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James Schworn

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PIA WILSON,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION - ESSEX COUNTY
Plaintiff,	:	DOCKET NO. ESX-L-000094-17
	:	
v.	:	<u>Civil Action</u>
	:	
NEW JERSEY TRANSIT, JAMES SCHWORN,	:	<b>DEFENDANT JAMES SCHWORN'S</b>
ANTHONY BAK, ED BAKSA, and	:	<b>ANSWER TO THE COMPLAINT WITH</b>
ROBERT LAVELL,	:	<b>SEPARATE DEFENSES</b>
	:	<b>AND JURY DEMAND</b>
Defendants.	:	

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Defendant James Schworn ("Schworn"), by way of Answer to the Complaint of Plaintiff Pia Wilson ("Plaintiff"), states:

**THE PARTIES**

1. Admitted in part. Denied in part. Schworn admits that Plaintiff was an NJT employee during certain time periods alleged in the Complaint. Schworn further admits that he is a Caucasian male. Schworn admits that Anthony Bak, Edward Baksa, and Robert Lavell appear to be Caucasian males. Schworn further admits that Plaintiff appears to be an African-American female. The remaining allegations of this paragraph are deemed conclusions of law to which no response

is required.

2. Admitted in part. Denied in part. Schworn admits that Plaintiff was an NJT employee during time periods alleged in the Complaint. The remaining allegations of this paragraph are deemed conclusions of law to which no response is required.

3. Admitted in part. Denied in part. Schworn admits that he is a Caucasian male who was an NJT employee during the time periods alleged in the Complaint. Schworn further admits that he became Deputy Chief for Light Rail and Contract Services on or about April 25, 2016. The remaining allegations of this paragraph are denied.

4. Admitted in part. Denied in part. Schworn admits that Anthony Bak appears to be a Caucasian male. Schworn admits that Mr. Bak was an NJT employee during certain time periods alleged in the Complaint. The remaining allegations of this paragraph are denied.

5. Admitted in part. Denied in part. Schworn admits that Edward Baksa appears to be a Caucasian male. Schworn further admits that Mr. Baksa was an NJT employee during certain time periods alleged in the Complaint. The remaining allegations of this paragraph are denied.

6. Admitted in part. Denied in part. Schworn admits that Robert Lavell appears to be a Caucasian male. Schworn further admits that Mr. Lavell was an NJT employee during certain time periods alleged in the Complaint. The remaining allegations of this

paragraph are denied.

VENUE

7. Denied. The allegations of this paragraph are deemed conclusions of law to which no response is required.

FIRST COUNT  
(Retaliation In Violation of the LAD)

8. Schworn repeats and incorporates his answers to the previous paragraphs of the Complaint as if set forth at length herein.

9. Admitted in part. Denied in part. Plaintiff previously filed a Complaint in the matter captioned Wilson, et al. v. New Jersey Transit, et al. (Docket Number ESX-L-263-14) ("Wilson I"). The Complaint in Wilson I is self-evident and speaks for itself. The remaining allegations are denied.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

14. Admitted in part. Denied in part. It is admitted only that several of the parties to Wilson I entered into a Settlement Agreement and Release, the product of negotiation and compromise, the making of which cannot in any way be construed or considered an admission of guilt or noncompliance with any federal, state or local law, or any other wrongdoing whatsoever. The settlement documents in that matter are self-evident and speak for themselves. Schworn

attaches a true and correct copy of the Settlement Agreement and Release, Addendum to Settlement Agreement and Release, and Stipulation of Dismissal with Prejudice and Without Costs entered into in connection with Wilson I, the contents of which are incorporated herein by reference. The remaining allegations are denied.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

25. Admitted in part. Denied in part. It is admitted only that Plaintiff has held various positions with NJT, including a Purchasing Specialist position. Schworn is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph which are therefore denied.

26. Admitted.

27. Admitted in part. Denied in part. In 2007, Wilson was promoted to a Purchasing Agent position. The remaining allegations of this paragraph are denied.

28. Admitted in part. Denied in part. In 2010, Wilson was promoted to a Senior Purchasing Agent position. The remaining allegations of this paragraph are denied.

29. Admitted in part. Denied in part. On or about May 1, 2011, Jose Rivera replaced Schworn as Senior Director of Procurement, whereupon Plaintiff reported directly to Mr. Rivera. The remaining allegations of this paragraph are denied.

30. Denied. It is denied that there was race and gender discrimination in the Procurement Department. Schworn is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph which are therefore denied.

31. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

32. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

33. Denied. Schworn is without knowledge or information

sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

34. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

35. Denied.

36. Admitted in part. Denied in part. It is admitted only that the records indicate that the Complaint in Wilson I was filed on or about January 14, 2014, which is self-evident and speaks for itself. The remaining allegations are denied.

37. Admitted in part. Denied in part. It is admitted only that the records indicate that the Complaint in Wilson I was filed on or about January 14, 2014, which is self-evident and speaks for itself. The remaining allegations are denied.

38. Admitted in part. Denied in part. Several of the parties to Wilson I entered into a Settlement Agreement and Release, the product of negotiation and compromise, the making of which cannot in any way be construed or considered an admission of guilt or noncompliance with any federal, state or local law, or any other wrongdoing whatsoever. The settlement documents in that matter are self-evident and speak for themselves. Schworn attaches a true and correct copy of the Settlement Agreement and Release, Addendum to Settlement Agreement and Release, and Stipulation of Dismissal with

Prejudice and Without Costs entered into in Wilson I, the contents of which are incorporated herein by reference. The remaining allegations are denied.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Admitted.

44. Admitted.

45. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

46. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

47. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

48. Denied.

49. Denied.

50. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

51. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

52. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

53. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

54. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

55. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

56. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

57. Denied.

58. Denied.

59. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, including the allegations in subparagraphs (a) through



(k), which are therefore denied.

60. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

61. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

62. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

63. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

64. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

65. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

66. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

67. Denied. Schworn is without knowledge or information

sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

68. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

69. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

70. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

71. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

72. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

73. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

74. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

75. Denied.

76. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

77. Denied.

78. Denied.

79. Denied.

80. Denied. The allegations of this paragraph are deemed conclusions of law to which no response is required.

81. Denied.

82. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

83. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

84. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied. Furthermore, the allegations of this paragraph are deemed conclusions of law to which no response is required.

85. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this

paragraph which are therefore denied.

86. Denied. Schworn is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph which are therefore denied.

87. Denied.

88. Denied.

89. Denied.

90. Denied.

91. Denied.

WHEREFORE, Schworn demands judgment in his favor and against Plaintiff, dismissing Plaintiff's Complaint with prejudice, plus costs and attorney's fees.

**SECOND COUNT**

**(Aiding and Abetting Discrimination Against  
Defendants Schworn, Bak, Baksa and Lavell)**

92. Schworn repeats and incorporates his answers to the previous paragraphs of the Complaint as if set forth at length herein.

93. Denied. The allegations of this paragraph are deemed conclusions of law to which no response is required.

94. Denied. The allegations of this paragraph are deemed conclusions of law to which no response is required.

95. Denied. The allegations of this paragraph are deemed conclusions of law to which no response is required.

96. Denied.

97. Denied.

98. Denied.

WHEREFORE, Schworn demands judgment in his favor and against Plaintiff, dismissing Plaintiff's Complaint with prejudice, plus costs and attorney's fees.

**SEPARATE DEFENSES**

**FIRST SEPARATE DEFENSE**

The Complaint fails to state a claim on which relief can be granted.

**SECOND SEPARATE DEFENSE**

Recovery is barred in this action by reason of the applicable statute of limitations and/or doctrine of laches.

**THIRD SEPARATE DEFENSE**

At all times relevant hereto, James Schworn acted in good faith and without fraud or malice.

**FOURTH SEPARATE DEFENSE**

There is no basis for the imposition of punitive damages.

**FIFTH SEPARATE DEFENSE**

Damages, if any, sustained by Plaintiff are the result of her own actions and/or inactions.

**SIXTH SEPARATE DEFENSE**

Plaintiff's damages, if any, are barred because Plaintiff has failed to mitigate damages.

**SEVENTH SEPARATE DEFENSE**

James Schworn did not aid or abet any conduct or action of anyone else relating to Plaintiff's Complaint.

**EIGHTH SEPARATE DEFENSE**

Plaintiff was not subject to any bias, unlawful discrimination, harassment or retaliation.

**NINTH SEPARATE DEFENSE**

Any actions taken by James Schworn with regard to Plaintiff's employment were for legitimate non-discriminatory, non-retaliatory business reasons.

**TENTH SEPARATE DEFENSE**

New Jersey Transit has a reasonable policy against discrimination, harassment and retaliation that was properly followed and applied to Plaintiff's complaints.

**ELEVENTH SEPARATE DEFENSE**

The Settlement Agreement and Release, Addendum to Settlement Agreement and Release, and Stipulation of Dismissal with Prejudice and Without Costs entered into in connection with the matter captioned as Wilson, et al. v. New Jersey Transit, et al. (Docket Number ESX-L-263-14), the contents of which are incorporated herein by reference, preclude any and all future claims regarding the allegations underlying that matter.

