

SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is executed with an effective date of March 15, 2019, (the “Effective Date”), by and between Four Quarters Interfaith Sanctuary of Earth Religion (“Four Quarters”), on the one hand, and Kate Gille, William Van Meter and Joshua Powell (collectively, the “Defendants”), on the other, and shall become effective as of the Effective Date. Four Quarters and the Defendants (sometimes referred to herein individually as a “Party,” and jointly as the “Parties”) hereby recite the following:

WHEREAS, the Parties are parties to certain litigation docketed in the United States District Court for the Western District of Pennsylvania, Johnstown Division, Case No. 3:19-cv-12 (the “Action”).

WHEREAS, in the Action Four Quarters alleges that it is the owner of certain trademarks, copyright and other intellectual property as set forth therein, and that Defendants are infringing and misappropriating that intellectual property;

WHEREAS, Four Quarters further alleges that it is the owner of a certain Facebook Group (the “Group”) formerly titled Wickerman Burn, now titled WickerFamily Burn, and that Defendants have unlawfully taken control of the Group; and

WHEREAS, to avoid the cost, inconvenience and burdens associated with continuing litigation, Four Quarters and the Defendants have agreed to compromise and settle the Action.

NOW, THEREFORE, in consideration of the foregoing recitals, mutual representations, covenants and agreements, and intending to be legally bound, the Parties covenant, stipulate, and agree to the following:

1. Use of “Wicker” for events. Defendants agree to, and shall, cease and desist all uses of the term “Wicker” and any term confusingly similar thereto in connection with any event they put on, including but not limited to all URLs, websites, posts, advertising and literature. The phase out shall be complete within ten (10) days of the Effective Date, subject to a ten (10) day cure period commencing upon the send date of written notice to at least one of the Defendants. Further, Four Quarters specifically agrees that the use of the name “Summer Isle Burn” is acceptable to it, and such use is permitted under the terms of this Agreement.

2. Use of “Wicker” for Group and social media. Defendants agree to, and shall, cease and desist all uses of the term “Wicker” and any term confusingly similar thereto in connection with the Group or any social media internet presence of Defendants, including but not limited in all URLs, websites, posts, advertising and literature. The phase out shall be complete within ten (10) days of the Effective Date, subject to a ten (10) day cure period commencing upon the send date of written notice to at least one of the Defendants. Further, Four Quarters specifically agrees that the Defendant may change the name of the Group to “WT Effigy: Central PA,” and such name is permitted under the terms of this Agreement.

3. Ownership and use of the Group. Four Quarters agrees for itself, and its respective attorneys, officers, board members, heirs, successors and/or assigns that to the extent it ever had any ownership interest in or to the Group, it hereby transfers, assigns and conveys to the Defendants any and all of whatever ownership interest it might have had in regards to the Group. Notwithstanding the foregoing, Defendants agree to allow Four Quarters and its agents to make posts to, or otherwise communicate over, the Group, including without limitation providing information regarding the Wickerman Burn event. Four Quarters agrees that any such post or communication shall observe and abide by the rules and regulations applicable to all users of the Group, including without limitation the 10 Principles of Burning Man (the “Principles”), which shall be determined by Defendants in their sole discretion. If a post is determined to be improper, then Defendants sole remedy shall be to take down the post and notify Four Quarters of the deletion and the basis for it. Upon a second improper post being made, Defendants sole remedy shall be to take down the post and notify Four Quarters of the deletion and the basis for it. Upon a third improper post being made, Defendants sole remedy shall be to take down the post and remove the poster from the Group.

4. Release. The Parties agree, for themselves and their respective attorneys, officers, board members, heirs, successors and/or assigns that they hereby release, remise, quitclaim and forever completely discharges the other Party, and their respective attorneys, heirs, successors and assigns, from and against any and all claims, counterclaims, rights, demands, costs, damages, losses, liabilities, actions and causes of action, of every nature and description, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, real or imaginary, actual or potential, at law or in equity, under the common law, state law, federal law, or any other law from the beginning of time up to and including the Effective Date (collectively, the “Claims”). Claims that are released hereby include, without limitation, Claims specifically made in the Action, Claims regarding the use of the word Wicker, and Claims regarding a Facebook Group formerly named Wickerman Burn and now named WickerFamily Burn.

