

Dear Mock Trial Teacher and Attorney Coaches:

The Arizona Foundation for Legal Services & Education and the Young Lawyers of Arizona welcome you and your team to the 2007-2008 Arizona High School Mock Trial Program.

Please review all of the material carefully. If you have any questions about registration or administration of the program, please contact Susan Nusall with the Arizona Foundation for Legal Services & Education at 602-340-7361. If you have any questions about the case, the Rules of the Program or the legal aspects of the program, please post your question(s) on the Mock Trial website, [www.azflse.org/mocktrial](http://www.azflse.org/mocktrial).

The Regional Tournaments will be held on March 8, 2008 and the State Tournament will be held on April 5, 2008.

### **Case Materials and Special Rule For This Year's Case**

As you will see, this year's case is a civil rights case seeking injunctive relief for an alleged violation of the plaintiff's right to freedom of religion. The case is fictional, and any similarity or resemblance of any character to an actual person or entity is strictly unintentional and coincidental. This is an original case, and the materials were prepared by Dewain Fox (Fennemore Craig), Pam Gates (Bryan Cave), Bill Gates (Karsten Manufacturing Corp./PING), Lance Broberg (Tiffany & Bosco) and Tiffany Broberg (Ridenour Hinton Kelhoffer Lewis & Garth). The case authors acknowledge Kyle Routen, an intern with the Foundation, for his invaluable research assistance.

The plaintiff in this year's case has been diagnosed with tuberculosis. To make the trial more realistic, we will permit the student portraying the plaintiff to wear a simple surgical mask during the trial. Please note that wearing the mask is not mandatory. Each plaintiff team will decide whether the student portraying the plaintiff will wear the mask during its rounds. In order to keep the playing field level, we will provide each registered team with one surgical mask. Teams are not permitted to substitute a respirator mask for the surgical masks provided. We will provide more information on the masks as we get closer to the regional tournaments.

### **Program and Evidence Rules**

All team members are expected to know the Mock Trial Rules of Evidence and the

Rules of the Program, including the revisions adopted for this year. The Rules of Evidence and the Rules of the Program can be found on the mock trial website, [www.azflse.org/mocktrial](http://www.azflse.org/mocktrial), in the Download Center. The website contains a link to revisions in this year's Rules.

### **New Timing Rules--REMINDER**

The timing rules in Section III of the Rules of the Program were revised last year. This is a reminder that teams now are required to provide their own official timekeepers.

### **Trials**

First, this year's case materials again include jury instructions to set forth the applicable law. When scoring panels are used, such as at the state tournament, the trial should be presented as a jury trial with the scoring judges serving as the jury. When single presiding/scoring judges are used, such as at most (if not all) regional tournaments, the trial should be presented as a bench trial using the same law and legal principles set forth in the jury instructions.

Second, as you will see, the case materials contain a lot of information--much of which is intended as background information and not necessarily to be admitted into evidence. As such, teams will have to make strategic decisions regarding what evidence they want to present within the allotted time. It will be impossible for any team to present all of the evidence contained in the materials within the time constraints. Please be advised that the time rules will be strictly enforced.

### **Forms**

Please become familiar with how and when the necessary forms are needed and comply with the requirements shown below.

### **Score Sheet and Ratings**

A score sheet and the criteria for scoring to be used by the judges at the Regional Tournaments and the State Tournament are available in the download section of the website. Your students should be aware of the scoring system that is used to rate their performance. We recommend using the scoring sheet when students engage in trial practice runs.

### **Mock Trial Participants List – PLEASE READ!!!**

The Participant List for your team is now on line website at [www.azflse.org/mocktrial](http://www.azflse.org/mocktrial). When you registered on line, you should have already filled in your students' names. These can be edited at any time up to February 8, 2008. Login, click on personalized teacher page, Mock Trial Regional Tournament, and "edit this team". If you do not submit the names on line by the deadline, your team may be prohibited from competing. Any requests to make changes to your team roster after February 8th are subject to approval by your Regional Coordinator. NO EXCEPTIONS!!! A list of regional coordinators is available on the website. If you encounter any problem in completing the online input of student names, please contact Amy Koenig at 602-340-7357.

## **Student Roster**

The Student Roster form is the official form you are to use on Tournament Day. Please make certain that you have at least FIVE COPIES on hand the day of the tournament. The team is responsible for completing this form and presenting it to the judge/bailiff at the beginning of each round including the Finals Round.

## **Preparing Students to Participate**

The Steps in a Mock Trial and Pre- and Post- Activities resources can help students develop a basic understanding of the mechanics of a trial and presents students with ten situations in which they must apply the rules of evidence. An answer key is provided for coaches. You are also provided with a suggestions sheet and helpful hints designed to guide attorney-coaches in working with students. Please take a few moments to review these materials to better prepare you for using these techniques with your students. They are available on the website, [www.azflse.org/mocktrial](http://www.azflse.org/mocktrial) , in the Download Center.

## **State Tournament**

The State Tournament is scheduled for Saturday, April 5, 2008, at the Federal Courthouse located in downtown Phoenix. Teams that did not compete in the Maricopa County Regional Tournament will be eligible for overnight lodging the evening before the State Finals. More details about the State Tournament will be forthcoming.

## **National Mock Trial Tournament**

The National Mock Trial Tournament will be held May 8-10, 2008 in Wilmington, Delaware. Teachers are encouraged to apply to the Academic Contest Fund Committee for funding to help offset travel-related costs for the state winner. However, the exact amount will not be determined until mid-2008 when the matter is heard before the State Board of Education. It is strongly recommended that schools have a fundraising plan in place in the event that they are the State winners and are eligible to travel to the National Tournament--especially with the later date for the State Tournament this year.

We hope you enjoy the problem. Have fun and good luck with your tournaments!

Susan Nusall  
Mock Trial State Coordinator

Dewain Fox,  
Legal Counsel Coordinator

## Summary of Case

Sam Holliday is a student at Copper State University, a small public university in Phoenix, Arizona. In early October 2007, Sam was diagnosed with tuberculosis and placed in isolation. After agreeing to a voluntary treatment plan with the State of Arizona, Sam was discharged from the hospital and allowed to return to his/her dorm at the University.

Dr. Afam Unamon is the Dean of Copper State University. In early November 2007, Dr. Unamon suspended Sam indefinitely and terminated Sam's employment as a resident assistant for failing to abide by the terms of the voluntary treatment plan. Dr. Unamon contends that Sam failed to wear a protective mask at all times when outside of his/her dorm room and failed to take the prescribed medications. Sam disputes Dr. Unamon's contentions, and claims that the Dean took the actions against Sam based on Sam's involvement with the Rastafarian religious community.

Sam filed this lawsuit alleging that Dr. Unamon violated Sam's civil rights under 42 U.S.C. § 1983 by depriving him/her of the right to freedom of religion under the First Amendment to the United States Constitution. Sam seeks temporary, preliminary and permanent injunctive relief against Dr. Unamon.

The plaintiff's witnesses are: (i) Sam Holliday, the plaintiff; (ii) Marion Leverage, the former Vice President of Student Life and the faculty advisor to the Copper State University Rastafarian Group; and (iii) Sydney Mendenhall, a religious studies professor. The defendant's witnesses are: (i) Dr. Afam Unamon, the defendant; (ii) Tyler Blunt, a student who lived across the hall from Sam; and (iii) Tavan Belo Reaper, M.D., Arizona's tuberculosis control officer.

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4 Attorneys for Plaintiff

6 UNITED STATES DISTRICT COURT

7 DISTRICT OF ARIZONA

8 Sam Holliday, a single individual,

9 Plaintiff,

10 v.

11 Dr. Afam Unamon, a single individual,

12 Defendant.

No. CIV 2007-90210-PHX-LOL

**COMPLAINT AND APPLICATION FOR  
TEMPORARY RESTRAINING ORDER**

13  
14 Plaintiff alleges:

15 **COUNT ONE**

16 (Violation of Civil Rights Under 42 U.S.C. § 1983)

17 1. This Court has jurisdiction over this matter under 28 U.S.C. § 1331, because the  
18 matter in controversy is a civil action arising under the Constitution and laws of the  
19 United States. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), because:  
20 (i) the defendant resides in this District; and (ii) a substantial part of the events or  
21 omissions giving rise to the claim occurred in this District.

22 2. Plaintiff: (i) is a single individual; (ii) resides in the State of Arizona; and (iii) is a  
23 member of the Rastafarian religious community.

24 3. Defendant: (i) is a single individual; (ii) resides in the State of Arizona; (iii) is the  
25 Dean of Copper State University (“CSU”); and (iv) has caused an event to occur in  
26 Phoenix, Arizona, out of which this complaint arises.

27 4. CSU is a four-year public university located in Phoenix, Arizona, which comes  
28 under the auspices of the Arizona Board of Regents. As such, CSU is a governmental

1 entity and/or political subdivision of the State of Arizona.

2 5. As Dean of CSU, defendant at all relevant times was acting under the color of  
3 authority of his/her office as a state official. As such, the actions alleged in this  
4 Complaint constitute actions of the state within the meaning of the Fourteenth  
5 Amendment of the Constitution of the United States.

6 6. Plaintiff first enrolled as a freshman student at CSU in the Fall 2005 semester. In  
7 the current 2007-2008 school year, plaintiff is a junior majoring in pre-medical studies. In  
8 addition, for the 2007-2008 school year, defendant hired plaintiff to be a resident assistant  
9 at CSU's Copper Canyon residence hall.

10 7. Early in the 2007-2008 school year, plaintiff joined the CSU Rastafarian Group, an  
11 organization officially sanctioned by CSU. Marion Leverage, who at the time was CSU's  
12 Vice President of Student Life, served as the faculty advisor of the CSU Rastafarian  
13 Group.

14 8. Plaintiff follows a strict I-tal diet as an integral part of the plaintiff's firmly held  
15 Rastafarian beliefs. An I-tal diet is unique in that it permits consumption of only all-  
16 natural and chemical-free substances. In this regard, those following an I-tal diet consume  
17 foods in the rawest form possible and eschew substances containing salts, preservatives  
18 and/or condiments.

19 9. Defendant treated members of the CSU Rastafarian Group, and plaintiff in  
20 particular, with hostility, scorn and derision as a result of their religious beliefs. Upon  
21 information and belief, defendant: (i) identifies himself/herself as a devout practicing  
22 Christian who firmly disagrees with the religious beliefs held by Rastafarians; and  
23 (ii) openly has made negative, hostile and disparaging comments regarding Rastafarians in  
24 general and plaintiff in particular.

25 10. In early October 2007, the plaintiff was diagnosed with tuberculosis ("TB") and  
26 immediately placed in isolation at a local hospital. On October 5, 2007, under extreme  
27 pressure from representatives of the State of Arizona Department of Health Services, the  
28 plaintiff signed a Memorandum of Understanding and Agreement (the "Agreement") with

1 the State of Arizona that established a plan for treatment of the plaintiff's TB. The  
2 Agreement provided for the plaintiff to: (i) submit to a six-month drug treatment regimen;  
3 (ii) wear a protective mask when outside of the plaintiff's home until the plaintiff no  
4 longer was at risk of spreading TB; and (iii) submit to periodic TB testing.

5 11. After signing the Agreement, plaintiff was discharged from the hospital to his/her  
6 home at the Copper Canyon residence hall over the weekend of October 6 and 7, 2007.

7 12. On October 8, 2007, the first weekday after plaintiff's discharge from the  
8 hospital, plaintiff met with defendant at defendant's office to advise him/her of plaintiff's  
9 diagnosis and clearance to return to school.

10 13. On November 7, 2007, after returning from a CSU Rastafarian Group meeting,  
11 plaintiff discovered that personal property was removed from plaintiff's room at the  
12 Copper Canyon residence hall. Upon information and belief, CSU's security officers  
13 removed the personal property at the direction of defendant.

14 14. On November 8, 2007, during and following a meeting in defendant's office,  
15 defendant: (i) terminated plaintiff's position as a resident assistant; (ii) verbally told  
16 plaintiff that s/he was no longer permitted to be on CSU's campus, because plaintiff was  
17 "part of that crazy pot smoking cult", which was a reference to the CSU Rastafarian  
18 Group; (iii) falsely accused defendant of failing to take his/her TB medication; and  
19 (iv) had plaintiff physically removed from CSU's campus by CSU's security.

20 15. On November 12, 2007, defendant sent plaintiff a certified letter purporting to  
21 inform plaintiff that s/he was "indefinitely suspended" for failing to abide by the  
22 Agreement.

23 16. Upon information and belief, defendant: (1) encouraged and solicited other CSU  
24 faculty and/or students to spy on plaintiff and report alleged violations of the Agreement,  
25 so that defendant could use such alleged violations as a pretext for suspending or  
26 expelling plaintiff from CSU; and (ii) actually suspended and/or expelled plaintiff from  
27 CSU on the basis of plaintiff's religious beliefs and plaintiff's membership and  
28 participation in the Rastafarian religious community and the CSU Rastafarian Group.

1 17. Defendant's conduct constitutes an immediate, present and actual deprivation of  
2 plaintiff's constitutional rights under the First and Fourteenth Amendments to the United  
3 States Constitution, including the free exercise of religion, the equal protection clause and  
4 the procedural and substantive protections of the due process clause, because defendant's  
5 conduct placed and continues to place substantial pressure on plaintiff to modify his/her  
6 behavior and thus violate his/her sincerely-held religious beliefs.

7 18. Defendant's conduct further has chilled plaintiff's exercise of his/her  
8 constitutional rights under the First and Fourteenth Amendments to the United States  
9 Constitution, including the free exercise of religion, the equal protection clause and the  
10 procedural and substantive protections of the due process clause, because of the fear that  
11 exercise of those rights will subject plaintiff to continued suspension, expulsion and/or  
12 other administrative penalties imposed by defendant and CSU.

