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FILED  
 CLERK, U.S. DISTRICT COURT  
 FEB - 8 2007  
 CENTRAL DISTRICT OF CALIFORNIA  
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9 Attorneys for Defendants John Laudeman and Jeanne S. Woodford

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 16 16 Beverly Boulevard  
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 Telephone: (213) 977-9500  
 Facsimile: (213) 250-3919

18 Attorneys for Plaintiff  
 19 BILLY SOZA WARSOLDIER

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2007 FEB 7

21 UNITED STATES DISTRICT COURT  
 22 CENTRAL DISTRICT OF CALIFORNIA

23 BILLY SOZA WARSOLDIER, et al,  
 24 Plaintiffs,  
 25 v.  
 26 JEANNE WOODFORD, et al.,  
 27 Defendants.  
 28

Case No. Civ. 04-02233-RSWL (RZx)

Notice of Settlement and Stipulated  
 Request to Vacate Scheduling Order,  
 Continue Pre-Trial Conference and  
 Trial; and ~~Proposed~~ Order

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 BY   *Kg*   145

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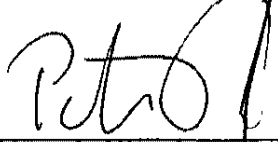
1 Notice of Settlement and Stipulated Request to Vacate Scheduling Order  
2 and Continue Proceedings for 110 Days to Allow Parties to Execute Terms of  
Settlement Agreement and File Stipulation of Dismissal

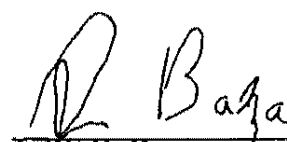
3 The parties have reached a settlement agreement in the above-captioned  
4 matter, an unsigned copy of which is attached hereto as Exhibit A. The parties  
5 expect to have obtained all signatures by, at latest, February 8, 2007. That  
6 settlement contains certain provisions that cannot immediately be executed. The  
7 settlement also provides that the Plaintiff will dismiss the matter with prejudice  
8 upon execution of one provision of the agreement, which will be completed within  
9 approximately 90 days. In addition, the Court's most recent scheduling order  
10 contains dates, such as the pre-trial conference on February 12, 2007, and the trial  
11 on March 6, 2007, which will pass before one provision of the agreement, which is  
12 a pre-condition to dismissal, has been satisfied.

13 Accordingly, the parties **STIPULATE**, and respectfully request that the  
14 Court **VACATE** the September 1, 2006, **JOINT STIPULATION AND ORDER**  
15 **TO CONTINUE TRIAL, DISCOVERY AND MOTIONS CUT-OFF DATES.**

16 The parties further **STIPULATE** and respectfully request that the Court  
17 **CONTINUE** the <sup>FINAL</sup> pre-trial conference until June 4, 2007 <sup>9AM</sup> and the <sup>COURT</sup> trial until June 26,  
18 2007 <sup>9AM</sup> to allow the parties to execute one of the terms of the settlement agreement  
19 and file a stipulation of dismissal.

20 Dated: February 7/2007

21   
22 \_\_\_\_\_  
23 Peter J. Eliasberg  
Attorney for Plaintiff

21  *per with.*  
22 \_\_\_\_\_  
23 John F. Bazan  
Attorney for Defendants *permission*

24 **IT IS SO ORDERED**

25 **RONALD S.W. LEW**

26 \_\_\_\_\_  
27 The Honorable Ronald Lew  
United States District Judge

28 2-8-07



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17 Attorneys for Plaintiff  
 18 BILLY SOZA WARSOLDIER

19 UNITED STATES DISTRICT COURT  
 20 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION  
 21

22	<b>BILLY SOZA WARSOLDIER,</b>
23	Plaintiff,
24	v.
25	<b>JEANNE WOODFORD, et al.,</b>
26	Defendants.

