

Supreme Court, U.S.  
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(No. 25-1328)

**In the Supreme Court of the United  
States**

Tatyana Evgenievna Drevaleva

*Petitioner,*

vs.

- 1) Mr. Doug A. Collins in his Official Capacity as  
an Secretary of the U.S. Department of  
Veterans Affairs
- 2) The United States of America
- 3) The U.S. Department of Veterans Affairs
- 4) The Merit Systems Protection Board

*Respondents.*

*On Petition for Writ of Certiorari to the U.S. Court of  
Appeals for the District of Columbia Circuit*

MOTION FOR A PRELIMINARY INJUNCTION

s/ Tatyana Drevaleva, Petitioner Pro Se  
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**QUESTIONS PRESENTED**

1. Should both the U.S. District Court for the District of Columbia and the D.C. Circuit dismiss my lawsuit No. 1:24-cv-01023-DLF and my Appeal No. 25-5056 on the Res Judicata ground if I demonstrated by the preponderance of the evidence that the SF-52, SF-50, and the June 30, 2017 Termination Letter are void because they were issued by people who were not eligible to be Proposing Officials and Deciding Officials and who were no way authorized to terminate my job? Additionally, the Legal Authority that was listed in Part B, Box 5-D of the SF-52 and Box 5-D of the SF-50 was 5 CFR § 315.804 that was not applicable to me because that code section applies only to the probationers who were appointed to the Competitive Service, and I was appointed to the Excepted Service. Additionally, Employee Relations Specialist of the New Mexico VA Health Care System Mr. Clifford Speakman was ineligible to authorize the termination of my job on July 06, 2017 whereas Acting Human Resources Officer of the new Mexico VA Health Care System Mr. Thomas E. Harris, Sr. already terminated my job on June 30, 2017.
2. Should both the U.S. District Court for the District of Columbia and the D.C. Circuit refuse to evaluate the material facts of the case and to hold that the M.S.P.B. didn't have jurisdiction over my Appeal No. DE-0752-19-0097-1-1 whereas the M.S.P.B. clearly had jurisdiction

over that Appeal pursuant to the VA HANDBOOK 5021/6, PART III, NOVEMBER 20, 2007, CHAPTER 2. TITLE 5 PROBATIONARY/TRIAL PERIOD EMPLOYEES?

3. During the litigation of my underlying lawsuit No. 1:21-cv-00761-WJ-JFR Assistant U.S. Attorney Ms. Lyman claimed that reinstating me back to work at the VAMC “is not appropriate if the continuing hostility between a plaintiff and a defendant or its employees renders the plaintiff’s continued employment nonviable” or “if the litigation irreparably damages the employer-employee relationship” because I had filed multiple lawsuits against the U.S. Department of VA, its Secretary who was being sued in his official capacity, and multiple other individuals. Therefore, should the Court reinstate me back to work on a paid *non-duty* status?
4. In Title VII lawsuits, should the Court issue a Preliminary Injunction Order pursuant to:
  - a) The Federal Rules of Civil Procedure, Rule 65(a) as it is mandated (the word “shall”) by 42 U.S. Code § 2000e-5(f)(2), or
  - b) One of the following:
    - (i) A four-part test that was described in *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 20 (2008), or
    - (ii) A sliding scale that was described in *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011)?

**PARTIES TO THE PROCEEDINGS**

Petitioner Pro Se Tatyana Evgenievna Drevaleva.

Respondent Mr. Doug A. Collins who is being sued in his official capacity as a Secretary of the U.S. Department of Veterans Affairs.

Respondent the United States of America.

Respondent the United States Department of Veterans Affairs.

Respondent the Merit Systems Protection Board (the M.S.P.B.).

**A CORPORATE DISCLOSURE STATEMENT,  
RULES OF THE U.S. SUPREME COURT,  
RULE 29.6**

Petitioner Ms. Tatyana Evgenievna Drevaleva is a Pro Se litigant, and I am not filing this Motion by or on behalf of any nongovernmental corporation. There is no parent or publicly held company owning 10% or more of the corporation's stock.

