

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Office of the General Counsel
U.S. Department of Homeland Security
Washington, DC 20528



Homeland
Security

August 30, 2010

MEMORANDUM FOR THE SECRETARY

From: Ivan K. Fong
General Counsel

Subject: Recommendation for Indemnification in (b)(6), (b)(7)c
(b)(6), (b)(7)c, Pursuant to DHS Management Directive No. 0415

Purpose: To recommend you approve indemnification of four current and former Special Agents and Officers, all with U.S. Immigration and Customs Enforcement (ICE), pursuant to Department of Homeland Security (Department or DHS) Management Directive No. 0415, to enable settlement of a *Bivens* action before a potential adverse judgment.

Background: As detailed in the attached Department of Justice (DOJ) Memorandum requesting indemnification, four current and former ICE employees—retired Senior Special Agent (b)(6), (b)(7)c, (b)(6), (b)(7)c former Supervisory Special Agent (b)(6), (b)(7)c, Senior Special Agent (b)(6), (b)(7)c, and Supervisory Detention and Deportation Officer (b)(6), (b)(7)c (no relation)—were named as defendants in their individual capacity under *Bivens* in (b)(6), (b)(7)c, based on allegations concerning the nearly eight-month long detention of plaintiff (b)(6), (b)(7)c a naturalized U.S. Citizen and U.S. Army veteran.

In 2005, after (b)(6), (b)(7)c completed a state prison sentence, the defendants detained (b)(6), (b)(7)c and sought his removal under the belief that he did not have legal status in the United States. The defendants' belief, however, was based on a serious error in the Central Index System immigration database, which mistakenly contained two alien file (A-file) numbers for (b)(6), (b)(7)c—only one of which reflected his naturalization. That file, however, was inaccessible using his name (or “sound-alike” names) or Social Security number because of data errors. Thus, despite (b)(6), (b)(7)c repeated assertions of U.S. citizenship and military service, database queries returned only the A-file that did not include his naturalization records. Investigation by (b)(6), (b)(7)c counsel discovered the second A-file number, reflecting naturalization, which led to (b)(6), (b)(7)c release.

(b)(6), (b)(7)c filed the instant *Bivens* action in 2008, and the ICE defendants filed a motion to dismiss asserting qualified immunity. The district court denied the motion, and on appeal the case was referred to mediation where the parties reached a settlement in principle for \$400,000 in monetary damages and a statement of regret. The proposed settlement is contingent upon indemnification of the named defendants and would resolve all claims against the defendants as well as against any other unnamed DHS employees that could be subject to suit. Plaintiff's counsel has agreed not to seek attorneys' fees or costs.

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Discussion: Management Directive No. 0415 provides that DHS may indemnify employees against rendered monetary awards if the Secretary determines their conduct was within the scope of employment and that indemnification is in the interest of the United States. The Directive also requires “exceptional circumstances” when the request is made before an adverse judgment.

There is no question that the *Bivens* action here is based on conduct undertaken within the scope of the defendants’ employment. The gravamen of plaintiff’s complaint is that the defendants improperly detained and sought the removal of a U.S. Citizen despite having the means to verify his naturalization—actions that were taken pursuant to their official ICE duties.

Indemnification also is in the interest of the United States, and these reasons also largely demonstrate why exceptional circumstances merit indemnification before a potentially adverse judgment. Most obvious is that the facts are highly sympathetic and favorable to plaintiff. Thus, judgment in favor of the plaintiff is likely and could result in damages (and attorneys’ fees) greater than the proposed settlement amount. Notably, the pending *Bivens* action is now plaintiff’s sole source of relief since tort claims against the United States are time-barred. That circumstance could lead a potential jury to rule for (b)(6), (b)(7), because it would be the only way to compensate him. Although there are grounds for a legitimate defense, evaluations by both DOJ and ICE raise doubts about a complete escape from liability.

Moreover, there has been significant negative media attention, which is likely to continue if settlement fails. Furthermore, discovery could lead to the disclosure of additional adverse facts. Specifically, plaintiff has not yet focused on facts that Agents (b)(6), (b)(7) and (b)(6), (b)(7) initiated removal proceedings without the written approval of the regional Special Agent in Charge as per standard ICE practice; that proper documentation required for a Notice to Appear does not appear in (b)(6), (b)(7) file; and that Agent (b)(6), (b)(7) later resigned under indictment (though unrelated to this matter). Further litigation also could result in the naming of additional ICE defendants.

Perhaps most importantly, the locus of the problem here is the Department’s mismanagement of the A-files. Not only does DHS bear risk from judicial scrutiny of its recordkeeping practices should the litigation continue, but employee morale would be harmed severely if individual ICE employees were required to bear personal liability for broader Departmental failings.

Finally, settlement is contingent upon indemnification, and settling at this early stage is merited and in the interest of the United States for the reasons discussed above. If DHS forgoes approving indemnification, thus losing this settlement opportunity, then the cost of this litigation likely will be much higher—both in terms of actual monetary value and potential exposure.

Recommendation: The Office of the General Counsel recommends that you approve indemnification of four current and former ICE employees to enable settlement.

Approve/date	(b)(6), (b)(7)c	9-23-10	Disapprove/date	_____
Modify/date	_____	_____	Needs more discussion/date	_____

Attachments: A. DOJ Memorandum Requesting Indemnification

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Office of the General Counsel
U.S. Department of Homeland Security
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Recommendation: The Office of the General Counsel recommends that you approve indemnification of four current and former ICE employees to enable settlement.

Approve/date	(b)(6), (b)(7)c	7-23-10	Disapprove/date	_____
Modify/date	_____	_____	Needs more discussion/date	_____

Attachments: A. DOJ Memorandum Requesting Indemnification

U.S. Department of Homeland Security
LESC Counsel's Office
188 Harvest Lane
Williston, VT 05495-7554



U.S. Immigration
and Customs
Enforcement

December 18, 2012

MEMORANDUM FOR: Dallas Finance Center
OPLA Payment Team

THROUGH: (b)(6), (b)(7)(C), Chief, Financial Management Unit, ERO

FROM: (b)(6), (b)(7)c Deputy Chief, DCLD (b)(6), (b)(7)c

SUBJECT: Settlement Agreement in (b)(6), (b)(7)c

Pursuant to a settlement agreement, Immigration and Customs Enforcement has agreed to pay Lowenstein Sandler PC a total of \$295,000, charged to ERO.

The following information is provided to facilitate this payment:

Payee name: (b)(6), (b)(7)c
Taxpayer ID#: (b)(6), (b)(7)c
Bank name: Bank of America
ABA #: (b)(6), (b)(7)c
Account #: (b)(6), (b)(7)c
Payment amount: \$295,000
Funding should be charged to: ERO
Funding payment code: (b)(7)(E)

DALLAS FINANCE CENTER: Upon completion of the funding request and payment of this matter, please fax (802-872-6018) or e-mail a copy of the proof of payment to (b)(6), (b)(7)c@ice.dhs.gov. Thank you for your assistance.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

(b)(6), (b)(7)c)	
Plaintiffs,)	Hon. Peter G. Sheridan Hon. Douglas E. Arpert
v.)	(b)(6), (b)(7)c
UNITED STATES IMMIGRATION & CUSTOMS ENFORCEMENT, et al.,)	SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS RELATING TO THE ACTION
Defendants.)	

This Settlement Agreement and Release of Claims Relating to the Action (the "Agreement") is made and entered into between (b)(6), (b)(7)c (b)(6), (b)(7)c by and through his parents, (b)(6), (b)(7)c and (b)(6), (b)(7)c (b)(6), (b)(7)c (collectively, "Plaintiffs"); the persons identified in the action captioned above (the "Action") as ICE (United States Immigration & Customs Enforcement) Agents 1-31; and the United States of America.

This Agreement is made in view of the following facts:

- A. In this Action, Plaintiffs claim and claimed that they are entitled to, *inter alia*, damages from federal officials sued in their individual capacities under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and

injunctive relief from the United States of America.

B. This Agreement shall not constitute a concession to jurisdiction or an admission of liability or fault on the part of the United States of America or any of its agencies, current or former officers, agents, or employees of the United States of America, including but not limited to Defendant ICE Agents 1-31.

C. The parties to this Agreement desire to resolve finally and completely all outstanding differences, disputes, and claims, known or unknown, which have been or could have been asserted in the Action.

NOW, THEREFORE, for and in consideration of the mutual promises herein contained, and other consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned parties to this Agreement agree as follows:

1. In resolution of the damages claims brought against federal officials pursuant to *Bivens* and with the agreement that Plaintiffs consent to the dismissal with prejudice of their injunctive claim, the United States of America, using appropriated funds, shall pay to Plaintiffs, upon the terms indicated below, the sum of TWO HUNDRED AND NINETY-FIVE THOUSAND DOLLARS (\$295,000.00) (the "Settlement Amount") by electronic funds transfer to the client trust account of (b)(6), (b)(7)c counsel for Plaintiffs. Wire instructions for this electronic transfer are set forth in Exhibit A hereto. The United States of America shall cause

this Settlement Amount to be paid upon notification that this Agreement has been executed by Plaintiffs and their counsel.

2. Plaintiffs, individually, and on behalf of all their personal representatives, guardians, heirs, executors, administrators, agents, assigns, and attorneys, hereby fully release, forever discharge and agree to hold harmless all persons and entities, including but not limited to the United States of America and all of its divisions, subdivisions, agencies, assigns, present and former officers, agents, employees, including ICE Agents 1-31 (and all of their agents, employees, successors, predecessors, executors, administrators, personal representatives, heirs, insurers, and assigns), from all claims, liability, losses, charges, actions, causes of action, demands, damages, judgments and executions, and suits at law or in equity or before any court or administrative tribunal of any and every kind whatsoever, which Plaintiffs now have, have had, may have, may have had, or in the future may have, whether known or unknown, which arise out of or in connection with, or which relate in any manner to, the Action. This release specifically includes but is not limited to all matters which are, have been, or could have been the subject of the Action and any matters pertaining or relating to the United States of America, or any current or former officers, agents, or employees of the United States of America, including Defendant ICE Agents 1-31, which were raised or could have been raised in any of the pleadings.

filed in the Action and any claims for relief of any kind based on the subject matter of those pleadings. Plaintiffs agree to accept payment of the Settlement Amount as a complete compromise of matters involving disputed issues of law and fact in the Action and to assume fully the risk that the facts or law may be otherwise than they believe. The release set forth in this paragraph shall become effective as of the date of the final signature on this Agreement.

3. The parties to this Agreement agree that none of them shall file a claim, lawsuit, or other action against any other party to this Agreement arising out of or relating to the Action.

4. The parties to this Agreement agree that this Agreement is entered into for the purpose of compromising disputed claims and avoiding the expenses and risks of further litigation and that neither this Agreement nor any action taken pursuant thereto shall constitute a concession to jurisdiction or an admission of liability or fault on the part of the United States or any of its agencies, current or former officers, agents or employees, including Defendant ICE Agents 1-31.

5. All parties to the litigation, both present and former, shall each bear his or her own attorney's fees and costs. Plaintiffs agree that they will not seek, solicit or request attorneys' fees or litigation costs.

6. Each Plaintiff and his or her personal representatives, guardians, heirs,

executors, administrators, assigns, and attorneys (collectively referred to in the remainder of this paragraph as "Plaintiff") agrees to reimburse, indemnify, and hold harmless the United States of America and all of its divisions, subdivisions, agencies, assigns, present and former officers, agents, and employees, including Defendant ICE Agents 1-31 (and all of their agents, employees, successors, predecessors, executors, administrators, personal representatives, heirs, insurers, and assigns) (collectively referred to in the remainder of this paragraph as "the United States"), from and against any and all causes of action, claims, liens, rights or subrogated or contribution interests asserted against the United States by any third party based on any alleged injury to that Plaintiff or caused by that Plaintiff arising out of facts alleged in the Action.

7. The terms of this Agreement are contractual and not merely a recital, and shall be binding upon and inure to the benefit of the parties to this Agreement. This Agreement shall be fully enforceable by the parties in an action at law or in equity, and nothing contained herein shall preclude or be construed to preclude an action at law or in equity by the parties against each other to enforce the provisions of this Agreement.

8. This Agreement embodies the entire agreement between the parties to this Agreement. There are no promises, terms, conditions, or obligations other than

those contained in the Agreement. All prior negotiations, understandings, conversations, and communications are merged into this Agreement and have no force and effect other than as expressed in the body of this Agreement. The parties to this Agreement agree that a copy of the fully executed Agreement shall have the same legal effect and shall be equally enforceable in law and/or at equity as the original fully executed Agreement.

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

10. Each of the undersigned parties to this Agreement agrees that he or she has completely read and fully understands the terms of this Agreement and voluntarily accepts those terms of his or her own free will. Plaintiffs and their attorneys each represent that, to the extent necessary for full comprehension of the terms and conditions of this Agreement, this Agreement was translated for Plaintiffs into Spanish before Plaintiffs executed the Agreement.

11. It is contemplated that this Agreement may be executed in several counterparts, with a separate signature page for each party. All such counterparts and signature pages, together, shall be deemed to be one document.

(b)(6), (b)(7)c

**U.S. Department of Justice
Office of Immigration Litigation
District Court Section**

(b)(6), (b)(7)c

**Washington, DC 20044
Attorney for the United States of America**

Executed this ___ of ___, 2012

(b)(6), (b)(7)c

**Trial Attorney, Torts Branch
United States Department of Justice, Civil Division**

(b)(6), (b)(7)c

**Washington, D.C. 20044
Attorney for Defendant ICE Agents 1-31**

Executed this ___ of ___, 2012

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Roseland, NJ 07068

**Attorney for Plaintiffs
through his parents,**

(b)(6), (b)(7)c

and

(b)(6), (b)(7)c

by and

(b)(6), (b)(7)c

and

(b)(6), (b)(7)c

Executed this 12th of December, 2012

(b)(6), (b)(7)c

U.S. Department of Justice
Office of Immigration Litigation
District Court Section

(b)(6), (b)(7)c

Washington, DC 20044
Attorney for the United States of America

Executed this 10th of December 2012

(b)(6), (b)(7)c

Trial Attorney, Torts Branch
United States Department of Justice, Civil Division

(b)(6), (b)(7)c

Washington, D.C. 20044
Attorney for Defendant ICE Agents 1-31

Executed this 10th of Dec., 2012

(b)(6), (b)(7)c

Roseland, NJ 07068

Attorney for Plaintiffs
through his parents,

(b)(6), (b)(7)c

by and

(b)(6), (b)(7)c

(b)(6), (b)(7)c

and

(b)(6), (b)(7)c

Executed this ___ of _____, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this 12th of December, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this 12th of December, 2012

(b)(6), (b)(7)c

Executed this 12th of December, 2012

(b)(6), (b)(7)c

through his legal guardian

(b)(6), (b)(7)c

(print)

Executed this 12th of December, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this 12th of December, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this 12th of December, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this ___ of ___, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this 12th of December, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this ___ of ___, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this ___ of ___, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this 11 of 30, 2012

(b)(6), (b)(7)c

Plaintiff

Executed this ___ of ___, 2012

EXHIBIT A

WIRE INSTRUCTIONS FOR CLIENT TRUST ACCOUNT

Wire Room of: Bank of America
100 W. 33rd. St.
New York, NY 10001

(b)(6), (b)(7)c

For credit to: (b)(6), (b)(7)c
Attorney Trust Account
IOLTA

(b)(6), (b)(7)c

For further credit to sub account # (b)(6), (b)(7)

For International wires please use SWIFT Code: (b)(6), (b)(7)c

Please notify (b)(6), (b)(7)c **.com) of the amount and the date of the transaction(s).**

Exhibit A

UNITED STATES DEPARTMENT OF HOMELAND SECURITY

Immigration And Customs Enforcement

Miscellaneous Obligation Screen Printout

Document Number (b)(7)(E) Date 21-DEC-2012

Document Type TORT Vendor Name (b)(6), (b)(7)c Vendor Taxpayer ID (TIN) (b)(6), (b)(7)c

Item Number: 1 Description: ABA: (b)(6), (b)(7)c ACCOUNT (b)(6), (b)(7)c
 BANK OF AMERICA

QUANTITY	UNIT	UNIT PRICE	FUNDING LOCATION	BENEFIT LOCATION	FUND CODE	PROGRAM	PROJECT	SPENDING PLAN CODE	SUB-OBJECT CLASS	OBLIGATION AMOUNT
1.00	EA	295,000.00	(b)(7)(E)	-----	(b), (b)	35-49-00-000	NONE000-000	000	42-02	295,000.00

(b)(6), (b)(7)c

12/26/12
Date

(b)(6), (b)(7)c

Signature of _____ Date 21-DEC-2012
 (Certification of Funds Availability)

From: (b)(6), (b)(7)c
Sent: Friday, July 13, 2012 10:29 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c v. U.S. Immigration & Customs Enforcement (b)(6), (b)(7)c

Dear (b)(6), (b)(7)c

As you are aware, following the breakdown of settlement negotiations between the parties last year, the Magistrate Judge offered to conduct an independent assessment of the allegations in the lawsuit, the relevant case law and published jury verdicts in order to determine a dollar amount for which he believes this lawsuit should settle.

The settlement number the Magistrate Judge recommended is \$295,000, broken down by plaintiff as follows:

(b)(6), (b)(7)c	\$50,000
	\$40,000
	\$40,000
	\$40,000
	\$40,000
	\$30,000
	\$25,000

The Magistrate Judge made clear that as part of his settlement procedure, no further negotiations are permitted; the settlement figure is firm and final. Each party may only report back to the Magistrate Judge whether it accepts or rejects the final number. The Magistrate Judge has assured us that he will maintain each party's decision in confidence—unless of course a settlement is reached.

We believe this number, which averages approximately \$37,000 per plaintiff, is on the outer perimeter of what could be considered a reasonable settlement given the allegations in this case. However, because so many of the litigative risks and cost considerations will be borne principally by the agency, we defer to the Department of Homeland Security and Immigration and Customs Enforcement on whether settlement at this figure is appropriate. As explained in more detail below, although it is unclear whether a jury will award Plaintiffs \$295,000, the expense of litigating this case, the disruption to government operations at the New Jersey Field Offices (and likely ICE Headquarters), and the risk for an even higher jury award (which is always present in cases where punitive damages are available), all may tip the agency towards settlement. If ICE believes that avoiding these risks is worth the expense now, we would support the agency's decisions to resolve this lawsuit and to authorize pre-judgment indemnification of the individual defendants for a total payment of \$295,000.

We are in the process of consulting with our individual clients and will confirm with each of them that they are requesting pre-judgment indemnification and agree to the proposed settlement if it is authorized by DHS and agreed upon by Plaintiffs. We will advise ICE when we have received the clients' decisions. We, of course, would not support a settlement that did not include dismissal of the claims for injunctive relief that are being handled by DOJ's Office of Immigration Litigation. However, we have not specifically consulted with OIL on the issues discussed in this email. You may wish to consult with them.

TIME LIMIT

The Magistrate Judge has scheduled a conference for July 23, 2012, to commence discovery planning efforts. At your request, we asked for three weeks in which to report back to the Magistrate Judge as to whether the proposed settlement number is acceptable to the agency. Therefore, we must notify the Court of the agency's position on settlement by August 1, 2012.

BACKGROUND

We have attached to this email our communication to you last year seeking authority to engage in settlement discussions for this case. See 8/15/11 Email to (b)(6), (b)(7)c. That settlement correspondence describes in detail the factual and procedural background of this lawsuit. In that same correspondence, we identified some of the weakness we perceived in our defenses and outlined our views of the potential risks to ICE in proceeding into discovery in this case, including the high cost of discovery, the disruption to ICE operations and the weaknesses of our qualified immunity and other defenses. Those concerns remain. At the time of that correspondence, we asked for authority to settle the case for \$150,000. While we considered that level of authority sufficient to engage in good-faith negotiations, Plaintiffs held fast to their estimation of damages amounting to \$1.26 million and their assessment of the value of the case given related jury verdicts. See 8/31/11 and 9/26/11 Letters from Counsel for Plaintiffs. Therefore, the discussions did not result in a settlement at that time.

CONSIDERATIONS FOR SETTLEMENT

Since we last assessed the valuation of this lawsuit, two primary events have occurred. First, the Court issued its decision on the scope of discovery it will permit in this case and declined to limit the scope of discovery. Second, a lawsuit with similar allegations of misconduct during ICE residential enforcement actions settled. In (b)(6), (b)(7)c, the government settled the case for \$350,000, which averaged to approximately \$32,000 per plaintiff. That settlement agreement also included immigration benefits for the plaintiffs. In our case, the Magistrate Judge specifically referred to the (b)(6), (b)(7)c settlement as support for his recommendation.

In determining whether settlement of this case for \$295,000 is reasonable, we believe that the agency should take into consideration several factors. First, as we mentioned in our prior settlement correspondence, full discovery in this case presents a serious risk of disrupting ICE's enforcement efforts in New Jersey and would be unusually costly. As we now know from the

Court's position on discovery, and as discussed below, the discovery permitted by the Court will impose costs both in terms of monetary expenditures and in terms of disruption to the work functions of the twenty-seven ICE agent defendants and their colleagues. Second, on a per-plaintiff basis, the settlement figure is somewhat higher than that agreed to in (b)(6), (b)(7)c. The \$37,000 per plaintiff average figure may be used by plaintiffs in other litigation as an example of an appropriate settlement. On the other hand, if discovery in this case were to proceed, this case may even foment additional litigation, given the broad discovery permitted by the Court. Below, we discuss each consideration in more detail.

1. Cost of Discovery and Disruption to ICE Operations

As described in our prior settlement correspondence, the costs of participating in discovery and trial will be higher than those in most immigration or Bivens cases. These costs are exacerbated by the number of parties in the case and the lengthy time during which the operative events occurred. Plaintiffs' discovery demands are already extensive. For instance, Plaintiffs have requested information dating back to 2004 about every Operation Return to Sender enforcement action in the state of New Jersey. Furthermore, because the key allegations date back to 2006 — and now involve officers located across the Eastern United States — ICE Information Technology personnel will need to be heavily involved in attempts to locate and restore electronic information and databases. Counsel for the United States has estimated that discovery in this case would cost over one million dollars. See Attached Email from (b)(6), (b)(7)c. (b)(6), (b)(7)d. The government will bear a disproportionate share of these costs because the cost-shifting contemplated by the Federal Rules is less likely to be applied to individual civil-rights plaintiffs.

More troubling than the cost alone is the potential for discovery and trial to disrupt ICE law enforcement operations, particularly in New Jersey. Any case against the government requires some employee time, but the number of employees diverted by this litigation would be extraordinary. In addition to leaving open the potential for wide-ranging discovery, the Court's recent discovery decision permitted the parties to take 80 depositions and ordered that the individual defendants respond to 1,080 interrogatory requests. The Court stated that these were not firm limits; it would be open to requests for additional discovery, if needed. At a minimum, then, all defendants as well as other ICE personnel who have relevant information will have to be deposed. Depositions alone will require careful and sustained attention from line-level agents, supervisors, ICE attorneys, and other officials. The currently-named defendants — Plaintiffs purport to sue an additional thirty-three Doe defendants — include an Assistant Field Office Director, several Supervisory Detention and Deportation Officers, Deportation Officers, Immigration Enforcement Officers, the Newark Field Office's Public Affairs Officer, and at least two training instructors based at DRO Headquarters. Disclosure requirements have obligated us to identify still other ICE and CIS employees as potential witnesses. Every ICE employee called to testify will need to take time away from his or her official duties to prepare and sit for deposition. Additionally, ICE personnel may have to serve as representatives of the United States at a deposition pursuant to Federal Rule of Civil Procedure 30(b)(6). Further, because this is an individual-capacity case, each of the defendants will need to assist the attorneys in separately responding to interrogatories, requests for admission, and document requests on his or her behalf.

At trial, these difficulties will be exacerbated. All defendants and witnesses will need to travel to Trenton, New Jersey, where not a single defendant is stationed. All of the defendants, some of whom are currently stationed outside of New Jersey, will need to be absent from their respective duty stations for pre-trial preparation and the entire trial, which we anticipate will last several weeks. All of the witnesses likely will need to be on-call in Trenton for several days at best and the entire duration of the trial at worst. Furthermore, because the trial schedule is set by the Court, our ability to choose when it is scheduled and manage its duration will be limited.

ICE is in the best position to evaluate the effect these expenditures of time and money will have on the agency and its employees. While all litigation is costly, this case is unusual in terms of the number of employees individually sued, the number of offices implicated and the duration of the requested discovery. Those costs and effects can be avoided by this early settlement.

2. Potential Implications for Other ICE Litigation

Were ICE to agree to settle this case for \$295,000, that total settlement figure (and the per plaintiff breakdown) will likely serve as a point of reference for demands and settlements in other cases. Only ICE knows how many other related cases are pending or whether ICE has further potential exposure given its current enforcement practices and procedures. This proposed settlement figure on an average per-plaintiff basis is slightly higher than the amount distributed to the plaintiffs in (b)(6), (b)(7)c. Thus, ICE could experience a “slow-creep upward” of settlement demands in the future. However, it is not clear that there is actually any disparity between the two settlement figures. All of the plaintiffs in (b)(6), (b)(7)c were out of status and received affirmative immigration benefits as part of the settlement agreement, which significantly increased the value of the settlement to the plaintiffs beyond the monetary payout. Here, by contrast, all but one plaintiff currently have status – which could translate into a significantly higher award from a jury – and those with status do not qualify for immigration benefits and thus monetary compensation is the only available remedy. This blunts the “settlement creep” argument as, while the proposed settlement may be slightly larger in monetary terms, it is not attached to other concessions of value from ICE.

In addition, the potential effect of this proposed settlement on the law governing similar Bivens claims is minimal. The primary legal decision published in this case is extremely favorable to ICE. See (b)(6), (b)(7)c (dismissing Assistant Secretary for ICE and other ICE supervisors from the lawsuit). No court has weighed in on the merits of Plaintiffs’ case against the ICE officers or called into question any of ICE’s practices. A settlement now ensures that this case ends before any bad precedent is established.

Finally, there is the possibility that proceeding into discovery could result in additional lawsuits against the ICE defendants or their colleagues. The Court’s discovery order keeps open the possibility that Plaintiffs could inquire into not only the ICE defendants’ conduct at the Plaintiffs’ residences, but into similar enforcement actions at other residences in New Jersey. In our prior settlement correspondence, we highlighted some significant weaknesses in defending the use of ruses and routine protective sweeps during warrantless home entries. Once Plaintiffs learn that ICE officers used these tactics during other enforcement actions, they may be in a

position to locate additional plaintiffs or file additional lawsuits. Moreover, decisions by the Court on the legality of certain practices may not be in the government's interests.

ADVANTAGES TO SETTLEMENT NOW

While DOJ defers to the agency on its assessment of the reasonableness of this settlement number, we do want to reiterate an issue we highlighted in our prior correspondence to you about the advantages to settling now. As we explained in our prior settlement correspondence to you, we recognize that both Department of Justice and Department of Homeland Security guidelines limit pre-judgment indemnification to "exceptional circumstances." 28 C.F.R. § 50.15(c)(3); Department of Homeland Security Management Directive 0415, Part IV(c). For several reasons, we believe that DHS could reasonably conclude that the circumstances here are exceptional. First, by settling now, the government avoids the extraordinary costs and burdens to ICE operations that discovery in this case would occasion. Second, Plaintiffs do not yet know how little the agents remember, how limited ICE's records are, and how difficult it will be for us to secure the cooperation of third-party witnesses. As we observed in our prior correspondence, discovery will not strengthen our case; indeed, if discovery reveals what we expect, the agents face a very serious risk of being found liable in damages. These developments will only embolden Plaintiffs and raise the cost of settlement. Third, having received no discovery yet, Plaintiffs cannot use this case as a vehicle for identifying new plaintiffs or ICE defendants. Therefore, we believe that the government will be able to secure the most advantageous settlement now and the costs and potential exposure to liability will only escalate as the case progresses.

CONCLUSION

Given all of the considerations above, we would support DHS's authorization of pre-judgment indemnification of the individual defendants for a total payment of \$295,000 to settle this case.

(b)(6), (b)(7)c

Trial Attorney
U.S. Department of Justice
Civil Division, Torts Branch
Constitutional Torts Section

(b)(6), (b)(7)c

Washington, DC 20044

for overnight deliveries:

(b)(6), (b)(7)c

Washington, DC 20005

Tel: (202) 616- (b)(6), (b)(7)c

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c usdoj.gov"
Subject: (b)(6), (b)(7)c indemnification PRIVILEGED and CONFIDENTIAL
Date: Wednesday, September 12, 2012 4:44:15 PM

(b)(6), (b)(7)c

ICE concurs that pre-trial indemnification of the Bivens defendants in the total amount of \$295,000 is appropriate to settle this suit. The money will be paid from agency funds.

(b)(6), (b)(7)c
Deputy Chief, DCLD
ICE/OPLA
188 Harvest Lane
Williston, VT 05495
Ph. 802-8 (b)(6), (b)(7)c

*** Warning *** Attorney/Client Privilege *** Attorney Work Product ***

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Sent using BlackBerry



U.S. Immigration
and Customs
Enforcement

July 30, 2012

MEMORANDUM FOR: Janet Napolitano
Secretary

THROUGH: Ivan Fong
General Counsel

FROM: (b)(6), (b)(7)c
Principal Legal Advisor, U.S. Immigration and Customs Enforcement

SUBJECT: Requests for pre-trial indemnification pursuant to DHS
Management Directive 0415.1 in (b)(6), (b)(7)c
(b)(6), (b)(7)c; interlocutory appeal (b)(6), (b)(7)c
(b)(6), (b)(7)c

Issue

Whether to approve the pre-trial indemnification requests of the defendants in this *Bivens* suit, in the total amount of \$295,000.

Background

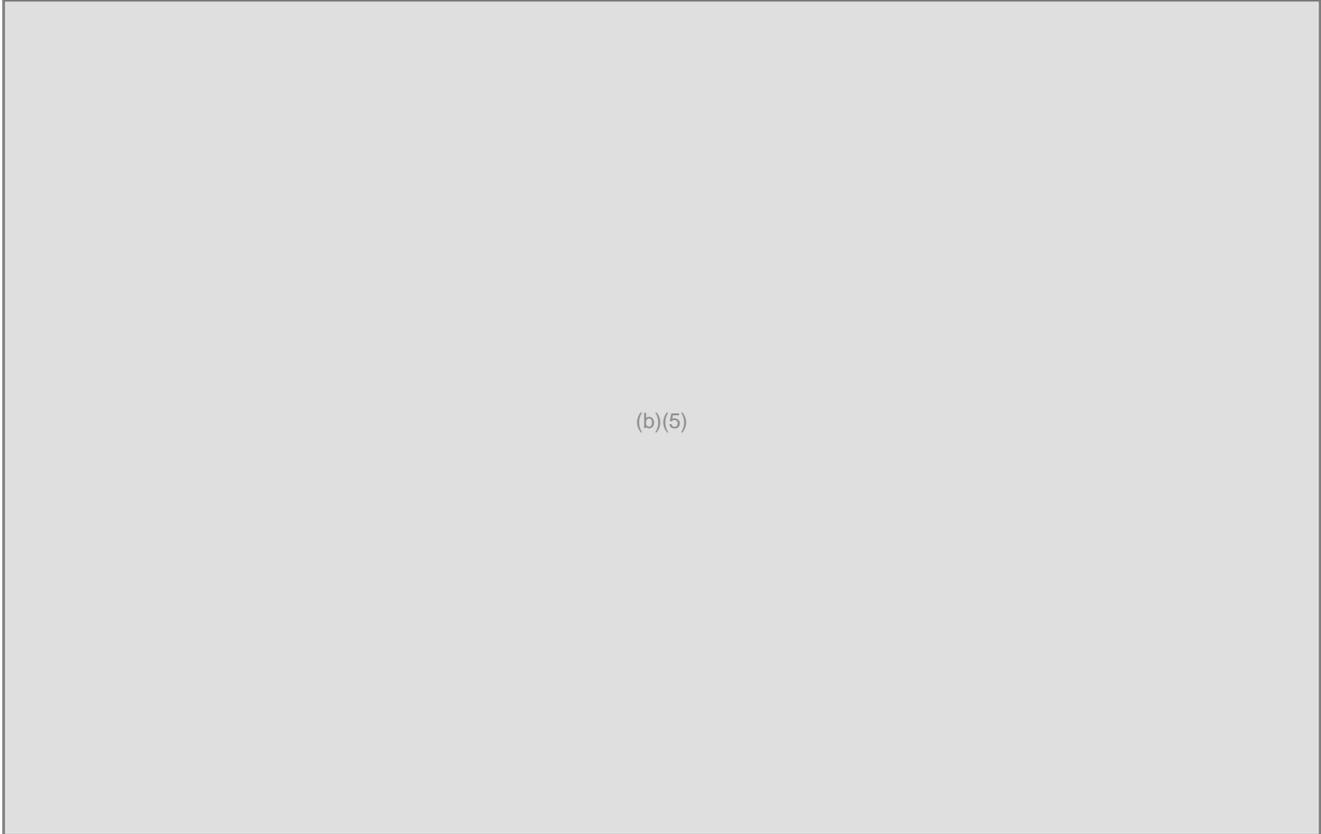
The suit stems from five warrantless, residential law enforcement operations between August 2006 and April 2008 by U.S. Immigration and Customs Enforcement (ICE) Fugitive Operations teams operating in and around Newark, NJ. The defendants are 27 ICE Enforcement and Removal Operations (ERO) officers.¹

Plaintiffs allege that during these enforcement operations immigration officers misidentified themselves as police and often entered without securing consent at all or after securing consent through use of a ruse. They also allege that immigration officers pointed weapons, were verbally and physically abusive, and questioned individuals without any reasonable basis for believing that those individuals were illegally present.

¹ The original defendants included former Assistant Secretary Julie Myers, former ERO Director (and current ICE Special Agent in Charge for Washington, D.C.) John Torres, former ERO Newark Field Office Director (FOD) Scott Weber and former Deputy FOD (b)(6), (b)(7)(C). In June 2011, the Third Circuit Court of Appeals dismissed those four defendants from the suit on the basis of qualified immunity.

The magistrate judge overseeing settlement discussions has informed the parties that he believes the settlement value of this suit is \$295,000. The plaintiffs have agreed to settle for that amount. The settlement would resolve all claims against the defendants, and the plaintiffs would not seek attorney's fees or costs.

Analysis



Recommendation

For the reasons stated above, the Office of General Counsel recommends approval of the defendants' requests for pre-trial indemnification in the total amount of \$295,000.

Approve: _____ Disapprove: _____

Modified: _____ Needs Discussion: _____

² ERO has issued new guidance requiring the documentation of consent to enter residences and has implemented multiple changes and enhancements to its Fourth Amendment and Equal Protection training.



U.S. Immigration
and Customs
Enforcement

July 30, 2012

MEMORANDUM FOR: Janet Napolitano
Secretary

THROUGH: Ivan Fong
General Counsel

FROM: (b)(6), (b)(7)c
Principal Legal Advisor, U.S. Immigration and Customs Enforcement

SUBJECT: Requests for pre-trial indemnification pursuant to DHS
Management Directive 0415.1 in (b)(6), (b)(7)c
(b)(6), (b)(7)c interlocutory appeal (b)(6), (b)(7)c
(b)(6), (b)(7)c

Issue

Whether to approve the pre-trial indemnification requests of the defendants in this *Bivens* suit, in the total amount of \$295,000.

Background

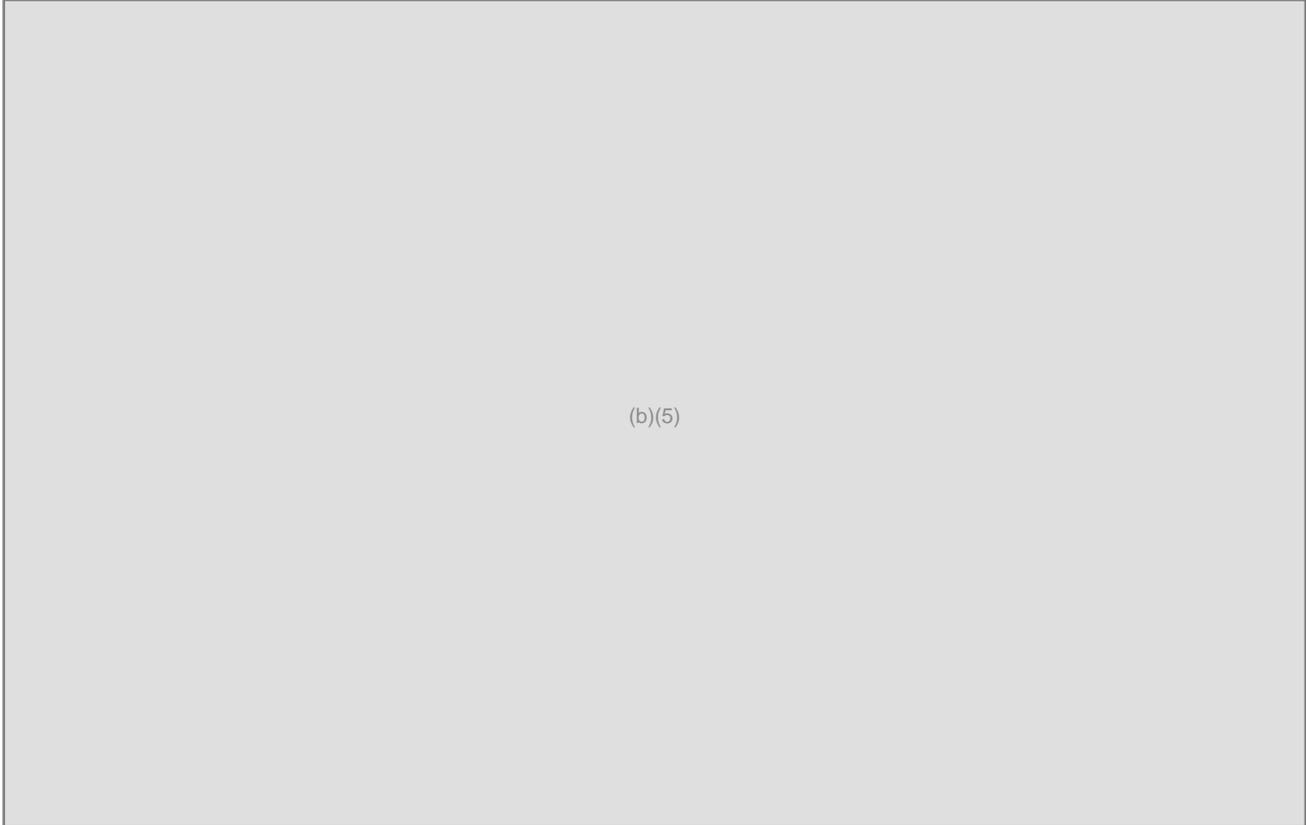
The suit stems from five warrantless, residential law enforcement operations between August 2006 and April 2008 by U.S. Immigration and Customs Enforcement (ICE) Fugitive Operations teams operating in and around Newark, NJ. The defendants are 27 ICE Enforcement and Removal Operations (ERO) officers.¹

Plaintiffs allege that during these enforcement operations immigration officers misidentified themselves as police and often entered without securing consent at all or after securing consent through use of a ruse. They also allege that immigration officers pointed weapons, were verbally and physically abusive, and questioned individuals without any reasonable basis for believing that those individuals were illegally present.

¹ The original defendants included former Assistant Secretary Julie Myers, former ERO Director (and current ICE Special Agent in Charge for Washington, D.C.) John Torres, former ERO Newark Field Office Director (FOD) Scott Weber and former Deputy FOD (b)(6), (b)(7)(C). In June 2011, the Third Circuit Court of Appeals dismissed those four defendants from the suit on the basis of qualified immunity.

The magistrate judge overseeing settlement discussions has informed the parties that he believes the settlement value of this suit is \$295,000. The plaintiffs have agreed to settle for that amount. The settlement would resolve all claims against the defendants, and the plaintiffs would not seek attorney's fees or costs.

Analysis



Recommendation

For the reasons stated above, the Office of General Counsel recommends approval of the defendants' requests for pre-trial indemnification in the total amount of \$295,000.

Approve: _____ Disapprove: _____

Modified: _____ Needs Discussion: _____

² ERO has issued new guidance requiring the documentation of consent to enter residences and has implemented multiple changes and enhancements to its Fourth Amendment and Equal Protection training.



U.S. Immigration
and Customs
Enforcement

July 25, 2012

MEMORANDUM FOR: Janet Napolitano
Secretary

THROUGH: Ivan Fong
General Counsel

FROM: (b)(6), (b)(7)c
Principal Legal Advisor, U.S. Immigration and Customs Enforcement

SUBJECT: Requests for pre-trial indemnification pursuant to DHS
Management Directive 0415.1 in (b)(6), (b)(7)c
(b)(6), (b)(7)c; interlocutory appeal (b)(6), (b)(7)c
(b)(6), (b)(7)c

Issue

Whether to approve the pre-trial indemnification requests of the defendants in this *Bivens* suit, in the total amount of \$295,000.

Background

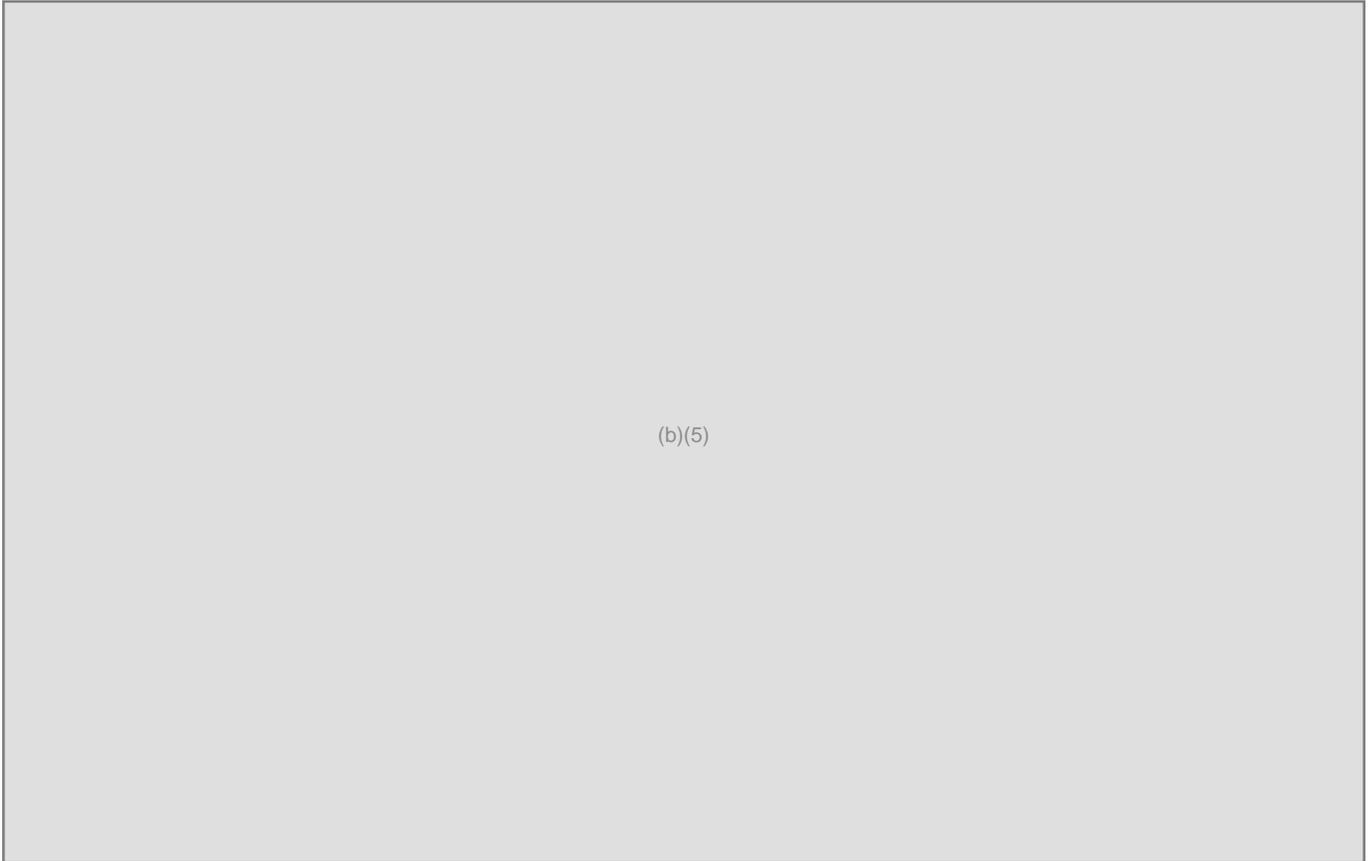
The suit stems from five warrantless, residential law enforcement operations between August 2006 and April 2008 by U.S. Immigration and Customs Enforcement (ICE) Fugitive Operations teams operating in and around Newark, NJ. The defendants are 27 ICE Enforcement and Removal Operations (ERO) officers.¹

Plaintiffs allege that during these enforcement operations immigration officers misidentified themselves as police and often entered without securing consent at all or after securing consent through use of a ruse. They also allege that immigration officers pointed weapons, were verbally and physically abusive, and questioned individuals without any reasonable basis for believing that those individuals were illegally present.

¹ The original defendants included former Assistant Secretary Julie Myers, former ERO Director (and current ICE Special Agent in Charge for Washington, D.C.) John Torres, former ERO Newark Field Office Director (FOD) Scott Weber and former Deputy FOD (b)(6), (b)(7)(C). In June 2011, the Third Circuit Court of Appeals dismissed those four defendants from the suit on the basis of qualified immunity.

The magistrate judge overseeing settlement discussions has informed the parties that he believes the settlement value of this suit is \$295,000. The plaintiffs have agreed to settle for that amount. The settlement would resolve all claims against the defendants, and the plaintiffs would not seek attorney's fees or costs.

Analysis



Recommendation

For the reasons stated above, the Office of General Counsel recommends approval of the defendants' requests for pre-trial indemnification in the total amount of \$295,000.

Approve: _____ Disapprove: _____

Modified: _____ Needs Discussion: _____

² ERO has issued new guidance requiring the documentation of consent to enter residences and has implemented multiple changes and enhancements to its Fourth Amendment and Equal Protection training.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, August 17, 2012 10:44 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7) indemnification request
Attachments: Signed (b)(6), (b)(7) Indemnification Request.pdf; Signed (b)(6), (b)(7) Settlement Recommendation Memo.pdf

(b)(6), (b)(7)

We are in the process of settling (b)(6), (b)(7)c which is a Bivens suit. DHS Management Directive No. 0415 requires the approval of the Secretary of Homeland Security to settle Bivens suits. The magistrate judge overseeing the settlement process has been pushing us and DOJ to move it along. As a result, a couple of weeks ago when Peter Vincent was out of town he gave us e-mail approval to send an unsigned memo in his name to DHS OGC so it could begin its review process. Earlier this week, Peter signed the memo, which is the attached .pdf file titled "Signed (b)(6), (b)(7) indemnification request." We also sent OGC a memo from (b)(6), (b)(7)c which is the attached .pdf file titled "Signed (b)(6), (b)(7) settlement recommendation."

(b)(6), (b)(7)c asked me and (b)(6), (b)(7)c to ask ECU to create a "blue folder" to archive Peter's memo in case we ever need to retrieve it. Can you have someone do that? I'd like to include (b)(6), (b)(7)c memo in the blue folder, too, because it provided additional information to OGC. If we ever have to recreate this settlement process it will be helpful to have both memos.

Thank you.

(b)(6), (b)(7)c
Deputy Chief, DCLD
ICE/OPLA
(b)(6), (b)(7)c
Williston, VT 05495
Ph. 802-872 (b)(6), (b)(7)c

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U.S. Immigration
and Customs
Enforcement

ATTORNEY WORK PRODUCT

(Insert date)

MEMORANDUM FOR: Janet Napolitano, Secretary of Homeland Security

THROUGH: Ivan Fong, General Counsel

FROM: (b)(6), (b)(7)c Principal Legal Advisor

SUBJECT: Requests for pre-trial indemnification pursuant to DHS Management Directive

(b)(6), (b)(7)c; interlocutory appeal (b)(6), (b)(7)c
(b)(6), (b)(7)c

INTRODUCTION

I recommend that the Secretary approve the pre-trial indemnification requests of the defendants in this *Bivens* suit, in the total amount of \$295,000.

BACKGROUND

The suit stems from five warrantless, residential law enforcement operations between August 2006 and April 2008 by Enforcement and Removal Operations' (ERO) Newark, NJ Fugitive Operations teams. The defendants are 27 ERO line officers.¹

In lawsuits such as this, a central issue is whether the officers obtained consent to enter and to search the plaintiffs' residences. A primary weakness for the government is that the officers later are unable to remember whether they obtained consent. To the officers, these routine enforcement actions were indistinguishable from the many operations they participate in. Testimony about standard practice is likely the best testimony the agents will be able to muster. In contrast, there was nothing routine about the enforcement actions from the plaintiffs' perspectives. They will vividly recount pre-dawn confrontations and arrests in their homes by armed police officers whom they allege entered and searched without consent.

¹ The original defendants included former Assistant Secretary Julie Myers, former ERO Director (and current SAC-Washington) John Torres, former Field Office Director (FOD) Scott Weber and former Deputy FOD (b)(6), (b)(7)c. In June 2011 the 3d Circuit Court of Appeals dismissed those four defendants from the suit on the basis of qualified immunity.

(b)(5)

EXCEPTIONAL CIRCUMSTANCES

(b)(5)

CONCLUSION

For the reasons stated above, I recommend approval of the defendants' requests for pre-trial indemnification in the total amount of \$295,000.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, July 30, 2012 10:17 AM
To: Vincent, Peter S
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7) Memos for OGC

*****SENSITIVE/PRIVILEGED***PRE-DECISIONAL***ATTORNEY WORK PRODUCT*****

Good morning, Peter.

(b)(5), (b)(6), (b)(7)(C)

Could you please review and sign the indemnification memo? Also, if you'd like a briefing, I'm happy to bring the SMEs by to discuss in detail.

Thanks and regards,

(b)(6), (b)(7)c



(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Director of Enforcement and Litigation
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
Desk: 202-73 (b)(6), (b)(7)c
Cell: 202-904- (b)(6), (b)(7)c
E-mail: (b)(6), (b)(7)c@ice.dhs.gov

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, October 02, 2012 5:10 PM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7) settlement

(b)(6), (b)(7)c and (b)(6), (b)(7)c

I'm writing to notify you that the appropriate authority at the Department of Homeland Security has approved the pre-judgment indemnification of ICE Agents 1-31, in the total amount of \$295,000.

If you have questions or need more information please do not hesitate to contact me.

(b)(6), (b)(7)c
Deputy Chief, DCLD
ICE/OPLA

(b)(6), (b)(7)c
Williston, VT 05495
Ph. 802-872-5, (b)(6), (b)(7)c

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**U.S. Immigration
and Customs
Enforcement**

July 30, 2012

MEMORANDUM FOR:

(b)(6), (b)(7)(C)

Deputy General Counsel

THROUGH:

(b)(6), (b)(7)(C)

Acting Associate General Counsel for Legal Counsel

FROM:

(b)(6), (b)(7)c

Director of Enforcement and Litigation

SUBJECT:

Proposed settlement of

(b)(6), (b)(7)c

(b)(6), (b)(7)c

; interlocutory appeal

(b)(6), (b)(7)c

Issue

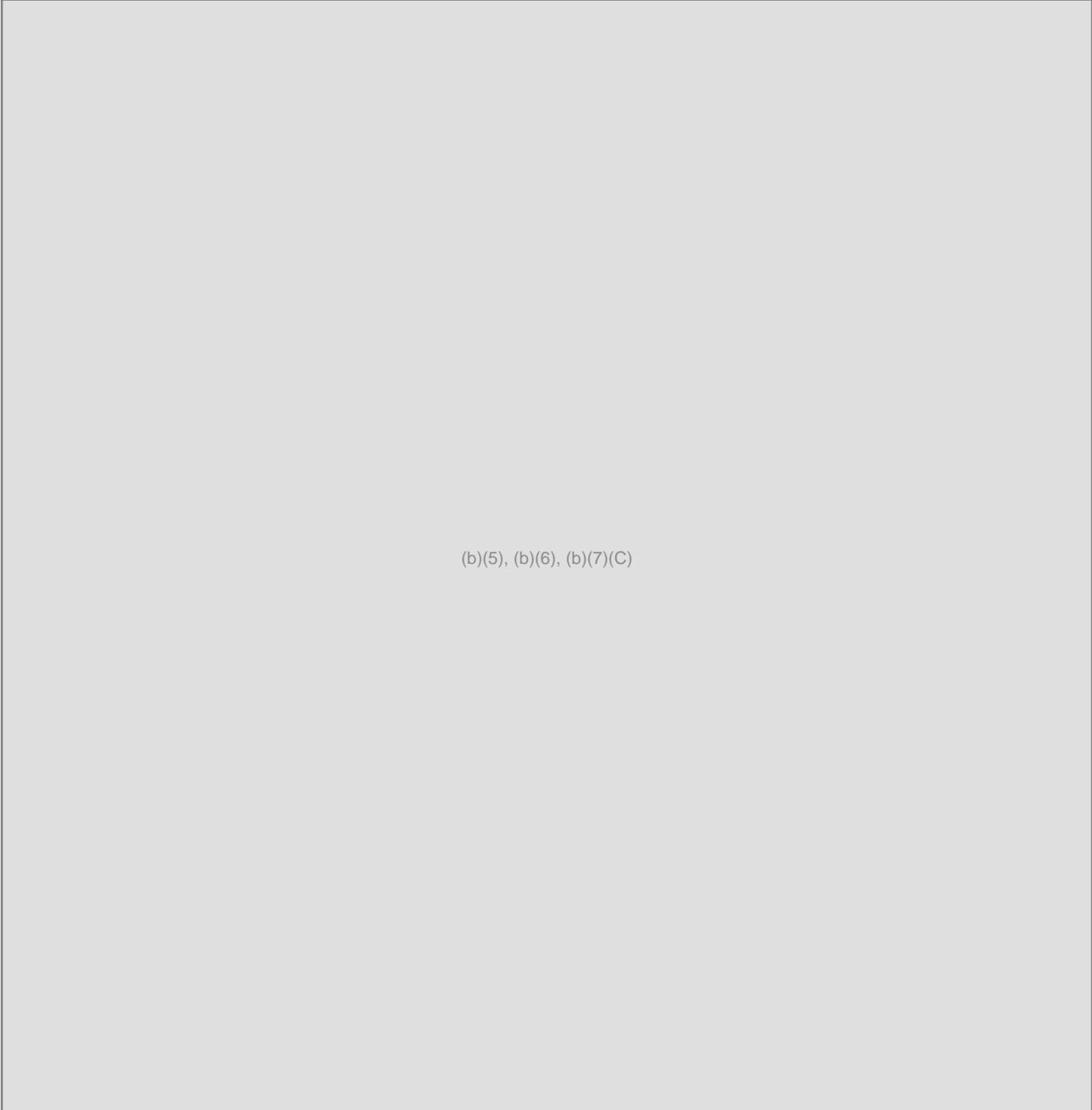
The U.S. Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA) seeks the Office of General Counsel's approval to settle this lawsuit for \$295,000. ICE senior management has been briefed and concurs with a settlement in that amount. Magistrate Judge (MJ) Douglas E. Arpert has informed the parties he believes the settlement value of this suit is \$295,000, and the plaintiffs have agreed to settle for this amount \$295,000. The eight plaintiffs make *Bivens* claims against 27 ICE Enforcement and Removal Operations (ERO) employees. One family of three plaintiffs also seeks injunctive relief. The Department of Justice's (DOJ) Constitutional and Specialized Torts (Con Torts) section represents the *Bivens* defendants. DOJ's Office of Immigration Litigation represents the United States on the claim for injunctive relief.

Background

The suit stems from five warrantless ("knock-and-talk"), residential law enforcement operations between August 2006 and April 2008 by ERO Newark, NJ Fugitive Operations teams pursuant to (b)(7)e. The remaining defendants are 27 ERO line officers. The original defendants included former Assistant Secretary Julie Myers, former ERO Director (and current ICE Special Agent in Charge for Washington, D.C.) John Torres, former Field Office Director Scott Weber and former Deputy Field Office Director (b)(6), (b)(7)(C). In June 2011, the Third Circuit Court of Appeals dismissed those four defendants from the suit on the basis of qualified immunity. The allegations against the remaining defendants state claims for unreasonable search, seizure and excessive force that are adequate to withstand a motion to dismiss under the standards the Supreme Court stated in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 US 544 (2007).

MJ Arpert held an unsuccessful settlement conference on September 14, 2011. Prior to the conference, ICE and OGC had agreed on settlement authority of up to \$225,000 but had conveyed to Con Torts only the \$150,000 authority it had sought. The plaintiffs' demand was \$1.26 million. At the close of the conference, MJ Arpert told the parties he would tell them his settlement valuation within 30 days, but unfortunately, it was July 2012 before he was able to do so.

Analysis



(b)(5), (b)(6), (b)(7)(C)



(b)(5), (b)(6), (b)(7)(C)

Recommendation

OPLA recommends that OGC concur with the settlement (technically a pre-trial indemnification) of this suit for \$295,000.

Approve: _____

Disapprove: _____

Modified: _____

Needs Discussion: _____

Attachment

DOJ Settlement Recommendation



**U.S. Immigration
and Customs
Enforcement**

July 25, 2012

MEMORANDUM FOR: (b)(6), (b)(7)(C)
Deputy General Counsel

THROUGH: (b)(6), (b)(7)(C)
Acting Associate General Counsel for Legal Counsel

FROM: (b)(6), (b)(7)c
Director of Enforcement and Litigation

SUBJECT: Proposed settlement of (b)(6), (b)(7)c
(b)(6), (b)(7)c interlocutory appeal (b)(6), (b)(7)c

Issue

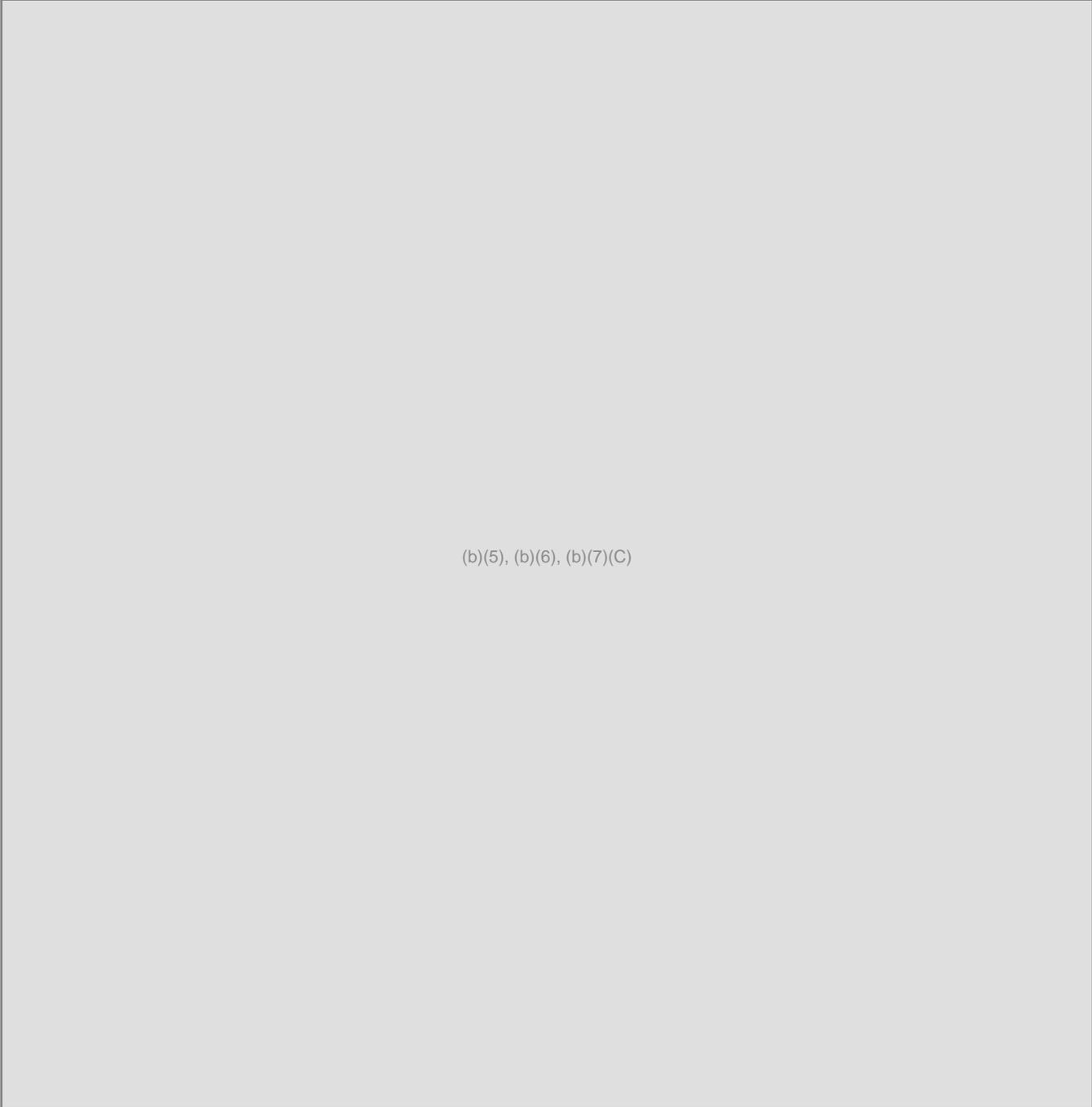
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Background

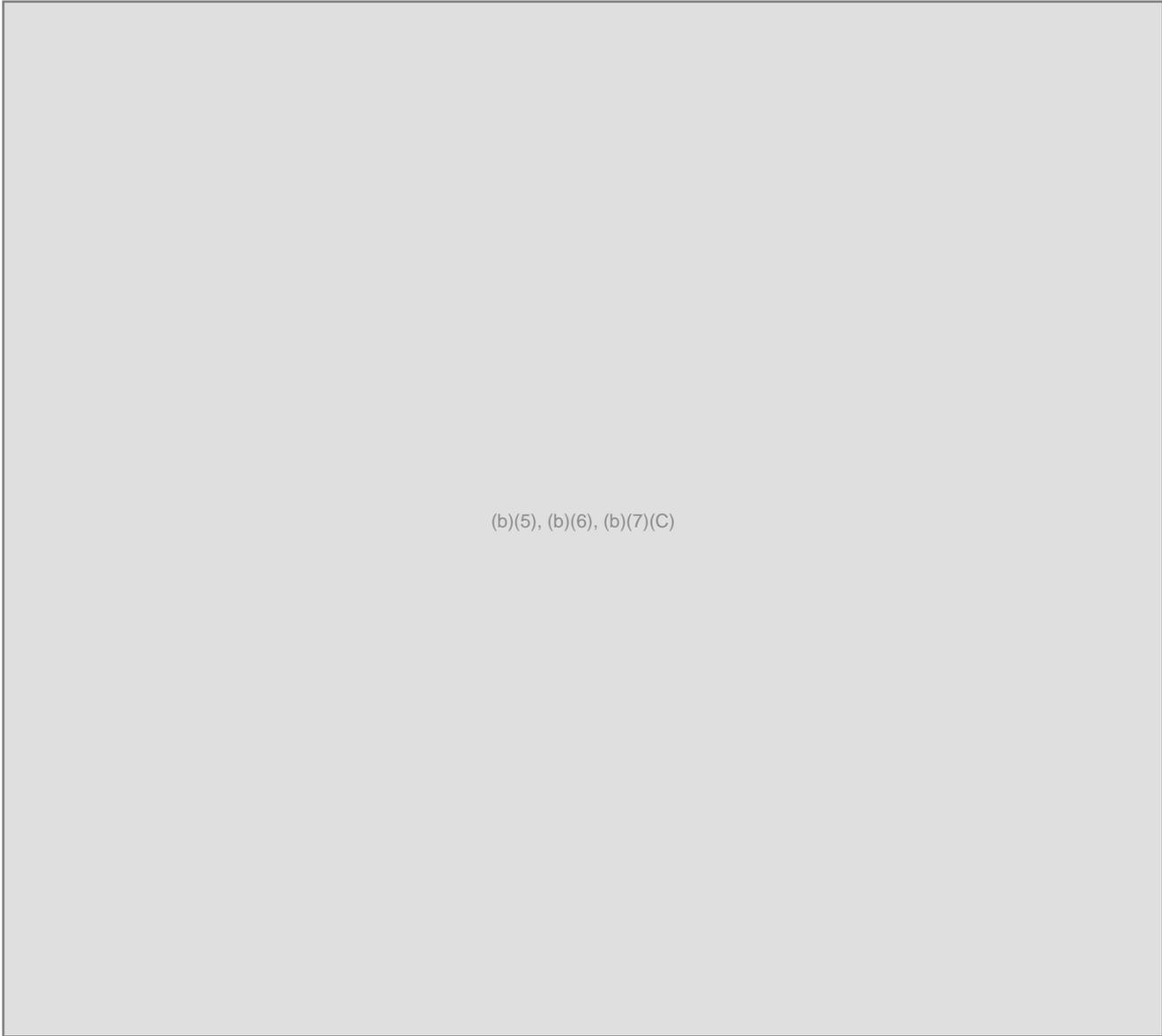
The suit stems from five warrantless ("knock-and-talk"), residential law enforcement operations between August 2006 and April 2008 by ERO Newark, NJ Fugitive Operations teams pursuant to Operation Return to Sender. The remaining defendants are 27 ERO line officers. The original defendants included former Assistant Secretary Julie Myers, former ERO Director (and current ICE Special Agent in Charge for Washington, D.C.) John Torres, former Field Office Director Scott Weber and former Deputy Field Office Director (b)(6), (b)(7)(C). In June 2011, the Third Circuit Court of Appeals dismissed those four defendants from the suit on the basis of qualified immunity. The allegations against the remaining defendants state claims for unreasonable search, seizure and excessive force that are adequate to withstand a motion to dismiss under the standards the Supreme Court stated in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 US 544 (2007).

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Analysis



(b)(5), (b)(6), (b)(7)(C)



(b)(5), (b)(6), (b)(7)(C)

Recommendation

OPLA recommends that OGC concur with the settlement (technically a pre-trial indemnification) of this suit for \$295,000.

Approve: _____

Disapprove: _____

Modified: _____

Needs Discussion: _____

Attachment

DOJ Settlement Recommendation



U.S. Immigration
and Customs
Enforcement

PREDECISIONAL DOCUMENT
ATTORNEY WORK PRODUCT

(Insert date)

MEMORANDUM FOR: (b)(6), (b)(7)(C), Deputy General Counsel

THROUGH: (b)(6), (b)(7)(C), Acting Associate General Counsel for Legal Counsel

FROM: (b)(6), (b)(7)c Director, Enforcement and Litigation

SUBJECT: Proposed settlement of (b)(6), (b)(7)c;
interlocutory appeal (b)(6), (b)(7)c

INTRODUCTION

OPLA seeks OGC's approval to settle this lawsuit for \$295,000. ICE senior management concurs with a settlement in that amount.

In early July 2012 Magistrate Judge (MJ) Douglas E. Arpert told the parties he believes the settlement value of this suit is \$295,000. The parties are to agree or not agree with that figure. If either party disagrees with it, the case will not settle at this time but will proceed to discovery. On July 20, 2012, MJ Arpert informed DOJ's Constitutional and Specialized Torts (Con Torts) section that the plaintiffs have agreed to settle for \$295,000.

The eight plaintiffs make *Bivens* claims against 27 ERO employees. One family of three plaintiffs also seeks injunctive relief. Con Torts represents the *Bivens* defendants. OIL represents the United States on the claim for injunctive relief.

BACKGROUND

The suit stems from five warrantless ("knock-and-talk"), residential law enforcement operations between August 2006 and April 2008 by Enforcement and Removal Operations' (ERO) Newark, NJ Fugitive Operations teams pursuant to (b)(7)e. The remaining defendants are 27 ERO line officers. The original defendants included former Assistant Secretary Julie Myers, former ERO Director (and current SAC-Washington) John Torres, former Field Office Director Scott Weber and former Deputy Field Office Director (b)(6), (b)(7)(C). In June 2011 the 3d Circuit Court of Appeals dismissed those four defendants from the suit on the basis of qualified immunity. The allegations against the remaining defendants state claims for

unreasonable search, seizure and excessive force that are adequate to withstand a motion to dismiss under the standards the Supreme Court stated in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 US 544 (2007).

(b)(6), (b)(7)c held an unsuccessful settlement conference on September 14, 2011. Prior to the conference, ICE and OGC had agreed on settlement authority of up to \$225,000 but had conveyed to Con Torts only the \$150,000 authority it had sought. The plaintiffs' demand was \$1.26 million. At the close of the conference, MJ Arpert told the parties he would tell them his settlement valuation within 30 days, but unfortunately it was July 2012 before he was able to do so.

SETTLEMENT CONSIDERATIONS



(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)

ADVANTAGES OF SETTLING NOW

(b)(6), (b)(7)c, (b)(5)

SETTLEMENT VALUATION

(b)(5), (b)(6), (b)(7)(C)

CONCLUSION

OPLA recommends that OGC concur with the settlement (technically a pre-trial indemnification) of this suit for \$295,000.



U.S. Immigration
and Customs
Enforcement

ATTORNEY-CLIENT PRIVILEGED / ATTORNEY WORK PRODUCT

MEMORANDUM FOR: Secretary Napolitano

THRU: Ivan K. Fong
General Counsel

John Morton
Assistant Secretary

FROM: (b)(6), (b)(7)c
Principal Legal Advisor

SUBJECT: Settlement recommendation, (b)(6), (b)(7)c
(b)(6), (b)(7)c

This memorandum discusses whether to indemnify individual ICE defendants in the total amount of \$400,000 in a *Bivens* action in which no adverse judgment of liability has been entered. After carefully considering the facts of this case, I recommend settling this lawsuit and authorizing DHS to pay the indemnification amount in order to end what would surely be extremely costly and ultimately unsuccessful litigation. The ICE individual defendants were involved in the seven and a half month detention of a naturalized U.S. citizen and honorably discharged U.S. Army veteran. The indemnification request, which contains a thorough analysis of the litigation risks in this case, is attached for your reference. (Attachment 1)

Background

The plaintiff, (b)(6), (b)(7)c alleges that his Fourth and Fifth Amendment rights were violated by the defendants due to material errors and omissions in his arrest warrant and ICE officers' failure to conduct a reasonable or competent investigation into his claims of citizenship. (Attachment 2).

(b)(6), (b)(7)c a native of Belize, entered the United States illegally at the age of seven with his mother in 1984 (b)(6), (b)(7)c received alien file number (b)(6), (b)(7)(C) on May 7, 1990, after he applied for lawful permanent residency. He was granted voluntary departure under the

(b)(6), (b)(7)c

ATTORNEY-CLIENT PRIVILEGE / ATTORNEY WORK PRODUCT

Family Fairness Program on or about June 24, 1991, after his mother became a lawful permanent resident.

Upon his return to Belize, (b)(6), (b)(7)c applied and received a visa to return to the United States. The Central Index System (CIS) database, which is maintained by the U.S. Citizenship and Immigration Services (USCIS), shows that INS created alien file number (b)(6), (b)(7)(C) (b)(6), (b)(7) on July 23, 1992, after (b)(6), (b)(7)(C) arrival into the United States at the Los Angeles International Airport. It is unknown why this second alien file number was created, as (b)(6), (b)(7)(C) Mother's Petition for Alien Relative (I-130) referred to his previously issued alien file number, (b)(6), (b)(7). The number from the Department of State's Immigrant Visa and Alien Registration form was used as his new alien number. (b)(6), (b)(7)(C) alien file was never cross-referenced nor consolidated with his other alien file, (b)(6), (b)(7)(C). The INS immigration inspection function was transferred to U.S. Customs and Border Protection (CBP) in 2003 when DHS was created.

In November 1996, (b)(6), (b)(7)(C) enlisted in the United States Army. (b)(6), (b)(7)(C) was issued a resident alien identification card on November 19, 1996, under (b)(6), (b)(7) with his name spelled (b)(6), (b)(7)(C). On October 28, 1998, (b)(6), (b)(7)(C) was naturalized under (b)(6), (b)(7)(C) at the INS office in Seattle, Washington. On November 3, 1998, an unidentified person changed (b)(6), (b)(7)(C) last name in (b)(6), (b)(7) from (b)(6), (b)(7)(C). The CIS record for (b)(6), (b)(7) did not and does not have any social security number associated with it, but it does contain (b)(6), (b)(7)(C) correct date of birth, date of entry, country of origin, mother's name, and naturalization information. (b)(6), (b)(7)(C) received an honorable discharge from the Army in July 2003.

In 2005, (b)(6), (b)(7)(C) was convicted and imprisoned for eight months for residential burglary, felony harassment, and violation of a domestic violence protective order. On September 21, 2005, he was interviewed by ICE Senior Special Agent (SSA) (b)(6), (b)(7)(C) (b)(6), (b)(7). Illeges he told SSA (b)(6), (b)(7)(C) he was a naturalized U.S. citizen and U.S. Army veteran. SSA (b)(6), (b)(7)(C) does not remember interviewing (b)(6), (b)(7) but claims that her normal practice was to search the (b)(7)(e) database. An exact name and sounds-like search in CIS for the correct spelling of (b)(6), (b)(7)(C) name immediately returned the (b)(7) record for (b)(6), (b)(7) and did not return the (b)(7) record for (b)(6), (b)(7)(C). The (b)(7) record for (b)(6), (b)(7) contained the correct spelling of (b)(6), (b)(7)(C) last name, his social security number, date of birth, and country of origin. It did not contain (b)(6), (b)(7)(C) mother's name or any indication that he was naturalized. Based on the information she found in the (b)(7)(e) database, SSA (b)(6), (b)(7)(C) initiated removal proceedings under (b)(6), (b)(7)(C). SSA (b)(6), (b)(7)(C) did not include any information on the "Record of Deportable/Inadmissible Alien" (I-213) about (b)(6), (b)(7)(C) claims of U.S. citizenship or military service. SSA (b)(6), (b)(7)(C) supervisor, Supervisory Special Agent (b)(6), (b)(7)(C), later approved SSA (b)(6), (b)(7)(C) I-213, arrest warrant, notice to appear, and notice of custody determination. Supervisory SA (b)(6), (b)(7) resigned from ICE in 2009 after the U.S. Attorney's Office indicted him for violating 18 U.S.C. § 922(g), Felon in Possession of Firearms, and 18 U.S.C. § 1001, False Statement. The indictment accused Supervisory SA (b)(6), (b)(7) of being convicted of four counts of felony breaking and entering in the 1970s and falsifying his firearms permits. It is believed that plaintiff and his counsel are unaware of this indictment at this time. Both SSA (b)(6), (b)(7)(C) and Supervisory SA (b)(6), (b)(7) failed to

Subject: Settlement recommendation, [REDACTED]

(b)(6), (b)(7)c

ATTORNEY-CLIENT PRIVILEGE / ATTORNEY WORK PRODUCT

obtain the Seattle Special Agent in Charge's written approval before initiating removal proceedings against [REDACTED] as required by ICE policy at the time.

[REDACTED] was detained by ICE at the Northwest Detention Center (NWDC) immediately upon his release from the jail on November 15, 2005. At NWDC, SSA [REDACTED] served [REDACTED] his immigration charging documents prepared by SSA [REDACTED] and approved by Supervisory SA [REDACTED]. [REDACTED] alleges he told SSA [REDACTED] that he was a naturalized U.S. citizen and U.S. Army veteran. SSA [REDACTED] claims that she searched immigration computer systems thoroughly and was unable to confirm [REDACTED] citizenship claims. [REDACTED] case was then assigned to Deportation Officer (DO) [REDACTED]. During his interview with DO [REDACTED] alleges that he again told DO [REDACTED] that he was a naturalized U.S. citizen and U.S. Army veteran. DO [REDACTED] does not contest these allegations, but claims that he searched the [REDACTED] database and did not find any record of naturalization for Castillo.

[REDACTED] first master calendar hearing was held on November 30, 2005. The matter was continued to December 21, 2005, at which time [REDACTED] representing himself, asserted U.S. citizenship by naturalization. The Immigration Judge granted [REDACTED] another hearing to provide proof of his citizenship claim and directed ICE counsel to investigate [REDACTED] citizenship claims. The ICE attorney contacted USCIS counsel, who verified that there were no records showing [REDACTED] had been naturalized. At his next immigration hearing, on January 24, 2006, [REDACTED] did not provide any documentation establishing his citizenship claim, and ICE counsel represented to the Immigration Judge that there were no records showing [REDACTED] was naturalized. The Immigration Judge then ordered [REDACTED] removed to Belize.

After the removal order was entered, [REDACTED] obtained representation from the Northwest Immigration Rights Project (NWIRP). NWIRP attorneys appealed the removal order and during the appeal were able to find [REDACTED] military records showing [REDACTED]. NWIRP requested a copy of [REDACTED] naturalization certificate using [REDACTED] from USCIS. On May 22, 2006, NWIRP, on behalf of [REDACTED] argued for the first time in its appellate brief that [REDACTED] had been naturalized under a different alien file number, [REDACTED]. The next day, ICE Counsel filed an opposition brief arguing that [REDACTED] failed to establish his U.S. citizenship claim and that DHS records did not indicate [REDACTED] was naturalized. On June 16, 2006, the BIA remanded the case to allow [REDACTED] an additional opportunity to prove his U.S. citizenship. [REDACTED] remained at NWDC until USCIS forwarded [REDACTED] to ICE on June 29, 2006. ICE immediately released [REDACTED] after it received [REDACTED] which contained a copy of [REDACTED] naturalization certificate.

The U.S. Attorney Office in Western District of Washington represents the named ICE defendants. The Department of Justice has determined that these individuals acted within the scope of their employment and granted them representation pursuant to 28 C.F.R. § 50.15.

[REDACTED] and the NWIRP represent the plaintiff. The plaintiff failed to file any administrative tort claims with the federal government before the expiration of the two-year statute of limitations. The government is thus precluded from paying any damages to the plaintiff under the Federal Torts Claim Act (FTCA). Because the *Bivens* statute of limitations in

ATTORNEY-CLIENT PRIVILEGE / ATTORNEY WORK PRODUCT

Washington is longer than the FTCA statute of limitations, the plaintiff was able to file timely *Bivens* claims against the ICE officers. Indemnification for the plaintiff's claim is thus the only means to complete this settlement.

On October 2, 2009, the ICE defendants filed a motion to dismiss and motion for summary judgment based on qualified immunity. On December 12, 2009, the District Court granted in part and denied in part Defendants' Motion to Dismiss and Motion for Summary Judgment, finding that, as to the former, Plaintiff had adequately pled constitutional violations against the ICE defendants (except Assistant Field Office Director Michael Melendez who was dismissed). (Attachment 3). Based upon plaintiff's request to conduct limited discovery on qualified immunity, the District Court denied the latter motion without prejudice pursuant to Fed. R. Civ. P. 56(f)(1), and deferred any ruling on the defense of qualified immunity or reliance on a valid arrest warrant until the completion of such limited discovery. Discovery has been stayed for 60 days pending the outcome of the ICE defendants' indemnification request.

The ICE defendants filed a protective notice of appeal, and the case was referred to the Ninth Circuit's Mediation Program. The parties engaged in settlement negotiations which were finalized at the mediation. The parties agreed to settle the case for \$400,000 in monetary damages and a statement of regret from the ICE defendants (or the United States Attorney in Seattle). The settlement agreement is contingent upon the ICE defendants obtaining indemnification from DHS. The appeal has also been stayed for 60 days pending the outcome of the ICE defendants' indemnification request. A status conference is currently scheduled with the Ninth Circuit mediator on May 11, 2010.

The U.S. Attorney's Office, which represents the ICE defendants, requests that DHS indemnify the individual ICE defendants to settle the *Bivens* claims against them. The proposed settlement will resolve the *Bivens* claims against the currently named individual ICE employees, all "Doe" ICE employees, and any other DHS employees who could subsequently be added to this action. Plaintiff's counsel also agreed not to seek attorneys' fees or costs.

Authority

Management Directive 0415, *Indemnification of Employees Acting in Official Capacity* (Attachment 4), states that the Department may indemnify an employee at any time if the employee was acting within the scope of employment, and if indemnification is in the best interests of the United States. However, the Management Directive authorizes indemnification prior to the entry of an adverse judgment only if exceptional circumstances are present. Paragraph VI.C states, in relevant part:

Absent exceptional circumstances, as determined by the Secretary, the Department will not entertain a request to indemnify or to pay for settlement of a claim before entry of an adverse judgment, verdict or other determination.

