

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS  
OFFICE OF THE JUDGE OF COMPENSATION CLAIMS  
WEST PALM BEACH DISTRICT**

**EMPLOYEE:**

David Napier  
2620 R.J. Henley Ave  
Riviera Beach, FL 33404

**REPRESENTED BY:**

Michael H. Stauder, Esq.  
Michael H. Stauder, Sr. P.A.  
2074 W. Indiantown Rd.  
Suite 100  
Jupiter, FL 33458

**EMPLOYER:**

City of Riviera Beach  
600 W. Blue Heron Blvd.  
Riviera Beach, FL 33404

**REPRESENTED BY:**

Gary M. Schloss, Esquire  
Hayes, Schloss & Alcocer, P. A.  
1401 Forum Way, Suite 210  
West Palm Beach, FL 33401

**SERVICING AGENT:**

Gallagher Bassett Services  
2901 S.W. 149th Avenue  
Suite 200  
Miramar, FL 33027  
Claim No.: 160-003587-WC-01

**OJCC NO.:** 93-004706GJJ

**D/A:** 05/21/93

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**SETTLEMENT AGREEMENT & RELEASE PURSUANT TO  
F.S.440.20(11)(c)(2020)**

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The parties to this Release, to wit: David Napier (Date of Birth: 02/24/1961)(hereinafter collectively referred to as the "Releasor") and City of Riviera Beach / Gallagher Bassett Services, Inc. hereby agree as follows:

WHEREAS, Releasor was an employee of City of Riviera Beach on or about May 21, 1993.

WHEREAS, Releasor is no longer employed with City of Riviera Beach or has otherwise voluntarily resigned as of the date of execution of this Agreement.

WHEREAS, Releasor has alleged that he sustained an injury(s) arising out of his employment with City of Riviera Beach and has filed a workers' compensation claim or is otherwise claiming workers' compensation benefits against Releasee as the result of a work-related accident which occurred on or about May 21, 1993, and said claims are subject to the provisions of Chapter 440, Florida Statutes, or otherwise alleged to be covered by Chapter 440, Florida Statutes.

WHEREAS, Releasee has paid benefits to Releasor pursuant to Chapter 440.

WHEREAS, the parties wish to compromise and settle all claims Releasor may have against the Releasees as a result of or arising out of any work-related accident including those referenced herein;

NOW, THEREFORE, the parties agree as follows:

1. Releasor, for and on behalf of each and all of their respective present, former, and future successors, heirs, executors, administrators, guarantors, attorneys,

representatives, insurers and assigns (all of whom are also hereinafter collectively referred to as the "Releasor"), for and in consideration of the lump sum of Fifty Five Thousand Two Hundred Seventeen Dollars and fifty-nine cents (\$55,217.59)("the Lump Sum") and other good and valuable consideration, to be paid to Releasor does hereby release, acquit, and forever discharge Releasee, and if Releasee is a corporation, all of its respective present, former and future officers, directors, stockholders, trustees, nominees, attorneys, agents, employees, consultants, insurers, brokers, finders, heirs, executors, administrators, personal representatives, managers, predecessors, successors, representatives and assigns (all of whom are also hereinafter collectively referred to as the "Releasee(s)") of and from any and all claims, demands, actions, suits, causes of action, controversies, costs, expenses, damages, judgments, losses and liabilities of whatever kind or nature, in law, equity, statutory or otherwise, whether known or unknown, which against them, or any of them, Releasor now has, had, may have had, or can, shall or may have for or by reason of any matter, cause or thing whatsoever to and including the date hereof, which were or might have or could have been asserted in

connection with, arising out of, or in any way relating to any injuries resulting from or claimed to be the result of any work-related accidents including those referred herein, including but without in any respect limiting the generality of the foregoing, any and all claims for or rights to past, present and future benefits under Chapter 440, Florida Statutes including any claims for attorney's fees.

