THE CITY OF NEW YORK
LAW DEPARTMENT
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October 9, 2018

VIA ECF
The Honorable Lorna G. Schofield
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Ruben An v. City of New York, 16 Civ. 5381 (LGS)

Your Honor:

I am a Senior Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, representing defendant City of New York, in the above-referenced matter. I write jointly with plaintiff's counsel to respectfully request that Your Honor execute the parties' Stipulation and Order of Dismissal with prejudice. In accordance with Your Honor's Individual Rules of Practice, we also enclose the parties' Stipulation of Settlement.

Thank you for your consideration herein.

Respectfully submitted,

/s/

Mark D. Zuckerman
Senior Counsel

cc: All counsel (ECF)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RUBEN AN,

Plaintiffs,

-against-

THE CITY OF NEW YORK,

Defendant.

STIPULATION AND ORDER OF DISMISSAL

16 CV 5381 (LGS)

WHEREAS, the parties have reached a settlement agreement and now desire to resolve the remaining issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that

1. The above-referenced action is hereby dismissed with prejudice; and

2. Notwithstanding the dismissal of this action in accordance with this agreement, the District Court shall continue to maintain jurisdiction over this action for the purpose of enforcing the terms of the settlement agreement reached between the parties and set forth in the Stipulation of Settlement executed by the parties in this matter.

Dated: New York, New York
October 5, 2018

THE LEGAL AID SOCIETY
199 Water Street, 6th Floor
New York, New York 100038
Attorneys for Plaintiff Ruben An

By: _____
Cynthia H. Conti-Cook
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By: _____
William C. Silverman
Zachary Chalett

ZACHARY W. CARTER
Corporation Counsel of the
City of New York
Attorney for Defendant City of New York
100 Church Street, 3rd Floor
New York, New York 10007

By: _____
Mark D. Zuckerman
Senior Counsel

SO ORDERED:

_____
HON. LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Dated: _____, 2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RUBEN AN,

Plaintiff,

-against-

THE CITY OF NEW YORK,

Defendant.

---------- x

STIPULATION OF SETTLEMENT

16 CV 5381 (LGS)

WHEREAS, plaintiff commenced this action by filing a complaint on or about July 6, 2016 and an amended complaint on or about June 2, 2017, alleging, in part, that pursuant to a pattern and practice the New York City Police Department ("NYPD") violated plaintiff's constitutional rights by interfering with and deterring his First Amendment right to film, photograph, videotape, or otherwise record (collectively, "record") NYPD officers performing their official duties in public places; and

WHEREAS, plaintiff also alleged, in part, that the NYPD officers took retaliatory measures against him for attempting to record police officers on July 28, 2014, while the officers were interacting with another man on a sidewalk on Lafayette Street and East Eighth Street in Manhattan, New York; and

WHEREAS, defendant City of New York denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the NYPD Legal Bureau issued a Legal Bulletin, Vol. 46, No. 2, in May, 2016; 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, plaintiff has authorized his counsel to settle this matter on the terms set forth below;

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

1. The above-referenced action is hereby dismissed against defendant City of New York, with prejudice, and without costs, expenses, or attorneys' fees.

2. Defendant City of New York hereby agrees to the relief set forth in paragraphs 3, 4 and 5 herein, in full satisfaction of all claims, including claims for damages, costs, expenses and attorneys' fees. In consideration for the relief set forth in paragraphs 3, 4 and 5 herein, plaintiff agrees to the dismissal of all the claims against the defendant City of New York and to release defendant City of New York and Sgt. Bekim Becaj, P.O. Joseph Novellino and P.O. Michael DiGiacomo; 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 alleging a violation of plaintiff's civil rights and any and all related state law claims, from the beginning of the world to the date of the General Release, including claims for damages, costs, expenses, and attorneys' fees.

3. The defendant City represents that NYPD Patrol Guide No. 203-29 has been issued in the standard procedure for issuance of such patrol guide sections.

4. The NYPD represents that it is conducting a customary command level training based on the New York City Police Academy Training Memo entitled "Recording Police Action by the Public," a draft of which has been provided to plaintiff's counsel. In furtherance thereof, the training sergeant for each precinct (or the equivalent) has attended a

training seminar at the Police Academy on the contents of such Training Memo. The training sergeant for each precinct (or the equivalent) has or will train the officers in their commands in compliance with their responsibilities under Patrol Guide No. 202-19. Attendance at the trainings conducted by the training sergeant for each precinct (or the equivalent) of the officers within their Commands will be maintained in the ordinary course of business by the NYPD.

5. The defendant City represents that a FINEST Message in the form previously provided to plaintiff's counsel has been issued by the NYPD, and Commanding Officers of each precinct (or the equivalent) have or will ensure that members of their commands are apprised of the contents of this FINEST Message.

6. Plaintiff shall execute and deliver to the defendant's attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above.

7. Nothing contained herein shall be deemed to be an admission by the defendant City that it has in any manner or way violated plaintiff's 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 shall not be admissible in, nor is it related to, any other litigation or settlement negotiations, except to enforce the terms of this agreement.

8. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

9. 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
October 9, 2018

THE LEGAL AID SOCIETY
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Attorneys for Plaintiff Ruben An

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