

1 THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division
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3 JOHN M. GADZICHOWSKI
Chief
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5 LOUIS LOPEZ
Deputy Chief
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7 RICHARD S. O'BRIEN
Trial Attorney
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Civil Rights Division
Employment Litigation Section
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11 Email: richard.o'brien@usdoj.gov
12 Attorneys for Plaintiff

13
14 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
15

16 MATTHEW T. DENNING,

17 Plaintiff,

18 v.

Case No. 2:09-cv-1165-RLH-(LRL)

19 STONESCAPPE PAYERS, LLC,

20 Defendant.

STIPULATED DISMISSAL WITH
PREJUDICE


21
22
23 For the reasons set forth in the Settlement Agreement ("Agreement"), attached
24 hereto as Exhibit I, plaintiff Matthew T. Denning and defendant Stonescape Payers, LLC
25 (collectively, the "Parties"), by and through their undersigned attorneys, hereby stipulate and
26 agree that the above-captioned case be dismissed with prejudice, pursuant to Federal Rule of
27 Civil Procedure 41(a)(1). The terms of this Agreement shall become effective upon entry and

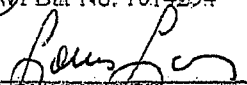
1 approval of this Stipulation by the Court. Notwithstanding the dismissal of this action, the Parties
2 hereby stipulate and respectfully request that the Court retain jurisdiction to oversee compliance
3 with the terms of this Agreement and to resolve any motions to modify such terms. See
4 Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 381-82 (1994); Flanagan v. Arnaiz,
5 143 F.3d 540, 543 (9th Cir. 1998).


6 DATED this 28th day of October

7 Respectfully submitted,

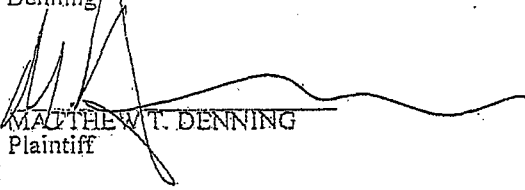
8 THOMAS E. PEREZ
9 Assistant Attorney General
10 Civil Rights Division

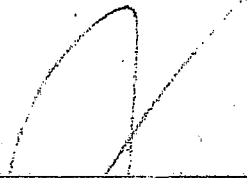
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12 JOHN M. GADZICHOWSKI
13 Chief
14 WI Bar No. 1014294

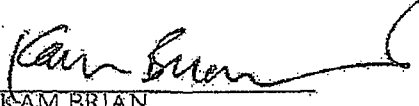
15 
16 LOUIS LOPEZ
17 Deputy Chief
18 DC Bar No. 461662

19 
20 RICHARD S. O'BRIEN
21 Trial Attorney
22 NY Bar No. 4023859
23 PHB 4033
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Telephone: (202) 514-7491
Facsimile: (202) 514-1005
Email: richard.o'brien@usdoj.gov

Attorneys for Plaintiff Matthew T. Denning

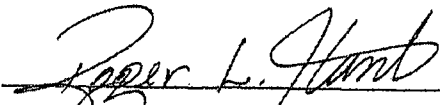
28 
29 MATTHEW T. DENNING
30 Plaintiff

31 
32 JEFFREY R. SYLVESTER
33 Nevada Bar No. 4396
34 SYLVESTER & POLEDNAK, LTD.
35 7371 Prairie Falcon, Suite 120
36 Las Vegas, Nevada 89128
37 Telephone: (702) 952-5200
38 Facsimile: (702) 952-5205
39 Email: jeff@sylvesterpolednak.com
40 Attorney for Defendant Stonescape Pavers, LLC

41 
42 RAM BRIAN
43 Stonescape Pavers, LLC
44 Defendant

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IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE

DATED: October 29, 2009

1 THOMAS E. PEREZ
 Assistant Attorney General
 Civil Rights Division

2

3 JOHN M. GADZICHOWSKI
 Chief

4

5 LOUIS LOPEZ
 Deputy Chief

6 RICHARD S. O'BRIEN
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11

12 Attorneys for Plaintiff

13

14 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

15

16 **MATTHEW T. DENNING,**
 17 Plaintiff,

18 v.

19 **STONESCAPPE PAVERS, LLC,**
 20 Defendant.

Case No. 2:09-cv-1165-RLH-(LRL)

**STEPULATED DISMISSAL WITH
 PREJUDICE**

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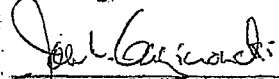
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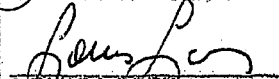
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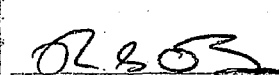
6 DATED this 30th day of October

7 Respectfully submitted,

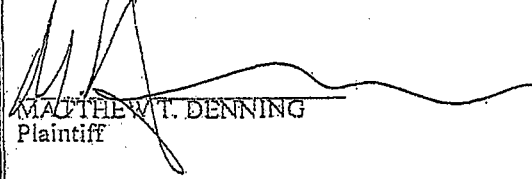
8 THOMAS E. PEREZ
9 Assistant Attorney General
10 Civil Rights Division

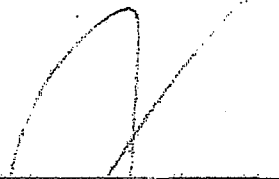
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13 Chief
14 WI Bar No. 1014294

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17 Deputy Chief
18 DC Bar No. 461662

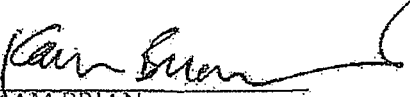
19 
20 RICHARD S. O'BRIEN
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23 PHB 4033
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Email: richard.o'brien@usdoj.gov

Attorneys for Plaintiff Matthew T. Denning

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29 MATTHEW T. DENNING
30 Plaintiff

31 
32 JEFFREY R. SYLVESTER
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Attorney for Defendant Stonescape Pavers, LLC

40 
41 KAM BRIAN
42 Stonescape Pavers, LLC
43 Defendant

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IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE

DATED: _____

1 THOMAS E. PEREZ
 Assistant Attorney General
 Civil Rights Division

2

3 JOHN M. GADZICHOWSKI
 Chief

4

5 LOUIS LOPEZ
 Deputy Chief

6 RICHARD S. O'BRIEN
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12 Attorneys for Plaintiff

13

14 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

15

16 **MATTHEW T. DENNING,**
 17 **Plaintiff,**

18 **v.**

19 **STONESCAPE PAVERS, LLC;**
 20 **Defendant.**

Case No. 2:09-cv-1165-RLH-(LRL)

~~SETTLEMENT AGREEMENT~~

21

22

23 This matter is before the Court for entry of this judgment by consent of plaintiff Matthew
 24 T. Denning ("Denning"), and defendant Stonescape Pavers, LLC ("Stonescape") to effectuate a
 25 compromise and settlement of all claims.

26 1. Denning commenced this action in the United States District Court for the District of
 27 Nevada, alleging that defendant Stonescape willfully violated the Uniformed Services

1 Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 *et seq.* ("USERRA"), by
2 terminating Denning during his statutorily protected reemployment period.

3 2. Stonescape denies that it has violated USERRA. Nevertheless, as a result of
4 settlement discussions, Denning and Stonescape (collectively, the "Parties") have resolved their
5 dispute and have agreed that this action should be resolved by entry of this Settlement
6 Agreement ("Agreement"). It is the intent of the Parties that this Agreement be a final and
7 binding settlement in full disposition of any and all claims alleged in the Complaint filed in this
8 action.

9 STIPULATIONS

10 3. The Parties acknowledge the jurisdiction of the United States District Court for the
11 District of Nevada over the subject matter of this action and of the Parties to this action for the
12 purpose of entering and, if necessary, enforcing this Agreement.

13 4. Venue is proper in this judicial district for purposes of entering this Agreement and
14 any proceedings related to this Agreement. Stonescape agrees that all conditions precedent to
15 the institution of this action have been fulfilled.

16 FINDINGS

17 5. Having examined the provisions of this Agreement, the Court finds the following:

18 a. The Court has jurisdiction over the subject matter of this action and the Parties to
19 this action.

20 b. The terms and provisions of this Agreement are lawful, fair, reasonable and just.
21 The rights of the Parties are adequately protected by this Agreement.

22 c. This Agreement conforms with the Federal Rules of Civil Procedure and
23 USERRA, and is not in derogation of the rights and privileges of any person. The entry of the
24 Agreement will further the objectives of USERRA and will be in the best interest of the Parties.
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1 NON-ADMISSION

2 6. This Agreement is being entered with the consent of the Parties, and shall not
3 constitute an adjudication or finding on the merits of the action or be construed as an admission
4 by Stonescape of any violations of USERRA.

