

# Time Line & Exhibits From Marbet vs. City of Portland

Created by Lloyd K. Marbet

Date	Content	Mark
08/22/02	Lloyd Marbet's account of being pepper sprayed on 8/22/02, written a day after it occurred.	Ex. A
09/05/04	<p>Plaintiffs' Press Release: Victims of Police Attacks During Bush Visit Announce Intention to Sue the City of Portland, Mayor Vera Katz, and Police Chief Mark Kroeker, the Oregon State Police and the Beaverton Police:</p> <p style="padding-left: 40px;">"This law suit will attempt to force the City of Portland to make institutional changes that will ensure that the power of the City and its police are never again used to attack Portland Citizens"</p>	Ex. B
10/07/02	Letter from attorney Alan Graf to Lloyd Marbet regarding the signing of a fee agreement.	Ex. C(1)
10/10/02	Fee Agreement between Alan Graf and Lloyd Marbet	Ex. C(2)
10/25/02	<p>Plaintiff's Press Release: Victims of Police Attacks During the August 22<sup>nd</sup> Bush Visit Announce the filing of a federal civil rights lawsuit against the City of Portland, Mayor Vera Katz, Police Chief Mark Kroeker, and others:</p> <p style="padding-left: 40px;">"We also Believe that the actions of the Police on August 22 were part of a larger pattern and practice of using excessive force and spying on political activists. The police here, like in many other localities, have been unbridled in this respect. There is no meaningful review process for scrutinizing use-of-force complaints. It is our hope that we can achieve meaningful change in this area through this lawsuit through either injunctive relief or settlement."</p>	Ex. D
03/27/03	Email message from attorney Stu Sugarman (in response to communication between attorneys Liz Joffe and Alan Graf on seeking a preliminary injunction) showing his involvement in this case.	Ex. E
06/19/03	<p>Email from Alan Graf to Liz Joffe and Lloyd Marbet regarding a "Progress report" in this case and the beginning of the proposed Northwest Center for Constitutional Rights:</p> <p style="padding-left: 40px;">"PS--Friday I am going to Ashland to make a pitch to the Oregon Trial Lawyers Board to help fund this lawsuit and continuing ones under the umbrella of a Northwest Center for Consitutional Rights --this lawsuit being the seminal one for the center--we go from dream to reality."</p>	Ex. F
08/05/03	Email from Alan Graf to plaintiffs regarding notice of September 15, 2003 settlement conference ordered by US District Court Judge Ann Aiken.	Ex. G
08/09/03	Email from Alan Graf to plaintiffs of a draft mission statement for the Northwest Center for the Constitutional Rights Center.	Ex. H
08/18/03	<p>Email from Alan Graf to plaintiffs of attached press release dated 8/20/04, announcing:</p> <p style="padding-left: 40px;">The newly created Northwest Constitutional Rights Center (NWCRC), a project of the Portland Chapter of the National Lawyers Guild, will file a lawsuit on August 20, 2003, against the City of Portland and the Portland Police Bureau for violating the constitutional rights of Plaintiffs Randy Lyon, Miranda May and William Ellis.</p>	Ex. I
09/02/03	Portland Mayor Vera Katz appoints Assistant Chief Derrick Foxworth to become Chief of Police.	

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09/03/03	<p>Email from Alan Graf to plaintiffs with attached letter from Alan, dated 9/3/04, to US District Court Judge Ann Aiken and stating in part:</p> <p style="padding-left: 40px;">The Plaintiffs are prepared to settle for the following:</p> <ol style="list-style-type: none"> <li>1. 1.5 million dollars in damages total, for all of the Plaintiffs as a group, to be divided amongst them as they see fit;</li> <li>2. An agreement to pay reasonable attorney fees incurred by the Plaintiffs, an amount to be determined by the court.</li> <li>3. <b>A consent decree, which keeps jurisdiction of the matter with the court and which would prevent the PPB from using pepper spray and rubber bullets as crowd control other than for clearly and actively violent subjects.</b></li> <li>4. <b>A consent decree that would order the city to completely revise the current system of police accountability to more closely resemble an independent board of citizens with the power to issue subpoenas, compel testimony and change policies and procedures, similar to the police review board now in place in Minneapolis, Mn.</b></li> </ol> <p><b>The Plaintiffs are not ready or willing to settle for a pittance in this matter. Both Plaintiffs and their lawyers are ready and willing to take this case through trial and beyond if necessary to see that the First Amendment remains vital and the rights of citizens will be respected in this town. Thank you again Judge Aiken for your assistance with this case. (Bolded emphasis added.)</b></p>	Ex. J
12/21/03	<p>Email from Alan Graf to plaintiffs:</p> <p style="padding-left: 40px;">The Impact Fund--a progressive legal foundation located in San Francisco just gave us \$4000 for litigation expenses. If we win, this grant has to be paid back at 7% interest. If we don't win, then nothing is owed.</p>	Ex. K
01/22/04	<p>Email form Alan Graf forwarding an email from Liz Joffe along with an attached letter dated 1/21/04 sent to Tracy Pool Reeve, Senior Deputy City Attorney, City of Portland in which it states in part:</p> <p style="padding-left: 40px;">First, our clients are only interested in a global settlement that would settle all claims against your clients. Second, the dollar amount of the settlement is too low, particularly in light of the costs and fees already expended. <b>Third, our clients are deeply committed to effecting change in the Portland Police Bureau's handling of peaceful protests in the future. Any settlement will have to include, at a minimum, policy changes and guarantees limiting the use of pepper spray in these situations.</b> (Bolded emphasis added)</p>	Ex. L
01/26/04	<p>Email from Alan Graf to plaintiffs attaching an affidavit of Bob Seaver filed in federal court. This affidavit shows that City of Portland Police Officer Mark Kruger had a strong attraction to Nazi memorabilia and "has at times psychologically distanced himself from the atrocities committed by the Nazis by engaging in revisionist history in his participation in re-enactment exercises;" (Number 15, page 3.) It was my understanding that Mark Kruger was the police office who pepper sprayed me along with a Channel 12 news photographer, Beth English who was standing behind me.</p>	Ex. M
04/25/04	<p>Lloyd Marbet helps arrange a \$3000 donation from the Oregon Conservancy Foundation to the NW Constitutional Rights Center.</p>	

