

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**FILED**

**FEB 24 2009**

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

ANITA BROWN,

Plaintiff,

v.

THE COMMUNITY PARTNERSHIP FOR THE  
PREVENTION OF HOMELESSNESS

and

FAMILIES FORWARD

Defendants.

Case: 1:08-cv-01166 (ESH)

**SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release ("Settlement Agreement") is entered into by Anita Brown on her behalf and on behalf of her minor children, B.B. and T.B. ("Plaintiff") and The Community Partnership for the Prevention of Homelessness ("TCP") and Families Forward ("Defendants"). Together, the Plaintiff and the Defendants will be referred to as the "Parties."

WHEREAS, Plaintiff has alleged that the Defendants discriminated against her on the basis of her disability while she and her minor sons resided at the New Beginnings Shelter located at 1448 Park Road N.W., Washington D.C. 20010 and the Community of Hope Shelter located at 1413 Girard Street, N.W., Washington D.C. 20009;

WHEREAS, Plaintiff has alleged that the Defendants had provided her homeless shelter in a negligent manner, resulting in physical and other injuries;

WHEREAS, Plaintiff has made these allegations in a complaint filed with the District of Columbia Office of Human Rights and the U.S. Department of Housing and Urban Development on January 25, 2007 and in the above-captioned complaint filed with the United States District Court for the District of Columbia (“the Complaint”);

WHEREAS, the United States Department of Justice and the District of Columbia entered into a Settlement Agreement, denominated DJ#204-16-96 (December 10, 2008) (hereinafter the “DOJ Settlement Agreement”);

WHEREAS, the DOJ Settlement Agreement contemplates future implementation of Interim and Comprehensive physical access plans for the shelter program, changes to or refinements of the process by which reasonable modification requests are made and decided, direction to and oversight of contractors and subcontractors that provide services for the shelter program, and enhancements to the training of shelter staff by the Office of Disability Rights;

WHEREAS, the Defendants deny liability, but wish to resolve the disputes between and among the Parties;

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein, the sufficiency of which are hereby acknowledged, the Parties agree to the following:

#### DEFINITIONS

A. “Shelter” means “severe weather shelter,” “low barrier shelter,” and “temporary shelter” as those terms are defined in the Homeless Services Reform Act of 2005, D.C. Code § 4-751.01.

B. “Shelter Program” means the services, programs, and activities for Shelter residents provided by the District of Columbia through contractual arrangements with TCP and its contractors.

C. "Shelter Staff" means individuals who (a) provide services directly to individuals and families seeking Shelter and/or (b) administer the Shelter Program.

#### MONETARY PROVISIONS

1. No later than fifteen (15) calendar days after the Effective Date of Settlement, the Defendants shall make a total payment of \$35,000.00 in settlement of all claims as provided below to Wesley Vinner Memorial Trust (hereafter "Special Needs Trust"), FBO Anita Brown, and sent to Shared Horizons, Inc., ATTN: Vinner Memorial Trust, 5335 Wisconsin Avenue, N.W., Suite 910, Washington, D.C. 20015.

2. In the event that the Defendants do not make payment of the settlement amount to the Special Needs Trust on behalf of the Plaintiff within fifteen (15) calendar days after the Effective Date of Settlement, the Defendants shall be obligated to pay the Plaintiff interest (payable to the Special Needs Trust) upon the settlement amount beginning the sixteenth day after the Effective Date of Settlement at the rate of 8% per annum.

3. Of the settlement amount, \$8,333.33 represents payment to Anita Brown on account of claims for personal physical sickness, personal physical injuries, and emotional distress arising from such sickness/injuries, together with medical expenses (other than medical expenses that are attributable to and not in excess of deductions allowed under Section 213 of the Internal Revenue Code for any prior taxable year).

4. The Parties acknowledge and agree that the foregoing allocation and manner of payment represents a good-faith allocation and agreement between the Parties dealing at arm's length.

