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15
 16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
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19 HIGH SIERRA HIKERS ASSOCIATION,

20 Plaintiff,

21 v.

22 UNITED STATES DEPARTMENT OF THE
 INTERIOR, et al.,

23 Defendants.
 24

Case No. CV-09-4621-RS

STIPULATION TO SETTLE
 PLAINTIFF'S CLAIM FOR
 ATTORNEYS' FEES, COSTS,
 AND OTHER EXPENSES AND
~~PROPOSED ORDER~~

JUDGE: HONORABLE
 RICHARD SEEBORG

Courtroom: 3, 17th Floor

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2 WHEREAS, on October 26, 2012, the Plaintiff High Sierra Hikers Association (High
3 Sierra) filed a Motion for Attorneys' Fees, Costs, and Other Expenses Pursuant to 28 U.S.C. §
4 2412,

5 WHEREAS, High Sierra and the Defendants, United States of the Interior, et al., have
6 reached an agreement to settle High Sierra's claim for attorneys' fees, costs, and other expenses,
7

8 NOW, THEREFORE, High Sierra and the Defendants hereby agree and stipulate as
9 follows:

10 1. The Defendants agree to settle High Sierra's claim for attorneys' fees, costs, and
11 other expenses of litigation for \$280,000, which shall be paid by the National Park Service from
12 appropriated funds.

13 2. Payment, as identified in Paragraph 1 above, shall be accomplished by electronic
14 funds transfer to the law firm of Morrison & Foerster LLP, 425 Market Street, San Francisco,
15 California 94105, counsel for High Sierra. Undersigned counsel for High Sierra shall provide to
16 the undersigned counsel for the Defendants the appropriate account number and any other
17 information needed to make payment. The Defendants shall submit the necessary paperwork for
18 payment to the appropriate National Park Service authorities within thirty (30) business days after
19 this Stipulation is entered into or after counsel for High Sierra provides the information required
20 to facilitate the payment, whichever is later. High Sierra's attorneys shall notify the Defendants'
21 attorneys when payment is received. The National Park Service shall make all reasonable efforts
22 to make payment within forty-five (45) days after receipt of High Sierra's bank account and
23 routing number.
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25 3. High Sierra agrees to the procedure outlined in Paragraph 2 above. High Sierra
26 and its attorneys agree to hold harmless the Defendants in any litigation, further suit, or claim
27 arising from payment of the agreed-upon \$280,000 settlement amount pursuant to Paragraph 2.
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2 4. High Sierra agrees to accept payment of \$280,000 in full satisfaction of any and all
3 claims for attorneys' fees, costs, and other expenses incurred in the above-captioned litigation
4 through the date of the filing of this Stipulation. Upon receipt of payment of the agreed-upon
5 \$280,000 settlement amount pursuant to Paragraph 2, High Sierra will withdraw its Motion for
6 Attorneys' Fees, Costs, and Other Expenses.

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8 5. This Stipulation is the result of compromise and settlement, and it is based on and
9 limited solely to the facts involved in this case. This Stipulation does not represent an admission
10 by any Party to any fact, claim, or defense concerning any issue in this case.

11 6. Nothing in this Stipulation shall be interpreted as, or shall constitute, a requirement
12 that the Defendants are obligated to pay any funds exceeding those available, or take any action in
13 contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of
14 federal appropriations law. If, however, Defendants fail to make full payment of the agreed-upon
15 \$280,000 settlement amount pursuant to Paragraph 2 within forty-five (45) days after this
16 Stipulation is entered, High Sierra has the right to renounce its Motion for Attorneys' Fees, Costs,
17 and Other Expenses for judicial determination.

18
19 7. This Stipulation contains the entire agreement between the parties to this
20 Stipulation, and all previous understandings, agreements, and communications prior to the date
21 hereof, whether express or implied, oral or written, relating to the subject matter of this
22 Stipulation, are fully and completely extinguished and superseded by this Stipulation. This
23 Stipulation may be modified upon mutual written consent of the parties and the Court's approval
24 of a joint stipulation to modify this Stipulation.

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26 8. The undersigned representatives of High Sierra and the Defendants certify that
27 they are fully authorized by the respective Parties which they represent to enter into the terms and
28 conditions of this Stipulation and legally to bind such Parties to the Stipulation.

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9. The provisions of this Stipulation shall apply to and be binding upon each of the Parties, including, but not limited to, their current and/or former officers, directors, servants, employees, successors, and assigns.

10. Nothing in the terms of the Stipulation shall be construed to limit or deny the authority of a federal official to promulgate or amend regulations.

11. This Stipulation represents the entirety of the undersigned Parties' commitments with regard to settlement of High Sierra's claim for attorneys' fees, costs, and other expenses of litigation. The terms of this agreement shall become effective upon approval by the Court of this Stipulation.

IT IS HEREBY AGREED AND SO STIPULATED.

Dated: March 4, 2013

BARBARA N. BARATH
MORRISON & FOERSTER LLP

By: /s/ *Barbara Barath* [as authorized]
Barbara Barath, Attorney for Plaintiff

Dated: March 4, 2013

CHARLES R. SHOCKEY
U.S. DEPARTMENT OF JUSTICE

By: /s/ *Charles R. Shockey*
Charles R. Shockey, Attorney for Defendants

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

BY: 

Dated: 3/5/13

HONORABLE RICHARD SEEBORG
U.S. DISTRICT COURT JUDGE