**TWELFTH SEPARATE DEFENSE**

The Plaintiff's claims are barred by the doctrines of collateral estoppel and/or res judicata and/or entire controversy and/or issue preclusion.

**THIRTEENTH SEPARATE DEFENSE**

James Schworn has not deprived Plaintiff of any right, privilege or immunity secured to her by the New Jersey or United States Constitutions or any Act of Congress or the Legislature of New Jersey.

**FOURTEENTH SEPARATE DEFENSE**

James Schworn is immune from suit.

**FIFTEENTH SEPARATE DEFENSE**

Damages, if any sustained by the Plaintiff, were the result of the actions of persons and/or entities over whom James Schworn had no control.

**SIXTHTEENTH SEPARATE DEFENSE**

James Schworn reserves the right to interpose each and every such other separate defense that his continuing investigation and discovery may indicate.

**SEVENTEENTH SEPARATE DEFENSE**

James Schworn did not violate any duty to Plaintiff.

**EIGHTEENTH SEPARATE DEFENSE**

Plaintiff did not suffer the damages alleged.

NINETEENTH SEPARATE DEFENSE

Plaintiff's work performance was below expectations, deficient and/or sub-par.

TWENTIETH SEPARATE DEFENSE

Plaintiff failed to exhaust administrative remedies available to her.

TWENTY-FIRST SEPARATE DEFENSE

Plaintiff's recovery is barred, limited, or subject to setoff, in this action by the provisions of the Worker's Compensation Act.

TWENTY-SECOND SEPARATE DEFENSE

Plaintiff's claims are baseless and were made with the intent to defraud the State and/or harass the Defendants.

TWENTY-THIRD SEPARATE DEFENSE

Plaintiff has been treated no differently than other NJT employees in terms of her work hours and job expectations.

DEMAND FOR STATEMENT OF DAMAGES

PLEASE TAKE NOTICE that in accordance with R. 4:5-21, James Schworn requests within five (5) days of service upon you that Plaintiff furnish a written statement of the amount of damages claimed as against him.



DEMAND FOR DOCUMENTS REFERRED TO IN PLEADING

PLEASE TAKE NOTICE that in accordance with R. 4:18-2, James Schworn requests that any and all documents or papers referred to in the Complaint, not annexed thereto, shall be served upon him within five (5) days after service of this Answer.

RESERVATION OF RIGHTS

James Schworn reserves the right, at or before trial, to move to dismiss the Complaint and/or for summary judgment, on the ground that the Complaint fails to state a claim upon which relief can be granted and/or he is entitled to judgment as a matter of law, based on any or all of the above defenses.

JURY DEMAND

James Schworn demands trial by a jury on all issues.

NOTICE PURSUANT TO RULES 1:5-1(a) AND 4:17-4

PLEASE TAKE NOTICE that the undersigned attorney hereby demands, pursuant to the above-cited Rules of Court, that each party herein serving pleadings and interrogatories and receiving answers thereto, serve copies of all such pleadings and answered interrogatories, and all documents, papers and other material referred to therein, received from any party, upon the under-signed attorney, and TAKE NOTICE that this is a CONTINUING demand.

DESIGNATION OF TRIAL COUNSEL


Pursuant to the provisions of R. 4:25-4, the Court is advised that Deputy Attorney General Martin J. Burns is hereby designated as trial counsel.

CERTIFICATION REGARDING OTHER  
PROCEEDINGS AND PARTIES

I certify in accordance with R. 4:5-1 that to the best of my knowledge as of the date herein there are no other proceedings either pending or contemplated with respect to the matter in controversy in this action and no other parties who should be joined in the action.

CHRISTOPHER S. PORRINO  
ATTORNEY GENERAL OF NEW JERSEY

By: \_\_\_\_\_

  
Martin J. Burns  
Deputy Attorney General  
Attorney for Defendant  
James Schworn

Dated: March 16, 2017

**SMITH MULLIN, P.C.**  
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-----x SUPERIOR COURT OF NEW JERSEY  
PIA WILSON, JOCELYN LONG, : LAW DIVISION: ESSEX COUNTY  
MAURICE HORNE, SONYA DOTSON, : DOCKET NO.: ESX-L-263-14  
DELOIS LANDRUM, TIELA LEWIS, :  
and GREGG WHITE, on behalf of :  
themselves and others similarly situated, : Civil Action  
:  
Plaintiffs, :  
v. :  
:  
NEW JERSEY TRANSIT, JAMES :  
SCHWORN, PAUL KELLY, JOHN :  
WASILAK, PAT BATTERSBY, JANET :  
CLARK and CELESTE DRISGULA, : SETTLEMENT AGREEMENT  
: AND GENERAL RELEASE  
Defendants. :  
-----x

