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11

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION  
14

15 HUMAN RIGHTS DEFENSE CENTER,,

16 Plaintiff,

17 v.

18 COUNTY OF NAPA; DINA JOSE,  
Director of Corrections, individually and in  
19 her official capacity; and JOHN AND  
JANE DOES 1-10, Staff, individually and  
20 in their official capacities,

21 Defendants.  
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Case No.

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

**JURY TRIAL DEMANDED**

**INTRODUCTION**

1  
2 1. Plaintiff Human Rights Defense Center (“HRDC” or “Plaintiff”) brings this  
3 action to enjoin Defendants from censoring publications and correspondence that it mails  
4 to incarcerated persons at the Napa County Jail (the “Jail”). Defendants have adopted and  
5 implemented mail policies and practices that unconstitutionally prohibit delivery of  
6 publications and correspondence mailed by Plaintiff to persons incarcerated at the Jail, and  
7 that deny due process of law to senders, like Plaintiff, whose mail is censored, by failing to  
8 provide adequate notice and an opportunity to challenge each instance of censorship.  
9 Plaintiff alleges that Defendants’ actions violate its rights under the First and Fourteenth  
10 Amendments to the United States Constitution, Article I, Section 2 and Article I, Section 7  
11 of the California Constitution, and the Bane Act, Cal. Civ. Code § 52.1, and seeks  
12 injunctive and declaratory relief pursuant to 42 U.S.C. § 1983, and damages in an amount  
13 to be proven at trial.

**JURISDICTION AND VENUE**

14  
15 2. This action is brought pursuant to 42 U.S.C. § 1331 (federal question), as  
16 this action arises under the Constitution and laws of the United States, and pursuant to 28  
17 U.S.C. § 1343 (civil rights), as this action seeks redress for civil rights violations under 42  
18 U.S.C. § 1983.

19 3. Venue is proper under 28 U.S.C. § 1391(b). At least one Defendant resides  
20 within this judicial district and the events giving rise to the claims asserted herein all  
21 occurred within this judicial district.

22 4. Plaintiff’s claims for relief under federal law are brought pursuant to 42  
23 U.S.C. § 1983, which authorizes actions to redress the deprivation, under color of state  
24 law, of rights, privileges and immunities secured by the First and Fourteenth Amendments  
25 to the United States Constitution and laws of the United States.

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

1           6.       Plaintiff's claim for attorneys' fees and costs for its federal claims is  
2 predicated upon 42 U.S.C. § 1988, which authorizes the award of attorneys' fees and costs  
3 to prevailing plaintiffs in actions brought pursuant to 42 U.S.C. § 1983.

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

7           8.       Plaintiff's claims for relief under state law are predicated upon the Bane Act  
8 (Cal. Civ. Code § 52.1), which authorizes actions to protect the exercise or enjoyment of  
9 rights secured under federal or California law, as well as upon the direct causes of action to  
10 enforce constitutional rights guaranteed under Article I, Section 2 and Article I, Section 7  
11 of the California Constitution.

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

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

24       **EXHAUSTION OF PRE-LAWSUIT PROCEDURES FOR STATE LAW CLAIMS**

25           11.      Plaintiff submitted a state tort claim for damages to Defendant COUNTY OF  
26 NAPA on August 20, 2019. Defendant COUNTY OF NAPA notified Plaintiff that the  
27 claim was rejected by letter dated September 9, 2019.

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**PARTIES**

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2 12. Plaintiff HUMAN RIGHTS DEFENSE CENTER is a not-for-profit  
3 charitable organization recognized under § 501(c)(3) of the Internal Revenue Code,  
4 incorporated in the state of Washington and with principal offices in Lake Worth, Florida.  
5 For nearly thirty years, HRDC has focused its mission on public education, advocacy and  
6 outreach to incarcerated persons and the public about the economic and social costs of  
7 prisons to society, and to help incarcerated persons educate themselves about their  
8 constitutional and human rights and to learn about accessing education while incarcerated.  
9 HRDC accomplishes its mission through advocacy, litigation, and publication and/or  
10 distribution of books, magazines and other information concerning prisons and the rights  
11 of incarcerated persons. Prison Legal News is a wholly-owned project and publishing arm  
12 of HRDC. Through its publishing project, HRDC engages in core protected speech and  
13 expressive conduct on matters of public concern, such as the operation of correctional  
14 facilities, prison and jail conditions, and the health, safety and the constitutional and  
15 human rights of incarcerated persons. HRDC publishes and distributes two monthly  
16 magazines covering corrections and criminal justice news and analysis, and publishes and  
17 distributes books about the criminal justice system and legal issues affecting incarcerated  
18 persons, which HRDC distributes by mail to incarcerated persons, lawyers, courts,  
19 libraries, and the public throughout the United States.

20 13. Defendant COUNTY OF NAPA (the “County”) is a political subdivision of  
21 the State of California organized and existing under the laws of California. The County is,  
22 and at all relevant times herein was, responsible for the actions and/or inactions and the  
23 policies, procedures, customs, and practices of the Napa County Department of  
24 Corrections and its employees and agents. The Napa County Department of Corrections is  
25 and was responsible for adopting and implementing mail policies governing incoming mail  
26 for incarcerated persons at the Napa County Jail.

27 14. Defendant DINA JOSE is the Director of Corrections for Napa County, and  
28 has held that position since December 2018. Defendant JOSE is employed by and is an

1 agent of Defendant COUNTY OF NAPA and the Napa County Department of Corrections.  
2 She is responsible for overseeing the management and operations of the Napa County Jail,  
3 and for the hiring, screening, training, supervision, discipline, counseling, and control of  
4 the personnel at the Napa County Jail who interpret and apply its incoming mail policies.  
5 As Director, Defendant JOSE is a final policymaker for Defendant COUNTY OF NAPA  
6 with respect to the operation of the Napa County Jail, including for policies and practices  
7 governing incoming mail for incarcerated persons. She is sued in her individual and  
8 official capacities.

9 15. The true names and identities of Defendants DOES 1 through 10 are  
10 presently unknown to HRDC. Each of Defendants DOES 1 through 10 are or were  
11 employed by and are or were agents of Defendant COUNTY OF NAPA and were  
12 personally involved in the adoption and/or implementation of the policies and practices  
13 governing incoming mail for incarcerated persons at the Napa County Jail, and/or are or  
14 were responsible for the hiring, screening, training, retention, supervision, discipline,  
15 counseling, and/or control of the Napa County Jail personnel who interpret and implement  
16 these incoming mail policies and practices. They are sued in their individual and official  
17 capacities. HRDC will seek to amend this Complaint as soon as the true names and  
18 identities of Defendants DOES 1 through 10 have been ascertained.

19 16. At all times material to this action, the actions of all Defendants as alleged  
20 herein were taken under the authority and color of state law.

21 17. At all times material to this action, all Defendants were acting within the  
22 course and scope of their employment as agents and/or employees of Defendant COUNTY  
23 OF NAPA.

24 **FACTUAL ALLEGATIONS**

25 18. For nearly thirty years, the focus of HRDC's mission has been public  
26 education, advocacy and outreach on behalf of, and for the purpose of assisting, prisoners  
27 who seek legal redress for infringements of their constitutionally guaranteed and other  
28 basic human rights. HRDC's mission, if realized, has a salutary effect on public safety.

1           19. To accomplish its mission, HRDC publishes and distributes books,  
2 magazines, and other materials containing news and analysis about prisons, jails and other  
3 detention facilities, prisoners' rights, court rulings, management of prison facilities, prison  
4 conditions, and other matters pertaining to the rights and/or interests of incarcerated  
5 individuals. HRDC's publications contain political speech and social commentary, which  
6 are core First Amendment rights and are entitled to the highest protection afforded by the  
7 United States Constitution.

8           20. Sending publications through the mail to incarcerated persons is essential to  
9 accomplishing the mission of HRDC. The primary aim of HRDC is to communicate with  
10 incarcerated persons about developments in the law and protection of one's health and  
11 personal safety while in prison or jail. Reading materials enable incarcerated persons to  
12 engage in productive activity rather than sitting idle, thus helping to avoid conflicts and  
13 incidents of violence in correctional facilities and encouraging lawful methods of dispute  
14 resolution. In addition, reading allows incarcerated persons to keep their minds sharp,  
15 helping them prepare to become productive citizens when released back into society.

16           21. HRDC publishes and distributes an award-winning monthly magazine titled  
17 *Prison Legal News: Dedicated to Protecting Human Rights*, which contains news and  
18 analysis about correctional facilities, the rights of incarcerated persons, court opinions,  
19 prison and jail conditions, excessive force, and religious freedom. *Prison Legal News* is  
20 published on newsprint bound by two small staples, and is 72 pages long.

