

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY**

MOSAICA EDUCATION, INC., )

Plaintiff, )

v. )

ACADEMY OF DOVER, INC., )  
d/b/a ACADEMY OF DOVER )  
CHARTER SCHOOL, )

Defendant. )

C. A. No.: K10J-00196-RBY

**SETTLEMENT AGREEMENT**

**RECITATIONS**

A. On May 9, 2008, an arbitrator found in favor of Mosaica Education, Inc. ("Plaintiff) against Academy of Dover, Inc., d/b/a Academy of Dover Charter School ("Defendant"), and granted an award against Defendant for a total of \$962,724.68 (the "Award"), with interest to accrue and costs of \$9,082.50, as full settlement of all claims and counterclaims submitted in the arbitration.

B. On February 1, 2010, the Court of Chancery entered an Order (the "Order") confirming the Award and ordering Defendant to pay post-judgment interest and costs. Thereafter, Plaintiff filed the above-captioned judgment complaint in the Superior Court for the State of Delaware in and for Kent County (the "Judgment").

C. On December 1, 2014, Plaintiff filed a Praecipe requesting that the Prothonotary issue an Attachment Fieri Facias Garnishment (the "Writ") to the Sheriff of Kent County and to direct him to serve the same on the Treasurer of the State of Delaware (the "Treasurer"). On January 30, 2014, the Writ was issued against Defendant by service on the Treasurer.

D. On February 23, 2015, the Treasurer moved to dismiss the Writ (the "Motion to Dismiss"). On March 10, 2015, Plaintiff responded to the Treasurer's Motion to Dismiss, and on March 27, 2015, Defendant filed a memorandum in support of the Treasurer's Motion to Dismiss.

E. On April 7, 2015, the Court denied the Treasurer's Motion to Dismiss.

F. On April 14, 2015, the Treasurer and Defendant separately moved for reargument or for a stay of the Writ ("Motions for Reargument"). On April 21, 2015, Plaintiff responded separately to the Motions for Reargument. On April 23, 2015, the State Solicitor entered an appearance on behalf of the Treasurer and requested oral argument on the Motions for Reargument.

G. On May 11, 2015, the Court granted oral argument on the Motions for Reargument, and oral argument was scheduled for June 22, 2015.

H. On June 2, 2015, Plaintiff and Defendant signed a Memorandum of Understanding ("MOU") for the purposes of settlement of the Judgment and to

satisfy fully all monies owed, inclusive of interest, by Defendant to Plaintiff, on the Judgment.

I. It is the intent of the Plaintiff and Defendant (each a "Party," and collectively, the "Parties") to resolve the issues raised by the Writ without further proceedings pursuant to the terms and conditions of this settlement agreement ("Settlement Agreement").

### **AGREEMENT**

1. **PAYMENT.** The Parties have agreed to satisfy the Judgment by the payment by Defendant to Plaintiff the amount of \$650,000.00 (the "Settlement Amount"). The Parties have agreed to the payment schedule described herein (the "Payment Schedule").

2. Plaintiff acknowledges receipt of the first payment of two hundred thousand dollars (\$200,000) (the "First Payment") which was to be submitted to the State for processing within 24 hours of the signing of the MOU.

3. Plaintiff further acknowledges receipt of the second payment of one hundred and fifty thousand dollars (\$150,000) (the "Second Payment") which was to be submitted to the State for processing within thirty (30) days of the signing of the MOU, with the intention, to the fullest extent practicable, of tendering the Second Payment to Plaintiff no later than July 3, 2015.

4. Defendant shall process a third payment of one hundred and fifty thousand dollars (\$150,000) (the "Third Payment") upon receipt of additional funding, with the intention of tendering the Third Payment to Plaintiff no later than July 31, 2015.

5. Defendant shall process a final payment totaling one hundred and fifty thousand dollars (\$150,000) (the "Final Payment Installments") in \$50,000 increments at the end of each fiscal year for three years. Thus, Plaintiff agrees to pay \$50,000.00 no later than July 31, 2016; \$50,000.00 no later than July 31, 2017; and \$50,000.00 no later than July 31, 2018. Defendant wishes to satisfy the Final Payment Installments as early as possible, and Plaintiff agrees that there will be no penalties for pre-payment. Defendant agrees to pay the balance of the Final Payment Installments no later than July 31, 2018.

