

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION

AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA,) No. 12-CV-4008-MEJ)
Plaintiff,	
v.) STIPULATION OF PARTIAL DISMISSAL WITH PREJUDICE
DEPARTMENT OF JUSTICE,) DISMISSAL WITH PREJUDICE
Defendant.)

This action arises under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and pertains to a FOIA request that consists of four parts. *See* Compl. ¶ 21 (Dkt. No. 1). Part 1 of Plaintiff's FOIA request sought "[a]ll requests, subpoenas, and applications for court orders or warrants seeking location information since January 1, 2008" (hereinafter, "Part 1"). *See id.* This case has proceeded on two tracks, with this Court entering an order on the parties' crossmotions for summary judgment regarding Part 1 of Plaintiff's FOIA request, *see* Dkt. No. 62 (09/30/2014), and a separate order on the parties' cross-motions for summary judgment regarding Parts 2-4 of Plaintiff's FOIA request, *see* Dkt. No. 61 (09/30/2014). The government has filed a Notice of Appeal of this Court's Order regarding Parts 2-4 of Plaintiff's FOIA request. *See* Notice of Appeal, Dkt. No. 66 (11/26/2014).

The parties have recently executed a Settlement Agreement that resolves all of Plaintiff's claims regarding Part 1 of the FOIA request, as well as all of Plaintiff's claims regarding attorney's fees and costs in this litigation generally (regardless of the claims or proceedings to which those fees or costs may relate). Pursuant to that Settlement Agreement, defendant recently filed with the Court a declaration that discharges its obligation to process Part 1 of Plaintiff's FOIA request. Accordingly, the parties hereby stipulate to the dismissal, with prejudice, of the following:

All of Plaintiff's claims against defendant Department of Justice relating to Part 1 of 1 2 Plaintiff's FOIA request. Any and all claims that Plaintiff may have for attorney's fees and costs in this litigation, regardless of the claims or proceedings to which those fees or costs may relate. This stipulation of dismissal is not intended to, and does not, dismiss this entire action, as it does 5 not affect the pending appeal to the United States Court of Appeals for the Ninth Circuit. That 6 appeal, which relates to Parts 2-4 of the FOIA request, remains pending and is not dismissed herein. WE ASK FOR THIS: BENJAMIN C. MIZER <u>/s/Linda Lye</u> 10 LINDA LYE Principal Deputy Assistant Attorney General American Civil Liberties Union Civil Division 11 Foundation of Northern California 39 Drumm Street ELIZABETH J. SHAPIRO 12 San Francisco, CA 94111 Deputy Branch Director Telephone: (415) 621-2493 13 Facsimile: (415) 255-8437 E-mail: llye@aclunc.org /s/ Brad P. Rosenberg 14 BRAD P. ROSENBERG (D.C. Bar No. 467513) Attorney for Plaintiff Trial Attorney 15 U.S. Department of Justice, Civil Division, Federal Programs Branch 16 P.O. Box 883 Washington, D.C. 20044 17 Telephone: (202) 514-3374 Facsimile: (202) 616-8460 18 E-mail: brad.rosenberg@usdoj.gov 19 Attorneys for Defendant 20 IT IS SO ORDERED that Plaintiff's claims regarding Part 1 of its FOIA request, as well 21 as any and all claims for attorney's fees and costs in this litigation generally, shall be, and hereby 22 are, DISMISSED WITH PREJUDICE. 23 24 MARIA-ELENA JAMES 25 United States Magistrate Judge 26 Date 27 28

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ATTESTATION PURSUANT TO LOCAL RULE 5-1(i)(3)

I, Linda Lye, hereby attest, in accordance with Local Rule 5-1(i)(3), that the concurrence in the filing of this document has been obtained from the other signatory listed here.

Dated: August 20, 2015

/s/ Linda Lye Linda Lye

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