Interest of the United States in Settlement

Subject: Settlement recommendation,

(b)(6), (b)(7)c

ATTORNEY-CLIENT PRIVILEGE / ATTORNEY WORK PRODUCT

(b)(5)

Scope of Employment

Section 2671 of Title 18, U.S. Code defines “[a]cting within the scope of employment” as “acting within the line of duty.” The actions the ICE defendants allegedly took fall within the scope of their employment as ICE agents and officers. There is evidence that SSA (b)(6), (b)(7)c and Supervisory SA (b)(6), (b)(7)c failed to follow ICE policy by not receiving specific written authorization from the ICE Special Agent in Charge before approving (b)(6), (b)(7)c notice to appear. (b)(6), (b)(7)c alien file also does not contain documents that were required by DHS policy before issuing a notice to appear. Some of these documents, such as fingerprint cards and database search results, may have aided in the search for (b)(6), (b)(7)c naturalization records. However, these lapses do not negate the fact that the actions the ICE defendants allegedly took were performed while they were on duty enforcing U.S. immigration law on the behalf of ICE and DHS. The alleged actions by the ICE defendants are within the scope of their employment as DHS employees.

Recommendation

I recommend that you approve indemnification in this case. The “exceptional circumstances” that justify pre-judgment indemnification are the reasonableness of the officers’ reliance on DHS databases and the potential for an adverse judgment. This settlement averts those possibilities. Moreover, the settlement agreement – of which this indemnification is an integral part – completes the process of clarifying and strengthening ICE policies and procedures regarding the investigation of claims of U.S. citizenship, remedies any alleged wrongs, and reduces the potential of another similar court action. It is therefore in the best interests of the United States to settle this lawsuit and to indemnify the employees whom the plaintiff sued in their individual capacities.

Approve _____ Disapprove _____

Modify _____ Needs more discussion _____

Attachments

Office of the Principal Legal Advisor

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

ATTORNEY-CLIENT PRIVILEGED / ATTORNEY WORK PRODUCT

~~March 31~~ April, 2010

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MEMORANDUM FOR: Secretary Napolitano

THRU: Ivan K. Fong
General Counsel

John Morton
Assistant Secretary

FROM: (b)(6), (b)(7)c
Principal Legal Advisor

SUBJECT: Settlement recommendation, (b)(6), (b)(7)c
(b)(6), (b)(7)c

Purpose:

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This memorandum discusses whether to indemnify individual ICE defendants in the total amount of \$400,000-00 in a *Bivens* action in which no adverse judgment of liability has been entered. After carefully considering the facts of this case, I recommend settling this lawsuit and authorizing DHS to pay the indemnification the settlement would require in order to end what would surely be extremely costly and ultimately unsuccessful litigation. ~~The Identified~~ ICE individual defendants were involved in the seven and a half month detention of a naturalized U.S. citizen and U.S. Army veteran. The indemnification request, which contains a thorough analysis of the litigation risks in this case, is attached for your reference. (Attachment 1)

Background:

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(b)(6), (b)(7)c alleges that his Fourth and Fifth Amendment rights were violated by the defendants due to material falsities and omissions in his arrest warrant and their failure to conduct a reasonable or competent investigation into his claims of citizenship. (Attachment 2). On September 21, 2005, (b)(6), (b)(7)c was interviewed by retired ICE Senior Special Agent (SSA) (b)(6), (b)(7)c while he was incarcerated at the Pierce County Jail on domestic violence

www.ice.gov

Subject: Settlement recommendation, (b)(6), (b)(7)c

ATTORNEY-CLIENT PRIVILEGE / ATTORNEY WORK PRODUCT

charges (b)(6), (b)(7) alleges he told SSA (b)(6), (b)(7) he was a naturalized U.S. citizen and U.S. Army veteran. SSA (b)(6), (b)(7) does not remember ever speaking with (b)(6), (b)(7), but declared she would have searched the Central Index System (CIS) database maintained by U.S. Citizenship and Immigration Services to verify Castillo's citizenship claims. On the same day, SSA (b)(6), (b)(7) prepared a Form I-213 "Record of Deportable/Inadmissible Alien" and an administrative arrest warrant using the -alien file number, (b)(6), (b)(7)c she found for (b)(6), (b)(7) in the CIS databas (b)(6), (b)(7)c. This alien file number supported SSA (b)(6), (b)(7)c determination that (b)(6), (b)(7) was a removable alien. SSA (b)(6), (b)(7) did not include any information on the I-213 about (b)(6), (b)(7) laims of U.S. citizenship or military service. SSA (b)(6), (b)(7)c supervisor, Supervisory Special Agent (b)(6), (b)(7)c later approved SSA (b)(6), (b)(7)c I-213, arrest warrant, notice to appear, and notice of custody determination. Supervisory SA (b)(6), (b)(7) resigned from ICE in 2009 after the U.S. Attorney's Office indicted him for violating 18 U.S.C. § 922(g), Felon in Possession of Firearms, and 18 U.S.C. § 1001, False Statement. The indictment accused Supervisory SA (b)(6), (b)(7) of being convicted of four counts felony breaking and entering in the 1970s and falsifying his firearms permits. It is believed that plaintiff is unaware of this indictment at this time.

Two months later, when (b)(6), (b)(7) completed his sentence, ICE took custody of him and detained him at the Northwest Detention Center (NWDC) in Tacoma, Washington pending his removal proceedings. At NWDC, SSA (b)(6), (b)(7)c served (b)(6), (b)(7) his immigration charging documents prepared by SSA (b)(6), (b)(7) and approved by Supervisory SA (b)(6), (b)(7) (b)(6), (b)(7) alleges he told SSA (b)(6), (b)(7)c that he was a naturalized U.S. citizen and U.S. Army veteran. SSA (b)(6), (b)(7)c claims that she searched immigration computer systems thoroughly and was unable to confirm (b)(6), (b)(7) citizenship claims. (b)(6), (b)(7) case was then assigned to Deportation Officer (DO) (b)(6), (b)(7)c. During his interview with DO (b)(6), (b)(7) (b)(6), (b)(7) alleges that he again told DO (b)(6), (b)(7) that he was a naturalized U.S. citizen and U.S. Army veteran. DO (b)(6), (b)(7) does not contest these allegations, but claims that he searched the CIS database and did not find any record of naturalization for (b)(6), (b)(7).

After several delays to allow (b)(6), (b)(7) to obtain counsel and proof of his U.S. citizenship claims, an Immigration Judge ordered (b)(6), (b)(7) removed from the United States. (b)(6), (b)(7) represented himself during these proceedings. After the removal order was entered, (b)(6), (b)(7) obtained representation through from the Northwest Immigration Rights Project (NWIRP). NWIRP attorneys appealed the removal order and during the appeal were able to find records showing (b)(6), (b)(7) naturalization. (b)(6), (b)(7) naturalization records were located under a separate alien file number (b)(6), (b)(7)c). The naturalization record in the CIS database was not cross referenced to (b)(6), (b)(7) other alien file and his last name was misspelled, making it irretrievable using the correct spelling of (b)(6), (b)(7) name or the database's "sound alike" search function. ICE released (b)(6), (b)(7) after it received (b)(6), (b)(7) naturalization file.

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The U.S. Attorney Office in Western District of Washington represents the named ICE defendants. The Department of Justice has determined that these individuals acted within the scope of their employment.

(b)(6), (b)(7)c and the NWIRP represent the plaintiff. The plaintiff failed to file any tort claims with the federal government. The government is thus precluded from paying any damages to (b)(6), (b)(7) under the Federal Torts Claim Act because (b)(6), (b)(7) failed to perfect such a claim in time. Because the *Bivens* statute of limitations is longer in Washington, the plaintiff was able to file timely *Bivens* claims against the ICE officers. Indemnification for (b)(6), (b)(7) claim is thus the only means to complete this settlement.

On October 2, 2009, the ICE defendants filed a motion to dismiss and motion for summary judgment based on qualified immunity. On December 12, 2009, the District Court granted in part and denied in part Defendants' Motion to Dismiss and Motion for Summary Judgment, finding that, as to the former, Plaintiff had adequately pled non-supervisory constitutional violations against the ICE dDefendants (except Assistant Field Office Director (b)(6), (b)(7)(C) who was dismissed). (Attachment 3). Based upon Plaintiff's-plaintiff's request to conduct limited discovery on qualified immunity, the District Court denied the latter motion without prejudice pursuant to Fed. R. Civ. P. 56(f)(1), and deferred any ruling on the defense of qualified immunity or reliance on a valid arrest warrant until the completion of such limited discovery. ~~Id.~~ Discovery has been stayed for 60 days pending the outcome of the ICE defendants' indemnification request.

The ICE dDefendants filed a protective notice of appeal, and the case was referred to the Ninth Circuit's Mediation Program. The parties engaged in settlement negotiations which were finalized at the mediation. The parties agreed to settle the case for \$400,000 in monetary damages and a statement of regret from the ICE dDefendants (or the United States Attorney in Seattle). The settlement agreement is contingent upon the ICE defendants obtaining indemnification from DHS. The appeal has also been stayed for 60 days to allow the ICE defendants to file and receive an answer to their indemnification request pending the outcome of the ICE defendants' indemnification request. A status conference is currently scheduled with the Ninth Circuit mediator on May 11, 2010.

The U.S. Attorney Office, in Seattle who is defending the ICE defendants, request that DHS indemnify the individual ICE employee defendants to settle the *Bivens* claims against them. The proposed settlement will resolve the *Bivens* claims against the currently named individual ICE employees, all "Doe" ICE employees, and any other DHS employees who could subsequently be added to this action. Pursuant to the agreement, counsel for the plaintiff Plaintiff's counsel also agreed not to seek attorneys' fees or costs.

Authority

Memorandum for Secretary Napolitano
Subject: Settlement recommendation,

Page 4

(b)(6), (b)(7)c

ATTORNEY-CLIENT PRIVILEGE / ATTORNEY WORK PRODUCT

Management Directive 0415, *Indemnification of Employees Acting in Official Capacity* (Enclosure 2), states that the Department may indemnify an employee at any time if the employee was acting within the scope of employment, and if indemnification is in the best interests of the United States. However, the Management Directive authorizes indemnification prior to the entry of an adverse judgment only if exceptional circumstances are present.

Paragraph VI.C states, in relevant part:

Absent exceptional circumstances, as determined by the Secretary, the Department will not entertain a request to indemnify or to pay for settlement of a claim before entry of an adverse judgment, verdict or other determination.

ATTORNEY-CLIENT PRIVILEGE / ATTORNEY WORK PRODUCT

Interest of the United States in Settlement

(b)(5)

Scope of Employment

Section 2671 of Title 18, U.S. Code defines “[a]cting within the scope of employment” as “acting within the line of duty.” The actions ~~that~~ the ICE defendants allegedly took fall within the scope of their employment as ICE agents and officers. There is evidence that SSA [redacted] and Supervisory SA [redacted] failed to follow ICE policy by not receiving specific written authorization from the ICE Special Agent in Charge before approving [redacted] notice to appear. [redacted] lien file also does not contain documents that were required by DHS policy before issuing a notice to appear. Some of these documents, such as fingerprint cards and database search results, may have aided in the search for [redacted] naturalization records. However, these lapses do not negate the fact that the actions the ICE defendants allegedly took were performed while they were on duty enforcing U.S. immigration law on the behalf of ICE and DHS. The alleged actions by the ICE defendants are within the scope of their employment as **special agents and detention and removal officers in this case** DHS employees.

Recommendation

I recommend that you approve indemnification in this case. The “exceptional circumstances” that justify pre-judgment indemnification are the reasonableness of the officers’ reliance on DHS databases and the potential for an adverse judgment. This settlement averts those possibilities. Moreover, the settlement agreement – of which this indemnification is an integral part – completes the process of clarifying and strengthening ICE policies and procedures regarding the investigation of claims of U.S. citizenship, remedies any alleged wrongs, and reduces the potential of another similar court action. It is therefore in the best interests of the United States to settle this lawsuit and to indemnify the employees whom the plaintiffs sued in their individual capacities.

Approve _____ Disapprove _____

Modify _____ Needs more discussion _____

Memorandum for Secretary Napolitano

Page 6

Subject: Settlement recommendation, (b)(6), (b)(7)c

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Attachments

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Assistant Secretary Morton
Principal Legal Advisor Vincent

Office of the Principal Legal Advisor
Date: April 6~~5~~, 2010

(b)(6), (b)(7)c

CURRENT DEVELOPMENTS: On March 26, 2010, mediation was held between the parties with Ninth Circuit mediator Chris Goelz in Seattle. This case is *Bivens* only, and DHS is not a defendant. The parties tentatively agreed to settle the case for \$400,000 in monetary damages and a letter of regret signed by the U.S. Attorney in Seattle. The settlement agreement is contingent upon the approval of the ICE employees' indemnification request by the DHS Secretary and approval of the letter by the U.S. Attorney. The case is stayed pending approval of the tentative settlement agreement.

BACKGROUND: (b)(6), (b)(7)(C) a native of Belize, entered the United States illegally at the age of seven with his mother in 1984. (b)(6), (b)(7)(C) received alien file number (b)(6), (b)(7)(C) on May 7, 1990, after he applied for lawful permanent residency (b)(6), (b)(7)(C) was granted voluntary departure under the Family Fairness Program on or about June 24, 1991.

The Central Index System (CIS) shows that alien file number (b)(6), (b)(7)(C) was created July 23, 1992, when (b)(6), (b)(7)(C) entered the United States as an immigrant. In November 1996, (b)(6), (b)(7)(C) enlisted in the United States Army. (b)(6), (b)(7)(C) received an honorable discharge from the Army in July 2003. In 2005, (b)(6), (b)(7)(C) was convicted and imprisoned for eight months for residential burglary, felony harassment, and violation of a domestic violence protective order. On September 21, 2005, he was interviewed by ICE Agent (b)(6), (b)(7)(C) who initiated removal proceedings under (b)(6), (b)(7)(C). He was detained by ICE at the Northwest Detention Center (NWDC) immediately upon his release from the jail on November 15, 2005. His first master calendar hearing was held on November 30, 2005. The matter was continued to December 21, 2005, at which time (b)(6), (b)(7)(C), representing himself, asserted U.S. citizenship by naturalization. Nothing in alien file (b)(6), (b)(7)(C) or in the CIS under (b)(6), (b)(7)(C) indicated (b)(6), (b)(7)(C) naturalization or alternate alien number. (b)(6), (b)(7)(C) was unable to provide any documentation establishing his citizenship claim, and on January 24, 2006, the Immigration Judge ordered (b)(6), (b)(7)(C) removed.

On April 27, 2006, (b)(6), (b)(7)(C), with the assistance of counsel, received a copy of his military records that showed an assignment of two different A numbers. On April 28, 2006, (b)(6), (b)(7)(C) renewed his request for a copy of his naturalization certificate with USCIS using both A numbers (b)(6), (b)(7)(C) remained at NWDC until June 29, 2006, when alien file (b)(6), (b)(7)(C) was forwarded to ICE from USCIS. A review of alien file (b)(6), (b)(7)(C) revealed that (b)(6), (b)(7)(C) was naturalized on October 28, 1998, at the INS office in Seattle, Washington (b)(6), (b)(7)(C) was released from the NWDC on June 29, 2006, after spending seven and a half months in detention. Subsequent investigation revealed that (b)(6), (b)(7)(C) first and last name were misspelled in the CIS entry for alien file # (b)(6), (b)(7)(C). A search of the correct spelling of (b)(6), (b)(7)(C) name into the CIS database only retrieved alien file # (b)(6), (b)(7)(C).

On November 13, 2008, the Northwest Immigration Rights Project filed a *Bivens* complaint in the Western District of Washington on behalf of (b)(6), (b)(7) (the two-year statute of limitations under the Federal Tort Claims Act had already lapsed). The complaint named five ICE officers: (1) the arresting ICE agent, (b)(6), (b)(7)c (currently retired); (2) the supervisor who approved the arrest warrant and notice to appear, (b)(6), (b)(7)c (resigned from ICE after being prosecuted by the USAO for violating 18 U.S.C. § 922(g), Felon in Possession of Firearms, and 18 U.S.C. § 1001, False Statement); (3) the ICE agent who served the plaintiff's arrest warrant and notice to appear, (b)(6), (b)(7)c (currently employed as ICE Special Agent); (4) the plaintiff's deportation officer, (b)(6), (b)(7)c (currently employed as Deportation Officer); and (5) the former NWDC AFOD (b)(6), (b)(7)(C). All of the ICE defendants are represented by the U.S. Attorney's Office in Seattle. The complaint alleges violations of the plaintiff's Fourth and Fifth Amendment rights. The complaint also alleges that the plaintiff told (b)(6), (b)(7)c (b)(6), (b)(7), and (b)(6), (b)(7)c that he was a military veteran and a naturalized U.S. citizen. (b)(6), (b)(7) failed to timely file any tort claims with the agency or against the government related to his detention.

On December 10, 2009, Judge Settle granted in part and denied in part the ICE defendants' motion to dismiss or, in the alternate, a motion for summary judgment. The court dismissed without prejudice AFOD (b)(6), (b)(7)(C) from the case, but found the plaintiff pled sufficient constitutional violations against the remaining defendants. The court also denied the ICE defendants' alternative motion for summary judgment without prejudice and ordered the parties to engage in limited discovery to develop the factual record on application of qualified immunity to the defendants. At the conclusion of the discovery, the ICE defendants will be able to file another motion for summary judgment based on qualified immunity. The U.S. Attorney's Office reserved appeal to the Ninth Circuit on the District Court's ruling. (b)(6), (b)(7)c detention has been the subject of numerous press articles and news releases from immigrant advocacy groups. ~~An OPR investigation is pending~~ There are no OPR investigations related to this case.

FURTHER ACTION/RECOMMENDATION: The USAO ~~will~~ submitted to ICE the employees' formal request for indemnification to ICE on April 5, 2010. OPLA will need to review and recommend action to DHS OGC. CALD recommends that OPLA recommend to OGC that DHS indemnify. A status conference is scheduled on May 11, 2010 with mediator to discuss progress of settlement approval.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, April 05, 2010 2:12 PM
To: (b)(6), (b)(7)c
Cc:
Subject: April 2010.doc
Attachments: (b)(6), (b)(7)c April 2010.doc

(b)(6), (b)(7) The attached SCR was updated per (b)(6), (b)(7) request from the last Hot Lit.

I wanted to briefly discuss the OPR investigation as well. Thanks,

(b)(6), (b)(7)

This entire document is attorney-client / work product privileged and may not be disclosed to any non-recipient except with the express authorization of ICE OPLA.

Assistant Secretary Morton
Principal Legal Advisor Vincent

Office of the Principal Legal Advisor
Date: April 5, 2010

(b)(6), (b)(7)c

CURRENT DEVELOPMENTS: On March 26, 2010, mediation was held between the parties with Ninth Circuit mediator Chris Goelz in Seattle. This case is *Bivens* only, and DHS is not a defendant. The parties tentatively agreed to settle the case for \$400,000 in monetary damages and a letter of regret signed by the U.S. Attorney in Seattle. The settlement agreement is contingent upon the approval of the ICE employees' indemnification request by the DHS Secretary and approval of the letter by the U.S. Attorney. The case is stayed pending approval of the tentative settlement agreement.

BACKGROUND: (b)(6), (b)(7)c a native of Belize, entered the United States illegally at the age of seven with his mother in 1984. (b)(6), (b)(7) received alien file number (b)(6), (b)(7)c on May 7, 1990, after he applied for lawful permanent residency. (b)(6), (b)(7) was granted voluntary departure under the Family Fairness Program on or about June 24, 1991.

The (b)(7)e shows that alien file number (b)(6), (b)(7)c was created July 23, 1992, when (b)(6), (b)(7) entered the United States as an immigrant. In November 1996, (b)(6), (b)(7) enlisted in the United States Army. (b)(6), (b)(7) received an honorable discharge from the Army in July 2003. In 2005, (b)(6), (b)(7) was convicted and imprisoned for eight months for residential burglary, felony harassment, and violation of a domestic violence protective order. On September 21, 2005, he was interviewed by ICE Agent (b)(6), (b)(7) who initiated removal proceedings under (b)(6), (b)(7)c. He was detained by ICE at the Northwest Detention Center (NWDC) immediately upon his release from the jail on November 15, 2005. His first master calendar hearing was held on November 30, 2005. The matter was continued to December 21, 2005, at which time (b)(6), (b)(7) representing himself, asserted U.S. citizenship by naturalization. Nothing in alien file A70 709 541 or in the (b)(7) under A70 709 541 indicated (b)(6), (b)(7)c naturalization or alternate alien number. (b)(6), (b)(7) was unable to provide any documentation establishing his citizenship claim, and on January 24, 2006, the Immigration Judge ordered Castillo removed.

On April 27, 2006, (b)(6), (b)(7), with the assistance of counsel, received a copy of his military records that showed an assignment of two different A numbers. On April 28, 2006, (b)(6), (b)(7) renewed his request for a copy of his naturalization certificate with USCIS using both A numbers. (b)(6), (b)(7) remained at NWDC until June 29, 2006, when alien file (b)(6), (b)(7)c was forwarded to ICE from USCIS. A review of alien file (b)(6), (b)(7)c revealed that (b)(6), (b)(7) was naturalized on October 28, 1998, at the INS office in Seattle, Washington. (b)(6), (b)(7) was released from the NWDC on June 29, 2006, after spending seven and a half months in detention. Subsequent investigation revealed that (b)(6), (b)(7)d first and last name were misspelled in the CIS entry for alien file # (b)(6), (b)(7)c. A search of the correct spelling of (b)(6), (b)(7)c name into the (b)(7)c database only retrieved alien file # (b)(6), (b)(7)c.

On November 13, 2008, the Northwest Immigration Rights Project filed a *Bivens* complaint in the Western District of Washington on behalf of (b)(6), (b)(7) the two-year statute of limitations under the Federal Tort Claims Act had already lapsed). The complaint named five ICE officers: (1) the arresting ICE agent, (b)(6), (b)(7)c (currently retired); (2) the supervisor who approved the arrest warrant and notice to appear, (b)(6), (b)(7)c (resigned from ICE after being prosecuted by the USAO for violating 18 U.S.C. § 922(g), Felon in Possession of Firearms, and 18 U.S.C. § 1001, False Statement; (3) the ICE agent who served the plaintiff's arrest warrant and notice to appear, (b)(6), (b)(7)c (currently employed as ICE Special Agent); (4) the plaintiff's deportation officer, (b)(6), (b)(7)c (currently employed as Deportation Officer); and (5) the former NWDC AFOD (b)(6), (b)(7)(C). All of the ICE defendants are represented by the U.S. Attorney's Office in Seattle. The complaint alleges violations of the plaintiff's Fourth and Fifth Amendment rights. The complaint also alleges that the plaintiff told (b)(6), (b)(7)c (b)(6), (b)(7)d, and (b)(6), (b)(7)c that he was a military veteran and a naturalized U.S. citizen. (b)(6), (b)(7) failed to timely file any tort claims with the agency or against the government related to his detention.

On December 10, 2009, Judge Settle granted in part and denied in part the ICE defendants' motion to dismiss or, in the alternate, a motion for summary judgment. The court dismissed without prejudice AFOD (b)(6), (b)(7)(C) from the case, but found the plaintiff pled sufficient constitutional violations against the remaining defendants. The court also denied the ICE defendants' alternative motion for summary judgment without prejudice and ordered the parties to engage in limited discovery to develop the factual record on application of qualified immunity to the defendants. At the conclusion of the discovery, the ICE defendants will be able to file another motion for summary judgment based on qualified immunity. The U.S. Attorney's Office reserved appeal to the Ninth Circuit on the District Court's ruling. (b)(6), (b)(7)(C) detention has been the subject of numerous press articles and news releases from immigrant advocacy groups. An OPR investigation is pending.

FURTHER ACTION/RECOMMENDATION: The USAO will submit to ICE the employees' formal request for indemnification. OPLA will need to review and recommend action to DHS OGC. CALD recommends that OPLA recommend to OGC that DHS indemnify. A status conference is scheduled on May 11, 2010 with mediator to discuss progress of settlement approval.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 12:29 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7) settlement reminder
Attachments: 10-8366 Signed S1 Decision Memorandum 9.23.10.pdf
Importance: High

To be able to pay this settlement I need the employee information to create the obligation. I tried contacting (b)(6), (b)(7) but he is out of the office until the 13th.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:33 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: Castillo settlement reminder

(b)(6), (b)(7)c

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, (b)(6), (b)(7)c Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)
Direct Phone: (949) 360 (b)(6), (b)(7)
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:19 PM
To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 5:06 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 4:52 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)c

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 11:52 AM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)c

Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, August 26, 2010 5:18 PM
To: (b)(6), (b)(7)c
Cc:
Subject: (b)(6), (b)(7) ettlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, April 09, 2010 4:53 PM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c -- Recommendation on Indemnification Request
Attachments: (b)(6), (b)(7) Indemnification Recommendation.doc; Indemnification Request - version 3 FINAL.pdf; Order denying in part Def SJM filed Dec 10 09.pdf; First Amended Complaint filed on August 21 2009.pdf
Importance: High
Tracking:

Recipient	Read
(b)(6), (b)(7)c	Read: 4/9/2010 5:04 PM

(b)(6), (b)(7)

Attached is a draft recommendation for the indemnification request in the (b)(6), (b)(7) case and the documents referenced in the recommendation.

Please let me know if you need further information or the recommendation needs to be revised. A status conference with the Ninth Circuit mediator is scheduled for May 11, 2010, to discuss the progress of the indemnification request.

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room (b)(6), (b)(7)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, April 22, 2010 9:40 AM
To: (b)(6), (b)(7)c
Cc:
Subject: Confidential Settlement read-ahead: (b)(6), (b)(7)c

(b)(6), (b)(7)c This isn't a routine settlement – the amount is frankly astronomical, but so is the potential for liability and bad press. One of the four officers who would be indemnified is DRO, so a share of this indemnification would come out of program funds. Thank you. – (b)(6), (b)(7)c

=====

CURRENT DEVELOPMENTS: On March 26, 2010, mediation was held between the parties with Ninth Circuit mediator (b)(6), (b)(7)c in Seattle. This case is *Bivens* only, and the United States is not a defendant. The parties tentatively agreed to settle the case for \$400,000 in monetary damages and a letter of regret signed by the U.S. Attorney in Seattle. The settlement agreement is contingent upon the approval of the ICE employees' indemnification request by the DHS Secretary and approval of the letter by the U.S. Attorney. The settlement would be paid from agency funds. The case is stayed pending approval of the tentative settlement agreement.

BACKGROUND: (b)(6), (b)(7)(C), a native of Belize, entered the United States illegally at the age of seven with his mother in 1984. (b)(6), (b)(7)(C) received alien file number (b)(6), (b)(7)(C) on May 7, 1990, after he applied for lawful permanent residency. (b)(6), (b)(7)(C) was granted voluntary departure under the Family Fairness Program on or about June 24, 1991. The Central Index System (CIS) shows that alien file number (b)(6), (b)(7)(C) was created July 23, 1992, when (b)(6), (b)(7)(C) entered the United States as an immigrant. In November 1996, (b)(6), (b)(7)(C) enlisted in the United States Army. (b)(6), (b)(7)(C) received an honorable discharge from the Army in July 2003. In 2005, (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) On September 21, 2005, he was interviewed by ICE Agent (b)(6), (b)(7)(C) who initiated removal proceedings under (b)(6), (b)(7)(C). He was detained by ICE at the Northwest Detention Center (NWDC) immediately upon his release from the jail on November 15, 2005. His first master calendar hearing was held on November 30, 2005. The matter was continued to December 21, 2005, at which time (b)(6), (b)(7)(C), representing himself, asserted U.S. citizenship by naturalization. Nothing in alien file (b)(6), (b)(7)(C) or in the CIS under (b)(6), (b)(7)(C) indicated (b)(6), (b)(7)(C) naturalization or alternate alien number. (b)(6), (b)(7)(C) was unable to provide any documentation establishing his citizenship claim, and on January 24, 2006, the Immigration Judge ordered (b)(6), (b)(7)(C) removed.

On April 27, 2006, (b)(6), (b)(7)(C), with the assistance of counsel, received a copy of his military records that showed an assignment of two different A numbers. On April 28, 2006, (b)(6), (b)(7)(C) renewed his request for a copy of his naturalization certificate with USCIS using both A numbers. (b)(6), (b)(7)(C) remained at NWDC until June 29, 2006, when alien file (b)(6), (b)(7)(C) was forwarded to ICE from USCIS. A review of alien file (b)(6), (b)(7)(C) revealed that (b)(6), (b)(7)(C) was naturalized on October 28, 1998, at the INS office in Seattle, Washington. (b)(6), (b)(7)(C) was released from the NWDC on June 29, 2006, after spending seven and a half months in detention. Subsequent investigation revealed that (b)(6), (b)(7)(C) first and last name were misspelled in the CIS entry for alien file (b)(6), (b)(7)(C). A search of the correct spelling of (b)(6), (b)(7)(C) name into the CIS database only retrieved alien file # (b)(6), (b)(7)(C)

On November 13, 2008, the Northwest Immigration Rights Project filed a *Bivens* complaint in the Western District of Washington on behalf of (b)(6), (b)(7)(C) (the two-year statute of limitations under the Federal Tort Claims Act had already lapsed). The complaint named five ICE officers: (1) the arresting ICE agent, (b)(6), (b)(7)c

(currently retired); (2) the supervisor who approved the arrest warrant and notice to appear, (b)(6), (b)(7)c (resigned from ICE after being prosecuted by the USAO for violating 18 U.S.C. § 922(g), Felon in Possession of Firearms, and 18 U.S.C. § 1001, False Statement; (3) the ICE agent who served the plaintiff's arrest warrant and notice to appear, (b)(6), (b)(7)c (currently employed as ICE Special Agent); (4) the plaintiff's deportation officer, (b)(6), (b)(7)c (currently employed as Deportation Officer); and (5) the former NWDC AFOD (b)(6), (b)(7)c (b)(6), (b)(7)(C). All of the ICE defendants are represented by the U.S. Attorney's Office in Seattle. The complaint alleges violations of the plaintiff's Fourth and Fifth Amendment rights. The complaint also alleges that the plaintiff told (b)(6), (b)(7)c and (b)(6), (b)(7)c that he was a military veteran and a naturalized U.S. citizen. (b)(6), (b)(7) failed to timely file any tort claims with the agency or against the government related to his detention.

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FURTHER ACTION/RECOMMENDATION: The USAO will submit to ICE the employees' formal request for indemnification. OPLA will need to review and recommend action to DHS OGC. CALD recommends that OPLA recommend to OGC that DHS indemnify. A status conference is scheduled on May 11, 2010 with mediator to discuss progress of settlement approval.

(b)(6), (b)(7)c
Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)
Washington, DC 20024

(202) 732 (b)(6), (b)(7)

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U.S. Immigration
and Customs
Enforcement

Memorandum

TO: Dallas Finance Center
OPLA Payment Team

FROM: (b)(6), (b)(7)c
Associate Legal Advisor
District Court Litigation Division

DATE: January 4, 2011

SUBJECT: Settlement Agreement in (b)(6), (b)(7)c
(b)(6), (b)(7)c

Pursuant to a settlement agreement, Immigration and Customs Enforcement (ICE) has agreed to pay the (b)(6), (b)(7)c a total of \$400,000.00 with \$100,000.00 coming from HSI and \$300,000.00 coming from ERO.

The following information is provided to facilitate this payment:

Payee Name:	(b)(6), (b)(7)c
Taxpayer ID#:	
Bank Name:	U.S. Bank
ABA#:	(b)(6), (b)(7)c
Account #:	
Payment Amount:	\$400,000.00
Funding should be charged to:	\$100,000 to HSI and \$300,000 to ERO
Funding Payment Code:	

DALLAS FINANCE CENTER: Upon completion of the funding request and payment of this matter, please fax or email a copy of the proof that payment has been completed to (b)(6), (b)(7)c @dhs.gov. Thank you for your assistance.



U.S. Immigration
and Customs
Enforcement

Memorandum

TO: Dallas Finance Center
OPLA Payment Team

FROM: (b)(6), (b)(7)c
Associate Legal Advisor
Commercial and Administrative Law Division

DATE: December 21, 2010

SUBJECT: Settlement Agreement in (b)(6), (b)(7)c
(b)(6), (b)(7)c

Pursuant to a settlement agreement, Immigration and Customs Enforcement (ICE) has agreed to pay the (b)(6), (b)(7)c a total of \$400,000.00 with \$100,000.00 coming from HSI and \$300,000.00 coming from ERO.

The following information is provided to facilitate this payment:

Payee Name:	(b)(6), (b)(7)c
Taxpayer ID#:	
Bank Name:	U.S. Bank
ABA#:	
Account #:	(b)(6), (b)(7)c
Payment Amount:	\$400,000.00
Funding should be charged to:	\$100,000 to HSI and \$300,000 to ERO
Funding Payment Code:	

DALLAS FINANCE CENTER: Upon completion of the funding request and payment of this matter, please fax or email a copy of the proof that payment has been completed to (b)(6), (b)(7)c@dhs.gov. Thank you for your assistance.



U.S. Immigration
and Customs
Enforcement

TO: Dallas Finance Center
OPLA Payment Team

THROUGH: (b)(6), (b)(7)c
OFFICE OF ENFORCEMENT AND REMOVAL OPERATIONS

FROM: (b)(6), (b)(7)c (b)(6), (b)(7)c
Associate Legal Advisor
District Court Litigation Division

DATE: August 3, 2011

SUBJECT: Settlement Agreement in (b)(6), (b)(7)c
(b)(6), (b)(7)c

Pursuant to a settlement agreement, Immigration and Customs Enforcement (ICE) has agreed to pay the (b)(6), (b)(7)c a total of \$20,000.00 via a written check. This amount was approved by the DHS Secretary to indemnify an ERO employee, who is being sued for acts arising out of the scope of her employment with ICE. The amount should come out of ERO funds. (b)(6), (b)(7)c payment should be made by check and sent to the following address:

(b)(6), (b)(7)c
U.S. Attorney's Office
Civil Division
(b)(6), (b)(7)c **Federal Building**
300 North Los Angeles Street
Los Angeles, CA 90012
(213) 894-(b)(6), (b)(7)c

The following information is provided to facilitate this payment:

Payee Name: (b)(6), (b)(7)c
Taxpayer ID#: (b)(6), (b)(7)c
Payment Amount: \$20,000.00
Funding should be charged to: ERO
Funding Payment Code: _____

DALLAS FINANCE CENTER: Upon completion of the funding request and payment of this matter, please fax or email a copy of the proof that payment has been completed to (b)(6), (b)(7)c@dhs.gov. Thank you for your assistance.

INDEMNIFICATION OF EMPLOYEES ACTING IN OFFICIAL CAPACITY

I. Purpose

This Management Directive (MD) establishes Department of Homeland Security (DHS) policy regarding indemnification of an employee of DHS acting in his or her official capacity.

II. Scope

This MD applies to DHS Headquarters and all DHS Component's . The provisions of this MD define the circumstances under which the Department may indemnify a Department employee if he or she is named as a party in a legal proceeding in his or her individual capacity as a result of conduct within the scope of his or her employment.

III. Authorities and References

- A. 5 U.S.C., "Government Organization and Employees."
- B. 28 CFR § 50.15, "Representation of Federal officials and employees by Department of Justice attorneys or by private counsel furnished by the Department in civil, criminal, and congressional proceedings in which Federal employees are sued, subpoenaed, or charged in their individual capacities."

IV. Definitions

- A. **Component**: As used in this MD, the term DHS Component shall have the meaning given to the former term "Organizational Element" in DHS MD 0010.1, Management Directives System and DHS Announcements.
- B. **Employee**: An individual who has been appointed in the Federal civil service, is engaged in the performance of a Federal function under authority of law or regulation, and is not otherwise exempt from 5 USC, Sections 2301 and 2302. For purposes of this Management Directive a former employee shall be considered an employee if the actions resulting in the adverse legal proceeding occurred when he or she was an employee under this definition.

V. Responsibilities

The General Counsel: The General Counsel shall be responsible for reviewing the merits of requests for indemnification made under this MD and for preparing a recommendation to the Secretary.

VI. Policy & Procedures

A. The Department of Homeland Security may indemnify, in whole or in part, a Department employee for any verdict, judgment or other monetary award rendered against such employee, provided the Secretary determines that (1) the conduct giving rise to such verdict, judgment or award was within the scope of the employee's employment and (2) such indemnification is in the interest of the United States.

B. The Department of Homeland Security may pay for the settlement or compromise of a claim against a Department employee at any time, provided the Secretary determines that (1) the alleged conduct giving rise to the claim was within the scope of the employee's employment and (2) such settlement or compromise is in the interest of the United States.

C. Absent exceptional circumstances, as determined by the Secretary, the Department will not entertain a request to indemnify or to pay for settlement of a claim before entry of an adverse judgment, verdict or other determination.

D. When a Department employee becomes aware that he or she has been named as a party in a proceeding in his or her individual capacity as a result of conduct within the scope of his or her employment, the employee should immediately notify his or her supervisor that such an action is pending. The supervisor shall promptly thereafter notify the chief counsel, principal legal advisor or judge advocate general assigned by the General Counsel to the employee's Component, who shall inform the Office of the General Counsel. The employee shall immediately apprise the chief counsel, principal legal advisor or judge advocate general of the employee's Component of any offer to settle the proceeding. The employee is required to comply with any and all requests for information from the chief counsel, principal legal advisor or judge advocate general assigned to the employee's Component, the Office of the General Counsel, and the Department of Justice. The employee may be required to comply with substitution of the United States or representation by the United States in accordance with 28 CFR 50.15, if the Secretary deems it applicable or appropriate.

E. A Department employee may request indemnification to satisfy a verdict, judgment or monetary award entered against the employee or to compromise a claim pending against the employee. The employee shall submit a written request, with appropriate documentation including a copy of the verdict, judgment, award or other order or settlement proposal, in a timely manner to the

chief counsel, principal legal advisor or judge advocate general assigned to the employee's Component by the General Counsel for review and recommendation to the General Counsel, and for further review and recommendation to the Secretary for decision.

F. Any payment under this section either to indemnify a Department employee or to settle a claim shall be contingent upon the availability of appropriated funds for the payment of salaries and expenses of the employing Component.

VII. Questions

Address any questions or concerns regarding this MD to the Office of the General Counsel.

Hon. Benjamin H. Settle

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

(b)(6), (b)(7)c
Plaintiff,
v.
OFFICER (b)(6), (b)(7)c et. al.,
Defendants.

NO. C08-5683-BHS

**STIPULATION AND ORDER TO
CONTINUE THE STAY OF THE
LIMITED DISCOVERY PLAN**

(Please note on Motion Calendar for:
August 9, 2010)

STIPULATION

Without waiver of any claim or defense any party may assert in this action, pursuant to Fed. R. Civ. P. 6(b)(1) and Local Civil Rule 7(d)(1), Defendants (b)(6), (b)(7)c (b)(6), (b)(7)c and (b)(6), (b)(7)c and Plaintiff (b)(6), (b)(7)c (collectively, the “Parties”), hereby file this Stipulation and Proposed Order requesting that the Court continue to stay, for an additional 30 days, the Limited Discovery Plan (Dkt. 29), which stay was previously stipulated to by the Parties (Dkt. 34, 36, & 38, “Stipulations”) and accepted by this Court most recently in its order of July 7, 2010 (Dkt. 39, “Order of July 7”), for the following reasons:

As stated in the prior Stipulations, with the assistance of the Ninth Circuit Mediation Program, the Parties have reached a settlement in principle of this matter, which must be considered and approved by the appropriate United States governmental agencies. To permit sufficient time for such approval, the Ninth Circuit mediator stayed the appeal. See (b)(6), (b)(7)c Officer (b)(6), (b)(7)c t al. (No. 10-35041; 9th Cir.), Dkt. Nos. 7-10 (staying matter through at least September 10, 2010).

1 As also stated in the prior Stipulations, the Parties wish to permit sufficient time for the
2 approval of the proposed settlement and to avoid the unnecessary expenditure of the Parties' or
3 this Court's resources.

4 In its Order of July 7, this Court stayed the Limited Discovery Plan for 30 days (with
5 responses to any outstanding discovery not due prior to 60 days from that date) and ordered the
6 parties to confer and provide a status report to this Court, should approval of the proposed
7 settlement still be pending at the conclusion of 30 days.

8 To date, the parties have received no indication that the proposed settlement will not be
9 approved, and have received every indication that the (lengthy and multi-step) approval process
10 is progressing. Unfortunately, the approval process is not yet complete.

11 The stay entered pursuant to this Court's Order of July 7 expires on or about August 9,
12 2010.

13 Therefore, the parties, by and through their respective undersigned counsel, hereby
14 STIPULATE, AGREE, and JOINTLY REQUEST that the Court enter an order staying the
15 Limited Discovery Plan for an additional 30 days from entry of the Order below. (Responses to
16 any outstanding discovery will not be due prior to 60 days from that date.) Should approval of
17 the proposed settlement be denied or still pending at the conclusion of 30 days, the parties at that
18 time will confer and provide a status report to this Court, including, if necessary, new proposed
19 deadlines for the Limited Discovery Plan for the Court's consideration.

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So stipulated and respectfully submitted this 9th day of August, 2010.

DATED: August 9, 2010.

DATED: August 9, 2010.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

United States Attorney

/s/ (b)(6), (b)(7)c

/s/ (b)(6), (b)(7)c

(b)(6), (b)(7)c

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NORTHWEST IMMIGRANT RIGHTS
PROJECT

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NY State Supreme Ct., 3rd Judicial Dept.

Attorneys for Plaintiff

ORDER

The parties having so stipulated, it is so ORDERED.

DATED this 10th day of August, 2010.



BENJAMIN H. SETTLE
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

(b)(6), (b)(7)c

Plaintiff,

v.

OFFICER

(b)(6), (b)(7)c

et al.,

Defendants.

No. C08-5683 BHS

PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR DAMAGES

JURY DEMAND

Plaintiff (b)(6), (b)(7)c is a citizen of the United States who honorably served his country in the military. Defendants are federal agents of Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), who illegally detained, interrogated, and then imprisoned (b)(6), (b)(7)c for seven-and-a-half months, charging him as a “deportable alien,” despite the fact that—repeatedly and at every possible opportunity—(b)(6), (b)(7)c made clear that he is a citizen of the United States of America. Had any of the defendants conducted a reasonable search of ICE’s own records for (b)(6), (b)(7)c name, social security number, military records, or fingerprints, they immediately would have discovered that he was a citizen. Instead, Defendants deliberately

1 ignored (b)(6), (b)(7)c citizenship and repaid his service to this country with arbitrary and
2 indefensible loss of the liberty for which (b)(6), (b)(7)c had served to protect.

3 For the violations of his Fourth and Fifth Amendment rights (b)(6), (b)(7)c raises
4 claims under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403
5 U.S. 388 (1971), against the defendants, individual U.S. Immigration and Customs
6 Enforcement officers. The ICE officers named as defendants here include those who
7 personally ordered that Plaintiff be detained, interrogated and imprisoned for seven-and-a-half
8 months, and the supervisors, who, in failing to provide necessary training and supervision,
9 and in refusing to fulfill their role as a check on abusive practices, precipitated and prolonged
10 the harm suffered by (b)(6), (b)(7)c

11 1. PARTIES

12 1.1. Plaintiff: (b)(6), (b)(7)c is a U.S. Citizen, born in Belize. He has
13 lived in the U.S. since he first came as a child with his mother, and became a U.S. citizen on
14 (b)(6), (b)(7)c while serving in the U.S. army. He is a resident of Lakewood, Washington.

15 1.2. Defendants:

16 1.2.1. At all times relevant, (b)(6), (b)(7)c was a Senior Special Agent of
17 Immigration and Customs Enforcement, United States Department of Homeland Security
18 (ICE). At all relevant times Officer (b)(6), (b)(7)c was acting under color of federal law and is
19 sued in her individual capacity.

20 1.2.2. At all times relevant, (b)(6), (b)(7)c (who signed the form I-862,
21 Notice To Appear, and who is the supervisor of (b)(6), (b)(7)c) was a Supervisory
22 Special Agent of Immigration and Customs Enforcement, United States Department of
23 Homeland Security (ICE). In addition, on information and belief, (b)(6), (b)(7)c was
24 responsible for training and supervision of (b)(6), (b)(7)c an ICE agent whose conduct
25 caused the injuries alleged herein. On information and belief, (b)(6), (b)(7)c was also responsible
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1 for acting—and had a duty to act—as a check on arbitrary or unjustified actions against U.S.
2 citizens. At all relevant times Officer (b)(6), (b)(7)(c) was acting under color of federal law and is sued
3 in his individual capacity.

4 1.2.3. At all times relevant, Officer (b)(6), (b)(7)(c) was a federal agent of
5 Immigration and Customs Enforcement, United States Department of Homeland Security
6 (ICE), stationed at the Northwest Detention Center in Tacoma, Washington. As part of his
7 job responsibilities, Officer (b)(6), (b)(7)(c) had a duty to ensure that no U.S. citizens were detained
8 by ICE. At all relevant times Officer (b)(6), (b)(7)(c) was acting under color of federal law and is
9 sued in his individual capacity.

10 1.2.4. At all times relevant, Officer (b)(6), (b)(7)(c) was a federal agent of
11 Immigration and Customs Enforcement, United States Department of Homeland Security
12 (ICE), stationed at the Northwest Detention Center in Tacoma, Washington. As part of her
13 job responsibilities, Officer (b)(6), (b)(7)(c) had a duty to ensure that no U.S. citizens were detained
14 by ICE. At all relevant times Officer (b)(6), (b)(7)(c) was acting under color of federal law and is
15 sued in her individual capacity.

16 1.2.5. At all times relevant, (b)(6), (b)(7)(C) was the Immigration and
17 Customs Enforcement Supervising Deportation and Removal Officer for the Northwest
18 Detention Center. On information and belief, at all times relevant, (b)(6), (b)(7)(C) was
19 responsible for training and supervision of the ICE agents and officers whose conduct caused
20 the injuries alleged herein. As part of his job responsibilities, Officer (b)(6), (b)(7)(C) had a duty to
21 ensure that no U.S. citizens were detained by ICE. At all relevant times Officer (b)(6), (b)(7)(C)
22 was acting under color of federal law and is sued in his individual capacity.

23 1.2.6. At all times relevant, John Does 1-50 were agents, employees, or
24 otherwise representatives of ICE. As part of their job responsibilities, John Does 1-50 had a
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1 duty to ensure that no U.S. citizens were detained by ICE. On information and belief, John
2 Does 1-50 were acting under color of law, and are sued in their individual capacity.

3 2. JURISDICTION AND VENUE

4 2.1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1331,
5 1342, and 2201. Plaintiff claims a violation of his rights to be free from unreasonable
6 searches and seizures and rights to due process (in both its procedural and substantive forms)
7 guaranteed by the Constitution of the United States.

8 2.2. Venue is appropriate in the Western District of Washington because a
9 substantial part of the events complained of occurred in this District and because upon
10 information and belief most of the defendants reside in this District. See 28 U.S.C. § 1391(b).

11 3. FACTS

12 3.1. (b)(6), (b)(7)c was born in Belize in 1977. He emigrated to the United
13 States when he was only seven years old. He has lived in the United States since that time.
14 On July 26, 1990, when (b)(6), (b)(7)c was 12 years old, his mother filed an application to
15 provide (b)(6), (b)(7)c with legal status under the Family Fairness Program. See Ex. A (p. 19).
16 That application contained (b)(6), (b)(7)c social security number (b)(6), (b)(7)c and the alien
17 number (“A number”) that ICE (then INS) had assigned to him: (b)(6), (b)(7)c Ex. B (pp. 21).
18 That application also included both spellings of (b)(6), (b)(7)c first name: (b)(6), (b)(7)c and
19 (b)(6), (b)(7)c

20 3.2. The application, which (b)(6), (b)(7)c mother filed on his behalf, was approved
21 on July 26, 1990, via a letter that again listed (b)(6), (b)(7)c name and A number (b)(6), (b)(7)c
22 Ex. A. (b)(6), (b)(7)c tatus was renewed on June 4, 1991. Ex. C (pp. 22-25).

23 3.3. On July 23, 1992, (b)(6), (b)(7)c was granted permanent resident status based on
24 the visa petition his mother filed for him. Ex. D (pp. 26-41). His application included both
25 his social security number and A number. Ex. D. When ICE adjusted his status, it evidently
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1 assigned (b)(6), (b)(7)c another A number, xx xxx (b)(6), (b)(7)c. That number should have been, and
2 was, linked to the original (b)(6), (b)(7)c through (b)(6), (b)(7)c social security
3 number, prior A number, and his fingerprints, all of which had been provided to—and were
4 on file with—ICE. Exs. E (pp. 42-45) and D (pp. 26-41).

5 3.4. (b)(6), (b)(7)c status as a lawful permanent resident remained in place
6 throughout the 1990s. See Ex. F (copy of (b)(6), (b)(7)c Resident Alien card issued on Nov.
7 19, 1996) (pp. 47).

8 3.5. (b)(6), (b)(7)c enlisted in the U.S. military in November of 1996. Ex. G (pp. 48-
9 51). At that time he was still a lawful permanent resident, as is required for all enlistees in the
10 military. (b)(6), (b)(7)c enlistment papers contain his social security number, his date of birth
11 and his A number. Ex. G. During his service in the Army, he received the National Defense
12 Service Medal and an Army Service Ribbon. Ex. H (pp. 52-53).

13 3.6. While serving in the U.S. military, (b)(6), (b)(7)c applied to become a U.S.
14 citizen by—among other things—filing his N-400 application for naturalization with the
15 Immigration and Naturalization Service (INS) office in Seattle, Washington and providing his
16 social security number and fingerprints. Ex. I (pp. 54-59). At that time he was stationed with
17 the military at Fort Lewis, Washington.

18 3.7. On July 2, 1998, (b)(6), (b)(7)c attended his naturalization interview at the
19 Seattle INS office. His application for naturalization was approved and he was sworn in as a
20 U.S. citizen on October 28, 1998, at the same INS office in Seattle, Washington. See Ex. J
21 (citizenship certificate) (p. 61); Ex. K (oath) (p. 63-64). He attended his naturalization
22 ceremony in his military uniform.

23 3.8. (b)(6), (b)(7)c was subsequently honorably discharged from the military upon
24 completing the terms of his final tour in July of 2003. Ex. H (p. 53).

1 3.9. In 2005 (b)(6), (b)(7)c was detained in the Pierce County Jail, where he was
2 completing an eight-month sentence for violation of a protection order, harassment, and
3 residential burglary. On September 21, 2005, while detained in the Pierce County Jail (b)(6), (b)(7)c
4 (b)(6), (b)(7)c was approached and questioned by (b)(6), (b)(7)c Senior Special Agent of
5 Immigration and Customs Enforcement. This interview took place approximately two months
6 prior to (b)(6), (b)(7)c scheduled release from jail.

7 3.10. When questioned by Officer (b)(6), (b)(7)c regarding his immigration status, he
8 informed her that he was a U.S. citizen. He explained his immigration history, including the
9 facts that he had been a legal permanent resident and applied for—and received—
10 naturalization while serving in the United States military. He also described that he was
11 sworn in as a U.S. citizen at the INS office in Seattle.

12 3.11. Because (b)(6), (b)(7)c knew he was a United States citizen, he was unconcerned
13 by the ICE Officer's visit. Yet, the record indicates that unbeknownst to (b)(6), (b)(7)c on
14 September 21, 2005, the same day Officer (b)(6), (b)(7)c interviewed (b)(6), (b)(7)c at the Pierce
15 County Jail, Officer (b)(6), (b)(7)c prepared and signed the Form I-213, "Record of
16 Deportable/Inadmissible alien" regarding (b)(6), (b)(7)c Ex. L (pp. 65-67). ICE Supervisory
17 Special Agent (b)(6), (b)(7)c also signed his approval and dated the form. On the I-213,
18 Defendants alleged that, "there is no record to indicate subject applied for relief/immigration
19 status." The I-213, "Record of Deportable/Inadmissible Alien" specifically excludes the
20 information that (b)(6), (b)(7)c provided, including that he was a U.S. citizen, that he gave a
21 detailed account of his military service, his naturalization application process, and his
22 attendance at his naturalization ceremony.

23 3.12. Moreover, the form that Officers (b)(6), (b)(7)c and (b)(6), (b)(7)c filled out is contradicted
24 by the limited "facts" that it does contain. The form states that (b)(6), (b)(7)c never applied for
25 "immigration status," but the form itself notes—albeit in poor grammar—that (b)(6), (b)(7)c
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1 had been granted legal status under the “Family Farenes [sic] program.” Ex. L (p. 66). Had
2 Officer (b)(6), (b)(7)c actually looked in (b)(6), (b)(7)c immigration file, she would have seen the
3 application and approval letters dated July 26, 1990 and June 24, 1991, which gave (b)(6), (b)(7)c
4 (b)(6), (b)(7)c tatus. (As Officer (b)(6), (b)(7)c knew, the term “voluntary departure” as it was used in
5 the Family Fairness program actually refers to authorization to remain in the United States for
6 renewable two-year periods of time. These periods are renewed until the person becomes
7 eligible to adjust their status to that of lawful permanent resident. Participants in the program
8 eligible for “voluntary departure” were eligible to remain and work legally in the United
9 States until they adjusted their status to lawful permanent residence. (b)(6), (b)(7)c participated
10 in this program before adjusting to lawful permanent resident status in 1992.)

11 3.13. The failure to conduct any investigation into (b)(6), (b)(7)c status is further
12 demonstrated by the Form I-213 that had been filed. That form—like (b)(6), (b)(7)c
13 permanent residency and citizenship papers—contains (b)(6), (b)(7)c social security number,
14 which was the same social security number listed on his application for lawful permanent
15 residence, his military records, and his application for naturalization. In sum, the officers’
16 determination that (b)(6), (b)(7)c was without status was patently arbitrary, unreasonable, and
17 inconsistent with ICE’s own records, and it shows a complete, and necessarily deliberate,
18 disregard for (b)(6), (b)(7)c rights.

19 3.14. The officers’ conduct was even more egregious in light of the fact that there
20 was absolutely no reason for their ill-informed and unjustified actions. (b)(6), (b)(7)c was not
21 scheduled to be released until November 2005. Unbeknownst to (b)(6), (b)(7)c however, the
22 officers refused to investigate his claims and instead, on the day of the interview, September
23 21, 2005, an immigration detainer was faxed to the Pierce County Jail, advising the
24 Department of Corrections that instead of releasing (b)(6), (b)(7)c the Jail was required to
25 detain him for up to 48 hours to allow ICE to take custody of his person pursuant to 8 C.F.R.

1 § 287.7(d). The immigration detainer directed the Jail to notify ICE at least 30 days prior to
2 his scheduled release. In sum, on September 21, 2005, when Officer (b)(6), (b)(7)c first
3 interviewed (b)(6), (b)(7)c and learned that (b)(6), (b)(7)c had obtained lawful status, enlisted in
4 the military, and become a U.S. citizen, (b)(6), (b)(7)c was still scheduled to be incarcerated for
5 nearly two additional months. Rather than investigate any of those issues in the nearly two
6 months that remained before any action needed to be taken, she and her supervisors prepared
7 the Form I-213, and filed the immigration detainer on the same day.

8 3.15. Neither Officer (b)(6), (b)(7)c nor Special Agent (b)(6), (b)(7)c conducted any reasonable
9 investigation into (b)(6), (b)(7)c credible claims of U.S. citizenship before issuing the Form
10 I-213 and the immigration detainer. There were no exigent circumstances justifying the
11 failure to conduct a reasonable investigation.

12 3.16. The officers compounded their unconstitutional conduct by issuing a Notice to
13 Appear, Form I-862, two days later, on September 23, 2005. Ex. M (p. 68-71). In that
14 document, which is the charging document in removal proceedings, the officers falsely allege
15 that (b)(6), (b)(7)c was not a citizen of the United States. The Notice to Appear also charged
16 (b)(6), (b)(7)c as deportable for being present in the United States without admission. Tellingly,
17 (b)(6), (b)(7)c did not receive a copy of the Notice to Appear until nearly two months later on
18 November 15, 2005, the day he was turned over to the custody of ICE, further depriving him
19 of any ability to present evidence or contradict the complete falsity of that document before
20 his liberty was curtailed.

21 3.17. On November 15, 2005, (b)(6), (b)(7)c was scheduled to be released from the
22 Pierce County Jail. Instead of being released, he was told by officers of the jail to wait, as
23 someone would be picking him up. A uniformed immigration officer from ICE arrived and
24 shackled (b)(6), (b)(7)c was driven away from the jail in a van. (b)(6), (b)(7)c was
25 not told where he was being taken.

1 3.18. The van brought (b)(6), (b)(7)c to the Northwest Detention Center, a federal
2 detention center in Tacoma, Washington. Upon arrival at the Northwest Detention Center,
3 (b)(6), (b)(7)c sat in a locked cell for approximately six hours.

4 3.19. After six hours, a female ICE officer, who introduced herself as Officer
5 (b)(6), (b)(7)c proceeded to question (b)(6), (b)(7)c again told Officer (b)(6), (b)(7)c that he
6 was a U.S. citizen, and that he had become a U.S. citizen while serving in the military. He
7 described his naturalization ceremony in great detail. He also told Officer (b)(6), (b)(7)c that his
8 first name had been misspelled on his lawful permanent resident card (commonly known as a
9 “greencard”). Officer (b)(6), (b)(7)c informed (b)(6), (b)(7)c that the information she had in her
10 computer did not substantiate his claims. Officer (b)(6), (b)(7)c plainly did not, however, make
11 any effort to investigate the specific and credible information (b)(6), (b)(7)c provided.

12 3.20. During that same interview, Officer (b)(6), (b)(7)c asked (b)(6), (b)(7)c if he wanted
13 to go home. Thinking she meant his long time home in Washington State, (b)(6), (b)(7)c
14 replied in the affirmative. Officer (b)(6), (b)(7)c then handed him paperwork to sign. (b)(6), (b)(7)c
15 refused to sign after reading the paperwork and realizing that the papers were for a stipulated
16 order of removal to Belize, his country of birth.

17 3.21. A second ICE officer, a male officer named (b)(6), (b)(7)c questioned (b)(6), (b)(7)c
18 (b)(6), (b)(7)c following the first Officer (b)(6), (b)(7)c interview. The second Officer (b)(6), (b)(7)c
19 explained that he had been assigned as (b)(6), (b)(7)c Deportation and Removal Officer.
20 Officer (b)(6), (b)(7)c questioned (b)(6), (b)(7)c at length, repeating the first Officer (b)(6), (b)(7)c
21 questions, as well as asking (b)(6), (b)(7)c where he was born, where he’d gone to high school,
22 and where he lived. (b)(6), (b)(7)c yet again explained to Officer (b)(6), (b)(7)c that he had obtained
23 permanent residence and ultimately became a U.S. citizen. (b)(6), (b)(7)c explained in detail
24 about the different schools he had attended in the United States, and then talked to Officer
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1 (b)(6), (b)(7)c about his enrollment in the U.S. military, and the naturalization process that he had
2 gone through to become a U.S. citizen while serving in the military.

3 3.22. Nonetheless, after his interrogation, (b)(6), (b)(7)c was taken to a men's cell
4 block and assigned a cell. He was given a prison uniform to wear. Defendants issued a notice
5 of Custody Determination, stating that (b)(6), (b)(7)c would only be released upon posting a
6 bond in the amount of \$25,000.00. (b)(6), (b)(7)c Custody Processing Sheet makes no
7 mention of the fact that (b)(6), (b)(7)c claimed to be a U.S. citizen, even though the form
8 specifically asks for any family ties or applications for immigration status and the Form I-213
9 clearly indicates that (b)(6), (b)(7)c mother is a U.S. citizen.

10 3.23. As a direct and proximate result of Defendants' conduct, (b)(6), (b)(7)c has been
11 significantly harmed. (b)(6), (b)(7)c, a U.S. Citizen, was unlawfully imprisoned by Defendants
12 for seven-and-a-half months at the Northwest Detention Center in Tacoma, Washington. Day
13 after day, week after week, (b)(6), (b)(7)c endured the sufferings caused by this unlawful
14 seizure and deprivation of liberty. As a result of the wrongful detention, (b)(6), (b)(7)c suffered
15 not only seven-and-a-half months of unlawful imprisonment, but also suffered extreme
16 humiliation and emotional distress. Moreover, he lost the opportunity to return to his work
17 during that time.

18 3.24. In addition, (b)(6), (b)(7)c suffered great harm based on his fear that he might be
19 unlawfully deported and banished from his home and family. For seven-and-a-half months,
20 he lived in constant fear of permanent exile from the United States, the country to which he
21 had sworn allegiance when becoming a citizen, the country for which he had honorably
22 served for over six years in the military, and the country that had been his only home for over
23 twenty years.

24 3.25. Initially (b)(6), (b)(7)c assumed that ICE would perform its constitutional
25 obligations and perform the minimal search necessary to locate the records demonstrating that
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1 he was a U.S. citizen. He believed that after ICE determined that fact, and in the absence of
2 any legal basis to deprive (b)(6), (b)(7)c of his liberty, he would be released. Instead, for the
3 next seven-and-a-half months ICE sought to have the Executive Office for Immigration
4 Review order him removed from the United States, as a series of officials aggressively moved
5 forward with deportation while refusing to perform the minimal searches for (b)(6), (b)(7)c
6 name, social security number, military records, or fingerprint data, any one of which would
7 promptly have revealed the truth of the specific facts he provided.

8 3.26. After detaining (b)(6), (b)(7)c Defendants placed (b)(6), (b)(7)c in removal
9 proceedings by filing the Notice to Appear with the Immigration Court. Attorneys from
10 ICE's Office of Chief Counsel proceeded to represent ICE against (b)(6), (b)(7)c in these
11 proceedings. (b)(6), (b)(7)c appeared, unrepresented, in Immigration Court on December 21,
12 2005. He pleaded with the Immigration Judge Kenneth Josephson, once again explaining that
13 he had been a legal permanent resident, applied for naturalization and been sworn in as a U.S.
14 citizen. The Judge responded that (b)(6), (b)(7)c "can't just expect me to believe you – your
15 claim that you're a United States citizen." The Immigration Judge asked the attorney
16 representing ICE for ICE's position. The ICE attorney responded that they had "checked the
17 database," and there was nothing to indicate that (b)(6), (b)(7)c had ever filed to become a U.S.
18 citizen. However, it is clear from ICE's own records that if any ICE official had actually run
19 a search of the ICE database using (b)(6), (b)(7)c name, fingerprints, or social security
20 number, they would have discovered all of (b)(6), (b)(7)c records, under the various
21 identification numbers ICE had itself assigned, including the records indicating that he was a
22 citizen.

23 3.27. The Immigration Judge then reset the hearing for a month later in order to
24 allow the two sides to gather more evidence. ICE kept (b)(6), (b)(7)c in custody during that
25 month, thus greatly impeding any chance that (b)(6), (b)(7)c a detained, unrepresented
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1 individual, would be able to submit any additional evidence to demonstrate that he is a U.S.
2 citizen. (b)(6), (b)(7)c again talked to his deportation officer to see if the deportation officer
3 had checked (b)(6), (b)(7)c military records, his social security records, or his immigration file
4 in order to verify (b)(6), (b)(7)c claim of citizenship. Whenever possible, (b)(6), (b)(7)c
5 followed up with Officer (b)(6), (b)(7)c asking for updates on his case. He repeatedly informed
6 Officer (b)(6), (b)(7)c that he was a U.S. citizen, mentioning his military record, his social security
7 number, and other identifying information. His deportation officer simply stated that he
8 would keep looking. However, as stated above, a simple search of the central index system
9 using (b)(6), (b)(7)c name would have revealed that he had naturalized on October 28, 1998.

10 3.28. In Immigration Court the next month, on January 24, 2006, the immigration
11 judge once again asked the attorney representing ICE if ICE had found any evidence of (b)(6), (b)(7)c
12 (b)(6), (b)(7)c naturalization. (b)(6), (b)(7)c again explained that he had served his country in the
13 military and had been honorably discharged after serving more than six years. Most
14 importantly, he explained that while in the military he had applied for naturalization and been
15 sworn in as a U.S. citizen. He testified that he had a copy of his military identification and
16 further explained that he had his official discharge papers in the trunk of his car and that if
17 given the opportunity he would present them to the Immigration Court. (b)(6), (b)(7)c
18 credible testimony was ignored by the Immigration Judge and disregarded by the prosecutor.
19 Once again, ICE's representative affirmed that they had found nothing in their database to
20 support (b)(6), (b)(7)c claim. The Judge then ordered (b)(6), (b)(7)c removed from the United
21 States.

22 3.29. After the hearing, Officer (b)(6), (b)(7)c the ICE Officer assigned as (b)(6), (b)(7)c
23 deportation officer, laughed at (b)(6), (b)(7)c mocking him for having been ordered removed.

24 3.30. (b)(6), (b)(7)c filed an appeal of the judge's order of removal with the Board of
25 Immigration Appeals. Meanwhile days, weeks, and months passed with (b)(6), (b)(7)c
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1 remaining unlawfully imprisoned. He obtained legal representation from Northwest
2 Immigrant Rights Project, who filed public records requests on his behalf. The public records
3 requests, of course, revealed the veracity of (b)(6), (b)(7)c specific statements about his
4 immigration status and citizenship and showed that ICE had assigned him the two A
5 numbers—xx xxx (b)(6), (b)(7)c and xx xxx (b)(6), (b)(7)c—which were linked by the common name, social
6 security number, and evidently fingerprints on file. Still, the government did nothing, and
7 forced (b)(6), (b)(7)c to request further records using both A numbers, which he did on April
8 28, 2006.

9 3.31. Notably, (b)(6), (b)(7)c immigration file contains full evidence of the various A
10 numbers used. Thus, during the entire length of (b)(6), (b)(7)c unlawful detention, ICE had
11 access to (b)(6), (b)(7)c complete immigration history, his social security number, and his
12 fingerprints, his date of birth, his parents' names, and numerous other details, each of which
13 independently would have revealed (b)(6), (b)(7)c citizenship status. Even a simple name
14 search would have revealed (b)(6), (b)(7)c status. When confronted with repeated and
15 credible claims of citizenship and a directive from the Immigration Court to investigate (b)(6), (b)(7)c
16 (b)(6), (b)(7)c claims, any reasonable officer or supervisor is constitutionally mandated to perform
17 a search of ICE records using (b)(6), (b)(7)c name, social security number, or fingerprints.
18 Defendants' repeated failure to conduct even the most minimal investigation of their own
19 records is patently unreasonable and arbitrary.

20 3.32. On June 29, 2006, after (b)(6), (b)(7)c had been unlawfully imprisoned for 226
21 days (seven-and-a-half months), the attorney for ICE filed a motion to dismiss the case
22 against (b)(6), (b)(7)c advising the immigration court that the proceedings had been
23 “improvidently begun.” Shockingly, ICE did not reveal that (b)(6), (b)(7)c was a citizen in its
24 pleading, which led the charges to be dismissed without prejudice. Ex. N (p. 73). As a result,
25 Immigration Judge Josephson dismissed the case “without prejudice” and noted that the
26

1 rationale for the dismissal was “DHS Request” rather than due to the fact that (b)(6), (b)(7)c is a
2 U.S. Citizen. (b)(6), (b)(7)c continues to live in fear that he may be unlawfully seized and
3 detained again by ICE in the future.

4 3.33. On information and belief, with deliberate indifference, intent, or reckless
5 disregard, Defendants failed to adequately and properly train and supervise Agents (b)(6), (b)(7)c
6 (b)(6), (b)(7)c and (b)(6), (b)(7)c and other officers and agents involved in the arrest, detention,
7 questioning, and removal proceedings to which (b)(6), (b)(7)c was subjected. On information
8 and belief, Defendants’ failure to provide proper and adequate training and supervision was a
9 proximate cause of the injuries that (b)(6), (b)(7)c suffered.

10 4. COLOR OF FEDERAL LAW

11 4.1. Defendants committed the above-described acts within the scope of their
12 authority as federal agents and under color of the laws of the United States.

13 5. CLAIMS FOR RELIEF

14 5.1. **First Cause of Action: Violation of Fourth Amendment Rights.** By the
15 above- described acts, including (but not limited to) refusal to conduct any reasonable
16 investigation into probable cause, issuing an false and invalid warrant, seizing and detaining a
17 U.S. citizen without jurisdiction, failing to perform any subsequent investigation into his
18 lawful status, and continuing to hold the U.S. citizen long after he had provided credible
19 evidence of his citizenship, Defendants violated (b)(6), (b)(7)c clearly established right to be
20 free from unreasonable searches and seizures as guaranteed by the Fourth Amendment to the
21 Constitution of the United States. Defendants had no legal basis upon which to seiz (b)(6), (b)(7)c
22 (b)(6), (b)(7)c and detain him for almost eight months.

23 5.2. Defendants’ conduct proximately caused harm to (b)(6), (b)(7)c
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25
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1 5.3. Defendants' conduct was done intentionally, with deliberate indifference, or
2 with reckless disregard of plaintiff's constitutional rights.

3 5.4. Defendants' conduct was unreasonable and arbitrary.

4 5.5. **Second Cause of Action: Violation of Fifth Amendment Right to Due**
5 **Process (Procedural and Substantive).** By the above-described acts, including (but not
6 limited to) seizing (b)(6), (b)(7)c failing to provide him notice of the charges against him until
7 after he was detained by ICE, failing to investigate his credible claims to citizenship,
8 repeatedly failing to search the records in the government's own possession and detaining (b)
9 (b)(6), (b)(7) for nearly eight months, Defendants deprived (b)(6), (b)(7)c of liberty and property
10 without due process of law as guaranteed by the Fifth Amendment to the Constitution of the
11 United States.

12 5.6. Defendants' conduct proximately caused harm to plaintiff.

13 5.7. Defendants' conduct was done intentionally, with deliberate indifference, or
14 with reckless disregard of plaintiff's constitutional rights.

15 5.8. Defendants' conduct was unreasonable and arbitrary.

17 6. REQUEST FOR RELIEF

18 WHEREFORE, plaintiff requests relief as follows:

19 6.1. Trial by jury.

20 6.2. Compensatory damages in an amount to be proven at trial.

21 6.3. Punitive damages in an amount to be proven at trial.

22 6.4. Costs and reasonable attorney fees.

23 6.5. The right to conform the pleadings to the proof and evidence presented at trial.

24 6.6. Such other relief as the Court deems just and equitable.

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DATED this 21st day of August, 2009.

K&L GATES LLP

By s/ (b)(6), (b)(7)c
(b)(6), (b)(7)c

925 Fourth Avenue, Suite 2900
Seattle, WA 98104
Phone: (206) 623-7580
Fax: (206) 623-7022
E-mail: (b)(6), (b)(7)c@klgates.com
E-mail: (b)(6), (b)(7)c@klgates.com
E-mail: (b)(6), (b)(7)c@klgates.com

NORTHWEST IMMIGRANT RIGHTS
PROJECT

(b)(6), (b)(7)c

615 Second Ave., Ste. 400
Seattle, WA 98104
(206) 957-(b)(6) (b)(7) Phone)
(206) 587-4025 (Fax)

Attorneys for Plaintiff
(b)(6), (b)(7)c

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CERTIFICATE OF ECF FILING AND SERVICE

I certify that on August 21, 2009, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

(b)(6), (b)(7)c

Northwest Immigrant Rights Project
615 2nd Ave., Suite 400
Seattle, WA 98104
Attorney for Plaintiff

(b)(6), (b)(7)c

U.S. Attorney's Office
700 Stewart Street, Suite 5220
Seattle, WA 98101
Attorney for Defendants

(b)(6), (b)(7)c

Assistant United States Attorney
1201 Pacific Avenue, Ste. 700
Tacoma, WA 98402
Attorney for Defendants

(b)(6), (b)(7)c

K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
Phone: (206) 623-7580
Fax: (206) 623-7022
E-mail: (b)(6), (b)(7)c@klgates.com

EXHIBIT A

Department of Justice
Immigration and Naturalization Service
Western Service Center-Adjudications
P.O. Box 30040
Laguna Niguel, CA 92607-0040

(b)(6), (b)(7)c

Los Angeles, CA 90037

DATE: July 26, 1990

File No: (b)(6), (b)(7)c

Dear Applicant:

Your application for voluntary departure under the Family Fairness Program has been approved. If you applied for employment authorization, your Form I-94 has been noted which allows you to be employed in the United States.

A Form I-818, Information Notice regarding Request for Voluntary Departure and Employment Authorization, is attached outlining the requirements for maintenance of your status.

If you have any questions, please direct them to the Service Center at the above address. In order to serve you more efficiently, please include your assigned A-Number and indicate your inquiry is for the Family Fairness Program.

Sincerely,

(b)(6), (b)(7)(C)

Center/Facility Director

ATTACHMENTS(S): Form I-94 (x)
Form I-818 (x)

(b)(6), (b)(7)(C) WPD0CS3/E002/LP07260.36

EXHIBIT B

U. S. Department of Justice
Immigration and Naturalization Service

OMB # 1115-0183

Application for Employment Authorization

Do Not Write In This Block

Please Complete Both Sides of Form

Case ID#	Action Stamp	Fee Stamp
AF (b)(6), (b)(7)c		(b)(6), (b)(7)(C)
Applicant is filing under 274a.12		Remarks
<input type="checkbox"/> Application Approved. Employment Authorized / Extended (Circle One) _____ (Date). Subject to the following conditions: _____ until _____ (Date). <input type="checkbox"/> Application Denied. <input type="checkbox"/> Failed to establish eligibility under 8 CFR 274a.12 (a) or (c). <input type="checkbox"/> Failed to establish economic necessity as required in 8 CFR 274a.12(c), (10), (13), (14).		

I am applying for: Permission to accept employment
 Replacement (of lost employment authorization document).
 Extension of my permission to accept employment (attach previous employment authorization document). 4-0

1. (b)(6), (b)(7)c

2. Other names used (include Maiden Name)
(None)

3. Address in the United States (Street, Apt. Number)
(b)(6), (b)(7)c (Town or City) (State/Country) (ZIP Code)
Los Angeles, CA 90037

4. Country of Citizenship
Belize

5. Place of Birth (Town or City) (State/Province) (Country)
Seine Rigit Village, Stann Creek Dist. Belize

6. Date of Birth (Month/Day/Year) (b)(6), (b)(7)c

7. Sex Male Female

8. Marital Status Married Single Widowed Divorced

9. Social Security Numbers you have ever used (b)(6), (b)(7)c

10. Alien Registration Number (A-Number) or I-94 Number (if any)
None

11. Have you ever before applied for employment authorization from INS?
 Yes (if yes, complete below) No
 Which INS Office? Date(s)
 N/A
 Requisite (Granted or Denied - attach all documentation)

12. Date of Last Entry into the U.S. (Month/Day/Year)
July 16, 1984

13. Place of Last Entry into the U.S.
Juarez, Texas

14. Manner of Last Entry (Visitor, Student, etc.)
E.W.I.

15. Current Immigration Status (Visitor, Student, etc.)
illegal

16. Go to the Eligibility Section on the reverse of this form and check the box which applies to you. In the space below, place the number of the box you selected on the reverse side:
 Eligibility under 8 CFR 274a.12
 (A) (11) ()

Complete the reverse of this form before signature.

Your Certification: I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking. I have read the reverse of this form and have checked the appropriate block, which is identified in item #16, above.

Signature (b)(6), (b)(7)c Telephone Number (b)(6), (b)(7)c 758- (b)(6), (b)(7)c Date 03/29/90

Signature of Person Preparing Form if Other than Above: I declare that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.

Print Name (b)(6), (b)(7)c Address (b)(6), (b)(7)c Signature Los Angeles, Ca. 90037 Date 03/29/90

Initial Receipt	Resubmitted	Relocated		Completed		
		Rec'd	Sent	Approved	Denied	Returned
				7/25/90		
				(b)(6), (b)(7)		

EXHIBIT C

DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WESTERN SERVICE CENTER-ADJUDICATIONS
P.O. BOX 30040
LAGUNA NIGUEL, CA 92607-0040

(b)(6), (b)(7)c

LOS ANGELES CA 90037

24 JUN 1991

DATE

You were granted voluntary departure under the Family Fairness Program approximately one year ago. This notice serves to renew your period of voluntary departure for one year from the date of expiration of the initial period of voluntary departure as reflected on Form I-94. You received Form I-94 along with your approval notice.

Impact of Section 301 of the Immigration Act of 1990 on the Family Fairness Program.

Section 301 of the law provides for the granting of a stay of deportation, and the granting of employment authorization for an eligible immigrant who is a spouse or unmarried child of a legalized alien adjusted to temporary or permanent residence under sections 210, and 245A of the Immigration and Nationality Act, or section 202 of the Immigration Reform and Control Act of 1986 (Cuban/Haitian Adjustment). The eligible immigrant must have entered the United States before May 5, 1988, and the eligible immigrant must have resided in the United States on May 5, 1988. Section 301 of the Immigration Act of 1990 becomes effective October 1, 1991. In effect, this law replaces the Service's Family Fairness Program.

Travel

This renewal of voluntary departure does not authorize one to travel outside the United States. Authorization to travel must be requested in writing from a district director at an INS office. This authorization is termed "Advanced Parole". If you depart the United States without this permission, you will be deemed to have abandoned your status by effecting a departure and may be found inadmissible upon application for reentry.

DW36A/MAGCARD

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Renewal of Employment Authorization

This notice does NOT renew the employment authorization you received in conjunction with the initial grant of voluntary departure under the Family Fairness Program. In order to renew employment authorization, you must file Form I-765 at the local Service office having jurisdiction over your place of residence. You should present this notice and your previously issued Form I-94 when you file your I-765.

Change of Address

You must notify INS immediately of any changes of address on Form I-697a so that you can be advised of important information regarding your status. Form I-697a can be obtained at an INS office.

Proof of Renewal of Voluntary Departure

You should carry the previously issued Form I-94 AND this notice and present it when required to demonstrate that your period of voluntary departure has not expired.

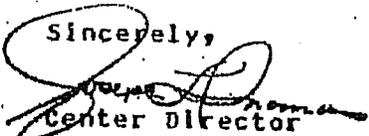
Lost I-94

Should you lose your Form I-94, you must complete Form I-102, "Application by Nonimmigrant Alien for Replacement of Arrival Document", with fee and mail it to the office specified at the top of this letter.

After October 1, 1991

You may be eligible for the benefits of Section 301 of the Immigration Act of 1990. You should make inquiry at a Service Office for information about this program after October 1, 1991

Sincerely,


Center Director
Western Service Center

DW36A/MAGCARD

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INFORMATION NOTICE REGARDING THE FAMILY UNITY PROGRAM

It is important for you to know that when your one year period of voluntary departure comes to an end the Service's current Family Fairness Program will no longer be in existence. When that time comes, you may be eligible, however, for "Family Unity" benefits made possible by the recently passed "Immigration Act of 1990" (IMMACT90). Section 301 of IMMACT90 provides for the granting of a stay of deportation, and the granting of employment authorization for an eligible immigrant who is a spouse or unmarried child of a legalized alien adjusted to temporary or permanent residence under sections 210, and 245a of the Immigration and Nationality Act, or section 202 of the Immigration Reform and Control Act of 1986 (Cuban/Haitian Adjustment). The eligible immigrant must have entered the United States before May 5, 1988, the relationship to the legalized alien must have been established as of May 5, 1988, and the eligible immigrant must have resided in the United States on May 5, 1988. The Family Unity Program will begin October 1. You should make inquiry about the Family Unity Program at your nearest INS office, after October 1.

