

## SETTLEMENT AGREEMENT AND RELEASE

Plaintiffs National Association of the Deaf, Graham Forsey, Debra Fleetwood, John Rivera, Jr., and Corey Axelrod (collectively, “Plaintiffs”<sup>1</sup>), by and through their undersigned counsel, and Defendants Joseph R. Biden, in his official capacity as President of the United States; the Executive Office of the President; the White House Office; the Office of the Vice President; and Jen Psaki, in her official capacity as Press Secretary to the President of the United States (collectively, “Defendants”), by and through undersigned counsel, hereby enter into the following Settlement Agreement (“Agreement”).<sup>2</sup>

WHEREAS Plaintiffs initiated this action and filed a motion for preliminary injunction in the U.S. District Court for the District of Columbia on August 3, 2020, by filing a complaint alleging that Defendants violated the Rehabilitation Act by failing to provide qualified American Sign Language (“ASL”) interpreters at public White House briefings regarding the COVID-19 pandemic (the “Complaint”);

WHEREAS, on September 9, 2020, the Court issued a Memorandum Opinion and Order granting in part and denying in part Plaintiffs’ Motion for Preliminary Injunction;

WHEREAS, on September 23, 2020, the Court entered a preliminary injunction order directing Defendants to provide qualified ASL interpreters for “White House coronavirus briefings” (as defined therein);

WHEREAS, on November 23, 2020, Defendants filed a notice of appeal to the D.C. Circuit;

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<sup>1</sup> Plaintiff Carlton Strail passed away on April 16, 2021, and is thus not a party to this Agreement.

<sup>2</sup> This Agreement shall collectively refer to Plaintiffs and Defendants together as “the Parties.”

WHEREAS, on March 17, 2021, Defendants filed a motion to dismiss their appeal voluntarily, which the D.C. Circuit granted on March 22, 2021;

WHEREAS, on April 26, 2021, the White House issued a memorandum entitled “Communication Services for People Who Are Deaf or Hard of Hearing at Presidential Briefings” (the “Policy,” which is attached hereto as **Exhibit A**) setting forth the policy of the Executive Office of the President regarding the provision of ASL interpreters and closed captioning services at White House Briefings;

WHEREAS the Policy states that “[t]he Biden-Harris Administration is committed to accessibility for all Americans, including by ensuring effective communication at Presidential briefings with people who are Deaf or Hard of Hearing[;]”

WHEREAS the Policy provides that it “will be reviewed on an ongoing basis and may be updated to address significant changes in technology or best industry practices[;]”

WHEREAS the Policy states that the Executive Office of the President shall provide a qualified ASL interpreter at the following types of White House briefings: (1) “Briefings conducted by the President, Vice President, First Lady, Second Gentleman, or White House Press Secretary, for which the White House Press Office or the White House Office of the Press Secretary provide public notice of their occurrence before the event commences and that are captured by the White House Communications Agency (WHCA);” (2) “Briefings held to address the coronavirus pandemic, including updates regarding the spread of COVID-19, the federal government’s response to the pandemic, and vaccinations or treatments;” and (3) “Any other briefings as approved by the White House Press Secretary or designee, Director of the Office of Administration (OA) and Director of the Office of Management and Administration, or designee(s)[;]”

WHEREAS a “briefing” for purposes of the Policy “is considered an event open to the press[;]”

WHEREAS the Policy provides that, when “the qualified ASL interpreter is being filmed in a remote location, WHCA shall include in the frame a separate video feed of the interpreter using a picture-in-picture (PIP) format” and the width of the interpreter feed shall constitute “at least 33% of the full width of the screen[;]”

WHEREAS, pursuant to the Policy, whenever WHCA “uses the PIP format described above,” the White House will: (1) “Provide the video feed of the qualified ASL interpreter to television networks or the networks’ pool feed for use in their live broadcasts;” (2) “Include the video feed of the qualified ASL interpreter in the White House feed that is aired or uploaded on WH.gov;” and “Ensure that the video feed of the qualified ASL interpreter is included in the video uploaded to the White House’s social media pages[;]”

WHEREAS the Policy additionally provides that “[w]ithin approximately 24 hours of a covered White House briefing or other briefing captured by WHCA,” the video feed of the briefing including closed captioning will be uploaded to WH.gov as well as the White House’s pages on Facebook and YouTube;

WHEREAS the practices described in the Policy are consistent with the relief Plaintiffs seek in the Complaint;

WHEREAS Plaintiffs and Defendants desire, through this Agreement, to avoid the costs and burdens associated with further litigation, the Parties have determined to settle this matter as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and obligations in this Agreement, and with full authority to enter into this Agreement, and intending to be bound thereby, the Parties agree as follows:

1. Defendants will pay a total of \$225,000 to Plaintiffs' counsel, Arnold & Porter Kaye Scholer, LLP, in full and complete satisfaction of any claims by Plaintiffs for attorney's fees, expenses, and costs in connection with the above-captioned case, *National Association of the Deaf, et al. v. Biden, et al.*, No. 20-cv-2107-JEB (D.D.C.).

