

CLOSED,JURY

**U.S. District Court
Eastern District of Virginia – (Norfolk)
CIVIL DOCKET FOR CASE #: 2:13-cv-00424-MSD-TEM**

Prison Legal News v. Stolle et al
Assigned to: District Judge Mark S. Davis
Referred to: Magistrate Judge Tommy E. Miller
Case in other court: 4CCA Case Manager Barbara H. Rowe,
15-02197

Date Filed: 07/31/2013
Date Terminated: 09/08/2015
Jury Demand: Both
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Cause: 42:1983 Prisoner Civil Rights

Plaintiff

Prison Legal News
*a project of the Human Rights Defense
Center*

represented by **Jeffrey E. Fogel**
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TERMINATED: 09/10/2014
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Steven David Rosenfield
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Defendant

Ken Stolle
*Sheriff for Virginia Beach, Virginia, sued
in his official and individual capacity*

represented by **Jeff Wayne Rosen**
Pender & Coward PC
222 Central Park Ave
Suite 400
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

John Does 1–10
TERMINATED: 03/26/2014

Defendant

G Havens represented by **Jeff Wayne Rosen**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

V Ogden represented by **Jeff Wayne Rosen**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

A Torno represented by **Jeff Wayne Rosen**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

V Harris represented by **Jeff Wayne Rosen**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

M Brittingham represented by **Jeff Wayne Rosen**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Matthew Wilson represented by **Jeff Wayne Rosen**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

E Rodriguez represented by **Jeff Wayne Rosen**
 (See above for address)
LEAD ATTORNEY
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Defendant

Darlene Moore represented by **Jeff Wayne Rosen**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/30/2013	<u>1</u>	COMPLAINT against John Does 1–10, Ken Stolle (Filing fee \$ 400, receipt number 24683020313.), filed by Prison Legal News. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Letter, # <u>3</u> Receipt)(afar) (Entered: 07/31/2013)

07/30/2013	<u>2</u>	Financial Interest Disclosure Statement (Local Rule 7.1) by Prison Legal News. (afar) (Entered: 07/31/2013)
07/31/2013	<u>3</u>	Summons Issued as to Ken Stolle. (afar) (Entered: 07/31/2013)
08/14/2013	<u>4</u>	NOTICE of Appearance by Jeff Wayne Rosen on behalf of Ken Stolle (Rosen, Jeff) (Entered: 08/14/2013)
08/23/2013	<u>5</u>	AGREED ORDER that defendant Stolle has until 9/16/13 to file his response to the complaint. Signed by District Judge Mark S. Davis on 8/23/13. (afar) (Entered: 08/27/2013)
09/11/2013	<u>6</u>	ANSWER to <u>1</u> Complaint <i>and Affirmative Defenses</i> by Ken Stolle.(Rosen, Jeff) (Entered: 09/11/2013)
09/12/2013		Refer for 16(b) (afar) (Entered: 09/12/2013)
09/13/2013	<u>7</u>	First Motion to appear Pro Hac Vice by Lance Weber and Certification of Local Counsel Jeffrey E. Fogel Filing fee \$ 75, receipt number 0422-3667652. by Prison Legal News. (Fogel, Jeffrey) (Entered: 09/13/2013)
09/16/2013		Notice of Correction re <u>7</u> First Motion to appear Pro Hac Vice by Lance Weber and Certification of Local Counsel Jeffrey E. Fogel: The document does not contain the signature of the applicant. Local counsel must file a corrected motion and attach a new document with the actual written signature of the applicant. Counsel should not pay a second fee. (tlev,) (Entered: 09/16/2013)
09/20/2013	<u>8</u>	Motion to appear Pro Hac Vice by Lance Weber and Certification of Local Counsel Jeffrey E. Fogel by Prison Legal News. (Fogel, Jeffrey) (Entered: 09/20/2013)
09/23/2013	<u>9</u>	ORDER granting <u>8</u> Motion for Pro hac vice for Lance Theodore Weber as to Prison Legal News. Signed by District Judge Mark S. Davis on 09/23/13. (tlev,) (Entered: 09/25/2013)
10/15/2013	<u>10</u>	RULE 26(f) PRETRIAL ORDER: 16(b) Scheduling Conference set for 10/28/2013 at 09:00 AM in Norfolk. Signed by Magistrate Judge Douglas E. Miller on 10/8/13, filed 10/15/13. (vwar) (Entered: 10/15/2013)
10/28/2013		Scheduling Conference – Rule 16b held on 10/28/2013. (vwar) (Entered: 10/28/2013)
10/29/2013	<u>11</u>	Order Rule 16(b) Scheduling Order – Pursuant to the Rule 16(b) Conference it is ordered that the Final Pretrial Conference set for 6/13/2014 at 11:00 AM in Norfolk. Jury Trial set for 6/24/2014 at 10:00 AM in Norfolk Courtroom 5 before District Judge Mark S. Davis. Signed by District Judge Mark S. Davis on 10/28/13, filed 10/29/13. (vwar) (Entered: 10/29/2013)
11/04/2013		Settlement Conference set for 2/11/2014 at 11:00 AM in Chambers before Magistrate Judge Douglas E. Miller. (lwoo) (Entered: 11/04/2013)
02/05/2014		Reset Hearings: Settlement Conference set for 4/10/2014 at 11:00 AM in Chambers before Magistrate Judge Douglas E. Miller. (cdod,) (Entered: 02/05/2014)
02/05/2014	<u>12</u>	Settlement Conference Order that all parties and their lead counsel are required to appear at the U.S. District Court, 600 Granby Street, Norfolk, VA at 11:00 a.m. on 4/10/2014 for the purpose of conducting discussions towards a compromised resolution of this case; EACH PARTY MUST BRING TO THE SETTLEMENT CONFERENCE A PERSON WITH FULL AND COMPLETE AUTHORITY TO SETTLE THE CASE; directing the parties to submit a brief memorandum of five pages or less to chambers (do not file in the clerk's office) on 4/8/2014 by noon. (See Order for Specifics). Signed by Magistrate Judge Douglas E. Miller on 2/5/14. (afar) (Entered: 02/05/2014)
02/17/2014	<u>13</u>	First MOTION to Amend/Correct <i>Complaint</i> by Prison Legal News. (Fogel, Jeffrey) (Entered: 02/17/2014)
02/17/2014	<u>14</u>	Brief in Support to <u>13</u> First MOTION to Amend/Correct <i>Complaint</i> filed by Prison Legal News. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D)(Fogel, Jeffrey) (Entered: 02/17/2014)