This release is not a general release. This release is limited in that it applies only to Claims whose material facts are those set forth in the pleadings to the Action. The Parties do not release, and they retain to themselves, the right to bring other actions against each other that are not covered by this release.

5. Public Posting. No later than five days from the Effective Date, Defendants shall post to the Group the following statement:

Effectively immediately the name of this Facebook Group is now “WT Effigy: Central PA.” This change is occurring pursuant to the terms of settlement for litigation filed in the United States District Court for the Western District of Pennsylvania, Johnstown Division, Case No. 3:19-cv-12.

6. Dismissal of the Action. Within five (5) calendar days after the Effective Date, Four Quarters shall dismiss the Action with prejudice pursuant to Federal Rules of Civil Procedure Rule 41.

7. Indemnification. Should any party to this Agreement, or any other person or entity acting by, through or under such party, bring any claim or claims against any other party hereto which were released, waived, compromised, or otherwise resolved by this Agreement, the party bringing said claim or claims shall indemnify, defend, and hold the party against which said claim or claims is asserted harmless from and against any and all claims, actions, suits, demands, assessments, or judgments asserted, and any and all losses, liabilities, damages, costs, and expenses (including, without limitation, attorneys' fees, costs and expenses) incurred, arising out of, or relating to the assertion of the claim or claims or the defense thereof.

8. Attorneys' Fees. In the event that a dispute arises relating to, arising from, or in connection with this Agreement (other than as to the Forum Selection clause, which is addressed specifically in Section 9, herein), the prevailing party (i.e., the party in whose favor a judgment is rendered) in any such dispute shall be entitled to an award and recovery of its reasonable attorneys' fees, costs and expenses.

9. Forum Selection. The Parties irrevocably consent and agree that any dispute relating to, arising from, or in connection with this Agreement shall be decided solely and exclusively by the United States District Court for the Western District of Pennsylvania, Johnstown Division. Any party who challenges the enforceability of this forum selection clause, whatever the outcome of that challenge, shall reimburse the other party or parties for their attorneys' fees, costs and expenses incurred in any litigation over this forum selection clause.

10. Understanding of the Terms. The Parties expressly warrant and represent that, before executing this Agreement, they have read the entire Agreement and completely understand its full contents and its effects.

11. Controlling Law. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

12. Successors in Interest. The rights and obligations of the Parties hereto shall be binding on, and will be of benefit to, each of the Parties' respective successors, assigns, heirs and/or estates.

13. Authority to Execute. It is agreed to by the Parties that the individuals who shall execute this Agreement for the respective Parties possess all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated hereby.

14. Integration Clause. This Agreement contains the entire agreement between the parties hereto.

15. Adequacy of Consideration. The Parties and their respective attorneys represent, acknowledge, and state that the aforementioned consideration is fair and reasonable under the circumstances involved.

16. Severance Clause. In the event that any term of this Agreement is held to be unenforceable, the remainder of this Agreement shall not be affected and shall remain in full force and effect.

17. Counterparts. This Agreement may be executed in multiple originals and in counterparts. Each counterpart, when executed, shall be deemed an original, and such counterparts collectively shall constitute one and the same instrument.

18. Modification. No provision contained herein may be modified, amended or waived except by written agreement or consent duly executed by the authorized representatives of the Parties.

IN WITNESS WHEREOF, the Parties approve and execute this Agreement as of the date indicated with their respective signatures.

FOUR QUARTERS INTERFAITH SANCTUARY
OF EARTH RELIGION

By: _____

Printed Name: _____

Title: _____

Date: _____

Kate Gille

Dated: _____

William Van Meter

Dated: _____

Joshua Powell

Dated: _____