

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

AUSTIN LAWYERS GUILD; CARL  
GOSSETT, DAVID GRASSBAUGH,  
MARK SAMPSON, and FRANCIS  
WILLIAMS, for themselves and those  
similarly situated; and the PRISON  
JUSTICE LEAGUE,  
*Plaintiffs*

v.

SECURUS TECHNOLOGIES, INC;  
And TRAVIS COUNTY,  
*Defendants.*

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CASE NO. 1:14-cv-00366-LY

**MAIN SETTLEMENT AGREEMENT AND FULL AND FINAL RELEASE**

This Settlement Agreement and Full and Final Release (hereinafter referred to as the "Main Agreement") is entered into by and between the following individuals and entities in Cause Number 1:14-cv-00366-LY (hereafter "this Cause"): the Austin Lawyers Guild; Carl Gossett, David Grassbaugh, Mark Sampson, and Francis Williams, for themselves and those similarly situated; and the Prison Justice League (hereinafter referred to as "Plaintiffs"); Securus Technologies, Inc. (hereinafter referred to as "Securus"), and Travis County, Texas (hereafter "Travis County"). Additionally, Sheriff Greg Hamilton (hereafter "Sheriff Hamilton") a party previously dismissed from this Cause by Plaintiffs pursuant to FRCP 41(a)(1), enters into this Main Agreement to seek the release of all claims by Plaintiffs that could have been asserted against Sheriff Hamilton arising out of the facts made basis of this Cause. Travis County and Securus are hereinafter collectively referred to as "Defendants." Plaintiffs, Defendants and Sheriff Hamilton, who are the parties to this Main Agreement, are collectively referred to as the "Parties" or "Party."

## **I. Recitals**

- A. Whereas, Securus has contracted with Travis County to provide, among other things, recordings of telephone calls from inmates housed and/or detained in corrections facilities operated by Travis County.**
- B. Whereas, the Securus system allows attorneys who represent criminal defendants to register their numbers on a “private list” so that calls from their clients will be confidential, private; and not recorded, stored, collected, intercepted, or monitored.**
- C. Whereas, Plaintiffs had previously asserted certain claims against Defendants and Sheriff Hamilton under the Federal and State Wiretap Acts, and the First, Fourth, Fifth and Sixth Amendments to the United States Constitution related to alleged breach of attorney-client privileged conversations between attorneys and inmates housed and/or detained at corrections facilities operated by Travis County and the Travis County Sheriff.**
- D. Whereas, Plaintiffs have previously dismissed their lawsuit against Sheriff Hamilton and the two other Travis County Elected Officials that Plaintiffs sued in this Cause in their respective official capacities, County Attorney David Escamilla and District Attorney Rosemary Lehmborg, (hereafter “Elected Officials”) pursuant to FRCP 41(a)(1).**
- E. Whereas, Plaintiffs have amended their Complaint and repled their claims herein, substituting Travis County for the Elected Officials as the real party in interest.**
- F. Whereas, Plaintiffs’ Second Amended Complaint asserts certain claims against Travis County and Securus under the Federal and State Wiretap Acts, and the First, Fourth, Fifth and Sixth Amendments to the United States Constitution related to alleged breach of attorney-client privileged conversations between attorneys and inmates housed and/or**

detained at corrections facilities operated by Travis County and the Travis County Sheriff.

