

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between the Estate of Alfonso Limon, Jr.; Alfonso Limon, Sr., individually and as successor in interest to Alfonso Limon, Jr.; Alejandra Limon, individually and as successor in interest to Alfonso Limon, Jr.; and Gerardo Limon, an individual ("Plaintiffs"), on the one hand, and the City of Oxnard; the Oxnard Police Department; the Chief of Police for the Oxnard Police Department, Jeri Williams; Senior Officer John Brisslinger; Officer Ernie Orozco; Officer Don Ehrhardt; Officer Jess Aragon; Officer Rocky Marquez; Officer Pedro Rodriguez; Officer Ryan Lockner; Officer Zack Stiles; and Officer Matthew Ross ("Defendants"), on the other hand. Plaintiffs and Defendants may be collectively referred to as "Parties."

On March 19, 2013, the Plaintiffs filed a complaint for damages against the Defendants in the case entitled *The Estate of Alfonso Limon, Jr., et al., v. City of Oxnard, et al.*, United States District Court case number CV13-01961 SS ("the Lawsuit"), alleging civil rights violations, serious personal injuries, wrongful death, severe emotional distress, general and compensatory damages, funeral and burial expenses, loss of household services and other special damages, statutory damages, costs of suit and prejudgment interest, attorney's fees pursuant to 42 U.S.C. §§1983 and 1988 and Civil Code §§52(b)(3) and 52.1(h), and other damages and relief arising out of an incident that occurred on October 13, 2012, in Oxnard, California.

Plaintiffs and Defendants desire to enter into a mutually agreeable settlement to fully and finally settle all claims between the Plaintiffs and the Defendants alleged in the Lawsuit. This Agreement sets forth the terms of the Plaintiffs' and Defendants' agreement. The terms are as follows:

### I.

#### DISPOSITION OF CLAIMS

A. In consideration for the Plaintiffs' dismissal of the Lawsuit with prejudice and the releases and other provisions contained in this Agreement, Defendant City of Oxnard ("City"), on behalf of all Defendants, (1) agrees to pay Plaintiffs the total sum of Six Million Seven Hundred Thousand Dollars (\$6,700,000), and (2) will work together with the Plaintiffs to agree on and perform the acts set forth in Exhibit A attached to this Settlement Agreement and Release. The settlement amount shall be paid via a check made payable to "Panish, Shea & Boyle LLP Client Trust Account." The check shall be delivered to Plaintiffs' attorneys within sixty (60) days of the execution of this Settlement Agreement and Release.

B. In exchange for the settlement payment as described above and the City's agreement to work together with the Plaintiffs to agree on and perform the acts set forth in Exhibit A, Plaintiffs release the Defendants and their officers, directors, employees, agents, servants, attorneys, insurers, successors, and assigns of any and all claims, demands, damages, actions, or causes of action on account of civil rights violations and bodily injuries, including injuries of any nature, physical sickness, and death, arising out of the allegations contained in the Plaintiffs' complaint in the Lawsuit. The Plaintiffs also specifically waive any entitlement to

attorneys' fees and costs pursuant to 42 U.S.C. §§1983 and 1988 and Civil Code §§52(b)(3) and 52.1(h).

C. Plaintiffs Alfonso Limon, Sr., and Alejandra Limon represent that they are each the rightful heirs of decedent Alfonso Limon, Jr., and represent that they have, through due diligence, sought to locate any and all other heirs with superior standing to assert causes of action in the complaint. Having used due diligence, said Plaintiffs represent that they have located no other heirs with superior standing.

D. The Plaintiffs' attorneys shall provide the City's attorneys with a signed stipulated dismissal of the Lawsuit, in its entirety, with prejudice, upon their execution of this Agreement. Neither the City nor its attorneys shall file the dismissal until after Defendants have provided the settlement payment.

