# SETTLEMENT AGREEMENT

This Settlement Agreement and Release ("Agreement") is entered into by and between: (1) Anthony L. Blanford and John K. Bellville ("Blanford," "Bellville" and, collectively, "Plaintiffs"), individually and to the extent applicable, on behalf of their marital communities, heirs and/or assigns, and (2) the State of Alaska, Michael Dunleavy, and Tuckerman Babcock ("Defendants").

## I. PREAMBLE

A. At all material times and until December 3, 2018, Blanford was employed as Chief of Psychiatry at the Alaska Psychiatric Institute ("API"), and Bellville was employed as a staff psychiatrist at API.

B. On or about January 10, 2019, Plaintiffs initiated an action in the Superior Court for the State of Alaska, Third Judicial District at Anchorage titled *Anthony L. Blanford and John K. Bellville, v. Michael Dunleavy, Tuckerman Babcock, and the State of Alaska*, Case No. 3AN-19-04445 CI, making various claims against Defendants related to the termination of their employment, including claims under 42 U.S.C. § 1983. On or about February 6, 2019, the case was removed to the United States District Court for the District of Alaska at Anchorage and assigned the Case No. 3:19-cv-00036-JWS ("the Lawsuit"). On October 8, 2021, the district court granted summary judgment to Plaintiffs on their § 1983 claims. On or about November 5, 2021, Defendants Dunleavy and Babcock appealed the district court's October 8 ruling, and a case was opened in the United States Court of Appeals for the Ninth Circuit and assigned the Case No. 21-35926 ("the Appeal").

C. Plaintiffs and Defendants have agreed to settle all claims which Plaintiffs have asserted, or could assert, against all Defendants on the terms and conditions stated below.

## II. TERMS AND CONDITIONS

In consideration of the mutual promises set forth below, and for other good and valuable consideration, the parties agree that this Agreement supersedes, voids and replaces

any and all pre-existing agreements and understandings between the parties and that only the following terms and conditions shall apply:

1. **Complete Release of Liability.** Plaintiffs agree that, through their execution of this Agreement, and in consideration of the State of Alaska's agreement to the terms set out in paragraph 2 below, they fully release the State of Alaska, API, the Office of the Governor, Michael Dunleavy, Tuckerman Babcock, all employees of the Governor's office, and any officers, employees, and agents of the State of Alaska (collectively "the Released Parties") from any and all claims, causes of action, and demands for damages, expenses, costs, attorney's fees, and compensation, whether known or unknown, arising out of or relating in any way to the termination of their employment on December 3, 2018 or to their employment up to and including December 3, 2018. This release includes, but is not limited to, claims for breach of contract, defamation, wrongful termination, constructive discharge, retaliation, discrimination, violation of their rights under the Alaska Constitution or the United States Constitution, violation of any state or federal statutes, and breach of the covenant of good faith and fair dealing. Upon execution of this Agreement, and upon dismissal of the Appeal as provided in paragraph 2 and remand from the Ninth Circuit Court of Appeals, Plaintiffs authorize and direct their attorneys to dismiss the Lawsuit, with each party to bear his or its own attorneys' fees and costs.

2. **Compensation and Dismissal of Appeal.** Upon execution of this Agreement, Defendants agree to dismiss the Appeal. Upon the dismissal, as compensation for the economic and non-economic losses that he alleges or could have alleged in this litigation, inclusive of all interest, costs, and attorneys' fees, the State of Alaska agrees to

pay Blanford a lump sum of $220,000.00, to be apportioned as follows: $46,740 in lost wages, $100,000 in noneconomic damages, and $73,260 in attorneys' fees. As compensation for the economic and non-economic losses that he alleges or could have alleged in this litigation, inclusive of all interest, costs, and attorneys' fees, the State of Alaska agrees to pay Bellville a lump sum of $275,000.00, to be apportioned as follows: $83,425 in lost wages, $100,000 in noneconomic damages, and $91,575 in attorneys' fees. These payments will be made by check payable to the Plaintiffs and delivered to: Stephen Koteff, Legal Director, ACLU of Alaska Foundation, 1057 West Fireweed Lane, Suite 207, Anchorage, Alaska, 99503, as soon as reasonably practicable following the enactment into law of a legislative appropriation expressly for the purpose of satisfying this settlement agreement. Defendants represent that they will promptly seek appropriation of the aforementioned settlement amount by the current session of the Alaska Legislature after return to the Released Parties' counsel of an executed copy of this Settlement and Release. However, such appropriation is subject to legislative discretion and is not and cannot be guaranteed by the Released Parties.

