

Barry & Loewy

ATTORNEYS AT LAW

Adam Loewy
loewy@barryloewy.com

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401 Congress Avenue, Suite 1540
Austin, Texas 78701

FILED B-12 (A-Z) 2008
2011 DEC 27 PM 3:07
COURT DIVISION
Direct Dial: (512) 687-4320
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September 12, 2008

Via Email and Fax

G. Flint Taylor
PEOPLE'S LAW OFFICE
1180 N. Milwaukee
Chicago, Illinois 60622

Re: *Patterson v. Burge* Settlement Proposal

FRE 408 Communication

Dear Counsel:

The purpose of this letter is to seek a resolution of the present Attorneys' Fees dispute in the *Patterson v. Burge*.

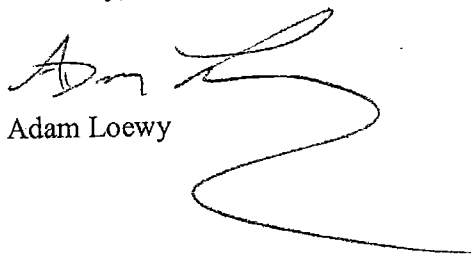
Aaron Patterson has proposed a settlement offer that the Avila Group is willing to accept. In addition to what the Court has awarded us, Mr. Patterson will pay us \$250,000 to drop the appeal and waive all liens on the County case. He will also pay the People's Law Office \$23,785 for your costs. I have enclosed his handwritten proposal to this effect.

Thus, if you accept this proposal, the People's Law Office will earn **1,004,771.00**. By any measure, this is very good compensation on a case in which you withdrew from over two (2) years ago.

The Avila Group is willing to do this deal and drop our appeal if you agree to withdraw your Motion for Reconsideration. If Judge Gottschal amends her Order, and the Avila Group gets less money, we will continue our 7th Circuit Appeal and make every effort to stay all the money in the Court Registry. So time is of the essence.

Please let me know by **Tuesday, September 16, 2008** if you will agree to this settlement proposal.

Sincerely,


Adam Loewy

Dear Maurice,
Hope you are well & blessed - Briefly!

OK crunch these #'s - and this is not written
in Stone!

AVILA #685,514
PLO #980,986
A/P : #1,465,500 } Judge's decision on fees

A.P. :	290,000	Loan Prio
	1,578,000	1st check
	1,465,500	2nd check
	<u>3,333,500</u>	
	- 290,000	Loan
	<u>3,043,500</u>	
	- 250,000	AVILA(*)
	<u>2,793,500</u>	
	- 23,785	court cost (PLO)*
	<u>2,769,715</u>	A/P balance

AVILA #685,514
+ 250,000
<u>\$ 935,514</u>

2,769,715
- 1,578,000 (1st check)
<u>1,191,715</u>

(2) (option #1)
 Avila group must drop Appeal now
 option #2

Avila group must drop opposition to A/P receiving \$1,465,500 and only Appeal dispute under 1/370

Tell Avila to go to court to tell Judge to give him court order to visit A/P along with EVANS
 must be on legal visit with -EVANS they can come separately but visit on same day (contact legal visit)
 or Avila + Barry - + EVANS
 Must have authority to make Agreement on visit!

I am not going under my personal limit!

* Gator must accept decrease in what he expects - since we are all taking cuts - He must also!

* Avila must drop all liens on County side of lawsuit!

PLD must drop appeal for additional fees - if I (A/P) pay court cost and Avila agrees to settlement amount we agree to!

Let's focus solely on \$1,465,500 2nd check

	- 250,000	(Avila *)	✓
	<u>1,215,500</u>		
	- 23,785	Court cost (PLD)	✓
	<u>1,191,715</u>		
	- 100,000	GATOR	✓
	<u>1,091,715</u>	AP-Balance	

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Judge Gotteschall will be back Sept 4th -
All parties need to be in court to let Judge know we
will settle matter here at Big Sandy
and Avila should notify Judge that he will drop Appeal
and/or release A/P's check \$1,465,500
and they need court order to have contact legal visits
with A/P! ASAP!

You + Evans have to make this happen sooner than later
and tell Frank to save all that nostalgic bullshit about
he wants to Appeal + Berry + Loewy think they can get more
money - Just stop all the greediness + gruminess - take
the \$550,000 - and let Gaten get his money - and PLO
and drop liens + appeal - and get on down the road!

