

FILED
APR 12 2016

22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE
BY _____ DEPUTY

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

BRANDON WANN,
on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

CITY OF ST. LOUIS,

Defendant.

Case No. 1422-CC10272
Div. 2

CLASS ACTION SETTLEMENT AGREEMENT

CAMPBELL LAW LLC
John E. Campbell, Esq.
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20 South Sarah St.
St. Louis, MO 63108

ST. LOUIS UNIVERSITY LEGAL CLINIC
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Counsel for Class Plaintiff and
Settlement Class

CITY OF ST. LOUIS LAW DEPARTMENT
Mark Lawson
1200 Market St.
St. Louis, MO 63103

Counsel for Defendant

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement” or “Settlement Agreement”) is entered into as of April 7, 2016, and is between the City of St. Louis (“CITY”) and the Class Plaintiff on behalf of himself and the Settlement Class by and through the undersigned for City and the undersigned Class Plaintiff and Class Counsel for the Settlement Class.

RECITALS

WHEREAS, Brandon Wann commenced a lawsuit styled *Wann v. City of St. Louis* in the Circuit Court for the City of St. Louis, State of Missouri, Cause No. 1422-CC10272, alleging that the “Warrant Recall Fee” or Warrant Cancellation Fee, (“fee”) charged by the City of St. Louis was illegal pursuant to Missouri Revised Statutes § 488.050 et seq;

WHEREAS, Plaintiff is an individual who paid the fee at issue;

WHEREAS, Defendant denies each of the allegations in the Action and asserts that it has at all times complied with all laws;

WHEREAS, Class Counsel have conducted and continue to conduct a thorough investigation and evaluation of the facts and law relating to the matters set forth in this case;

WHEREAS, Plaintiff and Defendant desire to avoid the further expense of litigation and to settle and voluntarily compromise any and all claims or causes of action between them that have arisen or that may arise in the future which in any way relate to Plaintiff’s claims or the facts alleged in the Action individually and on behalf of the Settlement Class.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained herein, and with the intention of being legally bound thereby, each of the above parties hereto do covenant and agree as follows:

DEFINITIONS

1. **Definitions.** The following definitions apply to this Agreement and the exhibits hereto:

1.1 The “**Action**” or “**Wann**” means the civil action captioned *Brandon Wann v. City of St. Louis*, Cause Number 1422-CC10272, filed in the Missouri Circuit Court for the Twenty-Second Judicial Circuit, State of Missouri.

1.2 “**Claims**” shall mean all potential claims regarding the payment of the fee to the City of St. Louis.

1.3 “**Claims Administration**” shall mean the distribution of payment and correspondence and communication with the class.

1.4 “**Claims Administrator**” refers to a qualified and competent business chosen by the City of St. Louis to administer the claims.

1.5 “**Class Notice**” shall mean the Long Form Notice and the Print Form Notice of this proposed settlement, which are to be published in accordance with the Notice Plan. The Internet Notice will also make use of the Banner Ads.

1.6 “**Class Period**” shall mean the time period of December 11, 2009 up to and including February 15, 2016.

1.7 “**Class Plaintiff**” means the named Plaintiff in the Action, Brandon Wann. The Class Plaintiff filed the Action in his individual capacity and as representative of a putative class as defined in this Agreement.

1.8 “**Costs of Claims Administration**” shall mean all actual costs associated with or arising from Claims Administration.

1.9 **“Court”** means the Twenty-Second Judicial Circuit Court, State of Missouri in which the Action is pending, and to which presentation of this Agreement for judicial review and approval will be made.

1.10 The **“Effective Date”** means the date when the order finally approving the settlement becomes a “Final Order.”

1.11 **“Final Order”** or **“Final Judgment”** means the termination of the Action after the occurrence of each of the following events:

1.11.1 This Class Action Settlement Agreement is approved by the Court;
and

1.11.2 An order and final judgment of dismissal with prejudice is entered by the Court against the Class Plaintiff and all of the Settlement Class members who do not opt out as provided in Mo. R. Civ. P. 52.08 and the time for the filing of any appeals has expired or, if there are appeals, approval of the settlement and judgment has been affirmed in all respects by the appellate court of last resort to which such appeals have been taken and such affirmances are no longer subject to further appeal or review.

1.12 **“Preliminary Approval Order”** shall mean the order of the Court preliminarily approving this Settlement Agreement, in substantially the same form as Exhibit C.

