

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
DENVER FIELD OFFICE

CHANDLER GLOVER)	
and DEAN ALBRECHT, individually)	
and on behalf of all other persons)	EEOC No. 320-A2-8011X
similarly situated,)	Agency No. CC-801-0015-99
)	
Complainants,)	
)	
v.)	
)	Date: May 23, 2007
JOHN E. POTTER, Postmaster)	
General, United States Postal)	
Service,)	
)	
Agency.)	

GLOBAL SETTLEMENT AGREEMENT MODIFYING
INITIAL SETTLEMENT AGREEMENT

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1 INTRODUCTION

The Settlement Agreement approved by the United States Equal Employment Opportunity Commission (hereinafter the “EEOC” or “Commission”) on June 10, 2004 (hereinafter the “Initial Settlement Agreement”) set out a Claims Process to determine which claimants would be eligible for relief under the terms of the Initial Settlement Agreement.

The Parties sent out Claim Form 1s to over 26,000 potential class members and 10,543 Claim Form 1s were returned to the Class Claims Administrator. After reviewing the Claim Form 1s, the Parties dismissed 3,031 claims. The remaining 7,512 Claims are being settled under the terms of this Global Settlement Agreement.

The Parties entered into Global Settlement negotiations, as authorized by the Initial Settlement Agreement, **Section VI.A.3**. The Parties’ statistical consultants analyzed the claim data and the Parties reviewed each Claim Form 1, as well as supplemental materials. The Parties met for several group mediation sessions and reached an Agreement in Principle to resolve all Claims. The Parties have now agreed, as more fully set forth herein, to enter into this Global Settlement Agreement as a modification of the Initial Settlement Agreement, pursuant to **Section XIV.F** of the Initial Settlement Agreement. This modification of the Initial Settlement Agreement supersedes **Sections VI.B – VIII and X – XIII** of the Initial Settlement Agreement and covers all Claims filed pursuant to the Initial Settlement that have not been dismissed.

2 GENERAL PROVISIONS

2.1. Definitions

The Parties incorporate by reference the definitions contained in **Section II., A** of the Initial Settlement Agreement. The following additional terms, as they are used in this Global Settlement Agreement, shall have the meanings defined below:

2.1.1 “Claim”

A claim by any Eligible Class Member seeking monetary compensation for assignment(s), award(s), detail(s), promotion(s), and/or training(s) that the USPS allegedly denied to the Eligible Class Member between January 1, 1992 and November 20, 2003, in violation of the Rehabilitation Act of 1973.

2.1.2 “Claim Form 1”

A written form used by an Eligible Class Members to initiate his or her Claim pursuant to the Claims Process set forth in the Initial Settlement Agreement.

2.1.3 “Class Agents”

Chandler Glover and Dean Albrecht.

2.1.4 “Class Counsel”

All counsel of record, singly or collectively, who are signatories to this Global Settlement Agreement on behalf of the Class and are signatories to demonstrate their consent to the payment required by **Section 7.1** of this Global Settlement Agreement and waive any further payments from the USPS. They are as follows: John Mosby, Esq., 621 17th Street, Suite 925, Denver, CO 80293; Brad Seligman, Esq., The Impact Fund, 125 University Ave., Suite 102, Berkeley, CA 94710-1616; Elisa Moran, Esq., 8541 East Oregon Place, Denver, CO 80231; Marilyn Cain Gordon, Esq., 7603 Georgia Avenue, N.W., Suite 301, Washington, DC 20012.

2.1.5 “Class Notice Administrator”

The firm, Settlement Services Inc., that has been retained by Class Counsel to perform the mailing and related administrative functions, required by **Sections 4** and **6** of this Global Settlement Agreement.

2.1.6 “Distribution Plan ”

The plan utilized to distribute Settlement Shares to Eligible Class Members as wage/non-wage allocations as more fully set forth in **Exhibit 1** hereto.

2.1.7 “Eligible Class Member”

Any person who filed a Claim Form 1 pursuant to the Initial Settlement Agreement, which has not subsequently been dismissed.

2.1.8 “Final Approval of the Global Settlement Agreement”

The Administrative Judge’s written decision that the resolution, as reflected in the Global Settlement Agreement and Global Settlement Notice of Resolution, is fair, adequate, and reasonable pursuant to the provisions of 29 C.F.R. 1614.204(g)(4).

2.1.9 “Global Settlement Agreement”

This modification to the Initial Settlement Agreement.

