

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSEPH JEROME WILBUR, a  
Washington resident; JEREMIAH RAY  
MOON, a Washington resident; and  
ANGELA MARIE MONTAGUE, a  
Washington resident, individually, and on  
behalf of all others similarly situated,

Plaintiffs,

v.

CITY OF MOUNT VERNON, a  
Washington municipal corporation; and  
CITY OF BURLINGTON, a Washington  
municipal corporation,

Defendants.

No. C11-01100 RSL

PLAINTIFFS' PRETRIAL STATEMENT

Plaintiffs, Joseph Jerome Wilbur, Jeremiah Ray Moon, and Angela Marie Montague, on behalf of themselves and the certified class (collectively "Plaintiffs"), submit this Pretrial Statement in accordance with Western District of Washington Civil Rule 16(h) and the Court's October 10, 2012, Second Amended Order Setting Trial Date and Related Dates (Dkt. No. 219).

**I. JURISDICTION**

This Court has original jurisdiction of this lawsuit under 28 U.S.C. § 1331. Defendants City of Mount Vernon and City of Burlington, by and through their attorneys of record, pursuant

1 to the provisions of 28 U.S.C. §§ 1441 and 1446, removed this matter to the U.S. District Court  
2 for the Western District of Washington on July 5, 2011. The lawsuit was initially filed in Skagit  
3 County Superior Court, as Cause No. 11-2-01156-1, on June 10, 2011. Plaintiffs' Complaint  
4 was served on Defendant City of Mt. Vernon on June 17, 2011, and served on Defendant City of  
5 Burlington on June 21, 2011. This case was properly removed because Plaintiffs' Complaint  
6 alleges violation of their Sixth Amendment constitutional rights and seeks recovery under 42  
7 U.S.C. §1983.  
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## 15 **II. PLAINTIFFS' CLAIMS FOR RELIEF**

16 Plaintiffs will pursue the following claims for relief at trial:

- 17 1. Violations of the Sixth Amendment to the United States Constitution, which  
18 guarantees to every indigent person charged with a crime the right to actual assistance of  
19 counsel.  
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- 24 2. Violations of Article I, Section 22, of the Washington State Constitution, which  
25 likewise guarantees to every indigent person charged with a crime the right to actual assistance  
26 of counsel.  
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## 31 **III. UNDISPUTED FACTS**

32 Plaintiffs are prepared to stipulate to the following facts, which are relevant and about  
33 which Plaintiffs believe there is no dispute:  
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- 35 1. Indigent defendants who are charged with misdemeanors in the municipal courts  
36 of Mount Vernon and Burlington ("Defendants" or "the Cities") have a fundamental right to the  
37 assistance of counsel under the Constitutions of the United States and State of Washington.  
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- 42 2. The Cities operate a public defense system for the purpose of providing assistance  
43 of counsel to indigent persons charged with misdemeanors in the Cities' municipal courts.  
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- 47 3. At the time this lawsuit was filed in June 2011, the Skagit County Office of  
48 Assigned Counsel ("OAC") conducted indigency screenings for criminal defendants charged  
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1 with crimes in the cities. The Cities' Public Defender was then assigned those defendants who  
2 were found to be indigent.  
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4  
5 4. At the time this lawsuit was filed, the Cities maintained a contract with Richard  
6 Sybrandy and Morgan Witt to provide the Cities' public defense services except where there was  
7 a conflict of interest.  
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9

10  
11 5. Sybrandy served as Mount Vernon's Public Defender from 2000 to April 2012  
12 and as Burlington's Public Defender from 2005 to April 2012.  
13

14  
15 6. Witt served as Mount Vernon's Public Defender from 2000 to April 2012 and as  
16 Burlington's Public Defender from 2005 to April 2012.  
17

18  
19 7. Since 2007, the Washington State Bar Association ("WSBA") has established  
20 public defense caseload standards on the maximum number of cases that will allow each lawyer  
21 to give each client the time and effort necessary to ensure effective representation.  
22  
23

24  
25 8. Under WSBA standards applicable through August 2011, the acceptable caseload  
26 of a full-time public defense attorney was generally 300 misdemeanor cases per year and could  
27 not exceed 400 misdemeanor cases per year.  
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31 9. Under WSBA standards applicable since September 2011, the acceptable caseload  
32 of a full-time public defense attorney has been 300 misdemeanor cases per year in jurisdictions  
33 that have adopted a case weighting system as described in the standards, or 400 misdemeanor  
34 cases per year in jurisdictions that have not adopted a numerical case weighting system.  
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38  
39 10. Under WSBA standards applicable since 2007, the acceptable caseload for a part-  
40 time public defense attorney has been a percentage of the applicable maximum that is equivalent  
41 to the percentage of time the attorney devotes to public defense.  
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44  
45 11. Sybrandy and Witt maintained their own private law practices while they served  
46 as the Cities' Public Defender.  
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48  
49 12. Sybrandy and Witt served as the Cities' Public Defender on a part-time basis.  
50

51 13. The Cities admit this lawsuit has brought "various shortcomings to the forefront."

1           14.    The Cities have had a criminal misdemeanor system in place since the 1950s but  
2  
3 they “just started a real solid approach of counting” the public defender caseloads in May of  
4  
5 2012.  
6

7           15.    The Cities concede that their “old” public defense system had problems and that  
8  
9 City officials failed to adequately monitor the Public Defender and caseloads.  
10

11           16.    Sybrandy and Witt no longer serve as the Cities’ Public Defender, and their  
12  
13 Public Defense Contract with the Cities terminated in April 2012.  
14

15           17.    Mountain Law PLLC became the Public Defender in April 2012 and currently  
16  
17 serves as the Cities’ Public Defender.  
18

19           18.    The Cities hired Mountain Law knowing the firm was going to provide only two  
20  
21 attorneys to handle more than 1,700 cases.  
22

23           19.    During their first two and a half months as the Cities’ Public Defender, Mountain  
24  
25 Law’s two attorneys opened a combined total of more than 1,200 cases.  
26

27           20.    Before hiring Mountain Law as their Public Defender, the Cities repealed  
28  
29 ordinances that required the Cities to oversee, monitor, and supervise the Public Defender. The  
30  
31 Cities also enacted new ordinances under which the Public Defender is “encouraged, but not  
32  
33 required” to monitor itself.  
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#### 35                                   **IV.    ISSUES OF LAW**

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37           Plaintiffs believe that the following issues of law will be addressed at trial, unless  
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39 resolution is made with respect to these issues upon motions for summary judgment or  
40  
41 otherwise:  
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43           1.    Whether the Cities have engaged in violations of the Sixth Amendment of the  
44  
45 U.S. Constitution.  
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47           2.    Whether the Cities have engaged in violations of Article I, Section 22, of the  
48  
49 Washington Constitution.  
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51           3.    Whether the Class is entitled to injunctive relief.