DW36A/MAGCARD

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EXHIBIT D

OPTIONAL FORM 155A, (Rev. 6-85)
DEPT. OF STATE

NSN 7540-01-126-7701

50155-203

IMMIGRANT VISA AND ALIEN REGISTRATION

IV- (b)(6), (b)(7)c

THE IMMIGRANT HAS BEEN PREVIOUSLY IN THE UNITED STATES

INS FILE #, IF KNOWN

OF: (Family Name) (First Name) (Middle Name)
ACTION BY IMMIGRATION INSPECTOR

THE IMMIGRANT NAMED ABOVE ARRIVED IN THE UNITED STATES VIA (Name of vessel or flight no. of arrival)

INELIGIBILITY FOR VISA WAIVED UNDER SECTION
 212(e) 212(h)
 212(g) 212(f)

U. S. IMMIGRATION
160 LOS 4078

TA 2510

MO-DAY-YR OF BIRTH

ADMITTED 23 1992
UNTIL FX2 (CLASS)

CITY AND COUNTRY OF BIRTH
SEINE BIGHT, STANN CREEK DIST. BELIZE

(b)(6), (b)(7)

NATIONALITY
BELIZEAN

CITY AND COUNTRY OF LAST RESIDENCE
BELIZE CITY, BELIZE

FATHER'S FIRST NAME
(b)(6), (b)(7)

MARITAL STATUS
 M S W D SEP

MOTHER'S FIRST NAME
(b)(6), (b)(7)

FINAL ADDRESS IN THE UNITED STATES

STREET ADDRESS, INCLUDE -IN CARE OF & APT# IF APPLICABLE
P.O. BOX 37174

CITY, STATE, AND ZIP CODE, IF AVAILABLE
LOS ANGELES, CALIFORNIA 90037

OCCUPATION
MINOR

SEC. 212(o)(1)(4) LABOR CERTIFICATION NOT APPLICABLE NOT REQUIRED ATTACHED

This visa is issued under Section 221 of the Immigration and Nationality Act, and upon the basis of the facts stated in the application. Possession of a visa does not entitle the bearer to enter the United States if at the time he seeks to enter he is found to be inadmissible. Upon arrival in the United States, it must be surrendered to a United States Immigration Officer.

IMMIGRANT CLASSIFICATION

CLASSIFICATION SYMBOL
FX-2

FOREIGN STATE/OTHER AREA LIMITATION
BLZ NUM LIM

IMMIGRANT VISA NO.
X X X

ISSUED ON (Day) (Month) (Year)
7th JULY 1992

THE VALIDITY OF THIS VISA EXPIRES MIDNIGHT AT THE END OF (Day) (Month) (Year)
6th NOV. 1992

BELIZEAN PASSPORT

NO. (b)(6), (b)(7)

OR OTHER TRAVEL DOCUMENTS (Describe)

ISSUED TO

BY

ON

EXPIRES

IV- (b)(6), (b)(7)c

Tariff No: 21
Fee Paid \$76
Local Cy, Equiv.

\$30.00 \$60.00

ACTION OF I.J.

ACTION ON APPEAL

U.S.P.H.S.

IN ADDITION TO THE INFORMATION CONTAINED HEREIN, THE FOLLOWING INFORMATION IS AVAILABLE TO THE PUBLIC:

ATTACHED
FOREIGN SERVICE
UNITED STATES OF AMERICA

(b)(6), (b)(7)c

(b)(6), (b)(7)c

EMBASSY

BELIZE CITY, BELIZE

AMERICAN

AT

Consular Officer of the United States of America

Department of the Treasury - Internal Revenue Service

OMB Clearance No. 1545-1065
Expires 8-31-91

Additional Questions to be Completed by All Applicants for Permanent Residence in the United States

Answers to the following questions will be provided to the Internal Revenue Service pursuant to Section 6039E of the Internal Revenue Code of 1986. Use of this information is limited to that needed for tax administration purposes. Failure to provide this information will result in a \$500 penalty unless failure is due to reasonable cause.

Name (Last - Surname - Family) (First - Given) (Middle Initial)
(b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c 116912

Taxpayer Identification Number
Enter your Social Security Number (SSN) if you have one. If you do not have an SSN but have used a Taxpayer Identification Number issued to you by the Internal Revenue Service, enter that number. Otherwise, write "NONE" in the space provided; i.e., " _ _ _ _ _ I N , O , N , E . "

	Mark appropriate column	
	Yes	No
1. Are you self-employed? Mark "yes" if you own and actively operate a business in which you share in the profits other than as an investor.		X
2. Have you been in the United States for 183 days or more during any one of the three calendar years immediately preceding the current calendar year? Mark "yes" if you spent 183 days or more (not necessarily consecutive) in the United States during any one of the three prior calendar years whether or not you worked in the United States.	X	
3. During the last three years did you receive income from sources in the United States? Mark "yes" if you received income paid by individuals or institutions located in the United States. Income includes, but is not limited to, compensation for services provided by you, interest, dividends, rents, and royalties.	X	
4. Did you file a United States Individual Income Tax Return (Forms 1040, 1040A, 1040EZ or 1040NR) in any of the last three years?		X

If you answered yes to question 4, for which tax year was the last return filed? 19 None

None (In 1990 School Sponsored part-time work study yielded income below Filing Re

Paperwork Reduction Act Notice.—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to insure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give this information.

Remarks

APPLICATION FOR IMMIGRANT VISA AND ALIEN REGISTRATION

INSTRUCTIONS: This form must be filled out in DUPLICATE by typewriter, or if by hand in legible block letters. All questions must be answered, if applicable. Questions which are not applicable should be so marked. If there is insufficient room on the form, answer on separate sheets, in duplicate, using the same numbers as appear on the form. Attach the sheets to the forms. DO NOT SIGN this form until instructed to do so by the consular officer. The fee for filing this application for an immigrant visa is \$25.00. The fee should be paid in United States dollars or local currency equivalent or by bank draft, when you appear before the consular officer.

WARNING: Any false statement or concealment of a material fact may result in your permanent exclusion from the United States. Even though you should be admitted to the United States, a fraudulent entry could be grounds for your prosecution and/or deportation.

1. For the name: First name (b)(6), (b)(7)c Middle name (b)(6), (b)(7)c

2. Other names used or by which known (If married woman, give maiden name) None

3. Full name in native alphabet (If Roman letters not used) Not Applicable

4. Date of birth (b)(6), (b)(7)c 5. Age 14 yrs 6. Place of birth (City or town) Seine Bight Vill., Stann Creek Dist., BELIZE (Province) (Country)

7. Nationality Belizean 8. Sex Male 9. Marital status Single (never married) Married Widowed Divorced Separated times.

10. Occupation (Child) 11. Present mailing address (b)(6), (b)(7)c Los Angeles, Ca 90011

12. Name, address, date and place of birth of wife/husband (Give maiden name of wife) Not Applicable

13. Names, addresses, dates and places of birth of all children None (Not Applicable)

14. Person(s) named in 12 and 13 who will accompany or follow me to the United States Not Applicable

15. Final address in the United States mailing Los Angeles, Ca 90037 Residence Los Angeles, Ca 90011

16. Person you intend to join (Give name, address, and relationship) (b)(6), (b)(7)c Los Angeles, Ca 90037

17. Name and address of sponsoring person or organization (If different from 16) Same as in item #16

18. Personal description (a) Color of hair Black (b) Color of eyes Brown (c) Height 4 feet 2 inches (d) Complexion Dark Brown

19. Marks of identification None

20. Purpose in going to the United States To Reside with Parents

21. Length of intended stay (If permanently, so state) Permanently 22. Intended port of entry LAX 23. Do you have a ticket to final destination? Yes

(Rev. 6-82)

38. Have you ever applied for admission into the United States or remained outside the United States for more than 2 years after arrival in Canada, Mexico, or other foreign country by which you intend to receive a visa.

governing the issuance of visas require each applicant to state whether or not he or she is a member of any class of individuals excluded from admission into the United States. The excludable classes are described below. You should read carefully the following paragraphs; understanding of their content and the answers you give the questions that follow will assist the consular officer to reach a decision on your application for a visa.

EXCEPT AS OTHERWISE PROVIDED BY LAW, ALIENS WITHIN ANY OF THE FOLLOWING CLASSES ARE INELIGIBLE TO RECEIVE AN IMMIGRANT VISA:

(a) Aliens who are mentally retarded, insane, or who have suffered one or more attacks of insanity; aliens afflicted with psychopathic personality, sexual deviation, a mental defect, narcotic drug addiction, chronic alcoholism, or any dangerous contagious disease; aliens who have a physical defect, disease, or disability effecting their ability to earn a living; aliens who are paupers, professional beggars, or vagrants; aliens convicted of a crime involving moral turpitude or who admit committing the essential elements of such a crime, or who have been sentenced to confinement for at least 5 years in the aggregate for conviction of two or more crimes; aliens who are polygamists, or who practice or advocate polygamy; aliens who are prostitutes, or who have engaged in, benefited financially from, procured, or imported persons for the purpose of prostitution, or who seek entry to the United States to engage in prostitution or other commercialized vice, or any immoral sexual act; aliens who seek entry to perform skilled or unskilled labor and who have not been certified by the Secretary of Labor; and aliens likely to become a public charge in the United States.

Do any of the foregoing classes apply to you? Yes No (If answer is Yes, explain)

(b) Aliens who seek re-entry within 1 year of their exclusion from the United States, or who, within the past 5 years, have been arrested and deported from the United States, or removed at Government expense in lieu of deportation, or removed as an alien in distress or as an alien enemy; aliens who procure or attempt to procure a visa or other documentation by fraud or willful misrepresentation; aliens who are not eligible to acquire United States citizenship, or who have departed from or remained outside the United States to avoid United States military service in time of war or national emergency; aliens who have been convicted for violating or for conspiring to violate certain laws or regulations relating to narcotic drugs or marihuana, or who are known or believed to be, or to have been, an illicit trafficker in narcotic drugs or marihuana; aliens seeking entry from foreign contiguous territory or adjacent islands within 2 years of their arrival therein on a non-signatory carrier; aliens who are unable to read and understand some language or dialect; aliens who, knowingly and for gain, have encouraged or assisted any other alien to enter, or attempt to enter, the United States in violation of law; aliens who are former exchange visitors who have not fulfilled the 2-year foreign residence requirement; and aliens who are graduates of foreign medical schools destined to the United States to perform medical services are ineligible for a visa unless they have passed parts I and II of the NBME Exam or an equivalent exam as determined by the Department of Health and Human Services.

Do any of the foregoing classes apply to you? Yes No (If answer is Yes, explain)

(c) Aliens who are, or at any time have been, anarchists, or members of or affiliated with any Communist or other totalitarian party, including any subdivision or affiliate thereof; aliens who advocate or teach, or who have advocated or taught, either by personal utterance, or by means of any written or printed matter, or through affiliation with an organization, (1) opposition to organized government, (2) the overthrow of government by force and violence, (3) the assaulting or killing of government officials because of their official character, (4) the unlawful destruction of property, (5) sabotage, or (6) the doctrines of world communism, or the establishment of a totalitarian dictatorship in the United States; aliens who seek to enter the United States to engage in prejudicial activities or unlawful activities of a subversive nature.

Do any of the foregoing classes apply to you? Yes No (If answer is Yes, explain)

(d) Aliens who during the period beginning on March 23, 1933, and ending on May 8, 1945, under the control, direct or indirect, of the Nazi Government of Germany or of the government of any area occupied by, or allied with, the Nazi Government of Germany, ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

Does the foregoing class apply to you? Yes No (If answer is Yes, explain)

41. Were you assisted in completing this application? (If answer is Yes, give name and address of person assisting you indicating whether relative, friend, travel agent, attorney, or other) Yes No

Name: (b)(6), (b)(7)c Address: B & I ASSOCIATES, 5301 S. Vermont Ave., Los Angeles, Ca. 90037 Relationship: Certified Paralegal 15

OPTIONAL FORM 230 (English) (Rev. 6-82)

42. The following documents are submitted in support of this application:

- Passport
- Birth certificate
- Police certificate(s)
- Marriage certificate
- Death certificate
- Divorce decree
- Military record
- Evidence of own assets
- Affidavit of support
- Offer of employment
- Medical record(s)
- Photographs
- Other (describe)
- Birth certificate of spouse

Birth certificates of unmarried children under age 21 who will not be immigrating at this time (List those for whom birth certificates are not available or whose birth certificates are being submitted at this time in connection with a visa application.)

DO NOT WRITE BELOW THE FOLLOWING LINE
The consular officer will assist you in answering parts 43 and 44

43. I claim to be exempt from ineligibility to receive a visa and exclusion under Item in part 40 for the following reasons:
Beneficiary of Waiver under 212(a)(28)(i)(i) 212(e)
 212(a)(28)(i)(ii) 212(g)
 212(b)(1) 212(h)
 212(b)(2) 212(i)
 Not applicable
 Attached

44. I claim to be a Family second preference immigrant subject to the numerical limitation for Belize (Foreign state or dependent area)
 Special immigrant not subject to limitation
 Immediate relative of a United States citizen
My claim is based on the following facts:
 I am (my is) the beneficiary of a Family second preference petition.
 I am a returning resident alien.
 I derive foreign state chargeability under Section 202(b) through my
 Other (specify)

I understand that I am required to surrender my visa to the United States Immigration Officer at the place where I apply to enter the United States, and that the possession of a visa does not entitle me to enter the United States if at that time I am found to be inadmissible under the immigration laws.

I understand that any willfully false or misleading statement or willful concealment of a material fact made by me herein may subject me to permanent exclusion from the United States and, if I am admitted to the United States, may subject me to criminal prosecution and/or deportation.
I, the undersigned applicant for a United States immigrant visa, do solemnly swear (or affirm) that all statements which appear in this application have been made by me, including the answers to parts 32 through 41 inclusive, and are true and complete to the best of my knowledge and belief. I do further swear (or affirm) that, if admitted into the United States, I will not engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States; in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activities subversive to the national security; in any activity a purpose of which is the opposition to, or the control, or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means.
I understand all the foregoing statements, having asked for and obtained an explanation on every point which was not clear to me.

(b)(6), (b)(7)c

The relationships claimed in items 12 and 13 verified by documentation submitted to consular officer except as noted:

Subscribed and sworn to before me this 29th day of June

at Belize City, Belize
(b)(6), (b)(7)c
(Consular Officer)

Section of Law:
 201 (b) spouse
 201 (b) child
 201 (b) parent
 203 (b) ...
 203 (b) ...

DO NOT WRITE
Action Star

OMB #1115-0054

Petition for Alien Relative

DO NOT WRITE IN THIS BLOCK - FOR EXAMINING OFFICE ONLY

Action Stamp

Fee Stamp

Petition was filed on: 7-10-90 (priority date)

- Personal Interview
- Previously Forwarded
- Print Bun "A" File Reviewed
- Stateside Criteria
- Field Investigations
- I-485 Simultaneously
- 204 (a)(2)(A) Resolved
- 204 (h) Resnyed

(a)(k)(2)

(b)(7)

G-28 or Volag #

Section of Law:

- 201 (b) spouse
- 201 (b) child
- 201 (b) parent
- 203 (a)(1)
- 203 (a)(2)
- 203 (a)(4)
- 203 (a)(5)

AM CON. Belize

EMBASSY OF THE UNITED STATES OF AMERICA

5 SEP 1990

Remarks:

A. Relationship

1. The alien relative is my

- Husband/Wife
- Parent
- Brother/Sister
- Child
- Yes
- No

2. Are you related by adoption?

3. Did you gain permanent residence through adoption?

B. Information about you

1. Name (Family name in CAPS) (First) (Middle) (Last)

(b)(6), (b)(7)c

2. (Town or City) (State/Country) (ZIP/Postal Code)

Los Angeles, CA 90037

3. Place of Birth (Town or City) (State/Country)

Seine Bight Village, Stann Creek Dist., Belize

4. Date of Birth 5. Sex 6. Marital Status

(b)(6), (b)(7)c

7. Other Names Used (including maiden name)

(b)(6), (b)(7)c

8. Date and Place of Present Marriage (if married)

03/23/77 Belize City, Belize

9. Social Security Number 10. Alien Registration Number (if any)

(b)(6), (b)(7)c

11. Names of Prior Husbands/Wives 12. Date(s) Marriage(s) Ended

NONE N/A

13. If you are a U.S. citizen, complete the following:

My citizenship was acquired through (check one)

- Birth in the U.S.
- Naturalization (issued)
- Parents

Have you obtained a certificate of citizenship?

- Yes
- No

14a. If you are a lawful permanent resident alien, complete the following:

Date and place of admission for, or adjustment to, lawful permanent residence, and class of admission:

6/90 Los Angeles, W16

14b. Did you gain permanent resident status through marriage to a United States citizen or lawful permanent resident?

- Yes
- No

C. Information about your alien relative

1. Name (Family name in CAPS) (First) (Middle) (Last)

(b)(6), (b)(7)c

2. (Town or City) (State/Country) (ZIP/Postal Code)

Los Angeles, Ca 90037

3. Place of Birth (Town or City) (State/Country)

Seine Bight Village, Stann Creek Dist., Belize

4. Date of Birth 5. Sex 6. Marital Status

(b)(6), (b)(7)c

7. Other Names Used (including maiden name)

NONE

8. Date and Place of Present Marriage (if married)

N/A

9. Social Security Number 10. Alien Registration Number (if any)

(b)(6), (b)(7)c A (b)(6), (b)(7)c

11. Names of Prior Husbands/Wives 12. Date(s) Marriage(s) Ended

N/A N/A

13. Has your relative ever been in the U.S.?

- Yes
- No

14. If your relative is currently in the U.S., complete the following: He or she last arrived as a (visitor, student, stowaway, without inspection, etc.)

EWI

Arrival/Departure Record (I-94) Number Date arrived (Month/Day/Year)

N/A N/A

15. Name and address of present employer (if any)

N/A

Date this employment began (Month/Day/Year)

N/A

16. Has your relative ever been under immigration proceedings?

- Yes
- No
- Where
- When
- Exclusion
- Deportation
- Recission
- Judicial Proceedings

RESUBMITTED

RELOCATED

COMPLETED 317

Rec'd Sent Approved Denied Returned

(a)(k)(2) (b)(7)(c)

INITIAL RECEIPT

10 JUL 1990

C. (continued) Information about your alien relative

16. List husband/wife and all children of your relative (if your relative is your husband/wife, list only his or her children).
 (Name) (Relationship) (Date of Birth) (Country of Birth)

NONE

17. Address in the United States where your relative intends to live
 (Number and Street) (Town or City) (State)

(b)(6), (b)(7)c Los Angeles, CA.

18. Your relative's address abroad
 (Number and Street) (Town or City) (Province) (Country) (Phone Number)

N/A

19. If your relative's native alphabet is other than Roman letters, write his or her name and address abroad in the native alphabet:
 (Name) (Number and Street) (Town or City) (Province) (Country)

N/A

20. If filing for your husband/wife, give last address at which you both lived together.
 (Name) (Number and Street) (Town or City) (Province) (Country) From (Month) (Year) To (Month) (Year)

N/A

21. Check the appropriate box below and give the information required for the box you checked:
 Your relative will apply for a visa abroad at the American Consulate in _____ (City) _____ (Country)

Your relative is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the office of the Immigration and Naturalization Service at Los Angeles, CA (City) (State) If your relative is not eligible for adjustment of status, he or she will

apply for a visa abroad at the American Consulate in Belize City, Belize (City) (Country)

(Designation of a consulate outside the country of your relative's last residence does not guarantee acceptance for processing by that consulate. Acceptance is at the discretion of the designated consulate.)

D. Other Information

1. If separate petitions are also being submitted for other relatives, give names of each and relationship.

2. Have you ever filed a petition for this or any other alien before? Yes No
 If "Yes," give name, place and date of filing, and result.

Warning: The INS investigates claimed relationships and verifies the validity of documents. The INS seeks criminal prosecutions when family relationships are falsified to obtain visas.

Penalties: You may, by law be imprisoned for not more than five years, or fined \$250,000, or both, for entering into a marriage contract for the purpose of evading any provision of the immigration laws and you may be fined up to \$10,000 or imprisoned up to five years or both, for knowingly and willfully falsifying or concealing a material fact or using any false document in submitting this petition.

Your Certification: I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit that I am seeking.

(b)(6), (b)(7)c (b)(6), (b)(7)c Date 07/09/90 Phone Number (213) 233- (b)(6), (b)(7)c

Signature of Person Preparing Form if Other than Above
 I declare that I prepared this document at the request of the person above and that it is based on all information of which I have any knowledge.

(b)(6), (b)(7)c ASSOCIATES LEGALIZATION (Address) (Signature) [Signature] (Date) 07/09/90
 1 So. Vermont Ave. Los Angeles, CA 90037
 758-8521
 ALL ITEMS: FIT Service
 G-28 ID Number _____
 Volag Number 318

Affidavit of Support

ALL ITEMS: FILL IN WITH TYPEWRITER OR PRINT IN BLOCK LETTERS IN INK.)

Signature of Person Preparing this Affidavit
I declare that I prepared this document
ASSOCIATES LEGALIZATION
101 So. Vermont Ave.
Los Angeles, CA 90037
(213) 758-8521

(b)(6), (b)(7)c residing at (b)(6), (b)(7)c (Street and Number)
Los Angeles California 90003 U.S.A.
(City) (State) (ZIP Code if in U.S.) (Country)

BEING DULY SWORN DEPOSE AND SAY:

1. I was born on (b)(6), (b)(7)c at Seine Bight Village, Stann Creek Dist. BELIZE
(Date) (City) (Country)

- If you are not a native born United States citizen, answer the following as appropriate:
 - a. If a United States citizen through naturalization, give certificate of naturalization number _____
 - b. If a United States citizen through parent(s) or marriage, give citizenship certificate number _____
 - c. If United States citizenship was derived by some other method, attach a statement of explanation (b)(6), (b)(7)c
 - d. If a lawfully admitted permanent resident of the United States, give "A" number _____
- 2. That I am 51 years of age and have resided in the United States since (date) July 1980
- 3. That this affidavit is executed in behalf of the following person:

Name	(b)(6), (b)(7)c	(b)(6), (b)(7)c	Sex	Age
Citizen of (Country)	Belize	Belize	F	14yrs
Marital Status	Single (child)	Relationship to Deponent	Aunt/God-mother	
Presently resides at (Street and Number)	(b)(6), (b)(7)c	(City)	(State)	(Country)
		Belize City, BELIZE	DIST.	BELIZE

Name of spouse and children accompanying or following to join person:

Name	Sex	Age	Child
Spouse: None (minor)			
Child			
Child			

- 4. That this affidavit is made by me for the purpose of assuring the United States Government that the person(s) named in item 3 will not become a public charge in the United States.
- 5. That I am willing and able to receive, maintain and support the person(s) named in item 3. That I am ready and willing to deposit a bond, if necessary, to guarantee that such person(s) will not become a public charge during his or her stay in the United States, or to guarantee that the above named will maintain his or her nonimmigrant status if admitted temporarily and will depart prior to the expiration of his or her authorized stay in the United States.
- 6. That I understand this affidavit will be binding upon me for a period of three (3) years after entry of the person(s) named in item 3 and that the information and documentation provided by me may be made available to the Secretary of Health and Human Services and the Secretary of Agriculture, who may make it available to a public assistance agency.
- 7. That I am employed as, or engaged in the business of Education (Type of Business) with St. Odilla Sch (Name of concern) at (b)(6), (b)(7)c Los Angeles, CA 90011-4897 (Street and Number) (City) (State) (Zip Code)

I derive an annual income of (if self-employed, I have attached a copy of my last income tax return or report of commercial rating concern which I certify to be true and correct to the best of my knowledge and belief. See instruction for nature of evidence of net worth to be submitted.) \$16,758.40

I have on deposit in savings banks in the United States \$1,500.00

I have other personal property, the reasonable value of which is \$30,000.00 319

I have stocks and bonds with the following market value, as indicated on the attached list which I certify to be true and correct to the best of my knowledge and belief.

\$ £
\$ £
\$ £
\$ £

I have life insurance in the sum of
With a cash surrender value of

I own real estate valued at

With mortgages or other encumbrances thereon amounting to \$ N/A

Which is located at N/A (Street and Number) (City) (State) (Zip Code)

8. That the following persons are dependent upon me for support: (Place an "X" in the appropriate column to indicate whether the person named is wholly or partially dependent upon you for support.)

Name of Person	Wholly Dependent	Partially Dependent	Age	Relationship to Me
<u>None</u>				

9. That I have previously submitted affidavit(s) of support for the following person(s). If none, state "None"

Name	Date submitted
<u>None</u>	

10. That I have submitted visa petition(s) to the Immigration and Naturalization Service on behalf of the following person(s). If none, state none.

Name	Relationship	Date submitted
<u>None</u>		

11. (Complete this block only if the person named in item 3 will be in the United States temporarily.)

That I do intend do not intend, to make specific contributions to the support of the person named in item 3. (If you check "do intend", indicate the exact nature and duration of the contributions. For example, if you intend to furnish room and board, state for how long and, if money, state the amount in United States dollars and state whether it is to be given in a lump sum, weekly, or monthly, or for how long.)

OATH OR AFFIRMATION OF DEPONENT

I acknowledge that I have read Part III of the Instructions, Sponsor and Alien Liability, and am aware of my responsibilities as an immigrant sponsor under the Social Security Act, as amended, and the Food Stamp Act, as amended.

I swear (affirm) that I know the contents of this affidavit signed by me and the statements are true and correct.

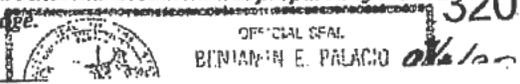
Signature of deponent (b)(6), (b)(7)c

Subscribed and sworn to (affirmed) before me this 1st day of JULY, 1992

LOS ANGELES My commission expires on October 22, 1993

(b)(6), (b)(7)c administering Oath Benjamin E. Palacio Title NOTARY Public

As deponent, please complete the following: I declare that this document was prepared by me at the 320 on all information of which I have knowledge.



Affidavit of Support

FOR ALL ITEMS: FILL IN WITH TYPEWRITER OR PRINT IN BLOCK LETTERS IN INK.)

Signature of deponent
Subscribed and sworn to before me
Administering Oath
Notar Public
Not based on all info
Notar Service

(b)(6), (b)(7)c
residing at (b)(6), (b)(7)c (Street and number)
Los Angeles, Ca 90011 U.S.A
(City) (State) (ZIP Code if in U.S.) (Country)

BEING DULY SWORN DEPOSE AND SAY:

1. I was born on (b)(6), (b)(7)c at Seine Bright Vill, Stann Creek Dist., BELIZE
(Date) (City) (Country)

- If you are **not** a native born United States citizen, answer the following as appropriate:
 - a. If a United States citizen through naturalization, give certificate of naturalization number _____
 - b. If a United States citizen through parent(s) or marriage, give citizenship certificate number _____
 - c. If United States citizenship was derived by some other method, attach a statement of explanation. _____
 - d. If a lawfully admitted permanent resident of the United States, give "A" number 5152
- 2. That I am 40 years of age and have resided in the United States since (date) 12/31/78
- 3. That this affidavit is executed in behalf of the following person:

(b)(6), (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c	Sex	Age
			m	14 yrs
(b)(6), (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c	Relationship to Deponent	
			SON	
(b)(6), (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c	Marital Status	
			Single	
(b)(6), (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c	(City)	(State)
			Los Angeles, California	U.S.A

Name of spouse and	(b)(6), (b)(7)c	Sex	Age
Spouse	None		
Child	None		
Child	None		

- 4. That this affidavit is made by me for the purpose of assuring the United States Government that the person(s) named in item 3 will not become a public charge in the United States.
- 5. That I am willing and able to receive, maintain and support the person(s) named in item 3. That I am ready and willing to deposit a bond, if necessary, to guarantee that such person(s) will not become a public charge during his or her stay in the United States, or to guarantee that the above named will maintain his or her nonimmigrant status if admitted temporarily and will depart prior to the expiration of his or her authorized stay in the United States.
- 6. That I understand this affidavit will be binding upon me for a period of three (3) years after entry of the person(s) named in item 3 and that the information and documentation provided by me may be made available to the Secretary of Health and Human Services and the Secretary of Agriculture, who may make it available to a public assistance agency.
- 7. That I am employed as, or engaged in the business of Private Duty Nursing with Varied (Various)
(Type of Business) (Name of concern) *Indicate Here*

at Referral through Agency: Aides IN ACTION 3535 Wilshire Bld., Los Ang
(Street and Number) (City) (State) (Zip Code)

I derive an annual income of (if self-employed, I have attached a copy of my last income tax return or report of commercial rating concern which I certify to be true and correct to the best of my knowledge and belief. See instruction for nature of evidence of net worth to be submitted.)

\$6,400.00
\$2,900.00
\$30,000.00

I have on deposit in savings banks in the United States
I have other personal property, the reasonable value of which is

OVER

321

I have stocks and bonds with the following market value, as indicated in the attached list which I certify to be true and correct to the best of my knowledge and belief: 11,700
 I have life insurance in the sum of _____
 With a cash surrender value of _____
 I own real estate valued at _____
 With mortgages or other encumbrances thereon amounting to \$ _____

attached list

\$	11,700
\$	---
\$	---
\$	---

Which is located at _____ (Street and Number) _____ (City) _____ (State) _____ (Zip Code)

8. That the following persons are dependent upon me for support; (Place check in the appropriate column to indicate whether the person named is wholly or partially dependent upon you for support)

Name of Person	Wholly Dependent	Partially Dependent	Relationship to Me
(b)(6), (b)(7)c	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SON
(b)(6), (b)(7)c	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SON
(b)(6), (b)(7)c	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SON

9. That I have previously submitted affidavit(s) of support for the following person(s). If none, state "None"
 Name _____ Date submitted _____

None

10. That I have submitted visa petition(s) to the Immigration and Naturalization Service on behalf of the following person(s). If none, state none.

Name	Relationship	Date submitted
NONE		

11. (Complete this block only if the person named in item 3 will be in the United States temporarily.)
 That I do intend do not intend, to make specific contributions to the support of the person named in item 3. (If you check "do intend", indicate the exact nature and duration of the contribution. For example, if you intend to furnish room and board, state for how long and, if money, state the amount in United States dollars and state whether it is to be given in a lump sum, weekly, or monthly, or for how long.)

OATH OR AFFIRMATION OF DEPENDENT

I acknowledge that I have read Part III of the Instructions, Sponsor and Alien Liability, and am aware of my responsibilities as an immigrant sponsor under the Social Security Act, as amended, and the Food Stamp Act, as amended.

I swear (affirm) that I know the contents of this affidavit signed by me and the statements are true and correct.

Signature of deponent _____ (b)(6), (b)(7)c

Subscribed and sworn to (affirmed) before me this 22nd day of June, 1992

Los Angeles My commission expires on October 22, 1993

Administering Oath Benjamin E. Palacio Title NOTARY Public

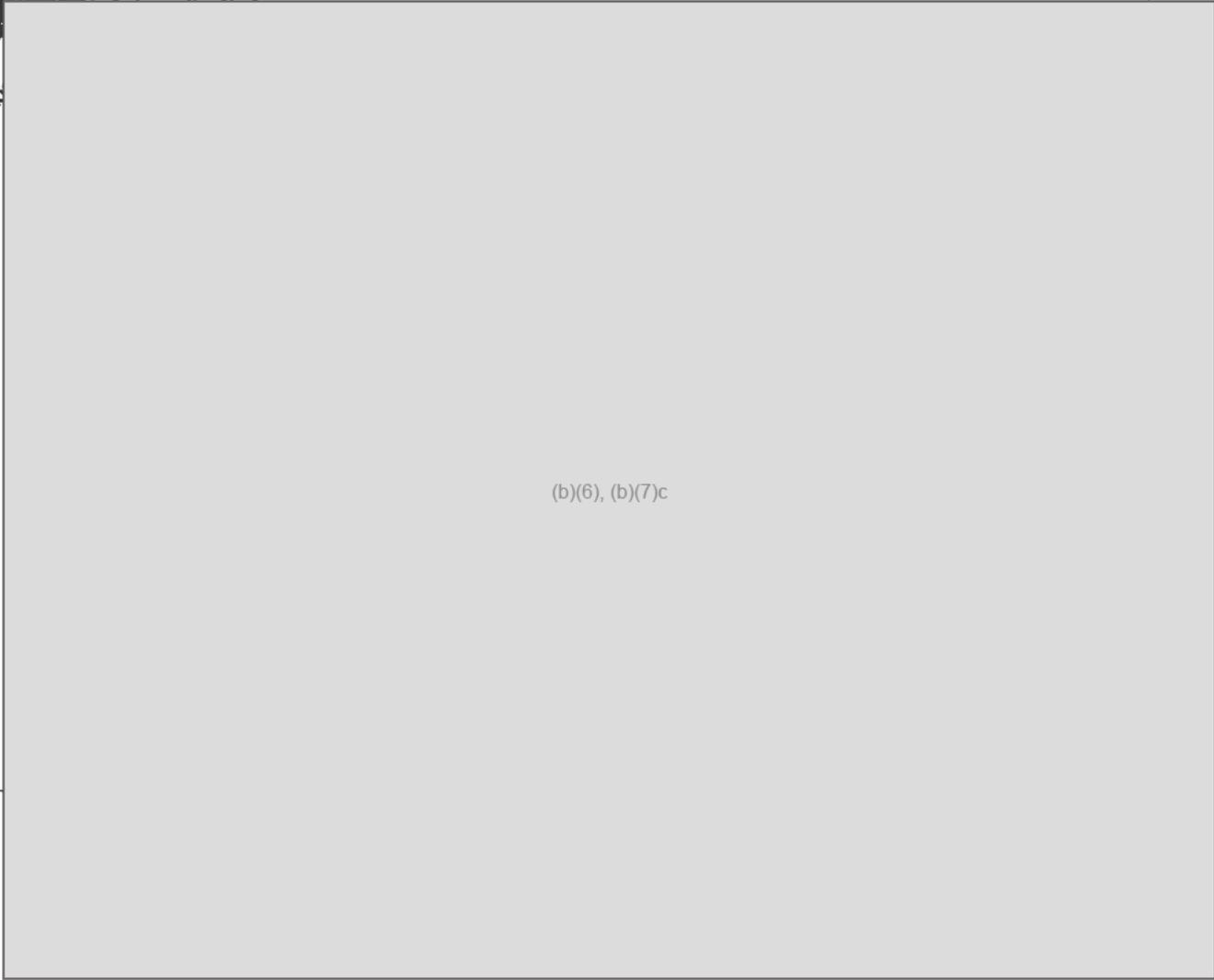
Other than deponent, please complete the following: I declare that this document was prepared by me in the presence of _____ based on all information of which I have knowledge

S. Vermont Ave.
 _____ (Address)



OFFICIAL SEAL
 BENJAMIN E. PALACIO
 NOTARY PUBLIC, CALIFORNIA
 PRINCIPAL OFFICE IN
322
6/22/92

PREVIOUSLY REDACTED



(b)(6), (b)(7)c

KD:bg

Wtd

BELIZE

CERTIFIED COPY OF AN ENTRY IN A REGISTER OF BIRTHS FOR THE DISTRICT OF STANN CREEK

No.	Date & Place of Birth	Name (if any)	Sex	Name and Surname of Father	Name and Maiden Surname of Mother	Rank, Occupation and Address of Father, or, in Default of Mother	Name, Description and Address of Informant	When Registered	Signature of Registrar	Name (if any) added after Registration
(b)(6), (b)(7)c										

CERTIFIED TO BE A TRUE COPY OF AN ENTRY IN A REGISTER OF BIRTHS FOR THE DISTRICT OF

[Redacted]

3rd DAY OF April,

[Redacted]
(b)(6), (b)(7)c

GIVEN AT THE GENERAL REGISTRY BELIZE, THIS

REDACTED

PLAINTIFF'S FIRST AMENDED COMPLAINT - 40

EXAMINATION OF APPLICANTS
FOR UNITED STATES VISAS

PLACE Belize

DATE OF EXAMINATION (Mo., Day, Yr.)

City Belize

COUNTRY Belize

I certify that on the above date I examined

NAME (Last, First, Middle) (b)(6), (b)(7)c (b)(6), (b)(7)c (b)(6), (b)(7)c

WHO BEARS PASSPORT NO. (b)(6), (b)(7)c ISSUED BY Belize ON April 22, 92

GENERAL PHYSICAL EXAMINATION
I examined specifically for evidence of the conditions listed below. My examination revealed:
 No apparent defect, disease, or disability
 The conditions listed below were found (Check boxes that apply)
CLASS A CONDITIONS (Give pertinent details under Remarks)
 Chancroid Hansen's Disease, Infectious Tuberculosis, Active
 Gonorrhea Lymphogranuloma Venereum Human Immunodeficiency Virus (HIV) Infection
 Granuloma Inguinale Syphilis, Infectious
 Mental Retardation Previous Occurrence of One or More Attacks of Insanity Mental Defect
 Insanity Psychopathic Personality Narcotic Drug Addiction
 Sexual Deviation Chronic Alcoholism
CLASS B CONDITIONS
 Tuberculosis, Not Active
 Hansen's Disease, Not Infectious
 Other Physical Defect, Disease or Disability:

EXAMINATION FOR TUBERCULOSIS

CHEST X-RAY REPORT
 Normal Abnormal Not Done
Describe findings:

TUBERCULIN SKIN TEST (See USPHS Instructions)
 No reaction
 Reaction _____ mm
 Not Done

DOCTOR'S NAME (Please print) _____ DATE READ _____

DOCTOR'S NAME (Please print) _____

DATE READ _____

SEROLOGIC TEST FOR SYPHILIS
 Reactive Titer (Confirmatory test performed - indicate treatment under Remarks)
 Nonreactive
 Not Done
TEST TYPE: _____

SEROLOGIC TEST FOR HIV ANTIBODY
 Positive (Confirmed by Western Blot or equally reliable test)
 Negative
 Not Done
TEST TYPE: _____

DOCTOR'S NAME (Please print) _____ DATE READ _____

DOCTOR'S NAME (Please print) _____ DATE READY _____

OTHER SPECIAL REPORT(S) (When needed) _____
DOCTOR'S NAME (Please print) _____

REMARKS

APPLICANT CERTIFICATION
I certify that I understand the purpose of the medical examination and I authorize the required tests to be completed. The information on this form refers to me. _____ Date

DOCTOR'S NAME (Please type or print clearly) (b)(6), (b)(7)c DOCT (b)(6), (b)(7)c DATE

NSN 7540-01-034-1099 BELIZE CITY, BELIZE, C. A.

U.S. GOVERNMENT PRINTING OFFICE : 1990 O - 265-696

OPTIONAL FORM NO. 165
REVISED 2-88
DEPT. OF STATE

EXHIBIT E

U.S. Department of Justice
Immigration and Naturalization Service

DP 1115-0077

Admission Form

Welcome to the United States

(b)(6), (b)(7)c

I-94 Arrival/Departure Record - Instructions

This form must be completed by all persons except U.S. Citizens, returning resident aliens, aliens with immigrant visas, and Canadian Citizens visiting or in transit. Type or print legibly with pen in ALL CAPITAL LETTERS. Use English. Do not write on the back of this form.

This form is in two parts. Please complete both the Arrival Record (Items 1 through 13) and the Departure Record (Items 14 through 17).

When all items are completed, present this form to the U.S. Immigration and Naturalization Service Inspector.

Item 7 - If you are entering the United States by land, enter LAND in this space. If you are entering the United States by ship, enter SEA in this space.

Form I-94 (04-15-80)

Admission Number

(b)(6), (b)(7)c

Immigration and
Naturalization Service
I-94
Arrival Record

1 Family Name (b)(6), (b)(7)c		3 Birth Date (Day/Mo/Yr) (b)(6), (b)(7)c	
4 Country of Citizenship Belize		5 Sex (Male or Female) Male	
6 Passport Number		7 Airline and Flight Number	
8 Country Where You Live		9 City Where You Boarded	
10 City Where Visa Was Issued		11 Date Issued (Day/Mo/Yr)	
12 Address While in the United States (Number and Street)			
13 City and State			

Departure Number

(b)(6), (b)(7)c

Immigration and
Naturalization Service
I-94
Departure Record

(b)(6), (b)(7)c

14 Family Name		15 Birth Date (Day/Mo/Yr)	
16 First (Given) Name			
17 Country of Citizenship			

See Other Side

STAPLE HERE

307

Primary Inspection

Applicant's

Name _____
Date _____ Time _____ Insp # _____
Referred _____

Reason Referred

- 212A
- PP Visa Parole SI.B TWOV
- Other _____

Secondary Inspection

End Secondary _____ Insp. # _____
Time _____
Disposition _____

(b)(6), (b)(7)c

19. Waivers

21. INS FCO

23. Program Number

25. Prospective Student

26. Itinerary/Comments

27. TWOV Ticket Number

Warning - A nonimmigrant who accepts unauthorized employment is subject to deportation.

Important - Retain this permit in your possession; you must surrender it when you leave the U.S. Failure to do so may delay your entry into the U.S. in the future.

You are authorized to stay in the U.S. only until the date written on this form. To remain past this date, without permission from immigration authorities, is a violation of the law.

- By sea or air, to the transportation line;
- Across the Canadian border, to a Canadian Official;
- Across the Mexican border, to a U.S. Official.

Students planning to reenter the U.S. within 30 days to return to the same school, see "Arrival-Departure" on page 2 of Form I-20 prior to surrendering this permit.

Record of Changes

Departure Record

Port: _____
Date: _____
Carrier: _____
Flight #/Ship Name: _____

STATE USAGE

STATE USAGE	STATE IDENTIFICATION NO	DATE OF BIRTH	MM	DD	YY	SEX	RACE	HEIGHT	WT (LBS)	EYES	HAIR
(b)(6), (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c				M	B	67"	210	BRO	BLK

EXHIBIT F

RESIDENT ALIEN

(b)(6), (b)(7)c

(b)(6), (b)(7)c



(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)

EXHIBIT G

RECORD OF MILITARY PROCESSING - ARMED FORCES OF THE UNITED STATES

Form Approved

(b)(6), (b)(7)c

FORM 1580/1(AUP), JAN 89 PREVIOUS EDITIONS ARE OBSOLETE. THIS FORM HAS BEEN REVISED SINCE 1971. THIS FORM IS NOT TO BE USED FOR THE PURPOSES OF THE

RECORD OF MILITARY PROCESSING - ARMED FORCES OF THE UNITED STATES

Before completing this form, read Privacy Act Statement, Warning, and Instructions on reverse.

Form Approved
OMB No. 0704-0173
Expires Jun 98, 1991

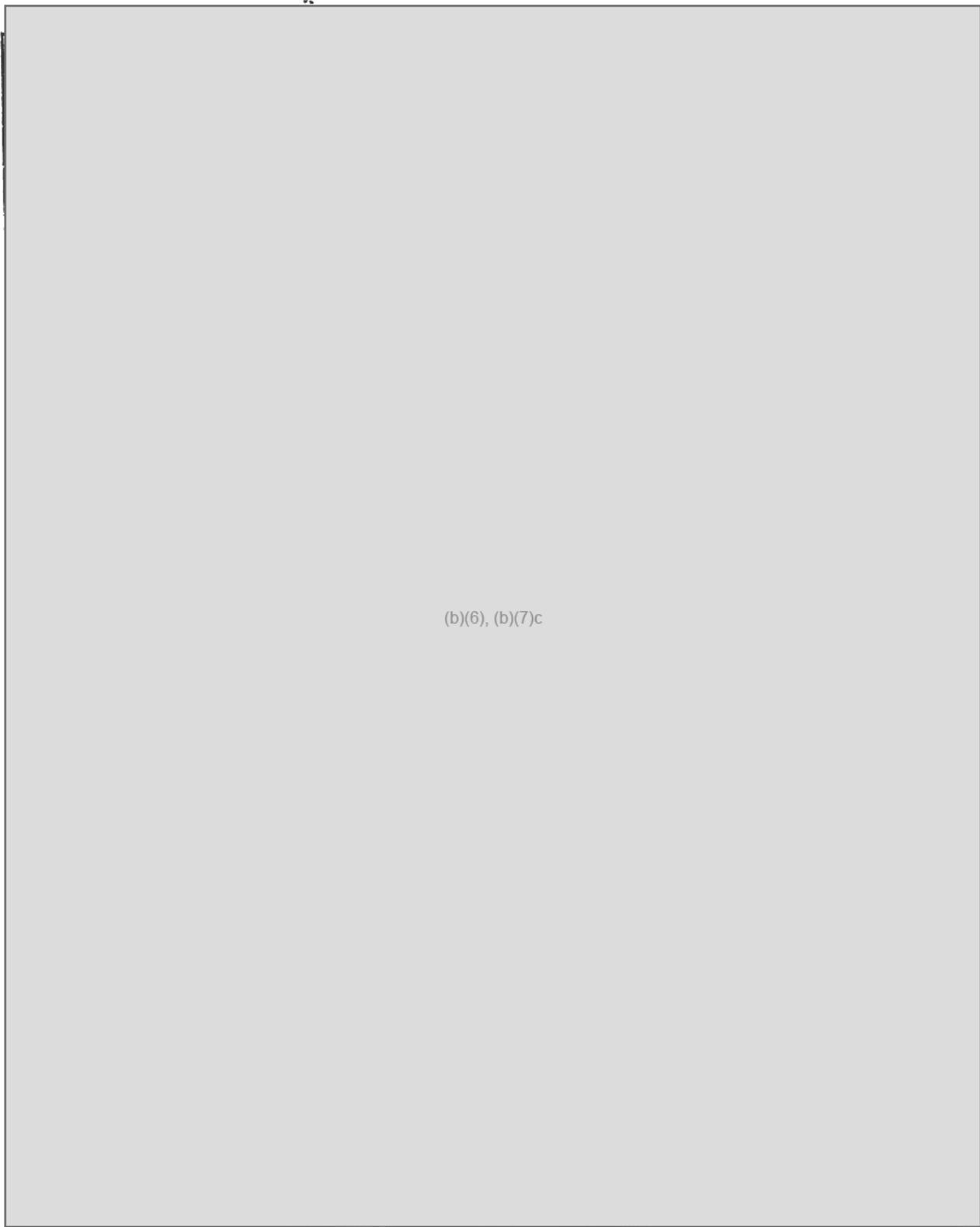
Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA, 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0173), Washington, DC 20503.

[Redacted area]

(b)(6), (b)(7)c

APR 27 2006 2:44PM HP LASERJET 3200

P-4



(b)(6), (b)(7)c

DD Form 1966/3, JAN 89

Previous editions are obsolete.

Page 3

EXHIBIT H

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES

THIS IS AN IMPORTANT RECORD. SAFEGUARD IT.

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

(b)(6), (b)(7)c

EXHIBIT I

A#

(b)(6), (b)(7)c

CLERICAL	Initials	Date	Remarks
(a)(k)(2) Fee was paid.		11/13/97	
(b)(7)(c) FD-258 "masthead" is complete, accurate, and legible. Sec 1, Sec 2		11/12/97	
If necessary, A-number is zero filled on FD-258. (e.g., A40123456 to A040123456). Sec 1, Sec 2		11/12/97	
FD-258 (fingerprints) were sent to FBI. Sec 1, Sec 2		11/12/97	
All receipt data entry was completed. (NACS/CLAIMS-GUI)		11/18/97	
If Non-NACS site, G-325 was sent to FBI, and copy retained in file. (SCs - N/A)		07/23/98	
If military, G-325B and N-426 were sent, and copies retained in file.			
FD-258 Control # <u>CA230414</u>		4/29/98	
A-file was located in your own office.			
If not, initial A-file transfer request was made.		11/14/97	
If necessary, 2nd A-file transfer request was made. (30 calendar days)		12/14/97	
If necessary, 3rd A-file transfer request was made. (30 calendar days)		1/13/98	
Final status of A-file transfer request.		5/20/98	Received 5/20/98
A-file relates to the applicant.		5/28/98	

A#

(b)(6), (b)(7)c

OFFICER	Initials	Date	Remarks
(a)(k) (2) Appeared for interview. 1)		7-2-98	
(b)(7)(c) 2)		7-2-98	
Was interviewed on an A-file.		7-2-98	
Met Section 312 English requirements at initial interview.		7-2-98	
If not, passed English Re-Exam.			
Met Section 312 Civics requirements at initial interview.		7-2-98	
If not, passed Civics Re-Exam.			
If applicable, met Section 312 disability exception.			
Established physical presence/residence.		7-2-98	
Established good moral character.		7-2-98	
Established attachment to Constitution.		7-2-98	
Required a modified oath. (put reason(s) in remarks)			
Met other eligibility requirements. (put reason(s) in remarks)		10-6-98	See N-14 7-2-98 3rd Agency check complete 10-4-98
Officer recommendation, if supervisory review required.			
Indicate final decision under remarks. (grant, denied, or withdrawn)	10-6-98	Grant 10-6-98	
SUPERVISORY CONCURRENCE WITH OFFICER'S RECOMMENDATION			Date Remarks
Applicant with criminal history requiring Supervisory review.			
Applicant approved on basis of T-file.			
Applicant meeting Section 312 disability exception.			
OATH CEREMONY			Date Remarks
No Show. 1)			
2)			

Reviewed and reverified

Supervisor/Officer's Signature

1 10 6 98

Date

249

991008

BH

BIOGRAPHIC INFORMATION

OMB No. 1115-0068

U.S. Department of Justice

Immigration and Naturalization Service

(First name) (Middle name) MALE FEMALE BIRTHDATE (Mo.-Day-Yr) NATIONALITY FILE NUMBER
 (b)(6), (b)(7)c (b)(6), (b)(7)c Belizan (b)(6), (b)(7)c
 SOCIAL SECURITY NO. (if any) (b)(6), (b)(7)c

FATHER FAMILY NAME FIRST NAME DATE, CITY AND COUNTRY OF BIRTH (if known) CITY AND COUNTRY OF RESIDENCE
 (b)(6), (b)(7)c UNKNOWN UNKNOWN
 MOTHER (Maiden name) (b)(6), (b)(7)c UNKNOWN LOS ANGELES CA.

HUSBAND (if none, so state) OR WIFE FAMILY NAME (For wife, give maiden name) FIRST NAME BIRTHDATE CITY & COUNTRY OF BIRTH DATE OF MARRIAGE PLACE OF MARRIAGE
 WIFE SERMA [REDACTED] 78 Belize City Belize Central CA 12-23-96 Los Angeles California

FORMER HUSBANDS OR WIVES (if none, so state) FAMILY NAME (For wife, give maiden name) FIRST NAME BIRTHDATE DATE AND PLACE OF MARRIAGE DATE AND PLACE OF TERMINATION OF MARRIAGE
 NONE

APPLICANTS RESIDENCE LAST FIVE YEARS. LIST PRESENT ADDRESS FIRST.

STREET AND NUMBER	CITY	PROVINCE OR STATE	COUNTRY	FROM		TO	
				MONTH	YEAR	MONTH	YEAR
(b)(6), (b)(7)c	Toroma	Washington	Dierce	04	97		
	Hawthorne	California		05	96	04	97
	Los Angeles	California		07	93	05	96
	Los Angeles	California		07	85	07	93

APPLICANT'S LAST ADDRESS OUTSIDE THE UNITED STATE OF MORE THAN ONE YEAR.

STREET AND NUMBER	CITY	PROVINCE OR STATE	COUNTRY	FROM	TO
-------------------	------	-------------------	---------	------	----

APPLICANT'S EMPLOYMENT LAST FIVE YEARS. (IF NONE, SO STATE) LIST PRESENT EMPLOYMENT FIRST.

FULL NAME AND ADDRESS OF EMPLOYER	OCCUPATION (Specify)	FROM		TO	
		MONTH	YEAR	MONTH	YEAR
U.S. Army	Cook	11	96		
STUDENT	NONE				
STUDENT	NONE				
STUDENT	NONE				

Show below last occupation abroad if not shown above. (Include all information requested above.)

THIS FORM IS SUBMITTED IN CONNECTION WITH APPLICATION FOR:
 NATURALIZATION OTHER (Specify)
 STATUS AS PERMANENT RESIDENT

SERVICEMAN

If serving or ever served in the Armed Forces of the United States, complete the following:
 Branch of Service Rank Service Number
 U.S. Army 1 E-3 PFC
 To Other Agency: Please furnish on the reverse of this form, or by attachment hereto, any derogatory information that may be contained in your records concerning the above person, for use in connection with consideration of above application and return to U.S. Immigration and Naturalization Service.

INS USE (Office of Origin)
 Office Code SEA
 Type of Case NATZ
 Date
 U.S. IMM & NATZ SERVICE LIAISON OFFICE
 FORT MEADE AND 20755
 FOR FILE REVIEW

(OTHER AGENCY)

(ALL DEFENSE CHECKS)

MIL PERS	AIR RESERVE	<input type="checkbox"/> OSI (USAF)	<input type="checkbox"/> ONI (USN)
USAF PERS	ARMY PERS	<input type="checkbox"/> MID G-2	<input type="checkbox"/> PROV MAR.

MAIL TO:
 DIRECTOR,
 UNITED STATES ARMY INVESTIGATIVE RECORDS REPOSITORY
 ATTN: ICIRR-A
 FOR MEADE, MARYLAND 20755
 ATTENTION: LIAISON OFFICE IMMIGRATION AND NATURALIZATION SERVICE

STATE (PP) STATE (S.Y.) OTHER
 SEE O.I. 105.4 FOR MAILING ADDRESS

FORM G-325B (Rev. 10-1-82)Y

Date _____ 19____

Date of entry into service
Date of separation
Service number

The records of this Department show the following with respect to the subject of your inquiry:

All organizations, clubs or societies in the United States, or in any other country, of which subject was a member at any time, and dates thereof. (If none, show "None".)

All arrests, convictions, disciplinary actions, court martial proceedings, and illegal or immoral conduct in which subject involved, including dates and results thereof. (If none, show "None".)

Details of any oral or written statements, conduct, behavior or associations of the subject which may indicate belief in, advocacy of or preference or sympathy for Communism or any other foreign ideology inconsistent with loyalty to the United States or the form of government of the United States or attachment to the principles of the United States Constitution. (If none, show "None".)

Additional information or references.

I certify that the information here given concerning the person named is correct according to the records of the

(Name of Department or organization)

Official signature _____

By _____

U.S. Department of Justice
Immigration and Naturalization Service

OMB # 1115-0194
Attestation by
Designated Fingerprinting Service
Certified to Take Fingerprints

Part 1. Instructions

To ensure the INS of the integrity of the fingerprint cards submitted by applicants for benefits, all DFS fingerprinters must fill out an attestation on Form I-850A each time they take fingerprints for an immigration benefit applicant. The DFS's fingerprinters are required to execute the attestations in duplicate, giving the original copy to the person being fingerprinted and keeping the second copy, which may be a reproduced copy of the original attestation, on file for at least 3 months for Service inspection. Attestations must be submitted on Form I-850A, Attestation by Designated Fingerprinting Service Certified to Take Fingerprints. Reproduced copies of Form I-850A are acceptable.

Reporting Burden. Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a currently valid OMB number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is estimated to average: 1) Learning how to use the law and form 3 minutes; 2) completing form 2 minutes and 3) Assembling and filing the application 5 minutes; for a total estimated average of 10 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can WRITE to the Immigration and Naturalization Service, 425 I Street, N.W., Room 5307, Washington, D.C. 20535. (Do not mail your completed application to this address.)

Part 2. Information about DFS

Last name: (b)(6), (b)(7)c | First name: (b)(6), (b)(7)c | Middle name: (b)(6), (b)(7)c

Name and address of company/organization: THE CARING PLACE

Street number and name: (b)(6), (b)(7)c | Suite #: 101

Certification number of DFS (As assigned by the INS): (b)(6), (b)(7)c | Expiration date: 08/08/99 | Fee charged: \$10.00

Part 3. Attestation

I attest that I have complied with the requirements of 8 CFR 103.2(c) and I have properly checked the identity of this person whom I just fingerprinted by comparing the information on the fingerprint card with his/her:

- (1) passport number
- (2) alien registration card number: (b)(6), (b)(7)c
- (3) other INS issued photo-ID: name of document: _____ and the document serial number, (if any)
- (4) other documented proof of ID (state the type of _____ and the document serial number, (if any))

I understand the fingerprinting procedures as required by _____ and have received adequate training to perform fingerprinting responsibilities.

This attestation is executed in the presence of the person listed below whom I fingerprinted: (b)(6), (b)(7)c

Part 4. Signature

Print name of fingerprinter: (b)(6), (b)(7)c | Date: 08/01/97

Employee ID # (As assigned by INS): (b)(6), (b)(7)c | Telephone #: (206) 593 (b)(6), (b)(7)c

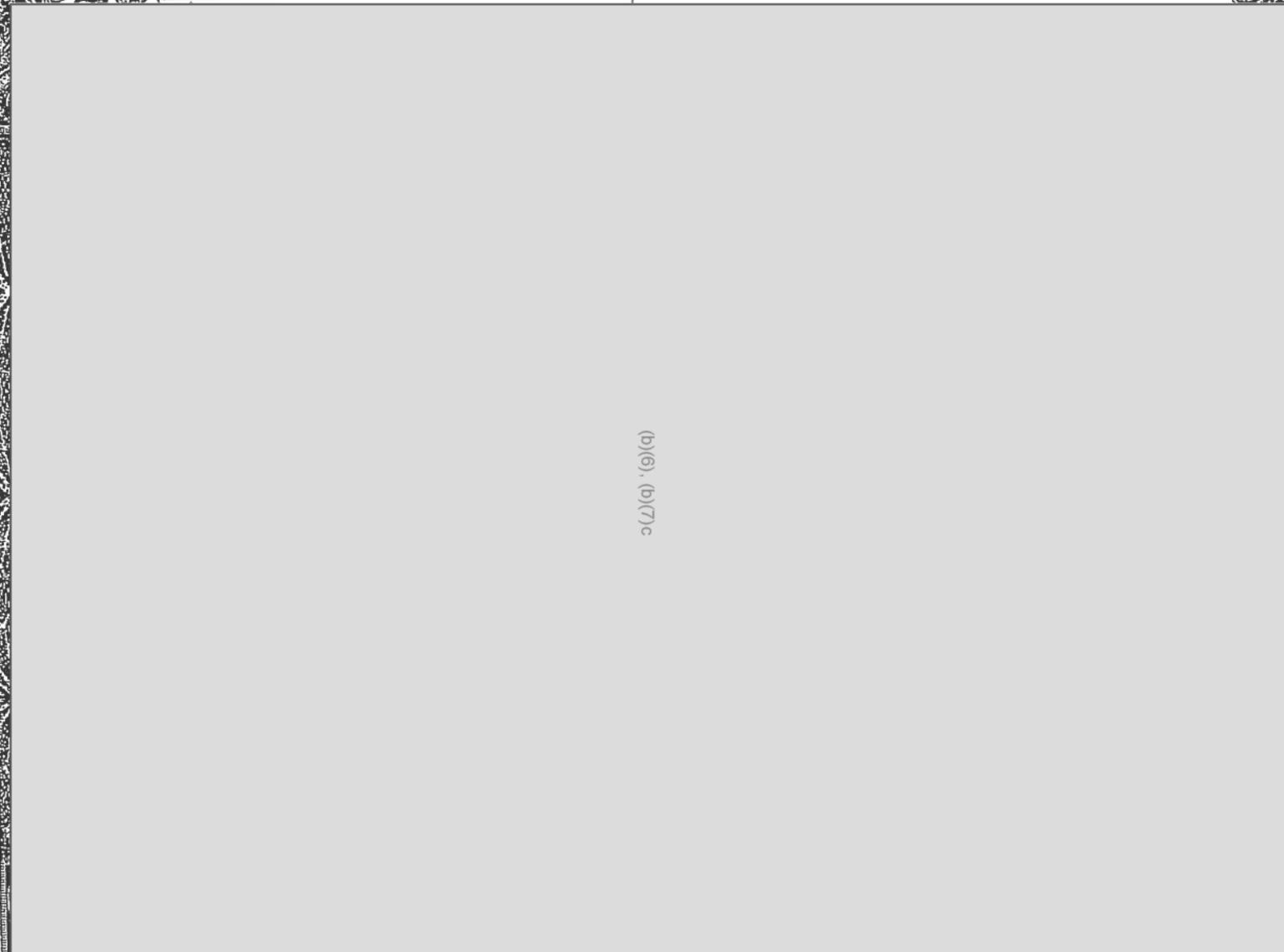
Form I-850A (5-21-95) APPENDIX B

[FR Doc. 96-13050 Filed 6-3-96; 6:45 am]
BILLING CODE 4410-10-C

EXHIBIT J

PREVIOUSLY REDACTED

THE UNITED STATES OF AMERICA



(b)(6), (b)(7)c

DEPARTMENT OF JUSTICE

FORM N-550 REV. 8-91

IMPORTANT

PLAINTIFF'S FIRST
AMENDED COMPLAINT - 61

REDACTED



EXHIBIT K

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0052
Notice of Naturalization Oath Ceremony

AR #

(b)(6), (b)(7)c

Date

October 9, 1998

(b)(6), (b)(7)c

TACOMA, WA 98439

You are hereby notified to appear for a Naturalization Oath Ceremony on:

TUESDAY OCTOBER 28, 1998

at:

**815 Airport Way South
Seattle, WA 98134**

3:15 P

Please report promptly at _____ M.

You must bring the following with you:

- This letter, WITH ALL OF THE QUESTIONS ON THE OTHER SIDE ANSWERED IN INK OR ON A TYPEWRITER.
- Alien Registration Card.
- Reentry Permit, or Refugee Travel Document.
- Any Immigration documents you may have.
- If the naturalization application is on behalf of your child (children), bring your child (children).
- Other

Proper attire should be worn.

If you cannot come to this ceremony, return this notice immediately and state why you cannot appear. In such case, you will be sent another notice of ceremony at a later date. You must appear at an oath ceremony to complete the naturalization process.

Form N-445 (Rev. 1/8/92)

(SEE OTHER SIDE)

In connection with your application for naturalization, please answer each of the questions by checking "Yes" or "No". You should answer these questions the day you are to appear for the citizenship oath ceremony. These questions refer to actions since the date you were first interviewed on your Application for Naturalization. They refer to anything that happened before that interview.

After you have answered every question, sign your name and fill in the date and place of signing, and provide your current address.

You must bring this completed questionnaire with you to the oath ceremony, as well as the documents indicated on the front, and give them to the Immigration employee at the oath ceremony. You may be questioned further on your answers at that time.

AFTER the date you were first interviewed on your Application for Naturalization, Form N-400:	ANSWERS
1. Have you married, or been widowed, separated, or divorced? (If "Yes" please bring documented proof of marriage, death, separation or divorce.)	1. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Have you traveled outside the United States?	2. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Have you knowingly committed any crime or offense, for which you have not been arrested; or have you been arrested, cited, charged, indicted, convicted, fined, or imprisoned for breaking or violating any law or ordinance, including traffic violations?	3. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Have you joined any organization, including the Communist Party, or become associated or connected therewith in any way?	4. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5. Have you claimed exemption from military service?	5. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
6. Has there been any change in your willingness to bear arms on behalf of the United States; to perform non-combatant service in the armed forces of the United States; to perform work of national importance under civilian direction, if the law requires	6. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7. Have you practiced polygamy; received income from illegal gambling; been a prostitute, procured anyone for prostitution or been involved in any other unlawful commercialized vice; encouraged or helped any alien to enter the United States illegally; illicitly trafficked in drugs or marijuana; given any false testimony to obtain immigration benefits; or been a habitual drunkard?	7. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

I certify that each of the answers shown above were made by me or at my direction, and that they are true and correct.

Signed at Tacoma Washington, on 10-25-98
(Date)

(b)(6), (b)(7)c [Redacted] (b)(6), (b)(7)c [Redacted] Tacoma W.A 98439

Authority for collection of the information requested on Form N-445 is contained in Sections 101(d), 316, 332, 335 and 336 of the Immigration and Nationality Act (8 U.S.C. 1101 (d), 1427, 1443, 1446 and 1447). Submission of the information is voluntary. The principal purposes for requesting the information are to enable examiners of the Immigration and Naturalization Service to determine an applicant's eligibility for naturalization. The information requested may, as a matter of routine use, be disclosed to naturalization courts and to other federal, state, local or foreign law enforcement and regulatory agencies, the Department of Defense, including any component thereof, the Selective Service System, the Department of State, the Department of the Treasury, the Department of Transportation, Central Intelligence Agency, Interpol and individuals and organizations in the processing of any application for naturalization, or during the course of investigation to elicit further information required by the Immigration and Naturalization Service to carry out its functions. Information solicited which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating, enforcing or prosecuting such violations. Failure to provide all or any of the requested information may result in a denial of the application for naturalization.

Public Reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: U.S. Department of Justice, Immigration and Naturalization Service, (Room 5304), Washington, DC 20536; and to the Office of Management and Budget, Paperwork Reduction Project: OMB No. 1115-0062; Washington, DC 20503.

EXHIBIT L

U.S. Department of Justice
Immigration and Naturalization Service

Record of Deportable/Inadmissible Alien

Family Name (CAFS)		First	Middle	Sex M	Hair BLK	Eyes BRO	Complexion DRK
(b)(6) (b)(7)c		Passport Number and Country of Issue		Height 67	Weight 210	Occupation	
Country of Citizenship BELIZE		Class No. (b)(7)e		Scars and Marks See Narrative			
U.S. Address C/O NW DETENTION CENTER 1521 EAST 4 STREET TACOMA, WASHINGTON 98421		Passenger Boarded at		(b)(7)e			
Date, Place, Time, and Manner of Last Entry 07/16/1984, Unknown Time, ELP, EWI		Number, Street, City, Province (State) and Country of Permanent Residence DANGRIGA, BELIZE		Method of Location/Apprehension (b)(7)e			
Date of Birth (b)(6), (b)(7)c	Age: 27	Date of Action 09/21/2005	Location Code XSE/XSE	AU/Near Tacoma, WA		Date/Hour 09/21/2005 0000	
City, Province (State) and Country of Birth STAIN CREEK DIST., BELIZE BRIGHT VILLAGE, BELIZE	Form: (Type and No.) <input checked="" type="checkbox"/> AR	Lifted <input type="checkbox"/>	Not Lifted <input type="checkbox"/>	By			
NIV Issuing Post and NIV Number	Social Security Account Name (b)(6), (b)(7)c	(b)(7)(c)		Status at Entry PWA Mexico		Status When Found IN REGISTRATION	
Date Visa Issued	Social Security Number (b)(6), (b)(7)c	(a)(k)(2)		Length of Time Illegally in U.S.			
Immigration Record POSITIVE - See Narrative	Criminal Record None known		Number and Nationality of Minor Children UNKNOWN				
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)		Name, Nationality, and Address, if Known		(b)(6), (b)(7)c			
Monies Due/Property in U.S. Not in Immediate Possession		Fingerprinted? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	INS Systems Checks	Charge Code Word(s) See Narrative			
Name and Address of (Last)/(Current) U.S. Employer		Type of Employment	Salary	Employed from/to			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)							

SCARS, MARKS AND TATTOOS
None Visible

CHARGE CODE WORD(S)
(b)(7)e

Narrative Title: Record of Deportable/Excludable Alien
Narrative Created by (b)(6), (b)(7)c (a)(k)(2) (b)(7)(c)

Subject encountered at the Pierce Co. Jail, Tacoma, WA. A native and citizen of Belize, subject entered the U.S. at/near El Paso, TX on/about July 16, 1984 without inspection and believed to be accompanied by his mother. Subject was granted voluntary departure under the Family Farenes Program (see letter dated 6/24/91 - Western Service Center). Service record indicates that his mother naturalized on 11/15/1996. Subject was 19 at time of mother's naturalization. There is no record to indicate subject applied for relief/immigration status at that time or anytime thereafter.

CONVICTION RECORD: 7/12/05 (Cause #05-1-02737-3) Pierce Co., WA: DV-Residential Burglary - 8 months and Violation of Protection Order -DV (Count II).
7/12/05 (Cause #05-1-02791-8) Pierce Co., WA: Felony Harassment - 8 months

IMMIGRATION RECORD: See above

(a)(k)(2)
(b)(7)(c) has been advised of communication privileges. _____ (Date/Initials)

Distribution:
File

To Paul 13
mm
11/20/05

Recd
Off

Disposition: WAFI

Examining Office: (b)(6), (b)(7)c

(time)
c/Notice to appear

Alien's Name

File Number
Case No: (b)(7)e

Date

09/21/2005

(b)(6), (b)(7)c

(b)(6), (b)(7)c

OTHER: Subject claimed no property or equities here in the U.S.

Signature

(a)(k)(2)

Title

SENIOR SPECIAL AGENT

(c)

2 of 2 Pages

EXHIBIT M

U. S. Department of Justice
Immigration and Naturalization Service

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: (b)(6), (b)(7)c
Case No: (b)(7)e

In the Matter of:

Respondent: (b)(6), (b)(7)c currently residing at:

C/O DW DETENTION CENTER 1623 EAST J STREET
TACOMA WASHINGTON 98421

(Number, street, city state and ZIP code)

(Area code and phone number)

- 1. You are an arriving alien.
- 2. You are an alien present in the United States who has not been admitted or paroled.
- 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

See Continuation Page Made a Part Hereof

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8 CFR 208.30(f)(2) 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: _____
1000 2nd Avenue, Suite 2500 Seattle WASHINGTON US 98104 1000 2nd Ave, Suite 2500

(Complete Address of Immigration Court, including Room Number, if any)

on a date to be set _____ at a time to be set _____ to show why you should not be removed from the United States based on the charge(s) set forth above.

Date: 9-23-05

TACOMADRO
NIA SENT TO EOIP
DATE 11-16-05 INITIALS (b)(6), (b)(7)c

(b)(6), (b)(7)c
(Signature and Title of Issuing Officer)

Seattle, WA
(City and State)

See reverse for important information

REDACTED

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an immigration judge.

(b)(6), (b)(7)c

(Signature of Respondent)

(b)(6), (b)(7)c

SSA
of INS Officer

Date: 11.15.05

Certificate of Service

This Notice to Appear was served on the respondent by me on 11.15.05, in the following manner and in compliance with section 239(a)(1)(F) of the Act:
(Date)

- in person by certified mail, return receipt requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organizations and attorneys which provide free legal services.

The alien was provided oral notice in the English/Spanish language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(b)(6), (b)(7)c

(Signature of Person Served)

(b)(6), (b)(7)c

SSA
Title of Officer

Form I-862 (Rev. 3/22/99)N

18

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Alien's Name (b)(6), (b)(7)c	File Number Case No: (b)(7)e (b)(6), (b)(7)c	Date
---------------------------------	--	------

The Service alleges that you:

- 1) You are not a citizen or national of the United States;
- 2) You are a native of BELIZE and a citizen of BELIZE;
- 3) You arrived in the United States at or near El Paso, TX, on or about July 16, 1984;
- 4) You were not then admitted or paroled after inspection by an Immigration Officer.
- 5) You were, on July 12, 2005, convicted in the Superior Court of Washington for Pierce County for the offense of DV-Residential Burglary, in violation of RCW 9A.52.025.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act, as amended, in that you are an alien who has been convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime.

Signature (b)(6), (b)(7)c	Title SUPERVISORY SPECIAL AGENT
------------------------------	---

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EXHIBIT N

PREVIOUSLY REDACTED

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
1000 SECOND AVE., SUITE 2500
SEATTLE, WA 98104

In the Matter of:

(b)(6), (b)(7)c

Case No:

(b)(6), (b)(7)c

RESPONDENT

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

After considering the facts and circumstances of this case and as there is no opposition from the parties, it is HEREBY ORDERED that these proceedings be terminated with // without prejudice.

NTA dated: Sep 23, 2005.

Reason for Termination:

DHS REQUEST

Kenneth Josephson
KENNETH JOSEPHSON
Immigration Judge
Date: July 7, 2006

Appeal Waived/Reserved by A/I: NO APPEAL
Appeal Due Date: _

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: [] ALIEN [] ALIEN c/o Custodial Officer [] INS
DATE: 7/7/06 BY: COURT STAFF [] (b)(6), (b)(7)c
Attachments: [] EOIR-33 [] EOIR-28 [] Legal Services List [] Other

Form EOIR 35 - 6T (Termination)

REDACTED

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, August 06, 2010 10:52 AM
To: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

Any news from DHS OGC on the Castillo indemnification request? Our next update to the District Court is Monday, August 9th.

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Friday, July 16, 2010 1:21 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c; (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

Plaintiff's counsel accepted the update and, while admittedly unclear at what action the Secretary would need to take short of final determination (and the time it's taken), is amenable to continuing the 9th Circuit stay, and to stretching the 9th Circuit status report deadline so as to line up with the District Court stipulation schedule (which would mean for us, required updates every 30 days and not 2 weeks going forward).

Chris Goelz accepted both the update and this schedule as well.

The next deadline, then, is a stipulation to the District Court on August 9 and an update to the 9th Circuit on September 10 (on which date another update will likely be due to the District Court). I'll forward the 9th Circuit's order when received.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, July 16, 2010 11:57 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

We really appreciate your persistence. Thanks,

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, July 16, 2010 11:54 AM
To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

I don't think we're quite there yet. Sorry.

I just pinged them again and said that the mediator and opposing counsel are about to lose patience with us. Welcome to my world.

Thank for your own patience nonetheless.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c]
Sent: Friday, July 16, 2010 2:53 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. (b)(6), (b)(7)c et al "Mediation Order Filed"

After sending it, I knew the third question would cause confusion. To clarify (and last question): did DHS-OGC actually make a recommendation to the Secretary?

Thanks,

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, July 16, 2010 11:42 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

(b)(6), (b)(7)c

1. Yes.
2. The latter, see 3 below.
3. Yes.

From: (b)(6), (b)(7)c
Sent: Friday, July 16, 2010 1:52 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

Three questions, just for clarification:

By the Secretary, you mean Ms. Napolitano?

And it now rests with the Secretary's office or it rests with the DHS-OGC?

And did DHS-OGC need to and/or actually give a recommendation either way to the Secretary?

From: (b)(6), (b)(7)c
Sent: Friday, July 16, 2010 10:48 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c . Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

The status report is that the indemnification request is still at the DHS Office of General Counsel for action by the Secretary. ICE previously made a favorable recommendation. Unfortunately, I have no estimate of when the Secretary will act.

From: (b)(6), (b)(7)c
Sent: Friday, July 16, 2010 11:48 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

Any updated (b)(6), (b)(7)? Our status report is due to the 9th Circuit Mediator today. Thanks,
(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Wednesday, July 14, 2010 3:38 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

Thanks, (b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Wednesday, July 14, 2010 3:37 PM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

I have another inquiry in with DHS OGC and will let you know what the answer is. Thank you.

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Wednesday, July 14, 2010 6:24 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c (USAWAW)
Subject: FW: (b)(6), (b)(7)c v. Office (b)(6), (b)(7)c et al "Mediation Order Filed"

(b)(6), (b)(7)

I see from his out of office that (b)(6), (b)(7) is out. Our status report is due to the 9th Circuit Mediator on Friday 7/16.

Even receiving a timeframe from DHS OGC would be helpful. If the 9th Cir. mediator gets impatient (or pressure from above), it may force wasted time by Civil Appellate/Con Torts to decide whether to prosecute the appeal and/or conduct the appeal.

We appreciate any assistance you can provide. Thanks,
(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Wednesday, July 14, 2010 3:21 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c USAWAW
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

Following up (b)(6), (b)(7) Our status report is due to the 9th Circuit Mediator on Friday 7/16. Even receiving a timeframe from DHS OGC would be helpful. If the 9th Cir. mediator gets impatient (or pressure from above), it may force wasted time by Civil Appellate/Con Torts to decide whether to prosecute the appeal and/or conduct the appeal.

Thanks,

(b)(6), (b)(7)(c)

From: (b)(6), (b)(7)(c)
Sent: Wednesday, June 30, 2010 3:16 PM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7)(c) v. Officer (b)(6), (b)(7)(c) et al "Mediation Order Filed"

Nothing yet. My supervisor is asking DHS OGC again. I'll let you know as soon as I hear anything.

(b)(6), (b)(7)(c)
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(c)
Direct Phone: (949) 360- (b)(6), (b)(7)(c)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(c)
Sent: Wednesday, June 30, 2010 2:53 PM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(d) (USAAWAW)
Subject: RE: (b)(6), (b)(7)(c) v. Officer (b)(6), (b)(7)(c) et al "Mediation Order Filed"

That's unfortunate, (b)(6), (b)(7)(c) I assume you haven't since received any further update, correct?

I need to call Plaintiff's counsel tomorrow about the district court extension expiring this Friday and hope to have something to say.

From: (b)(6), (b)(7)(c) mailto:(b)(6), (b)(7)(c)@dhs.gov]
Sent: Tuesday, June 22, 2010 5:26 PM
To: (b)(6), (b)(7)(c) USAAWAW)
Cc: (b)(6), (b)(7)(c) (USAAWAW)
Subject: FW: (b)(6), (b)(7)(c) v. Officer (b)(6), (b)(7)(c) et al "Mediation Order Filed"

(b)(6), (b)(7)(c)

Here is the latest status of the (b)(6), (b)(7)(c) indemnification request from DHS OGC. See below.

(b)(6), (b)(7)(c)
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(c)
Direct Phone: (949) 360- (b)(6), (b)(7)(c)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Tuesday, June 22, 2010 5:21 PM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

Not yet, sorry. I just asked them the other day. They didn't want to give any estimate.

From: (b)(6), (b)(7)c
Sent: Tuesday, June 22, 2010 8:20 PM
To: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

(b)(6), (b)(7)c

Any new news on the (b)(6), (b)(7)c indemnification request from DHS OGC? The USAO is asking again because the district court stay is ending on July 2nd.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)c
Direct Phone: (949) 360 (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Tuesday, June 22, 2010 4:56 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c SAWAW
Subject: RE: (b)(6), (b)(7)c v. Officer (b)(6), (b)(7)c et al "Mediation Order Filed"

(b)(6), (b)(7)c

Per our call last week, just following up: any update on the timing in DHS OGC? Recall a new stip will be due to the district court on 7/2.

Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, October 05, 2010 12:27 PM
To: (b)(6), (b)(7)c
Cc:
Subject: FW: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Can you please take the lead determining what information we need to get this paid? It will have to be from prior year funds and is a settlement. Please provide (b)(6), (b)(7)c the details.

Thanks,

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:37 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

The (b)(6), (b)(7)c indemnification request was approved on September 23, 2010. See attached. HSI's portion of the settlement amount is \$100K. What will you need to process the request?

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 7:30 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: Castillo settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, December 21, 2010 2:28 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c settlement reminder
Attachments: (b)(6), (b)(7)c Signed S1 Decision Memorandum 9.23.10.pdf; Settlement & Release df

(b)(6), (b)(7)c

Please see the email that I sent to (b)(6), (b)(7)c below. I understand that she is out, and you are acting for her this week.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)c
Direct Phone: (949) 360-(b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, December 21, 2010 11:23 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Attached is the executed settlement agreement for the (b)(6), (b)(7)c case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

Please let me know if you need anything else to begin the payment process, and when you estimate the payment will be made. I am aware that we are currently under a continuing resolution which expires soon.

Thanks,

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security

24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

-----Original Message-----

From:
Sent: Wednesday, November 17, 2010 8:07 AM
To:
Subject: RE: settlement reminder

Yes, more than enough time. We are waiting to hear if the CR will be extended. Please make sure that we get all the information to get the payment through i.e. vendor name, bank, etc.

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-

-----Original Message-----

From:
Sent: Wednesday, November 10, 2010 10:29 AM
To:
Subject: RE: settlement reminder

(b)(6), (b)(7)c

We are getting close to finalizing the settlement agreement in the Castillo case. A draft agreement is waiting approval by both sides, and I hope the agreement will be signed soon. The total settlement amount is \$400K with \$300K coming from ERO and \$100K coming from HSI. The amount is coming from the component's expenses fund and not from Treasury.

The AUSA in the case asked me to get an estimate on how long it will take to pay the plaintiff once the final settlement agreement is signed. I know that we are still under a continuing resolution, but I did not know how that might impact the timeframe for payment.

What time estimate can I give the AUSA? Is 4 to 6 weeks realistic?

Thanks,

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security

24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 10:37 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) ettlement reminder

Now I understand, thanks!!

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 1:16 PM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

I forwarded you S1's approval of the ICE employees' indemnification request. It was not the final settlement agreement.

ICE will indemify the ICE employees once they formalize their settlement agreement and are obligated to pay the funds.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Fri Oct 08 10:05:00 2010
Subject: Re: (b)(6), (b)(7) ettlement reminder

(b)(6), (b)(7)c

So the signed copy that you sent to me is not the approved copy? Thanks, (b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Fri Oct 08 12:02:52 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)c

The (b)(6), (b)(7) settlement has not been finalized yet. Once the settlement agreement is signed, I will forward you a copy and the electronic payment information for the payee.

I do not anticipate that the settlement agreement will be finalized until after I return to the office.

Thanks,

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Fri Oct 08 09:28:53 2010
Subject: (b)(6), (b)(7) settlement reminder

To be able to pay this settlement I need the employee information to create the obligation. I tried contacting (b)(6), (b)(7) but he is out of the office until the 13th.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:33 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)

Direct Phone: (949) 360- (b)(6), (b)(7)

Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Thursday, September 23, 2010 1:19 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732- (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 5:06 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 4:52 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement

Phone: (202)732-(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 11:52 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7)s, do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, December 21, 2010 2:33 PM
To: (b)(6), (b)(7)c
Subject: FW: Castillo settlement reminder

(b)(6), (b)(7)c

Do I send the (b)(6), (b)(7)c settlement agreement on to (b)(6), (b)(7)c or (b)(6), (b)(7)c if HSI is going to be paying its portion (\$100k)?

(b)(6), (b)(7)c

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Direct Phone: (949) 36 (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, October 05, 2010 12:21 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Per our phone conversation today regarding OI which is now called HSI Domestic Investigations; the \$100K requested is only a portion of this legal settlement for (b)(6), (b)(7)c that is to be paid from prior year funds. Please provide (b)(6), (b)(7)c (b)(6), (b)(7)c sample memo to follow in requesting payment of this sensitive legal settlement from the Office of the Principal Legal Advisor (OPLA) for the Dallas Finance Center for payment. He has indicated that this memo would be completed by end of this week or the first part of next week for processing.

Thank you in advance for all of your help in getting this sensitive legal settlement paid from prior year funds.

(b)(6), (b)(7)c

Program Analyst
HSI/Domestic Investigations
202-732- (b)(6), (b)(7)c

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-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, October 05, 2010 12:27 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Can you please take the lead determining what information we need to get this paid? It will have to be from prior year funds and is a settlement. Please provide (b)(6), (b)(7)c he details.

Thanks,

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:37 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

The Castillo indemnification request was approved on September 23, 2010. See attached. HSI's portion of the settlement amount is \$100K. What will you need to process the request?

(b)(6), (b)(7)c

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Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 7:30 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (chris, do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, April 20, 2010 4:54 PM
To: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c -- Recommendation on Indemnification Request
Attachments: (b)(6), (b)(7) Indemnification Recommendation.doc; Indemnification Request - version 3 FINAL.pdf; Order denying in part Def SJM filed Dec 10 09.pdf; First Amended Complaint filed on August 21 2009.pdf
Importance: High

(b)(6), (b)(7)

I am just following up on the (b)(6), (b)(7) indemnification request that I sent up to you on April 9th. What's the status? Are there any changes that you need me to make?

(b)(6), (b)(7)c

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Direct Phone: (949) 36 (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Friday, April 09, 2010 1:53 PM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c -- Recommendation on Indemnification Request
Importance: High

(b)(6), (b)(7)c

Attached is a draft recommendation for the indemnification request in the (b)(6), (b)(7) case and the documents referenced in the recommendation.

Please let me know if you need further information or the recommendation needs to be revised. A status conference with the Ninth Circuit mediator is scheduled for May 11, 2010, to discuss the progress of the indemnification request.

(b)(6), (b)(7)c

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(b) (6), (b) (7)

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, May 28, 2010 10:59 AM
To: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c
Importance: High

(b)(6), (b)(7)c

Any news about the (b)(6), (b)(7)c indemnification request? Below is another request for an update from the USAO in Seattle.

They sent us the indemnification request back on April 5th. I first forwarded you my draft memo recommending approval of the indemnification request on April 9th and then provided revisions to the memo back on April 22nd after I received your comments on the same day. It has been pending in DC for over a month now and still needs to be approved by DHS OGC before it gets to the DHS Secretary.

The next status update conference is scheduled with the Ninth Circuit mediator on June 16th.

(b)(6), (b)(7)c

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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Thursday, May 27, 2010 3:48 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Has the PLA approved the recommendation? And, if so, when was it provided to the DHS GC and do you have any estimate how long the DHS GC will take?

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 10:06 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

The status conference went well. The 9th Circuit will continue the stay and order a status update (as opposed to a status conference) by June 16 (because Plaintiff's counsel was reluctant to another 60 day stay). Plaintiff's counsel has agreed to an additional 30 day stay (from June 1 to July 1) in district court as well. We'll prepare that next week.

Please do let us know when the PLA has approved the recommendation and, should you gather any further information, how long the DHS GC will take.

Thanks also for all your hardwork sheparding this thing through.

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 8:53 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

Just a quick update on the status of the indemnification request. According to my supervisor, we are waiting for the ICE Principal Legal Advisor to sign off on the agency's recommendation for the indemnification request so that it can be forwarded to DHS Office of General Counsel. The ICE PLA was out yesterday, and I have not received any notice this morning that he signed the recommendation. I am told that the request is on an expedited track to get the PLA's approval.

Both the Director of Investigation and Director of Detention and Removal Operations whose budgets will be most affected by this request have approved the recommendation to indemnify the plaintiff on behalf of the defendants. The Deputy Principal Legal Advisor has also previously indicated that ICE should recommend the DHS Secretary should approve the request.

Sorry, I had hoped will would have had the indemnification request up to the DHS Office of General Counsel by now.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
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24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, May 10, 2010 5:12 PM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7)c

No worries. I'll call you tomorrow at 9am. Ok?

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Mon May 10 20:08:11 2010
Subject: Re: (b)(6), (b)(7)c

What is your phone #? I am out of the office today.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Mon May 10 16:11:49 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Can you give me a quick call if you have a moment this afternoon?

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, May 07, 2010 11:58 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Yes, we can talk on Tuesday morning. The ICE Principal Legal Advisor is not a political appointee. The DHS General Counsel is a political appointee.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
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Department of Homeland Security
24000 Avila Road, Room 6080
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Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Friday, May 07, 2010 9:08 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c (USAWAW)
Subject: RE: (b)(6), (b)(7)c

Thanks (b)(6), (b)(7)c Can we touch base Tuesday at 9am, just before the status conference? Also, is the Principal Legal Advisor a political appointee?

From: (b)(6), (b)(7)c
Sent: Thursday, May 06, 2010 4:54 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I just checked again with my supervisor on the status of the (b)(6), (b)(7)c indemnification request. The ICE Directors of Investigations and Detention and Removal have approved the request, and we expect ICE's Principal Legal Advisor to approve it. The Principal Legal Advisor is the last person in ICE to approve it before it is forwarded to the DHS Office of General Counsel. My supervisor hopes that it will be approved by the Principal Legal Advisor before Tuesday's status conference, but there is no guarantee.

(b)(6), (b)(7)c

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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 2:56 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 12:29 PM
To: (b)(6), (b)(7)c
Subject: Fw: (b)(6), (b)(7)c

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Tue Apr 27 11:40:48 2010
Subject: Re: (b)(6), (b)(7)c

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Tue Apr 27 09:21:16 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

Friendly reminder that we have our status conference with 9th Cir. Mediator Chris Goelz in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:07 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7) Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b) (6), (b) (7) and (b) (6), (b) (7) were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b) (6), (b) (7)

From: (b) (6), (b) (7) c
Sent: Thursday, April 15, 2010 2:03 PM
To: (b) (6), (b) (7) c
Cc:
Subject: RE: (b) (6), (b) (7) c

(b) (6), (b) (7)

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b) (6), (b) (7) c

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Direct Phone: (949) 36 (b) (6), (b) (7)
Facsimile: (949) 360-3208

From: (b) (6), (b) (7) c
Sent: Thursday, April 15, 2010 1:43 PM
To: (b) (6), (b) (7) c
Cc: (b) (6), (b) (7) c
Subject: RE: (b) (6), (b) (7) c

Thanks, (b) (6), (b) (7) If it's necessary, we may need to discuss with you whether Julie and Carl, in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,

(b) (6), (b) (7)

From: (b) (6), (b) (7) c
Sent: Thursday, April 15, 2010 1:40 PM
To: (b) (6), (b) (7) c
Cc:
Subject: RE: (b) (6), (b) (7) c

(b) (6), (b) (7) c

I spoke with (b)(6), (b)(7)c this afternoon and answered his questions. I advised him not to sit in with any further meetings between (b)(6), (b)(7)c and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)c

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Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:33 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

FYI, (b)(6), (b)(7)c. Please expect a call from (b)(6), (b)(7)c (sp?), a supervisor of Defendant (b)(6), (b)(7)c at NWDC (b)(6), (b)(7)c as concerns about a potential statement of regret. Call if you have questions before or after talking to (b)(6), (b)(7)c.

Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

That is correct. Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-[redacted]
Direct Phone: (949) 360-[redacted] (b)(6), (b)(7)(c)
Facsimile: (949) 360-3208

From: Diaz, Michael (USAWAW) [mailto:Michael.Diaz@usdoj.gov]
Sent: Monday, April 05, 2010 10:11 AM
To: [redacted] (b)(6), (b)(7)(c)
Cc: [redacted]
Subject: RE: [redacted] (b)(6), (b)(7)(c)

[redacted] (b)(6), (b)(7)(c)
Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.
Thanks,
[redacted] (b)(6), (b)(7)(c)

[redacted] (b)(6), (b)(7)(c)
Assistant United States Attorney
700 Stewart Street, Suite 5220
Seattle, WA 98101
Tel: 206.553.4358 | Fax: 206.553.4067

From: [redacted] (b)(6), (b)(7)(c)
Sent: Wednesday, March 03, 2010 2:40 PM
To: [redacted] (b)(6), (b)(7)(c)
Subject: [redacted] (b)(6), (b)(7)(c)

[redacted] (b)(6), (b)(7)(c)
FYI -- ICE's supervisory attorneys in DC were briefed today on the settlement offer in the [redacted] (b)(6), (b)(7)(c) case. Based on the discussions during this briefing, ICE will entertain a request for indemnification with a real possibility of a favorable recommendation should the request be for an amount under \$500,000. Of course, the DHS Secretary makes the final decision on any indemnification request, and there is no guarantee the DHS Secretary will follow ICE's recommendation.

Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,
[redacted] (b)(6), (b)(7)(c)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-[redacted]
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Facsimile: (949) 360-3208

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FYI -- ICE's supervisory attorneys in DC were briefed today on the settlement offer in the (b)(6), (b)(7) case. Based on the discussions during this briefing, ICE will entertain a request for indemnification with a real possibility of a favorable recommendation should the request be for an amount under \$500,000. Of course, the DHS Secretary makes the final decision on any indemnification request, and there is no guarantee the DHS Secretary will follow ICE's recommendation.

Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 3:29 PM
To: (b)(6), (b)(7)c
Subject: Fw: (b)(6), (b)(7)c

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Tue Apr 27 11:40:48 2010
Subject: Re (b)(6), (b)(7)c

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Tue Apr 27 09:21:16 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Friendly reminder that we have our status conference with 9th Cir. Mediator Chris Goelz in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

Thanks,

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:07 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7)c Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7)c and (b)(6), (b)(7)c were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:03 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7)c If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)c and (b)(6), (b)(7)c in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I spoke with (b)(6), (b)(7)c this afternoon and answered his questions. I advised him not to sit in with any further meetings between (b)(6), (b)(7)c and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
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Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:33 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

FYI, (b)(6), (b)(7)c Please expect a call from (b)(6), (b)(7)c sp?), a supervisor of Defendant (b)(6), (b)(7)c at NWDC. (b)(6), (b)(7)c has concerns about a potential statement of regret. Call if you have questions before or after talking to (b)(6), (b)(7)c

Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

That is correct. Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
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24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)

(b)(6), (b)(7)c

Assistant United States Attorney
700 Stewart Street, Suite 5220
Seattle, WA 98101
Tel: 206.553 (b)(6), (b)(7) Fax: 206.553.4067

From: (b)(6), (b)(7)c
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c

(b)(6), (b)(7) & (b)(6), (b)(7)

FYI -- ICE's supervisory attorneys in DC were briefed today on the settlement offer in the Castillo case. Based on the discussions during this briefing, ICE will entertain a request for indemnification with a real possibility of a favorable recommendation should the request be for an amount under \$500,000. Of course, the DHS Secretary makes the final decision on any indemnification request, and there is no guarantee the DHS Secretary will follow ICE's recommendation.

Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

(b)(6), (b)(7)c

Associate Legal Advisor
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Department of Homeland Security
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Laguna Niguel, CA 92677

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 10:56 AM
To: (b)(6), (b)(7)c
Subject: Fw: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

(b)(6), (b)(7)c

Do you know what OPLA memo they need?

Is the same memo as our admin tort claim memos that you prepare?

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Wed Dec 22 06:52:10 2010
Subject: RE: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely

(b)(6), (b)(7)c
*Financial Program Specialist
DHS/ICE/CFO/DFC
(b)(6), (b)(7)c@dhs.gov
Dallas Finance Center
Tel# 214-915-(b)(6), (b)(7)c
Fax# 214-915-6262*

How are we doing? We are interested in your feedback

[click here](#)

From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 7:54 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Good Morning (b)(6), (b)(7)c

Attached you will find documents from (b)(6), (b)(7)c in regards to the request for HSI's portion in the amount of \$100K for a settlement agreement.

Funding is available for this action.

(b)(6), (b)(7)c

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)c

Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-732-6176
(F) 202-732-5736

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From: (b)(6), (b)(7)c
Sent: Tuesday, December 21, 2010 2:51 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Dear (b)(6), (b)(7)c

Attached is the executed settlement agreement for the Castillo case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

Please let me know if you need anything else to begin the payment process, and when you estimate the payment will be made. I am aware that we are currently under a continuing resolution which expires soon.

Thanks,

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, January 04, 2011 11:58 AM
To: DFC, Ice Settlements
Subject: FW: (b)(6), (b)(7)c -- Payment of Bivens Settlement Agreement
Attachments: DFC Payment Memo -- (b)(6), (b)(7) pdf; Settlement & Release (b)(6), (b)(7) pdf

Please send me a status update on the payment for this ICE settlement.

Thanks,

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 8:59 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c -- Payment of Bivens Settlement Agreement

Attached please find the OPLA payment memo with instructions for payment and the executed settlement agreement for the above-referenced case.

Please let me know if you need anything else,

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 6:52 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely

(b)(6), (b)(7)c
Financial Program Specialist
DHS/ICE/CFO/DFC
(b)(6), (b)(7)c
Dallas Finance Center
Tel# 214-915 (b)(6), (b)(7)c
Fax# 214-915-6262

How are we doing? We are interested in your feedback

[click here](#)

From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 7:54 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Good Morning (b)(6), (b)(7)c

Attached you will find documents from (b)(6), (b)(7)c in regards to the request for HSI's portion in the amount of \$100K for a settlement agreement.

Funding is available for this action.

(b)(6), (b)(7)c

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)c
Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-732 (b)(6), (b)(7)c
(F) 202-732-5736

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From: (b)(6), (b)(7)c
Sent: Tuesday, December 21, 2010 2:51 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c - HSI Payment of Bivens Settlement Agreement

Dear (b)(6), (b)(7)c

Attached is the executed settlement agreement for the Castillo case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

Please let me know if you need anything else to begin the payment process, and when you estimate the payment will be made. I am aware that we are currently under a continuing resolution which expires soon.

Thanks,

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)
Direct Phone: (949) 360 (b)(6), (b)(7)
Facsimile: (949) 360-3208

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, January 04, 2011 12:52 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c - Payment of Bivens Settlement Agreement
Attachments: Settlement & Release (b)(6), (b)(7) pdf; DFC Payment Memo -- (b)(6), (b)(7) version 2.pdf
Importance: High

All,

I just received word from the plaintiff's attorney that the bank account number in the settlement agreement is wrong and the correct bank account number is: (b)(6), (b)(7)c

I have revised the OPLA payment memo accordingly and have attached it for your reference.

Please let me know approximately how long it will take to process this payment and if there are any problems changing the account number at this time.

Thanks,

(b)(6), (b)(7)c

Associate Legal Advisor
District Court Litigation Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 8:59 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c -- Payment of Bivens Settlement Agreement

Attached please find the OPLA payment memo with instructions for payment and the executed settlement agreement for the above-referenced case.

Please let me know if you need anything else,

(b)(6), (b)(7)c

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Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
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From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 6:52 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely

(b)(6), (b)(7)c
*Financial Program Specialist
DHS/ICE/CFO/DFC
(b)(6), (b)(7)c
Dallas Finance Center
Tel# 214-915-
Fax# 214-915-6262*

How are we doing? We are interested in your feedback

[click here](#)

From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 7:54 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Good Morning (b)(6), (b)(7)c

Attached you will find documents from (b)(6), (b)(7)c in regards to the request for HSI's portion in the amount of \$100K for a settlement agreement.

Funding is available for this action.

(b)(6), (b)(7)c

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)c
Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-73 (b)(6), (b)(7)c
(F) 202-732-5736

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From: (b)(6), (b)(7)c
Sent: Tuesday, December 21, 2010 2:51 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Dear (b)(6), (b)(7)c

Attached is the executed settlement agreement for the (b)(6), (b)(7)c case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

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Thanks,

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)c
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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, January 06, 2011 10:29 AM
To: (b)(6), (b)(7)c @usdoj.gov'
Subject: Fw: (b)(6), (b)(7)c -- Payment of Bivens Settlement Agreement
Attachments: TCIS (b)(6), (b)(7).pdf
Importance: High

(b)(6), (b)(7)c

Here is the proof of payment for the (b)(6), (b)(7)c settlement that I received today. The money should show up in the account in the next couple of days.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Jan 06 05:55:19 2011
Subject: RE (b)(6), (b)(7)c -- Payment of Bivens Settlement Agreement

Good Morning (b)(6), (b)(7)c

Please see attached proof of payment for (b)(6), (b)(7)c Let me know if you have any questions, or need further information.

Have a Wonderful Day!

(b)(6), (b)(7)c

**Lead Accounting Technician
Dallas Finance Center**

Phone# 214-915 (b)(6), (b)(7)c

Fax# 214-915-6262

(b)(6), (b)(7)c

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[click here](#)

From: (b)(6), (b)(7)c
Sent: Wednesday, January 05, 2011 12:28 PM
To: DFC, Ice Settlements
Subject: RE: (b)(6), (b)(7)c -- Payment of Bivens Settlement Agreement

Thank you for the update. Please forward me the proof of payment tomorrow.

(b)(6), (b)(7)c
Associate Legal Advisor
District Court Litigation Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)c
Direct Phone: (949) 360-(b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c **On Behalf Of** DFC, Ice Settlements
Sent: Wednesday, January 05, 2011 10:11 AM
To: (b)(6), (b)(7)c DFC, Ice Settlements
Subject: RE: (b)(6), (b)(7)c -- Payment of Bivens Settlement Agreement
Importance: High

Payment went out today, will be able to provide proof in the morning.

Have a Wonderful Day!

(b)(6), (b)(7)c

**Lead Accounting Technician
Dallas Finance Center**

*Phone# 214-915-(b)(6), (b)(7)c
Fax# 214-915-6262*

(b)(6), (b)(7)c

 Please don't print this e-mail unless you really need to. Think Green.

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From: (b)(6), (b)(7)c
Sent: Tuesday, January 04, 2011 10:58 AM
To: DFC, Ice Settlements
Subject: FW: (b)(6), (b)(7)c - Payment of Bivens Settlement Agreement

Please send me a status update on the payment for this ICE settlement.

Thanks,

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
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Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 8:59 AM
To: (b)(6), (b)(7)c DFC, Ice Settlements
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c - Payment of Bivens Settlement Agreement

Attached please find the OPLA payment memo with instructions for payment and the executed settlement agreement for the above-referenced case.

Please let me know if you need anything else,

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
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Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Wednesday, December 22, 2010 6:52 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely

(b)(6), (b)(7)c

Financial Program Specialist
DHS/ICE/CFO/DFC

(b)(6), (b)(7)c

Dallas Finance Center

Tel# 214-915 (b)(6), (b)(7)c

Fax# 214-915-6262

How are we doing? We are interested in your feedback

[click here](#)

From: (b)(6), (b)(7)c

Sent: Wednesday, December 22, 2010 7:54 AM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: FW: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Good Morning (b)(6), (b)(7)c

Attached you will find documents from (b)(6), (b)(7)c in regards to the request for HSI's portion in the amount of \$100K for a settlement agreement.

Funding is available for this action.

(b)(6), (b)(7)c

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)c

Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-732-(b)(6), (b)(7)c
(F) 202-732-5736

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From: (b)(6), (b)(7)c

Sent: Tuesday, December 21, 2010 2:51 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: (b)(6), (b)(7)c -- HSI Payment of Bivens Settlement Agreement

Dear (b)(6), (b)(7)c,

Attached is the executed settlement agreement for the (b)(6), (b)(7)c case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

Please let me know if you need anything else to begin the payment process, and when you estimate the payment will be made. I am aware that we are currently under a continuing resolution which expires soon.

Thanks,

(b)(6), (b)(7)c

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(b)(6), (b)(7)c

From:
Sent:
To:
Subject:

(b)(6), (b)(7)c
Wednesday, April 28, 2010 10:50 AM
(b)(6), (b)(7)c
FW: Confidential Settlement read-ahead: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I received a request for a status update from the USAO on the (b)(6), (b)(7) indemnification request. Any idea when it will be forwarded to DHS OGC?

(b)(6), (b)(7)c

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Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Friday, April 23, 2010 5:43 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: Confidential Settlement read-ahead: (b)(6), (b)(7)c

(b)(6), (b)(7)

I briefed the Director this morning and he's fine with the agreement to settle. He did ask how the settlement would be divided between DRO and OI (and CIS if included). If he's available when you brief (b)(6), (b)(7)c next week, he'll attend. Otherwise, let us know how the payment would be divided up. Thanks

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Thursday, April 22, 2010 9:40 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: Confidential Settlement read-ahead: (b)(6), (b)(7)c

(b)(6), (b)(7)c This isn't a routine settlement – the amount is frankly astronomical, but so is the potential for liability and bad press. One of the four officers who would be indemnified is DRO, so a share of this indemnification would come out of program funds. Thank you. (b)(6), (b)(7)

=====

CURRENT DEVELOPMENTS: On March 26, 2010, mediation was held between the parties with Ninth Circuit mediator Chris Goelz in Seattle. This case is *Bivens* only, and the United States is not a defendant. The parties tentatively agreed to settle the case for \$400,000 in monetary damages and a letter of regret signed by the U.S. Attorney in Seattle. The settlement agreement is contingent upon the approval of the ICE employees'

indemnification request by the DHS Secretary and approval of the letter by the U.S. Attorney. The settlement would be paid from agency funds. The case is stayed pending approval of the tentative settlement agreement.

BACKGROUND: (b)(6), (b)(7)c a native of Belize, entered the United States illegally at the age of seven with his mother in 1984. (b)(6), (b)(7) received alien file number (b)(6), (b)(7)c on May 7, 1990, after he applied for lawful permanent residency. (b)(6), (b)(7) was granted voluntary departure under the Family Fairness Program on or about June 24, 1991. The (b)(7)e shows that alien file number (b)(6), (b)(7)c was created July 23, 1992, when (b)(6), (b)(7) entered the United States as an immigrant. In November 1996, (b)(6), (b)(7) enlisted in the United States Army. (b)(6), (b)(7) received an honorable discharge from the Army in July 2003. In 2005, (b)(6), (b)(7) was convicted and imprisoned for eight months for residential burglary, felony harassment, and violation of a domestic violence protective order. On September 21, 2005, he was interviewed by ICE Agent (b)(6), (b)(7)c who initiated removal proceedings under (b)(6), (b)(7)c. He was detained by ICE at the Northwest Detention Center (NWDC) immediately upon his release from the jail on November 15, 2005. His first master calendar hearing was held on November 30, 2005. The matter was continued to December 21, 2005, at which time (b)(6), (b)(7) representing himself, asserted U.S. citizenship by naturalization. Nothing in alien file (b)(6), (b)(7)c or in the (b)(7)c under (b)(6), (b)(7)c indicated (b)(6), (b)(7)c naturalization or alternate alien number. (b)(6), (b)(7) was unable to provide any documentation establishing his citizenship claim, and on January 24, 2006, the Immigration Judge ordered (b)(6), (b)(7) removed.

On April 27, 2006, (b)(6), (b)(7) with the assistance of counsel, received a copy of his military records that showed an assignment of two different A numbers. On April 28, 2006, (b)(6), (b)(7) renewed his request for a copy of his naturalization certificate with USCIS using both A numbers. (b)(6), (b)(7) remained at NWDC until June 29, 2006, when alien file (b)(6), (b)(7)c was forwarded to ICE from USCIS. A review of alien file (b)(6), (b)(7)c revealed that (b)(6), (b)(7) was naturalized on October 28, 1998, at the INS office in Seattle, Washington. (b)(6), (b)(7) was released from the NWDC on June 29, 2006, after spending seven and a half months in detention. Subsequent investigation revealed that (b)(6), (b)(7) first and last name were misspelled in the (b)(7)c entry for alien file (b)(6), (b)(7)c. A search of the correct spelling of (b)(6), (b)(7)c name into the (b)(7)c database only retrieved alien file # (b)(6), (b)(7)c

On November 13, 2008, the Northwest Immigration Rights Project filed a *Bivens* complaint in the Western District of Washington on behalf of (b)(6), (b)(7) (the two-year statute of limitations under the Federal Tort Claims Act had already lapsed). The complaint named five ICE officers: (1) the arresting ICE agent, (b)(6), (b)(7)c (currently retired); (2) the supervisor who approved the arrest warrant and notice to appear, (b)(6), (b)(7)c (resigned from ICE after being prosecuted by the USAO for violating 18 U.S.C. § 922(g), Felon in Possession of Firearms, and 18 U.S.C. § 1001, False Statement; (3) the ICE agent who served the plaintiff's arrest warrant and notice to appear, (b)(6), (b)(7)c (currently employed as ICE Special Agent); (4) the plaintiff's deportation officer, (b)(6), (b)(7)c (currently employed as Deportation Officer); and (5) the former NWDC AFOD Michael Melendez. All of the ICE defendants are represented by the U.S. Attorney's Office in Seattle. The complaint alleges violations of the plaintiff's Fourth and Fifth Amendment rights. The complaint also alleges that the plaintiff told (b)(6), (b)(7)c and (b)(6), (b)(7)c that he was a military veteran and a naturalized U.S. citizen. (b)(6), (b)(7) failed to timely file any tort claims with the agency or against the government related to his detention.

On December 10, 2009, Judge Settle granted in part and denied in part the ICE defendants' motion to dismiss or, in the alternate, a motion for summary judgment. The court dismissed without prejudice AFOD Melendez from the case, but found the plaintiff pled sufficient constitutional violations against the remaining defendants. The court also denied the ICE defendants' alternative motion for summary judgment without prejudice and ordered the parties to engage in limited discovery to develop the factual record on application of qualified immunity to the defendants. At the conclusion of the discovery, the ICE defendants will be able to file another motion for summary judgment based on qualified immunity. The U.S. Attorney's Office reserved

appeal to the Ninth Circuit on the District Court's ruling. (b)(6), (b)(7)c detention has been the subject of numerous press articles and news releases from immigrant advocacy groups. An OPR investigation is pending.

FURTHER ACTION/RECOMMENDATION: The USAO will submit to ICE the employees' formal request for indemnification. OPLA will need to review and recommend action to DHS OGC. CALD recommends that OPLA recommend to OGC that DHS indemnify. A status conference is scheduled on May 11, 2010 with mediator to discuss progress of settlement approval.

(b)(6), (b)(7)c

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
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(202) 732-(b)(6), (b)(7)c

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, August 10, 2010 2:46 PM
To: (b)(6), (b)(7)c
Cc:
Subject: FW: Out of Office AutoReply: (b)(6), (b)(7)c
"Mediation Order Filed"
Attachments: Dkt. 41 - Order Continuing Stay of Limited Discovery Plan.pdf

(b)(6), (b)(7)c FYI.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c (USAAWAW) [mailto:(b)(6), (b)(7)c@usdoj.gov]
Sent: Tuesday, August 10, 2010 2:25 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c (USAAWAW)
Subject: RE: Out of Office AutoReply (b)(6), (b)(7)c et al "Mediation Order Filed"

Sure. Here's the order granting the extension (to September 9). I do think we'll be starting to test the Court's patience soon. Assuming it's approved, moving it to the next level would help that greatly. Thanks,

(b)(6), (b)(7)c

Stanton and Christopher Miller)

CURRENT DEVELOPMENTS:

On February 16, 2010, the U.S. Attorney's Office received a settlement demand from the plaintiff in this wrongful detention case. The plaintiff seeks: (1) \$700,000 in compensatory and punitive damages; and (2) a written apology from the DHS Secretary and each of the individual ICE defendants. The settlement amount represents approximately \$3,000 for each day of incarceration by ICE.

BACKGROUND:

(b)(6), (b)(7)c a native of Belize, entered the United States illegally at the age of seven with his mother in 1984. (b)(6), (b)(7) received alien file # (b)(6), (b)(7)c on May 7, 1990 after he applied for lawful permanent residency. (b)(6), (b)(7) was granted voluntary departure under the Family Fairness Program on or about June 24, 1991. The (b)(7)e shows that alien file # (b)(6), (b)(7)c was created July 23, 1992, when (b)(6), (b)(7) entered the United States as an immigrant. In November 1996, (b)(6), (b)(7) enlisted in the United States Army. (b)(6), (b)(7) was naturalized on October 28, 1998, under (b)(6), (b)(7)c at the INS office in Seattle, Washington. (b)(6), (b)(7) received an honorable discharge from the Army in July 2003. In 2005, (b)(6), (b)(7) was convicted and imprisoned for eight months for residential burglary, felony harassment, and violation of a domestic violence protective order. On September 21, 2005, he was interviewed by an ICE agent who initiated removal proceedings under (b)(6), (b)(7)c. He was detained by ICE at the Northwest Detention Center (NWDC) immediately upon his release from the jail on November 15, 2005. His first master calendar hearing was held on November 30, 2005; the matter was continued to December 21, 2005, at which time (b)(6), (b)(7) representing himself, asserted U.S. citizenship by naturalization. Nothing in alien file (b)(6), (b)(7)c or in the (b)(7)e under (b)(6), (b)(7)c indicated (b)(6), (b)(7)c naturalization or alternate alien number. (b)(6), (b)(7) was unable to provide any documentation establishing his citizenship claim, and on January 24, 2006, the Immigration Judge ordered (b)(6), (b)(7)c removed. On April 27, 2006, (b)(6), (b)(7) with the assistance of counsel, received a copy of his military records that showed an assignment of two different A numbers. On April 28, 2006, (b)(6), (b)(7) renewed his request for a copy of his naturalization certificate with USCIS using both A numbers. (b)(6), (b)(7)c remained at NWDC until June 29, 2006, when alien file (b)(6), (b)(7)c was forwarded to ICE from USCIS. A review of alien file (b)(6), (b)(7)c revealed (b)(6), (b)(7)c status as a naturalized U.S. citizen, and (b)(6), (b)(7) was released from the NWDC that same day, after spending seven and a half months in detention.

Subsequent investigation revealed that (b)(6), (b)(7)c first and last name were misspelled in the (b)(7)e entry for alien file # (b)(6), (b)(7)c. A search of the correct spelling of (b)(6), (b)(7)c name into the (b)(7)e database only retrieved alien file (b)(6), (b)(7)c.

On November 13, 2008, the Northwest Immigration Rights Project filed a *Bivens* complaint in the Western District of Washington on behalf of (b)(6), (b)(7). The complaint named five ICE officers: the arresting ICE agent, her supervisor who approved the arrest warrant and notice to appear, the ICE agent who served the plaintiff's arrest warrant and notice to appear, the plaintiff's deportation officer, and the former NWDC AFOD Michael Melendez. The arresting ICE agent's supervisor resigned from ICE after his criminal indictment on unrelated federal firearms charges in 2008. All of the ICE defendants are represented by the U.S. Attorney's Office in Seattle. The complaint alleges violations of the plaintiff's Fourth and Fifth

Amendment rights. The complaint also alleges that the plaintiff told the arresting ICE agent, the ICE agent who served his arrest warrant and his notice to appear, and his deportation officer that he was a military veteran and naturalized U.S. citizen. (b)(6), (b)(7) failed to file any timely tort claims with the agency or against the government related to his detention.

On December 10, 2009, Judge Settle granted in part and denied in part a motion to dismiss or alternatively a motion for summary judgment filed by the ICE individual *Bivens* defendants. The court dismissed without prejudice AFOD Melendez from the case, but found the plaintiff pled sufficient constitutional violations against the remaining defendants. The court also denied the ICE defendants' alternative motion for summary judgment without prejudice and ordered the parties to engage in limited discovery to develop the factual record on application of qualified immunity to the defendants. At the conclusion of the discovery, the ICE defendants will be able to file another motion for summary judgment based on qualified immunity. The U.S. Attorney's Office reserved appeal to the Ninth Circuit on the District Court's ruling and is considering mediation by a Ninth Circuit mediator.

(b)(6), (b)(7)c detention has been the subject of numerous press articles and news releases from immigrant advocacy groups.

FURTHER ACTION/RECOMMENDATION:

Because there are no tort claims pending against the government, the individual ICE *Bivens* defendants will seek indemnification from DHS. Pursuant to DHS Management Directive 415, DHS may pay for the settlement or compromise of a claim against DHS employees if the alleged conduct giving rise to the claim was within the scope of the employee's employment and such settlement is in the interests of the United States. After receiving a request for indemnification, ICE OPLA will need to review and forward its recommendation to the DHS Office of General Counsel, which will then present the request to the DHS Secretary for a decision. We anticipate an indemnification request from the U.S. Attorney's Office soon.

New Cases

1. Case: (b)(6), (b)(7)c

Assigned Attorneys: (b)(6), (b)(7)c and (b)(6), (b)(7)c – CALD-TLS

Type of Action: Civil, *Bivens*.

Clients/Stakeholders: ERO.

Issue: Whether the government should settle a *Bivens* case for \$20,000 to avoid Ninth Circuit review of ERO's use of detainees.

Update: On December 3, 2010, AUSA David Pinchus, representing IEA (b)(6), (b)(7) in her personal capacity, presented a \$20,000 indemnification request to settle the case. AUSA Pinchus recommends that DHS grant the indemnification request. DHS OGC has requested ICE's recommendation on the indemnification request, which will require approval by the DHS Secretary. DHS OGC previously recommended that DOJ not appeal the District Court's denial of (b)(6), (b)(7) qualified immunity due to concerns that the Ninth Circuit could use the case to create adverse precedent regarding ICE's use of detainees. The Solicitor General has not yet made a decision on whether to appeal the District Court's ruling. (b)(6), (b)(7)c pening appellate brief is currently due on January 24, 2011.

Facts: On August 9, 2003, (b)(6), (b)(7)c was arrested by Santa Ana Police for violating a restraining order. (b)(6), (b)(7) was then booked into the Orange County Jail. On August 11, 2003, IEA (b)(6), (b)(7) went to the jail to review the booking records and interview inmates as part of ICE's Alien Criminal Apprehension Program, which was administered by ICE's Office of Investigation at the time. IEA (b)(6), (b)(7) determined from (b)(6), (b)(7) booking sheet, California criminal history data, and FBI printout that he might be a foreign national. IEA (b)(6), (b)(7) attempted to interview (b)(6), (b)(7) but found him to be belligerent and uncooperative. Although (b)(6), (b)(7) claimed to be "legal," IEA (b)(6), (b)(7) investigated the limited information about (b)(6), (b)(7) she was able to ascertain, such as his date of birth, country of origin, and parents' names, but found no matches in any DHS computer databases. Because IEA (b)(6), (b)(7) could not locate an existing alien registration number for (b)(6), (b)(7) she assigned him a new number (b)(6), (b)(7)c, printed out copies of the database searches she conducted, and put them in the file she created for (b)(6), (b)(7) Unknown to IEA (b)(6), (b)(7), (b)(6), (b)(7) was, in fact, a lawful permanent resident, but his name was misspelled in (b)(7)e database, making it irretrievable by IEA (b)(6), (b)(7). IEA (b)(6), (b)(7) also did not find an alien registration card among (b)(6), (b)(7) effects held in the jail property room. IEA (b)(6), (b)(7) then issued an immigration detainer to jail officials. The immigration detainer was marked "for notification purposes only," and did not request that the jail hold (b)(6), (b)(7) for up to 48 hours. After the detainer was issued, the state criminal charges were dropped by the Orange County District Attorney. IEA (b)(6), (b)(7) did not receive any notification of the dropped state charges until August 13,

2003, when [REDACTED] was transferred into ICE custody by the jail. When IEA [REDACTED] learned that [REDACTED] had been taken into ICE custody, she prepared a NTA and arrest warrant for [REDACTED] and presented them for approval to SSA [REDACTED] SSA [REDACTED] reviewed the documents and determined that there was insufficient evidence to initiate immigration charges against [REDACTED]. SSA [REDACTED] ordered [REDACTED] to be released. Thus, no immigration charges were brought against [REDACTED] by ICE, and [REDACTED] was released from ICE custody on August 13, 2003, after a few hours.

On August 19, 2004, [REDACTED] filed a *pro se* complaint against Orange County, the City of Santa Ana, Santa Ana Police Officer [REDACTED], and unknown Doe officers as defendants. On March 24, 2005, [REDACTED] added ICE as a defendant in the case in his second amended complaint. [REDACTED] sued the defendants under constitutional tort theories and common law causes of action for negligence and intentional infliction of emotional distress. The named defendants successfully moved for summary judgment. ICE was dismissed on the grounds of sovereign immunity, that the United States and its agencies had not consented to be sued for constitutional violations, and that [REDACTED] had failed to exhaust his administrative remedies under the Federal Tort Claims Act. [REDACTED] appealed the dismissal of his action to the Ninth Circuit on March 16, 2006. On August 25, 2008, the Ninth Circuit affirmed the dismissal of the named defendants but ruled [REDACTED] had not been given sufficient opportunity to discover the identities of the individual unknown ICE agents. On remand to the District Court, IEA [REDACTED] and SSA [REDACTED] were identified. [REDACTED] amended his complaint to assert claims against IEA [REDACTED] and SSA [REDACTED]. Subsequently, the United States was substituted in place of IEA [REDACTED] and SSA [REDACTED] with respect to [REDACTED] common law causes of action.

On March 29, 2010, U.S. District Court Judge Dale Fischer granted in part and denied in part Defendants' motion for summary judgment. The Court summarily adopted the recommendation of U.S. Magistrate Judge Ralph Zarefsky, which dismissed the United States and retired ICE Supervisory Special Agent (SSA) [REDACTED] from the case, but denied IEA [REDACTED] motion for qualified immunity. The Magistrate Judge recommended allowing [REDACTED] Fourth Amendment claims of false arrest and imprisonment against IEA [REDACTED] to go to trial because the plaintiff's allegations in his complaint raised a material factual dispute which precluded summary judgment in IEA [REDACTED] favor. The factual dispute concerns whether IEA [REDACTED] interviewed [REDACTED]. The Magistrate Judge also concluded that even though it was undisputed that IEA [REDACTED] knew [REDACTED] name, birth date, Indian origin, the lack of matches for [REDACTED] in DHS databases, and the failure of [REDACTED] to possess a resident alien card, these facts did not support a finding of probable cause, or even a reasonable, but mistaken belief, that Vohra was an alien illegally present in the United States. The Magistrate Judge also opined that IEA [REDACTED] could be liable for [REDACTED] detention by the local county jail beginning on the day she issued the detainer because she lacked probable cause to issue the detainer in the first place.

Agency Corrective Action: CALD recommends that the indemnification request be granted by the DHS Secretary to avoid Ninth Circuit review. If the Solicitor General follows DHS' recommendation not to appeal the denial of qualified immunity, [REDACTED]

may seek private counsel to continue her appeal, giving DOJ or DHS no control of the issues heard on appeal. Even if (b)(6), (b)(7) were to prevail at trial, the plaintiff will appeal the decision to the Ninth Circuit. The only way to prevent Ninth Circuit review is to settle the case.

Updated Cases

1. Case: (b)(6), (b)(7)c)

Assigned Attorneys: (b)(6), (b)(7)c and (b)(6), (b)(7)c

Type of Action: Civil, *Bivens*.

Clients/Stakeholders: ERO.

Issue: Whether the government should settle a *Bivens* case for \$20,000 to avoid Ninth Circuit review of ERO's use of detainees.

Update: On January 4, 2011, ICE received the written indemnification request for \$20,000 from IEA (b)(6), (b)(7) to settle the case. AUSA (b)(6), (b)(7)c representing IEA (b)(6), (b)(7)c in her personal capacity, recommends that DHS grant the indemnification request. DHS OGC has requested ICE's recommendation on the indemnification request, which will require approval by the DHS Secretary. DHS OGC previously recommended that DOJ not appeal the District Court's denial of (b)(6), (b)(7)c qualified immunity due to concerns that the Ninth Circuit could use the case to create adverse precedent regarding ICE's use of detainees. On January 5, 2011, the Solicitor General's office forwarded their draft recommendation not to appeal the District Court's ruling to DHS OGC. DCLD reviewed the draft recommendation and forwarded comments to DHS OGC. Morales' opening appellate brief is currently due on January 24, 2011.

Facts: On August 9, 2003, (b)(6), (b)(7)c was arrested by Santa Ana Police for violating a restraining order. (b)(6), (b)(7)c was then booked into the Orange County Jail. On August 11, 2003, IEA (b)(6), (b)(7)c went to the jail to review the booking records and interview inmates as part of ICE's Alien Criminal Apprehension Program, which was administered by ICE's Office of Investigation at the time. IEA (b)(6), (b)(7)c determined from (b)(6), (b)(7)c booking sheet, California criminal history data, and FBI printout that he might be a foreign national. IEA (b)(6), (b)(7)c attempted to interview (b)(6), (b)(7)c but found him to be belligerent and uncooperative. Although (b)(6), (b)(7)c claimed to be "legal," IEA (b)(6), (b)(7)c investigated the limited information about (b)(6), (b)(7)c she was able to ascertain, such as his date of birth, country of origin, and parents' names, but found no matches in any DHS computer databases. Because IEA (b)(6), (b)(7)c could not locate an existing alien registration number for (b)(6), (b)(7)c, she assigned him a new number (b)(6), (b)(7)c printed out copies of the database searches she conducted, and put them in the file she created for (b)(6), (b)(7)c Unknown to IEA (b)(6), (b)(7)c was, in fact, a lawful permanent resident, but his name was misspelled in (b)(7)e database, making it irretrievable by IEA (b)(6), (b)(7)c. IEA (b)(6), (b)(7)c also did not find an alien registration card among (b)(6), (b)(7)c effects held in the jail property room. IEA (b)(6), (b)(7)c then issued an immigration detainer to jail officials. The immigration detainer was marked "for notification purposes only," and did not request that the jail hold (b)(6), (b)(7)c for up to 48 hours. After the detainer was issued, the state criminal charges were dropped by the Orange County District Attorney. IEA

(b)(6), (b)(7) did not receive any notification of the dropped state charges until August 13, 2003, when (b)(6), (b)(7) was transferred into ICE custody by the jail. When IEA (b)(6), (b)(7) learned that (b)(6), (b)(7) had been taken into ICE custody, she prepared a NTA and arrest warrant for (b)(6), (b)(7) and presented them for approval to SSA (b)(6), (b)(7). SSA (b)(6), (b)(7) reviewed the documents and determined that there was insufficient evidence to initiate immigration charges against (b)(6), (b)(7). SSA (b)(6), (b)(7) ordered (b)(6), (b)(7) to be released. Thus, no immigration charges were brought against (b)(6), (b)(7) by ICE, and (b)(6), (b)(7) was released from ICE custody on August 13, 2003, after a few hours.

On August 19, 2004, (b)(6), (b)(7) filed a *pro se* complaint against Orange County, the City of Santa Ana, Santa Ana Police Officer (b)(6), (b)(7) and unknown Doe officers as defendants. On March 24, 2005, (b)(6), (b)(7) added ICE as a defendant in the case in his second amended complaint. (b)(6), (b)(7) sued the defendants under constitutional tort theories and common law causes of action for negligence and intentional infliction of emotional distress. The named defendants successfully moved for summary judgment. ICE was dismissed on the grounds of sovereign immunity, that the United States and its agencies had not consented to be sued for constitutional violations, and that (b)(6), (b)(7) had failed to exhaust his administrative remedies under the Federal Tort Claims Act. (b)(6), (b)(7) appealed the dismissal of his action to the Ninth Circuit on March 16, 2006. On August 25, 2008, the Ninth Circuit affirmed the dismissal of the named defendants but ruled (b)(6), (b)(7) had not been given sufficient opportunity to discover the identities of the individual unknown ICE agents. On remand to the District Court, (b)(6), (b)(7)c and SSA (b)(6), (b)(7)c were identified. (b)(6), (b)(7) amended his complaint to assert claims against IEA (b)(6), (b)(7) and SSA (b)(6), (b)(7). Subsequently, the United States was substituted in place of IEA (b)(6), (b)(7) and SSA (b)(6), (b)(7) with respect to (b)(6), (b)(7) common law causes of action.

On March 29, 2010, U.S. District Court Judge Dale Fischer granted in part and denied in part Defendants' motion for summary judgment. The Court summarily adopted the recommendation of U.S. Magistrate Judge Ralph Zarefsky, which dismissed the United States and retired ICE Supervisory Special Agent (SSA) (b)(6), (b)(7)c from the case, but denied IEA (b)(6), (b)(7)c motion for qualified immunity. The Magistrate Judge recommended allowing (b)(6), (b)(7) Fourth Amendment claims of false arrest and imprisonment against IEA (b)(6), (b)(7) to go to trial because the plaintiff's allegations in his complaint raised a material factual dispute which precluded summary judgment in IEA (b)(6), (b)(7) favor. The factual dispute concerns whether IEA (b)(6), (b)(7) interviewed (b)(6), (b)(7). The Magistrate Judge also concluded that even though it was undisputed that IEA (b)(6), (b)(7) knew (b)(6), (b)(7) name, birth date, Indian origin, the lack of matches for (b)(6), (b)(7) in DHS databases, and the failure of (b)(6), (b)(7) to possess a resident alien card, these facts did not support a finding of probable cause, or even a reasonable, but mistaken belief, that (b)(6), (b)(7) was an alien illegally present in the United States. The Magistrate Judge also opined that IEA (b)(6), (b)(7) could be liable for (b)(6), (b)(7) detention by the local county jail beginning on the day she issued the detainer because she lacked probable cause to issue the detainer in the first place.

Agency Corrective Action: CALD recommends that the indemnification request be granted by the DHS Secretary to avoid Ninth Circuit review. If the Solicitor General

does not appeal the denial of qualified immunity, (b)(6), (b)(7) has retained private counsel to continue her appeal, giving DOJ or DHS no control of the issues heard on appeal. Even if Morales were to prevail at trial, the plaintiff will appeal the decision to the Ninth Circuit. The only way to prevent Ninth Circuit review is to settle the case.



U.S. Immigration
and Customs
Enforcement

(b)(5), (b)(6), (b)(7)c

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ICE.2013FOIA24375000211

BACKGROUND: The lawsuit stems from ICE enforcement operations involving two separate ICE components. From February through April 2007, ICE Detention and Removal Operations (DRO), Fugitive Operations, New York, locally implemented two nationwide DRO enforcement operations in the New York area. The first operation - [REDACTED (b)(7)e] - was established to locate and apprehend immigration fugitives who were subject to final orders of removal. The second operation [REDACTED (b)(7)e] - was established to locate and apprehend illegal aliens who were convicted of aggravated felonies. As part of the ICE DRO operations, deportation officers conducted consensual entries and interviews of targeted residences to locate and arrest illegal aliens.

From September 24-27, 2007, ICE Office of Investigations (OI), Special Agent in Charge (SAC) New York, and OI Resident Agent in Charge (RAC) Long Island implemented a nationwide operation called [REDACTED (b)(7)e] in Nassau and Suffolk Counties, New York. OI special agents executed administrative arrest warrants via consensual entries and interviews, or “knock and talks,” at pre-targeted locations. The goal of [REDACTED (b)(7)e] was to gather intelligence, develop sources of information by arresting illegal alien gang members, and to disrupt, dismantle and prosecute violent street gangs and their organizations.

This lawsuit seeks injunctive and declaratory relief, and damages. It alleges that ICE’s enforcement operations target the Latino population in the New York City region and violate plaintiffs’ Fourth Amendment Constitutional rights. Plaintiffs contend that the conduct of ICE’s operations demonstrates policies and the practice of: 1) entering and searching homes without a warrant or consent and absent probable cause or exigent circumstances; and 2) stopping, detaining, searching and effecting seizures without probable cause.

IMMIGRATION HISTORY: This is the status of the cases against the plaintiffs who were put into removal proceedings:

1. [REDACTED (b)(6), (b)(7)c] Administratively closed
2. [REDACTED (b)(6), (b)(7)c] case administratively closed 1/25/10.
3. [REDACTED (b)(6), (b)(7)c] Admin closed
4. [REDACTED (b)(6), (b)(7)c]; Last hearing date was 1/25/10; testimony completed, set for decision. Next hearing date is April 27, 2010 before IJ Chew.
5. [REDACTED (b)(6), (b)(7)c]; IJ terminated case on 5/13/08; DHS appeal pending before BIA.
6. [REDACTED] Admin closed
7. [REDACTED (b)(6), (b)(7)c]; Admin closed
8. [REDACTED]; Admin closed

9. [REDACTED] Admin closed

FURTHER ACTION/RECOMMENDATIONS: ELD is identifying ICE polices and procedures already in place that address plaintiffs' injunctive relief demands. CALD and ELD will continue to discuss the feasibility and likelihood of settling the case, including the impact a settlement would have on EAJA fees.

2. [REDACTED] (CALD- [REDACTED])
[REDACTED]

CURRENT DEVELOPMENTS: On March 26, 2010, mediation was held between the parties with Ninth Circuit mediator Chris Goelz in Seattle. This case is *Bivens* only, and DHS is not a defendant. The parties tentatively agreed to settle the case for \$400,000 in monetary damages and a letter of regret signed by the U.S. Attorney in Seattle. The settlement agreement is contingent upon the approval of the ICE employees' indemnification request by the DHS Secretary and approval of the letter by the U.S. Attorney. The case is stayed pending approval of the tentative settlement agreement.

BACKGROUND: [REDACTED] a native of Belize, entered the United States illegally at the age of seven with his mother in 1984. [REDACTED] received alien file number [REDACTED] on May 7, 1990, after he applied for lawful permanent residency. [REDACTED] was granted voluntary departure under the Family Fairness Program on or about June 24, 1991.

The [REDACTED] shows that alien file number [REDACTED] was created July 23, 1992, when [REDACTED] entered the United States as an immigrant. In November 1996, [REDACTED] enlisted in the United States Army. [REDACTED] received an honorable discharge from the Army in July 2003. In 2005, [REDACTED] was convicted and imprisoned for eight months for residential burglary, felony harassment, and violation of a domestic violence protective order. On September 21, 2005, he was interviewed by an ICE agent who initiated removal proceedings under [REDACTED]. He was detained by ICE at the Northwest Detention Center (NWDC) immediately upon his release from the jail on November 15, 2005. His first master calendar hearing was held on November 30, 2005. The matter was continued to December 21, 2005, at which time [REDACTED] representing himself, asserted U.S. citizenship by naturalization. Nothing in alien file [REDACTED] or in the [REDACTED] under [REDACTED] indicated [REDACTED] naturalization or alternate alien number. [REDACTED] was unable to provide any documentation establishing his citizenship claim, and on January 24, 2006, the Immigration Judge ordered [REDACTED] removed.

On April 27, 2006, [REDACTED] with the assistance of counsel, received a copy of his military records that showed an assignment of two different A numbers. On April 28, 2006, [REDACTED] renewed his request for a copy of his naturalization certificate with USCIS using both A numbers. [REDACTED] remained at NWDC until June 29, 2006, when alien file [REDACTED] was forwarded to ICE from USCIS. A review of alien file [REDACTED] revealed that [REDACTED] was naturalized on October 28, 1998, at the INS office in Seattle, Washington. [REDACTED] was released from the NWDC on June 29, 2006, after spending seven and a half months in detention. Subsequent investigation revealed that [REDACTED] first and last name were misspelled in the [REDACTED]

entry for alien file # (b)(6), (b)(7)c A search of the correct spelling of (b)(6), (b)(7)c name into the (b)(7)e database only retrieved alien file # (b)(6), (b)(7)c .

On November 13, 2008, the Northwest Immigration Rights Project filed a *Bivens* complaint in the Western District of Washington on behalf of Castillo (the two-year statute of limitations under the Federal Tort Claims Act had already lapsed). The complaint named five ICE officers: (1) the arresting ICE agent; (2) the supervisor who approved the arrest warrant and notice to appear; (3) the ICE agent who served the plaintiff's arrest warrant and notice to appear; (4) the plaintiff's deportation officer; and (5) the former NWDC AFOD Michael Melendez. All of the ICE defendants are represented by the U.S. Attorney's Office in Seattle. The complaint alleges violations of the plaintiff's Fourth and Fifth Amendment rights. The complaint also alleges that the plaintiff told the arresting ICE agent, the ICE agent who served his arrest warrant and his notice to appear, and his deportation officer that he was a military veteran and a naturalized U.S. citizen. (b)(6), (b)(7) failed to timely file any tort claims with the agency or against the government related to his detention.

On December 10, 2009, Judge Settle granted in part and denied in part the ICE defendants' motion to dismiss or, in the alternate, a motion for summary judgment. The court dismissed without prejudice AFOD Melendez from the case, but found the plaintiff pled sufficient constitutional violations against the remaining defendants. The court also denied the ICE defendants' alternative motion for summary judgment without prejudice and ordered the parties to engage in limited discovery to develop the factual record on application of qualified immunity to the defendants. At the conclusion of the discovery, the ICE defendants will be able to file another motion for summary judgment based on qualified immunity. The U.S. Attorney's Office reserved appeal to the Ninth Circuit on the District Court's ruling and is considering mediation by a Ninth Circuit mediator. (b)(6), (b)(7)c detention has been the subject of numerous press articles and news releases from immigrant advocacy groups.

FURTHER ACTION/RECOMMENDATION: The USAO will submit to ICE the employees' formal request for indemnification. OPLA will need to review and recommend action to DHS OGC. CALD recommends that OPLA recommend to OGC that DHS indemnify. A Status conference is scheduled in 45 days with mediator to discuss progress of settlement approval.

NSLD, APLD, ELD, LELD and HRLD have no significant litigation to report at this time.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, July 30, 2012 6:12 PM
To: (b)(6), (b)(7)c
Cc:
Subject: ICE Settlement/Indemnification Proposal in (b)(6), (b)(7)c case

*****SENSITIVE/PRIVILEGED***PRE-DECISIONAL***ATTORNEY WORK PRODUCT*****

(b)(6), (b)(7)c

ICE is requesting OGC support/concurrence/assistance with our efforts to settle (b)(6), (b)(7)c v. ICE, No. 08-1652 (D.N.J. filed Apr. 3, 2008); interlocutory appeal 643 F.3d 60 (3d Cir. 2011). This case involves 27 ICE *Bivens* defendants who were involved in New Jersey-based Fugitive Operations work from 2006-2008. Plaintiffs have agreed to settle in the amount of \$295,000, which is the Magistrate’s recommendation. ICE’s Front Office concurs with settlement, but we understand that OGC must ultimately sign off on settlement. To that end, and thanks to (b)(6), (b)(7)c guidance on the appropriate protocol here, I’ve prepared a memo for (b)(6), (b)(7)c (routed through you) recommending settlement. I’ve attached that memo in both .pdf and MS-Word format.

The wrinkle here is that, because this is a *Bivens* case, we must also obtain the Secretary’s concurrence with pre-trial indemnification for the ICE *Bivens* defendants under DHS Management Directive No. 0415. To that end, I’m also attaching a memorandum from (b)(6), (b)(7)c to the Secretary (routed through General Counsel Fong) seeking such indemnification (b)(6), (b)(7)c as approved elevation of this second memo, but is on travel for the next couple of days and I have yet to obtain his signature.

Finally, I’m attaching an e-mail from the DOJ Constitutional Torts Branch (ConTorts) concurring with settlement of this matter.

The Magistrate Judge has scheduled an *ex parte* status conference with the Government on Wednesday, at which point he’ll be looking for the status of our settlement deliberations. The Magistrate is expecting some progress, and ConTorts has indicated that, ideally, it would like to be able to represent that OGC is “inclined” to forward the indemnification recommendation to the Secretary. We’re happy to brief you further on this at your convenience. Thank you in advance for your assistance. And, my special thanks to (b)(6), (b)(7)c for walking us through the mechanics of the process.

Best regards,

(b)(6), (b)(7)c



(b)(6), (b)(7)c

(b)(6), (b)(7)c

Director of Enforcement and Litigation
Office of the Principal Legal Advisor

U.S. Immigration and Customs Enforcement

Desk: 202-73 [REDACTED]

Cell: 202-904- [REDACTED]

E-mail: [REDACTED]

***** WARNING *** ATTORNEY/CLIENT PRIVILEGE *** ATTORNEY WORK PRODUCT *****

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Memorandum



United States Attorney
Western District of Washington

Subject: Request for Indemnification
Date: April 5, 2010
[Redacted]

To: Janet Napolitano
Secretary
Department of Homeland Security
[Redacted]
Principal Legal Advisor
Department of Homeland Security
Immigration and Customs Enforcement

From: [Redacted]
United States Attorney
[Redacted]
Assistant United States Attorney
Chief, Civil Division
[Redacted]
Assistant United States Attorney

I. INDEMNIFICATION REQUESTED

On behalf of [Redacted] and [Redacted] (collectively, the “Defendants”), and pursuant to 28 C.F.R. § 50.15(c) and to Department of Homeland Security (“DHS” or the “Agency”) Management Directive (“MD”) 0415, we request that the DHS indemnify the Defendants and authorize to pay Plaintiff on their behalf \$400,000 in settlement and for dismissal with prejudice of the above-referenced matter. As required by MD-0415, the alleged conduct giving rise to Plaintiff’s claims was within the scope of the Defendants’ DHS employment and the proposed settlement is in the interest of the United States.

II. INTRODUCTION

[Redacted] is a naturalized United States citizen and veteran of the United States Army, who was detained at the Immigration and Customs Enforcement’s (“ICE”) Northwest Detention Center (“NWDC”) for approximately 7.5 months. Plaintiff brought this action against the Defendants under *Bivens v. Six Unknown Named Agents of the Bureau of Narcotics*, 403 U.S. 388 (1971), alleging that the Defendants violated his Fourth and Fifth Amendment rights by including material falsities and omissions in his arrest warrant and failing to conduct a reasonable or competent investigation into Plaintiff’s claims of citizenship respectively.

In lieu of an answer, Defendants filed a Motion to Dismiss and Motion for Summary Judgment. The District Court granted in part and denied in part Defendants’ Motions, finding that Plaintiff had adequately pled constitutional violations against the Defendants, but deferring any ruling on the defense of qualified immunity until, as requested by Plaintiff, limited discovery on the defense was conducted. Concurrent with this limited discovery, Defendants filed a protective notice

of appeal to the Ninth Circuit Court of Appeals to give the appropriate Department of Justice (“DOJ”) components sufficient time to decide whether or not to pursue appeal. As part of that appeal, the parties were ordered to participate in the Ninth Circuit’s Mediation Program. Following the mediation before the Ninth Circuit Mediator, the parties reached an agreement in principal to settle this matter for \$400,000.00 and a statement of regret from the Defendants (or the United States Attorney), contingent on the present authorization request.

We believe the early settlement of this matter would be in the interest of the United States for the following primary reasons:

- There is substantial risk that Defendants’ searches will be found to be insufficiently diligent, in part, because Defendants knew Plaintiff’s mother’s name and were aware, at the time at least, that she had been naturalized in 1996. With that information, Defendants could have found evidence of Plaintiff’s citizenship in a variety of ways.
- That said, Defendants’ searches were hobbled by the incompetent maintenance of Plaintiff’s records by the Agency. Although not a party to this action, this incompetence (and the fact that this *Bivens* action is Plaintiff’s sole source of relief) may create additional motivation for a jury who wishes to “hold someone accountable” to find Defendants liable. We respectfully believe it is in interest of the United States to support and uphold the morale of its agents and officers, when the incompetence of the United States’ document management contributed to Plaintiff’s unfortunate detention.
- The District Court Judge has informally expressed to Defendants’ counsel how “troubling” this case is to him and his desire to see it settle.
- Plaintiff is currently unaware of or not focused on certain unfavorable key facts, which likely will be uncovered during discovery. Likewise, the current lawsuit is relatively limited in terms of scope, potential defendants, and Plaintiff’s counsel’s costs.
- Although discovery is limited to the qualified immunity defense, there will be a substantial burden on the Agency to respond to Plaintiff’s discovery requests.
- There already has been significant negative national press coverage of this case.

Therefore, we request that DHS indemnify Defendants and authorize to pay, on their behalf, the Plaintiff \$400,000 in settlement of the above-referenced matter in exchange for a dismissal with prejudice.

III. PROCEDURAL POSTURE

Through his original lead counsel, the Northwest Immigrants Rights Project (“NWIRP”), Plaintiff filed his Original Complaint against the Defendants on or about November 13, 2008, which

was after the two year statutory deadline to file an administrative tort claim against the United States. See [REDACTED] 3. After proper service upon the Defendants was effected, and after some delay in obtaining authorization from DOJ for this office to represent the Defendants (in part, because of a possible conflict arising from Defendant Potter's prosecution for gun violations in this district), this office appeared on behalf of the Defendants. Contemporaneously, Plaintiff's current lead counsel, [REDACTED] an international corporate law firm with over 1400 attorneys, appeared *pro bono* and, on August 21, 2009, filed Plaintiff's first Amended Complaint. See D.C. Dkt. No. 19.

In lieu of an answer, on October 2, 2010, Defendants filed a Motion to Dismiss and Motion for Summary Judgment. See D.C. Dkt. No. 22. In the former motion, Defendants argued that (1) Plaintiff had failed to plead facts that meet the plausibility standard of *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) and that (2) certain Defendants should be dismissed as the doctrine of respondent superior is unavailable in *Bivens* cases. In the latter motion, Defendants argued that their conduct (1) was protected by the doctrine of qualified immunity or (2) arose from reliance on a facially valid arrest warrant.

On December 12, 2010, the District Court granted in part and denied in part Defendants' Motion to Dismiss and Motion for Summary Judgment, finding that, as to the former, Plaintiff had adequately pled non-supervisory constitutional violations against the Defendants (except Assistant Field Office Director Michael Melendez who was dismissed). See D.C. Dkt. No. 27 ("District Court's Order"). Based upon Plaintiff's request to conduct limited discovery on qualified immunity, the District Court denied the latter motion without prejudice pursuant to Fed. R. Civ. P. 56(f)(1), thus, essentially deferring any ruling on the defense of qualified immunity or reliance on a valid arrest warrant until the completion of such limited discovery. *Id.*

The District Court, in turn, ordered the parties to submit a proposed limited discovery schedule, including a deadline for Defendants' renewed dispositive motion regarding qualified immunity. See D.C. Dkt. No. 27. The parties submitted and the District Court approved a discovery schedule, limited to qualified immunity issues, which includes modified initial disclosures, written discovery, depositions, and, as ordered, would culminate in a dispositive motion deadline in late August 2010. See D.C. Dkt. Nos. 28-29. Of note, Plaintiff expressed his intent "to request to inspect relevant computer systems and to have a qualified operator perform the searches described in Defendants' declarations and capture screen shots or printouts related to such searches." *Id.* Limited discovery began on February 15, 2010 with the exchange of modified initial disclosures. Each side has also propounded its first set of requests for production and interrogatories.

Concurrently, Defendants filed a protective notice of appeal of the District Court's Order to the Ninth Circuit Court of Appeals to give the appropriate DOJ components (Civil Appellate and Torts Branch, in particular) sufficient time to decide whether or not to pursue appeal. See D.C. Dkt. No. 30. Defendants, the United States Attorney's Office, and ICE have recommended against pursuing the appeal. On January 15, 2010, the parties were referred to the Ninth Circuit's Mediation Program and, subsequently, Defendants were ordered to show cause why their appeal should not be summarily denied for lack of jurisdiction because the District Court's Order "appears to be a nonappealable order." See [REDACTED]

(b)(6), (b)(7)c This office was interested in exploring mediation with the Ninth Circuit Mediator, Chris Goelz, who in the past has been fair to the government and is familiar with high profile cases such as this one. Plaintiff was amenable and, thus, Mr. Goelz stayed the briefing schedule and the order to show cause, and ordered mediation on March 26, 2010. *See* 9th Cir. Dkt. Nos. 5-6.

In the interim, the parties engaged in informal, direct settlement negotiations, which will be described in more detail below. Following the mediation on March 26 with Mr. Goelz, the parties reached an agreement in principal to settle this matter for \$400,000.00 and a statement of regret from the Defendants (or the United States Attorney), contingent on the present authorization request. The parties further agreed to stay both the limited discovery in District Court and the Ninth Circuit appeal for at least 60 days, with an understanding that DHS' consideration of the proposed indemnification request herein likely will not be complete by that point. On March 30, 2010, the District Court and the Ninth Circuit granted the parties stipulation staying the discovery and appeal respectively, while ordering status reports or conferences within 60 and approximately 45 days respectively. *See* D.C. Dkt. No. 35 (setting status report deadline of June 1, 2010 and responses to outstanding discovery 30 days thereafter); 9th Cir. Dkt. No. 7 (setting status conference for May 11, 2010).

IV. STATEMENT OF FACTS

A. The Parties

1. Plaintiff

Plaintiff was born in Belize on (b)(6), (b)(7)c. He illegally entered the United States with his mother, (b)(6), (b)(7)c near El Paso, Texas on or about July 16, 1984 when he was 7 years old. Plaintiff's original alien file (b)(6), (b)(7)c was created on May 7, 1990, after his mother applied for lawful permanent residency for him. He was granted voluntary departure under the Family Fairness Program on or about June 24, 1991 because his mother became a lawful permanent resident. This program, later superseded by the Family Unity Program, 104 Stat. 4978 (1990), provided legacy INS with regulations for suspending deportation proceedings and issuing temporary work authorization to the spouse and children of certain legalized aliens. *See, e.g.*, 8 C.F.R. §§ 236.10-236.18. Voluntary departure is granted to the spouses and children in two year increments and may be, and was here, extended. *See* 8 C.F.R. § 236.15; Dist. Ct. Dkt. No. 19 at 23.

A second alien file (b)(6), (b)(7)c, was created on July 23, 1992, when the Plaintiff reentered the United States as a permanent resident. It is unknown why this second alien file number was created as the Plaintiff's Mother's Petition for Alien Relative referred to his previously issued alien file number, A-541. *See* Dist. Ct. Dkt. No. 19 at 33. It appears that the number from the Department of State's Immigrant Visa and Alien Registration was mistakenly taken as his alien number. *See* Dist. Ct. Dkt. No. 19 at 27.

In November 1996, Plaintiff enlisted in the United States Army. While in the Army, on October 28, 1998, Plaintiff was naturalized under (b)(6), (b)(7) at the legacy INS office in Seattle, Washington. Plaintiff received an honorable discharge from the Army in July 2003. *See* Dist. Ct. Dkt. No. 19 at 53.

Before he left the Army, on or about March 13, 2003, Plaintiff was convicted of gross misdemeanor assault. Approximately one year later, on or about April 24, 2004, Plaintiff was convicted of domestic violence gross misdemeanor assault. On July 12, 2005, Plaintiff was convicted and imprisoned at Pierce County Jail in Washington State for eight months for residential burglary involving domestic violence, felony harassment involving domestic violence, and violation of a domestic violence protective order. Plaintiff broke into the house of an ex-girlfriend and assaulted her.

2. Defendants

Defendant (b)(6), (b)(7)c is a retired Senior Special Agent of ICE. She served with ICE for approximately 21 years, before retiring in 2008. The majority of her time as a Senior Special Agent, including the time period covered in this matter, involved interviewing foreign born arrestees in Washington State county prisons. The great majority of her time was spent conducting such interviews in Pierce County Jail, in Western Washington.

Defendant (b)(6), (b)(7)c was a Supervisory Special Agent with ICE during the time period covered in this matter. On July 2, 2008, this office (through an AUSA from the Eastern District of Washington) indicted (b)(6), (b)(7)c for violation of 18 U.S.C. § 922(g), Felon in Possession of Firearms, and 18 U.S.C. § 1001, False Statement. The indictment accused (b)(6), (b)(7)c of being convicted of four counts of felony breaking and entering during the mid-1970s in New Jersey and falsifying his firearms permits in order to gain possession of his firearms. See 08-CR-5481-RBL (WDWA). On January 28, 2009 (b)(6), (b)(7)c entered into a pre-trial diversion agreement with the Government, whereby he agreed to resign his ICE position, forfeit his firearms, and receive six months of probation.

Defendant (b)(6), (b)(7)c is currently and was during the time period covered in this matter a Senior Special Agent with ICE at the NWDC.

Defendant (b)(6), (b)(7)c is currently a Supervisory Detention & Deportation Officer with ICE in Taylor, Texas. (b)(6), (b)(7)c was a Deportation Officer at the NWDC during the time period covered in this matter.

B. Plaintiff's Interviews and Initial Detention

On September 21, 2005, Plaintiff was interviewed by (b)(6), (b)(7)c at the Pierce County Jail. In his Amended Complaint, Plaintiff alleges that during the interview, he:

explained his immigration history, including the facts that he had been a legal permanent resident and applied for and received naturalization while serving in the United States military. He also described that he was sworn in as a U.S. citizen

See Dist. Ct. Dkt. No. 19 at ¶ 3.10.

For her part, (b)(6), (b)(7)c
(b)(6), (b)(7)c See Dist. Ct. Dkt. No. 22-3 at 3. However, she also declared that, in the ordinary course of business, she would have searched the (b)(7)e to search for an alien's file and, in this case, "conducted all reasonable checks with the information provided to me through his immigration file using (b)(6), (b)(7)." *Id.* 2-3. There is no dispute that Plaintiff did not substantiate his claims of citizenship with documentary evidence until well after Defendants' participation in his detention.

On the same day, (b)(6), (b)(7)c prepared and signed the Form I-213: Record of Deportable/Inadmissible alien ("I-213" or "Arrest Warrant") regarding (b)(6), (b)(7)c on which form (b)(6), (b)(7)c also signed his approval. As to the I-213, Plaintiff argues that, by claiming that "there is no record to indicate subject applied for relief/immigration status," the I-213 "specifically excluded the information that Plaintiff provided, including that he was a U.S. citizen, that he gave a detailed account of his military service, his naturalization application process, and his attendance at his naturalization ceremony." See Dist. Ct. Dkt. No. 19 at ¶ 3.11. Plaintiff further alleges that the Arrest Warrant contained materially false allegations when it stated that Plaintiff "claimed no property or equities here in the U.S.," when, in fact, he repeatedly informed Defendants he was a U.S. citizen. See Dist. Ct. Dkt. No. 23 at 9.

Also on that day, (b)(6), (b)(7)c prepared and (b)(6), (b)(7)c signed a Notice of Custody Determination allowing for the Plaintiff's release from ICE detention if he posted a \$25,000 bond.

Two days later, on September 23, 2005, Defendants (b)(6), (b)(7)c and (b)(6), (b)(7)c initiated removal proceedings against Plaintiff under (b)(6), (b)(7)c, by preparing and signing respectively Form I-862: Notice to Appear before an Immigration Judge ("Notice to Appear"). The Notice to Appear charged Plaintiff with removal pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)), alien present in the United States without being lawfully admitted, and 8 U.S.C. § 1182(a)(2)(A)(i)(I) (INA § 212(a)(2)(A)(i)(I)), alien convicted of a crime of moral turpitude. As to the Notice to Appear, Plaintiff alleges:

[i]n that document, which is the charging document in removal proceedings, the officers falsely allege that (b)(6), (b)(7)c was not a citizen of the United States. The Notice to Appear also charged (b)(6), (b)(7)c as deportable for being present in the United States without admission. Tellingly, (b)(6), (b)(7)c did not receive a copy of the Notice to Appear until nearly two months later on November 15, 2005, the day he was turned over to the custody of ICE, further depriving him of any ability to present evidence or contradict the complete falsity of that document before his liberty was curtailed.

See Dist. Ct. Dkt. No. 19 at ¶ 3.11.

On November 15, 2005, Plaintiff was transferred from Pierce County Jail to ICE custody at the NWDC in Tacoma, Washington. Upon his arrival, Plaintiff alleges that he "told Officer (b)(6), (b)(7)c (b)(6), (b)(7)c that he was a U.S. citizen, and that he had become a U.S. citizen while serving in the

military. He described his naturalization ceremony in great detail. He also told (b)(6), (b)(7)c that his first name had been misspelled on his lawful permanent resident card.” See Dist. Ct. Dkt. No. 19 at ¶ 3.19. Plaintiff further alleges that:

[d]uring that same interview, Officer (b)(6), (b)(7)c asked (b)(6), (b)(7)c if he wanted to go home. Thinking she meant his long time home in Washington State, (b)(6), (b)(7)c replied in the affirmative. Officer (b)(6), (b)(7)c then handed him paperwork to sign. (b)(6), (b)(7)c refused to sign after reading the paperwork and realizing that the papers were for a stipulated order of removal to Belize, his country of birth.

See Dist. Ct. Dkt. No. 19 at ¶ 3.20. (b)(6), (b)(7)c then served Plaintiff with the Arrest Warrant, the Notice to Appear, and the Notice of Custody Determination.

For her part, (b)(6), (b)(7)c has declared that Plaintiff did tell her that he had immigration status and that she is “sure [she] would have searched immigration computer systems thoroughly for the plaintiff’s name.” See Dist. Ct. Dkt. No. 22-4 at 4. However, she has no specific recollection of the specific searches she ran that day.

Immediately after that interview, Defendant (b)(6), (b)(7)c interviewed Plaintiff. Plaintiff alleges that:

Officer (b)(6), (b)(7)c explained that he had been assigned as (b)(6), (b)(7)c Deportation and Removal Officer. Officer (b)(6), (b)(7)c questioned (b)(6), (b)(7)c at length, repeating the first Officer (b)(6), (b)(7)c questions, as well as asking (b)(6), (b)(7)c where he was born, where he’d gone to high school, and where he lived. (b)(6), (b)(7)c yet again explained to Officer (b)(6), (b)(7)c that he had obtained permanent residence and ultimately became a U.S. citizen. (b)(6), (b)(7)c explained in detail about the different schools he had attended in the United States, and then talked to Officer (b)(6), (b)(7)c about his enrollment in the U.S. military, and the naturalization process that he had gone through to become a U.S. citizen while serving in the military.

See Dist. Ct. Dkt. No. 19 at ¶ 3.21. (b)(6), (b)(7)c does not contest these allegations, but claims that he searched (b)(7)e sound-alike and social security number features and came up empty. See Dist. Ct. Dkt. No. 22-5 at 2.

C. Plaintiff’s Immigration Proceedings and Release

Plaintiff’s first immigration hearing was held on November 30, 2005, two weeks after ICE took him into custody. Plaintiff appeared unrepresented and the hearing was continued to December 21, 2005, to permit Plaintiff to obtain an attorney. See Dist. Ct. Dkt. No. 22-6. On December 21, 2005, Plaintiff again appeared unrepresented and, while maintaining that he was a naturalized U.S. citizen, offered no documentary proof of his citizenship at the hearing. See Dist. Ct. Dkt. No. 22-7. ICE Counsel represented to the IJ that he could find no records of the Plaintiff’s claimed

naturalization. The Immigration Judge (“IJ”) Kenneth Josephson, thus, again continued the hearing until January 24, 2006, to allow Plaintiff time to submit proof of his citizenship.

During this time period, Plaintiff alleges that he:

again talked to his deportation officer [Defendant (b)(6), (b)(7)c] to see if the deportation officer had checked (b)(6), (b)(7)c military records, his social security records, or his immigration file in order to verify (b)(6), (b)(7)c claim of citizenship. Whenever possible, (b)(6), (b)(7)c followed up with Officer (b)(6), (b)(7)c asking for updates on his case. He repeatedly informed Office (b)(6), (b)(7)c that he was a U.S. citizen, mentioning his military record, his social security number, and other identifying information. His deportation officer simply stated that he would keep looking.

See Dist. Ct. Dkt. No. 19 at ¶ 3.27. (b)(6), (b)(7)c acknowledges discussing this matter with Plaintiff with some frequency and has declared that “[a]s his deportation officer, [he] kept (b)(6), (b)(7)c versed on the status of his case and continued to monitor his records in the USCIS.” *See* Dist. Ct. Dkt. No. 22-5 at ¶ 5. Mr. Stephens has also claimed he contacted Citizenship and Immigration Services (“CIS”) and requested that they search their systems for any evidence of Plaintiff’s naturalization. (b)(6), (b)(7)c claims CIS did so and did not find (b)(6), (b)(7)c

On January 24, 2006, Plaintiff again failed to provide any supporting documentation showing he was a naturalized U.S. citizen, but informed the IJ that he had never received his citizenship papers and his military discharge papers were in the trunk of his car. *See* Dist. Ct. Dkt. No. 22-8 at 18. ICE Counsel again represented to the IJ that he could find no records of the Plaintiff’s claimed naturalization. Thus, the IJ ordered Plaintiff removed from the United States to Belize based on the charges set forth in the Notice to Appear.

Two days later, an attorney at NWIRP filed on behalf of Plaintiff an application with USCIS for replacement of his certificate of naturalization referencing (b)(6), (b)(7)c. In February 2006, CIS processed the request and advised that it could not locate evidence of naturalization under (b)(6), (b)(7)c. *See* Dist. Ct. Dkt. No. 24 at 10.

On February 22, 2006, Plaintiff appealed the IJ’s removal order to the Board of Immigration Appeals (“BIA”).

On April 27, 2006, following two purported military records requests (Form 180), Plaintiff received his military records that showed an assignment of two different alien file numbers. *See* Dist. Ct. Dkt. No. 24 at 9-10. On or about April 28, 2006, Plaintiff renewed his request for a copy of his naturalization certificate with USCIS using both alien file numbers. On May 1, 2006, Plaintiff requested a two month extension from the BIA to file his appellate brief. The BIA granted the plaintiff a three week extension until May 24, 2006, to file his brief. On May 22, 2006, NWIRP, on behalf of Plaintiff, filed a brief with the BIA. In it, Plaintiff argued for the first time that he had been naturalized under a different alien file number, *viz.*, (b)(6), (b)(7)c. The next day, on May 23, 2006, ICE Counsel filed an opposition brief on behalf of DHS arguing that Plaintiff failed to meet his burden of proof establishing his U.S. citizenship claim and stating that DHS records did not indicate Plaintiff

had ever been naturalized.

On June 16, 2006, the BIA remanded the case to allow Plaintiff an additional opportunity to prove his U.S. citizenship. Plaintiff remained at NWDC until June 29, 2006, when USCIS forwarded alien file (b)(6), (b)(7) to ICE. A review of alien file (b)(6), (b)(7) revealed Plaintiff's status as a naturalized U.S. citizen. Plaintiff was released from the NWDC that same day, after spending approximately 226 days in ICE detention.

D. The State of Plaintiff's A-File(s) and the Potential Searches Thereof

Plaintiff alleges that his immigration status and citizenship information was in his immigration file and that:

during the entire length of (b)(6), (b)(7)c unlawful detention, ICE had access to (b)(6), (b)(7)c complete immigration history, his social security number, and his fingerprints, his date of birth, his parents' names, and numerous other details, each of which independently would have revealed (b)(6), (b)(7)c citizenship status. Even a simple name search would have revealed (b)(6), (b)(7)c status. When confronted with repeated and credible claims of citizenship and a directive from the Immigration Court to investigate (b)(6), (b)(7)c claims, any reasonable officer or supervisor is constitutionally mandated to perform a search of ICE records using (b)(6), (b)(7)c name, social security number, or fingerprints. Defendants' repeated failure to conduct even the most minimal investigation of their own records is patently unreasonable and arbitrary.

See Dist. Ct. Dkt. No. 19 at ¶ 3.31.

As stated above, Plaintiff in fact had two alien registration numbers and, thus, two alien files that remained un-cross-referenced and unconsolidated until August 4, 2006, *i.e.*, after his release.

1. A-541

(b)(6), (b)(7) s recorded in USCIS contained Plaintiff's correct social security number (b)(6), (b)(7)c date of birth, and country of birth. See Dist. Ct. Dkt. No. 24 at 18 (printout of USCIS search dated December 12, 2005). (b)(6), (b)(7) correctly spelled Plaintiff's surname, but misspelled his first name, which was spelled in (b)(6), (b)(7) with one (b)(6), (b)(7)c rather than (b)(6), (b)(7)c. Of more importance, (b)(6), (b)(7) did not and still does not contain Plaintiff's mother's name or any indication he was naturalized.

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¹ Oddly, however, Plaintiff's green card, issued on November 19, 1996, had the name

(b)(6), (b)(7)c

2. A-414

On November 3, 1998, only days after Plaintiff became a United States citizen, an unidentified person changed Plaintiff's last name in (b)(6), (b)(7) from (b)(6), (b)(7)c See Dkt. 22-11 at ¶ 4. Of less importance, Plaintiff's first name was also changed from (b)(6), (b)(7)c to (b)(6), (b)(7)c. *Id.* Thus, the name that corresponded to (b)(6), (b)(7) was (b)(6), (b)(7)c. See Dkt. 24 at 16 (printout of USCIS search dated May 12, 2006, *viz.*, prior to his release). A-414 also did not and does not have any social security number associate with it, but does contain Plaintiff's correct date of birth, date of entry, country of origin, mother's name, and confirmation that Plaintiff was naturalized (including date, location, and court of naturalization). (b)(6), (b)(7) contains "Renison Castillo as an alias, but it is unclear whether, prior Plaintiff's detention, whether (b)(6), (b)(7) contained that alias.

3. Potential Searches

As reviewed above, Defendants claim that they either in fact searched or are "certain they would have searched" USCIS, at a minimum, by (1) exact name (command 9103), (2) "sounds alike" name (command 9102), and (3) social security number (command 9101/ss), which results then could be narrowed or confirmed by (4) date or (5) country of birth. Defendants all claim their USCIS searches immediately hit (b)(6), (b)(7), which, again, contained Plaintiff's correct social security number (b)(6), (b)(7)c date of birth, and country of birth, but which did not contain any naturalization information.

Based upon this office's investigation, even with (b)(6), (b)(7) in hand, Defendants could not have found (b)(6), (b)(7) which contained evidence of Plaintiff's naturalization, by an exact name search, of course. Moreover, Defendants could not have found (b)(6), (b)(7) by the "sounds alike" feature either because (b)(6), (b)(7)c does not hit (b)(6), (b)(7)c in a "sounds alike" search. Further, Defendants could not have found (b)(6), (b)(7) by social security number because, again (b)(6), (b)(7) did not contain a social security number. It is our understanding that the date of birth, date of birth range, and country of birth are not searchable by themselves, but only when used with other primary search parameters.

(b)(6), (b)(7)c, (b)(7)e

(b)(6), (b)(7)c

ed

(b)(6), (b)(7)c

Finally, Defendants, of course, could have simply called the United States Army's military records repository in St. Louis to confirm Plaintiff's claimed military service and either to confirm his United States citizenship directly or to obtain the (b)(6), (b)(7) number present in those records. Defendant (b)(6), (b)(7)c could be expected to know this fact as well.

V. STATEMENT OF LAW

Plaintiff brought this action against the Defendants under *Bivens*. To state a cause of action under *Bivens*, a plaintiff must allege: (1) that a right secured by the Constitution of the United States was violated, and (2) that the violation was committed by a federal actor. *See Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1947 (2009). Plaintiff alleges violations of his Fourth and Fifth Amendment rights.

A. Plaintiff's Fourth Amendment Claims

With respect to the former, Plaintiff claims that Defendants violated his "clearly established right to be free from unreasonable searches and seizures as guaranteed by the Fourth Amendment" *See* Dist. Ct. Dkt. No. 19 at ¶ 5.1. As the District Court correctly states in its Order, the seizure of an individual violates the Fourth Amendment if it is objectively unreasonable under the circumstances. *See Graham v. Connor*, 490 U.S. 386, 397 (1989). Further, the Ninth Circuit has held that courts recognize "challenges to the validity of searches and seizures conducted pursuant to a warrant if the affidavit in support of the warrant included false statements or material omissions that were made intentionally or recklessly." *See Al-Kidd v. Ashcroft*, 580 F.3d 949, 973 (9th Cir. 2009) (*citing Franks v. Delaware*, 438 U.S. 154, 155-56 (1978); *United States v. Stanert*, 762 F.2d 775, 781 (9th Cir.1985) (extending *Franks* to material omissions)).

Here, Plaintiff alleges that both the Arrest Warrant and Notice to Appear were "replete with material omissions including the omission of Plaintiff's detailed statements that he is a U.S. Citizen and they are replete with false statements including inaccurate reports of (b)(6), (b)(7)c immigration history." *See* Dist. Ct. Dkt. No. 23 at 9. Plaintiff argues that the reckless inclusion of such falsities and omissions render those documents invalid. *Id.* Plaintiff emphasizes that, at the time of his interview with (b)(6), (b)(7)c Plaintiff had two months left to serve of his prison sentence, and "there were absolutely no exigent circumstances preventing Officers (b)(6), (b)(7)c or (b)(6), (b)(7)c from using those two months to fulfill their duty to conduct a reasonable search of ICE records to confirm (b)(6), (b)(7)c credible and detailed statements." *See* Dist. Ct. Dkt. No. 23 at 4.

³ It is not entirely clear whether, but appears to be unlikely that, a (b)(7)e search or a (b)(7)e query could have located any additional information via Plaintiff's criminal history or fingerprints respectively.

B. Plaintiff's Fifth Amendment Claims

With respect to the Fifth Amendment, Plaintiff claims that Defendants violated his Fifth Amendment procedural due process rights. *See* Dist. Ct. Dkt. No. 19 at ¶ 5.5. The Ninth Circuit has held that, when a court is “dealing with the detention of an individual who claims to be a United States citizen,” if the individual’s “claim is true, his detention under the [Immigration and Nationality Act] violates the Non-Detention Act as well as the Due Process Clause of the Constitution.” *See Flores-Torres v. Mukasey*, 548 F.3d 708, 712 (9th Cir. 2008). Of note, “Where such serious injury (*i.e.* deportation) may be caused by INS decisions, its officials must be held to the highest standards in the diligent performance of their duties.” *See Rivera v. Ashcroft*, 394 F.3d 1129, 1134-35 (9th Cir. 2004) (citations omitted).

Plaintiff alleges that Defendants did not meet the standards of diligent performance of their duties and, thereby, violated his procedural Fifth Amendment rights because they “deliberately ignored (b)(6), (b)(7)c detailed, credible history of his path to U.S. citizenship, they deliberately ignored voluminous and readily accessible documents in their possession that demonstrated his citizenship, and they deliberately ignored all the evidence in their possession contradicting their basis for holding him.” *See* Dist. Ct. Dkt. No. 23 at 8. In short, Plaintiff alleges that Defendants failed to conduct a reasonable or competent initial search into Plaintiff’s claims of citizenship and then failed to conduct a reasonable or competent on-going investigation into the same.

Plaintiff further claims that Defendants’ conduct also constitutes a violation of the substantive component of Plaintiff’s Fifth Amendment rights. *See* Dist. Ct. Dkt. No. 23 at 8. Plaintiff alleges that Defendants’ conduct was “so egregious that it shocks the conscience” in that Defendants acted with deliberate indifference to Plaintiff’s constitutional rights. *Id.* (*citing Porter v. Osborn*, 546 F.3d 1131, 1139 (9th Cir. 2008) (“Where extended opportunities to do better are teamed with protracted failure even to care... Then, indifference is truly shocking.”)). Indeed, Plaintiff has claimed that Defendants’ actions demonstrate not only plain incompetence, but also animus toward Plaintiff. *See* Exhibit 1 hereto.

C. Qualified Immunity

Defendants would argue, of course, that their conduct is protected by the doctrine of qualified immunity. Government officials enjoy qualified immunity from civil damages unless their conduct violates “clearly established statutory or constitutional rights of which a reasonable person would have known.” *See Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). Even if a constitutional violation occurred, officials are entitled to qualified immunity if they acted reasonably under the circumstances. *See Millender v. County of Los Angeles*, 564 F.3d 1143, 1148 (9th Cir. 2009). “Qualified immunity balances two important interests—the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably,” *Pearson v. Callahan*, 129 S.Ct. 808, 815 (2009), and protects “all but the plainly incompetent or those who knowingly violate the law.” *Malley v. Briggs*, 475 U.S. 335, 341 (1986).

Procedurally, in resolving a claim of qualified immunity, courts must determine whether,

taken in the light most favorable to a plaintiff, the defendant's conduct violated a constitutional right and, if so, whether the right was clearly established. *See Saucier v. Katz*, 533 U.S. 194, 201 (2001); *McSherry v. City of Long Beach*, 560 F.3d 1125, 1129-30 (9th Cir. 2009). While often beneficial to address in that order, courts have discretion to address the two-step inquiry in the order they deem most suitable under the circumstances. *See Pearson*, 129 S. Ct. at 818 (overruling holding in *Saucier* that the two-step inquiry must be conducted in that order, and the second step is reached only if the court first finds a constitutional violation); *McSherry*, 560 F.3d at 1130.

In response to Plaintiff's Fourth Amendment claim (and, likewise, ultimately his procedural due process Fifth Amendment claim), Defendants' analysis would start, not with the content of the Arrest Warrant, but with the existence or lack of probable cause. An arrest is a lawful seizure if an officer has probable cause that an individual committed a crime. *See Beck v. Ohio*, 379 U.S. 89 (1964); *see also Blankenhorn v. City of Orange*, 485 F.3d 463, 470-71 (9th Cir. 2007) (stating that probable cause must exist at the moment of arrest). "Probable cause exists when, under the totality of the circumstances known to the arresting officers (or within the knowledge of the other officers at the scene), a prudent person would believe the suspect had committed a crime." *Blankenhorn*, 485 F.3d at 471 (*citing Dubner v. City & County of San Francisco*, 266 F.3d 959, 966 (9th Cir. 2001)). Thus, the issue for qualified immunity purposes is whether a reasonable officer would have believed probable cause existed to support the arrest. *See Malley v. Briggs*, 475 U.S. 335, 345-46 (1986) (holding that qualified immunity shields an officer seeking an arrest warrant unless no reasonable officer could think probable cause existed for the warrant).

Furthermore, Defendants would argue that they were allowed to reasonably rely on the approval of the Arrest Warrant by either Defendant (b)(6), (b)(7) (in his quasi-judicial capacity), or perhaps ICE attorneys or later the IJ. *See KRL v. Estate of Moore*, 512 F.3d 1184, 1189 (9th Cir. 2008); *Beck v. City of Upland*, 527 F.3d 853, 864 (9th Cir. 2008) (holding actions of independent prosecutor filing criminal charges may break casual link to investigating officers); *Galen v. County of Los Angeles*, 477 F.3d 652, 663 (9th Cir. 2007); *see also Alvarez-Machain v. United States*, 331 F.3d 604, 636 (9th Cir. 2003) (noting that "police officers have been held to be insulated from liability for deprivations of liberty where there are independent, intervening acts of other decision-makers in the criminal justice system, such as prosecutors, grand juries, or judges") (*rev'd on other grounds sub. nom. Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004)). And, Defendants would further argue that they should not lose their shield of qualified immunity because the Arrest Warrant was not "so lacking in indicia of probable cause as to render official belief in its existence unreasonable." *Malley*, 475 U.S. at 344-45 (citation omitted).⁴

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⁴ Likewise, as argued in Defendants' Motions, Defendants would argue that their respective roles varied widely and what's "reasonable" for a particular officer depends on his or her role in the execution of the warrant. *KRL*, 512 F.3d at 1190 (*citing Ramirez v. Butte-Silver Bow County*, 298 F.3d 1022, 1027 (9th Cir. 2002)). We would argue that Defendants (b)(6), (b)(7)c and (b)(6), (b)(7)c who did not seek an arrest warrant lacking in probable cause, but relied upon representations made by their superiors, are still entitled to qualified immunity.

VI. ANALYSIS: RISKS AND VALUATION

A. Statement of Risks

Although there can be no doubt that the doctrine of qualified immunity sets a very high standard for a plaintiff to establish liability (or, in another sense, a very low standard of competence that a defendant must show), in some ways the two standards (“objective unreasonableness” and “diligence” under the constitutional standards, and “reasonableness” under qualified immunity jurisprudence) are two sides of the same coin. Plaintiff will try to show that Defendants’ investigations were ultimately unreasonably circumspect and, thus, the Arrest Warrant invalid and due process lacking, while Defendants will try to show that their conduct was, at a minimum, not “plainly incompetent.”

As experienced Ninth Circuit mediator, Mr. Goelz, opined, these standards can appear “very squishy” to a jury and create “real liability issues.” Of equal importance, as Mr. Goelz also opined, the Ninth Circuit “is not a good place for bad facts,” even if we were to succeed in having one or two Defendants dismissed via their renewed Motion for Summary Judgment. Even though there is a broad swath of fair minded “middle of the road” jurists in that Circuit, Mr. Goelz stated that it would be “hard to find a good panel” in the Ninth Circuit with such facts, and that Defendants should not proceed unless they had an “iron proof” legal theory.

(b)(6), (b)(7)c, (b)(7)e

(b)(6), (b)(7)c

- There are at least two DHS policies that were not followed in Defendants’ detention and investigation:
 - A June 21, 2004 Memorandum requires the ICE Special Agents in Charge (“SAC”) of the relevant field office to give specific written authorization to file Notices to Appear issued to aliens with prior military service and requires that a written memorandum from the SAC be in the alien file showing the factors the SAC considered.
 - An October 19, 2004 Memorandum concerns Notice to Appear documentary requirements. “At a minimum,” the Memorandum required agents to complete FD-249 fingerprint cards, print out of results, including negative responses of name search in (b)(7)e function, record of fingerprint identification number, and documentation of consular notification, none of which appear in this Plaintiff’s alien file and some of which may have aided in his positive identification.
- The statute of limitations for any Federal Tort Claims Act (“FTCA”) claims passed on June 29, 2008, two years after Plaintiff was released from ICE custody. *See* 28 U.S.C. § 2401 (b). The only relief this Plaintiff will receive, despite the conceded negligence in the maintenance of his alien files, is through this lawsuit. These facts (the combined incompetence of the United States and its employees, and that this *Bivens* action is Plaintiff’s sole source of relief) may create additional motivation for a jury (or, indeed the Ninth Circuit), who wishes to “hold someone accountable,” to find Defendants liable.
- Plaintiff has told a more or less consistent story and, at least to the Ninth Circuit mediator, comes off as a reasonable if somewhat hapless person.
- Finally, we respectfully believe it is in interest of the United States to support its agents and officers whose duty to conduct reasonable searches is, in part, as here,

compromised by the incompetence of the United States' document management, which contributed to Plaintiff's unfortunate detention. We believe employee morale could severely be affected if the agents and officers were left "hung out to dry."

In short, there are substantial liability risks ranging from searches that could be deemed incompetent (which themselves were hobbled by failures by other DHS employees), to policy violations, to "guilt by association." At the end of the day, it is a matter of how much risk the Agency is willing to expose its agents to. Unfortunately, Plaintiff has a very simple story tell, while Defendants' story is a much more complex one for a jury to follow.

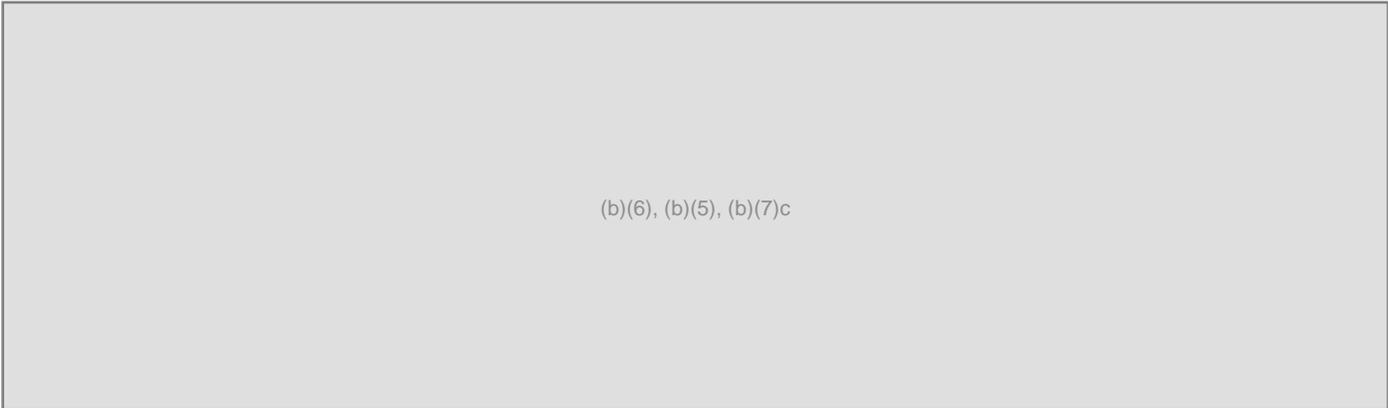
Furthermore, the following reasons weigh in favor of early (*i.e.*, pre-judgment) settlement:

- It does not appear that Plaintiff has focused on his mother's name as a potential fruitful source of claimed incompetence. We believe that Plaintiff's lead counsel, K&L Gates, will do a very competent investigation in discovery and eventually discover that a specific verifiable combination of search values could have found A-414. In other words, our position on the facts will become worse as discovery proceeds.
- (b)(6), (b)(7)c
- Plaintiff's counsel has suggested, and potentially could, expand this case to include other Agency employees who had the ability (if not the duty), but failed, to conduct a search of USCIS, including ICE attorneys, CIS computer specialists consulted by Defendants, etc. Even if they no longer can be named as Defendants, substantial burden to these Agency employees would result.
- Although the discovery plan is limited to the qualified immunity defense, there will be substantial burden on the Agency to respond to Plaintiff's discovery requests, including requests for the production of documents and eventually video-taped computer searches by certified CIS experts, as well as a desired Fed. R. Civ. P. 30(b)(6) deposition.
- There already has been significant, negative, early and continuing press coverage of this case. *See, e.g.*, <http://latimes.com/news/nationworld/nation/la-na-citizen9-2009apr09.0.2307847.full.story> and http://www.seattletimes.nwsourc.com/html/nationworld/2010958681_apuscitizendetained.html
- Plaintiff's lead counsel, (b)(6), (b)(7)c has recognized expertise in e-discovery issues. Besides the certainty that it will do a competent electronic investigation, its fees in particular will quickly increase and augment Defendants' potential liability and limit

its ability to settle at the present amount in the future.

In short, Defendants have significant leverage at this point in time, including the Ninth Circuit appeal, which would be lost by waiting until a ruling on Defendants' qualified immunity defense.

B. Valuation



(b)(6), (b)(5), (b)(7)c

Case	Claims	Settlement/Judgment	Per Day; If Prorated (x 226)
<i>Miller v John Dougans et al</i> ; 05-ca-292, D. Md.	<i>Bivens</i> & Section 1983 Claims	\$215,000	\$11,315; Approx. \$2.56 million
<i>Soto-Torres v. Johnson</i> ; S-99-CIV-1695, E.D. Cal.	FTCA, <i>Bivens</i> & Section 1983 Claims	\$100,000 (\$75,000 fed.; \$25,000 county)	Approx. \$7,000; \$1.582 million
<i>Harvey v. City of New York</i> ; 07-cv-0343, E.D.NY	Section 1983 Claims	\$145,000	Approx \$4,500; \$1.017 million
<i>Cabrales-Huerta v. United States</i> ; SA-06-CA-0878, W.D. Tex.	FTCA & <i>Bivens</i> Claims	\$99,000	\$4,125; \$932,250

Plaintiff's original settlement demand was based on a \$3,000 per day figure. Defendants believe that Plaintiff derived this figure from a published opinion, *Hyatt v. United States*, 968 F. Supp 96 (E.D.N.Y. 1997). In *Hyatt*, an FTCA case, plaintiff brought claims of, *inter alia*, false imprisonment after he was imprisoned for approximately 99 days. *Id.* at 99. While finding that Plaintiff's INS record mistakenly became part of an ongoing criminal investigation and acknowledging that that administrative error contributed to the incarceration, the Court found that

other “obvious” factors (which “a person proceeding with reasonable caution would have observed”) made Plaintiff’s incarceration “grossly negligent.” *Id.* at 102, 104, & 108-09. The Court awarded the plaintiff \$297,000 (or \$3,000 per day) after a bench trial. *Id.* at 112. The prorated amount in this case (over 226 days) would be \$700,000.

Defendants also believe that *Robinson v. Multnomah Cnty et al.*, 08-cv-821-HU (D.Or. 2008), is instructive and justifies the proposed settlement and indemnification request herein, even when the facts are viewed in Defendants’ light. Plaintiff Robinson brought Section 1983 Claims against Multnomah County and State of Oregon for an incarceration that was extended for 18 days longer his sentence. It appears that the delay in plaintiff’s release was due solely to an administrative mis-communication between the State and County. The parties settled for \$30,000 or \$1,428 per day. The prorated amount in this case (over 226 days) would be \$376,516.

VII. SETTLEMENT DISCUSSIONS AND PROPOSAL

As stated above, on January 15, 2010, the parties were ordered to attend on February 11, 2010 a settlement assessment conference to determine whether this matter would be appropriate for the Ninth Circuit’s Mediation Program. *See* 9th Cir. Dkt. No. 3. With the consent of the Defendants and our assigned ICE counsel, this office began to explore settlement discussions at that point by requesting a settlement demand from Plaintiff. Additionally, in the event informal settlement discussions were to stall, this office was interested, indeed eager, to mediate this case before the Ninth Circuit Mediator, Chris Goelz, who in the past has been fair to the government and is familiar with high profile cases such as this one.

At the assessment conference on February 11, Plaintiff expressed his willingness to explore settlement and mediation, if necessary, with Mr. Goelz. On February 18, 2010, Plaintiff transmitted his original settlement demand, attached in Exhibit 1 hereto, of (1) \$700,000 and (2) a written apology from (a) each of the Defendants and (b) the Secretary of the Department of Homeland Security herself. While the parties explored direct, informal settlement discussions (see further correspondence in Exhibit 1), Mr. Goelz stayed the briefing schedule and the Circuit’s order to Defendants to show cause why the appeal should not be summarily dismissed, and ordered mediation on March 26, 2010. *See* 9th Cir. Dkt. Nos. 5-6.

Following the mediation before Mr. Goelz, the parties reached an agreement in principal to settle this matter for (1) \$400,000.00 and (2) a statement of regret from the Defendants (or the United States Attorney), contingent on the present indemnification request. The parties also agreed (3) to stay (a) the limited discovery in District Court and (b) the Ninth Circuit appeal for at least 60 days, with an understanding that DHS’ consideration of the proposed indemnification request herein likely will not be complete by that point. In any event, Defendants note that Plaintiff’s original demand is 75% higher than the proposed settlement amount; that Defendants did not formally make any offer of settlement and otherwise proceeded consistent with ICE regulations; and Defendants’ case is otherwise not prejudiced in any way by these discussions.

As to the statement of regret, the parties agreed that it would contain merely the following: (1) a statement of general regret (not apology) that a United States citizen was detained, (2) an

acknowledgment of his honorable discharge (which is evidenced on his DD-214), and (3) an explanation of what ICE has done since approximately 2004 to assure that such a detention not occur again. The latter would be drafted by ICE itself.

VIII. CONCLUSION

For the foregoing reasons, Defendants request and this office recommends that DHS indemnify the Defendants and authorize to pay Plaintiff on their behalf \$400,000 in settlement and for dismissal with prejudice of the above-referenced matter.

Please let us know if you would like to receive and review any of the documents referenced herein.

Cc:

(b)(6), (b)(7)c

Deputy Chief, Torts
DHS ICE OPLA CALD

(b)(6), (b)(7)c

Associate Legal Advisor
CHS ICE CALD

EXHIBIT 1

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Seattle, WA 98104-1158

206.623. (b)

(b)(6), (b)(7)c

February 16, 2010

(b)(6), (b)(7)c

206.370. (b) (direct)

206.370.6006 (fax)

(b)(6), (b)(7)c@klgates.com

**Confidential Pursuant to Order of the U.S. Court of Appeals
Protected by Fed. R. Evid. 408**

By Email and U.S. Mail

(b)(6), (b)(7)c

Assistant United States Attorney
1201 Pacific Avenue, Suite 700
Tacoma, WA 98402

(b)(6), (b)(7)c

Assistant United States Attorney
700 Stewart Street, Suite 5220
Seattle, WA 98101

Re: (b)(6), (b)(7)c

Dear (b) and (b), (b)(7)

(b)(6), (b)(7)c, (b)(5)

(b)(6), (b)(7)c , (b)(5)

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

TJA:rh

K:1090384510000121446_TJA121446L25JH



U. S. Department of Justice

United States Attorney
Western District of Washington

Please reply to:

(b)(6), (b)(7)c

Assistant United States Attorney

Direct Line: (206) 553- (b)(6), (b)(7)c

*700 Stewart Street, Suite 5220
Seattle, WA 98101-1271*

*Tel: (206) 553- (b)(6), (b)(7)c
Fax: (206) 553-4067*

www.usdoj.gov/usao/waw

March 8, 2010

**Confidential Pursuant to Circuit Rule 33-1
Protected by Fed. R. Evid. 408**

Via Email and U.S. Mail

(b)(6), (b)(7)c

925 Fourth Avenue, Suite 2900
Seattle, WA 98104

Re:

(b)(6), (b)(7)c

Dear (b)(6), (b)(7)c

(b)(6), (b)(7)c , (b)(5)

(b)(6), (b)(7)c , (b)(5)

(b)(6), (b)(7)c , (b)(5)

cc:

(b)(6), (b)(7)c

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Suite 2900
Seattle, WA 98104-1158

T 206.623 (b)(6), (b)(7)c

(b)(6), (b)(7)c

March 16, 2010

(b)(6), (b)(7)c

206.370 (b)(6), (b)(7)c (direct)
206.370.6006 (fax)

By Email and U.S. Mail

(b)(6), (b)(7)c

Assistant U.S. Attorney
United States Department of Justice
700 Stewart St., Suite 5220
Seattle, WA 98101

Re:

(b)(6), (b)(7)c

Dear (b)(6), (b)(7)c

(b)(6), (b)(7)c , (b)(5)

(b)(6), (b)(7)c

March 16, 2010

Page 2

(b)(6), (b)(7)c , (b)(5)

(b)(6), (b)(7)c , (b)(5)

(b)(6), (b)(7)c

March 16, 2010

Page 3

(b)(6), (b)(7)c , (b)(5)

Case	Claims	Settlement Amount	Per Day Damages
<i>Harvey v. City of NY</i> 07 Civ. 0343 (NG) (LB) E.D.NY	Section 1983 Claims	\$145,000	Approx. \$4,500
<i>Cabrales-Huerta v. United States</i> SA-06-CA-0878 W.D. Tex.	FTCA & Bivens Claims	\$99,000	\$4,125
<i>Soto-Torres v. Johnson</i> CIV S-99-1695 WBS/DAD E.D. Cal.	FTCA, Bivens & Sect. 1983 Claims	\$100,000 (\$75,000 fed.; \$25,000 county)	Approx. \$7,000
<i>Khalifa v. US</i> 03-CA-80073 Davenport, IA	FTCA & Bivens Claims	\$60,000	\$12,000

(b)(6), (b)(7)c , (b)(5)

TJA:rh

(b)(6), (b)(7)c

March 16, 2010

Page 4

cc:

(b)(6), (b)(7)c

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1
2
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5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 (b)(6), (b)(7)c

11 Plaintiff,

12 v.

13 OFFICER (b)(6), (b)(7)c et al.,

14 Defendants.

CASE NO. C08-5683BHS

15 ORDER GRANTING IN PART
16 AND DENYING IN PART
17 DEFENDANTS' MOTION TO
18 DISMISS, OR IN THE
19 ALTERNATIVE, MOTION FOR
20 SUMMARY JUDGMENT AND
21 REQUESTING JOINT
22 SUBMISSION

23 This matter comes before the Court on Defendants' Motion to Dismiss, or in the
24 Alternative, Motion for Summary Judgment (Dkt. 22). The Court has considered the
25 pleadings filed in support of and in opposition to the motion and the remainder of the file
26 and hereby grants in part and denies in part the motion for the reasons stated herein.

27 **I. PROCEDURAL HISTORY**

28 On November 28, 2008, Plaintiff (b)(6), (b)(7)c filed a complaint against
Defendants (b)(6), (b)(7)c and Michael
Melendez. Dkt. 3. On August 21, 2009, Plaintiff filed an Amended Complaint. Dkt. 19
("Complaint"). Plaintiff alleges that Defendants are federal agents of Immigration and
Customs Enforcement ("ICE"), a component of the Department of Homeland Security
("DHS"). *Id* at 1.

1 On October 2, 2009, Defendants filed a Motion to Dismiss, or in the Alternative,
2 Motion for Summary Judgment. Dkt. 22. On October 26, 2009, Plaintiff responded.
3 Dkt. 23. On October 30, 2009, Defendants replied. Dkt. 26.

4 II. FACTUAL BACKGROUND

5 In the instant motion, Defendants attack the Plaintiff's pleading, as well as move
6 for summary judgment. *See* Dkt. 22. Defendants have submitted evidence in support of
7 their motion for summary judgment. *See id.*, Exhs. A-J. For organizational purposes, the
8 Court will separate the facts alleged in the pleadings from the facts submitted in support
9 of the motion.

10 A. The Complaint

11 Plaintiff alleges that he was born in Belize in (b)(6), (b)(7)(c) and emigrated to the United
12 States when he was seven years old. Complaint ¶ 3.1. On March 29, 1990, Plaintiff's
13 mother completed an Immigration and Naturalization Service Form that indicated that
14 Plaintiff's alien number ("A number") was (b)(6), (b)(7)(c) and that his social security
15 number was (b)(6), (b)(7)(c) *Id.*, Exh. B. Plaintiff's mother spelled his first name as
16 (b)(6), (b)(7)(c) *Id.* The form also indicates that, at that time, Plaintiff's immigration status
17 was "illegal." *Id.*

18 On July 23, 1992, Plaintiff was granted permanent resident status under a second
19 A number, (b)(6), (b)(7)(c) *Id.* ¶ 3.3; *see also id.*, Exh D. In November 1996, Plaintiff
20 enlisted in the United States military. *Id.* ¶ 3.5. While serving in the United States
21 military, Plaintiff applied to become a United States citizen. *Id.* ¶ 3.6. Plaintiff's
22 application was approved and on October 28, 1998, Plaintiff was sworn in as a United
23 States citizen. *Id.* ¶ 3.7. The certificate of citizenship identifies his A number (b)(6), (b)(7)(c)
24 (b)(6), (b)(7)(c) *Id.*, Exh. J. In July 2003, Plaintiff was honorably discharged from the United States
25 military, *Id.* ¶ 3.8.

1 In 2005, Plaintiff was detained in Pierce County Jail. On September 21, 2005,
2 Plaintiff was approached and questioned by Defendant (b)(6), (b)(7)c *Id.* ¶ 3.9. During the
3 conversation, Plaintiff alleges that he

4 explained his immigration history, including the facts that he had been a
5 legal permanent resident and applied for – and received – naturalization
6 while serving in the United States military. He also described that he was
7 sworn in as a U.S. citizen

8 *Id.* ¶ 3.10. On the same day as that conversation, Plaintiff alleges that Defendant

9 (b)(6), (b)(7)c

10 prepared and signed the Form I-213, “Record of Deportable/Inadmissible
11 alien” regarding (b)(6), (b)(7)c [Complaint,] Ex. L (pp. 65-67). ICE
12 Supervisory Special Agent (b)(6), (b)(7)c also signed his approval and dated
13 the form. On the I-213, Defendants alleged that, “there is no record to
14 indicate subject applied for relief/immigration status.” The I-213, “Record
15 of Deportable/Inadmissible Alien” specifically excludes the information
16 that (b)(6), (b)(7)c provided, including that he was a U.S. citizen, that he gave
17 a detailed account of his military service, his naturalization application
18 process, and his attendance at his naturalization ceremony.

19 *Id.* ¶ 3.11.

20 On September 23, 2005, Defendants issued a Notice to Appear, Form I-862. *Id.*

21 3.16. Plaintiff alleges that

22 [i]n that document, which is the charging document in removal proceedings,
23 the officers falsely allege that (b)(6), (b)(7)c was not a citizen of the United
24 States. The Notice to Appear also charged (b)(6), (b)(7)c as deportable for
25 being present in the United States without admission. Tellingly, (b)(6), (b)(7)c
26 (b)(6), (b)(7)c did not receive a copy of the Notice to Appear until nearly two
27 months later on November 15, 2005, the day he was turned over to the
28 custody of ICE, further depriving him of any ability to present evidence or
contradict the complete falsity of that document before his liberty was
curtailed.

29 *Id.*

30 On November 25, 2005, Plaintiff was transferred to the “Northwest Detention
31 Center, a federal detention center in Tacoma, Washington.” *Id.* ¶ 3.18. After being
32 transferred, Plaintiff was approached by a female ICE officer, who introduced herself as
33 Officer (b)(6), (b)(7)c *Id.* ¶ 3.19. Plaintiff alleges that he

34 told (b)(6), (b)(7)c that he was a U.S. citizen, and that he had become a
35 U.S. citizen while serving in the military. He described his naturalization
36 ceremony in great detail. He also told Officer (b)(6), (b)(7)c that his first name

1 had been misspelled on his lawful permanent resident card (commonly
2 known as a “greencard”). Officer (b)(6), (b)(7)c informed (b)(6), (b)(7)c that the
information she had in her computer did not substantiate his claims

3 *Id.* Plaintiff also alleges that

4 [d]uring that same interview, Officer (b)(6), (b)(7)c asked (b)(6), (b)(7)c if he
5 wanted to go home. Thinking she meant his long time home in Washington
6 State (b)(6), (b)(7)c replied in the affirmative. Officer (b)(6), (b)(7)c then handed
7 him paperwork to sign. (b)(6), (b)(7)c refused to sign after reading the
paperwork and realizing that the papers were for a stipulated order of
removal to Belize, his country of birth.

8 *Id.* ¶ 3.20.

9 After that interview, another ICE agent approached Plaintiff and identified himself
10 as Officer (b)(6), (b)(7)c Plaintiff alleges that

11 Officer (b)(6), (b)(7)c explained that he had been assigned as (b)(6), (b)(7)c
12 Deportation and Removal Officer. Officer (b)(6), (b)(7)c questioned Mr. Castillo
13 at length, repeating the first Officer (b)(6), (b)(7)c questions, as well as asking
14 (b)(6), (b)(7)c where he was born, where he’d gone to high school, and where
15 he lived. (b)(6), (b)(7)c yet again explained to Officer (b)(6), (b)(7)c that he had
16 obtained permanent residence and ultimately became a U.S. citizen (b)(6), (b)(7)c
17 (b)(6), (b)(7)c explained in detail about the different schools he had attended in
18 the United States, and then talked to Officer (b)(6), (b)(7)c about his enrollment
19 in the U.S. military, and the naturalization process that he had gone through
20 to become a U.S. citizen while serving in the military.

21 *Id.* ¶ 3.21.

22 Plaintiff was then detained by ICE at the detention center and held on a \$25,000
23 bond. *Id.* ¶ 3.22. Plaintiff alleges that after detaining him, Defendants

24 placed (b)(6), (b)(7)c in removal proceedings by filing the Notice to Appear
25 with the Immigration Court. Attorneys from ICE’s Office of Chief Counsel
26 proceeded to represent ICE against (b)(6), (b)(7)c in these proceedings (b)(6), (b)(7)c
27 (b)(6), (b)(7)c appeared, unrepresented, in Immigration Court on December 21,
28 2005. He pleaded with the Immigration Judge Kenneth Josephson, once
again explaining that he had been a legal permanent resident, applied for
naturalization and been sworn in as a U.S. citizen. The Judge responded that
Mr. Castillo “can’t just expect me to believe you – your claim that you’re a
United States citizen.” The Immigration Judge asked the attorney
representing ICE for ICE’s position. The ICE attorney responded that they
had “checked the database,” and there was nothing to indicate that (b)(6), (b)(7)c
(b)(6), (b)(7)c had ever filed to become a U.S. citizen.

29 *Id.* ¶ 3.26. The immigration judge reset the hearing for a month in order to allow the
30 parties to gather more information. During this continuance, Plaintiff was detained. He
31 alleges that he

1 again talked to his deportation officer to see if the deportation officer had
2 checked (b)(6), (b)(7)c military records, his social security records, or his
3 immigration file in order to verify (b)(6), (b)(7)c claim of citizenship.
4 Whenever possible, (b)(6), (b)(7)c followed up with Officer (b)(6), (b)(7)c asking
5 for updates on his case. He repeatedly informed Officer (b)(6), (b)(7)c that he
6 was a U.S. citizen, mentioning his military record, his social security
7 number, and other identifying information. His deportation officer simply
8 stated that he would keep looking.

9 *Id.* ¶ 3.27.

10 On January 24, 2006, the immigration court held a second hearing in Plaintiff's
11 deportation proceeding. Plaintiff alleges that he

12 again explained that he had served his country in the military and had been
13 honorably discharged after serving more than six years. Most importantly,
14 he explained that while in the military he had applied for naturalization and
15 been sworn in as a U.S. citizen. He testified that he had a copy of his
16 military identification and further explained that he had his official
17 discharge papers in the trunk of his car and that if given the opportunity he
18 would present them to the Immigration Court.

19 *Id.* ¶ 3.28. At the hearing, ICE's representative "affirmed that they had found nothing in
20 their database to support (b)(6), (b)(7)c claim" and the immigration judge "then ordered
21 (b)(6), (b)(7)c removed from the United States." *Id.*

22 Plaintiff appealed the removal order to the Board of Immigration Appeals and
23 obtained legal counsel from the Northwest Immigrant Rights Project. *Id.* ¶ 3.30.

24 Plaintiff's counsel filed public records requests and obtained documents that

25 revealed the veracity of (b)(6), (b)(7)c specific statements about his
26 immigration status and citizenship and showed that ICE had assigned him
27 . . . two A numbers – (b)(6), (b)(7)c and (b)(6), (b)(7)c which were linked by the
28 common name, social security number, and evidently fingerprints on file.
Still, the government did nothing, and forced (b)(6), (b)(7)c to request further
records using both A numbers, which he did on April 28, 2006.

29 *Id.* Plaintiff alleges that his immigration status and citizenship information was in his
30 immigration file and that

31 during the entire length of (b)(6), (b)(7)c unlawful detention, ICE had
32 access to (b)(6), (b)(7)c complete immigration history, his social security
33 number, and his fingerprints, his date of birth, his parents' names, and
34 numerous other details, each of which independently would have revealed
35 (b)(6), (b)(7)c citizenship status. Even a simple name search would have
36 revealed (b)(6), (b)(7)c status. When confronted with repeated and credible
37 claims of citizenship and a directive from the Immigration Court to
38 investigate (b)(6), (b)(7)c claims, any reasonable officer or supervisor is

1 constitutionally mandated to perform a search of ICE records using (b)(6), (b)(7)
2 (b)(6), (b)(7)c name, social security number, or fingerprints. Defendants
3 repeated failure to conduct even the most minimal investigation of their
4 own records is patently unreasonable and arbitrary.

5 *Id.* ¶ 3.31.

6 On June 29, 2006, the attorney representing ICE filed a motion to dismiss the
7 deportation proceeding against Plaintiff. As of that date, Plaintiff had been detained for
8 “226 days (seven-and-a-half months).” *Id.* ¶ 3.32. Plaintiff alleges that the attorney for
9 ICE advised the immigration court that

10 the proceedings had been “improvidently begun.” Shockingly, ICE did not
11 reveal that (b)(6), (b)(7)c was a citizen in its pleading, which led the charges
12 to be dismissed without prejudice. [Complaint,] Ex. N (p. 73). As a result,
13 Immigration Judge Josephson dismissed the case “without prejudice” and
14 noted that the rationale for the dismissal was “DHS Request” rather than
15 due to the fact that (b)(6), (b)(7)c is a U.S. Citizen. (b)(6), (b)(7)c continues to
16 live in fear that he may be unlawfully seized and detained again by ICE in
17 the future.

18 *Id.* (emphasis in original).

19 **B. Defendants’ Exhibits**

20 Defendants claim that, at some point after Plaintiff became a United States citizen,
21 “an unidentified person changed plaintiff’s last name in A file (b)(6), (b)(7)c from ‘(b)(6), (b)(7)c
22 to ‘(b)(6), (b)(7)c.’” Dkt. 22 at 4 (citing *id.*, Exh. J (Dkt. 22-11), Declaration of (b)(6), (b)(7)c
23 (“(b)(6), (b)(7)c”), ¶ 4). Plaintiff’s first name was also changed from “(b)(6), (b)(7)c to
24 (b)(6), (b)(7)c” (b)(6), (b)(7)c, ¶ 4. Therefore, the name that corresponded to A number (b)(6), (b)(7)
25 (b)(6), (b)(7)c was “(b)(6), (b)(7)c.”

26 Defendant (b)(6), (b)(7)c confirms that she interviewed Plaintiff at the Pierce County
27 Jail on September 21, 2005. Dkt. 22, Exh. B, Declaration of (b)(6), (b)(7)c (“(b)(6), (b)(7)c
28 (b)(6), (b)(7)c), ¶ 3a. She concedes that she has “no recollection of [her] interactions with
29 [Plaintiff].” *Id.* She does, however, claim that she searched the ICE (b)(7)e
30 (b)(7)e database to verify Plaintiff’s assertions that he was an American citizen. *Id.* ¶ 3c.
31 After conducting “all reasonable checks with the information provided” to her under

1 Plaintiff's A number (b)(6), (b)(7)c file, Defendant (b)(6), (b)(7)c prepared an Arrest Warrant,
2 Notice to Appear, and Notice of Custody Determination. *Id.* She claims that

3 [t]here was no other information, evidence, or investigation to substantiate
4 continuance of this case. Acting within the scope of my employment, I had
5 no further means of ascertaining [Plaintiff's] immigration status, and was
6 then required to move forward with removal proceedings.

7 *Id.*

8 On September 23, 2005, Defendant (b)(6), (b)(7) approved the documents prepared by
9 Defendant (b)(6), (b)(7)c thereby initiating removal proceedings against Plaintiff under
10 Plaintiff's original alien file, A number (b)(6), (b)(7)c with a Notice to Appear (Form
11 I-862). *Id.* at 9. The Notice to Appear charged Plaintiff with removal pursuant to 8
12 U.S.C. § 1182(a)(6)(A)(I) (INA § 212(a)(6)(A)(I)), alien present in the United States
13 without being lawfully admitted, and 8 U.S.C. § 1182(a)(2)(A)(i)(I) (INA §
14 212(a)(2)(A)(i)(I)), alien convicted of a crime of moral turpitude. *Id.*

15 The arrest warrant states that Plaintiff was in the United States in violation of the
16 immigration laws of the United States and directs any officer of the Immigration and
17 Naturalization Service to take Plaintiff into custody pursuant to the immigration laws of
18 the United States. *Id.*, p. 11. Defendant (b)(6), (b)(7)c decision to issue the arrest warrant was
19 based upon Defendant (b)(6), (b)(7)c investigation and Defendant Potter never saw nor
20 spoke with Plaintiff. *Id.*, ¶ 3a.

21 Upon Plaintiff's arrival at the detention center, Defendant (b)(6), (b)(7)c
22 served Plaintiff with the Arrest Warrant, the Notice to Appear before an Immigration
23 Judge, and the Notice of Custody Determination. Dkt. 22, Ex. C, Declaration of
24 (b)(6), (b)(7)c ¶ 5. When Plaintiff told Defendant (b)(6), (b)(7)c that he was a United
25 States citizen, she searched the (b)(7)e and could not find any evidence that
26 Plaintiff was a citizen. *Id.* ¶ 3. She also claims that Plaintiff did not provide her with any
27 evidence that he was a citizen. *Id.* ¶ 4. After serving Plaintiff with the Arrest Warrant,
28 Notice of Custody Determination, and the Notice to Appear, Defendant (b)(6), (b)(7)c

1 asked Defendant (b)(6), (b)(7)c to conduct a computer systems search for Plaintiff's
2 name. *Id.* ¶ 6.

3 After discussing Plaintiff with Defendant (b)(6), (b)(7)c Defendant (b)(6), (b)(7)c
4 also conducted a search in the (b)(7)e and could find no evidence
5 documenting that Plaintiff was a United States citizen. Dkt. 22, Ex. D, Declaration of
6 (b)(6), (b)(7)c ¶ 3. Defendant (b)(6), (b)(7)c claims that he asked Plaintiff where
7 Plaintiff's DD Form 214 and his Naturalization Certificate were located and that Plaintiff
8 did not know where either document was located. *Id.* ¶ 4.

9 During the first hearing before Immigration Judge Kenneth Josephson, Plaintiff
10 repeatedly asserted that he was a naturalized U.S. citizen. *See* Dkt. 22, Exh F. However,
11 Plaintiff offered no documentary proof of his citizenship. *Id.* at 4, lines 14-20. The judge
12 informed Plaintiff that he could not simply state that he was a citizen but needed to
13 provide evidence of his citizenship. *Id.* at 6, lines 22-25, and 7, lines 1-6.

14 At the next hearing on January 24, 2006, ICE Assistant Chief Counsel (b)(6), (b)(7)c
15 (b)(6), (b)(7) represented DHS. (b)(6), (b)(7)c told Immigration Judge Josephson that he could
16 find no records of Plaintiff's claimed naturalization in the A number (b)(6), (b)(7)c file. Dkt. 22, Ex.
17 G at 14, lines 2-4. Judge Josephson asked Plaintiff if he had his military discharge or
18 citizenship papers and Plaintiff told the court he had never received his citizenship papers
19 and his military discharge papers were in the trunk of his car. *Id.* at 18, lines 1-13, and
20 19, lines 14-19. After questioning Plaintiff about his status, Judge Josephson ordered
21 Plaintiff removed from the United States to Belize. *Id.* at 30-34.

22 III. DISCUSSION

23 Plaintiff has brought this action under *Bivens v. Six Unknown Named Agents of the*
24 *Bureau of Narcotics*, 403 U.S. 388 (1971).¹ Defendants have submitted a motion to

25 _____
26 ¹ *Bivens* was the first Supreme Court decision authorizing plaintiffs to bring claims for
27 money damages against individual federal officials based on constitutional violations where no
28 federal statute authorized such a suit; courts have subsequently referred to these as "*Bivens*
claims."

1 dismiss, or in the alternative, a motion for summary judgment. Dkt. 22. Defendants have
2 also submitted several exhibits in support of their motion. *Id.*, Exhs. A-J. If, on a motion
3 to dismiss for failure to state a claim

4 matters outside the pleadings are presented to and not excluded by the
5 court, the motion must be treated as one for summary judgment under Rule
6 56. All parties must be given a reasonable opportunity to present all the
7 material that is pertinent to the motion.

8 Fed. R. Civ. P. 12(d). In compliance with this rule of procedure, the Court will first
9 consider Defendants' motion to dismiss and arguments regarding Plaintiff's failure to
10 state a claim. For this portion of the analysis, the Court will exclude the exhibits
11 submitted by Defendants.

12 **A. Motion to Dismiss**

13 Defendants Melendez and Potter argue that Plaintiff has failed to state a claim
14 against them upon which relief may be granted because the claims are based solely on the
15 doctrine of respondeat superior. Dkt. 22 at 9, lines 2-6. Defendants also argue that
16 Plaintiff's complaint should be dismissed because it does not meet the pleading
17 requirements set forth in the recent Supreme Court decisions of *Bell Atlantic Corp. v.*
18 *Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009). Dkt. 22 at
19 18-20.

20 **1. Pleading Standard**

21 The adequacy of pleadings is governed by Fed. R. Civ. P. 8(a)(2), which requires
22 that a complaint allege "a short and plain statement of the claim showing that the pleader
23 is entitled to relief." This rule "requires more than labels and conclusions, and a
24 formulaic recitation of the elements of a cause of action will not do. Factual allegations
25 must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S.
26 at 555 (internal citations omitted).

27 Material allegations are taken as admitted and the complaint is construed in the
28 plaintiff's favor. *Keniston v. Roberts*, 717 F.2d 1295, 1300 (9th Cir. 1983). "While a
complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual

1 allegations, a plaintiff’s obligation to provide the grounds of his entitlement to relief
2 requires more than labels and conclusions, and a formulaic recitation of the elements of a
3 cause of action will not do.” *Twombly*, 550 U.S. at 555- 558. “Factual allegations must
4 be enough to raise a right to relief above the speculative level, on the assumption that all
5 the allegations in the complaint are true (even if doubtful in fact).” *Id.* at 555. Plaintiffs
6 must allege “enough facts to state a claim to relief that is plausible on its face.” *Id.* at
7 570.

8 Determining whether the allegations in a complaint are “plausible” is “a
9 context-specific task that requires the reviewing court to draw on its judicial experience
10 and common sense.” *Iqbal*, 129 S. Ct. at 1950. If the “well-pleaded facts do not permit
11 the court to infer more than the mere possibility of misconduct,” the complaint should be
12 dismissed for failing to “show[] that the pleader is entitled to relief” as required by Rule
13 8(a)(2). *Id.*

14 **2. Defendants’ Motion**

15 Defendants challenge whether Plaintiff has stated a *Bivens* claim for supervisor
16 liability and whether Plaintiff has stated valid claims of Constitutional violations.

17 **a. Supervisor Liability**

18 Defendants argue that in *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1948 (2009), “the
19 Supreme Court eliminated the theory of supervisory liability from *Bivens* suits.” Dkt. 22
20 at 10. In *Iqbal*, the Court stated that because “vicarious liability is inapplicable to *Bivens*
21 . . . suits, a plaintiff must plead that each Government-official defendant, through the
22 official’s own individual actions, has violated the Constitution.” *Ashcroft v. Iqbal*, 129 S.
23 Ct. 1937, 1948 (2009). Although this holding seems to have limited the liability of
24 supervisors, the Court disagrees with Defendants’ proposition that supervisor liability has
25 been “eliminated.”

26 In an opinion issued post-*Iqbal*, the Ninth Circuit identified four general situations
27 in which supervisory liability may be imposed:
28

1 (1) for setting in motion a series of acts by others, or knowingly refusing to
2 terminate a series of acts by others, which they knew or reasonably should
3 have known would cause others to inflict constitutional injury; (2) for
4 culpable action or inaction in training, supervision, or control of subordinates;
5 (3) for acquiescence in the constitutional deprivation by subordinates; or (4)
6 for conduct that shows a reckless or callous indifference to the rights of
7 others.

8 *Al-Kidd v. Ashcroft*, 580 F.3d 949, 965 (9th Cir. 2009) (citing *Larez v. City of Los*
9 *Angeles*, 946 F.2d 630, 646 (9th Cir. 1991)).

10 In this case, Defendant Melendez argues that the Court should dismiss Plaintiff's
11 claims against him because the complaint lacks an allegation of his personal participation.
12 Dkt. 22 at 11. The Court agrees. Plaintiff's complaint alleges as follows:

13 1.2.5. At all times relevant, Michael Melendez was the Immigration
14 and Customs Enforcement Supervising Deportation and Removal Officer
15 for the Northwest Detention Center. On information and belief, at all times
16 relevant, Michael Melendez was responsible for training and supervision of
17 the ICE agents and officers whose conduct caused the injuries alleged
18 herein. As part of his job responsibilities, Officer Melendez had a duty to
19 ensure that no U.S. citizens were detained by ICE. At all relevant times
20 Officer Melendez was acting under color of federal law and is sued in his
21 individual capacity.

22 ***

23 3.33. On information and belief, with deliberate indifference, intent,
24 or reckless disregard, Defendants failed to adequately and properly train
25 and supervise Agents (b)(6), (b)(7)c and (b)(6), (b)(7)c and other officers
26 and agents involved in the arrest, detention, questioning, and removal
27 proceedings to which (b)(6), (b)(7)c was subjected. On information and
28 belief, Defendants' failure to provide proper and adequate training and
supervision was a proximate cause of the injuries that (b)(6), (b)(7)c suffered.

Complaint. The pleaded facts against Defendant Melendez are no more than labels and
conclusions because Plaintiff alleges only that Defendant Melendez "was responsible for
training and supervision" and that he failed to provide "proper and adequate training."
Moreover, based on these assertions, the Court is left to simply infer the mere possibility
of culpable conduct by Defendant Melendez. Therefore, the Court grants Defendants'
motion on this issue and Plaintiff's claims against Defendant Melendez are dismissed
without prejudice.

With respect to Defendant (b)(6), (b)(7), he argues that Plaintiff's complaint against him
is "similarly flawed." Dkt. 22 at 11. The Court disagrees because Plaintiff has alleged

1 more than mere labels and conclusions. For example, Plaintiff has alleged that (1)
2 Defendant (b)(6), (b)(7) unlawfully approved the Form I-213 and issued an invalid Notice to
3 Appear when he knew, or recklessly or callously disregarded evidence that Plaintiff was
4 a United States citizen, Complaint, ¶ 3.11-3.13, and (2) Defendant Potter’s failure to
5 conduct any investigation into the I-213, despite inconsistencies, demonstrates deliberate
6 indifference to [Plaintiff’s] constitutional rights, *Id.* ¶ 3.33, 5.3, 5.7. The Court finds that
7 Plaintiff has pled sufficient facts to state a claim that is plausible on its face. Therefore,
8 the Court denies Defendants’ motion to dismiss Plaintiff’s claim against Defendant

9 (b)(6), (b)(7)

10 **b. Constitutional claims.**

11 Defendants argue that Plaintiff asserts Constitutional violations without
12 adequately alleging facts to support those claims. Dkt. 22 at 18-20. The Complaint
13 alleges violations of Plaintiff’s Fourth and Fifth Amendment rights. With respect to the
14 former, Plaintiff claims that Defendants violated his “clearly established right to be free
15 from unreasonable searches and seizures as guaranteed by the Fourth Amendment”
16 Complaint, ¶ 5.1. The seizure of an individual violates the Fourth Amendment if it is
17 objectively unreasonable under the circumstances. *See Graham v. Connor*, 490 U.S.
18 386, 397 (1989). The Ninth Circuit has held that courts recognize

19 challenges to the validity of searches and seizures conducted pursuant to a
20 warrant if the affidavit in support of the warrant included false statements or
21 material omissions that were made intentionally or recklessly. *See Franks*
v. Delaware, 438 U.S. 154, 155-56 (1978); *United States v. Stanert*, 762
F.2d 775, 781 (9th Cir.1985) (extending *Franks* to material omissions).

22 *Al-Kidd*, 580 F.3d at 973.

23 In this case, Plaintiff argues that the complaint contains sufficient factual
24 allegations that

25 both the arrest warrant and the supporting documents (Form I-213 and Form
26 I-862) plainly were replete with material omissions – including the
27 omission of (b)(6), (b)(7)c detailed statements that he is a U.S. Citizen – and
they are replete with false statements – including inaccurate reports of (b)(6), (b)(7)c
immigration history. Such falsities and omissions render those
28 documents invalid.

1 Dkt. 23 at 9. The Court agrees to the extent that the complaint contains sufficient factual
2 allegations to create a plausible claim for a violation of an individual’s Fourth
3 Amendment rights. Therefore, Defendants’ motion is denied on this issue.

4 With respect to the Fifth Amendment, Plaintiff claims that Defendants violated
5 his right to due process of law. Complaint, ¶ 5.5. The Ninth Circuit has recently held
6 that, when a court is “dealing with the detention of an individual who claims to be a
7 United States citizen,” if the individual’s “claim is true, his detention under the
8 [Immigration and Nationality Act] violates the Non-Detention Act as well as the Due
9 Process Clause of the Constitution.” *Flores-Torres v. Mukasey*, 548 F.3d 708, 712 (9th
10 Cir. 2008).

11 In this case, it is undisputed that Plaintiff was a United States citizen and that he
12 was detained by ICE. The Court finds that Plaintiff has alleged facts that create a
13 plausible claim for a violation of Plaintiff’s due process rights. Therefore, Defendants’
14 motion is denied on this issue.

15 **3. Conclusion – Motion to Dismiss**

16 The Court finds that Plaintiff has failed to state a claim upon which relief may be
17 granted against Defendant Melendez. Therefore, Defendants’ motion to dismiss is
18 granted on this issue and Plaintiff’s claim against Defendant Melendez is dismissed
19 without prejudice. The Court denies the remainder of Defendants’ motion to dismiss.

20 **B. Motion for Summary Judgment**

21 Defendants (b)(6), (b)(7)c and (b)(6), (b)(7)c argue that they are entitled to
22 summary judgment based on qualified immunity because they acted pursuant to a valid
23 arrest warrant. *Id.*, lines 7-9. Defendant (b)(6), (b)(7)c also argues that she is entitled to
24 summary judgment on the issue of qualified immunity. *Id.* For this portion of the
25 opinion, the Court will consider matters outside the pleading that have been presented to
26 the Court.

1 **1. Summary Judgment Standard**

2 Summary judgment is proper only if the pleadings, the discovery and disclosure
3 materials on file, and any affidavits show that there is no genuine issue as to any material
4 fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c).
5 The moving party is entitled to judgment as a matter of law when the nonmoving party
6 fails to make a sufficient showing on an essential element of a claim in the case on which
7 the nonmoving party has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317,
8 323 (1985). There is no genuine issue of fact for trial where the record, taken as a
9 whole, could not lead a rational trier of fact to find for the nonmoving party. *Matsushita*
10 *Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986) (nonmoving party must
11 present specific, significant probative evidence, not simply “some metaphysical doubt”).
12 *See also* Fed. R. Civ. P. 56(e). Conversely, a genuine dispute over a material fact exists
13 if there is sufficient evidence supporting the claimed factual dispute, requiring a judge or
14 jury to resolve the differing versions of the truth. *Anderson v. Liberty Lobby, Inc.*, 477
15 U.S. 242, 253 (1986); *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass’n*, 809 F.2d
16 626, 630 (9th Cir. 1987).

17 The determination of the existence of a material fact is often a close question. The
18 Court must consider the substantive evidentiary burden that the nonmoving party must
19 meet at trial – e.g., a preponderance of the evidence in most civil cases. *Anderson*, 477
20 U.S. at 254; *T.W. Elec. Serv., Inc.*, 809 F.2d at 630. The Court must resolve any factual
21 issues of controversy in favor of the nonmoving party only when the facts specifically
22 attested by that party contradict facts specifically attested by the moving party. The
23 nonmoving party may not merely state that it will discredit the moving party’s evidence
24 at trial, in the hopes that evidence can be developed at trial to support the claim. *T.W.*
25 *Elec. Serv., Inc.*, 809 F.2d at 630 (relying on *Anderson, supra*). Conclusory, nonspecific
26 statements in affidavits are not sufficient, and missing facts will not be presumed. *Lujan*
27 *v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 888-89 (1990).

1 **2. Qualified Immunity Standard**

2 Government officials enjoy qualified immunity from civil damages unless their
3 conduct violates “clearly established statutory or constitutional rights of which a
4 reasonable person would have known.” *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).
5 Thus, if a constitutional violation occurred, officials are entitled to qualified immunity if
6 they acted reasonably under the circumstances. *Millender v. County of Los Angeles*, 564
7 F.3d 1143, 1148 (9th Cir. 2009). “Qualified immunity balances two important interests
8 – the need to hold public officials accountable when they exercise power irresponsibly
9 and the need to shield officials from harassment, distraction, and liability when they
10 perform their duties reasonably,” *Pearson v. Callahan*, 129 S.Ct. 808, 815 (2009), and
11 protects “all but the plainly incompetent or those who knowingly violate the law,”
12 *Malley v. Briggs*, 475 U.S. 335, 341 (1986).

13 In resolving a claim of qualified immunity, courts must determine whether, taken
14 in the light most favorable to a plaintiff, the defendant’s conduct violated a constitutional
15 right, and if so, whether the right was clearly established. *Saucier v. Katz*, 533 U.S. 194,
16 201 (2001); *McSherry v. City of Long Beach*, 560 F.3d 1125, 1129-30 (9th Cir. 2009).
17 While often beneficial to address in that order, courts have discretion to address the
18 two-step inquiry in the order they deem most suitable under the circumstances. *Pearson*,
19 129 S. Ct. at 818 (overruling holding in *Saucier* that the two-step inquiry must be
20 conducted in that order, and the second step is reached only if the court first finds a
21 constitutional violation); *McSherry*, 560 F.3d at 1130.

22 **3. Defendants’ Motion**

23 Defendants argue that they are entitled to qualified immunity from Plaintiff’s
24 claims of constitutional violations. Dkt. 22 at 14-18. Plaintiff counters that he “must be
25 afforded a right to conduct discovery in which he confronts the Defendants with their
26 admissions and examines the inconsistencies regarding the purported searches that were
27 conducted.” Dkt. 23 at 24 (citing Fed. R. Civ. P. 56(f)). The Supreme Court has
28

1 recognized that limited discovery, tailored to the issue of qualified immunity, will
2 sometimes be necessary before a district court can resolve a motion for summary
3 judgment. *See Anderson v. Creighton*, 483 U.S. 635, 646 n. 6 (1987); *see also*
4 *Crawford-El v. Britton*, 523 U.S. 574, 593 n. 14 (1998) (plurality opinion) (stating that
5 qualified immunity exists to protect officials from “broad-reaching discovery” but not
6 from discovery altogether (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, (1982))).

7 In this case, Plaintiff argues that the Court should allow limited discovery before
8 ruling on the issue of qualified immunity and, pursuant to Fed. R. Civ. P. 56(f), has
9 submitted a declaration by counsel in support of the discovery request. Counsel for
10 Plaintiff declares as follows.

11 2. . . . Defendants’ declarations raise material facts concerning
12 what actions they took to search for evidence of (b)(6), (b)(7)c citizenship
13 in their own records. Defendants’ arguments are inconsistent with their
14 declarations and raise serious questions regarding whether any competent
15 search of Defendants’ records was made prior to and during (b)(6), (b)(7)c
16 incarceration.

17 3. (b)(6), (b)(7)c must be afforded the right to conduct discovery in
18 which he confronts the Defendants with their admissions regarding the
19 types of searches that are possible and examines the inconsistencies
20 regarding the purported searches that were conducted and the results that
21 necessarily would have been returned had those searches been conducted.

22 Dkt. 25, Declaration of (b)(6), (b)(7)c The Court agrees with Plaintiff to the extent
23 that limited discovery is appropriate to develop the record as to the facts regarding
24 qualified immunity issues. Therefore, the Court will deny Defendants’ motion for
25 summary judgment without prejudice pursuant to Fed. R. Civ. P. 56 (f)(1). The parties
26 are ordered to confer and submit (1) a proposed limited discovery schedule and (2) a
27 deadline for either a dispositive motion re: qualified immunity or a full joint status report
28 as previously ordered by the Court (*see* Dkt. 5). The parties must submit their plan to the
Court no later than December 31, 2009.

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IV. ORDER

Therefore, it is hereby

ORDERED that Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment (Dkt. 22) is **GRANTED in part** and **DENIED in part** as explained herein. Defendant Melendez is **DISMISSED without prejudice**. The parties must file a joint submission as explained herein no later than December 31, 2009.

DATED this 10th day of December, 2009.



BENJAMIN H. SETTLE
United States District Judge

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, December 17, 2012 5:46 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) indemnification request grossman edits
Attachments: Signed (b)(6), (b)(7) Indemnification Request.pdf; Signed (b)(6), (b)(7) Settlement Recommendation Memo.pdf

Importance: High

(b)(6), (b)(7)c

We've just learned that the Associated Press and Newark Star-Ledger are both penning news stories on the (b)(6), (b)(7)c settlement, and have reached out to ICE Public Affairs for a statement. Similar to the (b)(6), (b)(7)c settlement agreement media statement, we'd propose something along the following:

"The U.S. government has entered into a tentative settlement with the eight plaintiffs in this lawsuit. However, there are still actions the parties must undertake in order to finalize the agreement.

"As stated in court documents, this settlement is in no way intended to be, and should not be construed as, an admission of liability or fault on the part of the U.S. government. The government is settling in order to avoid the additional time and expense of further litigation.

"ICE recognizes that enforcing our nation's immigration laws is a weighty responsibility and we endeavor to do so in a judicious and appropriate manner."

Both the AP and NSJ are on deadline for tonight, so if you gentlemen could let us know whether you have any concerns with this proposed formulation, we'd really appreciate it. I've reattached our S-1 indemnification and settlement recommendation memos in the case to jog your memory on this one, and have cc'd Scott Whitted, who's intimately familiar with the facts of this case. Please let us know if you have any questions.

Thanks and regards,

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Director of Enforcement and Litigation
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
Desk: 202-732 (b)(6), (b)(7)c
Cell: 202-904 (b)(6), (b)(7)c
E-mail: (b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
Sent: Wednesday, August 15, 2012 10:46 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) indemnification request grossman edits

Thanks, (b)(6), (b)(7)

Best,
(b)(6), (b)(7)

(b)(6), (b)(7)c
Attorney Advisor
Legal Counsel Division
Office of the General Counsel
U.S. Department of Homeland Security
202.282. (b)(6), (b)(7)c (office)
202.684. (b)(6), (b)(7)c (mobile)
202.282.9186 (facsimile)

(b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
Sent: Wednesday, August 15, 2012 10:42 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) indemnification request grossman edits

(b)(6), (b)(7)

Please find signed version of the memo (with (b)(6), (b)(7) edits) attached. Also attaching the electronic "clean" copy for reference.

Thanks and regards,

(b)(6), (b)(7)

(b)(6), (b)(7)c
Director of Enforcement and Litigation
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
Desk: 202-73 (b)(6), (b)(7)c
Cell: 202-904 (b)(6), (b)(7)c
E-mail: (b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
Sent: Tuesday, August 14, 2012 10:30 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c indemnification request grossman edits

(b)(6), (b)(7)c

Minor edits from (b)(6), (b)(7)c. As we discussed, (b)(6), (b)(7)c and (b)(6), (b)(7)c cc'ed here, are preparing a cover memo for (b)(6), (b)(7)c.

Best regards,

(b)(6), (b)(7)c

Deputy Associate General Counsel - Legal Counsel
Office of the General Counsel
Department of Homeland Security

202 282 (b)(6), (b)(7)c (desk)
202 657 (b)(6), (b)(7)c (cell)
202 282-9186 (fax)

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, July 30, 2012 1:28 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: Re (b)(6), (b)(7) Memos for OGC

Thanks (b)(6), (b)(7) Yes, please release.

Best regards,

(b)(6), (b)(7)

(b)(6), (b)(7)c

Principal Legal Advisor
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
202-732 (b)(6), (b)(7)

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From: (b)(6), (b)(7)c
Sent: Monday, July 30, 2012 01:24 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) Memos for OGC

(b)(6), (b)(7)c

I reviewed and am comfortable with sending to OGC. The USAO must participate in a mediation on Wednesday so we would like to get back to them with a preliminary read on this issue. Are you okay with (b)(6), (b)(7) forwarding to OGC pending your formal signature on the indemnification memo?

(b)(6), (b)(7)c

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Sent from my BlackBerry Wireless Handheld

From: (b)(6), (b)(7)c
Sent: Monday, July 30, 2012 10:16 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7) Memos for OGC

*****SENSITIVE/PRIVILEGED***PRE-DECISIONAL***ATTORNEY WORK PRODUCT*****

Good morning, (b)(6), (b)(7)

You may recall the (b)(6), (b)(7)c case out of the District of New Jersey, involving five warrantless, residential FugOps initiatives conducted between August 2006 and April 2008 in and around Newark, NJ, and including 27 ERO *Bivens* defendants. OPLA has briefed Acting Deputy Director Ragsdale on (b)(6), (b)(7)c and he is on board with seeking to settle the matter for \$295,000. In order to get this settled, we'll need your sign-off on an indemnification request for the defendants. DHS policy requires the Secretary herself to approve indemnification, and we'll route the attached memo to OGC once you've signed it. The defendants here were all acting within the scope of their functions as ERO officers, so the indemnification is pretty straightforward in that respect. The only unusual aspect of it is that we're seeking pre-trial indemnification (i.e., prior to a finding of liability), which requires a showing of exceptional circumstances. Given the posture of the case, the number of agency defendants, and the consistency of the proposed settlement amount with prior settlements, we believe this threshold has been met here.

Parallel to your indemnification memo, I'll be sending up a settlement recommendation memo to (b)(6), (b)(7)c (b)(6), (b)(7)c I'm attaching that memo, for additional background on the case.

Could you please review and sign the indemnification memo? Also, if you'd like a briefing, I'm happy to bring the SMEs by to discuss in detail.

Thanks and regards,

(b)(6), (b)(7)

<<(b)(6), (b)(7) indemnification request (MPD).doc>> <<(b)(6), (b)(7) settlement memo to OGC (MPD).doc>>

(b)(6), (b)(7)c

Director of Enforcement and Litigation
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement

Desk: 202-73

Cell: 202-904 (b)(6), (b)(7)

E-mail (b)(6), (b)(7)c

***** WARNING *** ATTORNEY/CLIENT PRIVILEGE *** ATTORNEY WORK PRODUCT *****

This document contains confidential and/or sensitive attorney/client privileged information or attorney work product and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this message has been misdirected and immediately destroy all originals and copies. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration & Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY. FOIA exempt under 5 U.S.C. § 552(b)(5).

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, April 26, 2010 9:28 AM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) Indemnification Recommendation(jbs).doc

OK. Can you just make sure that's clearly reflected in the memo? Thanks.

From: (b)(6), (b)(7)c
Sent: Monday, April 26, 2010 12:27 PM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) Indemnification Recommendation(jbs).doc

The airport inspection function was taken over by CBP. Of course, (b)(6), (b)(7) inspection and creation of the second A file happened 11 years prior to the creation of CBP, so I don't think we could argue that they are partially responsible. USCIS maintained the CIS database after 2003 and verified the accuracy of their database with ICE during Castillo's removal proceedings in 2005-2006.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, April 26, 2010 9:19 AM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) Indemnification Recommendation(jbs).doc

Ok, so was the "INS" function one taken over by CIS, by CBP, or by ICE? I'd guess CBP, actually.

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Monday, April 26, 2010 12:04 PM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) Indemnification Recommendation(jbs).doc

INS created the second A file after Castillo arrived back in the United States at the Los Angeles International Airport in 1992.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security

24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, April 26, 2010 6:11 AM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7) Indemnification Recommendation(jbs).doc

OK, we're almost there. Just one last question. Thx,

(b)(6), (b)(7)

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, April 06, 2010 11:20 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c SCR 5 April 2010.doc
Attachments: (b)(6), (b)(7)c SCR 5 April 2010 (2).doc

Importance: High

Tracking: **Recipient** **Read**
(b)(6), (b)(7)c Read: 4/6/2010 5:48 PM

(b)(6), (b)(7)c

Here is the updated SCR for (b)(6), (b)(7)c effecting that there are no OPR investigations and ICE received the indemnification request from the USAO yesterday.

I am out of the office on leave today, but will be accessible via blackberry.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Tuesday, April 06, 2010 6:35 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c SCR 5 April 2010.doc

Needs updating. (b)(6), (b)(7)c, please do the honors. Thanks,

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, April 06, 2010 9:13 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c SCR 5 April 2010.doc

Does the SCR need further updating or is this version final?

Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, April 05, 2010 2:27 PM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c SCR 5 April 2010.doc

Sorry (b), (b) and (b), (b). I just reviewed my records and emails again, and there was no OPR investigation of any of the Castillo defendants as of January 2009 relating to the allegations in the Castillo case. I've just sent an email to OPR to confirm that this is still the case. I will let you know as soon as I find out from OPR whether any new investigations were opened in the last year.

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b), (b)
Direct Phone: (949) 360- (b), (b)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, April 05, 2010 11:12 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c SCR 5 April 2010.doc

(b), (b) The attached SCR was updated per (b), (b) request from the last Hot Lit.

I wanted to briefly discuss the OPR investigation as well. Thanks,

(b), (b)

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, August 26, 2010 5:22 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

The funds have been set aside for this settlement.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, August 26, 2010 5:18 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (chris, do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, August 26, 2010 5:24 PM
To: (b)(6), (b)(7)c
Subject: Re (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7), do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7)c settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7)c settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c
To: Cleary, Jennifer S; Cunningham, Maria A
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7)c settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (chris, do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) ettlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (chris, do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 11:52 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: Stanton, Joshua B
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, August 30, 2010 2:23 PM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

Did the (b)(6), (b)(7) indemnification request get moved up to S1 office from DHS OGC?

Chris

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)
Direct Phone: (949) 360 (b)(6), (b)(7)
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:52 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7)c settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7)c settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7)c do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, August 30, 2010 2:45 PM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) ettlement reminder

Sadly, no.

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, August 30, 2010 2:23 PM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)c

Did the Castillo indemnification request get moved up to S1 office from DHS OGC?

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)c
Direct Phone: (949) 360 (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:52 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)c

Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (chris, do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 4:52 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: Castillo settlement reminder

Importance: High

(b)(6), (b)(7)c

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 11:52 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7)c settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (chris, do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(k)(2), (b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 5:06 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 4:52 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder
Importance: High

(b)(6), (b)(7)c

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 11:52 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c

Subject: RE: Castillo settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)c

Subject: Re (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:19 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c
Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 5:06 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 4:52 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder
Importance: High

(b)(6), (b)(7)c

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c
Chief, Financial Management Unit
Enforcement and Removal Operations

Immigration and Customs Enforcement

Phone: (202)732-(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 11:52 AM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)c

Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (chris, do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:27 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)c

I believe that (b)(6), (b)(7)c is at home sick. The last email that I received from the DHS Office of General Counsel was yesterday. According to that office, the indemnification request was presented to the DHS Secretary, but she has not made a decision yet. That is the latest information that I have.

Chris

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)c
Direct Phone: (949) 360 (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:19 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder
Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 5:06 PM
To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 4:52 PM

To: Stanton, Joshua B

Cc: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 11:52 AM

To: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: [redacted] (b)(6), (b)(7)c
Subject: Re [redacted] (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: [redacted] (b)(6), (b)(7)c
To: [redacted] (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re [redacted] (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

[redacted] (b)(6), (b)(7)

----- Original Message -----

From: [redacted] (b)(6), (b)(7)c
To: [redacted] (b)(6), (b)(7)c
Cc: [redacted] (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: [redacted] (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO [redacted] (b)(6), (b)(7), do I have those amounts right?).

Thank you both.

[redacted] (b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:45 PM
To:
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

If the Secretary agrees after Sept 30, do we have to pay with FY10 funds? If so, I will leave a liability in the books for the \$300k.

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:27 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

I believe that (b)(6), (b)(7) is at home sick. The last email that I received from the DHS Office of General Counsel was yesterday. According to that office, the indemnification request was presented to the DHS Secretary, but she has not made a decision yet. That is the latest information that I have.

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:19 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)(c)

Any news on this?

(b)(6), (b)(7)(c)

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)
Sent: Tuesday, September 21, 2010 5:06 PM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: Castillo settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)
Sent: Tuesday, September 21, 2010 4:52 PM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7) settlement reminder
Importance: High

(b)(6), (b)(7)(c)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)(c)

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)
Sent: Friday, August 27, 2010 11:52 AM
To: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)c

Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:57 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

I am not aware of any requirement that the funds would have to come from FY10 funds if the Secretary makes a decision after September 30th.

DHS Management Directive 415 ("Indemnification of Employees Acting in Official Capacity") only states that payment of any indemnification shall be contingent upon the availability of appropriated funds for the payment of salaries and expenses of the employing agency.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:45 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: Castillo settlement reminder

If the Secretary agrees after Sept 30, do we have to pay with FY10 funds? If so, I will leave a liability in the books for the \$300k.

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-5541

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:27 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

(6), (b)(7)

I believe that (b), (b) is at home sick. The last email that I received from the DHS Office of General Counsel was yesterday. According to that office, the indemnification request was presented to the DHS Secretary, but she has not made a decision yet. That is the latest information that I have.

(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor

Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security

24000 Avila Road, Room 6080

Laguna Niguel, CA 92677

Office Phone: (949) 360

Direct Phone: (949) 360 (6), (b)(7)

Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Thursday, September 23, 2010 1:19 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE (6), (b)(7) settlement reminder

Importance: High

(6), (b)(7)

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit

Enforcement and Removal Operations

Immigration and Customs Enforcement

Phone: (202)732-5541

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 5:06 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (6), (b)(7) settlement reminder

Let me ask OGC. Thanks for the reminder.

(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 4:52 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

(b)(6), (b)(7)

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 11:52 AM

To: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)c

Subject: Re (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c

To: Cleary, Jennifer S; Cunningham, Maria A

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 5:29 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Thanks!

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-5541

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:57 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

I am not aware of any requirement that the funds would have to come from FY10 funds if the Secretary makes a decision after September 30th.

DHS Management Directive 415 ("Indemnification of Employees Acting in Official Capacity") only states that payment of any indemnification shall be contingent upon the availability of appropriated funds for the payment of salaries and expenses of the employing agency.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)c
Direct Phone: (949) 360 (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:45 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

If the Secretary agrees after Sept 30, do we have to pay with FY10 funds? If so, I will leave a liability in the books for the \$300k.

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732- (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:27 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: Castillo settlement reminder

(b)(6), (b)(7)c

I believe that Josh is at home sick. The last email that I received from the DHS Office of General Counsel was yesterday. According to that office, the indemnification request was presented to the DHS Secretary, but she has not made a decision yet. That is the latest information that I have.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:19 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: Castillo settlement reminder
Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement

Phone: (202)732-[redacted]

-----Original Message-----

From: [redacted]
Sent: Tuesday, September 21, 2010 5:06 PM
To: [redacted]
Cc: [redacted]
Subject: RE: [redacted] settlement reminder

Let me ask OGC. Thanks for the reminder.

[redacted]

-----Original Message-----

From: [redacted]
Sent: Tuesday, September 21, 2010 4:52 PM
To: [redacted]
Cc: [redacted]
Subject: RE [redacted] settlement reminder
Importance: High

[redacted]

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

[redacted]
Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-[redacted]

-----Original Message-----

From: [redacted]
Sent: Friday, August 27, 2010 11:52 AM
To: [redacted]
Subject: RE: Castillo settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

[redacted]

-----Original Message-----

From: [redacted]
Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO ((b), (b)), do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 6:11 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c We are waiting for S1 to act on an indemnification request, pursuant to a settlement whose terms were agreed by DOJ. There's no obligation by the agency until S1 signs, of course. We never thought it would take this long, but I'm now wondering if the payment should come out of FY11 funds if S1 signs the indemnification after 30 September. What do you think?

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 5:29 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: Castillo settlement reminder

Thanks!

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:57 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7)c settlement reminder

I am not aware of any requirement that the funds would have to come from FY10 funds if the Secretary makes a decision after September 30th.

DHS Management Directive 415 ("Indemnification of Employees Acting in Official Capacity") only states that payment of any indemnification shall be contingent upon the availability of appropriated funds for the payment of salaries and expenses of the employing agency.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080

Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 36-
Facsimile: (949) 360-3208

-----Original Message-----

From:
Sent: Thursday, September 23, 2010 1:45 PM
To:
Cc:
Subject: RE: settlement reminder

If the Secretary agrees after Sept 30, do we have to pay with FY10 funds? If so, I will leave a liability in the books for the \$300k.

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-

-----Original Message-----

From:
Sent: Thursday, September 23, 2010 4:27 PM
To:
Cc:
Subject: RE: settlement reminder

I believe that Josh is at home sick. The last email that I received from the DHS Office of General Counsel was yesterday. According to that office, the indemnification request was presented to the DHS Secretary, but she has not made a decision yet. That is the latest information that I have.

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

-----Original Message-----

From:
Sent: Thursday, September 23, 2010 1:19 PM

To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder
Importance: High

(b)(6), (b)(7)

Any news on this?

(b)(6), (b)(7)c
Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 5:06 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 4:52 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder
Importance: High

(b)(6), (b)(7)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c
Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)

-----Original Message-----

From: Stanton, Joshua B

Sent: Friday, August 27, 2010 11:52 AM
To: Cleary, Jennifer S; Miller, Christopher A; Cunningham, Maria A
Subject: RE: Castillo settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)(C)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 8:26 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c Please set up a time to brief Mike and discuss with him.

Thanks (b)(6), (b)(7)c

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 8:23 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

I'll need a few more facts. Is this part of a settlement agreement involving a court. The general rule is that date of judgment determines the FY funds to be paid.

Please don't forward out of CALD. If it looks like the e-mail is going to OGC or elsewhere we'll give you a formal opinion.

Thx

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 6:11 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c We are waiting for S1 to act on an indemnification request, pursuant to a settlement whose terms were agreed by DOJ. There's no obligation by the agency until S1 signs, of course. We never thought it would take this long, but I'm now wondering if the payment should come out of FY11 funds if S1 signs the indemnification after 30 September. What do you think?

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 5:29 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7)c settlement reminder

Thanks!

