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15 UNITED STATES DISTRICT COURT

16 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

17 OSNY SORTO-VASQUEZ KIDD, et al.,

Case No. 2:20-cv-03512-ODW-JPR

18 Plaintiffs,

**CLASS SETTLEMENT
AGREEMENT AND RELEASE**

19 vs.

Judge Otis D. Wright II

20 ALEJANDRO MAYORKAS, Secretary,
21 U.S. Department of Homeland Security,
22 in his official capacity, et al.,

23 Defendants.

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1 **CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

2 This Class Action Settlement Agreement and Release (“Agreement”) is
3 entered into by and between Plaintiffs Coalition for Humane Immigrant Rights
4 (“CHIRLA”), Inland Coalition for Immigrant Justice (“ICIJ,” and together with
5 CHIRLA, the “Plaintiff Coalitions”), on behalf of themselves and all Ruse Class
6 members, on the one hand; and Defendants Alejandro Mayorkas, Secretary of the
7 Department of Homeland Security (“DHS”), Patrick Lechleitner, the Deputy Acting
8 Director and Senior Official Performing the Duties of the Director of U.S.
9 Immigration and Customs Enforcement (“ICE”), and Michael V. Bernacke, the
10 Interim Director of the Los Angeles Field Office of ICE (collectively, “Official
11 Capacity Defendants”), on the other hand; by and through their respective counsel,
12 in the above-entitled action. This Agreement is effective as of the date it is executed
13 by all Parties and upon final approval of the Court pursuant to Rule 23 of the
14 Federal Rules of Civil Procedure, as set forth below.

15 **I. RECITALS**

16 WHEREAS:

17 On April 16, 2020, Plaintiffs filed a civil action, now-captioned *Kidd v.*
18 *Mayorkas*, Case No. 2:20-cv-3512-ODW-JPR, (“Action”) in the United States
19 District Court for the Central District of California (the “Court”). Plaintiffs in this
20 Action are one individual, Osny Sorto-Vasquez Kidd (“Mr. Kidd”), and Plaintiff
21 Coalitions. Plaintiff Coalitions alleged, *inter alia*, statutory and constitutional
22 violations resulting from ICE’s policies and practices when conducting civil
23 enforcement actions at homes by: (1) using deceptive ruses—*i.e.*, officers
24 misrepresenting their governmental identity and/or purpose—to induce compliance
25 with requests to enter or exit a residence; and (2) entering the curtilage of homes
26 without a judicial warrant or consent for the purpose of arresting residents. Through
27 this Action, Plaintiff Coalitions sought injunctive and declaratory relief, on behalf of
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1 themselves, their members and volunteers, and a class of similarly situated
2 individuals, against Official Capacity Defendants.

3 On October 27, 2020, Plaintiffs filed a First Amended Complaint (“FAC”).
4 *See* Dkt. 38.

5 On April 26, 2021, the Court issued an Order Granting in Part and Denying
6 in Part Government Defendants’ Motion to Dismiss and Denying Individual Officer
7 Defendants Motion to Dismiss. *See* Dkt. 58.

8 On February 7, 2023, the Court granted Plaintiff Coalitions’ motion for class
9 certification under Federal Rules of Civil Procedure 23(a) and (b)(2) and appointed
10 Plaintiff Coalitions as the lead plaintiffs for the certified classes. *See* Dkt. 335. The
11 Court certified two classes: (1) the Ruse Class, and (2) the “Knock and Talk” Class.
12 The certified Ruse Class is defined as:

13 “[a]ll individuals residing at a home in the Los Angeles Area of
14 Responsibility where U.S. Immigration and Customs Enforcement has
15 conducted or will conduct a warrantless civil immigration enforcement
16 operation in which officers enter the home under a claim of consent, or
17 where the individual exits their home at the request of ICE, without
officers first verbally stating their true identity as immigration officers
or their immigration law purpose.”

18 *Id.* at 24. Following the close of discovery, Plaintiff Coalitions and Official Capacity
19 Defendants submitted cross-motions for summary judgment on Plaintiff Coalitions’
20 claims on behalf of the Ruse and “Knock and Talk” Classes. *See* Dkt. 446, 447, 451.
21 Plaintiffs also filed a motion for sanctions for Defendants’ alleged spoliation of
22 evidence, in which they sought evidentiary sanctions, monetary sanctions, and
23 notifications to allegedly affected individuals. *See* Dkt. 458.

24 On October 5, 2023, the Parties filed a stipulation requesting a partial stay of
25 proceedings to allow them to continue settlement discussions with respect to all
26 claims in the case other than Plaintiff Coalitions’ claims on behalf of the “Knock
27 and Talk” Class. *See* Dkt. 484. In response, the Court extended the case schedule
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1 deadlines, denied the pending summary judgment and sanctions motions as moot,
2 and ordered the parties to refile their cross-motions for summary judgment on the
3 “Knock and Talk” Class claims. *See* Dkt. 485. The cross-motions for summary
4 judgment on the “Knock and Talk” Class claims were subsequently resolved by
5 Court order. *See* Dkt. 506.

6 The Parties believe this Agreement is a fair, adequate, and reasonable
7 settlement of the remainder of Plaintiff Coalitions’ claims and have arrived at this
8 Agreement after extensive arms-length negotiations, including through multiple
9 settlement conferences with the Honorable Laurel Beeler, as well as various video
10 and telephonic conferences of counsel and exchange of written correspondence.

11 Considering the benefits that Plaintiff Coalitions and the Ruse Class members
12 will receive from settlement of the Action and the risks of litigation, Class Counsel
13 have concluded that the terms and conditions of this Agreement are fair, reasonable,
14 and in the best interests of Plaintiff Coalitions and the Ruse Class members.

15 Defendants deny all liability with respect to the litigation, deny that they have
16 engaged in any wrongdoing, deny the allegations in the First Amended Complaint,
17 deny that they committed any violation of law, deny that they acted improperly in
18 any way, and deny liability of any kind to Plaintiffs, but have agreed to the
19 settlement and dismissal of the claims to: (i) avoid the expense and inconvenience of
20 additional, potentially protracted litigation; and (ii) finally put to rest and terminate
21 the Settled Claims.

22 NOW, THEREFORE, it is hereby AGREED, by and among the Parties to this
23 Agreement, through their respective attorneys, subject to the final approval of the
24 Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in
25 consideration of the benefits flowing to the Parties from the Agreement, that this
26 Agreement constitutes a full, fair, and complete settlement of the Action and release
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1 of its claims other than the Knock and Talk Class and Plaintiff Osny Kidd's
2 monetary claims, upon and subject to the following terms and conditions:

3 **II. DEFINITIONS**

4 Wherever used in this Agreement, the following terms have the meanings set forth
5 below:

6 **A. "Action"** means the civil lawsuit captioned *Kidd v. Mayorkas*, Case No.
7 2:20-cv-3512-ODW-JPR (C.D. Cal. April 16, 2020).

8 **B. "Agreement"** means this Class Action Settlement Agreement, including
9 all appendices.

10 **C. "Class Counsel" or "Plaintiffs' Counsel"** means counsel for Plaintiffs in
11 this action: Eva Bitrán, Stephanie Padilla, Diana Sánchez (ACLU
12 Foundation of Southern California); Anne Lai (UC Irvine Immigrant
13 Rights Clinic); Jacob Kreilkamp, Giovanni Saarman González, Gabriel
14 Bronshteyn (Munger, Tolles & Olson LLP); and their successors.

15 **D. "Ruse Class"** means all individuals residing at a home within the Los
16 Angeles Area of Responsibility where ICE has conducted or will conduct a
17 warrantless civil immigration enforcement operation in which ICE officers
18 enter the home under a claim of consent, or where the individual exits their
19 home at the request of ICE, without officers first verbally stating their true
20 identity as immigration officers or their immigration law purpose.

21 **E. "Defendants" or "Official Capacity Defendants"** means the Defendants
22 Alejandro Mayorkas, Secretary of the Department of Homeland Security
23 ("DHS"); Patrick Lechleitner, the Acting Director of U.S. Immigration and
24 Customs Enforcement ("ICE"); and Michael V. Bernacke, the Interim
25 Director of the Los Angeles Field Office of ICE; and their successors.

26 **F. "Defendants' Counsel"** means the United States Attorney's Office for the
27 Central District of California.
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1 **G. “Effective Date of Settlement” or “Effective Date”** means the date when
2 all of the following shall have occurred: (a) entry by the Court of the
3 Preliminary Approval of Settlement Agreement; (b) approval by the Court
4 of this Agreement, following notice to the Ruse Class (if directed by the
5 Court) and a fairness hearing, as prescribed by Rule 23 of the Federal
6 Rules of Civil Procedure; (c) entry by the Court of the Final Order
7 approving the Agreement in all material respects and dismissing the settled
8 claims.

9 **H. “Effective Period”** means the period of time during which this Agreement
10 is in force, as defined in Section VII.C.

11 **I. “ICE Officer(s)”** means ICE Enforcement and Removal Operations
12 (ERO) officers assigned to the Los Angeles Field Office who conduct civil
13 immigration enforcement actions at residences in the Los Angeles Area of
14 Responsibility.

15 **J. “Los Angeles Field Office” or “Los Angeles Area of Responsibility”**
16 means the area of the United States in which officers from the ICE ERO
17 Los Angeles Field Office have responsibility for the enforcement of U.S.
18 immigration laws; this area consists of the counties of Los Angeles,
19 Riverside, San Bernardino, Orange, Santa Barbara, San Luis Obispo, and
20 Ventura.

21 **K. “Parties”** means Plaintiffs and Defendants.

22 **L. “Plaintiffs” or “Plaintiff Coalitions”** means Coalition for Humane
23 Immigrants’ Rights, Inland Coalition for Immigrant Justice, and all named
24 plaintiffs in their capacity of representing the Ruse Class.

25 **M. “Settled Claims”** means any and all claims for prospective equitable relief
26 (i.e., declaratory and injunctive relief) arising out of the alleged statutory
27 and constitutional violations asserted by Plaintiff Coalitions on behalf of
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1 themselves and the Ruse Class, Plaintiff Coalitions’ sanctions/fee motions,
2 and Plaintiff Coalitions’ claims for attorneys’ fees and costs related to the
3 Ruse Class claims. It is understood and agreed that the Settled Claims in
4 this Agreement do not include: (1) Mr. Kidd’s Federal Tort Claims Act
5 (FTCA) claims and *Bivens* claims (which are addressed in a separate
6 settlement agreement), (2) Plaintiff Coalitions’ claims on behalf of the
7 “Knock and Talk” Class, (3) claims arising out of or accruing from actions
8 that occur after the Effective Period has concluded, (4) individual claims,
9 including but not limited to FTCA and *Bivens* damages claims, of Ruse
10 Class members that could not have been litigated in this Rule 23(b)(2)
11 class action focused on systemwide policies and practices, *see* Dkt. 335, or
12 (5) claims unrelated to those asserted by Plaintiffs in this Action.

13 **III. AGREED-UPON TERMS**

14 **A. Verbal and Visual Identification**

15 **1.** ICE Officers in the Los Angeles Field Office shall comply with the
16 following provisions:

17 **a.** ICE Officers are prohibited from identifying as a specific state or
18 local law enforcement agency (e.g., LAPD), probation, parole,
19 detectives, or any other non-federal governmental agency when
20 conducting a civil immigration enforcement action at a
21 residence. ICE Officers will still be permitted to identify as
22 “police” as indicated in Sections III.A.1.b and c, below.

