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Routing/Review Approval of Personnel Settlement Agreement

Please sign/date where indicated below noting the approval or denial of the attached proposed Personnel Settlement Agreement. **After signing, please return to the attention of BOR - General Counsel. ** If "denied," please return to BOR - General Counsel.

In the matter of: Joshua Garringer v. University of Iowa
Case No. LACV08112 (Johnson County)

Institutional Staff: Maria Lukas

Office of the Attorney General

Reviewed by (Print Name):

Reviewer's Signature:

Date:

Reviewed:

Redacted:

Kayla Burkhalter Reynolds
Kayla Burkhalter Reynolds

11/20/20

Institution:

University of Iowa

Institutional Head's Printed Name:

Bruce Harreld

Institutional Head's Signature:

B Harreld

Date: November 10, 2020

Approve:

Deny:

Board of Regents

Executive Director's Printed Name: DocuSigned by: Mark Braun

Executive Director's Signature:

Mark Braun

Date: 11/19/2020

Approve:

Deny:

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is made and entered into on the last date written below by and between Joshua Garringer (“Garringer”) and the University of Iowa (“the University”), on behalf of itself and the Board of Regents, State of Iowa (“the Board of Regents”) and the State of Iowa, and their current and former successors, assigns, subsidiaries, divisions, affiliates, officers, directors, employees, agents, and representatives (the University, the Board of Regents, and the State of Iowa collectively referred to herein as “the Released Parties” and all parties collectively referred to herein as “the Parties”).

RECITALS

WHEREAS, Joshua Garringer is the Plaintiff and the University of Iowa is the Defendant (“Defendant”) in an action pending in the Iowa District Court for Johnson County, Case Number LACV08112 (the “Lawsuit”);

WHEREAS, the Parties have a mutual interest in amicably resolving any and all disputes between them;

WHEREAS, the Parties have negotiated this Agreement in good faith to fully settle all differences between them including, but not limited to, those differences embodied in the Lawsuit;

WHEREAS, the Parties acknowledge and agree that this Agreement does not constitute any admission of wrong-doing or any admission of violations of applicable law, rule, or policy by either Party; and

WHEREAS, the Parties agree that the terms and conditions contained herein are fair, reasonable, and equitable and are the result of an arm’s length negotiation between the Parties.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, which are expressly incorporated by reference as if fully restated herein, and in exchange for their mutual promises and for other good and valuable consideration, and intending to be legally bound herein, the Parties agree as follows:

1. **Payment.** In exchange for satisfaction by Garringer of the terms identified in Paragraphs 3, 4, and 5 of this Agreement, the University agrees that the State of Iowa, on behalf of all Released Parties, will pay Garringer a total gross settlement amount of One Hundred and Seventy-Five Thousand Dollars (\$175,000) (“Settlement Amount”). The Settlement Amount shall be delivered to the Sherinian and Hasso Law Firm, 111 E. Grand Ave., Suite 212, Des Moines, Iowa 50309, by Federal Express or UPS delivery, between December 5, 2020 and January 5, 2021. Payment of the Settlement Amount is more fully described as follows:

- (A) The State of Iowa, on behalf of all Released Parties, shall pay a portion of the Settlement Amount in the amount of Sixty-One Thousand, Six Hundred and Two

Dollars and Forty-Three Cents (\$61,602.43) in compromise of Garringer's claims for non-wage compensatory damages. The State of Iowa shall cause an IRS Form 1099-MISC to be issued to Garringer for this amount at the end of 2020.

- (B) The State of Iowa, on behalf of all Released Parties, shall pay a portion of the Settlement Amount in the amount of Forty-One Thousand, Sixty-Eight Dollars and Twenty-Eight Cents (\$41,068.28), less required withholdings and deductions for applicable taxes but with no deduction for IPERS, in settlement and compromise of Garringer's claim for lost wages. The State of Iowa shall cause an IRS Form W-2 to be issued to Garringer for this amount at the end of 2020.
- (C) The State of Iowa, on behalf of all Released Parties, shall pay to Sherinian & Hasso Law Firm (EIN [REDACTED]), a portion of the Settlement Amount in the amount of Seventy-Two Thousand, Three Hundred and Twenty-Nine Dollars and Twenty-Nine Cents (\$72,329.29), for payment of attorney fees and litigation expenses. This payment will not be subject to withholding taxes at the time it is tendered. The State of Iowa shall cause an IRS Form 1099-MISC to be issued to Sherinian & Hasso and Garringer, reporting this payment.