13 19. An actual controversy that is ripe for judicial determination exists between  
14 plaintiff and defendant.

15 20. Plaintiff is suffering irreparable injury and is threatened with irreparable harm in  
16 the future by reason of the defendant's conduct. A substantial loss or impairment of  
17 freedom of expression has occurred and will continue to occur so long as defendant's  
18 conduct continues.

19 21. Plaintiff has no plain, adequate, or complete remedy to speedily redress the  
20 wrongs alleged in this complaint other than this action. An award of monetary damages is  
21 not adequate to protect plaintiff from the defendant's continuing conduct and the chilling  
22 effect such conduct has on the exercise of plaintiff's constitutional rights.

23 WHEREFORE, plaintiff asks the Court to enter judgment as follows:

24 1. Declaring that the actions of defendant in (among other things) terminating  
25 plaintiff's employment as a resident assistant and suspending and/or expelling plaintiff  
26 from CSU are contrary to plaintiff's rights under the First and Fourteenth Amendments to  
27 the United States Constitution;

28 2. Temporarily, preliminarily and permanently enjoining defendant from engaging in

1 the conduct alleged in this complaint, and requiring defendant to restore completely  
2 plaintiff's rights as a resident assistant and as a student at CSU;

3 3. Awarding plaintiff his/her costs and reasonable attorneys' fees under 42 U.S.C.  
4 § 1988; and

5 4. Awarding such other and further relief as the Court deems proper.

6 DATED: November 19, 2007.

7 ROBERSON REYNOLDS, P.C.

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9 By Mark Roberson  
10 Mark Roberson  
11 Attorneys for Plaintiff

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4 Attorneys for Defendant

6 UNITED STATES DISTRICT COURT

7 DISTRICT OF ARIZONA

8 Sam Holliday, a single individual,

9 Plaintiff,

10 v.

11 Dr. Afam Unamon, a single individual,

12 Defendant.

No. CIV 2007-90210-PHX-LOL

**ANSWER**

13  
14 Defendant responds to plaintiff's complaint as follows:

15 **COUNT ONE**

16 (Violation of Civil Rights Under 42 U.S.C. § 1983)

- 17 1. Defendant admits the allegations in paragraphs 1, 4, 5 and 6.
- 18 2. Defendant admits that plaintiff (i) is a single individual, and (ii) resides in the State  
19 of Arizona; and denies the remaining allegations in paragraph 2.
- 20 3. Defendant admits that (i) defendant is a single individual, (ii) defendant resides in  
21 the State of Arizona, (iii) defendant is the Dean of Copper State University ("CSU"), and  
22 (iv) the acts complained of occurred in Phoenix, Arizona; and denies the remaining  
23 allegations in paragraph 3, including that the acts complained of give rise to the claims  
24 asserted in the complaint.
- 25 4. Defendant admits that (i) CSU recognized the CSU Rastafarian Group as an  
26 official student extracurricular organization, and (ii) Marion Leverage, who at the time  
27 was CSU's Vice President of Student Life, served as the faculty advisor of the CSU  
28 Rastafarian Group; and lacks sufficient knowledge and information to admit or deny the

1 remaining allegations in paragraph 7.

2 5. Defendant denies that plaintiff follows a strict I-tal diet as an integral part of the  
3 plaintiff's firmly held Rastafarian beliefs; and lacks sufficient knowledge and information  
4 to admit or deny the remaining allegations in paragraph 8.

5 6. Defendant admits s/he is a practicing Christian; and denies the remaining  
6 allegations in paragraph 9.

7 7. Defendant admits that (i) in early October 2007, the plaintiff was diagnosed with  
8 tuberculosis ("TB") and immediately placed in isolation at a local hospital, and  
9 (ii) plaintiff signed a Memorandum of Understanding and Agreement (the "Agreement")  
10 with the State of Arizona that established a plan for treatment of the plaintiff's TB; lacks  
11 sufficient knowledge and information to admit or deny the remaining allegations in  
12 paragraph 10; and affirmatively alleges that the Agreement speaks for itself.

13 8. Defendant lacks sufficient knowledge and information to admit or deny the  
14 allegations in paragraph 11, but believes them to be true.

15 9. Defendant admits that s/he met with plaintiff at defendant's office on October 8,  
16 2007; and lacks sufficient knowledge and information to admit or deny the remaining  
17 allegations in paragraph 12.

18 10. Defendant admits that s/he instructed CSU's security to remove certain items that  
19 belonged to CSU from plaintiff's room at the Copper Canyon residence hall; denies that  
20 s/he instructed CSU to remove any items that belonged to plaintiff; and lacks sufficient  
21 knowledge and information to admit or deny the remaining allegations in paragraph 13.

22 11. Defendant denies the allegations in paragraphs 14 through 21.

23 12. Defendant denies all allegations not specifically admitted in this answer.

24 WHEREFORE, defendant asks the Court to enter judgment as follows:

25 1. Dismissing plaintiff's claim with prejudice;

26 2. Denying plaintiff's request for temporary, preliminary and permanent injunctive  
27 relief;

28 3. Awarding defendant his/her costs and reasonable attorneys' fees; and

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4. Awarding such other and further relief as the Court deems proper.

DATED: November 29, 2007.

GOLDBERG & TAYLOR, PLLP

By Nancy Poston  
Nancy Poston  
Attorneys for Defendant

Copy of the foregoing mailed  
on November 29, 2007, to:

Mark Roberson, Esq.  
ROBERSON REYNOLDS, P.C.  
123 North Central Avenue, Suite 100  
Phoenix, Arizona 85004  
Attorneys for Plaintiff

L. Smith

## DECLARATION OF SAM HOLLIDAY

1  
2       1. I am a 21-year old junior majoring in pre-medical studies at Copper State  
3 University (“CSU”). I was diagnosed with tuberculosis during the Fall semester of the  
4 2007-2008 school year. As explained below, due to my religious beliefs, I chose to look  
5 for natural remedies to treat the tuberculosis as an alternative to the more traditional forms  
6 of treatment. CSU’s administration used my decision to look for alternative treatments as  
7 an excuse to suspend me from school indefinitely, but the truth is that the administration  
8 really wanted to get rid of me because I was a member of a religious group that they  
9 didn’t want on campus. As such, I filed this lawsuit to overturn my suspension. If I am  
10 allowed to return to CSU, I am planning to change my major to religious studies, because  
11 this whole “mess” has changed my focus. My grades really won’t get me into med  
12 school, anyway.

13       2. I grew up in Prescott, Arizona, where my parents own and operate a lumberyard.  
14 My older brother worked at the lumberyard full time straight out of high school instead of  
15 going to college. I didn’t want that for myself, and it was my parents’ dream that I be the  
16 first person in the family to attend college. CSU is a newer public university in Phoenix  
17 that is much smaller and more intimate than Arizona State University, which was  
18 appealing to me. I had my mind set on attending CSU ever since it opened, and when I  
19 make up my mind to do something, I do it.

20       3. My freshman and sophomore years at CSU were nothing special. I didn’t join any  
21 Greek organizations, but I had an active group of friends and went to my fair share of  
22 parties. During my first year, I lived on campus at the Copper Canyon dorms with about  
23 500 other students. Just before my junior year, I became a resident assistant (“RA”) at the  
24 same dorm, which we call the Canyon. The Canyon’s a lot of fun, but we have to be  
25 really strict with the freshmen, because there are so many of them and we don’t want them  
26 to get out of line. I mean, if they want to go down the street and party, they can--but it  
27 wasn’t worth losing my job and financial aid to let them drink in the dorms.

28       4. To become an RA, I had to apply and complete an interview process. I really

1 wanted the job, because I really couldn't afford to pay for a dorm. Money was tight at  
2 home, and I had lots of student loans already, so being an RA would really help me make  
3 it to graduation. During the interview process, I had to meet with Dr. Unamon, CSU's  
4 Dean, and a panel of professors and current RAs. They asked me about all kinds of  
5 things, such as my appreciation for diversity and tolerance of other cultures. Coming  
6 from a lumberyard in Prescott, I wasn't exposed to many different cultures. But during an  
7 alternative medicine class at CSU during my sophomore year, I learned about different  
8 people and cultures, and their views towards Western medicine. For instance, there are  
9 civilizations of people all over the world, even in the United States, that don't believe in  
10 taking chemicals and unnatural substances to cure their ailments. So, I was able to  
11 convince Dean Unamon and the other interviewers that I have a sufficient understanding  
12 of different cultures to be an RA at the Canyon.

13 5. I met a lot of people as an RA. Some stood out more than others, but there were so  
14 many people in the Canyon that there was no way to remember all of them. So when I  
15 was diagnosed with tuberculosis, there was no way to know how I got it or who spread it  
16 to me.

17 6. This whole mess started innocently enough during the Fall semester of the 2007-  
18 2008 school year when I took the Communicable Disease Prevention class, which is a  
19 prerequisite for the pre-med program. Toward the end of September of 2007, as part of  
20 our lab class, we had to do broad-screening panels, kind of like scratch-tests, on our lab  
21 partners. My scratch test for TB came back positive. I read in the lab materials that the  
22 scratch tests were not as reliable as the type of test where they inject protein under the  
23 skin, so at first I figured that my partner just messed up. My lab professor insisted that,  
24 even if there was a mistake, it wouldn't show up positive for TB. So I went to Student  
25 Health Services, and they referred me to a lung and respiratory specialist for further tests  
26 and diagnosis.

27 7. I went to the specialist's office on the morning of October 1, 2007. The doctor  
28 took a sputum sample and asked me to wait in a room by myself. A few hours later, he

1 returned with a mask on, and he had me put a mask on. He told me that I was going to be  
2 transferred to the local hospital. As I learned in the Communicable Disease Prevention  
3 class, they were probably going to put me on a treatment regimen. Fortunately, at the  
4 hospital they told me my strain of TB was probably moderately drug resistant. It could be  
5 worse, like extremely drug resistant or something. While I was in the hospital, someone  
6 named Dr. Suarez from the Arizona State Department of Health Services came to see me.  
7 Dr. Suarez examined my medical records and asked me a bunch of questions about how I  
8 might have contracted TB. Dr. Suarez said they were going to inspect my dorm room and  
9 the rest of the Canyon, the science labs I worked in, my parents' lumberyard, and other  
10 places around campus where I had spent a lot of time over the last few months.

11 8. I was very concerned after hearing the plan of action by Dr. Suarez, because I  
12 couldn't afford the student health insurance this year and my parents don't have much  
13 money. That was the whole point of being an RA in the first place--free dorm and  
14 financial aid. Dr. Suarez said that the state provides financial assistance and medical care  
15 for TB patients, which made me feel better about it. But I had to talk to my parents about  
16 it first since we had to show the Department of Economic Security that we qualified for  
17 medical assistance. My parents told me that the fall hadn't been a good season at the  
18 lumberyard, and they accumulated debt. My brother had been arrested for stealing and  
19 they had to hire someone to take his place at the lumberyard, which cost them even more.  
20 They seemed tired and out of options, and certainly out of money. I was under an extreme  
21 amount of pressure to decide what to do--but it wasn't like I had any real choice, because  
22 Dr. Suarez made it clear that if I didn't agree, then the state would seek a court order to  
23 force me to comply with the state's treatment plan. So, after talking to my parents about  
24 it, I agreed to the state's voluntary treatment plan.

25 9. During the few days it took me to talk to my parents and consider the voluntary  
26 treatment plan, I was served with a copy of a petition that the state's tuberculosis control  
27 officer filed with the Maricopa County Superior Court to force me into treatment. I was  
28 shocked at how quickly things were happening--but because I agreed to voluntary

1 treatment, I never had to respond and the Court never ruled on the petition. Instead,  
2 somebody from the state drafted an agreement for the “voluntary” treatment plan.  
3 Without much of a choice, I signed the agreement on October 5, 2007. On that same day,  
4 the Court signed off on the agreement and entered an order that required me to comply  
5 with the terms of the agreement. (**Exhibit 1**). I didn’t know that was part of the deal, and  
6 I certainly never heard of a Court acting that fast. According to the order, I had to:  
7 (i) take drugs that I can’t even pronounce called isoniazid, rifampin, ethambutol and  
8 pyrazinamide on a strict schedule; (ii) wear a mask whenever I was outside of my home;  
9 and (iii) take regular tests for TB. After the treatment plan was formalized sometime over  
10 the weekend of October 6 and 7, they finally let me leave the hospital--with the warning  
11 that I would be back, if I didn’t follow the program. I immediately returned to the  
12 Canyon.

13 10. First thing on the morning of October 8, I called Dean Unamon’s office to  
14 schedule an appointment. I told the Dean’s assistant that it was an urgent personal matter.  
15 She never asked me the nature of the emergency, and told me that the Dean could squeeze  
16 me in at 10:00 that morning. I arrived at the Dean’s office promptly at 10:00 a.m. Of  
17 course, I was wearing my mask. Dean Unamon’s assistant showed me into the Dean’s  
18 office, and said the Dean would be back to see me in a few minutes.

19 11. I was reading a magazine that I picked up from a table in the Dean’s office when  
20 the Dean arrived. While I was shaking Dean Unamon’s hand, s/he cracked a joke about  
21 my mask, asking if I was going into surgery. I told the Dean that I was wearing the mask  
22 because I had been diagnosed with TB. S/he immediately dropped my hand and literally  
23 jumped back several feet. I set the magazine down, and Dean Unamon said that s/he was  
24 done with the magazine and told me to place it in the trash can. Dean Unamon also  
25 demanded that his/her assistant immediately bring him/her some hand sanitizer and Lysol.  
26 It was pretty clear to me that the Dean was afraid of me, like I was a leper or something. I  
27 had never felt like such an outcast--a non-person--before this incident. I now knew what  
28 to expect, and I didn’t like it one bit.

