

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 04-B-0023 (CBS)

THOMAS MINK, and
THE HOWLING PIG, an unincorporated association,

Plaintiffs,

vs.

KEN SALAZAR, in his official capacity as Attorney General of the State of Colorado,
A.M. DOMINGUEZ, JR., District Attorney for the 19th Judicial District, in his official
capacity, and
SUSAN KNOX, a Deputy District Attorney working for the 19th Judicial
District Attorney's Office, in her individual capacity,

Defendants.

FIRST AMENDED AND SUPPLEMENTAL COMPLAINT

INTRODUCTION

1. In the fall of 2003, Plaintiff Thomas Mink began editing and publishing The Howling Pig, an Internet-based publication featuring commentary on matters of public concern to the University of Northern Colorado community. The publication is available at www.geocities.com/thehowlingpig.

2. After three issues were published, the Greeley Police Department and the Office of the District Attorney launched a criminal investigation targeting Mr. Mink under an antiquated Colorado statute that makes "criminal libel" a felony. Pursuant to that investigation, which was instigated by a prominent UNC professor who is spoofed in the publication, officers armed with a search warrant arrived at the home that Mr.

Mink shares with his mother, Crystal Mink. The police carted off the Minks' computer and all of their electronically-stored files and data, which include the only existing copies of articles Mr. Mink had laid out for the unpublished fourth issue. The investigating officer's report asked the District Attorney to charge Mr. Mink with a felony for engaging in what is clearly constitutionally-protected expression.

3. At the time the initial complaint in this case was filed on January 8, 2004, Mr. Mink faced an imminent threat of being charged with a violation of Colorado's Criminal Libel Statute, which reads as follows:

18-13-105. Criminal libel. (1) A person who shall knowingly publish or disseminate, either by written instrument, sign, pictures, or the like, any statement or object tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue, or reputation or expose the natural defects of one who is alive, and thereby to expose him to public hatred, contempt, or ridicule, commits criminal libel.

- (1) It shall be an affirmative defense that the publication was true, except libels tending to blacken the memory of the dead and libels tending to expose the natural defects of the living.
- (2) Criminal libel is a class 6 felony.

4. The Minks filed this action to vindicate their constitutional rights to freedom of speech, freedom of the press, and their right to be free of unreasonable searches and seizures. In addition to emergency injunctive relief to prevent the threatened prosecution, they sought in the initial complaint a declaratory judgment that the Criminal Libel Statute is unconstitutional, both on its face and as applied to The Howling Pig. They also sought the return of their computer and their files, as well as damages, costs and attorneys fees.

PARTIES

5. Plaintiff Thomas Mink resides in Ault, Colorado, with his mother, Crystal Mink.

6. The Howling Pig is an unincorporated association of persons engaged in organizing, editing, and publishing the publication also known as “The Howling Pig.” It sues pursuant to Rule 17(b) of the Federal Rules of Civil Procedure to enforce its substantive rights under the First Amendment and the Electronic Communications Privacy Act.

7. Defendant A.M. Dominguez, Jr. is the District Attorney for the 19th Judicial District, which includes the City of Greeley. He is sued in his official capacity for prospective relief.

8. At all times relevant to this First Amended and Supplemental Complaint, Defendant Susan Knox was a Deputy District Attorney working in the office of the District Attorney of the 19th Judicial District. Defendant Knox reviewed and approved the affidavit seeking court authorization to search the Minks’ residence. She also reviewed and approved the affidavit submitted to obtain the Court Order For Production of Records that Detective Warren of the Greeley Police Department served on Yahoo (Geocities) Inc. for the purpose of obtaining records relating to The Howling Pig and its website, including email communications protected by the Electronic Communications

Privacy Act. She is sued individually, and only for acts and omissions undertaken in an investigative capacity.

9. Defendant Ken Salazar is the Attorney General of the State of Colorado. He is the chief legal officer for the State of Colorado. He is legal counsel and advisor of each department, division, board, bureau, and agent of the state government other than the legislative branch. Further, he is required to prosecute and defend all cases in the appellate courts in which the State of Colorado is a party, including cases in which defendants appeal convictions for violating the Criminal Libel Statute. He is sued in his official capacity for declaratory relief with regard to the constitutionality of Colorado's criminal libel statute, C.R.S. § 18-13-105.

10. At all times relevant to this Complaint, all Defendants were acting or threatening to act under color of state law, under color of their office, and within the scope of their employment.

JURISDICTION AND VENUE

11. This action arises under the laws of the United States, including 42 U.S.C. § 1983; the Privacy Protection Act of 1980, 42 U.S.C. § 2000aa et seq; and the Electronic Communications Privacy Act, 18 U.S.C. § 2703 et seq.. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343.

12. Venue is proper in the District of Colorado pursuant to 28 U.S.C. § 1391(b). All plaintiffs and defendants reside within the District of Colorado, and the actions and threatened actions occurred within the District of Colorado.

FACTUAL ALLEGATIONS

13. In the fall of 2003, Mr. Mink and others began editing and publishing The Howling Pig, which features satirical and sarcastic commentary about matters of public concern to the University of Northern Colorado community. Mr. Mink made the publication available on an Internet website, which allowed for the downloading and printing of each issue of the publication.

14. Mr. Mink set up the website using the computer that he and his mother share. Mr. Mink periodically performed maintenance on the website, and he maintained his electronic files relating to The Howling Pig on the computer. The website address for the publication is www.geocities.com/thehowlingpig.

15. The Howling Pig's purported editor-in-chief is "Mr. Junius Puke," a parody of UNC's Monfort Distinguished Professor of Finance, Mr. Junius Peake.

16. In the first three issues of The Howling Pig, topics included the UNC student newspaper, the lack of diversity in the administration and faculty, budget cutbacks and spending priorities, and campus "free speech zones." (Exhs. A, B, and C.) Each issue also included an "editorial column" by "Professor Puke," with an obviously doctored photo (e.g., sunglasses, Hitler-like moustache) of the real Professor Peake. The home page of the website pictured "Professor Puke" in makeup such as that worn by the members of the rock band "KISS." (Exh. D.)

17. The editorial column attributed to "Professor Puke" spoofs and parodies Professor Peake by addressing subjects on which the real professor would be unlikely to

write, or through the assertion of views diametrically opposed to those of Professor Peake.

18. Professor Peake is well-known in the Weld County and University of Northern Colorado communities as someone who has often voiced his views publicly on a wide range of issues. According to an editorial published in the Greeley Tribune on January 18, 2004, Professor Peake had become a public figure in the community as a result of “his constant ramblings that circulate to students and faculty members via e-mail on campus and his opinion articles that appear on this very page.”

19. However, Professor Peake apparently lacks, or has a limited, sense of humor. He complained to Deputy District Attorney Thomas Quammen about the contents of The Howling Pig.

20. A reasonable prosecutor would have known, or upon reasonable investigation could have discovered, the facts that demonstrate that Professor Peake was widely known for publicly expressing his views and was a public official or public figure. Nevertheless, the District Attorney’s Office assigned an investigator to the matter. The DA’s investigator compiled a packet of information that he turned over to the Greeley Police Department with a request that the Greeley Police Department contact Professor Peake. Pursuant to that request, Detective Warren contacted Professor Peake, who submitted a complaint asserting that The Howling Pig’s contents constituted criminal libel under C.R.S. § 18-13-105.

The search

21. On December 12, 2003, Detective Ken Warren of the Greeley Police Department appeared at the Minks' home, accompanied by two additional officers. Thomas Mink answered the door and permitted them to enter.

22. Detective Warren told Thomas Mink, "You're in big trouble," and stated that a complaint for "felony libel" had been filed because of The Howling Pig. Detective Warren took notes during an interview in which Mr. Mink acknowledged his role in publishing The Howling Pig. When he was done asking questions, Detective Warren announced that he had come to execute a search warrant.

23. He then produced a three-page search warrant that is remarkably broad in the scope of the materials it authorizes police to seize, including all computer equipment and electronically-stored data and emails and virtually every written and printed document in the Minks' residence, including diaries, correspondence, and "personal memoirs." A copy of the search warrant is attached as Exhibit E. Detective Warren said he needed to take the Minks' computer and anything else that might have been used to write The Howling Pig.

24. When Mr. Mink said he would rather keep the computer, Detective Warren replied that he could take "everything in the house" if he wanted. He added that Mr. Mink was lucky that the police had not come earlier when Mr. Mink was not home, as he would have returned home and found no computer. The police then left with the computer.

25. The overwhelming majority of the files and data on the seized computer had nothing at all to do with The Howling Pig or the specific statements that purportedly

violate the Criminal Libel Statute. The hard drive contained papers written by Mr. Mink during his four years as a college student, including the only copies of unfinished drafts of papers for two UNC classes that Mr. Mink intended to complete and submit by email on the afternoon that the police took the computer. It also contained internal documents of the Colorado Public Interest Research Group (CoPIRG) from Mr. Mink's service as chair of the student board of directors, as well as highly confidential documents of the USPIRG. It contained Crystal Mink's personal email and correspondence going back several years, as well as files relating to her work as a seamstress, including sewing software and several hundred stitch embroidery patterns.

26. With regard to *The Howling Pig*, the seized computer contained not only copies of material that had already been published and was available on the Internet, but also work product such as ideas for forthcoming stories and articles, portions of a yet-to-be-published issue with two articles already laid out, and additional research materials gathered to document forthcoming articles.

27. The criminal investigation, the threatened prosecution, and the search and seizure chilled Mr. Mink and the unincorporated association from exercising their right to freedom of expression and to freedom of the press. Indeed, the government effectuated a prior restraint by confiscating Mr. Mink's "printing press" (*i.e.*, the computer) and seizing the only existing copies of articles planned for the fourth issue of *The Howling Pig*. Moreover, when departing with Mr. Mink's computer, Detective Warren warned Mr. Mink that a resumption of publication would only "make things worse for you."

28. On December 23, 2003, counsel for the Plaintiffs contacted Detective Warren. At that time, counsel learned that Detective Warren did not plan to return the seized computer any time soon. Detective Warren indicated that his report would soon be completed and would recommend that the District Attorney file a charge of criminal libel. Detective Warren indicated he believed that the computer would be retained as evidence while that prosecution was pending.

29. On December 23, 2003, counsel for the Plaintiffs also spoke with Thomas Quammen, Assistant District Attorney for the 19th Judicial District. Mr. Quammen indicated that he was aware of The Howling Pig and the criminal libel investigation, as he had spoken with Mr. Junius Peake and had referred him to the Greeley Police Department to file a complaint. Counsel for the Plaintiffs explained that the Criminal Libel Statute could not be applied constitutionally on the basis of statements in The Howling Pig, but to no apparent effect.

30. On December 30, 2003, counsel for the Minks obtained the affidavit that Detective Warren submitted to obtain the search warrant. A copy of the affidavit, with attachments that Detective Warren downloaded from The Howling Pig website, is attached as Exhibit F.

31. The affidavit reveals that before seeking a search warrant for the Minks' home, Detective Warren had already sought and obtained two court orders to produce records, pursuant to C.R.S. § 16-3-101.1. One of these orders, signed by the state district court on November 24, 2003, was served on Yahoo (Geocities) Inc., the company that hosts the web site of The Howling Pig. Pursuant to that order, Detective

Warren obtained, among other things, the contents of email communications that are protected by the Electronic Communications Privacy Act. On information and belief, Detective Warren reviewed the contents of those email communications.

32. On December 30, 2003, after reviewing the affidavit submitted in support of the search warrant, counsel for the Plaintiffs then faxed a letter to Mr. Dominguez and Mr. Quammen outlining the facts and explaining that a prosecution for criminal libel would violate Mr. Mink's constitutional rights. The letter requested the immediate return of the seized materials and an agreement that the District Attorney's Office would decline to file a criminal charge. The letter, which is attached to the Declaration of Mark Silverstein, Exh. G, requested a reply by January 2, 2004. No reply was received.

33. As a result of the criminal investigation, the execution of the search warrant and seizure of the computer, Detective Warren's "warning," and the threat of a felony charge, Plaintiff Thomas Mink refrained from further publication of *The Howling Pig*, although he desired to publish additional issues and would have done so but for the actions and threatened actions of Defendants described in this complaint.

34. The reliance of the Weld County law enforcement authorities on this unconstitutional statute is not unique. In 1997 and 1998, law enforcement authorities in Larimer County invoked the Criminal Libel Statute to prosecute a student in Fort Collins for engaging in expression that was protected by the First Amendment. The trial court's written opinion dismissing the charge in that Larimer County case is filed

in this Court as an exhibit attached to Plaintiffs' brief in support of the motion for a temporary restraining order.

