

HH1– Settlement Agreement and Release of All Claims in the Circuit Court matter styled Michael Marchetti and Valarie Marchetti vs. School Board of Broward County, Case No. 11-28067 (05).
12/17/13 RSBM

SUMMARY EXPLANATION AND BACKGROUND

Plaintiffs Valarie and Michael Marchetti filed a lawsuit against the School Board in a case styled Michael Marchetti and Valarie Marchetti vs. the School Board of Broward County, Case No. 11-28067(05) in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida alleging a violation of the Florida Public Sector Whistleblower's Act. Plaintiff Valarie Marchetti's employment was terminated on June 30, 2011 as part of a reduction in force. Plaintiff Valarie Marchetti alleged in the lawsuit that her termination was in retaliation for a protected disclosure she made to the Broward State Attorney's office in September 2010 and Plaintiff Michael Marchetti alleged that the termination of his wife's employment was in retaliation for several protected disclosures he claimed to have made to federal, state and local agencies. School District employees denied Plaintiff's claims, and if not settled the dispute would need to be resolved through a jury trial in January 2014.

The parties have agreed to resolve and settle all claims asserted with respect to the above referenced litigation. The School Board will pay Valarie and Michael Marchetti the total sum of \$190,000 and will pay their attorneys \$85,000 for attorneys' fees and costs resulting in a total settlement amount of \$275,000. The Plaintiffs will execute general releases of all claims and will dismiss with prejudice the pending lawsuit against the School Board. The remaining settlement terms and conditions are outlined within the attached settlement agreement.

Outside counsel recommends approval of the settlement agreement as a fair and reasonable cost-effective resolution of this dispute.

End of Document

SETTLEMENT AGREEMENT
AND RELEASE OF ALL CLAIMS

THIS AGREEMENT entered into this 17th day of December 2013, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "The School Board")

and

MICHAEL MARCHETTI and VALARIE MARCHETTI (hereinafter referred to as "Plaintiffs")

WHEREAS, upon terms that are mutually agreeable and favorable, the parties desire to resolve and settle all matters, disputes, and things in controversy between them, including but not limited to, any and all claims which were, or which could have been, asserted in the litigation described below.

WHEREAS, the Plaintiffs filed a lawsuit against The School Board in the case styled MICHAEL MARCHETTI and VALARIE MARCHETTI, Plaintiffs, v. SCHOOL BOARD OF BROWARD COUNTY, Defendant, in the Circuit Court in and for the 17th Judicial Circuit in and for Broward County, Florida, and bearing Case No. 11-28067 (05).

WHEREAS, the parties seek to settle all claims between them pursuant to the terms and provisions specified herein without any admission of fault, liability or wrongdoing of any kind.

NOW THEREFORE, in consideration of the foregoing representations of the mutual covenants, promises and considerations hereinafter set forth, it is agreed by the between the parties as follows:

1. **Incorporation**: The foregoing recitals are true and correct and are incorporated herein by reference.
2. **Release**:
 - A. PLAINTIFFS HEREBY REMISE, RELEASE, ACQUIT, SATISFY, AND FOREVER DISCHARGE THE SCHOOL BOARD, its agents and employees, of and from all manner of action and actions, cause and causes

of action, suits, debts, accounts, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, in law and in equity, which Plaintiffs ever had, now have, or which any personal representative, successor, heir or assign of Plaintiffs, hereafter can, or may have against THE SCHOOL BOARD, its agents and employees, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of these presents. Likewise,

B. DEFENDANT HEREBY REMISES, RELEASES, ACQUITS, SATISFIES, AND FOREVER DISCHARGES the Plaintiffs, their agents and representatives of and from all manner of action and actions, cause and causes of action, suits, debts, accounts, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, in law and in equity, which THE SCHOOL BOARD ever had, now has, or which any personal representative, successor, heir or assign of THE SCHOOL BOARD hereafter can, or may have against Plaintiffs, their agents and representatives, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of these presents.

3. Plaintiffs understand and agree that this Agreement constitutes a full and final bar to any and all claims of any type that they now have against THE SCHOOL BOARD, its former and current Board members, its former and current officers, agents, attorneys, representatives, employees and officials (whether elected or appointed), and their heirs, executors, administrators, successors, and assigns and

all other persons, partnerships, firms or corporations, (collectively referred to herein as "THE SCHOOL BOARD") of and from any and all action, damages or demands of whatever name or nature arising out of any and all incidents or matters which have arisen or may arise from the beginning of time to the effective date of this Agreement.