21           22. HRDC also publishes and distributes a second monthly magazine titled  
22 *Criminal Legal News*, which contains news and analysis about individual rights, court  
23 rulings, and other criminal justice-related issues. *Criminal Legal News* is also published  
24 on newsprint bound by two small staples, and was 48 pages long, but has more recently  
25 expanded to 56 pages long.

26           23. HRDC also publishes and/or distributes several different soft-cover books on  
27 subjects on criminal justice, health, and legal issues that are of interest to incarcerated  
28 persons and others. HRDC publishes and distributes the *Prisoners' Guerilla Handbook: A*

1 *Guide to Correspondence Programs in the United States and Canada (“Prisoners’*  
2 *Handbook”)*, which provides information on enrolling at accredited higher educational,  
3 vocational and training schools. HRDC does not publish, but is the sole national  
4 distributor of *Protecting Your Health and Safety (“PYHS”)*, which describes the rights,  
5 protections and legal remedies available to persons concerning their health and safety  
6 while they are incarcerated. HRDC also publishes *The Habeas Citebook: Ineffective*  
7 *Assistance of Counsel (“Habeas Citebook”)*, which describes the procedural and  
8 substantive complexities of federal habeas corpus litigation with the goal of identifying  
9 and litigating claims involving ineffective assistance of counsel. HRDC does not publish,  
10 but is the sole national distributor of *Protecting Your Health and Safety (“PYHS”)*, which  
11 describes the rights, protections and legal remedies available to persons concerning their  
12 health and safety while they are incarcerated.

13       24. In addition to its publications, HRDC also communicates with incarcerated  
14 persons through the United States Postal Service by mailing them: (a) informational  
15 brochure packets, which contain a brochure and subscription order form, a book list, and a  
16 published books brochure (each of which is a single page); (b) copies of judicial opinions  
17 of import to incarcerated persons, which are marked “Court Ruling;” and (c) letters that  
18 provide pertinent information about HRDC’s publications and related topics, including  
19 subscription renewal letters sent to subscribers to its magazines when the subscriptions are  
20 nearly over, in the hopes of renewing the subscription.

21       25. Since 1990, HRDC has sent its publications by mail to incarcerated persons  
22 and law librarians in more than 3,000 correctional facilities in all fifty states, including at  
23 death row housing units and “supermax” prisons, including the federal Administrative  
24 Maximum Facility at Florence, Colorado, which is known as the most secure prison in the  
25 United States. The publications and books that HRDC distributes are mailed to hundreds  
26 of persons incarcerated in California jails and prisons, including at the San Diego Central  
27 Jail, the Vista Detention Facility, Los Angeles County’s Twin Towers Correctional  
28 Facility, Orange County’s Theo Lacy Facility, San Bernardino County’s West Valley

1 Detention Center, the Rio Cosumnes Correctional Center, the Fresno County Jail, the  
2 Humboldt County Correctional Facility, the Madera County Jail, the Santa Clara Main Jail,  
3 the Santa Rita County Jail, the San Joaquin County Jail, the Ventura County Detention  
4 Center, and 32 prisons run by the California Department of Corrections and Rehabilitation.

5 26. The Defendants' incoming mail policy for persons incarcerated at the Napa  
6 County Jail ("Defendants' Mail Policy") is posted on the public website of the Napa  
7 County Department of Corrections at [https://www.countyofnapa.org/320/Inmate-Mail-](https://www.countyofnapa.org/320/Inmate-Mail-Correspondence)  
8 [Correspondence](https://www.countyofnapa.org/320/Inmate-Mail-Correspondence) (last visited February 20, 2020). The policy provides, in pertinent part:

9 All magazines, books, newspapers, and any other literature must be sent  
10 from the publisher.

11 **Books**

- 12 • No hardcover books are allowed in the facility, please do not purchase.
- 13 • Paperback books must be mailed directly from Barnes and Noble.
- 14 • Note: Book size is limited to 8.5 by 11 inches.

15 **Illegal Contraband**

16 Any mail which has the following characteristics will be considered  
17 contraband:

- 18 • Stickers
- 19 • Glitter
- 20 • Polaroid pictures
- 21 • Excess foreign substances
- 22 • Cash, checks, money orders, or cashier checks (cash or personal checks will  
23 be returned to the sender)
- 24 • Mail containing potential security issues or evidence of a potential crime will  
25 be confiscated and forwarded to the Watch Commander.
- 26 • Nude photographs, pornography, or materials judged likely to offend a  
27 particular person or group including pictures of drawings of friends,  
28 relatives, or acquaintances.