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05/25/04	<p>Liz Joffe letter to Judge Edward Leavy regarding "Plaintiffs Settlement Conference Position Statement":</p> <p style="padding-left: 40px;">"The plaintiffs' settlement position is contained in the enclosed Stipulated Agreement and Judgement. We believe the monetary component is imminently reasonable, particularly when compared with similar settlements and awards in other cases involving police violence against lawful protestors. <b>It is imperative to the plaintiffs that any settlement include meaningful and binding commitments from the Portland defendants about future conduct at peaceful demonstrations. The Portland Police Bureau has failed to honor promises made in the past after similar incidents. The plaintiffs are absolutely committed to making real change through this case and they will go to trial to send a message. Any settlement must include enforceable guarantees that the public will not be subjected to police brutality for engaging in peaceful First Amendment activities.</b>" (Bolded emphasis added.)</p>	Ex. N
08/01/04	<p>Email from Alan Graf to plaintiffs and attorneys regarding "Here is the finalized Plaintiffs counter-counter proposal" and showing the continued involvement of Stu Sugarman:</p> <p style="padding-left: 40px;">"This version has input from many, many people including Stu Sugarman and others."</p> <p>(Note: The "counter-counter proposal" attached to this email is not included.)</p>	Ex. O
09/27/04	<p>Email from Lloyd Marbet in response to 9/24/04 email message from plaintiff Bill Ellis where I state in part:</p> <p style="padding-left: 40px;">Is this a new proposed settlement breaker? And if not this, where is our bottom line? I thought when we last met we had determined what would end our negotiations and take us to trial? I felt good about what we determined. If they won't make pledges on paper for what we have already crafted (which is already compromise) when do you think they finally will? I am sure that if we reduced it to some sort of amorphous acknowledgment that they can do better, without any real substance, along with a little money for ourselves, they are going to go for it. They will walk away knowing they negotiated from a position of strength and it doesn't take much to think how they will consider us as we continue to haggle for less and less? I am for sticking with what we agreed to and I do not think it is too much to ask for, especially when your consider what we have all gone through and what others may have go through if we do not make this our stand.</p>	Ex. P
10/09/04	<p>Plaintiffs meet at 12:00 PM at Alan Graf's law office to work out our Final Settlement Offer to the City of Portland. It is agreed by both plaintiffs and attorneys that if the City rejects this offer we will litigate our lawsuits.</p>	
10/09/04	<p>Alan Graf's letter to Deputy City Attorneys: "Plaintiffs Final Settlement Offer for Marbet, et. al. v. City of Portland and Ellis, et. al. v. City of Portland" in which two alternative proposals are offered, one of which:</p> <p style="padding-left: 40px;">"Plaintiffs <b>reluctantly offer an alternative proposal</b> that also expires on the eve of October 13, 2004:</p> <p style="padding-left: 40px;">In exchange for \$25,000 for each Plaintiff, a personal letter of apology from either Chief Foxworth or Mayor Katz, and an award of attorney fees and costs as determined by the court, Plaintiffs will dismiss all claims against the city of Portland defendants." (Bolded emphasis added.)</p>	Ex. Q

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10/18/04	Letter from Tracy Pool Reeve to Alan Graf with the City of Portland's counteroffer of \$25,000 plus attorney fees with no apology or acknowledgment of guilt.	Ex. R
10/19/04	<p>Series of email messages to Plaintiffs regarding the City's counteroffer beginning with Alan Graf:</p> <p>If we agree to this settlement, we still get to say our peace on what the city gave up, on the process that was flawed and Mostly, that we are here to stay--that a good chunk of this money will fund the Center, which will serve as the Bulldog protector of the dissident community and the babies that come to the demonstrations to learn about the First Amendment. In other words, we can say anything we want at our OWN PRESS CONFERENCE.</p> <p>The lawyers have all agreed to give one half of their attorney fees to the Center. <b>I hope that IF we agree to this settlement, the Plaintiffs will also consider using some of the money to fund the Center as well--because the better funded the Center is--the more it can fulfill the purposes of our lawsuit.</b> (Bolded emphasis added.)</p> <p>then Liz Joffe:</p> <p>Apologies are a pipe dream in this biz. In 11 years of practice, I have NEVER seen an apology ordered by a court or agreed to in a settlement. <b>I'm sorry we even planted the seed in our clients minds that this was a possibility.</b> (Bolded emphasis added.)</p> <p style="text-align: center;">***</p> <p><b>The issue boils down to whether \$25K per plaintiff (totaling \$300,000K) plus fees and costs is enough to make us walk away from policy reform. We're done with trying to work out policy reform language in a settlement.</b> The City just won't go far enough. So we need to weigh the risks of losing (at summary judgment and/or at trial), the benefits of winning (at s.j., trial, and appeals) and the likely remedies that would be awarded, and determine whether \$300,000K plus a buttload of attorneys fees and costs is reasonable. Even under the best case scenario, we could not win in court the breadth of reforms we were trying to achieve in the settlement agreement. I seriously doubt we would get anything on the equitable front beyond the very narrow prohibition from pepper spraying and shooting people under the exact same circumstances under which our plaintiffs were sprayed and shot. We stand a chance at doing much better than \$25K per plaintiff, particularly with some plaintiffs. But keep in mind that this is a crap shoot, that most of the plaintiffs have no evidence of lasting injuries, that most did not seek medical or mental health treatment, and that some juries could award far less than \$25K – even “nominal” damages of \$1. We also need to keep in mind that if we continue with the litigation, there will be no outcome for years and years. Just look at the Headwaters case. I suspect there will be appeals as far as they can go in this case, particularly given the fees at issue. <b>So the \$300K plus fees is a big bird in the hand, particularly when we consider what we as a movement can do with 50% of that money,</b> and the mileage we can get in the press from a big settlement. The upshot for me is that I think it's a decent settlement. I'm not happy we couldn't make better policy on this, but so it goes. <b>I believe we have already changed police behavior as much as we could.</b></p>	Ex. S

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10/19/04	<p>Email from attorney Steve Sherlag in response to Liz Joffe email in Ex. T, wherein he states in part:</p> <p style="padding-left: 40px;">This also allows us to fight another day. Its your call, but if we say no, an offer of judgment will be quickly forthcoming. I'm not sure what the amount will be, but lets say it is for the same deal as they are offering today \$25K. If we do not better that at trial, all attorneys fees will be cut off as of the day of that offer. That's where things can get dicey and make us make a hard decision.</p> <p style="padding-left: 40px;">I told Lloyd that I have about 350-400 hours of work into this case and a little less than \$10,000.00 out of pocket (including money that I and others have fundraised). Graf has probably twice as much time and twice as much money out of pocket. Liz has a bunch of time into it.</p> <p style="padding-left: 40px;">We have committed to giving you a strong legal team and we are committed to litigating these cases, but if in the end it does not make economic sense, it is unlikely that we can, or will be willing to, sustain this type of effort in future cases.</p> <p style="padding-left: 40px;">Please remember to keep our conversations in house (among the legal team). This is all confidential.</p> <p style="padding-left: 40px;">Thank you for your thoughtful consideration and for being on the forefront of protecting civil liberties in Portland.</p>	Ex. T
10/20/04	<p>Plaintiffs meet at 4:15 PM, with attorneys Alan Graf, Liz Joffe and Steve Sherlag, Liz Joffe and Aaron Varhola to discuss whether or not to accept the City's counteroffer to our final settlement offer.</p>	
10/22/04	<p>Lloyd Marbet's email to plaintiffs and attorneys "In response to the final offer," wherein I state:</p> <p style="padding-left: 40px;">I came to our last meeting greatly troubled by this turn of events. In my struggle to address this I thought of an alternative approach that I could live with, but I find that even that approach apparently challenges the wishes of everyone involved. Even with the contributions that we have been asked to make to the Constitutional Rights Center, I am not convinced it will ever be enough. Those who come after us will also face the same kind of financial problems, both attorneys and plaintiffs, and I have found that there never seems to be enough money to cover the injustices in this world. I have also entered into settlements before but never regarding this level of violence or challenge to our constitutional rights, and I would rather litigate than give in to what they have done to us and what they are now on the verge of accomplishing in its aftermath. I refuse to be a number on their ledger sheet, but I am only one plaintiff and I also do not wish to be an obstacle to the desires of the rest of you, as well as the endless equations of what we might or might not succeed in accomplishing if we do this. I am willing to withdraw from this case and stand aside so that you all can move forward but I cannot accept this settlement.</p>	Ex. U
10/22/04	<p>Email message from Lloyd Marbet in response to an email message from Alan Graf sent the same day. I state in part:</p> <p style="padding-left: 40px;">Alan, I appreciate all you have done and I am glad that you will carry on. I am doing what I believe to be right and I am not standing in the path of you doing what you believe to be right. I honor your perception just as I would honor my own.</p>	Ex. V

