

1 **JANET HOPKINS**
2 **P.O. Box 3615**
3 **Greenwood Village, Colorado 80155-3615**
4 (520) 991-4707
janet@maxambit.com
Pro se Plaintiff

5 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
6 **IN AND FOR THE COUNTY OF PIMA**

7
8 JANET M. HOPKINS

9 Plaintiff,

10 v.

11 STATE OF ARIZONA BOARD OF REGENTS,
12 MARTIN J. RAMIREZ, and JANE DOE
RAMIREZ, husband and wife,

13 Defendants.
14

NO. C2008-6484

MOTION FOR NEW TRIAL

Assigned to:
Honorable Richard Gordon

15 The Plaintiff, Janet Hopkins, pursuant to Rule 59, Ariz.R.C.P., moves for a new trial on the
16 grounds of (1) misconduct of the prevailing party; (2) *fundamental* error in the charge to the jury;
17 and (3) findings of fact that are not justified by the evidence. This Motion is supported by the
18 attached Memorandum of Points and Authorities, incorporated herein by reference.
19

20 RESPECTFULLY SUBMITTED this 5th day of July, 2011.

21 By _____
22 JANET HOPKINS
23 Pro se Plaintiff & Movant
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This lawsuit arose due to injuries caused by oral statements, written statements, and
4 omissions by University of Arizona Police Department (UAPD) agents to Office of Personnel
5 Management (OPM) agents and U.S. Investigation Services (USIS) agents about Plaintiff's
6 interactions with and documents searched for, found, accessed, and given to Plaintiff by UAPD
7 agent, Celia Soto (Soto), at a UAPD office on September 19, 2007 (9/19/07).

8 All UAPD agents are also State of Arizona Board of Regents (ABOR) agents.

9
10 OPM is a U.S. Federal Government agency that grants or revokes OPM credentials for
11 background investigators that work under U.S. Federal Government contracts. Without OPM
12 credentials, federal contractors cannot work under U.S. Federal Government contracts as
13 background investigators. OPM issues or revokes OPM credentials based on the absence or
14 presence of evidence that existing or prospective federal government background investigators lack
15 integrity or trustworthiness.

16 USIS was a U.S. Federal Government background investigations independent contractor
17 working under federal government contracts for OPM and was Plaintiff's employer from 8/02
18 through 1/08.

19
20 **II. FACTS**

21 In 9/07 and 10/07, UAPD agents published oral and written statements to OPM that alleged
22 Plaintiff *did not receive* records for Anthony J. Merriman (Merriman Records) and *suspiciously*
23 *used* her OPM credentials in an attempt to obtain records for Moses Hopkins (Moses) on 9/19/07.
24 UAPD also destroyed relevant documents and withheld relevant documents and information from
25 OPM.
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1 OPM would not have investigated Plaintiff's trustworthiness or integrity but for UAPD's
2 oral and written actions and omissions about whether she received Merriman Records on 9/19/07.
3 (See Exhibit A – Deposition of Ryan Bernardi, pages 103:17 - 104:7). OPM limited the scope of its
4 investigation to the allegations UAPD made against Plaintiff. (See Exhibit B – Deposition of Robert
5 Pullen, page 153: 21-25). OPM's investigation caused OPM to conclude that Plaintiff lacked
6 sufficient integrity or trustworthiness to hold OPM credentials. (See Exhibit C – 12/28/07 OPM
7 Letter; Exhibit D – 1/2/08 OPM Letter). UAPD did not give OPM a copy of UAPD's relevant
8 Spillman activity on 9/19/07, limiting OPM to considering UAPD's oral and written statements
9 about Plaintiff's and Soto's 9/19/07 interaction. OPM suspended Plaintiff's OPM credentials in
10 10/07 and revoked them in 1/08 only (1) after investigating UAPD's oral and written statements and
11 (2) without having access to relevant evidence, such as UAPD's relevant 9/19/07 Spillman activity.
12

13 USIS released Plaintiff from her employment contract on 1/7/08 because her OPM
14 credentials had been revoked. (See Exhibit E – 1/7/08 USIS Letter). USIS would not have released
15 Plaintiff from their employment contract if Plaintiff's OPM credentials had not been revoked. (See
16 Exhibit F – Deposition of Penny Conger, pages 54:22 - 55:2).
17

18 Prior to the jury trial for this matter, in addition to relying on Defendants to honor their
19 continuing legal duty to timely disclose all relevant evidence as required under Rule 26.1,
20 Ariz.R.C.P., Plaintiff submitted interrogatories and requests for production of records and
21 documents to Defendants. On 9/21/09, Plaintiff asked Defendants to produce evidence of Soto's
22 9/19/07 Spillman activity related to Merriman. (See Exhibit G: Plaintiff's Third Request for
23 Production). Defendants replied to Plaintiff's request on 11/4/09 but objected and refused to provide
24 "any log or other document showing a history of searches performed by Martin Ramirez and/or
25 Celia Soto on the ACIC/ACJIS system from 9/19/07 to 9/26/07." (See Exhibit H: State Defendants'
26 Response to Plaintiff's Third Request for Production, pages 1-2).
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1 Plaintiff requested records of Soto's 9/19/07 Spillman activity in her effort to obtain clear
2 and convincing evidence that Soto searched for, found, and accessed Merriman Records on 9/19/07.
3 With clear and convincing evidence that Soto searched for, found, and accessed Merriman Records
4 on 9/19/07, Plaintiff hoped to show the Court before it was moved to rule on a Rule 56, Ariz.R.C.P,
5 motion that there was clear and convincing evidence that Soto, UAPD Agent Luis Puig (Puig), and
6 UAPD Agent Martin Ramirez (Ramirez) lied to USIS, OPM, and the Court about (1) whether
7 Merriman Records existed on 9/19/07, (2) whether Plaintiff was told there were no Merriman
8 Records found on 9/19/07, and (3) whether Plaintiff had obtained Merriman Records from Soto on
9 9/19/07.¹
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11 Plaintiff told USIS and OPM that Merriman Records existed and she obtained Merriman
12 Records from Soto on 9/19/07. (*See Exhibit I: Affidavit of Janet Hopkins, page 3*). UAPD agents
13 told OPM that (1) Soto found no Merriman Records on 9/19/07 and (2) that Plaintiff was told that
14 there were no Merriman Records on 9/19/07. (*See Exhibit B, pages 30:10 - 31:19; Exhibit J: 9/25/07*
15 *UAPD Officer's Report, page 1*). Since Plaintiff's and UAPD's accounts about Merriman Records
16 were logically inconsistent, OPM and USIS were logically forced to decide who most likely lacked
17 integrity and trustworthiness: Plaintiff or all the UAPD agents who published corroboratory oral and
18 written statements to OPM and USIS that were inconsistent with Plaintiff's. OPM chose to believe
19 the UAPD and ABOR agents. (*See Exhibit B, pages 30:10 - 31:19*).
20

21 Soto omitted relevant information about whether she searched for, found, and accessed
22 Merriman Records on 9/19/07 in a document UAPD published to OPM. (*See Exhibit K: 9/21/07*
23 *UAPD Officer's Report*). Soto also told OPM Agent Ronald Pullen (Pullen) that she found no

24 ¹ At least one UAPD agent, Soto, must have known whether Plaintiff had obtained Merriman Records on 9/19/07
25 because Soto completed the relevant transaction with Plaintiff on 9/19/07 and had personal knowledge. UAPD, at all
26 relevant times, either controlled or had access to Spillman records systems, which would have enabled UAPD to
27 discover with much less expense and effort than Plaintiff whether or not Soto searched for, found, and accessed
28 Merriman Records on 9/19/07. If UAPD knew that Soto searched for, found, and accessed Merriman Records on
9/19/07 or that Soto gave Plaintiff Merriman Records on 9/19/07 then at all times during this litigation ABOR
Agents intentionally lied to Plaintiff and the Court about at least one material fact in dispute, a material fact that, if
stipulated to before September 16, 2010, would have prevented the Court from dismissing Soto with prejudice.

1 Merriman Records on 9/19/07. (*See* Exhibit L: 11/20/07 OPM Report of Investigation by Ronald
2 Pullen, page 8). In her deposition, Soto stated that she found no Merriman Records on 9/19/07 and
3 that she told Plaintiff there were no Merriman Records on 9/19/07. (*See* Exhibit M: Deposition of
4 Celia Soto, pages 50:7 - 56:10).

5 Puig, Soto's supervisor, told Pullen that Soto neither found nor gave Plaintiff Merriman
6 Records on 9/19/07. (*See* Exhibit L, page 6).

7 Ramirez wrote in a document that was published to USIS and OPM that Plaintiff was told
8 on 9/19/07 that there were no Merriman Records. (*See* Exhibit J, page 1; Exhibit L, page 7).

9 On 3/24/10, Plaintiff, recognizing that UAPD was going to refuse to either admit the truth or
10 provide relevant evidence about the Merriman Records Soto searched for and accessed through
11 Spillman on 9/19/07, sent a subpoena duces tecum to the Pima County Sheriff's Department
12 (PCSD). (Exhibit N: Civil Subpoena Duces Tecum). Plaintiff asked the PCSD, a non-party that
13 would gain no strategic or tactical advantage from withholding relevant evidence or making it more
14 difficult, time-consuming, and expensive for the Plaintiff to obtain relevant evidence, to produce
15 evidence of Soto's 9/19/07 Spillman activity. (*Id.*, page 2). On 3/26/10, without objection or delay,
16 PCSD disclosed the Spillman information Plaintiff had requested from UAPD on 9/21/09. (Exhibit
17 O: Pima County Sheriff's Department Response Civil Subpoena Duces Tecum). PCSD, did not,
18 however, provide a sworn affidavit, sworn testimony, or another authenticated document explaining
19 that Soto and only Soto could use Soto's Spillman access codes to legally search for, view, and
20 access Merriman Records on 9/19/07.
21

22 The Court dismissed Soto as a named defendant on 9/16/10. (Exhibit P, page 6). In its
23 Order, the Court acknowledged that "The parties dispute whether Plaintiff actually received any
24 record for Merriman; Plaintiff says yes and Defendants say no." (*Id.*, pages 2 to 3). The Court did
25 not mention the records PCSD disclosed on 3/26/10.
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1 Months later, on the first day of trial, the Court learned from PCSD agents Anthony
2 Stephens and Ted Martin, for the first time, that there was irrefutable documentary evidence from
3 objective, disinterested third parties that the following were clearly and convincingly true:

- 4 (1) UAPD agents use the Spillman system to access records entered into Spillman by the PCSD,
5 the Tucson Police Department, and UAPD (*See Stephens Trial Testimony*);
- 6 (2) Soto is an authorized user of Spillman (*See Martin Trial Testimony*);
- 7 (3) Soto must use unique login credentials to access Spillman (*See Martin Trial Testimony*);
- 8 (4) if someone other than Soto used Soto's unique login credentials to access Spillman he or she
9 could only have done so illegally (*See Martin Trial Testimony*);
- 10 (5) Soto searched for Merriman Records on 9/19/07 (*See Martin Trial Testimony*);
- 11 (6) next, Soto found five Merriman Records on 9/19/07 (*See Martin Trial Testimony*);
- 12 (7) next, Soto accessed a UAPD Merriman Record on 9/19/07 (*See Martin Trial Testimony*);
- 13 (8) next, Soto searched for records of Moses on 9/19/07 (*See Martin Trial Testimony*); and
- 14 (9) finally, Soto found and accessed a record for Moses on 9/19/07 (*See Martin Trial*
15 *Testimony*).

16 The Court also learned for the first time that Soto, contrary to her deposition testimony,
17 contrary to the oral and written statements she made to Pullen, and contrary to the oral and written
18 statements other UAPD agents published to Pullen, could no longer remember whether or not she
19 searched for or found or accessed or printed or gave Plaintiff Merriman Records on 9/19/07. (*See*
20 *Soto Trial Testimony*). In her sworn and unsworn statements to OPM and the Court prior to the trial,
21 Soto, who has personal knowledge of this case's most important disputed facts, stated that she did
22 not find Merriman Records on 9/19/07 and she did not give Plaintiff Merriman Records on 9/19/07.
23

24 Having dismissed Soto with prejudice, the Court did not include Soto's name on any jury
25 instruction. The jury was neither allowed nor instructed to consider whether evidence of Soto's oral
26 and written actions or omissions, alone or in conjunction with Ramirez's or other UAPD agents'
27 actions or omissions, was enough to prove clearly and convincingly that Soto, alone or in
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1 conjunction with Ramirez or other UAPD agents, abused ABOR’s conditional privilege to publish
2 defamatory statements about Plaintiff. Instead, the Court restricted the jury to considering whether
3 evidence of Ramirez’s actions or omissions, and only Ramirez’s actions or omissions, were enough
4 to prove clearly and convincingly that Ramirez, and only Ramirez, abused his conditional privilege
5 to publish defamatory statements about Plaintiff. (See Exhibit Q, pages 6-7, 10).
6

7 **III. ARGUMENT**

8 ***1. The Court has broad discretion to order a new trial.***

9 Unless there is a manifest abuse of discretion, a trial judge’s order of a new trial will not be
10 set aside by a reviewing court. See *Coconino Pulp & Paper Co. v. Marvin*, 83 Ariz. 117, 121, 317
11 P.2d 550, 552 (1957); see also *Young Candy & Tobacco Co. v. Montoya*, 91 Ariz. 391, 370, 371
12 P.2d 703, 707 (1962). The Arizona Supreme Court has “express[ed] [its] regret that trial courts [do]
13 not more courageously and frequently exercise their prerogative” to order a new trial. *State v.*
14 *Chapple*, 135 Ariz. 281, 297, 660 P.2d 1208, 1224 (1983)(citations omitted).
15

16 There are several grounds on which the Court may justify granting a new trial.

17 ***2. Rule 59(a)(2) – Misconduct of the jury and prevailing party***

18 Rule 59(a)(2), Ariz.R.C.P., states “[a] verdict, decision or judgment may be vacated and a
19 new trial granted on motion of the aggrieved party for any of the following causes materially
20 affecting that party's rights: ... 2. Misconduct of the jury or prevailing party.” Citing *Leavy v.*
21 *Parsell*, 188 Ariz. 69, 72, 932 P.2d 1340, 1343 (1997), the Arizona Court of Appeals made clear
22 that it will uphold a trial court’s order for a new trial if the adverse party (1) engaged in misconduct,
23 (2) the misconduct materially affected the aggrieved party’s rights, and (3) it is probable the
24 misconduct influenced the jury verdicts. See *Brethauer v. GMC*, 221 Ariz. 192, 194, 211 P.3d 1176,
25 1178 (App. 2009). Each defense witness who was an ABOR agent swore “to tell the truth, the whole
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1 truth, and nothing but the truth.” Each failure to do so would have been an instance of party
2 misconduct by ABOR.

3 *A. Ramirez withheld relevant evidence during trial.*

4 During the trial, Plaintiff’s counsel asked Ramirez if he lied or made false statements to
5 OPM. (*See Ramirez Trial Testimony*). Rather than answer no or say he did not know, Ramirez said
6 “I would prefer not to answer that.” (*Id.*). Knowing that lying and providing false documents to a
7 federal government investigator is punishable as a crime², Ramirez exercised his Fifth Amendment
8 right not to be forced by the Court to answer the question truthfully and incriminate himself.
9 However, by answering this way, by failing to honor his sworn oath, he withheld relevant evidence
10 and prevented the jury from determining whether or not his testimony proved clearly and
11 convincingly that he knew his statements to OPM were false or that he had doubts as to their truth
12 when he made them. Ramirez’s misconduct materially affected Plaintiff’s rights to a fair trial and
13 influenced the jury verdict.
14

15 *B. Soto lied and withheld relevant evidence during trial.*

16 During trial, Soto claimed she did not recall whether she gave Merriman Records to Plaintiff
17 on 9/19/07. As was shown during trial, this was contrary to Soto’s sworn deposition, in which she
18 stated with clarity and certainty that:
19

20 Back in 2007 this individual had no record. I went and told the investigator
21 there was no record on this person. On this situation with this individual I did
22 not find anything, but I fulfilled it running his name and doing a background
check. That's finding a report or not finding a report, I did a background
check on him.

23 (*See Soto Trial Testimony*).

24 No reasonable juror could believe that Soto remembered every detail and her every feeling
25 and intuition about her interaction with the Plaintiff on 9/19/07, as she claimed to during trial, but
26 could not recall (a) searching for or (b) finding or (c) accessing or (d) viewing or (e) printing
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28 ² *See* 18 U.S.C. § 1001(a).

1 Merriman Records that same day. PCSD testimony proved clearly and convincingly that Soto lied to
2 the Court. (*See* Martin Trial Testimony). PCSD testimony was not refuted.

3 Soto also exercised her Fifth Amendment right not to be forced by the Court to answer
4 questions related to Merriman Records truthfully and incriminate herself. However, by answering
5 the questions about Merriman Records the way she did, by failing to honor her sworn oath, she lied,
6 withheld relevant evidence, and prevented the jury from determining whether or not her testimony
7 proved clearly and convincingly that she, acting as a UAPD and ABOR agent, knew her statements
8 to OPM were false or had doubts as to their truth when she made them. Soto's misconduct
9 materially affected Plaintiff's rights to a fair trial and influenced the jury verdict.
10

11 **3. Rule 59(a)(6) –Fundamental error in the charge to the jury**

12 A. *Objections to fundamental errors in jury instructions are not waived by failure to*
13 *object during trial.*

14 “In determining whether the instructions given were correct, the test is “whether, upon the
15 whole charge, the jury will gather the proper rules to be applied in arriving at a correct
16 decision.”*Arizona Public Service Co. v. Brittain*, 107 Ariz. 278, 281, 486 P.2d 176, 179 (1971). The
17 Court is required to refuse instructions which do not correctly state the law. *See Durnin v. Karber Air*
18 *Conditioning Co.*, 161 Ariz. 416, 778 P.2d 1312 (App. 1989). A party does not waive its objection to
19 the Court's giving of an instruction if the instruction constituted fundamental error. *See Tryon v.*
20 *Naegle*, 20 Ariz.App. 138, 142, 510 P.2d 768, 772 (1973).

21 Fundamental error is that which goes to the very foundation of a case, [citation
22 omitted], or takes an essential right from a party, [citation omitted], or deprives a
23 party of a fair trial, [citation omitted], or, as discussed above, deprives a party of a
24 constitutional right. Fundamental error is not waived even in the absence of an
objection, [citations omitted], and must be considered *sua sponte* even when not
raised on appeal. [citations omitted].

25 *Salt River Project Agric. Improvement & Power Dist. v. Westinghouse Elec. Corp.*, 176 Ariz. 383,
26 387 (App. 1993).

1 *B. It was fundamental error to proscribe the jury from considering evidence of Soto's*
2 *and Puig's actions or omissions when determining ABOR's liability.*

3 Under the doctrine of *respondeat superior*, ABOR is responsible for its agents' torts. Indeed,
4 the Court made this clear in one of its jury instructions. (*See Exhibit Q, page 3*). But rather than
5 make it clear to the jury that ABOR is responsible for the actions and omissions of ***any and all*** of its
6 agents, the Court's instructions expressly or impliedly limited the jury to considering evidence of
7 Ramirez's actions or omissions only. (*See Exhibit Q, pages 6-7, 10*). Because doing so misled the
8 jury on *respondeat superior*, it was a fundamental error to instruct the jury to only consider evidence
9 of Ramirez's actions or omissions.