5. In consideration of the payment set forth in Paragraphs 1 through 4 herein, Plaintiff, on her behalf and on behalf of her minor sons and her attorneys, successors and assigns

does hereby release and discharge the Defendants, and their respective officers and employees from any claims, causes of action, demands and damages of any kind, relating to any allegations brought forth in the Complaint, and any other matter whatsoever through the Effective Date of this Settlement Agreement, with the exception of the Defendants' policy modifications obligations, set forth in Paragraphs 6-14 herein.

NON-MONETARY PROVISIONS

Matters Unrelated to the December 10, 2008 DOJ Settlement Agreement

6. On or before February 27, 2009, the Defendants will provide Plaintiff, through counsel, draft protocols and any implementing draft rules or forms covering the following subject matters, consistent with the purposes listed in Paragraph 7:

a. the circumstances and procedures whereby Shelter Staff, including Families Forward, may enter into Shelter units within TCP's control, must provide advance notice of such entry to the occupant and must report entry if advance notice was not possible due to exigent circumstance;

b. the control of Shelter unit keys by Shelter Staff and their contractors, including Families Forward;

c. the receipt and secure delivery of articles to occupants;

d. the cleaning of Shelter units following departure of occupants;

e. the confidentiality of records and information provided to Shelter Staff, including Families Forward.

7. The purposes and objectives of the protocols listed in paragraph 6 are as follows:

- a. to limit the entry of Shelter Staff into Shelter units unless there is a compelling need to access these units and to afford residents reasonable advance notice of such entry;
- b. to limit the access and availability of keys to those members of the Shelter Staff who have a legitimate need for them;
- c. to minimize opportunities for theft and loss of property intended for Shelter residents;
- d. to ensure that Shelter units are in a clean condition before new residents move into them;
- e. to ensure that unauthorized Shelter Staff do not have access to private and confidential information regarding Shelter residents and that those authorized to have such information treat it confidentially.

8. Within fifteen (15) business days after receipt of these draft protocols, Plaintiff will provide Defendants written comments, questions and proposed modifications and, if appropriate, a request to meet personally or by tele-conference to discuss them. Defendants will, in good faith, consider the Plaintiff's written submission and will promptly convene a meeting or tele-conference if requested by Plaintiff.

9. Within fifteen (15) business days after receipt of Plaintiff's written submission or subsequent meeting, whichever is later, Defendants will furnish to Plaintiff, through counsel, final protocols on the subjects listed in Paragraph 6.

Matters Related to the December 10, 2008 DOJ Settlement Agreement

10. Unless the implementation of the December 10, 2008 DOJ Settlement Agreement prohibits or otherwise precludes them, Defendant TCP agrees to the following changes or clarifications to its reasonable modification policies and procedures:

- a. TCP will modify all of its reasonable accommodation forms and correspondence and other forms and correspondence it uses, if any, that propose to take adverse actions against Shelter applicants and residents to include information about the right to request reasonable modifications of policies or procedures and how to effectuate that right;
- b. TCP's shelter housing provider will prepare a log when a reasonable modification request ("RMR") is made and will record each entry reflecting steps taken to process the request, initialed and dated by the applicant or designee making the request;
- c. TCP's shelter housing provider will notify the applicant or designee within forty-eight (48) hours of receipt if the RMR is complete or incomplete;
- d. If the RMR is incomplete, TCP's shelter housing provider will inform the applicant or designee of what information or documentation is needed to complete the RMR;
- e. Once the RMR is complete, TCP's shelter housing provider will immediately date-stamp the RMR, provide a copy to the applicant or designee and fax the RMR to TCP;
- f. Seven (7) calendar days thereafter, and continuing weekly, TCP's shelter housing provider will notify the applicant or designee of the status of their RMR; the status will be noted in the log and initialed by the applicant or designee;
- g. If TCP's shelter housing provider intends to deny the RMR in whole or in part, it will seek final approval to do so from TCP;

h. If TCP's shelter housing provider concludes that the RMR should be granted, but is unable to do so within fourteen (14) calendar days, it must notify TCP, which will attempt in good faith to effectuate the RMR. TCP's efforts to do so will be recorded in a log maintained by TCP and made available to the shelter housing provider and/or the person(s) making the RMR request;

i. TCP's shelter housing provider will provide the applicant or designee a copy of the RMR log and any associated documents immediately upon request at no charge.

