

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

1. Parties:

This Settlement Agreement and General Release (the “Agreement”) is entered into between Stephen O’Brien (“Plaintiff”) and the Board of Trustees of the California State University (“CSU”). Plaintiff and CSU may be referred to as a “Party” or the “Parties.”

2. Claims:

- 2.1 Plaintiff submitted a government claim against CSU on or around August 26, 2020 and various internal complaints on and after December 15, 2020, including a retaliation complaint dated December 15, 2020 (together, the “Claims”).
- 2.2 Plaintiff filed an action in the Superior Court of California, City and County of Santa Clara, Case No. 21CV379038, entitled *Stephen O’Brien v. Board of Trustees of the California State University et al.* (the “Action”).
- 2.3 The Parties wish to resolve all disputes and claims between them, including those arising from and/or relating to the Claims and the Action, through the date of this Agreement.

3. Settlement Terms:

- 3.1 This settlement is a compromise of disputed claims and is not an admission by any Party of any liability. CSU specifically denies any wrongdoing of any kind whatsoever and enters into this Agreement to avoid the further costs of litigation.
- 3.2 Within 30 calendar days following the later of (1) receipt by undersigned counsel for CSU of this Agreement executed by Plaintiff and Plaintiff’s counsel; (2) receipt by undersigned counsel for CSU of requested tax-related forms for Plaintiff’s counsel and Plaintiff; and (3) Plaintiff’s withdrawal of all Claims by execution of this Agreement pursuant to Section 3.7, CSU shall issue the following checks:
 - i) One check payable to Stephen O’Brien in the amount of \$225,000.00, in full, final, and complete settlement of all disputes, including but not limited to those arising from or relating to the Action and the Claims for which CSU will issue a 1099;
 - ii) One check payable to Cotchett, Pitre & McCarthy in the amount of \$190,857.06 for attorneys’ fees; and
 - iii) One check payable to Stephen O’Brien in the amount of \$144,142.94, less standard withholdings and authorized deductions, for alleged lost wages and other employment benefits.
- 3.3 Plaintiff agrees that neither Plaintiff nor his attorneys have relied on any representations as to the tax consequences of this Settlement Agreement and General Release. Plaintiff further agrees that if any taxing authority determines that any part of the settlement is taxable, Plaintiff will be solely responsible for all such taxes, and that Plaintiff shall

indemnify and hold harmless CSU from liability to any tax authority, and from any claims made in any administrative or judicial action to collect taxes from CSU. If a proceeding is instituted against CSU, CSU will give Plaintiff notice of the proceedings at his last known address and Plaintiff will be obligated to defend and indemnify CSU. In connection with the payments identified in Section 3.2, CSU will issue the appropriate tax forms.

3.4 Plaintiff hereby releases and forever discharges the State of California and CSU, and each of their agents, attorneys, current and former employees, officers, directors, trustees, auxiliary organizations, insurers, representatives and all persons acting by, through, under or in concert with any of them, including but not limited to Marie Tuite and San José State University, (collectively referred to as "CSU Released Parties") from any and all manner of claims, actions, obligations, attorneys' fees, damages or liabilities of any kind whatsoever, whether known or unknown, fixed or contingent, which plaintiff may have or claim against CSU Released Parties, or any of them, including, without limiting the generality of the foregoing, any claims in any way arising out of, based upon, or related to Plaintiff's hiring, employment with CSU, the Claims, the Action, Age Discrimination in Employment Act, or the Older Worker Benefit Protection Act. CSU hereby releases and forever discharges Plaintiff from any and all manner of claims, actions, obligations, attorneys' fees, damages or liabilities of any kind whatsoever, whether known or unknown, fixed or contingent, which CSU may have against Plaintiff.

3.5 Plaintiff acknowledges the provisions of California Civil Code section 1542, which he expressly waives. That statute states:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

3.6 Plaintiff agrees to submit a Request for Dismissal of the Action with prejudice within five days of receiving payment as set forth in paragraph 3.2, and to take, or cause his counsel to take, all further steps and execute all other documents, including the Payee Data Record form, reasonably necessary to accomplish the dismissal. The Parties shall bear their own costs, expenses, and attorney fees (other than those set out in this Agreement).

3.7 Plaintiff agrees that through the execution of this Agreement, Plaintiff hereby withdraws any and all Claims he has filed with CSU, including but not limited to Plaintiff's retaliation complaint dated December 15, 2020.

3.8 Plaintiff acknowledges that he has the right to consult with an attorney regarding this Agreement and shall have five business days in which to do so. Plaintiff acknowledges that he has been represented by counsel and that he has read and understands the content of this Settlement Agreement and General Release and has knowingly and voluntarily entered into it.

- 3.9 This Settlement Agreement and General Release shall be interpreted under the laws of the State of California.
- 3.10 The Parties acknowledge that the Santa Clara Superior Court, pursuant to Code of Civil Procedure §664.6, retains jurisdiction to supervise, interpret, and enforce the terms and conditions of this Agreement, and for the purpose of enabling any Party to this Agreement to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the resolution of any dispute regarding this Agreement. A Party seeking relief pursuant to this Paragraph shall be entitled to recovery of its reasonable attorneys' fees and costs if, and only if, the Party seeking relief substantially obtains such relief from the Court.
- 3.11 The Parties declare and represent that no promise, inducement or agreement not discussed in this Agreement has been made between them, and that this Agreement constitutes the entire understanding and agreement of the Parties and supersedes all prior or contemporaneous agreements or understandings. Modifications and/or amendments to this Agreement must be in writing signed by all Parties. If any term of this Settlement Agreement and General Release is held to be invalid or unenforceable, it will not affect any other terms of this Agreement which can be given effect without the invalid terms, and to this end the terms of this Agreement are severable.
- 3.12 This Settlement Agreement and General Release may be signed in counterparts.

[ALL SIGNATURES ON PAGE 4]

Dated: 1/14/2022 | 11:40:26 PM EST

DocuSigned by:
Stephen A. O'Brien
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Plaintiff Stephen O'Brien

Dated: 1/14/2022 | 8:31:45 PM PST

DocuSigned by:
Lisa Millora
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Defendant Board of Trustees of the
California State University
By: Lisa Millora
Its: Vice President for Strategy and Chief
of Staff, San José State University

Approved as to form:

Dated: 1/14/2022 | 8:39:44 PM PST

DocuSigned by:
Tamarah Prevost
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Tamarah Prevost
Attorney for Plaintiff Stephen O'Brien

Dated: 1/14/2022 | 8:38:54 PM PST

DocuSigned by:
Christopher Boscia
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Christopher Boscia
Attorney for Plaintiff Stephen O'Brien

Dated: 1/14/2022 | 8:31:34 PM PST

DocuSigned by:
Adam J. Karr
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Adam J. Karr
Attorney for Defendant Board of Trustees of
the California State University