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SHS 15,

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JANE DOE,  
:  
Plaintiff, :  
:  
-against- :  
:  
HUNTER COLLEGE OF THE CITY :  
UNIVERSITY OF NEW YORK, JENNIFER :  
RAAB, and EIJA AYRAVAINEN, :  
:  
Defendants. :  
-----X

**STIPULATION OF SETTLEMENT,  
GENERAL RELEASE &  
ORDER OF DISMISSAL**

04 Civ. 6740 (SHS)

(ECF)

WHEREAS, Plaintiff commenced the above-captioned action ("the Action") by filing a complaint on or about August 20, 2004, alleging, *inter alia*, claims for disability discrimination pursuant to the Fair Housing Amendments Act of 1988, 42 U.S.C. §3601, *et seq.*, the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*, and the Rehabilitation Act of 1973, 29 U.S.C. §794 *et seq.*; and

WHEREAS, all claims asserted against Defendants Jennifer Raab and Eija Ayraivainen are simultaneously being dismissed pursuant to a *Stipulation & Order of Voluntary Dismissal* in accordance with Fed. R. Civ. P. 41(a); and

WHEREAS, Defendant City University of New York (s/h/a Hunter College of the City University of New York)<sup>1</sup> ("Defendant" or "CUNY") has expressly denied any wrongful conduct or liability, or violation of any Federal, State or Local statute, ordinance or law, in the Action whatsoever; and

WHEREAS, Plaintiff and Defendant desire to fully resolve the Action and any and all other disputes, whether known or unknown, between them without further litigation and without admission of fault or liability; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and other consideration contained in this *Stipulation of Settlement, General Release & Order of Dismissal* ("Agreement"), Plaintiff and Defendant hereby stipulate and agree as follows:

<sup>1</sup> As a senior college and subdivision of CUNY, Hunter College is not a legally cognizable entity separate from CUNY. See N.Y. Educ. Law §§6202(2) and (5). Therefore, CUNY is the sole appropriate institutional party in interest in this action.

## **1.0 Dismissal of the Action with Prejudice**

The Action against Defendant is hereby voluntarily dismissed, with prejudice, pursuant to Fed. R. Civ. P. 41(a) and without payments, costs, disbursements, expenses or attorney's fees in excess of the amounts specified in Paragraphs 3.2 and 3.4 herein.

## **2.0 General Release and Discharge**

2.1 In consideration of the payments set forth in Paragraphs 3.2 and 3.4 herein, Plaintiff hereby completely releases and forever discharges Defendant from any and all claims, demands, obligations, actions, causes of action, rights, damages, costs, expenses and compensation of any nature whatsoever including, without limitation, any and all known or unknown claims under any Federal, State or Local law, statute, constitution, rule, regulation or ordinance arising from or based upon events or conduct occurring prior to or on the date of Plaintiff's execution of this Agreement.

2.2 This release and discharge shall also apply to Defendant's officers, directors, stockholders, attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors and successors in interest and assigns and all other persons, firms or corporations with whom any of the former have been, or are now affiliated.

2.3 This release, on the part of Plaintiff, shall be a fully binding and complete settlement among Plaintiff, Defendant, and their heirs, assigns and successors.

2.4 Plaintiff acknowledges and agrees that the release and discharge set forth above is a general release. Plaintiff expressly waives and assumes the risk of any and all claims for damages which exist as of this date, but of which the Plaintiff does not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect Plaintiff's decision to enter into this Agreement. Plaintiff further agrees that she has accepted payment of the sums specified herein as a complete compromise of matters involving disputed issues of law and fact. Plaintiff assumes the risk that the facts or law may be other than she believes. It is understood and agreed to by the parties that this settlement is a compromise of a disputed claim, and the payments are not to be construed as an admission of liability on the part of the Defendant, by whom liability is expressly denied.

## **3.0 Payments**

3.1 In consideration of the dismissal and general release and discharge set forth in Sections 1 and 2 herein, Defendant agrees to pay or cause to be paid to the individual(s) named below (the "Payee(s)") the sums outlined in Paragraphs 3.2 and 3.4 herein.

3.2 Payments due at the time of settlement as follows:

\$70,000.00 payable to Goldfarb Abrandt Salzman & Kutzin LLP, Attorneys for Plaintiff  
\$30,000.00 payable to Bazelon Center for Mental Health Law, Attorneys for Plaintiff

3.3 The amounts set forth in Paragraph 3.2 herein shall be paid in full and complete satisfaction of any and all claims for costs, disbursements, expenses and attorney's fees incurred by Plaintiff for any and all legal counsel, experts or consultants who have at any time represented or consulted with Plaintiff in connection with the Action as well as in connection with any other proceeding, administrative, judicial or otherwise, and any other claim or action arising from, based upon or alleging any of the acts, transactions, occurrences or omissions asserted in the Action.

