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7 **IN THE UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF WASHINGTON AT SPOKANE**

9 DOUGLAS J. WOLD,
10
11 Plaintiff,
12 v.

No. CV-12-225-EFS

SECOND AMENDED
COMPLAINT

WITH JURY DEMAND

13 NICK HENZEL in his individual
14 capacity as a COLUMBIA COUNTY
15 SHERIFF'S DEPUTY; JOE HELM
16 in his individual capacity as a
17 COLUMBIA COUNTY SHERIFF'S
18 DEPUTY; WALTER J. HESSLER, in
19 his official capacity as the SHERIFF
20 OF COLUMBIA COUNTY and in his
21 individual capacity as a COLUMBIA
22 COUNTY SHERIFF's DEPUTY, and
23 COLUMBIA COUNTY, a municipal
24 corporation,
25
26 Defendants.

23 COMES NOW the plaintiff, Douglas Wold, through his attorneys of
24 record, John Kannin and Kannin Law Firm P.S. and hereby presents the
25 following claims:
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1 Sherriff's Department and thus were employed by the municipal corporation
2 Columbia County under the command and supervision of defendant Sheriff
3 Walter J. Hessler.

4 5.

5 Defendant Sheriff Walter J. Hessler was at all times referred to
6 herein, the Sheriff for Columbia County, and as such, he was the
7 commanding officer of defendant Deputy Nick Henzel, and defendant
8 Deputy Joe Helm who were acting as jail guards assigned to the
9 Columbia County jail, and Defendant Sheriff Walter J. Hessler was
10 responsible for the training, supervision, and conduct of defendants
11 Sheriff's Deputies Nick Henzel and Joe Helm who were acting as Columbia
12 County jail guards, as more fully set forth below. Defendant Sheriff Walter
13 J. Hessler is further responsible by law for enforcing the regulations of
14 Columbia County and for ensuring that Columbia County sheriff's deputies
15 and jail guards and employees obey the laws of the United States of
16 America.

17 6.

18 Defendant Columbia County is a municipal corporation located in
19 Columbia County, Washington, existing and duly incorporated and
20 organized under the laws of the State of Washington, providing services to
21 its citizens by and through the Columbia County Sheriff's Department the
22 government department responsible for operating and managing the
23 Columbia Valley Jail, hereinafter referred to as the Columbia County Jail.

24 7.

25 At all times material hereto defendant Sheriff Hessler was a person
26 subject to legal action under 42 U.S.C. sec. 1983 and is sued in his official

1 capacity as the Sheriff of Columbia County and policy maker for the
2 Columbia County Jail and Sheriff's Department and in his individual
3 capacity as a Sheriff performing his duties as a law enforcement officer
4 throughout Columbia County as further detailed below.

5 8.

6 At all times material hereto defendant Deputy Nick Henzel and
7 defendant Deputy Joe Helm were persons subject to legal action under 42
8 U.S.C. sec. 1983 and are sued in their respective individual capacities as
9 Sheriff's Deputies.

10 9.

11 At all times referred to herein, and material hereto the acts,
12 omissions, practices and other conduct of defendant Sheriff Walter J.
13 Hessler, defendant Deputy Nick Henzel and defendant Deputy Joe Helm
14 were under color of state and local law.

15 10.

16 At all times material hereto the acts and omissions of defendant
17 Deputy Nick Henzel, defendant Deputy Joe Helm and defendant Sheriff
18 Walter J. Hessler, were committed within the course and scope of their
19 employment as sheriff's deputies, and, or jail guards, for the Columbia
20 County Jail and the Columbia County Sheriff's Department.

21 11.

22 At all times material hereto defendant Sheriff Walter J. Hessler was
23 the Sheriff for Columbia County, Washington, was the supervisor of the
24 Columbia County Sheriff's Department and operated the Columbia County
25 Jail as part of the duties and responsibilities of his office.

26 12.

1 At all times material hereto Defendant Sheriff Hessler was
2 responsible for the proper and efficient enforcement of the laws,
3 regulations, policies, practices, and procedures of the State of Washington,
4 Columbia County and the Statutes and Constitution of the United States of
5 America.

6 13.

7 Plaintiff Wold has retained the services of the undersigned attorney
8 and is obligated to pay a reasonable attorney's fee for such services in
9 pursuing the claims asserted herein.

10 **FACTS**

11 14.

12 Police officers arrested plaintiff Douglas Wold sometime after 9:00
13 a.m. on April 29, 2009 for allegedly driving under the influence, hit and run,
14 malicious mischief, unlawful imprisonment, and assault. The arrest was
15 made without a warrant after Mr. Wold was found acting oddly at the road
16 side where he was involved in a one vehicle traffic accident. Defendant
17 Sheriff Hessler was one of the arresting officers. Defendant Sheriff Hessler
18 eventually brought Wold to, or caused him to be brought to the Columbia
19 County Jail. The jail is located 341 East Main Street, in Dayton,
20 Washington. On or about April 29, 2009 defendant Sheriff Hessler caused
21 Mr. Wold to be booked into the Columbia County Jail. Wold had no physical
22 injuries when he was booked into the jail and he was placed into
23 confinement at the Columbia County Jail without a warrant and without a
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1 | probable cause hearing. On or about April 29, 2009 plaintiff Wold's mother
2 | called the jail and informed the jail staff that her son, Douglas Wold, was
3 | mentally ill.

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5 | 15.

6 | On or about April 29, 2009 the agents and employees of Columbia
7 | County and the Columbia County Sheriff's Department, including defendant
8 | Sheriff Walter J. Hessler, were employed and working at the Columbia
9 | County Jail. On or about April 29, 2009 the agents and employees of
10 | Columbia County and the Columbia County Sheriff's Department defendant
11 | Deputy Nick Henzel and defendant Deputy Joe Helm were believed to
12 | have been employed and working at the Columbia County Jail. The
13 | defendants learned that plaintiff Wold was experiencing mental health
14 | problems and that he was acting strangely, as if he were mentally ill.

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16 | 16.

17 | Plaintiff Wold was escorted downstairs into the cell block area of the
18 | jail, plaintiff Wold was put into a big cell room with a closed and locked
19 | door. This large cell room, known as the cell block, has several smaller
20 | cells within it. Each of these smaller cells houses one or more prisoners.
21 | The smaller cells are believed to have had no locking doors and were open
22 | so that prisoners could come and go from the small cells into the larger cell
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1 room. The Columbia County Jail can accommodate up to eleven (11)
2 detainees or prisoners. The Columbia County jail cell block was
3 manufactured in 1874. It was originally used as a ship's brig. The cell block
4 was installed into the basement of the Columbia County Courthouse in
5 1887. After he was arrested, and prior to any probable cause hearing,
6 plaintiff Wold was in held pre-trial confinement at the Columbia County Jail,
7 in Dayton, Washington from the morning of April 29, 2009 until the morning
8 of April 30, 2009.
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12 17.

13 While detained at the Columbia County jail, Wold mostly kept to
14 himself throughout much of the day of April 29, 2009. In the evening hours,
15 Wold began trying to communicate with the deputies posted as jail guards
16 to inform them he was having difficulties. He tried to inform the deputies on
17 duty that he thought he was experiencing a mental health crisis, that he
18 was not feeling right, and that he needed medical attention. At this point,
19 Wold had been awake without much sleep, if any, over the last several
20 days. He was not under the influence of alcohol or drugs. He started telling
21 the deputies and, or jail employees on duty that he was having thoughts
22 about Satan, that Satan was real, and that he wanted the deputies' help or
23 assistance. Wold tried to engage the jail staff by talking about his religion,
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1 the bible, religious beliefs, and topics related to religion. Wold told the
2 guards or deputies on duty that he saw the devil and words written in blood
3 on the walls of the jail. Instead of responding to Wold's requests for
4 assistance, the deputies on duty, defendant Sheriff Hessler, defendant Nick
5 Henzel and defendant Joe Helm all ignored Wold and completely
6 disregarded the signs of Mr. Wold's mental illness. Wold started yelling and
7 banging on the screen separating the cell block area from the area outside
8 of the cell block area.
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11 18.

12 Wold knew that something was wrong with him and he persisted in
13 trying to express his concerns to the sheriff's deputies on duty at the jail.
14 After being ignored Wold started yelling louder. He kept banging on the cell
15 screen with his hands. One of the defendants, deputy Nick Henzel
16 appeared at the door to the cell block, is believed to have used expletives,
17 and told Wold to shut the \$@#* up and left. Wold continued to yell and
18 scream. Defendant deputy Nick Henzel appeared and again used
19 expletives, told Wold to shut the \$@#* up and continued to disregard Mr.
20 Wold's signs of mental illness.
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23 19.

24 Eventually the jail guards on duty responded to Wold. Deputy Nick
25 Henzel came back and opened the door to the cell block and walked into
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1 the cell block area where Wold was walking in circles. Defendant Henzel
2 was holding a large canister of chemical/pepper spray. Defendant deputy
3 Nick Henzel pointed and aimed the pepper spray at Wold, and sprayed
4 pepper spray into Wold's face. Defendant deputy Nick Henzel sprayed
5 Wold in the face, covering his eyes, nose, lips, and mouth with the
6 chemical from his pepper spray dispenser.
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10 Next, defendant deputy Nick Henzel told Wold to get down onto the
11 floor. Wold complied and defendant Henzel left the room. He returned with
12 another deputy believed to be defendant deputy Joe Helm. Neither
13 defendant deputy Henzel, who had repeatedly sprayed Wold in the face
14 with the chemical/pepper spray, nor defendant deputy Joe Helm, did
15 anything to assist Wold in clearing the chemical/pepper spray from his eyes
16 and face.
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18 21.
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20 Next, defendant deputy Henzel and defendant deputy Helm, acted
21 in concert and unlocked the cell block/holding room door, came into the cell
22 block area where Wold was being held and grabbed Wold by his arms.
23 There was one defendant jail guard on each side of Wold. Defendant
24 deputy Henzel and defendant deputy Helm pulled Wold's arms behind
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1 his back, handcuffed Wold, lifted him up and off the floor and hustled him
2 out of the cell block. The defendants carried Wold in this way up the stairs
3 and took Wold outside of the jail building.

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5 22.

6 Once outside plaintiff Wold could see that the sun had set and it was
7 now night time. No one else was around and defendant deputy Henzel and
8 defendant deputy Helm are believed to have taken Wold to a grassy area in
9 front of the jail building. Outside the jail Wold was wearing only his boxer
10 shorts. Wold's face, eyes, mouth and lips were burning from the
11 chemicals that had just been sprayed into his face. Defendant deputy Nick
12 Henzel and defendant deputy Joe Helm had not provided medical attention
13 to Wold and had done nothing to wash the chemical/ pepper spray away
14 from his eyes and face.
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17 23.

18
19 Defendant deputy Nick Henzel and defendant deputy Joe Helm stood
20 Wold up outside the jail and as Wold was wondering what would happen
21 next Wold felt a cold stream of water being sprayed onto him. Defendant
22 Henzel was holding a hose and spraying cold water on Wold. The other
23 defendant, deputy Helm, stood by holding a towel as defendant Henzel
24 used a hose to spray cold water all over Wold until Wold was completely
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1 | drenched. Next the defendants deputy Henzel and defendant deputy Helm
2 | acted in concert and used towels to wipe down Wold as Wold stood
3 | handcuffed outside the jail. Next, defendant deputy Henzel and defendant
4 | deputy Helm acted in concert and led Wold to the doorway leading into the
5 | jail. Before entering the doorway Defendant Helm watched as Defendant
6 | Henzel threw Wold face first onto the paved walkway outside the jail.
7 | Wold, handcuffed at this time, could not get his hands out in front of him
8 | before he hit the ground and he hit the pavement face first. When Wold's
9 | face hit the pavement, the hard hit injured his nose. Wold's left shoulder hit
10 | the pavement hard and his left collar bone fractured upon impact.

13 | 24.

14 |
15 | As plaintiff Wold lay face down on the ground, Defendants deputy
16 | Nick Henzel and deputy Joe Helm held Wold down from behind. Wold's
17 | arms were still handcuffed behind his back. The defendants lifted Wold up
18 | by his arms and he felt extreme pain in his left shoulder. Wold's left
19 | shoulder joint was torn and re-injured by the defendant deputies when they,
20 | pulled his arms behind his back, handcuffed him and lifted him up by his
21 | arms, too him outside, used force to take him down to the pavement and
22 | lifted him up off the ground by his arms as he was handcuffed. Also, a large
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1 bump swelled up on Wold's forehead. Wold also had abrasions, scratches,
2 and scrapes on his face and body.

3 25.

4 Next, defendant deputy Henzel and defendant deputy Joe Helm
5 picked Wold up by his arms and carried him back into the jail. The
6 defendants put Wold into a restraint chair where they handcuffed Wold's
7 ankles and wrists onto the chair. The defendants covered Wold with sheet
8 where he remained shackled and shivering until a medical provider
9 eventually arrived and examined Wold.
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12 26.

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14 Defendant Joe Helm was with defendant deputy Nick Henzel and
15 they acted in concert. Neither defendant deputy Nick Henzel nor defendant
16 deputy Joe Helm did anything to stop or attempt to stop the other
17 defendant from using force excessively against Mr. Wold. Neither
18 defendant deputy Nick Henzel nor defendant deputy Joe Helm did anything
19 to assist Mr. Wold or respond to his requests for help or his requests for
20 medical attention when he was experiencing a mental health crisis at the
21 Columbia County jail on or around the morning of April 29 through the early
22 morning of April 30, 2009. During this time Wold was denied access to
23 medical treatment at the jail and was left to suffer through a serious mental
24 illness instead of being given help. This further exacerbated his mental
25 health condition.
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2 From the time he arrested Wold and caused plaintiff Wold to be
3 booked into the Columbia County Jail and detained, defendant Sheriff
4 Hessler is believed to have been on duty as the Jail Supervisor. At or
5 around the times that defendant deputy Nick Henzel was on duty defendant
6 deputy Joe Helm was on duty as the shift supervisor at the Columbia
7 County Jail. After the defendants injured Wold it is believed that deputy
8 Hessler left the jail leaving Wold and defendant Helm and defendant
9 Henzel on duty at the jail. Neither defendant sought medical attention for
10 Mr. Wold prior to injuring Wold. Defendant Sheriff Hessler is believed to
11 have been ultimately in charge of the Columbia County Jail and responsible
12 for monitoring and controlling the actions of the deputies under his
13 command and further responsible for the detainees and prisoners at the
14 jail. During this time, defendant Sheriff Hessler did nothing to assist Mr.
15 Wold and did nothing to respond in any way to Wold's requests for help or
16 his requests for medical attention when he was experiencing a mental
17 health crisis at the Columbia County jail on or around the morning of April
18 29 through the morning of April 30, 2009. During this time, the defendants
19 denied Wold access to medical treatment, and, or allowed others to deny
20 medical treatment to plaintiff Wold at the jail where Wold was left to suffer
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1 through a serious mental illness and physical injuries instead of being given
2 help. During this time defendant Sheriff Hessler did nothing to ensure the
3 deputies or guards under his command and control assisted Mr. Wold and,
4 or responded to Wold's requests for help or medical assistance. This
5 further exacerbated his mental health condition.
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7 28.

8 It was not until the early morning hours on April 30, 2009, believed to
9 be after 5:30 a.m. after the defendants injured Mr. Wold, that one of the jail
10 employees finally decided that Wold needed medical attention and
11 arranged for a physician, Dawn L. Meicher M.D. and a registered nurse, D.
12 Jacobson, to examine Mr. Wold. The doctor and nurse that were allowed
13 to examine plaintiff Wold are believed to have been employed in the
14 emergency room department at Dayton General Hospital. The nurse, D.
15 Jacobson examined Mr. Wold and reported Wold had not slept for 9 days,
16 exhibited religious ideation, and talked about crawling spiders. The nurse
17 observed that Wold had a butterfly [bandage] between his eyes on his
18 forehead, he had scrapes on his nose and scratches on his hands with
19 marks on his wrists, and that Wold was very talkative. She reported that
20 Wold's sclera were red. She also stated that Wold was sprayed with pepper
21 spray at the jail. The nurse described marks under the shackles on Mr.
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1 Wold's ankles. The nurse reported that Wold was released to the Columbia
2 County Sheriff and the County's mental health person at 6:30 a.m. on April
3 30, 2009. The nurse also noted that labs were drawn, that Wold's left
4 shoulder had to be stabilized, and that Wold was given a bandage.
5

6 29.

7 Dawn L. Meicher M.D reports that she examined Mr. Wold on April
8 30, 2009 and found a raised "egg" on his forehead, that his eyes were red
9 and that Wold had scrapes across his nose, face, left shoulder, wrists and
10 ankles. The doctor stated that Mr. Wold continued to discuss religion. The
11 doctor further explains that the Columbia County Sheriff's deputy
12 defendants informed her that Mr. Wold had hit his head and left shoulder,
13 that Wold was using drugs and that he had been pepper sprayed. The
14 doctor diagnosed Mr. Wold as having experienced a psychotic episode
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24 Dr. Meichar and Nurse Jacobson are two of the providers, along with
25 other medical and mental health providers, believed to have entered into
26 agreements with defendant Sheriff Hessler, the Columbia County Sheriff's

1 Department Jail division, and Columbia County to provide medical services
2 and mental health services to the inmates housed at the Columbia County
3 Jail.

4 31.

5 The Columbia County sheriff's deputies, defendants Nick Henzel and
6 defendant Joe Helm, along with defendant Sheriff Hessler, continued to
7 detain Mr. Wold at the Columbia County jail. Counsel was eventually
8 appointed for Mr. Wold; however, Wold is believed to have never appeared
9 in court or before any judge for a probable cause hearing. The Columbia
10 County designated mental health provider is believed to have asked the
11 Columbia County Superior Court to detain Mr. Wold pursuant to RCW
12 71.05 for a mental health evaluation. The County mental health provider
13 found that plaintiff Wold's thought processes were extremely disorganized
14 and paranoid. The designated mental health provider concluded that Wold
15 was experiencing a mental disorder and recommended that Wold be further
16 detained for a mental health evaluation and treatment at an appropriate
17 medical facility. The Columbia County Superior court ordered that as a
18 result of a mental disorder Mr. Wold was to be taken into custody placed in
19 the Dayton General Hospital in Columbia County. The defendant Sheriff
20 Hessler is believed to have been tasked with carrying out the Superior
21 Court's authorization for initial apprehension sometime after 6:45 a.m. on
22 April 30, 2009.

