

SETTLEMENT AGREEMENT

IT IS HEREBY AGREED by and between the undersigned counsel for the Plaintiff and Defendants in the matter of *Prison Legal News v. County of Bernalillo, et al.*, 15CV107 JAP/KBM, as follows

1. On February 5, 2015, Plaintiff filed suit in the above-captioned matter seeking injunctive and declaratory relief, damages, attorneys' fees and costs, against the named Defendants. The complaint alleged an unlawful policy, practice and custom regarding censorship of books mailed from Plaintiff and other book distributors to prisoners in custody at the Metropolitan Detention Center ("MDC"), in violation of the First Amendment to the United States Constitution and 42 U.S.C. § 1983. The complaint also alleged violations of Plaintiff's right to due process of law consisting of Defendants' failure to give notice of each instance of book censorship and concomitant failure to provide Plaintiff an opportunity to appeal each censorship decision in violation of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

2. Since the filing of the complaint and request for injunction, the parties, have engaged in on-going negotiations in an attempt to amicably resolve this matter. The Defendants denied all liability. However, in order to put an end to this litigation and to avoid unnecessary expense and the uncertainties of future litigation regarding the Plaintiff's claims, the parties have agreed to the following terms and conditions: (1) the Defendants will deliver soft cover books sent through the mail directly to individual prisoners at MDC as long as the books are sent from publishers and other book distributors; (2) in the event that Defendants refuse to deliver any such book, Defendants will provide written notice of the decisions to censor any book to both the sender and the intended recipient of the book and such notice shall include a reference to the

objectionable portion of the book, a description of the way such portion violates MDC's rules, a citation to the MDC rule allegedly violated, and information about the procedure to appeal the decision, including the name and address of the person to whom such appeals should be addressed and the date by which appeals must be submitted; (3) Defendants will retain any such censored book(s) for review by the arbiter of appeals until such time as the appeal has been concluded or the time in which an appeal may be filed has expired, if no appeal has been filed; (4) Defendants will pay \$235,000 to Plaintiff in full and final settlement of all claims for damages, attorneys' fees and costs that were brought in this matter or could have been brought in this matter at any point up to and including the date of the execution of this Settlement Agreement.

3. The parties agree that the Jail Administrator, his agents, assigns, employees, deputies and successors will establish, implement, and enforce policies and procedures that will fully effectuate the terms of this Settlement Agreement.

4. It is further agreed that within 30 days of the date of execution of this Settlement Agreement, the Jail Administrator will disseminate a copy of this Settlement Agreement to all employees of the Metropolitan Detention Center via the team website. Further, a copy of this Settlement Agreement will be made available to all persons in custody at the MDC via the Kiosk system. Defendants' counsel will furnish Plaintiff's counsel with written confirmation of same.

5. The parties further agree that this matter shall be dismissed with prejudice on the condition that the Court enter the Order in the form attached hereto as Exhibit A.

Dated this 2nd day of November, 2015.

For Plaintiff:

Davis Wright Tremaine LLP

By 

Bruce E. H. Johnson

For Defendants:

Robles, Rael, Anaya

By 

Luis Robles

Bernalillo County Attorney

By 

Randy M. Autio

Exhibit A

AGREED ORDER OF DISMISSAL

The parties hereby agree that this case has been settled and that all issues and controversies have been resolved to their mutual satisfaction. The parties request the Court to retain jurisdiction to enforce the terms of their settlement agreement under the authority of *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375, 381-82 (1994):

IT IS HEREBY ORDERED:

1. The Court shall retain jurisdiction for the purpose of enforcing the terms of the settlement agreement entered into on November 2, 2015, a copy of which is attached and incorporated by reference as if fully set forth, as authorized by law.
2. Except as provided for in paragraph 1 above, this case is dismissed, with prejudice.

IT IS SO ORDERED this ___ day of November, 2015.

James A. Parker

UNITED STATES DISTRICT JUDGE