

Anderson, Ryan

From: Bailey, Michael
Sent: Thursday, December 10, 2015 1:25 PM
To: Conrad, Donald
Subject: Re: FRS personnel change

Thx.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

(This email was sent from a mobile device and likely used voice transcription and automatic correction applications. For that reason, please note the possibility of inadvertent content error.)

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On Dec 10, 2015, at 7:45 AM, Conrad, Donald <Donald.Conrad@azag.gov> wrote:

FYI On January 2 I will tell Mike Dailey that he is being demoted to AAG and that Tom Rankin will replace him. He will have to take a pay cut but I haven't looked at the numbers yet. Rankin will earn the \$133+ that section chiefs are paid. Rankin will stay in Phoenix 2 nights a week and be in the Phoenix office for 3 days per week. We will have to pay per diem and lodging. Rankin will occupy a temporary position that, according to Leslie, may not last more than 6 months. At that time, experience may have shown that Rankin can supervise from Tucson with fewer days in Phoenix for some period and then move to Phoenix. Alternatively, we may identify someone to be full time in Phoenix during the 6 month period to replace Rankin.

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

Anderson, Ryan

From: Bailey, Michael
Sent: Friday, December 04, 2015 8:59 PM
To: Anderson, Ryan
Subject: Fwd: Arent Fox Monday evening pre-argument dinner

Michael G. Bailey
Chief Deputy / Chief of Staff
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1275 W. Washington Street
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Begin forwarded message:

From: "Davis, Stephen S." <Stephen.Davis@arentfox.com>
Date: December 4, 2015 at 8:48:26 PM MST
To: "mark.brnovich@azag.gov" <mark.brnovich@azag.gov>, "Lopez, John" <John.Lopez@azag.gov>, "dominic.drave@azag.gov" <dominic.drave@azag.gov>, "Bailey, Michael" <Michael.Bailey@azag.gov>, "espencer@asos.gov" <espencer@asos.gov>
Cc: "Driscoll-MacEachron, James" <James.Driscoll-MacEachron@azag.gov>, Thornet <thornet@ix.netcom.com>
Subject: Arent Fox Monday evening pre-argument dinner

Thor and Stephen Larson are pleased to invite you to a pre-argument dinner Monday evening hosted by Arent Fox LLP at 6:00pm at:

Occidental Grill & Seafood
1475 Pennsylvania, Ave., NW
Washington, DC 20004
202-783-1475

We hope you are able to join us. Please let me know at your earliest convenience whether you will be able to attend and if you have any questions.

Steve

Stephen S. Davis
Attorney

Arent Fox LLP | Attorneys at Law
112 S. Hanley Road, Ste. 200
Clayton, MO 63105-3418

1717 K Street, NW
Washington, DC 20036-5342

314.296.4009 DIRECT | 202.857.6395 FAX
stephen.davis@arentfox.com | www.arentfox.com

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Anderson, Ryan

From: Bailey, Michael
Sent: Wednesday, December 02, 2015 4:23 PM
To: Brnovich, Mark; Medina, Rick; Anderson, Ryan
Cc: Baer, Aaron
Subject: RE: Revision: Wire Act

I think the intention was to address your federalism and preemption concerns. Question is status of enforcement in 2011. Did we do any research on that (Aaron/Ryan)?

Michael G. Bailey
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From: Brnovich, Mark
Sent: Wednesday, December 02, 2015 3:47 PM
To: Medina, Rick; Bailey, Michael; Anderson, Ryan
Subject: Fwd: Revision: Wire Act

Does that clear it up? I'm not even sure what it means.

Attorney General Mark Brnovich
Sent from my iPhone

Begin forwarded message:

From: Alexandra McGuire <amcguire@NAAG.ORG>
Date: December 2, 2015 at 5:42:00 PM EST
To: Alexandra McGuire <amcguire@NAAG.ORG>
Cc: Adam Piper <apiper@scag.gov>
Subject: Revision: Wire Act

This message is being sent to all Attorneys General, Chief Deputies, and Executive Assistants:

Please see the following revision:

Dear Colleagues:

Attorney General Laxalt (NV) asked Attorney General Wilson this morning if we, as a co-sponsor of the letter, would be willing to make a clarification to correct an oversight in the letter. The simple language below is designed to ensure that the letter expresses our concern without getting so deep into the policy making process as to own future amendments to the bill.

Attorney General Wilson feels this addition by Attorney General Laxalt strengthens the letter in terms of its current and future interpretation.

Language to be added:

Our primary concern is the restoration of the Wire Act to its original form in 2011. This letter does not opine on unintended collateral and peripheral consequences policymakers will have to consider throughout the legislative process.

If your state has already signed on and you accept the changes, your response will presumptively remain affirmative (no further action is needed). If you wish to change your responses, please notify Allie McGuire at amcguire@naag.org using the attached response form no later than **1:00 pm (EST) Friday, December 4, 2015.**

The attached "Wire Act" sign-on packet contains:

1. "Dear Colleague" letter from Attorneys General Koster and Wilson,
2. Draft letter to Congress to clarify the Wire Act to prohibit all forms of internet gambling,
3. Response Form: please return to Allie McGuire by email at amcguire@naag.org or by fax at (202) 521-4052 by **1:00 pm (EST) Friday, December 4, 2015.**

If you have any questions, please feel free to contact Adam Piper of the South Carolina Attorney General's Office at (803) 734-3970, apiper@scag.gov, and/or Jim Farnsworth of the Missouri Attorney General's Office at (573) 751-8807.

If you have any questions about your state's response, please contact Allie McGuire at 202-326-6008 or amcguire@naag.org.

Please note that if you are interested in which states have signed on to this letter, you may check the real-time status at this website, please note the new site password below:

[http://\[REDACTED\].org/](http://[REDACTED].org/)

password: [REDACTED]

Please do not share the password with anyone outside of the NAAG Community.

The deadline to sign on is 1:00 pm (EST) Friday, December 4, 2015.

Thank you,
Allie

Allie McGuire

NAGTRI Program Specialist
National Association of Attorneys General
2030 M St NW, 8th Floor
Washington, DC 20036
202.326.6008 | amcguire@naag.org

Anderson, Ryan

From: Bailey, Michael
Sent: Wednesday, December 02, 2015 1:14 PM
To: Anderson, Ryan
Subject: FW: ASU Innovation / AZ Attorney General

Michael G. Bailey
Chief Deputy / Chief of Staff
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602-542-4085 Fax

michael.bailey@azag.gov

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From: Bailey, Michael
Sent: Friday, October 23, 2015 5:02 PM
To: 'mc71@asu.edu'
Subject: ASU Innovation / AZ Attorney General

Dr. Crow,

Following your meeting, Mark asked us to identify areas of need in the AGO that might be ripe for collaboration with the Innovation Center. We were flooded with input from around the office, but hopefully we can start with a few areas to consider and go from there. If one or more of these might be a good fit, please let us know who we should contact.

First, I believe Mark told you of some difficulty in the investigation of telemarketing scams. Some of the more disreputable telemarketing firms (a relative term, to be sure) use "spoofed" telephone numbers showing a false source of the call, either by name or number. We understand that a determination of the source of these spoofed calls is, if not impossible, so difficult as to effectively bar the endeavor. We'd like to change that.

A second option relates to the overall operations of the office. It's probably axiomatic to say that governmental entities are on the lagging end of the tech revolution. Doubtless this fact relates in no small part to resources. But there are other contributing problems too. Our office is full of paper at a time when a large segment of the legal world has transitioned to electronic data management. We'd like to convert our operation, to the fullest extent possible, to an electronic record management system. That said, the governmental nature of the work presents unique roadblocks. Will our records retention comply with the statutory framework for record preservation and production? Can we meet the storage standards of the State Archive regulations in a cost-effective manner? How do we distinguish and separately manage the records of matters that may involve courts or agencies that lag even further in their technological advance? If help is available to address these and other related questions, we'd welcome the assistance.

A third possibility exists in relation to our work with the Department of Child Safety. The AGO represents the Department in all matters involving the temporary or permanent removal of children from the homes of abusive parents. The volume of this work is staggering. Our attorneys, for years running, have carried twice the caseload recommended by the American Bar Association. The AGO asks annually for additional staffing appropriation, with little satisfaction. While we will continue to seek the necessary funding, we'd like to make every feasible improvement in the management and/or analysis of the case information, litigation process, and personnel. Again, if this type of systemic review is something that the Innovation Center might undertake, it would be an enormous benefit for all.

Hopefully we're on the right track for the concept that you and Mark discussed. If not, there are many more areas for consideration. Thanks again for your review and offer. We're excited at the prospect of ASU's innovators helping us most effectively meet Arizona's needs.

Have a good weekend.

MB

Michael G. Bailey
Chief Deputy / Chief of Staff
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602-542-4085 Fax

michael.bailey@azag.gov

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Anderson, Ryan

From: Bailey, Michael
Sent: Wednesday, December 02, 2015 12:29 PM
To: Anderson, Ryan; Garcia, Mia; Baer, Aaron
Subject: FW: Midwives Complaint
Attachments: 20151202110050393.pdf

Now we've gone and gotten on the wrong side of the midwives.

Michael G. Bailey
Chief Deputy / Chief of Staff
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michael.bailey@azag.gov

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-----Original Message-----

From: Neumann, Valerie
Sent: Wednesday, December 02, 2015 11:30 AM
To: Bailey, Michael
Subject: FW: Midwives Complaint

FYI - Summons & Complaint re: Assoc. of Midwives.

It has been forwarded to Kevin Ray.

-----Original Message-----

From: Austin, Chris
Sent: Wednesday, December 02, 2015 11:03 AM
To: Neumann, Valerie
Subject: Midwives Complaint

It is being sent to Kevin Ray.

Chris Austin
Assistant to John Fry
Office of the Arizona Attorney General
State Government Division
Employment Law Section
1275 W. Washington, Phoenix, AZ 85007

Desk: 602.542.7636 | Fax: 602.542.7644
Chris.Austin@azag.gov

ATTORNEY GENERAL'S OFFICE

DATE RECEIVED Dec. 2, 2015
TIME RECEIVED 10:40 / P.M. # 8993
RECEIVED FROM John Cox
SIGNED [Signature]
w/accepting only Slip for state

Name of Person Filing: JULIE R. GUNNICKS
Your Address: 1424 E. GOSWAMI PKWY #100-421
Your City, State, Zip Code: SCOTTSDALE AZ 85259
Your Telephone Number: 480-566-0129
Attorney Bar Number (if applicable): _____
Representing Self (Without an Attorney) or Plaintiff or Defendant

If you would like legal advice from a lawyer, contact the Lawyer Referral Service at 602-257-4434

or
www.maricopalawyers.org
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Maricopa County Bar Association

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ARIZONA ASSOCIATION OF MIDWIVES
Name of Plaintiff

Case No.: CV2015-053512

ARIZONA DEPT. OF HEALTH SERVICES,
MARK BRNOVICH, CARA CHRIST
Name of Defendant

SUMMONS

WARNING: This is an official document from the court that affects your rights. Read this carefully. If you do not understand it, contact a lawyer for help.

FROM THE STATE OF ARIZONA TO MARK BRNOVICH
Name of Defendant

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this "Summons".
2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the court, and pay the filing fee. If you do not file an "Answer" or "Response" the other party may be given the relief requested in his/her Petition or Complaint. To file your "Answer" or "Response" take, or send, the "Answer" or "Response" to the Office of the Clerk of the Superior Court, 201 West Jefferson Street, Phoenix, Arizona 85003-2206 or the Office of the Clerk of the Superior Court, 222 East Javelina Drive, Mesa, Arizona 85210-6201 or Office of the Clerk of Superior Court, 14264 W. Tierra Buena Lane, Surprise, Arizona 85374. Mail a copy of your "Response" or "Answer" to the other party at the address listed on the top of this Summons.
3. If this "Summons" and the other court papers were served on you by a registered process server or the Sheriff, within the State of Arizona, your "Response" or "Answer" must be filed within TWENTY (20) CALENDAR DAYS from the date you were served, not counting the day you were served. If this "Summons" and the other papers were served on you by a registered process server or the Sheriff outside the State of Arizona, your Response must be filed within THIRTY (30) CALENDAR DAYS from the date you were served, not counting the day you were served. Service by a registered process server or the Sheriff is complete when made. Service by Publication is complete thirty (30) days after the date of the first publication.
4. You can get a copy of the court papers filed in this case from the Plaintiff/Attorney listed at the address at the top of this paper, or from the Clerk of the Superior Court's Customer Service Center at 601 W. Jackson, Phoenix, Arizona 85003 or at 222 E. Javelina Drive, Mesa, Arizona 85210.