2.1.10 “Global Settlement Notice of Resolution”

Notice summarizing the Global Settlement Agreement to be sent to all Eligible Class Members pursuant to **Section 4.1** of this Global Settlement Agreement.

2.1.11 “Glover/Albrecht Claim Number”

Sequential number assigned to each Claim Form 1 by the Class Claims Administrator.

2.1.12 “Notice of Final Action on Final Approval of the Global Settlement Agreement”

Notice, pursuant to 42 U.S.C. §2000e-16(b), of final action taken by USPS.

2.1.13 “Notice of Final Approval of the Global Settlement Agreement”

Notice issued after the Administrative Judge issues his Final Approval that the Global Settlement Agreement is fair, adequate, and reasonable pursuant to 29.C.F.R. §1614.204(g)(4).

2.1.14 “Party” or “Parties”

The USPS, Class Counsel, Class Agents, and Eligible Class Members.

2.1.15 “Preliminary Approval of the Global Settlement Agreement”

Preliminary approval by the Administrative Judge that the documents comprising this Global Settlement Agreement are legally sufficient and can be distributed and made available to the Eligible Class Members pursuant to **Section 3** of this Global Settlement Agreement.

2.1.16 “Release Form”

A written form offered to each Eligible Class Member for execution in the form of **Exhibit 2** hereto.

2.1.17 “Settlement Share”

Each Eligible Class Member’s portion of the total settlement amount calculated pursuant to the Distribution Plan. Each Settlement Share check will contain “pay calculations” and a “notice” advising each Eligible Class Member that “depositing or cashing the Settlement Share check shall constitute an accord and satisfaction of all Claims in This Case.”

2.1.18 “Unclaimed Funds”

Any Eligible Class Member’s share that is not claimed because the Eligible Class Member is not located or does not cash a Settlement Share check within one year of the date of its issuance. Unclaimed Funds do not include the Settlement Share of any Eligible Class Member who elects to file a complaint in federal district court.

2.1.19 “USPS”

The United States Postal Service and the Postmaster General in his or her official capacity.

2.2 Scope of the Global Settlement Agreement

2.2.1 Persons Covered By Global Settlement Agreement

This Global Settlement Agreement resolves the Claims of all Eligible Class Members who do not elect to file a complaint in federal district court.

2.2.2 Opt Out Rights

There is no right to “opt out” of this Global Settlement Agreement except by filing a complaint in federal district court. Any Eligible Class Member who attempts to “opt out” of this Global Settlement Agreement by refusing to accept his or her Settlement Share forfeits his or her right to any remuneration relating to his or her Claim.

2.2.3 Release/Bar of Claims

To receive his or her Settlement Share, as set forth in **Sections 4** and **6** below, each Eligible Class Member must either: (1) execute the Release Form; (2) deposit the Settlement Share check; or (3) cash the Settlement Share check.

2.2.4 Denial of Liability

The USPS expressly denies any wrongdoing or liability with regard to the allegations contained in the Administrative Class Complaint in This Case. This Global Settlement Agreement represents a compromise of disputed claims. It reflects the Parties’ recognition that litigation of these claims would severely burden all concerned and would require an extraordinary commitment of time, resources, and money. The Global Settlement Agreement and the payment of Settlement Shares under the Global Settlement Agreement do not constitute an admission by either Party, as to the merits, validity, or accuracy, or lack thereof, of any of the allegations or claims in This Case.

Neither the EEOC nor any court or other administrative tribunal has made any findings or expressed any opinion concerning the merits, validity, or accuracy of any of the allegations or claims alleged in This Case. Except as provided in this paragraph, no part of this Global Settlement Agreement may be used by anyone in any proceeding of any kind as evidence of discrimination or prohibited retaliation, or as evidence of any violation of Title VII, the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794 et seq., the common law of any jurisdiction, or any other federal, state or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity including collective bargaining agreements. Similarly, except as provided in this paragraph, none of the communications made concerning this Global Settlement

Agreement, nor information and statements submitted during its negotiation or related mediation, nor any action taken to implement it, may be used by anyone other than the Party who created or submitted such materials to establish a violation of any federal, state or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity including collective bargaining agreements. Documents, data, and information prepared for negotiations and/or mediation and exchanged by the Parties in connection with This Case may not be used for any purpose other than in connection with fairness proceedings or in any manner by anyone other than the Party who created such documents, data or information, in this or in any other case, except that documents or information specifically relating to the intent of the Parties in crafting a particular provision in this Global Settlement Agreement may be used solely with respect to enforcement of that provision if a court or Administrative Judge determines that such use is necessary to resolve a fundamental dispute regarding the meaning of such provision.

In the event that Final Approval of this Global Settlement Agreement is not obtained or it is deemed null and void for any other reason (including, without limitation, any election by any Party to withdraw from the Global Settlement Agreement as allowed in **Section 2.6.1** hereof due to the filings of civil complaints in excess of an agreed number), nothing herein shall be deemed to waive any of the Eligible Class Members' claims or the USPS's objections and defenses (including, without limitation, objections to class certification), and neither this Global Settlement Agreement nor the Second Preliminary Approval or Second Final Approval hereof shall be admissible in any court regarding the propriety of class certification or regarding any other issue or subject of This Case.

2.3 Total Settlement Amount

In full settlement of all Claims not dismissed as of the date of this Global Settlement Agreement, the Parties agree to a total settlement of \$61 million, less the Settlement Share of any Eligible Class Member who elects to file a complaint in federal district court. This sum is comprised of: (1) A class fund of \$53,665,767 (hereinafter the "Class Fund") that shall be distributed to Eligible Class Members; (2) \$250,000 which is reserved to cover any errors in the calculation of Settlement Shares; and (3) the balance for attorneys fees and costs paid to Class Counsel (less Class Counsel's contribution described below in **Section 7.1**) pursuant to the terms of the Initial Settlement Agreement. The USPS shall make all payments to the Eligible Class Members. The Class Fund shall be reduced by the value of Settlement Shares of any Eligible Class Member who files a timely complaint in federal district court pursuant to provisions of the Second Notice of Final Action.

2.4 Approval of Global Settlement Agreement as Written

It is an express condition of this Global Settlement Agreement that the Global Settlement Agreement be approved by the Administrative Judge (and the EEOC if any appeal is made) as written. The Parties have bargained for the terms in this Global Settlement Agreement. Except as provided in **Sections 9.6** and **10** below, no section or subsection of

this Global Settlement Agreement may be modified or stricken, and no section or subsection may be added to this Global Settlement Agreement.

2.5 Interpretation of Global Settlement Agreement

This Global Settlement Agreement is a contract and shall, upon issuance of the Final Approval of the Global Settlement Agreement by the Administrative Judge, also constitute an order of the Administrative Judge.

2.6 Voidability or Stay of Global Settlement Agreement

2.6.1 Filing of Federal Complaints: Except as expressly provided in **Section 6.2.1** below, either Party may void the Global Settlement Agreement if, within 270 days of the date that the initial combined mailing of the Notice of Final Approval of the Global Settlement Agreement and the Notice of Final Action on Final Approval of the Global Settlement Agreement is completed by the Class Notice Administrator (hereinafter the “Completion Date”), as provided for in **Section 4.3.1** below, a certain number of Eligible Class Members (specified in a side agreement under seal) exercise their right to file a complaint in federal district court as set forth in the Notice of Final Action on Final Approval of the Global Settlement Agreement.

If either Party opts to exercise the right to void this agreement pursuant to this **Section 2.6.1**, the exercising Party must provide written notice to the other Party on or before the last day of the 270-day period.

2.6.2 Judicial Annulment: Except as expressly provided in **Section 6.2.1** below, this Global Settlement Agreement shall be null and void should: (1) the Administrative Judge fail to issue Final Approval of the Global Settlement Agreement; or (2) the OFO, the Commission, or any federal court of competent jurisdiction find that this Global Settlement Agreement is void or not enforceable, in whole or in part. This Global Settlement Agreement is not severable.

2.6.3 Stay: If the OFO docket an appeal from the Global Settlement that implicates the validity of the Global Settlement Agreement (as opposed to raising purely individual issues) either Party may stay payment of Claims that have not been released, by giving written notice to the other Party within five business days of receiving notice of the docketing of an appeal by the OFO. Any such stay shall remain in effect until the OFO has resolved the appeal.

2.7. Duty to Cooperate

The Parties agree to cooperate with each other to facilitate the implementation of this Global Settlement Agreement. The USPS and Class Counsel will continue to assist the Class Notice Administrator as needed to ensure that the distribution process described in

Sections 4, 5 and 6 below is completed in an efficient manner. Class Counsel will respond to any class member inquiries received by the Class Notice Administrator that are forwarded to Class Counsel.

3 PRELIMINARY APPROVAL

Prior to sending the Global Settlement Notice of Resolution to the Eligible Class Members, the Parties will request that the Administrative Judge review the Global Settlement Agreement and grant Preliminary Approval of the Global Settlement Agreement and the Exhibits hereto.

4 NOTICE TO CLASS

4.1. Global Settlement Notice of Resolution and Release Forms

- 4.1.1 Mailing: The Parties shall jointly prepare a list containing the last known addresses for all Eligible Class Members and provide it to the Class Notice Administrator within ten days of the issuance date of the Preliminary Approval of the Global Settlement Agreement. The Class Notice Administrator shall, using the mailing list provided by the Parties, mail a Global Settlement Notice of Resolution and a Release Form to all Eligible Class Members within 30 days of the issuance date of the Preliminary Approval of the Global Settlement Agreement. Attached hereto as **Exhibits 2 and 3** are exemplars of the Release Form and Global Settlement Notice of Resolution.
- 4.1.2. Tracking: The Class Notice Administrator shall track the status of: (1) all mailings made by the Class Notice Administrator required by **Sections 4 and 6** below; (2) receipt by the Class Notice Administrator of returned Release Forms; (3) date of receipt of any written objections filed by Eligible Class Members to the Global Settlement Agreement (Objections); (4) date of mailing of any Objections to Class Counsel and the USPS; and (5) payment of Settlement Shares to all Eligible Class Members pursuant to **Sections 5 and 6** below. The Class Notice Administrator shall provide the Parties with the information listed in items 1-5 above in an updated Excel workbook similar in format to **Exhibit 4**. The Class Notice Administrator shall provide the Parties with the listed information by 12:00 p.m. (ET) Friday on a weekly basis, following the mailing date of the Global Settlement Notice of Resolution as set forth in Section 4.1.1. above. The Class Notice Administrator shall continue to provide the Parties with the information identified in this **Section 4.1.2.**, on a weekly basis until otherwise notified in writing by either Party that the frequency of transmittal of the identified information should be increased, decreased or ceased altogether to the requesting Party. Any such request shall not affect the frequency of transmittal of the identified information to the non-requesting Party. The non-requesting Party is free to serve a written

request to the Class Notice Administrator asking for a similar increase or decrease in the frequency of transmittal of the identified information. Counsel for USPS shall have the same access to all information maintained by the Class Notice Administrator as is available to Class Counsel.

- 4.1.3. Notice by Email: Class Counsel shall also send the Global Settlement Notice of Resolution to each Eligible Class Member for whom Class Counsel has an email address.
- 4.1.4. Settlement Share Amount: The Release Form shall specify for each Eligible Class Member the amount of his or her Settlement Share and the amount allocated to wages and non-wages under the Distribution Plan. The Release Form shall include a release of Claims in return for the Eligible Class Member's execution of the Release Form. Each Eligible Class Member's share shall be determined pursuant to the Distribution Plan attached hereto as **Exhibit 1**. The Global Settlement Notice of Resolution will further indicate that if the Eligible Class Member returns the executed Release Form within 60 days of the date of the Global Settlement Notice of Resolution, he or she will be mailed his or her Settlement Share no later than 140 days after the date of the Global Settlement Notice of Resolution, pursuant to **Section 6.2.3**.
- 4.1.5. Remailing: If the Global Settlement Notice of Resolution sent to any Eligible Class Member is returned undelivered, the Class Notice Administrator will make one attempt to determine the Eligible Class Member's current address via a social security number search using credit bureau data and then, if a more current address is located, remail the Global Settlement Notice of Resolution to that address. The Class Notice Administrator shall on a bi-weekly basis inform Class Counsel and USPS of any returned mail that is undeliverable after remailing.
- 4.1.6. Notification of Signed Release Forms: Within 70 days of the mailing date of the Global Settlement Notice of Resolution, the Class Notice Administrator shall mail, in a single mailing via USPS Express Mail, original Release Forms to the USPS with copies to Class Counsel. The Class Notice Administrator shall track which Eligible Class Members have returned executed Release Forms. Every 14 days after the initial mailing of the Release Forms specified herein, the Class Notice Administrator shall forward any additional original Release Forms to USPS, via USPS Express Mail, with copies to Class Counsel. The Class Notice Administrator shall track the mentioned additional Release Forms. Counsel for USPS shall have the same access to information maintained by the Class Notice Administrator as is available to Class Counsel.

4.1.7 Notification of Objections:

The Class Notice Administrator shall send via email, scanned copies of all objections to the Global Settlement Agreement filed by Eligible Class Members with the Class Notice Administrator. The Class Notice Administrator shall send via email, scanned copies of all objections to EEOC Administrative Judge Dickie Montemayor, USPS and Class Counsel within two calendar days of receipt of each objection by the Class Notice Administrator.

4.2 (800) Telephone Number and Website

4.2.1 Maintenance of (800) Telephone Number: Class Counsel shall continue to maintain an (800) telephone number to assist in communicating with Eligible Class Members until the Settlement Share distribution process is complete.

4.2.2 Maintenance of Website: Class Counsel shall continue to maintain a website to assist in communicating with Eligible Class Members until the Settlement Share distribution process is complete. The world wide web page, and any other internet tool accessible to Eligible Class Members, must meet all the requirements of Section 508 of the Rehabilitation Act.

4.2.3 Contents of Website: Class Counsel shall post the Global Settlement Notice of Resolution, Release Form, Global Settlement Agreement, and all relevant Global Settlement documents on its website.

4.3 Notice of Final Approval of the Global Settlement Agreement, Notice of Final Action on Final Approval of the Global Settlement Agreement, Settlement Shares

4.3.1 Mailing of Notices: If the Administrative Judge approves the Global Settlement Agreement, the Notice Claims Administrator shall mail the Notice of Final Approval of the Global Settlement Agreement and a Notice of Final Action on Final Approval of the Global Settlement Agreement, in the same envelope, to each Eligible Class Member who has not previously received a Settlement Share check. These two notices shall be in the form of **Exhibits 5** and **6** hereto. This mailing shall be transmitted via First Class Mail and shall be completed within 15 days after the date that the Notice of Final Approval of the Global Settlement Agreement is issued. For the purpose of this mailing, counsel for USPS will provide the Class Notice Administrator and Class Counsel with a copy of the fully signed Notice of Final Action on Final Approval of the Global Settlement Agreement within 10 days after the date the Notice of Final Approval of the Global Settlement Agreement is issued. The Class Notice Administrator shall track the date of mailing for each notice required by this **Section 4.3.1**. The Class Notice Administrator shall also track

the Completion Date of the initial combined mailing of the Notice of Final Approval of the Global Settlement Agreement and the Notice of Final Action on Final Approval of the Global Settlement Agreement. The Completion Date shall serve as the starting date for the 270 day period specified in **Section 2.6.1** above.

4.3.2 Mailing of Settlement Shares: Unless the Global Settlement Agreement is voided pursuant to **Sections 2.6.1 or 2.6.2 above**, and except as provided below, the Class Notice Administrator will transmit Settlement Share checks via First Class Mail to each Eligible Class Member who has not previously received a Settlement Share check. This mailing shall be made 285 days (or such later date as a stay is ended) after the Completion Date. Notwithstanding the foregoing, Settlement Share checks will not be mailed to any Eligible Class Member who has elected to file a complaint in federal court or an appeal to OFO pursuant to the Notice of Final Action on Final Approval of the Global Settlement Agreement. The Settlement Share checks will contain a special mailing reminder indicating that cashing or depositing the Settlement Share check shall constitute an accord and satisfaction of all Claims in This Case. The Class Notice Administrator shall track all Settlement Share checks mailed to Eligible Class Members as provided for in this section.

4.3.3 Remailing: The Class Notice Administrator shall trace and re-mail any returned Notice of Final Approval of the Global Settlement Agreement and Notice of Final Action on Final Approval of the Global Settlement Agreement. The addresses of Eligible Class Members whose Settlement Share checks have been returned shall also be traced, and, if a valid address is determined, each Settlement Share check shall be re-mailed. The Class Notice Administrator shall track all remailings provided for in this section.

5 INDIVIDUAL RELIEF FOR CLASS AGENTS

The Class Agents shall each receive \$85,000.00, apportioned 25% to wages and 75% to non-wage compensatory damages, upon their execution of a full release of all claims against the USPS in the form of **Exhibits 7 and 8** hereto. The USPS shall pay the released amounts within 60 days of USPS receipt of each signed individual release.

6 DISTRIBUTION PLAN

6.1 Calculation of Settlement Shares

6.1.1 Calculation of Settlement Shares: Class Counsel's statistical consultant shall calculate shares for each Eligible Class Member in the Class Fund based on the Distribution Plan described in **Exhibit 1**. No Settlement Share shall be less than \$300.

6.1.2 Wage and Non-wage Amounts: Except as otherwise stated in this section, Class Counsel's statistical consultant shall, pursuant to the Distribution Plan, specify what portion of each Settlement Share is attributable to wages and what portion to non-wage compensatory claims based on the Distribution Plan. For non-promotion claims (training, detail, assignments, awards) 75% shall be apportioned to wages and 25% shall be apportioned to non-wages. For \$300 minimum payments, 75% shall likewise be allocated to wages and the balance to non-wages. The USPS shall prepare appropriate tax reporting documents (i.e. 1099 or W-2) which shall make allocations consistent with the wage/non-wage allocations described above.

6.2 Mailing of Settlement Shares Pursuant to Signed Release Forms

6.2.1 Effect of Release Form: Any person signing the Release Form waives all Claims in This Case, regardless of whether the Global Settlement Agreement is ultimately approved, rejected or voided. No person executing the Release Form shall be permitted to object or appeal the Preliminary or Final Approval of the Global Settlement Agreement or file a complaint in any court regarding the Global Settlement Agreement or any Claims. The USPS shall honor executed Release Forms whether or not the Global Settlement Agreement is approved, rejected, stayed or voided.

6.2.2 USPS's Provision of Settlement Shares: Within 130 days of the mailing date of the Global Settlement Notice of Resolution, the USPS shall provide the Class Notice Administrator with a Settlement Share check with a pay calculation withholding statement for each Eligible Class Member who timely returned a fully signed Release Form.

6.2.3 Mailing of Settlement Shares: Within 140 days of the date of the mailing of the Global Settlement Notice of Resolution, the Class Notice Administrator shall mail the Settlement Share checks to the Eligible Class Members who provided executed Release Forms. The Class Notice Administrator shall update the Excel workbook specified in **Section 4.1.2** above, to reflect all Settlement Share checks mailed to Eligible Class Members as provided for in this section.

6.3 Right to Appeal

Except as expressly provided in **Section 6.2.1**, all Eligible Class Members who have filed timely objections to the Global Settlement Agreement have the right to appeal the Notice of Final Approval of the Global Settlement Agreement to OFO and all Eligible Class Members have a right to file a complaint in federal district court. Any Eligible Class Member who elects to file a timely federal court complaint waives the right to receive any compensation under this Global Settlement Agreement.

6.4 Mailing Subsequent to Final Approval of Global Settlement Agreement

- 6.4.1 Payment of Non-Released Settlement Shares: Eligible Class Members who do not timely execute the Release Form shall be entitled to their shares in the Class Fund, unless it is voided or rejected, or unless they file a timely complaint in federal court. Their Settlement Shares shall not be payable until 285 days after the Completion Date, as specified in **Sections 2.6.1 and 4.3.1** above, assuming neither party has voided the Global Settlement Agreement pursuant to **Section 2.6** (although at the USPS's option, it may honor Release Forms returned during this period).
- 6.4.2 Payment if not Void: No later than 280 days after the Completion Date, as specified in **Sections 2.6.1 and 4.3.1** above, or the end of any stay pursuant to **Section 2.6** above, whichever date is later (unless a Party has exercised its option to void the Global Settlement Agreement), the USPS shall provide the Class Notice Administrator with a Settlement Share check for each Eligible Class Member who has not filed a timely complaint in federal court, or who has not previously been sent a Settlement Share check. The notice will advise the Eligible Class Member that cashing or depositing the Settlement Share checks shall constitute a full accord and satisfaction of all Claims.
- 6.4.3 Payment to Eligible Class Members who File OFO Appeals: Notwithstanding the foregoing, the USPS shall not be obligated to send the Class Notice Administrator Settlement Share checks for any Eligible Class Member who files an appeal to OFO until 90 days after the date OFO issues a decision on the appeal or a decision on reconsideration if one is filed, whichever date is later. The Class Notice Administrator shall mail these Settlement Share checks to these Eligible Class Members within five days of receipt of the Settlement Share Checks from the USPS.

6.5 Unclaimed Funds and Underpayments: In the event that there are unclaimed funds, such funds shall be distributed as follows:

- 6.5.1 Funds for Underpayments: First, to the extent the Parties agree to a correction of an Eligible Class Member's Settlement Share that results in a greater payment than calculated under the Distribution Plan, the USPS shall receive a credit against unclaimed funds.
- 6.5.2 Funds for Underpayments from Reserve: In the event the unclaimed funds are not sufficient to cover the correction of an Eligible Class Member's Settlement Share, further credits or payments shall be made to the USPS from the reserve of \$250,000 described in **Section 7** of this Global Settlement Agreement.

6.5.3 Division of Remainder of Unclaimed Funds: After any such credits, the balance of any remaining unclaimed funds shall be equally divided between the USPS and the Disability Rights, Education & Defense Fund. It shall be Class Counsel's responsibility to transmit these funds to the Disability Rights, Education & Defense Fund. As set forth in **Section 2.1.18** above, the term "Unclaimed Funds" does not include the Settlement Share of any Eligible Class Member who elects to file a complaint in federal district court. The USPS shall retain all Settlement Shares for all Eligible Class Members who file a complaint in federal court and there will be no obligation on the part of the USPS to divide these Settlement Shares with Class Counsel.

6.6 Deceased Eligible Class Members: If an Eligible Class Member is deceased, his/her estate shall be entitled to receive the decedent's Settlement Share upon execution and mailing of an Form SF 1153, attached hereto as **Exhibit 9**, to the Class Notice Administrator.

6.7 Reporting: USPS shall provide one report to the Class Notice Administrator and Class Counsel identifying the names and Glover/Albrecht Claim Numbers for each Eligible Class Member who has not cashed their Settlement Share check at nine months of the mailing of the Settlement Shares as provided in **Section 6.2.3** above. USPS shall provide a second report to the Class Notice Administrator and Class Counsel identifying the names and Glover/Albrecht Claim Numbers for each Eligible Class Member who has not cashed their Settlement Share check within thirteen months of the mailing of the Settlement Shares as provided in **Section 6.2.3** above. Both reports will be sent via email by USPS to Class Counsel and the Class Notice Administrator.

6.8 Reimbursement: The USPS shall reimburse Class Counsel for one half of all reasonable costs and expenses of the Class Notice Administrator to perform the mailing and related administrative functions required by **Sections 4 and 6** of this Global Settlement Agreement. The USPS shall reimburse such costs within 60 days of receipt of each itemized billing from Class Counsel.

7 ATTORNEYS' FEES PAYMENT AND ADJUSTMENT

7.1 Payment and Adjustment of Fees: The USPS has paid Class Counsel \$8,584,233 for attorneys' fees and costs in this action. Class Counsel waive any further claims for attorneys' fees or costs, including claims for fees or costs for participation in global mediation meetings, as were provided for in the Initial Settlement Agreement, **Section XI.A.4**. Upon Final Approval of the Global Settlement Agreement (and the lifting of any stay), Class Counsel shall provide \$1,250,000 to the USPS for payment to the Eligible Class Members. In addition, Class Counsel shall reserve \$250,000 from their fees as a separate fund for resolution of any Settlement Share calculation errors not covered by Unclaimed Funds, pursuant to **Section 6.5** or, to the extent not exhausted, as a cy pres payment to the Disability

Rights Education and Defense Fund. Class Counsel shall not be obligated to reimburse the USPS for any portion of mediator fees and costs of this Global mediation.

7.2 Former Co-Class Counsel – Indemnification and Hold Harmless: Former co-class counsel, Dale Gaar, Esq., John Evangelisti, Esq., and John W. Davis, Esq. (hereinafter the “Former Co-Class Counsel”) have filed Motions to Withdraw with the EEOC. Class Counsel represents that Former Co-Class Counsel have been fully compensated by Class Counsel for all of their respective attorneys’ fees, costs and expenses incurred in This Case and further that Former Co-Class Counsel waive any claims for these attorneys’ fees, costs and expenses. Notwithstanding, Class Counsel agrees to hold harmless and indemnify USPS for any and all costs, expenses, damages and awards of any kind incurred by or awarded against USPS in defending against any claims or actions brought by Former Co-Class Counsel to recover any attorneys’ fees, costs or expenses determined to be due and owing to Former Co-Class Counsel by Class Counsel or USPS in This Case.

8 DISMISSAL OF PENDING INDIVIDUAL EEO CLAIMS

8.1 Dismissal of Pending Individual EEO Claims: The USPS has represented that the Eligible Class Members have twenty-seven (27) pending subsumed individual EEO complaints. Fifteen (15) of these subsumed individual EEO complaints contain issues that are similar to those raised in The Case. The Parties agree to move the Administrative Judge jointly to dismiss the fifteen individual EEO complaints with similar claims with prejudice. The remaining twelve (12) subsumed individual EEO complaints do not contain any issues which are similar to those raised in The Case. These twelve EEO complaints will be reinstated for EEO processing except to the extent that they are held in abeyance under any other pending action.

