

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
DIVISION ____
CIVIL ACTION NO. _____
(Electronically Filed)

JEFFREY HOOVER, JAMES DECESARE,
AND MICHAEL MEREDITH

PLAINTIFFS

v.

COMPLAINT

MARISA ESPINOSA

DEFENDANT

Serve: Marisa Espinosa
122 E. Higgins St.
Midway, KY 40347

* * * * *

Come the Plaintiffs, Jeffrey Hoover, James DeCesare, and Michael Meredith, by counsel, and states as follows for their Complaint:

1. Plaintiffs Jeffrey Hoover, James Decesare, and Michael Meredith bring this action to recover amounts they paid to the Plaintiff, Marisa Espinosa, as part of a settlement agreement of disputed claims because she has blatantly breached that agreement and entered into it without any intention of abiding by it, thereby defrauding the Plaintiffs. (Settlement Agreement, Ex. 1).
2. Marisa Espinosa resides at 122 E. Higgins St., Midway, Kentucky 40347.
3. Venue is proper in this Court because the agreement Espinosa fraudulently induced Plaintiffs to enter into, and which Espinosa flagrantly breached, was negotiated and entered into in Fayette County, Kentucky, and the amount in controversy exceeds with minimum jurisdictional threshold of this Court.
4. Espinosa, via counsel, presented certain allegations that Plaintiffs had acted inappropriately toward her, impacting her in her workplace. She requested that

Plaintiffs enter into a confidential settlement agreement and pay a sum of money, rather than litigate publicly her claims that Plaintiffs had harassed her in the workplace. This initial demand for a confidential settlement was sent to one of the Plaintiffs on October 17, 2017.

5. Plaintiffs categorically denied and disputed any unwelcome or harassing conduct towards Defendant.
6. However, given the newsworthy nature of allegations of alleged misconduct against then legislators, Plaintiffs agreed to meet and mediate this dispute.
7. A mediation was held in Lexington, Kentucky on October 25, 2017.
8. Defendant was present and represented by Hon. T. Clay and Hon. Garry Adams.
9. Plaintiffs were present and represented by Hon. Leslie P. Vose.
10. The parties never met together during the mediation.
11. An agreement was reached in which Plaintiffs agreed to pay the total sum of \$110,000 and Espinosa agreed to drop her allegations against Plaintiffs.
12. All parties to the agreement requested, required and agreed that the claims, allegations, and settlement thereof remain Confidential.
13. Espinosa entered into a settlement agreement with Plaintiffs which included a confidentiality clause. The settlement agreement was a binding, written contract between the parties herein.
14. The confidentiality clause of the settlement agreement required Espinosa to keep her allegations, the settlement negotiations, the existence of the settlement, and the amount of the settlement confidential.

15. A substantial motivating factor inducing the Plaintiffs to enter into a settlement was confidentiality--keeping confidential the allegations, the existence of a settlement, any negotiations concerning a settlement, and the ultimate amount Plaintiffs personally paid.
16. No public funds were used to pay the settlement.
17. Confidentiality was material to the settlement, and is a material term in the settlement agreement.
18. Espinosa was aware of the importance of confidentiality during negotiations for settlement, when she agreed to the settlement, when she entered into the settlement agreement, and knew that it was a material condition to the settlement and a material term in the settlement agreement.
19. Nonetheless, apparently even before the agreement was executed on October 25, 2017, Espinosa was communicating with third-parties providing details of the settlement negotiations, the settlement, and the settlement amount.
20. Prior to the mediation, Espinosa had told Daisy Olivo, her state supervisor, that the Plaintiffs had agreed to mediate her claims.
21. Espinosa told Olivo the time, date and/or place of the mediation.
22. On October 25, 2017, as Espinosa was returning from the mediation in Lexington she met Daisy Olivo alongside the road or highway.
23. At this time Espinosa breached the terms of the settlement agreement by telling Olivo that the matter had been settled.
24. At this time Espinosa told Olivo that the matter had been settled and that she could not speak further about it.