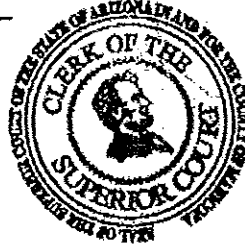
6. Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or commissioner assigned to the case, at least five (5) days before your scheduled court date.

SIGNED AND SEALED this date NOV 05 2015

MICHAEL K. JEANES, CLERK OF COURT

By *T. Shepardson*
Deputy Clerk

T. SHEPARDSON



COPY

NOV - 6 2015



MICHAEL K. JEANES, CLERK
G. SHAMON
DEPUTY CLERK

1 Julie R. Gunnigle, State Bar No. 032124
2 **LAW OFFICE OF JULIE GUNNIGLE, PLLC**
3 6424 E. Greenway Parkway, Suite #100-421
4 Scottsdale, AZ 85254
5 Office: 480-266-0129
6 E-Mail: Julie.Gunnigle@webmail.azbar.org
7 Attorney for Plaintiff, Arizona Association of Midwives

8 **SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN MARICOPA COUNTY**

Case No.: CV 2015-053512

10 Arizona Association of Midwives,

11 Plaintiff,

12 v.

13 Arizona Department of Health Services;
14 Mark Brnovich, Arizona Attorney General, in
15 his official capacity; Cara M. Christ, Director
16 of the Arizona Department of Health
17 Services, in her official capacity,

Defendants

Verified Complaint for Declaratory and
Injunctive Relief

18
19 **PRELIMINARY STATEMENT**

- 20 1. This case is brought by the Arizona Association of Midwives on their own behalf and on behalf of
21 the consumers who use their services.
- 22 2. In 2012, the Arizona Association of Midwives, together with consumers of midwifery services,
23 lobbied for a revision of the outdated midwifery licensing rules that had been in place for nearly
24 two decades. Consequently, Governor Brewer signed into law HB 2247. HB 2247 allowed the
25 Arizona Department of Health Services ("the Department") to engage in exempt rulemaking for
26 two purposes: to reduce the regulatory burden on Arizona midwives and to consider increasing
27 Arizona midwives scope of practice.
- 28

- 1 3. The new rules took effect in July of 2013. Since that time, the Department has promulgated new
2 rules and policies, and new interpretations of old rules that put mothers' and babies' lives at risk.
- 3 4. The Arizona Association of Midwives has met publicly and privately with the Department,
4 provided the Department with evidence-based practice guidelines, and formally requested that the
5 Department change those rules and policies at odds with patient safety or evidence-based practice.
6 The Department has refused.
- 7 5. Since the rules revision, the Department has engaged in campaign of harassment and intimidation
8 of the Licensed Midwives, targeting those midwives who have voiced concerns that the current
9 rules and policies endanger the health and safety of mothers and babies.
- 10 6. The Arizona Association of Midwives seeks declaratory and injunctive relief to enjoin the
11 Department from enforcing those rules not promulgated pursuant to HB2247's specific grant of
12 legislative power, from enforcing those policies not promulgated through the Administrative
13 Procedure Act, and from enforcing those rules and policies that violate Arizona and United States'
14 constitution.

15 VENUE AND JURISDICTION

- 16 7. This action arises under state law, and the United States and Arizona Constitution. This Court has
17 jurisdiction pursuant to A.R.S. § 12-123 and § 41-1034.
- 18 8. Venue is proper in Maricopa County under A.R.S. §§ 12-401 and 41-1034.
- 19 9. Declaratory relief is sought pursuant to A.R.S. § 12-1831 *et seq* and §§ 41-1030, 1034.
- 20 10. Injunctive relief is sought pursuant to A.R.S. § 12-1801.

21 FACTS COMMON TO ALL CLAIMS

- 22 11. The Arizona Association of Midwives is a non-profit professional association representing
23 midwives, apprentices, midwife assistants, birth workers, and members of the public. The Arizona
24 Association of Midwives has seventy-three members.
- 25 12. Midwives are small business owners and healthcare professionals. Midwives are trained to provide
26 care for low-risk pregnant persons and preventative care. While each midwife is free to develop
27 her own practice philosophy, all midwives practice the midwifery model of care. The midwifery
28

- 1 model of care is personalized, affordable, holistic healthcare that respects patient autonomy while
2 delivering evidence-based practices and excellent outcomes.
- 3 13. Defendant Arizona Department of Health Services is an agency of the State of Arizona. A.R.S. §
4 36-2. The Division of Special Licensing currently oversees the licensing and enforcement of the
5 Licensed Midwives of Arizona.
- 6 14. Defendant Cara Christ, M.D., is the Director of the Arizona Department of Health Services and is
7 sued in her official capacity. Defendant Christ has the power and duty to administer and enforce
8 licensure requirements for midwives. She is empowered by law to “[a]dopt standards with respect
9 to the practice of midwifery designed to safeguard the health and safety of the mother and child.”
10 A.R.S. § 36-755.
- 11 15. Defendant Mark Brnovich is the Attorney General of the State of Arizona and is sued in his
12 official capacity. Defendant Brnovich has the authority to enforce the midwifery rules. As “chief
13 legal officer of the state,” he is “the legal advisor of the departments of this state and render[s]
14 such legal services as the departments require.” A.R.S. § 41-192. The Attorney General is charged
15 with certain obligations in connection with enforcement of licensing provisions for all health care
16 providers (including midwives), including bringing actions to revoke a license or enjoin the
17 operation of a licensee, and actions to recover civil penalties for violation of licensing obligations,
18 A.R.S. § 36-756.
- 19 16. Since the 2013 rules revision the Department, by and through the Office of the Attorney General,
20 has attempted to suspend the licenses of several midwives and brought a record number of
21 midwives to enforcement for instances where the mother and infant outcomes were excellent, but
22 the midwife allegedly failed to follow a Department rule.
- 23 17. According to the Department of Health Services website, in 2013 the Department brought a single
24 enforcement action. In 2014, the Department brought fourteen enforcement actions. As of the
25 date of this filing, the Department has brought nineteen actions thus far in 2015. There are only
26 seventy-four Licensed Midwives in Arizona; approximately forty are actively practicing.
- 27 18. Nearly half of the actively practicing Licensed Midwives experienced an enforcement action in
28 the past twelve months.

1 19. In the past twelve months a record number of consumers used Licensed Midwives as maternity
2 care providers. Arizona Licensed Midwives delivered approximately 1200 babies in the last year,
3 with great outcomes for mothers and babies.

4 20. Despite these great outcomes, the Department has pursued enforcement actions and promulgated
5 new rules that reduce a midwives scope, increase her administrative burden, and threaten the
6 health and safety of midwifery clients.

7 HEALTH AND SAFETY

8 21. On August 6, 2015, Jessica Ray gave birth to a healthy baby. She was attended by a midwife and
9 birthed at home.

10 22. Later that day, her infant began grunting and turning blue. She called her midwife who told her to
11 take the baby to the emergency room. After being placed briefly on oxygen, the infant stabilized
12 and recovered.

13 23. Ms. Ray's midwife was instructed by the Department to terminate care for Ms. Ray. While it was
14 Ms. Ray's infant that needed emergency care, Ms. Ray was not allowed to receive postpartum
15 care from her midwife because the infant had a "prohibited practice" condition. *See* A.A.C.
16 R9-16-111(I)(1)(e).

17 24. Ms. Ray, newly postpartum and with an infant who was recently released from the hospital,
18 struggled to find postpartum care with another provider. She wanted to return to her midwife for
19 postpartum care, but was refused. She never received further postpartum care.

20 25. Before July 1, 2013, the rules read that a "licensed midwife shall not accept for care and shall not
21 during pregnancy, labor, or delivery, and postpartum knowingly continue to provide care to, and
22 shall immediately transfer care of, any woman who *has or develops* any of the following
23 conditions or circumstances." A.A.C. R9-16-108 (previous version)(emphasis added).

24 26. The new rule mirrors this revision stating that a "midwife shall not accept for midwifery services
25 or continue midwifery services for a client who *has or develops* any of the following [conditions
26 or circumstances.]" A.A.C. R 9-16-111 (new rules)(emphasis added).

27 27. Before July 1, 2013, the Department read this provision in the present tense; a midwife cannot
28 care for someone who has or develops a dangerous condition.

- 1 28. There is no provision in either the old or new rules that prohibit a midwife from caring for a
2 person who *has had or developed* a condition that has later resolved.
- 3 29. Since the rules revision, the Department has adopted a policy that once a patient has a "prohibited
4 practice" condition, that patient can never return to midwifery care.
- 5 30. Midwives have met with representatives from the Department, voiced concerns for patient safety,
6 and filed multiple Petitions for a Rule under A.R.S. § 41-1030 with the Department. The
7 Department has refused to change this policy.
- 8 31. This policy restricts a midwives scope of practice by not allowing otherwise eligible women to
9 return to midwifery care.
- 10 32. In one instance, a midwife had a client who experienced preterm labor (labor beginning before 36
11 weeks gestation), a "prohibited practice" condition for which the midwife is required to transfer
12 care. A.A.C. R9-16-111(18). The midwife subsequently transferred care of the client to a
13 physician. The client's preterm labor subsided and, at 38 weeks gestation, the physician
14 transferred care back to the midwife. The Department told the midwife that she was prohibited
15 from caring for that client because the client had experienced preterm labor, despite that the client
16 had carried the child to term.
- 17 33. In another case, a midwife attended a birth where the mother experienced a postpartum
18 hemorrhage of more than 500 ml, a "prohibited practice" condition. A.A.C. R9-16-111(25). The
19 midwife called EMS. Before EMS arrived, the bleeding stopped and the client stabilized. As a
20 result, the client refused transport and EMS confirmed that the client did not require transport. The
21 Department has threatened to suspended the midwife's license because she stayed with the client
22 while EMS was present and remained with her client after EMS had left, despite that the
23 "prohibited practice" condition resolved.
- 24 34. The Department prohibits a women returning to midwifery care even if the "prohibited practice"
25 did not occur under the midwife's care. In one instance, a midwife transferred her patient to the
26 hospital for prolonged labor. While at the hospital, her fetus developed an abnormal heartbeat, a
27 "prohibited practice" condition. A.A.C. R9-16-111(B)(23). After an emergency cesarean the
28 hospital released the patient to the care of the midwife. The Department instructed the midwife

- 1 that she could not resume care of the client. The client struggled to find postpartum care with
2 another provider, and ultimately only had one postpartum followup.
- 3 35. Arizona healthcare providers routinely release "prohibited practice" clients to midwifery care
4 once the condition has been resolved. Healthcare providers are often unable to continue care or
5 provide postpartum care for midwifery clients, as midwifery clients are not established within
6 their practice. As such, these clients are routinely left without postpartum care because of this
7 Department policy.
- 8 36. The Department's policy on "prohibited practice" negatively effects the health and safety of
9 mothers and babies.
- 10 37. At times, it places a woman who is low risk and wants a midwife attended birth outside of the
11 scope of practice. In other instances, it directly endangers midwifery clients by requiring the
12 permanent and unilateral termination of care, even if another provider has not assumed care.

13 14 REDUCTION IN SCOPE

- 15 38. The new rules reduce a licensed midwives scope by redefining "gestation," restricting breech
16 deliveries, and terminating midwife delivered postpartum and preconception care.