1.13 **“Warrant Recall Fee”** or **“Fee”** refers to “warrant cancellation fee” or “warrant fee” or “warrant recall fee” charged by the City of St. Louis to cancel a warrant in a municipal court case.

1.14 **“Settlement Class”** means the class defined in this Agreement, which the Settling Parties have agreed herein to seek to have certified by the Court solely for purposes of

this Settlement Agreement, and their heirs, agents, executors, administrators, successors, and assigns.

1.15 “**Settlement Class Counsel**” or “**Class Counsel**” means Campbell Law LLC and St. Louis University Legal Clinic.

1.16 “**Settling Parties**” means the Class Plaintiff, all Settlement Class members who do not exclude themselves from the Settlement and the City of St. Louis.

TERMS AND CONDITIONS OF SETTLEMENT

2. **Plaintiff’s Allegations.** The Class Plaintiff has brought the Action as a class action under Mo. R. Civ. P. 52.08. He alleges, among other things, that City of St. Louis charged a warrant recall fee in violation of Missouri Revised Statute Section 488.005 et seq.

3. **Denial of Liability.** City of St. Louis believes that the Class Plaintiff’s factual and legal allegations in the Action are incorrect and specifically denies all liability to the Class Plaintiff and the Settlement Class.

4. **Negotiations.** Settlement negotiations have taken place between Class Counsel and counsel for the City of St. Louis. An agreement on all material terms was reached on February 2, 2016. This Settlement Agreement, subject to the approval of the Court, contains all the terms of the settlement agreed to between City of St. Louis and the Class Plaintiff individually and on behalf of the Settlement Class.

5. **Benefit to the Class Plaintiff and Settlement Class.** The Class Plaintiff and Class Counsel have concluded, under the circumstances and considering the pertinent facts and applicable law, that it is in the Class Plaintiff’s best interests and in the best interests of the Settlement Class to enter into this Settlement Agreement to avoid the uncertainties of litigation and to assure a benefit to the Class Plaintiff and all members of the Settlement Class. The Class

Plaintiff and Settlement Class Counsel consider this Settlement Agreement to be fair, reasonable, and adequate and in the best interests of the members of the Settlement Class.

6. **No Admission of Liability.** By entering into this Agreement, the Settling Parties agree that City of St. Louis is not admitting any liability to the Class Plaintiff, the Settlement Class, or any other person or entity. No portion of this Agreement may be admitted into evidence in any action, except as required to enforce this Agreement and/or to cease or enjoin other litigation.

7. **Settlement Class Definition.** The settlement class is defined as:

- a. All people who paid a warrant recall fee to Defendant or who were assessed a warrant fee and now owe the fee during the class period.

8. **The City of St. Louis's Obligations.** City of St. Louis shall provide the following benefits to the Settlement Class:

8.1 **Benefits.**

8.1.1 City agrees to create a cash fund of \$750,420 which represents 75% of the total Fees collected from the Class. Each class member will receive a check for 75% of the Fees paid by the class member, reduced pro rata by attorneys fees and class representative compensation awarded from the fund. Any checks not cashed after 90 days from date of mailing will revert to the City.

8.1.2 City agrees to a review of all fees charged by the municipal court, to be completed within six months of final judgment, with a statement offering proof of same and results of the review to Class Counsel. The review shall be conducted by competent counsel and shall consider whether fees violate 488.005 et seq. and whether fees violate any other applicable laws. Appropriate recommendations by the City will follow to appropriate parties.

8.1.3 Injunctive Relief: City agrees not to charge a warrant recall fee unless authorized by state law. City agrees that this produces a measurable benefit to the class and future class members of approximately \$1 million over the next five years.

8.2 **Distribution of and Terms Applicable to Benefits.**

Within sixty days after the Court's Final Order, City of St. Louis shall distribute checks to Plaintiff and Class.

9. **Cessation of Litigation Activity.** Class Plaintiff and Class Counsel agree not to initiate any new litigation against City of St. Louis relating to the Fee during the approval process of this Agreement. Immediately upon execution of this Agreement, Class Plaintiff, Class Counsel, and City of St. Louis agree to cease all litigation activity in the Action (other than any activity to implement this Settlement Agreement), and to request the court to stay all motions or other pre-trial matters and to continue any hearing or trial settings until each of the conditions precedent to the Settling Parties' obligations to proceed to consummate the settlement provided for herein has been satisfied or waived.

10. **Class Certification for Settlement Purposes Only.** If the settlement provided for herein is not approved by the Court in complete accordance with the terms of this Agreement and does not become subject to a Final Order following preliminary approval, no class will be deemed certified by or as a result of this Agreement.

11. **Class Notification.** For purposes of distributing checks to the Class, City agrees to use a claims administrator to obtain updated addresses if available.

12. **Application for Attorneys' Fees and Class Representative Compensation.** Class Counsel will apply to the Court for attorneys fees not to seek more than 14.2% of the total common fund (\$750,420 in cash and \$1 million in injunctive relief = \$1,750,420) for a total of

\$249,889. Class Counsel agree not to seek or accept an amount of Fees and Expenses in excess of this amount. Subject to Court approval, City of St. Louis agrees to pay and will not oppose Class Counsel's application for fees. In addition, City of St. Louis agrees to pay a class representative to Class Plaintiff Wann in the amount of \$1,500, to be deducted from the common fund. Class Counsel will not seek reimbursement for expenses. If awarded by the Court, City agrees to pay Fees and Class Representative compensation, provided no appeal is taken of the Court's approval of the Fees and Class Representative compensation, no later than 30 days after the Final Order. If an appeal is taken, Fees and Class Representative compensation will be paid when an order issues that finally disposes of issues relating to the same.

The Fees and Class Representative compensation represent all of the fees and Class Representative compensation City of St. Louis agrees to pay, if awarded by the Court, in connection with the settlement to any Settlement Class member or their counsel irrespective of the counsel making the application. The Final Judgment shall specify that the check or wire transfer of the Fees and Expenses should be made payable to Campbell Law LLC.

13. **Dismissal With Prejudice.** Upon the final approval of this Agreement by the Court, Class Plaintiff and Class Counsel shall move to dismiss the Action with prejudice.

14. **Release of City of St. Louis.** Subject to and effective upon entry of a Final Order Class Plaintiff on his own behalf and on behalf of all Settlement Class members who do not opt out of the Settlement Class, for and in consideration of the terms and undertakings herein, the sufficiency and fairness of which are acknowledged, hereby release and forever discharge City of St. Louis and all City officials, agents, and representatives from any and all claims, demands, debts, liabilities, actions, causes of action of every kind and nature, obligations, damages, losses, and costs, whether known or unknown, actual or potential, suspected or unsuspected, direct or

indirect, contingent or fixed, that were or could have been asserted or sought in the Action, relating in any way or arising out of the charging of the warrant recall fee.

15. **Administration and Cost of Settlement.** City of St. Louis will bear the responsibility for administering the settlement described herein and paying the costs of administering the settlement and the costs notice.

16. **Notice of Settlement**

a. Constitutional due process requires that absent class members be provided the best notice practicable, reasonably calculated to apprise them of the pendency of the action and affording them the opportunity to object. *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797 (1985); Fed. R. Civ. P. 23(c)(2)(B). The mechanics of the notice process, however, “are left to the discretion of the court subject only to the broad ‘reasonableness’ standard imposed by due process.” *Grunin v. Int’l House of Pancakes*, 513 F.2d 114, 121 (8th Cir. 1975).

b. The Settling Parties have selected, and will jointly ask the Court to approve the appointment of Dahl Administration, LLC, Minneapolis, Minnesota, a nationally recognized class action notice provider, as Notice Provider. Notice will be distributed by first class mail. It will be a post-card notice that will summarize the long form and direct class members to the website set up by the administrator. Parties have agreed on the form of this post card notice. See Exhibit D. It will be sent to the best possible address, using available techniques to update address information. Class members will also be able to access a dedicated website to learn more about the proposed settlement and they will be able to call the claims administrator with administrative questions and class counsel with substantive questions.

c. Long Form of Notice. The Settling Parties have prepared, and will jointly ask the Court to approve the Long Form of Notice as set forth in Exhibit B.

d. Print Form of Notice. The Settling Parties have prepared, and will jointly ask the Court to approve the Print Form of Notice as set forth in Exhibit A.

e. The Notice Provider shall have the administrative responsibility for giving notice to the Settlement Class in accordance with the Notice Plan and in the form of the Long Form of Notice and Print Form of Notice.

