

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (“Agreement”) is made and entered into by and among Miami University (“Miami”) and Aleeha Dudley (“Dudley”).

### **RECITALS**

WHEREAS, on or about January 14, 2014, Dudley commenced a lawsuit against Miami and Dr. David C. Hodge (“Hodge”), in his official capacity as the former President of Miami, in the District Court for the Southern District of Ohio, styled *Dudley, et al. v. Miami University, et al.*, Case No. 1:14-CV-00038 (the “Action”), that alleged violations of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq.;

WHEREAS, Dudley, who is blind and now a former student at Miami, alleges that during her time at Miami from 2011 to 2015 Miami failed to provide her with equal access to textbooks, course presentations, and other materials; used various inaccessible technologies; and failed to provide trained assistants to allow her full and meaningful participation in Miami’s curricular programs, all of which have harmed her, including in her pursuit of becoming a large animal veterinarian;

WHEREAS, defendants deny these allegations and any liability in the premises and state that they provided her with the opportunity to pursue her chosen course of study in zoology in preparation for veterinary school with professional note takers, real time tactile drawings, graduate and undergraduate assistants, digitalized, brailled and auditory text books as requested, and screen reading software and technology for participation in labs. Dudley withdrew from Miami in October 2014, during her fourth year of study;

WHEREAS, on May 12, 2015 Dudley moved for the Court to accept a proposed amended complaint that sought to add the National Federation of the Blind (“NFB”) as a party. The motion remains pending;

WHEREAS, on May 12, 2015, the United States of America moved to intervene in the Action and on September 10, 2015, the Court granted the United States of America’s motion to intervene;

WHEREAS, Miami and Dudley (the “parties”) desire to resolve any and all claims and disputes between them.

### **AGREEMENT**

NOW THEREFORE, in consideration of the above recitals, which are expressly incorporated by reference as if fully restated herein, and the agreements hereinafter set forth, and for other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties expressly agree as follows:

1. Expungement of Grades. Dudley alleges, among other things, that problems with accessibility to course materials deprived her of equal access to the curriculum. She further alleges that as a result, some of her grades do not reflect her abilities and in certain other classes, she withdrew. As part of a negotiated resolution of the Action, upon execution of this Agreement and within five (5) business days, Miami shall expunge and remove from her transcript the grade or withdrawal indication Dudley received in the following courses for the 2011-2012 through 2014-2015 academic years:

#### 2011-2012 Academic Year

- CHM 141R College Chemistry
- CHM 144 College Chemistry Laboratory
- SPN 201 Second Year Spanish

- ZOO 115 Biological Concepts: Ecology, Evolution, Genetics, and Diversity
- CHM 142 College Chemistry
- CHM 145 College Chemistry Laboratory
- SPN 202 Second Year Spanish
- ZOO 116 Biological Concepts: Ecology, Evolution, Genetics, and Diversity

2012-2013 Academic Year

- CHM 241 Organic Chemistry
- CHM 244 Organic Chemistry Laboratory
- ZOO 203 Introduction to Cell Biology
- SPN 311 Grammar Review and Introductory Composition
- CHM 242 Organic Chemistry
- CHM 245 Organic Chemistry Laboratory
- MTH 104 Pre-Calculus with Algebra
- ZOO 209 Fundamentals of Ecology

2013-2014 Academic Year

- BIO 342 Genetics
- STA 261 Statistics
- MUS 185 Diverse Worlds of Music
- ENG 143 American Literature 1945-present
- SJS 165 A Introduction to Social Justice
- MTH 151 Calculus

2014-2015 Academic Year

- BIO 115 Biological Concepts: Ecology, Evolution, Genetics, and Diversity
- CHM 141R College Chemistry
- CHM 144 College Chemistry Laboratory
- MUS 100N Steel Drums
- SPN 311 Grammar Review and Introductory Composition

Dudley elected to retain credit for some courses on her transcript. Miami shall place on Dudley's transcript an "N" (indicating "no grade") next to the name of each course listed above and the following explanatory language shall be contained on the front of the transcript:

Ms. Dudley initiated a lawsuit in which she alleged, among other things, that problems with accessibility to course materials deprived her of equal access to the curriculum. She

further alleged that as a result, some of her grades do not reflect her abilities and in certain other classes, she had to withdraw. As part of a negotiated resolution of her lawsuit, either the grade or the “W” (indicating a withdrawal) has been removed from this student’s transcript for each course carrying an “N.”

