

## **Settlement Agreement**

The **TOWN COUNCIL OF ABINGDON, VIRGINIA** (“the Town Council”) and **KEVIN SANDENAW** (“Sandenaw”) hereby make this agreement.

WHEREAS Town Council members Cathy Lowe, Robert Howard and Richard Humphreys issued and signed a document instructing Town Attorney Deborah Icenhour to make a formal request, on behalf of the Town Council, to the Virginia Circuit Court for Washington County requesting a judicial opinion regarding fellow Town Council member M. Cynthia Patterson (“Instruction”);

WHEREAS Town Attorney Deborah Icenhour then drafted and sent a letter, purporting to be from the Town Council, to the Virginia Circuit Court for Washington County making that request (“Letter To The Court”);

WHEREAS the Letter To The Court contained attacks on the character of council member M. Cynthia Patterson that were based, in part, on allegations involving her personal life;

WHEREAS Lowe, Humphreys, Howard, and Icenhour took the aforementioned actions without the knowledge of council members Wayne Craig and M. Cindy Patterson, and without the authorization of Town Council obtained through compliance with the open meeting provisions of the Virginia Freedom of Information Act (“FOIA”);

WHEREAS citizen Sandenaw filed an action in Washington County General District Court against the Town Council, Lowe, Howard, Humphreys and Icenhour alleging that the aforementioned actions of Lowe, Howard, Humphreys and Icenhour

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violated FOIA (the "Litigation");

WHEREAS the Washington County General District Court issued a judgment that the defendants thereby violated FOIA;

WHEREAS the defendants, including the Town Council, appealed the judgment to the Virginia Circuit Court for Washington County, where the Litigation is currently pending; and

WHEREAS Sandenaw and Town Council desire to end the litigation between them;

THE PARTIES AGREE AS FOLLOWS:

1. The issuance of the Instruction and its tender to the Town Attorney were not actions of the Town Council. Those actions were not properly authorized nor ratified by the Town Council or Town of Abingdon.
2. The issuance and delivery of the Letter To The Court were not actions of the Town Council. Those actions were never properly authorized or ratified by the Town Council, but merely purported to be actions of the Town Council, which they were not.
3. The Town Council disavows and repudiates the actions of Lowe, Howard and Humphreys with respect to the Instruction.
4. The actions of Lowe, Humphreys, Howard and Icenhour with respect to the Instruction and Letter To The Court cannot and shall not be imputed to the Town

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Council and neither Town Council nor the Town of Abingdon bear any responsibility for those actions.

5. Neither the Town Council nor the Town of Abingdon has violated FOIA with respect to the aforementioned actions of Lowe, Humphreys, Howard and Icenhour, the Instruction or the Letter To The Court, or the allegations in the Litigation.
6. Sandenaw shall dismiss his claims against the Town Council with prejudice.
7. Each party shall pay its own attorney fees. Sandenaw shall not be entitled to attorney's fees, costs or any other relief, monetary or otherwise, from the Town Council, Town of Abingdon, the council members of the Town Council, or employees of the Town of Abingdon, excluding the other defendants in the Litigation. Nor shall any of the aforementioned persons or entities be entitled to attorney's fees from Sandenaw.
8. This Settlement Agreement does not address, resolve or terminate Sandenaw's claims against the other defendants in the Litigation. Nonetheless, Sandenaw shall indemnify Town Council and the Town of Abingdon for any liability that either incurs to one or more of the other defendants in the Litigation as a result of Sandenaw obtaining a judgment against one or more of those defendants in the Litigation.
9. This Settlement Agreement shall take effect upon the signing of it by Sandenaw and a representative of the Town of Abingdon, and the ratification of this

Settlement Agreement by the Town Council in a resolution by it that includes an express commitment to open government and compliance with FOIA. The signing of this Agreement by a representative of the Town of Abingdon shall not bind the Town of Abingdon or the Town Council unless and until the Town Council so ratifies it, and in any case the representative of the Town who signs this Agreement shall incur no personal liability whether or not the Town so ratifies it.

Kevin Sandenaw July 31, 2018  
Kevin Sandenaw

TOWN OF ABINGDON

BY: Julian Wayne Gaig