

1 Marc D. Blackman, OSB # 730338
2 marc@ransomblackman.com
3 Ransom Blackman LLP
4 1001 SW 5th Ave Ste 1400
5 Portland OR 97204
6 503 228-0487

7 Katherine C. Chamberlain, OSB# 042580
8 KatherineC@mhb.com
9 MacDonald Hoague & Bayless
10 705 Second Avenue, Suite 1500
11 Seattle, Washington 98104-1745
12 206-622-1604

FILED 13 JAN '12 11:32 USDC-ORP

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF OREGON
12 PORTLAND DIVISION

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

16 Plaintiff,

17 v.

18 COLUMBIA COUNTY; COLUMBIA
19 COUNTY SHERIFF'S OFFICE; JEFF
20 DICKERSON, individually and in his capacity
21 as Columbia County Sheriff,

22 Defendants.

No. **CV '12 - 0071 - SI**

COMPLAINT

DEMAND FOR JURY TRIAL

22 **I. NATURE OF THE CASE**

23 1.1 Plaintiff Prison Legal News, a project of the Human Rights Defense Center,
24 brings this action to enjoin Defendants' censorship of Prison Legal News' monthly publication,
25 and correspondence mailed to prisoners who are held in custody at the Columbia County Jail, in
26 violation of the First Amendment and the Fourteenth Amendment's Due Process Clause.

27 Defendants have adopted and implemented written mail policies and practices that

1 unconstitutionally restrict correspondence to and from prisoners to postcards only, and that
2 prohibit delivery of book catalogs and magazines to prisoners. Further, Defendants' policies and
3 practices do not afford due process notice and an opportunity to challenge the censorship as
4 required by the Constitution.

5 **II. JURISDICTION AND VENUE**

6 2.1 This action arises under the First and Fourteenth Amendments to the United
7 States Constitution. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343,
8 2201, and 2202.

9 2.2 Venue is proper in the District of Oregon under 28 U.S.C. § 1391(b)(2) because a
10 substantial part of the events complained of occurred in this District, and because the Defendants
11 reside in this District.

12 **III. PARTIES**

13 3.1 Plaintiff Prison Legal News (PLN) is a project of the Human Rights Defense
14 Center (HRDC), a Washington Non-Profit Corporation. The core of HRDC's mission is public
15 education, prisoner education, advocacy, and outreach in support of the rights of prisoners and in
16 furtherance of basic human rights. PLN publishes and distributes a monthly journal of
17 corrections news and analysis and certain books about the criminal justice system and legal
18 issues affecting prisoners, to prisoners, lawyers, courts, libraries, and the public throughout the
19 Country. PLN also maintains a website (www.prisonlegalnews.org) and operates an email list.
20 Prisoners of all types, family and friends of prisoners, and prisoner advocates, are among the
21 intended beneficiaries of PLN's activities.

22 3.2 Defendant Columbia County is a municipal corporation formed under the laws of
23 the State of Oregon.

24 3.3 Defendant Columbia County Sheriff's Office is a department of Columbia County
25 and operates the Columbia County Jail located in St. Helens, Oregon. The Columbia County Jail
26 facility houses convicted prisoners and pretrial detainees.
27

1 3.4 Defendant Jeff Dickerson is the Sheriff of Columbia County. Sheriff Dickerson is
2 employed by and is an agent of Columbia County and the Sheriff's Office. He is responsible for
3 the operations of the Columbia County Jail, and the training and supervision of the Jail staff who
4 interpret and implement the Jail's mail policy for prisoners. He is the policymaker for the Jail
5 policy governing mail for prisoners.

6 3.5 Each of the acts and omissions of persons alleged herein were taken under color
7 of state law and within the scope of their official duties as employees and officers of Columbia
8 County and the Columbia County Sheriff's Office.

9 **IV. FACTUAL ALLEGATIONS**

10 4.1 Prison Legal News publishes and distributes a soft-cover monthly journal, and
11 publishes and distributes paperback books, about the criminal justice system and legal issues
12 affecting prisoners.

13 4.2 Prison Legal News has approximately 7,000 subscribers in the United States and
14 abroad, including prisoners, attorneys, journalists, public libraries, judges, and other members of
15 the public. PLN distributes its publication to prisoners and law librarians in approximately 2,200
16 correctional facilities across the United States, including the Federal Bureau of Prisons and the
17 Oregon Department of Corrections.

18 4.3 Prison Legal News engages in core protected speech and expressive conduct on
19 matters of public concern, such as operations of prison facilities, prison conditions, prisoner
20 health and safety, and prisoners' rights.

21 **A. CENSORSHIP AND LACK OF DUE PROCESS**

22 4.4 Defendants have rejected PLN's monthly publications, book catalogs, book
23 offers, informational brochures, subscription forms, subscription renewal letters, fundraising
24 letters, and online articles mailed to prisoners held in custody at the Columbia County Jail. The
25 mail items rejected by Defendants include, but are not limited to, the items identified below.
26
27

1 Monthly Publications

2 4.5 Prison Legal News sent its monthly journal to certain prisoners at the Columbia
3 County Jail by U.S. Mail.