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## **MOTION FOR A PRELIMINARY INJUNCTION**

Petitioner Pro Se Tatyana Drevaleva respectfully moves the U.S. Supreme Court to issue a Preliminary Injunction Order in a form of mandatorily (the word “shall”) reinstating me back to work at the Veterans Health Administration of the U.S. Department of Veterans Affairs after I returned from a pregnancy leave. I am respectfully asking the U.S. Supreme Court to reinstate me back to work on a paid *non-duty* status.

I am respectfully asking the U.S. Supreme Court to issue an Order that summarily cancels the void SF-52 (Pet.App.30), the void SF-50 (Pet.App.32a), and the void June 30, 2017 Termination Letter (Pet.App.10a) because all these documents were issued by people who were not authorized to issue these documents.

## **JURISDICTION**

I am filing this Motion pursuant to the U.S. Supreme Court Rule 21.2(b.)

## **MEET AND CONFER PRIOR TO FILING THIS MOTION**

On June 25, 2026, prior to filing this Motion, I met and conferred with Solicitor General of the U.S.A., and I never heard from him.

**RELEVANT CONSTITUTIONAL AND  
STATUTORY PROVISIONS**

**(d) *Pregnancy leave.*** In the case of a recipient that does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status that she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

38 CFR § 23.530 - Marital or parental status.

\*\*\*

**7. Q.** Can an employer have a rule which prohibits an employee from returning to work for a predetermined length of time after childbirth? **A.** No.

**9. Q.** Must an employer hold open the job of an employee who is absent on leave because she is temporarily disabled by pregnancy-related conditions? **A.** Unless the employee on leave has informed the employer that she does not intend to return to work, her job must be held open for her return on the same basis as jobs are held open for employees on sick or disability leave for other reasons.

29 CFR Appendix to Part 1604, Questions and Answers on the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978.)

\*\*\*

38 U.S. Code § 7401 - Appointments in Veterans Health Administration, "There may be appointed by the Secretary such personnel as the Secretary may find necessary for the health care of veterans (in addition to those in the Office of the Under Secretary for Health appointed under section 7306 of this title), as follows:

**(3)** ... medical instrument technicians..."

\*\*\*

Public Law 108-170, December 06, 2003, Title III, Section 301(a)(1)(B)(3),

"(a) POSITIONS TREATABLE AS HYBRID STATUS POSITIONS.—(1) Section 7401 is amended—

(B) by striking paragraph (3) and inserting the following new paragraph (3):

(3) ...medical instrument technicians...”

\*\*\*

5 U.S. Code § 101 - Executive departments, “The Executive departments are:

The Department of Veterans Affairs.”

\*\*\*

5 U.S. Code § 105 - Executive agency, “For the purpose of this title, “Executive agency” means an Executive department, a Government corporation, and an independent establishment.”

\*\*\*

**(a)** Subject to § 315.803(b), when an agency decides to terminate an employee serving a probationary or trial period because his work performance or conduct during this period fails to demonstrate his fitness or his qualifications for continued employment, it shall terminate his services by notifying him in writing as to why he is being separated and the effective date of the action. The information in the notice as to why the employee is being terminated shall, as a minimum, consist of the agency's

conclusions as to the inadequacies of his performance or conduct.

(b) Probation ends when the employee completes his or her scheduled tour of duty on the day before the anniversary date of the employee's appointment. For example, when the last workday is a Friday and the anniversary date is the following Monday, the probationer must be separated before the end of the tour of duty on Friday since Friday would be the last day the employee actually has to demonstrate fitness for further employment.

- Title 5—Administrative Personnel
- CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT
- SUBCHAPTER B—CIVIL SERVICE REGULATIONS
- PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT
- Subpart H—Probation on Initial Appointment to a **Competitive** Position
- 5 CFR § 315.804 - Termination of probationers for unsatisfactory performance or conduct.

\*\*\*

Subject to § 315.803(b), when an agency proposes to terminate an

employee serving a probationary or trial period for reasons based in whole or in part on conditions arising before his appointment, the employee is entitled to the following:

**(a) *Notice of proposed adverse action.*** The employee is entitled to an advance written notice stating the reasons, specifically and in detail, for the proposed action.