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 4:57 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

I am not aware of any requirement that the funds would have to come from FY10 funds if the Secretary makes a decision after September 30th.

DHS Management Directive 415 ("Indemnification of Employees Acting in Official Capacity") only states that payment of any indemnification shall be contingent upon the availability of appropriated funds for the payment of salaries and expenses of the employing agency.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)c
Direct Phone: (949) 360-(b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:45 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

If the Secretary agrees after Sept 30, do we have to pay with FY10 funds? If so, I will leave a liability in the books for the \$300k.

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Thursday, September 23, 2010 4:27 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: Castillo settlement reminder

(b)(6), (b)(7)c

I believe that (b)(6), (b)(7)c is at home sick. The last email that I received from the DHS Office of General Counsel was yesterday. According to that office, the indemnification request was presented to the DHS Secretary, but she has not made a decision yet. That is the latest information that I have.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor

Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c

Direct Phone: (949) 360- (b)(6), (b)(7)c

Facsimile: (949) 360-3208

-----Original Message-----

From: Cunningham, Maria A

Sent: Thursday, September 23, 2010 1:19 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c settlement reminder

Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit

Enforcement and Removal Operations

Immigration and Customs Enforcement

Phone: (202)732-5541

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 5:06 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 4:52 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 11:52 AM

To: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)c

Subject: Re (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:33 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) ettlement reminder
Attachments: 10-8366 Signed S1 Decision Memorandum 9.23.10.pdf

Tracking:

Recipient

Read

(b)(6), (b)(7)c

Read: 10/4/2010 6:33 PM

Read: 10/4/2010 6:33 PM

(b)(6), (b)(7)c

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:19 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder
Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement

Phone: (202)732-(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)
Sent: Tuesday, September 21, 2010 5:06 PM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7) ettlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)
Sent: Tuesday, September 21, 2010 4:52 PM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7) ettlement reminder
Importance: High

(b)(6), (b)(7)(c)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)(c)

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)
Sent: Friday, August 27, 2010 11:52 AM
To: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)
Sent: Friday, August 27, 2010 10:30 AM

To: [redacted] (b)(6), (b)(7)c
Subject: RE [redacted] (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: [redacted] (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: [redacted] (b)(6), (b)(7)c
Subject: Re [redacted] (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: [redacted] (b)(6), (b)(7)c
To: [redacted] (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: [redacted] (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

[redacted] (b)(6), (b)(7)c

----- Original Message -----

From: Stanton, Joshua B
To: [redacted] (b)(6), (b)(7)c
Cc: [redacted] (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: [redacted] (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO [redacted] (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

[redacted] (b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c

To: Cleary, Jennifer S; Cunningham, Maria A

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:39 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Do you know why we weren't told until now? I e-mailed you on the 23rd of September and you have not heard from the GC. I am going to have to request prior year funds. Is this considered an EEO claim?

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-5541

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:33 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:19 PM
To: (b)(6), (b)(7)c
Cc:

Subject: RE (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-5541

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 5:06 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE (b)(6), (b)(7) settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 4:52 PM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 11:52 AM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)c

Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 7:03 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7) ettlement reminder

No, it would not be considered an EEO claim. The case is a Bivens case meaning that the plaintiff alleged the ICE employees violated his constitutional rights. According to DHS Management Directive 415, the funds should come from the appropriated funds for the payment of salaries and expenses.

As far as the delay, Josh did not find out until September 24th. Unfortunately, he was out of the office that day and last week.

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)
Direct Phone: (949) 36 (b)(6), (b)(7)
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 3:39 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

Do you know why we weren't told until now? I e-mailed you on the 23rd of September and you have not heard from the GC. I am going to have to request prior year funds. Is this considered an EEO claim?

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:33 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:19 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder
Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c
Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732- (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 5:06 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 4:52 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 11:52 AM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)c

Subject: Re (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, October 05, 2010 3:21 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Per our phone conversation today regarding OI which is now called HSI Domestic Investigations; the \$100K requested is only a portion of this legal settlement for (b)(6), (b)(7)c that is to be paid from prior year funds. Please provide (b)(6), (b)(7)c (b)(6), (b)(7)c a sample memo to follow in requesting payment of this sensitive legal settlement from the Office of the Principal Legal Advisor (OPLA) for the Dallas Finance Center for payment. He has indicated that this memo would be completed by end of this week or the first part of next week for processing.

Thank you in advance for all of your help in getting this sensitive legal settlement paid from prior year funds.

(b)(6), (b)(7)c

Program Analyst
HSI/Domestic Investigations
202-732-(b)(6), (b)(7)c

Warning: This email and any attachments are UNCLASSIFIED//FOR OFFICIAL USE ONLY (U//FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official. No portion of this email should be furnished to the media, either in written or verbal form. If you are not an intended recipient or believe you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use this information. Please inform the sender that you received this message in error and delete the message from your system.

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, October 05, 2010 12:27 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Can you please take the lead determining what information we need to get this paid? It will have to be from prior year funds and is a settlement. Please provide (b)(6), (b)(7)c the details.

Thanks,

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:37 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)c

The Castillo indemnification request was approved on September 23, 2010. See attached. HSI's portion of the settlement amount is \$100K. What will you need to process the request?

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)c
Direct Phone: (949) 360 (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 7:30 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)(C)

----- Original Message -----

From: (b)(6), (b)(7)(C)

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7)(C) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7)(C), do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)(C)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 1:03 PM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

The Castillo settlement has not been finalized yet. Once the settlement agreement is signed, I will forward you a copy and the electronic payment information for the payee.

I do not anticipate that the settlement agreement will be finalized until after I return to the office.

Thanks,

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Fri Oct 08 09:28:53 2010
Subject: (b)(6), (b)(7) settlement reminder

To be able to pay this settlement I need the employee information to create the obligation. I tried contacting (b)(6), (b)(7) but he is out of the office until the 13th.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:33 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor

Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c

Direct Phone: (949) 360- (b)(6), (b)(7)c

Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Thursday, September 23, 2010 1:19 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c settlement reminder

Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732- (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 5:06 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 4:52 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c settlement reminder

Importance: High

(b)(6), (b)(7)c

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 11:52 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7)c settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7)c settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc:

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 1:05 PM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

So the signed copy that you sent to me is not the approved copy? Thanks (b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Fri Oct 08 12:02:52 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

The Castillo settlement has not been finalized yet. Once the settlement agreement is signed, I will forward you a copy and the electronic payment information for the payee.

I do not anticipate that the settlement agreement will be finalized until after I return to the office.

Thanks,

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Fri Oct 08 09:28:53 2010
Subject: (b)(6), (b)(7) settlement reminder

To be able to pay this settlement I need the employee information to create the obligation. I tried contacting (b)(6), (b)(7) but he is out of the office until the 13th.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Monday, October 04, 2010 6:33 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: Castillo settlement reminder

(b)(6), (b)(7)c

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor

Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c

Direct Phone: (949) 360- (b)(6), (b)(7)c

Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Thursday, September 23, 2010 1:19 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c settlement reminder

Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-5541

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 5:06 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Tuesday, September 21, 2010 4:52 PM

To: (b)(6), (b)(7)(c)

Cc: (b)(6), (b)(7)(c)

Subject: RE: (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)(c)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)(c)

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-5541

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, August 27, 2010 11:52 AM

To: (b)(6), (b)(7)(c)

Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)(c)

Subject: RE: (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)(c)

Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7), do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 1:05 PM
To: (b)(6), (b)(7)c@dhs.gov (b)(6), (b)(7)c
Subject: Re: Castillo settlement reminder

(b)(6), (b)(7)

So the signed copy that you sent to me is not the approved copy? Thanks, Maria

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Fri Oct 08 12:02:52 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

The Castillo settlement has not been finalized yet. Once the settlement agreement is signed, I will forward you a copy and the electronic payment information for the payee.

I do not anticipate that the settlement agreement will be finalized until after I return to the office.

Thanks,

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: Miller, Christopher A
Sent: Fri Oct 08 09:28:53 2010
Subject: (b)(6), (b)(7) settlement reminder

To be able to pay this settlement I need the employee information to create the obligation. I tried contacting (b)(6), (b)(7) but he is out of the office until the 13th.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Monday, October 04, 2010 6:33 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)c

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor

Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)c

Direct Phone: (949) 360 (b)(6), (b)(7)c

Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Thursday, September 23, 2010 1:19 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Tuesday, September 21, 2010 5:06 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Tuesday, September 21, 2010 4:52 PM

To: (b)(6), (b)(7)(c)

Cc: (b)(6), (b)(7)(c)

Subject: RE (b)(6), (b)(7)(c) settlement reminder

Importance: High

(b)(6), (b)(7)(c)

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)(c)

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, August 27, 2010 11:52 AM

To: (b)(6), (b)(7)(c)

Subject: RE (b)(6), (b)(7)(c) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, August 27, 2010 10:30 AM

To: (b)(6), (b)(7)(c)

Subject: RE (b)(6), (b)(7)(c) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)(c)

Subject: Re: (b)(6), (b)(7)(c) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: Castillo settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject: (b)(6), (b)(7)c settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7)c do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 1:37 PM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Now I understand, thanks!!

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 1:16 PM
To: (b)(6), (b)(7)c
Subject: Re: Castillo settlement reminder

(b)(6), (b)(7)c

I forwarded you S1's approval of the ICE employees' indemnification request. It was not the final settlement agreement.

ICE will indemnify the ICE employees once they formalize their settlement agreement and are obligated to pay the funds.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Fri Oct 08 10:05:00 2010
Subject: Re: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

So the signed copy that you sent to me is not the approved copy? Thanks, (b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Fri Oct 08 12:02:52 2010
Subject: Re: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

The Castillo settlement has not been finalized yet. Once the settlement agreement is signed, I will forward you a copy and the electronic payment information for the payee.

I do not anticipate that the settlement agreement will be finalized until after I return to the office.

Thanks,

(b)(6), (b)(7)(c)

----- Original Message -----

From: (b)(6), (b)(7)(c)
To: (b)(6), (b)(7)(c)@dhs.gov; (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Sent: Fri Oct 08 09:28:53 2010
Subject: (b)(6), (b)(7)(c) settlement reminder

To be able to pay this settlement I need the employee information to create the obligation. I tried contacting Chris but he is out of the office until the 13th.

Thanks,

(b)(6), (b)(7)(c)

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)
Sent: Monday, October 04, 2010 6:33 PM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7)(c) settlement reminder

(b)(6), (b)(7)(c)

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)(c)

(b)(6), (b)(7)(c)

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(c)
Direct Phone: (949) 360- (b)(6), (b)(7)(c)
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:19 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder
Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 5:06 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 4:52 PM
To: (b)(6), (b)(7)c
Cc: Cleary, Jennifer S; Miller, Christopher A; Pena, Linda
Subject: RE: (b)(6), (b)(7)c
Importance: High

(b)(6), (b)(7)c

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 11:52 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Thu Aug 26 14:17:56 2010
Subject (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Wednesday, November 10, 2010 10:29 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

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What time estimate can I give the AUSA? Is 4 to 6 weeks realistic?

Thanks,

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 10:37 AM
To: (b)(6), (b)(7)c@dhs.gov'; (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Now I understand, thanks!!

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732- (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 1:16 PM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7)c

(b)(6), (b)(7)

I forwarded you S1's approval of the ICE employees' indemnification request. It was not the final settlement agreement. ICE will indemnify the ICE employees once they formalize their settlement agreement and are obligated to pay the funds.

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Fri Oct 08 10:05:00 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

So the signed copy that you sent to me is not the approved copy? Thanks, Maria

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Fri Oct 08 12:02:52 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

The Castillo settlement has not been finalized yet. Once the settlement agreement is signed, I will forward you a copy and the electronic payment information for the payee.

I do not anticipate that the settlement agreement will be finalized until after I return to the office.

Thanks,

(b)(6), (b)(7)

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Fri Oct 08 09:28:53 2010
Subject: (b)(6), (b)(7) settlement reminder

To be able to pay this settlement I need the employee information to create the obligation. I tried contacting (b)(6), (b)(7) but he is out of the office until the 13th.

Thanks,

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Monday, October 04, 2010 6:33 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: Castillo settlement reminder

(b)(6), (b)(7)c

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)c
Direct Phone: (949) 360-(b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c

Sent: Thursday, September 23, 2010 1:19 PM

To: Stanton, Joshua B

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c settlement reminder

Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 5:06 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

Let me ask OGC. Thanks for the reminder.

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, September 21, 2010 4:52 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder
Importance: High

(b)(6), (b)(7)c

Any update on the settlement? I need to know whether this requirement will be paid this FY so the funds do not lapse.

Thanks,

(b)(6), (b)(7)c
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Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 11:52 AM
To: (b)(6), (b)(7)c
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I've grown a long, white beard waiting for this! But I hear it's just about to hit S1's desk any minute now. ;)

Thank you.

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-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 10:30 AM
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Subject: RE: (b)(6), (b)(7)c settlement reminder

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-----Original Message-----

From: (b)(6), (b)(7)c

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To: (b)(6), (b)(7)c

Subject: Re: (b)(6), (b)(7) settlement reminder

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Sent from my BlackBerry Wireless Handheld

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From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

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From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

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Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Wednesday, November 17, 2010 11:07 AM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

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Thanks,

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Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732-(b)(6), (b)(7)c

-----Original Message-----

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Sent: Wednesday, November 10, 2010 10:29 AM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

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Direct Phone: (949) 360-(b)(6), (b)(7)(c)

Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, October 08, 2010 10:37 AM

To: (b)(6), (b)(7)(c)

Subject: RE: (b)(6), (b)(7)(c) settlement reminder

Now I understand, thanks!!

(b)(6), (b)(7)(c)

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement

Phone: (202)732 (b)(6), (b)(7)(c)

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, October 08, 2010 1:16 PM

To: (b)(6), (b)(7)(c)

Subject: Re (b)(6), (b)(7)(c) settlement reminder

(b)(6), (b)(7)(c)

I forwarded you S1's approval of the ICE employees' indemnification request. It was not the final settlement agreement.

ICE will indemnify the ICE employees once they formalize their settlement agreement and are obligated to pay the funds.

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From: (b)(6), (b)(7)(c)

To: (b)(6), (b)(7)(c)

Sent: Fri Oct 08 10:05:00 2010

Subject: Re: (b)(6), (b)(7)(c) settlement reminder

(b)(6), (b)(7)(c)

So the signed copy that you sent to me is not the approved copy? Thanks, (b)(6), (b)(7)(c)

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From: (b)(6), (b)(7)(c)

To: (b)(6), (b)(7)(c)

Sent: Fri Oct 08 12:02:52 2010

Subject: Re: Castillo settlement reminder

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Thanks,

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Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

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Sent: Monday, October 04, 2010 6:33 PM
To: (b)(6), (b)(7)c
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Subject: RE (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

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(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security 24000 Avila Road, Room 6080 Laguna Niguel, CA 92677

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-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Thursday, September 23, 2010 1:19 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder
Importance: High

(b)(6), (b)(7)c

Any news on this?

(b)(6), (b)(7)c

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Enforcement and Removal Operations
Immigration and Customs Enforcement
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Subject: RE: (b)(6), (b)(7) settlement reminder
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Immigration and Customs Enforcement
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To: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7) settlement reminder

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From: (b)(6), (b)(7)c

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To: (b)(6), (b)(7)c

Subject: Re: (b)(6), (b)(7) settlement reminder

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----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Thu Aug 26 17:24:14 2010

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To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

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Subject: (b)(6), (b)(7) settlement reminder

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b)(6), (b)(7)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, December 21, 2010 2:23 PM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder
Attachments: (b)(6), (b)(7) Signed S1 Decision Memorandum 9.23.10.pdf; Settlement & Release (b)(6), (b)(7).pdf

(b)(6), (b)(7)c

Attached is the executed settlement agreement for the Castillo case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

Please let me know if you need anything else to begin the payment process, and when you estimate the payment will be made. I am aware that we are currently under a continuing resolution which expires soon.

Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
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Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

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Sent: Wednesday, November 17, 2010 8:07 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

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Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732- (b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Wednesday, November 10, 2010 10:29 AM
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Subject: RE: (b)(6), (b)(7) settlement reminder

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Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
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Office Phone: (949) 360- (b)(6), (b)(7)
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Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 10:37 AM
To: (b)(6), (b)(7)c@dhs.gov'; (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

Now I understand, thanks!!

(b)(6), (b)(7)c

Chief, Financial Management Unit
Enforcement and Removal Operations
Immigration and Customs Enforcement
Phone: (202)732 (b)(6), (b)(7)

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, October 08, 2010 1:16 PM

To: [redacted] (b)(6), (b)(7)c

Subject: Re: [redacted] (b)(6), (b)(7) settlement reminder

[redacted] (b)(6), (b)(7)c

I forwarded you S1's approval of the ICE employees' indemnification request. It was not the final settlement agreement.

ICE will indemnify the ICE employees once they formalize their settlement agreement and are obligated to pay the funds.

[redacted] (b)(6), (b)(7)c

----- Original Message -----

From: [redacted] (b)(6), (b)(7)c

To: [redacted] (b)(6), (b)(7)c

Sent: Fri Oct 08 10:05:00 2010

Subject: Re: [redacted] (b)(6), (b)(7) settlement reminder

[redacted] (b)(6), (b)(7)c

So the signed copy that you sent to me is not the approved copy? Thanks, [redacted] (b)(6), (b)(7)c

----- Original Message -----

From: [redacted] (b)(6), (b)(7)c

To: [redacted] (b)(6), (b)(7)c

Sent: Fri Oct 08 12:02:52 2010

Subject: Re: [redacted] (b)(6), (b)(7) settlement reminder

[redacted] (b)(6), (b)(7)c

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To be able to pay this settlement I need the employee information to create the obligation. I tried contacting [redacted] (b)(6), (b)(7)c but he is out of the office until the 13th.

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Immigration and Customs Enforcement
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I just found out that the DHS Secretary approved the indemnification request on September 23, 2010. See attached. What do you need to process the request? ERO's portion of the settlement amount is \$300K.

Chris

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Enforcement and Removal Operations
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Sent: Thu Aug 26 17:24:14 2010

Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7)c do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)c

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, October 05, 2010 3:21 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Per our phone conversation today regarding OI which is now called HSI Domestic Investigations; the \$100K requested is only a portion of this legal settlement for (b)(6), (b)(7)c that is to be paid from prior year funds. Please provide (b)(6), (b)(7)c (b)(6), (b)(7)c a sample memo to follow in requesting payment of this sensitive legal settlement from the Office of the Principal Legal Advisor (OPLA) for the Dallas Finance Center for payment. He has indicated that this memo would be completed by end of this week or the first part of next week for processing.

Thank you in advance for all of your help in getting this sensitive legal settlement paid from prior year funds.

(b)(6), (b)(7)c

Program Analyst
HSI/Domestic Investigations
202-732-5604

Warning: This email and any attachments are UNCLASSIFIED//FOR OFFICIAL USE ONLY (U//FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official. No portion of this email should be furnished to the media, either in written or verbal form. If you are not an intended recipient or believe you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use this information. Please inform the sender that you received this message in error and delete the message from your system.

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, October 05, 2010 12:27 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Can you please take the lead determining what information we need to get this paid? It will have to be from prior year funds and is a settlement. Please provide (b)(6), (b)(7)c the details.

Thanks,

(b)(6), (b)(7)c

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Monday, October 04, 2010 6:37 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7) settlement reminder

(b)(6), (b)(7)

The (b)(6), (b)(7) indemnification request was approved on September 23, 2010. See attached. HSI's portion of the settlement amount is \$100K. What will you need to process the request?

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 7:30 AM
To: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Friday, August 27, 2010 8:55 AM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Thu Aug 26 17:24:14 2010
Subject: Re: (b)(6), (b)(7) settlement reminder

The total settlement amount is \$400K. The breakdown should be \$300K from ERO and \$100K for HSI.

(b)(6), (b)(7)(c)

----- Original Message -----

From: (b)(6), (b)(7)(c)

To: (b)(6), (b)(7)(c)

Cc: (b)(6), (b)(7)(c)

Sent: Thu Aug 26 14:17:56 2010

Subject: (b)(6), (b)(7)(c) settlement reminder

As the end of FY 10 approaches, I want to make sure we've set aside enough funds to pay for this settlement, once S1 approves. We need 100K from HSI and 400K from ERO (b)(6), (b)(7)(c) do I have those amounts right?).

Thank you both.

(b)(6), (b)(7)(c)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, December 21, 2010 2:37 PM
To: (b)(6), (b)(7)c
Subject: Re: Castillo settlement reminder

It goes to (b)(6), (b)(7)c with s copy to (b)(6), (b)(7)c

----- Original Message -----

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Tue Dec 21 11:32:41 2010
Subject: FW: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

Do I send the Castillo settlement agreement on to (b)(6), (b)(7)c or (b)(6), (b)(7)c if HSI is going to be paying its portion (\$100k)?

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
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Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)c
Direct Phone: (949) 360 (b)(6), (b)(7)c
Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)c
Sent: Tuesday, October 05, 2010 12:21 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

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Thank you in advance for all of your help in getting this sensitive legal settlement paid from prior year funds.

(b)(6), (b)(7)c

Program Analyst
HSI/Domestic Investigations
202-732 (b)(6), (b)(7)c

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Sent: Tuesday, October 05, 2010 12:27 PM
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Cc: (b)(6), (b)(7)c
Subject: FW: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

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(b)(6), (b)(7)c

-----Original Message-----

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Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c settlement reminder

(b)(6), (b)(7)c

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(b)(6), (b)(7)c

(b)(6), (b)(7)c

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Commercial & Administrative Law Division U.S. Immigration and Customs Enforcement Department of Homeland Security
24000 Avila Road, Room 6080
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Office Phone: (949) 360 (b)(6), (b)(7)c

Direct Phone: (949) 360 (b)(6), (b)(7)(c)

Facsimile: (949) 360-3208

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, August 27, 2010 7:30 AM

To: (b)(6), (b)(7)(c)

Subject: RE (b)(6), (b)(7) settlement reminder

Thanks. How soon do you think we will see this?

-----Original Message-----

From: (b)(6), (b)(7)(c)

Sent: Friday, August 27, 2010 8:55 AM

To: (b)(6), (b)(7)(c)

Subject: Re: (b)(6), (b)(7) settlement reminder

I stand corrected

Sent from my BlackBerry Wireless Handheld

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From: (b)(6), (b)(7)(c)

To: (b)(6), (b)(7)(c)

Sent: Thu Aug 26 17:24:14 2010

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(b)(6), (b)(7)(c)

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To: (b)(6), (b)(7)(c)

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Thank you both.

(b)(6), (b)(7)(c)

Sent from my BlackBerry Wireless Handheld

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, April 23, 2010 4:30 PM
To: (b)(6), (b)(7)c (CIV)
Subject: RE: (b)(6), (b)(7)c Update

There is a status update conference with the 9th mediator on May 11th on the progress of the indemnification request.

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Friday, April 23, 2010 1:21 PM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c Update

Thanks very much, (b)(6), (b)(7)c That's helpful to know. My main concern for now was whether this was still under active consideration and whether the chances of agency approval looked reasonable (because, if not, and the matter isn't settled and the appeal proceeds, then I might take my incomplete appeal recommendation on the road and work on that while away). I gather from your update that the prospects of agency approval of the proposal will remain alive at least through next week, such that maybe I won't take the file with me.

Do you remember when the 9C mediator set the matter for a re-convening?

(b)(6), (b)(7)c

Trial Attorney
U.S. Department of Justice
Civil Division, Torts Branch
Constitutional & Specialized Tort Litigation Section
Tel. (202) 616- (b)(6), (b)(7)c Fax. (202) 616-4314
E-mail: (b)(6), (b)(7)c

For mail delivery:

(b)(6), (b)(7)c Washington, DC 20044

For courier or overnight mail:

(b)(6), (b)(7)c Washington, DC 20005

From: (b)(6), (b)(7)c
Sent: Friday, April 23, 2010 4:17 PM
To: (b)(6), (b)(7)c (CIV)
Subject: RE: (b)(6), (b)(7)c Update

(b)(6), (b)(7)c

The indemnification request and my draft memo concurring with the indemnification request is slowly making its way through ICE's senior management. The Directors of our Office of Investigations and Detention and Removal Operations will be briefed next week. I think the head of our agency, Assistant Secretary John Morton, will also be briefed next week. Once ICE management approves the recommendation to pay the indemnification, the indemnification request will be forwarded to the DHS General Counsel for approval and then finally to the DHS Secretary.

I'm not sure if we'll need you next week or not. So far, the agency managers who know about the request agree that the indemnification request should be approved. However, this is a large amount that will come directly out of the agency's budget, and there is concern about exactly where the money will come from and if there should be any cost sharing by U.S. Citizenship and Immigration Services because they are responsible for maintaining the databases that contained the wrong information.

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
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U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c

Sent: Friday, April 23, 2010 11:40 AM

To: (b)(6), (b)(7)c

Subject: (b)(6), (b)(7) Update

Hi (b)(6), (b)(7)c

I will be out of the office again all of next week and, before getting out of pocket, I wanted to ask you where things stand within DHS and ICE on the settlement proposal in (b)(6), (b)(7). Just trying to gauge what work files I might need to take with me while I'm away.

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(b)(6), (b)(7)c

(b)(6), (b)(7)c

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(b)(6), (b)(7)c Washington, DC 20044

For courier or overnight mail:

(b)(6), (b)(7)c Washington, DC 20005

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, April 23, 2010 4:17 PM
To: (b)(6), (b)(7)c (CIV)
Subject: RE: (b)(6), (b)(7) Update

(b)(6), (b)(7)

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(b)(6), (b)(7)

(b)(6), (b)(7)c

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Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Friday, April 23, 2010 11:40 AM
To: (b)(6), (b)(7)c
Subject: Castillo Update

Hi (b)(6), (b)(7)

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(b)(6), (b)(7)

(b)(6), (b)(7)c

Trial Attorney
U.S. Department of Justice
Civil Division, Torts Branch
Constitutional & Specialized Tort Litigation Section

Tel. (202) 616- [redacted] Fax. (202) 616-4314

E-mail: [redacted] (b)(6), (b)(7)c

For mail delivery:

[redacted] (b)(6), (b)(7)c Washington, DC 20044

For courier or overnight mail:

[redacted] (b)(6), (b)(7)c Washington, DC 20005

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c (CIV) <(b)(6), (b)(7)c@usdoj.gov>
Sent: Friday, April 23, 2010 4:21 PM
To: (b)(6), (b)(7)c
Subject: RE: Castillo Update

Thanks very much (b)(6), (b)(7)c That's helpful to know. My main concern for now was whether this was still under active consideration and whether the chances of agency approval looked reasonable (because, if not, and the matter isn't settled and the appeal proceeds, then I might take my incomplete appeal recommendation on the road and work on that while away). I gather from your update that the prospects of agency approval of the proposal will remain alive at least through next week, such that maybe I won't take the file with me.

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(b)(6), (b)(7)c Washington, DC 20005

From: (b)(6), (b)(7)c
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To: (b)(6), (b)(7)c (CIV)
Subject: RE: (b)(6), (b)(7)c Update

(b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
Sent: Friday, April 23, 2010 11:40 AM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7) Update

Hi (b)(6), (b)(7)c

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Thanks much,

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(b)(6), (b)(7)c
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(b)(6), (b)(7)c, Washington, DC 20044

For courier or overnight mail:

(b)(6), (b)(7)c, Washington, DC 20005

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 11:51 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Just a quick update on the status of the indemnification request. According to my supervisor, we are waiting for the ICE Principal Legal Advisor to sign off on the agency's recommendation for the indemnification request so that it can be forwarded to DHS Office of General Counsel. The ICE PLA was out yesterday, and I have not received any notice this morning that he signed the recommendation. I am told that the request is on an expedited track to get the PLA's approval.

Both the Director of Investigation and Director of Detention and Removal Operations whose budgets will be most affected by this request have approved the recommendation to indemnify the plaintiff on behalf of the defendants. The Deputy Principal Legal Advisor has also previously indicated that ICE should recommend the DHS Secretary should approve the request.

Sorry, I had hoped will would have had the indemnification request up to the DHS Office of General Counsel by now.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

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Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, May 10, 2010 5:13 PM
To: (b)(6), (b)(7)c @usdoj.gov'
Subject: Re: (b)(6), (b)(7)c

Fine. Talk to you tomorrow.

From: (b)(6), (b)(7)c (USAWAW) <(b)(6), (b)(7)c@usdoj.gov>
To: (b)(6), (b)(7)c <(b)(6), (b)(7)c@dhs.gov>
Sent: Mon May 10 17:11:46 2010
Subject: Re: (b)(6), (b)(7)c

No worries. I'll call you tomorrow at 9am. Ok?

From: (b)(6), (b)(7)c <(b)(6), (b)(7)c@dhs.gov>
To: (b)(6), (b)(7)c (USAWAW)
Sent: Mon May 10 20:08:11 2010
Subject: Re: (b)(6), (b)(7)c

What is your phone #? I am out of the office today.

From: (b)(6), (b)(7)c (USAWAW) <(b)(6), (b)(7)c@usdoj.gov>
To: (b)(6), (b)(7)c (b)(6), (b)(7)c@dhs.gov>
Sent: Mon May 10 16:11:49 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Can you give me a quick call if you have a moment this afternoon?

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c [mailto:(b)(6), (b)(7)c@dhs.gov]
Sent: Friday, May 07, 2010 11:58 AM
To: (b)(6), (b)(7)c (USAWAW)
Cc: (b)(6), (b)(7)c (USAWAW)
Subject: RE: (b)(6), (b)(7)c

Yes, we can talk on Tuesday morning. The ICE Principal Legal Advisor is not a political appointee. The DHS General Counsel is a political appointee.

(b)(6), (b)(7)c

Associate Legal Advisor
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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c (USAWAW) [mailto:(b)(6), (b)(7)c@usdoj.gov]
Sent: Friday, May 07, 2010 9:08 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c (USAWAW)
Subject: RE: (b)(6), (b)(7)c

Thanks (b)(6), (b)(7)c Can we touch base Tuesday at 9am, just before the status conference? Also, is the Principal Legal Advisor a political appointee?

From: (b)(6), (b)(7)c [mailto:(b)(6), (b)(7)c@dhs.gov]
Sent: Thursday, May 06, 2010 4:54 PM
To: (b)(6), (b)(7)c (USAWAW)
Cc: (b)(6), (b)(7)c (USAWAW)
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I just checked again with my supervisor on the status of the (b)(6), (b)(7)c indemnification request. The ICE Directors of Investigations and Detention and Removal have approved the request, and we expect ICE's Principal Legal Advisor to approve it. The Principal Legal Advisor is the last person in ICE to approve it before it is forwarded to the DHS Office of General Counsel. My supervisor hopes that it will be approved by the Principal Legal Advisor before Tuesday's status conference, but there is no guarantee.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

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Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c (USAWAW) (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 2:56 PM
To: (b)(6), (b)(7)c
Cc: Lynch, Phil (USAWAW)
Subject: RE: (b)(6), (b)(7)c

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 12:29 PM
To: (b)(6), (b)(7)c (USAWAW)
Subject: Fw: (b)(6), (b)(7)c

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Tue Apr 27 11:40:48 2010
Subject: Re: (b)(6), (b)(7)c

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Tue Apr 27 09:21:16 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

Friendly reminder that we have our status conference with 9th Cir. Mediator Chris Goelz in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:07 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7) Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7) and (b)(6), (b)(7) were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:03 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 36 (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7) If it's necessary, we may need to discuss with you whether (b)(6), (b)(7) and (b)(6), (b)(7), in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I spoke with (b)(6), (b)(7)c this afternoon and answered his questions. I advised him not to sit in with any further meetings between Julie Stephens and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

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U.S. Immigration and Customs Enforcement
Department of Homeland Security
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Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c

Sent: Thursday, April 15, 2010 1:33 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

FYI, Chris. Please expect a call from (b)(6), (b)(7)c (sp?), a supervisor of Defendant (b)(6), (b)(7)c at NWDC (b)(6), (b)(7)c has concerns about a potential statement of regret. Call if you have questions before or after talking to Jeff.

Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c

Sent: Friday, April 09, 2010 10:31 AM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

That is correct. Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c [mailto:(b)(6), (b)(7)c@dhs.gov]

Sent: Friday, April 09, 2010 10:31 AM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor

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24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Assistant United States Attorney
(b)(6), (b)(7)c Suite 5220
Seattle, WA 98101
Tel: 206.553 (b)(6), (b)(7)c Fax: 206.553.4067

From: (b)(6), (b)(7)c
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c

(b)(6), (b)(7)c

FYI -- ICE's supervisory attorneys in DC were briefed today on the settlement offer in the (b)(6), (b)(7)c case. Based on the discussions during this briefing, ICE will entertain a request for indemnification with a real possibility of a favorable recommendation should the request be for an amount under \$500,000. Of course, the DHS Secretary makes the final decision on any indemnification request, and there is no guarantee the DHS Secretary will follow ICE's recommendation.

Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360- (b)(6), (b)(7)c

Facsimile: (949) 360-3208

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 11:53 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Just a quick update on the status of the indemnification request. According to my supervisor, we are waiting for the ICE Principal Legal Advisor to sign off on the agency's recommendation for the indemnification request so that it can be forwarded to DHS Office of General Counsel. The ICE PLA was out yesterday, and I have not received any notice this morning that he signed the recommendation. I am told that the request is on an expedited track to get the PLA's approval.

Both the Director of Investigation and Director of Detention and Removal Operations whose budgets will be most affected by this request have approved the recommendation to indemnify the plaintiff on behalf of the defendants. The Deputy Principal Legal Advisor has also previously indicated that ICE should recommend the DHS Secretary should approve the request.

Sorry, I had hoped will would have had the indemnification request up to the DHS Office of General Counsel by now.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

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Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, May 10, 2010 5:12 PM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7)c

No worries. I'll call you tomorrow at 9am. Ok?

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Mon May 10 20:08:11 2010
Subject: Re: (b)(6), (b)(7)c

What is your phone #? I am out of the office today.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c

Sent: Mon May 10 16:11:49 2010

Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Can you give me a quick call if you have a moment this afternoon?

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c

Sent: Friday, May 07, 2010 11:58 AM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

Yes, we can talk on Tuesday morning. The ICE Principal Legal Advisor is not a political appointee. The DHS General Counsel is a political appointee.

(b)(6), (b)(7)c

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Department of Homeland Security
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Direct Phone: (949) 360 (b)(6), (b)(7)c

Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c

Sent: Friday, May 07, 2010 9:08 AM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

Thanks (b)(6), (b)(7)c Can we touch base Tuesday at 9am, just before the status conference? Also, is the Principal Legal Advisor a political appointee?

From: (b)(6), (b)(7)c

Sent: Thursday, May 06, 2010 4:54 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I just checked again with my supervisor on the status of the (b)(6), (b)(7)c indemnification request. The ICE Directors of Investigations and Detention and Removal have approved the request, and we expect ICE's Principal Legal Advisor to approve it. The Principal Legal Advisor is the last person in ICE to approve it before it is forwarded to the DHS Office of General Counsel. My supervisor hopes that it will be approved by the Principal Legal Advisor before Tuesday's status conference, but there is no guarantee.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

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24000 Avila Road, Room 6080

Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 2:56 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 12:29 PM
To: (b)(6), (b)(7)c
Subject: Fw: (b)(6), (b)(7)c

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Tue Apr 27 11:40:48 2010
Subject: Re: (b)(6), (b)(7)c

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Tue Apr 27 09:21:16 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c
Friendly reminder that we have our status conference with 9th Cir. Mediator Chris Goelz in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:07 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7)c Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7)c and (b)(6), (b)(7)c were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 2:03 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: RE: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Associate Legal Advisor
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U.S. Immigration and Customs Enforcement
Department of Homeland Security
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Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: RE: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7)(C) If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,
(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: RE: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

I spoke with (b)(6), (b)(7)(C) this afternoon and answered his questions. I advised him not to sit in with any further meetings between (b)(6), (b)(7)(C) and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)(c)

(b)(6), (b)(7)(c)

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Department of Homeland Security
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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(c)
Sent: Thursday, April 15, 2010 1:33 PM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c) (USAWAW)
Subject: RE: (b)(6), (b)(7)(c)

FYI, (b)(6), (b)(7)(c) Please expect a call from (b)(6), (b)(7)(c) (sp?), a supervisor of Defendant (b)(6), (b)(7)(c) at NWDC. (b)(6), (b)(7)(c) has concerns about a potential statement of regret. Call if you have questions before or after talking to (b)(6), (b)(7)(c)

Thanks,
(b)(6), (b)(7)(c)

From: (b)(6), (b)(7)(c)
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7)(c)

That is correct. Thanks,
(b)(6), (b)(7)(c)

From: (b)(6), (b)(7)(c)
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7)(c)

(b)(6), (b)(7)(c)

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)(c)

(b)(6), (b)(7)(c)

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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Assistant United States Attorney
700 Stewart Street, Suite 5220
Seattle, WA 98101
Tel: 206.553 (b)(6), (b)(7)c | Fax: 206.553.4067

From: (b)(6), (b)(7)c
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c

(b)(6), (b)(7)c

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Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Associate Legal Advisor
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U.S. Immigration and Customs Enforcement
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approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 1:06 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

The status conference went well. The 9th Circuit will continue the stay and order a status update (as opposed to a status conference) by June 16 (because Plaintiff's counsel was reluctant to another 60 day stay). Plaintiff's counsel has agreed to an additional 30 day stay (from June 1 to July 1) in district court as well. We'll prepare that next week.

Please do let us know when the PLA has approved the recommendation and, should you gather any further information, how long the DHS GC will take.

Thanks also for all your hardwork sheparding this thing through.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 8:53 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Just a quick update on the status of the indemnification request. According to my supervisor, we are waiting for the ICE Principal Legal Advisor to sign off on the agency's recommendation for the indemnification request so that it can be forwarded to DHS Office of General Counsel. The ICE PLA was out yesterday, and I have not received any notice this morning that he signed the recommendation. I am told that the request is on an expedited track to get the PLA's approval.

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(b)(6), (b)(7)c

(b)(6), (b)(7)c

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Sent: Monday, May 10, 2010 5:12 PM

To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7)c

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From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Mon May 10 20:08:11 2010
Subject: Re: (b)(6), (b)(7)c

What is your phone #? I am out of the office today.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Mon May 10 16:11:49 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)
Can you give me a quick call if you have a moment this afternoon?
(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Friday, May 07, 2010 11:58 AM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c

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(b)(6), (b)(7)c
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To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks (b)(6), (b)(7) Can we touch base Tuesday at 9am, just before the status conference? Also, is the Principal Legal Advisor a political appointee?

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Sent: Thursday, May 06, 2010 4:54 PM
To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

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(b)(6), (b)(7)c

(b)(6), (b)(7)c
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24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)c
Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 2:56 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 12:29 PM
To: (b)(6), (b)(7)c (USAWAW)
Subject: Fw: (b)(6), (b)(7)c

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Tue Apr 27 11:40:48 2010
Subject: Re: (b)(6), (b)(7)c

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Tue Apr 27 09:21:16 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Friendly reminder that we have our status conference with 9th Cir. Mediator Chris Goelz in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:07 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7) Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7) and (b)(6), (b)(7) were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:03 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7)c. If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)c and (b)(6), (b)(7)c in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c

Sent: Thursday, April 15, 2010 1:40 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I spoke with (b)(6), (b)(7)c this afternoon and answered his questions. I advised him not to sit in with any further meetings between (b)(6), (b)(7)c and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
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Direct Phone: (949) 360-(b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c

Sent: Thursday, April 15, 2010 1:33 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

FYI, (b)(6), (b)(7)c Please expect a call from (b)(6), (b)(7)c (sp?), a supervisor of Defendant (b)(6), (b)(7)c at NWDC. (b)(6), (b)(7)c has concerns about a potential statement of regret. Call if you have questions before or after talking to (b)(6), (b)(7)c.

Thanks,

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c

Sent: Friday, April 09, 2010 10:31 AM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

That is correct. Thanks,

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c

Sent: Friday, April 09, 2010 10:31 AM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
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Office Phone: (949) 360-(b)(6), (b)(7)c
Direct Phone: (949) 360-(b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Assistant United States Attorney
700 Stewart Street, Suite 5220
Seattle, WA 98101
Tel: 206.553-(b)(6), (b)(7)c | Fax: 206.553.4067

From: (b)(6), (b)(7)c
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c

(b)(6), (b)(7)c

FYI -- ICE's supervisory attorneys in DC were briefed today on the settlement offer in the (b)(6), (b)(7)c case. Based on the discussions during this briefing, ICE will entertain a request for indemnification with a real possibility of a favorable recommendation should the request be for an amount under \$500,000. Of course, the DHS Secretary makes the final decision on any indemnification request, and there is no guarantee the DHS Secretary will follow ICE's recommendation.

Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, May 27, 2010 6:48 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

Has the PLA approved the recommendation? And, if so, when was it provided to the DHS GC and do you have any estimate how long the DHS GC will take?

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 10:06 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

The status conference went well. The 9th Circuit will continue the stay and order a status update (as opposed to a status conference) by June 16 (because Plaintiff's counsel was reluctant to another 60 day stay). Plaintiff's counsel has agreed to an additional 30 day stay (from June 1 to July 1) in district court as well. We'll prepare that next week.

Please do let us know when the PLA has approved the recommendation and, should you gather any further information, how long the DHS GC will take.

Thanks also for all your hardwork sheparding this thing through.

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 8:53 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

Just a quick update on the status of the indemnification request. According to my supervisor, we are waiting for the ICE Principal Legal Advisor to sign off on the agency's recommendation for the indemnification request so that it can be forwarded to DHS Office of General Counsel. The ICE PLA was out yesterday, and I have not received any notice this morning that he signed the recommendation. I am told that the request is on an expedited track to get the PLA's approval.

Both the Director of Investigation and Director of Detention and Removal Operations whose budgets will be most affected by this request have approved the recommendation to indemnify the plaintiff on behalf of the defendants. The Deputy Principal Legal Advisor has also previously indicated that ICE should recommend the DHS Secretary should approve the request.

Sorry, I had hoped will would have had the indemnification request up to the DHS Office of General Counsel by now.

(b)(6), (b)(7)

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division

U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, May 10, 2010 5:12 PM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7)c

No worries. I'll call you tomorrow at 9am. Ok?

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Mon May 10 20:08:11 2010
Subject: Re: (b)(6), (b)(7)c

What is your phone #? I am out of the office today.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Mon May 10 16:11:49 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)
Can you give me a quick call if you have a moment this afternoon?
(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Friday, May 07, 2010 11:58 AM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c

Yes, we can talk on Tuesday morning. The ICE Principal Legal Advisor is not a political appointee. The DHS General Counsel is a political appointee.

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Friday, May 07, 2010 9:08 AM
To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

Thanks (b)(6), (b)(7)c Can we touch base Tuesday at 9am, just before the status conference? Also, is the Principal Legal Advisor a political appointee?

From: (b)(6), (b)(7)c

Sent: Thursday, May 06, 2010 4:54 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I just checked again with my supervisor on the status of the (b)(6), (b)(7)c indemnification request. The ICE Directors of Investigations and Detention and Removal have approved the request, and we expect ICE's Principal Legal Advisor to approve it. The Principal Legal Advisor is the last person in ICE to approve it before it is forwarded to the DHS Office of General Counsel. My supervisor hopes that it will be approved by the Principal Legal Advisor before Tuesday's status conference, but there is no guarantee.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
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Office Phone: (949) 360-(b)(6), (b)(7)c
Direct Phone: (949) 360-(b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c

Sent: Tuesday, April 27, 2010 2:56 PM

To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c

Subject: RE: (b)(6), (b)(7)c

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c

Sent: Tuesday, April 27, 2010 12:29 PM

To: (b)(6), (b)(7)c

Subject: Fw: (b)(6), (b)(7)c

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)c

To: (b)(6), (b)(7)c

Sent: Tue Apr 27 11:40:48 2010

Subject: (b)(6), (b)(7)c

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Sent: Tue Apr 27 09:21:16 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

Friendly reminder that we have our status conference with 9th Cir. Mediator Chris Goelz in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:07 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7). Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7) and (b)(6), (b)(7) were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b)(6), (b)(7)

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:03 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)

(b)(5), (b)(6), (b)(7)c

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, Chris. If it's necessary, we may need to discuss with you whether Julie and Carl, in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I spoke with Jeff Schwab this afternoon and answered his questions. I advised him not to sit in with any further meetings between Julie Stephens and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
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Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 1:33 PM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

FYI, (b)(6), (b)(7)c Please expect a call from (b)(6), (b)(7)c (sp?), a supervisor of Defendant (b)(6), (b)(7)c at NWDC. Jeff has concerns about a potential statement of regret. Call if you have questions before or after talking to (b)(6), (b)(7)c

Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)c

Cc: (b)(6), (b)(7)c
Subject: RE (b)(6), (b)(7)c

That is correct. Thanks,

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
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Office Phone: (949) 360 (b)(6), (b)(7)c
Direct Phone: (949) 360 (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)c
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)c

(b)(6), (b)(7)c
Assistant United States Attorney
700 Stewart Street, Suite 5220
Seattle, WA 98101
Tel: 206.553 (b)(6), (b)(7)c | Fax: 206.553.4067

From: (b)(6), (b)(7)c
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)c
Subject: (b)(6), (b)(7)c

(b)(6), (b)(7)c & (b)(6), (b)(7)c

FYI -- ICE's supervisory attorneys in DC were briefed today on the settlement offer in the (b)(6), (b)(7) case. Based on the discussions during this briefing, ICE will entertain a request for indemnification with a real possibility of a favorable recommendation should the request be for an amount under \$500,000. Of course, the DHS Secretary makes the final decision on any indemnification request, and there is no guarantee the DHS Secretary will follow ICE's recommendation.

Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

(b)(6), (b)(7)

(b)(6), (b)(7)c

Associate Legal Advisor
Commercial & Administrative Law Division
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(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, May 27, 2010 7:00 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

As of this morning when I checked, it was still with my supervisor's supervisor in DC, who I believe is the last person to approve before it goes to the PLA. I have been following up on its progress almost every other day for the last few weeks. I have been pushing to have it sent to DHS OGC by the end of this week, but I have not received any confirmation yet that this has happened. I will follow up again tomorrow. I don't have any estimate for DHS OGC's approval process.

(b)(6), (b)(7)c

(b)(6), (b)(7)c

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Commercial & Administrative Law Division
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Direct Phone: (949) 360- (b)(6), (b)(7)c
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Thursday, May 27, 2010 3:48 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

Has the PLA approved the recommendation? And, if so, when was it provided to the DHS GC and do you have any estimate how long the DHS GC will take?

(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 10:06 AM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c

The status conference went well. The 9th Circuit will continue the stay and order a status update (as opposed to a status conference) by June 16 (because Plaintiff's counsel was reluctant to another 60 day stay). Plaintiff's counsel has agreed to an additional 30 day stay (from June 1 to July 1) in district court as well. We'll prepare that next week.

Please do let us know when the PLA has approved the recommendation and, should you gather any further information, how long the DHS GC will take.

Thanks also for all your hardwork sheparding this thing through.

(b) (6), (b) (7)

From: (b)(6), (b)(7)c
Sent: Tuesday, May 11, 2010 8:53 AM
To: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

(b) (6), (b) (7)

Just a quick update on the status of the indemnification request. According to my supervisor, we are waiting for the ICE Principal Legal Advisor to sign off on the agency's recommendation for the indemnification request so that it can be forwarded to DHS Office of General Counsel. The ICE PLA was out yesterday, and I have not received any notice this morning that he signed the recommendation. I am told that the request is on an expedited track to get the PLA's approval.

Both the Director of Investigation and Director of Detention and Removal Operations whose budgets will be most affected by this request have approved the recommendation to indemnify the plaintiff on behalf of the defendants. The Deputy Principal Legal Advisor has also previously indicated that ICE should recommend the DHS Secretary should approve the request.

Sorry, I had hoped will would have had the indemnification request up to the DHS Office of General Counsel by now.

(b) (6), (b) (7)

(b)(6), (b)(7)c
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From: (b)(6), (b)(7)c
Sent: Monday, May 10, 2010 5:12 PM
To: (b)(6), (b)(7)c
Subject: Re: (b)(6), (b)(7)c

No worries. I'll call you tomorrow at 9am. Ok?

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Mon May 10 20:08:11 2010
Subject: Re: (b)(6), (b)(7)c

What is your phone #? I am out of the office today.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Mon May 10 16:11:49 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)(c)

Can you give me a quick call if you have a moment this afternoon?

(b)(6), (b)(7)(c)

From: (b)(6), (b)(7)(c)
Sent: Friday, May 07, 2010 11:58 AM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7)(c)

Yes, we can talk on Tuesday morning. The ICE Principal Legal Advisor is not a political appointee. The DHS General Counsel is a political appointee.

(b)(6), (b)(7)(c)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(c)
Direct Phone: (949) 360- (b)(6), (b)(7)(c)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(c)
Sent: Friday, May 07, 2010 9:08 AM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7)(c)

Thanks (b)(6), (b)(7)(c) Can we touch base Tuesday at 9am, just before the status conference? Also, is the Principal Legal Advisor a political appointee?

From: (b)(6), (b)(7)(c)
Sent: Thursday, May 06, 2010 4:54 PM
To: (b)(6), (b)(7)(c)
Cc: (b)(6), (b)(7)(c)
Subject: RE: (b)(6), (b)(7)(c)

(b)(6), (b)(7)(c)

I just checked again with my supervisor on the status of the (b)(6), (b)(7)(c) indemnification request. The ICE Directors of Investigations and Detention and Removal have approved the request, and we expect ICE's Principal Legal Advisor to approve it. The Principal Legal Advisor is the last person in ICE to approve it before it is forwarded to the DHS Office of General Counsel. My supervisor hopes that it will be approved by the Principal Legal Advisor before Tuesday's status conference, but there is no guarantee.

Chris

(b)(6), (b)(7)(c)

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Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 2:56 PM
To: (b)(6), (b)(7)c
Cc:
Subject: RE: (b)(6), (b)(7)c

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.
Mike

From: (b)(6), (b)(7)c
Sent: Tuesday, April 27, 2010 12:29 PM
To: (b)(6), (b)(7)c
Subject: Fw: (b)(6), (b)(7)c

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Sent: Tue Apr 27 11:40:48 2010
Subject: Re: (b)(6), (b)(7)c

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)c
To: (b)(6), (b)(7)c
Cc:
Sent: Tue Apr 27 09:21:16 2010
Subject: RE: (b)(6), (b)(7)c

(b)(6), (b)(7)c
Friendly reminder that we have our status conference with 9th Cir. Mediator Chris Goelz in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?
Thanks,
(b)(6), (b)(7)c

From: (b)(6), (b)(7)c
Sent: Thursday, April 15, 2010 2:07 PM
To:
Cc: (b)(6), (b)(7)c
Subject: RE: (b)(6), (b)(7)c

Thanks, (b)(6), (b)(7)c Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7)c and (b)(6), (b)(7)c were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b)(6), (b)(7)c

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 2:03 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)(C)

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Laguna Niguel, CA 92677

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Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7) If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)(C) in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,
(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

I spoke with (b)(6), (b)(7)(C) this afternoon and answered his questions. I advised him not to sit in with any further meetings between (b)(6), (b)(7)(C) and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)(C)

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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:33 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

FYI, (b)(6), (b)(7) Please expect a call from (b)(6), (b)(7)(C), a supervisor of Defendant (b)(6), (b)(7)(C) at NWDC. (b)(6), (b)(7) has concerns about a potential statement of regret. Call if you have questions before or after talking to (b)(6), (b)(7).

Thanks,
(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C) (W.D. Wa. Dec. 10, 2009)

That is correct. Thanks,
(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Friday, April 09, 2010 10:31 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)(C)

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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,
(b)(6), (b)(7)

(b)(6), (b)(7)(C)
Assistant United States Attorney
700 Stewart Street, (b)(6), (b)(7)(C)
Seattle, WA 98101
Tel: 206.553.(b)(6), (b)(7) Fax: 206.553.4067

From: (b)(6), (b)(7)(C)
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

FYI -- ICE's supervisory attorneys in DC were briefed today on the settlement offer in the (b)(6), (b)(7) case. Based on the discussions during this briefing, ICE will entertain a request for indemnification with a real possibility of a favorable recommendation should the request be for an amount under \$500,000. Of course, the DHS Secretary makes the final decision on any indemnification request, and there is no guarantee the DHS Secretary will follow ICE's recommendation.

Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

(b)(6), (b)(7)(C)
Associate Legal Advisor
Commercial & Administrative Law Division
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Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

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This document and any attachment(s) hereto, may contain confidential and/or sensitive attorney/client privileged information or attorney work product and/or U.S. Government information, and is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies of the original. Any disclosure of this document must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, May 27, 2010 7:02 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7) The next status report is due to (b)(6), (b)(7)(C) on 6/16.

From: (b)(6), (b)(7)(C)
Sent: Thursday, May 27, 2010 4:00 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

As of this morning when I checked, it was still with my supervisor's supervisor in DC, who I believe is the last person to approve before it goes to the PLA. I have been following up on its progress almost every other day for the last few weeks. I have been pushing to have it sent to DHS OGC by the end of this week, but I have not received any confirmation yet that this has happened. I will follow up again tomorrow. I don't have any estimate for DHS OGC's approval process.

(b)(6), (b)(7)(C)

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Direct Phone: (949) 36 (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, May 27, 2010 3:48 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject:

(b)(6), (b)(7)

Has the PLA approved the recommendation? And, if so, when was it provided to the DHS GC and do you have any estimate how long the DHS GC will take?

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, May 11, 2010 10:06 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

The status conference went well. The 9th Circuit will continue the stay and order a status update (as opposed to a status conference) by June 16 (because Plaintiff's counsel was reluctant to another 60 day stay). Plaintiff's counsel has agreed to an additional 30 day stay (from June 1 to July 1) in district court as well. We'll prepare that next week.

Please do let us know when the PLA has approved the recommendation and, should you gather any further information, how long the DHS GC will take.

Thanks also for all your hardwork sheparding this thing through.

(b), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, May 11, 2010 8:53 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

Just a quick update on the status of the indemnification request. According to my supervisor, we are waiting for the ICE Principal Legal Advisor to sign off on the agency's recommendation for the indemnification request so that it can be forwarded to DHS Office of General Counsel. The ICE PLA was out yesterday, and I have not received any notice this morning that he signed the recommendation. I am told that the request is on an expedited track to get the PLA's approval.

Both the Director of Investigation and Director of Detention and Removal Operations whose budgets will be most affected by this request have approved the recommendation to indemnify the plaintiff on behalf of the defendants. The Deputy Principal Legal Advisor has also previously indicated that ICE should recommend the DHS Secretary should approve the request.

Sorry, I had hoped will would have had the indemnification request up to the DHS Office of General Counsel by now.

(b)(6), (b)(7)(C)

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Direct Phone: (949) 360- (b), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Monday, May 10, 2010 5:12 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

No worries. I'll call you tomorrow at 9am. Ok?

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Sent: Mon May 10 20:08:11 2010
Subject: (b)(6), (b)(7)(C)

What is your phone #? I am out of the office today.

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Sent: Mon May 10 16:11:49 2010
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

Can you give me a quick call if you have a moment this afternoon?

(b), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Friday, May 07, 2010 11:58 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Yes, we can talk on Tuesday morning. The ICE Principal Legal Advisor is not a political appointee. The DHS General Counsel is a political appointee.

(b)(6), (b)(7)(C)
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Sent: Friday, May 07, 2010 9:08 AM
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Cc:
Subject: (b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Thursday, May 06, 2010 4:54 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

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(b), (b)(7)

(b)(6), (b)(7)(C)

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Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.
(b)(6), (b)(7)

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Subject: (b)(6), (b)(7)(C)

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Sent: Tue Apr 27 11:40:48 2010
Subject: (b)(6), (b)(7)(C)

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
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Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)
Friendly reminder that we have our status conference with 9th Cir. Mediator (b)(6), (b)(7)(C) in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

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To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks (b)(6), (b)(7) Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7)(C) were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b), (b)(7)

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To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)(C)

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Sent: Thursday, April 15, 2010 1:43 PM
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Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks, (b), (b)(7) If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)(C), in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,

(b), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

I spoke with (b)(6), (b)(7)(C) this afternoon and answered his questions. I advised him not to sit in with any further meetings between (b)(6), (b)(7)(C) and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)(C)

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Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)(C)

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Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)

(b)(6), (b)(7)(C)

700 Stewart Street, (b)(6), (b)(7)(C)
Seattle, WA 98101
Tel: 206.553 (b)(6), (b)(7) Fax: 206.553.4067

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Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Friday, May 28, 2010 10:59 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Got it. It's on (b)(6), (b)(7)(C) desk. I will call him.

From: (b)(6), (b)(7)(C)
Sent: Friday, May 28, 2010 10:59 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)
Importance: High

(b)(6), (b)(7)

Any news about the (b)(6), (b)(7) indemnification request? Below is another request for an update from the USAO in Seattle.

They sent us the indemnification request back on April 5th. I first forwarded you my draft memo recommending approval of the indemnification request on April 9th and then provided revisions to the memo back on April 22nd after I received your comments on the same day. It has been pending in DC for over a month now and still needs to be approved by DHS OGC before it gets to the DHS Secretary.

The next status update conference is scheduled with the Ninth Circuit mediator on June 16th.

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, May 27, 2010 3:48 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Has the PLA approved the recommendation? And, if so, when was it provided to the DHS GC and do you have any estimate how long the DHS GC will take?

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, May 11, 2010 10:06 AM
To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

The status conference went well. The 9th Circuit will continue the stay and order a status update (as opposed to a status conference) by June 16 (because Plaintiff's counsel was reluctant to another 60 day stay). Plaintiff's counsel has agreed to an additional 30 day stay (from June 1 to July 1) in district court as well. We'll prepare that next week.

Please do let us know when the PLA has approved the recommendation and, should you gather any further information, how long the DHS GC will take.

Thanks also for all your hardwork sheparding this thing through.

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)

Sent: Tuesday, May 11, 2010 8:53 AM

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Just a quick update on the status of the indemnification request. According to my supervisor, we are waiting for the ICE Principal Legal Advisor to sign off on the agency's recommendation for the indemnification request so that it can be forwarded to DHS Office of General Counsel. The ICE PLA was out yesterday, and I have not received any notice this morning that he signed the recommendation. I am told that the request is on an expedited track to get the PLA's approval.

Both the Director of Investigation and Director of Detention and Removal Operations whose budgets will be most affected by this request have approved the recommendation to indemnify the plaintiff on behalf of the defendants. The Deputy Principal Legal Advisor has also previously indicated that ICE should recommend the DHS Secretary should approve the request.

Sorry, I had hoped will would have had the indemnification request up to the DHS Office of General Counsel by now.

(b)(6), (b)(7)(C)

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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)

Sent: Monday, May 10, 2010 5:12 PM

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

No worries. I'll call you tomorrow at 9am. Ok?

From: (b)(6), (b)(7)(C)

To: (b)(6), (b)(7)(C)

Sent: Mon May 10 20:08:11 2010

Subject: (b)(6), (b)(7)(C)

What is your phone #? I am out of the office today.

From: (b)(6), (b)(7)(C)

To: (b)(6), (b)(7)(C)

Sent: Mon May 10 16:11:49 2010

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Can you give me a quick call if you have a moment this afternoon?

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)

Sent: Friday, May 07, 2010 11:58 AM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

Yes, we can talk on Tuesday morning. The ICE Principal Legal Advisor is not a political appointee. The DHS General Counsel is a political appointee.

(b)(6), (b)(7)(C)

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Sent: Friday, May 07, 2010 9:08 AM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

Thanks (b)(6), (b)(7) Can we touch base Tuesday at 9am, just before the status conference? Also, is the Principal Legal Advisor a political appointee?

From: (b)(6), (b)(7)(C)

Sent: Thursday, May 06, 2010 4:54 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

I just checked again with my supervisor on the status of the (b)(6), (b)(7) indemnification request. The ICE Directors of Investigations and Detention and Removal have approved the request, and we expect ICE's Principal Legal Advisor to approve it. The Principal Legal Advisor is the last person in ICE to approve it before it is forwarded to the DHS Office of General Counsel. My supervisor hopes that it will be approved by the Principal Legal Advisor before Tuesday's status conference, but there is no guarantee.

(b)(6), (b)(7)(C)

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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Tuesday, April 27, 2010 2:56 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, April 27, 2010 12:29 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Sent: Tue Apr 27 11:40:48 2010
Subject: (b)(6), (b)(7)(C)

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Sent: Tue Apr 27 09:21:16 2010
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Friendly reminder that we have our status conference with 9th Cir. Mediator (b)(6), (b)(7)(C) in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 2:07 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7) Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7)(C) were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 2:03 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)(C)

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Office Phone: (949) 360 (b)(6), (b)(7)(C)
Direct Phone: (949) 360 (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Thanks (b)(6), (b)(7) If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)(C) in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,
(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:40 PM

To: [redacted]
Cc: [redacted]
Subject: [redacted]

[redacted]

I spoke with [redacted] this afternoon and answered his questions. I advised him not to sit in with any further meetings between [redacted] and you, and if he wanted any information about the case to talk to me first.

[redacted]

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, [redacted]
Laguna Niguel, CA 92677

Office Phone: (949) 360 [redacted]
Direct Phone: (949) 360 [redacted]
Facsimile: (949) 360-3208

From: [redacted]
Sent: Thursday, April 15, 2010 1:33 PM
To: [redacted]
Cc: [redacted]
Subject: [redacted]

FYI, [redacted]. Please expect a call from [redacted] a supervisor of Defendant [redacted] at NWDC. [redacted] as concerns about a potential statement of regret. Call if you have questions before or after talking to Jeff.

Thanks,
[redacted]

From: [redacted]
Sent: Friday, April 09, 2010 10:31 AM
To: [redacted]
Cc: [redacted]
Subject: [redacted]

That is correct. Thanks,
[redacted]

From: [redacted]
Sent: Friday, April 09, 2010 10:31 AM
To: [redacted]
Cc: [redacted]
Subject: [redacted]

[redacted]

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

[redacted]

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Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)

(b)(6), (b)(7)(C)

700 Stewart Street, (b)(6), (b)(7)(C)
Seattle, WA 98101
Tel: 206.553. (b)(6), (b)(7) Fax: 206.553.4067

From: (b)(6), (b)(7)(C)
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

FYI -- ICE's supervisory attorneys in DC were briefed today on the settlement offer in the (b)(6), (b)(7) case. Based on the discussions during this briefing, ICE will entertain a request for indemnification with a real possibility of a favorable recommendation should the request be for an amount under \$500,000. Of course, the DHS Secretary makes the final decision on any indemnification request, and there is no guarantee the DHS Secretary will follow ICE's recommendation.

Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

(b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Friday, May 28, 2010 11:45 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject:

(b)(6), (b)(7)

I am told this morning by my supervisor, (b)(6), (b)(7)(C) that the indemnification request will be sent to the ICE Principal Legal Advisor by the end of today so that he can review it on Tuesday, June 1st.

I will be out of the office on vacation from June 1st to June 10th. However, I will have my blackberry with me, so as soon as I find out the indemnification request has been forwarded to DHS OGC, I will let you know.

During my absence, you can contact (b)(6), (b)(7) regarding the status of the indemnification request if needed.

His email is: (b)(6), (b)(7)(C)
His telephone # is: 202-732 (b)(6), (b)(7)

Have a good holiday weekend,

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
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To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Has the PLA approved the recommendation? And, if so, when was it provided to the DHS GC and do you have any estimate how long the DHS GC will take?

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, May 11, 2010 10:06 AM
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Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

The status conference went well. The 9th Circuit will continue the stay and order a status update (as opposed to a status conference) by June 16 (because Plaintiff's counsel was reluctant to another 60 day stay). Plaintiff's counsel has agreed to an additional 30 day stay (from June 1 to July 1) in district court as well. We'll prepare that next week.

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From: (b)(6), (b)(7)(C)
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Sorry, I had hoped will would have had the indemnification request up to the DHS Office of General Counsel by now.

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Sent: Monday, May 10, 2010 5:12 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
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(b)(6), (b)(7)(C)

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Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7)(C) If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)(C) in fact, need their supervisors' authorization to sign any potential statement of regret.

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(b)(6), (b)(7)(C)

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To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

I spoke with (b)(6), (b)(7)(C) this afternoon and answered his questions. I advised him not to sit in with any further meetings between (b)(6), (b)(7)(C) and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 15, 2010 1:33 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

FYI (b), (b)(7) Please expect a call from (b)(6), (b)(7)(C) a supervisor of Defendant (b)(6), (b)(7)(C) at NWDC. (b) has concerns about a potential statement of regret. Call if you have questions before or after talking to (b)(7)

Thanks,
(b), (b)(7)

From: (b)(6), (b)(7)(C)

Sent: Friday, April 09, 2010 10:31 AM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

That is correct. Thanks,
(b), (b)(7)

From: (b)(6), (b)(7)(C)

Sent: Friday, April 09, 2010 10:31 AM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)(C)

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Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)

(b)(6), (b)(7)(C)

700 Stewart Street, (b)(6), (b)(7)(C)
Seattle, WA 98101
Tel: 206.553 (b)(6), (b)(7) | Fax: 206.553.4067

From: (b)(6), (b)(7)(C)
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

FYI -- ICE's supervisory attorneys in DC were briefed today on the settlement offer in the (b)(6), (b)(7) case. Based on the discussions during this briefing, ICE will entertain a request for indemnification with a real possibility of a favorable recommendation should the request be for an amount under \$500,000. Of course, the DHS Secretary makes the final decision on any indemnification request, and there is no guarantee the DHS Secretary will follow ICE's recommendation.

Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

(b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Friday, May 28, 2010 11:55 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject:

Thanks (b)(6), (b)(7) Enjoy your vacation.
(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Friday, May 28, 2010 8:45 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

I am told this morning by my supervisor, (b)(6), (b)(7)(C) that the indemnification request will be sent to the ICE Principal Legal Advisor by the end of today so that he can review it on Tuesday, June 1st.

I will be out of the office on vacation from June 1st to June 10th. However, I will have my blackberry with me, so as soon as I find out the indemnification request has been forwarded to DHS OGC, I will let you know.

During my absence, you can contact (b)(6), (b)(7)(C) the status of the indemnification request if needed.

His email is: (b)(6), (b)(7)(C)
His telephone # is: 202-732-(b)(6), (b)(7)

Have a good holiday weekend,

(b)(6), (b)(7)(C)

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Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, May 27, 2010 3:48 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Has the PLA approved the recommendation? And, if so, when was it provided to the DHS GC and do you have any estimate how long the DHS GC will take?

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, May 11, 2010 10:06 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

The status conference went well. The 9th Circuit will continue the stay and order a status update (as opposed to a status conference) by June 16 (because Plaintiff's counsel was reluctant to another 60 day stay). Plaintiff's counsel has agreed to an additional 30 day stay (from June 1 to July 1) in district court as well. We'll prepare that next week.

Please do let us know when the PLA has approved the recommendation and, should you gather any further information, how long the DHS GC will take.

Thanks also for all your hardwork sheparding this thing through.

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, May 11, 2010 8:53 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Just a quick update on the status of the indemnification request. According to my supervisor, we are waiting for the ICE Principal Legal Advisor to sign off on the agency's recommendation for the indemnification request so that it can be forwarded to DHS Office of General Counsel. The ICE PLA was out yesterday, and I have not received any notice this morning that he signed the recommendation. I am told that the request is on an expedited track to get the PLA's approval.

Both the Director of Investigation and Director of Detention and Removal Operations whose budgets will be most affected by this request have approved the recommendation to indemnify the plaintiff on behalf of the defendants. The Deputy Principal Legal Advisor has also previously indicated that ICE should recommend the DHS Secretary should approve the request.

Sorry, I had hoped will would have had the indemnification request up to the DHS Office of General Counsel by now.

(b)(6), (b)(7)(C)

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Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Monday, May 10, 2010 5:12 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

No worries. I'll call you tomorrow at 9am. Ok?

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Sent: Mon May 10 20:08:11 2010
Subject: (b)(6), (b)(7)(C)

What is your phone #? I am out of the office today.

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Sent: Mon May 10 16:11:49 2010
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)
Can you give me a quick call if you have a moment this afternoon?
(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Friday, May 07, 2010 11:58 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Yes, we can talk on Tuesday morning. The ICE Principal Legal Advisor is not a political appointee. The DHS General Counsel is a political appointee.

(b)(6), (b)(7)(C)
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Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Friday, May 07, 2010 9:08 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks (b)(6), (b)(7) Can we touch base Tuesday at 9am, just before the status conference? Also, is the Principal Legal Advisor a political appointee?

From: (b)(6), (b)(7)(C)
Sent: Thursday, May 06, 2010 4:54 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

I just checked again with my supervisor on the status of the (b)(6), (b)(7) indemnification request. The ICE Directors of Investigations and Detention and Removal have approved the request, and we expect ICE's Principal Legal Advisor to approve it. The Principal Legal Advisor is the last person in ICE to approve it before it is forwarded to the DHS Office of General Counsel. My supervisor hopes that it will be approved by the Principal Legal Advisor before Tuesday's status conference, but there is no guarantee.

(b)(6), (b)(7)(C)

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Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Tuesday, April 27, 2010 2:56 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.
(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, April 27, 2010 12:29 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Sent: Tue Apr 27 11:40:48 2010
Subject: (b)(6), (b)(7)(C)

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Sent: Tue Apr 27 09:21:16 2010
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Friendly reminder that we have our status conference with 9th Cir. Mediator (b)(6), (b)(7)(C) in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 2:07 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks (b)(6), (b)(7) Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7)(C) were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 2:03 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks (b)(6), (b)(7) If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)(C) in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,

(b), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

I spoke with (b)(6), (b)(7)(C) this afternoon and answered his questions. I advised him not to sit in with any further meetings between (b)(6), (b)(7)(C) and you, and if he wanted any information about the case to talk to me first.

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, Room 6080
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b), (b)(7)
Direct Phone: (949) 36- (b), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:33 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

FYI, (b), (b)(7) Please expect a call from (b)(6), (b)(7)(C) a supervisor of Defendant (b)(6), (b)(7)(C) at NWDC (b), (b)(7) has concerns about a potential statement of regret. Call if you have questions before or after talking to (b), (b)(7)

Thanks,

(b), (b)(7)

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Cc: (b)(6), (b)(7)(C)
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I just want to confirm that the settlement agreement is for a total amount of \$400,000 in monetary damages, and the plaintiff will not seek additional attorney fees and fees beyond the \$400,000.

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)(C)

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700 Stewart Street, (b)(6), (b)(7)(C)
Seattle, WA 98101
Tel: 206.553. (b)(6), (b)(7)(C) | Fax: 206.553.4067

From: (b)(6), (b)(7)(C)
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

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Department of Homeland Security
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From: (b)(6), (b)(7)(C)
Sent: Monday, April 05, 2010 1:11 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject:
Attachments: Indemnification Request - version 3 FINAL.pdf

(b)(6), (b)(7)

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, April 27, 2010 2:41 PM
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(b)(6), (b)(7)(C)

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Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)(C)
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Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

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(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)

Sent: Friday, April 09, 2010 10:31 AM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

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To: (b)(6), (b)(7)(C)

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Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

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Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)

Direct Phone: (949) 360- (b)(6), (b)(7)

Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)

Sent: Monday, April 05, 2010 10:11 AM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b)(6), (b)(7)

(b)(6), (b)(7)(C)

700 Stewart Street, (b)(6), (b)(7)(C)
Seattle, WA 98101
Tel: 206.553.4358 | Fax: 206.553.4067

From: (b)(6), (b)(7)(C)
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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Sent: Tuesday, April 27, 2010 5:56 PM
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Cc: (b)(6), (b)(7)(C)
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Subject: (b)(6), (b)(7)(C)

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To: (b)(6), (b)(7)(C)
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Sent: Tue Apr 27 09:21:16 2010
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From: (b)(6), (b)(7)(C)
Sent: Thursday, May 06, 2010 7:54 PM
To:
Cc: (b)(6), (b)(7)(C)
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From: (b)(6), (b)(7)(C)
Sent: Friday, May 07, 2010 12:08 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject:

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Direct Phone: (949) 360 (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7)(C) If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)(C) in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,
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From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
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Sent: Thursday, April 15, 2010 1:33 PM
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Thanks,

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From: (b)(6), (b)(7)(C)
Sent: Friday, April 09, 2010 10:31 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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Cc:
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

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(b)(6), (b)(7)(C)

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Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360- (b), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Monday, April 05, 2010 10:11 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b), (b)(7)

(b)(6), (b)(7)(C)

700 Stewart Street, (b)(6), (b)(7)(C)
Seattle, WA 98101
Tel: 206.553 (b), (b)(7) Fax: 206.553.4067

From: (b)(6), (b)(7)(C)
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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Please let me know as soon as possible when and where the mediation will be scheduled so that I can make my travel arrangements to attend.

Thanks,

(b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Friday, May 07, 2010 2:58 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject:

Yes, we can talk on Tuesday morning. The ICE Principal Legal Advisor is not a political appointee. The DHS General Counsel is a political appointee.

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
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Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Friday, May 07, 2010 9:08 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks (b)(6), (b)(7)(C). Can we touch base Tuesday at 9am, just before the status conference? Also, is the Principal Legal Advisor a political appointee?

From: (b)(6), (b)(7)(C)
Sent: Thursday, May 06, 2010 4:54 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

I just checked again with my supervisor on the status of the (b)(6), (b)(7)(C) indemnification request. The ICE Directors of Investigations and Detention and Removal have approved the request, and we expect ICE's Principal Legal Advisor to approve it. The Principal Legal Advisor is the last person in ICE to approve it before it is forwarded to the DHS Office of General Counsel. My supervisor hopes that it will be approved by the Principal Legal Advisor before Tuesday's status conference, but there is no guarantee.

(b)(6), (b)(7)(C)

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Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 360-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Tuesday, April 27, 2010 2:56 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks. Please do let me know if/when it's approved by ICE's Principal Legal Advisor and gone up to DHS GC.
(b), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, April 27, 2010 12:29 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

It should be making its way up the ICE chain this week.

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Sent: Tue Apr 27 11:40:48 2010
Subject: (b)(6), (b)(7)(C)

My supervisor approved my memo recommending approval of the indemnification yesterday. It should be be

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Sent: Tue Apr 27 09:21:16 2010
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

Friendly reminder that we have our status conference with 9th Cir. Mediator (b)(6), (b)(7)(C) in two weeks (on 5/11). Is there any update you can share with us regarding the status of the indemnification request? Has it been approved by ICE's Principal Legal Advisor and gone up to DHS GC?

Thanks,

(b), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 2:07 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks, (b), (b)(7) Duly noted.

Correct, our standard settlement expressly states no admission of liability or wrongdoing.

(b)(6), (b)(7)(C) were also concerned about Plaintiff "publishing" the letter. We may explore with Plaintiff's counsel a confidentiality provision (if not vis-à-vis the agreement itself) but at least with respect to the statement of regret. We can discuss this later.

We appreciate the update. We'll check back in in a couple of weeks.

(b), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 2:03 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

As long as the statement is clear that it only reflects their own personal views and does not reflect any views of ICE or DHS, it should be ok. ICE's primary concern would likely be that any letter of regret will be circulated among the plaintiff or immigration bars and used in another case against it. We should be able to put in a sentence that addresses this concern that the regret statement only applies to the plaintiff and the unique facts in his case. Of course, the defendants would still have a settlement agreement stating that they do not admit any legal liability or wrongdoing, right?

BTW, I submitted a draft agency memo recommending that DHS indemnify the defendants pursuant to the terms of the negotiated settlement agreement. I am waiting to hear if there are any changes to be made and when it will be approved by ICE's Principal Legal Advisor.

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:43 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks, (b), (b)(7) If it's necessary, we may need to discuss with you whether (b)(6), (b)(7)(C) in fact, need their supervisors' authorization to sign any potential statement of regret.

Thanks,

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From: (b)(6), (b)(7)(C)
Sent: Thursday, April 15, 2010 1:40 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b), (b)(7),

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From: (b)(6), (b)(7)(C)
Sent: Friday, April 09, 2010 10:31 AM
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Sent: Friday, April 09, 2010 10:31 AM
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Sent: Monday, April 05, 2010 10:11 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b), (b)(7)

Please find attached our clients' indemnification request, with exhibit. Please let us know if you need any further information.

Thanks,

(b), (b)(7)

(b)(6), (b)(7)(C)
700 Stewart Street, (b)(6), (b)(7)(C)
Seattle, WA 98101
Tel: 206.553 (b), (b)(7) | Fax: 206.553.4067

From: (b)(6), (b)(7)(C)
Sent: Wednesday, March 03, 2010 2:40 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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To:
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Subject:

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(b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 9:52 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: Agreement

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely

(b)(6), (b)(7)(C)

Financial Program Specialist
DHS/ICE/CFO/DFC

(b)(6), (b)(7)(C)

Dallas Finance Center
Tel# 214-915- (b)(6)
Fax# 214-915-6262

How are we doing? We are interested in your feedback

[click here](#)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 7:54 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good Morning (b)(6), (b)(7)(C)

Attached you will find documents from (b)(6), (b)(7)(C) in regards to the request for HSI's portion in the amount of \$100K for a settlement agreement.

Funding is available for this action.

(b)(6), (b)(7)(C)

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)(C)

Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-732- (b)(6)

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, December 21, 2010 2:51 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Dear (b)(6), (b)(7)(C)

Attached is the executed settlement agreement for the (b)(6), (b)(7)(C) case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

Please let me know if you need anything else to begin the payment process, and when you estimate the payment will be made. I am aware that we are currently under a continuing resolution which expires soon.

Thanks,

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)

Sent: Thursday, January 06, 2011 8:55 AM

To: (b)(6), (b)(7)(C)

Subject: Agreement

Attachments: (b)(6), (b)(7)(C)

Importance: High

Good Morning (b)(6), (b)(7)(C)

Please see attached proof of payment for (b)(6), (b)(7)(C) Let me know if you have any questions, or need further information.

Have a Wonderful Day!

(b)(6), (b)(7)(C)

Lead Accounting Technician Dallas Finance Center

Phone# 214-915-(b)(6), (b)(7)(C)

Fax# 214-915-6262

(b)(6), (b)(7)(C)

 **Please don't print this e-mail unless you really need to. Think Green.**

How are we doing? We are interested in your feedback.

[click here](#)

From: (b)(6), (b)(7)(C)

Sent: Wednesday, January 05, 2011 12:28 PM

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

Thank you for the update. Please forward me the proof of payment tomorrow.

(b)(6), (b)(7)(C)
Associate Legal Advisor
District Court Litigation Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)
Direct Phone: (949) 36 (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Wednesday, January 05, 2011 10:11 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)
Importance: High

Payment went out today, will be able to provide proof in the morning.

Have a Wonderful Day!

(b)(6), (b)(7)(C)

Lead Accounting Technician Dallas Finance Center

Phone# 214-915- (b)(6), (b)(7)(C)
Fax# 214-915-6262

(b)(6), (b)(7)(C)

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[click here](#)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, January 04, 2011 10:58 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Please send me a status update on the payment for this ICE settlement.

Thanks,

(b)(6), (b)(7)(C)
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 8:59 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Attached please find the OPLA payment memo with instructions for payment and the executed settlement agreement for the above-referenced case.

Please let me know if you need anything else,

(b)(6), (b)(7)(C)
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 6:52 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely
(b)(6), (b)(7)(C)
Financial Program Specialist
DHS/ICE/CFO/DFC
(b)(6), (b)(7)(C)

Dallas Finance Center
Tel# 214-915-(b)(7)
Fax# 214-915-6262

How are we doing? We are interested in your feedback

[click here](#)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 7:54 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good Morning (b)(6), (b)(7)(C)

Attached you will find documents from (b)(6), (b)(7)(C) in regards to the request for HSI's portion in the amount of \$100K for a settlement agreement.

Funding is available for this action.

(b)(6), (b)(7)(C)

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)(C)

Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-732-(b)(7)
(F) 202-732-5736

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, December 21, 2010 2:51 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Dear (b)(6), (b)(7)(C)

Attached is the executed settlement agreement for the (b)(6), (b)(7)(C) case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

Please let me know if you need anything else to begin the payment process, and when you estimate the payment will be made. I am aware that we are currently under a continuing resolution which expires soon.

Thanks,

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 11:59 AM

To:
Cc:
Subject: (b)(6), (b)(7)(C)

Attachments:

Tracking:

Recipient

(b)(6), (b)(7)(C)

Read

Read: 12/22/2010 12:17 PM
Read: 12/22/2010 12:09 PM
Read: 12/22/2010 12:40 PM
Read: 12/22/2010 12:00 PM
Read: 12/22/2010 12:40 PM

Attached please find the OPLA payment memo with instructions for payment and the executed settlement agreement for the above-referenced case.

