

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is entered into between Mr. Gershom Avery and the Village of Clinton. Mr. Gershom Avery and the Village of Clinton shall be collectively referred to as the “Parties.”

RECITALS:

- A. Mr. Gershom Avery was arrested by Village of Clinton police officers and charged with a crime for seeking petition signatures during the 2007 Clinton Fall Festival. His arrest was premised on the municipal permit ordinance in place at the time, which was interpreted to require a permit in order to seek petition signatures in the Village of Clinton.
- B. On or about February 2009, the American Civil Liberties Union of Michigan sent a letter to the Village of Clinton on Mr. Gershom Avery’s behalf. The ACLU asked the Village to amend the municipal permit ordinance to comport with constitutional protections of political speech and to recompense Mr. Gershom Avery for the damages he suffered.
- C. Solely in an effort to avoid the expense and inconvenience of litigation, Mr. Gershom Avery and the Village of Clinton have agreed upon the terms of the Agreement contained herein.

Now, therefore, based upon the recitals contained above, which are contractual in nature, and the consideration contained herein, the sufficiency of which is acknowledged by the Parties, the Parties agree as follows.

- 1. **Consideration:** The Village of Clinton shall pay \$2,500 (the “Settlement Amount”), made payable to “Mr. Gershom Avery and the ACLU Fund of Michigan.” Mr. Gershom Avery acknowledges that payment of the Settlement Amount shall not be deemed to be an admission of liability or any improper conduct on behalf of the Village of Clinton or any other officers, employees, elected officials, representatives, agents or attorney of the Village of Clinton, and is being paid solely to avoid the inconvenience, uncertainty and expense of litigation.
- 2. **Policy:** The Village of Clinton adopted an amended municipal permit ordinance that is acceptable to it and Mr. Gershom Avery’s attorneys.
- 3. **Release by Mr. Gershom Avery:** Mr. Gershom Avery, for himself, his agents, family members, attorneys, heirs and assigns (who shall be collectively referred to as “Plaintiff” for purposes of this paragraph); does hereby fully and forever release, irrevocably, unconditionally and absolutely acquit and discharge the Village of Clinton and any other officers, employees, elected officials, representatives, agents or attorneys of the Village of Clinton of and from any and all claims, demands, actions and causes of action of every kind, nature and description under local ordinance, Michigan or Federal law, whether known or unknown, suspected or unsuspected, and whether founded in fact or in law, that

Plaintiff may or may have had against them with respect to Mr. Gershom Avery's ticketing and arrest during the weekend of the 2007 Clinton Fall Festival.

4. **Release by the Village of Clinton:** The Village of Clinton, for itself and its agents, employees, attorneys, assigns, successor corporations and affiliates hereby fully, irrevocably, unconditionally, absolutely and forever release, Mr. Gershom Avery from any and all claims, demands, actions, and causes of action of every kind, nature and description under Michigan or Federal law, whether known or unknown, suspected or unsuspected, and whether found in fact or in law that the Village of Clinton may have had with respect to Mr. Gershom Avery's ticketing and arrest during the weekend of the 2007 Clinton Fall Festival.

5. **Miscellaneous:**

- a. **Amendment:** This Agreement may only be amended in writing by those Parties against whom any amendment is sought to be enforced.
- b. **Contract Interpretation:** This Agreement is a fully merged agreement and none of the Parties have relied upon representations or promises not contained within the four corners of this Agreement. The Parties acknowledge that no rule of contract interpretation shall apply against any of the Parties because this Agreement was negotiated at arms length between the Parties with the advice of attorneys. This Agreement shall be governed by the laws of the State of Michigan. Headings and use of bold print are merely for the convenience of the Parties and shall not affect the meaning of this Agreement. The Recitals are incorporated into this Agreement as if fully set forth herein.
- c. **Entry into the Agreement:** This Agreement may be signed in one or more counterparts, which together shall constitute a complete and binding agreement. The Parties have fully reviewed this Agreement, fully understand the term of this Agreement and have knowingly, willingly and voluntarily entered into this Agreement. The "Effective Date" of this Agreement shall be the last date on which it was signed by one of the Parties.
- d. **Severability:** Each provision of this Settlement and Release Agreement is intended to be severable. If any term or provision is held to be invalid, void or unenforceable by a Court of competent jurisdiction for any reason whatsoever, such ruling shall not affect the validity of the remainder of this Release.

In Witness Whereof, Gershom Avery, has executed this Settlement and Release Agreement as his free act and deed this ___ day of _____, 2009.

Subscribed and sworn to before me
On this ___ day of _____ 2009

GERSHOM AVERY

Notary Public _____ County, MI

My commission expires: _____

In Witness Whereof, the Village of Clinton has executed this Settlement and Release Agreement as its free act and deed this __ day of _____, 2009.

Subscribed and sworn to before me
On this __ day of _____ 2009

VILLAGE OF CLINTON

Notary Public _____ County, MI

By: _____

My commission expires: _____

Its: _____