- G. Whereas,** Plaintiffs' Second Amended Complaint does not assert any claim or allegation of intentional or knowingly wrongful or unlawful conduct by any Elected Official.
- H. Whereas,** Sheriff Hamilton, although previously dismissed from this Cause by Plaintiffs pursuant to FRCP 41(a)(1), enters into this Main Agreement to obtain a release of any and all potential claims that could have been asserted against him arising out of the facts made basis of this Cause.
- I. Whereas,** Plaintiffs specifically acknowledge herein that that there was no evidence of intentional misconduct by any Defendant originally sued in this Cause including: Securus, Travis County, County Attorney David Escamilla, District Attorney Rosemary Lehmberg or Sheriff Greg Hamilton.
- J. Whereas,** Travis County, Securus and Sheriff Hamilton deny any and all claims and allegations of misconduct and/or wrongdoing, including, but not limited to claims and/or allegations of knowing and/or intentional misconduct and/or wrongdoing.
- K. Whereas,** although no longer a party to this Cause, Sheriff Hamilton, on behalf of Travis County, agrees to perform the terms and conditions pertaining to the Travis County Sheriff's Office ("TCSO"), its elected official and employees as set forth more specifically in Section II. D. of this Main Agreement herein.
- L. Whereas,** Sheriff Hamilton, on behalf of Travis County desires to facilitate the full and final settlement of all claims that arise out of this Cause or could have arisen out of this Cause, and
- M. Whereas,** in addition to this Main Agreement, two other agreements exist that fully resolve this Cause: (1) the "District Attorney Agreement" between Plaintiffs and

District Attorney Lehmberg; and (2) the "County Attorney Agreement" between Plaintiffs and County Attorney David Escamilla. The District Attorney Agreement and the County Attorney Agreement are fully incorporated herein.

**NOW, THEREFORE, in consideration of the mutual promises and Main Agreement herein, including the recitals set forth hereinabove, the Parties agree as follows:**

**II. Consideration**

- A. No Admission:** It is agreed that the consideration cited below has been extended by Securus, Travis County and Sheriff Hamilton and accepted by Plaintiffs in order to eliminate and forego further controversy or litigation, that this Main Agreement is a compromise of disputed claims, and that nothing contained in this Main Agreement, including the consideration, is or shall be construed as an admission of liability or fault by any Party.
- B. Consideration by Plaintiffs for Sheriff:** Plaintiffs hereby release Sheriff Hamilton in any and all capacities from any and all claims and/or causes of action arising out of the Cause, or that could have arisen out of the Cause. The Parties further each acknowledge Sheriff Hamilton is not paying any sum to settle this matter.
- C. Consideration by Plaintiffs for Securus and Travis County:** Within ten (10) business days of the execution of this Main Agreement by Plaintiffs, Securus shall pay Plaintiffs the sum of Twenty Thousand Dollars (\$20,000.00) for attorneys' fees claimed by Plaintiffs, by means of one check made payable to Texas Civil Rights Project and to be delivered to attorney Abby Frank. Plaintiffs acknowledge this consideration is in addition to anything of value to which they would otherwise be entitled. Additionally, Travis County will pay the sum of \$800 in mediation fees, over and above what Travis County was required to pay. This check shall be sent directly to the mediator, Michael Curry. These sums are paid in full and final settlement of all claims, demands, controversies, actions or causes of action by Plaintiffs against Securus and Travis County arising out of the facts that form the basis of this Cause. Plaintiffs fully

recognize and understand that the above-stated settlement sums are full and final payment to Plaintiffs in resolution of this Cause.

- D. Covenant not to sue.** Plaintiffs promise and covenant never to initiate any administrative or other legal action against Securus, Travis County Sheriff Hamilton or any Releasee, as described in Section III below, arising out of the facts made basis of this Cause.
- E. Nonsuit.** Within three business days (3) days of receipt of the settlement monies under this Main Agreement, Plaintiffs agree to file a motion to dismiss with prejudice or stipulation of dismissal of the lawsuit titled *Austin Lawyers Guild, et al. vs. Securus Technologies, Inc., and Travis County* in the United States District Court for the Western District of Texas; Case No. 1:14-cv-00366-LY. Plaintiffs and Defendants agree to timely cooperate in actions necessary to effectuate the dismissal of this Cause. Travis County and Securus shall pay their own court costs and attorneys' fees in this matter.
- F. In exchange for this release Defendants and Sheriff Hamilton, on behalf of Travis County make the following promises:**
- 1. Application.** Sheriff Hamilton on behalf of Travis County will oversee the creation of an online application for criminal defense attorneys to register on the "private do not record list." This will be developed and implemented by the Travis County IT Department in consultation with Sheriff Hamilton and Securus. This application for telephone number registration shall be completed and made available to criminal defense attorneys no later than the 90<sup>th</sup> day following the execution of this agreement.
  - 2. Securus agrees to provide technical support to allow the online application developed by Sheriff Hamilton on behalf of Travis County to work with the Securus' Secure Call Platform.**

**3. Information Contained in the Application.** The application for the “private do not record” list will be completed by criminal defense attorneys and will include the following information:

- a. name,
- b. bar number,
- c. two phone number(s) requested to be registered, with the option to request a third number to be registered upon a showing of good cause,
- d. email,
- e. driver’s license, or passport or Texas ID, and
- f. an authorization for release of email address.

**4. Two Phone Numbers.** This application will allow a criminal defense attorney to register two numbers, one of which will be “free and private” and the other of which will be private, but not free.

**5. Discretionary Third Phone Number Upon Establishing Good Cause.** Under the conditions set forth below, an attorney may request registration of a third phone number with a showing of good cause. Good cause for registration of a third phone number will be limited to the attorney’s demonstration of an ongoing business practice of providing three phone numbers to clients that began prior to the Parties’ execution of this Main Agreement, verified by documentation (e.g. a business card). An attorney wishing to register a third phone number must have all three numbers displayed on his or her profile on [www.texasbar.com](http://www.texasbar.com). Plaintiffs will make reasonable efforts to inform attorneys of this grandfathering provision and its limitations.

**6. Acknowledgement.** The Application will contain an acknowledgement by the registering criminal defense attorney confirming the following:

- a. That they are seeking registration on the “private do not record” list only in connection with professional representation of criminal defendants;

- b. that they will update their profile to reflect changes in their status, such as a reassignment of their phone number or change in their bar status;
- c. certifying that the information provided in the application is true and accurate;
- d. understanding that the email address contained in their application may be subject to being released in response to a request under the Public Information Act; and
- e. that the criminal defense attorney will be responsible for updating information in a timely fashion.

**7. Confirmation.** Securus affirms that upon the development and launching of an online application, it will, and can, assist in providing Sheriff Hamilton, on behalf of Travis County, confirmation that a request to add a defense attorney's phone number(s) has been received and added to the "private do not record" list at which time Sheriff Hamilton on behalf of Travis County will send the defense attorney a confirmation email indicating the changes/updates have been applied. This confirmation shall be sent no later than the 10<sup>th</sup> business day following submission of the application.

**8. Verification.** Securus affirms that upon the development and launching of an online application, it will, and can, assist Sheriff Hamilton on behalf of Travis County in providing a verification method for defense attorneys to review their profile on the "private do not record" list.

**9. Update of Profile.** Securus affirms that, with respect to the development and launching of an online application utilizing a pass coded profile for each attorney, it

will provide technical support so that updates made by attorneys to their profile (e.g., a change in telephone number) can be communicated to the Secure Call Platform.

**10. An Enhanced TCSO website pertaining to the “private do not record” list.** On the section of Sheriff Hamilton’s website entitled, “How do I contact an Inmate/Inmate Calls to their Attorneys,” Sheriff Hamilton on behalf of Travis County will provide a link to the on-line application, described above, with a brief but informative explanation regarding:

- a. how to register;
- b. services provided to registered attorneys;
- c. effect of failure to register, i.e., call will be monitored and/or recorded;
- d. FAQ’s.

**11. Link to the Austin Bar Association.** Sheriff Hamilton, on behalf of Travis County, will request that the Austin Bar Association website provide a link to the online application and Sheriff Hamilton’s Jail Call website sections.

**12. Link on the Criminal Defense Bar Website.** Sheriff Hamilton, on behalf of Travis County, will offer to work with local criminal defense association (ACDLA) webmasters/administrators to make a link available on their websites.

**13. Access Log** Sheriff Hamilton, on behalf of Travis County, will provide the following:

- a. **Access Log.** In the event that an attorney-client call is/was accessed, Sheriff Hamilton will provide an “access log” to the attorney whose call is/was accessed upon request of that attorney. The log will be provided within 30 days of the attorney’s request. Sheriff Hamilton will also provide the log to the entity that accessed the call. The log identifies the name of the inmate, the phone number of the attorney the inmate called, and information identifying the person who accessed the call, and when that person accessed the call.