I'm just tired of all this nonsense - I want to focus
on County lawsuit and strong possibility to go to trial
to get more info about this criminal case I'm here for
now

PEOPLES LAW OFFICE

FILED B -

1180 N. Milwaukee
Chicago, Illinois, 60642

2011 DEC 27 PM 3: 52
CIRCUIT COURT
LAW DIVISION

~~PLA 2050078~~
Fax (773) 335-6699
PeoplesLaw@aol.com

22

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Ben H. Elson
Janine L. Hoft
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Erica L. Thompson

Of Counsel
Jeffrey H. Haas

September 18, 2008

Aaron Patterson #216664-424
PO Box 2068
Inez, Kentucky 41224

Frank Avila
Avila and Tomic LLC
227 W. Monroe Street, Suite 2000
Chicago, IL 60606

CONFIDENTIAL
Via e mail

Barry & Loewy LLP
The Frost Tower
401 Congress Avenue, Suite 1540
Austin, Texas 78701

Arthur S. Gold
11 S. LaSalle Street
Suite 2402
Chicago, IL 60603

Dear Sirs:

We are writing to respond to the tentative proposals that have been tendered to us concerning the ongoing attorneys' fees and costs dispute between the People's Law Office/Willis and the Avila Group; between Wallace "Gator" Bradley and the Avila Group; and between and among Plaintiff Patterson, the Avila Group, and Bradley.

The proposed "agreement" as is set forth in the hand written document(s) apparently written by Plaintiff Patterson and faxed to us on September 5, 2008 by Frank Avila, and subsequently sent again by Adam Loewy, as well as in the documents previously sent to us by Bradley attorney Arthur Gold, appears to be, in essence, a proposed agreement between and among Plaintiff Patterson, the Avila Group and Wallace Bradley by which Patterson gets immediate access to the remainder of his settlement money, without an Avila Group appeal, in exchange for giving the Avila Group an undeserved fees windfall of \$488,000 - - - \$250,000 directly to Avila, and another \$238,000 for the work of the Group's retained paralegal, Mr. Bradley. While this

proposal seems completely lopsided in favor of the Avila Group - - - Patterson gives up nearly \$500,000 to avoid a frivolous appeal that is not even ripe yet - - - we can not oppose those terms so long as Mr. Patterson has been afforded the opportunity to consult with competent, conflict-free counsel concerning the proposal before signing.

Thus, the operative terms of the proposed agreement between and among Patterson, Bradley, and the Avila Group do not require our consent to consummate. We have, as recently as September 4, 2008, stated in Court filings our position that Mr. Patterson should have immediate access to the entire remainder of his 2/3 portion of the settlement money, minus our \$23,785 in costs. Hence, we need not agree to anything additional in order to meet Patterson's proposal that we not challenge the Judge's decision that he receive 2/3 of the settlement monies and that he immediately obtain the remainder of this money and distribute it however he sees fit - - - including to the Avila Group and their paralegal, if the Court so approves it.

Nonetheless, the Avila Group, in its letter from Adam Loewy of September 12, 2008, seeks to add an additional term which is neither contemplated in Mr. Patterson's proposal nor furthers his interests - - - that PLO/Willis give up its Motion to Reconsider and right to appeal the manner in which the Judge apportioned the 1/3 total fees amount between PLO/Willis and the Avila Group - - - in exchange for nothing of value. As explained above, we have already voluntarily agreed to that which Mr. Patterson seeks - - - immediate access to all of the remainder of his Court determined money - - - which will in turn pave the way for the Avila Group to get its \$488,000 windfall, assuming the Court finds the agreement to be in good faith and made after Mr. Patterson has been afforded competent, conflict free legal advice on the matter. Moreover, if we were to accede to the Avila Group's added term, we would get only 45.5% of the total fees, (\$980,985), plus \$23,785 in costs, while the Avila Group would get 54.5% of the fees (\$1,173,514) - - - obviously a complete injustice given that Judge Gottschall specifically found that PLO/Willis obtained 80% of the results and did 67% of the work in Patterson's case.

Please immediately inform us when/if you and the other parties consummate an agreement and intend to present it to the Court for approval.

cc: Wallace "Gator" Bradley
Demitrus Evans

Submitted by:

PLO/Willis

PLAINTIFF
EXHIBIT
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IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Nos. 08-3241, 09-1076

AARON PATTERSON,

Plaintiff,

v.

FORMER CHICAGO POLICE LT. JON
BURGE, *et al.*,

Defendants.