Garringer acknowledges that these payments are in compromise of a dispute and that such payments are not to be construed as the State of Iowa or any of the Released Parties conceding the reasonableness of any attorneys' fees or costs, and are not to be construed as an admission of liability or wrongdoing on the part of the State of Iowa or any of the Released Parties, and that the State of Iowa and all Released Parties expressly deny any such liability or wrongdoing. Any payment made under this Agreement is subject to Iowa Code Chapter 8A.504.

2. **Tax Liability.** Garringer shall be solely responsible for any and all taxes that may be due by him on the payments in Paragraph 1 and shall hold the State of Iowa and the Released Parties harmless and indemnify them from any liability thereon.

3. **Dismissal with Prejudice.** The Parties stipulate that within five (5) business days of the latter of (a) receipt by Garringer of the checks identified in Paragraph 1(A)-(B) above or (b) receipt by Plaintiff's counsel of the payment identified in Paragraph 1(C) above, Garringer will file with the court a Notice of Dismissal dismissing with prejudice all claims in this matter.

4. **Garringer's Covenant Not to Sue.** In consideration of the terms and conditions set forth in this Agreement, the sufficiency of which the Parties acknowledge, Garringer agrees, promises, and covenants that neither he, nor any person, organization, or any other entity acting on his behalf will file, charge, claim, sue, cause, or permit to be filed, charged, or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief, or other) against the State of Iowa and the Released Parties, including their respective affiliates, successors, officers, directors, employees, agents, current or former students, and representatives, whether in their individual capacity or official capacity, involving any matter which occurred in the past up to the date of this Agreement, including any continuing effects thereof, or otherwise involving any claims, demands, causes of action, obligations, damages, or liabilities which are the subject of this Agreement.

5. **Garringer's Full and Comprehensive Release of Claims.** Garringer agrees, on behalf of himself, his spouse, heirs, executors, administrators, attorneys, and assigns, to hereby waive, release, and forever discharge the Released Parties, including their respective affiliates, successors, officers, directors, employees, agents, and representatives, from any and all known or unknown actions, causes of action, claims, or liabilities of any kind that have or could be asserted against the Released Parties, involving any matter which occurred in the past up to the date of this Agreement arising out of or related to his employment with the University, including but not limited to:

- (a) Any claims arising from any alleged violation by the Released Parties of any federal, state, or local statutes, ordinances, or common laws, including, but not limited to, the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.; Title VII of the Civil Rights Act of 1964; 42 U.S.C. § 2000e et seq.; the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 et seq.; the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; the Equal Pay Act, 29 U.S.C. § 206(d) et seq.; and the Iowa Civil Rights Act of 1965, Iowa Code Chapter 216. Garringer further waives his right to monetary or other recovery should any federal, state, or local administrative agency pursue any claims on his behalf arising out of or related to his employment with the University. Garringer further agrees to waive all rights to use any internal grievance or appeal procedure offered by the University with respect to any matter arising out of or related to his employment with the University.
- (b) Claims, actions, causes of action or liabilities arising under any other federal, state, municipal, or local statutes, law, ordinance, or regulation; and/or
- (c) Any other claim whatsoever including, but not limited to: claims for severance pay, sick pay, unpaid wages, unpaid bonuses, unpaid time off, claims based upon breach of contract, breach of the covenant of good faith and fair dealing, wrongful termination, defamation, interference with contract, intentional, and/or negligent infliction of emotional distress, fraud, tort, personal injury, invasion of privacy, violation of public policy, negligence, and/or any other common law, statutory, or other claim whatsoever arising out of or relating to his employment with the University.

Notwithstanding the above, it is agreed and understood that the releases contained in this paragraph do not cover any claims which by law Garringer cannot waive and any claims to enforce the terms of this Agreement.

6. **Full and Comprehensive Release of Potential Claims against Garringer; Covenant Not to Sue.** The Board of Regents and the University hereby covenant and agree that in consideration of the terms of this Agreement, they waive, fully release, and forever discharge Garringer of and from any and every claim, demand, and cause of action of whatsoever nature which they now have, or may in the past have had, including, but not limited to, any and every claim, demand, and cause of action arising out of Garringer's duties and obligations related to his employment with the University and promise and covenant not to file, charge, claim, sue, cause or permit to be filed, charged, or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief, or other) against Garringer. Notwithstanding the above, it is agreed

and understood that the releases contained in this paragraph do not cover any claims which by law the Board of Regents and the University cannot waive and any claims to enforce the terms of this Agreement.

7. **No Admission of Liability.** This Agreement is not, and shall not in any way be, construed as an admission of any of the Parties that any of the Parties violated any federal, state or local laws, or University rules or policies. The Parties have entered into this Agreement for the sole purpose of avoiding the burden, expense, delay, and uncertainties of proceeding through a formal legal process.