**1. Calls Accessed Pursuant to a Court Order, Search Warrant, Subpoena or Other Binding Legal Authority Are Excluded from the Access Log Requirements under Para. 13 (a).**

The Parties further expressly agree the Access Log requirements set forth in Paragraph 13 (a), above shall not apply to a call (or calls) accessed pursuant to a court order, search warrant, subpoena or other binding legal authority. In such cases, access to calls shall be limited to those that are reasonably necessary to fully comply with the requirements of the court order, search warrant, subpoena or other binding legal authority at issue.

- b. 90 day rolling period.** Upon execution of this Main Agreement, Securus confirms that it will maintain the user access data that is necessary for creating the above access log in accordance with the current system requirements for a period of 90 days following execution. If, during that 90-day period, any attorney-client call is improperly accessed, and Securus has notice of that event, Securus will maintain the user access data for that call for a 90-day period following the date of last improper access of the call. If, during the 90-day period following execution of this Main Agreement, or during any rolling 90-day period thereafter, no attorney-client calls are improperly accessed, then Defendants will revert to the standard configuration of maintaining the user access data in accordance with the current system requirements whereby such data is maintained for a period of 30 days following the date of last access of any call.

- 14. Signage.** Sheriff Hamilton, on behalf of Travis County, will provide the following: enhanced signage by the Inmate phone banks in English, Spanish, Vietnamese and

Braille, specifically alerting inmates that their attorneys must be registered online to receive private calls, otherwise the inmate's call will be automatically recorded.

### **III. Release by Plaintiffs.**

**Full and Final Release.** For and in consideration of the sum of Twenty Thousand and No/100 Dollars (\$20,000.00), paid by or on behalf of Securus, as well as \$800 in additional mediation fees as paid by Travis County, as well as the non-monetary consideration set forth above, the sufficiency of which is hereby acknowledged, and also in consideration of the mutual covenants and releases contained herein, Plaintiffs, for themselves and their heirs, executors, successors, and assigns, agree to and do hereby fully and forever Release, Acquit, and Discharge: (1) Securus and its affiliates, predecessors and successors in interest, heirs, executors, assigns, officers, directors, trustees, agents, employees, representatives, insurers, and attorneys; (2) Sheriff Hamilton in his official and individual capacity and (3) Travis County, Texas and its elected and appointed officials, and employees; including but not limited, to the all current and past elected officials in Travis County Government in their official and individual capacities including, but not limited to, the current and past Travis County Commissioners of the Commissioners Court, the current and past Travis County Judge, the current and past Travis County District Attorney, the Current and Past Travis County Attorney, the Current and Past Travis County Sheriff and all of their past, present or future subsidiaries, affiliates, predecessors and successors in interest, heirs, executors, assigns, officers, directors, trustees, agents, employees, representatives and attorneys, (collectively, "Releasees") from any and all charges, liabilities, actions, causes of action, claims, demands, suits, losses, controversies, damages, debts, costs, and expenses (including attorney fees and costs), present or future, vested or contingent, known or unknown, of any kind or character whatsoever, whether at common law, statutory law, or otherwise, whether sounding in tort or in contract, whether direct or indirect, which were asserted or could have been asserted by Plaintiffs against Securus, Sheriff Hamilton or Travis County, or any other Releasee in connection with this Cause through the date of the execution of this Main Agreement ("Claim or Claims").

This complete release includes, but is not limited to, a release of any rights arising out of alleged violations of any contract, express or implied, any covenant of good faith and fair dealing, express or implied, any tort, including any claim for negligence or gross negligence on the part of any of the Releasees, of any federal, state or other governmental statute, regulation, or ordinance, including, without limitation, the United States Constitution, the Texas Constitution, 42 U.S.C. § 1983, the Americans with Disabilities Act and the Federal and State Wiretap Acts. Excluded from this Main Agreement are any claims that cannot be waived by law and any claims that arise after the date this Main Agreement is executed by Plaintiffs. Plaintiffs do waive and release, however, their right to any monetary recovery should any agency pursue any claims on Plaintiffs' behalf.

