

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| _____ | : | |
| AMERICAN CIVIL LIBERTIES UNION | : | |
| OF PENNSYLVANIA et. al, | : | |
| | : | |
| Plaintiffs, | : | Civil Action No. 20-2363 |
| | : | |
| v. | : | |
| | : | |
| UNITED STATES IMMIGRATION AND | : | |
| CUSTOMS ENFORCEMENT, | : | |
| | : | |
| Defendant. | : | |
| _____ | : | |

STIPULATION AND ORDER OF DISMISSAL

WHEREAS, on August 7, 2019, Plaintiffs American Civil Liberties Union of Pennsylvania and Farmworker Legal Aid Clinic (“plaintiffs”) made a Freedom of Information Act (“FOIA”) request to U.S. Immigration and Customs Enforcement (“ICE”) that was then assigned ICE FOIA Case Number 2019-ICFO-51663 (the “Request”);

WHEREAS, ICE did not produce records in response to the Request, on the stated bases that (1) production without the consent of the documents’ subject individuals would violate the Privacy Act, and, following a timely administrative appeal by plaintiffs, (2) responding to the Request as written was unduly burdensome (*see* Compl. at Exs. B and E, ECF Nos. 1-6 and 1-9);

WHEREAS, on October 16, 2019, ICE informed plaintiffs it would administratively close the Request, but invited plaintiffs to “contact the ICE FOIA office to discuss ways of narrowing it down” (*see* ECF No. 1-9);

WHEREAS, on May 20, 2020, plaintiffs brought the instant action alleging ICE was in breach of FOIA and seeking to compel ICE to produce records in response to the Request;

WHEREAS, plaintiffs subsequently selected, and ICE produced, a specified subset of records responsive to the Request, which production plaintiffs agreed fully satisfied the Request and resolved the merits of this litigation except for plaintiffs' request for attorney fees and litigation costs pursuant to 5 U.S.C. § 552(a)(4)(E); and

WHEREAS, plaintiffs and ICE (collectively, the "Parties") now wish to settle plaintiffs' claim for attorney fees and litigation costs, thus fully resolving this matter;

It is HEREBY STIPULATED and AGREED by the Parties, by and through their undersigned counsel and subject to the approval of the Court, as follows:

1. ICE shall pay plaintiffs the sum of seventy-one thousand six hundred seventy-one dollars (\$71,671.00) as full and final satisfaction of any claims by plaintiffs for attorney fees and litigation costs in this matter, inclusive of any interest. The payment shall be made by electronic funds transfer to a bank account designated by the American Civil Liberties Foundation of Pennsylvania promptly following the approval and entry of this Stipulation and Order by the Court, and plaintiffs' provision of the necessary information to counsel for ICE to effectuate the transfer.

2. Plaintiffs release and discharge ICE and the United States of America, including its agencies, departments, officers, employees, servants, and agents, from any and all claims and causes of action that plaintiffs asserted, or could have asserted, in this litigation arising out of the Request.

3. Nothing in this Stipulation and Order shall constitute an admission by ICE or the United States: (1) that plaintiffs "substantially prevailed" in this action under 5 U.S.C. § 552(a)(4)(E); (2) that plaintiffs are entitled to or eligible for any attorney fees or litigation costs; or (3) that the fees and costs plaintiffs seek are reasonable or were reasonably incurred. This

Stipulation and Order is entered into by the Parties solely for the purpose of compromising disputed claims in this case and avoiding the expenses and risks of further litigation concerning plaintiffs' claims for attorney fees and litigation costs. This Stipulation and Order shall have neither precedential value nor preclusive effect and shall be admissible in no other civil or administrative proceeding as evidence for any purpose except in proceedings to enforce the terms herein.

4. This Stipulation and Order contains the entire agreement between the Parties, and no statement, representation, promise, or agreement, oral or otherwise, between the Parties or their counsel that is not included herein shall have any force or effect.

5. This Stipulation and Order may be executed in counterparts.

6. This Stipulation and Order shall be effective upon its approval and entry by the Court, and shall have no effect otherwise.

7. With the Court's approval, this action shall be dismissed with prejudice and without costs pursuant to Local Rule of Civil Procedure 41.1(b).

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February 14, 2023

/s/ John J. Grogan

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APPROVED AND SO ENTERED BY THE COURT:

Respectfully submitted,

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JUAN R. SÁNCHEZ, C.J.

Date: February 15, 2023