2. Settlement Amount. In full and final settlement of all claims and disputes, Miami shall pay the settlement amount as follows:

a. Payment to Dudley. Upon execution of this Agreement and within five (5) business days, Miami shall pay one hundred and two thousand dollars (\$102,000.00) for alleged pain and suffering damages to a Special Needs Trust created on behalf of Dudley.

b. Payment of Tuition, Fees, and Room and Board. Miami shall pay up to one hundred and eight thousand dollars (\$108,000.00) for Dudley’s tuition, fees, and room and board at the time such expenses come due, for enrollment commencing no later than the Fall of 2017 and for no more than five (5) years in classes, including on-line classes, summer school or study-abroad classes accepted for credit by the educational institution, toward a baccalaureate degree at an educational institution, other than Miami, that Dudley will designate in writing to Miami following an offer of admission and that she will attend, absent exceptional circumstances agreed upon by the parties, such as a lack of accessibility to course work, which would necessitate that Dudley transfer to another educational institution.

i. Tuition. Tuition payments pursuant to this Paragraph shall be made payable on Dudley’s behalf within ten (10) business days of Miami’s receipt of a tuition invoice from the educational

institution or Dudley, whichever occurs first. This payment includes class books, course materials, and any additional fees required for enrollment (e.g. student fees, laboratory fees, or technology fees) that appear on any tuition invoice, excepting payment for room or board, during semesters in which Dudley is enrolled and taking classes. Miami shall pay such tuition using any method permitted by educational institution, including electronic check payments, credit card, check, or money order. All payments shall refer to Dudley's student ID number, if required by the educational institution. If at any point Dudley withdraws from classes, she shall provide notice to Miami within a reasonable time of her withdrawal and any tuition refunded to either Dudley or Miami shall be returned to Miami and credited back to the one hundred and eight thousand dollars (\$108,000.00) to be used within the five (5) year period set forth in this Agreement for Dudley's future expenses as described in this section. Dudley shall sign a limited release under the Family Educational Rights and Privacy Act ("FERPA"), providing Miami with the opportunity to confirm with the registrar at her educational institution that she has completed the prior semester or quarter in which she was enrolled and is in "good standing" or the equivalent term at her educational institution." Absent exceptional circumstances, the parties agree that continued payment by Miami under Paragraph 2.b. of this

Agreement is contingent upon Dudley maintaining good standing at her educational institution.

- ii. Room and Board. If Dudley resides in a dormitory at the educational institution and/or registers for a meal plan through the educational institution, Miami will pay the cost of a standard meal plan and a standard, single-unit room in the same manner it pays tuition under Paragraph 2.b.1. If Dudley resides off-campus and/or chooses not to register for a meal plan through the educational institution, Miami shall make quarterly payments into a Special Needs Trust created on behalf of Dudley in an amount equal to the one fourth (1/4) the total cost of a standard meal plan and/or a standard, single-unit room for the then current academic year at the educational institution, including the summer session or summer quarter. Such payments shall commence upon Dudley's enrollment at the educational institution, and shall continue as long as Dudley remains enrolled and attending classes during the regular academic calendar (depending on the academic institution, three quarters or two semesters, from fall to spring each academic year). Should Dudley choose not to attend the educational institution for one quarter/semester or more during the regular academic year, Miami will not be required to make room and board payments for such semester(s) or quarter(s).

- iii. Five (5) Years of Enrollment. Absent exceptional circumstances agreed upon by the parties necessitating that Dudley take a break in enrollment or attendance, Miami's obligation to pay the expenses set forth in Paragraph 2.b. of this Agreement shall terminate five (5) years, defined as sixty (60) consecutive months, after Dudley resumes coursework toward a baccalaureate degree.
- iv. Miami Retains Monies Not Expended under Paragraph 2.b. When Miami's obligation to pay the expenses set forth in Paragraph 2.b terminates as described in Paragraph 2.b.iii, Dudley is not entitled to any amount up to the one hundred and eight thousand dollars (\$108,000.00) described in Paragraph 2.b. that has not been expended by Miami, whether or not Dudley obtains a degree.
- c. Reimbursement of Student Loans to Federal Government on Behalf of Dudley. Within twenty-one (21) business days of execution of this Agreement, Miami shall pay up to fifty thousand dollars (\$50,000.00) to the U.S. Department of Education in payment of student loans related to Dudley's enrollment at Miami. Miami shall give priority to payment of those loans as to which Dudley's parents are the debtors. Miami shall have no further liability with respect to any of the remaining loans or loan balances. Miami shall provide Dudley and her attorney with a full accounting of the payments described in this Subparagraph within ten (10) days of the loan payments. Any communications by Miami to Dudley

under the terms of this Agreement shall be in Braille or a screen-accessible format.

