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14 **IN THE UNITED STATES DISTRICT COURT FOR THE**
15 **DISTRICT OF ARIZONA**

16 United States of America,

17 Plaintiff,

18 v.

19 Maricopa County, Arizona; and Joseph M.
20 Arpaio, in his official capacity as Sheriff of
21 Maricopa County, Arizona,

22 Defendants.

No. 2:12-cv-00981-ROS

JOINT MOTION TO APPROVE
SETTLEMENT AGREEMENT

23 The parties to this action, Plaintiff United States of America, Defendant Maricopa
24 County Sheriff Joseph M. Arpaio, and Defendant Maricopa County, hereby jointly move
25 the Court to approve and enter the attached Settlement Agreement. The Settlement
26 Agreement resolves all claims related to worksite identity theft operations (“worksite
27 operations”) and claims relating to alleged retaliation (“retaliation claims”) as set forth in,
28 *inter alia*, the Second and Sixth Claims of the United States’ Complaint in this action.
The parties have reached a separate agreement that resolves the United States’ Fourth
Claim and that portion of any other claim alleging discrimination in Maricopa County
Sheriff’s Office (“MCSO”) jails.

1 The parties request that the Court sign the attached Settlement Agreement
2 concerning the worksite operations and retaliation claims and enter it in the docket in this
3 case. As to the Fourth Claim in this case, and that portion of any other claim addressing
4 discrimination in MCSO jails, the United States will file a notice promptly that the parties
5 to this case have stipulated under Rule 15(a)(2) to amend the Complaint to remove the
6 United States' Fourth Claim and that portion of any other claim addressing discrimination
7 in MCSO jails, that the Complaint is thereby so amended and any such claims will not be
8 further prosecuted in this action. The parties are not requesting the Court's approval of
9 the settlement agreement resolving the claims of discrimination in MCSO jails.

10 This Settlement Agreement does not resolve Claims One, Three, and Five in this
11 case, except as they may relate to worksite, retaliation and jails claims in this case. As to
12 Claims One, Three and Five, the parties are conferring on what matters, if any, remain to
13 be tried, and will, as ordered, advise the Court of their respective positions on that matter.

14 This Motion is supported by the following Memorandum of Points and
15 Authorities.

16 Memorandum and Points of Authorities

17 The United States brought this action in May 2010. The United States' Complaint
18 alleges four patterns or practices of unconstitutional conduct: (1) discriminatory policing
19 against Hispanic persons in MCSO's saturation patrols, general traffic enforcement, and
20 worksite operations targeting Hispanic immigrants, (2) detentions in violation of the
21 Fourth Amendment during MCSO's worksite operations targeting Hispanic immigrants,
22 (3) failures in the provision of language access to Hispanic limited-English-proficient
23 (LEP) jail inmates, and (4) retaliatory police action against critics of Sheriff Arpaio and
24 MCSO.

25 The attached Settlement Agreement, which the parties request the Court to
26 approve, resolves the second and fourth issues above, and the first issue to the extent it
27 concerns discrimination relating to worksite operations and retaliation claims. The
28 parties have reached a separate settlement agreement resolving the third issue above.

1 Certain aspects of the first issue, concerning the discriminatory policing claims, was the
2 subject of the Court's Order on the parties' motions for summary judgment, Docket No.
3 379. The parties are conferring on what matters, if any, remain to be tried as to those
4 claims, and will promptly advise the Court of their respective positions on that matter.

5 As to the Settlement Agreement resolving the second and fourth issues above (the
6 worksite operations and retaliation claims), entry of the proposed Settlement Agreement
7 is appropriate in this case because it is fundamentally fair, adequate, and reasonable; it
8 has resulted from arm's-length negotiations between sophisticated parties; and it is
9 consistent with the purposes of the federal law that the Complaint in this action seeks to
10 enforce as to those claims, 42 U.S.C. § 14141. *See United States ex rel. Lummi Nation v.*
11 *Dawson*, 328 Fed. App'x 462 (9th Cir. 2009) (to assess whether to approve a proposed
12 settlement agreement, courts consider whether the settlement is "fundamentally fair,
13 adequate, and reasonable"), *citing United States v. Oregon*, 913 F.2d 576, 580 (9th Cir.
14 1990) (same). Further, public policy favors settlement, particularly in complex litigation
15 such as these pattern-or-practice claims brought by the United States. *See Officers for*
16 *Justice v. Civil Service Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982) ("[I]t must not be
17 overlooked that voluntary conciliation and settlement are the preferred means of dispute
18 resolution").

19 Since before the claims in this case were brought, the parties have engaged
20 periodically in arm's-length negotiations to settle them. After intensive negotiation, the
21 parties have reached agreements to settle the claims concerning worksite operations,
22 alleged retaliation, and language access in MCSO jails. In seeking approval of the
23 Settlement Agreement resolving the worksite operations and retaliation claims, the
24 parties recognize that MCSO is no longer enforcing State identity theft laws relating to
25 obtaining or continuing employment; that it has disbanded its Criminal Employment
26 Unit; that in a separate case, the United States District Court for the District of Arizona
27 entered a preliminary injunction enjoining the Maricopa County Sheriff from enforcing
28 statutory provisions prohibiting identity theft committed with the intent to obtain or

1 continue employment; and that MCSO is not currently planning to engage in the type of
2 worksite operations that are the subject of the United States' claims in this case. Further,
3 the United States does not claim in this case that MCSO has engaged in any retaliatory
4 police action since 2010. The Settlement Agreement further provides for policies,
5 protocols and other protections to avoid constitutional violations relating to worksite
6 operations and retaliatory police action, and it preserves the United States' authority to
7 seek relief, as provided in the Settlement Agreement, in the event of future violations.

8 For the foregoing reasons, the parties jointly request that the Court approve, sign
9 and enter the attached Settlement Agreement concerning the worksite operations and
10 retaliation claims in this case.

11 Respectfully submitted,

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