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10/22/04	<p>Liz Joffe email to plaintiffs and attorneys on "Settlement Status" wherein she states in part:</p> <p style="padding-left: 40px;">As you all have seen from Lloyd's email today, at this point, he does not want to be part of the settlement, but he also does not want to do anything to jeopardize the settlement for the rest of the plaintiffs. I have done some exploring to see whether and how we could pull that off. The City has indicated that it would probably agree to pay the \$300K (\$25 x 12 plaintiffs) however we want it. <b>In other words, I think we can still get the \$300K settlement even if Lloyd decides he does not want to be part of it. This means that the 11 plaintiffs will get \$27,273 each instead of \$25,000 each. It is our hope that they would then donate their share of the "Lloyd" money back to the Center so that we can continue doing this work in Lloyd's spirit (even if he doesn't want to be the one making that donation).</b> (Bolded emphasis added.)</p>	Ex. W
10/27/04	<p>Liz Joffe email to plaintiffs and attorneys with attached letter to City Attorney Tracy Reeve and first (rough) draft of a settlement agreement. In the letter to Tracy Reeve it states in part:</p> <p style="padding-left: 40px;">6. The settlement agreement will state that it is a settlement of disputed claims and that by entering into the settlement agreement, no party to the agreement is acknowledging any liability for those disputed claims.</p>	Ex. X
11/10/04	<p>Plaintiffs and lawyers meet at the office of Alan Graf "to talk about the details and strategy for maximizing the settlement."</p>	
11/11/04 11/12/04	<p>11/11/04, Email message from Alan Graf in response to a message sent by Lloyd Marbet regarding "A Petition to Congress requesting an investigation into the Presidential Election of 2004." Alan states:</p> <p style="padding-left: 40px;">I think your current actions in my mind show a disrespect for democracy and the democratic process. Its ok that you disagree with all of the other Plaintiffs regarding this settlement--but to take actions that have the potential of destroying what we have gained is not in keeping with your own stated principles and what you stand for.</p> <p style="padding-left: 40px;">Think a little more about this and try to get out of the emotional state that drives you. You appear to be driven by a "my way or the highway" mentality.</p> <p>11/12/04, I respond to this email message the following day:</p> <p style="padding-left: 40px;">This message appears to be sent before we had our conversation over the phone this evening, thus I will not attempt to respond to its content except to say that my actions have been an attempt to have discourse without ultimatums, in an effort to respect views which are contrary to my own. I am sorry if you feel otherwise.</p>	Ex. Y
11/12/04	<p>I receive a phone message from Allan Graf on my telephone answering machine which states in part:</p> <p style="padding-left: 40px;">"...and I'm not, um, necessarily in agreement with Liz by the way that you don't get to say what you want to say, cause that is what this is all about, um, the right to free speech so, um, you know I think that there's a disagreement here, in and amongst the lawyers, and I'm particularly taking one particular view, and Liz and Steve Sherlag are taking another view..."</p>	

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11/12/04

Email from Alan Graf to plaintiffs and lawyers in which he extensively states his personal stake in this lawsuit. The following are excerpts, with bolded emphasis added:

Ex. Z

As a result of my efforts, money and energy I am now about seventy thousand dollars in debt, quite a few years older and grayer, and somewhat worn out.

**I am not a personal injury lawyer and would not have agreed to do these cases if the only end result was securing money for the Plaintiffs to be used for their personal needs.**

**The cases have been litigated by a legal team of many different lawyers. There has been a core of four lawyers who have been most involved.** However, as lead counsel, I have not had the luxury like other members of this team of taking off for a vacation or personal time or other activity when a brief was due or when something needed done had to be done. I have not had the luxury deciding I didn't have time to do something required or not putting in money into the case when it was needed. **The bottom line in this case has always been my responsibility, and my responsibility alone.**

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I tell you this not to make you feel guilty or bad or feel sorry for me. **I tell you all of this because the work that I have been doing in terms of your cases and police accountability will come to an end unless there is enough funding available for the Center to hire 1) a full time attorney, 2) director/staff person, 3) funds for litigating cases and 4) funds for educational and resource projects.**

**I do not have the energy or health to keep going at the pace and resource level I have put out over the past ten years.**

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Although the attorneys agreed to contribute ½ of their attorney fees to the Center, we do not know how much if any attorney fees there will be and when we will see them.

