

9/10

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x

RAY E. SHAIN,

Plaintiff,

-against-

96-CV-3774 (LDW)(ARL)

JOHN ELLISON, (Shield No. 761),
individually and as a Nassau County
police officer, JOHN DOE, individually
and as an Assistant District Attorney of
Nassau County, JAMES H. MADDEN,
individually and as a Judge of Nassau
County, JOSEPH JABLONSKY, individually
and as Nassau County Sheriff, RICHARD
ROES, individually and as Nassau County
Corrections Officers and COUNTY OF
NASSAU, a Municipal Corporation,

**STIPULATION OF
SETTLEMENT OF
ATTORNEY'S FEE MOTION**

Defendants.

-----x

It is hereby stipulated and agreed as follows between the undersigned counsel for plaintiff RAY E. SHAIN ("plaintiff") and for defendants COUNTY OF NASSAU, *et. al.*, ("defendants" or the "County"):

WHEREAS, plaintiff asserted claims against the County and certain officers and employees thereof in this action; and

WHEREAS, at the conclusion of this litigation, plaintiff moved for an award of attorneys fees and costs pursuant to 42 U.S.C. § 1988; and

WHEREAS, plaintiff and the County each desire to resolve this motion without the expense of further litigation.

NOW THEREFORE, in consideration of the mutual promises contained herein, plaintiff and the County agree as follows:

1. Plaintiff hereby withdraws his motion for \$577,422.49 in attorneys fees and costs filed on March 18, 2004. The motion is withdrawn with prejudice as to any and all claims that were or could have been asserted by plaintiff or his attorneys for attorneys fees or costs pursuant to 42 U.S.C § 1988 or any other provision of law in connection with this litigation; provided, however, that plaintiff may restore the present motion for attorneys fees to the court calendar if this settlement is not approved by the Nassau County Legislature, or the sale of bonds therefore is not approved by the Legislature or by the Nassau Interim Finance Authority, pursuant to paragraph 3 below.

2. The County shall pay to plaintiff's attorneys, Beldock Levine & Hoffman LLP, the sum of Two Hundred Eleven Thousand Seven Hundred Nine Dollars (\$211,709.00), plus interest as set forth in paragraph 4 below, in complete satisfaction of any and all such claims for attorneys fees or costs.

3. This settlement is made subject to the approval of the Nassau County Legislature. The Nassau County Legislature may, in its sole discretion, choose to accept or reject this settlement on behalf of the County. Payment of the settlement may require the sale of bonds, and such a sale also shall be subject to approval of the Nassau County Legislature and the Nassau Interim Finance Authority.

4. If the settlement is approved by the Legislature, the County will also pay plaintiff interest on the settlement amount, at the interest rate for federal civil money judgments as set forth in 28 USC § 1961 and Federal Reserve Statistical Release H.15(519), from the date the settlement is approved by the Legislature to the date of payment.

5. Counsel for defendants will submit this settlement agreement to the Legislature for approval within one month of its signing by counsel for plaintiff.

6. In exchange for the payment set forth in this settlement, plaintiff, for himself, his heirs, executors, administrators, successors, agents, legal representatives and assigns, hereby releases and forever discharges defendants and all officers, employees and assigns of the County of Nassau from any and all claims for attorneys fees, costs, disbursements or the like arising pursuant to 42 U.S.C § 1988 or any other provision of law in connection with this litigation.

7. This settlement agreement shall not be construed as a determination of the merits of any claims for attorneys fees or costs in this dispute or as an admission of liability on the part of the County or its employees therefore. This agreement shall not bind or collaterally estop the County in pending or future actions or proceedings, in which the same or similar issues are raised, from defending any and all issues raised in said actions or proceedings, or from advancing any defenses.

8. This Stipulation constitutes the entire settlement agreement between the parties hereto pertaining to the subject matter hereof and may not be clarified, modified, changed or amended except in writing.

Dated: November 23, 2004
Mineola, New York

Dated: November 29, 2004
New York, New York

Lorna B. Goodman
County Attorney of Nassau County
One West Street
Mineola, New York 11501
Attorney for Defendants

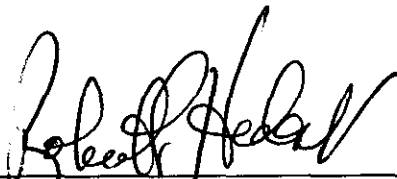
Beldock Levine & Hoffman LLP
99 Park Avenue
Suite 1600
New York, NY 10016
Attorneys for Plaintiff

By:



Dennis J. Saffran
Deputy County Attorney
516-571-3966

By:



Robert Herbst, Esq.
212-490-0400

SO ORDERED:



Hon. Leonard D. Wexler, U.S.D.J.

Central Islip ny
12/20/04