

No. 21-147

In the Supreme Court of the United States

ERIK EGBERT,
Petitioner,

v.

ROBERT BOULE,
Respondent.

*ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT*

**[REVISED REDACTED]
JOINT APPENDIX**

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**PETITION FOR A WRIT OF CERTIORARI FILED: JULY 30, 2021
CERTIORARI GRANTED: NOVEMBER 5, 2021**

TABLE OF CONTENTS

	Page
Docket in the United States Court of Appeals for the Ninth Circuit	1
Docket in the United States District Court for the District of Western District of Washington.....	39
Amended Complaint for Damages, Dkt. 22 (Sept. 6, 2017)	82
Declaration of Robert Boule, Dkt. 98 (June 29, 2018)....	89
Declaration of Agent Erik Egbert, Dkt. 103 (July 2, 2018).....	96
Deposition of Robert Boule, Vol. II, Dkt. 104, Ex. A (May 31, 2018).....	113
Deposition of Kenneth Andersen, Dkt. 104, Ex. B (June 1, 2018).....	125
Deposition of Philip Olson, Dkt. 104, Ex. C (Apr. 5, 2018).....	133
Affidavit of Erik Egbert, Dkt. 110, Ex. A (Jan. 28, 2015)	136
Deposition of Robert Boule, Vol. I, Dkt. 110, Ex. E (Mar. 9, 2018).....	139
Second Declaration of Agent Egbert, Dkt. 133 (July 22, 2018).....	165
Report of Investigation, Dkt. 136, Ex. B.....	177
Email from Robert Boule to Joshua Barnett, Dkt. 136, Ex. C (June 10, 2014)	179
Letter from [REDACTED], Jr., to Erik Egbert, Dkt. 136, Ex. F (June 23, 2016)	182

II

Settlement Agreement, Dkt. 136, Ex. G
(Jan. 26, 2017) 189

Judgment in a Civil Case, Dkt. 156 (Aug. 24, 2018) 195

**GENERAL DOCKET
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Court of Appeals Docket #: 18-3579

* * *

09/20/2018	1 (16 pgs)	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 09/27/2018. Transcript ordered by 10/22/2018. Transcript due 11/19/2018. Appellant Robert Boule opening brief due 12/31/2018. Appellees Erik Egbert and Jane Doe Egbert answering brief due 01/28/2019. Appellant's optional reply brief is due 21 days after service of the answering brief. [11019908] (KM) [Entered: 09/20/2018 04:07 PM]
09/26/2018	2 (2 pgs)	Filed (ECF) notice of appearance of Nicole C. Carsley for Appellee Erik Egbert. Date of service: 09/26/2018. [11025678] [18-35789] (Carsley, Nicole) [Entered: 09/26/2018 09:09 AM]
09/26/2018	3	Added attorney Nicole C. Carsley for Erik Egbert, in case 18-35789. [11025703] (QDL) [Entered: 09/26/2018 09:19 AM]
09/27/2018	4	Filed (ECF) Appellant Robert

- (3 pgs) Boule Mediation Questionnaire. Date of service: 09/27/2018. [11027628] [18-35789] (Beggs, Breean) [Entered: 09/27/2018 01:08 PM]
- 09/28/2018 5 MEDIATION CONFERENCE
(5 pgs) SCHEDULED-Assessment Conference, 10/11/2018, 1:00 p.m. PACIFIC Time. The briefing schedule previously set by the court remains in effect. See order for instructions and details. [11029368] (LW) [Entered: 09/28/2018 03:52 PM]
- 10/16/2018 6 MEDIATION ORDER FILED:
(1 pg) This case is RELEASED from the Mediation Program. Counsel are requested to contact the Circuit Mediator should circumstances develop that warrant further settlement discussions. The briefing schedule previously established by the court remains in effect. [11048545] (LW) [Entered: 10/16/2018 11:54 AM]
- 11/29/2018 7 Filed (ECF) Streamlined request for extension of time to file Opening Brief by Appellant Robert Boule. New requested due date is 01/30/2019. [11103601] [18-35789] (Boos, Gregory) [Entered: 11/29/2018 02:22 PM]
- 11/29/2018 8 **Streamlined request [7] by**

Appellant Robert Boule to extend time to file the brief is approved. Amended briefing schedule: Appellant Robert Boule opening brief due 01/30/2019. Appellees Erik Egbert and Jane Doe Egbert answering brief due 03/01/2019. The optional reply brief is due 21 days from the date of service of the answering brief. [11104026] (Witt, Dusty) [Entered: 11/29/2018 04:35 PM]

12/19/2018	9 (3 pgs)	Filed (ECF) Appellee Erik Egbert Correspondence: Notice of Change of Firm and Address. Date of service: 12/19/2018 [11126847] [18-35789] (Grindeland, Geoffrey) [Entered: 12/19/2018 03:17 PM]
1/30/2019	10 (75 pgs)	Submitted (ECF) Opening Brief for review. Submitted by Appellant Robert Boule. Date of service: 01/30/2019. [11173130] [18-35789] (Boos, Gregory) [Entered: 01/30/2019 02:05 PM]
01/30/2019	11	Filed (ECF) UNDER SEAL Appellant Robert Boule motion to file document under seal and submit sealed document. Type of document: other (Exhibit A to Motion; Appellant's Opening Brief (unredacted); Excerpts of Record volume 2; Excerpts of Record volume 3). Date of service: 01/30/2019. [11173181] [18-35789]-[COURT

UPDATE: Attached corrected PDF of motion. 01/31/2019 by RY (Boos, Gregory) [Entered: 01/30/2019 02:36 PM]

- 01/30/2019 12 Submitted (ECF) excerpts of rec-
(99 pgs) ord. Submitted by Appellant Robert Boule. Date of service: 01/30/2019. [11173184] [18-35789] (Boos, Gregory) [Entered: 01/30/2019 02:37 PM]
- 02/06/2019 13 Submitted (ECF) Amicus brief for
(29 pgs) review and filed Motion to become amicus curiae. Submitted by Northwest Immigrant Rights Project and the American Immigration Council. Date of service: 02/06/2019. [11181784] [18-35789] (Adams, Matt) [Entered: 02/06/2019 04:23 PM]
- 02/07/2019 14 Entered appearance of Amici Curiae—Pending Northwest Immigrant Rights Project (NWIRP) and American Immigration Council. [11182583] (GV) [Entered: 02/07/2019 12:14 PM]
- 02/08/2019 15 Filed (ECF) notice of appearance of Trina Realmuto for Amicus Curiae—Pending American Immigration Council. Date of service: 02/08/2019. (Party previously proceeding without counsel: No) [11183410] [18-35789] (Realmuto, Trina) [Entered: 02/08/2019 05:20]

- AM]
- 02/08/2019 16 Added attorney Trina A. Realmuto for American Immigration Council, in case 18-35789. [11183746] (NAC) [Entered: 02/08/2019 09:55 AM]
- 02/11/2019 17 Filed (ECF) UNDER SEAL Appellee Erik Egbert motion to file document under seal and submit sealed document. Type of document: other (Response to Appellant's Motion to Seal (Dkt. 11)). Date of service: 02/11/2019. [11186032] [18-35789]-[COURT UPDATE: Attached corrected motion and updated docket text to reflect correct ECF filing type. 02/12/2019 by SLM] (Carsley, Nicole) [Entered: 02/11/2019 02:37 PM]
- 02/19/2019 18 Filed clerk order (Deputy Clerk: (2 pgs) LKK): Motion (ECF Filing) is referred to panel.; Motion (ECF Filing) motion [13] to become amicus is referred to panel. (see attached PDF for complete order addressing Dkt No. 13) [11198695] (LKK) [Entered: 02/19/2019 10:01 AM]
- 02/19/2019 19 Filed Appellant Robert Boule motion (16 pgs) to file unredacted opening brief and Volumes 2 and 3 of the excerpts of record UNDER SEAL. Deficiencies: None. Served on 01/30/2019. (Court-entered filing of

motion submitted under seal at [11])
[11199549] (AF) [Entered:
02/19/2019 02:15 PM]

- 02/19/2019 20 Filed Appellee Erik Egbert motion
(15 pgs) to seal the response to appellant's
motion to seal. Deficiencies: None.
Served on 02/11/2019. (Court-en-
tered filing of motion submitted un-
der seal at [17]) [11199568] (AF)
[Entered: 02/19/2019 02:19 PM]
- 02/19/2019 21 Filed order (Appellate Commis-
(2 pgs) sioner): Appellant's motion (Docket
Entry No. [11]) to file the unre-
dacted opening brief and Volumes 2
and 3 of the excerpts of record un-
der seal is granted in part, to the ex-
tent that the sealed volumes con-
tain material required by law to re-
main sealed, such as personnel rec-
ords, and is otherwise denied with-
out prejudice to renewal. Any re-
newed motion must be filed within
21 days after the date of this order
and must include a detailed descrip-
tion of each document in the sealed
volumes for which sealing is re-
quested and the specific bases for
each sealing request. The renewed
motion shall also address whether
redaction of the sealed documents
is feasible. If no renewed motion is
filed, appellant shall instead pub-
licly submit redacted versions of
the sealed volumes, which redact

only those personnel records required by law to be maintained under seal. Appellee's motion (Docket Entry No. [17]) to seal the response to appellant's motion to seal is denied, as the response does not appear to contain any sealed material. The Clerk shall publicly file appellant's motion to seal and Exhibit A at DE [11] and appellee's motion to seal and response to appellant's motion at DE [17]. The Clerk shall maintain under seal the unredacted opening brief and Volumes 2 and 3 of the excerpts of record pending the filing of a renewed motion to seal or the public submission of redacted volumes pursuant to this order. The motion (Docket Entry No. [13]) to become amicus curiae will be addressed by separate order. (Sealed Documents) [11199637] (AF) [Entered: 02/19/2019 02:30 PM]

02/19/2019	22 (6 pgs)	Filed (ECF) Appellee Erik Egbert response to motion ([13] Motion (ECF Filing), [13] Motion (ECF Filing)). Date of service: 02/19/2019. [11199764] [18-35789] (Carsley, Nicole) [Entered: 02/19/2019 02:45 PM]
02/19/2019	23	Filed (ECF) UNDER SEAL Appellant Robert Boule motion to file document under seal and submit

sealed document. Type of document: other (1. MOTION TO SEAL APPELLANT'S REPLY TO APPELLEE'S RESPONSE TO APPELLANT'S MOTION TO SEAL 2. PLAINTIFF-APPELLANT'S REPLY TO APPELLEE'S RESPONSE TO APPELLANT'S MOTION TO SEAL). Date of service: 02/19/2019. [11200174] [18-35789]-[COURT UPDATE: Attached corrected PDF of reply. 02/20/2019 by RY] (Boos, Gregory) [Entered: 02/19/2019 05:02 PM]

02/21/2019 24 Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellee Erik Egbert. New requested due date is 04/01/2019. [11203434] [18-35789] (Carsley, Nicole) [Entered: 02/21/2019 04:34 PM]

02/21/2019 25 **Streamlined request [24] by Appellee Erik Egbert to extend time to file the brief is approved. Amended briefing schedule: Appellees Erik Egbert and Jane Doe Egbert answering brief due 04/01/2019. The optional reply brief is due 21 days from the date of service of the answering brief.** [11203478] (JN) [Entered: 02/21/2019 04:45 PM]

02/22/2019	26 (6 pgs)	Filed (ECF) Amici Curiae - Pending American Immigration Council and NWIRP reply to response (motion to become amicus,). Date of service: 02/21/2019. [11204835] [18-35789] (Realmuto, Trina) [Entered: 02/22/2019 02:34 PM]
02/25/2019	27	Received 7 paper copies of Amicus Brief [13] filed by American Immigration Council and NWIRP. [11205926] (RG) [Entered: 02/25/2019 11:05 AM]
03/12/2019	28 (485 pgs)	Submitted (ECF) excerpts of record. Submitted by Appellant Robert Boule. Date of service: 03/12/2019. [11225391] [18-35789] (Boos, Gregory) [Entered: 03/12/2019 08:07 PM]
03/12/2019	29	Filed (ECF) UNDER SEAL Appellant Robert Boule motion to file document under seal and submit sealed document. Type of document: other (RENEWED MOTION TO FILE BRIEF AND EXCERPTS OF RECORD VOL 2 AND 3 UNDER SEAL). Date of service: 03/12/2019. [11225395] [18-35789]-[COURT UPDATE: Attached corrected PDF of motion and exhibit. 03/14/2019 by RY] (Boos, Gregory) [Entered: 03/12/2019 08:55 PM]
03/22/2019	30	Filed (ECF) UNDER SEAL

Appellee Erik Egbert motion to file document under seal and submit sealed document. Type of document: other (Appellee's Response to Appellant's Renewed Motion to Seal). Date of service: 03/22/2019. [11239922] [18-35789] (Carsley, Nicole) [Entered: 03/22/2019 04:37 PM]

- 04/01/2019 31 Filed (ECF) UNDER SEAL Appellant Robert Boule motion to maintain document under seal. Date of service: 04/01/2019. [11249294] [18-35789]—[COURT UPDATE: Updated docket text to reflect correct ECF filing type. 4/2/2019 by TYL] (Boos, Gregory) [Entered: 04/01/2019 06:02 PM]
- 04/01/2019 32 Filed (ECF) Appellee Erik Egbert (3 pgs) Motion to transmit exhibit. Date of service: 04/01/2019. [11249328] [18-35789] (Carsley, Nicole) [Entered: 04/01/2019 09:19 PM]
- 04/01/2019 33 Submitted (ECF) supplemental excerpts of record. Submitted by Appellee Erik Egbert. Date of service: 04/01/2019. [11249331] [18-35789]—[COURT UPDATE: Attached corrected excerpts of record. 04/03/2019 by SLM] (Carsley, Nicole) [Entered: 04/01/2019 09:27 PM]
- 04/01/2019 34 Filed (ECF) UNDER SEAL

Appellee Erik Egbert motion to file document under seal and submit sealed document. Type of document: other (SER Vol 2 and Answering Brief). Date of service: 04/01/2019. [11249332] [18-35789]-[COURT UPDATE: Attached corrected motion and excerpts of record. 04/03/2019 by SLM] (Carsley, Nicole) [Entered: 04/01/2019 09:32 PM]

- 04/01/2019 35 Submitted (ECF) Answering Brief (59 pgs) for review. Submitted by Appellee Erik Egbert. Date of service: 04/01/2019. [11249334] [18-35789]-[COURT UPDATE: Attached corrected brief. 04/03/2019 by SLM] (Carsley, Nicole) [Entered: 04/01/2019 09:36 PM]
- 04/11/2019 36 Filed (ECF) UNDER SEAL Appellant Robert Boule motion to file document under seal and submit sealed document. Type of document: other (APPELLANTS RESPONSE TO APPELLEES APRIL 1, 2019 MOTION TO FILE HIS ANSWERING BRIEF AND SUPPLEMENTAL EXCERPT OF RECORD VOL 2 and DECLARATION OF GREG BOOS (WITH EXHIBITS) IN SUPPORT OF APPELLANTS RESPONSE TO APPELLEES APRIL 1, 2019 MOTION). Date of service: 04/11/2019.

[11261438] [18-35789] (Boos, Gregory) [Entered: 04/11/2019 05:08 PM]

- 04/18/2019 37 Filed (ECF) Appellee Erik Egbert (3 pgs) reply to response (). Date of service: 04/18/2019. [11268634] [18-35789] (Grindeland, Geoffrey) [Entered: 04/18/2019 12:00 PM]
- 04/18/2019 38 Filed (ECF) UNDER SEAL Appellee Erik Egbert motion to maintain document under seal. Date of service: 04/18/2019. [11268690] [18-35789]—[COURT UPDATE: Updated docket text to reflect correct ECF filing type. 04/18/2019 by SLM] (Grindeland, Geoffrey) [Entered: 04/18/2019 12:20 PM]
- 04/22/2019 39 Filed (ECF) UNDER SEAL Appellant Robert Boule motion to file document under seal and submit sealed document. Type of document: Reply brief. Date of service: 04/22/2019. [11272267] [18-35789]—[COURT UPDATE: Edited docket text to reflect correct filing type. Attached corrected PDF of motion, declaration, and brief. 04/24/2019 by RY] (Boos, Gregory) [Entered: 04/22/2019 01:51 PM]
- 04/22/2019 40 Filed (ECF) UNDER SEAL Appellant Robert Boule motion to file document under seal and submit

sealed document. Type of document: excerpts of record. Date of service: 04/22/2019. [11272277] [18-35789]-[COURT UPDATE: Edited docket text to reflect correct filing type. Attached PDF of motion and declaration. 04/24/2019 by RY] (Boos, Gregory) [Entered: 04/22/2019 01:54 PM]

04/23/2019 41 Filed order (WILLIAM A. (2 pgs) FLETCHER and PAUL J. WATFORD) Appellant's renewed motion (Docket Entry No. [29]) to file the unredacted opening brief and Volumes 2 and 3 of the excerpts of record under seal is granted. Appellant's motion (Docket Entry No. [23]) to file under seal the reply to the original motion to seal is granted. Appellee's motion (Docket Entry No. [34]) to seal the unredacted answering brief and Volume 2 of the supplemental excerpts of record is granted. Appellant's request (Docket Entry No. [36]) to expand appellee's motion to include additional sealed material is granted. The Clerk shall maintain the following motions, responses, and replies under seal: DE [23], DE [29], DE [30], DE [31], DE [36], and DE [38]. The Clerk shall publicly file appellant's motion to seal the reply (DE [23]); appellee's motion to seal (DE [34]), the redacted

opening brief (DE [10]), Volume 1 of the excerpts of record (DE [12]), the redacted Volumes 2 and 3 of the excerpts of record (DE [28]), the redacted answering brief (DE [35]), and Volume 1 of the supplemental excerpts of record (DE [33]). The Clerk shall file under seal the unredacted opening brief (DE [11]), the unredacted Volumes 2 and 3 of the excerpts of record (DE [11] and [11]), the unredacted answering brief (DE [34]); and Volume 2 of the supplemental excerpts of record (DE [34]). No further redacted versions are required, and no paper copies of any redacted versions filed pursuant to this order shall be required. The motion to transmit a physical exhibit (Docket Entry No. [32]) is granted. Counsel shall submit four copies of the DVD within seven days of the date of this order. The optional reply brief remains due 21 days after service of the answering brief. [11274500] (HC) [Entered: 04/23/2019 04:35 PM]

04/23/2019 42 Filed Appellant Robert Boule motion to file document under seal and submit sealed document UNDER SEAL. Deficiencies: None. Served on 02/19/2019. (Court entered filing of motion submitted under seal at [23]) [11274723]-[COURT UPDATE:

- Backdated entry to reflect correct filing date. 4/24/2019 by TYL] (HC) [Entered: 04/24/2019 08:48 AM]
- 04/23/2019 43 Filed Appellee Erik Egbert motion (3 pgs) to file document under seal and submit sealed document (SER Vol 2 and Answering Brief) UNDER SEAL. Deficiencies: None. Served on 04/01/2019. (Court entered filing of motion submitted under seal at [34]) [11274748]-[COURT UPDATE: Backdated entry to reflect correct filing date. 4/24/2019 by TYL] (HC) [Entered: 04/24/2019 08:55 AM]
- 04/23/2019 45 Submitted (ECF) UNDER SEAL Unredacted Opening Brief for review. Submitted by Appellant Robert Boule. Date of service: 01/30/2019. (Court-entered filing, brief originally submitted in [11].) [11274786]- [COURT UPDATE: Backdated entry to reflect correct filing date. 4/24/2019 by TYL] (HC) [Entered: 04/24/2019 09:07 AM]
- 04/23/2019 46 Submitted (ECF) UNDER SEAL Unredacted excerpts of record Volume 2 & 3. Submitted by Appellant Robert Boule. Date of service: 01/30/2019. (Court-entered filing, excerpts of record originally submitted in [11].) [11274994] (HC) [Entered: 04/24/2019 10:19 AM]

- 04/23/2019 47 Submitted (ECF) UNDER SEAL Answering Brief for review. Submitted by Appellee Erik Egbert. Date of service: 04/01/2019. (Court-entered filing, brief originally submitted in [34].) [11275022] (HC) [Entered: 04/24/2019 10:25 AM]
- 04/23/2019 48 Submitted (ECF) UNDER SEAL supplemental excerpts of record Volume 2. Submitted by Appellee Erik Egbert. Date of service: 04/01/2019. (Court-entered filing, excerpts of record originally submitted in [34].) [11275042] (HC) [Entered: 04/24/2019 10:31 AM]
- 04/24/2019 44 Deleted Incorrect Entry. Entered in error. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [10]. Original Text: Submitted (ECF) Opening Brief for review. Submitted by Appellant Robert Boule. Date of service: 01/30/2019. (Court-entered filing, brief originally submitted in [11].) [11274760] (HC) [Entered: 04/24/2019 08:59 AM]
- 04/24/2019 49 Filed clerk order: The opening (2 pgs) brief [45] submitted by Robert Boule is filed UNDER SEAL. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to

the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: blue. The Court has reviewed the excerpts of record [12], [46] submitted by Robert Boule. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11276014] (GV) [Entered: 04/24/2019 03:19 PM]

04/24/2019 50 Filed clerk order: The RE-
(1 pg) DACTED opening brief [10] and REDACTED excerpts of record Volumes 2 and 3 [28] submitted by Robert Boule are filed. No paper copies are required at this time. [11276072] (GV) [Entered: 04/24/2019 03:34 PM]

04/24/2019 51 Filed clerk order: The answering
(2 pgs) brief [47] submitted by Erik Egbert is filed UNDER SEAL. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The Court has reviewed the supplemental excerpts

of record [33], [48] submitted by Erik Egbert. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11276128] (GV) [Entered: 04/24/2019 03:54 PM]

- 04/24/2019 52 Filed clerk order: The RE-
(1 pg) DACTED answering brief [35] submitted by Erik Egbert is filed. No paper copies are required at this time. [11276141] (GV) [Entered: 04/24/2019 03:58 PM]
- 04/29/2019 53 Filed (ECF) UNDER SEAL Appellee Erik Egbert motion to file document under seal and submit sealed document. Type of document: other (Physical exhibit (DVD) referenced in Dkt. 41). Date of service: 04/29/2019. [11281266] [18-35789] (Carsley, Nicole) [Entered: 04/29/2019 07:06 PM]
- 04/29/2019 58 ENTRY UPDATED. Received Appellee Erik Egbert's physical exhibits UNDER SEAL consisting in four copies of a DVD containing Exhibit B (SER 260) to Agent Egbert's July 5, 2018, declaration. Deficient: Motion to seal pending. Sent to shelf. [11284061]-[Edited 05/02/2019 by GV to correct party filer] (GV) [Entered: 05/01/2019

05:19 PM]

- 04/30/2019 54 Received 7 paper copies of Answering Brief [47] filed Under Seal by Erik Egbert. [11281822] (RG) [Entered: 04/30/2019 10:56 AM]
- 04/30/2019 55 Filed four paper copies of supplemental excerpts of record [33], [48] in 2 volume(s) (Volume 2 UNDER SEAL) filed by Appellee Erik Egbert. [11281888] (GV) [Entered: 04/30/2019 11:12 AM]
- 05/01/2019 56 Received 7 paper copies of Opening Brief [45] filed Under Seal by Robert Boule. [11283470] (RG) [Entered: 05/01/2019 01:02 PM]
- 05/01/2019 57 Filed four paper copies of excerpts of record [12], [46] in 3 volume(s) (Volumes 2 and 3 UNDER SEAL) filed by Appellant Robert Boule. [11284044] (GV) [Entered: 05/01/2019 05:03 PM]
- 05/02/2019 59 Filed (ECF) Appellee Erik Egbert (3 pgs) response to motion ([40] Motion (Seal) (ECF Filing), [39] Motion (Seal) (ECF Filing)). Date of service: 05/02/2019. [11285348] [18-35789] (Carsley, Nicole) [Entered: 05/02/2019 04:39 PM]
- 05/07/2019 60 Filed Appellees Erik Egbert and (3 pgs) Jane Doe Egbert motion to seal physical exhibits. Deficiencies: None. Served on 04/29/2019. (Court-entered filing of motion

submitted under seal at [53])
[11289943] (AF) [Entered:
05/07/2019 04:26 PM]

- 05/07/2019 61 Filed order (Appellate Commissioner): Appellant's motions (Docket Entry Nos. [39] and [40]) to file the unredacted reply brief and Volume 4 of the excerpts of record under seal are granted. Appellees' motion (Docket Entry No. [53]) to submit the physical exhibits under seal is granted. The Clerk shall publicly file the motion to seal physical exhibits (DE [53]), but shall maintain under seal the motions to seal the reply brief and excerpts, and their accompanying declarations (DE [39] and [40]). The Clerk shall maintain under seal the physical exhibits received on April 29, 2019 (referenced at DE [58]), and shall file the unredacted reply brief (DE [39]) and Volume 4 of the excerpts of record (DE [40]) under seal. Within 7 days after the date of this order, appellant shall submit for public filing a redacted reply brief and a redacted Volume 4, or shall submit a response explaining why redactions are not feasible. This appeal is fully briefed. (Sealed Documents) [11289948] (AF) [Entered: 05/07/2019 04:28 PM]
- 05/07/2019 62 Submitted (ECF) UNDER SEAL

unredacted Reply Brief for review. Submitted by Appellant Robert Boule. Date of service: 04/22/2019. (Court-entered filing, brief originally submitted in [39].) [11289950] (AF) [Entered: 05/07/2019 04:30 PM]

05/07/2019 63 Submitted (ECF) UNDER SEAL unredacted excerpts of record Vol 4. Submitted by Appellant Robert Boule. Date of service: 04/22/2019. (Court-entered filing, excerpts of record originally submitted in [40].) [11289961]—Edited: updated docket text to reflect correct excerpts type. 05/14/2019 by RY] (AF) [Entered: 05/07/2019 04:36 PM]

05/07/2019 64 ENTRY UPDATED. ORIGINAL (2 pgs) TEXT: Filed clerk order: The reply brief [62] submitted by Robert Boule is filed UNDER SEAL. Filed clerk order: The reply brief [66] submitted by Robert Boule is filed UNDER SEAL. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: gray. The Court has reviewed the excerpts of record [63] submitted

by Robert Boule. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [11289997]–[Edited 05/14/2019 by GV to correct ER type] (GV) [Entered: 05/07/2019 04:50 PM]

- 05/07/2019 65 Filed Appellee Erik Egbert's physical exhibits UNDER SEAL consisting in four copies of a DVD containing Exhibit B (SER 260) to Agent Egbert's July 5, 2018, declaration. Sent to Records. [11290010] (GV) [Entered: 05/07/2019 04:55 PM]
- 05/12/2019 66 Submitted (ECF) Reply Brief for (39 pgs) review. Submitted by Appellant Robert Boule. Date of service: 05/12/2019. [11294181] [18-35789]–[COURT UPDATE: Attached corrected PDF of brief. 05/13/2019 by RY] (Boos, Gregory) [Entered: 05/12/2019 05:54 PM]
- 05/12/2019 67 Submitted (ECF) excerpts of record. Submitted by Appellant Robert Boule. Date of service: (249 pgs) 05/12/2019. [11294182] [18-35789]–[COURT UPDATE: Attached corrected PDF of excerpts. 05/13/2019 by RY]– [Edited: updated docket text to reflect correct

- excerpts type. 05/14/2019 by RY] (Boos, Gregory) [Entered: 05/12/2019 05:57 PM]
- 05/13/2019 68 Received 7 paper copies of Reply Brief [62] filed Under Seal by Robert Boule. [11294800] (RG) [Entered: 05/13/2019 11:33 AM]
- 05/13/2019 69 Filed four paper copies of excerpts of record [63] in 1 volume(s) UNDER SEAL filed by Appellant Robert Boule of Volume 4. [11295936] (GV) [Entered: 05/13/2019 04:53 PM]
- 05/14/2019 70 Filed clerk order: The RE- (1 pg) DACTED reply brief [66] and RE- DACTED excerpts of record Volume 4 [67] submitted by Robert Boule are filed. No paper copies are required at this time. [11296450] (GV) [Entered: 05/14/2019 10:32 AM]
- 08/20/2019 71 Filed clerk order (Deputy Clerk: (1 pg) HL): The court stays proceedings in this appeal pending the issuance of a decision by the United States Supreme Court in Hernandez v. Mesa, 17-1678; or upon further order of this court. [11404032] (HC) [Entered: 08/20/2019 02:21 PM]
- 06/16/2020 72 This case is being considered for an upcoming oral argument calendar in Seattle

Please review the Seattle sitting dates for October 2020 and the 2 subsequent sitting months in that location at http://www.ca9.uscourts.gov/court_sessions. If you have an unavoidable conflict on any of the dates, please file **Form 32 within 3 business days of this notice** using the CM/ECF filing type **Response to Case Being Considered for Oral Argument**. Please follow the form's instructions carefully.

