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Attorneys for Defendants, Sharon Harrigfeld,  
Betty Grimm, and the Idaho Department  
of Juvenile Corrections

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

RHONDA LEDFORD, an individual;  
RAYMON GREGSTON, an individual; JO  
MCKINNEY, an individual; SHANE PENROD,  
an individual; KIM MCCORMICK, an  
individual; BOB ROBINSON, an individual;  
and GRACIE REYNA, an individual; LISA  
LITTLEFIELD, an individual; ADDISON  
FORDHAM, an individual; TOM DE KNIJF, an  
individual; and FRANK FARNWORTH, an  
individual,

Plaintiffs,

vs.

IDAHO DEPARTMENT OF JUVENILE  
CORRECTIONS, an executive department of  
the State of Idaho; IDJC DIRECTOR SHARON  
HARRIGFELD, in her individual and official  
capacities; IDJC JUVENILE CORRECTIONS  
CENTER – NAMPA SUPERINTENDENT  
BETTY GRIMM, in her individual and official  
capacities; and DOES 1-20,

Defendants.

Case No. 1:12-cv-00326-BLW

**SECOND AFFIDAVIT OF JULIE  
CLOUD IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

**SECOND AFFIDAVIT OF JULIE CLOUD IN SUPPORT OF DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT - 1**

STATE OF IDAHO )  
 ) ss:  
County of Ada )

Julie Cloud, being first duly sworn, deposes and says as follows:

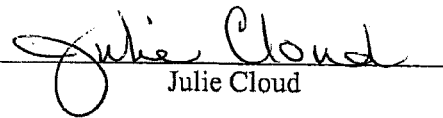
1. That, at all times relevant, your affiant has been employed by the Department of Juvenile Corrections. I am employed as a Human Resource Officer. In that capacity, I am familiar with and maintain the personnel records of the IDJC which includes employee personnel files and records relating to employee leave, pay or discipline. The information contained herein is of your affiant's own personal knowledge.

2. On December 6, 2013, Rhonda Ledford was served with a Notice of Contemplated Action (NOCA). Attached hereto and identified as Exhibits 1 is a true and correct copy of Ms. Ledford's written response to the NOCA.


3. Attached hereto and identified as Exhibit 2 is a true and correct copy of the Letter of Disciplinary Action (LODA) issued to Ms. Ledford by the IDJC.

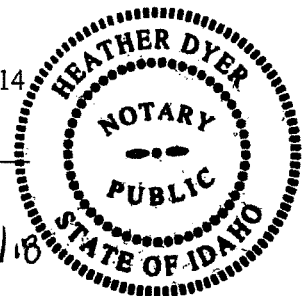
4. Attached hereto and identified as Exhibit 3 is a true and correct copy of the appeal filed by Rhonda Ledford with the Idaho Personnel Commission contesting the decision by the IDJC to terminate her employment.

FURTHER your Affiant saith naught.

  
Julie Cloud

SUBSCRIBED AND SWORN to before me this 19 day of February, 2014

  
Notary Public for Idaho  
Residing at Ada County  
My Commission Expires: 6/27/18

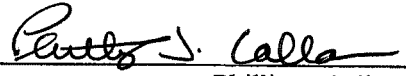


CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 20 day of February, 2014, I served a true and correct copy of the foregoing **SECOND AFFIDAVIT OF JULIE CLOUD** by delivering the same to each of the following attorneys of record, by the method indicated below, addressed as follows:

Andrew T. Schoppe  
LAW OFFICE OF ANDREW T.  
SCHOPPE  
910 W. Main Street, Ste 358  
Boise, ID 83702  
Telephone: (208) 450-3797  
Fax: (208) 392-1607

U.S. Mail, postage prepaid  
 Hand-Delivered  
 Overnight Mail  
 Facsimile  
 ECF

  
\_\_\_\_\_  
Phillip J. Collaer

# EXHIBIT 1

**Written Response to Notice of Contemplated Action- Ledford**

Dear Director Harrigfeld, Ms. Cloud, and Ms. Viner:

This is my response to the Notice of Contemplated Action (NOCA) issued to me by IDJC Director Sharon Harrigfeld, Human Resources Officer Julie Cloud, and JCC Nampa Superintendent Lynn Viner on December 6, 2013.

In order to gather evidence and protect myself against retaliation after I began reporting IDJC's numerous violations of law and policy, I began recording conversations, as allowed by state and federal law, with Idaho Department of Juvenile Corrections (IDJC) leadership and staff in 2011.

According to an October 14, 2011 email to me from Ms. Cloud, IDJC revised their Standards of Conduct policy in September 2011 to include 'Recording (audio, video or photographic) any conversations or other activities involving IDJC staff or juveniles, unless prior written approval has been granted by the Director or is otherwise allowed by the Use of Cameras policy.' That email is attached. This revision appears to have been specifically implemented due to my recordings. However, the NOCA states that this policy has been in effect since 2000 and that Ms. Cloud only 'reminded' me of the policy.

Idaho's "whistleblower law," Idaho Code 6-2101(4) mandates that "[a]n employer may not implement rules or policies that unreasonably restrict an employee's ability to document the existence of any waste of public funds, property or manpower, or a violation, or suspected violation of any laws, rules or regulations." The sole reason for which I recorded those conversations was to document waste and violations of laws, rules, and regulations by IDJC, and none of those recordings have ever been disclosed to anyone other than my attorney, to my fellow whistleblower plaintiffs, or to the defendants in the course of discovery in the pending lawsuit against IDJC, Director Harrigfeld, and former Superintendent Grimm.

The same law, Idaho Code 6-2104(3), provides that "[a]n employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law or a rule or regulation adopted under the authority of the laws of this state, political subdivision of this state or the United States." I believe that IDJC's policy unreasonably restricts me and other employees from documenting the existence of waste and violations of law, and that the policy is intended to prevent employees from doing so, and I therefore refused to carry it out.

Director Harrigfeld also cites I.C. section 67-5309(n) in support of its claim that my gathering of evidence constitutes a "failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the agency or the division of Human Resources and Idaho Personnel Commission," even though my conduct was entirely lawful and was entirely and exclusively for the purpose of gathering evidence.

Director Harrigfeld also claims that my gathering of evidence constituted "[i]nsubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency." Gathering evidence of unlawful conduct and exposing corruption is not conduct unbecoming. On the contrary, I believe that it is my ethical and legal duty as an employee and as a citizen of the State of

Response to Director Harrigfeld's NOCA | Rhonda Ledford

Idaho to ensure that the public agency for which I work follows the law. Further, my recording of my own conversations is allowed by both Idaho and federal laws, which permit "one-party consent" to such recordings.

I note that Director Harrigfeld's NOCA makes no allegation whatsoever that I have improperly disclosed or misused any of the evidence I obtained, or that anyone has been harmed by those recordings. As noted above, the sole purpose for which I made those recordings was to gather evidence in support of my claims now at issue in the pending whistleblower litigation and to protect myself and my fellow employees against the pervasive dishonesty, corruption, and unlawful conduct on the part of IDJC and its administration. As noted above, I have never disclosed any of those recordings to anyone other than my attorney, to my fellow plaintiffs, and to the defendants in response to their discovery requests.

There is simply no question but that Director Harrigfeld's NOCA is nothing less than yet another effort to retaliate against me for, as Ms. Cloud put it in an email about me from 2011, "keeping things stirred up." This is evident where Director Harrigfeld, former Superintendent Betty Grimm, and Ms. Cloud have all ignored outrageous, unsafe, and even illegal misconduct on the part of other IDJC employees, and where she has even engaged in misconduct herself, as when she failed to take any meaningful action to prevent Julie McCormick from essentially raping a male juvenile inside JCC Nampa even after IDJC employees had given warnings about McCormick's inappropriate relationship with the juvenile months prior to the incident with the juvenile.

More examples of actually or potentially harmful misconduct by other employees that has been tolerated by IDJC include the following:

1. In yet another instance of the tolerance of "conduct unbecoming," no disciplinary action was taken against current employee Francine Diaz despite the fact that virtually everyone at IDJC has long been aware of the prior existence of an inappropriate relationship between Ms. Diaz and a former male juvenile, and that Ms. Diaz actually lived with the juvenile immediately after his release and while he was still on felony probation. Former juvenile offender Arthur Wilson testified in his affidavit, which was provided to IDJC's attorneys, that Ms. Diaz was also inappropriately flirtatious with male juveniles while Mr. Wilson was at the facility. Still, no disciplinary action has been taken against her.
2. To cite another example, within the last few months, my fellow plaintiff Lisa Littlefield heard Observation & Assessment Supervisor Laura Roters refer to a former IDJC employee as "a cunt" while inebriated at an IDJC-organized event at a public restaurant. However, it appears that no disciplinary action was taken against Ms. Roters for such "unbecoming conduct," which clearly violated Policy No. 324 II. O. 1., which prohibits "abusive or discourteous language" and "any other conduct while on or off duty detrimental to IDJC." Ms. Roters was also heard by plaintiff Gracie Reyna calling juveniles "dumbasses," and yet no disciplinary action was taken against her.
3. Another instance in which IDJC ignored "conduct unbecoming" regards former employee Cesar Lopez, who was charged with domestic violence and arrested on four separate occasions, once at JCC Nampa, and who was required to wear an ankle bracelet at work. Despite being aware of Mr. Lopez' propensity to violence, he was permitted to continue to work with juveniles at JCC Nampa, at least until he violently choked a male juvenile during a restraint.
4. In another example from earlier this year, former Safety & Security Officer Diane Miles, who also worked for years as a Transport Officer, was charged with her second DUI just days after

Response to Director Harrigfeld's NOCA | Rhonda Ledford

completing probation for her first DUI conviction. After being charged with her second DUI, SSO Miles transported juveniles on at least three separate occasions despite having a suspended license, and she also continued to drive herself to work. No disciplinary action for such "unbecoming conduct" was ever taken against her, and she was apparently allowed a "medical layoff." Ms. Miles also stood outside Julie McCormick's office door for at least 45 minutes while McCormick had sex with a male juvenile, and yet—once again—no disciplinary action was taken against her. In yet another instance of IDJC's tolerance of conduct that is actually dangerous for both staff and juveniles, Ms. Miles also left the door to the JCC Nampa control booth and front secured door open in a clear violation of IDJC safety policies, and yet no action was taken against her.

5. More "conduct unbecoming" was exhibited in early 2012 by former Superintendent Betty Grimm, who was warned by employees that Dr. Richard Pines, a psychiatrist who worked with juveniles at outpatient treatment facilities, had engaged in strange and inappropriate behavior with a male juvenile whom he repeatedly visited at JCC Nampa. She was also warned that Dr. Pines had been accused by the Idaho Board of Medicine of lewd conduct with other minor males. Despite this, Mrs. Grimm permitted Dr. Pines, whom she counted as a personal friend, to continue to visit the male juvenile and to do so without any additional supervision by staff, thus placing the juvenile at risk. No action has ever been taken against Mrs. Grimm, who retired shortly after Ms. McCormick was arrested for her crimes.
6. Plaintiff Jo McKinney was instructed by her supervisors and others to back-date the court records of juveniles in order to mislead the courts into believing that IDJC was properly and timely assessing the juveniles' progress. No disciplinary action has been taken against any of those supervisors for instructing her to do so, even though this is not only "conduct unbecoming," but a fraud on the court system itself that, in at least one instance, has led to the needless extension of a juvenile's incarceration at JCC Nampa.
7. Another employee, Greg Leavitt, is widely known to have allowed several juveniles to move in with him after their release, which is a clear violation of IDJC policy and a termination offense. No disciplinary action has been taken against him.
8. Other staff, including Karen Scow, Marcy Chadwell, Brenda Garrett (email attached), Abbie Campbell, have all recorded conversations at IDJC, and I believe that they have done so without obtaining advance written consent from Director Harrigfeld as required by the policy used to justify my "contemplated" termination. My supervisor, Mark Freckleton, recently purchased a recorder for the purpose of documenting interviews with juveniles, and, again, I believe that this was done without advance written authorization. I do not believe that any disciplinary action has been or will be taken against any of those individuals. Nor do I believe that disciplinary action should be taken where the purpose of recording conversations was to gather evidence or for other legitimate purposes. I simply believe in the seemingly outrageous proposition that IDJC policies should be enforced fairly.
9. After issuing the NOCA, HR Supervisor Julie Cloud warned me not to discuss it with anyone, which is yet another attempt by IDJC to ensure that its misconduct is not exposed to public view and to suppress my constitutional right to discuss the matter, which I regard as retaliatory in nature, with anyone I wish. Such threats are not only illegal, but constitute "conduct unbecoming" of an IDJC employee.



Response to Director Harrigfeld's NOCA | Rhonda Ledford

Director Harrigfeld has also made this a personal matter by accusing me of lying to her about recording a meeting concerning a recent retaliatory disciplinary action against my fellow plaintiff Tom DeKnijf.

In fact, Director Harrigfeld herself has lied about statements of mine, and—because I have been careful to collect evidence of such things—at least one recording I have proves that fact. Against policy, and in violation of the trust that she invites employees to place in her, Director Harrigfeld disclosed to other employees our communications during a July 7, 2011 Problem-solving meeting I had with her. In an October 18, 2011 email to Julie Cloud, who forwarded it on to Civil Litigator Deputy Attorney General Rob Adelson, Director Harrigfeld wrote that, in response to her purported effort to resolve the problem, I “came back quickly” with “don’t do program on me, it’s for the kids not the staff.” That email is attached. I did not say those words or anything like them, and the Director’s misrepresentation to Ms. Cloud was deceitful and defamatory. As the recording clearly indicates, my actual response to the Director’s comments was: *“I guess I don’t get why we’re trying to get staff to the point that they’re doing program. How would you do it differently? I, I was respectful, these are my words, I, am I not entitled to my words? Respectfully, I followed her directive and I chose my own words because I am an individual, I’m not one of the kids, I’m not somebody that needs to learn how to, I think I’ve done a pretty good job, I mean, I, I’ve got an extensive background, I’ve done real well in my training, I’ve got letters of recommendation from Betty and from Underhill and from Freckleton to be a POST Certified Instructor. I have done an exceptional job, I keep diligent records. But I’m not saying things right.”* That excerpt is attached. The Director’s misrepresentation about my statement was later referenced in my November 2012 evaluation, and is not only “conduct unbecoming,” but a clear instance of the retaliation alleged in the case now pending against IDJC and the Director.

Further, it appears that IDJC has—again—violated its own policies with respect to Director Harrigfeld’s NOCA, and it appears that it is a foregone conclusion that IDJC will terminate me and that any response of mine will be futile. As a classified employee, I am entitled to due process, and Idaho Statute 67-5315(2) states that “[n]o action of a participating department relating to a disciplinary dismissal, suspension or demotion, or an involuntary transfer shall be effective until the affected employee shall have received notice and an opportunity to be heard.”

Director Harrigfeld’s NOCA states that I have until Friday December 13, 2013 to respond, and that the Department has until December 18 to make its decision. Even though the proposed disciplinary action is at this point only supposed to be “contemplated,” I am aware that SSO Brian Dean has already been assigned the transport coordination duties at JCC Nampa (email attached) that, according to my supervisor, I have performed well. My name has also been removed from the In/Out board, and it appears that the decision to terminate me has already been made.

In closing, I not only request, but demand that Director Harrigfeld’s retaliatory Notice of Contemplated Action and that the NOCA be stricken from my employee file. I am a classified employee of the State of Idaho, and I am a plaintiff who has brought suit pursuant to a statute that both prohibits IDJC from unreasonably restricting me from gathering evidence and which protects me and my fellow employees from retaliation for participating in the pending lawsuit. As it always has been, my goal is to ensure and improve the safety and security of staff and juveniles at IDJC and that the IDJC follows the law, and to ensure that those who violate the law, including those pertaining to fair and equitable problem-solving and disciplinary processes, are held accountable. If IDJC proceeds with its plan to terminate me, I will take all appropriate legal action.

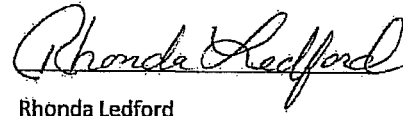


Response to Director Harrigfeld's NOCA | Rhonda Ledford

Respectfully,

Date: December 12, 2013

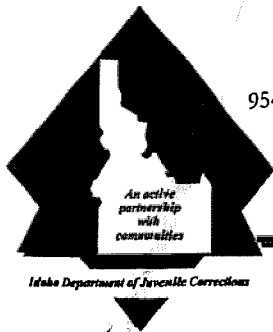
By:



Rhonda Ledford

CC'd: Director Sharon Harrigfeld  
Superintendent Lynn Viner  
Safety/Security Supervisor Mark Freckleton  
Attorney Andrew Schoppe

# EXHIBIT 2



# Idaho Department of Juvenile Corrections

954 W Jefferson Street P.O. Box 83720 Boise, ID 83720-0285 Phone: (208) 334-5100 Fax: (208) 334-5120

Telecommunications Relay Service (TRS) 1 800 377-3529

C.L. "BUTCH" OTTER  
Governor

SHARON HARRIGFELD  
Director

## NOTICE OF CONTEMPLATED ACTION

**To:** Rhonda Ledford, Safety and Security Officer

**From:** Sharon Harrigfeld, Director

**Date:** December 19, 2013

**Subject:** Letter of Disciplinary Action

You were provided with a Notice of Contemplated Action on December 6, 2013, which outlined the evidence and bases that the Department of Juvenile Corrections ("the Department") was considering in making a final determination regarding disciplining you for violations of Department policy.

I have carefully reviewed and considered your December 12, 2013 response to those allegations. You have not denied that you surreptitiously recorded numerous conversations with co-workers and supervisors in the workplace in violation of Department policy. Your arguments against discipline are that Department Policy #324 should not apply to you because you were gathering evidence for your lawsuit against the Department or you were gathering evidence of the Department's violation of state law. I disagree with your claim that you were recording evidence that the Department was engaged in unlawful activities. If you reasonably believed the Department or its employees were in violation of Idaho laws or rules, you have an obligation as a member of this staff to bring such allegations to an appropriate person. Your secret recordings of numerous conversations with Department staff did not meet this obligation. Furthermore, you have never brought any of the concerns cited in your response regarding alleged illegal activity to the attention of Department managers.

Secondly, you have cited nine examples of conduct by other Department employees that you believe should constitute cause for discipline. I would remind you that personnel matters are confidential. Unless you are directly involved in a personnel matter, you have no credible information regarding the outcome of the personnel matters of your co-workers. Furthermore, each potential personnel action is judged on its own merits. The determination of what level of discipline is appropriate in any given instance is entirely and solely within the purview of the employer agency.

You have also erroneously asserted that because Idaho is a one-party consent state under state law that you are free to secretly record conversations in the workplace. While you have the right to record conversations outside of the workplace, in fact, the Department has the right to implement reasonable policies to regulate employee conduct in the workplace. Department Policy #324 prohibiting unauthorized recording is permissible and the Department has the right to enforce its lawful policies.

I am not persuaded by any of your reasons that you should not be disciplined for violating a Department policy that is designed to prevent divisive relations among co-workers. It is also unacceptable that you lied to me on at least one occasion regarding your covert activities. It is clear from both your repeated policy violations and your unwillingness to accept responsibility for your actions that your continued employment with the Department will not result in improved performance. I not only find your denials unpersuasive, I find the conduct outlined in the Notice of Contemplated Action to be in violation of the cited Department policies, Idaho Code Section 67-5309(n) and the following Rules of the Division of Human Resources:

- Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, rules of the agency or the Division of Human Resources and the Idaho Personnel Commission. (IDAPA 15.04.01.109.01(a))
- Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency. (IDAPA 15.04.01.190.01(e))

I have lost confidence in your ability to follow lawful directives from your supervisors and follow agency policies and I am therefore dismissing you from your position for the reasons cited in the Notice of Contemplated Action. Your dismissal is effective immediately. I disagree with your contention that [this] adverse action is being taken against you for retaliatory reasons. My decision to terminate your employment is a direct result of your unwillingness to follow Department policies and the contentious, divisive and unprofessional atmosphere that your conduct has created in the workplace.

All paid leave balances will be paid out to you in your final pay check on January 4, 2014. For information regarding your PERSI benefits and contributions, please contact the Public Employee Retirement System of Idaho at (208) 343-3365. You may contact the Idaho Department of Administration, Office of Group Insurance at (208) 332-1860 for information regarding the continuation of your health care benefits under COBRA. If you have personal items remaining at the work site, please contact Lynn Viner to arrange a time to retrieve them.

Should you disagree with the basis for this decision, you have thirty-five (35) days from the date of this memorandum to appeal the dismissal to the Idaho Personnel Commission.

Copies to: Lynn Viner, Superintendent JCC-Nampa  
Julie Cloud, Human Resource Officer  
Vicki Tokita, Administrator, Division of Human Resources

# EXHIBIT 3

(OPTIONAL FORMAT)

RECEIVED DHR

JAN 22 2014

THE IDAHO PERSONNEL COMMISSION

Rhonda Ledford )  
 )  
 Known As Appellant, )  
 )  
Idaho Department of Juvenile Corrections )  
 (Agency) )  
 )  
 Referred to as Respondent. )  
 )

IDAHO PERSONNEL COMMISSION

JAN 22 2014

APPEAL

FILED

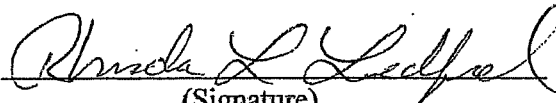
I appeal the decision of the Idaho Department of Juvenile Corrections,  
(Name of Agency)

dated 12/19/13. [ATTACHED.]

The decision or action I am protesting is termination of employment with the Idaho Department of Juvenile Corrections due to recording conversations for gathering evidence in support of the whistleblower lawsuit.

The remedy I request is reinstatement of my position as Safety/Security Officer- Transport Coordinator, lost wages, reinstatement of my vacation/sick time, reimbursement of my PERSI, and disciplinary action for those retaliating against a whistleblower.

01/20/14  
(Date)

  
(Signature)

Address: 21 N. Sunset St.  
Nampa, Idaho 83651

Phone: 208-206-2436

Andrew Schoppe  
Name of Employee's Attorney (if any)

Address: 910 W. Main St. Ste. ,  
Boise, Idaho 83702

Phone: 208-450-3797