1       12. I tried to give Dean Unamon copies of the order with the voluntary treatment plan  
2 and the hospital discharge papers to prove that I was cleared to return to school. The  
3 Dean refused to touch them, and told me to just give the papers to his/her assistant.

4       13. I asked the Dean to have the student newspaper print a story on me, telling the  
5 students I wasn't contagious. The Dean said, "That wouldn't be true--you are contagious  
6 and I won't lie to the students."

7       14. Being at CSU, at first, was really hard. Whenever I would walk down the  
8 sidewalk, it was pretty obvious that people would move to the other side. I mean, it was  
9 pretty clear something was wrong with me. I mean I had a mask on.

10       15. After a few days, it seemed like everyone knew I had TB. After a few weeks, I  
11 started to get used to it, or at least tried to deal with it. I walked to class at off hours and  
12 took the back routes, so I didn't run into as many people. I stayed in my dorm room to  
13 study, instead of going to the library. Pretty much the only people with whom I spoke  
14 anymore were some of the kids on my floor who knew I was okay, and then there were  
15 my buddies in the Rastafarian Group.

16       16. The Rastafarian Group is an organization that I learned about through my  
17 alternative medicine course. One of my lab partners was a member. He learned about it  
18 in a religious studies course the semester before. Marion Leverage, the Vice President of  
19 Student Life at CSU, was a guest speaker in that class. S/he also was the faculty advisor  
20 of the Rastafarian Group and a member of the Rastafarian Movement. Like I said earlier,  
21 some cultures don't believe in consuming synthetic, man-made products. The Rastafarian  
22 Movement is a religious movement that follows this belief, among others. My lab partner  
23 invited me to a couple of meetings, and I liked what I saw and heard. I mean, what they  
24 had to say made sense to me, not just about medicine, but all kinds of things. Anyway, I  
25 started going to every meeting shortly before the whole TB incident.

26       17. I missed a couple of Rastafarian Group meetings after the positive TB test, but  
27 my lab partner stopped by after a couple weeks to see how I was doing and let me know  
28 that they had missed me and thought that they could help. I don't mean that they thought

1 they could cure TB. I mean they thought that considering the personal trouble I was  
2 having, religion was something that I could fall back on and they were people I could rely  
3 on for support. They were right. After a couple meetings, I felt a lot better. I still had  
4 TB, but I felt like there was a reason that I had TB, I felt like there was a purpose for me,  
5 and I felt like I had help and support in dealing with it.

6 18. The support I received from my fellow Rastafarians was important, especially  
7 because there seemed to be no other way for me to get the support I needed. Dean  
8 Unamon was ignoring me or treating me badly. My family was so far away, and couldn't  
9 help. I was basically an outcast. The Rastafarian Group became my family, and I totally  
10 accepted their support system and received the same spiritual fulfillment that I suppose  
11 people look for in organized religion. I knew they would do anything they could to help  
12 me. I already had accepted Jah as my Messiah, so I was ready to officially become a  
13 member of the Rasta Movement.

14 19. The Rasta Movement would require some permanent life changes on my part, and  
15 I was okay with that. In fact, I already had begun transforming my life to conform to the  
16 Rasta Movement, even before I got TB. To be Rasta, you have to respect the animals and  
17 eat only I-tal foods. So, you can't eat anything chemically treated, stuff has to be totally  
18 organic, and you can't really eat meat or shellfish. You can't have soda, milk, or coffee,  
19 and there are other requirements like shunning alcohol and other artificial foods that don't  
20 come directly from the Earth.

21 20. The medicines I was ordered to take under the TB treatment plan were the only  
22 things that I had trouble getting rid of to fully follow the Rasta tradition. Because I had  
23 signed the agreement saying I would take the medicines, I needed to make sure that I  
24 found a replacement medicine that would treat the TB while allowing me to abide by my  
25 religious beliefs. After all, I didn't want to go back on what I promised.

26 21. In trying to find a replacement, I talked to both Marion Leverage and my  
27 alternative medicine professors. I also spent hours doing research on the internet. Some  
28 of the students on my floor in the dorm were nice enough to help me with the internet

1 research. As it turns out, a combination of fresh air, bed rest, isolation, a gold compound  
2 and Astragalus root has pretty much the same effect as the traditional TB medicines. I  
3 learned that Astragalus plants are native to China, and they can be used in soups, teas,  
4 extracts or pill form. Astragalus often is mixed with other herbs. The best part is that the  
5 natural supplement is available over the counter, at any herbal medicine store. Well, not  
6 just any store. It actually is pretty hard to find, but I have a source. I also found a website  
7 that recommended natural alternative dietary treatments for TB, such as the Milk Diet,  
8 Indian Gooseberry, pineapples, bananas and oranges. In any event, I was pretty happy to  
9 learn about these alternative treatments that allowed me to be faithful to the Rasta  
10 Movement. I contemplated throwing my isoniazid and other pills away and I mentioned  
11 the idea to a couple of my closest confidants, but I hadn't built up the courage. Besides, I  
12 wanted to talk to my doctor about this alternative treatment before I tried it.

13 22. From October 5, 2007 until the day I was suspended, I consistently took my  
14 Court-ordered medication. I mean, I may have missed a dose here or there when I forgot--  
15 but I didn't intentionally stop taking my medicine.

16 23. On November 7, 2007, I attended a Rastafarian Group meeting off campus at  
17 Marion Leverage's home. By this time, I thought some of the tension had died down--but  
18 when I got back to the dorm after the meeting, I noticed that some of my stuff was gone.  
19 Specifically, they took my mattress, furniture, and some of my books. I called campus  
20 security, and the person who answered said that the stuff was removed by orders of Dean  
21 Unamon, because those items were technically school property and the Dean didn't want  
22 school property exposed to my illness. I ended up sleeping on the floor that night.

23 24. Early the next morning, I went to talk to Dean Unamon in his/her office in the  
24 Administration building, with my mask on and all, but the Dean refused to see me. I  
25 stood in the hall and asked his/her assistant to meet with the Dean, so she buzzed the  
26 Dean's office. The Dean answered and told his/her assistant over the phone intercom that  
27 she immediately needed to put on the mask that the Dean had given her and not to touch  
28 me in any way. The Dean said that I couldn't enter the Dean's office because I would

1 infect everyone. Then the Dean said, “and I don’t want you infecting anyone else in my  
2 school, you ‘Lunger’. Don’t go back to the dorms, you’re fired, and I don’t want to see  
3 you on my campus anymore.” When I asked why the Dean was freaking out, the Dean  
4 said “I know you’re a part of that crazy pot smoking cult”--clearly referring to the  
5 Rastafarian Group-- and that I wasn’t taking my medicine or wearing my mask.

6 25. I don’t know what the Dean was talking about--I took my medicine most of the  
7 time and wore my mask when I left “home.”

8 26. I don’t know how the Dean knew I was a member of the Rastafarian Group. I  
9 was such a new member that my name wasn’t yet on any of the official school club  
10 rosters.

11 27. When I protested the Dean’s incredibly offensive remarks, the Dean hung up the  
12 intercom. The Dean’s assistant then told me to leave and that she was calling security to  
13 escort me off campus. I haven’t been back to school since. Later that morning, I sent an  
14 e-mail to the Dean trying to educate him/her about my Rastafarian lifestyle and to get  
15 him/her to change her mind about suspending me. (**Exhibit 5**). The Dean never  
16 responded to my e-mail.

17 28. I asked Marion Leverage whether s/he told Dean Unamon that I was part of the  
18 Rastafarian Group. S/he said no, but knew it was a student named Tyler who did. S/he  
19 couldn’t remember Tyler’s last name, but I knew exactly who s/he was talking about.

20 29. A few days after I was thrown off the campus by the Dean’s henchmen, I  
21 received a certified letter from Dean Unamon at my parents’ house. (**Exhibit 6**). The  
22 letter stated that I was suspended and barred from CSU’s campus indefinitely until I was  
23 in full compliance with the Superior Court’s order--even though the Dean clearly said in  
24 the exchange over the intercom that I was permanently barred from campus. I also  
25 thought it was odd that the letter, which looked like it was written by a lawyer, didn’t  
26 mention anything about my membership in the Rastafarian Group--even though that was  
27 the first thing the Dean mentioned when s/he had me thrown off campus. The Dean  
28 clearly was trying to cover up the real reason that s/he suspended me. I wonder what

1 would happen if I said I would agree to follow the terms of the Order, if I could stay  
2 Rastafarian. I guess it doesn't matter, because since I've been suspended, I've stopped  
3 taking my medication and committed to a Rastafarian treatment plan that my new holistic  
4 doctor, Dr. Suzie Fallingrain, completely supports.

5 30. Tyler Blunt lived in my hall at the Canyon, even though s/he's a junior at CSU.  
6 S/he was the only one on the floor who wouldn't talk to me after I got back from the  
7 hospital after being diagnosed. Tyler was always after me for something or other. The  
8 hall was too noisy; or there was beer on the floor; it was always something like that.  
9 When Tyler came to CSU, Tyler completely avoided me and made insulting remarks  
10 when s/he didn't think I could hear--things like calling me a hippie, or a bum, or a stoner.  
11 I tried hard to get Tyler to make friends with the other people in the hall, but Tyler always  
12 resisted, acting as if we were criminals or something. Once s/he ran out of a get-together  
13 in one of the dorm rooms on the floor, because s/he thought there was beer involved. It  
14 was just soda, I swear, but s/he never got over it.

15 31. Anyway, it is obvious that Tyler never liked me. Tyler wrote the "Sundays with  
16 the Dean" segment in the school newspaper. It's fair to say Tyler and the Dean are pretty  
17 friendly. I think Tyler and the Dean conspired to get me kicked out of CSU because I was  
18 Rastafarian and because they were freaked out by my TB.

19 32. I know Dean Unamon wasn't happy about my being allowed back on campus by  
20 the doctors and the state after I was diagnosed with TB. I know the Dean was paranoid. I  
21 know the Dean believes that I did something wrong to expose myself to TB, and that it  
22 was my fault that I had TB, but I certainly had no idea that the Dean was going to use my  
23 religion to discriminate against me and my family. I am back at home now, with piles of  
24 student loan debt and no degree to show for it. My parents had to declare bankruptcy  
25 about two weeks before this lawsuit was filed, because of problems at the lumberyard and  
26 the attorneys' fees for my brother's criminal case. My medical bills were the final straw.  
27 The state refused to pay any of the medical bills that they otherwise would have covered,  
28 because Dean Unamon called the state department of health to report that I wasn't taking

1 my prescription medicines.

2 33. Since I'm not taking my medication anymore the State isn't paying. If I win this  
3 lawsuit, I hope the State will pay for my medical bills from my diagnosis until I stopped  
4 taking my medicine on December 20, 2007. I know the Dean called the department of  
5 health to report me--who else could it have been? There was no reason for the Dean to  
6 make that call.

7 34. To this day, I've done everything possible to take care of my TB and make sure  
8 that I'm not a danger to others. I take the remedies that are consistent with my religious  
9 beliefs, and I always wear my mask outside of my home. I just want to go back to school  
10 and get my job back as an RA, so I can afford to finish my degree in religious studies at  
11 CSU. I was wrongly suspended and I want that decision changed so I can go back to  
12 school and be free to practice my Rastafarian faith.

13 35. I declare under penalty of perjury that the foregoing is true and correct, I have  
14 nothing material to add, and this Declaration was executed by me on March 1, 2008 in  
15 Phoenix, Arizona.

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Sam Holliday

1 **DECLARATION OF MARION LEVERAGE**

2 1. My name is Marion Leverage. I am 47 years old. I was born in the small  
3 Caribbean island of Dominica and moved to the United States with my family in 1980. I  
4 became a citizen of the United States in 1989. I am single and unemployed. My last  
5 position was Vice President of Student Life at Copper State University (“CSU”). As  
6 explained below, I was wrongly fired by Dr. Afam Unamon, CSU’s Dean, in November  
7 of 2007.

8 2. I received my bachelor’s degree in biology from Skidmore College in Saratoga  
9 Springs, New York in 1985. I received my master’s degree in meteorology from Northern  
10 Arizona University in 1991. While attending NAU, I interned for KNAZ-TV, the NBC  
11 affiliate in Flagstaff. I even had the opportunity to do the weather forecast on air a couple  
12 of times with legendary broadcast meteorologist Harley Bolton. While I am fascinated by  
13 weather, after my graduation from NAU, I returned to Skidmore College, where I took a  
14 position in the Career Development Department.

15 3. As a student at Skidmore College, I established the Young Marxists club. In 1983,  
16 we led a peaceful protest of the U.S. invasion of the tiny Marxist republic of Grenada in  
17 the Caribbean Sea. We were a peaceful group, but one of our members, Robert Banker,  
18 threw a Molotov cocktail into the student union building, causing over \$500,000 damage  
19 to that structure. Robert, a fugitive from justice for many years, changed his name, began  
20 working as a mechanic, and now is a candidate for the City Council in Sedona. After the  
21 “firebombing,” the Young Marxist group disbanded and I ran for the Student Senate. I  
22 won the election. As a student senator, I had many spirited political discussions with the  
23 Dean of Skidmore College, who is a lifelong Republican. Over time, we became good  
24 friends despite our political differences of opinion, and the Dean helped me get the job at  
25 Skidmore College following my graduation from NAU.

