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7 Attorneys for Plaintiffs  
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10 UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12

13 MERCER, FRASER CO., a California corporation; and  
O & M INDUSTRIES, a California corporation, )

14 Plaintiffs, )

15 v. )

16 COUNTY OF HUMBOLDT, CALIFORNIA, a )  
17 political subdivision of the State of California, )

18 Defendant. )  
19

No. C 08-04098 SI

**SETTLEMENT AGREEMENT  
AND [PROPOSED]  
STIPULATED JUDGMENT**

20  
21 This settlement agreement and proposed stipulated judgment, and accompanying proposed  
22 stipulated order, are agreed to and hereby submitted to the Court by Plaintiffs Mercer, Fraser Co.  
23 and O & M Industries, and Defendant County of Humboldt, California;

24 WHEREAS the "Humboldt County Ordinance to Protect Our Right to Fair Elections and  
25 Local Democracy," known as "Measure T," was a voter-approved initiative, passed by 55% of the  
26 County of Humboldt's electorate at the June, 2006, election;

27 ///

28 ///

1 WHEREAS, on August 27, 2008, Plaintiffs' filed their original Complaint, and on  
2 September 3, 2008, filed their First Amended Complaint, challenging Measure T as violative of  
3 the First and Fourteenth Amendments to the United States Constitution;

4 WHEREAS, on September 3, 2008, Plaintiffs moved for a temporary restraining order  
5 (TRO) and preliminary injunction forbidding all enforcement of Measure T;

6 WHEREAS, on September 15, 2008, the Court (per Alsup, J.), after two hearings, granted  
7 in part and denied in part Plaintiffs' application for a TRO;

8 WHEREAS, on September 22, 2008, the Court, following a hearing, granted Plaintiffs'  
9 motion for preliminary injunction, and enjoined all enforcement of Measure T pending further  
10 order of the Court;

11 WHEREAS, in its order granting Plaintiffs' motion for preliminary injunction, the Court  
12 held that "Measure T likely violates the First Amendment because it burdens corporations' First  
13 Amendment right to make political expenditures and campaign contributions, yet it is neither  
14 narrowly tailored nor closely drawn as the case law requires," and that "Measure T is also likely  
15 to violate the Equal Protection Clause of the Fourteenth Amendment because it burdens  
16 corporations' right to engage in political expression but, as described above, it is not narrowly  
17 tailored";

18 WHEREAS, it is in the interest of the public and the Parties, and judicial economy, to  
19 resolve the claims in this lawsuit without protracted litigation;

20 NOW THEREFORE, the Parties agree as follows:

21 1. Judgment shall be entered in favor of Plaintiffs and against Defendant on Plaintiffs'  
22 First Claim for Relief, that Measure T violates the Free Speech Clause of the First Amendment,  
23 as incorporated into the Fourteenth Amendment;

24 2. Judgment shall be entered in favor of Plaintiffs and against Defendant on Plaintiffs'  
25 Second Claim for Relief, that Measure T violates the Equal Protection Clause of the Fourteenth  
26 Amendment;

27 3. Measure T shall be declared unconstitutional, and therefore wholly null and void, and  
28 without any legal effect whatsoever;

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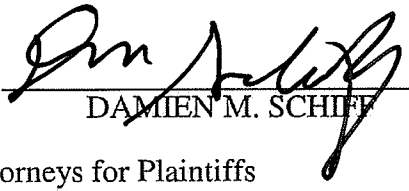
1           4. Within 60 days after entry of this Stipulated Judgment, Defendant shall pay Plaintiffs'  
2 \$44,000, which shall discharge any and all claims or obligations that Plaintiffs may have against  
3 Defendant for attorney's fees and costs arising from this lawsuit. The bank draft shall be made out  
4 to "Pacific Legal Foundation."

5           5. Each undersigned representative of the Parties hereto certifies that he is fully  
6 authorized to enter into and execute the terms and conditions of this agreement.

7           6. This Court shall retain jurisdiction to enforce this Stipulated Judgment.


8           DATED: November 7, 2008.

PAUL J. BEARD II  
DAMIEN M. SCHIFF  
BRANDON M. MIDDLETON  
Pacific Legal Foundation

By   
DAMIEN M. SCHIFF  
Attorneys for Plaintiffs

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15           DATED: November 7, 2008.

RANDY RIDDLE  
STEVE CIKES  
Renne Sloan Holtzman Sakai LLP

By   
RANDY RIDDLE  
Attorneys for Defendant

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