

United States v. Kansas City Kansas Housing Authority, Victor L. Hernandez, Derrick Estelle Sr. and Ronald Cobb, Civil Action No. 2:15-cv-09352-JAR-TJJ (D. Kansas)

SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND KANSAS CITY, KANSAS HOUSING AUTHORITY, VICTOR L. HERNANDEZ, DERRICK ESTELLE, SR., AND RONALD COBB

I. INTRODUCTION

1. This Settlement Agreement is made and entered into by and between the United States of America, through the U.S. Department of Justice (“United States”), and Defendants Kansas City, Kansas Housing Authority (“KCKHA”), Victor L. Hernandez, Derrick Estelle, Sr., and Ronald Cobb (collectively, “Defendants” and, with the United States, “the Parties”).

II. RECITALS

2. This action was filed on October 26, 2015 by the United States to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (“Fair Housing Act”), 42 U.S.C. §§ 3601-3631. It was brought pursuant to 42 U.S.C. § 3612(o) on behalf of Daneasha Davis against Defendants KCKHA and Hernandez, and on behalf of Autumn Weaver against Defendant Hernandez.¹ The original complaint alleges that Defendant Hernandez, KCKHA’s former Administrative Coordinator and Hearing Officer, engaged in sexual harassment against Davis and Weaver and that Defendants KCKHA and Hernandez are liable for such harassment. On November 7, 2015, Davis filed a Complaint-in-Intervention incorporating the United States’ allegations against Defendants KCKHA and Hernandez.

3. On February 4, 2016, the United States filed a First Amended Complaint. The First Amended Complaint alleges that Defendant Hernandez sexually harassed multiple women

¹ Weaver and KCKHA entered into a conciliation agreement on August 3, 2015, which fully resolved the complaint she had filed with the U.S. Department of Housing and Urban Development (“HUD”) against KCKHA.

who were seeking or residing in public housing in addition to Davis and Weaver. Pursuant to 42 U.S.C. § 3614(a), the United States added a count alleging that Defendants engaged in a pattern or practice of resistance to the full enjoyment of the rights granted by the Fair Housing Act and denied to a group of persons rights granted by the Fair Housing Act. Defendant Hernandez admitted in sworn deposition testimony that he exposed himself to multiple aggrieved women, including Weaver and Davis, during his hearings on their housing.

4. On September 22, 2016, the United States filed a Second Amended Complaint naming as additional defendants former KCKHA Property Manager Derrick Estelle, Sr. and former KCKHA Director of Housing Management Ronald Cobb, alleging that they and other KCKHA employees sexually harassed women seeking or residing in public housing, and alleging that KCKHA is liable for their actions.

5. The United States alleges that the discriminatory incidents occurred while Defendants Hernandez, Cobb, and Estelle (the “Individually-Named Defendants”) were exercising their authority as employees of KCKHA. The United States further alleges that KCKHA hired the Individually-Named Defendants, knew or should have known of their discriminatory conduct, had the authority to take preventive and corrective action, and failed to take reasonable preventive or corrective measures.

6. The United States further alleges that the Defendants: (1) discriminated in the terms, conditions, or privileges of the rental of dwellings, or in the provision of services or facilities in connection therewith, because of sex, in violation of 42 U.S.C. § 3604(b); (2) made statements with respect to the rental of dwellings that indicate a preference, a limitation, or discrimination based on sex, in violation 42 U.S.C. § 3604(c); and (3) coerced, intimidated, threatened, or interfered with persons in the exercise or enjoyment of, or on account of their

having exercised or enjoyed, rights granted or protected by Section 804 of the Fair Housing Act, in violation of 42 U.S.C. § 3617.

7. The United States further alleges that the conduct of the Defendants constitutes a pattern or practice of resistance to the full enjoyment of the rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*, or a denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*, which denial raises an issue of general public importance.

8. Defendants Cobb, Estelle, and KCKHA have always denied, and continue to deny, any liability or wrongdoing with respect to the allegations made by the United States and the aggrieved persons. KCKHA further denies that it knew or should have known of any of the alleged conduct, specifically including but not limited to Defendant Hernandez's conduct. KCKHA Executive Director Tom Scott stated in sworn testimony that he was not aware of any inappropriate conduct by Mr. Hernandez until he received the Weaver Charge of Discrimination in late 2013; and when he received the Weaver Charge of Discrimination, he confronted Mr. Hernandez about the allegations and terminated Mr. Hernandez's employment with KCKHA. Defendant KCKHA alleges that the United States' claims are insufficient to demonstrate a pattern or practice of discrimination or harassment in violation of the Fair Housing Act and further alleges that the alleged actions of Defendants Hernandez, Estelle, and Cobb were not performed within the course and scope of their employment and KCKHA is not liable for their conduct.

9. Intervenor Daneasha Davis and Defendant KCKHA have entered into a separate agreement resolving her claims.

III. STATEMENT OF CONSIDERATION

10. The Parties agree that, to avoid the time, expense, and uncertainty of litigation, the claims against Defendants should be resolved without further proceedings or a trial. Therefore, the United States and Defendants agree to the entry of this settlement agreement (the “Agreement”). This Agreement constitutes full resolution of the claims in the United States’ Second Amended Complaint in this case against Defendants.

11. In consideration of, and consistent with, the terms of this Agreement, the Parties will move jointly for dismissal of the lawsuit entitled *United States v. Kansas City, Kansas Housing Authority, et al.*, Civil No. 2:15-cv-09352-JAR-TJJ (the “Action”). The Parties agree and acknowledge that this consideration is adequate and sufficient.