17 Gestation

- 18 39. Before July 1, 2013, the midwifery rules did not include a definition of "gestation."
19 40. As such, "gestation" assumed its ordinary clinical definition. The ordinary clinical definition
20 under the midwifery standard of care is to use all available information and technology to assess
21 gestational age, including last menstrual period, date of conception, date of ovulation, first
22 positive pregnancy test, fundal height, and ultrasound technology.
- 23 41. After the rules revision, "gestation" was defined for the first time to mean "the length of time
24 from conception to birth, as calculated from the first day of the last normal menstrual period."
25 A.C.C. R9-16-101(20).
- 26 42. This definition is not the standard of care in either the midwifery or obstetrical communities. It
27 has not been the standard of care for at least one hundred years.
- 28 43. This definition limits a midwives scope because it places women who do not have regular periods,
women who conceived on certain types of birth control with periods, women who used artificial

1 reproductive technology, and breastfeeding women who do not menstruate outside a midwife's
2 scope of practice. These conditions are common; thirty percent of women of reproductive age
3 have irregular periods.

4 44. Because a midwife must terminate care at 42 weeks gestation as calculated by last menstrual
5 period only, this rule reduced a midwives scope and excluded otherwise eligible women from
6 care.

7 45. The Department has enforced this definition against the Licensed Midwives and has filed a Notice
8 of Intent to Suspend the license of a midwife who used ultrasound technology to help determine
9 gestational age.

10 Breech Birth

11 46. Before July 1, 2013, any licensed midwife in Arizona could attend a birth where the fetus was in
12 an "abnormal presentation," commonly called a breech birth, provided that the midwife consult
13 with a physician.

14 47. The new rules package reduces the midwives' scope of practice by both requiring a breech client's
15 cervix to dilate at predetermined rate and requiring the client to consent to cervical examinations.
16 A.A.C. R9-16-108(J)(4). Neither of these conditions are evidence-based and both reduce the
17 scope of licensed midwives.

18 48. According to midwife trainings conducted by the Department, breech clients cannot refuse hourly
19 cervical examinations. A midwife must terminate care if the client refuses a cervical examination.

20 49. Further, the new rules only allow those midwives who hold the Certified Professional Midwife
21 ("CPM") credential to deliver breech fetuses. A.A.C. R9-16-108(B).

22 50. Because the CPM credential is a newer credential first issued in 1994, many of the Arizona
23 Licensed Midwives who have been delivering breech babies for decades with excellent outcomes
24 are now prohibited from doing so.

25 Preconception Counseling, Cancer Screening, and Postpartum Care

26 51. The statutory definition of a midwife under A.R.S. § 36-751 is "a person who delivers a baby or
27 provides health care related to pregnancy, labor, delivery and postpartum care of the mother and
28 her infant."

- 1 52. Before July 1, 2013, this statute was interpreted such that any person could seek the care of a
2 midwife for preconception counseling, cancer screenings, or postpartum followup at any time
3 because that healthcare was "related to" pregnancy and postpartum care.
- 4 53. Part of the education of a Licensed Midwife includes the skills necessary to provide preconception
5 counseling, cancer screenings, and postpartum care.
- 6 54. Since July 1, 2013, the Department has interpreted this statute and a nearly identical new rule that
7 defines "midwifery services" to mean that a midwife may not begin services until the beginning of
8 pregnancy and must terminate services six weeks after a birth. A.A.C. R9-16-101(30).
- 9 55. Terminating services at six weeks without the ability to follow up with clinical concerns is not the
10 standard of care within either the midwifery or obstetrical communities.
- 11 56. Terminating services at six weeks endangers the lives of mothers and babies as the healthcare
12 professional most able to screen for postpartum depression or other complications is not allowed
13 to answer her client's clinical questions after six weeks postpartum.
- 14 57. In September of 2015, Amy Baumgartner delivered a healthy baby under the care of an Arizona
15 Licensed Midwife.
- 16 58. At seven weeks postpartum, Ms. Baumgartner began to experience sleeplessness and loss of
17 appetite. She called her midwife and asked for follow up care.
- 18 59. The midwife, hearing these symptoms, was worried that her client might be experiencing
19 postpartum depression or another complication. Nevertheless, the midwife was prohibited from
20 caring for Ms. Baumgartner because she had delivered her baby more than six weeks ago.
- 21 60. During the same time period that the Department was instructing midwives to terminate care at six
22 weeks postpartum without exception, the Department launched the Early Childhood Home
23 Visiting Services program. That program provides postpartum care for low income women for up
24 to one year. The care is delivered by a layperson.

25 INCREASED ADMINISTRATIVE BURDEN

- 26
- 27 61. Before July 1, 2013, the Licensed Midwives were required to file a quarterly report. The quarterly
28 report contained basic information about each mother who birthed during the timeframe. The

1 report was filed by the midwife who attended the birth. A.A.C. R9-16-107(G)(exhibit B) (previous
2 rules).

3 62. Since July 1, 2013, the Licensed Midwives must file a midwifery report for every client they see,
4 regardless of whether the midwife attended the birth. The rules created a "rolling deadline,"
5 mandating that a report be filed within 30 days of termination of midwifery services. A.A.C.
6 R9-16-114.

7 63. As a result, midwives who work in a group practice experienced an exponential increase in
8 reporting because they must now file a report for every client with whom they has a prenatal or
9 postpartum appointment, even if the midwife did not attend the birth.

10 64. The new "rolling deadline" increases a midwife's administrative burden because a midwife cannot
11 say with certainty when she will terminate services. For example, a midwife might see a patient at
12 two weeks postpartum, but the client might skip the six week visit and not respond to the midwife.
13 In that situation, even if the midwife files a report immediately, that report is late.

14 65. The new rules imposed an additional administrative burden by requiring that a midwife research
15 hospital policies and phone the nearest hospital in accordance with those policies when the client
16 begins labor and ends labor. A.A.C. R9-16-108(J)(2). While it is the standard of care to phone the
17 nearest hospital in the event of a transfer, calling for every client, every delivery, creates an
18 unnecessary burden for midwives.

19 20 ILLEGAL REQUESTS FOR CHARTS

21 66. Patient data is confidential and protected by law. In Arizona, the Department may request patient
22 data or the midwife's chart only pursuant to an investigation after "receiving information that a
23 person is violating this article [licensing of midwifery]. In connection with an investigation, the
24 department may examine and copy documents and other physical evidence wherever located that
25 relate to the conduct or competency of a midwife pursuant to the requirements of this article."
26 A.R.S. § 36-756.01.

27 67. Since July 1, 2013, the Department began requesting client charts for reasons other than
28 investigation. Specifically, the Department has adopted a policy of requesting unredacted charts
for every client who had a Vaginal Birth After Cesarean ("VBAC"), a breech birth, an infant who

1 is Large for Gestational Age ("LGA") or Small for Gestational Age ("SGA"), or transfer of care
2 for any reason.

3 68. That a client had a VBAC, a breech birth, an LGA or SGA baby, or transferred care is not
4 "information that a person is violating" the midwifery regulations.

5 69. Collectively, these conditions account for nearly twenty percent of the Licensed Midwife attended
6 births in Arizona over the past year.

7 70. As a result of this policy, the regulatory burden of the Licensed Midwives has increased
8 dramatically.

9 71. Further, a midwife's chart contains highly personal and confidential details. Midwifery consumers
10 remain concerned that this sensitive data is transmitted in unredacted form and for reasons other
11 than an investigation.

12 INFORMED CONSENT AND REFUSAL

13 72. Under both the new and old rules, Licensed Midwives were required to give their clients informed
14 consent. Part of the informed consent process is a statement of risks and benefits of the proposed
15 course of treatment and the ability to consent or refuse.

16 73. Before July 1, 2013, it was the Department's position that the clients of Licensed Midwives could
17 refuse any course of treatment without losing access to midwifery care.

18 74. After July 1, 2013, the Department issued policies in the form of midwife training sessions that
19 midwifery clients cannot refuse certain tests or procedures. Specifically, if a client refuses to have
20 a vaginal exam during labor, refuses to have a syphilis test, or refuses transport the midwife must
21 terminate care.

22 75. According to the Department, each midwifery client must submit to at least one mandatory
23 vaginal exam during labor or lose her access to midwifery care. By creating a situation where a
24 client must submit to a vaginal exam or lose access to her healthcare provider of choice, the
25 laboring woman is coerced into submitting to an exam that she may not want or need.

26 76. Mandatory vaginal exams are not the standard of care in the midwifery community. In instances
27 where a client's bag of waters has ruptured, a mandatory vaginal exam exposes the client to an
28 unnecessary risk of infection. Further, for clients who have experienced abuse, a mandatory
vaginal exam can trigger past emotional trauma.

1 77. According to the Department, each midwifery client must submit to a syphilis test or the midwife
2 must terminate care. While it is the standard of care in the midwifery and obstetrical communities
3 to offer a syphilis test to every pregnant client, it is not the standard to withhold prenatal care in
4 the event the client does not consent to testing.

5 78. According to the Department, each midwifery client must consent to a transport or transfer of care
6 in the event that one of the "prohibited practice" conditions occur. This means that a client who
7 has experienced a postpartum hemorrhage must consent to a transfer to EMS, even if that patient
8 is stable and both the midwife and EMS believe that transport is not necessary.

9 **CLAIMS FOR RELIEF**

10 **FIRST CLAIM FOR RELIEF**

11 **(The Department's Policy on Prohibited Practice Violates A.R.S. § 41-1034)**

12 79. Plaintiff restates and reincorporates by reference the allegations contained in paragraphs 1-78
13 above.

14 80. The Department has formulated a policy that once a client "has or develops" a prohibited practice
15 condition, that client can never return to midwifery services.

16 81. The policy is at odds with that historical practice of the Department.

17 82. The policy is at odds with patient safety, as there is often no provider assuming care of the client.

18 83. The policy is widely applicable to the Licensed Midwives and implements, interprets or prescribes
19 law or policy, or describes the procedure or practice requirements of an agency.

20 84. The policy is a rule.

21 85. The policy was not made and approved in substantial compliance with the Administrative
22 Procedures Act and is therefore invalid. A.R.S. § 41-1034.

23 86. Licensed midwives and their clients will suffer irreparable harm if the Department continues to
24 enforce this invalid rule.

25 **SECOND CLAIM FOR RELIEF**

26 **(A.A.C. R9-16-101(20) Violates A.R.S. § 41-1030)**

27 87. Plaintiff restates and reincorporates by reference the allegations contained in paragraphs 1-86
28 above.

- 1 88. Under A.R.S. § 41-1030(C) an agency shall not “[m]ake a rule under a specific grant of
2 rulomaking authority that exceeds the subject matter areas listed in the specific statute authorizing
3 the rule.”
- 4 89. The language of HB2247 gave the Department authority to consider adopting rules that “reduc[e]
5 the regulatory burden on midwives” and “revis[e] the midwifery scope of practice pursuant to [an
6 increase in scope of practice].”
- 7 90. The rules revision decreased a Licensed Midwife’s scope of practice by forcing her to use only
8 last menstrual period to calculate gestational age, thereby placing women who irregularly
9 menstruate outside of a licensed midwives scope of practice.
- 10 91. Licensed midwives and their clients will suffer irreparable harm if the Department continues to
11 enforce this invalid rule.

12 **THIRD CLAIM FOR RELIEF**

13 **(A.A.C. R9-16-108(B), (D)(2), (J)(4) Violate A.R.S. § 41-1030)**

- 14 92. Plaintiff restates and reincorporates by reference the allegations contained in paragraphs 1-91
15 above.
- 16 93. The rules revision decreased a Licensed Midwife’s scope of practice by allowing only midwives
17 holding the CPM certification to attend breech birth, A.A.C. R9-16-108(B), requiring that breech
18 clients submit to mandatory cervical exams under threat of termination of midwifery services,
19 A.A.C. R9-16-108(J)(4), requiring a breech client’s cervix to dilate at a specific hourly rate in
20 order to continue midwifery care, A.A.C. R9-16-108(J)(4), and requiring breech clients to birth
21 within twenty-five miles of a hospital. A.A.C. R9-16-108(D)(2).
- 22 94. Since the Department exceeded the statutory authority granted to it under HB2247, these rules are
23 invalid. A.R.S. § 41-1030(C).
- 24 95. Licensed midwives and their clients will suffer irreparable harm if the Department continues to
25 enforce this invalid rule.

26 **FOURTH CLAIM FOR RELIEF**

27 **(The Department’s Policy on Preconception Counseling, Cancer Screenings, and Postpartum
28 Services Violates A.R.S. § 41-1034)**

- 1 96. Plaintiff restates and reincorporates by reference the allegations contained in paragraphs 1-95
2 above.
- 3 97. The Department has formulated a policy that women cannot receive midwifery services unless
4 they are pregnant or within six weeks postpartum.
- 5 98. The policy is at odds with that historical practice of the Department.
- 6 99. The policy is at odds with patient safety, as it is irresponsible practice to not allow a client to
7 follow up with healthcare concerns after six weeks postpartum.
- 8 100. The policy is widely applicable to the Licensed Midwives and implements, interprets or
9 prescribes law or policy, or describes the procedure or practice requirements of an agency.
- 10 101. The policy is a rule.
- 11 102. The policy was not made and approved in substantial compliance with the Administrative
12 Procedures Act and is therefore invalid. A.R.S. § 41-1034.
- 13 103. Licensed midwives and their clients will suffer irreparable harm if the Department continues to
14 enforce this invalid rule.

15 **FIFTH CLAIM FOR RELIEF**

16 (A.A.C. R9-16-114, 108(J)(2) Violates A.R.S. § 41-1030)

- 17 104. Plaintiff restates and reincorporates by reference the allegations contained in paragraphs 1-103
18 above.
- 19 105. The rules revision increased a Licensed Midwife's administrative burden by requiring midwives
20 to file reports for clients when the midwife did not attend the birth, by creating a rolling deadline,
21 and by requiring that a midwife research hospital policies and call ahead.
- 22 106. Since the Department exceeded the statutory authority granted to it under HB2247, these rules are
23 invalid. A.R.S. § 41-1030(C).
- 24 107. Licensed midwives and their clients will suffer irreparable harm if the Department continues to
25 enforce this invalid rule.

26 **SIXTH CLAIM FOR RELIEF**

27 (The Department's Requests for Patient Charts Violate A.R.S. § 36-756.01)

- 28 108. Plaintiff restates and reincorporates by reference the allegations contained in paragraphs 1-107
above.

1 109. The Department is allowed to request patient charts only pursuant to an investigation. A.R.S. §
2 36-756.01.

3 110. The Department's policy of requesting charts for purposes other than an investigation violates
4 A.R.S. § 36-756.01.

5 111. The Department's policy of requesting charts for purposes other than an investigation is arbitrary,
6 capricious, and an abuse of discretion.

7 **SEVENTH CLAIM FOR RELIEF**

8 **(A.A.C. R9-16-108(J)(3)(c), 108(I), 113 Violates Article 2, Section 8 of the Arizona Constitution)**

9 112. Plaintiff restates and reincorporates by reference the allegations contained in paragraphs 1-111.
10 above.

11 113. The Department has issued policies in the form of midwife training sessions that midwifery
12 clients cannot refuse vaginal exams during labor, syphilis tests, or transport. If a client refuses, the
13 midwife must terminate care.

14 114. These policies are at odds with the historical practice of the Department.

15 115. These policies violate a patient's right to informed consent and refusal of medical treatment free
16 from coercion protected in the Arizona Constitution.

17 116. Licensed midwives and their clients will suffer irreparable harm if the Department continues to
18 enforce this invalid rule.

19 **EIGHTH CLAIM FOR RELIEF**

20 **(A.A.C. R9-16-108(J)(3)(c), 108(I), 113 Violates the Due Process Clauses of the United States**
21 **Constitution)**

22 117. Plaintiff restates and reincorporates by reference the allegations contained in paragraphs 1-116
23 above.

24 118. These policies violate a patient's right to informed consent and refusal of medical treatment free
25 from coercion protected in the United States Constitution.

26 119. Licensed midwives and their clients will suffer irreparable harm if the Department continues to
27 enforce this invalid rule.


28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

- A. Enter a declaratory judgment that the Department's policy on "prohibited practice" violates Section 41-1034 of the Administrative Procedure act and is therefore void;
- B. Enter a declaratory judgment that A.A.C. R9-16-101(20) (gestation) exceeds the statutory grant of authority under HB2247 and is therefore void;
- C. Enter a declaratory judgment that A.A.C. R9-16-108(B), (D)(2), (J)(4) (breech birth) exceed the statutory grant of authority under HB2247 and are therefore void;
- D. Enter a declaratory judgment that the Department's policy on preconception counseling, cancer screening, and postpartum care violates Section 41-1034 of the Administrative Procedure act and is therefore void;
- E. Enter a declaratory judgment that A.A.C. R9-16-114, 108(J)(2) (administrative burden) exceed the statutory grant of authority under HB2247 and are therefore void;
- F. Enter a declaratory judgment that the Department's policy to request charts absent an investigation violates A.R.S. § 36-756.01;
- G. Enter a declaratory judgment that the Department's policy on mandatory testing, vaginal exams, and transport violate both the Arizona and United States Constitution and cannot be used in a licensing decision against a Licensed Midwife;
- H. Enter a preliminary and permanent injunction against the Department from enforcing the above rules and policies in a licensing decision against a Licensed Midwife;
- I. Award Plaintiff its attorney's fees pursuant to A.R.S. § 41-1030;
- J. Award Plaintiff its costs; and
- K. Grant such other relief as is just and proper.

Respectfully Submitted this 5th day of November


Julie Gunnigle

1 Original of the foregoing filed this 5th day of November:

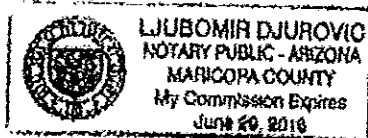
2 Maricopa County Superior Court
3 201 W. Jefferson
4 Phoenix, AZ 85003

5
6 VERIFICATION

7 Wendi L. Cleckner, as President of the Arizona Association of Midwives, does hereby depose and
8 swear that I have read the above complaint and the facts alleged in it are true and correct to the best on
9 my knowledgo.

10 Subscribed and sworn to me this 5th day of November 2015, by Wendi L. Cleckner.

11 *Wendi L. Cleckner*



13
14 *Ljiljimir Djurovic*
15 Notary Public

16 My Commission expires:

17
18 06/20/2016

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28

1 Julie R. Gunnigle, State Bar No. 032124
2 **LAW OFFICE OF JULIE GUNNIGLE, PLLC**
3 6424 E. Greenway Parkway, Suite #100-421
4 Scottsdale, AZ 85254
5 Office: 480-266-0129
6 E-Mail: Julie.Gunnigle@webmail.azbar.org
7 Attorney for Plaintiff, Arizona Association of Midwives

COPY

NOV - 5 2015



MICHAEL K. JEANES, CLERK
G. SHAMON
DEPUTY CLERK

8 **SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN MARICOPA COUNTY**

Case No.: CV 2015-053512

10 Arizona Association of Midwives,
11 Plaintiff,

12 v.

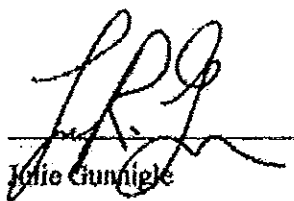
Certificate of Compulsory Arbitration

13 Arizona Department of Health Services; Cara
14 M. Christ, Director of the Arizona
15 Department of Health Services, in her official
16 capacity; Mark Brnovich, Arizona Attorney
17 General, in his official capacity,

Defendants

18
19 The undersigned certifies that he or she knows the dollar limits and any other limitations set forth by
20 the local rules of practice for the applicable superior court, and further certifies that this case is not
21 subject to compulsory arbitration, as provided by Rules 72 through 77 of the Arizona Rules of Civil
22 Procedure.

23 Submitted this 5th day of November, 2015,

24
25 
26
27 Julie Gunnigle
28

1 Julie R. Gunnigle, State Bar No. 032124
2 **LAW OFFICE OF JULIE GUNNIGLE, PLLC**
3 6424 E. Greenway Parkway, Suite #100-421
4 Scottsdale, AZ 85254
5 Office: 480-266-0129
6 E-Mail: Julie.Gunnigle@webmail.azbar.org
7 Attorney for Plaintiff, Arizona Association of Midwives

COPY

NOV - 5 2015



MICHAEL K. JEANES, CLERK
G. SHAMON
DEPUTY CLERK

8 **SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN MARICOPA COUNTY**

Case No.: CV 2015-053512

10 Arizona Association of Midwives,
11 Plaintiff,

12 v.

13 Arizona Department of Health Services; Cara
14 M. Christ, Director of the Arizona
15 Department of Health Services, in her official
16 capacity; Mark Brnovich, Arizona Attorney
17 General, in his official capacity,

Attorney Appearance

Defendants

18 The undersigned hereby enters her appearance on behalf of the Arizona Association of Midwives. All
19 future communications should be directed to the following address:

20 Julie Gunnigle, #032124
21 6424 E. Greenway Parkway, #100-421
22 Scottsdale, AZ 85254
23 Telephone: (480) 266-0129
24 Julie.Gunnigle@webmail.azbar.org

25 Submitted this 5th day of November, 2015,

26 
27 _____
28 Julie Gunnigle

1 Julie R. Gunnigle, State Bar No. 032124
2 **LAW OFFICE OF JULIE GUNNIGLE, PLLC**
3 6424 E. Greenway Parkway, Suite #100-421
4 Scottsdale, AZ 85254
5 Office: 480-266-0129
6 E-Mail: Julie.Gunnigle@webmail.azbar.org
7 Attorney for Plaintiff, Arizona Association of Midwives

8 **SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN MARICOPA COUNTY**

10 Case No.: CV2015-053512

11 Arizona Association of Midwives,

12 Plaintiff,

13 v.

14 Arizona Department of Health Services;
15 Mark Brnovich, Arizona Attorney General, in
16 his official capacity; Cara M. Christ, Director
17 of the Arizona Department of Health
18 Services, in her official capacity,

19 Defendants

20 **NOTICE OF CLAIM OF**
21 **UNCONSTITUTIONALITY**

22 Plaintiff, Arizona Association of Midwives by and through the undersigned counsel hereby submits
23 this Notice of Claim of Unconstitutionality regarding Arizona Administrative Code R9-16-108(J)(3)
24 (c), R9-16-108(l), and R9-16-113 to the Attorney General, the Speaker of the House and President of
25 the Senate as required by A.R.S. § 12-1841. The Arizona Association of Midwives provides the
26 following information:

27 1. The Arizona Association of Midwives is represented by the following attorney:

28 Julie Gunnigle, #032124
6424 E. Greenway Parkway, #100-421
Scottsdale, AZ 85254
Telephone: (480) 266-0129
Julie.Gunnigle@webmail.azbar.org

Parties, Jurisdiction, and Venue

- 1
- 2 2. The case name, caption, and case number are set forth above.
- 3 3. The Arizona Association of Midwives asserts that the express language of Arizona Administrative
- 4 Code R9-16-108(J)(3)(c), R9-16-108(I), and R9-16-113 and that language as interpreted and
- 5 applied by the Arizona Department of Health Services is unconstitutional because forces women
- 6 to undergo testing, transport, and vaginal exams during labor under the threat of losing access to
- 7 their maternity care. The right to refuse medical treatment free from coercion is protected by both
- 8 the Due Process Clause of the United States Constitution and Article 2, Section 8 of the Arizona
- 9 Constitution.
- 10 4. A verified complaint for declaratory and injunctive relief was filed on November 5, 2015 and will
- 11 be served concurrently with this Notice.
- 12 5. As of the date of this Notice, no hearings have been scheduled.

