

SETTLEMENT AGREEMENT AND RELEASE

WHEREAS a lawsuit was instituted in the Superior Court of Wake County, North Carolina, by Town of Cary (referred to herein as "Plaintiff") against Time Warner Cable Inc.; Time Warner Cable Enterprises, LLC; Time Warner Cable Southeast, LLC; Decisive Communications, Inc.; Trident Utility Contracting, LLC d/b/a Trident Utility Contracting, Inc.; Ronald Whisner d/b/a R&R Contractors; TMR Underground, Inc.; Paul Muehlbauer; Charles "CJ" Clute; and James Barnes, with said lawsuit being Civil Action No. 16 CVS 6243 (herein referred to as "Plaintiff's Lawsuit"); and

WHEREAS, Plaintiff has now agreed to settle its claims with Time Warner Cable Inc., Time Warner Cable Enterprises, LLC and Time Warner Cable Southeast, LLC (referred to collectively as "TWC"); Decisive Communications, Inc. (referred to as "Decisive"); Trident Utility Contracting, LLC d/b/a Trident Utility Contracting, Inc. (referred to as "Trident"); Ronald Whisner d/b/a R&R Contractors (referred to as "R&R"); TMR Underground, Inc. (referred to as "TMR"); Paul Muehlbauer (referred to as "Muehlbauer"); Charles "CJ" Clute (referred to as "Clute"); and James Barnes (referred to as "Barnes") (these individuals and companies collectively being referred to herein as "Defendants"), and with Defendants' insurance companies (Scottsdale Insurance Company/Nationwide Insurance Company (herein referred to collectively as "Scottsdale"), The Phoenix Insurance Company (herein referred to as "Phoenix"), and Selective Insurance Company of South Carolina (herein referred to as "Selective"), respectively, and referred to herein collectively as "Defendants' insurance companies");

THEREFORE, Plaintiff, Defendants, and Defendants' insurance companies hereby enter into this written agreement (referred to herein as "this Settlement Agreement and Release").

1. Plaintiff, for and in consideration of and conditioned upon the payment referred to in paragraph 3 below, does acknowledge its settlement with Defendants and Defendants' insurance companies, and Plaintiff hereby now and forever completely releases, acquits, and discharges Defendants and Defendants' insurance companies and their past, present, and future officers, directors, stockholders, owners, agents, employees, members, managers, attorneys, representatives, predecessors, successors, trustees, assigns, parents, subsidiaries, and affiliates, of and from any and all past, present, and future actions, causes of action, liability, claims and demands of any and every kind and nature upon and by reason of any and every kind of damages, losses, expenses, costs, interest, bills, attorneys' fees and all claims of any nature or kind whatsoever including but not limited to claims of property damage, compensatory, punitive and treble damages, repairs, loss of use, and any other claim whatsoever now existing or which may hereafter arise, accrue or otherwise be acquired on account of or in any way growing out of (1) the Town of Cary waterline being struck on August 7, 2014 while horizontal directional boring was taking place at the intersection of Kildaire Farm Road and Cary Parkway for the installation of Time Warner Cable's fiber optic cable; and (2) the matters, claims and Causes of Action alleged in the Complaint, Amended Complaint, and any other amendments to the Complaint (including the Addendum to the Amended Complaint) that were filed in Plaintiff's Lawsuit, including any consequences thereof now existing or which

may hereafter develop or accrue, whether or not such consequences are known or unknown, anticipated or unanticipated, specified or unspecified.

2. Upon payment of the Settlement Funds mentioned in paragraph 3 below, this release and discharge shall be a fully binding and complete settlement and shall also apply to Plaintiff's and Defendants' past, present and future officers, directors, shareholders, stockholders, attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors and successors in interest, executors, administrators, spouses, children, parents, guardians, beneficiaries, heirs, relatives and assigns and all other persons, firms or corporations with whom any of the former have been, are now, or may hereafter be affiliated.

3. Phoenix (on behalf of Decisive, Muchlbauer, Clute and TWC) shall pay to Plaintiff Ninety Thousand Dollars (\$90,000.00), Selective (on behalf of Trident and Barnes) shall pay to Plaintiff Ninety Thousand Dollars (\$90,000.00), and Scottsdale (on behalf of R&R and TMR) shall pay to Plaintiff Thirty Thousand Dollars (\$30,000.00). These amounts, which total Two Hundred Ten Thousand Dollars (\$210,000.00), shall be referred to herein as "the Settlement Funds."

4. Defendants and Defendant's insurance companies each hereby now and forever completely release, acquit, and discharge each other of and from any and all past, present, and future actions, causes of action, claims, demands, damages (including, but not limited to, compensatory, punitive and treble damages), costs, and expenses, and any and all suits at law or in equity, of whatever nature, whether accrued or not yet accrued, on account of or as a result of, or arising from, or otherwise related to, (1) the Town of Cary waterline being struck on August 7, 2014 while horizontal directional boring was taking place at the intersection of Kildaire Farm Road and Cary Parkway for the installation of Time Warner Cable's fiber optic cable; (2) the matters and claims alleged in the Complaint, Amended Complaint, and any other amendments to the Complaint (including the Addendum to the Amended Complaint) that were filed in Plaintiff's Lawsuit; (3) claims for contribution that were asserted or could have been asserted due to Plaintiff's allegations of joint and several liability of Defendants for Plaintiff's injuries, (4) claims for indemnity that were asserted or could have been asserted due to alleged active-passive negligence or alleged contractual obligations, and (5) issues related to or involving additional insureds. Defendants' insurance companies also each hereby now and forever completely release, acquit, and discharge each other of and from any and all past, present, and future actions, causes of action, claims, demands, damages (including, but not limited to, compensatory, punitive and treble damages), costs, and expenses, and any and all suits at law or in equity, of whatever nature, whether accrued or not yet accrued, on account of or as a result of, or arising from, or otherwise related to any insurance coverage issues arising out of the matters and claims alleged in the Complaint, Amended Complaint, and any other amendments to the Complaint (including the Addendum to the Amended Complaint) that were filed in Plaintiff's lawsuit, or arising from or otherwise related to issues involving additional insureds.