THEREFORE, the Parties, through their authorized representatives, hereby stipulate and agree as follows:

IV. GENERAL NONDISCRIMINATION PROVISIONS

12. Defendants, their officers, employees, agents, successors and assigns, and all other persons or entities in active concert or participation with them, shall not:
- a. Discriminate against any person in the terms, conditions or privileges of renting a dwelling unit, or in the provision of services or facilities in connection therewith, because of sex;
 - b. Make, print, publish, or cause to be made any notice, statement, or advertisement with respect to the rental of a dwelling unit that states any preference, limitation, or discrimination based on sex; or
 - c. Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of

having aided and encouraged any other person in the exercise or enjoyment of, any right granted by the Fair Housing Act.

V. PROVISIONS REGARDING THE FUTURE PARTICIPATION OF THE INDIVIDUALLY-NAMED DEFENDANTS IN RENTAL HOUSING

A. Participation in Public Housing Programs

13. The Individually-Named Defendants shall be permanently prohibited from directly or indirectly participating in any public housing program provided under the United States Housing Act, 42 U.S.C. §§ 1437 – 1437z-8, including but not limited to:

- a. Holding any ownership, partnership, or beneficiary interest whatsoever, whether direct or indirect, in any entity whatsoever that has entered into an “assistance contract” or which owns, leases, or otherwise provides housing that is the subject of “assistance payments” or “tenant-based assistance” pursuant to 42 U.S.C. § 1437f;
- b. Serving as an officer for any entity that engages in the conduct described in Paragraphs 13 and 13(a);
- c. Being employed in any capacity, whether directly or indirectly, by any entity whatsoever that engages in the conduct described in Paragraphs 13 and 13(a);
- d. Managing, supervising, directing, inspecting, or otherwise providing any service whatsoever for any housing or entity that participates in or is in any way connected to any housing assistance program described in Paragraph 13, or which is the subject of an “assistance contract,” “assistance payments,” or “tenant-based assistance” pursuant to 42 U.S.C. § 1437f;

- e. Deriving income or receiving monies or things of value, tangible or intangible, whether directly or indirectly, from any assisted housing program described in Paragraph 13, including but not limited to “assistance payments” or “tenant-based assistance” pursuant to 42 U.S.C. § 1437f, or from any entity whatsoever that engages in the conduct described in Paragraphs 13 and 13(a).

B. Ownership and Management of Residential Rental Property Covered by the Fair Housing Act

14. The terms in this Section apply only to residential rental properties covered by the Fair Housing Act, 42 U.S.C. §3603(b).

15. The Individually-Named Defendants shall notify the United States if he or his agent purchases, inherits, or otherwise acquires an interest in any residential rental property or becomes involved in the management of any residential rental property. Such written notification shall be made within seven (7) days after the purchase, inheritance, acquisition, sale, transfer of interest, or commencement of involvement in management.

16. With respect to Defendants Cobb and Estelle, should either of them become involved in performing any Property Management Responsibilities² at any residential rental property, he shall provide a copy of the Agreement to his employer, obtain a signed Acknowledgement Form as provided in Appendix C, and send the Acknowledgement Form to the United States within thirty (30) days of commencement of involvement in management.

² As used in this Agreement, “Property Management Responsibilities” include showing or renting housing units; processing rental applications; supervising or performing repairs or maintenance; setting rents and security deposits; determining tenant eligibility for rent subsidies, rental payments or waivers of fees and rent; determining whom to rent to, whom to evict, and/or whose lease to renew or not renew; inspecting dwelling units; collecting rent and fees; overseeing all aspects of the rental process; or engaging in any other property-related activities that involve, or may involve, personal contact with tenants or prospective tenants.

17. In the event that Defendant Estelle is currently employed to perform Property Management Responsibilities at any residential rental property as of the effective date of this Agreement, he shall obtain a signed Acknowledgement Form from his current employer and send that Acknowledgement Form to the United States within fifteen (15) days of the effective date of this Agreement. Defendant Estelle shall also notify the United States of any complaints of sexual harassment made against him while employed to perform Property Management Responsibilities.

18. With respect to Defendant Hernandez, he shall be permanently prohibited from performing Property Management Responsibilities with respect to any residential rental property.

19. The prohibition contained in paragraph 18, above, shall not prohibit Defendant Hernandez from having an ownership or other controlling interest in a residential rental property in the future, provided that he retains an independent management company, approved by the United States (hereinafter "Management Company"), to manage all aspects of the rental of any and all such residential rental properties and provided that, consistent with paragraph 18, above, he does not personally participate in the management of such properties.

20. Defendant Hernandez shall retain the Management Company no later than thirty (30) days after his purchase, lease, or assumption of control of any residential rental properties.

21. Defendant Hernandez shall submit the name of the Management Company, in writing, to the United States for approval at least five (5) days prior to engaging the Management Company. If, after retaining an independent management company, Defendant Hernandez wishes to change independent management companies, he shall submit the name of the company, in writing, to the United States for approval at least five (5) days prior to engaging the company.