The settlement amount referred to herein shall be allocated as follows:

|   |                    |
|---|--------------------|
| a) Past and Future Compensation Benefits                  | \$10,000.00        |
| b) Medical Benefits, including those covered by Medicare. | \$40,116.45        |
| c) Attorney's Fee: Michael Stauder, Esq.                  | \$ 1,600.00        |
| d) Attorney Fee/Cost Lien: Lyle Masnikoff, Esq.           | \$ 3,250.00        |
| e) Attorney Fee/Cost Lien: Scott Sternberg, Esq.          | \$ <u>251.14</u>   |
| <b>TOTAL:</b>   | <b>\$55,217.59</b> |

2. It is the intent of the undersigned Releasor that this is a complete, full, comprehensive and final release of any and all liability of the parties released herein arising from or relating to any and all injuries arising out of any work related accident including the accident referenced herein, including any and all liability of Releasee for any act performed or omitted

by, or on behalf of the parties released herein prior to the date hereof relating to any and all injuries arising out of any work related accident including the accident referenced herein. The Releasor agrees that this settlement shall constitute an election of remedies by the Releasor with respect to the Releasee herein. By entering into this settlement agreement, the parties stipulate that the Releasor has elected workers' compensation, and not tort liability as the exclusive remedy. The parties further stipulate that as additional consideration for the payment of the settlement agreement by the Releasee, the Releasor releases, waives and settles any employer liability (COVERAGE B) cause of action or any other employment claim, including wrongful termination and retaliatory discharge claims, through the date of this settlement. **The Releasor understands that this entire settlement is contingent on approval by the City Council of Riviera Beach.**

3. On account of the accidents on or about May 21, 1993, the Releasor may have a cause of action against a third-party tortfeasor(s). The Releasor is aware of the Releasee's lien rights in any recovery against any third-party tortfeasor(s) for workers' compensation benefits paid as authorized under Florida

Statute 440.39. The Releasor understands that the Releasee retains its lien rights in any such recovery notwithstanding the settlement and this Release. The Releasor shall protect the Releasee's lien rights and notify the Releasee in writing of any recovery from, or the filing of a complaint against, any alleged third-party tortfeasor(s).

4. The undersigned Releasor hereby expressly warrants, represents and covenants to the parties released herein that Releasor is presently the legal owner and holder of the claims or causes of action released hereby, and that he has not heretofore expressly or impliedly assigned, transferred, pledged or otherwise disposed of any such rights, claims, demands, or causes of action being described herein and released hereby.

5. The Releasor has been represented by Michael H. Stauder, Sr., Esq. in connections with this matter who is entitled to a fee to be paid by the Releasor for legal services rendered. The Releasor shall pay \$1,600.00, and Releasor's attorney, Michael H. Stauder Sr., Esq. agrees that said fee is a reasonable fee for such services, resolves all claims for attorney's fees that Releasor's attorney may have against the Releasee(s), and is within the guidelines for the determination

of a fee as set forth in Florida Statute 440.34 and/or are due and owing pursuant to Claimant's and his attorney's retainer agreement per *Miles v. City of Edgewater Police Dept.*. The Claimant shall also pay Michael Stauder \$0 for costs from this settlement.

The Releasor was previously represented by Lyle Masnikoff, Esq. and Scott J. Sternberg, Esq. in this matter who have asserted a lien for attorney fees and costs in this matter. The Releasee and Releasor have agreed to resolve the attorney fee and cost lien of Lyle Masnikoff, Esq. for \$3,250.00. The Releasee and Releasor have agreed to resolve the attorney fee and cost lien of Scott J. Sternberg, Esq. for \$251.14. The Releasor and his attorney agree that this settlement agreement and release discharges the Releasee from any liability for fees and costs for services rendered on their behalf pursuant to this settlement/washout stipulation, including those referenced herein. After payment of the attorney fees, costs and liens, the net settlement, is \$50,116.45. An additional \$10.00 shall be deducted from this amount as consideration for a separate general release and agreement to not seek re-employment and/or volunteer (see paragraph 12).

6. In reaching this agreement the parties have, pursuant to Section 440.20(11)(d) Florida Statutes, as amended 2001, considered the issue of child support arrearages. The Releasor warrants as follows (mark as appropriate):

a. There are no arrearages owed by Releasor for child support:  X .

b. There are arrearages owed by Releasor for child support, in the total amount of \$\_\_\_\_\_.