**(b) *Employee's answer.*** The employee is entitled to a reasonable time for filing a written answer to the notice of proposed adverse action and for furnishing affidavits in support of his answer. If the employee answers, the agency shall consider the answer in reaching its decision.

**(c) *Notice of adverse decision.*** The employee is entitled to be notified of the agency's decision at the earliest practicable date. The agency shall deliver the decision to the employee at or before the time the action will be made effective. The notice shall be in writing, inform the employee of the reasons for the action, inform the employee of his right of appeal to the Merit Systems Protection Board (MSPB), and inform him of the time limit

within which the appeal must be submitted as provided in § 315.806(d).

- Title 5—Administrative Personnel
- CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT
- SUBCHAPTER B—CIVIL SERVICE REGULATIONS
- PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT
- Subpart H—Probation on Initial Appointment to a **Competitive** Position
- 5 CFR § 315.805 - Termination of probationers for conditions arising before appointment.

\*\*\*

**(a) *Right of appeal.*** An employee may appeal to the Merit Systems Protection Board in writing an agency's decision to terminate him under § 315.804 or § 315.805 only as provided in paragraphs (b) and (c) of this section. The Merit Systems Protection Board review is confined to the issues stated in paragraphs (b) and (c) of this section.

**(b) *On discrimination.*** An employee may appeal under this paragraph a termination not required by statute which he or she

alleges was based on partisan political reasons or marital status.

**(c) *On improper procedure.*** A probationer whose termination is subject to § 315.805 may appeal on the ground that his termination was not effected in accordance with the procedural requirements of that section.

**(d)** An employee may appeal to the Board under this section a termination that the employee alleges was based on discrimination because of race, color, religion, sex (including pregnancy and gender identity), national origin, age (as defined by the Age Discrimination in Employment Act of 1967, as amended), or disability. An appeal alleging a discriminatory termination may be filed under this subsection only if such discrimination is raised in addition to one of the issues stated in paragraph (b) or (c) of this section.

- Title 5—Administrative Personnel
- CHAPTER I—OFFICE OF PERSONNEL  
MANAGEMENT
- SUBCHAPTER B—CIVIL SERVICE  
REGULATIONS

- PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT
- Subpart H—Probation on Initial Appointment to a **Competitive** Position
- 5 CFR § 315.806 - Appeal rights to the Merit Systems Protection Board.

\*\*\*

38 CFR § 15.103 – Definitions, “For purposes of this regulation, the term— **(2) Major life activities** includes ... working.”

\*\*\*

5. The Department may terminate an employee on a probationary or trial period because of his/her performance or conduct. The employee shall be notified in writing as to why he/she is being terminated and the effective date of the action. The information in the notice shall, at a minimum, consist of the conclusions as to the inadequacies of the employee’s performance or conduct.

The A.F.G.E. Master Agreement, ARTICLE 33 - TEMPORARY, PART-TIME, AND PROBATIONARY EMPLOYEES, Section 2 - Title 5 and Hybrid Employees, B. Probationary Employees.

\*\*\*

**1. SCOPE.** This chapter contains the policy and procedure needed for taking actions against title 5 employees serving on a probationary [or trial] period under title 5 Code of Federal Regulations (CFR) Parts 315 or 307 in the Department of Veterans Affairs (VA). This includes employees appointed under 38 U.S.C. 7401(3), i.e., permanent full-time hybrids, and employees appointed under 38 U.S.C. 7405(a)(1)(B), i.e. part-time hybrids and part-time or full-time temporary hybrids serving on an appointment not limited to one year less, who have not completed a probationary period.

**5. [APPEAL RIGHTS TO THE MERIT SYSTEMS PROTECTION BOARD.]**

Probationary employees may appeal to the Merit Systems Protection Board in writing the decision to terminate them for unsatisfactory performance or conduct based upon the following]:

- a. **[Discrimination.** An employee may appeal to the Board under this chapter a termination not required by statute which the employee

alleges was based on partisan political reasons or marital status.]

b. **[Improper Procedure.** A probationer may appeal on the grounds that the termination was not effected in accordance with the procedural requirements of 5 CFR 315.805.]

The VA HANDBOOK 5021/6, PART III, NOVEMBER 20, 2007, CHAPTER 2. TITLE 5 PROBATIONARY/TRIAL PERIOD EMPLOYEES.

\*\*\*

(a) For the purpose of this section, “agency” has the meaning given it by section 5721 of this title.

(b) In addition to the authority to delegate conferred by other law, the head of an agency may delegate to subordinate officials the authority vested in him—

(1) by law to take final action on matters pertaining to the employment, direction, and general administration of personnel under his agency.”

5 U.S. Code § 302 - Delegation of authority.

\*\*\*

5 U.S. Code § 5721 – Definitions, “For the purpose of this subchapter—

(1) “agency” means—

(A) an Executive agency.”

\*\*\*

#### **4. Approval of Personnel Actions**

##### **a. Requirement for approval.**

As explained in \*\*\* >the “Prior Approval” paragraph above<, most personnel actions must be approved by the appointing officer on or before their effective dates. An appointing officer is an individual in whom the power of appointment is vested by law or to whom it has been legally delegated. Only an appointing officer may sign and date the certification in Part C-2 of the SF-52 or blocks 49 and 50 of the SF-50 to approve an action.

**b. Delegation of appointing authority.** Under 5 U. S. C. 302, the head of an agency may delegate appointing authority to subordinates. Such delegations are generally made to the agency’s director of personnel who then redelegates the authority to other members of the personnel staff, as necessary. A delegation of

appointing authority may be made to a specific individual or to the incumbent of a specific position. The delegation must be in writing and clearly define the extent of the authority being granted; for example, authority to approve all within-grade increase actions.

The U.S. Office of Personnel Management's (the OPM's) General Instructions for Processing Personnel Actions (the GPPA), Chapter 3: General Instructions for Processing Personnel Actions, Subchapter 1. General Instructions, 4. Approval of Personnel Actions.

\*\*\*

#### **b. Effective dates**

(1) Except as explained in Table 4-A, no personnel action can be made effective prior to the date on which the appointing officer approved the action. That approval is documented by the appointing officer's pen and ink signature or by an authentication, approved by the Office of Personnel Management, in block 50 of the SF-50, or in Part C-2 of the SF-52. By approving an action, the appointing officer certifies that the action meets all legal and regulatory requirements and, in the case of appointments

and position change actions, that the position to which the employee is being assigned has been established and properly classified.

(2) Unless otherwise indicated on the Notification of Personnel Action, separations, actions to terminate grade and pay retention, and Opt Out Phased Employment/Retirement actions are effective at the end of the day (midnight); all other actions are effective at the beginning of the day (12:01 a.m.).

Separations are actions that remove employees from the rolls of their agencies, for example, deaths, resignations, terminations, removals, and retirements. Any action whose nature of action code (NOAC) begins with a "3" is a separation.

The U.S. Office of Personnel Management's (the OPM's) General Instructions for Processing Personnel Actions (the GPPA), Chapter 4: Requesting and Documenting Personnel Actions, 4. Completing the SF-50, b. Effective dates.

\*\*\*

### **c. Approval of Personnel Actions**

(1) As explained in paragraph 4b, most personnel actions must be approved by the appointing officer on or before their effective dates. An appointing officer is an individual in whom the power of appointment is vested by law or to whom it has been legally delegated. Only an appointing officer may sign and date the certification in Part C-2 of the SF-52 or blocks 50 and 49 of the SF-50 to approve an action.

(2) Under 5 U.S.C. 302, the head of an agency may delegate appointing authority to subordinates. Such delegations are generally made to the agency's director of personnel who then re-delegates the authority to other members of the personnel staff, as necessary. A delegation of appointing authority may be made to a specific individual or to the incumbent of a specific position. The delegation must be in writing and clearly define the extent of the authority being granted, for example, authority to approve all within-grade increase actions.