APPEAL OF:

AVILA & TOMIC LLC and
BARRY & LOEWY LLP

CROSS APPEAL OF:
PEOPLE'S LAW OFFICE

Appeal from the United States
District Court for the Northern
District of Illinois, Eastern Division

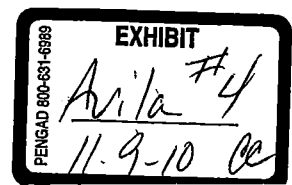
No. 03 C 4433

Joan B. Gottschall, District Judge

ADDENDUM TO COMPROMISE, SETTLEMENT AND RELEASE
AGREEMENT

This Addendum is made this the 18th day of March, 2009 by and between the PARTIES to the Compromise, Settlement and Release Agreement ("Agreement"). The AVILA GROUP and the PEOPLE'S LAW OFFICE hereby agree to the following terms, which are incorporated into the Agreement:

- 1) Aaron Patterson shall receive any and all interest which has accrued on the entire amount in the registry since the money was deposited in June 2008 by the City of Chicago;
- 2) If the terms of the Agreement are determined by the court of appeals to be legally unenforceable, and the money is not distributed from the Court Registry in strict



PENGAD 800-831-6589

accordance with Judge Gottschal's Amended Order , then the PEOPLE'S LAW
OFFICE shall return to Aaron Patterson the \$350,000.00 they will be holding.

By: _____
DEMITRUS EVANS
ON BEHALF OF AARON PATTERSON

By:  _____
ADAM J. LOEWY
ON BEHALF OF APPELLANT CROSS APPELLEE,
BARRY & LOEWY LLP

By:  _____
FRANK AVILA
ON BEHALF OF APPELLANT CROSS APPELLEE,
AVILA & TOMIC LLC

By: _____
JOHN STAINTHORP
ON BEHALF OF APPELLEE CROSS-APPELLANT,
PEOPLE'S LAW OFFICE

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Nos. 08-3241, 09-1076

AARON PATTERSON,

Plaintiff,

v.

FORMER CHICAGO POLICE LT. JON
BURGE, *et al.*,

Defendants.

APPEAL OF:

AVILA & TOMIC LLC and
BARRY & LOEWY LLP

CROSS APPEAL OF:
PEOPLE'S LAW OFFICE

Appeal from the United States
District Court for the Northern
District of Illinois, Eastern Division

No. 03 C 4433

Joan B. Gottschall, District Judge

COMPROMISE, SETTLEMENT AND RELEASE AGREEMENT

This Agreement is made this the 18th day of March, 2009 by and between: (a) PLAINTIFF, APPELLEE, AARON PATTERSON (referred to herein as AARON PATTERSON"); (b) APPELLANTS CROSS-APPELLEES, AVILA & TOMIC LLC, and BARRY & LOEWY LLP (referred to herein as the "AVILA GROUP") and (c) APPELLEE CROSS-APPELLANTS, THE PEOPLE'S LAW OFFICE, STANDISH WILLIS and DEMETRUS EVANS (referred to herein as "PEOPLE'S LAW OFFICE") (collectively, the "PARTIES"), to distribute \$2,837,536 currently being held for the parties to this agreement in the United States District Court Registry in this case, plus interest which has accrued on

that amount since the money has been in said account. Said PARTIES hereby mutually represent, acknowledge, stipulate, covenant, contract and agree as follows:

(1) **APPELLEE**. AARON PATTERSON is the PLAINTIFF in Cause No. 1:03-CV-04433, which resulted in a Five Million Dollar settlement with the City of Chicago Defendants, which was officially settled in early January 2008. A dispute then arose regarding Attorney's Fees owed between and among the PARTIES, which has resulted in the current appeals that are now pending before the United States Court of Appeals for the Seventh Circuit , Cause Nos. 08-3241 and 09-1076 (hereinafter called the "APPEALS").

(2) **APPELLANTS**. AVILA & TOMIC LLC, and BARRY & LOEWY LLP are the two law firms (collectively, "AVILA GROUP") that represented AARON PATTERSON at the time that a portion of his civil case was settled with the City of Chicago for Five Million Dollars and are pursuing APPEAL No. 08-3241.

(3) **CROSS-APPELLANTS**. THE PEOPLE'S LAW OFFICE previously represented AARON PATTERSON in his civil lawsuit with the City of Chicago and is pursuing a CROSS-APPEAL No. 09-1076.