4 4.6 PLN's monthly journal is a 56-page publication titled *Prison Legal News:*
5 *Dedicated to Protecting Human Rights* and contains various articles on corrections news and
6 analysis, about prisoner rights, court rulings, management of prison facilities and prison
7 conditions.

8 4.7 On or about December 8, 2010 PLN mailed a December 2010 *Prison Legal News*
9 publication addressed to prisoner Rusty Campo at the Columbia County Jail. Rusty Campo was
10 a prisoner at the Columbia County Jail at the time that the Jail received the December 2010
11 *Prison Legal News* publication from PLN.

12 4.8 On or about January 13, 2011, PLN mailed a January 2011 *Prison Legal News*
13 publication addressed to prisoner Rusty Campo at the Columbia County Jail. Rusty Campo was
14 a prisoner at the Columbia County Jail at the time that the Jail received the January 2011 *Prison*
15 *Legal News* publication from PLN.

16 4.9 On or about January 31, 2011, PLN mailed its September 2008 *Prison Legal*
17 *News* publication addressed to each of the following prisoners at the Columbia County Jail:

18 Prisoner Name
19 Daniel Butts
20 Cory Dell
21 Jacob Francoeur
22 William Hess

23 The individuals identified above were prisoners at the Columbia County Jail at the time that the
24 Jail received the September 2008 *Prison Legal News* publications from PLN.

25 4.10 On or about January 31, 2011, PLN mailed its November 2009 *Prison Legal*
26 *News* publication addressed to prisoner Nicholas Bierman at the Columbia County Jail. Nicholas
27 Bierman was a prisoner at the Columbia County Jail at the time that the Jail received the
November 2009 *Prison Legal News* publication from PLN.

1 4.11 On or about January 31, 2011, PLN mailed its January 2010 *Prison Legal News*
2 publication addressed to prisoner Andrew Plumber at the Columbia County Jail. Andrew
3 Plumber was a prisoner at the Columbia County Jail at the time that the Jail received the January
4 2010 *Prison Legal News* publication from PLN.

5 4.12 On or about February 1, 2011, PLN mailed its July 2009 *Prison Legal News*
6 publication addressed to each of the following prisoners at the Columbia County Jail:

7 Prisoner Name
8 Ezra St. Helen
9 Scott Thomas

10 The individuals identified above were prisoners at the Columbia County Jail at the time that the
11 Jail received the July 2009 *Prison Legal News* publications from PLN.

12 4.13 On or about February 1, 2011, PLN mailed its November 2009 *Prison Legal*
13 *News* publication addressed to each of the following prisoners at the Columbia County Jail:

14 Prisoner Name
15 Robert Beckwith
16 Scott Lavelle
17 Lloyd Myers
18 Alisha Vandolah
19 Jeffrey Vannatta

20 The individuals identified above were prisoners at the Columbia County Jail at the time that the
21 Jail received the November 2009 *Prison Legal News* publications from PLN.

22 4.14 On or about February 3, 2011, PLN mailed its January 2010 *Prison Legal News*
23 publication addressed to prisoner Kanaan Meyers at the Columbia County Jail. Prisoner Meyers
24 was a prisoner at the Columbia County Jail at the time that the Jail received the January 2010
25 *Prison Legal News* publication from PLN.

26 4.15 On or about February 3, 2011, PLN mailed its July 2009 *Prison Legal News*
27 publication addressed to each of the following prisoners at the Columbia County Jail:

Prisoner Name
Troy McCarter
Shane McNutt
Robert Meader
Jason Quade

1 The individuals identified above were prisoners at the Columbia County Jail at the time that the
2 Jail received the July 2009 *Prison Legal News* publications from PLN.

3 4.16 On or about February 3, 2011, PLN mailed its September 2008 *Prison Legal*
4 *News* publication addressed to each of the following prisoners at the Columbia County Jail:

5 Prisoner Name
6 Nicholas Jones
Martin Kay

7 The individuals identified above were prisoners at the Columbia County Jail at the time that the
8 Jail received the September 2008 *Prison Legal News* publications from PLN.

9 4.17 On or about February 10, 2011, PLN mailed its February 2011 *Prison Legal News*
10 publication addressed to each of the following prisoners at the Columbia County Jail:

11 Prisoner Name
12 Troy McCarter
Ezra St. Helen

13 The individuals identified above were prisoners at the Columbia County Jail at the time that the
14 Jail received the February 2011 *Prison Legal News* publications from PLN.

15 4.18 On or about March 10, 2011, PLN mailed its March 2011 *Prison Legal News*
16 publication addressed to prisoner Ezra St. Helen at the Columbia County Jail. Ezra St. Helen
17 was a prisoner at the Columbia County Jail at the time that the Jail received the March 2011
18 *Prison Legal News* publication from PLN.