Please let me know if you need anything else,

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 6:52 AM

To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely

(b)(6), (b)(7)(C)

Financial Program Specialist
DHS/ICE/CFO/DFC

(b)(6), (b)(7)(C)
Dallas Finance Center
Tel# 214-915-(b)(6)
Fax# 214-915-6262

How are we doing? We are interested in your feedback

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From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 7:54 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good Morning (b)(6), (b)(7)(C)

Attached you will find documents from (b)(6), (b)(7)(C) in regards to the request for HSI's portion in the amount of \$100K for a settlement agreement.

Funding is available for this action.

(b)(6), (b)(7)(C)

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)(C)
Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-732-(b)(6)
(F) 202-732-5736

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, December 21, 2010 2:51 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Dear (b)(6), (b)(7)(C)

Attached is the executed settlement agreement for the (b)(6), (b)(7)(C) case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

Please let me know if you need anything else to begin the payment process, and when you estimate the payment will be made. I am aware that we are currently under a continuing resolution which expires soon.

Thanks,

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
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(b)(6), (b)(7)(C)

From:

(b)(6), (b)(7)(C)

Sent:

Wednesday, January 05, 2011 1:11 PM

To:

Subject:

(b)(6), (b)(7)(C)

Importance:

High

Payment went out today, will be able to provide proof in the morning.

Have a Wonderful Day!

(b)(6), (b)(7)(C)

Lead Accounting Technician Dallas Finance Center

Phone# 214-915-^{(b)(7)}

Fax# 214-915-6262

(b)(6), (b)(7)(C)



Please don't print this e-mail unless you really need to. Think Green.

How are we doing? We are interested in your feedback.

[click here](#)

From: (b)(6), (b)(7)(C)

Sent: Tuesday, January 04, 2011 10:58 AM

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

Please send me a status update on the payment for this ICE settlement.

Thanks,

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division

U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 8:59 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Attached please find the OPLA payment memo with instructions for payment and the executed settlement agreement for the above-referenced case.

Please let me know if you need anything else,

(b)(6), (b)(7)(C)
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 6:52 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely
(b)(6), (b)(7)(C)
Financial Program Specialist
DHS/ICE/CFO/DFC
(b)(6), (b)(7)(C)
Dallas Finance Center
Tel# 214-915- (b)(6), (b)(7)(C)
Fax# 214-915-6262

How are we doing? We are interested in your feedback

[click here](#)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 7:54 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good Morning (b)(6), (b)(7)(C)

Attached you will find documents from (b)(6), (b)(7)(C) in regards to the request for HSI's portion in the amount of \$100K for a settlement agreement.

Funding is available for this action.

(b)(6), (b)(7)(C)

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)(C)
Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-732-(b)
(F) 202-732-5736

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, December 21, 2010 2:51 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Dear (b)(6), (b)(7)(C)

Attached is the executed settlement agreement for the (b)(6), (b)(7)(C) case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

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Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement

Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360-
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(b)(6), (b)(7)(C)

From:

(b)(6), (b)(7)(C)

Sent:

Wednesday, January 05, 2011 1:28 PM

To:

Subject:

(b)(6), (b)(7)(C)

Thank you for the update. Please forward me the proof of payment tomorrow.

(b)(6), (b)(7)(C)

Associate Legal Advisor
District Court Litigation Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360

Direct Phone: (949) 360 (b)(6), (b)(7)(C)

Facsimile: (949) 360-3208

From:

(b)(6), (b)(7)(C)

Sent: Wednesday, January 05, 2011 10:11 AM

To:

(b)(6), (b)(7)(C)

Subject:

(b)(6), (b)(7)(C)

Importance: High

Payment went out today, will be able to provide proof in the morning.

Have a Wonderful Day!

(b)(6), (b)(7)(C)

Lead Accounting Technician Dallas Finance Center

Phone# 214-915 (b)(6), (b)(7)(C)

Fax# 214-915-6262

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, January 04, 2011 10:58 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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Thanks,

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Associate Legal Advisor
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Department of Homeland Security
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From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 8:59 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 6:52 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely

(b)(6), (b)(7)(C)

Financial Program Specialist

DHS/ICE/CFO/DFC

(b)(6), (b)(7)(C)

Dallas Finance Center

Tel# 214-915 (b)(6), (b)(7)(C)

Fax# 214-915-6262

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From: (b)(6), (b)(7)(C)

Sent: Wednesday, December 22, 2010 7:54 AM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)(C)

Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-732 (b)(6), (b)(7)(C)
(F) 202-732-5736

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From: (b)(6), (b)(7)(C)

Sent: Tuesday, December 21, 2010 2:51 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

Dear (b)(6), (b)(7)(C)

Attached is the executed settlement agreement for the (b)(6), (b)(7)(C) case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

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Thanks,

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)
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Facsimile: (949) 360-3208

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, January 06, 2011 12:40 PM
To:
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7) That was quick and it appears to be directed to the right account number.

I'm going to close my file soon. Thanks, (b)(6), (b)(7) for all your help on this difficult case.

Take good care,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, January 06, 2011 7:29 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)
Importance: High

(b)(6), (b)(7)

Here is the proof of payment for the (b)(6), (b)(7) settlement that I received today. The money should show up in the account in the next couple of days.

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Sent: Thu Jan 06 05:55:19 2011
Subject: (b)(6), (b)(7)(C)

Good Morning (b)(6), (b)(7)(C)

Please see attached proof of payment for (b)(6), (b)(7) Let me know if you have any questions, or need further information.

Have a Wonderful Day!

(b)(6), (b)(7)(C)

**Lead Accounting Technician
Dallas Finance Center**

Phone# 214-915- (b)(6), (b)(7)(C)

Fax# 214-915-6262

(b)(6), (b)(7)(C)

 Please don't print this e-mail unless you really need to. Think Green.

How are we doing? We are interested in your feedback.

[click here](#)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, January 05, 2011 12:28 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thank you for the update. Please forward me the proof of payment tomorrow.

(b)(6), (b)(7)(C)
Associate Legal Advisor
District Court Litigation Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Wednesday, January 05, 2011 10:11 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)
Importance: High

Payment went out today, will be able to provide proof in the morning.

Have a Wonderful Day!

(b)(6), (b)(7)(C)

**Lead Accounting Technician
Dallas Finance Center**

Phone# 214-915-(b)(6), (b)(7)

Fax# 214-915-6262

(b)(6), (b)(7)(C)

 Please don't print this e-mail unless you really need to. Think Green.

How are we doing? We are interested in your feedback.

[click here](#)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, January 04, 2011 10:58 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Please send me a status update on the payment for this ICE settlement.

Thanks,

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 8:59 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Attached please find the OPLA payment memo with instructions for payment and the executed settlement agreement for the above-referenced case.

Please let me know if you need anything else,

(b)(6), (b)(7)(C)
Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360-
Direct Phone: (949) 36-
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 6:52 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good morning

Thank you for the heads up on this settlement and providing funding string for your portion of the payment. When we receive the initialed payment memo from OPLA with instructions of payment we will process accordingly.

Sincerely

(b)(6), (b)(7)(C)
Financial Program Specialist
DHS/ICE/CFO/DFC
(b)(6), (b)(7)(C)
Dallas Finance Center
Tel# 214-915-
Fax# 214-915-6262

How are we doing? We are interested in your feedback

[click here](#)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, December 22, 2010 7:54 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Good Morning (b)(6), (b)(7)(C)

Attached you will find documents from (b)(6), (b)(7)(C) in regards to the request for HSI's portion in the amount of \$100K for a settlement agreement.

Funding is available for this action.

(b)(6), (b)(7)(C)

Please feel free to contact me if you have any questions.

(b)(6), (b)(7)(C)
Financial & Logistics Management Unit,
Homeland Security Investigations/Domestic,
Immigration and Customs Enforcement,
U S Department of Homeland Security
(O) 202-732- (b)(6)
(F) 202-732-5736

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, December 21, 2010 2:51 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Dear (b)(6), (b)(7)(C)

Attached is the executed settlement agreement for the (b)(6), (b)(7)(C) case and the settlement memo showing S1's approval of the settlement amount. The payee information is located on page 2 of the settlement agreement. The total amount of the settlement agreement is \$400k with \$300k coming from ERO and \$100k coming from HSI.

Please let me know if you need anything else to begin the payment process, and when you estimate the payment will be made. I am aware that we are currently under a continuing resolution which expires soon.

Thanks,

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-2132
Facsimile: (949) 360-3208

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 9:54 PM

To:
Cc: (b)(6), (b)(7)(C)

Subject:

(b)(6), (b)(7)(C)

Great summary. If you can reach out to my assistant (b)(6), (b)(7)(C) tomorrow we can find a good time for both of us to meet.

Thanks, (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)
Director
Office of Investigations
U.S. Immigration and Customs Enforcement (ICE)
500 12th Street SW
Washington, DC
202-732-(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)

To:
Cc: (b)(6), (b)(7)(C)

Sent: Thu Apr 29 19:48:00 2010

Subject: (b)(6), (b)(7)(C)

Dir. (b)(6), (b)(7)(C) This is the case we would like to discuss with you tomorrow. This is no routine settlement. The facts are extremely bad and the amount is very large. Because settlement now is our least-bad option and because these are constitutional and not FTCA claims, the entire settlement would come out of agency funds. Three of the four defendants are/were OI employees, and the total settlement amount is \$400,000. Secretary Napolitano would be the final approval authority. Senior OPLA management concurs with our recommendation to settle for this amount. I believe the Director of DRO has some interest in discussing this matter with you as well. Thank you.

(b)(6), (b)(7)(C)
Deputy Chief, Tort Litigation
ICE OPLA CALD

CURRENT DEVELOPMENTS: On March 26, 2010, mediation was held between the parties with Ninth Circuit mediator (b)(6), (b)(7)(C) in Seattle. This case is *Bivens* only, and the United States is not a defendant. The parties tentatively agreed to settle the case for \$400,000 in monetary damages and a letter of regret signed by the U.S. Attorney in Seattle. The settlement agreement is contingent upon the approval of the ICE employees' indemnification request by the DHS Secretary and approval of the letter by the U.S. Attorney. The settlement would be paid from agency funds. The case is stayed pending approval of the tentative settlement agreement.

(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)

FURTHER ACTION/RECOMMENDATION: CALD recommends that OPLA recommend to OGC that DHS indemnify. A status conference is scheduled on May 11, 2010 with mediator to discuss progress of settlement approval.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, 9th Floor
Washington, DC 20024

(202) 732-5, (b)(7)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Friday, April 23, 2010 8:43 AM
To:
Cc:
Subject:

(b)(6), (b)(7)(C)

(b)(6), (b)(7)

I briefed the Director this morning and he's fine with the agreement to settle. He did ask how the settlement would be divided between DRO and OI (and CIS if included). If he's available when you brief (b)(6), (b)(7)(C) next week, he'll attend. Otherwise, let us know how the payment would be divided up. Thanks

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 22, 2010 9:40 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C), (b)(5)

=====

CURRENT DEVELOPMENTS: On March 26, 2010, mediation was held between the parties with Ninth Circuit mediator (b)(6), (b)(7)(C) in Seattle. This case is *Bivens* only, and the United States is not a defendant. The parties tentatively agreed to settle the case for \$400,000 in monetary damages and a letter of regret signed by the U.S. Attorney in Seattle. The settlement agreement is contingent upon the approval of the ICE employees' indemnification request by the DHS Secretary and approval of the letter by the U.S. Attorney. The settlement would be paid from agency funds. The case is stayed pending approval of the tentative settlement agreement.

(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)

FURTHER ACTION/RECOMMENDATION: The USAO will submit to ICE the employees' formal request for indemnification. OPLA will need to review and recommend action to DHS OGC. CALD recommends that OPLA recommend to OGC that DHS indemnify. A status conference is scheduled on May 11, 2010 with mediator to discuss progress of settlement approval.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, 9th Floor
Washington, DC 20024

(202) 732-(b)(7)

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(b)(6), (b)(7)(C)

From:

(b)(6), (b)(7)(C)

Sent:

Thursday, April 29, 2010 7:48 PM

To:

Cc:

(b)(6), (b)(7)(C)

Subject:

Dir. (b)(6), (b)(7)(C) This is the case we would like to discuss with you tomorrow. This is no routine settlement. The facts are extremely bad and the amount is very large. Because settlement now is our least-bad option and because these are constitutional and not FTCA claims, the entire settlement would come out of agency funds. Three of the four defendants are/were OI employees, and the total settlement amount is \$400,000. Secretary Napolitano would be the final approval authority. Senior OPLA management concurs with our recommendation to settle for this amount. I believe the Director of DRO has some interest in discussing this matter with you as well. Thank you.

(b)(6), (b)(7)(C)

Deputy Chief, Tort Litigation
ICE OPLA CALD

CURRENT DEVELOPMENTS: On March 26, 2010, mediation was held between the parties with Ninth Circuit mediator (b)(6), (b)(7)(C) in Seattle. This case is *Bivens* only, and the United States is not a defendant. The parties tentatively agreed to settle the case for \$400,000 in monetary damages and a letter of regret signed by the U.S. Attorney in Seattle. The settlement agreement is contingent upon the approval of the ICE employees' indemnification request by the DHS Secretary and approval of the letter by the U.S. Attorney. The settlement would be paid from agency funds. The case is stayed pending approval of the tentative settlement agreement.

(b)(5), (b)(6), (b)(7)(C)

(b)(5), (b)(6), (b)(7)(C)

FURTHER ACTION/RECOMMENDATION: CALD recommends that OPLA recommend to OGC that DHS indemnify. A status conference is scheduled on May 11, 2010 with mediator to discuss progress of settlement approval.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, 9th Floor
Washington, DC 20024

(202) 732- (b)(6), (b)(7)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 6:25 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)

Absolutely. Thank you.

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 6:22 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Thanks. Plaintiff has agreed to another 30 day stipulation. An update is due both to the 9th Circuit and District Court on or about 9/10. I'll check back in closer to that date. We'd appreciate continued follow ups with DHS-OGC. Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 9:08 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Unfortunately not, except that OGC has (privately) promised me to expedite this.

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 12:07 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Any further update? Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Saturday, August 07, 2010 11:45 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7)

(b)(6), (b)(7) we'd appreciate confirmation or any additional insight you could provide.

From: (b)(6), (b)(7)(C)
Sent: Friday, August 06, 2010 09:06 PM

To: [redacted]
Cc: [redacted] (b)(6), (b)(7)(C)
Subject: [redacted] (b)(6), (b)(7)(C)

I emailed [redacted] this morning, and he was checking again with DHS OGC. I haven't heard anything back yet.

I believe we are still waiting for their review and recommendation.

[redacted] (b)(6), (b)(7)

----- Original Message -----

From: [redacted]
To: [redacted] (b)(6), (b)(7)(C)
Cc: [redacted]
Sent: Fri Aug 06 17:29:14 2010
Subject: Re: [redacted] (b)(6), (b)(7)(C)

Any update, [redacted] (b)(6), (b)(7) District Court stip due on Monday.

-----Original Message-----

From: [redacted] (b)(6), (b)(7)(C)
To: [redacted] (b)(6), (b)(7)(C)
Subject: [redacted] (b)(6), (b)(7)(C)
Sent: Jul 14, 2010 3:20 PM

I will be out of the office from July 12 to July 28, 2010. During this time, I will have intermittent access to email and voicemail. If you need immediate assistance, please contact my supervisor, [redacted] (b)(6), (b)(7)(C) by telephone at 202-732 [redacted] (b)(6), (b)(7) or by email at

[redacted] (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 6:22 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Thanks. Plaintiff has agreed to another 30 day stipulation. An update is due both to the 9th Circuit and District Court on or about 9/10. I'll check back in closer to that date. We'd appreciate continued follow ups with DHS-OGC. Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 9:08 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 12:07 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Any further update? Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Saturday, August 07, 2010 11:45 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7)

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From: (b)(6), (b)(7)(C)
Sent: Friday, August 06, 2010 09:06 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

I emailed (b)(6) this morning, and he was checking again with DHS OGC. I haven't heard anything back yet.

I believe we are still waiting for their review and recommendation.

), (b)(7)

----- Original Message -----

From: [redacted]
To: [redacted] (b)(6), (b)(7)(C)
Cc: [redacted]
Sent: Fri Aug 06 17:29:14 2010
Subject: [redacted] (b)(6), (b)(7)(C)

Any update, (b)(7) District Court stip due on Monday.

-----Original Message-----

From: [redacted] (b)(6), (b)(7)(C)
To: [redacted] (b)(6), (b)(7)(C)
Subject: [redacted] (b)(6), (b)(7)(C)
Sent: Jul 14, 2010 3:20 PM

I will be out of the office from July 12 to July 28, 2010. During this time, I will have intermittent access to email and voicemail. If you need immediate assistance, please contact my supervisor, (b)(6), (b)(7)(C) by telephone at 202-732 (b)(7)(C) or by email at [redacted] (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 12:08 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)

Unfortunately not, except that OGC has (privately) promised me to expedite this.

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 12:07 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Any further update? Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Saturday, August 07, 2010 11:45 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(6), (b)(7)

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From: (b)(6), (b)(7)(C)
Sent: Friday, August 06, 2010 09:06 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

I emailed (b)(6) this morning, and he was checking again with DHS OGC. I haven't heard anything back yet.

I believe we are still waiting for their review and recommendation.

(b)(6), (b)(7)

----- Original Message -----

From:
To: (b)(6), (b)(7)(C)
Cc:
Sent: Fri Aug 06 17:29:14 2010
Subject: (b)(6), (b)(7)(C)

Any update, (b)(6), (b)(7) District Court stip due on Monday.

-----Original Message-----

From: (b)(6), (b)(7)(C)

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

Sent: Jul 14, 2010 3:20 PM

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(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 12:09 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

I do not have one.

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 9:07 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Any further update? Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Saturday, August 07, 2010 11:45 AM
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From: (b)(6), (b)(7)(C)
Sent: Friday, August 06, 2010 09:06 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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I believe we are still waiting for their review and recommendation.

(b)(6), (b)(7)(C)

----- Original Message -----

From: (b)(6), (b)(7)(C)

Sent: Fri Aug 06 17:29:14 2010

Subject: (b)(6), (b)(7)(C)

Any update, (b)(6), (b)(7)(C) District Court stip due on Monday.

-----Original Message-----

From: (b)(6), (b)(7)(C)

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

Sent: Jul 14, 2010 3:20 PM

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(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 12:07 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)

Any further update? Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Saturday, August 07, 2010 11:45 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Thanks (b)(6), (b)(7)

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From: (b)(6), (b)(7)(C)
Sent: Friday, August 06, 2010 09:06 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

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(b)(6), (b)(7)

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From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Cc:
Sent: Fri Aug 06 17:29:14 2010
Subject: (b)(6), (b)(7)(C)

Any update (b)(6), (b)(7) District Court stip due on Monday.

-----Original Message-----

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)
Sent: Jul 14, 2010 3:20 PM

I will be out of the office from July 12 to July 28, 2010. During this time, I will have intermittent access to email and voicemail. If you need immediate assistance, please contact my supervisor, (b)(6), (b)(7)(C) by telephone at 202-732-(b)(6), (b)(7) or by email at

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Saturday, August 07, 2010 2:45 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)

Thanks (b)(6), (b)(7)

(b)(6), (b)(7) we'd appreciate confirmation or any additional insight you could provide.

From: (b)(6), (b)(7)(C)
Sent: Friday, August 06, 2010 09:06 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

I emailed (b)(6), (b)(7) this morning, and he was checking again with DHS OGC. I haven't heard anything back yet.

I believe we are still waiting for their review and recommendation.

(b)(6), (b)(7)

----- Original Message -----

From:
To: (b)(6), (b)(7)(C)
Cc:
Sent: Fri Aug 06 17:29:14 2010
Subject: (b)(6), (b)(7)(C)

Any update, (b)(6), (b)(7) District Court stip due on Monday.

-----Original Message-----

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)
Sent: Jul 14, 2010 3:20 PM

I will be out of the office from July 12 to July 28, 2010. During this time, I will have intermittent access to email and voicemail. If you need immediate assistance, please contact my supervisor, (b)(6), (b)(7)(C) by telephone at 202-732-(b)(6), (b)(7) or by email at (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, August 10, 2010 3:01 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)

We just met on it today and it is going up the ladder now so I am hopeful that it will be to the next step (S1) real soon, but I can't say that is official yet.

Best,

(b)(6), (b)(7)(C)

Attorney Advisor
Legal Counsel Division
Office of the General Counsel
U.S. Department of Homeland Security
202.282 (b)(6), (b)(7)(C)
202.684
202.282.9186 (facsimile)
(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, August 10, 2010 2:46 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) FYI.

From: (b)(6), (b)(7)(C)
Sent: Tuesday, August 10, 2010 2:25 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Sure. Here's the order granting the extension (to September 9). I do think we'll be starting to test the Court's patience soon. Assuming it's approved, moving it to the next level would help that greatly. Thanks,

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Tuesday, August 10, 2010 2:25 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)
Attachments: Dkt. 41 - Order Continuing Stay of Limited Discovery Plan.pdf

Sure. Here's the order granting the extension (to September 9). I do think we'll be starting to test the Court's patience soon. Assuming it's approved, moving it to the next level would help that greatly. Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 3:25 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Absolutely. Thank you.

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 6:22 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Thanks. Plaintiff has agreed to another 30 day stipulation. An update is due both to the 9th Circuit and District Court on or about 9/10. I'll check back in closer to that date. We'd appreciate continued follow ups with DHS-OGC. Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 9:08 AM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Unfortunately not, except that OGC has (privately) promised me to expedite this.

From: (b)(6), (b)(7)(C)
Sent: Monday, August 09, 2010 12:07 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

Any further update? Thanks,

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Saturday, August 07, 2010 11:45 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Thanks, (b)(7)(C).

(b)(7)(C), we'd appreciate confirmation or any additional insight you could provide.

From: (b)(6), (b)(7)(C)
Sent: Friday, August 06, 2010 09:06 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

I emailed (b)(7)(C) this morning, and he was checking again with DHS OGC. I haven't heard anything back yet.

I believe we are still waiting for their review and recommendation.

(b)(6), (b)(7)(C)

----- Original Message -----

Fr (b)(6), (b)(7)(C)
To (b)(6), (b)(7)(C)
Cc
Sent: Fri Aug 06 17:29:14 2010
Subject: (b)(6), (b)(7)(C)

Any update, (b)(6), (b)(7)(C) District Court stip due on Monday.

-----Original Message-----

From: (b)(6), (b)(7)(C)
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)
Sent: Jul 14, 2010 3:20 PM

I will be out of the office from July 12 to July 28, 2010. During this time, I will have intermittent access to email and voicemail. If you need immediate assistance, please contact my supervisor, (b)(6), (b)(7)(C) by telephone at 202-732 (b)(7)(C) or by email at

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:54 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) We may need to speak with the Acting Director sooner.

(b)(6), (b)(7)(C) Is there any way we can get on (b)(6), (b)(7)(C) calendar tomorrow? I'm also available late this afternoon if necessary. Thank you.

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:41 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Director (b)(6), (b)(7)(C) is unavailable Tuesday. His next availability is Thursday, May 6th from 11:00am-11:30am or 3:00-3:30pm. If these times and this date do not suffice, please advise and I will send you future dates and times he has available. Thanks.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
202-732-(b)(6), (b)(7)(C)
202-732-5127 (f)
703-582-(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

"Our greatest glory is not in never falling, but in rising every time we fall. " ~Confucius~

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:34 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Mission Support Specialist

Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW

(b)(6), (b)(7)(C)

Washington, DC 20024

202-732-

202-359- (b)(6), (b)(7)(C)

202-732-5125 fax

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:31 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7) We need to speak with the Director about a high-profile case where we'll need his settlement concurrence. This one will be expensive. Can we get some time on his calendar on Tuesday afternoon, please? We will send a read-ahead when the appointment is calendared.

Thank you.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, DC 20024

(202) 732- (b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:56 PM
To: (b)(6), (b)(7)(C)
Subject:

Can you clarify the following with DOJ that the request to indemnify is for all four defendants in equal amounts, or is any particular defendant to be indemnified for more than the others? Thanks.

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:50 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

The status conference with the Ninth Circuit mediator is May 11th. We will need to be able to explain what the current status of the indemnification request is, why it is taking this amount of time, and how much longer it will take. It would be better if we could at least say that the agency has forwarded its recommendation to DHS. Any chance that will happen by May 11th?

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 11:46 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Is this too late?

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:41 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Director (b)(6), (b)(7) is unavailable Tuesday. His next availability is Thursday, May 6th from 11:00am-11:30am or 3:00-3:30pm. If these times and this date do not suffice, please advise and I will send you future dates and times he has available. Thanks.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
202-732-(b)(6), (b)(7)(C)
202-732-5127 (f)
703-582-(b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:34 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

*Mission Support Specialist
Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW*

(b)(6), (b)(7)(C)

Washington, DC 20024

202-732-

202-359-

202-732-5125 fax

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:31 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7) We need to speak with the Director about a high-profile case where we'll need his settlement concurrence. This one will be expensive. Can we get some time on his calendar on Tuesday afternoon, please? We will send a read-ahead when the appointment is calendared.

Thank you.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW (b)(6), (b)(7)(C)
Washington, DC 20024

(202) 732-(b)(6), (b)(7)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:58 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Director (b)(6), (b)(7) is available tomorrow from 11:30am-12:30pm. Please confirm.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
202-732 (b)(6), (b)(7)(C)
202-732-5127 (f)
703-582 (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:54 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) We may need to speak with the Acting Director sooner.

(b)(6), (b)(7)(C) Is there any way we can get on (b)(6), (b)(7)(C) calendar tomorrow? I'm also available late this afternoon if necessary. Thank you.

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:41 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Director (b)(6), (b)(7) is unavailable Tuesday. His next availability is Thursday, May 6th from 11:00am-11:30am or 3:00-3:30pm. If these times and this date do not suffice, please advise and I will send you future dates and times he has available. Thanks.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement

500 12th Street SW, (b)(6), (b)(7)(C)

Washington, D.C. 20536

202-732-(b)(6), (b)(7)(C)

202-732-5127 (f)

703-582-(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:34 PM

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

*Mission Support Specialist
Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW*

(b)(6), (b)(7)(C)

Washington, DC 20024

202-732-

202-359-(b)(6), (b)(7)(C)

202-732-5125 fax

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:31 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7) We need to speak with the Director about a high-profile case where we'll need his settlement concurrence. This one will be expensive. Can we get some time on his calendar on Tuesday afternoon, please? We will send a read-ahead when the appointment is calendared.

Thank you.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, DC 20024

(202) 732-(b)(6), (b)(7)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:59 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject:

That works for me.

(b)(6), (b)(7) can you also attend?

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:58 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7) Director (b)(6), (b)(7) is available tomorrow from 11:30am-12:30pm. Please confirm.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
202-732-(b)(6), (b)(7)(C)
202-732-5127 (f)
703-582-(b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:54 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7) We may need to speak with the Acting Director sooner.

(b)(6), (b)(7) Is there any way we can get on Bob Weber's calendar tomorrow? I'm also available late this afternoon if necessary. Thank you.

(b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:41 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Director (b)(6), (b)(7)(C) is unavailable Tuesday. His next availability is Thursday, May 6th from 11:00am-11:30am or 3:00-3:30pm. If these times and this date do not suffice, please advise and I will send you future dates and times he has available. Thanks.

Respectfully,

(b)(6), (b)(7)(C)
Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
202-732-(b)(6), (b)(7)(C)
202-732-5127 (f)
703-582-(b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)

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Sent: Thursday, April 29, 2010 2:34 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)
*Mission Support Specialist
Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20024
202-732-(b)(6), (b)(7)(C)
202-359-(b)(6), (b)(7)(C)
202-732-5125 fax*

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:31 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7) We need to speak with the Director about a high-profile case where we'll need his settlement concurrence. This one will be expensive. Can we get some time on his calendar on Tuesday afternoon, please? We will send a read-ahead when the appointment is calendared.

Thank you.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW (b)(6), (b)(7)(C)
Washington, DC 20024

(202) 732 (b)(6), (b)(7)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 3:00 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject:

How long will you need? 30mins?

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
202-732- (b)(6), (b)(7)(C)
202-732-5127 (f)
703-582- (b)(6), (b)(7)(C)
(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:59 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

That works for me.

(b)(6), (b)(7) can you also attend?

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:58 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7) Director (b)(6), (b)(7) is available tomorrow from 11:30am-12:30pm. Please confirm.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)

Washington, D.C. 20536

202-732-(b)(6), (b)(7)(C)

202-732-5127 (f)

703-582-(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:54 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) We may need to speak with the Acting Director sooner.

(b)(6), (b)(7)(C) Is there any way we can get on (b)(6), (b)(7)(C) calendar tomorrow? I'm also available late this afternoon if necessary. Thank you.

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:41 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536

202-732 (b)(6), (b)(7)(C)

202-732-5127 (f)

703-582-(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

"Our greatest glory is not in never falling, but in rising every time we fall. " ~Confucius~

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:34 PM

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

*Mission Support Specialist
Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW*

(b)(6), (b)(7)(C)

Washington, DC 20024

202-732-

202-359-

202-732-5125 fax

From:

(b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:31 PM

To:

(b)(6), (b)(7)(C)

Cc:

Subject:

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C), We need to speak with the Director about a high-profile case where we'll need his settlement concurrence. This one will be expensive. Can we get some time on his calendar on Tuesday afternoon, please? We will send a read-ahead when the appointment is calendared.

Thank you.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, DC 20024

(202) 732 (b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 3:01 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject:

Yes. Thank you.

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 3:00 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

How long will you need? 30mins?

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
202-732-(b)(6), (b)(7)(C)
202-732-5127 (f)
703-582-(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

"Our greatest glory is not in never falling, but in rising every time we fall. " ~Confucius~

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:59 PM
To:
Cc:
Subject: (b)(6), (b)(7)(C)

That works for me.

(b)(6), (b)(7) can you also attend?

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:58 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Director (b)(6), (b)(7) is available tomorrow from 11:30am-12:30pm. Please confirm.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement

500 12th Street SW, (b)(6), (b)(7)(C)

Washington, D.C. 20536

202-732-(b)(6), (b)(7)(C)

202-732-5127 (f)

703-582-(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

"Our greatest glory is not in never falling, but in rising every time we fall. " ~Confucius~

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:54 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) We may need to speak with the Acting Director sooner.

(b)(6), (b)(7)(C) Is there any way we can get on (b)(6), (b)(7)(C) calendar tomorrow? I'm also available late this afternoon if necessary. Thank you.

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:41 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Director (b)(6), (b)(7)(C) is unavailable Tuesday. His next availability is Thursday, May 6th from 11:00am-11:30am or 3:00-3:30pm. If these times and this date do not suffice, please advise and I will send you future dates and times he has available. Thanks.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement

500 12th Street SW, (b)(6), (b)(7)(C)

Washington, D.C. 20536

202-732-(b)(6), (b)(7)(C)

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Sent: Thursday, April 29, 2010 2:34 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)
*Mission Support Specialist
Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20024
202-732-(b)(6), (b)(7)(C)
202-359-(b)(6), (b)(7)(C)
202-732-5125 fax*

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:31 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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Thank you.

(b)(6), (b)(7)(C)
Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
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500 12th Street SW, (b)(6), (b)(7)(C)
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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 3:03 PM
To:
Cc: (b)(6), (b)(7)(C)
Subject:

Yes, I can attend via phone.

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 11:59 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

That works for me.

(b)(6), (b)(7)(C), can you also attend?

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Sent: Thursday, April 29, 2010 2:58 PM
To: (b)(6), (b)(7)(C)
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Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) Director (b)(6), (b)(7)(C) is available tomorrow from 11:30am-12:30pm. Please confirm.

Respectfully,

(b)(6), (b)(7)(C)
Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
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202-732-5127 (f)
703-582- (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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Director-Office of Investigations
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Washington, D.C. 20536

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202-732-5127 (f)

703-582- (b)(6), (b)(7)(C)

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To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

*Mission Support Specialist
Office of Investigations*

Immigration and Customs Enforcement

500 12th Street SW

(b)(6), (b)(7)(C)

Washington, DC 20024

202-732-

202-359- (b)(6), (b)(7)(C)

202-732-5125 fax

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:31 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) We need to speak with the Director about a high-profile case where we'll need his settlement concurrence. This one will be expensive. Can we get some time on his calendar on Tuesday afternoon, please? We will send a read-ahead when the appointment is calendared.

Thank you.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, DC 20024

(202) 732- (b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

From:
Sent:
To:
Subject:

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

The indemnification request for \$400,000 is from all four defendants (3 OI agents and 1 DRO employee) and is not broken down for each defendant. I spoke with AUSA (b)(6), (b)(7)(C) and explained to him that for budgeting purposes we would like to know what each component would pay. He explained that as far as liability exposure (from highest to lowest), it is believed retired Senior Special Agent (SSA) (b)(6), (b)(7)(C) has the most exposure followed by SDDO (b)(6), (b)(7)(C) followed by SSA (b)(6), (b)(7)(C) and then Supervisory Special Agent (b)(6), (b)(7)(C). However (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) Therefore, AUSA (b)(6), (b)(7)(C) thought it made the most sense to have each defendant request \$100,000 so that OI and DRO could allocate the cost of the indemnification between themselves. This division also reflects the level of liability exposure of the different components (\$300,000 for OI and \$100,000 for DRO).

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)(C)
Direct Phone: (949) 360 (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 11:56 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Can you clarify the following with DOJ that the request to indemnify is for all four defendants in equal amounts, or is any particular defendant to be indemnified for more than the others? Thanks.

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:50 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

The status conference with the Ninth Circuit mediator is May 11th. We will need to be able to explain what the current status of the indemnification request is, why it is taking this amount of time, and how much longer it will take. It would be better if we could at least say that the agency has forwarded its recommendation to DHS. Any chance that will happen by May 11th?

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement

Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 11:46 AM
To: (b)(6), (b)(7)(C)
Subject: RE: Request for appointment with Dir. (b)(6), (b)(7)(C)

Is this too late?

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:41 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Director (b)(6), (b)(7)(C) is unavailable Tuesday. His next availability is Thursday, May 6th from 11:00am-11:30am or 3:00-3:30pm. If these times and this date do not suffice, please advise and I will send you future dates and times he has available. Thanks.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
202-732- (b)(6), (b)(7)(C)
202-732-5127 (f)
703-582 (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:34 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

*Mission Support Specialist
Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW*

(b)(6), (b)(7)(C)

Washington, DC 20024

202-732-

(b)(6), (b)(7)(C)

202-359-

202-732-5125 fax

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:31 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7) We need to speak with the Director about a high-profile case where we'll need his settlement concurrence. This one will be expensive. Can we get some time on his calendar on Tuesday afternoon, please? We will send a read-ahead when the appointment is calendared.

Thank you.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW (b)(6), (b)(7)(C)
Washington, DC 20024

(202) 73 (b)(6), (b)(7)

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(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 7:23 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

OK. I must tell you that while I'm optimistic ICE will have a recommendation by next week that will be pending at DHS, I am not at all optimistic that the Secretary will have signed this by May 11th. You may want to warn DOJ and just let them know that we'll at least be able to show some progress. - (b)(6), (b)(7)

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 7:20 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

The indemnification request for \$400,000 is from all four defendants (3 OI agents and 1 DRO employee) and is not broken down for each defendant. I spoke with AUSA (b)(6), (b)(7)(C) and explained to him that for budgeting purposes we would like to know what each component would pay. He explained that as far as liability exposure (from highest to lowest), it is believed retired Senior Special Agent (SSA) (b)(6), (b)(7)(C) has the most exposure followed by SDDO (b)(6), (b)(7)(C) followed by SSA (b)(6), (b)(7)(C) and then Supervisory Special Agent (b)(6), (b)(7)(C). However, (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) Therefore, AUSA (b)(6), (b)(7)(C) thought it made the most sense to have each defendant request \$100,000 so that OI and DRO could allocate the cost of the indemnification between themselves. This division also reflects the level of liability exposure of the different components (\$300,000 for OI and \$100,000 for DRO).

(b)(6), (b)(7)(C)

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U.S. Immigration and Customs Enforcement
Department of Homeland Security
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Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 11:56 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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Subject: (b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

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To: (b)(6), (b)(7)(C)
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To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

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Respectfully,

(b)(6), (b)(7)(C)

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Washington, D.C. 20536
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*Mission Support Specialist
Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW*

(b)(6), (b)(7)(C)
*Washington, DC 20024
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Deputy Chief for Tort Litigation
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Sent:
To:
Subject:

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:31 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) We need to speak with the Director about a high-profile case where we'll need his settlement concurrence. This one will be expensive. Can we get some time on his calendar on Tuesday afternoon, please? We will send a read-ahead when the appointment is calendared.

Thank you.

(b)(6), (b)(7)(C)
Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, DC 20024

(202) 732-(b)(7)

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(b)(6), (b)(7)(C)

From:
Sent:
To:
Subject:

(b)(6), (b)(7)(C)

The status conference with the Ninth Circuit mediator is May 11th. We will need to be able to explain what the current status of the indemnification request is, why it is taking this amount of time, and how much longer it will take. It would be better if we could at least say that the agency has forwarded its recommendation to DHS. Any chance that will happen by May 11th?

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)(C)
Direct Phone: (949) 360- (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 11:46 AM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

Is this too late?

From: (b)(6), (b)(7)(C)
Sent: Thursday, April 29, 2010 2:41 PM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Director (b)(6), (b)(7)(C) is unavailable Tuesday. His next availability is Thursday, May 6th from 11:00am-11:30am or 3:00-3:30pm. If these times and this date do not suffice, please advise and I will send you future dates and times he has available. Thanks.

Respectfully,

(b)(6), (b)(7)(C)

Executive Assistant to
Director-Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW, (b)(6), (b)(7)(C)
Washington, D.C. 20536
202-732- (b)(6), (b)(7)(C)

202-732-5127 (f)

703-582-(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

"Our greatest glory is not in never falling, but in rising every time we fall. " ~Confucius~

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:34 PM

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

*Mission Support Specialist
Office of Investigations
Immigration and Customs Enforcement
500 12th Street SW*

(b)(6), (b)(7)(C)

Washington, DC 20024

202-732-

(b)(6), (b)(7)(C)

202-359-

202-732-5125 fax

From: (b)(6), (b)(7)(C)

Sent: Thursday, April 29, 2010 2:31 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) We need to speak with the Director about a high-profile case where we'll need his settlement concurrence. This one will be expensive. Can we get some time on his calendar on Tuesday afternoon, please? We will send a read-ahead when the appointment is calendared.

Thank you.

(b)(6), (b)(7)(C)

Deputy Chief for Tort Litigation
Commercial & Administrative Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW (b)(6), (b)(7)(C)
Washington, DC 20024

(202) 732-(b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

From:
Sent:
To:
Subject:

(b)(6), (b)(7)(C)

I have not. Please do.

From: (b)(6), (b)(7)(C)
Sent: Monday, October 04, 2010 6:12 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

Do I need to advise (b)(6), (b)(7)(C) ERO Financial Unit Chief and the HSI Financial Unit Chief of the indemnification decision or did you already do that?

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360-(b)(6), (b)(7)
Direct Phone: (949) 360-(b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Monday, October 04, 2010 2:52 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

For (b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Friday, September 24, 2010 9:40 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)

S1 approved indemnification (before settlement) in (b)(6), (b)(7)(C) However, S1 also replied to Ivan with questions (see E-Mail from (b)(6), (b)(7)(C) Thurs., Sept. 23, 2010, 4:59 PM, below). Please coordinate answers from ICE (and USCIS, as necessary) to S1's questions and get back to me so OGC can provide response. Thanks so much, I truly appreciate your help.

Best,

(b)(6), (b)(7)(C)

Attorney Advisor
Legal Counsel Division
Office of the General Counsel
U.S. Department of Homeland Security
202.282. [redacted]
202.684. [redacted]
202.282.9186 (facsimile)
[redacted]

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From: [redacted]
Sent: Thursday, September 23, 2010 5:06 PM
To: [redacted]
Subject: [redacted]

FYI.

[redacted]
Office of the General Counsel
Department of Homeland Security
202-447- [redacted]
202-713- [redacted]

From: [redacted]
Sent: Thursday, September 23, 2010 4:59 PM
To: [redacted]
Cc: [redacted]
Subject: [redacted]

PRIVILEGED

[redacted]

The Secretary recently reviewed your August 30, 2010 memorandum, "Recommendation for Indemnification in [redacted] Pursuant to DHS Management Directive No. [redacted]

In her review, she made the following comment:

[redacted]
(b)(6), (b)(7)(C), (b)(5)

If you would like to respond to the Secretary, please let me know and I will route your reply back up to her.

Thanks,

6), (b)(7)

(b)(6), (b)(7)(C)

From:
Sent:
To:
Subject:

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Do I need to advise (b)(6), (b)(7)(C) ERO Financial Unit Chief and the HSI Financial Unit Chief of the indemnification decision or did you already do that?

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360 (b)(6), (b)(7)(C)
Direct Phone: (949) 360 (b)(6), (b)(7)(C)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Monday, October 04, 2010 2:52 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

For (b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Friday, September 24, 2010 9:40 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

S1 approved indemnification (before settlement) in (b)(6), (b)(7)(C). However, S1 also replied to Ivan with questions (see E-Mail from (b)(6), (b)(7)(C) Thurs., Sept. 23, 2010, 4:59 PM, below). Please coordinate answers from ICE (and USCIS, as necessary) to S1's questions and get back to me so OGC can provide response. Thanks so much, I truly appreciate your help.

Best,

(b)(6), (b)(7)(C)

Attorney Advisor
Legal Counsel Division
Office of the General Counsel

U.S. Department of Homeland Security

202.282

202.684 (b)(6), (b)(7)(C)

202.282.9186 (facsimile)

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)

Sent: Thursday, September 23, 2010 5:06 PM

To: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

FYI.

(b)(6), (b)(7)(C)

Office of the General Counsel

Department of Homeland Security

202-447

202-713 (b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)

Sent: Thursday, September 23, 2010 4:59 PM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

PRIVILEGED

(b)(6), (b)(7)(C)

The Secretary recently reviewed your August 30, 2010 memorandum, "Recommendation for Indemnification in (b)(6), (b)(7)(C) Pursuant to DHS Management Directive No. (b)(6), (b)(7)(C)

In her review, she made the following comment:

(b)(5), (b)(6), (b)(7)(C)

If you would like to respond to the Secretary, please let me know and I will route your reply back up to her.

Thanks,

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

From:
Sent:
To:
Subject:

(b)(6), (b)(7)(C)

(b)(6), (b)(7)

Thanks for this information. Does it matter that this settlement involves a Bivens/civil rights case as opposed to a labor and employment case? The settlement amount of \$400K will be split between ERO (\$300K) and HSI (\$100K).

(b)(6), (b)(7)(C)

Associate Legal Advisor
Commercial & Administrative Law Division
U.S. Immigration and Customs Enforcement
Department of Homeland Security
24000 Avila Road, (b)(6), (b)(7)(C)
Laguna Niguel, CA 92677

Office Phone: (949) 360- (b)(6), (b)(7)
Direct Phone: (949) 360- (b)(6), (b)(7)
Facsimile: (949) 360-3208

From: (b)(6), (b)(7)(C)
Sent: Tuesday, October 05, 2010 2:48 PM
To: (b)(6), (b)(7)(C)
Cc:
Subject: SENSITIVE LEGAL MEMO

(b)(6), (b)(7)(C)

The "sensitive" process was established to safeguard PII on payments for employment and labor related claims. I understand from (b)(6), (b)(7)(C) that you will be sending a sensitive legal settlement to DFC. If this is your first time to use this process, (b)(6), (b)(7)(C) in OPLA LELD can provide guidance; but here is a list of items we need you to provide on your cover memo:

TO: Dallas Finance Center
Sensitive Legal Payments Team

SUBJECT: Name and case number

The opening paragraph should include the name, case number, and type of payment (attorney fees, compensatory damages, etc). Include a payment due date if applicable.

PAYEE NAME:
PAYEE MAILING ADDRESS:
PAYEE TIN:
BANK NAME:
BANK ABA ROUTING NUMBER:
BANK ACCOUNT NUMBER:
AMOUNT:
FUNDING SHOULD BE CHARGED TO:

Something similar to the following statement is at the end: Upon completion of the payment, the Agency is required to prove compliance with the attached agreement or order. Please email a copy of the proof that the payment has been completed to _____. If you have any questions about this matter, please contact _____, title, at _____. Thank you for your assistance and attention to this request.

Submit the settlement with memo electronically by email to DFC, ICE Settlements with a copy to me. We will coordinate with the program offices to get funding, issue the payments, and send a copy of Treasury proof of payment to the person indicated in your memo. We will also handle the 1099 reporting in January.

Contact me or (b)(6), (b)(7)(C) at any time if you have questions.

(b)(6), (b)(7)(C)

DHS/ICE/DFC

Supervisory Financial Program Specialist

214-915 (b)(6), (b)(7)(C)

*How are we doing? We are interested in your feedback.
[click here](#)*

(b)(6), (b)(7)(C)

From:
Sent:
To:
Cc:
Subject:

(b)(6), (b)(7)(C)

OK – thank you both.

(b)(6), (b)(7)(C)

Deputy Chief, DCLD
ICE/OPLA
188 Harvest Lane
Williston, VT 05495
Ph. 802-872- (b)(7)

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From: (b)(6), (b)(7)(C)

Sent: Tuesday, October 02, 2012 8:55 AM

To: (b)(6), (b)(7)(C)

Cc: (b)(6), (b)(7)(C)

Subject: (b)(6), (b)(7)(C)

Yes. It was approved. I had passed that info on to the AUSA (b)(6), (b)(7) I'll touch base with you on this later today.

Regards

(b)(6), (b)(7)(C)

Deputy Associate General Counsel - Legal Counsel

Office of the General Counsel

Department of Homeland Security

202 282- (b)(6), (b)(7)(C)
202 657- (b)(6), (b)(7)(C)
202 282-9186 (fax)

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From: (b)(6), (b)(7)(C)
Sent: Tuesday, October 02, 2012 08:49 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

ICE's (b)(6), (b)(7)(C) contacted me again yesterday to check on the status of the indemnification request (and also settlement authorization) in (b)(6), (b)(7)(C). As you remember, the court is putting pressure on the Government to get this done. Unfortunately, I lost visibility on that indemnification after I thought it had been sent up to the OGC front office. (I am attaching the package I had sent up to you just as an FYI.) Do you know status on the (b)(6), (b)(7)(C) indemnification request (and settlement authorization)? Thanks.

Best,

(b)(6), (b)(7)(C)

Attorney Advisor
Legal Counsel Division
Office of the General Counsel
U.S. Department of Homeland Security
202.282 (b)(6), (b)(7)(C)
202.684 (b)(6), (b)(7)(C)
202.282.9186 (facsimile)

(b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Monday, October 01, 2012 5:04 PM
To: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

Have you heard anything from (b)(6), (b)(7)(C) with respect to action on the indemnification request?

Thank you.

(b)(6), (b)(7)(C)
Deputy Chief, DCLD
ICE/OPLA
188 Harvest Lane
Williston, VT 05495
Ph. 802-872 (b)(6), (b)(7)(C)

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From: (b)(6), (b)(7)(C)
Sent: Monday, September 24, 2012 9:24 AM
To: (b)(6), (b)(7)(C)
Cc: (b)(6), (b)(7)(C)
Subject: (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

ICE's (b)(6), (b)(7)(C) called this morning and wanted an update on the indemnification request that ICE sent over, and on which we concurred, in (b)(6), (b)(7)(C). Unfortunately, I lost visibility on that indemnification after I thought it had been sent up to the OGC front office. I gather from (b)(6), (b)(7)(C) call that the indemnification needs to move, so that then settlement can be consummated. Thanks.

Best,

(b)(6), (b)(7)(C)

Attorney Advisor
Legal Counsel Division
Office of the General Counsel
U.S. Department of Homeland Security
202.282. (b)(6), (b)(7)(C)
202.684. (b)(6), (b)(7)(C)
202.282.9186 (facsimile)

(b)(6), (b)(7)(C)

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(b)(6), (b)(7)(C)

From:
Sent:
To:
Cc:
Subject:
Attachments:

(b)(6), (b)(7)(C)

To: Burlington Finance Center, Invoice Consolidation, ERO

Request for immediate payment for claim: (b)(6), (b)(7)(C) PC {\$ 295,000.00}

See Attachment

Hon. Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

(b)(6), (b)(7)(C)

Plaintiff,

v.

OFFICER (b)(6), (b)(7)(C) et. al.,

Defendants.

(b)(6), (b)(7)(C)

**STIPULATION FOR COMPROMISE
SETTLEMENT AND RELEASE OF
ALL CLAIMS**

STIPULATION

It is hereby stipulated by and between the undersigned plaintiff, (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) the defendants (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) (the "individual defendants"), and the United States of America, including its agency, the Department of Homeland Security ("DHS") (collectively, the "parties"), by and through their respective attorneys, as follows:

1. The parties do hereby agree to settle and compromise each and every claim of any kind, whether known or unknown, arising directly or indirectly from the acts or omissions that gave rise to the above-captioned action under the terms and conditions set forth in this Stipulation for Compromise Settlement and Release of All Claims ("Stipulation" or "Settlement").

2. DHS agrees to pay plaintiff the sum of \$400,000.00. This sum, and the Statement of Regret (attached hereto as Exhibit 1), shall be in full settlement and satisfaction of any and all claims, demands, rights, and causes of action of whatsoever kind and nature, arising from, and

1 by reason of any and all known and unknown, foreseen and unforeseen injuries, damages and the
 2 consequences thereof, resulting, and to result, from the subject matter of the above-reference
 3 lawsuit, including any claims for which plaintiff or his guardians, heirs, executors,
 4 administrators, or assigns, and each of them, now have or may hereafter acquire against the
 5 individual defendants, the United States of America, its agencies (including but not limited to the
 6 DHS), agents, servants, or current or former employees.

7 3. Payment of the settlement amount will be made by electronic funds transfer
 8 to the Plaintiff's bank account, as follows:

9 PAYEE NAME: (b)(6), (b)(7)(C)

10 PAYEE MAILING ADDRESS: (b)(6), (b)(7)(C) Lakewood, WA 98499

11 PAYEE Social Security Number: (b)(6), (b)(7)(C)

12 BANK NAME: U.S. Bank

13 BANK ABA ROUTING NUMBER: (b)(6), (b)(7)(C)

14 BANK ACCOUNT NUMBER: (b)(6), (b)(7)(C)

15 4. For the consideration set forth above, plaintiff and his guardians, heirs, executors,
 16 administrators or assigns hereby agree to accept the sums set forth in this Stipulation in full
 17 settlement and satisfaction of any and all claims, demands, rights, and causes of action of
 18 whatsoever kind and nature, arising from, and by reason of any and all known and unknown,
 19 foreseen and unforeseen injuries, damages and the consequences thereof, which they may have
 20 or hereafter acquire against the individual defendants, United States of America, its agencies
 21 (including but not limited to the DHS), its agents, servants or current or former employees on
 22 account of the same subject matter that gave rise to the above-captioned action, including any
 23 future claim or lawsuit of any kind or type whatsoever, whether known or unknown, and whether
 24 for compensatory or any other type of damages. Plaintiff and his guardians, heirs, executors,
 25 administrators or assigns further agree to reimburse, indemnify and hold harmless the individual
 26 defendants, United States of America, its agencies (including but not limited to the DHS), its
 27 agents, servants, or current or former employees from and against any and all causes of action,
 28 claims, liens, rights, or subrogated or contribution interests, brought by any party, incident to or

STIPULATION FOR COMPROMISE SETTLEMENT
 AND RELEASE OF ALL CLAIMS

(b)(6), (b)(7)(C)

UNITED STATES ATTORNEY'S OFFICE
 700 STEWART STREET, (b)(6), (b)(7)(C)
 SEATTLE, WA 98101-1271

1 resulting from further litigation or the prosecution of claims by plaintiff or his guardians, heirs,
 2 executors, administrators or assigns against any third party or against the individual defendants,
 3 the United States (including but not limited to the DHS), its agents, servants, or current or former
 4 employees.

5 5. This Stipulation is not, is in no way intended to be, and should not be construed
 6 as, an admission of liability or fault on the part of the individual defendants, the United States, its
 7 agents, servants, or current or former employees, and it is specifically denied that they are liable
 8 to the plaintiff. This Settlement is entered into by all parties for the purpose of compromising
 9 disputed claims and avoiding the expenses and risks of further litigation.

10 6. Plaintiff agrees that, no later than within two weeks after the present Stipulation is
 11 executed, he will, at his own expense: (1) prepare, file with the United States District Court for
 12 the Western District of Washington, and serve on undersigned counsel for the United States a
 13 stipulation, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), dismissing with prejudice and in full the
 14 individual defendants from the above-referenced matter; and (2) execute, notarize, and deliver to
 15 undersigned counsel for the individual defendants the Release (attached hereto as Exhibit 2).
 16 Additionally, Plaintiff agrees to prepare, file, serve, execute, notarize, and/or deliver the
 17 above-referenced items in a timely manner (time being of the essence). The individual
 18 defendants agree that, no later than within two weeks after the present Stipulation is executed,
 19 they will, at their own expense, dismiss with prejudice and in full the appeal captioned (b)(6), (b)(7)(C)
 20 (b)(6), (b)(7)(C) (9th Cir.), pursuant to Fed. R. App. P.
 21 42(b).

22 7. It is also agreed, by and among the parties, that the respective parties will each
 23 bear their own costs, fees, and expenses and that any attorney's fees owed by the plaintiff will be
 24 paid out of the settlement amount and not in addition thereto.

25 8. The persons signing this Stipulation warrant and represent that they possess full
 26 authority to bind the persons on whose behalf they are signing to the terms of the Settlement.

27 //

28 //

1 9. The parties agree that this Stipulation, including all the terms and conditions
 2 of this Settlement and any additional agreements relating thereto, may be made public in
 3 their entirety, and the plaintiff expressly consents to such release and disclosure pursuant
 4 to 5 U.S.C. § 552a(b).

5 10. It is contemplated that this Stipulation may be executed in several
 6 counterparts, with a separate signature page for each party. All such counterparts and
 7 signature pages, together, shall be deemed to be one document.

8 11. The parties shall take all steps necessary to give full force and effect to the
 9 terms, conditions, and intent of this Settlement.

11 Executed this 21st day of December, 2010.

12 [Redacted]
 13 (b)(6), (b)(7)(C)
 14

15 925 Fourth Avenue
 16 [Redacted]
 17 Seattle, Washington 98104-1158
 18 Telephone: (206) 623-[Redacted]
 19 Fax: (206) 623-7022

19 NORTHWEST IMMIGRANT RIGHTS
 20 PROJECT

21 [Redacted]
 22 (b)(6), (b)(7)(C)

21 615 Second Ave., [Redacted]
 22 Seattle, Washington 98104
 23 Telephone: (206) 957-[Redacted]
 24 Fax: (206) 587-4025

24 [Redacted]
 25 (b)(6), (b)(7)(C)

25 Attorneys for Plaintiff

11 Executed this 7th day of December, 2010.

12 [Redacted]
 13 (b)(6), (b)(7)(C)
 14 United States Attorney
 15 [Redacted]
 16 (b)(6), (b)(7)(C)

15 Assistant United States Attorneys
 16 U.S. Attorney's Office
 17 Western District of Washington
 18 700 Stewart Street, [Redacted]
 19 Seattle, Washington 98101
 20 Telephone: (206) 553-[Redacted]
 21 Fax: (206) 553-4067

21 Email: [Redacted]
 22 (b)(6), (b)(7)(C)

22 Attorneys for the Individual Defendants
 23 and the United States of America

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EXHIBIT 1

STIPULATION FOR COMPROMISE SETTLEMENT
AND RELEASE OF ALL CLAIMS

(b)(6), (b)(7)(C)

UNITED STATES ATTORNEY'S OFFICE
700 STEWART STREET, (b)(6), (b)(7)(C)
SEATTLE, WA 98101-1271
ICE.2013FOIA24375000564



U. S. Department of Justice

United States Attorney
Western District of Washington

Please reply to:

(b)(6), (b)(7)(C)

Assistant United States Attorney

Direct Line: (206) 553-(b)(7)

700 Stewart Street, (b)(6), (b)(7)(C)
Seattle, WA 98101-1271

Tel: (206) 553-(b)(7)

Fax: (206) 553-4067

(b)(6), (b)(7)(C)

October 20, 2010

(b)(6), (b)(7)(C)

925 Fourth Avenue, (b)(6), (b)(7)(C)
Seattle, WA 98104-1158

Re:

(b)(6), (b)(7)(C)

W.D. Washington

Dear (b)(6), (b)(7)(C)

You have served honorably in the United States Army and became a naturalized citizen during your service. Regrettably, despite the fact that you are a veteran and United States citizen, and despite the fact that you apparently explained that you are a United States citizen, you were detained on the grounds that you were in the country illegally. I believe that none of my clients (defendants in your lawsuit) would ever have wanted to, or knowingly would have, detained a veteran and United States citizen. We very much regret that you were detained.

Although I am not authorized to speak on behalf of ICE, I understand that, since your regretful detention, ICE has instituted procedures to avoid this happening again to a fellow U.S. Citizen. The procedures include:

- All claims of U.S. citizenship of persons detained by ICE will be promptly and thoroughly investigated. The claims must be reviewed by ICE attorneys and reported to ICE Headquarters in Washington D.C.
- Interviews of detainees making such claims must be conducted in the presence of a supervisor and recorded as a sworn statement. The interview must include questions designed to elicit information sufficient to allow a thorough investigation of the person's claim of citizenship.
- If a detainee's claim is credible on its face, or if the investigation results in probative evidence that the detained individual is a U.S. citizen, the individual will be released from detention.

I wish you all the best in your future and thank you for your service in the Army.

Sincerely,

(b)(6), (b)(7)(C)

Assistant United States Attorney
Civil Chief
United States Attorney's Office
Western District of Washington

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EXHIBIT 2

STIPULATION FOR COMPROMISE SETTLEMENT
AND RELEASE OF ALL CLAIMS

(b)(6), (b)(7)(C)

UNITED STATES ATTORNEY'S OFFICE
700 STEWART STREET, (b)(6), (b)(7)(C)
SEATTLE, WA 98101-1271
ICE.2013FOIA24375000567

Hon. Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

(b)(6), (b)(7)(C)

Plaintiff,

(b)(6), (b)(7)(C)

RELEASE OF ALL CLAIMS BY

v.

(b)(6), (b)(7)(C)

OFFICER (b)(6), (b)(7)(C)

Defendants.

RELEASE

I.

For and in consideration of the sum of FOUR HUNDRED THOUSAND DOLLARS (\$400,000) and the Statement of Regret previously provided to Plaintiff, (b)(6), (b)(7)(C) (“Plaintiff/Releasor”), on behalf of himself and on behalf of each of the Plaintiff/Releasor’s predecessors, successors, assigns, heirs, executors, administrators, beneficiaries, agents, guardians, estates, and survivors, does hereby forever RELEASE, ACQUIT, and DISCHARGE (b)(6), (b)(7)(C) (the “individual defendants”), and the United States of America, including its agency, the Department of Homeland Security (“DHS”), and any and all of its present and former agents, servants, officers, officials, employees, agencies, and instrumentalities, and each of their respective predecessors, successors, assigns, heirs, executors, administrators, beneficiaries, agents, guardians, estates, and survivors (“Releasees”), from any and all actions, claims, demands, rights, liens, damages, injuries,

1 losses, suits, causes of action, expenses, judgments, contracts, covenants, orders, and
 2 liabilities of any type, kind, and nature, whether known or unknown, whether suspected
 3 or unsuspected, or whether foreseen or unforeseen, which have or may have existed,
 4 which presently or may presently exist, which can, may, or shall exist in the future, or
 5 which have or may have accrued or may hereafter accrue, and which arise directly or
 6 indirectly from or on account of, or in any way relate to, the subject matter of the
 7 above-captioned action and any and all actions or omissions of the Releasees taken with
 8 respect to Plaintiff/Releasor.

9 II.

10 Plaintiff/Releasor executes this Release of All Claims pursuant to the Stipulation
 11 for Compromise Settlement and Release of All Claims ("Stipulation") previously executed
 12 by Plaintiff/Releasor, by counsel for Plaintiff/Releasor, and by counsel for the individual
 13 defendants and the United States of America. Plaintiff/Releasor executes this Release
 14 without reliance upon any representations by the individual defendants or the United
 15 States of America, or its representatives or attorneys, and the undersigned
 16 Plaintiff/Releasor has been fully advised by her attorney or attorneys regarding the terms
 17 of this Release.

18 III.

19 This Release of All Claims and the Stipulation have been executed pursuant to 28
 20 U.S.C. § 2677, and constitute the entire agreement between the parties.

21
22 Dated: 17 DEC 10

23 [Redacted signature block]
24

25 [Redacted signature block] Plaintiff/Releasor

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STATE OF WASHINGTON, COUNTY OF Pierce

BEFORE ME, the undersigned Notary Public in and for the State of Washington,
on this day personally appeared (b)(6), (b)(7)(C) who is known to me, or
satisfactorily proven, to be the person whose name is subscribed to the foregoing
instrument, and who acknowledged to me that he signed and executed the same for the
purposes and considerations therein contained.

GIVEN under my hand and seal of office at Tacoma, Washington,
on this the 17 day of December, 2010.

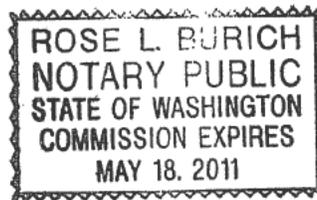
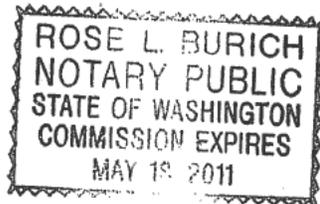
(b)(6), (b)(7)(C) _____

Signature of Notary Public in and for the State of Washington

(b)(6), (b)(7)(C) _____

Notary Public's Printed Name

My commission expires: May 18, 2011





U.S. Immigration
and Customs
Enforcement

August 15, 2012

MEMORANDUM FOR:

(b)(6), (b)(7)(C)

Secretary

THROUGH:

(b)(6), (b)(7)(C)

General Counsel

FROM:

(b)(6), (b)(7)(C)

Principal Legal Advisor, U.S. Immigration and Customs Enforcement

SUBJECT:

Requests for pre-trial indemnification pursuant to DHS
Management Directive 0415.1 in (b)(6), (b)(7)(C)
(D.N.J. filed Apr. 3, 2008); interlocutory appeal 643 F.3d 60 (3d
Cir. 2011)

Issue

Whether to approve the pre-trial indemnification requests of the defendants in this *Bivens* suit, in the total amount of \$295,000.

Background

The suit stems from five warrantless, residential law enforcement operations between August 2006 and April 2008 by U.S. Immigration and Customs Enforcement (ICE) Fugitive Operations teams operating in and around Newark, NJ. The defendants are 27 ICE Enforcement and Removal Operations (ERO) officers.¹

(b)(6), (b)(7)(C), (b)(5)

¹ The original defendants included former Assistant Secretary (b)(6), (b)(7)(C) former ERO Director (and current ICE Special Agent in Charge for Washington, D.C.) (b)(6), (b)(7)(C) former ERO Newark Field Office Director (FOD) (b)(6), (b)(7)(C) and former Deputy FOD (b)(6), (b)(7)(C). In June 2011, the U.S. Court of Appeals for the Third Circuit dismissed those four defendants from the suit on the basis of qualified immunity.

The magistrate judge overseeing settlement discussions has informed the parties that he believes the settlement value of this suit is \$295,000. The plaintiffs have agreed to settle for that amount. The settlement would resolve all claims against the defendants, and the plaintiffs would not seek attorney's fees or costs.

Analysis

(b)(5), (b)(6), (b)(7)(C)

Recommendation

For the reasons stated above, the Office of General Counsel recommends approval of the defendants' requests for pre-trial indemnification in the total amount of \$295,000.

Approve: _____ Disapprove: _____

Modified: _____ Needs Discussion: _____

² ERO has issued new guidance requiring the documentation of consent to enter residences and has implemented multiple changes and enhancements to its Fourth Amendment and Equal Protection training since this incident occurred.



U.S. Immigration
and Customs
Enforcement

August 15, 2012

MEMORANDUM FOR: (b)(6), (b)(7)(C)
Secretary

THROUGH: (b)(6), (b)(7)(C)
General Counsel

FROM: (b)(6), (b)(7)(C)
Principal Legal Advisor, U.S. Immigration and Customs Enforcement

SUBJECT: Requests for pre-trial indemnification pursuant to DHS
Management Directive 0415.1 in (b)(6), (b)(7)(C)
(D.N.J. filed Apr. 3, 2008); interlocutory appeal 643 F.3d 60 (3d
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(b)(5), (b)(6), (b)(7)(C)

¹ The original defendants included former Assistant Secretary (b)(6), (b)(7)(C) former ERO Director (and current ICE Special Agent in Charge for Washington, D.C.) (b)(6), (b)(7)(C) former ERO Newark Field Office Director (FOD) (b)(6), (b)(7)(C) and former Deputy FOD (b)(6), (b)(7)(C). In June 2011, the U.S. Court of Appeals for the Third Circuit dismissed those four defendants from the suit on the basis of qualified immunity.

The magistrate judge overseeing settlement discussions has informed the parties that he believes the settlement value of this suit is \$295,000. The plaintiffs have agreed to settle for that amount. The settlement would resolve all claims against the defendants, and the plaintiffs would not seek attorney's fees or costs.

Analysis

(b)(5), (b)(6), (b)(7)(C)

Recommendation

For the reasons stated above, the Office of General Counsel recommends approval of the defendants' requests for pre-trial indemnification in the total amount of \$295,000.

Approve: _____ Disapprove: _____

Modified: _____ Needs Discussion: _____

² ERO has issued new guidance requiring the documentation of consent to enter residences and has implemented multiple changes and enhancements to its Fourth Amendment and Equal Protection training since this incident occurred.



U.S. Immigration
and Customs
Enforcement

July 30, 2012

MEMORANDUM FOR: (b)(6), (b)(7)(C)
Deputy General Counsel

THROUGH: (b)(6), (b)(7)(C)
Acting Associate General Counsel for Legal Counsel

FROM: (b)(6), (b)(7)(C)
Director of Enforcement and Litigation

SUBJECT: Proposed settlement of (b)(6), (b)(7)(C) (D.N.J. filed
Apr. 3, 2008); interlocutory appeal 643 F.3d 60 (3d Cir. 2011)

Issue

The U.S. Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA) seeks the Office of General Counsel's approval to settle this lawsuit for \$295,000. ICE senior management has been briefed and concurs with a settlement in that amount. Magistrate Judge (MJ) Douglas E. Arpert has informed the parties he believes the settlement value of this suit is \$295,000, and the plaintiffs have agreed to settle for this amount \$295,000. The eight plaintiffs make *Bivens* claims against 27 ICE Enforcement and Removal Operations (ERO) employees. One family of three plaintiffs also seeks injunctive relief. The Department of Justice's (DOJ) Constitutional and Specialized Torts (Con Torts) section represents the *Bivens* defendants. DOJ's Office of Immigration Litigation represents the United States on the claim for injunctive relief.

Background

(b)(5), (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) held an unsuccessful settlement conference on September 14, 2011. Prior to the conference, ICE and OGC had agreed on settlement authority of up to \$225,000 but had conveyed to Con Torts only the \$150,000 authority it had sought. The plaintiffs' demand was \$1.26 million. At the close of the conference, (b)(6), (b)(7)(C) told the parties he would tell them his settlement valuation within 30 days, but unfortunately, it was July 2012 before he was able to do so.

Analysis

(b)(5), (b)(6), (b)(7)(C)



(b)(5), (b)(6), (b)(7)(C)

Recommendation

OPLA recommends that OGC concur with the settlement (technically a pre-trial indemnification) of this suit for \$295,000.

Approve: _____

Disapprove: _____

Modified: _____

Needs Discussion: _____

Attachment

DOJ Settlement Recommendation

(b)(6), (b)(7)(C)

From:

(b)(6), (b)(7)(C)

Sent:

Monday, September 24, 2012 9:24 AM

To:

Cc:

Subject:

(b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

ICE's (b)(6), (b)(7)(C) called this morning and wanted an update on the indemnification request that ICE sent over, and on which we concurred, in (b)(6), (b)(7)(C). Unfortunately, I lost visibility on that indemnification after I thought it had been sent up to the OGC front office. I gather from (b)(6), (b)(7)(C) call that the indemnification needs to move, so that then settlement can be consummated. Thanks.

Best,

(b)(6), (b)(7)(C)

Attorney Advisor
Legal Counsel Division
Office of the General Counsel
U.S. Department of Homeland Security
202.282. (b)(6), (b)(7)(C)
202.684. (b)(6), (b)(7)(C)
202.282.9186 (facsimile)

(b)(6), (b)(7)(C)

This communication, along with any attachments, is covered by federal and state law governing electronic communications and is intended only for the designated recipient(s). It may contain information that is subject to the attorney-client privilege, other legal privileges, or confidentiality obligations. If you are not a designated recipient, you may not review, copy, disseminate, or distribute this message or its contents. If you receive this message in error, please notify the sender immediately by reply e-mail and delete this message. Thank you.

Check/ACH Query	Payee Query	Payment Listing	Payment Details	Payment History	Claim Details
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Payee ID: (b)(6), (b)(7)(C)
Payee Name: (b)(6), (b)(7)(C)
Payment Date: 01/06/2011
Payment Amount: \$400,000.00
Schedule Number: (b)(6), (b)(7)(C)
Payment Status: PAYMENT HAS BEEN PROCESSED

TRACE NUMBER: (b)(6), (b)(7)(C)
ALC: 70191512

Payee's FI C/S DAN: (b)(6), (b)(7)(C)

FI RTN: (b)(6), (b)(7)(C)
FI Name: US BANK NA
FI Address: 10035 EAST 40TH AVENUE (b)(6), (b)(7)(C)

DENVER, CO 80238

FI Phone: (800) 937 (b)(6), (b)(7)



U. S. Department of Justice

United States Attorney
Central District of California

United States Courthouse, [redacted]
312 North Spring Street
Los Angeles, California 90012

December 23, 2010

Secretary Janet Napolitano
United States Department of Homeland Security
Washington D.C. 20528

Re: [redacted]

Dear Secretary [redacted]

Pursuant to Department of Homeland Security Management Directive 0415, I request that the Department of Homeland indemnify Immigration and Customs Enforcement Agent [redacted] [redacted] in the above action now pending in the Ninth Circuit Court of Appeals and authorize a pre-judgment settlement to the plaintiff [redacted] of the sum of \$20,000 in exchange for a dismissal with prejudice of all of [redacted] claims arising in the above action.

Agent [redacted] conduct was within the scope of her employment and the settlement is in the interest of the United States. The reasons for this request are set forth in the attached memorandum.

Very truly yours,

[redacted signature block]
(b)(6), (b)(7)(C)

United States Attorney

Enclosure

cc: [redacted] Director Appellate Staff
United States Department of Justice

Memorandum



Subj: Request for Indemnification [Redacted] (b), (b)(7)	Date: December 23, 2010
--	----------------------------

To: [Redacted] (b) United States Attorney	From: [Redacted] (b), (b)(7) Assistant United States Attorney
---	---

I. INDEMNIFICATION REQUESTED

By this memorandum, I request that you sign the attached letter to Secretary of the Department of Homeland Security ("DHS") [Redacted] seeking pre-judgment indemnification of Immigration and Customs Enforcement ("ICE") Agent [Redacted] ("Agent [Redacted]" pursuant to Department of Homeland Security ("DHS") Management Directive ("MD") 0415. MD 0415 authorizes the Secretary to indemnify Agent [Redacted] and approve a pre-judgment settlement of the above Constitutional tort action. In this case, I request authorization of payment to Plaintiff [Redacted] of up to the sum of \$20,000 in settlement and for dismissal with prejudice of the above-referenced matter. As required by MD 0415, the alleged conduct giving rise to [Redacted] claims was within the scope of Agent [Redacted] employment and the proposed settlement is in the interest of the United States.

II. Introduction

[Redacted] alleges that Agent [Redacted] violated his Constitutional rights by issuing an immigration detainer pursuant to 8 C.F.R. § 287.7 which resulted in prolonging his detention at the Orange County Jail by two days as well as causing his administrative detention by ICE for several hours in August 2003. [Redacted] who had been arrested for violating a restraining order told Agent [Redacted] that he was "legal." In fact, [Redacted] was a lawful permanent resident. Agent [Redacted] could not locate [Redacted] name in the immigration data bases she reviewed because his name was misspelled therein. [Redacted] claims for false arrest and false imprisonment are asserted against Agent [Redacted] under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, [Redacted]. On February 4, 2010, United States Magistrate Judge Zarefsky recommended the denial of Agent [Redacted] motion for summary judgment on qualified immunity grounds as to [Redacted] Fourth Amendment claims. United States District Judge Dale Fisher adopted this recommendation without discussion on April 2, 2010. Pursuant to the

District Court's order, [redacted] Fourth Amendment claims against Agent [redacted] will be tried to a jury unless the order is reversed by the Ninth Circuit.

Agent [redacted] has filed a protective appeal. This Office recommended that the Solicitor General authorize the appeal as did the Department of Justice's Torts Branch. However, DHS and Assistant Attorney General [redacted] have recommended against appeal. Accordingly, we expect that the Solicitor General will not authorize the appeal. Agent [redacted] intends to proceed with her appeal of the denial of her qualified immunity with private counsel in that event.

We believe that a pre-judgment settlement of this matter would be in the interests of the United States for the following reasons:

1. There is a substantial risk that Agent [redacted] issuance of the detainer will be found to be Constitutionally deficient on the grounds that she lacked probable cause to issue a detainer.

2. DHS recommended against appeal on the grounds that it was concerned that the Ninth Circuit would issue an adverse precedent that would require that all immigration detainers be supported by probable cause to believe that the subject is not legally in this country. Such a ruling would have a substantial impact on ICE operations due to the fact that a large number of persons arrested by ICE are identified while they are incarcerated on state or local charges through the use of immigration detainers.

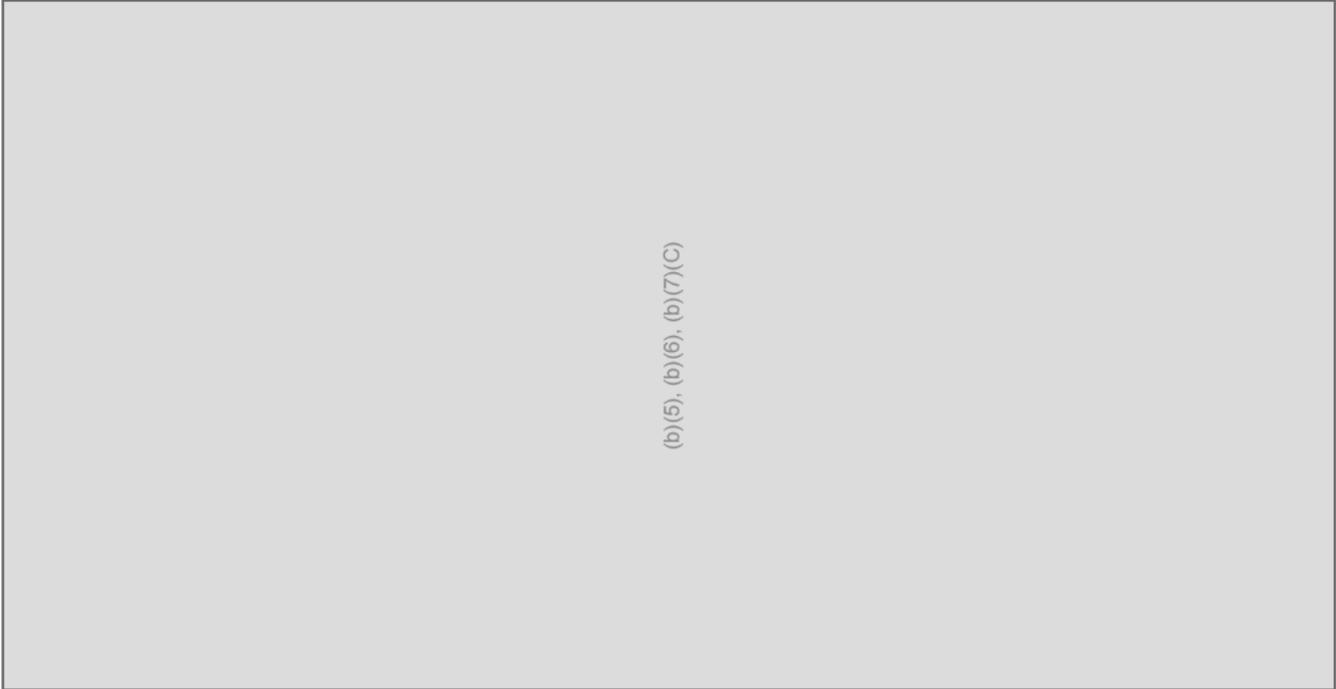
3. There appears to be no consensus even among experienced ICE officers as to whether probable cause or reasonable suspicion is required for the issuance of an immigration detainer. Indeed, Agent [redacted] supervisor refused to authorize Agent [redacted] to issue a notice to appear ("NTA") for Vohra because he did not believe she had sufficient evidence to do so. Given this uncertainty, Agent [redacted] will pursue her appeal of denial of her qualified immunity on the grounds that the Constitutional right she alleged violated was not clearly established. Thus, the Ninth Circuit precedent of which DHS is concerned may still ensue without the input and participation of DHS or the Department of Justice in her appeal.

4. The United States was substituted into this action in order to dispose of [redacted] common law claims for negligence and intentional infliction of emotional distress pursuant to 28 U.S.C. § 2679(d)(4). Those claims were dismissed by the Court because [redacted] never exhausted his administrative remedies under the Federal Tort Claims Act ("FTCA"). However, once this action is terminated, [redacted] would have the opportunity to file a tort claim pursuant to 28 U.S.C. § 2679(d)(5). In that event, DHS could face liability for negligence.

(b)(5), (b)(6), (b)(7)(C)

(b) has submitted a written settlement demand for the sum of \$20,000. Therefore, Agent (b) requests that DHS indemnify Agent (e) and pay, on her behalf, (e) up to the sum of \$20,000 in settlement of the above-referenced matter and for dismissal with prejudice of all of (e) claims arising from his detention.

III. Procedural Posture



After some months of discovery, in 2009, Agents (e) filed motions for summary judgment asserting their qualified immunity among other grounds. The United States filed its own summary judgment motion on the grounds that (e) had not exhausted his required administrative remedies under the FTCA. Magistrate Judge Zarefsky recommended granting the motions of the United States and Supervisory Agent (e). With respect to Agent (e) however, the Magistrate Judge issued a recommendation to deny summary judgment as to (e) Fourth Amendment claims and to deny Agent (e) qualified immunity. The District Court adopted the Magistrate Judge's recommendations on March 29, 2010.

Agent (e) filed her protective notice of appeal on April 28, 2010. The Solicitor General has not yet determined whether to authorize the appeal. The Ninth Circuit has issued a scheduling order pursuant to which Agent (e) opening brief is due January 24, 2011.

IV. Statement of Facts

On August 9, 2003, (e) was arrested by Santa Ana Police Officer (e) because (e) violated a restraining order obtained against (e) by his own family members. (e) father had recently passed away and (e) was arrested at the funeral parlor in which (e)

father's ashes were held. [redacted] was taken to the Orange County Jail but no charges were ultimately filed against him by the Santa Ana district attorney.

On August 11, 2003, Agent [redacted] went to the Orange County Jail to review booking records and interview inmates pursuant to the Alien Criminal Apprehension Program in order to assess their immigration status and process cases accordingly. Agent [redacted] determined from [redacted] booking sheet, the California criminal history data, and an FBI printout, that he might be a foreign national. Agent [redacted] has testified that she attempted to interview [redacted] on August 11, 2003, but found him to be belligerent and uncooperative. According to Agent [redacted] claimed to be "legal" but would not otherwise elaborate. [redacted] now actually denies that he ever spoke to Agent [redacted] on this or any other occasion.

There can be no doubt that Agent [redacted] interviewed [redacted] because she obtained certain information about him from the interview including [redacted] date of birth, country of origin, and parents' names. Agent [redacted] attempted to utilize this information but found no matches in the records contained in various databases maintained by the immigration authorities for persons with names similar to [redacted]. Because Agent [redacted] could not locate an existing alien registration number for [redacted] she assigned him a new number and created a file for [redacted] Unknown to Agent [redacted] was, in fact, a lawful permanent resident but his name was misspelled in the immigration authorities' databases, which prevented Agent [redacted] from retrieving this information.

