

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DAN MCKIBBEN, *et al.*,

Plaintiffs,

vs.

JOHN MCMAHON, *et al.*,

Defendants.

Case No.14-2171-JGB-SP

[Hon. Jesus G. Bernal]

SETTLEMENT AGREEMENT

Plaintiffs¹ Pedro Guzman, Nick Ou, Sean Lint, Anthony Oliver, Timothy Walker, Ilich Vargas, William Kennedy, Jonathan Robertson, Steve Aka Lynn Price, Bryan Bagwell, Christopher Crawford, Frederick Crockan, Taheash White, Michael Aka Madison Hatfield, and Kevin Aka Veronica Pratt, (individually and on behalf of the classes to be certified in connection with this Settlement (collectively “Plaintiffs”)) and Defendants County of San Bernardino, its Sheriff John McMahon, and San Bernardino Sheriff’s Department personnel Greg Garland, Jeff Rose, James Mahan and Armando Castillo (collectively “Defendants”), by and through their respective counsel, hereby submit the following Settlement Agreement (“Settlement Agreement”).

¹ Plaintiff Dan McKibben unfortunately passed away while this lawsuit was pending, and so is not listed as Class Representative Plaintiff, although we continue to use his name as the Case Name.

I. RECITALS

Plaintiffs are former or current (at the time of the filing of the complaint) inmates at the San Bernardino County Jail (hereafter “Jail”), operated by the San Bernardino County Sheriff’s Department (hereafter “SBCSD”). The Jail maintained and maintains an “Alternative Lifestyle Tank” (hereafter “ALT”) at the West Valley Detention Center (hereafter “WVDC”), which houses inmates who self-identify as gay, bisexual, and/or transgender (hereinafter “GBT inmates”). The WVDC is the only SBCSD jail facility that houses a separate unit for self-identified GBT inmates who were assigned male at birth.

Plaintiffs, and the classes they represent, contend that Defendants engage in systematic discrimination and denial of equal treatment against GBT inmates at the WVDC. Plaintiffs contend, inter alia, that GBT inmates 1) were automatically placed in the ALT if they self-identified as GBT; 2) would have been at risk for their safety if admitted to the general population as openly GBT inmates because SBCSD did not have any plans or programs to ensure their safety; 3) had no or inadequate PREA programs in place to protect GBT inmates or address particular vulnerabilities of GBT inmates placed in the general population; 4) were limited in their time-out-of-cell generally to an hour and a half per day, and often less, in contrast to similarly situated (by classification or sentencing status) general population inmates; 5) were denied the same work opportunities that were provided to similarly situated (by classification or sentencing status) general population inmates; 6) were denied the same programming opportunities² that were provided to similarly situated (by classification or sentencing status) general population inmates; and 7) a comparable range of religious services to those available to the

² Programming opportunities include classes in anger management, thinking for change, living skills, parenting skills, substance abuse, GED, high school diploma, literacy, automobile mechanics, bakery occupations, culinary/reading enrichment classes, computer skills, HVAC training, fire camp vocational training, employment readiness, substance abuse, “In-Roads”, and re-entry services.

general population. Plaintiffs also contend that certain aspects of this disparate treatment continue to this day.

In the interest of avoiding expense, delay and inconvenience of further litigation of issues raised in this action, and without any admission of liability by Defendants, and in reliance upon the representations contained herein, and in consideration of the mutual promises, covenants and obligations in this Agreement, and for good and valuable consideration, Plaintiffs and Defendants, through their undersigned counsel, enter into this Settlement Agreement, subject to the approval of the Court.

In summary, this settlement provides for dismissal of this case with prejudice in exchange for 1) a variety of policy changes, 2) a damages settlement of \$950,000, and, 3) an award of attorney's fees and costs of \$1,100,000.

II. DEFINITIONS

The listed terms used throughout this Stipulation of Settlement and Dismissal are intended to have the following meanings:

1. "Administrator" means the Class Administrator, as agreed upon (or to be agreed upon) by the Parties and appointed by the Court to review and determine the validity and amount of claims submitted by a Settlement Class Member ("SCM") (as defined herein), according to the procedures set forth herein. Plaintiffs' Counsel sent out for bids to qualified administrators and chose JND Legal Administration as the Class Administrator because they were most reasonably priced.
2. The "Alternative Lifestyle Tank" (aka the "ALT") consists of two 16-cell housing sections in one of the jail units in the West Valley Detention Center jail facility operated by the San Bernardino County Sheriff's Department that is used to house gay, bisexual and transgender ("GBT") inmates.
3. The "Bar Date" is the date by which any Damages Class Member who wishes to receive payment pursuant to the Settlement Agreement and therefore is a Settlement Class Member ("SCM") as defined below) must

file his/her Proof of Claim and Release Form, file objections to this Settlement Agreement, or request to be excluded from the class (opt-out). The Bar Date shall be calculated as the close of business on the 90th day after the last day of mailing of the Class Notice which is up to two consecutive business days from beginning to end, as is addressed in ¶ 33, i.e., the Class Administrator must mail all notices within a two day period).

4. “Class Counsel” herein refers to Barrett S. Litt, David S. McLane and Lindsay Battles of KAYE, McLANE, BEDNARSKI & LITT, and Melissa Goodman, Amanda Goad, Brendan Hamme and Aditi Fruitwala of the ACLU Foundation of Southern California.
5. “Class Counsel Attorneys’ Fees” refers to the amount awarded by the Court as their attorneys’ fees in this case, which amount has been agreed to by the parties as a separate award, to be approved by the Court.
6. “Class Counsel Litigation Costs” include, but are not limited to all litigation costs, including the following: messenger and other delivery fees; postage; photocopying; printing; scanning; document binding; parking; regular or special postage expenses; travel expenses (including mileage, airfare, lodging, meals, and ground transportation); consultants’ fees; mediation charges and fees; expert witness fees; regular witness fees; deposition fees; transcript fees; investigation fees; on-line research costs; long-distance telephone charges; facsimile transmissions and other costs or expenses ordinarily charged by attorneys when representing clients, whether or not the costs qualify to be reimbursed in a motion for attorneys’ fees and/or costs under either 42 U.S.C § 1988 or 28 U.S.C. § 1920. Certain costs are to be paid from the agreed upon attorney’s fee award and certain costs are to come from the Damages Class Fund.
7. The “Class Damages Fund” refers to the amount of up to \$950,000 as damages compensation to the Class, to be paid by Defendants to the Class Administrator, and out of which the costs of Class Administration,

Plaintiffs' counsel expert/consulting and mediation fees, incentive awards and compensation to Damages Class members will be paid.

8. A "Class Member" means any member of the Injunctive Relief Class as defined above (which is broader than the Damages Class).
9. The "Class Notice" means the notice to the Class regarding settlement, to be sent to Class Members in a form substantially similar to that attached hereto as Exhibit B, or as otherwise approved by the Court, and such other summary notice to be published in accordance with the terms of this Settlement Agreement.
10. The "Damages Class" is composed of individuals who, between October 22, 2012 (two years prior to the filing of the original complaint, which is the statute of limitations period under 42 U.S.C. § 1983) and March 31, 2018 (the end of the month in which the settlement was reached in principle) were GBT inmates housed in the ALT of the San Bernardino County Jail facility known as West Valley Detention Center ("WVDC").
11. The "Damages Class Member List" shall consist of those persons identified as having been housed in the ALT during the Damages Class Period.
12. The "Damages Class Period" refers to October 22, 2012, through March 31, 2018.
13. The "Database" is the information provided in electronic form to the Administrator no later than five (5) days from the date the Court grants preliminary approval of the terms of this Settlement Agreement (if the data has not already been provided), which information has been compiled from the electronic records of the San Bernardino Sheriff's Department.
14. The "Defendants" are the County of San Bernardino, the San Bernardino Sheriff's Department, San Bernardino County Sheriff John McMahon, and San Bernardino County Sheriff's Department employees Greg Garland, Jeff Rose, James Mahan, and Armando Castillo.

15. The “Effective Date” means thirty days after the date upon which a judgment entered by the Court approving the Settlement Agreement becomes final. The Judgment will be deemed final only upon expiration of the time for a Damages Class member who files an objection to file a notice of appeal (30 days after entry of judgment) or, if a Notice of Appeal is filed by an objector, upon exhaustion of all appeals and petitions for writs of certiorari. If no Damages Class member files an objection, then the Judgment shall become final as of the entry of the Final Approval Order and Judgment.
16. The “Fairness Hearing” is the hearing on the fairness of this Settlement, which date will be set by the court.
17. The “Final Order of Approval and Settlement” is the Order finally approving the settlement, entered by the court (which may also be referred to herein as “Final Order”).
18. The “Injunctive Relief Class” is composed of individuals who currently are, or in the future will be, GBT inmates housed in the San Bernardino County jails, including but not limited to those housed in the ALT.
19. The “Lawsuit” refers to the action styled *McKibben et al. v. County of San Bernardino et al.*, Case No. 14-2171-JGB-SP.
20. The “Motion for Attorneys’ Fees and Costs” is Class Counsel’s application for Attorneys’ Fees and Costs.
21. The “Named Plaintiffs” or “Class Representatives” refers to the plaintiffs named in the Second Amended Complaint to this suit, who are: Pedro Guzman, Nick Ou, Sean Lint, Anthony Oliver, Timothy Walker, Ilich Vargas, William Kennedy, Jonathan Robertson, Steve Aka Lynn Price, Bryan Bagwell, Christopher Crawford, Frederick Crockan, Taheash White, Michael Aka Madison Hatfield, and Kevin Aka Veronica Pratt. (Although Dan McKibben was a Named Plaintiff, he is now deceased, and is therefore being treated purely as a class member and is not included as a Named

Plaintiff or Class Representative.)

22. “Preliminary Approval” is the Court's determination that the Settlement is within the range of possible approval and therefore that a notice should be sent to the Class and a hearing should be held with respect to fairness.
23. The “Preliminary Approval Order” is an order entered by the court preliminarily approving the settlement, after which Class Notice, the opportunity to object and opt out, and in a Final Approval hearing are to occur.
24. An “Opt-Out” is any Damages Class Member who files a timely request for exclusion, pursuant to the terms of this Settlement Agreement, to be excluded from the Settlement Class. (If used as a verb, it refers to the process of filing such exclusion.)
25. The “Proof of Claim Form” means the Proof of Claim and Release Form required to be used in order to make a claim for payment under this settlement. A copy of the proposed Proof of Claim Form is attached as Exhibit C. The pre-prepared Claim forms shall be bar coded to link with the Class member’s database information and shall contain the damages to which the class member is entitled if s/he were to receive the full damages provided for in this agreement.
26. “Released Person” means the Defendants and their affiliates, subsidiaries, predecessors, successors, and/or assigns, together with past, present and future officials, employees, representatives, attorneys, and/or agents of San Bernardino County, including John McMahon, or any of them. “Released Persons” also includes any and all insurance carriers, and/or their representatives and attorneys, for the Released Persons.
27. The “Settlement” refers to this agreement.
28. A “Settlement Class Member” (“SCM”) means any member of the Damages Class as defined above (whether or not s/he files a Timely Claim form), including representatives, successors and assigns, who does not file a

valid and timely Request for Exclusion as provided for in this Settlement Agreement.

29. The “Settlement Fund” is the fund established by the Class Administrator with funds transferred from Defendants from which the damages to the Class Representatives and Damages Class members will be paid. The Defendants will pay all moneys they are obligated to pay under the Preliminary Approval Order, and the settlement approved by the Court, if any, into the Settlement Fund.

30. A “Timely Claim” is one filed a) within the 90-day window provided by the notice to be sent to the class, and b) to the extent the Court approves, late claims (i.e., claims filed after the Class Notice period) that are filed prior to the Final Approval Hearing.

III. DISCLAIMER OF LIABILITY

1. The Parties acknowledge and agree that all undertakings and agreements contained in this Settlement Agreement have been agreed to solely for the purpose of finally compromising all questions, disputes and issues between them relating to the litigation. This Settlement Agreement and any proceedings taken pursuant hereto shall not in any event be construed as, interpreted as, or deemed to be evidence of an admission or concession by either party for any purpose, or deemed to constitute a waiver of any legal position or any defenses or other rights which either of the Parties might otherwise assert in any context. Neither this Settlement Agreement nor any provision contained therein, nor any documents related hereto, nor any negotiations, statements or testimony taken in connection herewith may be offered or received as evidence, or used for any other purpose, or in any suit, action or legal proceeding which either of them have or in the future may have with any other person, as an admission or concession of liability or wrongdoing on the part of either party, except in connection with any action or legal proceeding to enforce this settlement agreement. The Parties have reached this settlement through arms-length negotiations and to avoid the costs and

delays of further disputes, litigation and negotiations among them and after extensive negotiations with an independent mediator, subject to approval by the Court. This Settlement Agreement has been entered into without any concession of liability or nonliability whatsoever and has no precedential or evidentiary value whatsoever.

IV. FINANCIAL TERMS OF SETTLEMENT AGREEMENT

2. The “Class Fund” (defined previously) is the amount of \$950,000. The Class Administration Costs (estimated at a maximum approximately \$40,000 and likely less depending on certain factors) shall be paid out of that fund, as will the consultant/expert and mediation fees advanced by Plaintiffs’ counsel and any incentive awards to the class representatives as approved by the Court. (Other litigation costs will be absorbed by counsel and included in the Attorney’s Fees and Costs Award.) The remainder of the Class Fund shall be distributed to the class members (including Named Plaintiffs/Class Representatives) under the formula terms provided in this Agreement (hereafter referred to as the “Remainder”).

3. Plaintiffs’ counsel will propose the following Incentive Awards to Named Plaintiffs, which vary according to counsel’s assessment of the contribution made by each to the case:

NAME	INCENTIVE AWARD
Bryan Bagwell	\$5,000
Christopher Crawford	\$5,000
Frederick Crockan	\$5,000
Pedro Guzman	\$3,000
Michael Aka Madison Hatfield	\$5,000
William Kennedy	\$3,000
Sean Lint	\$2,000
Anthony Oliver	\$5,500
Nick Ou	\$3,000
Kevin Aka Veronica Pratt	\$5,500

NAME	INCENTIVE AWARD
Steven Aka Lynn Price	\$3,000
Jonathan Robertson	\$3,000
Illich Vargas	\$5,500
Tim Walker	\$5,000
Taheash White	\$2,000
TOTAL	\$60,500.00

4. Plaintiffs estimate that the size of the Remainder is approximately \$812,500, or slightly more. This is based on the foregoing cost for Incentive Awards, expert/consulting and mediation costs of approximately \$37,000 and a Class Administration fee of a maximum approximately \$40,000 and likely less, depending on a variety of factors. (The bid from the agreed to Class Administrator, JND Legal Administrator, along with its bid and related material, which are attached as Exhibit E.)

