

SETTLEMENT AGREEMENT AND RELEASE

FOR AND IN CONSIDERATION of the promises contained herein, Alec Esquivel and (i) Defendant State of Oregon, by and through the Oregon Judicial Department, Court of Appeals and the Public Employees' Benefit Board ("Defendant"), and (ii) Respondent Public Employees' Benefit Board ("Respondent"), enter into the following agreement ("Settlement Agreement"):

RECITALS

A. Mr. Esquivel worked as a Law Clerk for the State at the Oregon Judicial Department at the Court of Appeals from August 17, 2009 to August 12, 2011.

B. Mr. Esquivel is a transgender man. Although Mr. Esquivel was assigned the sex of female at birth, from the time he can remember, he has had a strong, consistent, and deeply-rooted male gender identity.

C. As part of this transition process, Mr. Esquivel sought employee health insurance coverage for a hysterectomy. His request was denied pursuant to an exclusion in the employee health plan covering him that expressly prohibited coverage for all medical care relating to gender-confirming surgeries.

D. Mr. Esquivel filed a civil rights complaint in the Circuit Court for the State of Oregon, Marion County, Case No. 11C17487, against Defendant and Respondent. He alleged that the denial of treatment based on his gender identity, as defined in ORS 174.100(6) violates the state's antidiscrimination law.

E. Defendant and Respondent deny that they have violated any provision of the law in their actions regarding Mr. Esquivel.

AGREEMENT

The parties have agreed that it is in the best interest of all concerned to resolve their differences without additional litigation. Therefore, they enter into this Settlement Agreement with the intent of resolving all matters between them and agree to the following:

1. By this Settlement Agreement, Mr. Esquivel, Defendant, and Respondent intend to settle all claims Mr. Esquivel may have against Defendant and Respondent arising from the facts described in the Recitals above.

2. In the interest of resolving Mr. Esquivel's claims, the State of Oregon has amended the terms of coverage for its Public Employees' Benefit Board Statewide Plan ("Statewide Plan"). These amendments, which are indicated in redline and attached hereto as Exhibit A, remove all exclusions from the Statewide Plan for medically necessary care relating to gender transition, and such care accordingly is now and hereafter shall be insured pursuant to the Statewide Plan.

3. No later than thirty (30) days after the execution of this Settlement Agreement, Defendant shall pay Mr. Esquivel a total of \$36,000.00 ("Settlement Payment") in settlement of his aforementioned claims against Defendant and Respondent. The State will report this payment to the appropriate taxing authorities on IRS Form 1099 and any other appropriate forms. This payment shall be made by check and mailed to Jennifer Middleton, Johnson, Johnson, Larson & Schaller, PC, 975 Oak Street Citizens Building, Suite 1050, Eugene, OR 97401. This payment shall not affect the terms or conditions of any employment with the State that Mr. Esquivel may have at any time, including but not limited to Mr. Esquivel's ability to seek and receive insurance coverage for a hysterectomy and oophorectomy as a State employee.

4. Defendant, Respondent, and Mr. Esquivel acknowledge and agree that the foregoing allocation and manner of payment represents a good faith allocation and agreement between the parties dealing at arm's length. The parties agree to consistently report and treat such payments in accordance with such allocation for all tax purposes.

5. In consideration for the terms above, and for payment of the above mentioned sums, Mr. Esquivel shall take all steps necessary to effect dismissal with prejudice in the above-captioned proceedings.

6. The parties understand and agree that this Release and Settlement Agreement represents a full and final compromise, satisfaction and resolution of all of Mr. Esquivel's disputed claims, including any future claims arising from the denial of health insurance coverage for a hysterectomy and oophorectomy described in the Recitals of this Settlement Agreement. Mr. Esquivel acknowledges that he relinquishes his claims voluntarily and knowledgeably.

7. Mr. Esquivel understands and agrees that this settlement is not to be construed as an admission or proof of any liability or fault whatsoever on the part of Defendant, Respondent, or any other officer, agent or representative of Defendant or Respondent.

8. The parties understand and agree that this Release and Settlement Agreement states the entire agreement between the parties in settlement of the above-mentioned case, and that the terms of this agreement are contractual and not merely recitals.

9. Mr. Esquivel agrees to pay and satisfy all debts held by third parties arising from the facts contained in the Recitals of this Settlement Agreement and he agrees to hold harmless from any such claims the defendants and their successors.

10. The parties to this Settlement Agreement further state that they have carefully read the foregoing Release and Settlement Agreement, know the contents thereof, and sign the same as their own free will. Each party has been represented by counsel throughout the case and settlement negotiations.

11. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall be considered one and the same agreement.

12. Each party signing this Settlement Agreement, whether signed individually or on behalf of any person or entity, warrants and represents that he or she has full authority to so execute the Settlement Agreement on behalf of the party or parties on whose behalf he or she so signs. Each party separately acknowledges and represents that this representation and warranty is an essential and material provision of this Settlement Agreement and shall survive execution of this Settlement Agreement.

13. The Honorable Albin W. Norblad of the Circuit Court for the State of Oregon, Marion County shall retain jurisdiction for the purpose of executing the terms of the Settlement Agreement.

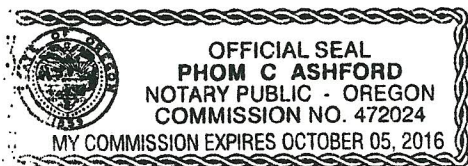
14. This agreement shall take effect as of the date that all parties have signed the agreement.

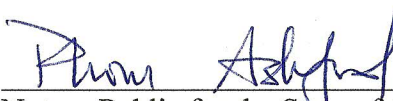
DATED this 14th day of January, 2013.



Alec Esquivel, Plaintiff

SUBSCRIBED AND SWORN before me this 14 day of January, 2013.





Notary Public for the State of Oregon

Jacqueline Kamins
1515 SW 5th Ave., Ste. 410
Portland, Oregon 97201
Tel: 971-673-1880
Email: jacqueline.kamins@doj.state.or.us
Attorneys for Defendant and Respondent

SUBSCRIBED AND SWORN before me this _____ day of _____, 2013.

Notary Public for the State of Oregon

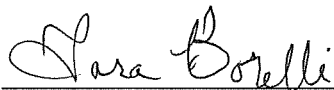
APPROVED AS TO FORM:

DATE: January 14, 2013

DATE: _____

LAMBDA LEGAL DEFENSE AND EDUCATION
FUND, INC.

JOHNSON, JOHNSON, LARSON &
SCHALLER, PC



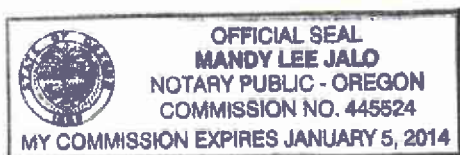
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Attorneys for Defendant and Respondent

SUBSCRIBED AND SWORN before me this 14th day of January, 2013.



[Handwritten signature]
Notary Public for the State of Oregon

APPROVED AS TO FORM:

DATE: _____

DATE: JAN 15 2013

LAMBDA LEGAL DEFENSE AND EDUCATION
FUND, INC.

JOHNSON, JOHNSON, LARSON &
SCHALLER, PC

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Attorneys for Plaintiff Alec Esquivel

EXHIBIT A

Draft (subject to further changes by PEBB, DOJ, and PEBB's contracting parties) amendments to Providence Handbook provisions available at:
<https://healthplans.providence.org/pdfs/pebb/documents//2012-pebb-sw-member-handbook.pdf>.

5.10.8 Prescription Drug Exclusions

In addition to the limitations and exclusions set forth in this Member Handbook, no Services or materials will be provided for:

~~Except for gender identity disorder, d~~Drugs or medicines used to treat sexual dysfunctions or disorders, in either men or women, such as Viagra® ~~or drugs required for, or as a result of, sexual transformation;~~

7. EXCLUSIONS

Exclusions that apply to Mental Health and Chemical Dependency Services:

~~Except for gender identity disorder, s~~Services related to the treatment of sexual disorders, dysfunctions or addiction

Exclusions that apply to Reproductive Services:

• ~~Except for gender identity disorder, a~~All Services related to sexual disorders or dysfunctions regardless of gender, ~~including all Services related to a sex change operation, including evaluation, surgery and follow-up Services;~~

5. COVERED SERVICES

This section describes Services that, when Medically Necessary and not otherwise excluded or limited, are covered under this Plan.

Benefits for the treatment of illness or injury when such treatment is provided by a Qualified Practitioner include the Covered Services that are listed in this section and shown in the Medical Benefit Summary. Covered Services for the diagnosis and treatment of Mental Health

Mental Health

Mental Health means Services related to all disorders listed in the "Diagnostic and Statistical Manual of Mental Disorders, DSM-IV-TR, Fourth Edition" except for:

Diagnostic codes relating to ~~Gender Identity Disorders in Adults—302.6 (Not Otherwise Specified), 302.85 (Gender Identity) and 302.9 (Sexual Disorder Not Otherwise Specified)~~. This exception does not extend to children and adolescents 18 years of age or younger; and