All illegal contraband will be forwarded to the Watch Commander for the  
appropriate action, including, but, not limited to the preparation of an  
incident/crime report and/or notification of the postal authorities. A copy of



1 the report will be forwarded to the inmate unless the Watch Commander  
2 determines that such report needs to be handled confidentially. All mail  
3 determined to be contraband will be returned marked "Return to Sender"  
with a return to sender document showing the reason for the determination  
that the mail contains contraband.

4 Defendants' Mail Policy does not state or imply that staples are not allowed at the Napa  
5 County Jail, and does not provide for an appeal process by which a sender may challenge a  
6 decision by Defendants to reject mailings for delivery at the Napa County Jail.

7 27. Defendants' Mail Policy is both unconstitutional on its face and as applied,  
8 and is unduly broad and vague. There is no legitimate penological justification for  
9 Defendants to refuse to accept magazines for delivery at the Jail that are held together with  
10 ordinary staples. There is no legitimate concern that these small staples pose any potential  
11 threat to the safety and security of the Jail. There is also no legitimate penological  
12 justification for Defendants to refuse to accept books or magazines for delivery at the Jail  
13 unless they are sent by the publisher, or for Defendants to ban books published or  
14 distributed by HRDC or any other neutral publisher or distributor other than Barnes and  
15 Noble. This is especially true because HRDC's publications cover topics of great public  
16 concern and contain core protected speech, including political speech and social  
17 commentary, and educational information relating to the rights of incarcerated persons,  
18 pertinent legal cases, and incarcerated persons' health and safety, and are thus entitled to  
19 the highest protection afforded by the First Amendment to the United States Constitution.

20 28. From May 2019 to the present, Defendants have been censoring books,  
21 magazines and other correspondence mailed by HRDC to incarcerated persons held in  
22 custody at the Jail by refusing to deliver the publications and correspondence to the  
23 intended recipients, and by returning the items to HRDC's offices via the Return to Sender  
24 service of the United States Postal Service.

25 29. HRDC has identified at least forty-three (43) instances since May 2019  
26 where publications and correspondence that HRDC mailed to sixteen (16) incarcerated  
27 persons, individually addressed and separately mailed with postage fully paid, were not  
28 delivered to intended recipients who were incarcerated at the Jail when the items arrived in

1 the mail. This includes fifteen (15) issues of *Prison Legal News*, eleven (11) issues of  
 2 *Criminal Legal News*, eight (8) copies of *PYHS*, five (5) copies of the *Habeas Citebook*,  
 3 three (3) copies of the *Prisoner's Handbook*, and one (1) letter. Each of these items of  
 4 mail was not delivered to the intended recipient at the Jail, and was instead returned to  
 5 HRDC's office by Defendants using the Return to Sender service of the United States  
 6 Postal Service, at Plaintiff's expense.

7 30. All but four of the returned items were marked with an ink stamp that  
 8 contained the words "RETURN TO SENDER" followed by four short statements directly  
 9 underneath which read as follows:

10  Not in Custody

11  Contraband Enclosed

12  Other (specify)

13 \_\_\_\_\_

14 Officer's Signature/Date

15 Most of the returned items of mail included a date and initials handwritten in ink above the  
 16 words "Officer's Signature/Date." For every item that was returned to Plaintiff in this  
 17 manner, HRDC staff confirmed that the intended recipient was still incarcerated at the  
 18 Napa County Jail at the time that the item was received by HRDC.

19 31. Defendants refused to deliver twenty-six (26) issues of HRDC's magazines  
 20 to incarcerated persons at the Jail—fifteen issues of *Prison Legal News* and eleven issues  
 21 of *Criminal Legal News*. Twenty-two magazines were returned with the ink stamp  
 22 described above in Paragraph 30, with the " Contraband Enclosed" category marked,  
 23 and the phrase "staples not allowed" handwritten in ink on the returned item. The  
 24 remaining four magazines returned to HRDC in this manner were not marked with the ink  
 25 stamp or any other markings indicating why the items were rejected by Defendants.

26 32. Defendants refused to deliver sixteen (16) soft-cover books mailed to  
 27 incarcerated persons at the Jail—eight copies of *PYHS*, five copies of the *Habeas*  
 28 *Citebook*, and three copies of the *Prisoner's Handbook*. The books were all returned with

1 the ink stamp described above in Paragraph 30, with the “\_\_ Other (specify)” category  
2 marked, and the phrase “vendor not authorized” handwritten in ink on the returned item.  
3 Defendants also refused to deliver one letter mailed by HRDC to an incarcerated person at  
4 the Jail, which was returned with the ink stamp described above in Paragraph 30, with the  
5 “\_\_ Other (specify)” category marked, but with no other information as to why Defendants  
6 refused to the letter to the intended recipient.