- d. Manner of Non-Electronic Payments. All non-electronic payments made under this Paragraph shall be made by certified mail, overnight mail, hand delivery, or any other form of delivery that evidences receipt. Payment shall be deemed made as of the date of mailing or hand delivery.
- e. Tax and Interest Liability. Dudley agrees to be solely liable for any and all income tax, other taxes or assessments, or interest owed by her in connection with any payment made pursuant to Paragraph 2 of this Agreement.
- f. Indemnification. For the purposes of Paragraph 2.c, Miami has made a good faith effort to reimburse the federal government for all student loans to which Dudley's parents are the debtors. In the event that additional interest charges have accrued beyond what was paid by Miami to satisfy that debt, Dudley agrees to indemnify Miami for those interest charges if they are assessed against Miami. If Dudley is unable to indemnify, Miami may elect to withhold the indemnification amount from the \$108,000 set forth in Paragraph 2.b.

3. Dismissal of Action. Within two (2) business days after receipt of the amount set forth in Paragraph 2.a. herein, the parties agree to submit to the Court for signature the entry of dismissal, attached hereto as Exhibit A, whereby all claims in Dudley's complaint against Miami and Hodge are dismissed with prejudice and Dudley's motion to accept a proposed amended complaint that sought to add the NFB as a party is withdrawn. The parties agree that the Court

will retain jurisdiction for the sole purpose of enforcing this Agreement if a compliance dispute occurs.

4. Attorneys' Fees. Upon execution of this Agreement and within five (5) business days, Miami shall pay two hundred and forty thousand dollars (\$240,000.00) to Brown, Goldstein & Levy, LLP for expenses and fees incurred by all attorneys who represented Dudley in connection with this Action ("Dudley's Attorneys"), including Brown, Goldstein & Levy, LLP.

5. Release by Dudley. In consideration of the payment of the Settlement Amount as set forth in Paragraph 2 herein, Dudley, on behalf of herself and all persons claiming by or through her, including without limitation each and every of her agents, attorneys, spouses, assigns, descendants, issue, heirs, executors, and administrators (collectively, the "Dudley Releasers"), do hereby forever release and discharge The State of Ohio, Miami University and Hodge and their current, former, or future employees, contractors, subsidiaries, affiliates, partners, predecessors, successors, representatives, agents, officers, directors, trustees, members, administrators, faculty and all academic instructors, volunteers, interns, externs, insurers, attorneys, assigns, current, former, or future spouses, descendants, issue, heirs, executors, administrators, and all potential or possible tortfeasors, presently known or unknown, liable or claimed to be jointly liable (collectively, the "Releasees"), from any and all liabilities, obligations, injuries, claims, actions, causes of action, suits, rights, damages (including but not limited to compensatory damages, punitive damages, consequential damages, and injunctive relief), remedies, relief, expenses, costs, attorneys' fees, interest, debts, dues, sums of money, accounts, controversies, violations of any local, state, or federal law, regulations, orders, or mandates, and demands of any kind, whether known or unknown (collectively, "Released

Claims”), that were or could have been asserted in the Action, that relate to the factual allegations in the Action or to Dudley’s education at Miami.

