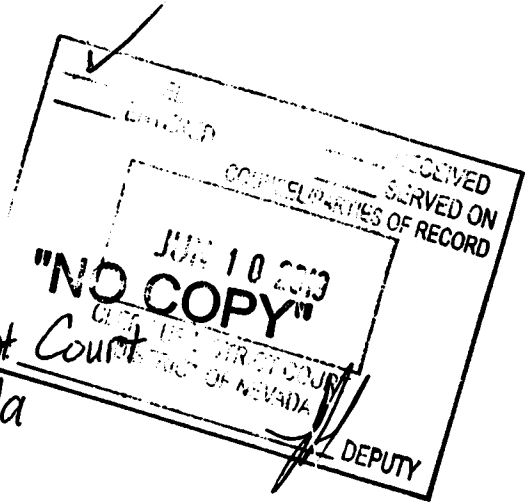


Jeremy Strohmeyer  
High Desert State Prison  
P.O. Box 650  
Indian Springs, NV, 89070



United States District Court  
District of Nevada

Jeremy Strohmeyer, }  
Plaintiff, }  
V. }  
K. Belanger, et al., }  
Defendants. }

Case No. 3:14-cv-00661-RCJ-WGC  
Motion For Order to Compel  
Production of Documents by  
Defendant Valaree Olivas  
(Fed. R. Civ. P. 37(a))

COMES NOW, Jeremy Strohmeyer, Plaintiff pro se, to respectfully request that this Honorable Court grant this Motion For Order to Compel Production of Documents by Defendant Valaree Olivas. This motion is based on the Federal Rules of Civil Procedure, the following Memorandum of Points and Authorities, all papers and pleadings on file in this case, and the fact that pro se pleadings must be liberally construed.

Memorandum of Points and Authorities

I. Certification that Plaintiff Conferred in Good Faith

I, Jeremy Strohmeyer, do hereby certify and swear under penalty of perjury, that I conferred, in good faith, about my request for production of documents (set one) propounded to Defendant Valaree Olivas, with DAG Robert DeLong, on

1 Friday, February 15, 2019. This attempt on my part to obtain production  
2 of the requested documents without court action failed.

3 I swear to under penalty of perjury pursuant to 28 U.S.C.  
4 §1746 on this 31st day of May, 2019.

5 signed: Jeremy Strohmeyer  
6 Jeremy Strohmeyer  
7 Plaintiff, pro se.  
8

9 II. The Requests and Their Responses

10 The requests for production of documents and the  
11 responses at issue are attached to this motion:

- 12 A) Exhibit A: Request for Production of Documents (Set
- 13 One) Propounded to Valaree Olivas
- 14 B) Exhibit B: Defendant Olivas' Response to Plaintiff's
- 15 Request for Production of Documents (Set One)

16  
17 III. Discovery In General

18 "Unless otherwise limited by court order, the scope of discovery  
19 is as follows: parties may obtain discovery regarding any nonprivileged  
20 matter that is relevant to any party's claim or defense - including the  
21 existence, description, nature, custody, condition, and location of any documents  
22 or other tangible things and the identity and location of persons who know  
23 of any discoverable matter. For good cause, the court may order discovery  
24 of any matter relevant to the subject matter involved in the action. Relevant  
25 information need not be admissible at the trial if the discovery appears  
26 reasonably calculated to lead to the discovery of admissible evidence.  
27 all discovery is subject to the limitations imposed by Rule 26 (b) (2)

1 (C)." FRCP 26(b)(1).

2 The Federal Rules of Civil Procedure "invest the deposition-discovery  
 3 process with a vital role in the preparation for trial." Hickman v. Taylor,  
 4 91 L Ed 451, 329 US 495, 501 (1947). "The various instruments of discovery  
 5 now serve (1) as a device, along with the pre-trial hearing under Rule 16,  
 6 to narrow and clarify the basic issues between the parties, and (2)  
 7 as a device for ascertaining the facts, or information as to the existence  
 8 or whereabouts of facts, relative to those issues. ... The way is now clear,  
 9 consistent with recognized privileges, for the parties to obtain the fullest  
 10 possible knowledge of the issues and facts before trial." Id.

11 "We agree, of course, that the deposition-discovery rules are to  
 12 be accorded a broad and liberal treatment. No longer can the time-  
 13 honored cry of 'fishing expedition' serve to preclude a party from  
 14 inquiring into the facts underlying his opponent's case. Mutual  
 15 knowledge of all relevant facts gathered by both parties is essential  
 16 to proper litigation. To that end, either party may compel the other  
 17 to disgorge whatever facts he has in his possession." Id. at 507.

18 "The law of discovery begins with the presumption that the  
 19 public is entitled to every person's evidence." Richards of Rockford,  
 20 Inc. v. Pacific Gas & Elec. Co., 71 F.R.D. 388, 389 (N.D. Cal. 1976).

21 ~~Moreover~~ "The Supreme Court recently reiterated that our 'simplified  
 22 notice pleading standard relies on liberal discovery rules and summary  
 23 judgment motions to define disputed facts and issues and to dispose  
 24 of unmeritorious claims.'<sup>2</sup> Thus, it is now beyond dispute that broad  
 25 discovery is a cornerstone of the litigation process contemplated by the  
 26 Federal Rules of Civil Procedure.'<sup>3</sup> The rules contemplate a minimal  
 27 burden to bringing a claim; that claim is then fleshed out through  
 28

1 rigorous and expansive discovery." *Nululake v. UBS Warburg LLC*,  
 2 217 F.R.D. 309, 311 (SDNY, 2003).

3 "Given the elusiveness of proof of some kinds of civil rights claims  
 4 (especially those that turn on proof that defendants acted with improper  
 5 motives or an evil heart), and the importance of the policies that  
 6 inform civil rights laws, it is especially important that judges give  
 7 plaintiffs in these matters a fully reasonable opportunity to develop  
 8 evidence in support of their claims. Doubts must be resolved, at the  
 9 discovery stage, in favor of the claimant." *Kelly v. City of San*  
 10 *Jose*, 114 F.R.D. 653, 666 (NDCA, Feb 26, 1987).

11 Having established that the law requires discovery be "broad  
 12 and liberal," and "rigorous and expansive" to attain mutual knowledge  
 13 of all relevant facts gathered by both parties, Plaintiff turns now to the  
 14 facts of this case. As noted in Plaintiff's recent notice to the court, in  
 15 response to hundreds of requests for production of documents, Defendants  
 16 and their counsel ~~did not~~ produced ZERO documents. The AG is doing  
 17 everything he can to keep from producing relevant, critical discovery  
 18 material. The total lack of disgorgement of facts, and the shell games  
 19 and lie to the Court by Defendants and their counsel show a pattern of  
 20 deliberately deceptive litigation practices that are likely to continue  
 21 as this action proceeds, thereby preventing resolution of this action.

22 In its Screening Order (ECF No. 44), this Court allowed multiple  
 23 claims to proceed against Defendant Valaree Olivas ("Olivas"): failure  
 24 to protect, retaliation, and conspiracy (also due process for prison disciplinary  
 25 that was Heck-barred for the moment). These claims covered the periods  
 26 of time of 2012 to 2016 (as described in Plaintiff's Second Amended Complaint  
 27 (ECF No. 33)). In her answer to Plaintiff's Second Amended Civil Rights  
 28



1 Complaint (ECF No. 80), Olivas asserted affirmative defenses of, *inter alia*,  
2 good faith toward Plaintiff and that she acted in accordance with the  
3 law and prison procedures. See ECF No. 80, at 8.

4 Plaintiff has a substantial need for the documents being requested.  
5 He is a pro se litigant proceeding in forma pauperis. He is a prisoner confined  
6 by the Defendants, their supervisors, and their subordinates. Plaintiff's access  
7 to resources, and his ability to investigate, is extremely limited. Plaintiff is  
8 unable to use a computer for compiling information, has no direct internet  
9 access, and is unable to place direct phone calls. Almost all of the available  
10 evidence and witnesses are under the control of the Defendants and NDOC.  
11 It's a prisoner's word against the word of peace officers, which is already a  
12 higher hurdle to overcome as a jury is predisposed to believing law  
13 enforcement and disbelieving convicts. As noted *supra*, this case involves  
14 conspiracy claims, which are difficult to prove because conspirators,  
15 by definition, keep their conspiring secret and hidden, thus necessitating  
16 greater latitude in discovery in order to unearth proof of the conspiracy.

17 The Defendants and their counsel seek to impede the search  
18 for truth by suppressing evidence, and being complicit together  
19 in spoliation of evidence. It is impossible for Plaintiff to access  
20 witnesses, and Olivas' refusal to respond to the requests for production  
21 of documents herein is keeping vital information beyond Plaintiff's  
22 reach. Plaintiff is attempting to establish the existence of material  
23 facts. Plaintiff needs these documents, these facts, to establish  
24 violations of laws and prison procedures, as the violations of those  
25 laws and procedures is the heart of this case.

26 It is well established by the courts that a party cannot avoid  
27 summary judgment by relying solely on conclusory allegations that  
28

1 are unsupported by factual data. See *Taylor v. List*, 880 F.2d 1040, 1045  
 2 (9th Cir. 1989). Plaintiff needs the facts sought through this request for  
 3 production of documents proffered to Olivas in order to prove his  
 4 case. The production of the requested ESI and documents is the least  
 5 expensive, most effective and efficient means for gathering the facts  
 6 that are vital to this case.

#### 7

#### 8 IV. Defendant's Objections and Refusal to Produce

9 as the Court can see, by the attached Response by Olivas to  
 10 Plaintiff's Request for Production of Documents (Set One), Olivas refused to  
 11 produce even a single document. Olivas and her counsel rely on nothing  
 12 but boilerplate objections which are completely groundless, in violation  
 13 of clearly established law regarding discovery.

14 "The party who resists discovery has the burden to show  
 15 discovery should not be allowed, and has the burden of clarifying,  
 16 explaining, and supporting its objections." *Duran v. Cisco Sys. Inc.*,  
 17 258 F.R.D. 375, 378 (C.D. CA 2009) (citing *Blankenship v. Hearst*  
 18 *Corp.*, 519 F.2d 418, 429 (9th Cir. 1975); *Sullivan v. Prudential Ins. Co.*  
 19 *of Am.*, 233 F.R.D. 573, 575 (C.D. Cal. 2005).

20 "The party resisting discovery bears the burden of showing  
 21 why a discovery request should be denied." See, e.g., *F.T.C. v. AMG*  
 22 *Servs. Inc.*, 291 F.R.D. 544, 553 (D. Nev. 2013) (quoting *Paintcraft*  
 23 *Committee v. Employee Painters Trust Health Welfare Fund*, 2011 U.S.  
 24 *Dist. LEXIS 113278*, 2011 WL 4573349, \*5 (D. Nev. Sept. 29, 2011)).  
 25 Broad assertions of harm are insufficient to meet that burden. See,  
 26 e.g., *Caesars Entertainment*, 237 F.R.D. at 432. Instead, the objecting  
 27 party must specifically detail the reasons why each request is irrelevant

1 and may not rely on boilerplate, generalized, conclusory, or speculative  
 2 arguments,' AMG Servs., 291 F.R.D. at 553 (internal quotation and citation  
 3 omitted)." Jones v. Zimmer, 2014 U.S. Dist. LEXIS 102492, Case No.  
 4 2:12-cv-01578-JAD-NJK (D. Nev. Jul. 28, 2014).

5 "Boilerplate objections are disfavored." *Env. Tech. Inc. v. Luchard*,  
 6 2013 U.S. Dist. LEXIS 129642, 2013 WL 4899085, \*4 (D. Nev. Sept. 11, 2013) (citing  
 7 *A. Fauler & Partners, Inc. v. Harbor*, 234 F.R.D. 186, 188 (C.D. Cal. 2006)). Defendant,  
 8 as the party resisting discovery, bears the burden of persuasion on his  
 9 objections. See, e.g., *F.T.C. v. AMG Servs., Inc.*, 291 F.R.D. 544, 553 (D.  
 10 Nev. 2013), such a burden is not met by relying on boilerplate, generalized,  
 11 conclusory, or speculative arguments. *Id.*; see also *Devoe Corp. v. AE Tech*  
 12 *Co.*, 2013 U.S. Dist. LEXIS 124591, 2013 WL 4701192, \*2 (D. Nev. Aug.  
 13 30, 2013). "Jones v. Zimmer, 2014 U.S. Dist. LEXIS 167750, Case No. 2:12-  
 14 cv-01578-JAD-NJK (D. Nev. Dec 2, 2014). Boilerplate objections should be overruled.

15 Review of Olivas' responses ~~and~~ clearly shows her objections are  
 16 boilerplate and generalized, and as the party resisting discovery, she  
 17 has not met the burden of persuasion on her objections. Furthermore,  
 18 as will be discussed infra, her objections are based on false and clearly groundless  
 19 legal premises, where any law is actually cited.

20 It should be noted by the Court that Olivas' response is not  
 21 signed by Olivas, nor ~~is~~ is the response sworn to as truthful by Olivas.  
 22 Instead, the response is certified by DAG Robert DeLong, even though  
 23 he can't actually vouch for the response in some instances.

## 24 25 V. Defendant's Boilerplate Objections

26 "Both Rule 33 and Rule 34 responses must state objection with particularity,  
 27 on pain of waiver." *Mancia v. Mayflower Textile Servs. Co.*, 253 F.R.D. 354, 359

1 (D. Md. 2008). Based on the total lack of particularity with which Olivas and  
 2 De Long have stated these objections, the Court should rule that all of these objections  
 3 have been waived.

4 During Plaintiff's meet and confer with DAG De Long on Friday, February  
 5 15, 2019, Plaintiff asked what caselaw De Long was relying on for his objections,  
 6 and De Long declined to provide any caselaw to support his objections. Also  
 7 during that same meet and confer with DAG De Long, he stated that he had not  
 8 reviewed any of Olivas' personal email or personal electronic devices.

9 Out of 40 (forty) requests for production of documents, the AG and  
 10 DAG De Long proffered objections 40 times and produced zero documents.  
 11 Plaintiff says, "the AG and DAG De Long objected" because Defendant Olivas'  
 12 response was prepared by and signed by the AG and DAG De Long — not  
 13 Olivas. Without providing any necessary facts to support them, the  
 14 AG and DAG De Long made the following objections (the frequency of  
 15 each objection is provided in parentheses):

- 16 1. Exceeds the scope of permissible discovery (33 times)
- 17 2. Request is not relevant (28 times)
- 18 3. Request is not proportional (27 times)
- 19 4. Request "does not appear to have any relation to Plaintiff's  
 20 claims, which concern a prison disciplinary hearing for an incident that  
 21 occurred in December of 2012" (3 times)
- 22 5. Request is overly broad and unduly burdensome as to time  
 23 and scope (18 times)
- 24 6. Attorney-client privilege (1 time)
- 25 7. Work-product doctrine (1 time)
- 26 8. "Plaintiff is simply fishing in an attempt to find a unsupported  
 27 conspiracy" (1 time)



1 9. Plaintiff's claims concern incidents that occurred in 2012 and 2013." (1 time)

2 10. Documents not in possession or control of Defendant, nor does Defendant  
3 have access to them. (25 times)

4 11. Documents are confidential and contain privileged information...  
5 "this information is protected by privileges and confidentiality provided  
6 for under the law including, but not limited to, NDOC Administrative  
7 Regulation 308, Nevada Revised Statute Chapter 284, Nevada Administrative  
8 Code Chapter 284, and the official information privilege under federal law." (3 times)

9 12. Request seeks information protected by the official government  
10 information privilege. (2 times)

11 13. "Defendant has retired from the NDOC." (21 times)

12 14. "Defendant is not required to create documents in response to  
13 a request for the production of documents." (5 times)

14 15. "Defendant is not aware of the existence of any such list at  
15 this time. (3 times)

16 16. "Defendant also objects because this appears to be an attempt to  
17 provide Fed. R. Civ. P. 26(a)(1) initial disclosures in this matter. Defendant  
18 is specifically exempted from this requirement under Fed. R. Civ. P. 26(a)(1)  
19 (B)(iv)." (1 time)

20 17. "This request is requesting confidential information. All  
21 Inspector General's Office Investigation Reports are Confidential and  
22 cannot be disseminated." (3 times)

23 18. "This request calls for confidential information wherein the  
24 disclosure could compromise the safety and security of the prison." (3 times)

25  
26 So, out of 40 requests, Defendant made at least 18 separate objections  
27 at least 186 times, and produced ZERO documents. These objections



1 are a clear resistance to discovery using boilerplate, generalized, conclusory,  
 2 and speculative arguments without any factual support, as will be discussed  
 3 infra, many of these objections have no legal basis, and none of the  
 4 burdens inherent in making these objections have been met.

5 The 2015 Committee Note regarding that year's changes to FRCP 34  
 6 provide some guidance: "Several amendments are made in Rule 34,  
 7 aimed at reducing the potential to impose unreasonable burdens by  
 8 objections to requests to produce. ... The specificity of the objection ties to the  
 9 new provision in Rule 34(b)(2)(C) directing that an objection must state  
 10 whether any responsive materials are being withheld on the basis of that  
 11 objection. An objection may state that a request is overbroad, but if the  
 12 objection recognizes that some part of the request is appropriate, the objection  
 13 should state the scope that is not overbroad. Examples would be a statement  
 14 that the responding party will limit the search to documents or electronically  
 15 stored information created within a given period of time prior to the  
 16 events in suit, or to specified sources." It's obvious that Oliver and De Long  
 17 De Long are doing the exact things the Committee sought to eliminate with  
 18 the 2015 changes, and Oliver and De Long have failed to meet the burdens  
 19 necessary to facilitate an informed discussion of the objections.

20 Plaintiff will address each of the ~~objections~~ 18 objections generally,  
 21 citing caselaw, then will address each document request and response individually.

## 22 23 A. The 18 Objections

24 1. Exceeds the scope of permissible discovery (33 times)  
 25 as discussed supra, the scope of discovery delineated by FRCP  
 26 26(b)(1) is broad, liberal, and expansive. All of Plaintiff's requests  
 27 are well within the scope of discovery contemplated by the Federal

1 Rules. Olivas and her counsel have failed to clarify, explain, and support this  
2 objection.

3 2. Request is not relevant (28 times)

4 "Parties are entitled to discover non-privileged information relevant  
5 to any parties claim or defense. See, e.g. Fed.R.Civ.P. 26(b). Relevance for discovery  
6 purposes is broadly construed, U.S.E.D.C. v. Caesars Ent., Inc., 237 F.R.D.  
7 428, 431 (D. Nev. 2006), and encapsulates any 'information reasonably cal-  
8 culated to lead to the discovery of admissible evidence,' *Survivor Media,*  
9 *Inc. v. Survivor Prods.*, 406 F.3d 625, 635 (9th Cir. 2005). " *Jones v.*  
10 *Zimmer*, 2014 U.S. Dist. LEXIS 102492, Case No. 2:12-cv-01578-JAD-  
11 NJK (D. Nev. Jul. 28, 2014).

12 "Relevancy is broadly construed, and a request for discovery should be  
13 considered relevant if there is 'any possibility' that the information sought  
14 may be relevant to the claim or defense of any party. ... When the discovery  
15 sought appears relevant on its face, the party resisting the discovery  
16 has the burden to establish the lack of relevance by demonstrating that  
17 the requested discovery (1) does not come within the broad scope of  
18 relevance ~~discovery~~ as defined under rule 26(b)(1), or (2) is of  
19 such marginal relevance that the potential harm the discovery may  
20 cause would outweigh the presumption in favor of broad disclosure." *Tramson, Inc. v. Purney Charters, Inc.*, 212 F.R.D. 588 (D. Kan. 2003). Discovery  
21 is relevant when there is any possibility that the information sought may  
22 be relevant to the claim or defense of any party.

24 Relevance for discovery purposes is viewed more liberally than  
25 relevance for evidentiary purposes. Generally, the burden is on the party  
26 resisting discovery to clarify and explain why its objections are proper  
27 given the broad and liberal construction of the federal discovery rules.

1 this includes, of course, where the resisting party asserts the resisting party  
 2 asserts the discovery is irrelevant. See *United Oil Company, Inc. v. Parts Associates,*  
 3 *Inc.*, 212 F.R.D. 588 (D. Kan. 2003).

4 "Although in general the party seeking to compel discovery bears the burden  
 5 of showing that his request satisfies the relevance requirement of Rule 26, the  
 6 Court in *Kelly v. City of San Jose*, 114 F.R.D. 653, 667-68 (N.D. Cal. 1987),  
 7 concluded that in the context of civil rights excessive force cases against police  
 8 departments, plaintiffs may suffer greater difficulties if courts impose demanding  
 9 relevancy standards on them." *Soto v. City of Concord*, 162 F.R.D. 603,  
 10 610 (N.D. Cal. 1995). Certainly a pro se inmate plaintiff in a civil rights case  
 11 against prison guards and administrators requires even more leeway when  
 12 it comes to relevancy standards.

13 Because Olivas and her counsel have failed to clarify and explain  
 14 this objection, nor met their burden of establishing the lack of relevance,  
 15 all objections based on relevance should be overruled. The relevance  
 16 objections are clearly boilerplate and should be overruled and rejected  
 17 as such.

### 18 19 3. Request is not proportional (27 times)

20 The Advisory Committee Note on proportionality shows that  
 21 the objection that the request is not proportional is completely unfounded:  
 22 "Restoring the proportionality calculation to Rule 26(b)(1) does not  
 23 change the existing responsibilities of the court and the parties to consider  
 24 proportionality, and the change does not place on the party seeking  
 25 the burden of addressing all proportionality considerations.

26 Nor is the change intended to permit the opposing party to refuse  
 27 discovery by making a boilerplate objection that it is not proportional....

1 some cases involve what often is called 'information asymmetry.' One  
2 party — often an individual plaintiff — may have very little discoverable  
3 information. The other party may have vast amounts of information,  
4 including information that can be readily retrieved and information  
5 that is more difficult to retrieve. In practice these circumstances often  
6 mean that the burden of responding to discovery lies heavier on the  
7 party who has more information, and properly so. ...

8 The present amendment again reflects the need for continuing and  
9 close judicial involvement in the cases that do not yield readily to  
10 the ideal of effective party management. ...

11 It also is important to repeat the caution that monetary stakes  
12 are only one factor, to be balanced against other factors. The 1983  
13 Committee Note recognized 'the significance of the substantive  
14 issues, as measured in philosophic, social, or institutional terms. Thus  
15 the rule recognizes that many cases in public policy spheres, such  
16 as employment practices, free speech, and other matters, may have  
17 importance far beyond the monetary amount involved.' Many other  
18 substantive areas may involve litigation that seeks relatively small  
19 amounts of money, or no money at all, but that seeks to vindicate  
20 vitally important personal or public values. ...

21 The 1983 Committee Note cautioned, 'The courts must apply  
22 the standards in an even-handed manner that will prevent use of  
23 discovery to wage a war of attrition or as a device to coerce a party,  
24 whether financially weak or affluent.' ...

25 Courts and parties should be willing to consider the opportunities for  
26 reducing the burden or expense of discovery as reliable means of  
27 searching electronically stored information become available."  
28 (Emphases added).



1 "More important than comparing the relative ability of a party to pay  
 2 for discovery, the focus should be on the total cost of production as compared  
 3 to the resources available to each party. Thus, discovery that would  
 4 be too expensive for one defendant to bear would be a drop in the bucket  
 5 for another [footnote omitted]. ...

6 Last, 'the importance of the issues at stake in the litigation' is  
 7 a critical consideration, even if it is one that will rarely be invoked.  
 8 For example, if a case has the potential for broad public impact, then  
 9 public policy weighs heavily in favor of permitting extensive discovery.  
 10 Cases of this ilk might include toxic tort class actions, environmental  
 11 actions, so-called 'impact' or social reform litigation, cases involving  
 12 criminal conduct, or cases ~~involving~~ implicating important legal or  
 13 constitutional questions." *Nululake v. UBS Warburg, LLC*, 219 F.R.D.  
 14 309 (S.D.N.Y. 2003) ("Nululake I") (emphasis added).

15 Plaintiff considered proportionality, which is why he started off  
 16 requesting ESI, which is cheaper and easier to produce than other forms  
 17 of discovery. Plaintiff cannot be prevented from discovering facts and  
 18 information that will lead to facts, essential to his case merely  
 19 because the Defendants, NDOC, IG, and AG hold the bulk of the  
 20 information in their possession. ESI is easy to retrieve, copy, and  
 21 transfer. Though the burden is heavier on defendants and their counsel,  
 22 it is properly so that it should be.

23 The substantive issues in this case are of great importance,  
 24 far beyond the monetary stakes involved. This case deals with  
 25 corrupt prison guards operating with impunity, and an Office of the  
 26 Inspector General with police powers but no legal oversight  
 27 that operates as the secret police arm of the NDOC, violating the



1 most sacred of constitutional rights of the citizens of the United States of  
 2 America. This corruption infects a whole organization if unchecked  
 3 and unpunished. Plaintiff seeks to bring this corruption to light so  
 4 it can be eradicated by the leaders of the organizations it corrupts.  
 5 This case involves government oversight, separation of powers, and  
 6 important personal values (i.e. families and freedom of speech).  
 7 The AG has chosen to defend these corrupt guards instead of  
 8 holding them accountable for their violations of laws. The total  
 9 cost of production for the Defendants and their counsel, with all the  
 10 resources of a whole state behind them (billions of dollars), is a drop in  
 11 the bucket relative to those resources. This case has the potential for  
 12 broad public impact by exposing corruption and discouraging current  
 13 and future Nevada prison guards from embracing corruption, and  
 14 restoring public faith in a system perceived to be stacked against  
 15 the average citizen and prisoner.

16 The potential damages in this case are upward of two million  
 17 dollars, and the cost of production is minimal compared to that.  
 18 The Defendants, AG, and OAG DeLong seek to wage a war of attrition  
 19 against Plaintiff, who is financially weak. Plaintiff's penalty should  
 20 not be used against him to prevent discovery. Defendants also  
 21 seek attorney fees and costs as relief, which negates any proportionality  
 22 objections.

23  
 24 4. Request "does not appear to have any relation to Plaintiff's  
 25 claims, which concern a prison disciplinary hearing for an  
 26 incident that occurred in December of 2012." (3 times)  
 27 Olivas and her counsel later contradict this objection by  
 28

1 stating, in the same response, "Plaintiff's claims concern incidents that occurred  
 2 in 2012 and 2013" (emphasis added). The fact is that the conspiracy began  
 3 before December, 2012, and continued until at least the middle of 2015 (the  
 4 retaliation continued into 2015, as well). Retaliatory actions by Defendant  
 5 Donna Jenkins ("Jenkins") against Plaintiff for his providing her notice of  
 6 lawsuit and request for waiver occurred in November, 2018. Those retaliatory  
 7 actions by Jenkins were further carried out by NOOC employees in 2018, even  
 8 though Jenkins was no longer an NOOC employee at the time. So, Plaintiff's  
 9 claims potentially carry on until November, 2018. Present day communications  
 10 between the Defendants are vital to this case, as Plaintiff is still identifying  
 11 and locating defendants.

12  
 13 5. Request is overly broad and unduly burdensome as to time and scope (18 times)  
 14 The broad scope of discovery may cover not only evidence for  
 15 use at trial, but also inquiry into matters inadmissible as evidence,  
 16 and that which will lead to discovery of such evidence. Such information  
 17 may be secured from any person having knowledge of relevant facts.  
 18 Every party to a litigation is entitled to secure all evidence, information  
 19 and documents germane to the issue. See *Shoen v. Shoen*, 5 F.3d 1289 (9th Cir. 1993)  
 20 all of the documents sought are reasonably available. See *San*  
 21 *Francisco Baykeepers v. West Bay Sanitary Dist.*, 791 F. Supp. 2d 719, 733  
 22 (N.D. Cal. 2011) ("reasonably available" covers information known to a  
 23 party, its agents and counsel, as well as information obtainable through  
 24 reasonable investigation).

25 As cited supra, the responses of "overly broad and unduly burdensome"  
 26 are boilerplate. Defendant, as the party resisting discovery, bears  
 27 the burden of persuasion on his objections. See, e.g. *F.T.C. v. AMG Servs.*,

1 Inc., 291 F.R.D. 544, 553 (D. Nev. 2013). Such a burden is not met by relying  
 2 on 'boilerplate, generalized, conclusory, or speculative arguments.' Id.; See  
 3 also Cerove Corp. v. AE Tech Co., 2013 U.S. Dist. LEXIS 124591, 2013 WL 4701192,  
 4 \*2 (D. Nev. Aug. 30, 2013). "Jones v. Jimmes, 2014 U.S. Dist. LEXIS 167750 (D. Nev. 2014)

5 "The third argument presented in support of defendants' motion is that  
 6 the requested discovery would be both burdensome and oppressive. ... In  
 7 support of this position defendants assert that the time needed to complete  
 8 the discovery, based on the time used in answering the complaint, would  
 9 require hundreds of employees of the Police Department many years of man  
 10 hours to unearth the answers to the interrogatories and other discovery  
 11 procedures pursued by counsel. ... The Court need not determine the exact  
 12 number of hours it took defendants to prepare the answer, nor the efficiency  
 13 of the procedure utilized by them in gathering the information. It is  
 14 sufficient to state that in the Court's opinion, taking into consideration  
 15 the obvious necessity of this information sought to be discovered, we find  
 16 that discovery should proceed at this time." Alexander v. Biggo, 50  
 17 F.R.D. 374, 376 (E.D. PA., 1970). Olivas and DAG De Long have provided  
 18 no support of their contention that these requests are overly broad  
 19 and unduly burdensome. As a matter of fact, they claim that Olivas  
 20 was able to conduct "a thorough search of her personal emails" from  
 21 January, 2005, to February 7, 2019. See Olivas' Response, at 5. What may  
 22 have taken hundreds of employees many years of man hours in 1970  
 23 takes one person an hour or two because technology has advanced so  
 24 exponentially in the past fifty years. So, their claim of "overly broad and  
 25 unduly burdensome" is completely unfounded.

26 "...the federal courts reject out of hand claims ~~that~~ of burdensomeness  
 27 which are not supported by a specific, detailed showing, usually by  
 28

1 affidavit, of why weighing the need for discovery against the burden it will  
 2 impose permits the conclusion that the court should not permit it. *Athridge*  
 3 *v. Aetna Casualty & Surety Co.*, 184 F.R.D. 181, 191 (D.D.C. 1998). Plaintiff's utterly  
 4 unsubstantiated ipse dixit that the discovery sought is burdensome is  
 5 insufficient. "Natural Resources Defense Council v. Curtis, 189 F.R.D. 4,  
 6 13 (Dist. of Columbia, Sep. 20, 1999). Oliver and her counsel have not made a  
 7 specific, detailed showing — nor have they provided an affidavit.  
 8 They have not met that standard, and their utterly unsubstantiated  
 9 ipse dixit that the discovery sought is burdensome is insufficient.

10 Plaintiff again refers to the Committee Note of 2015 to Rule 26:  
 11 "The direction to consider the parties' relative access to relevant information  
 12 adds new text to provide explicit focus on considerations already implicit  
 13 in present Rule 26(b)(2)(C)(iii). Some cases involve what is often called  
 14 'information asymmetry.' ... In practice these circumstances often mean  
 15 that the burden of responding to discovery lies heavier on the party who  
 16 has more information, and properly so."

17 Oliver and her counsel provided ZERO responsive documents,  
 18 and they did not state which time periods they believed were not overly  
 19 broad and unduly burdensome, despite the Advisory Committee's  
 20 admonition that they should do so. It seems it's their contention that  
 21 any request for any document is overly broad and unduly burdensome.

22 The Defendants' request for attorney fees and costs in their answer  
 23 (ECF No. 80, at 8) makes their claim of burdensomeness improper.

#### 24 25 6. Attorney-client privilege (1 time)

26 The attorney-client privilege in discovery applies only to  
 27 communications, not facts. Statements a lawyer gets from third  
 28



1 parties are not included in the rule of exclusion. It is not proper to with-  
 2 hold an entire document from discovery on grounds that a portion of it  
 3 may be privileged. The unprivileged portions must be produced. See  
 4 *Breen v. Coca-Cola Bottling Co.*, 232 F.R.D. 49, 54-55 (D. Conn. 2005).  
 5 The attorney-client privilege applies to communications between an attorney and  
 6 his client.

7 "The attorney-client privilege protects confidential disclosures  
 8 made by a client to an attorney in order to obtain legal advice. In re  
 9 Grand Jury Subpoenas (Hirsch), 803 F.2d 493, 496 (9th Cir. 1986), correction  
 10 reprinted 817 F.2d 64 (9th Cir. 1987), as well as an attorney's advice in  
 11 response to such disclosures. In re Fischel, 557 F.2d 209, 211  
 12 (9th Cir. 1977). To prevent abuse and assure availability to the prosecutor,  
 13 the privilege is limited to 'only those disclosures - necessary to obtain  
 14 informed legal advice - which might not have been made absent  
 15 the privilege.' *Fisher v. United States*, 425 U.S. 391, 403, 48 L.Ed.2d  
 16 39, 96 S.Ct. 1569, 37 A.F.T.R. 2d (P-H) 1244 (1976).

17 The party asserting the attorney-client privilege has the burden  
 18 of proving that the privilege applies to a given set of documents or  
 19 communications. In re Grand Jury Subpoenas (Hirsch), 803 F.2d  
 20 at 496. To meet this burden, a party must demonstrate that its  
 21 documents adhere to the essential elements of the attorney-client  
 22 privilege adopted by this court. *Fischel*, 557 F.2d at 211.<sup>2</sup> In essence,  
 23 the party asserting the privilege must make a prima facie showing  
 24 that the privilege protects the information the party intends to with-  
 25 hold. We have previously recognized a number of means of sufficiently  
 26 establishing the privilege, one of which is the privilege log approach.  
 27 *Dole v. Tilmon*, 889 F.2d 885, 888 n. 3, 890 (9th Cir. 1989). "In Re: -



1 Grand Jury Investigation United States of America v. The Corporation, 974 F.2d  
 2 1068, 1070-1071 (9th Cir. 1992).

3 "The attorney-client privilege may be divided into eight essential  
 4 elements: (1) where legal advice of any kind is sought (2) from a professional  
 5 legal adviser in his capacity as such, (3) the communications relating to  
 6 that purpose, (4) made in confidence (5) by the client..." Id. at 1071,  
 7 n.2. (internal quotations and citations omitted) (emphasis added). "To make  
 8 its prima facie showing that the attorney-client privilege applied to the  
 9 eleven documents, the Corporation submitted a privilege log and  
 10 affidavits regarding their confidential nature." Id. at 1071.

11 "The purpose of the attorney-client privilege is to protect  
 12 confidential communications between attorney and client." NRS 49.095; Whitehead v. Nevada Common Judicial Discipline, 110 Nev. 380, 873  
 13 P.2d 946, 965 (Nev. 1994) (emphasis added). "Because both the work  
 14 product and the attorney-client privileges obstruct [ ] the search for  
 15 truth and because [their] benefits, at best, are indirect and speculative,  
 16 [they] must be strictly confined within the narrowest possible limits  
 17 consistent with the logic of [their] principles." Id. at 968. (internal  
 18 quotations and citations omitted). It should be noted that the Whitehead  
 19 Case dealt with deceptive litigation practices by the AG, and it seems  
 20 such practices have been deeply ingrained in the <sup>organizational</sup> ~~corporate~~ culture of  
 21 that office for over two decades.

22  
 23 The Ninth Circuit reiterated, in 2011, that the attorney-client  
 24 protects confidential communications between attorneys and clients, and  
 25 the party asserting the privilege has the burden of establishing the relation-  
 26 ship and privileged nature of the communication. See United States v.  
 27 Bishey, 632 F.3d 559, 566 (9th Cir. 2011).

1 "Plaintiff's passing reference to possible invasions of attorney-client or  
 2 work-product privileges is insufficient without a detailed privilege log  
 3 which they have not submitted. Fed. R. Civ. P. 26(b)(5)." *National Resources*  
 4 *Defense Council v. Curtis*, 189 F.R.D. 4 (Dist. of Columbia, Sep. 20, 1999). Olivas  
 5 and her counsel have not provided a privilege log, nor proven that the  
 6 privilege applies to the given set of documents or communications. As a  
 7 matter of fact, during Plaintiff's 2/15/19 meet and confer with DAJ De Long  
 8 about his response for Olivas, DAJ De Long scoffed at Plaintiff's request for  
 9 a privilege log, even though Olivas and her counsel were required to  
 10 produce that log under FRCP 26(b)(5). "When a party withholds  
 11 information that is otherwise discoverable under the Federal Rules by  
 12 claiming a privilege, as Defendants have done in this case, 'the party  
 13 shall make the claim expressly and shall describe the nature of the  
 14 documents, communications, or things not produced or disclosed in a  
 15 manner that, without revealing information itself privileged or  
 16 protected, will enable other parties to assess the applicability of the  
 17 privilege or protection.' Fed. R. Civ. P. 26(b)(5)." *Soto v. City of Concord*,  
 18 162 F.R.D. 603, 609 (1995).

19 Plaintiff will address the documents or communications sought  
 20 infra, and will discuss the crime-fraud exception to the attorney-  
 21 client privilege (which Plaintiff will be invoking). ~~and~~ Olivas and  
 22 her counsel made a boilerplate objection of "attorney-client privilege"  
 23 with zero support for that claim.

## 24 25 7. Work-Product Doctrine (1 time)

26 Documents prepared for litigation in a different case  
 27 against the same defendant are not protected by the work-product  
 28

1 doctrine. Facts within attorney work-product are discoverable even when  
 2 documents themselves are protected by the doctrine. The federal courts  
 3 recognize a distinction between "fact" work-product and "opinion" work  
 4 product. The former refers to the work-product of an attorney in collecting  
 5 factual information, while the latter is any work-product that reflects  
 6 the mental impressions of the attorney. See *Upjohn v. United States*,  
 7 449 U.S. 383, 101 S.Ct. 677, 66 L.Ed.2d 584 (1981) (when attorney's  
 8 work-product revealed his mental impressions, a stronger showing  
 9 of necessity must be made).

10 If a claim of work-product protection is to be asserted in order  
 11 to resist disclosure or discovery otherwise required by the federal  
 12 rules, Rule 26(b)(5)(A) requires that the party: (i) expressly make  
 13 the claim; (ii) describe the documents, communications, or things  
 14 not produced or disclosed in a manner that will enable the other  
 15 parties to assess the claim. 6 *Moore's Federal Practice*, § 26.90 [1]  
 16 (Matthew Bender 3d ed.); see *Burlington Northern & Santa Fe Ry. v. United*  
 17 *States Dist. Court for Dist. of Montana*, 408 F.3d 1142, 1147-1150 (9th Cir.  
 18 2005) (district court did not abuse its discretion in determining that plaintiff  
 19 waived privilege by filing response to Rule 34 request for production  
 20 with mere "blanket" assertion of privilege and then submitting privilege  
 21 log five months later).

22 The party resisting disclosure or discovery bears the burden of  
 23 showing the applicability of work-product protection. See *Holmes v.*  
 24 *Pension Plan of Bethlehem Steel Corp.*, 213 F.3d 124, 138-139 (3d Cir.  
 25 2000) (mere allegation of defendant that memorandum was prepared  
 26 in anticipation of litigation did not establish applicability of work-product protection).

27 "With respect to the Commission's contention that this court has

1 failed to address its claim of privilege concerning the work-product doctrine,  
 2 we emphasize that the purpose of the work-product doctrine is to  
 3 protect against disclosure of mental impressions, conclusions, opinions,  
 4 and legal theories of counsel. N.R.C.P. 26(b)(3), "Whitehead v. Nevada Com'n  
 5 on Judicial Discipline, 110 Nev. 380, 873 P.2d 946, 967 (Nev. 1994)." Because  
 6 both the work-product and the attorney-client privileges obstruct  
 7 the search for truth and because [their] benefits, at best, are indirect  
 8 and speculative, [they] must be strictly confined within the narrowest  
 9 possible limits consistent with the logic of [their] principles." Id. at  
 10 967 (internal quotations and citations omitted).

11 "Where relevant and non-privileged facts remain hidden in an  
 12 attorney's file and where production of those facts is essential to the  
 13 preparation of one's case, discovery may properly be had." *Hickman*  
 14 *v. Taylor*, 91 L. Ed. 451, 329 U.S. 495, 511 (1947). "Denial of production of  
 15 this nature does not mean that any material, non-privileged facts  
 16 can be hidden from the petitioner in this case. He need not be unduly  
 17 hindered in the preparation of his case, in the discovery of facts or in his  
 18 anticipation of his opponent's position." Id. at 513.

19 As with all of Oliver's and her counsel's other objections, this one  
 20 is boilerplate and does not meet the requirements of the FRCP's. Oliver and  
 21 her counsel did not describe the documents or communications not  
 22 produced or disclosed in a manner that will enable Plaintiff to assess  
 23 the claim. A privilege log would have sufficed, but DAJ De Long  
 24 scoffed at Plaintiff's request for one, and never provided it. Obstructing  
 25 Plaintiff's search for truth, derogation of the search for truth, hiding  
 26 facts, and unduly hindering the preparation of Plaintiff's case is  
 27 DAJ De Long's primary goal with this and all his other boilerplate  
 28



1 objections.

2  
 3 8. "Plaintiff is simply fishing in an attempt to find an unsupported conspiracy" (Hickman)  
 4 Although Olivas and DA De Long state, immediately following this  
 5 objection—and also prior to it—that "Plaintiff's claims concern incidents that  
 6 occurred in 2012 and 2013," and that Plaintiff's claims "concern a prison  
 7 disciplinary hearing for an incident that occurred in December, 2012," this  
 8 statement belies their recognition that one of the claims is, in fact, conspiracy.  
 9 The conspiracy began before December, 2012, and continued well into 2015,  
 10 at the least. The documents sought in this first set of requests for production  
 11 will establish the exact timeline of the conspiracy.

12 "No longer can the time-honored cry of 'fishing expedition' serve  
 13 to preclude a party from inquiring into the facts underlying his opponent's  
 14 case. Mutual knowledge of all the relevant facts gathered by both  
 15 parties is essential to proper litigation. To that end, either party may  
 16 compel the other to disgorge whatever facts he has in his possession."  
 17 *Hickman v. Taylor*, 91 L. Ed. 451, U.S. 495, 507 (1947). This law having  
 18 been in effect for over seventy years, Olivas and her counsel are most assuredly  
 19 aware of it. This objection has no basis in law.

20  
 21 9. "Plaintiff's claims concern incidents that occurred in 2012 and 2013." (Hickman)  
 22 Olivas and her counsel start off their response by implying the  
 23 claims concern only a prison disciplinary hearing for an incident that  
 24 occurred in December of 2012, then expand it to incidents that occurred  
 25 in 2012 and 2013, contradicting their previous statement. Plaintiff's second  
 26 Amended Complaint clearly delineated the timelines of violations of his  
 27 rights spanning from 2012 to 2016. Olivas' co-defendant Jenkins' retaliation



1 against Plaintiff in 2018 by using her contacts at NDOC to come after Plaintiff for  
 2 pursuing this lawsuit show the conspiracy against Plaintiff did not stop in 2016,  
 3 nor did it stop when the Defendants stopped working at NDOC. Olivas and her  
 4 counsel's attempt to narrow the scope of discovery to exclude relevant evidence  
 5 in this case by making factually inaccurate objections like this should  
 6 not be allowed, nor tolerated.

7  
 8 10. Documents not in possession or control of Defendant, nor  
 9 does Defendant have access to them (25 times)

10 The AG, DA De Long, and Olivas boldly make this objection  
 11 25 times when they know full well that Olivas has possession, control,  
 12 or access to the requested documents via a variety of means. As  
 13 Plaintiff has pointed out previously, Olivas and her counsel want to play  
 14 a shell-game with evidence, claiming Olivas has no control or  
 15 access to requested documents when DA De Long and the AG have the  
 16 requested documents — and/or have easy access to them by means of  
 17 their symbiotic relationship with the NDOC — when their client  
 18 has direct control of DA De Long and the AG by means of the attorney-  
 19 client relationship. This objection has no basis in law; Olivas is entitled  
 20 to access, control, or possess the requested documents. Plaintiff will point  
 21 out those legal entitlements with more specificity infra.

22 "Any party or other person may, on request and without the  
 23 required showing, obtain the person's own previous statement about  
 24 the action or its subject matter. If the request is refused, the person  
 25 may move for a court order, and Rule 37(a)(5) applies to the award  
 26 of expenses. A previous statement is either: (i) a written statement  
 27 that the person has signed or otherwise adopted or approved; or (ii) a

1 contemporaneous stenographic, mechanical, electrical, or other recording — or  
 2 a transcription of it — that recites substantially verbatim the person's  
 3 oral statement." FRCP 26(b)(3)(C).

4 Regardless of which party brings either a motion to compel or a motion  
 5 for a protective order, the party from whom discovery was sought  
 6 always has the burden to show that the information sought is, in fact,  
 7 "not reasonably accessible." The proper response to a discovery request  
 8 seeking relevant electronically stored information contained in sources  
 9 that are not reasonably accessible is for the responding party to:  
 10 1) identify, by type or category, the sources containing potentially  
 11 responsive information that the responding party is not searching or  
 12 not producing; 2) specify, to the extent possible, enough detail to  
 13 enable the requesting party to evaluate the burdens and costs of searching  
 14 or producing these comparatively inaccessible sources; and 3) estimate  
 15 the likelihood of finding responsive information in the identified sources.

16 The Court may allow the requesting party special discovery  
 17 inquiries to test the responding party's assertion that the information  
 18 sought is "not reasonably accessible." The Court may require the  
 19 responding party to sample the information in the sources identified  
 20 as not reasonably accessible; 2) allow inspection of the sources  
 21 identified as not reasonably accessible; or 3) set depositions of witnesses  
 22 with knowledge of the responding party's information systems.

23 "although the defendant may not have possession, custody, or  
 24 control of the documents requested, a party may be ordered to produce  
 25 a document in the possession of a non-party entity if that party has  
 26 a legal right to obtain the document or has control over the entity  
 27 which is in possession of the document." See, e.g., *Soto v. City of Concord*,

1 162 F.R.D. 603, 619 (N.D. Cal. 1995) (citing *Buckley v. Vidal*, 50 F.R.D. 271, 274  
 2 (S.D.N.Y. 1970). Although the Department of Corrections is not a party to this  
 3 action, it is the Court's experience that a defendant employed by the Department  
 4 can generally obtain documents by simply requesting them from his/her  
 5 employer. If defendant objects to plaintiff's discovery request on the grounds  
 6 that he does not have possession, custody, or control of the documents  
 7 in question, the defendant must set forth facts that persuasively demonstrate  
 8 why he doesn't have access to the documents requested." *Justin Edwards Lewis*  
 9 *v. Ryan Fugh*, U.S. Dist. Ct. for Dist. of WA, 2017 U.S. Dist. LEXIS 58506,  
 10 Case No. C17-5227-RJB-KLS (D.WA, April 14, 2017).

11 "Rule 34 requests may be used to inspect documents, tangible things,  
 12 or land in the possession, custody, or control of another party. Property  
 13 is deemed within a party's 'possession, custody, or control' if the party has  
 14 actual possession, custody, or control thereof or the legal right to  
 15 obtain the property on demand. *In re Bankers Trust Co.*, 61 F.3d 465, 469  
 16 (6th Cir. 1995)." *Allen v. Woodford*, 2007 U.S. Dist. LEXIS 11026, Case No.  
 17 CV-F-05-1104 DWN LJO (E.D. CA, Jan. 30, 2007). "A party having actual  
 18 possession of documents must allow discovery even if the documents  
 19 belong to someone else; legal ownership of documents is not determinative.  
 20 *In re Bankers Trust Co.*, 61 F.3d at 470." *Id.*

21 "'Control' need not be actual control; courts construe it broadly  
 22 as 'the legal right to obtain documents upon demand.'" *United States*  
 23 *v. Int'l Union of Petroleum & Indus. Workers*, 870 F.2d 1450, 1452 (9th  
 24 Cir. 1989). "'Legal right' is evaluated in the context of the facts of each  
 25 case. *In re Folding Carton Antitrust Litig.*, 76 F.R.D. 420, 423 (D.  
 26 Ill. 1977). The determination of control is often fact specific. Control  
 27 to each case is the relationship between the party and the person or  
 28

1 entity having actual possession of the document. Estate of Young v. Holme, 134  
 2 F.R.D. 291, 294 (D. Nev. 1991). The requisite relationship is one where a  
 3 party can order the person or entity in actual possession of the documents  
 4 to release them. Id. This position of control is usually the result of statute,  
 5 affiliation or employment. Id. Id.

6 "Control" may be established by the existence of a principal-agent  
 7 relationship. In Bosie D. v. Romney, 256 F. Supp. 2d 119, 119 (D.C. Mass.  
 8 2003), Defendant state officials would be required to produce documents  
 9 that were in the possession of non-party agencies. Id.

10 "In some cases, information known to a co-party to the litigation  
 11 must be explored. See A. Farber & Partners, 237 F.R.D. at 254, 256."  
 12 Jones v. Jimmer, 2014 U.S. Dist. LEXIS 167750 at \*8, Case No. 2:12-cv-01578  
 13 JAD-MTK (D. Nev. Dec. 2, 2014).

14 The AG (who is representing the Defendants) has a close working  
 15 relationship with the NDOC and its employees (as well as its ex-employees).  
 16 While some Defendants in this case are retired from the NDOC, their  
 17 co-defendants are not. The AG has chosen to represent all these  
 18 Defendants as a whole, and has not severed any one of them from the  
 19 others. The relationship between the AG and NDOC is so intertwined  
 20 that the NDOC has written its regulations (with AG input, no doubt)  
 21 to allow the AG and its employees (including DAG Be Long) unfettered  
 22 access to every NDOC inmate's I-File and medical records, while they  
 23 claim those same records are confidential and inmates can't even have  
 24 a copy of their own records.

25 "Only Departmental and designated contract staff will be  
 26 permitted access to Departmental records containing inmate information  
 27 during the normal course of their duties." NDOC Administrative



1 Regulation ("AR") 569.01(1). "Disclosure of inmate information, including  
 2 Departmental records containing inmate information, may be made to  
 3 the following persons, offices or agencies: B. Attorney General and Attorney  
 4 General's staff." AR 569.02(4)(B). "Medical records will be maintained  
 5 in secure files and will only be handled by authorized medical division  
 6 staff and the following persons: E. Attorney General staff." AR 639.02(1)(E).  
 7 "Copies of medical records will not be provided to the inmate and should  
 8 be maintained in a separate file in the inmate's medical records for attach-  
 9 ment to pleadings when directed by the staff of the Attorney General."  
 10 AR 639.02(8). "Normally, inmates will not be provided with copies  
 11 of documents maintained by the Department." AR 568.05(1).

12 Not only does NDOC allow unfettered access to every inmate's files  
 13 (both institutional and medical) for the AG, they also allow the same  
 14 unfettered access to NDOC employee files (which all former employees  
 15 also have access to). "The following Department staff are authorized  
 16 to remove personnel files from the Department Personnel Division, E.  
 17 Attorney General's Office." AR 308.01(2)(E). "All former or current  
 18 employees have the right to review their own files during normal  
 19 business hours." AR 308.01(7). "Review or release from an employee  
 20 personnel file requires an authorization for release of information  
 21 from an employee personnel file requires an authorization for release of  
 22 information from the employee." AR 308.01(9). "Work performance standards  
 23 are a written statement of the results or behaviors, or both, expected of an  
 24 employee when the job elements of the employee's position are satisfactorily  
 25 performed under existing working conditions." AR 310.01(1). "The  
 26 supervisor should maintain a copy of the work performance standard for  
 27 their supervisory file and provide a copy to the employee." AR 310.01(11).

1 "Once the evaluation and subsequent review of has been completed it must  
 2 be forwarded to the Department Personnel Office. A copy will be placed in the  
 3 Department Personnel file, with the original forwarded to the State Department  
 4 of Personnel." AR 311.02 (16).

5 So, the AG, employees of NDOC, and former employees have access  
 6 to pretty much every and any record, document, and file maintained by  
 7 the NDOC — on inmates and employees alike. For the AG and David DeLong  
 8 to say that neither they nor their clients have control, custody, or  
 9 possession of the documents requested is a blatant misrepresentation and  
 10 deceptive. "A party clearly cannot refuse to answer interrogatories on  
 11 ~~the ground that the information sought is solely~~ the ground that the information sought is solely  
 12 within the knowledge of his attorney." *Hickman v. Taylor*, 91 L.  
 13 Ed 451, 329 U.S. 495, 503 (1947). This same standard should apply  
 14 equally to Rule 34 requests for production of documents.

15  
 16 11. Documents are confidential and contain privileged information...  
 17 "this information is protected by privileges and confidentiality  
 18 provided for under the law including, but not limited to  
 19 NDOC Administrative Regulation 308, Nevada Revised Statute  
 20 Chapter 284, Nevada Administrative Code Chapter 284,  
 21 and the official information privilege under federal law (31 CFR 101.116)."  
 22 It is appropriate to recognize a privilege only to the very  
 23 limited extent that excluding relevant evidence has a public good  
 24 transcending the normally predominant principal of utilizing all  
 25 rational means for ascertaining truth. — The governmental privilege  
 26 stands squarely in conflict with the strong public interest in open  
 27 and honest government. See *Reed v. Barts*, 134 F. 3d 351 (6th Cir. 1998).

1 Plaintiff will break this objection down into its two main constituent parts: State  
2 Law Privileges and the Official Information Privilege.

### 3 A. State Law Privileges

4 First off, "state privilege doctrine, whether derived from  
5 statutes or court decisions, is not binding on federal courts in these kinds  
6 of cases." *Kelly v. City of San Jose*, 114 F. R.D. 653, 655-56 (N.D. Cal. 1987).  
7 Defendants reliance on state law to assert a privilege is improper. Federal  
8 Rule of Evidence 501 would have informed defendants' counsel of the  
9 application of federal privilege rules to federal civil rights cases. These  
10 objections based on state law are groundless. Olivas and her counsel  
11 attempt to use state law ~~and~~ regulations created by the AG and NDOC  
12 to shield discovery against corrupt guards, contrary to clearly established  
13 law. "It obviously would make no sense to permit state law to  
14 determine what evidence is discoverable in cases brought pursuant  
15 to federal statutes whose central purpose is to protect citizens from  
16 abuses of power by state and local authorities. If state law controlled,  
17 state authorities could effectively insulate themselves from constitutional  
18 norms simply by developing privilege doctrines that made it virtually  
19 impossible for plaintiffs to develop the kind of information they need  
20 to prosecute their federal claims." *Id.* at 656.

### 21 B. Official Information Privilege

22 "The Supreme Court has long noted that privileges are disfavored.  
23 *Jaffee v. Redmond*, 518 U.S. 1, 9, 116 S.Ct. 1923, 135 L.Ed. 2d 337 (1996).  
24 "The party asserting ~~an~~ an evidentiary privilege has the burden to demonstrate  
25 that the privilege applies to the information in question." *Tormay v. United*  
26 *States*, 840 F.2d 1424, 1426 (9th Cir. 1988). Privileges are to be "strictly"  
27 construed because they "impede full and free discovery of the truth."

1 Eureka Financial Corp. v. Hartford Acci. & Indem. Co., 136 F.R.D. 179, 183  
 2 (E.D. Cal. 1991). "If the privilege is worth protecting, a litigant must be  
 3 prepared to expend some time to justify the assertion of the privilege."  
 4 In civil rights cases brought under section 1983, questions of  
 5 privilege are resolved by federal law. Kerr v. U.S. District Court for the  
 6 Northern District of California, 511 F.2d 192, 197 (9th Cir. 1975). "State  
 7 privilege doctrine, whether derived from statutes or court decisions, is  
 8 not binding on federal courts in these kinds of cases." Kelly v. City  
 9 of San Jose, 114 F.R.D. 653, 655-56 (N.D. Cal. 1987).

10 Nevertheless, "[f]ederal common law recognizes a qualified  
 11 privilege for official information privilege." Sanchez v. City of Santa  
 12 Ana, 936 F.2d 1027, 1033 (9th Cir. 1990) (citing Kerr, 511 F.2d at 198).  
 13 The official information privilege ensures disclosure of discoverable  
 14 information without compromising the state's interest in protecting the  
 15 privacy of law enforcement officials and in ensuring the efficacy  
 16 of its law enforcement system. Kelly, 114 F.R.D. at 662-63.

17 To determine whether the information sought is privileged,  
 18 courts must weigh the potential benefits of disclosure against the  
 19 potential disadvantages. If the latter is greater, the privilege bars  
 20 discovery. Sanchez, 936 F.2d at 1033-34. "In the context of civil  
 21 rights suits against [corrections officials], this balancing approach  
 22 should be "moderately pre-weighted in favor of disclosure.'" Soto  
 23 v. City of Concord, 162 F.R.D. 603, 613 (N.D. Cal. 1995) (quoting  
 24 Kelly, 114 F.R.D. at 661).

25 The party invoking the privilege must at the outset make a  
 26 'substantial threshold showing' by way of a declaration or affidavit  
 27 from a responsible official with personal knowledge of the matters



1 attested. Id., 162 F.R.D. at 613. The claiming official must "have seen and  
 2 considered the contents of the documents and himself have formed the  
 3 view that on grounds of public interest they ought not to be produced" and  
 4 state with specificity the rationale of the claimed privilege." Kerr, 511 F.2d  
 5 at 198 (citation omitted). The affidavit must include: (1) an affirmation that  
 6 the agency generated or collected the material in issue and has maintained  
 7 its confidentiality; (2) a statement that the official has personally reviewed  
 8 the material in question; (3) a specific identification of the governmental  
 9 or privacy interests that would be threatened by disclosure of the  
 10 material to plaintiff and/or his lawyer; (4) a description of how disclosure  
 11 subject to a carefully crafted protective order would create a substantial  
 12 risk of harm to significant governmental or privacy interests, and (5) a  
 13 projection of how much harm would be done to the threatened interests  
 14 if disclosure were made. Id., 162 F.R.D. at 613. In addition, "[t]he  
 15 asserting party, as in any case where a privilege is claimed, must ~~adequately~~  
 16 sufficiently identify the documents so as to afford the requesting  
 17 party an opportunity to challenge the assertion of the privilege." Thiller  
 18 v. Pancucci, 141 F.R.D. 292, 300 (C.D. Cal. 1992).

### 19 Discussion

20 Defendants have not adequately demonstrated that all of the documents  
 21 sought regarding Inmate Johnson are privileged. Defendants' reliance on  
 22 state law to assert a privilege is improper. Defendants also fail to  
 23 articulate the federal law relied on for assertion of a privilege. To  
 24 the extent defendants rely on official privilege, defendants also fail  
 25 to provide a declaration from a responsible official." Houston v.  
 26 Eldridge, 2018 U.S. Dist. LEXIS 28865 (E.D. Cal. ~~2018~~ Feb. 22, 2018).

27 The lawyer representing governmental defendants is not permitted

1 to invoke the official government privilege. See Kelly v. City of San Jose, 114 F.R.D.  
 2 653, 668-69 (N.A. Cal. 1987). There is no privilege not to disclose merely  
 3 because the witness desires to keep it confidential. See Bramburg v. Hayes,  
 4 408 U.S. 665, 682-687, 92 S.Ct. 2646, 33 L.Ed.2d 626 (1972).

5 Olivas and her counsel have clearly not met the "substantial  
 6 threshold showing" required to invoke the official ~~government~~ information  
 7 privilege. This objection should be overruled because of that and the fact  
 8 that counsel for Olivas invoked the privilege instead of a government official  
 9 from the NDOC and/or IG.

10 12. Request seeks information protected by the official government privilege (2 times)

11 Plaintiff does not see any difference between "the official information  
 12 privilege under federal law" and "the official government information privilege,"  
 13 and Olivas and her counsel do not provide any law or citation to clarify.  
 14 During Plaintiff's meet and confer with DAJ DeLong February 15, 2019, Plaintiff  
 15 asked DAJ DeLong what caselaw he relied on for his objections, to which DAJ  
 16 DeLong responded: "I assist with objections; I don't assist with discovery  
 17 research." DAJ DeLong's flippant response demonstrates his lack of legal  
 18 basis for this objection and the rest of his boilerplate objections. Inasmuch  
 19 as the "official information" and "official government information"  
 20 privileges are the same, the arguments Plaintiff supplied ~~supra~~ apply equally.  
 21 Inasmuch as Olivas and her counsel claim they are different privileges,  
 22 Plaintiff cannot adequately respond until they explicate.

23  
 24 13. "Defendant has retired from the NDOC." (21 times)

25 As explained supra, Olivas being retired from the NDOC has  
 26 nothing to do with her access to the requested documents, through her  
 27 own request to the NDOC, through her attorneys (the AG and DAJ De Long),

1 and through her co-defendants and friends who still work at the NAOC. Further-  
 2 more, Plaintiff finds it extremely hard to believe that Olivas kept no  
 3 documents from her many years of working at the NAOC. How can she  
 4 access her pension and benefits with zero documentation of her having  
 5 worked for the NAOC? Olivas and her counsel have the legal rights to  
 6 obtain the requested documents.

7  
 8 14. "Defendant is not required to create documents in response to  
 9 ~~any~~ a request for the production of documents." (5 times)

10 Yes, Defendant does not have to create documents, but  
 11 she or her attorney do need to produce documents already in existence  
 12 that are responsive to the requests. Olivas and her counsel trot this  
 13 objection out for documents that already exist with her or her counsel.

14  
 15 15. "Defendant is not aware of the existence of any such list at this time" (3 times)

16 Plaintiff will address this objection where it appears *infra*, when  
 17 addressing each individual request.

18  
 19 16. "Defendant also objects because this appears to be an attempt  
 20 to provide Fed. R. Civ. P. 26(a)(1) initial disclosures in this  
 21 matter. Defendant is specifically exempted from this requirement  
 22 under Fed. R. Civ. P. 26(a)(1)(B)(iv)." (1 time)

23 The "initial disclosures" phase comes before actual discovery,  
 24 and the "initial disclosures phase" has passed already. The exemption  
 25 from initial disclosures does not exempt Olivas and her counsel from  
 26 providing such documents when requested during discovery. It has been  
 27 established since 1947 that parties may also be interrogated as to the

1 identity and location of persons having knowledge of relevant facts. See *Lewis*  
 2 *v. United Air Lines Transport Corporation*, 4 F.R.D. 362 (W.D.N.Y. 1945). Plaintiff  
 3 is entitled to know who the custodians of potentially discoverable ESI are.

4 Although exempted actions dispense with the necessity to make  
 5 initial disclosures without a court order, nothing prevents one or more  
 6 parties from simply seeking the same information through formal  
 7 discovery devices. See *Ward v. Leclair*, 2008 U.S. Dist. LEXIS 31880,  
 8 at \*9 (N.D.N.Y., Apr. 17, 2008) (though action was exempt from initial disclosures,  
 9 same information could be sought by plaintiff under Rule 33, 34, or other  
 10 discovery devices). This objection lacks any merit, and is an intentional mis-  
 11 representation of the law.

12  
 13 17. "This request is requesting confidential information. All  
 14 Inspector General's Office Investigation Reports are  
 15 confidential and cannot be disseminated." (3 times)

16 "Every person sentenced to imprisonment is under the protection  
 17 of the law and any unauthorized injury to his or her person shall  
 18 be punished as if he or she were not so convicted or sentenced." NRS  
 19 212.010. The NDOC, AG, IG, and Defendants ignore this law when it  
 20 comes to Plaintiff, depriving Plaintiff of the protection of the law.

21 As noted supra, state claims of privilege and confidentiality  
 22 are improper. The IG and NDOC claim this privilege for themselves  
 23 and corrupt guards based on rules they themselves write. The NDOC,  
 24 AG, Defendants, and BAIDe Long attempt to pull a dark veil of  
 25 secrecy over all the pertinent facts collected by the IG after the  
 26 incident merely on the assertion that the facts were gathered by its  
 27 large staff of investigators. The AG with the help of the AG and



1 NDOC) has created a zone of silence by keeping all investigations confidential.  
 2 Olivas and her counsel can point to no statutes, laws, or rulings that  
 3 say this confidentiality they assert is legal, at either the state or federal level.

4 The IG is a police agency without any of the oversight of a traditional  
 5 police force, but with all the powers. They are literally a secret police  
 6 agency akin to the ~~Stasi~~ Stasi. They have the power to arrest, as  
 7 demonstrated in the front page article "Meth Charge at Ely Prison"  
 8 by Elko Daily, in the Elko Daily Free Press on Tuesday, June 19, 2018:  
 9 an individual was "arrested by the Nevada Department of Corrections  
 10 Office of the Inspector General." The NDOC and IG publicly claim  
 11 they perform "thorough and impartial... investigations into allegations  
 12 of employee misconduct," and that "any investigation or hearing  
 13 arising from a complaint must be conducted in an open and fair  
 14 manner with truth as the objective." See Attached Exhibit C - NDOC  
 15 Website Complaint/Commendation Guide. Meanwhile, they state  
 16 to inmates and the Courts that all IG information is confidential.

17 "Upon completion of the investigation, the matter will be  
 18 submitted to the concerned employee's Division Head for adjudication  
 19 and appropriate action. Non-custody citizen complainants will receive  
 20 written notification of complaint dispositions. Custody complainants  
 21 will be notified pursuant to Department procedure." Id. Please  
 22 compare those public statements with the responses to my formal  
 23 written complaints of misconduct by Defendants Jenkins, Keener,  
 24 and Olivas: "In accordance with Administrative Regulation # 740  
 25 your grievance has been referred to the Inspector General's office  
 26 for review. All investigations are confidential, as such you will  
 27 not be provided with the outcome." See Exhibit D - Formal Written

1 Complaint and Response. It should also be noted that the mailing address  
 2 for the IG is the same as the NDOC Central Office in Carson City. The  
 3 IG investigators and staff consist mainly of ex-guards from NDOC  
 4 prisons, and spouses and friends of NDOC guards. Though the IG  
 5 publicly purports to independently and openly conduct investigations of  
 6 NDOC staff, they actually work closely with NDOC staff as a secret  
 7 police arm of the NDOC to investigate inmates and charge them with  
 8 crimes. As Plaintiff stated in Exhibit B, secrecy encourages corruption,  
 9 and transparency is ~~effective~~ an effective and essential means of  
 10 counteracting unethical and illegal behavior by public employees.

11 "No legitimate purpose is served by conducting the investigations  
 12 under a veil of near total secrecy." *Kelly v. City of San Jose*, 114 F.R.D.  
 13 653, 665 n.4 (N.D. Cal. 1987).

14  
 15 18. This request calls for confidential information wherein the  
 16 disclosure could compromise the safety and security  
 17 of the prison (3 times)

18 As discussed supra, state claims of privilege and confidentiality  
 19 are improper. There is no federal "safety and security" privilege. As  
 20 far as Plaintiff can tell, federal courts treat correctional officer and  
 21 correctional/prison facility claims of "safety and security" as an  
 22 invocation of the federal official information privilege. Inasmuch  
 23 as Defendants are reiterating their claim of official information  
 24 privilege, they failed to meet the threshold showing burden and re-  
 25 quirement of a declaration from a responsible official as delineated  
 26 in *Kelly*. Also, demonstrating how boilerplate this ~~objection~~ objection  
 27 is, Olivas and her counsel don't even state which prison's safety

1 and security could be compromised. Plaintiff's claims cover Levelock Correctional  
 2 Center, Ely State Prison, and High Desert State Prison. Which of those prisons  
 3 could have their safety and security compromised by disclosure of the  
 4 requested information?

5 "As has been emphasized in this opinion, a general claim of harm  
 6 to the 'public interest' is insufficient to overcome the burden placed on  
 7 the party seeking to shield material from disclosure." *Kelly v. City*  
 8 *of San Jose*, 114 F.R.D. 653, 672 (N.D. Cal. 1987). "Simply mentioning  
 9 a general category of privilege, without any further elaboration or any  
 10 specific linkage with the documents, does not satisfy the burden."  
 11 *Kamahana v. United States of America*, 447 F.3d 1172 (9th Cir. 2006).  
 12 While *Kelly* deals with discovery to be disclosed to a party and *Kamahana*  
 13 deals with already-disclosed discovery to be sealed (or unsealed), the  
 14 concept of generalized, boilerplate mentioning of a general category  
 15 of privilege to avoid disclosure being unconvincing as an argument  
 16 without any further elaboration is a sound one. It is also effective to  
 17 refer to these two cases as *Olivas* and her counsel conflate the needs for  
 18 secrecy ~~in~~ in public court filings (which rarely arise here) with  
 19 discovery rules and privileges, and attempt to use objections usually reserved  
 20 for sealing court documents for the purpose of preventing Plaintiff from  
 21 any discovery. Even when the Defendants and their counsel filed last  
 22 known addresses with the Court for Defendants who are no longer MOC  
 23 employees, they did not provide Plaintiff with those addresses, thus  
 24 necessitating added expense and effort on Plaintiff's part to locate and  
 25 serve Defendants who are avoiding service. "Unlike private materials  
 26 unearthed during discovery, judicial records are public documents  
 27 almost by definition, and the public is entitled to access by  
 28

1 default. *See Nixon*, 435 U.S. at 597. " *Id.* at 1180.

2 Plaintiff has a great deference for the rules and the law. If a document  
3 unearthed during discovery should not be publicly disclosed, Defendants  
4 need only file a motion to seal and inform Plaintiff which documents  
5 should not be made public. Plaintiff should not be treated differently  
6 than every other lawyer and pro se litigant merely because he is in-  
7 carcerated. If Plaintiff and Defendants disagree over what should be  
8 public and what shouldn't, then the issue can be briefed with the  
9 Court. Plaintiff will not just publicize documents without permission  
10 from the Court if the Defendants state they shouldn't be public. It is  
11 absolutely antithetical to justice and discovery rules to just not turn  
12 documents over to Plaintiff in discovery.

13 "Defendants make a murky argument that the safety and security  
14 of the... institution... could be jeopardized. No effort is made to  
15 elaborate on how their safety would be jeopardized, how a protective  
16 order would not cure these concerns, general assertions of harm are  
17 not enough to justify the CCR. Defendants' outright refusal to  
18 produce responsive documents. *See v. City of Concord*, 162 F.R.D. 603,  
19 614 (N.D. Cal. 1995). " *Allen v. Woodford*, 2007 U.S. Dist. LEXIS 11026,  
20 Case No. CV-F-05-1104 OWW LJO (E.D. Cal. 2007).

21 In *Houston v. Eldridge*, 2018 U.S. Dist. LEXIS 25865 (E.D.  
22 Cal., 2018), California Department of Corrections defendants sought to  
23 block a prisoner plaintiff from acquiring discovery by claiming "safety  
24 and security." The court in that case stated, in response to defendants' claims  
25 of safety and security to prevent discovery: "Defendants' reliance on  
26 state law to assert a privilege is improper. Defendants also fail to  
27 articulate the federal law relied on for assertion of a privilege. To



1 the extent defendants rely on official privilege, defendants also fail to provide  
 2 a declaration from a responsible official. "Houston v. Eldridge, 2018 U.S.  
 3 Dist. LEXIS 28865 (E.D. Cal., 2018).

## 4 5 VI. Each Request and Response Individually

6 Plaintiff will now address each request and response individ-  
 7 ually, in chronological order. Since the requests and responses are attached  
 8 hereto, Plaintiff will merely title each one as "Response 1," "Response 2,"  
 9 soon and so forth.

10 First, though, Plaintiff wishes to address Olivas and her counsel's  
 11 false assertion, under their "Reservation of Rights" (Olivas' Response, at  
 12 2), that "For documents identified and produced herein, Defendant  
 13 is required only to gather, review, and produce these documents for  
 14 Plaintiff's inspection. Plaintiff, as the requesting party, bears the financial  
 15 burden of duplicating any documents he inspects, for his own use for  
 16 this litigation. Thus, Plaintiff will be required to bear the cost of  
 17 making copies of these documents for his own use in this litigation,  
 18 and Defendant objects to paying for these copying costs." That so-  
 19 called reservation of a "right" is belied by the Advisory Committee  
 20 Note to the 2015 amendments to Rule 34: "Rule 34(b)(2)(B) is further  
 21 amended to reflect the common practice of producing copies of documents  
 22 or electronically stored information rather than simply permitting  
 23 inspection. The response to the request must state that copies will be produced."  
 24 Congress mandated that Defendant must produce copies, which Defendant defies.

25 Now for the responses:

### 26 1. Response 1

27 In case the Court is unfamiliar with the Facebook social

1 Graph, Plaintiff is attaching two articles about it. See Attached Exhibit E -  
 2 Facebook Social Graph Articles. Facebook Social Graph "draws an edge  
 3 between you and the people, places, and things you interact with online.  
 4 ... The edge is the connection point between you and other people, places,  
 5 or things... It's actually a data structure." Exhibit E. "Photos, events,  
 6 and pages are connected with other information such as your relationships  
 7 to your friends, stuff that you share, and photos that you tag." Id.  
 8 "Facebook has collected billions, maybe trillions of pieces of  
 9 data about its users... and making that data searchable is a natural  
 10 move. Facebook will help you refine your search... Graph search  
 11 isn't turned on automatically, so your first step is activating the  
 12 new feature in the search bar. Facebook will walk you through it.  
 13 Once Graph Search is on, Facebook prompts you to 'search for people,  
 14 places, and things.' Start typing." Id.

15 "According to Esther Zuckerman, the director of MIT's Center  
 16 for Civic Media, most of today's social networks are predicated on  
 17 bringing people's offline relationships online. And since offline  
 18 networks are shaped by homophily - people's tendency to cluster  
 19 with others who are like them - social networks, too, tend to surround  
 20 users with the types of people they already know. Homophily is an ancient  
 21 human instinct, but Facebook's algorithm reinforces it with industrial  
 22 efficiency." <sup>1</sup>

23 The Facebook Social Graph will show the connections and communications  
 24 between Olivas and other NDOC employees - particularly Defendant Jenkins,  
 25 and possibly the IG investigators who were supposed to investigate them,

26  
 27 Footnote 1. "How I Hacked Facebook" by Joe Pinsker, The Atlantic, June, 2019, Pgs 23-25.

