

Unsolicited mediator's proposal to break the impasse in trying to settle the Elaine Estrada ("P") v. City of La Habra Heights ("D1") and Shauna Clark/Gabriel Yap/Rochelle Clayton (collectively, "D2"), Case No. BC 502 851 ("the Case"), the Hon. Samantha Jessner, Judge Presiding ("the Court"):

1. Subject to approval by the P's city council and/or the "joint powers" or any other entity that needs to approve the settlement.
2. D1 will pay \$500,000.00 to P no later than 45 days following approval. Payment to be made to the Client Trust Account of P's counsel.
3. P dismisses her case with prejudice as to all Ds (as to D2, the consideration for the dismissal is based on a "mutual waiver of costs"), and D1 dismisses its cross complaint with prejudice, and all of the settling parties generally release and waive all claims arising out of the case and out of P's employment with D1, and the release and waiver includes all former and current employees, agents, principals, officers, directors, elected officials, insurers, re-insurers, attorneys and it includes a waiver of Section 1542 of the CA Civil Code, a copy attached and incorporated fully by reference herein. P's worker's comp case is not part of this settlement and neither side is waiving any claim they may have in the worker's comp case or defenses they may have. However, D1 will not assert any offset/credit in worker's comp case based on this settlement. If P is 40 or older, even though she has not made any age-related claim arising out of her employment with D1, P is releasing/waiving any age-related claim she may have and waives the statutory

period for the waiver; and P acknowledges that she 7 days to revoke the age-related release; and if she does revoke, then there is no settlement.

4. Unless explicitly set forth otherwise, each side to bear their own attorney's fees and costs.
5. P agrees to keep the settlement, the terms and amounts paid and allegations made in the complaint confidential on a going forward basis and P's counsel agree not to disclose the settlement to any third party/person and will not publicize it in any forum or form.
6. P agrees that she will never seek employment with D1 and D1 agrees to give all prospective employers a neutral reference, that is, all that will be disclosed will be period of employment and last position held. In addition, D1 will allow P to treat the termination as a voluntary resignation only for the purpose of seeking employment.
7. Electronic and countersignatures are acceptable and make it binding.
8. By signing below, the signatories agree that they will recommend it to the city council and any other entity that needs to approve it. If needed, Ds will get back to P no later than 11/30 if there is or not a settlement.
9. If needed by Ds, this settlement is also contingent on the long form written release/settlement agreement that will be prepared by Ds' counsel and given to P's counsel following approval by the whomever has to approve it. Pending depositions will not be taken off calendar unless Ds have actually accepted the mediator's proposal, and any dispute arising out of the long form will be resolved in a binding arbitration before Judge Romero, the mediator, who agrees to do it on a pro bono basis and his ruling shall be final and binding and not subject to any appeal.
10. This proposal is enforceable per CA CCP 664.6 and the parties stipulate that the Court or her designee shall have and maintain jurisdiction in order to enforce it, and also

that this document shall be admissible per CA Evidence Code Section 1123, without objections, in an enforcement action, and that it shall be lodged in camera under seal unless ordered otherwise by the court. Reasonable fees and costs shall be awarded to the prevailing party if enforcement is sought under 664.6.

THE MEDIATOR STRONGLY RECOMMENDS THE PROPOSAL TO ALL PARTIES.

Check one: yes: no:


11/25/15 by:


Elaine Estrada

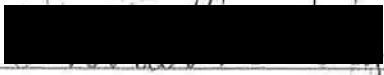
11/25/15 by:


Sandra Munoz/Dan Stormer, counsel for P


11/25/15 by:


Shauna Clark, based on mutual waiver of costs, on my own behalf as an individually-named Defendant.


11/25/15 by:


Gabriella Yap, based on a mutual waiver of costs, on my own behalf as an individually-named Defendant.

11/25/15 by:


Rochelle Clayton, based on a mutual waiver of costs, on my own
behalf as an individually-named defendant.

11/___/15 by:


With authority to act for the City D.

11/25/15 by:


Armineh Megrabyan, counsel for Ds

approved contingent on approval
by executive Committee of the
CJPIA on Dec 16, 2015.

§ 1530

OBLIGATIONS IN GENERAL

Enforcement by third party beneficiary, see Civil Code § 1559.
Transfer of obligations, see Civil Code § 1457 et seq.

§ 1531. Methods

MODES OF NOVATION. Novation is made:

1. By the substitution of a new obligation between the same parties, with intent to extinguish the old obligation;
2. By the substitution of a new debtor in place of the old one, with intent to release the latter; or,
3. By the substitution of a new creditor in place of the old one, with intent to transfer the rights of the latter to the former. (Enacted 1872.)

§ 1532. Applicability of contract rules

NOVATION A CONTRACT. Novation is made by contract, and is subject to all the rules concerning contracts in general. (Enacted 1872.)

§ 1533. Rescission

When the obligation of a third person, or an order upon such person is accepted in satisfaction, the creditor may rescind such acceptance if the debtor prevents such person from complying with the order, or from fulfilling the obligation; or if, at the time the obligation or order is received, such person is insolvent, and this fact is unknown to the creditor, or if, before the creditor can with reasonable diligence present the order to the person upon whom it is given, he becomes insolvent. (Enacted 1872. Amended by Code Am. 1873-74, c. 612, p. 241, § 188.)

CHAPTER 6. RELEASE

Section

- 1541. Extinction of obligations.
- 1542. General release; extent.
- 1542.1. Defense of health care providers by Attorney General or other legal counsel provided by state; scope of release.
- 1543. One or more joint debtors.

Cross References

"Obligation" defined for purposes of this Division, see Civil Code § 1427.

§ 1541. Extinction of obligations

OBLIGATION EXTINGUISHED BY RELEASE. An obligation is extinguished by a release therefrom given to the debtor by the creditor, upon a new consideration, or in writing, with or without new consideration. (Enacted 1872.)

Cross References

Written instrument, consideration presumed, see Civil Code § 1614.

§ 1542. General release; extent

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor. (Enacted 1872. Amended by Code Am. 1873-74, c. 612, p. 241, § 189; Stats. 2004, c. 183 (A.B. 3082), § 28.)

§ 1542.1. Defense of health care providers by Attorney General or other legal counsel provided by state; scope of release

Notwithstanding Section 1542, a provider of health care, as defined in Section 36.05, or its officers, employees, agents, or subcontractors, shall release the state and its officers, employees, and agents, from any claim arising from the defense of the provider of health care by the Attorney General, or other legal counsel provided by the state pursuant to Section 12311.5 of the Government Code. (Added by Stats. 1995, c. 749 (A.B. 1177), § 2, eff. Oct. 10, 1995.)

§ 1543. One or more joint debtors

A release of one of two or more joint debtors does not extinguish the obligations of any of the others, unless they are mere guarantors; nor does it affect their right to contribution from him or her, except as provided in Section 877 of the Code of Civil Procedure. (Enacted 1872. Amended by Stats. 1937, c. 677, § 1.5.)

Cross References

Discharge of sureties' liability, see Civil Code § 2819.
Rights of surety, see Civil Code § 2845.