**So, in order for the Center to continue NOW, we need to get a greater share of that money sooner rather than later.** Aaron is already working on a new case based upon police brutality against protestors who were harassed on November 3-6, 2004.

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You also each have an additional \$2,272.00 that was Lloyd's money which is now in your hands.

**I appreciate it that all of you have agreed to give some of your money to the Center. I appreciate it that some of you have agreed to give some money to other good cause. But I want you to know that if we don't come up with at least \$120,000 from the Plaintiffs, I don't see any reason to keep the Center's doors open.** As the lawyer who has more hours in this case than all the other lawyers combined, I have personally promised to give more to the Center than anyone else. So I am not asking you to do something that I am not already doing more than three fold.

**Liz and Steve have both expressed displeasure with what they perceived as my pressuring you to contribute. I am sorry they feel that way. However if nobody says anything and then everyone will lose. We will all go away from this having gained nothing from our efforts other than some money. In this regard, I completely agree with Lloyd about the utility of a money settlement.**

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11/12/04	Email from Alan Graf to plaintiffs and attorneys forwarding an email from Steve Sherlag resigning from this case.	Ex. AA
11/14/04	<p>Email from Alan Graf to plaintiffs and attorneys conveying further insight as quoted in part with bolded emphasis added:</p> <p>1. I apologize for making any of you uncomfortable in pitching for the Center. That was not my intent. I have the utmost respect and admiration for everyone on this team, and indeed it has been a team. Without all of the lawyers and activist Plaintiffs we would not have come as far as we did. I am indeed happy you are committing what you have agreed to commit to.</p> <p style="text-align: center;">***</p> <p>3. Steve and I got into a disagreement over how we would handle some of the issues around Lloyd's separation from the group. I have apologized to Steve for my part in being cantankerous and have asked him to reconsider his resignation BECAUSE we need all of us to continue this. We have learned so much from this experience, in terms of the law, working together and seeing what will make the city say uncle. Now is not the time for us to let our differences break us apart. We are stronger together than as individuals. The core legal team of Aaron, Liz, Steve and myself were all essential to this victory. I could not have done it alone (no way, no how).</p> <p>4. Which leads me to the last bit of clarity. I got a call from Tom Potter ( our next mayor) this morning. <b>I got to talk with him for about thirty minutes. He is quite determined to "demilitarize the police," and has a meeting scheduled with Chief Foxworth over this. I told him that we had an agreement on the table that would have saved the city about 120K, but the police and essentially the union balked at it deciding instead to fork over tax payer money to not having something like this hanging over their heads. He said "what???"</b> He wants to see the agreement and I agreed to send it to him. He was ready and willing to meet with us and talk about a lot of our concerns. I may be wrong, but I get the feeling that he is ready for some real substantive change in the department and if Foxworth resists, da Fox might be history.</p> <p>5. Which leads me to Lloyd--I hope you are reading my rant--Given these developments, I think we present a much stronger message to the city and citizens if we all sign on to this agreement and have a press conference to that effect. <b>Given the fact that I am communicating to Potter all the stuff you want to communicate, don't you think it would be better, stronger and more persuasive to present a united front. And (no pressure, no pressure!!!!) let the citizens of Portland know that the Center is being funded by SOME of the money from the settlement and we are ready if the Police "just do it again" in which case, there will be repercussions--</b></p>	Ex. BB



