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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

12 THE CENTER FOR INVESTIGATIVE) CASE NO.: 4:18-cv-00044 KAW
REPORTING,)
13 Plaintiff,) **STIPULATION OF SETTLEMENT AND**
14 v.) **DISMISSAL WITH PREJUDICE;**
15 UNITED STATES DEPARTMENT OF) **[PROPOSED] ORDER**
HOMELAND SECURITY,)
16 Defendant.)
17)
18)

19 Plaintiff Center for Investigative Reporting (“Plaintiff”) and defendant United States Department
20 of Homeland Security (“Defendant”), by and through their undersigned counsel, hereby enter into this
21 Stipulation of Settlement and Dismissal with Prejudice (“Stipulation”) as follows:

22 WHEREAS, on March 21, 2017, Plaintiff submitted a Freedom of Information Act (“FOIA”)
23 request to United States Customs and Border Protection (“CBP”).

24 WHEREAS, on January 23, 2018, Plaintiff filed the instant action against Defendant.

25 WHEREAS, Defendant has now provided responses to Plaintiff’s FOIA request; and

26 WHEREAS, the parties now wish to resolve this matter without the further expense and burden
27 of additional litigation;

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1 NOW, THEREFORE, the parties hereby stipulate and agree as follows:

2 1. Defendant shall pay to Plaintiff the amount of five thousand dollars (\$5,000) in full and
3 complete satisfaction of Plaintiff's claims for attorneys' fees, costs, and litigation expenses under FOIA
4 in the above-captioned matter. This payment shall constitute full and final satisfaction of any and all of
5 Plaintiff's claims for attorneys' fees, costs, and litigation expenses in the above-captioned matter, and is
6 inclusive of any interest. Payment will be made by electronic funds transfer, and Plaintiff's counsel will
7 provide the necessary information to Defendant's counsel to effectuate the transfer. Defendant will
8 make all reasonable efforts to make payment within sixty (60) days of the date that Plaintiff's counsel
9 provides the necessary information for the electronic funds transfer and this Stipulation is approved by
10 the Court, whichever is later, but cannot guarantee payment within that timeframe.

11 2. Upon the execution of this Stipulation, Plaintiff hereby releases and forever discharges
12 Defendant, its successors, the United States of America, any department, agency, or establishment of the
13 United States, including CBP, and any officers, employees, agents, successors, or assigns of such
14 department, agency, or establishment, from any and all claims and causes of action that Plaintiff asserts
15 or could have asserted in this litigation concerning the FOIA request on which this action is based or any
16 other operative facts alleged in this action, or which hereafter could be asserted by reason of, or with
17 respect to, or in connection with, or which arise out of the FOIA request on which this action is based or
18 any other operative facts alleged in this action, including but not limited to all past, present, or future
19 claims for attorneys' fees, costs, or litigation expenses in connection with the above-captioned litigation.

20 3. The provisions of California Civil Code Section 1542 are set forth below:

21 "A general release does not extend to claims which the creditor does not know or suspect
22 to 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."

23 Plaintiff, having been apprised of the statutory language of Civil Code Section 1542 by its attorneys, and
24 fully understanding the same, nevertheless elects to waive the benefits of any and all rights it may have
25 pursuant to the provision of that statute and any similar provision of federal law. Plaintiff understands
26 that if the facts concerning any liability under FOIA or liability for attorneys' fees, costs, or litigation
27 expenses are found hereafter to be other than or different than the facts now believed by it to be true, the
28 Stipulation shall be and remain effective notwithstanding such material difference.

1 4. Execution of this Stipulation and its approval by the Court shall constitute dismissal with
2 prejudice of all claims in this action pursuant to Federal Rule of Civil Procedure 41(a).

3 5. The parties acknowledge that this Stipulation is entered into solely for the purpose of
4 settling and compromising any and all remaining claims in this action without further litigation, and it
5 shall not be construed as evidence or as an admission on the part of Defendant, CBP, the United States,
6 its agents, servants, or employees regarding any issue of law or fact, or regarding the truth or validity of
7 any allegation or claim raised in this action, or as evidence or as an admission by the Defendant
8 regarding Plaintiff's eligibility for or entitlement to attorneys' fees, costs, or litigation expenses under
9 FOIA. This Stipulation shall not be used in any manner to establish liability for fees, amounts, or hourly
10 rates in any other case or proceeding involving Defendant.

11 6. This Stipulation is binding upon and inures to the benefit of the parties hereto and their
12 respective successors and assigns.

13 7. If any provision of this Stipulation shall be held invalid, illegal, or unenforceable, the
14 validity, legality, and enforceability of the remaining provisions shall not in any way be affected or
15 impaired thereby.

16 8. This Stipulation shall constitute the entire agreement between the parties, and it is
17 expressly understood and agreed that this Stipulation has been freely and voluntarily entered into by the
18 parties hereto. The parties further acknowledge that no warranties or representations have been made on
19 any subject other than as set forth in this Stipulation.

20 9. The persons signing this Stipulation warrant and represent that they possess full authority
21 to bind the persons on whose behalf they are signing to the terms of the Stipulation.

22 10. This Stipulation may not be altered, modified or otherwise changed in any respect except
23 in writing, duly executed by all of the parties or their authorized representatives.

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1 SO STIPULATED AND AGREED.

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3 Respectfully submitted,

4 DAVID L. ANDERSON
5 United States Attorney

6 Dated: March 29, 2019

7 By: /s/ Savith Iyengar
8 SAVITH IYENGAR
9 Assistant United States Attorney
10 Attorney for Defendant

11 Dated: March 29, 2019

12 By: **/s/ Victoria Baranetsky
13 VICTORIA BARANETSKY
14 Attorney for Plaintiff

15 ** Pursuant to Civ. L.R. 5-1(i)(3), the filer of the document
16 has obtained approval from this signatory.

17
18 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

19 Dated: _____, 2019

20 KANDIS A. WESTMORE
21 United States Magistrate Judge