11. Unless the implementation of the December 10, 2008 DOJ Settlement Agreement prohibits, supersedes, preempts, or otherwise precludes it, TCP will draft a proposed protocol for Shelter housing providers to follow when Shelter residents or Shelter applicants request and require shelter and the only appropriate units are occupied by Shelter residents not requiring such a Shelter unit due to disability.

12. TCP will furnish Plaintiff, through counsel, a draft copy of the proposed policy changes and clarifications set forth in Paragraph 10 and the proposed protocol in Paragraph 11, as applicable, by February 27, 2009.

a. Plaintiff may, within fifteen (15) business days thereafter, provide written comments, questions or proposed changes to these documents.

b. TCP will consider those comments, questions and proposed changes in good faith and will complete a final version of the protocol by April 10, 2009 or at a later time consistent the process set forth in Paragraph 21 of the DOJ Settlement Agreement. TCP will provide Plaintiff, through counsel, a copy of the final version of this protocol.

13. Implementation of the changes and clarifications listed in Paragraph 10 and the protocol described in Paragraph 11 will occur by May 11, 2009 or at a later time consistent with that set forth in December 10, 2008 DOJ Settlement Agreement.

14. Unless the implementation of the December 10, 2008 Settlement Agreement prohibits or otherwise precludes them, Defendant TCP agrees to the following modifications or clarifications to its training program:

a. TCP will offer disability sensitivity training content within the training programs contemplated in Paragraph 30(b) of the DOJ Settlement Agreement. If such content is not included in the training implemented pursuant to the DOJ Settlement Agreement, then TCP will offer this training separately. Such training will be offered quarterly; each member of Shelter housing provider staff will be required to attend each such training program annually and all new Shelter Staff member will be required to attend or view the training program, or video thereof, within sixty (60) days of starting employment.

b. TCP will offer quarterly training programs focusing on general and compassionate communication techniques and skills, conflict resolution, creative problem solving and sensitivity to resident needs; each member of Shelter housing provider staff will be required to attend each such training program annually and all new Shelter Staff member will be required to attend or view the training program, or video thereof, within sixty (60) days of starting employment.

c. TCP will offer semi-annual training programs to Shelter Staff employed at the Park Road shelter which focuses on particular challenges associated with that shelter; each member of housing provider staff will be required to attend one such training program annually.



15. Unless the implementation of the December 10, 2008 DOJ Settlement Agreement prohibits or otherwise precludes it, the Defendant TCP agrees to increase expenditures for repair and maintenance of shelter properties by at least \$33,900 in Fiscal Year 2009 and will prioritize resulting expenditures for repairs and modifications that enhance the accessibility and safety of units or common areas used by residents with disabilities.

16. Defendants will, during the course of the forthcoming process to implement the DOJ Settlement Agreement, affirmatively request that the District of Columbia include the modifications and enhancements listed in Paragraphs 10-15 above in the resulting forms, plans, policies or procedures intended to implement the DOJ Settlement Agreement and will request that the District of Columbia modify all of its forms that propose to take adverse actions against Shelter applicants and residents to include information about the right to request reasonable modifications of policies or procedures and how to effectuate that right.

17. Unless the implementation of the December 10, 2008 DOJ Settlement Agreement prohibits or otherwise precludes it, or TCP is no longer contracted by the District of Columbia to provide shelter, the rules, forms, policy changes and clarifications and protocols referred to in Paragraphs 6, 10 and 11 and the trainings referred to in Paragraph 14 of this Settlement Agreement shall remain in effect for the period of time set forth in Paragraphs 39 and 40 of the DOJ Settlement Agreement.

18. The Parties hereby release and discharge each other from any claims, causes of action, demands and damages of any kind relating to any allegations brought forth in the Complaint, and any other matter whatsoever, through the Effective Date of this Settlement Agreement. Plaintiff agrees to bring no other action against any other party concerning the subject matter of the instant Complaint.

