

**SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES, GWENDOLYN E. HICKS  
AND NEW HANOVER COUNTY, NORTH CAROLINA**

1. The parties to this Agreement are the United States, Gwendolyn E. Hicks, and New Hanover County, North Carolina.

2. New Hanover County, and its current, former and future departments, agents, employees, officials, designees, and successors in interest are referred to hereinafter as "New Hanover County." Gwendolyn E. Hicks is referred to hereinafter as "Ms. Hicks." The Equal Employment Opportunity Commission is referred to hereinafter as "EEOC." Title VII of the Civil Rights Acts of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, is referred to hereinafter as "Title VII."

The parties hereby agree as follows:

**FACTUAL AND JURISDICTIONAL BACKGROUND**

3. This matter arises from EEOC charge number 141-97-0656, filed by Ms. Hicks on or about May 16, 1997 with the EEOC. On June 30, 1998, the EEOC issued a determination on this charge that reasonable cause existed to believe that New Hanover County had retaliated against Ms. Hicks in violation of Title VII by not hiring her for a Tax Clerk II position because she had filed a prior EEOC charge and a private lawsuit against New Hanover County. The EEOC was unable to secure a conciliation agreement acceptable to it, and subsequently referred the charge to the United States Department of Justice, pursuant to Section 706 (f) (1) of Title VII, 42 U. S. C. § 2000e-5 (f) (1).

4. Title VII applies to New Hanover County, because it is a person within the meaning of 42 U.S.C. § 2000e(a) and an employer within the meaning of 42 U.S.C. § 2000e(b).

5. The United States alleges that New Hanover County retaliated against Ms. Hicks in violation of § 704 (a) of Title VII, 42 U.S.C. §~2000e-3(a).

6. New Hanover County denies that any action it has taken or failed to take constitutes a violation of Title VII.

**IMPLEMENTATION**

7. This Agreement, in whole or in part, shall not be construed as an admission by New Hanover County of liability or as an acceptance by the United States or Ms. Hicks of any argument that New Hanover County has previously made or may subsequently make as to the substance of the allegations in charge number 141-97-0656.

8. The parties have determined that their respective interests can be met without engaging in protracted litigation to resolve this dispute, and have therefore voluntarily entered into this Agreement, whereby New Hanover County will pay Ms. Hicks a monetary amount of \$16,250.

9. Within five (5) days of receipt of this Agreement from the United States, New Hanover County, by its representatives, shall sign this Agreement. Within ten (10) days of receipt of this Agreement from the United States, New Hanover County will arrange with Ms. Hicks a mutually agreeable time for Ms. Hicks to come to the office of New Hanover County's private attorney in this matter, William Robert Cherry, Jr., in order to execute the attached Release and to receive a check from New Hanover County for \$16,250.

## OTHER PROVISIONS

10. The Attorney General of the United States is authorized, pursuant to Section 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1), to institute a civil action against a local government employer when the EEOC has determined that there is reasonable cause to believe that a charge of employment discrimination is true, and the EEOC has been unable to secure an acceptable conciliation agreement. These preconditions exist with respect to EEOC charge number 141-97-0656 filed by Ms. Hicks. In consideration for New Hanover County giving to Ms. Hicks the relief provided for in this Agreement, the Attorney General will not use EEOC charge number 141-97-0656 as the jurisdictional basis for a civil action against New Hanover County under Title VII.

11. The United States will issue to Ms. Hicks a notice of right to sue on EEOC charge number 141-97-0656 pursuant to Section 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1). However, by her signature to this Agreement and the attached Release, Ms. Hicks has agreed not to file a lawsuit on EEOC charge number 141-97-0656.

12. Nothing in this Agreement precludes the Attorney General from investigating or bringing any action under any statute or regulation against New Hanover County under factual circumstances other than those of EEOC charge number 141-97-0656.

13. The United States may institute a civil action in the appropriate U.S. District Court to enforce this Agreement, if it believes that this Agreement or any requirement thereof has been violated. The United States may review compliance with this Agreement at any time. If the United States believes that this Agreement or any portion of it has been violated, it will raise its concern(s) with New Hanover County, and the parties will attempt to resolve the concern(s) in good faith. New Hanover County will be given 21 days to cure any breach of this Agreement prior to the institution of any enforcement action.

14. A signatory to this document in a representative capacity for any party represents that he or she is authorized to bind that party to this Agreement.

15. Failure by the United States to enforce this entire Agreement or any provision thereof with regard to any provision herein shall not be construed as a waiver of its right to do so with regard to other provisions of this Agreement.

16. This Agreement is a public document and constitutes the entire agreement between the parties on the matters raised herein. No other statement, promise, or agreement, either written or oral, made by any party or agents of any party, that is not contained or referenced in this written Agreement, shall be enforceable. Copies of this Agreement shall be made available to any person by any party upon request to that party.

## EFFECTIVE DATE/TERMINATION DATE

17. The effective date of this Agreement is the date of the last signature below.

**For New Hanover County, North Carolina:** \_\_\_\_\_  
WILLIAM ROBERT CHERRY JR.  
Marshall, Williams & Gorham,  
L.L.P.  
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WANDA COPLEY  
County Attorney  
New Hanover County  
320 Chestnut Street  
Rm 309  
Wilmington, NC 28401  
(910)341-7153

**For Gwendolyn E. Hicks:**

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MS. GWENDOLYN E. HICKS  
Charging Party on EEOC charge  
number 141-97-0656

Dated \_\_\_\_\_

**For the United States:**

BILL LANN LEE  
Acting Assistant Attorney  
General

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WILLIAM B. FENTON  
MICHAEL W. JOHNSON  
Attorneys  
Employment Litigation Section  
Civil Rights Division  
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Dated: