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17 Attorneys for Plaintiff

18
19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

21
22 HUMAN RIGHTS DEFENSE CENTER,

23 Plaintiff,

24 v.

25 COUNTY OF LOS ANGELES; JIM
MCDONNELL, Sheriff, Los Angeles
26 County; NEAL TYLER, Executive
Officer, Los Angeles County Sheriff's
27 Department; KELLY HARRINGTON,
Assistant Sheriff, Los Angeles County;
28 JOANNE SHARP, Custody Services

Case No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
DAMAGES UNDER THE CIVIL
RIGHTS ACT, 42 U.S.C. § 1983,
CALIFORNIA CIVIL CODE
§ 52.1, AND THE CALIFORNIA
CONSTITUTION**

JURY TRIAL DEMANDED

1 Division Chief, Los Angeles County
2 Sheriff's Department; KEVIN HEBERT,
3 Custody Services Commander, Los
4 Angeles County Sheriff's Department;
5 ROOSEVELT JOHNSON, Custody
6 Services Commander, Los Angeles
7 County Sheriff's Department; KEVIN
8 KUYKENDALL, Custody Services
9 Commander, Los Angeles County
10 Sheriff's Department; ERIC PARRA,
11 Division Chief, Los Angeles County
12 Sheriff's Department; ELIER
13 MOREJON, Captain, Los Angeles
14 County Sheriff's Department; DANIEL
15 DYER, Commander, Los Angeles
16 County Sheriff's Department; ANA
17 BRACKPOOL, Captain, Los Angeles
18 County Sheriff's Department; AGUSTIN
19 DEL VALLE, Captain, Los Angeles
20 County Sheriff's Department, in their
21 individual and official capacities; TERRI
22 MCDONALD, in her individual capacity;
23 and DOES 1-10, in their individual and
24 official capacities,

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Defendants.

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INTRODUCTION

Plaintiff HUMAN RIGHTS DEFENSE CENTER (“HRDC” or “Plaintiff”) brings this action to enjoin censorship of its publications and other correspondence mailed by its publishing project Prison Legal News to prisoners held in Defendants’ custody at Los Angeles County’s Men’s Central Jail (“Men’s Central Jail”). Defendants’ mail policies and practices unconstitutionally prohibit delivery of Plaintiff’s magazines and enveloped mail to prisoners housed both in the Men’s Central Jail’s general population and in the restrictive housing unit known as “K-10” in violation of the First Amendment to the United States Constitution. Defendants’ policies and practices also deny due process of law to senders, like Plaintiff, by failing to provide notice of and an opportunity to challenge each instance of censorship as required by the Fourteenth Amendment to the United States Constitution. In addition, Defendants’ policies and practices violate the Bane Act (Cal. Civ. Code § 52.1) and the California Constitution.

JURISDICTION AND VENUE

1. This action is brought pursuant to 28 U.S.C. § 1331 (federal question), as this action arises under the Constitution and laws of the United States, and pursuant to 28 U.S.C. § 1343 (civil rights), as this action seeks redress for civil rights violations under 42 U.S.C. § 1983.
2. Venue is proper under 28 U.S.C. § 1391(b). On information and belief, at least one Defendant resides within this judicial district, and the events giving rise to the claims asserted herein all occurred within this judicial district.
3. Plaintiff’s claims for relief under federal law are predicated upon 42 U.S.C. § 1983, which authorizes actions to redress the deprivation, under color of state law, of rights, privileges and immunities secured to the Plaintiff by the First, Fifth, and Fourteenth Amendments to the U.S. Constitution and laws of the United States.
4. Plaintiff’s claims for relief under state law are predicated upon the

1 Bane Act (Cal. Civ. Code § 52.1), which authorizes actions to protect the exercise or
2 enjoyment of rights secured under federal or California law, as well as upon the
3 direct causes of action to enforce constitutional rights guaranteed under article I,
4 section 2 of the California Constitution, and article I, section 7 of the California
5 Constitution.

6 5. This Court has jurisdiction over claims seeking declaratory and
7 injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Rules 57 and 65 of the
8 Federal Rules of Civil Procedure, as well as nominal and compensatory damages,
9 against all Defendants.

10 6. Plaintiff's claim for attorneys' fees and costs under federal law is
11 predicated upon 42 U.S.C. § 1988, which authorizes the award of attorneys' fees
12 and costs to prevailing plaintiffs in actions brought pursuant to 42 U.S.C. § 1983.

13 7. Plaintiff's claim for attorneys' fees and costs under state law is
14 predicated upon California Civil Code § 52.1, which authorizes the award of
15 attorneys' fees and costs in an action brought under that statute, and California Code
16 of Civil Procedure § 1021.5, which authorizes the award of attorneys' fees and costs
17 to prevailing plaintiffs whose actions vindicate important rights.

18 8. Plaintiff is informed, believes, and based thereon alleges that the
19 individual Defendants acted as described herein with reckless disregard for
20 Plaintiff's rights and/or with the intent to injure, vex, annoy and harass Plaintiff, and
21 subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
22 rights with the intention of causing Plaintiff injury and depriving it of its
23 constitutional rights.

24 9. As a result of the foregoing, Plaintiff seeks compensatory and punitive
25 damages against the individual Defendants.

26 10. This Court has supplemental jurisdiction over Plaintiff's state-law
27 claims pursuant to 28 U.S.C. § 1367, as they arise from the same case or
28 controversy as Plaintiff's claims under federal law.

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PARTIES

11. HRDC is a not-for-profit charitable corporation recognized under § 501(c)(3) of the Internal Revenue Code with its principal offices in Lake Worth, Florida. The purpose of HRDC, as stated in its Articles of Incorporation, is to educate prisoners and the public about the destructive nature of racism and sexism, as well as the economic and social costs of prisons to society. Prison Legal News is a wholly-owned project and the publishing arm of HRDC. Through its publishing project, HRDC engages in core protected speech and expressive conduct on matters of public concern, such as the operation of prison facilities, prison conditions, prisoner health and safety, and prisoners' rights. HRDC's publications contain political speech and social commentary, which are core First Amendment rights and are entitled to the highest protection afforded by the U.S. Constitution. For more than 25 years, the focus of HRDC's mission has been public education, advocacy and outreach on behalf of, and for the purpose of assisting, prisoners who seek legal redress for infringements of their constitutionally-guaranteed and other basic human rights. HRDC's mission, if realized, has a salutary effect on public safety.

