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20 Attorneys for Plaintiff

21 UNITED STATES DISTRICT COURT  
 22 DISTRICT OF ARIZONA

23 PRISON LEGAL NEWS, a project of the  
 Human Rights Defense Center,  
 24 Plaintiff,  
 25 v.

26 CHARLES L. RYAN, in his official capacity  
 as Director of the Arizona Department of  
 Corrections and in his individual capacity;  
 27 GAIL RITTENHOUSE, in her official  
 28 capacity as Division Director. Support

Case No. CV-15-2245-PHX-ROS

**SECOND AMENDED COMPLAINT  
 FOR DECLARATORY AND  
 INJUNCTIVE RELIEF AND  
 DAMAGES UNDER THE CIVIL  
 RIGHTS ACT, 42 U.S.C. § 1983**

**JURY TRIAL DEMANDED**

1 Services of the Arizona Department of  
2 Corrections and in her individual capacity;  
3 JEFF HOOD, in his official capacity as  
4 Deputy Director of the Arizona Department of  
5 Corrections and in his individual capacity;  
6 ALF OLSON, in his individual capacity;  
7 JAMES RIGGS, in his official capacity as an  
8 employee of the Office of Publication Review  
9 of the Arizona Department of Corrections and  
10 his individual capacity; JAMIE GUZMAN, in  
11 her official capacity as an employee of the  
12 Office of Publication Review of the Arizona  
13 Department of Corrections; and DOES 1 to  
14 20, inclusive,

Defendants.

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1 **INTRODUCTION**

2 1. Plaintiff PRISON LEGAL NEWS (“PLN” or “Plaintiff”), a project of the  
3 Human Rights Defense Center, brings this action regarding Defendants’ censorship of four  
4 issues of its monthly publication mailed to prisoners in Arizona Department of Corrections  
5 (“ADC”), in violation of PLN’s clearly established rights under the First and Fourteenth  
6 Amendments to the United States Constitution. Defendants have adopted and  
7 implemented mail policies and a pattern of practices that unconstitutionally prevent  
8 distribution of PLN’s eponymously named monthly publication. The censored issues  
9 contain articles that include non-salacious descriptions of sexual activity to make clear the  
10 factual basis for legal cases of interest to PLN’s readers. In particular, Defendants refuse  
11 to deliver issues of PLN’s monthly publication to subscribers in ADC facilities when those  
12 issues contain articles describing sexual contact between jail or prison guards and prisoners  
13 to which the prisoners did not consent. Additionally, Defendants refuse to deliver a book  
14 distributed by Plaintiff entitled *The Celling of America: An Inside Look at the US Prison*  
15 *Industry*, edited by Daniel Burton-Rose, Dan Pens, and Paul Wright.

16 2. Defendants’ mail policies and practices also do not afford constitutionally  
17 adequate notice and an opportunity to challenge Defendants’ censorship, in violation of  
18 PLN’s right to due process. Defendants’ actions violate PLN’s rights and the rights of  
19 others under the First Amendment and the Due Process Clause of the Fourteenth  
20 Amendment. PLN thus brings this action, pursuant to 42 U.S.C. § 1983, seeking  
21 injunctive and declaratory relief, and damages to be proven at trial.

22 **JURISDICTION AND VENUE**

23 3. This action arises under the First and Fourteenth Amendments to the United  
24 States Constitution and is brought pursuant to 42 U.S.C. § 1983. This Court has subject  
25 matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343. The Court has  
26 jurisdiction to grant declaratory relief pursuant to 28 U.S.C. § 2201 and F.R.C.P. 57.

27 4. Venue is proper in the District of Arizona under 28 U.S.C. § 1391(b)(2)  
28 because substantial acts and omissions giving rise to the claims occurred in this District,

1 including Defendants' implementation of the challenged mail policies and practices, and  
2 because Defendants reside in this District.

3 **PARTIES**

4 5. Plaintiff PRISON LEGAL NEWS is a project of the Human Rights Defense  
5 Center, a Washington non-profit corporation. PLN publishes a 72-page monthly journal of  
6 corrections news and analysis called *Prison Legal News*, and distributes books about the  
7 criminal justice system and legal issues affecting prisoners to prisoners, lawyers, courts,  
8 libraries, and the public throughout the country.

9 6. The Defendants listed below are sued in their official capacities only for  
10 equitable relief as to each and every violation of federal rights alleged in this complaint.  
11 Defendants are also sued in their individual capacities for damages.

12 7. Defendant CHARLES L. RYAN ("RYAN") is, and at all relevant times  
13 herein mentioned was, the Director of the ADC, the state agency that manages the  
14 correctional facilities within the State of Arizona. Defendant RYAN has ultimate  
15 responsibility for the promulgation and implementation of ADC policies, procedures, and  
16 practices and for the management of the ADC. Each ADC policy, procedure, or practice  
17 challenged by Plaintiff was promulgated, enacted, and implemented during Defendant  
18 RYAN's tenure as Director of the ADC. Defendant RYAN has ultimate responsibility for  
19 each of these policies, and possesses unilateral authority to enact new policies, or to  
20 modify or repeal existing policies. (D.O. 101.02, subparts 1.3.1.1 & 1.4). As to Plaintiff's  
21 due process claims presented herein against him, Defendant RYAN is being sued in his  
22 individual capacity for damages, and in his official capacity for injunctive and declaratory  
23 relief. As to Plaintiff's First Amendment claims presented herein against him, Defendant  
24 RYAN is being sued in his official capacity for injunctive and declaratory relief only. At  
25 all relevant times, Defendant RYAN has acted under color of state law.

26 8. Defendant GAIL RITTENHOUSE is, and at all relevant times herein  
27 mentioned was, Division Director, Support Services of ADC. Defendant RITTENHOUSE  
28 is responsible for the promulgation and implementation of policies, procedures, and

1 practices at the ADC. Defendant RITTENHOUSE performed duties including supervising  
2 the operations of the Office of Publication Review at all relevant times mentioned herein.  
3 As to Plaintiff's due process all claims presented herein against her, Defendant  
4 RITTENHOUSE is being sued in her individual capacity for damages, and in her official  
5 capacity for injunctive and declaratory relief. As to Plaintiff's First Amendment claims  
6 presented herein against her, Defendant RITTENHOUSE is being sued in his official  
7 capacity for injunctive and declaratory relief. At all relevant times, Defendant  
8 RITTENHOUSE has acted under color of state law.

9         9. Defendant JEFF HOOD is, and at all relevant times herein mentioned was,  
10 Deputy Director of ADC. Defendant HOOD is responsible for the promulgation and  
11 implementation of policies, procedures, and practices at the ADC. Under Department  
12 Order 914, effective February 26, 2010, until March 4, 2016, Defendant HOOD had an  
13 official duty to perform publication review. Pursuant to this duty, Defendant HOOD  
14 personally participated in the review of the October 2014 issue of *Prison Legal News*, and  
15 personally participated in the decision to redact that issue. Pursuant to this duty,  
16 Defendant HOOD supervised the Office of Publication Review and its employees and  
17 provided training to its employees, including Defendant RIGGS, as to publication review  
18 duties and expectations. As to Plaintiff's due process claims presented herein against him,  
19 Defendant HOOD is being sued in his individual capacity for damages, and in his official  
20 capacity for injunctive and declaratory relief. As to Plaintiff's First Amendment claims  
21 presented herein against him, Defendant HOOD is being sued in his official capacity for  
22 injunctive and declaratory relief only. At all relevant times, Defendant HOOD has acted  
23 under color of state law.