(4) **AGREEMENT**. The PARTIES have agreed to settle this appeal on the following terms:

a. AARON PATTERSON has agreed to pay the AVILA GROUP Three-Hundred-Fifty Thousand Dollars (\$350,000.00) via a CERTIFIED check in consideration for the AVILA GROUP dismissing this appeal and taking the money awarded to them in Judge Gottschall's Amended Order of December 23, 2008. This CERTIFIED check shall be

delivered to THE PEOPLE'S LAW OFFICE and placed in the PEOPLE'S LAW OFFICE TRUST ACCOUNT, and the PEOPLE'S LAW OFFICE shall confirm, in writing, that the CERTIFIED check has cleared and the money is in the account.

b. Upon confirmation by the PEOPLE'S LAW OFFICE that the CERTIFIED check of \$350,000 has cleared, all PARTIES will immediately notify the 7th Circuit Court of Appeals that this dispute has been settled and that all parties wish to drop the appeal and cross-appeal. THE PARTIES will then motion the 7th Circuit Court of Appeals to dismiss the appeal and cross-appeal and remand the case to the District Court for distribution of the money presently in the District Court Registry in accordance with the Honorable District Judge Gottschall's Amended Attorney's Fees Order of December 23, 2008 (Docket No. 1051).

(5) **DISTRIBUTION OF DISPUTED MONIES.** Following the events in Clause No. 4, the PARTIES will motion the United States District Court to distribute \$2,837,536 (plus interest) of the money in the Court Registry pursuant to Judge Gottschall's Amended Attorneys Fees Order of December 23, 2008 (Docket No. 1051). Specifically, the PARTIES will request that the Court order the distribution of the money as follows:

i. AARON PATTERSON shall receive from the funds in the registry One Million One Hundred Forty Seven Thousand, Two Hundred Fifty One Dollars (\$1,147,251.00) plus all interest which has accrued on the entire amount in the registry since the money was deposited in June 2008 by the City of Chicago, plus Eight Thousand Seven Hundred and Eighty Five Dollars (\$8,785.00) in refunded costs from the People's law Office;

ii. PEOPLE'S LAW OFFICE shall receive One Million One Hundred Seventy Two Thousand, and Sixty-Three Dollars as attorneys' fees and Twenty Three Thousand Seven Hundred and Eighty Five Dollars in costs, for a total of One Million One Hundred Ninety Five Thousand, Eight Hundred and Forty Eight Dollars (\$1,195,848.00), of which it will refund Eight Thousand Seven Hundred and Eighty Five Dollars in costs (\$8,785.00) to Aaron Patterson; and

iii. AVILA GROUP shall receive Four-Hundred-Ninety-Four Thousand, Four-Hundred-Thirty-Seven dollars (\$494,437.00). The AVILA GROUP is not receiving any costs as part of this Agreement.

(6) **DISTRIBUTION OF MONEY TO AVILA GROUP.** On the day that the District Court orders the release of the money in Clause No. 5, the PEOPLE'S LAW OFFICE shall draft a CERTIFIED check for Three-Hundred-Fifty Thousand Dollars (\$350,000.00) and make it payable to "Avila Tomic LLC and Barry & Loewy LLP." THE PEOPLE'S LAW OFFICE shall make plans to meet a representative of the AVILA GROUP and deliver the CERTIFIED check. In the event that the PEOPLE'S LAW OFFICE fails to deliver this CERTIFIED check, the AVILA GROUP will immediately notify both the 7th Circuit Court of Appeals and United States District Court for the Northern District of Illinois that the PEOPLE'S LAW OFFICE is in breach of this Agreement, and the AVILA GROUP will seek all available remedies under Illinois and Federal law. The PEOPLE'S LAW OFFICE acknowledges and agrees that the delivery of the \$350,000 CERTIFIED

check is a material term of this agreement and failure to deliver the CERTIFIED check constitutes a material breach of this Agreement.

(7) **CONFIDENTIALITY**. The PARTIES all agree that this Agreement shall be strictly CONFIDENTIAL and the PARTIES agree they will not disclose the terms of the Agreement to any person, unless ordered to do so by court order. The PARTIES also agree that they will not disclose the terms of the Agreement to the media. The PARTIES will not disclose the terms of this Agreement to any Court, unless a Court so orders, but, rather, will simply state “the appeal has been settled and the parties wish to have the money distributed pursuant to the District Court’s Amended Attorney’s Fees Order of December 23, 2008.”