5. The formula for distribution of the Remainder has been developed by Plaintiffs' Counsel and, if approved by the court, will be that summarized in the Class Notice to be sent to class members. The formula is designed to account for the fact that the alleged severity of challenged conditions varied: (1) over time (with the most allegedly discriminatory and restrictive conditions occurring before October 2014); and, (2) depending, in part, on inmates' sentencing status, security classification, and work eligibility (with sentenced, work-eligible inmates allegedly experiencing the most discriminatory conditions).

6. To briefly summarize Plaintiffs' counsel's assessment of these variations in conditions, which are factored into the class damages allocation formula, are as follows:

- a. Inmates incarcerated before 10/14/2014 endured substantially less out-of-cell time than similarly situated inmates housed outside of the ALT. (Whereas non-ALT inmates received out-of-cell time based on their security classification level,

- ALT-housed inmates were generally segregated even from each other, resulting in 23-hour lockdown on many days).
- b. Inmates designated as low security risk were most adversely affected by SBCSD's policies because they would have received the most out-of-cell time had they been housed outside of the ALT; inmates designated as higher security risk would have received less out-of-cell time and were therefore less adversely impacted. Accordingly, for the pre-10/14/14 time period, security classification is relevant to determining conditions of confinement and damages.
 - c. Throughout the class period, program access varied depending on sentencing status and work eligibility. All ALT inmates, regardless of sentencing status, security classification or incarceration dates, were denied access to certain substance abuse rehab programs (AA/NA), "In-Roads" programs, religious services, and volunteer work programs available to similarly-situated, general population inmates housed outside of the ALT.
 - d. In addition, *sentenced* inmates (a minority of the class) were deprived of access to GED, high school diploma courses, and other educational programs available to similarly-situated, sentenced inmates housed outside of the ALT.
 - e. Depending on their security classification, disciplinary history, and other factors, some sentenced inmates would also have been eligible for both vocational training courses and job assignments, had they not been housed in the ALT. A small minority of ALT-housed, work-eligible inmates received inferior job assignments but were denied access to vocational training.

7. Defendants have a different interpretation of the factual assessment made by Plaintiffs’ counsel in paragraph 6, but Defendants agree that Plaintiffs’ counsel’s division of points based on temporal changes in the conditions of confinement is a reasonable means of distributing settlement proceeds to the class members.

8. Based on these considerations, Plaintiffs’ counsel divide conditions of confinement into nine categories. Each of the nine categories is assigned a point-value, which will translate to a per-diem dollar value at the time of distribution. The chart below shows the daily categories, conditions associated with each category, and points assigned to each condition. Class members receive the designated number of points for each day they were incarcerated in a given category (some inmates may have incarceration days in multiple categories depending on whether their security classification, sentencing status or work-eligibility changed; inmates may also have been incarcerated before and after 10/14/14). Each day of incarceration can qualify for only one category.

#	<u>Per Diem Category</u>	<u>Disparate Conditions of Confinement</u>	<u>Total Per Diem Points</u>
PRE-OCTOBER 1, 2014 (DISPARATE REDUCTION IN TIER TIME)			
1.	Sentenced, work-eligible inmates	<ul style="list-style-type: none"> • Excluded from jobs and vocational training available to similarly-situated, non-ALT inmates (30) • Excluded from GED, high-school diploma and other educational programs available to similarly situated, <i>sentenced</i> inmates (15) • Excluded from alcohol/drug rehab, religious services, and volunteer worker positions available to non-ALT, general population inmates (20) • Drastic reduction in tier time due to mixing of classification levels, often resulting in 23-hour lockdown.³ (35) 	100

³Plaintiffs’ counsel have presumed that all work-eligible inmates were deemed a low security risk because only those inmates with security classification scores and minimal disciplinary history were entitled to work assignments. Accordingly, we group work-eligible inmates among those most affected by the reduction in tier time.

#	<u>Per Diem Category</u>	<u>Disparate Conditions of Confinement</u>	<u>Total Per Diem Points</u>
2.	Sentenced inmates (not work-eligible)	<ul style="list-style-type: none"> • Excluded from GED, high-school diploma and other educational programs available to similarly-situated, sentenced inmates. (15) • Excluded from alcohol/drug rehab, religious services, and volunteer worker positions available to non-ALT, general population inmates. (20) • Substantial reduction in tier time due to mixing of classification levels, often resulting in 23-hour lockdown.⁴ (25) 	60
3.	Pre-sentenced inmates, lower security risk (GP 6, 7)	<ul style="list-style-type: none"> • Excluded from alcohol/drug rehab, religious services, and volunteer worker positions available to non-ALT, general population inmates. (20) • Drastic reduction in tier time due to mixing of classification levels, often resulting in 23-hour lockdown. (35) 	55
4.	Pre-sentenced inmates; higher security risk (GP 3,4,5)	<ul style="list-style-type: none"> • Excluded from alcohol/drug rehab, religious services, and volunteer worker positions available to non-ALT, general population inmates. (20) • Substantial reduction in tier time due to mixing of classification levels, often resulting in 23-hour lockdown. (25) 	45
5.	Pre-sentenced inmates; unknown security risk	<ul style="list-style-type: none"> • Excluded from alcohol/drug rehab, religious services, and volunteer worker positions available to non-ALT, general population inmates. (20) • Substantial reduction in tier time due to mixing of classification levels, often resulting in 23-hour lockdown.⁵ (25) 	45
POST-OCTOBER 1, 2014			

⁴ SBCSD data does not indicate the security classification for all sentenced inmates during this time period. Some inmates were deemed ineligible to work for reasons having nothing to do with security classification or disciplinary history (e.g. some were deemed ineligible to work due to medical conditions). However, because security classification was a common reason for inmates to be deemed ineligible to work, we assume many non-work-eligible sentenced inmates were higher security risk inmates and therefore assign fewer points for time-out-of-cell (inmates with a higher security risk were less adversely impacted because they would have received less time-out-of-cell than low risk inmates had they been housed outside of the ALT).

⁵ Because there is no way to distinguish from the available data, Plaintiffs' counsel have conservatively treated these inmates the same as those with 3-5 classification levels although presumably there are 6 and 7 classifications among them who would be entitled to a greater value.

#	<u>Per Diem Category</u>	<u>Disparate Conditions of Confinement</u>	<u>Total Per Diem Points</u>
6.	Sentenced, work-eligible inmates, with <u>no</u> job assignment	<ul style="list-style-type: none"> • Excluded from jobs and vocational training available to similarly situated non-ALT inmates. (30) • Excluded from GED, high-school diploma and other educational programs available to similarly situated, sentenced inmates. (15) • Excluded from alcohol/drug rehab, religious services, and volunteer worker positions available to non-ALT inmates. (20) 	65
7	Sentenced, work-eligible inmates, with (inferior) job assignment	<ul style="list-style-type: none"> • Excluded from vocational training available to similarly situated non-ALT inmates.⁶ (15) • Excluded from GED, high-school diploma and other educational programs available to similarly situated, sentenced inmates. (15) • Excluded from alcohol/drug rehab, religious services, and volunteer worker positions available to non-ALT inmates. (20) 	50
8	Sentenced inmates (not work-eligible)	<ul style="list-style-type: none"> • Excluded from GED, high-school diploma and other educational programs available to similarly situated, sentenced inmates. (15) • Excluded from alcohol/drug rehab, religious services, and volunteer worker positions available to non-ALT inmates. (20) 	35
9	Pre-sentenced inmates	<ul style="list-style-type: none"> • Excluded from alcohol/drug rehab, religious services, and volunteer worker positions available to non-ALT inmates. (20) 	20

9. Each class member will receive a certain number of points for each incarceration day. That class member’s point total is the sum of all their daily points. The total points for each class member will then be added together, from which the class member’s percentage share of the recovery can be determined. Because it is anticipated that not all class members will make Timely Claims, and this is a non-reversionary fund, a claiming class member’s percentage of the Remainder will be determined based on that class member’s percentage of the total points for class members who made Timely Claims. (If, for example, there was a

⁶ Work eligible inmates were limited to the law library position, which did not include a vocational training component similar to the job assignments provided to similarly situated non-ALT inmates.

total of 1,000,000 points for the aggregated timely claims, and Class member X had a total of 2000 points, and the Remainder was \$810,000, Class member X would receive .2% (or .002) of \$810,000 (which is \$1,620)).

10. Despite the foregoing, no class member who filed a Timely Claim will receive less than \$40 or more than a total of \$10,000. The purpose of the Maximum provision is to ensure that outliers who have outsized claims do not distort the meaningfulness of the recovery to the remaining class members. (Such outliers would be entitled to opt out and pursue their own claims if they so chose.)

11. None of the \$950,000 Damages Class Fund shall revert to the County. Accordingly, as explained above, the money per class member making a Timely Claim will increase proportionately to the extent that fewer class members make a claim.

12. The “Attorneys’ Fees and Costs” is the amount of \$1,100,000 as compensation for statutory fees and certain costs pursuant to 42 U.S.C. § 1988. (The costs included in this award shall include all costs incurred except for mediation costs, consultant/expert costs and Class Administration costs.) This fee shall be the subject of a separate Motion for Attorneys’ Fees to be heard at the Final Approval Hearing, to be analyzed under the standards for an award of fees and costs to a prevailing plaintiff under 42 U.S.C. § 1988 and Civil Code § 52.1(h). The Class Notice will advise class members of this motion and their right to object to it.

13. The parties agree that these fees were independently negotiated with the assistance of a professional mediator and that, in order to effectuate this settlement, the fees were substantially discounted below the amounts that Plaintiffs would have sought in an attorney’s fee motion filed by Plaintiffs as the prevailing parties.

14. The County represents that it has provided all the electronic data in its possession regarding class members necessary to both identify and contact class members. Within ten (10) days of the Court’s grant of the Preliminary Approval of this settlement, the County shall provide, to the extent that such information has not

already been provided, any such additional information in its possession. Such information shall be confidential, and may not be disclosed to anyone except counsel of record, the Class Administrator, and designated representatives of the Parties.

V. INJUNCTION

15. The Final Approval Order shall include an order granting Plaintiffs an injunction for a three-year period, after final approval by the Court of the settlement and the settlement is implemented by the County, the terms of which are set forth in Exhibit D. The injunctive relief provisions include the development of policies not yet drafted. To the extent the parties cannot agree on a policy or policies to implement the provisions of Exhibit D, the matter shall be resolved by the court.

16. Defendants estimate that the various added resources associated with the injunctive relief changes amount to an annual expenditure of approximately \$500,000 in current dollars.

17. In the event of a change in relevant law during the three-year period that this injunction remains in effect, the County will be required to comply with any and all provisions that are more protective of class members' rights than the terms of Exhibit D. A change in relevant law shall be defined as an amendment to the U.S. or California Constitutions, a change in federal or California statutory law, a change in applicable regulations (e.g., PREA regulations) or a binding decision of the U.S. Supreme Court, Ninth Circuit Court of Appeals, California Supreme Court, or California Court of Appeal.

18. To the extent that Plaintiffs contend that a change in relevant law implicates the protections of paragraph 17, Plaintiffs' counsel shall notify Defendants' counsel in writing of the change in relevant law. If the parties are unable to reach an agreement on whether there has been a change in relevant law within 30 days of the initial notification by Plaintiffs' counsel, the dispute shall be submitted for judicial review by the Court.

VI. OTHER SETTLEMENT TERMS

19. The Parties enter into this agreement solely for the purposes of this settlement and implementation of the settlement. If the settlement fails to be approved or otherwise fails consummation, then this Settlement Agreement is hereby withdrawn and Defendants reserve the right to seek decertification of the class. Any such motion for decertification would be evaluated under a de novo standard with Plaintiffs bearing the burden of establishing the requisite elements for class certification. Since Plaintiffs would bear the burden in such a motion, the parties agree that, upon notice to the Court and Plaintiffs that Defendants seek decertification of the class, the Plaintiffs would timely file a regularly noticed new motion for class certification.

20. An SCM who complies with the requirements set forth in this Settlement Agreement and files a Timely Claim form will be paid specified sums determined by the settlement distribution process set forth above, which payment shall be in full satisfaction of all claims of that SCM.

21. The Settlement Agreement, as of the Effective Date, resolves in full all claims against the Released Persons by all of the SCMs, including the Named Plaintiffs, involving violations of law or constitutional rights, including, without limitation, their equal protection rights under federal and California law, their rights under California Civil Code § 52.1, any other rights under any other federal, state or local law, regulation, duty, or obligation, or any other legal theory, action or cause of action, which arise from the class-wide factual allegations alleged in the complaint, as well as any claim regarding the bus transportation of transgender inmates (hereafter “Covered Claims”).

22. When the Settlement Agreement is final, as of the Effective Date, all SCMs, including the Named Plaintiffs, waive all rights to any and all claims relating to damages or reimbursement of any kind for the Covered Claims. This waiver and release shall include a full release and waiver of unknown rights regarding the Covered Claims that may exist as of the Effective Date.

23. As of the Effective Date, the SCMs, including the Named Plaintiffs, hereby waive any and all rights to pursue, initiate, prosecute, or commence any action or proceeding before any court, administrative agency or other tribunal, or to file any complaint regarding acts or omissions by the Released Persons with respect to the Covered Claims during the Class Period that fit within the definition of the Damages Class; and further, as it relates to this waiver or Release, expressly waive the provisions of California Civil Code § 1542, which provides that “a general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

24. This Settlement Agreement, together with its exhibits, contains all the terms and conditions agreed upon by the Parties regarding the subject matter of the instant proceeding, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Settlement Agreement shall be deemed to exist, or to bind the Parties, or to vary the terms and conditions contained herein, except as expressly provided herein.

25. Each SCM shall be deemed to have submitted to the jurisdiction of the Court.

26. This Settlement Agreement is subject to and conditioned on a Final Approval Hearing conducted by the Court and the final approval of this Settlement Agreement and the issuance of the final order and judgment of dismissal by the Court, providing the specified relief as set forth below, which relief shall be pursuant to the terms and conditions of this Settlement Agreement and the Parties’ performance of their continuing rights and obligations hereunder. The Order and Judgment shall be deemed final on the Effective Date as defined previously. Such Final Order and Judgment shall:

- a. Dismiss with prejudice all claims in the action as to the Released Persons including all claims for monetary damages, declaratory relief and injunctive relief, except as to the terms of the injunction to be entered,

which terms are set forth *infra*, each side to bear its own costs and fees except as otherwise provided for in this Settlement Agreement;

- b. Order that all SCMs are enjoined from asserting against any Released Person any and all claims that any SCM had, has or may have in the future arising out of the facts alleged in the Complaint;
- c. Release each Released Person from the claims that any SCM has, had or may have in the future against such Released Person arising out of the facts alleged in the Complaint;
- d. Determine that this Settlement Agreement is entered into in good faith, is reasonable, fair and adequate, and in the best interest of the Class; and
- e. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Settlement Agreement, including Defendants and SCMs, to administer, supervise, construe and enforce the Settlement Agreement in accordance with its terms for the mutual benefit of all Parties, and to enforce the terms of the injunction described *infra*.