5. This Settlement Agreement and Release shall be a fully binding and complete settlement between and among Plaintiff, Defendants, and Defendants' insurance companies.

6. Plaintiff acknowledges, declares, and represents that this settlement is in full and final compromise of the disputed claims covered hereby, both as to questions of liability and as to the nature and cause of Plaintiff's alleged damages, and including disputed issues of law and fact. Plaintiff acknowledges that payment of the Settlement Funds, and the settlement of Plaintiff's Lawsuit, shall not be construed as any admission, indication, or evidence of liability on the part of Defendants and Defendants' insurance companies for such claims, and Plaintiff acknowledges that liability is expressly denied by Defendants and Defendants' insurance companies.

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

8. Plaintiff, Defendants, and Defendants' insurance companies acknowledge and stipulate that this written document (referred to herein as this Settlement Agreement and Release) constitutes the entire agreement between them.

9. The representative of Plaintiff who signs below is authorized in his or her capacity to sign this Settlement Agreement and Release on behalf of the Town of Cary and is able to bind the Town of Cary to this Settlement Agreement and Release.

10. The representative of each of the Defendants and each of the Defendants' insurance companies who signs below need not be an officer of the company for which he or she is signing, but he or she must be able to bind that company to this Settlement Agreement and Release. There is no need that the company seals of the Defendants and Defendants' insurance companies be used in connection with the representatives signing this Settlement Agreement and Release, nor is it necessary that the representatives' signatures be notarized.

11. This Settlement Agreement and Release may be signed in counterparts.

Date Signed: 12/21/2018

Town of Cary, North Carolina

By:

[Signature]
(Authorized Agent)

Russ Overton
(Print Name)

Title:

Deputy Town Manager

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Karen C. Gray, certify that Russ Derton personally appeared before me this day, acknowledging to me that he signed the foregoing document for the purpose stated therein and in the capacity as Deputy Town Manager for/of the Town of Cary.

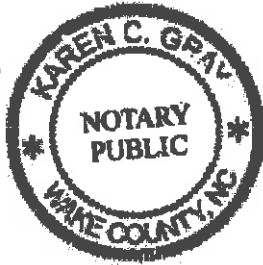
Date: 12/21/2018

Karen C. Gray
(Official Signature of Notary)

My Commission expires: 12/6/2021

Karen C. Gray
(Notary's printed or typed name)

(Official Seal)

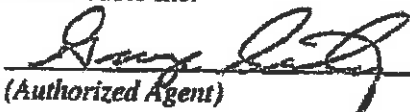


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Date Signed: 12/21/18

Time Warner Cable Inc.

By: 
(Authorized Agent)

George Smiley
(Print Name)

Title: Claims Analyst

Date Signed: 12/21/18

Time Warner Cable Enterprises, LLC

By: 
(Authorized Agent)

George Smiley
(Print Name)

Title: Claims Analyst

Date Signed: 12/21/18

Time Warner Cable Southeast, LLC

By: 
(Authorized Agent)

George Smiley
(Print Name)

Title: Claims Analyst.

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Date Signed

1/4/14

Decisive Communications, Inc.

By:



(Author/Agent)

RICHARD W. SANDER, JR.
(Print Name)

Title

EVPCFO

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Date Signed: 4/2/19

Trident Utility Contracting, LLC
d/b/a Trident Utility Contracting, Inc.

By: [Signature]
(Authorized Agent)

[Print Name]
(Print Name)

Title: [Title]

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Date Signed: 21. Jan 2019

Ronald Whisner d/b/a R&R Contractors

By: 
(Authorized Agent)

RONALD W. WHISNER Jr
(Print Name)

Title: OWNER

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Date Signed: 29 Jan 2019

TMR Underground, Inc.

By: Tia Whisner
(Authorized Agent)

TIA WHISNER
(Print Name)

Title: President

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Signed

1-17-19

By

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Date Signed: 12-31-2018

Charles "CP" Chite

By:

Charles E. Chite

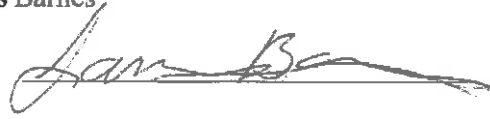
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Date Signed: 1-15-2019

James Barnes

By:

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Date Signed: 1-9-2019

The Phoenix Insurance Company

By: 
(Authorized Agent)

Faura Vasquez
(Print Name)

Title: 2UP, Claim Management

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Date Signed: 02/01/2019 Nationwide Insurance Company underwritten by Scottsdale Insurance Company

By: 
(Authorized Agent)

Samantha Hoffer
(Print Name)

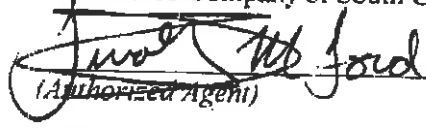
Title: Claims Analyst

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Date Signed: 1/2/2019

Selective Insurance Company of South Carolina

By: 
(Authorized Agent)

TIMOTHY M. FORD
(Print Name)

Title: LITIGATION SPECIALIST

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