When setting your argument date, the court will try to work around unavoidable conflicts; the court is not able to accommodate mere scheduling preferences. You will receive notice that your case has been assigned to a calendar approximately 10 weeks before the scheduled oral argument date. If the parties wish to discuss settlement before an argument date is set, they should jointly request referral to the mediation unit by filing a letter within 3 business days of this notice, using CM/ECF (**Type of Document:** Correspondence to Court; **Subject:** request for mediation). [11723420]. [18-35789] (AW) [Entered: 06/16/2020 11:42 AM]

6/18/2020

73 Filed (ECF) Attorney Mr. Breean
(1 pg) Lawrence Beggs for Appellant

Robert Boule response to notice for case being considered for oral argument. Date of service: 06/18/2020. [11726532] [18-35789] (Beggs, Breean) [Entered: 06/18/2020 03:20 PM]

07/26/2020 74 Notice of Oral Argument on Wednesday, October 7, 2020–09:00 A.M.–SE 7th Flr Courtroom 2–Scheduled Location: Seattle WA. View the Oral Argument Calendar for your case [here](#).

NOTE: Although your case is currently scheduled for oral argument, the panel may decide to submit the case on the briefs instead. See Fed. R. App. P. 34. Absent further order of the court, if the court does determine that oral argument is required in this case, any argument may be held **remotely** with all of the judges and attorneys appearing by video or telephone. Travel to a courthouse will not be required. If the panel determines that it will hold oral argument, the Clerk’s Office will be in contact with you directly at least two weeks before the set argument date to make any necessary arrangements for remote appearance.

Be sure to review the **GUIDELINES** for important information

about your hearing, including when to be available (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible).

If you are the specific attorney or self-represented party who will be arguing, use the **ACKNOWLEDGMENT OF HEARING NOTICE** filing type in CM/ECF no later than 21 days before Wednesday, October 7, 2020. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice. [11766260]. [18-35789] (AW) [Entered: 07/26/2020 06:16 AM]

07/28/2020 75 (2 pgs) Filed clerk order (Deputy Clerk: OC): The motion to become amicus curiae submitted by Northwest Immigrant Rights Project and the American Immigration Council on February 6, 2019, (Dkt. Entry [13]) is GRANTED. The Clerk shall file the brief submitted with the motion. Amici shall submit six paper copies of the brief within seven days of the filing of this order. The paper copies must have a green cover and be accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted

electronically. A sample certificate is available as Form 18 on the Court's website at <https://cdn.ca9.uscourts.gov/datas-tore/uploads/forms/form18.pdf>.

[11769854] (OC) [Entered: 07/28/2020 04:15 PM]

07/28/2020 76 Filed clerk order: The amicus brief (1 pg) [13] submitted by American Immigration Council and NWIRP is filed. A review of the Court's docket reflects the 7 paper copies of the brief were received on 02/25/2019 (see entry [27].)No additional paper copies are required. [11769995] (SML) [Entered: 07/28/2020 05:28 PM]

08/25/2020 77 Notice of Oral Argument on Wednesday, October 7, 2020–1:30 P.M.–SE 7th Flr Courtroom 2–Scheduled Location: Seattle WA.

The hearing time is the local time zone at the scheduled hearing location, even if the argument is fully remote.

View the Oral Argument Calendar for your case [here](#).

NOTE: Although your case is currently scheduled for oral argument, the panel may decide to submit the case on the briefs instead. See Fed. R. App. P. 34. Absent further order of the court, if the court does

determine that oral argument is required in this case, any argument may be held **remotely** with all of the judges and attorneys appearing by video or telephone. Travel to a courthouse will not be required. If the panel determines that it will hold oral argument, the Clerk's Office will be in contact with you directly at least two weeks before the set argument date to make any necessary arrangements for remote appearance.

Be sure to review the **GUIDELINES** for important information about your hearing, including when to be available (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible).

If you are the specific attorney or self-represented party who will be arguing, use the ACKNOWLEDGMENT OF HEARING NOTICE filing type in CM/ECF no later than 21 days before Wednesday, October 7, 2020. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice. [11802176]. [18-35789] (AW) [Entered: 08/25/2020 01:39 PM]

- 08/27/2020 78 Filed (ECF) Acknowledgment of hearing notice by Attorney Mr. Geoffrey Martin Grindeland for Appellee Erik Egbert. Hearing in Seattle on 10/07/2020 at 1:30 P.M. (Courtroom: 7th Floor Courtroom 2). Filer sharing argument time: No. (Argument minutes: 15.) Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 08/27/2020. [11804879] [18-35789] (Grindeland, Geoffrey) [Entered: 08/27/2020 12:03 PM]
- 08/28/2020 79 Filed (ECF) Acknowledgment of hearing notice by Attorney Mr. Breean Lawrence Beggs for Appellant Robert Boule. Hearing in Seattle on 10/07/2020 at 1:30 P.M. (Courtroom: Courtroom: 7th Floor Courtroom 2). Filer sharing argument time: Yes. (Argument minutes: 10.) Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 08/28/2020. [11806482] [18-35789] (Beggs, Breean) [Entered: 08/28/2020 03:04 PM]
- 08/28/2020 80 Filed (ECF) Amici Curiae NWIRP (3 pgs) and American Immigration Council Unopposed Motion for miscellaneous relief [Motion for leave by

- Amici to participate in oral argument]. Date of service: 08/28/2020. [11806658] [18-35789] (Adams, Matt) [Entered: 08/28/2020 04:21 PM]
- 09/02/2020 81 Filed text clerk order (Deputy Clerk: OC): Amici Curiae's unopposed motion [80] to participate in oral argument, is granted. [11810481] (OC) [Entered: 09/02/2020 09:54 AM]
- 09/04/2020 82 Filed (ECF) Appellant Robert (10 pgs) Boule Unopposed Motion for miscellaneous relief [UNOPPOSED MOTION TO CLOSE ORAL ARGUMENT]. Date of service: 09/04/2020. [11814053] [18-35789] (Boos, Gregory) [Entered: 09/04/2020 02:59 PM]
- 09/04/2020 83 Filed (ECF) Appellant Robert (29 pgs) Boule Amended Motion for miscellaneous relief [UNOPPOSED MOTION TO CLOSE ORAL ARGUMENT]. Date of service: 09/04/2020. [11814195] [18-35789]-[COURT UPDATE: Attached sealed exhibits to the motion, originally submitted in [84]. 09/08/2020 by SML] (Boos, Gregory) [Entered: 09/04/2020 03:47 PM]
- 09/04/2020 84 Filed (ECF) UNDER SEAL Appellant Robert Boule motion to file

document under seal and submit sealed document. Type of document: other (MOTION TO FILE EXHIBIT TO PLAINTIFF-APPELLANTS MEMORANDUM ISO MOTION TO CLOSE ORAL ARGUMENT UNDER SEAL FILED UNDER SEAL-EXHIBIT TO MEMORANDUM IN SUPPORT OF MOTION TO CLOSE ORAL ARGUMENT). Date of service: 09/04/2020. [11814531] [18-35789] (Boos, Gregory) [Entered: 09/04/2020 07:38 PM]

- | | | |
|------------|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09/08/2020 | 85
(4 pgs) | Filed Appellant Robert Boule motion to file memorandum in support of motion to close oral argument UNDER SEAL. Deficiencies: None. Served on 09/04/2020. (Court-entered filing, motion originally submitted in [84].) [11815445] (SML) [Entered: 09/08/2020 10:42 AM] |
| 09/08/2020 | 86 | Filed text clerk order (Deputy Clerk: OC): Appellant's motions to close oral argument [82], [83] and [85], are granted. [11816630] (OC) [Entered: 09/08/2020 04:56 PM] |
| 09/17/2020 | 87 | Filed (ECF) Acknowledgment of hearing notice by Attorney Matt Adams for Amici Curiae American Immigration Council and NWIRP. Hearing in Seattle on 10/07/2020 at |

1:30 P.M. (Courtroom: SE 7th Flr Courtroom 2). Filer sharing argument time: Yes. (Argument minutes: 5.) Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 09/17/2020. [11827117] [18-35789] (Adams, Matt) [Entered: 09/17/2020 08:36 AM]

10/07/2020 88 ARGUED AND SUBMITTED TO SUSAN P. GRABER, WILLIAM A. FLETCHER and NANCY D. FREUDENTHAL. [11851314] (SB) [Entered: 10/07/2020 03:21 PM]

10/08/2020 89 Filed UNDER SEAL Audio recording of closed oral argument. (0 pg) [11851828]–[Edited 10/21/2020 by SVG] (SVG) [Entered: 10/08/2020 09:23 AM]

11/20/2020 90 FILED OPINION (SUSAN P. (19 pgs) GRABER, WILLIAM A. FLETCHER and NANCY D. FREUDENTHAL) REVERSED AND REMANDED. Judge: WAF Authoring. FILED AND ENTERED JUDGMENT. [11900412] (MM) [Entered: 11/20/2020 08:10 AM]

11/28/2020 91 Filed (ECF) Appellant Robert (2 pgs) Boule bill of costs (Form 10) in the amount of \$704.60 USD. Date of

- service: 11/28/2020 [11908289] [18-35789] (Boos, Gregory) [Entered: 11/28/2020 07:19 PM]
- 12/14/2020 92 MANDATE ISSUED.(SPG, WAF
(1 pg) and NDF) Costs taxed against Appellee in the amount of \$380.30. [11925403] (NAC) [Entered: 12/14/2020 07:11 AM]
- 12/14/2020 93 Filed clerk order (Deputy Clerk:
(1 pg) NAC): The mandate issued on 12/14/2020 is recalled as issued in error. [11925482] (NAC) [Entered: 12/14/2020 08:10 AM]
- 01/21/2021 94 Filed order (SUSAN P. GRABER,
(1 pg) WILLIAM A. FLETCHER and NANCY D. FREUDENTHAL) A judge of this court has called for a vote to determine whether this case should be reheard en banc. The parties are directed to file simultaneous briefs setting forth their respective positions as to whether this case should be reheard en banc. The briefs shall not exceed 15 pages or 4,200 words and shall be filed within twenty-one (21) days of the date of this order. [11975467] (OC) [Entered: 01/21/2021 04:18 PM]
- 02/10/2021 95 Filed (ECF) notice of appearance
of Halley Carlson Fisher (Cascadia Cross-Border Law 1305 11th Street Suite 301, Bellingham, WA 98225) for Appellant Robert Boule.

- Date of service: 02/10/2021. (Party was previously proceeding with counsel.) [11999110] [18-35789] (Fisher, Halley) [Entered: 02/10/2021 11:22 AM]
- 02/10/2021 96 Added Attorney(s) Halley Carlson Fisher for party(s) Appellant Robert Boule, in case 18-35789. [11999118] (NAC) [Entered: 02/10/2021 11:24 AM]
- 02/11/2021 97 COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [98]. Original Text: Filed (ECF) Appellee Erik Egbert response to Order to file supplemental brief, Order. Date of service: 02/11/2021. [12000697]. [18-35789] (Grindeland, Geoffrey) [Entered: 02/11/2021 12:00 PM]
- 02/11/2021 98 COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [102]. Original Text: Filed (ECF) Appellee Erik Egbert petition for rehearing en banc (from 11/20/2020 opinion). Date of service: 02/11/2021. [12000709]-[COURT ENTERED FILING to correct entry [97].] (SLM) [Entered: 02/11/2021 12:09]

PM]

2/11/2021	102 (20 pgs)	Submitted (ECF) Supplemental Brief for review. Submitted by Appellee Erik Egbert. Date of service: 02/12/2021. [12002429] [18-35789]–[COURT UPDATE: Backdated to reflect original filing date. Originally filed in [98]. 02/12/2021 by KWG] (Grindeland, Geoffrey) [Entered: 02/12/2021 01:57 PM]
02/11/2021	99	COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [100]. Original Text: Filed (ECF) Appellant Robert Boule response to Court order dated 01/21/2021. Date of service: 02/11/2021. [12001471] [18-35789] (Boos, Gregory) [Entered: 02/11/2021 05:31 PM]
02/11/2021	100 (19 pgs)	Submitted (ECF) Supplemental Brief for review. Submitted by Appellant Robert Boule. Date of service: 02/11/2021. [12001700]–COURT ENTERED FILING to replace entry [99].] (SML) [Entered: 02/12/2021 08:29 AM]
02/12/2021	101 (1 pg)	Filed clerk order: The supplemental brief [100] submitted by Robert Boule is filed. No paper copies are required. [12001706] (SML) [Entered: 02/12/2021 08:31

AM]

- 02/12/2021 103 Filed clerk order: The supplemental brief [102] submitted by Erik Egbert is filed. No paper copies are required at this time. [12002478] (KWG) [Entered: 02/12/2021 02:19 PM]
- 05/20/2021 104 Filed order and amended opinion (54 pgs) (SUSAN P. GRABER, WILLIAM A. FLETCHER and NANCY D. FREUDENTHAL). The opinion filed on November 20, 2020, and reported at *Boule v. Egbert*, 980 F.3d 1309 (9th Cir. 2020), is amended, and the amended opinion is filed concurrently with this order. An active judge of this court sua sponte requested a vote on whether to rehear this case en banc. A vote was taken and the matter failed to receive a majority of the votes of the nonrecused active judges in favor of en banc consideration. See Fed. R. App. P. 35(f). Rehearing en banc is DENIED. Judge Bumatay's, Judge Owens's, and Judge Bress's dissents from the denial of rehearing en banc are attached and filed concurrently with this order. [12119104] (AKM) [Entered: 05/20/2021 08:51 AM]
- 05/28/2021 105 MANDATE ISSUED.(SPG, WAF and NDF) Costs taxed against Appellee in the amount of \$380.30.

[12127660] (NAC) [Entered: 05/28/2021 07:20 AM]

06/10/2021 106 Filed (ECF) Appellee Erik Egbert
(4 pgs) Motion to recall the mandate. Date of service: 06/10/2021. [12140200][18-3 5789] (Grindeland, Geoffrey) [Entered: 06/10/2021 10:25 AM]

06/15/2021 107 Filed order (SUSAN P. GRABER, WILLIAM A. FLETCHER and NANCY D. FREUDENTHAL) Appellee's unopposed motion to recall and stay the mandate pending the filing of a petition for a writ of certiorari (Dkt. [106]) is GRANTED. Fed. R. App. P. 41(b). The mandate is recalled and stayed for a period not to exceed 90 days pending the filing of a petition for writ of certiorari in the Supreme Court. Should a petition for writ of certiorari be filed, the stay shall continue until final disposition by the Supreme Court. The moving party shall notify this court in writing of that filing on the same day the petition is filed in the Supreme Court. [12144937] (OC) [Entered: 06/15/2021 02:02 PM]

07/30/2021 108 Filed (ECF) Appellee Erik Egbert
(2 pgs) response to Court order dated 06/15/2021. Date of service: 07/30/2021. [1218823 2] [18-35789] (Carsley, Nicole) [Entered:

07/30/2021 02:25 PM]

08/05/2021

109
(1 pg)

Supreme Court Case Info

Case number: 21-147

Filed on: 07/30/2021

Cert Petition Action 1: Pending

[12192577] (RR) [Entered:
08/05/2021 07:48 AM]

11/08/2021

110
(1pg)

Supreme Court Case Info

Case number: 21-147

Filed on: 07/30/2021

Cert Petition Action 1: Granted,
11/05/2021

[12281008] (RR) [Entered:
11/08/2021 11:10 AM]

**U.S. DISTRICT COURT
UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
(SEATTLE)
CIVIL DOCKET FOR CASE #: 2:17-CV-00106-RSM**

01/25/2017	1	COMPLAINT against defendant(s) Robert Boule (Receipt # 0981-4745004), filed by Robert Boule. (Attachments: # 1 Civil Cover Sheet, # 2 Summons) (Beggs, Breean) (Entered: 01/25/2017)
01/26/2017		Judge Ricardo S Martinez added. (RE) (Entered: 01/26/2017)
01/26/2017	2	Summons electronically issued as to defendant(s) Erik Egbert, Jane Doe Egbert. (RE) (Entered: 01/26/2017)
03/20/2017	3	SERVICE OF SUMMONS and Complaint returned executed upon defendant All Defendants (Beggs, Breean) (Entered: 03/20/2017)
04/03/2017	4	MOTION for Default <i>and Declaration</i> , filed by Plaintiff Robert Boule. (Attachments: # 1 Proposed Order of Default) Noting Date 4/3/2017, (Beggs, Breean) (Entered: 04/03/2017)
04/10/2017	5	CLERK'S ORDER granting 4 MOTION for Default <i>and Declaration</i> filed by Robert Boule; Motion terminated. (LC) (Entered: 04/10/2017)
04/13/2017	6	NOTICE of Appearance by attorney Geoffrey M Grindeland on

behalf of Defendant Erik Egbert.
(Grindeland, Geoffrey) (Entered:
04/13/2017)

04/14/2017 Attorney Nicole C Carsley for Erik
Egbert added; per 6 Notice of Ap-
pearance. (RS) (Entered:
04/14/2017)

04/17/2017 7 MOTION to Vacate 5 Order on Mo-
tion for Default, Terminate Motions
, filed by Plaintiff Robert Boule. (At-
tachments: # 1 Proposed Order)
Noting Date 5/5/2017, (Beggs,
Breean) (Entered: 04/17/2017)

4/17/2017 8 ORDER granting plaintiff's 7 Mo-
tion to vacate the Order of Default
against defendants Erik and Jane
Doe Egbert by Judge Ricardo S
Martinez.(RS) Modified on
4/17/2017/cc W Scott Railton (RS).
(Entered: 04/17/2017)

05/01/2017 9 ORDER REGARDING INITIAL
DISCLOSURES AND JOINT
STATUS REPORT by Judge Ri-
cardo S Martinez. Joint Status Re-
port due by 6/12/2017, FRCP 26f
Conference Deadline is 5/30/2017,
Initial Disclosure Deadline is
6/5/2017. (LC) (Entered:
05/01/2017)

05/11/2017 10 AFFIDAVIT of Service of Sum-
mons and Complaint on Sandra
Bowers, Receptionist U.S. Attorney
and CM to US Att'y on 4/18/2017,

- filed by Plaintiff Robert Boule. (Attachments: # 1 Exhibit Declaration of Service, # 2 Exhibit Proof of Certified mail)(Beggs, Breean) (Entered: 05/11/2017)
- 05/17/2017 11 Stipulated MOTION to *Extend Initial Scheduling Deadlines*, filed by Defendants Erik Egbert, Jane Doe Egbert. Noting Date 5/17/2017, (Grindeland, Geoffrey) (Entered: 05/17/2017)
- 05/18/2017 12 ORDER granting 11 Stipulated Motion to Extend Initial Scheduling Deadlines; FRCP 26f Conference Deadline is 6/29/2017, Initial Disclosure Deadline is 7/5/2017, Combined Joint Status Report and Discovery Plan as Required by FRCP26(f) and Local Civil Rule 26(f) due by 7/12/2017. Signed by Judge Ricardo S Martinez. (PM) (Entered: 05/18/2017)
- 06/19/2017 13 ANSWER to 1 Complaint with JURY DEMAND, COUNTERCLAIM against plaintiff Robert Boule by Erik Egbert.(Grindeland, Geoffrey) (Entered: 06/19/2017)
- 07/05/2017 14 JOINT STATUS REPORT signed by all parties estimated Trial Days: 4-5. (Grindeland, Geoffrey) (Entered: 07/05/2017)
- 07/05/2017 15 STIPULATION AND PROPOSED ORDER *Model Stipulated*

- Protective Order* by parties (Attachments: # 1 Redline Model Stipulated Protective Order) (Grindeland, Geoffrey) (Entered: 07/05/2017)
- 07/10/2017 16 MODEL STIPULATED PROTECTIVE ORDER; re parties' 15 Stipulation, signed by Judge Ricardo S Martinez. (SWT) (Entered: 07/10/2017)
- 07/10/2017 17 *Answers and Affirmative Defenses* ANSWER to 13 Answer to Complaint, Counterclaim by Robert Boule.(Beggs, Breean) (Entered: 07/10/2017)
- 07/21/2017 18 ORDER SETTING TRIAL DATE AND RELATED DATES; Length of Trial: *4-5 days*. Jury Trial is set for 7/23/2018 at 9:00 AM before Judge Ricardo S. Martinez. Joinder of Parties due by 8/18/2017, Amended Pleadings due by 8/18/2017, Expert Witness Disclosure/Reports under FRCP 26(a)(2) due by 1/24/2018, Motions due by 2/23/2018, Discovery completed by 3/26/2018, Dispositive motions due by 4/24/2018, 39.1 mediation to be completed by 6/8/2018, Motions in Limine due by 6/25/2018, Pretrial Order due by 7/11/2018, Trial briefs to be submitted by 7/18/2018, Proposed voir dire/jury instructions due by 7/18/2018, by Judge Ricardo S. Martinez. (LW) (Entered: 07/21/2017)

07/21/2017)

08/16/2017 19 Unopposed MOTION to Amend 1 Complaint,, filed by Plaintiff Robert Boule. (Attachments: # 1 Exhibit A-Amended Complaint, # 2 Exhibit B-Email BBeggs-NCarsley, # 3 Proposed Order to Amend Complaint) Noting Date 9/1/2017, (Beggs, Breean) (Entered: 08/16/2017)

08/22/2017 20 RESPONSE, by Defendant Erik Egbert, Counter Claimant Erik Egbert, to 19 Unopposed MOTION to Amend 1 Complaint,. (Grindeland, Geoffrey) (Entered: 08/22/2017)

09/01/2017 21 ORDER granting Plaintiff's 19 Unopposed Motion to Amend Complaint. Counsel is directed to e-file their Amended Complaint. Signed by Judge Ricardo S Martinez. (TH) (Entered: 09/01/2017)

09/06/2017 22 AMENDED COMPLAINT against All Defendants, filed by Robert Boule. (Beggs, Breean) (Entered: 09/06/2017)

09/20/2017 23 ANSWER to 22 Amended Complaint with JURY DEMAND, COUNTERCLAIM against plaintiff Robert Boule by Erik Egbert.(Carsley, Nicole) (Entered: 09/20/2017)

01/11/2018 24 MOTION to Compel (*and Memorandum*) *Production of Records*

- and Answer to Discovery Questions*, filed by Plaintiff Robert Boule. Noting Date 1/26/2018, (Beggs, Breean) (Entered: 01/11/2018)
- 01/11/2018 25 DECLARATION of Robert Boule ISO Motion to Compel filed by Plaintiff Robert Boule re 24 MOTION to Compel (*and Memorandum*) *Production of Records and Answer to Discovery Questions* (Beggs, Breean) (Entered: 01/11/2018)
- 01/11/2018 26 DECLARATION of Breean L. Beggs filed by Plaintiff Robert Boule re 24 MOTION to Compel (*and Memorandum*) *Production of Records and Answer to Discovery Questions* (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (Beggs, Breean) (Entered: 01/11/2018)
- 01/11/2018 27 DECLARATION of Greg Boos filed by Plaintiff Robert Boule re 24 MOTION to Compel (*and Memorandum*) *Production of Records and Answer to Discovery Questions* (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Beggs, Breean) (Entered: 01/11/2018)
- 01/11/2018 28 PROPOSED ORDER (Unsigned) re 24 MOTION to Compel (*and*

- Memorandum) Production of Records and Answer to Discovery Questions* (Beggs, Breean) (Entered: 01/11/2018)
- 01/16/2018 29 CERTIFICATE OF SERVICE by Plaintiff Robert Boule re 27 Declaration, 24 MOTION to Compel *(and Memorandum) Production of Records and Answer to Discovery Questions delivered to US Department of Homeland Security, Office of the Assistant Chief Counsel* (Beggs, Breean) (Entered: 01/16/2018)
- 01/22/2018 30 RESPONSE, by Defendant Erik Egbert, to 24 MOTION to Compel *(and Memorandum) Production of Records and Answer to Discovery Questions*. (Attachments: # 1 Proposed Order)(Grindeland, Geoffrey) (Entered: 01/22/2018)
- 01/22/2018 31 DECLARATION of Nikki C. Carsley filed by Defendant Erik Egbert re 24 MOTION to Compel *(and Memorandum) Production of Records and Answer to Discovery Questions* (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Grindeland, Geoffrey) (Entered: 01/22/2018)
- 01/25/2018 32 MOTION for Relief *from Scheduling Order Deadlines*, filed by Plaintiff Robert Boule. (Attachments: #

- 1 Proposed Order to Amend Scheduling Order) Noting Date 2/2/2018, (Beggs, Breean) (Entered: 01/25/2018)
- 01/25/2018 33 DECLARATION of Breean L. Beggs ISO Motion to Amend Scheduling Order filed by Plaintiff Robert Boule re 32 MOTION for Relief *from Scheduling Order Deadlines* (Beggs, Breean) (Entered: 01/25/2018)
- 01/26/2018 34 REPLY, filed by Plaintiff Robert Boule, TO RESPONSE to 24 MOTION to Compel (*and Memorandum*) *Production of Records and Answer to Discovery Questions* (Attachments: # 1 Proposed Order Second Proposed Order to Compel Production)(Beggs, Breean) (Entered: 01/26/2018)
- 01/31/2018 35 RESPONSE, by Defendant Erik Egbert, to 32 MOTION for Relief *from Scheduling Order Deadlines*. (Attachments: # 1 Proposed Order)(Grindeland, Geoffrey) (Entered: 01/31/2018)
- 01/31/2018 36 DECLARATION of Nikki C. Carsley filed by Defendant Erik Egbert re 32 MOTION for Relief *from Scheduling Order Deadlines* (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Grindeland, Geoffrey) (Entered: 01/31/2018)

- 02/02/2018 37 REPLY, filed by Plaintiff Robert Boule, TO RESPONSE to 32 MOTION for Relief *from Scheduling Order Deadlines* (Beggs, Breean) (Entered: 02/02/2018)
- 02/02/2018 38 Second DECLARATION of Breean L. Beggs ISO Motion for Relief filed by Plaintiff Robert Boule re 32 MOTION for Relief from Scheduling Order Deadlines (Beggs, Breean) (Entered: 02/02/2018)
- 02/02/2018 39 PRAECIPE re 38 Declaration of *Breean L. Beggs ISO Motion for Relief of Scheduling Order Deadlines* by Plaintiff Robert Boule (Attachments: # 1 Exhibit)(Beggs, Breean) (Entered: 02/02/2018)
- 02/22/2018 40 MOTION to Compel , filed by Defendant Erik Egbert. (Attachments: # 1 Proposed Order) Noting Date 3/9/2018, (Carsley, Nicole) (Entered: 02/22/2018)
- 02/22/2018 41 DECLARATION of Nikki Carsley filed by Defendant Erik Egbert re 40 MOTION to Compel (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I)(Carsley, Nicole) (Entered: 02/22/2018)
- 02/27/2018 42 NOTICE of Appearance by attorney Kristin Berger Johnson on