(7) **COOK COUNTY CASE LIENS**. In consideration of the foregoing, and as a material term of this Agreement, the AVILA GROUP and THE PEOPLE’S LAW OFFICE will relinquish all liens and rights in any future legal action involving Aaron Patterson versus Cook County and related entities. The AVILA GROUP and THE PEOPLE’S LAW OFFICE both agree that neither law firm has any claims to any settlement and or proceeds from the County case.

(8) **EFFECTUATION INSTRUMENTS**. The PARTIES each hereto agree to take any and all action as may be reasonably necessary or required to cause the “Agreed Motion for Total Disbursement of City Settlement Proceeds From the Court’s Registry” to be entered and shall execute any and all instruments as may be necessary or required to effectuate all of the other terms and provisions of this Agreement. Further, the PARTIES hereto agree to fully cooperate in drafting and filing with the Courts any additional

documents as may be reasonably necessary or required to fulfill the terms and spirit of this Agreement.

(9) **AUTHORITY TO ENTER INTO AGREEMENT.** ALL PARTIES agree, covenant, represent and stipulate that each party is fully authorized in all respects to enter into this Agreement and that no approval, consent or agreement of any party or entity not a signatory hereto is required for this Agreement and all of its provisions to be effective and binding.

(10) **ADVICE OF COUNSEL.** THE PARTIES hereto acknowledge that they have entered into this Agreement after fully and carefully reviewing the same and after receiving the advice and counsel of their respective attorneys, that they each fully understand all the terms and provisions of this Agreement, the spirit of this Agreement, and all of the Agreement's implications, and that all of the terms and provisions herein have been explained to them by their respective attorneys.

(11) **COMPLETE AGREEMENT.** This Agreement constitutes the full, complete and final Agreement between the Parties hereto. There are no other agreements between the Parties hereto, expressed or implied. This Agreement may not be modified except by instrument in writing signed by all of the Parties hereto.

(12) **SEVERABILITY.** The PARTIES hereto agree that if any provision of this Agreement is held to be invalid, illegal or unenforceable under present or future laws effective during the term of this Agreement, such provision(s) shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable

provision had never been comprised as a part of this Agreement, and that the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of each such illegal, invalid or unenforceable provision, the PARTIES agree to use all good faith efforts to add a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.


(13) **BINDING EFFECT**. The PARTIES hereto agree that this Agreement shall be binding on, and inure to the benefit of, the heirs, representatives, successors and assigns of each of the Parties hereto.

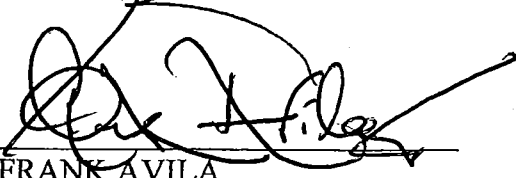
(14) **VOLUNTARY AGREEMENT**. The PARTIES hereto agrees that they have carefully read this Agreement or had it read to them and know the contents hereof and that they signed same freely and voluntarily.

DATED and EFFECTIVE on this the 18th day of March, 2009.

By: _____
PLAINTIFF
APPELLEE
AARON PATTERSON

By: _____
DEMITRUS EVANS
ON BEHALF OF AARON PATTERSON

By: 
ADAM J. LOEWY
ON BEHALF OF APPELLANT CROSS APPELLEE,
BARRY & LOEWY LLP

By: 
FRANK AVILA
ON BEHALF OF APPELLANT CROSS APPELLEE,
AVILA & TOMIC LLC

By: _____
JOHN STAINTHORP
ON BEHALF OF APPELLEE CROSS-APPELLANT,
PEOPLE'S LAW OFFICE

ACKNOWLEDGMENT

THE STATE OF _____

Know all men by these presents

COUNTY OF _____

BEFORE ME, the undersigned Notary Public, on this day personally appeared AARON PATTERSON, known to me to be the person whose name is subscribed to the foregoing "Compromise, Settlement and Release Agreement", who being by me duly sworn on his oath acknowledged to me that he executed the same in the capacities and for the purposes and consideration therein expressed. Additionally, said AARON PATTERSON further testified and verified that all factual recitations, representations, affirmations and acknowledgments set forth in said "Compromise Settlement and Release Agreement" are all true and correct, and within his personal knowledge.

AARON PATTERSON

SUBSCRIBED AND SWORN TO BEFORE ME by AARON PATTERSON on the _____ day of January, 2009, to certify which witness my hand and official seal.

NOTARY PUBLIC, in and for the
STATE OF _____