

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

SHANNAH M. KURLAND, and :
GLADYS B. GOULD, :
Plaintiffs :
v. :

C.A. No. 14-0524-MM-PAS

:
CITY OF PROVIDENCE, by and :
through its Treasurer, James J. Lombardi, :
III, alias, and OSCAR PEREZ, alias, :
JOHN DOE, and JOHN ROE, each :
individually and in their official capacities: :
as police officers in the City of :
Providence Police Department, and :
HUGH T. CLEMENTS, JR., alias, :
individually and in his official capacity as :
Chief of the City of Providence Police :
Department, :
Defendants :

STIPULATION OF SETTLEMENT AND DISMISSAL

Introduction

This action arose out of a protest/rally of upwards of 300 to 400 demonstrators in September 2013, near a banquet facility located in a public park in Providence, Rhode Island. The demonstrators were primarily active and retired firefighters and teachers who were there to demonstrate regarding their displeasure with then General Treasurer Gina Raimondo in her candidacy for Governor of the State of Rhode Island. Police were on scene to manage pedestrian and motor vehicle traffic. Central to this litigation was the duty of the police to control traffic conditions balanced against Plaintiffs' rights to peacefully protest at a location which would best enhance the goals of their demonstration.

Both sides moved for summary judgement. The Court denied both motions, as well as Plaintiffs' motion for reconsideration, finding that the reasonableness of the restrictions put in place by the police was a question of fact and not amenable to summary judgement.

Since this incident, the Providence Police Department has reviewed or updated its policies

on public demonstrations on four occasions, the most recent being in March of 2021, and has been accredited by the Commission for Law Enforcement Agencies (CALEA) as well as the RI Police Officers Commission on Standards and Training (POST).

Now therefore, given the passage of more than seven years since the demonstration in issue, with both sides having expended considerable time and expense defending their respective positions, including the unsuccessful attempts at summary judgement, the parties are desirous of ending this litigation upon the following terms.

Stipulation

The Parties do hereby stipulate and agree as follows:

1. All claims against all Defendants will be dismissed, with prejudice.
2. There is no finding of liability or fault on any party.
3. Defendant City of Providence will pay to Plaintiff Gladys Gould the sum of **\$13,000.00** and to Plaintiff Shannah Kurland the sum of **\$13,000.00**.
4. Defendant City of Providence will pay the sum of **\$74,000.00** to Plaintiffs' counsel, Sinapi Law Associates, Ltd., as a compromise of attorney's fee and costs incurred in prosecuting this action. The sharing of the tribunal-approved award with the American Civil Liberties Union Foundation of Rhode Island is consistent with this Court's decision in *Inmates of RI Training School v. Martinez*, 465 F. Supp. 2d 131 (D.R.I. 2006) and Rhode Island R.P.C. 5.4(a)(4).
5. Plaintiffs will execute a General Release of all claims arising out of the events described in the complaint, in the form and manner attached hereto.
- 6 All parties acknowledge that as a general proposition, subject to the facts of a particular case which may implicate other principles of First Amendment law, the United States

Constitution protects the right to peaceably assemble and demonstrate in public parks, such as Roger Williams Park, on public sidewalks, and in other public forums.

7. The government may enforce reasonable time, place, and manner regulations so long as the restrictions are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication.
8. A valid time, place, manner restriction need not be the least restrictive or least intrusive means available to achieve the government's goal.
9. At the same time, however, the regulation cannot burden substantially more speech than is necessary to further the government's legitimate interests.
10. Maintaining vehicular and pedestrian safety in public environments is a significant government interest and it is part of the role of a police officer to protect the safety of those engaged in First Amendment activity as well as public safety.
11. All parties acknowledge that as a general proposition and subject to the facts of a particular case, which may implicate other applicable laws and/or principles of First Amendment law, individuals who are engaged in protected free speech conduct (such as protestors, demonstrators, and striking workers) within a public forum may not be excluded from a part or portion thereof to which other members of the public continue to generally have access merely because they are engaging in free speech conduct or are part of a group of people engaged in such activity.
12. All parties acknowledge that as a general proposition and subject to the facts of a particular case which may implicate other applicable laws and/or principles of First Amendment law, neither the mere fact that a person is engaged in free speech conduct nor the content of the person's speech can be the basis for police action to restrain or prevent the speech in a public forum.

13. This stipulation of settlement and dismissal shall have no binding effect beyond the litigation involved in this case and shall not serve as or be introduced as precedent. Nor shall this stipulation be construed as an acknowledgement by the City that its police practices, policies, or procedures have been or are currently inadequate.

PLAINTIFF,
SHANNAH M. KURLAND,
By her attorneys,

Date: November 5, 2021

/s/ Richard A. Sinapi
Richard A. Sinapi, Esq. (#2977)
American Civil Liberties Union Foundation of R.I.
Sinapi Law Associates, Ltd.
2374 Post Road, Suite 201
Warwick, RI 02886
Phone: (401) 739-9690; Fax (401) 739-9040
Email: ras@sinapilaw.com

DEFENDANTS,
CITY OF PROVIDENCE, alias and HUGH T.
CLEMENTS, JR., alias,
By their attorneys,

Date: November 5, 2021

/s/ Kevin F. McHugh
Kevin F. McHugh Esq. (#3927)
City of Providence Department of Law
275 Westminster Street, Suite 200
Providence, RI 02903
kmchugh@providenceri.gov

DEFENDANT,
OSCAR PEREZ, alias,
By his attorneys,

Date: November 5, 2021

/s/ Michael J. Colucci
Michael J. Colucci Esq. (#3302)
Olenn & Penza Address
530 Greenwich Ave
Warwick, RI 02886-1824
mjc@olenn-penza.com

CERTIFICATION

Michael J. Colucci Esq. (#3302)

Olenn & Penza Address

530 Greenwich Ave

Warwick, RI 02886-1824

mjc@olenn-penza.com

Kevin F. McHugh Esq. (#3927)

Kathryn M. Sabatini

City of Providence Department of Law

275 Westminster Street, Suite 200

Providence, RI 02903

kmchugh@providenceri.gov

I hereby certify that on **November 5, 2021**, a true copy of the within was filed electronically via the Court's CM/ECF System. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system and the filing is available for viewing and downloading from the court's cm/ecf system. Service on the counsel of record listed above has been effectuated by electronic means.

/s/ Richard A. Sinapi