10 Had the jury been properly instructed to consider evidence of any and all of ABOR's agents'
11 actions and omissions, the jury would have considered the evidence from the PCSD witnesses and
12 the 9/19/07 Spillman activity reports. This was clear and convincing evidence that Soto, who had
13 personal knowledge, (1) lied to OPM (and the Court) about the Merriman Records, (2) abused
14 ABOR's conditional privilege, (3) defamed Plaintiff, and (4) tortiously interfered with Plaintiff's
15 business relationship and employment contract. It was also clear and convincing evidence that Puig,
16 who knew or should have known or could and should have verified before making false statements
17 to OPM that Soto (1) lied to OPM (and the Court) about the Merriman Records, (2) abused ABOR's
18 conditional privilege, (3) defamed Plaintiff, and (4) tortiously interfered with Plaintiff's business
19 relationship and employment contract. Due to the fundamental errors pervading every jury
20 instruction that limited the jury to considering evidence of Ramirez's actions and omissions,
21 Plaintiff was deprived of her right to a fair trial and her opportunity to obtain substantial justice.

22
23 ***4. Rule 59(a)(8) – Findings of fact are not justified by the evidence.***

24 The Court has discretion to grant a motion for a new trial based on grounds that the verdict
25 is against the weight of the evidence. *See Styles v. Ceranski*, 185 Ariz. 448, 450, 916 P.2d 1164,
26 1166 (App. 1996). In *Smith v. Moroney*, the Supreme Court of Arizona made clear that it "will not
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1 disturb an order granting a new trial unless the probative force of the evidence clearly demonstrates
2 that the trial court's action is wrong and unjust and therefore unreasonable and a manifest abuse of
3 discretion. *See* 79 Ariz. 35, 39, 282 P.2d 470, 472 (1955).

4 *A. Evidence proved clearly and convincingly that Ramirez abused his conditional*
5 *privilege, defamed Plaintiff, and tortiously interfered with Plaintiff's business*
6 *relationship and employment contract.*

7 As explained in Section 2(A), there was clear and convincing evidence that Ramirez abused
8 his conditional privilege to defame Arizona citizens. Moreover, no trial witness testified that he or
9 she directed Ramirez to call OPM or write an Officer's Report about the Plaintiff's visit to the
10 UAPD on 9/19/07 or 9/21/07. (*See* Ramirez, Sommerfeld, and Daykin Trial Testimony). Defendants
11 presented no evidence during trial that someone other than Ramirez or Soto wanted to initiate the
12 first phone call to OPM.

13 Ramirez fabricated a document that he claimed was a copy of the original Request for
14 Inspection of Public Record Form (RFIPR) completed by Plaintiff on 9/19/07. (*See* Ramirez and
15 Soto Trial Testimony). Soto was the only member of the UAPD to see the 9/19/07 RFIPR and she
16 claims she destroyed it the same day she received it. (*See* Soto Trial Testimony). During trial,
17 Ramirez claimed he had never seen or been in possession of the 9/19/07 RFIPR and the versions he
18 created were based on information Soto provided days after she shredded it. (*See* Ramirez Trial
19 Testimony). Soto testified that Plaintiff's name was not on the 9/19/07 RFIPR and that is why she
20 did not know Plaintiff's name on 9/19/07. (*See* Soto Trial Testimony). Yet Ramirez testified that
21 Plaintiff's name was on the 9/19/07 RFIPR. (*See* Ramirez Trial Testimony).

22
23 This inconsistency is significant because it indicates that either Ramirez or Soto lied or had
24 reasons to doubt the truth of statements made to OPM about the 9/19/07 RFIPR. The suspicious
25 destruction of the 9/19/07 RFIPR, supposedly the document that made ABOR agents question
26 Plaintiff's motives, trustworthiness, and integrity, in addition to Defendants' inconsistent statements
27 about the information it contained, was evidence that either Ramirez or Soto or both intentionally
28

1 destroyed the 9/19/07 RFIPR so they could furtively fabricate a version that would make Plaintiff
2 appear suspicious to OPM.

3 Ramirez fabricated at least 5 versions of the 9/19/07 RFIPR. (*See* Ramirez and Soto Trial
4 Testimony). Each copy is different and Ramirez admitted during trial that he was practicing when he
5 made them. (*See* Ramirez Trial Testimony). Ramirez also testified that Soto initialed each of his
6 fabricated forms. (*Id.*). Yet during the trial Soto denied with certainty ever having seen the forms
7 Ramirez fabricated, let alone signed or initialed them. (*See* Soto Trial Testimony). This was clear
8 and convincing evidence that either Soto or Ramirez or both lied or had reasons to doubt the truth of
9 statements made to OPM about the 9/19/07 RFIPR.
10

11 Plaintiff's phone records buttressed her testimony that she left a message for Ramirez
12 threatening to file a complaint against him less than two hours after they met privately on 9/21/07.
13 (*See* Plaintiff Trial Testimony). When confronted with the phone records, Ramirez conveniently
14 denied receiving Plaintiff's message. (*See* Ramirez Trial Testimony). In addition to the evidence
15 that no one instructed Ramirez to contact OPM, this phone record evidence makes it more likely
16 than not Ramirez did not contact OPM for a purpose that would serve the public interest.
17

18 The jury was given Pullen's investigation report. Pullen writes in that report that Ramirez
19 took it as a "threat" (not an "empty threat") when Plaintiff asked him on 9/21/07 if she would have
20 to go to court or hire an attorney to get documents UAPD refused to release to her. (*See* Exhibit L,
21 page 7). In his sworn deposition, which was read to Ramirez during trial, Ramirez admitted that he
22 took it as a threat. (*See* Ramirez Trial Testimony). When stacked with the evidence that no one
23 instructed Ramirez to contact OPM and the phone record evidence, there is ample evidence Ramirez
24 did not contact OPM for a purpose that would serve the public interest.

25 In his Officer's Report, Ramirez claims that OPM Special Agent in Charge, Mark
26 DeAngelis requested that Ramirez document the incident involving Plaintiff and forward it to OPM.
27 (*Id.*). But during the trial Ramirez claimed that his Officer's Report was an "internal working
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1 document” that he did not intend to give to OPM. (*Id.*). When stacked with the evidence that no one
2 instructed Ramirez to contact OPM, the phone record evidence, and the evidence in Pullen’s Report,
3 there is clear and convincing evidence Ramirez did not contact OPM for a purpose that would serve
4 the public interest.

5 In his Officer’s Report, Ramirez claims that on 9/19/07, Soto told Plaintiff that there were
6 no Merriman Records. (*See Exhibit J*). This contradicts Soto’s statements to Pullen that she did not
7 have time to tell the Plaintiff there was no Merriman Records because the Plaintiff left the building
8 in such a hurry. (*See Exhibit L, page 8*). Further, rather than checking the Spillman records to verify
9 whether or not UAPD had contact with Merriman, Ramirez obtained information online from a
10 public University of Arizona phone book database and submitted that to OPM as proof that
11 Merriman never had contact with the UAPD. (*See Ramirez Trial Testimony*). This is clear and
12 convincing evidence that Ramirez lied or had reasons to doubt the truth of statements made to OPM.

13
14 *B. Evidence proved clearly and convincingly that Soto abused ABOR’s conditional
15 privilege, defamed Plaintiff, and tortiously interfered with Plaintiff’s business
16 relationship and employment contract.*

17 Soto destroyed the 9/19/07 RFIPR in direct violation of A.R.S. 38-421 and the University of
18 Arizona Retention and Disposition Schedule for Public Records. (*See Puig and Soto Trial
19 Testimony*). Puig admitted that the 9/19/07 RFIPR form was a public record and should have been
20 retained. (*See Puig Trial Testimony*). Puig also testified that Soto had been trained on handling
21 public records and public records retention. (*Id.*). This proved it was more likely than not that Soto
22 knew destroying the 9/19/07 RFIPR was improper and that she intentionally destroyed it to prevent
23 anyone from discovering she and Ramirez lied to OPM (and the Court).

24 Until she was made aware of irrefutable PCSD trial testimony, Soto repeatedly lied to OPM
25 (and the Court) and withheld information about Merriman Records. (*See Exhibit L, page 8; Exhibit
26 K; Exhibit M; and Soto Trial Testimony*). OPM could not believe Plaintiff when she told them she
27 received records for Merriman on 9/19/07 and simultaneously believe Soto when she said she found
28

1 no records for Merriman on 9/19/07. OPM either had to question Plaintiff's reputation for
2 trustworthiness and integrity or Soto's. Since Ramirez and Puig both corroborated Soto's lies, the
3 evidence available to OPM weighed against Plaintiff on this key fact. OPM doubted Plaintiff's
4 trustworthiness and integrity from that point forward and revoked her OPM credentials as a result.
5 (See Exhibit B, pages 30:10 - 31:19).

6 This is clear and convincing evidence that Soto abused ABOR's conditional privilege. Since
7 Soto had personal knowledge, there was no way she could believe she did not (a) search for or (b)
8 find or (c) access or (d) view records for Merriman on 9/19/07. As argued above, no public interest
9 is served when a public employee intentionally lies about an Arizona citizen. Since she lied and her
10 lies changed OPM's opinions of Plaintiff's reputation for trustworthiness and integrity, the evidence
11 also made it more likely than not that Soto defamed Plaintiff and tortiously interfered with
12 Plaintiff's business relationship and employment contract.
13

14 *C. Evidence proved it is more likely than not that Puig interfered with Plaintiff's*
15 *business relationship and employment contract.*

16 Puig lied and defamed Plaintiff on 10/18/07 when he told Pullen

17 No record was found concerning Merriman because Soto went into the wrong
18 system which only has records up to the year 2000. The investigator was told
19 there was no record. Puig explained that one system was when they reported
20 everything through the Pima County Sheriff's Office (PCSO), Tucson, AZ and
21 the newer system they report everything through TPD.

22 (See Exhibit L, page 6).

23 Puig should have verified whether Soto found Merriman Records on 9/19/07, which would
24 have given him personal knowledge of this material fact. If he did not verify whether Soto found
25 Merriman Records on 9/19/07, then he could not have told Pullen with certainty that Soto did not
26 find them. Yet at no time did Puig express doubts about whether Soto found Merriman Records on
27 9/19/07. Instead, Puig confidently told Pullen that Soto went into "the wrong system" on 9/19/07
28 and thus failed to locate Merriman Records that day. (*Id.*). PCSD's records of Soto's Spillman

1 activity on 9/19/07 and their expert testimony is irrefutable proof that Soto found Merriman Records
2 and Puig lied or had reasons to doubt the veracity of false statements he made to OPM.

3 There was clear and convincing evidence that Puig abused ABOR's conditional privilege.
4 The jury was also offered evidence that it is more likely than not that Puig defamed Plaintiff and
5 tortiously interfered with her business relationship and her employment contract. Since Puig
6 corroborated Soto's lies concerning Merriman Records, the evidence available to OPM weighed
7 against Plaintiff on this key fact. OPM doubted Plaintiff's trustworthiness and integrity from that
8 point forward and revoked her OPM credentials. (*See* Exhibit B, pages 30:10 - 31:19).
9

10
11 **IV. CONCLUSION**

12 Plaintiff did not receive a fair trial. There is no way for the Court or either party to determine
13 whether the jury's verdicts were just. If after considering the Court's jury instructions and passing
14 on the evidence as the 9th juror, the Court believes that there was (1) misconduct on the part of the
15 prevailing party *or* (2) fundamental error in the charge to the jury *or* (3) findings of fact that were
16 not justified by the evidence the Court may and should order a new trial. Plaintiff prays the Court
17 will justly exercise its discretion so Defendants will not be rewarded for failing to comply with Rule
18 26.1, Ariz.R.C.P., and lying to the Court for more than three years.

19
20 RESPECTFULLY SUBMITTED this 5th day of July, 2011.

21
22 By _____
23 JANET HOPKINS
Pro se Plaintiff & Movant

24 COPY of the foregoing mailed this
25 5th day of July, 2011, to

26 Paul Correa
27 Assistant Attorney General
177 North Church Avenue, Suite 1105
28 Tucson, Arizona 85701-1114

Exhibit A

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

2 IN AND FOR THE COUNTY OF PIMA

3 **CERTIFIED COPY**

4 JANET HOPKINS,

5 Plaintiff,

6 vs.

Cause No.

7 C20086484

8 THE STATE OF ARIZONA BOARD OF
9 REGENTS, ET AL.,

10 Defendants.

11 DEPOSITION OF

12 RYAN BERNARDI, Chief of the Facilities Management

13 Branch for the Office of Personnel Management,

14 Federal Investigation Services Division,

15 BOYERS, PENNSYLVANIA

16 MARCH 12, 2010

17 ATKINSON-BAKER, INC.

18 COURT REPORTERS

19 (800)288-3376

20 www.depo.com

21 REPORTED BY: SALLY A. MOORE, Notary #1115137

22 FILE NO.: A401FB8

1 form of the question. 11:47

2 BY MS. BONILLA: 11:47

3 Q Go ahead, Mr. Bernardi. 11:47

4 A What was the question again? 11:47

5 MS. BONILLA: It's amazing that you made 11:47

6 this show you made to me pointing at my face in 11:47

7 the morning and now you're doing exactly what 11:47

8 you said I was allegedly doing. 11:47

9 MR. CORREA: I move for objection to the 11:47

10 form of the question. 11:47

11 MS. BONILLA: And now that's exactly what 11:47

12 you are doing. 11:47

13 I'm sorry, Mr. Bernardi, this has nothing 11:47

14 to do with you. 11:47

15 MR. CORREA: Off the record. 11:47

16 BY MS. BONILLA: 11:47

17 Q Mr. Bernardi, if U.A.P.D. had not brought 11:47

18 to your attention the Merriman aspect of this case 11:47

19 you would have never had any kind of concern about 11:47

20 it; correct? 11:47

21 A Again, I can't -- I can't answer that 11:47

22 because of some of the other things that we do in 11:47

23 this business with, you know, reinterview letters 11:47

24 that we send out. I don't know what things develop. 11:47

25 But to answer your question, yeah, it was a 11:47

1 complaint that we had to respond to. 11:47

2 Q So it was not something you initiated on 11:47

3 your own, but it's something that U.A.P.D. brought 11:47

4 to your attention; correct? 11:47

5 MR. CORREA: Object to the form of the 11:47

6 question. 11:47

7 THE WITNESS: Correct. Correct. 11:47

8 BY MS. BONILLA: 11:47

9 Q So to state that this was something that 11:47

10 O.P.M. intendedly was looking into and nothing 11:47

11 related to U.A.P.D. would be false; right? 11:47

12 A Right. We, we, we weren't going out 11:47

13 looking for complaints on investigators. We get 11:47

14 plenty of them without going out and finding them 11:47

15 ourselves. 11:47

16 Q So O.P.M. was just following up the 11:47

17 concerns that you had brought to O.P.M.'s attention; 11:47

18 correct? 11:47

19 A Correct. 11:47

20 Q And the alleged loss of PII or 11:47

21 interviewing a minor, anything to that effect was 11:47

22 something that U.A.P.D. brought to O.P.M.'s 11:47

23 attention; correct? 11:47

24 A U.A.P.D. brought the credential issue to 11:47

25 our attention. Throughout the investigation as we 11:47

Exhibit B

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

JANET HOPKINS,)
)
Plaintiff,) No. C2008-6484
)
vs.)
)
STATE OF ARIZONA BOARD OF)
REGENTS, MARTIN J. RAMIREZ,)
and JANE DOE RAMIREZ,)
husband and wife, CECELIA)
SOTO AND JOHN DOE SOTO,)
)
Defendants.)

COPY

VIDEOTAPED DEPOSITION OF RONALD PULLEN

March 11, 2010

Tucson, Arizona

Reported by: Ellen F. Colonna, RPR, CR
CR No. 50268

CALABRO REPORTING SERVICES, L.L.C.
Certified Court Reporters
549 North Sixth Avenue
Tucson, Arizona 85705-8371
520/798-1808 800/538-6692
Fax: 520/620-0660

1 understanding of that gives you the ability to
2 administer an oath?

3 A. As far as quoting document, paragraph, no, but
4 special agents, federal agents, they can put people
5 under oath, whereas a contractor, there's a different
6 process they go through.

7 Q. Okay. And was this interview tape-recorded or
8 not?

9 A. No, it was not tape-recorded.

10 Q. Okay. I wanted to look at the third full
11 paragraph and I'll read a portion of it. It says,
12 Hopkins went to the UAPD to conduct a records check on a
13 subject with the last name, it's redacted, but I believe
14 it's Merriman, period. She provided a signed release
15 from Merriman, period -- or some part of it is redacted
16 and it says to Soto and sat down and waited in the lobby
17 while Soto checked the records.

18 Hopkins claimed that Soto called her to the
19 window and gave her a record on the redacted name,
20 period. Hopkins, when asked why she did not include in
21 the record -- I'm sorry -- Hopkins, when asked why she
22 did not include the record in her report, explained that
23 somehow she had misplaced, lost, or shredded the record.
24 Did you read all that?

25 A. Yes.

1 Q. And does this refresh your recollection of an
2 issue regarding Hopkins having lost the record that she
3 had gone to UAPD to get?

4 A. Yes.

5 Q. What else do you recall about that issue?

6 A. I remember something about another -- a
7 contract agent was sent to U of A to obtain that
8 document.

9 Q. Okay.

10 A. I remember that and that's about it.

11 Q. All right. And you also spoke with Luis Puig
12 about the question of whether or not Ms. Soto (sic)
13 likely was given a record in the first place or not.
14 Correct?

15 A. Correct.

16 Q. And did you reach a conclusion about whether
17 it was possible that Ms. Hopkins had not been given a
18 record in the first place?

19 A. My understanding is she was not.

20 Q. Okay. And before you were asking her these
21 questions in her interview about the record, you had an
22 understanding that the record was not included in her
23 report. Correct?

24 A. Correct.

25 Q. This interview note says, Hopkins, when asked

1 A. Yes.

2 Q. But that is part of what UAPD brought up to
3 OPM. Correct?

4 A. Yes. Yes.

5 Q. So all that you investigated was part of the
6 allegations that UAPD brought up and complained about.
7 Correct?

8 MR. CORREA: Object to the form of the
9 question. And this has been asked and answered. And
10 it's 5:00 and he's gone longer than the presumptive
11 limit and she's got to go. So...

12 MS. BONILLA: I still have five minutes, Paul.

13 THE WITNESS: What are you asking me?

14 Q. BY MS. BONILLA: Okay. Mr. Correa -- let me
15 ask you, when you went to interview UAPD employees and
16 you gathered information from them and Ms. Hopkins, all
17 information gathered stems from UAPD's complaint to OPM.
18 Correct?

19 MR. CORREA: Form.

20 THE WITNESS: I'm assuming, yes. Yes.

21 Q. BY MS. BONILLA: Was there anything
22 independent that you decided to investigate that was not
23 part of what UAPD complained about?