23 **b.** ICE Officers, when conducting a civil immigration enforcement
24 action at a residence in vest placards or clothing clearly
25 identifying them as law enforcement officers, or in external body
26 armor carriers, must have a visible “ICE” identifier when there is
27 a visible “POLICE” identifier. The text that says “ICE” on such
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1 identifiers must be of equal or greater size as the text that says
2 “POLICE,” with the exception of Special Response Teams
3 (SRT) and medical officers, who will nevertheless still bear an
4 ICE identifier.¹

5 c. ICE Officers shall identify themselves as “ICE” or
6 “immigration” at the time of an arrest, or as soon as it is practical
7 and safe to do so. ICE ERO Los Angeles Field Office training
8 shall provide that if an ICE officer initially identifies as “police”
9 or an “officer” in connection with a civil immigration
10 enforcement action at a residence, it is the expectation that the
11 ICE officer will also identify as “ICE” or “immigration” prior to
12 seeking entry to a residence or requesting that a resident exit a
13 residence.

14 2. As soon as practicable, and no later than one year after the Effective
15 Date of this Agreement, ICE will equip ICE ERO Los Angeles officers
16 with identifiers that comply with the requirements in Section III.A.1.b
17 above.

18 **B. Prohibited Ruses**

- 19 1. ICE Officers in the Los Angeles Field Office are prohibited from
20 engaging in a ruse during a civil immigration enforcement action that
21 identifies the officers as governmental officials and misrepresents their
22 governmental identity or governmental purpose.
- 23 2. During a civil immigration enforcement action, ICE Officers in the Los
24 Angeles Field Office may not engage in the following conduct to seek
25 consent to enter a home or a resident’s agreement to exit a home:
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28 ¹ It is the Parties’ understanding that SRT and medical officers undergo additional specialized training and are only
utilized in high-risk operations, such as the execution of high-risk criminal or civil warrants.

- a. Misrepresent that their purpose involves danger to the resident and/or public safety.
- b. State that they are conducting a criminal investigation, unless it is factually accurate.
- c. Present photos of individuals besides the target, or identify other individuals by name, and falsely claim that they are looking for those other individual(s) at the residence.
- d. Falsely claim that there is a legal or safety problem with an occupant's car.
- e. Identify as a probation or parole officer or claim the officers are conducting a parole or probation check other than specifically an immigration parole check.² ICE Officers in the Los Angeles Field Office may only claim authority to enter a residence or require a resident to exit a residence under the resident's probation or parole terms if the officers first verify that the resident's probation or parole terms authorize ICE to make such a claim under applicable law.

C. Directives and Trainings

1. Within thirty days after the Effective Date of the Agreement, the ICE ERO Los Angeles Field Director shall issue a broadcast message to ICE Officers in the Los Angeles Field Office on their obligations under the Agreement as specified in Section III.A-B above and Section IV below.
2. The ICE ERO Los Angeles Field Office Director shall ensure that ICE Officers in the Los Angeles Field Office are trained on the requirements of the Agreement by:

² It is understood that this provision does not limit ICE's authority to supervise individuals released from ICE or U.S. Customs and Border Protection custody and/or paroled into the country under U.S. immigration laws.

- a. Ensuring that the Fourth Amendment training for ICE Officers in the Los Angeles Field Office concerning civil immigration enforcement operations at a residence includes training specific to the jurisdiction's law on the permissible use of ruses, considerations concerning curtilage of a residence, and the requirements for ICE officers set forth in this Agreement.
 - b. Providing the Fourth Amendment training to ICE Officers in the Los Angeles Field Office at least three times per year with updates as needed.
 - c. Training ICE Officers in the Los Angeles Field Office concerning proper documentation of civil immigration enforcement actions at residences, including the documentation requirements in Section IV.A and the need for document preservation.
 - d. Training ICE Officers in the Los Angeles Field Office to comply with any applicable ICE and/or Los Angeles Field Office policy relating to the retention and preservation of target folders, including Field Operation Worksheets ("FOWs").
3. Defendants shall revise their training materials to implement this Agreement within sixty days of the Effective Date.
4. Defendants shall provide a copy of the broadcast message described in Section III.C.1 above and a copy of any ICE ERO Los Angeles Fourth Amendment training materials implementing this Agreement to Class Counsel at least fourteen days before issuance. For the duration of this Agreement, Defendants shall provide a copy of future versions of the same documents within thirty days after any change to those documents related to Defendants' obligations under the Agreement.

