

**STATE OF MINNESOTA
COUNTY OF RAMSEY**

**DISTRICT COURT
SECOND JUDICIAL DISTRICT**

Estelle Q. Sell,

Plaintiff,

v.

City of St. Paul and State of Minnesota
by its Commissioner of Transportation
(MNDOT),

Defendants.

Civil File No.: 62-CV-12-2116

Judge John H. Guthmann

**SETTLEMENT AGREEMENT
AND RELEASE**

This Settlement Agreement and Release is made by and between Plaintiff Estelle Q. Sell and Defendants City of St. Paul and State of Minnesota by its Commissioner of Transportation (MnDOT).

WHEREAS, Plaintiff filed a civil complaint in this matter claiming that (1) Defendants' negligent actions during a sewer re-routing project caused Plaintiff's private sewer line to become disconnected from, and never re-connected to, the City's main sewer line, (2) Defendants' negligence caused a sewer back-up at Plaintiff's home located at 14 Crocus Hill, (3) the City was unjustly enriched by receiving Plaintiff's sewer utility payments without providing sewer service to Plaintiff and (4) Defendants were therefore liable for her damages;

WHEREAS, Defendants expressly deny Plaintiff's allegations and liability for Plaintiff's alleged damages and asserted that Plaintiff had not raised a claim upon which

relief could be granted;

WHEREAS, the parties wish to settle and resolve all outstanding disputes and claims between them to avoid the uncertainties and costs associated with continued litigation of this matter; and

WHEREAS, the parties to this agreement and release have successfully conciliated all issues of dispute in the above entitled matter.

NOW THEREFORE, in consideration of the mutual promises established herein, the parties agree as follows:

1. Within a reasonable time subsequent to receiving a fully-executed copy of this Settlement Agreement and Release and after City Council has formally approved this Settlement Agreement, Defendant City will deliver to Plaintiff's attorney a check in the amount of fifteen thousand dollars (\$15,000.00). Within a reasonable time subsequent to receiving a fully-executed copy of this Settlement Agreement and Release, Defendant MnDOT will deliver to Plaintiff's attorney a check in the amount of twenty-five hundred dollars (\$2,500.00). These payments, totaling seventeen thousand five hundred dollars (\$17,500.00), are in complete satisfaction for all damages, costs and attorneys' fees. These checks will be made payable to Estelle Q. Sell . and mailed to Plaintiff's counsel, Paul J. Hemming, Esq., at 2200 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402.

2. In consideration of the above payment, Plaintiff, by execution of this

Settlement Agreement and Release, hereby fully and completely releases Defendants, and all of the past and present agents, officers and employees, predecessors, and successors in interest of Defendants in their official and individual capacities, of any and all claims for damages, costs and attorneys fees which Plaintiff has or may have, whether presently known or unknown, arising in law or in equity, which were made, or which could have been made, in the above-entitled action. Plaintiff agrees that upon execution of this Settlement Agreement and Release all such claims, differences, demands, rights, and causes of action, which Plaintiff now has or may have against Defendants, and all of the past and present agents, officers, and employees, predecessors, and successors, and successors in interest of Defendants in their official and individual capacities, whether currently known or unknown, arising in law or equity, which were made or which could have been made in the above-entitled action, are fully released, satisfied, discharged and settled. This means that Plaintiff releases all employees of each Defendant from any and all claims for damages, costs and attorneys fees, known or unknown, that were or could have been brought in relation to the set of facts presented in the above-entitled action.

3. Plaintiff agrees that the terms of this Settlement Agreement and Release are binding on her and her personal representatives, heirs, successors, and assigns.

4. Plaintiff understands and acknowledges that Defendants do not admit any wrongdoing, improper action or liability for any of Plaintiff's alleged damages.

5. The parties agree that this Settlement Agreement and Release constitutes all

of the agreements and understandings between Plaintiff and Defendants. There are no other written or oral agreements or understandings which modify the terms set forth in this Settlement Agreement and Release.

6. Plaintiff, by execution hereof, acknowledges that this Settlement Agreement and Release has been read and explained to her by legal counsel, and that she understands and fully agrees to each and every provision hereof.

7. This Settlement Agreement and Release shall be construed and interpreted in accordance with the laws of the State of Minnesota.

8. The parties and their counsel represent and warrant that they have the right and authority to execute this Settlement Agreement and Release.

9. This Settlement Agreement and Release may be executed in counterparts.

Dated: October 26, 2012

s/ Estelle Q. Sell
Estelle Q. Sell, Plaintiff

Subscribed and sworn to before me
On October 26, 2012.

Kathryn J. Mangnuson
Notary Public

BRIGGS AND MORGAN, P.A.

Dated: October 22, 2012

By s/ Paul J. Hemming

Paul J. Hemming (#0346184)

Christine J. Kim (#0390971)

2200 IDS Center

80 South Eighth Street

Minneapolis, MN 55402

Phone: 612-977-8400

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Attorneys for Plaintiff Estelle Q. Sell

SARA R. GREWING

City Attorney

Dated: October 29, 2012

By s/ Cheri M. Sisk

Cheri M. Sisk (#32999X)

Assistant City Attorney

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St. Paul, MN 55102

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Attorneys for Defendants

City of St. Paul & MnDOT