

FRC, TERMINATED

**U.S. District Court
District of Oregon (Portland)
CIVIL DOCKET FOR CASE #: 3:98-cv-01344-MA**

Prison Legal News, et al v. Cook, et al
Assigned to: Judge Malcolm F. Marsh
Demand: \$1000
Case in other court: :00- -00000
C/A, :99- -36084
Cause: 42:1983 Civil Rights Act

Date Filed: 10/29/1998
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff**Prison Legal News**

represented by **Alison Hardy**
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ATTORNEY TO BE NOTICED

Plaintiff**Coalition for Prisoners Rights**

represented by **Alison Hardy**
(See above for address)

Marc D. Blackman

(See above for address)

Plaintiff

Michael Tucker

represented by **Sam Stiltner**
(See above for address)
LEAD ATTORNEY
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Alison Hardy
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Marc D. Blackman
(See above for address)

Plaintiff

Mark Wilson

represented by **Sam Stiltner**
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Alison Hardy
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Marc D. Blackman
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Plaintiff

Hung Le

represented by **Sam Stiltner**
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Alison Hardy
(See above for address)

Marc D. Blackman
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V.

Defendant

David S Cook
Director of Oregon Dept of Corrections

represented by **Jan Peter Londahl**
Department of Justice
Administration
100 Justice Building
Salem, OR 97310
503-378-6313
TERMINATED: 05/30/2001
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Defendant

David Schumacher
Rules/Compliance Manager of Oregon
Dept of Corrections

represented by **Jan Peter Londahl**
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Leonard W. Williamson
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Date Filed	#	Docket Text
10/29/1998	1	COMPLAINT and JURY TRIAL DEMAND re violations of civil rights (Cause Code: 42:1983cv) (Receipt # 406747) (former employee) (Entered: 10/30/1998)
10/29/1998	2	ORDER Setting Discovery Schedule discovery due 2/26/99 pretrial order due 3/29/99 (former employee) (Entered: 10/30/1998)
10/29/1998	3	SUMMONS ISSUED as to Defendant David Schumacher (former employee) (Entered: 10/30/1998)
10/29/1998	4	SUMMONS ISSUED as to Defendant David S Cook (former employee) (Entered: 10/30/1998)
11/16/1998	5	RETURN OF SERVICE EXECUTED upon Defendant David S Cook on 11/5/98 (former employee) (Entered: 11/17/1998)
11/16/1998	6	RETURN OF SERVICE EXECUTED upon Defendant David Schumacher on 11/5/98 (former employee) (Entered: 11/17/1998)
11/16/1998	7	ANSWER by Defendants David S Cook, David Schumacher to complaint [1-1] (former employee) (Entered: 11/17/1998)
11/19/1998	8	AMENDED CERTIFICATE OF SERVICE of answer [7-1] by Defendants (former employee) (Entered: 11/20/1998)