1 and possibly the other Defendants — for the relevant time period. Olivas and  
 2 Jenkins were Facebook friends during the relevant period, and most likely  
 3 still are. The claims include conspiracy from December, 2012 (and an unknown  
 4 time before that) to the middle of 2015, at least. There is no other way  
 5 to get the documents sought in this request. Plaintiff is still seeking  
 6 Jenkins' location/residence for the purpose of service, and believes Olivas  
 7 is currently in contact with Jenkins via Facebook. This request is  
 8 perfectly reasonable, with minimal burden, as it only takes a few clicks  
 9 and queries to compile. The graph showing all of Olivas' Facebook inter-  
 10 actions and conversations with Jenkins (and other Defendants) is probative  
 11 of their state of mind and intentions during the time of violations of  
 12 Plaintiff's rights, and typed conversations between them can be used to  
 13 show the conspiracy against Plaintiff, as well as for corroboration and  
 14 impeachment. These Facebook friendships and communications contain  
 15 potentially key evidence — and/or can lead to key evidence — critical  
 16 to Plaintiff's claims or Olivas' defense.

17 The question Plaintiff wishes the Court to ask itself is this:  
 18 would this evidence be discoverable in other cases not involving  
 19 an inmate? If so, would the Court prevent Plaintiff from reviewing  
 20 or using this evidence because he's an inmate?

21 Plaintiff believes that no litigation hold was ever issued by the  
 22 NAOC or AG to any of the Defendants despite being notified of legal  
 23 action against the Defendants and Defendants' spoliated key evidence  
 24 as a result (even though the Defendants also knew not to spoliate evidence).  
 25 ~~During~~ During the meet and confer regarding Olivas' response to Plaintiff's  
 26 request for production of documents (Set One), Da'N De Long stated  
 27 he did not review any of Olivas' personal devices or personal emails.

1 Yet he certified the responses to the requests as if he had. How can he object  
2 to this request without ever having reviewed the requested materials?  
3 Plaintiff requests the Court order Da'Long to submit to this Court and  
4 Plaintiff a statement certifying the method Olivas used to search for documents  
5 responsive to Plaintiff's First Set of Requests for Production of Documents,  
6 provide a copy of the litigation hold - if any - Da'Long issued to the  
7 Defendants, and stating in detail the actions Olivas took in searching her  
8 Facebook Social Graph.

9 The potential benefits of this discovery outweighs the burden of  
10 producing it. The necessity of the information sought is obvious. Plaintiff also  
11 seeks to identify any personal contact between Olivas and any EG employees  
12 to determine if the same EG investigators who investigated Olivas were  
13 also her personal friends. Social media is the primary mode of socialization  
14 and communication (along with text messages and instant messages) in  
15 America these days, and any conspiratorial conversations would have  
16 most likely taken place in private messaging on Facebook, with  
17 messages passed back and forth there.

18 The Facebook Social Graph and friends list is reasonably likely  
19 to yield relevant information. These documents will help Plaintiff narrow  
20 his lines of inquiry for propounding interrogatories, and may eliminate  
21 the need for deposing this Defendant. They may also narrow the Defendant's  
22 defenses, or eliminate the need for trial. Time-stamped electronic  
23 discovery is much more effective for ascertaining the truth than witness  
24 testimony about events that transpired from six and a half years ago  
25 up until now. Also, this evidence is not easily tampered with without  
26 leaving a trail, and Defendants have already shown a propensity  
27 for intentionally spoliating evidence. Also, electronically stored  
28



1 information is low burden and low cost. Olivas and her counsel didn't  
2 even search this information.

3 "It would be naive to think the system is not being gamed. I  
4 am positive there is collusion going on in order to generate schedules  
5 that would result in feathering one's nest, as you say," said John  
6 Borrowman, NDOC's deputy director of support services.<sup>2</sup> This article  
7 was discussing Levelock Correctional Center's having more open positions  
8 for employees on paper than they actually needed. Basically falsifying  
9 documents in order to get more funding than actually needed - aka fraud.  
10 No doubt collusions and conspiracies are conducted on Facebook and using  
11 personal devices - not on company email accounts (i.e. NDOC email accounts),  
12 though company emails likely ~~do~~ allude to the conspiracies conducted  
13 in personal emails and on personal devices. Facebook communications  
14 during the period of the ~~documentary~~ conspiracy are absolutely relevant.  
15 The inability to access an entire source of documents would significantly  
16 hamper plaintiff's ability to prepare and prosecute his case.

17 Showing the strength of Olivas' ties to the other Defendants on  
18 Facebook, the frequency of her contact and communications with them,  
19 the communications themselves, the specific dates and times, and pictures  
20 of her with other Defendants on specific dates at specific times, gives Plaintiff  
21 specific reference points for inquiring into conversations and meetings  
22 in person, as well as showing a causal link between the times and frequency  
23 of contact between Defendants and when they learned of Plaintiff's complaint  
24 against them.

25  
26 Footnote 2. "Prison's overtime busting budget" by Michelle Bindels, Jan. 18, 2018,  
27 [thenevadaindependent.com](http://thenevadaindependent.com)

1 2. Response 2

2 The same arguments for Response 1 apply here.

3  
4 3. Response 3

5 As noted by Plaintiff in previous filings, he believes that the AG  
6 and/or DAG De Long were in contact with Olivas when they refused to accept  
7 service for her at the beginning of this case. The AG was not representing  
8 until he answered for her on 11/26/2018. Olivas and her counsel failed  
9 to provide a privilege log. On 8/23/2018, the AG and DAG De Long accepted  
10 service for six defendants — Olivas was not one of them — and all of  
11 DAG De Long's filings in this case, prior to 11/26/2018, made it clear that  
12 neither he nor the AG were representing Olivas. Therefore, none of  
13 the emails between Olivas and the AG and/or DAG De Long prior to  
14 11/26/2018 are privileged.

15 If it is DAG De Long's assertion, now, that he was representing  
16 (and/or the AG was representing) Olivas that whole time, then he  
17 perpetrated a fraud on the Court by asserting otherwise in his filings  
18 during that period. Plaintiff hereby invokes the crime-fraud  
19 exception as delineated in *In Re: Grand Jury Investigation United States*  
20 *of America v. The Corporation*, 974 F.2d 1068 (9th Cir. 1992). Olivas  
21 and DAG De Long ~~and~~ and the AG have failed to make a prima facie  
22 showing that the attorney-client privilege and/or work-product  
23 privilege applies to the requested documents.

24 Plaintiff again asserts that the AG and DAG De Long are playing  
25 shell games with defendants, pretending they have no contact with  
26 them or are not representing them even though they are in contact  
27 with them and/or representing them. This is an intentional frustration of

1 Plaintiff's prosecution of this case, causing unnecessary expenditure of the  
 2 Court's resources and Plaintiff's resources via thousands of dollars of costs  
 3 incurred for service by U.S. Marshals. The AG and DOJ DeLong already did  
 4 that with Olivas and other Defendants, and continue to do so with Defendants  
 5 Jenkins, Keener, and Miranda. That is obstruction of justice and fraud  
 6 on the court, and it is helping those undesired Defendants avoid service.  
 7 The Court should order the AG and DOJ DeLong to disgorge all comm-  
 8 unications between them and Defendants Jenkins, Keener, and Miranda  
 9 for the past year, or file a declaration stating they've had no comm-  
 10 unications or contact with them.

#### 11 12 4. Response 4

13 As noted supra, DOJ DeLong stated he did not review any of  
 14 Olivas' personal emails, but then he certified this response.

15 Defendant Olivas is married to another NDOC correctional  
 16 officer, Sam Olivas, who presumptively still works for the NDOC.  
 17 Defendant Olivas worked for the NDOC from at least 2005 until  
 18 recently (Plaintiff can't yet determine specific dates because Olivas  
 19 refuses to produce any responsive documents). It defies credulity that  
 20 Olivas dated and married a fellow NDOC employee during that period,  
 21 and had close knit friendships and relationships with other NDOC  
 22 employees spanning over a decade, and she has not sent a single  
 23 email to any of those people (including her husband) from January  
 24 1, 2005, until February 7, 2019. There is no way that not a single  
 25 responsive email exists. Either Olivas is lying, or she destroyed  
 26 all the responsive emails.

27 For the personal emails, Plaintiff questions the thoroughness

1 of Olivas' search. Plaintiff requests the Court order Olivas and her counsel to  
 2 submit to this Court, and to Plaintiff, a statement certifying the method that  
 3 they used to search for emails (both work and personal) responsive to Request  
 4 4, and stating in detail the actions they took in searching the fourteen  
 5 years of emails (e.g. how much time was spent searching, what keywords  
 6 were used, etc.). Plaintiff requests a sampling from all the emails from  
 7 Olivas' personal email account during that 14-year period in order to  
 8 verify the truthfulness of her response. EA2 De Long's refusal to review  
 9 these emails himself when he knows Olivas does not have the technical  
 10 or legal skills to conduct the search constitutes careless and indifferent  
 11 evidence collection efforts. Plaintiff believes the AG and EA2 De Long  
 12 haven't even instructed their clients to preserve relevant evidence.  
 13 "The preservation of litigation runs first to counsel, who has 'a duty to  
 14 advise his clients ~~to preserve evidence~~ of the type of information potentially  
 15 relevant to the lawsuit and of the necessity of preventing its destruction."  
 16 See *Richard Green (Fine Paintings) v. McClendon*, No. 8 Civ 8496 (JGF)(JCF),  
 17 262 F.R.D. 284, 290 (S.D.N.Y. 2009) (internal citations omitted).

18 "Selection of the appropriate search and information retrieval  
 19 technique requires careful advance planning by persons qualified to  
 20 design effective search methodology, and the 'implementation and  
 21 methodology selected should be tested for quality assurance [.]'  
 22 *Victor Stanley, Inc. v. Creative Pipe, Inc.*, 250 F.R.D. 251, 262 (D.Md.  
 23 2008). *Jurouic v. Capital Title Agency, Inc.*, 790 F. Supp. 2d 997,  
 24 1010 (Dist. Az., 2011). It is highly unlikely that there was any advance  
 25 planning, careful or otherwise, by any person qualified to design  
 26 effective search methodology, or any quality assurance test, in  
 27 this so-called "thorough" search of 14-years'-worth of Olivas'



1 personal email which resulted in mere responsive documents.

2 As for Olivas' work emails during that time period, Plaintiff has already  
 3 established that Olivas is legally entitled to materials containing her previous  
 4 statements relevant to this matter, and has access to them through her co-defendants,  
 5 her counsel, and/or the NDOC. Has DA [redacted] De Long even attempted to preserve these  
 6 emails, much less reviewed them? Probably not. Plaintiff requests the Court  
 7 order the AG and DA [redacted] De Long to submit to this Court, and to Plaintiff, a  
 8 statement certifying the method that they used to search Olivas' work emails  
 9 for emails responsive to Request 4, and stating the actions they took in  
 10 searching these emails. Plaintiff requests a sampling from those work  
 11 emails to verify the truthfulness of the AG and DA [redacted] De Long's response.

12 These emails are potentially critical to Plaintiff's case and Defendants'  
 13 case, thus necessitating their production. Olivas' and her counsel's claim of  
 14 a "thorough search" of 14 years of personal emails negates any objections as  
 15 to scope, relevance, proportionality, overbreadth, or burdensomeness.

### 17 5. Response 5

18 NDOC employees are entitled to, and given, a copy of the policy  
 19 explaining information relating to any disciplinary actions against them. See  
 20 NRS 284.383. "An employee who is the subject of an internal admin-  
 21 istrative investigation that could lead to disciplinary action against the  
 22 employee pursuant to NRS 284.385 must be: Provided notice in writing  
 23 of the allegation against the employee... any determination made as a  
 24 result of such an investigation must be completed and the employee  
 25 notified..." NRS 284.387(1), (1)(a) and (2).

26 Prior claims and lawsuits related to Defendant and her actions  
 27 are relevant on the issues of causation, notice, motive, and her "good"

28

1 faith" defense. Courts have allowed plaintiff to introduce evidence of  
 2 substantially similar occurrences or lawsuits on the issue of notice and  
 3 causation. See *United Oil Co., Inc. v. Partis Associates, Inc.*, 212 F.R.D. 588  
 4 (D. Kan. 2003). Information regarding the handling of other similar claims  
 5 is relevant, and the potential benefit outweighs the burden of the discovery.  
 6 Dollar amounts in similar claims helps Plaintiff assess the amount of  
 7 damages, and to determine appropriate punitive damages. The "damages  
 8 to be recovered in action at law may be proved by resort to a discovery in  
 9 equity... As to the measure of the damages, and the evidence pertinent thereto...  
 10 The remedy of discovery is as appropriate for proof of a plaintiff's damages  
 11 as it is for proof of other facts essential to his case." See *Sinclair Refining  
 12 Co. v. Jenkins Petroleum Process Co.*, 289 U.S. 689 (1933).

13 Plaintiff's claims assert multiple laws broken by Oliva and her  
 14 cohorts, and that the systemic corruption at LCC was not investigated  
 15 or prosecuted by the AG; rather the AG defended the same employees'  
 16 illegal actions over and over again. Prior lawsuits, complaints, and verdicts  
 17 against Oliva are extremely relevant, particularly for determining liability  
 18 of her supervisors. Since the AG is representing and defending these  
 19 lawbreakers, whose duty is it to enforce the law? It is for the public  
 20 good that all the facts are revealed, so that this prior pattern of corrupt  
 21 guards operating illegally with impunity (and the cause of that pattern)  
 22 can be shown to current administrators who can prevent its recurrence  
 23 with current and future employees.

24 Any and all complaints against Oliva during her employment  
 25 by NDOC will show a continued propensity for violating AR's, OP's,  
 26 and laws. They are likely to reveal a pattern of escalating impunity in  
 27 her actions, with a lack of oversight and consequences emboldening

1 her to commit increasingly egregious violations over time. Information regarding  
 2 the handling of other similar complaints against Olivas has potential  
 3 benefits that outweigh the burdens of the discovery.

4 "Plaintiff is entitled to discovery of grievances filed by other inmates, ...  
 5 See Taylor v. O'Hannesson, 2014 U.S. Dist. LEXIS 81269, 2014 WL 2696585  
 6 at \*5 (E.D. Cal. 2014) (inmate entitled to grievances concerning mistreatment  
 7 by defendant). "Houston v. Eldridge, 2018 U.S. Dist. LEXIS 28865, No. 2:16-  
 8 cv-2561 WBS KJN P (E.D. Cal. 2018). This request is well within the scope of permissible  
 9 discovery, it is relevant and proportional, not overly broad or unduly burdensome, and the documents  
 are in the possession or control of the Defendant and she has access to them.

#### 10 6. Response 6

11 Plaintiff's arguments for "response 5" apply equally here.

#### 13 7. Response 7

14 Plaintiff's arguments for "response 4" apply equally here.  
 15 Plaintiff adds that Olivas and Defendant Jenkins are Facebook friends,  
 16 and Olivas purchased an item from Jenkins' Facebook store, "Precious  
 17 Angels Nook," within the past two years. Facebook alerts and  
 18 communications are routinely routed to personal email accounts, as are  
 19 purchase and shipping confirmations.

#### 21 8. Response 8

22 Plaintiff's arguments for "response 4" apply equally here. As for Olivas'  
 23 personal emails for the time period, Plaintiff requests a sampling from those  
 24 emails to test the validity of Olivas' response. As for the work emails, Olivas  
 25 is legally entitled to all her work statements relevant to the claims in  
 26 this suit.

27 ///

1 9. Response 9

2 Plaintiff seeks to ascertain if Olivas was previously fired by any  
 3 other employer for ethical violations or breaking any laws. Plaintiff also  
 4 seeks to ascertain if Olivas worked with any of the Defendants, or any  
 5 other NSOC employees, before her employment by NSOC. The strength  
 6 of her ties with NSOC employees (including FG employees) and Defendants  
 7 is part of proving the conspiracy, and prior employment ties and  
 8 misconduct are evidence of Olivas' willingness to violate rules and  
 9 laws to protect her friends from punitive actions against them. This  
 10 requested information is within the scope of permissible discovery, relevant  
 11 and proportional to the needs of this case.

12  
 13 10. Response 10

14 Olivas, in her Answer to Plaintiff's Complaint (ECF-80), asserts  
 15 she acted in good faith toward Plaintiff at all relevant times; that she acted  
 16 in accordance with all applicable law and prison procedures at all relevant  
 17 times, and held a good faith belief she was acting reasonably and her actions  
 18 were privileged and legally justified at all relevant times. These affirmative  
 19 defenses place Olivas' intellectual comprehension of her actions, prison  
 20 regulations and procedures, and the law into question. Her educational  
 21 transcripts will show full comprehension of the illegality of her actions,  
 22 which goes toward intent, bad faith and malice.

23 For holding certain higher-level administrative positions within  
 24 the NSOC, employees must fulfill certain educational requirements (the  
 25 exact requirements still need to be produced by Defendants). Olivas did  
 26 not meet the educational requirements for the positions she was given  
 27 by Defendant LeBrand at LCC, which will be shown by her



1 educational transcripts.

2 This requested information is within the scope of permissible  
3 discovery, is relevant to Olivas' proffered defenses and Plaintiff's claims, and  
4 is proportional to the needs of the case (which involves more than just  
5 the disciplinary hearing at issue in this litigation).

## 6 7 11. Response 11

8 Certain AR's & CP's prohibited employees from staying in one position longer  
9 than two years, and prohibited nepotism, inter alia. These AR's and CP's - along with  
10 others - were routinely violated by the Defendants. This routine disregard for  
11 prison regulations and procedures shows state of mind and a propensity for breaking  
12 laws, and unethical conduct. Employment records will establish these facts.

13 NDOC Correctional Officers are Category III peace officers. See NRS 289.480.  
14 Any person employed by the NDOC as a criminal investigator is a Category II peace  
15 officer. See NRS 289.470(20). Employment records from NDOC establish, inter  
16 alia, what each Defendant's actual title, position, duties, and responsibilities were.

17 *Soto v. City of Concord*, 162 F.B.D. 603 (N.D. Cal., 1995) is on point for this  
18 document request and response. "The documents sought by Plaintiff in the  
19 instant motion include police department internal affairs records, the officer-  
20 defendant's personnel files, psychological and physical health records of the  
21 officer-defendants, citizen complaints, and police guidelines, directives, and  
22 policy statements. *Soto*, at 609. "Under the relevance standard set forth  
23 above, the Court finds that many documents contained in the personnel files of  
24 Defendants... are relevant to the issues in this case and are reasonably  
25 calculated to lead to the discovery of admissible evidence. Personnel files,  
26 including records of training, conduct, performance, and evaluation of  
27 officer-defendants... have been held to be relevant. *Hampton*, 147 F.B.D.

28

1 at 229. Such information may be relevant to the issues of credibility, notice to  
 2 the employer, ratification by the employer, and motive of the officers... as well  
 3 as on the issue of punitive damages, in that the information may lead to  
 4 evidence of a continuing course of conduct reflecting malicious intent." *Id.* at 614-615.

5 "The personnel files of the defendant-officers in the instant case are  
 6 relevant to Plaintiff's excessive force claim. The personnel files contain employee  
 7 performance appraisals which contain information on each officers' ethics,  
 8 interpersonal relationships, decision making abilities, work and safety habits,  
 9 and crime scene management techniques. They also contain information  
 10 on promotions, training records, letters of commendation, interviews, employee  
 11 orientation, and employment applications. Each of these types of documents  
 12 may be quite relevant to issues involved in Plaintiff's excessive force claim,  
 13 because such documents may reveal the defendant-officers' pattern of behavior,  
 14 as well as the City's response to such behavior." *Id.* at 615.

15 "In the case at bar, and in civil rights cases against police departments  
 16 in general, it is not likely that plaintiff can obtain information of comparable  
 17 quality from any other source. *Kelly*, 114 F.R.D. at 667. Thus, discovery  
 18 of the police personnel files is the only way through which Plaintiff will  
 19 have access to the information contained within." *Id.* at 616.

20 This request seeks all of the information noted in *Id.* and also seeks infor-  
 21 mation relevant to determining appropriate dollar amounts for punitive damages.  
 22 This request is within the scope of permissible discovery, is relevant to both  
 23 claims and defenses, is proportional to the needs of the case, and is not overly  
 24 broad or unduly burdensome. As discussed earlier in this motion, the requested  
 25 documents are absolutely in the possession and/or control of Olivas, and she  
 26 has access to them, per the NOOC's own regulations. Also, it strains credulity  
 27 that Olivas would have kept no employment records from a job she worked

1 at for over a decade.

2 As for Olivas' claims of state law privileges and official information  
3 privilege, Plaintiff discussed those above, at length. "Defendants' reliance on  
4 state law to assert a privilege is improper. Defendants also fail to articulate  
5 the federal law relied on for assertion of a privilege. To the extent defendants  
6 rely on official privilege, defendants also fail to provide a declaration from  
7 a responsible official." *Houston v. Eldridge*, 2018 U.S. Dist. LEXIS 28865 (E.D. Cal. 2018).

8 In determining what level of protection should be afforded by the  
9 official information privilege, the party asserting the privilege must properly  
10 invoke the privilege by making a "substantial threshold showing." See  
11 *Loto v. City of Concord*, 162 F.R.D. 603, at 613. "In order to fulfill the threshold  
12 requirement, the party asserting the privilege must submit a declaration  
13 or affidavit from a responsible official with personal knowledge of the  
14 matters to be attested to in the affidavit." *Loto*, at 613. The *Loto* opinion  
15 then goes on to list the five items of information the declaration must include. Id.

16 Furthermore, this response ~~and~~ — with its frequent and light invocation of  
17 the official information privilege throughout this set of responses — was made by  
18 Dan De Long and the AG's lawyers. A lawyer representing governmental defendants  
19 is not permitted to invoke the official information privilege. See *Kelly v. City of*  
20 *San Jose*, 114 F.R.D. 653, 669 (N.D. Cal. 1987). Dan De Long and the AG made this  
21 objection contrary to the law which governs it, and did not even attempt to follow  
22 the requirements of invoking the privilege. Based on that, the objection should be waived.

23  
24 12. Response 12

25 Plaintiff's argument for "Response 11" applies equally here.

26 ////

27 ////

28

## 13. Response 13

Plaintiff finds it hard to believe that Olivas and/or her counsel have not yet created a list of witnesses in order to interview them. Is Olivas unaware of the existence of any such list at this time, or is it Paul DeLong, since he was the one (along with the AG) to certify this response? This request is within the scope of permissible discovery. This document is presumed to have already been created.

## 14. Response 14

This request is within the scope of permissible discovery. Plaintiff is not asking Olivas to create a document: this list already exists. She needs only to pull up her Facebook friends list, her email list of contacts, her phone book on her phone, her Christmas card mailing list, and/or her phone apps, and ~~remove~~ redact the names of people on those lists without information about the claims against her.

## 15. Response 15

Plaintiff's argument for "Response to 14" applies equally here. Additionally, this request is relevant to the claims and defenses in this case, is proportional to the needs of the case, and is not overly broad or unduly burdensome. All Olivas has to do is pull up her Facebook social trash and isolate the names of the requested employees from the listed offices and institutions.

## 16. Response 16

Plaintiff finds it hard to believe that neither Olivas nor her counsel have made any lists of discoverable information when compiling



1 said information

2

3 17. Response 17

4 This request is well within the scope of permissible discovery. If Olivas  
5 chooses to not turn over any of the requested documents, she is still legally required  
6 to provide a description, by category and location, of the requested documents.  
7 FRCP 26(b)(1) permits the discovery of details on sources of discoverable  
8 information and material. If a privilege applies to books, documents, electronically  
9 stored information, or tangible things sought in discovery, their location  
10 and identity may still be discoverable even if the contents are not. FRCP  
11 26(b)(5)(A).

12 The documents requested already exist. As argued supra, the  
13 documents requested are in possession or control of Olivas, and she does  
14 have access to them, no matter what shell games the AG and DAZI  
15 De Long want to play with evidence. Plaintiff also established, supra,  
16 that exemption from initial disclosure does not exempt Defendant from  
17 producing the requested documents when requested under FRCP 34 during  
18 discovery.

19

20 18. Response 18

21 Plaintiff's arguments for "Response 5" apply equally here.

22

23 19. Response 19

24 As noted supra, in "The 18 Objections" section of this  
25 motion, under numbers 11 and 17 in that section, state claims of  
26 privilege and confidentiality are completely improper. Also cited  
27 supra were the state laws and AR's giving access to the requested

28

1 documents to Olivas, and proving she was given at least some of these  
 2 documents (i.e. F.R.C.P. 26(b)(3)(C), AR 308.01(7), AR 310, AR 311,  
 3 NRS 284.383, and NRS 284.387). Olivas absolutely has possession  
 4 of some of these documents (unless she destroyed them); and she absolutely  
 5 has legal control of, and access to, them.

6 Olivas, the AG, and DA J De Long make the general claim of  
 7 "disclosure could compromise the safety and security of the prison"  
 8 without any specific linkage with the documents. As discussed  
 9 supra, the cases of Kelly v. City of San Jose, 114 F.R.D. 653 (N.D.  
 10 Cal. 1987); Houston v. Eldridge, 2018 U.S. Dist. LEXIS 28865 (E.D.  
 11 Cal. 2018); Kamakana v. United States of America, 447 F.3d 1172 (9th  
 12 Cir. 2006); and Allen v. Woodford, 2007 U.S. Dist. LEXIS 11026 (E.D.  
 13 Cal. 2007) are most instructive in this area. Kamakana dealt with  
 14 the sealing of documents in a civil action alleging police corruption,  
 15 and those documents being unsealed and made public. The documents  
 16 dealt with, inter alia, deposition testimony on confidential informants  
 17 and criminal investigations that was "years old," and were unsealed  
 18 because they were years old. Kamakana, at 1182. Compare that to the  
 19 current case, and current document requests at hand, dealing  
 20 with prison guard corruption, a guard who is retired from the NSOC,  
 21 and documents that are years old. Further consider the fact that all of  
 22 the Kamakana documents were turned over in discovery, with the defendants  
 23 filing for protective orders to keep them private, but still able to be  
 24 used for filings by the plaintiff.

25 There is no federal "safety and security" privilege. Inasmuch  
 26 as this can be construed to be an invocation of the official govern-  
 27 ment privilege, they fail to meet the "threshold showing" burden and

1 requirement of a declaration from a responsible official as delineated in Kelly,  
 2 "No legitimate purpose is served by conducting the investigations  
 3 under a veil of near total secrecy." Kelly, at 665 n.4. In this case at  
 4 bar, the veil is one of total and complete secrecy. Olivas and her  
 5 counsel make no effort to elaborate on how the disclosure of these  
 6 documents "could" threaten safety and security, much less how they  
 7 would threaten safety and security. " [A] general assertions of harm  
 8 are not enough to justify the... Defendants' outright refusal to produce  
 9 responsive documents. *Soto v. City of Concord*, 162 F.R.D. 603, 614 (N.D.  
 10 Cal. 1995). " *Allen v. Woodford*, 2007 U.S. Dist. LEXIS 11026 (E.D. Cal. 2007).  
 11 Failure to properly invoke the official information privilege means it  
 12 should be waived.

13 Also, in *Jones v. Timmer*, 2014 U.S. Dist. LEXIS 167750, Case  
 14 No. 2:12-cv-01578-JAD-NJK (D. Nev.; Dec. 2, 2014), the Inspector  
 15 General's Office agreed to waive any confidentiality objection on Plaintiff  
 16 Jones possessing a copy of an investigative report generated by the Inspector  
 17 General's Office in relation to an event three years prior. However, the  
 18 AG made a confidentiality objection first, then later claimed an official  
 19 information privilege objection without providing even the basic factual  
 20 information needed to address such an objection. Then the report in  
 21 question was produced through a separate subpoena on the IG wherein  
 22 they waived any confidentiality objection. Will Plaintiff in this case  
 23 also have to subpoena the records from the IG in this case? There is  
 24 no legal basis for the AG and DA's De Long objecting to the production  
 25 of these documents based on any claim of confidentiality or the even  
 26 more tenuous claim of "safety and security."  
 27 ////

1 20. Response 20

2 Plaintiff's arguments for "Response 19" apply equally here. This  
3 request is well within the scope of permissible discovery. Interviews  
4 conducted by the F.G. while investigating Olivas are absolutely relevant  
5 and proportional.

6  
7 21. Response 21

8 Plaintiff's arguments for "Response 19" and "Response 20" apply  
9 equally here.

10  
11 22. Response 22

12 all of the information requested here is easily accessible and  
13 copied as it consists of electronic information Olivas can access through  
14 her phone and/or phone carrier website. Mobile data and text messages  
15 are discoverable. Olivas, Jenkins, and Keener formed the dark heart  
16 of the conspiracy against Plaintiff. Jenkins and Keener have been  
17 avoiding service, and have avoided it to this day. Olivas and  
18 Jenkins are personal friends, and it's likely that Keener is friends  
19 with Jenkins and Olivas as well. Plaintiff has Keener's phone numbers,  
20 but not Jenkins' or Olivas'. Having Jenkins' phone number will aid in service.  
21 Beyond service of summons and locating defendants, the easily  
22 obtained phone records will provide an accurate timeline to show  
23 when the defendants spoke to each other on the phone during the vital  
24 years of 2012 to 2016, and during the time period when Plaintiff has  
25 been attempting to serve defendants. This phone record evidence is  
26 vital to Plaintiff's case, establishing contact between defendants  
27 during the conspiracy, and providing a reference point for interrogatories



1 and deposition questions regarding the contents of the conversations. This  
 2 is critical evidence that can be used for corroboration and/or impeachment.

3 This request is well within the scope of permissible discovery,  
 4 and is ~~not overly broad~~ absolutely relevant and proportional to the needs  
 5 of this case. Olivas and her counsel claim "unrelated phone calls and  
 6 personal phone numbers are irrelevant." Phone calls between the  
 7 defendants will show increased levels of communications during key  
 8 points in time during the conspiracy, as well as the close personal  
 9 relationships between the defendants outside of work. The conspiring  
 10 happened over the phone as much as it did via text, instant message,  
 11 Facebook, and in person. Due to the ease with which these records  
 12 can be attained, the request is not overly broad nor unduly burdensome.

13 The AG and ADL De Long boldly assert the phone records sought  
 14 are irrelevant without ever having secured or reviewed the phone  
 15 records. That alone should waive their objections regarding these documents.

### 16 17 23. Request 23

18 This request is within the scope of permissible discovery,  
 19 is relevant, and is proportional to the needs of this case. This request  
 20 is not overly broad nor unduly burdensome. As Plaintiff stated supra,  
 21 Olivas has access to and legal control of this information through her  
 22 counsel and co-defendants.

23 Olivas and counsel state that "if any exist," Olivas' computer  
 24 access logs during the relevant time period at NDOC are irrelevant.  
 25 How can they claim irrelevance without even reviewing the evidence?  
 26 Olivas' computer access logs during the relevant time periods at NDOC  
 27 will show when and where Olivas took actions against Plaintiff (e.g.

1 writing him up with notices of charges, investigating him, not investigating  
 2 before writing him up; changing his classification status while he was  
 8 awaiting transfer out of Ely, blocking his transfer back to Lovelock,  
 4 issuing post orders to confiscate and/or monitor his mail, etc.). These  
 5 electronically time-stamped dates and times, when cross-referenced  
 6 with Olivas' work and personal communications, will show connections  
 7 between Plaintiff's exercise of First Amendment rights, Olivas' adverse  
 8 actions against Plaintiff, and actions she took with her co-conspirators.

9 The computer access logs are easy to store, access, and copy.  
 10 It is low burden and low cost ESI.

11

#### 12 24. Response 24

13 Plaintiff's arguments for "Response 22" apply equally here.  
 14 In addition, Plaintiff will be discovering the identities of the Inspector  
 15 General investigators who investigated his complaint against Olivas,  
 16 and when he finds out their names and phone numbers, he will  
 17 cross-reference with Olivas' phone records to determine any  
 18 collusion between them. It is highly important to Plaintiff's case  
 19 to show the overlap between Olivas' work life and personal life;  
 20 to show how she wielded her influence amongst co-workers,  
 21 including Defendant Deal at OMD, and IG investigators.

22

#### 23 25. Response 25

24 ~~supra~~ As noted supra, DA 9 De Long stated he did not examine  
 25 any of Olivas' personal devices, but then he certified this response.

26 Plaintiff's arguments in "Response 4" apply equally here. Plaintiff  
 27 requests the same certification of search methodology, and a

28

1 sampling of the texts, for the seven-years'-worth of texts that Olivas "thoroughly  
 2 searched" to determine the validity of her response. Plaintiff believes Olivas  
 3 did not conduct a "thorough" search, and she may not have searched  
 4 at all because she has no intention of producing any responsive documents.  
 5 Mobile data and text messages are discoverable.

6 Olivas' "thorough search of her text messages" spanning more  
 7 than seven years negates her and her counsel's objections that the request  
 8 is not proportional, overly broad, and unduly burdensome.

9 It defies credulity that Olivas has not exchanged a single text  
 10 message with a single one of the other Defendants in the past seven years  
 11 when she is Facebook friends with Jenkins (and likely the rest of the Defendants,  
 12 except Bradilla), and she purchased an item from Jenkins' online  
 13 store, Precious Angels Nook, last year.

#### 14 15 26. Response 26

16 The addresses, phone numbers, and current employers of all  
 17 the ex-NAOC employees are relevant to this case. Addresses show  
 18 physical proximity of the Defendants (the co-conspirators particularly)  
 19 to show they all live in the same area together and had ample opportunities  
 20 to conspire against Plaintiff in their neighborhood. When Jenkins is  
 21 served, Plaintiff will request he be given her old Nevada address, which  
 22 will likely show she lived near Olivas and the other Defendants. The  
 23 importance of phone numbers for investigating and tangible communication  
 24 links between the Defendants and IG investigators has already been  
 25 established supra. The current employers will show the Defendants  
 26 possibly still working together, and it is of public interest if corrupt  
 27 government employees are fired from one government job only to

1 slide right into another government job at another government agency.  
 2 This request is standard in any lawsuit, well within the scope of  
 3 permissible discovery, absolutely proportional (the Defendants know my  
 4 current address and employer). Again, Plaintiff's case against Olivas involves  
 5 a disciplinary, retaliation, and conspiracy spanning years. The objection  
 6 of "not required to create documents" is ludicrous, as the requested  
 7 information exists on bills, paychecks, accounts, and electronic devices.  
 8

### 9 27. Response 27

10 Plaintiff's arguments in "Response 11" apply equally here.  
 11 Defendants' reliance on state law to assert a privilege is improper. Defendant  
 12 also fails to articulate the federal law reliance for assertion of a privilege.  
 13 To the extent Defendant relies on official privilege, Defendant also fails  
 14 to provide a declaration from a ~~responsible~~ responsible official.  
 15

16 This request is absolutely relevant. Olivas wrote the falsified  
 17 Notice of Charges against Plaintiff after no meaningful investigation  
 18 of the incident. Her deviation from existing procedures, handbooks,  
 19 and guides shows her state of mind and intent. Spoliation of evidence  
 20 has been an issue in the case from the very start, so Olivas' training  
 21 on preservation of evidence is key evidence in this case. The evidence  
 22 requested is absolutely admissible. This request is proportional to  
 23 the needs of this case, and Olivas has access to the requested documents  
 24 through her counsel and co-defendants. Plaintiff finds it hard to  
 25 believe Olivas never brought training handbooks and guides home with  
 26 her to study. Olivas proffers good faith and followed all laws "and prison  
 27 regulations" as defenses, so the fact of what she knew about how to do  
 28 her job is key evidence. How can we know she followed the rules if



1 we can't see what rules she was trained on? Also, the extent of her training,  
2 and her grades for training will show she intentionally violated regulations.

3 "The existence or non-existence of adequate guidelines for disciplining  
4 officers is relevant to Plaintiff's claims against the city under the Monell  
5 analysis, because such evidence may show a pattern or practice of such  
6 civil rights violations alleged in the complaint. 436 U.S. 658, 698, 98 S.  
7 Ct. 2018, 56 L. Ed. 2d 611 (1978). In addition, Kelly encourages the disclosure  
8 of manuals, memoranda, guidelines, and other documents that reflect  
9 the policies of the police department. 114 F.R.D. at 666." Soto v. City of Concord, 162  
10 F.R.D. 603, 622 (N.D. Cal. 1995).

11

12 28. Response 28

13 This request is within the scope of permissible discovery.  
14 This request is relevant and proportional. This request is not overly broad  
15 nor unduly burdensome. These documents can be accessed by Olivias through  
16 her counsel and co-defendants. Also, Plaintiff finds it hard to believe Olivias  
17 never brought any handbooks or guides home with her.

18 Olivias interfered with Plaintiff's mail and retaliated against Plaintiff.  
19 She proffers good faith and "followed prison regulations" and law as  
20 defenses; so her training on procedures and policies regarding First Amendment  
21 rights of prisoners is highly probative. As stated in arguments in "Response  
22 27," disclosure of these manuals, etc., is encouraged. How deliberate  
23 she was in breaking the rules can't be known without seeing how she  
24 was trained on the rules.

25

26 29. Response 29

27 This request is within the scope of permissible discovery,

28

1 is relevant, and is proportional to the needs of this case. Olivas and her counsel's  
 2 objection that this contract is not in her possession or control because she's  
 3 retired from the NDOC is nonsensical because a contract between Olivas  
 4 and her union would be in her possession and the NDOC would not have a  
 5 copy of it. Also, Olivas absolutely has a right to obtain copies of any  
 6 contracts she signed, regardless of who possesses or controls them.

7 Showing that all the Defendants were part of the same union is  
 8 probative. The protections and insurance Olivas was (and is) afforded as  
 9 a union member may affect this case. Also, any documents about  
 10 disciplinary hearings against Olivas may be retained by her union, and  
 11 records showing a continued pattern of rule and law violations by Olivas.  
 12 Union insurance for lawsuits will help Plaintiff determine punitive damage amount.

### 14 30. Response 30

15 Mobile data and text messages are discoverable. Many modern  
 16 day communications are conducted through messaging, voice, and video  
 17 apps on smartphones. The technology available to Olivas and every  
 18 other American is constantly evolving. If Olivas shares and/or uses the  
 19 same apps as the other defendants, it is highly probable that they have  
 20 contact with each other through those apps (contacts that are timestamped  
 21 with the year, month, day, minute, and second that contact occurred). Key  
 22 evidence in the form of recordings, notes, calendars, messages, texts,  
 23 conversations, and geolocation (GPS) data may be contained in these apps.  
 24 Conversations between Olivas and other defendants and/or IG investigators may  
 25 be found in these apps.

26 "In the middle of August, Facebook prototyped a location-  
 27 tracking service inside of Instagram... A British member of parliament

1 named Damian Collins had obtained hundreds of internal emails from 2012  
 2 through 2015. ... In one message from 2015, an employee acknowledged  
 3 that collecting the call logs of Android users is a 'pretty high-risk thing  
 4 to do from a PR perspective.' ... 'It appears that the growth team will  
 5 charge ahead and do it.' (It did.) ... Sometimes Facebook makes the world  
 6 more open and connected; sometimes it makes it more closed and dis-  
 7 affected. Despots and demagogues have proven to be just as adept at using  
 8 Facebook as democrats and dreamers. ... For two years, Facebook has been  
 9 conducting market research with an app that paid you in return for  
 10 sucking private data from your phone. ... Facebook could read your  
 11 social media posts, your emoji sexts, and your browser history."<sup>3</sup>

12 "Cambridge Systematics, a transportation consultancy,  
 13 acquired the kind of location information your phone continuously  
 14 produces — from every app you didn't say 'no' to."<sup>4</sup>

15 As the Court can see, a wealth of evidence tying the Defendants together  
 16 can be obtained (at low burden and low cost) from the apps on Olivas' smartphone:  
 17 geolocation data showing defendants at the same locations at the same times,  
 18 timestamped conversations, etc. Plaintiff's claims are related to Olivas' personal  
 19 property inasmuch as that property was used to conspire against Plaintiff; that  
 20 property contains relevant discovery, and Plaintiff is seeking punitive damages  
 21 against Defendant Olivas.

### 22 23 31. Response 31

24 ~~Olivas~~ Plaintiff's arguments in "Response 5" apply equally here.

25  
26 Footnote 3. "15 Months of Fresh Hell Inside Facebook" by Nicholas Thompson and  
 27 Fred Vogelstein, Wired, May, 2019, pages 46-61.

28 Footnote 4. "Riders Wanted" by Page 67  
 Adam Rogers, Wired,  
 May, 2019, pages 92-95.

1 This request is within the scope of permissible discovery, is relevant, and is  
 2 proportional to the needs of this case. As discussed supra, Olivas has possession  
 3 of documents related to this request, and has access to them or control of them,  
 4 according to the AB's and NRS's. Complaints against Olivas for unethical  
 5 behavior, retaliation, and disregard for laws and prison regulations will  
 6 show a repeated pattern of conduct and will show her supervisors (e.g.,  
 7 Defendant Le Brand) were aware of her misconduct and did nothing.

### 8 9 32. Response 32

10 Olivas has access to all these documents and evidence  
 11 through her counsel and co-defendants.

### 12 13 33. Response 33

14 This request is well within the scope of discovery, is relevant  
 15 to claims and defenses, and is proportional to the needs of this case. Olivas  
 16 has access to the requested documents through her counsel and co-defendants.

17 Like a lot of these documents Plaintiff is requesting, Plaintiff  
 18 believes that the Defendants, AG, and NSOC made absolutely no effort  
 19 to preserve these documents or any other evidence related to this  
 20 case. Even though this litigation has been active since January, 2013,  
 21 Plaintiff believes no litigation hold was ever issued to the NSOC, IG,  
 22 or Defendants by the AG or DA De Long, and all of these objections are  
 23 being made without ever having secured or reviewed the documents they are objecting  
 24 to the production of.

### 25 26 34. Response 34

27 As stated supra, in "Response 33," no litigation hold was



1 issued, and the Defendants destroyed this video evidence intentionally. The  
2 only way Olivas would know there ~~was~~ is no video to produce for this  
3 time period is if she herself destroyed it or ordered it destroyed. Are there  
4 absolutely no video recordings from anywhere in LCC from 12/1/12 to  
5 5/31/15? Plaintiff finds that hard to believe. Especially given the fact  
6 that Plaintiff was charged with assault and battery in December, 2012,  
7 and Defendant Keener (the LCC Investigator) was investigating the  
8 Plaintiff's assault and battery charges in December, 2012, and January,  
9 2013, for referral for criminal prosecution; and Plaintiff immediately  
10 appealed his wrongful disciplinary conviction for assault and battery in  
11 January, 2013.

12 During a budget hearing in March, 2017, prison officials requested  
13 \$1.8 million dollars for cameras and Internet bandwidth to handle the  
14 video from the recordings. They requested \$372,000 for 312 stationary  
15 cameras, \$172,000 for body cameras, and \$1.3 million for additional  
16 bandwidth. Prison officials said they hoped the cameras would reduce  
17 litigation and liability while improving staff and inmate safety.  
18 Plaintiff finds it hard to believe that prison officials would ask for  
19 almost two million dollars for cameras and bandwidth when all  
20 recordings are on a 14-day loop and no video is ever preserved. These  
21 videos are ESI, subject to the same legal requirements as all ESI.

22 Again, Olivas and her counsel raise smokescreen, boilerplate  
23 objections for supposedly non-existent evidence that they did not  
24 even attempt to look for or review. This request is within the scope  
25 of permissible discovery, this request is relevant, and this request  
26 is proportional to the needs of this case. Olivas has access to this  
27 evidence through her counsel and co-defendants.

1 This is clear spoliation of evidence, which Plaintiff will address  
 2 in a separate motion for sanctions for spoliation of evidence when  
 3 discovery ends. Plaintiff believes most of the evidence in this case  
 4 has been spoliated by the Defendants and the NOOC, evidence that  
 5 would prove Plaintiff's case.

### 6 7 35. Response 35

8 Plaintiff's arguments for "Response 4" and "Response 7"  
 9 apply equally here. During this time period (3/1/15 to 7/1/15) Olivas  
 10 was monitoring Andre Breland's mail at LCC, in contravention of  
 11 established prison regulations. Breland was Plaintiff's co-defendant for the  
 12 assault and battery charges, and was appealing that conviction and suing  
 13 Olivas with Plaintiff's assistance. During this period of time for these  
 14 requested documents, Olivas intercepted a letter from Plaintiff to  
 15 Breland about their appeals and lawsuits, launched an investigation  
 16 against Plaintiff, then wrote a notice of charges against Plaintiff  
 17 for pursuing his legal remedies. It is unheard of that a lieutenant at  
 18 one prison would write a notice of charges against an inmate at a  
 19 whole other completely different prison.

20 The requested communications from this time period will  
 21 show that Olivas continued to conspire against Plaintiff well into  
 22 2015. This request is relevant, proportional, and will lead to the discovery  
 23 of admissible evidence. This request is ~~relevant, proportional, and~~  
 24 not overly broad nor unduly burdensome. Olivas has control of and  
 25 possession of and access to her personal emails. Her work emails are  
 26 accessible through her counsel and codefendants.

27 1111

1 36. Response 36

2 Plaintiff's arguments in "Response 35" apply equally here. Olivas  
3 has access to, control of, and possession of her personal phones. The call  
4 records and logs from her work phones are accessible through her  
5 counsel and co-defendants.

6  
7 37. Response 37

8 This request is highly relevant, and will absolutely lead  
9 to the discovery of admissible evidence. This request is proportional  
10 to the needs of the case. This request is not overly broad nor unduly  
11 burdensome. These documents are accessible to Olivas through her  
12 counsel and co-defendants.

13 It is exceedingly rare for a lieutenant in the NOC to author  
14 a notice of charges against an inmate. At most likely the documents  
15 produced in response to this request will show one of two things: 1) Olivas  
16 did not author any NOC's against any other inmates besides Plaintiff  
17 and Breland when she was a lieutenant at LCC; or 2) Olivas authored  
18 NOC's against only inmates whom she was retaliating against for  
19 filing complaints against her and/or her friends. This is highly relevant  
20 and probative evidence.

21  
22 38. Response 38

23 This is well within the scope of permissible discovery.  
24 These documents already exist in Olivas' smartphone, on her personal  
25 computer, in apps she has, in her Facebook account, in her Amazon  
26 account, in her financial statements, and/or her Christmas card  
27 mailing list. Olivas is Facebook friends with Jenkins, and has

1 purchased an item from Jenkins' Facebook business, Precious Angels Truck.  
 2 It is interesting that Olivas and her counsel say this information  
 3 is not in Defendant's possession or control, and they omit their usual  
 4 "doesn't have access to it" objection. So, Olivas has access to this  
 5 information, and she is refusing to produce it, knowing full well  
 6 Plaintiff needs to serve Jenkins still. This intentional withholding  
 7 by Olivas and her counsel is obstruction of justice with the intent to  
 8 assist Jenkins in avoiding service so as to frustrate Plaintiff's attempts  
 9 to prosecute this case.

### 10 11 39. Response 39

12 This is well within the scope of permissible discovery. Plaintiff  
 13 believes that Olivas has this information on her smartphone, computer,  
 14 and/or in her online accounts. The document already exists, and  
 15 Olivas has access to it. Plaintiff believes Olivas also has it in her possession  
 16 and control. These objections are more shell games by Olivas, the AG,  
 17 and Paul DeLong to frustrate Plaintiff's prosecution of this case.

### 18 19 40. Response 40

20 Plaintiff's argument for "Response 39" applies equally here.

## 21 22 CONCLUSION

23 Plaintiff has substantial need of the documents requested  
 24 herein to adequately prepare his case. Defendant Olivas and her counsel  
 25 failed to institute any written litigation holds for the preservation of  
 26 evidence in this case. A party may not remain completely silent even  
 27 when she regards discovery requests as improper and objectionable.



1 If she desires not to respond, she must apply for a protective order. Olivas  
2 cannot just remain completely silent, producing ~~mere~~ responsive documents.  
3 This is the usual pattern of discovery abuse employed by the AG and its  
4 DAG's when representing current and former NAOC employees against  
5 inmate litigants: deploy a smokescreen of boilerplate objections  
6 without any legal basis to waste the inmate Plaintiff's time and  
7 meager resources, but also in the hopes that the inmate Plaintiff won't  
8 know the Defendants' discovery objections are groundless (or won't know  
9 how to argue against them), thus leaving Plaintiff without any evidence  
10 and assuring a win for the Defendants with minimal effort, through  
11 deceptive litigation practices.

12 As proven by Plaintiff's arguments in this motion, Olivas  
13 and her counsel should be compelled to produce the requested  
14 documents. Their boilerplate objections (a bunch of copy and pastes  
15 employed by every DAG in the AG's Office) without any factual support  
16 or citations, when they haven't even secured or reviewed the documents  
17 they are objecting to producing, should be overruled and rejected  
18 automatically. Especially the objections that are made without  
19 any legal basis (e.g. assertion of state law privileges, inter alia), and  
20 the objections made without meeting the legally required threshold  
21 and showings.

22 Plaintiff will be prejudiced by not having copies of these  
23 requested documents because it will inhibit his ability to use  
24 the information in conjunction with motion practice and at trial.  
25 Assuming the Defendants and NAOC haven't destroyed all or most  
26 of the evidence beneficial to Plaintiff's case, delayed production of  
27 these requested documents is disrupting Plaintiff's utilization of  
28

1 other discovery techniques and leaves Plaintiff with a compromised trial  
2 strategy. Defendants and their counsel have not made the required  
3 good faith effort to produce the requested documents, and they  
4 have operated in bad faith since the start of this case. Plaintiff  
5 is further prejudiced by the fact that lacking access to all of the  
6 relevant, Plaintiff's cross-examination of the Defendants and their  
7 witnesses will be unfairly limited.