- behalf of Interested Party U.S. Customs and Border Protection. (Johnson, Kristin) (Entered: 02/27/2018)
- 02/27/2018 Set hearing re 32 MOTION for Relief *from Scheduling Order Deadlines* and 24 MOTION to Compel (and Memorandum) Production of Records and Answer to Discovery Questions: Motion Hearing set for 3/2/2018 at 11:00 AM before Judge Ricardo S Martinez. (LC) (Entered: 02/27/2018)
- 02/27/2018 43 STIPULATION AND PROPOSED ORDER *Protective Order* by parties (Johnson, Kristin) (Entered: 02/27/2018)
- 02/27/2018 44 STIPULATION AND PROPOSED ORDER [*proposed*] Order *Withdrawing Plaintiff's Motion to Compel As To U.S. Customs And Border Protection* by parties (Johnson, Kristin) (Entered: 02/27/2018)
- 02/28/2018 45 OBJECTIONS re 44 Stipulation, 43 Stipulation by Defendant Erik Egbert (Carsley, Nicole) (Entered: 02/28/2018)
- 03/02/2018 46 MINUTE ENTRY for proceedings held before Judge Ricardo S. Martinez- Dep Clerk: *Lowell Williams*; Pla Counsel: *Breean Beggs, Gregory Boos, Scott Railton*; Def Counsel: *Geoff Grindeland, Nicole Carsley*; Interested Party: *Kristin*

Johnson, David Goldfarb, Jennifer Stilwell, Ann McElearney; CR: Andrea Ramirez; Time of Hearing: 11:00 AM; Motion Hearing held on 3/2/2018 Counsel advise that they have reached an agreement as to how to proceed; Court agrees to proceed as recommended and strikes the following motions: 32 MOTION for Relief from Scheduling Order Deadlines filed by Robert Boule and 24 MOTION to Compel (and Memorandum) Production of Records and Answer to Discovery Questions filed by Robert Boule. Counsel directed confer and approve stipulated protective order as to all 3 parties.(LW) (Entered: 03/02/2018)

03/02/2018	47	NOTICE <i>Withdrawing Portions of</i> re 40 MOTION to Compel ; filed by Defendant Erik Egbert. (Attachments: # 1 Exhibit, # 2 Proposed Order)(Carsley, Nicole) (Entered: 03/02/2018)
03/02/2018	48	ORDER DIRECTING RELEASE OF INFORMATION directing the Bureau of Immigration and Customs Enforcement (ICE) to disclose the information discussed by the parties in the court hearing held on March 2, 2018. Signed by Judge Ricardo S Martinez. (PM) (Entered: 03/02/2018)
03/05/2018	49	STIPULATION AND

- PROPOSED ORDER *Protective Order Between Parties, U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement* by parties (Attachments: # 1 Exhibit A)(Johnson, Kristin) (Entered: 03/05/2018)
- 03/05/2018 50 RESPONSE, by Plaintiff Robert Boule, to 40 MOTION to Compel . (Beggs, Breean) (Entered: 03/05/2018)
- 03/05/2018 51 DECLARATION of Breean L. Beggs in Response to Egbert's Amended Motion to Compel filed by Plaintiff Robert Boule re 40 MOTION to Compel (Beggs, Breean) (Entered: 03/05/2018)
- 03/05/2018 52 PROPOSED ORDER (Unsigned) re 50 Response to Motion (*Egbert's Amended*) to Compel (Beggs, Breean) (Entered: 03/05/2018)
- 03/06/2018 53 STIPULATED PROTECTIVE ORDER BETWEEN PARTIES, U.S. CUSTOMS AND BORDER PROTECTION AND U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT signed by Judge Ricardo S Martinez. (PM) (Entered: 03/06/2018)
- 03/09/2018 54 REPLY, filed by Defendant Erik Egbert, TO RESPONSE to 40 MOTION to Compel (Attachments: # 1 Proposed Order)(Carsley, Nicole)

- (Entered: 03/09/2018)
- 03/15/2018 55 MOTION for Extension of Time to Complete Discovery , filed by Defendant Erik Egbert. (Attachments: # 1 Proposed Order) Noting Date 3/23/2018, (Carsley, Nicole) (Entered: 03/15/2018)
- 03/21/2018 56 RESPONSE, by Plaintiff Robert Boule, to 55 MOTION for Extension of Time to Complete Discovery . (Beggs, Breean) (Entered: 03/21/2018)
- 03/21/2018 57 PROPOSED ORDER (Unsigned) re 56 Response to Motion (*Egbert's to Allow Certain Discovery After March 26*) (Beggs, Breean) (Entered: 03/21/2018)
- 03/23/2018 58 REPLY, filed by Defendant Erik Egbert, TO RESPONSE to 55 MOTION for Extension of Time to Complete Discovery (Grindeland, Geoffrey) (Entered: 03/23/2018)
- 03/27/2018 59 ORDER granting Defendant's 40 Motion to Compel; granting Defendant's 55 Motion to Allow Certain Discovery After March 26, 2018. Signed by Judge Ricardo S Martinez. (PM) (Entered: 03/27/2018)
- 04/05/2018 60 MOTION to Compel , filed by Defendant Erik Egbert. (Attachments: # 1 Proposed Order) Noting Date 4/20/2018, (Grindeland,

- Geoffrey) (Entered: 04/05/2018)
- 04/10/2018 61 MOTION for Summary Judgment *on Defendant's Counterclaim for Malicious Prosecution and Memorandum in Support Thereof*, filed by Plaintiff Robert Boule. (Attachments: # 1 Proposed Order on Motion for Summary Judgment) Noting Date 5/4/2018, (Boos, Gregory) (Entered: 04/10/2018)
- 04/12/2018 62 PRAECIPE re 61 MOTION for Summary Judgment *on Defendant's Counterclaim for Malicious Prosecution and Memorandum in Support Thereof* by Plaintiff Robert Boule (Attachments: # 1 Exhibit A)(Boos, Gregory) (Entered: 04/12/2018)
- 04/12/2018 63 MOTION for Extension of Time to Complete Discovery , filed by Defendant Erik Egbert. (Attachments: # 1 Proposed Order) Noting Date 4/20/2018, (Carsley, Nicole) (Entered: 04/12/2018)
- 04/12/2018 64 NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Motion Hearing held on 3/2/2018 before Judge Ricardo S. Martinez.
- Parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made

remotely electronically available to the public without redaction after 90 calendar days.

Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Information regarding the policy can be found on the court's website at www.wawd.uscourts.gov.

To purchase a copy of the transcript, contact court reporter Andrea Ramirez, andrea_ramirez@wawd.uscourts.gov, 206-370-8509.

Release of Transcript Restriction set for 7/11/2018, (AR) (Entered: 04/12/2018)

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| 04/13/2018 | 65 | PRAECIPE re 60 MOTION to Compel by Defendant Erik Egbert (Attachments: # 1 Exhibit)(Carsley, Nicole) (Entered: 04/13/2018) |
| 04/16/2018 | 66 | RESPONSE, by Interested Party U.S. Customs and Border Protection, to 60 MOTION to Compel . (Johnson, Kristin) (Entered: 04/16/2018) |
| 04/16/2018 | 67 | DECLARATION of Anne P. Mcearney filed by Interested Party U.S. Customs and Border |

Protection re 60 MOTION to Compel (Johnson, Kristin) (Entered: 04/16/2018)

04/16/2018 68 DECLARATION of David Goldfarb filed by Interested Party U.S. Customs and Border Protection re 60 MOTION to Compel (Johnson, Kristin) (Entered: 04/16/2018)

04/16/2018 69 RESPONSE, by Plaintiff Robert Boule, to 60 MOTION to Compel . (Beggs, Breean) (Entered: 04/16/2018)

04/16/2018 70 RESPONSE, by Plaintiff Robert Boule, to 63 MOTION for Extension of Time to Complete Discovery . (Beggs, Breean) (Entered: 04/16/2018)

04/16/2018 71 PRAECIPE re 70 Response to Motion to correct signature and Certification of Service dates by Plaintiff Robert Boule (Attachments: # 1 Exhibit A to Praecipe, # 2 Exhibit B to Praecipe)(Beggs, Breean) (Entered: 04/16/2018)

04/20/2018 72 REPLY, filed by Defendant Erik Egbert, TO RESPONSE to 63 MOTION for Extension of Time to Complete Discovery (Attachments: # 1 Proposed Order) (Carsley, Nicole) (Entered: 04/20/2018)

04/20/2018 73 REPLY, filed by Defendant Erik Egbert, TO RESPONSE to 60 MOTION to Compel (Attachments: # 1

- Proposed Order)(Grindeland, Geoffrey) (Entered: 04/20/2018)
- 04/30/2018 74 RESPONSE, by Defendant Erik Egbert, to 61 MOTION for Summary Judgment *on Defendant's Counterclaim for Malicious Prosecution and Memorandum in Support Thereof*. (Attachments: # 1 Proposed Order)(Carsley, Nicole) (Entered: 04/30/2018)
- 05/01/2018 75 Stipulated MOTION *FOR ORDER OF DISMISSAL OF MALICIOUS-PROSECUTION COUNTERCLAIM*, filed by Defendant Erik Egbert. Noting Date 5/1/2018, (Carsley, Nicole) (Entered: 05/01/2018)
- 05/02/2018 76 STIPULATION AND ORDER *OF DISMISSAL OF MALICIOUS-PROSECUTION COUNTERCLAIM* re parties' 75 Stipulated MOTION. IT IS ORDERED that Agent Egbert's counterclaim for malicious prosecution is DISMISSED without an award of fees or costs to any party. Signed by Judge Ricardo S Martinez. (TH) (Entered: 05/02/2018)
- 05/14/2018 77 ORDER granting Defendant's 60 Motion to Compel; granting in part Defendant's 63 Motion for Extension of Deadlines for Certain Discovery and Dispositive Motions. The

- Court shall strike the current trial date of 7/23/2018 and pre-trial deadlines from the discovery deadline forward. Parties to file a Joint Status Report within 14 days. Signed by Judge Ricardo S Martinez. (PM) (Entered: 05/14/2018)
- 05/25/2018 78 JOINT STATUS REPORT signed by all parties estimated Trial Days: 4 - 5. (Carsley, Nicole) (Entered: 05/25/2018)
- 05/29/2018 79 ****REVISED**** ORDER SETTING TRIAL DATE AND RELATED DATES by Judge Ricardo S Martinez; Length of Trial: *4-5 days*. Jury Trial is set for 10/1/2018 at 09:00 AM before Judge Ricardo S Martinez. Dispositive motions due by 7/5/2018, 39.1 mediation to be completed by 8/17/2018, Motions in Limine due by 9/4/2018, Pretrial Order due by 9/19/2018, Trial briefs to be submitted by 9/26/2018, Proposed voir dire/jury instructions due by 9/26/2018. (LC) Modified on 5/29/2018 to clarify length of trial (LC). (Entered: 05/29/2018)
- 05/31/2018 80 MOTION for Extension of Time *for Discovery and Trial Dates*, filed by Plaintiff Robert Boule. (Attachments: # 1 Proposed Order to Extend Discovery and Trial Dates) Noting Date 6/8/2018, (Beggs,

- Breean) (Entered: 05/31/2018)
- 05/31/2018 81 DECLARATION of Greg Boos filed by Plaintiff Robert Boule re 80 MOTION for Extension of Time *for Discovery and Trial Dates* (Attachments: # 1 Exhibit A to Greg Boos' Declaration ISO Motion to Extend Discovery and Trial Dates) (Beggs, Breean) (Entered: 05/31/2018)
- 05/31/2018 82 PRAECIPE *for ECF No. 80* Motion to Extend Discovery by Plaintiff Robert Boule (Attachments: # 1 Exhibit A to Praecipe for ECF# 80)(Beggs, Breean) Modified on 6/1/2018 to add link to motion (PM). (Entered: 05/31/2018)
- 06/01/2018 83 NOTICE of Unavailability of counsel Breean Lawrence Beggs for Plaintiff Robert Boule from 06/16/2018-07/3/2018 & 08/03/2018-08/10/2018. (Beggs, Breean) (Entered: 06/01/2018)
- 06/06/2018 84 RESPONSE, by Defendant Erik Egbert, to 80 MOTION for Extension of Time *for Discovery and Trial Dates*. (Attachments: # 1 Proposed Order)(Carsley, Nicole) (Entered: 06/06/2018)
- 06/06/2018 85 DECLARATION of Nikki C. Carsley filed by Defendant Erik Egbert re 80 MOTION for Extension of Time *for Discovery and Trial Dates* (Attachments: # 1 Exhibit, # 2

Exhibit)(Carsley, Nicole) (Entered: 06/06/2018)

06/08/2018 86 REPLY, filed by Plaintiff Robert Boule, TO RESPONSE to 80 MOTION for Extension of Time *for Discovery and Trial Dates* (Attachments: # 1 Proposed Order to Extend Discovery)(Beggs, Breean) (Entered: 06/08/2018)

06/08/2018 87 Second DECLARATION of Greg Boos in Support of Motion to Extend Discovery & Trial Dates filed by Plaintiff Robert Boule re 80 MOTION for Extension of Time *for Discovery and Trial Dates* (Beggs, Breean) (Entered: 06/08/2018)

06/08/2018 88 NOTICE of Unavailability of counsel Gregory Donald Boos for Plaintiff Robert Boule from July 11, 2018 to July 23, 2018. (Boos, Gregory) (Entered: 06/08/2018)

06/11/2018 89 ORDER denying Plaintiff's 80 Motion to Extend Discovery and Trial Dates, signed by Judge Ricardo S Martinez. (SWT) (Entered: 06/11/2018)

06/14/2018 90 Supplemental MOTION for Attorney Fees *and Costs*, filed by Defendant Erik Egbert. (Attachments: # 1 Proposed Order) Noting Date 6/22/2018, (Grindeland, Geoffrey) (Entered: 06/14/2018)

- 06/14/2018 91 DECLARATION of Geoffrey M. Grindeland filed by Defendant Erik Egbert re 90 Supplemental MOTION for Attorney Fees *and Costs* (Attachments: # 1 Exhibit)(Grindeland, Geoffrey) (Entered: 06/14/2018)
- 06/27/2018 92 ORDER granting in part and denying in part Defendant Egbert's 90 Supplemental Motion for Fees and Costs. Defendant Egbert is awarded attorney's fees in the amount of \$10,444.00 and costs in the amount of \$63.05, for a total award of \$10,507.05. Customs and Border Protection and Immigration and Customs Enforcement SHALL reimburse Agent Egbert and his insurer in this amount, made payable to Mills Meyers Swartling P.S. In Trust for Erik Egbert no later than 30 days from the date of this Order. Signed by Judge Ricardo S Martinez. (PM) (Entered: 06/27/2018)
- 07/05/2018 93 MOTION to Seal (*by Leave of Court*) Documents, filed by Plaintiff Robert Boule. (Attachments: # 1 Proposed Order Granting Leave to File Sealed Documents) Noting Date 7/13/2018, (Beggs, Breean) (Entered: 07/05/2018)
- 07/05/2018 94 MOTION for Summary Judgment *re Fourth Amendment Violations*, filed by Plaintiff Robert Boule.

(Attachments: # 1 Proposed Order Granting Motion for Summary Judgment RE Fourth Amend Violations) Noting Date 7/27/2018, (Beggs, Breean) (Entered: 07/05/2018)

- 07/05/2018 95 ~~STRICKEN PER 111 Notice to Strike. Lp_prefix_1 MOTION to Seal Documents, filed by Defendant Erik Egbert. (Attachments: # 1 SEALED Exhibit Unredacted version of MSJ, # 2 Exhibit redacted version of MSJ, # 3 Proposed Order, # 4SEALED Exhibit unredacted version of Egbert Declaration, # 5 Exhibit redacted version of Egbert Declaration, # 6 SEALED Exhibit unredacted version of Neupert Declaration, # 7 SEALED Exhibit unredacted version of Chong Declaration, # 8 SEALED Exhibit unredacted version of Grindeland Declaration, # 9 Exhibit redacted version of Grindeland Declaration) Noting Date 7/13/2018, (Grindeland, Geoffrey) Modified on 7/6/2018 to seal unredacted exhibits(ELS) Modified on 7/11/2018 to strike (TH). (Entered: 07/05/2018)~~
- 07/05/2018 96 NOTICE of Filing Video in Paper or Physical Form with the Clerk's Office by Defendant Erik Egbert. inre 95 Motion to Seal,, (Grindeland, Geoffrey) (Entered: 07/05/2018)

- 07/05/2018 97 MOTION for Summary Judgment *on Anti-Slapp Counterclaim*, filed by Plaintiff Robert Boule. (Attachments: # 1 Proposed Order to Grant Plaintiff's MSJ re Anti-Slapp) Noting Date 7/27/2018, (Beggs, Breean) (Entered: 07/05/2018)
- 07/05/2018 98 DECLARATION of Robert Boule ISO MSJ's filed by Plaintiff Robert Boule re 94 MOTION for Summary Judgment *re Fourth Amendment Violations*, 97 MOTION for Summary Judgment *on Anti-Slapp Counterclaim* (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7)(Beggs, Breean) (Entered: 07/05/2018)
- 07/05/2018 99 SEALED DOCUMENT *Declaration of Robert Boule* by Plaintiff Robert Boule re 93 MOTION to Seal *(by Leave of Court) Documents*, 98 Declaration, (Beggs, Breean) (Entered: 07/05/2018)
- 07/05/2018 100 DECLARATION of Greg Boos ISO of MSJ's filed by Plaintiff Robert Boule re 94 MOTION for Summary Judgment *re Fourth Amendment Violations*, 97 MOTION for Summary Judgment *on Anti-Slapp Counterclaim* (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit

G)(Beggs, Breean) (Entered: 07/05/2018)

07/05/2018 101 MOTION to Seal *MSJ and Documents*, filed by Defendant Erik Egbert. Noting Date 7/13/2018, (Grindeland, Geoffrey) (Entered: 07/05/2018)

07/05/2018 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal *MSJ and Documents* ; by Defendant Erik Egbert. (Attachments: # 1 Proposed Order) Noting Date 7/27/2018, (Grindeland, Geoffrey) (Entered: 07/05/2018)

07/05/2018 103 SEALED DOCUMENT *Egbert Declaration* by Defendant Erik Egbert re 101 MOTION to Seal *MSJ and Documents*, 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal *MSJ and Documents* ; (Grindeland, Geoffrey) (Entered: 07/05/2018)

07/05/2018 104 SEALED DOCUMENT *Grindeland Declaration* by Defendant Erik Egbert re 101 MOTION to Seal *MSJ and Documents*, 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal *MSJ and Documents* ; (Grindeland, Geoffrey) (Entered: 07/05/2018)

07/05/2018 105 SEALED DOCUMENT *Chong Declaration* by Defendant Erik Egbert re 101 MOTION to Seal *MSJ*

- and Documents*, 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal *MSJ and Documents* ; (Grindeland, Geoffrey) (Entered: 07/05/2018)
- 07/05/2018 106 SEALED DOCUMENT *Neupert Declaration* by Defendant Erik Egbert re 101 MOTION to Seal MSJ and Documents, 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal *MSJ and Documents* ; (Grindeland, Geoffrey) (Entered: 07/05/2018)
- 07/05/2018 107 Redacted MOTION for Summary Judgment , filed by Defendant Erik Egbert. (Attachments: # 1 Proposed Order) Noting Date 7/27/2018, (Grindeland, Geoffrey) (Entered: 07/05/2018)
- 07/05/2018 108 Redacted DECLARATION of Agent Egbert filed by Defendant Erik Egbert re 107 Redacted MOTION for Summary Judgment (Grindeland, Geoffrey) (Entered: 07/05/2018)
- 07/05/2018 109 Redacted DECLARATION of Geoffrey Grindeland filed by Defendant Erik Egbert re 107 Redacted MOTION for Summary Judgment (Grindeland, Geoffrey) (Entered: 07/05/2018)
- 07/05/2018 110 SEALED DOCUMENT *Declaration of Greg Boos* by Plaintiff Robert

Boule re 93 MOTION to Seal (*by Leave of Court*) Documents, 100 Declaration, (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G)(Beggs, Breean) (Entered: 07/05/2018)

07/06/2018 NOTICE of Docket Text Modification re 95 MOTION to Seal Documents : Unredacted exhibits have been placed under seal and docket text edited to reflect that the exhibits are sealed. (ELS) (Entered: 07/06/2018)

07/06/2018 111 NOTICE TO STRIKE re 95 ~~Lp_prefix_1~~ MOTION to Seal Documents ; filed by Defendant Erik Egbert. (Grindeland, Geoffrey) (Entered: 07/06/2018)

07/06/2018 RECEIPT of one (1) CD entitled "Egbert Declaration - Exhibit B" from defendants re 96 Notice of Filing Paper or Physical Materials. Kept on shelf in Clerk's Office in one (1) accordion folder. (SWT) (Entered: 07/10/2018)

07/06/2018 ***Motion terminated: 95 ~~Lp_prefix_1~~ MOTION to Seal Documents filed by Erik Egbert per Defendant's 111 Notice to Strike. (TH) (Entered: 07/11/2018)

07/11/2018 112 RESPONSE, by Defendant Erik Egbert, to 93 MOTION to Seal (*by*

Leave of Court) Documents. (Attachments: # 1 Proposed Order)(Carsley, Nicole) (Entered: 07/11/2018)

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| 07/11/2018 | 113 | UNREDACTED SEALED 112
Response to 101 Motion to Seal, by Defendant Erik Egbert (Carsley, Nicole) Modified on 7/12/2018 to add link to motion to seal (PM). (Entered: 07/11/2018) |
| 07/11/2018 | 114 | RESPONSE, by Plaintiff Robert Boule, to 101 MOTION to Seal <i>MSJ and Documents.</i> (Beggs, Breean) (Entered: 07/11/2018) |
| 07/11/2018 | 115 | RESPONSE, by Interested Party U.S. Customs and Border Protection, to 101 MOTION to Seal <i>MSJ and Documents.</i> (Johnson, Kristin) (Entered: 07/11/2018) |
| 07/11/2018 | 116 | DECLARATION of Kristin B. Johnson filed by Interested Party U.S. Customs and Border Protection re 101 MOTION to Seal <i>MSJ and Documents</i> (Johnson, Kristin) (Entered: 07/11/2018) |
| 07/11/2018 | 117 | DECLARATION of Chris E. Bippley filed by Interested Party U.S. Customs and Border Protection re 101 MOTION to Seal <i>MSJ and Documents</i> , 93 MOTION to Seal (<i>by Leave of Court) Documents</i> (Johnson, Kristin) (Entered: 07/11/2018) |

- 07/11/2018 118 RESPONSE, by Interested Party U.S. Customs and Border Protection, to 93 MOTION to Seal (*by Leave of Court*) Documents. (Johnson, Kristin) (Entered: 07/11/2018)
- 07/11/2018 119 DECLARATION of Alysa Erichs filed by Interested Party U.S. Customs and Border Protection re 101 MOTION to Seal *MSJ and Documents*, 93 MOTION to Seal (*by Leave of Court*) Documents (Johnson, Kristin) (Entered: 07/11/2018)
- 07/13/2018 120 REPLY, filed by Defendant Erik Egbert, TO RESPONSE to 101 MOTION to Seal *MSJ and Documents* (Attachments: # 1 Proposed Order)(Grindeland, Geoffrey) (Entered: 07/13/2018)
- 07/13/2018 121 UNREDACTED SEALED 120 Reply to Response to Motion, by Defendant Erik Egbert (Grindeland, Geoffrey) (Entered: 07/13/2018)
- 07/13/2018 122 REPLY, filed by Plaintiff Robert Boule, TO RESPONSE to 93 MOTION to Seal (*by Leave of Court*) Documents (Attachments: # 1 Exhibit Appendix 1, # 2 Exhibit Appendix 2-Redacted, # 3 Exhibit Appendix 3-Redacted, # 4 Exhibit Appendix 4-Redacted, # 5 Exhibit Appendix 5-Redacted, # 6 Exhibit Appendix 6-Redacted, # 7 Proposed Order 2nd)(Beggs, Breean)

(Entered: 07/13/2018)

07/16/2018 123 MINUTE ORDER by Judge Ricardo S. Martinez re: 93 MOTION to Seal (*by Leave of Court*) Documents filed by Robert Boule. The following MINUTE ORDER is made by direction of the Court, the Honorable Ricardo S. Martinez, Chief United States District Judge: The Court finds good cause and compelling reasons to grant Plaintiff's motion to seal. The documents filed under seal in support of Plaintiff's motion for summary judgment shall remain sealed. (SSM)
(Entered: 07/16/2018)

07/16/2018 124 MINUTE ORDER by Judge Ricardo S. Martinez re: 101 MOTION to Seal *MSJ and Documents* filed by Erik Egbert. The following MINUTE ORDER is made by direction of the Court, the Honorable Ricardo S. Martinez, Chief United States District Judge: The Court finds good cause and compelling reasons to grant Defendant Egert's motion to seal. The documents filed under seal in support of Defendant Egbert's motion for summary judgment shall remain sealed. Nothing in this Order precludes the parties and this Court from revisiting what documents and/or information should remain under seal once

- dispositive motions have been resolved. (SSM) (Entered: 07/16/2018)
- 07/16/2018 125 Joint Stipulated MOTION [*proposed*] *Order Extending Deadline for Government to Pay Attorney's Fees and Costs*, filed by Interested Party U.S. Customs and Border Protection. Noting Date 7/16/2018, (Johnson, Kristin) (Entered: 07/16/2018)
- 07/17/2018 126 ORDER re: parties' 125 Stipulated Motion Extending Deadline. The deadline for CBP and ICE to pay the attorney's fees and costs ordered in the Court's June 27, 2018 Order is extended from July 27, 2018 to August 27, 2018. Signed by Judge Ricardo S Martinez. (PM) (Entered: 07/17/2018)
- 07/23/2018 127 MOTION to Seal *Exhibits of Greg Boos' Declaration*, filed by Plaintiff Robert Boule. (Attachments: # 1 Proposed Order Granting Leave to File Sealed Exhibits) Noting Date 8/3/2018, (Beggs, Breean) (Entered: 07/23/2018)
- 07/23/2018 128 RESPONSE, by Defendant Erik Egbert, to 94 MOTION for Summary Judgment *re Fourth Amendment Violations*. (Attachments: # 1 Proposed Order) (Grindeland, Geoffrey) (Entered: 07/23/2018)

07/23/2018	129	RESPONSE, by Defendant Erik Egbert, to 97 MOTION for Summary Judgment <i>on Anti-Slapp Counterclaim</i> . (Attachments: # 1 Proposed Order)(Grindeland, Geoffrey) (Entered: 07/23/2018)
07/23/2018	130	Second DECLARATION of Agent Egbert filed by Defendant Erik Egbert re 94 MOTION for Summary Judgment <i>re Fourth Amendment Violations</i> , 97 MOTION for Summary Judgment <i>on Anti-Slapp Counterclaim</i> (Attachments: # 1 Exhibit A)(Grindeland, Geoffrey) (Entered: 07/23/2018)
07/23/2018	131	UNREDACTED SEALED 128 Response to 94 Motion for Summary Judgment, by Defendant Erik Egbert (Attachments: # 1 Proposed Order)(Grindeland, Geoffrey) Modified on 7/24/2018 to add link to s/j motion (PM). (Entered: 07/23/2018)
07/23/2018	132	UNREDACTED SEALED 129 Response to 97 Motion for Summary Judgment on Anti-Slapp Counterclaim by Defendant Erik Egbert (Attachments: # 1 Proposed Order)(Grindeland, Geoffrey) Modified on 7/24/2018 to add link to and description of motion (PM). (Entered: 07/23/2018)
07/23/2018	133	UNREDACTED SEALED 130 Declaration,, by Defendant Erik