6. Release by Dudley’s Attorneys. In consideration of the payment of the Attorneys’ Fees as set forth in Paragraph 4 herein, Dudley’s Attorneys, including Brown, Goldstein & Levy, LLP, and all attorneys who represented Dudley in this Action, on behalf of themselves and all persons claiming through them, including without limitation each and every of their current, former, or future employees, contractors, subsidiaries, affiliates, partners, predecessors, successors, representatives, agents, officers, directors, members, interns, externs, insurers, attorneys, spouses, assigns, current, former, or future spouses, descendants, issue, heirs, executors, and administrators (collectively, the “Attorney Releasers”), do hereby forever release and discharge The State of Ohio, Miami University and Hodge and their current, former, or future employees, contractors, subsidiaries, affiliates, partners, predecessors, successors, representatives, agents, officers, directors, trustees, members, administrators, faculty and all academic instructors, volunteers, interns, externs, insurers, attorneys, assigns, current, former, or future spouses, descendants, issue, heirs, executors, administrators, and all potential or possible tortfeasors, presently known, liable or claimed to be jointly liable (collectively, the “Releasees”), from any and all liabilities, obligations, injuries, claims, actions, causes of action, suits, rights, damages (including but not limited to compensatory damages, punitive damages, consequential damages, and injunctive relief), remedies, relief, expenses, costs, attorneys’ fees, interest, debts, dues, sums of money, accounts, controversies, violations of any local, state, or federal law, regulations, orders, or mandates, and demands of any kind (collectively, “Released Claims”) that relate to the attorneys’ fees recovered in this Action pursuant to Paragraph 4 or available

pursuant to Title II of the American with Disabilities Act, 42 U.S.C. § 12131 et seq., and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq.

7. Consent Decree. While Dudley is a party to the Consent Decree among herself, the Department of Justice and Miami, Dudley shall have no enforcement right under the Consent Decree, other than with respect to the terms of this Agreement.

8. No admission. It is understood and agreed that the consideration paid to Dudley is the compromise of a disputed claim in order to avoid the risk, inconvenience, and further expense of litigation. Miami and Hodge deny any and all liability or wrongdoing. Neither the payment of the Settlement Amount set forth in Paragraph 2 herein nor the execution or performance of any terms of this Agreement constitute or may be construed as or used as evidence of or an admission of liability or wrongdoing by the Releasees.

9. Interpretation. The parties have had an opportunity for their legal counsel to review this Agreement, and this Agreement may not be interpreted against any party because that party's counsel drafted this Agreement in whole or in part.

10. Entire Agreement. Each of the parties to this Agreement acknowledges that the party is entering into this Agreement in good faith and of the party's own free will and that no other party or agent or attorney of any other party has made any promises or representations, express or implied, written or oral, not contained herein to induce any other party to execute this instrument or any other document referred to herein, and that this Agreement constitutes the entire agreement and understanding between them, with the exception of the terms of the Consent Decree (referenced in Paragraph 7 above) that apply to Dudley. No waiver, modification, or termination of the terms hereof will be valid unless in writing signed by the party to be charged. The parties further acknowledge that they read and understand the terms of

this Agreement and acknowledge that they were adequately represented and advised by their independent counsel.

11. Headings. The headings contained herein are for convenience purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

12. Dispute. If one party has reason to believe that the other party has violated a term of this Agreement, the party shall provide a written, signed and dated statement that sets forth the basis for such belief. The parties will then make a good faith effort to resolve the dispute within 30 days from the date of the written statement. If the parties cannot resolve the dispute, they will then schedule a status conference with the Court to determine the best manner in which to proceed regarding the dispute. If a status conference cannot be scheduled, the objecting party may file an appropriate motion with the Court.

13. Governing Law. This Agreement will be governed by and construed in accordance with the internal substantive law of the State of Ohio if applicable.

14. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one in the same instrument. A facsimile-transmitted signature will be considered valid and binding upon the parties as if an original.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have caused this Settlement Agreement and Release to be executed as of this 15th day of August, 2016.

*[Signatures on the following two pages]*

**FOR ALEEHA DUDLEY:**



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ALEEHA DUDLEY



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Dated: August 15, 2016



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Dated: August 15, 2016

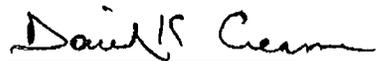


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Dated: August 15, 2016

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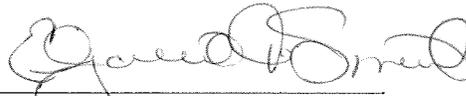


DR. DAVID K. CREAMER  
Vice President for Finance and Business  
Services  
Miami University

Dated: August 18, 2016

**MICHAEL DEWINE  
ATTORNEY GENERAL OF OHIO:**

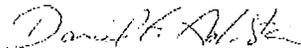
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Dated: August 19, 2016

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Dated: August 16, 2016