#### **IV. Undertakings by Organizational Plaintiffs.**

The organizational Plaintiffs, Austin Lawyers Guild and Prison Justice League, agree to work with their respective members to ensure the members are aware of the policies and procedures with respect to registration of attorney phone numbers, including, but not limited to discretionary registration of third phone numbers.

#### **V. Representations by Plaintiffs.**

Plaintiffs for themselves and on behalf of their heirs, executors, successors and assigns, hereby expressly warrant and represent to all Releasees the following:

- A. Competent.** Plaintiffs are legally competent to execute this Main Agreement.
- B. Authority of Plaintiffs' Counsel.** Plaintiffs' Counsel hereby promise that they have authority to represent the Plaintiffs to this Cause and to enter into this Main Agreement on behalf of Plaintiffs.
- C. No Assignment of Claims.** Plaintiffs have not assigned, pledged or otherwise in any manner whatsoever sold or transferred, either by instrument, in writing or otherwise, any right, title, interest or claim that they have or may have by reason of the matters described as being released above.

- D. No Promise Outside Main Agreement.** No promise or representation of any kind has been made to Plaintiffs by Securus, Sheriff Hamilton, Travis County, or by anyone acting for Releasees related to the matters released herein, except as is expressly stated in this Main Agreement.
- E. Reliance of Plaintiffs.** Plaintiffs have relied solely on their own judgment and that of their attorneys in executing this Main Agreement.
- F. Full and Final Release.** Plaintiffs understand that this is a full, complete, and final Release of any and all claims against Securus, Sheriff Hamilton, Travis County and other Releasees.
- G. Full and Final Payment.** Plaintiffs understand and fully realize that the above-stated consideration, as well as the consideration set forth the County Attorney Agreement and District Attorney Agreement, is full and final payment and non-monetary consideration to Plaintiffs and their counsel in resolution of this matter.
- H. Division of Sum.** Defendants have not, and will not, participate in the division of the settlement sum by and between the parties that comprise "Plaintiffs" and their counsel. Plaintiffs, however, fully realize that the above-stated consideration is full and final payment to Plaintiffs' counsel in resolution of this matter, and that division of this sum is solely the responsibility of Plaintiffs.
- I. No other Legal Actions.** Other than the current pending lawsuit, Plaintiffs have not filed any charges, lawsuits, or other legal actions or complaints with any court or governmental agency asserting any Claim released in Section III hereof and agree never to do so. Plaintiffs further agree that they will not promote, encourage, solicit, cooperate, participate, or assist, directly or indirectly, in any other legal actions involving Claims by any other party that could have been brought as part of this lawsuit. Excluded from this subsection are any rights to file a charge, lawsuit, or other legal action or complaint, which cannot be waived by law. Plaintiffs do waive

and release, however, their right to any monetary recovery should any agency pursue any claims on Plaintiffs' behalf.

- J. No Fraud or Duress.** Plaintiffs have not entered into this Main Agreement under fraud, duress, undue influence, or other improper conduct by Securus, Sheriff Hamilton or Travis County, but enter into this Main Agreement freely and voluntarily.

## **VII. Miscellaneous Provisions**


- A. No Waiver.** No waiver, amendment, or modification of this Main Agreement shall be valid unless in writing and signed by the Party against whom it is to be enforced.
- B. Governing Law.** This Main Agreement shall in all respects be interpreted, enforced, and governed under the laws of the State of Texas. Jurisdiction and venue for any action to interpret or enforce this Main Agreement or any provision thereof shall be in a State District Court of Travis County, Texas.
- C. Severability.** In the event that one or more of the provisions, or portions thereof, of this Main Agreement is determined to be illegal or unenforceable, the remainder of the Main Agreement shall not be affected thereby and each remaining provision or portions thereof, shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.
- D. Proper Construction.** The language of all parts of this Main Agreement shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against any of the Parties. The paragraph heading used in this Main Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the interpretation of any of the provisions hereof.
- E. Attorney's Fees.** The Parties expressly acknowledge and agree that in the event any Party breaches any of the terms and covenants contained in this Main Agreement, any other Party may bring suit to enforce its, his, or her rights, and the successful Party in such litigation shall be entitled to recover of and from the breaching Party its, his or her reasonable attorney's fees

and court costs incurred in bringing such action, together with any damages to which the party may be entitled.