25. Espinosa knew that, if she did not represent that she had abided and would abide by the confidentiality requirements of the settlement agreement, the Plaintiffs would not have settled the matter and would not have entered into the settlement agreement or paid any funds under it.
26. Accordingly, Espinosa represented that she had kept the allegations, the settlement negotiations, and the settlement confidential, and that she would keep the allegations, the settlement negotiations, the settlement, and settlement agreement confidential.
27. When she made these representations she had already disclosed the allegations, the settlement negotiations, and the settlement. She further intended to disclose the settlement agreement, and intended to continue to disclose information and material that was confidential under the settlement agreement.
28. Espinosa promised confidentiality and signed the settlement agreement, knowing that she had misrepresented that she had kept matters confidential and that she would keep matters confidential – at the time she made the promise of confidentiality she had already disclosed the very information the confidentiality portion of the settlement agreement sought to keep confidential and made arrangements to disclose the settlement agreement itself.
29. Within minutes of reaching a settlement and executing the settlement agreement, Espinosa met with a third-party on the side of the road and disclosed the settlement, the settlors, the settlement agreement, and/or the settlement amount in direct violation of the binding agreement Espinosa had just signed.

30. After executing the settlement agreement, but before receiving the payment, Espinosa met Daisy Olivo at the intersection of Midway Pike and Lexington Road, and disclosed the settlement, the settlors, the settlement agreement, and/or the settlement amount in direct violation of the binding agreement Espinosa had just signed.
31. On October 26, 2017, Espinosa met with Brad Metcalf, then the Clerk of the House of Representatives.
32. On that day Espinosa disclosed to Metcalf the fact that the matter was settled.
33. Exhibit No. 2 is a taped recording of the conversation between Metcalf and Espinosa on that date. (Ex. 2 filed separately with Fayette Circuit Clerk via hand-delivery)
34. On that tape, Espinosa is heard violating the terms of the confidential settlement. (Ex. 2).
35. On or about December 19, 2018, Espinosa, through her counsel Hon. Gail Langendorf, further breached her obligations under the settlement agreement by voluntarily distributing a copy of the demand letter to counsel for Metcalf and Olivo in two actions pending before the Franklin Circuit Court, styled as *Brad Metcalf v. Legislative Research Commission*, Franklin Circuit Court, Civil Action No. 18-CI-245, and *Daisy Olivo v. Legislative Research Commission*, Franklin Circuit Court, Civil Action No. 17-CI-1256.
36. On or about December 19, 2018, Espinosa, through her counsel Langendorf, further breached her obligations under the settlement agreement by voluntarily

tendering a copy of said letter to the Court without that letter having been subpoenaed or produced pursuant to subpoena.

37. Likewise, on or about January 23, 2019, Espinosa, through her counsel Langendorf, further breached her obligations under the settlement agreement by voluntarily tendering a copy of said letter to the Kentucky Court of Appeals without that letter having been subpoenaed or produced pursuant to subpoena.

38. Espinosa made her initial allegations to obtain a settlement payment from or on behalf of the Plaintiffs.

39. Espinosa agreed to settle her claims and agreed to keep the matter confidential, but never had any intent of ever complying with the confidentiality requirements.

40. Espinosa fraudulently induced the Plaintiffs to enter into the settlement and pay a settlement on claims that were palpably false.

41. Espinosa has consistently violated the confidentiality requirements of the settlement agreement, continues to do so today, and has on innumerable occasions in the past.

42. Plaintiffs have sustained damage to their reputations, in continuing legal fees and costs, mental anguish, paid monies under a fraudulently induced settlement, and have not received any of the confidentiality that they were promised all arising as a direct and proximate cause of Espinosa's breach of the settlement agreement and fraudulent misrepresentations.

COUNT I

43. Plaintiffs re-iterate the allegations contained in the above-numerical paragraph 1-42 and incorporate same as if set forth fully herein.

44. Plaintiffs and Espinosa entered into a settlement agreement on or about October 25, 2017.
45. This settlement agreement contained a confidentiality requirement that was a material term to the contract.
46. Espinosa has repeatedly breached the settlement agreement and continues to breach the settlement agreement.
47. Plaintiffs have sustained damage to their reputations, in continuing legal fees and costs, mental anguish, paid monies under a fraudulently induced settlement, and not received any of the confidentiality that they were promised as a direct and proximate result of Espinosa's breaches of the settlement agreement. Plaintiffs are entitled to recover compensatory damages, consequential damages, attorney's fees, and costs.

