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15 Attorneys for Defendant/Counter-Claimant
 16 CoreCivic, Inc.

17 **UNITED STATES DISTRICT COURT**
 18 **SOUTHERN DISTRICT OF CALIFORNIA**

19 Sylvester Owino and Jonathan Gomez,
 20 on behalf of themselves, and all others
 similarly situated,

21 Plaintiffs,

22 v.

23 CoreCivic, Inc., a Maryland
 24 corporation,

25 Defendant.

NO. 3:17-cv-01112-JLS-NLS

**DEFENDANT’S OBJECTIONS TO
 PLAINTIFFS’ PROPOSED
 CONTENT FOR CLASS NOTICES**

Judge: Honorable Janis L. Sammartino
 Magistrate Judge: Honorable Nita L.
 Stormes

1	CoreCivic, Inc., a Maryland corporation,
2	
3	Counter-Claimant,
4	v.
5	Sylvester Owino and Jonathan Gomez, on behalf of themselves, and all others similarly situated,
6	
7	Counter-Defendants.

8 Pursuant to the Court’s Order on Proposed Class Notices (Dkt. 200),
9 Defendant/Counter-Claimant CoreCivic, Inc. (“CoreCivic”), through counsel,
10 submits the following objections to Plaintiffs’ Proposed Content for Class Notices
11 (Dkt. 201).

General Objections

12

13 **1. CoreCivic’s Counterclaims**—CoreCivic previously objected that
14 Plaintiffs’ proposed Long- and Short-Form Notices failed to inform readers about
15 CoreCivic’s counterclaims for (1) an offset against any monetary judgment the
16 California Labor Law Class Members may obtain, and (2) a declaration that (a) no
17 employment relationship exists between CoreCivic and immigration detainees at
18 CoreCivic’s California facilities who participate in the Voluntary Work Program,
19 (b) such detainees are not employees of CoreCivic, and CoreCivic is not their
20 employer, and (c) California’s labor laws therefore do not apply to such detainees.
21 The revised Long- and Short-Form Notices that the Court approved on September
22 15, 2020 (Dkt. 200) included references to CoreCivic’s counterclaim for an offset,
23 but not its counterclaim for declaratory relief. Because the Notices serve as the
24 basis for most of the materials included in Plaintiffs’ Proposed Content for Class
25 Notices (Dkt. 201), those materials fail to advise potential class members of
26 CoreCivic’s counterclaim for declaratory relief as well. Any reference to
27 CoreCivic’s counterclaims in the Notices and other materials listed below should
28 also include a reference to the counterclaim for declaratory relief.

1 text, depriving CoreCivic of the opportunity to determine whether the images,
2 video, and/or audio would be unduly prejudicial. Nor have they provided any other
3 website pages for review and Court approval. They should be required to submit
4 any additional pages before using them.

5 **4. Exhibit 4 (Frequently Asked Questions (“FAQ”) page for**
6 **informational website)**—The FAQ page is unnecessary and serves no apparent
7 purpose, as, with the exception of Questions 1 and 7, the FAQs merely repackage
8 the content of the previously approved Long Form Notice. Question 7 fails to
9 inform visitors to the FAQ page of CoreCivic’s counterclaim. Plaintiffs also have
10 not provided CoreCivic a copy of the Spanish translations of Questions 1 and 7.
11 This page also references “Court Documents,” which should include the Court’s
12 forthcoming Order on Defendants’ Motion for Reconsideration (Dkt. 181).

13 **5. Exhibit 5 (Interactive Voice Response script for the informational**
14 **telephone line)**—The system as outlined poses a risk of providing incomplete
15 information to callers, as it requires callers to listen to each section and then return
16 to the main menu and listen to the next section. The system should play all sections,
17 giving callers an opportunity to replay each section before moving onto the next
18 section if necessary, to better ensure that callers hear all relevant information.
19 Plaintiffs also have not provided CoreCivic a copy of the Spanish translation of the
20 introductory message. If Plaintiffs intend to use tele-scripts in any other language,
21 they should be required to submit them for review and approval before using them.
22 If Plaintiffs intend to include any sort of background audio with the text, they have
23 not provided it to CoreCivic, depriving CoreCivic of the opportunity to determine
24 whether the audio would be unduly prejudicial. They should be required to submit
25 any background audio for review and approval before using it.