17. Timing of Settlement Process. The following dates and deadlines shall apply to this Agreement:

a. Within five days of distribution of notice by mail, Class Administrator will publish class notice.

b. 20 days after Preliminary Approval - Based upon its records, City of St. Louis will create and provide to the Class Administrator and to Class Counsel an Excel spreadsheet identifying each Settlement Class Member by name, last known address, last known phone number of each Settlement Class Member, along with the amount each class member is expected to receive. Notice will be distributed within 14 days of receipt of the information.

c. 30 days after Notice Period begins - Deadline for Settlement Class Members to submit request to be excluded or written objections;

d. 45 days after Notice Period begins - Settlement Website and toll free number to be operational until this date and after which it will be terminated;

e. 15 days prior to Fairness Hearing - Deadline for deposing objecting Settlement Class Members and deadline for Class Members to file and serve notice of intent to appear at Fairness Hearing;

f. 7 days prior to Fairness Hearing - Deadline for Notice Provider to file with

the Court and provide a copy to Class Counsel and counsel for City of St. Louis an appropriate affidavit attesting to implementation of the Notice Plan and publication of the Long Form Notice and Print Form Notice;

g. 50+ days after Notice Period begins - Date for Final Fairness Hearing; and

h. 3+ days prior to Fairness Hearing - Deadline for filing Motion for Final Approval

i. 30 days after Final Order – Payment to Class Counsel and Class Representative

j. No more than 60 days after Final Order – Distribution of Checks to Class

k. 90 days after distribution of checks – uncashed checks revert to City of St. Louis

18. **Objections to Settlement.** Any Settlement Class Member who has not timely submitted an Opt Out Form and who wishes to object to the fairness, reasonableness or adequacy of the proposed Settlement, or to the award of attorneys' fees, must, no later than thirty (30) days after the Notice Period begins, deliver to Class Counsel and counsel for City of St. Louis, and have file-stamped by the court his or her written objection(s).

a. **Required Form and Content of Objections.** Objections must be in writing and verified by sworn affidavit and must include: (i) the objector's name, address, and telephone number; (ii) the name of this case and the case number; (iii) a clear and concise statement of each objection; and (iv) a written brief explaining the specific reasons, if any, for each objection, including any legal and factual support upon which the objector intends to rely along with any

evidence the objector intends to introduce in support of the objection(s).

b. Objections Submitted by Objector's Counsel. If any objection is presented through an attorney, the objection must also include: (i) the identity and number of members of the Settlement Class represented by objector's counsel; (ii) the number of members of the Settlement Class represented by objector's counsel who have opted out of the Settlement; and (iii) the number of members of the Settlement Class represented by objector's counsel who have remained in the Settlement.

c. Deposition of Objectors. Objecting Class Members, whether or not represented by counsel, must also make themselves available for deposition by Class Counsel and Missouri Title's counsel at least fifteen (15) days before the date of the Fairness Hearing.

d. Objecting at the Fairness Hearing. No Objecting Class Member will be permitted to appear and object at the Fairness Hearing unless he or she has timely filed and served a written objection and has made himself or herself available for deposition. Class Members or their attorneys intending to make an appearance at the Fairness Hearing must, no later than fifteen (15) days prior to the Fairness Hearing, serve Class Counsel and Missouri Title's counsel with a Notice of Intent to Appear (as defined in Paragraph e. below).

e. Notice of Intent to Appear. The Notice of Intent to Appear must: (i) state how much time the Class Member and/or his attorney anticipates needing to present his or her objection(s); (ii) identify, by name, address, telephone number and detailed summary of

testimony, all witnesses the Class Member and/or his or her attorney intends to present any testimony from; and (iii) identify all exhibits the Class Member and/or his attorney intends to offer in support of the objection(s) and attach complete copies of all such exhibits.

19. **Receipt of Requests for Exclusion.** Parties seeking exclusion must request exclusion through the claims administrator. Further, any other party who receives a request for exclusion shall transmit those requests to all other counsel in the case.

20. **Court Submission.** Settlement Class Counsel and counsel for the City will submit this Agreement and the exhibits hereto, along with such other supporting papers as may be appropriate, to the Court for preliminary approval of this Agreement pursuant to Mo. R. Civ. P. 52.08. If the Court declines to grant preliminary approval of this Settlement Agreement and to order notice of hearing with respect to the proposed Settlement Class, or if the Court declines to grant final approval to the foregoing after such notice and hearing, this Agreement will terminate as soon as the Court enters an order unconditionally and finally adjudicating that this Settlement Agreement will not be approved.

21. **Final Judgment.** The Settling Parties agree that the settlement provided herein is expressly conditioned upon dismissal with prejudice of the Action and entry of a Final Order.