03/17/2014		Set/Reset Deadlines as to <u>13</u> First MOTION to Amend/Correct <i>Complaint</i> . Telephonic Motion Hearing set for 3/24/2014 at 02:00 PM in Chambers before Magistrate Judge Douglas E. Miller. (afor) (Entered: 03/17/2014)
03/24/2014	<u>15</u>	Minute Entry for telephonic motion hearing re <u>13</u> First MOTION to Amend held 3/24/14 before Magistrate Judge Douglas E. Miller. Jeffrey Fogel appeared on behalf of Plaintiff. Jeff Rosen appeared on behalf of Defendant Stolle. Argument of counsel heard. Comments of the Court. Court GRANTS the Motion to Amend. Court to prepare Order. Court in recess. (Court Reporter Janet Collins, OCR.)(lwoo) (Entered: 03/24/2014)
03/24/2014	<u>16</u>	ORDER granting <u>13</u> Motion to Amend/Correct The Court GRANTS Plaintiff's Motion for Leave to File Amended Complaint. Plaintiff is DIRECTED to refile the Amended Complaint (ECF No. 14-1) by CM/ECF and prepare the appropriate service copies and summonses for service on the eight newly-identified defendants, and deliver the copies and summonses to the Clerk's Office of this Court to be prepared for service. The Defendant, Ken Stolle, Sheriff for Virginia Beach, shall respond to the Amended Complaint within fourteen (14) days from the date of service through CM/ECF. IT IS SO ORDERED. Signed by Magistrate Judge Douglas E. Miller and filed on 3/24/14. Copies distributed to all parties 3/25/14. (ldab,) (Entered: 03/25/2014)
03/26/2014	<u>17</u>	AMENDED COMPLAINT against All Defendants, filed by Prison Legal News.(Fogel, Jeffrey) (Entered: 03/26/2014)
03/31/2014	<u>18</u>	Eight Summons Issued as to M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson and mailed to counsel for service. (Attachments: # <u>1</u> Magistrate Notice and Judge's Instructions)(bgra) (Entered: 03/31/2014)
04/03/2014	<u>19</u>	MOTION to Continue by Ken Stolle. (Rosen, Jeff) (Entered: 04/03/2014)
04/03/2014	<u>20</u>	Memorandum in Support re <u>19</u> MOTION to Continue filed by Ken Stolle. (Rosen, Jeff) (Entered: 04/03/2014)
04/04/2014	<u>21</u>	Memorandum in Opposition re <u>19</u> MOTION to Continue filed by Prison Legal News. (Fogel, Jeffrey) (Entered: 04/04/2014)
04/07/2014	<u>22</u>	RESPONSE in Opposition re <u>19</u> MOTION to Continue <i>Defendant Stolle's Reply to Plaintiff's Opposition to Motion to Continue</i> filed by Ken Stolle. (Rosen, Jeff) (Entered: 04/07/2014)
04/07/2014	<u>23</u>	ANSWER to Complaint <i>Defendant Sheriff Kenneth W. Stolle's Answer to First Amended Complaint</i> by Ken Stolle.(Rosen, Jeff) (Entered: 04/07/2014)
04/07/2014	<u>24</u>	ORDER: The settlement conference is hereby REMOVED from the docket and Counsel only are DIRECTED to appear by telephone at 11:00 a.m. on April 10, 2014 for a status conference to discuss the need for newly added parties to participate, and to reschedule the conference, if necessary. Signed by Magistrate Judge Douglas E. Miller and filed on 4/7/2014. (bgra) (Entered: 04/07/2014)
04/08/2014		Set as to <u>19</u> MOTION to Continue . Motion Hearing/ telephone conference set for 4/10/2014 at 11:00 AM before Magistrate Judge Douglas E. Miller. (cdod,) (Entered: 04/08/2014)
04/09/2014	<u>25</u>	NOTICE of Appearance by Jeff Wayne Rosen on behalf of M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Matthew Wilson (Rosen, Jeff) (Entered: 04/09/2014)
04/10/2014	<u>26</u>	Minute Entry for proceedings held before Magistrate Judge Douglas E. Miller:Motion Hearing held on 4/10/2014 re <u>19</u> MOTION to Continue filed by Ken Stolle. Matter came on for telephone conference on pending motion to continue trial (#19). Present by telephone were Jeffrey Fogel on behalf of the plaintiff and Jeff Rosen on behalf of the defendants. It appears that Mr. Rosen has now made an appearance on behalf of all new defendants with the exception of A. Torno. There may not be proper service as to Ms. Torno, and she is not currently represented. Mr. Fogel argues why the case would not need to be continued and Mr. Rosen responds. The Court made rulings on the record.The motion to continue is GRANTED. The trial and final pretrial conference in this matter are removed from the calendar. Counsel are directed to contact the