02/18/1999	9	MOTION by Defendant TO EXTEND TIME TO FILE MOTION FOR S/J (former employee) (Entered: 02/19/1999)
02/18/1999	10	AFFIDAVIT by Defendant of Jan Peter Londahl re: MOTION TO EXTEND TIME TO FILE MOTION FOR S/J [9-1] (former employee) (Entered: 02/19/1999)
02/18/1999	11	RECORD OF ORDER by Honorable Malcolm F. Marsh GRANTING Defendants MOTION TO EXTEND TIME TO FILE MOTION FOR S/J [9-1] dispositive motions due 3/26/99 (counsel notified) (former employee) (Entered: 02/22/1999)
03/25/1999	12	MOTION by Defendants FOR SUMMARY JUDGMENT (former employee) (Entered: 03/26/1999)
03/25/1999	13	MEMORANDUM IN SUPPORT by Defendants of MOTION FOR SUMMARY JUDGMENT [12-1] (former employee) (Entered: 03/26/1999)
03/25/1999	14	CONCISE STATEMENT OF MATERIAL FACTS by Defendants in support of MOTION FOR SUMMARY JUDGMENT [12-1] (former employee) (Entered: 03/26/1999)
03/29/1999	15	RECORD OF ORDER by Honorable Malcolm F. Marsh TAKING Defendants MOTION FOR SUMMARY JUDGMENT [12-1] under advisement as of 4/26/99 (counsel notified) Court Rptr none (former employee) (Entered: 03/30/1999)
04/01/1999	16	SUPPLEMENTAL ATTACHMENTS to Rich Holder's affidavit in support of Defendants MOTION FOR SUMMARY JUDGMENT [12-1] (former employee) (Entered: 04/05/1999)
04/06/1999	17	MOTION by Plaintiffs TO EXTEND TIME TO FILE RESPONSE TO Defendants MOTION FOR S/J [12-1] AND CROSS MOTION FOR S/J (former employee) (Entered: 04/07/1999)
04/06/1999	18	RECORD OF ORDER: GRANTING Plaintiffs 4/6/99 MOTION TO EXTEND TIME FOR FILING OPPOSITION TO Defendants MOTION FOR S/J AND CROSS-MOTION FOR S/J. Plaintiff deadline to file opposition extended from 4/8/99 to 5/8/99. Under advisement deadline for Defendants MOTION FOR S/J [12-1] extended from 4/26/99 to 5/26/99 by Honorable Malcolm F. Marsh (counsel notified) (former employee) (Entered: 05/05/1999)
05/04/1999	19	RECORD OF ORDER by Honorable Malcolm F. Marsh GRANTING Plaintiffs MOTION TO EXTEND TIME TO FILE RESPONSE TO Defendants MOTION FOR S/J [12-1] AND CROSS MOTION FOR S/J [17-1] Response to dispositive motions due 6/7/99 RE-SETTING Defendants MOTION FOR SUMMARY JUDGMENT [12-1] under advisement as of 6/23/99 (counsel notified) (former employee) Modified on 05/05/1999 (Entered: 05/05/1999)
05/04/1999	20	MOTION by Plaintiffs TO EXTEND TIME TO RESPOND TO Defendants MOTION FOR S/J [12-1] (former employee) Modified on

		06/28/1999 (Entered: 05/06/1999)
06/07/1999	21	NOTICE OF CROSS MOTION & CROSS MOTION by Plaintiffs FOR SUMMARY JUDGMENT (former employee) Modified on 06/28/1999 (Entered: 06/07/1999)
06/07/1999	22	MEMORANDUM IN SUPPORT by Plaintiffs of CROSS MOTION FOR SUMMARY JUDGMENT [21-1] (former employee) Modified on 06/28/1999 (Entered: 06/07/1999)
06/07/1999	22	MEMORANDUM by Plaintiffs IN OPPOSITION to Defendant's MOTION FOR SUMMARY JUDGMENT [12-1] Reply due 6/21/99; o/a requested(former employee) Modified on 06/28/1999 (Entered: 06/07/1999)
06/07/1999	23	OBJECTIONS (Articulation of) by Plaintiffs to Defendants statement [14-1] and articulation of relevant material facts(former employee) Modified on 06/28/1999 (Entered: 06/08/1999)
06/14/1999	24	MOTION by Defendants TO EXTEND TIME TO 7/19/99 TO FILE THEIR REPLY TO PLAINTIFFS RESPONSE REGARDING THEIR MOTION FOR SUMMARY JUDGMENT [12-1] (former employee) Modified on 06/28/1999 (Entered: 06/14/1999)
06/14/1999	25	AFFIDAVIT by Defendants of Jan Peter Londahl re: MOTION TO EXTEND TIME TO 7/19/99 TO FILE THEIR REPLY TO PLAINTIFFS RESPONSE REGARDING THEIR MOTION FOR SUMMARY JUDGMENT [12-1] [24-1] (former employee) Modified on 06/28/1999 (Entered: 06/14/1999)
06/14/1999	26	RECORD OF ORDER by Honorable Malcolm F. Marsh SETTING Defendants MOTION TO EXTEND TIME TO FILE THEIR REPLY TO PLAINTIFFS RESPONSE REGARDING THEIR MOTION FOR SUMMARY JUDGMENT [12-1] [24-1]; Response due 7/19/99; S/J Motion taken under advisement as of 7/23/99 (counsel notified) (former employee) Modified on 06/28/1999 (Entered: 06/15/1999)
06/25/1999	27	RECORD OF ORDER by Honorable Malcolm F. Marsh RESETTNG the taking of Defendants MOTION FOR SUMMARY JUDGMENT [12-1] & Plaintiffs CROSS MOTION FOR SUMMARY JUDGMENT [21-1] under advisement as of 7/23/99 (counsel notified) Court Rptr none (former employee) Modified on 06/28/1999 (Entered: 06/28/1999)
07/19/1999	28	OBJECTIONS by Defendants TO PLAINTIFFS' CONCISE STATEMENT [22-1] (ljl) (Entered: 07/20/1999)
07/19/1999	29	REPLY AND MEMORANDUM IN RESPONSE by Defendant to CROSS-MOTION FOR SUMMARY JUDGMENT [21-1] (ljl) (Entered: 07/20/1999)
07/19/1999	30	SUPPLEMENTAL EXHIBITS IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO PLAINTIFFS' CROSS-MOTION FOR SUMMARY JUDGMENT [12-1] (ljl) (Entered: 07/20/1999)