12. Defendant COUNTY OF LOS ANGELES ("Los Angeles County" or "County") is a political subdivision of the State of California organized and existing under the laws of California. Los Angeles County is, and was at all relevant times mentioned herein, responsible for the actions and/or inactions and the policies, procedures, customs and practices of the Los Angeles County Sheriff's Department ("Sheriff's Department" or "Department") and its employees and agents. The Department currently operates at least six detention facilities: Men's Central Jail; North County Correctional Facility; Pitchess Detention Center North Facility; Pitchess Detention Center South Facility; Twin Towers Correctional Facility; and Century Regional Detention Center. The Department is and was responsible for adopting and implementing mail policies governing incoming mail for inmates at all Los Angeles County jails, including Men's Central Jail.

1 13. Defendant JIM MCDONNELL is the Los Angeles County Sheriff, and
2 has held this position since December 1, 2014. Defendant MCDONNELL is
3 employed by and is an agent of Defendant COUNTY OF LOS ANGELES and the
4 Sheriff's Department. He is responsible for overseeing the management and
5 operations of the jails, and for the hiring, screening, training, retention, supervision,
6 discipline, counseling, and control of the personnel of the Los Angeles County jails
7 who interpret and apply the jails' inmate mail policy. As Sheriff, Defendant
8 MCDONNELL is a final policymaker for Defendant COUNTY OF LOS ANGELES
9 with respect to the operations of all Los Angeles County jails, inclusive of Men's
10 Central Jail, including for policies governing incoming mail for inmates. He is sued
11 in his individual and official capacities.

12 14. Defendant NEAL TYLER is Executive Officer of the Sheriff's
13 Department. Defendant TYLER is employed by and is an agent of Defendants
14 COUNTY OF LOS ANGELES and JIM MCDONNELL, as well as the Sheriff's
15 Department. Upon information and belief, he is personally involved in the adoption
16 and/or implementation of the mail policies at issue and is responsible for overseeing,
17 planning, coordinating and evaluating the legality of the mail policies and practices
18 at the Men's Central Jail. He is sued in his individual and official capacities.

19 15. Defendant KELLY HARRINGTON is the Assistant Sheriff in charge
20 of Custody Operations for the Sheriff's Department and was appointed to the
21 position in 2016. He is employed by and is an agent of Defendant COUNTY OF
22 LOS ANGELES and the Sheriff's Department. Custody Operations includes all jail
23 responsibilities related to inmate services, including but not limited to reception,
24 booking and classification, housing, and other jail services. As Assistant Sheriff in
25 charge of Custody Operations, Defendant HARRINGTON is responsible for the
26 operation and management of the Los Angeles County jails and for the
27 promulgation and implementation of Custody Operations policies, including the
28 inmate mail policies challenged herein. He is also responsible for the hiring,

1 screening, training, retention, supervision, discipline, counseling, and control of the
2 personnel of the Los Angeles County jails, including the Men’s Central Jail, who
3 interpret and apply the inmate mail policy. He is sued in his individual and official
4 capacities.

5 16. Defendant JOANNE SHARP is the Division Chief for the Sheriff’s
6 Department’s Custody Services Division – General Population, a division within
7 Custody Operations. She is employed by and is an agent of Defendant COUNTY
8 OF LOS ANGELES and the Sheriff’s Department. In that capacity, Defendant
9 SHARP is responsible for the implementation of Custody Services policies at Los
10 Angeles County jail facilities, including the inmate mail policies challenged herein,
11 and for the hiring, screening, training, retention, supervision, discipline, counseling,
12 and control of the personnel of the Los Angeles County jails who interpret and apply
13 the inmate mail policy. She is sued in her individual and official capacities.

14 17. Defendant KEVIN HEBERT is a Commander in the Sheriff’s
15 Department’s Custody Services Division – General Population. He is employed by
16 and is an agent of Defendant COUNTY OF LOS ANGELES and the Sheriff’s
17 Department. In that capacity, Defendant HEBERT is responsible for the
18 implementation of Custody Services policies at Los Angeles County jail facilities,
19 including the inmate mail policies challenged herein, and for the hiring, screening,
20 training, retention, supervision, discipline, counseling, and control of the personnel
21 of the Los Angeles County jails who interpret and apply the inmate mail policy. He
22 is sued in his individual and official capacities.

23 18. Defendant ROOSEVELT JOHNSON is a Commander in the Sheriff’s
24 Department’s Custody Services Division – General Population. He is employed by
25 and is an agent of Defendant COUNTY OF LOS ANGELES and the Sheriff’s
26 Department. In that capacity, Defendant JOHNSON is responsible for the
27 implementation of Custody Services policies at Los Angeles County jail facilities,
28 including the inmate mail policies challenged herein, and for the hiring, screening,

1 training, retention, supervision, discipline, counseling, and control of the personnel
2 of the Los Angeles County jails who interpret and apply the inmate mail policy. He
3 is sued in his individual and official capacities.

4 19. Defendant KEVIN KUYKENDALL is a Commander in the Sheriff's
5 Department's Custody Services Division – General Population. He is employed by
6 and is an agent of Defendant COUNTY OF LOS ANGELES and the Sheriff's
7 Department. In that capacity, Defendant KUYKENDALL is responsible for the
8 implementation of Custody Services policies at Los Angeles County jail facilities,
9 including the inmate mail policies challenged herein, and for the hiring, screening,
10 training, retention, supervision, discipline, counseling, and control of the personnel
11 of the Los Angeles County jails who interpret and apply the inmate mail policy. He
12 is sued in his individual and official capacities.

