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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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

Plaintiff,

v.

LEWIS COUNTY; LEWIS COUNTY
SHERIFF'S OFFICE; STEVE MANSFIELD,
individually and in his capacity as Lewis
County Sheriff; KEVIN HANSON, individually
and in his capacity as Lewis County Jail
Administrator; and JIM PEA, individually and
in his capacity as Lewis County Administrative
Lieutenant,

Defendants.

No.

COMPLAINT

I. NATURE OF THE CASE

1.1 Plaintiff Prison Legal News brings this action to enjoin Defendants' censorship of mail sent to and from prisoners held in custody at the Lewis County Jail without notice and an opportunity to appeal, in violation of the First Amendment and of the Fourteenth Amendment's Due Process Clause. Defendants have adopted and implemented written mail policies and practices that unconstitutionally: restrict correspondence to and from prisoners to postcards only; prohibit delivery of book catalogs to prisoners; and do not afford adequate due process. In this action, PLN seeks a preliminary and permanent injunction, damages, and a declaration that Defendants' policies and conduct violate the Constitution.

1 **II. JURISDICTION AND VENUE**

2 2.1 This action arises under the First and Fourteenth Amendments to the United
3 States Constitution. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343,
4 2201, and 2202.

5 2.2 Venue is proper in the Western District of Washington under 28 U.S.C.
6 § 1391(b)(2) because a substantial part of the events complained of occurred in this District, and
7 because the Defendants reside in this District.

8 **III. PARTIES**

9 3.1 Plaintiff Prison Legal News (PLN) is a project of the Human Rights Defense
10 Center (HRDC), a Washington Non-Profit Corporation. The core of HRDC's mission is public
11 education, prisoner education, advocacy, and outreach in support of the rights of prisoners and in
12 furtherance of basic human rights. PLN publishes and distributes a monthly journal of
13 corrections news and analysis as well as books about the criminal justice system and legal issues
14 affecting prisoners, to prisoners, lawyers, courts, libraries, and the public throughout the
15 Country. PLN also maintains a website (www.prisonlegalnews.org) and operates an email list.
16 Prisoners of all types, family and friends of prisoners, prisoner advocates, and other members of
17 the general public are among the intended beneficiaries of PLN's activities.

18 3.2 Defendant Lewis County is a municipal corporation formed under the laws of the
19 State of Washington.

20 3.3 Defendant Lewis County Sheriff's Office is a department of Lewis County and
21 operates the Lewis County Jail located in Chehalis, Washington. The Jail has the capacity to
22 house 356 prisoners. In 2012, it averaged 211 prisoners per day, 28% of whom were Contract
23 Bed Inmates, meaning that Lewis County confined them for another government entity. In 2012,
24 the Jail brought in close to \$1.3 million in revenue collected from confining contract inmates. In
25 2008, 5,110 prisoners were processed through the Lewis County Jail.

26 3.4 Defendant Steve Mansfield is the Sheriff of Lewis County. Sheriff Mansfield is
27 employed by and is an agent of Lewis County and the Sheriff's Office. He is responsible for the

1 operations of the Sheriff's Office and the Lewis County Jail, and the training and supervision of
2 the Jail staff who interprets and implements the Jail's mail policy for prisoners. He is the
3 policymaker for the Jail policy governing mail for prisoners.

4 3.5 Defendant Kevin Hanson is a member of the Command Staff of the Lewis County
5 Sheriff's Office, and is the Jail Administrator of the Lewis County Jail. He is employed by and
6 is an agent of Lewis County and the Sheriff's Office. As Jail Administrator, he is responsible for
7 the operations of the jail, the training and supervision of Jail Staff, and implementing and
8 enforcing the Jail's mail policies and practices.

9 3.6 Defendant Jim Pea is the Administrative Lieutenant of the Lewis County Jail. As
10 the Administrative Lieutenant, he is responsible for making the final decision regarding
11 censorship of incoming and outgoing mail.

12 3.7 Each of the acts and omissions of the persons alleged herein were taken under
13 color of state law and within the scope of their official duties as employees, officers, or agents of
14 Lewis County and the Lewis County Sheriff's Office.