7       33. On information and belief, other publications and correspondence mailed by  
8 HRDC to persons incarcerated at the Jail have also been censored by Defendants.

9       34. Defendants did not provide HRDC with notice or opportunity to appeal the  
10 censorship decisions in any of the instances where the publications and correspondence  
11 were rejected for delivery to persons incarcerated at the Jail. HRDC never received any  
12 notification from Defendants that its mailings had been rejected or the reason for the  
13 rejections, other than the markings on the items of mail returned to HRDC via the Return  
14 to Sender service of the United States Postal Service. Nowhere on the returned items of  
15 mail was notice provided of a right to challenge the censorship, or any information of how  
16 HRDC could appeal Defendants’ rejection of the items of mail. Additionally, in each  
17 instance of censorship, Defendants failed to provide any opportunity for HRDC to  
18 challenge the censorship. Even after HRDC submitted a government tort claim to the  
19 County regarding the censorship and violation of its right to due process, Defendants did  
20 not provide any notice of the reason(s) for the rejections of HRDC’s items of mail or any  
21 opportunity to appeal. Any attempt to appeal would also be futile because Defendants do  
22 not retain the rejected mailings for secondary review by another Jail official.

23       35. Defendants’ conduct prohibiting HRDC from mailing its publications and  
24 correspondence to persons incarcerated at the Jail violates the First Amendment by  
25 censoring these expressive activities and has a chilling effect on future speech and  
26 expression directed at the persons incarcerated at the Jail.

27       36. HRDC will continue to mail books, magazines, and other correspondence to  
28 subscribers, customers, and other persons incarcerated at the Jail.

1           37.     The accommodation of the free speech, free expression, and due process  
2 rights of HRDC with respect to written speech will not have any significant impact on the  
3 Jail’s staff, other incarcerated persons at the Jail, or Defendants’ allocation of resources.

4           38.     Due to Defendants’ actions as described above, HRDC has suffered  
5 damages, and will continue to suffer damages, including, but not limited to: the  
6 suppression of HRDC’s speech; the impediment of HRDC’s ability to disseminate its  
7 political message; frustration of HRDC’s non-profit organizational mission; diversion of  
8 resources; the loss of potential subscribers and customers; an inability to recruit new  
9 subscribers and supporters; the loss of reputation; and the cost of printing, handling,  
10 mailing, and staff time, among other damages.

11           39.     Defendants’ actions and inactions were and are motivated by ill motive and  
12 intent, and were and are all committed under color of law with deliberate indifference to  
13 HRDC’s rights.

14           40.     Defendants, and other agents of the County, are responsible for or personally  
15 participated in creating and implementing these unconstitutional policies, practices, and  
16 customs, or for ratifying or adopting them. Further, Defendants are responsible for  
17 training and supervising the staff persons whose conduct has injured and continues to  
18 injure HRDC.

19           41.     Defendants’ unconstitutional policy, practices, and customs are ongoing,  
20 continue to violate HRDC’s rights, and were and are the moving force behind the injuries  
21 HRDC suffered as a direct result of the constitutional violations. As such, HRDC has no  
22 adequate remedy at law.

23           42.     Plaintiff is entitled to injunctive relief prohibiting Defendants from refusing  
24 to deliver or refusing to allow delivery of publications and correspondence mailed by  
25 HRDC to incarcerated persons at the Napa County Jail, and prohibiting Defendants from  
26 censoring mail without due process of law.

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1 **FIRST CLAIM FOR RELIEF**  
2 *(Violations of the First Amendment (Free Speech)—42 U.S.C. § 1983)*

3 43. HRDC re-alleges and incorporates the allegations of paragraphs 1 through 42  
4 of the Complaint as if fully set forth herein.

5 44. Defendants' acts described above constitute violations of HRDC's right to  
6 communicate with persons incarcerated at the Jail under the First Amendment to the  
7 United States Constitution.

8 45. The conduct of Defendants was objectively unreasonable and was  
9 undertaken recklessly, intentionally, willfully, with malice, and with deliberate  
10 indifference to the rights of others.