24 MR. CORREA: Form.

25 THE WITNESS: No.

Exhibit C

U.S. OFFICE OF PERSONNEL MANAGEMENT
CONTRACT MANAGEMENT BRANCH

Proposed Action

Suspension

Removal

Date: December 28, 2007

Case Number/Project Name: Janet Hopkins

ID: 4038

Date Received by COT: December 26, 2007

Proposal: USIS Contract Investigator Janet Hopkins was suspended from the OPM contract on October 15, 2007 for suspicion of misuse of credentials. Ms. Hopkins was accused of using her OPM issued credentials to obtain information regarding a family member. Ms. Hopkins went to the University of Arizona Police Department to obtain a record for case [REDACTED]. During the visit, Ms. Hopkins attempted to obtain information on the pending case involving the arrest of her [REDACTED]. In addition, it was determined that [REDACTED] did not attend the University of Arizona.

(b)(1)

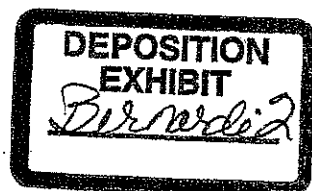
OPM conducted an investigation into this matter. It was found that while there was a record for the subject at the UAPD, Ms. Hopkins failed to obtain and report the record. Another investigator had to be dispatched to obtain the record. Ms. Hopkins stated that she had received a record from the provider but due to her workload, she may have shredded the information or misplaced it. The record provider checked the wrong database and did not find a record on the subject. The provider stated that she gave Ms. Hopkins a no record response to the inquiry. Ms. Hopkins stated that the provider is lying. In addition, Ms. Hopkins failed to report her loss of notes for the [REDACTED] case.

(b)(1)

Ms. Hopkins inquired about her [REDACTED] police record right after she attempted to obtain a record for the [REDACTED] case. Ms. Hopkins stated that she did not use her credentials in an attempt to obtain information on her [REDACTED]. She simply requested the information since she was there and she told the provider that her request was not in regard to OPM work. It was found that Ms. Hopkins is a member of the USIS Tiger Team; the team divides the work up between several investigators to process the work faster. Ms. Hopkins is usually tasked to do the fieldwork part of the case, while another member conducts and reports the law check items. Ms. Hopkins stated that she just decided to obtain this particular law record because she was in the area, but Ms. Hopkins failed to obtain the record.

(b)(1)

Ms. Hopkins interviewed her daughter for source coverage for this case. Ms. Hopkins stated that she discussed the subject with her daughter in an attempt to develop other knowledgeable sources. Ms. Hopkins stated that she was unable to obtain any other sources besides her own daughter. During the rework of the case, it was found that multiple sources could be obtained.



During Ms. Hopkins' statement to the Federal Agent, she stated that it was not a big deal to be suspended from the OPM contract and that she could conduct work on other USIS related matters.

Due to the above points, it is believed that Ms. Hopkins' integrity is questionable. Ms. Hopkins may have not used the credentials out right to obtain the information on her [redacted] but she did admit that the provider could have been confused by her request. Ms. Hopkins lost the case notes for the record but she did not seem to be concerned that case information could not be found. She claimed to have obtained a record from the provider but the provider checked the wrong database and did not find the record to give to Ms. Hopkins. Ms. Hopkins admitted that she does not usually obtain the law records. It is suspicious that Ms. Hopkins decided to obtain this record at the same place that a record of her [redacted] was maintained. It is also suspicious that Ms. Hopkins attempted to obtain the record of her [redacted] directly after conducting business on the behalf of OPM. Ms. Hopkins asked her daughter if she knew the subject and if her daughter knew of anyone else that would know the subject. Her daughter could only provide one person that she was aware of, instead of attempting to obtain additional leads through another avenue, Ms. Hopkins decided to interview her daughter. While it is acceptable to interview the investigators relative, it should be used as a last resort. Ms. Hopkins did not exhaust all attempts to obtain sources and compromised case quality in the meantime because the OPM Handbook states that investigators should strive to interview knowledgeable sources. It was also determined that a number of sources could be interviewed for the [redacted] case. Ms. Hopkins displayed a cavalier attitude toward the severity of this investigation. Due these points, with this knowledge, OPM cannot maintain an investigator of questionable integrity on the OPM contract. It is recommended that Ms. Hopkins be permanently removed from the OPM contract.

(b)(7)(D)

Additionally the record she states "clued them in to the WAPD" incident shows nothing and the WAPD record eventually recovered was only a traffic citation.

Exhibit D



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Federal Investigative
Services Division

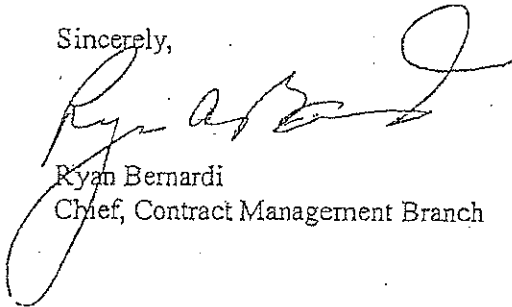
January 2, 2008

MIKE SANTELLI
Vice President
WPA Operations

Dear Mr. Santelli:

Pursuant to OPM/USIS Contract OPM04-06-00013, Section H.3.a, OPM has the right to direct the removal of any person under this contract for reasons deemed appropriate by the Government. Accordingly, pursuant to the above-cited provisions, OPM directs the removal of Janet Hopkins 4038 from work under this contract. Ms. Hopkins was suspended on October 12, 2007, due to integrity concerns. An investigation was conducted into the matter and the findings developed additional concerns regarding the work completed by Ms. Hopkins. Please take the appropriate actions to remove Janet Hopkins from work on the OPM contract. Such actions would include retrieving all OPM equipment and case material within 5 days of the receipt of this letter. Failure to retrieve all OPM equipment and case material could result in a violation of Federal statute. If you are unable to retrieve all OPM equipment and case material, please notify OPM immediately. Thank you for your cooperation in this matter.

Sincerely,



Ryan Bernardi
Chief, Contract Management Branch

Cc: Joy Christie

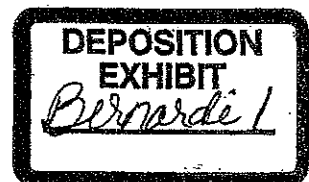


Exhibit E



Investigative Services Division
7799 Leesburg Pike, Suite 1100 North
Falls Church, VA 22043
Phone: 703.448.0178
Fax: 703.448.3981
Web: www.usis.com
VA License: 11-1451
DCJS Cert: 88-1199



January 7, 2008

Janet Hopkins
10214 E. Calle Estrella Polar
Tucson, AZ 85747

Dear Janet:

Effective January 7, 2008 we are terminating you from your position as an investigator with USIS based on a determination from OPM regarding your clearance. To protect your privacy, OPM has not revealed to me the reason for this decision, however, OPM may contact you directly regarding this matter. At this time, you will not be permitted to support the OPM contract or to have access to OPM equipment and facilities in the foreseeable future. Therefore, we are ending your employment with USIS.

You must return all materials, including photo identification, your vehicle, and any equipment received from USIS or its customers immediately. Any questions you have regarding your benefits should be directed to Human Resources.

Sincerely,


Penny Cougher
District Manager

I acknowledge receipt of this letter

Signature: Refused to sign Date: _____

Employee Comments: _____



Exhibit F

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

JANET HOPKINS,)

Plaintiff,)

No. C2008-6484

vs.)

STATE OF ARIZONA BOARD OF)
REGENTS, MARTIN J. RAMIREZ,)
and JANE DOE RAMIREZ,)
husband and wife, CECELIA)
SOTO AND JOHN DOE SOTO,)

Defendants.)

COPY

VIDEOTAPED DEPOSITION OF PENNY CONGER

December 2, 2010

Tucson, Arizona

Reported by: Ellen F. Colonna, RPR, CR
CR No. 50268

CALABRO REPORTING SERVICES, L.L.C.
Certified Court Reporters
549 North Sixth Avenue
Tucson, Arizona 85705-8371
520/798-1808 800/538-6692
Fax: 520/620-0660

1 A. I believe it was in my office.

2 Q. Okay. And you wrote in your handwriting that
3 she had refused to sign the letter. Is that right?

4 A. That's right.

5 Q. Why did she refuse to sign the letter?

6 A. She refused to sign, because she did not agree
7 with OPM's decision.

8 Q. She disagreed with OPM's decision to
9 terminate -- well, to remove her from the contract.
10 Correct?

11 A. Yes.

12 Q. Did she also express some disagreement with
13 your decision to terminate her from USIS employment?

14 A. No.

15 Q. Okay. Did you talk to her about that?

16 A. I did. And she, you know, she knew from the
17 beginning that I supported her, that I felt like she had
18 done nothing wrong initially with the situation that
19 instigated the investigation. I told her at the time I
20 had no idea what the issues were that OPM used to do the
21 revocation.

22 And I also told her that when I submitted her
23 termination from employment, that I did mark her
24 eligible for rehire, because she had been -- in my
25 opinion, had done nothing wrong and we had never had any

1 reason for releasing her from employment had OPM not
2 taken her clearance away, not revoked her access.

3 So she was clear that I supported her and that
4 she was marked as eligible for rehire.

5 Q. Okay.

6 A. And also had the support of Brian in that
7 manner.

8 Q. Had Brian ever met with Janet?

9 A. I don't believe so.

10 Q. Okay. During your time as an employee of USIS
11 and as an investigator, have you ever come across
12 information that informed you that a subject of
13 investigation had had their OPM clearance revoked or
14 their OPM credentials revoked?

15 A. Not me personally. I saw investigations come
16 through the office. When someone -- when someone's
17 access is revoked or their clearance is denied, they
18 have a right as a federal employee to protest that. And
19 I don't know the exact language, because I'm not a
20 federal employee, but they have the right to protest
21 that.

22 And there have been situations in those
23 instances as investigators where we get asked, as part
24 of that process, to go out and take that person's
25 statement and get additional questions answered in that

Exhibit G

AWERKAMP & BONILLA, PLC
6891 N. Oracle Road, Suite 155
Tucson, Arizona 85704
(520) 798-5282

1 The Law Office Of
2 AWERKAMP & BONILLA, PLC
3 6891 N. Oracle Rd. Suite 155
4 Tucson, AZ 85704-4287
5 (520) 798-5282

6 Don Awerkamp, SBN 007572
7 da@abdilaw.com
8 Ivelisse Bonilla, SBN 023594
9 ib@abdilaw.com
10 Attorneys for Plaintiff

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26
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

JANET HOPKINS

Plaintiff,

v.

STATE OF ARIZONA BOARD OF
REGENTS, MARTIN J. RAMIREZ
and JANE DOE RAMIREZ, husband
and wife, CECILIA SOTO and JOHN
DOE SOTO,

Defendants.

No. No. C2008-6484

THIRD REQUEST TO PRODUCE

Assigned to: Hon. John Davis

TO: DEFENDANTS

As provided by Rule 34 of the Arizona Rules of Civil Procedure, Plaintiff Janet Hopkins, by and through undersigned counsel, hereby requests that Defendants produce for inspection and photocopying at the Law Offices of AWERKAMP & BONILLA, PLC, 6891 N. Oracle Rd., Suite 155, Tucson, Arizona 85704, within forty (40) days from service, the following documents:

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1. Any log or other document showing a history of searches performed by Martin Ramirez and/or Celia Soto on the ACIC/ACJIS system from 9/19/07 to 9/26/07.

2. Any University of Arizona Police Department or University of Arizona policies related to use of the ACJIS system.

DATED this 21st day of September, 2009.

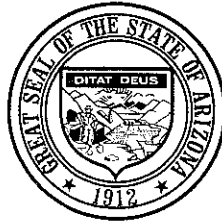
AWERKAMP & BONILLA, PLC

BY _____
DON AWERKAMP
IVELISSE BONILLA
Attorneys for Plaintiff

Original and one copy mailed this 21st day of September, 2009, to:

Paul Correa
Assistant Attorney General
177 North Church Avenue, Suite 1105
Tucson, Arizona 85701
Attorneys for Defendants

Exhibit H



Registered 11/5/09

DA _____

IBT

SR _____

Calendared _____

Terry Goddard
Attorney General

Office of the Attorney General
State of Arizona
Liability Management Section

Writer's Direct Line:
(520) 629-2630
Paul.Correa@azag.gov

November 4, 2009

Ivelisse Bonilla
Awerkamp & Bonilla, P.L.C.
6891 N. Oracle Road, Ste. 155
Tucson, AZ 85704-4287

Re: *Hopkins v. ABOR, et al.*
Pima County Superior Court No. C2008-6484

Dear Ivelisse:

Enclosed is Arizona's Response to Plaintiff's Third Request to Produce. I may be able to supplement this response with a redacted excerpt from the UAPD policies, when I receive one.

Please understand that DPS is extremely sensitive about releasing any ACJIS information, and will require a court order to produce any report from that system for a non law-enforcement purpose such as this lawsuit. Moreover, while I appreciate that your RFP #1 is limited in scope and time, I do not see that it necessarily is within the scope of discovery.

Finally, thank you for agreeing to move Janet Hopkins' deposition to December 7th. Since we are deposing Plaintiff so close to our expert and dispositive motion deadline—December 9, 2009—will you stipulate to extend that deadline for three weeks to December 30, 2009? Please let me know as soon as you have a chance, so that I may approach the court. Thank you for your consideration.

Sincerely,


Paul Correa

Assistant Attorney General

Enclosure
PC/lid/606902

1 TERRY GODDARD
ATTORNEY GENERAL

2 PAUL CORREA
3 Assistant Attorney General
4 177 North Church Avenue, Suite 1105
5 Tucson, Arizona 85701-1114
6 (520) 629-2630 • Fax (520) 628-6050
7 Paul.Correa@azag.gov
8 Bar# 017187 • PCC# 65348

9 Attorneys for State Defendants

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

JANET HOPKINS,

Plaintiff,

v.

STATE OF ARIZONA BOARD OF
REGENTS, MARTIN J. RAMIREZ, and
JANE DOE RAMIREZ, husband and wife,
CECILIA SOTO AND JOHN DOE SOTO,

Defendants.

No. C2008-6484

**STATE DEFENDANTS' RESPONSE TO
PLAINTIFF'S THIRD REQUEST FOR
PRODUCTION**

Assigned to:
Honorable Richard Gordon

State Defendants, by and through their undersigned counsel, respond to Plaintiff's
"Third Request to Produce" as follows:

1. Any log or other document showing a history of searches performed by
Martin Ramirez and/or Celia Soto on the ACIC/ACJIS system from 9/19/07 to 9/26/07.

**Response: Objection: Exceeds the scope of discovery. Without waiving said
objection, pursuant to A.R.S. § 41-1750, the material requested is not authorized to
be exchanged to a Plaintiff in a civil proceeding and will require a court order for
release. Pursuant to A.R.S. § 41-1750(G), the director may authorize the exchange of
criminal justice information between the central state repository, or through the**

1 Arizona criminal justice information system, whether directly or through any
2 intermediary, only as provided by the statute.

3 Pursuant to A.R.S. § 41-1750(Q), the director must ensure that numerous
4 strict limitations are observed regarding dissemination of criminal justice
5 information obtained from the central state repository or through the Arizona
6 criminal justice information system. This includes the restriction that: "Any
7 criminal justice agency that obtains criminal justice information from the central
8 state repository or through the Arizona criminal justice information system assumes
9 responsibility for the security of the information and shall not secondarily
10 disseminate this information to any individual or agency not authorized to receive
11 this information directly from the central state repository or originating agency."

12 Consistent with this statute, for state and national security purposes, and to
13 protect the integrity of the system, and to honor the interagency agreements that
14 permit such a system, Arizona objects to the discovery request propounded.

15
16 2. Any University of Arizona Police Department or University of Arizona
17 policies related to use of the ACJIS system.

18 **Response: Objection.** This request exceeds the number of requests allowed
19 under Ariz. R. Civ. P. 34. Without waiving said objection, please see response to #1
20 above.

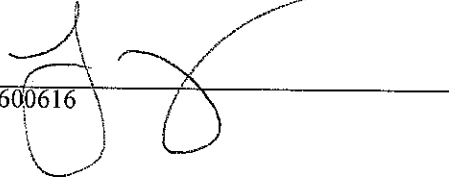
21 RESPECTFULLY SUBMITTED this 4th day of November, 2009.

22 **TERRY GODDARD**
23 **ATTORNEY GENERAL**

24
25 
26 Paul Correa
Assistant Attorney General
Attorney for State Defendants

1 ORIGINAL of the foregoing mailed
this 4th day of November, 2009 to:

2 Don Averkamp, Esq.
3 Ivelisse Bonilla, Esq.
4 Averkamp & Bonilla, P.L.C.
5 6891 N. Oracle Road, Suite 155
6 Tucson, AZ 85704-4287
7 *Attorneys for Plaintiff*

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600616

Police Department

THE UNIVERSITY OF
ARIZONA
TUCSON ARIZONA

1852 E. First Street
P.O. Box 210100
Tucson, AZ 85721-0100
Tel: (520) 621-UAPD (8273)

October 30, 2009

The Law Office Of
AWERKAMP & BONILLA, PLC
6891 N Oracle Rd, Suite 155
Tucson, AZ 85704-4287

Ref: State of Arizona Board of Regents, Martin J. Ramirez and Jane Doe Ramirez
Husband and wife, Cecilia Soto and John Doe Soto,
In The Superior Court of the State of Arizona in and for the County of Pima
No. C2008-6484 Third Request to Produce

To Whom it May Concern:

I am responding to your request to produce the following records:

1. Any log or other document showing a history of searches performed by Martin Ramirez and/or Celia Soto on the ACIC/ACJIS system from 9/19/07 to 9/26/07.
2. Any University of Arizona Police or University of Arizona policies related to use of the ACJIS system.

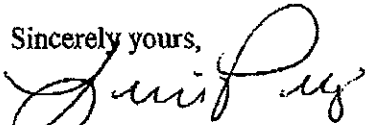
In regards to the ACIC/ACJIS logs, The University of Arizona Police Department does not maintain custody of these records. Please contact the following agency:

Arizona Department of Public Safety
Access Integrity Unit
2102 West Encanto Blvd
PO Box 6638
Phoenix, Arizona 85005-6638

I am producing the accompanying documents in response to your request for any University of Arizona Police or University of Arizona policies related to the use of the ACJIS system.

Please let me know if you have any questions or concerns. Thank you.

Sincerely yours,




Luis Puig
Program Coordinator Senior
University of Arizona Police Department

Enclosures:

cc: Douglas Stevens
Office of the Attorney General



	<h2>17.1- Communications Function</h2>		
	Supersedes: 18 March 2003	Revision: 26 September 2006	Effective: 16 October 2006
Anthony Daykin Chief of Police	Policy Affects: All Personnel	CALEA Standard: Chapter 81	

Policy

The Communications Section will be a unit within the Field Support Division and maintain multiple telephone lines for emergency and non emergency calls, an E-911 emergency telephone system, direct "ring-down" call box telephone lines and multiple radio frequencies for communicating with field personnel.