22. For as long as the Individually-Named Defendants own, lease, or control any residential rental properties, they shall do the following (in the case of Defendant Hernandez, through the Management Company):

- a. Implement, subject to the United States' approval, a written policy against sexual harassment, including a formal complaint procedure. A copy of this policy and procedure shall be provided to counsel for the United States within thirty (30) days after the effective date of this Agreement for currently owned, leased, or controlled properties, and within thirty (30) days of the purchase, lease, or assumption of control of any other properties. This policy and procedure shall be implemented within fifteen (15) days after the United States indicates that the policy and procedure are satisfactory to the United States, and at that time the Individually-Named Defendants or the Management Company shall notify all new and current tenants of the policy and procedure.
- b. Ensure that all of its employees who will be performing any duties in relation to the current or future properties are familiar with the requirements of the Fair Housing Act, particularly as they pertain to sex discrimination and sexual harassment.
- c. Post an "Equal Housing Opportunity" sign in any rental office through which the current or future properties are rented, which indicates that all apartments are available for rent on a nondiscriminatory basis. An 11-inch-by-14-inch poster that comports with 24 C.F.R. Part 110 will satisfy this requirement. Such poster shall be placed in a prominent, well-lit location in which it is

easily readable. The Individually-Named Defendants may use HUD Form 928, copies of which are available free of charge by calling HUD directly at 800-669-9777 or online at <https://portal.hud.gov/hudportal/documents/huddoc?id=928.1.pdf>.

- d. Require that all advertising conducted for any of the current or future properties in newspapers, telephone directories, radio, television or other media, and all billboards, signs (including at the entrance to the property), pamphlets, brochures, and other promotional literature, include either a fair housing logo, the words “equal housing opportunity provider,” and/or the following sentence: “We are an equal opportunity housing provider. We do not discriminate on the basis of race, color, national origin, religion, sex, familial status, or disability.” The words or logo should be legible and prominently placed.
- e. Send to the United States within thirty (30) days after the effective date of this Agreement and annually thereafter, a list of all tenants at the current or future properties and their telephone numbers.
- f. Maintain all rental records kept in relation to rental of current and future properties, and allow the United States to inspect and copy all such records upon reasonable notice.
- g. Provide any information reasonably related to compliance with this Agreement that is requested by the United States.

C. Contact with KCKHA and Aggrieved Persons

23. Defendant KCKHA stipulates that it no longer employs the Individually-Named Defendants and shall not in the future employ any of them in any capacity.

24. The Individually-Named Defendants shall be permanently prohibited from purposefully or knowingly initiating contact or communications, either directly or indirectly, with any person identified as an aggrieved person by the United States in this litigation. “Contact or communications” includes, but is not limited to, physical contact, verbal contact, telephone calls, e-mails, faxes, written communications, text or instant messages, contacts through social media, or other communication with the protected person(s) through third parties. Such persons are identified in Appendix D to this Agreement.³

25. In the event any of the Individually-Named Defendants inadvertently or unintentionally initiates any contact with any aggrieved person, he shall immediately discontinue the contact or communication and shall take all reasonable steps to avoid any further contact or communication.

26. The Individually-Named Defendants shall be permanently prohibited from entering any rental dwelling unit in any property owned or operated by Defendant KCKHA.⁴

³ This prohibition does not apply to contacts between Sandra Reed and Defendant Estelle for purposes of discussing issues related to their son Derron Estelle.

⁴ This prohibition does not apply to Defendant Hernandez entering the dwelling of his daughter Victoria Hernandez nor to Defendant Estelle entering the dwelling of his immediate family members. Likewise, this prohibition does not apply to Defendant Hernandez or Defendant Estelle entering the common areas for the purpose of visiting their respective family members housed at KCKHA.

VI. NONDISCRIMINATION POLICIES AND PROCEDURES

27. Within ninety (90) days of the effective date of this Agreement, Defendant KCKHA shall submit for the United States' approval⁵ a written nondiscrimination policy, including a policy prohibiting sexual harassment of KCKHA applicants and tenants, and a formal complaint procedure regarding discrimination and discrimination-related misconduct by KCKHA employees.

28. The nondiscrimination policy shall meet the following requirements:
- a. The policy and procedure shall apply to all KCKHA offices and services that interact with or otherwise affect KCKHA tenants, and applicants or other prospective tenants seeking tenancy in KCKHA housing or otherwise seeking housing related benefits or services from KCKHA;
 - b. The policy shall inform all employees that they may not make unwelcome sexual comments or advances to KCKHA tenants, applicants, prospective tenants or other persons seeking housing related benefits or services from KCKHA, or demand that any such person perform sexual favors in exchange for KCKHA housing or any other housing related benefits or services;
 - c. The policy shall inform employees that any employee found to be engaging in such conduct will be subject to any appropriate discipline, up to and including termination from employment;
 - d. The policy shall set forth how and to whom complaints of discrimination and discrimination-related misconduct by KCKHA employees may be submitted;

⁵ Submission of the proposed nondiscrimination policy, and subsequent communications and drafts related thereto, may be made by email addressed to counsel for the United States.

- e. The policy shall set forth the steps Defendant KCKHA will take to investigate and resolve such complaints of misconduct by KCKHA employees, as well as how the resolution will be communicated to the complainant; and
- f. The policy shall designate an individual to oversee the complaint, investigation, and resolution process (“Nondiscrimination Policy”).

29. Defendant KCKHA shall implement the Nondiscrimination Policy no later than thirty (30) days after the United States has indicated its approval.

30. Defendant KCKHA shall notify all applicants and existing tenants of KCKHA and all current employees, Appeals Officers, and any individual with Property Management Responsibilities (as defined in this Agreement) at KCKHA about the Nondiscrimination Policy immediately upon implementation. This notification will be made by letter, approved by the United States, and will specify where a copy of the Nondiscrimination Policy can be found – *e.g.*, the website address where it will be posted online and the physical location on the KCKHA site. Defendant KCKHA shall notify any new employee, Appeals Officer, or individual with Property Management Responsibilities at KCKHA of the Nondiscrimination Policy upon commencement of the respective relationship with KCKHA.