11 46. HRDC's injuries and the violations of its constitutional rights were directly  
12 and proximately caused by the policies and practices of Defendants, which were and are  
13 the moving force of the violations.

14 47. Defendants' acts described above have caused damages to HRDC, and if not  
15 enjoined, will continue to cause damage to HRDC.

16 48. HRDC seeks declaratory and injunctive relief, and nominal and  
17 compensatory damages against all Defendants. HRDC also seeks punitive damages solely  
18 against the individual Defendants in their individual capacities.

19 **SECOND CLAIM FOR RELIEF**  
20 *(Violation of the Fourteenth Amendment (Due Process)—42 U.S.C. § 1983)*

21 49. HRDC re-alleges and incorporates the allegations of paragraphs 1 through 48  
22 of the Complaint as if fully set forth herein.

23 50. HRDC has a constitutionally-protected liberty interest in communicating  
24 with persons incarcerated at the Jail by sending publications and correspondence to them  
25 via the United States Postal Service, a right clearly established under existing case law.

26 51. HRDC has a right under the Due Process Clause of the Fourteenth  
27 Amendment to receive notice and an opportunity to object and/or appeal Defendants'  
28 decisions to prevent the publications and correspondence mailed by HRDC to from

1 reaching the incarcerated persons at the Jail to whom they were mailed.

2       52. Defendants have failed to give HRDC sufficient notice of the censorship of  
3 its publications and correspondence, and an opportunity to be heard with respect to that  
4 censorship. In doing so, Defendants have deprived and continue to deprive HRDC of  
5 liberty and property without due process of law, in violation of the Fourteenth Amendment  
6 to the United States Constitution.

7       53. The conduct of Defendants was objectively unreasonable and was  
8 undertaken recklessly, intentionally, willfully, with malice, and with deliberate  
9 indifference to the rights of others.

10       54. HRDC's injuries and the violations of its constitutional rights were directly  
11 and proximately caused by the policies and practices of Defendants, which were and are  
12 the moving force of the violations.

13       55. Defendants' acts described above have caused damages to HRDC, and if not  
14 enjoined, will continue to cause damage to HRDC.

15                                   **THIRD CLAIM FOR RELIEF**  
16                                   ***(Violation of the right to free speech—California Constitution Art. I, Sec. 2)***

17       56. HRDC re-alleges and incorporates the allegations of paragraphs 1 through 55  
18 of the Complaint as if fully set forth herein.

19       57. The acts described above constitute violations of HRDC's speech rights  
20 under Article 1, Section 2 of the California Constitution and have caused damage to  
21 HRDC, and will continue to cause damage.

22       58. HRDC's injuries and the violations of its constitutional rights were directly  
23 and proximately caused by the policies and practices of Defendants, which were and are  
24 the moving force of the violations.

25       59. As a result of the conduct of Defendants, HRDC seeks declaratory and  
26 injunctive relief against all Defendants.

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**FOURTH CLAIM FOR RELIEF**  
*(Violation of the right to due process —California Constitution Art. I, Sec. 7)*

60. HRDC re-alleges and incorporates the allegations of paragraphs 1 through 59 of the Complaint as if fully set forth herein.

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

62. HRDC’s injuries and the violations of its constitutional rights were directly and proximately caused by the policies and practices of Defendants, which were and are the moving force of the violations.

63. As a result of the Defendants’ conduct, HRDC seeks declaratory and injunctive relief against all Defendants.

**FIFTH CLAIM FOR RELIEF**  
*(Violations of the Bane Act—California Civil Code Sec. 52.1)*

64. HRDC re-alleges and incorporates the allegations of paragraphs 1 through 63 of the Complaint as if fully set forth herein.

65. By their actions as described above, Defendants, acting in conspiracy and/or in concert, with threat, intimidation, and/or coercion, violated HRDC’s rights under California Civil Code § 52.1 and interfered with the exercise or enjoyment of HRDC’s clearly established rights secured by the Constitution and laws of the United States and Constitution and laws of California. Defendants’ actions have caused actual damages to HRDC within the meaning of California Civil Code §§ 52 and 52.1.

66. The conduct of Defendants described above was objectively unreasonable and was undertaken recklessly, intentionally, willfully, with malice, and with deliberate indifference to the rights of others.





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**JURY DEMAND**

Plaintiff, by and through its attorneys, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

DATED: February 20, 2020

Respectfully submitted,  
ROSEN BIEN GALVAN & GRUNFELD LLP

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

Attorneys for  
HUMAN RIGHTS DEFENSE CENTER