Dispatchers will report to a Communications Supervisor for the daily functioning and operation. In the absence of the Communications Supervisor, the on-duty supervisor is responsible for addressing minor operational and personnel concerns. More serious situations should be handled by the Communications Supervisor, after notification by the on-duty supervisor. Nothing in this policy prohibits any supervisor from dealing with immediate issues for the orderly operation of the department.

The Communications Section may also be referred to as "Dispatch."

Responsibilities

The Communications Section is responsible for:

- prioritization and dispatching of emergency and non-emergency calls for service to appropriate units
- relaying pertinent information in a factual concise manner; relaying instructions or inquiries to police, security, fire and medical units.
- Monitoring fire and intrusion alarms.
- operation of the computer terminal to obtain vehicle, drivers' license and criminal record information, wanted and stolen information
- entering data into the appropriate Records Management System
- Computer Aided Dispatching (CAD).
- monitoring messages and teletypes and relay information to officers.
- assisting visitors at the front desk
- entering, confirming and clearing warrants and other items and articles entered into the computerized system.
- serving as the main switchboard for UAPD.

- maintaining a current telephone and address listing of all departmental employees. This list shall be immediately accessible for reference.
- maintaining an accurate roster of all assigned pagers and cellular telephones.
- retaining the shift roster for inclusion with the CAD printout for the respective 24 hour period
- other items as directed.

Computerized Information

UAPD is authorized by the Arizona Department of Public Safety and the Arizona Criminal Justice Information System (ACJIS) to maintain and access the computerized information from the National Crime Information Center, Arizona Criminal Information Center, as well as the local FORCE system sponsored by the Pima County Sheriff's Department and the Tucson Police Department Records Management System.

All dispatchers:

- shall be certified through the Arizona Criminal Justice Information System (ACJIS) at a level "A" certification.
- shall satisfactorily pass an intensive high security background clearance because of immediate access to teletype and criminal history information.
- shall possess a Terminal Operator Certification (TOC) number.
- shall insure that only authorized personnel view computerized information or police reports while in communications.
- shall be aware of computer information in the presence of service or custodian personnel.

All Police Officers are required to be certified through ACJIS with a level "B" certification.

Access Violation

Unauthorized use of any NCIC/ACIC/FORCE/ACJIS or other criminal history information by any member of the Department is a violation of departmental regulations, State and Federal laws. Violators are subject to disciplinary measures including administrative, civil and criminal penalties.

FCC Guidelines

To maintain the applicable Federal Communications Commission (FCC) license, radio transmissions and the use of the radio must be in compliance with established FCC regulations.

Recording Transmissions

A digital recorder will be utilized to record all radio communications and telephone conversations to and from the communications center.

Digital Recorder Maintenance

The following protocol will be followed regarding maintenance of digital recordings utilized to archive radio and telephone conversations.

- Digital media (DVDs, CDs etc.) will be changed as soon as possible after the current recording media terminates.
- The beginning date and time and the ending date and time shall be written on the protective cover of the media.
- Recording media will be retained for a minimum of 30 days by the Communications Supervisor.
- Recording media shall be maintained in a secure locked file or cabinet assessable only to the Operations Support Commander, Operations Support Coordinator and Communications supervisor.
- Authorized persons accessing the secured file or cabinet shall complete a log regarding that access including date, time and reason for access. The log shall be maintained in the secure file or cabinet.
- Recording media may be erased and re-recorded according to the department's current record retention schedule.
- The digital recorder will automatically maintain a log of those authorized personnel accessing the system for any reason.

Instant Review "Call Check"

UAPD Communications consoles possess an instant playback of telephone and radio conversations. This instant playback may be used by Communications personnel at any time during their shift to clarify radio and telephone transmissions.

Other Reviews

The digital recorder may be immediately reviewed to clarify information, transmission or to ensure officer safety if more information is needed than provided by the "Call Check" instant review. Supervisors are authorized to conduct these reviews in a "read" format only. Any needs for copying must be done by the Dispatch Supervisor or designee.

Copying Digital Recordings

Only authorized personnel having specific knowledge of the digital recorder

operations shall duplicate a recording form the recorder. Requests for copies shall be made to the Communications Supervisor via memorandum from a supervisor. At least 48 hours notices will be given. The memo will include:

- Date and Time of the recording.
- Officers or employees involved, if known.
- Length of time the supervisor wishes the recoding to include.
- preference of "real time": which, will be an actual running time, or "next message" which jumps to the next conversation.
- When the copy of the tape is required.
- any requests for the entire tape to be secured as evidence

The Chief, or any Commander may direct that a copy of a recording be made or secured as evidence for use in an investigation. Personal requests for recordings must be requested through the employee's chain of command to the Communications Supervisor.

Misdirected Emergency Calls

Emergency calls for service received through the E-911 system, which have been misdirected will be transferred via the E-911 system to the appropriate agency. A Dispatcher receiving emergency calls received on non E-911 lines for another agency:

- will gather the pertinent information that would normally be obtained by UAPD
- will direct the caller to remain on the line
- will transfer the call to the agency of jurisdiction.
- will remain on the line to insure a proper transfer.
- shall relay all known information to the agency of jurisdiction if the caller is lost during the transfer.
- **shall assist a caller reporting an emergency, regardless of jurisdiction.**

Misdirected Non-emergency Calls

For non-emergency calls the dispatcher will advise the caller of the appropriate jurisdiction and request the caller to personally contact the agency.

Communications Security

The lobby window, where Communications personnel greet the public shall be of a bullet resistant glass. No contact shall be conducted via the lobby door. The door(s) leading to the Communications Center shall be closed and locked at all

times. Personnel needing access have issued keys or access codes the Center. The following departmental personnel are authorized to access the Communications Center:

- On duty personnel assigned to Communications as Dispatchers.
- Chief of Police.
- Commanders.
- Sergeants.
- Corporals.
- Civilian supervisors.
- Records Section personnel.
- Relief personnel.
- Personnel authorized for cause by the Section Supervisor, Division Commander or Chief of Police.
- Personnel responding to an emergency in communications or call for assistance from a dispatcher.
- Service or custodial personnel.

Communications personnel and all supervisors will be responsible for monitoring access to the communications center. The Communications Center will not be left unattended at any time.

**Material
Dissemination**

Communications personnel and other members of the Department shall pass paperwork and equipment through the access window. In the event that equipment cannot be passed through the service window, the dispatcher shall open the communications door(s) and accept equipment.

**Equipment
Security**

All employees are responsible for maintaining the security of all communications equipment issued to them. Negligence or intentional damage to equipment may result in disciplinary action.

**Transmitter Site
Security**

The transmitters for the UAPD are housed at various locations. Access to these sites is restricted to authorized personnel.

**Emergency
Generator**

The UAPD has an emergency generator located on-site. In the event of a power failure, the emergency generator will engage, providing power to the department and the Communications Section. The generator will be inspected and tested

monthly by Facilities Management. Facilities Management will be responsible for keeping the generator log.

Shift Change Status Checks

Prior to the change of shifts in Communications, a status check shall be done on each field unit. This status check is intended to update the CAD screen, and to permit the oncoming Dispatcher to know the location and status of each field unit. The Dispatcher may ask for the unit's status and location if necessary.


Alarm Monitoring

The Chief of Police will authorize only those alarms compatible with existing university fire/security alarms system to be monitored by UAPD. In cases where private alarms have been installed and UAPD Dispatch is made aware of the alarm, UAPD will respond to check out the alarm if within its jurisdiction, but will not be responsible for notification of a responsible party. That duty will be retained by the private security/alarm company.

Key Management

The Communications Center maintains a number of security and master keys sets for the University. The proper tracking of these keys is critical. Should an employee need one of these keys, they will go to Dispatch and request the key. The Dispatcher will:

- access the key box and obtain the key.
- make a CAD notation indicating to whom the key was given and the name or number of the key.
- make a CAD notation indicating that the key was returned.
- secure the key in the key box, in the correct space.
- only extreme situations allow other than a Dispatcher, or their relief, access the key box. If this does occur, the employee is responsible for notifying the Dispatcher that he/she has taken a key.
- prior to the end of shift, review the CAD log to ensure that all keys have been returned.
- inform the employee who has an outstanding key and make note in the shift pass along.
- complete any required logs for key check out.

	Subject: NCIC/ACIC Validations- 24.4		
	Supersedes: 20 September 1999	Revision: 28 May 2002	Effective: 15 June 2002
Approved: Anthony Daykin, Chief of Police	Policy Affects: All Personnel	CALEA Standard: 81.2.9	

Policy

The University of Arizona Police Department will validate all criminal records entered into the NCIC/ACIC system by UAPD employees. The validation will be entered in a timely manner to insure the accuracy and completeness of the information stored in the system. The validation process will be accomplished according to established NCIC policies and procedures outlined in the NCIC Operating Manual.

The Arizona Department of Public Safety - ACJIS Division provides validation materials for The University of Arizona Police Department on a monthly basis. The designated UAPD System Security Officer or their designee will inspect all listed records for accuracy and completeness and will be responsible for making necessary changes/corrections. When the validation has been completed, the validation forms will be returned via U.S. Mail to the Arizona Department of Public Safety - ACJIS Section in Phoenix by the System Security Officer.

Procedure

Every month ACJIS mails validation materials to UAPD. The materials include a computer printout of those records to be validated, instructions, a form letter of receipt and a form letter for completed validations and two envelopes. Upon receipt of the validation materials, the System Security Officer or designee:

- will complete the letter of receipt,
- have the Chief of Police sign
- return the letter to ACJIS in the appropriate envelope.
- will scrutinize all materials carefully to insure that the validator knows how to proceed and that the correct validation information has been sent to UAPD.

Records which require validation may include:

- warrants
- stolen vehicles
- stolen vehicle license plates
- guns
- stolen securities
- stolen boats
- missing persons. ••

Oct. 30. 2009 5:46PM

15 June 2002

NCIC/ACIC Validations- 24.4

Every record which is validated must be verified using the original report information contained in the Records Section, or the original warrant located in the Communications Section.

Warrants

Only warrants with a bond of \$999.00 or higher will be entered into the ACIC system. The University of Arizona Police Department houses only misdemeanor warrants in the file.

No UAPD warrant which has been entered by UAPD personnel will be entered into NCIC. All warrants entered into ACIC should have an extradition limit of 50 miles. Exceptions to the 50-mile limit may be made by the Chief of Police or Division Commanders. If the validation notes an exception to the 50-mile extradition one of the above listed individuals will be asked for clarification. The person designated as the validator:

- • will locate the warrant file(s) in the Communications Section. All validations of warrant information will be made from the original warrant(s) housed in the warrant file.
- • will verify that the warrant is still outstanding, and that the personal identifiers listed are complete, accurate and valid.
- • will check all information on the warrant against the computer printout for accuracy. If additions, corrections or deletions are needed
- • will make any deletions, corrections or entries immediately via the computer. A notation will be made on the ACIC computer printout advising that the entry has been validated and corrections made.

If the warrant entry must be deleted or cleared at the time of the validation, a notation shall be made in red, with a short explanation. The System Security Officer will be notified if the warrant remained in the ACIC system in error, especially if the warrant had been served or quashed prior to the validation and was not removed or cleared from the system.

**Vehicle and other
ACIC/NCIC Entries**

All validation of records in the ACIC/NCIC systems must be made using the original report information housed in Records.

- • Each record must be pulled, and the information located on the NCIC/ACIC printout verified by comparison with the information written on the original report. Serial numbers and Vehicle Identification Numbers (VIN) shall be carefully reviewed.
- • The validator will attempt to make contact with the listed owner or reporting party to verify that the vehicle or property listed as stolen is still outstanding and has not been returned.
- • If the listed owner is not available by telephone, a certified letter, return receipt requested, should be sent to the last known address of the owner, requesting the owner to verify that the vehicle or property is still missing.
- • When the validation entry is a vehicle, the validator should check the computer for current registration from the licensing state.
- • It is not uncommon for the listed owner of a vehicle to change from the reporting party listed on the original report, to an insurance company as a result of compensation. In these cases the validator should contact the insurance company to determine if the vehicle has been recovered. It should be noted that on older entries the vehicle license no longer appears on the NCIC/ACIC printout. License

15 June 2002

NCIC/ACIC Validations- 24.4

- • Information must be obtained from the original report.
- • The validator should correct all errors, add further information or remove the entry on a timely manner, preferably at the time the information is validated. Notations concerning modifications to the entry, in the system should be noted on the computer printout.
- • If the vehicle or other property remained in the ACIC/NCIC system in error, (after it has been recovered and UAPD personnel notified), the system security officer must be notified.

Note: Information requested by mail may not return within the allotted time provided for the validation by ACJIS. In these cases the validator will attach a copy of the letter and the receipt to the original report and note on the computer printout that a letter was sent and the date.

**Validation
Conclusion**

Once the validation process has been completed, the second letter which verifies the validation process, will be completed and signed by the Chief of Police or designee. The letter will be returned to the Arizona Department of Public Safety - ACJIS Division.

**System Security
Officer Handbook**

Anyone charged with the responsibility of validating ACIC/NCIC records will be familiar with the handbook and will utilize it as a reference. • •

Exhibit I

AFFIDAVIT

State of Arizona

City of Tucson

JMM
Before me, the undersigned authority, on this day personally appears Janet M. Hopkins, Contract Investigator to the United States Office of Personnel Management, currently residing at [REDACTED] Tucson, Arizona 85747,

known to me to be the person whose name is subscribed to the following instrument, and having been duly sworn, upon her oath, states as follows:

On or about September 18th or 19th 2007, I went into the University of Arizona Police Department to obtain a record on a case I was working. I handed the clerk, Celia, or Cecilia Soto a release and sat in the lobby and waited. Soto called me to the window and handed me a record. I then told her I needed another record. She looked to my hand as if looking for a release and I told her that the record was not for O.P.M., that it was something separate. She told me to fill out a public records request form, which I did. I waited a moment after which time she told me the case was under investigation. I asked her a couple of questions and left the police station.

I contacted a friend who called the police station and spoke to one of the detectives. My friend contacted me later and informed that the investigation was complete and that the record was available. That same day or the next day I returned to the University of Arizona police station and approached the window. I was professionally dressed as usual but I did not have my credentials, releases, or any indication that I was there officially with me. I filled out a public records request form, handed it to Brian, the only male clerk working at the station, and sat in the lobby and waited. Two or three minutes later Brian returned and told me the case was under investigation and that I would not be able to obtain the record. I informed him that I was told the investigation was complete and that the record would be available. Brian left the lobby and went to look for a detective. *JMM*

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Affiant's initials *JMM*



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JMH

Two or three minutes later Detective Martin Ramirez entered the lobby and asked me to go into the room adjacent to the lobby to talk. I went into the room with the detective. We sat down and he asked me for identification at which time I handed him my driver's license. I informed him that I was trying to obtain the arrest report for my son. Ramirez told me that the investigating detectives were not available and that the report was not available because the case was under investigation. He told me that it was likely the case would be dismissed anyway and he told me that since my son is 19 and not a minor that he really could not tell me much and that I should let my son handle it. I asked Ramirez how he knew the charges would be dismissed. He did not give me details, but I continued to ask him questions. I asked him what charge would be levied against a person who pushed another person. I asked him this because my son told me that he had pushed someone and told me that that is why he had been arrested. Ramirez then said that I told him my son had pushed someone. I told him that no, I did not say my son pushed someone, I asked hypothetically what would happen if someone pushed another person. Ramirez then said that he had assumed I was talking about my son, and I told him that it was a bad idea to assume anything or that he should not assume, or something to that effect. We sat in silence for a moment, then I mentioned to Ramirez that my husband and I were considering getting an attorney at which time Ramirez asked me what my husband's name was. I told Ramirez my husband's name. Ramirez asked what my husband's middle initial was. I told Ramirez my husband does not have a middle initial. Ramirez then asked me what my husband's phone number was. I told Ramirez it was the same as mine. Ramirez then asked me what my husband's date of birth was. I just looked at him for a moment and then told him that he did not need that. At that point the conversation was rather tense. I may have been somewhat aggressive with the detective, but at no point during my second visit to the station did I show my credentials, or identify myself as an investigator with USIS or OPM. Prior to that day, I had never had contact with Ramirez, nor had I even seen him in the station. Ramirez would have had no indication that I was an Investigator based on the contact I had with him that day. I left the police station. *JMH*

JMH

When I left the station, I mentioned to my husband that the detective was asking for his personal information which I thought was weird. My husband told me I should have given it to him.

The case I was working on that caused me to go the University of Arizona Police department on September 18th or 19th was the Merriman case. I was working on an experimental project called the Tiger Team with two other investigators. We divided up the work, approximately 2100 MOC at the beginning of the month and zoned it according to our residences. Investigator Brock was assigned the law checks. Later in the month, Brock informed me and the other investigator of all of the law checks he did. He informed that there was a hit at the Tucson Police Station or the Pima County Sheriff's office for Merriman that showed there was a record at the University of Arizona police station. We were both a bit puzzled because there was no indication on the case papers that the subject had ever attended the University of Arizona or that he had ever been arrested there. Since we were working as a team I decided to go into the station and pick up the record. Soto did find a record which she gave to me. I saved the release that Soto stamped at the University but misplaced, most likely shredded, the actual record. I was working numerous types of cases in September, including cases on a different contract in addition to juggling numerous pieces of paper and releases because of the Tiger team. I inadvertently misplaced the record and I did not think about it again, and reported the case as usual. I also think that in the back of my mind I thought maybe Brock would have obtained the record and reported it. I have learned that Brock went to the U. of A Police station and submitted the same release for the Merriman case that I submitted. Brock was given a police record for Merriman. Soto absolutely gave me a police report. The release I used to obtain the record has a "COMPLETED" stamp at the bottom of the release. Whenever there is no hit or record at the University, the record searcher stamps "COMPLETED" at the bottom of the page and writes "no record" and signs and dates it. This release does not have "no record" written at the bottom of it.

While working the Merriman case, I was unable to locate any peer sources; only sources who were the subject's parents' friends and co-workers. The PRSI Investigator did not

JMH

Affiant's initials *JMH*

JMH send leads on the case, so I worked it using the listed verifiers and asking sources for leads. The one source I attempted to obtain, Nick Legendre never returned my phone calls. My daughter, Candice Monet Hopkins attended Cienega high school all four years and was deeply involved in the school and extra curricular activities, so I asked her if she knew the subject and if she could tell me anyone else who knew him. She mentioned Legendre, but no one else, so I decided to interview her. I treated her as a normal source and listed her information in the report as I would any other source. I used my daughter as a source as a last resort and did not think that I had done anything wrong. I have never, nor would I ever investigate someone I know but I did not think there was a prohibition against using someone I know, even a relative, as a source.

I have been an Investigator for over five years and have worked very hard to be professional and appropriate at all times. I regret attempting to obtain my son's arrest report at ^{*JMH*} a time that there could be any confusion about me using my credentials. I have never used my credentials for anything but work. I have received one speeding ticket and been stopped by Tucson police at least twice, but have never used my credentials for personal gain or benefit. I did not need to use my credentials to obtain a record that is available to any member of the public who requests it, which is why I completed a public records request form. My first attempt to obtain the report was done out of convenience, however I absolutely did not attempt to give the impression that I was trying to obtain the report for USIS or OPM. I thought that telling Soto that I needed the record for something else and telling her it was not for OPM or that it was separate from OPM was sufficient.

