

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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CLIVE LINO and DARYL KHAN, on behalf of
themselves and all others similarly situated

Plaintiffs,

-against-

THE CITY OF NEW YORK; RAYMOND KELLY,
New York City Police Department Commissioner, in his
individual and official capacities; JANE DOE, New York
City Police Lieutenant, in her individual and official
capacities; and JOHN DOES 1-3, New York City Police
Officers, in their individual and official capacities,

Defendants.
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**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

Index No. 10/106579

WHEREAS, plaintiffs commenced this putative class action by filing a complaint on May 24, 2010, alleging that defendants' entry and maintenance of individual identifying information obtained by the New York City Police Department ("NYPD") during "stop, question, and frisk" encounters into a centralized computer database (the "UF-250 database") violated N.Y. Crim. Proc. Law §160.50 and §160.55; and

WHEREAS, plaintiff Daryl Khan further alleged that his individual constitutional rights were violated when he was stopped, detained, and issued summonses on October 7, 2009; and

WHEREAS, defendants have denied any and all liability arising out of plaintiffs' allegations; and

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WHEREAS, since July 2010, when N.Y. Crim. Proc. Law §140.50(4) went into effect, the NYPD has not entered into a computerized or electronic database information that establishes the personal identity of an individual who has been stopped, questioned and/or frisked by a police officer if that individual is released without further legal action; 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 the sum of \$10,000 (Ten Thousand Dollars) to the New York Civil Liberties Union Foundation in full satisfaction of all claims that were or could have been raised by any plaintiff in this action, including claims for costs, expenses and attorney fees. In consideration for the payment of this sum, plaintiffs agree to dismissal of all the claims against the individually named defendants and to release all defendants, their successors or assigns and all present or former officials, employees representatives or agents of the City of New York, and the City of New York from any and all liability, claims, or rights of action arising from the allegations set forth in the complaint, including claims for costs, expenses and attorney fees.
3. Plaintiffs 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, for plaintiff Daryl Khan, an affidavit regarding 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 plaintiffs' 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.

6. Defendant City of New York agrees that, within ninety days of the date of this settlement, it will delete from the UF-250 database any remaining information that establishes the personal identity of an individual who has been stopped, questioned and/or frisked, including the name and address of such individuals. The City of New York further agrees that, as of the date of the settlement, the NYPD will refrain from entering such personal identifying information into the database. Upon removal from the database of the personally identifiable information specified in this paragraph, defense counsel will provide the New York Civil Liberties Union with written notice that the information in fact has been removed. In addition, defense counsel will provide to the NYCLU, once it is issued, a copy of the written NYPD directive barring any further entry into the database of the personally identifiable information described in this paragraph.

7. This Stipulation and Order contains all of 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


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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
July , 2013


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By: 
Christopher Dunn, Esq. 7/24/13

By: 
Janice Casey Silverberg 7/31/13
Assistant Corporation Counsel

SO ORDERED:


BARBARA JAFFE
J.S.C.