The Parties will take all necessary and appropriate steps to obtain preliminary and final approvals of the Settlement Agreement, and dismissal of the action with prejudice, all parties bearing their own fees and costs unless otherwise set forth in this Settlement Agreement. If the Court gives final approval of this Settlement Agreement, and if there is an appeal from such decision, the Parties will defend the Settlement Agreement.

VII. RESOLUTION AND PAYMENT OF CLAIMS

27. Released Parties shall not prefund the Settlement Fund. Instead, funds will be deposited by the Released Parties to the Class Administrator as necessary to pay the class administration costs, and the SCMs (including the Named Plaintiff) claims. (Attorney's fees and costs are addressed separately.)

28. Defendants agree to the division of funds between Incentive Awards and the Remainder as proposed by Plaintiffs' Counsel subject to the approval of the Court.

29. The County of San Bernardino will make a single wire transfer to the Class Administrator of the Damages Class Fund, less the amount of that Fund previously advanced under the terms of this Agreement. This transfer shall be made within ten (10) days of the Effective Date of the Settlement.

VIII. PAYMENT OF CLASS COUNSEL FEES

30. In addition to and separate from any other payments called for in this Agreement, the County of San Bernardino shall pay a one-time-only lump sum payment of the Class Counsel attorneys' fees plus litigation costs (exclusive of expert/consultant and mediation fees, which are paid from the \$950,000 Damages Class Fund) in the amount of \$1,100,000, payable by wire transfer to the KMBL Client Trust Account within ten (10) days after the Effective Date of the Settlement. This payment represents a full and final settlement of all past, present and future attorneys' fees and all past, present and future ordinary and extraordinary costs. Class counsel will file a Motion for Attorney's Fees and Costs, and the payment of said fees and costs is subject to court approval. Defendants agree that Plaintiffs satisfy the prevailing party element for such a motion.

IX. CLASS ADMINISTRATION COSTS

31. Requests for bids were sent to established Class Administrators (KCC, CPT Group, and JND Legal Administration), and were to be chosen by Class Counsel based upon assessing the most reasonable bid, taking into account the combination of the price and scope of the services provided, and the capabilities and reputation of the Administrator. (That has now occurred, and Plaintiffs' counsel has chosen JND based on the conclusion that it was the most reasonably priced.)

32. The Administrator shall be responsible for providing Class Notice. This duty shall comprise mailing Class Notice and a Claim Form by regular mail to all Class Members' last known address. The Administrator shall also use normal and customary means to search for a Damages Class Member's last known address, including the use of a postal database, when mail is returned, or do whatever else is

reasonably appropriate in order to reasonably notify Class Members (including making reasonable efforts to determine class members who are now incarcerated in California state prisons). Class Counsel may also take whatever steps they deem appropriate to notify the Class Members of their rights to file claims and to assist them in doing so. The Summary Notice will also be posted by the Defendants in the ALT throughout the Class Notice period, including a statement that the full notice will be provided to the inmate upon request.

33. The Class Administrator will include in its bid a line item for the cost of obtaining from California Department of Corrections and Rehabilitation the identities of class members in CDCR custody to whom notices should be sent at their CDCR housing location.

34. The Class Notice shall describe the particulars of the case, provide the class definition, provide information for claimants to contact the Administrator for a claim form, notify Damages Class Members of establishment of a case website, and contain other usual and customary information. The proposed Class Notice is attached to this Settlement Agreement as Exhibit B.

35. The Administrator shall complete the mailing of Class Notice within two consecutive business days. The second day of such mailing is the first day of the period for calculating the “Bar Date” (defined previously). That mailing shall occur as soon as practicable after the settlement has been preliminarily approved no later than the date set by the Court.

36. In lieu of publishing a summary Class Notice in local newspapers as a form of reaching class members who do not receive the mailing, which experience has shown does not effectively reach class members, the Administrator shall gather email addresses to the extent reasonably possible and cost effective. Given the relatively small size of the class (655 people), the Class Administrator shall propose other cost-effective means of outreach.

X. CLASS ADMINISTRATION FOR PROOF OF CLAIM FORMS

37. The Administrator shall be responsible for providing and receiving

Proof of Claim Forms. The Administrator shall determine class membership and the amount of Damages due each timely claiming class member based on the formula contained in Section IV.

38. A Proof of Claim Form shall be deemed timely submitted under subsection (a) of Definition # 30 (Timely Claim) when received by the Administrator, or postmarked, on or before the Bar Date. Facsimile or electronic mail filings are acceptable and timely so long as they clearly indicate the case on which the claim is filed and are received on or before the Bar Date.

39. If a Damages Class Member submits a Claim form that is deficient in some respect, the Administrator shall provide written notice by First Class Mail and a 30-day time limit to provide a proper claim form, which notice shall inform the Class Member of what s/he must do in order to submit a proper claim. Failure to cure the deficiency within the 30-day time limit will bar any further rights for consideration of eligibility. So long as the original claim is received on or before the Bar Date, it shall be considered timely under sub-section (a) of Definition # 30 (Timely Claim) if any deficiency is cured within 30 days of the mailing of a notice of deficiency.

40. Claim Forms received after the Bar Date shall be processed by the Administrator and paid as ultimately ordered by the Court. The Administrator will notify claimants of the rejection of untimely Claims.

41. The Administrator shall make payments to SCMs who have filed Timely Claims as ultimately determined by the Court in accordance with this Settlement Agreement within a reasonable time not to exceed 90 days after the Effective Date.

42. If a check to an SCM is not cashed within three months of its mailing, the Administrator shall hold the funds for nine additional months, during which time it shall make reasonable efforts to contact the person to whom the uncashed check was written to make arrangements for its cashing or reissuance. The Administrator shall not make payment to any SCM until all claims have been

submitted to the Administrator pursuant to the terms of this Settlement Agreement. Any such funds not cashed within one year of the check's initial mailing shall be distributed pro rata to SCMs whose checks were cashed. If there are remaining funds after that second round of distribution, they shall be given as a *cy pres* donation to Inland Region Equality Network.

XI. EXCLUSION FROM SETTLEMENT CLASS—OPT OUTS

43. Any Damages Class Member who wishes to be excluded from the Settlement Class must submit a request to be excluded from the class, a process defined herein as "Opt-Out." The request for exclusion must be delivered to the Administrator, or postmarked, on or before the Bar Date or as the Court may otherwise direct.

44. Each member of the Settlement Class who chooses to Opt-Out from or object to this settlement shall be deemed to have submitted to the jurisdiction of the Court with respect to his/her claim and to any dispute resolution process conducted by a Special Master as set forth in this Settlement Agreement.

45. Any Class Member who does not Opt-Out as set forth in this Settlement Agreement, shall be deemed conclusively to have become an SCM and to be bound by the Settlement Agreement and all subsequent proceedings, orders and judgments herein, regardless of whether s/he files a claim form.

46. Any Class Member who exercises an Opt-Out shall not share in any monetary benefits provided by this Settlement Agreement.

47. The Administrator will periodically report to Defendants' counsel and Class Counsel all Opt-Outs received, and will determine and report to counsel the total number of Opt-Outs no later than 10 days after the Bar Date.

48. In the event that the number of Opt Outs exceeds ten (10) but is less than twenty-five (25), i.e., where the number of Opt Outs is between 11-24, the parties agree that, Defendants will receive a credit against the Class Damages Fund based on the amount that each Opt Out was due under the initial class distribution formula (explained in ¶ 8) when applied to the Damages Class and as calculated by

Plaintiffs' counsel, i.e., the amount due that class member if all class members filed claims. (To the extent that the final distribution formula results in different allocations because not all class members filed claims, the credit would be based on the initial distribution formula, not the formula adjusted to the claims made.) This credit is only available if the number of Opt Outs exceeds ten.

49. If the number of Opt Outs amounts to 25 or more or if any Named Plaintiff opts out, Defendants shall have the option of using the same credit formula as set out in the previous paragraph where the number of Opt Outs is between 11-24, or of rescinding the Agreement.

50. If Defendants decide to exercise their this right of rescission as provided in the previous paragraph, Defendants shall provide the Administrator and Class Counsel with written notice of rescission within 20 days after receipt of the Administrator's report providing the total number of Opt-Outs. In the event Defendants exercise the right of rescission, any funds paid or deposited pursuant to this Settlement Agreement shall be returned to Defendants within 10 days of the rescission, less any expenses, fees and costs incurred by the Administrator. Rescission shall return the Case to active litigation status.

XII. APPROVALS REQUIRED

51. The San Bernardino County Board of Supervisors and the surviving Named Plaintiffs have all approved this settlement.

XIII. DISPUTE RESOLUTION

52. In the event of any disputes regarding implementation of the Settlement Agreement as set forth herein, they shall be resolved by the Court.

XIV. INTEGRATION

53. This Settlement Agreement supersedes all prior communications regarding the matters contained herein between the Parties or their representatives. This Settlement Agreement is an integrated agreement and contains the entire agreement regarding the matters herein between the Parties, and no representations, warranties or promises have been made or relied on by any party hereto other than

as set forth herein. This Settlement Agreement was drafted by counsel for the parties hereto, and there shall be no presumption or construction against any party.

XV. FAIRNESS HEARING AND FINAL ORDER OF APPROVAL

54. Before this settlement agreement becomes final and binding on the Parties, the Court shall hold a Fairness Hearing to determine whether to enter the Final Order of Approval. A proposed Final Order of Approval shall be submitted to the Court incorporating the terms of this Settlement Agreement and addressing related information such as Objections and Opt-Outs.

XVI. NO THIRD PARTY BENEFICIARIES INTENDED

55. This Settlement Agreement does not and is not intended to create any rights with respect to any third parties, except as otherwise provided herein.

XVII. COUNTERPARTS

56. This Settlement Agreement may be signed in counterparts.

DATED: August 13, 2018

KAYE, MCLANE, BEDNARSKI &
LITT
ACLU FOUNDATION OF
SOUTHERN CALIFORNIA

By: /s/ Barrett S. Litt
Barrett S. Litt
Attorneys for Plaintiffs

DATED: August 13, 2018

BURKE, WILLIAMS & SORENSEN

By: /s/ Nathan A. Oyster
Nathan A. Oyster
Attorneys for Defendants

LIST OF EXHIBITS TO SETTLEMENT AGREEMENT

- | | |
|-----------|---------------------------------|
| Exhibit B | Class Notice |
| Exhibit C | Proof of Claim and Release Form |
| Exhibit D | Injunctive Relief Agreement |
| Exhibit E | JND Class Administration Bid |

Exhibit B

Class and Settlement Notice

NOTICE OF CLASS ACTION, CLASS SETTLEMENT AND HEARING

RE: *McKibben, et al., v. McMahon, et al.*, Case No.14-2171-JGB-SP, United States District Court, Central District of California

Esta Notificación de acción colectiva está disponible en español. Llame sin cargo al: 1-____ o visite el siguiente sitio web: www.____.com.

There is currently pending a class action lawsuit in the United States District Court, Central District of California. The Court has certified the case as a class action. If the proposed Settlement receives final court approval, CLASS MEMBERS are eligible to receive money.

If you were housed in the Alternative Lifestyle Tank (hereafter “ALT”) of the West Valley Detention Center (a San Bernardino County jail) between October 22, 2012 and March 31, 2018,

You may be a CLASS MEMBER and entitled to receive MONEY but only if you take action and file a claim.

The class action lawsuit filed in 2014, challenged the treatment of gay, bisexual and transgender inmates who were housed in the ALT. A preliminary settlement has been reached that calls for both modifying what Plaintiffs alleged was discriminatory treatment, and providing a compensation fund.

San Bernardino County records show that **you may be a CLASS MEMBER**. Therefore, **you may be eligible to receive MONEY from the Settlement**. The average recovery exceeds \$1000 even if all class members file claims (but varies greatly based on time in custody and other factors addressing the degree of discriminatory treatment). In order to receive any money in this Settlement, **you must fill out and mail a Claim Form**.

Your Claim Form

must be **postmarked** or received by the Administrator
no later than _____, 2018.

If you wish to “opt out,” or be excluded from the Settlement, your opt-out letter must be postmarked or received by the Administrator by _____, 2018.

Even if you do not submit a Claim Form or opt out of the Settlement by the above deadline, you will be bound by the terms of the Settlement.

**If You Wish to Claim Your Share of the Settlement Money,
Fill Out and Mail the Enclosed Claim Form Today.**

Below are questions and answers designed to explain information about this lawsuit, including how to proceed to file a claim or otherwise participate in the Settlement process.

1. What Is The Class Action Lawsuit About?

This lawsuit challenged the treatment of gay, bisexual and transgender (“GBT”) inmates who were housed in the ALT. The lawsuit claimed that GBT inmates were discriminated against in various ways, including, among other things, that GBT inmates 1) were automatically placed in the ALT if they self-identified as GBT; 2) would have been at risk for their safety if admitted to the general population as openly GBT inmates because the San Bernardino County Sheriff’s Department did not have plans or programs to ensure their safety; 3) had no or inadequate PREA programs in place to protect GBT inmates or address particular vulnerabilities of GBT inmates placed in the general population; 4) were limited in their time-out-of-cell generally to an hour and a half per day, and often less, in contrast to similarly situated (by classification or sentencing status) general population inmates; 5) were denied the same work opportunities that were provided to similarly situated (by classification or sentencing status) general population inmates; 6) were denied the same programming opportunities¹ that were provided to similarly situated (by classification or sentencing status) general population inmates; and 7) were denied a comparable range of religious services to those available to the general population.

2. Who Is A Member Of The Damages Class Entitled To Money?

You are a member of the Damages Class if you were housed in the ALT between October 22, 2012 and March 31, 2018. The extent of your compensation is based on a formula that weighs various conditions that applied to ALT residents. It is described further in #7 below. Whether you are a class member is determined **solely** from the records of the San Bernardino County Sheriff’s Department.

3. What Is The Purpose Of This Notice?

You have a right to know about a proposed Settlement of this class action lawsuit and about all your options before the Court decides whether to give final approval to the Settlement. Your rights may be affected by this lawsuit.

This information is being sent to everyone who has been determined to be a member of the class based upon the last known address available from the San Bernardino County Sheriff’s Department records, and is otherwise being publicized to reach class members.

¹ Programming opportunities include classes in anger management, thinking for change, living skills, parenting skills, substance abuse prevention, GED preparation, high school diploma, literacy, automobile mechanics, bakery occupations, culinary/reading enrichment, computer skills, HVAC training, fire camp vocational training, employment readiness, and re-entry services.