The U.S. Office of Personnel Management's (the OPM's) General Instructions for Processing Personnel Actions (the GPPA), Chapter 4:

Requesting and Documenting Personnel Actions, 4.  
Completing the SF-50, c. Approval of Personnel  
Actions.

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(a) Except as otherwise provided by law, the Secretary may assign functions and duties, and delegate, or authorize successive redelegation of, authority to act and to render decisions, with respect to all laws administered by the Department, to such officers and employees as the Secretary may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Secretary.

(b) There shall be included on the technical and administrative staff of the Secretary such staff officers, experts, inspectors, and assistants (including legal assistants) as the Secretary may prescribe.

38 U.S. Code § 512 - Delegation of authority;  
assignment of functions and duties,

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Employees occupying or acting in the positions designated below are delegated authority as indicated:

(a) ***Veterans Health Administration.*** The Under Secretary for Health is delegated authority:

(1) To act on all matters assigned to the Veterans Health Administration by statute (38 U.S.C. Ch. 73) and by regulation, except such matters as require the personal attention or action of the Secretary.

(8) To authorize Directors of Department of Veterans Affairs property and facilities under the charge and control of the Department of Veterans Affairs to appoint police officers with the power to enforce Federal laws and Department of Veterans Affairs regulations, to investigate violations of those laws and to arrest for crimes committed on Department of Veterans Affairs property to the full extent provided by Department policies and procedures.

(Authority: 38 U.S.C. 501 and 512)

38 CFR Part 2 - PART 2—DELEGATIONS OF AUTHORITY,  
38 CFR § 2.6 - Secretary's delegations of authority to certain officials (38 U.S.C. 512.)

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**g.** A **void action** is an action which should never have occurred because of an absolute statutory bar to it, such as appointment of a male who has not registered, as required, for Selective Service, or because the employee was guilty of fraud regarding the action or deliberately misrepresented or falsified a material matter.

The U.S. Office of Personnel Management's (the OPM's) General Instructions for Processing Personnel Actions (the GPPA), Chapter 3: General Instructions for Processing Personnel Actions, Subchapter 2. Cancellations and Retroactive Personnel Actions, 2. Definitions.

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**b.** A **cancellation** rescinds an earlier action that was improper, that was proper but contains references to an improper action, or that contains remarks that are inappropriate or erroneous and that should not have been recorded. The following are examples of situations in which a cancellation is necessary:

iv. Appointment is void because of an absolute statutory bar to it,

because the employee was guilty of fraud regarding the action, or >because the employee< deliberately misrepresented or falsified a material matter.

The U.S. Office of Personnel Management's (the OPM's) General Instructions for Processing Personnel Actions (the GPPA), Chapter 32: Interim Relief Actions, Corrections, Cancellations and Replacement Actions for Cancellations Natures of Action 001, 002, 198, 199, 293, 867, and 868, 2. Definitions.

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(f)(2) Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

42 U.S. Code § 2000e-5 - Enforcement provisions.

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**(d) Section 2000e-5(f) through (k) of this title applicable to**

**civil actions**

The provisions of section 2000e-5(f) through (k) of this title, as applicable, shall govern civil actions brought hereunder, and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties..[1]

42 U.S. Code § 2000e-16 - Employment by Federal Government.

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(a) Preliminary Injunction.

(1) *Notice.* The court may issue a preliminary injunction only on notice to the adverse party.

(2) *Consolidating the Hearing with the Trial on the Merits.* Before or after beginning the hearing on a motion for a preliminary injunction, the court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial. But the court

must preserve any party's right to a jury trial.

Federal Rules of Civil Procedure, Rule 65. Injunctions and Restraining Orders.

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The U.S. Office of Personnel Management's (the OPM's) Guide to Processing Personnel Actions (the GPPA); Chapter 32: Interim Relief Actions, Corrections, Cancellations and Replacement Actions for Cancellations Natures of Action 001, 002, 198, 199, 293, 867, and 868; Subchapter 7. Actions to Provide Interim Relief; Figure 32-3. Actions to Provide Interim Relief, Situation No. 6,

“Appellant who was an applicant for employment is placed in paid *nonduty* status because agency determines their presence would be unduly disruptive to the work environment.”

## STATEMENT OF THE CASE

The U.S. Department of Veterans Affairs is an Executive Department within the meaning of 5 U.S.C. § 101, and it is an Executive Agency within the meaning of 5 U.S.C. § 105.

The New Mexico VA Health Care System is a part of the Veterans Health Administration (the VHA) of the U.S. Department of Veterans Affairs as opposed to the Veterans Benefits Administration (the VBA) and as opposed to the Veterans Affairs National Cemetery Administration (the NCA.)

From February to October 2017 Dr. Poonam L. Alaigh served as an Acting Under Secretary for Health of the Veterans Health Administration (the VHA) of the U.S. Department of Veterans Affairs,

The New Mexico VA Health Care System also known as the Raymond G. Murphy Veterans Affairs Medical Center in Albuquerque, NM is not a part of the Central Office (the CO) within the meaning of the VA HANDBOOK 5021/21, PART I, February 19, 2016, [APPENDIX B. OFFICIALS AUTHORIZED TO PROPOSE AND DECIDE ACTIONS FOR CENTRAL OFFICE (CO) (Pet.App.8a.)

Additionally, *see* the definition of a Central Office in the VA Employee Handbook named "DEPARTMENT OF VETERANS AFFAIRS, MISSION" (Pet.App.9a.) Obviously, the New Mexico VA Health System is not a part of the VA Central Office.

The New Mexico VA Health Care System also known as the Raymond G. Murphy Veterans Affairs Medical Center in Albuquerque, NM is one of the Field Offices of the Veterans Health Administration (the VHA) within the meaning of the VA HANDBOOK 5021/21, PART I, February 19, 2016, [APPENDIX C. OFFICIALS AUTHORIZED TO PROPOSE AND DECIDE ACTIONS FOR VETERANS HEALTH ADMINISTRATION (VHA) FIELD OFFICES (Pet.App.1a.) I am emphasizing that:

- 1) The Official who was authorized to propose an Adverse Action that was the June 30, 2017 termination (Pet.App.10a) of my job or the Proposing Official was a Division/Service Chief or above in the supervisory line (Pet.App.2a)
- 2) The Official who was authorized to decide on the proposed Adverse Action that was the June 30, 2017 termination of my job (Pet.App.10a) or the Deciding Official was the Medical Center Director/VISN Network Director or above in the supervisory line who is at a higher level than the proposing official, and is at the SES or SES equivalent level] (Pet.App.2a.)

The New Mexico VA Health Care System that is located in Albuquerque, NM belongs to the VISN 22 (the Veterans Integrated Service Networks) also known as the VA Desert Pacific Healthcare Network, "VA Desert Pacific Healthcare Network is one of 21 Healthcare Networks operated nationwide by the United States Department of Veterans Affairs (VA). We are comprised of eight health care system and 80

community clinics serving over 1.5 million veterans in Arizona, New Mexico and Southern California.”

In 2017 Mr. Stan Johnson was a Network Director, VISN 22.

In 2017, Mr. Andrew Welch was a Director of the New Mexico VA Health Care System.

On March 27, 2017, I was appointed (Pet.App.3a) by Secretary of the U.S. Department of Veterans Affairs to a full-time permanent probationary Excepted Service (Pet.App.3a and 5a) position as a Title 38 Hybrid (Pet.App.7a) Medical Instrument Technician Electrocardiograph at the New Mexico VA Health Care System in Albuquerque, NM pursuant to 38 U.S.C. § 7401(3) (Pet.App.5a) and pursuant to the Public Law 108-170, December 06, 2003, Title III, Section 301(a)(1)(B)(3.)

I am emphasizing that I was a Title 38 Hybrid appointee as opposed to Title 38 appointees.

In 2017, the Service Chief of the New Mexico VA Health Care System was Allean Raneta Bonin.