8 Plaintiff prays this Honorable Court will look past the smoke-  
9 screen deployed by Olivas and her counsel; and that the Court will  
10 compel production of these documents from Olivas, her counsel, and  
11 her co-defendants. Plaintiff is legally entitled to the discovery and  
12 production of these documents, the same as any other lawyer or  
13 plaintiff in any other lawsuit in federal court. Plaintiff's status  
14 as a pro se in forma pauperis inmate litigant should not be used  
15 against him to deprive him of discovery and evidence any other  
16 litigant would be legally entitled to — especially not under the  
17 guise of flimsy objections without legal or factual basis.

18 Plaintiff also requests that this Honorable Court issue an  
19 Order for all Defendants in this action to preserve all the information,  
20 documents, and evidence relevant to this case. Plaintiff asks  
21 that such order be issued by this Court because the Defendants  
22 in this case have already falsified official state documents,  
23 lied, and spoliated evidence in this case. Additionally, Plaintiff  
24 believes that neither the AG nor the NDOC ever issued any  
25 litigation holds to either the Defendants or employees in control  
26 of records and documents relevant to this case, and that the lack  
27 of litigation holds was intentional so evidence beneficial to Plaintiff

1 would be destroyed. Plaintiff fears Defendants have destroyed evidence  
2 in the past year (e.g. deleting emails, texts, etc.) and will continue to  
3 do so because they do not fear getting caught.

4  
5 Dated: May 31st, 2019.

6  
7 By: Jeremy Strohmeyer  
8 Jeremy Strohmeyer  
9 Plaintiff, pro se.  
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CERTIFICATE OF SERVICE

I, Jeremy Strohmeyer, hereby certify that I am the ~~plaintiff~~ plaintiff in this matter and I am representing myself in propria persona.

On this 3rd day of ~~May~~ June, 2019, I served copies of the foregoing Motion For Order to Compel Production of Documents by Defendant Valaree Olivas (Fed. R. Civ. P. 37(a)) in case number: 3:14-cv-00661-RCJ-WGC and placed said motion(s) in U.S. First Class Mail, postage pre-paid:

Address: HOSP, P.O. Box 650, Indian Springs, NV, 89070

Sent to: Robert DeLong  
Deputy Attorney General  
100 N. Carson Street  
Carson City, NV, 89701

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is the ~~plaintiff~~ plaintiff in the above-entitled action, and he, the defendant has read the above CERTIFICATE OF SERVICE and that the information contained therein is true and correct. 28 U.S.C. §1746, 18 U.S.C. §1621.

Executed at HOSP, P.O. Box 650, Indian Springs, NV, 89070 on this 3rd day of ~~May~~ June, 2019.

Jeremy Strohmeyer 59389  
DOP#  
Jeremy Strohmeyer 59389

~~Plaintiff~~ Plaintiff -- In Proper Person



**EXHIBIT A**

Request For Production of  
Documents (Set One)  
Propounded to Valaree Olivas

**EXHIBIT A**

Jeremy Strohmeyer, #59389  
High Desert State Prison  
P.O. Box 650  
Indian Springs, NV, 89070

United States District Court  
District of Nevada

Jeremy Strohmeyer )  
Plaintiff, )  
v. )  
K. Belanger, et al. )  
Defendants. )

Case No. 3:14-cv-00661-RCJ-WGC  
Request for Production  
of Documents  
(Fed. R. Civ. P. 34)

Propounding Party: Jeremy Strohmeyer  
Responding Party: Valaree Olivas  
Set Number : One

Jeremy Strohmeyer, Plaintiff, makes the following request pursuant to Rule 34 of the Federal Rules of Civil Procedure. Under Rule 34 (b)(2), you are required to serve a written response to this request within 30 days of service of this request stating whether and to what extent you will comply with each request. Jeremy Strohmeyer, Plaintiff, requests that you produce for inspection and copying all documents described below.

This request is intended to cover all documents in "possession" of Valaree Olivas, or subject to your "custody" or "control," within the meaning of those terms as used in rule 34 of the Federal Rules of Civil Procedure. In particular, the request covers all

1 documents in your "possession, custody, or control," regardless of whether the doc-  
 2 uments are located in your district offices, division offices, or any other office or  
 3 digital repository of electronically stored information maintained by you or your  
 4 agents, servants, employees, subcontractors, information technology providers,  
 5 the Nevada Department of Corrections, the Office of the Inspector General, or  
 6 the Board of Prisons.

7 As used in this request, the term "document" is intended to encompass  
 8 electronically stored information to the full extent allowed by Rule 34 of the  
 9 Federal Rules of Civil Procedure. As used in this request, the term "document"  
 10 means, without limitation, the following items, whether printed or recorded  
 11 or electronically stored or reproduced by any other mechanical process, or  
 12 written or produced by hand: agreements, communications, audio recordings,  
 13 flowcharts, graphs, charts, spreadsheets, notes, bulletins, directives, orders,  
 14 meeting notes, records of any kind, contracts, operating procedures, regulations  
 15 telephone records, desk calendars, logbooks, assignment rosters, shift bids,  
 16 statistical abstracts, state and federal governmental hearings and reports,  
 17 correspondence, telegrams, memoranda, summaries or records of telephone  
 18 conversations, summaries or records of personal conversations or interviews,  
 19 diaries, reports, notebooks, note charts, plans, drawings, sketches, maps,  
 20 summaries or records of meetings or conferences, summaries or reports of  
 21 investigations, opinions or reports of consultants, photographs, motion picture  
 22 film or video recordings, surveillance camera recordings, training videos,  
 23 training manuals, operations manuals, investigation manuals, blueprints,  
 24 brochures, pamphlets, advertisements, circulars, press releases, drafts,  
 25 letters, any marginal comments appearing on any document, emails, text  
 26 messages, website pages, wikis, instant messages, internet posts,  
 27 intranet posts, NOTIS records and posts and changes, chrono logs, social

1 media posts, voicemails, electronically stored information of any kind, compute  
2 files of any kind, all other writings, and other data or meta-data or data  
3 compilations stored in any medium from which information may be obtained.

4 All electronically stored information must be produced in reasonable,  
5 usable form or in the form in which it is usually maintained. You must provide  
6 reasonable technical assistance or information concerning application soft-  
7 ware provided, if needed. If the information is normally searchable, the  
8 search function should be available in connection with the produced informat

9 Plaintiff, Jeremy Strohmeyer, further requests that, pursuant to  
10 Rule 34(b)(1)(C), you must produce the response in "native format,"  
11 that is, with all metadata intact and accessible.

12 Fed. R. Civ. P. 26 permits the discovery of matters "relevant to the  
13 subject matter involved in the pending action." It is not grounds for  
14 objection that the information sought will be inadmissible at the trial if  
15 the information sought appears reasonably calculated to lead to the  
16 discovery of admissible evidence. For the purposes of discovery, relevance  
17 is construed "broadly to encompass any matter that bears upon, or that  
18 could bear upon information which could reasonably lead to other matters  
19 that could bear on any issue that is or may be in the case." *Fund, Inc.*  
20 *v. Sanders*, 437 U.S. 340, 351 (1978).

21 Failure to timely object within 30 days of this request constitutes  
22 a waiver of those objections. In accordance with Fed. R. of Ev. 404(b),  
23 evidence of other crimes, wrongs or acts, ... is admissible to prove motive,  
24 opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake

25 Please identify any and all documents being withheld, for any reason, and  
26 explain why said document is being withheld. For any term that is ambiguous,  
27 define the term for yourself, provide your definition, then answer the



1 question or request.

2 This request is continuing in character and requires you to provide any  
3 supplemental documents if, prior to trial, you should obtain any additional or  
4 supplemental documents which are responsive to these requests.

5 The following documents are requested:

6 1. Your Facebook social graph, showing your list of friends and  
7 how ~~and~~ they are connected, for December 1, 2012, until now.

8 2. Your Facebook messages, timelines, and friends lists from  
9 December 1, 2012, until now.

10 3. All emails between you and the Office of the Attorney General  
11 from 9/2018 until 11/25/18.

12 4. All emails from your work and personal email accounts  
13 to other NDOC employees and/or Inspector General (IG) employees,  
14 from January 1, 2005, until the present.

15 5. All complaints, grievances, verdicts, settlements in lawsuits  
16 or claims against you during your employment with the Nevada  
17 Department of Corrections (NDOC) until now, which resulted in the  
18 payment of damages or attorney fees, including all confidential  
19 settlement agreements, and the dollar amounts of these payments.

20 6. All complaints and investigations against you while you were  
21 employed by the NDOC.

22 7. All work and personal emails between you and the other  
23 defendants between January, 2005, and today.

24 8. All emails you sent and/or received concerning Jeremy  
25 Strohmayer, from 2005 to the present day.

26 9. Your full employment history (i.e. your resume), including  
27 your previous employment before working for the NDOC.

28

- 1 10. Your educational transcripts.
- 2 11. Your full NDOC employment records, including your full  
3 training, disciplinary, and commendation history during your NDOC  
4 employment; all promotions, demotions, and test results; pay; pension  
5 benefits; psychological evaluations; medical evaluations; and all  
6 your work positions, work assignments, and titles within NDOC when  
7 you worked there.
- 8 12. All your time cards, work logs, and NEATS sheets from  
9 January, 2005, until the end of your employment by the NDOC.
- 10 13. Your witness list.
- 11 14. A list of all people with information about the claims  
12 against you.
- 13 15. A list of the personal relationships between you, the other  
14 defendants in this case, LCC employees, IG employees, OMD employees  
15 and NDOC Central Office employees from January, 2005, until now.
- 16 16. A list of all sources of discoverable information.
- 17 17. A copy - or a description by category and location - of all  
18 documents, electronically stored information, and tangible things  
19 that you have in your possession, custody, or control that are  
20 relevant to the claims against you or may be used to support your  
21 defenses.
- 22 18. All documents prepared for litigation in other cases against you.
- 23 19. Any administrative or IG review of your actions against Jeremy  
24 Hirschmeyer and/or Andre Breland, from 12/18/12 to the end of your  
25 employment by NDOC, including any related findings of fact and  
26 conclusions.
- 27 20. All interviews conducted by the IG during their investigation

1 of you from 12/18/12 to the end of your employment with the NDOC.

2 21. All reports, notes, and related documents produced by ICG  
3 investigators during their investigation(s) of you during your NDOC employm

4 22. All phone records of all work and personal calls between you  
5 and the other defendants, from 1/1/12 to now (including landlines,  
6 cellphones, VoIP, or voice communication apps); including, but not  
7 limited to, numbers called, numbers from which calls were received,  
8 call durations, dates of calls, and times of calls

9 23. Your NDOC computer access log from 1/1/12 to the end of  
10 your employment with NDOC.

11 24. All records and logs of phone calls made from and to your  
12 cellphones and landlines from 1/1/12 until now.

13 25. All Instant Messages (IM's) and text messages between  
14 you and the other defendants from 1/1/12 until now.

15 26. Your current address, phone number, and employer.

16 27. Any and all investigative procedures, handbooks, guides,  
17 and/or training you received during your employment with NDOC,  
18 including on the subject of preservation of evidence.

19 28. Any and all handbooks, guides, and/or training you  
20 received concerning First Amendment rights of prisoners during  
21 your employment.

22 29. Your union contract in effect in December of 2012.

23 30. A list of all the apps on your smartphone.

24 31. Any and all complaints against you by LCC employees  
25 during your employment there.

26 32. All evidence and documents you procured and/or reviewed  
27 relating to the 12/18/12 incident involving Jeremy Strömeyer.

1 33. Your work calendar(s) for December, 2012; 3/1/13-4/30/13;  
2 and 4/1/15-5/31/15.

3 34. All surveillance video recordings from LCC of your movements  
4 at LCC, showing you in the mailroom, handling inmate mail, and showing  
5 you with any of the other defendants and any mailroom personnel, from  
6 12/1/12 to 5/31/15.

7 35. All emails (including metadata) from your work and personal  
8 phones, from 3/1/15 to 7/1/15.

9 36. All phone call records and logs from your work and personal  
10 phones, from 3/1/15 to 7/1/15.

11 37. All Notices of Charges ("NOC") you were the author of as a  
12 Lieutenant at LCC.

13 38. The current home address, phone number, and personal  
14 email address for Donna Jenkins (also Lisa Armistead).

15 39. The current home address, phone number, and email address  
16 for James Keener.

17 40. The current home address, phone number, and email address  
18 for Keith Miranda.

19  
20 The production of these documents will take place on Friday,  
21 February 8, 2019, at 9:00 AM, at High Desert State Prison, 22010 Cold Creek  
22 Road, Indian Springs, Nevada, 89070.

23  
24 Dated: 1/4/19

25 By: Jeremy Strahmeyer  
26 Jeremy Strahmeyer

27 P.O. Box 650  
Indian Springs, NV 89070



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CERTIFICATE OF SERVICE

I, Jeremy Strahmeyer, hereby certify that I am the ~~defendant~~ <sup>Plaintiff</sup> in this matter and I am representing myself in propria persona.

On this 5th day of January, 2019, I served copies of the foregoing Request for Production of Documents (Fed. R. Civ. P. 34) made to Responding Party Valaree Clivas

in case number: 3:14-cv-00661-RCJ-WGC and placed said motion(s) in U.S. First Class Mail, postage pre-paid:

Address: High Desert State Prison, P.O. Box 650, Indian Springs, NV. 89070

Sent to: Robert DeLong  
Deputy Attorney General  
100 N. Carson Street  
Carson City, NV 89701-4717

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is, the ~~defendant~~ <sup>plaintiff</sup> in the above-entitled action, and he, the defendant has read the above CERTIFICATE OF SERVICE and that the information contained therein is true and correct. 28 U.S.C. §1746, 18 U.S.C. §1621.

Executed at High Desert State Prison, P.O. Box 650, Indian Springs, NV. 89070 on this 5th day of January, 2019.

Jeremy Strahmeyer 59389  
DOP#  
Jeremy Strahmeyer 59389

~~defendant~~ <sup>Plaintiff</sup> -- In Proper Person

**EXHIBIT** B

Defendant Olivas' Response  
to Plaintiff's Request for  
Production of Documents (Set One)

**EXHIBIT** B

1 AARON D. FORD  
Attorney General  
2 ROBERT DELONG, Bar No. 10022  
Deputy Attorney General  
3 State of Nevada  
Bureau of Litigation  
4 Public Safety Division  
100 N. Carson Street  
5 Carson City, Nevada 89701-4717  
Tel: (775) 684-1120  
6 E-mail: rdelong@ag.nv.gov

7 *Attorneys for Defendants*  
*Kelly Belanger, David Bequette, David Carpenter,*  
8 *Christopher Cartier, Dwayne Deal, Michelle Gilder,*  
9 *Robert LeGrand, Valaree Olivas, Charles Schardin,*  
*Adam Vallaster, and John Whiting*

10  
11 **UNITED STATES DISTRICT COURT**  
12 **DISTRICT OF NEVADA**

13 JEREMY JOSEPH STROHMEYER,

14 Plaintiff,

15 vs.

16 K. BELANGER, et al.,

17 Defendants.  
18

Case No. 3:14-cv-00661-RCJ-WGC

**DEFENDANT OLIVAS' RESPONSE TO  
PLAINTIFF'S REQUEST FOR  
PRODUCTION OF DOCUMENTS  
[SET ONE]**

19 Defendant, Valaree Olivas, by and through counsel, Aaron D. Ford, Nevada Attorney General,  
20 and Robert W. DeLong, Deputy Attorney General, hereby responds to Plaintiff's Request for  
21 Production of Documents, set one, as follows:

22 **I. RESERVATION OF RIGHTS**

23 1. Defendant is bound to comply with statutes, regulations, and protocols governing the  
24 dissemination of confidential information pertaining to prison administration. In preparing these  
25 responses, Defendant may not yet have discovered all such bases of confidentiality upon which to  
26 interpose an objection to a discovery request presented herein. Accordingly, Defendant reserves the right  
27 to assert additional bases of confidentiality at a later time, when the applicability to the discovery request is  
28 realized; and

1           2.       Defendant has not fully completed her investigation of the facts related to this case, has not  
2 completed this discovery, or completed preparation for trial. All responses contained herein are based  
3 solely upon such information and documentation as are presently available to, and physically known to,  
4 Defendant. As such, this answering Defendant discloses *only* that information or those documents that she  
5 presently has or is authorized to access. These responses are hereby given with the understanding that  
6 Defendant reserves the right to revise or amend them as facts or documents become subsequently known.  
7 It is anticipated that further discovery, investigation, research, and analysis will supply additional facts and  
8 documents, in addition to known facts and documents, as well as may establish entirely new factual  
9 conclusions and legal contentions, all of which may lead to additions to, changes in, or variations from, the  
10 responses below set forth.

11           3.       For documents identified and produced herein, Defendant is required only to gather,  
12 review, and produce these documents for Plaintiff's inspection. Plaintiff, as the requesting party, bears  
13 the financial burden of duplicating any documents he inspects, for his own use for this litigation. Thus,  
14 Plaintiff will be required to bear the cost of making copies of these documents for his own use in this  
15 litigation, and Defendant objects to paying for these copying costs.

16 **II.     RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS**

17 **REQUEST NO. 1:**

18           Your Facebook Social Graph, showing your list of friends and how they are connected, from  
19 December 1, 2012, until now.

20 **RESPONSE TO NO. 1:**

21           Defendant objects to this request because it exceeds the scope of permissible discovery under  
22 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
23 proportional to the needs of this case when considering the nature of the claims at issue. In fact, it does  
24 not appear to have any relation to Plaintiff's claims, which concern a prison disciplinary hearing for an  
25 incident that occurred in December of 2012. Defendant also objects to this request because it is overly  
26 broad and unduly burdensome as to time and scope.

27           Based on the foregoing, no further response is forthcoming.

28 *///*



1 **REQUEST NO. 2:**

2 Your Facebook messages, timelines, and friends lists from December 1, 2012, until now.

3 **RESPONSE TO NO. 2:**

4 Defendant objects to this request because it exceeds the scope of permissible discovery under  
5 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
6 proportional to the needs of this case when considering the nature of the claims at issue. In fact, it does  
7 not appear to have any relation to Plaintiff's claims, which concern a prison disciplinary hearing for an  
8 incident that occurred in December of 2012. Defendant also objects to this request because it is overly  
9 broad and unduly burdensome as to time and scope.

10 Based on the foregoing, no further response is forthcoming.

11 **REQUEST NO. 3:**

12 All emails between you and the Office of the Attorney General from 9/20/2018 until  
13 11/25/2018.

14 **RESPONSE TO NO. 3:**

15 Objection. This request seeks information that is protected by the attorney-client privilege and  
16 the work-product doctrine.

17 Based on the foregoing, no further response is forthcoming.

18 **REQUEST NO. 4:**

19 All emails from your work and personal email account(s) to other NDOC employees and/or  
20 Inspector General (IG) employees, from January 1, 2005, until the present.

21 **RESPONSE TO NO. 4:**

22 Defendant objects to this request because it exceeds the scope of permissible discovery under  
23 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
24 proportional to the needs of this case when considering the nature of the claims at issue. Plaintiff is  
25 simply fishing in an attempt to find an unsupported conspiracy. Defendant also objects to this request  
26 because it is overly broad and unduly burdensome as to time and scope. Plaintiff's claims concern  
27 incidents that occurred in 2012 and 2013. This request also seeks documents that are not in the

28 ///

1 possession or control of this Defendant, nor does Defendant have access to them. Defendant has retired  
2 from the NDOC.

3 Notwithstanding these objections and without waving them, Defendant states that after a  
4 thorough search of her personal emails, no responsive emails exist. Based on the foregoing, no further  
5 response is forthcoming.

6 **REQUEST NO. 5:**

7 All complaints, grievances, verdicts, settlements in lawsuits, or claims against you during your  
8 employment with the Nevada Department of Corrections (NDOC) until now, which resulted in the  
9 payment of damages or attorney fees, including all confidential settlement agreements, and the dollars  
10 amounts of these payments.

11 **RESPONSE TO NO. 5:**

12 Defendant objects to this request because it exceeds the scope of permissible discovery under  
13 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
14 proportional to the needs of this case when considering the nature of the claims at issue. Unrelated  
15 complaints against this Defendant are irrelevant to this case. Defendant also objects to this request  
16 because it is overly broad and unduly burdensome as to time and scope. This request also seeks  
17 documents that are not in the possession or control of this Defendant, nor does Defendant have access to  
18 them. Defendant has retired from the NDOC.

19 Based on the foregoing objections, no further response is forthcoming.

20 **REQUEST NO. 6:**

21 All complaints and investigations against you while you were employed by the NDOC.

22 **RESPONSE TO NO. 6:**

23 Defendant objects to this request because it exceeds the scope of permissible discovery under  
24 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
25 proportional to the needs of this case when considering the nature of the claims at issue. Unrelated  
26 complaints against this Defendant are irrelevant to this case. Defendant also objects to this request  
27 because it is overly broad and unduly burdensome as to time and scope. In addition, this request seeks

28 ///

1 documents that are not in the possession or control of this Defendant, nor does Defendant have access to  
2 them. Defendant has retired from the NDOC.

3 Based on the foregoing objections, no further response is forthcoming.

4 **REQUEST NO. 7:**

5 All work and personal emails between you and the other defendants between January 2005, and  
6 today.

7 **RESPONSE TO NO. 7:**

8 Defendant objects to this request because it exceeds the scope of permissible discovery under  
9 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
10 proportional to the needs of this case when considering the nature of the claims at issue. In addition, this  
11 request is overly broad and unduly burdensome as to time and scope. Defendant also objects to the  
12 extent that this request is seeking documents that are not in the possession or control of this Defendant,  
13 nor does Defendant have access to them. Defendant has retired from the NDOC.

14 Notwithstanding these objections and without waving the same, Defendant states that after a  
15 thorough search of her personal emails, no responsive emails exist. Based on the foregoing, no further  
16 response is forthcoming.

17 **REQUEST NO. 8:**

18 All emails you sent and/or received concerning Jeremy Strohmeier from 2005 to the present  
19 day.

20 **RESPONSE TO NO. 8:**

21 Defendant objects to this request because it exceeds the scope of permissible discovery under  
22 Fed. R. Civ. P. 26(b)(1). This request is overly broad and unduly burdensome as to time and scope.  
23 Defendant also objects to the extent that this request is seeking documents that are not in the possession  
24 or control of this Defendant, nor does Defendant have access to them. Defendant has retired from the  
25 NDOC.

26 Notwithstanding these objections and without waving the same, Defendant states that after a  
27 thorough search of her personal emails, no responsive emails exist within her possession. Based on the  
28 foregoing, no further response is forthcoming.

1 **REQUEST NO. 9:**

2 Your full employment history (i.e. your resume), including your previous employment before  
3 working for the NDOC.

4 **RESPONSE TO NO. 9:**

5 Defendant objects to this request because it exceeds the scope of permissible discovery under  
6 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
7 proportional to the needs of this case when considering the nature of the claims at issue. Defendant's  
8 employment history is not relevant to the disciplinary hearing at issue in this litigation.

9 Based on the foregoing objection, no further response is forthcoming.

10 **REQUEST NO. 10:**

11 Your educational transcripts.

12 **RESPONSE TO NO. 10:**

13 Defendant objects to this request because it exceeds the scope of permissible discovery under  
14 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
15 proportional to the needs of this case when considering the nature of the claims at issue. Defendant's  
16 educational transcripts are not relevant to the disciplinary hearing at issue in this litigation.

17 Based on the foregoing objection, no further response is forthcoming.

18 **REQUEST NO. 11:**

19 Your full NDOC employment records, including your full training, disciplinary, and  
20 commendation history during your NDOC employment; all promotions, demotions, and test results;  
21 pay; pension benefits; psychological evaluations; medical evaluations; and all your work positions,  
22 work assignments, and titles within NDOC when you worked there.

23 **RESPONSE TO NO. 11:**

24 Defendant objects to this request because it exceeds the scope of permissible discovery under  
25 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
26 proportional to the needs of this case when considering the nature of the claims at issue. In addition,  
27 this request is overly broad and unduly burdensome as to time and scope. Defendant also objects to the  
28 extent that this request is seeking documents that are not in the possession or control of this



1 Defendant, nor does Defendant have access to them. Defendant has retired from the NDOC.

2 Defendant also objects to this request because it seeks documents that are confidential and  
3 contain privileged information related to the employment files of the Defendant. To the extent Plaintiff  
4 requests information related to employment/personnel records, this information is protected by  
5 privileges and confidentiality provided for under the law including, but not limited to, NDOC  
6 Administrative Regulation 308, Nevada Revised Statute Chapter 284, Nevada Administrative Code  
7 Chapter 284, and the official information privilege under federal law. Objection. This request seeks  
8 information protected by the official government information privilege.