23 32.

24 On or about April 30, 2009 defendant Sheriff Walter J. Hessler
25 eventually transported Wold from Columbia County to the Eastern State
26 Hospital in Medical Lake, Washington. Mr. Wold was admitted to the

1 Eastern State Hospital where he was examined and evaluated. At the
2 hospital the doctors diagnosed Mr. Wold as having suffered an acute left
3 distal clavicle fracture, a left shoulder injury with prior surgical repair,
4 scleritis of the right eye, bilateral heel pain, multiple contusions and
5 abrasions, extrapyramidal syndrome, and dyspepsia. The attending
6 physician's psychiatric diagnosis included psychosis and manic episode.

7 33.

8 The State is believed to have filed an information later in the day, on
9 or around April 30, 2009, in which it charged Mr. Wold with assault in the
10 second degree, unlawful imprisonment, malicious mischief in the second
11 degree, malicious mischief in the third degree, driving under the influence
12 of intoxicating liquor and or drugs, and hit and run property damage. The
13 Columbia County Superior Court Summoned Mr. Wold to appear for an
14 arraignment on May 7, 2009. The State eventually dismissed the DUI
15 charge based on finding no evidence that Mr. Wold's driving was impaired
16 by drugs or alcohol.

17 34.

18 Wold remained under the care of his physicians at the Eastern State
19 Hospital in Spokane County until he was discharged from the State hospital
20 on May 27, 2009. Upon his release, the Columbia County Superior Court
21 found Mr. Wold to be gravely disabled based upon the State psychologist's
22 diagnosis of manic episode as a result of bipolar disorder. This included a
23 finding that Mr. Wold was not capable of forming the mental state for some
24 of the crimes the State had charged him with committing. The State
25 psychologist concluded that Mr. Wold was not legally sane at the time he
26 was alleged to have committed the remaining offenses he was charged

1 with committing. Therefore, the Superior Court found Mr. Wold not guilty by
2 reason of insanity and the State dismissed its criminal case against Mr.
3 Wold.

4 35.

5 Upon his discharge from the Eastern State hospital, plaintiff Wold
6 continued to suffer from the injuries caused by the Columbia County
7 defendants. He sought additional medical treatment and additional medical
8 tests, examinations, and treatment. Wold eventually underwent surgery to
9 repair the injuries to his left shoulder caused by the Columbia County
10 defendants. After the surgery, he was given physical therapy to assist in
11 his recovery from the operation and in an effort to regain the function in his
12 left shoulder. Plaintiff Wold's health care providers were paid and he spent
13 money for medical treatment. Plaintiff Wold experienced pain as a direct
14 and proximate result of the defendants' acts and also experienced suffering
15 and a loss of enjoyment of his life. The denial of medical treatment at the
16 Columbia County Jail exacerbated his mental health conditions and
17 illnesses and caused further mental illnesses and sickness. He continues to
18 suffer from his injuries and is expected to experience this harm and
19 suffering for the rest of his life. Plaintiff Wold also lost wages as a direct
20 and proximate cause of the injuries he suffered.

21 36.

22 Use of force by defendant deputy Henzel and defendant deputy Helm
23 was approved, authorized, and, or ordered by the Columbia County
24 Sheriff's Department. Defendant Sheriff Walter Hessler was the supervising
25 chief sheriff of the Sheriff's Department police at the time of the incident
26 and when the Department's policies on use of force were implemented.

1 Moreover defendant Sheriff Hessler was the chief of the sheriff's
2 department when defendants deputy Henzel and deputy Helm were
3 approved or authorized to use and carry out the use of force policy.

4 37.

5 As a direct and proximate result of the said acts of the defendant
6 sheriff's deputies the plaintiff Douglas Wold suffered the following injuries
7 and damages:

8 a. Violation of his constitutional rights under the Fourth, and
9 Fourteenth Amendments to the United States Constitution to be free from
10 an unreasonable use of force which;

11 b. Physical pain and suffering and suffering requiring the expenditure
12 of money for treatment and mental anguish, loss of enjoyment of life;

13 c. Economic and non-economic damages incurred and expected to
14 be incurred, in an amount to be established at trial.

15 38.

16 The actions of the defendant Columbia County Sheriff and his
17 deputies violated the clearly established and well-settled federal
18 constitutional rights of Douglas J. Wold to be freedom from the use of
19 excessive, unreasonable and unjustified force against his person.

20
21 39.

22 Confinement and withholding emergency and other medical treatment
23 by defendant sheriff's deputies Henzel and Helm and by Sheriff Hessler
24 was approved and ordered by the Columbia County Jail. Defendant Sheriff
25 Hessler was the director of the jail at the time its policy on medical care for
26 pretrial detainees was implemented. Moreover defendant Sheriff Hessler

1 was the supervising sheriff and the managing director of the Columbia
2 County Jail when defendants, deputy Henzel and deputy Helm were
3 authorized to carry out the policies on providing medical care to pretrial
4 detainees, and when said individuals denied or refused medical treatment
5 and, or delayed such treatment to the plaintiff Douglas Wold a pretrial
6 detainee in their custody at the Columbia County Jail.

7 40.

8 As a direct and proximate result of the said acts of the defendant
9 sheriff's deputies and defendant Sheriff, the plaintiff Douglas Wold suffered
10 the following injuries and damages:

- 11 a. Violation of his constitutional rights under the Fourteenth
12 Amendment to the United States Constitution to be free from cruel and
13 unusual punishment;
- 14 b. Loss of his physical liberty;
- 15 d. Physical pain and suffering requiring the expenditure of money for
16 treatment;
- 17 e. Humiliation and embarrassment;
- 18 f. Economic and non-economic damages incurred and expected to be
19 incurred, in an amount to be established at trial.

20 41.

21 The actions of the defendant deputies and defendant Sheriff violated
22 the clearly established and well-settled federal constitutional rights of
23 Douglas Wold, to be free from cruel and unusual punishment.

24
25 **FIRST CLAIM - CIVIL RIGHTS VIOLATION UNDER 42 U.S.C § 1983**
26 **INDIVIDUAL CAPACITY CLAIMS AGAINST INDIVIDUAL DEFENDANTS**
COLUMBIA COUNTY SHERIFF'S DEPUTY NICK HENZEL and

1 **COLUMBIA COUNTY SHERIFF'S DEPUTY JOE HELM and**
2 **DEFENDANT SHERIFF WALTER HESSLER – DELIBERATE**
3 **INDIFFERENCE TO DETAINEE'S MEDICAL NEEDS**

4 42.

5 Plaintiff re-alleges paragraphs 1 through 41 above.

6 43.

7 At all times material herein, defendant deputy Nick Henzel and
8 defendant deputy Joe Helm along with defendant Sheriff Hessler, believed
9 to be one of the officers who arrested plaintiff Wold and assisted with
10 booking or booked him into the Columbia County Jail, each of whom was
11 acting under color of state law, had a duty to refrain from depriving plaintiff
12 Douglas Wold of his constitutional rights. The defendants had a duty to
13 provide adequate medical care known to be necessary under the
14 circumstances to the pre-trial, pre-probable cause hearing detainees
15 incarcerated at the Columbia County Jail, including plaintiff Wold.

16 44.

17 While Wold was in the care, custody, and control of the defendants at
18 the Columbia County Jail, defendant Sheriff Hessler, deputy Nick Henzel,
19 and defendant deputy Joe Helm were deliberately indifferent to the health
20 and welfare of Wold in intentionally failing or refusing to provide him that
21 medical care known to be necessary under the circumstances.

22 45.

23 The defendants breached the aforementioned duty by demonstrating
24 a deliberate indifference to his serious medical needs and injuries by
25 intentionally, deliberately, and or recklessly denied and delayed plaintiff
26 Wold's access to medical care at the Columbia County Jail, on or around
April 29, 2009, and on into the night and the next day through the early

1 morning of April 30, 2009.

2 46.

3 By their respective acts and omissions defendant deputy Nick
4 Henzel, defendant deputy Joe Helm and defendant Sheriff Hessler
5 deprived Wold of his clearly established right to adequate medical care
6 while in the defendants' pre-trial confinement, in violation of plaintiff's rights
7 under the 14th Amendment to the Constitution of the United States.

8 47.

9 As a direct and proximate result of the acts and omissions of the
10 defendants, plaintiff Wold suffered injuries, mental anguish, physical pain,
11 and suffering. Such injuries are permanent and continuing. Wold will suffer
12 such losses in the future. Plaintiff Wold claims damages for the injuries set
13 forth herein and above under 42 U.S.C. § 1983 against defendant deputy
14 Nick Henzel, defendant deputy Joe Helm and defendant Sheriff Hessler
15 for violation of his constitutional rights under color of law.

16 48.

17 The acts, conduct, and behavior of the defendants were performed
18 knowingly, intentionally and maliciously, or recklessly, by reason of which
19 plaintiff is entitled to punitive damages from each defendant.

20
21 **SECOND CLAIM - CIVIL RIGHTS VIOLATION UNDER 42 U.S.C § 1983**
22 **– OFFICIAL CAPACITY CLAIM AGAINST DEFENDANTS COLUMBIA**
COUNTY and SHERIFF WALTER HESSLER

23 49.

24 Plaintiff re-alleges paragraphs 1 through 48 above.

25 50.

26 Prior to April 29, 2009, defendant Sheriff Hessler, as the supervisor

1 of Columbia County Sheriff's department is believed to have enacted,
2 adopted, and or implemented policies and procedures for managing
3 detainees whose behavior is indicative of mental illness, mental
4 retardation, or other cognitive impairments as well as for managing
5 detainees who experience medical problems at the Columbia County Jail.

6 51.

7 Defendant Sheriff Hessler, doing business as the Columbia County
8 Sheriff's department is believed to have entered into agreements on behalf
9 of Columbia County and its Sheriff's Department, Jail division, with licensed
10 medical providers and, or physicians and mental health professionals in
11 order to comply with his duties and responsibilities to provide adequate
12 medical care to those persons in the care, custody, and control of
13 defendant Sheriff Hessler at the Columbia County Jail. At all times
14 material hereto, these agreements for medical services were in full legal
15 force and effect from April 29, 2009 through April 30, 2009 at the Columbia
16 County Jail and applicable to all the Sheriff's deputies, jail guards, and
17 other members of the jail staff, and defendant Hessler, along with his
18 agents and employees.

19 52.

20 Pursuant to such agreements for jail medical services defendant
21 Sheriff Hessler had a written policy or practice whereby inmates housed in
22 the Columbia County Jail, including plaintiff Wold, had available to them a
23 physician to provide medical services to them, for the provision of
24 necessary, direct medical and, or mental health services and, or on-call
25 consultative services with a physician or at designated pre-scheduled
26 times.

1 53.

2 Pursuant to such agreements for jail medical and mental health
3 services defendant Sheriff Hessler had a written policy or practice whereby
4 inmates housed in the Columbia County Jail, including plaintiff Wold, had
5 available to them nursing personnel and, or counselors to treat plaintiff
6 Wold, and other jail inmates for ailments, non-emergency medical and
7 mental health situations, as well as emergency medical and mental health
8 situations.

9 54.

10 Despite the written policies and practices of defendant Hessler
11 identified above and the policies and practices identified in whole or in part
12 within the agreements for jail medical services, defendant Sheriff Hessler
13 engaged in practices that ran counter to his written policies and practices.
14 The actual policies and practices of defendant Sheriff Hessler were
15 different than the written policies and practices. Defendant Sheriff Hessler
16 and defendant deputy Nick Henzel and defendant deputy Joe Helm acted
17 as the final policy makers concerning whether an inmate would get any
18 emergency or non-emergency medical or mental health care; the date, time
19 and place such care would be provided; and the nature and extent of the
20 medical or mental health care actually provided. Contrary to the
21 agreements to provide jail medical care defendant Sheriff Hessler and
22 defendant deputy Nick Henzel and defendant deputy Joe Helm initiated
23 and carried out *de facto* policies and practices that included, but were not
24 limited to, the diagnosis and treatment of inmates' mental illnesses, other
25 illnesses, or injuries, rather than diagnosis and treatment by persons
26 trained in the medical sciences.