Therefore, pursuant to the VA HANDBOOK 5021/21, PART I, February 19, 2016, [APPENDIX C. OFFICIALS AUTHORIZED TO PROPOSE AND DECIDE ACTIONS FOR VETERANS HEALTH ADMINISTRATION (VHA) FIELD OFFICES (Pet.App.2a),

- 1) The Proposing Official who had a right to propose the Adverse Action that was the June

- 30, 2017 termination of my job (Pet.App.10a) was Service Chief of the New Mexico VA Health Care System was Allean Raneta Bonin
- 2) The Deciding Officials who had a right to make a decision to terminate my job were:
    - a) Director of the New Mexico VA Health Care System Mr. Andrew Welch, and
    - b) Network Director of VISN 22 Mr. Stan Johnson.

On April 18, 2017, I approached the Manager of the 5D Telemetry Unit Ms. Carla Dunkelberger the first time and told her that I was 50 yo, I didn't have children, I was married twice but my ex-husbands refused to give me children, that I dated other guys who also didn't want to give me children, that I underwent approximately eight In-Utero Inseminations with donor's sperm at Kaiser Permanente in California but unsuccessfully, that I spent 2.5 years in Russia from 2014 to 2016 for the purpose of undergoing a complete medical examination and undergoing In-Vitro Fertilization (IVF) procedures, that I was in the Registry of the patients of the Ministry of Health of the Novosibirsk Region of the Russian Federation who were eligible for multiple free of charge IVF procedures, that in approximately July 2016 I underwent a free of charge IVF procedure in Novosibirsk, Russia at the expense of the Russian Government, that the July 2016 IVF procedure in Russia resulted in one embryo that is now frozen in Russia, that I was waiting for approximately 8 months in order for me to be eligible to undergo another free of charge IVF procedure in Novosibirsk, Russia, that I couldn't pay for the IVF

procedures in the United States because the price of one IVF procedure is approximately \$15-20 thousand U.S. dollars that I couldn't afford because my annual salary is \$40,790.00 per year (Pet.App.3a), that I just relocated from California, that I didn't have relatives in the United States who could help me financially, that I even didn't have a car, and that I would possibly need to request a time off for my trip to Russia to perform another free of charge IVF procedure at the expense of the Russian Government because I have no money to pay for the IVF procedure in the United States.

As a citizen of the Russian Federation, I was eligible for multiple free of charge In-Vitro Fertilization attempts at the expense of the Russian Government. In order for me to obtain the next free of charge IVF attempt in Russia, I needed to wait in line for approximately 8-10 months.

On April 18, 2017, I also notified Ms. Dunkelberger that I was taking the medication named Jeanine that my Russian physician prescribed to me, that was in aid of the IVF procedure, that I brought from Russia, and that was not available in the United States. The purpose of this medication was to stop my menstrual periods and thus to prevent me from ovulations and from losing my eggs.

On April 18, 2017, I believed, and I said to Ms. Dunkelberger that I had the supply of my medication Jeanine for a few months (as opposed to having a supply of this medication for a few days.) I was

taking one pill of Jeanine every day one time a day non-stop since July 2016 after the IVF procedure in Russia, and I couldn't afford to miss a pill because otherwise I would be subjected to heavy withdrawal gynecological bleeding that was not good for my health.

On May 10, 2017, I incidentally discovered that I had made a mistake, I thought that I had enough pills of Jeanine for a few month but in fact I had only ten pills of Jeanine left that were for ten calendar days. I couldn't afford to miss a pill because otherwise I would be subjected to a heavy withdrawal gynecological withdrawal bleeding that was not good for my health. I couldn't obtain my pills Jeanine in the United States because they were not FDA approved.

On May 10, 2017, I approached Ms. Dunkelberger the second time, and I informed her that I had made a mistake, I thought that I had enough pills of Jeanine for a few month but in fact I had only ten pills of Jeanine left that were for ten calendar days. I couldn't afford to miss a pill because otherwise I would be subjected to a heavy withdrawal gynecological withdrawal bleeding that was not good for my health. I couldn't obtain my pills Jeanine in the United States because they were not FDA approved.