9 Based on the foregoing, no further response is forthcoming.

10 **REQUEST NO. 12:**

11 All your time cards, work logs, and NEATS sheets from January 2005 until the end of your  
12 employment by the NDOC.

13 **RESPONSE TO NO. 12:**

14 Defendant objects to this request because it exceeds the scope of permissible discovery under  
15 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
16 proportional to the needs of this case when considering the nature of the claims at issue. In addition,  
17 this request is overly broad and unduly burdensome as to time and scope. Defendant also objects to the  
18 extent that this request is seeking documents that are not in the possession or control of this Defendant,  
19 nor does Defendant have access to them. Defendant has retired from the NDOC.

20 Defendant also objects to this request because it seeks documents that are confidential and  
21 contain privileged information related to the employment files of the Defendant. To the extent Plaintiff  
22 requests information related to employment/personnel records, this information is protected by  
23 privileges and confidentiality provided for under the law including, but not limited to, NDOC  
24 Administrative Regulation 308, Nevada Revised Statute Chapter 284, Nevada Administrative Code  
25 Chapter 284, and the official information privilege under federal law.

26 Based on the foregoing, no further response is forthcoming.

27 **REQUEST NO. 13:**

28 Your witness list.

1 **RESPONSE TO NO. 13:**

2 Defendant objects to this request because it exceeds the scope of permissible discovery under  
3 Fed. R. Civ. P. 26(b)(1). Defendant is not required to create documents in response to a request for the  
4 production of documents. Defendant intends to disclose her witness list when she has determined the  
5 witnesses she will need for trial, if a trial actually occurs in this matter. Defendant is not aware of the  
6 existence of any such list at this time.

7 **REQUEST NO. 14:**

8 A list of all people with information about the claims against you.

9 **RESPONSE TO NO. 14:**

10 Defendant objects to this request because it exceeds the scope of permissible discovery under  
11 Fed. R. Civ. P. 26(b)(1). Defendant is not required to create documents in response to a request for the  
12 production of documents. Defendant is not aware of the existence of any such list at this time.

13 **REQUEST NO. 15:**

14 A list of the personal relationships between you, the other defendants in this case, LCC  
15 employees, IG employees, OMD employees, and NDOC Central Office employees from January 2005  
16 until now.

17 **RESPONSE TO NO. 15:**

18 Defendant objects to this request because it exceeds the scope of permissible discovery under  
19 Fed. R. Civ. P. 26(b)(1). Defendant is not required to create documents in response to a request for the  
20 production of documents. Defendant also objects because this request is not relevant to any party's  
21 claim or defense and is not proportional to the needs of this case when considering the nature of the  
22 claims at issue. In addition, this request is overly broad and unduly burdensome as to time and scope.

23 Based on the foregoing objection, no further response is forthcoming.

24 **REQUEST NO. 16:**

25 A list of all sources of discoverable information.

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1 **RESPONSE TO NO. 16:**

2 Defendant objects to this request because it exceeds the scope of permissible discovery under  
3 Fed. R. Civ. P. 26(b)(1). Defendant is not required to create documents in response to a request for the  
4 production of documents. Defendant is not aware of the existence of any such list at this time.

5 **REQUEST NO. 17:**

6 A copy--or a description by category and location--of all documents, electronically stored  
7 information; and tangible things that you have in your possession, custody, or control that are relevant  
8 to the claims against you or may be used to support your defenses.

9 **RESPONSE TO NO. 17:**

10 Defendant objects to this request because it exceeds the scope of permissible discovery under  
11 Fed. R. Civ. P. 26(b)(1). Defendant is not required to create documents in response to a request for the  
12 production of documents. In addition, Defendant objects to the extent that this request is seeking  
13 documents that are not in the possession or control of this Defendant, nor does Defendant have access to  
14 them. Defendant has retired from the NDOC.

15 Defendant also objects because this appears to be an attempt to have Defendant provide Fed. R.  
16 Civ. P. 26(a)(1) initial disclosures in this matter. Defendant is specifically exempted from this  
17 requirement under Fed. R. Civ. P. 26(a)(1)(B)(iv).

18 Based on the foregoing, no further response is forthcoming.

19 **REQUEST NO. 18:**

20 All documents prepared for litigation in other cases against you.

21 **RESPONSE TO NO. 18:**

22 Defendant objects to this request because it exceeds the scope of permissible discovery under  
23 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
24 proportional to the needs of this case when considering the nature of the claims at issue. Unrelated  
25 litigation is irrelevant to this case. Defendant also objects to this request because it is overly broad and  
26 unduly burdensome as to time and scope. The request does not provide any timeframe. This request also  
27 seeks documents that are not in the possession or control of this Defendant, nor does Defendant have  
28 access to them.

1 Based on the foregoing objection, no further response is forthcoming.

2 **REQUEST NO. 19:**

3 Any administrative or IG review of your actions against Jeremy Strohmeyer and/or Andre  
4 Breland, from 12/18/12 to the end of your employment by the NDOC, including any related findings of  
5 fact and conclusions.

6 **RESPONSE TO NO. 19:**

7 Objection. This request is requesting confidential information. All Inspector General's Office  
8 Investigation Reports are confidential and cannot be disseminated. Objection. This request calls for  
9 confidential information wherein the disclosure could compromise the safety and security of the prison.  
10 Objection. This requesting is requesting documents that are not in the possession or control of this  
11 Defendant, nor does Defendant have access to them. Defendant has retired from the NDOC.

12 Based on the foregoing objections, no further response is forthcoming.

13 **REQUEST NO. 20:**

14 All interviews conducted by the IG during their investigation of you from 12/18/12 to the end of  
15 your employment with the NDOC.

16 **RESPONSE TO NO. 20:**

17 Defendant objects to this request because it exceeds the scope of permissible discovery under  
18 Fed. R. Civ. P. 26(b)(1). This request seeks information that is not relevant to any party's claim or  
19 defense and is not proportional to the needs of this case when considering the nature of the claims at  
20 issue. In addition, this request is requesting confidential information. All Inspector General's Office  
21 Investigation Reports are confidential and cannot be disseminated. Objection. This request calls for  
22 confidential information wherein the disclosure could compromise the safety and security of the prison.  
23 Objection. This request is requesting documents that are not in the possession or control of this  
24 Defendant, nor does Defendant have access to them. Defendant has retired from the NDOC.

25 Based on the foregoing objections, no further response is forthcoming.

26 **REQUEST NO. 21:**

27 All reports, notes, and related documents produced by IG investigators during their investigation  
28 of you during your NDOC employment



1 **RESPONSE TO NO. 21:**

2 Defendant objects to this request because it exceeds the scope of permissible discovery under  
3 Fed. R. Civ. P. 26(b)(1). This request seeks information that is not relevant to any party's claim or  
4 defense and is not proportional to the needs of this case when considering the nature of the claims at  
5 issue. In addition, this request is requesting confidential information. All Inspector General's Office  
6 Investigation Reports are confidential and cannot be disseminated. Objection. This request calls for  
7 confidential information wherein the disclosure could compromise the safety and security of the prison.  
8 Objection. This request is requesting documents that are not in the possession or control of this  
9 Defendant, nor does Defendant have access to them. Defendant has retired from the NDOC.

10 Based on the foregoing objections, no further response is forthcoming.

11 **REQUEST NO. 22:**

12 All phone records of all work and personal calls between you and the other defendants, from  
13 1/1/12 to now (including landlines, cellphones, VOIP, or voice communication apps); including, but not  
14 limited to, numbers called, numbers from which calls were received, call durations, dates of calls, and  
15 times of calls.

16 **RESPONSE TO NO. 22:**

17 Defendant objects to this request because it exceeds the scope of permissible discovery under  
18 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
19 proportional to the needs of this case when considering the nature of the claims at issue. Unrelated  
20 phone calls and personal phone numbers are irrelevant to this case. Defendant also objects to this  
21 request because it is overly broad and unduly burdensome as to time and scope.

22 Based on the foregoing objections, no further response is forthcoming.

23 **REQUEST NO. 23:**

24 Your NDOC computer access log from 1/1/12 to the end of your employment with NDOC.

25 **RESPONSE TO NO. 23:**

26 Defendant objects to this request because it exceeds the scope of permissible discovery under  
27 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
28 proportional to the needs of this case when considering the nature of the claims at issue.

1 Defendant's computer access logs, if any exist, are irrelevant to this case. Defendant also objects to this  
2 request because it is overly broad and unduly burdensome as to time and scope. This request also seeks  
3 documents and information that are not in the possession or control of this Defendant, nor does  
4 Defendant have access to the information. Defendant has retired from the NDOC.

5 Based on the foregoing objections, no further response is forthcoming.

6 **REQUEST NO. 24:**

7 All records and logs of phone calls made from and to your cell phones and landlines from 1/1/12  
8 until now.

9 **RESPONSE TO NO. 24:**

10 Defendant objects to this request because it exceeds the scope of permissible discovery under  
11 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
12 proportional to the needs of this case when considering the nature of the claims at issue. Unrelated  
13 phone calls and personal phone numbers are irrelevant to this case. Defendant also objects to this  
14 request because it is overly broad and unduly burdensome as to time and scope.

15 Based on the foregoing objections, no further response is forthcoming.

16 **REQUEST NO. 25:**

17 All instant messages (IM's) and text messages between you and the other defendants from  
18 1/1/12 until now.

19 **RESPONSE TO NO. 25:**

20 Defendant objects to this request because it exceeds the scope of permissible discovery under  
21 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
22 proportional to the needs of this case when considering the nature of the claims at issue. Unrelated  
23 personal text messages are irrelevant to this case. Defendant also objects to this request because it is  
24 overly broad and unduly burdensome as to time and scope.

25 Notwithstanding these objections and without waving them, Defendant states that after a  
26 thorough search of her text messages, no responsive text messages exist. Based on the foregoing, no  
27 further response is forthcoming.

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1 **REQUEST NO. 26:**

2 Your current address, phone numbers, and employer.

3 **RESPONSE TO NO. 26:**

4 Defendant objects to this request because it exceeds the scope of permissible discovery under  
5 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
6 proportional to the needs of this case when considering the nature of the claims at issue. Plaintiff's case  
7 concerns a disciplinary hearing from 2012. This request is entirely irrelevant to Plaintiff's claims. In  
8 addition, Defendant is not required to create documents in response to a request for the production of  
9 documents.

10 Based on the foregoing objections, no further response is forthcoming.

11 **REQUEST NO. 27:**

12 Any and all investigative procedures, handbooks, guides, and/or training you received during  
13 your employment with NDOC, including on the subject of preservation of evidence.

14 **RESPONSE TO NO. 27:**

15 Objection. This request seeks document that are confidential and privileged information related  
16 to the employment files of the Defendants. To the extent Plaintiff requests information related to  
17 employment/personnel records, this information is protected by privileges and confidentiality provided  
18 for under the law including, but not limited to, NDOC Administrative Regulation 308, Nevada Revised  
19 Statute Chapter 284, Nevada Administrative Code Chapter 284, and the official information privilege  
20 under federal law. Objection. This request seeks information protected by the official government  
21 information privilege. Objection. This request is irrelevant and not reasonably calculated to lead to the  
22 discovery of admissible evidence and is not proportional to the needs of the case. Objection. This  
23 request is requesting documents that are not in the possession or control of this Defendant, nor does  
24 Defendant have access to them. Defendant has retired from the NDOC.

25 Based on the foregoing, no further response is forthcoming.

26 **REQUEST NO. 28:**

27 Any and all handbooks, guides, and/or training you received concerning First Amendment rights  
28 of prisoners during your employment with NDOC.

1 **RESPONSE TO NO. 28:**

2 Defendant objects to this request because it exceeds the scope of permissible discovery under  
3 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
4 proportional to the needs of this case when considering the nature of the claims at issue. Defendant also  
5 objects to this request because it is overly broad and unduly burdensome as to time and scope. This  
6 request also seeks documents that are not in the possession or control of this Defendant, nor does  
7 Defendant have access to them. Defendant has retired from the NDOC.

8 **REQUEST NO. 29:**

9 Your union contract in effect in December of 2012.

10 **RESPONSE TO NO. 29:**

11 Defendant objects to this request because it exceeds the scope of permissible discovery under  
12 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
13 proportional to the needs of this case when considering the nature of the claims at issue. This request  
14 also seeks documents that are not in the possession or control of this Defendant, nor does Defendant  
15 have access to them. Defendant has retired from the NDOC.

16 Based on the foregoing objection, no further response is forthcoming.

17 **REQUEST NO. 30:**

18 A list of all the apps on your smartphone.

19 **RESPONSE TO NO. 30:**

20 Defendant objects to this request because it exceeds the scope of permissible discovery under  
21 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
22 proportional to the needs of this case when considering the nature of the claims at issue. Plaintiff's  
23 claims are entirely unrelated to Defendant's personal property.

24 Based on the foregoing objection, no further response is forthcoming.

25 **REQUEST NO. 31:**

26 Any and all complaints against you by LCC employees during your employment there.

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1 **RESPONSE TO NO. 31:**

2 Defendant objects to this request because it exceeds the scope of permissible discovery under  
3 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
4 proportional to the needs of this case when considering the nature of the claims at issue. This request  
5 also seeks documents that are not in the possession or control of this Defendant, nor does Defendant  
6 have access to them. Defendant has retired from the NDOC.

7 Based on the foregoing objections, no further response is forthcoming.

8 **REQUEST NO. 32:**

9 All evidence and documents you procured and/or reviewed relating to the 12/18/12 incident  
10 involving Jeremy Strohmeyer.

11 **RESPONSE TO NO. 32:**

12 Objection. This request is requesting documents that are not in the possession or control of this  
13 Defendant, nor does Defendant have access to them. Defendant has retired from the NDOC.

14 Based on the foregoing objection, no further response is forthcoming.

15 **REQUEST NO. 33:**

16 Your work calendar(s) for December, 2012; 3/1/13-4/30/13; and 4/1/15-5/31/15.

17 **RESPONSE TO NO. 33:**

18 Defendant objects to this request because it exceeds the scope of permissible discovery under  
19 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
20 proportional to the needs of this case when considering the nature of the claims at issue. This request  
21 also seeks documents that are not in the possession or control of this Defendant, nor does Defendant  
22 have access to them. Defendant has retired from the NDOC.

23 Based on the foregoing objections, no further response is forthcoming.

24 **REQUEST NO. 34:**

25 All surveillance video-recordings from LCC of your movements at LCC, showing you in the  
26 mailroom, handling inmate mail, and showing you with any of the other defendants and any mailroom  
27 personnel from 12/1/12 to 5/31/15.

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1 **RESPONSE TO NO. 34:**

2 Defendant objects to this request because it exceeds the scope of permissible discovery under  
3 Fed. R. Civ. P. 26(b)(1). This request is not relevant to any party's claim or defense and is not  
4 proportional to the needs of this case when considering the nature of the claims at issue. This request  
5 also seeks documents that are not in the possession or control of this Defendant, nor does Defendant  
6 have access to them. Defendant has retired from the NDOC.

7 Notwithstanding these objections and without waiving them, Defendant states: Video is on a  
8 loop, meaning, it records over itself after 14 days, therefore, there would be no video to produce.

9 **REQUEST NO. 35:**

10 All emails (including metadata) from your work and personal email addresses from 3/1/15 to  
11 7/1/15.

12 **RESPONSE TO NO. 35:**

13 Objection. This request is irrelevant and not reasonably calculated to lead to the discovery of  
14 admissible evidence and is not proportional to the needs of the case. Objection. This request is overly  
15 broad and unduly burdensome. Objection. This request is requesting documents that are not in the  
16 possession or control of this Defendant, nor does Defendant have access to them. Defendant has retired  
17 from the NDOC.

18 Based on the foregoing objections, no further response is forthcoming.

19 **REQUEST NO. 36:**

20 All phone call records and logs from your work and personal phones from 3/1/15 to 7/1/15.

21 **RESPONSE TO NO. 36:**

22 Objection. This request is irrelevant and not reasonably calculated to lead to the discovery of  
23 admissible evidence and is not proportional to the needs of the case. Objection. This request is overly  
24 broad and unduly burdensome. Objection. This requesting is requesting documents that are not in the  
25 possession or control of this Defendant, nor does Defendant have access to them. Defendant has retired  
26 from the NDOC.

27 Based on the foregoing objections, no further response is forthcoming.

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1 **REQUEST NO. 37:**

2 All Notices of Charges (“NOC”) you were the author as a Lieutenant at LCC.

3 **RESPONSE TO NO. 37:**

4 Objection. This request is irrelevant and not reasonably calculated to lead to the discovery of  
5 admissible evidence and is not proportional to the needs of the case. Objection. This request is overly  
6 broad and unduly burdensome. Objection. This request is requesting documents that are not in the  
7 possession or control of this Defendant, nor does Defendant have access to them. Defendant has retired  
8 from the NDOC.

9 Based on the foregoing objections, no further response is forthcoming.

10 **REQUEST NO. 38:**

11 The current home address, phone number, and personal email address for Donna Jenkins (aka  
12 Lisa Armstead).

13 **RESPONSE TO NO. 38:**

14 Defendant objects to this request because it exceeds the scope of permissible discovery under  
15 Fed. R. Civ. P. 26(b)(1). Defendant is not required to create documents in response to a request for the  
16 production of documents. In addition, this request seeks information that is not in Defendant’s  
17 possession or control.

18 **REQUEST NO. 39:**

19 The current home address, phone number, and email address for James Keener.

20 **RESPONSE TO NO. 39:**

21 Defendant objects to this request because it exceeds the scope of permissible discovery under  
22 Fed. R. Civ. P. 26(b)(1). Defendant is not required to create documents in response to a request for the  
23 production of documents. In addition, this request seeks information that is not in Defendant’s  
24 possession or control.

25 **REQUEST NO. 40:**

26 The current home address, phone number, and email address for Keith Miranda.

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1 **RESPONSE TO NO. 40:**

2 Defendant objects to this request because it exceeds the scope of permissible discovery under  
3 Fed. R. Civ. P. 26(b)(1). Defendant is not required to create documents in response to a request for the  
4 production of documents. In addition, this request seeks information that is not in Defendant's  
5 possession or control.

6 DATED this 7th day of February, 2019.

7 AARON D. FORD  
8 Attorney General

9 By:



10 ROBERT W. DELONG  
11 Deputy Attorney General  
12 Bureau of Litigation  
13 Public Safety Division

14 *Attorneys for Defendants*  
15 *David Carpenter, David Bequette, Dwayne Deal,*  
16 *Kelly Belanger, Christopher Cartier, Michelle*  
17 *Gilder*


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**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 7th day of February, 2019, I caused to be deposited for mailing a true and correct copy of the foregoing, **DEFENDANT OLIVAS' RESPONSE TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS [SET ONE]**, to the following:

Jeremy Joseph Strohmeyer #59389  
High Desert State Prison  
P.O. Box 650  
Indian Springs, NV 89070

  
\_\_\_\_\_  
An employee of the  
Office of the Attorney General



**EXHIBIT** C

NDOC Website  
Complaint/Commendation  
Guide

**EXHIBIT** C

<http://www.doc.nv.gov>

[Home](#) > [About NDOC](#) > [Contact Us](#) > [Complaint and Commendation Guide](#)

## Complaint/Commendation Guide

### **NEVADA DEPARTMENT OF CORRECTIONS CITIZENS GUIDE FOR FILING COMPLAINTS & MAKING COMMENDATIONS**

#### **COMPLAINTS**

*The Nevada Department of Corrections has a vital and ongoing responsibility to serve the citizens of the State of Nevada through the effective, efficient, ethical, moral and lawful conduct of its employees. It is essential that public confidence in the Department's ability to investigate and properly adjudicate complaints against its members be maintained. Anyone who expresses dissatisfaction with the conduct of a Department employee is entitled to prompt acknowledgement of his or her complaint. To that end, it is the policy of this Department to accept all complaints against its employees as prescribed by Administrative Regulation 340.01. The rights of the employee as well as the complainant must be preserved, and any investigation or hearing arising from a complaint must be conducted in an open and fair manner with truth as the objective. Each employee is entitled to consistent, accurate and timely disposition of complaints.*

*The Department accepts all complaints and performs thorough and impartial administrative, and when necessary, criminal investigations into allegations of employee misconduct. Complaints are accepted from any source, or any medium, at any Department institution or facility by any employee. When available, a supervisor will be immediately notified and will accept the complaint on behalf of the Department. The Department form for filing a complaint is the Department Standardized Complaint Form (DOC-1064). The DOC-1064 is completed whenever an allegation of misconduct is made against an employee that, if sustained, would result in corrective or disciplinary action for the employee. Upon receiving a completed DOC-1064 the Office of the Inspector General will review it for the purposes of determining the complaint classification and assignment of a case number. Based upon classification, the complaint will be assigned to the appropriate investigative body. Upon completion of the investigation, the matter will be submitted to the concerned employee's Division Head for adjudication and appropriate action. Non-custody citizen complainants will receive written notification of complaint dispositions. Custody complainants will be notified pursuant to Department procedure. Possible dispositions include – Sustained (The alleged act occurred.) – Not Sustained (Insufficient information to prove or disprove.) – Unfounded (The alleged act did not occur.) – Exonerated (The alleged act occurred but was justified.) On average, investigations are completed within 60 days. Some cases require longer investigations. Case files are confidential and are not released to the public.*

## **COMMENDATIONS**

*The employees of the Nevada Department of Corrections are committed to providing the highest most professional level of service possible. Recognition of their efforts is always welcomed and valued. Citizens are encouraged to acknowledge exceptional service whenever they feel it is appropriate to do so. The most efficient way to commend an employee is to write a letter describing the incident and the actions of the involved employee. Verbal commendations to the employee's supervisor are also appreciated.*

**Please direct correspondence to the following address:**

**Nevada Department of Corrections  
Office of the Inspector General  
P.O. Box 7011  
Carson City, NV 89702**

**EXHIBIT D**

Formal Written  
Complaint and  
Response

**EXHIBIT D**

LCC

Log Number 2000-29-61740

**NEVADA DEPARTMENT OF CORRECTIONS  
INFORMAL GRIEVANCE**

NAME: Jeremy Strohmeier I.D. NUMBER: 59389

INSTITUTION: E.S.P. UNIT: 2A-9

GRIEVANT'S STATEMENT: I am hereby filing a formal complaint against C/O Jenkins, C/O Keener, and St. Oliver of Lovelock Correctional Center. On 12/18/12, in the Phase II chow hall at L.C.C., I was attacked by Inmate Michael Boladilla, #1078415, unprovoked and without warning. I was sitting down eating when Inmate

**SWORN DECLARATION UNDER PENALTY OF PERJURY**

INMATE SIGNATURE: Jeremy Strohmeier DATE: 5/28/13 TIME: Unknown

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 5-31-13 TIME: 10:50 AM

GRIEVANCE RESPONSE: \_\_\_\_\_

All attached

CASEWORKER SIGNATURE: [Signature] DATE: 6/19/13

GRIEVANCE UPHELD  GRIEVANCE DENIED  ISSUE NOT GRIEVABLE PER AR 740

GRIEVANCE COORDINATOR APPROVAL: [Signature] DATE: 6-25-13

INMATE AGREES  INMATE DISAGREES

INMATE SIGNATURE: Jeremy Strohmeier DATE: 7/11/13

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A FIRST LEVEL GRIEVANCE MAY BE PURSUED IN THE EVENT THE INMATE DISAGREES.

Original: To inmate when complete, or attached to formal grievance  
Canary: To Grievance Coordinator  
Pink: Inmate's receipt when formal grievance filed  
Gold: Inmate's initial receipt

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OCT 04 2013

RECEIVED MAY 31 2013

JUL 17 2013

RECEIVED  
OCT 2 2013  
DOC 3091 (12/01)



NEVADA DEPARTMENT OF CORRECTIONS  
GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Jeremy Strdmeyer I.D. NUMBER: 59389

INSTITUTION: E.S.P. UNIT #: 2A-9

GRIEVANCE #: \_\_\_\_\_ GRIEVANCE LEVEL: Informal

GRIEVANT'S STATEMENT CONTINUATION: PG. 2 OF 3

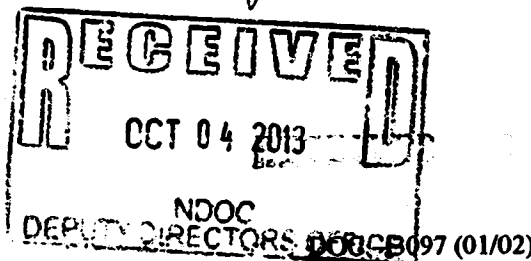
Boladilla walked up beside me and began punching me in the face and head. C/O Jenkins was on the floor of the Phase II chow hall at the time, and I believe she actively permitted or encouraged Inmate Boladilla to attack me. Inmate Andre Breland, # 43058, intervened to protect me from being further harmed by Inmate Boladilla.

After the incident, C/O Jenkins filed a falsified report to make it look like inmate Boladilla was the victim, when in fact Inmate Breland and I were the victims. C/O Jenkins did this in order to get Inmate Breland and I convicted of assault and battery despite the fact that we had done nothing wrong.

