


NAME & TITLE	James L. Shea, City Solicitor	CITY OF BALTIMORE	
AGENCY NAME & ADDRESS	Department of Law Suite 101, City Hall		
SUBJECT	<i>Rebecca Ebaugh v. M&CC – Rec & Parks Lawsuit</i>		

MEMO

TO: The Honorable President and Members
of the Board of Estimates

Date: April 21, 2022

ACTION REQUESTED OF BOARD OF ESTIMATES:

The Law Department requests authority to settle a pending lawsuit involving claims of disability, age and race discrimination, disparate treatment, hostile work environment and retaliation following the Plaintiff's termination as Special Assistant to the Director of Recreation and Parks ("R&P").

AMOUNT OF MONEY AND SOURCE OF FUNDS:

The amount of the proposed settlement is \$250,000, which includes attorney fees, backpay and emotional damages. Funds are to be paid from Suits & Judgments, Account Number 2044-000000-1450-703800-603070.

BACKGROUND/EXPLANATION:

Plaintiff, a Caucasian female, was hired in 2003 to serve as Special Assistant to Director of R&P. She was responsible for managing the Directors schedule, screening his emails, preparing his correspondence, maintaining his confidential communications and other related duties. Her employment was uneventful until January 2017 when she suffered a fall while securing the doors at the worksite. She was examined by Mercy Hospital and placed off work for approximately four (4) months. Mercy released her in May 2017, with restriction on her time screening emails and also that she be allowed to take breaks to allow for body comfort and exercise. Her supervisor abided by the restrictions. Her condition eventually improved to the point where Mercy lifted her restrictions; however, Plaintiff was unable to keep pace with the screening of emails, managing the Director's meeting agenda, and maintaining his calendar up-to-date. Over the year following the January 2017 fall, Plaintiff was issued performance warnings and disciplinary suspension due to her performance. In January 2019, Plaintiff requested an accommodation and though she did not return her paperwork timely, R&P Human Resource personnel met with Plaintiff in March 2018 to discuss potential accommodations. The accommodation R&P offered Plaintiff was to demote her to an Office Support Specialist ("OSS"), which reduced her salary from \$55k to \$32k. Plaintiff did not accept the accommodation and was terminated effective March 30, 2018. Plaintiff was 63 years old at the time of termination and was replaced by a much younger African-American male.

Benefits Protection Act, the Family and Medical Leave Act, the Consolidated Omnibus Budget Reconciliation Act, the Americans With Disabilities Act, the Employee Retirement Income Security Act, and any comparative state law, whether presently known or unknown, including attorneys' and consultant's fees. The waiver of claims also includes any administrative remedies such as grievances and arbitrations of whatever nature.

4. **Valid Consideration:** The Settling Parties agree that the exchange of promises and actions set forth herein constitute valid and sufficient consideration on the part of each party.

5. **Warranty of Capacity to Enter Into Release:** Ebaugh represents and warrants that no other person or entity has any interest in the claims, demands, allegations or causes of action referred to in this Settlement Agreement except as otherwise set forth herein and that she has the sole right and exclusive authority to execute this Settlement Agreement, and that she has not sold, assigned, transferred, conveyed or otherwise disposed of any claim, demand, obligation or causes of action referred to in this Settlement Agreement. If any person should assert a claim on behalf of Ebaugh against the City that Ebaugh did not have the right or authority to enter into this Settlement Agreement, Ebaugh agrees to indemnify, defend and hold the City harmless from any and all claims or contentions, damages, costs, liability and attorneys' fees as a consequence or result of such claim or lawsuit.

6. **ADRA Disclosures:** Without detracting in any respect from any other provision of this Agreement:

a. Ebaugh, in consideration of the compensation described in Paragraph 2 of this Agreement, agrees and acknowledges that this Agreement constitutes a knowing and voluntary waiver of all rights or claims she has against the City as set forth herein, including, but not limited to, all rights or claims arising under the Age Discrimination in

Employment Act of 1967, as amended ("ADEA"), and including, but not limited to, all claims of age discrimination and retaliation in violation of the ADEA;

b. Ebaugh represents, agrees and acknowledges that the consideration provided under this Agreement is in addition to anything of value to which she is already entitled.

c. Ebaugh represents that she has consulted with an attorney prior to executing this Agreement.

d. Ebaugh also acknowledges that she was informed that she had twenty-one (21) days in which to review and consider this Agreement and that she was, in fact, provided with the twenty-one (21 days) to review and consider this Agreement. Ebaugh further acknowledges that if she signs this Agreement, she has seven (7) calendar days within which to revoke his acceptance, in which case this Agreement shall have no effect. Ebaugh may revoke her acceptance by providing written notice of her withdrawal to:

**Gary Gilkey
Chief Solicitor, Labor & Employment Division
Baltimore City Law Department
Baltimore, Maryland 21202**

e. This Agreement shall not become effective or enforceable until seven days after the City has received Ebaugh's signed copy of this Agreement. If Ebaugh timely exercises her right to revoke this Agreement, this Agreement shall not be admissible or be used for any purpose.

7. Costs and Expenses. Each party will be responsible for his, her or its own costs and expenses incurred in connection with this matter.

