

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is accepted and entered into by Plaintiff Tracey Y. Marshall ("Marshall") and Defendant Pat Frank, Clerk of the Circuit Court for Hillsborough County (in her official capacity) ("the Clerk" or "the Clerk's Office")—collectively, "the Parties".

1. On October 12, 2007, Marshall, filed *Tracey Y. Marshall v. Pat Frank, Clerk of the Circuit Court for Hillsborough County (in her official capacity)*, Case No. 8:07 cv 01862 ("this Case"), in the United States District Court for the Middle District of Florida, alleging that the Clerk's Office violated the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), 38 U.S.C. 4301, *et seq.*, by (a) failing to reemploy Marshall in her prior position as supervisor of the Clerk's Court Clerk II Section of the Felony Department upon her return from active duty in October 2005; and (b) transferring Marshall from the Clerk's Felony Department to the Clerk's Traffic Department at a lower rate of pay because Marshall took action to enforce a protection afforded her under USERRA or to exercise a right provided for in USERRA.
2. The Clerk denies that it violated USERRA. Specifically, the Clerk denies that the Clerk's Office failed to appropriately reinstate Marshall following Marshall's return from active military duty in October 2005. The Clerk also denies that the Clerk's Office transferred Marshall from the Felony Division to the Traffic Division because Marshall took action to exercise a right under USERRA. Marshall similarly denies any wrongdoing with respect to her employment in the Clerk's Office following her return from active duty in October 2005.
3. As a result of settlement discussions, Marshall and the Clerk have resolved their differences and have agreed that this Case should be settled by this Agreement. It is the intent of

the parties that this Agreement be a final and binding settlement in full disposition of all claims alleged in this Case.

NON-ADMISSION

4. This Agreement is being entered with the consent of the Parties and shall not constitute a finding on the merits of this Case or be construed as an admission by either of the Parties of any violations of USERRA, or any other law, rule or regulation.

EVALUATION OF PERFORMANCE

5. For purposes of evaluating performance, Marshall shall be held to, and will comply with, the same standards of performance and professionalism which are applicable to all other employees in the Clerk's Office who are similarly situated to Marshall in civil service classification, position and assignment of duties.

NON-RETALIATION

6. The Clerk will not take any action against any person that constitutes retaliation or interference with the exercise of such person's rights under USERRA because such person gave testimony, provided assistance or participated in any manner in any investigation or proceeding in connection with this Case.

RELIEF

7. The Clerk shall, within fourteen (14) days from the date this Agreement is executed by Marshall, pay Marshall a total monetary award of two thousand five-hundred dollars (\$2,500), of which \$1,250 will be attributed to back pay. The Clerk shall withhold all appropriate income tax and other statutory deductions associated with the amount paid to Marshall that is attributable to back pay. The Clerk shall separately pay to the appropriate governmental agencies the

appropriate employer's contribution to Social Security and Medicare; i.e. the Clerk's contribution shall not be deducted from any part of Marshall's monetary award. The Clerk shall issue to Marshall, in the same order and fashion as is issued to other Clerk's Office employees (i.e. by January 31, 2009), the appropriate Internal Revenue Service ("IRS") tax forms reflecting the amounts paid to Marshall and the amounts withheld by the Clerk, including issuing to Marshall a W-2 wage and tax statement and, as appropriate, a 1099INT or 1099MISC income statement. The Clerk shall pay the above amounts by mailing to Marshall a check addressed as follows:

Tracey Marshall
1122 South 69th Street
Tampa, Florida 33619

8. The Clerk, within fourteen (14) days from the date this Agreement is executed by Marshall, shall reinstate Marshall to Manager (position 10477/210c) of the Court Clerk Area, Court Clerk II's and Court Clerk III's Section of the Clerk's Circuit Criminal Division, the current position which is equivalent to the one Marshall held prior to being activated to full-time military duty in August 2005. Marshall shall remain in this position for at least one-hundred eighty (180) days. At the conclusion of the 180 days, Marshall may be transferred to other positions or departments in the Clerk's Office to suit the legitimate needs of the Clerk in accordance with the Clerk's policies and practices applicable to other Clerk's Office employees with the same civil service classification as Marshall.

9. For and in consideration of the relief being provided to her described in Paragraphs 7 and 8, above, Marshall, by her signature to this document, forever releases and discharges the Clerk from the claims identified in the Complaint filed in this Case, and the complaints Marshall filed

with the Department of Labor, complaint numbers 04-FL-2006-00034-20-R-R and 04-FL-2006-00006-20-R.

10. Within ten (10) days from the date the Clerk has both made payment in accordance with its obligations under Paragraph 7 and reinstated Marshall to Manager of the Court Clerk Area pursuant to the first sentence of Paragraph 8, the Parties will file a stipulation notifying the Court that the lawsuit has been resolved by a settlement agreement and seeking dismissal of the suit with prejudice.

MISCELLANEOUS

11. Nothing in this Agreement shall work to nullify, negate or reduce Marshall's USERRA rights with respect to any future military deployments. Nothing in this Agreement shall work to expand Marshall's USERRA rights with respect to future military deployments.

12. The terms of this Settlement Agreement shall be binding upon the heirs, successors, and assigns of the Parties.

13. This Agreement constitutes the entire commitments of the Parties. Any modifications to this Agreement must be mutually agreed upon and memorialized in a writing by the Parties.

14. Either party may specifically enforce this agreement in an appropriate court.

EFFECTIVE DATE

15. The effective date of this Settlement Agreement shall be the date upon which it is signed by Marshall.

ACCEPTED AND AGREED:

Date: 11 Aug 08

Tracey Y. Marshall
Tracey Y Marshall

Pat Frank, Clerk of the Circuit Court for Hillsborough County (in her official capacity)

Date: Aug 20, 2008

By: Pat Frank
Clerk of the Circuit Court,
As: Hillsborough County, Florida