1. The parties to this Negotiated Settlement Agreement and General Release (the "Agreement") are the Plaintiffs Pia M. Wilson, Maurice Horne, DeLois Landrum, Tiela Lewis, Jocelyn Long, Gregg J. White and Sonya Dotson ("Plaintiffs") and the Defendants New Jersey Transit ("Defendant"), James Schworn, Paul Kelly, John Wasilak, Pat Battersby, Janet Clark and Celeste Drisgula ("Individual Defendants"). The Agreement is the product of negotiation and compromise between Plaintiffs and Defendants.

2. Plaintiffs and Defendants have chosen to enter into this Agreement in order to avoid further proceedings with respect to certain claims Plaintiffs have made against Defendant

and Individual Defendants in the Superior Court of New Jersey, Law Division, Essex County, Docket No. ESX-L-263-14 (the "Litigation").

3. Plaintiffs understand and agree that the making of this Agreement shall not, in any way, be construed or considered an admission by Defendant or Individual Defendants of guilt or non-compliance with any federal, state or local law, or of any other wrongdoing whatsoever.

4. In exchange for the promises made by Defendants herein, Plaintiffs, Plaintiffs' heirs, executors, administrators, fiduciaries, successors and/or assigns:

a. agree to the dismissal, with prejudice and without an award of costs or attorneys' fees, of the complaint filed in the Litigation; and

b. unconditionally and irrevocably give up and release, to the full extent permitted by law, Defendant, Defendant's past, present and future direct or indirect parent organizations, subsidiaries, divisions, affiliated entities, and its and their partners, officers, directors, trustees, administrators, fiduciaries, employment benefit plans and/or pension plans or funds, executors, attorneys, employees (including but not limited to Individual Defendants), insurers, reinsurers and/or agents and their successors and assigns individually and in their official capacities (collectively referred to herein as "Released Parties" or "Released Party"), jointly and severally, of and from all claims, known or unknown, that Plaintiffs have or may have against Released Parties up to the date of execution of this Agreement including, but not limited to, those claims set forth in the Litigation, or otherwise arising out of Plaintiffs' employment or termination of employment, or any alleged violation of:

- Title VII of the Civil Rights Act;
- Civil Rights Act of 1991;
- Sections 1981 through 1988 of Title 42 of the United States Code;

- The Employee Retirement Income Security Act;
- The Fair Credit Reporting Act;
- The Family and Medical Leave Act;
- The Equal Pay Act;
- The Immigration Reform Control Act;
- The Americans with Disabilities Act;
- The Rehabilitation Act;
- The Age Discrimination in Employment Act;
- The Occupational Safety and Health Act;
- The Uniformed Services Employment and Reemployment Rights Act;
- Worker Adjustment and Retraining Notification Act;
- Employee Polygraph Protection Act;
- The employee (whistleblower) civil protection provisions of the Corporate and Criminal Fraud Accountability Act (Sarbanes-Oxley Act);
- The New Jersey Law Against Discrimination;
- The New Jersey Civil Rights Act;
- The New Jersey Family Leave Act;
- The New Jersey State Wage and Hour Law;
- The Millville Dallas Airmotive Plant Job Loss Notification Act;
- The New Jersey Conscientious Employee Protection Act;
- The New Jersey Equal Pay Law;
- The New Jersey Occupational Safety and Health Law;
- The New Jersey Smokers' Rights Law;
- The New Jersey Genetic Privacy Act;
- The New Jersey Fair Credit Reporting Act;
- The New Jersey Statutory Provision Regarding Retaliation/Discrimination for Filing a Workers' Compensation Claim;
- The New Jersey Public Employees' Occupational Safety and Health Act;
- New Jersey laws regarding Political Activities of Employees, Lie Detector Tests, Jury Duty, Employment Protection, and Discrimination;
- any other federal, state or local civil rights law, whistle-blower law or any other local, state or federal law, regulation or ordinance;
- any public policy, contract (oral, written or implied), tort, constitution or common law;
- any claims for vacation, sick or personal leave pay, short term or long term disability benefits, or payment pursuant to any practice, policy, handbook or manual of Employer; or
- any basis for costs, fees, or other expenses including attorneys' fees.

Plaintiffs understand this release includes all claims related in any manner to Plaintiffs' employment up to the date of this Agreement.

c. affirm that Plaintiffs are not a party to, and that Plaintiffs have not filed or caused to be filed, any claim, complaint, or action against Released Parties in any forum or form, except the referenced lawsuit.