26 4. I quickly moved up the ranks at Skidmore College. By 2000, I had no further  
27 opportunities for career advancement at Skidmore. The Dean told me about an  
28 opportunity at CSU, a new university being formed in Phoenix. With the Dean’s

1 assistance and blessing, I obtained an interview for the position. In 2000, I was hired as  
2 CSU's Vice President of Student Life. In this position, one of my main objectives was to  
3 encourage diversity on campus. During my tenure, the following student groups were  
4 founded at CSU: the Bisexual Gay and Lesbian Alliance for Diversity (BGLAD), the  
5 Native Americans Students Group, and the CSU Rastafarian Group.

6 5. As a vegan and someone who abstains from drinking alcohol, I naturally am drawn  
7 to Rastafarianism. I also am a big fan of Bob Marley's music. Therefore, it was easy for  
8 me to become the faculty sponsor for the CSU Rastafarian Group. The CSU Rastafarian  
9 Group typically has between 15 and 20 active members. I actively recruited all the  
10 members of the group. A couple of the students made some posters to promote the  
11 Rastafarian Group, but I didn't have anything to do with those and I didn't see any of  
12 them posted around campus.

13 6. Unfortunately, Dean Unamon has been hostile to the CSU Rastafarian Group from  
14 the beginning. S/he told me that we shouldn't allow the group to meet because it was  
15 essentially a "dope smoking group." Not one to back down from a good fight, I told  
16 him/her that s/he couldn't deny the Rastafarians the right to assemble as a group because  
17 their members consider it a religion. Personally, I don't consider it to be a religion--even  
18 though I generally subscribe to the Rastafarian way of life. I think of Rastafarianism as  
19 more of a political and social movement. Regardless, I guess my argument worked. Dean  
20 Unamon didn't want any problems from the ACLU, so s/he backed off and reluctantly  
21 allowed the Rastafarians to form a group on campus.

22 7. During the Fall 2007 semester, Dean Unamon became much more vocal about  
23 his/her feelings towards Rastafarians when Sam Holliday was diagnosed with TB. The  
24 Dean told me, "It doesn't surprise me that this Rastafarian caught TB. Look at them.  
25 They're dirty and many have those awful natty dreadlocks." I heard the Dean make  
26 bigoted statements like this several times during staff meetings. During one meeting, s/he  
27 said something like God punishes those who will not accept Jesus Christ as their savior  
28 and that's what is happening to this Rastafarian. Still, I was surprised that the Dean would

1 make such a negative statement about Rastafarians directly to me, because the Dean  
2 obviously knew that I was the faculty advisor to the CSU Rastafarian Group and a  
3 Rastafarian myself. Dean Unamon is a popular and powerful person at CSU. I was the  
4 one person on his/her administrative team who was willing to challenge him/her. I told  
5 him/her that his/her comments were unacceptable and offensive, but s/he wouldn't stop.

6 8. Around October 2007, when Sam was diagnosed with TB, Dean Unamon started  
7 exhibiting some bizarre behaviors--even more bizarre than usual for the Dean. For  
8 example, s/he started carrying hand sanitizer with him/her everywhere, and scrubbing  
9 his/her hands whenever s/he thought no one was looking. His/her hands are chapped and  
10 often bleeding, because s/he washes them so many times a day. If a CSU employee had  
11 so much as a sniffle, even if it was just allergies, s/he would demand that the person not  
12 enter or come within 20 feet of his/her office. Even worse, s/he stopped using the public  
13 restrooms at CSU, and instead now drives home several times a day to use his/her own  
14 bathroom. S/he once stormed out of an important fundraising event because one of CSU's  
15 largest donors "double-dipped" in a spinach and artichoke dip.

16 9. At another fundraiser, Dean Unamon caused quite an uproar when s/he made an  
17 urgent announcement. S/he apparently had misplaced a plastic zip-lock baggie containing  
18 his/her personal silverware. When s/he was unable to find it after searching for twenty  
19 minutes, s/he left the event without even thanking the guests for their donations to the  
20 school. It was embarrassing to me as a Vice President of CSU to see the guests ridiculing  
21 CSU's Dean--CSU's most important public face, if you will--behind his/her back after  
22 s/he left.

23 10. In addition to his/her germophobia, s/he continued to make bigoted remarks about  
24 Rastafarians and other groups. So toward the end of October 2007, I reminded him/her of  
25 CSU's Employee Assistance Program and suggested that s/he see a therapist who could  
26 help him/her overcome her irrational fears and behavior. S/he yelled at me and told me to  
27 just go "smoke weed with those lazy Rasta potheads" and leave him/her alone. I was  
28 trying to help the Dean, but when s/he wouldn't seek help I knew that I had a duty to CSU

1 to try to fix the situation.

2 11. On November 5, 2007, I met with Bert Espinoza, an attorney in Phoenix and the  
3 President of the Arizona Board of Regents. I have known Bert for many years as we both  
4 serve on the Valley of the Sun United Way Board. I explained to Bert that the Dean was  
5 engaging in bizarre (and potentially unlawful) behavior and that it was negatively  
6 impacting CSU. Specifically, I told Bert that the Dean was making bigoted remarks about  
7 Rastafarians and that the Dean's germophobic behavior was negatively affecting the  
8 University. Bert thanked me for bringing these concerns to his attention. Bert told me  
9 that he would talk to the Dean that afternoon when he would see the Dean at a fundraising  
10 event. I also mentioned to Bert that I would be willing to fill in as Dean of CSU if the  
11 Arizona Board of Regents decided to eliminate Dean Unamon.

12 12. The following evening, November 7, 2007, I hosted a gathering of the CSU  
13 Rastafarian Group at my condo near campus. I guess we were playing the Bob Marley  
14 music too loud, because two members of our campus security patrol knocked on the door  
15 and said "it smells like weed." They demanded to be let in, but I refused. After all, what  
16 possible legal authority could they have to enter my private residence located off campus?  
17 When I refused to let them in, they pushed me to the floor and those "rent-a-cops"  
18 claimed that the members of the CSU Rastafarian Group were smoking marijuana. That  
19 simply is not true.

20 13. Once word got back to Dean Unamon, s/he fired me. I am convinced that Dean  
21 Unamon sent the rent-a-cops to frame me, because the Dean saw me as a threat. S/he had  
22 to get rid of me. Dean Unamon also used the incident as an excuse to ban the Rastafarian  
23 Group--that s/he sometimes called "voodoo practicing pagans"--from campus. Sam also  
24 was at the gathering that night. I understand that s/he was supposed to be wearing a mask  
25 because of his/her TB, but Sam may have taken it off briefly to eat some pizza. The Dean  
26 used Sam's lack of a mask as part of his/her pretext to suspend Sam from CSU. Besides, I  
27 told Sam to consider my home his/her home.

28 14. I don't know Sam very well, because s/he hasn't been part of the Rastafarian

1 Group for that long. S/he came to a couple of meetings of the Rastafarian Group and s/he  
2 was at my condo the night of the “drug bust.” Overall, s/he didn’t seem very committed  
3 to the Rastafarian Movement, especially when I first met him/her, but that’s  
4 understandable when someone first starts to experience the Movement. I remember one  
5 time before s/he was diagnosed with TB, s/he attended a Rastafarian meeting at which  
6 s/he appeared drunk and walked in with a bag of chalupas from a local Mexican fast food  
7 restaurant. S/he was asked to leave the meeting because s/he was being very disrespectful  
8 and belligerent.

9 15. I’ve now been out of a job since November 10, 2007. I can’t get a new job,  
10 because everyone in academic circles has heard about the alleged “drug bust” at my  
11 condo. Dean Unamon was afraid that I was going to get him/her fired, and s/he wanted to  
12 get back at me for complaining to the President of the Board of Regents. I was just trying  
13 to help him/her, but now s/he is going to pay for what s/he did to me. Just you wait and  
14 see.

15 16. Through my attorney, I have filed a notice of claim against CSU for wrongful  
16 termination. If that claim is denied, then I will be filing a lawsuit to clear my name and  
17 get what is owed to me.

18 17. I declare under penalty of perjury that the foregoing is true and correct, I have  
19 nothing material to add, and this Declaration was executed by me on March 1, 2008 in  
20 Phoenix, Arizona.

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23 Marion Leverage  
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1 **DECLARATION OF SYDNEY MENDENHALL**

2 1. I am an assistant professor of religious studies at Harvey Mudd College in  
3 Claremont, California, a position that I have held since 2001. I have been retained to  
4 testify for the plaintiff, Sam Holliday, as an expert witness in my field of study. This is  
5 my first time serving as an expert witness. After all, there is not much demand for expert  
6 witnesses in the area of religious studies. I have been paid a flat fee of \$1,500 for my  
7 services. I know that this seems low for an expert witness, but I thought it was a fair  
8 amount given my lack of experience as a witness. I thought this was a good opportunity  
9 for me to gain experience and build my resume, so that I hopefully can obtain more  
10 lucrative assignments in the future.

11 2. In 1990, I graduated with a bachelor's degree in philosophy from the University of  
12 San Diego. I was unable to line up a job after graduation, and I didn't really know what I  
13 wanted to do with my life or where I wanted to settle down. So, I joined the Peace Corps  
14 and took advantage of the opportunity to explore many different countries.

15 3. Through my travels in the Peace Corps, I was able to experience many different  
16 cultures. Although I never thought of myself as a religious person, and I never regularly  
17 attended a church after the age of six, I found myself being invited to attend all kinds of  
18 different worship services. Some of them were mainstream, like churches I attended on  
19 Christmas Eve and Easter while growing up, but most of the experiences were way out  
20 there and bordered on (or even crossed into) the truly bizarre. Some of the experiences  
21 even included illegal activity. I couldn't believe some of the things people do in the name  
22 of "religion". It really opened my eyes and fascinated me. It also helped me to become  
23 more open-minded and accepting of others' beliefs and value systems--even those of  
24 which I do not personally approve.

25 4. As a result of my experience in the Peace Corps, I decided to attend seminary at  
26 Claremont School of Theology. In 1997, I graduated with a Masters of Divinity degree.  
27 In 2000, I obtained my Ph.D in Practical Theology with an emphasis in religious  
28 education. One of the "religions" that I was fascinated by during my travels was Rasta or

1 the Rastafarian Movement--so I did my doctoral dissertation on the Rastafarian  
2 Movement. It was entitled "Getting High In The Name Of God: Is The Rastafarian  
3 Movement A Religion Or A Culture?"

4 5. The Rastafarian Movement began in Jamaica in the early 1930s. The movement  
5 accepts Haile Selassie I, the former Emperor of Ethiopia, as God incarnate. Rastafarians  
6 use the term Jah (pronounced "Yah") to refer to the deity. This term occurs some 26  
7 times in the original Hebrew Bible, not counting the numerous times it is used as part of  
8 the word "Hallelujah". The term also is used regularly in literature and music, including  
9 several Bob Marley songs.

10 6. The Rastafarian Movement largely is based on the teachings of Marcus Garvey, a  
11 Jamaican publicist and black separatist. Garvey's Afrocentric social and political  
12 aspirations, as well as his political and cultural vision, helped to inspire a new world view.  
13 Although the movement still is relatively small, by 2000, there were more than one  
14 million Rastafari faithful worldwide, including 5 to 10 percent of all Jamaicans who  
15 consider themselves Rastafarians. Much of the interest in the Rastafarian Movement is  
16 the result of interest in reggae music, particularly that of Bob Marley.

17 7. From what I personally have observed on college campuses, the movement seems  
18 to catch the interest of many young people who are in their experimental stages. As you  
19 might imagine, most of those in this category who identify themselves as Rastafarians  
20 don't stick with it for the long-term. Indeed, many lose interest in the movement rather  
21 quickly as they move from one experimental experience to another.

22 8. True Rastas follow an I-tal diet. An I-tal diet is unique, because the food never  
23 touches chemicals and is all-natural. Although the food can be cooked, it generally is  
24 eaten in the rawest form possible, and it is made without using salts, preservatives or  
25 condiments. Many, but not all, Rastas maintain a vegan diet. Some Rastas, however, eat  
26 limited types of meat in accordance with the dietary laws found in the Old Testament. As  
27 a result of the Rastafarian influence, a cuisine based on natural fruits and vegetables, such  
28 as coconut and mango, with no synthetic additives has developed in the Caribbean and

1 spread to some restaurants in the Western world.

2 9. Rastafarian drinking preferences also focus on the healthy and natural. In this  
3 regard, Rastas prefer to drink herbal beverages, such as teas. The use of alcohol is viewed  
4 as unhealthy and generally incompatible with the Rastafarian lifestyle. Milk, coffee and  
5 soft drinks also are considered unnatural. I believe that many college-aged “Rastafarians”  
6 lose interest in the movement when they begin to understand how important this tenet is to  
7 true Rastafarians.

8 10. Having said all of the above about food and drink, there is room in the  
9 Rastafarian Movement--just like any other religion--for differing interpretations and  
10 debate as to what is acceptable. In fact, unlike some more popular religions, there is no  
11 central Rastafarian dogma. Some groups that follow the Rastafarian culture--including  
12 the Twelve Tribes of Israel, of which Bob Marley was a part--do not specify a particular  
13 diet to be followed, other than to believe that what comes out of a person’s mouth is more  
14 important than what goes in the person’s mouth. Among these groups, the simple  
15 consumption of beer is not necessarily unacceptable.

16 11. Many Rastas smoke cannabis (also known as ganga or marijuana, among many  
17 other names) as a spiritual practice--often in conjunction with Bible study. These Rastas  
18 cite many Biblical verses to justify their use of this natural herb, which they contrast to the  
19 consumption of liquor. They view cannabis as a sacrament that cleanses the body and  
20 mind, heals the soul, exalts the consciousness, facilitates peacefulness, brings pleasure,  
21 and brings them closer to Jah. But by no means does the Rastafarian Movement mandate  
22 the use of cannabis, and there are many Rastas who do not smoke cannabis.