26 **6. Exhibit 6 (Press Release for publication)**—The final paragraph of
27 the “What is the Lawsuit About?” section fails to inform readers of CoreCivic’s
28 counterclaim. Plaintiffs have not provided CoreCivic a copy of the Spanish

1 translation of the press release. Nor have Plaintiffs provided a copy of the Indian
2 translation of the press release, despite previously stating they intended to provide
3 the release to PR Newswire’s India newswire. They should be required to submit
4 translated press releases for review and approval before using them.

5 **7. Exhibit 7 (Scripts for television, radio, and online ads)**

6 **a. TV/Radio 30-Second Audio**—The script fails to state that the
7 lawsuit is limited to ICE/immigration detainees, improperly suggesting that
8 individuals detained in CoreCivic facilities for other purposes or under the legal
9 authority of other government entities are included in the lawsuit. Plaintiffs have
10 not provided CoreCivic a copy of the actual audio, including any background music
11 that may accompany the ads, depriving CoreCivic of the opportunity to determine
12 whether the television and radio ads would be unduly prejudicial. Similarly,
13 Plaintiffs have not provided CoreCivic a copy of the actual video, depriving
14 CoreCivic of the opportunity to determine whether the television ads would be
15 unduly prejudicial.

16 **b. Display Banner Ad**—The script fails to state that the lawsuit is
17 limited to ICE/immigration detainees, improperly suggesting that individuals
18 detained in CoreCivic facilities for other purposes or under the legal authority of
19 other government entities are included in the lawsuit. The script incorrectly refers to
20 the Voluntary Work Program as “California’s Voluntary Work Program,” which
21 could confuse or mislead viewers, as the program is required by ICE, not the State
22 of California. The script improperly states that the viewers’ rights “are affected,”
23 which could confuse or mislead viewers who do not meet the criteria for one or
24 more of the certified classes.

25 **c. Facebook Ad**—The script incorrectly refers to the Voluntary
26 Work Program as “California’s Voluntary Work Program,” which could confuse or
27 mislead viewers, as the program is required by ICE, not the State of California.
28 Plaintiffs have not provided CoreCivic a copy of the Spanish translation of the ad.

1 Plaintiffs previously stated they intended to advertise on both Facebook and
2 Instagram, but have not provided mockups of any ads for Instagram, and have not
3 provided CoreCivic with a mockup of what the Facebook ad will look like,
4 depriving CoreCivic of the opportunity to determine whether the ads will be unduly
5 prejudicial.

6 **d. Google Ads 1 (Border)**—The script fails to state that the
7 lawsuit is limited to ICE/immigration detainees, improperly suggesting that
8 individuals detained in CoreCivic facilities for other purposes or under the legal
9 authority of other government entities are included in the lawsuit. The language
10 “after crossing the border” may confuse or mislead viewers who are or were
11 detained by ICE in a CoreCivic facility for reasons other than an illegal border
12 crossing. The script incorrectly refers to the Voluntary Work Program as
13 “California’s Voluntary Work Program,” which could confuse or mislead viewers,
14 as the program is required by ICE, not the State of California. The script improperly
15 states that the viewers’ rights “are affected,” which could confuse or mislead
16 viewers who do not meet the criteria for one or more of the certified classes.
17 Plaintiffs have not provided CoreCivic a copy of the Spanish translation of the ad.
18 Nor have Plaintiffs provided CoreCivic a mockup of what the ad will look like,
19 depriving CoreCivic of the opportunity to determine whether the ad will be unduly
20 prejudicial. See also objections to online search keywords in the “Border” group
21 (Exhibit 9, below).

22 **e. Google Ads 2 (ICE)**—The script incorrectly refers to the
23 Voluntary Work Program as “California’s Voluntary Work Program,” which could
24 confuse or mislead viewers, as the program is required by ICE, not the State of
25 California. The script improperly states that the viewers’ rights “are affected,”
26 which could confuse or mislead viewers who do not meet the criteria for one or
27 more of the certified classes. Plaintiffs have not provided CoreCivic a copy of the
28 Spanish translation of the ad. Nor have Plaintiffs provided CoreCivic a mockup of

1 what the ad will look like, depriving CoreCivic of the opportunity to determine
2 whether the ad will be unduly prejudicial.

3 **f. Google Ads 3 (Legal)**—The script incorrectly refers to the
4 Voluntary Work Program as “California’s Voluntary Work Program,” which could
5 confuse or mislead viewers, as the program is required by ICE, not the State of
6 California. Plaintiffs have not provided CoreCivic a copy of the Spanish translation
7 of the ad. Nor have Plaintiffs provided CoreCivic a mockup of what the ad will
8 look like, depriving CoreCivic of the opportunity to determine whether the ad will
9 be unduly prejudicial.

10 **8. Exhibit 8 (Banner ad designs)**—The banner ad text fails to state that
11 the lawsuit is limited to ICE/immigration detainees, improperly suggesting that
12 individuals detained in CoreCivic facilities for other purposes or under the legal
13 authority of other government entities are included in the lawsuit. The text
14 incorrectly refers to the Voluntary Work Program as “California’s Voluntary Work
15 Program,” which could confuse or mislead viewers, as the program is required by
16 ICE, not the State of California. The text improperly states that the viewers’ rights
17 “are affected,” which could confuse or mislead viewers who do not meet the criteria
18 for one or more of the certified classes. Plaintiffs have not provided CoreCivic a
19 copy of the Spanish translation of the ad. Plaintiffs previously stated they intended
20 to “feature banner ads in Spanish using a variety of creative styles to appeal to
21 people of different demographics,” but not have provided CoreCivic with mockups
22 of such ads, depriving CoreCivic of the opportunity to determine whether the ads
23 will be unduly prejudicial. The images of the individuals (despondent and
24 depressed) are prejudicial and the background evokes images of prison bars or a
25 border wall. There is no reason for any image on these banners.

26 **9. Exhibit 9 (Online search keywords for online ads)**—The search
27 terms in the “Border” group are not targeted at actual class members. Instead, they
28 improperly target people who are simply contemplating entering the United States

1 through means likely to result in their detention by ICE, but who have not yet done
2 so. Elimination of these search terms renders Google Ads 1 (Border) irrelevant and
3 unnecessary.

4 Search terms that would inform individuals how to cross the border illegally
5 are improper and would incentivize individuals to do so in order to become class
6 members. (See, e.g., “crossing the us border”; “how to cross the us border”; “you
7 need a passport to cross the between Mexico and the united states”; “how can i find
8 out if i can cross the border”; “crossing us border by car”; “us border crossing
9 requirements”; “crossing us border without passport”; “illegal entry into the united
10 states”; “illegal entry in usa”; “illegal border crossing from mexico”; “how to enter
11 us illegally”.)

12 Search terms regarding irrelevant immigrations laws are unnecessary and
13 prejudicial and unlikely to reach class members. (See, e.g., “new citizenship law”;
14 “border laws”; “unaccompanied minors immigration law”; “immigration laws
15 marriage and divorce”; “marriage immigration lawyer”; “illegal entry law”; “child
16 deportation laws”.)

17 Three pages of search terms related to legal services/representation is
18 unnecessary to reach class members and instead serve only to solicit potential
19 clients for unrelated matters.

20 Plaintiffs have not provided the Spanish translations for any of the search
21 terms they list or stated whether different terms will be targeted in different
22 countries, and if so, what terms they will use.

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Dated: October 13, 2020

By s/ Daniel P. Struck

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19 Sylvester Owino and Jonathan
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NO. 3:17-cv-01112-JLS-NLS

CERTIFICATE OF SERVICE

Judge: Honorable Janis L. Sammartino
 Magistrate Judge: Honorable Nita L.
 Stormes

1 CoreCivic, Inc., a Maryland
 2 corporation,
 3
 4 Counter-Claimant,
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 6 v.
 7
 8 Sylvester Owino and Jonathan
 9 Gomez, on behalf of themselves,
 10 and all others similarly situated,
 11
 12 Counter-
 13 Defendants.

14
 15 I am a citizen of the United States and am over the age of eighteen years, and
 16 not a party to the within action. My business address is Struck Love Bojanowski &
 17 Acedo, PLC, 3100 West Ray Road, Suite 300, Chandler, AZ 85226. On
 18 October 13, 2020, I served the following document(s):

19 **DEFENDANT’S OBJECTION TO PLAINTIFFS’ PROPOSED CONTENT**
 20 **FOR CLASS NOTICES and this CERTIFICATE OF SERVICE**

21 **BY MAIL:** by placing the document(s) listed above in a sealed
 22 envelope with postage thereon fully prepaid, in the United States Mail at
 23 Phoenix, Arizona addressed as set forth below.

24 **BY ELECTRONIC SUBMISSION:** per Court Order, submitted
 25 electronically by CM/ECF to be posted to the website and notice given to all
 26 parties that the document(s) has been served.

27
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Attorneys for Plaintiffs and the Proposed Class

I declare that I am employed in the office of a member who is admitted pro hac vice in this Court at whose direction the service was made. I declare under penalty of perjury that the forgoing is true and correct.

Executed on October 13, 2020, at Chandler, Arizona.

s/ Daniel P. Struck