15 **IV. FACTUAL ALLEGATIONS**

16 4.1 Prison Legal News publishes and distributes a soft-cover monthly journal, book
17 catalogs, informational brochures, and book offers, and publishes and distributes paperback
18 books, about the criminal justice system and legal issues affecting prisoners. PLN also
19 distributes by mail legal opinions and other correspondence to prisoners incarcerated in various
20 correctional facilities across the country.

21 4.2 Prison Legal News has thousands of subscribers in the United States and abroad,
22 including prisoners in more than 2,000 federal, state, and local correctional facilities across the
23 United States, attorneys, journalists, public libraries, judges, and other members of the public.
24 PLN publications are distributed without incident to prisoners and law librarians in the vast
25 majority of correctional facilities across the United States, including the most secure facilities of
26 the Federal Bureau of Prisons, the Washington Department of Corrections and many other
27 States, and other jails and detention facilities in Washington and across the nation.

1 4.3 Prison Legal News engages in core protected speech and expressive conduct on
2 matters of public concern, such as operations of prison facilities, prison conditions, prisoner
3 health and safety, and prisoners' rights.

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

5 **Incoming Mail**

6 4.4 Defendants have rejected Prison Legal News's book catalogs, book offers,
7 informational brochures, subscription forms, and copies of court rulings mailed to prisoners held
8 in custody at the Lewis County Jail. The mail items rejected by Defendants include, but are not
9 limited to, the items identified below.

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

11 4.5 Prison Legal News sent informational brochures about PLN and subscription
12 order forms, book catalogs, and book offers to prisoners at the Lewis County Jail.

13 4.6 **Prison Legal News Brochure and Subscription Order Form:** Prison Legal
14 News sent certain prisoners at the Lewis County Jail an informational brochure about its
15 organization and publications. The double-sided single-page brochure includes: a description of
16 the topics covered in PLN's monthly journal, subscription rates, special subscription offers, and
17 an order form; a description of three books available for purchase or included with a subscription
18 to *Prison Legal News—Protecting Your Health & Safety, With Liberty for Some: 500 Years of*
19 *Imprisonment in America*, and *Prison Profiteers: Who Makes Money from Mass Incarceration*;
20 and other information about PLN's bookstore.

21 4.7 **Book Catalog:** Prison Legal News sent certain prisoners at the Lewis County Jail
22 its PLN Book List. The double-sided single-page book list includes a description of 33 books,
23 dictionaries, and resource materials available for purchase. The books available for purchase
24 include information about a variety of topics, including but not limited to: the basic rights of
25 prisoners regarding health and safety; the American criminal justice system; self-representation
26 in court; developing a successful re-entry plan upon release from prison; searching for a job;
27 crime and poverty; the mental health crisis in U.S. prisons and jails; preparation for the GED

1 test; how to write letters to government agencies and officials; and how to support family
2 members facing criminal charges.

3 4.8 **Book Offers:** Prison Legal News sent certain prisoners at the Lewis County Jail a
4 double-sided single-page informational brochure about two books for sale: *The Habeas*
5 *Citebook: Ineffective Assistance of Counsel*, a handbook containing case citations, pleadings, and
6 forms designed to help a prisoner seek habeas corpus relief; and *Prisoners' Guerrilla Handbook*
7 *to Correspondence Programs in the United States and Canada*, a handbook on high school,
8 vocational, paralegal, undergraduate, and graduate courses available through correspondence
9 study.

10 4.9 Collectively, the PLN Brochure, Book List, and Book Offer described above in
11 Paragraphs 4.6 through 4.8 are referred to as "Informational Brochure Packs" below.

12 4.10 Prison Legal News sent all of the Informational Brochure Packs in white standard
13 #10 envelopes via first-class mail.