24         10. Defendant ALF OLSON at all relevant times herein mentioned, before May  
25 31, 2016, was an ADC employee who worked or works in the Office of Publication  
26 Review. As of May 31, 2016, Defendant OLSON retired from ADC. Defendant OLSON  
27 was responsible for the promulgation and implementation of policies, procedures, and  
28 practices at the ADC. Defendant OLSON participated in each act of censorship and failure

1 to provide process alleged herein to have occurred before May 31, 2016, including by  
2 personally reviewing each issue of *Prison Legal News* alleged to have been censored  
3 herein before May 31, 2016. As to Plaintiff's due process claims presented herein against  
4 him, Defendant OLSON is being sued in his individual capacity for damages associated  
5 with clearly established federal rights. At all relevant times, Defendant OLSON has acted  
6 under color of state law.

7 11. Defendant JAMES RIGGS is, and at all relevant times herein mentioned  
8 was, an ADC employee who worked or works in the Office of Publication Review.  
9 Defendant RIGGS is Quality Assurance Administrator of the Office of Publication Review  
10 and is responsible for the promulgation and implementation of policies, procedures, and  
11 practices at the ADC. At all relevant times herein, before May 31, 2016, Defendant  
12 RIGGS participated in the operations of the Office of Publication Review and was  
13 personally responsible for the censorship decisions of the Office of Publication Review,  
14 including decisions to redact content from publications. At all relevant times herein,  
15 before May 31, 2016, Defendant RIGGS personally performed publication review and  
16 personally assisted the publication review duties of Defendant OLSON, including review  
17 of *Prison Legal News*. Defendant RIGGS personally participated in the decision to redact  
18 the October 2014 issue of *Prison Legal News*, including by overseeing distribution, if any,  
19 of unauthorized redacted versions of the issue within all ADC facilities. As to Plaintiff's  
20 due process claims presented herein against him, Defendant RIGGS is being sued in his  
21 individual capacity for damages associated with clearly established federal rights, and in  
22 his official capacity for injunctive and declaratory relief. As to Plaintiff's First  
23 Amendment claims presented herein against him, Defendant RIGGS is being sued in his  
24 official capacity for injunctive and declaratory relief. At all relevant times, Defendant  
25 RIGGS has acted under color of state law.

26 12. Defendant JAMIE GUZMAN is, and at all relevant times after May 31, 2016  
27 herein mentioned was, an ADC employee who worked or works in the Office of  
28 Publication Review. Defendant GUZMAN is the current head of the Office of Publication

1 Review and is responsible for the promulgation and implementation of policies,  
2 procedures, and practices at the ADC. Since Defendant OLSON's retirement, Defendant  
3 GUZMAN is and has been personally responsible for the censorship decisions of the  
4 Office of Publication Review, including decisions to redact content from publications.  
5 Defendant GUZMAN personally participated in ADC's decision to censor the April, May,  
6 and June 2017 issues of *Prison Legal News*, including by reviewing these issues, by  
7 overseeing and executing any redactions made to these issues, and by overseeing and  
8 executing the distribution, if any, of unauthorized redacted versions of these issues within  
9 all ADC facilities. As to Plaintiff's First Amendment claims presented herein against her,  
10 Defendant GUZMAN is being sued in her official capacity for injunctive and declaratory  
11 relief. At all relevant times, Defendant GUZMAN has acted under color of state law.

12 13. The names and capacities of the persons sued as DOES 1 to 20, inclusive,  
13 herein are unknown to Plaintiff at this time. Each of Defendants DOES 1 through 20 is or  
14 was employed by and is or was an agent of ADC when some or all of the challenged  
15 prisoner mail policies and practices were adopted and/or implemented. Each of  
16 Defendants DOES 1 through 20 is or was personally involved in the adoption and/or  
17 implementation of the ADC's mail policies for prisoners, and/or is or was responsible for  
18 the hiring, screening, training, retention, supervision, discipline, counseling, and/or control  
19 of the ADC staff who interpret and implement these prisoner mail policies. Each of  
20 Defendants DOES 1 through 20 is or was acting under color of state law. Each of  
21 Defendants DOES 1 through 20 is sued in his or her individual capacity for damages and  
22 his or her official capacity for injunctive and declaratory relief. PLN will seek to amend  
23 this Complaint as soon as the true names and identities of Defendants DOES 1 through 20  
24 have been ascertained.

25 14. Each and every act and omission alleged herein of Defendants, their officers,  
26 agents, servants, employees, or persons acting at their behest or direction, were done and  
27 are continuing to be done under the color of state law and within the scope of their official  
28 duties as officers, employees or agents of the ADC. Each Defendant was or is an agent of

1 each other Defendant in committing the unconstitutional acts alleged in this complaint.

2 **FACTUAL BACKGROUND**

3 15. Plaintiff PRISON LEGAL NEWS publishes and distributes *Prison Legal*  
4 *News: Dedicated to Protecting Human Rights*, a monthly journal of corrections news and  
5 analysis. PLN also publishes and distributes paperback books about the criminal justice  
6 system and legal issues impacting prisoners.

7 16. *Prison Legal News* has thousands of subscribers in the United States and  
8 abroad, including prisoners, attorneys, journalists, public libraries, judges, and other  
9 members of the public. PLN distributes its publication to prisoners and law librarians in  
10 approximately 2,600 correctional facilities across the United States, including institutions  
11 within the Federal Bureau of Prisons and all of the adult prisons of the California  
12 Department of Corrections and Rehabilitation.

13 17. PLN also distributes approximately fifty (50) different books about the  
14 criminal justice system, legal reference books, and self-help books of interest to prisoners.  
15 These books are designed to foster a better understanding of criminal justice policies and  
16 to allow prisoners to educate themselves about related issues, such as legal research, how  
17 to write a business letter, health care issues, and similar topics. PLN is a distributor for  
18 *The Ceiling of America: An Inside Look at the US Prison Industry*, edited by Daniel  
19 Burton-Rose, Dan Pens, and Paul Wright.

20 18. Plaintiff's organizational purpose, as stated in its Articles of Incorporation, is  
21 to disseminate legal information on issues affecting prisoners and their loved ones on the  
22 outside and to educate prisoners and the public about the destructive nature of racism,  
23 sexism, and the economic and social costs of prisons to society, among other purposes.

24 19. For more than 25 years, the core of PLN's mission has been public  
25 education, advocacy and outreach on behalf of, and for the purpose of assisting, prisoners  
26 who seek legal redress for infringements of their constitutionally guaranteed and other  
27 basic human rights. PLN's mission, if realized, has a salutary effect on public safety.

28 20. PLN engages in core protected speech and expressive conduct on matters of



1 public concern, such as the operations of corrections facilities, jail and prison conditions,  
2 prisoner health and safety, and prisoners' rights. PLN regularly receives correspondence  
3 from prisoners in correctional facilities around the country, including ADC prisons, in  
4 which they ask questions and report on jail or prison conditions.

5 21. Currently, PLN has one-hundred and sixty-five (165) subscribers to its  
6 monthly publication at ADC facilities. Despite ADC's recent censorship of issues of  
7 *Prison Legal News*, PLN continues to pursue its mission to promote public safety through  
8 educational and journalistic avenues by sending its monthly publication to prisoners  
9 confined at ADC prisons.

#### 10 **Overview of Censorship and Lack of Due Process**

11 22. Until approximately March 2014, ADC prisoners who subscribed to *Prison*  
12 *Legal News* or ordered other publications from PLN generally received those publications  
13 without incident.

14 23. Beginning in March 2014, Defendants began refusing to deliver certain  
15 issues of *Prison Legal News* to prisoner subscribers in the custody of ADC with more  
16 consistency. In particular, Defendants refused to deliver the March 2014, April 2014, July  
17 2014, and October 2014 issues of *Prison Legal News*.

18 24. Defendants did not return the censored issues of *Prison Legal News* to PLN,  
19 nor did they provide any notice to PLN of their refusal to deliver the issues. PLN only  
20 learned of the censorship from its subscribers.

21 25. After PLN notified Defendant RYAN, the director of ADC, on February 6,  
22 2015 of the unlawful censorship of *Prison Legal News* in ADC facilities and of  
23 Defendants' failure to provide due process to PLN, Defendants reconsidered some of their  
24 censorship decisions. But to date, Defendants have still not delivered the full, uncensored  
25 version of the October 2014 issue of *Prison Legal News*, and some prisoner subscribers  
26 never received copies of the other three previously censored issues that Defendants  
27 ultimately agreed to deliver after PLN protested the censorship.

28 26. Moreover, in its February 6, 2015 letter to Defendants, PLN asked

1 Defendants to identify all issues of *Prison Legal News* that it censored from March 2014 to  
2 February 2015. Defendants informed PLN about three of the four issues they had  
3 censored, but never informed PLN that they censored the March 2014 issue. As alleged  
4 *infra*, PLN later confirmed Defendants' censorship of the March 2014 issue from another  
5 source.

6 27. Since at least February 2, 2011, and continuing until at least May 2015,  
7 Defendants have also censored the PLN-distributed book *The Ceiling of America*.  
8 Defendants have refused to deliver *The Ceiling of America* to any ADC prisoner who  
9 orders a copy of the book.

10 28. The ADC mail policies that were in effect at the time of ADC's censorship  
11 of the March, April, July, and October 2014 issues (a true and correct copy of which are  
12 attached hereto as **Exhibit A**) state that publications are "prohibited" in ADC facilities if  
13 they contain, *inter alia*, "depictions or descriptions that incite, aid, or abet riots, work  
14 stoppages, or means of resistance," or "pictures, photographs, illustrations, text or other  
15 content that may encourage unacceptable sexual or hostile behaviors, or creates a hostile  
16 environment for volunteers, including but not limited to sexual representations of inmates,  
17 law enforcement, military, professional medical staff, teachers and Clergy." **Exhibit A**,  
18 ADC DO 914.08, Policy Numbers 1.1.1; 1.1.18. ADC policies also prohibit publications  
19 with "sexually explicit material," which is defined as "publications that contain any of the  
20 following acts and behaviors either visually, written, or in audio (non-lyric) form: (1)  
21 Physical contact by another person with a person's unclothed genitals, pubic area,  
22 buttocks, or if such a person is a female, breast; (2) Sadomasochistic abuse; (3) Sexual  
23 intercourse, vaginal or anal, fellatio, cunnilingus, bestiality or sodomy; (4) Masturbation,  
24 excretory functions, and lewd exhibition of the genitals; (5) Incestuous sexual activity; (6)  
25 Sexual activity involving an unwilling participant, or a participant who is the subject of  
26 coercion, or any sexual activity involving children." **Exhibit A**, ADC DO 914.07, Policy  
27 Number 1.2.

28 29. Defendants' policies do not contain an exception permitting delivery of

1 publications that describe sexual acts in a non-salacious way for journalistic purposes, such  
 2 as news reporting on the facts of a court case or published legal decision, as was the case  
 3 in each of the articles in the issues of *Prison Legal News* that Defendants censored.

4 30. Plaintiff is informed and believes and thereon alleges that ADC's censorship  
 5 policies and practices are widespread. In addition to their censorship of *Prison Legal*  
 6 *News*, Defendants have also recently refused to deliver issues of publications such as  
 7 *Bloomberg Business*, *The Economist*, *National Geographic*, and *Newsweek* to prisoner  
 8 subscribers in ADC facilities.

9 31. Plaintiff is informed and believes and thereon alleges that Defendants'  
 10 policies and practices continue to deprive publishers such as PLN of any notice or  
 11 opportunity to appeal when their publications are not delivered to prisoner subscribers.

#### 12 **Censorship of March 2014 Issue of *Prison Legal News***

13 32. On or about March 10, 2014, PLN mailed its March 2014 *Prison Legal News*  
 14 publication to ninety-seven (97) of ADC prisoners in Defendants' custody at the following  
 15 ADC facilities: Arizona State Prison-Kingman; ASPC Aspen; ASPC Douglas; ASPC  
 16 Eyman-Browning; ASPC Eyman-Cook; ASPC Eyman-Meadows; ASPC Eyman-Rynning;  
 17 ASPC Eyman-SMU; ASPC Florence Central; ASPC Florence East; ASPC Florence North  
 18 Unit; ASPC Florence South; ASPC Lewis-Barchey; ASPC Lewis-Buckley; ASPC Lewis-  
 19 Rast; ASPC Lewis-Stiner; ASPC Perryville-Lumley; ASPC Perryville-San Pedro; ASPC  
 20 Perryville-Santa Cruz; ASPC Santa Maria; ASPC Tucson-Cimarron; ASPC Tucson-  
 21 Manzanita; ASPC Tucson-Rincon; ASPC Tucson-Winchester; ASPC Winslow; ASPC  
 22 Yuma-Cheyenne; ASPC Yuma-Cibola; ASPC Yuma-Dakota; Central Arizona  
 23 Correctional Institute; Central Arizona Correctional Facility; and Florence Correctional  
 24 Center. A true and correct copy of the March 2014 issue is attached hereto as **Exhibit B**.

25 33. Plaintiff is informed and believes and thereon alleges that many of the  
 26 prisoner subscribers incarcerated at the ADC facilities did not receive the March 2014  
 27 issue of *Prison Legal News*. Several subscribers in ADC facilities wrote to Plaintiff to  
 28 notify it that they did not receive the March 2014 issue, and/or sent Plaintiff copies of

1 notices they received from Defendants informing them that the March 2014 issue was  
2 being withheld for purportedly violating Defendants' mail policies.

3 34. PLN has never received any notice from Defendants that the March 2014  
4 issue, or any article in it, would not be delivered or was not delivered to the addressed  
5 recipients, even after PLN asked Defendants to identify all issues of *Prison Legal News*  
6 from March 2014 to February 2015 that were censored in ADC facilities.

7 35. In 2015, the American Civil Liberties Union ("ACLU") submitted a request  
8 pursuant to the Arizona Public Records Law, Ariz. Rev. Stat. §§ 39-121 et seq. to the  
9 ADC. The ADC, in response, produced to the ACLU a copy of an ADC "Notice of  
10 Result-Publication Review" dated May 9, 2014 ("May 9, 2014 Notice"), which excluded  
11 the March 2014 issue of *Prison Legal News* from distribution in ADC facilities. A true  
12 and correct copy of that notice is attached hereto as **Exhibit C**.

