

Hon. Robert J. Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

**TERRY ELLIS, KAITLIN FAIRFAX,
RONALD FULLER, STEVEN GAVIN,
ADAM KRAVITZ, DEANNA LENTZ,
CHRISTOPHER MEE, TODD
SPARKS and SAMUEL BRADISH**
Plaintiffs,

v.

**CLARK COUNTY DEPARTMENT OF
CORRECTIONS, CLARK COUNTY,
JUDGE JOHN HAGENSEN,
RAFAELA SELGA, a.k.a. ELA
SELGA, LISA BIFFLE, LYNDIA
HARPER, DENNIS DAVID, THOMAS
STILLMAN, JEFFREY MILLER,
ROBERT KRAMER, DONALD
BRONSON AND KEITH
GAPPMAYER**

Defendants

NO. 3:15-cv-05449

FIRST AMENDED
COMPLAINT

42 U.S.C. § 1983 and Fourth,
Fifth and Fourteenth Amendments

Conversion

Damages and Injunctive Relief

JURY TRIAL REQUESTED

INTRODUCTION

Homeless individuals in Clark County, Washington are often forced to live outside due to the lack of emergency shelter and affordable housing in their community.

These individuals live in precarious and vulnerable conditions, because they must live and sleep in the elements, and they cannot keep their belongings safe from theft. For

1ST AMENDED COMPLAINT; NO. 3:15-cv-05449-RJB;
Ellis et al. v. Clark County Dept. of Corrections et al

Page 1 of 20

PETER L. FELS, PC
PETER L. FELS WSB#23708 • OSB#78197
211 E. 11th St., Ste 105; Vancouver, WA 98660
Phone: (360) 694-4530 • Fax: (360) 694-4659
peter@fels-law.com

THE GOOD LAW CLINIC, PLLC
MOLOY K. GOOD WSB#36036
211 E. 11th St., Ste 104; Vancouver, WA 98660
Phone: (360) 608-5346
moloy@goodlawclinic.com

1 people who are homeless, their belongings are critical to their ability to survive and
2 maintain their health and safety.

3 For several years through its Work Crew Program the Clark County Department
4 of Corrections has used its inmates, parolees and people assigned to sentences of
5 community service to clean public spaces throughout the county. Over the years at the
6 direction of Work Crew supervisors who are Clark County employees these Clark County
7 Corrections Work Crews have removed and destroyed all the belongings they have found
8 in campsites for people who are homeless, even when the individuals are present and
9 protest these actions. The Work Crews have done this without giving notice to the
10 individuals that their property would be removed and destroyed.

11 Clark County's practice is an illegal taking of private property; the County fails to
12 maintain the property of these individuals, and fails to give these individuals the
13 opportunity to retrieve their property. The Plaintiffs have each suffered loss of their
14 property by Clark County Work Crews.

15 The practice and conduct of the Defendants violated the plaintiffs' constitutional
16 rights to be free from unreasonable seizures, and to due process as guaranteed by the
17 Fourth and Fifth Amendments to the U.S. Constitution, applicable to Defendants under
18 the Fourteenth Amendment.

19 Plaintiffs seek equitable relief and damages pursuant to 42 U.S.C. § 1983.
20
21
22

23 1ST AMENDED COMPLAINT; NO. 3:15-cv-05449-RJB;
24 Ellis et al. v. Clark County Dept. of Corrections et al

Page 2 of 20

PETER L. FELS, PC
PETER L. FELS WSB#23708 • OSB#78197
211 E. 11th St., Ste 105; Vancouver, WA 98660
Phone: (360) 694-4530 • Fax: (360) 694-4659
peter@fels-law.com

THE GOOD LAW CLINIC, PLLC
MOLOY K. GOOD WSB#36036
211 E. 11th St., Ste 104; Vancouver, WA 98660
Phone: (360) 608-5346
moloy@goodlawclinic.com

