

This Settlement and Release Agreement (the "Agreement") is made and entered into this 5<sup>th</sup> day of July 2016 between Jennifer Schweickert and Mark Phillips on the one hand (together the "Phillips Parties") and John Du Wors on the other hand, with reference to the following facts:

- A. Du Wors has brought a lawsuit against Schweickert claiming, among other things, abuse of process (the "Lawsuit"), in the Superior Court for the state of Washington, county of Kitsap, case number 15-2-02482-7.
- B. The Lawsuit alleges that Schweickert brought improper litigation against Du Wors; Schweickert denies that allegation entirely.
- C. The Phillips Parties have both previously brought litigation against Du Wors, as well as bar grievances against Du Wors, who is an attorney.
- D. Mark Phillips has published negative web content regarding Du Wors at [johndduwors.wordpress.com](http://johndduwors.wordpress.com) (the "Website") and other places.
- E. The Parties now wish to resolve their disputes, dismiss the lawsuit, and forbear on any further adverse action toward each other, including disparagement.

NOW THEREFORE, for good and valuable consideration, the adequacy, sufficiency and receipt of which is acknowledged, the Parties make the following binding representations, warranties and covenants.

1. Mutual Release.

- a. By Du Wors. Du Wors forever and unconditionally releases the Phillips Parties from any and all claims or liabilities, known or unknown, existing in Du Wors' favor as of the date of this Agreement.

- b. By the Phillips Parties. The Phillips Parties forever and unconditionally release Du Wors from any and all claims or liabilities, known or unknown, existing in either of the Phillips' Parties favor as of the date of this Agreement.
- c. California 1542 Waver. Each of the Parties to this Agreement expressly waives the protection of Section 1542 of the California Civil Code and expressly waives and releases any rights or benefits arising thereunder.

Section 1542 of the California Civil Code states:

**“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.**

The parties hereto acknowledge that they, and each of them, are aware that the parties may hereafter discover facts different from, or in addition to, those facts which they or any of them now know or believe to be true with respect to the matters released in this Agreement, and they agree that the releases so given shall be and remain in effect as full and complete releases of their respect claims notwithstanding any such different or additional facts.

- 2. Dismissal of the Lawsuit. Within five days of execution of this Agreement by both of the Phillips Parties, Du Wors will cause the

dismissal with prejudice of the Lawsuit. Du Wors will bear his own legal fees and costs, and the Phillips Parties will bear their own legal fees and costs.

3. Non-disparagement.

- a. By Du Wors. Du Wors covenants to refrain from making, publicating or disseminating any comment, content or information tending to disparage or reflect negatively on the Phillips Parties or either of them, including their family members and/or their businesses.
- b. By the Phillips Parties. The Phillips Parties covenant to refrain from making, publicating or disseminating any comment, content or information tending to disparage or reflect negatively on Du Wors, including his family members and/or his businesses.
- c. Transfer of website. The Phillips Parties will transfer ownership of the Website to Du Wors. Within five days of Du Wors' execution of this Agreement, the Phillips Parties will provide Du Wors with the user name and password necessary to take ownership of the Website. And they will cause the transfer to Du Wors of the domain name associated with the Website, along with any other domain names either of the Phillips Parties have registered that incorporate Du Wors' name or any other reference to Du Wors or his law firm.
- d. Noncircumvention. The Parties represent and warrant that they have not taken any action to subvert, undermine or interfere

with the purposes of this Agreement, by encouraging, soliciting, commissioning or cooperating with the disparagement of any other party to this Agreement. The Parties covenant that in the future they will not encourage, solicit or request any such disparaging conduct by third parties.

4. Covenant not to sue or cooperate with actions.
  - a. By Du Wors. Du Wors covenants to refrain from bringing, supporting, encouraging or cooperating with any civil, criminal, quasi-legal or administrative actions or complaints against either of the Phillips Parties, except as required by law.
  - b. By the Phillips Parties. The Phillips Parties covenant to refrain from bringing, supporting, encouraging or cooperating with any civil, criminal, quasi-legal or administrative actions or complaints against Du Wors, including bar grievances, except as required by law.
5. Severability. If any provision of this Agreement is deemed to be legally invalid or void for violation of public policy, that provision shall be severed from this Agreement, and the other provisions of this Agreement shall remain in full force and binding legal effect.
6. Confidentiality. The Parties shall keep the existence and terms of this Agreement, and all facts relating to the dispute(s) underlying it strictly confidential.
7. Injunctive relief and emergency remedies. The Parties acknowledge and agree that any breach of an obligation contained in any of

sections 1, 2, 3, 4 or 6 of this Agreement would cause immediate, irreparable harm to the non-breaching party, such that the non-breaching party will be entitled to emergency, temporary and/or preliminary relief, including but not limited to ex parte temporary restraining orders and/or preliminary injunctive relief, in which event no bond will be required of the party seeking that relief.

8. Disputes. Any required for the injunctive relief and or other emergency remedies discussed in section 7 above may be brought exclusively in the state or federal courts in King County, Washington. Any other disputes will be submitted by the Parties for binding arbitration. If the Parties cannot agree to an arbitrator, they may petition the superior court to appoint one. The arbitrator in any such action shall have the discretion to award legal fees and costs, including costs of arbitration, as he or she deems appropriate.

EXECUTION. By their signatures below, the Parties duly execute this Agreement.

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Mark Phillips

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Jennifer Schweickert

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John Du Wors