31. Defendant KCKHA shall post its formal complaint procedure regarding discrimination or misconduct by KCKHA employees in a conspicuous and well-lit location in its offices and service locations in which it regularly conducts business with applicants or tenants. Defendant KCKHA shall provide this complaint procedure to any applicant or tenant of KCKHA upon an applicant’s submission of a completed application for housing, a tenant’s admission into

KCKHA housing, and/or upon the receipt of any complaint,⁶ whether in writing or made verbally, by an applicant or tenant alleging discrimination or misconduct by a KCKHA employee. If a complaint is made by phone, KCKHA shall refer the complaining individual to the KCKHA website where the formal complaint procedure shall be posted.

32. During the term of this Agreement, if Defendant KCKHA wishes to modify or alter the Nondiscrimination Policy, Defendant shall submit any proposed changes to counsel for the United States for review and approval before any such changes are implemented.

VII. APPEALS HEARINGS

33. Within ninety (90) days of the effective date of this Agreement, Defendant KCKHA shall submit for the United States' approval⁷ a policy and procedure for conducting its appeals hearings ("Appeals Hearing Policy") that meets the following requirements:

- a. Defendant KCKHA shall retain outside counsel or an outside professional in the industry with at least Executive Director experience ("Appeals Officer") to conduct appeals hearings for applicants and residents who have received adverse housing decisions;⁸

⁶ This requirement applies specifically to the individuals in the following positions: Executive Director, Director of Finance, Director of Housing Management, Director of Facilities Management, Director of Section 8, Executive Services Manager, Maintenance Superintendent, Assistant Director of Housing Management, Assistant Finance Director, Section 8 Coordinator, Self-Sufficiency Coordinator, Property Manager, Office Assistant – Housing Management, and Appeals Officer.

⁷ Submission of the proposed appeals hearing policy, and subsequent communications and drafts related thereto, may be made by email addressed to counsel for the United States.

⁸ For purposes of Paragraph 33(a) of this Agreement, "adverse housing decisions" means denials of public housing, informal appeals of housing matters affecting residents, and formal appeals of housing matters affecting residents.

- b. Defendant KCKHA shall maintain a written record of proceedings by the Appeals Officer, including a write-up of the evidence that was presented, a summary of dates, times, people in attendance, and facts, and a statement of the findings;
- c. Where appeals of decisions of the Appeals Officer are permitted, they will be conducted by KCKHA personnel or different outside counsel/professional, who will maintain written records of the proceedings, including a write-up of the evidence that was presented on appeal and a statement of the findings;
- d. Each month the Executive Director will randomly review the records of three appeals hearings to ensure that proper procedure is followed; and
- e. Notification will be provided to applicants and residents ahead of their hearing of their right to have an advocate of their choice attend the hearing.

34. Defendant KCKHA shall implement the Appeals Hearing Policy no later than thirty (30) days after the United States has indicated its approval.

35. Defendant KCKHA shall notify all applicants and existing tenants of KCKHA, and all current employees and Appeals Officers, about the Appeals Hearing Policy immediately upon implementation. The notification to applicants, existing tenants, and current employees and Appeals Officers will be made by letter, approved by the United States, which will specify where a copy of the Appeals Hearing Policy can be found – *e.g.*, the website address where it will be posted online and the physical location on the KCKHA site. Defendant KCKHA shall notify any new employee or new Appeals Officer of the Appeals Hearing Policy upon commencement of employment or retention.

36. Defendant KCKHA shall provide the Appeals Hearing Policy to any applicant or tenant of KCKHA upon an applicant's submission of a completed application for housing, a tenant's admission into KCKHA housing, and upon the receipt of any request for a formal or informal hearing, whether in writing or made verbally, by an applicant or tenant.

37. During the term of this Agreement, if Defendant KCKHA wishes to modify or alter the Appeals Hearings Policy, Defendant shall submit any proposed changes to counsel for the United States for review and approval before any such changes are implemented.

VIII. EDUCATION AND TRAINING

38. Defendant KCKHA represents that it has twice provided training on nondiscrimination laws, most recently in February 2017, including on the Fair Housing Act, with specific emphasis on discrimination on the basis of sex and sexual harassment since Weaver's HUD complaint against KCKHA was conciliated in 2015 ("Prior Training"). Notwithstanding the Prior Training, Defendant KCKHA will provide additional training described in this Agreement.

39. Prior to September 28, 2018, Defendant KCKHA, including all of its officers, employees, Appeals Officers, and any individual providing Property Management Responsibilities (as defined in this Agreement) at KCKHA shall undergo in-person additional training on nondiscrimination laws, including on the Fair Housing Act, with specific emphasis on discrimination on the basis of sex and sexual harassment ("Additional Training"). The trainer or training entity shall be independent of Defendant KCKHA and its counsel, qualified to conduct such training, and approved in advance by the United States. Any expenses associated with this training shall be borne by Defendant KCKHA.

40. Defendant KCKHA shall obtain certifications of attendance, executed by each individual who attended the Additional Training, confirming their attendance. This confirmation shall include the name of the course, the name of the instructor, the date the course was taken, and the length of the course and/or time within which the course was completed. At a minimum, the Additional Training shall consist of instruction on the requirements of all applicable federal and state non-discrimination laws, including the Fair Housing Act, with an emphasis on sexual harassment, and a question and answer session for the purpose of reviewing the foregoing areas.

41. Within thirty (30) days of the United States' approval of the policies and procedures set forth in Sections VI and VII, (a) all relevant officers, employees, any individual providing Property Management Responsibilities, and Appeals Officers of Defendant KCKHA shall undergo internal in-person training on the policies and procedures set forth in Section VI, and (b) the following individuals shall undergo internal in-person training on the policies and procedures set forth in Section VII: Executive Director, Director of Finance, Director of Housing Management, Director of Facilities Management, Director of Section 8, Executive Services Manager, Maintenance Superintendent, Assistant Director of Housing Management, Assistant Finance Director, Section 8 Coordinator, Self-Sufficiency Coordinator, Property Managers, Office Assistant – Housing Management, and Appeals Officer. Defendant KCKHA shall obtain certifications of attendance, executed by each individual who received training, confirming their attendance.

