

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between Plaintiff JUAN CARLOS GIL ("Plaintiff"), and Defendant MARTIN COUNTY, Florida ("Defendant"). For purposes of this Agreement, Plaintiff and Defendant shall be referred herein as the "Parties," and individually, as a "Party." The Agreement is effective on the date last signed by the Parties (the "Effective Date").

This Agreement is made as a compromise between the Parties for the complete and final settlement of all of their claims, differences, and causes of action as follows:

RECITALS

WHEREAS, Plaintiff initiated a lawsuit against Defendant in the United States District Court for the Southern District of Florida (the "Court"), Civil Action No. 2:18-cv-14110 entitled, *Juan Carlos Gil, v. Martin County* (the "Lawsuit") claiming violations of Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131 *et seq.* ("Title II of the ADA") and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504") in connection with the accessibility of the content provided in portable document format ("PDF") within Defendant's website www.martin.fl.us (the "Website");

WHEREAS, Defendant disputes the allegations in the Lawsuit and denies that the Website is in violation of Title II of the ADA; and

WHEREAS, to avoid further costs, burdens, and distractions of litigation, the Parties now desire to settle fully and finally any and all individual claims alleged or that could have been alleged in a complaint filed in any legal, judicial, administrative, or regulatory forum;

NOW THEREFORE, in consideration of the foregoing recitals, and the mutual promises, covenants and undertakings contained herein and incorporated into this Agreement,

and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties HEREBY agree to the following terms and conditions as a full and complete settlement of the Lawsuit and any and all claims related to the allegations made in the Lawsuit:

1. **Recitals.** The aforementioned Recitals are incorporated into this Agreement.
2. **General Release.** In consideration for Defendant entering into this Agreement, and for such other good and valuable consideration received from Defendant, the receipt and sufficiency of which is hereby acknowledged, the Plaintiff, on behalf of himself and any of his agents, employees, representatives, assigns, heirs, executors, trustees, and partners (collectively, the “Releasing Persons”), hereby fully releases, acquits, satisfies, and forever discharges Defendant, together with Defendant’s Board of County Commissioners, agents, attorneys, commissioners, employees, and other representatives (collectively, the “Released Parties”) from any and all claims, demands, liabilities, debts, judgments, expenses, actions, causes of action, and suits of any kind whatsoever, for reimbursement of attorneys’ fees, costs, expert fees, litigation expenses, and damages, including any compensatory, punitive, and any other damages, if any, and all other legal responsibilities arising from or relating to the allegations made in the Lawsuit in connection to the PDFs within the Website, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, real or imaginary, or actual or potential, including, without limitation, those pursuant to Title II of the ADA or equivalent state or local law, including any violation of any United States, state, or local law or equity regarding acts or omissions by the Released Parties prior to the Effective Date of this Agreement (collectively, the “Released Claims”).

3. **Attorneys' Fees, Costs, Expenses, and Payments.** As a full and complete compromise and settlement of all Released Claims, Defendant shall pay, and Plaintiff agrees to accept the total sum of Sixteen Thousand and 00/100 Dollars (\$16,000.00) (the "Settlement Payment") as payment in full. Allocation of the Settlement Payment is as follows: (a) Fourteen Thousand Five Hundred and 00/100 Dollars (\$14,500.00) for Plaintiff's attorneys' fees, expert fees, court cost, and other associated expenses; and (b) One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) for Plaintiff's alleged damages, if any, and general release.

The Parties expressly acknowledge and agree that the Settlement Payment is made in satisfaction of any and all claims which were raised, or could or should have been raised in the Lawsuit, by Plaintiff, whether known or unknown, including without limitation, for Plaintiff's attorneys' fees, court costs, associated expenses, general releases, damage claims, if any, and any and all other claims relating to the Lawsuit. No later than fifteen (15) days after the Effective Date and upon Defendant's receipt of an executed copy of this Agreement and an IRS W-9 completed by Scott R. Dinin, P.A., Settlement Payment in a single check and made payable to "Scott R. Dinin, P.A. IOTA" shall be delivered to Scott R. Dinin, P.A., 4200 NW Seventh Avenue, Miami, Florida 33127. Defendant will issue a 1099-MISC form to Scott R. Dinin, P.A. reflecting the Settlement Payment amount.

It shall be Plaintiff and Plaintiff's counsel's sole responsibility to pay taxes, if any, on the Settlement Payment. Plaintiff and Plaintiff's counsel hereby indemnify, defend, and hold harmless the Released Parties from the assessment of any taxes, interest, and penalties that the IRS or any other taxing authority, court, or tribunal determines should have been paid in connection with any monies paid by Defendant pursuant to this Agreement.

4. **No Other Proceedings.** Plaintiff represents that, other than the Lawsuit, Plaintiff has not filed any charges, complaints, lawsuits, or other proceedings against the Released Parties relating to the Released Claims with any court or municipal, state, or federal agency charged with the enforcement of any law.

5. **No Knowledge of Potential Claimants.** Plaintiff represents and warrants that Plaintiff is unaware of any potential plaintiff, putative class member, or other counsel who intends to make demands or bring litigation based on the Released Claims against the Defendant. Plaintiff further represents and warrants that Plaintiff has not been notified nor otherwise informed of any such intention or consideration thereof. Additionally, Plaintiff states at all relevant times he has been unmarried and knows of no one who could make a claim through him in connection with any allegation made in the Lawsuit.

6. **Covenant Not to Sue.** Plaintiff covenants that neither he, nor any person or entity acting on his behalf, will file, charge, claim, sue, encourage, aid or participate in any legal action or administrative proceeding against the Released Parties relating to the Released Claims.