23 12. Needless to say, some people who profess to belong to the Rastafarian Movement  
24 do so to justify conduct that otherwise would be prohibited, such as smoking marijuana.  
25 It is nearly impossible to tell when someone falsely claims to be a Rasta, and it is  
26 extremely important to note that the fact that someone fails to adhere to every tenet of the  
27 Rastafarian Movement does not mean that the person is falsely claiming to be a Rasta.  
28 After all, if that were the test for determining a person’s profession of faith, then many

1 who profess to be Christians would fail.

2 13. I interviewed Sam for 4 hours on December 22, 2007. I also went to the campus  
3 to interview numerous other individuals. The only real relevant interview was with  
4 another student, Katy Hummel. Katy told me she was diagnosed with TB about the same  
5 time as Sam. Katy and Sam may have gotten TB from the same source--there is no way  
6 to tell. Katy also entered into a voluntary treatment plan with the same conditions as  
7 Sam's. Katy told me she went to class several times without wearing her mask, but that  
8 she religiously took her medication. The only difference between the Dean's treatment of  
9 Sam and Katy, in my professional opinion, is the fact that Katy was not Rastafarian. To  
10 the contrary, Katy told me that she is the daughter of the pastor at Dean Unamon's church.

11 14. I have read all of the other witnesses' declarations in this case, and I am unaware  
12 of anything that leads me to believe that Sam Holliday is falsely claiming to be a  
13 Rastafarian in order to avoid complying with the State's TB treatment plan.

14 15. I declare under penalty of perjury that the foregoing is true and correct, I have  
15 nothing material to add, and this Declaration was executed by me on March 1, 2008 in  
16 Phoenix, Arizona.

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19 Sydney Mendenhall  
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1 **DECLARATION OF AFAM UNAMON, PH.D.**

2 1. My name is Dr. Afam Unamon. I am the Dean of Copper State University  
3 (“CSU”). I have served in CSU’s administration since CSU was established in 2000. At  
4 the Board of Regents’ recommendation, the state legislature established CSU to provide  
5 another four-year public university education option in Phoenix, particularly for those  
6 students who are not attracted to a large university setting like nearby Arizona State  
7 University. Although you might say that CSU still is a fledgling university, I take a lot of  
8 personal pride in what we’ve been able to accomplish in such a short period of time.

9 2. I received my B.A. in Education and Administration from Duke University in  
10 1970. Thereafter, I went to Harvard for my Masters in Education. I also went to the  
11 Harvard Seminary School for a year prior to advancing my studies toward my Ph.D. in  
12 Education.

13 3. After graduation from Harvard I worked in the Department of Education for  
14 Bucknell University from 1985 until 1991. I became the Department head in 1990. I was  
15 a visiting professor at Brown University from 1992 to 1993. I became the Associate Dean  
16 at University of Hawaii at Hilo in 1993. In 1997, I took a medical leave for a nervous  
17 breakdown and returned to the University of Hawaii in 1999. I became the Associate  
18 Dean of CSU in 2000. This position was not only a new challenge, but also a great  
19 opportunity to put my imprint on the university from its inception. In 2006, Dean  
20 Thomas, CSU’s original Dean, stepped down from the position, and I was promoted.

21 4. Over the years, I have received numerous awards and honors. I have been invited  
22 to speak on education in the new millennium and controlling radical student groups from  
23 taking over a college campus. I was the Faculty Fellow, Summer Institute on the  
24 Holocaust and Jewish Civilization, at Northwestern University in June 1998. In 1992, I  
25 received the prestigious Gates Award for Distinguished Teaching from Brown University  
26 in 1992.

27 5. Throughout my time at various colleges and universities, I have been involved in  
28 numerous student activities. As a result of that perspective, I embrace the freedoms of

1 academia and appreciate the individual voice of all students. Nevertheless, I steadfastly  
2 refuse to provide university money to organizations that I do not believe warrant the  
3 university's endorsement. For example, at Brown, I refused to allow skinheads to form as  
4 a school-sponsored group. Similarly, I prevented the communists from organizing at the  
5 University of Hawaii. I don't think anyone would disagree with my decision to withhold  
6 university funds from those groups.

7 6. From my experience, college and university deans often rely on their fellow  
8 faculty--particularly Vice Presidents or Deans of Student Affairs--to help control and  
9 monitor student groups; however, CSU's former Vice President of Student Life, Marion  
10 Leverage, was very unsuccessful at that aspect of the job. Marion allowed many groups  
11 to organize that I thought were wholly inappropriate for an academic environment. For  
12 example, Marion organized a PETA group that picketed the dining hall every Wednesday.  
13 Marion also supported a group known as NCIC, which stands for "No Class in  
14 Classrooms". NCIC wanted us to hold all classes outdoors because it was a better  
15 learning environment. Simply ridiculous. I have no idea what Marion was thinking.

16 7. Marion also organized the Rastafarian Group on campus. I don't think there were  
17 any practicing Rastafarians on campus when Marion organized the group. Rather, I am  
18 convinced that Marion saw this as an opportunity to use university money to pay for  
19 totally inappropriate and prohibited dope parties. Obviously, as a new school, we had a  
20 lot more pressing needs for our limited funds. Moreover, Marion actually recruited  
21 students by putting up signs that I thought sent the wrong message about the group.  
22 **Exhibit 3** is just one example of such a sign.

23 8. Although they may call themselves Rastafarians, I honestly do not believe that any  
24 of the members of Marion's group truly are Rastafarians. I've never asked or interviewed  
25 any of them, but I see them in the University dining facility and the local McDonald's and  
26 Taco Bell. I don't remember a specific time or any specific student, but I think I've seen  
27 them there on numerous occasions. Personally, I don't even consider the Rastafarian  
28 Movement to be a religion. Instead, I think of Rastafarianism as more of a political and

1 social movement.

2 9. We studied the Rastafarian Movement when I was at Harvard's Seminary School,  
3 even though many people (including me) do not agree that it is a religion. I understand  
4 that Rastafarians believe in Jah and have various religious beliefs, but they are also a  
5 group of dope smoking individuals who hide behind religion to enable them to behave in  
6 immoral ways.

7 10. I try to keep tabs on what students belong to what groups, particularly with the  
8 more controversial groups. I know that Sam Holliday is a member of the Rastafarian  
9 Group at CSU, and I'm actually not surprised that s/he caught TB. You see, I believe that  
10 God punishes those who will not accept Jesus Christ as their savior and that's what is  
11 happening to this Rastafarian. Be that as it may, I am not punishing Sam for his/her  
12 religious beliefs, because that is an issue between Sam and God--not between Sam and  
13 me. Rather, I suspended Sam from school indefinitely and had her/him removed from the  
14 campus for one reason, and one reason only. As a condition to being allowed to return to  
15 school, Sam agreed to do certain things to keep everyone at CSU safe from being infected  
16 with his/her deadly disease, and now s/he refuses to abide by that agreement.

17 11. TB is a very serious disease, and as Dean, I am responsible for maintaining a safe  
18 learning environment at CSU. Parents send their children to my University, and I am  
19 obligated to keep their children safe. I can't do that if Sam is allowed to roam around the  
20 campus freely while failing to do the things s/he agreed to do in order to keep us all safe.

21 12. I recall the first time I learned that Sam had TB on October 8, 2007. By the time  
22 Sam first reported the situation to me, s/he already: (i) had been placed in isolation at the  
23 hospital; (ii) had a petition for his/her court-ordered examination, monitoring, treatment,  
24 isolation or quarantine filed against him/her by Arizona's TB control officer; and (iii) had  
25 entered into a voluntary treatment plan with the state that was approved by the Court. As  
26 an aside, the fact that Arizona has a TB control officer says to me that this is serious  
27 business. Back to the point, I was very, very angry that I was not informed as soon as  
28 Sam tested positive in his/her Communicable Disease Prevention class or at least when

1 Sam went to CSU's Student Health Services. I am upset that Sam intentionally hid or at  
2 least withheld the information from us, which prevented us from immediately taking steps  
3 to prevent Sam from spreading this dreaded disease to other students and faculty.

4 13. Sam told me that s/he didn't want to go to Court so s/he entered into an  
5 agreement with the state to participate in a voluntary treatment program that required  
6 him/her to: (i) take medication; (ii) wear a mask whenever outside the home; and  
7 (iii) undergo periodic testing. Sam provided me with a copy of the Court Order approving  
8 the program. I personally didn't feel like this was sufficient, but I was willing to allow  
9 Sam to remain in school while I evaluated the situation further. I really felt like my hands  
10 were tied, because both Arizona's TB control officer and the Court already had signed off  
11 on the program--even though I never had an opportunity to present CSU's concerns. If I  
12 had my druthers, Sam never would have been allowed back at CSU with TB.

13 14. I also was really, really angry with the way Sam told me about the TB diagnosis.  
14 Sam set up an appointment to see me through my assistant, without mentioning anything  
15 about TB. Then, Sam came into my office wearing a mask like nothing was wrong. I felt  
16 very uncomfortable with the situation. I thought Sam should have either set up a phone  
17 appointment with me, or sent me a certified letter or e-mail. Sam's reckless decision put  
18 me at risk of getting TB just from being in the same room with Sam. To try to put my  
19 mind at ease, I've had to get 7 TB tests since Sam informed me about the diagnosis.

20 15. I was very concerned about the health and safety of everyone at CSU after  
21 learning that Sam may have exposed the entire campus to TB. In this day and age, all  
22 administrators of educational institutions have to be concerned about the possibility of  
23 serious illnesses and even deaths caused by the outbreak and spread of contagious  
24 diseases on their campuses. In fact, Katy Hummel got TB from Sam, and I feel  
25 responsible for that.

26 16. I made it well known that anyone who observed Sam violating the treatment  
27 program or otherwise engaging in conduct that put them at risk should contact me  
28 immediately, so that I could take immediate action to eliminate the risk. In addition, I

1 carried hand sanitizer everywhere I went and tripled the effort to scrub down and disinfect  
2 the public bathrooms on campus and in Sam's and Katy's dorms.

3 17. During the month-long period after Sam returned to CSU, I received several  
4 anonymous voice mail messages from students in response to my general request for  
5 information. No one reported anything about Katy not complying with her treatment plan.  
6 Some of the students who called me about Sam identified themselves on my answering  
7 machine generically as concerned residents of the Copper Canyon dorm, but none of the  
8 students identified himself or herself by name. I deleted the messages after I listened to  
9 them, so I don't have them anymore. I suppose I could have tried to track down their  
10 identities, but I have too much respect for their privacy to do that. Moreover, I was  
11 concerned that doing so could chill the free flow of information that I needed to do my  
12 job. In any event, these messages indicated that Sam (i) regularly leaves his/her dorm  
13 room without wearing a mask, and (ii) stopped taking his/her medication.

14 18. I always treated Sam in a fair and balanced manner. For example, a couple of the  
15 anonymous students were specific and reported to me that they saw Sam without a mask  
16 while in the dorm showers. I chose not to suspend Sam under those circumstances. If I  
17 was looking for an excuse to remove Sam from campus, as Sam seems to think is the case,  
18 then I certainly could have suspended him/her at that point. It just was too much to let  
19 slide when I learned from Tyler Blunt that Sam stopped taking the medications prescribed  
20 by the doctor and didn't wear his/her mask.

21 19. Tyler sent me a text message in late October. I didn't read it until November 5,  
22 2007. My eight year old daughter was using my phone to play BrickBreaker, and she told  
23 me I had a text message. She opened it for me, and I saw the message from Tyler. The  
24 message looked like it was written in code, but my daughter helped me decipher it.  
25 Basically, Tyler told me in the message that Sam was out without his/her mask and was  
26 not taking his/her medication. My daughter helped me prepare a response thanking Tyler  
27 for the information using the same type of codes used by Tyler. I love these codes and  
28 wish we had them and IM when I was growing up. **Exhibit 2** is a copy of Tyler's

1 message and my response.

2 20. On November 7, 2007, I made the decision to suspend Sam. I directed campus  
3 security to remove Sam from the dorm and begin the process of completely disinfecting  
4 the premises. I also sent an e-mail to Sam letting him/her know that I was unable to allow  
5 him/her to continue at CSU, because Sam had refused to follow the terms of the voluntary  
6 treatment program with the state, but that s/he could seek readmission after coming into  
7 compliance with the treatment program. (**Exhibit 4**). I never received a response, so I  
8 have no idea whether Sam ever received that e-mail.

9 21. I am aware of Sam's bogus contention that the agreement is inconsistent with  
10 his/her religious beliefs. I believe Sam's claim is a total sham designed to avoid  
11 complying with his/her responsibilities to the CSU community under the agreement with  
12 the state, as well as an excuse to do drugs.

13 22. When Sam complained on November 8, 2007 that I suspended him/her because  
14 of his/her religious beliefs, I asked by intercom that s/he prove that s/he is a Rastafarian,  
15 and as expected, s/he couldn't do it. Sam sent me an e-mail saying what Rastafarians  
16 believe in and how they approach life, but that wasn't enough to convince me.  
17 (**Exhibit 5**). After all, Sam's e-mail didn't include anything more than s/he could have  
18 found on the Wikipedia website. Moreover, I couldn't simply accept Sam's word that  
19 s/he is a Rastafarian, especially when I had information from other students suggesting  
20 that Sam doesn't consistently follow the tenets of Rastafarianism. For example, one  
21 student said that she saw Sam eat a Big Mac.

22 23. On November 12, 2007, I sent Sam a certified letter informing him/her that s/he  
23 is expelled indefinitely until s/he resumes compliance with all of the terms of his/her  
24 agreement with the state, and satisfies me that s/he will remain in compliance with the  
25 agreement. (**Exhibit 6**). My decision to suspend Sam is consistent with my obligations  
26 and responsibility to CSU's students and faculty.