## II.

### RELEASE OF ANY AND ALL CLAIMS

Upon execution of this Agreement, Plaintiffs, on behalf of themselves, their heirs, representatives, successors, and assigns, hereby irrevocably and unconditionally waive, release, and discharge Defendants and their current and former employees, agents, principals, elected officials, officers, directors, representatives, attorneys, affiliates, insurers, reinsurers, successors and assigns, employee organizations or unions, and all persons acting by, through, under, or in concert with them, past or present, and each and all of them, from any and all charges, complaints, lawsuits, appeals, claims, liabilities, claims for relief, and expenses (including attorneys' fees and costs) of any nature whatsoever, whether in law or equity, known or unknown, suspected or unsuspected, which Plaintiffs now have, own, or hold, or claim to have owned or held, or which Plaintiffs may have or hold against each or any of the Defendants, at common law or under any statute, rule, regulation, order, or law, federal, state, or local, on any grounds whatsoever, with respect to any act, event, matter, claim, damage, loss, or injury, up through the date of execution of this Agreement, with any of the Defendants arising from the allegations of the Lawsuit.

## III.

### CIVIL CODE §1542 WAIVER

The Plaintiffs, on behalf of themselves and their successors, assigns, agents, and representatives, hereby waive any and all rights they may have pursuant to California Civil Code §1542, which reads as follows:

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.

The Plaintiffs waive any rights they might have to invoke §1542 now or in the future with respect to the releases set out in this Agreement. The Plaintiffs recognize and acknowledge that

factors which have induced them to enter into this Agreement may turn out to be incorrect or different from what they had previously anticipated, and the Plaintiffs expressly assume all of the risks of this waiver of §1542.

IV.

**NO ADMISSION OF LIABILITY**

This Agreement shall not in any way be construed as an admission by the Defendants of any unlawful or wrongful acts or other liability whatsoever against Plaintiffs, each other, or any other person. The Defendants specifically disclaim any liability to or wrongful acts against Plaintiffs, each other, or any other person on the part of themselves, any related person, or any related predecessor corporation or its or their agents, representatives, successors in interest, and assigns.

V.

**REPRESENTATIONS REGARDING CLAIM**

With the exception of the present claims described herein, Plaintiffs represent that they have not filed any lawsuits, complaints, claims, or charges against the Defendants or any related persons or corporations or against any of its or their past or present officers, directors, governing bodies, employees, agents, predecessors, attorneys, divisions, affiliates, representatives, successors in interest and assigns, and/or all persons acting by, through, under, or in concert with any of them, with any state or federal court, or local, state, or federal agency, or administrative tribunal or person, based on any events occurring prior to the date of execution of this Agreement.

VI.

**PARTIES TO BEAR OWN COSTS AND ATTORNEYS' FEES**

Each Party shall bear its/his/her own costs, expenses, and attorneys' or representatives' fees incurred in connection with the proceedings and/or events resulting in and/or preceding this Agreement, or in connection with any other claims made or investigated by any Party against the other in any forum (civil, criminal, administrative, or quasi-administrative), and each of the Parties hereto expressly waives any claim for recovery of any such costs, expenses, or attorneys' or representatives' fees from the other party. Attorneys/representatives for all Parties to this Agreement do likewise expressly waive any claim for recovery of costs, expenses, and/or attorney's or representatives' fees from the opposing Party(ies). Plaintiffs shall be solely responsible for any known liens in the case and shall defend, indemnify, and hold Defendants harmless from any such liens.

VII.

**NON-MONETARY SETTLEMENT TERMS**

The Plaintiffs and Defendants City of Oxnard and Oxnard Police Department shall work together to agree on and perform the non-monetary settlement terms attached as Exhibit A. Any disputes concerning the non-monetary terms or issues will be submitted to Jeffrey Krivis to resolve through mediation, each party to bear its own costs and fees, if any, of said mediation.

VIII.

**RESPONSIBILITY FOR LIENS AND TAXES**

Plaintiffs shall be solely responsible for any known liens incurred by Plaintiffs in the case, including attorney and medical liens, and shall defend, indemnify, and hold Defendants harmless from any such liens.

