

## SETTLEMENT AGREEMENT

*Kelly, et al. v. CCA, et al.*

1:11-cv-00185-EJL

1. The settlement agreement addresses specific issues raised by Plaintiffs in this action relating to alleged constitutional violations with respect to inmate-on-inmate assaults at the Idaho Correctional Center ("ICC") and the resolution of these issues. The parties stipulate that the terms of this settlement agreement extend no further than necessary to satisfy the requirements of 18 U.S.C. § 3626(a)(1)(A).
2. CCA will agree to investigate and prepare a report on all inmate-on-inmate assaults with findings and conclusions to determine any causes of the incident. CCA will take appropriate action, if necessary. These reports will be sent to the office of Kirtlan Naylor for review and inspection by James Huegli at a mutually convenient time.
3. CCA will agree to investigate and report on inmates' Inmate Concern Forms claiming a staff failure to protect from inmate-on-inmate assault, and CCA will take appropriate action to protect the health and safety of inmates, if necessary. These reports will be sent to the office of Kirtlan Naylor for review and inspection by James Huegli at a mutually convenient time.
4. CCA will agree to comply with the staffing pattern pursuant to CCA's contract with the Idaho Department of Correction ("IDOC"). In addition, CCA agrees to increase the staffing pattern to include a minimum of three additional correctional officers to be utilized at the discretion of the warden to enhance the overall security of the facility.
5. CCA will immediately place inmates who claim to be at risk of physical assault from other inmates into appropriate housing, as determined by staff, during the investigation of the claim.
6. CCA will comply with IDOC Standard Operating Procedure ("SOP") with respect to inmate discipline.
7. CCA will employ incentives to encourage good behavior by inmates.
8. CCA will report to the Ada County Sheriff's Office inmate-on-inmate assaults that upon investigation appear to rise to the level of "aggravated battery" as defined by Idaho Code 18-907(1)(a).
9. CCA will make housing assignments based on all factors the facility deems appropriate for the safety of the inmates, consistent with IDOC SOP.
10. CCA will meet IDOC reporting requirements.

11. CCA's correctional officers will meet the requirements of the State of Idaho's Peace Officer Standards and Training, as required by the IDOC contract, as well as additional training as required by CCA. The CCA training includes: policies and procedures; inmate rights, including protection from assaults; emergency plans/incident management; institutional safety; supervision of inmates; inmate manipulation; inmate management; inmate accountability; direct supervision; special needs offenders; and security threat groups.
12. CCA will continue to employ methods designed to reduce inadvertent door openings.
13. The parties acknowledge and agree that the IDOC will monitor the terms in Paragraphs 2 through 12 of the settlement agreement in accordance with the CCA-IDOC contract.
14. The parties agree to dismiss this case with prejudice upon the execution of the settlement agreement.
15. In the event of non-compliance with the terms of the Agreement, the parties may seek relief as follows:
  - A. If there is a dispute as to whether any of the terms of the settlement agreement have been breached during the period of this agreement, Plaintiffs, through James Huegeli, shall notify CCA, through Kirtlan Naylor, in writing of the specific grounds and facts upon which Plaintiffs allege non-compliance with identified provisions of the agreement. CCA shall respond in writing within five (5) business days. The parties will agree to a reasonable date by which CCA will cure instances of non-compliance. If the dispute is not resolved, Plaintiffs shall notify CCA by letter and request that counsel meet and confer. The parties shall meet within five (5) business days of Plaintiffs' notice, or on some other mutually agreed upon date, in an attempt to arrive at an amicable resolution of the dispute. Nothing said by any party or counsel for any party during any and all meetings held under this paragraph may be used by any opposing party in subsequent litigation between the parties or in any other lawsuit.
  - B. If the dispute remains unresolved, the parties shall meet with the ADR Coordinator for the US District Court for the District of Idaho within three (3) business days to attempt to resolve the dispute.
  - C. If the dispute remains unresolved following the conclusion of such meeting or meetings, or if CCA does not respond to Plaintiffs' initial notice of dispute within five (5) business days, or if counsel do not meet and confer (or agree to a date to meet and confer) within five (5) business days of Plaintiffs' request to meet and confer, Plaintiffs or CCA shall submit the dispute to the Honorable David O. Carter, who shall have authority to enforce the terms of this agreement in his capacity as a Federal District Court Judge.

D. Plaintiffs and CCA, through counsel, may mutually agree to extend any of these deadlines on a case-by-case basis, when counsel believes the purposes of this agreement would be better served by doing so.

16. The relief granted in this agreement shall terminate on the two year anniversary of the date that the parties execute the settlement agreement.
17. This agreement constitutes the entire agreement among the parties as to all claims raised by Plaintiffs in this action, and supersedes all prior agreements, representations, statements, promises, and understandings, whether oral or written, express or implied, with respect to this agreement.
18. Plaintiffs allege in their Amended Class Action Complaint that CCA violated the constitutional rights of inmates at ICC, with respect to their safety from assault, adequate staffing, adequate training of staff, and other constitutional deficiencies. CCA denies all of the allegations in the Amended Class Action Complaint filed in this case. This agreement does not constitute and shall not be construed or interpreted as an admission of any wrongdoing or liability by any party.
19. This is an integrated agreement and may not be altered or modified, except by a writing signed by all representatives of all parties at the time of authorization and modification.
20. This agreement shall be binding on all successors, assignees, employees, agents, and all others working for or on behalf of CCA and Plaintiffs.
21. The parties agree that any press release issued describing or detailing the settlement agreement shall be prepared jointly and will be subject to the approval of both parties.
22. The parties agree that any agreement with respect to fees and costs shall remain confidential.
23. The parties agree to bear their own attorneys' fees and costs relating to the monitoring, enforcement or compliance with the agreement. If the Honorable David O. Carter finds a material breach has occurred, he may award attorneys' fees and costs.
24. The attorneys represent that they have the authority to enter into this agreement on behalf of their respective clients.

By: Daniel Struck Date: 9-16-11

Daniel Struck

By: Kirtlan Naylor Date: 9-16-11

Kirtlan Naylor

By: Stephen S. Pevar Date: 9/16/11

Stephen Pevar

By: Lea Cooper Date: 9/16/11

Lea Cooper

By: James Huegli Date: 9/16/11

James Huegli

By: Steve Groom Date: 9-16-11  
*Corrections Corporation of America*  
*Its Executive Vice President - General Counsel*

Steve Groom

By: Cole Carter Date: 9/16/2011

Cole Carter

By: Timothy Wengler Date: 9/16/11

Timothy Wengler

By: David O. Carter Date: 9/16/11

Honorable David O. Carter