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5 ROBERT "BOSTON" WOODARD

6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE EASTERN DISTRICT OF CALIFORNIA

8 ROBERT "BOSTON" WOODARD,

9 Plaintiff,

10 vs.

11 JOHN W. HAVILAND, and DOES 1 through  
12 30,

13 Defendants.  
14

Case No. \_\_\_\_\_

**COMPLAINT FOR VIOLATION OF  
CIVIL RIGHTS, DAMAGES AND  
INJUNCTIVE RELIEF;**

**DEMAND FOR JURY TRIAL**

15  
16 Plaintiff ROBERT "BOSTON" WOODARD ("Woodard") alleges as follows:

17 **INTRODUCTION**

18 1. State prisoner Robert "Boston" Woodard, a jailhouse journalist, was placed in  
19 administrative segregation ("ad seg"), denied visitation and telephone calls, and separated from his  
20 property (including typewriter and legal papers), because California jail officials did not like what  
21 he wrote about their prison for an outside audience. Officials also retaliated against him when he  
22 filed grievances complaining about the harassment and retaliation by correctional officers for his  
23 writing.

24 2. The warden told Woodard that he was placed in ad seg because of his writing.  
25 Now, prison officials plan to transfer Woodard to the remote High Desert State Prison (220 miles  
26 north of Sacramento) as further punishment and retaliation for his writing.

27 3. This complaint seeks immediate injunctive relief to prevent the retaliatory transfer  
28 and to stop ongoing harassment.

**PARTIES & BACKGROUND**

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4. Woodard is a prisoner of the State of California incarcerated at the California State Prison-Solano (“CSP-Solano”) located in Vacaville, Solano County, California within this judicial district. For the past two decades, he has written about prison life for various prison and outside print and on-line publications. Most of the articles that precipitated the harassment and retaliation at issue in this complaint are available on-line at <http://www.indybay.org>. He has also written for prisoner publications, such as the *San Quentin News*, *The Soledad Star* and was editor of *The Communicator* at the California Men’s Colony (San Luis Obispo).

5. Woodard’s writing over the years has occasionally displeased officials at the various California prisons where he has been incarcerated. Prison officials have harassed Woodard and retaliated against him based on the content of his writings and other First Amendment activity.

6. A federal judge in a prior action in the U.S. District Court for the Central District of California ruled in 1999 that an unwritten interview ban (since codified in state regulations) was invalid at the time prison officials disciplined Woodard for suggesting to an outside journalist that he contact jail officials to interview an inmate at the California Men’s Colony (“CMC”). Prison officials retaliated against Woodard in 1997 for his First Amendment activity by convicting him of false disciplinary charges of “circumventing policies,” removing him from his prison job as editor of the prisoner-run newsletter at CMC and transferring him to CSP-Solano. The State settled the prior action before trial.

7. John W. Haviland is the warden of CSP-Solano. At all times relevant to this action, Warden Haviland acted under color of state law in carrying out the conduct alleged in this complaint. Warden Haviland is sued in his official and individual capacity.

8. Woodard is ignorant of the true names and capacities of the defendants sued herein as Does 1 through 30, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and therefore alleges that each of the fictitiously named defendants is responsible in some manner for the occurrences herein alleged and that the violation

1 of rights and damages alleged in this complainant were proximately caused by their conduct.

2 9. Does 1 through 30 are present or past employees of CSP-Solano and/or other state  
3 agencies. At all times relevant to this action, Does 1 through 30 acted under color of state law in  
4 carrying out the conduct alleged in this complaint.

5 10. Plaintiff is informed and believes and therefore alleges that all times relevant to this  
6 pleading each defendant was the agent or employee of the remaining defendants and was acting in  
7 the course of such agency and employment in committing the acts alleged in this pleading.

8 **JURISDICTION AND VENUE**

9 11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because  
10 Woodard's claims arise from 42 U.S.C. § 1983 and the First and Fourteenth Amendments to the  
11 United States Constitution.

12 12. Venue in this District is proper pursuant to 28 U.S.C. § 1391 because, on  
13 information and belief, the Constitutional violations occurred in this District and, on information  
14 and belief, all of the parties work and reside in this District and are residents of the State of  
15 California.

