

CITY OF VINELAND

RESOLUTION NO. 2020-15

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A SETTLEMENT AGREEMENT & RELEASE IN THE MATTER OF FELIX A. GIL. NIEVES V. THE CITY OF VINELAND, ET AL

WHEREAS, Felix A. Gil. Nieves commenced suit against the City of Vineland and Officers Timothy DeLouise, regarding an alleged incident occurring on August 20-21, 2017 as more particularly alleged in a Civil Action filed in the United States District Court for the District of New Jersey under Docket No. 1:18-cv-3520-JHR-AMD (Complaint), which allegations have been and continue to be denied by the City of Vineland and its employees; and

WHEREAS, after mediation by counsel appointed by the TRICO Joint Insurance Fund, insuring the City for such claims as alleged in the Complaint, it was recommended to settle the claim for \$95,000.00 and failure to do so would jeopardize insurance coverage; and

WHEREAS, the Complaint against Officer Timothy DeLouise has been dismissed With Prejudice; and

WHEREAS, the City Council of the City of Vineland finds it to be in the best interest of the City to accept the settlement of the claim against the City with a dismissal of any claims against the parties while continuously denying the allegations contained in the Complaint.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Vineland that the City Council of the City of Vineland authorizes the settlement of the matter of Felix A. Gil Nieves v. the City of Vineland, et al. Docket No. : 1:18-cv-3520-JHR-AMD in the amount of \$95,000.00 with a dismissal of all claims against the City of Vineland with prejudice; all claims against Officer Timothy DeLouise having been dismissed with prejudice; in accordance with the Settlement Agreement and Release attached hereto and made a part hereof.

Adopted:

President of Council

ATTEST:

City Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

<p>FELIX A. GIL NIEVES</p> <p>Plaintiff,</p> <p>v.</p> <p>OFFICER TIMOTHY DELOUISE; CITY OF VINELAND; JOHN/JANE DOES(S) I; JOHN/JANE DOE(S) II; JOHN/JANE DOE(S) III; AND JOHN/JANE DOE(S) IV,</p> <p>Defendants.</p>	<p>Civil Action No.: 1:18-cv-3520- JHR-AMD</p>
---	--

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement sets forth the terms under which the Parties agree to settle all claims.

FELIX A. GIL-NIEVES , his successors, assigns, and heirs called “Mr. Gil-Nieves” gives this Release and Settlement Agreement, dated December 20 , 2019 to the City of Vineland, its employees, former employees, agents, officials, insurers, and attorneys in their professional capacities as well as Officer Timothy DeLouise, collectively called “the Vineland Defendants”.

The Court will dismiss Mr. Gil-Nieves’ claim against the individual Defendant Timothy DeLouise with prejudice.

1. Mr. Gil-Nieves releases, gives up, and forever discharges all claims and rights that he may have against the Vineland Defendants. This releases all claims, including those of which Mr. Gil-Nieves is unaware and those not mentioned in this Release. This Release applies to claims resulting from anything that has happened up to

the date of this Release and Settlement Agreement. Mr. Gil-Nieves specifically releases all claims of any kind for damages, including claims for medical bills, pain and suffering, permanency, vocational injury, emotional injury, attorney's fees, costs, and interest. This Release includes all claims for any alleged violations of Mr. Gil-Nieves' constitutional rights protected under the United States and New Jersey Constitutions as well as all federal, state, statutory or common law claims or causes of action arising out of the incident on August 20-21, 2017 and all later legal proceedings.

For and in consideration of the payment referenced below, Mr. Gil-Nieves agrees to satisfy all liens or encumbrances that may apply to the payment sum and agrees to indemnify and hold harmless the Vineland Defendants and their insurance carriers against any further liability for the satisfaction of any liens or encumbrances.

It is known that there is a Medicare lien. Mr. Gil-Nieves acknowledges and specifically represents that he will satisfy out of the settlement proceeds all Medicare, Medicaid, workers' compensation liens, or any other social service agency liens or bills that arise from the injury and treatment for his right shoulder and any other injuries or treatment now or later attributed to the events of August 20-21, 2017. This includes liens for, or in any way related to, payments received by Mr. Gil-Nieves or any family members and dependents. Mr. Gil-Nieves represents that he has authorized his attorney to pay such liens as are known to him out of the proceeds of settlement. Mr. Gil-Nieves' attorney has secured a Charles Jones judgment and child support search and provided a copy to counsel for the Vineland Defendants.