6. All payments due under this stipulation are to be made via the fastest possible payment mechanism, preferably payable by wire transfer to:

Bank of America, N.A.

**REDACTED**

If by mail, then to:

Mosaica Education, Inc.

C/O GGG Partners, LLC  
Attn: Joseph V. Pegnia  
3155 Roswell Road, Suite 120  
Atlanta, GA 30305

Defendant agrees to use reasonable care in safeguarding Plaintiff's banking information from inadvertent disclosure and agrees to only disclose such information as required for processing payments.

7. The payment by Defendant of the full Settlement Amount as called for in the Payment Schedule shall be full satisfaction of all claims for attorneys' and other fees, expenses and costs (including experts) and alleged damages in connection with the Writ, the Judgment, and the Award. Defendant agrees to undertake all actions necessary, to the fullest extent practicable, to ensure that it will receive the requisite funding to meet its obligations under the Payment Schedule. Defendant shall have no role, responsibility, liability or interest regarding how the Payments are to be divided among Plaintiff, Plaintiff's attorneys, Plaintiff's experts, consultants, and/or any other persons with claims to the Payment. Plaintiff takes complete responsibility for any and all tax liability from the receipt of any monies under this Settlement Agreement. Each Party shall bear its own attorneys' and other fees, expenses and costs related to this Settlement Agreement.

8. **STIPULATION OF DISMISSAL.** Upon receipt of the First Payment, Plaintiff's counsel will prepare and cause to be filed a Notice of

Dismissal as to Writ of Garnishment in the form attached hereto. Upon receipt of all the payments provided above, including the third installment of the Final Payment Installments, Plaintiff shall mark as satisfied the Judgment against Defendant and take any other steps necessary to remove the Judgment against Defendant. Plaintiff shall take no action to pursue the Judgment or otherwise attach or dispose of Defendant's assets except in the event of default as described below.

**9. RELEASE.**

a. Upon receipt of the Third Payment and the entirety of the amount owing under the Final Payment Installments, Plaintiff, and those acting on Plaintiff's behalf (including his heirs, beneficiaries, executors, administrators, successors, agents, assigns, representatives, and any other person or entity claiming directly or individually by, through and under him), agree to release and discharge Defendant from any and all liability, claims, or causes of action relating to the Writ, the Judgment, and the Award (the "Released Claims").

b. The released parties include the Defendant and its respective officers, directors, principals, partners, members, shareholders, employees, agents, representatives, successors, assigns, predecessors, parent companies, subsidiaries, affiliates, divisions and attorneys within their professional capacities. The released parties also include any other person or entity (present, future or former), known or

unknown, who Plaintiff might claim are liable in connection with the Released Claims. Examples of other released parties include governmental entities, directors, principals, partners, members, shareholders, employees, agents, representatives, successors, assigns, predecessors, parent companies, subsidiaries, affiliates, divisions and attorneys.

c. The Released Claims include all of Plaintiff's claims for injunctive relief, compensatory damages, punitive damages, and attorneys' fees, and any and all other claims involving the Writ, the Judgment, or the Award, based upon acts or omissions of the released parties prior to the date that Plaintiff signs this Settlement Agreement, whether known or unknown.

10. **DEFAULT.** In the event that Plaintiff fails to timely receive any of the above payments in strict accordance with the Payment Schedule committed to above, such failure shall be an event of Default on the part of Defendant, at which time Plaintiff may, after five (5) days written notice to Defendant's counsel of said default by mail, and upon said Default remaining uncured, resume its efforts to collect the full amount of the remaining sums of the principal Judgment, with full interest accrued and no longer waived, together with the costs and disbursements, giving credit to Defendant for any sums paid hereunder toward the Judgment. Plaintiff shall be entitled to recover, as part of any relief provided in such action

and without the requirement to initiate any separate action, reasonable attorneys' fees and litigation costs actually incurred in such action.

