

N O T I C E     O F     I N J U R Y     A N D     C L A I M  
STATE OF WISCONSIN  
PURSUANT TO WIS. STAT. 893.82

CLAIMANT:

RANDALL K. MATAYA #86167, Redgranite Correctional Institution located at P.O. Box 925, 1006 County Rd. EE, Redgranite, WI. 54970-0925.

DATE OF INCIDENT OR OCCURRENCE:

On-going, from August 2016 through today and into the future.

WHO ARE THE PERSONS INVOLVED IN THE INCIDENT OR OCCURRENCE?

DEPARTMENT OF CORRECTIONS. DOC Secretary Jon Litscher, DOC legal counsel, DAI Mark Clements, RGGI staff, all DOC staff. The entire State Agency.

NATURE OF THE INJURY AND CLAIM: The DOC is literally stealing all of thousands of inmates monies from work wages and family/friends gifts.

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**(D.O.C. CLAIMS DEDUCTIONS ARE AUTHORIZED BY LAW:)**

2015 Wis. Act 355 came out on 7/31/16. The DOC interpreted the ACT to allow them to take a "Reasonable percentage" of all inmates money, wages or gifts. The DOC promptly began taking 50% of each inmates money for:

1. Victim/witness surcharge "A".
2. Victim/witness surcharge "B".
3. Court Costs.
4. Fines.
5. Fees.
6. Supervision fees.
- 7.-
7. Attorney fees.
8. Old debts, older than 20 years old.
9. Restitution.

The taking of inmate money for all of the above stated reasons, except 20 years or older debts and actual "Restitution" was not allowed by ACT 355. Act 355 concerns restitution that was court ordered. However, the DOC put out a new DAI policy, DAI 309.45.02, which was not published to all inmates properly. The policy states the DOC has authority to take 50% of our money for debts and obligations cited above in 1-9. It even went on to state that if we proved the deductions were not allowed, the DOC would not give refunds, we would have to write to the entity that received the improper deduction for those people to issue a refund of our money!

**PAGE 2 Notice of injury & claim...**

The DOC also claims that it can take out for more than one deduction at a time. The DOC has acted in an arbitrary and capricious manner and as such, contrary to law. As an actual example, an inmate received a \$100.00 money order from family. The RGCi business office took out for 4 different deductions leaving the inmate with 21.00.

**LEGAL REASONS WHY DOC IS ACTING IN AN UNAUTHORIZED MANNER:**

Wisconsin State Statutes involved:

973.045 .....See also 301.32....see also DOC ADM Code 309.465

973.05

973.06

973.07 and 973.20

893.40

304.074

304.078

Department Of Corrections Administrative Codes involved:

DOC 309.465

DOC DAI Policy 309.45.02 illegal on its face...

**§973.045:**

This statute authorized the court to impose court cost, fines and fees and victim/witness surcharges to be deducted from inmates accounts at a rate of 25% for one deduction at a time. It authorized the DOC to collect said monies at the 25% one deduction at a time rate and send that money to the State Administrator of the Treasury. Every inmate sentenced to probation and paroled from prison and sentenced to prison, face these deductions. ALL inmates sentenced prior to July 31, 2016, are governed by the above statute, 973.045.

All inmates sentenced prior to 7-31-16 are locked into the 25% rule. This includes restitution deductions. Act 355 is not retroactive and the way the DOC is applying it against all inmates, violates the EX POST FACTO Clause of the constitution. USCA Art 1 §10, cl.1. Ex Post Facto has 4 criteria, any single 1 constitutes a violation upon infraction. The 3rd factor is at stake here. "Every law that changes the punishment and inflicts a greater punishment than the law annexed to the crime when committed." *Id. Carmel V. Texas*, 529 U.S. 513 (2000).

973.045 is a sentencing statute. It cannot be retroactively changed by anything new. ACT 355 does not apply to 973.045. ACT 355 does not change anything in 973.045.

The above facts are critical to the claims made herein. ADM Code, 309.465 cites 973.045 and the 25% deduction rates. That rule hasn't been changed either. DAI policy 309.45.02 violates the administrative code 309.456 and statute 973.045. The 309.45.02 policy must be stricken from existence.

The DOC attempts to collect on 20 year old debts even though we tell them the debt is "time barred" by 893.40 statute of limitations. One can also see that 2015 Wis. Act 155 also informs us that attempts to collect old debts, while the attempt is allowed by law, once objection to the attempt is made known, the objection being "The debt is time-barred", the collector attempting the collection must immediately stop trying to collect that debt. The DOC must be made to honor the laws of this State.

973.045 has not been repealed or amended in any way. 893.40 has not been repealed or amended in any way. The DOC must be made to stop its unlawful collection practices.

Of further concern is the attempt to collect on debts or obligations from previously already been served sentences. 304.074 and 973.07 set forth the proper procedures for collecting debts still owed at the end of a persons sentence. Failure to act upon those available remedies is a legal waiver of any claim to those debts or obligations. Rules and laws must be enforced by the Justice Department, even if the perpetrator is a State Agency, or State actor/agent.

304.078 applies to fulfilled sentences. Once a person has completed his sentence in full, 304.078 dictates he get his civil rights restored along with a certificate from the State. If the Department Of Corrections or probation/parole fails to make a move for collecting any money still owed by the person, whether those funds are for supervision fees or other obligations, the Agency loses jurisdiction and loses its ability to collect for failing to use the appropriate remedies available to it. That being 304.074 and 973.07 Wis. Stats.



A liberal reading of Act 355 shows it amended 973.20 restitution. A use of the words "reasonable percentage" is, on its face, unconstitutionally vague and overly-broad. It allows more than one interpretation of the intent of the rule. What is reasonable to one may be unreasonable to another and vice-versa. **Hennekens V. RiverFalls Police & Fire Commission**, 124 Wis.2d 413, 420, 369 N.W.2d 670, 674 (Wis.1985). See also, **Bachowski V. Salamone**, 139 Wis.2d 397, 411, 407 N.W.2d 533, 539 (Wis.1987).

I further believe the DOC can be found liable under multiple statute challenges as well as under Tort law. A breach of fiduciary duty is one legal claim in civil suit. **Bell V. Eastman Kodak CO.**, 214 F.3d 798 (7th Cir. 2000).

The entire attack by the DOC against inmates was planned and is an intentional action against incarcerated persons. The attempt and actual taking of money for debts already paid, and the placement upon inmates to prove its been paid is so wrong and it is a violation of Laches. If you claim I owe money then show the proof and if I believe I paid it, but cannot show proof due to the passage of time, is a laches defense to the debt. If that debt os 20 years or older, 893.40 comes into play. Statute Of Limitations.

The collection by DOC for supervision fees has been placed on hold by the DOC. If they try it again, it violates the law because those fees are to be collected while on supervision.

Collection of 25% for "A" and "B" victim witness surcharges is to be done 1 at a time. Taking almost all of 100 dollars for debts is a problem to everyone. Just because we are prisoners doesn't mean those in charge can get away with this arbitrary and capricious behavior. A Government Agency responsible for investigating these claims must set the record right.

#### **RELIEF SOUGHT:**

Stop the taking of all funds until these matters are resolved. Compensate all prisoners who have had improper deductions made from their accounts. Strike policy 309.45.02 as illegal. A policy of Adm. Code properly promulgated is one thing. 309.45.02 is none of these things. Neither Adm. Code or policies can over-rule a statute.

Randall K. Mataya #86167  
Redgranite Correctional Institution  
P.O. Box 925  
Redgranite, WI. 54970-0925

February 28, 2017

Mrs. Peg Swan  
29631 Wild Rose Drive  
Blue River, WI. 53518

RE: Article in the Milwaukee Journal, reprinted in Appleton  
Post Cresent.

Dear Mrs. Swan,

I have read the article from the above newspapers and I am going to give you further information regarding the situation we are in with the DOC. I've enclosed a copy of the Notice Of Injury & Claim I recently filed with the Wisconsin Attorney General's office. I'm also enclosing a copy of my earlier letter to the AG in which I had requested him to do an official investigation into the DOC'S theft of our money. The AG sent the DOC Office Of Legal Counsel a letter (I guess) asking them to respond to my allegations and DOC legal counsel wrote me a letter I am also including for your review.

