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12 UNITED STATES DISTRICT COURT

13 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION  
14

15 HUMAN RIGHTS DEFENSE CENTER,

16 Plaintiff,

17 v.

18 COUNTY OF PLACER; DEVON BELL,  
Sheriff, individually and in his official  
19 capacity; DARRELL STEINHAEUER,  
Corrections Commander, individually and  
20 in his official capacity; and JOHN AND  
JANE DOES 1-10, Staff, individually and  
21 in their official capacities,

22 Defendants.  
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Case No. 20-cv-00285-JAM-CKD

**SETTLEMENT AGREEMENT**

Judge: Hon. John A. Mendez

1 The parties to this action, represented by counsel, hereby enter into the following  
2 Settlement Agreement:

3 1. On February 6, 2020, Plaintiff Human Rights Defense Center (“Plaintiff”)  
4 filed suit in the above entitled matter seeking injunctive and declaratory relief, damages,  
5 attorney’s fees and costs. Plaintiff’s complaint alleges unlawful and unconstitutional  
6 policies, customs, and/or practices regarding the delivery of incoming publications to  
7 incarcerated persons at the County of Placer’s jails (the “Jail”), and the provision of  
8 inadequate notice and opportunity to challenge the refusal to deliver incoming mail to  
9 incarcerated persons, in violation of Plaintiff’s free speech and due process rights. The  
10 Complaint alleges violations of the First and Fourteenth Amendments to the United States  
11 Constitution, pursuant to 42 U.S.C. § 1983, as well as violations of the Article I, Section 2  
12 and Article I, Section 7 of the California Constitution, and of the Bane Act, California  
13 Civil Code § 52.1. Pursuant to California Government Code § 910, Plaintiff had submitted  
14 a state tort claim to the County of Placer on July 18, 2019, which included an invitation to  
15 negotiate resolution of these issues. The claim was denied on August 8, 2019.

16 2. On February 12, 2020, Plaintiff filed a motion seeking to preliminary enjoin  
17 Defendants County of Placer, Sheriff Devon Bell and Captain Darrell Steinhauer  
18 (“Defendants”) from refusing to deliver publications mailed by Plaintiff to incarcerated  
19 persons at the Jail and from failing to provide due process to challenge the censorship  
20 decisions. The motion was noticed for hearing on April 21, 2020.

21 3. After becoming aware of Plaintiff’s filed complaint and preliminary  
22 injunction motion, Defendants implemented revisions to their incoming mail policy with  
23 respect to the delivery of publications and correspondence to incarcerated persons at the  
24 Jail, and the provision of notice and opportunity to challenge refusals to deliver mail.  
25 Plaintiff and Defendants, through counsel, subsequently negotiated additional revisions to  
26 Defendants’ incoming mail policy and practices to address the alleged violations of the  
27 free speech and due process rights of Plaintiff and other senders of mail that Plaintiff’s  
28 lawsuit seeks to remedy.

1           4.     The Parties (“Plaintiff and all Defendants”) agree that this settlement  
2 agreement resolves all claims for relief alleged in Plaintiff’s complaint. By this settlement  
3 agreement, together with the payment of the sum of one hundred thousand dollars  
4 (\$100,000.00) by Placer County, the Parties agree that all claims alleged by Plaintiff in the  
5 above entitled action are fully and finally resolved, including Plaintiff’s attorney’s fees and  
6 costs for work performed in this case. Plaintiff hereby agrees to fully and forever release  
7 and discharge the County of Placer, Devon Bell, in his individual and official capacities,  
8 Darrell Steinhauer, in his individual and official capacities, together with their present or  
9 former elective and/or appointive boards, agents, servants, employees, consultants,  
10 departments, commissioners, attorneys, and officers from any and all claims, actions,  
11 causes of action, liabilities, damages, demands, attorneys’ fees, expenses and costs of any  
12 kind or nature whatsoever, whether known or unknown, suspected or unsuspected, which  
13 have existed or may have existed, or which do exist relating to the subject of this action.  
14 Plaintiff certifies that it has read Section 1542 of the California Civil Code, which  
15 provides:

16           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH  
17           THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS  
18           FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF  
              KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS  
              SETTLEMENT WITH THE DEBTOR.

19 Plaintiff hereby waives application of Section 1542 of the Civil Code. Plaintiff  
20 understands and acknowledges that, as a consequence of this waiver of Section 1542, even  
21 if Plaintiff should eventually suffer additional or further loss, damages or injury arising out  
22 of or in any way related to any of the events which gave rise to the claims, or any of them,  
23 Plaintiff will not be permitted to make any further claims against Defendants to recover for  
24 any such loss, damages or injury. Plaintiff acknowledges that it intends these  
25 consequences even as to claims that may exist as of the date of Settlement Agreement but  
26 which Plaintiff does not know exist, and which, if known, would materially affect  
27 Plaintiff’s decision to execute this Full and Final Release, regardless of whether Plaintiff’s  
28 lack of knowledge is the result of ignorance, oversight, error, negligence, or any other

1 cause. NOTHING IN THE FOREGOING IS INTENDED TO RELEASE THE  
2 COUNTY OR THE INDIVIDUAL DEFENDANTS IF THEY OR THEIR  
3 SUBORDINATES, AGENTS, SUCCESSORS OR EMPLOYEES CENSOR  
4 PLAINTIFF'S PUBLICATIONS OR MAILINGS IN THE FUTURE TO  
5 INCLUDE FILING A NEW LAWSUIT FOR INJUNCTIVE RELIEF AND  
6 DAMAGES, ATTORNEY'S FEES, AND COSTS FROM ANY SUCH  
7 CONDUCT. The Parties agree that Plaintiff will execute a release of all claims alleged in  
8 Plaintiff's complaint, and that Defendants will remit payment to Plaintiff as soon as  
9 reasonably possible after the entry of this order, but not later than sixty (60) days after  
10 entry of the order. If payment is not made within sixty (60) days, interest shall accrue  
11 pursuant to 28 U.S.C. § 1961 from the date of entry of this order.

12 5. No aspect of this Settlement Agreement or the settlement which led to it is  
13 intended to be nor at any time shall be construed, deemed, or treated in any respect as an  
14 admission by Defendants of liability for any purpose.

15 6. The Parties agree that providing incarcerated persons with reading material  
16 promotes positive contact with the communities into which they will eventually be  
17 released and is therefore consistent with the Defendants' public safety mission.

18 7. DEFINITIONS:

19 a. As used herein, PUBLISHER shall mean any publisher, commercial  
20 or non-profit distributor of printed materials, or book store that does mail order business.

21 b. As used herein, STAPLES shall mean the type of light-duty small  
22 wire staple fasteners commonly used to attach a few sheets of paper, and used by Plaintiff  
23 to bind the sheets of its monthly publications.

24 c. As used herein, MAILING LABELS shall mean the type of adhesive  
25 sticker used by Plaintiff to affix an address to an item of mail.

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1           8.     The Parties agree that Defendants and their successors, officers, agents,  
2 servants, and employees, and all others in active concert or participation with them:

3           a.     Shall not refuse to deliver books or other publications to incarcerated  
4 persons at the Jail from any PUBLISHER, including any publisher, commercial or non-  
5 profit distributor of printed materials, or book store that does mail order business, and that  
6 incarcerated persons at the Jail will be allowed to purchase, receive, and read books,  
7 newspapers and other periodicals that are accepted for delivery by the United States Postal  
8 Service, with or without a subscription from the PUBLISHER, provided Defendants may  
9 refuse to deliver books or other publications that pose a threat to the safety and security of  
10 the facility, so long as they provide written notice of the specific basis for the rejection and  
11 an administrative review process, as described in in Paragraph 7(e), *infra*. Publications  
12 that may pose a threat to the safety and security of the facility are those depicting harmful  
13 or unlawful sexual conduct; those describing weapons manufacture; those describing or  
14 encouraging activities that tend to incite violence or disruption, including racist materials;  
15 those threatening the safety of any person inside the Jail; and those that are sexually  
16 explicit and/or feature nudity.

17           b.     Shall not refuse to deliver publications, correspondence, or documents  
18 sent by any PUBLISHER to incarcerated persons at the Jail on the ground that these  
19 publications, correspondence, or documents contain STAPLES, provided that Defendants  
20 may comply by removing the STAPLES.

21           c.     Shall train Jail deputies at daily briefings and otherwise in the removal  
22 of STAPLES and will use rubber bands or paperclips to keep the publications,  
23 correspondence, or documents from which STAPLES were removed together prior to  
24 delivery to the incarcerated person at the Jail.

25           d.     Shall not refuse to deliver publications, correspondence, or documents  
26 sent by any PUBLISHER to incarcerated persons at the Jail because of MAILING  
27 LABELS, provided that Defendants may comply by removing the MAILING LABELS  
28 prior to delivery to the incarcerated person at the Jail.

1 e. Shall provide adequate written notice and an administrative review  
2 process to any PUBLISHER of any refusal to deliver any publication, correspondence, or  
3 document mailed by a PUBLISHER to an incarcerated person at the Jail. If a publication  
4 or other mailing is disapproved for delivery by Jail personnel, the PUBLISHER will be  
5 notified within fifteen (15) business days of the specific reason for the disapproval. The  
6 incarcerated person to whom the publication or other mailing is addressed shall also be  
7 notified that the Jail refused to deliver a mailing to them and the specific reason that the  
8 mailing was rejected for delivery. The PUBLISHER will be permitted to file an appeal of  
9 any disapproval to the Placer County Sheriff's Office. The Placer County Sheriff's Office  
10 will provide a written response to all such appeals within fifteen (15) business days of  
11 receiving the appeal. The appeal shall be considered and resolved by a decision-maker  
12 other than the person who originally refused to deliver the publication or other mailing in  
13 question. The publication or correspondence that was disapproved shall be retained by the  
14 Jail pending the completion of the above-described administrative review process so that  
15 the rejected mailing will be available for review by the Jail supervisor responsible for  
16 considering and resolving the appeal.

17 f. Shall include an explanation of the terms of Defendants' new  
18 incoming mail policy in relation to delivery of publications and correspondence and the  
19 administrative review process for refused mailings in the Placer County Jail Handbook for  
20 delivery to incarcerated persons and on its public website.

21 9. Because Defendants acted promptly to make changes to the incoming mail  
22 policies challenged by Plaintiff in the above entitled lawsuit after receiving Plaintiff's  
23 complaint and preliminary injunction motion, and worked cooperatively and in good faith  
24 with Plaintiff to address Plaintiff's concerns regarding said policies, the Parties agree that  
25 the Court need not retain jurisdiction over this matter for the purpose of enforcement of the  
26 Settlement Agreement, and agreed to a discounted lump sum to compensate Plaintiff for its  
27 damages, attorney's fees and costs.

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1 10. Defendants further agree to provide a written report to Plaintiff through  
2 counsel within ninety (90) days concerning the full implementation of all of the  
3 agreements set forth herein.

4 11. No person who has notice of this Settlement Agreement shall fail to comply  
5 with it, nor shall any person subvert the Settlement Agreement by any sham, indirection, or  
6 other artifice.

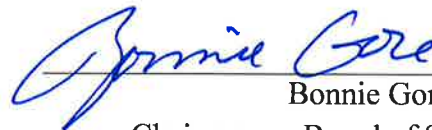
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8 Dated \_\_\_\_\_  
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\_\_\_\_\_  
Paul Wright  
Editor and Executive Director  
HUMAN RIGHTS DEFENSE CENTER  
Plaintiff

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13 Dated \_\_\_\_\_  
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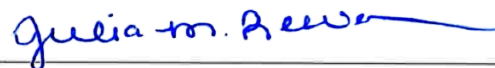
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Approved as to form  
Jeffrey L. Bornstein  
Rosen Bien Galvan & Grunfeld LLP  
Attorney for Plaintiff  
HUMAN RIGHTS DEFENSE CENTER

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18 Dated April 17, 2020  
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Bonnie Gore  
Chairperson, Board of Supervisors of  
PLACER COUNTY  
Defendant

20  
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22  
23 Dated April 20, 2020  
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Approved as to form  
Julia M. Reeves, Deputy County Counsel  
Attorney for Defendants  
PLACER COUNTY, DEVON BELL, DARRELL  
STEINHAUER