This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible and how to file a claim.

The Court in charge of the case is the United States District Court for the Central District of California, located in Riverside, California. The case is known as *McKibben, et al. v. McMahon, et al.*, Case No.14-2171-JGB-SP. The people who brought the case are called Plaintiffs, and the people they sued are called Defendants. The Judge is The Honorable Jesus Bernal.

4. Why Is This A Class Action?

In a class action, one or more persons, called the Class Representative(s), sue on behalf of a group of people who have similar claims – the Class Members. One court then resolves the issues for all Class Members, except for those who exclude themselves from the class.

5. Why Is There A Settlement?

The Court rejected the Defendants' motion to dismiss the case, after which the parties began to discuss possible settlement and to engage in discovery. With the help of a retired judge who acted as a mediator, there were settlement discussions over many months. Because, when the case was filed, the primary concern of the people who represented the class (present or former ALT inmates) was to change the conditions of the ALT, that was the focus of discussion for several months. After that, the parties turned to discussion of compensation for the Class Representatives and the class members, and to attorney's fees (all of which are paid by Defendants).

Instead of continuing the litigation, both sides have agreed to a Settlement. That way, both sides are able to avoid the risks and costs of a trial regarding the injunctive relief and damages to which class members may be entitled, or an appeal from any such decisions by a court; the case can be resolved immediately; and the benefits of the Settlement can be made immediately available to the Class Members. The Class Representatives and their attorneys think that the proposed Settlement is fair to the Class Members and the parties in the case, and think that the terms of the Settlement are a fair, reasonable and adequate resolution of this matter.

6. Are There Lawyers Representing You?

The Court has approved lawyers (called "Class Counsel") to collectively represent you. These are the lawyers who have been handling the lawsuit for the past four years. You will not be asked to pay your own personal money for the services these attorneys and their staff have provided you in litigating this case and negotiating this Settlement. Instead, the lawyers will be paid separately by the Defendants, after approval by the Court, as described further below. Only Class Counsel may act on behalf of the class. However, that rule of law does not prevent you from hiring your own lawyer to advise you personally about your rights, options or obligations as a Class Member in this lawsuit. If you want to be represented by your own lawyer, you may hire one at your own expense.

7. What Does The Settlement Provide?

The Settlement has three parts – injunctive relief (changes to how the ALT and the San Bernardino County jails operate in the treatment of GBT inmates); payment of compensation to the Class Representatives and the class members; and attorney’s fees. We briefly describe each below.

- a. **Injunctive Relief** – The injunctive relief is extensive and difficult to summarize. The full agreement is posted on the settlement website www._____.com. It changes the name of the ALT to the GBTI (Gay Bisexual Transgender Intersex) Unit. It establishes a PREA (“Prison Rape Elimination Act”)-GBTI Committee that includes classification, programming and social work personnel that will make individualized determinations regarding housing, programming and work opportunities for GBTI inmates after conferring with them. It provides guidelines for housing, classification, work and programming options for GBTI inmates and for equal tier time for the GBTI Unit as for general population inmates. It establishes training guidelines for personnel on GBTI issues and for GBTI inmates regarding their rights. It addresses particular issues related to transgender inmates. It provides that Class Counsel will be consulted on the policies to be implemented and for reports and monitoring of the Agreement for three years.
- b. **Damages to the Class**

The total damages to the class (which has 655 individuals in it) is \$950,000, which will be placed in a class fund overseen by a professional Class Administrator.

From this, the costs of class administration (estimated at \$40,000 or less), the experts/consultants retained by Plaintiffs and the mediation costs (combined approximately \$37,000) will be deducted.

Plaintiffs’ counsel are proposing payment of special compensation to the 15 Class Representatives of a total of \$60,500 (in individual amounts between \$2000-\$5500) for their roles in bringing and advancing the case.

After payment of the foregoing, approximately \$812,500 (it could vary somewhat depending on the final accounting of costs) will be divided among the class members who file timely claims, based on a formula approved by the Court. Under the formula, class members will receive a certain number of points for each incarceration day based on the person’s status during that day (pre-sentenced or sentenced, work eligibility and classification) and the overall conditions in the ALT on that day. Each class member’s total points represent the sum of their daily points. The total points for each class member will then be added together, from which the class member’s share of the recovery will be determined. Because it is anticipated that not all class members will make Timely Claims, a claiming class member’s share will be based on that class member’s share of the total points for class members who made Timely Claims (and

not on eligible class members). This has the effect of increasing the amount awarded to claiming class members.

If 328 people file timely claims, then the average recovery would exceed \$2400. However, because how much any claiming class members receives is based on the formula, individual damages will vary greatly, depending first on the length of time spent in the ALT and secondarily on other factors.

No claiming individual class member will receive less than \$40 or more than \$10,000 regardless of the amount above or below those figures due them under the formula.

c. Attorneys' Fees and Litigation Costs

The Court will be asked to award Plaintiffs' counsel \$1,100,000 in statutory attorneys' fees and litigation costs (excluding the expert/consultant and mediation costs), such that Defendants would pay these fees and costs. This figure is a substantial discount from the fees that would otherwise have been claimed (separate from compensation to class members) because Plaintiffs' counsel considered the injunctive relief a model. These fees must ultimately be approved by the Court after satisfying itself they are reasonable and fair.

8. Will I Receive Anything From The Settlement?

As long as you file an approved claim within the time set by the Court, and you qualify as a class member, you will be entitled to receive compensation based on the formula described above. The methodology for determining the share of the settlement fund for each class member filing a timely claim is described in ¶ 7(b) above.

The full description of the proposed system to determine how much each Damages Class member will receive is contained in the parties' Settlement Agreement, which is available on the settlement website www._____.com.

9. What Do I Do To Get Money?

If you wish to receive money from the Settlement, you must complete and submit the accompanying Claim Form. Read the instructions on the Claim Form carefully. **All Claim Forms must be completed and postmarked (or received by the Administrator) no later than _____, 2018**, but in order not to miss out on this opportunity, you should complete and mail your Claim Form as soon as possible. **If you do not timely and properly submit your Claim Form, you will not receive any money** from the Settlement. If you need a copy of a Claim Form, please call _____ (toll free), or write to the *McKibben v. McMahon* Settlement Administrator, P.O. Box _____, _____, _____, or download the Form from the Internet at www._____.com.

10. What If I Still Don't Know If I Am A Class Member?

If you are not sure whether you are included in the class, call 1- _____ or write to:

McKibben v. McMahon Settlement Administrator

Determinations of whether you are or are not a Class Member will be based exclusively on the records of the San Bernardino County Sheriff's Department.

11. How Much Will The Lawyers Be Paid?

As mentioned, the court will be asked to award Class Counsel \$1,100,000. The Court can award less than that amount, but not more. You will not be asked personally to pay any attorneys' fees to Class Counsel. Only if you hire your own lawyer to represent you personally would you have to pay an attorney any fees.

12. Can I Exclude Myself From The Settlement?

If you do not want to be a member of the class, or if you want to be able to file your own lawsuit, or be part of a different lawsuit against the Defendants raising the claims involved in this lawsuit, then you must take steps to get out of the class. This is called "excluding yourself" from, and sometimes is referred to as "opting out" of, the class.

If the number of exclusions exceeds ten (10) but is less than 25, the County is entitled to a credit against the settlement based on the amount that each Exclusion was due under the initial class distribution formula. If the number of exclusions exceeds 25, the County may rescind (walk away from) the settlement or receive the foregoing credits for all excluding class members.

13. What Do I Do To Exclude Myself From The Lawsuit?

To exclude yourself, you must send a letter by First-Class mail clearly stating that you want to be excluded from *McKibben v. McMahon*. Be sure to include your name, address, telephone number and signature. The name and address of your attorney is not sufficient. **You must mail your Exclusion Request, postmarked no later than _____ 2018, to:**

McKibben v. McMahon Settlement Administrator

You cannot exclude yourself on the phone or by email. If you exclude yourself, you will not be entitled to get any money from the Settlement, and you cannot object to the Settlement. Nor will you be legally bound by anything that happens in this lawsuit.

Unless you exclude yourself from the class, you remain in the class and give up all of your rights against the Defendants for the conduct alleged in this complaint, except those available to you under this Settlement. That means that, if you don't exclude yourself and also don't file a claim, you will receive no money but will still lose your rights against the Defendants. **So be**

sure to file the claim form unless you are going to exclude yourself. (If you do exclude yourself, and you want to pursue other damages for the conduct alleged in the complaint, you will need to bring your own complaint against the Defendants.)

Anyone determined to be a damages class member who submits a timely claim will receive some compensation. How much will depend on the formula already described.

14. What Is The Release Of Claims?

As part of the Settlement, you release the claims covered by this lawsuit in exchange for the money you will receive if you do not exclude yourself from the class. The Proposed Final Order of Approval and Settlement (which you may view on the website for this lawsuit at www._____.com) describes the legal claims against the Defendants you will give up by staying in the class (that is, if you do not exclude yourself as described in the question above entitled “What Do I Do To Exclude Myself From The Lawsuit?”). The Released Claims include all claims, demands, causes of action, whether class, individual or otherwise in nature, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties and attorneys’ fees, that were or could have been asserted in the complaint based on the facts alleged, specifically for the conditions and treatment, including discriminatory treatment, in the ALT during the time covered by this Settlement. These Released Claims include any other related complaints, grievances, and/or claims, whether judicial or administrative, and whether actually filed or available. Released Claims do not include any other claim(s) that a Plaintiff or member of the classes may have against Defendants for conduct not covered by this Settlement (for example, a claim for an incident of use of force unrelated to this suit).

15. If I Do Not Like The Settlement Or Object To The Attorneys’ Fees, How Do I Tell The Court?

If you are and choose to remain a Class Member, you can object to the Settlement if you do not like any part of it, or you may object to the request for attorneys’ fees. You must give the reason why you think that the Court should not approve the Settlement or the requested attorneys’ fees (i.e., a mere statement that “I object” will not be sufficient). Do not contact the Court orally to object. Rather, you must send a written statement with the case name and number (*McKibben v. McMahon*, Case No. 5:14-CV-02171-JGB-SP) at the top of the page. In addition, provide your name, your address (just giving the address of an attorney who represents you is not sufficient), your telephone number, your signature and the reason why you object. If you are represented by a lawyer, you should also give the name, address and telephone number of that lawyer. **You must mail your objections and any supporting papers by First-Class mail, postmarked no later than _____, 2018**, to the Court and counsel as follows:

Clerk of the District Court United States District Court Central District of California 3470 Twelfth Street	Barrett S. Litt Attn: Julia White Kaye McLane, Bednarski & Litt 975 E. Green St. Pasadena, CA 91106	Nathan A. Oyster Burke, Williams & Sorensen 444 S. Flower St. Suite 2400 Los Angeles, CA 90071
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Courtroom 1 Riverside, CA 92501-3801		
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If you are not filing a pre-prepared claim form, you should provide as much identifying information (such as Driver's License, address, date of birth and last four digits of your Social Security Number) with the copies sent to the counsel listed above, so that your file can be located. To protect your privacy, do not send that information to the Court, as what you file with the Court is a public document.

Submitting an objection will not extend the time within which a Class Member may request exclusion from this Settlement. (If you file an exclusion, you are no longer a member of the Damages Class and any objection will not be considered.)

A full set of the settlement documents, including the Settlement Agreement, a Claim Form, the expert reports explaining how class members were identified, the Proposed Final Order of Approval and Settlement and the Motion For Award of Attorneys' Fees and Costs is available (or will be if the motion for attorneys' fees has not yet been filed) on the case website, www._____.com.

16. What Is The Difference Between Objecting And Excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the class. If you object and the Court rejects your objection, you remain a member of the class and will be bound by any outcome of the case, and entitled to payment under the settlement if you make a claim. Excluding yourself is telling the Court that you do not want to be part of the class. If you exclude yourself, you have no basis to object because the case no longer affects you.

17. When And Where Will The Court Decide Whether To Approve The Settlement And Attorneys' Fees?

The Court has scheduled the Fairness Hearing for _____, 2018, at _____ in the United States District Courthouse for the Central District of California, 3470 Twelfth Street Riverside, CA 92501-3801. At this Hearing, Judge Bernal will consider whether the Settlement is fair, reasonable and adequate, and will determine the amount of attorneys' fees and costs to be awarded. If there are any objections, the Court will consider and rule on them. We do not know how long this process will take. We do not know if the Hearing will be continued. There will not be a new notice if it is. You may speak at the Hearing, but only if you have submitted your comments or objections as provided in the question above entitled "If I Do Not Like The Settlement Or Object To The Attorneys' Fees, How Do I Tell The Court?" (See question no. 15)

18. Do I Have To Come To The Hearing?

No. You may, but need not, attend the Hearing. Class Counsel will answer any questions the Court may have. However, you may come if you choose, at your own expense. If you sent a written objection, you may, but do not have to, come to Court to talk about it. As long as you

properly submitted your written objection, the Court will consider it. You may also pay your own lawyer to attend, but that also is not necessary.

19. May I Speak At The Hearing?

You will not be heard unless you have submitted your comments or objections as provided in the question above entitled “If I Do Not Like The Settlement Or Object To The Attorneys’ Fees, How Do I Tell The Court?” (See question no. 15) and have stated in your submission that you wish to be heard. You cannot speak at the Hearing if you exclude yourself. If you have submitted an objection, the Court will decide whether or not to hear from you verbally as well.

20. What Happens If I Do Nothing At All?

If you do nothing, your rights will be affected. You will be bound by the terms of the Settlement and you will be agreeing to a release of the claims that are contained in the Settlement. However, **if you do not file a claim, you will not be entitled to any money from the Settlement even though you will be bound by it.**

21. When Will I Receive Money From the Settlement?

No money will be paid until 1) after the Settlement Funds are deposited with the Settlement Administrator, which will only occur 30 days after the Settlement is approved and all possibilities of appeal are completed, and 2) until after the date set by the Court as the last day to mail or file a claim. After that, it will take at least two months, and quite possibly more, to process all the claims, calculate the amount due each Class Member and send the money to the Class Members. If you file a claim and do not receive money within six months after _____, 2018, which is the last day to mail or file a claim, check the website for this case about when payment mailings are expected, or contact the Class Administrator by either calling 1- _____ or writing to:

McKibben v. McMahan Settlement Administrator

We strongly recommend that you keep a copy of your Claim Form. You may want to send the Form in by certified mail so it can be verified, but you are not required to do so.

22. What Happens If There Is Not A Final Settlement?

Under certain circumstances, it is possible the settlement might not go through (for example, if the court for some reason does not approve the settlement). In that situation, the case would move forward and go to trial.