14 4.11 Prison Legal News mailed Informational Brochure Packs addressed to each of the
15 following prisoners at the Lewis County Jail on or about the following dates:

4.11.1	<u>Prisoner Name</u>	<u>Date</u>	<u>Mailed to Prisoner</u>
	Norman Jay Field		October 8, 2013
	Yahdriel Euteast Jones		September 13, 2013
	Jennifer Christine Lantau		September 13, 2013
	Steven Michael Ledoux		September 13, 2013
	Ashley Leanna Leonard		October 8, 2013
	Harvey Clem Maddux		October 8, 2013
	Jonathon Manual Margart		September 13, 2013
	Brandt Daniel McKenna		September 13, 2013
	Corey Ross Morgan		October 8, 2013
	Johnathan Adam O'Connor		September 17, 2013
	Rodney Dee Oleachea		September 17, 2013
	Kristy Ann Price-Alvarez		October 8, 2013
	Jerrell Scott Redmill		September 17, 2013
	Howard Eugene Ross		September 17, 2013
	Curtis James Rudolph		October 11, 2013
	Diaz Guadalupe Solis		September 17, 2013
	Michael Troy Taylor		October 11, 2013
	Eric Dale Waller		October 11, 2013
	Joshua Ryan O'Neil Whittler		September 17, 2013
	Clifton Roy Young		October 11, 2013

1	4.11.2	<u>Prisoner Name</u> Date	<u>Mailed to Prisoner</u>
		Damon Keith Burgess	October 4, 2013
2		Roy Alan Dever	October 4, 2013
3	4.11.3	<u>Prisoner Name</u>	<u>Date Mailed to Prisoner</u>
		Dominic Lee Combs	October 4, 2013
4	4.11.4	<u>Prisoner Name</u>	<u>Date Mailed to Prisoner</u>
		Bonny Ray Jr. Anderson	October 4, 2013
5		Zachery Bynum	October 4, 2013

6 The prisoners identified above were prisoners at the Lewis County Jail at the time that the Jail
7 received the Informational Brochure Packs addressed to each prisoner from PLN.

8 4.12 Defendants rejected each Informational Brochure Pack identified in paragraphs
9 4.11.1 to 4.11.4 and did not deliver them to the prisoner-addressees. Defendants returned each
10 item of mail to PLN unopened.

11 4.13 By rejecting the Informational Brochure Packs, Defendants interfered with PLN's
12 protected free speech rights.

13 4.14 By rejecting the Informational Brochure Packs, Defendants interfered with the
14 prisoner-addressees' protected free speech rights.

15 4.15 For the Informational Brochure Packs listed above in Paragraph 4.11.1, the Jail
16 stamped the mail "RETURN TO SENDER This facility accepts postcards only." The Jail did
17 not provide PLN any information about a right to appeal the censorship decision.

18 4.16 For the Informational Brochure Packs listed above in Paragraph 4.11.2, the Jail
19 stamped the mail "Returned to Sender REASON CHECKED BELOW." The reason
20 "Unauthorized Mail" was circled or checked by the Jail on both envelopes. The Jail did not
21 provide PLN any information about a right to appeal the censorship decision.

22 4.17 For the Informational Brochure Packs listed above in Paragraph 4.11.4, the Jail
23 stamped the mail "RETURN TO SENDER *This facility accepts postcards only*" and "Returned
24 to Sender REASON CHECKED BELOW." (Emphasis added). No boxes were checked, but
25 "Unauthorized Mail" was circled by the Jail. The Jail did not provide PLN any information
26 about a right to appeal the censorship decision.

27

1 4.18 Defendants failed to provide due process notice to PLN of the reason for rejecting
 2 PLN's Informational Brochure Pack by, among other inadequacies, failing to identify the
 3 specific mail policy they relied on, and stating different reasons for censoring identical mail.
 4 Defendants also failed to provide PLN with any notice of or opportunities to be heard to
 5 challenge the censorship decisions.

6 4.19 Defendants failed to provide due process notice to PLN of the reason for rejecting
 7 PLN's Informational Brochure Pack by, among other inadequacies, failing to explain the basis
 8 for their censorship decisions, failing to identify the specific mail policy they relied on, stating
 9 different reasons for censoring identical items of mail, and otherwise failing to give meaningful
 10 notice of the censorship. Defendants also failed to provide PLN with any notice of the procedure
 11 by which senders of censored mail might challenge the censorship decisions.

12 4.20 On information and belief, Defendants fail to provide due process notice and an
 13 opportunity to appeal to other senders of censored mail addressed to prisoners at the Lewis
 14 County Jail.

15 4.21 On information and belief, Defendants fail to provide any notice to the prisoner-
 16 addressees that the Jail censored PLN's mail. Defendants also fail to provide the prisoner-
 17 addressees with any notice of or opportunity to be heard to challenge the censorship decisions.

18 4.22 Prison Legal News intends to continue sending Informational Brochure Packs to
 19 prisoners at the Lewis County Jail.

Court Opinions

20
 21 4.23 On October 15, 2013, Prison Legal News mailed copies of the Ninth Circuit Court
 22 of Appeals opinion in *Clement v. California Dept. of Corr.*, 364 F.3d 1148 (9th Cir. 2004),
 23 addressed to each of the following prisoners at the Lewis County Jail:

Prisoner Name

Brendon Laverne Amos
 Bonny Ray Jr. Anderson
 Brian Leon Austen
 Terry Lee Bryan
 Damon Keith Burgess
 Zachery Howard Bynum

1 Roy Alan Dever
2 Norman Jay Field
3 Ronald Joe Gleason
4 Stephen Lavale Hardy
5 Yahdriel Euteast Jones
6 Jennifer Christine Lantau
7 Steven Michael Ledoux
8 Harvey Clem Maddux
9 Jonathan Manual Margart
10 Kristy Ann Price-Alvarez
11 Howard Eugene Ross
12 Jerrell Scott Redmill
13 Guadalupe Solis-Diaz
14 Joshua Ryan O'Neil Wittler
15

16 4.24 Prison Legal News sent each of the Ninth Circuit opinions in white standard # 10
17 envelopes via first-class mail. Defendants returned each item of mail to PLN unopened.

18 4.25 Defendants rejected each Court Opinion identified in paragraph 4.23 and did not
19 deliver them to the prisoner-addressees.

20 4.26 By rejecting the Court Opinions, Defendants interfered with PLN's protected free
21 speech rights.

22 4.27 By rejecting the Court Opinions, Defendants interfered with the prisoner-
23 addressees' protected free speech rights.

24 4.28 For the Court Opinions listed above in Paragraph 4.23, the Jail stamped the mail
25 "RETURN TO SENDER This facility accepts postcards only." The Jail did not provide PLN
26 any information about its right to appeal the censorship decision.

27 4.29 Defendants failed to provide due process notice to PLN of the reason for rejecting
PLN's mail by, among other inadequacies, failing to identify the specific mail policy that
Defendants relied on. Defendants also failed to provide PLN with any notice of or opportunities
to be heard to challenge the censorship decisions.

4.30 On information and belief, Defendants fail to provide due process notice and an
opportunity to appeal to other senders of censored mail addressed to prisoners at the Lewis
County Jail.

1 4.31 On information and belief, Defendants failed to provide any notice to the
2 prisoner-addressees that the Jail censored PLN's mail. Defendants also failed to provide the
3 prisoner-addressees with any notice of or opportunity to be heard to challenge the censorship
4 decisions.

5 4.32 Prison Legal News intends to continue sending copies of Court Opinions to
6 prisoners at the Lewis County Jail.

7 4.33 By banning incoming mail that is not in postcard form, Defendants have
8 interfered with the free speech rights of other publishers and correspondents who have attempted
9 to or want to correspond with prisoners at the Lewis County Jail.

10 **Outgoing Mail**

11 4.34 Lewis County Jail prisoners want to send letters and other correspondence to non-
12 prisoners and entities outside the Jail.

13 4.35 On information and belief, prisoners incarcerated at Lewis County Jail want to
14 send publication order forms and other non-postcard correspondence to Prison Legal News.

15 4.36 Since at least February 3, 2010, Defendants have banned prisoners from sending
16 outgoing letters and other correspondence not in postcard form.

17 4.37 By banning outgoing mail not in postcard form, Defendants have deterred
18 prisoners from exercising their free speech rights to communicate with family, friends, persons
19 acting as their power of attorney, counselors, clergy, employers, prospective employers, financial
20 institutions, public agencies, schools, and newspapers.