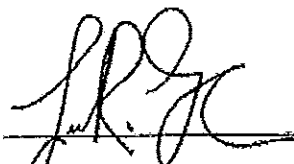
13

14 RESPECTFULLY SUBMITTED THIS 20 DAY OF NOVEMBER, 2015.

15

16

17

18 

19

20 Julie R. Gunnigle

21 **Law Office of Julie Gunnigle**
22 6424 E. Greenway Parkway, Suite #100-421
23 Scottsdale, AZ 85254
Attorney for the Plaintiff/Appellant

24 **Original of the foregoing filed this**

25 20 day of November, 2015

26 Maricopa County Superior Court

27

28

1 **Copy of the foregoing served on:**
2 **Mark Brnovich**
3 **Arizona Attorney General**
4 **1275 W. Washington Street**
5 **Phoenix, AZ 85007-2926**
6
7 **David Gowan**
8 **Speaker of the House of Representatives**
9 **Arizona House of Representatives**
10 **Capitol Complex**
11 **1700 W. Washington**
12 **Phoenix, AZ 85007-2890**
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Anderson, Ryan

From: Bailey, Michael
Sent: Wednesday, December 02, 2015 9:41 AM
To: Anderson, Ryan; Garcia, Mia; Baer, Aaron
Subject: FW: Rode mediation

fyi

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

NOTICE: This email (and any attachments) may contain PRIVILEGED OR CONFIDENTIAL information and is intended only for the use of the specific individual(s) to whom it is addressed. If you have received this email in error, please immediately notify Valerie Neumann at 602-542-8017 and delete the original email. Thank you.

From: Heathcotte, Brock
Sent: Monday, November 30, 2015 3:43 PM
To: Bailey, Michael
Cc: Schwartz, Jonathan
Subject: Rode mediation

Mike,

FYI – Rode mediation is Thursday, maybe all day. Schwartz and I are going.

Thanks,

Brock Heathcotte
Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007
Phone: 602-542-7664
Fax: 602-542-3393

Anderson, Ryan

From: Bailey, Michael
Sent: Tuesday, December 01, 2015 2:16 PM
To: Anderson, Ryan; Garcia, Mia
Cc: Brnovich, Mark
Subject: FW: Bitter Smith Scheduling Conference

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Roysden, Beau
Sent: Tuesday, December 01, 2015 2:03 PM
To: Bailey, Michael
Cc: Watkins, Paul
Subject: Bitter Smith Scheduling Conference

Mike,

Since Paul is in the air right now, I just wanted to let you know that we have a telephonic scheduling conference tomorrow at 10:00 a.m. in the Bitter Smith case. We will address the motion to expedite tomorrow and a briefing schedule at that conference.

Let me know if you would like to discuss further. I believe Paul lands in the next couple of hours.

Brunn (Beau) Roysden
Senior Litigation Counsel



Office of the Attorney General
Consumer Protection & Advocacy Section
1275 W Washington St, Phoenix, AZ 85007
Desk: 602.542.7757 | Fax: 602.542.4377
Beau.Roysden@azag.gov

Anderson, Ryan

From: Bailey, Michael
Sent: Tuesday, December 01, 2015 10:55 AM
To: Brnovich, Mark
Subject: RE: Charge of Discrimination (Patrick Flannery v. Kingman Senior Nutrition Center)

I think this is probably the result of a constituent having found your email address and wanting your attention. It's not a group of lawyers in this one.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

NOTICE: This email (and any attachments) may contain PRIVILEGED OR CONFIDENTIAL information and is intended only for the use of the specific individual(s) to whom it is addressed. If you have received this email in error, please immediately notify Valerie Neumann at 602-542-8017 and delete the original email. Thank you.

From: Brnovich, Mark
Sent: Tuesday, December 01, 2015 8:19 AM
To: Bailey, Michael; Baer, Aaron; Anderson, Ryan
Subject: Fwd: Charge of Discrimination (Patrick Flannery v. Kingman Senior Nutrition Center)

Can someone remove me from this string I assume someone is taking care of it

Attorney General Mark Brnovich
Sent from my iPhone

Begin forwarded message:

From: "P.J. Flannery" <[REDACTED]@yahoo.ie>
Date: December 1, 2015 at 6:29:58 AM MST
To: Alicia George <alicia.george@azag.gov>, "Mark.Brnovich@azag.gov" <Mark.Brnovich@azag.gov>, "P.J. Flannery" <[REDACTED]@yahoo.ie>
Cc: "Dorothy.Jim@azag.gov" <Dorothy.Jim@azag.gov>
Subject: Fw: Charge of Discrimination (Patrick Flannery v. Kingman Senior Nutrition Center)
Reply-To: "P.J. Flannery" <[REDACTED]@yahoo.ie>

Ms. George,

I refer to these, your two-email of both: 9th and 18th November 2015, respectively:

- George, Alicia <Alicia.George@azag.gov>

-
- Nov 9 at 12:58 PM

To

- [REDACTED]@yahoo.ie

Message body
Mr. Flannery,

I am sending this email to remind you of your telephonic intake appointment tomorrow. One of our investigators will be calling you on Tuesday 11/10/2015 at 3:30 p.m. Please feel free to reach out to our office if you have any questions in the meantime or if you need to reschedule the appointment. Thank you.

Regards,

Alicia George
Civil Rights Compliance Officer I

Anderson, Ryan

From: Bailey, Michael
Sent: Monday, November 30, 2015 7:59 AM
To: Brnovich, Mark; Garcia, Mia
Cc: Anderson, Ryan; Ryan Anderson ([REDACTED]@gmail.com); Roysden, Beau; Baer, Aaron; Medina, Rick; Watkins, Paul
Subject: RE: SBS Near Final Press Release

New version coming through momentarily

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Brnovich, Mark
Sent: Monday, November 30, 2015 7:55 AM
To: Garcia, Mia
Cc: Anderson, Ryan; Ryan Anderson ([REDACTED]@gmail.com); Bailey, Michael; Roysden, Beau; Baer, Aaron; Medina, Rick; Watkins, Paul
Subject: Re: SBS Near Final Press Release

Did we check for grammar and typos?

Attorney General Mark Brnovich
Sent from my iPhone

On Nov 29, 2015, at 12:34 PM, Garcia, Mia <Mia.Garcia@azag.gov> wrote:

Let's try this again with the attachment...

For your review, any thoughts, comments, corrections are welcome.

We will attach the 45 page petition to the release and provide an online link to the 900 page exhibit for media.

Thanks!

Mia Garcia

Spokesperson/ Director of Media Relations

<image001.png>

Office of Attorney General Mark Brnovich
1275 W. Washington, Phoenix, AZ 85007
Desk: 602-542-8019 | Cell: 602-339-5895
Mia.Garcia@azag.gov
<http://www.azag.gov>

<SBS Near final.docx>

Anderson, Ryan

From: Bailey, Michael
Sent: Friday, November 27, 2015 11:23 AM
To: Conrad, Donald
Subject: RE: Persall letter

sure

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Conrad, Donald
Sent: Friday, November 27, 2015 11:23 AM
To: Bailey, Michael
Subject: Persall letter

Do you want to see the revised letter to the Yavapai County Assessor?

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

Anderson, Ryan

From: Bailey, Michael
Sent: Wednesday, November 25, 2015 8:21 PM
To: Brnovich, Mark
Cc: Anderson, Ryan
Subject: Re: Supreme Court argument tickets

Ryan is planning on being there. Watkins is there the week before and does not want to stay through. He would fly back, but that is hard to justify.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

(This email was sent from a mobile device and likely used voice transcription and automatic correction applications. For that reason, please note the possibility of inadvertent content error.)

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On Nov 25, 2015, at 5:43 PM, Brnovich, Mark <Mark.Brnovich@azag.gov> wrote:

Since Watkins will be back for NAAG meeting, is he attending? Maybe ask bunch from fed soc? Don't u think Ryan needs to be there to handle media?

Attorney General Mark Brnovich
Sent from my iPhone

Begin forwarded message:

From: Marion Zaczekiewicz <mzaczekiewicz@supremecourt.gov>
Date: November 25, 2015 at 1:50:09 PM MST
To: "Kredit, Beth" <Beth.Kredit@azag.gov>
Cc: "Brnovich, Mark (Mark.Brnovich@azag.gov)" <Mark.Brnovich@azag.gov>, "Gordon, Elizabeth" <Elizabeth.Gordon@azag.gov>
Subject: RE: Supreme Court argument tickets

Looks like Attorney General Brnovich is now officially listed as one of the arguing attorneys.

We can reserve up to 8 seats (total) for his guests; please send the names of the guests once Gen. Brnovich determines.

Thanks!

From: Kredit, Beth [<mailto:Beth.Kredit@azag.gov>]
Sent: Thursday, November 12, 2015 12:03 PM
To: Marion Zaczekiewicz
Subject: RE: Supreme Court argument tickets

That's great – thank you so much!

From: Marion Zaczekiewicz [<mailto:mzaczekiewicz@supremecourt.gov>]
Sent: Thursday, November 12, 2015 10:00 AM
To: Kredit, Beth
Cc: Marion Zaczekiewicz
Subject: RE: Supreme Court argument tickets

As long as someone's arguing, they're automatically allotted a number of seats for guests, so no problem in that sense re. when we reserve (can even do the day before). If someone's not arguing, then there's nothing allotted (and you should then check with whoever will be arguing on your side); we also always have a good number of public seats (first-come, first-seated) available. Thanks.

From: Kredit, Beth [<mailto:Beth.Kredit@azag.gov>]
Sent: Thursday, November 12, 2015 11:53 AM
To: Marion Zaczekiewicz
Subject: RE: Supreme Court argument tickets

I am told that he has sent the form in, but that we were advised it won't be ruled on until November 24, 2015. Do you know if it will still be possible to get tickets after that date?

From: Marion Zaczekiewicz [<mailto:mzaczekiewicz@supremecourt.gov>]
Sent: Thursday, November 12, 2015 7:40 AM
To: Kredit, Beth
Subject: RE: Supreme Court argument tickets

We have not replied yet because, last time I checked, our Clerk's Office could not yet confirm that General Brnovich will be arguing the case. Has he sent an argument form in to our Clerk's Office? Thanks.

From: Kredit, Beth [<mailto:Beth.Kredit@azag.gov>]
Sent: Tuesday, November 10, 2015 5:46 PM
To: Marion Zaczekiewicz
Subject: Supreme Court argument tickets

I am following up to Arizona Attorney General Mark Brnovich's request for tickets for members of his staff to attend court proceedings on December 8, 2015. His e-mail request was sent on October 21, 2015. I have checked his e-mail inbox but don't see any response. I apologize if it has already been sent and I have overlooked it.

If there is anything else we need to do on our end, please let me know.

Thank you,

Beth Kredit
Executive Assistant to Attorney General Mark Brnovich
Office of the Attorney General
602-542-8005
Beth.Kredit@azag.gov



Anderson, Ryan

From: Bailey, Michael
Sent: Friday, November 20, 2015 4:16 PM
To: Anderson, Ryan
Subject: FW: Texting
Attachments: Twilio Summary(CTIA).docx

We talked to these folks earlier this week. They'd like us to consider a letter to FCC on proposed regulation of text messaging. They think that the regulation would allow a great increase in text spamming. So we'd be on the right side of spam.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Tom Power [<mailto:TPower@ctia.org>]
Sent: Friday, November 20, 2015 3:20 PM
To: Bailey, Michael; Baer, Aaron
Subject: Texting

Gentlemen:

It was great to speak with you earlier this week regarding CTIA's efforts to combat spam in the text messaging environment. As you know, CTIA is the trade association for the wireless industry and our members include all of the major wireless carriers, as well as manufacturers of wireless devices and other entities in the wireless sector.

In an effort to fight spam via text messaging, wireless carriers have deployed network filters to identify and block this type of spam, which is why you receive much less text spam than, say, via email or robocalls. Now Twilio, a company that makes money by supporting mass commercial texting campaigns, has asked the Federal Communications Commission to restrict wireless carriers from using these filters. Thus, Twilio does not want carriers to protect consumers from spam. Of course, many of Twilio's customers send texts only with the consent of their recipients, but the fact is that Twilio's approach to mass-texting is why, according to one independent third party, "spammers love Twilio so much" (<http://www.tatango.com/blog/sms-spammers-exploit-twilio-send-385000-spam-text-messages/>). Further background material is attached.

We very much appreciate it if Attorney General Brnovich would consider - during the comment period on the Twilio petition - sponsoring a letter from state attorneys general asking the FCC to allow carriers to keep their current flexibility to combat spam. As you may know, the FCC will receive comments during a reply period

ending December 21, so any comment letter you may choose to write or join will need to be drafted and circulated to other attorneys general soon.

