

STATE OF MICHIGAN  
IN THE COURT OF CLAIMS

JOHN CHAPPEL CAIN, RAYMOND C. WALEN, JR.,  
ELTON FLOYD MIZELL, PAUL ALLEN DYE,  
JOHN CHANDLER EWING, DELBERT M. FAULKNER,  
C. PEPPER MOORE, RAMON COBOS, RONALD SIMPSON-BEY  
On behalf of themselves and all others similarly situated,

Plaintiffs,

HONORABLE JAMES R. GIDDINGS

Case Nos: 88-61119-AZ

93-14975-CM

96-16341-CM

v.

MICHIGAN DEPARTMENT  
OF CORRECTIONS

Defendant

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**STIPULATION TO SETTLE PLAINTIFFS' CLAIMS REGARDING  
PERSONAL TYPEWRITERS**

The parties, through counsel, stipulate as follows:

1. The claim(s) regarding prisoner purchase, possession and use of personal typewriters/word processors contained in Plaintiffs' Consolidated Court of Claims Complaint, Count I (Property), paragraphs 107, 109, 112-113, 117-121, 177 and 242 through 244 shall be dismissed with prejudice, except for the relief permitted by MCL 600.5531(f). In addition, Plaintiffs' claim(s) regarding prisoner's personal typewriters/word processors set forth in Plaintiffs' Consolidated Court of Claims Complaint. Count II (Access to Courts) paragraph 34

shall be dismissed with prejudice, except for the relief permitted by MCL 600.5531(f).

Paragraph 7 of Count II, insofar as it relates to access to personal typewriters shall also be dismissed with prejudice, except for the relief permitted by MCL 600.5531(f).

2. The Department may forbid prisoners to purchase a typewriter/word processor able to use disk(s) and/or diskette(s).

3. The MDOC may require that any existing disk(s) and/or diskette(s) possessed by a prisoner for use on an existing and presently possessed typewriter/word processor shall be sent out of the facility by October 24, 2003. A prisoner's disk(s) and/or diskette(s) may be sent out, one time only per prisoner, at the MDOC's expense through October 24, 2003. If a prisoner, by October 24, 2003, does not provide the MDOC with an address where the disk(s)/diskette(s) can be sent, then they shall be deemed abandoned and disposed of in accordance with MDOC Policy Directive 04.07.112.

4. A. Any typewriter/word processor presently in a prisoner's possession may continue to be used without disk and/or diskette accessories. If the typewriter/word processor can be used without a disk and/or diskette the prisoner may keep it as long as it can be repaired.

B. The MDOC may require that if a disk and/or diskette is necessary for the operation of the typewriter/word processor, then the disk(s) and/or diskettes and the typewriter/word processor shall be sent out of the facility by October 24, 2003. Any prisoner who wishes to send out of the institution his/her typewriter/word processor that is disk and/or diskette capable may do so at the MDOC's expense through October 24, 2003. If a prisoner by October 24, 2003 does not provide the MDOC with an address where their disk/diskette reliant typewriter/word processor can be sent, then it shall be deemed abandoned and disposed of in accordance with MDOC Policy Directive 04.07.112.

5. Any typewriters that do not utilize disks and/or diskettes, and have been legitimately purchased, possessed or ordered before the date of the Order adopting this Stipulation by a prisoner and/or that were listed on any Standardized Property List (SPL) that the MDOC has ever promulgated may continue to be possessed and used by the prisoner until such time as that machine is no longer repairable. However, a "comparable" model shall not replace such machines if the "comparable" model is not, at the time of replacement, a current approved model on the MDOC's Standardized Property List. The MDOC agrees to modify PD 04.07.112, paragraph O, to replace the phrase, "The prisoner must dispose of the appliance prior to receiving a new or replacement appliance of the same type" with "When a prisoner orders a new appliance he or she does not have to turn in or dispose of the old one of the same type until he or she receives the new one." This provision does not apply to the disposal of diskette-reliant machines as covered by paragraph 4 of this Stipulation.

6. All general population prisoners in Levels I through V shall be allowed to purchase, possess and use any typewriter identified on the MDOC's Standardized Property List, which shall include a typewriter with memory of at least 116K.

7. Prisoners in Level VI may purchase any allowable typewriter from the MDOC's Standardized Property List and use said typewriter in the unit typing room according to the unit's typing room schedule. Prisoners in segregation may also purchase any typewriter from the MDOC's Standardized Property List.

8. If an upgrade in word processing/formatting features is available through an approved typewriter manufacturer and if an approval letter of that upgrade offer is issued by the MDOC, then the MDOC will allow prisoners to send their clear case typewriters to the manufacturer to have the upgrade installed. All costs shall be at the prisoner's expense. The Department may forbid any upgrade that includes the addition of diskette capability or that

increases the typewriter's memory over 128K or that adds or changes other features, as the MDOC chooses.

9. The MDOC will endeavor to identify a typewriter costing less than \$200.00 and make it available for purchase and possession by prisoners in accord with the preceding paragraphs' description. The MDOC may require any such low cost typewriters to have a clear case/body and may lack any internal memory. If identified, it will be included on the MDOC's Standardized Property List, and may replace a more expensive non-memory typewriter on the MDOC's Standardized Property List.

10. The MDOC shall allow the purchase and possession of a single outlet surge protector for use with the prisoner's typewriter. This item will be included on the Standardized Property List. Any single outlet surge protector(s) purchased and possessed prior to the date of the Order adopting this Stipulation may be retained.

11. Any Orders entered in this litigation concerning typewriters/word processors or accessories, including orders entered on Monitor Complaints, are hereby superseded, insofar as they are inconsistent with the terms of this Stipulation and Order. Any machines or accessories currently possessed by prisoners as a consequence of the orders described in this sub-paragraph shall be subject to the terms of this Stipulation and Order.


12. The MDOC shall continue to consider typewriters as legal property in MDOC Policy Directive 04.07.112. Prisoners in general population housing units Levels I-V and in Level VI, if otherwise expressly permitted by MDOC policy, may possess and use an allowable personal typewriter in their cell or housing unit.

13. The MDOC will allow outside parties to purchase direct from the manufacturer a typewriter listed on MDOC's current Standardized Property List to be shipped directly to the

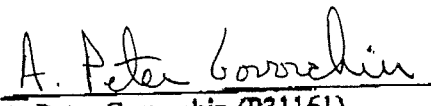
prisoner from the manufacturer. This provision does not apply to ordering a subsequent upgrade of a typewriter.

14. This Private Settlement Agreement and Order are not intended to affect the jurisdiction of other federal or state circuit courts with regard to prisoners' typewriters/word processors.

15. The parties agree that this is a "private settlement agreement" as defined in MCL 600.5531(f). The parties agree that the provisions of this private settlement agreement are not severable and shall remain in effect until November 1, 2005.

  
Prison Legal Services of Michigan, Inc.  
Counsel for Plaintiffs  
By: Sandra Girard (P33274)

Date

  
A. Peter Govorchin (P31161)  
Allan J. Soros (P43702)  
Assistant Attorneys General  
Counsel for Defendant

Date



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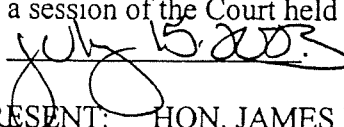
Defendant

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**ORDER DISMISSING PLAINTIFFS' CLAIMS REGARDING PERSONAL  
TYPEWRITERS**

At a session of the Court held in Lansing, Michigan

on July 15, 2003

PRESENT:  HON. JAMES R. GIDDINGS  
Court of Claims Judge

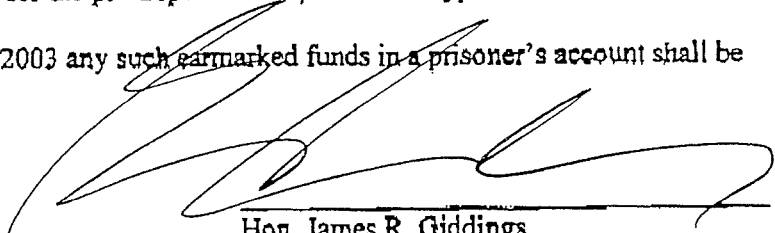
This matter having come before the Court on the basis of the attached private settlement agreement, as defined by MCL 600.5531(f) and notice having been given to the Plaintiff class members and the Court having considered the comments timely received, and the Court being fully advised in the premises;

IT IS ORDERED that the Plaintiffs' claims regarding prisoner purchase, possession and use of personal typewriters/word processors contained in Plaintiffs' Consolidated Court of Claims Complaint, Count I (Property), paragraphs 107, 109, 112-113, 117-121, 177 and 242

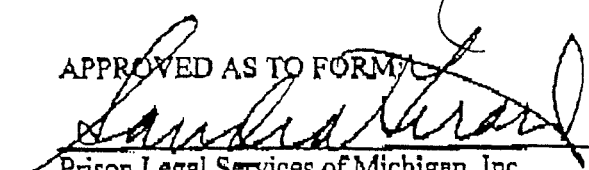
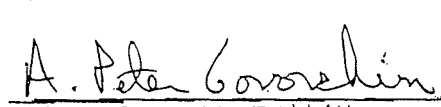
through 244, and Count II (Access to Courts), paragraph 34 and paragraph 7 insofar as paragraph 7 relates to access to personal typewriters, shall be dismissed with prejudice except for the relief permitted by MCL 600.5531(f). This dismissal is not intended to foreclose the bringing of any claim such as that described above, which may arise after November 1, 2005.

Defendant shall provide paper as needed to print off the prisoner's legal material stored on the prisoner's disks, to those prisoners who are indigent or without funds who have disk typewriters/word processors legitimately obtained prior to September 26, 1994, including those prisoners who possess legitimate replacements for the pre-September 26, 1994 disk typewriters/word processors.

Defendant shall allow persons to send funds earmarked for the purchase of typewriter/word processor ribbons or cartridges to prisoners who have disk typewriters/word processors legitimately obtained prior to September 26, 1994, including those prisoners who possess legitimate replacements for the pre-September 26, 1994 disk typewriters/word processors. After November 1, 2003 any such earmarked funds in a prisoner's account shall be treated as non-earmarked funds.

  
Hon. James R. Giddings  
Court of Claims Judge

APPROVED AS TO FORM

  
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Govorchin/CAIN CASE/PLEADINGS/05 02 02 Agreement & Order re typewriters 071503