35. In 2000, a trial court in Boulder County appointed a special prosecutor to investigate allegations that the Rocky Mountain News and the Boulder Daily Camera had violated the criminal libel statute in connection with statements published about the JonBenet Ramey case. The purported libels clearly concerned a matter of public concern, but the purported victims may not have been regarded as public figures. Thus the Colorado Supreme Court's decision in Ryan did not bar prosecution and would have permitted a conviction without requiring that the prosecution bear the burden of proving that the purportedly libelous statements were false. Although a prosecution ultimately was not initiated in that case, the threat of that prosecution highlights the continuing and ongoing chilling effect caused by the Criminal Libel Statute's continuing presence in the Colorado statutes.

36. In 2002, a political opponent of the then-incumbent mayor of Georgetown, Colorado asked the prosecutor of Clear Creek County to charge the mayor with criminal libel for statements posted on the mayor's web site. Upon taking office as the new mayor of Georgetown, the complainant asked the prosecutor to drop the case but told reporters that she might reinstate the charge before the statute of limitations expired.

SUPPLEMENTAL ALLEGATIONS

37. The initial complaint in this action was filed on January 8, 2003 on behalf of Thomas Mink and Crystal Mink. On January 9, 2003, the Court found that Plaintiffs

had demonstrated a probability of success on the merits and granted Plaintiffs' request for a temporary restraining order. The temporary restraining order required the immediate return of the Minks' computer. It also prohibited the Defendants from initiating the threatened charge of criminal libel.

38. Pursuant to the Court's order, the Defendants returned the Minks' computer.

39. By prohibiting Defendant Dominguez from filing the threatened charge of criminal libel, the Court's order served to provide partial relief from the chilling effect of the Criminal Libel Statute and the Defendants' investigation and threat to prosecute.

40. While that temporary restraining order was in place, two additional issues of The Howling Pig were published. These additional issues contain articles that could be construed as violating provisions of the Criminal Libel Statute that make it a felony to "blacken the memory of the dead" or to "expose the natural defects of one who is alive." The Howling Pig and Mr. Mink intend to publish future issues containing articles that could be construed as violating these provisions.

41. At a status conference conducted on January 20, 2003, counsel for Defendant Dominguez announced that the District Attorney's Office would not file a criminal libel charge on the basis of material published in the first three issues of The Howling Pig (the "no file" decision). The Court then determined that the threat of prosecution was no longer sufficiently immediate to warrant interim injunctive relief, and it vacated the temporary restraining order.

42. Subsequently, Thomas Mink and Crystal Mink agreed to settle their claims against two of the original defendants in this case. Accordingly, the City of Greeley and Detective Ken Warren are no longer defendants, and Crystal Mink is no longer a plaintiff.

43. An actual controversy continues to exist between Plaintiffs and the Defendants. On information and belief, it is the position of the Colorado Attorney General's Office and the Office of the Nineteenth Judicial District Attorney that the Criminal Libel Statute is valid and constitutional as narrowed by the Colorado Supreme Court's decision in *People v. Ryan*, 806 P.2d 935 (Colo. 1991). Plaintiffs believe that the statute remains unconstitutional even as narrowed by the Colorado Supreme Court.

44. The "no file" decision announced by Defendant Dominguez on January 20, 2003, did not resolve the controversy between Plaintiffs and the District Attorney's Office

A. The "no file" decision was limited to material appearing in the first three issues of *The Howling Pig* and was further limited to the references to Professor Peake. Defendant Dominguez did not renounce future reliance on the Criminal Libel Statute;

B. In announcing the "no file" decision, Defendant Dominguez relied on facts and law that were equally available to Assistant District Attorney Quammen, to Deputy District Attorney Knox, and to other employees of the District Attorney's Office at the time that they encouraged, authorized, and facilitated the criminal libel investigation of Mr. Mink and *The Howling Pig*;

C. Defendant Dominguez is term-limited, and his successor will not be bound by the analysis and application of law to fact presented in the “no file” decision.

45. The Office of the Attorney General is charged with defending the constitutionality of Colorado statutes, and the Office of the Nineteenth Judicial District Attorney is charged with prosecuting violations. Neither Defendant Dominguez, Defendant Salazar nor any other high-ranking Colorado law enforcement officer has declared that the Criminal Libel Statute should not or will not be enforced.

46. There is no bill pending in the Colorado Legislature that proposes to amend or repeal the Criminal Libel Statute.

47. Mr. Mink and The Howling Pig intend in future articles to publish statements that could be construed as “blacken[ing] the memory of the dead” or “expos[ing] the natural defects of one who is alive,” in violation of portions of the challenged statute that exclude truth as a defense and that were not addressed in the *Ryan* decision. In addition, in situations where the statute acknowledges that truth or falsity is relevant, neither the statute nor the *Ryan* decision require the prosecution to bear the burden of proving that the purportedly libelous statements are false, thus permitting conviction for the publication of true statements, in violation of the First Amendment. Without intervention from this Court, Plaintiffs will have to choose whether to risk criminal prosecution or forego engaging in what they believe to be constitutionally-protected expression.