3.4 Periodic payments made according to the schedule as follows (the "Periodic Payments"):

Payee: [REDACTED]  
Beginning 12/1/2006, \$1,354.17 monthly guaranteed for 48 months only.

3.5 The cost to Defendant of the periodic payments set forth in paragraph 3.4 herein is Sixty Two Thousand Four Hundred Ninety Seven dollars (\$62,497.00), disclosure of which has been required as a condition of settlement. No part of the total sum being paid by Defendant to provide future periodic payments as set forth in this Release may be paid directly to Plaintiff in advance of the payment date, inasmuch as the parties negotiated and have hereby agreed to a structured settlement.

3.6 The term "guaranteed" as it is used in Paragraph 3.4 herein, shall be construed to mean "payments that will be made whether the Payee is alive or not at the time the payment is due". Should the Payee identified in Paragraph 3.4 herein expire prior to said Payee's receipt of all payments described as "guaranteed", the remainder of the "guaranteed" payments shall be payable to the Estate of [REDACTED] or any such person she may so designate. Payee may request in writing that any Assignee (as defined in Sections 5, 6, and 7 below) change the beneficiary designation under this Agreement. Assignee will do so but will not be liable, however, for any payment made prior to receipt of the request or so soon thereafter that payment could not reasonably be stopped. [REDACTED] or a duly authorized representative of [REDACTED] shall be responsible for maintaining accurate address and mortality information with the Assignee and for promptly notifying the Assignee, in writing, of any changes which may affect payments made hereunder.

3.7 Defendant has no notice of any liens. In the event of the existence of any outstanding liens, it is understood and agreed that Plaintiff shall be solely responsible to satisfy any and all such liens and that Plaintiff shall indemnify and hold Defendant harmless from any and all claims made by lienholders, whether such claims have been made or are in the future made.

3.8 In the event that any taxing authority or any other Federal, State or Local government, administrative agency or court issues a final determination that Defendant and/or the State of New York are liable for the failure of Plaintiff and/or her representatives to pay Federal, State or Local income or other taxes or withholdings with respect to any portion of the payments referred to in Paragraphs 3.2 and 3.4 herein, or are liable for interest or penalties related thereto, Plaintiff agrees to reimburse and indemnify Defendant and/or the State of New York for any Federal, State or Local taxes that Plaintiff should have paid with respect to any portion of the payments referenced in Paragraphs 3.2 and 3.4 herein, so long as Plaintiff has been provided with notice of

any such claim or proceeding against Defendant and/or the State of New York promptly following receipt of notice of such claim or proceeding by Defendant and/or the State of New York. Notice to Plaintiff in care of the law offices of Goldfarb Abrandt Salzman & Kutzin LLP, shall constitute sufficient notice under this provision.

3.9 The payments by Defendant referenced in Paragraphs 3.2 and 3.4 herein are subject to the approval of all appropriate state officials in accordance with N.Y. Pub. Off. Law §17, and the settlement memorialized herein shall not be binding on Defendant until such approvals have been finalized.

#### **4.0 Plaintiff's Rights to Payments**

Plaintiff acknowledges that the Periodic Payments cannot be accelerated, deferred, increased or decreased by the Plaintiff; nor shall Plaintiff have the power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by assignment or otherwise. Defendant and/or its Assignee (as defined in Paragraphs 5, 6 and 7 herein) shall not segregate or set aside any of its assets to fund the periodic payments to Plaintiff as required by Paragraph 3.4 herein, it being understood that Plaintiff is and shall be a general creditor of Defendant and/or its Assignee as defined in Paragraph 6.1 herein. No part of the payments called for in Paragraphs 3.2 and 3.4 herein or any assets of Defendant and/or its Assignee are to be subject to the execution of any legal process for any obligation of Plaintiff in any manner. Transfer of the periodic payments is thus prohibited by the terms of this structured settlement and may otherwise be prohibited or restricted under applicable law.

