

## **SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This Settlement Agreement (“Agreement”) is entered into by People for the Ethical Operation of Prosecutors and Law Enforcement (“P.E.O.P.L.E.”), Bethany Webb, Theresa Smith, and Tina Jackson (collectively, “Plaintiffs”) on the one hand, and Don Barnes in his official capacity as Orange County Sheriff-Coroner, in place of Sandra Hutchens<sup>1</sup> (“OCSD”), on the other (together with Plaintiffs, the “Parties”), as set forth below.

### **BACKGROUND**

WHEREAS, on April 4, 2018, Plaintiffs filed a Complaint for injunctive relief, declaratory relief, and writ of mandate claims in Orange County Superior Court, entitled *People for the Ethical Operation of Prosecutors and Law Enforcement (P.E.O.P.L.E.); Bethany Webb; Theresa Smith; and Tina Jackson v. Anthony J. Rackauckas, in his official capacity as Orange County District Attorney and Sandra Hutchens, in her official capacity as Orange County Sheriff*, Case No. 30-2018-00983799-CU-CR-CXC (“the Action”), that challenged the Orange County District Attorney (“OCDA”) and OCSD’s use of custodial informants in violation of the agencies’ constitutional and state-law obligations to criminal defendants under the California Constitution, the Fifth and Fourteenth Amendments of the U.S. Constitution, *Brady v. Maryland*, 373 U.S. 83 (1963), California Penal Code section 1054.1 *et seq.*, *Massiah v. United States*, 377 U.S. 201 (1964), and California Penal code section 400.1(b). Plaintiffs’ complaint included taxpayer claims and sought declaratory and injunctive relief and writs of mandate.

WHEREAS, on October 1, 2018, Plaintiffs filed a First Amended Complaint (“FAC”), which is the operative complaint in the Action. (ROA No. 69.)

WHEREAS, the OCSD and OCDA (collectively, “Defendants”), demurred to the FAC. The Superior Court sustained Defendants’ demurrer and subsequently entered Judgment on February 26, 2019. (ROA No. 149.) Plaintiffs then appealed the Superior Court’s rulings as to the Third, Sixth, and Ninth Causes of Action. (ROA No. 151.) The Court of Appeal reversed the judgment of the Superior Court by published decision on August 12, 2020. Remittitur issued on October 13, 2020, the Superior Court reopened the case on October 16, 2020 (ROA No. 178), and the matter was assigned to the Orange County Superior Court on November 3, 2020 (ROA No. 191).

WHEREAS, following the published decision by the Court of Appeal, Plaintiffs’ remaining claims are: Third Cause of Action, for Writ of mandate for violation of California Penal Code section 1054 *et seq.*, and Sixth Cause of Action, for Writ of mandate for violation of California Penal Code section 4001.1(b) (collectively, “Writ of Mandate Claims”); and Ninth Cause of Action, a Taxpayer action under California Code of Civil Procedure section 526a (“Taxpayer Claim”).

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<sup>1</sup> Don Barnes succeeded Hutchens in the official role as Orange County Sheriff-Coroner in January 2019, after Plaintiffs filed their operative Complaint in this action.

WHEREAS, on January 17, 2025, the OCSD and the U.S. Department of Justice announced they had resolved the U.S. Department of Justice's investigation into the use of custodial informants by the OCSD.

WHEREAS, the Plaintiffs acknowledge the following terms:

- a. The U.S. Department of Justice has found the Orange County Sheriff's Department's current policies and procedures regarding the use of informants inside the Orange County jails are in substantial compliance with the Sixth and Fourteenth Amendments.
- b. Nothing in this Agreement shall be construed as contributing to the resolution of the U.S. Department of Justice Investigation on January 17, 2025.
- c. Nothing in this Agreement shall be construed as indicating that the Orange County Sheriff's Department or the U.S. Department of Justice considered or accepted Plaintiffs' views or input regarding the Orange County Sheriff's Department's current policies and procedures regarding the use of informants inside the Orange County jails.

WHEREAS, the Parties agreed that Plaintiffs, through their counsel, could present Plaintiffs' learnings and perspectives from this litigation to the Sheriff's Department's Constitutional Policing Advisor, Ms. Mary Izadi, during a listening session of no more than four hours;

WHEREAS, the Parties agreed that Plaintiffs, through their counsel, could present written materials to Ms. Izadi prior to the listening session, and that such materials are subject to the standing Protective Order in this case (ROA No. 316) and are not otherwise subject to public disclosure;

WHEREAS, the Parties convened on March 14, 2025, and proceeded with the agreed-upon listening session with Ms. Izadi to completion;

WHEREAS, the Parties agree that this Agreement and all terms described herein are not confidential and are public;

WHEREAS, the Parties desire to resolve, pursuant to the terms and conditions of this Agreement, any claim either of the Parties has in connection with the Action;

NOW THEREFORE, the Parties enter into this Agreement intending to be legally bound, and with full knowledge of its content as set forth below.

## AGREEMENT

1. Consideration. In consideration for the mutual promises and covenants contained in this Agreement, the receipt and sufficiency of which the Parties hereby acknowledge, and intending to be legally bound, the Parties agree to abide by and be bound as set forth herein.

2. Mutual Releases.

a. Plaintiffs, on behalf of themselves, their heirs, executors, administrators, agents, attorneys, and assigns, do hereby release, acquit, and forever discharge "OCSD Released Parties" collectively and individually, from any and all claims, obligations, liabilities, expenses, costs, attorney's fees, damages, demands, rights, and causes of action of any kind whatsoever, known or unknown, that arise from or are related to or connected with any of the allegations asserted against OCSD in the Action. The term "OCSD Released Parties" means Orange County Sheriff-Coroner Don Barnes, in his official capacity, and his predecessors, successors, affiliates, and related entities of any nature, as well as the OCSD's past, present, or future officers, directors, employees, heirs, executors, administrators, attorneys, agents, and assigns. For avoidance of doubt, this release is intended to be as broad as permitted by law and to forever and finally discharge any and all claims that could be brought, or were brought, by Plaintiffs concerning the matters, claims, allegations, transactions, occurrences, acts, or omissions that are alleged in and the subject matters of the Action, or as a result of the Action.

b. Orange County Sheriff-Coroner Don Barnes, on behalf of himself and the OCSD, and all heirs, executors, administrators, agents, attorneys, and assigns thereof, does hereby release, acquit, and forever discharge "Plaintiff Released Parties" collectively and individually, from any and all claims, obligations, liabilities, expenses, costs, attorney's fees, damages, demands, rights, and causes of action of any kind whatsoever, known or unknown, that arise from or are related to or connected with any of the allegations asserted, or that could have been asserted, against Plaintiffs in the Action or related to the Action. The term "Plaintiff Released Parties" means Plaintiffs Bethany Webb, Theresa Smith, Tina Jackson, People for the Ethical Operation of Prosecutors and Law Enforcement, (collectively "Plaintiffs") and their predecessors, successors, affiliates, and related entities of any nature, as well as Plaintiffs' past, present, or future officers, directors, employees, heirs, executors, administrators, attorneys, agents, and assigns. For avoidance of doubt, this release is intended to be as broad as permitted by law and to forever and finally discharge any and all claims that could be brought, or were brought, by OCSD concerning the matters, claims, allegations, transactions, occurrences, acts, or omissions that are alleged in and the subject matters of the Action, or as a result of the Action.

c. It is further understood and agreed that as part of the consideration and inducement for the execution of the Settlement Agreement, all Parties specifically waive the provisions of Section 1542 of the California Civil Code, which reads as follows: **A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.** Plaintiffs and the OCSD understand that Section 1542 gives each of them the right not to release existing claims of which each of them is not now aware, unless each of them voluntarily chooses to waive this right. Although Plaintiffs and OCSD are aware of this right, Plaintiffs and

OCSD nevertheless hereby voluntarily waive the right described in Section 1542 and elect to assume all risks for claims that now exist in each of their favor, known or unknown, that arise from or are related to or connected with any of the allegations asserted against OCSD in the Action.

d. All Parties acknowledge they may later discover facts different from or in addition to those that they or their attorneys now know or believe to be true. It is the intention of the Parties to fully, finally, and forever settle and release all claims as set forth in this section. **The releases provided in this Settlement Agreement shall remain in effect notwithstanding the discovery or existence of any additional or different facts related to the Action or arising from the Action.**

e. Plaintiffs and OCSD further represent and warrant that they have not given or sold any portion of any claims released herein to anyone else, and that if either of them previously assigned or transferred a claim released hereunder, they will indemnify and hold harmless the persons and entities released herein from all liabilities, claims, demands, costs, expenses and/or attorneys' fees incurred as a result of any such prior assignment or transfer by them.

3. **Dismissal and Release.** Within 5 Court days after the Plaintiffs complete their presentation to Ms. Mary Izadi and this Agreement is fully executed, Plaintiffs will file the form to dismiss their claims against the OCSD with prejudice. OCSD and Plaintiffs each agree that they will not seek any costs or fees related to or arising from the Action or Plaintiffs' Released Claims.