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**V. PLAINTIFFS' WITNESSES**

1. **Carlos E. Aguilar, Sr. — Possible witness only**

(All current and former indigent defendants may be contacted via Plaintiffs' counsel)

Information regarding Defendants' pattern and practice of constructively denying indigent persons the right to counsel.

2. **Letty Alvarez — Will testify**

Skagit County Office of Assigned Counsel

205 W. Kincaid, Suite #305

Mt. Vernon, WA 98273

Tel: (360) 336-9418

Information regarding (1) Defendants' pattern and practice of constructively denying indigent persons of their right to counsel; (2) complaints about and Defendants' knowledge of their pattern and practice of constructively denying indigent persons of their right to counsel; (3) Defendants' public defense system; and (4) other matters pertinent to this action, including those to which she testified at deposition.

3. **Jon Aarstad — Will testify**

Contact information known to Defendants

Information regarding (1) Defendants' pattern and practice of constructively denying indigent persons of the right to counsel; (2) complaints about and Defendants' knowledge of their pattern and practice of constructively denying indigent persons of their right to counsel; (3) Defendants' public defense system; (4) Defendants' bidding process for public defense services; and (5) other matters pertinent to this action, including those to which he testified at deposition.

4. **Allisha Barter — Possible witness only**

(All current and former indigent defendants may be contacted via Plaintiffs' counsel)

Information regarding Defendants' pattern and practice of constructively denying indigent persons the right to counsel.

1       **5. David Boerner — Will testify**  
2       Seattle University School of Law  
3       901 – 12th Avenue, P.O. Box 222000  
4       Seattle, WA 98122-1090  
5       Tel: 206.398.4016  
6       Email: dboerner@seattleu.edu  
7

8       Mr. Boerner will testify as an expert witness, and from the perspective of a government  
9  
10       prosecutor, concerning what the right to counsel requires under the Sixth Amendment to the  
11       United States Constitution and under Article 22 of the Washington State Constitution.  
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13       Mr. Boerner will also testify that the right to counsel has not been met with respect to  
14       Defendants' public defense services. Mr. Boerner's opinions are more particularly set out in  
15       Plaintiffs' Rule 26 Disclose of Expert Witnesses and Declaration of David Boerner (Dkt.  
16       No. 53).  
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22       **6. Elia Bright — Possible witness only**  
23       (All current and former indigent defendants may be contacted via Plaintiffs' counsel)  
24       Information regarding Defendants' pattern and practice of constructively denying  
25       indigent persons the right to counsel.  
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30       **7. Shawn De La Cruz — Possible witness only**  
31       (All current and former indigent defendants may be contacted via Plaintiffs' counsel)  
32       Information regarding Defendants' pattern and practice of constructively denying  
33       indigent persons the right to counsel.  
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37       **8. Robert Fowkes — Possible witness only**  
38       (All current and former indigent defendants may be contacted via Plaintiffs' counsel)  
39       Information regarding Defendants' pattern and practice of constructively denying  
40       indigent persons the right to counsel.  
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44       **9. Bryan Harrison — Will testify**  
45       Contact information known to Defendants  
46       Information regarding (1) Defendants' pattern and practice of constructively denying  
47       indigent persons of the right to counsel; (2) complaints about and Defendants' knowledge of  
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1 their pattern and practice of constructively denying indigent persons of their right to counsel;  
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3 (3) Defendants' public defense system; (4) Defendants' bidding process for public defense  
4 services; and (5) other matters pertinent to this action, including those to which he testified at  
5 deposition.  
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9 **10. Miranda Hasty — Possible witness only**

10 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

11 Information regarding Defendants' pattern and practice of constructively denying  
12 indigent persons the right to counsel.  
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16 **11. Dramon Hayes — Possible witness only**

17 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

18 Information regarding Defendants' pattern and practice of constructively denying  
19 indigent persons the right to counsel.  
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23 **12. Roy Howson — Possible witness only**

24 415 Pine Street  
25 Mt. Vernon, WA 98273  
26 Tel: (360) 336-8722  
27  
28

29 Information regarding (1) Defendants' pattern and practice of constructively denying  
30 indigent persons the right to counsel; (2) and other matters pertinent to this action, including  
31 those to which he testified at deposition.  
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34  
35 **13. Christine A. Jackson — Will Testify**

36 The Defender Association  
37 810 Third Ave., Suite 800  
38 Seattle, WA 98104  
39 Telephone: 206.447.3900, Ext. 704  
40 Facsimile: 206.447.2349  
41 Email: jacksonc@defender.org  
42  
43

44 Ms. Jackson will testify as an expert witness concerning Defendants' public defense  
45 services and how these services violate the United States Constitution's Sixth Amendment right  
46 to counsel. Ms. Jackson's opinions are more particularly set forth in Plaintiffs' Rule 26  
47 Disclosure of Expert Witnesses, Declaration of Christine Jackson (Dkt. No. 264-5), First  
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1 Supplemental Declaration of Christine Jackson (Dkt. No. 264-6), Second Supplemental  
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3 Declaration of Christine Jackson (Dkt. No. 264-6), and Rebuttal Expert Declaration of Christine  
4  
5 Jackson (Dkt. No. 264-6). Ms. Jackson's opinions may also be found in the transcript from her  
6  
7 deposition.  
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11 **14. Tina Johnson — Possible witness only**