**3. Tax Consequences**. Plaintiffs acknowledge that the Released Parties and their attorneys make no representations to them regarding the tax consequences of all or any portion of this Agreement. Accordingly, the State of Alaska will report the settlement amounts on IRS Forms 1099 as payment to Plaintiffs as set forth in paragraph 2 above. Plaintiffs acknowledge that they have had the opportunity to seek independent advice regarding the tax consequences of this Agreement and accept responsibility for satisfaction of their own tax obligations or liabilities that may result from this Agreement. Plaintiffs

agree that they will not assert a claim against the Released Parties for the payment or reimbursement of any tax consequences resulting from any payment made pursuant to this Agreement. The settlement amounts that are the subject of this Agreement will not be included in any calculations, now or in the future, toward eligibility for benefits under the Public Employees' Retirements System (PERS).

3. **Unknown Losses.** Plaintiffs acknowledge that injuries, losses, or damages that they do not know about now may be discovered later, and that injuries, losses, or damages that they know about now may later prove to be greater than they now believe them to be. Plaintiffs discharge the Released Parties from all liability for all injuries, losses, and damages, known now or that may be discovered later, arising from their employment with the State of Alaska. Plaintiffs assume all risk that their damages may be greater than they now know or anticipate.

4. **Future Employment Action.** Defendants agree that the State of Alaska may only take an employee's political views or affiliations into account in making any employment-related decision when the State determines through reasonable and bona fide efforts that the employee is properly categorized as a "policymaker" under existing case law, or it is a position for which political views or affiliations are an appropriate requirement for the effective performance of the job, or when otherwise permitted by law. This provision shall not be construed as an admission that the Governor or any agent of the State of Alaska took Blanford's or Bellville's political views or affiliations into account when making decisions related to their employment.

5. **No Admission of Liability.** Plaintiffs acknowledge that this settlement does not constitute an admission of liability by the Released Parties, and that the Released Parties expressly deny that they are liable to the Plaintiffs. Nothing in this Agreement should be deemed to be an admission of liability or responsibility on the part of the Released Parties.

6. **Binding Agreement.** Plaintiffs acknowledge that this Agreement is binding upon them, their heirs, executors, administrators, legal representatives, successors, and assigns.

7. **Further Suits or Claims.** Plaintiffs agree that they will not individually, or in concert with others, bring judicial, contractual, or administrative proceedings of any kind, in any forum, against the State of Alaska or any officers, employees, agents of the State for any cause of action related to their employment with the State of Alaska. Plaintiffs agree to indemnify, defend, and hold harmless the Released Parties from any such action that any individual or entity might bring on their behalf.

8. **Voluntary Execution**

   a. Plaintiffs declare that each of the terms of this Agreement have been carefully read and that its terms are fully understood and voluntarily accepted for the purpose of making a full and final compromise of any and all claims, disputed or otherwise, accrued or to accrue for and on account of any and all injuries, damages or claims of Plaintiffs against the Released Parties. Plaintiffs acknowledge that they have had an opportunity and sufficient time to confer with counsel and any other

advisors and experts as they have deemed appropriate, before executing this Agreement.

b. Plaintiffs further agree that no promise inducement that is not expressed in this Agreement has been made by or to them to secure this settlement and release. Plaintiffs represent that the settlement that led to executing this release was not secured under duress or in haste at the instigation of the Released Parties and that Plaintiffs are not, in agreeing to this settlement and to this release, at a bargaining disadvantage because of the nature of any injury, loss or damage or for any other reason, and that the undersigned have been represented by an attorney throughout the course of negotiations that led to this settlement. Plaintiffs agree that this Agreement is voluntarily accepted and that this document is executed without reliance upon any statement or representation by any other party, its agents, or attorneys concerning the nature and extent of any injuries or damages, or other legal liability, financial responsibility, financial status, or assets of any party. Plaintiffs enter into this Agreement for the purpose of avoiding potential financial exposure, but acknowledge and agree that such circumstances do not constitute economic duress that would warrant an effort to set aside this agreement for duress, and waive any such argument or claim they may have.

