

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN IMMIGRATION COUNCIL,)	
)	
Plaintiff)	
)	
v.)	
)	Civil Action No. 11-1971 (JEB)
UNITED STATES DEPARTMENT OF HOMELAND SECURITY, et al.,)	
)	
Defendants.)	
_____)	

STIPULATION OF SETTLEMENT AND DISMISSAL

Plaintiff, American Immigration Council (“AIC” or “Plaintiff”), and Defendants, United States Department of Homeland Security and United States Citizenship and Immigration Services (“USCIS” or “Defendants”), (hereinafter collectively referred to as the “Parties”), hereby enter into this Stipulation of Settlement and Dismissal (“Stipulation”) to settle and compromise the above-entitled lawsuit (“AIC Complaint”) brought under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended. In consideration of the mutual promises and obligations of this Stipulation, the Parties agree and covenant as follows:

RECITIALS

1. AIC submitted a FOIA request dated March 11, 2011, requesting information concerning individuals’ access to legal counsel during their interactions with USCIS (“AIC FOIA Request”). The AIC FOIA Request was assigned USCIS case number COW2011000252.
2. On November 8, 2011, AIC filed this action.
3. On February 6, 2012, USCIS released, in part or in full, 833 pages of responsive records to AIC.

4. On January 30, 2013, USCIS released an additional 199 pages of responsive records to AIC.

TERMS AND CONDITIONS

5. USCIS agrees to produce the January 14, 1986 memo from the Immigration and Naturalization Services (INS) General Counsel's Office to the Assistant Commissioner for Refugees, Asylum and Parole regarding a refugee applicant's right to counsel. USCIS will provide this document prior to the Court's dismissal of the AIC Complaint.

6. USCIS shall conduct a search for written training documents USCIS developed to implement the December 21, 2011 interim memo (PM-602-0055) and the May 23, 2012 final memo (PM-602-0055.1) amending the counsel related provisions of the Adjudicators Field Memo.

7. USCIS shall conduct a search limited to the USCIS Orlando, Florida Field Office for records responsive to the AIC FOIA Request.

8. USCIS shall conduct a search for USCIS Standard Operating Procedures that are responsive to the AIC FOIA Request.

9. USCIS will produce to AIC all responsive, non-exempt documents identified through the searches set forth in paragraphs 6-8, above, on a rolling basis in accordance with the following schedule:

(a) USCIS's first production will occur within thirty (30) business days after the Court dismisses the complaint.

(b) USCIS's second production will occur within thirty (30) business days following the first production described in paragraph 9(a), above; and

(c) USCIS's final production will occur within thirty (30) business days following the second production, described in paragraph 9(b), above.

10. The search and production, if any, of responsive, non-exempt records relevant to paragraph 6-8 of this Stipulation will be considered a new FOIA request submitted by AIC to USCIS, it will be assigned a new USCIS FOIA case number, and USCIS will process the request pursuant to the FOIA and DHS's implementing FOIA regulation. USCIS agrees to process the FOIA request described in paragraph 6-8 pursuant to the schedule described in paragraph 9, above. USCIS further agrees to the following:

(a) Within thirty (30) business days following dismissal of the suit, USCIS shall provide AIC with a status report regarding the search for records as described in paragraphs 6-9, above, and the Parties will confer about whether AIC will agree to narrow the search. At that time, the Parties will, if necessary, amend the schedule described in paragraph 9 for the rolling production of documents, which also shall reflect any narrowing of the search.

(b) USCIS will produce to AIC all responsive, non-exempt documents no later than ninety (90) business days following the Court's dismissal of the complaint, unless by mutual agreement of the Parties, the production schedule is extended.

11. Except for the specific records searches described in paragraphs 5, 6, 7, 8 and 9 of this Stipulation, this Stipulation shall not be construed by the Parties to require USCIS to conduct a search for records responsive to the AIC FOIA Request. The Parties agree that USCIS no longer has an obligation to search for and produce any records responsive to the AIC FOIA Request, except for the records and records searches described in paragraphs 5, 6, 7, 8 and 9 of this Stipulation. Moreover, the Parties agree that any documents that were already identified in

the Agency's Vaughn Index (Doc. 16, Ex. 7) as responsive to the AIC FOIA Request, regardless if they were withheld or released, are not considered responsive to any of the searches described in paragraphs 5, 6, 7, 8 and 9, above.

12. AIC agrees that USCIS's original search for records responsive to the AIC FOIA Request was adequate and it will not dispute, in any tribunal, USCIS's original search for records responsive to the AIC FOIA Request. AIC does not waive its right to challenge, consistent with the FOIA and DHS's implementing FOIA regulation, USCIS's search and production of records as described in paragraphs 5, 6, 7, 8 and 9 of this Stipulation.

13. To the extent there are any challenges to the productions, adequacy of searches and/or applicability of any FOIA exemptions as a result of actions taken by USCIS pursuant to this Stipulation, these challenges will be addressed in a separate lawsuit and in no way shall be the subject of this lawsuit. Standard FOIA procedures (i.e., administrative appeal followed by judicial review) will govern any such challenges and the Court in this matter will not maintain jurisdiction over the enforcement of any such challenges.

14. USCIS shall pay AIC \$ 45,000 in attorneys' fees and costs. Payment of this money will be made by electronic funds transfer after notification of the Court's entry of this Stipulation and dismissal of the AIC Complaint. Counsel for Plaintiff will provide the necessary information to counsel for Defendants to effectuate the transfer. Payment shall be made as promptly as practicable, consistent with the normal processing procedures followed by the Department of Justice and the Department of the Treasury, following the dismissal of the AIC Complaint.

15. This Stipulation of Settlement and Dismissal constitutes the full and complete

satisfaction of any and all claims arising from (a) the allegations set forth in the complaint filed in this lawsuit and (b) any litigation or administrative proceedings that Plaintiff has brought, could bring, or could have brought regarding Plaintiff's FOIA request in this case.

16. This Stipulation does not constitute an admission of liability or fault on the part of Defendants, the United States, its agents, servants, or employees, and is entered into by both parties for the sole purpose of compromising disputed claims and avoiding the expenses and risks of further litigation.

17. This Stipulation is binding upon and inures to the benefit of the Parties hereto and their respective successors and assigns.

18. For purposes of construing this Stipulation, this Stipulation shall be deemed to have been drafted by all Parties to this Stipulation and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

19. The undersigned represent and warrant that they are fully authorized to execute this Stipulation on behalf of the Parties.

20. This Stipulation may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Stipulation.

21. This Stipulation is effective on the date of signature of the last signatory to the Stipulation. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Stipulation.

22. The Parties understand that this Stipulation contains the entire agreement between the Parties hereto regarding this lawsuit; that no other promise or inducement has been made except as set forth herein, and that no other representations or understanding, whether written or

oral, between the Parties, that is not expressly set forth herein shall be of any force and effect in connection with this Stipulation.

23. The Stipulation may not be altered, modified, withdrawn, waived, rescinded or supplemented except by written instrument executed by duly authorized representatives of all parties.

24. Execution and filing of this Stipulation of Settlement by counsel for Plaintiff and counsel for Defendants constitutes a dismissal of this lawsuit, with prejudice, pursuant to Fed. R. Civ. P. 41(a)(1)(ii). Any and all remaining issues are waived.

Respectfully submitted,

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