

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JOSHUA LUCIANO, MICHAEL MELLEN,)
and JOHN MICHAUD,)
)
Plaintiffs,)

v.)

MICHAEL VITIELLO, Superintendent of York)
County Jail, in his individual and official)
capacities, JOHN ANGIS, in his)
individual and former official capacities as)
Operations Captain, York County Jail,)
STEVEN A. FOGGIO,)
Facilities Manager for York County,)
in his individual and official capacities,)
and COUNTY OF YORK)
)
Defendants)

Civil Action No. 2:07-cv-25- DBH

CONSENT ORDER

WHEREAS, Plaintiffs brought this lawsuit as a result of the cleanup of a blood spill at the York County Jail where it was alleged that the Plaintiffs were not given proper training and protection against infection from bloodborne pathogens; and

WHEREAS the parties have reached a settlement; and

WHEREAS a material term of the settlement is that the County of York and Michael Vitiello in his capacity as Superintendent of the York County Jail will be permanently enjoined from the use of inmates to clean up bloodspills without their consent and adequate training and protection.

NOW THEREFORE, upon joint motion of the parties, it is hereby
AGREED, ORDERED, ADJUDGED and DECREED that Defendants York County and

the York County Jail (collectively “the County”), and their respective officers, employees, agents and successors, are hereby permanently enjoined and ordered to:

1. Keep in force permanently York County Jail Policy and Procedures No. B-220 (“Bloodborne Pathogen Exposure Control Plan”) with Appendix A thereto (collectively the “Policy”) or any replacement thereof or substitution therefor providing at least as much protection as the existing Policy.

2. Except as provided below, the York County Jail shall not assign or ask any inmate to undertake a clean-up of, or otherwise to be exposed to, blood, any other material designated a biohazard, or contaminated or other potentially infectious material as defined by the Policy. This order does not encompass accidental or unintended exposure of an inmate to the biohazard materials defined by the Policy.

3. The York County Jail may assign or ask an inmate to undertake a job with such exposure provided that:

- a. The inmate is first trained in the Policy; and
- b. The inmate is advised that this work assignment is voluntary; and
- c. The inmate is afforded all protections set forth in the Policy, including access to protective clothing and equipment.

4. To advise inmates of the terms of this Order, the Jail shall include the substantive portions of this Order in the orientation of all future inmate workers assigned to positions where a cleanup may occur.

5. This Injunction is intended for the benefit of existing and future inmates at the York County Jail and any such inmate that does not receive the benefits and

protections intended by this Injunction shall have standing to apply to the Court to enforce the terms thereof.

6. This Order shall remain in effect unless vacated or modified by the Court. The Court enters this Order without prejudice of any party seeking to amend the Order by motion or otherwise, with appropriate notice afforded to all parties.

7. The Court will retain jurisdiction over this matter for purposes of enforcement of the injunction.

8. Except for the injunction in this Order, the other claims in the suit are dismissed with prejudice and without costs.

IT IS SO ORDERED.

Dated: January 23, 2008

/s/ D. Brock Hornby
D. Brock Hornby
U.S. District Judge