

FILED

SEP 15 2017

**SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

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20 UNITED STATES DISTRICT COURT
21 FOR THE NORTHERN DISTRICT OF CALIFORNIA

22 JOHN DOE,

23 Plaintiff,

24 v.

25 UNITED STATES DEPARTMENT OF
26 HOMELAND SECURITY, *et al.*,

27 Defendants.

No. 16-cv-04014-LB

**JOINT STIPULATION FOR
COMPROMISE SETTLEMENT
AND RELEASE OF ALL CLAIMS**

28 It is hereby stipulated by and between the undersigned Plaintiff A.M. Rashed Chowdhury
and Defendants U.S. Department of Homeland Security; U.S. Citizenship and Immigration

1 Services; Elaine Duke,¹ Acting Secretary, U.S. Department of Homeland Security; and James
2 McCament, Acting Director, U.S. Citizenship and Immigration Services,² by and through their
3 respective counsel, as follows:

4 1. The parties do hereby agree to settle and compromise each and every claim of any kind
5 pertaining to the claim for attorneys' fees and costs in this matter, including any such claims not
6 already before the Court, whether known or unknown, arising directly or indirectly from the acts
7 or omissions that gave rise to the claim for attorneys' fees and costs in the above-titled action
8 under the terms and conditions set forth in this Joint Stipulation for Compromise Settlement and
9 Release of All Claims ("Settlement Agreement").
10

11 2. This Settlement Agreement is not, is in no way intended to be, and shall not be construed
12 as, an admission of liability or fault on the part of Defendants, their agents, servants, or
13 employees, and it is specifically denied that they are liable to Plaintiff. All parties enter into this
14 Settlement Agreement for the purpose of settling their claims under the Equal Access to Justice
15 Act ("EAJA"), 28 U.S.C. § 2412(d), for fees and costs relating to or arising from this civil action
16 (*John Doe v. U.S. Department of Homeland Security, et al.*, No. 3:16-cv-4014 (N.D. Cal.)), and
17 avoiding the expenses and risks of further litigation. Further, none of the terms of this
18 Settlement Agreement may be offered or received into evidence or in any way referred to in any
19 civil, criminal, or administrative action or proceeding other than proceedings that may be
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25 ¹ Elaine Duke became the Acting Secretary of the Department of Homeland Security on July 31,
26 2017. Acting Secretary Duke is automatically substituted for Jeh Johnson in her official capacity
as a public officer pursuant to Federal Rule of Civil Procedure 25(d).

27 ² James McCament is the Acting Director of U.S. Citizenship and Immigration Services. Acting
28 Director McCament is automatically substituted for Leon Rodriguez in his official capacity as a
public officer pursuant to Federal Rule of Civil Procedure 25(d).

1 necessary to consummate or enforce the terms of this Settlement Agreement against Plaintiff. the
2 United States, or any agency or instrumentality of the United States.

3 3. Plaintiff understands that he is waiving any additional claims, known or unknown, that
4 may arise with respect to seeking any fees or costs from any Defendant for any claims arising out
5 of the above-titled matter.

6
7 4. In full settlement and satisfaction of any and all claims, demands, rights, or causes of
8 action for attorney's fees and taxable costs against Defendants in the above-titled case, including
9 those which are not parties to this Settlement Agreement, of whatsoever kind and nature, arising
10 out of or in connection with any event related to this action, including the motion for attorneys'
11 fees and costs currently pending before the Court:

12
13 a. Defendants agree to pay Plaintiff seventeen thousand nine hundred and fifty-eight
14 dollars (\$17,958.00) in settlement of Plaintiff's potential claims for attorney's
15 fees. Plaintiff agrees that this is a reasonable resolution of Plaintiff's claims for
16 attorney's fees.

17
18 b. Defendants agree to pay Plaintiff four hundred dollars (\$400.00) in settlement of
19 Plaintiff's potential claims for litigation costs. Plaintiff agrees that this is a
20 reasonable resolution of Plaintiff's claims for litigation costs.

21
22 c. Defendants shall submit a request for remittance of these fees and costs within ten
23 business days of the execution of this Settlement Agreement by all parties.

24 Defendants will use all good faith efforts to get these attorney's fees and litigation
25 costs paid in a timely manner and, in any event, in no more than 90 days.

26 However, Defendants cannot guarantee a date certain when payment will be
27 made.
28

1 d. Plaintiff represents that he has no existing debt to the United States and that he is
2 not subject to an offset under *Astrue v. Ratliff*, 560 U.S. 586 (2010).

3 e. Neither Plaintiff nor his counsel may pursue additional claims for attorney's fees,
4 costs, or other monies arising from this action other than for work in any
5 proceedings that may be necessary to enforce the terms of this Settlement
6 Agreement.

7
8 f. Plaintiff represents that his claim for attorney's fees and costs have been assigned
9 to his counsel, and Defendants accept the assignment and waive any applicable
10 provisions of the Anti-Assignment Act, 31 U.S.C. § 3727. The payment will be
11 transmitted by direct deposit to Plaintiff's counsel as follows:
12

- 13 i. Name of Bank: Wells Fargo Bank
- 14 ii. Street Address of Bank: 420 Montgomery St,
- 15 iii. City, State, and Zip Code of Bank: San Francisco, CA 94105
- 16 iv. Routing Number: 121000248
- 17 v. Name of Account: ATTORNEY CLIENT TRUST - VAN DER HOUT,
18 BRIGAGLIANO, NIGHTINGALE
- 19 vi. Account Number: 0323107334
- 20 vii. Taxpayer ID: 94-32-27702

21 g. Plaintiff agrees to waive his right to payment to him of attorney's fees and costs
22 in this action, so that they may be paid directly to his counsel as described above.

23 5. This Settlement Agreement contains the entire agreement between the parties hereto.

24 Plaintiff acknowledges and agrees that no promise or representation not contained in this
25 Settlement Agreement has been made to him, and acknowledges and represents that this
26 Settlement Agreement contains the entire understanding between the parties to this Settlement
27 Agreement and contains all terms and conditions pertaining to the compromise and settlement of
28 the disputes referenced herein. No oral or written statement, remark, agreement, or
understanding that is not contained herein shall be recognized or enforced, nor does this

1 Settlement Agreement reflect any agreed-upon purpose other than the desire of the parties to
2 reach a full and final conclusion of the litigation without the time and expense of further
3 litigation.

4 6. This Settlement Agreement cannot be modified or amended except by an instrument in
5 writing, agreed to and signed by the parties to this Settlement Agreement, nor shall any provision
6 hereof be waived other than by a written waiver signed by the parties to this Settlement
7 Agreement.
8

9 7. This Settlement Agreement shall be binding upon and inure to the benefit of Plaintiff and
10 Defendants and their respective assignees and representatives, including any person, entity,
11 department, or agency succeeding to the interests or obligations of any party hereto or having an
12 interest herein.
13

14 8. This document constitutes the complete integration of the Agreement between the parties
15 and supersedes any and all prior oral or written representation, understandings, or agreements
16 among or between the parties. Plaintiff has discussed this Settlement Agreement with his
17 counsel, understands the terms and conditions of this Settlement Agreement, and is fully
18 authorized to enter into it.
19

20 9. This Settlement Agreement may be signed in counterparts. Facsimile or electronic
21 transmissions of the original signatures to this agreement shall have the same effect as the
22 original signatures.
23

24 10. This Settlement Agreement is deemed executed on the date the Settlement Agreement is
25 signed by all of the individuals listed in the signature block below.

26 11. Counsel for Plaintiff shall notify the Court within 30 days of receipt of payment that all
27 matters in dispute have been resolved and that no further action in this case is necessary. If
28

1 payment has not been received by Plaintiff's counsel within 90 days of the signing of this
2 Settlement Agreement, Defendants shall file a status report to the Court by that date, informing
3 the Court of when such payment is expected and what efforts have been undertaken to ensure
4 payment will be made shortly thereafter.

5
6 12. Once Plaintiff notifies the Court of receipt of payment, the Court shall dismiss with
7 prejudice all of Plaintiff's claims.

8
9 Dated: September 14, 2017

10 /s/ Marc Van Der Hout
11 MARC VAN DER HOUT
12 Van Der Hout, Brigagliano,
13 & Nightingale, LLP
14 180 Sutter Street, Suite 500
15 San Francisco, California 94104
16 Tel.: (415) 981-3000
17 Fax: (415) 981-3003
18 Email: ndca@vblaw.com

19 *Attorney for Plaintiff*

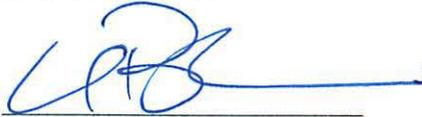
20 /s/ Anthony D. Bianco
21 ANTHONY D. BIANCO
22 Counsel for National Security
23 National Security and Affirmative Litigation
24 Unit, District Court Section
25 Office of Immigration Litigation
26 Civil Division, U.S. Department of Justice
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Email: Anthony.D.Bianco@usdoj.gov

Attorney for Defendants

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31 ~~PROPOSED~~ ORDER

32 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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34 Date: September 14, 2017

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36 Honorable Laurel Beeler
37 United States District Court Magistrate Judge

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ATTESTATION OF CONCURRENCE

No. 16-cv-04014-LB

I hereby certify that on September 14, 2017, I obtained concurrence in the filing of this
JOINT STIPULATION REGARDING SETTLEMENT OF ATTORNEYS' FEES from the
following persons:

MARC VAN DER HOUT
Van Der Hout, Brigagliano, & Nightingale, LLP
180 Sutter Street, Suite 500
San Francisco, California 94104

/s/ Anthony D. Bianco
ANTHONY D. BIANCO
Counsel for National Security
National Security and Affirmative Litigation
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Attorney for Defendants