5. **Consideration:** In exchange for the promises made by Plaintiffs, and the execution of this Agreement, Defendants agree to pay, on or before July 9, 2016, the total sum of Three Million, Six Hundred Fifty Thousand Dollars (\$3,650,000.00) (the "Settlement Payment"), with individual payments to be made as follows:

a. **Payments to Plaintiff Wilson**

i. Defendant will deliver to Plaintiffs' attorney a check made payable to "Pia M. Wilson" in the gross amount of \$250,142.80, minus all required FICA, income tax, and other required amounts to be withheld from this gross amount as required for the payment of wages, and for which an IRS Form W-2 will be issued to Plaintiff Wilson. Plaintiff Wilson represents that she is accepting this payment as compensation for her back wages.

ii. Defendant will deliver to Plaintiffs' attorney a check made payable to "Pia M. Wilson" in the amount of \$252,000, for which an IRS Form 1099-MISC will be issued to Plaintiff Wilson. Plaintiff Wilson is accepting this payment as compensation for her personal physical injuries and physical illness.

b. **Payments to Plaintiff Landrum**

i. Defendant will deliver to Plaintiffs' attorney a check made payable to "DeLois Landrum" in the gross amount of \$125,142.80, minus all required FICA, income tax, and other required amounts to be withheld from this gross amount as required for the payment of

wages, and for which an IRS Form W-2 will be issued to Plaintiff Landrum. Plaintiff Landrum represents that she is accepting this payment as compensation for her back wages.

ii. Defendant will deliver to Plaintiffs' attorney a check made payable to "DeLois Landrum" in the amount of \$127,000, for which an IRS Form 1099-MISC will be issued to Plaintiff Landrum. Plaintiff Landrum is accepting this payment as compensation for her personal physical injuries and physical illness.

c. Payments to Plaintiff Horne

i. Defendant will deliver to Plaintiffs' attorney a check made payable to "Maurice Horne" in the gross amount of \$150,142.80, minus all required FICA, income tax, and other required amounts to be withheld from this gross amount as required for the payment of wages, and for which an IRS Form W-2 will be issued to Plaintiff Horne. Plaintiff Horne represents that he is accepting this payment as compensation for his back wages.

ii. Defendant will deliver to Plaintiffs' attorney a check made payable to "Maurice Horne" in the amount of \$152,000, for which an IRS Form 1099-MISC will be issued to Plaintiff Horne. Plaintiff Horne is accepting this payment as compensation for his personal physical injuries and physical illness.

d. Payments to Plaintiff White

i. Defendant will deliver to Plaintiffs' attorney a check made payable to "Gregg J. White" in the gross amount of \$100,142.90, minus all required FICA, income tax, and other required amounts to be withheld from this gross amount as required for the payment of wages, and for which an IRS Form W-2 will be issued to Plaintiff White. Plaintiff White represents that he is accepting this payment as compensation for his back wages.

ii. Defendant will deliver to Plaintiffs' attorney a check made payable to "Gregg J. White" in the amount of \$102,000, for which an IRS Form 1099-MISC will be issued to Plaintiff White. Plaintiff White is accepting this payment as compensation for his personal physical injuries and physical illness.

e. Payments to Plaintiff Dotson

i. Defendant will deliver to Plaintiffs' attorney a check made payable to "Sonya Dotson" in the gross amount of \$62,642.90, minus all required FICA, income tax, and other required amounts to be withheld from this gross amount as required for the payment of wages, and for which an IRS Form W-2 will be issued to Plaintiff Dotson. Plaintiff Dotson represents that she is accepting this payment as compensation for her back wages.

ii. Defendant will deliver to Plaintiffs' attorney a check made payable to "Sonya Dotson" in the amount of \$64,500, for which an IRS Form 1099-MISC will be issued to Plaintiff Dotson. Plaintiff Dotson is accepting this payment as compensation for her personal physical injuries and physical illness. ✓

f. Payments to Plaintiff Lewis

i. Defendant will deliver to Plaintiffs' attorney a check made payable to "Tiela Lewis" in the gross amount of \$30,142.90, minus all required FICA, income tax, and other required amounts to be withheld from this gross amount as required for the payment of wages, and for which an IRS Form W-2 will be issued to Plaintiff Lewis. Plaintiff Lewis represents that she is accepting this payment as compensation for her back wages.

ii. Defendant will deliver to Plaintiffs' attorney a check made payable to "Tiela Lewis" in the amount of \$32,000, for which an IRS Form 1099-MISC will be issued to ✓/



Plaintiff Lewis. Plaintiff Lewis is accepting this payment as compensation for her personal physical injuries and physical illness.