I did not identify myself on the public records request form as "mother" because the form does not ask for that. I filled out my name, and my son's name and I think I listed the citation number on one of the forms.

In mid October my husband went to the police station to obtain the record. He completed the same public records request form that I completed. He did not identify himself on the form. The investigating detective called my husband and gave him some details about the case. After 5 weeks of attempting to obtain the police record, I learned that the record *JMH*

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Affiant's initials *JMH*

must be obtain^{ed (JMH)} through the district or county attorney on a case that has an open investigation.

During my second visit^{to (JMH)} the U. of Arizona police station I did speak to the detective aggressively, as a concerned parent, and I became annoyed when he began asking for my husband's personal information. However, I do not understand how anyone could file a complaint against me or say that I did anything inappropriate on my second visit to the University Police Station. I did not show credentials, supply a release, or identify myself as an Investigator or employee of OPM or USIS.

I, Janet M. Hopkins, have read the foregoing statement consisting of 5 pages. I fully understand the contents of the statement and certify that the statement is a factual account. I have initialed all corrections and have initialed the bottom of each page containing the statement. I have made this statement freely without hope of benefit or reward, without threat of punishment, and without coercion, unlawful influence, or unlawful inducement.

Janet M. Hopkins
Janet M. Hopkins

Subscribed and sworn before me
this 26 day of OCTOBER 2007 at
6245 E. Broadway Blvd, Tucson, AZ 85711

Ronald H. Pullen

Ronald Pullen
Special Agent
Federal Investigative Services
Office of Personnel Management

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Affiant's initials JMH

Exhibit J



Chief of police, Anthony Daykin

OFFICER'S REPORT

DATE: September 25, 2007

TO: Chief A. Daykin

FROM: Detective M. Ramirez *MR*

SUBJECT: Janet M. Hopkins

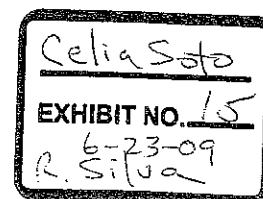
On the morning of September 21, 2007, I was approached by Celia Soto, UAPD Records, who requested my assistance with a woman who had identified herself as a Federal Background Investigator, bi-fold wallet with federal identification and badge, and was requesting copies of an active case. Soto felt the lady was using her authority to obtain case information reference a family member.

-On 09/18/07, Moses Hopkins, subject of case who was arrested for Assault on 09/15/07, made a public record request at UAPD. He was advised a copy was not available because the case was listed as Active. See attached copy of original.

-On the morning of 09/19/07, Janet Hopkins (Federal Background Investigator) responded to UAPD where she displayed her Federal identification and badge to Soto. Hopkins provided an Authorization for Release of Information document regarding Anthony Jake Merriman. When advised Merriman had not had contact with UAPD, Hopkins verbally requested case information on another person named Moses Hopkins. Since Hopkins did not possess a release of information, Soto provided a UAPD Public Record request form. A short time later, Hopkins returned the form displaying her name as Jan Hopkins and Moses' Social Security Number and Date of Birth at the top of the form. All other sections were left blank.

At this point, Soto became very suspicious because no investigator had asked for additional information without a release of information. She also found it awkward that Hopkins failed to complete the form, that she knew the Social Security Number of Moses and that they both shared the same name. Soto suspected Jan and Moses to be related.

After Soto tracked down the case and learned it was still Active, she advised Hopkins of its status. Still wanting more information, Jan inquired how Moses would know his charges and advised he had court the next week. After explained Moses would have received a citation with the charges listed on it, Soto directed Hopkins to contact



AZ-HOPKINS-004

Detective Sgt. Smith. At this point, Hopkins left the area as Soto requested more information from her. See attached copy of UAPD Public Request form highlighting areas completed by Hopkins. The original form had been destroyed.

-On the morning of 09/21/07, Celia Soto requested my assistance with Hopkins who was in the UAPD lobby requesting a copy of Moses' case. Again, Hopkins was asked to complete a UAPD Public Records Request. Before meeting with Hopkins, I was told about the prior incident and was provided her request form. A review of the form revealed she failed to list her address and phone number. I was also advised Hopkins had mentioned speaking with Detective Sgt. Smith who had already authorized the release of the case. A conversation with Sgt. Smith revealed the case would not be released due to new information requiring further investigation.

I met with Janet M. Hopkins in the UAPD lobby where she identified herself with her Arizona Driver's license (#D01765667) as Moses' mother. Hopkins advised she and Moses had been trying to obtain a copy of the case. She then stated a paralegal named Laura Cochran had spoken to Sgt. Smith who authorized the release of the case. After advising Hopkins that the case would not be released due to new information and the fact that it was still being investigated, she persisted in knowing when the information would be available. Our conversation subsequently ended after I advised her she would have to contact Detective Mendoza for more information.

A follow up phone conversation with Mark Deangelis (745-3727 xt: 205) of the United States Office of Personnel Management revealed Janet Hopkins is not an agent but a Contract Employee for the government. Deangelis confirmed Hopkins possesses a Federal Identification card and a silver badge. Due to Deangelis' concerns, he requests UAPD document the incident with Hopkins and forwards the information for review.

Note, a brief local check on Anthony Jake Merriman revealed a local address of 18821 South Sonoita Highway, Vail, Arizona. His S.S.N. and D.O.B. are correct as listed. However, the Biloxi, Mississippi address and the local phone number of (520)907-5208 are not associated with Merriman in any local searches. For more information, see attached documentation.

PEPPER CONGR
USED SUPERVISOR
628-8772 x 2012

MJP 9319
Officer's Signature

[Signature] 9321
Supervisor's Signature

[Signature] 9/27/07
Commander's Signature

Chief of Police

CHIEF. MIKE & MARCO BRIEFED ME ON THIS INCIDENT ON 9/26. JANET HOPKINS HAD/HAS NO PROFESSIONAL INVOLVEMENT IN THE CASE INVOLVING MOSES HOPKINS. JANET'S SUPERVISOR, MARK DEANGELIS CALLED UAPD ON 9/27 ASKING FOR A STATUS ON THIS INCIDENT. HE

Exhibit K



Officer's Report

DATE: September 21, 2007
TO: Luis Puig, Operator Support Coordinator
FROM: Celia Soto, Office Specialist Senior *CS*
RE: inquiry into Case #U0709150007 by Jan Hopkins

[Handwritten signature]
9/21/07

Around mid-morning on September 19, 2007, a woman came into the University of Arizona Police Department lobby to conduct a background check. The woman was an African-American female (early 40's), approximately 5'8" in height, with black hair. She was well-dressed and had a neat, orderly appearance. She briefly presented to me her credentials as a background investigator. I remember it being a black bi-fold badge case. Inside was a white paper certificate with bold black lettering, and what appeared to be a gold badge. She gave me an "Authorization for Release of Information" form. After completing her request, she then asked for a copy of a citation on a different individual who had been arrested over the weekend; however, she had only his name and date of birth. I asked Sarah Gutierrez (Office Specialist Senior) if I would be able to research a case with only that information. Sarah stated we could release a copy of the citation if the case were inactive. I then asked the woman in the lobby to fill out a "Request for Inspection of Public Record" form. She filled out the individual's name, date of birth and social security number, which were the following: Hopkins, Moses; DOB: 06/21/1988; SSN: 524-87-1984.

I researched the case and found that it was case #U0709150007, and that it was an active investigation. I told the woman in the lobby that the case she wanted was "Active" and cannot be released until the investigation is closed. She asked me why that was, and stated that the individual needs to know what the charges are because he has court next week. I replied that the individual arrested in that incident would have been given a citation at that time. She proceeded to ask when case #U0709150007 would be available for release. I told her that Detective Sergeant Mike Smith had the case to review for investigation. She then asked for his office phone number. I provided her with the number for University of Arizona Police Department Dispatch and informed her that they would transfer her call to his office line. The woman left the lobby before I could get her name or business card.

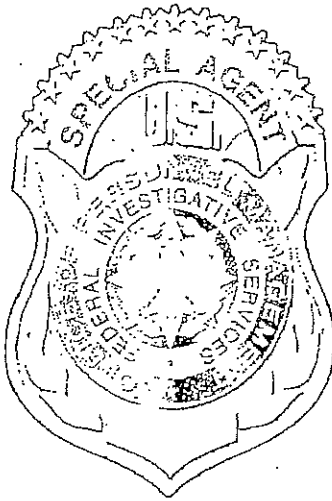
CC: Chief Daykin
Commander Kevin Haywood

[Handwritten signature]
9/21/07

Celia Soto
EXHIBIT NO. 13
6-23-09
R. Silver

Exhibit L

FEDERAL INVESTIGATIVE SERVICES FAX TRANSMITTAL SHEET



U.S. Office of Personnel Management
Tucson Field Office
6245 E. Broadway Blvd, Suite 580
Tucson, AZ 85711

FAX # 520-745-3731
PHONE # 520-745-3727

TO: *Phil Kroop*

DATE: *20 Nov 2007*

FAX: *202-606-2390*

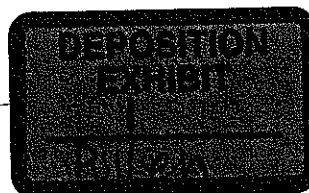
FROM: *SPECIAL AGENT RONALD PULLEN*

Number of pages (including this transmittal sheet): *10*

REMARKS: *See attached information.*

THE DOCUMENTS ACCOMPANYING THIS TELECOPY TRANSMISSION MAY CONTAIN SENSITIVE INFORMATION WHICH IS PRIVILEGED. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE RECIPIENT. IF YOU HAVE RECEIVED THIS TELECOPY IN ERROR, PLEASE IMMEDIATELY NOTIFY SENDER BY TELEPHONE TO ARRANGE FOR RETURN OF THE ORIGINAL DOCUMENTS TO THE SENDER.

FIPC-411
April 2004



AZ-HOPKINS 000000146

INTERVIEW OF JANET M. HOPKINS

On 26 Oct 2007, Janet M. Hopkins, Contract Investigator to the Office of Personnel Management (OPM), residing at 10214 E. Calle Estrella Polar, Tucson, AZ 85747 was interviewed at 6245 E. Broadway Blvd, Suite 580, Tucson, AZ 85711 concerning her possible misuse of her official OPM badge and credentials.

Hopkins was advised of the Privacy of 1974 and Title 18 U.S. Code, Section 1001 and was placed under Oath before the interview started. Subject was asked if she understood what Title 18 meant. She explained what it meant and what the penalties were. Hopkins was advised that there was a complaint concerning her misuse of her official badge and credential. She was asked if she was aware of the complaint and she stated that her District Manager Penny briefed her on the complaint. Hopkins provided the following explanation of what occurred when she presented her badge and credentials to Cecilia Soto at the University of Arizona Police Department (UAPD) on 19 Sep 2007.

Hopkins went to the UAPD to conduct a records check on a Subject with the last name [REDACTED]. She provided a signed release from [REDACTED] to Soto and sat down and waited in the lobby while Soto checked the records. Hopkins claimed that Soto called her to the window and gave her a record on [REDACTED]. Hopkins when asked why she did not include the record in her report explained that somehow she had misplaced, lost or shredded the record. Hopkins was unable to describe anything about the record other than she thought it was something minor. Hopkins stated she did not include the record in her report because she no longer had the information and just assumed that investigator Brock from her office would get the information and include it in his report. Hopkins indicated that she was a member of a tiger team that took a block of work and divided it up between three people in the office at the beginning of the month and each person took the part that was associated with their residence area. Brock was assigned all the local agency checks (LAC) and Hopkins was responsible for a lot of the field work because it was close to where she resides. Hopkins when asked why she went to the UAPD to get the record when Brock was doing all LACs first stated, I offered to obtain the record for Brock then later stated that she just decided to get the record herself. Hopkins stated that Brock had informed the team later in the month that there was a hit at the Tucson Police Department (TPD) or Pima County Sheriff's Office for [REDACTED] that showed there was a record at the UAPD. Hopkins claimed that after she received the record on [REDACTED] she informed Soto that she needed another record but that this was not for OPM. Hopkins stated that Soto look at her as if to say where is the release and she informed Soto that this was something separate. Hopkins indicated that Soto told her to complete a public records request which she did and after a few minutes Soto told her it was an active investigation and she could not release the record. Hopkins asked a couple more questions then left the UAPD. When asked if she ever informed Soto that this record was concerning her own [REDACTED] Hopkins stated, no because she did not feel that they needed to know that information. Hopkins was asked why she happened to go to get the record on [REDACTED] on 19 Sep 2007 the day after her [REDACTED] requested the same record and was told he could not get it because it was an active investigation. Hopkins claimed she did not know that her [REDACTED] attempted to obtain the same information. Hopkins then stated he has a

6/16/07

right to get the report right? There is nothing wrong with that is there? Hopkins claimed she found out about her [REDACTED] arrest the same day that she happened to be going to the UAPD. When asked when her [REDACTED] was arrested Hopkins advised the weekend prior to 19 Sep maybe Sunday. When confronted with the fact that UAPD personnel indicated there was a no record on [REDACTED] on 19 Sep 07 Hopkins stated "that's a lie". Hopkins volunteered that she could not believe Soto went to all that trouble to file a complaint. When asked how she knew who filed a complaint Hopkins stated her District Manager went over the complaint with her. When asked how she wrote the statement that you submitted to her district manager Hopkins advised from memory, what I recalled.

Hopkins then contacted a friend that called the UAPD and spoke with one of the detectives. The friend then contacted Hopkins and informed her that the investigation on her [REDACTED] was complete and the record was available. Hopkins then returned to the UAPD the same day or the next day but did not specify the date and approached the window. Hopkins emphasized that she was professionally dressed as usual but did not have her credentials, releases or any thing that would indicate this was official business. When asked if she identified herself when she walked up to the window Hopkins indicated no because they know me from coming in all the time. Hopkins stated that a male clerk named Brian gave her a Public record request form to complete again. Hopkins completed the form then provided it to Brian and after a few minutes she was told it was an active investigation and that records could not be released. Hopkins advised that she informed Brian that she was told that the investigation was complete and that the record was available. Brian then located a detective.

Hopkins was then contacted by Detective Martin Ramirez in the lobby and taken to a private room. When asked if she identified herself to Detective Ramirez Hopkins stated, no, the detective asked for my ID. When asked if she informed the detective that she was attempting to obtain a report concerning her [REDACTED] she stated no. When detective Ramirez asked if I was his [REDACTED] I stated yes. Hopkins advised that Ramirez explained to her that her [REDACTED] was 19 and not a minor and that she should allow her [REDACTED] to handle the situation. Hopkins advised that Ramirez would not tell her much but she continued to ask questions. Hopkins asked Ramirez what charge would be levied against a person that pushed another person. Hopkins stated she asked the question because her [REDACTED] had told her he had pushed someone and that was why he was arrested. Hopkins explained when Ramirez assumed she was referring to her [REDACTED] she corrected him and told him it was bad idea to assume things and that she was just asking a hypothetical question. Hopkins informed Ramirez that she and her husband may consult an attorney. Ramirez requested her husband's full name to include his middle initial and was told he had no middle initial. Ramirez requested her husband's date of birth and was told he did not need that. When asked for her husband's phone number Hopkins stated it is the same as mine. Hopkins admitted she may have been a little aggressive toward Ramirez. Hopkins re-emphasized that during her second visit she did not show her credentials or identify herself as an investigator. Hopkins volunteered that she could not understand why Ramirez filed a complaint against her because she had never met him prior to that day. Hopkins commented that she hoped he did not have some vendetta against her. Hopkins

admitted that she may have been a little aggressive and was seen as confrontational toward Ramirez.

Hopkins agreed that she now knows that police departments will not release records concerning an ongoing investigation but did not know that back on 19 Sep 07. When asked since your [REDACTED] attempted to get records on his arrest on 18 Sep and then you tried on the 19 Sep and again on 21 Sep 07 why did your husband attempt to get the records a forth time on 15 Oct 07? Hopkins stated I knew they did not release and why but I thought maybe my husband would have better luck because they would not release it to me and I wanted that information. Hopkins admitted that she sent her husband in to UAPD after the complaint was filed against her.

LBK

Subject when asked why she interviewed her daughter on the [REDACTED] case advised that she interviewed her daughter because she was unable to locate and interview any additional social sources. The PRSI agent did not provide any additional sources so she interviewed her daughter as a last resort. Hopkins advised she was unable to locate any additional sources through the sources that she did interview. The one source that was provided during the course of her investigation never returned her calls. Hopkins emphasized that she has been an investigator for over five years and she knows the Investigators Handbook and there is nothing in the handbook that prohibits an investigator from interviewing a relative as a source on an investigation. The handbook only prohibits an investigator from conducting an investigation on a relative. Hopkins stated she sees no problem with interviewing a relative as a source.

Hopkins toward the end of her interview stated I thought by filling out the public request that it was clear that it was not an official request but admitted there was room for confusion. Hopkins again stated "Soto is saying I never received a report she is lying because I can prove it." I have a release that is stamped completed on the bottom." When I go to do a check at UAPD they always stamp completed on the bottom of the release and indicate when there is no record. The release I have has the completion stamp but does not indicate no record. Hopkins again stated that the reason she did not include the record in her report was because of all the confusion of paperwork with so much from two different jobs on her desk together. Hopkins stated she thought Brock would get the record. Hopkins commented that it was not a big deal when she was suspended because she has other work to do for USIS that is not for OPM. Hopkins advised she was suspended from working on OPM cases and she was taken off the [REDACTED] case. Hopkins stated that her District Manager Penny sent Investigator Brock back down to UAPD to obtain the same record which proves she received the record on 19 Sep 07. When informed that all that proves was that Brock received the record on 12 Oct 27. Hopkins stated they are lying. Hopkins volunteered that when her District Manager Penny asked Will Brock if he recalled telling Hopkins about the hit at UAPD he stated that he vaguely recalled doing that. Hopkins volunteered that the [REDACTED] case was being re-worked and they were able to find references when she was unable to do so.

LBK

Hopkins volunteered that she has been an investigator for five and one half years and always professional and has never used her credentials for personal benefit but does regret asking for a personal record after completing an OPM check.

Investigator 1992 was present during the interview.