07/27/1999	31	MOTION by Plaintiffs TO EXTEND TIME TO FILE REPLY TO Defendants RESPONSE OPPOSING Plaintiffs CROSS-MOTION FOR S/J [29-1] (former employee) (Entered: 07/28/1999)
07/28/1999	32	RECORD OF ORDER by Honorable Malcolm F. Marsh GRANTING Plaintiffs MOTION TO EXTEND TIME TO FILE REPLY TO 8/29/99 [29-1] [31-1]; RE-SETTING Defendants MOTION FOR SUMMARY JUDGMENT [12-1] and Plaintiff's CROSS MOTION FOR SUMMARY JUDGMENT [21-1] under advisement as of 8/29/99 (counsel notified) (former employee) (Entered: 07/29/1999)
07/29/1999	33	SUPPLEMENTAL EXHIBITS in support of Defendants Motion for S/J [12-1] and in opposition to Plaintiffs cross Motion for S/J (former employee) (Entered: 07/30/1999)
07/29/1999	34	RESUBMISSION OF SUPPLEMENTAL EXHIBIT 106 (former employee) (Entered: 07/30/1999)
08/26/1999	35	REPLY TO RESPONSE by Plaintiff re CROSS MOTION FOR SUMMARY JUDGMENT [21-1] (former employee) (Entered: 08/26/1999)
08/26/1999	36	SUPPLEMENTAL EXHIBITS in support of Plaintiffs Cross Motion for S/J [21-1] and in opposition to Defendants motion for S/J (former employee) (Entered: 08/26/1999)
09/10/1999	37	MOTION by Plaintiffs FOR LEAVE TO FILE a Supplemental Affidavit and Sur-Reply Memorandum. (peg) Modified on 09/13/1999 (Entered: 09/13/1999)
09/10/1999	38	AFFIDAVIT of Alison Hardy. (peg) (Entered: 09/13/1999)
09/10/1999	39	SUR-REPLY by Plaintiffs (peg) (Entered: 09/13/1999)
09/13/1999	40	RECORD OF ORDER by Honorable Malcolm F. Marsh GRANTING Plaintiffs' MOTION TO FILE SUPPLEMENTAL AFFIDAVIT AND SUR-REPLY [37-1]; ORDER: RESETTING the parties' cross MOTIONS FOR SUMMARY JUDGMENT [12-1] & [21-1] to be taken under advisement as of 9/22/99. (counsel notified) (peg) (Entered: 09/14/1999)
09/22/1999	41	SUR-SUR-REPLY filed by Defendants. (peg) (Entered: 09/23/1999)
09/29/1999	42	OPINION AND ORDER DENYING Plaintiffs' CROSS MOTION FOR SUMMARY JUDGMENT [21-1] and GRANTING Defendants' MOTION FOR SUMMARY JUDGMENT [12-1]; Microfilmed 9/29/99; Signed 9/29/99 by Honorable Malcolm F. Marsh (counsel notified) (peg) (Entered: 09/30/1999)
09/29/1999	43	JUDGMENT: Based on the Record, IT IS ORDERED AND ADJUDGED that this Action is DISMISSED WITH PREJUDICE ; Microfilmed 9/29/99; Signed 9/29/99 Honorable Malcolm F. Marsh (counsel notified) (peg) (Entered: 09/30/1999)