19 4.19 On or about April 11, 2011, PLN mailed its April 2011 *Prison Legal News*
20 publication addressed to prisoner Troy McCarter at the Columbia County Jail. Troy McCarter
21 was a prisoner at the Columbia County Jail at the time that the Jail received the April 2011
22 *Prison Legal News* publication from PLN.

23 4.20 On or about May 18, 2011, PLN mailed its May 2011 *Prison Legal News*
24 publication addressed to prisoner Ezra St. Helen at the Columbia County Jail. Ezra St. Helen
25 was a prisoner at the Columbia County Jail at the time that the Jail received the May 2011 *Prison*
26 *Legal News* publication from PLN.
27

1 4.21 On or about June 9, 2011, PLN mailed its June 2011 *Prison Legal News*
2 publication addressed to each of the following prisoners at the Columbia County Jail:

3 Prisoner Name
4 Ezra St. Helen
Martin Kay

5 The individuals identified above were prisoners at the Columbia County Jail at the time that the
6 Jail received the June 2011 *Prison Legal News* publications from PLN.

7 4.22 On or about June 30, 2011, PLN mailed its May 2008 *Prison Legal News*
8 publication addressed to each of the following prisoners at the Columbia County Jail:

9 Prisoner Name
10 George Lammi
Jeffrey Murray
11 Cindy Seaston

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

14 4.23 On or about July 20, 2011, PLN mailed its May 2009 *Prison Legal News*
15 publication addressed to each of the following prisoners at the Columbia County Jail:

16 Prisoner Name
Mark Gift
17 Ralph Patterson
Barry Shaft
18 William Temple
Robert Westmoreland

19 The individuals identified above were prisoners at the Columbia County Jail at the time that the
20 Jail received the May 2009 *Prison Legal News* publications from PLN.

21 4.24 Defendants rejected each publication identified in paragraphs 4.7-4.23, and did
22 not deliver the publications to the prisoner-addressees.

23 4.25 Defendants rejected many but not all of the journals that Prison Legal News sent
24 to prisoners. Defendants returned a number of the rejected journals, but it is unknown whether
25 they returned them all. For the journals that Defendants returned to Prison Legal News,
26 Defendants: (a) placed a sticker on the mail stating: "As of April 1, 2010 The Columbia County
27 Jail ONLY ACCEPTS POSTCARDS, This applies to ALL incoming and out going mail"; (b)

1 stamped the mail “INSPECTED BY COLUMBIA COUNTY JAIL” and handwrote checkmarks
2 next to “RETURN TO SENDER” and “REFUSE/VIOLATES SECURITY”; or (c) merely
3 stamped the mail “RETURN TO SENDER.”

4 4.26 Defendants did not provide PLN due process notice or an opportunity to appeal
5 the censorship decisions.

6 4.27 Defendants did not provide the prisoner-addressees due process notice or an
7 opportunity to appeal the censorship decisions.

8 4.28 In addition to those identified above, PLN mailed other *Prison Legal News*
9 journals addressed to prisoners at the Columbia County Jail between January 2011-January 2012.

10 4.29 On information and belief, Defendants rejected additional *Prison Legal News*
11 journals that PLN sent to prisoners, other than those identified above, and Defendants failed to
12 give PLN and the prisoners due process notice and an opportunity to be heard, and Defendants
13 continue to do so.

14 4.30 PLN intends to continue sending its monthly journal to prisoners at the Columbia
15 County Jail in the future.

16 **Informational Brochures, Subscription Order Forms, Book Catalogs**

17 4.31 Prison Legal News sent informational brochures about PLN and subscription
18 order forms, book catalogs, and book offers to prisoners at the Columbia County Jail in a white
19 standard # 10 envelopes via first-class mail.

20 4.32 **Prison Legal News Brochure and Subscription Order Form:** Prison Legal
21 News sent certain prisoners at the Columbia County Jail an informational brochure about its
22 organization and publications. The double-sided single-page brochure includes: a description of
23 the topics covered in PLN’s monthly journal, subscription rates, special subscription offers, and
24 an order form; a description of three books available for purchase or included with a subscription
25 to *Prison Legal News—Protecting your Health & Safety, With Liberty for Some: 500 Years of*
26 *Imprisonment in America*, and *Prison Profiteers: Who Makes Money from Mass Incarceration*;
27 and other information about PLN’s bookstore.

1 4.33 **Book Catalog:** Prison Legal News sent certain prisoners at the Columbia County
 2 Jail its 2010 PLN Book List. The double-sided single-page book list includes a description of 43
 3 books, dictionaries, and resource materials available for purchase. The books available for
 4 purchase include information about a variety of topics, including but not limited to: the basic
 5 rights of prisoners regarding health and safety; the American criminal justice system; self-
 6 representation in court; finding the right lawyer; DNA testing; issues related to imprisoned
 7 women; developing a successful re-entry plan upon release from prison; searching for a job;
 8 crime and poverty; and the mental health crisis in U.S. prisons and jails.

9 4.34 **Book Offers:** Prison Legal News sent certain prisoners at the Columbia County
 10 Jail a double-sided single-page informational brochure about two books for sale: *The Habeas*
 11 *Citebook: Ineffective Assistance of Counsel*, a handbook containing case citations, pleadings, and
 12 forms designed to help a prisoner seek habeas corpus relief; and *Prisoners' Guerrilla Handbook*
 13 *to Correspondence Programs in the United States and Canada*, a handbook on high school,
 14 vocational, paralegal, undergraduate, and graduate courses available through correspondence
 15 study.

16 4.35 Collectively, the PLN Brochure, Book List, and Book Offer described above in
 17 paragraphs 4.31-4.34 are referred to as "Informational Brochure Packs" below.

18 4.36 Prison Legal News mailed Informational Brochure Packs addressed to each of the
 19 following prisoners at the Columbia County Jail:

<u>Prisoner Name</u>	<u>Date Mailed to Prisoner</u>
Robert Beckwith	January 31, 2011
Daniel Butts	February 3, 2011
Cory Dell	February 3, 2011
Jacob Francoeur	February 3, 2011
Mark Gift	July 20, 2011
Nicholas Jones	February 3, 2011
Martin Kay	February 1, 2011
George Lammi	June 30, 2011
Scott Lavelle	January 31, 2011
Troy McCarter	February 1, 2011
Shane McNutt	January 31, 2011
Robert Meader	February 3, 2011
Kanaan Meyers	January 31, 2011 and February 4, 2011
Jeffrey Murray	June 30, 2011

1	Lloyd Myers	January 31, 2011
	Ralph Patterson	July 20, 2011
2	Andrew Plumber	January 31, 2011
	Jason Quade	February 1, 2011
3	Cindy Seaston	June 30, 2011
	Barry Shaft	July 20, 2011
4	Ezra St. Helen	February 1, 2011
	William Temple	July 20, 2011
5	Scott Thomas	February 1, 2011
	Alisha Vandolah	February 1, 2011
6	Jeffrey Vannatta	February 3, 2011
	Robert Westmoreland	July 20, 2011

7

8 4.37 The prisoners identified above in paragraph 4.36 were prisoners at the Columbia
9 County Jail at the time that the Jail received the Informational Brochure Packs addressed to each
10 prisoner from PLN.

11 4.38 Defendants rejected each Informational Brochure Pack sent by PLN and did not
12 deliver them to the prisoner-addressees.

13 4.39 For the Informational Brochure Packs that Defendants returned to Prison Legal
14 News, Defendants: (a) placed a sticker on the mail stating: "As of April 1, 2010 The Columbia
15 County Jail ONLY ACCEPTS POSTCARDS, This applies to ALL incoming and out going
16 mail"; (b) stamped the mail "INSPECTED BY COLUMBIA COUNTY JAIL" and handwrote
17 checkmarks next to "RETURN TO SENDER" and "REFUSE/VIOLATES SECURITY"; or (c)
18 merely stamped the mail "RETURN TO SENDER."

19 4.40 Defendants did not provide PLN due process notice or an opportunity to appeal
20 the censorship decisions.

21 4.41 Defendants did not provide the prisoner-addressees due process notice or an
22 opportunity to appeal the censorship decisions.

23 4.42 In addition to those identified above, PLN mailed Informational Brochure Packs
24 addressed to other prisoners at the Columbia County Jail in 2011.

25 4.43 On information and belief, Defendants rejected additional Informational Brochure
26 Packs that PLN sent to prisoners, other than those identified above, and Defendants failed to give
27 due process notice and an opportunity to be heard to PLN and the prisoner-addressees.

1 4.44 Prison Legal News intends to continue sending Informational Brochure Packs to
2 prisoners at the Columbia County Jail in the future.

3 Renewal Letters

4 4.45 Prison Legal News sent subscription renewal letters along with Informational
5 Brochure Packs ("Subscription Renewal Packs") to certain prisoners at the Columbia County Jail
6 in white standard # 10 envelopes via first-class mail.

7 4.46 Each personalized subscription renewal letter mailed to a prisoner at the
8 Columbia County Jail included information for the prisoner-addressee that his individual
9 subscription was nearing its end.

10 4.47 In May and June 2011, Prison Legal News mailed Subscription Renewal Packs
11 addressed to each of the following prisoners at the Columbia County Jail:

<u>Prisoner Name</u>	<u>Date Sent</u>
William Hess	6/16/11
Martin Kay	6/16/11
Troy McCarter	6/16/11
Shane McNutt	6/16/11
Andrew Plumber	6/16/11
Jason Quade	5/21/11
Ezra St. Helen	6/16/11
Alisha Vandolah	6/16/11

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

20 4.48 Defendants rejected each Subscription Renewal Pack sent by PLN and did not
21 deliver them to the prisoner-addressees.

22 4.49 For the Subscription Renewal Packs that Defendants returned to Prison Legal
23 News, Defendants: (a) placed a sticker on the mail stating: "As of April 1, 2010 The Columbia
24 County Jail ONLY ACCEPTS POSTCARDS, This applies to ALL incoming and out going
25 mail"; or (b) merely stamped the mail "RETURN TO SENDER."

26 4.50 Defendants did not provide Prison Legal News due process notice or an
27 opportunity to appeal the censorship decisions.

1 4.51 Defendants did not provide the prisoner-addressees due process notice or an
2 opportunity to appeal the censorship decisions.

3 4.52 In addition to those identified above, PLN mailed Subscription Renewal Packs
4 addressed to other prisoners at the Columbia County Jail in 2011.

5 4.53 On information and belief, Defendants rejected additional Subscription Renewal
6 Packs that PLN sent to other prisoners, other than those identified above, and Defendants failed
7 to give due process notice and an opportunity to be heard to PLN and the prisoner-addressees.

8 4.54 Prison Legal News intends to continue sending Subscription Renewal Packs to
9 prisoners at the Columbia County Jail in the future.

10 **Fundraising Letters and Brochures**

11 4.55 Prison Legal News sent fundraising letters along with Informational Brochure
12 Packs ("Fundraising Pack") to certain prisoners at the Columbia County Jail in white standard #
13 10 envelopes via standard rate nonprofit mail.

14 4.56 Each fundraising letter mailed to a prisoner at the Columbia County Jail included
15 information for the prisoner-addressee about PLN's history, PLN's efforts to protect civil rights
16 across the country, and its journal and books available for purchase.

17 4.57 In approximately November 2011, Prison Legal News mailed Fundraising Packs
18 addressed to prisoners William Temple and Barry Shaft at the Columbia County Jail. Mr.
19 Temple and Mr. Shaft were prisoners at the Columbia County Jail at the time that the Jail
20 received the Fundraising Packs addressed to each of them from PLN.

21 4.58 Defendants rejected each Fundraising Pack sent by PLN and did not deliver them
22 to the prisoner-addressees.

23 4.59 For the Fundraising Packs that Defendants returned to Prison Legal News,
24 Defendants merely stamped them "RETURN TO SENDER" without stating a reason for
25 censorship.

26 4.60 Defendants did not provide Prison Legal News due process notice or an
27 opportunity to appeal the censorship decisions.

1 4.61 On information and belief, Defendants did not provide the prisoner-addressees
2 due process notice or an opportunity to appeal the censorship decisions.

3 4.62 In addition to those identified above, PLN mailed Fundraising Packs addressed to
4 other prisoners at the Columbia County Jail in 2011.

5 4.63 On information and belief, Defendants rejected additional Fundraising Packs that
6 PLN sent to other prisoners, other than those identified above, and Defendants failed to give due
7 process notice and an opportunity to be heard to PLN and the prisoner-addressees.

8 4.64 Prison Legal News intends to continue sending Fundraising Packs to prisoners at
9 the Columbia County Jail in the future.

10 **PLN Online Article**

11 4.65 An individual, Lucy Lennox, sent legal articles that she printed off of PLN's
12 website to certain prisoners at the Columbia County Jail in standard #10 envelopes via U.S. Mail.

13 4.66 The legal articles mailed by Ms. Lennox to prisoners at the Columbia County Jail
14 include a critique of prison privatization, and research findings about the goals and results of the
15 move toward privatization. The articles also identify a correspondence school book available
16 for sale, and include introductory descriptions of PLN's 20 "Breaking News" headlines about
17 various topics, including but not limited to sex abuse in prison, poor forensics used to secure
18 criminal convictions, private prison companies behind Arizona's immigration law, and the death
19 penalty in Texas.

20 4.67 In December 2011, Ms. Lennox mailed PLN online articles to the following
21 prisoners at the Columbia County Jail:

<u>Prisoner Name</u>	<u>Date Sent</u>
Steven Adams	12/15/11
Arthur Bates Jr.	12/15/11
Toni Bertasso	12/21/11
Daniel Butts	12/15/11
Robert Clement	12/15/11
Anthony Deherrera	12/22/11
Kenna Haynes	12/22/11
Scott Lavelle	12/15/11
Billy Nelson	12/15/11
Samuel Oester	12/15/11

1	Cindy Seastone	12/15/11
	Barry Shaft	12/15/11
2	William Temple	12/15/11
	Timothy Turner	12/20/11
3	Alisha Vandolah	12/15/11

4 The prisoners identified above were prisoners at the Columbia County Jail at the time that the
5 Jail received the PLN articles addressed to each of them from Ms. Lennox.

6 4.68 Defendants rejected at least twelve PLN articles sent by Ms. Lennox and did not
7 deliver them to the prisoners to which they were addressed by name.