13 36. The May 9, 2014 Notice states that the March 2014 issue of *Prison Legal*  
14 *News* was excluded because of "Riots/Work Stoppages/Resistance," and "Unacceptable  
15 Sexual or Hostile Behaviors," and cites to Department Order ("DO") 914.08, Policy  
16 Numbers 1.1.1 and 1.1.18 (*see Exhibit A*). The Notice does not specify which article(s) or  
17 page(s) of the March 2014 issue of *Prison Legal News* purportedly violated those policies.

18 37. There are no articles in the March 2014 issue of *Prison Legal News* which  
19 "incite, aid, or abet riots, work stoppages, or means of resistance," or that "may encourage  
20 unacceptable sexual or hostile behaviors." **Exhibit A**, DO 914.08, Policy Numbers 1.1.1  
21 and 1.1.18.

22 38. Plaintiff is informed and believes and thereon alleges that the article in the  
23 March 2014 issue to which Defendants objected is on page 54 of the issue, and is entitled  
24 "Ninth Circuit Holds Staff Sexual Abuse Presumed Coercive; State Bears Burden of  
25 Rebutting Presumption." *See Exhibit B* at 54. The article describes the facts underlying a  
26 Ninth Circuit reported decision, including a non-salacious description of sexual contact  
27 between a prison guard and a prisoner in an Idaho prison, to which the prisoner did not  
28 consent.



1 Linnins informed PLN that the April 2014 issue of *Prison Legal News* had been excluded  
2 from ADC prisons. Ms. Linnins did not identify the reason for the censorship of the April  
3 2014 issue.

4 44. In the same letter, Ms. Linnins also notified PLN that, after PLN objected to  
5 the censorship, Defendants had reconsidered their decision to withhold the April 2014  
6 issue of *Prison Legal News* from distribution to subscribers in ADC facilities.

7 45. On or about May 26, 2015, after PLN sent a follow-up letter objecting to the  
8 censorship and requesting Defendants' basis for doing so, Defendants provided PLN with  
9 a copy of the Notice of Result-Publication Review for the April 2014 issue of *Prison Legal*  
10 *News*, which had a "Review Date" of November 25, 2014 ("November 25, 2014 Notice").  
11 A true and correct copy of the November 25, 2014 Notice is attached hereto as **Exhibit E**.

12 46. The November 25, 2014 Notice states that the April 2014 issue of *Prison*  
13 *Legal News* was excluded from ADC facilities pursuant to DO 914.08, Policy Number  
14 1.1.18, "Unacceptable Sexual or Hostile Behaviors." *See Exhibit A*. The Notice does not  
15 specify which article(s) or page(s) of the April 2014 issue of *Prison Legal News*  
16 purportedly violated those policies.

17 47. There are no articles in the April 2014 issue of *Prison Legal News* that "may  
18 encourage unacceptable sexual or hostile behaviors." **Exhibit A**, DO 914.08, Policy  
19 Number 1.1.18.

20 48. Plaintiff is informed and believes and thereon alleges that Defendants  
21 objected to the article in the April 2014 issue on page 20 of the issue, entitled "Kitchen  
22 Supervisor Gets Prison Time for Sexually Abusing Two Prisoners." *See Exhibit D* at 20.  
23 The article describes the facts underlying a criminal case in the United States District  
24 Court for the District of Arizona, including a non-salacious description of non-consensual  
25 sexual contact between a prison kitchen supervisor and two prisoners in a federal prison in  
26 Arizona.

27 49. Plaintiff is also informed and believes and thereon alleges that Defendants  
28 objected to the article in the April 2014 issue on page 48 of the issue, entitled "Sexual

1 Abuse by Oregon Jail Guard Nets Probation; Defense Attorney Blames Victim.” See  
2 **Exhibit D** at 48. The article describes the facts underlying a criminal case in Oregon state  
3 court, including a non-salacious description of the non-consensual sexual contact between  
4 prison staff and prisoners on which the prosecution was based.

5 50. In the May 26, 2015 correspondence from Ms. Linnins, Defendants provided  
6 PLN with a copy of a follow-up Notice of Result-Publication Review for the April 2014  
7 issue of *Prison Legal News*, with a “Review Date” of March 18, 2015 (“March 18, 2015  
8 Reconsideration Notice”). A true and correct copy of the March 18, 2015 Reconsideration  
9 Notice is attached hereto as **Exhibit F**. The March 18, 2015 Reconsideration Notice states  
10 that the April 2014 issue of *Prison Legal News* would be allowed.

11 51. On June 22, 2015, Defendants notified PLN that the April 2014 issue of  
12 *Prison Legal News* had been distributed to subscribers.

13 52. Plaintiff is informed and believed and thereon alleges that while some  
14 subscribers to *Prison Legal News* incarcerated in ADC prisons ultimately received their  
15 copies of the April 2014 issue, others never did, even though those subscribers remained in  
16 custody after the March 18, 2015 Reconsideration Notice and Defendants’ June 22, 2015  
17 confirmation that the issue had been delivered.

18 53. Plaintiff is further informed and believes and thereon alleges that some of the  
19 subscribers to *Prison Legal News* who were incarcerated in ADC facilities in April 2014  
20 never received the April 2014 issue of *Prison Legal News* because they were no longer in  
21 custody when Defendants decided to reverse their initial censorship decision  
22 approximately one year later.

### 23 **Censorship of July 2014 Issue of *Prison Legal News***

24 54. On or about July 1, 2014, PLN mailed its July 2014 *Prison Legal News*  
25 publication to one hundred and thirty-five (135) ADC prisoners in Defendants’ custody at  
26 the following ADC facilities: Arizona State Prison-Kingman; Arizona State Prison –  
27 Kingman/Cerbat; ASPC Aspen; ASPC Douglas; ASPC Eyman-Browning; ASPC Eyman-  
28 Cook; ASPC Eyman-Meadows; ASPC Eyman-Rynning; ASPC Eyman-SMU; ASPC

1 Florence – Globe Detention; ASPC Florence Central; ASPC Florence East; ASPC  
2 Florence North Unit; ASPC Florence South; ASPC Bachman; ASPC Lewis-Barchey;  
3 ASPC Lewis-Buckley; ASPC Lewis-Rast; ASPC Lewis-Stiner; ASPC Perryville-Lumley;  
4 ASPC Perryville-Piestewa; ASPC Perryville-San Pedro; ASPC Perryville-Santa Cruz;  
5 ASPC Santa Maria; ASPC Tucson-Cimarron; ASPC Tucson-Manzanita; ASPC Tucson-  
6 Rincon; ASPC Tucson-Winchester; ASPC Winslow; ASPC Yuma-Cheyenne; ASPC  
7 Yuma-Cibola; ASPC Yuma-Dakota; ASPC Phoenix-Alhambra; ASPC Safford-Tonto;  
8 Central Arizona Correctional Institute; Central Arizona Correctional Facility; and Florence  
9 Correctional Center. A true and correct copy of the July 2014 issue is attached hereto as  
10 **Exhibit G.**

11 55. PLN did not receive any notice from Defendants that the July 2014 issue, or  
12 any article in it, would not be delivered or was not delivered to the addressed recipients.

13 56. Plaintiff is informed and believes and thereon alleges that many of the  
14 prisoner subscribers incarcerated at the ADC facilities did not receive the July 2014 issue  
15 of *Prison Legal News*. Several subscribers in ADC facilities wrote to Plaintiff to notify it  
16 that they did not receive the July 2014 issue, and/or sent Plaintiff copies of notices they  
17 received from Defendants informing them that the July 2014 issue was being withheld for  
18 purportedly violating Defendants' mail policies.

