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Of Attorneys for Defendant City of Portland

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

DON'T SHOOT PORTLAND, a nonprofit corporation, in its individual capacity, NICHOLAS J. ROBERTS, in an individual capacity and on behalf of themselves and all others similarly situated, MICHELLE "MISHA" BELDEN, in an individual capacity and on behalf of themselves and all others similarly situated, ALEXANDRA JOHNSON, in an individual capacity and on behalf of themselves and all others similarly situated, LESTER WRESCKIE, in an individual capacity and on behalf of themselves and all others similarly situated, and THOMAS DREIER, in an individual capacity and on behalf of themselves and all others similarly situated,

PLAINTIFFS,

v.

CITY OF PORTLAND, a municipal corporation,

DEFENDANT.

3:20-cv-00917-HZ

**NOTICE OF ACCEPTANCE OF
OFFER OF JUDGMENT**

The City of Portland hereby gives notice to the Court that Plaintiffs Don't Shoot Portland, Nicholas J. Roberts, Michelle "Misha" Belden, Alexandra Johnson, Lester Wrecksie and Thomas Dreier accepted Defendant City of Portland's Offer of Judgment (Exhibit 1) in the written notice sent by Plaintiffs' counsel on November 22, 2022 (Exhibit 2).

Dated: November 29, 2022.

Respectfully submitted,

/s/ Naomi Sheffield

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UNITED STATES DISTRICT COURT
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DON'T SHOOT PORTLAND, a nonprofit corporation, in its individual capacity, NICHOLAS J. ROBERTS, in an individual capacity and on behalf of themselves and all others similarly situated, MICHELLE "MISHA" BELDEN, in an individual capacity and on behalf of themselves and all others similarly situated, ALEXANDRA JOHNSON, in an individual capacity and on behalf of themselves and all others similarly situated, LESTER WRESCKIE, in an individual capacity and on behalf of themselves and all others similarly situated, and THOMAS DREIER, in an individual capacity and on behalf of themselves and all others similarly situated,

PLAINTIFFS,

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CITY OF PORTLAND, a municipal corporation,

DEFENDANT.

3:20-cv-00917-HZ

**DEFENDANT CITY OF PORTLAND'S
OFFER OF JUDGMENT**

Pursuant to Fed. R. Civ. P. 68, defendant City of Portland (“City”) hereby offers to allow judgment in the above-captioned matter to be taken against it by plaintiffs Don’t Shoot Portland, Nicholas J. Roberts, Michelle “Misha” Belden, Alexandra Johnson, Lester Wrecksie and Thomas Dreier for the total sum of Two Hundred Fifty Thousand Six and No/100ths Dollars (\$250,001.00), to be divided between the six plaintiffs, plus reasonable, legally recoverable attorney fees and costs, to be determined by the Court in accordance with Fed. R. Civ. P. 54 and L.R. 54, incurred by plaintiffs as of the date of this offer. This Offer of Judgment is specifically allocated to plaintiffs as follows:

Don’t Shoot Portland	One and No/100ths Dollars	\$00,001.00
Nicholas J. Roberts	Fifty Thousand One and No/100ths Dollars	\$50,001.00
Michelle “Misha” Belden	Fifty Thousand One and No/100ths Dollars	\$50,001.00
Alexandra Johnson	Fifty Thousand One and No/100ths Dollars	\$50,001.00
Lester Wrecksie	Fifty Thousand One and No/100ths Dollars	\$50,001.00
Thomas Dreier	Fifty Thousand One and No/100ths Dollars	\$50,001.00
TOTAL	Two Hundred Fifty Thousand Six and No/100ths Dollars	\$250,006.00

In addition, defendant agrees to an injunction for 14 months from the date of entry of judgment relating to the Portland Police Bureau’s use of force at crowd control events as follows:

- Tear gas may only be used consistent with the requirements of Portland Police Bureau (“PPB”) Directive 1010 (2022) and Oregon HB 4008 (which amended HB 2928 (2021)), as each may be amended from time to time.
- FN303s and 40mm less lethal launchers with or without OC payload may only be used consistent with the requirements of PPB Directive 1010 (2022) and Oregon HB 4008 (which amended HB 2928 (2021)), as each may be amended from time to time.

- PPB shall not deploy Rubber Ball Distraction Devices (RBDDs). Further, PPB shall engage in a process to decommission all remaining inventory of RBDDs.
- Aerosol restraints may only be used consistent with the requirements of PPB Directive 1010 (2022) and Oregon HB 4008 (which amended HB 2928 (2021)), as each may be amended from time to time.
- Long Range Acoustical Devices (“LRAD”) may only be used consistent with the requirements of PPB Directive 1010 (2022) and Oregon HB 4008 (which amended HB 2928 (2021)), as each may be amended from time to time.