13 20. Defendant ERIC PARRA was the Division Chief for the Sheriff's
14 Department's Custody Services Division at all relevant times mentioned herein until
15 early 2017, when he was reassigned to Patrol Operations. He is employed by and is
16 an agent of Defendant COUNTY OF LOS ANGELES and the Sheriff's Department.
17 In his capacity as Custody Services Division Chief, Defendant PARRA was
18 responsible for the implementation of Custody Services policies at Los Angeles
19 County jail facilities, including the inmate mail policies challenged herein, and for
20 the hiring, screening, training, retention, supervision, discipline, counseling, and
21 control of the personnel of the Los Angeles County jails who interpret and apply the
22 inmate mail policy. He is sued in his individual and official capacities.

23 21. Defendant ELIER MOREJON is the Captain in charge of the Inmate
24 Reception Center at Men's Central Jail. He is employed by and is an agent of
25 Defendant COUNTY OF LOS ANGELES and the Sheriff's Department. Defendant
26 MOREJON supervises mailroom staff and manages the inspection and routing of all
27 incoming inmate mail to the Men's Central Jail. He is sued in his individual and
28 official capacities.

1 22. Defendant DANIEL DYER is the Commander in charge of the
2 Sheriff's Department's Custody Services Administration Command. Defendant
3 DYER was previously the Captain in charge of the Men's Central Jail. He is
4 employed by and is an agent of Defendant COUNTY OF LOS ANGELES and the
5 Sheriff's Department. As Captain in charge of the Men's Central Jail, Defendant
6 DYER supervised and managed all of the daily operations of the Men's Central Jail.
7 In his current position, Defendant DYER is responsible for the implementation of
8 Custody Services policies at Los Angeles County jail facilities, including the inmate
9 mail policies challenged herein, and for the hiring, screening, training, retention,
10 supervision, discipline, counseling, and control of the personnel of the Los Angeles
11 County jails who interpret and apply the inmate mail policy. He is sued in his
12 individual and official capacities.

13 23. Defendant ANA BRACKPOOL is one of two Captains in charge of the
14 Men's Central Jail. She is employed by and is an agent of Defendant COUNTY OF
15 LOS ANGELES and the Sheriff's Department. Defendant BRACKPOOL
16 supervises and manages all of the daily operations of the Men's Central Jail. She is
17 sued in her individual and official capacities.

18 24. Defendant AGUSTIN DEL VALLE is one of two Captains in charge of
19 the Men's Central Jail. He is employed by and is an agent of Defendant COUNTY
20 OF LOS ANGELES and the Sheriff's Department. Defendant DEL VALLE
21 supervises and manages all of the daily operations of the Men's Central Jail. He is
22 sued in his individual and official capacities.

23 25. Defendant TERRI MCDONALD was the Assistant Sheriff in charge of
24 Custody Operations for the Sheriff's Department from 2013 until her retirement
25 from the Sheriff's Department in spring 2016. She was employed by and was an
26 agent of Defendant COUNTY OF LOS ANGELES and the Sheriff's Department.
27 As Assistant Sheriff in charge of Custody Operations, Defendant MCDONALD was
28 responsible for the operation and management of the Los Angeles County jails and

1 County jail system. The K-10 unit within Men’s Central Jail houses prisoners
2 whom Defendants have segregated from the general population for a variety of
3 reasons. For instance, the K-10 unit houses prisoners whom Defendants have
4 determined need to be protected from other prisoners because of the crimes with
5 which they have been charged.

6 30. HRDC, through its publication project Prison Legal News, publishes
7 and distributes a soft-cover monthly magazine titled *Prison Legal News: Dedicated*
8 *to Protecting Human Rights*, which contains news and analysis about prisons, jails
9 and other detention facilities, prisoners’ rights, court opinions, management of
10 prison facilities, prison conditions, and other matters pertaining to the rights and/or
11 interests of incarcerated individuals. The monthly magazine is published on
12 newsprint and is 72 pages long. HRDC has thousands of subscribers to its monthly
13 magazine in the United States and abroad, including prisoners, attorneys, journalists,
14 public libraries, judges, and members of the general public. HRDC distributes its
15 monthly magazine and other publications to prisoners and law librarians in more
16 than 2,200 correctional facilities located across all fifty states, including Federal
17 Bureau of Prisons institutions such as the Lompoc Federal Correctional Institute and
18 the Los Angeles Metropolitan Detention Center. HRDC’s monthly magazine and
19 other publications are distributed in prisons run by the California Department of
20 Corrections and Rehabilitation, as well as in county jails throughout California,
21 including San Diego County Jail, Sacramento County Jail, and Ventura County Jail.
22 HRDC’s publications are also distributed in death row units and “supermax”
23 facilities throughout the United States, including the ADX Supermax at Florence,
24 Colorado, the most secure prison in the United States.

25 31. In addition to monthly magazine issues, HRDC also sends to prisoners:
26 (a) *Prison Legal News* subscription renewal letters in individually-addressed
27 envelopes; (b) informational brochure packets that contain a brochure and
28 subscription order form, a book list, and a published books brochure (each of which

1 is a single page); and (c) copies of judicial opinions of import to prisoners.

2 **Defendants' Inmate Mail Policy**

3 32. Defendants' inmate mail policy is posted on its public website at
4 <http://shq.lasdnews.net/pages/PageDetail.aspx?id=1512> (last visited July 3, 2017).

5 This policy, entitled "Inmate Mail Regulations," provides in pertinent part:

6 The Los Angeles County Sheriff's Department has strict inmate mail
7 procedures for security and safety reasons. All inmates are advised of
8 these regulations/guidelines via handouts, and/or posted information
9 within Inmate Reception Center and Century Regional Detention
10 Facility. They are directed to notify anyone that might send mail or
11 parcels. Any mail or parcels that are received contrary to these
12 guidelines will be returned "intact" to the sender. Many of the items
13 that are not allowed, are readily available through the jail stores.

Your cooperation when corresponding with an inmate will be greatly
14 appreciated.

All envelopes and paper must be free of debris and/or any illegal
15 substances, perfume/cologne, lip stick, or dried liquids.

Your mail or parcel will be returned for the following reason(s):

- 16 * Food or cosmetic items (lipstick, perfume, unknown stains)
- 17 * Blank envelopes (with or without postage attached), blank paper,
18 (stationery)
- 19 * Envelopes with metal clasps
- 20 * Postage stamps that were not used to mail package
- 21 * Envelopes with gang or suggestive drawings
- 22 * No artwork in crayon, marker, or colored pencils.
- 23 * Copyright material (this includes, printed song lyrics; book passages;
24 articles)
- 25 * Cash, personal or second party checks, payroll checks, out of state
26 checks
- 27 * Money order exceeding the \$200 limit
- 28 * Blank money orders (money orders must be signed and made payable
to the inmate)
- * Out of state money orders (must be from a US Postal Office)
- * Greeting cards: that plays music; plastic; blank; tri fold; larger than
6"x 9"; pop up style; 3D style; includes ribbons and/or bows; have been

- 1 altered. Postcards larger than 6"x 9"
- 2 * Photographs or pictures that depict full or partial nudity; suggestive;
- 3 depict gang tattoos or hand gestures
- 4 * Picture inside a picture photographs (a picture that has a smaller
- 5 photo within the picture)
- 6 * Photographs of headshots
- 7 * Identification cards or facsimiles
- 8 * Photographs that depict inmate for whom the mail is intended
- 9 * Paper clips, staples, pens, pencils, glitter, stickers, glued or gummed
- 10 labels
- 11 * Rosary beads, balloons, string bracelets or jewelry items
- 12 * Lottery tickets or pre-paid telephone cards
- 13 * Cellophane tape or any type of tape on letters

14 With respect to photographs and computer generated pictures, the

15 following WILL be accepted:

- 16 * Maximum of five (5) photographs are allowed (each photograph on a
- 17 collage is included in this count and measured separately) no polaroid
- 18 photographs, no collages
- 19 * Photographs or computer generated pictures must be a minimum of
- 20 3"x 5" and a maximum of 4"x 6" in size
- 21 * OTHER: The Los Angeles County Sheriff's Department has the right
- 22 to return any item(s) that are deemed potentially harmful and/or
- 23 possibly cause security concerns within the Jail environment.

24 With respect to books, publications or periodicals, we will not accept:

- 25 * Anything NOT sent directly from a bookstore or a publisher
- 26 * Anything of an explicit sexual nature
- 27 * More than three (3) books per week
- 28 * More than three (3) magazines per week
- * No hardcover books
- * Audio, CDs or Cassette tape

Defendants' Censorship of HRDC's Mail

33. Defendants have censored the following materials that Plaintiff sent to

1 individual prisoners at the Men’s Central Jail: (1) issues of the monthly magazine,
2 *Prison Legal News*, that were mailed to subscribers; (2) sample issues of *Prison*
3 *Legal News* that were mailed to prospective subscribers; (3) subscription renewal
4 letters; (4) informational brochure packets; and (5) court opinions. Defendants
5 refused to deliver said items to the prisoners and, in some instances, returned items
6 to Plaintiff’s office via the “Return To Sender” service of the United States Postal
7 Service. Defendants continue to censor the items listed above.

8 34. Since August 2015, Plaintiff has identified at least one hundred and
9 forty-nine (149) items of mail sent by HRDC to prisoners at Men’s Central Jail that
10 were withheld by Defendants. This restriction on written speech sent to prisoners at
11 Men’s Central Jail is not rationally related to any legitimate penological interest and
12 violates HRDC’s First Amendment right to communicate its speech with prisoners.

13 Censorship of Monthly Issues of *Prison Legal News*

14 35. Since August 2015, HRDC has identified at least seventy-eight (78)
15 separate occasions in which Defendants censored monthly issues of *Prison Legal*
16 *News* that were individually addressed to prisoners who subscribed to the magazine.
17 Instead of delivering these magazines to the prisoners who ordered them,
18 Defendants returned the mail at Plaintiff’s expense, indicating various reasons for
19 the return, including:

- 20 (1) “CONTENTS UNACCEPTABLE”;
- 21 (2) “CONTENTS UNACCEPTABLE ... 2500 C7”;
- 22 (3) “RELEASED” (even though the Sheriff’s Department’s own
23 website indicated the prisoner was still in custody at the Men’s Central
24 Jail after the mailing);
- 24 (4) “OTHER 4/14”; and
- 25 (5) “CONTENTS UNACCEPTABLE ... NOT CASE RELATED.”

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36. These 78 occasions are as follows:

Prisoner Name: Date Returned to HRDC:

Subscriber 1 August 21, 2015

Subscriber 2 September 25, 2015

Subscriber 1 March 23, 2016

Subscriber 2 March 23, 2016

Subscriber 3 March 23, 2016

Subscriber 4 March 23, 2016

Subscriber 5 March 23, 2016

Subscriber 6 March 23, 2016

Subscriber 7 March 23, 2016

Subscriber 8 March 23, 2016

Subscriber 9 April 6, 2016

Subscriber 4 April 15, 2016

Subscriber 7 April 15, 2016

Subscriber 1 April 19, 2016

Subscriber 3 April 19, 2016

Subscriber 4 April 19, 2016

Subscriber 5 April 19, 2016

Subscriber 7 April 19, 2016

Subscriber 8 April 19, 2016

Subscriber 9 April 19, 2016

Subscriber 10 April 19, 2016

Subscriber 11 April 19, 2016

Subscriber 12 April 19, 2016

Subscriber 13 April 19, 2016

Subscriber 14 April 19, 2016

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Prisoner Name: Date Returned to HRDC:

Subscriber 15	April 19, 2016
Subscriber 16	April 19, 2016
Subscriber 17	April 19, 2016
Subscriber 18	April 19, 2016
Subscriber 19	April 19, 2016
Subscriber 20	April 19, 2016
Subscriber 21	April 19, 2016
Subscriber 22	April 19, 2016
Subscriber 23	April 19, 2016
Subscriber 13	April 26, 2016
Subscriber 20	April 26, 2016
Subscriber 21	July 26, 2016
Subscriber 10	September 1, 2016
Subscriber 24	September 1, 2016
Subscriber 7	September 2, 2016
Subscriber 17	September 2, 2016
Subscriber 25	September 2, 2016
Subscriber 26	September 2, 2016
Subscriber 27	September 2, 2016
Subscriber 16	October 17, 2016
Subscriber 21	October 17, 2016
Subscriber 23	October 17, 2016
Subscriber 28	October 17, 2016
Subscriber 13	November 17, 2016
Subscriber 29	November 21, 2016
Subscriber 1	November 28, 2016

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Prisoner Name: Date Returned to HRDC:

Subscriber 16	November 28, 2016
Subscriber 20	November 28, 2106
Subscriber 21	November 28, 2016
Subscriber 23	November 28, 2016
Subscriber 24	November 28, 2016
Subscriber 29	November 28, 2016
Subscriber 30	November 28, 2016
Subscriber 1	December 24, 2016
Subscriber 23	December 24, 2016
Subscriber 24	December 24, 2016
Subscriber 29	December 24, 2016
Subscriber 24	January 27, 2017
Subscriber 30	February 4, 2017
Subscriber 29	March 9, 2017
Subscriber 12	April 27, 2017
Subscriber 13	April 27, 2017
Subscriber 20	April 27, 2017
Subscriber 29	April 27, 2017
Subscriber 16	May 1, 2017
Subscriber 1	May 26, 2017
Subscriber 13	May 26, 2017
Subscriber 16	May 26, 2017
Subscriber 24	May 26, 2017
Subscriber 29	May 26, 2017
Subscriber 30	May 26, 2017
Subscriber 42	May 26, 2017

1 **Prisoner Name: Date Returned to HRDC:**

2 Subscriber 23 June 9, 2017

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4 In this list and those that follow, HRDC has replaced the names of the prisoners to
5 whom the items were addressed with unique but anonymous identifiers.

6 37. On information and belief, a vast majority of the other monthly issues
7 mailed to individual prisoners at Men’s Central Jail were censored by Defendants.

8 38. Defendants’ policies, practices, and customs are unconstitutional both
9 facially and as applied to HRDC.

10 39. Defendants’ censorship policies, practices, and customs have a chilling
11 effect on HRDC’s future speech and expression directed toward prisoners at Men’s
12 Central Jail.

13 40. HRDC will continue to mail monthly issues of *Prison Legal News* to
14 subscribers at Men’s Central Jail.

15 Censorship of Sample Issues of *Prison Legal News*

16 41. Defendants have also censored sample issues of *Prison Legal News*
17 sent to prisoners at the Men’s Central Jail in individually addressed envelopes via
18 U.S. First Class Mail. These issues were sent directly to individuals who requested
19 sample copies of *Prison Legal News* and to others who were identified by HRDC as
20 people likely to be in need of the information that HRDC distributes.

21 42. Since August 2015, HRDC can identify at least thirty-two (32) separate
22 occasions in which Defendants censored sample issues sent to individually
23 addressed prisoners. Defendants sent these sample issues back by return mail at
24 HRDC’s expense, indicating various reasons for rejecting the mail, including:

25 (1) “CONTENTS UNACCEPTABLE ... NOT CURRENT ISSUE.
26 RCVD. 1/5/16”; and

27 (2) “CONTENTS UNACCEPTABLE.”

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43. These 32 occasions are as follows:

Prisoner Name: Date Returned to HRDC:

Subscriber 3	January 18, 2016
Subscriber 6	January 18, 2016
Subscriber 8	January 18, 2016
Subscriber 12	January 18, 2016
Subscriber 13	January 18, 2016
Subscriber 17	January 18, 2016
Subscriber 19	January 18, 2016
Subscriber 31	January 18, 2016
Subscriber 32	January 18, 2016
Subscriber 33	January 18, 2016
Subscriber 34	January 18, 2016
Subscriber 35	January 18, 2016
Subscriber 11	March 9, 2016
Subscriber 14	March 9, 2016
Subscriber 16	March 9, 2016
Subscriber 18	March 9, 2016
Subscriber 20	March 9, 2016
Subscriber 22	March 9, 2016
Subscriber 28	March 9, 2016
Subscriber 36	March 9, 2016
Subscriber 10	April 15, 2016
Subscriber 15	April 15, 2016
Subscriber 21	April 16, 2016
Subscriber 24	May 20, 2016
Subscriber 29	May 20, 2016

1	Prisoner Name:	Date Returned to HRDC:
2	Subscriber 30	August 16, 2016
3	Subscriber 37	September 2, 2016
4	Subscriber 38	September 2, 2016
5	Subscriber 39	September 9, 2016
6	Subscriber 40	September 10, 2016
7	Subscriber 41	September 10, 2016
8	Subscriber 29	May 22, 2017
9		

10 These prisoners are identified for purposes of this complaint by a unique subscriber
11 identifier, even though not all of them ultimately chose to subscribe to *Prison Legal*
12 *News*.

13 44. On information and belief, a vast majority of the other sample issues
14 mailed to individual prisoners at Men’s Central Jail were censored by Defendants.

15 45. Defendants’ policies, practices, and customs are unconstitutional both
16 facially and as applied to HRDC.

17 46. Defendants’ censorship policies, practices, and customs have a chilling
18 effect on HRDC’s future speech and expression directed toward prisoners at Men’s
19 Central Jail.

20 47. HRDC will continue to mail sample issues of *Prison Legal News* to
21 prisoners at Men’s Central Jail.

22 Censorship of Subscription Renewal Letters

23 48. Defendants have also censored HRDC’s correspondence with prisoners
24 containing subscription renewal letters.

25 49. Since August 2015, HRDC has identified at least twenty-four (24)
26 individually addressed subscription renewal letters, mailed on separate occasions,
27 that Defendants sent back by return mail, at HRDC’s expense, noting:

28 (1) “RELEASED” (even though the Sheriff’s Department’s own website

1 indicated the prisoner was still in custody at the Men’s Central Jail after
the mailing);

2 (2) “10/7 RETURN UNACCEPTABLE READING MATERIAL”;

3 (3) “CONTENTS UNACCEPTABLE”;

4 (4) “CONTENTS UNACCEPTABLE ... RETURN
5 UNACCEPTABLE READING MATERIAL”; and

6 (5) “OTHER.”

7 50. These 24 occasions are as follows:

8 **Prisoner Name: Date Returned to HRDC:**

9	Subscriber 9	June 16, 2016
10	Subscriber 8	September 16, 2016
11	Subscriber 12	September 16, 2016
12	Subscriber 13	September 16, 2016
13	Subscriber 17	September 16, 2016
14	Subscriber 18	September 16, 2016
15	Subscriber 19	September 16, 2016
16	Subscriber 20	September 16, 2016
17	Subscriber 32	September 16, 2016
18	Subscriber 36	September 16, 2016
19	Subscriber 28	October 1, 2016
20	Subscriber 12	October 24, 2016
21	Subscriber 16	October 24, 2016
22	Subscriber 17	October 24, 2016
23	Subscriber 18	October 24, 2016
24	Subscriber 21	October 24, 2016
25	Subscriber 23	October 24, 2016
26	Subscriber 28	October 24, 2016
27	Subscriber 32	October 24, 2016

28

1	Prisoner Name:	Date Returned to HRDC:
2	Subscriber 36	October 24, 2016
3	Subscriber 20	November 2, 2016
4	Subscriber 29	December 14, 2016
5	Subscriber 29	January 21, 2017
6	Subscriber 29	March 6, 2017

7

8 51. On information and belief, a vast majority of the other subscription
9 renewal letters mailed by HRDC to individual prisoners at Men’s Central Jail were
10 censored by Defendants.

11 52. Defendants’ policies, practices, and customs are unconstitutional both
12 facially and as applied to HRDC.

13 53. Defendants’ censorship policies, practices, and customs have a chilling
14 effect on HRDC’s future speech and expression directed toward prisoners at Men’s
15 Central Jail.

16 54. HRDC will continue to mail subscription renewal letters to subscribers
17 at Men’s Central Jail.

18 Censorship of Information Brochure Packets

19 55. Since August 2015, HRDC has identified at least eight (8) separate
20 occasions in which informational brochure packets that were individually addressed
21 to prisoners were censored by Defendants. These brochures were sent directly to
22 individuals who requested information about HRDC publications and to others who
23 were identified by HRDC as people likely to be in need of the information that
24 HRDC distributes. Defendants sent the packets back to HRDC by return mail, at
25 HRDC’s expense, indicating various reasons for the return including the following:

- 26 (1) “CONTENTS UNACCEPTABLE”; and
- 27 (2) “BANNED 8/29.”

28 ///

1 56. These eight occasions are as follows:

2 **Prisoner Name: Date Returned to HRDC:**

3 Subscriber 16 August 30, 2016

4 Subscriber 18 August 30, 2016

5 Subscriber 20 August 30, 2016

6 Subscriber 21 August 30, 2016

7 Subscriber 28 August 30, 2016

8 Subscriber 36 August 30, 2016

9 Subscriber 40 September 2, 2016

10 Subscriber 41 September 2, 2016

11

12 57. On information and belief, a vast majority of the other informational
13 brochure packets mailed to individual prisoners at Men’s Central Jail were censored
14 by Defendants.

15 58. Defendants’ policies, practices, and customs are unconstitutional both
16 facially and as applied to HRDC.

17 59. Defendants’ censorship policies, practices, and customs have a chilling
18 effect on HRDC’s future speech and expression directed toward prisoners at Men’s
19 Central Jail.

20 60. HRDC will continue to mail informational brochure packets to
21 prisoners at Men’s Central Jail.

22 Censorship of Court Opinions

23 61. Since August 2015, HRDC has identified at least seven (7) individually
24 addressed copies of court opinions mailed to prisoners at Men’s Central Jail that
25 Defendants censored. All of these court opinions were copies of the Ninth Circuit’s
26 opinion in *Clement v. California Dept. of Corr.*, 364 F.3d1148 (9th Cir. 2004),
27 which concerns the validity of a prison regulation barring prisoners from receiving
28 material printed from the internet. These court opinions were sent directly to

1 individuals who requested them and to others who were identified by HRDC as
2 people likely to be in need of the information.

3 62. All of the above court opinions were sent back to HRDC by return
4 mail, at HRDC’s expense, indicating various reasons for the return including the
5 following: “CONTENTS UNACCEPTABLE.”

6 63. These seven occasions are as follows:

Prisoner Name:	Date Returned to HRDC:
Subscriber 16	August 30, 2016
Subscriber 18	August 30, 2016
Subscriber 20	August 30, 2016
Subscriber 21	August 30, 2016
Subscriber 28	August 30, 2016
Subscriber 36	August 30, 2016
Subscriber 29	June 13, 2017

16 64. On information and belief, a vast majority of the other court opinions
17 mailed by HRDC to individual prisoners at Men’s Central Jail were censored by
18 Defendants.

19 65. Defendants’ policies, practices, and customs are unconstitutional both
20 facially and as applied to HRDC.

21 66. Defendants’ censorship policies, practices, and customs have a chilling
22 effect on HRDC’s future speech and expression directed toward prisoners at Men’s
23 Central Jail.

24 67. HRDC will continue to mail court opinions to prisoners at Men’s
25 Central Jail.

26 **Defendants’ Censorship of HRDC’s Communication to Prisoners in the**
27 **Restrictive Housing Unit (K-10)**

28 68. Of the one hundred and ten (110) monthly and sample issues of *Prison*

1 *Legal News*, noted *supra* in ¶¶ 35-36 and 42-43, Plaintiff has identified at least
2 seventy-four (74) of those individually addressed issues that were mailed to
3 prisoners in the K-10 unit at Men’s Central Jail. When censoring these issues,
4 Defendants have indicated various reasons for the returned issues, including the
5 following:

6 (1) “CONTENTS UNACCEPTABLE ... K-10 NO NEWSPAPERS”;

7 (2) “K-10 INMATE NO MAGAZINES”;

8 (3) “K-10 ... NO MAGAZINES ... SECURITY ISSUE – SAFETY OF
9 INMATES AND CUSTODY STAFF”;

10 (4) “CONTENTS UNACCEPTABLE ... NOT CASE RELATED ...
11 K-10 NO NEWSPAPERS”;

12 (5) “CONTENTS UNACCEPTABLE ... INMATE K-10 ... NO MAG
13 ALLOWED”;

14 (6) “CONTENTS UNACCEPTABLE ... K-10 NO MAGAZINES
15 ALLOWED”; and

16 (7) “K-10 NO MAGAZINES ALLOWED.”

17 69. On information and belief, a vast majority, if not all, other monthly and
18 sample issues of *Prison Legal News* mailed to individual prisoners in the K-10 unit
19 were censored by Defendants.

20 70. Defendants house prisoners in the K-10 unit for a variety of reasons.
21 The K-10 unit houses pretrial detainees who have been accused of high-profile
22 crimes, regardless of their behavior in custody, as well as prisoners whom
23 Defendants have determined need to be protected for other reasons. On information
24 and belief, other prisoners are housed in K-10 only as a result of being improperly
25 “de-classed,” or discharged, from a mental health classification. The K-10 unit also
26 houses prisoners whom Defendants deem a threat to jail security and discipline, but
27 on information and belief, these prisoners are not housed in K-10 as part of a
28 behavioral modification program, and some of them have not committed any
disciplinary infractions while in Men’s Central Jail. Even among those prisoners
who have committed disciplinary infractions in the past, on information and belief,

1 some remain housed in K-10 despite demonstrating no current disciplinary
2 problems.

3 71. Defendants have violated and continue to violate HRDC's
4 constitutional right to communicate with prisoners in the K-10 unit.

5 72. As stated *infra*, Defendants did not provide adequate notice to HRDC
6 of the reasons for this censorship, or allow it an opportunity to appeal the censorship
7 decisions.

8 73. Defendants' policies, practices, and customs are unconstitutional both
9 facially and as applied to HRDC's communication with prisoners in the K-10 unit.

10 74. Defendants' censorship policies, practices, and customs have a chilling
11 effect on HRDC's future speech and expression directed toward prisoners in the K-
12 10 unit at Men's Central Jail.

13 75. HRDC will continue to communicate with prisoners in the K-10 unit at
14 Men's Central Jail.

15 **Defendants' Failure to Provide Due Process**

16 76. Defendants' Inmate Mail Regulations, as stated on the Sheriff's
17 Department website, fail to provide any explanation why HRDC's publications and
18 other correspondence have been or are being censored.

19 77. Defendants' mail policy also fails to require notice of censorship be
20 given to either the intended recipient or the sender of censored mail, nor does it
21 provide an avenue by which the censorship decision can be appealed.

22 78. In all of the above instances of censorship of HRDC's communication,
23 Defendants failed to provide due process notice to HRDC of the reason for rejecting
24 its materials, in violation of HRDC's Fourteenth Amendment rights.

25 79. Some of the items returned to HRDC by Defendants contain no
26 indication why the item was censored. Other items returned to HRDC bear
27 notations such as "CONTENTS UNACCEPTABLE," but those notations fail to
28 explain the penological justification for Defendants' censorship decisions, fail to

1 identify the specific mail policy they relied on, state different reasons for censoring
2 identical items of mail, and otherwise fail to give meaningful notice of the
3 censorship.

4 80. On information and belief, Defendants in other instances refused to
5 deliver HRDC's communication to prisoners at the Men's Central Jail, yet failed to
6 return the censored items to HRDC and failed to provide HRDC with any notice of
7 censorship.

8 81. At no time did Defendants provide an opportunity for HRDC to appeal
9 the censorship of its mail.

10 **Defendants' Unconstitutional Mail Policy is Causing HRDC Ongoing Harm**

11 82. Due to Defendants' actions described above, HRDC has suffered
12 damages, and will continue to suffer damages, including, but not limited to: the
13 violation of the HRDC's constitutional rights; the impediment of HRDC's ability to
14 disseminate its political message; frustration of HRDC's non-profit organizational
15 mission; diversion of resources; loss of potential subscribers and customers; an
16 inability to recruit new subscribers and supporters; the loss of reputation; and the
17 costs of printing, handling, mailing, and staff time.

18 83. Defendants' actions and inactions were and are motivated by ill motive
19 and intent, and were and are all committed under color of law and with reckless
20 indifference to HRDC's rights.

21 84. Defendants, and their agents, are responsible for or personally
22 participated in creating and implementing these unconstitutional policies, practices,
23 and customs, or for ratifying or adopting them. Further, Defendants are responsible
24 for training and supervising the staff persons whose conduct has injured and
25 continues to injure HRDC.

26 85. Defendants' unconstitutional policy, practices, and customs are
27 ongoing, continue to violate HRDC's rights, and are the moving force behind the
28 constitutional violations. Defendants' unconstitutional policy, practices, and

1 customs will continue unless enjoined. As such, HRDC has no adequate remedy at
2 law.

3 86. HRDC is entitled to injunctive relief prohibiting Defendants from
4 refusing to deliver its monthly magazine *Prison Legal News*, sample issues of
5 *Prison Legal News*, informational brochure packets, subscription renewal letters and
6 court opinions without any legal justification, and prohibiting Defendants from
7 censoring mail without due process of law.

8 **HRDC's Exhaustion of Pre-Lawsuit Procedures for State-Law Claims**

9 87. HRDC submitted a state tort claim to Defendant COUNTY OF LOS
10 ANGELES on April 10, 2017. The County responded by letter on April 13, 2017,
11 asserting that HRDC's claim was untimely as to activities occurring before October
12 9, 2016. On May 25, 2017, the County notified HRDC by letter that its claim was
13 rejected as it pertains to activities occurring since October 10, 2016.

14 **CLAIMS FOR RELIEF**

15 **FIRST CLAIM FOR RELIEF** 16 **(For Violations of the First Amendment Under Color Of State Law – Free Speech; Section 1983)**

17 88. Each paragraph of this Complaint is incorporated as if restated fully
18 herein.

19 89. The acts described above constitute violations of HRDC's rights, the
20 rights of other correspondents who have attempted to or intend to correspond with
21 prisoners at the Men's Central Jail, and the rights of prisoners confined at the Men's
22 Central Jail, under the First Amendment of the United States Constitution.

23 90. HRDC has a constitutionally protected liberty interest in
24 communicating with incarcerated individuals by sending information packets,
25 renewal letters, court opinions and magazines to them via U.S. Mail, a right clearly
26 established under existing case law.