- Egbert re: 94 Motion for Summary Judgment re Fourth Amendment Violations, re: 97 Motion for Summary Judgment on Anti-Slapp Counterclaim (Attachments: # 1 Exhibit A)(Grindeland, Geoffrey) Modified on 7/24/2018 to add links to and descriptions of motions (PM). (Entered: 07/23/2018)
- 07/23/2018 134 SEALED RESPONSE, by Plaintiff Robert Boule, to 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal *MSJ and Documents* ;, 107 Redacted MOTION for Summary Judgment . (Attachments: # 1 Proposed Order Denying Defendant's MSJ)(Beggs, Breean) Modified on 7/26/2018 to seal per phone call from counsel. Document refiled as Dkt 140 . (PM). (Entered: 07/23/2018)
- 07/23/2018 135 UNREDACTED SEALED 134 Response to Motion to Seal 101 , Sealed Motion for Summary Judgment 102 , Redacted Motion for Summary Judgment 107 by Plaintiff Robert Boule (Beggs, Breean) Modified on 7/24/2018 to add links to and descriptions of motions (PM). (Entered: 07/23/2018)
- 07/23/2018 136 SEALED Redacted DECLARATION of Greg Boos in Opposition to Defendant's Motion for Summary Judgment filed by Plaintiff Robert

Boule re 127 MOTION to Seal *Exhibits of Greg Boos' Declaration*, 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal MSJ and Documents ;, 107 Redacted MOTION for Summary Judgment (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G)(Beggs, Breean) Modified on 7/26/2018 to SEAL Declaration only, per phone call from counsel. Declaration refiled as Dkt. 141 (PM). (Entered: 07/23/2018)

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| 07/23/2018 | 137 | UNREDACTED SEALED 136 Declaration of Greg Boos, 134 Response to Motion,, by Plaintiff Robert Boule (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G)(Beggs, Breean) Modified on 7/24/2018 to add name of declarant(PM). (Entered: 07/23/2018) |
| 07/23/2018 | 138 | Redacted DECLARATION of Robert Boule filed by Plaintiff Robert Boule re 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal <i>MSJ and Documents</i> ;, 107 Redacted MOTION for Summary Judgment (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit |

E)(Beggs, Breean) (Entered: 07/23/2018)

07/23/2018 139 UNREDACTED SEALED 138 Declaration of Robert Boule 134 Response to Motion,, by Plaintiff Robert Boule (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E)(Beggs, Breean) Modified on 7/24/2018 to add name of declarant(PM). (Entered: 07/23/2018)

07/25/2018 140 REDACTION to 134 Response to Motion, (*Egbert's*) for *Summary Judgment* 102 by Plaintiff Robert Boule (Beggs, Breean) Modified on 7/26/2018 to add link to motion (PM). (Entered: 07/25/2018)

07/25/2018 141 REDACTION to 136 Declaration,, of *Greg Boos in Opposition to Defendant's 102 Motion for Summary Judgment* by Plaintiff Robert Boule (Beggs, Breean) Modified on 7/26/2018 to add link to motion (PM). (Entered: 07/25/2018)

07/26/2018 NOTICE of Docket Text Modification re 136 Declaration of Greg Boos, 134 Response to Motion: Sealed documents per phone call from counsel. Refiled as Dkt. 140 , 141 . (Note re: 136 , Declaration only sealed and refiled; exhibits remain public) (PM) (Entered: 07/26/2018)

- 07/27/2018 142 REPLY, filed by Plaintiff Robert Boule, TO RESPONSE to 97 MOTION for Summary Judgment *on Anti-Slapp Counterclaim* (Attachments: # 1 Proposed Order (2nd) Granting Boule's Motion for Anti-Slapp Summary Judgment) (Beggs, Breean) (Entered: 07/27/2018)
- 07/27/2018 143 REPLY, filed by Defendant Erik Egbert, TO RESPONSE to 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal *MSJ and Documents*; (Attachments: # 1 Proposed Order)(Grindeland, Geoffrey) (Entered: 07/27/2018)
- 07/27/2018 144 UNREDACTED SEALED REPLY to 102 SEALED MOTION to Summary Judgment; re 101 MOTION to Seal *MSJ and Documents* ;, by Defendant Erik Egbert (Attachments: # 1 Proposed Order)(Grindeland, Geoffrey) (Entered: 07/27/2018)
- 07/27/2018 145 REPLY, filed by Plaintiff Robert Boule, TO RESPONSE to 94 MOTION for Summary Judgment *re Fourth Amendment Violations* (Attachments: # 1 Proposed Order (2nd) Granting Boule's Motion for Fourth Amendment Claim) (Beggs, Breean) (Entered: 07/27/2018)
- 07/27/2018 146 Second DECLARATION of Greg

Boos (July 27) filed by Plaintiff Robert Boule re 94 MOTION for Summary Judgment *re Fourth Amendment Violations* (Attachments: # 1 Exhibit A)(Beggs, Breean) (Entered: 07/27/2018)

07/27/2018 147 Second DECLARATION of Robert Boule (July 27) filed by Plaintiff Robert Boule *re 94 MOTION for Summary Judgment re Fourth Amendment Violations* (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Beggs, Breean) (Entered: 07/27/2018)

07/27/2018 148 DECLARATION of John Henifin filed by Plaintiff Robert Boule re 94 MOTION for Summary Judgment *re Fourth Amendment Violations* (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Beggs, Breean) (Entered: 07/27/2018)

08/01/2018 149 RESPONSE, by Defendant Erik Egbert, to 127 MOTION to Seal *Exhibits of Greg Boos' Declaration*. (Attachments: # 1 Proposed Order)(Carsley, Nicole) (Entered: 08/01/2018)

08/02/2018 150 Stipulated MOTION *for Order of Dismissal of Certain Claims*, filed by Defendant Erik Egbert. Noting Date 8/2/2018, (Carsley, Nicole) (Entered: 08/02/2018)

08/02/2018 151 ORDER re: parties' 150 Stipulated

Motion for Dismissal of Certain Claims. IT IS ORDERED that the following claims are DISMISSED with prejudice under FRCP 41 without an award of fees or costs to any party: Agent Egbert's anti-SLAPP counterclaim, Mr. Boule's Fourteenth Amendment claim, Mr. Boule's negligence claim, and Mr. Boule's claim for an award of attorney's fees and costs under 42 U.S.C. § 1988 and 28 U.S.C. § 2412(b). Plaintiff's Motion for Summary Judgment on Anti-SLAPP Counterclaim (Dkt. # 97) is STRICKEN AS MOOT. Signed by Judge Ricardo S. Martinez. (PM) (Entered: 08/02/2018)

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| 08/02/2018 | 152 | REPLY, filed by Plaintiff Robert Boule, TO RESPONSE to 127 MOTION to Seal <i>Exhibits of Greg Boos' Declaration</i> (Beggs, Breean) (Entered: 08/02/2018) |
| 08/03/2018 | 153 | MINUTE ORDER by Chief Judge Ricardo S. Martinez re: 127 MOTION to Seal <i>Exhibits of Greg Boos' Declaration</i> filed by Robert Boule. The following MINUTE ORDER is made by direction of the Court, the Honorable Ricardo S. Martinez, Chief United States District Judge: The Court finds good cause and compelling reasons to grant Plaintiff's motion to seal. Exhibits A-G, |

already filed under seal, in support of the Declaration of Greg Boos shall remain sealed.(SSM) (Entered: 08/03/2018)

- 08/21/2018 154 ORDER denying Plaintiff's 94 Motion for Summary Judgment on Plaintiff's Fourth Amendment Claim; granting Defendant Egbert's Motion for Summary Judgment on Plaintiff's Fourth Amendment Claim and dismissing the claim against Defendant Egbert in its entirety. The remainder of Defendant Egbert's motion for summary judgment (Dkt. # 102) remains noted on the Court's calendar and will be resolved by separate Order. Signed by Judge Ricardo S. Martinez. (PM) (Entered: 08/21/2018)
- 08/24/2018 155 ORDER granting Defendant's 102 (Sealed), 107 Motion for Summary Judgment and dismissing the remainder of Plaintiff's claims against Defendant Egbert in their entirety. Signed by Judge Ricardo S. Martinez. (PM) (Entered: 08/24/2018)
- 08/24/2018 156 JUDGMENT BY COURT. The Court has ORDERED that: Defendant Egbert's Motion for Summary Judgment (Dkt. # 102) is GRANTED and the remainder of Plaintiff's claims will be dismissed against Defendant Egbert in their entirety. This matter is now

CLOSED. (PM) (Entered: 08/24/2018)

09/20/2018 157 NOTICE OF APPEAL to Ninth Circuit (18-35789) re 155 Order on Sealed Motion by Plaintiff Robert Boule. Filing Fee \$505, Receipt number 0981 - 5479317. (Beggs, Breean) Modified on 1/25/2021 add CCA #(CDA). Modified on 6/16/2021-removed appeal term date. Mandate recalled by CCA (SG). (Entered: 09/20/2018)

09/24/2018 158 TIME SCHEDULE ORDER (18-35789) as to 157 Notice of Appeal filed by Robert Boule (SG) (Entered: 09/24/2018)

02/19/2019 159 ORDER of USCA (18-35789) as to 157 Notice of Appeal filed by Robert Boule. (GT) (Entered: 02/19/2019)

04/23/2019 160 ORDER of USCA (18-35789) as to 157 Notice of Appeal filed by Robert Boule. (GT) (Entered: 04/23/2019)

05/07/2019 161 ORDER of USCA (18-35789) as to 157 Notice of Appeal filed by Robert Boule. (GT) (Entered: 05/07/2019)

11/20/2020 162 OPINION FROM USCA (18-35789) (NOT THE MANDATE) as to 157 Notice of Appeal filed by Robert Boule. **REVERSED AND REMANDED.** (CDA) (Entered: 11/20/2020)

12/14/2020 163 MANDATE OF USCA (18-35789)

as to 157 Notice of Appeal filed by Robert Boule, 162 Memorandum/Opinion from USCA.

The Judgment from USCA takes effect this date. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. Costs are taxed against the appellee in the amount of \$380.30. **REVERSED AND REMANDED** (CDA) (Entered: 12/14/2020)

12/14/2020	164	ORDER OF USCA (18-35789) as to 157 Notice of Appeal filed by Robert Boule. The mandate issued on December 14, 2020 is recalled as issued in error. (CDA) (Entered: 12/14/2020)
01/21/2021	165	ORDER OF USCA (18-35789) as to 157 Notice of Appeal filed by Robert Boule. (CDA) (Entered: 01/25/2021)
05/20/2021	166	ORDER and AMENDED OPINION FROM USCA (18-35789) (NOT THE MANDATE) as to 157 Notice of Appeal filed by Robert Boule. REVERSED AND REMANDED. (CDA) (Entered: 05/21/2021)
05/28/2021	167	MANDATE OF USCA (18-35789) as to 157 Notice of Appeal filed by Robert Boule, 162 Memorandum/Opinion from USCA.

The Judgment from USCA takes effect this date. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. Costs are taxed against the appellee in the amount of \$380.30. **REVERSED AND REMANDED** (CDA) Modified on 5/28/2021 ad hoc Case Admins (CDA). **MANDATE RECALLED PER USCA ORDER (Docket entry 169)**. Modified on 6/16/2021 to edit appeal info. (RE) (Entered: 05/28/2021)

- 06/02/2021 168 ORDER SETTING TRIAL DATE AND RELATED DATES by Judge Ricardo S. Martinez. Jury Trial is set for 11/15/2021 at 09:00 AM before Judge Ricardo S. Martinez. Length of Trial: *4-5 days*. Motions in Limine due by 10/18/2021, Pretrial Order due by 11/3/2021, Trial briefs to be submitted by 11/10/2021, Proposed voir dire/jury instructions due by 11/10/2021. (LC) (Entered: 06/02/2021)
- 06/15/2021 169 ORDER OF USCA (18-35789) as to 157 Notice of Appeal filed by Robert Boule. Appellees unopposed motion to recall and stay the mandate pending the filing of a petition for a writ of certiorari (Dkt. 106) is GRANTED. Fed. R. App. P. 41(b). **The mandate is recalled and stayed for a period**

not to exceed 90 days pending the filing of a petition for writ of certiorari in the Supreme Court. Should a petition for writ of certiorari be filed, the stay shall continue until final disposition by the Supreme Court. The moving party shall notify this court in writing of that filing on the same day the petition is filed in the Supreme Court. (RE) (Entered: 06/16/2021)

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| 06/21/2021 | 170 | ORDER STRIKING TRIAL DATE AND RELATED CASE DEADLINES re 169 Order of USCA. The Court STRIKES the trial date and related deadlines in this matter, Dkt. # 168 , and DIRECTS parties to file a stipulated motion upon conclusion of the stay setting forth a proposed case schedule. Signed by Judge Ricardo S. Martinez. (PM) (Entered: 06/21/2021) |
| 08/05/2021 | 171 | NOTICE FROM US SUPREME COURT (21-147) to the 9th Circuit Court of Appeals (18-35789) re 157 Notice of Appeal,. The petition for a writ of certiorari in the above entitled case was filed on 7/30/2021 and placed on the docket 8/3/2021 as No. 21-147. (CDA) (Entered: 08/05/2021) |
| 11/08/2021 | 172 | NOTICE FROM US SUPREME COURT (21-147) to the 9th Circuit Court of Appeals (18-35789) re 157 |

Notice of Appeal, 171 Transmittal Letter from USCA. The Court today entered the following order in the above-entitled case: The motion of respondent for leave to file a brief in opposition under seal with redacted copies for the public record is granted. The petition for a writ of certiorari is granted limited to Questions 1 and 2 presented by the petition.(RE) (Entered: 11/09/2021)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

No. 2:17-CV-00106-RSM

ROBERT BOULE,

Plaintiff,

v.

ERIK EGBERT and JANE DOE EGBERT
and their marital community,

Defendants.

Filed September 6, 2017

AMENDED COMPLAINT FOR DAMAGES

Comes now Plaintiff Robert Boule, by and through his attorneys and complains and alleges as follows:

1. Plaintiff Robert “Bob” Boule at all times material to this action resided in Whatcom County, within the Western District of Washington.
2. At all times material hereto, Defendant Erik Egbert was an agent and employee of the United States, who, at the time of the events complained of herein, was acting within the course and scope of his employment by the federal government and under the color of federal law.
3. At all times material hereto, Defendants Erik Egbert and Jane Doe Egbert constituted a marital community under the laws of the State of Washington. All acts alleged by Defendant Erik

Egbert herein were made on behalf of and for the benefit of the Egbert marital community and thus the marital community is liable for those acts.

4. All acts complained of occurred in the Western District of Washington State.
5. Venue is proper in the United States District Court for the Western District of Washington.
6. Jurisdiction is proper in the United States District Court pursuant to, but not limited to, Title 42, United States Code §§ 1983 & 1988; and, Title 28 USC §1331 and §1367.
7. This court has personal and subject matter jurisdiction.
8. On March 20, 2014, Defendant Erik Egbert acting under color of law on behalf of the United States Customs and Border Protection (“Border Patrol”) forcibly stopped, detained, or otherwise intercepted two of Plaintiff’s vehicles within Plaintiff’s private property while Plaintiff and his employees were transporting the vehicles and a passenger on a private driveway towards Plaintiff’s residence.
9. Upon belief, previous to March 20, 2014, Defendant Egbert had been instructed by his superiors not to enter Plaintiff’s property without specific permission except in an emergency.
10. Defendant’s entry onto the property was made without explicit or implied permission, without a warrant or probable cause and without articulable reasonable suspicion of criminal activity, or other legal authority. Nor did Defendant

articulate an emergency that would overcome the previous instruction by his superiors not to enter the property.

11. Defendant's temporary seizure of Plaintiff's two vehicles was made without a warrant or probable cause and without articulable reasonable suspicion of criminal activity, or other legal authority.
12. After Defendant pulled into Plaintiff's driveway to stop, detain, or otherwise intercept Plaintiff, his employees, his vehicles and/or his guest, Plaintiff explained to Defendant that he was transporting a guest who had cleared United States Customs at John F. Kennedy International Airport and further requested that Defendant contact his supervisor.
13. Defendant demanded that Plaintiff's guest leave the vehicle and allow it to be searched. Plaintiff refused the request.
14. Defendant shoved Plaintiff into the side of the vehicle and onto the ground; Plaintiff rose to his feet and called 911 at which time Defendant shoved Plaintiff onto the hood of the vehicle. Defendant's actions caused Plaintiff serious bodily injury. Plaintiff's injuries included right shoulder and back injuries that caused symptoms of left arm and left leg numbness, back pain, left hip displacement, lack of mobility, pain and suffering, emotional distress and loss of enjoyment of life.
15. Defendant seized Plaintiff's guest from the vehicle and examined the guest's passport before allowing Plaintiff and his guest to proceed to Plaintiff's residence, which also operated as a bed and breakfast.

16. Plaintiff complained to Defendant's superiors at the Border Patrol and upon belief Defendant was investigated and disciplined for misconduct. Subsequent to Plaintiff filing his complaint against Defendant, Plaintiff suffered retaliation, which upon belief was instigated by Defendant.
17. Upon belief, the retaliation instigated by Defendant included but was not limited to intimidation and slander to potential guests causing them to refrain from staying at the bed and breakfast, unsubstantiated complaints to the Internal Revenue Service that Plaintiff had not properly accounted for income received, intentionally parking marked enforcement vehicles near the bed and breakfast for no legitimate purpose in order to discourage business, unjustified complaints to other regulatory agencies, and detaining Mr. Boule's employees for questioning without legal justification.
18. Defendant's actions deprived Plaintiff of his federally protected rights under the Fourth, First and Fourteenth Amendments of the United States Constitution to be free from unlawful entry onto his property, unlawful seizure of his person and property, excessive force, and retaliation for free expression and petitioning his government for redress of grievances.
19. Defendant's unconstitutional acts against Plaintiff were made under color of federal law related to Defendant's service in the United States Border Patrol.
20. Pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S.

388 (1971), Plaintiff is entitled to a monetary remedy for the deprivation of his federal constitutional rights made under color of federal law as set out in this complaint similar to damages under 42 U.S.C. Section 1983 for deprivation of federal rights under color of state law.

21. Defendant's actions in depriving Plaintiff of his federal civil rights set forth above were done intentionally, maliciously, wantonly, oppressively, and/or with reckless indifference, subjecting the Defendant to liability for punitive damages in an amount to be proven at trial.
22. In the alternative, Defendant Egbert's actions in injuring Plaintiff and damaging his business interests were conducted negligently and unreasonably in breach of his duty of reasonable care owed to Plaintiff under state law.
23. As a direct and proximate result of Defendants' unreasonable and unconstitutional conduct, Plaintiff sustained injuries and damages in an amount to be proven at trial.
24. As a direct and proximate result of the facts and illegal acts of Defendant as alleged herein, Plaintiff sustained personal injuries described above in an amount to be proven at trial.
25. As a direct and proximate result of the facts and illegal acts of Defendant as alleged herein, Plaintiff has suffered and may in the future continue to suffer the loss of enjoyment of life, pain, mental anguish, mental injury and suffering and a loss of reputation in an amount to be proven at trial.
26. As a direct and proximate result of the facts and illegal acts of Defendant as alleged herein,

Plaintiff has suffered and may in the future continue to suffer the loss of income in an amount to be proven at trial.

27. As a direct and proximate result of the facts and illegal acts of Defendant as alleged herein, Plaintiff has incurred and may incur in the future medical treatment costs in an amount to be proven at trial.
28. As a direct and proximate result of the facts and illegal acts of Defendant as alleged herein, Plaintiff has incurred consequential damages in an amount to be proven at trial, including but not limited to accounting services to respond to the complaint to the Internal Revenue Service.

PRAYER FOR RELIEF

Plaintiff, Robert Boule, requests a judgment against Defendants, and each of them, jointly and severally, as follows:

- A. General damages in an amount to be determined at trial.
- B. Special damages in an amount to be determined at trial.
- C. Punitive and exemplary damages in an amount deemed just and reasonable as provided by law.
- D. Plaintiff's reasonable attorney fees and costs, pursuant to 42 USC §1988 and/or 28 USC §2412(b), or as otherwise provided by law.
- E. For such other and further relief as the court deems just and equitable.

DATED this 6th day of September, 2017.

PAUKERT & TROPPMANN, PLLC

s/ BREEAN L. BEGGS, WSBA #20795

BREEAN L. BEGGS, WSBA #20795

CASCADIA CROSS-BORDER LAW

s/ GREG BOOS, WSBA #8331

GREG BOOS, WSBA #8331

S/ W. SCOTT RAILTON, WSBA #28413

W. SCOTT RAILTON, WSBA #28413

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

No. 2:17-CV-00106-RSM

ROBERT BOULE,

Plaintiff,

v.

ERIK EGBERT and JANE DOE EGBERT
and their marital community,

Defendants.

HONORABLE RICARDO S MARTINEZ

**DECLARATION (WITH EXHIBITS)
OF ROBERT BOULE**

Robert Boule declares under penalty of perjury under the laws of Washington:

1. I am over 18 and competent to make this declaration, which is based on my personal knowledge.
2. I am the Plaintiff in the lawsuit in which this declaration is filed. I make this declaration to assist the Court in adjudicating my motion for summary judgment.
3. As detailed in paragraphs 10 through 15, on March 20, 2014, Defendant Erik Egbert, a US Border Patrol Agent, entered the portion of my driveway that is immediately adjacent to my home without my permission, refused to leave the premises when I asked him to do so, and

assaulted me before performing a forcible search of one of the my vehicles parked in the driveway which resulted in the detention and search of a guest in that vehicle.

4. My home and its driveway are located in Blaine, Washington, immediately adjacent to the US/Canada border. I operate a bed and breakfast called Smuggler's Inn from my home.
5. There is no public access to my home or driveway; to access it, one travels down a paved public street in Blaine, and then turns left to travel approximately 500 to 600 feet down a one-lane private dirt road¹ to a U-shaped concrete driveway immediately adjacent to my home. To even approach my concrete driveway where Agent Egbert confronted me, a person would first have to pass a large sign that states "No Trespassing" guarding the entrance to the private dirt road. (Please see **Exhibit 5** for an image of the "No Trespassing" sign.) Only after traveling down that private road, would a person be able to enter my short U-shaped concrete driveway that is immediately adjacent to my home. The dirt road dead-ends shortly after it passes my U-shaped driveway.
6. I attach an aerial view to illustrate the above as **Exhibit 3**. This aerial view is a true and accurate

¹ The dirt road runs more or less down the center of a private easement that provides access to my home. I attach as **Exhibit 1** a copy of this easement. Attached as **Exhibit 2** is a survey of the property upon which my home is situated and its immediate vicinity; the property upon which my home sits is highlighted in yellow. As **Exhibit 2** illustrates, the centerline of the referenced easement runs through the southern border of the property upon which my house is situated.

representation of my home and the immediate vicinity. The US/Canada border is clearly designated. I have circled my home and I have placed a square to show the intersection of the paved public street and the private one-lane dirt road through which my home is accessed. The private one-lane dirt road is marked as 99th St. W on **Exhibit 3**² and, as illustrated by **Exhibit 3**, it dead-ends shortly after passing my house. As part of the area circled to identify my home, one can easily see my U-shaped concrete driveway departing from the dirt road to provide private access to my home.

7. The land adjacent to the border near my home is a hotspot for cross-border smuggling of people, drugs, illicit money, and items of significance to criminal organizations. The smuggling activities that occur near my home go both north and south i.e. from Canada to the US, and vice versa.
8. No one is more aware of this illegal activity than I am. I have acted as a confidential informant to the US government regarding this activity for the last 15 years: Five years as a confidential agent to Border Patrol followed by 10 years as a confidential agent to an Immigration and Customs Enforcement Homeland Security Investigations (HSI) team overseeing the area in which my home is located. The HSI team coordinates the intelligence it gains from me with the Border

² The actual address of my home is 2480 Canada View Drive, Blaine WA. The aerial view mistakenly lists it as being on 99th Street. In reality 99th Street runs east from the intersection marked by the box on Exhibit 2, while the dirt lane running west from the box is Canada View Drive.

Patrol, other US agencies, and with Canadian law enforcement agencies. I am proud to have been instrumental in apprehending hundreds, perhaps thousands of cross-border criminals, intercepting millions of dollars of illegal contraband, and testifying in Federal Court as necessary to further the ends of justice.

9. Despite all efforts to keep my informant activity secret, through their work as Border Patrol Agents, Defendant Egbert and other members of Border Patrol headquartered in Blaine learned of my role as a confidential informant to US border authorities long before the events upon which this lawsuit is based. Over the years, Defendant Egbert has made numerous arrests of cross-border criminals based on information obtained by me and forwarded to Border Patrol by HSI.
10. On the morning of March 20, 2014, on two separate occasions Agent Egbert stopped and searched an automobile I was driving while tending to various tasks in town. He asked me about guests at Smuggler's Inn and I advised him of a guest who had booked a room at my home for that evening. I told him the guest had arrived in New York via air from Turkey a day before, and had flown to SEA-TAC airport that day. I further told him that two of my employees were enroute to SEA-TAC airport in one of my vehicles to pick up the guest and transport him back to my home. The entire situation was very strange-Defendant Egbert had never stopped my car to search it before and he had never made inquiries regarding my guests, but he did so twice that morning.

11. Later that day my vehicle returned with the guest as a passenger, driving down my private dirt road then entering my U-shaped driveway beside my home where it came to a stop and parked. I attach a photo of my home and my driveway as **Exhibit 4**. The vehicle with the passenger parked approximately where the red vehicle in **Exhibit 4** is parked. [**Exhibit 3** also shows a birds-eye view of the red vehicle also parked in this same spot; for ease of viewing, in **Exhibit 3**, I have placed a triangle around the red vehicle.]
12. Defendant Egbert slowly followed in his Border Patrol vehicle, no lights flashing and no sirens activated, and entered the portion of my concrete driveway immediately adjacent to my home, then parked immediately behind the vehicle carrying the guest.
13. The driver exited while the guest remained seated in the vehicle. I was on a nearby porch at the front of my house (See **Exhibit 4**). I instructed Defendant that he was trespassing and asked him to leave my property. The Defendant refused to go and advised me that he was there to inspect the guest. I moved off my porch, took a position between Defendant and the vehicle in which the guest was seated, told Defendant that he did not have permission to inspect the guest and again requested that he quit my premises.
14. Defendant proceeded toward me and the vehicle in which the guest was seated, and shoved me against the vehicle containing the passenger and onto the ground. Defendant then opened the door to search the vehicle and examined the

seated guest, asking the guest for his passport, and reviewed it and the valid visa within before allowing me to escort the guest into my home.

15. Defendant Egbert did not have my permission or any other legal basis for entering my driveway within the curtilage of my home or remaining there after I advised him to leave.
16. I have made it clear that I expect my privacy to be honored. I have posted a clearly visible sign at the intersection of the public roadway and the dirt lane that leads to my home and the paved public street that reads:

Welcome to Smuggler's Inn
Guests Only
Private Property
No Trespassing
17. A photo of this sign is provided as **Exhibit 5** to this declaration.
18. Despite this sign, drivers occasionally drive down the dirt road that leads to my house—Accordingly, I have posted a sign on that portion of the dirt road immediately in front of my home with instructions where those traveling on the dirt road should turn their vehicles around instead of using the U-shaped driveway for this purpose. The sign reads “Turn Around for Smuggler's Inn” and contains an arrow that points to an area further down the dirt highway where drivers can easily turnaround to return to paved public streets. A photo of this sign is attached as **Exhibit 6**. A photo of the placement of this sign in relationship to my driveway (I have circled the sign) is attached as **Exhibit 7**.