NO. CV 04-02238 RSWL (RZx)

**SETTLEMENT AGREEMENT AND  
RELEASE OF ALL CLAIMS**

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1 This Settlement Agreement and Release of Claims ("Agreement") is made  
2 effective this 31<sup>st</sup> day of January, 2007 by and between Billy Soza Warsoldier  
3 (hereinafter "Plaintiff"), and the California Department of Corrections and  
4 Rehabilitation (hereinafter "CDCR"), representative in interest of K.W. Prunty,  
5 Undersecretary, Department of Corrections and Rehabilitation, and John  
6 Laudeman, warden of the Adelanto Community Correctional Facility (hereinafter  
7 "Defendants"), together referred to as the "Parties." This Agreement is made with  
8 reference to the following:

9 RECITALS

10 A. Plaintiff filed a complaint seeking declaratory and injunctive relief  
11 against Defendants in the United States District Court for the Central District of  
12 California, Case No. CV 04-02238 RS WL (RZx) (hereinafter "Complaint").  
13 Plaintiff alleged that the prison grooming regulations pertaining to hair length set  
14 forth in the California Code of Regulations Title 15, section 3062(e), in effect in the  
15 years 2003 and 2004, violated the Religious Land Use and Institutionalized Persons  
16 Act ("RLUIPA"), 42 U.S.C. §§ 2000cc-200cc-5.

17 B. Defendants filed an answer to the complaint that included affirmative  
18 defenses.

19 C. Section 3062(e) of Title 15 of the California Code of Regulations was  
20 amended effective January 17, 2006.

21 D1. Plaintiff Billy Soza Warsoldier was an inmate at ACCF in Adelanto,  
22 California at the time this litigation was filed. He is a Cahuilla Native American  
23 who has long practiced the Cahuilla faith. He is a registered member of the Soboba  
24 reservation.

25 D2. Defendant K.W. Prunty is the Undersecretary of the California  
26 Department of Corrections and is sued in his official capacity.<sup>1</sup> Undersecretary

27

28 <sup>1</sup> Mr. Prunty is substituted for the Jeanne Woodford, former director of CDC, under FRCP 25(d)(1).  
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1 Prunty is charged by statute with the supervision and management of CDC and its  
2 facilities and the enforcement of its policies, including the Grooming Policy.

3 D3. Defendant John Laudemen is the warden of ACCF and is sued in his  
4 official capacity. Warden Laudeman is responsible for the enforcement of CDC  
5 policies, including the Grooming Policy, at ACCF.

6 E. CDCR enters into this Agreement on behalf of the named Defendants  
7 for the purpose of this Agreement and for no other purpose. The involvement of  
8 CDCR in this capacity in no way waives CDCR's immunity under the Eleventh  
9 Amendment as to any claims Plaintiff may assert in the event that this settlement, or  
10 the claims in the underlying Complaint, are the subject of any future litigation.

11 However, CDCR agrees that in the event Plaintiff believes that Defendants Prunty  
12 or Laudeman or their successors, employees, assigns or anyone acting in concert  
13 with them has violated the terms of this settlement agreement, Plaintiff may move  
14 in federal court against CDCR to enforce the terms of this agreement through  
15 contempt or other means provided by federal law or the Federal Rules of Civil  
16 Procedure. In the event that Plaintiff brings such an enforcement action, CDCR  
17 waives any argument, including immunity under the Eleventh Amendment, that  
18 Plaintiff cannot enforce this agreement against CDCR and can only enforce it  
19 against the individual defendants.

20 F. Without admitting any liability and to avoid the further risk and  
21 exposure of protracted litigation and in consideration of the mutual promises  
22 contained herein, the Parties enter into this Agreement as follows:

23 **1.0 SETTLEMENT TERMS**

24 In consideration of the terms, conditions, and releases set forth in this  
25 Agreement, the California Department of Corrections and Rehabilitation (CDCR),  
26 on the behalf of the Defendants, agrees as follows:

27 A. CDCR will not reinstate the former version of the Title 15 of the

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1 California Code of Regulations section 3062(e) that was in place on March 31,  
2 2004, the date Plaintiff initiated this lawsuit.

3 B. CDCR will expunge from Plaintiff's record, including records kept on  
4 paper, in electronic format, or any other format, all references to violations of Title  
5 15 of the California Code of Regulations section 3062(e), including, but not limited  
6 to, the Rules Violation Reports dated April 20, 2003, May 28, 2003, and June 12,  
7 2003.

8 C. CDCR will not re-incarcerate Plaintiff based on any past violations of  
9 former 15 CCR section 3062(e) incurred by him under prisoner identification  
10 number T-82808.

11 D. CDCR will not use or rely on any past violations of Title 15 of the  
12 California Code of Regulations section 3062(e) in any way with respect to Plaintiff  
13 if he is reincarcerated, including but not limited to use of violations of Title 15 of  
14 the California Code of Regulations section 3062(e) as a factor in determining  
15 Plaintiff's classification.

16 E. CDCR will pay in the amount of One Hundred and Thirty Thousand  
17 dollars (\$130,000) to the ACLU Foundation of Southern California as reasonable  
18 attorneys fees.