10/28/1999	44	NOTICE OF APPEAL to Court of Appeals by Plaintiffs Prison Legal News, Michael Tucker, Mark Wilson, Hung Le from the court's 9/29/99 judgment [43-2] and opinion & order [42-1] Receipt # 426253. (peg) (Entered: 10/28/1999)
10/28/1999	45	REPRESENTATION STATEMENT by Plaintiffs Prison Legal News, Michael Tucker, Mark Wilson and Hung Le. (peg) (Entered: 10/28/1999)
10/28/1999		NOTIFICATION OF APPEAL mailed to Court of Appeals For the Ninth Circuit and to counsel along with copy of appealed documents and docket sheet. (peg) (Entered: 10/29/1999)
11/12/1999	46	TRANSCRIPT DESIGNATION AND ORDERING FORM filed by Appellant; NO Transcripts ordered for Appeal [44-1]. (peg) (Entered: 11/15/1999)
11/15/1999	47	NOTIFICATION by US Court of Appeals for the Ninth Circuit of Docket Number 99-36084 by Plaintiffs re: Appeal [44-1]. (peg) (Entered: 11/15/1999)
11/15/1999	48	TIME SCHEDULE ORDER from the US Court of Appeals for the Ninth Circuit re: Appeal [44-1], C/A #99-36084 Transcript order form due by 11/29/99; Transcripts filed by 12/28/99; Appellant's opening brief due by 2/14/00; Appellee's opposition brief due by 3/14/00, with the optional reply brief due no later than 14 days after service of the Appellee's brief. (peg) (Entered: 11/15/1999)
01/06/2000	49	CERTIFICATE OF RECORD transmitted to US Court of Appeals for the Ninth Circuit re: Plaintiff Prison Legal News' Appeal [44-1] filed on 10/28/99, C/A 99-36084. (peg) (Entered: 01/06/2000)
05/11/2000	50	ORDER from the US Court of Appeals for the Ninth Circuit re: Appeal [44-1] C/A #99-36084 extending the due date for appellees' brief to 6/26/00, with optional reply brief due 14 days from service of the answering brief. (peg) (Entered: 05/11/2000)
10/05/2000		CLERK'S RECORD on appeal (entire original file) transmitted to US Court of Appeals for the Ninth Circuit regarding CA 99-36084 [44-1] (kw) (Entered: 10/05/2000)
03/26/2001	51	MANDATE/JUDGMENT from USCA REVERSING AND REMANDING the Decision of the District Court re: CA 99-36084 [Appeal [44-1]; Bill of Costs entered 3/20/2001 AGAINST Defendants-Appellees in the amount of \$426.75 (kw) (Entered: 04/02/2001)
04/04/2001		CLERK'S RECORD on appeal (entire original file) returned from US Court of Appeals for the Ninth Circuit regarding CA 99-36084 [44-1] (kw) (Entered: 04/04/2001)
05/02/2001	52	RECORD OF ORDER by Honorable Malcolm F. Marsh GRANTING Plaintiff's letter request for extension of time to submit a form of judgment and petition for attorney fees; Plaintiffs shall submit the foregoing documents by 5/7/01; Defendants shall file their response within 15 days thereafter (counsel notified) (kw) (Entered: 05/02/2001)