The Plaintiffs and/or their attorneys shall be solely responsible for making any necessary state and/or federal withholdings or for the payment of any taxes made necessary by virtue of the settlement payment. Accordingly, the Plaintiffs shall hold the Defendants harmless regarding any investigative and/or enforcement proceedings that may be initiated by the Internal Revenue Service or the California Franchise Tax Board as regards claims of taxes owed in connection with this settlement. Plaintiffs shall bear sole responsibility for any tax liability due as a result of the settlement payment, and Plaintiffs hereby agree to indemnify and hold Defendants harmless from any and all tax liabilities, penalties, and related reasonable attorneys' fees which may become due as a result of the settlement payment.

IX.

**ENFORCEMENT**

The terms of this Agreement shall be enforceable pursuant to the applicable Federal Rules of Civil Procedure.

X.

**WAIVER**

No waiver by any Party of any breach of any term or provision of this Agreement shall be construed to be, nor will be, a waiver of any preceding, concurrent, or succeeding breach of the same, or any other term or provision hereof. No waiver shall be binding unless in writing and signed by the party to be charged or held bound.

**XI.**

**AGREEMENT ENTERED INTO VOLUNTARILY**

Each Party hereto represents and agrees that he, she, or it has carefully read and fully understands all of the provisions of this Agreement; that he, she, or it has had the chance to consult with a representative (including, but not limited to, an attorney); and that he, she, or it is voluntarily, without any duress or undue influence on the part of or on behalf of any Party, entering into this Agreement.

**XII.**

**INTEGRATION CLAUSE**

This Agreement and attached Exhibit A contain all of the terms and conditions agreed upon by the Parties hereto regarding the subject matter of this Agreement. Any prior agreements, promises, negotiations, or representations, either oral or written, relating to the subject matter of this Agreement, not expressly set forth in this Agreement, are of no force or effect.

**XIII.**

**SEVERABILITY**

If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement will nevertheless continue in full force and effect without being impaired or invalidated in any way.

**XIV.**

**DATE OF EXECUTION**

The date of the last signature placed hereon shall hereinafter be known as the "date of execution" of this Agreement.

**XV.**

**OTHER PROVISIONS**

Each Party hereto agrees to do all things and execute and deliver all instruments and documents necessary to fulfill and effect the provisions of this Agreement and to protect the respective rights of the parties to this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy or facsimile transmission of the Agreement, including signatures, shall be deemed to constitute evidence of the Agreement having been executed.

XVI.

JOINTLY NEGOTIATED

This Agreement has been jointly negotiated by the Parties. The language in this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any of the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement Agreement and Release.

**NOTICE: BY SIGNING THIS AGREEMENT, YOU ARE WAIVING AND RELEASING IMPORTANT AND POTENTIALLY VALUABLE LEGAL RIGHTS. PLEASE BE SURE TO READ THIS AGREEMENT COMPLETELY AND CAREFULLY AND DISCUSS IT WITH YOUR LEGAL COUNSEL BEFORE SIGNING.**

Dated: 6/6/14

ESTATE OF ALFONSO LIMON, JR.

By: af Limon

Dated: 6/6/14

af Limon  
ALFONSO LIMON, SR.

Dated: 6/6/14

Alejandra Limon  
ALEJANDRA LIMON

Dated: 6/6/14

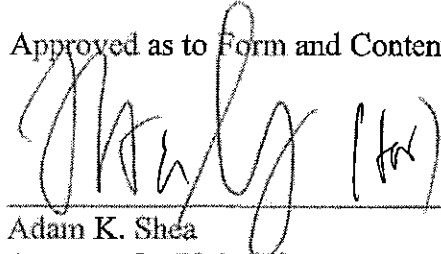
Gerardo Limon  
GERARDO LIMON

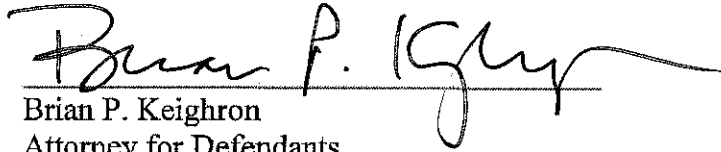
Dated: 6/24/14

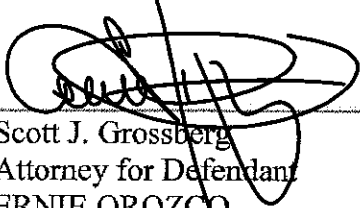
CITY OF OXNARD

By: Tim Flynn  
TIM FLYNN, MAYOR

Approved as to Form and Content:

