


NAME & TITLE	James L. Shea, Baltimore City Solicitor	CITY OF BALTIMORE	
AGENCY NAME & ADDRESS	Department of Law, Suite 101, City Hall		
SUBJECT	<i>Steve Morse v. Justin Trojan, et al.</i> United States District Court for the District of Maryland, Civil Action No.: 1:17-cv-01331-GJH		

MEMO

TO: Honorable President and Members
of the Board of Estimates

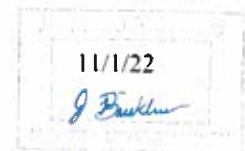
DATE: October 28, 2022

ACTION REQUESTED OF BOARD OF ESTIMATES

The Department of Law respectfully requests authorization to approve the settlement of Plaintiff's Petition for Attorney's Fees and Costs arising from a lawsuit brought against former Officers Justin Trojan and Jason Figueroa, brought by Steve Morse. Plaintiff obtained a trial verdict against former Officer Trojan in August 2022.

AMOUNT OF MONEY AND SOURCE OF FUNDS

The total amount of the proposed settlement is \$110,185.89.
Funds are available in account number 1001-000000-2041-716700-603070.

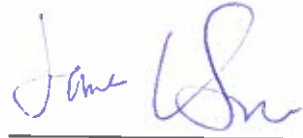


BACKGROUND/EXPLANATION

On or about May 16, 2014, former Officers Trojan and Figueroa responded to Plaintiff's home in response to a complaint that he was armed and dangerous. Plaintiff was in possession of an air rifle and was arrested and charged with second degree assault, disorderly conduct, an alcohol and property damage charge, and one count of discharging an air gun. All charges against Plaintiff were dismissed on or about July 23, 2014.

Plaintiff filed a federal civil case on or about May 15, 2017, alleging both state tort claims and federal civil rights violations. In August 2022, after a multi-day trial, the jury found former officer Trojan liable for a civil rights violation. The court entered a judgment of \$51,250.00 against former officer Trojan. Plaintiff's counsel subsequently filed a timely Motion for Attorney's fees and costs seeking a total of \$144,380.39 for attorney's fees and expenses. The fees and expenses asserted in the motion are reasonable and well documented and there is no legal basis to expect the court to reject or reduce the requested amount.

Based on a review by the Settlement Committee of the Law Department, a recommendation is made to the Board of Estimates to approve the settlement of the Fee Petition to avoid an expected higher award of fees and expenses.



James L. Shea
Baltimore City Solicitor

APPROVED BY THE BOARD OF ESTIMATES

Clerk

Date

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (the "Agreement") is made and entered into this ____ day of _____, 2022, by and among Steve E. Morse (the "Releasing Party"), and The Mayor and City Council of Baltimore (the "City") and the Baltimore Police Department ("BPD") (collectively, the "Released Parties"). The Released Parties together with the Releasing Party are referred to herein as the "Settling Parties."

RECITALS

WHEREAS, the Releasing Party filed a civil rights action on or about May 15, 2017 in the United States District Court for the District of Maryland, substantially or similarly styled as *Steve E. Morse v. Officer Justin Trojan, et al.*, Case No.: 1:17-cv-01331-GJH alleging that BPD officers violated his Fourth Amendment right to be free from false arrest and excessive force pursuant to 42 U.S.C. Section 1983;

WHEREAS, the Releasing Party prevailed at a trial on the merits and was awarded monetary damages by a jury on his Fourth Amendment excessive force claim;

WHEREAS, the Releasing Party filed a Motion for Attorneys' Fees and Costs in the above-captioned case on or about August 12, 2022 seeking an award of attorneys' fees and costs as a prevailing party in a civil rights action pursuant to 42 U.S.C. Section 1988 (the "Fee Litigation");

WHEREAS, the Settling Parties now desire to fully compromise and settle finally and forever the Fee Litigation and any other existing or future claims or disputes asserted or which could have been asserted of whatever nature, including without limitation, any and all claims, causes of action, costs and demands of whatever name or nature, in any manner by the Releasing Party arising, growing out of, or on account of any Releasing Party's Losses, the

Occurrence against the City and BPD, or any other persons, known or unknown, or any of the Released Parties.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Settling Parties hereby covenant and agree as follows:

1. **Recitals:** The foregoing recitals are incorporated into and made part of this Agreement.

2. **Settlement Payment:** Within thirty (30) days of the final and full execution of this Agreement by the Settling Parties, the City shall make the sum total payment to the Releasing Party of One Hundred and Ten Thousand One Hundred Eighty-Five Dollars and Eight-Nine Cents (\$110,185.89) (the "Settlement Sum"), as full and final payment for making the release herein and abiding by the terms set forth in this Agreement. Payment shall be made by check, payable to FORTINI LAW LLC, 12410 Milestone Center Drive, Suite 600, Germantown, MD 20876.

3. **Waiver of Appeal:** The Settling Parties agree to forego any appeal in *Steve E. Morse v. Officer Justin Trojan, et al.*, Case No.: 1:17-cv-01331-GJH and further agree that they will not challenge or otherwise seek to modify the judgment entered by the trial court on August 5, 2022.

4. **Judgment Payment:** The Released Parties shall remit payment to the Releasing Party for the full judgment amount of fifty-one thousand two hundred and fifty dollars (\$51,250.00) (the "Judgment Sum") within thirty (30) days of the final and full execution of this Agreement by the Settling Parties. Payment shall be made by check, payable

to FORTINI LAW LLC, 12410 Milestone Center Drive, Suite 600, Germantown, MD 20876. This Judgment Sum is *in addition to* the Settlement Sum. Therefore, the Releasing Party shall receive a total payment from the Released Parties of one hundred sixty-one thousand, four hundred and thirty-five dollars and eighty-nine cents (\$161,435.89).

5. **Warranty of Capacity to Enter Into Release:** The Releasing Party 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 he has the sole right and exclusive authority to execute this Settlement Agreement, to receive the sum specified in it and to release all claims on his behalf, and that he 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 the Releasing Party for damages against any of the Released Parties claiming that the Releasing Party did not have the right or authority to enter into this Settlement Agreement or receive the monies hereunder, the Releasing Party agrees to indemnify, defend and hold harmless the Released Parties from any and all claims or contentions, damages, costs, liability and attorneys' fees as a consequence or result of such claim or lawsuit.

6. **General Release and Covenant not to Sue:** In consideration of the payment of the Settlement Sum and other good and valuable consideration, the Releasing Party, his heirs, assigns, agents, representatives, attorneys and successors in interest hereby unconditionally releases and forever discharges and covenants not to sue the Released Parties, their officials, agents, employees, employers, agencies, departments, directors, officers, members, representatives, assigns, attorneys, successors in interest, and all other persons, firms, entities,

governmental entities, and corporations from any and all Claims which the Releasing Party may now or hereafter have or claim to have, arising out of, or in any way related to, the Fee Litigation, the Releasing Party's Losses, and/or the allegations or claims asserted, or that could have been asserted, in the Claim, provided, however, the obligations of the Settling Parties under this Agreement shall continue in full force and effect. "Claims" include, but are not limited to, any and all losses, costs (including attorneys' fees except as otherwise provided herein), expenses, debts, actions (constitutional or statutory, in law or in equity), causes of action, suits, damages, claims, demands and all other claims, liabilities and obligations of any nature whatsoever including but not limited to any and all claims for discrimination under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Age Discrimination in Employment Act, the Equal Pay Act, the Older Worker 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.

7. **No Admission of Liability:** It is understood and agreed by the Settling Parties that this Agreement and the releases contained herein shall not be construed as an admission of liability on the part of the Released Parties, any such liability being expressly denied, and that rather, the purpose of this Agreement is to fully and finally resolve all differences amongst the Settling Parties and to allow the Settling Parties to avoid the time, expense and uncertainties of protracted litigation.

8. **Medicare/Medicaid Liens:** The Releasing Party understands that Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 ("MMSEA") imposes a lien (the "Medicare Lien") for reimbursement of certain payments made by Medicare. The Settling

Parties understand and believe that there are no outstanding Medicare Liens. Notwithstanding this, in the event that payment of the claims results in an obligation to reimburse Medicare, the Releasing Party agrees to make such reimbursement and agrees that his attorneys may retain sufficient funds in the attorneys' escrow account to satisfy the Medicare Lien. If the Releasing Party or his attorneys fail to satisfy a Medicare Lien, and that failure causes the Released Parties to pay or reimburse any person or entity any amount MMSEA specifies, the Releasing Party agrees to reimburse the Released Parties' payment or reimbursement to such person or entity. Upon receipt of documentation from Medicare that any Medicare Lien is satisfied, the Releasing Party will send a copy of such documentation to the Released Parties.

9. **No Evidence of Need to Indemnify:** It is understood and agreed by the Settling Parties that this Agreement and/or corresponding settlement or payment of the Settling Sum is not to be construed as evidence of an obligation on behalf of the City or BPD to indemnify any person who may be covered under this Agreement for claims of intentional conduct, as such contention is expressly denied.

10. **Entire Agreement of the Parties:** It is understood and agreed by the Parties that this Agreement constitutes the entire Agreement among the Settling Parties with respect to the subject matter hereof and supersedes all other prior and contemporaneous written or oral agreements and discussions. This Agreement may only be amended by a writing signed by all parties hereto.

11. **Drafting of the Agreement.** The Settling Parties acknowledge and agree that this Agreement represents the product of negotiations by the Settling Parties and shall not be deemed to have been drafted exclusively by any one party. In the event of a dispute

regarding the meaning of any language contained in this Agreement, the Settling Parties agree that the same shall be accorded a reasonable construction and shall not be construed more strongly against one party than the other.

12. **Severability:** In the event that any covenant, condition, or other provision contained in this Agreement is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect, impair or invalidate any other covenant, condition or other provision contained herein. If such condition, covenant or other provision shall be deemed invalid due to its scope of breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope of breadth permitted by law.

13. **WAIVER OF JURY TRIAL:** TO THE EXTENT AN ACTION IS FILED IN ANY COURT IN CONNECTION WITH ANY COVENANT, TERM OR CONDITION OF THIS AGREEMENT, THE SETTLING PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTELLIGENTLY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY.

14. **Knowing and Voluntary Act:** Each of the Settling Parties represents that each has read this Agreement and acknowledges that each has been represented or had the opportunity to be represented by legal counsel of their own choice throughout all of the negotiations which preceded the execution of this Agreement and that each party has voluntarily and knowingly executed this Agreement of their own free will and/or with the consent and/or on the advice of such legal counsel. Each of the Settling Parties further acknowledges that each and/or such party's counsel have had adequate opportunity to make whatever investigation or inquiry they may deem necessary or desirable in connection with the

subject matter of this Agreement prior to the execution hereof and the delivery and acceptance of the considerations specified herein.

15. **Survival of Terms:** The Settling Parties agree that this Agreement shall upon approval inure to the benefit of the Settling Parties and their respective agents, assigns, partners, heirs, executors, administrators, and personal or legal representatives. The Settling Parties understand and agree that the terms, covenants, and conditions set forth in this Agreement shall survive the closing of the Agreement.

16. **Governing Law:** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maryland, without giving effect to its conflicts of law provisions, and any legal actions presenting disputes arising out of or under this Agreement shall be subject to the exclusive jurisdiction of the Circuit Court for Baltimore City, Maryland.

17. **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same instrument. An emailed, facsimile or copy signature will be binding and legal in all respects as if it were an original signature to this Agreement.

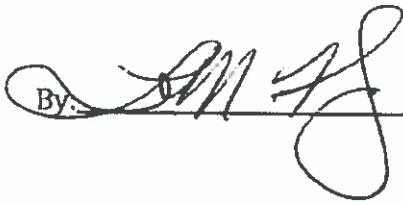
IN WITNESS WHEREOF, the Settling Parties have executed this Agreement by the duly authorized representatives as of the date first written above:

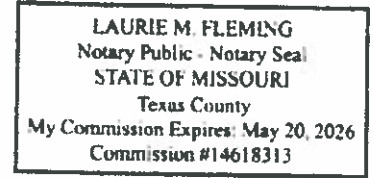
PLAINTIFF

WITNESS

Steve E. Morse (SEAL)
Steve E. Morse

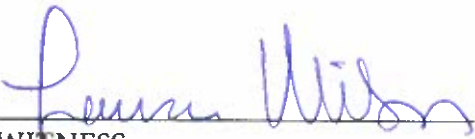
Laurie M Fleming
WITNESS

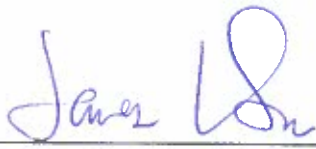
By:  (SEAL)



Approved as to Form and Legal Sufficiency

By: 
Chief Solicitor
Department of Law


WITNESS

By: 
James L. Shea, Baltimore City Solicitor

APPROVED BY THE BOARD OF ESTIMATES

By: _____
Clerk Date