2. This Agreement results from a compromise and accord to buy the Parties' peace. There is no admission or determination of liability against the Vineland Defendants, their agents, servants, or employees. No one is to construe or represent this

Agreement to be an Admission. The Vineland Defendants continue to deny any liability and disclaim any responsibility for any claims made by or on behalf of Mr. Gil-Nieves.

3. Mr. Gil-Nieves has been paid Ninety-Five Thousand Dollars (\$95,000.00) and other good and valuable consideration, the receipt, and sufficiency of which he acknowledges, in full payment for making this Release. Mr. Gil-Nieves agrees that he will not seek anything further, including any other payment, from the Vineland Defendants.

Mr. Gil - Nieves understands and agrees that his acceptance of this payment is in full accord and satisfaction of and in compromise of a disputed claim and that the payment is to terminate all disputes and litigation between the parties and not an admission of liability.

4. The Vineland Defendants make no representations about the tax consequences of the payments referred to in this Agreement. The Vineland Defendants assume no responsibility for any tax liability attributed to Mr. Gil-Nieves. Mr. Gil-Nieves agrees to pay all taxes assessed against the payments made under this Agreement and to indemnify and hold the Vineland Defendants harmless from any claims, assessments, demands, penalties, and interest owed, or found to be owed, as a result of any payment made under this Agreement. The Vineland Defendants or their insurer will carry out all 1099 reporting to the Internal Revenue Service for the full amount of the settlement payment.

5. Mr. Gil-Nieves is bound by this Release. Anyone who succeeds to Mr. Gil-Nieves' rights and responsibilities, such as his heirs or the executor of his estate, are also bound. This Release is for the Vineland Defendants' benefit and all who succeed to their rights and responsibilities, including their agents, servants, and employees.

6. Mr. Gil-Nieves agrees not to disparage the Vineland Defendants, its Police Department or any of its individual police officers. Mr. Gil-Nieves must neither solicit nor make any comments, statements or the like to others on social media or by any other means about the Vineland Defendants that could adversely affect the reputation, image, goodwill, commercial, or public interest of that party or which may be considered derogatory or disparaging.

7. This Agreement sets forth the complete understanding and entire agreement between the parties and supersedes all prior agreements or understandings between the parties. This Agreement may not be modified, altered, changed, discharged, terminated or waived except upon express written consent of the parties in which specific reference is made to this Agreement. There are no other understandings or agreements (either written or oral) which would have any impact upon this matter. By executing this Agreement, Mr. Gil-Nieves represents and acknowledges that he does not rely, and has not relied on, any representation or statement not set forth in this Agreement made by the Vineland Defendants or their counsel about the subject matter, basis, effect of this Agreement, or otherwise.

8. Mr. Gil-Nieves certifies that he has discussed this agreement with counsel. Mr. Gil-Nieves is satisfied with the services of his counsel about both this agreement and all other aspects of this action and Mr. Gil-Nieves enters into this agreement knowingly, willingly, with no coercion, or improper inducements.

Signed:

Félix A Gil Nieves

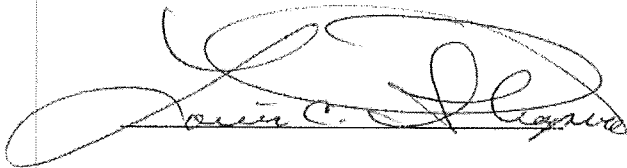
Dated: 12-20-19

Felix A. Gil-Nieves

STATE OF NEW JERSEY :
: SS
COUNTY OF CUMBERLAND :

I CERTIFY that on December 20, 2019, FELIX A. GIL-NIEVES personally came before me and stated under oath to my satisfaction that this person (or if more than one, each person):

- (a) is of legal age;
- (b) was the maker of the attached instrument; and
- (b) Executed this instrument as his own act.



Louis Charles Shapiro, Esquire

Attorney At Law – State of New Jersey