

1 PAUL B. BEACH, State Bar No. 166265
pbeach@lbaclaw.com
2 JAMES S. EICHER, State Bar No. 213796
jeicher@lbaclaw.com
3 LAWRENCE BEACH ALLEN & CHOI, PC
100 West Broadway, Suite 1200
4 Glendale, California 91210-1219
Telephone No. (818) 545-1925
5 Facsimile No. (818) 545-1937

6 Attorneys for Defendant
Geoff Dean

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 JUDY ANNE MIKOVITS,
12 Plaintiff,
13 vs.

Case No. CV 14-08909 SVW (PLAx)
Honorable Stephen V. Wilson

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

**DECLARATION OF JAMES S.
EICHER, JR. IN SUPPORT OF
DEFENDANT DEAN'S MOTION
FOR SUMMARY JUDGMENT
AND EVIDENTIARY
OBJECTIONS**

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

*[Reply; Response to Separate
Statement of Uncontroverted Facts;
and Evidentiary Objections filed
concurrently herewith]*

22
23
24 TO THE CLERK OF COURT, ALL PARTIES, AND THEIR
25 ATTORNEYS OF RECORD:

26 PLEASE TAKE NOTICE that Defendant Sheriff Geoff Dean
27 ("Defendant") in connection with his Motion for Summary Judgment and
28 objections to the evidence submitted by Plaintiff in support of her Opposition to

1 Plaintiff's counsel a certified copy of Plaintiff's booking photograph (front view)
2 taken at the Ventura County Jail at the time of her booking on November 18,
3 2011. An additional certified booking photo of Plaintiff (profile view) was
4 provided by my office on October 15, 2015.

5 6. Furthermore, in response to Plaintiff's claim that her fingerprints
6 were not taken during her incarceration (First Amended Complaint, para. 108), I
7 sent Plaintiff's counsel a certified copy of the Ventura County Fingerprint Card
8 reflecting the fingerprints taken of Plaintiff at the time of her booking.

9 7. Similarly, in response to Plaintiff's claim that "Nobody would tell
10 me what I was being held for or what I was charged with" (Affidavit paragraphs
11 15, 19, and 25; Opp. p. 13), I sent Plaintiff's counsel a certified copy of the
12 Ventura County Extradition pre-waiver rights form signed by Plaintiff
13 memorializing her understanding that she had been arrested based on a warrant
14 from the State of Nevada charging her with Possession of Stolen Property and
15 Unlawful Taking of Computer Data. The Extradition pre-waiver rights form sent
16 was obtained from the Ventura County Superior Court file for Plaintiff's case,
17 No. 2011040771, and certified by a representative of the Ventura County
18 Superior Court to be a true and correct copy on file.

19 8. In response to Plaintiff's claim that she was not capable of making
20 any phone calls and not allowed "any form of communication with the outside
21 world, including her husband" (Affidavit paragraph 16; Opp. p. 14), I sent
22 Plaintiff's counsel a certified copy of the Ventura County Sheriff's Department's
23 Call Detail Report reflecting multiple telephone calls made by Plaintiff and
24 multiple visitations that she had during her incarceration at the Todd Road
25 Detention Facility, including with her husband, a friend, a bail bondsman, and an
26 attorney. I also enclosed a CD with certified copies of the audio recordings of
27 Plaintiff's jail communications (other than with an attorney).

28

1 8. On October 5, 2015, Plaintiff’s counsel, in furtherance of a phone
2 conversation that same day with attorney Paul B. Beach from my office, emailed
3 my office correspondence addressing the contentions that Plaintiff’s Affidavit and
4 First Amended Complaint contained numerous fabrications. As to Plaintiff’s
5 claim that she was not capable of making phone calls and not allowed “any form
6 of communication with the outside world, including her husband” (Affidavit
7 paragraph 16; Opp. p. 14), instead of immediately retracting these allegations,
8 Plaintiff’s counsel responded with, “As for lack of communication, we stand by
9 our statements exactly as written. Until she was transferred to the other facility
10 at 2:00 AM, she was completely cut off, as was written in the Opposition.”

11 9. Therefore, in a further attempt to put this specific issue to rest and to
12 prevent the needless review of this falsehood by the Court, on October 9, 2015, I
13 sent correspondence and attachments (described below) to Plaintiff’s counsel
14 containing evidence that Plaintiff had in fact communicated via telephone with
15 her husband, prior to her transfer to another detention facility.

16 10. Specifically, attached to my October 9, 2015, correspondence was a
17 certified copy of the Ventura County Sheriff’s Department’s Call Detail Report,
18 for calls made specifically from the Women’s Booking area of the main jail on
19 November 18, 2011. Six calls were made by Plaintiff from the Women’s
20 Booking area of the main jail to her husband, David, and are described below:

21 a. The first call made by Plaintiff was at 3:17 p.m., during which
22 she left a message for her husband advising him where she was and that she
23 needed an attorney and a bail bondsman.

24 b. The second call made by Plaintiff was not connected.

25 c. The third call was made by Plaintiff at 6:18 p.m. to her
26 husband. David can be heard advising Plaintiff that he had contacted a bail
27 bondsman who was attempting to post bail in Ventura and in Reno,
28 Nevada. David is heard advising Plaintiff that he is in the process of

1 obtaining a criminal lawyer for her as well. Plaintiff and her husband
2 discuss her anticipated movement to another jail facility later that evening,
3 bail arrangements, the arrest warrant from Nevada, and Plaintiff's request
4 to cancel travel plans.

5 d. The fourth call was made by Plaintiff at 6:48 p.m., during
6 which she advises her husband that she was arrested for being a fugitive
7 from Nevada and that she would not be able to bail out that evening. She
8 further advises her husband that she will be moving to the Ventura County
9 Sheriff's Todd Road Facility. During this call, Plaintiff is advised by her
10 husband of the name of her criminal lawyer.

11 e. The fifth call was made by Plaintiff at 7:30 p.m., and Plaintiff
12 is heard discussing with her husband the fact that there is a bail hold placed
13 from Reno, Nevada, and that Plaintiff is scheduled to appear before a
14 Ventura Superior Court Judge the following Tuesday. During this call,
15 Plaintiff appears to be well aware of the charges she is facing in Nevada by
16 stating, "How can I not worry about stuff, . . .felony grand theft . . .felony
17 grand theft."

18 f. The sixth and final call was made by Plaintiff at 10:58 p.m.
19 and the conversation regards Plaintiff being represented by a criminal
20 attorney at her arraignment in court the following Tuesday.

21 11. The above documents were provided to Plaintiff and her counsel in
22 an effort to eliminate uncontrovertable issues, clean up false statements submitted
23 to the Court by Plaintiff and her counsel, and streamline this Court's review of the
24 Summary Judgment Motion filed by Defendant Dean. The purpose was also to
25 put Plaintiff and her counsel on notice of Defendant Dean's intent to seek all
26 appropriate sanctions for the costs and burdens needlessly caused by Plaintiff's
27 unmeritorious factual and legal arguments.

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

I declare under penalty of perjury under the laws of the State of California
and of the United States that the foregoing is true and correct.

Executed on November 2, 2015 at Glendale, California.

s/ James S. Eicher, Jr.
James S. Eicher, Jr.