11. The written notice and the opportunity to cure described above shall be prerequisites to any action by Plaintiff to enforce this Settlement Agreement, or pursue any alleged claim regarding the Judgment, including, but not limited to, the filing of a complaint or writ, or the pursuit of any other legal action, against Defendant.

12. **NO WAIVER.** Failure to insist on compliance with any term, covenant or condition contained in this Settlement Agreement shall not be deemed a waiver of that term, covenant or condition. Nor shall any waiver or relinquishment of any right or power contained in this Settlement Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

13. **SEVERABILITY.** The illegality, unenforceability or overbreadth of any provision of this Settlement Agreement shall have no effect upon, and shall not impair the enforceability of, any other provision of this Settlement Agreement. Upon a finding by a Court that this Settlement Agreement, or any of its provisions, is illegal, void or unenforceable, the Parties agree to execute a settlement agreement that is legal and enforceable, and which has the effect of accomplishing the intent of the provisions described herein.



14. **JOINTLY DRAFTED AGREEMENT.** This Settlement Agreement shall be deemed to have been jointly drafted and no provision shall be interpreted or construed for or against any Party because such Party drafted or requested such provision.

15. **ENTIRE AGREEMENT.** This Settlement Agreement sets forth the entire agreement between the Parties concerning the subject matter of the agreement. This Settlement Agreement supersedes any and all prior oral or written understandings, agreements, representations and statements among the Parties concerning such subject matter. This Settlement Agreement may not be modified, except by and in a writing signed by all of the Parties.

16. **SUCCESSORS.** The Parties are bound by this Settlement Agreement. Anyone who succeeds to the rights and responsibilities of any of the Parties is also bound. This Settlement Agreement is made for the benefit of the Parties and of all who succeed to their rights and responsibilities, including without limitation their successors and assigns. GGG Partners, LLC represents and warrants that it has full authority to enter into this agreement on behalf of Plaintiff, and binds itself and Plaintiff to its terms and conditions without reservation.

17. **NON-RELIANCE.** The Parties acknowledge that they have been represented by counsel throughout the negotiation and execution of this Settlement Agreement. The Parties represent that, in entering into this Settlement Agreement,

they are not relying on and have not relied upon any representation or statement not set forth expressly in this Settlement Agreement.

18. **WARRANTY.** The Parties expressly represent and warrant that they have full legal capacity to enter into this Settlement Agreement, that they have been advised of their right to discuss all aspects of this Settlement Agreement with an attorney of their own choosing, that they have carefully read and fully understand this Settlement Agreement, that they have reviewed this Settlement Agreement with their attorneys, that they have had the opportunity to have their attorneys answer any questions they might have had, that they have had a reasonable period of time to consider whether or not to enter into this Settlement Agreement, and that they have executed this Settlement Agreement voluntarily, knowingly, and without duress, coercion or undue influence.

19. **GOVERNING LAW.** This Settlement Agreement and all documents executed in connection herewith (including but not limited to the MOU) shall be governed by, and construed in accordance with, the laws of the State of Delaware without regard to any State's conflict of laws provisions. Each Party exclusively submits to the jurisdiction of the State of Delaware in an action or proceeding arising out of or relating to this Settlement Agreement and agrees that all claims in respect to the action or proceeding shall be heard and determined in a court in and for the State of Delaware.

20. **NOTICES.** All notices related to this Settlement Agreement shall be in writing addressed to the counsel for each Party by U.S. mail, return receipt requested, with a copy by email. Notices shall be deemed received on the day of mailing.

21. **EFFECTIVE DATE.** This Agreement is not effective until a copy signed by Plaintiff is received by counsel for the Defendants, and it is signed by Defendant. The Effective Date of this Agreement is the date of the last signature.

**AGREED AND ACCEPTED:**

**ACADEMY OF DOVER, INC.**

Signature: \_\_\_\_\_

By: Academy of Dover Board of Directors

Name: Kiméu Boynton

Title: Board President

Date: 6/12/15

**MOSAICA EDUCATION, INC., by and through its Court-appointed Receiver**

Signature: Joseph V. Pagnia

By: GGG Partners, LLC

Name: Joseph V. Pagnia on behalf of GGG Partners, LLC

Title: Court Appointed Receiver of Mosaiqa Education, Inc.

Date: June 12, 2015