19. **Exhibits 1 and 2** are true and accurate copies of the document granting an easement to access my home and a survey of the property upon which my home sits. **Exhibits 3 through 7** are true and accurate representations of my property and surrounding area as specifically described in this declaration.

Robert Boule
Bellingham WA
June 29, 2018

FILED UNDER SEAL

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

ROBERT BOULE, Plaintiff,	No. 2:17-cv-00106-RSM
v.	DECLARATION OF AGENT EGBERT
ERIK EGBERT and JANE DOE EGBERT and their marital community, DEFENDANTS	NOTED ON MOTION CALENDAR: July 27, 2018
ERIK EGBERT, Counterclaimant,	
v.	
ROBERT BOULE, Counterdefendant.	

I declare under penalty of perjury under the laws of the United States that I am over the age of 18 and otherwise competent to testify, and that the following is true and based on my personal knowledge.

My background

1. I am a Border Patrol Agent with U.S. Customs and Border Protection, a component of the Department of Homeland Security. I was hired in August 2009.

2. I graduated from the Border Patrol Academy in January 2010. The Academy teaches the basic knowledge and skills necessary for safe, proper, and effective service as a Border Patrol Agent. I received training in the law, communication skills, firearms, patrol procedures, report writing, defensive tactics, and other subjects. The legal training I received at the Academy covered a Border Patrol Agent's authority to enter property, search vehicles, and detain, search, and investigate aliens, among other topics. (I realize the term "alien" sounds strange, but I don't mean any disrespect. That's the legal term CBP and federal statutes use to describe any foreign national in the United States.)

3. After finishing the Academy, I was assigned to patrol the southern border near Welton, Arizona. Like other new Border Patrol Agents, I initially worked under the close supervision of experienced agents who had been designated field-training officers or journeymen. These experienced agents provided on-the-job training, closely observed my performance, and gave daily feedback. During this portion of my training, I conducted numerous immigration checks and investigative stops near the border under their supervision.

4. After I completed the field-training program and began working independently as a Border Patrol Agent, I continued receiving ongoing training from CBP. Each quarter, for example, I receive refresher training on a variety of topics, including updates on the law and when and how to use force.

5. I have been assigned to CBP's Blaine Station since September 2010. The Blaine Station is responsible for patrolling about 10 miles of the U.S.-Canada border. We monitor the international border for anyone crossing outside of an official port of entry. We are focused on counterterrorism and are on the lookout for cross-border crime, including human-trafficking and drug-trafficking.

Background on Mr. Boule

6. Robert Boule, the plaintiff in this matter, owns and operates a bed-and-breakfast in Blaine on property that abuts the U.S.-Canada border. He calls the bed-and-breakfast "Smuggler's Inn." He also owns numerous vehicles, including SUVs and a limousine that he uses to transport people to and from Smuggler's Inn.

7. Until recently, Mr. Boule was a paid informant for U.S. Immigration and Customs Enforcement. Before that, he was a paid informant for CBP. Until discovery in this litigation, I didn't know much detail about these arrangements. On the date of the incident, however, I already knew that Mr. Boule was a long-time informant for ICE and that he previously worked as an informant for CBP. I also knew that Mr. Boule had an assigned "handler" at ICE who was his primary point-of-contact. His handler at the time of the incident was ICE Special Agent Josh Barnett.

8. Sometimes information Mr. Boule provided to ICE would be relayed to CBP, so we could take enforcement action. Additionally, if someone crossed the border via Smuggler's Inn without paying him for the privilege, Mr. Boule would call 911 directly to report the person.

9. A handful of times over the years, CBP management advised us Border Patrol Agents that ICE had a controlled load of drugs or individuals moving through

Mr. Boule's property and instructed us not to take enforcement action. The rest of the time, we monitored the area and took enforcement action at Smuggler's Inn just like we would anywhere else along the border.

Background on Smuggler's Inn

10. I am very familiar with Smuggler's Inn. It's a notorious site of illegal border crossing, both north into Canada and south into the United States. Persons cross the border at Smuggler's Inn on a near-daily basis. Prior to March 2014, I'd been to Smuggler's Inn hundreds of times while on patrol, and I had personally apprehended persons who had illegally crossed the border there. On other occasions, I participated in arresting persons Mr. Boule was transporting from Smuggler's Inn.

11. Attached as **Exhibit A** is a satellite image from Google Maps that fairly and accurately depicts Smuggler's Inn. Labels have been added to orient the Court. Smuggler's Inn consists of two main buildings: a large house with guest rooms and a "carriage house" with additional guest quarters.

12. Smuggler's Inn is an easy place to cross the border. Posing as a "guest" provides cover to be in the area, and there is no fence along the border. On the Canadian side of the border is a public road named 0 ("Zero") Avenue running east-west along the border. It's only a few steps from Mr. Boule's backyard to 0 Avenue in Canada, or vice versa. Many of the people who cross the border are picked up or dropped off by an accomplice driving a car down 0 Avenue.

13. For years, drug-traffickers have also used Smuggler's Inn to get drugs across the border. Cocaine and methamphetamine are trafficked north into Canada, while ecstasy and an opiate called "doda" are trafficked

south into the United States. Large shipments of all four drugs have been seized at Smuggler's Inn or from Mr. Boule's vehicles.

Human-Trafficking

14. Mr. Boule was arrested a couple months ago by Canadian authorities, and I understand he's been charged with multiple counts of human-trafficking. This did not surprise me, because Mr. Boule has long been facilitating and profiting from the steady flow of persons crossing the border at his property.

15. Mr. Boule has made it easy for border crossers to identify his property. He flies U.S. and Canadian flags from twin flagpoles in his backyard, and he posted a sign along 0 Avenue that reads "Slow: Smuggler's Crossing." Below is a screenshot from Google Maps showing a view of Smuggler's Inn from 0 Avenue in Canada.



16. As shown below, Mr. Boule sometimes even had a sign posted along 0 Avenue that read "Smuggler's Inn" and had an arrow pointing to the main house.



17. Mr. Boule routinely keeps his back door unlocked to facilitate entry by persons who have crossed the border. On numerous occasions, Border Patrol Agents have observed persons come south across the border and walk into Smuggler's Inn through the back door.

18. When I first began working at the Blaine Station about eight years ago, I occasionally observed what appeared to be legitimate guests staying at Smuggler's Inn. These guests arrived in their own cars, came and went, and generally acted like vacationers. Over time, however, the legitimate business dwindled. By around 2013, most "guests" arrived in one of Mr. Boule's vehicles, checked into the inn, and then illegally crossed the border that same night. Other "guests" were persons who crossed the border into the United States and paid Mr. Boule to drive them to an airport or a bus station further south.

19. I've been inside Smuggler's Inn on official business, and it did not look like a place where legitimate guests would choose to stay. It was dirty and run down. For example, below is a photograph of one of the "guest rooms." This photograph was downloaded from the internet, but I recognize the room. It looked even worse when I saw it.



20. Despite the poor conditions inside Smuggler’s Inn, Mr. Boule charges rates comparable to Semiahmoo, a luxury resort just eight miles away. The only reason he can charge such high rates is because his “guests” want to sneak across the border via his property.

21. Mr. Boule routinely defrauds aliens by charging them for services he never provides. When someone crosses the border onto his property and asks for a ride further south, he charges above-market rates for both lodging and transportation. He charges for lodging, even if the person just wants transportation. Then Mr. Boule calls ICE to report that he will be transporting a person who just crossed the border. ICE passes the information along to CBP, so Border Patrol Agents can apprehend the person within a few blocks of Smuggler’s Inn. After these arrests—based on tips he provided—Mr. Boule refuses to refund the amounts he charged for “lodging” and “transportation.” Reporting aliens to authorities after charging them for services is a well-known method of exploiting these vulnerable persons. I was trained to try to obtain refunds for aliens I arrest. Mr. Boule refuses to issue

refunds, however, and claims that his handlers at ICE approved this fraudulent scheme.

The Incident

22. On March 20, 2014, I was working my regular day shift as a Border Patrol Agent. I was assigned to patrol an area along the U.S.-Canada border that included Smuggler's Inn. I wore my uniform and drove a marked patrol vehicle (a Chevy Tahoe).

23. That morning, I encountered Mr. Boule while I was patrolling the area near Smuggler's Inn. We engaged in small talk, and then he told me that a Turkish national—now known to me as Fikret Kaya—would be coming to Smuggler's Inn later that day. Mr. Boule said Border Patrol might be interested in Mr. Kaya and perhaps I should speak with him. Mr. Boule expressed annoyance with a miscommunication about Mr. Kaya's time of arrival. The person coordinating with Mr. Boule on behalf of Mr. Kaya apparently got "a.m." and "p.m." mixed up. As a result, Mr. Boule's employee had made an unnecessary trip down to Seattle-Tacoma International Airport the night before, when Mr. Kaya wasn't arriving until morning. The employee had driven back down to Sea-Tac that morning, and Mr. Boule estimated that Mr. Kaya would be arriving at Smuggler's Inn early in the afternoon.

24. It was unusual for Mr. Boule to provide a tip directly to a Border Patrol Agent. To the best of my recollection, during my nearly eight years of service as a Border Patrol Agent at the Blaine Station, this was the only occasion in which Mr. Boule shared information directly with me.

25. I will usually follow up on any tip that seems reliable, and this one certainly did. I knew Mr. Boule was a paid informant who had provided reliable information on

many occasions in the past.³ In this case, he had personal knowledge that a Turkish citizen who had just flown into Sea-Tac was coming to Smuggler's Inn that day. I was aware of no legitimate reason a person would travel from Turkey to stay at a rundown bed-and-breakfast on the border in Blaine. It was probable, therefore, that this gentleman was planning either to cross the border himself or meet up with persons coming south into the United States. Finally, the fact that Mr. Boule specifically told me CBP might be interested in this person suggested he believed Mr. Kaya might be illegally in the country or engaged in criminal activity.

26. I told Mr. Boule that I would come back to his property once Mr. Kaya had arrived, and Mr. Boule didn't object. I had the impression this was what he expected to hear and, in fact, was the reason he shared the tip.

27. Receiving a tip directly from Mr. Boule while out on patrol was unusual enough that I relayed the information to Supervisory Border Patrol Agent Ken Andersen, my supervisor that day. I told Agent Andersen that I would return to Smuggler's Inn that afternoon to investigate Mr. Kaya's immigration status, and he concurred with this plan.

28. For the remainder of the morning, I continued performing my patrol duties, which included monitoring

³ There were also multiple occasions on which Mr. Boule provided false tips. For instance, he once called CBP and reported seeing a group of people cross the border onto his property in the middle of the night. Border Patrol Agents responded to Smuggler's Inn and found a small outdoor party underway. Mr. Boule admitted to one of the agents that he had made a false report because he wanted the noisy party broken up.

the border near Smuggler's Inn. I intentionally stayed nearby, so I would see when Mr. Kaya arrived.

29. In the early afternoon, I saw a black SUV with a personalized license plate that read "SMUGLER" return to the inn. I recognized this vehicle as one belonging to Mr. Boule, and I followed it into the driveway. My intent was to contact Mr. Kaya, check his immigration status, and see what I could learn about whether he was engaged in criminal activity.

30. The SUV parked in the horseshoe driveway between the main house and carriage house, in the approximate position indicated by an arrow on Exhibit A. I parked my patrol vehicle at an angle behind it.

31. I understand Mr. Boule contends in this litigation that his driveway is within the "curtilage" of his home. But it never appeared to me that he intended this to be a private area. There's no gate, and the area is in plain view of the public road. You walk through the driveway to enter the main building, which Mr. Boule holds out as a place of public accommodation. It's also used by any guests moving between the main house and the carriage house, as well as long-term tenants residing in the carriage house. In other words, it was both open to the public and a common area shared by tenants and guests staying the inn. In my mind, this area was like the parking lot of a motel. More importantly, other Border Patrol Agents and I had entered that driveway area on a near-daily basis for many years, and Mr. Boule hadn't ever suggested we weren't welcome there.

32. The driver got out of the car, and I recognized him as Jason, one of Mr. Boule's employees. I now know his full name is Jason Surowiecki. I got out of my patrol vehicle and, because the SUV's tinted windows made it hard

to see inside, I asked Mr. Surowiecki if he had any passengers in the backseat. He said he did. I then asked Mr. Surowiecki if I could speak to the passenger, and he said yes.

33. As I was walking toward the passenger door on the right side of the SUV, Mr. Boule came over in a hurry. He was very animated and began yelling at me. He told me not to talk to the passenger and accused me of trespassing.

34. Mr. Boule stepped between me and car door, preventing me from opening it. He had his hands up in front of him and touched my vest, but I felt that was just incidental contact as he was just trying to block my access to the SUV. I backed up a little, so we could talk, but Mr. Boule just kept shouting that I was harassing his customers. I calmly explained that I wanted to speak to Mr. Kaya to confirm his immigration status, and I reminded Mr. Boule that he was the one who told me I might want to do that. I asked him to step aside so I could do my job, but he refused.

35. I was puzzled by Mr. Boule's behavior. At first, I thought perhaps he was putting on a show, so Mr. Kaya wouldn't suspect Mr. Boule had reported him to Border Patrol. In hindsight, he was probably worried I was going to arrest Mr. Kaya before he had paid for his transportation and lodging. That's the only explanation that makes sense to me. At the time, however, Mr. Boule's attempts to impede my investigation made me even more suspicious that Mr. Kaya was unlawfully in the country or engaged in illegal activity.

36. Based on my training from CBP, I knew I was authorized to be on Mr. Boule's property to conduct an immigration check. I was taught that, near the international

border, federal law empowers Border Patrol Agents to search without a warrant for aliens in cars and on private land, and to ask a person about his or her right to be in the United States.

37. Eventually, Mr. Boule gave me enough room to open one of the vehicle doors. I vaguely recall that it was the front door on the passenger side, but I'm not sure about that. It could have been the rear door on the passenger side. Either way, Mr. Boule was still very close to me, and it's possible that my arm brushed against him as I reached for the handle. It's also possible that the door touched him as it swung open, but that wasn't my intention.

38. I understand Mr. Boule contends in this litigation that I picked him up off the ground, threw him into the car door, and then threw him to the ground. That is utterly false. I did not use any force against him whatsoever, even though I believe I lawfully could have done so, since he was physically obstructing my investigation. Mr. Boule weighs approximately 80 pounds more than I do, and I doubt I could pick him up if I tried. There's no way I could throw him through the air as he alleges. His claim that he was knocked to the ground is also false. He remained standing on his feet throughout this encounter.

39. Mr. Kaya handed me his passport and visa, and then I contacted Dispatch over the radio to check his status. As I was running these immigration checks, Mr. Boule was on his cell phone calling CBP to request a supervisor. Once I provided Dispatch with Mr. Kaya's identifying information, I called Agent Andersen over the radio and told him that Mr. Boule was requesting a supervisor.

40. Within a few minutes, Supervisory Agent Andersen and Border Patrol Agent Phillip Olson arrived at Smuggler's Inn. Mr. Boule walked over and talked to Agent Andersen for about five minutes. During that time, I finished Mr. Kaya's immigration checks. Mr. Kaya's visa was valid, so no further action was taken.

41. Afterward, Mr. Boule walked back to the SUV, picked up Mr. Kaya's luggage, and carried it into Smuggler's Inn with Mr. Kaya. I observed Mr. Boule walk normally while carrying the luggage, without any sign of injury or distress.

42. I then got in my patrol vehicle and left Smuggler's Inn. Agents Andersen and Olson left, too. I went back to the station and wrote a memorandum about what happened. My investigation of Mr. Kaya at Smuggler's Inn lasted about twenty minutes.

43. That night, Mr. Kaya illegally crossed the border into Canada from Mr. Boule's property.

44. Enclosed with my declaration as Exhibit B is video taken [REDACTED] at the time of the incident. Based on my own recollection of that day, the video fairly and accurately depicts the events it captured. Unfortunately, the carriage house blocked the camera's view of my interaction with Mr. Boule. Beginning at 14 minutes, 5 seconds into the video (time-stamp 13:11:29), however, you see Mr. Boule walk over to talk with Agent Andersen when he arrives. Mr. Boule is clearly uninjured. His hat and sunglasses are still in place, and his clothing is neither scuffed nor dirty like it would be if he had been thrown down onto the concrete driveway as he alleges. He says I lifted him off the ground by grabbing his sweatshirt in the chest area, but the video shows the fabric isn't stretched or torn.

45. Beginning at 21 minutes, 18 seconds into the video (time-stamp 13:18:42), you see Mr. Boule carry Mr. Kaya's luggage into the main house. Again, this shows that he was not injured.

New instruction to Border Patrol Agents

46. A week or so after my encounter with Mr. Boule, CBP management issued new guidelines regarding Border Patrol activity on Mr. Boule's property. My understanding is that Mr. Boule's handler at ICE had requested this change. Border Patrol Agents were told not to park on Mr. Boule's property to monitor the border, which is something we had regularly done in the past. We were also told that we should have a specific reason to go onto his property, such as responding to a report that someone had just crossed the border. This was the first time we were ever instructed to treat Mr. Boule's property differently than any other property along the border.

47. When these new guidelines were issued, CBP managers told us that ICE had assured them it knew in advance the identity of the individuals crossing the border via Smuggler's Inn. I've learned through discovery in this case, however, that ICE wasn't learning the identity of most of these persons until weeks or months after they had already crossed the border into Canada. Mr. Boule made photocopies of their visas and passports, and ICE picked the records up every month or two. As a result, we now know that many persons unlawfully in the United States, including individuals with active ICE warrants, were allowed to cross the border via Smuggler's Inn. Some of these persons could have been wanted felons, drug traffickers, or even suspected terrorists. It's shocking to me that Mr. Boule's handlers at ICE allowed this to happen and apparently mislead CBP leadership about it.

My good-faith reporting to government agencies

48. A couple months after the incident, I read a news article online in which Mr. Boule openly discussed illegal border crossings on his property. I believe the article also referenced his “SMUGLER” license plate. The article frustrated me, because it appeared Mr. Boule was flaunting his involvement in criminal activity. The fact Mr. Boule was defrauding vulnerable individuals while ICE apparently condoned it also didn’t sit well with me or my fellow Border Patrol Agents. I also questioned whether Mr. Boule was reporting this income. And I didn’t see how he could have a license plate so blatantly referencing the criminal activity that constantly occurred at his property.

49. On June 5, 2014, I called some government agencies to alert them to this news article. I don’t specifically recall which agencies I called other than the Washington State Department of Licensing, but I believe one of the others was the Internal Revenue Service. My purpose was to alert the agencies of possible criminal conduct that I thought would be of concern to them. For example, I understood that the Department of Licensing could revoke personalized plates referencing illegal activities. I did not convey any information other than telling the agencies they might be interested in this news article.

50. I made these calls in the good-faith belief that Mr. Boule was probably breaking the law. I did not make the calls in retaliation for the incident or any of Mr. Boule’s behavior afterward, including his decision to submit a tort-claim form. In fact, Mr. Boule hadn’t submitted a claim when I made these calls, and I didn’t know he was going to a week later on June 11, 2014. And I don’t think this was even the first time I reported Mr. Boule’s “SMUGLER” plate to the Department of Licensing. A

couple years earlier, when I first learned license plates referencing criminal activity weren't allowed, I believe I reported the plate. It wasn't revoked at that time, but I thought the result might be different this time, because the news article clarified how the plate was associated with illegal smuggling across the border.

51. I understand Mr. Boule contends that I am responsible for other retaliation against him, including intimidating potential guests, slandering Mr. Boule's name, parking patrol vehicles near his property to discourage business, and detaining his employees without legal justification. None of this is true. I didn't do any of these things or engage in any retaliation against Mr. Boule. I'm also not aware of any Border Patrol Agent doing these things, and I certainly didn't ask my agents to engage in such behavior.

Signed this 2nd day of July 2018 at Blaine, Washington.

By: *Erik Egbert*
U.S. Border Patrol Agent Erik Egbert



Exhibit A

* * *

[161]

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

No. 2:17-CV-00106-RSM

ROBERT BOULE,

Plaintiff,

v.

ERIK EGBERT and JANE DOE EGBERT
and their marital community,

Defendants.

ERIK EGBERT,

Counterclaimant,

v.

ROBERT BOULE,

Counterdefendant.

REPORTED BY:
LESLIE POST, CCR No. 2378
May 31, 2018 - 10:40 A.M.
CASCADIA CROSS-BORDER LAW
1305 11th Street, Suite 301
BELLINGHAM, WASHINGTON

**DEPOSITION UPON ORAL EXAMINATION OF
ROBERT BOULE
VOLUME 2
(CONTAINS CONFIDENTIAL TESTIMONY)**

**SUBJECT TO PROTECTIVE ORDER AND
FOR ATTORNEYS' EYES ONLY)**

* * *

[168] Q. (By Mr. Grindeland) Have you been formally charged up in Canada?

A. I have been charged with crimes for allegedly organizing entry of nine refugee claimants into Canada.

Q. Is that the title of the charge, or is it human trafficking?

A. I have been charged with a crime or crimes for allegedly organizing the entry of nine refugee claimants into Canada.

* * *

[171] Q. Did you tell me that these charges relate to nine individuals? Is that what you said?

A. Yes.

Q. And those are nine individuals who allegedly crossed the border from the United States into Canada?

A. They are nine refugee claimants into Canada.

Q. Do you know who those individuals are?

A. I do not.

Q. You don't know their names?

A. I do not recall.

Q. What time period are you accused of having helped these people enter Canada?

A. I do not recall.

Q. Did it allegedly occur within the past year?

A. I don't recall the time period.

Q. You don't recall the events or you don't recall what you've been told about the charges against you?

A. Both.

Q. Have you helped people enter Canada outside of official ports of entry?

A. Based on advice of counsel, I'm exercising my right under the Fifth Amendment not to answer that [172] question.

Q. Have you been paid by people who know you were trying to enter Canada outside of an official point of entry?

A. Based on the advice of counsel, I'm exercising my right under the Fifth Amendment not to answer that question.

Q. Have you assisted anyone traveling the other direction, coming from Canada into the United States, outside of an official point of entry?

A. No.

Q. Have you ever had someone cross the border at your property from Canada into the United States and then given them a ride somewhere?

A. We have had guests that got rides in our vehicle that were stopped by Border Patrol and the people were arrested, yes.

Q. You've actually had people who have walked across the border onto your property and then you have given them a ride in your vehicle off your property, correct?

A. Yes.

Q. You were paid for that?

A. They paid for the night stay and the shuttle service to the airport, yes.

[173] Q. Sometimes you would charge them for a night stay even if they didn't stay the night, correct?

A. That — there's clarification on that. To be in our vehicle as a shuttle, they have to be guests of the Smuggler's Inn, otherwise I can't take them anywhere. So the answer is yes. Everyone that rides in our shuttle is a guest of the Smuggler's Inn.

Q. So for instance, there have been individuals who have crossed the border illegally from Canada into the United States to your property and then you charged them for a night stay and gave them a ride somewhere, even though they might have only been on your property for a couple of hours at most?

A. Restate the question.

Q. You have had individuals cross the border illegally from Canada to the United States to your property, right?

A. Yes.

Q. You already told me some of those people you have given rides further south to the airport or other locations, right?

A. Yes.

Q. When you do that, you charge those individuals both for a night stay at the Inn and for the price of the ride, correct?

[174] A. Yes.

Q. You charge them for a night stay even if they're only on your property for an hour or two?

A. This is anyone that signs our register has to have a room before they go in our vehicles.

Q. So you charge them for that?

A. Of course.

Q. Even if they're only on your property for an hour?

A. It doesn't matter the amount of time. If somebody gets a room, they have it for a 24-hour period of time. How long they stay in it is their business, not mine.

The other thing that you're not looking at is the reason they were pulled over was because of a phone call to agents telling them that the people had crossed and that they would be in the vehicle.

Q. Was that phone call from you? Is that what you're referring to?

A. Yes.

Q. Because you work as an informant for ICE, correct?

A. That's correct.

Q. How long have you worked as an informant for ICE?

[175] A. Twelve to 15 years. I do not recall the exact amount of time.

Q. You get paid for providing information to ICE, correct?

A. I do not.

Q. ICE has paid you a lot of money over the years, correct?

A. I have received funding from ICE. But they do not pay me for individual information.

Q. What do they pay you for?

A. They pay for arrests and convictions on drug situations.

Q. So you make a call to your contacts at ICE to let them know that you're about to give someone a ride away from the border, right?

A. Yes.

Q. Who pulls over your vehicle then? Is it ICE or is it Border Patrol?

A. Usually it's Border Patrol, that ICE has contacted Border Patrol and they are waiting for us.

Q. How far from your business do they pull you over?

A. Within two to four blocks, sometimes it's up to ten blocks and sometimes it's along I-5.

Q. Did you refund the money that you've charged [176] the border crosser?

A. We do not. Once they have had a room, it still has to be cleaned. We don't know if the people aren't coming back to use that room. Once they have a room that is registered, we have to hold it for or have a room available for them.

Q. What about for the ride itself?

A. What's that?

Q. Do you refund the charge for the transportation?

A. We don't refund anything if someone has been arrested.

Q. So you charge hundreds of dollars for transportation, right?

A. We charge rates on the limousine, on vehicles at \$100 an hour, yes.

Q. You sometimes charge more than \$100 an hour?

A. Sometimes it's \$150.

Q. Does it depend on how many people you're giving a ride to?

A. Or where you're going. Sometimes it's considerably less. It just depends on the activity of the vehicles.

* * *

[177] Q. Sometimes you charge people who have illegally crossed the border coming south for a ride to the Greyhound Bus Station in Bellingham, right?

A. Yes.

Q. And every time you do that, you get on your cell phone and call ICE to let them know, "Hey, there's somebody else I'm giving a ride to you might come apprehend"?

A. That's correct.

Q. How much do you charge someone when you tell them you're taking them to the Greyhound Bus Station in Bellingham?

A. Eighty to \$100.

Q. Sometimes more?

A. Probably not very often.

Q. How much —

A. Sometimes it's just the price of the room.

Q. Then because of information you provided, the border crosser gets apprehended within a few blocks of the Smuggler's Inn?

[178] A. That's correct.

Q. And nevertheless you keep the money you charge them for a ride?

A. We have been told not to give money back.

Q. Who told you that?

A. We are a business. Any time somebody is at the business and asks for services, that is what they are paying for, nothing more. If — we still have to — if you go to a motel and you pay and you decide you don't want to stay, you are still charged for that room. If you make a reservation for Semiahmoo and do not show up, they take a 50 percent deposit and they charge your credit card. We do nothing any different than normal policies of any hotel/motel.

Q. Has any federal agent told you that's okay what you're doing; "Go ahead and do that, keep the money you charged"?

A. It's — we have been — it's not keeping the money that we've charged. It's the rulings that the money is ours for the evening stay.

Q. Let me ask it this way, Mr. Boule; have any Border Patrol agents ever asked you to refund the money to the person who's being arrested?

A. They have.

Q. And has any agent told you, "Don't listen to [179] them, you don't need to do that"?

A. Yes.

Q. Who?

A. I'm — there has been several, and I do not recollect exactly which ones have stated it. But it has been the policy for 15 years that as an informant for ICE, that they review the rules and our policies and either accept them or don't. If they don't, we change them. There have — you know, it's just one of those situations that you're asking questions, you know, why would Border Patrol ask to refund the money, It's none of their business. You know, the business — they are guests.

* * *

[180] Q. So last time we got together for your deposition, there were some things that you declined to answer until you got approval from ICE. Do you remember that?

A. I do.

Q. And one of the things was the reason you didn't want Border Patrol on your property back on March 20th, 2014, the day of the incident with Agent Egbert.

A. That's correct.

Q. So you told me before that you did not want Border Patrol on your property, correct?

A. That's correct.

Q. Why is that?

A. ICE has had a sting operation on our property for over twelve years. There have been times that Border Patrol agents have not been extremely clean as an agency. There are times that there is drug crossings, there is drug activity, there is arrest activity at the Smugler's Inn. What they were doing was encouraging drug situations and getting information for any drug activity or talk of activity on the property.

