

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 4

BROWN COUNTY

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ELMER D. ALLEN,

Plaintiff,

v.

Case No. 13-CV-0173

MICHAEL BAENEN,  
LT. STEVENS, and LT. LINDMEIR,

Defendants.

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**MUTUAL RELEASE AND SETTLEMENT AGREEMENT**

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This Mutual Release and Settlement Agreement (“Agreement”) is made between Plaintiff Elmer Allen (“Plaintiff”), the State of Wisconsin (“the State”), the Wisconsin Department of Corrections (“DOC”), and all current and former employees of those entities (collectively, “Defendants”).

WHEREAS, Plaintiff, a prisoner in custody at Columbia Correctional Institution, filed a Complaint in Brown County Circuit Court, Case No. 13-CV-173, alleging that various DOC employees violated his constitutional rights and were negligent;

WHEREAS, Case No. 13-CV-173 is currently pending in the Brown County Circuit Court (the “Action”); and

WHEREAS, Plaintiff and Defendants desire to settle this Action without the cost, expense, and uncertainty of trial and without admission of fault or liability;



NOW THEREFORE, in consideration of the monies, mutual promises, and covenants contained herein, the Parties agree as follows:

1. **SETTLEMENT AMOUNT.** The State agrees to pay Elmer Allen the amount of \$30,000 (the "Settlement Payment") for personal injuries arising out of the incident that forms the basis of the Action. The payment shall be made on or before December 11, 2015, with the check made payable to the Trust Account of Whetter Law Offices.

2. **PAY-TO-STAY FEE POLICIES DO NOT APPLY.** The Released Parties agree that the settlement amount payable to the Plaintiff and interest thereon will not be subject to Wis. Stat. § 301.325 or any other pay-to-stay fee policy, whether any such act, policy or provision exists now or in the future.

3. **DISMISSAL OF COMPLAINT.** The Plaintiff and his counsel agree to stipulate to and sign any documents necessary to withdraw and dismiss, with prejudice, the Action and any and all claims against the State and the DOC, including claims against former and current employees of those entities, arising out of the incident that forms the basis of this Action.

4. **RELEASE OF CLAIMS.** In exchange for the consideration listed above, Plaintiff releases and forever discharges the State, the DOC, the Defendants, and their officers, agents, employees, successors, personal representatives, and insurers (the "Released Parties") from any and all manner of action or actions (including cause or causes of action, suits, debts, covenants, agreements, liabilities, rights, damages, costs, claims of interest, awards of attorney fees, claims and



demands of every kind and nature whatsoever, in law or equity, whether based on State or Federal law), that relate to any action or inaction—of any State of Wisconsin, DOC or DOC employee—that arises out of the events and circumstances set forth in the Complaint, First Amended Complaint, and Second Amended Complaint filed in the Action.

5. COVENANT NOT TO SUE. This Agreement shall also be deemed a covenant by the Plaintiff not to sue any of the Released Parties for any of the matters released or discharged by this Agreement, not to file any appeal of any court decision in the Action, and not to file any new lawsuits, claims, or complaints in any court, or with any state or federal agency or licensing board against Defendants or their heirs, or against the State, the DOC, its successors, agents, and assigns or any former or current employee of the State if such claims relate to any action or inaction—of any State of Wisconsin, DOC or DOC employee—that arises out of the events and circumstances set forth in the Complaint, First Amended Complaint, and Second Amended Complaint filed in the Action.

6. RESERVATION OF RIGHTS. Plaintiff reserves any and all rights he may have to challenge any future acts of negligence or deliberate indifference.

7. COSTS AND ATTORNEYS' FEE. Each party will bear its own costs and attorneys' fees.

8. SCOPE OF AGREEMENT. This Agreement shall bind the undersigned and the heirs, executors, administrators, personal representatives, successors, and assigns of the undersigned.