C/O Keener did not impartially investigate the incident of 12/18/12. Rather, he suppressed exculpatory evidence in order to cover up for C/O Jenkins, who falsified her report.

A. Olivas falsified the Notice of Charges against me, written on 12/20/12. He also wrote and filed the N.O.C. less than 48 hours after the incident, charging inmate Breland and myself with assault and battery, two highly serious charges. A. Olivas obviously took no time to investigate the matter, attempting to rush the process in order to cover up for C/O Jenkins and to get Inmate Breland and

Original: Attached to Grievance  
Pink: Inmate's Copy



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JUL 17 2013

### NEVADA DEPARTMENT OF CORRECTIONS GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Jeremy Strahmeyer I.D. NUMBER: 59389  
 INSTITUTION: E.S.A. UNIT #: 2A-9  
 GRIEVANCE #: \_\_\_\_\_ GRIEVANCE LEVEL: Informal  
 GRIEVANT'S STATEMENT CONTINUATION: PG. 3 OF 3

~~was~~ myself convicted of, and disciplined for, assault and battery regardless of the fact that Inmate Preland and I had not violated any regulations.

Remedy Sought: That these three N.D.C. employees be investigated for these violations of AR 339, and that each be held individually accountable for said violations in accordance with AR 339.

Original: Attached to Grievance  
 Pink: Inmate's Copy

**RECEIVED**  
 OCT 04 2013  
**RECEIVED** AUG 29 2013  
 DEPUTY DIRECTORS OFFICE  
 DOC - 3097 (01/02)

RECEIVED MAY 31 2013

JUL 17 2013



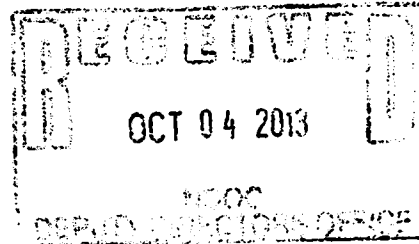
**State of Nevada  
Department of Corrections**

**INMATE GRIEVANCE REPORT**

**ISSUE ID#** 20062961740

**ISSUE DATE:** 05/31/2013

<b>INMATE NAME</b> STROHMEYER, JEREMY		<b>NDOC ID</b> 59389	<b>TRANSACTION TYPE</b> RTRN_INF	<b>ASSIGNED TO</b> DDEAL	
<b>LEVEL</b> IF	<b>TRANSACTION DATE</b> 06/25/2013	<b>DAYS LEFT</b> 4	<b>FINDING</b>	<b>USER ID</b> SLGENTRY	<b>STATUS</b> A
<b>INMATE COMPLAINT</b>					
<b>OFFICIAL RESPONSE</b>					
In accordance with Administrative Regulation #740 your grievance has been referred to the Inspector General's Office for review. All investigations are confidential, as such you will not be provided with the outcome					



*[Signature]*  
 \_\_\_\_\_  
 GRIEVANCE RESPONDER

Report Name: NVRIGR  
 Reference Name: NOTIS-RPT-OR-0217.2  
 Run Date: JUN-25-13 02:09 PM

**RECEIVED AUG 29 2013**

JUL 17 2013

LCC

Log Number 2006-29-61740

NEVADA DEPARTMENT OF CORRECTIONS  
FIRST LEVEL GRIEVANCE

NAME: Jeremy Strohmeyer I.D. NUMBER: 59389  
INSTITUTION: E.S.P. UNIT: 2A-9

I REQUEST THE REVIEW OF THE GRIEVANCE, LOG NUMBER 2006-29-61740, IN A FORMAL MANNER. THE ORIGINAL COPY OF MY GRIEVANCE AND ALL SUPPORTING DOCUMENTATION IS ATTACHED FOR REVIEW.

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: Jeremy Strohmeyer DATE: 7/13/13

WHY DISAGREE: The issue of Cio Jenkins falsifying her report against me, and St. Olivas falsifying the NOC against me, was brought to the attention of multiple LCC staff members - verbally and in writing - between 12/21/12 and 4/8/13. This should have been referred to the Inspector General's office for review over

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 7-15-13

FIRST LEVEL RESPONSE: \_\_\_\_\_

GRIEVANCE UPHELD  GRIEVANCE DENIED  ISSUE NOT GRIEVABLE PER AR 740

WARDEN'S SIGNATURE: [Signature] TITLE: Warden DATE: 7/25/13

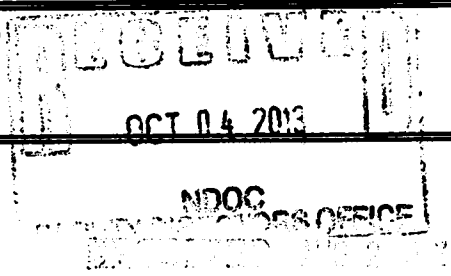
GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 7-23-13

INMATE AGREES  INMATE DISAGREES

INMATE SIGNATURE: Jeremy Strohmeyer DATE: 8/26/13

FAILURE TO SIGN CONSTITUTES ABANDONMENT OF THE CLAIM. A SECOND LEVEL GRIEVANCE MAY BE PURSUED IN THE EVENT THE INMATE DISAGREES.

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- Canary: To Grievance Coordinator
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NEVADA DEPARTMENT OF CORRECTIONS  
GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Jeremy Strohmeyer I.D. NUMBER: 59389

INSTITUTION: E.S.P. UNIT #: 2A-9

GRIEVANCE #: 2006-29-61740 GRIEVANCE LEVEL: First

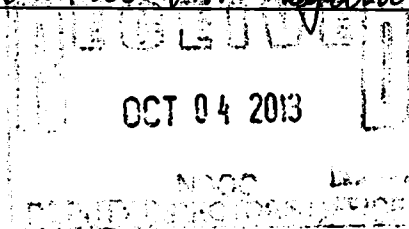
GRIEVANT'S STATEMENT CONTINUATION: PG. 2 OF 3

six months ago.

It is unacceptable that the investigation is defined as confidential and that I will not be provided with the outcome. Such secrecy encourages corruption and enables any and all NAOE, Inspector General, and/or Attorney General employees to actively cover up for public officials and employees without any public oversight. Transparency is an effective and essential means of counteracting unethical and illegal behavior by public employees and officials in positions of extreme power over fellow American citizens. Keeping every investigation of wrongdoing by any and every NAOE employee confidential, and the outcomes of each of those investigations confidential, belies accountability.

NRS 289.080 is concerned only with keeping confidential statements made by a peace officer to his or her counsel during any investigatory hearing. Is it the NAOE's contention that the Inspector General's office is a representative of the VAOE employees it's supposed to be investigating for misconduct? Nowhere in VRS 289, NRS 209, or any of the AA's is it stated that all investigations are confidential. Therefore, the assertion that all investigations are confidential,

Original: Attached to Grievance  
Pink: Inmate's Copy





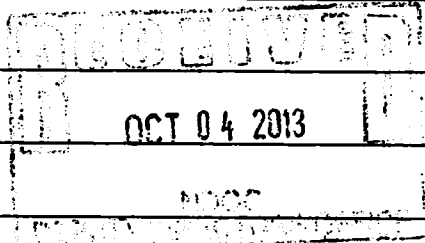
NEVADA DEPARTMENT OF CORRECTIONS  
GRIEVANT'S STATEMENT CONTINUATION FORM

NAME: Jeremy Strohmeyer I.D. NUMBER: 59389  
INSTITUTION: E.S.A. UNIT #: 2A-9  
GRIEVANCE #: 2006-29-61740 GRIEVANCE LEVEL: First  
GRIEVANT'S STATEMENT CONTINUATION: PG. 3 OF 3

and as such I will not be provided with the outcome, is baseless and not grounded in my existing state law or AR that I am aware of.

My rights have been grievously violated, and the responsible parties must - and will - be held legally accountable and liable. As such, a secret "confidential" investigation in which no relief in equity is granted me (since I won't even be provided the outcome of said investigation) is a response I wholeheartedly disagree with. I demand accountability and my original remedy sought

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Original: Attached to Grievance  
Pink: Inmate's Copy

RECEIVED AUG 29 2013

JUL 17 2013

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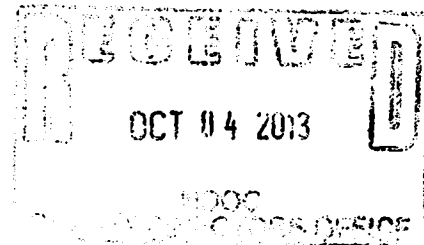
**State of Nevada  
Department of Corrections**

**INMATE GRIEVANCE REPORT**

**ISSUE ID#** 20062961740

**ISSUE DATE:** 05/31/2013

INMATE NAME		NDOC ID	TRANSACTION TYPE		ASSIGNED TO
STROHMEYER, JEREMY		59389	RTRN_L1		RLEGRAND
LEVEL	TRANSACTION DATE	DAYS LEFT	FINDING	USER ID	STATUS
1	07/23/2013	5		SLGENTRY	A
<b>INMATE COMPLAINT</b>					
<b>OFFICIAL RESPONSE</b>					
In accordance with Administrative Regulation #740 your grievance has been referred to the Inspector General's Office for review. All investigations are confidential, as such you will not be provided with the outcome					



GRIEVANCE RESPONDER

Report Name: NVRIGR  
Reference Name: NOTIS-RPT-OR-0217.2  
Run Date: JUL-23-13 10:39 AM

RECEIVED AUG 29 2013

LOG NUMBER: 2006-29-61740

**NEVADA DEPARTMENT OF CORRECTIONS  
SECOND LEVEL GRIEVANCE**

NAME: Jeremy Strahmeyer I.D. NUMBER: 59389

INSTITUTION: E.S.P. UNIT: 2A-9

I REQUEST THE REVIEW OF THE GRIEVANCE, LOG NUMBER 2006-29-61740, ON THE SECOND LEVEL. THE ORIGINAL COPY OF MY GRIEVANCE AND ALL SUPPORTING DOCUMENTATION IS ATTACHED FOR REVIEW.

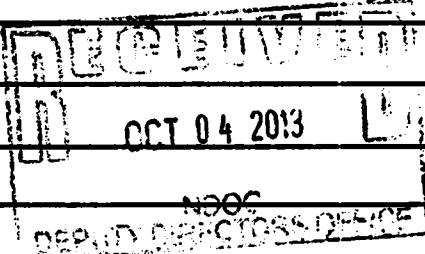
**SWORN DECLARATION UNDER PENALTY OF PERJURY**

INMATE SIGNATURE: Jeremy Strahmeyer DATE: 8/27/13

WHY DISAGREE: This response does not address the salient points. There is no rule, regulation, or law stating that "all investigations are confidential," when it comes to matters brought to the Inspector General's Office for review. If, in fact, all investigations by the I.G.'s Office are confidential, including the results, how is there any accountability;

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 8/27/13

SECOND LEVEL RESPONSE: See attached



X GRIEVANCE UPHELD X GRIEVANCE DENIED ISSUE NOT GRIEVABLE PER AR 740

SIGNATURE: [Signature] TITLE: DD DATE: 9/27/13 10-22-B

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 9/27/13

INMATE SIGNATURE: Jeremy Strahmeyer DATE: 11/26/13

**THIS ENDS THE FORMAL GRIEVANCE PROCESS**

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RECEIVED AUG 29 2013



**State of Nevada  
Department of Corrections**

*INMATE GRIEVANCE REPORT*

**ISSUE ID#** 20062961740

**ISSUE DATE:** 05/31/2013

<b>INMATE NAME</b>	<b>NDOC ID</b>	<b>TRANSACTION TYPE</b>	<b>ASSIGNED TO</b>
STROHMEYER, JEREMY	59389	RTRN_L2	SLFOSTER

<b>LEVEL</b>	<b>TRANSACTION DATE</b>	<b>DAYS LEFT</b>	<b>FINDING</b>	<b>USER ID</b>	<b>STATUS</b>
2	09/26/2013		Denied	SLGENTRY	A

**INMATE COMPLAINT**

**OFFICIAL RESPONSE**

In accordance with Administrative Regulation #740 your grievance has been referred to the Inspector General's Office for review. All investigations are confidential, as such you will not be provided with the outcome.

  
GRIEVANCE RESPONDER

Report Name: NVRIGR  
Reference Name: NOTIS-RPT-OR-0217.2  
Run Date: NOV-01-13 10:46 AM

*KE*

**EXHIBIT E**

Facebook Social Graph  
Articles

**EXHIBIT E**



# So What The Heck Is The 'Social Graph' Facebook Keeps Talking About?

Boonsri Dickinson

Mar. 2, 2012, 8:10 PM

(article URL)

<http://www.businessinsider.com/explainer-what-exactly-is-the-social-graph-2012-3>

It's pretty crazy to think that Mark Zuckerberg created a social network site in his dormroom in college and managed to grow it into a \$100 billion company.

Zuckerberg is a genius. He helped the Internet evolve into what it is now.

But he couldn't have done it without you and your friends.

The success of Facebook comes down to the concept of the social graph.

The geeks explain it this way: It draws an edge between you and the people, places, and things you interact with online.

But you may prefer a slightly less technical explanation. Say you are at a party, standing there in a circle with two friends. You reach out to touch your friend's shoulder. Then he touches your shoulder. You all touch each other's shoulders. You are creating connections between you and other people.

So then you start to get hungry. Fortunately, there's pizza in the middle of the circle. But only two of you like pizza. You and that other person become part of a network because both of you expressed your interest in pizza.

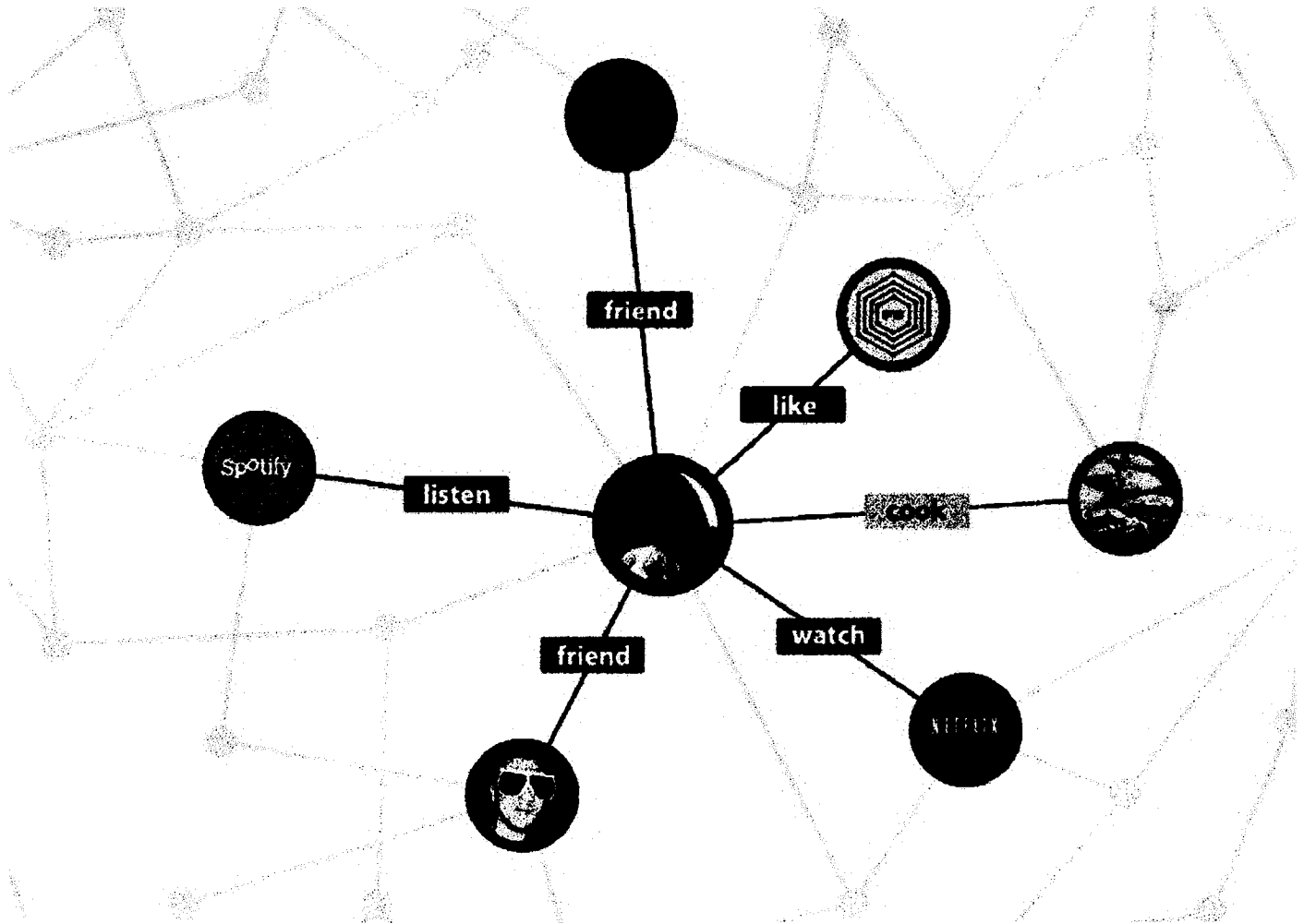
In computer speak, when you "like" something through Facebook, it becomes an edge. The edge is the connection point between you and other people, places, or things.

One of the biggest misunderstandings about the social graph is that it's not actually a graph at all.

Definitely not the kind of graph you see in math class.

It's actually a data structure.

Here's what it looks like:



Photos, events, and pages are connected with other information such as your relationships to your friends, stuff that you share, and photos that you tag.

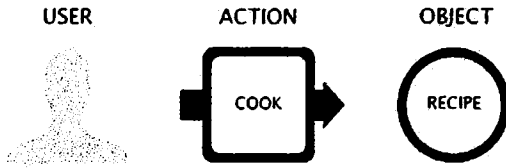
For instance, you may have noticed recently that everything you listen to on Spotify is shared with your friends, and you can also see what music they are listening too. Spotify was one of the early apps to tap into the Facebook's Open Graph platform, which Facebook introduced in fall 2011.

The Open Graph is just the latest expansion of Facebook's social graph.

Basically, Facebook wants to take everything you do online and put that onto Facebook.

It does this by seeing you as a user, identifying an action (whatever you are doing), and then publishing it as an object.

Like this:



**Facebook:** <https://developers.facebook.com/docs/opengraph/>

For background, academics used to sit around talking about the World Wide Web first came out, and really wanted to add more structure to it. For instance, if every restaurant had a website, then you would use a similar structured format to post hours and menus. And then you could write a program to filter that information.

This was before Yelp.

However, academics were fighting over standards and the stuff they came up with was complicated.

That's why Facebook is the closest thing we have to the semantic web.

# How to use Facebook's Graph Search (and why you would even want to)

Article URL: <https://www.pcworld.com/article/2044197/how-to-use-facebooks-graph-search-and-why-you-would-even-want-to.html>



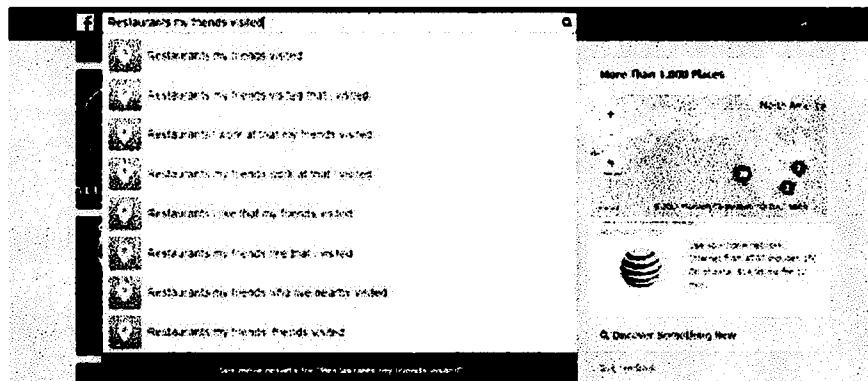
By Caitlin McGarry

Staff Writer, TechHive | JUL 15, 2013 3:00 AM PT

Facebook in January trumpeted Graph Search as the social network's "third pillar" (pillars one and two are Timeline and News Feed), which sounds very impressive and important, but few people have been able to experiment with the tool until now. Last week, the beta of Graph Search finally began rolling out to U.S. users, which means you too can try out the seven-month-old feature. Good news: It's not just for being a creeper. Bad news: Its usefulness is limited. For now.

## What's Graph Search good for, anyway?

Graph Search seems like a great idea in theory. Facebook has collected billions, maybe trillions of pieces of data about its users over the last nine years, and making that data searchable is a natural move.



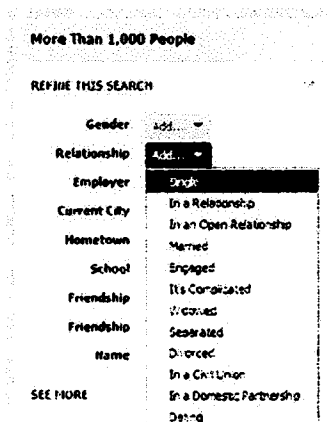
Facebook will help you refine your search, but its guesses are hit or miss.

Graph Search isn't turned on automatically, so your first step is activating the new feature in the search bar. Facebook will walk you through it. Once Graph Search is on, Facebook prompts you to "search for people, places, and things." Start typing. Graph Search is supposed to recognize natural language and try to guess what you're looking for, though that feature is hit or miss at the moment. You'll quickly learn the phrases that will help you get to some sort of result: "Friends who listen to Daft Punk and live in San Francisco" or "Friends of my friends who work at TechHive." It's not exactly a conversational way to search.

Right now, Graph Search is another in a long line of Facebook features designed to suck up your time and productivity. Case in point: photos. A search for photos of my friends who live in San Francisco turns up hundreds of photos dating back years, some of which have been removed from my friends' Timelines but remain easily viewable thanks to Graph Search. This feature can be useful: I searched for photos of my friends who visited Hawaii, because I just returned from a trip to Oahu and wanted to see their photos of the islands. But it also gives you the ability to search for incriminating photos of your ex, or for others to find terrible photos of you. Dislike.

## Better results

In a promotional video, Facebook hypes Graph Search as a great way to find a dentist when you move to a new city. I highly doubt many people are checking in at their dentist's office or liking their dentist's page on Facebook. (If their dentist even has a page on Facebook.) This is what Yelp is for. Facebook could add a Yelp-like review element so your friends could offer recommendations for specific dentists. If you're looking for a new restaurant, your friends could offer Facebook tips on dishes to order that would turn up in a search for "food my friends in San Francisco recommend." That would be much more useful.



You can find new people to friend by searching by city or relationship status. Facebook is also pushing Graph Search as a way to meet new people—you can search for people in your city in a specific age range with certain interests—but most of us use Facebook to connect with people we already know. Would you accept a friend request from a stranger just because you happen to live in the same city and you both like to ride bikes?

Graph Search is still in beta, and Facebook has indicated that the product will change over the years. If the results improve, Facebook's search could become a powerful engine. Graph Search isn't yet available for mobile, a slight that doesn't really fit in with Facebook's smartphone thrust. Every feature should be designed with mobile in mind.

## Privacy settings: Pay attention

As is usually the case with Facebook, privacy concerns with Graph Search are huge. The engine dives deeply into the information you've posted on Facebook over the years. It also pulls from



photos your friends have tagged you in and status updates that mention you: basically, anything that has your name on it is fair game in Graph Search's crawl. There's no opting out.



This is your Facebook Activity Log. Embrace it.

You're going to want to drop what you're doing right now and open up your Facebook privacy settings. Under "who can see my stuff?" is your activity log. Here we go: Start looking at what you've posted, posts you're tagged in, photos, likes, comments, and more. If you don't like what you see, start deleting.

Do a couple of test runs in the new search bar to see what information Graph Search finds about you. Unflattering five-year-old photos you hid from your timeline but didn't untag? Yeah, Graph Search finds those. Untag, untag, and untag some more.

Clean up your likes, too. If you once gave the thumbs up to a controversial political cause or an embarrassing musician, Graph Search will find it. Do you really want to turn up in a search result for "friends of my friends who like One Direction?" Do you?!

Graph Search's potential to humiliate users is a bit unsettling, even though everyone offers up information willingly. We never expected our lives to become searchable, our friendships to become data points. But, like all Facebook changes, Graph Search is here to stay. Get used to it, or delete your account for two days to protest and reactivate when you miss wasting hours searching for "friends of my friends who live in Paris." (I'm a little bitter at how many results this search turned up, by the way.)

*Follow @TechHive on Twitter today.*

*This story, "How to use Facebook's Graph Search (and why you would even want to)" was originally published by TechHive.*

*To comment on this article and other PCWorld content, visit our Facebook page or our Twitter feed.*

*Caitlin McGarry is Macworld's Staff Writer. She covers Apple news, health and fitness technology, and anything wearable.*