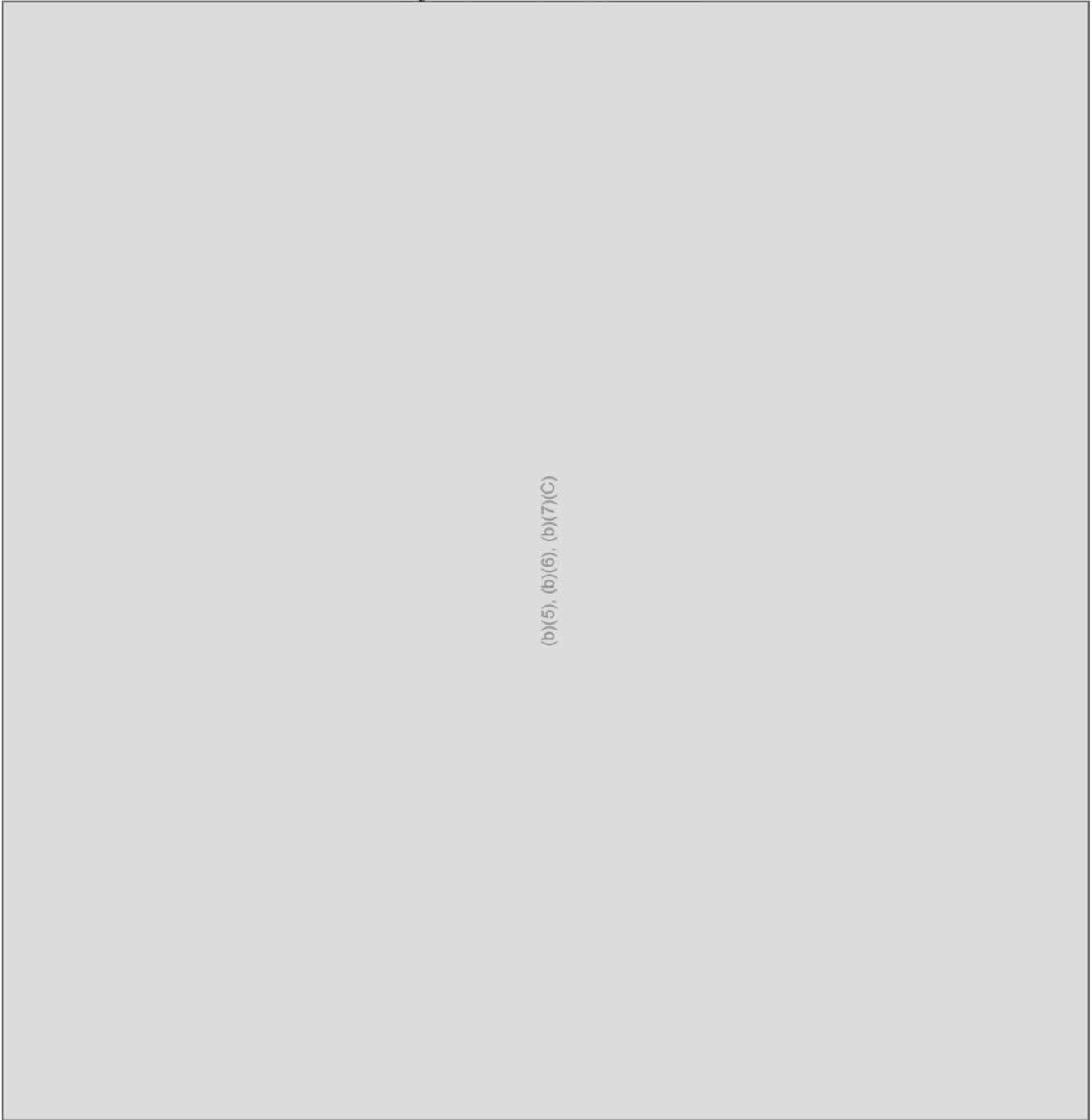
While she was in the Orange County Jail on August 11, 2003, Agent [redacted] also entered the Orange County Jail property room to search for a plastic alien registration "green card" among [redacted] effects. Agent [redacted] did not find such a card in [redacted] wallet. [redacted] admits that he did not have his actual green card in his wallet, but claims that he had a photocopy in his wallet. Agent [redacted] did not look for a photocopy when she conducted her search and it was not her practice to remove papers from an inmate's wallet.

Pursuant to 8 C.F.R. § 287.7, Agent [redacted] prepared an immigration detainer and provided it to the Orange County prison authorities on August 11, 2003. A detainer serves to advise another law enforcement agency that the Department of Homeland Security seeks custody of an alien presently in the custody of that agency and serves as a request that the agency advise the Department, prior to release of the alien, in order to enable the Department to assume custody. See United States v. [redacted] (11th Cir. 1983).

In the early morning of August 13, 2003, the Orange County Jail authorities faxed to Agent [redacted] a list of prisoners who would be transferred to ICE custody that morning, including [redacted] [redacted] was taken to the ICE Detention and Removal sub-office in Westminster, California early in the morning of August 13, 2003. When Agent [redacted] who worked in a different office, learned that [redacted] was being detained by ICE at the Westminster office on August 13, 2003, she prepared a proposed NTA for [redacted] pursuant to 8 U.S.C. § 1229(a). Because Agent [redacted] did not have the authority to issue an NTA on her own, she presented the proposed NTA for approval to Supervisory Agent [redacted] pursuant to 8 C.F.R. § 239.1 (a)(23). Supervisory Agent [redacted]

reviewed the proposed NTA and determined that there was insufficient evidence to initiate immigration charges against [REDACTED]. Accordingly, he did not execute the NTA and ordered instead that [REDACTED] be released or “cut to the street.” Thus, no immigration charges were brought against [REDACTED] by ICE and [REDACTED] was released from ICE administrative detention on August 13, 2003, several hours after he was transferred to ICE custody by Orange County.

V. Analysis: Risks and Valuation



(b)(5), (b)(6), (b)(7)(C)

[Redacted]

(b)(5), (b)(6), (b)(7)(C)

Moreover, even if [Redacted] is not successful, he is an unusually litigious plaintiff and would be expected to appeal any adverse decision to the Ninth Circuit. Thus, he could raise many of the above issues on appeal himself. In addition, [Redacted] could have the opportunity to file a tort claim for negligence pursuant to 28 U.S.C. § 2679(d)(5). Because [Redacted] name was misspelled in the data bases it is not clear how we could defend such a claim for negligence.

Plaintiff has provided a written offer to settle this case for the sum of \$20,000. Our efforts to convince [Redacted] to reduce the amount of his offer have not been successful. Although [Redacted] was in custody for at most three days, the requested settlement amount is not out of line with those awarded in other cases. For example, in [Redacted] (W.D. Tex. 2003), the plaintiff was awarded \$75,000 for a single day of wrongful incarceration. In the FTCA/Bivens case of [Redacted] (E.D. Cal.), the plaintiff was awarded \$100,000 (\$7,000 per day).

VI. CONCLUSION

For all the foregoing reasons, I propose that you recommend that DHS indemnify Agent [Redacted] and authorize payment to [Redacted] of up to the sum of \$20,000 in settlement of this action and for dismissal with prejudice of all his claims arising from his 2003 detention.

[Redacted]

(b)(6), (b)(7)(C)

Assistant United States Attorney

[Redacted]

(b)(6), (b)(7)(C)

United States Attorney



U.S. Immigration
and Customs
Enforcement

ATTORNEY-CLIENT PRIVILEGED / ATTORNEY WORK PRODUCT

MEMORANDUM FOR: Secretary (b)(6), (b)(7)(C)

THROUGH: (b)(6), (b)(7)(C)
General Counsel

FROM: (b)(6), (b)(7)(C)
Principal Legal Advisor

SUBJECT: Settlement recommendation, (b)(6), (b)(7)(C)
(C.D. Cal. filed Aug. 12, 2004)

(b)(5), (b)(6), (b)(7)(C)

Background

The plaintiff, Deepak (b)(6), (b)(7)(C) alleges that his Fourth Amendment rights were violated when an immigration detainer issued by IEA (b)(6), (b)(7)(C) to a local jail caused him to be detained without probable cause for approximately two and a half days.

On August 9, 2003, (b)(6), (b)(7) was arrested by Santa Ana Police for violating a restraining order. (b)(6), (b)(7) was then booked into the Orange County Jail. On August 11, 2003, IEA (b)(6), (b)(7)(C) went to the jail to review the booking records and interview inmates as part of ICE's Alien Criminal Apprehension Program. IEA (b)(6), (b)(7)(C) determined from (b)(6), (b)(7)(C) booking sheet, California criminal history data, and FBI printout that he might be a foreign national. IEA (b)(6), (b)(7)(C) attempted to interview (b)(6), (b)(7) but found him to be belligerent and uncooperative. Although (b)(6), (b)(7) claimed to be "legal," IEA (b)(6), (b)(7)(C) investigated the limited information about (b)(6), (b)(7) she was able to ascertain, such as his date of birth, country of origin, and parents'

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names, but found no matches in any DHS computer databases. Unknown to IEA (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) was, in fact, a lawful permanent resident, but his name was misspelled in the Central Index System (CIS) database, making it irretrievable by IEA (b)(6), (b)(7)(C) IEA (b)(6), (b)(7)(C) also did not find an alien registration card among (b)(6), (b)(7)(C) effects held in the jail property room. After reviewing all of the information available, IEA (b)(6), (b)(7)(C) issued an immigration detainer to jail officials. After the detainer was issued, the state criminal charges were dropped by the Orange County District Attorney. IEA (b)(6), (b)(7)(C) did not receive any notification of the dropped state charges until August 13, 2003, when (b)(6), (b)(7)(C) was transferred into ICE custody by the jail. When IEA (b)(6), (b)(7)(C) learned that (b)(6), (b)(7)(C) had been taken into ICE custody, she prepared a Notice to Appear before an Immigration Judge and arrest warrant for (b)(6), (b)(7)(C) and presented them for approval to her supervisor. Her supervisor reviewed the documents and determined that there was insufficient evidence to initiate immigration charges against (b)(6), (b)(7)(C) Her supervisor ordered (b)(6), (b)(7)(C) to be released. No immigration charges were brought against (b)(6), (b)(7)(C) by ICE, and (b)(6), (b)(7)(C) was released from ICE custody on August 13, 2003, after a few hours.

On August 19, 2004, (b)(6), (b)(7)(C) filed a *pro se* complaint against Orange County, the City of Santa Ana, the arresting Santa Ana, California Police Officer and unknown John Doe ICE officers as defendants. On March 24, 2005, (b)(6), (b)(7)(C) added ICE as a defendant in the case in his second amended complaint. (b)(6), (b)(7)(C) sued the defendants under constitutional tort theories and common law causes of action for negligence and intentional infliction of emotional distress. The named defendants successfully moved for summary judgment. ICE was dismissed on the grounds of sovereign immunity – that the United States and its agencies had not consented to be sued for constitutional violations – and that (b)(6), (b)(7)(C) had failed to exhaust his administrative remedies under the Federal Tort Claims Act. (b)(6), (b)(7)(C) appealed the dismissal of his action to the Ninth Circuit on March 16, 2006. On August 25, 2008, the Ninth Circuit affirmed the dismissal of the named defendants but ruled (b)(6), (b)(7)(C) had not been given sufficient opportunity to discover the identities of the individual unknown ICE agents. On remand to the District Court, IEA (b)(6), (b)(7)(C) and her supervisor were identified. (b)(6), (b)(7)(C) amended his complaint to assert claims against them. Subsequently, the United States was substituted in place of the ICE individual defendants with respect to (b)(6), (b)(7)(C) common law causes of action.

On March 29, 2010, U.S. District Court Judge Dale Fischer granted in part and denied in part the defendants' motion for summary judgment. The Court summarily adopted the recommendation of U.S. Magistrate Judge Ralph Zarefsky, which dismissed the United States and IEA (b)(6), (b)(7)(C) supervisor from the case, but denied IEA (b)(6), (b)(7)(C) motion for qualified immunity. (Attachment 2). The Magistrate Judge recommended allowing (b)(6), (b)(7)(C) Fourth Amendment claims of false arrest and imprisonment against IEA Morales to go to trial because the plaintiff's allegations in his complaint raised a material factual dispute which precluded summary judgment in IEA (b)(6), (b)(7)(C) favor. The factual dispute concerns whether IEA (b)(6), (b)(7)(C) interviewed (b)(6), (b)(7)(C) alleges that he was never interviewed by IEA (b)(6), (b)(7)(C) and that he had a photocopy of his alien registration card in his wallet. The Magistrate Judge concluded that even though it was undisputed that IEA (b)(6), (b)(7)(C) knew (b)(6), (b)(7)(C) name, birth date, Indian origin, the lack of matches for Vohra in DHS databases, and the failure of Vohra to possess a resident alien card, these facts did not support a finding of probable cause, or even a

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reasonable, but mistaken belief that (b)(6), (b)(7)(C) was an alien illegally present in the United States. The Magistrate Judge also opined that IEA (b)(6), (b)(7)(C) could be liable for (b)(6), (b)(7)(C) detention by the local county jail beginning on the day she issued the detainer because she lacked probable cause to issue the detainer.

The U.S. Attorney's Office in the Central District of California represents IEA (b)(6), (b)(7)(C). The Department of Justice (DOJ) has determined that she acted within the scope of her employment and granted her representation pursuant to 28 C.F.R. § 50.15. The plaintiff continues to represent himself. He failed to file any administrative tort claims with the federal government before the expiration of the two-year statute of limitations. Thus, the government is precluded from paying any damages to the plaintiff under the Federal Torts Claim Act. Indemnification for the plaintiff's claim is the only means to complete this settlement.

On April 28, 2010, IEA (b)(6), (b)(7)(C) filed a protective notice of appeal with the Ninth Circuit. Her opening brief is currently due on January 24, 2011. The Office of Solicitor General has not made a formal decision as to whether it will appeal the District Court's decision. DHS OGC and DOJ Civil Division recommended that no appeal should be taken in this case due to the potential of an adverse precedent by the Ninth Circuit regarding ICE's use of immigration detainers. IEA (b)(6), (b)(7)(C) has professional liability insurance and has retained private counsel to continue her appeal should DOJ decline her appeal request. After IEA (b)(6), (b)(7)(C) filed her appeal, the parties engaged in settlement negotiations. The plaintiff agreed to settle the case for \$20,000 in monetary damages. The settlement agreement is contingent upon IEA (b)(6), (b)(7)(C) obtaining indemnification from DHS.

The U.S. Attorney's Office, which represents IEA (b)(6), (b)(7)(C) requests that DHS indemnify IEA Morales to settle the *Bivens* claims against her.

Authority

Management Directive 0415, *Indemnification of Employees Acting in Official Capacity* (Attachment 4), states that the Department may indemnify an employee at any time if the employee was acting within the scope of employment, and if indemnification is in the best interests of the United States. However, the Management Directive authorizes indemnification prior to the entry of an adverse judgment only if exceptional circumstances are present. Paragraph VI.C states, in relevant part:

Absent exceptional circumstances, as determined by the Secretary, the Department will not entertain a request to indemnify or to pay for settlement of a claim before entry of an adverse judgment, verdict or other determination.

Interest of the United States in Settlement

DHS has a strong interest in settling this litigation to avoid the risk of an adverse decision by the Ninth Circuit on its use of immigration detainers, which is an integral part of

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ICE's immigration enforcement in the United States. It is also in the United States' interest to support an ICE employee whose reliance on negligently maintained DHS databases in the performance of her duties exposed her to personal financial liability. The payment of \$20,000 is appropriate in these circumstances.

Scope of Employment

Section 2671 of Title 18, U.S. Code defines "[a]cting within the scope of employment" as "acting within the line of duty." The actions IEA (b)(6), (b)(7)(C) allegedly took fall within the scope of her employment as an ICE agent. She acted within agency policies and procedures at the time of the alleged incident. Her alleged actions were performed while she was on duty enforcing U.S. immigration law on the behalf of ICE and DHS.

Recommendation

I recommend that you approve indemnification in this case. The "exceptional circumstances" that justify pre-judgment indemnification are the reasonableness of IEA (b)(6), (b)(7)(C) reliance on DHS databases and the potential for an adverse judgment by the Ninth Circuit, which could significantly impair ICE's ability to identify and remove criminal aliens. It is therefore in the best interests of the United States to settle this lawsuit and to indemnify IEA (b)(6), (b)(7)(C)

Approve _____ Disapprove _____

Modify _____ Needs more discussion _____

Attachments



U. S. Department of Justice

*United States Attorney
Central District of California*

*United States Courthouse, (b)(6), (b)(7)(C)
312 North Spring Street
Los Angeles, California 90012*

December 23, 2010

Secretary (b)(6), (b)(7)(C)
United States Department of Homeland Security
Washington D.C. 20528

Re: (b)(6), (b)(7)(C)

Dear Secretary (b)(6), (b)(7)(C)

Pursuant to Department of Homeland Security Management Directive 0415, I request that the Department of Homeland indemnify Immigration and Customs Enforcement Agent (b)(6), (b)(7)(C) in the above action now pending in the Ninth Circuit Court of Appeals and authorize a pre-judgment settlement to the plaintiff Deepak Vohra of the sum of \$20,000 in exchange for a dismissal with prejudice of all of (b)(6), (b)(7)(C) claims arising in the above action.

Agent (b)(6), (b)(7)(C) conduct was within the scope of her employment and the settlement is in the interest of the United States. The reasons for this request are set forth in the attached memorandum.

Very truly yours

(b)(6), (b)(7)(C)

United States Attorney

Enclosure

cc: (b)(6), (b)(7)(C) Director Appellate Staff
United States Department of Justice

Memorandum



Subj: Request for Indemnification <div style="border: 1px solid black; background-color: #cccccc; padding: 2px; text-align: center;">(b)(6), (b)(7)(C)</div>	Date: December 23, 2010
To: <div style="border: 1px solid black; background-color: #cccccc; padding: 2px; text-align: center;">(b)(6), (b)(7)(C)</div> United States Attorney	From: <div style="border: 1px solid black; background-color: #cccccc; padding: 2px; text-align: center;">(b)(6), (b)(7)(C)</div> Assistant United States Attorney

I. INDEMNIFICATION REQUESTED

By this memorandum, I request that you sign the attached letter to Secretary of the Department of Homeland Security ("DHS") (b)(6), (b)(7)(C) seeking pre-judgment indemnification of Immigration and Customs Enforcement ("ICE") Agent (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) pursuant to Department of Homeland Security ("DHS") Management Directive ("MD") 0415. MD 0415 authorizes the Secretary to indemnify Agent (b)(6), (b)(7)(C) and approve a pre-judgment settlement of the above Constitutional tort action. In this case, I request authorization of payment to Plaintiff (b)(6), (b)(7)(C) of up to the sum of \$20,000 in settlement and for dismissal with prejudice of the above-referenced matter. As required by MD 0415, the alleged conduct giving rise to (b)(6), (b)(7)(C) claims was within the scope of Agent (b)(6), (b)(7)(C) employment and the proposed settlement is in the interest of the United States.

II. Introduction

(b)(6), (b)(7)(C) alleges that Agent (b)(6), (b)(7)(C) violated his Constitutional rights by issuing an immigration detainer pursuant to 8 C.F.R. § 287.7 which resulted in prolonging his detention at the Orange County Jail by two days as well as causing his administrative detention by ICE for several hours in August 2003. (b)(6), (b)(7)(C) who had been arrested for violating a restraining order told Agent (b)(6), (b)(7)(C) that he was "legal." In fact, (b)(6), (b)(7)(C) was a lawful permanent resident. Agent (b)(6), (b)(7)(C) could not locate (b)(6), (b)(7)(C) name in the immigration data bases she reviewed because his name was misspelled therein. (b)(6), (b)(7)(C) claims for false arrest and false imprisonment are asserted against Agent (b)(6), (b)(7)(C) under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). On February 4, 2010, United States Magistrate Judge Zarefsky recommended the denial of Agent (b)(6), (b)(7)(C) motion for summary judgment on qualified immunity grounds as to (b)(6), (b)(7)(C) Fourth Amendment claims. United States District Judge Dale Fisher adopted this recommendation without discussion on April 2, 2010. Pursuant to the

District Court's order, (b)(6), (b)(7)(C) Fourth Amendment claims against Agent (b)(6), (b)(7)(C) will be tried to a jury unless the order is reversed by the Ninth Circuit.

Agent (b)(6), (b)(7)(C) has filed a protective appeal. This Office recommended that the Solicitor General authorize the appeal as did the Department of Justice's Torts Branch. However, DHS and Assistant Attorney General (b)(6), (b)(7)(C) have recommended against appeal. Accordingly, we expect that the Solicitor General will not authorize the appeal. Agent (b)(6), (b)(7)(C) intends to proceed with her appeal of the denial of her qualified immunity with private counsel in that event.

We believe that a pre-judgment settlement of this matter would be in the interests of the United States for the following reasons:

1. There is a substantial risk that Agent (b)(6), (b)(7)(C) issuance of the detainer will be found to be Constitutionally deficient on the grounds that she lacked probable cause to issue a detainer.

2. DHS recommended against appeal on the grounds that it was concerned that the Ninth Circuit would issue an adverse precedent that would require that all immigration detainees be supported by probable cause to believe that the subject is not legally in this country. Such a ruling would have a substantial impact on ICE operations due to the fact that a large number of persons arrested by ICE are identified while they are incarcerated on state or local charges through the use of immigration detainees.

3. There appears to be no consensus even among experienced ICE officers as to whether probable cause or reasonable suspicion is required for the issuance of an immigration detainer. Indeed, Agent (b)(6), (b)(7)(C) supervisor refused to authorize Agent (b)(7)(C), (b)(6) to issue a notice to appear ("NTA") for (b)(6), (b)(7)(C) because he did not believe she had sufficient evidence to do so. Given this uncertainty, Agent (b)(6), (b)(7)(C) will pursue her appeal of denial of her qualified immunity on the grounds that the Constitutional right she alleged violated was not clearly established. Thus, the Ninth Circuit precedent of which DHS is concerned may still ensue without the input and participation of DHS or the Department of Justice in her appeal.

4. The United States was substituted into this action in order to dispose of (b)(6), (b)(7)(C) common law claims for negligence and intentional infliction of emotional distress pursuant to 28 U.S.C. § 2679(d)(4). Those claims were dismissed by the Court because (b)(6), (b)(7)(C) never exhausted his administrative remedies under the Federal Tort Claims Act ("FTCA"). However, once this action is terminated, (b)(6), (b)(7)(C) would have the opportunity to file a tort claim pursuant to 28 U.S.C. § 2679(d)(5). In that event, DHS could face liability for negligence.

5. A jury in downtown Los Angeles could very well be unsympathetic and even hostile to an immigration agent in the current highly politicized immigration climate. (b)(6), (b)(7)(C) was held in custody in State court for two days based on the detainer before he was taken into ICE custody for several hours. The state defendants are no longer parties, and because Agent (b)(6), (b)(7)(C) is the sole remaining defendant, Agent (b)(6), (b)(7)(C) could effectively be left holding the bag for the delayed custody.

(b)(6), (b)(7) has submitted a written settlement demand for the sum of \$20,000. Therefore, Agent (b)(6), (b)(7) requests that DHS indemnify Agent (b)(6), (b)(7) and pay, on her behalf, (b)(6), (b)(7) up to the sum of \$20,000 in settlement of the above-referenced matter and for dismissal with prejudice of all of (b)(6), (b)(7) claims arising from his detention.

III. Procedural Posture

(b)(6), (b)(7) filed his original complaint on August 19, 2004 against Orange County, California, the City of Santa Ana, California, Santa Ana Police Officer (b)(6), (b)(7) and ICE, along with ten unknown Doe defendants. All these named defendants filed motions to dismiss or motions for summary judgment which motions were granted by the district court. ICE moved for dismissal on the grounds that (b)(6), (b)(7) Constitutional claims were barred against it by the doctrine of sovereign immunity and any tort claims had not been exhausted.

(b)(6), (b)(7) appealed the dismissal of his action to the Ninth Circuit Court of Appeals on March 16, 2006. On August 25, 2008, the Ninth Circuit affirmed the dismissal of the named defendants but ruled that (b)(6), (b)(7) had not been given sufficient opportunity to discover the identities of the individual unknown ICE agents. On remand to the district court, ICE identified Agent (b)(6), (b)(7) as the ICE agent who issued the immigration detainer against him and Supervisory Special Agent (b)(6), (b)(7)(C) as the ICE official who ordered his release. (b)(6), (b)(7) amended his complaint to assert claims against both Agent (b)(6), (b)(7) and Supervisory Agent (b)(6), (b)(7)(C). Subsequently, the United States was substituted in place of Agent (b)(6), (b)(7) and Supervisory Agent (b)(6), (b)(7)(C) with respect to (b)(6), (b)(7) common law causes of action pursuant to 28 U.S.C. § 2679(d)(2).

After some months of discovery, in 2009, Agents (b)(6), (b)(7)(C) filed motions for summary judgment asserting their qualified immunity among other grounds. The United States filed its own summary judgment motion on the grounds that (b)(6), (b)(7) had not exhausted his required administrative remedies under the FTCA. Magistrate Judge Zarefsky recommended granting the motions of the United States and Supervisory Agent (b)(6), (b)(7)(C). With respect to Agent (b)(6), (b)(7) however, the Magistrate Judge issued a recommendation to deny summary judgment as to (b)(6), (b)(7) Fourth Amendment claims and to deny Agent (b)(6), (b)(7)(C) qualified immunity. The District Court adopted the Magistrate Judge's recommendations on March 29, 2010.

Agent (b)(6), (b)(7) filed her protective notice of appeal on April 28, 2010. The Solicitor General has not yet determined whether to authorize the appeal. The Ninth Circuit has issued a scheduling order pursuant to which Agent (b)(6), (b)(7) opening brief is due January 24, 2011.

IV. Statement of Facts

On August 9, 2003, (b)(6), (b)(7) was arrested by Santa Ana Police Officer (b)(6), (b)(7) because (b)(6), (b)(7) violated a restraining order obtained against (b)(6), (b)(7) by his own family members (b)(6), (b)(7)(C) father had recently passed away and (b)(6), (b)(7) was arrested at the funeral parlor in which (b)(6), (b)(7)(C)

father's ashes were held. (b)(6), (b)(7) was taken to the Orange County Jail but no charges were ultimately filed against him by the Santa Ana district attorney.

On August 11, 2003, Agent (b)(6), (b)(7) went to the Orange County Jail to review booking records and interview inmates pursuant to the Alien Criminal Apprehension Program in order to assess their immigration status and process cases accordingly. Agent (b)(6), (b)(7) determined from (b)(6), (b)(7)(C) booking sheet, the California criminal history data, and an FBI printout, that he might be a foreign national. Agent (b)(6), (b)(7) has testified that she attempted to interview (b)(6), (b)(7) on August 11, 2003, but found him to be belligerent and uncooperative. According to Agent (b)(6), (b)(7)(C) claimed to be "legal" but would not otherwise elaborate. (b)(6), (b)(7) now actually denies that he ever spoke to Agent (b)(6), (b)(7) on this or any other occasion.

There can be no doubt that Agent (b)(6), (b)(7) interviewed (b)(6), (b)(7) because she obtained certain information about him from the interview including (b)(6), (b)(7)(C) date of birth, country of origin, and parents' names. Agent (b)(6), (b)(7) attempted to utilize this information but found no matches in the records contained in various databases maintained by the immigration authorities for persons with names similar to (b)(6), (b)(7). Because Agent (b)(6), (b)(7) could not locate an existing alien registration number for (b)(6), (b)(7), she assigned him a new number and created a file for (b)(6), (b)(7) Unknown to Agent (b)(6), (b)(7)(C) was, in fact, a lawful permanent resident but his name was misspelled in the immigration authorities' databases, which prevented Agent (b)(6), (b)(7) from retrieving this information.

While she was in the Orange County Jail on August 11, 2003, Agent (b)(6), (b)(7) also entered the Orange County Jail property room to search for a plastic alien registration "green card" among (b)(6), (b)(7) effects. Agent (b)(6), (b)(7) did not find such a card in (b)(6), (b)(7) wallet. (b)(6), (b)(7) admits that he did not have his actual green card in his wallet, but claims that he had a photocopy in his wallet. Agent (b)(6), (b)(7) did not look for a photocopy when she conducted her search and it was not her practice to remove papers from an inmate's wallet.

Pursuant to 8 C.F.R. § 287.7, Agent (b)(6), (b)(7) prepared an immigration detainer and provided it to the Orange County prison authorities on August 11, 2003. A detainer serves to advise another law enforcement agency that the Department of Homeland Security seeks custody of an alien presently in the custody of that agency and serves as a request that the agency advise the Department, prior to release of the alien, in order to enable the Department to assume custody. See United States v. (b)(6), (b)(7)(C) (11th Cir. 1983).

In the early morning of August 13, 2003, the Orange County Jail authorities faxed to Agent (b)(6), (b)(7) a list of prisoners who would be transferred to ICE custody that morning, including (b)(6), (b)(7). (b)(6), (b)(7) was taken to the ICE Detention and Removal sub-office in Westminster, California early in the morning of August 13, 2003. When Agent (b)(6), (b)(7) who worked in a different office, learned that (b)(6), (b)(7) was being detained by ICE at the Westminster office on August 13, 2003, she prepared a proposed NTA for (b)(6), (b)(7) pursuant to 8 U.S.C. § 1229(a). Because Agent (b)(6), (b)(7) did not have the authority to issue an NTA on her own, she presented the proposed NTA for approval to Supervisory Agent (b)(6), (b)(7)(C) pursuant to 8 C.F.R. § 239.1 (a)(23). Supervisory Agent (b)(6), (b)(7)(C)

reviewed the proposed NTA and determined that there was insufficient evidence to initiate immigration charges against (b)(6), (b)(7). Accordingly, he did not execute the NTA and ordered instead that (b)(6), (b)(7) be released or “cut to the street.” Thus, no immigration charges were brought against (b)(6), (b)(7) by ICE and (b)(6), (b)(7) was released from ICE administrative detention on August 13, 2003, several hours after he was transferred to ICE custody by Orange County.

V. Analysis: Risks and Valuation

The District Court accepted the Magistrate Judge’s finding that “the central remaining dispute is the sufficiency of (b)(6), (b)(7)(C) basis for issuing the detainer” and that probable cause was required for the issuance of an immigration detainer.. The Court, however, failed to consider whether it was clearly established in August 2003 that probable cause was the requisite standard for issuing an immigration detainer. At least one out-of-Circuit case held that probable cause was not the proper standard. See (b)(6), (b)(7)(C) (N.D. Texas) *aff’d* 244 F.3d 135 (5th Cir. 2000). Thus, Agent (b)(6), (b)(7)(C) is expected to assert on appeal that her qualified immunity should have been respected because the law was not clearly established, and therefore she cannot “reasonably be expected to anticipate subsequent legal developments nor could [s]he fairly be said to ‘know’ that the law forbade conduct not previously identified as unlawful.” (b)(6), (b)(7)(C) (1982).

Both 8 U.S.C. § 1357(d)(1) and 8 C.F.R. § 287.7 provide for the issuance of a detainer if an agent has *reason to believe* that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States. Section 287.7 is an administrative regulation which references section 287(d) of the Immigration and Nationality Act (codified at 8 U.S.C. § 1357(d)). However, section 1357(d) on its face only applies to aliens who were arrested for violations of controlled substances laws. (b)(7)(C) was not arrested for violating such a law. Nevertheless, ICE routinely uses section 287.7 as the basis for issuing detainers in cases involving aliens who were arrested for crimes other than controlled substance law violations. I understand that DHS had concerns that an appeal in Committee For Immigrant Rights of Sonoma County v. County of Sonoma, CV 08-4220 RS (N.D. Cal.) might lead the Ninth Circuit to issue an adverse decision regarding the legal basis for issuing immigration detainers. That is also a concern here.

Moreover, the District Court in the instant case presumed that the “reason to believe” language is equivalent to probable cause. Although an immigration detainer is not the same thing as an arrest warrant, pursuant to 8 U.S.C. § 1357(d), if a detainer is issued and the alien is not otherwise detained by Federal, State or local officials, the Attorney General *shall* effectively and expeditiously take custody of the alien. The Ninth Circuit has not yet ruled on the issue whether probable cause is required to issue a detainer. The Ninth Circuit has, however, ruled in other contexts that the phrase “reason to believe” is equivalent to probable cause. (b)(6), (b)(7)(C) (9th Cir. 2002), Price v. Sery, 513 F.3d 962 (9th Cir. 2008). Thus, there is a legitimate concern that the Ninth Circuit will rule that all ICE agents must possess probable cause to issue an immigration detainer in this Circuit.

The Magistrate Judge recommended, and the District Court agreed, that the undisputed facts known to Agent (b)(6), (b)(7)(C) were not sufficient to establish probable cause to believe that (b)(6), (b)(7)(C) was illegally in this country. The Magistrate Judge also concluded, without analysis, that a reasonable agent could not have mistakenly believed that probable cause existed to believe that (b)(6), (b)(7)(C) was an alien who entered the country illegally. As noted, Agent (b)(6), (b)(7)(C) was unable to find a match of any information about (b)(6), (b)(7)(C) in immigration databases because his name was misspelled therein. A judicial finding that the lack of such matches does not rise to the level of probable cause of illegal entry or that the databases are otherwise unreliable could have a profound negative impact on investigations of illegal aliens throughout this Circuit.

With respect to Agent (b)(6), (b)(7)(C) search for (b)(6), (b)(7)(C) green card, as the Magistrate Judge noted, the Ninth Circuit has already ruled that the failure of a known alien to possess a green card, *without more*, does not provide immigration officers with probable cause to believe that the alien entered the country illegally. See (b)(6), (b)(7)(C) (9th Cir. 1995). Although Agent (b)(6), (b)(7)(C) had more than a missing green card, there is some risk that the Ninth Circuit or a trier of fact will rule that Agent (b)(6), (b)(7)(C) should have taken all the items out of (b)(6), (b)(7)(C) wallet to investigate his immigration status before issuing the detainer.

The District Court also denied summary adjudication of (b)(6), (b)(7)(C) claim that Agent (b)(6), (b)(7)(C) was legally responsible for prolonging his detention by Orange County due to the detainer. In general, the rule in this Circuit is that a detainer is merely notice that ICE is interested in a prisoner and does not place the prisoner in ICE custody. See (b)(6), (b)(7)(C) (9th Cir. 1994), superceded by statute on other grounds as recognized in Campos v. INS, 62 F.3d 311, 314 (9th Cir. 1995). (b)(6), (b)(7)(C) involved an alien who was serving a criminal sentence while an immigration detainer was lodged against him. Here, however, (b)(6), (b)(7)(C) was never formally charged with any crime and therefore the detainer was the only known basis for his custody on or after August 11, 2003. In such a situation, a court could conclude that (b)(6), (b)(7)(C) was in some sort of constructive ICE custody from August 11 to August 13, 2003. (b)(6), (b)(7)(C) (7th Cir. 1988). Such a precedent could have a chilling effect on the issuance of detainers by ICE.

Agent (b)(6), (b)(7)(C) was not aware that the criminal charges against (b)(6), (b)(7)(C) had been dropped by the Santa Ana District Attorney until August 13, 2003. Therefore, it was disappointing that the District Court failed to respect her qualified immunity with respect to (b)(6), (b)(7)(C) detention prior to August 13, 2003. Nevertheless, pursuant to section 287.7(d), a law enforcement agency which has received an immigration detainer “shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody” by ICE.” Agent (b)(6), (b)(7)(C) is the sole remaining defendant in this case. In a trial a jury could thus find Agent (b)(6), (b)(7)(C) liable for three days of (b)(6), (b)(7)(C) detention (August 11-13, 2003).

It is my understanding that DHS recommended against an appeal in this case in order to forestall the possible adverse precedents discussed above. However, Agent (b)(6), (b)(7)(C) insurer, (b)(6), (b)(7)(C) will provide her with private counsel, the law firm of (b)(6), (b)(7)(C) in the

likely event the Solicitor General decides not to authorize an appeal. There is every indication that this counsel will raise issues that could cause the Ninth Circuit to issue the very rulings of which DHS is concerned. Furthermore, private counsel would have no incentive to consider DHS' institutional concerns and the Department of Justice would have no influence on such an appeal.

Moreover, even if (b)(6), (b)(7) is not successful, he is an unusually litigious plaintiff and would be expected to appeal any adverse decision to the Ninth Circuit. Thus, he could raise many of the above issues on appeal himself. In addition, (b)(6), (b)(7) could have the opportunity to file a tort claim for negligence pursuant to 28 U.S.C. § 2679(d)(5). Because (b)(6), (b)(7) name was misspelled in the data bases it is not clear how we could defend such a claim for negligence.

Plaintiff has provided a written offer to settle this case for the sum of \$20,000. Our efforts to convince (b)(6), (b)(7) to reduce the amount of his offer have not been successful. Although (b)(6), (b)(7) was in custody for at most three days, the requested settlement amount is not out of line with those awarded in other cases. For example, in (b)(6), (b)(7)(C) (W.D.Tex. 2003), the plaintiff was awarded \$75,000 for a single day of wrongful incarceration. In the FTCA/Bivens case of (b)(6), (b)(7)(C) (E.D. Cal.), the plaintiff was awarded \$100,000 (\$7,000 per day).

VI. CONCLUSION

For all the foregoing reasons, I propose that you recommend that DHS indemnify Agent (b)(6), (b)(7)(C) and authorize payment to (b)(6), (b)(7) of up to the sum of \$20,000 in settlement of this action and for dismissal with prejudice of all his claims arising from his 2003 detention.

(b)(6), (b)(7)(C)

Chief, Civil Division
Assistant United States Attorney

(b)(6), (b)(7)(C)

United States Attorney

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

(b)(6), (b)(7)(C)

Plaintiff,

vs.

UNITED STATES OF AMERICA, ET AL.,

Defendants.

(b)(6), (b)(7)(C)

POST-REMAND REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636 and General Order 05-07 of the United States District Court for the Central District of California, the undersigned submits this Post-Remand Report and Recommendation to the Honorable Dale S. Fischer, United States District Judge. Plaintiff and the remaining Defendants have filed cross motions for summary judgment or summary adjudication. The undersigned recommends that the District Court (1) deny Plaintiff's motion, (2) grant in part and deny in part Defendants' motion, (3) dismiss Defendant Paul Weyland from the action with prejudice and (4) dismiss Defendant United States from the action without prejudice.

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I.

PARTIES, CLAIMS AND THE CURRENT MOTION

The *pro se* and *in forma pauperis* plaintiff, (b)(6), (b)(7)(C) resides in Orange County. He contends in this federal civil rights action that he was improperly arrested and thereafter unduly detained for several days in August 2003. Initially, he targeted local law enforcement and the U.S. Immigration and Customs Enforcement division (ICE) of the Department of Homeland Security, as well as several "ICE Does," *i.e.*, unidentified employees of ICE. This Court entered Judgment dismissing the action with prejudice on February 28, 2006.

Plaintiff appealed. The Ninth Circuit, in otherwise affirming, ruled that Plaintiff had not had an opportunity to discover the ICE Does' identities, and remanded to permit him that opportunity. Proceedings on remand were limited to permitting Plaintiff to find and proceed with claims against those defendants.

In the operative Third Amended Complaint (3AC), Plaintiff has identified two ICE Does. Those defendants are (b)(6), (b)(7)(C) an ICE deportation officer, and (b)(6), (b)(7)(C) a Supervisory Special Agent with ICE. See 3AC ¶¶ 7-8. (b)(6), (b)(7)(C) are the only remaining defendants other than the **United States**, which has substituted in for them solely as to the two state tort claims (see below) pursuant to 28 U.S.C. § 2679(d)(1).

Plaintiff principally alleges that the remaining Defendants violated his constitutional rights by prolonging his detention based on their suspicion that he had violated 8 U.S.C. § 1325, *i.e.*, that he was an alien who had entered the country illegally. Due to an ICE detainer indicating that suspicion, Plaintiff remained in custody longer than he otherwise would have; indeed, the final few hours of his extended custody were spent in an ICE facility. Based on Defendants' actions, Plaintiff enumerates the following claims against them, the final two of which claims are state torts:

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- 1 1. False arrest and imprisonment in violation of 42 U.S.C. § 1983. (The Court
2 construes this liberally as asserting a claim pursuant to *Bivens v. Six Unknown*
3 *Named Agents, Etc.*, [REDACTED] (1971),
4 whereby federal employees may be sued, instead of pursuant to section 1983,
5 which targets state and local employees and entities. Previously, local law
6 enforcement officials were among the defendants, but they have been
7 dismissed from the action with prejudice. The Ninth Circuit has since
8 affirmed those dismissals.)
- 9 2. False arrest and imprisonment in violation of 42 U.S.C. § 1983. (Claim 2
10 essentially duplicates Claim 1 but, unlike Claim 1, makes express reference
11 to the Fourth Amendment as its basis. This Report treats Claims 1 and 2 as
12 expressing essentially the same *Bivens* claim of improperly prolonging
13 Plaintiff's detention.)
- 14 3. Violation of religious freedom under 42 U.S.C. § 1983 and the First
15 Amendment. Again, the Court construes this claim as one based on *Bivens*,
16 because the only remaining defendants are federal agents.
- 17 4. Negligence.
- 18 5. Intentional infliction of emotional distress.

19 Plaintiff seeks over \$1 million in damages, punitive damages and other relief.

20
21 Both sides have moved for summary judgment or summary adjudication.
22 Plaintiff and the two individual defendants simply assert that the law governing Plaintiff's
23 detention and the undisputed facts entitle them to judgment. The United States, having
24 substituted itself for the individual defendants as to the state tort claims, asserts that
25 Plaintiff has failed to exhaust administrative remedies prior to filing this action, as is
26 required (for those claims) by the Federal Tort Claims Act.

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II.

STANDARD OF REVIEW

The law on motions for summary judgment is well-settled. Summary judgment should be granted “if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(c)(2). The party seeking summary judgment bears the initial responsibility of informing the court of the basis for its motion and identifying those portions of the record which it believes demonstrate the absence of a genuine issue of material fact.

(b)(6), (b)(7)(C) (1986). Once a defendant submits a declaration which supports his summary judgment motion, the plaintiff cannot rest on his pleadings but must come forward with specific facts showing there is a genuine issue for trial. (b)(6), (b)(7)(C) (9th Cir. 1988). The evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor.

(b)(6), (b)(7)(C) (1986). However, the nonmoving party must do more than simply show that there is some metaphysical doubt as to the material facts. (b)(6), (b)(7)(C) (1986).

Summary judgment will not lie if the dispute about a material fact is “genuine” – that is, if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. (b)(6), (b)(7)(C) 477 U.S. at 248. A “material” fact is one that is relevant to an element of a claim or defense and whose existence might affect the outcome of the suit. (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) (9th Cir. 1987). There is no issue for trial unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party. (b)(6), (b)(7)(C) 477 U.S. at 249. If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted. *Id.* at 249-50.

III.
FACTS¹

1
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3 Many but not all of the pertinent facts are undisputed. On August 9, 2003,
4 local authorities in Orange County arrested Plaintiff for violating a restraining order. At
5 that time, Plaintiff was seeking to enter the site of his father’s funeral. (The Ninth Circuit
6 upheld this Court’s determination that the arresting officer had probable cause for the
7 arrest.) Plaintiff, a native of India who is a lawful permanent resident of the United States,
8 was taken to Santa Ana jail and then transferred to an Orange County facility. On
9 August 11, 2003, the district attorney decided not to prosecute Plaintiff.

10 Also on August 11, 2003, however, Defendant (b)(6), (b)(7)(C) filed a document,
11 called a form I-247, with the Orange County Jail. It indicated that an investigation was
12 underway to determine whether Plaintiff was subject to removal, and it effectively served
13 as a detainer against Plaintiff. The central remaining dispute is the sufficiency of (b)(6), (b)(7)(C)
14 basis for issuing that detainer. Plaintiff also blames Defendant (b)(6), (b)(7)(C) for harming him,
15 but Plaintiff presents no evidence of (b)(6), (b)(7)(C) involvement other than in *releasing*
16 Plaintiff.

17 On August 13, pursuant to the detainer, Plaintiff was transported from the
18 county jail to an ICE detention facility. He was released after a few hours once (b)(6), (b)(7)(C)
19 a Supervisory Agent with ICE, ordered Plaintiff released.

20 On the central questions of why ICE issued the detainer and why Plaintiff was
21 not released sooner, the two sides tell different tales, thereby precluding summary
22 judgment (if not summary adjudication as to several claims and defendants).

23
24 _____
25 ¹ This section sets forth uncontroverted facts. It includes several factual matters asserted
26 by Defendants that Plaintiff purports to dispute but without a sound basis. Plaintiff includes
27 numerous matters in his declaration(s) for which he has no foundation. To cite only one example,
28 Plaintiff testifies in his declaration that the remaining Defendants “conspired with” the
previously-dismissed Defendants – that is, those who initially arrested and jailed him – all for the
purpose of mocking and denigrating him based on his Hindu religion. He presents no foundation
for such “testimony.” Simply declaring so does not make it evidence.

1 **A. (b)(6), (b)(7)(C) Account: I Interviewed Plaintiff But Didn't Identify Myself**

2 Defendant (b)(6), (b)(7)(C) testified that, on August 11, 2003, she was at the county
3 jail as part of her occasional duties of interviewing inmates there to assess their
4 immigration status. Having determined from Plaintiff's booking papers that he "might be
5 a foreign national" (which he indeed was), she interviewed him, as she explains in her
6 declaration in support of Defendants' motion:

7
8 4. Although I identified myself as an immigration enforcement
9 agent, I did not provide my name to Plaintiff as it was not my practice to do
10 so. I attempted to establish (b)(6), (b)(7)(C) immigration status by asking him his
11 country of birth and citizenship. (b)(6), (b)(7)(C) stated that he was born in India
12 and that he was "legal." I tried to determine what he meant by "legal," but
13 Plaintiff refused to answer. I found Plaintiff to be belligerent, evasive and
14 uncooperative. He would not provide basic information such as his United
15 States address, occupation, whether he had scars, marks or tattoos, the date,
16 place, time and manner of his last entry in the United States, his marital status,
17 his parent's [sic] nationality or address, and the number and nationality of his
18 minor children.

19 5. Pursuant to standard ICE policies and procedures, I checked the
20 following data bases to verify Plaintiff's claim of legal status[:] United States
21 Citizenship and Immigration Services (CIS) central index system; United
22 States Customs and Border Protection's non-immigrant information system
23 (NIIS)[:] and CIS's CLAIMS data base. I could not find a match of the
24 limited information that Plaintiff gave me in these data bases. In my
25 experience, the above data bases are extremely reliable. . . . I inputted
26 Plaintiff's name and the 1951 date of birth contained in Plaintiff's booking
27 information and FBI information. Plaintiff confirmed this date of birth to me.
28

1 However, I could not locate Plaintiff's name in the CIS Central Index System
2 using his date of birth or his social security number. . . .

3 6. CIS's central index system has search capability to search names
4 that sound like those inputted. However, when I queried the name (b)(6), (b)(7)(C)
5 (b)(6), (b)(7)(C) I found only two names. There was a (b)(6), (b)(7)(C) in this system
6 and although he had a (b)(6), (b)(7)(C) date of birth, his month of birth was different
7 from that of Plaintiff, and he was a United States citizen Plaintiff told
8 me that his father's name was (b)(6), (b)(7)(C) and his mother's name was
9 (b)(6), (b)(7)(C) . . . Plaintiff's parents' names did not match those of the
10 parents of the naturalized (b)(6), (b)(7)(C)

11 7. The only other similar name in CIS's central index system was
12 (b)(6), (b)(7)(C) This individual also had a different date of birth from that of
13 Plaintiff

14 . . .

15 10. Also on August 11, 2003, I personally checked the Orange
16 County Jail's property room to determine whether (b)(6), (b)(7)(C) had an alien
17 registration card. I was looking for a plastic colored card and did not find any
18 among his effects. I read the transcript of Plaintiff's [2009] deposition and
19 saw that he claimed to have had a photocopy of the front and back of his
20 green card in his wallet at the Orange County Jail rather than the actual plastic
21 card. As was my practice, I did not take any papers or money out of
22 Plaintiff's wallet or bill fold[,] so I would not have examined any photocopy
23 of the Plaintiff's card folded therein. . . .

24 11. Based on my training and experience, the lack of any matches in
25 the above data bases, together with Plaintiff's evasive and hostile responses
26 to my inquiries, indicated to me that he was not being truthful and was not
27 legally in this country. Typically, aliens with legal status are willing to
28 cooperate and clear up any discrepancies. In addition, I had never before

1 encountered a person with legal permanent resident status who could not be
2 verified through any of the above data base searches.

3 12. Also on August 11, 2003, . . . I prepared an Immigration Detainer
4 – Notice of Action. . . . As an immigration enforcement agent, I had the
5 authority to, and did, issue the detainer on my own and did not consult with
6 my supervisors, including Supervisory Special Agent (b)(6), (b)(7)(C) The
7 detainer was issued for notification purposes only so that ICE would be
8 notified when (b)(6), (b)(7)(C) was released from Orange County custody. I did not
9 check the box [on the detainer form] requesting that Plaintiff be detained for
10 up to 48 additional hours. . . .

11 13. I have no knowledge when and if the charges against (b)(6), (b)(7)(C)
12 were dropped by the Santa Ana District Attorney. My understanding from
13 Orange County Jail records was that (b)(6), (b)(7)(C) was scheduled for a court
14 hearing in his criminal matter on August 12, 2003. I only learned that
15 (b)(6), (b)(7)(C) was released from Orange County Jail on the morning of
16 August 13, 2003 when I received a fax from the Orange County Jail
17 authorities containing a list of alien inmates, including Plaintiff, to be taken
18 into ICE custody on August 13, 2003. . . .

19 14. Upon his release from Orange County jail on August 13, 2003,
20 (b)(6), (b)(7)(C) was transported to the ICE sub-office in Westminster, California
21 for further administrative processing and custody determination pursuant to
22 standard ICE policies and procedures. Based on my knowledge of ICE's
23 procedures at the time, (b)(6), (b)(7)(C) would have been transported between 8 and
24 9 a.m. The Westminster office is not an overnight detention facility. I had
25 no contact with (b)(6), (b)(7)(C) when he was at this facility and was not present
26 there on August 13, 2003. I have no knowledge of the arrangements for food
27 at that facility.
28

1 15. On August 13, 2003, I prepared a proposed Notice To Appear
 2 (NTA) for Plaintiff. The NTA could only be issued by Supervisory Special
 3 Agent (b)(6), (b)(7)(C) or someone acting on his behalf. . . . On the morning of
 4 August 13, 2003, (b)(6), (b)(7)(C) concluded that there was insufficient evidence
 5 to issue the NTA and ordered that (b)(6), (b)(7)(C) be “cut to the street” or
 6 released. . . .

7
 8 (b)(6), (b)(7)(C) (signed Oct. 14, 2009) ¶¶ 4-15.

9 And how is it that (b)(6), (b)(7)(C) name did not turn up in (b)(6), (b)(7)(C) database
 10 searches? According to (b)(6), (b)(7)(C) the answer is that, although Plaintiff was in the database,
 11 his name had been mangled as initially input, as (b)(6), (b)(7)(C) – and the “similar
 12 sounding” aspect of the search nonetheless did not locate it. (b)(6), (b)(7)(C) searches for a
 13 (b)(6), (b)(7)(C) or simply (b)(6), (b)(7)(C) somehow did not turn up Plaintiff’s name. *See id.* ¶ 16.

14
 15 **B. Plaintiff: (b)(6), (b)(7)(C) Never Interviewed Me At All**

16 Plaintiff flatly testifies in writing that (b)(6), (b)(7)(C) never interviewed him at all.
 17 Defendants impeach that version of events by pointing to the initial substantive exchange
 18 in Plaintiff’s recent deposition:

19
 20 Q [by Assistant United States Attorney (b)(6), (b)(7)(C)] Did you ever meet

21 (b)(6), (b)(7)(C)

22 A: I don’t – I don’t think so. I don’t – I’ve never met her.

23 Q: You said you don’t think so. You’re not sure?

24 A: My thrust of the thing is I’ve never been interviewed by anybody
 25 named (b)(6), (b)(7)(C)

26 Q: Did you ever talk to (b)(6), (b)(7)(C) even if you were not interviewed?

27 A: I don’t think so, no. No.

28 Q: Did you ever –

1 A: The answer is no. The answer is no.

2 Q: Did you ever –

3 A: And let me just clarify this also. Nobody has come forward to me
4 identifying herself as (b)(6), (b)(7)(C) the defendant, and talked to me, so
5 that’s – so that’s why my answer is no.

6 Q: But you might have spoken with someone else who didn’t identify
7 herself?

8 A: Nobody called (b)(6), (b)(7)(C) has identified herself to me.

9 Q: So it is your testimony that (b)(6), (b)(7)(C) did not speak to you at the
10 Orange^[2] County Jail in August of 2003?

11 A: Yes.

12
13 (b)(6), (b)(7)(C) Transcript (Aug. 25, 2009) at 13:4 - 14:2. Although Plaintiff’s oral testimony
14 may be somewhat inconsistent, it does not so squarely contradict his written testimony to
15 permit the latter’s outright rejection. It is indeed possible, as Defendants insist is
16 incontrovertible, that Plaintiff *was* interviewed by (b)(6), (b)(7)(C) that she did not identify herself,
17 and that Plaintiff now is playing perjurious semantic games. But in this clash of credibility,
18 a reasonable juror at least *could* side with Plaintiff and find that (b)(6), (b)(7)(C) did not interview
19 Plaintiff at all and instead made up a detailed lie about it.

20 Plaintiff presents no evidence of any involvement by the other remaining
21 individual defendant, (b)(6), (b)(7)(C) other than that (b)(6), (b)(7)(C) ordered Plaintiff’s release.

22
23
24 _____
25 ² The Defendants’ excerpt of the deposition transcript, as included in their motion papers,
26 ends with “at the Orange” where the transcript’s page 13 ends. Plaintiff objected that this was
27 unfair and failed to include the proper context. At least in this instance, Plaintiff has a sound
28 point, for his answer to the question then being put to him – “Yes” – appears on page 14 and
squarely contradicts (b)(6), (b)(7)(C) testimony on a material factual issue. (It is material because, if
one credits Plaintiff’s testimony over (b)(6), (b)(7)(C) then her decision to issue a detainer was based
on even less information than she asserts.)

IV.

DISCUSSION

A. State Tort Claims Are Barred Because They Are Unexhausted

As noted above, the United States has substituted in as the sole defendant targeted in Plaintiff's two state tort claims. Tort claims against the United States generally must be exhausted administratively, pursuant to the Federal Tort Claims Act, before they may be brought to court. See 28 U.S.C. § 2675(a); see also (b)(6), (b)(7)(C) (9th Cir. 1992) (failure to exhaust FTCA administrative remedies is jurisdictional barrier to court consideration of claim). Plaintiff did not file, let alone exhaust, any claims pursuant to the FTCA. See (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) The Court should dismiss the state tort claims from the action without prejudice. Because the United States is targeted solely in those two claims, moreover, the United States should be dismissed from the action too.

B. Defendant (b)(6), (b)(7)(C) Is Entitled To Summary Adjudication

Plaintiff supplies no sound evidence to gainsay (b)(6), (b)(7)(C) testimony that (b)(6), (b)(7)(C) only involvement in this entire dispute was to order Plaintiff released. No juror reasonably could find that (b)(6), (b)(7)(C) committed or was complicit in any wrongful act or omission. The Court should grant summary adjudication as to (b)(6), (b)(7)(C)

C. No Evidence Supports The Claim Of Religious Discrimination

None of the record evidence reasonably would permit a jury to find that (b)(6), (b)(7)(C) (or any other Defendant) was motivated by religious prejudice in taking any adverse action against Plaintiff. That claim should be dismissed from the action.

D. The Court Has Jurisdiction To Entertain The Constitutional Claims

Defendants argue that the Court lacks subject matter jurisdiction over the constitutional claims (that is, those that are not state torts). They cite (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C)

(2007). But (b)(6), (b)(7) appears to caution courts against “devising a *new Bivens* action” in some settings. 531 U.S. at 549-50 (emphasis added). (b)(6), (b)(7) does not appear to question the availability of a damages remedy to a plaintiff whose Fourth Amendment rights were violated by federal agents, as Plaintiff alleges in Claims 1 and 2. *Bivens* itself established the availability of that remedy.

Defendants also suggest that “Plaintiff had alternative remedies including habeas relief.” Defs.’ Mem. at 8 (footnote omitted). The Court fails to understand how Plaintiff could have sought habeas relief, let alone obtained it, given that (1) he was never charged with a crime or served with a notice of removal proceedings, and (2) he spent, at most, three days in custody.

Finally, Defendants point to the 8 U.S.C. § 1252(g), which states as follows:

Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

This subsection is entitled, “Exclusive Jurisdiction,” and its purpose appears to be to prevent courts from interfering with removal proceedings. But Plaintiff is not challenging removal proceedings as such; he is challenging his detention for at least several hours without ever being charged with a crime or a removable civil offense.

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E. Factual Disputes Prevent Summary Adjudication For (b)(6), (b)(7)(C) As To Improper Detention Claim(s)

The only claims remaining, if the Court agrees with the foregoing portions of this Report, will be the first two claims, which effectively assert the same thing: that (b)(6), (b)(7)(C) – the only defendant remaining – violated Plaintiff’s federal constitutional rights by prolonging his detention without adequate grounds. On this record, the Court should not grant either remaining litigant’s motion for summary adjudication of these claims.

1. Applicable law

a. Qualified immunity

Government officials are entitled to immunity in their individual capacity if “their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) (1982). The immunity thus shields “all but the plainly incompetent or those who knowingly violate the law.” (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) (1986). The first of two analytical steps for the Court is to ask, “do the facts alleged show the officer’s conduct violated a constitutional right?” (b)(6), (b)(7)(C) If

no constitutional violation is shown, the immunity applies, and the Court’s inquiry ends. *See id.* If, however, the well-pleaded facts in the Complaint show the violation of a constitutional right, then the Court must ask the second question, “whether the right is clearly established.” *Id.* A constitutional right is clearly established when “it would be clear to a reasonable officer that his conduct was unlawful in the situation he confronted.” *Id.* at 202.

The Supreme Court recently retreated somewhat from the two-part (b)(6), (b)(7)(C) test. In some cases, the high court explained, it may be clearer that a defendant qualifies for immunity under the *second* prong than under the first. In such instances, courts may

1 uphold immunity without resolving the first (b)(6), (b)(7)(C) question. (b)(6), (b)(7)(C)

2 (b)(6), (b)(7)(C) (2009).

3
4 **b. Probable cause required for formal detention**

5 **i. Did ICE’s “detention” legally begin before August 13?**

6 A preliminary question is whether (b)(6), (b)(7)(C) could be liable for Petitioner’s
7 detention starting on August 11, if she lacked sufficient basis for the detainer she issued
8 on that day. (b)(6), (b)(7)(C) insists that the mere filing of the detainer on August 11 cannot
9 subject her to liability, for she did not check the box on the detainer form whereby ICE
10 requested that the local agency hold Petitioner for 48 hours. *See* Defs.’ Ex. 6. It is
11 undisputed that she first learned of his release from jail on August 13. She cites two cases
12 to support her position.

13 The first is (b)(6), (b)(7)(C) (N.D. Cal. 1991). (b)(6), (b)(7)(C)
14 was a federal prisoner subject to deportation as a felon. The Immigration and
15 Naturalization Service, the predecessor of ICE, placed a detainer (actually a form I-247,
16 the same kind of form used by (b)(6), (b)(7)(C) here, or so the (b)(6), (b)(7) court surmised) against (b)(6), (b)(7)
17 as a precursor to the deportation process. (b)(6), (b)(7) brought a habeas action challenging the
18 detainer, but the (b)(6), (b)(7) court strongly suggested, albeit partially in *dicta*, that (b)(6), (b)(7) was not
19 yet “in custody” *due to the detainer*, because she had not yet completed the felony
20 sentence. Ultimately (b)(6), (b)(7) dismissed the habeas petition as inadequately pleaded, in that
21 the court could not determine from her allegations whether (b)(6), (b)(7) met the jurisdictional “in
22 custody” requirement. Defendant (b)(6), (b)(7)(C) suggests that (b)(6), (b)(7) underscores the importance
23 of the checking, or non-checking, of the boxes on form I-247, presumably referring to the
24 following passage, in which the court explains why (b)(6), (b)(7) had failed to set out a “a short and
25 plain statement of the claim” by failing to explain just what the INS had filed:

26
27 This court infers . . . that the INS may have issued a form I-247 which the
28 petitioner has construed as a detainer. However, because the form requires

1 the INS to fill in blank spaces to indicate the precise nature of the action it
2 represents, several variations are possible. It is possible, for instance, that the
3 box labeled, "Accept this notice as a detainer" has not been checked. . . . This
4 court cannot order respondent to show cause without a more tangible
5 indication that there is even an arguable basis for alleging the threshold
6 "custody" requirement

7
8 754 F. Supp. at 166. This language certainly supports an inference that an I-247 form with
9 an *unchecked* "detainer" box does not cause an immediate transfer of legal custody to
10 immigration authorities, but the case does not quite reach such a *holding*.

11 Second, (b)(6), (b)(7)(C) points to (b)(6), (b)(7)(C) (S.D.N.Y.
12 1990), for the notion that the filing of an immigration detainer supplies no basis for
13 *Bivens* relief. Prior to 1989, when (b)(6), (b)(7)(C) was serving a New York state prison
14 sentence, the INS served prison authorities with a notice that he was being investigated for
15 possible deportation. On January 10, 1989, 15 days before his earliest possible parole date,
16 the INS served (b)(6), (b)(7) with a formal Order To Show Cause and a Notice of Hearing. Prison
17 officials apparently decided to parole (b)(6), (b)(7) albeit into the hands of the INS. (b)(6), (b)(7)(C)
18 refused to sign various parole papers, and the transfer of custody thus did not occur.
19 filed for habeas relief, challenging the detainer. The (b)(6), (b)(7) court dismissed the petition for
20 several reasons. The pertinent one here was that "the mere filing of a detainer, which
21 simply put the State on notice of the immigration charges pending against the plaintiff and
22 requested notice to INS of plaintiff's release, [could not] affect plaintiff's custodial status
23 or provide a basis for relief." *Id.* at 590-91.

24 Suffice it to say that although (b)(6), (b)(7)(C) may benefit (b)(6), (b)(7)(C) the
25 current factual record does not permit the Court to limit her potential liability to the period
26 after Plaintiff was *physically* in ICE custody. Most importantly, we have no evidence, let
27 alone undisputed evidence, demonstrating when Petitioner would have been freed from
28 Orange County Jail but for the filing of (b)(6), (b)(7)(C) detainer.

1 **ii. Formal custody on August 13**

2 Whether or not (b)(6), (b)(7)(C) could be liable for Petitioner's detention *prior* to
3 August 13, it is undisputed that Plaintiff was in formal ICE custody for several hours on
4 August 13, 2003, not free to leave, and thus had been subject to a "seizure" subject to
5 Fourth Amendment limitations. *See* (b)(6), (b)(7)(C)
6 (b)(9th Cir. 1983) (following (b)(6), (b)(7)(C) (9th Cir. 1981).
7 But how much justification did Defendants need to justify Plaintiff's detention under the
8 Constitution? Defendants assert that they need only a "reasonable suspicion" that Plaintiff
9 was an illegal alien, and thus that the seizure was reasonable if (b)(6), (b)(7)(C) could "articulate
10 objective facts providing [her] with a reasonable suspicion that [Plaintiff] is an alien
11 illegally in this country." *See* Defs.' Mem. at 12, *citing* (b)(6), (b)(7)(C) Had
12 Plaintiff been held for a few minutes in the back of a car before being released, as occurred
13 in (b)(6), (b)(7)(C) then perhaps a "reasonable suspicion" would suffice to justify that brief
14 detention.

15 The Fourth Amendment requires more than a reasonable suspicion in this
16 context, however. (b)(6), (b)(7)(C) involved a mere in-the-field detention of a suspected
17 illegal alien, and the Ninth Circuit was focusing on the point at which a mere "stop" for
18 initial questioning matures into a "seizure." The appellate court concluded that authorities
19 crossed that line once they placed the subject in an officer's vehicle. But the circumstances
20 scrutinized in (b)(6), (b)(7)(C) were far less restrictive than placing the subject in a place
21 of formal detention. Plaintiff was kept in formal detention for at least several hours longer
22 due to the ICE detainer. In plain terms, he was subjected to the functional equivalent of
23 a warrantless *arrest*. The more stringent "probable cause" standard thus applies, even
24 though technically removal proceedings are civil in nature. *See* (b)(6), (b)(7)(C)
25 (b)(6), (b)(7)(C) (N.D. Cal. 1986) (discussing continuum of increasing
26 justification required, in immigration-enforcement context, for the "questioning,"
27 "detentive stop" and "arrest" of person suspected of being an illegal alien), *citing, inter*
28

(b)(6), (b)(7)(C)

(9th Cir. 1980) (“A warrantless arrest . . .

requires probable cause for belief of illegal alienage.”)).

Defendants cite (b)(6), (b)(7)(C) (D.N.J. 2000),

in which the district court upheld immunity for federal agents who detained the plaintiff, a lawful permanent resident, for five hours upon his arrival on a flight from Barbados to Newark. But (b)(6), (b)(7)(C) is factually distinguishable in at least two ways. First, the detention occurred because the plaintiff’s name was very similar to that of another (b)(6), (b)(7)(C) who was the subject of an outstanding warrant, which the agents located in a computer search. Plaintiff’s ICE custody did not derive from any suspicion that he was the subject of a warrant. Second, the five hours’ detention in (b)(6), (b)(7)(C) occurred at a port of entry, not in the middle of Orange County.

“Probable cause” under the Fourth Amendment exists “where the facts and circumstances within [the detaining persons’] knowledge and of which they have reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed.” See

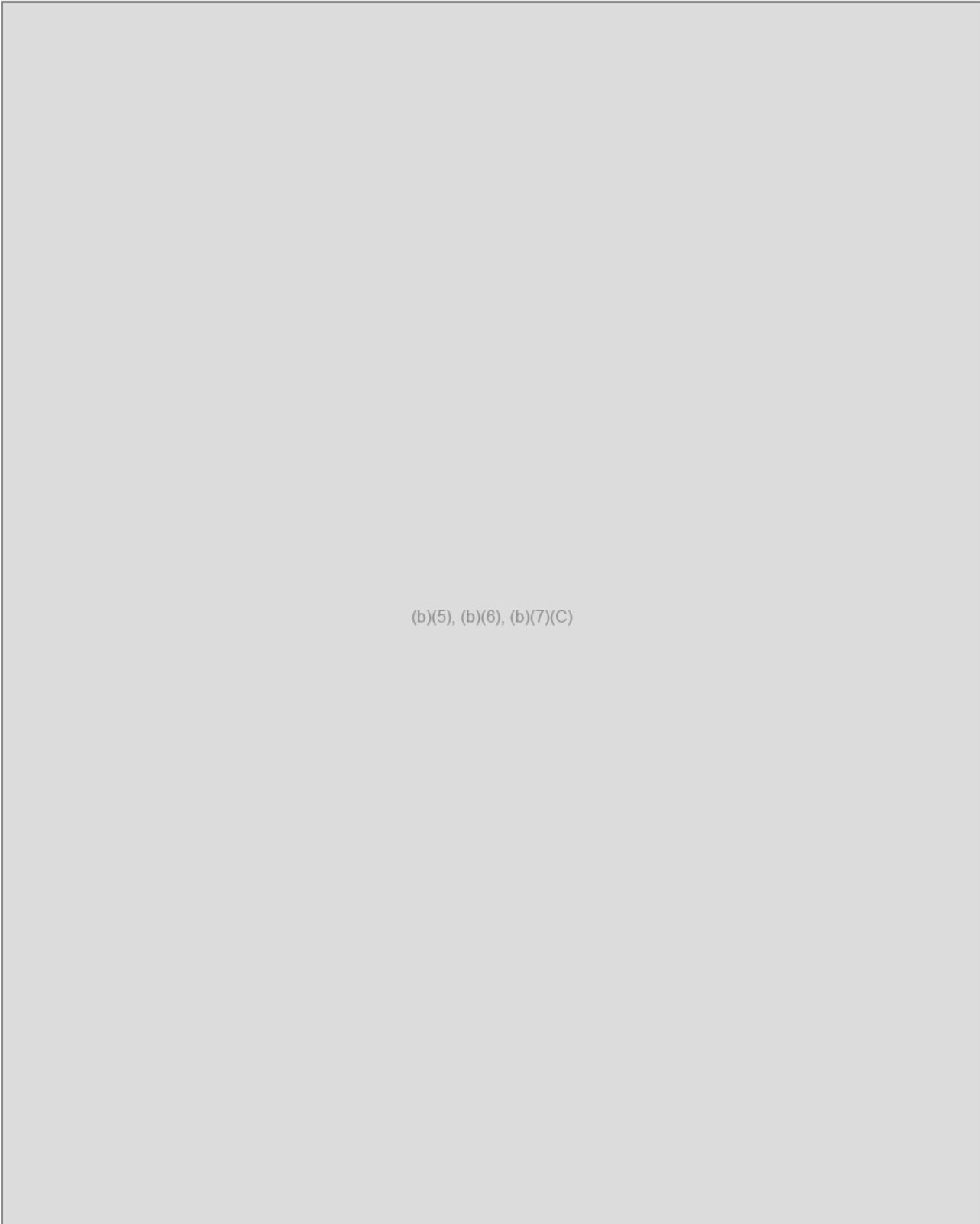
(b)(6), (b)(7)(C)

(1949).

2. Analysis

(b)(5), (b)(6), (b)(7)(C)

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(b)(5), (b)(6), (b)(7)(C)

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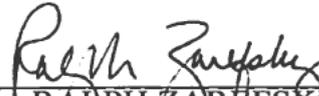
V.

RECOMMENDATION

For the reasons set out above, IT IS RECOMMENDED THAT the Court

1. accept the findings in this Report;
2. deny Plaintiff's motion;
3. grant in part and deny in part Defendants' motion;
4. dismiss from the action, with prejudice, (a) Defendant (b)(6), (b)(7)(C) and (b) Claim 3 (religious discrimination); and
5. dismiss from the action, without prejudice, (a) Defendant United States and (b) Claims 4 (negligence) and 5 (intentional infliction of emotional distress).

DATED: February 4, 2010



RALPH ZAREFSKY
UNITED STATES MAGISTRATE JUDGE

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Memorandum



Subj: Request for Indemnification [REDACTED] (b), (b)(7)	Date: December 23, 2010
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To: [REDACTED] (b) United States Attorney	From: [REDACTED] (b)(7) Assistant United States Attorney
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I. INDEMNIFICATION REQUESTED

By this memorandum, I request that you sign the attached letter to Secretary of the Department of Homeland Security ("DHS") [REDACTED] seeking pre-judgment indemnification of Immigration and Customs Enforcement ("ICE") Agent [REDACTED] [REDACTED] pursuant to Department of Homeland Security ("DHS") Management Directive ("MD") 0415. MD 0415 authorizes the Secretary to indemnify Agent [REDACTED] and approve a pre-judgment settlement of the above Constitutional tort action. In this case, I request authorization of payment to Plaintiff [REDACTED] of up to the sum of \$20,000 in settlement and for dismissal with prejudice of the above-referenced matter. As required by MD 0415, the alleged conduct giving rise to [REDACTED] claims was within the scope of Agent [REDACTED] employment and the proposed settlement is in the interest of the United States.

II. Introduction

[REDACTED] alleges that Agent [REDACTED] violated his Constitutional rights by issuing an immigration detainer pursuant to 8 C.F.R. § 287.7 which resulted in prolonging his detention at the Orange County Jail by two days as well as causing his administrative detention by ICE for several hours in August 2003. [REDACTED] who had been arrested for violating a restraining order told Agent [REDACTED] that he was "legal." In fact, [REDACTED] was a lawful permanent resident. Agent [REDACTED] could not locate [REDACTED] name in the immigration data bases she reviewed because his name was misspelled therein. [REDACTED] claims for false arrest and false imprisonment are asserted against Agent [REDACTED] under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics. On February 4, 2010, United States Magistrate Judge Zarefsky recommended the denial of Agent [REDACTED] motion for summary judgment on qualified immunity grounds as to [REDACTED] Fourth Amendment claims. United States District Judge Dale Fisher adopted this recommendation without discussion on April 2, 2010. Pursuant to the

District Court's order, [redacted] Fourth Amendment claims against Agent [redacted] will be tried to a jury unless the order is reversed by the Ninth Circuit.

Agent [redacted] has filed a protective appeal. This Office recommended that the Solicitor General authorize the appeal as did the Department of Justice's Torts Branch. However, DHS and Assistant Attorney General [redacted] have recommended against appeal. Accordingly, we expect that the Solicitor General will not authorize the appeal. Agent [redacted] intends to proceed with her appeal of the denial of her qualified immunity with private counsel in that event.

We believe that a pre-judgment settlement of this matter would be in the interests of the United States for the following reasons:

1. There is a substantial risk that Agent [redacted] issuance of the detainer will be found to be Constitutionally deficient on the grounds that she lacked probable cause to issue a detainer.

[redacted]
(b)(5), (b)(6), (b)(7)(C)

3. There appears to be no consensus even among experienced ICE officers as to whether probable cause or reasonable suspicion is required for the issuance of an immigration detainer. Indeed, Agent [redacted] supervisor refused to authorize Agent [redacted] to issue a notice to appear ("NTA") for [redacted] because he did not believe she had sufficient evidence to do so. Given this uncertainty, Agent [redacted] will pursue her appeal of denial of her qualified immunity on the grounds that the Constitutional right she alleged violated was not clearly established. Thus, the Ninth Circuit precedent of which DHS is concerned may still ensue without the input and participation of DHS or the Department of Justice in her appeal.

4. The United States was substituted into this action in order to dispose of [redacted] common law claims for negligence and intentional infliction of emotional distress pursuant to 28 U.S.C. § 2679(d)(4). Those claims were dismissed by the Court because [redacted] never exhausted his administrative remedies under the Federal Tort Claims Act ("FTCA"). However, once this action is terminated, [redacted] would have the opportunity to file a tort claim pursuant to 28 U.S.C. § 2679(d)(5). In that event, DHS could face liability for negligence.

[redacted]

[redacted]

[redacted]

(b) has submitted a written settlement demand for the sum of \$20,000. Therefore, Agent (b) requests that DHS indemnify Agent (e) and pay, on her behalf, (e) up to the sum of \$20,000 in settlement of the above-referenced matter and for dismissal with prejudice of all of (e) claims arising from his detention.

III. Procedural Posture

(b)(5), (b)(6), (b)(7)(C)

(b)
(b)

After some months of discovery, in 2009, Agents (e) filed motions for summary judgment asserting their qualified immunity among other grounds. The United States filed its own summary judgment motion on the grounds that (e) had not exhausted his required administrative remedies under the FTCA. Magistrate Judge Zarefsky recommended granting the motions of the United States and Supervisory Agent (e). With respect to Agent (e) however, the Magistrate Judge issued a recommendation to deny summary judgment as to (e) Fourth Amendment claims and to deny Agent (e) qualified immunity. The District Court adopted the Magistrate Judge's recommendations on March 29, 2010.

Agent (e) filed her protective notice of appeal on April 28, 2010. The Solicitor General has not yet determined whether to authorize the appeal. The Ninth Circuit has issued a scheduling order pursuant to which Agent (e) opening brief is due January 24, 2011.

IV. Statement of Facts

On August 9, 2003, (e) was arrested by Santa Ana Police Officer (e) because (e) violated a restraining order obtained against (e) by his own family members. (e) father had recently passed away and (e) was arrested at the funeral parlor in which (e)

father's ashes were held. [redacted] was taken to the Orange County Jail but no charges were ultimately filed against him by the Santa Ana district attorney.

On August 11, 2003, Agent [redacted] went to the Orange County Jail to review booking records and interview inmates pursuant to the Alien Criminal Apprehension Program in order to assess their immigration status and process cases accordingly. Agent [redacted] determined from [redacted] booking sheet, the California criminal history data, and an FBI printout, that he might be a foreign national. Agent [redacted] has testified that she attempted to interview [redacted] on August 11, 2003, but found him to be belligerent and uncooperative. According to Agent [redacted] claimed to be "legal" but would not otherwise elaborate. [redacted] now actually denies that he ever spoke to Agent [redacted] on this or any other occasion.

There can be no doubt that Agent [redacted] interviewed [redacted] because she obtained certain information about him from the interview including [redacted] date of birth, country of origin, and parents' names. Agent [redacted] attempted to utilize this information but found no matches in the records contained in various databases maintained by the immigration authorities for persons with names similar to [redacted]. Because Agent [redacted] could not locate an existing alien registration number for [redacted] she assigned him a new number and created a file for [redacted]. Unknown to Agent [redacted] was, in fact, a lawful permanent resident but his name was misspelled in the immigration authorities' databases, which prevented Agent [redacted] from retrieving this information.

While she was in the Orange County Jail on August 11, 2003, Agent [redacted] also entered the Orange County Jail property room to search for a plastic alien registration "green card" among [redacted] effects. Agent [redacted] did not find such a card in [redacted] wallet. [redacted] admits that he did not have his actual green card in his wallet, but claims that he had a photocopy in his wallet. Agent [redacted] did not look for a photocopy when she conducted her search and it was not her practice to remove papers from an inmate's wallet.

Pursuant to 8 C.F.R. § 287.7, Agent [redacted] prepared an immigration detainer and provided it to the Orange County prison authorities on August 11, 2003. A detainer serves to advise another law enforcement agency that the Department of Homeland Security seeks custody of an alien presently in the custody of that agency and serves as a request that the agency advise the Department, prior to release of the alien, in order to enable the Department to assume custody. See [redacted] (11th Cir. 1983).

In the early morning of August 13, 2003, the Orange County Jail authorities faxed to Agent [redacted] a list of prisoners who would be transferred to ICE custody that morning, including [redacted]. [redacted] was taken to the ICE Detention and Removal sub-office in Westminster, California early in the morning of August 13, 2003. When Agent [redacted] who worked in a different office, learned that [redacted] was being detained by ICE at the Westminster office on August 13, 2003, she prepared a proposed NTA for [redacted] pursuant to 8 U.S.C. § 1229(a). Because Agent [redacted] did not have the authority to issue an NTA on her own, she presented the proposed NTA for approval to Supervisory Agent [redacted] pursuant to 8 C.F.R. § 239.1 (a)(23). Supervisory Agent [redacted]

reviewed the proposed NTA and determined that there was insufficient evidence to initiate immigration charges against [REDACTED]. Accordingly, he did not execute the NTA and ordered instead that [REDACTED] be released or “cut to the street.” Thus, no immigration charges were brought against [REDACTED] by ICE and [REDACTED] was released from ICE administrative detention on August 13, 2003, several hours after he was transferred to ICE custody by Orange County.

V. Analysis: Risks and Valuation

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Moreover, even if [REDACTED] is not successful, he is an unusually litigious plaintiff and would be expected to appeal any adverse decision to the Ninth Circuit. Thus, he could raise many of the above issues on appeal himself. In addition, [REDACTED] could have the opportunity to file a tort claim for negligence pursuant to 28 U.S.C. § 2679(d)(5). Because [REDACTED] name was misspelled in the data bases it is not clear how we could defend such a claim for negligence.

Plaintiff has provided a written offer to settle this case for the sum of \$20,000. Our efforts to convince [REDACTED] to reduce the amount of his offer have not been successful. Although [REDACTED] was in custody for at most three days, the requested settlement amount is not out of line with those awarded in other cases. For example, in [REDACTED] (W.D. Tex. 2003), the plaintiff was awarded \$75,000 for a single day of wrongful incarceration. In the FTCA/Bivens case of [REDACTED] (E.D. Cal.), the plaintiff was awarded \$100,000 (\$7,000 per day).

VI. CONCLUSION

For all the foregoing reasons, I propose that you recommend that DHS indemnify Agent [REDACTED] and authorize payment to [REDACTED] of up to the sum of \$20,000 in settlement of this action and for dismissal with prejudice of all his claims arising from his 2003 detention.

[REDACTED]

Assistant United States Attorney

[REDACTED]

United States Attorney