

## **SETTLEMENT AGREEMENT**

**THIS AGREEMENT** is made and entered into by and between Douglas Walgren, as Independent Administrator of the Estate of Corey Walgren (the "Estate"), and Douglas Walgren and Maureen Walgren, Josh Walgren and Shannon Walgren, individually, (the Estate, Douglas Walgren, Maureen Walgren, Josh Walgren and Shannon Walgren, individually, are collectively referred to as the "Walgrens") and the City of Naperville ("City") and Naperville Community Unit School District #203 ("School District") (the Walgrens and the City and School District are sometimes collectively referred to as the "Parties").

### **RECITALS**

**WHEREAS**, the Walgrens filed a lawsuit against the City and one of its employees, Officer Brett Heun, and the School District and two of its employees, Steve Madden and James Konrad (hereinafter collectively the "Defendants") in the U.S. District Court for the Northern District of Illinois, No. 17 CV 4036 (the "Lawsuit"), alleging federal and state law claims stemming from the death of decedent Corey Walgren; and

**WHEREAS**, on January 17, 2019, U.S. District Court Judge Andrea Wood granted Defendants' respective motions to dismiss and dismissed the Litigation, and the Walgrens appealed to the U.S. Court of Appeals for the Seventh Circuit, Case No. 19-1465; and,

**WHEREAS**, the Walgrens have or will voluntarily dismiss Heun, Madden and Konrad from the appeal with prejudice; and,

**WHEREAS**, the Walgrens and the City and School District desire to fully address and resolve any and all remaining claims, demands, or other related issues that were alleged or could have been alleged in the Lawsuit, and to avoid any and all claims or differences which might now or hereafter accrue or arise.

**NOW, THEREFORE**, in consideration of the terms and conditions herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **INCORPORATION OF RECITALS.** The recitals set forth hereinabove are true and correct and are incorporated in this paragraph by this reference.
2. **DISMISSAL WITH PREJUDICE.** The Walgrens shall voluntarily dismiss Heun, Madden and Konrad from the appeal. The Walgrens shall dismiss the appeal with prejudice as to the remaining Defendants with each side bearing their own costs pursuant to Federal Rule of Appellate Procedure 42(b).
3. **COMPENSATION.** The City and School District shall collectively pay to the Walgrens the total gross sum of Two Hundred and Fifty Thousand Dollars and Zero Cents (\$250,000.00), as follows: One Hundred and Twenty Five Thousand Dollars and Zero Cents (\$125,000.00) paid by the City, and One Hundred and Twenty Five Thousand

Dollars and Zero Cents (\$125,000.00) paid by the School District. The payments shall be made upon satisfaction of the conditions set forth in paragraph 4 below.

4. **ORDERS APPROVING SETTLEMENT.** The Walgrens acknowledge and agree that the above payments shall not be made until: (a) each of the Parties have signed and dated this Agreement; (b) the district court or the DuPage County Probate Court has entered an order approving the settlement pursuant to the Probate Act; (c) the entry of an order of the DuPage County Probate Court, pursuant to the Probate Act, approving the distributions to the minors; and, (d) the individual defendants are voluntarily dismissed with prejudice and the appeal is dismissed with prejudice entirely as to the remaining Defendants pursuant to Rule 42(b). The Walgrens shall be responsible at their sole cost and expense for obtaining said orders and making distributions to the minors pursuant to the order and directions of the Probate Court. The Walgrens shall include in any motion or probate court petition or petitions that the Released Parties denied liability and further denied that their actions were the proximate cause of any alleged injuries or damages. The Walgrens further acknowledge that they have or will initiate the appropriate Probate Court proceedings to approve the settlement on behalf of the minor heirs, and that this Agreement is subject to and being executed in accordance with orders of distribution entered by the Probate Court and authorizing Douglas Walgren, as Independent Administrator of the Estate to sign on behalf of the minor heirs. Said orders are incorporated herein by this reference. The Walgrens hereby agree to defend, indemnify, and hold harmless the Released Parties from and against any claims that they or the minor heirs may have relating to the approval of the settlement herein and/or orders of distribution of the settlement proceeds of the Probate Court or pursuant to the Probate Act.

5. **NO ADDITIONAL BENEFITS.** No promise has been made by the City or School District to pay the other any other amounts now or in the future except as set forth in this Agreement. The Walgrens shall not be entitled to any additional benefits from the City or School District other than those specifically set forth in this Agreement.

**6. GENERAL RELEASE OF CLAIMS.**

In consideration of the promises, contained herein, the Walgrens (Douglas, Maureen, Josh and Shannon), for and on behalf of themselves, their heirs, executors, administrators, agents, attorneys, successors and assigns hereby release, discharge and forever free Defendants and their respective members, officers, agents, attorneys, representative, elected officials, administrators, employees, insurers, heirs, successors and assigns, and each and every one of them, including but not limited to Brett Heun, Steve Madden and James Konrad, (collectively, the "Released Parties") from any and all claims, allegations, assertions, debts, dues, demands, liens, obligations, fees (including attorneys' fees), actions or cause of action, of every kind or nature, at law or equity, suits, cross-complaint, damages, , losses, liabilities, sums of money, reckonings, controversies and accounts of whatsoever kind, nature or description, whether known or unknown. liquidated or unliquidated, absolute or contingent, presently existing or existing in the future, of whatever character, suspected or unsuspected, matured or un-matured, that the Walgrens (Douglas, Maureen, Josh and Shannon) had, have or may have against the Released Parties, that in any way relate to or arise out of the death of Corey Walgren or any other fact, matter, or circumstance which is the subject of the Lawsuit, are in any way related to the allegations made in the Lawsuit, or could have been asserted in the Lawsuit.