12 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

13 Information regarding (1) Defendants' pattern and practice of constructively denying  
14 indigent persons of the right to counsel; and (2) other matters pertinent to this action, including  
15 those set forth in her Declarations (Dkt Nos. 49 and 104) and in her deposition testimony.  
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20 **15. Michael Laws — Possible witness only**

21 2411 Riverside Drive, Suite 206

22 Mt. Vernon, WA 98273

23 Tel: (360) 336-0828  
24

25 Information regarding (1) Defendants' pattern and practice of constructively denying  
26 indigent persons the right to counsel; (2) Defendants' public defense system; and (3) Defendants'  
27 bidding process for public defense services.  
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31  
32 **16. Rose A. Martineau — Possible witness only**

33 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

34 Information regarding Defendants' pattern and practice of constructively denying  
35 indigent persons the right to counsel.  
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40 **17. Angela Marie Montague — Will testify**

41 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

42 Information regarding (1) Defendants' pattern and practice of constructively denying  
43 indigent persons of the right to counsel; and (2) other matters pertinent to this action, including  
44 those set forth in her Declarations (Dkt Nos. 48 and 105) and in her deposition testimony.  
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1 **18. Jeremiah Ray Moon — Will testify**

2 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

3 Information regarding (1) Defendants' pattern and practice of constructively denying  
4 indigent persons of the right to counsel; and (2) other matters pertinent to this action, including  
5 those set forth in his Declarations (Dkt. Nos. 47 and 106) and in his deposition testimony.  
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8 **19. Frederick Muenschner — Will testify**

9 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

10 Information regarding Defendants' pattern and practice of constructively denying  
11 indigent persons the right to counsel.  
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14 **20. Jacob C. Norman — Possible witness only**

15 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

16 Information regarding Defendants' pattern and practice of constructively denying  
17 indigent persons the right to counsel.  
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20 **21. Sergeant Juanita O'Neill — Possible witness only**

21 Skagit County Jail  
22 600 South Third St.  
23 Mount Vernon, WA 98273  
24 Phone: (360) 336-9450

25 Information regarding (1) procedures for inmate communications at Skagit County jail,  
26 including legal mail, confidential calls, and kites; (2) Skagit County Jail's log sign-in process and  
27 procedure; and (3) other matters pertinent to this action, including those set forth in her  
28 Declaration (Dkt. No. 101).  
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31 **22. Steve Osborn — Possible witness only**

32 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

33 Information regarding Defendants' pattern and practice of constructively denying  
34 indigent persons the right to counsel.  
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1           **23. Jaretta Osborne — Possible witness only**

2           (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

3           Information regarding Defendants' pattern and practice of constructively denying  
4           indigent persons of the right to counsel and other matters pertinent to this action, including those  
5           set forth in her Declaration (Dkt. No. 51).  
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10           **24. Sophia Paladichuk — Will testify**

11           (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

12           Information regarding Defendants' pattern and practice of constructively denying  
13           indigent persons the right to counsel.  
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17           **25. Deanna Randall — Possible witness only**

18           Skagit County Jail  
19           600 South Third St.  
20           Mt. Vernon, WA 98273  
21           Tel: (360) 336-9450  
22

23           Information regarding procedures for inmate communications at Skagit County Jail,  
24           including legal mail, confidential calls, and kites.  
25

26  
27           **26. Mark Reyna — Possible witness only**

28           (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

29           Information regarding Defendants' pattern and practice of constructively denying  
30           indigent persons the right to counsel.  
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33           **27. Cori Russell — Possible witness only**

34           Skagit County Records Management  
35           700 South Second, Room 100  
36           Mt. Vernon, WA 98273  
37           Tel: (360) 336-9404  
38

39           Information regarding Skagit County records, including kites, and the handling of  
40           requests under the Public Records Act.  
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1 **28. Bonifacio Sanchez — Possible witness only**

2 (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

3  
4 Information regarding Defendants' pattern and practice of constructively denying  
5  
6 indigent persons the right to counsel.

7  
8 **29. Eric Stendal – Will testify**

9 City Hall, PO Box 809  
10 Mount Vernon, WA 98273  
11 Phone: (360) 336-6211  
12

13 Information regarding (1) Defendants' pattern and practice of constructively denying  
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15 indigent persons of the right to counsel; (2) complaints about and Defendants' knowledge of  
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17 their pattern and practice of constructively denying indigent persons of their right to counsel;  
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19 (3) Defendants' public defense system; (4) Defendants' bidding process for public defense  
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21 services; and (5) other matters pertinent to this action, including those to which he testified at  
22  
23 deposition.  
24

25  
26 **30. John A. Strait — Will testify**

27 1154 – 15th Avenue East  
28 Seattle, WA 98112  
29 Tel: 206.398.4027  
30 Fax: 206.398.4077  
31 Email: straitj@seattleu.edu  
32

33 Mr. Strait will testify as an expert witness concerning what the right to counsel requires  
34  
35 under the Sixth Amendment to the United States Constitution and how Defendants' public  
36  
37 defense practices fail to comply with these requirements. Mr. Strait will also testify about  
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39 Defendants' failure to exercise reasonable care in the selection of counsel for indigent  
40  
41 representation. Mr. Strait's opinions are more particularly set forth in Plaintiffs' Rule 26  
42  
43 Disclosure of Expert Witnesses, Declaration of John Strait in Support of Plaintiffs' Cross-Motion  
44  
45 for Preliminary Injunction and Opposition to Defendants' Summary Judgment Motions (Dkt.  
46  
47 No. 54), First Supplemental Declaration of John Strait, and Second Supplemental Declaration of  
48  
49 John Strait.  
50  
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1           **31. Richard Sybrandy — Possible witness only**

2           508 South Second Street  
3           Mt. Vernon, WA 98273  
4           Tel: (360) 336-5533  
5

6           Information regarding (1) Defendants' pattern and practice of constructively denying  
7 indigent persons of the right to counsel; (2) complaints about and Defendants' knowledge of  
8 their pattern and practice of constructively denying indigent persons of their right to counsel;  
9 (3) Defendants' public defense system; and (4) Defendants' bidding process for public defense  
10 services.  
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12           **32. Charlie Wend — Possible witness only**

13           (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

14           Information regarding (1) procedures for inmate communications at Skagit County jail,  
15 including legal mail, confidential calls, and kites; (2) Skagit County Jail's log sign-in process and  
16 procedure; (3) Defendants' pattern and practice of constructively denying indigent persons of the  
17 right to counsel; (4) complaints about and Defendants' knowledge of their pattern and practice of  
18 constructively denying indigent persons of their right to counsel; (5) Defendants' public defense  
19 system; and (6) other matters pertinent to this action.  
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22           **33. Joseph Jerome Wilbur — Will testify**

23           (All current and former indigent defendants may be contacted via Plaintiffs' counsel)

24           Information regarding (1) Defendants' pattern and practice of constructively denying  
25 indigent persons of the right to counsel; and (2) other matters pertinent to this action, including  
26 those set forth in his Declaration (Dkt. No. 46).  
27  
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29           **34. Morgan Witt — Possible witness only**

30           506 Main Street  
31           Mt. Vernon, WA 98273  
32           Tel: (360) 336-1614  
33

34           Information regarding (1) Defendants' pattern and practice of constructively denying  
35 indigent persons of the right to counsel; (2) complaints about and Defendants' knowledge of  
36 their pattern and practice of constructively denying indigent persons of their right to counsel;  
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1 (3) Defendants' public defense system; and (4) Defendants' bidding process for public defense  
2 services.  
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5 Plaintiff reserves the right to call any witnesses identified by either party during the  
6 course of discovery not listed above.  
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11 **VI. PLAINTIFF'S TRIAL EXHIBITS**  
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	<b>Date</b>	<b>Description</b>	<b>(a) Admissibility Stipulated</b>	<b>(b) Authenticity Stipulated/ Admissibility Disputed</b>	<b>(c) Authenticity &amp; Admissibility Disputed</b>
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	<b>Date</b>	<b>Description</b>	<b>(a) Admissibility Stipulated</b>	<b>(b) Authenticity Stipulated/ Admissibility Disputed</b>	<b>(c) Authenticity &amp;Admissibility Disputed</b>
9.		2009-2011 Public Defender Complaint Forms submitted to the City of Mount Vernon			
10.		2009-2011 Public Defender Complaint Forms submitted to the City of Burlington			
11.		2009-2011 City of Mount Vernon Case Reports			
12.		2009-2011 City of Burlington Case Reports			
13.		2009-2011 Skagit County Jail Multi-Purpose Request Forms, Public Defender Complaint Forms, and Skagit County Public Defender Office Inmate Confidential Public Request Forms submitted by Skagit County jail inmates to communicate with their public defenders			
14.		Skagit County Office of Assigned Counsel Jail Visit Statistics and Inmate Visit Statistics for 2010			
15.	11/23/04	Council Meeting Notes [reviewed 2005-06 Public Defender Services Contract]			
16.	2005	RCW 10.101.030 Standards [for delivery of public defense services whether provided by contract assigned counsel or public defender]			
17.	10/12/06	Council Meeting Notes [reviewed 2007-08 Public Defender Services Contract]			

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	<b>Date</b>	<b>Description</b>	<b>(a) Admissibility Stipulated</b>	<b>(b) Authenticity Stipulated/ Admissibility Disputed</b>	<b>(c) Authenticity &amp; Admissibility Disputed</b>
18.	09/20/07	Washington State Bar Association Standards for Indigent Defense Services			
19.	05/15/08	Dite email to Aarstad re why sudden interest in public defender contract			
20.	06/26/08 through 06/24/09	Series of emails between Eileen Clements, Court Clerk for City of Mt. Vernon, and Witt regarding case load and public defense memo as cover letter to new clients			
21.	08/22/08	David Stafford email to Bruntz and Aarstad re unable to contact City Public Defender on case of driving under influence			
22.	08/22/08	Witt email to Lopez re Francisco Nunoz			
23.	08/25/08	Email between Stafford and Aarstad re situation where not being able to contact public defender won't happen again			
24.	08/26/08	Aarstad email to Stafford re public defenders not paying attention during court hearings [playing crossword puzzles, etc.]			
25.	09/18/08	Rogerson and Eileen Clements email string re Case Statistics			
26.	10/09/08	Resolution 15-2008 of the City of Burlington, Washington, adopting standards for the delivery of public defense services			
27.	11/06/08	Request for Proposal for Public Defender Services for the Cities of Burlington and Mt. Vernon			

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	Date	Description	(a) Admissibility Stipulated	(b) Authenticity Stipulated/ Admissibility Disputed	(c) Authenticity & Admissibility Disputed
28.	11/06/08	Witt Response to Request for Proposal, including a contingency proposal based on the possibility that the Public Defender may be required to attend all arraignment calendars			
29.		City of Burlington/City of Mount Vernon Request for Proposal for Public Defender Services			
30.	11/06/08	Witt and Sybrandy letter to City of Burlington re Request for Proposal for public defender services for both the City of Burlington and the City of Mount Vernon, together with Response			
31.	11/30/08	Notice of Appearance by Sybrandy for Angela Montague in <i>City of Burlington v. Montague</i>			
32.	12/02/08 through 09/23/09	Motions for Continuance and Order on Motion in <i>City of Burlington v. Montague</i>			
33.	12/04/08	Letty Alvarez Email to Judge Svaren re concerns about how public defenders are representing indigent clients and requesting a meeting with him regarding same			
34.	12/09/08	Email from Eileen Clements to Witt and Sybrandy re lapses in services			
35.	12/09/08	Council Meeting Notes [Aarstad noted Public Defender Contract (for 2009-10) issue to be pulled from agenda with recommendation to hire Sybrandy & Witt, but contract has few minor changes]			



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36.	12/09/08	Email between Sybrandy and Aarstad re first draft response to contract			
37.	12/11/08	Sybrandy Email to Aarstad re Contract Issues — attaching first draft response to contract			
38.	12/17/08	City of Mount Vernon Ordinance No. 3436			
39.	12/17/08	Email string among Eileen Clements, Letty Alvarez, Carmen Purcell, Elisabeth Trujilio, Morgan Witt, and Richard Sybrandy regarding lapses in services			
40.	12/17/08	Stendal Memo to Mayor Norris and City Council re Council Approval – Public Defense Services 2009-2010 Contract for Services			
41.	12/17/08	Rogerson Email to Scott Thomas, Sybrandy & Witt attaching amended Public Defender Services Contract			
42.	12/17/08	City of Mt. Vernon City Council Study Session Agenda [including request for approval of proposed ordinance to adopt public defense service standards and approve agreement with Witt and Sybrandy]			
43.	12/31/08 through 12/14/10	Series of emails regarding lack of communication with clients			
44.	12/31/08	Alvarez email string with Witt and Sybrandy re Screening Services for Burlington			

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45.	12/31/08	Signed Ordinance No. 3436 [Ordinance of the City of Mount Vernon Adopting Standards for Delivery of Public Defense Services]			
46.	12/31/08	Alvarez email to Witt & Sybrandy (copy to Svaren) re screening services for Burlington			
47.	01/01/09	Letty Alvarez Email to Witt and Sybrandy about client communication with attorneys			
48.	01/01/09	City of Mt. Vernon and City of Burlington Public Defense Services — 2009-2010 Contract for Services			
49.	01/02/09	Contact letter [form letter] from Skagit County public defender's office			
50.	01/07/09 through 09/23/09	Motions for Continuance and Orders on Motions in <i>City of Burlington v. Montague</i>			
51.	01/08/09	City Council Meeting minutes			
52.	01/08/09	Memorandum to Mt. Vernon & Burlington Public Defender Defendants about their assigned counsel (Sybrandy/Witt)			
53.	01/09/09	Witt email to Faviola Lopez re Daniel Luna			
54.	01/30/09	Witt email to Faviola Lopez re Ramona A			

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55.	02/18/09	Letty Alvarez email to Eric Stendal re under whose umbrella does monitoring and ensuring compliance with public defense contract fall, and requesting a discussion on implementing a process for client complaints			
56.	03/2009 08/2010 10/2011	Summary for Mt. Vernon Cases (MV_PDR-000387-391); Summary for Burlington Cases (BURL_PDR-000071-74); Summary for Mt. Vernon Cases (MV_PDR-000119-124); Summary for Burlington Cases (BURL_PDR-0000027-30) Summary for Mt. Vernon Cases (DEFS-MV_001742-144); Summary for Burlington Cases (DEFS-BURL_001424-126)			
57.	03/05/09	Alvarez and Stendal emails re public defense representation complaints			
58.	03/10/09	City of Burlington (Aarstad) Letter to Morgan Witt indicating Witt is out of compliance with 2009-10 contract			
59.	03/12/09	Stendal Email to Alvarez re Public Defender Complaint Form			
60.	03/16/09	Stendal/Letty Alvarez email string re Public Defender Complaint Form			
61.	03/17/09	Stendal/Aarstad email string re Complaint Forms			
62.	03/17/09	Aarstad email exchange with Stendal re Public Defender Complaint Form			

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63.	03/17/09	Stendal/Aarstad email string re Public Defender Complaint Form			
64.	03/17/09	Stendal email to Alvarez attaching Final Public Defender Complaint form			
65.	03/17/09	Rogerson email to Alvarez requesting he not be involved in the general administration of the public defender contract as there may be a conflict of interest since his office serves to prosecute misdemeanants			
66.	04/23/09 through 10/27/09	Numerous emails between Mr. Witt and Len Green (client) regarding his representation			
67.	05/09	Mt. Vernon Municipal Code 2.62 Public Defense Service [Revised May 2009]			
68.	05/05/09	Faviola Lopez email to Witt re Cory Gessele thinking he doesn't need to return to jail because Witt told him that			
69.	05/19/09	Public Defender Complaint from Kimberly Myers re Witt and Sybrandy			
70.	05/20/09	Notice of Withdrawal [by Sybrandy] and Substitution [by Howson] of Attorneys for Defendant [Montague]			
71.	06/05/09	City of Mt. Vernon Letter (Stendal) to Sybrandy re Public Defender complaint from Kimberly Myers			
72.	06/05/09	Stendal email to Sybrandy attaching Public Defender complaint from Abel Z. Arroyo			

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73.	06/08/09	Witt Letter to Stendal re Kimberly Myers			
74.	07/03/09	Notice of Appearance by Sybrandy for Montague in <i>City of Burlington v. Montague</i>			
75.	09/04/09	Public Defender Complaint from Jennifer Baglien re Richard Sybrandy			
76.	09/18/09	City of Mt. Vernon (Stendal) letter to Sybrandy re Public Defender Complaint from Jennifer Baglien			
77.	09/23/09	Sybrandy letter to Stendal re Complaint from Jennifer Baglien			
78.	11/20/09	Email string among Ken Bergsma, Eric Stendal, Greg Booth, Morgan Witt, Richard Sybrandy, Kevin Roberson, Pat Eason, Toby Ruxton & Jeff Nelson re Public Defender services			
79.	11/30/09	Renewal Application for Lawyers Professional Liability Insurance for Morgan Witt			
80.		2009 Burlington City Council Meeting Minutes			
81.	02/18/10 through 04/10/10	Email exchange between Witt and Melanie Schlicker			
82.	04/05/10	Email exchange between Witt and Mary Magnuson			
83.	04/07/10 through 04/16/10	Email exchanges between Witt and Faviola Lopez, Juvenile Transition Case Mgr, regarding available bed for Marsha Assink			

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84.	04/16/10	Email from Witt to Lopez that ordered entered on Assink and "She is set to go"			
85.	06/28/10	Public Defender Complaint by Theodore Griffith re Richard Sybrandy			
86.	08/13/10 through 09/02/10	Email exchange between Witt and Kristen Adams			
87.	09/30/10	Witt Transmittal Memo enclosing case reports through 09/2010			
88.	11/02/10	Stendal letter to Witt re Abalberto Carrasco-Mota Complaint			
89.	11/19/10	Email from Skagit County (Carmen Purcell) to Stendal with 2008-2010 Statistics for Indigency Screening & Referrals for Mt. Vernon Municipal Court Public Defense Services			
90.	12/15/10	City of Mt. Vernon City Council Study Session Minutes [including motion to authorize Mayor to enter into an agreement with Sybrandy and Witt for provision of legal services for indigent defendants – motion carried 7-0]			
91.	12/20/10	Signed Version of First Amendment to City of Mt. Vernon and City of Burlington Public Defense Services Contract between Cities and Sybrandy and Witt			
92.	Undated	Summary of Sybrandy and Witt hours for 2009 and 2010			

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93.	Undated	Analysis of Contract Costs (presumably for 2009 and 2010)			
94.	01/03/11 through 07/25/11	Collection of Witt email communications with clients			
95.	01/10/11	Email exchange between Witt and Shawn Whitehorse			
96.	01/20/11	Letty Alvarez email to Eric Stendal re Mount Vernon Public Defense Complaints			
97.	01/28/11	Stendal email to Alvarez acknowledging he is still the contract person, and acknowledging the contract was extended for 2 years			
98.	01/31/11	Email exchange between Witt and Stendal re Todd J. Young complaint			
99.	02/02/11	Email exchange between Letty Alvarez and Nancy, Jon, Beth, Toby, Matt & Letty regarding conference call to discuss complaints			
100.	02/03/11 through 08/15/11	Email exchange between Witt and Molly Wilson			
101.	02/14/11	Email exchange between Witt and Kerianne O'Connor			
102.	02/25/11	Tyler Briggs Public Defender Request Form [Kite] to Sybrandy requesting a meeting			
103.	03/02/11	Email exchange between Witt and Angela Wilson			
104.	03/22/11	Sybrandy letter to Stendal re Michael D. Bollinger complaint			

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105.	03/25/11	Alvarez email to Stendal re Standard for Indigent Defense Services providing procedures for client complaints			
106.	03/29/11	Sybrandy email with Eason re April 11 Readiness hearings			
107.	05/17/11	Notice of Appearance by Witt for Montague in <i>City of Burlington v. Montague</i>			
108.	06/03/11	Washington State Bar Association Performance Guidelines for Criminal Defense Representation			
109.	06/12/11	KITE by Montague to Judge Svaren			
110.	06/16/11	Alvarez Letter to Stendal Re: Indigent Defense Screening — Mt. Vernon			
111.	06/20/11	Seattle Times article titled "Skagit County Suit Claims Public Defenders Too Busy to Defend"			
112.	07/02/11	Email exchange between Witt and Yolanda Cavazos			
113.	08/08/11	City of Burlington (Edward Brunz, Mayor) to Cynthia Wright-Turner re Public Defender Complaint form she submitted on 08/03/11			
114.	08/19/11	Sybrandy email to Cammock re dismissing case for woman living in BC			
115.	08/22/11	Burlington's Discovery Requests to Montague and Responses Thereto			



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116.	08/29/11	Email exchange between Witt and Jose Felix			
117.	09/22/11	Defendants' First Written Discovery to Plaintiff Jeremiah Ray Moon and Answers and Responses Thereto [ <i>Wilbur, et al. v. Cities of Mt. Vernon and Burlington</i> ]			
118.	09/29/11	Witt email to City of Burlington and City of Mt. Vernon re Public Defense Contract (terminating Public Defense Services Contract effective 12/31/11)			
119.	10/17/11	Declaration of John Strait in Support of Plaintiffs Preliminary Injunction and in Opposition to Defs' SJ Motion			
120.	10/17/11	Declaration of David Boerner [in Support of Plfs' Preliminary Injunction and in Opposition to Defs' SJ Motions]			
121.	10/17/11	Declaration of Christine Jackson [in Support of Plfs' Preliminary Injunction and in Opposition to Defs' SJ Motions]			
122.	10/17/11 F (dated 09/12/11)	Declaration of Jeremiah Moon [re Plfs' Cross-Motion for Preliminary Injunction and Opp to Defs' Motion for SJ]			
123.	10/17/11 F (dated 09/23/11)	Declaration of Joseph Jerome Wilbur [re Plfs' Cross-Motion for Preliminary Injunction and Opposition to Defs' Motion for SJ]			

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124.	10/17/11 F (dated 10/13/11)	Declaration of Angela Montague [re Plfs' Cross-Motion for Preliminary Injunction and Opposition to Defs' Motion for SJ]			
125.	10/17/11 F (dated 09/22/11)	Declaration of Tina Johnson [re Plfs' Cross-Motion for Preliminary Injunction and Opposition to Defs' Motion for SJ]			
126.	10/17/11 F (dated 09/29/11)	Declaration of Jaretta Osborne [re Plfs' Cross-Motion for Preliminary Injunction and Opposition to Defs' Motion for SJ]			
127.	10/17/11 F (dated 09/29/11)	Declaration of Roy Howson [re Plfs' Cross-Motion for Preliminary Injunction and Opp to Defs' Motion for SJ]			
128.	10/20/11	Declaration of Eric Stendal in Support of Defendants' Motions for SJ			
129.	10/21/11	Feldman letter to Scott Snyder re Independent Audit/Analysis of Public Defender Contracts for Cities			
130.	11/14/11	Proposed City of Mt. Vernon 2012 Budget			
131.	11/21/11 F (dated 11/10/11)	Declaration of Elia Bright [re Witt representation]			
132.	12/01/11	Declaration of James A. Feldman in Opposition to Class Certification and Preliminary Injunction			

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133.	12/07/11	Eric Stendal Memorandum to Mt. Vernon Mayor Norris and City Counsel re Addendum to Contract for Public Defender Services			
134.	12/07/11	Declaration of Rose A. Martineau [re Plfs' Motion for Preliminary Injunction]			
135.	12/15/11	Stendal email to Snyder council unanimously approved Addendum			
136.	12/16/11	Feldman letter to City of Mt. Vernon Prosecutor re Report regarding award of Public Defender Contract			
137.	12/19/11	Addendum to Contractor Public Defense Services   Cities of Mt. Vernon and Burlington			
138.	12/20/11	James Feldman (of Feldman & Lee) letter to Stendal re report and recommendation re criteria for awarding contract for public defender services for Mt. Vernon and Burlington			
139.	12/28/11	APPROVED City of Mt. Vernon 2012 Budget (Staff Copy)			
140.		Excerpt of caseloads of the Courts of Washington; jury trials set and held – 2011 Annual Report			
141.	2012	Contract for Indigent Defense Services			
142.	2012	City of Burlington 2012 Adopted Budget			

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143.	2012	Cities' Request for Proposal for Public Defender (commencing 04/012/12)			
144.	Jan. 2012	Undated Public Defender Proposal   Feldman and Lee P.S.			
145.	01/11/12	Stendal Memo to Mayor Boudreau and City Council re Ordinance Regarding Public Defender Services recommending Council approve ordinance, together with [Proposed] City of Mt. Vernon and City of Burlington Public Defense Services 2012-2013 Contract for Services (April 1, 2012)			
146.	01/16/12	Resolution 02-2012: A Resolution of the City of Burlington, Washington, Adopting Standards for the Delivery of Public Defender Services, Approving a Consultant's Report, Approving as to Form a Request for Proposal for Public Defender Services and Draft Contract, Both Conforming to the Recommendations, and Authorizing Staff to Proceed with Such Request			
147.	01/17/12	Ordinance No. 3556 re public defender services approved by Mayor Jill Boudreau			
148.	02/17/12	Stendal email to Hayden re Ordinance re Public Defender Services			
149.	02/17/12	City of Burlington/City of Mount Vernon RFP with handwritten notes and reviewed by Michael Laws			

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150.	02/22/12	RFP – Public Defender Qualifications for Public Defense Services from Baker, Lewis, Schwisow & Laws, PLLC			
151.	Undated	Mountain Law Caseload Data 2012			
152.	02/23/12	Response to RFP by North Cascade Legal Services			
153.	02/23/12	North Cascade Legal Services Response to Request for Proposal			
154.	02/23/12	Response to RFP by Geraldine Coleman, Atty, by North Cascades Public Defender Assoc.			
155.	02/23/12	Response to RFP by Suspended License Law Project [marked not responsive to bid]			
156.	Undated	Response to RFP by Feldman and Lee P.S. to Public Defender Proposal			
157.	02/24/12	Supplement to North Cascade Legal Services Response to Request for Proposal (pursuant to interview)			
158.	02/24/12	Letter to Cities of Mt. Vernon and Burlington from Corbin Volluz re proposal from Sybrandy and Volluz to provide Public Defender Services			
159.	02/28/12	ID Screening and Interview Notes (Bryan H. D. Hayden. Scott Snyder)			
160.	02/28/12	Hayden Memo to Stendal re Selection of Public Defender Contract Applicants for Interview			

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161.	03/08/12	Jon Lewis email to Bryan Harrison re Indigent Defense RFP with written response to Harrison's question prior to interview as to how firm intends to monitor, document and report caseload per atty			
162.	03/08/12	Response to RFP by Baker, Lewis, Schwisow & Laws, PLLC			
163.	03/12/12	Hackenberg email to Harrison attaching Supplemental Response to Request for Proposal			
164.	03/13/12	Handwritten notes re interview of Baker/Lewis/Laws			
165.	03/14/12	Hackenberg email to Harrison with Supplemental Response & Questionnaire			
166.	03/16/12	Hayden email to Stendal & Harrison attaching draft memo summarizing the RFP procedure and results			
167.	03/16/12	Hayden memo to Erick Stendal and Bryan Harrison summarizing RFP procedure and results			
168.	03/16/12	Email attaching draft memo referenced above correcting a typo			
169.	03/29/12	Jon Lewis email to Cities that after the City Council meeting, citizens stopped and let them know they were concerned about their predecessors and expected a great improvement			
170.	Undated	Mountain Law Case Credit Reports			

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171.	04/01/12 to 06/26/12	Case Credit Report			
172.	04/03/12	Expert Report of John Ladenburg, J.D., Esq.			
173.	04/03/12	Expert Report of James A. Feldman			
174.	04/05/12	Michael Laws email to Stendal and Harrison with search done re domestic violence cases current set for court in Mt. Vernon and Burlington between 04/17/12 and 05/02/12 (there are 31)			
175.	04/06/12	Email exchange between Sybrandy and Snyder regarding case numbers			
176.	04/06/12	Email string between Stendal and Sprouse re Case Numbers			
177.	04/06/12	2012-2013 Contract for Services signed by Mountain Law and approved by Mount Vernon and Burlington			
178.	04/08/12	Michael Laws email to Mountain Law attorneys re case assignments			
179.	04/16/12	City of Mt. Vernon/City of Burlington Public Defense Services 2012-2013 Contract for Services			
180.	04/16/12	Exhibit A to City of Mt. Vernon and City of Burlington Public Defense Services 2012-2013 Contract for Services			

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181.	04/18/12	Michael Laws email to Zitkovich, Sheahan & Pam S at Skagit County attaching Memorandum to All Assigned Counsel Defendants they would like to send to people as assigned to their office			
182.	04/26/12	Resolution No. 15-2012, Resolution providing procedures to monitor the delivery of services by the Public Defender and supplementing the Standards adopted by Resolution No. 02-2012, and fixing a time when the same shall become effective (introduced, passed, approved, and signed by City Council of the City of Burlington)			
183.	Undated	Recommendation for Contract for Indigent Defense Services (Mt. Vernon and Burlington: May 1, 2012-December 31, 2013)			
184.	05/01/12– 12/31/13	Recommendation for Contract for Indigent Defense Services (Mt. Vernon and Burlington: May 1, 2012 – December 31, 2012)			
185.	05/02/12	Chris Baker email to Michael Laws and Jon Lewis re the number of clients saying they NEVER met with Sybrandy or Witt anywhere but at court			
186.	05/03/12	Rebuttal Expert Declaration of Christine Jackson			
187.	05/03/12	Email string between Zitkovich and Sheahan re memo to hand out to public defense clients post, with attachment			