19 **2.0 RELEASE AND DISCHARGE**

20 2.1 In consideration for the conditions and payment set forth in Paragraphs  
21 1.0 and 3.0, Plaintiff hereby completely releases and forever discharges Defendants  
22 and all possible Defendants named and unnamed to include dismissed Defendants,  
23 the State of California, the California Department of Corrections and Rehabilitation,  
24 their employees, agents, servants, assigns, and other representatives, from any and  
25 all past, present or future claims, demands, obligations, actions, causes of action,  
26 rights, damages, costs, losses of service, expenses and compensation of any nature  
27 whatsoever, whether based on a federal or state civil rights action, tort, contract or

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1 other theory of recovery, which the Plaintiff could have asserted or alleged, now  
2 has, or which may hereafter accrue or otherwise be acquired, on account of, or may  
3 in any way grow out of, or which are the subject of the Complaint (and all related  
4 pleadings) including without limitation, any and all known or unknown, suspected  
5 or unsuspected claims for injuries to Plaintiff, which may result from the alleged  
6 acts or omissions of the Defendants identified above relating to the version of  
7 Section 3062(e) of Title 15 of the California Code of Regulations existing at the  
8 time Plaintiff filed his complaint in this action and any punishment, loss of good  
9 time credits, or any other detriment or liability suffered by Plaintiff as a result of  
10 Section 3062(e) of Title 15 of the California Code of Regulations.

11 2.2 This release and discharge shall also apply to Defendants, including  
12 dismissed Defendants, past, present and future representatives, employees,  
13 employers, affiliates, attorneys, predecessors and successors in interest, and assigns  
14 and all other persons and agencies of the State of California, California Department  
15 of Corrections and Rehabilitation, or otherwise, with whom any of the former have  
16 been, are now, or may hereafter be affiliated. The Parties agree that this  
17 compromise and settlement constitutes a bar to such claims.

18 2.3 It is the intention of the Parties that the settlement embodied in this  
19 Agreement constitutes a complete release of all claims and a full and final accord  
20 and satisfaction of the above-entitled action so as to bar all related, ancillary, or  
21 connected actions, liabilities, costs, expenses and attorneys' fees except as stated  
22 specifically herein, whether or not known, suspected, claimed or concealed relating  
23 to the version of Section 3062(e) of Title 15 of the California Code of Regulations  
24 existing at the time Plaintiff filed his complaint in this action and any punishment,  
25 loss of good time credits, or any other detriment or liability suffered by Plaintiff as  
26 a result of Section 3062(e) of Title 15 of the California Code of Regulations. This  
27 paragraph does not apply to Plaintiff's right to enforce this Agreement.



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1           2.4    The Plaintiff acknowledges and agrees that the release and discharge  
 2 set forth above is a general release. Plaintiff expressly waives and assumes the risk  
 3 of any and all claims which exist as of this date, but of which the Plaintiff does not  
 4 know or suspect to exist, whether through ignorance, oversight, error, negligence,  
 5 or otherwise relating to the version of Section 3062(e) of Title 15 of the California  
 6 Code of Regulations existing at the time Plaintiff filed his complaint in this action  
 7 and any punishment, loss of good time credits, or any other detriment or liability  
 8 suffered by Plaintiff as a result of Section 3062(e) of Title 15 of the California  
 9 Code of Regulations, and which, if known, would materially affect Plaintiff's  
 10 decision to enter into this Agreement. Plaintiff accordingly waives any and all  
 11 rights based upon the provisions of California Civil Code section 1542 which reads  
 12 as follows:

13  
 14           A general release does not extend to claims which the creditor does not  
 15           know or suspect to exist in his favor at the time of executing the  
 16           release, which, if known to him, must have materially affected his  
 17           settlement with the debtor.

18           Plaintiff assumes the risk that the facts or law may be other than Plaintiff  
 19 believes. It is understood and agreed to by the parties that this settlement is a  
 20 compromise of a disputed claim, and the settlement is not to be construed as an  
 21 admission of liability on the part of the Defendants, by whom liability is expressly  
 22 denied.

23           2.5    The Plaintiff further agrees that Plaintiff has accepted the conditions  
 24 and payment of amount of monies to his counsel for attorneys' fees stated herein as  
 25 a complete compromise of any and all claims for attorneys fees and costs for his  
 26 attorneys the ACLU of Southern California and Bingham, McCutchen LLP. It is  
 27 understood and agreed to by the parties that the payment set forth in Paragraphs 1.0  
 28 and 3.0 is not to be construed as an admission of liability on the part of the  
 Defendants, by whom liability is expressly denied.