A few key points to consider:

--Text messaging spam is a major annoyance to consumers. Worse, this type of spam can be used by criminals seeking to fool consumers into divulging financial and other personal information which is then used to defraud the consumer.

--Spamming seems to occur far less frequently in the texting environment than in other forms of communication, like emails or robocalls. The wireless carriers employ filters to identify and block spam before it ever gets to the consumer's wireless device. Those efforts by carriers are a blessing to consumers and have won the support of attorneys general.

--Some companies apparently view text messages as simply a way to make money, especially through high-volume commercial texting campaigns. For these companies, more texts mean more revenues, and thus they want to restrict the ability of wireless carriers to block spam. That is not in the interests of consumers.

--The FCC should be encouraged to take steps to block spam. The FCC should not take any steps to restrict the wireless carriers' flexibility to fight spam.

Thank you very much for your consideration and please let us know if we can provide additional information.

Tom Power
Senior Vice President and General Counsel
CTIA – The Wireless Association
(202) 736-3669

Twilio Petition Background

A company named Twilio filed a petition at the FCC seeking to classify text messaging services under the same regulatory regime as voice calls. Under the current regulatory structure, wireless carriers have been able to incorporate filtering and other ways to keep messaging largely spam-free. Simply put, the “Title II” treatment proposed by Twilio would upend wireless carriers’ ability to restrict spam texts.

Text messaging is the most engaging communications platform available—roughly 90% of text messages are opened within 15 minutes of receipt, compared to email with an open rate of only 25% within 24 hours of receipt. If state attorneys general, as their state's chief consumer protection advocates, want to help preserve the relatively spam-free environment of text messaging, they may want to file comments outlining their concerns about Twilio’s proposal.

The Twilio petition can be found here: <http://apps.fcc.gov/ecfs/document/view?id=60001324418>

Takeaways

- The success of messaging is due in large part to consumer trust in the messaging platform, but spam (unwanted or harmful commercial messaging) is a growing risk.
- Under the current regulatory structure, wireless carriers have been able to incorporate filtering and other ways to keep messaging largely spam-free.
- Twilio’s call for Title II regulation would upend carrier efforts to restrict spam and unwanted messages. Further, it would distort the market as competing third-party messaging apps and email would not be subject to Title II.
- The Commission lacks the legal authority to regulate messaging under Title II, and nothing in the 2015 Open Internet Order alters that.

Key Points

- **The success of messaging is due in large part to consumer trust in the messaging platform.**
 - Messaging is the most popular method of communication for consumers today.
 - Because consumers trust the messaging platform, approximately 90% of SMS messages are opened within 15 minutes – compared to email with an open rate of 20-25% within 24 hours of receipt.
 - Businesses increasingly depend on messaging services to communicate with their customers because they know that consumers open and act on messages.
 - Financial institutions alert consumers of potential fraud in real time.
 - Airlines send delay and cancellation alerts.
 - Texts are used to permit two-factor authentication (e.g. using a pin to authenticate login from a new computer).
 - This level of engagement and growth would not be possible without safeguards in place to protect the SMS marketplace from abuse.
- **Unwanted or harmful messaging is a growing risk.**
 - Because messaging is such a trusted medium, it is an incredibly attractive platform for those hoping to engage in unwanted, illegal, and malicious acts.

- Without the protection carriers provide against the growing problem of harmful or illegal messaging traffic, consumer trust and use of messaging would be substantially diminished.
- **Wireless carrier messaging practices are designed to protect consumers, not restrict them.**
 - *Wireless carriers do not block consumer SMS, i.e., texts from one person to another.* But providers do limit unwanted commercial text messages—in fact, the FCC has commended carriers for their efforts in this regard.
- **Under the current regulatory structure, wireless carriers have been able to incorporate filtering and other ways to keep texting largely spam-free.**
 - The vast majority of spam traffic involves scams and other fraudulent activity.
 - Carriers battle back with various filtering technologies to keep spam out of messaging in-boxes.
 - In addition, the Common Short Code program was implemented by the wireless industry to enable automated, high-volume messaging consistent with consumer interests—for example, requiring an opt-in for commercial campaigns.
- **Twilio's call for Title II regulation would upend carrier efforts to restrict spam and unwanted messages.**
 - Title II regulation would put at risk the carrier-driven framework that has largely limited spam in the messaging ecosystem.
 - Subjecting messaging to Title II would severely limit the ability of carriers to proactively combat such unwanted traffic; carriers would be hamstrung to provide a curated experience for consumers and this reality would unleash a flood of unwanted messages.
 - Without proper care, new business models will create a messaging free-for-all that lacks any pre-clearance for high-volume messaging campaigns that are often the source of illegal and fraudulent messages.
 - Unlike Short Codes, new cloud-based messaging technologies like Twilio lack a uniform mechanism to prevent unwanted messages.
 - Therefore, a carrier-driven effort is underway to embrace new messaging business models while addressing the challenge of unwanted messages.
 - The wireless industry has formed working groups to address new types of messaging services committed to (1) continuing providing high-value to consumers and business and (2) avoiding the potential harms caused by new business models.

Actions By State Attorneys General

State attorneys general have been deeply concerned about SMS scams as well. Attorneys general representing 28 states have either expressed concern about the growing risk of scams delivered via SMS, provided state residents with tips on how best to handle text message scams, or urged the FCC

to take action under the Telephone Consumer Protection Act.¹ The New York attorney general, for example, noted that “[s]pammers who sent online scams to your e-mail inbox are now exploiting the

¹ ALA. DEP’T OF LAW, CONSUMER PROT. UNIT, *Alaskans are Warned to Beware of Text Message Scams* (Mar. 29, 2013), http://www.law.alaska.gov/press/consumer_alerts/2013/0313-Smishing.html (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS messages); ARIZ. ATT’Y GEN., *Arizona Attorney General Reminds Arizonans About National Data Privacy Day and Offers Tips to Protect Personal Information* (Jan. 27, 2015), <https://www.azag.gov/press-release/arizona-attorney-general-mark-brnovich-reminds-arizonans-about-national-data-privacy> (offering consumers tips to avoid unwanted SMS messages); ARK. ATT’Y GEN., *Spam Texts*, <http://arkansasag.gov/programs/consumer-protection/1/my-phone/spam-texts> (last visited Nov. 12, 2015) (offering consumers tips to avoid unwanted SMS messages); STATE OF CAL. DEP’T OF JUSTICE OFFICE OF THE ATT’Y GEN., *Leave Me Alone! How to Slow the Flow of Unwanted Communications* <https://oag.ca.gov/privacy/facts/other-privacy/leave-me-alone> (last visited Nov. 12, 2015) (offering consumers tips to avoid unwanted SMS messages); COLO. ATT’Y GEN., *Phishing Scams are on the Rise* (Sept. 2011), <http://www.coloradoattorneygeneral.gov/sites/default/files/uploads/Phishing%20Alert.pdf> (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS messages); OFFICE OF THE ATT’Y GEN., STATE OF IDAHO, *Attorney General Warns Idaho Consumers Not to Respond to Fraudulent Banking Messages* (Aug. 22, 2011), http://www.ag.idaho.gov/media/consumerAlerts/2011/ca_08222011.html (offering consumers tips to avoid unwanted SMS messages); ILL. ATT’Y GEN., *Attorney General Sends a Message to Cell Phone Spammers: U R Violating the Law* (Jan. 22, 2007), http://www.ag.state.il.us/pressroom/2007_01/20070122.html (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS messages); OFFICE OF THE IND. ATT’Y GEN., *Do Not Call – FAQs: What About Unwanted Text Messages?*, <http://www.in.gov/attorneygeneral/2443.htm#20> (last visited Nov. 12, 2015) (offering consumers tips to avoid unwanted SMS messages); IOWA DEP’T OF JUSTICE OFFICE OF THE ATT’Y GEN., *Beware of Nepal Earthquake Scams* (May 29, 2015), <https://www.iowaattorneygeneral.gov/for-consumers/consumer-alert/past-consumer-alerts/beware-of-nepal-earthquake-scams> (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS messages); KAN. ATT’Y GEN., *Consumer Corner: Avoiding Telemarketer Tricks* (Apr. 23, 2012), <https://ag.ks.gov/search-results-detail/2012/04/23/consumer-corner-avoid-telemarketing-tricks> (offering consumers tips to avoid unwanted SMS messages); KY. ATT’Y GEN., *AG Urges FCC to Allow Use of Call-Blocking Technologies by Phone Companies* (Sept. 2014), <http://ag.ky.gov/media/kygennews/kygeneralnews0914.pdf> (urging the FCC to take action under the TCPA); MD. ATT’Y GEN., *AG Gansler Warns Consumers About Retail Text Message Scam* (Dec. 5, 2012), <http://www.oag.state.md.us/Press/2012/120512.html> (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS messages); MICH. ATT’Y GEN., *Cell Phone Spam: Stop Receiving Unwanted Text Messages!*, http://www.michigan.gov/ag/0,4534,7-164-17337_20942-190608--,00.html (last visited Nov. 12, 2015) (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS messages); MINN. ATT’Y GEN., *Beware of Text Messaging Phishing – or “Smishing” – Scams*, <http://www.ag.state.mn.us/consumer/publications/TextMessagePhishing.asp> (last visited Nov. 12, 2015) (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS messages); MO. ATT’Y GEN., *AG Urges FCC to Approve Call-Blocking Authority for Phone Companies* (June 17, 2015, 10:09 AM), <http://ago.mo.gov/home/news-archives/2015-news-archives/ag-koster-urges-fcc-to-approve-call-blocking-authority-for-phone-companies> (expressing concern about the growing risks of SMS spam and urging the FCC to take action under the TCPA); NEB. ATT’Y GEN., *Consumer Alert: Text Message Phishing Scam Targeting Bank Customers* (Apr. 8, 2010, 2:30 PM), http://ago.nebraska.gov/resources/dyn/files/552077z59a468d8/_fin (offering consumers tips to avoid unwanted SMS messages); N.H. DEP’T OF JUSTICE OFFICE OF THE ATT’Y GEN., *New Hampshire Residents Warned About Phone Scam Involving Their Bank Accounts* (July 31, 2013), <http://doj.nh.gov/media-center/press-releases/2013/20130731-phone-scam-alert.htm> (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS messages); N.Y. ATT’Y GEN., *Protect your Mobile Phone from Unwanted Text Message (SMS) Spam*, <http://www.ag.ny.gov/internet/stop-mobile-spam> (last visited Nov. 12, 2015) (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS messages); N.C. DEP’T OF JUSTICE OFFICE OF THE ATT’Y GEN., *Consumer – Telephone and Do Not Call – Text Messaging*, <http://www.ncdoj.gov/Consumer/Telephone-and-Do-Not-Call/Text-messaging.aspx> (last visited Nov. 12, 2015) (expressing concern about the growing risks of SMS spam and offering consumers tips to avoid unwanted SMS

SMS feature on mobile phones, which are more direct and have weaker spam filters” and provided best practices for mobile phone users.²

CTIA and wireless providers have been strong proponents of law enforcement efforts to curb illegal and malicious mass-messaging. Wireless carriers have taken spammers to court to protect their customers from unwanted and costly commercial messages. CTIA has urged the FCC “to work with wireless carriers to increase enforcement efforts against third parties sending unsolicited commercial messages to wireless customers,” and “offer[ed] the wireless industry’s full assistance and cooperation” in helping the Commission to “fulfill[] its statutory mandate to enforce these important consumer protection laws.”³

Spam Warnings From Select AG Websites

Minnesota

Text messages like these are quick to grab our attention. Studies show that the majority of incoming text messages are opened within 15 minutes of receipt. Scam artists know this and sometimes target consumers with “phishing” scams via text message or SMS (short message service).

<http://www.ag.state.mn.us/consumer/publications/TextMessagePhishing.asp>

messages); OR. DEP’T OF JUSTICE OFFICE OF THE ATT’Y GEN., *Watch Out! The Text Message Scam is Back!* (Apr. 4, 2013, 10:43 AM), http://www.doj.state.or.us/consumer/pdf/scam_alert_04-04-13.pdf (offering consumers tips to avoid unwanted SMS messages); PA. ATT’Y GEN., *Consumer Protection Rights & Resources for Consumers of All Ages: Telemarketing*, https://www.attorneygeneral.gov/uploadedFiles/MainSite/Content/Press/brochuresPublications/bcp_book.pdf (last visited Nov. 12, 2015) (offering consumers tips to avoid unwanted SMS messages); TEX. ATT’Y GEN., *Beware of Text Message Spam: “Smishing”*, https://www.texasattorneygeneral.gov/alerts/alerts_view_alpha.php?id=222&type=1 (last visited Nov. 12, 2015) (offering consumers tips to avoid unwanted SMS messages); WASH. ATT’Y GEN., *Washington Attorney General Targets Text Spammers* (Dec. 10, 2012), <http://www.atg.wa.gov/news/news-releases/washington-attorney-general-targets-text-spammers> (expressing concern about the growing risks of SMS spam); W. VA. ATT’Y GEN., *Attorney General Warns Students of Texting Scam from Unknown Numbers* (Aug. 19, 2015), <http://www.ago.wv.gov/pressroom/2015/Pages/Attorney-General-Patrick-Morrissey-Warns-Students-of-Texting-Scam-From-Unknown-Numbers.aspx> (offering consumers tips to avoid unwanted SMS messages); WIS. DEP’T OF JUSTICE OFFICE OF THE ATT’Y GEN., *Smishing: Phishing by Cell Phone Texts* (Feb. 9, 2010), <http://www.doj.state.wi.us/news-releases/smishing-phishing-cell-phone-texts> (offering consumers tips to avoid unwanted SMS messages).

² New York Attorney General, Stop Mobile Spam, Protect You Mobile Phone from Unwanted Text Message (SMS) Spam available at <http://www.ag.ny.gov/internet/stop-mobile-spam>.

³ See, e.g., Letter from Steve Largent, CTIA, to Kevin J. Martin, Chairman, FCC, et al., WT Docket No. 08-7, at 2 (filed July 18, 2008); see also Letter from Steve Largent, CTIA, Julius Genachowski, Chairman, FCC, et al. (filed Jan. 25, 2012) (“2012 CTIA Letter”).

Michigan

Activate spam filters. Contact a customer service representative from your service provider about blocking spam through your account's messaging preferences. Many carriers enable you to block specific addresses from contacting you, reducing the chance that spam will ever reach your inbox. It may even be possible to block all messages sent from a personal computer while still receiving messages sent from another cell phone.

http://www.michigan.gov/ag/0,4534,7-164-17337_20942-190608--,00.html

Oregon

http://www.doj.state.or.us/consumer/pdf/scam_alert_05-31-12.pdf

Nebraska

According to one bank official, the text messages appear to have been sent to random people in the affected counties, regardless if they were Cornerstone Bank customers.

http://ago.nebraska.gov/resources/dyn/files/552077z59a468d8/_fn

Texas

https://www.texasattorneygeneral.gov/alerts/alerts_view_alpha.php?id=222&type=1

Anderson, Ryan

From: Bailey, Michael
Sent: Friday, November 20, 2015 10:14 AM
To: Brnovich, Mark
Subject: this morning

There is a group here to roundtable Harris whenever you're ready.

They just showed, even though we didn't have a time in place.

I can send them back to their office and tell them we'll call. Or, I can have them wait until you're ready.

Any thoughts on when you'll want to do it?

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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Anderson, Ryan

From: Bailey, Michael
Sent: Friday, November 20, 2015 8:15 AM
To: Conrad, Donald
Subject: RE: Back from vacation & Joint Powers Public Safety Committee update

It was DPS (not MCAO), but emphatic.

We'd scheduled a meeting and, a few days after I asked DPS to include Jerry Sheridan on the invite list, it was cancelled.

I've let it sit since then having figured that with Kalaf being persona non grata, there's no point in getting money together until there's someone to give it to. And that someone has to come from DPS efforts. Let me know if you have any different thoughts about a path forward.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
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michael.bailey@azag.gov

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From: Conrad, Donald
Sent: Friday, November 20, 2015 8:02 AM
To: Bailey, Michael
Subject: FW: Back from vacation & Joint Powers Public Safety Committee update

Have we chosen not to participate in this effort? I haven't heard anything since you told me that DPS and MCAO do not want Kalaf to have a role.

From: wkalaf [<mailto:████████@gmail.com>]
Sent: Friday, November 13, 2015 10:54 AM
To: Woods, Dan; Conrad, Donald
Subject: Back from vacation & Joint Powers Public Safety Committee update

Dan and Don,

I hope all is going well. I was gone most of September and October traveling through Europe and just returned.

I traveled through the eastern bloc countries to look at the sites and talk to the locals about their transition from communism to a democratic form of government. What an great experience. Lots cultural shifting going on between the young,

middle class, and the elderly society. All the countries we visited are in flux but moving forward with establishing a democratic society.

Having that said, the countries were beautiful and the places we visited were exceptional.

I have been back a couple of weeks, and have not heard anything from anyone in regards to the law enforcement information sharing activities or the Joint Powers Public Safety Committee effort.

Before I left, I met with the Governor's office and reviewed the JPPSC and what the next steps were and the need for the Governor's support. Mr. Montgomery attending the meeting with me. I have not heard anything back.

If you have any update, please let me know. Not sure where to take this next.

Thanks for the support

Bill Kalaf
Intelligence-Led Policing
Law Enforcement Technology Innovation
Mobile: 480-
Email: [@gmail.com](mailto: @gmail.com)
Strategic Planning * Implementation * Policies * Security * Standards

Anderson, Ryan

From: Bailey, Michael
Sent: Thursday, November 19, 2015 5:00 PM
To: Conrad, Donald; Perkovich, Mark
Subject: FW: Huddleston Report

Not sure if you've had any of these forwarded before.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Brnovich, Mark
Sent: Thursday, November 19, 2015 3:12 PM
To: Loomis, Buddy; Bailey, Michael; Pierce, Amilyn
Subject: Fwd: Huddleston Report

Rule 11 is for folks with psych issues. This guy keeps emailing me, Monty, guy, etc. need to get this in radar.

Attorney General Mark Brnovich
Sent from my iPhone

Begin forwarded message:

From: [REDACTED] <[REDACTED]@me.com>
Date: November 19, 2015 at 2:54:05 PM MST
To: Shannon Allen <[REDACTED]@msn.com>
Cc: "Montgomw@mcao.maricopa.gov" <Montgomw@mcao.maricopa.gov>, <Mark.Brnovich@azag.gov>
Subject: Huddleston Report

Shannon,

Sorry you could not attend my Rule 11 hearing today, hope you feel better.

Please forward a copy of Dr. Huddleston's report to me today.

I received a call from the OIG today regarding Dr. Huddleston. He is gonna get what he deserves.

Send the Report today please.

Thank you,

[Redacted]

[Redacted]

602 [Redacted] Mobile
[Redacted]@me.com

Anderson, Ryan

From: Bailey, Michael
Sent: Thursday, November 19, 2015 11:45 AM
To: Perkovich, Mark
Cc: Conrad, Donald
Subject: RE: Graven Meeting

Mark – not sure when we'll do a meeting. Val told Graven that she'd contact him after TG to schedule a meeting – so nothing scheduled at this point. Whenever we do schedule, you'll probably need to be there anyway.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Perkovich, Mark
Sent: Thursday, November 19, 2015 11:43 AM
To: Bailey, Michael
Subject: Graven Meeting

Good morning, Mike. I understand you will be meeting with Mr. Graven the week after next. As such, was there anything (case related or otherwise) you might need? Please let me know if there is anything I can do to assist.

Thanks-
Mark

Mark Perkovich
Chief Agent



Office of the Attorney General
Special Investigations Section
1275 W. Washington, Phoenix, AZ 85007
Desk: 602.542.7944 | Cell: 480-██████████ | Fax: 602.542.4882
Mark.Perkovich@azag.gov
<http://www.azag.gov>

Anderson, Ryan

From: Bailey, Michael
Sent: Thursday, November 19, 2015 10:44 AM
To: Brnovich, Mark
Cc: Medina, Rick; Anderson, Ryan; Baer, Aaron
Subject: MA DFS regulations

Here's the link to the regulations:

<http://www.mass.gov/ago/consumer-resources/consumer-information/dfs/>

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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Anderson, Ryan

From: Bailey, Michael
Sent: Wednesday, November 18, 2015 4:29 PM
To: Brnovich, Mark
Cc: Garcia, Mia; Watkins, Paul; Anderson, Ryan; Medina, Rick; Baer, Aaron
Subject: Re: Boston Globe inquiry on daily fantasy sports

You did. Guys, do we have a draft of this?

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

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On Nov 18, 2015, at 3:23 PM, Brnovich, Mark <Mark.Brnovich@azag.gov> wrote:

I told you I thought we should have sent them a letter asking what they are doing to ensure AZ residents are gambling, what are they doing to prevent minors from gambling, and are they complying with laws related to banking and financial transactions.

Attorney General Mark Brnovich
Sent from my iPhone

Begin forwarded message:

From: "Garcia, Mia" <Mia.Garcia@azag.gov>
Date: November 18, 2015 at 2:52:17 PM MST
To: "Brnovich, Mark" <Mark.Brnovich@azag.gov>
Subject: FW: Boston Globe inquiry on daily fantasy sports

Hi there,

Any thoughts on where the \$50,000 AZ number is coming from?

Thanks!

Mia Garcia
Spokesperson/ Director of Media Relations

<image001.png>

Office of Attorney General Mark Brnovich
1275 W. Washington, Phoenix, AZ 85007
Desk: 602-542-8019 | Cell: 602-339-5895
Mia.Garcia@azag.gov
<http://www.azag.gov>

From: Adams, Daniel [<mailto:daniel.adams@globe.com>]
Sent: Wednesday, November 18, 2015 2:50 PM
To: Garcia, Mia
Subject: Boston Globe inquiry on daily fantasy sports

Hi Mia, thanks for the time just now.

Like I explained on the phone, we're checking on a loose end that came out of NY Attorney General Schneiderman's lawsuit against DraftKings Inc. He said that the company accepted entries from states that do not allow daily fantasy sports contests, including Arizona.

I've attached a spreadsheet Schneiderman obtained via subpoena (and which is a public document) -- if you look towards the bottom, you'll see a row labeled "AZ" indicating \$48,742 in entry fees. It's unclear whether the company ever actually "pocketed" this money... for all we know they bounced these people out of the system later on. Sorry I don't have more information.

Thanks again for checking on it, I appreciate your time. Let me know if you need more information from me.

Also, if Attorney General Brnovich is available to speak on the phone tomorrow, I'd really value hearing from him, given his particular expertise on gaming. I can be reached at 617 929 2633.

Best,
Dan

Daniel Adams
The Boston Globe | Business
Office: daniel.adams@globe.com | 617-929-2633
Mobile: adamsd86@gmail.com | 978-[REDACTED]

Follow @DanielAdams86

<NY AG State Revenues (1).pdf>

Anderson, Ryan

From: Bailey, Michael
Sent: Wednesday, November 18, 2015 4:24 PM
To: Conrad, Donald
Cc: Garcia, Mia
Subject: Fwd: Will Graven - Complaint

FYI - I'm out today, and couldn't have met him even if I was open to the ultimatum.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

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Begin forwarded message:

From: "Neumann, Valerie" <Valerie.Neumann@azag.gov>
Date: November 18, 2015 at 12:02:08 PM MST
To: "Bailey, Michael" <Michael.Bailey@azag.gov>
Cc: "Garcia, Mia" <Mia.Garcia@azag.gov>
Subject: Will Graven - Complaint

Will Graven called to speak to you regarding criminal charges against Snell & Wilmer. He said he is going to be speaking to the media tomorrow morning and would like a phone call back before then 928-
[REDACTED]

I spoke to Rick about this, he said you are aware of the issue.

Val

Anderson, Ryan

From: Bailey, Michael
Sent: Tuesday, November 17, 2015 10:38 PM
To: Baer, Aaron
Cc: Kredit, Beth; Anderson, Ryan; Garcia, Mia; Medina, Rick
Subject: RE: Univision tomorrow

If they'd prefer to tape a segment rather than have a surrogate, they can come by the office late morning. No more than 15-20 minutes of his time.

From: Baer, Aaron
Sent: Tuesday, November 17, 2015 10:25 PM
To: Bailey, Michael
Cc: Kredit, Beth; Anderson, Ryan; Garcia, Mia; Medina, Rick
Subject: Re: Univision tomorrow

Not a problem at all. We'll work out details in the morning.

Aaron Baer
Policy Advisor
Arizona Attorney General Mark Brnovich
C: 602.540.6745

Sent from my iPhone

On Nov 17, 2015, at 10:22 PM, Bailey, Michael <Michael.Bailey@azag.gov> wrote:

We need to cancel appearance on Univision tomorrow. Sorry. Aaron or Mia please call them to convey our regrets. We can send a surrogate if they would like (Mia, Watkins, or Dena Benjamin, perhaps).

I see it's been on there a while (hadn't remembered that earlier) - but we're right on the edge of him not being able to do the SCOTUS argument, and we don't want to lose that chance.

I will be out tomorrow, but please get that done first thing.

Apart from SBS press conference, we will add nothing whatsoever to the calendar between now and 12/14.

Anderson, Ryan

From: Bailey, Michael
Sent: Tuesday, November 17, 2015 2:19 PM
To: Brnovich, Mark
Subject: RE: Did you

Not yet

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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-----Original Message-----

From: Brnovich, Mark
Sent: Tuesday, November 17, 2015 1:24 PM
To: Bailey, Michael
Subject: Did you

Chat with Watkins today?

Attorney General Mark Brnovich
Sent from my iPhone

Anderson, Ryan

From: Bailey, Michael
Sent: Tuesday, November 17, 2015 11:52 AM
To: Brnovich, Mark
Subject: Harris pre-moot

I won't schedule anything for tomorrow in light of your consideration of how to move forward. For now, let's keep the 10 a.m. time on Friday and know by then where we're going.

That works well for me too, because I would like to be there, but will be out all day tomorrow.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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Anderson, Ryan

From: Bailey, Michael
Sent: Tuesday, November 17, 2015 10:15 AM
To: Brnovich, Mark
Cc: Kredit, Beth
Subject: RE: Harris Internal Moot

OK

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Brnovich, Mark
Sent: Tuesday, November 17, 2015 10:06 AM
To: Bailey, Michael
Cc: Kredit, Beth
Subject: Re: Harris Internal Moot

I don't think we should do a moot on Friday. But we can have a strategy session to go over arguments and potential questions.

Attorney General Mark Brnovich
Sent from my iPhone

On Nov 17, 2015, at 9:54 AM, Bailey, Michael <Michael.Bailey@azag.gov> wrote:

Internal moot scheduled for Friday morning. Let me know if you don't want to do it.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Lopez, John
Sent: Monday, November 16, 2015 1:25 PM
To: Bailey, Michael
Subject: Harris Internal Moot

Mike:

We're set for this Friday (11/20) at 10:30 in the basement of the Cap Building.

John

John R. Lopez IV
Solicitor General
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8986 (Office)
602-542-8308 (Fax)

Anderson, Ryan

From: Bailey, Michael
Sent: Tuesday, November 17, 2015 8:25 AM
To: Conrad, Donald
Subject: meeting

I have a 9 a.m. You are welcome before or after.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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Anderson, Ryan

From: Bailey, Michael
Sent: Monday, November 16, 2015 6:34 PM
To: Brnovich, Mark; Conrad, Donald
Subject: RE: Meeting Reminder - AG Forensic Science Advisory Committee

I'm giving introductory remarks. Marna will attend. We should also send Blaine, if possible.

From: Brnovich, Mark
Sent: Monday, November 16, 2015 3:33 PM
To: Bailey, Michael; Conrad, Donald
Subject: Fwd: Meeting Reminder - AG Forensic Science Advisory Committee

Who's attending from our shop?

Attorney General Mark Brnovich
Sent from my iPhone

Begin forwarded message:

From: "McLendon, Marna" <Marna.McLendon@azag.gov>
Date: November 16, 2015 at 11:04:49 AM MST
To: "katherine.puzauskas@asu.edu" <katherine.puzauskas@asu.edu>, "gary.kula@phoenix.gov" <gary.kula@phoenix.gov>, "davidnewman@chandleraz.gov" <davidnewman@chandleraz.gov>, "kproctor@azdps.gov" <kproctor@azdps.gov>, "srex@azdps.gov" <srex@azdps.gov>, "sbutler@azdps.gov" <sbutler@azdps.gov>, "myerss002@superiorcourt.maricopa.gov" <myerss002@superiorcourt.maricopa.gov>, "gatesp@superiorcourt.maricopa.gov" <gatesp@superiorcourt.maricopa.gov>, "Bailey, Michael" <Michael.Bailey@azag.gov>, "Brnovich, Mark" <Mark.Brnovich@azag.gov>, "mmusson@azcorrections.gov" <mmusson@azcorrections.gov>, "michael.oconnor@pcao.pima.gov" <michael.oconnor@pcao.pima.gov>, "nancy.crump@phoenix.gov" <nancy.crump@phoenix.gov>, "nwade@mail.maricopa.gov" <nwade@mail.maricopa.gov>, "mpeoples@azcjc.gov" <mpeoples@azcjc.gov>, "Ahler, Paul" <Paul.Ahler@azag.gov>, "penny.cramer@co.yavapai.az.us" <penny.cramer@co.yavapai.az.us>, "pstevenson@azcjc.gov" <pstevenson@azcjc.gov>, "richard.kastigar@sheriff.pima.gov" <richard.kastigar@sheriff.pima.gov>, "dlevey@pomc.org" <dlevey@pomc.org>, "rita.dyas@chandleraz.gov" <rita.dyas@chandleraz.gov>, "david.theel@sheriff.pima.gov" <david.theel@sheriff.pima.gov>, "reinstein@courtsaz.gov" <reinstein@courtsaz.gov>, "douglas.wilkey@asu.edu" <douglas.wilkey@asu.edu>, "sbales@courtsaz.gov" <sbales@courtsaz.gov>, "sheila.polk@co.yavapai.az.us" <sheila.polk@co.yavapai.az.us>, "elizabeth.ortiz@apaac.az.gov" <elizabeth.ortiz@apaac.az.gov>, "spopke@co.maricopa.gov" <spopke@co.maricopa.gov>, "fred.ruhland@mesaaz.gov" <fred.ruhland@mesaaz.gov>, "sgarrett@scottsdaleaz.gov" <sgarrett@scottsdaleaz.gov>, "snarveson@strandlabs.com" <snarveson@strandlabs.com>, "[REDACTED]@gmail.com" <[REDACTED]@gmail.com>, "tagan@mail.maricopa.gov" <tagan@mail.maricopa.gov>, "jody.wolf@phoneix.gov" <jody.wolf@phoneix.gov>, "tgriffith@azdps.gov" <tgriffith@azdps.gov>, "jrblackburn@azjc.gov" <jrblackburn@azjc.gov>, "eliasonj@mcao.maricopa.gov" <eliasonj@mcao.maricopa.gov>, "Todd, John" <John.Todd@azag.gov>, "vfigarelli@azdps.gov" <vfigarelli@azdps.gov>, "kathleen.mayer@pcao.pima.gov" <kathleen.mayer@pcao.pima.gov>,

"kimberly.kobojek@asu.edu" <kimberly.kobojek@asu.edu>, "kcattani@appeals" <kcattani@courtsaz.gov>, "kalish@mcao.maricopa.gov" <kalish@mcao.maricopa.gov>, "kimberly.meza@mesaaz.gov" <kimberly.meza@mesaaz.gov>, "matthew.binford@usdoj.gov" <matthew.binford@usdoj.gov>, "sheraon.sexton@usdoj.gov" <sheraon.sexton@usdoj.gov>, "laherf@email.edu" <laherf@email.edu>, "luis.martinez@centralaz.edu" <luis.martinez@centralaz.edu>, "McLendon, Marna" <Marna.McLendon@azag.gov>, "sean.duggan@chandleraz.gov" <sean.duggan@chandleraz.gov>, "frank.powell@tucsonaz.gov" <frank.powell@tucsonaz.gov>, "kcano@scottsdaleaz.gov" <kcano@scottsdaleaz.gov>, "mark.huntzinger@tucson.gov" <mark.huntzinger@tucson.gov>, "Vidal, Daniel" <Daniel.Vidal@azag.gov>, "Conrad, Donald" <Donald.Conrad@azag.gov>
Subject: Meeting Reminder - AG Forensic Science Advisory Committee

As a reminder, we will be meeting this Thursday, Nov. 19th, at 10:00 a.m. in the Basement, Room B, of the Cap Center, Attorney General's Office. Looking forward to seeing everyone!

Marna McLendon
Office of the Arizona Attorney General

Anderson, Ryan

From: Bailey, Michael
Sent: Friday, November 13, 2015 9:10 AM
To: Brnovich, Mark
Subject: annual meeting

I spoke with Leslie about calling Chase field for the meeting. That remains a possibility, but in the meantime they'd contacted the USAirways arena and had already received a commitment to allow us to use the arena at minimal cost (security costs only).

Are you OK with just going with the arena? Or should we instead pursue the field?

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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Anderson, Ryan

From: Bailey, Michael
Sent: Thursday, November 12, 2015 3:46 PM
To: Conrad, Donald
Subject: RE: pearsall

I want to adjust the tone – but as you can tell am having a hard time actually writing it.

Perhaps we should have one of your people simply take another shot at it.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Conrad, Donald
Sent: Thursday, November 12, 2015 3:37 PM
To: Bailey, Michael
Subject: pearsall

Do you want to send the letter or do you want some other approach?

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

Anderson, Ryan

From: Bailey, Michael
Sent: Thursday, November 12, 2015 1:51 PM
To: Brnovich, Mark
Subject: RE: Moonlight Fire brief

Yes – he was fine with it.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Brnovich, Mark
Sent: Thursday, November 12, 2015 1:37 PM
To: Bailey, Michael
Subject: Re: Moonlight Fire brief

And Johns decision?

Attorney General Mark Brnovich
Sent from my iPhone

On Nov 12, 2015, at 1:20 PM, Bailey, Michael <Michael.Bailey@azag.gov> wrote:

We joined today. JL had no objections. Sounds like Nevada also joined.

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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Anderson, Ryan

From: Bailey, Michael
Sent: Wednesday, November 11, 2015 5:14 PM
To: Brnovich, Mark
Subject: Fwd: Harris Update

Argument ruling expected 11/24

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

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Begin forwarded message:

From: "Lopez, John" <John.Lopez@azag.gov>
Date: November 10, 2015 at 6:24:41 PM MST
To: "Bailey, Michael" <Michael.Bailey@azag.gov>
Subject: Harris Update

Mike:

Here's the latest on Harris:

I contacted the Supreme Court Clerk concerning our motion for divided argument. We expect the Court to issue a ruling on 11/24.

With respect to moots, we continue to press for confirmation on the 11/23 UC Irvine moot. As of this evening, we don't have an answer even though we were promised one today. We'll keep on them. As for an internal moot, please let me know the AG's availability from 11/18 - 11/20.

As for the AG's prep materials, we are having Kara Karlson prepare summaries of the seminal cases.

I dropped a briefing binder off for you this afternoon.

Thanks,
John

John R. Lopez IV
Solicitor General
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8986 (Office)
602-542-8308 (Fax)

Anderson, Ryan

From: Bailey, Michael
Sent: Tuesday, November 10, 2015 3:47 PM
To: Anderson, Ryan
Subject: FW: Reminder

Any headway on this?

Michael G. Bailey
Chief Deputy / Chief of Staff
Office of the Arizona Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
602-542-8080 Office
602-542-4085 Fax

michael.bailey@azag.gov

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From: Neumann, Valerie
Sent: Tuesday, November 10, 2015 3:43 PM
To: Bailey, Michael
Subject: Reminder

Reminder - Iowa and Louisiana materials on the solar letter