

## **RELEASE AND SETTLEMENT AGREEMENT**

THIS AGREEMENT made this day by and among Terry and Maureen Shell (hereinafter collectively "Shell") and the Town of Munster and Kimberly Nordhoff (hereinafter collectively the "Munster Defendants").

### **WITNESSETH:**

**WHEREAS**, there is now pending in the Lake County Superior Court, Room Seven a lawsuit entitled Terry and Maureen Shell v. Kimberly Nordhoff and Town of Munster, cause number 45D11-1805-CT-00098 (hereinafter the "Case"); and,

**WHEREAS**, the Case arises out of a dispute between the parties regarding an alleged motor vehicle collision that occurred on June 1, 2016 in Munster, Indiana; and,

**WHEREAS**, the matters in controversy between the parties have been resolved to the satisfaction of all parties and the parties are desirous of entering into this mutual Release and Settlement Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by all parties, the parties hereto agree as follows:

1. Concurrently with the execution of this Agreement, Shell will receive from the Munster Defendants the sum of fifty thousand dollars (\$50,000.00), the receipt of which is hereby acknowledged.

2. Shell fully and finally releases and discharges the Munster Defendants, including its assigns, partners, shareholders, directors, officers, members, agents, and representatives, together with all persons, firms, and corporations from any and all claims, losses, damages, costs, expectations, interests, or any other thing whatsoever on account of, or in any way growing out of, all personal injuries, death, property damage, and any other type of damage of any kind, whether now known or unknown, arising out of an alleged motor vehicle collision that occurred on June 1, 2016 in Munster, Indiana, all of which are denied and disputed by Munster.

3. Shell recognizes that all damages and losses may not now fully be known, and hence may be more numerous or more serious than is now understood and expected; however, Shell agrees in further consideration for this Agreement that this Release applies to all injuries, damages, and losses arising out of the allegations made in this case, even though now unanticipated and unexpected and unknown, as well as all damages and losses which have already developed and are now known or anticipated. It is the intent of the parties to extinguish any and all claims that Shell may have against the Munster Defendants.

4. All parties agree that they are entering into this Agreement for the purpose of amicably resolving this case, and that the Munster Defendants are not admitting fault or liability in this matter by entering into this Agreement.

5. Shell further acknowledges, warrants, and agrees to satisfy all liens, reimbursement rights, subrogation interest or claims, including automatic liens or obligations created by federal and/or state law, of medical assistance, Medicare, Medicaid, child support, income tax, and any doctor, hospital, insurance carrier, non-profit hospital and medical service organization, state or governmental agency, attorney or any other person, firm or corporation, which have been made or may be made in the future against the payments described in this Release and Settlement Agreement; and Shell further agrees to hold the Munster Defendants harmless, and to defend and indemnify the Munster Defendants against any suits, claims, cross-claims, judgments, costs or expenses of any kind, including attorney's fees, arising from assertion of any such lien, reimbursement right, subrogation interest or claim.

6. Shell further agrees to hold the Munster Defendants harmless from, and to defend and indemnify the Munster Defendants against, any now pending or subsequently initiated suits, claims, judgments, costs or expenses of any kind, including attorney's fees, contribution, and/or indemnification by any other person or organization (or for subrogation by an insurer of such person or organization) on account of judgment, assertion or settlement of any claim asserted by or on behalf of Shell or Shell's relatives as a result of the injuries or damages allegedly sustained by Shell and arising out of the above described occurrence.

7. Shell hereby acknowledges and assumes all risk, chance or hazard that the said damages may be or become permanent, progressive, greater, or more extensive than is now known, anticipated or expected.

8. No money out of the settlement is allocated towards future medical treatment. While it is impossible to accurately predict the need for future treatment, this decision was based upon a good faith determination of the parties in order to resolve a disputed claim. The parties have attempted to resolve this matter in compliance with both state and federal law and it is believed that the settlement terms adequately consider Medicare's interest and do not reflect any attempt to shift responsibility of treatment to Medicare pursuant to 42 U.S.C. § 1395y(b). In the event Medicare required reimbursement related to future medical treatment, this would be the sole responsibility of Shell.

9. No promise or inducement which is not herein expressed has been made to Shell or the Munster Defendants, and in executing this Release and Settlement Agreement, Shell does not rely upon any statement or representation made by the Munster Defendants, or by any agent, physician, doctor or any other person representing the Munster Defendants, concerning the nature, extent or duration of said damages or losses or the legal liability therefore.

10. Shell acknowledges that the payment of said sum is not to be construed as an admission of liability by the Munster Defendants, who disputes any liability to Shell, but

that said payment is made and accepted in full accord and satisfaction of, and in compromise of, a disputed claim and for the purpose of terminating a dispute or litigation between the parties.

11. Shell agrees to execute all necessary documents to effectuate the settlement, including the filing of a Motion to Dismiss with Prejudice the claims against the Munster Defendants, in the above referenced case.

12. In the event that a party to this Agreement shall default on any of the terms and provisions herein, any other party may initiate legal proceedings as a result thereof, and the prevailing party in said litigation shall be entitled to recover reasonable attorney fees and expenses therein.

13. This Agreement constitutes the entire understanding between the parties related to the subject matter hereof, supersedes all prior written and/or oral agreements, and may be modified only by a separate written instrument signed by the parties hereto.

14. This Agreement shall be governed by and construed in accordance to the laws of the State of Indiana.

15. Shell further states that he has carefully read the foregoing Release and Settlement Agreement and knows and understands its contents and that he signs it as his own free act.

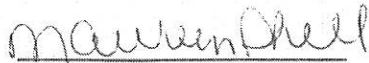
**IN WITNESS THEREOF**, the parties have executed this Release and Settlement Agreement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

  
\_\_\_\_\_  
**TERRY SHELL**

\_\_\_\_\_  
**TOWN OF MUNSTER**

By: David Westland

  
\_\_\_\_\_  
**MAUREEN SHELL**

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**KIMBERLY NORDHOFF**

By: David Westland