

**IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI**

**A RESOLUTION** authorizing the County Counselor to settle the claims of Abundant Life Baptist Church in the case styled Abundant Life Baptist Church v. Jackson County, MO, No. 4:20-CV-00367, now pending in United States District Court for the Western District of Missouri, for a total payment by the County of \$73,375.00.

**RESOLUTION NO. 20793**, October 18, 2021

**INTRODUCED BY** Dan Tarwater III, County Legislator

WHEREAS, Abundant Life Baptist Church has filed a lawsuit styled Abundant Life Baptist Church v. Jackson County, MO, No. 4:20-CV-00367, now pending in United States District Court for the Western District of Missouri, seeking damages for alleged deprivations of its constitutional rights concerning a previous Jackson County Health Order; and,

WHEREAS, after a thorough investigation and negotiations and after independent mediation, the County Counselor has recommended a settlement in the amount of \$73,375.00, to be paid by the County to of Abundant Life Baptist Church and/or its attorney, Jonathan R. Whitehead; and,

WHEREAS, under the proposed settlement, the County's co-defendant, Truman Medical Center, the operator of the Jackson County Health Department, will pay a similar sum, all sums representing attorney's fees allegedly incurred by the plaintiff church; and,

WHEREAS, the proposed settlement will limit the County's financial obligations in this matter and is in the best interests of the health, safety, and welfare of the citizens of Jackson County; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the County Counselor be and hereby is authorized to settle the claims of Abundant Life Baptist Church in the case of Abundant Life Baptist Church v. Jackson County, MO, No. 4:20-CV-00367, now pending in United States District Court for the Western District of Missouri, by the total payment of \$73,375.00, in full, final, and complete release of all of the claims against the County and all of its employees, officers, agents, and servants, as to any damages incurred; and,

BE IT FURTHER RESOLVED that the County Counselor be and hereby is authorized to execute the attached settlement agreement and any and all other documents necessary to give effect to this settlement; and,

BE IT FURTHER RESOLVED that the Director of Finance and Purchasing be and hereby is authorized to issue a check or checks in an amount totaling \$73,375.00 in full and complete settlement of this claim, payable to Abundant Life Baptist Church and/or its attorney Jonathan R. Whitehead, pursuant to the specific direction of the County Counselor.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:

  
Chief Deputy County Counselor

  
County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution No. 20793 of October 18, 2021, was duly passed on October 18, 2021 by the Jackson County Legislature. The votes thereon were as follows:

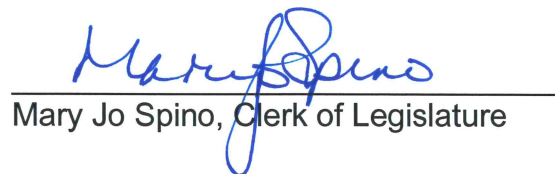
Yeas 6

Nays 2

Abstaining 0

Absent 1

10-18-2021  
Date

  
Mary Jo Spino, Clerk of Legislature

There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.

ACCOUNT NUMBER: 060 5160 56380  
ACCOUNT TITLE: Self Insurance Fund  
Non-Departmental  
Uninsured Claimants  
NOT TO EXCEED: \$73,375.00

10/18/2021  
Date

  
Chief Administrative Officer

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

ABUNDANT LIFE BAPTIST CHURCH OF	)	
LEE'S SUMMIT, MISSOURI	)	
	)	
Plaintiff	)	
v.	)	Case No. 4:20-cv-00367-RK
	)	
JACKSON COUNTY, MISSOURI, ET AL.	)	
	)	
Defendants.	)	

**SETTLEMENT AGREEMENT AND RELEASE**

Plaintiff Abundant Life Baptist Church of Lee's Summit, Missouri ("Abundant Life") has asserted claims against Jackson County, Missouri, the Jackson County Health Department, and Truman Medical Center, Incorporated (collectively, Defendants)<sup>1</sup> challenging Defendants' restrictions on gatherings at places of worship during the COVID-19 pandemic. Abundant Life and Defendants (collectively, "the Parties") now seek to settle, in full, all claims in *Abundant Life Baptist Church of Lee's Summit, Missouri v. Jackson County, Missouri, et al.*, Civil Action No. 4:20-cv-00367 ("the Litigation"), under the terms of this settlement agreement and release ("the Agreement").