48. In light of the partial relief that Crystal Mink and Thomas Mink have already obtained in this case, the claims for relief in this First Amended and

Supplemental Complaint are revised to reflect the claims that remain and the additional relief that Plaintiffs seek.

1st CLAIM FOR RELIEF
(42 U.S.C. § 1983, First and Fourteenth Amendments)
(Prospective Relief Against A.M. Dominguez, Ken Salazar)

49. The foregoing allegations are incorporated herein.

50. The Howling Pig consists of expression that is fully protected under the First Amendment. Nevertheless, agents and employees of the City of Greeley and Defendant Dominguez have relied on Colorado's Criminal Libel Statute to take adverse action against Plaintiffs and to threaten additional adverse action against the Plaintiffs.

51. The existence of Colorado's Criminal Libel Statute and Defendants' reliance on it has chilled the Plaintiffs in the exercise of their First Amendment rights and caused the Plaintiffs irreparable injury. The continued existence of Colorado's Criminal Libel Statute poses an ongoing and continuing threat of irreparable injury to Plaintiffs' exercise of rights protected by the First Amendment.

52. Without intervention from this Court, the continued existence of the Criminal Libel Statute presents a substantial likelihood that law enforcement authorities will continue to rely on the statute to chill the exercise of the right of expression and thereby cause continued and future irreparable harm.

53. The continued existence of the Criminal Libel Statute threatens the First Amendment rights of the Plaintiffs as well as the rights of parties who are not presently before the Court, including the rights of persons to publish information protected by the

First Amendment and the rights of persons to receive information that is protected by the First Amendment.

54. The Plaintiffs have no plain, speedy and adequate remedy at law to protect their First and Fourteenth Amendment rights.

55. The existence of Colorado's Criminal Libel Statute and Defendants' reliance on it has caused Plaintiffs irreparable harm and threatens to cause additional irreparable harm without intervention from this Court.

56. The Plaintiffs are entitled to a declaratory judgment that the statute is unconstitutional; to an award of attorneys' fees and costs; and to such other relief as the Court deems just.

2nd CLAIM FOR RELIEF
(Privacy Protection Act of 1980, 42 U.S.C. § 2000aa, et seq.)
(Defendant Knox)

57. The foregoing allegations are incorporated herein.

58. At all times relevant to this complaint, Mr. Mink was and is involved in editing, publishing, and disseminating information and views to the public. Mr. Mink did so in part through his participation in disseminating The Howling Pig and making its contents available in interstate commerce through the World Wide Web.

59. Defendant Knox knew that the search of the Minks' home would require searching for materials possessed by a person or persons involved in public expressive and communicative activities.

60. Defendant Knox reviewed and approved the affidavit submitted to the state district court in support of the warrant to search the Minks' home. In connection with

the investigation of a purported criminal offense, Defendant Knox authorized and caused an unlawful search for and unlawful confiscation of work product materials and documentary materials that are expressly protected by the Privacy Protection Act of 1980, 42 U.S.C. § 2000aa(a) and (b).

61. Defendant Knox was aware that at no time did Detective Warren or any other investigating officer attempt to subpoena any materials from the Minks or any other persons they believed to be associated with the communicative aspects of The Howling Fig. Instead, Defendant Knox approved, authorized and thereby caused law enforcement authorities to rely on search and seizure as a first resort.

62. None of the exceptions in the Privacy Protection Act of 1980 applies to the search and seizure of the work product materials and documentary materials in this case. A reasonable prosecutor would have known that the search and seizure of work product materials and documentary materials violated clearly established law.

63. Defendant Knox is personally liable for violations of the Privacy Protection Act, pursuant to 42 U.S.C. § 2000aa-6(a)(2).

64. Plaintiff Mink is entitled to the statutory minimum liquidated damages of \$1,000 pursuant to 42 U.S.C. § 2000aa-6(f); an award of reasonable attorney's fees and costs pursuant to 42 U.S.C. § 2000aa-6(f); and such additional relief as the Court deems just.

