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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PENDLETON DIVISION

PRISON LEGAL NEWS, a project of the
HUMAN RIGHTS DEFENSE CENTER,
Plaintiff,

No. _____

v.

UMATILLA COUNTY; UMATILLA
COUNTY SHERIFF'S OFFICE; JOHN
TRUMBO, individually and in his capacity as
Umatilla County Sheriff; STEWART HARP,
individually and in his capacity as Umatilla
County Jail Commander; THORNE HEARN, in
his individual and official capacity,
Defendants.

COMPLAINT
DEMAND FOR JURY TRIAL

I. NATURE OF THE CASE

1.1 Plaintiff Prison Legal News brings this action to enjoin Defendants' censorship of mail sent to and from prisoners held in custody at the Umatilla County Jail, in violation of the First Amendment and the Fourteenth Amendment's Due Process Clause. Defendants have adopted and implemented written mail policies and practices that unconstitutionally: restrict correspondence to and from prisoners to postcards only; prohibit delivery of bulk mail and book catalogs, newspapers, and magazines to prisoners; prohibit delivery of books that have not been

pre-approved by the government; and do not afford adequate due process. In this action, PLN seeks a permanent injunction, damages, and a declaration that Defendants' conduct violates the Constitution.

II. JURISDICTION AND VENUE

2.1 This action arises under the First and Fourteenth Amendments to the United States Constitution. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343, 2201, and 2202.

2.2 Venue is proper in Oregon under 28 U.S.C. § 1391(b)(2) because a substantial part of the events complained of occurred in this District, and because the Defendants reside in this District.

III. PARTIES

3.1 Plaintiff Prison Legal News (PLN) is a project of the Human Rights Defense Center (HRDC), a Washington Non-Profit Corporation. The core of HRDC's mission is public education, prisoner education, advocacy, and outreach in support of the rights of prisoners and in furtherance of basic human rights. PLN publishes and distributes a monthly journal of corrections news and analysis and certain books about the criminal justice system and legal issues affecting prisoners, to prisoners, lawyers, courts, libraries, and the public throughout the Country. PLN also maintains a website (www.prisonlegalnews.org) and operates an email list. Prisoners of all types, family and friends of prisoners, and prisoner advocates, are among the intended beneficiaries of PLN's activities.

3.2 Defendant Umatilla County is a municipal corporation formed under the laws of the State of Oregon.

3.3 Defendant Umatilla County Sheriff's Office is a department of Umatilla County and operates the Umatilla County Jail located in Pendleton, Oregon. The Umatilla County Jail is a 252-bed facility and houses convicted prisoners and pretrial detainees. Its annual intake and release average is 4,500 prisoners.

3.4 Defendant John Trumbo is the Sheriff of Umatilla County. Sheriff Trumbo is employed by and is an agent of Umatilla County and the Sheriff's Office. He is responsible for the operations of the Umatilla County Jail, and the training and supervision of the Jail staff who interpret and implement the Jail's mail policy for prisoners. He is the policymaker for the Jail policy governing mail for prisoners.

3.5 Defendant Stewart Harp is a lieutenant with the Umatilla County Sheriff's Office, and is the Jail Commander and Administrator for the Umatilla County Jail. He is employed by and is an agent of Umatilla County and the Sheriff's Office. On information and belief, Defendant Harp is responsible for and personally participated in creating, implementing, and enforcing the Jail's mail policies and practices at issue in this case.

3.6 Defendant Thorne Hearn is a sergeant with the Umatilla County Sheriff's Office. He is employed by and is an agent of Umatilla County and the Sheriff's Office. On information and belief, Defendant Hearn is responsible for and personally participated in creating, implementing, and enforcing the Jail's mail policies and practices at issue in this case.

3.7 Each of the acts and omissions of persons alleged herein were taken under color of state law and within the scope of their official duties as employees, officers, or agents of Umatilla County and the Umatilla County Sheriff's Office.

IV. FACTUAL ALLEGATIONS

4.1 Prison Legal News publishes and distributes a soft-cover monthly journal, book catalogs, informational brochures, and book offers, and publishes and distributes paperback books, about the criminal justice system and legal issues affecting prisoners.

4.2 Prison Legal News has approximately 7,000 subscribers in the United States and abroad, including prisoners, attorneys, journalists, public libraries, judges, and other members of the public. PLN distributes its publications to prisoners and law librarians in approximately 2,200 correctional facilities across the United States, including the Federal Bureau of Prisons, the Washington Department of Corrections, and the Oregon Department of Corrections.

4.3 Prison Legal News engages in core protected speech and expressive conduct on matters of public concern, such as operations of prison facilities, prison conditions, prisoner health and safety, and prisoners' rights.

A. CENSORSHIP AND LACK OF DUE PROCESS

4.4 Defendants have rejected Prison Legal News's monthly publications, paperback books, book catalogs, book offers, informational brochures, subscription forms, and subscription renewal letters mailed to prisoners held in custody at the Umatilla County Jail. The mail items rejected by Defendants include, but are not limited to, the items identified below.

Monthly Publications

4.5 PLN's monthly journal is a 56-page publication titled *Prison Legal News: Dedicated to Protecting Human Rights* and contains various articles on corrections news and analysis, about prisoner rights, court rulings, management of prison facilities and prison conditions.

4.6 PLN sent its monthly journal to certain prisoners at the Umatilla County Jail by Bulk Rate or First Class mail.

4.7 On November 12, 2010 PLN mailed its October 2010 *Prison Legal News* publication addressed to prisoner Marion Taylor at the Umatilla County Jail. Marion Taylor was a prisoner at the Umatilla County Jail at the time that the Jail received the October 2010 *Prison Legal News* publication from PLN.

4.8 On November 24, 2010 PLN mailed its November 2010 *Prison Legal News* publication addressed to prisoner Edward Pergande at the Umatilla County Jail. Edward Pergande was a prisoner at the Umatilla County Jail at the time that the Jail received the November 2010 *Prison Legal News* publication from PLN.

4.9 On or about December 8, 2010 PLN mailed its December 2010 *Prison Legal News* publication by separate mailings addressed to Edward Pergande and Marion Taylor at the Umatilla County Jail. Edward Pergande and Marion Taylor were prisoners at the Umatilla

County Jail at the time that the Jail received the December 2010 *Prison Legal News* publications from PLN.

4.10 On or about February 10, 2011, PLN mailed its February 2011 *Prison Legal News* publication addressed to prisoner James Speaker at the Umatilla County Jail. James Speaker was a prisoner at the Umatilla County Jail at the time that the Jail received the February 2011 *Prison Legal News* publication from PLN.

4.11 On or about April 11, 2011, PLN mailed its April 2011 *Prison Legal News* publication by separate mailings addressed to Edward Pergande and James Speaker at the Umatilla County Jail. Edward Pergande and James Speaker were prisoners at the Umatilla County Jail at the time that the Jail received the April 2011 *Prison Legal News* publications from PLN.

4.12 On or about May 18, 2011, PLN mailed its May 2011 *Prison Legal News* publication addressed to prisoner James Speaker at the Umatilla County Jail. James Speaker was a prisoner at the Umatilla County Jail at the time that the Jail received the May 2011 *Prison Legal News* publication from PLN.

4.13 On June 1, 2011 PLN mailed its April 2008 *Prison Legal News* publication addressed to prisoner Daniel Timmons at the Umatilla County Jail. Daniel Timmons was a prisoner at the Umatilla County Jail at the time that the Jail received the April 2008 *Prison Legal News* publication from PLN.

4.14 On June 22, 2011 PLN mailed its January 2010 *Prison Legal News* publication in separate envelopes addressed to each of the following prisoners at the Umatilla County Jail:

Prisoner Name
Diego Andrade
David Darlington
Daniel DeChand
Kenneth Hall
Jason Harris

The individuals identified above were prisoners at the Umatilla County Jail at the time that the Jail received the January 2010 *Prison Legal News* publications from PLN.

4.15 On June 23, 2011 PLN mailed its January 2010 *Prison Legal News* publication in separate envelopes addressed to each of the following prisoners at the Umatilla County Jail:

Prisoner Name
Onorio Ibarra
Roel Ibarra
William Phillippi
Kamala Tewee

The individuals identified above were prisoners at the Umatilla County Jail at the time that the Jail received the January 2010 *Prison Legal News* publications from PLN.

4.16 On June 23, 2011 PLN mailed its July 2007 *Prison Legal News* publication addressed to prisoner Lonnie Lepper at the Umatilla County Jail. Lonnie Lepper was a prisoner at the Umatilla County Jail at the time that the Jail received the July 2007 *Prison Legal News* publication from PLN.

4.17 On June 23, 2011 PLN mailed its May 2008 *Prison Legal News* publication in separate envelopes addressed to each of the following prisoners at the Umatilla County Jail:

Prisoner Name
Dustin Phillips
Brandon Spencer
Michael Summers
Devontea Wright

The individuals identified above were prisoners at the Umatilla County Jail at the time that the Jail received the May 2008 *Prison Legal News* publications from PLN.

4.18 On July 8, 2011 PLN mailed its July 2011 *Prison Legal News* publication addressed to prisoner David Darlington at the Umatilla County Jail. David Darlington was a prisoner at the Umatilla County Jail at the time that the Jail received the July 2011 *Prison Legal News* publication from PLN.

4.19 On July 28, 2011 PLN mailed its May 2009 *Prison Legal News* publication addressed to prisoner Sadie Lamberson at the Umatilla County Jail. Sadie Lamberson was a prisoner at the Umatilla County Jail at the time that the Jail received the May 2009 *Prison Legal News* publication from PLN.

4.20 On or about October 13, 2011, PLN mailed its October 2011 *Prison Legal News* publication addressed to prisoner Roel Ibarra at the Umatilla County Jail. Roel Ibarra was a prisoner at the Umatilla County Jail at the time the Jail received the October 2011 *Prison Legal News* publication.

4.21 Defendants rejected each publication identified in paragraphs 4.7-4.20, and did not deliver the publications to the prisoner-addressees.

4.22 By rejecting PLN's *Prison Legal News* publications, Defendants interfered with PLN's protected free speech rights.

4.23 By rejecting PLN's *Prison Legal News* publications, Defendants interfered with the prisoner-addressees' protected free speech rights.

4.24 Defendants returned some, but not all, of the rejected journals to Prison Legal News. For the journals that Defendants returned to PLN, Defendants placed a sticker on the mail that states "REFUSED- RETURN TO SENDER" and handwrote a checkmark next to one of the following: (a) "POSTCARDS ONLY (max. size: 5 ½ x 8 ½)"; (b) "FACILITY MAIL VIOLATION;" or (c) "NOT UCJ INMATE," although in each case the prisoner-addressee was incarcerated at the UCJ at the time the Jail rejected the mail. The sticker also states: "You may request a review of your rejection by sending a self addressed – stamped – envelope, included with your request, within 15 days of the rejection, to: Umatilla County Jail / Attn: Sgt. / 4700 N.W. Pioneer Place / Pendleton, Or. 97801."

4.25 Defendants failed to provide sufficient notice to PLN of the reason for rejection by, among other inadequacies, failing to identify the mail policy relied on, giving different reasons for censorship of identical mail, inaccurately stating that a prisoner-addressee was not incarcerated at the UCJ, failing to explain the nature of the alleged "facility mail violation", or failing to provide any notice whatsoever that the Jail censored PLN's mail. Defendants also failed to provide PLN a constitutionally-adequate opportunity to be heard by, among other inadequacies, returning the mail without keeping a copy to make an informed decision upon review and by failing to provide a two-level review procedure.

4.26 Defendants failed to provide sufficient notice to the prisoner-addressees by, among other inadequacies, failing to identify the mail policy relied on, failing to identify the rejected mail, failing to provide the sender's full contact information, or by failing to provide any notice whatsoever that the Jail censored PLN's mail. Defendants also failed to provide the prisoner-addressees with any notice of or opportunity to be heard to challenge the censorship decisions.

4.27 On information and belief, Defendants rejected other *Prison Legal News* publications that PLN sent to Umatilla County Jail prisoners in 2010, 2011, and 2012, in addition to those identified above, and Defendants failed to provide PLN and the prisoner-addressees constitutionally-adequate due process, and Defendants continue to do so.

4.28 PLN intends to continue sending its monthly journal to prisoners at the Umatilla County Jail in the future.

Protecting Your Health & Safety Book

4.29 Prison Legal News publishes and distributes paperback books relevant to its mission, and offers a catalog of these books to prisoners throughout the country. One of the paperback books that Prison Legal News offers and sells is titled *Protecting Your Health & Safety*.

4.30 Prison Legal News sent *Protecting Your Health & Safety* books to prisoners at the Umatilla County Jail via Media Mail through the United States Postal Service, delivery confirmation requested.