INTERVIEWS OF UAPD PERSONNEL

On 18 Oct 2007, Luis Puig, Operations Support Coordinator at UAPD was interviewed concerning an incident that occurred on 19 Sep 2007 when a contract investigator came in to do a records check on a [REDACTED]. Puig provided the following information. (b)(6)

Puig advised that he is the supervisor over the records section at UAPD. Puig indicated that he was not present the day that the incident occurred. He became aware of it when Celia Soto submitted a report to him on what took place on 19 Sep. No record was found concerning [REDACTED] because Soto went into the wrong system which only has records up to the year 2000. Puig advised that the investigator was told there was no record. Puig explained that one system was when they reported everything through the Pima County Sheriff Office (PCSO), Tucson, AZ and the newer system they report everything through the TPD. The two systems are basically the same but have a different names but one only goes to the year 2000. Puig advised that he personally completed a records check on 12 Oct 2007 for William Brock from the U.S. Office of Personnel Management and provided a record on case [REDACTED] concerning [REDACTED]. Puig explained that when ever his people in the records section go into the system to do a police check they will see not only what UAPD has handled in the department but what the TPD and the PCSO also have. UAPD only releases information concerning what was generated at UAPD. (b)(6)

Puig opined that he personally has no problem with an agent or investigator coming in and doing a records check on official business and then requesting personal information while they are there. Puig explained that the individual agencies that the investigator represents may have an internal prohibition against that practice. Puig advised that doing this incident the records personnel became suspicious when the investigator had no release for the requested information and the investigator's last name was the same as the person that she was requesting the record on. Puig when asked if anyone coming in could request a record on anybody he stated yes if it is a closed case. They are required to fully complete the public record request and when and if the case is closed that record will be released to the requestor. Puig explained that often times the report has sections or names that have been redacted to protect the people involved from being harmed. Puig advised that as a result of this incident he has requested that the all record personnel request a business card from all agents or investigators when they request police checks.

On 25 Oct 2007, Martin J. Ramirez, Detective #9319 with the UAPD was interviewed concerning his report provided to the Federal Investigative Services (FIS) concerning the possible misuse of official OPM badge and credentials by Janet M. Hopkins a contract investigator to OPM. Ramirez provided the follow information.

Ramirez advised that on 21 Sep 2007 he was contacted by Celia Soto from the UAPD records asking him for assistance concerning a woman in the lobby who had identified herself as a federal background investigator with a bi-fold wallet with federal

identification and badge, and was requesting copies of an active case. Ramirez commented that Soto felt the lady was using her authority to obtain case information on a family member. Soto made Ramirez aware of the investigators first visit on 19 Sep 2007 when she requested copies of the record from the same active investigation. Hopkins was told on 19 Sep and on 21 Sep that she could not have the case information on an active investigation. Soto indicated that Hopkins informed her that she was told the investigation was complete and she could obtain the report. Ramirez stated that the detective working the case was Steven Mendoza and he was not in the office when Hopkins came in on 21 Sep 2007 so he came out to talk with Hopkins. When asked if Hopkins identified herself with her badge and credentials on 19 Sep and 21 Sep Ramirez stated his understanding was that she did on 19 Sep but not on 21 Sep. Ramirez further explained that after Hopkins was told [REDACTED] had not had any contact with UAPD on 19 Sep she then requested case information on a person called [REDACTED]. Hopkins was requested to complete a public record request because she did not have a release of information. Hopkins provided the form a short time later and was informed that no information could be released because it was an active investigation. Ramirez advised that the public request form included her name as Jan Hopkins and [REDACTED] Social Security Number and Date of Birth at the top of the form and she left everything else blank.

(b)(6)

Ramirez advised he met Hopkins in the lobby and they went into a private room to speak. When asked if she identified herself with her badge and credentials Ramirez stated no. Ramirez advised that she never introduced herself or offered any kind of identification. Hopkins was then asked for her driver's license and then after observing that she had the same last name as Soto had mentioned earlier Ramirez asked Hopkins if she was [REDACTED] and she said yes. Ramirez advised that he tried to explain that her [REDACTED] was nineteen and not a minor and that he could not talk to her without her [REDACTED] permission. Hopkins then stated if you have his permission then you can release the information. Ramirez stated no, if you [REDACTED] gives his permission then I can discuss what was said to your [REDACTED]. We can not release the reports or discuss specifics about an active investigation. Ramirez advised that Hopkins stated "can I try to obtain this information from you or do we have to go to court to obtain it?" Ramirez stated that he took that as a threat because he refused to release the information. Ramirez commented that Hopkins indicated that she and her husband may consult an attorney. Ramirez advised Hopkins that their attorney would be able to obtain all the reports through the County Attorneys Office when the investigation was concluded. Ramirez commented that Hopkins stated "pushing someone is much different than what he is being charged with." Ramirez stated that he felt Hopkins was inferring that the UAPD was going after her [REDACTED]. He requested contact information from Hopkins to include address and telephone and volunteered to contact her husband if she wanted. Ramirez advised that Hopkins refused to provide any information other than her telephone number and stated he could contact her husband through her.

(b)(6)

Ramirez advised after he had been asked for assistance by Celia Soto and spoken with Janet Hopkins he made a follow up phone call to Mark Deangelis at the Office of

Personnel Management. After discussing the situation with Mr. Deangelis he requested that UAPD document the incident with Hopkins and forward the information for review. Ramirez commented that during the process of providing details concerning the incident on 19 Sep and 21 Sep 2007 he was informed that [REDACTED] of Janet Hopkins had also made a public records request on 18 Sep 2007 to obtain the same information that his [REDACTED] was told she could not have [REDACTED] was also informed that he could not obtain the information on the active investigation. Ramirez stated that since the UAPD provided documentation concerning the incident with Hopkins her husband came in and completed a public record request and attempt to receive the same information that the other family members had asked for on three occasions.

(b)(6)

On 25 Oct 2007, Celia Soto 0110, Office Specialist Senior, UAPD was interviewed concerning a possible misuse of official OPM badge and Credentials by Janet Hopkins a Contract Investigator to OPM. Soto provided the following information.

Soto stated that on 19 Sep 2005 a black female nicely dressed and now known as Janet Hopkins came into UAPD and requested a records check on [REDACTED]. She presented her credentials and provided a release of information. After completing the request Hopkins indicated she needed a copy of a citation on a different individual that had been arrested over the weekend. Soto advised at no time did Hopkins separate the official request from her personal request. She never indicated what her relationship was with the person, but referred to the person (now known as her [REDACTED] as needing to know what he was being charged with because he is going to court soon. Hopkins was asked to complete a records request form because she did not have a release. After a few minutes Hopkins returned to the window with the form. She had written in the person's name, date of birth and social security number. Soto advised at the time she felt something was odd because Hopkins had stated that all she had was the person name and when the incident occurred. She never signed the form or provided any contact telephone number. Hopkins was informed that it was an active case and no information could be released. Soto commented that when she attempted to obtain more information Hopkins left the building. Hopkins left the building in such a hurry that she did not even take the time to get the results of her first police check, which was a no record.

(b)(6)

On 25 Oct 2007, Sarah Gutierrez, 9143, Records Section Team Leader at UAPD was interviewed concerning an incident that occurred on 21 Sep 2007 when Hopkins came to UAPD and requested a public record. She was requested to complete a second public record request. Hopkins completed the request form but only included her name, case number and date of incident and indicated she was representing [REDACTED]. She did sign the form but did not provide any contact information to include address and telephone number which was requested on the form. Hopkins was informed that it was an active case and that no information could be released. Hopkins advised that she was told the investigation was complete and that she could obtain a copy of the record. On 21 Sep the UAPD did not know for sure what Hopkins relationship was to the person in the

(b)(6)

record but felt she was related in some way. Gutierrez advised that she knew that Hopkins had come in before to request the same record because as Team leader she was consulted as to whether the record could be released the first time. Hopkins never ID herself at all and had to be asked who she was so the detective could be told she was waiting in the lobby.

Exhibit M

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

JANET HOPKINS,)
)
Plaintiff,)
)
vs.)
)
STATE OF ARIZONA BOARD OF REGENTS,)
MARTIN J. RAMIREZ and JANE DOE)
RAMIREZ, husband and wife, CECILIA)
SOTO and JOHN DOE SOTO,)
)
Defendants.)

No. C2008-6484

DEPOSITION OF CELIA SOTO
Tucson, Arizona
June 23, 2009

CERTIFIED COPY

RAYNBO COURT REPORTING, LTD.
3625 West Gailey Drive
Tucson, Arizona 85741
520/744-2293

Reported by: Raynbo Silva, RPR, CR, CSR
Certified Reporter No. 50014

50

1 A. Yes.

2 Q. Do you know what this case is all about?

3 A. Yes.

4 Q. So you know that the incidents and events related to this case occurred in or around September of 2007, correct?

5 A. Yes.

6 Q. So I'm asking you before September of 2007 had you seen Ms. Hopkins? As part of your daily duties have you seen her coming to your window requesting documents before?

7 A. I don't remember. We get a lot of people. We get regulars, and she might have come in a few times, but I don't remember. I'm not the only one that does background checks between the three of us. Then we, we all did them. You know, they're there for a few minutes. A person comes up to the window, shows her credentials, explains what they're doing. They fill out -- they give you the form. I say okay, it will be a few minutes. I go back to my work area. I fulfill the background check. I go back and give the form and say yes, I found something on the individual or no, I don't.

21 We have contact for a minute, a contact that we have -- I can't even tell you if -- I don't remember if I had any contact prior to the date.

24 Q. So your testimony here under oath is that before

51

1 Q. She didn't go back to sit down?

2 A. I don't remember. She could have, but I don't remember. I'm assuming she stayed at the window. I don't know.

3 Q. Okay.

4 A. Went to my work area. I did the background investigation on this individual.

7 Q. Who is this individual?

8 A. I don't remember the person that she was doing the background check at that time. I don't remember who that person was. So there was no contact. We had nothing on him.

12 I go and explain there was no contact, and I gave the form back. And she might have -- I don't remember if I gave my business card or I gave them my name and badge number. I mean it's been a year and a half, so I don't remember what exactly I did. That's a procedure that I would have done.

19 Q. Uh-huh.

20 A. Then she said after fulfilling this she said she had -- she wanted a citation on a different individual. All she had was the name and date of birth, if she could get a copy of a citation. And I -- it took me back a little bit because nobody has ever -- nobody has ever come up and asked for that during a background investigation for a specific

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1 September of 2007 you did not have contact with Ms. Hopkins?

2 A. I don't remember having contact.

3 Q. And you do not remember her coming with some other investigators and introducing these investigators to you?

4 A. I don't remember. She could have. I just do not remember.

5 Q. Do you remember when she went to the UAPD on September 17, 2000 -- no, 19, 2007?

6 A. Yes.

7 Q. That day you do remember?

8 A. Yes, I do.

9 Q. But you don't remember seeing her before?

10 A. No, I didn't recognize -- I don't remember.

11 Q. Explain to me what happened that day, September 19, 2007.

12 A. Well, the individual -- she -- the background investigator came up to the window, and she flashed her credentials, and she said that she was here for a background check and she had an authorization release form for an individual.

19 So I viewed it. And then I said okay, it will be a few minutes. Go back to my work area.

22 Q. What did Janet do after you said it's going to be a few minutes?

23 A. Said okay. She stayed there at the window.

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1 individual citation.

2 So I asked Sarah Gutierrez if I can do that. And she says, well, you can't run the names, but if there is a citation, you can look up the number, you can look up the name, then go by their, if there is a case report number attached to it, which on the citation there is a case, there's a slot where they put a case report number, I could pull the case and see if it's active or inactive.

8 Inactive means it's closed, it's ready for release if somebody is requesting it.

10 If it's an active report, we're not allowed because it's under investigation.

13 And as Sarah Gutierrez as a team leader or lead supervisor in records, she asked me what the name of the individual was, and I said last name was Moses -- no -- Hopkins. And she says Hopkins, and then she mentioned the first name. I didn't recall the name. And she says I think that's a closed -- that's an active case.

18 And so I pulled out the cite and got a case report number and pulled out the report.

20 And I said yeah, you're right, went to the window and said I couldn't fulfill it, I can't release the report, it's an active case.

23 Then she says, well, how is he supposed to -- he has court the next week, how is he supposed to know what his

1 charges are?
 2 And I said, well, the individual was he not there
 3 present at the time of the incident?
 4 And she said yes.
 5 Well, he should have gotten a copy of the citation
 6 and know what his charges are.
 7 And she wanted to speak to somebody and who would
 8 be the detective. And I said I didn't know who the
 9 detective was, she could speak to the sergeant detective.
 10 They were probably reviewing it to see which detective he
 11 would assign it to. I gave her his name, Sergeant Smith, he
 12 could be reached, and I gave dispatch phone number. She
 13 could call there and they can transfer to his voice mail, to
 14 his office to speak to him. If not, leave a message on his
 15 voice mail.
 16 She said okay. And she left.
 17 Q. Well, we'll definitely go into that in detail, but
 18 let me ask you before we continue, this Exhibit 5, and this
 19 is the authorization and release of information that
 20 Ms. Hopkins provided you with on September 19th, 2007;
 21 correct?
 22 A. It could be. I don't remember who that individual
 23 was. That was back in 2007. I don't remember.
 24 Q. According to your testimony you said that you
 25 searched but you did not find anything or did you find

1 MR. SCHMID: Form, foundation.
 2 THE WITNESS: Under this situation, under this
 3 form the complete means we ran -- I did a background check
 4 on this person. Complete means either I found something or
 5 I did not find anything.
 6 On this individual this individual has no -- back
 7 in 2007 had no record. I went and told the investigator
 8 there was no record on this person. I don't remember if
 9 there was another form for me to sign for the investigator
 10 that that person would take with them.
 11 If there was a record found on this individual,
 12 basically what they're looking for if they have been
 13 arrested, there would be an arrest, ARS code. We would give
 14 them -- they would get a copy of it. They would get a copy
 15 of the arrest.
 16 Some investigators -- if it's only a citation,
 17 citations we only keep for three years. After that they are
 18 shredded but we can download them off a different system.
 19 We just write the ARS code, the date depending on what
 20 they're asking for.
 21 But on this situation with this individual I did
 22 not find anything, but I fulfilled in running his name and
 23 doing a background check. That's finding a report or not
 24 finding a report, I did a background check on him.
 25 Q. You remember running a background check?

1 anything and provided her with a record?
 2 A. I'm assuming this is the individual I did a
 3 background. No, I did not find anything.
 4 Q. So why is it that you do not include or write
 5 anywhere on this form no records found?
 6 A. I don't know, I'm sorry. I don't remember.
 7 Q. Because if you would have not found records, you
 8 would have wrote it according to your testimony?
 9 A. Right.
 10 Q. And you would have probably put your initials? Or
 11 are your initials there?
 12 A. That is not -- those are not my initials.
 13 Q. Whose initials are those?
 14 A. It looks like it's cut off, so I'm not sure whose.
 15 I don't know. They're not mine.
 16 Q. So if this is the authorization that she provided
 17 you with and there were no records, you would have noted no
 18 records found?
 19 A. Correct. Yes.
 20 Q. And you don't see that anywhere on this
 21 authorization, correct?
 22 A. Yes. Other than the completed stamp.
 23 Q. So according to what this document is showing it
 24 means that somebody did complete the request and provide a
 25 record?

1 A. Yes.
 2 Q. And you remember not finding something; is that
 3 what you're saying?
 4 A. Yes.
 5 Q. But you did not write no records found?
 6 A. Right.
 7 Q. And it was your practice and standard procedure to
 8 write no records found?
 9 MR. SCHMID: Form.
 10 THE WITNESS: Now we do that. Before you --
 11 stamping completed meant we didn't find any -- if we
 12 found -- if this individual had, we had contact, had been
 13 cited and released, arrested, whatever, and the case is okay
 14 for release and I can give her a copy, and I gave
 15 that copy, I would get a tracking sheet. On the tracking
 16 sheet I would put the date, time, the date and the
 17 individual. In this case it would have been Mrs. Hopkins.
 18 I would put Hopkins and who she's with and my initials, and
 19 this would be attached to the report.
 20 And there would be a log of all the reports that
 21 has been -- of all the people that have requested and been
 22 given this report to.
 23 Back then the completed form was sufficient
 24 enough.
 25 Q. So at UAPD you're saying you didn't include the no

Exhibit N

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The Law Office Of
AWERKAMP & BONILLA, PLC
6891 N. Oracle Rd. Suite 155
Tucson, AZ 85704-4287
(520) 798-5282

Don Awerkamp, SBN 007572
da@abdilaw.com
Ivelisse Bonilla, SBN 023594
ib@abdilaw.com
Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

No. C2008-6484

JANET HOPKINS

Plaintiff,

v.

CIVIL SUBPOENA DUCES TECUM
(Records Only - Appearance
Not Required)

STATE OF ARIZONA BOARD OF
REGENTS, MARTIN J. RAMIREZ
and JANE DOE RAMIREZ, husband
and wife, CECILIA SOTO and JOHN
DOE SOTO,

Defendants.

Assigned to: Hon. Richard Gordon

TO: PIMA COUNTY SHERIFF'S DEPARTMENT
1750 EAST BENSON HIGHWAY
TUCSON, AZ 85714

YOU ARE HEREBY COMMANDED to produce records as follows:

DATE: ON OR BEFORE APRIL 12, 2010

PLACE: AWERKAMP & BONILLA, PLC
6891 N. Oracle Rd. Suite 155
Tucson, AZ 85704-4287

AWERKAMP & BONILLA, PLC

6891 N. Oracle Road, Suite 155
Tucson, Arizona 85704
(520) 798-5282

PIMA COUNTY
SHERIFF'S DEPT.

26 MAR 2010 11:38

RECORDS UNIT

YOU ARE COMMANDED to produce the following:

1. Any and all records or documents, including computer records, showing a history of searches or queries performed by any employee of the University of Arizona Police Department on the Spillman System from September 19, 2007 through September 21, 2007, using any of the following names, or part of these names: Anthony Jake Merriman, Edward Hopkins, Moses Hopkins, Janet Hopkins.
2. Any and all records or documents, including computer records, responsive to the searches or queries referenced in request number 1, including but not limited to any messages containing information on what the System found or did not find.

Records are to be mailed or delivered - attendance is not necessary in order to satisfy the requirements of this subpoena.

Your Duties in Responding to This Subpoena

You have the duty to produce the documents requested as they are kept by you in the usual course of business, or you may organize the documents and label them to correspond with the categories set forth in this subpoena. See Rule 45(d)(1) of the Arizona Rules of Civil Procedure.

If this subpoena asks you to produce and permit inspection and copying of designated books, papers, documents, tangible things or the inspection of premisses, you need not appear to produce the items unless the subpoena states that you must appear for a deposition, hearing or trial. See Rule 45(c)(2)(A) of the Arizona Rules of Civil Procedure.

Your Right To Object

The party or attorney serving the subpoena has a duty to take reasonable steps to avoid imposing an undue burden or expense on you. The Superior Court enforces this duty and may impose sanctions upon the party or attorney serving the subpoena if this duty is breached. See Rule 45(c)(1) of the Arizona Rules of Civil Procedure.

You may object to this subpoena if you feel that you should not be required to respond to the requests made. Any objection to this subpoena must be made within 14 days after it is served upon you, or before the time specified for compliance, by providing a written objection to the party or attorney serving the subpoena. See Rule 45(c)(2)(B) of the Arizona Rules of Civil Procedure.

1 If you object because you claim the information requested is privileged or subject
2 to protection as trial preparation material, you must express the objection clearly, and
3 support each objection with a description of the nature of the document, communication
4 or item not produced so that the demanding party can contest the claim. See Rule
5 45(d)(2) of the Arizona Rules of Civil Procedure.