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11/14/04	<p>Lloyd Marbet response to Alan Graf's email, Ex AA, copied to plaintiffs and attorneys (Note: I only provide the first page of this email message since the remaining pages reproduce Exhibit AA.):</p> <p>We as plaintiffs have changed course from what I thought we were all about, and I can't help but think that once the focus shifted to just money, it led to the betrayal of what we started out to achieve. If, as I suspect, this is what the City's final offer was really all about, then they have accomplished their goal. They are not sorry, they are not guilty, and they have yet to change a thing and have since reproduced their behavior, having already rewarded those who commit these atrocities on their behalf. On our own, we have placed a price tag on our pain and suffering, which the city is more than willing to pay, and by doing so we send a message to those who come after, that this is an example of what an acceptable price is for losing our rights. It is as if the conquered argue over the spoils they are rationed, while the conqueror continues to plunder at will. One thing the Constitutional Rights Center can't buy is persistent determination and courage.</p>	Ex. CC
11/14/04	<p>Lloyd Marbet email response to Alan Graf's 11/14/04 email message, Ex. CC, copied to all the plaintiffs and attorneys, stating in part:</p> <p>At the last meeting of plaintiffs and attorneys, I asked a question about whether I could approach Tom Potter and Sam Adams to talk with them about the proposed settlement. My motive in doing so was to see whether the Plaintiffs could agree that it was worthwhile to try and see if we could save the proposed conditions in our last settlement offer. The legal advice that I received was at cross purposes. You believed that I had a right to communicate with Potter and Adams, and Liz Joffe believed it was a breach of contract. Later, when I talked with Steve Sherlag over the phone, he indicated that it could be a "tortious interference in contract" and advised that I seek outside legal advice. As I told you over the phone, when we last talked, I took Steve's advice and sought the assistance of Peggy Hennessy, a lawyer who has helped me in other legal matters...</p> <p style="text-align: center;">***</p> <p>As I have previously stated, I cannot accept this settlement agreement. I still do not have any assurance that the police will change their behavior, although it is possible that if Potter supports what we have tried to do, and used his influence, that assurance could now be given to us; either by the acceptance of our conditions or a public commitment to instigate a binding procedural process for making real changes in the way the police operate. I believe we have the power to leverage this, but only if the plaintiffs confirm that this is still the goal we are trying to reach, and are willing to persist in its implementation.</p> <p>ps: There is one other issue that I would like to address and that has to do with a previous email message and phone conversation about how some lawyers make multiple clients sign an agreement to use the democratic process to determine the outcome of settlement negotiations. When I sought legal representation it was for the injuries that had been done to me and I did not seek legal representation on behalf of anyone else; even though I have taken into account the impact of similar police action on others. In this case there are multiple clients and I have tried to take this into account when confronted by both lawyers and plaintiffs favoring an settlement that I do not agree with. Thus my tortured attempt at honoring the rights of others while at the same time seeking to find a way to honor what I all along have wished to have represented for me. I assume that it is the obligation of an attorney to represent all of the interests of those he or she represents in a matter like this, and if a conflict develops in those interests, then each client still has the right of individual legal representation, which is different than holding an election where clients bind themselves to an outcome that may or may not represent their individual interests and sounds unethical to me. Am I wrong about this?</p>	Ex. DD