19 57. On or about March 20, 2015, in response to a letter from PLN regarding the  
20 censorship of its publications in ADC facilities, Assistant Attorney General Pamela J.  
21 Linnins informed PLN that the July 2014 issue of *Prison Legal News* had been excluded  
22 from ADC prisons. Ms. Linnins did not state the reason for the censorship of the July  
23 2014 issue.

24 58. Also in that letter, Ms. Linnins notified PLN that Defendants had  
25 reconsidered their decision to withhold the July 2014 issue of *Prison Legal News* from  
26 distribution to subscribers in ADC facilities.

27 59. On or about May 26, 2015, after PLN sent a follow-up letter objecting to the  
28 censorship and requesting Defendants' basis for doing so, Defendants provided PLN with



1 a copy of an undated “Complex Publications Review – Sexually Explicit Material” form  
2 (“Undated Complex Publications Review Form”) from the ASPC-Tucson facility for the  
3 July 2014 issue of *Prison Legal News*, completed by an ADC staff member identified as  
4 “AA II Vasquez” from the “Complex-Level Publications Staff.” A true and correct copy  
5 of the Undated Complex Publications Review Form is attached hereto as **Exhibit H**.

6 60. The Undated Complex Publications Review Form states that the July 2014  
7 issue of *Prison Legal News* was excluded from ADC facilities pursuant to DO 914.07,  
8 Policy Numbers 1.1 through 1.2.2.6, which prohibit “publications that feature nudity  
9 and/or sexual behaviors and/or the publication is promoted based on such depictions.” *See*  
10 **Exhibit A**. The Notice does not specify which article(s) or page(s) of the July 2014 issue  
11 of *Prison Legal News* purportedly violated those policies.

12 61. There are no articles in the July 2014 issue of *Prison Legal News* which  
13 “feature nudity and/or sexual behaviors,” and *Prison Legal News* is not “promoted based  
14 on such depictions.”

15 62. Plaintiff is informed and believes and thereon alleges that the article in the  
16 July 2014 issue to which Defendants objected is on page 36 of the issue, and is entitled  
17 “New York Jail Guard Sentenced for Sexually Abusing Seven Prisoners.” *See Exhibit G*  
18 at 36. The article describes the facts of a state criminal case and federal civil rights cases,  
19 including a non-salacious description of forced sexual contact between a jail guard and  
20 seven prisoners in a New York correctional facility.

21 63. In the May 26, 2015 correspondence from Ms. Linnins, Defendants provided  
22 PLN with a copy of a Memorandum from Defendant OLSON in the Office of Publication  
23 Review to a prisoner whose name was redacted, dated January 15, 2015 and regarding  
24 “Prison Legal News, July 2014, V25 N7” (“January 15, 2015 Memorandum”). A true and  
25 correct copy of that Notice is attached hereto as **Exhibit I**.

26 64. The January 15, 2015 Memorandum notified the prisoner that upon second  
27 review, the July 2014 issue of *Prison Legal News* was determined “**not [to] contain**  
28 **material** that meets the sexually explicit criteria,” that the “prior decision to exclude this

1 publication is rescinded,” and that the publication “**shall be distributed** to those inmates  
2 who were to receive the edition.” **Exhibit I** (emphasis in original).

3 65. On June 22, 2015, Defendants notified PLN that the April 2014 issue of  
4 *Prison Legal News* had been distributed to subscribers.

5 66. Plaintiff is informed and believes and thereon alleges that while some  
6 subscribers to *Prison Legal News* incarcerated in ADC prisons received their copies of the  
7 July 2014 issue of *Prison Legal News*, others did not, even though they remained in ADC  
8 custody after January 15, 2015 Memorandum and Defendants’ June 22, 2015 confirmation  
9 that the issue had been delivered.

10 67. Plaintiff is informed and believes and thereon alleges that some of the  
11 subscribers to *Prison Legal News* who were incarcerated in ADC facilities in July 2014  
12 never received the July 2014 issue of *Prison Legal News* because they were no longer in  
13 custody when Defendants decided to reverse their initial censorship decision  
14 approximately six months later.

#### 15 **Censorship of October 2014 Issue of *Prison Legal News***

16 68. On or about October 9, 2014, PLN mailed its October 2014 *Prison Legal*  
17 *News* publication to one hundred and forty-two (142) ADC prisoners in Defendants’  
18 custody at the following ADC facilities: Arizona State Prison-Kingman; Arizona State  
19 Prison – Kingman/Cerbat; ASPC Aspen; ASPC Douglas; ASPC Eyman-Browning; ASPC  
20 Eyman-Cook; ASPC Eyman-Meadows; ASPC Eyman-Rynning; ASPC Eyman-SMU;  
21 ASPC Florence – Globe Detention; ASPC Florence Central; ASPC Florence East; ASPC  
22 Florence North Unit; ASPC Florence South; ASPC Bachman; ASPC Lewis-Barchey;  
23 ASPC Lewis-Buckley; ASPC Lewis-Rast; ASPC Lewis-Stiner; ASPC Perryville-Lumley;  
24 ASPC Perryville-Piestewa; ASPC Perryville-San Pedro; ASPC Perryville-Santa Cruz;  
25 ASPC Santa Maria; ASPC Tucson-Cimarron; ASPC Tucson-Manzanita; ASPC Tucson-  
26 Rincon; ASPC Tucson-Winchester; ASPC Winslow; ASPC Yuma-Cheyenne; ASPC  
27 Yuma-Cibola; ASPC Yuma-Dakota; ASPC Phoenix-Alhambra; ASPC Safford-Tonto;  
28 Central Arizona Correctional Institute; Central Arizona Correctional Facility; and Florence

1 Correctional Center. A true and correct copy of the October 2014 issue is attached hereto  
2 as **Exhibit J**.

3 69. PLN did not receive any notice from Defendants that the October 2014 issue,  
4 or any article in it, would not be delivered or was not delivered to the addressed recipients.

5 70. Plaintiff is informed and believes and thereon alleges that many of the  
6 prisoner subscribers incarcerated at the ADC facilities did not receive the October 2014  
7 issue of *Prison Legal News*, and none of the prisoner subscribers incarcerated at the ADC  
8 facilities received a full, unredacted copy of the October 2014 issue. Several subscribers in  
9 ADC facilities wrote to Plaintiff to notify it that they did not receive the October 2014  
10 issue, and/or sent Plaintiff copies of notices they received from Defendants informing them  
11 that the October 2014 issue was being withheld for purportedly violating Defendants' mail  
12 policies.

13 71. On or about March 20, 2015, in response to a letter from PLN regarding the  
14 censorship of its publications in ADC facilities, Assistant Attorney General Pamela J.  
15 Linnins informed PLN that the October 2014 issue of *Prison Legal News* had been  
16 excluded from ADC prisons. Ms. Linnins did not state the reason for the censorship of the  
17 October 2014 issue.

18 72. On or about May 26, 2015, after PLN sent a follow-up letter objecting to the  
19 censorship and requesting Defendants' basis for doing so, Defendants provided PLN with  
20 a copy of the Notice of Result-Publication Review for the October 2014 issue of *Prison*  
21 *Legal News*, which had a "Review Date" of February 11, 2015 ("February 11, 2015  
22 Notice"). A true and correct copy of the February 11, 2015 Notice is attached hereto as  
23 **Exhibit K**.

