damages as a result of an Incident that occurred on July 3, 2022 where Defendants pulled over Plaintiffs (hereinafter, the “Incident”). Plaintiffs alleged their damages were caused by the conduct of Defendants and sought compensatory damages (the “Claims”).
- B. Defendants have denied and continue to deny all of the allegations made by Plaintiffs, including the Claims, and that Defendants are liable for any of Plaintiffs’ damages.
- C. The Parties desire to enter into this Agreement to provide for certain consideration in full settlement and discharge of all claims which are, or might have been, the subject matter of the Complaint, the Claims and the Action, upon the terms and conditions set forth below; and so as to buy peace between them.

AGREEMENT AND RELEASE OF CLAIMS

NOW, THEREFORE, in consideration of the foregoing, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals: The Parties agree the Recitals set forth above are true and correct and are incorporated into this Agreement.

2. Consideration and Release: Plaintiffs agree to accept the total aggregate sum of \$55,000.00 (fifty-five thousand United States dollars) in full settlement and compromise of their Claims and the Action and agree that such payment shall fully and forever discharge and release all rights, demands, claims and causes of action, and any alleged wrongs or harms or injuries, whether known or unknown, which Plaintiffs have against Defendants regarding the Incident or Action or otherwise, but not by way of limitation, the Claims, the operative Complaint, and any claims which could have been presented in the Action, or which in any way relate to the Incident, or that accrued against any of the Defendants for any wrongs, damages, or injuries purportedly suffered prior to the date of the Plaintiffs' execution of this Release.

3. In exchange for the consideration specified herein above (§ 2), Plaintiffs hereby expressly and irrevocably release and forever discharge each and all of the Defendants, and all of its/their officers, employees, managers, affiliated entities, officials, directors, citizens, successors, assigns, agents, attorneys and representatives (collectively "Defendants' Agents") from any and all claims, lawsuits, litigation, Government Code (tort) claims, and/or claims for damages or compensation of any injuries of any kind by Plaintiffs against any or all of the Defendants which may or do exist as of the date of execution of this Release, including but not limited to all claims which do or could arise from the incident identified in the Recitals, as well as any and all claims arising at law or in equity or otherwise for any and all of any Defendants' acts, omissions, statements, queries, disclosures, or other deeds or conduct or effects in any way arising from such acts or omissions or related to any injuries or harms, known or unknown, to any Plaintiffs.

4. Payment will be paid to the Plaintiffs and their attorneys of record, made payable to "Burris, Nisenbaum, Curry & Lacy, LLP CTA"; and delivered to Burris, Nisenbaum, Curry & Lacy, LLP, 7677 Oakport Street, Suite 1120, Oakland, California 94621.

5. Payment shall be made within 30 days of receipt of plaintiffs' complete and proper execution of this Agreement; or within 30 days of the approval of this settlement by the City Council of defendant City of Antioch, whichever date is later in time; and provided that any required minor's compromise has been approved by the Court. Although the Parties anticipate such approval to be received from such Defendants, the Parties acknowledge that it may take an average of 90 days for such approvals to be provided by the City Council of defendant City of Antioch and/or its insurer.

6. Dismissal. Plaintiffs agree to file with the Court in which the Action is being litigated a Dismissal With Prejudice no later than seven (7) days after the receipt of the payment set forth in Paragraph 2. If there are any pending tort claims, public records requests or freedom of information act requests, or any other claims or disputes or queries pending from Plaintiffs to any of the Defendants, by their execution of this Release, Plaintiffs hereby withdraw, waive with prejudice, and dismiss with prejudice all such pending claims, requests, and queries.

7. Waiver. Plaintiffs represent and agree that prior to the execution and delivery of this instrument, Plaintiffs were aware of the provisions of California Civil Code Section 1542 which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

Plaintiffs waive their rights under California *Civil Code* Section 1542 with respect to the subject matter of the Action, the Claims, and this Agreement.

8. No Admissions. This settlement resolves disputed claims. Defendants disputed, and continue to dispute the Claims and all of plaintiffs’ allegations. This Agreement does not and shall not constitute an admission of wrongdoing, fault, or liability on the part of Defendants.

9. Indemnification. Plaintiffs agree to protect, defend, hold harmless, and indemnify Defendants and their insurers against any and all liens, subrogation claims, and other rights that are or may be asserted by any person or entity against the amount paid in settlement of the Action and the Claims herein. Plaintiffs agree that the Plaintiffs(s) shall be solely responsible for any and all liens in any way associated with this Action or the Incident or Claims at issue therein, and Plaintiffs shall defend, indemnify, and hold harmless the Defendants and the Defendants’ attorneys from and regarding any such liens; including but not limited to any claims brought by any plaintiffs who should have been but were not joined to this Action, including any payments to any and all such unidentified lienholders directly and solely by Plaintiffs. The parties understand and agree that Defendants have no interest in how the aggregate settlement sum specified in paragraph 2, *supra*, is apportioned among Plaintiffs and/or their attorneys, and/or others.

