

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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| DEBRA CULBERSON, et al. | : | Case No. C-1-97-965 |
| | : | |
| Plaintiffs, | : | Judge Spiegel |
| | : | |
| vs. | : | Magistrate Judge Sherman |
| | : | |
| VINCENT DOAN, et al., | : | |
| | : | <u>SETTLEMENT AGREEMENT</u> |
| Defendants. | : | <u>AND MUTUAL GENERAL</u> |
| | : | <u>RELEASE</u> |
| | : | |

I. INTRODUCTION

This Settlement Agreement and Mutual General Release (“Liability Settlement Agreement”) is made and entered into by and between DEBRA CULBERSON, ROGER CULBERSON, AND CHRISTINA CULBERSON KNOX, on behalf of themselves, their successors in interest, assigns, heirs, executors, administrators, beneficiaries, agents, and estates (The Culberson Family) and The VILLAGE OF BLANCHESTER (Defendant).

WHEREAS, the Culberson family has suffered the tragic loss of Clarissa Ann (“Carrie”) Culberson through her murder on August 29, 1996;

WHEREAS, prior to her death, Carrie Culberson was the victim of domestic violence and harassment by a violent Blanchester citizen, Vincent Doan;

WHEREAS, Carrie Culberson caused Mr. Doan to be arrested and pressed charges of assault which were pending on August 29, 1996;

WHEREAS, Doan retaliated against Carrie Culberson by kidnapping and murdering her on August 29, 1996;

WHEREAS, Defendant and citizens throughout the Village of Blanchester express their sorrow for the tragic death of Carrie Culberson;

WHEREAS, the Culberson family filed a lawsuit against the Village of Blanchester and Payton, among others, in the United States District Court, Southern District of Ohio, Case No. C-1-97-965, alleging claims including 1) that the Village failed to protect Carrie Culberson resulting in physical injuries to her and in her death; and 2) on September 3, 1996, Carrie's remains were discovered in a pond at a junkyard on Hunt Road in Clermont County and that the Village, at the direction of its Police Chief, Richard Payton, abandoned the search for those remains before they were retrieved from the pond, and that as a result of the actions of Richard Payton, the remains of Carrie Culberson were removed from the pond by third parties before the Village or the Culberson Family could recover Carrie's remains (hereinafter the "Action");

WHEREAS, the body of Carrie Culberson has not since been recovered by the family, the Village, or other law enforcement officials;

WHEREAS, Vincent Doan has been convicted of the murder of Carrie Culberson and Tracey Baker has been convicted of obstruction of justice and tampering with evidence in connection with the death of Carrie Culberson;

WHEREAS, Richard Payton has pled no contest to two counts of dereliction of duty in connection with the Carrie Culberson investigation;

WHEREAS, on January 31, 2001, on Carrie Culberson's 27th birthday, the civil rights Action against the Village was submitted to a jury for decision and on February 1, 2001, the jury returned a verdict in favor of the plaintiffs for personal and physical damages in the total amount of \$3,750,000.00;

WHEREAS, pursuant to 42 U.S.C. §1988, the Village could be ordered to pay attorney fees and expenses to the plaintiffs;

WHEREAS, through this Liability Settlement Agreement, the family and the Defendant hope to ensure an ongoing commitment to the search for Carrie Culberson; establish a memorial to Carrie Culberson and the other victims of domestic violence; reform the manner in which domestic violence laws are enforced by the Village; and accomplish a resolution of any claims that the family may have asserted in a fair and constructive fashion;

THEREFORE, in consideration of the mutual promises of the parties set forth below, the parties agree as follows for the complete and final settlement and release of all claims, differences, and causes of action the parties may have against each other.

II. JURISDICTION

1. This court shall retain jurisdiction over this Liability Settlement Agreement as outlined in the Order of Dismissal, attached hereto as Exhibit A. Jurisdiction will be consistent with *Kokkonen v. Guardian Life Insurance of America*, 511 U.S. 375, 114 S.Ct. 1673 (1994) and *Caudill v. North American Media Corp.*, 200 F.3d 914 (6th Cir. 2000).

2. The effective date of this Liability Settlement Agreement shall be that day on which the Resolution of the Village of Blanchester City Council approving this Liability Settlement Agreement becomes final as a matter of law ("Effective Date").

