

1 BUCHALTER NEMER
A Professional Corporation
2 Robert M. Dato (SBN: 110408)
Email: rdato@buchalter.com
3 Sarah A. Syed (SBN: 253534)
Email: ssyed@buchalter.com
4 18400 Von Karman Avenue, Suite 800
Irvine, CA 92612-0514
5 Telephone: (949) 760-1121
Fax: (949) 720-0182

6 Attorneys for Defendants ADAM GARCIA,
7 JAIME MCGUIRE (sued as Jamie McGuire),
and KENNETH HUNTER
8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **LOS ANGELES DIVISION**

12 JUDY ANNE MIKOVITS,
13 Plaintiff,

14 v.

15 ADAM GARCIA, JAMIE MCGUIRE,
16 RICHARD GAMMICK, GEOFF DEAN,
THREE UNIDENTIFIED VENTURA
17 COUNTY DEPUTY SHERIFFS, F.
HARVEY WHITTEMORE, ANNETTE
18 F. WHITTEMORE, CARLI WEST
KINNE, WHITTEMORE-PETERSON
19 INSTITUTE, a Nevada corporation,
UNEVX INC., a Nevada corporation,
20 MICHAEL HILLERBY, KENNETH
HUNTER, GREG PARI and VINCENT
21 LOMBARDI,
22 Defendants.

Case No. CV14-08909 SVW (PLA)

**REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF MOTION
TO DISMISS FIRST AMENDED
COMPLAINT BY DEFENDANTS
ADAM GARCIA, JAIME
MCGUIRE, AND KENNETH
HUNTER**

Date: November 16, 2015
Time: 1:30 p.m.
Courtroom 6

23 Defendants Adam Garcia, Jaime McGuire (sued as “Jamie McGuire”), and
24 Kenneth Hunter respectfully request that this Court take judicial notice, pursuant to
25 Federal Rule of Evidence 201, of the following documents in connection with their
26 motion to dismiss the first amended complaint in this matter:

- 27 1. Arrest warrant issued for plaintiff Judy Mikovits by Reno Justice of
28

1 Defendants Adam Garcia, Jaime McGuire (sued as “Jamie McGuire”), and
2 Kenneth Hunter respectfully request that this Court take judicial notice, pursuant to
3 Federal Rule of Evidence 201, of the following documents in connection with their
4 motion to dismiss the first amended complaint in this matter:

5 1. Arrest warrant issued for plaintiff Judy Mikovits by Reno Justice of
6 the Peace Hon. Patricia A. Lynch, dated November 16, 2011, a true and correct
7 copy of which is attached as **Exhibit 1** to this request.

8 2. The amended criminal charges, dated November 17, 2011, filed
9 against Mikovits in Reno, alleging violations of NRS 205.275 (possession of stolen
10 property valued in excess of \$650.00) and NRS 205.4765 (unlawful taking of
11 computer data, equipment, supplies valued in excess of \$500), a true and correct
12 copy of which is attached as **Exhibit 2** to this request.

13 3. The docket for Superior Court of California, County of Ventura Case
14 No. 2011040771, showing that a fugitive complaint pursuant to Cal. Pen. Code
15 1551.1 was filed on Monday, November 21, 2011, following Mikovits’ arrest on
16 the afternoon of Friday, November 18, 2011, a true and correct copy of which is
17 attached as **Exhibit 3** to this request.

18 The above-referenced documents are properly the subject of judicial notice
19 pursuant to Federal Rule of Evidence 201, which provides that a court may take
20 judicial notice of facts “not subject to reasonable dispute in that it is ... capable of
21 accurate and ready determination by resort to sources whose accuracy cannot
22 reasonably be questioned.”

23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Therefore, moving defendants respectfully request that this Court take judicial notice of the documents attached as Exhibits 1 through 3.