9 APPLICABLE CONTRACT PRINCIPLES

9.1 Counterparts

This Global Settlement Agreement may be executed in one or more counterparts, and each executed copy shall be deemed an original, which shall be binding upon all Parties to this Global Settlement Agreement.

9.2 Headings

The headings in this Global Settlement Agreement are for the convenience of the parties only, and shall not limit, expand, modify, amplify, or aid in the interpretation or construction of this Global Settlement Agreement.

9.3 Entire Agreement

This Global Settlement Agreement, including Exhibits, comprises the full and exclusive agreement and understanding of the Parties with respect to this Global Settlement Agreement, and supersedes all prior written or oral agreements (including, without limitation, any and all term sheets previously agreed to by the parties). No representations or inducements to compromise this action have been made, other than those recited in this Global Settlement Agreement. This Global Settlement Agreement does not impose any obligations on the Parties beyond the terms and conditions stated herein.

9.4 No Waiver

The waiver by any Party of any term, condition, covenant, or representation of this Global Settlement Agreement or the breach of any term, condition, covenant, or representation herein, in any one instance, shall not operate as, or be deemed to be a waiver of, the right to enforce any other term, condition, covenant, or representation. The failure by any Party at any time to enforce, or require performance of, any provision of this Global Settlement Agreement shall not operate as a waiver of, or limit such Party's right at a later time to enforce or require performance of such provisions or of any other provisions of this Global Settlement Agreement, subject to the limits of EEOC's jurisdiction.

In the event that Final Approval of this Global Settlement Agreement is not obtained or it is deemed null and void for any other reason (including, without limitation, any election by any Party to void the Global Settlement Agreement as allowed in **Section 2.6.1** hereof due to excessive filing of civil complaints), nothing herein shall be deemed to waive any of the Eligible Class Members' claims or the USPS's objections and defenses, and neither this Global Settlement Agreement nor the Preliminary Approval or Final Approval of this Global Settlement Agreement shall be admissible in any court regarding the propriety of class certification or regarding any other issue or subject of This Case.

9.5 Notice to Parties

Whenever this Global Settlement Agreement provides for notice to be given to the Parties, such notice shall be served on the Parties as follows:

Notice To The Class Shall Be Sent To:

John Mosby, Esq.
621 17th Street, Suite 925
Denver, CO 80293

and

Marilyn Cain Gordon, Esq.
7603 Georgia Avenue, N.W., Suite 301
Washington, DC 20012

Notice To the USPS Shall Be Sent By Mail To:

David Ellis, Esq.
United States Postal Service
475 L'Enfant Plaza, SW, Room 6238
Washington, DC 20260-1127

9.6 Modifications

Except as provided in **Section 10** below, this Global Settlement Agreement may not be amended or modified except with the express, prior written consent of the USPS and Class Counsel and the approval of the Administrative Judge.

9.7 Binding Agreement

This Global Settlement Agreement is binding on all Parties and their successors, assigns, representatives, and trustees.

9.8 Computation of Time

9.8.1 Calendar Days: All time periods in this Global Settlement Agreement that are stated in terms of days are calendar days.

9.8.2 Verification of Timely Mailing: Unless otherwise specified in this Global Settlement Agreement, a document shall be deemed timely if it is received, postmarked, or bears a similar verification of delivery before the expiration of the applicable period, or in the absence of a legible postmark, if it is received by mail within five days of the expiration of the applicable period.

9.8.3 Calculation of Time: The first day counted shall be the day after the event from which the time period begins to run and the last day of the period shall be included, unless it falls on a Saturday, Sunday, or Federal holiday, in which case the period shall be extended to include the next business day.

10 MODIFICATIONS OF THE PROCESS BY AGREEMENT

The Parties may modify, by joint written agreement, the sequences and timing of the notice and payment processes to the Eligible Class Members outlined in **Sections 4 and 6** above, to effectively deal with issues that may arise under this Global Settlement Agreement (i.e., unforeseen circumstances, etc.).

SO AGREED:

For the Class:

Chandler Glover, Class Agent

Date: _____

Dean Albrecht, Class Agent

Date: _____

John Mosby, Esq.

Date: _____

Brad Seligman, Esq.
The Impact Fund

Date: _____

Marilyn Cain Gordon, Esq.

Date: _____

Elisa Moran, Esq.

Date: _____

For the USPS:

Ronald E. Henderson, Manager Health and
Human Resource Management

Date: _____

Eric J. Scharf, Managing Counsel

Date: _____

David B. Ellis, Chief Counsel

Date: _____

Elisabeth Boyan, Attorney

Date: _____