24 73. The February 11, 2015 Notice states that the October 2014 issue of *Prison*  
25 *Legal News* was excluded from ADC facilities pursuant to DO 914.07, "Sexually Explicit  
26 Material." See **Exhibit A**. The February 11, 2015 Notice does not specify which article(s)  
27 or page(s) of the October 2014 issue of *Prison Legal News* purportedly violated that  
28 policy.

1           74. On or about June 22, 2015, Defendants informed PLN that, after further  
2 review of the October 2014 issue, Defendants distributed a redacted version of the issue to  
3 subscribers. A true and correct copy of the page of the October 2014 issue with those  
4 redactions is attached hereto as **Exhibit L**. PLN did not authorize Defendants to make any  
5 redactions or modifications to its publication at any point.

6           75. The unredacted version of the article Defendants censored appears on page  
7 32 of the October 2014 issue, and is entitled “Tenth Circuit Holds ‘Consensual’ Sex  
8 Defeats Prisoner’s Eighth Amendment Claim.” See **Exhibit J** at 32. The article describes  
9 the facts underlying an opinion by the Tenth Circuit Court of Appeals, *Graham v. Sheriff*  
10 *of Logan County*, 741 F.3d 1118 (10th Cir. 2013), including a non-salacious description of  
11 sexual contact between a prisoner in a county jail and two jail guards, to which the  
12 prisoner asserted she did not consent.

13           76. Defendants’ unauthorized redaction of the October 2014 issue violated  
14 Defendants’ own mail policies. ADC DO 914.06, Policy Number 1.12 prohibits ADC  
15 staff from “remov[ing] pages of any publication to make the publication acceptable,”  
16 because “[r]emoving pages alters the publication rendering it as contraband.” See **Exhibit**  
17 **A**.

18           77. PLN has never received an updated Notice of Result-Publication Review for  
19 the October 2014 issue that indicates that the issue was delivered to subscribers, with or  
20 without the redactions.

21           78. Plaintiff is informed and believes and thereon alleges that some subscribers  
22 to *Prison Legal News* incarcerated in ADC prisons received copies of the redacted October  
23 2014 issue of *Prison Legal News* between March 18, 2015 and June 22, 2015.

24           79. Plaintiff is informed and believes and thereon alleges that some of the  
25 subscribers to *Prison Legal News* who were incarcerated in ADC facilities in October 2014  
26 never received the October 2014 issue of *Prison Legal News* because they were no longer  
27 in custody when Defendants decided to reverse their censorship decision. Plaintiff is  
28 further informed and believes and thereon alleges that additional subscribers may not have

1 received the redacted issue, even though they remained in custody after March 18, 2015.

2 **Censorship of *The Ceiling of America***

3 80. In or around May 2015, Defendants censored *The Ceiling of America*, a book  
4 distributed by PLN. Defendants excluded *The Ceiling of America* from ADC facilities  
5 pursuant to DO 914.08, “Unauthorized Publications and Material,” because of  
6 “Riots/Work Stoppages/Resistance,” under Policy Numbers 1.1.1. See **Exhibit A**.  
7 Defendants do not specify which page(s) of *The Ceiling of America* purportedly violated  
8 that policy.

9 81. There are no materials in *The Ceiling of America* which “incite, aid, or abet  
10 riots, work stoppages, or means of resistance.” **Exhibit A**, DO 914.08, Policy Number  
11 1.1.1.

12 82. PLN did not receive any notice from Defendants that *The Ceiling of America*  
13 would not be delivered or was not delivered to the addressed recipients. At no time did  
14 Defendants provide an opportunity for PLN to appeal the rejection of its mail.

15 **Defendants Failed to Provide Due Process to PLN**

16 83. Defendants did not provide PLN with constitutionally adequate due process  
17 when censoring PLN’s written speech. Defendants provided neither notice nor an  
18 opportunity to appeal the aforementioned censorship decisions at or shortly after the time  
19 they occurred.

20 84. Defendants failed to provide notice to PLN of the reason for rejecting issues  
21 of *Prison Legal News* by, among other inadequacies, failing to notify PLN directly of their  
22 refusal to deliver the issues to *Prison Legal News* subscribers in a timely fashion (or at all),  
23 failing to explain the basis for their censorship decisions or to identify the mail policies  
24 relied on at the time of the decision, and otherwise failing to give meaningful notice of the  
25 censorship. Even when Defendants, through counsel, notified PLN of the censorship  
26 months after it occurred, in response to inquiries from PLN, Defendants failed to identify  
27 specific articles or pages of the issues of *Prison Legal News* that they found objectionable,  
28 and failed to notify PLN that they had censored the March 2014 issue. At no time did

1 Defendants provide an opportunity for PLN to appeal the rejection of its mail.

2 85. Plaintiff is informed and believes and thereon alleges that Defendants fail to  
3 provide notice and an opportunity to appeal to Plaintiff, as well as other senders of  
4 censored mail addressed to prisoners at the ADC prisons.

5 86. Plaintiff is informed and believes and thereon alleges that Defendants fail to  
6 provide constitutionally adequate notice to some of the prisoner subscribers when ADC  
7 censors issues of *Prison Legal News*. Defendants also fail to provide the same prisoner  
8 subscribers with any opportunity to be heard to challenge the censorship decisions.

9 **ADC Policies and Practices Do Not Provide for Notice and Are Overbroad and**  
10 **Unrelated to Legitimate Penological Interest, Despite Serial Revision by Defendants**

11 87. ADC's prior policies, in effect at the time of censorship of the 2014 issues,  
12 did not provide for any notice to be given to the publisher or sender when a publication or  
13 mailing was censored by ADC staff. **Exhibit A**, ADC DO 914.02, Policy Number 1.7  
14 specifies that "[u]nauthorized property or material discovered in incoming mail shall be  
15 removed," and a "Notice to Sender of Rejection of Incoming Mail, Form 909-3, shall be  
16 completed and sent to the inmate." The policy is explicit that the ADC "shall not pay for  
17 the cost of notifying the sender." **Exhibit A**, ADC DO 914.02, Policy Number 1.7 violates  
18 constitutional requirements regarding notice to senders of mail to prison prisoners.

19 88. Although ADC policy was changed as of March 4, 2016 (a true and correct  
20 copy of which is attached hereto as **Exhibit M**), it remains constitutionally invalid under  
21 the First and Fourteenth Amendments and Defendants fail to comply with the policy as  
22 changed. *See Exhibit M* (ADC DO 914.06, Policy Number 1.17; 914.07, Policy Numbers  
23 1.2.2 and 1.2.17). Under the changed policy, Defendants censored *Prison Legal News's*  
24 March 2016 and April 2016 issues without providing any notice to PLN. PLN did not  
25 receive any notice from Defendants that the March 2016 issue, or any article in it, would  
26 not be delivered or was not delivered to the addressed recipients. PLN did not receive any  
27 notice from Defendants that the April 2016 issue, or any article in it, would not be  
28 delivered or was not delivered to the addressed recipients. At no time did Defendants

1 provide an opportunity for PLN to appeal the rejection of its mail. Defendants' failure to  
2 provide Plaintiff with any notice or opportunity to appeal the censorship of the March and  
3 April 2016 issues of *Prison Legal News* violated Plaintiff's Fourteenth Amendment right  
4 to due process.