I. JURISDICTION

1
2 1. This is an action for injunctive relief and damages pursuant to 42 U.S.C. §
3 1983, based upon the past and ongoing violations by the Defendants of the rights secured
4 to Plaintiffs by the Fourth, Fifth and Fourteenth Amendments of the United States
5 Constitution. This court has jurisdiction pursuant to 28 U.S.C. § 1331 and § 1343.
6

7 2. The court has supplemental jurisdiction over plaintiffs' state law
8 conversion claims pursuant to 28 U.S.C. § 1367 as these claims are related to the federal
9 law claims, arise out of a common nucleus of related facts, and are part of the same case
10 or controversy.
11

II. PARTIES

12
13 3. Plaintiffs TERRY ELLIS, KAITLIN FAIRFAX, RONALD FULLER,
14 STEVEN GAVIN, DEANNA LENTZ, CHRISOPHER MEE, TODD SPARKS and
15 SAMUEL BRADISH were at all relevant times residents of the state of Washington.

16 4. Defendant Clark County ("Defendant County") is a corporation duly
17 organized and existing under the laws of the State of Washington.

18 5. Defendant Clark County Department of Corrections ("Defendant
19 Corrections") is an agency of the Clark County government.

20 6. Defendant John Hagensen is Clark County District Court Presiding Judge
21 and is responsible for approving policies governing work crews for the Clark County
22

23 1ST AMENDED COMPLAINT; NO. 3:15-cv-05449-RJB;
Ellis et al. v. Clark County Dept. of Corrections et al

Page 3 of 20

PETER L. FELS, PC
PETER L. FELS WSB#23708 • OSB#78197
211 E. 11th St., Ste 105; Vancouver, WA 98660
Phone: (360) 694-4530 • Fax: (360) 694-4659
peter@fels-law.com

THE GOOD LAW CLINIC, PLLC
MOLOY K. GOOD WSB#36036
211 E. 11th St., Ste 104; Vancouver, WA 98660
Phone: (360) 608-5346
moloy@goodlawclinic.com

1 Department of Corrections Work Crews. In that capacity Defendant Hagensen directed
2 Dept. of Corrections employees, acted to carry out and enforce and was responsible for
3 the enforcement, operation and execution of all duties and activities of that agency. He is
4 sued in his individual and official administrative capacity.

5 7. Defendant Rafaela Selga, a.k.a. Ela Selga, is responsible for oversight and
6 guidance to Clark County Department of Corrections Work Crew program managers, and
7 in that capacity directed its employees, acted to carry out and enforce and was
8 responsible for the enforcement, operation and execution of all duties and activities of
9 that agency. She is sued in her individual and official administrative capacity.

10 8. Defendant Lisa Biffle is currently the program manager of the Clark
11 County Department of Corrections Work Crew, and in that capacity directed its
12 employees, acted to carry out and enforce and was responsible for the enforcement,
13 operation and execution of all duties vested by law in that agency. She is sued in her
14 individual and official capacity.

15 9. Defendant Lynda Harper is the former program manager of the Clark
16 County Department of Corrections Work Crew, and in that capacity directed its
17 employees, acted to carry out and enforce and was responsible for the enforcement,
18 operation and execution of all duties vested by law in that agency. She is sued in her
19 individual and official capacity.

20 10. Defendants Dennis David, Thomas Stillman, Jeffrey Miller, Robert
21 Kramer, Donald Bronson and Keith Gappmayer were at all relevant times herein officers

22 1ST AMENDED COMPLAINT; NO. 3:15-cv-05449-RJB;
23 Ellis et al. v. Clark County Dept. of Corrections et al

24 Page 4 of 20

PETER L. FELS, PC
PETER L. FELS WSB#23708 • OSB#78197
211 E. 11th St., Ste 105; Vancouver, WA 98660
Phone: (360) 694-4530 • Fax: (360) 694-4659
peter@fels-law.com

THE GOOD LAW CLINIC, PLLC
MOLOY K. GOOD WSB#36036
211 E. 11th St., Ste 104; Vancouver, WA 98660
Phone: (360) 608-5346
moloy@goodlawclinic.com

25

1 and employees of the Clark County Department of Corrections. Specifically they were
2 Lead Work Crew Chiefs and Work Crew Chiefs and in that capacity directed the Work
3 Crews to carry out and enforce and were responsible for the enforcement, operation and
4 execution of all activities of the work crews they supervised. They are sued in their
5 individual and official capacities.

6 11. The acts complained of herein were intentionally and jointly committed,
7 and will continue to be committed jointly and systematically by defendants unless
8 restrained by this Court.

9 10 **III. FACTUAL ALLEGATIONS**

11 12. Plaintiff TERRY ELLIS was a homeless individual and during the
12 relevant period was forced to sleep outside. At all relevant times he lived in Clark
13 County, Washington.

14 13. On September 29, 2012 Plaintiff ELLIS was waiting for a bus on Mill
15 Plain Boulevard between Franklin and Kauffman streets in Vancouver, Washington. He
16 saw a woman with a disabled car nearby, and went to help her. He temporarily placed his
17 belongings near the bus stop.

18 14. While Plaintiff ELLIS was helping this lady, he saw the Clark County
19 Department of Corrections' Work Crew van stop in front of his belongings and begin to
20 pick them up. He approached the person in charge, a man in a Clark County uniform,
21 who Plaintiff Ellis believes was Defendant Jeffrey Miller. Mr. Ellis informed Mr. Miller

1 the property the Work Crew was taking was his, and asked to have it back. Defendant
2 Jeffrey Miller refused to give him back his belongings.

3 15. Plaintiff ELLIS had not abandoned his property. He was not given notice
4 that his property would be confiscated. He was not allowed to retrieve his property once
5 the Work Crew had taken it.

6 16. As a result of Defendants' actions Plaintiff ELLIS lost his clothing and
7 food. He had just been given the clothing so that he would have clean clothing to apply
8 for work.

9 17. Plaintiff KAITLIN FAIRFAX is a homeless individual, and is forced to
10 sleep outside. At all relevant times she lived in Clark County, Washington.

11 18. In May of 2014 Plaintiff FAIRFAX was camping near the Fort Vancouver
12 National Historic Reserve, just east of Pearson Airfield in Vancouver, Washington.
13 There were several other people camping in this location. She went to get lunch. When
14 she returned she saw the Clark County Department of Corrections' Work Crew arriving.

15 19. The Work Crew began taking all the property of the campers at this site.
16 Plaintiff FAIRFAX told the Work Crew that the belongings were hers, and they could not
17 take them. The supervisor of the Work Crew, Defendant Miller, was a man in a Clark
18 County uniform. He said she could not have her property back. He also said that if she
19 tried to stop them, he would call the police and have Plaintiff FAIRFAX arrested for
20 interfering with the police and trespass.

1 20. Plaintiff FAIRFAX had not abandoned her property. She was not given
2 notice that her property would be confiscated. She was not allowed to retrieve her
3 property once the Work Crew had taken it.

4 21. As a result of Defendants' actions Plaintiff FAIRFAX lost critical
5 possessions including but not limited to a large tent, tarps, bedding, blankets, cooking
6 gear, plates, and utensils. She also lost all of her clothes, medications, her Social Security
7 card, Washington state ID card, and medical insurance card. Lastly, she lost documents
8 and papers regarding her daughter including her adoption paperwork, birth certificate,
9 and Social Security card.

10 22. On January 24, 2015, Plaintiff FAIRFAX was camping along the shores of
11 the Columbia River, under the piers below the Red Lion hotel west of the Interstate 5
12 Bridge. She had gone to a medical appointment that morning, and when she returned she
13 saw the Work Crew van leaving her campsite with its trailer.

14 23. She inspected her campsite and saw that the Work Crew had taken all of
15 her personal property, but had left trash behind.

16 24. She had not abandoned her property, and was not given notice that her
17 property would be confiscated. She was not allowed to retrieve her property once the
18 Work Crew had taken it.

19 25. As a result of the Defendants' repeated actions Plaintiff FAIRFAX again
20 lost valuable personal property including but not limited to, sleeping bags, clothing,
21 medication, cell phone, and jewelry.

1 26. Plaintiff RONALD FULLER is a homeless individual, and is forced to
2 sleep outside. At all relevant times he lived in Clark County, Washington.

3 27. In April or May of 2013 Plaintiff FULLER was in Esther Short Park in
4 Vancouver, Washington. He received a call from a temporary employment agency that
5 they had a work assignment for him, but he needed to report to it immediately. Plaintiff
6 FULLER called his friend to come and pick up his belongings so he could go to his job.
7 His friend was delayed, so he placed his belongings in some bushes. He told his friend
8 where to locate his belongings.

9 28. Plaintiff FULLER's friend arrived a short time later. When he arrived he
10 saw that the Clark County Department of Corrections' Work Crew was in the park and
11 throwing things away. He went to where Plaintiff FULLER had said his belongings
12 would be, but they were not there.

13 29. Plaintiff FULLER had not abandoned his property, and was not given
14 notice that his property would be confiscated. He was not allowed to retrieve his
15 property once the Work Crew had taken it.

16 30. As a result of Defendants' actions Plaintiff FULLER lost valuable
17 property including, but not limited to, his sleeping bag, sleeping pad, tarp, bed roll,
18 prescription glasses and dentures.

19 31. Plaintiff STEVEN GAVIN was a homeless individual, and during the
20 relevant period was forced to sleep outside. At all relevant times he lived in Clark
21 County, Washington.

22 1ST AMENDED COMPLAINT; NO. 3:15-cv-05449-RJB;
23 Ellis et al. v. Clark County Dept. of Corrections et al

Page 8 of 20

PETER L. FELS, PC
PETER L. FELS WSB#23708 • OSB#78197
211 E. 11th St., Ste 105; Vancouver, WA 98660
Phone: (360) 694-4530 • Fax: (360) 694-4659
peter@fels-law.com

THE GOOD LAW CLINIC, PLLC
MOLOY K. GOOD WSB#36036
211 E. 11th St., Ste 104; Vancouver, WA 98660
Phone: (360) 608-5346
moloy@goodlawclinic.com

1 32. In July of 2012 Plaintiff GAVIN was camping on the south side of
2 Pearson Airfield in Vancouver, Washington. He awoke one morning and went to get
3 breakfast. When he returned he saw the Clark County Department of Corrections' Work
4 Crew leaving the camping area.

5 33. Plaintiff GAVIN inspected his campsite and saw that the Work Crew had
6 taken all of his personal property.

7 34. He had not abandoned his property, and told the Work Crew that it was his
8 when the Work Crew took it. He was not given notice that his property would be
9 confiscated. He was not allowed to retrieve his property once the Work Crew had taken
10 it.

11 35. As a result of Defendants' actions Plaintiff GAVIN lost valuable property
12 including but not limited to his tent, sleeping bag, camp stove, cookware, utensils, and
13 clothing.

14 36. Plaintiff ADAM KRAVITZ was a homeless individual and during the
15 relevant period was forced to sleep outside. At all relevant times he lived in Clark
16 County, Washington

17 37. In August of 2012 Plaintiff KRAVITZ was camping near the north bank
18 of the Columbia River in Vancouver, Washington. There were several other people
19 camping in this location. He temporarily left the campsite. When he returned he saw the
20 Clark County Department of Corrections' Work Crew placing his, and others', belongings
21 in a trailer behind their van.

1 38. Plaintiff KRAVITZ told the Work Crew Supervisor that the belongings
2 were his, and asked to have them back. Based upon information and belief, the Work
3 Crew Supervisor was either Defendant Dennis David or Thomas Stillman. The supervisor
4 of the Work Crew told Mr. Kravitz he could not have his property back. He also said that
5 if Plaintiff KRAVITZ insisted on its return, he would call the police and have Plaintiff
6 KRAVITZ arrested for illegal camping.

7 39. Plaintiff KRAVITZ had not abandoned his property. He was not given
8 notice that his property would be confiscated. He was not allowed to retrieve his
9 property once the Work Crew had taken it.

