

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Case No. 02-cv-01239-MSK-KLM

MARK JORDAN,

Plaintiffs,

v.

MICHAEL PUGH, et al.,

Defendants.

**STIPULATED SETTLEMENT AGREEMENT
BY AND BETWEEN PLAINTIFF AND DEFENDANTS
CONCERNING ATTORNEYS' FEES AND EXPENSES**

COME NOW Plaintiff Mark Jordan and Defendants Michael Pugh, et al., and stipulate and agree to the following in reference to Plaintiff's Motion For Attorneys' Fees and Expenses Pursuant to 28 U.S.C. § 2412(d)(1) (Docket No. 362), and Plaintiff's Supplemental Motion for Fees for Litigating Fees and for the Rule 59 Motions (Docket No. 388), and state as follows:

1. Plaintiff filed his First Amended Complaint on January 30, 2003. (Docket No. 39). He alleged a number of violations of law, including the allegation that the portion of 28 C.F.R. § 540.20(b) that provides that an inmate may not "publish under a byline" violated Plaintiff's rights under the First Amendment to the U.S. Constitution.

2. From May 29, 2007 to May 31, 2007, a bench trial was conducted before the Court. Following the conclusion of the bench trial, the Court on August 9, 2007, issued its Memorandum Opinion and Order in favor of Plaintiff and against Defendants in their official capacities. The Court ruled that the prohibition against "publish[ing] under a byline" violated

Plaintiff's First Amendment rights. (Docket No. 354). On August 9, 2007, the Court entered Judgment. (Docket No. 355).

3. On September 10, 2007, Plaintiff filed his Motion For Attorneys' Fees and Expenses Pursuant to 28 U.S.C. § 2412(d)(1) (Docket No. 362). Defendants filed a Response on October 24, 2007 (Docket No. 384). On November 8, 2007, Plaintiff filed a Reply (Docket No. 387).

4. On November 12, 2007, Plaintiff filed his Supplemental Motion for Fees for Litigating Fees and for the Rule 59 Motions (Docket No. 388.) Defendants filed a Response on November 30, 2007 (Docket No. 400).

5. The parties, through their authorized representatives, and without admission or final adjudication of the issues of fact or law with respect to Plaintiff's claims for attorneys' fees and expenses, have reached a settlement that they consider a just, fair, and equitable resolution of all of Plaintiff's claims for attorneys' fees and expenses in this civil action.

6. Accordingly, Plaintiff and Defendants stipulate and agree to resolve the issue of Plaintiff's attorneys' fees and expenses pursuant to the following stipulation.

7. Defendants agree to pay and shall pay Plaintiff's attorneys' fees and expenses in the total amount of \$90,000 ("Payment") to settle and resolve Plaintiff's claims for attorney's fees and expenses under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d).

8. Plaintiff stipulates and agrees to accept the Payment in full satisfaction of any and all claims for attorney's fees and expenses incurred to date in this litigation. By this Stipulated Settlement Agreement, Defendants do not waive any right to contest fees claimed by Plaintiff or Plaintiff's counsel in any future litigation.

9. The parties will separately file a joint motion to withdraw the following motions, responses and replies:

a. Plaintiff's Motion For Attorneys' Fees and Expenses Pursuant to 28 U.S.C. § 2412(d)(1), filed September 10, 2007 (Docket No. 362); Defendants' Response, filed October 24, 2007 (Docket No. 384); and Plaintiff's Reply, filed November 8, 2007 (Docket No. 387);

b. Plaintiff's Motion for Filing Oversized Reply Brief, filed November 8, 2007 (Docket No. 386); Defendants' Response, filed November 20, 2007 (Docket No. 391); and Plaintiff's Reply, filed November 25, 2007 (Docket Nos. 395 and 396);

c. Plaintiff's Supplemental Motion for Fees for Litigating Fees and for the Rule 59 Motions, filed November 12, 2007 (Docket No. 388); and Defendants' Response, filed November 30, 2007 (Docket No. 400); and

d. Defendants' Motion to Strike Plaintiff's Reply to Defendants' Opposition to Plaintiff's Motion for Attorneys' Fees and Expenses Pursuant to 28 U.S.C. § 2412(d)(1), filed November 20, 2007 (Doc. 392); Plaintiff's Response, filed November 25, 2007 (Docket No. 397); and Defendants' Reply, filed November 30, 2007 (Docket No. 399).

10. Upon receipt of the amount of the Payment paid pursuant to section 2412(d) of the EAJA, counsel for Plaintiff shall execute a Satisfaction Concerning Attorneys'

Fees and Expenses to be supplied by Defendants, and shall mail the aforesaid Satisfaction

Concerning Attorneys' Fees and Expenses to:

Marcy Cook
Assistant U.S. Attorney
1225 Seventeenth Street
Suite 700
Denver, CO 80202

Dated: December 19, 2007.

Respectfully Submitted,

STUDENT LAW OFFICE,

s/ Laura L. Rovner

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