* * *

[218] Q. I think one of the things you told me last time we met, you told me you couldn't talk about it that time, was what you said to Agent Egbert.

A. Yes.

Q. So now you're authorized?

A. That's correct.

Q. So what did you say to Agent Egbert?

A. He said that he wanted to search the vehicle and he wanted to talk to our guest. I told him — I stood in front of the door and I told him that he needed to call a supervisor and I would allow him to search the vehicle at that time. We also — you know, [219] whether it was a supervisor or what. But I told him that until the supervisor got there, he would have to have a warrant to search the vehicle.

Q. This is not the first time that you have told a Border Patrol agent "You don't search my vehicle until you get a supervisor out here," right?

A. That's correct.

Q. You've done that before?

A. I've done that before. That was the first time that I had asked for a warrant, because Josh had told me to ask for a warrant.

Q. Was Agent Barnett trying to protect Mr. Fikert?

A. No. He was trying to protect me from having agents being alone on our property after they've been told not to be on the property. He felt that something was out of the ordinary, there was a reason why an officer would be not obeying [REDACTED] directive not to be on the property.

* * *

[223] A. (cont'd) He took action, then, into his own hands. There was not a second officer there. There was officers up the street that could have been there. The Yukon was blocked in. It wasn't going anywhere. The guest wasn't going anywhere. There wasn't any reason for him to touch me or to throw me to the ground, none at all.

* * *

[230] Q. And you tallied up over a three-month period you had 163 guests, correct?

A. That's correct.

[231] Q. And 47 of them were from Afghanistan?

A. Uh-huh.

Q. Yes?

A. Yes.

Q. Thirty-one from Pakistan?

A. Yes.

Q. Thirteen from Yemen?

A. Yes.

Q. You had ten from the United States, right?

A. Yes.

Q. And how many of these 163 guests over that three-month period crossed the border north into Canada?

A. Based on the advice of counsel, I'm exercising my right under the Fifth Amendment not to answer that question.

* * *

[1]

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

No. 2:17-CV-00106-RSM

ROBERT BOULE,

Plaintiff,

v.

ERIK EGBERT and JANE DOE EGBERT
and their marital community,

Defendants.

ERIK EGBERT,

Counterclaimant,

v.

ROBERT BOULE,

Counterdefendant.

REPORTED BY:
LESLIE POST, CCR No. 2378
June 1, 2018 - 10:14 A.M.
1431 Sunset Avenue
FERNDALE, WASHINGTON

**VIDEOTRAPED DEPOSITION UPON ORAL
EXAMINATION OF KENNETH ANDERSEN**

* * *

[17] Q. Do you know Mr. Boule?

A. I know who he is. I — I'm not — I've met him. I don't think I've ever formally introduced myself. I might have. But I know who he is.

Q. Do you remember about when you became familiar with who he was?

A. Probably the first day I was at Blaine Station.

Q. And that was — when did you start at the [18] Blaine Station?

A. April 2008.

Q. Why would you have become familiar with him the first day on the job?

A. His area was an irritant, the hotel itself was a constant source of aggravation with the aliens being hidden in there and running back and forth. Just the activity in the area.

Q. Did you use the word "irritant"?

A. Yes, I did.

Q. What did you mean by that?

A. Well, because the aliens would go — would run — either — either he would pick them up from the airport and drop them off and take them to his hotel, they would stay in there. So they're kind of hiding in his — in his hotel. We weren't sure all the time of their citizenship. And without — without enough cause, you can't do a knock-and-talk and go in and through the house and question everybody in there, you know, due to the Fourth Amendment.

But then later on in the night sometime, usually at midnight hours, late at night they would run into Canada.

And the same the other way. They would get dropped off in Canada and run into his hotel in the middle of the night, 2:00 in the morning. He [19] lived there, too, so it was — I mean, who leaves their back door open in the middle of the night? You know, but aliens would run in there and a lot of times we would go in and find the aliens hiding in the house. But it was just — it's just a — that's what I mean by "irritant." It was a constant, you know, there's aliens in the hotel again, there's — you know, we don't know their citizenship. Then they go south or north that day. It was a constant irritant. It might have not — not have been as aggravating to some people as it was me, but it was aggravating to me.

* * *

[20] Q. What was Mr. Boule's involvement in the alien trafficking at Smuggler's Inn?

A. Well, I can't speak to it, I mean, exactly what he was doing, because I wasn't a witness, I wasn't participating.

But I mean, the aliens would come into his Inn at night from Canada and hide in there and then — then his shuttle would leave in the morning, sometime during the day, and they'd be in the — they'd be in the shuttle going to the airport. Or they would come from the United States, either just arrive there by car or he would pick them up from the airport, either Seattle or Bellingham, and take them to the Inn. And these usually had visitors' visas. So they entered [21] the United States legally, and we all believed and it was proven that they entered the United States through — with visitors' visas to go into Canada to claim asylum.

But anyway, he would house them there, and we believed that he was — you know, he'd get the money for

the aliens, for the hotel stays and the rides and all that, and then I'm not sure if he was being paid by smugglers or a combination of smugglers and the aliens. But he was — he was making money from that.

And then also this is true with other smugglers, too, the aliens would come into the — to his hotel from Canada, he would be paid for rides to the airport, but then he would call us or ICE would call us that there were aliens in the area and then we would arrest them before they got a ride down to the airport.

That's a common tactic with alien smugglers, people that are harboring, they get the money from the aliens and then they call Border Patrol to come arrest them so they don't have to continue with their furtherance. That's what I think. It's a common belief, and I'm sure there's reports out there in Blaine and other stations in the country that [22] substantiate this through witness interviews and stuff.

Q. About Mr. Boule?

A. Yes.

Q. So am I understanding correctly that you suspected or the Border Patrol in general — agents in general suspected that he would be paid by aliens for transportation to the airport, for example, call Border Patrol so that the aliens would be arrested, but he wouldn't — he would keep the money —

A. Yes.

Q. — that they paid him?

A. Yes.

Q. Even though he didn't render the services?

A. Absolutely, yes.

* * *

[31] Q And what would — what would Mr. Boule do to not be helpful for Border Patrol when Border Patrol showed up to do the apprehensions?

A. He would try to mainly run the aliens into the hotel before we got there or just try to stop us from questioning them.

I did a lot of vehicle stops where he would not protest at all. But we knew the alien was illegal coming out of the hotel, and he would leave and not want us to stop the — not want us to apprehend the alien at the hotel, so he wouldn't give up, you know, the source or whatever and make it look like he was [32] giving up information. So we'd wait until it got out of sight of the hotel [REDACTED] and do a vehicle stop, grab the alien and take off without any question at all. Those are the instances we believe he's already paid by the alien or smuggler or whoever, so he didn't care. He was supposed to take them to Seattle or Bellingham, so he didn't have to drive there and he still got his money.

Q. Why do you think he wasn't helpful when Border Patrol was trying to do the apprehensions at the hotel?

A. Because — probably because he hadn't been paid yet.

* * *

[45] Q. Would Mr. Boule provide information or tips to Border Patrol?

A. I don't remember. I don't believe so. No, I don't think so.

I know that the day that Egbert and him got in their little argument, that he had told Egbert that a person he was picking up from the airport either had questionable immigration status or something. That's why Egbert was down there questioning the alien. But as far — regularly, no, he didn't call us and give us any information, I don't believe.

Q. So did it seem unusual on the day of the incident that Mr. Boule had passed along this tip to Agent Egbert?

A. Yes, yes.

Q. And that would be a reason for Agent Egbert to investigate the tip?

A. Absolutely, yes. If Boule told him that the alien — he believed the alien could have been illegal [46] and said, "Come on down and question him," then, yeah, of course. I mean, you're invited on the property. Absolutely.

Q. And you would have expected one of your Border Patrol agents to do that?

A. Yes. Egbert and I talked beforehand, he came down and talked to me and said, "Boule told me there was a guy that he's picking up at the airport that could possibly be illegal." And he was very cordial when he was talking to Egbert.

And then he said that Boule was going to call him when he went there — or Egbert was going to go there and when Boule showed back up he was going to question the alien, they already talked about it, him and Boule.

I said all right. So I was in the area waiting and then — then Egbert called me down there.

* * *

[49] Q. Do you agree that Agent Egbert had a duty to investigate the information that Mr. Boule provided?

A. Yes, he did.

* * *

[56] Q. Did it appear like there had been an altercation between Mr. Boule and Agent Egbert?

A. I didn't see any evidence of any injuries on Mr. Boule. I didn't inspect his skin or anything. I just looked at his clothes. I didn't see any dirt on him or any evidence there had been a scuffle or anything like that. There was no sign to be cut because it was — there was no — it was concrete, so I couldn't tell if anybody had a fall and then made any scuffs on the ground or anything. It didn't appear like he was just breathing hard and like he was — he was upset, that's about all I could get from it.

* * *

[59] Q. Did you reach any conclusions about whether Mr. Boule's accusation that Agent Egbert pushed him was true?

A. I didn't believe it was true based on what I [60] saw at the — at the hotel. I mean, no injuries to Mr. Boule. I mean, he's an older guy and not in very good shape, so I think if he would have been pushed down on the ground or if there had been a — any type of confrontation, that he would shown some type of injury or something, or shown me.

I've complained to — I've responded to citizen complaints before of agents putting their hands on them for one reason or another and, you know, people show

injuries and you document it and take them into the office and stuff like that and, you know, we go through a process, the FBI is called, agent assault, and stuff like that. He didn't provide anything like that, any evidence of any injuries.

[1]

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

No. 2:17-CV-00106-RSM

ROBERT BOULE,

Plaintiff,

v.

ERIK EGBERT and JANE DOE EGBERT
and their marital community,

Defendants.

ERIK EGBERT,

Counterclaimant,

v.

ROBERT BOULE,

Counterdefendant.

REPORTED BY:
LESLIE POST, CCR No. 2378
April 5, 2018 - 10:56 A.M.
1580 H Street
BLAINE, WASHINGTON

**VIDEOTAPED DEPOSITION UPON ORAL
EXAMINATION OF PHILIP OLSON**

* * *

[75] Q. Was there any evidence that you had seen that an altercation had happened between Mr. Boule and Agent Egbert?

A. No, no evidence of a serious altercation, no. I mean, beyond the possibility of what I described to you earlier, if Mr. Boule had stood in the way and tried to block Mr. Egbert, Mr. Egbert [76] could have touched him in trying to get the passport from the passenger. But no, no — no obvious evidence of even that happening.

Q. That's just your after the fact —

A. Right, because I wasn't there during that time period.

Q. Was Mr. Boule disheveled at all?

A. Can you — what do you mean by “disheveled”?

Q. Was there dirt on his clothes to suggest that he had been on the ground?

A. I don't remember noticing anything like that.

Q. Was his hat like not straight on his head?

A. I don't remember that.

Q. Did you see any bruises or scrapes on him?

A. No.

Q. Did Mr. Boule complain of any injuries?

A. No, I don't remember him complaining about being hurt.

Q. Did he appear injured to you?

A. No, he didn't.

Q. What happened with the — what do — what do you know about what happened with the guest after the records check came back?

A. So the records checks came back all clear. [77] The guest from Turkey, he was in status in the United States, so there was nothing else that — as border patrol agents, there's nothing else we needed to do. Agent Egbert gave his passport back and we left. And then that — the following night, then, he entered Canada illegally from the Smuggler's Inn.

Q. Do you know, do you remember how you received the information about the guest illegally crossing the border?

A. I was working day shift that day when this happened, so I would have found out about it, I'm assuming, at our morning briefing the next morning at the beginning of my shift.

Q. Did you see any evidence to suggest that Agent Egbert was harassing Mr. Boule's guest?

A. No, no. My — how I interpreted the whole interaction beginning was based on Mr. Boule telling Agent Egbert that he was going to pick up somebody from the airport and it seemed reasonable that Agent Egbert was going to follow up on that and try and talk to the person.

Q. So do you know why Mr. Boule then reported that Agent Egbert was harassing his guest?

A. No, I don't understand that.

* * *

DEPARTMENT OF HOMELAND SECURITY
U.S. CUSTOMS AND BORDER PROTECTION
OFFICE OF INTERNAL AFFAIRS



ERIK EGBERT DISCIPLINARY INVESTIGATION
[CONFIDENTIAL]

January 28, 2015

AFFIDAVIT

* * *

[6] Question: Did you, or anyone you know, contact the Internal Revenue Service, or cause or aid in the contacting of the Internal Revenue Service, to report Mr. Robert Boule?

Answer: I believe that I contacted them when I was assigned to the VCO office in June. I remember Googling the IRS. I don't think I passed them information as to the seizures. I don't remember exactly what I told the IRS about Mr. Boule. I don't remember any of the details of the call. I think that I sent something, possibly a newspaper article about Mr. Boule and the Smuggler's Inn, to a variety of agencies.

Question: Did you, or anyone you know, contact the Social Security Administration, or cause or aid in the contacting of the Social Security Administration, to report Mr. Robert Boule?

Answer: I think that I sent something, possibly a newspaper article about Mr. Boule and the Smuggler's Inn, to

a variety of agencies. I remember Googling the agencies' addresses in the VCO office and thinking that it was not fair what Mr. Boule was getting away with. I just don't remember exactly which agencies I sent it to or what I sent.

[7] Question: Did you, or anyone you know, contact the Whatcom County Assessor's Office, or cause or aid in the contacting of the Whatcom County Assessor's Office, to report Mr. Robert Boule?

Answer: I think that I sent something, possibly a newspaper article about Mr. Boule and the Smuggler's Inn, to a variety of agencies. I remember Googling the agencies' addresses in the VCO office and thinking that it was not fair what Mr. Boule was getting away with. I just don't remember exactly which agencies I sent it to or what I sent.

Question: Did you, or anyone you know, contact the Washington State Department of Licensing, or cause or aid in the contacting of that agency, to report Mr. Robert Boule?

Answer: I think that I sent something, possibly a newspaper article about Mr. Boule and the Smuggler's Inn, to a variety of agencies. I remember Googling the agencies' addresses in the VCO office and thinking that it was not fair what Mr. Boule was getting away with. I just don't remember exactly which agencies I sent it to or what I sent.

Question: Did you, or anyone you know, contact any other State or Federal agency, or cause or aid in the contacting of any other State or Federal agency, to report Mr. Robert Boule?

Answer: I think that I sent something, possibly a newspaper article about Mr. Boule and the Smuggler's Inn, to

a variety of agencies. I remember Googling the agencies' addresses in the VCO office and thinking that it was not fair what Mr. Boule was getting away with. I just don't remember exactly which agencies I sent it to or what I sent.

* * *

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

No. 2:17-CV-00106-RSM

ROBERT BOULE,

Plaintiff,

v.

ERIK EGBERT and JANE DOE EGBERT
and their marital community,

Defendants.

ERIK EGBERT,

Counterclaimant,

v.

ROBERT BOULE,

Counterdefendant.

REPORTED BY:

JUDY BONICELLI, RPR, CCR 2322

March 9, 2018 - 10:30 A.M.

CASCADIA CROSS-BORDER LAW

1305 11th Street, Suite 301

BELLINGHAM, WASHINGTON

**DEPOSITION UPON ORAL EXAMINATION OF
ROBERT JOSEPH JOHN BOULE
(CONTAINS CONFIDENTIAL TESTIMONY
SUBJECT TO PROTECTIVE ORDER AND
FOR ATTORNEYS' EYES ONLY)**

* * *

[10] Q. How about in court, have you ever testified in court before?

A. Yes.

Q. How many times?

A. Four or five.

Q. When was the first time you ever testified in court? What year was that?

A. I don't recall the exact year.

Q. How about approximately?

A. From 2005 to 2009.

Q. You mean the first time you testified in court was between 2005 and 2009?

[11] A. Right.

Q. And what was the case involving?

A. It was involving a federal drug smuggling.

Q. What was your role in the federal drug smuggling case?

A. I was the informant that got the conviction on the drug smugglers.

Q. What were the names of the drug smugglers?

A. I don't recall the names of the people involved.

Q. Was one of them last name [REDACTED]

A. No, that was later on. That was about four years or five years after, and we did not go to court on that one. That one was pleaded.

Q. So let's focus on this first time you testified in court. Well, let's back up a little bit. You were working as an informant, is that what you just testified?

A. That's correct.

Q. Who were you working for?

A. It was a combination, but the direct supervision was through ICE.

Q. When did you first start working as a confidential informant?

A. The first time was probably 2003 with Intel, [12] with Border Patrol; and then as the involvement got greater, it switched over to ICE. And then they dealt with actions with a task force of the Canadian government, Customs, Homeland Security and the RCMP.

Q. So back in 2003 when you first started working with Border Patrol, how did that come about?

A. They came to us on—and asked for help. [REDACTED]

[REDACTED] They wanted agents to have our phone numbers so that we would call them directly if any activity was going on.

And we did that for a number of years. There were convictions that they were able to secure as a result of the information I've given. We did not go to court with Border Patrol. All of those were pleaded.

Q. I'm sorry, all of those were—

A. Plead.

Q. —pleaded. The defendants pleaded guilty?

A. Yes.

* * *

[14] Q. All right, I need to back up a little bit just so I can make sure I understand things. When did you first buy the property where the Smuggler's Inn is located?

A. In August of 2000.

Q. Who did you buy the property from?

A. It was through an auction, and it was in a foreclosure of the Surowiecki family. But it was bank-owned at that point.

Q. All right, that's the Surowieckis. That's the same family as the fellow that my colleague Nikki Carsley deposed the other day, right?

A. That's correct.

Q. A witness in this case.

A. Yes. He was raised in the home. And then they own adjoining property, and he's been on that property for—back and forth for—since 1994.

Q. All right, so what is your address there at the Smuggler's Inn?

A. Today it's 2480 Canada View Drive.

Q. And that's where you live, right?

A. That's correct.

Q. And you've lived there since you bought the [15] place in 2000?

A. When we bought the home, the address was 9910 Canada View Drive.

Q. Why did the address change?

A. Because of when Blaine took over the area, they changed a whole lot of the addresses in the area.

Q. What year did that change occur?

A. 2007 or 'eight. But again, I'm not accurate on—I'm giving an approximate.

Q. Okay, I appreciate you clarifying when you're approximating. That's very helpful.

So you moved into the home when you bought it in the summer of 2000, right?

A. Yes.

Q. Did you immediately start running it as a business?

A. No. No, the—we remodeled on the home. We did not physically—we were on the property in a motor home and did not move into the home until October 31st of 2000.

Q. And when did you first begin operating the property as a bed and breakfast?

A. It had to be 2001 to 2002. And it was over a period of time. We were remodeling, and we started out with one bedroom and then went on to paint and fix and [16] clean up to the amount of rooms it is licensed for today.

Q. And you've been the sole owner of the property since you bought it in 2000?

A. Yes, yes.

Q. And you call your business the Smuggler's Inn, correct?

A. Smuggler's Inn Bed and Breakfast.

Q. Is the business incorporated?

A. No. It's a sole proprietor.

Q. So it's your sole proprietorship doing business as Smuggler's Inn Bed and Breakfast?

A. That's correct.

Q. When did you first notice people crossing the border via your property?

A. Probably within the first 90 days, and again, it was not them crossing the property. It was people in the yard, on the property; and we would question them, you know, "Can we help you? What are you doing in our yard?" That type of thing.

Q. And what—do you recall the first person you found in your yard?

A. I do not.

Q. Do you recall why they said they were in your yard?

[17] A. A lot of people were just—at that point we were fixing up the yard, fixing up the house, and they said that they were curious on what was going on in the house. Some of them were neighbors. Some of them did not identify themselves. When we bought the house, blackberries were up, the lawn was waist high, and so any time that anything is done, you have people, looky-loos, coming to see what was going on.

Q. But within the first 90 days of owning the property, you became aware that there were sometimes people crossing the border via the property, right?

A. Yes.

Q. Both directions north and south?

A. North and south.

Q. And you're aware that became a much bigger deal after the terrorist attacks in September of 2001, right?

A. Dramatically. We had a driveway that went both ways when I bought the property. They had a Canadian vehicle that they parked on the Canadian side, and he worked—the previous owner worked in downtown Vancouver, and they had an American car on the U.S. side. And we used to walk and have coffee with the neighbors across the street. 911 hit, and that no longer was something that we could do.

[18] Q. And you understood that was because both countries, Canada and United States were concerned about terrorists crossing the border?

A. That's correct.

Q. So within a couple years after 911, Border Patrol came to you?

A. Not—Intel with Border Patrol came to us. They were not in uniform.

Q. Intelligence agents or officers with Border Patrol?

A. Yes.

Q. Came to you and wanted to talk about [REDACTED]?

A. Yes.

Q. And you gave them permission to do that?

A. Yes.

Q. And you also talked with them about sharing information?

A. Not at that point. To start with, they were—there were times that we would see a full semi—we would be sitting in the dining room, and you would see a full semi go through your yard. And into Canada.

And part of what they did is ask what we would allow or could do to stop that kind of activity. [REDACTED] [19]

[REDACTED]

[REDACTED]

[REDACTED]

Q. Your lawn extends into Canada?

A. It does. There is five feet of our yard that is in Canada.

Q. But you placed a line of small boulders along the border on your property?

A. Yes.

Q. And when did you do that?

A. I don't know the exact year.

* * *

[23] Q. So when Border Patrol intelligence officers approached you around 2003—

A. And I'll correct you on that. It wasn't an officer. They always worked in teams. There was always more than one of them when the discussions were being held.

[24] Q. So when is the first time you had discussions with any federal agents about providing information?

A. It was during the time that the activity had been in the yard, and they asked if we saw anything that—if we would give their agents a phone call. Not call headquarters, but call the agents themselves, and then the agents would deal with how the call was handled.

Q. What do you mean they “would deal with how the call was handled”?

A. Well, they didn’t want me calling 911 and calling the Border Patrol itself or their 911 operator, or they didn’t want me calling the Canadian 911. They wanted a phone call to Intel, and we had specific agents 24 hours a day that would—we would tell them what we saw, and then they would go from there.

Q. So give me an example of one of the early calls when you first started doing that. What would you call and tell them you were seeing?

A. One of the early ones was two gentlemen in a car came racing down our driveway and hit where our round-about is now, and there was two gentlemen that were in a plain vehicle chasing them. And they got out of their vehicle and started chasing the first two guys; and then right behind them was a Border Patrol, [25] but it was not a matter of seconds. It was a gap in time.

So we called and explained to him that we had seen people out of uniform jumping out of a car, running, having the other one running. Border Patrol agents got there and stopped the—dragged the two guys back to their car, and they were undercover Customs agents. And the bad guys got away. And that was the—one of the first times that we recall using the phone number and—

Q. When you say “the bad guys got away,” the two guys in the first car got across the border headed north?

A. We have no idea if they went north or if they circled back through the power lines and ended up, but they were not apprehended.

Q. Did they leave their vehicle on your property?

A. The vehicle was on the property. It was stolen, and Border Patrol pulled the vehicle off the property.

Q. When is the first time you recall calling the intelligence officers—am I using the right term? Is that what you understood them to be, “intelligence officers”?

A. Yes.

[26] Q. When was the first time you called the intelligence officers with the information about people crossing the border, either direction?

A. I don't remember. It was after that incident, and it probably was once a month. If we saw activity, we would give them a phone call, or they would stop in and ask us information and talk to us about the border, what was going on, that type of thing.

Q. And did the officers do anything for you in exchange for that information?

A. Can you restate that?

Q. Sure. Were you paid to provide information?

A. There were times that—twice that I received money from Intel, yes.

Q. What were those—when was the first time you received money for providing intelligence?

A. Had to be probably a year and a half after we had been working with them, and I think the—it was about \$500, and it was not for a specific. It was just for the—thanks for working with them and helping them, and then they did a thousand dollars about a year and a half after that.

Q. Was that the last time you received money from a federal agent?

A. It is not.

[27] Q. When is the last time you received some kind of payment?

A. I don't know what the exact date has been, but it's been within the last five years.

Q. How much did you receive?

A. The last payment was \$20,000.

Q. And who paid you \$20,000?

A. ICE.

Q. Was there a particular agent who facilitated the payment?

A. It was a combination of agents and supervisors.

Q. So give me the names that you know?

A. Josh Barnett and Shannon Hansen.

Q. Do you know how to spell Hansen?

A. No.

Q. You don't know if it's an o-n or an e-n on the end?

A. I do not know. That's one of the things I'm not real good at is spelling.

Q. Your doctor, [REDACTED], is a man, right?

A. Yes.

Q. Is Shannon Hansen, the ICE agent, a male or female?

A. Male, supervisor.

[28] Q. And they paid you \$20,000 within the past five years?

A. Uh-huh, on that occasion.

Q. In total, how much have you been paid by the government?

A. I don't know the exact number, but it is over 40,000.

Q. When you received the \$20,000, how was that paid? Was it a check, or was it cash?

A. It was cash.

Q. What kind of records do you have reflecting any of these payments over the years?

A. They have all the records.

Q. You haven't kept any records?

A. No.

Q. You didn't deposit any of these payments in your bank account?

A. Not directly, no.

Q. What do you mean "not directly"?

A. Well, over a period of time, but we didn't put \$20,000 into the bank at a single time.

Q. Did you report the \$20,000 as income on your taxes?

A. It was spread out over the year, yes.

Q. You have a CPA do your tax return for you [29] every year, right?

A. Yes.

Q. What is the name of your current CPA?

A. The current one is Boren.

Q. [REDACTED]?

A. Yes.

Q. Do you know how to spell [REDACTED]

A. [REDACTED]

Q. And who was your CPA before this year?

A. [REDACTED]

Q. [REDACTED]?

A. Yes.

Q. So it's your understanding that your accountant [REDACTED] included these government payments as income on his tax returns?

A. Through our tax returns, yes.

Q. And you said it is over \$40,000 that you've received from the government?

A. Yes. And that's in the last 15 years.

Q. How much over \$40,000?

A. I don't know the exact amount, but it's between—it could be as much as 60,000, but probably not more than that.

Q. So somewhere—your best estimate is somewhere between 40,000 and \$60,000 in the last 15 [30] years?

A. Yes.

Q. Are all cash payments you received from the federal government?

A. No. Remember I said we received a check for the 500 from Border Patrol. We received a check for a thousand.

Q. Is \$20,000 the most you've received at one time?

A. Yes.

Q. I have no idea what \$20,000 in cash looks like. Was it hundred dollar bills? What size bills?

A. They were all \$100 bills.

Q. And how big a pile of money is that?

A. (Witness indicating.) Yeah, it's—

Q. You just indicated with the size of your hand like the size of a brick.

A. Right. Smaller than a brick, yeah.

Q. And was the—was that most recent payment of \$20,000, was that—am I understanding correctly that was not for a specific tip? That was just—

A. No.

Q. —compensation for providing information over the years?

A. No. Each one of the receipts were for [31] convictions and arrests of drugs.

Q. Is that just drugs coming into the United States?

A. Or leaving.

Q. What kind of drugs are smuggled from Canada into the United States?

A. Can you repeat that?

Q. What types of drugs are smuggled from Canada into the United States?

A. You have Ecstasy, you have cocaine, you have marijuana.

Q. What kind of drugs go from the United States to Canada?

A. The same.

* * *

[35] Q. What percentage of your guests are people trying to cross the border or get drugs across the border?

A. I have no idea. It is one of those things that I truly don't know. You know, when we're discussing today, we're talking about six to ten incidences over a ten-year period of time dealing with drugs. So it's a small percentage, but there—you know, to know what the percentage is, I couldn't tell you.

Q. Take drugs out of the question. What percentage of your guests are people who are actually staying there to sneak across the border?