4. **Acknowledgment:** The parties acknowledge and agree that this Agreement is based upon the unique facts and circumstances of this case, that this settlement is a compromise of a disputed claim, and that the payment is not to be construed as an admission of guilt or liability by The School Board, its agents or employees, by whom liability is expressly denied, and that this settlement is a business decision that the parties reached upon the determination that the settlement is in the best interest of all parties.
5. **Settlement Payment:** The School Board agrees to pay Plaintiffs the sum total of Two Hundred and Seventy Five Thousand Dollars (\$275,000.00). This amount shall be made payable as follows: (1) On or before December 31, 2013, the School Board shall issue payment in the amount of \$85,000.00 to "The Amlong Firm"; (2) on or before December 31, 2013, the School Board shall issue payment in the amount of \$45,000.00 to MICHAEL MARCHETTI and VALARIE MARCHETTI; and after December 31, 2013 but on or before January 13, 2014, the School Board shall issue final payment in the amount of \$145,000.00 to MICHAEL MARCHETTI and VALARIE MARCHETTI.

6. **Tax Liability:** Plaintiffs and their attorneys understand and agree that any tax liability for said settlement sums shall be borne by Plaintiffs and their attorneys alone.
7. **Indemnity:** Plaintiffs represent to The School Board that they and their counsel alone are entitled to the settlement funds and that there are no liens or claims made to these funds by any other person or entity, including any claims made by any other party to the above-noted lawsuit, or any claims made by an insurance carrier for personal injury protection benefits, workers' compensation benefits or medical payment benefits. If there are any such liens, the Plaintiff agrees that it will be his/her sole responsibility to resolve and satisfy those liens.
8. **Non-Reinstatement.** This Agreement resolves all claims for reinstatement of employment with the School Board which were or may have been asserted by Valarie Marchetti, including but not limited to section 112.3187(9), Florida Statutes. In exchange for the consideration described above, Valarie Marchetti agrees not to seek future employment with the School Board and waives and disclaims any right to any compensation that may be recovered at any time after the execution of this Agreement as a result of any proceeding arising out of or related to the employment relationship that is brought under the jurisdiction or authority of the Equal Employment Opportunity Commission ("EEOC"), the Florida Commission on Human Relations, the U.S. Department of Labor, or any other local, state, or federal court or agency. Valarie Marchetti further agrees that if any of the agencies, entities, or courts described above assumes jurisdiction of

or files a complaint, charge, or proceeding against the School Board, that she will request such agency, entity, or court to dismiss or withdraw the matter.

9. **Expenses.** In any action or suit arising from or relating to the enforcement of any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, expenses, and costs including attorney's fees, expenses, and costs incident to an appeal.
10. **Communication with Third-Parties.** The parties specifically agree that they will not unilaterally communicate with any other person or entity regarding this Agreement or the nature of or claims asserted in the above-stated litigation. Instead, the parties agree that any communications regarding this Agreement or the litigation will be made by joint statement approved by both parties. Notwithstanding, either party may provide truthful information to a government entity without violating this Agreement.
11. **Drafting.** This Agreement is the product of a joint effort between that parties. As a result, it shall not be construed against either party and both parties shall be considered equally contributing drafters. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. As used in this Agreement, the singular or plural shall be deemed to include the other whenever the context so indicates or requires.
12. **Non-Modification.** This Agreement can not be orally amended, modified, or otherwise changed. No changes, amendments, or modifications to the terms of this Agreement shall be valid or enforceable unless such change, amendment, or

modification is memorialized in a written agreement between the parties that has been signed by First Party and by duly authorized officers or representatives of the School Board.

13. **Dismissal:** As a condition of settlement, the parties agree to execute and file a Stipulation for Dismissal with Prejudice to the Court for dismissal of this lawsuit.
14. **Self Reliance:** In entering into this Agreement, the Plaintiffs represent that they have relied upon the advice of their attorney, who is the attorney of their own choice, concerning the legal consequences of the Agreement; that the terms of their Agreement have been completely read and explained to Plaintiffs by their attorney and accepted of their own free will and accord.
15. **Entire Agreement:** This Agreement and Release of all Claims incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
16. **Waiver:** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall

not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

17. **Governing Law:** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.
18. **Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
19. **Assignment:** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from The School Board.
20. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.
21. **Captions:** The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in

no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

22. **Counterparts:** This agreement may be signed in counterparts, each of which shall be a duplicate original, but all of which taken together shall constitute one and the same instrument; any of the Parties hereto may execute this Agreement by signing any such counterpart or counterparts. Facsimile copies shall be deemed original for all purposes, including enforcement.

23. **Authority:** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR THE SCHOOL BOARD

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By


Patricia Good, Chair

ATTEST:

By


Robert W. Runcie, Superintendent

Approved as to Form and Legal Content:


Office of the General Counsel