This release specifically includes, but is not limited to, rights or claims arising under Title IX of the *Education Amendments of 1972*, 20 U.S.C. Sec. 1681 *et seq.*, the *Illinois School Code*, 105 ILCS 5/1 *et seq.*, the *Illinois Human Rights Act*, 775 ILCS 5/1-101, *et seq.*, the *Americans with Disabilities Act of 1990*, 42 U.S.C. Sec. 12101 *et seq.* as amended, *Section 504 of the Rehabilitation Act of 1973*, 29 U.S.C. Sec. 794(a), 42 U.S.C. §1983 and § 1988,



the Illinois and United States Constitutions, Illinois or federal common law, and any other federal, state or local statute, law, ordinance, regulation or order. This General Release does not include any claims arising from an alleged breach of the terms of this Agreement. The Walgrens covenant never to institute or cause to be instituted, or assist in the institution of, any suit or action at law, equity, or otherwise, in any federal or state court, before any federal, state or local administrative agency, or before any tribunal, public or private, relating to or arising from any claim that has been released hereunder.

7. **RELEASE OF LIEN(S).** In addition to the general release of claims set forth in Paragraph 5 above, the Walgrens and their heirs, agents, representatives, successors and assigns, hereby agree to pay any and all outstanding liens of any kind that may exist, including but not limited to attorneys, former attorneys, physicians, hospitals, Medicare, Medicaid, and any and all other healthcare providers, from the total amount paid hereunder and further agree to defend, indemnify and forever hold harmless the Released Parties from any and all such lien or liens.
8. **CONTRACTUAL CAPACITY.** The Walgrens acknowledge that they have entered into this Agreement voluntarily and knowingly and with the full and complete authority and contractual capacity to do so. The Walgrens acknowledge that they have been provided the opportunity to consult with an attorney prior to executing this Agreement and have had ample opportunity to review its terms.
9. **EFFECTIVE DATE.** The Walgrens acknowledge that this Agreement shall become effective upon the date they sign this Agreement, or upon the date on which the City and School District sign this Agreement, whichever is later.
10. **COMPLETE UNDERSTANDING.** This Agreement sets forth all of the promises, agreements, conditions and understandings between the Walgrens and the City and School District relative to the subject matter hereof and no other promises, agreements or understandings whether oral or written, expressed or implied exist between them.
11. **AMENDMENTS.** No provisions or requirements expressed in this Agreement may be altered, modified, changed or canceled after the effective date of this Agreement, except upon the express written consent of the Walgrens, City and School District.
12. **EFFECT OF AGREEMENT.** This Agreement shall inure to the benefit of and bind the Walgrens, City and School District and their heirs, executors, agents, representatives, assigns and successors.
13. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of Illinois.
14. **EXECUTION.** This Agreement may be executed in multiple counterparts, and a set of counterparts bearing the signatures of each party hereto shall constitute the Agreement as fully as if the parties had signed a single document. The parties shall accept facsimile or electronic copies of this Agreement as if original copies.

15. **NO ADMISSION OF LIABILITY.** This Agreement shall not in any way be construed or used as an admission of any wrongdoing or liability of any kind or nature by the Released Parties, the same being denied. This Agreement shall not serve as evidence or notice of any wrongful or unconstitutional conduct by or on the part of the Released Parties in any court or other proceeding of any kind. The Walgrens acknowledge and agree that this settlement is being made solely to avoid the uncertainty and expense of litigation and to buy the peace between the parties.
16. **SEVERABILITY.** Should any provision of the Agreement be declared illegal by a court of competent jurisdiction, then said provision shall be deleted from this Agreement to the extent it violates the law, and the remaining provisions in this Agreement shall remain in full force and effect so long as the parties' intent in entering into this Agreement can still be met.
17. **NON-PRECEDENTIAL EFFECT.** The terms of this Agreement are non-precedential, and this Agreement will not be used for any purpose other than to resolve this dispute.

IN WITNESS WHEREOF, Douglas Walgren, as Independent Administrator of the Estate of Corey Walgren, and Douglas Walgren and Maureen Walgren, individually, the City of Naperville, and the Naperville Community Unit School District #203 have approved and executed this Agreement on the dates indicated below.

DOUGLAS WALGREN, AS INDEPENDENT ADMINISTRATOR  
OF THE ESTATE OF COREY WALGEN

Douglas Walgren

Date: 8-23-2019

DOUGLAS WALGREN, INDIVIDUALLY

Douglas Walgren

Date: 8-23-2019

MAUREEN WALGREN, INDIVIDUALLY

Maureen Walgren

Date: 8/23/19

DOUGLAS WALGREN on behalf of his  
minor son, JOSH WALGREN

Dough Walgren

Date: 8-23-2019

DOUGLAS WALGREN on behalf of his  
minor daughter, SHANNON WALGREN

Dough Walgren

Date: 8-23-2019

CITY OF NAPERVILLE

By: \_\_\_\_\_

Date: \_\_\_\_\_

NAPERVILLE COMMUNITY UNIT SCHOOL DISTRICT #203

By: \_\_\_\_\_

Date: \_\_\_\_\_