1 **IV. DOCUMENTATION AND MONITORING**

2 **A.** ICE Officers shall document the following information in each Form I-213
3 (and preferably the FOWs³ as well) involving a residential civil
4 immigration arrest where a request is made to enter the residence and/or
5 for an individual to exit the residence, in addition to the information
6 currently recorded:

7 **1. Verbal Identification.** If ICE Officer(s) initially verbally identify as
8 anything other than “DHS,” “ERO,” “ICE” and/or “immigration,” how
9 and when ICE Officer(s) verbally identified themselves in relation to
10 Section III.A.1.a and c above. This requirement will continue for a
11 period from 18 months after the Effective Date of this Agreement and
12 will terminate at that point.

13 **2. Stated Purpose.** If ICE Officer(s) state a governmental purpose for
14 their visit that concerns any of the categories in Section III.B above,
15 what the ICE Officer(s)’ stated purpose was and any other relevant
16 representations ICE Officer(s) made about their purpose prior to arrest.

17 **B.** A supervisor or supervisors will review ICE officers’ documentation,
18 including the Form I-213s and FOWs, to monitor compliance with this
19 Agreement.

20 **C.** Defendants shall provide Class Counsel with a semiannual production of
21 an Arrest Activity Report of ERO Los Angeles civil immigration
22 residential operations in the Los Angeles AOR from OM2 or other
23 successor software or data system for the prior six-month period.
24 Defendants shall produce the data beginning on or before the last day of
25 the sixth month following the Effective Date, and continue with
26 semiannually productions on or before the last day of each successive sixth
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28 ³ This Agreement does not require Defendants to modify the existing FOW form.

1 month period. A sixth and final production will be made forty-five days
2 prior to the termination of this Agreement. Any Activity Report provided
3 to Class Counsel will be subject to a protective order limiting the use of
4 the produced documents to monitoring compliance with the terms of this
5 Agreement.

6 **D.** Upon request by Class Counsel, Defendants will provide up to one
7 hundred and ten (110) ERO Los Angeles Form I-213s and up to fifteen
8 (15) FOWs from each semiannual Activity Report produced by ICE as set
9 forth in Section IV.C to monitor compliance with the terms of this
10 Settlement Agreement. Class Counsel will endeavor to provide identifying
11 information to assist Defendants in locating the requested documentation,
12 such as the full name, residential address, location of the arrest if different
13 from the residential address, alien number, date and place of birth,
14 nationality, and any other available identifying information. Defendants
15 shall provide Class Counsel with the Form I-213s and/or FOWs within
16 thirty (30) calendar days after receipt of Class Counsel's request.
17 Electronic copies of any Form I-213s and/or FOWs produced by
18 Defendants will be sufficient to meet Defendants' production obligations
19 under this section.⁴ Any Form I-213s and/or FOWs provided to Plaintiffs
20 will be subject to a protective order limiting the use of the produced
21 documents to monitoring compliance with the terms of this Agreement.

22 **E.** Defendants' productions pursuant to Sections IV.B–C will continue on an
23 approximately semiannual basis throughout the Effective Period of this
24 Agreement.

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28 ⁴Electronic copies of FOWs shall be scans of FOWs with any notes ICE Officer(s) took during operations.

1 **V. RELEASE: SCOPE AND EFFECT OF RELEASE**

2 As of the Effective Date, Plaintiffs, on behalf of themselves, their heirs,
3 executors, administrators, representatives, attorneys, successors, assigns,
4 agents, affiliates, and partners, and any persons they represent, by operation
5 of any final judgment entered by the Court, fully, finally, and forever release,
6 relinquish, and discharge the Defendants of and from any and all of the
7 Settled Claims. The Parties agree and acknowledge that this Release shall not
8 apply to claims other than the Settled Claims or efforts by the Ruse Class to
9 enforce the terms of this Agreement.

10 **VI. DISPUTE RESOLUTION**

11 **A.** The Parties agree to work cooperatively with one another and in good faith
12 and agree to use their best efforts to effectuate the purposes of this
13 Agreement and to resolve informally any differences regarding
14 interpretation of and compliance with this Agreement prior to bringing
15 such matters to the Court for resolution.