DATED: August 31, 2015

BUCHALTER NEMER
A Professional Corporation

By: /s/ Robert M. Dato
Robert M. Dato
Sarah A. Syed

Attorneys for Defendants
ADAM GARCIA, JAIME MCGUIRE,
and KENNETH HUNTER

Exhibit “1”

11-12795

Daniel J. Greco
DA No. 434736
Agency Number
UNRPD 11-893

RCR2011-064661
Department No. 1

IN THE JUSTICE COURT OF RENO TOWNSHIP,

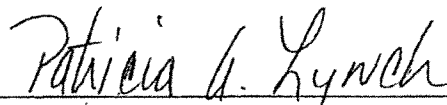
COUNTY OF WASHOE, STATE OF NEVADA

STATE OF NEVADA

TO ANY SHERIFF, CONSTABLE, MARSHALL, POLICEMAN, OR PEACE OFFICE IN
THE STATE OF NEVADA:

A COMPLAINT upon oath has this day been laid before me by Daniel J. Greco alleging the crime(s) of CT. I. POSSESSION OF STOLEN PROPERTY, a violation of NRS 205.275, a felony; CT. II. UNLAWFUL TAKING OF COMPUTER DATA, EQUIPMENT, SUPPLIES, OR OTHER COMPUTER-RELATED PROPERTY, a violation of 205.4765, a felony has been committed and accusing JUDY MIKOVITS thereof. Now, therefore, you are hereby commanded forthwith to arrest the above named DEFENDANT and bring that person before me at my office One South Sierra Street, City of Reno, in said County of Washoe; or in case of my absence or inability to act, before the nearest or most accessible Magistrate in the County.

Dated at my office in Reno Township, Washoe County, Nevada on November 16, 2011.



PATRICIA A. LYNCH, Justice of the Peace
Department 1

The Defendant is admitted to bail in the amount of \$100,000.00.
Cash Only

THIS WARRANT MAY BE SERVED DAY OR NIGHT.

11-12795



Washoe County District Attorney

RICHARD A. GAMMICK
DISTRICT ATTORNEY

REQUEST FOR NCIC AND CJIS ENTRIES
EXTRADITION AND TRANSPORT AUTHORIZATION

AGENCY: ARRESTING AGENCY

CASE NO: AGENCY CASE #

Attention: Warrants

DA FILE NO: 434736

DATE: 11/16/2011

WARRANT NO: RCR2011-044661

DEFENDANT: Defendants Name *Judy Mikovits*

DOB: BIRTH DATE Redacted

SSN: SS # Redacted

NCIC ENTRIES: I will extradite:

- Anywhere within USA, except Hawaii and Alaska
- West of Mississippi only MN, IA, MO, AR, LA, ND, SD, NB, KS, OK, TX
- MT, WY, CO, NM, ID, UT, AZ, WA, OR, CA, NV
- Western States only CA, OR, WA, ID, WY, MT, CO, UT, AZ, NM, NV
- Adjacent States only CA, OR, ID, UT, AZ, NV
- California and Nevada only
- Other:

CJIS ENTRIES: I will transport:

- Within Nevada only
- Within Region 2 (Western NV counties)
- Other:

Any special instructions to be entered on NCIC or CJIS:

RICHARD A. GAMMICK
DISTRICT ATTORNEY

By: *Richard A. Gammick*

Exhibit “2”

DA # 434736

AGENCY # UNRPD 11-893

FILED

11 NOV 17 PM 2:04

IN THE JUSTICE COURT OF RENO TOWNSHIP
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

STEVE TUTTLE
RENO JUSTICE COURT
BY *Steve Tuttle*
DEPUTY

* * *

THE STATE OF NEVADA,

Plaintiff,

RCR 2011-064661

v.

DEPT: 1

JUDY MIKOVITS,

Defendant.

SECOND
CRIMINAL COMPLAINT

JAIME MCGUIRE of the University of Nevada Police Department, County of Washoe, State of Nevada, verifies and declares upon information and belief and under penalty of perjury, that JUDY MIKOVITS, the defendant above-named, has committed the crimes of:

COUNT I. POSSESSION OF STOLEN PROPERTY, a violation of NRS 205.275, a felony, (F900) in the manner following, to wit:

That the said defendant, JUDY MIKOVITS, on or about September 30, 2011, at Reno Township, within the County of Washoe, State of Nevada, did willfully and unlawfully possess or withhold stolen goods having a value in excess of Six Hundred Fifty Dollars (\$650.00), to wit, a black Apple laptop, multiple flash drives, approximately a dozen or more research notebooks, and miscellaneous correspondence from the Whittemore Peterson Institute, at Reno, Washoe County, Nevada, such property being owned by the Whittemore Peterson Institute, for her own gain or to prevent the true owner from again possessing said property, knowing that the property was obtained by means of larceny or under such circumstances as should

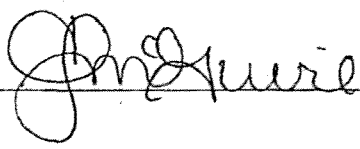


1 have caused a reasonable man to know that such goods were so
2 obtained.