**g. Payments to Plaintiff Long**

i. Defendant will deliver to Plaintiffs' attorney a check made payable to "Jocelyn Long" in the gross amount of \$100,142.90, minus all required FICA, income tax, and other required amounts to be withheld from this gross amount as required for the payment of wages, and for which an IRS Form W-2 will be issued to Plaintiff Long. Plaintiff Long represents that she is accepting this payment as compensation for her back wages.

ii. Defendant will deliver to Plaintiffs' attorney a check made payable to "Jocelyn Long" in the amount of \$102,000, for which an IRS Form 1099-MISC will be issued to Plaintiff Long. Plaintiff Long is accepting this payment as compensation for her personal physical injuries and physical illness. ✓

**h. Payment to Plaintiffs' Attorneys**

Defendant will deliver to Plaintiffs' attorneys checks made payable as follows:

i. a check made payable to "Niedweske Barber Hager LLC" in the amount of \$1,000,000.00 for attorneys' fees, and for which an IRS Form 1099 will be issued to Niedweske Barber Hager LLC. ✓

ii. a check made payable to "Smith Mullin, P.C." in the amount of \$1,000,000.00 for attorneys' fees, and for which an IRS Form 1099 will be issued to Smith Mullin, P.C. ✓

6. Plaintiffs will provide an executed Stipulation of Dismissal of the Litigation with prejudice (which shall be filed with the Court following Plaintiffs' counsels' receipt of the monies discussed in Paragraph 5), and IRS W-9 Forms.

7. Plaintiffs agree that Plaintiffs are responsible for all applicable taxes, if any, as a result of the receipt of these monies. Plaintiffs understand and agree Released Parties (as defined herein) are providing Plaintiffs with no representations regarding the tax obligations or consequences that may arise from this Agreement. Plaintiffs agree to indemnify Released Parties and hold Released Parties harmless for all taxes, penalties and interest, withholding or otherwise, for which Released Parties may be found liable as a consequence of having paid monies to Plaintiffs pursuant to this Agreement. It is expressly agreed that if Released Parties are required to provide payments for taxes or interest or penalties to any taxing authority, Plaintiffs shall reimburse Released Parties for such payments to such taxing authority within forty-five (45) days after Released Parties notify Plaintiffs, in writing, via certified mail, return receipt requested, that it has incurred such liability.

8. The resolution of this matter is based upon a good faith determination of the parties to resolve a disputed claim. The parties have not shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. Section 1395y(b). The parties resolved this matter in compliance with both state and federal law. The parties made every effort to adequately protect Medicare's interests and incorporate such into the settlement terms. Plaintiffs acknowledge their duty to cooperate with Released Parties in order to allow Responsible Reporting Entity(ies) to fulfill the obligation to comply with Section 111. Plaintiffs (and Plaintiffs' counsel) agree to provide Released Parties with any and all information necessary for

Released Parties to comply with Section 111 of the Medicare, Medicaid & SCHIP Extension Act of 2007.

9. Plaintiffs warrant that Plaintiffs are not Medicare beneficiaries as of the date of the resolution of this matter. Because Plaintiffs are not Medicare recipients as of the date of this Agreement, no conditional payments have been made by Medicare.

10. Plaintiffs represent and warrant that all bills, costs or liens resulting from or arising out of Plaintiffs' alleged injuries, claims or lawsuits are Plaintiffs' responsibility to pay, Plaintiffs agree to assume responsibility for satisfaction of any and all rights to payment, claims or liens of any kind, that arise from or are related to payments made for services provided to Plaintiffs or on Plaintiffs' behalf. Plaintiffs agree to assume responsibility for all expenses, costs, or fees incurred by Plaintiffs related to Plaintiffs' alleged injuries, claims or Litigation, including without limitation, all Medicare conditional payments, subrogation claims, liens, or other rights to payment, relating to medical treatment or lost wages that have been or may be asserted by any health care provider, insurer, governmental entity, employer or other person or entity. Further, Plaintiffs will indemnify, defend and hold Released Parties harmless from any and all damages, claims and rights to payment, including any attorneys' fees, brought by any person, entity or governmental agency to recover any of these amounts.

11. In the event either Plaintiffs or Defendant breach any provision of this Agreement, Plaintiffs and Defendant agree that either may institute an action against the other to specifically enforce any term or terms of this Agreement, in addition to any other legal or equitable relief permitted by law. In the event that any provision of this Agreement is declared illegal or unenforceable by a court of competent jurisdiction and cannot be modified to be enforceable,

excluding the general release language, such provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect.