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11/16/04	Lloyd Marbet email response to co-plaintiff Don Joughin's 11/15/04 email message to me "and everyone" in which I respond his assertions regarding my motives and involvement in this case.	Ex. EE
11/19/04	<p>Email message sent by Alan Graf to plaintiffs and attorneys in which he falsely states:</p> <p style="padding-left: 40px;">Lloyd has now hired his own attorney and as of yesterday indicated that he was "changing his mind" and would not sign a dismissal of his case.</p> <p style="text-align: center;">***</p> <p>What we plan to do is this. We will attempt for the last time (at least for now) to talk some sense into Lloyd and his new lawyer explaining to them that Lloyd is 1) legally bound by his word and agreement with Liz to sign the dismissal and 2) even if he isn't, he will need a lawyer to take his individual case from here--the case will have our attorney lien on it and the city will probably tender an offer of judgment will which probably result in preventing any new lawyer from obtaining additional attorney fees for the case. The new lawyer will also have to go over thousands of pages of records and hours of videotape--in other words reinventing the wheel which we painstakingly have put in place -all for no pay. I sincerely doubt Lloyd can find a lawyer in this town who will do that. His position is at the minimum self destructive. It is also destructive for you and destructive to any progressive gains for the protection of civil rights in this town.</p> <p>If Lloyd does not see the light, we need to withdraw as his attorney immediately. We also need his permission and all your permission to continue to represent you in this case. Please indicate by email if we have your individual permission to continue to represent you. If Lloyd decides to not give his permission, you may have to seek new counsel for your cases. Hopefully Lloyd will not be that vindictive. Please do not worry about that issue unless it comes up.</p> <p>I have also been speaking with Mark McDougal and Greg Kafoury about our dilemma and all the attorneys agree that Lloyd's position that he is changing his mind is legally untenable. We may file a motion with the court as early as next week to request that the court find that Lloyd agreed to dismiss his case with prejudice and thus take Lloyd out of the loop. At this point I anticipate that is what will happen as Lloyd appears to be more rigidified in his position.</p>	Ex. FF
11/21/04	<p>Lloyd Marbet's email message to Alan Graf, responding to his 11/19/04 message (Ex. GG), stating in part:</p> <p style="padding-left: 40px;">You have grossly miscalculated, Alan, for while I have sought independent legal advice, at the urging of Steve Sherlag (over the conflicting legal advice that I received at our last meeting) I have not made a decision that I "would not sign a dismissal" of my case. Not only that, until this email message, I had not made a decision to hire another lawyer to represent my interests in this matter. While you seem to have no problem sending me this email message, (I received no other email message from you asking me about this) and while I have confirmed that both my home phone and cell phone are still working (which you have previously used), at no time have you even attempted to discuss with me what you allege below, nor did I ever tell you that I had dismissed you as my attorney.</p> <p>Once again, you have exposed the degree to which your own personal interest in the outcome of this matter has affected your legal judgment as well as your representation of me. I now no longer wish for you to represent me in concluding this matter. Today I was able to reach Peggy Hennessy and have asked her to represent me solely for the purpose of furthering the position I have taken all along in the settlement of this case. I do not object to your representing the other plaintiffs in this matter.</p>	Ex. GG

# Time Line & Exhibits From Marbet vs. City of Portland

Created by Lloyd K. Marbet

12/1/04	<p>Email message from attorney Stu Sugarman in response to a press release issued by Lloyd Marbet on November 30, 2004. In his message Stu indicates that:</p> <p>I too was impressed with the negotiations until the city's final offer. I urged Alan to reject it because it was essentially a sell out and would not change a thing -- which, as you say, was the suit's stated goal all along. He actually rejected it initially, but got furious at me in the process and we haven't spoken since. A few days later, I heard he had accepted the offer.</p> <p>Wanted to let you know I spent 5 hours reviewing and commenting in detail on the final offer and I agree with you 100%.</p> <p>I called Stu after receiving this message and in our phone conversation, he told me that Alan Graf had instructed him not to talk with me regarding his position on the settlement negotiations.</p>	Ex. HH
12/19/04	<p>This ends the outline. It represents a review of all the documents in my possession, from which I have selected what I believe is the most relevant information showing how Alan Graf represented me in this legal matter. It does not contain any of the documents and email messages that were exchanged with attorney Peggy Hennessy (from Alan Graf and Liz Joffe) after I fired Alan and asked Peggy to represent me. My intent in recording these events is to help shed light on what I experienced while being represented as a plaintiff in this legal matter, along with my role in trying to further what I believed was the purpose of this lawsuit.</p> <p>Respectfully,</p> <p>_____</p> <p>Lloyd Marbet</p>	