4.31 Beginning in November 2010, Prison Legal News sent the *Protecting Your Health & Safety* book in separate boxes addressed to the following prisoners at the Umatilla County Jail on or about the following dates:

<u>Inmate Name</u>	<u>Date Sent by PLN</u>
Diego Andrade	February 9, 2011
Daniel Bale	February 10, 2011
William Benard	February 10, 2011
Christopher Buffo	January 31, 2011
Jason Cook	February 3, 2011
David Darlington	June 22, 2011

<u>Inmate Name</u>	<u>Date Sent by PLN</u>
Daniel DeChand	June 22, 2011
Dillon Dilley	February 4, 2011
Kenneth Hall	June 22, 2011
John Hanner	February 4, 2011
Jason Harris	February 4, 2011
Jason Harris	June 22, 2011
Joshua Hoffman	February 4, 2011
Onorio Ibarra	June 23, 2011
Sadie Lamberson	July 28, 2011
Lonnie Lepper	June 23, 2011
Brandon Patterson	February 3, 2011
William Phillippi	June 23, 2011
Dustin Phillips	June 23, 2011
Kenneth Richardson	February 10, 2011
Ernest Roberts	February 9, 2011
Steven Rollis	February 10, 2011
James Speaker	February 4, 2011
Brandon Spencer	June 23, 2011
Michael Summers	June 23, 2011
Marion Taylor	November 12, 2010
Marion Taylor	February 10, 2011
Kamala Tewee	June 23, 2011
Devontea Wright	June 23, 2011

The individuals identified above were prisoners at the Umatilla County Jail at the time that the Jail received the *Protecting Your Health & Safety* books from PLN.

4.32 Defendants rejected books identified in paragraph 4.31 and did not deliver them to the prisoner-addressees.

4.33 By rejecting the *Protecting Your Health and Safety* books, Defendants interfered with PLN's protected free speech rights.

4.34 By rejecting the *Protecting Your Health and Safety* books, Defendants interfered with the prisoner-addressees' protected free speech rights.

4.35 Defendants returned the books identified in paragraph 4.31 to Prison Legal News, placed a sticker on the mail that states "REFUSED- RETURN TO SENDER", and handwrote a checkmark next to one of the following: (a) "REQUIRES PRIOR AUTHORIZATION"; or (b) "FACILITY MAIL VIOLATION." The sticker also states: "You may request a review of your rejection by sending a self addressed – stamped – envelope, included with your request, within

15 days of the rejection, to: Umatilla County Jail / Attn: Sgt. / 4700 N.W. Pioneer Place / Pendleton, Or. 97801.”

4.36 Prison Legal News sent the *Protecting Your Health & Safety* book to prisoner Christopher Buffo at the Umatilla County Jail on or about January 31, 2011. Defendants rejected the book, did not deliver it to Mr. Buffo, and did not return the book to Prison Legal News.

4.37 Prison Legal News sent the *Protecting Your Health & Safety* book to prisoner Edward Pergande at the Umatilla County Jail on or about November 29, 2010. Defendants rejected the book, did not deliver it to Mr. Pergande, and did not return the book to Prison Legal News.

4.38 Defendants failed to provide sufficient notice to PLN of the reason for rejection by, among other inadequacies, failing to identify the mail policy relied on, giving different reasons for censorship of identical mail, failing to explain the nature of the alleged “facility mail violation”, failing to inform PLN how to obtain pre-authorization, or failing to provide any notice whatsoever that the Jail censored PLN’s mail. Defendants also failed to provide PLN a constitutionally-adequate opportunity to be heard by, among other inadequacies, returning the mail without keeping a copy to make an informed decision upon review and by failing to provide a two-level review procedure.

4.39 Defendants failed to provide sufficient notice to the prisoner-addressees by, among other inadequacies, failing to identify the mail policy relied on, failing to identify the rejected mail, failing to provide the sender’s full contact information, or by failing to provide any notice whatsoever that the Jail censored PLN’s mail. Defendants also failed to provide the prisoner-addressees with any notice of or opportunity to be heard to challenge the censorship decisions.

4.40 On information and belief, Defendants rejected *Protecting Your Health & Safety* books that PLN sent to Umatilla County Jail prisoners in 2011 and 2012, in addition to those identified above, and Defendants failed to provide PLN and the prisoner-addressees constitutionally-adequate due process, and Defendants continue to do so.

4.41 Prison Legal News intends to continue sending paperback books to prisoners at the Umatilla County Jail in the future.

Habeas Citebook: Ineffective Assistance of Counsel

4.42 On or about April 15, 2011, Prison Legal News mailed a copy of the *Habeas Citebook: Ineffective Assistance of Counsel* to prisoner Edward Pergande at the Umatilla County Jail. Mr. Pergande was a prisoner at the Umatilla County Jail at the time the Jail received the *Habeas Citebook* from PLN.

4.43 Defendants rejected the *Habeas Citebook* sent by PLN, did not deliver it to Mr. Pergande, and did not return the book to PLN.

4.44 By rejecting the *Habeas Citebook*, Defendants interfered with PLN's protected free speech rights.

4.45 By rejecting the *Habeas Citebook*, Defendants interfered with Mr. Pergande's protected free speech rights.

4.46 Defendants failed to provide PLN any due process notice or opportunity to be heard to challenge the censorship decision.

4.47 Defendants failed to provide sufficient notice to Mr. Pergande by, among other inadequacies, failing to identify the mail policy relied on, failing to identify the rejected mail, and failing to provide the sender's full contact information. Defendants also failed to provide Mr. Pergande with any notice of or opportunity to be heard to challenge the censorship decisions.

Prisoners' Self Help Litigation Manual

4.48 On or about April 15, 2011, PLN mailed a copy of the *Prisoners' Self Help Litigation Manual* to prisoner Edward Pergande at the Umatilla County Jail. Mr. Pergande was a prisoner at the Umatilla County Jail at the time the Jail received the *Prisoners' Self Help Litigation Manual* from PLN.

4.49 Defendants rejected the *Prisoners' Self Help Litigation Manual* sent by PLN, did not deliver it to Mr. Pergande, and did not return the book to PLN.

4.50 By rejecting the *Prisoners Self Help Litigation Manual*, Defendants interfered with PLN's protected free speech rights.

4.51 By rejecting the *Prisoners Self Help Litigation Manual*, Defendants interfered with Mr. Pergande's protected free speech rights.

4.52 Defendants failed to provide PLN any due process notice or opportunity to be heard to challenge the censorship decision.

4.53 Defendants failed to provide sufficient notice to Mr. Pergande by, among other inadequacies, failing to identify the mail policy relied on, failing to identify the rejected mail, and failing to provide the sender's full contact information. Defendants also failed to provide Mr. Pergande with any notice of or opportunity to be heard to challenge the censorship decisions.