A. I have no idea. I know that ICE and federal government ask for warrants. They have set up what [36] they want for information when we check people in, and once a month they serve the warrants and get the copy of every person that has a Visa, passport, the countries they're from.

And they are all legal in the United States when they come to the Inn. We pick them up at an airport. We pick them—they drive in, but when they are registered guests, they are legal at the Smuggler's Inn, and we have that on record. And then what they do after that, we truly don't know.

But every day the agents involved are told what country they're from, how many people there were, what the—the date of their registration, the books are open that they can see them. And it's one of those things that you don't always know what is the intent, but you know that something could be going on.

The government, if they have agents that are pilots or that are in school that have disappeared, they ask

that—they'll give us a list of who to look for, and if I have any of those people that they are looking for, then they are texted immediately when they arrive. And those people have been arrested at the Inn, and that has happened on numerous occasions.

Q. Okay, so let me back up. You just said a lot, and I have some follow-up questions.

[37] A. Okay.

Q. One of the things you said, if I understood you correctly, was that you check people's Visas and passports when they arrive at the Inn?

A. And make copies.

Q. You make copies of them?

A. Make copies of them, yes.

Q. And then you provide copies of the Visas and passports to ICE agents once a month?

A. When they bring the warrant.

Q. Which is typically about once a month?

A. About once a month.

Q. I thought you also said that you confirmed that guests are legally in the country.

A. Okay, I did not mean to imply that. I am not an expert on passports or on Visas. When I look at a Visa, if it's got a good date on the Visa, if the passport is an accurate passport, then we make copies of it. And if there is anything that we do not recognize or—then, you know, we have a phone call.

If I pick up somebody at Bellingham airport, and he has come from Turkey to New York City, has got on an airplane, the Visas have been checked, I pick him up at

Bellingham airport or Seattle airport, I assume that the passport has gone through three major [38] checkpoints before I get him.

And so when I pick him up at the airport, I'm assuming that somebody who is more expert than I has looked at that Visa and that it is truly a passport and a Visa that is correct.

Q. Well, it's not your job anyway to check whether a guest is—

A. That's correct.

Q. —legally in the country—

A. Right.

Q. —correct?

A. Right. But if somebody is obviously—doesn't have ID or doesn't—I can't have them staying there. I have turned people away.

Q. You've turned people away why?

A. Because they didn't have identification, Visas, passports.

Q. What if someone—have you ever had a guest who had a Washington State ID but no Visa or passport?

A. I've had Washington State IDs, yes, but that is a form of ID.

Q. So what you're looking for is a valid form of ID?

A. That's correct.

* * *

[130] Q. Let's see if that happens. I'm interested—if we can't talk about anything else, I'm interested in the

interaction between you and Mr. Egbert, what you said to each other and what occurred. So let's talk about that.

A. Okay, and from the moment he got there, he wanted to inspect the vehicle and talk to the guest. And again, from that moment, we can't discuss why I told him he had to get a warrant.

Q. Okay, let's stop there for a second then. So you're concerned that sharing with me right now the [131] conversation between you and Agent Egbert would be revealing—

A. The information that I had with the other people prior to it, and why we did what we did with him.

Q. Okay. At some point—well, let me ask you this. Did you tell Agent Egbert no, he can't talk to your guest?

A. Yes. Not without a warrant.

Q. And did you physically position yourself in between Agent Egbert and the Yukon?

A. Yes.

Q. To prevent him from contacting Mr. Fikert?

A. Or searching the vehicle.

Q. And if you can't tell me what was said, what did Agent Egbert do?

A. At that point he picked me up, threw me against the vehicle, and then from that point I came back. He picked me up again and threw me to the ground.

Q. I want to focus on the first time he picked you up. Where on your body did he place his hands?

A. He grabbed me here and here (indicating), picked me up on my feet and threw me into the vehicle.

Q. Okay, I want to make sure, because we've got a [132] written record here, that it's clear what your testimony is.

A. He grabbed me on the chest, picked me up off the ground about an inch or two and threw me into the vehicle.

Q. He used his two hands to grab your shirt or your jacket in your chest area; is that right?

A. Yes.

Q. And lifted you off the ground?

A. And threw me into the vehicle.

Q. How far away from the vehicle were you when he picked you up off the ground?

A. Probably six to eight inches.

Q. Was he—was Agent Egbert saying anything to you when he lifted you off the ground?

A. We were having a discussion that he was not—you know, I had been on the cell phone. We had called 911. I had told him that he was to have a supervisor here before he did anything further.

Q. Wait a sec. Am I understanding you correctly? Are you saying you called 911 before Agent Egbert picked you up?

A. Yes.

Q. Okay. How long was—how long were you talking to Agent Egbert before you called 911?

[133] A. When I saw him on the property. When he came in.

Q. I don't understand that. The question is how long were you speaking with Agent Egbert before you called 911.

A. You're not understanding. You asked me when I called 911 the first time.

Q. Right.

A. And it was when he came on the property.

Q. This third time?

A. The third time.

Q. At around one o'clock in the afternoon?

A. Whatever the time was, yes.

Q. As soon as he came onto the property, you called 911?

A. Yes.

Q. Did you call 911 more than once that day?

A. Yes.

Q. Okay. So around one o'clock in the afternoon when Mr. Fikert arrived on the property, you saw Agent Egbert pull in to your driveway behind the Yukon. You immediately called 911?

A. Yes.

Q. And said what? Is that something you can talk about?

[134] A. Not at this point.

Q. Okay. You ended the 911 call, right?

A. Yes.

Q. Before you go over to talk to Agent Egbert?

A. No. I was standing in front of the vehicle.

Q. You were already in front of the vehicle the first time you called 911?

A. Yes.

Q. Okay. Then you hang up the phone and start having a conversation with Agent Egbert?

A. Yes.

Q. Who—

A. He was having a conversation with me.

Q. What was Agent Egbert telling you?

A. He wanted to talk to the gentleman. He wanted to search the vehicle.

Q. Did he ask you to step out of the way so he could do that?

A. Yes.

Q. And you told him no, he couldn't do that?

A. I told him that he needed a warrant to search the vehicle and to talk to the guest. I told him that the guest had been through security at the airport, had come from New York to Seattle. We had picked him up at an airport and was a guest.

[135] Q. And was it clear to you that Agent Egbert had told you to get out of his way so he could talk to Mr. Fikert?

A. Yes.

Q. And you clearly told him no?

A. No.

Q. "I'm not getting out of your way"?

A. Right.

Q. Then he grabbed you by your chest, by the clothing on your chest?

A. Yes.

Q. Lifted you up off the ground and threw you into the Yukon?

A. Yes.

Q. Threw you against the side of the Yukon?

A. Yes.

Q. Like the passenger door, is that what you're saying?

A. That's where we were standing, yes.

Q. I'm sorry, I think I asked this, but I don't remember what your answer was. How far away from the Yukon were you standing when he picked you up?

A. Six to eight inches.

Q. So less than a foot?

A. Less than a foot.

[136] Q. And when he threw you against the Yukon, did he let go of you, or did he still hold onto you when you were pressed up against the Yukon?

A. He let go of me. Then stepped back, and then we stood there. And then he again—you know, by that time I was yelling at him trying to get a supervisor, told him that he needed a warrant, he could not search the vehicle without a supervisor present.

Q. You said you were yelling. You raised your voice?

A. I was—anybody that touches you and does things like that—and there is a whole lot more that I can't say right now on what went on. There was reasons why I was raising my voice and questioning what was going on.

Q. Were you angry?

A. Sure.

Q. When you said that he picked you up off the ground and threw you against the side of the Yukon, do you mean you flew through the air that six to eight inches?

A. He picked me up off the ground one to two inches and threw me into the vehicle.

Q. So your feet were not touching the ground when you hit the Yukon?

[137] A. That's correct.

Q. But you hit the Yukon, he had let go of you, and so you came down and landed on your feet at that time?

A. At that time.

Q. And you yelled at Agent Egbert?

A. Yes.

Q. And you can't tell me what you yelled at him right now, right? We'll do that next time when we have ICE's permission.

A. That's fine.

Q. I'm just making sure that is right.

A. Yes.

Q. Did you say Agent Egbert grabbed you and lifted you off the ground again?

A. No. He threw me to the right, to the ground.

Q. To your right or his right? Because you're facing each other, correct?

A. As you're looking at the vehicle from the passenger door to the passenger front fender. He threw me to the ground.

Q. So you're on the passenger side of the car?

A. Yes.

Q. And he threw you towards the front of the car, the front bumper?

[138] A. Yes.

Q. So your left—

A. Yes.

Q. And his right?

A. Yes.

Q. Where did he grab you when he threw you to your left?

A. The same location on my shoulder—

Q. Chest again?

A. Chest again.

Q. Did he lift you up off the ground that time or just to the side?

A. I don't think he did. He threw me to the ground.

Q. Did you have the impression that he was trying to knock you to the ground or move you to the side?

A. I have no idea what was going on in his mind. I knew that he was out of line. He had asked earlier in the day about my health. He knew that I had had surgery,

and all of a sudden he went rogue and was all over me. And no one should have the right to do that. Period.

Q. What was the surface like where you were parked?

A. Concrete.

[139] Q. So you fell down on the concrete?

A. I fell to the concrete.

Q. What part of your body contacted the concrete?

A. The hip hit the concrete first, then my shoulders and then my head.

Q. Left side of your body? Left hip?

A. It would be the left, yes.

Q. Do you think you recall hitting your head on the concrete? Is that what you said?

A. When I got up, my head was on the ground.

Q. When Agent Egbert threw you to your left—I'm sorry, shoved you to your left? What did you say?

A. He threw us to the ground.

Q. Your left hip contacted the concrete first?

A. Yes.

Q. Then did you say your left shoulder?

A. The left shoulder.

Q. And at some point you ended up laying on the ground, including your head was now touching the ground?

A. Right.

Q. Did you strike your head against the ground?

A. I don't know if I struck my head or if we were just on the ground, and then, you know, adrenaline kicked in again, and then we got up.

* * *

FILED UNDER SEAL

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
WASHINGTON AT SEATTLE

ROBERT BOULE, Plaintiff,	No. 2:17-cv-00106-RSM
v.	SECOND DECLARA- TION OF AGENT EG- BERT
ERIK EGBERT and JANE DOE EGBERT and their marital community, DEFENDANTS.	NOTED ON MOTION CALENDAR: July 27, 2018
ERIK EGBERT, Counterclaimant,	
v.	
ROBERT BOULE, Counterdefendant.	

I declare under penalty of perjury under the laws of the United States that I am over the age of 18 and otherwise competent to testify, and that the following is true and based on my personal knowledge.

No retaliation

1. I have never retaliated in any way against Mr. Boule. I didn't even know until the end of January 2015 that he had submitted a tort-claim form, and my calls to government agencies and the incident where his housekeeper was stopped by Border Patrol—both of which he alleges were retaliation—occurred before then. In fact, both things occurred before he submitted his June 11, 2014, tort-claim form. If anything, his submission of the tort-claim form was done in retaliation for my good-faith reports to government agencies and the good-faith performance of my job.

My good-faith reporting to government agencies

2. I understand Mr. Boule contends in this litigation that I've admitted under oath that I can't remember whether I contacted government agencies about him or what information I shared with the agencies. (*See* Dkt. 97 at 8:6–10.) His contention is misleading, because it's only partially true.

3. On June 11, 2014, Mr. Boule submitted a tort-claim form for injuries he alleges he sustained during my encounter with him on March 20, 2014. As explained in my prior declaration, this encounter occurred during my investigation of an alien on his property and is the subject of this litigation. In response to Mr. Boule's claim form, Customs and Border Protection conducted an internal-affairs investigation. As part of that investigation, I was interviewed by [REDACTED] on January 28, 2015—more than ten months after the incident.

4. I was told the interview would be about Mr. Boule's allegation that I assaulted him. (*See* Dkt. 110-2 (1/28/2015 interview transcript) at 2:15–17.) I understood that the interview would also cover general background

information, like my history of federal service and knowledge of Mr. Boule's relationship with the government. I prepared for the interview and these topics with my union representative, [REDACTED]. One of the things [REDACTED] advised me to do was to be careful not to answer definitively unless I had a clear memory of something. At the time, that seemed like good advice, but I think I might have taken it too literally and caused some confusion during the interview.

5. To my surprise, the interview covered many more subjects than I had anticipated and prepared for. For example, I was asked extensively about possible retaliation against Mr. Boule, including my good-faith reporting to government agencies and an interaction I had with one of his employees more than a month after the incident. I had never done anything to retaliate against Mr. Boule, and these allegations caught me off guard.

6. During the two-hour interview, I was asked numerous variations of questions about whether I had reported certain things to government agencies or whether I had asked anyone to report them. (*See* Dkt. 110-2.) I tried to listen to each question and answer it truthfully. For example, [REDACTED] first asked me whether I knew how much ICE had paid Mr. Boule and whether I had passed that information along to the IRS. (*See id.* at 24:20–27:25.) I did not have that information and I would never have disclosed the identity of an informant, so I truthfully answered no to those questions. (*See id.*) Since [REDACTED] was interested in reports to government agencies, however, I immediately volunteered the fact that I had reported Mr. Boule's "SMUGLER" license plate to the Department of Licensing years prior. (*Id.* at 29:11–14.) [REDACTED] then asked if I had "complained" to the Department of Licensing more recently, which I denied.

(*See id.* at 29:25–30:2.) I knew I hadn’t “complained” about Mr. Boule, and I had only a fuzzy memory of alerting the Department of Licensing to a newspaper article about him. [REDACTED] then asked if I knew of other agents who had reported Mr. Boule or whether I had asked anyone to do that, and I truthfully answered that I didn’t. (*Id.* at 30:3–10.) [REDACTED] said he had been told something about this by the IRS, and I denied contacting the IRS or even knowing how. (*Id.* at 30:11–22.) Those answers were truthful to the best of my memory at the time they were made, but I now think they were mistaken. I had simply forgotten which agencies I contacted to alert them to the news article about Mr. Boule.

7. Although I have never disclosed any information about Mr. Boule to any government agencies, I did Google phone numbers that I then used to call some government agencies on June 5, 2014, to alert them to a news article I read online in which Mr. Boule openly discussed illegal border crossings on his property. I believe the article also referenced Mr. Boule’s “SMUGLER” vanity plate. I was frustrated when I read the article online, because it appeared Mr. Boule was flaunting his involvement in criminal activity. The fact Mr. Boule was defrauding vulnerable individuals while ICE apparently condoned it didn’t sit well with me or my fellow Border Patrol Agents. I also questioned whether Mr. Boule was reporting this income. And I didn’t see how he could have a license plate so blatantly referencing the criminal activity that constantly occurred at his property.

8. I think that I initially forgot making these phone calls during my interview with [REDACTED], because of the way the questions were asked and because the subject—reporting Mr. Boule to authorities—was something I had thought about doing for years, (*see id.* at 38:12–39:1,

39:14–40:15). Since well before the incident, I had been uncomfortable with Mr. Boule’s facilitation of and profit from the steady flow of persons illegally crossing the border at his property. His scheme is antithetical to Border Patrol’s mission, and he gets away with routinely defrauding and exploiting vulnerable aliens while being paid taxpayer dollars for information about the aliens. I have long thought this was wrong, if not illegal, and have often thought that Mr. Boule should be reported. And I’m not the only Agent who’s faced this dilemma with respect to Mr. Boule. As ██████████ stated during my interview, “[I]t’s a daily moral question we ask ourselves . . . should we call this guy in?” (*Id.* at 41:12–17.)

9. In addition, as I described during the interview, I believe I had previously reported Mr. Boule’s “SMUGLER” vanity plate to the Department of Licensing. (*See id.* at 29:9–24.) I think I reported the plate a couple years earlier when I first learned that license plates referencing criminal activity weren’t allowed. (*See also* Dkt. 103 ¶ 50.) I believe the fact that I could remember a separate instance of reporting Mr. Boule to a government agency clouded my memory of later reporting the news article to some agencies, including the Department of Licensing.

10. As the interview progressed, however, my memory was being jogged. ██████████ repeatedly asked what I knew about Mr. Boule’s money and whether he reports his income to the IRS, and whether I’d reported concerns about this to the IRS. (Dkt. 110-2 at 37:8–19, 38:12–13, 38:21–40:25.) These were difficult questions to answer, because I didn’t have a clear recollection of which agencies I might have contacted about the news article, but I knew I hadn’t given any other information to any agencies. I was trying to recall details while

also trying to follow the advice of my union representative not to say anything I was unsure of.

11. Eventually I asked to take a break, so I could talk to ██████████ about these questions and my evolving memory. (*See id.* at 42:6–7.) Outside of the interview room, I explained to ██████████ that I thought I might have called some agencies to alert them to the news article about Mr. Boule, but I couldn't remember with any certainty which ones I had called. And I had Googled how to contact the IRS, but I couldn't remember if I had followed through. ██████████ reiterated his advice not to admit to anything I wasn't certain of and not to speculate.

12. When we started the interview again, I told ██████████ that I could remember my Google search about how to contact the IRS, but that I couldn't remember if I had gone through with making a call to the agency. (*Id.* at 43:2–13.) I also explained that “the more we're talking about it, . . . it makes me feel like I did call, but I can't remember the phone call.” (*Id.* at 44:9–13.) As my memory was becoming clearer, I told ██████████ that it was possible I had called the IRS. (*Id.* at 46:23–25.)

13. As the interview progressed, it became apparent to me that I probably had contacted the IRS among other agencies about the article. (*See id.* at 86:14–17, 89:3–5, 90:14–18, 90:22–91:13.) Accordingly, the affidavit I signed immediately after the interview noted that I believe I sent something, possibly a news article, to some government agencies, including the IRS. (*See Dkt. 110-1 (1/28/2015 affidavit) at 6:210–7:248.*)

14. Since the interview, I've remembered additional detail on this topic. As explained in my Counterclaim, (Dkt. 23 at 7–8), my Responses to Mr. Boule's First Set of Requests for Admission (which are attached as **Exhibit**

A), and my first declaration, (Dkt. 103 ¶¶ 48–50), I now recall calling some government agencies to alert them to the news article in which Mr. Boule openly discussed illegal border crossings on his property. I don't remember which agencies I called other than the Washington State Department of Licensing, but I believe one of the others was the IRS. My purpose was to alert the agencies of possible criminal conduct that I thought would be of concern to them. I did not convey any information other than telling the agencies they might be interested in this news article. See paragraphs 48–50 of my first declaration, (Dkt. 103), for additional information about my good-faith reporting.

June 2014 [REDACTED]

15. I understand Mr. Boule might contend that my participation in responding [REDACTED] on or near his property in June 2014 was in retaliation against him. This allegation is completely false.

16. I can't remember the exact date we responded to [REDACTED], but it was sometime between June 1 and June 10, 2014. While on duty, I heard Dispatch report over the radio that a [REDACTED] [REDACTED] a female walking south from the international border [REDACTED]. I now know this woman was Ms. Dermendziev, but I didn't know who she was at the time. Dispatch asked Agents to respond, and I was one of three Agents who did.

17. Before we arrived, however, Ms. Dermendziev left Mr. Boule's property in a green Ford Taurus, which was driven by one of his employees. This vehicle belongs to Mr. Boule and is one of the vehicles he had used in the past to transport persons who crossed the border illegally.

18. Border Patrol Agents Bob Gremes and Casey Miller stopped the car and had completed most of the questioning before I even arrived on scene, so my role was mostly backup. The car was pulled over within a few blocks of Smuggler's Inn. The Agents asked me to check Ms. Dermendziev's immigration status with Dispatch, while they went to inspect the area [REDACTED]. Ms. Dermendziev didn't have identification and couldn't speak English very well, so it took a little extra time to get her name and to piece together what happened. We have poor radio reception near Smuggler's Inn, so there was also a bit of delay with Dispatch verifying her immigration status.

19. In talking to Ms. Dermendziev, I figured out that she apparently worked as a housekeeper for Mr. Boule [REDACTED]

[REDACTED] I had never seen Ms. Dermendziev before, and I didn't think the other Agents had either. I was surprised to hear she was Mr. Boule's housekeeper, because I thought I was familiar with most of his employees. She gave me her home address, and I think she told me she was permanent resident from Central or South America.

20. Dispatch wasn't able to confirm Ms. Dermendziev's immigration status. I think she gave me the wrong spelling of her name. Nonetheless, it became clear that she hadn't just crossed the border, so we let her go. [REDACTED]

[REDACTED] Agents Gremes and Miller didn't see any signs she had just crossed the border. We had her home address, so if subsequent investigation revealed a problem with her immigration status, we could follow up with her later. I think I was on scene for ten to fifteen minutes, which is

about how long most immigration checks take, especially when there are multiple communication barriers.

21. On June 10, I asked a Border Patrol Intelligence Agent to recheck Ms. Dermendziev's status. He found her in our system and reported that she was a naturalized U.S. citizen, which concluded the matter.

22. No part of stopping Ms. Dermendziev or checking her immigration status was in retaliation against Mr. Boule. In fact, he hadn't even submitted his tort-claim form at that time, so there wasn't anything to retaliate for. Moreover, I merely responded to a request from Dispatch for an agent response, and I wasn't the lead agent. I served as backup and followed the lead of Agents Gremes and Miller. And when I responded to Dispatch's request, the only information I had was that a female was seen walking south from the international border [REDACTED] on or near Mr. Boule's property. I had no idea who she was. I suspected she was one of the many people who illegally cross the border at Mr. Boule's property, not one of his employees. Even after I arrived on scene and saw what she looked like, I still had no idea she was Mr. Boule's employee. I had never seen her before. Finally, Mr. Boule hadn't even submitted a tort-claim form when this investigation happened, and I didn't know he was going to do so.

“No trespassing” sign

23. I understand Mr. Boule contends that his driveway is within the “curtilage” of his home because of a “no trespassing” sign he posted at the corner of West 99th Street and Jerome Street. I don't remember seeing this sign on or before March 20, 2014, and I believe it was probably placed there after the incident.

24. But even if I had seen the sign on the date of the incident, there are numerous reasons it wouldn't have prevented me from driving into Mr. Boule's driveway. To begin with, he had invited me to come to Smuggler's Inn to speak with Mr. Kaya. After I followed Mr. Boule's SUV into the driveway, I asked the driver—an employee of Mr. Boule's who lived on the property—if he had a passenger and if I could speak to him. The driver gave me permission to talk to Mr. Kaya, too.

25. Looking at the picture of the sign Mr. Boule has submitted to the Court, I don't understand what the sign is supposed to convey. It says both "welcome" and "no trespassing." I would interpret it as meaning he doesn't want persons loitering on his property if they don't have a reason to be there.

26. Furthermore, it never appeared to me that Mr. Boule intended the gravel road or his concrete driveway to be private. The entire area is visible from public roads on both sides of the border, [REDACTED]. It is an area people walk through to approach the front door at Smuggler's Inn. Additionally, Mr. Boule holds the entire property out as a place of public accommodation. He allows all sorts of guests and "non-guests" to enter these areas of his property, including border crossers, employees, long-term tenants residing in the carriage house, taxi drivers, delivery persons, and presumably individuals who are inquiring about vacancy and rates. As shown in Exhibit 4 to Mr. Boule's declaration, (Dkt. 98-4), his mailbox is located beyond the "no trespassing" sign, so mail carriers must pass it every day, too. In addition, Mr. Boule frequently holds yard sales and invites members of the public onto his property for other events. *See, e.g.,* Stefanie Donahue, *Smuggler's Inn to host a second benefit*, The Northern

Light, (July 21, 2018), <http://www.thenorthernlight.com/2018/04/25/smugglers-inn-to-host-a-second-benefit/>.

27. More importantly, other Border Patrol Agents and I had driven down that gravel road or entered that driveway area on a near-daily basis for many years, and Mr. Boule never suggested we weren't welcome there. As a result, I understood this entire area of the property to be open to law enforcement and the public.

28. Finally, as a Border Patrol agent, I am authorized by federal law to enter onto private property along the border. A person can't exclude us from his property by posting a "no trespassing" sign. Otherwise, it would be impossible for us to patrol and secure the international border, because criminals would simply post "no trespassing" signs wherever they wanted to encourage people to cross the border.

No search or seizure of Mr. Boule

29. None of my actions on the date of the incident were directed at Mr. Boule. I was investigating Mr. Kaya, not Mr. Boule. I never detained Mr. Boule or searched him, his home, his papers, or his personal effects.

30. Although federal law authorizes me to enter private property, search vehicles, and contact aliens in that area without a warrant, I also had reasonable suspicion to believe that Mr. Kaya might be in the country illegally or engaged in criminal conduct. As explained in my first declaration, (see Dkt. 103 ¶¶ 10–13, 25, 35), I had information from a reliable source that Mr. Kaya was a Turkish citizen who had just traveled to Smuggler's Inn, which is a notorious site of illegal cross-border activity, including drug trafficking and human trafficking. Once I confirmed he was in the car—which was done with the express

permission of both Mr. Boule and his employee—I had authority and a duty to investigate further.

Signed this 22nd day of July 2018 at Blaine, Washington.

By: *Erik Egbert*
U.S. Border Patrol Agent Erik Egbert

DEPARTMENT OF HOMELAND SECURITY

Case No. [REDACTED]
Report Number [REDACTED]

[SENSITIVE]
Filed Under Seal-Confidential
Prepared By
[REDACTED]

REPORT OF INVESTIGATION CONTINUATION

* * *

10. NARRATIVE

I sent something, possibly a newspaper article about Mr. Boule and the Smuggler's Inn, to a variety of agencies. I remember Googling the agencies' addresses in the VCO office and thinking that it was not fair what Mr. Boule was getting away with, I just don't remember exactly which agencies I sent it to or what I sent."

[Redacted in original]

(Agent's Note: During the interview, BPA EGBERT was repeatedly asked specific questions about if he made the calls to the IRS or other regulatory agencies. BPA EGBERT made numerous full denials and numerous qualified denials. [REDACTED] repeatedly pushed BPA EGBERT for a straight "yes or no" answer, or a "did you or did you not" make the call. However, BPA EGBERT's answers were evasive throughout the interview.)

Records obtained from the CBP [redacted in original] include 4 versions of BPA EGBERT's official memorandum

that is dated March 20, 2014, documenting the incident. These documents were created on March 21st at 10:58 am, March 21st at 11:13 am, March 27th at 12:36 pm and March 28th at 10:26 am—which matches his signed copy. Additionally, a document named “boule-followupinfo@docx” created on June 18, 2014 at 12:27 pm, documents BPA EGBERT’s encounter with [REDACTED] on June 5, 2014. A copy of these records is EXHIBIT 17.

Mr. Boule provided CBP-IA/Bellingham with copies of billing records from his CPA related to the cost of defending his IRS audit in the amount of \$5,377.50. The IRS Audit found that Mr. Boule did not owe any taxes. A copy of the billing records is EXHIBIT 18.

In a letter to CBP-IA/Bellingham dated March 17, 2015, Bradford Bench, Special Agent in Charge, ICE Homeland Security Investigations (HSI), Seattle, [redacted in original]. A copy of the letter is EXHIBIT 19.

(Agent’s Note: All efforts by CBP-IA and the US Attorney’s Office to obtain additional information from the IRS with respect to the information provided to them about Mr. Boule have been met with a complete lack of cooperation.

* * *

FILED UNDER SEAL
EXHIBIT C
[CONFIDENTIAL]

to Declaration of Greg Boos

From: smugglers1011@frontier.com
Sent: Tuesday, June 10, 2014 8:04 PM
To: Barnett, Joshua
Subject: Border Patrol/Bob Boule veicals on
Jerome St., Blaine Wa.
Follow Up Follow up
Flag
Flag Status Flagged

Thur June 5, 2014

Around 3:40 pm got call from [REDACTED] housekeeper for past ten years. Needed ride home.

I Had her contact [REDACTED]

On way up driveway she contacted Jv who was also doing yard work. Jv went to get Ford Taurus with [REDACTED] continuing to walk.