10 40. As a result of Defendants' actions Plaintiff KRAVITZ lost valuable
11 possessions.

12 41. In December of 2012, Plaintiff KRAVITZ was camping on the south side
13 of State Road 14 near its intersection with Interstate 5 in Vancouver, Washington.
14 Plaintiff KRAVITZ attended a Christmas party at the Eagles Lodge sponsored by Share,
15 a non-profit agency, in downtown Vancouver. While attending he had left all his
16 personal effects hidden at his campsite.

17 42. When he returned to his campsite after the party, Plaintiff KRAVITZ
18 discovered that all his possessions were gone. He also observed the tree where he had
19 been camping had been trimmed so the limbs no longer provided protection.

20 43. Plaintiff KRAVITZ went back to downtown Vancouver and spoke with
21 other homeless individuals who also had found their campsites missing on the same day.

1 Some of the people had seen the Clark County Department of Corrections' Work Crew
2 leave their campsites. Based on this information, and the trimmed tree at his own
3 campsite, Plaintiff KRAVITZ knows that the Work Crew took his things.

4 44. Plaintiff KRAVITZ had not abandoned his property and was not given
5 notice that his property would be confiscated. He was not allowed to retrieve his
6 property once the Work Crew had taken it.

7 45. As a result of the Defendants' actions Plaintiff KRAVITZ lost valuable
8 personal property including but not limited to, tents, a sleeping bag, blankets, a propane
9 cook stove and lantern, cooking mess kit, food, clothing and toilet items. He also lost his
10 Washington driver's license, and the only photograph he had of his deceased baby
11 daughter.

12 46. Plaintiff DEANNA LENTZ is a homeless individual, and is forced to
13 sleep outside. At all relevant times she lived in Clark County, Washington.

14 47. In August of 2012 Plaintiff LENTZ was camping in an area located west
15 of MacArthur Boulevard and north of North Blandford Drive in Vancouver, Washington.
16 She had been camping there with others for about a month. She and her fiancé went to
17 work one day. When they returned to the campsite they found the Clark County
18 Department of Corrections' Work Crew had arrived and was taking their belongings.

19 48. Defendant Robert Kramer a man in a Clark County uniform, supervised
20 the Work Crew. Ms. Lentz and her fiancé approached him and asked if they could have
21

1 their things back. He said no. They told him the Work Crew was taking their personal
2 things that could not be replaced. Def. Kramer replied “tough fucking luck.”

3 49. Ms. Lentz and her fiancé approached Defendant Donald Bronson, who
4 was driving the Work Crew’s van, and asked to have their things back, but he also said
5 no.

6 50. Plaintiff LENTZ was not given notice that her property would be
7 confiscated. She was not allowed to retrieve her property once the Work Crew had taken
8 it.

9 51. As a result of Defendants’ actions Plaintiff LENTZ and her partner lost
10 critical personal property including, but not limited to, a two-person tent, a one-person
11 tent, two sleeping bags, tarps, blankets, cookware, a barbecue, utensils, clothing, Plaintiff
12 LENTZ’s birth certificate, her children’s birth certificates, and her mother’s death
13 certificate.

14 52. As a result of Defendants’ actions Plaintiff LENTZ also lost essential
15 work equipment for their landscaping jobs including, but not limited to, lawnmowers,
16 shovels, rakes, clippers, a chain saw, and mechanic’s tools.

17 53. As a result of Defendant’s actions Plaintiff LENTZ also lost irreplaceable
18 personal property including, but not limited to, her children’s birthstone rings, her
19 mother’s and grandmother’s wedding rings, family photos, and her mother’s ashes.

20 54. Plaintiff CHRISTOPHER MEE is a homeless individual, and at times is
21 forced to sleep outside. At all relevant times he lived in Clark County, Washington.

1 55. In August of 2012 Plaintiff MEE was camping near the intersection of
2 State Road 500 and St. John's Boulevard. He left to get a meal. When he returned he
3 saw the Clark County Department of Corrections' Work Crew in the area near his
4 campsite. He recognized the Work Crew because he had been assigned to it in the past.