23. Are There More Details About The Settlement?

This Notice merely summarizes the proposed Settlement. You can go to the website titled www._____.com to see the complete Settlement documents in the case and a copy of the

Motion for Award of Attorneys' Fees and Costs when it is filed. In the event that any description in this Notice of the terms in the Settlement documents conflict with the actual terms of the Settlement documents, the terms of the Settlement documents control.

Exhibit C

McKibben v. McMahon
P.O. Box _____

CLASS ACTION CLAIM FORM

||||| Claim #: _____
First Last (pre-print)
c/o (pre-print)
Address (pre-print)
City, ST Zip (pre-print)

Name/Address Changes (if any). Please enter below:

First Name _____ Last Name _____

Address _____

City _____, State _____ Zip _____

Please provide the following personal identification information:

Email address: _____

() _____
Area Code Daytime Telephone Number

() _____
Area Code Evening Telephone Number

Last four digits of Social Security Number: _____

Date of Birth: _____ / _____ / _____
Month Day Year

Other names used beginning 2004: _____

I wish to make a claim against SBCSD because, between October 22, 2012, and March 31, 2018, I was an inmate at West Valley Detention Center and was housed in the Alternative Lifestyle Tank” (aka the “ALT”). Such inmates make up the Damages Class in this case. I understand this lawsuit addressed discrimination against Gay, Bisexual and Transgender inmates housed in the ALT, including discrimination in, out of cell activities, and discrimination in programming, education, work and other opportunities.

I understand that, if I received this preprinted form in the mail, and it is confirmed that I am a member of the Damages Class, I am entitled to receive compensation based on a formula approved by the Court that takes into account the alleged severity of conditions challenged in the lawsuit, including (1) variations in conditions over time (with the most allegedly discriminatory and restrictive conditions occurring before October 2014); and, (2) variations in inmates’ sentencing status, security classification, and work eligibility (with sentenced, work-eligible inmates allegedly experiencing the most discriminatory conditions).

I understand my entitlement to compensation will be determined exclusively by records of the San Bernardino County Sheriff’s Department (“SBCSD”). I also understand that, if I downloaded a claim form from the website, or otherwise obtained a blank form, whether I am a class member and the amount I can receive will be determined from HACLA’s electronic records.

I understand that the amount I may receive from this settlement may vary depending on the number and extent of claims filed, and that the settlement is explained more fully in the Class Notice mailed to class members and in documents posted on the Class Administrator’s website.

You must mail this Claim Form with a postmark
NO LATER THAN _____, 2019,
in order to receive money from the class fund.
ACT NOW

If your Claim Form is not mailed with a postmark no later than _____, 2019, you will not be considered a member of the class even if you wish to be, but you still will be bound by the settlement and will not receive any money. **DO NOT DELAY.**

The information given in this Claim Form is private, and will be held in strictest confidence, except as needed by the Parties and Settlement Administrator. If you have any questions about this lawsuit, write to us at *McKibben v. McMahon* Settlement Administrator, P.O. Box _____, _____; contact us by e-mail at _____; or visit our web site at _____.

YES, I WISH TO MAKE A CLAIM.

By signing this form below, I am confirming that the above information is correct and that:

- 1. I am the person identified above and am over the age of 18.
- 2. I have not received money or compensation for any of the claims involved in this case.
- 3. I will abide by, and be limited to, the formula for damages approved by the Court.
- 4. I will keep the Settlement Administrator informed of my whereabouts at all times.

I declare under penalty of perjury that the information given above is true and correct.

Date: _____ Signature: _____
(mm/dd/yyyy)

Exhibit D

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1. PREA-GBTI COMMITTEE

- 1.1. Purpose. The SBSB will operate a PREA-GBTI Committee (“the Committee”) whose purpose is to discuss the housing assignment, programming options, educational options, and employment options for inmates who self-identify as a GBTI inmate.
- 1.2. Frequency. The Committee shall meet two times per month, subject to modification as needed. The default Committee schedule shall call for two regularly-scheduled meetings per month. At each meeting, the Committee shall conduct a review of the available housing, programming, education, and employment for all eligible inmates as defined in Section 1.4.
- 1.3. Committee Members. The Committee shall consist of seven representatives at each meeting, subject to excused absences.
 - 1.3.1. Facility commander or designee;
 - 1.3.2. Representative from Centralized Classification Unit / Population Management Unit;
 - 1.3.3. Medical supervisor or designee;
 - 1.3.4. Mental health supervisor or designee;
 - 1.3.5. Representative from Inmate Services Unit (Programs/Education);
 - 1.3.6. PREA/GBTI compliance manager; and
 - 1.3.7. County-employed social worker with knowledge of issues impacting the GBTI community, who shall act as a GBTI advocate.
- 1.4. Inmates Subject To Review. At each meeting, the Committee shall review the housing, programming, education, and employment for the following eligible inmates:
 - 1.4.1. All inmates who have been booked into the SBSB jails since the preceding Committee meeting and who have self-identified as GBTI.
 - 1.4.2. All self-identified GBTI inmates who have been sentenced since the preceding Committee meeting.
 - 1.4.3. If an inmate who would otherwise qualify as eligible under Section 1.4.1 opted to be housed outside of the designated GBTI housing location upon initial booking, the inmate has the option of requesting a review from the Committee and shall be so informed. Absent such a request, the Committee shall not conduct a review of a self-identified GBTI inmate who chose to be housed outside of the designated GBTI housing upon booking.
- 1.5. Committee Functions. At each meeting, the Committee shall perform the following functions:
 - 1.5.1. The Committee will meet with all eligible-inmates as defined by Section 1.4.

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- 1.5.2. The Committee will review the initial classification and intake forms for accuracy.
- 1.5.3. The Committee will ensure that GBTI inmates understand that housing in the GBTI unit is one of many housing options and that SBSB is committed to ensuring their safety throughout the facility, regardless of whether they opt to be housed in the GBTI unit or general population. SBSB shall take steps discussed with Plaintiffs' counsel to improve safety throughout the facility, including in general population and during transport, so GBTI inmates are safe in general population and any other housing or location. Potential changes could include housing GBTI individuals in general population cells closest to front the front of units where most accessible and visible to deputies and custodial assistants, managing blind spots, increased cameras and other steps that effectively counter risk of assault.
- 1.5.4. The Committee will ensure that GBTI inmates are fully informed of their housing options, available programming, and work assignments.
- 1.5.5. The Committee will formally discuss, evaluate, and make decisions on inmate housing assignments. The Committee will take into consideration any specific request from the GBTI inmate to ensure they feel safe and fully understand the consequences of a specific housing location. The inmate request will not be dispositive but will be given serious weight.
- 1.5.6. The Committee will identify the most appropriate housing location for transgender and intersex inmates. The housing assessment will be individualized and gender identity will be taken into consideration. Housing based upon and consistent with gender identity will be discussed and evaluated as a housing option.
- 1.5.7. The Committee will also discuss and manage issues of searches, shower privacy, transition-related care as discussed in Section 7. The parties will work together to create a form that will capture information about the person's gender identity, appropriate name and pronoun, preferences as to the gender of the person(s) who search them, housing preferences, and cellmate preferences, if any.
- 1.5.8. The Committee will evaluate and make decisions for GBTI inmates specifically related to work assignments (if applicable) and available program/education opportunities.
- 1.5.9. The Committee will identify, evaluate, and monitor any ongoing mental health or medical care issues or concerns.
- 1.5.10. The Committee will endeavor to come to a consensus but the Facility Commander will have ultimate decision-making authority. The Committee will maintain notes of these meetings. The Committee will document any disagreements over the housing/programming plan, and document any rationale for housing a GBTI inmate in housing different than their preferred choice. The inmate will be informed of the Committee's decisions and disagreements in a manner that allows the inmate to grieve the Committee's decision.
- 1.5.11. The Committee will review GBTI grievances that deal with housing, programs, work assignments or other confinement issues. The Committee shall not review any grievance that alleges misconduct on behalf of staff. Those grievances shall continue to be investigated and reviewed by the commander or designee.

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2. HOUSING & CLASSIFICATION ISSUES

- 2.1. Renaming Unit. The housing location at West Valley Detention Center currently known as the Alternative Lifestyle Tank (“ALT”) shall be renamed the GBTI unit.
- 2.2. Range of Housing Options. Inmates who self-identify as GBTI shall have the following housing options:
 - 2.2.1. General population, based on classification score;
 - 2.2.2. GBTI Unit at WVDC, based on classification score;
 - 2.2.3. For transgender and intersex inmates, housing based upon and consistent with gender identity, if approved by the PREA-GBTI Committee (for the period of time commencing with the meeting specified in Section 1.4.1 of this Agreement) or the Centralized Classification Unit (CCU) (for the period of time prior to the meeting specified in Section 1.4.1 of this Agreement).
 - 2.2.4. Protective Custody housing, if the inmate needs protection from other inmates based on protective custody protocol and for reasons other than their sexual orientation or gender identity.
- 2.3. Factors to Consider. The following factors shall be considered in determining the housing assignment of a GBTI inmate:
 - 2.3.1. Individual determination of safety with the jail, unit or segment;
 - 2.3.2. Taking into consideration the inmates own view of safety and a housing location, which will be given serious weight;
 - 2.3.3. The location that maximizes access to program, work or other activities;
 - 2.3.4. GBTI inmates will not be automatically assigned to the GBTI unit, protective custody or restrictive housing;
 - 2.3.5. The PREA/GBTI committee will review and approve housing locations; and,
 - 2.3.6. The SBSB reserves the right to relocate any inmate(s) based on construction, inmate population needs, changes in classification, medical/mental health concerns, etc. In other words, SBSB does not guarantee that all GBTI inmates will be housed in one specific location (e.g. Unit One). They could be moved to other units as necessary. There will remain a GBTI unit unless this agreement is modified.

3. INMATE WORKER OPTIONS

- 3.1. Eligibility. Nothing in this proposal shall alter the standard requirements for inmate worker-eligibility. This agreement shall only impact inmates who self-identify as GBTI and whose housing location in the GBTI unit may have been the sole basis for making them ineligible for employment.

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- 3.2. GBTI Inmates in Standard General Population. GBTI inmates who are housed in standard general population housing shall be eligible for jobs without regard to their GBTI status.
- 3.3. Inmates in the GBTI Unit. Inmates housed in the GBTI Unit at WVDC who are otherwise-eligible for and selected for an assignment can become inmate workers in one of two ways:
 - 3.3.1. An inmate in the GBTI Unit who has requested an inmate job can remain living in the GBTI Unit while on a wait list and then transfer to a work-based housing assignment once selected for an inmate job. Alternatively, an inmate in the GBTI Unit who is work-eligible can choose to remain the GBTI Unit and opt to be matched with an inmate job that has been approved for inmates in the GBTI Unit.
 - 3.3.2. Pursuant to Policy 13.170, inmate workers are housed in inmate worker units. Staff will ensure that the GBTI inmate understands the following. The request must come from the inmate. There is no actual guarantee of a specific job, as there are very few jobs available based on the inmate population. GBTI inmates will have to wait for a job opening just like non-GBTI inmates. The Committee will inform inmates who are eligible to work of the jobs available and the current wait list and location of those jobs. The wait list is determined in chronological order of an inmate's application to the wait list when work eligible. The length of the wait list shall be shared with the inmates, and there will be different wait lists for different jobs so that there is an informed choice as to whether to go on one with a long wait list.
 - 3.3.3. The SBSB will ensure that a minimum of three jobs for inmates who elect to remain in the GBTI unit can be accommodated at a given time. In addition to the law library position, the SBSB will identify and select two additional jobs that can be provided to eligible inmates from the GBTI Unit. Should a situation arise where more than three GBTI unit inmates need a job at the same time, the SBSB will in good faith attempt to identify and fill the additional jobs.
 - 3.3.4. All inmate workers must adhere to facility guidelines for job assignments. The PREA-GBTI Committee will coordinate and ensure that GBTI inmates are afforded every opportunity and equal access to a work assignment with the understanding that no inmate is guaranteed a job.
 - 3.3.5. GBTI inmates will have the same opportunities to have volunteer positions as other general population inmates at WVDC.
- 3.4. Job Postings. In addition to the information provided to GBTI inmates during their meetings with the PREA-GBTI Committee, the SBSB shall post information about inmate jobs.
- 3.5. Credits. Any sentencing credits will be rewarded without regard to sexual orientation, gender identity, or housing placement in the GBTI Unit.

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- 3.6. Work and HIV Status. The SBSB policies do not discriminate based on HIV status. Therefore, HIV status does not disqualify an otherwise-eligible inmate from working.

4. PROGRAMMING

- 4.1. In-Person. If an in-person program is offered to inmates at Glen Helen or general population at WVDC, then that program will be offered in the GBTI Unit or a suitable classroom at WVDC. Courses offered at WVDC will use the same eligibility, pre-requisites, and scheduling rationale used at GHRC. Courses offered at WVDC will use the same eligibility, pre-requisites, and scheduling rationale used at GHRC.
- 4.2. Remote Access. If a program is offered via remote access (such as online, journalist, or tablets) to inmates at Glen Helen or other general population units at WVDC, the inmates in the GBTI Unit at WVDC will also be eligible to participate in the program via remote access.
- 4.3. Religious Providers. The SBSB will work with Plaintiffs in an effort to find security-eligible religious providers who are willing to provide religious services in the GBTI Unit and will provide chaplains and group religious services in the same manner they do for other general population units at WVDC, including possible services in spaces outside of the day room.
- 4.4. Credits. Any sentencing credits for programming, including drug rehabilitation or any other program for which credit is given by the Court or SBCJ will be rewarded without regard to sexual orientation, gender identity, or placement in the GBTI Unit.
- 4.5. Programming and HIV Status. The SBSB policies do not discriminate based on HIV status. Therefore, HIV status does not disqualify an otherwise-eligible inmate from programming.

5. GBTI UNIT TIER TIME

- 5.1. Two Segments. Provided that a minimum of 20 inmates opt to be housed in the GBTI Unit, then the GBTI Unit will be divided into two segments.
- 5.2. GP-3 to GP-5. One segment of the GBTI Unit shall consist of inmates with classifications of GP-3, GP-4, and GP-5. Inmates in this segment shall receive half tier time. If in the future general population inmates with classifications of GP-3, GP-4, and GP-5 start receiving more than half tier time, then similar increases will be applied to the GBTI Unit with GP-3, GP-4, and GP-5 inmates.
- 5.3. GP-6 to GP-7. One segment of the GBTI Unit shall consist of inmates with classifications of GP-6 and GP-7. Inmates in this segment shall receive full tier time.

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- 5.4. Contingency for Single Segment. Should the population of the GBTI Unit fall below 20 inmates, the SBSB reserves the right to consolidate the GBTI Unit into a single segment. If the GBTI Unit is consolidated into a single segment under this provision, the Watch Commander or his/her designee can decide to give less tier time based on security considerations and the classification scores of the inmates in the GBTI Unit but no less than half tier time. The Watch Commander or his/her designee can also decide to keep tier time at the same level in their discretion. The decision will be documented.
- 5.5. Exceptions. Any exception to the default tier time designated in Sections 5.2, 5.3, and 5.4 must be approved by the Watch Commander and must be documented in the shift log.
- 5.6. Recreation Time. All inmates in the GBTI Unit shall receive outside recreation time as required by Title 15.

6. TRAINING

- 6.1. Staff Training. The SBSB will provide comprehensive training for staff, contractors, and volunteers who have contact with inmates on GBTI and PREA issues prior to the assignment of the staff, contractor, or volunteer to any position involving contact with inmates.
- 6.2. Training Topics. The mandatory training shall cover the following topics at minimum:
 - 6.2.1. The Prison Rape Elimination Act;
 - 6.2.2. The department's zero tolerance policy regarding sexual abuse and sexual harassment;
 - 6.2.3. Common reactions of sexual abuse and sexual harassment victims;
 - 6.2.4. Detection and response to signs of sexual abuse;
 - 6.2.5. Inmates right to be free from sexual abuse and sexual harassment;
 - 6.2.6. Inmates and staff members right to be free from retaliation when reporting sexual abuse or sexual harassment incidents;
 - 6.2.7. How to effectively and professionally communicate with inmates including lesbian, gay, bisexual, transgender, intersex or gender non-conforming inmates (LBGTI);
 - 6.2.8. How to comply with all relevant laws related to mandatory reporting of sexual abuse to outside authorities;
 - 6.2.9. Impact of discrimination against LBGTI inmates; and
 - 6.2.10. Classification, housing, programming, education, work opportunities and integration of LBGTI inmates in the prison setting.
- 6.3. Refresher Training. All staff, contractors, and volunteers shall receive refresher training on the issues described in Sections 6.1 and 6.2 at least once every two years.

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- 6.4. Training Records. Initial and refresher training shall be documented using the Acknowledgment of PREA training form. Training compliance records will be computerized.
- 6.5. Educating Inmates. Materials designed to educate inmates on GBTI and PREA issues shall be made available to all inmates in the jail system. The materials shall identify the SBSB's zero tolerance policy regarding sexual harassment and how to report incidents or suspicion of sexual abuse or sexual harassment. Inmates shall receive this information during the intake process. Information will be posted in housing areas and readily visible to inmates. Plaintiffs' counsel will endeavor to work with experts to obtain quality videos and materials to be used for inmate education, which will be provided to the SBSB. Absent an articulable objection from the SBSB to the materials provided by Plaintiffs' counsel, the SBSB will provide these materials to the inmates during orientation and make these materials available for viewing by all inmates at other appropriate times.

7. TRANSGENDER ISSUES

- 7.1. Orientation. It is understood that the appropriate correctional approach to the housing and protection of transgender inmates is a relatively new and rapidly developing area of both correctional practices and the law. San Bernardino County Sheriff's Department is committed to an ongoing assessment of the special needs and best correctional practices for transgender inmates, and to developing appropriate policies to address those issues.
- 7.2. Housing. Transgender women and intersex people assigned to men's facilities shall be housed based upon the recommendation of the PREA-GBTI Committee, considering the range of housing options in Section 2.2 and the factors in Section 2.3. Plaintiffs and SBSB will discuss, in developing this policy, whether the same range of housing options and process should be made available to transgender men, whether assigned to men's or women's facilities.
- 7.3. Searches. Transgender and intersex inmates shall advise the PREA-GBTI Committee of the preferred gender for deputies who will perform searches of the inmates. The SBSB shall honor the inmates' request subject to certain narrow exceptions that shall be identified in a written policy. Plaintiffs will work with SBSB to devise a specific question or gender preference search form.
- 7.4. Shower Privacy. Transgender and intersex inmates will have the opportunity to shower, perform bodily functions, and change clothes in private, away from the view of other inmates and cross-gender, non-medical staff (staff with a gender different than the gender the inmate identifies as). This may be accomplished through housing and classification, shower curtains, privacy screens, or other methods.

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- 7.5. Medical Issues. Correctional Health Services staff including Qualified Mental Health Professionals shall assess, diagnose, and establish a documented individual treatment plan for inmates including, but not limited to, those inmates identified with DSM diagnosis Gender Dysphoria. Qualified Mental Health Professional Providers shall order treatment as clinically indicated including, but not limited to, gap hormone medication.
- 7.6. Transport. Transgender inmates will not be cuffed, tied or otherwise placed in immediate proximity to inmates of a different gender identity during transport, including but not limited to bus transport to and from court. Transgender inmates who so request will be transported, if feasible, in individual protective ‘cages,’ or, where that is not feasible, will be accorded special protections to ensure that they are not harmed by other inmates during transport.

8. GENERAL PREA ISSUES

8.1. Zero Tolerance Policy for Harassment.

- 8.1.1. SBSB policy and employee bulletins will clearly prohibit harassment and discrimination against GBTI inmates or those perceived to be GBTI. This policy will have zero tolerance for anti-LGBTIQ statements in SBSB facilities. Deputies shall be subject to discipline for committing harassment and discrimination, including name calling.
- 8.1.2. SBSB will have a zero tolerance policy regarding the intentional misgendering of transgender and intersex inmates by staff. All staff will use the name and pronouns specified by the transgender or intersex inmate. Consistent use of the incorrect name and pronoun will be considered and handled as sexual harassment. Nothing in this section shall prohibit medical staff from complying with regulations or laws governing the dispensing of pharmaceuticals and the use of an inmate’s legal name.

- 8.2. PREA Pre-Audit. Within six months of the Court’s final approval of the settlement, the SBSB agrees to conduct a PREA pre-audit at West Valley Detention Center using a trained PREA auditor, based on a list of approved auditors provided by the United States Department of Justice. Following the pre-audit, the SBSB will meet and confer with Plaintiffs’ counsel regarding the findings, and what actions taken by SBSB based on the findings. The SBSB shall conduct an assessment addressing the issues identified in the PREA pre-audit after the meet and confer and will inform Plaintiffs’ counsel of actions taken in response to the pre-audit and the meet and confer. Nothing in this agreement shall impose an affirmative obligation on the SBSB to comply with the recommendations of the PREA pre-audit. Nothing in this agreement shall require the SBSB to allow the auditor to review or access materials protected under California law by California Penal Code § 832.5 *et. seq.* or California Evidence Code § 1040 *et. seq.* The pre-audit will not be forwarded to the United States Department of Justice. However, nothing in this agreement shall limit Plaintiffs’ counsel’s ability to report any PREA violations that are not rectified by the SBSB in response to the pre-audit or any future violations of PREA.

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- 8.3. Hotlines. The SBSB agrees to have working and anonymous PREA hotlines.
- 8.4. Victim Counseling. Mental health counseling, by counselors trained in rape and sexual assault consistent with PREA regulations 115.53 and 115.82-83, shall be available for all inmate victims of sexual assault.
- 8.5. Not Relocating Victim. Following the reporting of a sexual assault in the jails, the general rule is that the victim of the assault shall not be moved to another housing location. Instead, the alleged perpetrator shall be moved to another housing location. Exceptions to this general rule shall exist. Victim inmates may be moved out of a housing segment for his/her own protection. Victim inmates shall be reassessed for a different housing assignment by the Central Classification Unit (CCU) and/or PREA-GBTI Committee.
- 8.6. Screening. The SBSB shall continue PREA screening. The SBSB recognizes that not all GBTI inmates should be designated as PREA-vulnerable. The parties will jointly develop an appropriate screening mechanism that will be utilized by the PREA-GBTI Committee to facilitate appropriate housing, work and programming choices.
- 8.7. Compliance Manager. All type II jail facilities that house GBTI or PREA-vulnerable inmates will have a PREA-GBTI compliance manager. The compliance manager shall be responsible for the facility's efforts to comply with PREA-GBTI policies and procedures. The PREA-GBTI compliance manager shall be responsible for and ensure compliance with the Bureau Policies. The PREA-GBTI Compliance Manager shall also serve on the PREA-GBTI Committee.
- 8.8. PREA Requirements. Nothing in this agreement shall otherwise alter any PREA requirements that may be applicable to SBSB.

9. ENFORCING THE AGREEMENT

- 9.1. Policies. The parties will negotiate the language of any SBSB policies that shall be necessary to implement this agreement.
- 9.2. Production. For three years after the Court's final approval of the agreement, the SBSB shall produce the following documents on an annual basis:
- 9.2.1. A computerized spreadsheet that lists all initial and refresher training courses presented to staff, contractors and volunteers as well as a copy of each unique training. The spreadsheet will document the date of each course and compliance with section 6.2 (Training topics). The spreadsheet will certify that all required personnel are in compliance pursuant to this injunctive relief item.
- 9.2.2. A computerized spreadsheet that lists the housing locations for all inmates who openly identify during classification as GBTI.

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- 9.2.3. A computerized spreadsheet that lists all inmates housed in the GBTI segments. The spreadsheet shall include the inmates full name, booking number, classification rating, arrest date, sentencing date (if applicable), release date, and housing location.
 - 9.2.4. A computerized list of all educational, vocational, rehabilitation or other programming courses during the year provided to general population inmates.
 - 9.2.5. A computerized list of all inmates housed in the GBTI segments who requested and also who received educational or programming courses during the year. The list shall contain the type of educational or programming course, date, etc.
 - 9.2.6. Copies of the individual inmate PREA-GBTI Committee forms (includes housing options for each inmate).
 - 9.2.7. Computerized list of GBTI inmates who requested jobs and also a computerized list of GBTI inmates who are inmate workers and their job. This includes inmates housed in the GBTI segments and those who transferred to general population.
 - 9.2.8. Annual average of tier time afforded to inmates housing in the GBTI segments.
 - 9.2.9. Annual report that provides statistics on sexual assault and sexual harassment of inmates.
 - 9.2.10. Nothing in this section shall require the SBSB to provide materials protected under California law by California Penal Code § 832.5 *et. seq.* or California Evidence Code § 1040 *et. seq.*
- 9.3. Meet and Confer. The parties will meet and confer before any party seeks judicial enforcement of the settlement agreement.
- 9.4. Expense. All parties shall be responsible for their own costs and fees incurred after the Court's final approval of the settlement; except that if the Court finds a material violation or issues a remedial order, Plaintiffs will be entitled to fees.

Exhibit E



PROPOSAL FOR

**McKIBBEN V. McMAHON
SETTLEMENT ADMINISTRATION**

AUGUST 6, 2018

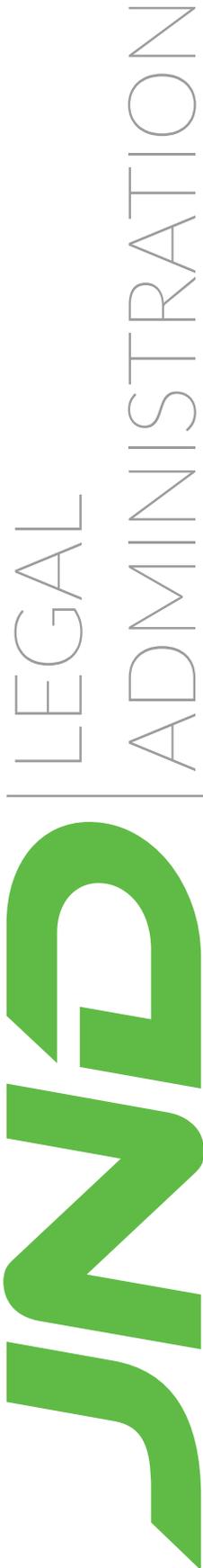


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OUR SERVICES

JND - WHAT WE DO



JND Class Action Administration delivers comprehensive administrative resources to its clients through its pre-settlement consultation, complete notice services, claims processing and validation, scalable call center capabilities, state of the art website design for static and interactive case specific sites, and an array of distribution services. The principals of JND have handled some of the most complex class action settlements in the country's history. The JND founders have worked with leading partners on both sides of the aisle, as well as with Fortune 500 companies to help design and effectuate class action settlements worth billions of dollars affecting hundreds of millions of people. Class Action Administration has been one of the leading administrators in the country for the past six years and was recently named "Best Claims Administrator" in the United States by the *National Law Journal*.

JND Corporate Restructuring focuses solely on the needs of companies in bankruptcy. With its technology-driven claims and noticing abilities, JND is a new breed of Claims Agent. The principals of JND along with the seasoned Restructuring management team has worked on some of the country's largest bankruptcy matters. JND helps navigate the intricacies of claims and noticing and provides clients with the support they need along the way. Armed with a powerful set of tools, from cutting-edge technology to top of the line equipment, JND Corporate Restructuring provides exactly the services clients need, including pre-filing services, creditor communications and inquiries, noticing, claims processing and analysis, balloting and tabulations, and disbursements. JND recently acquired UpShot Services LLC, the fastest growing company in the space and an industry trailblazer.

JND Government Services specializes in working with the unique needs of government entities throughout the United States. Based on prior experience with the Department of Justice (DOJ), the Federal Trade Commission (FTC), the Securities and Exchange Commission (SEC) and the Consumer Financial Protection Bureau (CFPB), as well as with State AGs throughout the country, JND is particularly well-situated to assist with all facets of any redress administration that requires outreach to constituents. JND's broad-ranging services include comprehensive noticing, claims processing and validation, contact services, state-of-the-art website design and distribution, and account reconciliation. JND is the only administration firm to offer this specialized service line.

JND Mass Tort Administration offers its extensive experience in both Global and Case Administrations. The JND team has been called upon by clients to create a database of information to design and implement a fair and reasonable distribution plan, construct portals for key stakeholders, develop and maintain case specific interactive websites, maintain sophisticated call center operations to manage claimant communications, handle mail center services, process claims, and provide wide-ranging distribution services. Additionally, JND efficiently manages all aspects of case intake, including Plaintiff Fact Sheet (PFS) preparation, retention, medical record retrieval, creating chronologies, evaluating and summarizing medical information, lien verification, HIPAA compliance and scheduling medical monitoring appointments.

JND eDiscovery partners with its clients to understand the specifics of each case and delivers a well-tailored litigation management solution. JND recently acquired Alloy Group, an industry frontrunner with deep project management and complex litigation experience. Our team understands that every case presents a unique set of variables and goals, JND selects the best tools suited to meet clients' needs. Our detailed services include targeted discovery requests, cost-effective hosting, data analysis, logical, physical and mobile forensics, reporting, data recovery, email examination, opposing evidence consultation, expert testimony, and timeline generation. JND's seasoned litigation management professionals are "hands-on" at all levels in order to help our clients identify, prioritize and make real-time decisions.

