

FILED**FOR PUBLICATION**

JUN 09 2012

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

THE ASSOCIATED PRESS, a New York corporation; IDAHO STATESMAN PUBLISHING, LLC, a Delaware limited liability company doing business as The Idaho Statesman; LEE ENTERPRISES, INCORPORATED, a Delaware corporation doing business as The Times-News; THE IDAHO PRESS CLUB, INC., an Idaho corporation; PIONEER NEWSPAPERS, INC., a Nevada corporation doing business as Idaho Press-Tribune, Idaho State Journal, Standard Journal, Teton Valley News, The News-Examiner, The Preston Citizen, and Messenger Index; TPC HOLDINGS, INC., an Idaho corporation doing business as Lewiston Tribune and Moscow-Pullman Daily News; BAR BAR INC., an Idaho corporation doing business as Boise Weekly; COWLES PUBLISHING COMPANY, a Washington corporation doing business as The Spokesman-Review; IDAHOANS FOR OPENNESS IN GOVERNMENT, INC., an Idaho non-profit corporation,

Plaintiffs - Appellants,

v.

C.L. "BUTCH" OTTER, in his official capacity as the Governor of the State of

No. 12-35456

D.C. No. 1:12-cv-00255-EJL

ORDER AMENDING
OPINION

Idaho; ROBIN SANDY, in her official capacity as Chairman of the Idaho Board of Correction; HOWARD G. "J.R." VAN TASSEL, in his official capacity as Secretary of the Idaho Board of Correction; JAY NIELSEN, in his official capacity as Vice Chairman of the Idaho Board of Correction; BRENT REINKE, in his official capacity as the Director of the Idaho Department of Correction; KEVIN KEMPF, in his official capacity as Division Chief of Operations of the Idaho Department of Correction,

Defendants - Appellees.

Before: KOZINSKI, Chief Judge, REINHARDT and BERZON, Circuit Judges.

The opinion filed on June 8, 2012 is hereby amended by the insertion of a footnote after line 14 of page 3, reading as follows: "Although the State was at fault, the plaintiffs, as noted by the district court, could have mitigated this situation by filing the lawsuit earlier, because they had notice as of February 2012 that the State believed it was in compliance with *California First Amendment Coalition*."