~~4 If you object to the subpoena in writing, you do not need to comply with the
5 subpoena until a court orders you to do so. It will be up to the party or attorney serving
6 the subpoena to seek an order from the court to compel you to provide the documents or
7 inspection requested, after providing notice to you. See Rule 45(c)(2)(B) of the Arizona
8 Rules of Civil Procedure.~~

8 If you are not a party to the litigation, or an officer of a party, the court will issue
9 an order to protect you from any significant expense resulting from the inspection and
10 copying commanded. See Rule 45(c)(2)(B) of the Arizona Rules of Civil Procedure.

10 You may also file a motion in the superior court of the county in which the case is
11 pending to quash or modify the subpoena if the subpoena:

- 12 (i) does not provide a reasonable time for compliance;
- 13 (ii) requires a non-party or officer of a party to travel to a county different from
14 the county where the person resides or does business in person; or to travel
15 to a county different from where the subpoena was served; or to travel to a
16 place further than 40 miles from the place of service or to travel to a place
17 different from any other convenient place fixed by an order of a court,
18 except that a subpoena for you to appear and testify at trial can command
19 you to travel from any place within the state;
- 20 (iii) requires the disclosure of privileged or protected information and nowaiver
21 or exception applies; or
- 22 (iv) subjects you to an undue burden. See Rules 45(c)(3)(A) of the Arizona
23 Rules of Civil Procedure.

24 If this subpoena:

- 25 (i) requires disclosure of a trade secret or other confidential research,
26 development, or commercial trade information; or
- (ii) requires disclosure of an unretained expert's opinion or information not
describing specific events or occurrences in dispute and resulting from the
expert's study made not at the request of any party; or

AWERKAMP & BONILLA, PLC
6891 N. Oracle Road, Suite 155
Tucson, Arizona 85704
(520) 798-5282

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(iii) requires a person who is not a party or an officer of a party to incur substantial travel expenses,

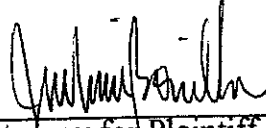
The Court may either quash or modify the subpoena, or the court may order you to appear or produce documents only upon specified conditions, if the party who served the subpoena shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that you will be reasonably compensated. See Rule 45(c)(3)(B) of the Arizona Rules of Civil Procedure.

REQUESTS FOR REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES MUST BE MADE TO THE COURT BY PARTIES AT LEAST 3 WORKING DAYS IN ADVANCE OF A SCHEDULED COURT PROCEEDING.

YOU ARE HEREBY NOTIFIED THAT ANY FAILURE TO OBEY THIS SUBPOENA WITHOUT ADEQUATE EXCUSE MAY BE DEEMED CONTEMPT OF THIS COURT.

You have been subpoenaed by Plaintiff, whose attorney's name, address and telephone number appear below.

DATED: MAR 24 2010
CLERK OF THE SUPERIOR COURT
PATRICIA A. NOLAND
SEAL
By: Michael Muske
Deputy Clerk
COURT



Attorney for Plaintiff
Party requesting subpoena

Attorney's Name, Address, Phone:
Ivelisse Bonilla
AWERKAMP & BONILLA, PLC
6891 N. Oracle Rd. Suite 155
Tucson, AZ 85704-4287
(520) 798-5282

Exhibit O



Pima County Sheriff's Department

1750 E. Benson Highway • Tucson, AZ 85714-1758
Phone 520-351-4600 • Facsimile 520-351-4622
www.pimasheriff.org

Clarence W. Dupnik
Sheriff

Keeping the Peace and Serving the Community Since 1865

March 26, 2010

I declare that the following statements are true:

1. That I am the duly authorized Custodian of Records for the Pima County Sheriff's Department and that I have the authority to certify said records.
2. That I have fully disclosed all records or documents including computer records, showing a history of searches or queries by any employee of the University of Arizona Police Department on the Spillman System from September 19, 2007 through September 21, 2007, using any of the following names, or part of these names: Anthony Jake Merriam, Edward Hopkins, Moses Hopkins, Janet Hopkins.

Anthony Stevens
Custodian of Law Enforcement Records
Records Maintenance Unit

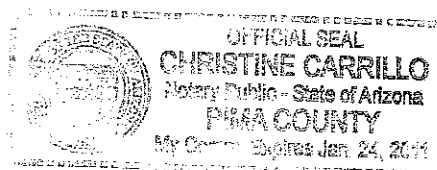
STATE OF ARIZONA)
County of Pima)

SUBSCRIBED AND SWORN to before me this 26th day of March, 2010

Christine Carrillo Gallego
Notary Public

My Commission Expires.

January 24, 2011



03/26/10
11:07

sylog_2007
Pima County Sheriff's Department

Page: 6403
1

SYSTEM LOG TABLE:

User ID	Terminal Name	Table being accessed	M	Time of access
csoto	192.168.1.19	nmmain	I	14:00:47 09/19/2007

PRIMARY KEY FIELDS AND VALUES
nmmain.number : 1070265

ACCESS INFORMATION

Parent:0
Sequence:2
Relationship:Arrested
Current record type:jmmain
Current record ID: 1070265
Involved record type:jmmain
Involved record ID:050203038

csoto 192.168.1.19 nmmain

I 14:01:10 09/19/2007

PRIMARY KEY FIELDS AND VALUES
nmmain.number : 1070265

ACCESS INFORMATION

Parent:0
Sequence:2
Relationship:Cancelled
Current record type:wamain
Current record ID: 1070265
Involved record type:wamain
Involved record ID: 314253

csoto 192.168.1.19 nmmain

I 14:01:39 09/19/2007

PRIMARY KEY FIELDS AND VALUES
nmmain.number : 1070265

ACCESS INFORMATION

Parent:0
Sequence:2
Relationship:Defendant
Current record type:ctmain
Current record ID: 1070265
Involved record type:ctmain
Involved record ID: U38336

csoto 192.168.1.19 nmmain

I 14:02:51 09/19/2007

03/26/10
11:07

Pima County Sheriff's Department

Page: 6403
2

PRIMARY KEY FIELDS AND VALUES

nmmain.number : 1070265

sylog_2007

ACCESS INFORMATION

Parent:0
Sequence:2
Relationship:Defendant
Current record type:ctmain
Current record ID: 1070265
Involved record type:ctmain
Involved record ID: 447915

csoto 192.168.1.19 nmmain

I 14:03:16 09/19/2007

PRIMARY KEY FIELDS AND VALUES
nmmain.number : 1070265

ACCESS INFORMATION

Parent:0
Sequence:2
Relationship:Arrested
Current record type:jmmain
Current record ID: 1070265
Involved record type:jmmain
Involved record ID:050203038

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11:12

Pima County Sheriff's Department

6403
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Page:

SYSTEM LOG TABLE:

User ID	Terminal Name	Table being accessed	M	Time of access
csoto	192.168.1.19	nmmain	I	14:05:23 09/19/2007

PRIMARY KEY FIELDS AND VALUES
nmmain.number : 1070450

ACCESS INFORMATION

Parent:0
Sequence:2
Relationship:Arrested
Current record type:jmmain
Current record ID: 1070450
Involved record type:jmmain
Involved record ID:070915030

bosulliv 192.168.1.22 nmmain

I 09:52:00 09/21/2007

PRIMARY KEY FIELDS AND VALUES
nmmain.number : 1070450

ACCESS INFORMATION

Parent:0
Sequence:2
Relationship:Defendant
Current record type:ctmain
Current record ID: 1070450
Involved record type:ctmain
Involved record ID: U32443

bosulliv 192.168.1.22 nmmain

I 09:52:16 09/21/2007

sylog_2007

PRIMARY KEY FIELDS AND VALUES
nmmain.number : 1070450

ACCESS INFORMATION

Parent:0
Sequence:2
Relationship:Arrested
Current record type:jmmain
Current record ID: 1070450
Involved record type:jmmain
Involved record ID:070915030

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Exhibit P

9.17.10

SEP 17 2010

ARIZONA SUPERIOR COURT, PIMA COUNTY 17 SEP 17 AM 8:56

HON. RICHARD E. GORDON
JUDGE

CASE NO. C-20086484

BY: R. ST. GERMAINE, DEPUTY

DATE: September 16, 2010

JANET HOPKINS,
Plaintiff,

VS.

STATE OF ARIZONA BOARD
OF REGENTS, et al.,
Defendants.

ORDER

IN CHAMBERS

The current lawsuit involves claims of defamation and tortious interference with contract. Pending before the Court is Defendants' Motion for Summary Judgment. A hearing was held on August 25, 2010, and the motion was taken under advisement on August 26, 2010. For the following reasons, the Court will grant the motion in part and deny the motion in part.

A. Standard

Summary judgment should be granted only where the moving party demonstrates that "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Ariz. R. Civ. P. 56(c). All facts and inferences to be drawn from the facts are to be construed in favor of the non-moving party, in this case Plaintiff. *Orme School v. Reeves*, 166 Ariz. 301, 309-10, 802 P.2d 1000, 1008-09 (1990). "[I]f undisputed material facts give rise to factual inferences over which reasonable minds could differ, summary judgment is not proper." *Scottsdale Jaycees v. Superior Court of Maricopa County*, 17 Ariz. App. 571, 574, 499 P.2d 185, 188 (1972).

B. Background

This case arises out of Plaintiff's attempts to retrieve documents from the University of Arizona Police Department ("UAPD") concerning her son who had been charged with assault. At the time, Plaintiff was working under a contract with U.S. Investigative Services ("USIS") and, as part of her duties, she conducted background investigations for the United States Office of Personnel Management ("OPM").

Mary Dimond
Judicial Administrative Assistant

ORDER

On September 19, 2007, while on USIS official business, Plaintiff requested UAPD records from Defendant Cecilia Soto concerning an "A. Merriman." Plaintiff was conducting a background investigation of Merriman for OPM. The parties dispute whether Plaintiff actually received any record for Merriman; Plaintiff says yes and Defendants say no.

In addition to asking about Merriman, Plaintiff also asked Soto for an arrest record for her son, Moses Hopkins. Plaintiff, however, did not then disclose that she was Moses' mother. Instead, Plaintiff put her credentials away and said that the request was "separate" from her OPM business. Plaintiff was told that her son's records were unavailable because the case was active.

On September 21, 2007, Plaintiff returned to UAPD and again requested Moses Hopkins' records. Plaintiff did not have her credentials with her on this occasion. Plaintiff again was told that the records were unavailable, this time by UAPD employee Brain O'Sullivan. Plaintiff privately spoke with Defendant Martin Ramirez and, when asked, she told Ramirez that she was Moses' mother. Plaintiff felt that Ramirez mistreated her based on her family's race. Plaintiff was "furious." Plaintiff later left a message on Ramirez' phone stating that she was going to file a complaint against him. Ramirez denies receiving such a message.

At some point, UPAD officials became suspicious that Plaintiff might have misused her credentials for private purposes. Ramirez and Soto wrote reports. Both USIS and OPM conducted an investigation.

USIS initially recommended no disciplinary action. In contrast, OPM decided that it no longer wanted Plaintiff working on its contract with USIS. OPM informed Plaintiff that the reason for its decision was that she had abused her credentials at the UAPD. There is evidence, however, that OPM also believed that Plaintiff had committed other misconduct not directly related to the incidents involving UAPD. An OPM representative testified that it would have reached the same decision even without the UAPD/credentials issue, although the credential issue was part of OPM's evaluation. USIS thereafter terminated Plaintiff.

C. Defamation

1. Substantial truth

Defendants first argue that the information provided to USIS and OPM was substantially true and, thus, is not actionable defamation. *See Fendler v. Phoenix Newspapers, Inc.*, 130 Ariz. 475, 478-80, 636 P.2d 1257, 1260-62 (App. 1981). Where, however, there is a dispute over the facts underlying the defense of substantial truth, summary judgment is improper. *See id.*, 130 Ariz. at 479-80, 636 P.2d at 1261-62. Here, there are disputed facts, which are material, that need to be resolved by a jury.

Mary Dimond
Judicial Administrative Assistant

ORDER

For example, Martin Ramirez reported that there was no record of a contact with UAPD for Merriman, while Plaintiff claims that she actually received the Merriman record from Cecilia Soto on September 19, 2007. The absence of any record for Merriman, if true, would suggest that Plaintiff from the beginning sought only her son's records and that her search for the supposedly non-existent Merriman record was a pretext. If Plaintiff is correct, a jury could find that Ramirez lied about the absence of the Merriman record to bolster his claim of Plaintiff's misconduct.

Additionally, Martin Ramirez reported that Cecilia Soto approached him and described her September 19, 2007, encounter with Plaintiff. According to Ramirez, Soto told him that she "felt [Plaintiff] was using her authority to obtain case information reference a family member," said that Soto was "very suspicious," and thought it was "awkward" that Plaintiff had not fully completed the request form. The record supports, however, that Soto's suspicions were not significantly aroused in her initial (and only) contact with Plaintiff. It was only later, on September 21, 2007, that Soto questioned the event, and only after another employee raised the issue with her. A jury might reasonably conclude that Ramirez purposefully made it appear that the misconduct was more serious than it really was – and patent from the start – again to bolster Ramirez' claim of Plaintiff's misconduct.

Finally, there is a dispute as to whether Plaintiff threatened to complain about Ramirez' treatment of her based on race. If true, this would provide context as to why Ramirez would want to preemptively discredit Plaintiff and present false and/or exaggerated statements in his report.

Martin Ramirez' statement in his report that Merriman had no contact with UAPD and his description of Cecilia Soto's suspicions, including the timing of her suspicions, are potentially important matters. Such inaccuracies, if true, were significant to Plaintiff's reputation which, of course, "is the interest protected by an action for defamation." *Felder*, 130 Ariz. at 480, 636 P.2d at 1262. A jury might find the substantial truth defense inapplicable if it finds that these statements were untrue. The Court will not grant summary judgment on this basis.

2. Opinion

Defendants also argue that their statements are not actionable because they were just opinion. *See Glaze v. Marcus*, 151 Ariz. 538, 540, 729 P.2d 342, 344 (App. 1996). According to Defendants, UAPD carefully avoided any direct accusation of wrongdoing. Whether the Merriman record existed and when and how Soto's suspicions were aroused, however, are provable factual matters. *See Miller v. Servicemaster by Rees*, 174 Ariz. 518, 520, 851 P.2d 143, 145 (App. 1994) (relevant question is whether statement makes or implies a provable

Mary Dimond
Judicial Administrative Assistant

ORDER

assertion of fact); *see also Turner v. Devlin*, 174 Ariz. 201, 206-07, 848 P.2d 286, 291-92 (1993) (addressing in constitutional context what statements are opinion as opposed to provable facts). Defendants, moreover, were not complaining that Plaintiff had caused confusion or that she merely created an appearance of impropriety. Because the essence of Defendants' communication was that Plaintiff was, in fact, abusing her credentials in some manner, Plaintiff's admission that there may have been some confusion is not dispositive. Whether Plaintiff was abusing her credentials also is provable as being true or false. The Court will not grant summary judgment on this basis.

3. Qualified immunity

Defendants next contend that they are entitled to qualified immunity. The Court agrees. *See Lewis v. Oliver*, 178 Ariz. 330, 335, 873 P.2d 668, 673 (App. 1994) (addressing public interest qualified immunity). Plaintiff, however, may establish abuse of the conditional privilege by showing either (1) actual malice, *i.e.*, knowledge of a statement's falseness or reckless disregard of whether it was true or not; or (2) excessive publication. *Id.*

In this case, a question remains as to whether actual malice exists as to Martin Ramirez. The record shows that Plaintiff threatened to file a potentially serious complaint against Ramirez, apparently based on race. Ramirez was responsible for drafting a report, which at least arguably contained false and exaggerated statements of fact about Plaintiff's encounter with Cecilia Soto. From this, a jury might reasonably find that Ramirez knew what he was saying was false and that the privilege did not apply to him.

The record, however, does not show an adequate basis for disallowing the immunity as to Cecilia Soto. Preliminarily, it is unclear what statements made by Soto Plaintiff claims were defamatory. In any event, all that can be said is that Soto did not retain a copy of the request form that Plaintiff used on September 19, 2007, in connection with her son. Other than from sheer speculation, there is no evidence from which a jury might reasonably conclude that she destroyed the form purposefully, and there is no apparent reason why she would have done so. *See Badia v. City of Casa Grande*, 195 Ariz. 349, 357 ¶ 29, 988 P.2d 134, 142 (App. 1999). The Court can find no actual malice, or any other basis in the record, from which the qualified immunity afforded to Cecilia Soto could be defeated. The Court will grant summary judgment in favor of Cecilia Soto based on qualified immunity, but will deny the motion as to Martin Ramirez.

D. Tortious Interference with Contract

Defendants argue that Plaintiff's interference with contract claim fails because there is no evidence of a wrongful act. In assessing whether interference is improper, several factors are considered, including the nature

Mary Dimond
Judicial Administrative Assistant

ORDER

of the actor's conduct, the actor's motive, the interests of the other with which the actor's conduct interferes, the interests sought to be advanced by the actor, the social interests in protecting the freedom of action of the actor, the contractual interest of the other, the proximity of the actor's conduct to the interference, and the relations of the parties. *W. Tech., Inc. v. Sverdrup & Parcel, Inc.*, 154 Ariz. 1, 6, 739 P.2d 1318, 1323 (App. 1986). On balance, given the record in this case, the Court finds that a jury might conclude that Martin Ramirez' conduct was improper or wrongful, particularly given the evidence of a potentially ulterior motive. On balance, however, there is no evidence of improper interference by Cecilia Soto. Summary judgment will be granted in Cecilia Soto's favor based on this absence of any evidence supporting an improper interference, but will be denied as to Martin Ramirez.

Defendant next argues that there is no evidence of malicious intent on behalf of Defendants. Even if this was true, malice is not an essential element of this claim. *See Bar J Bar Cattle Co., Inc. v. Pace*, 158 Ariz. 481, 483, 763 P.2d 545, 547 (App. 1988) (setting forth the five elements of intentional interference with contract). In any event, where, as here, a question of fact as to whether an improper motive exists, summary judgment is not appropriate. *See Neonatology Ass'n Ltd. v. Phoenix Perinatal Ass'n, Inc.*, 216 Ariz. 185, 189 ¶ 15, 164 P.3d 691, 695 (App. 2007). Summary judgment will not be granted on this basis.

Defendants next argue that Plaintiff cannot establish knowledge of the pertinent contractual relationship between Plaintiff and USIS. There is evidence in the record, however, that at least Ramirez knew of the relationship. In his report, Ramirez describes his investigation into Plaintiff's status as a contract employee for the government by calling Mark DeAngelis. Summary judgment will not be granted on this basis.

Finally, Defendants argue that Plaintiff cannot establish damages or causation. In essence, Defendants argue that the independent investigations done by OPM and USIS revealed other misconduct which independently justified the termination of her contract with USIS. *See, e.g., Arnold v. IBM Corp.*, 637 F.2d 1350 (9th Cir. 1981); *Bennett v. Computer Assoc. Int'l, Inc.*, 932 S.W.2d 197 (Tex. App. 1996). The Court, however, finds that there is sufficient evidence in the record of causation and damages to allow the case to be tried.

A letter of clarification was written to Plaintiff by OPM indicating that she was removed from working on the OPM contract "for misuse of [her] OPM-issued credentials when on September 19, 2007, [Plaintiff] attempted to utilize said credentials to obtain a copy of a police investigation report regarding [Plaintiff's] son at the University of Arizona Police Department." (Feb. 13, 2008, letter from Lane Rawson, OPM/Contract Oversight Team.) Although Defendants discount the importance of the role that UAPD's accusation had in the

Mary Dimond
Judicial Administrative Assistant

ORDER

termination of Plaintiff's contract with USIS, Ryan Bernardi testified that the credentials issue was part of the "entire picture" in deciding to disallow her from working on the OPM contract. It is undisputed that OPM was USIS' largest client. From this, a jury could reasonably conclude that UAPD's allegedly wrongful accusation of misconduct led, at least in part, to Plaintiff's removal as a qualified OPM provider, which was directly related to USIS terminating her contract altogether.

E. Conclusion


In denying summary judgment, the Court is not commenting on the strengths or weaknesses of either party's case. The most that can be said, at this point, is that a jury must decide disputed material issues of fact. Accordingly, and for the forgoing reasons,

IT IS ORDERED GRANTING Defendants' Motion for Summary Judgment as to Cecilia Soto, aka Celia Soto.

IT IS FURTHER ORDERED DENYING Defendants' Motion for Summary Judgment as to the remainder of the Defendants.

IT IS FURTHER ORDERED that it is the finding of this Court that there is no just reason for delay, Ariz. R. Civ. P. 54(b), and, thus, judgment is entered in favor of Defendant Cecilia Soto, aka Celia Soto, and against Plaintiff and dismissing Cecilia Soto, aka Celia Soto, with prejudice from this lawsuit.

IT IS FURTHER ORDERED setting this matter for a status conference on September 20, 2010, at 9:30 a.m.


HON. RICHARD E GORDON

cc: Donald T. Averkamp, Esq.
Ivelisse Bonilla-Torrado, Esq.
Paul Correa, Esq.
Case Management Services - Civil
Clerk of Court - Under Advisement Clerk

Mary Dimond
Judicial Administrative Assistant

Exhibit Q

WHAT WAS GIVEN

BURDEN OF PROOF MEANS BURDEN OF PERSUASION. ON ANY CLAIM, THE PARTY WHO HAS THE BURDEN OF PROOF MUST PERSUADE YOU, BY THE EVIDENCE, THAT THE CLAIM IS MORE PROBABLY TRUE THAN NOT TRUE. THIS MEANS THAT THE EVIDENCE THAT FAVORS THAT PARTY OUTWEIGHS THE OPPOSING EVIDENCE. IN DETERMINING WHETHER A PARTY HAS MET THIS BURDEN, CONSIDER ALL THE EVIDENCE THAT BEARS ON THAT CLAIM, REGARDLESS OF WHICH PARTY PRODUCED IT.

SOME OF THE CLAIMS IN THIS CASE REQUIRE PROOF BY CLEAR AND CONVINCING EVIDENCE.

A PARTY WHO HAS THE BURDEN OF PROOF BY CLEAR AND CONVINCING EVIDENCE MUST PERSUADE YOU BY THE EVIDENCE THAT THE CLAIM IS HIGHLY PROBABLE. THIS STANDARD IS MORE EXACTING THAN THE STANDARD OF MORE PROBABLY TRUE THAN NOT TRUE, BUT IT IS LESS EXACTING THAN THE STANDARD OF PROOF BEYOND A REASONABLE DOUBT.

YOU ARE TO USE THE STANDARD OF MORE PROBABLY TRUE THAN NOT TRUE FOR ALL CLAIMS IN THIS CASE EXCEPT FOR THOSE ON WHICH YOU ARE SPECIFICALLY INSTRUCTED THAT THE BURDEN OF PROOF IS THE STANDARD OF CLEAR AND CONVINCING EVIDENCE.

IN DETERMINING WHETHER A PARTY HAS MET ANY BURDEN OF PROOF, YOU WILL CONSIDER ALL THE EVIDENCE, WHETHER PRESENTED BY PLAINTIFF OR DEFENDANTS.

THE ARIZONA BOARD OF REGENTS IS RESPONSIBLE FOR THE ACTIONS OF ITS EMPLOYEES, INCLUDING MARTINEZ RAMIREZ, IF THE EMPLOYEE WAS ACTING WITHIN THE SCOPE OF HIS EMPLOYMENT.

IN THIS CASE, THE ARIZONA BOARD OF REGENTS IS RESPONSIBLE FOR THE ACTIONS OF ITS EMPLOYEES, INCLUDING MARTIN RAMIREZ.

IN REACHING YOUR VERDICT, YOU SHOULD NOT CONSIDER OR DISCUSS WHETHER A PARTY WAS OR WAS NOT COVERED BY INSURANCE. INSURANCE OR THE LACK OF INSURANCE HAS NO BEARING ON WHETHER OR NOT A PARTY WAS AT FAULT, OR THE DAMAGES, IF ANY, A PARTY HAS SUFFERED.

IN THIS LAWSUIT, PLAINTIFF, JANET HOPKINS, MAKES TWO CLAIMS AGAINST DEFENDANTS, MARTIN RAMIREZ AND THE ARIZONA BOARD OF REGENTS:

1. DEFENDANTS DEFAMED HER; AND,
2. DEFENDANTS IMPROPERLY INTERFERED WITH THE EMPLOYMENT AGREEMENT SHE HAD WITH U.S. INVESTIGATIONS SERVICES, (“USIS”) AND THE BUSINESS RELATIONSHIP SHE HAD WITH THE FEDERAL OFFICE OF PERSONNEL MANAGEMENT (“OPM”).

TO ESTABLISH HER CLAIM FOR DEFAMATION, PLAINTIFF MUST PROVE ALL OF THE FOLLOWING:

1. MARTIN RAMIREZ MADE A FALSE STATEMENT CONCERNING PLAINTIFF;
2. THE STATEMENT WAS “DEFAMATORY” WHICH MEANS THAT THE STATEMENT ON ITS FACE FALSELY TENDED TO IMPEACH PLAINTIFF’S HONESTY, INTEGRITY, AND REPUTATION, AS THEY PERTAIN TO PLAINTIFF’S TRADE OR PROFESSION;
3. THE STATEMENT WAS PUBLISHED TO A THIRD PARTY; AND
4. PLAINTIFF WAS DAMAGED AS A RESULT OF THE STATEMENT.

IF PLAINTIFF HAS PROVED ELEMENTS 1, 2, AND 3 ABOVE, YOU MAY PRESUME THAT PLAINTIFF SUFFERED DAMAGES AS A RESULT OF THE STATEMENT.

DEFENDANTS ARE LIABLE FOR DEFAMATION ONLY IF PLAINTIFF PROVES THAT MARTIN RAMIREZ KNEW THE STATEMENT AT ISSUE WAS FALSE AND THAT IT DEFAMED PLAINTIFF.

A STATEMENT WHICH IS PURE OPINION, WITHOUT MORE, IS NOT DEFAMATORY. HOWEVER, AN OPINION MAY BE CONSIDERED DEFAMATORY IF IT MAKES OR IMPLIES A PROVABLE ASSERTION OF FACT.

SUBSTANTIAL TRUTH IS AN ABSOLUTE DEFENSE TO A CLAIM OF DEFAMATION, WHICH DEFENDANTS HAVE THE BURDEN OF PROVING. IT IS NOT NECESSARY TO ESTABLISH THE LITERAL TRUTH OF THE PRECISE STATEMENT MADE. SLIGHT INACCURACIES OF EXPRESSIONS ARE IMMATERIAL PROVIDED THAT THE DEFAMATORY CHARGE IS TRUE IN SUBSTANCE.

IF YOU FIND THAT THE STATEMENTS WHICH PLAINTIFF CLAIMS WERE DEFAMATORY WERE SUBSTANTIALLY TRUE, YOU SHOULD FIND FOR THE DEFENDANTS ON THE DEFAMATION CLAIM.

A DEFAMATORY STATEMENT IS CONDITIONALLY PRIVILEGED WHERE IT IS MADE IN FURTHERANCE OF THE PUBLIC INTEREST OF BEING ABLE TO REPORT CONDUCT WHICH IS REASONABLY BELIEVED TO BE WRONGFUL. HOWEVER, THE CONDITIONAL PRIVILEGE DOES NOT APPLY IF THE PRIVILEGE WAS ABUSED.

A PERSON ABUSES THE CONDITIONAL PRIVILEGE IF HE ACTS WITH ACTUAL MALICE OR IF HE EXCESSIVELY PUBLISHES A DEFAMATORY STATEMENT. TO ESTABLISH ACTUAL MALICE OR EXCESSIVE PUBLICATION, PLAINTIFF MUST PROVE BY CLEAR AND CONVINCING ^{EVIDENCE} THAT:

1. DEFENDANT ^{THAT} KNEW ^{WAS} HIS STATEMENT WAS FALSE; OR
2. DEFENDANT ^{THAT} ACTUALLY ENTERTAINED DOUBTS ABOUT THE TRUTH OF THE STATEMENT; OR
3. DEFENDANT ^{THAT} DID NOT MAKE HIS STATEMENT PRIMARILY FOR THE PURPOSE OF FURTHERING THE PUBLIC INTEREST OF BEING ABLE TO REPORT CONDUCT REASONABLY BELIEVED TO BE WRONGFUL.

IF YOU FIND THAT THE CONDITIONAL PRIVILEGE WAS NOT ABUSED, YOU SHOULD FIND IN FAVOR OF THE DEFENDANTS ON BOTH THE DEFAMATION CLAIM AND THE IMPROPER INTERFERENCE WITH EMPLOYMENT AGREEMENT CLAIM.

PLAINTIFF, JANET HOPKINS, CLAIMS THAT DEFENDANTS, THE ARIZONA BOARD OF REGENTS AND MARTIN RAMIREZ, IMPROPERLY INTERFERED WITH HER EMPLOYMENT AGREEMENT WITH U.S. INVESTIGATIONS SERVICES, TO ESTABLISH THIS CLAIM, PLAINTIFF MUST PROVE:

1. THE PLAINTIFF HAD AN EMPLOYMENT AGREEMENT WITH USIS AND A BUSINESS RELATIONSHIP WITH OPM;
2. THE DEFENDANTS KNEW OF THAT AGREEMENT AND/OR RELATIONSHIP;
3. DEFENDANTS INTENTIONALLY INTERFERED WITH THE AGREEMENT AND/OR RELATIONSHIP WITH OPM, CAUSING THE EMPLOYER TO BREACH OR TERMINATE THE AGREEMENT;
4. DEFENDANTS' CONDUCT WAS IMPROPER; AND
5. PLAINTIFF SUFFERED DAMAGES CAUSED BY THE BREACH OR TERMINATION OF THE AGREEMENT AND/OR RELATIONSHIP.

IN DETERMINING WHETHER ANY INTERFERENCE WAS IMPROPER YOU SHOULD CONSIDER, ALONG WITH ANY OTHER EVIDENCE YOU BELIEVE BEARS ON THIS ISSUE, THE FOLLOWING FACTORS:

1. THE NATURE OF THE ACTOR'S CONDUCT;
2. THE ACTOR'S MOTIVE;
3. THE INTERESTS OF THE OTHER WITH WHICH THE ACTOR'S CONDUCT INTERFERES;
4. THE INTERESTS SOUGHT TO BE ADVANCED BY THE ACTOR;
5. THE SOCIAL INTERESTS IN PROTECTING THE FREEDOM OF ACTION OF THE ACTOR AND THE CONTRACTUAL INTERESTS OF THE OTHER;
6. THE PROXIMITY OR REMOTENESS OF THE ACTOR'S CONDUCT TO THE INTERFERENCE; AND
7. THE RELATION BETWEEN THE PARTIES.

IF YOU FIND THAT DEFENDANTS DEFAMED JANET HOPKINS, YOU MUST THEN DECIDE THE FULL AMOUNT OF MONEY THAT WILL REASONABLY AND FAIRLY COMPENSATE MS. HOPKINS FOR EACH OF THE FOLLOWING ELEMENTS OF DAMAGES PROVED BY THE EVIDENCE TO HAVE RESULTED FROM THE DEFAMATION:

1. JANET HOPKINS' LOST EARNINGS AND BENEFITS TO DATE AND ANY DECREASE IN EARNING POWER OR CAPACITY IN THE FUTURE;
2. THE DISCOMFORT, SUFFERING, AND ANXIETY ALREADY EXPERIENCED, AND REASONABLY PROBABLE TO BE EXPERIENCED IN THE FUTURE WAS A RESULT OF THE DEFENDANT'S FAULT; AND
3. HARM TO JANET HOPKINS' REPUTATION.

A PERSON WHO MAKES A DEFAMATORY STATEMENT CAN BE LIABLE FOR ANY DAMAGES RESULTING FROM A REPETITION OF THAT STATEMENT ONLY IF THE REPETITION WAS REASONABLY TO BE EXPECTED.

ONCE THE RIGHT TO DAMAGES IS ESTABLISHED, UNCERTAINTY AS TO THE PRECISE AMOUNT OF DAMAGES FOR LOST EARNINGS OR EARNINGS CAPACITY DOES NOT PRECLUDE RECOVERY FOR SUCH DAMAGES. THESE DAMAGES, HOWEVER, MAY NOT BE BASED ON CONJECTURE OR SPECULATION. INSTEAD, SUCH DAMAGES MAY BE AWARDED ONLY IF THEY ARE BASED ON EVIDENCE THAT MAKES AN APPROXIMATELY ACCURATE ESTIMATE OF THE LOSS POSSIBLE.

IF YOU FIND THAT A DEFENDANT IMPROPERLY INTERFERED, YOU MUST THEN DECIDE THE FULL AMOUNT OF MONEY THAT WILL REASONABLY AND FAIRLY COMPENSATE PLAINTIFF FOR EACH OF THE FOLLOWING ELEMENTS OF DAMAGES PROVED BY THE EVIDENCE TO HAVE RESULTED FROM THE INTERFERENCE AND/OR RELATIONSHIP:

1. LOSS OF THE BENEFITS OF THE AGREEMENT;
2. EMOTIONAL SUFFERING SUSTAINED BY PLAINTIFF; AND
3. HARM TO PLAINTIFF'S REPUTATION.

A PERSON CLAIMING LOST INCOME OR DIMINISHED EARNING CAPACITY HAS A DUTY TO MITIGATE THEIR DAMAGES BY USING REASONABLE DILIGENCE TO FIND OTHER SUITABLE EMPLOYMENT. THE BURDEN OF PROOF FALLS UPON DEFENDANTS TO PROVE THAT PLAINTIFF FAILED TO MITIGATE DAMAGES.

THE CASE IS NOW SUBMITTED TO YOU FOR DECISION. WHEN YOU GO TO THE JURY ROOM YOU WILL CHOOSE A FOREPERSON. HE OR SHE WILL PRESIDE OVER YOUR DELIBERATIONS.

AT LEAST SIX OF YOU MUST AGREE ON A VERDICT. IF ALL EIGHT AGREE ON A VERDICT, ONLY THE FOREPERSON NEED SIGN IT, ON THE LINE MARKED "FOREPERSON." IF SIX OR SEVEN AGREE ON A VERDICT, ALL THOSE WHO AGREE, AND ONLY THOSE WHO AGREE, MUST SIGN THE VERDICT ON THE NUMBERED LINES PROVIDED, LEAVING THE LINE MARKED "FOREPERSON" BLANK. PLEASE PRINT YOUR NAME UNDER YOUR SIGNATURE.

YOU WILL BE GIVEN 5 FORMS OF VERDICT. THEY READ AS FOLLOWS (THERE IS NO SIGNIFICANCE TO THE ORDER IN WHICH THEY ARE READ):

ARIZONA SUPERIOR COURT, PIMA COUNTY

C-20086484

JANET HOPKINS,

Plaintiff(s),

VERDICT

vs.

STATE OF ARIZONA BOARD OF
REGENTS, et al.,

Defendant(s).

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, award damages in the amount of \$ _____.

You should award damages only if you find for Plaintiff on either or both of her claims for defamation and improper interference.

1. (Sign) _____
(Print name) _____

5. (Sign) _____
(Print name) _____

2. (Sign) _____
(Print name) _____

6. (Sign) _____
(Print name) _____

3. (Sign) _____
(Print name) _____

7. (Sign) _____
(Print name) _____

4. (Sign) _____
(Print name) _____

(8.) (Sign) _____
(Print name) _____

FOREPERSON

ARIZONA SUPERIOR COURT, PIMA COUNTY

C-20086484

JANET HOPKINS,

Plaintiff(s),

VERDICT

vs.

STATE OF ARIZONA BOARD OF
REGENTS, et al.,

Defendant(s).

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find in favor of the Defendants on Plaintiff's claim of improper interference.

1. (Sign) _____
(Print name) _____

5. (Sign) _____
(Print name) _____

2. (Sign) _____
(Print name) _____

6. (Sign) _____
(Print name) _____

3. (Sign) _____
(Print name) _____

7. (Sign) _____
(Print name) _____

4. (Sign) _____
(Print name) _____

(8.) (Sign) _____
(Print name) _____

FOREPERSON

ARIZONA SUPERIOR COURT, PIMA COUNTY

C-20086484

JANET HOPKINS,

Plaintiff(s),

VERDICT

vs.

STATE OF ARIZONA BOARD OF
REGENTS, et al.,

Defendant(s).

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find in favor of the Plaintiff on her claim of improper interference.

1. (Sign) _____
(Print name) _____

5. (Sign) _____
(Print name) _____

2. (Sign) _____
(Print name) _____

6. (Sign) _____
(Print name) _____

3. (Sign) _____
(Print name) _____

7. (Sign) _____
(Print name) _____

4. (Sign) _____
(Print name) _____

(8.) (Sign) _____
(Print name) _____

FOREPERSON

ARIZONA SUPERIOR COURT, PIMA COUNTY

C-20086484

JANET HOPKINS,

Plaintiff(s),

VERDICT

vs.

STATE OF ARIZONA BOARD OF
REGENTS, et al.,

Defendant(s).

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find in favor of the Plaintiff on her claim of defamation.

1. (Sign) _____
(Print name) _____

5. (Sign) _____
(Print name) _____

2. (Sign) _____
(Print name) _____

6. (Sign) _____
(Print name) _____

3. (Sign) _____
(Print name) _____

7. (Sign) _____
(Print name) _____

4. (Sign) _____
(Print name) _____

(8.) (Sign) _____
(Print name) _____

FOREPERSON

ARIZONA SUPERIOR COURT, PIMA COUNTY

C-20086484

JANET HOPKINS,

Plaintiff(s),

VERDICT

vs.

STATE OF ARIZONA BOARD OF
REGENTS, et al.,

Defendant(s).

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find in favor of the Defendants on Plaintiff's claim of improper interference.

1. (Sign) _____
(Print name) _____

5. (Sign) _____
(Print name) _____

2. (Sign) _____
(Print name) _____

6. (Sign) _____
(Print name) _____

3. (Sign) _____
(Print name) _____

7. (Sign) _____
(Print name) _____

4. (Sign) _____
(Print name) _____

(8.) (Sign) _____
(Print name) _____

FOREPERSON