5 89. Moreover, ADC policies, which were in effect at the time of all of the  
6 challenged censorship, explicitly prohibit appeals of "decisions to exclude publications"  
7 from ADC facilities. **Exhibit A**, ADC DO 914.06, Policy Number 1.13 states that  
8 "[p]reviously excluded Publications shall not be re-submitted for review or appeal under  
9 this Department Order." *See also* **Exhibit M**, ADC DO 914.06, effective March 4, 2016,  
10 Policy Number 1.14 (same); **Exhibit N**, ADC DO 914.06, effective April 7, 2017, Policy  
11 Number 1.14 (same). These policies violate constitutional requirements regarding due  
12 process for senders of mail to prison prisoners.

13 90. Similarly, while ADC DO 914.07, Policy Number 1.5 provides an  
14 opportunity for a *prisoner recipient* of a publication deemed to contain "Sexually Explicit  
15 Material" to request second-level review of ADC staff's decision to exclude the  
16 publication, it has no such provision for the publisher or sender to request a second-level  
17 review. **Exhibit A**, ADC DO 914.07, Policy Number 1.5 violates constitutional  
18 requirements regarding due process for senders of mail to prison prisoners.

19 91. As noted above, Defendants' policies prohibiting distribution of publications  
20 with sexual content do not contain any exception for discussion of sexual acts in a non-  
21 salacious manner for journalistic purposes such as news reporting or discussion of the facts  
22 underlying a reported decision or legal proceeding, and are therefore overbroad.

23 92. ADC again revised its mail policy, DO 914, on April 7, 2017 (a true and  
24 correct copy of which is attached hereto as **Exhibit N**). As amended, the policy remains  
25 constitutionally invalid under the First and Fourteenth Amendments. *See* **Exhibit N**, ADC  
26 DO 914.06, Policy Numbers 1.17, 1.18, & 1.19; 914.07, Policy Number 1.2.

27 93. The revised policy continues to be unconstitutional under the First  
28 Amendment. The revised policy creates an exception for otherwise unauthorized content

1 contained within so-called “legal publication[s]” in certain circumstances. *See Exhibit N,*  
 2 ADC DO 914.06, Policy Number 1.18 (“A legal publication that contains unauthorized  
 3 content that is either (a) directly quoted from a trial or appellate court’s decision, opinion,  
 4 or order, or (b) otherwise taken from a court case, government publication, or news wire  
 5 service (such as the Associated Press), shall not be withheld if the unauthorized content is  
 6 reasonably necessary to understand the fundamental legal issue or legal principle of the  
 7 legal publication.”). The revised policy also creates an exception for sexual content  
 8 contained in so-called “well-known and widely recognized” religious or literary works.  
 9 *See id.*, at Policy Number 1.19 (“Publications that contain nudity and/or descriptions of  
 10 sexual behaviors/acts, or violent acts, shall not be withheld if such unauthorized content is  
 11 within a publication commonly considered to constitute a well-known and widely  
 12 recognized religious work (such as the Bible, the Koran, the Book of Mormon) or literary  
 13 work (such as Shakespeare).”).

14 94. Under the changed policy, unconstitutional censorship of the *Prison Legal*  
 15 *News* has continued. Defendants have censored the April, May, and June 2017 issues of  
 16 *Prison Legal News*, despite their purported exceptions. PLN is informed and believes and  
 17 thereon alleges that Defendants have never applied these exceptions to any publication to  
 18 date. In practice, the changed policy continues to contain no exception for the discussion  
 19 of sexual acts in a non-salacious manner for journalistic purposes. As drafted, these  
 20 exceptions do not define their key terms or lay out any standard to be applied. DO 914  
 21 does not define “legal publication” or “well known and widely recognized.” DO 914 does  
 22 not offer guidance as to what content “is reasonably necessary to understand the  
 23 fundamental legal issue or legal principle of the legal publication.” *Prison Legal News*  
 24 intends to and will continue to publish non-salacious discussions of sexual acts in its news  
 25 coverage. ADC’s changed policy is unconstitutionally overbroad, void for vagueness, and  
 26 serves no legitimate penological interest.

27 95. Defendants censored the April 2017 issue of *Prison Legal News* in violation  
 28 of the First Amendment. A true and correct copy of the April 2017 issue is attached hereto



1 as **Exhibit O**. Plaintiff is informed and believes and thereon alleges that the article in the  
2 April 2017 issue to which Defendants objected is on page 56 of the issue, and is entitled  
3 “Site of Gruesome Prison Riot Becomes New Mexico Tourist Attraction.” *See Exhibit O*  
4 at 56. Plaintiff is informed and believes and thereon alleges that this article was censored  
5 for containing sexual content under current ADC DO 914.07 at Policy Numbers 1.2.2.2,  
6 1.2.2.3, 1.2.2.6, & 1.2.17. *See Exhibit N*. Plaintiff is informed and believes and thereon  
7 alleges that this article was also censored under current ADC DO 914.07 at Policy  
8 Numbers 1.1, 1.2.3, 1.2.16, & 1.2.20, despite the absence of any content in the article  
9 which “promote[s]” violence, or would “incite, aid, or abet” behavior detrimental to  
10 security. *See id.* Plaintiff is informed and believes and thereon alleges that Defendants  
11 redacted the April 2017 issue of *Prison Legal News* without authorization from PLN, and  
12 that Defendants have distributed the redacted version of this issue to at least some  
13 prisoners within ADC.

14         96. Defendants censored the May 2017 issue of *Prison Legal News* in violation  
15 of the First Amendment. A true and correct copy of the May 2017 issue is attached hereto  
16 as **Exhibit P**. Plaintiff is informed and believes and thereon alleges that the articles in the  
17 May 2017 issue to which Defendants objected are found on pages 3-4, 8, 30-31, and 59-60  
18 of the issue, and are entitled “Registration, Tracking of Sex Offenders Drives Mass  
19 Incarceration Numbers and Costs,” “Vigilantes Assault, Rob and Murder Registered Sex  
20 Offenders,” “Four Prisoners Murdered at South Carolina Facility,” and “\$25,000 Federal  
21 Jury Award in Suit over Teenager Raped in Oklahoma Jail.” *See Exhibit P* at 3-4, 8, 30-  
22 31, 59-60. Plaintiff is informed and believes and thereon alleges that these articles were  
23 censored for containing sexual content under current ADC DO 914.07 at Policy Numbers  
24 1.2.2.1, 1.2.2.3, 1.2.2.6, & 1.2.17. *See Exhibit N*. Plaintiff is informed and believes and  
25 thereon alleges that this article was also censored under current ADC DO 914.07 at Policy  
26 Numbers 1.1, 1.2.16, & 1.2.20, despite the absence of any content in the article which  
27 “promote[s]” violence. *See id.* Plaintiff is informed and believes and thereon alleges that  
28 Defendants redacted the May 2017 issue of *Prison Legal News* without authorization from

1 PLN, and that Defendants have distributed the redacted version of this issue to at least  
2 some prisoners within ADC.

3 97. Defendants censored the June 2017 issue of *Prison Legal News* in violation  
4 of the First Amendment. A true and correct copy of the June 2017 issue is attached hereto  
5 as **Exhibit Q**. Plaintiff is informed and believes and thereon alleges that the article in the  
6 June 2017 issue to which Defendants objected is on pages 3-4 of the issue, and is entitled  
7 “Rich Defendant Rapes Child Receives Probation.” See **Exhibit Q** at 3-4. Plaintiff is  
8 informed and believes and thereon alleges that this article was censored for containing  
9 sexual content under current ADC DO 914.07 at Policy Numbers 1.1, 1.2.2.4, 1.2.2.5, &  
10 1.2.2.6. See **Exhibit N**. Plaintiff is informed and believes and thereon alleges that  
11 Defendants have not allowed the June 2017 issue to be distributed within ADC to date.