Top of driveway Jv picked up [REDACTED]

About 3:45 pm Border Patrol came down Jerome as Jv was driving Ford Taurus south just past Canada View. B/p Miller drove past Jv and motioned him over and B/p Ekert pulled in front of Taurus one of three SUV's of B/p blocking traffic.

Next 20 plus min. Ekert/Miller both ask for information from Jv Both stated they knew who he was and where he lived.

Ekert then went to [REDACTED] for here information , got her name spelled wrong. One of the officers son was in school with [REDACTED] she had been in his home recently and he knew who she was.

For twenty min. the officers interrogated why they were at the Inn, what they were doing, ask if crossed boarder ect.

Sat. June 7th.

11:00 am Talked with [REDACTED]. He told me of episode with B/p and Jv.

11:15 am called Chief [REDACTED] and left phone message.

11:17 am called Josh B. and gave information.

Mon. June 9th

9:20 am. Called Chief [REDACTED] ask if he had herd of Thur. incident. He stated a call had come in from a resident in area about strange car. I informed him that the Ford Taurus they stopped was mine with my housekeeper and yard person. He stated he would get back to me with more information, he also mentioned sugary and would be off.

9:35 am Called Josh B. reported conversation with Chief [REDACTED]

4:00 pm Talked with [REDACTED] about incident. He stated that everyone knows who the Taurus is owned by, that he has seen [REDACTED] of and on for many years and that he has seen [REDACTED] and Jv doing work on the Smugglers Inn property.

5:00 pm Talked with [REDACTED] the housekeeper about events of Thurs. She could not understand why she was treated that way especially when one of the officers knew her.

7:30 pm Talked with Mr. and Mrs. [REDACTED] who live above the inn on West 99th. He stated that he did not see the event but everyone who lives in area knows the Green Ford Taurus and the people who work at the Inn.

In further conversations he said that he had conversations in length with supervisors and officers about the incident on March 19th 2014 at the Smugglers Inn where I was slammed into the Yukon by B/p Ekert. He stated that all the supervisors told him that it did not happen but that were not allowed on the property unless it was an emergency.

8:48 pm talked with Josh B. about Ekert telling Jv, witness of March 19th 2014 slamming he knew who he was, and where he lived. Jv considering leaving area with B/p Ekert's threats. In talking with [REDACTED] she could not understand why she could be in the officers home, was known by him and they continued to interrogate what she was doing at the Inn for 20 more min. Also mentioned the Ekert was asked not to be on the property of the Smugglers Inn he has violated the direct order from Chief [REDACTED] In conclusion told Josh that I am more afraid of Ekert than the bad guys that have been arrested in the yard.

Bob Boule
2480 Canada View Drive
Blaine, Wa. 98230

U.S. CUSTOMS AND BORDER PROTECTION
2410 NATURES PATH WAY
BLAINE, WA 98230-9156
[Filed Under Seal]
[Confidential Letter]
June 23, 2016

Erik Egbert
Border Patrol Agent
U.S. Customs and Border Protection
Blaine, WA

Agent Egbert:

By letter dated March 15, 2016, which you received March 22, 2016, you were notified of a proposal to remove you from your position as a Border Patrol Agent (BPA), GS-1896-12, and from the Federal Service. You were charged with (1) Unauthorized Disclosure and (2) Failure to Be Forthcoming with Investigators.

You were afforded the opportunity to submit a written reply and/or present an oral reply to the proposed action, and to be assisted by a representative of your choice. You designated [REDACTED] to represent you in this matter on March 22, 2016 and I heard your oral reply on June 6, 2016.

I have given full and careful consideration to the notice of proposed action, the supporting material, and your oral reply. I have decided not to sustain Charge 1 - Unauthorized Disclosure. However, I am sustaining Charge 2 - Failure to be Forthcoming with Investigators.

In reaching my decision to sustain Charge 2, I considered your interview with Internal Affairs (IA) investigators. During your interview you were advised by IA that you

were under oath and had an obligation to be truthful and forthcoming. I also considered that you denied contacting the Internal Revenue Service (IRS) several times before finally admitting that you had, in fact, done so.

In determining an appropriate penalty, I considered your misconduct in relation to your position and duties as a BPA. As a federal law enforcement officer, you are held to a higher standard of conduct than other employees. You are expected to be truthful and forthcoming during all official investigations. I considered that you have regular contact with the public, and are expected to adhere to the high standard expected of those in law enforcement. Integrity is essential to the effective functioning of this Agency. Only by maintaining the highest standards of integrity and professionalism can this Agency maintain the public trust and confidence that are critical in our ability to perform our law enforcement, homeland security, and other missions.

Your misconduct—in failing to be forthcoming with investigators—speaks directly to the nature of your character and personal integrity. As a law enforcement officer who may be required to testify under oath on behalf of the U.S. Government, it is imperative that your credibility and trustworthiness are beyond reproach. I have considered the effect that your misconduct could have on your ability to testify in an official capacity on behalf of the Agency pursuant to *Giglio*. Under *Giglio v. United States*, 405 U.S. 150 (1972), investigative agencies (including CBP) must turn over to the U.S. Attorney, evidence that could be used to impeach agents involved in a criminal case. Your reputation for honesty and integrity could cause a federal prosecutor to determine that you will not make a credible witness, which could negatively affect the efficiency of the service. Even if the United States Attorney's

Office does not deem you unfit to testify in an official capacity pursuant to *Giglio*, your demonstrated lack of integrity causes me to reach that conclusion. Furthermore, I considered your misconduct in relation to the CBP Table of Offenses and Penalties and find that my decision falls within Section F(1)(b). I also considered that the penalty imposed here is in line with cases involving a similar charge.

Finally, I gave strong consideration to your approximately seven (7) years of service, lack of prior discipline, and successful work history. However, I find that these mitigating factors do not outweigh the seriousness of the offense.

Therefore, it is my decision to sustain the proposed action. I have determined that your removal is warranted and will promote the efficiency of the Agency. A Standard Form (SF) 50, Notification of Personnel Action, documenting this action, will be placed in your electronic Official Personnel Folder.

You have the right to contest this action using one of the options outlined below. You may select only one option and your election will be considered final on the date any grievance, appeal, or complaint is filed.

1. The union may request arbitration on your behalf as provided by Article 34 of the Agreement between the U.S. Immigration and Naturalization Service and National Border Patrol Council. A request by the union to refer the matter to arbitration must be filed after receipt of this decision letter, but not later than 30 calendar days after the effective date of this action. By choosing this option, you waive your right to file an appeal of this decision with the Merit Systems Protection Board

(MSPB), except in the following circumstance: if the union requests arbitration on your behalf and you are alleging prohibited discrimination, you may request that MSPB review the final decision of the arbitrator in accordance with 5 U.S.C. § 1201.155. The union's request for arbitration must be in writing and filed with the Director, Labor-Management Relations, 1400 L Street NW, 7th Floor, Washington, D.C. 20229-1146.

2. You have the right to appeal this action to the MSPB any time after the effective date but not later than 30 calendar days after the effective date of this action, or 30 days after your receipt of this letter, whichever is later. If you do not submit an appeal within the time set by statute, regulation, or order of a judge, it will be dismissed as untimely filed unless a good reason for the delay is shown. The judge will provide you an opportunity to show why the appeal should not be dismissed as untimely. You may access the MSPB appeal form and MSPB regulations via the Internet at www.mspb.gov. Paper copies are available upon request. If you decide to appeal to the MSPB, you may file your appeal electronically at [e-Appeal Online](#), by facsimile at (415) 904-0580, by mail, commercial overnight delivery, or personal delivery to the Regional Director, Merit Systems Protection Board, 201 Mission Street Suite 2310, San Francisco, CA 94105-1831. You must submit two copies of both your appeal and all attachments. To assist MSPB in processing your appeal, your petition should inform them to send the Acknowledgment Order and a copy of the appeal to the Office of Assistant Chief Counsel, Attn: [REDACTED],

1000 Second Ave., Suite 2550, Seattle, WA 98104,
(206) 370-3770, and fax: (206) 370-3847.

3. If you allege that the above personnel action is being taken against you because of reprisal for whistleblowing or other protected activity; you may elect one of the following remedies:
 - a. You may file an appeal to the MSPB (5 U.S.C. § 7701);
 - b. If you are a bargaining unit employee, you may file an appeal through an applicable negotiated grievance procedure (5 U.S.C. § 7121(d)); or,
 - c. You may seek corrective action under subchapters II and III of 5 U.S.C. Chapter 12, by filing a complaint with the Office of Special Counsel (OSC) (5 U.S.C. § 1214). After a complaint is filed with OSC, you may file an Individual Right of Action (IRA) appeal with the MSPB (5 U.S.C. § 1221).

Please read carefully before choosing an option: If you choose option 3c above, i.e., to first seek corrective action by filing a complaint with OSC, your subsequent appeal to the MSPB will be deemed an IRA appeal. Pursuant to 5 C.F.R. § 1209.2, you will be limited to the rights associated with an IRA appeal. Specifically, the MSPB will only consider whether you have demonstrated that one or more whistleblowing disclosures was a contributing factor in the Agency taking this personnel action against you, and if so, whether the Agency has demonstrated by clear and convincing evidence that it would have taken this personnel action in the absence of the protected disclosure(s). You may not raise affirmative defenses other than reprisal for whistleblowing or other protected activities, such as claims of discrimination or harmful procedural error.

An election will be deemed to have been made based upon which of the three actions above is filed first.

4. If you believe that this action is based on discrimination because of your race, color, religion, national origin, sex (including sexual orientation), age, disability, genetic information, or reprisal, you may include this allegation when appealing to the MSPB. Alternatively, you may file a “mixed case complaint” with the U.S. Customs and Border Protection, Privacy and Diversity Office (PDO), in accordance with the Equal Employment Opportunity (EEO) discrimination complaint procedures found in 29 CFR Part 1614. You may not initially file both a mixed case complaint and an MSPB appeal on the same matter and whichever is filed first shall be considered an election to proceed in that forum. If you choose to file a mixed case complaint, you must seek EEO counseling from PDO within 45 calendar days of the effective date of this action.

If you believe this action is based on discrimination because of your parental status, you may file a complaint pursuant to DHS’s modified complaint procedure. If you choose to file such a complaint, you must seek EEO counseling from PDO within 45 calendar days of the effective date of this action.

If you have any questions concerning this letter, or your rights or procedures regarding this proposed action, you may contact [REDACTED], Labor Employee Relations Specialist at [REDACTED].

Please sign the receipt acknowledgment copy of this letter as evidence that you have received it.

handwritten signature

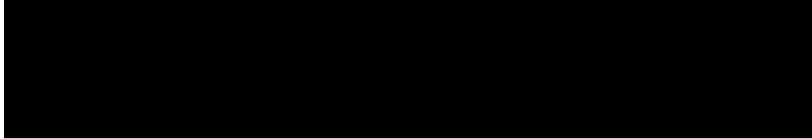


(A) Chief Patrol Agent - Blaine Sector
Office of Border Patrol

RECEIPT ACKNOWLEDGMENT

handwritten signature
Signature

6/29/16
Date



Filed Under Seal
Confidential

FACSIMILE

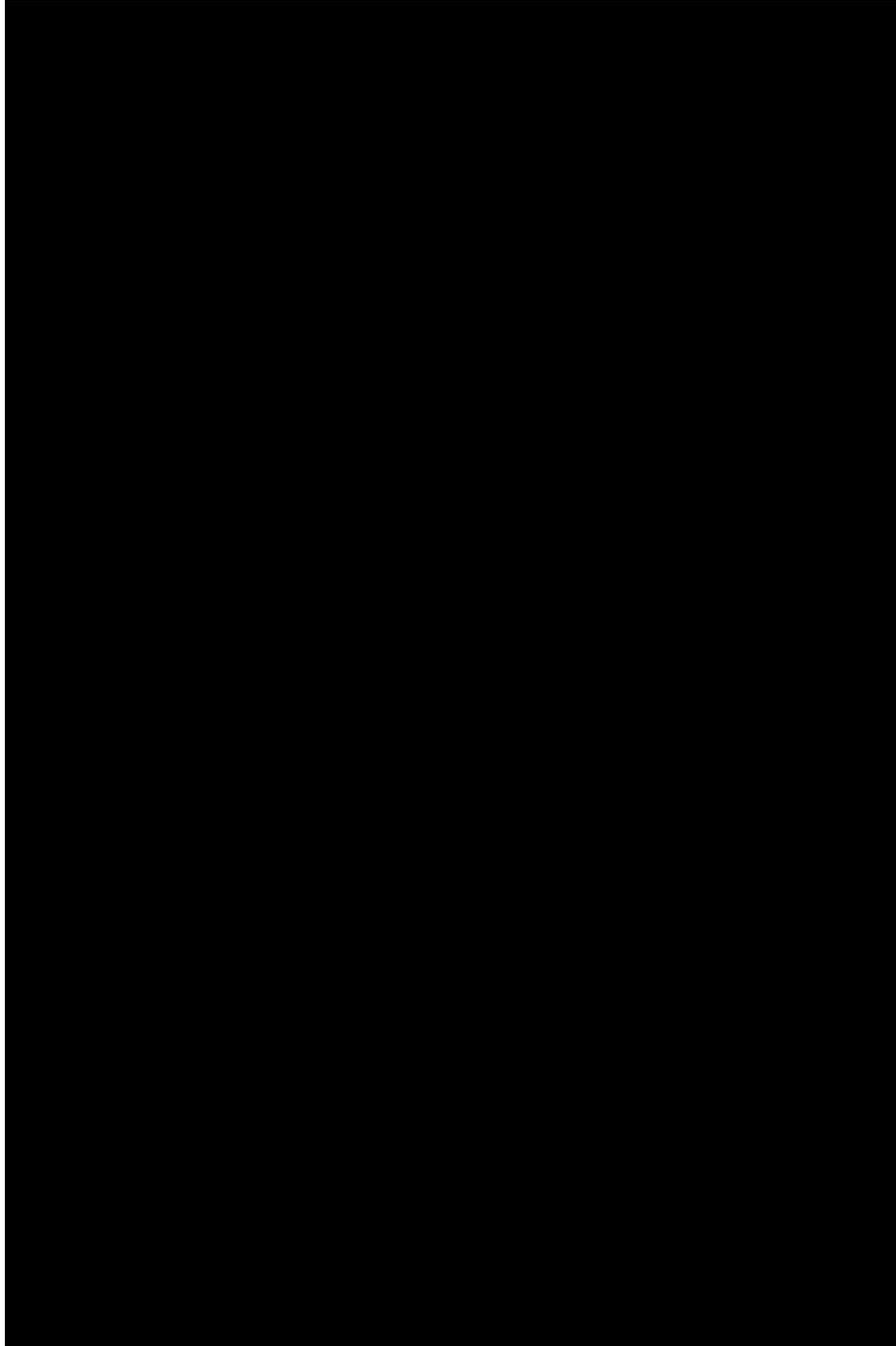
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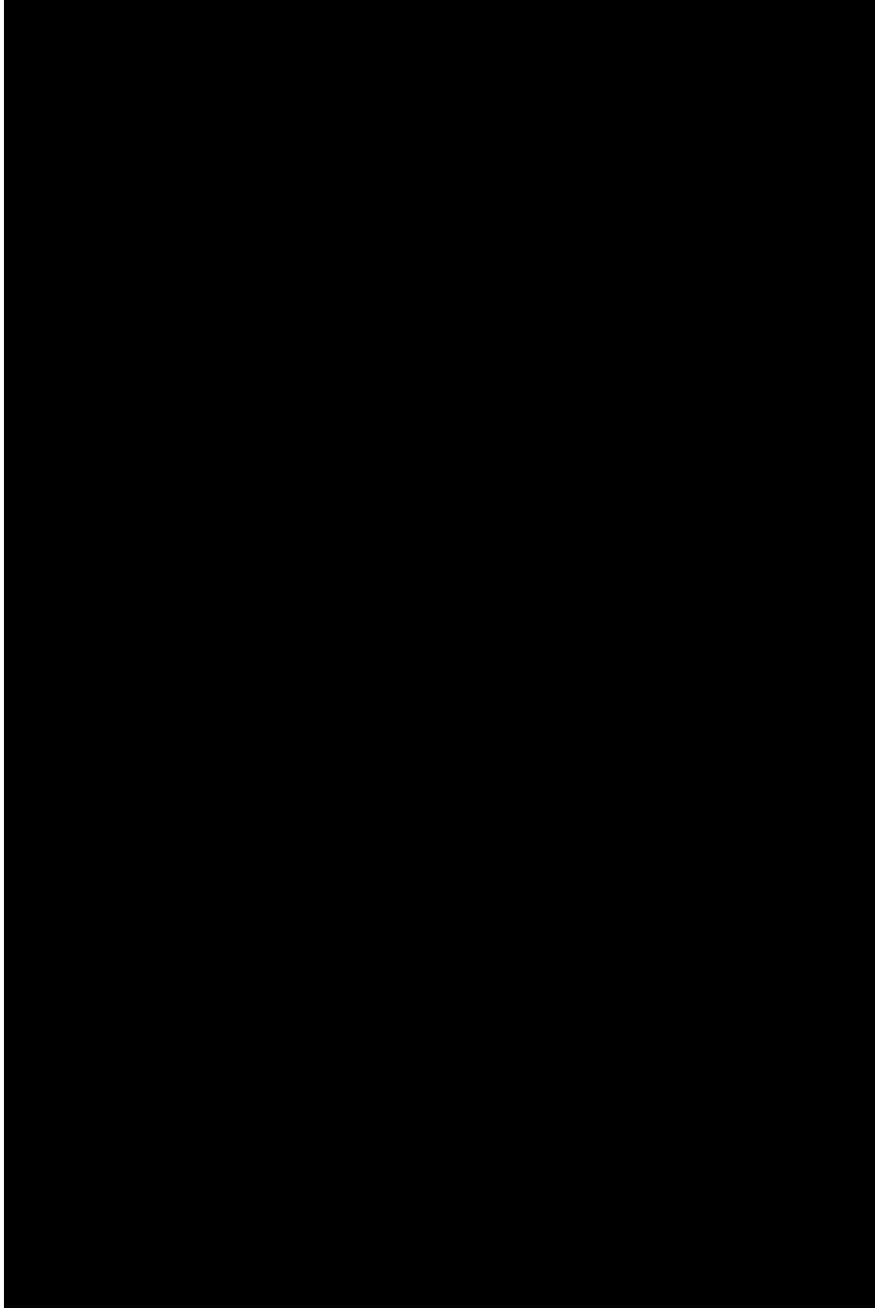
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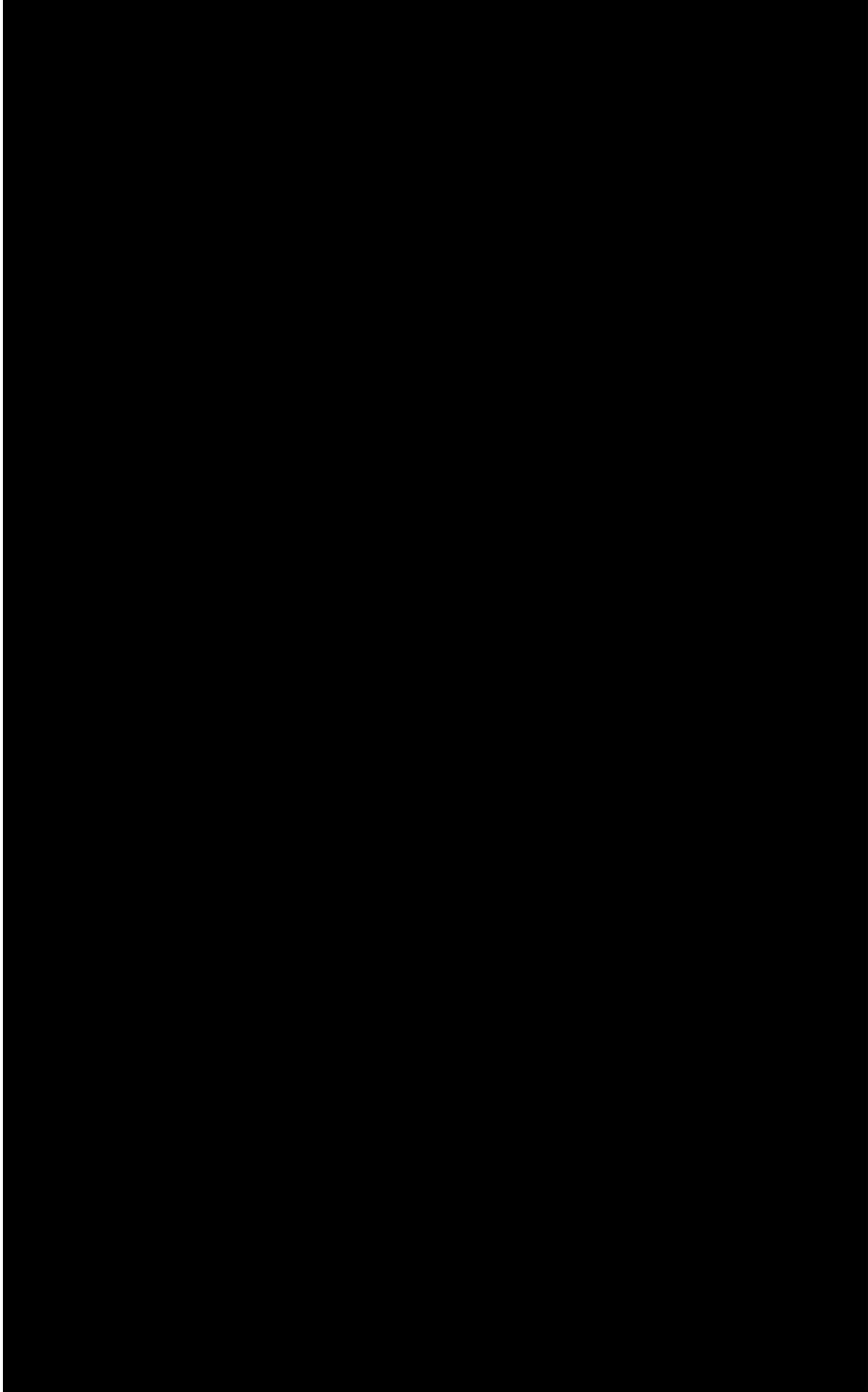
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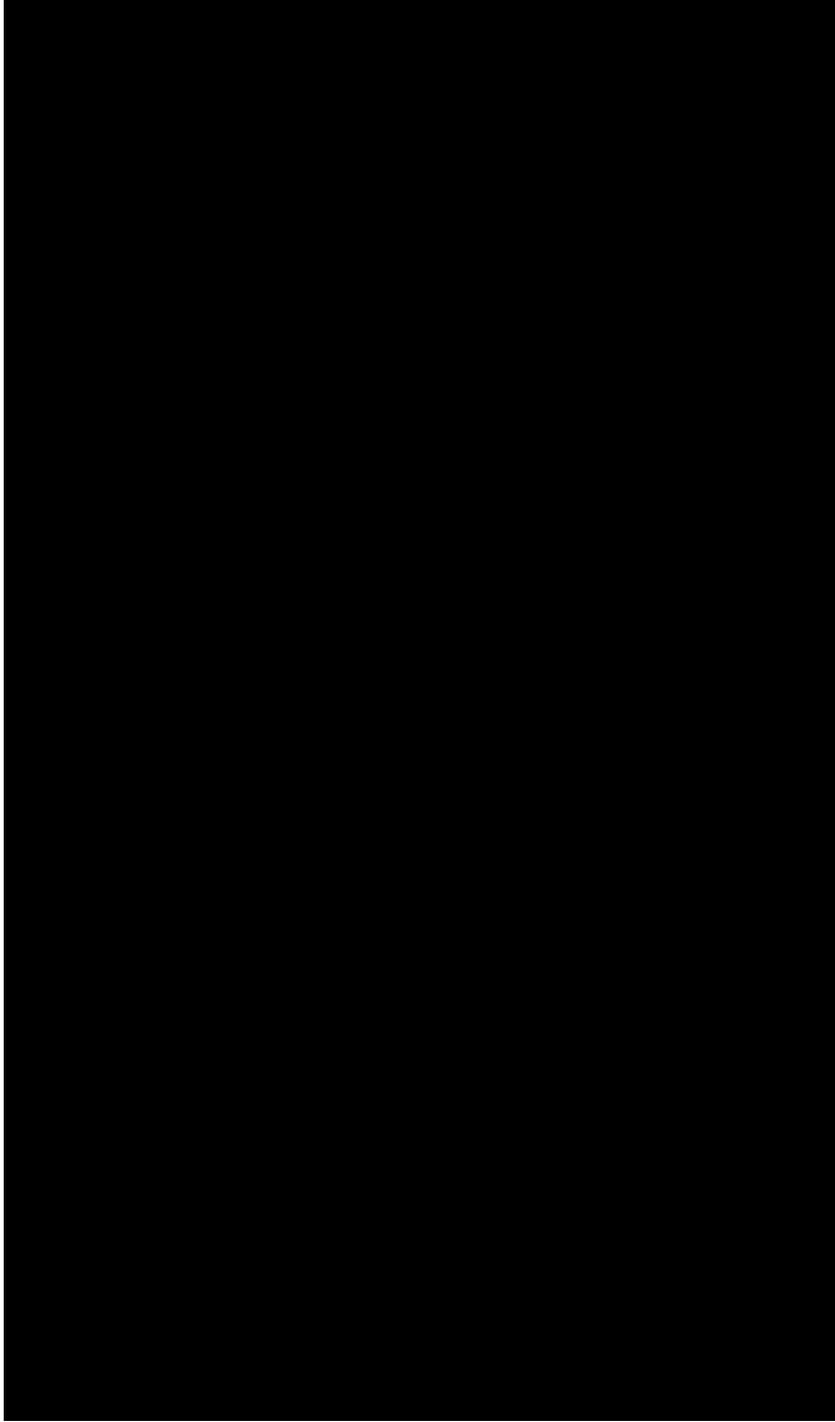
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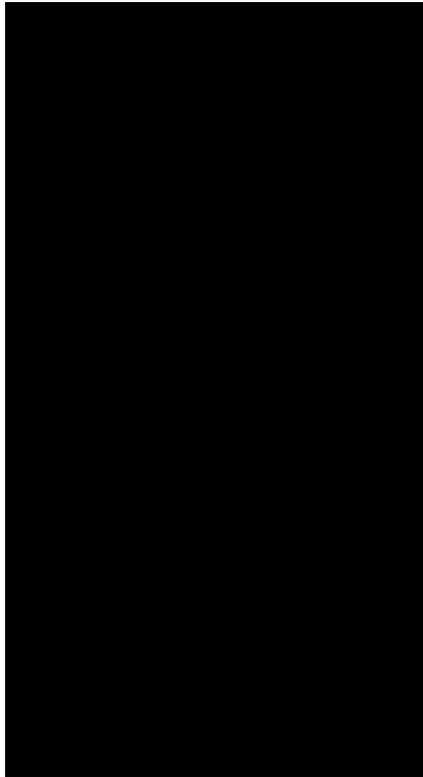












Handwritten date _____
Date

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Date

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Date

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Case No. C17-106 RSM

ROBERT BOULE,

Plaintiff,

v.

ERIK EGBERT, ET AL.,

Defendants.

JUDGMENT IN A CIVIL CASE

 Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

 X **Decision by Court.** This action came to consideration before the Court. The issues have been considered and a decision has been rendered.

THE COURT HAS ORDERED THAT: Defendant Egbert's Motion for Summary Judgment (Dkt. #102) is GRANTED and the remainder of Plaintiff's claims will be dismissed against Defendant Egbert in their entirety. This matter is now CLOSED.

Dated this 24th day of August 2018.

WILLIAM M. MCCOOL

Clerk

/s/ Paula McNabb

Deputy Clerk