5 NON-RETALIATION

6 7. Stonescape shall not take any action against any person, including but not limited to
7 Denning, that constitutes retaliation or interference with the exercise of such person's rights under
8 USERRA because such person gave testimony, provided assistance or participated in any manner
9 in any investigation or proceeding in connection with this action.

10 REMEDIAL RELIEF

11 8. Without admitting the allegations of Denning, and in settlement of the claims for relief
12 by Denning who, by his signature to the release attached as Appendix A, accepts the relief to be
13 given pursuant to this Agreement, Stonescape agrees to provide remedial relief to Denning.

14 9. Stonescape shall, within ten (10) working days from the date of entry of this
15 Agreement, pay Denning a total of \$10,000 in back pay, less the required employee withholdings
16 and contributions on the back pay award as required by law. Denning shall provide Stonescape
17 with a current W-4 form. Stonescape shall pay all monies withheld from this back pay award to
18 the appropriate governmental agencies, and shall provide Denning with all tax forms, including
19 but not limited to a 2009 W-2 form, as required by law. Stonescape also shall separately pay the
20 appropriate employer's contribution to the Social Security fund due on the back pay award, *i.e.*,
21 the employer's contribution shall not be deducted from the back pay award to Denning.

22 Stonescape shall mail the payment to Denning by overnight delivery service to the following
23 address:

24 Matthew Denning
25 10109 Jacob Place, Unit 102
26 Las Vegas, Nevada 89128

26 Stonescape shall provide prompt notice of the payment to Denning by electronic mail to counsel
27 for Denning at richard.o'brien@usdoj.gov.

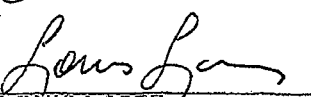
1 DATED this 28th of October, 2009.

2 Agreed to by:

3 THOMAS E. PEREZ
4 Assistant Attorney General
5 Civil Rights Division

6 

7 JOHN M. GADZICHOWSKI
8 Chief
9 WI Bar No. 1014294

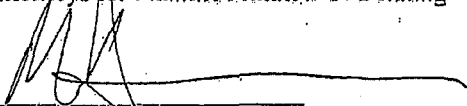
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11 LOUIS LOPEZ
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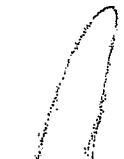
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15 RICHARD S. O'BRIEN
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26 Attorneys for Plaintiff Matthew T. Denning

27 

MATTHEW T. DENNING
Plaintiff



JEFFREY R. SYLVESTER
Nevada Bar No. 4396
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Email: jeff@sylvesterpolednak.com

Attorney for Defendant Stonescape Pavers, LLC



KAM BRIAN
Stonescape Pavers, LLC
Defendant

1
2
3 **APPENDIX A**

4 **RELEASE**

5 I, Matthew T. Denning, for and in consideration of accepting the relief to be provided to
6 me pursuant to the provisions of the Settlement Agreement entered in Matthew T. Denning v.
7 Stonescape Pavers, LLC, release and discharge Stonescape Pavers, LLC, its current, former and
8 future officials, employees and agents from all legal and equitable claims arising out of the
9 complaint filed in that case occurring prior to the date of this Release.

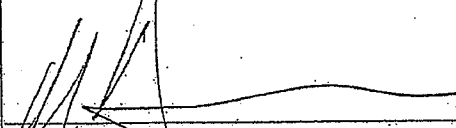
10 I understand that the relief to be given to me does not constitute an admission by
11 Stonescape Pavers, LLC of the validity of any claim raised by me, or on my behalf.

12 This Release constitutes the entire agreement between Stonescape Pavers, LLC and
13 myself, without exception or exclusion.

14 I acknowledge that a copy of the Settlement Agreement in this action was provided to me.

15 I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF
16 AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

17 Signed this 25th day of October, 2009;

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19 Matthew T. Denning

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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of October, 2009, I filed the foregoing pleading electronically through the CM/ECF system and caused the following parties and/or counsel to be served electronically through the CM/ECF system: jeff@sylvesterpolednak.com (for Jeffrey R. Sylvester, 7371 Prairie Falcon, Suite 120, Las Vegas, Nevada 89128.)

/s/ Richard S. O'Brien
Richard S. O'Brien
Trial Attorney
Employment Litigation Section
Civil Rights Division
United States Department of Justice