WHAT WE'VE DONE

Here are a few of the more notable class action matters that we have managed:

Aleah Guillory, et al. v. County Of Los Angeles
AT&T Mobility Reward Card
Auction Houses Antitrust Settlement
Batchelder v. Kerr-McGee Corporation, et al.
Benjamin Careathers v. Red Bull North America, Inc.
Brent v. Midland Credit Mgt
C Debaca v. South Globeville
Cobell v. Salazar
Doyle v. Doe Run (Fluor Corporation)
Engle Trust Fund
Expedia Hotel Taxes and Fees Litigation
Fitzgerald Farms, LLC v. Chesapeake Operating, Inc.
Gates v. City Of Chicago
In re Bank of America Corp. Sec. Litig.

In re Deepwater Horizon
In re IPO Securities Litigation
In re Visa Check/MasterMoney Antitrust Litigation
Jacksonville Auto Dealership
Maas v. Penn Central
Morey v. Louis Vuitton
Parker v. Berkeley Premium Nutraceuticals, et al.
Royal Ahold Securities and ERISA Litigation
Ryan-House v. GlaxoSmithKline PLC
Samples v. Conoco, Agrico & Escambia Treating
State Of Colorado v. General Steel, et al.
Vizzi v. Mitsubishi Motors North America
Wolf, et al. v. Red Bull GmbH, et al.
Worldcom Securities Litigation

WHO WE ARE

JND CLASS ACTION ADMINISTRATION, a JND Legal Administration company, delivers comprehensive administrative resources to its clients through its pre-settlement consultation, complete notice services, claims processing and validation, scalable call center capabilities, state-of-the-art website design for static and interactive case specific sites, and array of distribution services. The principals of JND—(J) Jen, (N) Neil, and (D) David have handled some of the most complex class action settlements in the country's history. The JND founders have worked with leading partners on both sides of the aisle, as well as with Fortune 500 companies to help design and effectuate class action settlements worth billions of dollars affecting hundreds of millions of people. JND's Class Action Administration division has been one of the leading administrators in the country for the past six years and was recently named "Best Claims Administrator" in the United States by the *National Law Journal*.

JENNIFER KEOUGH has handled some of our country's largest, high-profile engagements and previously held executive positions at one of the then most-recognized legal administration firms. Prior to forming JND, Jen worked as a class action business analyst at one of the country's highly-regarded law firms, responsible for managing complex class action settlements.

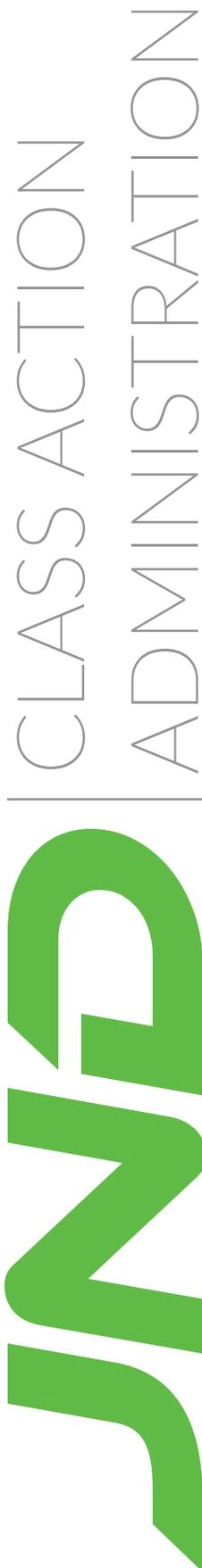
NEIL ZOLA has personally overseen dozens of the most involved legal administration projects in our country's history. Prior to forming JND, Neil held positions as general counsel, chief operating officer and president at one of the then largest legal administration firms in the country.

DAVID ISAAC has been a leader in the legal administration business for over twenty years and is credited with changing the industry landscape by providing "one-stop shopping" service offerings. David was previously the CEO of the then largest legal administration firms in the country and was a member of the global executive management team for its parent company.

AMANDA HORN is SVP of Client Services for JND Legal Administration. Amanda has spent over 20 years practicing law and in various leadership roles at well-known legal administration firms.

DARRYL THOMPSON is CIO of JND Legal Administration. Darryl has been in the legal administration field for over 6 years and has overseen the delivery of solutions for some of the largest projects in the industry. Prior to that, Darryl spent 12 years in Health Care IT.

CLASS ACTION SERVICES



PRE-SETTLEMENT CONSULTING

- We consult with clients on how to develop allocation methodologies, and have testified regarding their fairness.
- We have been appointed as Special Master in a number of class settlements, designing allocation methods, medical monitoring programs, and resolving appealed claims.
- We will work with the parties to compile the class list, or will serve as an independent auditor of an existing class list to verify completeness.

NOTICE PROGRAM

- We manage the entire CAFA Notice process for Defendants with our proprietary database of officials who need to be notified.
- We advise clients on best notice practices to ensure plain language and cost-effective notice.
- We are experienced in preparing usable class lists from various sources, including transcribing class member information from physical documents.
- Our notice and claim form mailing services utilize creative options to improve class awareness and participation. We maintain data quality by utilizing change of address updates and providing further research services if necessary.
- Our advertising team is expert at handling all media publication needs and we obtain the best rates available while maximizing the effectiveness of placement.
- We establish toll-free numbers with direct access to our team instead of an outside resource.
- We build and maintain case-dedicated websites with the appropriate functionality for a given class.

CLAIMS PROCESSING

- Our team is readily available to draft or assist in drafting claim forms to ensure class member comprehension and complete claim form submissions.
- Our proprietary databases efficiently capture claim form data as well as accurate and flexible reporting.
- We provide accurate and cost-effective means for capturing the information necessary to determine claim eligibility and benefit levels.
- Our proprietary on-line claim submission site provides secure submission, reducing overall claims processing costs by 75% from traditional claim methods.
- Because each case is different, we offer customized reporting to provide a variety of perspectives on the data that our clients may not have considered.

BENEFIT DISBURSEMENT

- We manage all aspects of the settlement fund, including opening disbursement accounts, reconciling accounts, establishing a Qualified Settlement Fund (QSF), filing tax returns, and serving as Escrow Agent.
- We implement even the most complex benefit allocation methodology and apply it to individual class members.
- Our team has distributed billions of dollars in settlement benefits in the form of checks and non-check benefits, while ensuring that extensive anti-fraud measures are in place.
- We manage tax reporting for settlement disbursements, including the issuance of tax statements, such as W-2s and 1099s, to class members. We also calculate the payroll withholding and employer taxes that are often required in employment class action settlements. We partner with a respected CPA firm to prepare settlement fund tax returns.

OUR TECHNOLOGY



OUR TECHNOLOGY

Our state-of-the-art technology is a key differentiator for JND, and it gives us advantages that aid all areas of our business. Below are just a few of the technologies we utilize to bring you secure, responsive, best-in-class service in the most efficient manner possible.



PROGRAM WEBSITES

JND routinely develops and hosts robust and secure ADA-compliant websites with key information concerning our administration programs, downloadable forms and online claim submission. Working with our clients, we can tailor program websites to be brand specific or minimize client branding and focus solely on the specifics of the program. JND can make all website content available in languages of our clients' choosing. JND's program websites are optimized to handle traffic far exceeding the potential of any individual program.



SECURE DATA STORAGE

JND's technology and data storage are a hybrid cloud solution employing both a SSAE16 and ISO-certified datacenter and industry leading cloud solution. Our web-based software includes 256-bit SSL encryption, anti-forgery keys for all forms, and SALT encryption on all key data. In other words, we utilize the same data storage and security measures as most banks and financial institutions.



SMARTSIGN ELECTRONIC CLAIMS FILING WITH ELECTRONIC SIGNATURE

Claims processing and input is one of the single largest tasks we handle. JND's SmartSign technology, developed by our Restructuring team, allows class members and creditors to electronically complete, sign, and submit claims and ballots. JND then uploads the data and the images directly to the live, online claims register—eliminating data entry and document scanning. This technology is available for our Class Action, Government Services, Mass Tort and Corporate Restructuring cases.



COMPLETE ELECTRONIC CLAIMS MANAGEMENT

JND is the first and only agency capable of handling all noticing and claims management functions completely electronically. With the permission of counsel and court willing, we can administer an entire case without printing a single sheet of paper.



QR BARCODES

JND has the ability to use both standard and QR barcodes depending on the need and situation. JND employs the use of QR codes, which store 50 times more data than traditional barcodes, when its use streamlines processing or adds other client value. QR barcodes can enable us to automate more processes and thereby reduce costs.

TECHNICAL CAPABILITIES

Our technical team is versed in both web and traditional software development, we utilize both open source and proprietary technologies depending on the specific needs of the project.

- Specializing in ASP .NET/PHP MVC frameworks
- Focus on Mobile and Responsive Technologies
- Experts in database optimization and application security
- Experienced with a wide range of CMS Implementations
- Offer Managed High Availability hosting solutions
- Experts in Cloud implementation and content delivery services

SMARTMAIL LIST EFFICIENCY

Our proprietary SmartMail technology lets us scrub addresses to minimize and remove duplicates and erroneous addresses for each and every document mailed. With JND, your mail distribution and service lists get more accurate over time—reducing waste, and increasing your savings.

COTS FORENSIC ACQUISITION AND ANALYSIS SOLUTIONS

Our solutions enable data acquisition from over one thousand types of electronic devices including:

- Mobile/smartphones
- Portable GPS devices
- Desktop and notebook hard drives
- Servers and network shares
- Websites
- Social media sites
- Portable media

DATA SECURITY

We go to extraordinary lengths to secure your data. These include:

- Tier IV Hardened Data Center
- Operational and physical controls that are independently reviewed by a third party for the completion of SSAE 16 type 2 SOC 1 control audit
- Ability to provide full compliance with the Gramm-Leach-Bliley Act (“GLBA”) and the Health Insurance Portability and Accountability Act (“HIPAA”)
- Controls to prevent unauthorized access to or disclosure of data, and to maintain strict data accuracy
- Appropriate safeguards and controls to ensure the confidentiality of information, either for its own purposes or on behalf of our clients
- Appropriate physical, electronic, and managerial procedures to safeguard the information we process

KEY EXECUTIVES

As the Chief Executive Officer of JND Legal Administration, Jennifer is dedicated to staying involved with every facet of the company's various business lines. With more than 20 years of legal experience, Jennifer has handled some of our country's largest, high-profile engagements, including the BP Deepwater Horizon Settlement, Cobell Indian Trust Settlement, Engle Smokers Trust Fund, Gulf Coast Claims Facility, Stryker Modular Hip Settlement and Verizon Wireless FTC Litigation.

She has testified on settlement administration matters in many courts nationally and before the Senate Committee for Indian Affairs. Jennifer is frequently invited to speak on class action issues and has written numerous articles in her areas of expertise.

Prior to forming JND, Jennifer was COO and executive vice president for one of the then largest legal administration firms in the country. Previously, Jennifer worked as a class action business analyst at Perkins Coie, one of the country's well-known law firms, responsible for managing complex class action settlements and remediation programs, including the selection, retention and supervision of legal administration firms.

Jennifer earned her J.D. from Seattle University. She also graduated from Seattle University with a B.A. and M.S.F. with honors. In 2013, she was profiled in a CNN article, "What Changes With Women in the Boardroom." In 2015, she was named a "Woman Worth Watching" by Profiles in Diversity Journal.

JENNIFER KEOUGH

CHIEF EXECUTIVE OFFICER, FOUNDER

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www.linkedin.com/in/jennifer-keough



As an Executive Co-Chairman of JND Legal Administration, Neil has made it his priority to be involved in all aspects of the business. Over the course of his career, Neil has personally overseen dozens of the largest legal administration projects in our country's history, including the Auction Houses Antitrust Litigation, BP Deepwater Horizon Settlement, IPO Securities Litigation, Visa/Mastercard Antitrust Litigation and Worldcom Securities Litigation.

Neil has testified in many courts throughout the country on class action settlement matters and has written numerous articles on the subject. He also is an inventor of a patented electronic claims filing system. Neil is sought after to consult on a multitude of legal administration matters and to speak on class action issues.

Prior to forming JND, between 2000 and 2015, Neil held positions as general counsel, chief operating officer, and president at one of the then largest legal administration firms in the country. Before this, Neil was a partner with a boutique litigation firm in New York City where he handled complex litigation matters for nearly 10 years.

Neil earned his J.D. from UCLA School of Law, where he has served on the board of the Alumni Association and has been a featured speaker in their Distinguished Alumni Lecturer Series. He received his B.A., cum laude, from the University of Pennsylvania. Neil was recently featured on "Worldwide Business" with Kathy Ireland.

NEILZOLA

EXECUTIVE CO-CHAIRMAN, FOUNDER

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As an Executive Co-Chairman of JND Legal Administration and a leader in the legal administration business for over 20 years, David is integral in the growth of all aspects of JND.

David is credited with changing the industry landscape by providing “one-stop shopping” service offerings and hiring experienced lawyers to manage settlements and bankruptcies. During the course of the last 20 years David has also managed several historic cases including the American Airlines Bankruptcy, Engle Smokers Trust Fund, GM Bankruptcy and IPO Securities Litigation.

Prior to forming JND, David was the CEO of one of the then largest legal administration firms in the country and was a member of the global executive management team at their parent company. Before entering the legal administration business, David was a practicing class action attorney for a securities class action boutique in New York City.

David earned his J.D. from the Benjamin N. Cardozo School of Law and his B.A. from Yeshiva College. David is currently the vice chairman of the Board of Overseers of the Sy Syms School of Business.

DAVIDISAAC
EXECUTIVE CO-CHAIRMAN, FOUNDER

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Amanda Horn is SVP of Client Services at JND Legal Administration. Amanda joins the leadership team after practicing law and serving over twenty years in various leadership roles at third-party administration companies. With her vast experience in the industry, Amanda is in-tune with the ever-changing world of legal administration. Her legal industry knowledge gained, in part, by her longevity in the business has given her a perspective that benefits each client. Because her experience is not limited to practice area or party, Amanda is able to easily consult with key decision makers on either side of the aisle with the utmost understanding and professionalism.

Her experience in the administration world has not been limited to executive roles; instead, Amanda also worked her way through the operational ranks, giving her the advantage of being immersed in case management as well as being engaged in developing and maintaining client relationships. This unique combination of talents makes Amanda a valuable asset to clients as well as to JND as a whole.

Amanda has partnered with clients on many high-profile administrations in a vast array of business sectors, including the music industry, financial services, annuity, consumer products and employment, as well as cases involving data breach and the Telephone Consumer Protection Act (TCPA). For example, Amanda worked tirelessly on the NMPA Late Fee Program, a 2010 out-of-court settlement facilitated by Kenneth Feinberg between the major music labels and music-publishers. This protracted and complex music industry administration gave rise to additional significant music industry administrations under Amanda's charge.

