

**NO PACKET MATERIAL
FOR THIS ITEM**

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ITEM**

EXECUTIVE SESSION

**SANTA FE COUNTY
LEGAL DEPARTMENT
MEMORANDUM**

To: The Board of County Commissioners
Katherine Miller, County Manager

From: Stephen C. Ross, County Attorney *SJR*

Date: October 6, 2011

Re: Consideration and Approval of the Mutual Release and Settlement Agreement in the case of *Stephanie Oshel v. the Board of County Commissioners, et al.*, United States District Court Cause No. 9-CV-764-RB/RHS

The case of *Stephanie Oshel v. the Board of County Commissioners, et al.* has been pending before the federal District Court for the District of New Mexico. It concerns a lawsuit brought by Ms. Oshel, a former employee of Santa Fe County, against the Board of County Commissioners and several other former County employees. The case was recently resolved during a settlement conference conducted by former First Judicial District Court Judge James Hall. A copy of the proposed Mutual Release and Settlement Agreement agreed upon during that settlement conference is attached; the proposed release obligates the payment of the settlement amount to Ms. Oshel in exchange for her release of any and all claims against the County arising from her former employment with the County or otherwise. The NM CIA will pay the settlement amount on behalf of the Board and other defendants. The proposed agreement has been approved as to form by this office and is ready for signature of a representative of the Board of County Commissioners.

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

Stephanie Oshel ("Oshel") desires to settle and discharge any and all claims which have or could have been asserted by Oshel against the Board of County Commissioners for the County of Santa Fe and its employees, agents, predecessors and successors, elected officials, officers, representatives, attorneys, and insurers ("Released Parties"), as a result of Oshel's employment with the County of Santa Fe and all claims alleged in the matter of *Stephanie Oshel v. Board of County Commissioners, et al.*, USDC Cause No. 9-CV-764-RB/RHS. Similarly, the Released Parties desire to settle and release all claims that they could have asserted against Oshel, her successors, and assigns as a result of Oshel's employment with the Released Parties and all claims alleged in the matter of *Stephanie Oshel v. Board of County Commissioners, et al.*, USDC Cause No. 9-CV-764-RB/RHS.

The parties agree as follows:

1. The Board of County Commissioners for the County of Santa Fe will pay the sum of Two Hundred Thousand Dollars and 00/100 (\$200,000.00) in full settlement of all claims and demands against the Released Parties resulting from or relating to the incident and all claims and demands made in or relating to all other claims which Oshel may have against the Released Parties, including attorneys' fees, costs of suit, subrogation claims, or claims made by third parties. Oshel forever releases all claims that have been brought, or that could have been brought, in the matter of *Stephanie Oshel v. Board of County Commissioners, et al.*, filed in the United States District Court, District of New Mexico, Cause No. 9-CV-764-RB/RHS. Similarly, the Released Parties forever release all claims that could have been brought, in the matter of *Stephanie Oshel v. Board of County Commissioners, et al.*, filed in the United States District Court, District of New Mexico, Cause No. 9-CV-764-RB/RHS, including specifically any claims for abuse of process.

2. Stephanie Oshel, her assigns, and successors hereby fully and unconditionally dismiss, release, and forever discharge the Released Parties and their representatives, officials, employees, predecessors and successors, insurers, attorneys, agents, and assigns from any and all claims (including attorneys' fees and costs of suit), charges, causes of action, subrogation claims, or demands of any kind and nature whatsoever arising out of this lawsuit and the incident, whether asserted or not. The Released Parties, their assigns, and successors hereby fully and unconditionally dismiss, release, and forever discharge Oshel, her successors, and assigns from any and all claims (including attorneys' fees and costs of suit), charges, causes of action, subrogation claims, or demands of any kind and nature whatsoever arising out of this lawsuit and the incident, whether asserted or not.

3. Stephanie Oshel hereby represents that she is unaware of any subrogation claims, liens, or claims by other third parties who have insured, paid, or indemnified them in connection with the losses or expenses claimed as damages in this lawsuit. If any such subrogation claims or other demands are presented, Oshel agrees to pay or to settle all such demands from the proceeds of this settlement and indemnify and hold the Released Parties harmless from any and all such claims. In addition, Oshel agrees to reimburse the released parties for all reasonable attorneys' fees and costs in defending against any such subrogation claims or demands by third parties. The Released Parties hereby represent that they are unaware of any subrogation claims, liens, or claims by other third parties who have insured, paid, or indemnified them in connection with any losses or expenses which could have been claimed as damages in this lawsuit. If any such subrogation claims or other demands are presented, the Released Parties agree to pay or to settle all such demands, and indemnify and hold Oshel harmless from any and all such claims. In

addition, the Released Parties agree to reimburse Oshel for all reasonable attorneys' fees and costs in defending against any such subrogation claims or demands by third parties.