III. DEFENDANT'S OBLIGATIONS

3. **Finding Carrie.** In accordance with standard police procedure, Defendant Village shall engage in ongoing good faith professional efforts to discover the remains of

Carrie Culberson and restore them to the Culberson Family. On or before August 29, 2001, a photograph of Carrie Culberson shall be prominently displayed near the main entrance to the Village Police Department with the summary of the facts of the case and status of the search as set out in Exhibit B.

4. **Memorial.** Defendant Village shall make available public land in a prominent place immediately adjacent to the entrance to the police department at the new municipal building in Blanchester for a memorial to be known as the Carrie Culberson Memorial. The memorial will commemorate all of the women who have suffered from domestic violence in Blanchester and in Clinton County. The Defendant Village shall contribute \$10,000 toward the cost of this memorial and agree to maintain the memorial in perpetuity. The Culberson family may supplement that contribution in order to improve the overall memorial. The Defendant Village shall assign a Village official to work with counsel for the Culberson family in designing and constructing an appropriate memorial that honors the women victims and warns all citizens and government officers to be vigilant in protecting the victims of domestic violence. Debra Culberson and the Village must approve the design. That approval will not be unreasonably withheld by either. The memorial will be installed during Domestic Violence Awareness Month, October 2003, unless Debra Culberson and the Village agree to another date.

5. **Domestic Violence Law Enforcement.** Within forty-five days of the Effective Date of this Liability Settlement Agreement, Defendant Village shall provide to counsel for the Culberson family a thorough review of the status of the following issues that relate to domestic violence: standard for determining "family member" for purposes of enforcing Ohio law; how Blanchester policy complies with mandatory and preferred

arrest for domestic violence as required by Ohio law; and the current text and instructions for use of the "Refusal to Prosecute" forms. The Defendant Village shall also:

- a) Retain an experienced trainer who will provide a comprehensive Domestic Violence Law Enforcement Training to all Village law enforcement officials, the Mayor, and if practical, the City Council members. The training shall be eight (8) hours in length and take place within six (6) months of the Effective Date of this Liability Settlement Agreement. The training shall be repeated to all Village law enforcement officials annually in 2002 and 2003. The trainer and the design of each training shall be subject to Debra Culberson's approval, which shall not be unreasonably withheld. Additionally, the Village will send the Blanchester Police Chief to the Ohio Attorney General's annual domestic violence training, "Two Days in May" in 2002 and 2003, and to a similar training in 2001 that is approved by the parties.
- b) Convene a Clinton County Domestic Violence Coalition (CCDVC) by October 15, 2001. The purpose of the CCDVC shall be to 1) evaluate and audit the current domestic violence services in Clinton County 2) design a Clinton County Domestic Violence Protocol and 3) monitor and evaluate compliance with the Clinton County Domestic Violence Protocol. The first purpose shall be accomplished by October 1, 2002. The second purpose shall be accomplished by October 1, 2003. The final purpose shall be an ongoing goal of the CCDVC. Blanchester shall invite the following jurisdictions/organizations to join the CCDVC: the Director of the Highland County/Clinton County Domestic Violence Task Force, Debra Culberson, Blanchester Chief of Police (or his designee), Ron McHenry or Blanchester City Council member, Judge Ruddock (Common Pleas Court), Judge Carey (Municipal

Court), Judge Gano (Probate Court), Chris Dibiasio (Wilmington School Board member and community leader), law enforcement officials from each jurisdiction in Clinton County, including the Sheriff's office, the YWCA, the House of Peace, the Clinton County Prosecutor, the United Way, the Department of Families and Jobs, Children Protective Services Department, Clinton Memorial Hospital, Wilmington News Journal, and any other appropriate individuals or agencies (see, for example, list of participants in the DV Task Force convened by William Peelle in 1998).

- c) Finance the first two years of the CCDVC in the amount of \$30,000 per year and assist the CCDVC in seeking funding from other sources for future years. The funding for the first two years will be used to hire Legal Aid of Cincinnati as consultant to coordinate the first two steps of the CCDVC and to cover the administrative expenses of the CCDVC. The consultant will help convene the CCDVC, help facilitate the evaluation and auditing of the current domestic violence services in Clinton County, and help design a Clinton County Domestic Violence Protocol. The Village will retain Legal Aid's consultation within ten business days of the Effective Date of this Liability Settlement Agreement.
- d) Implement the Clinton County Domestic Violence Protocols in Blanchester and advocate for other jurisdictions and agencies to implement the CCDV Protocol in their areas on or before October 1, 2003.

