

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JANE DOE, on her own behalf and on behalf of her
minor son, BABY DOE,

Plaintiffs,

-against-

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

20 CV 1344 (ARR)(LB)

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT (“NYPD”) DETECTIVE
MICHAEL FRANCO, NYPD OFFICER
GUANDONG E, NYPD OFFICER MICHAEL
GARCIA, NYPD OFFICER BARBARA KULICK,
NYPD OFFICER CHRISTOPHER MCALEESE,
NYPD OFFICER DEYONCA RICHARDS, NYPD
OFFICER MAXIMO AGRONT, NYPD OFFICER
MUHAMMED ALI, AND NYPD OFFICERS
JOHN JOE 1-2,

Defendants.

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WHEREAS plaintiffs Jane Doe on her own behalf and on behalf of her minor son, Baby Doe (together, “Plaintiffs”), commenced this action by filing a complaint on or about March 12, 2020, and an amended complaint on or about October 27, 2020, alleging that defendants City of New York, New York City Police Department (“NYPD”) Detective Michael Franco, NYPD Officer Guandong E, NYPD Officer Michael Garcia, NYPD Officer Barbara Kulick, Christopher McAleese, NYPD Officer Deyonca Richards, NYPD Officer Maximo Agront, NYPD Officer Muhammed Ali, as well as John Does 1 and 2 (together, “Defendants”) violated Plaintiffs’ rights under federal, state and local laws; and

WHEREAS Defendants have denied any and all liability arising out of Plaintiffs’ allegations; and

WHEREAS the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS Plaintiffs have authorized their counsel to settle this matter on the terms set forth below; and

WHEREAS Plaintiff Baby Doe is an infant who brings this lawsuit by his mother, Jane Doe; and

WHEREAS the parties understand and acknowledge that the terms of this Stipulation of Settlement are conditioned on and subject to the approval of the Court pursuant to Rule 83.2(a) of the Local Civil Rules of this Court (“Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, and Conscious Pain and Suffering Actions”) and Rule 1207 *et seq.* of the Civil Practice Law and Rules for the State of New York; and

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against all defendants, with prejudice, and without costs, expenses, or attorneys’ fees except as specified in paragraph “2” below.

2. The City of New York hereby agrees to pay Plaintiff Jane Doe the sum of Five Hundred Sixty-Two Thousand, Five Hundred Dollars and Zero Cents (\$562,500.00) as Plaintiff, and the sum of One Hundred Eighty-Seven Thousand, Five Hundred Dollars and Zero Cents (\$187,500.00) as mother and natural guardian of Baby Doe, for a total sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00) in full satisfaction of all claims that were or could have been raised in this action.

3. In consideration for the payment of the sums set forth in paragraph “2”, Plaintiffs agree to dismissal of all claims against Defendants and to release Defendants, their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action that were or could have been brought in this action, alleging a violation of plaintiffs’ civil rights and any and all related state and local law claims, except for claims related to Plaintiff Jane Doe’s placement in foster care that arise from the intentional or neglectful conduct of employees of the New York City Administration for Children’s Services, whether known or unknown, from the beginning of the world to the date of the Release, including claims for costs, expenses, and attorneys’ fees.

4. Because Baby Doe is an infant, settlement of this action and payment of the sums set forth in paragraph “2” are conditioned on compliance with Rule 83.2(a) of the Local Civil Rules of this Court (“Settlement of Actions by or on Behalf of Infants or Incompetents, Wrongful Death Actions, and Conscious Pain and Suffering Actions”) and Rule 1207 *et seq.* of the Civil Practice Law and Rules for the State of New York (hereinafter, a “so-ordered Infant Compromise Order”).

5. Plaintiff Jane Doe shall be responsible for the payment of any federal, state, and/or local taxes, if any, on the payments specified in paragraph “2”.

6. The settlement checks in paragraph “2” shall be made payable to Emery Celli Brinckerhoff Abady Ward & Maazel LLP, as attorney for *** Jane Doe and Baby Doe, respectively, and shall be mailed to Plaintiffs’ counsel at the following address: Emery Celli Brinckerhoff Abady Ward & Maazel LLP, 600 Fifth Avenue, 10th Floor, Attn: Katherine Rosenfeld, New York, New York 10020.

7. Plaintiff Jane Doe shall execute, on her own behalf and on behalf of her minor son, Baby Doe, and deliver to Defendants' undersigned attorney all documents necessary to effect this settlement, including, without limitation: (i) a Release based on the terms of paragraphs "2" and "3" above, (ii) a substitute W-9, and (iii) an Affidavit of Status of Liens. Additionally, prior to tendering the requisite documents to effect this settlement, Medicare-recipient plaintiffs must obtain and submit a final demand letter from their Medicare provider(s) for the reimbursement of any conditional payments made for the injuries claimed in this matter. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. The payments set forth in paragraph "2" are subject to and conditioned on a so-ordered Infant Compromise Order and delivery of all such documents to Defendants' undersigned attorney. The payments set forth in paragraph "2" shall be delivered no later than ninety days after all such documents are served on Defendants' undersigned attorney by email and Federal Express at New York City Law Department, 100 Church Street, Attn: Carolyn Kruk, New York, New York 10007, and the Infant Compromise Order is so-ordered, whichever is later.

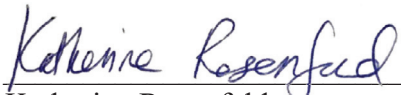
8. Nothing contained herein shall be deemed to be an admission by Defendants that they have in any manner or way violated Plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules or regulations of any department or subdivision of the City of New York. This Stipulation of Settlement shall not be admissible in, nor is it related to, any other litigation or settlement negotiations, except to enforce the terms of this Stipulation of Settlement.

9. Nothing contained in this Stipulation of Settlement shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

10. Plaintiffs agree to hold harmless Defendants regarding any past and/or future Medicare claims, presently known or unknown, in connection with this matter. If Medicare claims are not satisfied, defendants reserve the right to issue a multiparty settlement check naming the Medicare provider as a payee or to issue a check directly to the Medicare provider for the amount claimed in the Medicare provider's final demand letter. This Stipulation of Settlement contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation of Settlement regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
March 17, 2021

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Anne Oredeko
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SO ORDERED:

Honorable Lois Bloom
United States District Magistrate Judge