Prisoner Diabetes Handbook

4.54 On May 16, 2011, PLN mailed a copy of the *Prisoner Diabetes Handbook* to prisoner Edward Pergande at the Umatilla County Jail. Mr. Pergande was a prisoner at the Umatilla County Jail at the time the Jail received the *Prisoner Diabetes Handbook* from PLN.

4.55 Defendants rejected the *Prisoner Diabetes Handbook* sent by PLN and did not deliver it to Mr. Pergande.

4.56 By rejecting the *Prisoner Diabetes Handbook*, Defendants interfered with PLN's protected free speech rights.

4.57 By rejecting the *Prisoner Diabetes Handbook*, Defendants interfered with Mr. Pergande's protected free speech rights.

4.58 Defendants placed a sticker on the mail that states "REFUSED- RETURN TO SENDER" and handwrote a checkmark next to "POSTCARDS ONLY (max. size: 5 ½ x 8 ½)" and returned the book to Prison Legal News. The sticker also states: "You may request a review of your rejection by sending a self addressed – stamped – envelope, included with your request, within 15 days of the rejection, to: Umatilla County Jail / Attn: Sgt. / 4700 N.W. Pioneer Place / Pendleton, Or. 97801."

4.59 Defendants failed to provide sufficient notice to PLN of the reason for rejection by, among other inadequacies, failing to inform PLN of the accurate reason for rejection and the Jail's pre-authorization policy. Defendants also failed to provide PLN a constitutionally-adequate opportunity to be heard by, among other inadequacies, returning the mail without keeping a copy to make an informed decision upon review and by failing to provide a two-level review procedure.

4.60 Defendants failed to provide sufficient notice to Mr. Pergande by, among other inadequacies, failing to identify the mail policy relied on, failing to identify the rejected mail, failing to provide the sender's full contact information. Defendants also failed to provide Mr. Pergande with any notice of or opportunity to be heard to challenge the censorship decisions.

Informational Brochures, Subscription Order Forms, Book Catalogs

4.61 Prison Legal News sent informational brochures about PLN and subscription order forms, book catalogs, and book offers to prisoners at the Umatilla County Jail.

4.62 **Prison Legal News Brochure and Subscription Order Form:** Prison Legal News sent certain prisoners at the Umatilla County Jail an informational brochure about its organization and publications. The double-sided single-page brochure includes: a description of the topics covered in PLN's monthly journal, subscription rates, special subscription offers, and an order form; a description of three books available for purchase or included with a subscription to *Prison Legal News—Protecting your Health & Safety, With Liberty for Some: 500 Years of Imprisonment in America*, and *Prison Profiteers: Who Makes Money from Mass Incarceration*; and other information about PLN's bookstore.

4.63 **Book Catalog:** Prison Legal News sent certain prisoners at the Umatilla County Jail its PLN Book List. The double-sided single-page book list includes a description of 43 books, dictionaries, and resource materials available for purchase. The books available for purchase include information about a variety of topics, including but not limited to: the basic rights of prisoners regarding health and safety; the American criminal justice system; self-representation in court; finding the right lawyer; DNA testing; issues related to imprisoned

women; developing a successful re-entry plan upon release from prison; searching for a job; crime and poverty; and the mental health crisis in U.S. prisons and jails.

4.64 **Book Offers:** Prison Legal News sent certain prisoners at the Umatilla County Jail a double-sided single-page informational brochure about two books for sale: *The Habeas Citebook: Ineffective Assistance of Counsel*, a handbook containing case citations, pleadings, and forms designed to help a prisoner seek habeas corpus relief; and *Prisoners' Guerrilla Handbook to Correspondence Programs in the United States and Canada*, a handbook on high school, vocational, paralegal, undergraduate, and graduate courses available through correspondence study.

4.65 Collectively, the PLN Brochure, Book List, and Book Offer described above in paragraphs 4.62-4.64 are referred to as "Informational Brochure Packs" below.

4.66 Prison Legal News sent all of the Informational Brochure Packs in white standard # 10 envelopes via first-class mail.

4.67 Prison Legal News mailed Informational Brochure Packs addressed to each of the following prisoners at the Umatilla County Jail on or about the following dates:

<u>Prisoner Name</u>	<u>Date Mailed to Prisoner</u>
Diego Andrade	January 31, 2011 and June 21, 2011
Daniel Bale	January 31, 2011
William Benard	January 31, 2011
Christopher Buffo	January 31, 2011
Jason Cook	January 31, 2011
David Darlington	June 21, 2011
Daniel DeChand	June 21, 2011
Dillon Dilley	February 3, 2011
Kenneth Hall	June 23, 2011
Jason Harris	February 3, 2011 and June 28, 2011
Joshua Hoffman	February 3, 2011
Onorio Ibarra	June 23, 2011
Roel Ibarra	June 23, 2011
Sadie Lamberson	July 30, 2011
Lonnie Lepper	June 23, 2011
Brandon Patterson	February 1, 2011
Edward Pergande	November 29, 2010
William Phillippi	June 23, 2011
Dustin Phillips	June 23, 2011
Kenneth Richardson	February 1, 2011
Ernest Roberts	February 1, 2011
Steven Rollis	February 1, 2011

<u>Prisoner Name</u>	<u>Date Mailed to Prisoner</u>
James Speaker	February 1, 2011
Brandon Spencer	June 23, 2011
Michael Summers	June 23, 2011
Marion Taylor	November 12, 2010 and February 1, 2011
Kamala Tewee	June 23, 2011
Mitchell Thomas	February 1, 2011
Devontea Wright	June 23, 2011

The prisoners identified above were prisoners at the Umatilla County Jail at the time that the Jail received the Informational Brochure Packs addressed to each prisoner from PLN.

4.68 Defendants rejected each Informational Brochure Pack identified in paragraph 4.67 and did not deliver them to the prisoner-addressees.

4.69 By rejecting the Informational Brochure Packs, Defendants interfered with PLN's protected free speech rights.

4.70 By rejecting the Informational Brochure Packs, Defendants interfered with the prisoner-addressees' protected free speech rights.

4.71 For the Informational Brochure Pack that PLN sent to Marion Taylor in November 2010, the Jail stamped the mail "REFUSED-RETURN TO SENDER" and placed a checkmark next to "Facility Mail Violation" and returned the mail to PLN. The Jail did not provide PLN any information about its right to appeal the censorship decision.

4.72 For the other Informational Brochure Packs that Defendants returned to Prison Legal News, Defendants placed a sticker on the mail that states "REFUSED- RETURN TO SENDER" and handwrote a checkmark next to one of the following: (a) "POSTCARDS ONLY (max. size: 5 ½ x 8 ½)"; (b) "FACILITY MAIL VIOLATION;" or (c) "NOT UCJ INMATE" when in fact the prisoner-addressee was incarcerated at the UCJ at the time the Jail rejected the mail. The sticker also states: "You may request a review of your rejection by sending a self addressed – stamped – envelope, included with your request, within 15 days of the rejection, to: Umatilla County Jail / Attn: Sgt. / 4700 N.W. Pioneer Place / Pendleton, Or. 97801."

4.73 Defendants failed to provide sufficient notice to PLN of the reason for rejection by, among other inadequacies, failing to identify the mail policy relied on, giving different

reasons for censorship of identical mail, inaccurately stating that a prisoner-addressee was not incarcerated at the UCJ, failing to explain the nature of the alleged “facility mail violation”, or failing to provide any notice whatsoever that the Jail censored PLN’s mail. Defendants also failed to provide PLN a constitutionally-adequate opportunity to be heard by, among other inadequacies, returning the mail without keeping a copy to make an informed decision upon review, failing to provide a two-level review procedure, or by failing to provide PLN any notice of or opportunity to be heard to challenge the censorship decisions.

4.74 Defendants failed to provide sufficient notice to the prisoner-addressees by, among other inadequacies, failing to identify the mail policy relied on, failing to identify the rejected mail, failing to provide the sender’s full contact information, or by failing to provide any notice whatsoever that the Jail censored PLN’s mail. Defendants also failed to provide the prisoner-addressees with any notice of or opportunity to be heard to challenge the censorship decisions.

4.75 In addition to those identified above, PLN mailed Informational Brochure Packs addressed to other prisoners at the Umatilla County Jail in 2011 and 2012.

4.76 On information and belief, Defendants rejected Informational Brochure Packs that PLN sent to prisoners, other than those identified above, and Defendants failed to give constitutionally adequate due process to PLN and the prisoner-addressees.

4.77 Prison Legal News intends to continue sending Informational Brochure Packs to prisoners at the Umatilla County Jail in the future.

Renewal Letters

4.78 Prison Legal News sent subscription renewal letters along with Informational Brochure Packs (“Subscription Renewal Packs”) to certain prisoners at the Umatilla County Jail. Each personalized Subscription Renewal Pack mailed to a prisoner at the Umatilla County Jail included information for the prisoner-addressee that his individual *Prison Legal News* subscription was nearing its end, and about how to renew his subscription.

4.79 Prison Legal News sent each Subscription Renewal Pack in a white standard #10 envelope via first-class mail.

4.80 In February, April and June 2011, Prison Legal News mailed Subscription Renewal Packs addressed to each of the following prisoners at the Umatilla County Jail:

<u>Prisoner Name</u>	<u>Date Sent to Prisoner</u>
Diego Andrade	April 12, 2011
Diego Andrade	June 16, 2011
Jason Harris	April 12, 2011 and June 22, 2011
Edward Pergande	February 7, 2011 and April 12, 2011
Kenneth Richardson	April 12, 2011
Steven Rollis	April 12, 2011
James Speaker	April 12, 2011

The prisoners identified above were prisoners at the Umatilla County Jail at the time that the Jail received the Subscription Renewal Packs addressed to each prisoner from PLN.

4.81 Defendants rejected each Subscription Renewal Pack sent by PLN, did not deliver them to the prisoner-addressees, and returned them to PLN.

4.82 By rejecting the Subscription Renewal Packs, Defendants interfered with PLN's protected free speech rights.

4.83 By rejecting the Subscription Renewal Packs, Defendants interfered with the prisoner-addressees' protected free speech rights.

4.84 Before returning the mail to PLN, Defendants placed a sticker on the mail that states "REFUSED- RETURN TO SENDER" and either: (a) handwrote a checkmark next to "POSTCARDS ONLY (max. size: 5 ½ x 8 ½)"; (b) handwrote a checkmark next to "NOT UCJ INMATE" when in fact the prisoner-addressee was incarcerated at the UCJ at the time the Jail rejected the mail; or (c) did not indicate a reason for rejection at all. The sticker also states: "You may request a review of your rejection by sending a self addressed – stamped – envelope, included with your request, within 15 days of the rejection, to: Umatilla County Jail / Attn: Sgt. / 4700 N.W. Pioneer Place / Pendleton, Or. 97801."

4.85 Defendants failed to provide sufficient notice to PLN of the reason for rejection by, among other inadequacies, failing to identify the mail policy relied on, inaccurately stating that a prisoner-addressee was not incarcerated at the UCJ, or by failing to provide any reason for

rejection. Defendants also failed to provide PLN a constitutionally-adequate opportunity to be heard by, among other inadequacies, returning the mail without keeping a copy to make an informed decision upon review and by failing to provide a two-level review procedure.

4.86 Defendants failed to provide sufficient notice to the prisoner-addressees by, among other inadequacies, failing to identify the mail policy relied on, failing to identify the rejected mail; failing to provide the sender's full contact information, or by failing to provide any notice whatsoever that the Jail censored PLN's mail, among other reasons. Defendants also failed to provide the prisoner-addressees with any notice of or opportunity to be heard to challenge the censorship decisions.

4.87 In addition to those identified above, PLN mailed Subscription Renewal Packs addressed to other prisoners at the Umatilla County Jail in 2011 and 2012.

4.88 On information and belief, Defendants rejected additional Subscription Renewal Packs that PLN sent to other prisoners, other than those identified above, and Defendants failed to give constitutionally adequate due process to PLN and the prisoner-addressees.

4.89 Prison Legal News intends to continue sending Subscription Renewal Packs to prisoners at the Umatilla County Jail in the future.

PLN Online Article

4.90 An individual, Lucy Lennox, sent legal articles that she printed off of PLN's website to certain prisoners at the Umatilla County Jail. The legal articles mailed by Ms. Lennox to prisoners at the Umatilla County Jail in December 2011 include a critique of prison privatization, and research findings about the goals and results of the move toward privatization. The legal articles mailed by Ms. Lennox to prisoners at the Umatilla County Jail in June 2012 include information about a lawsuit brought by the family of a deceased prisoner who criticizes the Corrections Corporation of America for understaffing its prisons and failing to prevent rampant gang violence. The articles also include introductory descriptions of PLN's news headlines about various topics, such as sex abuse in prison, poor forensics used to secure

criminal convictions, private prison companies behind Arizona's immigration law, and the death penalty in Texas.

4.91 Ms. Lennox mailed each PLN online article separately in standard #10 envelopes via U.S. Mail.

4.92 On December 15, 2011, Ms. Lennox mailed PLN online articles to the following persons at the Umatilla County Jail:

Tony Colbray
David Corbit
Deshawn Dawson
Kenneth Hall
Cody Hatley
Joshua Hoffman
Roel Ibarra
Theodore Mendoza
William Phillipi
George Phillips
Jefferey Rehmke
Michael Summers

The prisoners identified above were prisoners at the Umatilla County Jail at the time that the Jail received the PLN online articles addressed to each prisoner from Ms. Lennox.

4.93 Defendants rejected the PLN articles sent by Ms. Lennox to the Umatilla prisoners identified in paragraph 4.92, did not deliver them to the prisoners to which they were addressed by name, and returned the mail to Ms. Lennox.

4.94 For the PLN online articles that Defendants returned to Ms. Lennox in December 2011, Defendants placed a sticker on the mail that states "REFUSED-RETURN TO SENDER" and handwrote a checkmark next to "POSTCARDS ONLY (max .size:5 1/2 x8 1/2)" and "INCOMPLETE SENDER NAME/ADDRESS." On the mail addressed to prisoner Joshua Hoffman, Defendants marked "NOT UCJ INMATE/ADDRESS" and "POSTCARDS ONLY (max .size:5 1/2 x8 1/2)" even though he was a prisoner at the UCJ at the time the Jail received the mail. The sticker also states: "You may request a review of your rejection by sending a self

addressed – stamped – envelope, included with your request, within 15 days of the rejection, to:
Umatilla County Jail / Attn: Sgt. / 4700 N.W. Pioneer Place / Pendleton, Or. 97801.”

4.95 On June 8, 2012, Ms. Lennox mailed PLN online articles to the following persons
at the Umatilla County Jail:

Todd Brouwer
Victor Campos
George Craigen
Kevin Daugherty
Joshua Hoffman
Loretta Polanco
Kevin Sandoval
Jeffery Smith
Michael Summers
Joshua Weeks

The prisoners identified above were prisoners at the Umatilla County Jail at the time that the Jail
received the PLN online articles addressed to each prisoner from Ms. Lennox.

4.96 Defendants rejected the PLN articles sent by Ms. Lennox to the Umatilla
prisoners identified in paragraph 4.95, did not deliver them to the prisoners to which they were
addressed by name, and returned the mail to Ms. Lennox.

4.97 For the PLN articles that Defendants returned to Ms. Lennox in June 2012,
Defendants placed a sticker on the mail that states “REFUSED-RETURN TO SENDER” and
handwrote a checkmark next to “POSTCARDS ONLY (max .size:5 ½ x8 ½).” The sticker also
states: “You may request a review of your rejection by sending a self addressed – stamped –
envelope, included with your request, within 15 days of the rejection, to: Umatilla County Jail /
Attn: Sgt. / 4700 N.W. Pioneer Place / Pendleton, Or. 97801.”

4.98 By rejecting the PLN online articles, Defendants interfered with Ms. Lennox’s
and PLN’s protected free speech rights.

4.99 By rejecting the PLN online articles, Defendants interfered with the prisoner-
addressees’ protected free speech rights.

4.100 Defendants failed to provide sufficient notice to Ms. Lennox of the reason for
rejection by, among other inadequacies, failing to identify the mail policy relied on, and

inaccurately stating that a prisoner-addressee was not incarcerated at the UCJ. Defendants also failed to provide Ms. Lennox a constitutionally-adequate opportunity to be heard by returning the mail without keeping a copy to make an informed decision upon review and by, among other inadequacies, failing to provide a two-level review procedure.

4.101 Defendants failed to provide sufficient notice to the prisoner-addressees by, among other inadequacies, failing to identify the mail policy relied on, failing to identify the rejected mail, failing to provide Ms. Lennox's full contact information, or by failing to provide any notice whatsoever that the Jail censored Ms. Lennox's mail. Defendants also failed to provide the prisoner-addressees with any notice of or opportunity to be heard to challenge the censorship decisions.

Incoming Mail from Others

4.102 On information and belief, in 2010, 2011, and 2012, other publishers, educational institutions, individuals (including friends and family of prisoners), and other correspondents sent publications, newspapers, magazines, books, letters, or other non-postcard correspondence to prisoners incarcerated at the Umatilla County Jail.

4.103 From February 2010 to the present, Defendants rejected incoming newspapers, magazines, and publications that were not pre-approved, and other correspondence that was not in postcard form.

4.104 By rejecting incoming newspapers, magazines, and publications that were not pre-approved, and other correspondence that was not in postcard form, Defendants interfered with the protected free speech rights of publishers, educational institutions, individuals (including friends and family of prisoners), and other correspondents.

4.105 By rejecting incoming newspapers, magazines, and publications that were not pre-approved, and other correspondence that was not in postcard form, Defendants interfered with the protected free speech rights of the prisoner-addressees.

4.106 Defendants did not provide constitutionally-adequate due process to the prisoner-addressees or their correspondents.

4.107 On information and belief, other publishers, educational institutions, individuals (including friends and family of prisoners), and other correspondents, intend to continue sending publications, newspapers, magazines, books, letters, and other correspondence to prisoners incarcerated at the Umatilla County Jail.

Outgoing Mail

4.108 Umatilla County Jail prisoners want to send letters and other correspondence to non-prisoners and entities outside the Jail.

4.109 From February 2010, to the present, Defendants have banned prisoners' outgoing letters and other correspondence not in postcard form.

4.110 By banning outgoing mail not in postcard form, Defendants have interfered with the prisoners' protected free speech rights.

4.111 By banning outgoing mail that is not in postcard form, Defendants interfered with the intended recipients' protected free speech rights.

B. JAIL POLICIES

4.112 On February 23, 2010, the Umatilla County Jail implemented a policy governing prisoner mail. A true copy of the policy is attached to this Complaint as Exhibit A.

4.113 **Ban on Speech that is Not a Postcard:** Defendants' mail policy bans all incoming and outgoing mail, other than legal mail, that is not in postcard form (hereinafter "Postcard-Only Mail Policy"). The Jail's Postcard-Only Policy states, in pertinent part:

Mail. Includes written correspondence, in the form of postcards only – no larger than 5 ½" x 8 ½", and legal mail.

Prohibited Mail: Any mail which violates provisions of this policy and procedures statement, and is described as: . . . Letters/correspondence in envelopes.

Only inmate mail, delivered through the United States Postal Service and bearing the complete name and address of the sender, in the form of postcards – no larger than 5 ½" x 8 ½", shall be accepted for distribution to inmates. All other mail shall be refused, with the exception of [some "legal mail" and approved "religious material."]

Incoming mail which clearly does not conform to the UCJ jail policy including, but not limited to: . . . letters/correspondence in envelopes, will be returned to sender unopened. . . .

Outgoing mail is limited to postcards which do not exceed in measurement of 5 ½" x 8 ½", unless approved by jail officials.

(Emphasis added). Exhibit A at p. 1 ¶ II (A); pp. 2-3 ¶ II N(20); p. 4 ¶ III (A)(2); p. 4 ¶ III (B)(3); p. 7 ¶ III(F)(2).

4.114 Defendants have used their Postcard-Only Mail Policy to censor Plaintiff's *Prison Legal News* journal, Informational Brochure Packs, Subscription Renewal Packs, online articles, and other correspondence.

4.115 Defendants have used their Postcard-Only Mail Policy to censor correspondence from other publishers, companies, organizations, prisoners, and individuals. For example, Defendants rejected numerous PLN articles that Lucy Lennox printed from the PLN website and mailed to certain prisoners at the Umatilla County Jail.

4.116 Defendants' Postcard-Only Mail Policy is irrational, arbitrary, and substantially overbroad in violation of the First Amendment.

4.117 Defendants' Postcard-Only Mail Policy and their practice of enforcing this policy unconstitutionally burdens Plaintiff's First Amendment rights, the First Amendment rights of other correspondents who send mail to prisoners confined at the Umatilla County Jail, the First Amendment rights of the intended recipients of outgoing mail from prisoners confined at the Umatilla County Jail, and the First Amendment rights of prisoners at the Umatilla County Jail.

4.118 Defendants' mail policy also prohibits a prisoner from possessing more than 10 postcards: "Inmates shall be allowed to possess ten (10) postcards[.]" See Exhibit A at p.5 ¶ III (B)(5). This mail policy is irrational, arbitrary, and substantially overbroad in violation of the First Amendment.

4.119 **Ban on Speech that is a Newspaper or Magazine:** Defendants' mail policy bans all newspapers and magazines. The Jail's mail policy states, in pertinent part: "*No newspapers*

or magazines shall be permitted in UCF” (hereinafter “No Newspapers/Magazines Policy”). (Emphasis added). Exhibit A at p.5 ¶ III (B)(7).

4.120 Defendants have used their No Newspapers/Magazines Policy to censor Plaintiff’s *Prison Legal News* journal and other publications and correspondence.

4.121 On information and belief, Defendants have used their No Newspapers/Magazines Policy to censor publications, newspapers, magazines, journals, and correspondence from other publishers and book distributors.

4.122 Defendants’ No Newspapers/Magazines Policy is irrational, arbitrary, and substantially overbroad in violation of the First Amendment.

4.123 Defendants’ No Newspapers/Magazines Policy and its practice of enforcing this policy unconstitutionally burdens Plaintiff’s First Amendment rights, the First Amendment rights of other correspondents who send mail to prisoners confined at the Umatilla County Jail, and the First Amendment rights of prisoners at the Umatilla County Jail.

4.124 **Ban on Bulk Rate Mail:** Defendants’ mail policy bans all bulk mail to prisoners. The policy states:

Bulk rate mail shall be placed directly in the inmate’s property locker, and *shall not be distributed* to the inmate.

(Emphasis added). Exhibit A at p. 4 ¶III(A)(2).

4.125 Defendants’ policy does not define the phrase “bulk mail” but it commonly refers to mailings of the same item of mail to multiple recipients at the same time sent by a postage rate other than first-class (such as third-class). *Prison Legal News* sends its monthly journal to subscribers at what used to be called bulk rate postage.

4.126 Defendants subject PLN, the prisoner-addressees of PLN’s monthly journal, and other correspondents to this policy, which is irrational, arbitrary, and substantially overbroad in violation of the First Amendment.

4.127 **Effective Ban on Internet-Generated Material and Catalogs:** By banning all mail sent in envelopes, Defendants effectively ban the delivery of virtually all internet-generated

materials—which can be sent only in an envelope. For example, Defendants rejected Ms. Lennox’s mailings of PLN online articles.

4.128 Similarly, by banning all bulk mail and mail sent in envelopes, Defendants effectively prevent the delivery of all catalogs—which are typically mailed either in an envelope or sent via bulk mail rates. For example, Defendants rejected PLN’s book catalogs and subscription materials because they were mailed in an envelope.

4.129 Mail generated from the internet is protected speech.

4.130 Catalogs are protected speech.

4.131 Defendants’ policies preventing the delivery of internet-generated mail and catalogs are irrational, arbitrary, and substantially overbroad in violation of the First Amendment.

4.132 **Ban on Speech that Is Not Pre-Approved:** The Umatilla County Jail’s Mail Policy prohibits all incoming books and other packages that are not pre-approved by the Jail (hereinafter “Pre-Approval Policy”). The Jail Pre-Approval Policy states, in pertinent part:

Packages sent to the jail for inmates shall not be accepted, unless prior approval has been granted to receive said package. This includes books received directly from the publisher.

(Emphasis added). See Exhibit A at p. 5 ¶ III (B)(5) and (6).

4.133 Defendants have used their Pre-Approval Policy to censor Plaintiff’s books.

4.134 On information and belief, Defendants have used their Pre-Approval Policy to censor books from other publishers and book distributors.

4.135 Defendants’ Pre-Approval Policy is irrational, arbitrary, and substantially overbroad in violation of the First Amendment.

4.136 Defendants’ Pre-Approval Policy and its practice of enforcing this policy unconstitutionally burdens Plaintiff’s First Amendment rights, the First Amendment rights of other publishers and book distributors who want to mail books to prisoners confined at the Umatilla County Jail, and the First Amendment rights of prisoners at the Umatilla County Jail.

4.137 Defendants' mail policy also prohibits a prisoner from possessing more than two books at a time. The Jail's policy states: "Inmates shall be allowed to possess . . . two (2) soft-cover books." See Exhibit A at p. 5 ¶ III (B)(5). This mail policy is irrational, arbitrary, and substantially overbroad in violation of the First Amendment.

4.138 Lack of Procedural Due Process Protections:

4.139 Defendants' outgoing mail policies do not require them to provide due process notice to the prisoner or intended recipient when the Jail censors outgoing mail. The jail policy states, in pertinent part:

When corrections staff makes a determination that outgoing mail contains and/or constitutes prohibited mail, the mail shall be confiscated, and the inmate may be issued a Disciplinary Report. The Disciplinary Report shall then be sent to the hearing's office for a decision through the disciplinary process.

(Emphasis added).