12. Defendants agree to pay the mediation expenses for the services of the Honorable Eugene J. Codey, J.S.C., ret.

13. Plaintiffs acknowledge that Plaintiffs have not relied on any representation, promises, or agreements of any kind made in connection with the decision to sign this Agreement, except for those set forth in this Agreement.

14. This Agreement may not be modified except upon express written consent of both parties wherein specific reference is made to this Agreement.

15. This Agreement sets forth the entire agreement between the Plaintiffs and Released Parties and fully supersedes any prior or contemporaneous agreements and understandings between Plaintiffs and Released Parties.

16. Plaintiffs acknowledge and agree that Plaintiffs have been given a reasonable period of time to consider the terms of this Agreement. Plaintiffs have reviewed the terms of this Agreement and the effect of signing this Agreement with legal counsel of Plaintiffs' choosing. Plaintiffs understand and agree that this Agreement settles, bars and waives any and all claims that Plaintiffs, Plaintiffs' heirs, executors, administrators, fiduciaries, successors and/or assigns has or could possibly have against Released Parties as of the date of the execution of this Agreement.

17. This Agreement shall be governed and conformed in accordance with the laws of the State of New Jersey without regard to its conflict of laws provisions.

18. This Agreement may be executed in one or more counterparts, each of which will be deemed original copies to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Plaintiffs and Defendants hereto knowingly and voluntarily executed this Agreement as of the date set forth below:

BY: *Pia M. Wilson*  
Plaintiff, Pia M. Wilson

Dated: *5/23/16*

BY: *Maurice Horne*  
Plaintiff, Maurice Horne

Dated: *5/23/16*

BY: *DeLois Landrum*  
Plaintiff, DeLois Landrum

Dated: *5/23/16*

BY: *Tiela Lewis*  
Plaintiff, Tiela Lewis

Dated: *5/23/16*

BY: *Jocelyn E. Long*  
Plaintiff, Jocelyn Long

Dated: *23 May 2016*

BY: *[Signature]*  
ON BEHALF OF DEFENDANT,  
NEW JERSEY TRANSIT

Dated:

BY: *[Signature]*  
Defendant, James Schworn

Dated:

BY: *[Signature]*  
Defendant, Paul Kelly

Dated:

BY: *[Signature]*  
Defendant, John Wasilak


Dated:

BY: *[Signature]*  
Defendant, Pat Battersby

Dated:

BY:   
Plaintiff, Gregg White

Dated: 5/24/16

BY:   
Plaintiff, Sonya Dotson

Dated: 5/24/16

BY: \_\_\_\_\_  
Defendant, Janet Clark

Dated:

BY: \_\_\_\_\_  
Defendant, Celeste Drisgula

Dated:

SMITH MULLIN, P.C.  
(Nancy Erika Smith, Esq. - Atty.  
ID #027231980)  
240 Claremont Avenue  
Montclair, New Jersey 07042  
(973) 783-7607  
Attorneys for Plaintiffs

NIEDWESKE BARBER HAGER, LLC  
(Kevin E. Barber, Esq. - Atty. ID #021921996)  
98 Washington Street  
Morristown, New Jersey 07960  
(973) 401-0064

-----X SUPERIOR COURT OF NEW JERSEY  
PIA WILSON, JOCELYN LONG, : LAW DIVISION: ESSEX COUNTY  
MAURICE HORNE, SONYA DOTSON, : DOCKET NO.: ESX-L-263-14  
DELOIS LANDRUM, TIELA LEWIS, :  
and GREGG WHITE, on behalf of :  
themselves and others similarly situated. : Civil Action

Plaintiffs.

v.

NEW JERSEY TRANSIT, JAMES  
SCHWORN, PAUL KELLY, JOHN  
WASILAK, PAT BATTERSBY, JANET  
CLARK and CELESTE DRISGULA,

Defendants.

:  
: STIPULATION OF DISMISSAL WITH  
: PREJUDICE AND WITHOUT COSTS

-----X  
It is hereby stipulated and agreed by and between the parties hereto and pursuant to Rule  
4:37-1(a), that all Plaintiffs' claims in the above-entitled action be and the same hereby are  
dismissed as to all Defendants, with prejudice, and without costs or attorneys' fees.

SMITH MULLIN, P.C.  
Attorneys for Plaintiffs

MCELROY, DEUTSCH, MULVANEY &  
CARPENTER, LLP  
Attorneys for Defendants

BY:   
JAMES E. BURDEN, ESQ.