**3rd CLAIM FOR RELIEF
(42 U.S.C. § 1983, First and Fourth Amendment)
(Claim against Defendant Knox)**

65. The foregoing allegations are incorporated herein.

66. The First Amendment protects Thomas Mink's right to freedom of speech and freedom of the press, and the Fourth Amendment protects the right of the Minks to be free from unreasonable searches and seizures.

67. The search and seizure of the Minks' computer and the data stored therein was carried out pursuant to a warrant that was not based on probable cause.

68. The search and seizure of the Minks' computer and the data stored therein was based on a warrant that failed to meet the particularity requirement of the Fourth Amendment.

69. A reasonable prosecutor would have known that the warrant failed to meet the particularity requirement of the Fourth Amendment.

70. A reasonable prosecutor would have known that the affidavit failed to establish probable cause to search and seize the items described in the warrant.

71. Defendant Knox reviewed and approved the affidavit submitted to the state district court in support of the warrant to search the Minks' home. Defendant Knox authorized and thereby caused the violation of Plaintiff Mink's constitutional rights.

72. Plaintiff Mink is entitled to an award of damages for the violation of his First and Fourth Amendment rights; an award of reasonable attorney's fees and costs; and such additional relief as the Court deems just.

4th CLAIM FOR RELIEF
(18 U.S.C. § 2701 et seq., Electronic Communications Privacy Act)
(Claim against Defendant Knox)

73. The foregoing allegations are incorporated herein.

74. In the course of investigating the complaint of criminal libel, Detective Warren drafted an Affidavit For Court Order For Production of Records pursuant to C.R.S § 16-3-301.1. Defendant Knox reviewed and approved that affidavit, which Detective Warren then used to obtain a court order, dated November 24, 2003, requiring Yahoo (Geocities) Inc. to produce records.

75. The court order required Yahoo to produce records related to the web site of The Howling Pig, including “any email from this or any Yahoo accounts relating to or forwarded to via this Site the website www.geocities.com/thehowlingpig.” The order further stated that the records that must be produced included “received email (read or unread) and sent mail.” Detective Warren served the court order.

76. The Electronic Communications Privacy Act protects the privacy of certain electronic communications from government inspection. In order for a governmental entity to require a provider of electronic communication service to disclose the contents of electronic communications that have been in electronic storage in an electronic communications system for less than 180 days, the statute requires a federal search warrant or its state equivalent. 18 U.S.C. 2703(a).

77. Yahoo is a provider of electronic communications service. The court order required Yahoo to disclose records that included the contents of electronic communications that had been in storage less than 180 days. Accordingly, the court order commanded Yahoo to disclose the contents of electronic communications for which a search warrant is required pursuant to 18 U.S.C. § 2703(a).

78. Yahoo produced responsive records, which included the contents of electronic communications for which a search warrant is required pursuant to 18 U.S.C. § 2703(a). Detective Warren subsequently read and reviewed the contents of those electronic communications.

79. The Court Order For Production of Records that Detective Warren served on Yahoo was not supported by probable cause.

80. A reasonable prosecutor would have known that the Affidavit submitted in support of the court order did not supply facts that amount to probable cause to command the production of the contents of the email communications. Accordingly, Defendant Knox cannot rely on the existence of the court order as a defense to liability.

81. The interception and review of the email communications violated the rights of Thomas Mink and the unincorporated association, the Howling Pig. It also violated the rights of all additional parties to the intercepted email communications, including the persons who sent communications to The Howling Pig and the persons to whom email communications were addressed from The Howling Pig web site or its associated email address.

82. Pursuant to 18 U.S.C. § 2707(c), the Plaintiffs are entitled to an award of damages of not less than \$1000.

83. Plaintiffs are also entitled to an award of attorney's fees and costs, and such other relief as the Court deems just.

WHEREFORE, Plaintiffs respectfully request the following relief:

- A. An award of \$1,000 in liquidated damages to Thomas Mink from Defendant Knox, pursuant to the Privacy Protection Act of 1980;
- B. An award of damages to Thomas Mink pursuant to 42 U.S.C. § 1983 from Defendant Knox;
- C. An award of damages to the Plaintiffs pursuant to 18 U.S.C. § 2707 from Defendant Knox;
- D. A declaratory judgment holding that the Colorado Criminal Libel Statute is unconstitutional on its face.
- E. An award of costs and attorney's fees, as well as pre and post-judgment interest; and
- F. Such additional relief as the Court deems just.

Dated this 19th day of February 2004.

Respectfully submitted,

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