

1 Kathleen Bales-Lange, #094765  
2 County Counsel for the County of Tulare  
3 Kathleen A. Taylor, #131100  
4 Chief Deputy County Counsel  
5 Kevin Stimmel, #292838  
6 Deputy County Counsel  
7 2900 West Burrel, County Civic Center  
8 Visalia, California 93291  
9 Telephone: (559) 636-4950  
10 Facsimile: (559) 737-4319  
11 E-mail: [kstimmel@co.tulare.ca.us](mailto:kstimmel@co.tulare.ca.us)

12 Attorneys for Defendant County of Tulare

13 **UNITED STATES DISTRICT COURT**  
14 **EASTERN DISTRICT OF CALIFORNIA**

15 PRISON LEGAL NEWS, a project of the  
16 HUMAN RIGHTS DEFENSE CENTER,

17 Plaintiff(s),

18 v.

19 COUNTY OF TULARE; MIKE  
20 BOUDREAUX, individually and in his  
21 capacity as Sheriff-Coroner of the County of  
22 Tulare; DOES 1-20, in their individual and  
23 official capacities,

24 Defendant(s).

Case No. 1:15-CV-01650-JAM SAB

STIPULATION AND CONSENT DECREE

Judge: Hon. John A. Mendez

25 The parties to this action, represented by counsel, stipulate to and request entry of a consent  
26 decree by the court as follows:

27 1. On October 29, 2015, Plaintiff Prison Legal News, a Project of the Human  
28 Rights Defense Center ("Plaintiff") filed suit in the above entitled matter seeking injunctive  
and declaratory relief, money damages, attorney's fees and costs. Plaintiff's complaint  
alleges an unlawful and unconstitutional custom, practice, or policy regarding the delivery  
of incoming publications and correspondence to prisoners at the County of Tulare jails. The  
complaint alleges violations of the First and Fourteenth Amendments to the United States  
Constitution, pursuant to 42 U.S.C. § 1983.

1           2.       Shortly after becoming aware of the Plaintiff’s filed Complaint, Defendant  
2 responded immediately by implementing a new mail policy in connection with delivery of  
3 the publication.

4           3.       On December 7, 2015, Defendants County of Tulare, et al., (collectively  
5 “Defendants”) filed an answer denying the allegations of the complaint and raising various  
6 affirmative defenses.

7           4.       On December 16, 2015, the Court granted Plaintiff’s motion for preliminary  
8 injunction in part, and denied in part.

9           5.       Plaintiff and Defendants (collectively “Parties”) agree that Defendants have  
10 disputed, and continue to dispute and deny, liability. However, in order to avoid the expense,  
11 delay, uncertainty, and burden of litigation the Parties agree to the entry of this consent  
12 decree.

13           6.       The Parties agree that this consent decree resolves all claims for injunctive  
14 relief alleged in the Plaintiff’s Complaint. By this consent decree, together with payment of  
15 the sum of fifteen thousand dollars (\$15,000.00), the Parties agree that all equitable and  
16 damages claims alleged by Plaintiff are fully and finally resolved. The Parties agree that  
17 Plaintiff will execute a release of all claims, and that Defendant will remit payment to  
18 Plaintiff, within 45 days of the entry of this consent decree by the Court. If payment is not  
19 made within (60) days, interest shall accrue pursuant to 28 U.S.C. §1961 from the date of  
20 entry of this order. The Parties agree that Plaintiff will submit a petition for attorneys’ fees  
21 and costs for work performed in this case to the Court, and nothing in this consent decree  
22 affects or limits its right to do so. The parties agree that the court shall award Plaintiff such  
23 fees and costs pursuant to 42 U.S.C. section 1988 as the prevailing party.

24           7.       DEFINITIONS:

25           a. As used herein, STAPLES shall mean the type of light-duty small wire  
26 fasteners commonly used to attach a few sheets of paper, and used by Plaintiff to bind  
27 the sheets of its monthly publication.

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

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, shall not  
3 refuse to deliver publications, correspondence, or documents sent by any PUBLISHER to  
4 prisoners at Defendants' jails on the ground that these publications, correspondence, or  
5 documents contain STAPLES, provided that Defendants may comply by removing the  
6 STAPLES.

7           9.       The Parties agree that Defendants shall provide adequate written notice and an  
8 administrative review process to the PUBLISHER of any refusal to deliver any publication,  
9 correspondence, or document sent from a PUBLISHER to a prisoner at the Defendants' jails.  
10 The administrative review process shall include the PUBLISHER's right to have its appeal,  
11 complaint, or inquiry considered and resolved by a decision maker other than the person who  
12 originally refused to deliver the publication or mailing in question. Defendants agree to  
13 provide a written response to all publication censorship appeals within 15 business days of  
14 receiving the appeal.

15           10.     The Parties agree that Defendants shall include an explanation of the terms of  
16 the Sheriff's New Mail Policy in relation to delivery of publications and the administrative  
17 review process for refused mailings in the Tulare County Jail Handbook for delivery to  
18 prisoners and on its website.

19           11.     Nothing in this Consent Decree is intended either to create any rights in or  
20 grant any cause of action to any person not a party to this Consent Decree, or to release or  
21 waive any claim, cause of action, demand, or defense in law or equity that any party to this  
22 Consent Decree may have against any person(s) or entity not a party to this Consent Decree.

23           12.     If Plaintiff identifies, in future, a violation of this order Plaintiff shall give  
24 prompt notice to Defendants to cure said violation. The Parties shall meet and confer (either  
25 telephonically or in person) at the earliest possible time in a good-faith effort to resolve the  
26 claim before seeking relief from the Court. If the violation is not cured by this meet and  
27 confer process between the Parties, Defendants shall be liable for the reasonable attorney's  
28 fees and costs Plaintiff incurred in proving the violation.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

APPROVED AS TO FORM AND CONTENT

Dated: 6/30/2016

ROSEN BIEN GALVAN & GRUNFELD LLP

By: /s/  
Lisa Ells  
Attorney for Plaintiff Prison Legal News

IT IS SO ORDERED.

DATED: 7/5/2016

/s/ John A. Mendez  
John A. Mendez,  
United States District Court Judge