

SETTLEMENT AGREEMENT AND RELEASE

WHEREAS, on or about July 8, 2013, Prison Legal News, a project of the Human Rights Defense Center (hereinafter collectively referred to as “Plaintiff” or “PLN”) brought suit against Bob Holder, Comal County Sheriff, in his individual and official capacity (hereinafter “Holder”); and Comal County (hereinafter “Comal County”) (Holder and Comal County are collectively referred to as “Defendant”); in a case styled Cause No. 5:13-CV-00591-XR; *Prison Legal News, a project of the Human Rights Defense Center v. Bob Holder, Comal County Sheriff, in his individual and official capacity; and Comal County*; In the United States District Court for the Western District of Texas, San Antonio Division (hereinafter the “Lawsuit”);

WHEREAS, PLN brought suit against Defendant for various matters alleging that Defendants’ policies and practices violated the First and Fourteenth Amendments to the United States Constitution pursuant to 42 U.S.C. § 1983;

WHEREAS, PLN alleges that Defendant is liable to it;

WHEREAS, Defendant disputed PLN’s claims and asserts that it acted in a lawful and constitutional manner;

WHEREAS, without any admission of liability or wrongdoing and solely for the purpose of avoiding the costs and uncertainties of litigation, PLN and Defendant want to resolve all issues between them as set forth below;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, PLN and Defendant agree as follows:

I. Definitions

As used in this document, the following terms have the following meanings:

1. “Plaintiff” or “PLN” means Prison Legal News, a project of the Human Rights Defense Center, its assigns, employees, agents, attorneys, representatives, predecessors, legal representatives, officers, directors, shareholders, affiliates and associated entities of every kind and nature.

2. “Holder” means Bob Holder, Comal County Sheriff, in his individual and official capacities, together with its assigns, employees, agents, attorneys, representatives, predecessors, legal representatives, officers, directors, shareholders, affiliates, and associated entities of every kind and nature.

3. “Comal County” means Comal County, Texas, as well as all elected officials, agents and employees of Comal County, Texas; the Comal County Sheriff’s Office; the Texas Association of Counties; and Texas Association of Counties County Government Risk Management Pool; and all related individuals and entities, together with all of its assigns employees, agents, attorneys, representatives, predecessors, successors, officers, directors, shareholders, affiliates, legal representatives, parent companies, affiliates, subsidiaries and associated entities of every kind and nature.

4. “Defendants” means Holder and Comal County.

5. The “Parties” means PLN and Defendants.

6. “All Claims” means any and all possible demands, claims and/or causes of action that, as of the date of this Agreement, any of the Parties may have against each other, regardless of whether the demands, claims and/or causes of action are known or unknown, asserted or unasserted,

of whatever type, which may hereafter accrue or otherwise be acquired, which are founded in whole or in part upon the transactions, occurrences and/or conduct, including but not limited to the materials PLN sent to the Comal County Jail that were rejected and not delivered to detainees and to all other dealings between the Parties and all damages that proximately flow from any dealings between the Parties. The term “All Claims” specifically includes, but is not limited to, any such demands, claims, and/or causes of action arising under statute or common law, any common law theory, any conspiracy theory, any fraud theory, any misinterpretation theory, or any other legal or equitable theory of recovery. The term “All Claims” specifically includes, but is not limited to, claims or causes of action under any federal or state statute and include, but are not limited to claims of injuries to its business reputation and loss of revenue under 42 U.S.C. §1988 for violations of the 1st and 14th Amendments to the United States Constitution. The term “All Claims” specifically includes all claims and causes of action that arise as a result of materials PLN sent to the Comal County Jail that were rejected and not delivered to detainees.

7. “Agreement” means this Settlement Agreement and Release.

II. Terms of Settlement

1. The Parties, each having conferred with the counsel of their choosing and having the effects of entering into this Agreement explained to them by their counsel, **FREELY, VOLUNTARILY AND WITHOUT COERCION**, agree as follows:

- a. As consideration for PLN entering into this Agreement, the dismissal of all claims against Holder and dismissing the Lawsuit with prejudice, the total sum of One Hundred Seventy Five Thousand and NO/100s Dollars (\$175,000.00) will be paid to PLN on behalf of Comal County. The check will be made payable as follows: "Prison Legal News, a project of the Human Rights Defense Center (hereinafter the "Settlement Funds"). The receipt and adequacy of this consideration is expressly acknowledged and confessed. This settlement payment covers Plaintiff's damages, attorneys' fees, and costs for the issues resolved by and to the date of execution of this settlement agreement.
- b. The Settlement Funds will be paid thirty days after the later of: (1) Comal County's counsel's receipt of a copy of this Agreement fully executed by PLN, as well as IRS Form W-9 executed by PLN; (2) Comal County's counsel's receipt of drafting instructions from PLN's counsel; and (3) dismissal of Holder from the Lawsuit, with prejudice.
- c. As consideration for Defendants entering into this Agreement, PLN agrees to dismiss, with prejudice, all claims and causes of action it has brought against Holder in this Lawsuit.
- d. As consideration for Defendants entering into this Agreement, PLN agrees that it will not issue any press releases related to the settlement of All Claims or this Agreement.

2. As consideration for PLN entering into this Settlement Agreement and Release, and upon the dismissal of the Lawsuit, Comal County also agrees to do the following:

- a. Defendant previously implemented a new correspondence policy for the Comal County Jail. Defendant will further modify and implement the policy attached hereto as Exhibit 1 (hereinafter the "Policy").
- b. Not change the Policy in any manner that will make it unconstitutional.
- c. Train all corrections officers responsible for handling incoming or outgoing correspondence, publications, books or packages on the provisions of the Policy.
- d. Train all corrections officers who deal with detainees in the Comal County Jail what materials detainees may have in their possession in the Comal

County jail under the Policy.

- e. Incorporate the Policy into the Comal County Jail Inmate Handbook.
- f. Post a summary of the provisions of the Policy regarding the materials that are allowed to be sent to Comal County Jail detainees in the Comal County Jail and the Comal County Jail visitation area.
- g. Post a full copy of the Policy online on the Comal County Sheriff's Office's website.

3. The Parties agree that any substantive violation of this Agreement will constitute a violation of PLN's First Amendment and/or Fourteenth Amendment rights and will entitle PLN to bring suit for monetary and injunctive relief. The parties further agree that any such suit for breach of this Agreement and/or motion to enforce the terms of this Agreement shall be brought before Judge Xavier Rodriguez in the Federal District Court in San Antonio, Texas. PLN agrees to give Defendants written notice if it believes Comal County is in violation of this Agreement. PLN shall give written notice, setting out the nature of the violation of this Agreement with specificity, sent by overnight delivery, to the elected Sheriff of Comal County at the address of the Comal County Sheriff's Office as set out on the Comal County website. The parties further agree that Defendants shall not be liable to Plaintiff for minor violations of this Agreement and/or the Policy that are made in good faith.

4. PLN agrees that, upon receipt of the monies as provided hereinabove on behalf of Comal County, Comal County is discharged of all claims and causes of action, known or unknown, that could have been brought by PLN in the Lawsuit.

5. The Parties agree to execute any other documents reasonably necessary to effectuate the settlement.

6. The Parties agree that all attorney's fees and costs will be borne by the Parties as they were incurred.

7. The payment outlined in paragraph II.1.a. above is accepted by PLN in full and complete settlement of All Claims, including but not limited to all claims for damages of any kind, or character, including but not limited to: claims of injuries to its business reputation and loss of revenue, attorneys' fees and court costs that PLN may have or assert arising out of any materials sent to the Comal County Jail that were rejected which form the basis of the Lawsuit.

8. For and in consideration of the releases contained herein, PLN hereby FOREVER RELEASES, ACQUITS, AND FOREVER DISCHARGES Defendants from All Claims, contractual obligations, demand, or suits, known or unknown, fixed or contingent, liquidated or unliquidated, whether or not asserted in the above case, as of this date, arising from or related to the events and transactions which are the subject matter of the Lawsuit which occurred through and including the date of signing of this agreement. This release inures to the benefit of all attorneys, agents, employees, officers, directors, shareholders, insurers, partners, heirs, assigns, and legal representatives of the Parties hereto. This release includes, but is not limited to all demands, and causes of action, whether arising at law or in equity, arising under common law or statute, in tort or in contract, that were or could have been brought in the Lawsuit.

9. The Parties agree to file with the court a Joint Stipulation of Dismissal with Prejudice within thirty (30) days' receipt of the payment outlined in paragraph II.1.a. above. The stipulation shall incorporate the terms of this Agreement by reference and provide that costs be taxed to the party incurring same.

10. If for any reason a court of competent jurisdictions finds any provision of this

Agreement, or any portion thereof, to be unenforceable, such provision will be enforced to the maximum extent permissible so as to implement the intention of the parties, and the remainder of this Agreement shall continue in full force and effect.

11. The substantive laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Agreement. Venue on any dispute arising out of this agreement shall be in the federal courts covering Comal County, Texas.

12. The Parties to this Agreement agree that this Agreement constitutes the entire agreement between the Parties regarding the settlement of All Claims. This Agreement may only be modified by a subsequent written agreement which is specifically executed by the Parties or their respective successors or assigns. Besides the Agreement, there are no other written agreements, oral agreements, promises, representations, or oral understandings, of any type related to the release of All Claims or the settlement of the Lawsuit by PLN and Defendants.

13. This Agreement may be executed in multiple originals, each of which shall be considered an original and all of which shall constitute one and the same Agreement. Properly executed signature pages, whether they constitute original signature pages, or facsimile copies signature pages, may be attached to the original Agreement. Any copied signature page or facsimile copies signature page attached to this Agreement will have the same force and effects as an original signature page.

14. Each person signing this Agreement warrants that she/he is legally competent to execute the Agreement. Each person signing this Agreement on behalf of a governmental entity, corporation, partnership, or other legal entity warrants that she/he is fully authorized by that

governmental entity, corporation, partnership, or other legal entity to sign this Agreement. Each person signing this Agreement as the agent for a principal hereby represents and warrants to the other party or parties to this Agreement, that she/he is authorized by the principal to enter into this Agreement.

15. The Parties represent and warrant that: (i) They are the sole owner of All Claims being released herein and that (ii) they have not, in any manner, assigned away any of their ownership of All Claims.

16. There are no intended third-party beneficiaries to this Agreement.

17. Each of the parties specifically acknowledge and agree that the purpose of this Agreement is to avoid protracted litigation, save legal fees, and compromise disputed claims in a manner and on such terms as will allow the Parties to move forward for good public purpose. It is expressly acknowledged and agreed by each of the Parties that the terms of this Agreement are contractual and not mere recitals. Additionally, the Parties specifically acknowledge and agree that by entering into this Agreement, neither party is admitting liability to the other party or any third party and that no terms of this Agreement or any consideration given has been or shall be constructed by the other as an admission of liability, violation of law, or any wrongdoing.

18. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective heirs, successors, partners, venturers, owners, members, and assigns.

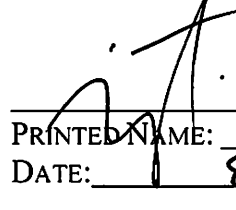
19. Each party hereto warrants and represents to all other Parties that no promise, representation, conduct, or consideration has been made by any other party to this Agreement, its owners, agents, servants, employees, attorneys, or persons in privity therewith, which has induced the execution of this Agreement except for those representations and agreements specifically set

forth herein.

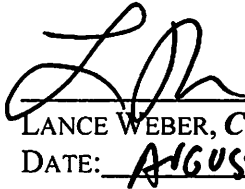
20. Each party to this Agreement agrees to bear such party's own court costs and expenses, including, without limitation, attorneys' fees and expenses.

IN WITNESS WHEREOF, the Parties hereto have respectfully duly executed this Agreement in multiple counterparts or have caused it to be executed on their behalf as of the date of the acknowledgment of such signatures.

PRISON LEGAL NEWS, A PROJECT OF THE HUMAN RIGHTS DEFENSE CENTER


PRINTED NAME: Paul Wright
DATE: 8/5/14

HUMAN RIGHTS DEFENSE CENTER


LANCE WEBER, *Counsel for Plaintiff*
DATE: AUGUST 5, 2014

TEXAS CIVIL RIGHTS PROJECT

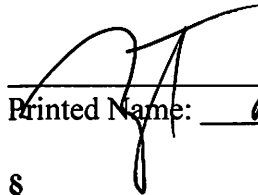
BRIAN MCGIVERIN, *Counsel for Plaintiff*
DATE: _____

COMAL COUNTY, TEXAS

PRINTED NAME: _____
TITLE: _____
DATE: _____

Dated: August 5, 2014.

PRISON LEGAL NEWS, A PROJECT OF THE HUMAN RIGHTS DEFENSE CENTER


Printed Name: Paul Wright

STATE OF FLORIDA

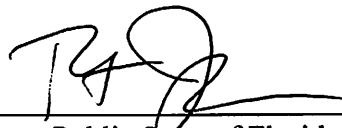
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COUNTY OF PALM BEACH

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BEFORE ME, the undersigned notary public in and for said county and state, on this day personally appeared PAUL WRIGHT, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me under oath that he/she executed the above and foregoing Settlement Agreement and Release as a representative of Prison Legal News, a project of the Human Rights Defense Center and for the purposes and consideration therein expressed; that he/she executed the same as his/her free and voluntary act and deed, not under coercion of any kind, and after having read it fully and after realizing the effect thereof; that he/she has conferred with counsel of his/her choosing and has had the legal effect of executing this agreement explained to him/her by his/her counsel of choice; and that the same was executed by him/her without any threat, force, fraud, duress or representation of any kind (other than those representations set forth in the foregoing instrument) by any person whomsoever.

SUBSCRIBED AND SWORN TO BEFORE ME on this 5th day of AUGUST, 2014.



Notary Public State of Florida

