

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MONDAIRE JONES, *et al.*,

Plaintiffs,

-v-

UNITED STATES POSTAL SERVICE, *et al.*,

Defendants.

20 Civ. 6516 (VM)

**STIPULATION AND ORDER OF
SETTLEMENT AND DISMISSAL**

WHEREAS, Plaintiffs filed this suit (the “Action”) on August 17, 2020, in anticipation of widespread voting by mail during the 2020 general election season (the “2020 Election”);

WHEREAS, the 2020 Election is now complete;

WHEREAS, the Court issued a mandatory injunction in the Action on September 25, 2020 (ECF No. 57), as modified by a Decision and Order subsequently issued on September 29, 2020 (ECF No. 66) (together, the “Preliminary Injunction”), providing relief to Plaintiffs as set forth in the Preliminary Injunction, and Plaintiffs and Defendants agree that the Action, after the Court’s issuance of the Preliminary Injunction as well as the completion of the 2020 Election, is now moot and no further litigation is necessary;

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs and Defendants, through their respective counsel, that the Action shall be settled and compromised on the following terms and conditions:

1. The Action is dismissed with prejudice, without costs, interest, attorneys’ fees, or disbursements to any party, except that Plaintiffs may submit an application to the Court under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d), for attorneys’ fees and expenses under the EAJA, as specified in paragraphs 3 and 4 of this Stipulation and Order of Settlement and Dismissal (the “Stipulation and Order”). Defendants reserve their right to oppose any such

application, including on the ground that Plaintiffs are not entitled to fees and expenses under the EAJA.

2. To the extent it remains in force, the Preliminary Injunction is vacated.

3. This Court shall retain jurisdiction over this matter solely to resolve any dispute between the parties concerning the payment of fees and expenses to Plaintiffs' counsel under the EAJA. No party shall argue that the resolution of this matter by Stipulation and Order rather than a judgment bears on the merits of an application for fees and expenses by Plaintiffs under the EAJA, in either Plaintiffs' favor or Defendants' favor. The parties otherwise reserve all rights, arguments, objections, and defenses pertaining to an application for fees and expenses by Plaintiffs under the EAJA.

4. Any application by Plaintiffs for EAJA fees must be filed within 30 days of the Court "so ordering" this Stipulation and Order, or within such other time as the Court directs.

5. The terms of this Stipulation and Order shall become effective upon entry of this Stipulation and Order by the Court. If not approved and entered by the Court, this Stipulation and Order shall be null and void, with no force or effect.

6. The parties agree that this Stipulation and Order, including all its terms and conditions, will be made public in its entirety.

7. Nothing in this Stipulation and Order shall constitute or be construed to constitute an admission of any wrongdoing or liability by Defendants, an admission by Defendants of the truth of any allegations or the validity of any claim asserted in the Action, or a concession or admission by Defendants of any fault, omission of any act, or failure to act.

8. Plaintiffs and Defendants understand and agree that this Stipulation and Order contains the entire agreement between them and that no statements, representations, promises,

agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect. Moreover, the rule of construction that any ambiguities in this agreement are to be resolved against the drafting party shall not be employed in the interpretation of this agreement.

9. It is contemplated that this Stipulation and Order may be executed in counterparts, with a separate signature page for each party. In light of current work practices, each party may sign electronically using “/s/” in lieu of ink signatures. All such counterparts and signature pages, together, shall be deemed to be one document.

Dated: May 12, 2021
New York, New York

COHEN&GREEN P.L.L.C.
Attorneys for Plaintiffs

By: /s/ J. Remy Green
J. REMY GREEN
COHEN&GREEN P.L.L.C.
1639 Centre St., Suite 216
Ridgewood, New York 11385
Tel.: (929) 888.9480
Facsimile: (929) 888.9457
E-mail: remy@femmelaw.com

Dated: May 12, 2021
New York, New York

AUDREY STRAUSS
United States Attorney for the
Southern District of New York
Attorney for Defendants

By: /s/ Rebecca S. Tinio
REBECCA S. TINIO
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
Tel.: (212) 637-2774
Facsimile: (212) 637-2686
E-mail: rebecca.tinio@usdoj.gov

SO ORDERED:

HONORABLE VICTOR MARRERO
UNITED STATES DISTRICT JUDGE

Dated: _____
New York, New York