BY: \_\_\_\_\_  
EDWARD J. DEPASCALE, ESQ.

Dated: July 26, 2016

Dated:

**PIA WILSON, JOCELYN LONG, MAURICE HORNE, SONYA DOTSON, DELOIS LANDRUM, TIELA LEWIS, and GREGG WHITE, on behalf of themselves and others similarly situated,**

**Plaintiffs,**

**v.**

**NEW JERSEY TRANSIT, JAMES SCHWORN, PAUL KELLY, JOHN WASILAK, PAT BATTERSBY, JANET CLARK and CELESTE DRISGULA,**

**Defendants.**

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - ESSEX COUNTY  
DOCKET NO: L-263-14**

**Civil Action**

**ADDENDUM TO SETTLEMENT  
AGREEMENT AND RELEASE**

**This Addendum is intended to be incorporated into and made a part of the Settlement Agreement and Release executed by the plaintiffs on May 23, 2016 releasing all claims asserted in the above captioned lawsuit:**

**The addendum modifies the language in paragraph 4(b) to release "any claims for compensation, vacation, sick or personal leave pay, short-term or long-term disability benefits, or payment pursuant to any practice, policy, handbook or manual of employer, or for enhanced pension benefits."**

**Paragraph 5 (b) (i) (ii) are amended to read: Defendant will deliver to plaintiff's attorneys checks made payable as follows:**

- (i) a check made payable to "Niedweske Barber Hager LLC" in the amount of \$1,000,000.00 for attorneys' fees, and for which an IRS Form 1099 will be issued to Niedweske Barber Hager LLC" and an IRS Form 1099 to each plaintiff for the amount of attorneys' fees equal to the proportionate of the allocation of payments to the plaintiff.**
- (ii) a check made payable to "Smith Mullin P.C. " in the amount of \$1,000,000.00 for attorney's fees, and for which an IRS Form 1099 will be issued to Smith Mullin P.C. and an IRS Form 1099 to each plaintiff for the amount of attorney's fees equal to the proportionate of the allocation of payments to the plaintiff**

**The last sentence of paragraph 7 is amended to read: "It is expressly agreed that if released parties are required to provide payments for taxes or interest or penalties to any taxing authority, plaintiffs shall reimburse released parties with such payments to such taxing authority**



within (45) days after released parties notify plaintiffs, in writing, via certified mail, return receipt requested, that they have incurred such liability.

Paragraph 16 is amended to read: Plaintiffs acknowledge that they are entering into this agreement knowingly, willingly, and voluntarily. Plaintiffs have reviewed the terms of this agreement and the effect of signing this agreement with legal counsel of the Plaintiff's choosing. Plaintiffs understand and agree that this agreement settles, bars and waives any and all claims that Plaintiffs, Plaintiffs heirs, executors, administrators, fiduciaries, successors and/or assigns has or could possibly have against Released Parties as of the date of the execution of the Agreement and Addendum. Each Plaintiff is entitled to 21 days from the date the Plaintiff received this agreement to consider and sign it. If a Plaintiff signs this Agreement, the Plaintiff then will have a period of seven days after signing ( the " Revocation Period" ) within which to revoke it . If the Agreement is not revoked, it will become effective at the end of the revocation period. Any revocation of this Agreement must be in writing and delivered to the attorneys for the defendants."

BY: \_\_\_\_\_  
Plaintiff, Pia M. Wilson

Dated:

BY: \_\_\_\_\_  
Plaintiff, Maurice Horne

Dated:

BY: \_\_\_\_\_  
Plaintiff, De Lois Landrum

Dated:

BY: \_\_\_\_\_  
Plaintiff, Tiela Lewis

Dated:

BY: \_\_\_\_\_  
Plaintiff, Jocelyn Long

Dated:

BY: \_\_\_\_\_  
ON BEHALF OF DEFENDANT,  
NEW JERSEY TRANSIT

Dated:

BY: \_\_\_\_\_  
Defendant, James Schworn

Dated:

BY: \_\_\_\_\_  
Defendant, Paul Kelly

Dated:

BY: \_\_\_\_\_  
Defendant, John Wasilak

Dated:

BY: \_\_\_\_\_  
Defendant, Pat Battersby

Dated:

BY: \_\_\_\_\_  
Plaintiff, Gregg J. White

Dated:

BY: \_\_\_\_\_  
Plaintiff, Sonya Dotson

Dated:

BY: \_\_\_\_\_  
Defendant, Janet Clark

Dated:

BY: \_\_\_\_\_  
Defendant, Celeste Drisgula

Dated: