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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

18 AMERICAN CIVIL LIBERTIES UNION OF)
NORTHERN CALIFORNIA,)

19 Plaintiff,)

20 v.)

21 UNITED STATES IMMIGRATION AND)
22 CUSTOMS ENFORCEMENT,)

23 Defendant.)

CASE NO. 3:18-cv-03050-JCS

**STIPULATION AND ~~PROPOSED~~ ORDER
RE: SETTLEMENT AND DISMISSAL WITH
PREJUDICE**

24
25 Plaintiff American Civil Liberties Union of Northern California (“plaintiff”) and defendant
26 United States Immigration and Customs Enforcement (“defendant”) hereby enter into this Stipulation
27 and [Proposed] Order Re Settlement and Dismissal With Prejudice (“Stipulation”), as follows:
28

STIPULATION AND [PROPOSED] ORDER RE: SETTLEMENT AND DISMISSAL WITH
PREJUDICE

1 WHEREAS, on May 23, 2018, plaintiff filed its Complaint under the Freedom of Information
2 Act (“FOIA”), 5 U.S.C. § 552, as amended;

3 WHEREAS, plaintiff and defendant wish to avoid any further litigation and controversy and
4 compromise fully any and all claims and issues that have been raised, or could have been raised in this
5 action;

6 NOW, THEREFORE, in consideration of the mutual promises contained in this Stipulation, and
7 other good and valuable consideration, receipt of which is hereby anticipated, the parties agree as
8 follows:

9 1. Defendant shall pay to plaintiff the amount of eight thousand five hundred and ninety-
10 seven dollars and sixty-eight cents (\$8,597.68) in full and complete satisfaction of plaintiff’s claims for
11 attorney’s fees, costs, and litigation expenses under the FOIA in the above-captioned matter. This
12 payment shall constitute full and final satisfaction of any and all of plaintiff’s claims for attorneys’ fees,
13 costs, and litigation expenses in the above-captioned matter, and is inclusive of any interest. Payment of
14 this money will be made by electronic funds transfer, and plaintiff’s counsel will provide the necessary
15 information to defendant’s counsel to effectuate the transfer. Defendant will make all reasonable efforts
16 to make payment within sixty (60) days of the date that plaintiff’s counsel provides the necessary
17 information for the electronic funds transfer and this Stipulation is approved by the Court, whichever is
18 later, but cannot guarantee payment within that time frame.

19 2. Upon the execution of this Stipulation, plaintiff hereby releases and forever discharges
20 defendant, its successors, the United States of America, and any department, agency, or establishment of
21 the United States, and any officers, employees, agents, successors, or assigns of such department,
22 agency, or establishment, from any and all claims and causes of action that plaintiff asserts or could
23 have asserted in this litigation, or which hereafter could be asserted by reason of, or with respect to, or in
24 connection with, or which arise out of, the FOIA request on which this action is based or any other
25 matter alleged in the Complaint, including but not limited to all past, present, or future claims for
26 attorneys’ fees, costs, or litigation expenses in connection with the above-captioned litigation.

27 3. The provisions of California Civil Code Section 1542 are set forth below:

28 "A general release does not extend to claims which the creditor does not know or suspect
STIPULATION AND [PROPOSED] ORDER RE: SETTLEMENT AND DISMISSAL WITH
PREJUDICE

1 to exist in his favor at the time of executing the release, which if known by him must
2 have materially affected his settlement with the debtor."

3 Plaintiff, having been apprised of the statutory language of Civil Code Section 1542 by its
4 attorneys, and fully understanding the same, nevertheless elects to waive the benefits of any and all
5 rights it may have pursuant to the provision of that statute and any similar provision of federal law.
6 Plaintiff understands that, if the facts concerning any liability under FOIA or liability for attorneys' fees,
7 costs, or litigation expenses are found hereafter to be other than or different than the facts now believed
8 by it to be true, the Stipulation shall be and remain effective notwithstanding such material difference.

9 4. Execution of this Stipulation and its approval by the Court shall constitute dismissal of
10 this case with prejudice pursuant to Fed. R. Civ. P. 41(a).

11 5. The parties acknowledge that this Stipulation is entered into solely for the purpose of
12 settling and compromising any remaining claims in this action without further litigation, and it shall not
13 be construed as evidence or as an admission on the part of defendant, the United States, its agents,
14 servants, components, or employees regarding any issue of law or fact, or regarding the truth or validity
15 of any allegation or claim raised in this action, or as evidence or as an admission by the defendant
16 regarding plaintiff's eligibility for or entitlement to attorneys' fees, costs, or other litigation expenses
17 under FOIA. This Stipulation is entered into by the parties for the purpose of compromising disputed
18 claims and avoiding the expenses and risks of litigation. This Stipulation shall not be used in any manner
19 to establish liability for fees or costs in any other case or proceeding involving defendant.

20 7. This Stipulation is binding upon and inures to the benefit of the parties hereto and their
21 respective successors and assigns.

22 8. If any provision of this Stipulation shall be held invalid, illegal, or unenforceable, the
23 validity, legality, and enforceability of the remaining provisions shall not in any way be affected or
24 impaired thereby.

25 9. This Stipulation shall constitute the entire agreement between the parties, and it is
26 expressly understood and agreed that this Stipulation has been freely and voluntarily entered into by the
27 parties hereto. The parties further acknowledge that no warranties or representations have been made on
28 any subject other than as set forth in this Stipulation.

1 10. The persons signing this Stipulation warrant and represent that they possess full authority
2 to bind the persons on whose behalf they are signing to the terms of the Stipulation.

3 11. This Stipulation may not be altered, modified or otherwise changed in any respect except
4 in writing, duly executed by all of the parties or their authorized representatives.

5 12. The Stipulation may be executed in counterparts and is effective on the date by which
6 both parties have executed the Stipulation.

7 SO STIPULATED AND AGREED.

8 DATED: February 22, 2019

Respectfully submitted,

9 DAVID L. ANDERSON
10 United States Attorney

11 /s/ Kimberly A. Robinson
12 KIMBERLY A. ROBINSON*
13 Assistant United States Attorney
14 Attorneys for Defendant U.S.
15 Immigration and Customs
16 Enforcement

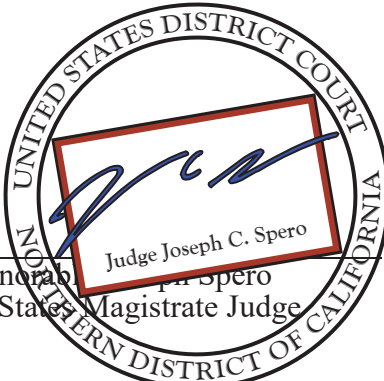
17 DATED: February 22, 2019

18 /s/ Vasudha Talla
19 VASUDHA TALLA
20 Attorney for Plaintiff ACLU of
21 Northern California

22 * *In compliance with Civil Local Rule 5-1(i), the filer of this document attests that all signatories listed
23 have concurred in the filing of this document.*

24 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

25 DATED: February 26, 2019

26 
27 The Honorable Judge Joseph C. Spero
28 United States Magistrate Judge