1 55.

2 Contrary to the agreements to provide jail medical care noted above
3 defendant Sheriff Hessler and defendant deputy Nick Henzel and
4 defendant deputy Joe Helm, with deliberate indifference toward his or her
5 respective knowledge of plaintiff Wold's grave need for adequate medical
6 and mental health care, failed or refused to provide Wold with any
7 substantial medical or mental health care whatsoever until sometime after
8 the defendants physically injured plaintiff Wold.

9 56.

10 At all times material hereto defendant Sheriff Hessler had a duty to
11 adopt and implement rules and procedures to ensure that his deputies,
12 correctional officers, jail guard, administrative staff, and medical staff and or
13 providers at the Columbia County Jail provided inmates adequate medical
14 care on both an emergent and non-emergent basis. This duty included, but
15 was not limited to the duty to create, adopt, and implement rules,
16 regulations, practices and procedures which clearly direct deputies,
17 correctional officers, and jail guards as the appropriate provision of medical
18 care necessary under the circumstances.

19 57.

20 Defendant Sheriff Hessler's failure to adopt and implement adequate
21 policies regarding his correctional officers' provision of medical care known
22 to be necessary under the circumstances, and his conscious ignorance of
23 his legal duties and responsibilities arising from the agreements to provide
24 jail medical services as a matter of custom, and practice constituted
25 deliberate indifference to the known serious medical needs of plaintiff Wold.

26 58.

1 Defendant Sheriff Hessler is legally liable for the deliberate
2 indifference of his final policymakers with respect to the provision of
3 adequate medical care to plaintiff Wold, due to the *de facto* policymaking
4 authority of defendant deputy Nick Henzel and defendant deputy Joe Helm.

5 59.

6 At all times material hereto defendant Sheriff Hessler knew, or
7 reasonably should have known, and it was foreseeable that giving his
8 deputies, correctional officers and guards *de facto* policy making authority
9 to withhold medical care know to be necessary under the circumstances
10 would result in serious injury to inmates at the Columbia County Jail.

11 60.

12 At all times material hereto defendant Sheriff Hessler knew, or
13 reasonably should have known that his failure to establish a custom, policy
14 or practice whereby medical decisions would be made by persons with
15 substantial medical training would result in repeated instances of failure to
16 provide adequate medical care by reason of carelessness, recklessness,
17 deliberate indifference or other culpable conduct.

18 61.

19 As a direct and proximate result of defendant Sheriff Hessler's
20 customs, policies and practices plaintiff Wold suffered personal injuries and
21 harms requiring the expenditure of money for treatment, as further
22 described in this complaint including physical injuries, mental anguish, pain
23 and suffering, loss of ability to enjoy life, lost wages and other losses.
24 These injuries are permanent and continuing and plaintiff Wold will suffer
25 such losses in the future.

26 62.

1 Defendant Sheriff Hessler further acted with deliberate indifference in
2 causing the aforesaid constitutional violations by defendant deputy Nick
3 Henzel and defendant deputy Joe Helm to occur, as follows: defendant
4 Sheriff Hessler failed to adequately train and educate his correctional
5 officers, including defendant deputy Nick Henzel and defendant deputy
6 Joe Helm in the signs and symptoms of mental illnesses, such as bipolar
7 disorder, manic-depressive conditions, and behavior disorders, and the
8 signs and symptoms of orthopedic injuries, scleritis, extrapyramidal
9 syndrome, and other physical ailments and illnesses and the gravity of
10 these medical conditions and other serious medical conditions thereby
11 creating an atmosphere of illegal and unconstitutional behavior with respect
12 to the provision of adequate medical care, in deliberate indifference and
13 reckless disregard to the health, safety and welfare of persons incarcerated
14 at the Columbia County Jail.

15 63.

16 Defendant Sheriff Hessler failed to adequately train and educate his
17 correctional officers, including defendant deputy Nick Henzel and
18 defendant deputy Joe Helm with respect to emergent conditions requiring
19 the immediate provision of adequate medical care at the Columbia County
20 Jail, or through emergency transport to the appropriate designated medical
21 or mental health facilities, in reckless disregard and deliberate indifference
22 to the health, safety, and welfare of persons incarcerated at the Columbia
23 County Jail.

24 64.

25 Defendant Sheriff Hessler failed to adequately train, educate,
26 supervise and control his correctional officers, including defendant deputy

1 Nick Henzel and defendant deputy Joe Helm with respect to the policies
2 and practices of defendant Sheriff Hessler in providing adequate medical
3 care to inmates at the Columbia County Jail, including but not limited to the
4 provisions of Defendant Sheriff Hessler's aforesaid agreements to provide
5 jail medical services at the Columbia County Jail, believed to have been
6 entered into and any standing orders or operating procedures thereto, all in
7 reckless disregard and deliberate indifference to the health, safety, and
8 welfare of persons incarcerated at the Columbia County Jail.

9 65.

10 The aforementioned policies, customs and practices, whether official,
11 *de facto*, by policy making authority or through failure to adequately train
12 and supervise and the subsequent acts and omissions violated the U.S.
13 Constitution and its Fourteenth Amendment, alleged hearing, were the
14 underlying causes of plaintiff Wold's injuries, harms and damages thereto.
15 Plaintiff Wold claims damages for the injuries set forth above under 42
16 U.S.C. § 1983 against defendant Sheriff Hessler for violation of his federal
17 constitutional rights under color of law.

18
19 **THIRD CLAIM - VIOLATION OF 42 U.S.C § 1983 INDIVIDUAL**
20 **CAPACITY CLAIM AGAINST DEFENDANTS COLUMBIA COUNTY**
21 **SHERIFF'S DEPUTY NICK HENZEL and COLUMBIA COUNTY**
22 **SHERIFF'S DEPUTY JOE HELM – EXCESSIVE FORCE**

23 66.