42. During the effective period of this Agreement, within sixty (60) days of commencing an employment or contracting relationship, all new employees, any individual providing Property Management Responsibilities, or Appeals Officers of Defendant KCKHA shall undergo training on nondiscrimination laws, including on the Fair Housing Act, with

specific emphasis on discrimination on the basis of sex and sexual harassment. Defendant KCKHA shall obtain certifications of attendance, executed by each individual who attended the training, confirming their attendance.

IX. RECORD KEEPING

43. During the effective period of this Agreement, Defendant KCKHA shall preserve and maintain all records which are the source of, contain, or relate to any information pertinent to its obligations under the Agreement, including but not limited to, the following:

- a. A list of all tenants and their telephone numbers (if provided);
- b. Housing benefit program applications;
- c. Waiting lists for the housing benefits program;
- d. Housing benefits program records, including written agreements, leases, rent determinations, eviction notices, notices of change in benefits and correspondence with applicants and tenants;
- e. Nondiscrimination policies and complaint procedures;
- f. Grievance and appeal procedures (including records of the proceedings described at Paragraph 33);
- g. Employee Acknowledgement forms as further described *infra* at Section X;
- h. Employee confirmation of attendance at the trainings described in Section VIII; and
- i. Complaints made pursuant to the Nondiscrimination Policy and any documents generated as a result of or collected as evidence related to such formal complaints. If the complaint is made verbally, Defendant KCKHA shall maintain documentation with the name of the complainant if provided;

the address and telephone number of the complainant if provided; the date the complaint was received; the name of the employee who received the complaint; the name of the employee who is the subject of the complaint; the address of the property involved in the complaint; and a general description of the complaint.

44. Defendant KCKHA shall provide complete and unredacted copies of the documents described in Paragraph 43 to the United States if and when requested during the term of the Agreement. Additionally, the United States shall be permitted to inspect any KCKHA documents upon reasonable notice.⁹

X. REPORTING REQUIREMENTS

45. During the effective period of this Agreement, Defendant KCKHA shall provide to the United States notification and documentation of the following events, no later than thirty (30) days after their occurrence:

- a. Any change in Defendant's rules or practices regarding the Nondiscrimination Policy or Appeals Hearings Policy; and
- b. Any information indicating that Defendant KCKHA, or any of its employees, is in violation of this Agreement.

46. During the effective period of this Agreement, Defendant KCKHA shall provide to the United States notification of any complaint made through the process outlined in the Nondiscrimination Policy against Defendant KCKHA or any of Defendant's employees,

⁹ Defendant KCKHA reserves the right to object to production or inspection of documents it considers to be attorney-client privileged for any reason, but specifically including any such documents generated as a result of a complaint made pursuant to the Nondiscrimination Policy.

regarding sexual harassment, no later than ten (10) days after such complaint is communicated to Defendant KCKHA by providing the documents described above in paragraph 43(i).

47. Defendant KCKHA shall also inform the United States, in writing, about the substance of any resolution of the complaint within ten (10) days of such resolution.

48. Defendant KCKHA shall provide the United States any other information it may request concerning any such complaint.

49. Defendant KCKHA shall secure a signed statement from each current and future employee or Appeals Officer of Defendant KCKHA, and any individual with Property Management Responsibilities at KCKHA, acknowledging that he or she has been given the opportunity to read this Agreement,¹⁰ received and read the Nondiscrimination Policy, and, with respect to employees and Appeals Officers only, received and read the Appeals Hearing Policy (the "Employee Acknowledgement"). This Employee Acknowledgement shall be in the form of Appendix A.

50. Within sixty (60) days of the United States' approval of the policies and procedures set forth in Sections VI and VII, Defendant KCKHA shall submit the following records to counsel for the United States, where applicable:

- a. Copies of notification and documentation of the adoption and implementation of the policies referred to in Sections VI and VII, including copies of all Employee Acknowledgement forms; and
- b. Copies of all certifications of attendance at the training conducted pursuant to paragraph 41 above.

¹⁰ For purposes of this paragraph only, "Agreement" includes all parts of this Settlement Agreement with the exception of Appendix D.

51. On or before October 31, 2018, Defendant KCKHA shall submit to counsel for the United States certifications of attendance for the nondiscrimination training referred to in paragraph 39 above.

52. During the effective period of this Agreement, Defendant KCKHA shall submit the documents required by paragraph 42 and paragraph 49 for all new employees to counsel for the United States on an annual basis, on or before December 31st of each year during the effective period of this Agreement.

XI. COMPLIANCE TESTING

53. The United States may take steps to monitor the Defendants' compliance with this Agreement including, but not limited to, conducting fair housing tests at any location(s) owned, operated, or managed by Defendant KCKHA.

XII. PAYMENT OF MONETARY DAMAGES TO AGGRIEVED PERSONS

54. Within fifteen (15) days of the effective date of this Agreement, Defendants Hernandez and Estelle shall pay monetary damages to Autumn Weaver in the total amount of TEN THOUSAND DOLLARS (\$10,000). Defendants Hernandez and Estelle shall deliver to counsel for the United States, by overnight mail,¹¹ a check payable to Autumn Weaver in that amount.