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188.	05/09/12 to 09/19/12	Jail Logs from Skagit County Jail			
189.	05/09/12	Ordinance No. 3566, an Ordinance providing procedures to monitor the delivery of services by the Public Defender and supplementing the standards adopted by Ordinance 3556 and fixing a time when the same shall become effective (adopted by the Mt. Vernon City Council)			
190.	05/17/12	Email exchange between Stendal and Sprouse re Addendum for Public Defender Contract, with attachments consisting of agenda requests, cover memo from Stendal and staff recommendations			
191.	05/21/12	Responses Plaintiffs' 1st Interrogatories and Requests for Production to Defendants			
192.	06/01/12	Responses to Plaintiffs' 1st RFAs to City of Burlington			
193.	06/01/12	Responses to Plaintiffs' 1st RFAs to City of Mt. Vernon			
194.	06/01/12	Responses to Plaintiffs' 2d Rogs and 3d RFPs to City of Burlington			
195.	06/01/12	Responses to Plaintiffs' 2d Rogs and 3d RFPs to City of Mt. Vernon			
196.	06/06/12	Email string between Sybrandy and Bledsoe re turning over client files to Zuchetto, with attached pdf file of billable hours			

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197.	06/13/12	Signed version of June 2012 Addendum to Agreement to Add Conflict Counsel			
198.	06/15/12	Supreme Court of Washington ORDER in the Matter of the Adoption of New Standards for Indigent Defense and Certification of Compliance			
199.	06/26/12	New Defense System Caseload Statistics			
200.	06/26/12	Laws email to Stendal and Harrison re April and May 2012 cases opened			
201.	06/28/12	Email string between Harrison and Laws re caseload statistics and reports with attachment			
202.	09/04/12	Declaration of Shawn Delacruz re 4th degree assault domestic violence charge in Mt. Vernon			
203.	09/19/12 F (dated 09/18/12)	Declaration of Steven Osborn re harassment charge in Burlington Municipal Court			
204.	09/19/12 F (dated 09/14/12)	Declaration of Mark Reyna			
205.	09/19/12 F (dated 09/18/12)	Declaration of Jacob C. Norman re charge of third degree theft			
206.	09/19/12 F (dated 09/14/12)	Declaration of Carlos E. Aguilar, Sr. [re Witt representation]			
207.	09/20/12	Supplemental Declaration of Eric Stendal re current system			

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208.	09/24/12	Michael Laws email to Vanessa Echavez and Patrick Eason stating it is "... fairly pointless to visit people in jail until I have the policy report and/or an offer."			
209.	09/26/12	Handwritten note by Sybrandy during his deposition comparing public defender work revenue to private practice revenue			
210.	10/29/12	In-custody response assessment profile sheet involving Thomas Ward Wilson			
211.	11/20/12	Ordinance No. 3584: An Ordinance of the City of Mount Vernon, Washington, Repealing Ordinance No. 3556 and Adopting New Standards for the Delivery of Public Defender Services Pursuant to RCW 10.101.030 and Fixing a Time When the Same Shall Become Effective			
212.	11/26/12	Resolution 27-2012: A Resolution of the City of Burlington, Washington Repealing Resolution No. 02-2012 and Adopting New Standards for the Delivery of Public Defender Services Pursuant to RCW 10.101.030			
213.	11/30/12	Case Credit Report 11/01/12 to 11/30/12 for Jesse Collins and Michael Laws			

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214.	12/01/12	Ordinance No. 1773: An Ordinance Adopting the 2013 Budget of the City of Burlington, Washington and Setting Forth in Summary Form the Estimated Revenue and Appropriated Expenditure Totals			
215.	12/06/12	Ordinance No. 3586: An Ordinance of the City of Mount Vernon, Washington, Adopting the Budget for the Year 2013			
216.	12/17/12	Contract for Indigent Defense Services between Cities and Mountain Law, PLLC			
217.	Undated	Excel spreadsheet of comparison of bids for the Public Defense Services			
218.	Undated	2012-2013 City of Mt. Vernon Case Reports			
219.	Undated	2012-2013 City of Burlington Case Reports			
220.		Copy of Supreme Court Standards for Indigent Defense passed in 2012			
221.	01/03/13	Stendal email to Jill Boer with Complaint documents for court web page			
222.	01/11/13	Stendal email to Jon Lewis with Case Credit Reports, specifically showing time spent on 4 Moon matters was a total of 16.8 hours (4.2 hrs. for each matter)			

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223.	01/22/13	Letter from Olympic Law Group (Anthony Gipe) with a breakdown of cases for Jesse Collins, Anthony Gipe and Sade Smith			
224.	01/25/13	Second Supplemental Declaration of Christine Jackson			
225.		All indigent defendant case files			

1. Plaintiff reserves the right to introduce any documents exchanged during the course of discovery that are not specifically identified above.

2. Plaintiffs reserve the right to use any demonstrative and illustrative exhibit as is necessary whether or not designated as a trial exhibit in this Pretrial Statement or in the Pretrial Order.

3. Plaintiffs reserve the right to use any exhibit for impeachment purposes, whether or not designated as a trial exhibit in this Pretrial Statement or in the Pretrial Order.

4. Plaintiffs reserve the right to designate additional exhibits for rebuttal purposes or otherwise for admission at trial.

RESPECTFULLY SUBMITTED this 22nd day of April, 2013.

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**CERTIFICATE OF SERVICE**

I certify that I made arrangements to serve via email on April 22, 2013, and via U.S. Mail, postage prepaid, on April 23, 2013, a true and correct copy of the foregoing Plaintiffs' Pretrial Statement with counsel for defendants as follows:

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11 jculumber@kbmlawyers.com

12 I CERTIFY UNDER PENALTY OF PERJURY under the laws of the United States of  
13  
14 America that the foregoing is true and correct.

15  
16 DATED this 22nd day of April, 2013.

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18 By: Carol Kness  
19 Carol Kness  
20 Litigation Secretary  
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