

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) made as of this 3rd day of October, 2003, between and among the Florida Department Of Corrections, the Secretary of the Florida Department Of Corrections in his official capacity, and the Warden of the Everglades Correctional Institution in his official capacity (collectively “FDOC”) and Alan J. Cotton (“Cotton”) (collectively the “Parties”).

WITNESSETH:

WHEREAS, Cotton has filed a lawsuit against FDOC styled *Alan J. Cotton v. Florida Department of Corrections, et al.*, which is pending as Case No. 02-22760-CIV-MOORE in the United States District Court for the Southern District Of Florida, Miami Division, (the “Lawsuit”) and which asserts various claims against the Parties;

WHEREAS, the Parties wish to resolve amicably all disputes between them and to avoid the expense, inconvenience, and uncertainties of litigation;

NOW, THEREFORE, in consideration of avoiding the time and expense of the litigation between the parties; and in consideration of the premises and of the mutual promises and covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. Compromise of Disputed Claim. The Parties agree that this Agreement is made in compromise of a disputed claim, and that the Agreement shall not be construed as or deemed to be an admission of liability or fault by any party.

2. Venue. The Parties agree that venue is proper in the United States District Court for the Southern District of Florida.

3. Kosher Foods. “Kosher” refers to food items that are in their natural state (such as eggs, uncut and uncooked fresh fruits and vegetables, etc.), or to packaged items certified with a reliable symbol of certification such as a circle K or a circle U and are prepared and served in such a way as to ensure that the Jewish laws of Kashruth are not violated. Any question as to whether a particular food item is Kosher may be resolved through FDOC’s chaplaincy services, which shall consult a rabbi.

4. FDOC Obligations. Within 14 days of execution of the Agreement, FDOC will provide Cotton with Kosher meals that meet the Recommended Dietary Allowances or the Dietary Reference Intakes of the Food and Nutrition Board of the National Academy of Sciences, incorporated by §33-204.003(3), Fla. Adm. Code. It is understood that Cotton shall not be entitled to dictate particular menu items that he is to be served.

5. Kosher Meal Procurement. FDOC anticipates that Cotton’s Kosher meals will be purchased from outside vendors and will be pre-packaged. FDOC shall be entitled to inspect the pre-packaged meals for security reasons. FDOC will not tamper with the contents of the pre-packaged meals and at all times will respect and observe the fact that FDOC is examining food items to be delivered for human consumption.

6. Kosher Meal Availability. FDOC shall determine the composition of Cotton’s Kosher meals based upon reasonable availability or other objective criteria. In the event there is an unforeseen problem with the availability of Kosher food that is not the fault of FDOC, FDOC will make good faith efforts to resolve said availability

problem. It is understood that FDOC will not be held responsible for problems beyond its control.

7. Security of FDOC Environment. Cotton acknowledges that within a prison environment, security and discipline are of paramount importance to FDOC. Accordingly, Cotton shall be furnished Kosher eating utensils that do not present a security risk. Cotton will not engage in conduct connected with his Kosher meals that threatens the security or discipline of the prison environment.

8. Termination of Kosher Meal Delivery to Cotton. Cotton's entitlement to receive Kosher meals shall be terminable if any of the following conditions occur:

- a. Cotton is observed providing his Kosher food to another inmate;
- b. Cotton engages in bartering or trading of his Kosher food with another inmate;
- c. Cotton engages in other conduct connected with his Kosher meals that threatens security or discipline or creates a security problem by willfully committing any of the following acts:
 - i Throwing or misusing food, beverage, food utensils, food trays, human waste products, or spitting at staff;
 - ii The destruction of food trays or utensils;
 - iii Any other acts of violence that would place staff in jeopardy if a serving tray or utensils were provided;
- d. Cotton is observed willfully violating the religious dietary requirements that he professes in his Complaint;

e. Cotton is observed eating both his Kosher meal and the general non-Kosher diet meal offered to the general population;

f. Cotton informs FDOC that he no longer observes the tenets of Judaism;

g. Cotton is not within FDOC's custody (e.g. instances where Cotton is transferred to another agency in connection with court proceedings).

9. Enforcement of Agreement. Allegations of FDOC's noncompliance with this agreement shall be made through the inmate grievance procedures provided in §33-103, Fla. Adm. Code. prior to seeking any other relief, except that Cotton need not comply with the informal grievance process provided for in §33-103, Fla. Adm. Code. Upon exhausting such remedy, Cotton shall be entitled to bring an action in a court of competent jurisdiction to require compliance with the terms of this Agreement. Should Cotton prevail in a court action to enforce the terms of this Agreement, he shall be entitled to an award of reasonable attorney fees and costs incurred in that action, including those fees and costs incurred in pursuing the grievance procedures.

10. Representation by Counsel. Cotton and FDOC stipulate that they are represented by competent counsel of their own choosing and have had an opportunity to review this Agreement with their respective counsel prior to its execution, that they fully understand the terms of this Agreement and its legal consequences, and intend to be bound by it. This Agreement represents the entire agreement of the parties and there are no terms, promises, or undertakings other than those contained in this Agreement.

11. Cotton consents that upon execution of this Agreement FDOC shall submit to the Court an agreed final judgment of dismissal with prejudice of the lawsuit,

provides that the named Defendants therein go hence without day and that the parties shall bear their own costs.

BY: _____
ALAN J. COTTON, DC # 018615

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing instrument was executed before me on _____, 2003 by
ALAN J. COTTON, DC # 018616

Dated this ____ day of October, 2003

Notary Public _____
My commission expires _____

Personally known _____
Identification seen _____

<p>GREENBERG TRAUERIG, P.A. Attorneys for Plaintiff 1221 Brickell Avenue Miami, Florida 33131 Telephone: (305) 579-0500 Facsimile: (305) 579-0717</p> <p>And</p> <p>THE BECKET FUND FOR RELIGIOUS LIBERTY 1350 Connecticut Avenue, NW, Ste 605 Washington, D.C. 20036-1735 Telephone: (202) 955-0095</p>	<p>OFFICE OF THE ATTORNEY GENERAL, Attorneys for the Defendants 110 S.E. 6th Street, 10th Floor, Ft. Lauderdale, Florida 33301 Telephone: (954) 712-4600 Facsimile: (954) 712-4700</p>
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By: _____
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By: _____
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By: _____
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