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9/10/98
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
★ SEP 11 1998 ★
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P.M. _____
TIME A.M. _____

Line Booked

MIGUEL CRUZ,

Plaintiff,

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

- against -

DANIEL HERNANDEZ, OWEN MURPHY, THE NEW
YORK CITY TRANSIT AUTHORITY, and THE CITY
OF NEW YORK,

97 CV 5211 (JBW) (RML)

Defendants.

-----X

WHEREAS, plaintiff commenced this action by filing a complaint on September 9, 1997, alleging that defendants violated rights afforded plaintiff by the United States Constitution and under the laws of the State of New York; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's 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;

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

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiff the sum of two hundred forty thousand dollars (\$240,000.00) in full satisfaction of all claims that were or could have been alleged in this action, including claims for costs, expenses and attorney fees. In

(13)

flaw

consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against the individually named defendants and to release all defendants, any present or former employees or agents of the City of New York and the New York City Transit Authority, the City of New York and the New York City Transit Authority from any and all liability, claims, or rights of action arising out of the events alleged in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph "2" above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have 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, regulations or bylaws 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.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or of the New York City Transit Authority.

6. This Stipulation and Order 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 and Order 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
August 18, 1998

PALL & PALL
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By: *Lori Pall*
Lori Pall, Esq. (LP 8838)

By: *Jennifer E. Liddy*
Jennifer E. Liddy (JL 3482)
Assistant Corporation Counsel

close the case

SO ORDERED:

Julie M. Wender
U.S.D.J.
9/1/98



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007-2601

(212) 788-0922

MICHAEL D. HESS
Corporation Counsel

August 27, 1998

Honorable Jack B. Weinstein
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Miguel Cruz v. Daniel Hernandez, et al.
97 CV 5211 (JBW) (RML)

Dear Judge Weinstein:

I am the Assistant Corporation Counsel assigned to represent defendants in the above-referenced action. I write to notify the Court of the settlement of said civil lawsuit, and to respectfully request that the Stipulation and Order of Settlement and Discontinuance, signed by plaintiff's counsel and myself and enclosed herein, be "So Ordered" by Your Honor so that it may be filed.

Thank you for your attention to this matter.

Very truly yours,

Jennifer E. Liddy (JL 3482)
Assistant Corporation Counsel

encl.

cc: Magistrate Judge Robert M. Levy
United States District Court
Eastern District of New York