

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is entered into by and between the Regents of the University of California (the "Regents"), on behalf of the University of California, San Diego and its Resources Management and Planning Vice Chancellor Area ("RMP") (together, "UCSD") and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section ("IER") (collectively, "the parties").

I. BACKGROUND

WHEREAS, on May 19, 2017, IER accepted as complete a charge filed by [REDACTED] ("Charging Party"), DJ#197-12-257 ("the IER Charge"), alleging a violation of the antidiscrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b;

WHEREAS, on May 30, 2017, IER notified UCSD that it had initiated an investigation based on the Charging Party's allegation to determine whether UCSD had engaged in any discriminatory conduct in violation of 8 U.S.C. § 1324b, including any pattern or practice of unfair immigration-related employment practices;

WHEREAS, IER determined, based on its investigation of the IER Charge (the "Investigation"), that there is reasonable cause to believe that RMP engaged in a pattern or practice of unfair documentary practices based on citizenship status in violation of 8 U.S.C. § 1324b(a)(6) by maintaining a system that triggered the reverification of the continued work authorization of the Charging Party and other permanently work-authorized non-citizen workers who showed immigration documents for Form I-9 completion at initial hire, but not similarly-situated U.S. citizens;

WHEREAS, this Agreement is not an admission of violations or wrongdoing of any kind on the part of the Regents or UCSD;

WHEREAS, RMP has reinstated the Charging Party and provided compensation for the period of work missed;

WHEREAS, the parties wish to resolve the Investigation without further delay or expense and hereby acknowledge that they are voluntarily entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained below and to resolve fully and finally the Investigation as of the date of this Agreement, the parties agree as follows:

II. TERMS OF SETTLEMENT

1. This Agreement becomes effective as of the date the last party signs the Agreement, which date is referenced herein as the "Effective Date." The "term of this Agreement" shall be two (2) years following the Effective Date.
2. RMP shall pay a civil penalty to the United States Treasury in the amount of four thousand, seven hundred and twelve dollars and forty cents (\$4,712.40) (the "Civil Penalty").
 - a. RMP shall provide IER with the name, title, email address, and telephone number of the individual responsible for effectuating payment of the Civil Penalty no later than ten (10) business days after the Effective Date of this Agreement.
 - b. RMP shall pay the monies discussed in this paragraph via the FedWire electronic fund transfer system within twenty (20) business days of receiving fund transfer instructions from IER.
 - c. On the day of payment, UCSD shall send confirmation of the payment to Julia Heming Segal at julia.heming.segal@usdoj.gov. The email confirming payment shall have RMP's name and the investigation number, DJ#197-12-257, in the subject line.
3. This Agreement resolves any and all differences under 8 U.S.C. § 1324b between the parties relating to the Investigation, DJ # 197-12-257 through the Effective Date. The provisions of paragraph 2 notwithstanding, IER shall not seek from UCSD any additional civil penalty for the unfair employment practice in violation of 8 U.S.C. § 1324b that is the subject of the Investigation through the Effective Date.
4. In accordance with 8 U.S.C. § 1324b, UCSD shall not:
 - a. Discriminate on the basis of citizenship, immigration status or national origin in violation of 8 U.S.C. § 1324b.
 - b. Discriminate in the employment eligibility verification and reverification process; UCSD shall (i) honor documentation that on its face reasonably appears to be genuine, relates to the person, and satisfies the requirements of 8 U.S.C. § 1324a(b); (ii) not request more or different documents than are required by law; and (iii) permit all employees to present any document or combination of documents acceptable by law both at initial hire and during any lawful reverification of continued employment authorization.

- c. Intimidate, threaten, coerce, or retaliate against any person for his or her participation in this matter or the exercise of any right or privilege secured by 8 U.S.C. § 1324b.
- 5. UCSD shall remove, and shall not make in the future, any reference to the IER Investigation or this Agreement in the Charging Party's personnel file or other employment records.
- 6. UCSD shall not disclose to any employer or prospective employer of the Charging Party any information or documentation related to the IER Investigation.
- 7. UCSD shall ensure that it has posted an English and Spanish version of the IER "If You Have The Right to Work" poster ("IER Poster"), in color and measuring no smaller than 8.5" x 11", an image of which is available at <https://www.justice.gov/crt/worker-information#poster>, in all places where notices to employees and job applicants are normally posted. UCSD shall post the IER Poster within fourteen (14) calendar days from the Effective Date which shall remain posted during the term of this Agreement.
- 8. During the term of this Agreement, RMP shall provide a copy of the most current version of the Form I-9 Lists of Acceptable Documents ("Lists") to individuals at the same time and in the same manner as RMP provides them with the Form I-9 to complete, and shall inform those individuals of their right to choose to present any documentation that is on the Lists or is otherwise acceptable for purposes of employment eligibility verification or reverification.
- 9. During the term of this Agreement, RMP shall ensure that all individuals who are responsible for formulating, carrying out, and/or conducting training on RMP hiring, firing, equal employment, and employment eligibility verification policies, including all managers and employees who have any role in the employment eligibility verification process, such as completing the Form I-9, within RMP and in the Employee Relations Department ("Human Resources Personnel"), have available:
 - a. The most current version of the Form I-9, USCIS Employment Eligibility Verification Handbook for Employers (M-274) ("Handbook"), available at www.uscis.gov/I-9. Copies of these documents and future revisions of the Form I-9, Handbook, and Manual can be obtained from the United States Citizenship and Immigration Services at www.uscis.gov.
- 10. Within sixty (60) calendar days of the Effective Date, UCSD shall review any existing employment policies, training materials, or guidelines that relate to hiring and/or nondiscrimination on the basis of citizenship status and national origin. To the extent that it has such policies, UCSD shall revise them to:

- a. Prohibit discrimination on the basis of citizenship, immigration status, or national origin (1) in the hiring and firing process; and (2) during the Form I-9 employment eligibility verification and reverification process;
 - b. Require that all Human Resources offices within UCSD's Vice Chancellor areas confer with, and seek approval from, the Employee Relations Department before establishing or altering any policies or procedures with respect to initial employment authorization verification or reverification of continuing work authorization;
 - c. Include citizenship, immigration status, and national origin as prohibited bases of discrimination into its policy and any similar Equal Employment Opportunity (EEO) statements UCSD includes in printed or electronic materials available to the public or employees;
 - d. Refer applicants and employees who complain, formally or informally, of discrimination in the hiring, firing, or Form I-9 employment eligibility verification and reverification process immediately to the Immigrant and Employee Rights Section by directing the affected individual to the IER Poster and IER's worker hotline (800-255-7688) and website (www.justice.gov/ier), and advise the affected individual of his or her right to file a charge of discrimination with the Immigrant and Employee Rights Section; and
 - e. Provide that UCSD shall not take any reprisal action against an employee for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, or for filing any charge, or participating in a lawful manner in any investigation or action under 8 U.S.C. § 1324b.
11. Within ninety (90) calendar days of the Effective Date, RMP shall ensure that all Human Resources Personnel are trained on their obligation to comply with 8 U.S.C. § 1324b and the employment eligibility verification and reverification process as it relates to discrimination on the basis of citizenship, immigration status or national origin.
- a. The training will consist of viewing a free online IER webinar presentation, and/or subject to the mutual agreement of the Parties, a live presentation by IER at its discretion.
 - b. All employees will be paid their normal rate of pay, and the training will occur during their normally scheduled workdays and work hours. RMP shall be responsible for all payroll costs and employee wages associated with these training sessions.
 - c. During the term of the Agreement, all new Human Resources Personnel that RMP hires or promotes after the initial training described in this

paragraph shall attend a free online IER Employer/HR webinar within sixty (60) days of hire or promotion. RMP may find the webinar schedule and registration links at www.justice.gov/crt/webinars.

- d. RMP shall compile attendance records listing the individuals who attend the training(s) described in this paragraph, including the individual(s)' full name, job title, signature or affirmation of attendance, and the date(s) of the training, and send the records via email to Julia.Heming.Segal@usdoj.gov within thirty (30) calendar days of each training session. The emails transmitting attendance records shall have RMP's name and the investigation number, DJ #197-76-1145, in the subject line.
12. During the term of this Agreement, IER reserves the right to make reasonable inquiries of UCSD that are, in IER's discretion, necessary to determine UCSD's compliance with this Agreement.
13. Nothing in this Agreement limits IER's right to inspect UCSD's Forms I-9 and attachments within three business days pursuant to 8 C.F.R. § 274a.2(b)(2)(ii) and 8 C.F.R. § 44.302(b).
14. If IER has reason to believe that UCSD is in violation of any provision of this Agreement, IER may exercise its discretion to notify UCSD of the purported violation rather than initiate a new investigation or seek immediate judicial enforcement of the Agreement. UCSD will then be given thirty (30) calendar days from the date IER notifies it in which to cure the of the purported violation(s) to cure the violation(s) to IER's satisfaction before IER deems UCSD to be in violation of this Agreement and proceeds to take appropriate enforcement actions.
15. This Agreement does not affect the right of any individual to file a charge under 8 U.S.C. § 1324b alleging an unfair immigration-related employment practice against UCSD, IER's authority to investigate UCSD or file a complaint on behalf of any such individual, or IER's authority to conduct an independent investigation of UCSD's employment practices occurring after the Effective Date or outside of the scope of the Investigation.

III. ADDITIONAL TERMS OF SETTLEMENT

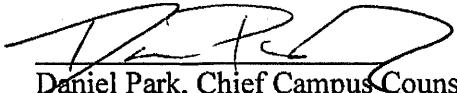
16. This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements or understandings between the Parties pertaining to the IER Investigation. This Agreement is governed by the laws of the United States. This Agreement shall be deemed to have been drafted by both Parties and shall not be construed against any one party in the event of a subsequent dispute concerning the terms of the Agreement. The Parties agree that the paragraphs set forth in Part II of this Agreement (entitled "Terms of

Settlement") are material terms, without waiver of either Parties' right to argue that other terms in the Agreement are material.

17. This Agreement may be enforced in the United States District Court for the Southern District of California or any court of competent jurisdiction. This paragraph, or the initiation of a lawsuit to enforce the Agreement under this paragraph, including any counterclaims asserted, does not constitute and should not be construed as a waiver of sovereign immunity or any other jurisdictional or legal defense available to the United States.
18. IER and UCSD agree that, as of the Effective Date, litigation concerning the alleged violation of 8 U.S.C. § 1324b(a)(6) that IER found is not reasonably foreseeable. To the extent that either party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the Investigation, the party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves either party of any other obligations imposed by this Agreement.
19. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement. The parties agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement invalid.
20. The parties agree to bear their own costs, attorneys' fees and other expenses incurred in this Investigation.
21. This Agreement sets forth the entire agreement between the parties and fully supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter herein.
22. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. The parties agree to be bound by facsimile signatures.

The Regents of University of California

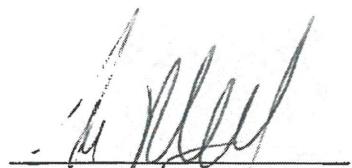
By:



Daniel Park, Chief Campus Counsel
UC San Diego

Dated: 5/4/2018

By:

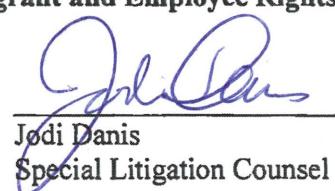


Gary Mathews, Vice Chancellor
Resource Management and Planning, UC San Diego

Dated: 5/12/18

Immigrant and Employee Rights Section

By:



Jodi Danis
Special Litigation Counsel

Dated: 5/10/18

C. Sebastian Aloot
Special Litigation Counsel

Julia Heming Segal
Trial Attorney