

Katherine C. Chamberlain, OSB #042580
katherinec@mhb.com
Jesse A. Wing, *pro hac vice*
jessew@mhb.com
Of Attorneys for Plaintiff Prison Legal News
MacDonald Hoague & Bayless
705 Second Avenue, Suite 1500
Seattle, Washington 98104-1745
(206) 622-1604

Marc D. Blackman, OSB #730338
marc@ransomblackman.com
Of Attorneys for Plaintiff Prison Legal News
Ransom Blackman LLP
1001 SW 5th Ave., Suite 1400
Portland, OR 97204
(503) 228-0487

Lance Weber, *pro hac vice*
lweber@humanrightsdefensecenter.org
Of Attorneys for Plaintiff Prison Legal News
Human Rights Defense Center
1037 Western Ave., 2nd Floor
West Brattleboro, VT 05303
(802) 257-1342

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

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

Plaintiff,

v.

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

Defendants.

No. 3:12-CV-71-SI

PLAINTIFF'S ITEMIZED LIST OF
SPECIAL DAMAGES

PLAINTIFF'S ITEMIZED LIST OF SPECIAL DAMAGES
(CV 12-71-SI) - 1

MACDONALD HOAGUE & BAYLESS
705 Second Avenue, Suite 1500
Seattle, Washington 98104
Tel 206.622.1604 Fax 206.343.3961

Plaintiff claims the following categories of damages:

A. Diversion of Resources Damages: Defendants' unconstitutional mail policy and censorship of incoming and outgoing prisoner mail caused PLN to divert time and resources to investigate the extent and nature of Defendants' mail policy and censorship practices. PLN's diversion of resources damages include the following categories: (i) time spent by PLN staff investigating the mail policies and censorship at Columbia County Jail, and litigating censorship and due process claims; and (ii) expenses incurred by PLN in testing the mail policies and censorship practices at Columbia County Jail, including the cost of materials and postage.

<u>PLN Staff Person</u>	<u>Hours</u>	<u>Rate</u>	<u>Value</u>
Paul Wright	186	\$200.00	\$37,200.00
Zach Phillips	14.6	\$105.00	\$1,533.00
Dennis Curran	4.2	\$90.00	\$378.00
Jen Kovacs	10.3	\$75.00	\$772.50
Materials and Postage			\$221.70
			\$40,105.20

Because the diversion is ongoing up to and including trial, PLN will present updated damages testimony regarding the time spent by PLN staff at trial.

Nature of evidence that will support Plaintiff's claim for diversion of resources damages: Plaintiff's Proposed Trial Exhibit Nos. 168, 169, 172, and 173, and the testimony of Paul Wright, Zach Phillips, and Dennis Curran. *See* Wright, Phillips, and Curran Witness Statements.

B. Frustration of Mission Damages: Future expenditures will be necessary to counter the adverse effects of Defendants' unconstitutional mail policy and censorship of incoming and outgoing prisoner mail, including outreach, education, and testing. PLN's frustration of mission damages include the following categories: (1) the time and expense for PLN to write, publish, and send letters (or postcards) to all Columbia County prisoners regarding the Jail's mail policy and any declaratory judgment and injunction; (2) the time and expense for PLN to prepare and publish an advertisement in the St. Helens Chronicle and News Advertiser to be published at two different times; (3) the time and expense for PLN to prepare for, travel to, and give a presentation to the local bar and legal services regarding the Jail's mail policy and any

declaratory judgment and injunction; (4) the time and expense for PLN to produce a short video for online dissemination to prisoner's families and friends regarding the Jail's mail policy and any declaratory judgment and injunction; and (5) the time and expense for PLN to perform further testing and monitoring of Defendants' mail practices for compliance with the Constitution and order of the Court for three years.

Letters to Columbia Co. Jail Prisoners	\$1,351.00
Ads in St. Helen's Chronicle and News Advertiser	\$826.86
Presentation to Local Bar, Legal Services	\$3,500.00
Production of Short Video for Families	\$4,850.00
Compliance Monitoring	<u>\$10,671.00</u>
	\$21,198.86

The following will be necessary to rectify the damage done by Columbia County's unconstitutional mail policy and practices so that the public and prisoners are fully informed about the outcome of the case, including changes in Columbia County's mail policy and the requirements of the U.S. Constitution as it relates to incoming and outgoing prisoner mail:

1. Letters to Columbia Co. Jail Prisoners: This expenditure is necessary to:

(i) notify the prisoners that they are allowed to receive magazines, periodicals, publications, gift subscriptions to publications, mail generated from the internet, and correspondence that is not a postcard; (ii) notify the prisoners that they are allowed to send outgoing mail that is not on a postcard; (iii) notify prisoners of their rights and the rights of their correspondents to receive due process notice and an opportunity to be heard when the Columbia County Jail censors their incoming or outgoing mail; (iv) inform prisoners of their constitutional rights and the constitutional rights of their families, friends, publishers, and others, with whom they wish to correspond or from whom they wish to receive mail; (v) notify prisoners of the outcome of this case and any declaratory judgment and injunction entered by the Court; and (vi) rectify the confusion caused by the Jail's failure to accurately inform the prisoners and the public about the Jail's mail policy and caused by the Jail's failure to follow the Constitution or its own claimed mail policies.