16 **FACTUAL ALLEGATONS**

17 13. Defendant Haviland supervises Does 1 through 20, who are employees at CSP-  
18 Solano. Starting in approximately 2006 and continuing to the present, Defendants, including Does  
19 1 through 20, began harassing and threatening Woodard as a result of articles he had written for  
20 the Fresno-based *Community Alliance* newspaper. These articles also appeared on the internet.  
21 Defendants' retaliatory conduct included refusing and returning (with the stamp  
22 "UNACCEPTABLE MATERIAL") in or about January 2007 copies of an article by Woodard  
23 about California Legislative measures to allow outside media freer access to state prisoners.

24 14. Defendants' harassing and threatening conduct continued following publication and  
25 on-line dissemination of Woodard's article "It Ain't So Funny When The Rabbit Has The Gun" in  
26 August 2008. This article discussed the complicity of prison staff in smuggling contraband into  
27 prison and reported on a surprise search (conducted by prison security staff) of prison employees  
28 as they reported for work one day in July 2008.

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15. After the “Rabbit Has The Gun” article was published, a series of retaliatory and vindictive punishments were leveled against Woodard. Correctional officers assigned to Woodard’s housing unit ordered Woodard to stop using a table in the day room of his unit to type his articles. Soon after this, one of the officers who ordered Woodard to stop using the day-room table took down and ripped up an article by Woodard that had been posted on the wall.

16. Woodard filed a formal complaint in 2008 against one of the officers for ordering him to stop using the day-room table for writing and for removing and destroying a copy of Woodard’s article from the housing unit wall. During an interview on the complaint, a prison lieutenant told Woodard that the editor of the newspaper printing Woodard’s article “needs his head examined” for allowing Woodard a forum to “make up shit.” The lieutenant also called the editor a “dumb idiot.”

17. After the filing of one of Woodard’s grievances and complaints in 2008, an officer told Woodard: “You’ve been acting funny... you’re becoming a problem and you know what’s coming next!” Shortly after that encounter, the officer – while Woodard was present – told the subject of one of Woodard’s grievances and complaints: “Don’t worry about him; he won’t be here much longer.”

18. Woodard viewed these statements as threats designed to pressure him to stop writing articles and to stop filing grievances and complaints against staff. Woodard filed a staff complaint as to this retaliatory and harassing statements and conduct. The filing of this complaint was improperly leaked to one of the subject officers, who made further threats against Woodard. The officer told Woodard: “What the fuck’s up, man! Why did you file a staff complaint on me?” Woodard told the officer that it was improper for him to contact him about the complaint and to threaten him for filing the complaint. The officer responded: “You’re pushing it dude! You’d better knock that shit off!”

19. Following these interactions, other officers and supervisors at CSP-Solano retaliated against Woodard for his writing and filing of grievances by transferring Woodard involuntarily to a housing unit designated for prisoners who are “disciplinary problems.”

20. Defendants, including Doe defendants, did not properly investigate and respond to

1 Woodard's complaints of harassment and retaliation. Instead, they used the grievance process to  
2 falsely portray Woodard as "loud" and "uncooperative" in order to discredit his complaints.

3 21. Despite the verbal threats and harassment and misuse of the grievance process,  
4 Woodard continued to write about prison issues for an outside audience. In April 2009, he wrote  
5 an article entitled "Rogue Prison Staff: Breaking All The Rules." This article outlined the  
6 harassment and retaliation against Woodard for his writing and filing of grievances.

7 22. After the publication and on-line dissemination of "Rogue Prison Staff,"  
8 Defendants intensified their threatening, harassing and retaliatory conduct. On July 9, 2009,  
9 Defendants placed Woodard in ad seg. They separated him from his writing materials, typewriter  
10 and legal papers. The (false) reason given for this action was that Woodard's writing posed a  
11 "security problem" if he were to remain in the general prison population. Since being placed in ad  
12 seg, Woodard's correspondence with outsiders (including his editor) has been delayed and  
13 reduced.

14 23. On July 16, 2009, defendant Haviland told Woodard that he was being transferred  
15 to another prison because of Woodard's continued journalistic activities. On July 29, 2009,  
16 defendants informed Woodard that he was going to be transferred to the state prison in Susanville  
17 (Lassen County) on August 5 or August 6, 2009.

18 **FIRST CLAIM FOR RELIEF**

19 **Retaliation In Violation Of The First Amendment**

20 **42 U.S.C. § 1983**

21 (Against Haviland and Does 1 through 30)

22 24. The allegations above are incorporated herein by reference.

23 25. Woodard has a First Amendment right to write articles about prison life and affairs  
24 for publication in outside newspapers and websites. As Californians spend billions of dollars per  
25 year on their prison system, this is a matter of widespread public interest and concern.