3 COUNT II. UNLAWFUL TAKING OF COMPUTER DATA, EQUIPMENT,
4 SUPPLIES, OR OTHER COMPUTER-RELATED PROPERTY, a felony violation of
5 205.4765, in the manner following, to wit:

6 That the said defendant on or about September 30, 2011, at
7 Reno Township, within the County of Washoe, State of Nevada, did
8 willfully, unlawfully and without authorization, take, conceal, or
9 retain possession of data, a program or any supporting documents
10 which exists inside or outside a computer, system or network, or a
11 computer or computer system, or a device used to access a computer
12 network or data, and the cumulative total loss of all items taken or
13 possessed is in excess of \$500.00, or said taking, concealment or
14 possession caused an interruption or impairment of a public service,
15 including, without limitation, a governmental operation, regardless
16 of the value of the property, to wit: MIKOVITS directed her former
17 research associate, an employee of Whittemore Peterson Institute, to
18 take a black Apple laptop, multiple flash drives, approximately a
19 dozen or more research notebooks, and miscellaneous correspondence
20 from the Whittemore Peterson Institute, and to deliver them to her at
21 Reno, Washoe County, Nevada.

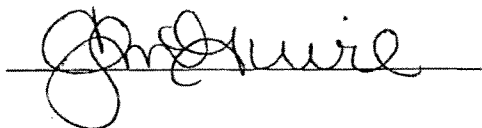
22 DATED this 17 day of November, 2011

23
24 
25
26



AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Custody:
Bailed:
Warrant: X
1117434736LJP

District Court Dept: 4
District Attorney: GRECO
Defense Attorney:
Bail \$100,000 Cash only
Restitution:



Exhibit “3”

**Superior Court of California
County of Ventura**

Name	Mikovits, Judy Anne			Case Number	2011040771
Citation Number		Violation Date	11/18/2011	Case Status	Discharged
Court Location	Ventura	Appearance / Due Date		Offense Level	Felony
		Disposition Date	12/19/2011	Mandatory Appearance	No
				Case Balance	\$0.00

Docket Information

Docket Date	Docket Description
02/19/2015	Case Closed.
08/10/2012	Order for Return of Property sent to Judge Young, Bruce A chambers.
08/10/2012	Order for Return or Other Disposition of Property or Evidence Seized Under a Search Warrant filed on 08/10/12 .
08/10/2012	Affidavit and Order for Return of Property sent to Records to be attached to file.
08/08/2012	Affidavit in Support of Property Disposition filed on 08/08/12 .
08/08/2012	Affidavit and Order for Property Return sent to Judge Young, Bruce A chambers.
12/19/2011	Extradition Hearing Heard in Courtroom 13 on Dec 19, 2011 at 01:30 PM .
12/19/2011	Judge - Young, Bruce A .
12/19/2011	Judicial Assistant - Espinoza, L .
12/19/2011	Court Reporter - Perez, Melissa is present.
12/19/2011	The defendant is present by Attorney Tyler .
12/19/2011	Detective Lattin is present in court.
12/19/2011	The defendant has been extradited.
12/19/2011	Court orders bail bond exonerated.
12/19/2011	File located to Ventura Records.
11/23/2011	Bail Bond Number AS100 123740 posted in the amount of \$100,000.00 by 101 of AMERICAN . Original bail bond sent to Fiscal
11/23/2011	Copy of Bail Bond sent to Records to be attached to file.
11/22/2011	Fugitive Complaint Heard in Courtroom 13 on Nov 22, 2011 at 01:30 PM .
11/22/2011	Judge - Young, Bruce A .
11/22/2011	Judicial Assistant - Valverde, S .
11/22/2011	Court Reporter - Ignacio, Susan is present.
11/22/2011	Attorney of record Tyler, Paul B for defendant.