4.140 Defendants' outgoing mail policies do not require them to provide an opportunity for the prisoner and for the intended recipient to appeal the Jail's censorship decisions.

4.141 While Defendants' incoming mail policy requires them to provide a "mail rejection form" to the prisoner when the Jail censors incoming mail, their policy does not require the Jail to provide a "mail rejection form" to the sender. The Jail Policy states in pertinent part:

Incoming mail which clearly does not conform to the UCJ jail policy including, but not limited to: lipstick, makeup, perfume, insufficient sender name and/or address, unidentifiable inmate name, colored ink or pencil, stickers, or letters/correspondence in envelopes, will be returned to sender unopened. The reason for the refusal will be written or stamped on the envelope/postcard. A notice of mail violation will be given to the inmate.

(Emphasis added). Exhibit A at p. 4 ¶III(B)(3).

When corrections staff make a determination that incoming mail contains, and/or constitutes, prohibited mail a mail violation form shall be filled out. A copy of the mail rejection form shall be given to the inmate and the offending mail shall then be returned to sender.

(Emphasis added). Exhibit A at p. 7 ¶III(G)(3).

4.142 Defendants' "Mail Rejection Form" does not require them to identify the mail policy relied on, describe the type of mail that the Jail rejected, or state the address of the sender.

4.143 Defendants' incoming and outgoing mail policies fail to require constitutionally-adequate notice to the mail sender or recipient of the reason for censorship or the applicable policy.

4.144 While Defendants' incoming mail policy requires them to provide the mail sender an opportunity to appeal the Jail's censorship decisions, the policy does *not* require the Jail to provide the prisoner an opportunity to appeal. The Jail Policy states in pertinent part:

If the prohibited mail is incoming from a non-inmate sender, and has been rejected, *the sender* then has the option of obtaining an independent review of the rejection, by writing to the jail administrator within fifteen (15) days of the notice. The request must be in writing and should specify the reason(s) why the rejection should not be sustained . . .

(Emphasis added). Exhibit A at p 8 ¶III(G)(4). The Jail Policy also fails to require Defendants to keep a copy of the mail they return to sender so that they can make an informed decision if the censorship decision is appealed, and fails to provide for a two-level review procedure.

4.145 Defendants' policy and practice does not provide constitutionally-adequate due process to the mail sender, intended recipient, and prisoner who may seek to challenge the Jail's censorship decisions.

4.146 Defendants' policies and practices violate the Due Process Clause of the Fourteenth Amendment.

4.147 Defendants Trumbo, Harp, and Hearn and other agents of Umatilla County are responsible for or personally participated in creating and implementing these unconstitutional policies, practices, and customs and for training and supervising the mail staff members whose conduct also have injured and continue to injure Plaintiff and others, or ratified or adopted the policies or actions described herein.

4.148 Defendants' censorship of these expressive activities has a chilling effect on future speech.

4.149 Defendants' policies and practices described above frustrate Prison Legal News's organizational mission, and have caused Prison Legal News to divert its resources.

4.150 Defendants' policies and actions have violated, continue to violate, and are reasonably expected to violate in the future Plaintiff's constitutional rights to communicate its political message to prisoners, to recruit new supporters, readers and subscribers, and have caused Plaintiff additional financial harm in the form of diversion of its resources, and lost opportunities to reach new readers and subscribers, and book purchasers.

V. CLAIM ALLEGATIONS

COUNT 1

FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

5.1 Plaintiff realleges and incorporates by reference the preceding paragraphs.

5.2 The acts described above constitute violations of Plaintiff's rights, the rights of other correspondents who have attempted to or want to correspond with prisoners at the Umatilla County Jail, and the rights of prisoners confined at the Umatilla County Jail, under the First Amendment to the United States Constitution through 42 U.S.C. § 1983.

5.3 The acts described above have caused damages to Plaintiff, and will continue to cause damage.

5.4 Plaintiff seeks declaratory and injunctive relief and nominal and compensatory damages against all Defendants. Plaintiff seeks punitive damages solely against the individual Defendants in their individual capacities.

COUNT 2

DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

5.5 Plaintiff realleges and incorporates by reference the preceding paragraphs.

5.6 The acts described above constitute violations of Plaintiff's rights, the rights of other correspondents who have attempted to or want to correspond with prisoners at the Umatilla County Jail, and the rights of prisoners confined at the Umatilla County Jail, under the Fourteenth Amendment to the United States Constitution through 42 U.S.C. § 1983.

5.7 The acts described above have caused damages to Plaintiff, and will continue to cause damage.

5.8 Plaintiff seeks declaratory and injunctive relief and nominal and compensatory damages against all Defendants. Plaintiff seeks punitive damages solely against the individual Defendants in their individual capacities.

VI. INJUNCTION ALLEGATIONS

6.1 Defendants' unconstitutional policy, practices, and customs are ongoing and continue to violate Plaintiff's constitutional rights and the rights of other correspondents and prisoners, and as such there is no adequate remedy at law.

6.2 Plaintiff is entitled to injunctive relief prohibiting Defendants from: refusing to deliver or allow delivery of publications, books, informational brochures, subscription forms, book catalogs, book offers, renewal letters and other correspondence from Prison Legal News and other correspondents; censoring or rejecting mail on the ground that it is not in the form of a postcard; censoring or rejecting catalogs and bulk mail; censoring or rejecting mail on the ground that it is a newspaper or magazine; censoring or rejecting mail on the ground that it is not pre-approved by the government; censoring mail generated from the internet; and censoring or rejecting mail without due process of law.

VII. REQUEST FOR RELIEF

WHEREFORE, the Plaintiff requests relief as follows:

7.1 A preliminary injunction and a permanent injunction preventing Defendants from continuing to violate the Constitution, and providing other equitable relief.

7.2 A declaration that Defendants' policies, practices, and customs violate the Constitution.

7.3 An award of nominal, compensatory, and punitive damages for each violation of its First Amendment rights to free speech and expression in an amount to be proved at trial.

7.4 An award of nominal, compensatory, and punitive damages for each violation of its Fourteenth Amendment rights to due process in an amount to be proved at trial.

7.5 A trial by jury on damages.

7.6 Costs, including reasonable attorney's fees, under 42 U.S.C. § 1988, and under other applicable law.

7.7 Pre-judgment and post-judgment interest.

7.8 The right to conform the pleadings to the proof and evidence presented at trial.

7.9 Such other relief as the Court deems just and equitable.

DATED this 19th day of June, 2012.

MACDONALD HOAGUE & BAYLESS

/s/ Katherine C. Chamberlain

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Of Attorneys for Plaintiff Prison Legal News