

1 MELINDA HAAG (CABN 132612)
United States Attorney

2 ALEX G. TSE (CABN 152348)
3 Chief, Civil Division

4 REBECCA A. FALK (CSBN 226798)
Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
6 San Francisco, California 94102-3495
7 Telephone: (415) 436-7022
8 FAX: (415) 436-6740
rebecca.falk@usdoj.gov

9 Attorneys for Respondents

10 KEVIN M. CRABTREE (CSBN 238162)
Law Office of Robert L. Lewis
11 428 - 13th Street, 7th Floor
Oakland, CA 94612
12 T: (510) 834-1288
F: (510) 834-0431
13 www.immigrantdefense.com

14 Attorney for Petitioner

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION
18

19 JOSELITO CASIMIRO,

20 Petitioner,

21 v.

22 ERIC H. HOLDER, JR. ATTORNEY
GENERAL, AND TIMOTHY AITKEN,
23 FIELD OFFICE DIRECTOR, USICE,

24 Respondents.

) CASE NO. 13-01936 RS
)

) **PARTIES' STIPULATED SETTLEMENT**
) **AGREEMENT AND ~~[PROPOSED]~~ ORDER**

1 Petitioner JOSELITO CASIMIRO (“Petitioner”) and Respondent ERIC H. HOLDER, JR.
2 ATTORNEY GENERAL, and TIMOTHY AITKEN, FIELD OFFICE DIRECTOR, USICE,
3 (“Respondent”), by and through their undersigned counsel, hereby enter into this Stipulated Settlement
4 Agreement and [Proposed] Order (the “Stipulation”) as follows:

5 1. The parties desire to resolve Petitioner’s motion for attorney’s fees, filed August 30, 2013
6 (Dkt. No. 18) (withdrawn on September 12, 2013 to allow for discussion between the parties) and all
7 possible litigation under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d), in the above
8 captioned action, by entering into this Stipulation, thereby avoiding the time and expense of further
9 litigation as to the propriety and amount of any EAJA fee award. This Stipulation is intended to dispose
10 of all claims, issues and matters that could and have been raised by Petitioner against Respondents as to
11 any fee litigation. The parties acknowledge that this Stipulation is fully binding on them, and on each of
12 their successor during the life of the Stipulation. By entering into this Stipulation, Respondents do not
13 admit that any award of EAJA fees would be proper if litigation was pursued to completion. The parties
14 agree that the Stipulation is fully dispositive of all issues in the above-captioned case.

15 2. Respondent shall pay to Petitioner the amount of seven thousand five hundred U.S.
16 dollars and zero cents (\$7,500.00) in full and complete satisfaction of Petitioner’s claims for attorneys’
17 fees, costs, and litigation expenses under EAJA in the above-captioned matter. This payment shall
18 constitute full and final satisfaction of any and all of Petitioner’s claims for attorneys’ fees, costs, and
19 litigation expenses in the above-captioned matter, and is inclusive of any interest. Payment of this
20 money will be made by electronic funds transfer, and Petitioner’s counsel will provide the necessary
21 information to Respondent’s counsel to effectuate the transfer. Respondent will make all reasonable
22 efforts to make payment within sixty (60) days of the date that Petitioner’s counsel provides the
23 necessary information for the electronic funds transfer and this Stipulation is approved by the Court,
24 whichever is later, but cannot guarantee payment within that time frame.

25 3. Upon the execution of this Stipulation, Petitioner hereby releases and forever discharges
26 Respondent, its successors, the United States of America, and any department, agency, or establishment
27 of the United States, and any officers, employees, agents, successors, or assigns of such department,
28 agency, or establishment, from any and all claims and causes of action that Petitioner asserts or could

1 have asserted in this litigation, or which hereafter could be asserted by reason of, or with respect to, or in
2 connection with, or which arise out of, the Petition for Habeas Corpus (“Petition”) on which this action
3 is based or any other matter alleged in the Petition, including but not limited to all past, present, or future
4 claims for attorneys’ fees, costs, or litigation expenses in connection with the above-captioned litigation.
5 Subject to the foregoing, this Stipulation is not intended to affect Petitioner’s right to apply for an award
6 of fees pursuant to EAJA if he is a prevailing party in litigation concerning the Motion to Reopen
7 submitted by Petitioner to the Board of Immigration Appeals on June 12, 2013, to the extent that such
8 fees accrue after the date of this Stipulation.

9 4. The provisions of California Civil Code Section 1542 are set forth below:

10 A general release does not extend to claims which the creditor does not
11 know or suspect to exist in his favor at the time of executing the release,
12 which if known by him must have materially affected his settlement with
the debtor.

13 Petitioner, having been apprised of the statutory language of Civil Code Section 1542 by its
14 attorneys, and fully understanding the same, nevertheless elects to waive the benefits of any and all
15 rights it may have pursuant to the provision of that statute and any similar provision of federal law.
16 Petitioner understands that, if the facts concerning any injuries, liability for damages pertaining thereto,
17 or liability for attorneys’ fees, costs or litigation expenses are found hereafter to be other than or
18 different than the facts now believed by it to be true, the Stipulation shall be and remain effective
19 notwithstanding such material difference.

20 5. Execution of this Stipulation and its approval by the Court shall constitute dismissal of
21 this case with prejudice pursuant to Fed. R. Civ. P. 41(a).

22 6. The parties acknowledge that this Stipulation is entered into solely for the purpose of
23 settling and compromising any remaining claims in this action without further litigation, and it shall not
24 be construed as evidence or as an admission on the part of Respondent, the United States, its agents,
25 servants, or employees regarding any issue of law or fact, or regarding the truth or validity of any
26 allegation or claim raised in this action, or as evidence or as an admission by the Respondent regarding
27 Petitioner’s entitlement to attorneys’ fees or other litigation costs under EAJA. This Stipulation shall
28 not be used in any manner to establish liability for fees, amounts, or hourly rates in any other case or

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PURSUANT TO STIPULATION, IT IS SO ORDERED:

This case is hereby dismissed with prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

DATED: 9/25/13



HONORABLE RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE