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*(Plaintiffs' attorneys continued on page 2)*

14 UNITED STATES DISTRICT COURT  
 15 DISTRICT OF ARIZONA

<p>16 WE ARE AMERICA/SOMOS AMERICA          17 COALITION OF ARIZONA; <i>et al.</i>,          18 Plaintiffs,          19 - vs -          20 MARICOPA COUNTY BOARD OF          21 SUPERVISORS; <i>et al.</i>,          22 Defendants.</p>	<p>No. CV06-2816-PHX-DJH           PLAINTIFFS' STATEMENT AND          NOTICE OF FILING OF SETTLEMENT          IN LIEU OF STIPULATION OF          DISMISSAL.           Assigned to Hon. Diane J. Humetewa</p>
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1 *Plaintiffs' counsel continued:*

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On August 28, 2014, the parties concluded a settlement pursuant to which they would dismiss their respective appeals from this Court’s summary judgment and permanent injunction of September 27, 2013, Dkt. No. 137, *reported at We Are America/Somos Am. v. Maricopa County Bd. of Supervisors*, 297 F.R.D. 373 (D. Ariz. 2013). The parties also agreed to settle plaintiffs’ claims for attorney’s fees and non-taxable costs. The parties’ final agreement is filed herewith as Exhibit A.

By order dated October 21, 2014, the Court directed the parties to submit a stipulation voluntarily dismissing this action in its entirety in light of defendants’ having formally executed the settlement. Dkt. No. 168.

Although the dismissal of the parties’ appeals and the settlement of plaintiffs’ attorney’s fees claim brings this case to a close, the parties ultimately agreed that this Court’s September 27, 2013, judgment should remain undisturbed. Plaintiffs respectfully submit that the Court’s judgment is now final and concludes this matter without need for a further order of dismissal.

Recital 2 of the parties’ agreement accurately states: On September 27, 2013, the Court granted plaintiffs’ motion for summary judgment on the grounds that defendants’ challenged policy was preempted by federal law. The Court thereupon permanently enjoined defendants from further arresting or prosecuting non-smuggler migrants for conspiring to transport themselves in violation of Ariz. Rev. Stat. § 13-2319. The Court then dismissed plaintiffs’ remaining claims with prejudice. 297 F.R.D. at 399. The Court “retain[ed] continuing jurisdiction to enforce the terms of this Order and Permanent Injunction.” *Id.* at 400.

Both defendants and plaintiffs appealed from that judgment, and plaintiffs moved this Court for an award of attorney’s fees and not-taxable costs. *See* Dkt. No. 141. The parties thereafter mediated a settlement of the only issues remaining in this litigation: namely, dismissal of their respective appeals and settlement of plaintiffs’ claim for attorney’s fees.

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As concerns this Court’s judgment, ¶ 1 of the settlement provides, “Plaintiffs and Defendants will not challenge or seek to alter, amend, revise, change, or otherwise overturn the Permanent Injunction or any other ruling of the United States District Court for the District of Arizona” in this case.

Pursuant to the parties’ agreement, therefore, this Court’s judgment remains in place and the Court retains continuing jurisdiction to enforce the order and permanent injunction of September 27, 2013. A further order of dismissal is accordingly unnecessary.<sup>1</sup>

November 4, 2014.

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By s/ Carlos Holguin

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*Attorneys for plaintiffs*

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<sup>1</sup> Plaintiffs acknowledge that the parties’ Stipulation to Enlarge Time to File Memorandum and Documentation In Support of Motion for Attorney’s Fees, etc., (Dkt. No. 164), advised that this action would be dismissed upon the parties’ concluding a settlement. But as has been seen, the parties’ final agreement makes dismissal unnecessary. Plaintiffs apologize for any confusion or inconvenience the stipulation has caused.

# Exhibit A

C-06-15-028-5-00

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“the Agreement”) is entered into by, among, for, and on behalf of plaintiffs We Are America, *et al.* and all members of the certified class defined by the Court as “[a]ll individuals who pay taxes to Maricopa County and object to the use of county tax revenues to stop, detain, arrest, incarcerate, prosecute, or penalize individuals for conspiring to transport themselves, and themselves only, in violation of Ariz. Rev. Stat. § 13-2319” (collectively referred to herein as “Plaintiffs”) in the action specified below, and defendants Maricopa County Board of Supervisors, Dennis Barney, Chairman, Board of Supervisors, Steve Chucri, Supervisor, District 2, Andrew Kunasek, Supervisor District 3, Clint Hickman, Supervisor, District 4, Marie Lopez Rogers, Supervisor, District 5, Maricopa County Attorney William Montgomery, and Maricopa County Sheriff Joseph Arpaio (collectively referred to herein as “Defendants”) in the action specified below, and is intended to effect the extinguishment of all rights, obligations and claims hereinafter designated.

RECITALS

1. On or about November 21, 2006, Plaintiffs commenced a civil class action lawsuit seeking injunctive and declaratory relief in the United States District Court for the District of Arizona, and on or about October 12, 2007, Plaintiffs filed their Amended Class Action Complaint for Declaratory and Injunctive Relief captioned *We Are America/Somos America Coalition of Arizona et al. v. Maricopa County Board of Supervisors et al.*, United States District Court for the District of Arizona, No. CV06-2816-PHX-RCB (hereinafter the “Complaint”). The Complaint alleged that Defendants embraced a policy and practice to arrest, detain, charge, and prosecute persons for the Arizona state crime of conspiracy under A.R.S. § 13-1003 to violate Arizona’s criminal human smuggling statute, A.R.S. § 13-2319 (referred to herein as the “Subject Matter at Issue”). The Complaint described the Subject Matter at Issue as the “Maricopa Migrant Conspiracy Policy.” The Complaint alleged that the Subject Matter at Issue or Maricopa Migrant Conspiracy Policy, among other things, was preempted pursuant to the United States Constitution, Art. I, § 8, cl. 4 and cl. 3

2. Defendants deny and continue to deny Plaintiffs' allegations set forth in the Complaint. On September 27, 2013, however, the late-Honorable Robert Broomfield, Judge of the United States District Court, the District of Arizona, in No. CV06-2816-PHX-RCB granted the Plaintiffs' Motion for Summary Judgment on the grounds that the Subject Matter at Issue or Maricopa Migrant Conspiracy Policy was impliedly and field preempted by federal immigration law. The Court dismissed all other remaining liability claims of the Plaintiffs. The Court, therefore, permanently enjoined the Defendants and their successors in office from further implementing the Subject Matter at Issue or Maricopa Migrant Conspiracy Policy including detaining, arresting, and prosecuting persons for conspiring to transport themselves, and no one else, in violation of Ariz. Rev. Stat. § 13-2319" (referred to herein as "the Permanent Injunction"). Defendants and Plaintiffs each timely filed Notices of Appeal with the United States Court of Appeals for the Ninth Circuit, No. 13-17193 ("the Ninth Circuit Appeals").

3. Plaintiffs and Defendants desire to avoid the expense, inconvenience, distraction, and risk of further litigation, and intend to permanently settle and compromise any and all claims that Plaintiffs have, or which may be or could have been asserted, as a result of the Complaint, the Subject Matter at Issue, the Maricopa Migrant Conspiracy Policy, the Permanent Injunction, and the Ninth Circuit Appeals.

4. Pursuant to this Agreement, Plaintiffs and Defendants have settled the Complaint, the Subject Matter at Issue, the Maricopa Migrant Conspiracy Policy, the Permanent Injunction, and the Ninth Circuit Appeals.

#### **AGREEMENT**

Now, therefore, it is hereby agreed as follows:

1. Plaintiffs and Defendants will not challenge or seek to alter, amend, revise, change, or otherwise overturn the Permanent Injunction or any other ruling of the United States District Court for the District of Arizona in case No. CV06-2816-PHX-RCB.

2. Plaintiffs and Defendants will dismiss with prejudice the Ninth Circuit Appeals.

3. Plaintiffs will withdraw and/or dismiss with prejudice their Motion for Attorney's fees and non-taxable costs pending in the United States District Court for the District of Arizona, No. CV06-2816-PHX-RCB.

4. For and on behalf of Defendants, Maricopa County will pay to counsel for the Plaintiffs, the *Center for Human Rights and Constitutional Law*, (256 South Occidental Blvd, Los Angeles, California 90067) as full payment and complete satisfaction of Plaintiffs' attorneys fees and non-taxable costs as the prevailing party in the Complaint, the total sum of Six Hundred Seventy Five Thousand Dollars and No Cents (\$675,000) in return for the Plaintiffs totally and completely releasing and forever discharging Defendants, Maricopa County, and their respective elected officials, employees, agents, attorneys, independent contractors, insurers, affiliates, successors and assigns, departments, agencies, and divisions (the "Released Parties") from any and all claims, demands, declaratory relief, further injunctive relief, damages, actions and causes of action of every kind, known and unknown, arising out of or in any way connected with the Complaint, the Subject Matter at Issue, the Maricopa Migrant Conspiracy Policy, the Permanent Injunction, and the Ninth Circuit Appeals.

5. *Center for Human Rights and Constitutional Law*, by and through attorney Peter A. Schey, hereby represents and warrants that it has the full consent and authority of the Plaintiffs (in their individual capacities and in their representative capacities for the class members in case No. CV06-2816-PHX-RCB), to execute this Agreement and that this Agreement is and shall be binding on the Plaintiffs as if they personally and individually signed this Agreement. In addition, *Center for Human Rights and Constitutional Law*, by and through attorney Peter A. Schey, hereby agrees to defend and indemnify the Released Parties from any future claims, demands, or legal actions brought by the Plaintiffs arising out of this Agreement, the Complaint, the Subject Matter at Issue, the Maricopa Migrant Conspiracy Policy, the Permanent Injunction, or the Ninth Circuit Appeals. Nothing in this section or this Agreement is intended to, nor will, prevent any Plaintiff from seeking to enforce compliance with the Permanent Injunction.

6. This Agreement is the result of an arms-length, good faith compromise of disputed claims and shall never at any time, for any purpose, be considered as an admission of liability or responsibility of Defendants and/or the Released Parties who are



released by this Agreement and who deny and continue to deny such liability and to disclaim such responsibility other than to uphold, follow, and comply with the Permanent Injunction.

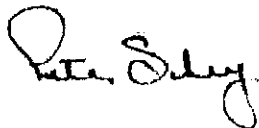
7. This Agreement is intended to, and the parties warrant that it will, dispose of all liability of Defendants and the Released Parties to the Plaintiffs and all class members arising out of, or in any way connected with, the Complaint, the Subject Matter at Issue, the Maricopa Migrant Conspiracy Policy, the Permanent Injunction, and/or the Ninth Circuit Appeals.

8. This Agreement contains the entire agreement between the parties and shall be binding upon and inure to the benefit of the parties thereto and the successors and assigns of each.

9. The validity, interpretation, performance, and enforcement of this Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

DATED this 6<sup>th</sup> day of August, 2014.

**Plaintiffs and Class Members by *Center for  
Human Rights and Constitutional Law***

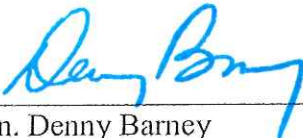


By

By: Peter A. Schey, for and on behalf of the Plaintiffs, in their individual capacities and in their representative capacities for the class members in case No. CV06-2816-PHX-RCB

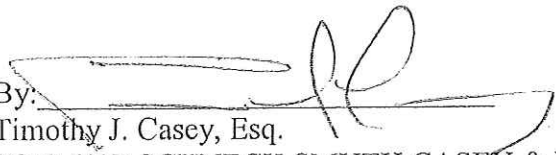
DATED this 27 day of August 2014.

**The Released Parties**

By:   
Hon. Denny Barney  
Chairman, Maricopa County Board of  
Supervisors

Attest:  **AUG 28 2014**  
**DEPUTY** Clerk of the Board Date 073014

APPROVED AS TO FORM:

By:   
Timothy J. Casey, Esq.  
SCHMITT SCHNECK SMYTH CASEY & EVEN, P.C.  
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Attorneys for the Defendants

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 4, 2014, I electronically transmitted the attached documents to the Clerk's Office using the CM/ECF System.

s/Carlos Holguin