



November 24, 2020

Robert Wagner
c/o attorney Karen Vickers
kvickers@mershanlaw.com

**RE Invitation to Mediate
Jones vs. Robert Wagner et al.**

As you know, we've been retained by Mr. Jones, the putative guardian ad litem for a Black Lake Oswego School District student, to prosecute a civil rights claim against you for racial discrimination.

As stated in our last letter to you, an agent of a public body may have an indemnity claim against the public body for all legal liability. *See* ORS 30.285 ("The governing body of any public body shall defend, save harmless and indemnify any of its officers, employees and agents, whether elective or appointive, against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act of omission occurring in the performance of duty.")

By failing to act reasonably to settle this claim on your behalf, the insurance adjuster for the school district may not have acted in your best interest. *See, e.g., Goddard v Farmers Ins. Co.*, 202 Or App 79, 85 (2005) ("Under Oregon law, an insurer owes a duty of care to its insured that includes a duty to make reasonable efforts to settle claims in order to avoid exposing the insured to liability in excess of policy limits.")

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If you are interested in attending a second mediation with Mr. Jones in hopes of resolving this dispute please let us know. It may be possible to resolve these claims against you personally without paying any money and by agreeing to cooperate as a witness and by assigning any claims you may have against the school district and its insurance adjuster to Mr. Jones.

Thank you.

Sincerely,

s/ Michael Fuller
Partner