11/22/2011	The defendant is present with Attorney Tyler .
11/22/2011	Deputy District Attorney Ruth present.
11/22/2011	B. Lattin is present in court.
11/22/2011	Mr. Cohon, Science Magazine is present in court.
11/22/2011	The court Denied extended media coverage to Science Magazine .
11/22/2011	extradition pre-waiver rights filed on 11/22/11 .
11/22/2011	Case continued to 12/19/11 at 01:30 PM in Courtroom 13 for Extradition Hearing .
11/22/2011	Defendant remanded to custody of Sheriff in lieu of bail in the amount of \$100,000.00 .
11/22/2011	The court orders you to appear.
11/22/2011	File located to Ventura Records.
11/21/2011	Fugitive Complaint filed on 11/21/2011 00:00:00 by VCSH .
11/21/2011	Felony charge of 1551.1 PC with violation date of 11/18/11 00:00:00 filed as count 1 .
11/21/2011	Case calendared to 11/22/11 at 01:30 PM in 13 for ARRAIGNMENT Fugitive Complaint .
11/21/2011	Upon conviction assess CJAF fee of \$356.34.
11/21/2011	Fugitive complaint filed pursuant to 1551.1 of the Penal Code.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is at BUCHALTER NEMER, A Professional Corporation, 18400 Von Karman Avenue, Suite 800, Irvine, California 92612-0514.

On the date set forth below, I served the foregoing document described as:

REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO DISMISS FIRST AMENDED COMPLAINT BY DEFENDANTS ADAM GARCIA, JAIME MCGUIRE, AND KENNETH HUNTER

on all other parties and/or their attorney(s) of record to this action as follows:

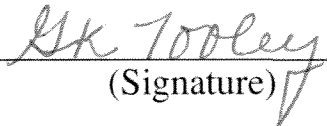
SEE ATTACHED SERVICE LIST

BY CM/ECF SYSTEM I certify that I caused a copy of the above document to be served upon the following counsel via the court CM/ECF System on August 31, 2015

BY MAIL I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. The address(es) shown above is(are) the same as shown on the envelope. The envelope was placed for deposit in the United States Postal Service at Buchalter Nemer in Irvine, California on August 31, 2015. The envelope was sealed and placed for collection and mailing with first-class prepaid postage on this date following ordinary business practices.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on August 31, 2015 at Irvine, California.

Geri K. Tooley


(Signature)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

**JUDY ANNE MIKOVITS v. ADAM GARCIA, et al.
USDC CASE NO. CV14-08909 SVW (PLA)**

Robert J. Liskey
The Liskey Law Firm
1308 E. Colorado Blvd., Suite 232
Pasadena, CA 91106

Attorney for Plaintiff Judy Anne Mikovits
roblistkey@liskeylawfirm.com

Michael R Hugo, *Pro Hac Vice*
Law Office of Hugo and Associates LLC
1 Catherine Road
Framingham, MA 01701

Attorney for Plaintiff Judy Anne Mikovits
Email: mike@hugo-law.com

Mary Margaret Kandaras
Washoe County District Attorney
P. O. Box 11130
Reno, NV 89520-0027

Attorneys for Defendant Richard Gammick
mkandaras@da.washoecounty.us
tgalli@da.washoecounty.us, cmendoza@da.washoecounty.us,

Brian Warner Hagen
Whittemore Law Firm
9432 Double R Boulevard
Reno, NV 89501

Attorneys for Defendants F. Harvey Whittemore,
Annette F. Whittemore, Carli West Kinne,
Whittemore-Peterson Institute, UNEVX, Inc.,
Michael Hillerby and Vincent Lombardi
bwhagen@gmail.com

James N. Procter II
Lisa N. Shyer
Jeffrey Held
Wisotsky, Procter & Shyer
300 Esplanade Drive, Suite 1500
Oxnard, CA 93036

Attorneys for Defendant Geoff Dean
jheld@wps-law.net