

1 STEPHANIE M. HINDS (CABN 154284)
Acting United States Attorney
2 SARA WINSLOW (DCBN 457643)
Chief, Civil Division
3 BENJAMIN J. WOLINSKY (CABN 305410)
Assistant United States Attorney

4 450 Golden Gate Avenue, Box 36055
5 San Francisco, California 94102-3495
6 Telephone: (415) 436-6996
Facsimile: (415) 436-6748
benjamin.wolinsky@usdoj.gov

7 Attorneys for Defendant

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 BRYAN CARMODY and FIRST
13 AMENDMENT COALITION,
14 Plaintiffs,
15 v.
16 FEDERAL BUREAU OF INVESTIGATION,
17 Defendant.

Docket No. 3:20-cv-04809-LB

**STIPULATION OF SETTLEMENT AND
DISMISSAL WITH PREJUDICE;
[PROPOSED] ORDER**

18
19 IT IS HEREBY STIPULATED by and between the undersigned Plaintiffs and Defendant, by
20 and through their respective attorneys, as follows:

21 1. Defendant shall pay \$25,000 (twenty-five thousand dollars) to Plaintiffs, collectively,
22 in full and complete satisfaction of Plaintiffs’ claims for attorneys’ fees, costs, and litigation
23 expenses under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, in the
24 above-captioned matter. This payment shall constitute full and final satisfaction of any and all of
25 Plaintiffs’ claims for attorneys’ fees, costs, and litigation expenses in the above-captioned matter,
26 and is inclusive of any interest. Payment of this money will be made by electronic funds transfer
27 after notification of the Court’s entry of this Stipulation and after receipt of necessary information
28 from Plaintiffs in order to effectuate the payment. Defendant will make all reasonable efforts to

1 make payment within thirty (30) days of the date that Plaintiffs’ counsel provides the necessary
2 information for the electronic funds transfer and this Stipulation is approved by the Court, whichever
3 is later, but cannot guarantee payment within that time frame.

4 2. Upon the execution of this Stipulation, Plaintiffs, having received the records they
5 requested, hereby release and forever discharge Defendant, its successors, the United States of
6 America, and any department, agency, or establishment of the United States, and any officers,
7 employees, agents, successors, or assigns of such department, agency, or establishment, from any
8 and all claims and causes of action that Plaintiffs assert or could have asserted in this litigation, or
9 which hereafter could be asserted by reason of, or with respect to, or in connection with, or which
10 arise out of, the specific FOIA requests on which this action is based, including but not limited to all
11 past, present, or future claims for attorneys’ fees, costs, or litigation expenses in connection with the
12 above-captioned litigation.

13 3. The provisions of California Civil Code Section 1542 are set forth below:

14 “A general release does not extend to claims that the creditor or releasing party does not
15 know or suspect to exist in his or her favor at the time of executing the release and that, if
16 known by him or her, would have materially affected his or her settlement with the debtor or
released party.”

17 Plaintiffs having been apprised of the statutory language of Civil Code Section 1542 by Plaintiffs’
18 attorney, and fully understanding the same, nevertheless elect to waive the benefits of any and all
19 rights Plaintiffs may have pursuant to the provision of that statute and any similar provision of
20 federal law. Plaintiffs understand that, if the facts concerning any injuries, liability for damages
21 pertaining thereto, or liability for attorneys’ fees, costs or litigation expenses are found hereafter to
22 be other than or different than the facts now believed by it to be true, this Stipulation shall be and
23 remain effective notwithstanding such material difference.

24 4. Execution of this Stipulation and its approval by the Court shall constitute dismissal
25 of this case with prejudice pursuant to Fed. R. Civ. P. 41(a).

26 5. The parties acknowledge that this Stipulation is entered into solely for the purpose of
27 settling and compromising any remaining claims in this action without further litigation, and it shall
28 not be construed as evidence or as an admission on the part of Defendant, the United States, its

1 agents, servants, or employees regarding any issue of law or fact, or regarding the truth or validity of
2 any allegation or claim raised in this action, or as evidence or as an admission by the Defendant
3 regarding Plaintiffs' entitlement to attorneys' fees, costs, or other litigation expenses under FOIA.
4 This Stipulation shall not be used in any manner to establish liability for fees or costs in any other
5 case or proceeding involving Defendant.

6 6. This Stipulation is binding upon and inures to the benefit of the parties hereto and
7 their respective successors and assigns.

8 7. If any provision of this Stipulation shall be held invalid, illegal, or unenforceable, the
9 validity, legality, and enforceability of the remaining provisions shall not in any way be affected or
10 impaired thereby.

11 8. This Stipulation shall constitute the entire agreement between the parties, and it is
12 expressly understood and agreed that this Stipulation has been freely and voluntarily entered into by
13 the parties hereto. The parties further acknowledge that no warranties or representations have been
14 made on any subject other than as set forth in this Stipulation.

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

17 10. This Stipulation may not be altered, modified or otherwise changed in any respect
18 except in writing, duly executed by all of the parties or their authorized representatives.

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

22
23 IT IS SO STIPULATED.

24 DATED: March 23, 2021

/s/ Sherene Tagharobi *

SHERENE TAGHAROBI

*Attorney for Plaintiffs Bryan Carmody and
First Amendment Coalition*

STEPHANIE M. HINDS
Acting United States Attorney

DATED: March 23, 2021

/s/ Benjamin J. Wolinsky
BENJAMIN J. WOLINSKY
Assistant United States Attorney

*Attorneys for Defendant Federal Bureau of
Investigation*

**In compliance with Civil Local Rule 5-1(i)(3), the filer attests under penalty of perjury that counsel for Plaintiffs has concurred in the filing of this document.*

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

HON. LAUREL BEELER
United States Magistrate Judge