COUNT II

48. Plaintiffs re-iterate the allegations contained in the above-numerical paragraph 1-42 and incorporate same as if set forth fully herein.
49. Espinosa made a material misrepresentation of confidentiality for the purpose of reaching a settlement and entering a settlement agreement with Plaintiffs, and receiving payment under the terms of the settlement and settlement agreement.
50. At the time Espinosa made the material misrepresentation she knew that the misrepresentation was false or, at a minimum, made the misrepresentation with a reckless disregard for its accuracy.

51. Espinosa knew the Plaintiffs were relying on her representation of confidentiality when they agreed to the settlement, entered the settlement agreement, and made payments pursuant to that settlement agreement.

52. Plaintiffs acted in reliance on Espinosa's representation of confidentiality when they agreed to the settlement, entered the settlement agreement, and made payments pursuant to that settlement agreement, and would not have done so if they knew Espinosa had made a material misrepresentation.

53. As a direct and proximate result of Espinosa's knowing material misrepresentation, Plaintiffs have sustained damage to their reputations, in continuing legal fees and costs, mental anguish, paid monies under a fraudulently induced settlement, and not received any of the confidentiality that they were promised as a direct and proximate result of Espinosa's fraud and continuing fraudulent conduct. Plaintiffs are entitled to recover compensatory damages, consequential damages, attorney's fees, and costs.

WHEREFORE come the Plaintiffs and demand judgment on both Count I and Count II from the Defendant in the sum of \$110,000 plus interest, for an injunction enjoining Plaintiff from further breach of the contract, for trial by jury, for attorneys fees to the extent permitted by law, and for all other relief to which they are entitled.

Respectfully submitted,

LESLIE PATTERSON VOSE
ERIN C. SAMMONS
GREGORY A. JACKSON
LANDRUM & SHOUSE LLP
P. O. Box 951
Lexington, KY 40588-0951
Telephone: 859-255-2424
Facsimile: 859-233-0308
lvose@landrumshouse.com

BY: /s/ Leslie P. Vose
COUNSEL FOR PLAINTIFFS

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE ("Agreement") is made and entered into this 25th day of October, 2017 ("Effective Date"), between Marissa Espinosa, her heirs, relatives, administrators, representatives, executors, successors and assigns, ("Releasor"), and The Legislative Research Commission a/k/a LRC, The General Assembly, The Republican Party of Kentucky, the House Republican Caucus Campaign Committee, and its past, present and future commissioners, employees (former and current), attorneys, agents, assigns, representatives, counsel, other administrators, Commonwealth of Kentucky Legislators, leaders, affiliates, directors and assigns, parent entities, and/or parent entities' employees, members, leaders, representatives, counsel, Jeffrey Hoover, Ginger Wills, Jim DeCesare, Brian Linder and Michael Meredith, their heirs, relatives, administrators, representatives, executors, successors and assigns (referred to herein as the "Released Parties"). The Releasor and the Released Parties are collectively referred to herein as the "Parties".

WHEREAS, Releasor has made certain allegations of harassment, assault/battery, retaliation against Released Parties and,

WHEREAS, the Parties seek to compromise and settle all disputes between them, believing such settlement to be in their respective best interests in light of the expense and uncertainty of litigation, and without admission of any liability, fault, fact, claim or defense, on the terms and conditions set forth herein;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for good consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. In consideration of the payment of \$110,000.00, the Releasor does hereby release, acquit, and forever discharge the Released Parties, both in their official and individual capacities, from any and all liability now accrued or hereafter to be accrued on account of any and all past, present or future claims, third-party claims, demands, loss of use claims/damages, personal property damages, lost wage, future lost wages, medical expenses, damages, expenses or compensation, including, but not limited to, claims for indemnity and/or contribution, out-of-pocket expenses, injuries, actions and causes of action of any kind, whether such damage or injury be to person or property of the undersigned, whether known or unknown which the Releasor have against the Released Parties including, but not limited to, all of the foregoing (including claims for personal injuries, wrongful discharge, loss of income, lost retirement benefits, loss of services, sick leave, vacation time, compensatory time, medical expenses, loss of

consortium, loss of companionship and society, mental anguish and losses or damages of any and every kind, or nature whatsoever whether based in tort, fraud, contract, statute, common law, or any other legal theory) as might exist, known or unknown, as of the present date.