10. No Release From Brown Act Or Legal Obligations. Nothing in this Release or Agreement shall be construed as releasing the City of Antioch from its duties under the Ralph M. Brown Act; and the City of Antioch shall comply with its Brown Act disclosure requirements and other statutory duties in addressing the incident, this settlement, the Action or Claims, or any associated queries.

11. Notwithstanding the foregoing, nothing in this Release shall be construed so as to prohibit any party from answering any lawful and relevant questions about the incident at issue in this Action or Lawsuit in response to a valid subpoena for testimony.

12. Costs. Plaintiffs and Defendants each shall be responsible for the payment of their own costs, attorneys’ fees, and all other expenses in connection with the matters referred to in this Agreement. There is no prevailing party.

13. Enforcement. The Parties agree the terms of this Agreement may be enforced by the Court presiding over the Action, pursuant to California Code of Civil Procedure § 664.6.

14. Each of the Parties hereto agree that this Agreement shall be interpreted, construed, governed, and enforced under and pursuant to the internal laws of the State of California. The parties acknowledge and agree that any party’s violation of the terms of this Release agreement

shall give rise to a private cause or right of action against such party by any party injured or harmed by such breach.

15. The individuals who sign this Agreement represent and warrant they have full power and authority to enter into this Agreement on behalf of the parties on whose behalf they purport to execute this Agreement.

16. This Agreement, and each and every item, covenant and condition hereof shall be binding upon and inure to the benefit of the respective heirs and successors of the respective parties.

17. Minor Plaintiffs. Plaintiffs represents, warrants, and agrees that as to those Plaintiffs who are minors under the age of 18 years, such Plaintiffs-minors are incompetent to sign this Release agreement; however, Plaintiffs further represents, warrants, and agrees that the Court-appointed guardian *ad litem* for such Plaintiffs-minors, is duly authorized, competent, and empowered to enter into a settlement agreement with the Defendants and to execute this Release agreement on behalf of such minor Plaintiffs. The parties (all Plaintiffs and all Defendants) hereby agree that for purposes of enforcement of this Release agreement, the signature and initials of such guardian (if any) on this Release shall be construed as consent to the terms and provisions of this Release agreement by such Plaintiffs-minors.

18. Privilege. All parties and their agents and attorneys acknowledge and agree to abide by the mediation communication privileges including but not limited to California Evidence Code § 1119 *et seq.* and Federal Rules of Evidence 401, 402, 403, 408 *et seq.* to the full extent permitted or required by law.

19. Modification. No modification of this Agreement shall be effective unless made in a writing signed by all Parties.

20. Complete Agreement. This Agreement represents the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior understandings and agreements, whether written or oral. Plaintiffs expressly represents and acknowledges that no statements, representations, or warranties have been made to Plaintiffs by Defendants or any of its/their Agents pertaining to the subject matter, basis, or effect of this Release except as are expressly set forth in this Release.

21. Voluntary Agreement. Plaintiffs represent and agree that Plaintiffs have had an opportunity to carefully read and fully understand all of the provisions of this Release and its final and binding effect, and that each Plaintiff is voluntarily and knowingly entering into this Release. Plaintiffs further represent and acknowledge that (regardless of whether Plaintiffs have exercised that option) Plaintiffs have had an opportunity to be represented by legal counsel of Plaintiffs' own choice throughout all of the negotiations which preceded this Release and in connection with the negotiation, preparation, and execution of this Release. Plaintiffs agree that this Release agreement shall be construed as though all parties have participated equally in its drafting and it shall be interpreted, wherever possible, to make it valid and effective.

22. Severability. If any waiver, term, or provision contained in this Release is determined to be contrary to any applicable law or public policy, such waiver or term or provision shall be effective to the maximum extent permitted by law. If any term, provision, condition or other portion of this Release is determined to be invalid, void, or unenforceable, the same shall not affect any other term, provision, condition or other portion hereof and the remainder of this Release shall remain in full force and effect as if same did not appear herein.

23. Counterparts. The Parties hereto agree this Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and shall be fully effective against all persons executing.

This Settlement Agreement shall become effective immediately following the execution by Plaintiffs.

PLAINTIFF(S):

DocuSigned by:

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MARCELL LEWIS, Plaintiff

4/1/2025
Date

RELEASE APPROVED AS TO FORM BY:

Signed by:

James Cook

4/1/2025

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John Burris, Esq.

Date

Ben Nisenbaum, Esq.

James Cook, Esq.

Katherine MacElhiney

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MARCELL LEWIS, et al.

Tony M. Sain, Esq.

Date

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CITY OF ANTIOCH, et al.