9. COMPROMISE OF DISPUTED CLAIM. This Agreement is a full, final, and complete compromise of a disputed claim. It is understood and agreed by the undersigned that this settlement is the compromise of a disputed claim, that any payment made hereunder is not to be construed as an admission of liability on the part of the Released Parties herein, and that said Released Parties deny liability or wrongdoing and intend merely to avoid litigation and buy their peace.

10. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts.

11. REVIEW AND CONSULTATION WITH COUNSEL. This Agreement contains the entire agreement between the parties and may be modified only by written agreement of the parties. The Plaintiff affirmatively states by signing below, that he had the assistance of counsel during the negotiation and execution of the settlement represented by this Agreement.

(The remainder of this page is intentionally left blank)

Mod 1. Settlement is contingent upon the State waiving collection on all other liens against settlement of any nature as agreed upon on 11-11-15 Post mediation settlement agreement Section C.

*Elmore Allen*



12. THIS RELEASE AND SETTLEMENT AGREEMENT HAS BEEN  
READ AND UNDERSTOOD BY THE UNDERSIGNED BEFORE SIGNING.



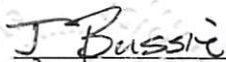
Elmer Allen

State of Wisconsin     )  
County of Columbia    )

Subscribed and sworn to before me  
this 30th day of November, 2015.

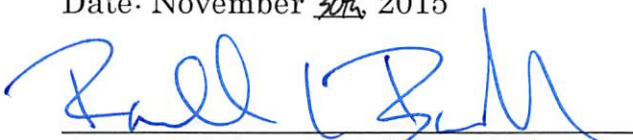


Daniel D. Whetter (#01006418)  
*Attorney for Plaintiff, Elmer Allen*



Notary Public, State of Wisconsin  
My commission expires: 3/06/14

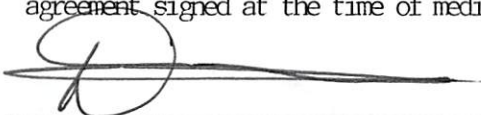
Date: November 30th, 2015



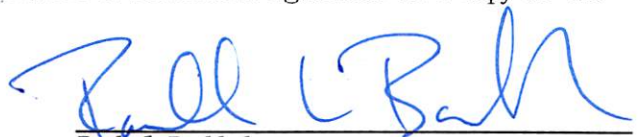
Rachel L. Bachhuber (#1052533)

*Attorney for Defendants*

Attached hereto and made a part of this Mutual Release and Settlement Agreement is a copy of the  
agreement signed at the time of mediation.



Daniel D. Whetter



Rachel Bachhuber



Post Mediation Settlement Agreement, 11/11/15

① Elmer Allen, Michael Barmen, et al have settled this matter at mediation. A larger agreement will follow, to be executed by the parties or counsel. Key Terms are:

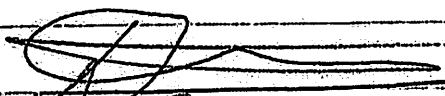
A. The State of Wisconsin pays \$30,000 to Elmer Allen in atty fees, costs and personal injuries and related losses


B. Such payment shall be made no later than December 11, 2015 to the Trust Account of Wheeler Law Offices.


C. Settlement is contingent upon the State waiving any collection rights under § 301.325, and all other liens against settlement of any nature

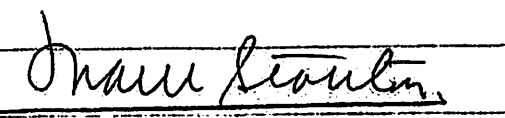
② Brown Co. Case No 13 CV 0173 will be dismissed with prejudice on stipulation of counsel.

③ The parties hereby release one another from all claims arising from this matter.

  
PLAINTIFFS ATTY  
Daniel Wheeler

  
Barmen, et al + all defendants  
Rachel Bachhuber

  
Plaintiff, Elmer Allen

  
Mediator, Marie Stanton