#### **5.0 Recipient of Any Guaranteed Payments Remaining After the Death of Plaintiff**

Any payments to be made after the death of any Payee pursuant to the terms of this Agreement shall be made to such person or entity as shall be designated in writing by Plaintiff to Defendant. If no person or entity is so designated by Plaintiff, or if the person designated is not living at the time of the Payee's death, such payments shall be made to the estate of the Payee. No such designation, nor any revocation thereof, shall be effective unless it is in writing and delivered to Defendant or Non-Qualified Assigned Benefits Company ("NABCO"). The designation must be in a form acceptable to Defendant or NABCO before such payments are made.

#### **6.0 Consent to Non-Qualified Assignment**

6.1 Plaintiff acknowledges and agrees that Defendant may enter into a Non-Qualified Assignment with NABCO. NABCO's obligation for payment of the Periodic Payments shall be no greater than that of Defendant (whether by judgment or agreement) immediately preceding the transfer of the Periodic Payments obligation.

6.2 Any such assignment, if made, shall be accepted by Plaintiff without right of rejection and shall completely release and discharge Defendant from the Periodic Payments obligation assigned to NABCO. Plaintiff recognizes that, in the event of such an assignment, NABCO shall be the sole Obligor with respect to the Periodic Payments obligation, and that all other releases

with respect to the Periodic Payments obligation that pertain to the liability of Defendant shall thereupon become final, irrevocable and absolute.

**6.3 Right to Purchase an Annuity.** Defendant, itself or through its Assignee reserves the right to fund the liability to make the Periodic Payments through the purchase of an annuity policy from Allstate Life Insurance Company of New York. Defendant or the Assignee shall be the sole owner of the annuity policy and shall have all rights of ownership. Defendant and/or its Assignee may have Allstate Life Insurance Company of New York ("ALICNY") mail payments directly to the Payee(s). Plaintiff shall be responsible for maintaining a current mailing address with the Assignee.

#### **7.0 Right to Enter Into A Non-Qualified Assignment**

Defendant reserves the right to fund the liability to make the Periodic Payments by entering into a Non-Qualified Assignment with NABCO. NABCO may have ALICNY remit payments directly to the Payee(s). It is understood that Allstate Life Insurance Company shall guarantee the performance of NABCO.

#### **8.0 Other Relief**

**8.1** In consideration of the dismissal and general release and discharge set forth in Sections 1 and 2 herein, Defendant agrees to waive the One Thousand Seven Hundred Dollar (\$1,700.00) fee levied against Plaintiff in connection with Plaintiff's withdrawal from Hunter College after the commencement of the Fall 2005 semester.

**8.2** In further consideration of the dismissal and general release and discharge set forth in Sections 1 and 2 herein, Defendant agrees that Plaintiff shall have until December 22, 2006, to submit material to make up grades of "IN" received during the Spring 2005 semester at Hunter College in the following three courses: (1) CHC 250--Shaping The Future of New York, (2) PSYCH 170--Psychology of Human Sexuality, and (3) LAT 203--Virgil's Aeneid. Plaintiff understands and acknowledges that failure to meet the December 22, 2006 deadline may result in the grades of "IN" reverting to grades of "F."

#### **9.0 Discharge of Obligation**

The obligation of Defendant and/or NABCO with respect to any particular installment of the Periodic Payments shall be discharged upon the mailing or other transmission on the due date or earlier of a valid check or its electronic equivalent in the specific amount of such payment to the designated address of the Payee(s) named in Section 3 herein. If the Payee or Beneficiary notifies the Assignee that any check or electronic funds transfer was not received, the Assignee shall direct the Annuity Issuer to initiate a stop payment action and, upon confirmation that such check was not previously negotiated or electronic funds transfer deposited, shall have the Annuity Issuer process a replacement payment.

#### **10.0 Representation of Comprehension of Document**

In entering into this Agreement, Plaintiff represents that she has read the terms of this Agreement and that those terms are fully understood and voluntarily accepted by Plaintiff. In entering into this Agreement, Plaintiff has retained and consulted with her own independent attorneys selected by Plaintiff of her own free will, and has fully and freely consulted with them on matters relating to this settlement and its terms and conditions. Plaintiff acknowledges that this Agreement has been negotiated by the respective Parties through counsel. Plaintiff warrants, represents, and agrees that she is not relying on the advice of Defendant, or anyone associated with Defendant, including its attorneys and the insurance broker placing the annuity contract, as to the legal, tax, financial or other (favorable or adverse) consequences of any kind arising out of this Agreement for which Plaintiff is advised to obtain independent professional advice. Plaintiff acknowledges that neither Defendant nor its legal or structured settlement representatives may refer any advisor, attorney, or firm for such professional advice. Accordingly, Plaintiff hereby releases and holds harmless Defendant, and any and all counsel or consultants for Defendant from any claim, cause of action, or other rights of any kind which the Plaintiff may assert because of the legal, tax or other consequences of this Agreement. Plaintiff represents and warrants that she has read and discussed this Agreement fully with Plaintiff's attorneys and fully understands its terms and conditions, and voluntarily accepts them as Plaintiff's own free and voluntary act.