16 **B.** Should counsel for any Party believe in good faith that another Party has
17 violated the provisions of this Agreement, such counsel shall promptly
18 notify counsel for the opposing Party, in writing, of the specific grounds
19 upon which noncompliance is alleged (the “Notice of Dispute”).

20 **C.** Any allegations of violations of this Agreement must be substantiated in
21 the Notice of Dispute with specific detailed information about the alleged
22 violations that is sufficient to enable the responding Party to investigate
23 and respond.

24 **D.** The responding Party shall respond in writing to a Notice of Dispute
25 within a reasonable period of time, but no later than thirty (30) calendar
26 days, and provide the responding Party’s position and any action it has
27 taken or intends to take to address the alleged non-compliance. The Parties
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1 shall then meet and confer regarding this issue within three (3) business
2 days of the response.

3 **E.** If the dispute cannot be resolved within five (5) business days of the date
4 of the meet and confer, the complaining Party may move to enforce the
5 terms of this Agreement through a Motion to Enforce. The Court shall then
6 resolve the dispute or order such further briefing, hearing, or other
7 procedure that it deems necessary or appropriate. The Court in this
8 proceeding shall have the power to award such relief and issue such
9 judgment as the Court deems proper.

10 **VII. PRELIMINARY AND FINAL APPROVAL, CLASS NOTICE, COURT**
11 **JURISDICTION, AND EXPIRATION OF SETTLEMENT**
12 **AGREEMENT**

13 **A.** Following the Parties' execution of this Agreement, the Parties shall
14 jointly file forthwith a motion with a proposed Preliminary Approval
15 Order seeking preliminary approval of the Classwide Settlement as to the
16 Ruse Class claims. The motion shall request that the Court:

- 17 1. Preliminarily approve the Classwide Settlement as being a fair,
18 reasonable, and adequate settlement within the meaning of the
19 Federal Rule of Civil Procedure 23 and applicable law, and
20 consistent with due process;
- 21 2. Approve the Notice Plan set forth in Section VII.B; and
- 22 3. Set the date and time of the Fairness Hearing.

23 If the Court grants preliminary approval, following the notice period, the
24 Parties shall jointly file forthwith a motion seeking final approval of the
25 Classwide Settlement as to the Ruse Class claims.

26 **B. Notice.** Notice to class members shall be translated into Spanish by
27 Plaintiffs and provided to Defendants before the filing of the Parties'
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1 motion seeking preliminary approval of this Agreement. The Parties’
2 motion seeking preliminary approval of this Agreement will propose to the
3 Court that the notice shall be given to class members upon preliminary
4 approval of the Classwide Settlement via the following:

- 5 1. Posting in ICE detention centers located in the Los Angeles Area of
6 Responsibility.
- 7 2. On ICE, ACLU, CHIRLA, and ICIJ websites.
- 8 3. Through the local American Immigration Lawyers’ Association
9 listserv.

10 C. This Agreement shall become effective upon the Effective Date, and shall
11 terminate three years thereafter.

12 D. Following the Effective Date, the Parties shall forthwith jointly file the
13 stipulated request attached hereto as Appendix A, requesting that the Court
14 enter this Agreement as a stipulated order and dismiss Plaintiffs’ claims on
15 behalf of the Ruse Class with prejudice. When jointly filing the stipulated
16 request, the Parties will request that the Court retain jurisdiction over this
17 action, including after a final judgment on the Knock and Talk Class
18 claims, to enforce the terms of this Agreement.

19 **VIII. TERMINATION**

20 A. If the Court does not approve this Agreement, or the Court’s approval of
21 the Agreement is reversed, vacated, or terminated on appeal, the Parties’
22 good-faith adherence to the terms of this Agreement prior to reversal,
23 vacatur, or termination shall not be considered unlawful.

