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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Ilsa Saravia, as next friend for A.H., a minor,
and on behalf of herself individually and
others similarly situated,

Plaintiff,

v.

Merrick Garland, Attorney General, *et al.*,

Defendants.

Case No. 3:17-cv-03615-VC-LB

**JOINT STIPULATION AND
~~PROPOSED~~ ORDER FOR DISMISSAL
AND JUDGMENT NUNC PRO TUNC**

On January 19, 2021, the Court granted the Parties' Motion for Final Approval of Class Action Settlement, ECF No. 246. *See* ECF No. 249. Pursuant to Section VI of the Settlement Agreement, "[p]romptly following the Effective Date, Plaintiff shall file a stipulated request for dismissal and judgment. This Action shall be dismissed upon the Court's approval of the stipulated request for dismissal and entry of judgment (the 'Dismissal Date')." *See* ECF No. 237-1. Further, the "Agreement shall remain in full force and effect for five (5) years following the Dismissal Date." *Id.* Due to an oversight, the record does not reflect that a stipulated request for dismissal and judgment following the Effective Date (i.e., final Court approval which was January 19, 2021) was filed in this matter. However, the Court's docket shows that the case was closed on January 21, 2021, without an order or judgment. Therefore, to ensure that there are no discrepancies concerning the termination date, the Parties submit the instant joint stipulation for dismissal and judgment now, and request the Court to enter it *nunc pro tunc* so the dismissal date is January 21, 2021.

"An order *nunc pro tunc* (literally 'now for then') is an equitable remedy traditionally used to apply a court's own order or judgment retroactively." *Ethyl Corp. v. Browner*, 67 F.3d 941, 945 (D.C. Cir. 1995). "The principle underlying entry of a judgment or an order *nunc pro tunc* is that of fairness to the parties, seeking to rectify any injustice suffered by them on account of judicial delay." *Weil v. Markowitz*, 829 F.2d 166, 174-75 (D.C. Cir. 1987). A "*nunc pro tunc* order should be granted or refused, as justice may require, in view of the circumstances of the particular case." *Id.* at 175 (citing *Mitchell v. Overman*, 103 U.S. (13 Otto) 62, 65 (1881)). Such an order "must have a proper factual basis." *Id.* "[W]here delay has been caused either for a court's convenience, or by intricacy of the questions involved, or by any other cause not attributable to the laches of the parties, the judgment or the decree may be entered retrospectively." *Barnes v. D.C.*, 924 F. Supp. 2d 103, 110 (D.D.C. 2013) (citing *Mitchell*, 103 U.S. at 64-65). "In such cases . . . it is the duty of the court to see that the parties shall not suffer by the delay." *Id.*

An order from the Court will clarify the dismissal date and ensure that the Parties are aware of the termination date in line with the terms and conditions of Settlement Agreement. Thus, the

Parties submit this joint stipulation for dismissal and judgment now, and request the Court to enter it *nunc pro tunc* so the dismissal date is January 21, 2021.

DATED: May 31, 2024

Respectfully submitted,

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ATTESTATION OF AUTHORIZATION TO FILE

Pursuant to Civil L.R. 5-1(i)(3) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from the other signatories.

/s/ Fizza Batoool
FIZZA BATOOL
Trial Attorney


~~[PROPOSED]~~ **ORDER GRANTING STIPULATION FOR DISMISSAL AND ENTRY OF JUDGMENT**

Pursuant to stipulation, Plaintiff's claims are hereby DISMISSED WITH PREJUDICE, subject to the terms of the Settlement Agreement and with retention of jurisdiction as set forth in this Order.

1. This Order incorporates the Court's order granting final approval of the Settlement Agreement. ECF 249, 237-1.
2. The Dismissal Date for purposes of the Settlement Agreement is set *nunc pro tunc* as January 21, 2021. *See* ECF 237-1, Section VI.A.
3. This Order and all obligations of the parties under the Settlement Agreement will terminate five years after the Dismissal Date. *See* ECF 237-1, Section VI.B.
4. From the Dismissal Date until the obligations of the parties under the Settlement Agreement terminate, the Court will retain jurisdiction over this case for the purpose of enforcing the terms of the Settlement Agreement and to review any future modifications to the Settlement Agreement that the parties might enter into upon mutual agreement.

IT IS SO ORDERED.

Dated: June 3, 2024


 The Honorable Vince Chhabria
 U.S. District Court, Northern District of California

CERTIFICATE OF SERVICE

I certify that on May 31, 2024, I served a copy of the foregoing pleading on all counsel of record by means of the District Court's CM/ECF electronic filing system.

/s/ Fizza Batool
 FIZZA BATOOL
 Trial Attorney