27 24. I didn't suspend Sam because s/he is a Rastafarian, but a great incidental benefit  
28 of getting rid of Sam was eliminating the Rastafarian Group from CSU.





1 procedure, and criminal investigation. While I was explaining this, I saw Dean Unamon  
2 reach into a pocket and pull out some hand-sanitizer--which I thought was really odd.  
3 When I was done explaining my situation, Dean Unamon smirked and said that there was  
4 in fact a room open and available. It was in a freshman dorm, but it was a single person  
5 room right across the hall from the floor's Resident Assistant, who the Dean said was my  
6 age. I was thrilled. I told the Dean that this was pretty much the first kind thing that  
7 anyone had done for me since the fire. Since then, I have kept in touch with the Dean  
8 pretty regularly. For one reason or another, Dean Unamon really took me in and has  
9 helped me.

10 4. Once the paperwork for my dorm room was completed, Dean Unamon had  
11 someone in a golf cart take me over to the dorms to show me my room. I was thankful for  
12 this seeing as I had taken a bus from Flagstaff to Phoenix and had to lug everything I had  
13 on my back. When we arrived at the dorm, I was told to head to the 7th floor. I arrived at  
14 the 7th floor and was greeted by my new RA, Sam Holliday. Sam was really friendly, but  
15 I knew right away that Sam and I were two totally different people and probably would  
16 struggle to get along.

17 5. Sam was wearing a baggy Bob Marley t-shirt and had a bunch of bracelets that  
18 looked like they were made of hemp. I had met plenty of people at NAU who looked like  
19 this, but I was more comfortable associating with the clean-cut scouting type, if you know  
20 what I mean. In any event, Sam was polite and showed me to my room, which happened  
21 to be the single person dorm room immediately across the hall from Sam. Before leaving,  
22 Sam told me that our floor was pretty cool, and as long as we kept things small and quiet,  
23 we would "have a good time". I knew that was an invitation to drink--and I wasn't at all  
24 interested in that scene. I watched as Sam entered the dorm across the hall. Through the  
25 door I could see a bunch of florescent, glow-in-the dark posters on Sam's wall. One of  
26 them looked like a leaf, but I couldn't be sure. I thought to myself, "great, a dope-  
27 smoking hippie lives across the hall from me." All I wanted was to blend in and keep  
28 things quiet, but for some reason I knew right then that this Sam character was going to

1 ruin things. Now here we are.

2 6. Several weeks later, in October 2007, this whole fiasco started up. On October 8, I  
3 was sitting in my room with the door closed, minding my own business, when I heard a  
4 knock. I hadn't seen Sam for several days, so I somewhat expected it to be Sam asking  
5 me to come to a party. Anyway, it was not Sam at the door. It was someone from the  
6 state department of health, or I think that's where they said they were from. They said  
7 they were checking for TB. Apparently, someone on the floor had tested positive, and  
8 they wanted to confirm that everyone else on the floor was clear. Of course, as it turned  
9 out, that person was Sam.

10 7. When the department of health people finished, I marched down to the Dean's  
11 office. Really, I just wanted to see if the Dean could help me move to another dorm,  
12 another floor, or even just another room. Dean Unamon's assistant advised that s/he was  
13 out of the office and would be unavailable the rest of the day. So I went back the next  
14 day. Same thing. It was October 17 before I actually caught Dean Unamon in his/her  
15 office. When I stepped into the Dean's office s/he shut the door behind me. Once I sat  
16 down, Dean Unamon stood over me for a little bit, looked me up and down, turned  
17 towards the window and, looking through the window, asked me if I could believe that the  
18 dope-smoking hippies had found another way to try and bring down the good, clean name  
19 of the school. That caught me off guard. Granted, I wasn't terribly fond of Sam, but to  
20 hear it from the Dean was a little surprising. I didn't quite know how to respond, so I just  
21 agreed with the Dean, saying something like, "yeah, crazy huh."

22 8. Dean Unamon then sat down and explained that this could have been avoided, if  
23 Marion Leverage, who at the time was the Vice President of Student Life, had a backbone.  
24 I asked what that meant and Dean Unamon said "that idiot Leverage saw fit to allow the  
25 Rastafarians on campus and now I have to pay for it." I didn't even know what a  
26 Rastafarian was. Dean Unamon explained that they were just a bunch of stoner lowlifes  
27 who try to hide their pot-smoking by claiming that Rastafarianism is a religion and pot  
28 smoking is a spiritual practice. The Dean said "between you and me, there is only one

1 true god, and one true religion and that's the way I want this school run." The Dean  
2 pointed at a crucifix paper-weight sitting on the desk, and then said, "S/he could have  
3 killed all of us, and it seemed s/he didn't care."

4 9. During my conversation with the Dean, I recalled one day when I was in the  
5 bathroom at the dorm and saw Sam with a bag of pills. Sam went into the stall while I  
6 washed my hands. I heard a flush and when Sam came out the bag appeared empty. I  
7 didn't think much of it at the time, but I bet the pills were Sam's TB medicine, and s/he  
8 flushed it down the toilet.

9 10. As the conversation moved along, Dean Unamon calmed down a bit and actually  
10 expressed appreciation for CSU's diverse faculty and student body. But before I left, the  
11 Dean asked that I pay attention to Sam. I asked what that meant. In a real quiet voice,  
12 Dean Unamon confirmed that I still lived across the hall from Sam's room. Dean  
13 Unamon told me that if someone could provide useful information, there may be some  
14 benefit. I really didn't know what that meant, but I figured if I wanted to keep my nose  
15 clean and wanted any chance of being a police officer or investigator, I needed to find a  
16 way to excuse myself. So I just said "will do". Dean Unamon wrote down a telephone  
17 number and told me to call the number if I saw anything fishy. I later googled the number  
18 and found out it was Dean Unamon's cell phone.

19 11. I heard that Sam had to wear a mask to prevent the spread of TB, and was  
20 required to take some kind of medication. Other than that, I didn't notice much different.  
21 I mean, Sam pretty much did the same stuff Sam always did.

22 12. On October 27, Sam again endangered the students. Sam banged on my door and  
23 pretty much dragged me down the hall to a small pre-Halloween party. Sam wasn't  
24 wearing a mask when I answered my door. I said I wouldn't go with him/her until s/he  
25 put on the mask. When I asked Sam about not wearing a mask, Sam told me the mask  
26 was only necessary when s/he was leaving home and s/he was at home. Besides, Sam said  
27 that s/he had been taking medication to make him/her better.

28 13. As soon as we walked in the door, the other kids greeted Sam with hugs and

1 treated him/her like a celebrity. I think Sam and some of the students were drinking. I'm  
2 not sure, but they probably were. I didn't drink and didn't want to be there. I wanted no  
3 part in anything that might jeopardize my future career, so I made an excuse and left after  
4 just a couple minutes. Sam called me a "bummer" or a "downer" or something when I  
5 left.

6 14. When I got back to my room and sat down, I saw the piece of paper with the  
7 Dean's cell phone number. Half angry and half thinking that there was no way the Dean  
8 even knew how to use text messaging, I sent a text. I gave the attorneys a copy of that  
9 text and Dean Unamon's response--which strangely enough didn't come until several days  
10 later. (**Exhibit 2**). I used shorthand abbreviations in my text message. Loosely  
11 translated, I told Dean Unamon that Sam was around a lot of people that night without a  
12 mask and that, as far as I knew, wasn't taking his/her medication. Although I wasn't  
13 certain about the medication, I never saw Sam with any prescriptions and I thought that  
14 information would help the Dean. I ended my message with "hth"--which stands for  
15 "hope this helps". Even if the Dean received my message, I really didn't expect him/her  
16 to understand it. I was surprised when I received the Dean's response written in similar  
17 shorthand codes. I understood the response to be thanking me for the information, for  
18 which the Dean was extremely grateful. I never discussed the text messages with the  
19 Dean.

20 15. Around November 8, Sam was gone and the residents on my floor were told that  
21 we would be getting a new RA. I applied for the job. I haven't talked to the Dean since,  
22 but rumor is Sam isn't coming back this time.

23 16. I declare under penalty of perjury that the foregoing is true and correct, I have  
24 nothing material to add, and this Declaration was executed by me on March 1, 2008 in  
25 Phoenix, Arizona.

26  
27 \_\_\_\_\_ Tyler Blunt  
28

1 **DECLARATION OF TAVAN BELO REAPER, M.D.**

2 1. I am 51 years old, and I am the tuberculosis control officer for the Arizona  
3 Department of Health Services (the “Department”). The director of the Department  
4 appointed me to this position in 2001. Prior to my appointment, I was in private practice  
5 with a group of infectious disease specialists in Scottsdale.

6 2. I graduated from the University of Arizona in 1979 with a Bachelor of Science  
7 degree in microbiology. I obtained my Doctor of Medicine degree in 1985 from the  
8 University of Minnesota. I completed my residency program and a fellowship at the  
9 Mayo Clinic in Rochester, Minnesota. I am board certified in internal medicine and  
10 infectious diseases. I relocated to Arizona in 1995 to get a fresh start, and have been  
11 licensed as a physician here ever since. I have had no complaints filed against me or any  
12 disciplinary actions taken against me in Arizona.

13 3. I had one minor incident in Minnesota that I don’t like to discuss, but I am doing  
14 so here in the interest of full disclosure--even though it has absolutely nothing to do with  
15 this case. As a young and inexperienced doctor in the late 1980s, I was presented with a  
16 great opportunity to become part owner of a business that performed minor plastic surgery  
17 procedures, if I would agree to be the company’s “medical director”. I was told that as  
18 “medical director”, I would never have to perform any procedures. I was facing around  
19 \$150,000 of student loans, which this offer would allow me to repay in a couple of years,  
20 so I agreed. That turned out to be one of the worst decisions I’ve ever made. One of the  
21 technicians gave a patient a series of bad Botox injections, which resulted in one side of  
22 the patient’s face becoming temporarily paralyzed. The patient recovered fairly quickly,  
23 but the patient still filed a complaint against the technician and me--even though I never  
24 even met her and had nothing to do with the bad Botox. I felt bad about the situation, so I  
25 agreed to surrender my interest in the business, and my Minnesota license was placed on  
26 probation for one year. I’m glad that’s long behind me, and I learned from that  
27 experience.

28 4. Tuberculosis (“TB”) is a contagious disease that is spread through the air.

1 Specifically, TB germs, known as bacilli, are spread into the air when a person with TB  
2 disease of the lungs or throat coughs, sneezes, or even talks. The bacilli can stay in the air  
3 for several hours, depending on the environment. A person needs to inhale only a small  
4 number of bacilli in order to become infected. In fact, every second, someone in the  
5 world becomes newly infected with TB bacilli. Incredibly, one-third of the world's  
6 population currently is infected with TB bacillus--and many of those don't even know it.

7 5. There is a difference between latent TB infection and active TB disease. A person  
8 with latent TB infection has TB bacilli in his or her body, but the person is not sick and  
9 does not have any TB disease symptoms, because the bacilli are not active. Those with  
10 latent TB infection may or may not develop active TB disease in the future. That is  
11 because the body's immune system walls off the TB bacilli, which are protected by a  
12 thick, waxy coat and can lie dormant for years. As such, people with latent TB infection  
13 often are prescribed treatment to prevent the development of active TB disease.

14 6. Those who develop active TB disease have active bacilli in their bodies--meaning  
15 that the bacilli are multiplying and destroying tissue in the body. Most people with active  
16 TB disease will display symptoms, some of which may include a productive cough, fever,  
17 chills, chest pain, decreased appetite and weight loss. Unlike those with latent TB  
18 infection, patients with active TB disease are capable of spreading TB bacilli to others.  
19 As such, it is important that a patient with TB disease follow the treatment plans  
20 prescribed by the patient's health care professionals, including staying home from work or  
21 school until given clearance to return--even if the patient begins to feel better shortly after  
22 beginning treatment.

23 7. The prognosis for patients who develop active TB disease generally is good, and  
24 TB disease should not preclude them from leading a normal life--provided they follow  
25 their treatment plans and take all prescribed medications. A patient with TB disease  
26 usually is prescribed several medications, because there are several bacteria to be killed  
27 and the drug combination will help to prevent the bacteria from becoming drug-resistant.  
28 The most commonly prescribed medications include isoniazid, rifampin, ethambutol and

1 pyrazinamide. The combination of drugs, including the dosage and schedule for taking  
2 the drugs, is specifically determined for each patient based on a number of factors. A  
3 patient's health care professionals provide the patient with detailed instructions and  
4 education for the patient's drug treatment. They also monitor each patient's compliance  
5 with the treatment plan.

6 8. In addition to antibiotic treatment, isolation in a specially designed room in a  
7 health-care facility is an essential part of the treatment plan for patients who are confirmed  
8 or suspected of being infectious. A patient can be discharged from isolation once a  
9 diagnosis of TB is ruled out or the patient is confirmed to be noninfectious. It also is  
10 permissible for a potentially infectious patient to be released from isolation, if appropriate  
11 postdischarge arrangements can be ensured. Patients who may be infectious at the time of  
12 discharge should be discharged only to their home, or to a facility with isolation  
13 capabilities. The patient must remain on therapy post-discharge and continue to be  
14 monitored by the patient's health care professionals. In discharging a potentially  
15 infectious patient to the patient's home, due care must be taken to ensure that non-infected  
16 persons who are in the high-risk category (i.e., those under 4 years old or in a severely  
17 immuno-compromised state) are not exposed to TB.

18 9. Personal respirator masks are an important third line of defense against the spread  
19 of TB. Personal respirators resemble and are often confused with surgical masks, but the  
20 two are fundamentally different. Personal respirators, which are much more expensive  
21 than surgical masks, fit tightly around the face and are designed to capture minute  
22 airborne infectious particles. They are designed to protect the wearer against inhaling  
23 infectious material, and should be worn by health care workers as a supplement to other  
24 protective measures when dealing with patients who are known or suspected to have  
25 active TB disease.