8 4.69 For the PLN articles that Defendants returned to Ms. Lennox, Defendants: (a)
9 placed a sticker on the mail stating: "As of April 1, 2010 The Columbia County Jail ONLY
10 ACCEPTS POSTCARDS, This applies to ALL incoming and out going mail"; (b) stamped the
11 mail "INSPECTED BY COLUMBIA COUNTY JAIL" and handwrote checkmarks next to
12 "RETURN TO SENDER" and "REFUSE/VIOLATES SECURITY"; (c) stamped the mail
13 "INSPECTED BY COLUMBIA COUNTY JAIL" and handwrote checkmarks next to
14 "RETURN TO SENDER" and "CONTRABAND"; or (d) stamped the mail "INSPECTED BY
15 COLUMBIA COUNTY JAIL" and handwrote "no envelope mail".

16 4.70 Defendants did not provide Ms. Lennox due process notice or an opportunity to
17 appeal the censorship decisions.

18 4.71 Defendants did not provide the prisoner-addressees due process notice or an
19 opportunity to appeal the censorship decisions.

20 **B. JAIL POLICIES**

21 4.72 On April 1, 2010, the Columbia County Jail implemented a new policy governing
22 mail to prisoners. A true copy of the policy is attached to this Complaint as Exhibit A.

23 4.73 **Ban on Speech that is Not a Postcard:** Effective April 1, 2010, Defendants
24 instituted a policy that requires all incoming and outgoing mail to prisoners to be in postcard
25 form (hereinafter "Postcard-Only Mail Policy").

26 4.73.1 The Jail's Postcard-Only Mail Policy states, in pertinent part:

27 Incoming Mail will be only accepted in the form of commercially-
produced postcards or a photograph used as a postcard.

1 See Exhibit A.

2 4.73.2 In addition, Defendants sometimes place a sticker on returned mail,
3 which states: "As of April 1, 2010 The Columbia County Jail ONLY ACCEPTS POSTCARDS,
4 This applies to ALL incoming and out going mail."

5 4.73.3 Defendants have used their Postcard-Only Mail Policy to censor
6 Plaintiff's *Prison Legal News* journal, Informational Brochure Packs, Renewal Brochure Packs,
7 Fundraising Packs, online articles, and other correspondence.

8 4.73.4 Defendants have used their Postcard-Only Mail Policy to censor
9 correspondence from other publishers, companies, organizations, prisoners and individuals. For
10 example, Defendants rejected numerous PLN articles that Lucy Lennox printed from the PLN
11 website and mailed to certain prisoners at the Columbia County Jail. The Jail's stated
12 justification for rejection was that "the Columbia County Jail ONLY ACCEPTS POSTCARDS"
13 or "no envelope mail" as the reason for rejection.

14 4.73.5 Defendants' Postcard-Only Mail Policy is unconstitutionally overbroad.

15 4.73.6 Defendants' Postcard-Only Mail Policy and their practice of enforcing
16 this policy unconstitutionally burdens Plaintiff's First Amendment rights, the First Amendment
17 rights of other correspondents who send mail to prisoners confined at the Columbia County Jail,
18 the First Amendment rights of the intended recipients of outgoing mail from prisoners confined
19 at the Columbia County Jail, and the First Amendment rights of prisoners at the Columbia
20 County Jail.

21 4.74 **Ban on Speech that is a Magazine:** Defendants' Mail Policy bans all magazines
22 (hereinafter "No-Magazines Mail Policy"). The Jail's No-Magazines Mail Policy states, in
23 pertinent part:

24 **Publications:** "We do not accept magazines." . . .

25 **Magazines:** "Are not allowed inside the facility."

26 See Exhibit A.

27

1 4.74.1 On information and belief, Defendants have used their No-Magazines
2 Mail Policy to censor Plaintiff's *Prison Legal News* journal and other correspondence.

3 4.74.2 On information and belief, Defendants have used their No-Magazines
4 Mail Policy to censor magazines, journals, publications and other correspondence from other
5 publishers, book distributors, companies, organizations, and individuals.

6 4.74.3 Defendants' No-Magazines Mail Policy is unconstitutionally overbroad.

7 4.74.4 Defendants' No-Magazines Mail Policy and its practice of enforcing this
8 policy unconstitutionally burdens Plaintiff's First Amendment rights, the First Amendment rights
9 of other correspondents who send mail to prisoners confined at the Columbia County Jail, and
10 the First Amendment rights of prisoners at the Columbia County Jail.

11 **4.75 Lack of Procedural Due Process Protections:** Defendants' mail policies do not
12 require them to provide due process notice or an opportunity for the mail sender, intended
13 recipient, or prisoner to appeal the Jail's censorship decisions; and Defendants' practice likewise
14 does not provide due process notice or an opportunity for the mail sender, intended recipient, or
15 prisoner to appeal the Jail's censorship decisions. Defendants' policies and practices violate the
16 Due Process Clause of the Fourteenth Amendment.

