

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is made and entered into by and among University of California San Diego Medical Center ("Respondent"), and the United States Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices ("Office of Special Counsel").

WHEREAS, on January 25, 2011, the Office of Special Counsel initiated an independent investigation DJ# 197-12-195 against Respondent (the "OSC Charge") alleging unfair documentary practices based on citizenship status in violation of the unfair immigration-related employment practices provisions of 8 U.S.C. § 1324b (the "Act").

WHEREAS, on June 28, 2011, the Office of Special Counsel notified Respondent that it had uncovered separate and distinct unfair documentary practices based on citizenship status in violation of the Act.

WHEREAS, the Office of Special Counsel concluded based upon its independent investigation that there is reasonable cause to believe that Respondent engaged in a pattern and practice of unfair documentary practices based on citizenship status in violation of the Act against non-citizen employees during the period from January 1, 2004 to June 9, 2011.

WHEREAS, Respondent ended these practices that allegedly violated the Act on June 9, 2011.

WHEREAS, on December 6, 2011, the Office of Special Counsel filed an administrative complaint with the Office of Chief Administrative Hearing Officer (OCAHO) Case No. 12B00013 (the "Litigation"), alleging immigration-related unfair employment practices by Respondent.

WHEREAS, the Office of Special Counsel and Respondent wish to resolve the Litigation and the OSC Charge without further delay or expense and hereby acknowledge that they are voluntarily entering into this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual promises herein contained, it is agreed as follows:

1. To fully and finally resolve all disputes among the parties hereto as of the date of this Agreement, Respondent agrees to pay a civil penalty to the United States Treasury in the amount of One Hundred and Fifteen Thousand Dollars (\$115,000.00).
2. The monies discussed in Paragraph 1 shall be paid by check payable to the "United States Treasury, c/o Mac McConkey," and mailed by express delivery service, along with a copy of the fully signed Agreement, to the following address, within fifteen (15) business days of Respondent's receipt of a fully signed copy of this Agreement:

Luz V. Lopez-Ortiz  
U.S. Department of Justice

Office of Special Counsel  
1425 New York Ave, NW, Room 9000  
Washington, DC 20005

On the same day a copy of such check and the express delivery service tracking number for this mailing shall be sent to Luz V. Lopez-Ortiz, at [luz.v.lopez-ortiz@usdoj.gov](mailto:luz.v.lopez-ortiz@usdoj.gov).

3. Respondent agrees that it shall not discriminate on the basis of citizenship status or national origin in violation of 8 U.S.C. § 1324b.
4. Respondent agrees that it will treat all individuals equally, without regard to citizenship or immigration status, or national origin, during the hiring, firing, and employment eligibility verification and reverification process. Respondent shall avoid discrimination in the employment eligibility verification and reverification process by (a) honoring 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), (b) not requesting more or different documents than are required by law, and (c) permitting all employees to present any document or combination of documents acceptable by law.
5. Respondent agrees that it will not intimidate, threaten, coerce, or retaliate against any person for his or her participation in this matter or, in the future, the exercise of any right or privilege secured by 8 U.S.C. § 1324b.
6. Respondent agrees to post an English and Spanish version of the Office of Special Counsel “If You Have The Right to Work” poster (“OSC Poster”), in color and measuring no smaller than 18” x 24”, an image of which is available at [http://www.justice.gov/crt/about/osc/htm/worker.php#/,](http://www.justice.gov/crt/about/osc/htm/worker.php#/) which will be provided by the Office of Special Counsel, in all places where notices to employees and job applicants are normally posted. The Notice will be posted within fourteen (14) days from the effective date of this Agreement and will remain posted for three (3) years thereafter.
7. Beginning not more than fourteen (14) days from the date that Respondent receives a fully signed copy of this Agreement, Respondent will provide a letter-size copy of the OSC Poster with all paper employment applications, and a mandatory electronic link to the English and Spanish versions of the OSC Poster with all electronic applications, and Respondent will continue to do so for two (2) years thereafter.
8. For three (3) years from the effective date of this Agreement, Respondent agrees to ensure that all employees who are responsible for formulating, carrying out, and/or conducting training on Respondent's hiring, firing, equal employment, and employment eligibility verification policies, including all managers and employees who have any role making employment eligibility verification decisions, such as completing the Form I-9 and/or using the E-Verify system (“Human Resources Personnel”), are in possession of the most current version of the Form I-9, and USCIS Employment Eligibility Verification Handbook for Employers (M-274) (“Handbook”), available at [www.uscis.gov/I-9Central](http://www.uscis.gov/I-9Central).

Future revisions of the Form I-9 and Handbook can be obtained from the United States Citizenship and Immigration Services at [www.uscis.gov](http://www.uscis.gov).

9. Within thirty (30) days of receipt of a fully signed copy of this Agreement, Respondent will review its employment policies as they relate to nondiscrimination on the basis of citizenship status and national origin and shall, as necessary, revise such policies to:
  - (a) Prohibit (1) discrimination on the basis of citizenship status or national origin in the hiring and firing process; and (2) disparate treatment of individuals, on the basis of citizenship status or national origin, during the Form I-9 employment eligibility verification and reverification process;
  - (b) Refer applicants and employees who complain, formally or informally, of discrimination on the basis of citizenship status in the hiring, firing, or Form I-9 employment eligibility verification and reverification process immediately to the Office of Special Counsel by directing the affected individual to the OSC Poster, the Office of Special Counsel toll-free phone number, and the Office of Special Counsel website, and further advise the affected individual of his or her right to file a charge of discrimination with the Office of Special Counsel.
  - (c) Provide that Respondent 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 any lawful manner in any investigation or action under 8 U.S.C. § 1324b.

During the three years (3) following the effective date of this Agreement (the “Reporting Period”), Respondent shall provide any changes in employment policies as they relate to nondiscrimination on the basis of citizenship status to the Office of Special Counsel for review within thirty (30) days of the effective date of such revised policies.

10. Within ninety (90) days of receipt of a fully signed copy of this Agreement, the Office of Special Counsel shall provide all Human Resources Personnel with training by the Office of Special Counsel on their responsibilities to comply with 8 U.S.C. § 1324b concerning the elimination of discrimination based on citizenship status and national origin in the employment eligibility verification process. Additionally, University of California, Office of the President – Audit and Compliances Services will co-sponsor with the Office of Special Counsel a system-wide webinar that will be broadly advertised and offered to all human resources personnel working at the University of California’s ten campuses, five medical centers and its National Laboratory.
  - (a) The training will consist of in-person training and/or a remote webinar presentation, the choice of which is at the Office of Special Counsel’s discretion. A recording of any webinar shall be provided by the Office of Special Counsel.

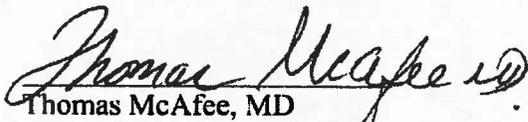
- (b) All employees will be paid their normal rate of pay, and the training will occur during their normally scheduled workdays and work hours. Respondent shall bear all costs associated with these training sessions;
  - (c) For a period of three years from the effective date of this Agreement, all new Human Resources Personnel hired by Respondent after the training described in this paragraph has been conducted shall receive this training within fifteen (15) days of hire.
  - (d) Individuals who comply with the training as described in this paragraph shall complete Attachment A, including signatures, as evidence of such compliance. The original of Attachment A, including signatures, will be mailed to the attention of Luz V. Lopez-Ortiz at the Office of Special Counsel by registered or certified mail, return receipt requested, or via email to luz.v.lopez-ortiz@usdoj.gov, within ten (10) days of the training session.
- 11. During the Reporting Period, the Office of Special Counsel reserves the right to make reasonable inquiries to Respondent necessary to determine Respondent's compliance with this Agreement. As a part of such review, the Office of Special Counsel may, in addition to the reporting requirements set out in Paragraph 12 below, require written reports concerning compliance, inspect Respondent's premises, examine witnesses, and examine and copy Respondent's documents at the expense of the Office of Special Counsel.
- 12. Every six (6) months during the Reporting Period, Respondent shall provide the Office of Special Counsel with copies of the completed Forms I-9, including attachments, for all non-U.S. citizen employees hired by Respondent in that six-month period. Respondent shall provide the documents in electronic form unless requested otherwise.
- 13. If the Office of Special Counsel has reason to believe, as a result of information gathered pursuant to Paragraphs 11 and 12, that Respondent is in violation of any provision of this Agreement, the Office of Special Counsel shall promptly notify Respondent of the purported violation. Respondent will then be given a thirty (30) day period from the date it is notified by the Office of Special Counsel in which to cure the violation before Respondent is deemed by the Office of Special Counsel to be in violation of this Agreement.
- 14. This Agreement resolves any and all differences between the parties known, related to, or arising from the OSC Charge and the Litigation through the date this Agreement is signed by all parties.
- 15. Notwithstanding Paragraphs 13 and 14, this Agreement does not affect the right of any individual to file a charge alleging an unfair immigration-related employment practice against Respondent with the Office of Special Counsel, the authority of the Office of Special Counsel to investigate or file a complaint on behalf of any such individual, or the

authority of the Office of Special Counsel to conduct an independent investigation of Respondent's employment practices.

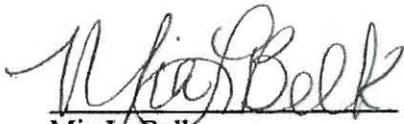
16. The Office of Special Counsel agrees to close the investigation subject to compliance with Paragraphs 1 and 2.
17. Within ten (10) days of compliance with Paragraphs 1 and 2, Respondent and the Office of Special Counsel shall file a stipulation in the form attached hereto as Attachment B, requesting that the Litigation be dismissed with prejudice.
18. This Agreement may be enforced in the United States District Court for the Northern District of California.
19. The Office of Special Counsel and Respondent agree that, as of the effective date of this Agreement, litigation concerning the violations of 8 U.S.C. § 1324b that the Office of Special Counsel has reasonable cause to believe that Respondent committed 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 this matter, 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.
20. 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. Respondent, the Office of Special Counsel and the Charging Party 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.
21. The Office of Special Counsel and Respondent agree to bear their own costs, attorneys' fees and other expenses incurred in this action.
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.

**University of California, San Diego Medical Center**

By:

  
Thomas McAfee, MD  
Interim Chief Executive Officer  
UC San Diego Health System

Dated: 01/03/12



Mia L. Belk  
Counsel – Litigation, Labor and Employment  
University of California, Office of the President

Dated: 01/03/12

**Office of Special Counsel for Immigration-Related Unfair Employment Practices**

By: 

Seema Nanda  
Acting Deputy Special Counsel

Dated: 1/4/12

C. Sebastian Aloit  
Acting Special Litigation Counsel

Luz V. Lopez-Ortiz  
Ronald Lee  
Trial Attorneys