8. **Neutral Employment Reference.** In the event the University receives an employment reference inquiry regarding Garringer, the University agrees to respond by providing only Garringer's dates of employment and position(s) held. To facilitate compliance with this provision, Garringer is to refer all reference inquiries to the University of Iowa's Director of University Employee and Labor Relations.

9. **Representation of Garringer.** Garringer hereby represents and warrants that he (a) has authority to enter into this Agreement; (b) holds any and all claims free and clear of any liens and has not pledged or assigned those claims to any third party; (c) has not commenced or been subject to any bankruptcy or insolvency proceeding that affects or could affect his rights to accept payment and release claims under this Agreement; (d) has not received any promise of further consideration; and (e) does not know of any other person who holds any rights to sue for the causes of action or the claims subject to the releases made hereunder. Garringer further agrees to indemnify and hold harmless each of the Released Parties from and against any and all claims, actions, causes of actions, demands, rights, damages, costs, losses of services, expenses, compensation, taxes, or property damages (including attorneys' fees, expenses, and costs of defense) which any person, partnership, corporation, entity, association, agency, or other organization may bring against it alleging facts and circumstances that are contrary to, inconsistent with, or arising from the breach of, the representations and warranties of this paragraph.

10. **Garringer Review.** Garringer acknowledges he was given at least twenty-one (21) days to review and consider this Agreement in its entirety. Garringer understands that he may voluntarily waive this review period by signing and returning the Agreement prior to the expiration of twenty-one (21) days. The Agreement waives no rights or claims that may arise after its execution.

11. **Voluntary Agreement.** Garringer represents and certifies that he has carefully read and fully understands all of the provisions and effects of this Agreement; that he has been advised to and had the opportunity for consultation with legal counsel; that he is voluntarily entering into this Agreement; and that the Released Parties have not made any representations concerning the terms or effects of this Agreement other than those contained in it.

12. **Counterparts.** This Agreement may be signed in counterparts. Faxed or emailed signatures will be deemed originals.

13. **Governing Law and Venue.** This Agreement is made and entered into in Johnson County in the State of Iowa, and in all respects shall be interpreted, enforced, and governed by

Iowa law. Any disputes arising out of this Agreement shall be subject to the jurisdiction of the federal or state courts of Iowa. The venue for cases brought in state court will be Johnson County, Iowa. The venue for cases brought in federal court will be Linn County, Iowa or Scott County, Iowa.

14. **Severability.** Should a court of competent jurisdiction declare or determine any provision of this Agreement to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby. It is the Parties' intent that the part, term, or provision declared or determined to be illegal or invalid shall be deemed not to be a part of this Agreement.

15. **Public Record.** The Parties agree that this Agreement is a public record under Iowa Code Chapter 22. The Parties acknowledge that this Agreement is subject to Executive Order 85 and, as such, must be approved by the Executive Director of the Board of Regents and the President of the University, and be reviewed by the Iowa Attorney General, or his designee. This Agreement is not effective until it has received all necessary reviews and approvals. This Agreement will be posted on the Board of Regents' web page.

16. **Amendments.** None of the terms or conditions contained herein shall be altered, amended, waived, or abandoned, except by prior written agreement of the Parties.

17. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties hereto, and fully supersedes any and all prior agreements, discussions, or understanding between the Parties pertaining to the subject matter hereof.

**CAREFULLY READ THIS AGREEMENT; BY SIGNING BELOW YOU ARE
RELEASING ALL KNOWN CLAIMS. YOU HAVE A PERIOD OF TWENTY-ONE (21)
CALENDAR DAYS TO CONSIDER THIS RELEASE. IF YOU SIGN THIS
AGREEMENT, YOU WILL HAVE UP TO SEVEN (7) CALENDAR DAYS FOLLOWING
THE DATE YOU SIGN IT TO REVOKE YOUR SIGNATURE. THE RELEASE SHALL
NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THIS SEVEN (7) CALENDAR
DAY PERIOD HAS EXPIRED.**

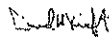
IN WITNESS WHEREOF, and intending to be legally bound hereby, Garringer and the University of Iowa on its own behalf and the behalf of the Board of Regents, the State of Iowa, have executed the foregoing Settlement Agreement and Release.

Joshua W Garringer

Joshua Garringer

Agreed to on this 09 day of November, 2020.

DocuSigned by:



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David W. Kieft

Business Manager

The University of Iowa

Agreed to on this 11/18/2020 November, 2020.