

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PRISON LEGAL NEWS,

Plaintiff, **STIPULATION OF
SETTLEMENT AND ORDER OF
DISMISSAL**

-v-

11 CV 7118 (VLB)(LMS)

WILLIAM LEE, BRIAN FISCHER, NANNETTE
FERRI, JOHN DOES 1-30, and THE STATE OF
NEW YORK,

Defendants.

WHEREAS plaintiff, Prison Legal News, filed a complaint in this action (“complaint”), alleging that defendants had violated plaintiff’s constitutional rights in connection with the alleged censorship and/or refusal to distribute some of its publications to inmates in the custody of the New York State Division of Correctional Services and Community Supervision (“DOCCS”);

WHEREAS, defendants deny that the any of the defendants' actions violated plaintiff's constitutional rights and the policies challenged by plaintiff in this action have been modified;

WHEREAS the remaining parties wish to resolve the issues alleged in the complaint in the above-captioned action (the “Action”), and have negotiated in good faith for that purpose;

WHEREAS none of the parties to the Action is an infant or incompetent person;

WHEREAS the parties to the Action wish to discontinue this litigation without the need for trial and without admitting any wrongdoing on the part of defendants;

WHEREAS plaintiff represents and warrants that, other than this Action, it has no action or proceeding pending in any court arising out of or relating to the subject matter of this lawsuit;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the undersigned parties and counsel as follows:

1. The Action is dismissed and discontinued with prejudice.
2. Defendants shall pay the total sum of \$ 155,000.00 in full satisfaction of any and all claims for relief in this Action, including attorneys fees, costs and disbursements. Payment shall be made in two checks as follows:

- a. A check for One Hundred Fifteen Thousand Dollars (\$115,000.00) shall be drawn to the order of the plaintiff Prison Legal News; and sent to Prison Legal News, P.O. Box 2420, West Brattleboro, VT 05303.

- b. A check for Forty Thousand Dollars (\$40,000.00) shall be drawn to the order of plaintiff's attorney of record, Law Offices of Elmer Robert Keach, III, PC, and sent to Law Offices of Elmer Robert Keach, III, PC, P.O. Box 70, Amsterdam, NY 12010.

3. In consideration of the payment of the sums recited in paragraph #2 above, the plaintiff, Prison Legal News, hereby releases and discharges each of the defendants and any and all current or former employees or agents of New York State or the New York State Department of Corrections and Community Supervision, in their individual and official capacities, and their heirs, executors, administrators and assigns, and the State of New York and its agencies, including, without limitation, the New York State Department of Corrections and Community Supervision, from any and all claims, liabilities and causes of action which plaintiff or plaintiff's representatives, heirs or assigns ever had, now has or hereafter shall or may have for, upon, or by reason of any matter, cause or thing arising from or relating to the matters that were alleged or could have been alleged in the Action. Nothing in this release is meant to preclude plaintiff from asserting claims in

the future that could not have been asserted in this action because they only accrued after this stipulation was So Ordered by the Court.

4. Nothing in this Stipulation of Settlement shall be construed as an admission or acknowledgment of liability whatsoever by any of the defendants, New York State, or the New York State Department of Corrections and Community Supervision regarding any of the allegations made by the plaintiff in his complaint. Nor shall anything in this Stipulation of Settlement be construed in this or any future case as a voluntary submission to the jurisdiction of the federal court by the State of New York.

5. Payment of the amounts recited in paragraph #2 above is subject to the approval of all appropriate New York State officials in accordance with the provisions for indemnification under Section 17 of the New York Public Officers Law. Plaintiff agrees to execute and deliver to counsel for defendants all necessary or appropriate vouchers and other documents requested with respect to such payment.

6. In the event payments of the amounts recited in paragraph #2 above are not made within one hundred and twenty (120) days after the receipt by defendants' counsel of a copy of the fully executed So-ordered Stipulation of Settlement as entered by the Court, interest shall accrue on the outstanding principal balance at the rate set forth in 28 U.S.C. § 1961 beginning on the one hundred and twenty-first day after receipt by defendants' counsel of a copy of the fully executed So-ordered Stipulation of Settlement.

7. This Stipulation of Settlement and any Order entered thereon shall have no precedential value or effect whatsoever and shall not be admissible in any other action or proceeding as evidence or for any other purpose, except in an action or proceeding to enforce this Stipulation of

Settlement. However, this Stipulation of Settlement is not confidential, and it will be a public document when it is filed with the Court.

8. This Stipulation of Settlement and Order of Dismissal embodies the entire agreement of the parties in this matter and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceedings, shall bind the parties hereto, or vary the terms and conditions contained herein.

Dated: New York, New York
November 9, 2012

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
Attorney for Defendants



By: Daniel Schulze
Special Litigation Counsel
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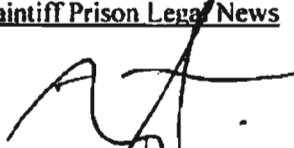
Dated: Amsterdam, New York
November 9, 2012

ELMER ROBERT KEACH, III
Attorney for Plaintiff



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Plaintiff Prison Legal News



Paul Wright, Executive Director
Human Rights Defense Center
Publisher, Prison Legal News
P.O. Box 2420
West Brattleboro, VT 05303
(802) 257-1342

SO ORDERED:

Dated: _____, 2012

Hon. Vincent L. Briccetti
United States District Judge