24 Plaintiff re-alleges paragraphs 1 through 65 above.

25 67.

26 At all times material herein, defendant sheriff's deputy Nick Henzel
and defendant sheriff's deputy Joe Helm, acting under color of state law,

1 had a duty to refrain from depriving plaintiff Douglas Wold of his federal
2 constitutional rights.

3 68.

4 Defendant deputy Henzel and defendant deputy Helm breached the
5 aforementioned duty by using unreasonably excessive force against Mr.
6 Wold a pre-probable cause hearing and pre-trial detainee at the Columbia
7 County jail, which constituted a violation of plaintiff Wold's rights under the
8 4th and 14th Amendments to the Constitution of the United States,
9 forbidding unlawful and unreasonable use of force against pre-trial pre-
10 probable cause hearing detainees.

11 69.

12 Plaintiff Wold claims damages for the injuries set forth above under
13 42 U.S.C. § 1983 against defendants Sheriff's deputy Henzel and
14 defendant Sheriff's deputy Helm for violation of his constitutional rights
15 under color of law.

16 70.

17 The acts, conduct and behavior of the defendants were performed
18 knowingly, intentionally and maliciously, by reason of which plaintiff is
19 entitled to punitive damages.

20 **FOURTH CLAIM - CIVIL RIGHTS VIOLATION UNDER 42 U.S.C § 1983**
21 **– OFFICIAL CAPACITY CLAIM AGAINST DEFENDANTS COLUMBIA**
22 **COUNTY and SHERIFF WALTER J. HESSLER**

23 71.

24 Plaintiff re-alleges paragraphs 1 through 70 above.

25 72.

26 Prior to April 29, 2009 defendant Columbia County Sheriff Walter

1 Hessler developed and, or maintained polices or customs exhibiting
2 deliberate indifference to the constitutional rights of those people detained
3 at the Columbia County Jail prior to any probable cause hearing or trial and
4 other persons incarcerated at the Columbia County Jail which caused the
5 violation of plaintiff Wold's civil rights.

6 73.

7 At the time of the incident involving plaintiff Wold it is believed that it
8 was the policy and, or custom of Columbia County to inadequately and, or
9 improperly investigate incidents of Sheriff's Deputy misconduct involving
10 the use of physical force and the use of less than lethal weapons on
11 detainees or inmates housed at the Columbia County Jail, and said acts of
12 misconduct were instead tolerated by defendant Columbia County Sheriff
13 Walter J. Hessler, and Columbia County.

14 74.

15 At the time of the incident involving plaintiff Wold it is believed that it
16 was the policy and, or custom of defendant Columbia County Sheriff Walter
17 J. Hessler, to inadequately and improperly investigate incidents of Sheriff's
18 Deputy's misconduct involving mentally ill or medically unstable detainees
19 housed at the Columbia County Jail and said acts of misconduct were
20 instead tolerated by defendant Columbia County Sheriff Walter J. Hessler
21 and by Columbia County.

22 75.

23 At the time of the incident involving plaintiff Wold it is believed that it
24 was the policy and, or custom of Columbia County to allow its Sheriff's
25 Deputies to use chemical spray weapons on detainees at times other than
26 when there is an immediate threat of violence and said acts of Sheriff's

1 Deputy's misconduct at the jail were instead tolerated by defendant
2 Columbia County Sheriff Walter J. Hessler and by Columbia County.

3 76.

4 At the time of the incident involving plaintiff Wold it is believed that it
5 was the policy and, or custom of Columbia County to allow its Sheriff's
6 Deputies to use chemical spray weapons and physical force on mentally ill
7 detainees and said acts of Sheriff's Deputies' misconduct at the jail were
8 instead tolerated by defendant Columbia County Sheriff Walter J. Hessler
9 and by Columbia County.

10 77.

11 At the time of the incident-involving plaintiff Wold, it is believed that it
12 was Columbia County Sheriff's Department's policy or custom, and,
13 defendant Columbia County Sheriff Walter J. Hessler's policy or custom to
14 inadequately supervise and train Columbia County deputies assigned to
15 the Columbia Jail, including defendant deputy Nick Henzel and defendant
16 deputy Joe Helm thereby failing to adequately discourage further violations
17 on the part of the Columbia County deputies assigned to the Columbia
18 County Jail. Defendant Columbia County Sheriff Walter J. Hessler's did not
19 require appropriate in-service training or retraining of deputies who were
20 assigned to use force inside of the Columbia County Jail. Defendant
21 Columbia County Sheriff Walter J. Hessler's and the Columbia County
22 Sheriff's Department , did not require appropriate in-service training or
23 retraining of officers who were known to have engaged in misconduct by
24 using force and, or using chemical spray weapons inside of the Columbia
25 County Jail against detainees housed in the jail.

26 78.

1 As a result of the above described policies and customs, Columbia
2 County Sheriff's deputies assigned to the Columbia County jail, including
3 defendant deputy Nick Henzel and defendant deputy Joe Helm, believed
4 that their actions or inactions would not be properly monitored by
5 supervisory officers and that the defendant officers' misconduct would not
6 be investigated or sanctioned but would be tolerated.

7 79.

8 The above described policies and customs demonstrated a deliberate
9 indifference on the part of policymaker defendant Sheriff Walter J. Hessler
10 and the policymakers of Columbia County to the constitutional rights of
11 persons detained within the Columbia County Jail prior to their probable
12 cause hearing and were a cause of violations of plaintiff's rights alleged
13 herein.

14 80.

15 The above described policies and customs demonstrated a deliberate
16 indifference on the part of policymaker defendant Sheriff Walter J. Hessler
17 and policymakers of Columbia County to the constitutional rights of ill or
18 mentally impaired persons detained within the Columbia County Jail prior to
19 their probable cause hearing and were a cause of violations of plaintiff's
20 rights alleged herein.

21 81.

22 The aforementioned policies, customs and practices, whether official,
23 *de facto*, by policy making authority or though failure to adequately train
24 and supervise and the acts and omissions that violate the U.S.
25 Constitution and its Fourth and Fourteenth Amendments, alleged herein,
26 were the underlying causes of plaintiff Wold's injuries, harms and damages

1 thereto. Plaintiff Wold claims damages for the injuries set forth above under
2 42 U.S.C. § 1983 against defendants Columbia County and Sheriff Hessler
3 for violation of his federal constitutional rights under color of law.

4 **JURY DEMAND**

5 82.

6 Plaintiff hereby requests trial by jury.

7
8 WHEREFORE, the plaintiff prays for judgment in an amount to be
9 established at trial, including:

10 a. Economic damages to plaintiff against the defendants jointly and
11 severally;

12 b. Non-economic damages to plaintiff against the defendants jointly
13 and severally;

14 c. Reasonable attorney's fees and costs to the plaintiff on Counts I -
15 IV of the complaint pursuant to 42 U.S.C. § 1988;

16 d. Punitive damages on Counts I & III of the complaint pursuant to 42
17 U.S.C. § 1983; and

18 e. Such further and other relief, as this Court may deem equitable.

19
20 DATED this 14th day of January 2013.

21
22 **KANNIN LAW FIRM P.S.**

23
24 By: s/John Kannin
25 John Kannin WSBA #27315
26 Of Attorneys for Plaintiff

RELEASE

Plaintiff Douglas Wold, (hereinafter referred to as "Releasor") acknowledges the receipt of a Fifty Thousand Dollar (\$50,000) settlement and Eighty-Nine Thousand Five Hundred Thirty-Five Dollars and Seventy-Nine Cents (\$89,535.79) in attorney fees and costs, totaling One Hundred Thirty-Nine Thousand Five Hundred Thirty-Five Dollars and Seventy-Nine Cents (\$139,535.79) in full satisfaction of the claims asserted against Defendants Columbia County, Walter J. Hessler, Nick Henzel and Joe Helm in relation to the incident described below.

In consideration of said sum, Releasor hereby completely releases and forever discharges Columbia County, Walter J. Hessler, Nick Henzel, Joe Helm, the spouses and marital communities of the individual Defendants, the Washington Counties Risk Pool, and their officers, directors, employees, elected officials, agents, representatives, attorneys, successors and assigns (hereinafter referred to as "Releasees") from any and all claims, actions, rights, suits, covenants, contracts, agreements, judgments, debts, attorneys fees, costs, liabilities and damages, whether based in law or equity, including claims for contribution, existing or as may arise in the future, arising from and by reason of any and all KNOWN AND UNKNOWN, FORESEEN AND UNFORESEEN, bodily and personal injuries and the consequences thereof, which have been or may be sustained by the Releasor on account of and/or arising out of the events of April 29 and 30, 2009, as set forth in pleadings and documents contained in Wold v. Columbia County, et al., pending in the United States District Court for the Eastern District of Washington, Cause No. CV-12-225-EFS and Wold v. Columbia County, et al., pending in the Superior Court of the State of Washington in and for the County of Columbia, Cause No. 12-2-00027-1.

IT IS HEREBY EXPRESSLY AGREED AND UNDERSTOOD that the payment of said sum is not to be construed as an admission on the part of the Releasees of any liability or responsibility whatsoever in relation to the injuries allegedly suffered by Douglas Wold, but that payment is in compromise and settlement of a claim which is denied and disputed by Releasees.

AS PART OF THE CONSIDERATION of the agreed settlement, Releasor acknowledges that all subrogation, lien and contribution claims arising out of contract or under state or federal law, including but not limited to, any subrogation or lien claims of Releasor's health care providers, insurance carriers, the Department of Labor & Industries, the Department of Social and Health Services, and any federal agency or programs such as SCHIP, Medicare, Medicaid, Veteran's Administration or federal Worker's Compensation Program, are the sole and separate obligation of Releasor which Releasor agrees to pay or otherwise resolve.

Releasor further agrees to DEFEND, INDEMNIFY AND HOLD HARMLESS the parties released, and their attorneys, agents and assigns, from and against all such contribution, lien and subrogation claims, including all costs and attorney's fees, incurred in the defense of such claims. The released parties retain the right to monitor the defense of any such claim or action.


Releasor warrants that no other person or entity has or has had any interest in the claims or causes of action referred to in this settlement agreement and that Releasor has the sole right and exclusive authority to execute this Release on his behalf and to receive the sum specified in it. Releasor shall defend and indemnify the parties released should any other person claim to have an interest in the claims described in this Release agreement.

I HAVE COMPLETELY READ THIS RELEASE AND SETTLEMENT AGREEMENT AND FULLY UNDERSTAND AND VOLUNTARILY ACCEPT IT FOR THE PURPOSE OF FINAL RESOLUTION AND SETTLEMENT OF ALL CLAIMS, DISPUTED OR OTHERWISE, FOR THE EXPRESS PURPOSE OF PRECLUDING FOREVER ANY OTHER CLAIMS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE INCIDENTS, INJURIES, OR DAMAGES ABOVE MENTIONED AGAINST THE RELEASED PARTIES.

I ACKNOWLEDGE THAT THE INFORMATION REGARDING SAID CLAIMS IS SUFFICIENT TO ENTER INTO THIS FINAL RELEASE OF ALL CLAIMS AGREEMENT AND EXPRESSLY WAIVE ANY CLAIM THAT THIS RELEASE IS NOT FAIRLY AND KNOWINGLY MADE. I HAVE HAD THE OPPORTUNITY TO REVIEW THE TERMS OF THIS RELEASE WITH MY ATTORNEY, JOHN KANNIN.


I DECLARE UNDER PENALTY OF PURJURY UNDER THE LAWS OF THE STATE OF WASHINGTON AND THE UNITED STATES OF AMERICA THAT THE SIGNATURE ON THIS RELEASE IS MY TRUE AND CORRECT SIGNATURE AND THAT I DID IN FACT PERSONALLY SIGN THIS RELEASE.

DATED this 14 day of February, 2014.



DOUGLAS WOLD

I DECLARE UNDER PENALTY OF PURJURY UNDER THE LAWS OF THE STATE OF WASHINGTON AND THE UNITED STATES OF AMERICA THAT I DID WITNESS THE PERSON KNOW TO ME AS DOUGLAS WOLD AFFIX HIS TRUE AND CORRECT SIGNATURE TO THIS RELEASE



Witness signature
Witness' printed name: Johnny Tobaie