5 56. Plaintiff MEE inspected his campsite and saw that the Work Crew had
6 taken all of his personal property.

7 57. Plaintiff MEE had not abandoned his property, and objected when the
8 Work Crew took it. He was not given notice that his property would be confiscated. He
9 was not allowed to retrieve his property once the Work Crew had taken it.

10 58. As a result of Defendants' actions Plaintiff MEE lost important personal
11 property including, but not limited to, a tent, sleeping bag, tarp, clothing, and the only
12 picture of his mother.

13 59. Plaintiff TODD SPARKS is a homeless individual, and is forced to sleep
14 outside. At all relevant times he lived in Clark County, Washington.

15 60. On November 1, 2014 Plaintiff SPARKS was camping under the Mill
16 Plain overpass on the north side of Mill Plain Boulevard in Vancouver, Washington. He
17 left to get breakfast. When he returned all of his belongings were gone. He also saw the
18 Clark County Department of Corrections' Work Crew on the south side of Mill Plain
19 Boulevard.

20 61. Plaintiff SPARKS approached the Work Crew supervisor, Defendant
21 Miller, who was a man in a Clark County uniform. Plaintiff SPARKS saw some of his

1 belongings in the Work Crew's trailer and asked if he could at least retrieve his medicine.
2 The supervisor refused, and threatened to call the police if Plaintiff SPARKS did not stop
3 asking. The supervisor also threatened to issue a ticket for illegal camping to Plaintiff
4 SPARKS, and wondered aloud when the last time Plaintiff Sparks had worked was.

5 62. Plaintiff SPARKS had not abandoned his property, and objected when the
6 Work Crew took it. He was not given notice that his property would be confiscated. He
7 was not allowed to retrieve his property once the Work Crew had taken it.

8 63. As a result of Defendants' actions, Plaintiff SPARKS lost critical personal
9 property including, but not limited to, medicine for asthma and COPD, two sleeping
10 bags, rain gear, a tent, cookware, prescription eyeglasses, a laptop computer, clothing,
11 and a gold key with three diamonds.

12 64. Plaintiff SAMUEL BRADISH was a homeless individual and during the
13 relevant period was forced to sleep outside. At all relevant times he lived in Clark
14 County, Washington.

15 65. On or about August 1, 2014 Plaintiff BRADISH was camping near Mill
16 Plain Boulevard and Lincoln Street in Vancouver, Washington.

17 66. On or about that day the Clark County Department of Corrections' Work
18 Crew took his belongings. Plaintiff BRADISH was at his campsite when the Work Crew
19 arrived. The Work Crew Supervisor, Defendant Keith Gappmayer, told him he had 10
20 minutes to clear all his belongings. Plaintiff BRADISH helped another homeless person
21 move her belongings, but when he returned for his own they were all gone.

1 67. Plaintiff BRADISH had not abandoned his property. He was not given
2 proper notice that his property would be confiscated. He was not allowed to retrieve his
3 property once the Work Crew had taken it.

4 68. As a result of Defendants' actions Plaintiff BRADISH lost his medication,
5 clothing, person identification documents, photographs, letters, other irreplaceable
6 personal effects and camping gear.

7 69. Plaintiffs are informed and believed that Defendant County and Defendant
8 Corrections Department have adopted a formal policy instructing Work Crews that they
9 are "not to remove any property or material from any homeless/transient camp."

10 70. Despite this policy the Work Crews have failed to follow it.

11 71. Plaintiffs are informed and believe that Defendants have failed to ensure
12 that their policy is being followed by the practice of the Work Crews.

13 72. As a direct and proximate result of the unconstitutional and unlawful
14 policies, practices, and conduct of Defendants, Plaintiffs have suffered and will continue
15 to suffer damages, including but not limited to deprivation and destruction of property,
16 including clothing, bedding, medication, personal documents and other personal
17 possessions, leaving them without their essential personal belongings necessary for
18 shelter, health, well-being and personal dignity and causing them to lose irreplaceable
19 personal effects of substantial sentimental value.