PLN estimates that preparing 150 letters for mailing takes 6 hours of staff time (@ \$105 per hour), 2 hours of Paul Wright's time to draft the letters (@ \$200/hour), and that the cost of sending those letters will be \$321.

2. Ads in St. Helen's Chronicle and News Advertiser: This expenditure is necessary to notify families and friends of prisoners, and others who wish to correspond with prisoners, that they are allowed to purchase gift subscriptions to publications for prisoners, send mail generated from the internet, and correspond with prisoners by means other than the use of a postcard; and to inform them on the topics listed in parts (i) through (vi) above.

PLN estimates that preparing an advertisement will take 1 hour of Paul Wright's time (@ \$200 per hour), and that the two advertisements will cost \$313.43 as quoted by a newspaper representative. *See* Plaintiff's Proposed Trial Exhibit No. 170

3. Presentation to Local Bar and Legal Services: This expenditure is necessary to inform and advise lawyers and organizations that have contact with prisoners, or their friends and family, on the topics listed in parts (i) through (vi) above.

PLN estimates: \$1,000 for Paul Wright's travel and lodging expenses, including travel from Vermont to Oregon and hotel and local transportation expenses; 5 hours (@ \$200 per hour) for Paul Wright to prepare for and give the presentation to the local bar and legal services organizations, and answer questions by attendees; and 15 hours (@ \$100 per hour) of travel time for Mr. Wright.

4. Production of Short Video for Families: This expenditure is necessary to notify prisoners' family members and friends who are not in the Columbia County area that they are now allowed to purchase gift subscriptions to publications for prisoners, send mail generated from the internet, and correspond with prisoners in ways that are not limited to the use of postcards, and to inform them on the topics listed in parts (i) through (vi) above.

PLN has received an estimate that production of a five minute video will cost \$4,850. *See* Plaintiff's Proposed Trial Exhibit No. 171.

5. Compliance Monitoring: This expenditure is necessary to test Defendants' compliance with a constitutional mail policy and any injunction entered by the Court.

PLN estimates: \$1,461.00 for the cost of materials and postage for six biannual mailings to 25 prisoners at the Columbia County Jail. Mailings will include sample issues of *Prison Legal News* (cost of materials and postage: \$5.30 in 2013, \$5.40 in 2014; \$5.50 in 2015; 50 per year = \$810 in total), informational subscription brochures, book catalogs, and book offers (cost of materials and postage: \$2.16 in 2013, \$2.17 in 2014; \$2.18 in 2015; 50 per year = \$325.50 in total), and inquiry/follow-up letters (cost of materials and postage: \$2.16 in 2013, \$2.17 in 2014; \$2.18 in 2015; 50 per year = \$325.50 in total).

For the sample issues and informational brochures, PLN estimates .2 hours of staff time to prepare each biannual mailing (30 hours total @ \$105 = \$3,150), and 2 hours of Paul Wright's time to plan and supervise each set of biannual mailings (12 hours total @ \$200 = \$2,400).

For the inquiry/follow-up letters, PLN estimates 2 hours of staff time to prepare and mail each of the biannual mailings and to compile and analyze testing data (12 hours total @ \$105 per hour = \$1,260), and 2 hours for Paul Wright to plan and supervise each biannual mailing (12 hours total @ \$200 = \$2,400).

Nature of evidence that will support Plaintiff's claim for frustration of mission damages: Plaintiff's Proposed Trial Exhibits 170 and 171, and the testimony of Paul Wright and Zach Phillips. *See* Wright and Phillips Witness Statement.

Plaintiff also claims the following categories of damages: nominal damages for each violation by the Defendants against Plaintiff's constitutional rights; presumed damages for actual injury such as Defendant's interference with PLN's ability to disseminate its views to its intended audience, to develop and foster new subscribers, readers, and donors, and to encourage them to support its perspective and take actions consistent with its message; and punitive damages against the Sheriff Dickerson in his individual capacity.

DATED this 31st day of December, 2012.

MACDONALD HOAGUE & BAYLESS

/s/Jesse Wing

KATHERINE C. CHAMBERLAIN

OSB #042580

JESSE WING

Admitted *Pro Hac Vice*

(206) 622-1604

Of Attorneys for Plaintiff Prison Legal News

CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2012, I electronically filed the foregoing to the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- **Marc D. Blackman**
marc@ransomblackman.com, pat@ransomblackman.com
- **Steven A. Kraemer**
sak@hartwagner.com, rcd@hartwagner.com
- **Gregory R. Roberson**
grr@hartwagner.com, cej@hartwagner.com
- **Lynn S. Walsh**
walsh@europa.com
- **Lance Weber**
lweber@humanrightsdefensecenter.org, ahull@humanrightsdefensecenter.org

MACDONALD HOAGUE & BAYLESS

/s/ Jesse Wing

KATHERINE C. CHAMBERLAIN
OSB #042580
JESSE WING
Admitted *Pro Hac Vice*
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