55. Within fifteen (15) days of the effective date of this Agreement, Defendants shall pay a total of THREE HUNDRED AND FIFTY THOUSAND DOLLARS (\$350,000) to the aggrieved persons identified by the United States in Appendix D. Defendant KCKHA shall

¹¹ The overnight mail shall be addressed as follows: Amie Murphy, Katherine Raimondo, United States Department of Justice, Civil Rights Division, Housing and Civil Enforcement Section (DJ 175-46-135), 1800 G Street, NW, Washington, D.C. 20006.

deliver to counsel for the United States, by overnight mail, checks payable to the aggrieved persons listed and in the amounts specified in Appendix D.

56. When counsel for the United States has received a check from the Defendants payable to an aggrieved person and a signed release in the form of Appendix B from the aggrieved person, counsel for the United States shall deliver the check to the aggrieved person and the original, signed release to counsel for the Defendants. No aggrieved person shall be paid until she has executed and delivered to counsel for the United States the release at Appendix B.

XIII. CIVIL PENALTY

57. Within fifteen (15) days of the effective date of this Agreement, Defendants shall pay FIVE THOUSAND DOLLARS (\$5,000) to the United States as a civil penalty pursuant to 42 U.S.C. § 3614(d)(1)(C). This payment shall be delivered to counsel for the United States in the form of a check payable to the United States Treasury.

XIV. IMPLEMENTATION, ENFORCEMENT, AND DISMISSAL OF UNDERLYING ACTION

58. The United States may review compliance with this Agreement at any time. The Defendants agree to cooperate with the United States in any review of compliance with this Agreement.

59. Should Defendants materially breach any provision of this Agreement, the Parties agree that upon any such claim of breach as made by the United States, the United States may move to restore the present Action to the active docket of the Court as to the alleged breaching party for purposes of resolution of any such claim of breach. In the event of such a claim of breach as made by the United States, Defendants consent to and agree not to contest the United

States' motion to restore the present Action to the Court's active docket, and consent to and agree not to contest the exercise of personal jurisdiction over Defendants by the Court.

60. Before taking the steps outlined in paragraph 59, the United States shall first provide Defendants notice of any breach in writing and shall afford them 30 days from the date of mailing to cure the default. The Notice shall be sent as outlined in the Notifications section of this Agreement.

61. In the event the United States reinstates the Action as contemplated by paragraph 59, above, or any other civil action is commenced to remedy breach of this Settlement Agreement, the United States may seek the following: 1) an order mandating specific performance of any term or provision in this Settlement Agreement, without regard to whether monetary relief would be adequate; 2) an award of reasonable attorneys' fees and costs incurred in bringing an action to remedy breach of this Settlement Agreement; and 3) any additional relief that may be authorized by law or equity. If the Action is reinstated or any other such civil action is filed, Defendants expressly agree not to count the time during which this Settlement Agreement is in place, or use the terms or existence of this Settlement Agreement, to plead, argue or otherwise raise any defenses under theories of claim preclusion, issue preclusion, statute of limitations, estoppel, laches, or similar defenses.

62. Failure by the United States to enforce any provision of this Agreement shall not operate as a waiver of the United States' right or ability to enforce any other provision of this Agreement.

63. Upon execution of this Agreement, the parties shall jointly move the Court for dismissal with prejudice of the underlying civil action, subject to its reinstatement as set forth in paragraph 59, above. The joint motion will also ask that the Court make this dismissal effective

20 days from the entry of its order, so that dismissal takes effect after the monetary payments required by paragraphs 54-57 have been made.

XV. TERMINATION OF LITIGATION HOLD

64. The Parties agree that, as of the effective date of this Agreement, litigation is not “reasonably foreseeable” concerning the matters described in the United States’ Second Amended Complaint. To the extent that any of the Parties previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described in the Second Amended Complaint, they are no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any of the Parties of any other obligations imposed by this Agreement.

XVI. NOTIFICATIONS

65. The Parties agree that unless specified otherwise, any notifications, communications, or provision of documents referenced in this Agreement, including but not limited to those described in paragraphs 15-17 and Section X, shall be made by overnight mail to the following individuals and addresses:

United States of America

Amie S. Murphy, Esq.
Katherine A. Raimondo, Esq.
United States Department of Justice, Civil Rights Division, Housing and Civil
Enforcement Section (DJ 175-46-135)
1800 G Street, NW, Washington, D.C. 20006

Defendant KCKHA

Sean M. Sturdivan, Esq.
Sanders Warren Russell & Scheer LLP
9401 Indian Creek Parkway, Suite 1250
Overland Park, Kansas 66210

AND

Executive Director
Kansas City, Kansas Housing Authority
1124 N. 9th Street
Kansas City, Kansas 66101

Defendant Victor Hernandez

P.O. Box 32502
Kansas City, Missouri 64171

Defendant Ronald Cobb

4801 Wood Avenue
Kansas City, KS 66102

Defendant Derrick Estelle

2010 N. 15th Street
Kansas City, KS 66104

66. Each Party agrees to notify, as soon as possible, all other Parties to this Agreement should there be any changes to the information relevant to that Party in paragraph 65.

XVII. DURATION, EXECUTION AND OTHER TERMS

67. The effective date of this Agreement is the date of the last signature below. The Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

68. Except for the permanent provisions specified in paragraphs 13, 18, 24 and 26, the provisions of this Agreement shall remain in effect for three (3) years after the effective date. At the conclusion of the three (3) year period, if the United States has not taken any action to

enforce the Agreement pursuant to paragraphs 59 or 61, the United States shall, within 60 days of a request from Defendant KCKHA, send KCKHA a letter confirming that KCKHA's compliance period under this Agreement has concluded. In addition, should HUD require any information related to KCKHA's compliance with the terms contained herein, the Department of Justice shall provide such information to HUD in a timely manner.