12 98. Allowing PLN to distribute publications with articles that contain a  
13 discussion of sexual acts in a non-salacious manner as part of its news reporting, such as a  
14 discussion of the facts underlying a court case, will not have any negative impact on the  
15 operation of ADC facilities or programs.

16 99. Defendants’ mail policies, practices, and customs have been used to censor  
17 PLN’s correspondence with prisoners at ADC prisons, in particular PLN’s monthly  
18 publication.

19 100. Defendants’ conduct prohibiting distribution of at least four issues of *Prison*  
20 *Legal News* in a seven month period in 2014, prohibiting distribution of at least three  
21 issues of *Prison Legal News* in a three month period in 2017, and prohibiting distribution  
22 of the PLN-distributed book *The Ceiling of America*, to prisoners confined at ADC prisons  
23 violates the First Amendment. Defendants’ policies, practices and customs censor PLN’s  
24 expressive activities and have a chilling effect on PLN’s future speech and expression  
25 directed toward inmates confined there. Defendants’ policies, practices and customs are  
26 unconstitutional both facially and as applied to PLN. Defendants’ censorship of *Prison*  
27 *Legal News* and *The Ceiling of America* serves no legitimate penological purpose.

28 101. PLN publishes and distributes content concerning the rights of prisoners and

1 the means by which they may obtain relief from unconstitutional conditions of  
2 confinement. As a result, PLN is informed and believes and thereon alleges that  
3 Defendants have retaliated against PLN by refusing to deliver PLN's written materials to  
4 inmates held at ADC prisons.

5 102. Defendants' actions have violated, continue to violate, and are reasonably  
6 expected in the future to violate PLN's constitutional rights, and have caused Plaintiff  
7 financial harm in the form of lost subscriptions and diversion of resources to address the  
8 censorship. In addition, Defendants' actions have frustrated Plaintiff's mission of  
9 education and advocacy, including the dissemination of PLN's political message, and the  
10 reporting and publishing of news regarding the human and legal rights of persons held in  
11 prisons and jails. Further, Defendants' actions have interfered with PLN's ability to recruit  
12 new donors, writers and supporters.

13 103. Defendants' actions and inactions were and are malicious, oppressive, and  
14 were and are all committed under color of law with reckless disregard to PLN's rights.

15 104. Defendants CHARLES L. RYAN, GAIL RITTENHOUSE, JEFF HOOD,  
16 ALF OLSON, JAMES RIGGS, JAMIE GUZMAN, DOES 1 to 20, and other agents of the  
17 ADC are responsible for or personally participated in creating and implementing these  
18 unconstitutional policies, practices, and customs, or for ratifying or adopting them.  
19 Further, Defendants are responsible for training and supervising the mail staff whose  
20 conduct has injured and continues to injure PLN.

21 105. Defendants' unconstitutional policies, practices, and customs are ongoing,  
22 and continue to violate PLN's rights. It is likely that Defendants will continue to censor  
23 future issues of *Prison Legal News* in violation of the First Amendment and without  
24 providing due process in violation of the Fourteenth Amendment. As such, PLN has no  
25 adequate remedy at law.

26 106. PLN is entitled to injunctive relief prohibiting Defendants from refusing to  
27 deliver its publication without any legal justification, and prohibiting Defendants from  
28 censoring mail without due process of law.

1 **CLAIMS FOR RELIEF**

2 **FIRST CLAIM FOR RELIEF**

3 **(Against all Defendants – For Violations of the First Amendment Under Color of**  
4 **State Law – Free Speech; Section 1983)**

5 107. Plaintiff realleges and incorporates herein by reference each and every  
6 allegation set forth in paragraphs 1-106.

7 108. The acts described above constitute violations of Plaintiff's rights under the  
8 First Amendment to the United States Constitution through 42 U.S.C. § 1983, and have  
9 caused and will continue to cause damages and irreparable injury to Plaintiff.

10 109. Plaintiff seeks declaratory and injunctive relief against all Defendants.

11 WHEREFORE, Plaintiff seeks relief as set forth below.

12 **SECOND CLAIM FOR RELIEF**

13 **(Against all Defendants – For Violations of the Due Process Clause of the Fourteenth**  
14 **Amendment Under Color of State Law)**

15 110. Plaintiff realleges and incorporates herein by reference each and every  
16 allegation set forth in paragraphs 1-106.

17 111. By failing to give Plaintiff sufficient notice of the censorship of its written  
18 speech, and by failing to give an opportunity to be heard with respect to that censorship,  
19 Defendants have deprived and continue to deprive Plaintiff of liberty and property without  
20 due process of law, in violation of the Fourteenth Amendment to the United States  
21 Constitution via 42 U.S.C. § 1983.

22 112. The acts described above have caused and will continue to cause damage to  
23 Plaintiff.

24 113. Plaintiff seeks declaratory and injunctive relief, as well as nominal and  
25 compensatory damages, against all Defendants.

26 114. Moreover, Plaintiff is informed, believes, and based thereon alleges that in  
27 engaging in the conduct alleged herein, the individual Defendants' actions were malicious,  
28 oppressive, and/or in reckless disregard for Plaintiff's rights, and therefore Plaintiff seeks  
exemplary and punitive damages against Defendants in their individual capacities.

1 WHEREFORE, Plaintiff seeks relief as set forth below.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff PRISON LEGAL NEWS, a project of the Human Rights  
4 Defense Center, prays for judgment against Defendants CHARLES L. RYAN, in his  
5 official capacity as Director of the Arizona Department of Corrections and in his  
6 individual capacity; GAIL RITTENHOUSE, in her official capacity as Division Director,  
7 Support Services of the Arizona Department of Corrections and in her individual capacity;  
8 JEFF HOOD, in his official capacity as Deputy Director of the Arizona Department of  
9 Corrections and in his individual capacity; ALF OLSON, in his individual capacity;  
10 JAMES RIGGS, in his official capacity as an employee of the Office of Publication  
11 Review of the Arizona Department of Corrections and his individual capacity; JAMIE  
12 GUZMAN, in her official capacity as an employee of the Office of Publication Review of  
13 the Arizona Department of Corrections; and DOES 1 to 20, inclusive, as follows:

- 14 1. A declaration that Defendants' policies, practices, and customs violate the  
15 First and Fourteenth Amendments to the United States Constitution;
  - 16 2. An order enjoining all Defendants and their employees, agents, and any and  
17 all persons acting in concert with them from further violating Plaintiff's and other senders'  
18 civil rights under the First and Fourteenth Amendments to the United States Constitution.
  - 19 3. Nominal damages for each violation of Plaintiff's rights by the Defendants.
  - 20 4. Compensatory damages in an amount to be proven at trial.
  - 21 5. Punitive damages in an amount to be proven at trial.
  - 22 6. Costs, including reasonable attorney's fees, under 42 U.S.C. § 1988 and  
23 under other applicable law.
  - 24 7. Prejudgment and post-judgment interest.
  - 25 8. Such other relief as the Court deems just and equitable.
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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial.

DATED: October 13, 2017

Respectfully submitted,

ROSEN BIEN GALVAN & GRUNFELD LLP

By: /s/ Lisa Ells

Lisa Ells

Attorneys for Plaintiff