20 73. Defendants' practices and conduct of refusing to give advance notice
21 before they remove homeless people's encampments, taking and destroying homeless
22

1 individuals' personal property, and of refusing to give specific notice of where or how
 2 homeless individuals may retrieve their personal property after it has been removed, also
 3 caused, and unless preliminarily and permanently enjoined, will continue to cause
 4 humiliation, psychological, physical and emotional suffering, degradation, pain, injury,
 5 financial loss, and loss of liberty and privacy to Plaintiffs.

6 74. Defendants' actions pose a dangerous health risk to Plaintiffs and to the
 7 general public. Sleep is a medical and physical necessity. Sleeping outside without any
 8 blanket or other shelter during cold and wet weather can be hazardous to life and health,
 9 in particular when individuals are already medically compromised.

10 75. Plaintiffs are or were homeless and will, at times, continue to be forced to
 11 sleep outside. Defendants' actions are likely to threaten the already precarious existence
 12 of Plaintiffs by imposing or enforcing upon them health and safety hazards as well as
 13 economic hardship. Defendants have been notified that their actions violate Plaintiffs'
 14 constitutional rights, yet have not taken steps to avoid violating these rights or to change
 15 their practices or conduct.

16 76. Defendants acted with reckless or callous indifference to Plaintiffs' rights under
 17 the U.S Constitution and federal law, because the Defendants knew it was illegal to seize or take
 18 any person's personal property without a legal right to do so, or to remove and destroy Plaintiff's
 19 personal property without notice, and to refuse to allow Plaintiffs to retrieve their personal
 20 belongings. Defendants also acted with reckless or callous indifference to the 9th Circuit's
 21 holding in *Lavan v. City of Los Angeles* which held that "the Fourth and Fourteenth Amendments
 22 protect homeless persons from government seizure and summary destruction of their

23 1ST AMENDED COMPLAINT; NO. 3:15-cv-05449-RJB;
 Ellis et al. v. Clark County Dept. of Corrections et al

Page 16 of 20

PETER L. FELLS, PC
 PETER L. FELLS WSB#23708 • OSB#78197
 211 E. 11th St., Ste 105; Vancouver, WA 98660
 Phone: (360) 694-4530 • Fax: (360) 694-4659
peter@fels-law.com

THE GOOD LAW CLINIC, PLLC
 MOLOY K. GOOD WSB#36036
 211 E. 11th St., Ste 104; Vancouver, WA 98660
 Phone: (360) 608-5346
moloy@goodlawclinic.com

unabandoned, but momentarily unattended, personal property.” 693 F.3d 1022, 1024 (9th Cir. 2012). Acting under color of law, Defendants have destroyed unabandoned personal property of the plaintiffs and refused to allow its retrieval when the owners requested its return, and they have continued this practice and conduct, despite clear law and policies against doing so.

IV. CLAIMS FOR RELIEF

PLAINTIFF’S FIRST CLAIM FOR RELIEF

Fourth Amendment to the U.S. Constitution

77. Plaintiff reasserts and re-alleges the allegations set forth above.

78. Defendants’ above-described practices and conduct violate Plaintiffs’ right to be free from unreasonable searches and seizures under the Fourth Amendment, as incorporated by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. 1983.

PLAINTIFF’S SECOND CLAIM FOR RELIEF

Fifth and Fourteenth Amendments to the U.S. Constitution

79. Plaintiffs reassert and re-allege the allegations set forth above.

80. Defendants’ above-described practices and conduct violate Plaintiffs’ right to due process of law under the Fifth Amendment, as incorporated against these Defendants by the Fourteenth Amendment, the Fourteenth Amendment to the United States Constitution, and 42 U.S.C. 1983.

PLAINTIFF'S THIRD CLAIM FOR RELIEF

Conversion

81. Plaintiffs reassert and re-allege the allegations set forth above.

82. Plaintiffs were at all relevant times the owners of personal property confiscated and destroyed by Defendants as alleged above. Plaintiffs remain entitled to the possession of their personal property.