69. Except as stated in paragraph 61 above, each Party shall bear its own legal or other costs incurred in connection with this matter, including the preparation, negotiation, and performance of this Agreement.

70. This Agreement, including Appendices A-D, constitutes the complete agreement between the parties relating to the claims that have been made, or could have been made, in the case of *United States of America, Plaintiff, and Daneasha Davis, Intervenor Plaintiff v. Kansas City, Kansas Housing Authority, Victor Hernandez, Derrick Estelle, Sr., and Ronald D. Cobb, Defendants*, Case No. 2:15-CV-09352, filed in the United States District Court for the District of Kansas. No prior or contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provision herein or in any other proceeding.

71. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion. The Parties agree that each Party and its representatives have acted consistent with the duty of good faith and fair dealing.

72. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

73. The provisions of this Agreement shall apply to all Defendants and their officers, employees, agents, successors and assigns, and all other persons or entities in active concert or participation with them, except where otherwise specified.

74. This Agreement is governed by and shall be interpreted under the laws of the United States. For purposes of construing or interpreting this Agreement, it shall be deemed to have been drafted by all Parties and shall not be construed or interpreted against any Party for that reason in any subsequent dispute.

75. Except where this Agreement expressly conditions or predicates performance of a duty or obligation upon the performance of a duty or obligation by another party, the performance of one party's duties or obligations under this Agreement shall not be discharged or excused by the actual or alleged breach of the duties and obligations by another party.

76. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

77. The Parties agree that they will defend this Agreement against any challenge by any third party. In the event that this Agreement or any of its terms are challenged by a third party in a court other than the United States District Court for the District of Kansas, the Parties agree that they will seek removal and/or transfer to the United States District Court for the District of Kansas.

78. This Agreement may be modified only with the written consent of the Parties. Any modification must be in writing and signed by the Parties through their authorized representatives.

79. This Agreement is a public document. The Parties agree and consent to the United States' disclosure to the public of this Agreement and information about this Agreement.

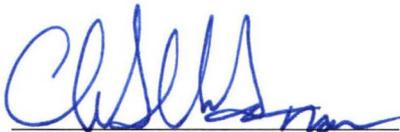
80. In addition, the Parties understand and agree that this Agreement is a compromise and should not be construed as an admission of liability.

For Plaintiff United States of America:

JOHN M. GORE
Acting Assistant Attorney General
Civil Rights Division

TOM BEALL
United States Attorney

SAMEENA SHINA MAJEED
Chief
TIMOTHY J. MORAN
Deputy Chief



for
JON P. FLEENOR #14002
Assistant United States Attorney
Office of the United States Attorney
For the District of Kansas
500 State Avenue, Suite 360
Kansas City, Kansas 66101
Tel.: (913) 551-6531
Fax: (913) 551-6541
Email Jon.Fleenor@usdoj.gov

AMIE S. MURPHY (NY SBN 4147401)
KATHERINE A. RAIMONDO (DC SBN 985157)
Trial Attorneys
Housing and Civil Enforcement Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W. (NWB)
Washington, D.C. 20530
Tel.: (202) 616-1892
Fax: (202) 514-1116
Email: Amie.Murphy2@usdoj.gov

Dated: September 28, 2017

For Defendant Kansas City, Kansas Housing Authority:

SEAN M. STURDIVAN
NICHOLAS TEMPLIN
Sanders Warren Russell & Scheer LLP
9401 Indian Creek Parkway, Suite 1250
Overland Park, Kansas 66210
Phone: 913-234-6100
Email: s.sturdivan@swrslp.com

Dated: _____, 2017

For Plaintiff United States of America:

JOHN M. GORE
Acting Assistant Attorney General
Civil Rights Division

TOM BEALL
United States Attorney

SAMEENA SHINA MAJEED
Chief
TIMOTHY J. MORAN
Deputy Chief

JON P. FLEENOR #14002
Assistant United States Attorney
Office of the United States Attorney
For the District of Kansas
500 State Avenue, Suite 360
Kansas City, Kansas 66101
Tel.: (913) 551-6531
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AMIE S. MURPHY (NY SBN 4147401)
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950 Pennsylvania Avenue, N.W. (NWB)
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Tel.: (202) 616-1892
Fax: (202) 514-1116
Email: Amie.Murphy2@usdoj.gov

Dated: Sept 28, 2017

For Defendant Kansas City, Kansas Housing Authority:

SEAN M. STURDIVAN
NICHOLAS TEMPLIN
Sanders Warren Russell & Scheer LLP
9401 Indian Creek Parkway, Suite 1250
Overland Park, Kansas 66210
Phone: 913-234-6100
Email: s.sturdivan@swrsllp.com

Dated: _____, 2017

For Plaintiff United States of America:

JOHN M. GORE
Acting Assistant Attorney General
Civil Rights Division

TOM BEALL
United States Attorney

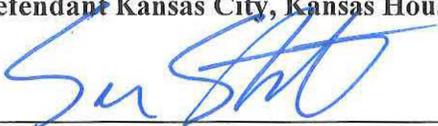
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TIMOTHY J. MORAN
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JON P. FLEENOR #14002
Assistant United States Attorney
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For the District of Kansas
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AMIE S. MURPHY (NY SBN 4147401)
KATHERINE A. RAIMONDO (DC SBN 985157)
Trial Attorneys
Housing and Civil Enforcement Section
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Washington, D.C. 20530
Tel.: (202) 616-1892
Fax: (202) 514-1116
Email: Amie.Murphy2@usdoj.gov

Dated: _____, 2017

For Defendant Kansas City, Kansas Housing Authority:



SEAN M. STURDIVAN
NICHOLAS TEMPLIN
Sanders Warren Russell & Scheer LLP
9401 Indian Creek Parkway, Suite 1250
Overland Park, Kansas 66210
Phone: 913-234-6100
Email: s.sturdivan@swrsllp.com

Dated: Sept. 29, 2017

For Defendant Victor L. Hernandez:



VICTOR L. HERNANDEZ

Dated: September 28, 2017

For Defendant Derrick Estelle, Sr.:

DERRICK ESTELLE, SR.