05/02/2001	53	RECORD OF ORDER by Honorable Malcolm F. Marsh: Plaintiffs' Attorney Fee Application and proposed Judgment shall be filed/submitted by 6/7/2001 (counsel notified) (kw) (Entered: 05/02/2001)
05/08/2001	54	RECORD OF ORDER by Honorable Malcolm F. Marsh CLARIFYING conflicting minute orders [53-1], [52-1]: Plaintiff's letter request for extension of time to submit a form of judgment and petition for attorney fees is GRANTED; Plaintiffs shall submit the foregoing documents on or before 6/7/2001; Defendants shall file their response within 15 days thereafter (counsel notified) (kw) (Entered: 05/08/2001)
05/30/2001	55	NOTICE OF SUBSTITUTION OF COUNSEL; Assistant State Attorney General Leonard W Williamson replacing Assistant State Attorney General Jan Peter Londahl for Defendants David Schumacher & David S Cook (document is not signed) (kw) Modified on 06/01/2001 (Entered: 05/30/2001)
06/01/2001	56	NOTICE OF SUBSTITUTION OF COUNSEL; Assistant State Attorney General Leonard W Williamson replacing Assistant State Attorney General Jan Peter Londahl as counsel for State Defendants David S Cook and David Schumacher (signed document) (kw) (Entered: 06/01/2001)
06/05/2001	57	MOTION by Plaintiffs FOR ATTORNEY FEES (in the amount of \$59,510.50 and related expenses of \$1,436.47) (kw) (Entered: 06/07/2001)
06/05/2001	58	MEMORANDUM OF LAW IN SUPPORT by Plaintiffs of MOTION FOR ATTORNEY FEES [57-1] (kw) (Entered: 06/07/2001)
06/05/2001	59	DECLARATION by Plaintiffs of Alison Hardy IN SUPPORT OF MOTION FOR ATTORNEY FEES [57-1] (kw) (Entered: 06/07/2001)
06/05/2001	60	DECLARATION by Plaintiffs of Marc Blackman IN SUPPORT OF MOTION FOR ATTORNEY FEES [57-1] (kw) (Entered: 06/07/2001)
06/05/2001	61	DECLARATION by Plaintiffs of Samuel L Stiltner IN SUPPORT OF MOTION FOR ATTORNEY FEES [57-1] (kw) (Entered: 06/07/2001)
06/05/2001	62	CERTIFICATE OF SERVICE of MOTION FOR ATTORNEY FEES [57-1], memorandum of law in support [58-1], declaration of Alison Hardy [59-1], declaration of Marc Blackman [60-1], and declaration of Samuel J Stiltner [61-1] by Plaintiffs (kw) (Entered: 06/07/2001)
06/11/2001	63	RECORD OF ORDER by Honorable Malcolm F. Marsh SETTING Plaintiff's MOTION FOR ATTORNEY FEES [57-1] for under advisement as of 7/5/01 (counsel notified) (kw) (Entered: 06/11/2001)
06/22/2001	64	RESPONSE (filed as REPLY) by Defendants to PLAINTIFF'S MOTION FOR ATTORNEY FEES [57-1]: Reply due 7/6/01 (tomg) (Entered: 06/25/2001)
06/22/2001	65	MEMORANDUM IN SUPPORT by Defendants of RESPONSE TO PLAINTIFF'S MOTION FOR ATTORNEY FEES [64-1] (tomg)

		(Entered: 06/25/2001)
06/22/2001	66	REPLY by Defendants to Plaintiff's Request for Injunction/Judgment (ljl) (Entered: 06/26/2001)
07/05/2001	67	REPLY by Plaintiffs TO OBJECTIONS TO PROPOSED INJUNCTION; Request for Oral Argument (kw) (Entered: 07/05/2001)
07/05/2001	68	REPLY TO OBJECTIONS by Plaintiffs TO REQUEST FOR ATTORNEY FEES [57-1] (kw) (Entered: 07/05/2001)
07/05/2001	69	CERTIFICATE OF SERVICE of MOTION reply [68-1], & reply [67-1] by Plaintiffs (kw) (Entered: 07/05/2001)
08/07/2001	70	OPINION AND ORDER GRANTING Plaintiffs' MOTION FOR ATTORNEY FEES [57-1]; Plaintiffs may recover \$58,059.47 in fees and expenses; (See formal 7-page Opinion and Order); Signed 8/6/01 by Honorable Malcolm F. Marsh (microfilmed 8/8/01) (counsel notified) (kw) (Entered: 08/08/2001)
08/07/2001	71	JUDGMENT ON REMAND; Based on the record on remand from the Court of Appeals [51-1], IT IS HEREBY ORDERED, ADJUDGED AND DECLARED that Oregon Administrative Rule (OAR) 291-131-0025(8) (1998), pursuant to which the Oregon Department of Corrections prohibits all incoming mail at institutions under its management except express mail, priority mail, first class mail or periodicals mail, is unconstitutional as applied to subscription non-profit organizations mail; IT IS FURTHER ORDERED that Defendants are PERMANENTLY ENJOINED from enforcing OAR 291-131-0025(8) (1998) or any other rule that prohibits inmates at institutions under the management of the Oregon Department of Corrections from receiving subscription non-profit organization mail mailed at standard mail rates; IT IS FURTHER ORDERED that upon rejection of any item of subscription non-profit organization mail mailed at standard mail rates, Defendants shall afford the sender and the intended recipient notice and opportunity to contest the rejection; IT IS FURTHER ORDERED that Plaintiffs are entitled to an award of attorney fees and expenses in the amount of \$58,059.47; Signed 8/7/01 (microfilmed 8/8/01) Honorable Malcolm F. Marsh (counsel notified) (kw) (Entered: 08/08/2001)
01/31/2003		CASE FILE SENT TO THE FRC Accession number 21-03-0030 Location number 1049179 Box 79 of 454 (ljl) Modified on 01/31/2003 (Entered: 01/31/2003)

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