6. **Release.** The Village of Blanchester, with the intention of binding itself and its employees, insurers, contractors, assigns, heirs, executors, administrators, beneficiaries, next of kin, agents, and survivors, does hereby release, hold harmless from any liability and forever discharge Debra Culberson, Roger Culberson, and Christina

Culberson Knox and all of their present and former officers, employees, agents, contractors, insurers, and agencies, and each of their respective predecessors, successors in interest, affiliates, assigns, heirs, executors, administrators, beneficiaries, estates, and survivors, personally or in any capacity, from any and all claims, actions, causes of action, demands, costs, loss of services, expenses, attorney fees, rights, liens, injuries, losses, suits, judgments, contracts, covenants, orders, liabilities and damages of any type, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, or open or hidden, which have existed, presently exist, or may exist in the future arising out of or in any way related to any act, omission, transaction, or occurrence prior to the Effective Date of this Liability Settlement Agreement which the Defendant or its successors in interest may have or claim to have except for such actions that may be necessary for the enforcement of this Liability Settlement Agreement.

7. **Compensation.** The Defendant shall cause to be paid to the Culberson Qualified Settlement Fund the sum of \$2,000,000.00 (two million dollars) within 10 business days of the order establishing the Qualified Settlement Fund or of the Effective Date of this Liability Settlement Agreement, whichever is later. The Defendant agrees not to move for a new trial, remittitur, judgment notwithstanding the verdict, or appeal the verdict or in any way continue to litigate this case, except as necessary to enforce this Liability Settlement Agreement. Any such motions pending at the time of the Effective Date of this Liability Settlement Agreement will be withdrawn.

IV. CULBERSON FAMILY OBLIGATIONS

8. Within five business days after the payment of the compensation in paragraph 7, Debra Culberson, Roger Culberson, and Christina Culberson Knox, agree to file an

Order of Dismissal with prejudice in *Culberson v. Doan et al*, U.S.D.C., S.D. OH., Case No. C-1-97- 965, attached hereto as Exhibit A.

9. Debra Culberson, Roger Culberson, Christina Culberson Knox, Alphonse A. Gerhardstein, Jennifer L. Branch, and Laufman & Gerhardstein agree not to seek attorney fees, expenses or costs in this case. Further, the Culberson Family agrees not to file suit against Richard Payton.

10. Debra Culberson, Roger Culberson, and Christina Culberson Knox, with the intention of binding themselves individually their assigns, heirs, executors, administrators, beneficiaries, next of kin, agents, and survivors, do hereby release, hold harmless from any liability and forever discharge the Defendants, Village of Blanchester, the Village of Blanchester city council members and mayor, Richard Payton, and all of their present and former officers, city council members, employees, agents, contractors, insurers, and agencies, specifically including, but without limiting the foregoing, the Ohio Government Risk Management Plan ("OGRMP") and its administrator, Hylant Administrative Services, and each of their respective predecessors, successors in interest, affiliates, assigns, heirs, executors, administrators, beneficiaries, estates, and survivors, personally or in any capacity, from any and all claims, actions, causes of action, demands, costs, loss of services, expenses, attorney fees, rights, liens, injuries, losses, suits, judgments, contracts, covenants, orders, liabilities and damages of any type, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, or open or hidden, which have existed, presently exist, or may exist in the future arising out of or in any way related to any act, omission, transaction, or occurrence prior to the Effective Date of this Liability Settlement Agreement which the plaintiffs or their successors in

interest may have or claim to have except for such actions that may be necessary for the enforcement of this Liability Settlement Agreement.

11. The parties executing this Liability Settlement Agreement represent and warrant that they have fully read and understood this Agreement, that counsel of their choice advised them regarding the terms, conditions and risks in entering this Agreement, and that they are authorized and competent to execute this Agreement and have done so voluntarily.

12. Debra Culberson, Roger Culberson, and Christina Culberson Knox represent to the Defendant that they each individually and or collectively have not assigned any of their rights in this Action or the Verdict to any third party and that there are no known parties claiming a right of subrogation or reimbursement through the rights of Debra Culberson, Roger Culberson, and Christina Culberson Knox.