2. Within 3 business days after receiving the payment described in Paragraph 1, Plaintiffs agree to dismiss this suit with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) according to the attached stipulation.

3. In exchange for the payment described in Paragraph 1, Plaintiffs hereby execute a full and complete release of all claims asserted in the Complaint or that could have been asserted in the Complaint. The Parties agree that this release shall not be construed to include claims based on any acts or omissions that may occur after the date of execution of this Agreement.

4. This Agreement shall be governed by and construed in accordance with the laws of the United States. Any action to enforce this Agreement, and any and all disputes relating directly or indirectly to or in any way in connection with this Agreement, shall hereafter be heard exclusively in the U.S. District Court for the District of Columbia.

5. Nothing in this Agreement shall constitute or be construed to constitute an admission of any wrongdoing or liability by Defendants, an admission by Defendants of the truth of any allegations or the validity of any claim asserted in this Action, a concession or admission by Defendants of any fault or omission of any act or failure to act, or a finding that Defendants acted in bad faith.

6. This Agreement shall be binding upon, and inure to the benefit of, all successors and assigns of the Parties hereto.

7. This Agreement constitutes the entire agreement among the Parties with respect to the subject matter of this Agreement.

8. This Agreement shall not be changed, altered, or modified in any manner except in a writing signed by all Parties to this Agreement.

9. The undersigned counsel represent and warrant that they are fully authorized to execute this Settlement Agreement on behalf of the parties they represent.

10. None of the Parties hereto shall be considered to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof. For the purposes of construing this Settlement Agreement, the Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party.

11. This Agreement may be executed in counterparts. Facsimile or PDF-ed signatures shall be considered as valid signatures as of the date thereof.

12. Each of the Parties represents that this Agreement and its recitals are being voluntarily executed by such party without any duress or undue influence of any kind on that party by any person, firm, or entity.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, the following Parties have caused this Settlement Agreement to be executed on behalf of themselves or by their respective duly authorized officers as of the dates indicated below.

*On behalf of the Plaintiffs:*

Marc P. Charmatz

Marc Charmatz  
*On behalf of the National Association of the Deaf*

Dated: Sep 9, 2021, 2021

Graham Forsey  
Graham Forsey (Sep 1, 2021 13:53 EDT)

Graham Forsey

Dated: Sep 1, 2021, 2021

Debra Fleetwood  
Debra Fleetwood (Sep 4, 2021 09:51 EDT)

Debra Fleetwood

Dated: Sep 4, 2021, 2021

John Rivera Jr  
John Rivera Jr (Aug 31, 2021 17:32 EDT)

John Rivera, Jr.

Dated: Aug 31, 2021, 2021

Corey Axelrod  
Corey Axelrod (Sep 3, 2021 07:35 CDT)

Corey Axelrod


Dated: Sep 3, 2021, 2021

*On behalf of Defendants Joseph R. Biden, in his official capacity as President of the United States;  
the Executive Office of the President; the White House Office; the Office of the Vice President;  
and Jen Psaki, in her official capacity as Press Secretary to the President of the United States, by  
their counsel:*

JENNIFER D. RICKETTS  
Branch Director  
Federal Programs Branch

CARLOTTA P. WELLS  
Assistant Branch Director  
Federal Programs Branch

**AMBER  
RICHER**

 Digitally signed by  
AMBER RICHER  
Date: 2021.09.13 09:02:29  
-04'00'

Dated: \_\_\_\_\_, 2021

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,

*Plaintiffs,*

v.

JOSEPH R. BIDEN, *et al.*,

*Defendants.*

Civil Action No. 1:20-cv-2107

**JOINT STIPULATION OF DISMISSAL WITH PREJUDICE**

Plaintiffs National Association of the Deaf, Graham Forsey, Debra Fleetwood, John Rivera, Jr., and Corey Axelrod (collectively, “Plaintiffs”<sup>1</sup>), by and through their undersigned counsel, and Defendants Joseph R. Biden, in his official capacity as President of the United States; the Executive Office of the President; the White House Office; the Office of the Vice President; and Jen Psaki, in her official capacity as Press Secretary to the President of the United States (collectively, “Defendants”), by and through undersigned counsel, hereby stipulate to the dismissal of this action with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

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<sup>1</sup> Plaintiff Carlton Strail passed away on April 16, 2021.



Dated: \_\_\_\_\_, 2021

Respectfully submitted,

BRIAN M. BOYNTON  
Acting Assistant Attorney General

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