24 B. Defendants or Plaintiffs shall have the right to terminate this Agreement if
25 (a) the Court declines to enter the Preliminary Approval or Final Order or
26 modifies that Preliminary Approval or Final Order in any material respect;
27 (b) the Court declines to approve this Agreement or any material part of it;
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1 (c) the Court declines to dismiss the settled claims; or (d) the Court of
2 Appeals or the United States Supreme Court reverses, vacates, or modifies
3 the Agreement in any material way. Notice of termination must be
4 provided in writing (“Termination Notice”) to all other Parties and within
5 thirty (30) days of the event triggering the right to terminate.

6 C. Except as otherwise provided herein, if the Agreement is terminated or
7 modified in any material respect or fails to become effective for any
8 reason, then the Agreement shall be without prejudice and none of its
9 terms shall be effective or enforceable; the Parties shall be deemed to have
10 reverted to their respective statuses in the Action as of the date and time
11 immediately preceding entering into the Agreement; and the Parties shall
12 proceed in all respects as if this Agreement and any related orders had not
13 been entered. If the Agreement is terminated or modified in any material
14 respect, the Parties shall be deemed not to have waived, not to have
15 modified, or not to be estopped from asserting any existing or additional
16 defenses or arguments otherwise available to them.

17 **IX. NO ADMISSION OF WRONGDOING**

18 A. This Agreement, whether or not executed, and any proceedings taken
19 pursuant to it:

- 20 1. Shall not be construed to waive, reduce, or otherwise diminish the
21 authority of the Defendants to enforce the laws of the United States
22 against Ruse Class members, consistent with the Constitution and laws
23 of the United States, and applicable regulations;
- 24 2. Shall not be offered or received against the Defendants as evidence of,
25 or construed as or deemed to be evidence of, any presumption,
26 concession, or admission by any of the Defendants of the truth of any
27 fact alleged by the Plaintiffs or the validity of any claim that had been
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1 or could have been asserted in the Action or in any litigation, or the
2 deficiency of any defense that has been or could have been asserted in
3 the Action, or of any liability, negligence, fault, or wrongdoing of the
4 Defendants; or any admission by the Defendants of any violations of,
5 or failure to comply with, the Constitution, laws or regulations; and
6 3. Shall not be offered or received against the Defendants as evidence of a
7 presumption, concession, or admission of any liability, negligence,
8 fault, or wrongdoing, nor shall it create any substantive rights or causes
9 of action against any of the Parties to this Agreement, in any other civil,
10 criminal, or administrative action or proceeding, other than such
11 proceedings as may be necessary to effectuate or enforce the provisions
12 of this Agreement; provided, however, that if this Agreement is
13 approved by the Court, Defendants may refer to it and rely upon it to
14 effectuate the liability protection granted them hereunder.

15 **X. ATTORNEYS' FEES AND COSTS**

16 **A.** When the Parties jointly request that the Court enter the Final Approval
17 Order and Judgment, Class Counsel shall also file a separate written
18 motion for Court approval of attorneys' fees and costs. Class Counsel shall
19 seek Court approval of a fees and costs award in the sum of \$2,600,000.
20 Defendants shall not oppose Class Counsel's motion for fees and costs in
21 this amount.

22 **B.** Upon approval of Class Counsel's motion for fees and costs, and within 60
23 days after the Effective Date, Defendants shall pay to Class Counsel the
24 sum of \$2,600,000 to settle and resolve any claims by Plaintiffs or Class
25 Counsel for attorneys' fees related to the Ruse Class claims of this Action
26 under the Equal Access to Justice Act, 28 U.S.C. §2412, or any other
27 statute, including Plaintiffs' pending motion for sanctions (Dkt. 305) and
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1 motion for sanctions that was denied without prejudice (Dkt. 458), as well
2 as costs related to the Ruse Class claims of this Action under 28 U.S.C. §
3 2412.

4 **1.** Defendants shall deliver this payment by direct wire transfer into Class
5 Counsel's designated account. Class Counsel shall provide Defendants
6 all information necessary to accomplish the direct wire transfer within
7 five days of the Effective Date.