26 10. Surgical masks are made of cloth or paper, and are relatively inexpensive. They  
27 do not provide the wearer any protection against the inhalation of infectious material,  
28 because the masks are loose-fitting around the face and do not have the same filtering

1 capabilities. These masks, however, do offer some protection against the spread of  
2 microorganisms from the wearer to others, by capturing the large wet particles near the  
3 nose and mouth. As such, the use of surgical masks by known or suspected TB patients  
4 should be considered when those patients are outside of an isolation room.

5 11. In addition to removal of a portion of the infected lung, the treatments set forth  
6 above are the only medically-proven treatments for patients with active TB disease. Some  
7 literature recommends, and some patients have tried, alternative natural treatments for TB  
8 disease. Patients who forego traditional medical treatment in favor of these alternative  
9 natural treatments put themselves and others at great risk, because the clinical studies do  
10 not show that these alternative treatments are effective. For instance, the Astragalus plant  
11 recently has garnered attention as a potential natural alternative for treating TB and a  
12 number of other conditions. Some people must think the Astragalus plant is some sort of  
13 miracle cure-all, because the plant is even used to help people stop smoking, improve  
14 mental performance, and improve athletic performance. Although one clinical trial  
15 suggests that patients with TB may benefit from Astragalus, several well-designed clinical  
16 trials are necessary before any recommendation on the use of Astragalus can be made one  
17 way or the other.

18 12. The Milk Diet is another example of an alternative treatment for TB that can be  
19 found on the internet. It is a diet that was developed a century ago as a means for treating  
20 a number of chronic diseases, including early-stage TB. In short, the basic Milk Diet  
21 includes an exclusive diet of raw milk for at least three weeks combined with plenty of  
22 bed rest. I view the diet, like other alternative treatments, as nothing more than a fad.  
23 Even worse, an exclusive raw milk diet is potentially harmful, if it is not done under  
24 proper medical supervision--and there is no data to show that the diet is effective in  
25 treating TB.

26 13. The Department now is under extreme pressure and scrutiny from the public with  
27 all of the recent high profile cases of infectious diseases, including (i) the lawyer with  
28 multidrug-resistant TB who traveled without a mask on an international flight, potentially

1 infecting hundreds of innocent travelers with TB, and (ii) several instances of serious  
2 illness and death caused by the spread of methicillin-resistant Staphylococcus aureus  
3 (MRSA) in the nation's schools. As a result, under the Director's and my leadership, the  
4 Department is extremely aggressive in responding and reacting to reports of TB and other  
5 infectious diseases, especially in schools and other settings where people are in close  
6 contact with each other. The bottom line is this--it's my job to protect the public. As  
7 harsh as it may sound, much like in the war on terrorism, one person's rights and  
8 freedoms must give way when necessary to protect the public.

9 14. In October 2007, the Department was notified by Student Health Services at  
10 Copper State University that one of the University's students, Sam Holliday, had tested  
11 positive for TB and was being referred to a lung and respiratory specialist for further  
12 diagnosis. After the patient was referred by the specialist to the local hospital, Dr. Luis  
13 Suarez, one of the Department's infectious disease specialists, was assigned to the case.  
14 Dr. Suarez made contact with the patient at the hospital.

15 15. Following protocol, pursuant to A.R.S. § 36-726, I filed a petition in the Superior  
16 Court for an Order requiring Sam Holliday's examination, monitoring, treatment, isolation  
17 and/or quarantine. Holliday came to his/her senses in the face of the petition and agreed  
18 to a voluntary treatment plan prepared by the Department. Holliday signed and agreed to  
19 abide by the plan, which was approved and ordered by the Superior Court. (**Exhibit 1**).

20 16. I was confident that Holliday could be discharged from the hospital and did not  
21 need to be confined to an isolation room, provided that Holliday complied with all of the  
22 terms of the treatment plan to which s/he agreed. Unfortunately, it has been reported to  
23 me that Holliday has not complied with several provisions in the plan, including failing to  
24 take the prescribed medications and failing to wear the mask at all times outside the home.  
25 I am not one of Holliday's health care providers, so I do not have any firsthand knowledge  
26 of Holliday's failure to comply with the treatment plan.

27 17. We cannot tell if Holliday's resort to alternative treatments is having any affect--  
28 either good or bad--because Dr. Suarez told me that Holliday has transferred care to a

1 holistic doctor. Holliday also has refused further testing based on some silly religious  
2 grounds. As I understand it from Dr. Suarez, Holliday objects to the introduction of  
3 impure protein material into the body. Holliday is referring to the purified protein  
4 derivative (PPD) screening test, which is conducted by injecting protein into the body to  
5 see if it causes a specific skin reaction over a 48 to 72 hour period. Holliday's objection  
6 to further testing makes no sense, because the PPD test is an initial screening test that  
7 indicates only whether the subject has been infected at sometime in the past with TB. It  
8 does not indicate whether the infection is latent or has developed into active TB disease.  
9 As such, a sputum smear test is the primary diagnostic tool used to determine whether a  
10 patient has active TB disease, and to monitor the progress of such patients. The sputum  
11 for the smear test is gathered by having the patient breathe in deeply, then cough strongly  
12 and spit the sputum into a container. If Holliday refuses to provide the sputum for the  
13 smear test, then we must assume that Holliday still is infectious until it is proven  
14 otherwise. I have not called to talk to Holliday's new doctor about Holliday's treatment  
15 and any testing being done by that doctor, because I think holistic doctors are quacks.

16 18. Holliday's failure to comply with the plan is selfish and reckless, and I  
17 wholeheartedly support Dean Unamon's swift and decisive suspension of Holliday.

18 19. I declare under penalty of perjury that the foregoing is true and correct, I have  
19 nothing material to add, and this Declaration was executed by me on March 1, 2008 in  
20 Phoenix, Arizona.

21  
22 Tavan B. Reaper, M.D.  
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# **Exhibit 1**

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SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

In the Matter of  
SAM HOLLIDAY,  
Re: An Afflicted Person Under A.R.S.  
§ 36-711(2).

No. PB 2007-57322

**ORDER**

Pursuant to the stipulation of the parties, and good cause appearing,  
IT IS HEREBY ORDERED approving and adopting the attached Memorandum of  
Understanding and Agreement dated effective October 5, 2007. The terms of the  
Agreement are incorporated as if fully set out in this Order.

DATED: October 5, 2007.

Susan Winter  
\_\_\_\_\_  
Hon. Susan Winter  
Judge of the Superior Court

## **MEMORANDUM OF UNDERSTANDING AND AGREEMENT**

This Memorandum of Understanding and Agreement (the "Agreement") is entered into effective October 5, 2007, by the State of Arizona, acting through the duly appointed Tuberculosis Control Officer of the Arizona Department of Health Services (the "State"), and Sam Holliday ("Holliday").

### **RECITALS**

1. Holliday, who currently resides in Maricopa County, Arizona, has been diagnosed with tuberculosis ("TB"). As a result, on October 3, 2007, the State filed an Emergency Petition in the Maricopa County Superior Court commencing the case styled as *In the Matter of Sam Holliday, Re: An Afflicted Person Under A.R.S. § 36-711(2)*, Case No. PB2007-57322 (the "Action"). In the Action, the State seeks an Order requiring Holliday's examination, monitoring, treatment, isolation and/or quarantine.

2. Holliday has developed Moderately Drug Resistant TB. Holliday's treating physician and the State's TB Control Officer and medical specialists have conferred and concluded that: (i) there is a possibility of additional emerging antibiotic resistance; (ii) it is appropriate for Holliday to receive specialized and expert medical treatment in order to have a meaningful chance for a cure; and (iii) with such specialized and expert medical treatment, the prognosis for Holliday's complete and full recovery is good.

3. Holliday has agreed to enter into this Agreement, so that the Court will not have to rule on the Emergency Petition in the Action. The parties intend that this Agreement will be submitted to the Court in the Action for approval, and that the terms of this Agreement will be binding and enforceable as if included in a Court Order. Holliday will remain subject to the Court's jurisdiction in the Action for purposes of enforcement of the terms of this Agreement.

4. Holliday has made the decision to enter into this Agreement of his/her own free will, without duress or coercion, and after consultation with his/her parents and other advisors of his/her choosing.

### **AGREEMENT**

Now, therefore, it is hereby understood and agreed as follows:

1. Holliday immediately will start on a six-month drug regimen. The initial phase of the drug regimen, which will last for two months, will include prescriptions for isoniazid (150 mg), rifampin (300 mg), ethambutol (1500 mg) and pyrazinamide (1500 mg) to be taken orally seven days a week for eight weeks (for a total of 56 doses). If drug susceptibility results show that the organisms are fully susceptible, then Holliday's treating physician may instruct Holliday to discontinue use of ethambutol.

2. It is anticipated that the initial phase will be followed by a four-month continuation phase of isoniazid (150 mg) and rifampin (300 mg) to be taken orally seven days a week for 18 weeks (for a total of 126 doses).

3. Any deviation in the drug regimen set forth above must be made by Holliday's treating physician in consultation with the State.

4. Holliday shall wear a protective mask at all times when outside of his/her home until Holliday is notified by his/her treating physician that the use of a protective mask no longer is necessary.

5. Holliday is being discharged from isolation and hospitalization based upon the State's determination that adequate postdischarge arrangements can be ensured by (among other things) Holliday's agreement to comply with all aspects of this Agreement. In addition to the obligations imposed in this Agreement, Holliday knowingly and voluntarily agrees as a material provision of this Agreement to comply with the instructions given to him/her by his/her treating physician.

6. Holliday agrees that his/her failure to materially fulfill the obligations under this Agreement for any reason whatsoever shall be sufficient grounds for the Court to grant the State's request for Holliday's involuntary examination, monitoring, treatment, isolation and/or quarantine.

7. By signing this Agreement, Holliday represents and warrants that: (i) s/he has read the entire Agreement; (ii) s/he has consulted with and relied upon the advice of his/her parents and/or other advisors of his/her own choosing; and (iii) s/he fully understands and voluntarily accepts all of the terms of this Agreement.

Sam Holliday

Dated: 10/5/2007

State of Arizona Department of Health Services

Dated: 10/5/2007

By Tavan B. Reaper, M.D.

Tavan Belo Reaper, M.D.

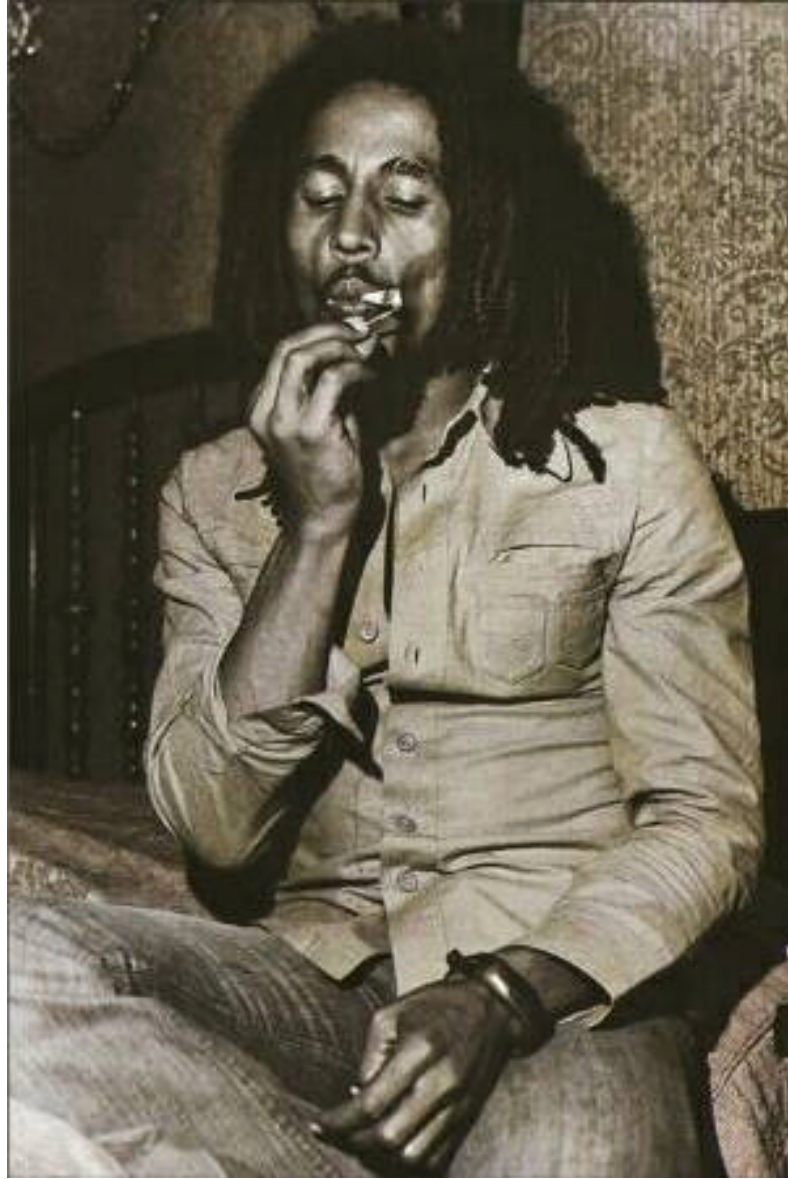
Its Tuberculosis Control Officer

## **Exhibit 2**

To: 6026009723  
Fr: 6025553742  
Sent: Monday, November 5, 2007 19:27:10 M ST  
Subject: RE: to sam  
> tyvm... urgr8... w tg!... ioubt.. <grin>

To: 6025553742  
Fr: 6026009723  
Sent: Saturday, November 27, 2007 23:18:03 M ST  
Subject: to sam  
> heres the 411 u want.. out 2nite w / lots ppl w /o mask ... afak (but dqn ot) no  
meds..hth! cu18r, IY.