This order applies to the requirements for using or not using force under PPB Directive 1010 and HB 4008 (which amended HB 2928 (2021)), but does not apply to the procedural aspects of Directive 1010, including Section 11 regarding reporting.

Judge Hernandez or Judge McShane, at plaintiffs’ choice (circle one at time of filing Acceptance of Offer of Judgment), will maintain jurisdiction to enforce this injunction for fourteen months from the date of the entry of judgment.

This offer is explicitly conditioned on all plaintiffs agreeing to accept and accepting this offer. This Offer of Judgment is made for the purposes specified in Rule 68, Federal Rules of Civil Procedure, and is not to be construed either as an admission that the City is liable in this action, or that the plaintiffs have suffered damages.

This offer includes and applies to all claims plaintiffs have asserted in their action against the City, or could have asserted in their action against the City whether known or unknown, or could have asserted in their action against any other officer, agent, or employee of defendant City of Portland, whether known or unknown and if accepted, will result in dismissal of all claims other than a money judgment outlined above and referenced attorneys’ fees and costs.

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This Offer of Judgment shall not be filed with the Court unless (a) accepted or (b) in a proceeding to determine costs.

Dated: November 15, 2022.

Respectfully submitted,

/s/ J. Scott Moede

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Senior Deputy City Attorney
rob.yamachika@portlandoregon.gov
Of Attorneys for Defendant City of Portland

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing DEFENDANT CITY OF PORTLAND’S

OFFER OF JUDGMENT on:

J. Ashlee Albies
Maya Rinta
Albies & Stark, LLC
1 SW Columbia St., Suite 1850
Portland, OR 97204

Juan C. Chavez
Alex Meggitt
Franz Bruggemeier
Oregon Justice Resource Center
P.O. Box 5248
Portland, OR 97208

Jesse Alan Merrithew
Viktoria Lo
Levi Merrithew Horst PC
610 SW Alder Street, Suite 415
Portland, OR 97205
Of Attorneys for Plaintiffs

on November 15, 2022, by causing a full, true and correct copy thereof, addressed to the last-known address (or fax number) of said attorneys, to be sent by the following method(s):

- by **mail** in a sealed envelope, certified return receipt with postage paid, and deposited with the U.S. Postal Service in Portland, Oregon.
- by **hand delivery**.
- by **email** pursuant to LR 5-9(b).
- by **facsimile transmission**.

Dated: November 15, 2022.

Respectfully submitted,

/s/ Scott Moede
 J. SCOTT MOEDE, OSB 934816
 Chief Deputy City Attorney
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 NAOMI SHEFFIELD, OSB 170601
 Senior Deputy City Attorney
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 ROBERT YAMACHIKA, OSB 065560
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Of Attorneys for Defendant City of Portland

From: [J. Ashlee Albies](#)
To: [Sheffield, Naomi](#); [Yamachika, Rob](#); [Moede, Scott](#)
Cc: [Lisa Boucher](#); [Warnock, Clair](#); [Sarah Noble](#); [Jesse Merrithew](#); viktoria@lmhlegal.com; [Franz Bruggemeier](#); [Alex Meggitt](#); [Juan Chavez](#); [Kehoe, Katherine](#); [Maya Rinta](#)
Subject: RE: Don't Shoot PDX v. City of Portland Rule 68 Offer of Judgment
Date: Tuesday, November 22, 2022 11:25:20 AM

Naomi, Scott and Rob-

Please consider this Plaintiffs' written notice of acceptance of the City's November 15 offer of judgment. We select Judge Hernandez to enforce the judgment.

Most of our legal team and support staff are out of the office this week; we'd like to confer before filing it with the court, since additional timelines attach to that action. Please let me know when you are available for a call.

Thank you.

J. Ashlee Albies

She/her/hers

Albies, Stark & Guerriero

503.308.4771 (direct)

From: Sheffield, Naomi <Naomi.Sheffield@portlandoregon.gov>
Sent: Tuesday, November 15, 2022 11:18 AM
To: Lisa Boucher <lisa@albiesstark.com>; Jesse Merrithew <jesse@lmhlegal.com>; viktoria@lmhlegal.com; Sarah Noble <sarah@lmhlegal.com>; Juan Chavez <jchavez@ojrc.info>; Franz Bruggemeier <fbruggemeier@ojrc.info>; Alex Meggitt <ameggitt@ojrc.info>; Maya Rinta <maya@albiesstark.com>; J. Ashlee Albies <ashlee@albiesstark.com>
Cc: Moede, Scott <Scott.Moede@portlandoregon.gov>; Yamachika, Rob <Rob.Yamachika@portlandoregon.gov>; Warnock, Clair <Clair.Warnock@portlandoregon.gov>; Kehoe, Katherine <Katherine.Kehoe@portlandoregon.gov>
Subject: Don't Shoot PDX v. City of Portland Rule 68 Offer of Judgment