

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 03-21793-CIV-UNGARO-BENAGES/BROWN

AMADO LOPEZ, :
 :
 Plaintiff, :
 v. :
 :
 THE UNITED STATES OF AMERICA; :
 NOEMI MONTES DE OCA, CHRIS :
 MASTON, JOHN GARZON, ORLANDO :
 TORRES, AND MARY MEIER, :
 in their individual capacities :
 :
 Defendants. :
 _____/

STIPULATION FOR COMPROMISE SETTLEMENT AND RELEASE OF
FEDERAL TORT CLAIMS ACT CLAIMS PURSUANT TO 28 U.S.C. § 2677

It is hereby stipulated by and between the undersigned plaintiff and the UNITED STATES OF AMERICA, by and through their respective attorneys, as follows:

1. The parties do hereby agree to settle and compromise each and every claim of any kind, whether known or unknown, arising directly or indirectly from the acts or omissions that gave rise to the above-captioned action under the terms and conditions set forth in this Settlement Agreement.
2. The United States of America agrees to pay the sum of Sixty Two-Thousand, Five Hundred Dollars (\$62,500.00) which sum shall be in full settlement and satisfaction of any and all claims, demands, rights, and causes of action of whatsoever kind and nature, arising from, and by

reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries, damage to property and the consequences thereof, resulting, and to result, from the subject matter of this settlement, including any claims for wrongful death, for which plaintiff or his guardians, heirs, executors, administrators, or assigns, and each of them, now have or may hereafter acquire against the United States of America, its agents, servants, and employees, including, but not limited to, Noemi Montes De Oca, Christopher Maston, John Garzon, Orlando Torres, and Mary Meier.

3. Plaintiff and his guardians, heirs, executors, administrators or assigns hereby agree to accept the sum set forth in this Stipulation of Compromise Settlement in full settlement and satisfaction of any and all claims, demands, rights, and causes of action of whatsoever kind and nature, including claims for wrongful death, arising from, and by reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries, damage to property and the consequences thereof which they may have or hereafter acquire against the United States of America, its agents, servants and employees, including, but not limited to, Noemi Montes De Oca, Christopher Maston, John Garzon, Orlando Torres, and Mary Meier, on account of the same subject matter that gave rise to the above-captioned action, including any future claim or lawsuit of any kind or type whatsoever, whether known or unknown, and whether for compensatory or exemplary damages. Plaintiff and his guardians, heirs, executors, administrators or assigns further agree to reimburse, indemnify and hold harmless the United States of America, its agents, servants, and employees, including, but not limited to, Noemi Montes De Oca, Christopher Maston, John Garzon, Orlando Torres, and Mary Meier, from and against any and all such causes of action, claims, liens, rights, or subrogated or contribution interests incident to or resulting from further litigation or the

prosecution of claims by plaintiff or his guardians, heirs, executors, administrators or assigns against any third party or against the United States, including claims for wrongful death.

4. This stipulation for compromise settlement is not, is in no way intended to be, and should not be construed as, an admission of liability or fault on the part of the United States, its agents, servants, or employees, and it is specifically denied that they are liable to the plaintiff. This settlement is entered into by all parties for the purpose of compromising disputed claims under the Federal Tort Claims Act and avoiding the expenses and risks of further litigation. The parties agree that such settlement under the Federal Tort Claims Act acts as a settlement of this entire matter, including, but not limited to, individual defendants Noemi Montes De Oca, Christopher Maston, John Garzon, Orlando Torres, and Mary Meier, named under *Bivens*.

5. It is also agreed, by and among the parties, that the respective parties will each bear their own costs, fees, and expenses and that any attorney's fees owed by the plaintiff will be paid out of the settlement amount and not in addition thereto.

6. It is also understood by and among the parties that pursuant to Title 28, United States Code, Section 2678, attorney's fees for services rendered in connection with this action shall not exceed 25 percent of the amount of the compromise settlement. All attorneys' fees, and expenses shall be paid out of the settlement proceeds. Any and all claims for attorneys' fees and expenses are also settled by the \$62,500.00 payment.

7. The persons signing this Settlement Agreement warrant and represent that they possess full authority to bind the persons on whose behalf they are signing to the terms of the settlement. In the event any plaintiff is a minor or legally incompetent adult, the plaintiff must obtain Court approval of the settlement at their expense. Plaintiff agrees to obtain such approval in a timely

manner; time being of the essence. Plaintiff further agrees that the United States may void this settlement at its option in the event such approval is not obtained in a timely manner. In the event plaintiff fails to obtain such Court approval, the entire Stipulation for Compromise Settlement and Release and the compromise settlement are null and void.

8. Payment of the settlement amount will be made by government wire transfer as per the following:

- A. Name of Bank:
- B. Street Address of Bank:
- C. City, State and Zip Code of Bank:
- D. Federal Reserve Number: N/A
- E. Routing Number:
- F. Name of Account:
- G. Account Number:

Plaintiff's attorney agrees to distribute the settlement proceeds to the plaintiff, and to obtain a dismissal of the above-captioned action with prejudice, with each party bearing its own fees, costs, and expenses, and with the Court retaining jurisdiction to enforce the settlement agreement.

9. The parties agree that this Stipulation for Compromise Settlement and Release, including all the terms and conditions of this compromise settlement and any additional agreements relating thereto, may be made public in their entirety, and the plaintiff expressly consents to such release and disclosure pursuant to 5 U.S.C. § 552a(b).

10. It is contemplated that this Stipulation may be executed in several counterparts. All such counterparts and signature pages together, shall be deemed one document.

Amado Lopez - Plaintiff

Executed on this ____ day of _____, 2004.

Rosalind J. Matos, Esq.
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COUNSEL FOR PLAINTIFF

Executed on this ____ day of _____, 2004.

MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY

By: _____
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COUNSEL FOR DEFENDANTS

Executed on this ____ day of _____, 2004.