Dated: _____, 2017

For Defendant Ronald Cobb:

RONALD COBB

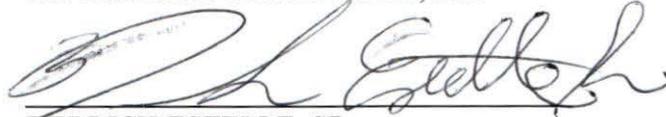
Dated: _____, 2017

For Defendant Victor L. Hernandez:

VICTOR L. HERNANDEZ

Dated: _____, 2017

For Defendant Derrick Estelle, Sr.:



DERRICK ESTELLE, SR.

Dated: 9/29/17, 2017

For Defendant Ronald Cobb:

RONALD COBB

Dated: _____, 2017

For Defendant Victor L. Hernandez:

VICTOR L. HERNANDEZ

Dated: _____, 2017

For Defendant Derrick Estelle, Sr.:

DERRICK ESTELLE, SR.

Dated: _____, 2017

For Defendant Ronald Cobb:



RONALD COBB

Dated: 9-28- _____, 2017

Appendix A

KANSAS CITY, KANSAS HOUSING AUTHORITY
EMPLOYEE/APPEALS OFFICER ACKNOWLEDGMENT

I acknowledge that on _____, 201__, I was informed of and read, or was given the opportunity to read, the Settlement Agreement resolving the lawsuit captioned United States v. Kansas City, Kansas Housing Authority, et al., 2:15-cv-9352 (D. Kan.). I was also provided with the KCKHA Nondiscrimination Policy and Appeals Hearing Policy adopted by KCKHA as a result of that Agreement. I have read and understand all of these documents. I understand my legal responsibilities and shall comply with those responsibilities.

Signature

Print Name

Job Title

Employer

Home Address

Home Address Continued

Home Telephone Number

Date

Appendix B

RELEASE

In consideration for the parties' agreement to the terms of the Settlement Agreement entered into by the parties to the litigation captioned United States v. Kansas City, Kansas Housing Authority, et al., 2:15-cv-9352 (D.Kan.), and Defendants' payment to me of \$_____, I, _____, am releasing all claims against Kansas City, Kansas Housing Authority, Victor Hernandez, Ronald Cobb, and Derrick Estelle, and their respective agents, servants, representatives, successors, employees, employers, officers, directors, attorneys, subsidiaries, affiliates, parent companies, corporations, insurers and any and all other persons and entities ("Released Parties") on behalf of any person or entity who may now or in the future claim through me in a derivative manner, including without limitation, any spouse, child, parent, relative, next of kin, employer, insurer, attorney, lienholder or other subrogated interest any and all past, present and future actions, claims, demands, damages, expenses, costs, attorney's fees and all claims of any nature or kind whatsoever, known or unknown, now existing or which may hereafter arise out of the alleged incident or incidents of harassment, retaliation, or any other claims that were alleged, or could have been alleged, in the Complaint in this lawsuit (the "Occurrence").

I further represent that I am not aware of any other person or entity who has any lien against or legal interest in the proceeds of this settlement, who may claim through me in a derivative manner against the Released Parties for any cause arising from or related to the Occurrence, or who may maintain an action against or recover damages from the Released Parties for the alleged damages incurred by me, including without limitation any spouse, child, parent, relative, employer, insurer, attorney lienholder, workers' compensation lienholder, health care provider, or other subrogated interest. I agree to be responsible for all such liens, interests, claims, actions, and recoveries.

I further agree to defend, indemnify and hold harmless the Released Parties against any claim, demand, action, cost, expense, attorneys' fee, loss, judgment or liability the Released Parties may be subjected to by any person or entity who may have a lien against or legal interest in the proceeds of this settlement or who may claim through me in a derivative manner against the Released Parties for any cause arising from or related to the Lawsuit or the Occurrence.

It is understood and agreed that this Agreement is a compromise and the payment made is not to be construed as an admission of liability on the part of the Released Parties or as to the nature and extent of any damages allegedly sustained by me. It is further understood and agreed that the Released Parties deny all liability and intend merely to settle all claims against them arising from the Occurrence and avoid the expense of future litigation.

I also acknowledge that I have been informed that I may review the terms of this Release with an attorney of my choosing, and to the extent that I have not obtained legal advice, I voluntarily and knowingly waive my right to do so.

Executed this _____ day of _____, 201__.

Signature

Print Name

Home Address

Home Address Continued

Social Security Number

STATE OF _____)
) ss.
COUNTY OF _____)

Now on this _____ day of _____, 2017, before me appeared _____, who is known or identified to me to be the same person who read and executed the above and foregoing Agreement and who acknowledged the execution of the same as her free and voluntary act and deed with full knowledge of its contents.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed my seal on the day and year indicated above.

Notary Public

My Commission Expires:

Appendix C

EMPLOYER ACKNOWLEDGMENT

I acknowledge that on _____, 201__, _____ provided me a copy of the Settlement Agreement resolving the lawsuit captioned United States v. Kansas City, Kansas Housing Authority, et al., 2:15-cv-9352 (D. Kan.).

Signature

Print Name

Job Title

Company

Address

Address Continued

Telephone Number

Date