		courtroom deputy for Judge Davis to reschedule these dates no later than ten days after the last defendant has filed an answer or other responsive pleading. After the trial date is reset a revised 16b order will be prepared. The Court directs counsel to confer with their clients regarding a settlement conference in late May or early June and to contact the court by May 5, 2014 to set a settlement conference to be held in person. The Court directs that each party shall be represented by someone with true settlement authority at the conference. An order will be prepared in this matter. (Court Reporter Janet Collins, OCR.)(cdod,) (Entered: 04/11/2014)
04/11/2014	<u>27</u>	ORDER granting <u>19</u> Motion to Continue. The trial date of June 24,2014 and the Final Pretrial Date of June 13, 2014 are REMOVED from the Court's docket and the parties are DIRECTED to contact the District Judge's Courtroom Deputy no later than 10 days after the last Defendant has answered, or otherwise responded to the Complaint, to select a new trial date. Signed by Magistrate Judge Douglas E. Miller and filed on 4/10/2014. (bgra) (Entered: 04/11/2014)
04/18/2014	<u>28</u>	ANSWER to Complaint by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Matthew Wilson.(Rosen, Jeff) (Entered: 04/18/2014)
04/22/2014	<u>30</u>	One Summons with one copy reissued as to A. Torno and mailed to counsel for service. (Attachments: # <u>1</u> Magistrate Judge Notice and Judge's Instructions)(bgra) (Entered: 04/25/2014)
04/25/2014	<u>29</u>	Amended Order Rule 16(b) Scheduling Order – Pursuant to the Rule 16(b) Conference it is ordered that the Final Pretrial Conference reset for 11/14/2014 at 10:00 AM in Norfolk. Jury Trial reset for 12/2/2014 at 10:00 AM in Norfolk Courtroom 5 before District Judge Mark S. Davis. Signed by District Judge Mark S. Davis on 4/24/14, filed 4/25/14. (vwar) (Entered: 04/25/2014)
05/02/2014		Settlement Conference set for 5/28/2014 at 02:00 PM in Chambers before Magistrate Judge Douglas E. Miller. (lwoo) (Entered: 05/02/2014)
05/02/2014	<u>31</u>	Settlement Conference Order. Signed by Magistrate Judge Douglas E. Miller on 5/2/14 and filed on 5/2/14. (tbro) (Entered: 05/02/2014)
05/06/2014	<u>32</u>	ANSWER to Complaint <i>Answer of Defendant A. Torno to First Amended Complaint</i> by A Torno.(Rosen, Jeff) (Entered: 05/06/2014)
05/14/2014	<u>33</u>	Motion to appear Pro Hac Vice by Robert Erle Jack and Certification of Local Counsel Jeffrey E. Fogel Filing fee \$ 75, receipt number 0422-3963141. by Prison Legal News. (Fogel, Jeffrey) (Entered: 05/14/2014)
05/16/2014	<u>34</u>	ORDER granting <u>33</u> Motion for Pro hac vice for Robert Erle Jack as to Prison Legal News. Signed by District Judge Mark S. Davis on 05/16/14. (tlev,) (Entered: 05/19/2014)
05/20/2014	<u>35</u>	MOTION for Summary Judgment <i>on Plaintiff's First Amendment claims</i> by Prison Legal News. (Fogel, Jeffrey) (Entered: 05/20/2014)
05/20/2014	<u>36</u>	Memorandum in Support re <u>35</u> MOTION for Summary Judgment <i>on Plaintiff's First Amendment claims</i> filed by Prison Legal News. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Exhibit Exhibit E, # <u>6</u> Exhibit Exhibit F, # <u>7</u> Exhibit Exhibit G, # <u>8</u> Exhibit Exhibit H)(Fogel, Jeffrey) (Entered: 05/20/2014)
05/20/2014	<u>37</u>	AFFIDAVIT in Support re <u>35</u> MOTION for Summary Judgment <i>on Plaintiff's First Amendment claims</i> filed by Prison Legal News. (Fogel, Jeffrey) (Entered: 05/20/2014)
05/21/2014	<u>38</u>	AFFIDAVIT in Support re <u>35</u> MOTION for Summary Judgment <i>on Plaintiff's First Amendment claims</i> filed by Prison Legal News. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Exhibit Exhibit 3, Part 1, # <u>4</u> Exhibit Exhibit 3, Part 2)(Fogel, Jeffrey) (Entered: 05/21/2014)
05/21/2014	<u>39</u>	EXHIBIT <i>to Wright Declaration</i> by Prison Legal News.. (Attachments: # <u>1</u> Exhibit Exhibit 3, Part 4, # <u>2</u> Exhibit Exhibit 3, Part 5)(Fogel, Jeffrey) (Entered: 05/21/2014)
05/21/2014	<u>40</u>	EXHIBIT <i>to Wright Declaration</i> by Prison Legal News.. (Attachments: # <u>1</u> Exhibit Exhibit 3, Part 7, # <u>2</u> Exhibit Exhibit 3, Part 8)(Fogel, Jeffrey) (Entered: 05/21/2014)

05/21/2014	<u>41</u>	EXHIBIT to <i>Wright Declaration</i> by Prison Legal News.. (Attachments: # <u>1</u> Exhibit Exhibit 3, Part 10, # <u>2</u> Exhibit Exhibit 3, Part 11)(Fogel, Jeffrey) (Entered: 05/21/2014)
05/21/2014	<u>42</u>	EXHIBIT to <i>Wright Declaration</i> by Prison Legal News.. (Attachments: # <u>1</u> Exhibit Exhibit 3, Part 13, # <u>2</u> Exhibit Exhibit 3, Part 14)(Fogel, Jeffrey) (Entered: 05/21/2014)
05/21/2014	<u>43</u>	EXHIBIT to <i>Wright Declaration</i> by Prison Legal News.. (Attachments: # <u>1</u> Exhibit Exhibit 5, # <u>2</u> Exhibit Exhibit 6, # <u>3</u> Exhibit Exhibit 7, # <u>4</u> Exhibit Exhibit 8, # <u>5</u> Exhibit Exhibit 9)(Fogel, Jeffrey) (Entered: 05/21/2014)
05/23/2014	<u>44</u>	MOTION for Extension of Time to File Response/Reply as to <u>35</u> MOTION for Summary Judgment on <i>Plaintiff's First Amendment claims</i> by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Attachments: # <u>1</u> Exhibit A)(Rosen, Jeff) (Entered: 05/23/2014)
05/23/2014	<u>45</u>	Memorandum in Support re <u>44</u> MOTION for Extension of Time to File Response/Reply as to <u>35</u> MOTION for Summary Judgment on <i>Plaintiff's First Amendment claims</i> filed by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Attachments: # <u>1</u> Exhibit A)(Rosen, Jeff) (Entered: 05/23/2014)
05/27/2014		MOTIONS REFERRED to Magistrate Judge: Douglas E. Miller. <u>44</u> MOTION for Extension of Time to File Response/Reply as to <u>35</u> MOTION for Summary Judgment on <i>Plaintiff's First Amendment claims</i> (bgra) (Entered: 05/27/2014)
05/28/2014	<u>46</u>	AGREED ORDER granting <u>44</u> Motion for Extension of Time to File Response to the Motion for Partial Summary Judgment. It is ORDERED that defendants' time to respond be extended to 6/16/2014. Signed by Magistrate Judge Douglas E. Miller on 5/28/14. (afar) (Entered: 05/28/2014)
05/28/2014	<u>47</u>	ORDER DIRECTING the Clerk to assign this case to another Magistrate Judge in this division for purposes of resolving nondispositive or pretrial matters ordinarily referred to magistrate judges in this court. The undersigned shall remain available to the parties for further settlement discussions and conferences as necessary. Signed by Magistrate Judge Douglas E. Miller on 5/28/14. (afar) (Entered: 05/28/2014)
05/28/2014		Case Reassigned to Magistrate Judge Tommy E. Miller. Magistrate Judge Douglas E. Miller no longer assigned to the case. (afar) (Entered: 05/28/2014)
05/28/2014		Settlement Conference held on 5/28/2014 before Magistrate Judge Douglas E. Miller. (lwo) (Entered: 05/29/2014)
06/16/2014	<u>48</u>	Memorandum in Opposition re <u>35</u> MOTION for Summary Judgment on <i>Plaintiff's First Amendment claims</i> filed by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 7-1, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 9-2, # <u>12</u> Exhibit 10, # <u>13</u> Exhibit 11, # <u>14</u> Exhibit 12, # <u>15</u> Exhibit 13, # <u>16</u> Exhibit 14, # <u>17</u> Exhibit 14-1, # <u>18</u> Exhibit 14-2, # <u>19</u> Exhibit 14-3, # <u>20</u> Exhibit 15, # <u>21</u> Exhibit 16, # <u>22</u> Exhibit 17, # <u>23</u> Exhibit 18, # <u>24</u> Exhibit 19, # <u>25</u> Exhibit 20)(Rosen, Jeff) (Entered: 06/16/2014)
06/16/2014	<u>49</u>	MOTION for Summary Judgment <i>Defendants' Motion for Summary Judgment</i> by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Rosen, Jeff) (Entered: 06/16/2014)
06/16/2014	<u>50</u>	Memorandum in Support re <u>49</u> MOTION for Summary Judgment <i>Defendants' Motion for Summary Judgment</i> filed by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 7-1, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 9-2, # <u>12</u> Exhibit 10, # <u>13</u> Exhibit 11, # <u>14</u> Exhibit 12, # <u>15</u> Exhibit 13, # <u>16</u> Exhibit 14, # <u>17</u> Exhibit 14-1, # <u>18</u> Exhibit 14-2, # <u>19</u> Exhibit 14-3, # <u>20</u> Exhibit 15, # <u>21</u> Exhibit 16, # <u>22</u> Exhibit 17, # <u>23</u> Exhibit 18, # <u>24</u> Exhibit 19, # <u>25</u> Exhibit 20)(Rosen, Jeff) (Entered: 06/16/2014)

06/16/2014	<u>51</u>	Request for Hearing by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson re <u>49</u> MOTION for Summary Judgment <i>Defendants' Motion for Summary Judgment</i> (Rosen, Jeff) (Entered: 06/16/2014)
06/23/2014	<u>52</u>	REPLY to Response to Motion re <u>35</u> MOTION for Summary Judgment <i>on Plaintiff's First Amendment claims</i> , <u>49</u> MOTION for Summary Judgment <i>Defendants' Motion for Summary Judgment</i> , Memorandum in Opposition to <i>Defendants' Motion for Summary Judgment</i> filed by Prison Legal News. (Attachments: # <u>1</u> Exhibit Exhibit I, # <u>2</u> Exhibit Exhibit J)(Fogel, Jeffrey) (Entered: 06/23/2014)
06/23/2014	<u>53</u>	EXHIBIT <i>K</i> by Prison Legal News.. (Fogel, Jeffrey) (Entered: 06/23/2014)
06/23/2014	<u>54</u>	EXHIBIT <i>L</i> by Prison Legal News.. (Fogel, Jeffrey) (Entered: 06/23/2014)
06/23/2014	<u>55</u>	EXHIBIT <i>M</i> by Prison Legal News.. (Fogel, Jeffrey) (Entered: 06/23/2014)
06/23/2014	<u>56</u>	AFFIDAVIT in Opposition re <u>49</u> MOTION for Summary Judgment <i>Defendants' Motion for Summary Judgment</i> filed by Prison Legal News. (Fogel, Jeffrey) (Entered: 06/23/2014)
06/24/2014	<u>57</u>	EXHIBIT <i>M(2)</i> by Prison Legal News.. (Fogel, Jeffrey) (Entered: 06/24/2014)
06/27/2014	<u>58</u>	REPLY to Response to Motion re <u>49</u> MOTION for Summary Judgment <i>Defendants' Motion for Summary Judgment</i> filed by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Rosen, Jeff) (Entered: 06/27/2014)
08/11/2014	<u>59</u>	First MOTION to Withdraw as Attorney by Prison Legal News. (Fogel, Jeffrey) (Entered: 08/11/2014)
08/12/2014		MOTION REFERRED to Magistrate Judge Tommy E. Miller. <u>59</u> First MOTION to Withdraw as Attorney (ldab,) (Entered: 08/12/2014)
09/10/2014	60	ORDER granting <u>59</u> Motion to Withdraw as Attorney. Attorney Robert Erle Jack terminated. Signed by Magistrate Judge Tommy E. Miller on 9/10/2014. (Miller, Tommy) (Entered: 09/10/2014)
10/29/2014	<u>61</u>	First MOTION to Continue <i>Trial date for 90 days</i> by Prison Legal News. (Attachments: # <u>1</u> Affidavit Declaration of Jeffrey E. Fogel)(Fogel, Jeffrey) (Entered: 10/29/2014)
11/03/2014	<u>62</u>	Consent MOTION to Continue <i>Trial</i> by Prison Legal News. (Rosenfield, Steven) (Entered: 11/03/2014)
11/03/2014	63	ORDER granting <u>62</u> Plaintiff's Renewed Consent Motion for Continuance of Trial. Trial is continued to April 14, 2015. Signed by District Judge Mark S. Davis on 11/03/2014. (Davis, Mark) (Entered: 11/03/2014)
11/03/2014	64	ORDER finding as moot <u>61</u> Motion to Continue Trial based on the Court's ruling on ECF No. 62. Signed by District Judge Mark S. Davis on 11/03/2014. (Davis, Mark) (Entered: 11/03/2014)
11/05/2014		Final Pretrial Conference reset for 5/1/2015 at 10:00 AM in Norfolk. Jury Trial reset for 5/20/2015 at 10:00 AM in Norfolk Courtroom 5 before District Judge Mark S. Davis. (vwar) (Entered: 11/05/2014)
12/08/2014	<u>65</u>	OPINION AND ORDER re <u>35</u> MOTION for Summary Judgment <i>on Plaintiff's First Amendment claims</i> filed by Prison Legal News, <u>49</u> MOTION for Summary Judgment <i>Defendants' Motion for Summary Judgment</i> filed by V Ogden, Matthew Wilson, M Brittingham, E Rodriguez, A Torno, Darlene Moore, Ken Stolle, G Havens, V Harris. The Court TAKES UNDER ADVISEMENT the parties' cross motions for summary judgment as to the constitutionality of Defendants' "sexually explicit materials" policy in order to permit additional briefing on such subject. As to the cross motions for summary judgment on Defendants' "ordering form policy," Defendants' motion is GRANTED and Plaintiff's motion is DENIED. The Court GRANTS Defendants' motion for summary judgment to the extent Defendants invoke the doctrine of qualified immunity as to both the ordering form ban and sexually explicit materials ban. All other arguments in support of summary judgment contained in the cross

		<p>motions are DENIED. Counsel for both parties are INSTRUCTED to meet and confer in person within 21 days of the issuance of this Opinion and Order to discuss whether the resumption of the settlement conference previously conducted in this case would prove fruitful. The parties shall file with the Court, jointly or separately, a "status update" no later than Wednesday, January 7, 2015, indicating their position on whether a briefing schedule should be set by the Court for supplemental summary judgment briefs or whether the parties would prefer to resume settlement discussions with a Magistrate Judge prior to being ordered to submit further briefing on the issue of summary judgment. Copies distributed as directed on 12/9/2014. Signed by District Judge Mark S. Davis on 12/8/2014 and filed on 12/8/2014. (bgra) (Entered: 12/09/2014)</p>
12/30/2014	<u>66</u>	<p>NOTICE by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson re <u>65</u> Order (Attachments: # <u>1</u> Exhibit A)(Rosen, Jeff) (Entered: 12/30/2014)</p>
01/05/2015	<u>67</u>	<p>ORDER: It is ORDERED that the time for counsel to meet and confer be extended to January 8, 2015; It is further ORDERED that parties shall file with the Court, jointly or separately, a "status update" no later than January 15, 2015, indicating their position on whether a briefing schedule should be set by the Court for supplemental summary judgment briefs or whether the parties would prefer to resume settlement discussions with a Magistrate Judge prior to being ordered to submit further briefing on the issue of summary. Signed by District Judge Mark S. Davis on 1/5/2014. (bgra) (Entered: 01/06/2015)</p>
01/12/2015	<u>68</u>	<p>Letter <i>Status update</i>. (Rosen, Jeff) (Entered: 01/12/2015)</p>
01/13/2015	<u>69</u>	<p>Letter <i>Status update</i>. (Rosenfield, Steven) (Entered: 01/13/2015)</p>
01/16/2015		<p>Settlement Conference set for 1/23/2015 at 02:00 PM in Norfolk Judges Chamber before Magistrate Judge Douglas E. Miller. (lwoo) (Entered: 01/16/2015)</p>
01/21/2015	<u>70</u>	<p>Settlement Conference Order. Signed by Magistrate Judge Douglas E. Miller on 1/16/2015. (bgra) (Entered: 01/21/2015)</p>
01/23/2015		<p>Minute Entry for proceedings held before Magistrate Judge Douglas E. Miller:Continuation of Settlement Conference held on 1/23/2015. (cdod,) (Entered: 01/23/2015)</p>
02/03/2015	<u>71</u>	<p>ORDER: Plaintiff and Defendants are instructed to file a supplemental summary judgment brief on this issue no later than February 25, 2015. Reply briefs, if any, shall be filed no later than March 4, 2015. (See order for Specifics). Signed by District Judge Mark S. Davis on 2/3/2015. (bgra) (Entered: 02/04/2015)</p>
02/06/2015	<u>72</u>	<p>First MOTION Leave to file second partial summary judgment <i>on due process claims</i> by Prison Legal News. (Fogel, Jeffrey) (Entered: 02/06/2015)</p>
02/06/2015	<u>73</u>	<p>Brief in Support to <u>72</u> First MOTION Leave to file second partial summary judgment <i>on due process claims</i> filed by Prison Legal News. (Fogel, Jeffrey) (Entered: 02/06/2015)</p>
02/23/2015	74	<p>ORDER granting <u>72</u> Plaintiffs' Motion for Leave to File Second Summary Judgment Motion. Signed by District Judge Mark S. Davis on 02/23/2015. (Davis, Mark) (Entered: 02/23/2015)</p>
02/25/2015	<u>75</u>	<p>Brief in Support to <u>36</u> Memorandum in Support, <i>Supplemental</i> filed by Prison Legal News. (Attachments: # <u>1</u> Exhibit Exhibit A)(Fogel, Jeffrey) (Entered: 02/25/2015)</p>
02/25/2015	<u>76</u>	<p>Brief in Support to <u>48</u> Memorandum in Opposition,, <i>Defendants' Supplemental Brief Re Sexuality Explicit Materials Policy</i> filed by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Rosen, Jeff) (Entered: 02/25/2015)</p>
03/02/2015	<u>77</u>	<p>Second MOTION for Summary Judgment <i>on due process claims</i> by Prison Legal News. (Fogel, Jeffrey) (Entered: 03/02/2015)</p>

03/02/2015	<u>78</u>	Memorandum in Support re <u>77</u> Second MOTION for Summary Judgment <i>on due process claims</i> filed by Prison Legal News. (Fogel, Jeffrey) (Entered: 03/02/2015)
03/04/2015	<u>79</u>	Reply to <u>75</u> Brief in Support <i>Defendants' Reply to Plaintiff's Supplemental Memorandum of Law in Support of its Motion for Partial Summary Judgment</i> filed by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 1-1, # <u>3</u> Exhibit 2)(Rosen, Jeff) (Entered: 03/04/2015)
03/04/2015	<u>80</u>	Reply to <u>76</u> Brief in Support, <i>and opposition to defendants' supplemental brief</i> filed by Prison Legal News. (Fogel, Jeffrey) (Entered: 03/04/2015)
03/12/2015	<u>81</u>	Opposition to <u>77</u> Second MOTION for Summary Judgment <i>on due process claims</i> filed by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 9-1)(Rosen, Jeff) (Entered: 03/12/2015)
03/16/2015		Telephone Conference set for 3/17/2015 at 11:30 AM in Norfolk Judges Chamber before District Judge Mark S. Davis. (vwar) (Entered: 03/16/2015)
03/17/2015	<u>82</u>	Telephone Conference held on 3/17/2015 before District Judge Mark S. Davis. Present on the Telephone: Jeff Fogel, on behalf of the Plaintiff; Jeff Rosen, on behalf of the defendants. Paul McManus, OCR. Comments of Court and counsel.Counsel is directed to send an email to the Courts Clerk by 3/31/15 re: status of issues discussed. (vwar) (Entered: 03/17/2015)
03/19/2015	<u>83</u>	REPLY to Response to Motion re <u>77</u> Second MOTION for Summary Judgment <i>on due process claims</i> filed by Prison Legal News. (Fogel, Jeffrey) (Entered: 03/19/2015)
03/31/2015	<u>84</u>	OPINION AND ORDER granting <u>35</u> Motion for Summary Judgment; denying <u>49</u> Motion for Summary Judgment; granting <u>77</u> Motion for Summary Judgment. PLN's original motion for summary judgment is GRANTED as to the reserved issue regarding the constitutionality of Defendants' former policy on sexually explicit materials. ECF No. 35. Such former policy is declared unconstitutional as it is overbroad pursuant to the Turner analysis discussed in detail herein. The Sheriff and other named Defendants are hereby permanently ENJOINED from reverting to such policy. Defendants' cross motion for summary judgment on this issue is DENIED. ECF No. 49. PLN's second motion for summary judgment is GRANTED, and it is hereby declared that Defendants' former publication review policies were unconstitutional as they failed to provide adequate notice and an opportunity to be heard as to decisions made by the VBSO to censor a unique monthly publication sent to inmate subscribers. ECF No. 77. The Court likewise grants PLN's request for injunctive relief, and the Sheriff and other named Defendants are hereby permanently ENJOINED from reverting to the prior policies that failed to provide publishers adequate notice and an opportunity to be heard "when their publications [we]re disapproved for receipt by inmate subscribers." <i>Montcalm Publ' g</i> , 80 F.3d at 106. The parties are hereby afforded fourteen (14) additional days to confer on the issue of monetary damages, and the Court Strongly encourages the parties to meet in person if they are having difficulty reaching an agreement. If the parties have not reached agreement by the end of the fourteen (14) day period, they shall, separately or collectively, file a "Status Update" on the record including comments on whether a continuance of the settlement conference has been scheduled and, if not, whether PLN wish to proceed to a jury trial on the issue of nominal and/or punitive damages. Copies provided as directed.Signed by District Judge Mark S. Davis on 3/31/2015. (bgra) (Entered: 03/31/2015)
04/09/2015	<u>85</u>	Letter <i>Joint status update from plaintiff and defendants</i> . (Rosen, Jeff) (Entered: 04/09/2015)
04/30/2015	<u>86</u>	SETTLEMENT AGREEMENT by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Rosen, Jeff) # <u>3</u> Proposed Order) (Entered: 04/30/2015)
05/05/2015	<u>87</u>	JOINT CONSENT ORDER: The Court adopts the Agreement submitted by the parties as part of this Order and schedules the time by which the parties have to address the fee petition as follows: the plaintiff shall have until May 20, 2015 to file their petition for costs and fees, the defendant shall have until June 10, 2015 to submit a response,