AMANDA HORN

SVP OF CLIENT SERVICES

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As Chief Information Officer, Darryl is responsible for providing the vision and leadership for developing and implementing Information Technology initiatives at JND. Darryl oversees all IT staff and vendors and also initiates the planning and implementation of enterprise IT systems in order to most effectively enable all of JND's divisions to be successful.

Reporting directly to, and working in unison with, the CEO, Darryl ensures the IT organization is prioritizing initiatives and delivering secure, high value systems, infrastructure and technical support. He is also responsible for defining, documenting and delivering policies, procedures and infrastructure to pass certifications and audits.

Darryl has been in the Legal Administration field since 2011 and prior to joining the JND team, served as Senior Vice President of Systems and Technology for another large legal administration firm. Darryl has overseen the delivery of solutions for some of the largest projects in the Legal Administration industry, always with a focus on driving operational success.

Prior to entering the Legal Administration realm, Darryl spent 12 years in Health Care IT, where he was the Managing Director of IT for Adaptis, a Health Care BPO that provided Systems, claims processing and administration services to insurance companies.

Darryl earned his B.A. in Management Information Systems from Washington State University.

DARRYL THOMPSON

CHIEF INFORMATION OFFICER

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OVERVIEW AND COST ESTIMATE



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 McKibben v. McMahon Settlement Administration

■ 25% CLAIMS

Assumptions and Notes:

1. Perform database analysis to create list of all damages class members (assumes 655)
2. Perform NCOA and lookup analysis to acquire updated mailing and email addresses of damages class members
3. Print and mail 10-page notice of settlement and 4-page claim form in both English and Spanish
4. Send E-Mail Notice to class members whose email was found (assumes 458)
5. Create and host informational website and IVR phone line
6. Process claim forms (assumes 25% response rate) and opt-outs
7. Coordinate and distribute benefit awards to eligible class members who timely submit claim forms
8. Coordinate and distribute secondary disbursement to eligible class members who received a 1st distribution
9. 1 year after secondary distribution, coordinate and distribute any remaining funds to cy pres organization

Cost Estimate

PROJECT MANAGEMENT				
Interaction with counsel, status reports, supervision of project team, resolution of issues, court report				
<i>Estimated Months: 18</i>				\$10,700
CASE-SPECIFIC WEBSITE				
Develop and host informational website with downloadable forms, and case information				\$3,750
CALL CENTER				
Set up toll-free number and IVR menu, answer and document calls; monthly and per-minute charges				
<i>Estimated Calls: 20</i>				\$2,450
DATABASE MANAGEMENT				
Class list clean-up, research and update addresses via NCOA and skip-trace databases			\$1,400	
Electronic Data Storage			\$250	
Create project specific database; develop processing procedures for non-barcoded claim forms			\$1,050	
Perform advanced address searches to obtain physical and email addresses (assumes 655)			\$314	
Class identification at CDRC, LA County, and Riverside jails			\$2,000	
				\$5,014
EMAIL NOTICE				
Create list for email, finalize content, implement email notice				\$750
MAIL NOTICE				
Format/quality review notice			\$700	
Print and mail notice				
Estimated items mailed	655			
Printing/Materials/Mailing Services	\$0.60	\$393		
Estimated Postage	\$0.46	\$301		
			\$694	
Track undeliverables; re-mail forwards		\$250		
Research undeliverables (skip-trace); re-mail		\$1,000		
			\$1,250	
Translation costs			At cost	
				\$2,644

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PROCESS FORMS			
Process mailed forms	Estimated forms received	164	
	Cost per form	<u>\$6.95</u>	\$1,140
Validate forms; final review; identify and resolve issues; process opt outs			<u>\$1,400</u>
			\$2,540
DISTRIBUTE BENEFITS			
Calculate, review, and implement individual benefits			\$1,200
Verify tax IDs with IRS			\$700
Establish QSF/Tax ID; account setup and management; reconciliation			\$2,100
Create check language; design, format checks with 1099s; manage mailing			\$1,400
Initial Distribution Printing and mailing costs			
Estimated Items Mailed	164		
Printing/Materials/Mailing Services	\$0.32	\$52	
Estimated Postage	\$0.47	\$77	
Bank Processing	\$0.20	<u>\$33</u>	
			\$162
Research undeliverables (skip-trace); remail; reissue checks			\$250
Second Distribution Printing and mailing costs (assumes 65% of claimants cash 1st check and receive a 2nd)			
Estimated Items Mailed	107		
Printing/Materials/Mailing Services	\$0.32	\$34	
Estimated Postage	\$0.47	\$50	
Bank Processing	\$0.20	<u>\$21</u>	
			\$106
Research undeliverables (skip-trace); remail; reissue checks			<u>\$250</u>
			\$6,168
Total			\$34,016

 PriceLockSM **\$37,000***



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Julia White | Kaye, McLane, Bednarski & Litt | jwhite@kmbllaw.com
 McKibben v. McMahon Settlement Administration

■ 50% CLAIMS

Assumptions and Notes:

1. Perform database analysis to create list of all damages class members (assumes 655)
2. Perform NCOA and lookup analysis to acquire updated mailing and email addresses of damages class members
3. Print and mail 10-page notice of settlement and 4-page claim form in both English and Spanish
4. Send E-Mail Notice to class members whose email was found (assumes 458)
5. Create and host informational website and IVR phone line
6. Process claim forms (assumes 50% response rate) and opt-outs
7. Coordinate and distribute benefit awards to eligible class members who timely submit claim forms
8. Coordinate and distribute secondary disbursement to eligible class members who received a 1st distribution
9. 1 year after secondary distribution, coordinate and distribute any remaining funds to cy pres organization

Cost Estimate

PROJECT MANAGEMENT				
Interaction with counsel, status reports, supervision of project team, resolution of issues, court report				
<i>Estimated Months: 18</i>				\$10,700
CASE-SPECIFIC WEBSITE				
Develop and host informational website with downloadable forms, and case information				\$3,750
CALL CENTER				
Set up toll-free number and IVR menu, answer and document calls; monthly and per-minute charges				
<i>Estimated Calls: 20</i>				\$2,450
DATABASE MANAGEMENT				
Class list clean-up, research and update addresses via NCOA and skip-trace databases			\$1,400	
Electronic Data Storage			\$250	
Create project specific database; develop processing procedures for non-barcoded claim forms			\$1,050	
Perform advanced address searches to obtain physical and email addresses (assumes 655)			\$314	
Class identification at CDRC, LA County, and Riverside jails			\$2,000	
				\$5,014
EMAIL NOTICE				
Create list for email, finalize content, implement email notice				\$750
MAIL NOTICE				
Format/quality review notice			\$700	
Print and mail notice				
Estimated items mailed	655			
Printing/Materials/Mailing Services	\$0.60	\$393		
Estimated Postage	\$0.46	\$301		
			\$694	
Track undeliverables; re-mail forwards		\$250		
Research undeliverables (skip-trace); re-mail		\$1,000		
			\$1,250	
Translation costs			At cost	
				\$2,644

Continued on next page

PROCESS FORMS			
Process mailed forms	Estimated forms received	328	
	Cost per form	<u>\$6.95</u>	\$2,280
Validate forms; final review; identify and resolve issues; process opt outs			<u>\$1,400</u>
			\$3,680
DISTRIBUTE BENEFITS			
Calculate, review, and implement individual benefits			\$1,200
Verify tax IDs with IRS			\$700
Establish QSF/Tax ID; account setup and management; reconciliation			\$2,100
Create check language; design, format checks with 1099s; manage mailing			\$1,400
Initial Distribution Printing and mailing costs			
Estimated Items Mailed	328		
Printing/Materials/Mailing Services	\$0.32	\$105	
Estimated Postage	\$0.47	\$154	
Bank Processing	\$0.20	<u>\$66</u>	
			\$325
Research undeliverables (skip-trace); remail; reissue checks			\$250
Second Distribution Printing and mailing costs (assumes 65% of claimants cash 1st check and receive a 2nd)			
Estimated Items Mailed	213		
Printing/Materials/Mailing Services	\$0.32	\$68	
Estimated Postage	\$0.47	\$100	
Bank Processing	\$0.20	<u>\$43</u>	
			\$211
Research undeliverables (skip-trace); remail; reissue checks			<u>\$250</u>
			\$6,436
			Total
			\$35,423

 PriceLockSM **\$38,000***



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 McKibben v. McMahon Settlement Administration

75% CLAIMS

Assumptions and Notes:

1. Perform database analysis to create list of all damages class members (assumes 655)
2. Perform NCOA and lookup analysis to acquire updated mailing and email addresses of damages class members
3. Print and mail 10-page notice of settlement and 4-page claim form in both English and Spanish
4. Create and host informational website and IVR phone line
5. Process claim forms (assumes 75% response rate) and opt-outs
6. Coordinate and distribute benefit awards to eligible class members who timely submit claim forms
7. Coordinate and distribute secondary disbursement to eligible class members who received a 1st distribution
8. 1 year after secondary distribution, coordinate and distribute any remaining funds to cy pres organization

Cost Estimate

PROJECT MANAGEMENT			
Interaction with counsel, status reports, supervision of project team, resolution of issues, court report <i>Estimated Months: 18</i>			\$10,700
CASE-SPECIFIC WEBSITE			
Develop and host informational website with downloadable forms, and case information			\$3,750
CALL CENTER			
Set up toll-free number and IVR menu, answer and document calls; monthly and per-minute charges <i>Estimated Calls: 20</i>			\$2,450
DATABASE MANAGEMENT			
Class list clean-up, research and update addresses via NCOA and skip-trace databases		\$1,400	
Electronic Data Storage		\$250	
Create project specific database; develop processing procedures for non-barcoded claim forms		\$1,050	
Perform advanced address searches to obtain physical and email addresses (assumes 655)		\$314	
Class identification at CDRC, LA County, and Riverside jails		\$2,000	
			\$5,014
EMAIL NOTICE			
Create list for email, finalize content, implement email notice			\$750
MAIL NOTICE			
Format/quality review notice			\$700
Print and mail notice			
Estimated items mailed	655		
Printing/Materials/Mailing Services	\$0.60	\$393	
Estimated Postage	\$0.46	\$301	
			\$694
Track undeliverables; re-mail forwards		\$250	
Research undeliverables (skip-trace); re-mail		\$1,000	
			\$1,250
Translation costs			At cost
			\$2,644

Continued on next page

PROCESS FORMS			
Process mailed forms	Estimated forms received	492	
	Cost per form	<u>\$6.95</u>	\$3,419
Validate forms; final review; identify and resolve issues; process opt outs			<u>\$1,400</u>
			\$4,819
DISTRIBUTE BENEFITS			
Calculate, review, and implement individual benefits			\$1,200
Verify tax IDs with IRS			\$700
Establish QSF/Tax ID; account setup and management; reconciliation			\$2,100
Create check language; design, format checks with 1099s; manage mailing			\$1,400
Initial Distribution Printing and mailing costs			
Estimated Items Mailed	492		
Printing/Materials/Mailing Services	\$0.32	\$157	
Estimated Postage	\$0.47	\$231	
Bank Processing	\$0.20	<u>\$98</u>	
			\$487
Research undeliverables (skip-trace); remail; reissue checks			\$500
Second Distribution Printing and mailing costs (assumes 65% of claimants cash 1st check and receive a 2nd)			
Estimated Items Mailed	320		
Printing/Materials/Mailing Services	\$0.32	\$102	
Estimated Postage	\$0.47	\$150	
Bank Processing	\$0.20	<u>\$64</u>	
			\$317
Research undeliverables (skip-trace); remail; reissue checks			<u>\$500</u>
			\$7,204
Total			\$37,331

 PriceLockSM **\$40,000***



All services to be provided by JND Legal Administration ("JND") are subject to the following terms and conditions:

1. **SERVICES:** JND agrees to perform all services necessary to complete the tasks outlined in the applicable proposal or other documents or per its understanding about the Client assignment. Such Services do not in any way constitute legal services or advice.
2. **PAYMENT:** The Client agrees to pay JND for the Services as outlined in the Proposal or other agreement between the parties. Client agrees and understands that fees charged by JND may include mark-ups, commissions, or other arrangements constituting potential profits to JND. Client further agrees that the prices to be charged by JND were negotiated at arm's length and that total fees are estimates and that the actual amount charged may be greater or lesser than the estimated amounts. JND reserves the right to increase its hourly rates annually.
3. **EXPENSES:** JND shall also bill for all expenses reasonably incurred in connection with the Services. These expenses include but are not limited to postage, FedEx, P.O. Box rental, travel, brokerage fees, accounting fees, electronic storage (\$0.006 per image/record), and other items associated with the Services. JND may receive rebates or credits from vendors in connection with volume of work performed for all of its Clients. JND may also receive financial benefits from banks or other institutions based on settlement funds on deposit. These credits/rebates/awards are solely the property of JND.
4. **BILLING:** JND shall invoice clients every 30 days and expect payment within thirty (30) days of receipt of invoices. Payment for postage and printing is due in advance of mailing.
5. **INDEPENDENT CONTRACTOR:** JND is performing its Services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.
6. **CONFIDENTIALITY:** JND and the Client will each treat as confidential any documents shared by one party with the other. JND does not convey to the Client any right in the programs, systems, or methodologies used or provided by JND in the performance of this assignment.
7. **DATA PRIVACY:** JND is committed to taking all reasonable steps to ensure the security of all client and claimant data entrusted to our care. We seek to protect confidential data in all of our engagements, including this one, regardless of the size of the matter or the amount of data at issue. Please see JND's complete Privacy Policy at www.indla.com/privacy-policy regarding data collection and use.
8. **LIMITATION OF DAMAGES:** JND is not responsible to the Client for any special, consequential or incidental damages incurred by Client and any liability of JND to the Client shall not exceed the total amount billed to the Client for the particular Services that give rise to any loss.
9. **FORCE MAJEURE:** If any event out of the reasonable control of JND prevents JND's performance, such performance shall be excused.
10. **NOTICE:** Any notice required in connection with the Services shall be in writing and sent by registered mail or overnight courier. Such notice is deemed given if mailed five days after the date of deposit in the U.S. mail, or if sent by overnight courier, one business day after delivery to such courier.
11. **GOVERNING LAW:** This contract will be governed by and construed by the laws of the State of Washington.
12. **ASSIGNMENT:** This Agreement and the rights and obligations of JND and the Client shall inure to the benefit of their successors and assigns, if any.
13. **TERMINATION:** This Agreement may be terminated by the Client upon at least 30 days prior written notice to JND. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout the 30 day period. JND may terminate this Agreement (i) with 10 days prior written notice if the Client is not current in payment of charges or (ii) in any event, upon at least three months prior written notice to the Client. If Client terminates this Agreement, JND shall have no obligation to release any information or documentation related to the applicable matter until JND has been paid in full.

CONTACT INFORMATION



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206.919.5768

In addition, you can reach us at info@JNDLA.com