I have written every issue down in an ICI, including the kites going to the Business Office here at RGCI. The I.C.E. here is a lady name of Michele Smith. She us uterly useless to inmates. She must think every ICI she decides has to be against us. I have been studying and practicing the law for 40 years now and I do know what I am talking about when I make legal claims. My submissions to her got a response, "Act 355 superceded all statutes" and I saw her in person and told her ACT 355 only regards restitution under 973.20. Nothing else is effected.

I ask you to read what I've enclosed and ask that your Forum assist in conveying this 100% truthful information to the public in any way you can. Further, that you can make sure those other guys are saying the same things. One avenue for relief we have in a petition for a temporary injunction under 813 Wis. Stats. I've already prepared one but we have to wait to complete administrative remedies before filing, including the Notice to the AG. Please let me know if I can assist in any manner. Thank you.

Sincerely,

*Randall Mataya*

RGA

Randall K. Mataya #86167  
Redgranite Correctional Institution  
P.O. Box 925  
Redgranite, WI. 54970-0925

Wisconsin Attorney General  
P.O. Box 7857  
Madison, WI. 53707-7857

February 12, 2017

RE: Department Of Corrections illegally taking 50% of inmates funds for crime, victim, witness assistant surcharges "A", "B" and "C" and others.

Dear Counsel,

I am an inmate in the Redgranite Correctional Institution located in the city of Redgranite Wisconsin. Redgranite Business Office Staff, ordered via the D.O.C. Secretary, D.O.C. legal counsel and other DAI administrators, are violating Court Ordered Judgment Of Convictions, Wis. Stats., §973.045, 973.05 and 973.06, by taking 50% or each inmate's wages, moneys etc and using it to pay court ordered costs, fees, fines, supervision fees, victim witness surcharges and restitution.

The DOC claims 2015 Wis. Act 355 gave them carte blanche authority to charge 50% for all obligations that are only 25% on our JOCS. The 25% is statutory and has not been repealed or amended or changed in any way at all. The only thing Act 355 authorizes the DOC to do is charge a reasonable amount or percentage of our money for court ordered restitution under 973.20 Wis.Stats. Id.

The DOC is attempting to collect debts already paid off, debts 20 years or older (893.40 time barred), debts from sentences already served and certificates were issued under 304.078 Wis. Stats. The raising of 25% to 50% violates ex post facto. It is an unreasonable interpretation of Act 355 as well. The Courts are getting frustrated with all of our recent requests for them to send the DOC certified copies of our JOCS and Assessment Reports. The DOC will not accept our copies.

The ICRS process is futile. The I.C.E. here claims act 355 allows it all. The ICE is over-loaded with ICIS by thousands of inmates DOC wide. We need the Attorney General's Office to launch an investigation into the misappropriation of State funds and inmate funds. The ICE here stated Gov. Walker has the State Treasurer reallocating crime victim surcharge funds to other areas of State debts. That appears to be improper too if its true. The taking of 50% by DOC is illegal.

The DOC put into effect DAI Policy 309.45.02 which they believe gives them the authority to do what I complain of herein. The policy is illegal. There's no administrative code that over-rules State Statutes. Ignorant people cannot be fooled by the shananigans going on here. Your office must intervene or you guys are going to be flooded with court challenges from every person in here. The process has already begun. I think your time is better spent putting away criminals and the DOC actions run counter to that, wasting your valuable resources responding to claims that shouldn't have to be getting made!

This is an official request for an investigation into these allegations. The responsible parties need to be put in their place! The above policy cited also states that the DOC will not issue refunds for improper deductions! We'll have to go after the agency or people who received the improper deduction money from us! Isn't that the craziest policy you've ever seen? Please respond to this letter as soon as possible. Thank you for your very valuable time.

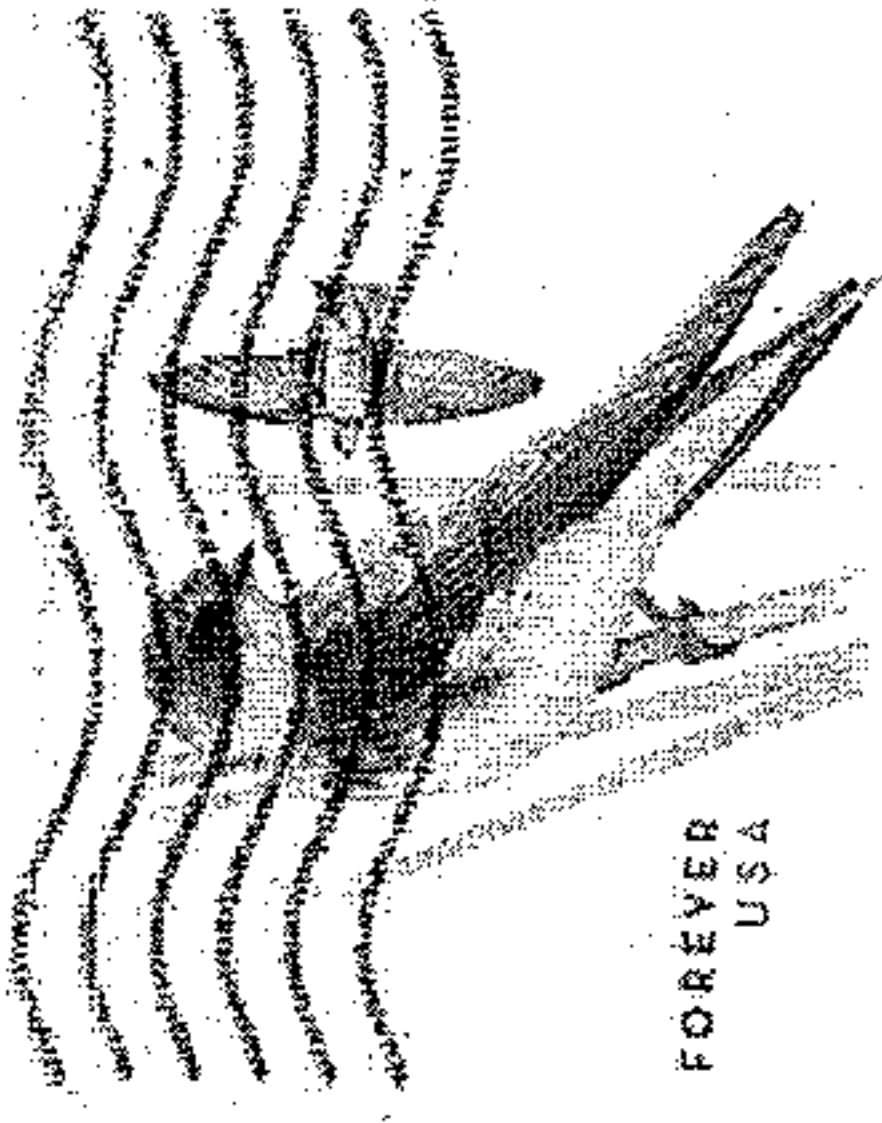
Sincerely yours,

*Randall K. Mataya*  
Randall K. Mataya 86167

CC: Legal file  
ICE file



Randall K. Mataya 86167  
Redgranite Correctional Institution  
P.O. Box 925  
Redgranite, WI 54970-0925



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Scott Walker  
Governor

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Secretary



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**State of Wisconsin**  
**Department of Corrections**

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February 21, 2017

Mr. Randall K. Mataya #086167  
Redgranite Correctional Institution  
P. O. Box 925  
Redgranite, WI 54970-0925

Re: Your letter dated February 12, 2017

Dear Mr. Mataya:

The DOC Office of Legal Counsel (OLC) has received your letter addressed to the Wisconsin Attorney General dated February 12, 2017 from the Wisconsin Department of Justice for a response.

The OLC provides legal advice and counsel to the DOC and its divisions on matters relating to departmental policies, procedures, rules and litigation. The legal staff in OLC cannot provide you, or any other inmate, with legal advice.

You may avail yourself of all legal remedies available to you related to the concerns stated in this correspondence, including the Inmate Complaint Review System, pursuant to Wisconsin Administrative Rules Chapter DOC 310.

Sincerely,

A handwritten signature in black ink, appearing to read "K. A.", written over a faint, larger signature.

Katharine A. Ariss  
Assistant Legal Counsel

cc: Warden Michael Meisner