26 26. Woodard also has a First Amendment right to receive written material, although  
27 this right is limited by the prison's legitimate penological concerns and objectives.

28 27. Prisoners also have a First Amendment right to file prison grievances and pursue

1 civil rights litigation in the courts.

2 28. As detailed above, defendant Haviland and Does 1 through 30 knew that Woodard  
3 exercised his Constitutional right to send articles out for publication, receive copies of the written  
4 articles by mail, and file complaints and grievances against prison staff.

5 29. Defendant Haviland and Does 1 through 30 retaliated against Woodard for his First  
6 Amendment activities by:

- 7 a. Orally threatening and harassing plaintiff;
- 8 b. Issuing orders and directives to plaintiff that burdened and chilled his First  
9 Amendment activities;
- 10 c. Failing to observe official prison rules, regulations and procedures designed  
11 to protect plaintiff's exercise of his First Amendment rights;
- 12 d. Misusing the grievance process by failing to investigate and remedy  
13 legitimate complaints by Woodard and using the process to portray Woodard in a  
14 false light to discredit his complaints;
- 15 e. Interfering with his receipt of U.S. Mail from outside the prison;
- 16 f. Filing false disciplinary charges against plaintiff;
- 17 g. Transferring him from one housing unit to another at CSP-Solano;
- 18 h. Placing him in administrative segregation without cause for the sole  
19 purpose of retaliation;
- 20 i. Confiscating his writing materials, typewriter and legal papers; and
- 21 j. Threatening and taking steps to transfer him to a remote prison without  
22 cause and for the sole purpose of retaliation and to chill his speech and First  
23 Amendment activities.

24 30. On information and belief, Defendant Haviland directly participated in and/or  
25 approved or ratified the decision to retain Woodard in ad seg and to transfer Woodard to another  
26 prison.

27 31. Defendants' retaliatory conduct was carried out under color of state law and did not  
28 reasonably advance any legitimate correctional goal, objective or concern.

1 32. Notwithstanding Woodard's persistence in writing articles and filing grievances,  
2 defendants' conduct has had a chilling effect on Woodard. The cumulative effect of the retaliatory  
3 conduct has been to burden plaintiff's proper and protected activity to such an extent that he is  
4 unable to write as much as he otherwise would or pursue his grievances and appeals as effectively  
5 as he otherwise could. While in ad seg, Woodard has been unable to write for publication at all,  
6 despite his desire to do so.

7 33. Woodard has suffered emotional distress, fear, humiliation, injury to his reputation,  
8 loss of rights and privileges, and loss of property as a direct result of defendants' violation of his  
9 Constitutional rights.

10 34. On information and belief, defendants acted with reckless or callous indifference to  
11 the federally protected rights of Woodard.

12 35. If the transfer to a remote prison occurs, Woodard will suffer irreparable injury and  
13 harm and will find it more difficult and burdensome to pursue his pending grievances and/or this  
14 civil rights action.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff Woodard prays for judgment as follows:

- 17 1. For court orders granting immediate, interim and permanent injunctive relief  
18 preventing the retaliatory transfer of Woodard from occurring;
- 19 2. For court orders granting immediate, interim and permanent injunctive relief  
20 preventing future harassment and retaliation for Woodard's writing and filing of  
21 grievances or lawsuits;
- 22 3. For court orders granting immediate, interim and permanent injunctive relief to end  
23 plaintiff's unwarranted detention in ad seg;
- 24 4. For court orders granting immediate, interim and permanent injunctive requiring  
25 the return of plaintiff's writing materials, typewriter and legal papers;
- 26 5. For compensatory, special, general and consequential damages according to proof  
27 at trial, together with prejudgment interest thereon;
- 28 6. For exemplary and punitive damages in an amount sufficient to punish and deter

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the conduct of Defendants;

7. For an award of the costs of suit, including reasonable attorney's fees pursuant to 42 U.S.C. § 1988 and statutory and non-statutory costs of suit herein, including the cost of filing fees, photocopies, reproduction, blow-ups, models, exhibits, courier and delivery fees, online legal research, investigation, consultant and expert witness fees, and travel expenses;
8. And for such other relief as is just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff Robert "Boston" Woodard demands a jury trial in this action.

Dated: August 3, 2009

NEWDORF LEGAL  
DAVID B. NEWDORF

By: /s/ David B. Newdorf  
DAVID B. NEWDORF  
Attorneys for Plaintiff  
ROBERT "BOSTON" WOODARD