

**FEDERAL DISTRICT COURT FOR THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

**PRISON LEGAL NEWS  
2400 NW 80<sup>th</sup> Street, PMB #148  
Seattle, WA 98117,**

**Plaintiff,**

**v.**

**FEDERAL BUREAU OF PRISONS  
320 First St., NW,  
Washington, DC 20534,**

**Defendant.**

Civil Action No. \_\_\_\_\_

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF  
TO OBTAIN FREEDOM OF INFORMATION ACT INFORMATION**

**I. INTRODUCTION**

Plaintiff, Prison Legal News (PLN), respectfully submits this Complaint for declaratory and injunctive relief ordering the Federal Bureau of Prisons (BOP) to turn over any and all material that PLN requested under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2005).

In an August 6, 2003, letter PLN requested a copy of all documents concerning the monetary amounts the BOP paid for lawsuits and claims against it between January 1, 1996, through and including July 31, 2003. PLN also asked for a fee waiver for processing this request and providing copies of the relevant documents. In a September 9, 2003, letter, the BOP denied the fee waiver, stating that the request did not meet the threshold for granting the waiver.

**II. JURISDICTION.**

1. This Court has jurisdiction pursuant to 5 U.S.C. § 552 (2005).

### **III. PARTIES.**

2. Plaintiff, Prison Legal News, is headquartered in the State of Washington, located at 2400 NW 80<sup>th</sup> Street PMB #148, Seattle, WA 98117. PLN is a § 501[c](3) non-profit organization.
3. Defendant, Federal Bureau of Prisons, is an agency of the United States government, located at 320 First Street NW, Washington, DC 20534.

### **IV. FACTS.**

4. PLN reasserts paragraphs 1 to 3.
5. PLN is a legal journal that reports news and litigation concerning detention facilities.
6. PLN has published monthly since 1990 and has 4,500 subscribers in all 50 states. PLN's subscribers include lawyers, journalists, judges, courts, public libraries and universities. The estimated actual readership is 36,000. PLN also maintains a website that has received more than 36,000 visitors a month.
7. PLN, a § 501[c](3) non-profit organization, is small and underfunded.
8. On August 6, 2003, PLN requested documents from the BOP pursuant to FOIA, 5 U.S.C. § 552 (2005), documenting all money the BOP paid for lawsuits and claims against it between January 1, 1996, up to and including July 31, 2003. PLN requested a copy of the verdict or settlement in each case identifying the dollar amount of damages, the plaintiff's or claimant's identity and the identifying information (i.e., names, docket number, court) for each lawsuit, administrative claim, and/or attorney fee award. PLN also requested a copy of the complaint or other documents describing the facts of the case.

9. PLN requested a fee waiver for processing its request and providing copies of the relevant documents.
10. The BOP is the largest prison system in the country with facilities in almost every state and approximately 200,000 inmates.
11. PLN will contribute to the public interest and understanding of BOP operations and activities by analyzing and publishing the information obtained through this FOIA request in its print journal and on its website. Specifically, PLN will analyze how the BOP spends public tax dollars, will publicize BOP facilities in which litigation has identified problems, and test how well BOP programs address inmate concerns.
12. On September 9, 2003, the BOP denied PLN's request for a fee waiver, stating that the request did not explain why the information was of interest to the public.
13. On October 20, 2003, PLN appealed the denial of the fee waiver to the United States Department of Justice (DOJ). In its appeal PLN explained in detail how the requested information would help the public identify problems in specific BOP facilities and programs, and provided an important overall measure of program efficiency and effectiveness within BOP.
14. On May 23, 2005, the DOJ denied PLN's appeal. DOJ denied the appeal because PLN had not "demonstrated that it has both the intent and the ability to disseminate the requested records to the general public."
15. 5 U.S.C. § 552(a)(4)(A)(iii) grants the right to a fee waiver if it satisfies the following requirement:

"if disclosure of the information is in the public interest because it is likely to

contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”

16. PLN satisfies this requirement as it will contribute to the public understanding of BOP operations and activities by analyzing and publishing the information obtained through this FOIA request in its print journal and on its website. This request is not primarily in the commercial interest of PLN as it is a non-profit organization.

**V. CAUSE OF ACTION - FAILURE TO WAIVE FEE  
RELATING TO FOIA REQUEST**

17. Plaintiff reasserts paragraphs 1 to 16.
18. As demonstrated in the facts, PLN satisfies the statutory requirement for a 5 U.S.C. § 552(a)(4)(A)(iii) fee waiver.
19. Therefore, BOP’s September 9, 2003, decision improperly denied PLN’s request for a fee waiver.

**VI. PRAYER FOR RELIEF**

WHEREFORE, PLN respectfully requests that this Court grant it the following relief:

- A. Declare that Defendant BOP’s denial of the fee waiver request is unlawful;
- B. Order Defendant BOP to grant the requested fee waiver;
- C. Order Defendant BOP to produce the requested documents within 30 days;
- D. Award PLN its reasonable attorney’s fees and costs incurred in this case under 5 U.S.C. § 552(a)(4)(E);
- E. Grant such further relief as the Court may find just and proper.

Respectfully submitted,

Dated: \_\_\_\_\_

By:

Edward J. Elder  
Bar No. 460588  
Klimaski & Associates, P.C.  
1819 L Street NW  
Suite 700  
Washington, DC 20036  
202-296-5600

Attorney for Plaintiff

**VERIFICATION**

I, Paul Wright, on behalf of Prison Legal News, have read the above complaint and verify under penalty of perjury that the facts alleged are true to the best of my knowledge, recollection, information, and belief.

Executed this 9th day of September, 2005.

---

Paul Wright  
Prison Legal News