13. These obligations are contingent on the Court granting the Order to Establish the Qualified Settlement Fund.

Debra Culberson
DEBRA CULBERSON

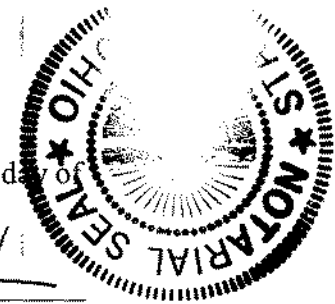
STATE OF OHIO)
COUNTY OF Clinton)

SS:

Sworn to before me and subscribed in my presence this 3rd day of

July, 2001.

Jennifer L. Branch
Notary Public, JENNIFER L. BRANCH, Attorney at Law
NOTARY PUBLIC, STATE OF OHIO
My Commission has no expiration date, Section 147.03 R. C.



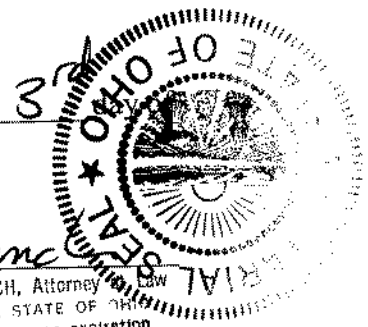
Roger Culberson
ROGER CULBERSON

STATE OF OHIO)
)
COUNTY OF Clinton)

SS:

Sworn to before me and subscribed in my presence this 3rd
July, 2001.

Jennifer L. Branch
Notary Public
JENNIFER L. BRANCH, Attorney at Law
NOTARY PUBLIC, STATE OF OHIO
My Commission has no expiration
date. Section 147.03 R. C.



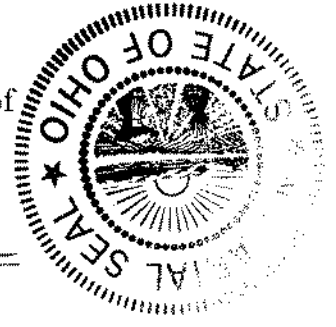
Christina Culberson Knox
CHRISTINA CULBERSON KNOX

STATE OF OHIO)
)
COUNTY OF Clinton)

SS:

Sworn to before me and subscribed in my presence this 3rd day of
July, 2001.

Jennifer L. Branch
Notary Public
JENNIFER L. BRANCH, Attorney at Law
NOTARY PUBLIC, STATE OF OHIO
My Commission has no expiration
date. Section 147.03 R. C.



Alphonse A. Gerhardstein

Alphonse A. Gerhardstein
Jennifer L. Branch
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Attorneys for the Plaintiff Culberson Family

Harry L. Brumbaugh
HARRY BRUMBAUGH
MAYOR, VILLAGE OF BLANCHESTER

STATE OF OHIO)
) SS:
COUNTY OF Clinton)

Sworn to before me and subscribed in my presence this 5th day of
July, 2001.

Ronald J. McHenry
Notary Public

L. E. Barbieri
Lawrence Barbieri
Attorney for Village of Blanchester



RONALD J. McHENRY, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date
Section 147.03 R.C.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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| DEBRA CULBERSON, et al. | : | Case No. C-1-97-965 |
| | : | |
| Plaintiffs, | : | Judge Spiegel |
| | : | |
| vs. | : | Magistrate Judge Sherman |
| | : | |
| VINCENT DOAN, et al., | : | |
| | : | <u>ORDER OF DISMISSAL</u> |
| Defendants. | : | |

For the reasons contained in the Settlement Agreement and Mutual General Release (“Liability Settlement Agreement”) between the parties, which is incorporated herein, the Plaintiffs dismiss with prejudice their claims asserted in this Action against Defendant Village of Blanchester and Richard Payton, including those claims previously dismissed without prejudice against Richard Payton and the Village of Blanchester. Defendant Village of Blanchester withdraws its Motion for New Trial, Motion for Judgment as a Matter of Law, and Motion for Remittitur.

This Court will retain jurisdiction over this case for the purpose of administering the Qualified Settlement Fund and enforcing the Defendant’s obligations agreed under the Liability Settlement Agreement. Jurisdiction will be consistent *with Kokkonen v. Guardian Life Insurance of America*, 511 U.S. 375, 114 S.Ct. 1673 (1994) and *Caudill v. North American Media Corp.*, 200 F.3d 914 (6th Cir. 2000).



IT IS SO ORDERED.

S. ARTHUR SPIEGEL
United States District Court Judge

DATED _____.

Stipulated and Approved By:

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