- F. **Multiple Originals.** The Parties expressly acknowledge and agree that this Main Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. Exact copies of this fully executed Main Agreement shall be as enforceable as if they were an original.
- G. **Binding on Heirs and Others.** This Main Agreement shall be binding on all Parties and upon their heirs, representatives, executors, administrators, successors, and assigns, and shall inure to the benefit of the Parties and others released in Section III and each of them, to their respective heirs, representatives, executors, administrators, successors, and assigns.
- H. **Acknowledgements.** Plaintiffs acknowledge and agree that (i) they have carefully read this Main Agreement; (ii) they fully understand their right to discuss all aspects of this Main Agreement with their attorneys; (iii) they have availed themselves of this right to the full extent (if any) that they desired; (iv) they fully understand all provisions of this Main Agreement; (v) this Main Agreement constitutes the sole and entire Main Agreement among the Parties; (vi) they have executed this instrument voluntarily and of their own free will and accord and for the Consideration herein stated; and (vii) they enter into this Main Agreement with full knowledge of the content and effect hereof.
- L. **Effective Date.** This Main Agreement shall be effective upon its execution by all Parties.

**ACCEPTED AND AGREED:**


The Austin Lawyers Guild

  
\_\_\_\_\_

By: Linda Kaiser  
Its: Texas

**ACCEPTED AND AGREED:**

The Prison Justice League

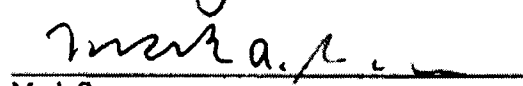
  
By: ERICA GAMMILL  
Its: EXECUTIVE DIRECTOR

  
Carl Gossett

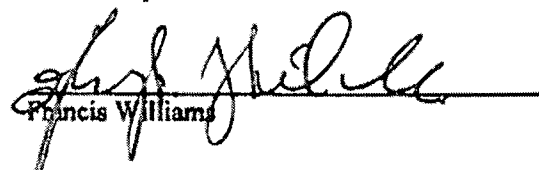
Date: 3-7-16

  
David Grassbaugh

Date: 3-7-16

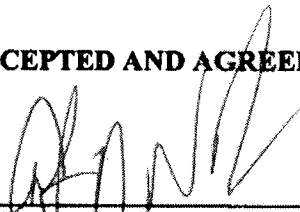
  
Mark Sampson

Date: 3-8-16

  
Francis Williams

Date: 3-7-16

**ACCEPTED AND AGREED:**



Date: 3-10-16

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Anthony J. Nelson  
Laurie R. Eisgrub  
Assistant Travis County Attorneys  
TRAVIS COUNTY ATTORNEY'S OFFICE  
P.O. Box 1748  
Austin, Texas 78701  
*Attorneys for Travis County Defendants*

**ACCEPTED AND AGREED:**

SECURUS TECHNOLOGIES, INC.

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By: \_\_\_\_\_  
Its: \_\_\_\_\_



ACCEPTED AND AGREED:

Date: \_\_\_\_\_

\_\_\_\_\_  
Anthony J. Nelson  
Laurie R. Eiserloh  
Assistant Travis County Attorneys  
TRAVIS COUNTY ATTORNEY'S OFFICE  
P.O. Box 1748  
Austin, Texas 78701  
*Attorneys for Travis County Defendants*

ACCEPTED AND AGREED:

SECURUS TECHNOLOGIES, INC.

          DJ Renhall          

By:           V.P. / General Counsel & Secy Jury            
Its:           3/11/16