**SETTLEMENT AND RELEASE**

**I. TERMS AND CONSIDERATION**

1. There are no longer COVID-19-related restrictions on gatherings in places of worship so Abundant Life is free to meet to worship indoors or out. Defendants agree that, within the jurisdictional authority of the Jackson County Health Department and applicable Health Orders

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<sup>1</sup> Defendants note that the individuals named in the Complaint (*i.e.* Frank White, Troy Schulte, and Bridgette Shaffer) have been dismissed from the case (*see* ECF No. 58), and therefore, the individuals are not parties to this settlement agreement.



issued by Jackson County and the Jackson County Health Department, which currently encompasses all territorial parts of Jackson County, Missouri excluding locations within the city limits of Kansas City, Missouri, and Independence, Missouri, they will not enforce any current or future COVID-19 restrictions to prohibit Abundant Life's religious gatherings, unless those restrictions are either identical to, or at least as favorable as, restrictions imposed on other similar gatherings of similar risk. Defendant Jackson County, Missouri also represents that, pursuant to its Home Rule charter, Jackson County may only exercise its legislative power where authorized by law. Defendants further represent that they are not able to enforce any health order issued under RSMo §§ 192.260 to 192.320 pursuant to the limitations promulgated by RSMo § 192.310 and § 192.320. Defendants further agree that, should new restrictions on religious gatherings become necessary during the current, or any future, COVID-19 (or variant thereof) public health emergency, any orders will not impose restrictions on Abundant Life that are more restrictive than those imposed on "comparable secular activities," and will extend to Abundant Life the benefit of exemptions at least as favorable as any exemption extended to any comparable secular activity, as required by the Supreme Court in *Tandon v. Newsom*, 141 S. Ct. 1294 (2021); *see also South Bay United Pentecostal Church v. Newsom*, 141 S. Ct. 716 (2021), *Harvest Rock Church, Inc. v. Newsom*, 141 S. Ct. 1289 (2021), and *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020).

2. Defendants agree to pay the total sum of one hundred forty-six thousand, seven hundred and fifty dollars and no cents (\$146,750.00) ("the Settlement Amount") to Abundant Life by electronic transfer to the Law Offices of Jonathan R. Whitehead, LLC, in full satisfaction of all attorney's fees and costs incurred by Abundant Life's counsel in his representation of Abundant Life in this matter, within twenty business days of the execution of this Agreement.

3. Abundant Life will file a Joint Stipulation of Dismissal within two business days of the execution of this Agreement, with prejudice, each party to bear its own costs.

## **II. RELEASE**

4. This Agreement reflects the full and final settlement of all Abundant Life's claims, including Plaintiff's claims for nominal damages, attorney's fees, and costs in the Litigation. Abundant Life's attorneys acknowledge the payment of the Settlement Amount satisfies any attorney's lien related to this matter.

5. Abundant Life, on behalf of itself and its clergy, members, heirs, executors, administrators, and assigns, releases and forever discharges Defendants and their current and former officers, agents, contractors, administrators, elected or appointed officials, servants, employees, and attorneys from all actions, damages, claims, and demands arising out of or in any way relating to the claims in the Litigation, accruing through the date of this settlement, whether known or unknown, based upon the constitutions of the United States or the State of Missouri, statutes, regulations, ordinances, or common law.

6. Through this Agreement, Defendants and their officers, agents, contractors, administrators, elected or appointed officials, servants, employees, and attorneys, release, and forever discharge Abundant Life, its clergy, members, heirs, executors, administrators, and assigns from all actions, damages, claims, and demands arising out of or in any way relating to Abundant Life's request for attorney's fees and costs associated with the claims in the Litigation, whether known or unknown, based upon the constitutions of the United States or the State of Missouri, statutes, regulations, ordinances, or common law.

## **III. SCOPE OF AGREEMENT**

7. Nothing in this Agreement is an admission of liability, duty, or wrongdoing by any party or an admission that any policy, practice, or procedure of Defendants, their elected or appointed officers, officials, employees, attorneys, agents, administrators, contractors, and servants, at any time or in any way, violated federal or state law. Defendants deny all liability and all factual and legal claims asserted by Abundant Life.

8. This Agreement creates no obligations or duties on the Parties other than as stated specifically in this Agreement. This Agreement does not create any right that can be relied upon or enforced by any individual who is not a party to this Agreement. Nothing in this Agreement prohibits or limits the party's rights to seek other available relief in litigation for claims not released in this Agreement. The Parties stipulate, agree, and acknowledge that this Agreement is not intended to create any third-party beneficiaries.