EXHIBIT A

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1           2.6   Plaintiff expressly assumes and represents that Plaintiff is responsible  
2 for payment of and will satisfy any and all liens and claim of liens against any claim  
3 or cause of action of Plaintiff, except attorney's fees as stated in paragraphs 1.0 and  
4 3.0 below.

5           **3.0   DISCHARGE OF OBLIGATION**

6           The obligation of the CDCR to make payments as stated in Section 1.0 of this  
7 Agreement shall be discharged upon the mailing of a valid check in the amount of  
8 One Hundred and Thirty Thousand dollars (\$130,000) to the address of and made  
9 payable to Plaintiff's counsel, the ACLU Foundation of Southern California.  
10 Payment to be made within 90 days of receipt by the California Department of  
11 Finance of this Agreement, a Payee Data Record and copy of a Dismissal with  
12 Prejudice signed by Plaintiff and his counsel, an unsigned copy of which is attached  
13 hereto as Exhibit 1.

14           **4.0   COSTS**

15           Plaintiff and Defendants shall each bear their own costs.

16           **5.0   DELIVERY OF DISMISSAL WITH PREJUDICE**

17           Defendants' counsel will file a copy of the stipulated dismissal with  
18 prejudice, an unsigned copy of which is attached hereto as Exhibit 1, within 3  
19 business days after Plaintiff's counsel has notified Defendants' counsel that the  
20 ACLU Foundation of Southern California has received the attorneys fees check  
21 described above in Sections 2.0 and 3.0 of this Agreement.

22           **6.0   WARRANTY OF NO RELIANCE UPON REPRESENTATIONS**  
23           **BY OR ON BEHALF OF DEFENDANTS**

24           In entering into this Agreement the Plaintiff represents that Plaintiff has not  
25 relied upon any representation by Defendants or the CDCR, their attorneys, their  
26 agents, or their representatives, regarding the terms and significance of this  
27 Agreement, the legal and income tax consequences of this Agreement, or for any

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1 advice whatsoever.

2 **7.0 WARRANTY OF CAPACITY TO EXECUTE AGREEMENT**

3 Plaintiff represents and warrants that no other persons or entities has, or has  
4 had, any interest in the claims, demands, obligations, or causes of action referred to  
5 in this Agreement, except as otherwise set forth herein; that Plaintiff has the sole  
6 right and exclusive authority to execute this Agreement.

7 **8.0 GOVERNING LAW AND JURISDICTION**

8 This Agreement shall be construed and interpreted in accordance with the  
9 laws of the State of California. The Court shall retain jurisdiction to enforce all the  
10 terms of this Agreement. Plaintiff does not waive any claim for attorneys fees he  
11 might have based on a successful motion brought to enforce the terms of this  
12 Agreement.

13 **9.0 ENTIRE AGREEMENT AND SUCCESSORS IN INTEREST**

14 This Agreement contains the entire agreement between the Parties with  
15 regard to the matters set forth in it and shall be binding upon and inure to the  
16 benefits of the executors, administrators, personal representatives, heirs, successors  
17 and assigns of each.

18 **10.0 EFFECTIVENESS**

19 This Agreement shall become effective immediately following execution by  
20 each of the Parties or designated representative. The Parties agree that the  
21 Agreement may be executed in counter parts or duplicate originals.

22 **11.0 REPRESENTATION OF COMPREHENSION OF DOCUMENT**

23 In entering into this Agreement the Plaintiff represents the terms of this  
24 Agreement have been completely read by him and that the terms of this Agreement  
25 are fully understood and voluntarily accepted by Plaintiff. Plaintiff enters into this  
26 Agreement freely, voluntarily, in good faith and with the advice of counsel.

27 **12.0 MODIFICATIONS TO THE AGREEMENT**

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1 Neither this Agreement, nor any provision hereof, may be changed, waived,  
2 terminated, or discharged orally, other than by an instrument in writing, signed by  
3 the Party against whom enforcement of the change, waiver termination, or  
4 discharge is sought.

5 **13.0 ADDITIONAL DOCUMENTS**

6 All parties agree to cooperate fully and execute any and all supplementary  
7 documents and take all additional actions, which may be necessary or appropriate to  
8 give full force and effect to the basic terms and intent of this Agreement.