8 **C.** The Parties agree to this settlement of attorneys' fees and costs to avoid
9 further litigation and the costs and risks associated with litigating a request
10 for fees and costs for the Ruse Class claims, and sanctions motion.

11 **D.** Plaintiffs and Class Counsel, on behalf of themselves, their heirs,
12 executors, administrators, representatives, attorneys, successors, assigns,
13 agents, affiliates, and partners, and any persons they represent, by
14 operation of any final judgment entered by the Court, fully, finally, and
15 forever release, relinquish, and discharge the Defendants of and from any
16 and all claims for attorneys' fees and costs related to the Ruse Class claims
17 and sanctions motion.

18 **E.** This settlement does not address or resolve Plaintiffs' potential claim for
19 an award for attorneys' fees and costs for the Knock and Talk Class
20 claims.

21 **XI. ADDITIONAL PROVISIONS**

22 **A. Representations and Warranties.** Each signatory hereto represents and
23 warrants that such person has authority to bind the Party for whom such
24 person acts.

25 **B. Execution in Counterparts.** This Agreement may be executed in two or
26 more counterparts, each of which shall be deemed to be an original and all
27 of which together shall be deemed to be one and the same Agreement. A
28

1 facsimile or other duplicate of a signature (including an electronic
2 signature such as DocuSign) shall have the same effect as a manually
3 executed original. This Agreement shall be deemed executed on the date
4 the Agreement is signed by all of the undersigned.

5 **C. Extension of Time.** The Parties reserve the right, by agreement and
6 subject to the Court's approval, to grant to each other any reasonable
7 extension of time that might be needed to carry out any of the provisions
8 of this Agreement.

9 **D. Choice of Law.** This Agreement shall be governed by and construed in
10 accordance with the laws of the United States of America.

11 **E. Entire Agreement; No Oral Modification.** The terms and conditions set
12 forth in this Agreement, including all appendices, constitute the complete
13 and exclusive statement of the agreement between the Parties relating to
14 the subject matter of this Agreement, superseding all previous negotiations
15 and understandings, and may not be contradicted by evidence of any prior
16 or contemporaneous agreement. Any amendment or modification of the
17 Agreement must be in a writing signed by Plaintiffs' Counsel and
18 Defendants' Counsel.

19 **F. Advice of Counsel.** The determination of the terms of, and the drafting of,
20 this Agreement have been by mutual agreement after negotiation, with
21 consideration by and participation of all Parties and their counsel. Whereas
22 all Parties have contributed substantially and materially to the preparation
23 of this Agreement and its appendices, it shall not be construed more
24 strictly against one Party than another.

25 **G. Appendices.** The Parties agree that Appendix A to this Agreement is a
26 material and integral part thereof and is fully incorporated herein by
27 reference.
28

1 IN WITNESS WHEREOF, the parties, by and through their authorized counsel,
2 intending to be legally bound, have executed this Agreement on the dates shown
3 below.

4 Dated: November 27, 2024

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF SOUTHERN
CALIFORNIA

6 By: Eva Bitran
7 Eva Bitrán

8 Dated: November 27, 2024

MUNGER, TOLLES & OLSON LLP

10 By: Giovanni Saarman González
11 Giovanni Saarman González

12 Dated: November 27, 2024

UC IRVINE SCHOOL OF LAW
IMMIGRANT RIGHTS CLINIC

13 By: Alan
14 Anne Lai

15 Dated: November __, 2024

16 JOSEPH T. MCNALLY
17 Attorney for Defendants,
18 Acting Under Authority Conferred by 28
19 U.S.C. § 515
20 DAVID M. HARRIS
21 Assistant United States Attorney
22 Chief, Civil Division
23 JOANNE S. OSINOFF
24 Assistant United States Attorney
25 Chief, Complex and Defensive Litigation
26 Section

27 By: CHRISTINA MARQUEZ
28 Digitally signed by CHRISTINA
MARQUEZ
Date: 2024.11.22 14:11:20 -08'00'

CHRISTINA MARQUEZ
PAUL LA SCALA
JONATHAN BLAKEY
Assistant United States Attorneys
Attorneys for Defendants