2. Within ten days, certain of the Released Parties will cause the settlement proceeds of \$110,000 to be deposited into the Landrum & Shouse, LLP Escrow Account. Landrum & Shouse, LLP shall then disburse the funds as follows:

- a. Marissa Espinosa: \$ 66,000 LPV
 b. Clay Daniel Walton & Adams, PLC: \$ 44,000 YPV

The Released Parties and their Attorneys are not responsible for any tax consequences of said payments. The Releasor acknowledges that a Form 1099 will be issued by Landrum & Shouse, LLP reflecting the income as "other income" and the Releasor is responsible for any further reporting and all tax obligations arising therefrom. The Releasor affirms that she understands that the Released Parties and/or their Attorneys do not provide tax advice and make no representations regarding the taxable status or nature of said payments. The Releasor agree to indemnify and defend the Released Parties and their Attorneys from any and all claims against them or any of them regarding tax issues arising from this settlement.

4. The Parties shall bear their own fees and costs (including, but not limited to, attorneys' fees) incurred in connection with this matter. Specifically, the Releasor and Clay Daniel Walton & Adams, PLC agree that the Releasor shall be solely responsible to Clay Daniel Walton & Adams, PLC for the payment of attorneys' fees and other costs and expenses arising from its representation of the Releasor regarding this matter.
5. All sums paid to Releasor pursuant to this Agreement constitute alleged damages arising from the claims asserted by the Releasor. It is understood and expressly agreed that the payments herein above referred to are in full and final compromise, adjustment and settlement of claims of injuries and damages, expenses and inconveniences above-mentioned, which are disputed claims and are in no respect an admission of liability or fault on the part of the Released Parties; that this Agreement is given by the Releasor voluntarily and not based upon any representations or statements of any kind or nature whatsoever made by or on behalf of the Released Parties.

6. This settlement is inclusive of all liens. It is further understood and agreed that the above-mentioned payment is in complete settlement and satisfaction by the Releasor of all liens, demands, causes of action, suits at law or in equity, or obligations of any sort existing now or in the future, to include, without limitation, medical expenses including, but not limited to, doctor's fees, hospital bills, costs and fees, drug expenses, surgical fees, nursing therapy and convalescent fees, mental health and counseling fees, and any and all other medical expenses incurred or to be incurred by or on behalf of the Releasor as a result of or in connection with the matters which are the subject of the Mediation. The Releasor agrees to assume responsibility for and satisfy if necessary any and all claims which were, or could have been raised by any healthcare or health insurance provider, including, but not limited to, Anthem, Blue Cross-Blue Shield, Humana, Cigna, the United States Military, Medicare, Medicaid, the Kentucky Medical Assistance Program (KMAP), Champus, Shelter Mutual Insurance, Passport Health Plans, United States Government, Social Security, any other state or federal medical assistance program.
7. The Parties specifically agree that Confidentiality concerning the claims and allegations asserted by Releasor, the fact that a Mediation was held, that an agreement was reached, and that payment is being made shall be held strictly confidential by all parties hereto other than as disclosed to a Party's current spouse, attorney or tax advisor. Should any Party breach this provision the parties agree that an award of liquidated damages in the amount of 60% of the settlement proceeds shall be paid to the other Party(ies). When or if asked by any person or entity concerning the matters which were the subject of this mediation, or the resolution thereof, the Party shall state, "I have no comment" with no elaboration, or insinuation.
8. The Releasor and her attorney expressly warrant that the Releasor has not filed for bankruptcy protection and that no prior or pending bankruptcy action(s) affects the Releasor' ability to settle and compromise this matter.
9. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Kentucky. Should any provision of this Agreement be declared or determined, by any Court, to be illegal or invalid, the validity of the remaining terms and provisions of this Agreement shall not be affected by such a declaration or determination.
10. If any word, clause, phrase, sentence, or paragraph of this Agreement is declared void or unenforceable, such portion shall be considered

independent of, and severable from, the remainder, the validity of which shall remain unaffected.