22. **Integration Clause.** This Settlement Agreement contains a full, complete, and integrated statement of each and every term and provision agreed to by and among the Settling Parties and supersedes any prior writings or agreements (written or oral) between or among the Settling Parties, which prior agreements may no longer be relied upon for any purpose. This Settlement Agreement shall not be orally modified in any respect and can be modified only by the written agreement of the Settling Parties supported by acknowledged written consideration.

23. **Governing Law.** To the extent not governed by the Missouri Rules of Civil Procedure, the contractual terms of this Agreement shall be interpreted and enforced in accordance with the substantive law of the State of Missouri.

24. **Mutual Interpretation.** The Settling Parties agree and stipulate that this Agreement was negotiated on an “arms-length” basis between parties of equal bargaining power. Also, the Agreement has been drafted jointly by Class Counsel and counsel for City of St. Louis. Accordingly, this Agreement shall be neutral and no ambiguity shall be construed in favor of or against any of the Settling Parties.

25. **Notice.** Whenever any written notice is required by the terms of this Agreement, it shall be deemed effective on the delivered date, service to be by First-Class Mail addressed as follows:

If to the Class Plaintiff or Settlement Class, to:

John E. Campbell, Esq.
Erich Vieth, Esq.
Campbell Law LLC
20 South Sarah St.
St. Louis, MO 63108

If to City of St. Louis:

CITY OF ST. LOUIS LAW DEPARTMENT
Mark Lawson
1200 Market St., Room 314
St. Louis, MO 63103

26. **Counterpart Execution.** This Agreement may be executed in any number of counterparts and will be binding when it has been executed and delivered by the last signatory hereto to execute a counterpart. A facsimile signature shall be deemed to constitute an original signature for purposes of this Agreement. After execution of counterparts by each designated

signatory, City of St. Louis agrees to furnish each party with a composite conformed copy of this Agreement reflecting all counterparts signatures.

27. **Binding Upon Successors.** This Agreement shall be binding upon and inure to the benefit of the Settling Parties hereof and their representatives, heirs, successors, and assigns.

28. **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions if the Settling Parties and their counsel mutually elect by written stipulation to proceed as if such invalid, illegal, or unenforceable provisions had never been included in this Agreement.

29. **Continuing Jurisdiction.** Without affecting the finality of the Final Judgment, the Court shall retain continuing jurisdiction over the Action and the Settling Parties, including all members of the Settlement Class, the administration and enforcement of the settlement, and the benefits to the Settlement Class hereunder, including for such purposes as supervising the implementation, enforcement, construction, and interpretation of this Settlement Agreement, the order preliminarily approving the settlement, and the Final Judgment, and hearing and determining an application by Settlement Class Counsel for an award of attorneys' fees, and Class Representative compensation. Any dispute or controversies arising with respect to the interpretation, enforcement, or implementation of the Settlement shall be presented by motion to the Court.

30. **Warranty of Counsel.** Class Counsel unconditionally represent and warrant that they are fully authorized to execute and deliver this Agreement on behalf of the Class Plaintiff.

The undersigned parties have executed this Agreement as of the date first above written.

DATED: _____

4/7/16

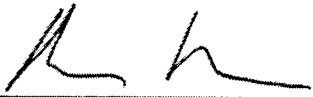
Campbell Law LLC

By _____

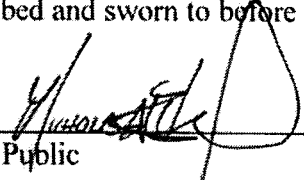
John E. Campbell, # 59318
20 South Sarah St.
St. Louis, MO 63108

Class Counsel

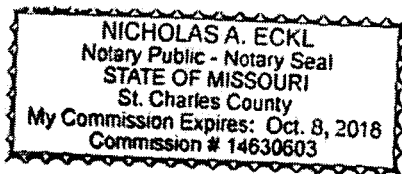
DATED: April 7, 2016

By 
Brandon Wann
Class Plaintiff

Subscribed and sworn to before me this 7th day of April, 2016.


Notary Public

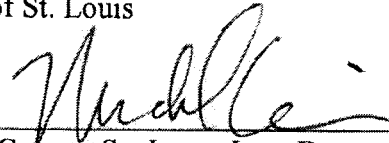
My Commission Expires: 10-08-2018



DATED: 4/7/16

City of St. Louis

By



CITY OF ST. LOUIS LAW DEPARTMENT
Michael A. Garvin, City Counselor
1200 Market St.
St. Louis, MO 63103

Counsel for Defendant City of St. Louis