83. Defendants intentionally exercised control or dominion over Plaintiffs' property in a way that seriously interfered with Plaintiffs' right of possession. Specifically, Defendants, pursuant to the above-described practices and conduct, confiscated Plaintiffs' property and thereby caused Plaintiffs to be deprived of its possession, appropriated the property, destroyed the property, and refused to return the property upon demand.

84. The personal property confiscated and destroyed by Defendants included tents, blankets, bicycles, clothing, personal items, prescriptions medications, and documents, all of which were particularly valuable to Plaintiffs in part because these belongings amount to much, if not all, of the relatively few possessions that Plaintiffs owned.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs now ask the Court for the following relief:

1ST AMENDED COMPLAINT; NO. 3:15-cv-05449-RJB;
Ellis et al. v. Clark County Dept. of Corrections et al

Page 18 of 20

PETER L. FELLS, PC
PETER L. FELLS WSB#23708 • OSB#78197
211 E. 11th St., Ste 105; Vancouver, WA 98660
Phone: (360) 694-4530 • Fax: (360) 694-4659
peter@fels-law.com

THE GOOD LAW CLINIC, PLLC
MOLOY K. GOOD WSB#36036
211 E. 11th St., Ste 104; Vancouver, WA 98660
Phone: (360) 608-5346
moloy@goodlawclinic.com

1 85. To issue a temporary restraining order and/or preliminary injunction and
2 permanent injunction and restraining Defendants from continuing or repeating the
3 unlawful practices and conduct complained of herein;

4 86. To issue a declaratory judgment that Defendants' practices and conduct as
5 alleged herein were or are in violation of Plaintiffs' rights under the United States
6 Constitution;

7 87. To award Plaintiffs compensatory and punitive damages from Defendants,
8 in amounts to be determined at trial, plus interest from the date of judgment on their First
9 Claim for Relief;

10 88. To award Plaintiff compensatory and punitive damages from Defendants,
11 in amounts to be determined at trial, plus interest from the date of judgment on their
12 Second Claim for Relief;

13 89. To award Plaintiff compensatory damages from Defendants, in amounts to
14 be determined at trial, plus interest from the date of judgment on their Third Claim for
15 Relief;

16 90. To award Plaintiff their costs and attorney fees pursuant to 42 USC §
17 1988;

18 91. To grant such other relief as is just and appropriate.

19
20 DATED this 6th day of April, 2016.

21
22
23 1ST AMENDED COMPLAINT; NO. 3:15-cv-05449-RJB;
Ellis et al. v. Clark County Dept. of Corrections et al

Page 19 of 20

PETER L. FELS, PC
PETER L. FELS WSB#23708 • OSB#78197
211 E. 11th St., Ste 105; Vancouver, WA 98660
Phone: (360) 694-4530 • Fax: (360) 694-4659
peter@fels-law.com

THE GOOD LAW CLINIC, PLLC
MOLOY K. GOOD WSB#36036
211 E. 11th St., Ste 104; Vancouver, WA 98660
Phone: (360) 608-5346
moloy@goodlawclinic.com

24
25

PETER L. FELS, P.C.

/s/ Peter L. Fels
PETER L. FELS WSBA #23708
(360) 694-4530
Attorney for Plaintiffs

THE GOOD LAW CLINIC, PLLC

s/ Moloy K. Good
MOLOY K. GOOD WSBA #36036
(360) 608-5346
Attorney for Plaintiffs

1ST AMENDED COMPLAINT; NO. 3:15-cv-05449-RJB;
Ellis et al. v. Clark County Dept. of Corrections et al

Page 20 of 20

PETER L. FELS, PC
PETER L. FELS WSBA#23708 • OSB#78197
211 E. 11th St., Ste 105; Vancouver, WA 98660
Phone: (360) 694-4530 • Fax: (360) 694-4659
peter@fels-law.com

THE GOOD LAW CLINIC, PLLC
MOLOY K. GOOD WSBA#36036
211 E. 11th St., Ste 104; Vancouver, WA 98660
Phone: (360) 608-5346
moloy@goodlawclinic.com