c. Accordingly, Plaintiffs voluntarily waive any and all rights to void this Agreement, or any of its provisions, due to economic or business compulsion. Plaintiffs represent that they have been advised of and have had the opportunity to review and consider the decisions of the Alaska Supreme Court applicable to the release of claims contained in this Agreement, including but not limited to, *Petroleum Sales, Ltd. v. Mapco Alaska, Inc.,* 687 P.2d 923 (Alaska 1984); *Young v. State of Alaska*, 455 P.2d 889 (Alaska 1969); *Witt v. Watkins*, 579 P.2d 1065 (Alaska 1978); and *Totem Marine Tug & Barge v. Alyeska Pipeline Serv. Co., et al.,* 584 P.2d 15 (Alaska 1978) and they waive the protection of those decisions.

9. **Entire Agreement & Unknown Facts/Mistake**. Plaintiffs agree that this Agreement shall constitute and contain the entire agreement and understanding concerning the claims identified herein and any other subject matters addressed herein between the parties. This Agreement supersedes all prior agreements and negotiations between the parties, if any, whether written or oral. This is an integrated document and may not be modified except in writing signed by the Plaintiffs and an authorized representative of the State of Alaska. Plaintiffs agree that there may be relevant facts not known to them or of which they have incomplete or mistaken knowledge. Plaintiffs expressly assume the risk of the facts being different and agree that this Agreement shall be in all respects effective and not subject to revocation or rescission by any such difference in facts.

10. **Choice of Law.** This Agreement shall be governed and interpreted by the laws of the State of Alaska.

11. **Severability.** If any provision of this Agreement (or application thereof) is concluded to be invalid by a court of law or other legal authority, the invalidity shall not affect the other provisions or applications of this Agreement which can be given effect without the invalid provision or application. To this end, the provisions of this Agreement are severable.

12. **Copies and Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which shall together constitute one agreement. Parties also agree that scanned and/or facsimile signatures, or copies of signatures, shall have the same effect as an original.

***In entering into this Agreement, I represent that I have read each page of this Settlement Agreement and Release, and I have had the opportunity to consult with and rely upon the advice of legal counsel of my own selection. I represent that the terms of this Agreement are fully understood and voluntarily accepted as evidenced by my signature below.***

**ACKNOWLEDGED AND AGREED TO:**

DATED this ____ day of January, 2022**.**

_____
Anthony L. Blanford

**ACKNOWLEDGED AND AGREED TO:**

DATED this ____ day of January, 2022**.**

_____
John K. Bellville

**ACKNOWLEDGED AND AGREED TO:**

DATED this _1st_ day of February, 2022.

State of Alaska

By_____
Name: Treg R. Taylor
Its: Attorney General

***In entering into this Agreement, I represent that I have read each page of this Settlement Agreement and Release, and I have had the opportunity to consult with and rely upon the advice of legal counsel of my own selection. I represent that the terms of this Agreement are fully understood and voluntarily accepted as evidenced by my signature below.***

**ACKNOWLEDGED AND AGREED TO:**

DATED this 31 day of January, 2022.

Anthony L. Blanford

**ACKNOWLEDGED AND AGREED TO:**

DATED this ____ day of January, 2022.

John K. Bellville

**ACKNOWLEDGED AND AGREED TO:**

DATED this ____ day of January, 2022.

State of Alaska

By_____
Name:_____
Its:_____

*In entering into this Agreement, I represent that I have read each page of this Settlement Agreement and Release, and I have had the opportunity to consult with and rely upon the advice of legal counsel of my own selection. I represent that the terms of this Agreement are fully understood and voluntarily accepted as evidenced by my signature below.*

**ACKNOWLEDGED AND AGREED TO:**

DATED this ____ day of January, 2022.

_____
Anthony L. Blanford

**ACKNOWLEDGED AND AGREED TO:**

DATED this 28 day of January, 2022.

_____
John K. Bellville

**ACKNOWLEDGED AND AGREED TO:**

DATED this ____ day of January, 2022.

State of Alaska

By_____
Name:_____
Its:_____