Lawsuit against Gary House Settlement Released

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As reported earlier in The Harnett Dispatch the suit has been dropped. Papers filed in the Clerk of Courts office indicate that the suit has been dropped due to an agreement made between the County and Mr., House. The agreement states that the suit has been dropped with Prejudice “meaning that the suit can’t be reinstated.

According to the sources over $ 300,000 was spent to an outside attorney for this Lawsuit, the money they say was spent at the cost of taxpayers. After researching this claim we found that actually the money never came from the general fund balance. Meaning, the money was never received from the actual revenue collected by county taxes. Instead the money was from the Harnett County Public Utilities department which is considered an enterprise that collects money in the same fashion as a service business. Money Collected from HCPU is based on sale of public utilities. Harnett County Public Utilities utilized their funds to defend themselves against accusations that were later found to be without merit.

Please see below

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made, entered into and effective as of the 18 day of November, 2013, by and between County of Harnett, a North Carolina body politic and corporate ("Harnett County"), and Gary A. House, a citizen and resident of North Carolina ("House").

W I T N E S S E T H:

WHEREAS, Harnett County operates the Harnett County Department of Public Utilities ("HCDPU");

WHEREAS, at all times relevant hereto, House was a member of the Harnett County Board of Commissioners;

WHEREAS, from 2006 until January 2011, Randy D. Rogers ("Rogers") was employed by HCDPU as a right-of-way agent;

WHEREAS, on or about April 30, 2012, Harnett County filed a lawsuit in Harnett County, North Carolina bearing file number 12 CvS 890 against House and Rogers (the "Lawsuit") ;

WHEREAS, House and Rogers asserted a counterclaim in the Lawsuit (the "Counterclaim");

WHEREAS, Harnett County and House have agreed to settle all matters and things in controversy arising between them as hereinafter set forth.

NOW THEREFORE, for and in consideration of the mutual covenants and promises hereinafter set forth, the parties hereto agree as follows:

1. House, on his own part and on behalf of his agents, employees, representatives, related and affiliated entities, successors and assigns does hereby remise, release, acquit and forever discharge Harnett County and its agents, employees, officers, managers, directors, commissioners, representatives, related and affiliated entities, successors and assigns, of and from any and all manner of action and actions, cause and causes of action, claims and counterclaims, suits, debts, warranties, dues, sums of money, damages, judgments, claims and demands, claims for exemplary damages, and any and all incidental and consequential damages punitive damages or statutory penalties, whatsoever, including, by way of illustration and not limitation, all costs and expenses, including attorneys' fees whether known or unknown and whether presently existing or hereafter arising which he now has, has had or shall hereafter have against Harnett County, for, by reason of, related to or arising out of the Lawsuit, the Counterclaim and HCDPU; notwithstanding the foregoing, nothing herein shall be construed as a release of House's right to file a declaratory judgment action against Harnett County's insurance carrier(s) to recover his legal fees and costs related to defending the Lawsuit.

2. Harnett County, on its own behalf and on behalf of its agents, employees, officers, managers, directors, commissioners, representatives, related and affiliated entities, successors and assigns does hereby remise, release, acquit and forever discharge House and his agents, employees, representatives, related and affiliated entities, successors and assigns of and from any and all manner of action and actions, cause and causes of action, claims and counterclaims, suits, debts, warranties, dues, sums of money, damages, judgments, claims and demands, claims for exemplary damages, and any and all incidental and consequential damages, punitive damages or statutory penalties, whatsoever, including by way of illustration and not limitation, all costs and expenses, including attorneys' fees, whether known or unknown and whether presently existing or arising hereafter which it now has, has had or shall hereafter have against House, for, by reason of, related to or arising out of the Lawsuit, the Counterclaim and HCDPU; notwithstanding the foregoing, nothing herein shall be construed to release any claim or cause of action Harnett County has against Rogers, including, without limitation, those set forth in the Lawsuit, which claims and causes of action shall remain pending.

3. Within ten (10) days of the execution of this Agreement, Harnett County and House shall file a Stipulation of Partial Voluntary Dismissal With Prejudice in the Lawsuit in the form of the attached Exhibit A. The Lawsuit shall remain pending with respect to Rogers.