21 4.38 By banning outgoing mail not in postcard form, Defendants have interfered with
22 the prisoners' protected free speech rights.

23 4.39 By banning outgoing mail that is not in postcard form, Defendants interfered with
24 the intended or potential recipients' protected free speech rights, including PLN's rights.

25 4.40 On information and belief, when rejecting outgoing mail that is not in postcard
26 form, Defendants failed to provide constitutionally adequate notice to the prisoner, and failed to
27

1 provide the prisoner with any notice of or opportunity to be heard to challenge the censorship
2 decisions.

3 4.41 On information and belief, when rejecting outgoing mail that is not in postcard
4 form, Defendants failed to provide constitutionally adequate notice to the intended recipient, and
5 failed to provide the intended recipient with any notice of or opportunity to be heard to challenge
6 the censorship decisions.

7 **B. JAIL POLICIES**

8 4.42 POL 05.07.050 is the Lewis County Jail policy that “applies to incoming and
9 outgoing inmate mail.” Exhibit A is a true copy of the Lewis County Jail Policy.

10 4.42.1 This policy states, in pertinent part, “Incoming and outgoing personal mail
11 shall be postcard media only.”

12 4.42.2 This policy requires notice for rejected incoming mail that contains
13 “contraband” by referring to a Notice of Withheld Material but does not describe the contents of
14 such Notice, provide an exemplar, or require notice of an opportunity to appeal the censorship
15 decision.

16 4.42.3 Although this policy requires written notice to the sender and inmate when
17 the Administrative Lieutenant authorizes restrictions of incoming or outgoing mail because he or
18 she deems mail “a threat to the legitimate penological interest of the facility,” the policy does not
19 describe the contents of the notice, how it differs from the Notice of Withheld Material, and in
20 what way a “threat” differs from “contraband.” Among other deficiencies, the policy requires
21 notice of a right to request a review but does not state it will be conducted by someone other than
22 the person who made the censorship decision.

23 4.42.4 Other than the provisions described above, this policy does not provide for
24 any due process notice or opportunity to be heard.

25 4.42.5 This policy mandates that Jail staff “impose disciplinary sanctions when
26 inmates violate or attempt to violate the mail policy.” This would include attempting to mail a
27 letter from Jail or requesting receipt of a letter in Jail.

1 4.43 The Lewis County Sheriff Website states: “ALL INCOMING MAIL, WITH
2 THE EXCEPTION OF LEGAL MAIL, WILL NEED TO BE ON A POSTCARD.” Exhibit B is
3 a true copy of a printout of the Lewis County Sheriff’s Website stating this policy.

4 **V. CLAIM ALLEGATIONS**

5 **COUNT 1**

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

7 5.1 Plaintiff realleges and incorporates by reference the preceding paragraphs.

8 5.2 The acts described above constitute violations of Plaintiff’s rights, the rights of
9 other correspondents who have attempted to or want to correspond with prisoners at the Lewis
10 County Jail, and the rights of prisoners confined at the Lewis County Jail, under the First
11 Amendment to the United States Constitution through 42 U.S.C. § 1983.

12 5.3 The acts described above have caused damages to Plaintiff, and will continue to
13 cause damage.

14 5.4 Plaintiff seeks declaratory and injunctive relief against all Defendants in their
15 official capacities. Plaintiff seeks compensatory and nominal damages against all governmental
16 entities and against all individual Defendants in their individual capacities. Plaintiff seeks
17 punitive damages solely against the individual Defendants in their individual capacities.

18 **COUNT 2**

19 **DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT**

20 **TO THE UNITED STATES CONSTITUTION**

21 5.5 Plaintiff realleges and incorporates by reference the preceding paragraphs.

22 5.6 The acts described above constitute violations of Plaintiff’s rights, the rights of
23 other correspondents who have attempted to or want to correspond with prisoners at the Lewis
24 County Jail, and the rights of prisoners confined at the Lewis County Jail, under the Fourteenth
25 Amendment to the United States Constitution through 42 U.S.C. § 1983.

26 5.7 The acts described above have caused damages to Plaintiff, and will continue to
27 cause damage.