If outstanding child support is shown above, the Releasor has allocated \$  N/A  of the lump sum to be paid by Releasor towards the payment of such arrearages. Counsel for Releasor shall be responsible for ensuring such child support allocation is paid to the proper agency toward Releasor's arrearage.

7. Releasor and Releasee(s) acknowledge(s) that whereas Section 440.20(11)(d), as amended 2001, also requires that the Judge of Compensation Claims consider whether the settlement allocation provides for the appropriate recovery of child support arrearages. It is the intent of the parties that this settlement agreement and release shall not be valid and enforceable and that Releasee shall not be required to disburse settlement proceeds until the settlement agreement and release



is executed by Releasee and Releasor, all Court approvals as to attorney's fees and child support allocations are obtained, and the Claimant executes and returns to the Releasee a General Release/Voluntary Resignation and Notification of Separation from Employment from City of Riviera Beach which have been provided to the Releasor/Claimant with this Settlement Stipulation. The Releasor and Releasee agree that the Releasee shall have 30 days to pay the settlement proceeds which will begin to run from the date of the mailing of the Court Order approving the fee and allocation for the recovery of child support arrearages, or receipt by Releasee(s) of a signed Settlement Agreements and a General Release/Voluntary Resignation and Notification of Separation from Employment from Martin County School Board, whichever occurs last. However, the parties agree that earlier payment shall satisfy the applicable statutory period and the Releasor's attorney agrees to hold the settlement proceeds in escrow until all conditions are met, including the satisfaction of all liens for attorney fees. If these conditions are not met, Releasor's attorney shall not disburse any funds, but will immediately return to Releasee(s) those funds being held in escrow. The Releasor agrees that all

workers compensation medical and indemnity benefits shall terminate as of approval of this settlement by the City Council of Riviera Beach.

8. Releasor understands that achieving maximum medical improvement is not a necessary condition in order for this settlement to be effective. Releasor understand that he shall be bound by this settlement agreement even though the conditions and injuries may become greater, more disabling, more numerous or more extensive than is now known or anticipated. Releasor understands that his condition and need for medical care could change in the future. Releasor understands and represents that the injuries sustained may be permanent and progressive and that recovery therefrom is uncertain and indefinite. Releasor understands that he is not required to settle his Workers' Compensation claim in this fashion, or at this time, and that by entering into this settlement has given up his right to wait and see how his condition will progress and what the future will bring.

9. The Releasor represents that no services, medicines, medical appliances, or x-rays of any kind were received by the Releasor from any Veterans Hospital, Naval or military hospital,

or any other medical institution maintained by the United States Government, as a result of the accident and injuries described herein. The Releasor further represents that no medical bills or services have been paid to Releasor or on Releasor's behalf by Medicaid, Medicare or private health insurance as a result of any injuries arising out of and during the course and scope of Releasor's employment with the Releasee herein. If Releasor has received any benefits as a result of his work-related injuries from any State, Federal, or Private Insurance or benefits program, including Medicaid or Medicare, the Releasor understands that it is his responsibility to reimburse them for any payment they may have made. The Releasor acknowledges that any and all known liens or potential liens involving Medicare, Medicaid, the Internal Revenue Service, child support enforcement, or other agencies of Federal, state or local governments or private entities have been revealed to the Releasee and agrees to indemnify and hold harmless the Releasee regarding any such liens.

10. The Releasor has considered that many common medical expenses are not paid or reimbursable under certain group health policies of the Federal Medicare Program. The Releasor

understands that it is not the intent of this settlement to shift the responsibility for the Releasor's future medical care to the Federal Government. Pursuant to 42 CFR §411.46 and §411.47, the Medicare intermediary manual, and the Medicare carrier's manual, the parties to this settlement believe that any rights or interests Medicare may have in the within settlement have been adequately considered and protected by allocating a specific amount of the settlement proceeds for a payment of Releasor's "qualified" Medicare-covered medical expenses that he may incur in the future for treatment of his work injury. Based upon Releasor's medical records, age, life expectancy, future cost projections, and historical treatment trends), the parties propose that \$30,000.00 of the total settlement will be allocated to pay for the anticipated future "qualified" Medicare covered medical expenses Releasor may incur for treatment as a result of the work injury. This allocation is based on the workers' compensation fee schedule over Claimant's expected lifetime for the next 24 years into the future, representing the Releasor's life expectancy given Releasor's age of 59 years (DOB: 02/24/1961). The Releasor understands and acknowledges the freedom and ability to consult with specialists