  
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Adam K. Shea  
Attorney for Plaintiffs

  
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Brian P. Keighron  
Attorney for Defendants  
CITY OF OXNARD, OXNARD POLICE  
DEPARTMENT, JERI WILLIAMS, DON  
EHRHARDT, ROCKY MARQUEZ,  
PEDRO RODRIGUEZ, RYAN LOCKNER,  
and ZACK STILES

  
\_\_\_\_\_  
Scott J. Grossberg  
Attorney for Defendant  
ERNIE OROZCO

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Catherine M. Mathers  
Attorney for Defendant  
JOHN BRISLINGER

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Edwin J. Richards  
Attorney for Defendant  
JESS ARAGON

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Glen Tucker  
Attorney for Defendant  
MATTHEW ROSS

Approved as to Form and Content:

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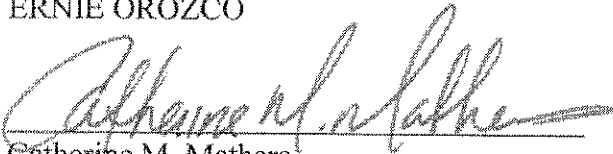
Adam K. Shea  
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Attorney for Plaintiffs

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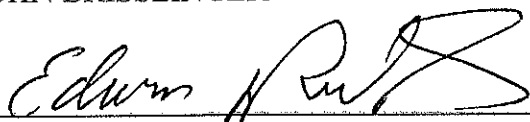
Brian P. Keighron  
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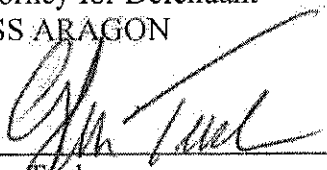
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Attorney for Defendant  
JOHN BRISSLINGER

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Edwin J. Richards  
Attorney for Defendant  
JESS ARAGON

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Glen Tucker  
Attorney for Defendant  
MATTHEW ROSS

## EXHIBIT "A"

The City agrees to do the following:

- 1.& 2. Review and consider equipping officers with video recording devices and acknowledge that audio recording is mandated by policy.
3. Subject to any requisite City approval, install a memorial plaque at a location in the City right of way adjacent to the site where the shooting took place (Garfield and Cooper) in accordance with applicable health and safety regulations and the Oxnard City Code. The language on the plaque shall be agreed upon by the City and the Limon family.
4. Subject to City Council approval if necessary, for a minimum of five-years, declare October 13<sup>th</sup> to be "Community Safety and Anti-Violence Day" and include in the City Proclamation that it is made in honor of the tragic death of Alfonso Limon, Jr.
5. Make public the Office of Independent Review's report regarding the incident, following completion of the full investigation of the matter.
6. Allow the Limon family be given access to public files regarding the incident and make a request to the VCSO that it release Alfonso Limon Jr.'s clothing, shoes, and all personal effects to the Limon family.
7. Make a request to the VCSO that the Limon family be given access to and be allowed to inspect the surveillance video at Cooper and Garfield.
8. Agree that there are no conditions of confidentiality as to the terms of the settlement agreement.
9. After completion of the full investigation of the incident, Chief Jeri Williams shall hold a press conference regarding the incident. During the press conference Chief Jeri Williams will state that Alfonso Limon Jr. was an innocent victim in the incident and an agreed upon statement will be issued by the Limon family and the City.
10. Any dispute regarding the above shall be decided by mediator Jeff Krivis.