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RECEIVED AUG 13 2004

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

Civil Action No. 00-F-612 (OES)

AUG 18 2004

GREGORY C. LANGHAM  
CLERK

NEW TIMES, INC.,  
ASSOCIATION OF ALTERNATIVE NEWSWEEKLIES,  
DARK NIGHT PRESS,  
CLAY DOUGLAS,  
LARRY RICE,  
DORET KOLLERER,  
CHRISTINE DONNER,  
MAOIST INTERNATIONAL MOVEMENT,  
BARRIO DEFENSE COMMITTEE,  
ANTHONY LUCERO,  
MAXWELL THOMAS,  
DANIEL HERNANDEZ,  
ARTHUR MCCRAY,  
GEORGE MOORE,  
TRAVIS COLVIN, and  
MARTIN WILLIAMS,

Plaintiffs,

v.

JOE ORTIZ, in his official capacity as EXECUTIVE DIRECTOR OF COLORADO  
DEPARTMENT OF CORRECTIONS,

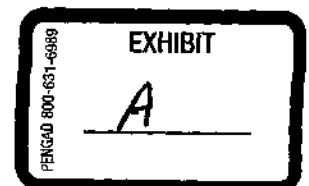
Defendant.

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**ORDER APPROVING SETTLEMENT AGREEMENT**

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This matter comes before the Court on the Parties' Joint Motion for an Order Approving Settlement Agreement in this matter, and the Court being fully advised in these matters, enters the following Findings and Orders:



1. The parties to this case are New Times, Inc., Association of Alternative Newsweeklies, Dark Night Press, Clay Douglas, Larry Rice, Doret Kollerer, Christine Donner, Maoist International Movement, and the Barrio Defense Committee (the "Publisher Plaintiffs") and Anthony Lucero, Maxwell Thomas, Daniel Hernandez, Arthur McCray, George Moore, Travis Colvin, and Martin Williams (the "Inmate Plaintiffs") (collectively "Plaintiffs"), and Joe Ortiz ("Ortiz") in his official capacity as Executive Director of the Colorado Department of Corrections ("DOC").

2. Plaintiffs filed a Complaint in the United States District Court for the District of Colorado on March 22, 2000. Plaintiffs generally alleged that under 42 U.S.C. § 1983, the DOC violated Plaintiffs' rights under the First and Fourteenth Amendments to the United States Constitution in connection with the improper censorship of reading materials directed to the Inmate Plaintiffs, pursuant to Administrative Regulation 300-26 ("AR 300-26") (the "Lawsuit"). Defendant denied the material allegations of Plaintiffs' Complaint.

3. The Parties have engaged in extensive discovery, and the trial in this case was scheduled for August 16, 2004. However, the parties have recently signed a Settlement Agreement and Release, which is attached hereto as Exh. 1, and is incorporated herein by reference. The agreed upon execution date of the Settlement Agreement is August 10, 2004.

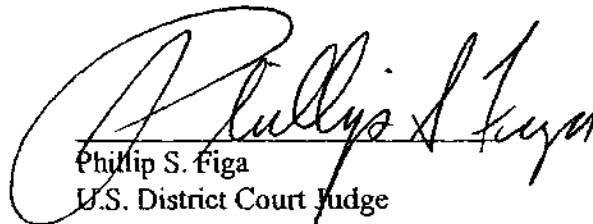
4. This Court has reviewed the Complaint, the Answer and the Settlement Agreement. The Court finds that the terms of the parties' Settlement Agreement are narrowly drawn, extend no further than necessary to correct the alleged violation of Plaintiffs' constitutional rights, and are the least intrusive means necessary to correct the alleged violation of Plaintiffs' constitutional rights. The Court approves this Settlement Agreement, adopts it as an Order of this Court, and retains jurisdiction to enforce it pursuant to its terms.

5. The Court finds that the Plaintiffs are the prevailing parties in this litigation, and that they are entitled to recovery of their reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988. Pursuant to the Settlement Agreement, this Court will determine the amount of reasonable attorney's fees and costs to be awarded to Plaintiffs' counsel if the Parties are unable to reach an agreement on an amount of the fee.

6. On or before October 1, 2004, the parties are ordered to submit a statement that they have agreed to the amount of attorneys fees and cost to be paid to Plaintiffs. If the parties cannot reach agreement by that date, Plaintiffs are ordered to submit an application for attorneys' fees and costs with supporting documentation and briefs by October 10<sup>th</sup>. Defendant will then have thirty days after the filing of Plaintiffs' application to respond, and Plaintiffs fifteen days thereafter to file a reply. The Parties' pleadings should state whether either party believes that an evidentiary hearing is necessary. Based on these filings, and any additional evidence the Court decides to hear, the Court will determine the amount of reasonable attorney's fees and costs to be awarded to Plaintiffs' counsel.

DATED: August, 18, 2004.

BY THE COURT:

  
Phillip S. Figa  
U.S. District Court Judge

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
CERTIFICATE OF SERVICE**

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UNITED STATES DISTRICT COURT  
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GREGORY C. LANGHAM  
*TL*  
CLERK

Case No. 00-F-612 (OES)

The undersigned certifies that a copy of the foregoing **Order Approving Settlement Agreement** was served on August 18, 2004, by:

(X) delivery to:

Magistrate Judge O. Edward Schlatter

Hugh Gottschalk  
Gwen J. Young  
Wheeler Trigg Kennedy LLP  
D.C. Box No. 19

James Xavier Quinn  
Paul Sanzo  
Office of the Attorney General  
D.C. Box No. 20

GREGORY C. LANGHAM, Clerk

By *Paul Sanzo*  
Deputy Clerk/Secretary

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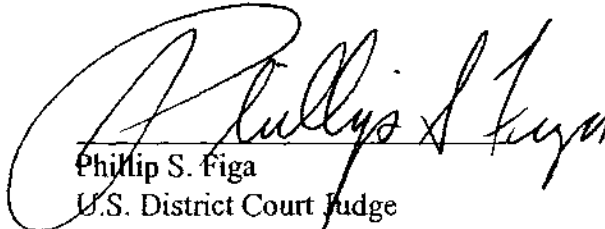
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GREGORY C. LANGHAM, Clerk

By *B...*  
Deputy Clerk/Secretary