practicing in the area of Social Security and Medicare law and has chosen to settle the case either in lieu of or after such consultation. Finally, the Releasor and Releasee acknowledge, understand and agree that no action or decision by the Centers for Medicare and Medicaid Services concerning Releasor's Medicare covered costs will render this release void or otherwise ineffective, or in any way affect the finality of Releasor's workers' compensation settlement.

11. By receipt of the consideration set forth above, the Releasor agrees that the terms of this settlement, including but not limited to the amount of consideration paid herein, will not be discussed either directly or indirectly with any past or present employees of the Employer or any other persons other than his family, attorney or by subpoena. The Releasor specifically agrees to keep the terms of this settlement strictly confidential.

12. The Releasor agrees that \$10.00 will be deducted from his net settlement and be classified as consideration for a separate general release, voluntary resignation and agreement not to seek reemployment/volunteer to be executed by the Releasor.

13. The Parties agrees that if any part or provision of this Release, shall for any reason be held to be invalid, unenforceable or contrary to public policy or any law, then the remainder of this Release shall not be affected thereby. The parties agree that this Settlement Agreement is valid and enforceable. If this Settlement Agreement and Release is ever found to be unenforceable for whatever reason, the Releasor agrees that any payment made by the Releasee shall not be considered a gratuity and that the Releasee shall be entitled to full reimbursement of the lump sum paid to the Releasor and all advance payments made pursuant to Fla. Stat. 440.20(12). To the extent full reimbursement is not made, Releasee is entitled to a credit for any money paid to the Releasor in connection with the settlement against benefits owed or found to be due, past or future without limitation on the type of benefit to which this offset would apply, nor as to the amount of offset to be taken as to any benefits. The Releasee shall have a dollar for dollar offset for the money paid under this Settlement Agreement.

14. Releasor agrees that upon payment of the consideration referred to herein, all claims, petitions for workers' compensation benefits, and actions for personal injuries arising

out of the accidents referenced herein or employment claims against the Releasee are voluntarily dismissed with prejudice or waived and Releasor shall file voluntary dismissals in all Courts where claims or actions are pending. Releasor further agrees that his right to medical and indemnity benefits will terminate upon approval of this stipulation by the City Council of Riviera Beach.

15. By signing this Settlement Agreement, Releasor acknowledges that he has read the agreement, has had its terms fully explained to him by his attorney, has been fully informed and understands:

- a. the settlement's effect on any rights the Releasor may have;
- b. his rights regarding the claim(s) settled;
- c. he is giving up these rights;

and is entering into this Settlement Agreement voluntarily, and without any undue influence, pressure or coercion whatsoever. Further, by signing this settlement agreement, Releasor's attorney agrees that he has explained the settlement agreement and that Releasor does understand his rights and the effect of this settlement on those rights.

Executed in \_\_\_\_\_ County, \_\_\_\_\_  
this \_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
David Napier  
Claimant/Releasor

\_\_\_\_\_  
Date

BEFORE ME, the undersigned authority, personally appeared,  
David Napier who, after being duly cautioned and sworn,  
depose(s) and says he has read the above Release and that he has  
set his hand(s) and seal(s) thereto for the purposes therein  
expressed.

The foregoing instrument was acknowledged before me this \_\_\_  
day of \_\_\_\_\_, 2020 by David Napier who is personally  
known to me or produces identification #\_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary

My Commission Expires:

\_\_\_\_\_  
Print Name of Notary

\_\_\_\_\_  
Michael H. Stauder, Sr., Esq.  
Stauder Law Group  
Releasor's Attorney

Executed in \_\_\_\_\_ County, \_\_\_\_\_ this \_\_\_\_\_  
day of \_\_\_\_\_, 2021.