7. **Enforcement.** If any of the parties hereto claim that this Agreement or any portion of it has been violated ("breach"), the Party alleging the breach shall give written notice (including reasonable particulars) of such violation to the Party alleged to be in breach. The Party alleged to be in breach of this Agreement must respond to such written notice of breach no later than sixty calendar (60) days thereafter ("Cure Period"). If the parties are unable to reach a mutually acceptable resolution during the Cure Period, or any extension thereof, the Party alleging a breach of the Agreement may seek court enforcement of compliance with this Agreement. The Court shall, in its discretion, award reasonable attorneys' fees and costs to the prevailing Party in any such enforcement action.

8. **Dismissal with Prejudice.** Within seven (7) days from the Effective Date of this Agreement, the Plaintiff shall file with the Court a stipulation of dismissal of the Lawsuit with prejudice. The Parties further agree that this Agreement shall not be filed with the Court, except as necessary for enforcement purposes, or unless otherwise required by the Court.

9. **Invalidation.** If any provision of this Agreement is invalidated by a court of competent jurisdiction, then all of the remaining provisions of this Agreement shall remain in full force and effect, provided that the Parties may still effectively realize the complete benefit of the promises and considerations conferred hereby.

10. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties hereto with respect to the matters set forth herein and supersedes in its entirety any and all agreements and communications, whether written or oral, previously made in connection with such matters. Any agreement to amend or modify the terms or provisions of this Agreement must be in writing and executed by both of the Parties hereto. No waiver of any provision of this Agreement will be valid unless it is in writing and signed by the Party against whom such waiver is charged.

11. **Non-Admission of Liability.** This Agreement is the result of a compromise and settlement and shall never be construed as an admission of any liability, wrongdoing, responsibility, or unlawful conduct by Defendant or the Released Parties. The Parties acknowledge that this Agreement has been entered into by the Parties to avoid the costs and uncertainty of continued of the Lawsuit.

12. **Binding Nature of Settlement Agreement.** This Agreement shall be binding upon each of the Parties and upon their respective heirs, administrators, representatives,

executors, successors, and assigns, and shall inure to the benefit of each Party and to its respective heirs, administrators, representatives, executors, successors, and assigns.

13. **Authority.** Each Party represents that each person, or authorized counsel, executing this Agreement on its behalf has been authorized to sign on behalf of the respective Party and to fully bind it to the terms of this Agreement and that the respective Parties have the power and authority to perform their respective obligations as provided by this Agreement.

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and Title II of the ADA (where applicable) without regard to principles of conflicts of law. Any suit arising as a result of a breach of this Agreement or relating to enforcement of this Agreement shall be filed in the United States District Court for the Southern District of Florida.

15. **Counterparts.** The Parties agree that this Agreement and any and all other documents in connection with settlement of this matter may be executed in exact counterparts, each of which shall be deemed an original but both of which taken together shall constitute one and the same instrument. Any signature page delivered by facsimile transmission or e-mail shall be treated in all manner and respects as an original document.

16. **Accessibility Measures.** Defendant shall ensure that all PDF content newly added to the Website are fully accessible to visually impaired individuals who use screen reader software after 180 days from the Effective Date of this Agreement. If legislation is passed modifying Title II of the ADA or if the United States Department of Justice or any other federal government entity promulgates final ADA Title II regulations regarding document accessibility for documents on your website, during the Term of this Agreement, this Agreement shall automatically, without further action by the Parties, be modified such that Defendant shall be

required only to achieve the document accessibility standards (if created) to compliance with the minimum requirements set forth in any such legislation or regulation within the timeframe for compliance set forth in such legislation or regulation.

17. **Effective Date.** This Agreement is not effective until approved by Defendant's Board of County Commissioners and signed by the Parties, and the effective date of this Agreement is the date of the last signature as set forth below. If Defendant's Board of County Commissioners rejects this Agreement, Plaintiff is not bound by any terms and conditions as set forth herein even if Plaintiff signs this Agreement first.

IN WITNESS THEREOF, the Parties have executed this Agreement on the dates indicated below.

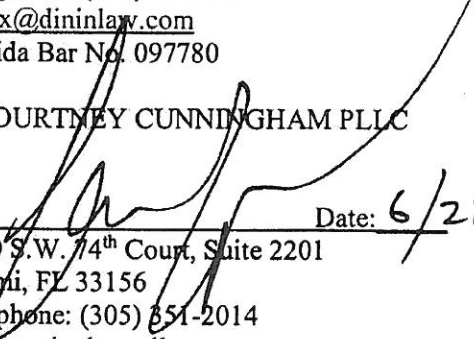

Date: 6/21/18
JUAN CARLOS GIL

APPROVED AS TO FORM:

SCOTT R. DININ, P.A.


By: _____ Date: 6/22/2018
4200 NW 7th Ave.
Miami, FL 33127
Telephone: (786) 431-1333
inbox@dininlaw.com
Florida Bar No. 097780

J. COURTNEY CUNNINGHAM PLLC


By: _____ Date: 6/21/18
8950 S.W. 74th Court, Suite 2201
Miami, FL 33156
Telephone: (305) 851-2014
cc@cunninghampllc.com
Florida Bar No. 628166

Attorneys for Plaintiff

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of Martin County, Florida, by its Chairman of its Board of County Commissioners, its seal affixed hereto, as attested by its Clerk as of the _____ day of _____, 2018.

(SEAL)

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

ATTEST:

By: _____
Edward V. Ciampi, Chairman

By: _____
Carolyn Timmann, Clerk of the
Circuit Court and Comptroller

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

By: _____
Sarah Woods
Martin County Attorney