27 91. The conduct of Defendants was objectively unreasonable and was
28 undertaken intentionally with malice, willfulness, and reckless indifference to the

1 rights of others.

2 92. HRDC's injuries and the violations of its constitutional rights were
3 directly and proximately caused by the policies and practices of Defendants, and
4 those policies were the moving force behind the violations.

5 93. The acts described above have caused damages to HRDC, and if not
6 enjoined, will continue to cause damage to HRDC.

7 94. HRDC seeks declaratory and injunctive relief, and nominal and
8 compensatory damages against all Defendants, except that it does not seek
9 injunctive relief against Defendant MCDONALD. HRDC seeks punitive damages
10 against the individual Defendants in their individual capacities.

11 **SECOND CLAIM FOR RELIEF**
12 **(For Violations of the Due Process Clause of the Fourteenth Amendment Under**
13 **Color Of State Law; Section 1983)**

14 95. Each paragraph of this Complaint is incorporated as if restated fully
15 herein.

16 96. The acts described above constitute violations of HRDC's rights, the
17 rights of other correspondents who have attempted to or intend to correspond with
18 prisoners at the Jail, and the rights of prisoners confined at the Jail, under the
19 Fourteenth Amendment of the United States Constitution.

20 97. HRDC has a right under the Due Process Clause of the Fourteenth
21 Amendment to receive notice and an opportunity to object and/or appeal
22 Defendants' decisions to prevent Plaintiff's mail from reaching prisoners at the Jail.

23 98. Defendants' policy and practice of censoring HRDC'S information
24 packets, renewal letters, court opinions and magazines fails to provide Plaintiff with
25 individualized notice of the censorship or an opportunity to be heard.

26 99. The conduct of Defendants was objectively unreasonable and was
27 undertaken intentionally with malice, willfulness, and reckless indifference to the
28 rights of others.

100. HRDC's injuries and the violations of its constitutional rights were

1 directly and proximately caused by the policies and practices of Defendants, and
2 which were the moving force behind the same.

3 101. The acts described above have caused damages to HRDC, and if not
4 enjoined, will continue to cause damage to HRDC.

5 102. HRDC seeks declaratory and injunctive relief, and nominal and
6 compensatory damages against all Defendants, except that it does not seek
7 injunctive relief against Defendant MCDONALD. HRDC seeks punitive damages
8 against the individual Defendants in their individual capacities.

9 **THIRD CLAIM FOR RELIEF**
10 **(For Violations of the Bane Act, California Civil Code Section 52.1)**

11 103. Each paragraph of this Complaint is incorporated as if restated fully
12 herein.

13 104. The acts described above constitute violations of HRDC's rights under
14 California Civil Code § 52.1, in that they constitute interference by threats,
15 intimidation, and/or coercion with the exercise or enjoyment of HRDC's rights
16 secured by the Constitution and laws of the United States and Constitution and laws
17 of California. Defendants' actions have caused actual damages to HRDC within the
18 meaning of California Civil Code §§ 52 and 52.1.

19 105. As a proximate result of the conduct of Defendants, HRDC is also
20 entitled to injunctive relief and an award of exemplary damages, civil penalties, and
21 attorneys' fees, as provided by California Civil Code §§ 52 and 52.1, except that it
22 does not seek injunctive relief against Defendant MCDONALD.

23 **FOURTH CLAIM FOR RELIEF**
24 **(For Violations of Article I, Section 2 of California Constitution – Free Speech)**

25 106. Each paragraph of this Complaint is incorporated as if restated fully
26 herein.

27 107. The acts described above constitute violations of HRDC's speech rights
28 under Article I, Section 2 of the California Constitution and have caused damage to

1 HRDC, and will continue to cause damage.

2 108. As a result of the conduct of Defendants, HRDC seeks declaratory and
3 injunctive relief against all Defendants, except that it does not seek injunctive relief
4 against Defendant MCDONALD.

5 **FIFTH CLAIM FOR RELIEF**
6 **(For Violations of Article I, Section 7 of California Constitution – Due Process)**

7 109. Each paragraph of this Complaint is incorporated as if restated fully
8 herein.

9 110. By failing to give HRDC sufficient notice of the censorship of its
10 publications, and an opportunity to be heard with respect to that censorship,
11 Defendants have deprived and continue to deprive HRDC of liberty and property
12 without due process of law, in violation of the Article I, Section 7 of the California
13 Constitution, and have caused damage to HRDC, and will continue to cause
14 damage.

15 111. As a result of the conduct of Defendants, HRDC seeks declaratory and
16 injunctive relief against all Defendants, except that it does not seek injunctive relief
17 against Defendant MCDONALD.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff requests relief as follows:

20 1. A declaration that Defendants' policies and practices violate the U.S.
21 Constitution and California Constitution;

22 2. A preliminary and permanent injunction preventing Defendants from
23 continuing to violate the U.S. Constitution and California Constitution, and
24 providing other equitable relief;

25 3. Nominal damages for each violation of HRDC's rights by the
26 Defendants;

27 4. Compensatory damages in an amount to be proved at trial;

28 5. Punitive damages against the individual Defendants in an amount to be

1 proved at trial;

2 6. Costs, including reasonable attorneys' fees, under 42 U.S.C. § 1988
3 and under other applicable law, including but not limited to California Civil Code
4 § 52.1 and California Code of Civil Procedure § 1021.5; and

5 7. Any other such relief that this Court deems just and equitable.

6
7 DATED: July 3, 2017

Respectfully submitted,

8 ROSEN BIEN GALVAN & GRUNFELD LLP

9
10 By: /s/ Jeffrey L. Bornstein
Jeffrey L. Bornstein

11 Attorneys for Plaintiff

12
13 **DEMAND FOR JURY TRIAL**

14 Plaintiff, the Human Rights Defense Center, hereby demands a trial by jury
15 pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

16
17 DATED: July 3, 2017

Respectfully submitted,

18 ROSEN BIEN GALVAN & GRUNFELD LLP

19
20 By: /s/ Jeffrey L. Bornstein
Jeffrey L. Bornstein

21 Attorneys for Plaintiff