11. The Releasor represents and warrants that (1) there has been no assignment or other transfer of any interest in the claims which she has or may have that are being released herein, and she shall indemnify, hold harmless, and defend the Released Parties from any liability, claims, demands, damages, costs, expenses and reasonable outside attorneys' fees incurred by the defending Parties as a result of any such assignment or transfer contrary to the foregoing representation; and (2) the Releasor owns all claims, demands, and causes of action which she releases by this Agreement, which release is free and clear from all liens, claims, and encumbrances.
12. The Releasor's employment status is unaffected by this Agreement and the terms set forth herein.
13. The Parties agree to a Mutual Non-Disparagement Clause. None of the signators to this Agreement will disparage any other party regarding any events occurring up through and including the signing of this Agreement.
14. This Settlement Agreement and Release constitutes a final and complete statement of agreement between the Parties. There shall be no modifications or amendments to this Agreement unless they are made in writing and signed by the Parties.
15. THE RELEASOR DECLARES that the terms of this Agreement have been completely read and that she has had an opportunity to discuss the contents of this Agreement with her attorney(s). In addition, the Releasor hereby declare that the terms of this Agreement have been fully understood and voluntarily without coercion or duress accepted for the purpose of making a full and final settlement of any and all claims of injury and damages, disputed or otherwise, arising from the matters which are the subject of the Mediation.

BY: Marissa Espinosa
Marissa Espinosa

10/25/17
DATE

COMMONWEALTH OF KENTUCKY
COUNTY OF Fayette

Subscribed and sworn to before me by Marissa Espinosa, on this the 25th day
of October, 2017.

My commission expires: 8/25/2018

Leslie P. Doss
NOTARY PUBLIC, STATE-AT-LARGE

BY: 
Jeffrey Hoover

10/25/17
DATE

COMMONWEALTH OF KENTUCKY
COUNTY OF Fayette

Subscribed and sworn to before me by Jeffrey Hoover, on this the 25th day of October, 2017.

My commission expires: 8/25/18


NOTARY PUBLIC, STATE-AT-LARGE

BY: Ginger Wills
Ginger Wills

10/25/17
DATE

COMMONWEALTH OF KENTUCKY
COUNTY OF Fayette

Subscribed and sworn to before me by Ginger Wills, on this the 25th day of Oct, 2017.

My commission expires: 8/25/2018

Leslie P. Dow
NOTARY PUBLIC, STATE-AT-LARGE

BY: 
Jim DeCesare

10.25.2017
DATE

COMMONWEALTH OF KENTUCKY
COUNTY OF Fayette

Subscribed and sworn to before me by Jim DeCesarae, on this the 25th day of Oct., 2017.

My commission expires: 8/25/2018


NOTARY PUBLIC, STATE-AT-LARGE

BY: *Brian Linder*
Brian Linder

10-25-17
DATE

COMMONWEALTH OF KENTUCKY
COUNTY OF Fayette

Subscribed and sworn to before me by Brian Linder, on this the 25th day of Oct., 2017.

My commission expires: 8/25/2018

Jessie P. Vase
NOTARY PUBLIC, STATE-AT-LARGE

Presiding Judge: HON. PAMELA GOODWINE (622212)

EXH : 000009 of 000010

BY: *Michael Meredith*
Michael Meredith

10/25/17
DATE

COMMONWEALTH OF KENTUCKY
COUNTY OF Fayette

Subscribed and sworn to before me by Michael Meredith, on this the 25th day of Oct., 2017.

My commission expires: 8/25/2018

Leslie P. Wase
NOTARY PUBLIC, STATE-AT-LARGE

Presiding Judge: HON. PAMELA GOODWINE (622212)

EXH : 000010 of 000010