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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

LEONARD PELTIER, CHAUNCEY	) NO.
PELTIER,	) COMPLAINT FOR VIOLATIONS OF
Plaintiff,	) CIVIL RIGHTS, 1ST AMENDMENT
	) 5 TH AMENDMENT (DUE PROCESS)
	) 14 TH AMENDMENT (DUE PROCESS,
	) AND EQUAL PROTECTION
	) ARTICLE I-Washington State
JOEL SACKS, individually and in his	) Constitution, DEFAMATION, TORTIOUS
capacity as DIRECTOR OF the	) INTERFERENCE WITH CONTRACT
WASHINGTON STATE DEPARTMENT)
of LABOR AND INDUSTRIES;	) <u>JURY TRIAL DEMANDED</u>
TIMOTHY CHURCH, individually and)
in his capacity as PUBLIC AFFAIRS)
MANAGER of the WASHINGTON)
STATE DEPARTMENT of LABOR and)
INDUSTRIES; JAY INSLEE,)
Individually and in his capacity as)
GOVERNOR of the STATE of)
WASHINGTON; EDWARD P. WOODS)
LARRY LANGBERG; DOES 1-200,)
)
Defendants.)
_____)

PELTIER v. SACKS, et al. - COMPLAINT

LAWRENCE A. HILDES (WSBA # 35035)
P.O. Box 5405, Bellingham, WA 98227
Tel: (360) 715-9788
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

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LEONARD PELTIER AND CHAUNCEY PELTIER, the PLAINTIFFS herein, by

and through their attorney, allege as follows:

I. JURISDICTION

1. This court has jurisdiction over the subject matter of this action pursuant to Title 28, United States Code Sections 1331, 1332, 1343, and 1367, and venue is properly set in the Western District Federal Court pursuant to 28 U.S.C. 1391.

2. The claims upon which this suit is based occurred in this judicial district.

3. PLAINTIFF is informed and believes, and on that basis alleges, that each of the named DEFENDANTS reside in this judicial district.

II. PARTIES

2.1 Plaintiff LEONARD PELTIER is an American Indian Activist convicted under highly questionable circumstances of the disputed deaths of two FBI agents in 1974. The government case involved lying to Candia authorities and providing false witness testimony to persuade Canada to extradite this Plaintiff, witness coercion, falsifying, misrepresenting, and deliberately concealing material evidence, deliberately selecting a favorable venue, falsely representing to the trial judge that his own safety was in jeopardy and other acts deliberately calculated to ensure conviction. Plaintiff Leonard Peltier has been a Federal Prisoner, as a result for 40 years. His case has been the subject of great dispute and controversy. He is also an extremely accomplished artist.

1 He is currently housed in FCI Coleman in Coleman, Florida in the CENTRAL
2 DISTRICT OF FLORIDA.

3 2.2 Plaintiff CHAUNCEY PELTIER is a single man residing in Portland Oregon
4 in the DISTRICT OF OREGON. CHAUNCEY PELTIER is the SON of LEONARD
5 PELTIER, runs a gallery on behalf of Leonard and is the agent for sale, lending, and
6 distributing LEONARD PELTIER's paintings. PLAINTIFF CHAUNCEY PELTIER was
7 responsible for selecting and making available the paintings that were exhibited as is
8 at controversy herein.

9 2.3 Defendant JOEL SACKS, is and was at the time of the incidents that are the
10 basis for this Complaint, the DIRECTOR of the WASHINGTON STATE
11 DEPARTMENT OF LABOR AND INDUSTRIES. By information and belief,
12 DEFENDANT JOEL SACKS is a resident of THURSTON COUNTY, WA in the
13 WESTERN DISTRICT of WASHINGTON, whose office is in LACEY, WA in
14 THURSTON COUNTY. By information and belief, Defendant SACKS personally, along
15 with Defendants INSLEE and CHURCH made the decision to remove certain paintings
16 by PLAINTIFF LEONARD PELTIER from the public exhibition hereinafter described
17 solely due to the identity and controversy surrounding the artist causing the harm to
18 Plaintiffs detailed herein.

19 2.4 Defendant TIMOTHY CHURCH is, and was at the time of the incidents that
20 are the basis for this complaint, the PUBLIC AFFAIRS MANAGER for the
21 WASHINGTON STATE DEPARTMENT of LABOR and INDUSTRIES. By information

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Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

1 and belief, DEFENDANT JOEL SACKS is a resident of THURSTON COUNTY, WA in
2 the WESTERN DISTRICT of WASHINGTON, whose office is in LACEY, WA in
3 THURSTON COUNTY. By information and belief, Defendant CHURCH personally,
4 along with Defendants INSLEE and SACKS made the decision to remove certain
5 paintings by PLAINTIFF LEONARD PELTIER from the public exhibition hereinafter
6 described solely due to the identity and controversy surrounding the artist causing the
7 harm to Plaintiffs detailed herein.

8 2.5 Defendant JAY INSLEE is and was at the time of these incidents, THE
9 governor of the STATE of WASHINGTON. DFENDANT INSLEE is, and must be, a
10 resident of THURSTON COUNTY in the WESTERN DISTRICT of WASHINGTON. By
11 information and belief, Defendant INSLEE personally, along with Defendants SACKS
12 and CHURCH made the decision to remove certain paintings by PLAINTIFF
13 LEONARD PELTIER from the public exhibition hereinafter described solely due to the
14 identity and controversy surrounding the artist causing the harm to Plaintiffs detailed
15 herein.

16 2.6 Defendant EDWARD P. WOODS is, and was at the time of these incidents
17 a retired FBI AGENT, whose sole focus, and obsession, since his retirement, first
18 under paid contract with the FBI, and since, by belief unpaid, has been to discredit,
19 isolate, and harass, defame, and otherwise attack PLAINTIFF LEONARD PELTIER,
20 and attempt to prevent PLAINTIFF from ever been released from prison.. As part of
21 that vendetta, DEFENDANT WOODS contacted Defendants INSLEE and SACKS and

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ATTORNEY FOR PLAINTIFF

1 organized others to do so all demanding that PLAINTIFF LEONARD PELTIER'S
2 paintings be removed from the public exhibition in question and, to do so made
3 knowingly false statements to those officials to induce them to remove LEONARD
4 PELTIER'S artwork and expression from the exhibition, resulting in that harm. By
5 INFORMATION and BELIEF DEFENDANT EDWARD P. WOODS is a resident of
6 Cincinnati, OH, in the SOUTHERN DISTRICT of OHIO.

7 2.7 DEFENDANT LARRY LANGBERG is a retired FBI agent, the former
8 President of the FBI Agents Association and the Current Director of the Society of
9 former special agents of the Federal Bureau of Investigation. While an active agent,
10 Defendant LANGBERG made disparaging comments about the "over-promotion" of
11 agents of color and was investigating for improperly lobbying a member of Congress
12 for pay increases. DEFENDANT LANGBERG, in order to induce Defendants SACKS
13 and INSLEE to order Plaintiff Leonard Peltier's paintings removed from the exhibition,
14 wrote a letter to Defendant SACKS that was full of knowingly false statements and
15 slurs. By INFORMATION and BELIEF, DEFENDANT LARRY LANGBERG is a
16 resident of DUNFRIES, VA in the EASTERN DISTRICT of VIRGINIA.

17 2.8 Other employees of the DEPARTMENT of LABOR and INDUSTRIES, the
18 GOVERNOR'S OFFICE, and other agencies participated in the decision to deprive
19 PLAINTIFFS of their means of FIRST AMENDMENT expression and are designated
20 as Does 1-198.

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ATTORNEY FOR PLAINTIFF

1 a favorable venue, falsely representing to the trial judge that his own safety was in
2 jeopardy and other acts deliberately calculated to ensure conviction.

3 3.3 In addition, the FBI was later forced to admit that the gun did not match the
4 results of the ballistics tests on the bullets that killed the FBI agents, and the case
5 deteriorated to the point that the FBI and US Attorney's argument was that LEONARD
6 PELTIER was there and involved, and therefore deserved to be convicted.

7 3.4 For this LEONARD PELTIER has been locked up in Federal Prisons for the
8 past 40 years.

9 3.5 His conviction is highly suspected and his cause has been taken up by
10 millions of people around the world, including members of National Parliaments
11 leaders in the legal, political, academic, entertainment, media, and sports world, and a
12 sizeable percentage of American Indians.

13 3.6 LEONARD PELTIER is now in extremely poor health and there is a serious
14 question as to how much longer he will live.

15 3.7 Each Time PLAINTIFF LEONARD PELTIER petitions for release or has a
16 parole review date, a gaggle of retired FBI agents including Defendants WOODS and
17 LANGBERG sends a barrage of correspondence insisting that PELTIER not be
18 released full of falsehood, slurs, and innuendo.

19 3.8. While in prison, LEONARD PELTIER has become an extremely
20 accomplished painter, mostly of Native Americans and Native American themes, but
21 other subjects as well, and his art is highly valued and widely exhibited.

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ATTORNEY FOR PLAINTIFF

1 3.9 Since he is imprisoned and unable to give speeches and attend public
2 events, his painting is his principal means of public expression.

3 3.10 PLAINTIFF CHAUNCEY PELTIER is in frequent phone, letter, and e-mail
4 contact with his father and runs a gallery in Portland Oregon of his father's art..

5 3.11 CHAUNCEY PELTIER has been designated by his father and the
6 PELTIER FAMILY as the official agent for his father's art.

7 3.12 This is a particularly crucial time for PELTIER to have visibility as his
8 petition for clemency has been submitted to President Obama to review and act on
9 before he leaves office, and, as mentioned, is in very poor health and faces death in
10 prison if he is not released.

11 3.13 In preparation for a planned art display to Celebrate Native American
12 Heritage month (November, 2015) in the lobby of its Headquarters building in
13 Tumwater, employees of the Washington State Department of Labor and Industries
14 solicited loans of art by Native Americans to be up for the entire month.

15 3.14 An employee of L& I, the agency that deals with labor and workplace
16 issues for the State offered to, and was given approval to arrange for the loan of four
17 paintings by LEONARD PELTIER.

18 3.15 With his father's and the family's approval, CHAUNCEY PELTIER
19 selected four appropriate paintings and arranged for them to be conveyed from his
20 Portland, OR gallery to Tumwater.

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ATTORNEY FOR PLAINTIFF

1 3.16 The paintings were then examined, approved and installed as part of the
2 exhibit.

3 3.17 They were seen there by thousands of people who have business with L & I,
4 come for forms, and others who just came to see the exhibit.

5 3:18 The paintings allowed the public to see a side of LEONARD PELTIER not
6 generally reported in the media or other sources.

7 3.19 The paintings themselves were not of a particularly controversial nature,
8 but were a major part of LEONARD PELTIER'S public expression on American Indian
9 and related themes, and a crucial part of his petitioning the government for redress of
10 grievances.

11 3.20 By means unknown to Plaintiffs, Defendants WOODS and LANGBERG
12 became aware of the inclusion of LEONARD PELTIER'S work in the exhibit, and wrote
13 the previously referred to vicious and libelous letters demanding the removal of the art
14 work.

15 3.21 Despite the fact that, by their own admission, State Officials received no
16 more than four negative comments about including the paintings and hundreds, if not
17 thousands in support of their inclusion, Defendants SACKS, INSLEE, and CHURCH
18 made the decision, without any public process, to remove LEONARD PELTIER'S
19 paintings, by their own admission, solely because PELTIER himself was controversial
20 and because he had painted them.

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ATTORNEY FOR PLAINTIFF

1 based on the personal political controversy surrounding them, and right to be free of
2 censorship by the government to reward the “Heckler’s veto.”.

3 4.2 As a further direct and proximate result of the intentional and negligent acts
4 of the DEFENDANTS, PLAINTIFFS were deprived of legitimate public expression for
5 no justified reason at a critical time for LEONARD PELTIER’s public visibility and
6 attempts to petition the government for redress of grievances and to use his art to
7 influence public policy..

8 4.3 As a further direct and proximate result of the intentional and/or negligent
9 acts of DEFENDANTS, PLAINTIFFS had to retain legal counsel to protect and
10 vindicate their rights in court at an amount to be established at trial and for which they
11 are entitled to be reimbursed.

12 4.4 As a further direct and proximate result of the intentional and negligent acts
13 of the DEFENDANTS, PLAINTIFFS is entitled to compensation for costs associated
14 with seeking redress for these specific harms.

15 4.5 PLAINTIFFS are entitled to compensation for the Constitutional and personal
16 harms DEFENDANTS inflicted on them.

17
18 **V. CAUSES OF ACTION:**

19 **VIOLATION OF CONSTITUTIONAL RIGHTS**
20 **(42 USC 1983)**

21 **(As to Doe DEFENDANTS, and DEFENDANTS SACKS, INSLEE, AND CHURCH)**

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1 5.1 PLAINTIFFS re-allege and incorporate herein by reference the allegations
2 set forth in Paragraphs 1 through 4.5 of this complaint.

3 5.2 By deliberately removing and censoring Plaintiff LEONARD PELTIER'S
4 paintings due solely to the identity of the artist and controversy surround ding him and
5 his case, Defendants engaged in First Amendment violative conduct to the harm of
6 Plaintiffs. See Citizens United v. Federal Election Commission, 558 U.S. 310 (2010),

7 5.3 By allowing the objecting voices of Woods, Langberg, and potentially two
8 others to induce them to remove the paintings in question from the exhibit, Defendants
9 allowed a heckler's veto to determine whose speech would be allowed in direct
10 violation of Plaintiffs' First Amendment rights as defined by Terminello v. City of
11 Chicago 337 U.S. 1(1949).

12 5.4 By removing Plaintiff' LEONARD PELTIER's art from an important public
13 exhibition without any hearing or public process, or due consideration, Defendants
14 deprived Plaintiffs of an important property right, contracted opportunity, and
15 opportunity to display his art to potential purchasers and politically motivated viewers
16 in violation of Plaintiffs' Substantive and procedural Due Process rights under the 14th
17 Amendment.

18 5.5 This censorship and removal caused considerable pain, emotional
19 distress, potential economic loss, deprivation of an already established public forum,
20 and other harm to PLAINTIFFS in an amount to be proved in trial.

PELTIER v. SACKS, et al. - COMPLAINT

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COUNT FOUR
DEFAMATION
(AS TO DEFENDANTS EDWARD P. WOODS, LARRY LANGBERG, AND DOES
199-200

5.17 PLAINTIFFS reallege and incorporate herein by reference the allegations set forth in Paragraphs 1 through 5.16 of this complaint.

5.18 In demanding that Washington L & I and the State itself remove the paintings by Plaintiff LEONARD PELTIER, these Defendants used and relied on knowingly untrue statements, libelous characterizations of LEONARD PELITIER, staggering hyperbole, and recitations of “facts” that they reasonably knew or should have known were untrue for the sole purpose of silencing LEONARD PELTIER and causing emotional harm to Plaintiffs.

5.19 They, in e-mails and letters published these defamatory statements to Defendants CHURCH, SACKS, and INSLEE, and those statements resulted in the harm suffered by Plaintiffs, as admitted by all Defendants.

5.20 These statements and actions were part of a longstanding pattern of statements and actions by WOODS and LANGBERG and the manifestation of their single-minded obsession with ensuring that LEONARD PELTIER dies in 0prison and is silenced at every opportunity and are taken out of, pure malice and hatred..

1 **COUNT FIVE**
2 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
3 **(As to All DEFENDANTS)**
4

5 5.21 PLAINTIFFS reallege and incorporate herein by reference the allegations
6 set forth in Paragraphs 1 through 5.20 of this complaint.

7 5.22 In carrying out the pattern of Constitutionally prohibited and wrongful
8 conducts alleged throughout this complaint, DEFENDANTS, and each of them sought
9 to cause emotional distress and trauma to PLAINTIFFS, and PLAINTIFFS did suffer
10 such emotional distress with accompanying physical symptoms.

11 5.23 As a direct and proximate result of the violation of their Constitutional
12 rights by DEFENDANTS, PLAINTIFFS suffered general and special damages as
13 alleged in this complaint.

14 5.24 The acts and omissions of DEFENDANTS were extreme and
15 outrageous, and would be so seen and would shock the conscience of a reasonable
16 person.

17 5.25 The conduct of DEFENDANTS was willful, malicious, oppressive,
18 extreme and outrageous and/or reckless, and was of such a nature that punitive
19 damages should be imposed in an amount commensurate with the wrongful acts
20 alleged herein.

21 WHEREFORE, PLAINTIFFS pray for relief as hereinafter set forth.
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COUNT SIX
NEGLIGENCE
(As to All Defendants)

5 5.26 Plaintiffs re-allege and incorporate herein by reference the allegations set
6 forth in Paragraphs 1 through 5.25 of this complaint.

7 5.27 Defendants, and each of them, owed Plaintiffs a duty to use due care and
8 Act in accordance with law and the State and Federal Constitutions.

9 5.28 In committing the aforementioned acts and/or omissions, Defendants, all
10 of whom were in a position to know better, and each of them, negligently breached
11 said duty, directly and proximately resulting in the injuries and damages to the
12 Plaintiffs as alleged herein.

13 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

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VI. JURY TRIAL DEMAND

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18 6.0 PLAINTIFFS hereby demand a jury trial in this matter.

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VII. PRAYER FOR RELIEF

21 WHEREFORE, PLAINTIFFS prays for judgment against the DEFENDANTS as
22 follows:

PELTIER v. SACKS, et al. - COMPLAINT

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P.O. Box 5405, Bellingham, WA 98227
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ATTORNEY FOR PLAINTIFF

- 1 1. For general damages including pain and suffering and, together with special
2 damages for PLAINTIFF'S economic losses and reasonable and necessary legal
3 expenses, the exact amount of which will be established at the time of trial;
- 4 2. For punitive damages in an amount to be proven at trial pursuant to Federal
5 and State law;
- 6 3. For actual attorney's fees and litigation costs pursuant to 42 U.S.C. 1988.
- 7 4. For a new exhibition, in the same or a more public State owned location in
8 Olympia of PLAINTIFFS' paintings for a period to be agreed to, of no less than two
9 weeks.
- 10 5. For a policy not to make decisions to exclude or remove artwork due to
11 controversy surrounding the artist, and such other educational and injunctive relief as
12 the court may deem appropriate.
- 13 6. For such other and further relief as the Court deems just and proper.

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PELTIER v. SACKS, et al. - COMPLAINT

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LAWRENCE A. HILDES (WSBA # 35035)
P.O. Box 5405, Bellingham, WA 98227
Tel: (360) 715-9788
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF

1 DATED: July 13, 2016

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/S/LAWRENCE A. HILDES
LAWRENCE A. HILDES, WSBA #35035,
Attorneys for Plaintiffs
Law Offices of Lawrence A. Hildes
P.O. Box 5405, Bellingham, WA 98227
Tel: (360) 715-9788, lhildes@earthlink.net
Attorney for PLAINTIFFS LEONARD AND
CHAUNCEY PELTIER

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LAWRENCE A. HILDES (WSBA # 35035)
P.O. Box 5405, Bellingham, WA 98227
Tel: (360) 715-9788
Email: lhildes@earthlink.net

ATTORNEY FOR PLAINTIFF