

FEE SETTLEMENT AGREEMENT AND RELEASE
***U.S. WeChat Users Alliance v. Biden*, No. 3:20-cv-05910-LB (N.D. Cal.)**

By and through their respective counsel, Plaintiffs U.S. WeChat Users Alliance, Chihuo Inc., Brent Coulter, Fangyi Duan, Jinneng Bao, Elaine Peng, and Xiao Zhang (collectively “Plaintiffs”), and Defendants Joseph R. Biden, Jr., in his official capacity as President of the United States, and Gina Raimondo, in her official capacity as United States Secretary of Commerce (collectively “Defendants,” and together with Plaintiffs, the “Parties”) hereby agree to settle and compromise Plaintiffs’ request for an award of attorneys’ fees, costs, and other litigation expenses pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 *et seq.* (the “EAJA”), arising from the civil action captioned *U.S. WeChat Users Alliance v. Biden*, No. 20-cv-5910 (N.D. Cal.) (the “Civil Action”), under the terms and conditions set forth in this Settlement Agreement (the “Agreement”).

1. Settlement Payment. Defendants shall pay Plaintiffs, through their undersigned counsel at Rosen Bien Galvan & Grunfeld LLP (“RBGG”), a lump sum of \$900,000.00 for attorneys’ fees, costs, and other litigation expenses incurred in this matter (the “Settlement Payment”) in full and complete satisfaction of Plaintiffs’ EAJA claim and any and all potential claims that Plaintiffs, or any of their counsel (including non-RBGG counsel), may have for attorneys’ fees, costs, and other litigation expenses associated with the Civil Action, inclusive of any interest. RBGG shall be solely responsible for any distribution of the Settlement Payment among Plaintiffs’ counsel. Upon the Effective Date of this Agreement, Defendants shall promptly commence processing the Settlement Payment pursuant to the payment processing instructions provided in Appendix A to this Agreement. In the event payment is not complete after 60 days from the Effective Date, the Parties shall cooperate to identify the basis for any delay in payment, make any necessary corrections, and complete the Payment. If the

government's fiscal operations are suspended due to Congress's failure to timely enact a budget for the 2022 fiscal year, Defendants will resume or commence efforts to effectuate payment after any suspension of government operations has lifted.

2. Stipulation of Dismissal. Upon the Effective Date of this Agreement, Defendants shall be authorized to file the Stipulation of Dismissal attached hereto as Appendix B.

3. Release and Discharge. Upon receipt of the Settlement Payment by RBGG, Plaintiffs shall fully and forever release and discharge Defendants, the United States, any department, agency or establishment of the United States, and their present or former officials, employees, successors, and agents, in their official and individual capacities, from any and all rights or claims to attorneys' fees, costs, and other litigation expenses that have been, or could have been, made as a result of the Civil Action.

4. Other Laws. Plaintiffs assume liability for any tax consequences that may arise from this Agreement or in connection with the Settlement Payment. Compliance with all applicable federal, state, and local tax requirements shall be the sole responsibility of Plaintiffs. Further, nothing in this Agreement waives or modifies federal, state, or local law pertaining to taxes, offsets, levies, and liens that may apply to this Agreement or the Settlement Payment.

5. No Admission. This Agreement has been entered into by Plaintiffs and Defendants solely for the purposes of resolving disputed claims for an award of attorneys' fees, costs, and other litigation expenses in the Civil Action without protracted legal proceedings and avoiding the expense and risk of such litigation. Therefore, this Agreement is not intended and shall not be deemed an admission by any Party of the merit or lack of merit of any claim or defense or an admission of any issue of law or fact. This Agreement may not be used in any action or proceeding against Defendants or the United States or any of their present or former

officials, employees or agents, either in their official or individual capacities, except for any proceedings necessary to implement or enforce this Agreement. For the avoidance of doubt, this Agreement shall not be used in any manner to establish liability for fees, amounts, or hourly rates in any other case or proceeding.

6. Integration. This Agreement contains the entire agreement between the Parties as to attorneys' fees, costs, and other litigation expenses in the Civil Action and supersedes any previous agreements or representations, whether written or oral, between the Parties regarding such fees, costs, and expenses. No promise or inducement has been made except as set forth herein, and no representation or understanding, whether written or oral, that is not expressly set forth herein shall be given any force or effect in connection with the Agreement.

7. Amendment and Waiver. The terms of this Agreement may not be modified or amended except by written instrument signed by all Parties, and no provision thereof shall be deemed waived except by written instrument of the Party to be charged with the waiver (or such Party's counsel) or by order of a court of competent jurisdiction.

8. No Presumption Against Drafter. The Parties acknowledge that they participated mutually in the preparation of this Agreement and therefore agree that any presumption or rule that an agreement is construed against its drafter shall not apply to this Agreement or any term or provision hereof.

9. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same agreement. A portable document format (".PDF") signature, electronic image of a signature, or other electronic signature shall have the same effect as a manually-executed original.

10. Authority. Each signatory to this Agreement represents and warrants that the signatory is fully authorized to enter into this Agreement on behalf of the persons or entities indicated below.

11. Effective Date. This Agreement is effective when signed by counsel of all Parties to the Agreement.

Signed and executed on October 20, 2021

By:

BRIAN M. BOYNTON
Acting Assistant Attorney General
ALEXANDER K. HAAS
Branch Director
DIANE KELLEHER
Assistant Branch Director

By: /s/ Serena Orloff

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Attorneys for Plaintiffs

APPENDIX A

Trust Account Wire Instructions

Bank of the West
295 Bush Street
San Francisco, CA 94104-4299

Routing Number: [REDACTED]

SWIFT Code: [REDACTED]

Account Number: [REDACTED]

Account Title: [REDACTED] Attorney Client Trust Account

If you have any questions or concerns please contact Branch Manager:

[REDACTED] at [REDACTED]