

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into by and between Arnold & Porter Kaye Scholer, LLP (“Arnold & Porter”), Law Resources, Inc. (“Law Resources”) (jointly, “Respondents”), and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (“IER”) (collectively, “the Parties”).

### I. BACKGROUND

WHEREAS, on November 9, 2018, IER accepted as complete a charge filed by the Charging Party, ██████████ (“Charging Party”), against Law Resources, identified as DJ # 197-16-503 (the “IER Charge”), alleging that Law Resources failed to hire the Charging Party because of the Charging Party’s dual citizenship status and that Law Resources retaliated against the Charging Party for asserting rights protected under 8 U.S.C. § 1324b, in violation of 8 U.S.C. § 1324b(a)(1)(B) and 8 U.S.C. § 1324b(a)(5), respectively;

WHEREAS, by letter dated November 19, 2018, IER notified Law Resources that it had initiated an investigation of Law Resources based on the allegations contained in the IER Charge to determine whether Law Resources had engaged in any discriminatory conduct in violation of 8 U.S.C. § 1324b, including any pattern or practice of unfair immigration-related employment practices;

WHEREAS, based on the allegations in the IER Charge, IER initiated an independent investigation of Arnold & Porter under 8 U.S.C. § 1324b(d)(1), identified as DJ # 197-16-504, and notified Arnold & Porter of the investigation by letter dated November 20, 2018. The related investigation sought to determine whether Arnold & Porter engaged in any unfair employment practices prohibited under the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b;

WHEREAS, IER concluded, based on its investigations of Law Resources and Arnold & Porter (“IER Investigations”), that there is reasonable cause to believe that from at least September 20, 2018, to at least October 12, 2018, Arnold & Porter and Law Resources implemented a policy of citizenship status discrimination in connection with the recruitment, selection, and hiring of temporary employees to staff a single, limited-duration Arnold & Porter document review project (“the Project”) in violation of the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b;

WHEREAS, in September 2018, Law Resources, a staffing agency headquartered in Washington, D.C., contracted with Arnold & Porter, an international law firm, to provide temporary staffing for the Project pursuant to the Respondents’ Master Services Agreement;

WHEREAS, Arnold & Porter asked Law Resources to restrict its hiring of individuals for assignment to the Project to U.S. citizens who were not also citizens of another country. This request for a U.S. citizenship restriction was based on Arnold & Porter’s mistaken belief, in good faith, that only such U.S. citizens could be hired for the Project due to data access restrictions contained in the International Traffic in Arms Regulations (“ITAR”), which places certain

conditions on the disclosure of ITAR controlled information to anyone who is not a “U.S. person,” as defined in ITAR;

WHEREAS, ITAR does not authorize or require employers to hire only U.S. citizens or only U.S. citizens who are not citizens of another country;

WHEREAS, Law Resources and Arnold & Porter implemented the citizenship status restriction in recruiting, advertising, selecting, and hiring individuals to staff the Project, including by removing two dual citizen candidates from consideration because of their citizenship status and refusing to consider non-U.S. citizen candidates because of their citizenship status;

WHEREAS, protected individuals were submitted for consideration for the Project but were later removed from consideration because of the Respondents’ citizenship status restriction;

WHEREAS, IER also concluded, based on its investigation of Law Resources, that there is reasonable cause to believe that Law Resources retaliated against the Charging Party in violation of 8 U.S.C. § 1324b(a)(5) in response to the Charging Party opposing the unlawful citizenship status restriction. In November 2018, an administrative assistant at Law Resources placed the Charging Party on an internal “do not use” list (“DNU List”) and moved the Charging Party’s application to a “do not use” folder (“DNU Folder”).

WHEREAS, Law Resources represents that the administrative assistant, who does not make hiring or staffing decisions, was not authorized, or otherwise directed, to place the Charging Party on the DNU List and in the DNU Folder. According to Law Resources, it did not ratify the actions of the administrative assistant and had no knowledge, at the time, that the Charging Party had been placed on the DNU List and in the DNU Folder. Law Resources further represents that effective May 7, 2019, the Charging Party has been removed from the DNU List and the DNU Folder and is eligible for hire on any projects for which she is qualified;

WHEREAS, this Agreement is intended to achieve a complete settlement of the IER Investigations, it does not constitute an admission by the Respondents of any violation, breach, or wrongdoing, and will not be admissible for any purpose in any type of legal proceeding, except an action to enforce the terms herein;

WHEREAS, the Parties wish to resolve the IER Investigations without further delay or expense and hereby acknowledge that they are voluntarily entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained below, and to fully and finally resolve the IER Investigations as of the date of this Agreement, the Parties agree as follows:

## II. TERMS OF SETTLEMENT

1. This Agreement becomes effective as of the date the last party signs the Agreement, referred to as the “Effective Date.” The “term of this Agreement” shall be two years following the Effective Date.

### Monetary Relief

2. Respondents shall pay a civil penalty to the United States Treasury in the amount of \$56,500.
3. Law Resources shall pay an additional civil penalty to the United States Treasury in the amount of \$3,000 to address the claim under 8 U.S.C. § 1324b(a)(5).
4. Respondents shall pay the monies discussed in Paragraphs 2 and 3 via the FedWire electronic fund transfer system within 10 days of receiving fund transfer instructions from IER. On the day of payment, Respondents shall send confirmation of the payment to Sejal Jhaveri at [Sejal.Jhaveri@usdoj.gov](mailto:Sejal.Jhaveri@usdoj.gov), and Jasmin Lott at [Jasmin.Lott@usdoj.gov](mailto:Jasmin.Lott@usdoj.gov). The emails confirming payment shall have Respondents’ names and the investigation numbers, DJ # 197-16-503, DJ # 197-16-504, in the subject line.
5. Respondents shall provide IER with the name(s), job title(s), email address(es), and telephone number(s) of the individual(s) responsible for effectuating, pursuant to Paragraphs 2 and 3 above, payment of the civil penalties no later than 10 days after the Effective Date.
6. Respondents shall pay, pursuant to the process set forth in Attachment A, up to \$2,200 in back pay to each eligible individual (“Claimant”) as determined by IER, up to a maximum of \$55,000 for all Claimants. Back pay for eligible Claimants shall be calculated by deducting from \$2,200 any pay the eligible Claimant earned from an alternate employer during the Project (i.e. mitigation earnings). “Claimant” is defined as:
  - a. A non-U.S. citizen who was a protected individual under 8 U.S.C. § 1324b(a)(3) and who (1) was actively barred in a U.S. jurisdiction between September 21, 2018 and October 12, 2018, (2) was ready and available to work on-site at Arnold & Porter’s office in Washington, D.C. during that same time period, (3) received an advertisement for the Project containing a citizenship requirement, and (4) either (a) expressed interest in the Project but was rejected or not considered for it because of citizenship status, or (b) was deterred from applying to the Project because of citizenship status; or
  - b. A U.S. citizen who (1) was actively barred in a U.S. jurisdiction between September 21, 2018 and October 12, 2018, (2) was ready and available to work on-site at Arnold & Porter’s office in Washington D.C. during that same time period, (3) received an advertisement for the Project containing a citizenship requirement, and (4) either (a) expressed interest in the Project but was rejected or not considered for it because of his or her status as a dual citizen, or (b) was deterred from applying to the Project because of his or her status as a dual citizen.

Should the total amount of back pay exceed \$55,000, each Claimant’s back pay will be a prorated portion of the maximum back pay funds made available under this Agreement. Respondents may withhold applicable taxes based on the tax rate of the current calendar year.

7. Subject to the requirements of this paragraph, Law Resources shall offer and pay back pay to the Charging Party for its alleged violation of 8 U.S.C. § 1324b(a)(5) in the amount of \$11,875 in exchange for a release from the Charging Party for Law Resources and Arnold & Porter’s alleged violation of § 1324b(a)(5). Within 20 days of the Effective Date, Law Resources shall mail and email a letter and a release to the Charging Party. The letter will notify the Charging Party that she must respond to Law Resources to indicate whether she will accept the back pay within 20 days of receiving the letter. Law Resources will confirm receipt of the Charging Party’s decision and, if applicable, direct her to complete and return a limited release within 20 days of receiving the confirmation. Law Resources shall pay the back pay to the Charging Party within 30 days of receiving a signed release from the Charging Party that releases her claims against Law Resources and Arnold & Porter for the alleged violation of § 1324b(a)(5) related to the Charging Party’s placement on Law Resources’ Do Not Use list. The payment to the Charging Party does not need to be made unless the Charging Party executes a release of her claims as described herein.

#### Injunctive Relief

8. Arnold & Porter shall not discriminate, including by directing any staffing agency to discriminate, on the basis of citizenship, immigration status, or national origin, in violation of 8 U.S.C. § 1324b. Pursuant to 8 U.S.C. § 1324b, Arnold & Porter shall not exclude dual U.S. citizen applicants from consideration for any position(s) because of their citizenship status. Discrimination shall include imposing an unlawful citizenship status restriction on direct hires or imposing such restriction on temporary staff through a staffing agency with whom Arnold & Porter has a joint employment relationship. Pursuant to 8 U.S.C. § 1324b, nothing contained in this Agreement shall prevent Arnold & Porter from engaging in an employment restriction because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order, or required by Federal, State, or local government contract, or which the Attorney General determines to be essential for an employer to do business with an agency or department of the Federal, State, or local government. For the avoidance of doubt, nothing herein shall restrict Arnold & Porter from requiring certain foreign language fluency.
9. Law Resources shall not discriminate on the basis of citizenship, immigration status, or national origin, in violation of 8 U.S.C. § 1324b. Pursuant to 8 U.S.C. § 1324b, Law Resources shall not exclude dual U.S. citizen applicants from consideration for any position(s) because of their citizenship status.
10. Respondents shall not intimidate, threaten, coerce, or retaliate against any person for his or her participation in the IER Investigations or the exercise of any right or privilege secured by 8 U.S.C. § 1324b.

11. Within 60 days of the Effective Date, Arnold & Porter shall review its existing employment policies, training materials, and/or internal guidelines relating to hiring, firing, assignment and/or other nondiscrimination based on citizenship status and revise them, if necessary, to prohibit discrimination in the recruitment, hiring, and termination processes on the basis of citizenship, immigration status, and national origin, except where required to comply with law, regulation, executive order, government contract, or Attorney General determination. To the extent necessary, Arnold & Porter shall create or revise its policies, training materials, and guidelines to:
  - a. prohibit unlawful discrimination under 8 U.S.C. § 1324b on the basis of citizenship, immigration status, and national origin in the recruitment, hiring and firing processes, including for assignment or employment to work on matters that involve ITAR;
  - b. make clear that (i) ITAR does not authorize or require employers to hire only U.S. citizens or only U.S. citizens who are not citizens of another country; and (ii) ITAR does not impose requirements on U.S. companies concerning the recruitment, selection, employment, promotion, or retention of foreign persons;
  - c. include citizenship, immigration status, and national origin as prohibited bases of discrimination; such prohibited bases of discrimination shall also be included in any similar Equal Employment Opportunity (“EEO”) statements Arnold & Porter includes in printed or electronic materials available to the public, applicants, or employees;
  - d. provide that, during the term of this Agreement, all individuals in the Legal Support Services Group who are responsible for recruiting, vetting, screening, or selecting potential document reviewers for document review projects, (“Arnold & Porter Designated Individuals”), must refer applicants and employees who complain, formally or informally, of discrimination in hiring or firing on the basis of citizenship status or national origin to IER by directing the affected individual to IER’s worker hotline (1-800-255-7688), and IER’s website ([www.justice.gov/ier](http://www.justice.gov/ier)); and
  - e. prohibit retaliation, intimidation, or reprisal against an employee or applicant for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, or for filing any charge, or participating in any investigation or action under 8 U.S.C. § 1324b.
12. Within 60 days of the Effective Date, Law Resources shall review its existing employment policies, training materials, and/or internal guidelines and revise them to prohibit discrimination in the recruitment, hiring, and termination processes on the basis of citizenship, immigration status, and national origin, except where required to comply with law, regulation, executive order, government contract, or Attorney General determination. Law Resources shall create or revise its policies, training materials, and guidelines to:

- a. prohibit unlawful discrimination under 8 U.S.C. § 1324b on the basis of citizenship, immigration status, and national origin in the recruitment, hiring and firing processes;
  - b. make clear that (i) ITAR does not authorize or require employers to hire only U.S. citizens or only U.S. citizens who are not citizens of another country; and (ii) ITAR does not impose requirements on U.S. companies concerning the recruitment, selection, employment, promotion, or retention of foreign persons;
  - c. include citizenship, immigration status, and national origin as prohibited bases of discrimination; such prohibited bases of discrimination shall also be included in any similar Equal Employment Opportunity (“EEO”) statements Law Resources includes in printed or electronic materials available to the public, applicants, or employees;
  - d. provide that all individuals responsible for formulating, providing training on, or implementing hiring, firing, equal employment, and employment eligibility verification, and all individuals with any role in recruiting, vetting, screening, or selecting potential contract attorneys or paralegals (“Law Resources HR Representatives”), must refer applicants and employees who complain, formally or informally, of discrimination in hiring or firing on the basis of citizenship status or national origin to IER by directing the affected individual to IER’s worker hotline (1-800-255-7688), and IER’s website ([www.justice.gov/ier](http://www.justice.gov/ier)); and
  - e. prohibit retaliation, intimidation, or reprisal against an employee or applicant for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, or for filing any charge, or participating in any investigation or action under 8 U.S.C. § 1324b.
13. Within 90 days of the Effective Date, and thereafter during the term of this Agreement, Respondents shall ensure that all Arnold & Porter Designated Individuals, Arnold & Porter lawyers and staff in the D.C. Office responsible for staffing document review projects that involve ITAR, and Law Resources HR Representatives receive training on their obligations to comply with 8 U.S.C. § 1324b, the statutory exceptions to otherwise impermissible hiring or firing discrimination based on citizenship status, and the proper definition of a “U.S. person” for purposes of complying with ITAR.
- a. The training will consist of participating in a free online IER webinar presentation, and/or a live presentation by IER.
  - b. All employees will be paid their normal rate of pay, and the training will occur during their normally-scheduled workdays and work hours. Respondents shall be responsible for all payroll costs and employee wages associated with these training sessions.
  - c. During the term of the Agreement, Respondents shall present a recorded version of IER’s webinar to all new Arnold & Porter Designated Individuals, Arnold & Porter lawyers and staff in the D.C. Office responsible for staffing document

review projects that involve ITAR, and Law Resources HR Representatives that Respondents hire or promote after the initial training described in this paragraph, within 60 days of hire or promotion.

- d. Each Respondent shall compile attendance records listing its employees who attend the training(s) described in this paragraph, including the individual's full name, job title, signature, and the date(s) of the training, and shall send the records via email to [Sejal.Jhaveri@usdoj.gov](mailto:Sejal.Jhaveri@usdoj.gov) and [Jasmin.Lott@usdoj.gov](mailto:Jasmin.Lott@usdoj.gov) within 10 days of each training session. The emails transmitting attendance records shall have Respondents' names and the investigation numbers, DJ # 197-16-503, DJ # 197-16-504, in the subject line.
14. Within 30 days of the Effective Date, Arnold & Porter shall, in writing, advise current staffing agencies with which it contracts through its D.C. office, that all recruiting, hiring, and firing decisions are subject to, inter alia, the anti-discrimination requirements of 8 U.S.C. § 1324b. Arnold & Porter shall also provide such written notice to any future staffing agency with which it contracts through its D.C. office during the term of this Agreement, within 10 days of contracting with such entity.
15. Within 45 days of the Effective Date, Arnold & Porter's General Counsel shall email all attorneys, paralegals, and office managers at the firm a notification informing them that if they receive a request from a client to place restrictions on hiring or assignment for a document review project based on citizenship status, they must report it to Arnold & Porter's General Counsel's office. One year after the original email is sent, the General Counsel's office shall resend this email notification to all attorneys, paralegals, and office managers at the Firm. The General Counsel's office shall maintain a log of the requests that reflects the following: (a) the date of the client's request; (b) the identity of the Arnold & Porter employee or official receiving the request; (c) the number of positions restricted; (d) the dates of the project or task; (e) the basis for the citizenship or immigration status restriction including a citation to the pertinent rule, law, or executive order, or a quote from the pertinent language of the government contract provision that creates an exception to the prohibition on citizenship status discrimination under 8 U.S.C. § 1324b(a)(2)(C); (f) an acknowledgement that Arnold & Porter provided the client with information about employer non-discrimination obligations under 8 U.S.C. § 1324b; and (g) if applicable, the identity of the staffing agency to whom Arnold & Porter made the request to staff any project based on the client's request. Arnold & Porter shall provide the log at IER's request during the term of the Agreement.
16. Law Resources shall obtain in writing or create a written record of requests it receives from its customers to provide staffing for a project or assign individuals to work on a project who have a specified citizenship or immigration status or to exclude any protected individuals under 8 U.S.C. § 1324b(a)(3) based on citizenship or immigration status.
17. Within 45 days of the Effective Date and thereafter during the term of the Agreement, Law Resources shall maintain a log of customer requests identified pursuant to Paragraph 16 that includes the following: (a) the date of the customer's request; (b) the identity of the Law Resources employee(s), agent(s), or official(s) receiving the request; (c) the

number of positions subject to the customer’s request; (d) the dates of the project or assignment; (e) the basis for the requested citizenship or immigration status restriction, including a citation to the pertinent law, regulation, or executive order, or a quote from the pertinent language of the government contract provision that purportedly creates an exception to the prohibition on citizenship status discrimination under 8 U.S.C. § 1324b(a)(2)(C); (f) an attestation that Law Resources provided the customer with information about employer non-discrimination obligations under 8 U.S.C. § 1324b; (g) the identity of the Law Resources employee(s), agent(s), or official(s) who provided the customer with the information required by this paragraph and the date it was provided; and (h) a certification that Law Resources refused to comply with the request without a certification from the customer that there is a legal basis for the restriction. Law Resources shall provide the log to IER every four months during the term of the Agreement, or otherwise notify IER that there have been no such requests made of Law Resources.

18. Nothing contained in this Agreement, including Paragraph 15 above, shall require any party at any time to disclose any information protected by attorney client privilege, including, when privileged, the identity of the client, attorney work product privilege, government deliberative process privilege, or any other applicable privileges or confidentiality protections recognized under the laws of the United States. Similarly, nothing in this Agreement requires or permits any party to engage in disclosures or other conduct prohibited by applicable professional responsibility rules, as determined by the choice of law principles applied by the United States District Court for the District of Columbia.
19. Respondents shall remove (if any), and shall not make in the future, any reference to the IER Investigations or this Agreement in any files or notes they maintain regarding the Charging Party and other injured parties. All documents in Law Resources’ possession relating to the Charging Party’s complaint with the Office of the Chief Administrative Hearing Officer shall be segregated and separately maintained by Law Resources’ outside counsel.
20. Law Resources shall not disclose to any employer or prospective employer of the Charging Party any information or documentation related to the IER Charge, the IER Investigations, or this Agreement, except to the extent required to comply with applicable state or federal law. Law Resources has previously removed the Charging Party from its DNU List and from the DNU Folder effective May 7, 2019.
21. For the term of this Agreement, Law Resources shall post an English and Spanish version of the IER “If You Have The Right to Work” poster (“IER Poster”), in color and measuring no smaller than 8.5” x 11”, an image of which is available at [www.justice.gov/crt/worker-information#poster](http://www.justice.gov/crt/worker-information#poster), in all places where notices to employees and job applicants are normally posted. Law Resources shall post the IER Poster within 14 days from the Effective Date of this Agreement. Given that many of the projects that Law Resources staffs occur offsite at the offices of its customers, Law Resources shall also provide applicants with a copy of this IER Poster at the time that they interview with Law Resources.



22. During the term of this Agreement, IER reserves the right to make such reasonable inquiries as it, in its discretion, believes necessary or appropriate to assess Respondents' compliance with this Agreement, including but not limited to, requiring written reports from Respondents concerning their compliance; interviewing Respondents' employees, officials, or other persons; and requesting records.
23. If IER has reason to believe that either Respondent has violated or is violating any provision of this Agreement, IER may, in its discretion, notify Respondent(s) of the purported violation rather than initiate a new investigation or seek immediate judicial enforcement of the Agreement. If IER provides notice to either Respondent of a violation and decides not to seek immediate judicial enforcement, Respondent(s) will have 30 days from the date IER notifies it in which to cure the violation(s) to IER's satisfaction before IER deems Respondent(s) to be in violation of this Agreement and proceeds to take appropriate enforcement actions.
24. This Agreement does not affect the right of any individual to file an IER charge alleging an unfair immigration-related employment practice, IER's authority to investigate or file a complaint on behalf of any such individual, or IER's authority to conduct an independent investigation of Respondents' employment practices apart from those encompassed within the IER Investigations as of the Effective Date. All individuals receiving payment pursuant to this Agreement shall sign a release of all claims related to the Project that they have or may have had against the Respondents pursuant to 8 U.S.C. § 1324b.
25. The provisions of Paragraphs 2 and 3 and Paragraphs 7 through 20 notwithstanding, IER shall not seek from Respondents any additional civil penalty or injunctive relief for the citizenship status discrimination in violation of 8 U.S.C. § 1324b(a)(1)(B) or the retaliation in violation of 8 U.S.C. § 1324b(a)(5) that is the subject of the IER Investigations through the Effective Date.
26. This Agreement resolves any and all differences under 8 U.S.C. § 1324b between the Parties relating to the IER Investigations through the Effective Date. IER represents that this settlement is in full satisfaction of its Investigations.

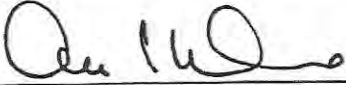
### **III. ADDITIONAL TERMS OF SETTLEMENT**

27. This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements or understandings between the Parties pertaining to the IER Investigations. This Agreement is governed by the laws of the United States. This Agreement shall be deemed to have been drafted by all Parties and shall not be construed against any one party in the event of a subsequent dispute concerning the terms of the Agreement. The Parties agree that the paragraphs set forth in Part II of this Agreement (entitled "Terms of Settlement") are material terms, without waiver of any Parties' right to argue that other terms in the Agreement are material.
28. The United States District Court for the District of Columbia shall be the preferred venue for enforcement of any claims over which that court has subject matter jurisdiction.

Otherwise, a party must bring any claim or counterclaim to enforce the Agreement in a court of competent jurisdiction. This provision does not constitute a waiver of sovereign immunity or any other defense the United States might have against a claim for enforcement or counterclaims asserted against it.

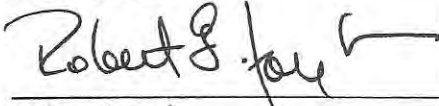
29. Should any court declare or determine that any provision(s) of this Agreement is/are illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected and said illegal or invalid part, term, or provision shall be deemed not to be a part of this Agreement. The Parties shall not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid.
30. The Parties agree that, as of the Effective Date, litigation concerning the alleged violations of 8 U.S.C. § 1324b within the scope of the IER Investigations is not reasonably foreseeable. To the extent that any party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to this matter, the party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves either party of any other obligations imposed by this Agreement.
31. The Parties shall each bear their own costs, attorneys' fees, and other expenses incurred in this action.
32. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. The Parties are bound by electronic or facsimile signatures.

**Arnold & Porter Kaye Scholer, LLP**

By:   
Anne P. Davis  
Co-Managing Partner

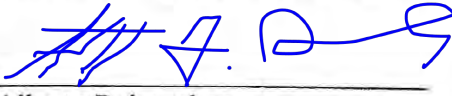
Dated: 7/15/20

**Law Resources, Inc.**

By:   
Robert Joseph  
President

Dated: 7-22-20

**Immigrant and Employee Rights Section**

By:   
Alberto Ruisanchez  
Deputy Special Counsel

Dated: 7/23/20

C. Sebastian Aloom  
Special Litigation Counsel

Sejal Jhaveri  
Jasmin Lott  
Trial Attorneys

Katelyn Davis  
Alessia Ruiz  
Paralegal Specialists