

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
SEAN M. GERLICH, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:08-cv-01134-TFH
	)	
UNITED STATES	)	
DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
_____	)	

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is entered into by and between Plaintiffs, Matthew J. Faiella and Daniel J. Herber (“Plaintiffs”), and Defendant United States Department of Justice (“DOJ”) (collectively, “the Parties”).

The Parties now mutually desire to resolve all of the claims asserted by Plaintiffs against DOJ without the need for further litigation. Accordingly, the parties agree to compromise, settle, and resolve all claims by Plaintiffs against DOJ arising out of *Gerlich v. United States Department of Justice* (D.D.C. Case No. 1:08-cv-01134-TFH) (“Lawsuit”) on the terms and conditions set forth below.

1. Plaintiffs agree to dismiss their claims against DOJ with prejudice. Simultaneously with the execution and delivery of this Agreement, the Parties, by and through counsel, shall execute and deliver a Stipulation of Dismissal with Prejudice, in the form appended hereto as Exhibit A. Within three business days after execution of this Agreement, counsel for Plaintiffs shall file the executed Stipulation of Dismissal with the United States District Court for the District of Columbia in this Lawsuit.

2. As soon as practicable after the filing of the Stipulation of Dismissal with Prejudice pursuant to Paragraph 1, above, and consistent with the procedures and regulations of the Department of the Treasury, DOJ shall cause the payment by wire transfer of the following sums:

- \$50,000 (fifty-thousand dollars) to Plaintiff Matthew J. Faiella in full satisfaction of any and all of Plaintiff Faiella's claims for relief against DOJ.
- \$2,000 (two-thousand dollars) to Plaintiff Daniel J. Herber in full satisfaction of any and all of Plaintiff Herber's claims for relief against DOJ.
- \$520,000 (five-hundred-twenty-thousand dollars) to Daniel J. Metcalfe, counsel for Plaintiffs, in full satisfaction of all of Plaintiffs' and Plaintiffs' Counsel's claims for attorney's fees, costs, and litigation expenses.

These payments, totaling \$572,000, shall constitute the full and final satisfaction of any and all of Plaintiffs' claims for relief, whether monetary or equitable, and including damages, attorney's fees, costs, and litigation expenses in the Lawsuit. Upon payment, DOJ shall have no further obligation under this Agreement.

3. Upon execution of this Settlement Agreement, Plaintiffs, for themselves and their administrators, heirs, representatives, successors, or assignees, further waive, release, and forever discharge DOJ, its components, agents, officers, and employees, current and former, in their individual and/or official capacities, from any and all claims, demands, and causes of action of every kind, nature, or description, whether known or

unknown, which have been or could have been asserted in this Lawsuit, or in any other administrative or judicial proceeding, arising out of or in connection with any event occurring prior to the date of this Agreement.

4. Settlement of this Lawsuit, including all negotiations leading to the settlement, the contents of this Agreement, and any documents executed in connection herewith are not intended to constitute, and shall not constitute, any admission by DOJ of the truth of any allegation or the validity of any claim asserted in this Lawsuit, or DOJ's liability therein, nor as a concession or an admission of any fault or omission in any act or failure to act, such that none of the terms hereof shall be offered or received in evidence or in any way referred to in any civil or administrative action or proceeding other than a proceeding to consummate or enforce this Agreement.

5. The terms of this Agreement constitute the entire agreement of the Parties entered into in good faith. No statement, remark, agreement, or understanding, oral or written, which is not contained herein, shall be recognized or enforced; nor does this Agreement reflect any agreed-upon purpose other than the desire of the Parties to reach a full and final conclusion of this Lawsuit and to resolve the matter without the time and expense of further litigation.

6. The Parties, through counsel, have negotiated the terms of this Agreement. Any rule of construction providing that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement. This Agreement shall be construed as if drafted by both Parties.

7. Compliance with all applicable federal, state, and local tax requirements shall be the sole responsibility of Plaintiffs and their counsel. This Agreement is

executed without reliance upon any representation by DOJ or its counsel as to tax consequences, and Plaintiffs and their counsel are responsible for the payment of all taxes that may be associated with this Agreement.

8. Plaintiffs acknowledge that they have read and reviewed this Agreement in its entirety, that they have discussed this Agreement with their counsel, and that they understand the contents thereof. The Parties acknowledge that they have entered into this Agreement freely and voluntarily. The undersigned represent that they are fully authorized to enter into this Agreement.

9. This Agreement, which may be executed in counterparts, shall be effective once it has been signed by all of the signatories identified below.

[illegible]

SIGNED:

\_\_\_\_\_  
MATTHEW J. FAIELLA  
*Plaintiff*

Dated:\_\_\_\_\_, 2014

\_\_\_\_\_  
DANIEL J. HERBER  
*Plaintiff*

Dated:\_\_\_\_\_, 2014

\_\_\_\_\_  
DANIEL J. METCALFE  
D.C. Bar No. 244293  
4801 Massachusetts Ave., N.W.  
Washington, DC 20016  
(301) 509-2300  
*Counsel for Plaintiffs*

Dated:\_\_\_\_\_, 2014

\_\_\_\_\_  
BRAD P. ROSENBERG  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave., N.W.  
Washington, DC 20001  
(202) 514-3374  
*Counsel for Defendant*

Dated:\_\_\_\_\_, 2014

