

**IN THE MATTER OF:  
Prison Legal News v. County of Cook, IL, et al.  
Case No. 1:16-cv-06862  
U.S. DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS**

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**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into as of the date this Agreement is signed, by and among the County of Cook, Illinois, on behalf of itself and all of its officers, directors, employees, former employees, agents, predecessors, divisions, successors, administrators, and assigns, including but not limited to Sheriff Thomas Dart and Nneka Jones Tapia (collectively referred to as "Defendants"), and Prison Legal News ("PLN"), on behalf of itself and all of its officers, directors, employees, former employees, agents, predecessors, divisions, successors, administrators, and assigns. Defendants and PLN collectively are "the Parties".

**I. Recitals**

A. At all times relevant hereto, Sheriff Thomas Dart is and was an independently and publicly elected official, and Nneka Jones Tapia was the Executive Director of the Cook County, Illinois Department of Corrections.

B. At all times relevant hereto, PLN is and was a wholly owned publishing project of the Human Rights Defense Center, a 501(c)(3) non-profit corporation with offices in Lake Worth, Florida. PLN publishes *Prison Legal News* and *Criminal Legal News*, monthly magazines containing news and analysis about criminal justice and corrections, as well as books and other publications focused on prisons and/or criminal justice issues.

C. This Agreement addresses and resolves certain disputes arising from and relating to allegations that Defendants violated PLN's First and Fourteenth Amendment rights as it relates

to the handling and delivery of its publications at the Cook County Jail (the "Jail"), and the alleged lack of due process associated with Defendants' failure to provide PLN notice and opportunity to be heard regarding rejected or censored publications.

D. The Parties agree that the Defendants deny any liability in this case. In order to avoid the expense, delay, uncertainty, and burden of litigation, the parties have agreed to a settlement of the claims for damages and injunctive relief. This Agreement does not resolve the claim for attorneys' fees and costs, which issue remains open. This Agreement memorializes the terms of the settlement reached by Defendants and PLN.

## **II. Injunctive terms**

1. Defendants agree that they shall deliver, if consistent with Defendants' legitimate penological interests and express policy terms based thereon, any publications sent by the Human Rights Defense Center that are individually addressed to a detainee at the Jail, including but not limited to books, issues of the monthly magazines *Prison Legal News* and *Criminal Legal News*, or other publications. Defendants shall not condition delivery of any publication on the recipient giving up ownership in said publication.

2. Defendants agree that all incoming publications sent by the Human Rights Defense Center will be reviewed on a case-by-case basis for a determination of suitability within the parameters of institutional safety and security. Defendants agree not to censor or withhold publications sent by the Human Rights Defense Center solely because they are printed on newsprint.

3. Defendants agree that whenever authorities at the Jail refuse to deliver HRDC publications sent to a prisoner at the Jail for any reason, jail personnel shall place into the mail written notice to HRDC within five (5) business days of making an initial mail rejection

decision. The notice shall include the name and address of HRDC as well as the name(s) of the intended recipient(s), a description of the refused publication, and a brief description of the reason for denying delivery of the publication, and a citation to the page(s) of the publication claimed to be objectionable by the jail. Further, the notice shall inform HRDC of its right to appeal the decision, and include the name and address of the person to whom such appeals should be addressed and the date by which appeals must be submitted. A copy of the notice shall also be given to the intended prisoner-recipient of the publication. The refused publication will be retained by the Jail in accordance with the appeal process established by the Jail.

4. The Parties agree that Defendants Thomas Dart and Nneka Jones Tapia, and their agents, assigns, employees, deputies and successors, will establish, implement and enforce policies and procedures that will fully effectuate the terms of this Agreement.

5. It is further agreed that within sixty (60) days of the date of entry of this Agreement the Defendant Thomas Dart will disseminate a copy of the policies established pursuant to Section II.4 to all employees of the Jail. Further, copies of these policies shall be available to prisoners in the Jail's library, and the procedures shall be articulated in the Prisoner Handbook. Within that time-frame, Defendants' counsel will furnish the Court and Plaintiff's counsel with written confirmation that Defendants have complied with the provisions of this paragraph.

6. The Parties agree that the Jail shall conduct an appropriate training session with all staff persons who are responsible for any part of the receipt, collection, and delivery of U.S. Mail to prisoners at the Jail about the contents of this Agreement. Defendants shall file with the Court a notice that said training has been conducted within ninety (90) days of the entry of the stipulation and Order by the Court, and they shall provide a copy of the materials used for such training to PLN's counsel at the time of filing.

### **III. Monetary Agreement and Dismissal**

7. Cook County agrees to pay PLN a total of \$35,000.00 in full and final settlement of all claims for damages that were brought in this matter or could have been brought in this matter. The parties agree that the above total does not include any amount for attorneys' fees and costs. The issue of attorneys' fees and costs remains open, and shall be litigated separately. Cook County will send direct payment to PLN's local counsel, Loevy & Loevy, 90 days after the execution of this agreement.

### **IV. Reservation of Jurisdiction**

8. The Parties agree that the Court shall retain jurisdiction for the purpose of enforcing the terms of this Agreement under the authority of *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375, 381-82 (1994).

### **V. Miscellaneous Provisions**

9. The parties agree that this case concerns the First and Fourteenth Amendment rights of a publisher and is therefore not a case concerning prison conditions as defined in the Prison Litigation Reform Act of 1996. Accordingly, it is agreed that the relief herein ordered is narrowly drawn, extends no further than necessary to correct the harm to PLN, and is the least intrusive means necessary to correct that harm.

10. The parties agree that public interest is served by the entry of this injunction, which protects the constitutional rights of PLN to correspond with prisoners by mail, and the rights of prisoners to send and receive mail.

11. Defendants and PLN acknowledge and agree that they have been represented by legal counsel with respect to the matters that are the subject of this Agreement and that they have entered into this Agreement freely and voluntarily.

12. The Parties agree that facsimile or PDF signatures are deemed to be originals and that this Agreement may be executed in counterparts. Upon signature of the Parties, this Agreement shall be deemed executed, final, and binding.

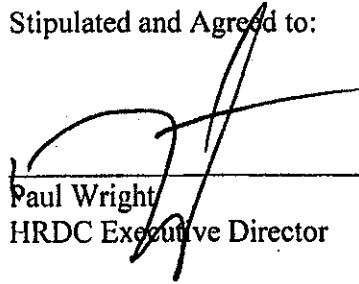
13. This Agreement sets forth the entire understanding between the Parties with respect to the subject matter contained herein, and there are no representations, warranties, agreements, arrangements, or undertakings, oral or written, between or among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein. This Agreement supersedes all prior negotiations, representations, statements, or promises between the Parties, whether written or oral, as to these claims.

14. This Agreement shall be binding upon and inure to the benefit of the Defendants and PLN, and their respective successors and assigns.

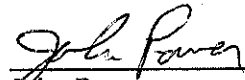
15. The obligations imposed by this Agreement are severable. If for any reason a part of this Agreement is invalid or unenforceable, that determination shall not affect the remainder of this Agreement.

16. This Agreement and any of its provisions may be amended, modified, or terminated only by written agreement by PLN and Defendants. Such written agreement(s) shall be effective only upon approval by the Court.

Stipulated and Agreed to:

  
\_\_\_\_\_  
Paul Wright  
HRDC Executive Director

11/30/18  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
John Power  
Counsel for Plaintiff

12/3/18  
\_\_\_\_\_  
Date