9 **14.0 SEVERABILITY**

10 In the event that any of the provisions or portions of this Settlement  
11 Agreement is held to be illegal, unenforceable or invalid, the legality, enforceability  
12 and validity of the remaining provisions or portions of this Settlement Agreement  
13 shall remain unaffected.

14 IN WITNESS WHEREOF, the Parties have caused this Agreement to be  
15 executed by them and by their duly authorized representatives.

16 **Plaintiff: Billy Soza Warsoldier**

17  
18 By: \_\_\_\_\_ Date: January 31, 2007  
19 Billy Soza Warsoldier

20 **CDCR Representative for Defendants**

21  
22 By: \_\_\_\_\_ Date: \_\_\_\_\_  
23 K.W. Prunty  
24 Undersecretary  
Department of Corrections and Rehabilitation

25 **Defendant's Attorney: John F. Bazan, Deputy Attorney General,**  
26 **Office of the California Attorney General**

27 **EXHIBIT A**

SCANNED

1 By: \_\_\_\_\_ Date: \_\_\_\_\_  
2 John F. Bazan

3 **APPROVED AS TO FORM:**

4 **Plaintiff's Attorneys: ACLU FOUNDATION OF SO. CAL.**

5  
6 By: \_\_\_\_\_ Date: \_\_\_\_\_  
7 Peter J. Eliasberg  
8 ACLU Foundation of So. Cal.

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1616 Beverly Boulevard  
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Telephone: (213) 977-9500  
Facsimile: (213) 250-3919

Attorneys for Plaintiff  
BILLY SOZA WARSOLDIER

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

BILLY SOZA WARSOLDIER, et al,

Plaintiffs,

v.

JEANNE WOODFORD, et al.,

Defendants.

Case No. Civ. 04-02233-RSWL (RZx)

STIPULATION OF DISMISSAL AND  
[PROPOSED] ORDER

[FRCP 41(a)(1)(ii)]

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1 Whereas the parties have entered into a settlement agreement that resolves  
2 this matter;

3 The parties hereby **STIPULATE** to dismiss this action with prejudice under  
4 Federal Rule of Civil Procedure 41(a)(1)(ii).

5 The parties further hereby **STIPULATE** that the Court shall retain  
6 jurisdiction over this matter for the sole purpose of enforcing the terms of the  
7 settlement agreement. *See Kokkonen v. Guardians Life Insurance Co. of America,*  
8 *511 U.S. 375 (1994).*

9  
10  
11 DATED: February 5, 2007

ACLU FOUNDATION OF  
SOUTHERN CALIFORNIA

12  
13 \_\_\_\_\_  
14 By: Peter J. Eliasberg

15 DATED: February 5, 2007

BINGHAM MCCUTHCHEN LLP

16  
17 \_\_\_\_\_  
18 By: Stephen Zak Smith  
19 *Attorneys for and on behalf of, Plaintiff,*  
20 *Billy Soza Warsoldier*

21 DATED: \_\_\_\_\_, 2007

22 \_\_\_\_\_  
23 By: John F. Bazan  
24 *Attorney for and on behalf of, all*  
25 *Defendants and CDCR*

26  
27 **IT IS SO ORDERED**

28 \_\_\_\_\_  
The Honorable Ronald Lew  
United States District Judge, \_\_\_\_\_, 2007

EXHIBIT 1



**PROOF OF SERVICE**

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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my present business address is: 1616 Beverly Blvd., Los Angeles, California 90026.

On February 7, 2007, I served the foregoing documents described as:

**NOTICE OF SETTLEMENT AND STIPULATED REQUEST TO VACATE SCHEDULING ORDER, CONTINUE PRE-TRIAL CONFERENCE AND TRIAL; AND [PROPOSED] ORDER**

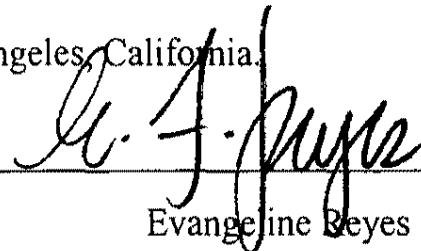
on the interested parties by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

John F. Bazan  
Deputy Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
Tel: (213) 897-2181  
Fax: (213) 897-2810  
*Attorney for Defendants*  
*(Courtesy copy via email)*

XX BY MAIL as follows: I caused such envelope(s) fully prepaid with US Postage to be placed in the United States Mail at Los Angeles, California. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

XX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 7, 2007, at Los Angeles, California.

  
\_\_\_\_\_  
Evangeline Reyes