4. Stephanie Oshel acknowledges that the consideration received under this Settlement Agreement is intended to and does release and discharge the Released Parties, their agents, representatives, successors, assigns, and insurers from any claims or consequences arising from the incident and hereby waive any right to assert in the future any claims not known or suspected, even though if such claims were known, such knowledge would materially affect the terms of this Settlement Agreement. The Released Parties acknowledge that the consideration received under this Settlement Agreement is intended to and does release and discharge Oshel, her successors, and assigns from any claims or consequences arising from the incident and hereby waive any right to assert in the future any claims not known or suspected, even though if such claims were known, such knowledge would materially affect the terms of this Settlement Agreement.

5. Stephanie Oshel agrees to pay her attorneys' fees and other legal costs from the settlement proceeds. The Released Parties are not responsible for Oshel's legal fees or costs. The Released Parties agree to pay their attorneys' fees and other legal costs. Oshel is not responsible for the Released Parties' legal fees or costs

6. Oshel has received compensation for personal injuries arising from an occurrence in the sum set forth in Paragraph 1 arising from an occurrence, within the meaning of §104(a)(2) of the Internal Revenue Code of 1986, as amended. Oshel is responsible for any and all tax liabilities relative to the proceeds of this settlement. Oshel alone, and not the Released Party, is responsible for the characterization of the compensation as personal injuries above. Oshel

acknowledges that neither the Released Parties nor their attorneys have made any representations whatsoever as to any tax consequences Oshel may incur as a result of the settlement.

7. Oshel agrees that she will not seek employment as an employee of Santa Fe County and that she will not seek any employment or assignment that results in her working within a Santa Fe County corrections facility. Santa Fe County agrees to prepare a letter which sets forth Plaintiff's dates of employment, job title, and pay during her employment with Santa Fe County which will be delivered to Plaintiff upon dismissal of this matter, and that no additional information will be provided in response to any inquires directed to the County.

8. This Agreement is not, and shall not be construed to be, an admission of fault or wrongdoing on the part of the Released Parties. The Released Parties have entered into this Agreement based solely on the consideration of the economic costs, including the time and expense of litigation, not on any admission of liability. The Released Parties have always denied and will continue to deny any liability whatsoever. This is a settlement of a disputed claim and is privileged and may not be used in any other litigation pursuant to Evidence Rule 408.

9. Stephanie Oshel acknowledges that the Released Parties have not made any promises or representations other than those recited in this Agreement to induce them to enter into this Agreement. The Released Parties acknowledge that they have not made any promises or representations other than those recited in this Agreement to induce them to enter into this Agreement.

10. To the extent provided by law, the terms and settlement amounts as set forth in the release are strictly confidential.

(SEAL)

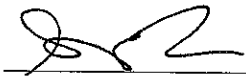
Notary Public
My Commission Expires: _____

Signed By:

Santa Fe County Representative

Approved by:

Attorney for Stephanie Oshel

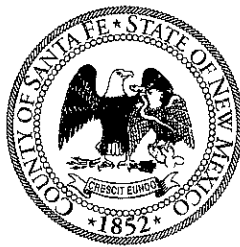


Attorney for the Board of County Commissioners
for the County of Santa Fe

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: October 27, 2011

TO: Board of County Commissioners

VIA: Katherine Miller, County Manager

FROM: Chris M. Barela, Constituent Service Liaison District 3

RE: Class of 2011 Santa Fe County Fire Department Academy

ISSUE:

On the agenda under XIV – A is Special Presentations : Recognize and Acknowledgment of The Santa Fe County Fire Department Cadet Graduates From the 2011 Fire Academy.

REQUEST ACTION:

Commissioner Robert A. Anaya respectfully requests the Board of County Commissioners to support and adhere to the presentation of recognition and acknowledgment of the Firefighter cadet graduates of the class of 2011.