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8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

12	ROGER GALLUP,)	No. C 09-00210-SC
13	Plaintiff,)	
14	v.)	STIPULATION AND [PROPOSED] ORDER
15	UNITED STATES POSTAL SERVICE,)	APPROVING COMPROMISE
16	Defendant.)	SETTLEMENT

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 18 IT IS HEREBY STIPULATED by and between Plaintiff Roger Gallup and Defendant
 19 United States of America, by and through their respective attorneys as follows:

- 20 1. The parties do hereby agree to settle and compromise the above-entitled action under the
 21 terms and conditions set forth herein.
 22 2. Defendant United States of America agrees to pay to Plaintiff Roger Gallup the sum of
 23 Thirty Thousand Dollars and no cents (\$30,000.00), which sum shall be in full settlement and
 24 satisfaction of any and all claims, demands, rights, and causes of action of whatsoever kind and
 25 nature, arising from, and by reason of any and all known and unknown, foreseen and unforeseen
 26 bodily and personal injuries, damage to property and the consequences thereof, resulting, and to
 27 result, from the same subject matter that gave rise to the above-captioned lawsuit, including any
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1 claims for wrongful death, for which Plaintiff or his heirs, executors, administrators, or assigns,
 2 and each of them, now have or may hereafter acquire against the United States of America, its
 3 agencies, agents, servants, and employees.

4 3. Plaintiff and his heirs, executors, administrators or assigns hereby agree to accept the sum
 5 listed in paragraph 2 in full settlement and satisfaction of any and all claims, demands, rights, and
 6 causes of action of whatsoever kind and nature, arising from, and by reason of any and all known
 7 and unknown, foreseen and unforeseen bodily and personal injuries, damage to property and the
 8 consequences thereof which she may have or hereafter acquire against the United States of
 9 America, its agencies, agents, servants and employees on account of the same subject matter that
 10 gave rise to the above-captioned lawsuit, including any future claim for wrongful death. Plaintiff
 11 and his heirs, executors, administrators or assigns further agree to reimburse, indemnify and hold
 12 harmless the United States of America, its agencies, agents, servants or employees from any and
 13 all such causes of action, claims, liens, rights, or subrogated or contribution interests incident to or
 14 resulting from further litigation or the prosecution of claims by Plaintiff or his heirs, executors,
 15 administrators or assigns against any third party or against the United States, including claims for
 16 wrongful death.

17 4. This stipulation for compromise settlement shall not constitute an admission of liability or
 18 fault on the part of the United States, its agencies, agents, servants, or employees, and is entered
 19 into by the parties for the purpose of compromising disputed claims and avoiding the expenses and
 20 risks of litigation.

21 5. This Agreement may be pled as a full and complete defense to any subsequent action or
 22 other proceeding involving any person or party which arises out of the claims released and
 23 discharged by the Agreement.

24 6. It is also agreed, by and among the parties, that the settlement amount of Thirty Thousand
 25 Dollars and no cents (\$30,000.00) to Roger Gallup represents the entire amount of the compromise
 26 settlement and that the respective parties will each bear their own costs, fees, and expenses and
 27 that any attorneys' fees owed by Plaintiff will be paid out of the settlement amount and not in
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1 addition thereto.

2 7. It is also understood by and among the parties that, pursuant to Title 28, United States
3 Code, Section 2678, attorneys' fees for services rendered in connection with this action shall not
4 exceed 25 percent of the amount of the compromise settlement.

5 8. Payment of the settlement amount will be made by a check drawn on the United States
6 Postal Service for Thirty Thousand Dollars and no cents (\$30,000.00) and made payable to the
7 Law Office of Scott L. Woodall. Plaintiff and his attorney are responsible for payment for any
8 taxes that may be due on the settlement proceeds and Defendant makes no representation as to any
9 tax consequences or liabilities Plaintiff and his attorney may incur as a result of this settlement.

10 9. In consideration of this Agreement and the payment of the foregoing amount thereunder,
11 Plaintiff agrees that upon notification that the settlement check is ready for delivery, he will
12 deliver to Defendant's counsel a fully executed Notice of Dismissal with prejudice of Gallup v.
13 United States Postal Service, C 09-0210-SC. Upon delivery of the Notice of Dismissal,
14 Defendant's counsel will release the settlement check to Plaintiff's counsel or his agent.

15 10. Plaintiff has been informed that payment may take sixty days or more to process, but
16 Defendant agrees to make good faith efforts to expeditiously process said payment.

17 11. The parties agree that should any dispute arise with respect to the implementation of the
18 terms of this Agreement, Plaintiff shall not seek to rescind the Agreement and pursue his original
19 causes of action. Plaintiff's sole remedy in such a dispute is an action to enforce the Agreement in
20 district court. The parties agree that the district court will retain jurisdiction over this matter for
21 the purposes of resolving any dispute alleging a breach of this Agreement.

22 12. Plaintiff hereby releases and forever discharges the United States and any and all of its
23 past and present officials, employees, agencies, agents, attorneys, their successors and assigns,
24 from any and all obligations, damages, liabilities, actions, causes of action, claims and demands of
25 any kind and nature whatsoever, whether suspected or unsuspected, at law or in equity, known or
26 unknown, arising out of the allegations set forth in Plaintiff's pleadings in this action.

27 13. The provisions of California Civil Code Section 1542 are set forth below:
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1 "A general release does not extend to claims which the creditor does not know or suspect to
2 exist in his favor at the time of executing the release, which if known by him must have
materially affected his settlement with the debtor."

3 Plaintiff having been apprised of the statutory language of California Civil Code Section 1542 by
4 her attorneys, and fully understanding the same, nevertheless elects to waive the benefits of any
5 and all rights he may have pursuant to the provision of that statute and any similar provision of
6 federal law. Plaintiff understands that, if the facts concerning Plaintiff's injuries and the liability
7 of the government for damages pertaining thereto are found hereinafter to be other than or
8 different from the facts now believed by them to be true, the Agreement shall be and remain
9 effective notwithstanding such material difference.

10 14. This instrument shall constitute the entire Agreement between the parties, and it is
11 expressly understood and agreed that the Agreement has been freely and voluntarily entered into
12 by the parties hereto with the advice of counsel, who have explained the legal effect of this
13 Agreement. The parties further acknowledge that no warranties or representations have been made
14 on any subject other than as set forth in this Agreement. This Agreement may not be altered,
15 modified or otherwise changed in any respect except by writing, duly executed by all of the parties
16 or their authorized representatives.

17
18 Dated: May 14, 2010




ROGER GALLUP
Plaintiff

19
20 Dated: May 14, 2010



SCOTT L. WOODALL
Attorney for Plaintiff

21
22
23 Dated: May 14, 2010

JOSEPH P. RUSSONIELLO
United States Attorney


EDWARD A. OLSEN
Assistant United States Attorney



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[PROPOSED] ORDER

APPROVED AND SO ORDERED.

Dated: _____

SAMUEL CONTI
United States District Court Judge