17 4.76 Defendants' policies and conduct prohibiting delivery of Prison Legal News'
18 monthly journal, informational brochures, subscription forms, book catalogs, book offers,
19 renewal letters, fundraising letters, online articles, and other publications and correspondence to
20 prisoners confined at the Columbia County Jail, violate the First Amendment. Similarly,
21 Defendants' policies and conduct prohibiting delivery of incoming mail from correspondents
22 other than PLN, and prohibiting delivery of outgoing mail from prisoners to PLN or other
23 intended recipients, violate the First Amendment.

24 4.77 Defendants' policies and their censorship of the expressive activities set forth
25 above have a chilling effect on future speech.

26 4.78 Defendants' policies and practices described above frustrate Prison Legal News's
27 organizational mission and have caused Prison Legal News to divert its resources.

1 4.79 Defendants' policies and actions have violated, continue to violate, and are
2 reasonably expected to violate in the future Plaintiff's constitutional rights to communicate its
3 political message to prisoners, to recruit new supporters, readers and subscribers, and have
4 caused Plaintiff additional financial harm in the form of diversion of its resources, lost
5 subscriptions, and lost publication and book purchases.

6 4.80 Defendant Dickerson and other agents of Columbia County are responsible for or
7 personally participated in creating and implementing these unconstitutional policies, practices,
8 and customs, and for training and supervising the mail staff members whose conduct also have
9 injured and continue to injure Plaintiff and others, or ratified or adopted the policies or actions
10 described herein.

11 **V. CLAIM ALLEGATIONS**

12 **COUNT 1**

13 **FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION**

14 5.1 Plaintiff realleges and incorporates by reference the preceding paragraphs.

15 5.2 The acts described above constitute violations of Plaintiff's rights, the rights of
16 other correspondents who have attempted to or intend to correspond with prisoners at the
17 Columbia County Jail, and the rights of prisoners confined at the Columbia County Jail, under
18 the First Amendment to the United States Constitution through 42 U.S.C. § 1983.

19 5.3 The acts described above have caused damages to Plaintiff, and will continue to
20 cause damage.

21 5.4 Plaintiff seeks declaratory and injunctive relief and nominal and compensatory
22 damages against all Defendants. Plaintiff seeks punitive damages solely against Defendant
23 Dickerson in his individual capacity.

24 **COUNT 2**

25 **DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT**
26 **TO THE UNITED STATES CONSTITUTION**

27 5.5 Plaintiff realleges and incorporates by reference the preceding paragraphs.

1 5.6 The acts described above constitute violations of Plaintiff's rights, the rights of
2 other correspondents who have attempted to or intend to correspond with prisoners at the
3 Columbia County Jail, and the rights of prisoners confined at the Columbia County Jail, under
4 the Fourteenth Amendment to the United States Constitution through 42 U.S.C. § 1983.

5 5.7 The acts described above have caused damages to Plaintiff, and will continue to
6 cause damage.

7 5.8 Plaintiff seeks declaratory and injunctive relief and nominal and compensatory
8 damages against all Defendants. Plaintiff seeks punitive damages solely against Defendant
9 Dickerson in his individual capacity.

10 **VI. INJUNCTION ALLEGATIONS**

11 6.1 Defendants' unconstitutional policy, practices, and customs are ongoing and
12 continue to violate Plaintiff's constitutional rights and the rights of other correspondents and
13 prisoners, and as such there is no adequate remedy at law.

14 6.2 Plaintiff is entitled to injunctive relief prohibiting Defendants from: refusing to
15 deliver or allow delivery of publications, books, informational brochures and subscription forms,
16 book catalogs, book offers, renewal letters, fundraising letters, online articles, and other
17 correspondence from Prison Legal News or other correspondents; censoring or rejecting mail on
18 the ground that it is not in the form of a postcard; censoring or rejecting a catalog on the ground
19 that it is a catalog or not a postcard; censoring or rejecting mail on the ground that it is a
20 magazine; and prohibiting Defendants from censoring mail without due process of law.

21 **VII. REQUEST FOR RELIEF**

22 WHEREFORE, the Plaintiff requests relief as follows:


23 7.1 A preliminary injunction and a permanent injunction preventing Defendants from
24 continuing to violate the Constitution, and providing other equitable relief.

25 7.2 A declaration that Defendants' policies, practices, and customs violate the
26 Constitution.

- 1 7.2 An award of nominal, compensatory, and punitive damages for each violation of
- 2 its First Amendment rights to free speech and expression in an amount to be proved at trial.
- 3 7.3 An award of nominal, compensatory, and punitive damages for each violation of
- 4 its Fourteenth Amendment rights to due process in an amount to be proved at trial.
- 5 7.4 A trial by jury on damages.
- 6 7.5 Costs, including reasonable attorney's fees, under 42 U.S.C. § 1988, and under
- 7 other applicable law.
- 8 7.6 Pre-judgment and post-judgment interest.
- 9 7.7 The right to conform the pleadings to the proof and evidence presented at trial.
- 10 7.8 Such other relief as the Court deems just and equitable.