#### **11.0 Warranty of Capacity to Execute Agreement**

Plaintiff represents and warrants that no other person or entity has, or has had, any interest in the claims, demands, obligations, or causes of action referred to in this Agreement, except as otherwise set forth herein; that Plaintiff has the sole right and exclusive authority to execute this Agreement and receive the sums specified in it; and that Plaintiff has not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Agreement.

#### **12.0 No Other Action Commenced**

Other than the Action, Plaintiff represents that she has not commenced, maintained or prosecuted any action, charge, complaint or proceeding of any kind against Defendant or any of its constituent colleges, institutes, entities, employees and/or agents, on her own behalf and/or on behalf of any other person and/or on behalf of or as a member of any alleged class of persons, that currently is pending in any court, or before any administrative or investigative body or agency, and acknowledges that this representation constitutes a material inducement for Defendant to enter into this Agreement.

#### **13.0 No Prevailing Party**

Neither Plaintiff nor Defendant shall be deemed a "prevailing party" for any purpose (including, without limitation, any statutory or contractual claim based upon "prevailing party" status) with respect to the Action.

#### **14.0 No Precedential Value**

This Agreement shall not in any manner be construed as determinative of the issues raised in the Action or any other proceeding and shall have no precedential value. In addition, notwithstanding the provisions of any paragraph herein, this Agreement shall not bind or collaterally estop Defendant or the State of New York in pending or future actions or proceedings, in which the same or similar issues are raised, from defending any and all issues raised in said actions or proceedings, or from advancing any defenses.

#### **15.0 Governing Law**

This Agreement shall be construed and interpreted in accordance with the laws of the State of New York governing contracts made and to be performed entirely within the State of New York, except to the extent that Federal law applies to Plaintiff's general release and waiver of Federal claims pursuant to Section 2 of this Agreement.

#### **16.0 Severability**

If any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid, void or unenforceable in whole or in part, such decision shall not invalidate the remaining portion or affect its validity.

#### **17.0 Entire Agreement and Successors in Interest**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes and embodies, merges and integrates all prior and current agreements and understandings of the parties hereto with respect to the subject matter of this Agreement, and may not be clarified, modified, changed or amended except in a writing duly executed by the parties hereto or an authorized representative of the parties hereto.

#### **18.0 Additional Documents**

All parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions, which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

#### **19.0 Headings**

The headings contained in this Agreement are for convenience of reference only and are not a material part of this Agreement.

#### **20.0 Effectiveness**

This Agreement shall become effective immediately following execution by each of the parties and the approval of this settlement by the Court. This Agreement may be signed and delivered by facsimile, and the facsimile signatures shall be sufficient to bind the parties hereto.

IN WITNESS WHEREOF, the parties hereto acknowledge that they have read this Agreement and accept and agree to the provisions contained herein, and have each executed this Agreement on the day and date noted below.

PLAINTIFF

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

\_\_\_\_\_  
(a/k/a "Jane Doe")

Dated: 8/9, 2006

GOLDFARB ABRANDT SALZMAN & KUTZIN LLP  
Attorneys for Plaintiff

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

David Goldfarb  
David Goldfarb (DG8861)  
350 Fifth Avenue, Suite 1100  
New York, New York 10118  
Telephone: 212-387-8400

Dated: 8/9, 2006

BAZELON CENTER FOR MENTAL HEALTH LAW  
Attorneys for Plaintiff

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

Karen Bower  
Karen Bower  
1101 15th Street, NW, Suite 1212  
Washington, DC 20005-5002  
Telephone: 202-467-5730

Dated: Aug. 3, 2006

ELIOT SPITZER  
Attorney General of the State of New York  
Attorney for The City University of New York

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

Antoinette W. Blanchette  
Antoinette W. Blanchette (AB8801)  
Assistant Attorney General  
120 Broadway  
New York, New York 10271  
Telephone: 212.416.8595

Dated: 8-10, 2006

SO ORDERED: \_\_\_\_\_

Sidney H. Stein  
The Honorable Sidney H. Stein  
United States District Judge

Dated: 8-22, 2006