9. The Parties agree that this Agreement constitutes the entire agreement between the Parties regarding settlement terms and Abundant Life's damages, attorney's fees, and costs in this Litigation and supersedes any oral or written communication regarding this Agreement. This Agreement may not be altered, amended, modified, or otherwise changed except by a writing duly executed by the Parties.

10. The Parties agree that neither this Agreement nor the payment of the Settlement Amount shall be subject to assignment.

11. If any term or other provision of this Agreement is determined to be invalid, illegal, or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated here is not affected in any manner materially adverse to any party. Upon such a determination that any term or other provision of this



Agreement is invalid, illegal, or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated here are fulfilled to the extent possible.

12. This Agreement shall be governed by the laws of the State of Missouri.

13. The Parties agree that any suit to enforce this Agreement may be brought in Missouri State court or the United States District Court for the Western District of Missouri and the Parties agree to waive any claim that the pleading of a violation of this Agreement fails to plead an amount in controversy of less than \$75,001.00.

14. This Agreement shall be construed without regard to any presumption or other rule of law requiring construction against the party who drafted it.

15. The undersigned representatives of the Parties certify that they are fully authorized to enter into and to execute the terms and conditions of this Agreement and to make the Agreement fully and legally binding upon and enforceable against every party on whose behalf they have executed the Agreement.

16. Abundant Life's counsel further represents that he acknowledges this Agreement knowingly and voluntarily, that no promise or inducement not expressed in the Agreement has been made, and that this Agreement was freely negotiated and executed without fraud, duress, or coercion, and with full knowledge of its significance, effects, and consequences.

17. The individuals signing for Jackson County, Missouri, the Jackson County Health Department, and Truman Medical Center, Incorporated are their official acts, acting within the scope of their authority. Jackson County, Missouri, the Jackson County Health Department, and Truman Medical Center, Incorporated further represent that any necessary approvals or other legal



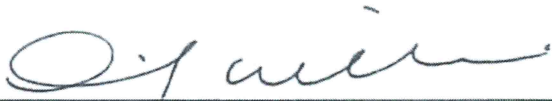
requirements for entry into this settlement Agreement have been received and satisfied. The Parties stipulate, agree, and warrant that they will not challenge or contest in any way the capacity or the authority of any party to make the agreements, covenants, and stipulations.

18. Provided that all Parties execute a copy of this Agreement, the Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute the same instrument. Executed copies of this Agreement may be delivered by facsimile transmission, electronic mail, or other comparable means. This Agreement shall be deemed fully executed and entered on the date of execution by the last signatory.

#### **IV. PAYMENT**

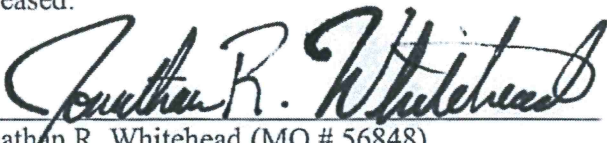
19. Within 20 days of the execution of this Agreement and Defendants' receipt of an executed IRS W-9 form from Abundant Life or its counsel, Defendants will pay the total sum of one hundred forty-six thousand, seven hundred and fifty dollars and no cents (\$146,750.00) (the Settlement Amount) to Abundant Life's counsel.

IN WITNESS THEREOF, the Parties execute this Agreement.

/s/   
~~Phil Hopper, Pastor~~ **DAVID WILLIAMS**  
For Abundant Life Baptist Church of Lee's Summit,  
Missouri *Ex. Dir. of Operations*

Date: *Oct. 12, 2021*

Acknowledged; Attorney's Lien Waived and Released:

/s/   
Jonathan R. Whitehead (MO # 56848)  
Counsel for Plaintiff

Date: *10/12/21*

/s/ \_\_\_\_\_  
Amanda O'Neill  
Associate General Counsel of Truman Medical  
Center, Incorporated

Date:

/s/ \_\_\_\_\_  
Brisa I. Wolfe (MO # 67028)  
Counsel for Defendants Jackson County Health  
Department and Truman Medical Center,  
Incorporated

Date:

/s/ \_\_\_\_\_  
Joshua N. Haner (MO # 69115)  
JACKSON COUNTY COUNSELOR'S OFFICE  
Counsel for Defendant Jackson County, MO

Date: