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6 Corporation of America, Todd Thomas, Ben
7 Griego, Marcos Lopez and Daren Swenson

8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 PRISON LEGAL NEWS, a project of the
12 Human Rights Defense Center, a Washington
non-profit charitable corporation,

13 Plaintiff,

14 v.

15 CORRECTIONS CORPORATION OF
16 AMERICA, a Maryland corporation; DAREN
17 SWENSON, CCA Regional Director of
Operations; TODD THOMAS, Warden,
18 Saguardo Correctional Center; BEN GRIEGO,
Assistant Warden, Saguardo Correctional
19 Center; MARCO LOPEZ, Chief of Security,
Saguardo Correctional Center; and DOES1-100,
inclusive,

20 Defendants.

NO. CV-09-1831-PHX-ROS

**DEFENDANTS SWENSON,
THOMAS, GRIEGO, LOPEZ, AND
CORRECTIONS CORPORATION
OF AMERICA’S ANSWER TO
PLAINTIFF’S COMPLAINT**

21 Defendants Corrections Corporations of American (“CCA”),
22 Swenson, Thomas, Griego, and Lopez, through counsel, admit, deny, and allege as
23 follows:
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26 1. These answering Defendants deny each and every allegation of
27 Plaintiff’s Complaint which is not specifically admitted, denied or otherwise pled to.
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1 9. In answering Paragraph 8 of Plaintiff's Complaint, Defendants admit
2 same.

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4 10. In answering Paragraph 9 of Plaintiff's Complaint, Defendants admit
5 that Defendant Thomas was an employee of CCA during the relevant time period and is
6 currently the warden of the Saguaro Correctional Center.

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8 11. In answering Paragraph 10 of Plaintiff's Complaint, Defendants
9 admit that Defendant Griego was an employee of CCA during the relevant time period
10 and is currently the assistant warden of the Saguaro Correctional Center.

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12 12. In answering Paragraph 11 of Plaintiff's Complaint, Defendants
13 admit only that Defendant Lopez was an employee of CCA during the relevant time
14 period.

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16 13. In answering Paragraph 12 of Plaintiff's Complaint, Defendants are
17 without sufficient knowledge and information to admit or deny the allegations, and
18 therefore deny same.

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20 14. In answering Paragraph 13 of Plaintiff's Complaint, Defendants
21 admit only that CCA is a private prison corporation, acting under color of law in the
22 incarceration of inmates for various local, state and federal jurisdictions. Defendants deny
23 the remaining allegations set forth in Paragraph 13.

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25 15. In answering Paragraph 14 of Plaintiff's Complaint, Defendants
26 admit same.

1 23. In answering Paragraph 22 of Plaintiff's Complaint, Defendants
2 allege that CCA's policies speak for themselves, and deny the remainder of Plaintiff's
3 allegations.
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5 24. In answering Paragraph 23 of Plaintiff's Complaint, Defendants are
6 without sufficient knowledge or information to admit or deny the allegations, and
7 therefore deny same.
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9 25. In answering Paragraph 24 of Plaintiff's Complaint, Defendants are
10 without sufficient knowledge or information to admit or deny the allegations, and
11 therefore deny same.
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13 26. In answering Paragraph 25 of Plaintiff's Complaint, Defendants are
14 without sufficient knowledge or information to admit or deny the allegations, and
15 therefore deny same.
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17 27. In answering Paragraph 26 of Plaintiff's Complaint, Defendants are
18 without sufficient knowledge or information to admit or deny the allegations, and
19 therefore deny same.
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21 28. In answering Paragraph 27 of Plaintiff's Complaint, Defendants are
22 without sufficient knowledge or information to admit or deny the allegations, and
23 therefore deny same.
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1 29. In answering Paragraph 28 of Plaintiff's Complaint, Defendants are
2 without sufficient knowledge or information to admit or deny the allegations, and
3 therefore deny same.
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5 30. In answering Paragraph 29 of Plaintiff's Complaint, Defendants are
6 without sufficient knowledge or information to admit or deny the allegations, and
7 therefore deny same.
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9 31. In answering Paragraph 30 of Plaintiff's Complaint, Defendants
10 admit that inmate Kanae received his books. Defendants are without sufficient knowledge
11 or information to admit or deny the remaining allegations contained in Paragraph 30, and
12 therefore deny same.
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14 32. In answering Paragraph 31 of Plaintiff's Complaint, Defendants are
15 without sufficient knowledge or information to admit or deny the allegations, and
16 therefore deny same.
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18 33. In answering Paragraph 32 of Plaintiff's Complaint, Defendants
19 allege that CCA's policies speak for themselves. Defendants are without sufficient
20 knowledge or information to admit or deny the remaining allegations contained in
21 Paragraph 32, and therefore deny same.
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23 34. In answering Paragraph 33 of Plaintiff's Complaint, Defendants deny
24 same.
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1 35. In answering Paragraph 34 of Plaintiff's Complaint, Defendants deny
2 same.

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4 36. In answering Paragraph 35 of Plaintiff's Complaint, Defendants deny
5 same.

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7 37. In answering Paragraph 36 of Plaintiff's Complaint, Defendants deny
8 same.

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10 38. In answering Paragraph 37 of Plaintiff's Complaint, Defendants deny
11 that their policies are unconstitutional. Defendants are without sufficient knowledge or
12 information to admit or deny the remaining allegations contained in Paragraph 37, and
13 therefore deny same.
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15 39. In answering Paragraph 38 of Plaintiff's Complaint, Defendants deny
16 same.
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18 40. In answering Paragraph 39 of Plaintiff's Complaint, Defendants deny
19 same.
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21 41. In answering Paragraph 40 of Plaintiff's Complaint, Defendants deny
22 same.
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24 42. In answering Paragraph 41 of Plaintiff's Complaint, Defendants deny
25 same.
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Constitution Under Color of State Law)

55. In answering Paragraph 54 of Plaintiff’s Complaint, Defendants incorporate by reference herein, paragraphs 1-54, above.

56. In answering Paragraph 55 of Plaintiff’s Complaint, Defendants deny same.

57. In answering Paragraph 56 of Plaintiff’s Complaint, Defendants deny same.

58. In answering Paragraph 57 of Plaintiff’s Complaint, Defendants deny same.

FIFTH CLAIM FOR RELIEF

(For Violations of Fourteenth Amendment Due Process Clause Under Color State Law, Actionable Through 42 U.S.C. § 1983)

59. In answering Paragraph 58 of Plaintiff’s Complaint, Defendants incorporate by reference herein, Paragraphs 1-58, above.

60. In answering Paragraph 59 of Plaintiff’s Complaint, Defendants deny same.

61. In answering Paragraph 60 of Plaintiff’s Complaint, Defendants deny same.

SIXTH CLAIM FOR RELIEF

1 69. As a separate defense, or in the alternative, Defendants allege that
2 they were acting under legal process, with good, sufficient and probable cause to be so
3 acting, and that the actions of Defendant were in good faith and without malice.
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5 70. As a separate defense, or in the alternative, Defendants assert that
6 they did not violate Plaintiff's rights under the First Amendment of the United States
7 Constitution.
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9 71. As a separate defense, or in the alternative, Defendants allege that
10 Plaintiff has failed to set forth the requisite showing of subjective intent necessary to
11 sustain a cause of action alleging a constitutional violation, thereby warranting dismissal
12 of this lawsuit.
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14 72. As a separate defense, or in the alternative, Defendants allege that
15 their actions were objectively reasonable under the circumstances and that they were
16 acting in good faith and without malice.
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18 73. As a separate defense, or in the alternative, Defendants allege that
19 Plaintiff has failed to set forth a grave deprivation in regard to its allegation that a
20 constitutional violation has occurred, thereby warranting dismissal of this lawsuit.
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22 74. As a separate defense, or in the alternative, Defendants allege that
23 there existed no conduct in this case motivated by an evil motive or intent, nor did any
24 conduct involve reckless or callous indifference to the rights of Plaintiff, thereby
25 precluding punitive damages.
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1 75. As a separate defense, or in the alternative, Defendants allege that
2 Plaintiff suffered no actual injury, therefore warranting dismissal of these claims.

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4 76. As a separate defense, or in the alternative, Defendants allege that
5 Plaintiff has failed to allege that Defendant promulgated a custom and policy or practice
6 which was the moving force behind the alleged violations to Plaintiff's constitutional
7 rights, thereby warranting dismissal of certain claims against them.

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9 77. As a separate defense, or in the alternative, Defendants allege that
10 Plaintiff is not a member of a protected class by which Defendant discriminated against
11 Plaintiff, or otherwise treated Plaintiff differently from others similarly situated, due to
12 membership in a protected class of persons.

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14 78. As a separate defense, or in the alternative, Defendants allege that
15 any actions by Defendants furthered a legitimate and important governmental interests in
16 maintaining the safety and security of the prison, thereby warranting dismissal of
17 Plaintiff's claims.

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19 79. Although Defendants do not presently have fact in support of the
20 following defenses, Defendants wish to assert the following defenses should subsequent
21 discovery reveal these defenses are appropriate. Specifically, the following affirmative
22 defenses set forth in Rule 8(c), F.R.C.P. and Rule 12, including but not limited to:
23 arbitration and award, assumption of risk, contributory negligence, duress, estoppel, fraud,
24 illegality, statute of limitations, release, res judicata, waiver, venue, insufficiency of
25 process and insufficiency of service of process.

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