4. **Ongoing Confidentiality Obligations.** The Parties agree that they will not use or disclose documents and/or information designated as Confidential or Highly Confidential under the Parties' operative protective order in the litigation ("Confidential Information"). For the avoidance of doubt, "Confidential Information" does not include any information that is publicly available, or that Plaintiffs had or knew about prior to or separately from discovery in the Action.

5. **Remedies and Forum.** The Parties agree that this Agreement may be enforced by a court of competent jurisdiction.

6. **Governing Law.** This Settlement Agreement shall be interpreted in accordance with the laws of the State of California, except that parol evidence shall not be admissible to vary or modify any of its terms.

7. **No Admissions.** The Parties agree that, to the fullest extent permitted by law, neither this Settlement Agreement nor the settlement, nor any act performed or document executed pursuant to or in furtherance of the settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or invalidity of any of Plaintiffs' claims, or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any wrongdoing, fault, omission, or liability of OCSD or of Plaintiffs in any context, including in any proceeding in any court, administrative agency, or other tribunal.

8. **No Precedent.** This Agreement is non precedential and shall not be construed as a waiver

or admission with respect to any future dispute that may arise between Plaintiffs and OCSD.

9. Entire Agreement and Application to This Dispute. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and shall be binding upon their respective heirs, executors, administrators, successors and assigns. This Agreement may not be modified or amended except by a signed writing executed by all Parties. No Party has relied upon any representation or statement outside this Agreement with regard to the subject matter, basis, or effect of this Agreement.

10. Attorney's Fees and Costs. The Parties agree that they shall bear their own respective costs and fees, including but not limited to attorney's fees, in connection with the Action, Plaintiffs' Released Claims, and the negotiation and execution of this Agreement.

11. Counterparts and Electronic Delivery. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same Agreement.

12. Representation by Counsel. The Parties acknowledge that at all material times they have been represented by counsel of their own choosing concerning the rights affected by this Agreement, the form and content of it, the advisability of executing it, and that they enter into this Settlement Agreement voluntarily and with full knowledge of its meaning and consequences. This Agreement has been reviewed by counsel for the Parties and will not be strictly construed against any Party. This Settlement Agreement is the product of negotiation and preparation by and among each Party and their respective attorneys. Therefore, the Parties acknowledge and agree that this Settlement Agreement shall not be deemed prepared or drafted by one party or another and should be construed accordingly. The headings herein are solely for the convenience of the Parties and do not form a substantive part of the Agreement.

13. Severance Clause. The provisions of this Agreement are severable, and if any provision or term, or part of a provision or term, of this Agreement is declared or determined by any court to be illegal or invalid, the validity of the remaining parts, provisions or terms shall not be affected thereby, and said illegal or invalid part, provision or term shall not be deemed to be a part of this Agreement.

**PLEASE READ CAREFULLY**

**THIS SETTLEMENT AGREEMENT INCLUDES A FULL RELEASE OF KNOWN AND UNKNOWN CLAIMS THAT MAY HAVE ARISEN AT ANY TIME PRIOR TO THE EXECUTION OF THIS AGREEMENT THAT ARISE FROM, OR ARE RELATED OR CONNECTED TO, THIS ACTION OR ANY OF THE ALLEGATIONS ASSERTED AGAINST THE OCSD IN THIS ACTION.**

The Parties have executed this Agreement as of the dates set forth below with the full authority to do so and intending to be legally bound:

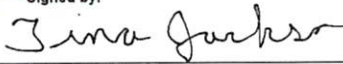
**Don Barnes, in his Official Capacity as  
Orange County Sheriff-Coroner**

  
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3/24/2025  
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Signing Date

**Tina Jackson**

Signed by:  
  
\_\_\_\_\_

3/21/2025 | 2:57 PM EDT  
\_\_\_\_\_

Signing Date

**Theresa Smith**

Signed by:  
  
\_\_\_\_\_

3/21/2025 | 5:29 PM EDT  
\_\_\_\_\_

Signing Date

**Bethany Webb**

DocuSigned by:  
*Bethany Webb*  
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3/22/2025 | 3:19 PM PDT

Signing Date

**People for the Ethical Operation of  
Prosecutors and Law Enforcement**

**(“P.E.O.P.L.E.”)**  
Signed by:  
*Oswaldo Farias*  
13B3259037024CC...

3/22/2025 | 3:51 PM PDT

Name: Oswaldo Farias

Signing Date