		and the plaintiff shall have until June 17, 2015 to submit any reply. Signed by District Judge Mark S. Davis on 5/4/2015. (Attachments: # <u>1</u> Exhibit A)(bgra) (Entered: 05/05/2015)
05/20/2015	<u>88</u>	MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>89</u>	Declaration re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Attachments: # <u>1</u> Exhibit Time, # <u>2</u> Exhibit Invoice)(Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>90</u>	Declaration re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Attachments: # <u>1</u> Exhibit Time)(Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>91</u>	Declaration re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Attachments: # <u>1</u> Exhibit Resume, # <u>2</u> Exhibit Time, # <u>3</u> Exhibit Expenses)(Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>92</u>	Declaration re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Attachments: # <u>1</u> Exhibit Time, # <u>2</u> Exhibit Resume)(Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>93</u>	Declaration re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Attachments: # <u>1</u> Exhibit Time, # <u>2</u> Errata Resume)(Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>94</u>	Declaration re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Attachments: # <u>1</u> Exhibit Time, # <u>2</u> Exhibit Resume)(Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>95</u>	Declaration re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Attachments: # <u>1</u> Exhibit Time, # <u>2</u> Exhibit Resume)(Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>96</u>	Declaration re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>97</u>	Declaration re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> by Prison Legal News. (Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>98</u>	Memorandum in Support re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> filed by Prison Legal News. (Rosenfield, Steven) (Entered: 05/20/2015)
05/20/2015	<u>99</u>	EXHIBIT 3. <i>Supplement to Weber Decl.</i> by Prison Legal News.. (Rosenfield, Steven) (Entered: 05/20/2015)
06/09/2015	<u>100</u>	Opposition to <u>88</u> MOTION for Attorney Fees & <i>Costs</i> filed by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Rosen, Jeff) (Entered: 06/09/2015)
06/17/2015	<u>101</u>	MOTION for Extension of Time to File Response/Reply as to <u>87</u> Order., by Prison Legal News. (Attachments: # <u>1</u> Proposed Order)(Rosenfield, Steven) (Entered: 06/17/2015)
06/17/2015		MOTIONS REFERRED to Magistrate Judge: Tommy E. Miller. <u>101</u> MOTION for Extension of Time to File Response/Reply as to <u>87</u> Order., (bgr) (Entered: 06/17/2015)
06/17/2015	<u>102</u>	ORDER granting <u>101</u> Motion for Extension of Time to File Response/Reply. The Court hereby GRANTS Plaintiffs motion and sets the deadline for July 1, 2015. re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> filed by M Brittingham, V Harris, G Havens, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson by which it may file a Reply. Signed by Magistrate Judge Tommy E. Miller on 6/17/2015. (bgra) (Entered: 06/17/2015)
06/30/2015	<u>103</u>	REPLY to Response to Motion re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> filed by Prison Legal News. (Rosenfield, Steven) (Entered: 06/30/2015)

06/30/2015	<u>104</u>	AFFIDAVIT in Support re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> filed by Prison Legal News. (Attachments: # <u>1</u> Exhibit Time log)(Rosenfield, Steven) (Entered: 06/30/2015)
06/30/2015	<u>105</u>	AFFIDAVIT in Support re <u>88</u> MOTION for Attorney Fees & <i>Costs</i> filed by Prison Legal News. (Attachments: # <u>1</u> Exhibit Time log)(Rosenfield, Steven) (Entered: 06/30/2015)
09/08/2015	<u>106</u>	OPINION AND ORDER: granting <u>88</u> Motion for Attorney Fees. After making a downward adjustment to both the total hours and the hourly rate requested by Plaintiff, the Court hereby AWARDS attorney's fees to Plaintiff in the amount of \$85,189. Such total figure represents a fee of \$60,214 to Plaintiff's outside counsel and a fee of \$24,975 to Plaintiff's in-house counsel. As to litigation expenses, the Court AWARDS \$2,683 to Plaintiff's outside counsel and \$6,048.10 to Plaintiff's in house counsel. Copies distributed as directed. Signed by District Judge Mark S. Davis on 9/8/2015. (bgra) (Entered: 09/09/2015)
10/05/2015	<u>107</u>	NOTICE OF APPEAL by Prison Legal News. Filing fee \$ 505, receipt number 0422-4666509. (Fogel, Jeffrey) (Entered: 10/05/2015)
10/07/2015		Transmission of Notice of Appeal to US Court of Appeals re <u>107</u> Notice of Appeal (All case opening forms, plus the transcript guidelines, may be obtained from the Fourth Circuit's website at www.ca4.uscourts.gov) (bgra) (Entered: 10/07/2015)
10/08/2015	<u>108</u>	USCA Case Number 15-2197 4CCA Case Manager Barbara H. Rowe for <u>107</u> Notice of Appeal filed by Prison Legal News. (15-2197) (bgra) (Entered: 10/19/2015)
03/06/2017	<u>109</u>	Unpublished Opinion of USCA (Copy) : AFFIRMED re <u>107</u> Notice of Appeal attached copy of judgment will not take effect until issuance of the mandate. (15-2197) (bgra) (Entered: 03/06/2017)
03/06/2017	<u>110</u>	USCA JUDGMENT: In accordance with the decision of this court, the order of the district court is affirmed. This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41. re <u>107</u> Notice of Appeal filed by Prison Legal News. (15-2197) (bgra) (Entered: 03/06/2017)
03/28/2017	<u>111</u>	USCA Mandate re <u>107</u> Notice of Appeal: The judgment of this court, entered March 6, 2017, takes effect today. This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. (15-2197) (bgra) (Entered: 03/28/2017)
04/03/2017	<u>112</u>	NOTICE by M Brittingham, V Harris, G Havens, John Does 1-10, Darlene Moore, V Ogden, E Rodriguez, Ken Stolle, A Torno, Matthew Wilson (Rosen, Jeff) (Entered: 04/03/2017)
04/13/2017	<u>113</u>	SATISFACTION OF JUDGMENT <i>Notice</i> by Prison Legal News. (Fogel, Jeffrey) (Entered: 04/13/2017)