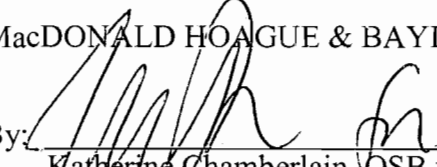
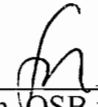
DATED this 13th day of January, 2012.

RANSOM BLACKMAN

By: 

 Marc Blackman, OSB # 730338
 marc@ransomblackman.com
 Local Counsel for Plaintiff

MacDONALD HOAGUE & BAYLESS

By:  

 Katherine Chamberlain, OSB # 042580
 KatherineC@mhb.com
 Attorney for Plaintiff

27

EXHIBIT A
TO
COMPLAINT

Incoming Mail:

Incoming Mail will be only accepted in the form of commercially-produced postcards or a photograph used as a postcard. The mail is delivered to the Sheriff's Office Monday through Saturday, excluding holidays.

Address
Inmate's Name (Booking Number)
Columbia County Jail
901 Port Avenue
St. Helens, Oregon 97051

Prohibited Mail

Effective April 1, 2010 the Columbia County Sheriff's Office is changing the procedures that apply to inmate mail.

MAIL VIOLATIONS:
(Will result in the post card(s) being returned to sender)

- * No Inmate Name
- * Incomplete Return Address
- * Stickers of any kind (Includes address labels)
- * Rubber Inked Stamps
- * Tape
- * Lipstick
- * Colored Pencils
- * Paperclips / Staples etc.
- * Correction Tape / Fluid
- * Crayon
- * Paint
- * Watercolor or colored markers
- * Food / Beverage Stains
- * Perfume / Cologne
- * Any unidentifiable substance

The following mail will not be received or sent from the facility and will be returned to the sender.

1. Mail from one inmate to another at this facility requires a supervisor's approval.
2. Mail that threatens blackmail or extortion.
3. Mail that concerns sending contraband into or out of our jail.
4. Mail that concerns escape plans.
5. Mail that concerns plans for activities in violation of the jail rules.
6. Mail that concerns plans for criminal activity.
7. Mail that contains information which, if communicated, would create a danger of violence or physical harm to a person
8. Mail that is sensational. Sensationalism is writing or other printed material that poses a threat to the security, safety, or good order of the jail.
9. Mail that contains any contraband materials.
10. No personal packages will be accepted through the mail or by the Sheriff's Office Clerks.
11. Polaroid or other instant developing photographs.
12. Picture frames or picture folders.
13. Photographs larger than 5" x 7".
14. Postage stamps, blank writing paper, or blank envelopes.
15. Mail that contains gang-related writings, drawings, or symbols on the outside of the envelope or letter.
16. Mail that contains a foreign substance, bodily fluid, perfume or cologne.
17. Mail written in code or suspected code.
18. Sexually explicit materials.
19. Mail that encourages or instructs in a commission of a crime.
20. Mail falsely labeled "Official Mail."
21. Photographs that are not printed by a professional commercial source (photo labs or kiosks) will not be accepted. (home printer produced pictures on regular paper are not allowed.)
22. Stickers, tape, and return address labels.

Legal Professional Mail Rules:

Inmate legal mail and professional mail rules have not changed.

Publications:

We do not accept magazines. Books must be sent directly from the publisher or bookstore. An inmate may receive no more than three books per month.

Mail Definitions and Frequently Asked Questions:

Inmate Mail

Last Updated Friday, 06 August 2010 16:48

Incomplete return address: Return address is missing either part of the address or first and last name of sender.

No Inmate Name: Inmate's first and last names are NOT on the post card.

Dead Mailed: There is no return address. In this case the postcard is returned to the Post Office.

What happens to the postcard I send to an inmate when it arrives at the Facility?

After the post card has been cleared through administration, it is reviewed for mail violations. If a violation is found, the Deputy will complete a Mail Violation Form and the mail will be placed in the inmate's property until their release, or it will be returned to the sender.

Can I send a care package to an Inmate?

Inmates housed in the Jail cannot receive care packages of any kind through the mail. Care packages

which are not mail in can be purchased through

www.columbia.icaredirect.com

. We only accept care packages by this method.

Can Inmates have access to Books, Magazines, and Newspapers?

The Columbia County Jail has certain legal publications as well as books for entertainment, and some faith-based materials. Books may be procured from outside the jail, however any such book, hardbound or otherwise, must be sent directly from the publisher or bookstore via the U.S. Mail. Newspapers may be subscribed to in the inmate's name for delivery to the jail.

Magazines: Are not allowed inside the facility.

Religious Materials: Inmates can request a Bible from the Law Library. Inmates can also attend a religious program and receive religious materials from the Columbia County Sheriff's Office Volunteer who facilitates that particular program.