19. This Settlement Agreement constitutes the entire agreement between the Parties on the matters addressed herein, and the Parties expressly agree that it supersedes and controls any and all prior communications, whether oral or written, between the Parties regarding the matters addressed herein. Each of the Parties expressly acknowledges that no such prior representations, statements, or promises of any kind were made to induce this Settlement Agreement, and each of the Parties expressly disavows any reliance or the right to rely upon any such prior representation, statement or promise.

20. This Settlement Agreement may be modified only by a writing signed by all Parties.

21. This Settlement Agreement may be executed by the Parties in one or more counterparts, all of which taken together shall constitute one and the same instrument. Signatures on facsimile copies will be treated as original signatures.

22. Failure of a party hereto to insist upon strict performance of any provision of this Settlement Agreement shall not be deemed a waiver of such party's rights or remedies or a waiver by such party of any default by another party in performance or compliance with any terms of this Settlement Agreement.

23. The Parties expressly state, understand and agree that they have had a reasonable and sufficient period of time to consider their decision to accept this settlement and enter into this Settlement Agreement and Release. The Parties enter into this Settlement Agreement voluntarily and of their own free will. The Parties further acknowledge that they fully and completely understand and accept the terms of this Settlement Agreement, and that they have the legal capacity to enter into this Settlement Agreement.

24. This Settlement Agreement is a compromise of disputed claims and shall not be considered an admission of liability by any party and shall not be admitted into evidence except to enforce its terms.

25. This Court retains jurisdiction to enforce the terms of the Settlement Agreement and to conduct such further proceedings and to award such relief as may be necessary to resolve any breach of the Settlement Agreement by any party. In any proceeding to enforce or interpret this agreement, the prevailing party shall be entitled to all expenses of the action, including reasonable attorney fees.

26. The Effective Date of this Settlement Agreement shall be the date on which all of the parties have provided their signatures to this Settlement Agreement.

27. Upon executing this Settlement Agreement, the parties agree to immediately present it to the Court for signature and approval together with a Stipulation of Settlement and [Proposed] Order of Dismissal in the form set forth in Exhibit 1.

28. The provisions and obligations of this Settlement Agreement are severable and divisible. In the event any provision, any obligation, or any consideration of the Settlement Agreement is determined to be illegal or unenforceable, the remainder of the Settlement Agreement shall be enforceable.

29. Plaintiff agrees that she, and not the Defendants, is responsible for any and all taxes due on the settlement payments set forth herein. Plaintiff agrees that any tax, interest or penalty amount resulting from any tax audit or review of their respective tax returns by any federal, state or local authority with respect to the settlement payments made herein shall be borne fully by her. Plaintiff agrees to indemnify and hold the defendants harmless from any

costs assessments, and claims, including attorney's fees, resulting from any such audit or review of Plaintiff's returns

30. This Settlement Agreement will be governed by the laws of the District of Columbia

AGREED UPON BY.

Dated: \_\_\_\_\_

Anita Brown

\_\_\_\_\_  
Anita Brown on her own behalf and on behalf of B.B and T.B.

Dated: \_\_\_\_\_

Defendant The Community Partnership for the Prevention of Homelessness

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

Dated 2/17/09

Defendant Families Forward, Inc

By: [Signature]

IT IS SO ORDERED.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

Dated

costs assessments, and claims, including attorney's fees, resulting from any such audit or review of Plaintiff's returns.

30. This Settlement Agreement will be governed by the laws of the District of Columbia.

AGREED UPON BY:

Dated: Feb 18<sup>th</sup>, 2009

Anita Brown

Anita M. Brown  
Anita Brown on her own behalf and on behalf of B.B. and T.B.

Dated: Feb 19, 2009

Defendant The Community Partnership for the Prevention of Homelessness

Sue Marshall  
By: Sue Marshall

Executive Director

Defendant Families Forward, Inc.

Dated: \_\_\_\_\_

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

IT IS SO ORDERED.

Dated: 2/20/09

Ellen S Huck  
UNITED STATES DISTRICT JUDGE