4. House shall not participate in, deliberate on or vote on any matters before the Harnett County Board of Commissioners related to the Lawsuit whether as a Harnett County Commissioner, as a Harnett County citizen or in any other capacity. House shall recuse himself from any and all public or private sessions of the Board of Commissioners in which the Lawsuit is to be discussed. House acknowledges his duty as a County Commissioner to preserve the attorney client privilege with regard to the Lawsuit.

5. Consistent with prior recommendations of independent third parties and consistent with its existing assessment plans which are already underway, Harnett County will conduct the following assessments as directed by the County Manager for Harnett County:

(a) A contract compliance performance assessment of existing, publicly bid HCDPU capital construction projects; and

(b) A comprehensive assessment of the operations, management and policies of HCDPU.

6. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of North Carolina without regard to any conflicts of law provisions or principles thereof to the contrary.

7. It is understood by the parties hereto that this Agreement is a compromise and settlement of doubtful and disputed claims and is not to be construed as an admission of liability by the parties hereto, liability being expressly denied by the parties.

8. This Agreement and the executed exhibits contain the entire agreement between the parties hereto and the terms hereof are contractual in nature and not merely recitals, and shall not be modified or amended, except by written instrument signed by all the parties.

9. This Agreement shall be binding on the parties hereto and their successors in interest, heirs, personal representatives, successors, assigns, officers, managers, directors, shareholders, agents, related and affiliated entities, employees and representatives.

10. The parties declare and represent that they have read this Agreement, that they understand this Agreement's terms and legal effect, and that they sign this Agreement as their own free act.

11. Each has cooperated and participated in the drafting and preparation of this Agreement. Accordingly, the parties hereto acknowledge and agree that this Agreement shall not be construed or interpreted in favor of or against any party by virtue of the identity of any alleged preparer.

12. This Agreement may be executed in any number of counterparts, and the counterparts together shall constitute the original of this Agreement as if each party hereto had signed the same page. Counterpart copies of this Agreement may be signed by a party and exchanged by telecopier or Adobe Acrobat Pdf File. The parties intend that such copies signed and exchanged as provided in the preceding sentence shall be fully binding.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written as their own free act and, as applicable, with authority duly given by their Boards of Commissioners.

GARY A. HOUSE

Gary A. House

Sworn to and subscribed
before me this the 19th day
of November, 2013.

Margaret Regina Wheeler
Notary Public

MARGARET REGINA WHEELER
NOTARY
PUBLIC
HARNETT COUNTY, N.C.

COUNTY OF HARNETT

By: _____
Title: Chairman

Sworn to and subscribed
before me this the 18th day
of November, 2013.

Margaret Regina Wheeler
Notary Public

My Commission Expires:
July 28, 2014

SEAL:

MARGARET REGINA WHEELER
NOTARY
PUBLIC
HARNETT COUNTY, N.C.

BOARD OF COMMISSIONERS
HARNETT COUNTY, N.C.

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NORTH CAROLINA HARNETT COUNTY		IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 12 CVS 890
COUNTY OF HARNETT, Plaintiff, v. RANDY D. ROGERS and GARY A. HOUSE, Defendants.	))))))))))	PARTIAL STIPULATION OF DISMISSAL WITH PREJUDICE

Plaintiff County of Harnett and Defendant Gary A. House, by and through their undersigned counsel and pursuant to Rule 41 of the North Carolina Rules of Civil Procedure, hereby stipulate to the dismissal with prejudice of all claims and counterclaims which were asserted against each other and/or which would be barred if not asserted against each other in the captioned action. Nothing herein shall affect the claims asserted by Plaintiff against Defendant Randy D. Rogers or the counterclaims asserted by Defendant Randy D. Rogers against Plaintiff, all of which shall remain pending. All parties will bear their own fees, costs and expenses.

This the ___ day of November, 2013.

David A. Senter
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Attorney for Gary A. House

OF COUNSEL:

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Raleigh, NC 27609
(919) 783-5900

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing PARTIAL STIPULATION OF DISMISSAL WITH PREJUDICE was duly served upon those listed below in accordance with the provisions of Rule 5 of the North Carolina Rules of Civil Procedure by depositing it in the United States Mail, first-class postage prepaid, addressed as follows:

Bruce W. Berger
4800 Six Forks Road, Suite 100
Raleigh, NC 27609
Attorney for Gary A. House

Randy D. Rogers
904 Hillside Drive
Lillington, NC 27546

This the ___ day of November, 2013.

_____
David A. Senter