## **Exhibit 3**



## **The Rastafarian Group –**

**Where the grass is always greener.**

**Please come explore more about the Rastafarian Movement and Religion on Tuesday nights at the student center. The meetings start at 6:00 p.m. Be prepared to have it blow your mind.**

**For questions see Marion Leverage.**

## **Exhibit 4**

TO: Sam Holliday [sam.holliday@csu.edu.com]  
FROM: Dean Afam Unamon [afam.unamon@csu.edu.com]  
CC:  
SENT: Nov.7, 2007 10:00am  
SUBJECT: Important notice regarding your status as a student at CSU.

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I have absolute proof that you are making decisions that negatively affect our campus. Your behavior is unacceptable. Therefore, you are hereby suspended until further notice. Please gather your property and immediately leave the campus. You are also terminated as a RA. Sorry.

May you find your way to God.  
Dean Unamon

# **Exhibit 5**

TO: Dean Afam Unamon [afam.unamon@csu.edu.com]  
FROM: Sam Holliday [sam.holliday@csu.edu.com]  
CC:  
SENT: Nov.8, 2007 11:30am  
SUBJECT: My Rastafarian way of life

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Dean:

This e-mail is sent in response to your request this morning. I am really angry that you suspended me. I think it is totally unfair. It is not my fault I have TB. This morning you said a bunch of mean things about my choice to become Rastafarian. I think you are really kicking me out of school because you disagree with the Rastafarian way of life. You invited me to e-mail you and explain more about the Rastafarian beliefs. Below is information on the Rastafari movement. I hope you reconsider your decision to suspend me – I've followed the doctors' instructions about my TB and I try to make sure everyone is safe. However, I do want to manage my TB in a way that is consistent with my Rastafarian beliefs. I look forward to your reconsideration of my suspension and termination as a RA.

#### THE GREATEST WAY TO LIVE – THE RASTA WAY

The Rastafari movement, or Rasta, is a cultural value system that accepts Haile Selassie I, the former Emperor of Ethiopia, as God incarnate, whom they call Jah. He is also seen as part of the Holy Trinity as the messiah promised in the Bible to return. The name Rastafari comes from Ras (literally "Head," an Ethiopian title equivalent to Duke), and Tafari Makonnen, the pre-coronation name of Haile Selassie I.

Characteristics of Rastafari include the spiritual use of cannabis, and various Afrocentric social and political aspirations, such as the teachings of Jamaican publicist, organizer, and black separatist Marcus Garvey (also often regarded as a prophet), whose political and cultural vision helped inspire a new world view.

The Rastafari movement has spread throughout much of the world, largely through interest generated by reggae music— most notably, that of Jamaican singer/songwriter Bob Marley. By 2000, there were more than one million Rastafari faithful worldwide. About five to ten percent of Jamaicans identify themselves as Rastafari. Many Rastafarians follow an Ital diet which essentially means living by the dietary Laws of Leviticus and Deuteronomy in the Old Testament.

Rastafari developed among an oppressed people who felt society had nothing to offer them except more suffering. The messages expounded by the Rastafari promote love and respect for all living things and emphasize the paramount importance of human dignity and self-respect. Above all else, they speak of freedom from spiritual, psychological, as well as physical slavery and oppression. Individual Rastafari work out their religion for themselves, resulting in a wide variety of doctrines nevertheless also covered under the general umbrella of Rastafari.

Many Rastas eat limited types of meat in accordance with the dietary Laws of the Old Testament; they do not eat shellfish or pork. Others abstain from all meat and flesh whatsoever, asserting that to touch meat is to touch death [with the exception of fish which can be eaten], and is therefore a violation of the Nazirite oath. However, the prohibition against meat only applies to those who are currently fulfilling a Nazirite vow, for the duration of the vow. Many Rastafari maintain a vegan or vegetarian diet all of the time.

Usage of alcohol is also generally deemed unhealthy to the Rastafarian way of life, partly because it is

seen as a tool of Babylon to confuse people, and partly because placing something that is pickled and fermented within oneself is felt to be much like turning the body (the Temple) into a "cemetery".

# **Exhibit 6**

COPPER STATE UNIVERSITY  
Office of the Dean  
P.O. Box 3002  
Phoenix, Arizona 85001-3002

November 12, 2007

**Certified Mail--Return Receipt Requested**

Sam Holliday  
525 East Goodwin Street  
Prescott, Arizona 86303

Re: Indefinite Suspension from Copper State University

Dear Mr./Ms. Holliday:

I regret to inform you that, effective immediately, you are suspended from Copper State University (the "University") for an indefinite period of time. As set forth below, the basis for this action is your failure to abide by the terms of your voluntary tuberculosis treatment plan (the "Plan") as ordered by the Maricopa County Superior Court.

On October 8, 2007, during a meeting in my office, you first informed the University and me that you: (i) had been diagnosed with tuberculosis; (ii) had just been discharged from isolation at a local hospital; (iii) were the subject of a petition for your court-ordered examination, monitoring, treatment, isolation or quarantine filed against you by Arizona's tuberculosis control officer; and (iv) entered into the Plan with the state, which was approved by the Court. At that time, you provided me with a copy of the Court Order, which required you to (among other things) wear a mask when outside of your home and take medications under the strict schedule provided in the Plan. Your compliance with the Plan and the Court's Order was a condition of your return to the University as a student and as both a resident and a resident assistant in one of the University's dorm.

I received several credible reports of your failure to abide by the Plan and the Court's Order, which reports were corroborated by the University's own investigation. Specifically, it was reported to me that (among other things) you repeatedly failed to wear a mask when outside of your dorm room and take the medications prescribed for you by your treating physicians. Your conduct in this regard has placed the entire University community at serious risk of the spread of tuberculosis. As Dean of the University, I have a responsibility and obligation to the students and faculty to maintain a safe learning environment at the University. As such, I have made the difficult, but necessary, decision to suspend you from the University effective immediately. Your suspension will remain in effect until you resume compliance with all of the terms of the Plan and the Court's Order, and you satisfy me that you will remain in compliance with the Plan and the Court's Order.

Please be advised that, during the term of your suspension, you are prohibited from: (i) attending classes at the University; (ii) residing in the University's dormitories; (iii)

Sam Holliday  
November 12, 2007  
Page 2

participating in any University-sponsored activities; and (iv) using and/or visiting any of the University's facilities.

Sincerely,

Aman Unamon  
Aman Unamon, Ph.D.  
Dean

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA  
THE HONORABLE L. O. LEWIS, PRESIDING JUDGE

IN CHAMBERS ( )

IN OPEN COURT (X)  
JANICE HALL, CLERK  
By: B. Butler, Courtroom Deputy

SAM HOLLIDAY  
v.  
DR. AFAM UNAMON

DATE: February 23, 2008  
TIME: 9:30 A.M.

NO. CIV 2007-90210-PHX-LOL

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**FINAL PRETRIAL MANAGEMENT CONFERENCE**

This is the date and time set for the Final Pretrial Management Conference.  
Court Reporter Susan Williams is present.

**APPEARANCES**

Plaintiff's Attorney: Mark Roberson  
Defendant's Attorney: Nancy Poston

**PRETRIAL ORDER**

The Court confers with counsel regarding pretrial issues.

**IT IS ORDERED** as follows:

1. The complaint seeks temporary, preliminary and permanent injunctive relief. The Court finds that it is appropriate to combine the requests for temporary and preliminary injunctive relief with the request for permanent injunctive relief, and to conduct one combined expedited trial on the merits of the plaintiff's claim.

2. The plaintiff will call the following witnesses:

Sam Holliday  
Marion Leverage  
Sydney Mendenhall

3. The defense will call the following witnesses:

Dr. Afam Unamon  
Tyler Blunt  
Tavan Belo Reaper, M.D.

4. The exhibits that may be used at trial are premarked as follows:

Exhibit 1	Order and Memorandum of Understanding and Agreement
Exhibit 2	Text Message
Exhibit 3	CSU Rastafarian Group Poster
Exhibit 4	November 7, 2007 E-mail
Exhibit 5	November 8, 2007 E-mail
Exhibit 6	Certified Letter

5. Authenticity (but not foundation) is stipulated for all exhibits.

6. All witness declarations are presumed to have been signed before trial. Each witness has reviewed his/her declaration for accuracy, and no changes were made. Each exhibit or declaration that bears a signature block is presumed to have been signed on the date indicated on the exhibit or declaration.

7. The trial will be conducted with an advisory jury. The attached jury instructions are approved.

8. All objections to the sufficiency of, or any defects in, the pleadings have been waived and/or overruled.

Members of the Jury: Now that you have heard all of the evidence and the arguments of the attorneys, it is my duty to instruct you as to the law of the case.

You must not infer from these instructions or from anything I may say or do as indicating that I have an opinion regarding the evidence or what your verdict should be.

It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath to do so.

In following my instructions, you must follow all of them and not single out some and ignore others; they are all important.

To help you follow the evidence, I will give you a brief summary of the positions of the parties:

The plaintiff claims that the defendant violated his/her civil rights by suspending him/her from Copper State University as a result of plaintiff's religious beliefs. The plaintiff has the burden of proving this claim. The defendant denies the plaintiff's claim.

When a party has the burden of proof on any claim by a preponderance of the evidence, it means you must be persuaded by the evidence that the claim is more probably true than not true.

You should base your decision on all of the evidence, regardless of which party presented it.

The evidence you are to consider in deciding what the facts are consists of:

1. the sworn testimony of any witness;
2. the exhibits which are received into evidence; and
3. any facts to which the lawyers have agreed.

In reaching your verdict, you may consider only the testimony and exhibits received into evidence. Certain things are not evidence, and you may not consider them in deciding what the facts are. I will list them for you:

(1) Arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they have said in their opening statements, in their closing arguments, and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, your memory of them controls.

(2) Questions and objections by lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the rules of evidence. You should not be influenced by the objection or by the court's ruling on it.

(3) Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered. In addition sometimes testimony and exhibits are received only for a limited purpose; when I have given a limiting instruction, you must follow it.

(4) Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

Some evidence may be admitted for a limited purpose only.

When I instruct you that an item of evidence has been admitted for a limited purpose, you must consider it only for that limited purpose and for no other.

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

There are rules of evidence that control what can be received into evidence. When a lawyer asks a question or offers an exhibit into evidence and a lawyer on the other side thinks that it is not permitted by the rules of evidence, that lawyer may object. If I overrule the objection, the question may be answered or the exhibit received. If I sustain the objection, the question cannot be answered, and the exhibit cannot be received. Whenever I sustain an objection to a question, you must ignore the question and must not guess what the answer might have been.

Sometimes I may order that evidence be stricken from the record and that you disregard or ignore the evidence. That means that when you are deciding the case, you must not consider the evidence that I told you to disregard.

In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it. Proof of a fact does not necessarily depend on the number of witnesses who testify about it.

In considering the testimony of any witness, you may take into account:

- (1) the opportunity and ability of the witness to see or hear or know the things testified to;
- (2) the witness's memory;
- (3) the witness's manner while testifying;
- (4) the witness's interest in the outcome of the case and any bias or prejudice;
- (5) whether other evidence contradicted the witness's testimony;

- (6) the reasonableness of the witness's testimony in light of all the evidence; and
- (7) any other factors that bear on believability.

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify about it.

Some witnesses, because of education or experience, are permitted to state opinions and the reasons for those opinions.

Opinion testimony should be judged just like any other testimony. You may accept it or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the reasons given for the opinion, and all the other evidence in the case.

The plaintiff brings his/her claim under the federal statute, 42 U.S.C. § 1983, which provides that any person or persons who, under color of law, deprives another of any rights, privileges, or immunities secured by the Constitution or laws of the United States shall be liable to the injured party.

In order to prevail on his/her § 1983 claim against the defendant, the plaintiff must prove each of the following elements by a preponderance of the evidence:

1. the defendant acted under color of law; and
2. the acts of the defendant deprived the plaintiff of his/her particular rights under the United States Constitution as explained in later instructions.

A person acts "under color of law" when the person acts or purports to act in the performance of official duties under any state, county, or municipal law, ordinance, or regulation. The parties have stipulated that the defendant acted under color of law.

If you find the plaintiff has proved each of these elements, and if you find that the plaintiff has proved all the elements he/she is required to prove under the following instructions that deal with the particular rights, your verdict should be for the plaintiff. If, on the other hand, the plaintiff has failed to prove any one or more of these elements, your verdict should be for the defendant.

In order to establish that the acts of the defendant deprived the plaintiff of his/her particular rights under the United States Constitution as explained in later instructions, the plaintiff must prove by a preponderance of the evidence that the acts were so closely related to the deprivation of the plaintiff's rights as to be the moving force that caused the ultimate injury.

As previously explained, the plaintiff has the burden to prove that the acts of the defendant deprived the plaintiff of particular rights under the United States Constitution. In this case, the plaintiff alleges the defendant deprived him/her of his/her rights under the First Amendment to the Constitution when the defendant suspended the plaintiff from Copper State University and terminated the plaintiff's employment as a resident assistant.

Under the First Amendment, a person has the right to the free exercise of religion. In order to prove the defendant deprived the plaintiff of this First Amendment right, the plaintiff must prove the following additional elements by a preponderance of the evidence:

1. the defendant engaged in conscious or intentional acts that burdened the practice of religion by preventing the plaintiff from engaging in conduct mandated by his/her faith; and

2. the defendant's acts were without any justification reasonably related to legitimate state interests.