Additionally, on approximately May 10, 2017, I called my Russian OB/GYN, and I found out that my turn in line to perform another free of charge IVF procedure had just come up. Therefore, on May 10,

2017 I found out that I urgently needed to go to Russia for two reasons:

- 1) To perform another free of charge IVF procedure, and
- 2) To obtain my hormonal pills Jeanine that were not available in the United States because they were not FDA approved and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

On May 10, 2017, I informed Ms. Dunkelberger that I urgently needed to go to Russia for two reasons:

- 1) To perform another free of charge IVF procedure, and
- 2) To obtain my hormonal pills Jeanine that were not available in the United States because they were not FDA approved and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

Please, *see* a direct admission of my May 10, 2017 contact with Ms. Dunkelberger regarding my hormonal pills Jeanine in the February 11, 2019 document named “AGENCY’S MOTION TO DISMISS THE APPELLANT’S CASE WAS FILED UNTIMELY AND THE MSPB HAS NO JURISDICTION” that Attorney Mr. Mark Zorfas filed in my M.S.P.B. case No. DE-0752-19-0097-I-1 (Pet.App.15a), “On or around May 10, 2017 the Appellant notified her supervisor, Ms. Dunkelberger, she was running out of hormonal pills that were not available in the United States, but were available in Russia.”

Please, *see* an indirect admission of my May 10, 2017 contact with Ms. Dunkelberger in the October 18, 2024 document in case No. 1:24-cv-01023-DLF named “MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS’ MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT” that was filed by assistant U.S. Attorney Ms. Kaitlin K. Eckrote (Pet.App.18a), “After working at the VA Medical Center for approximately thirty-seven days, Plaintiff informed her manager Carla Dunkelberger that she needed to go to Russia to refill a prescription and undergo an invitro fertilization procedure.”

If I started to work at the New Mexico VA Health Care System on April 03, 2017 (Pet.App.3a), the phrase “after working at the VA Medical Center for approximately thirty-seven days” means that I contacted with Ms. Dunkelberger the second time on May 10, 2017.

During the litigation of the underlying case No. 3:18-cv-03748-WHA in the U.S. District Court for the Northern District of California, Assistant U.S. Attorney Ms. Kimberly Robinson filed a fabricated “Declaration of Carla Dunkelberger” under penalty of perjury where Ms. Robinson intentionally, criminally, maliciously, and unlawfully concealed from Judge Alsup the information about my May 10, 2017 contact with Ms. Dunkelberger when I informed her that I had only ten pills of Jeanine left that were for ten calendar days, that I couldn’t miss the pill, otherwise I would be subjected to heavy withdrawal gynecological bleeding that was not good for my

health, and that I couldn't obtain my Jeanine pills in the United States because they were not FDA approved.

Please, notice that my former Supervisor Ms. Dunkelberger never wrote this "Declaration" (Pet.App.21a) herself.

In the fabricated "Declaration of Carla Dunkelberger", the former AUSA Ms. Robinson lied to Judge Alsup under penalty of perjury that the dates of my contact with Ms. Dunkelberger were:

- 1) April 18, 2017 (Pet.App.23a), and
- 2) May 15, 2017 (Pet.App.24a.)

In the fabricated "Declaration of Carla Dunkelberger", the former AUSA Ms. Robinson lied to Judge Alsup under penalty of perjury that the reasons why I needed to go to Russia were (Pet.App.24a), "to go to Russia for a medical procedure and to obtain related medication."

Ms. Robinson intentionally, criminally, maliciously, and unlawfully concealed from Judge Alsup that "a medical procedure" was an IVF procedure, and a "related medication" was my hormonal pills Jeanine that I couldn't miss because otherwise I would be heavily bleeding, and that I couldn't obtain in the United States because it was not FDA approved.

On May 15, 2017, I approached Ms. Dunkelberger the third time, and I notified her that I had five hormonal pills Jeanine left that were for five

calendar days, that I couldn't miss the pill because otherwise I would be heavily bleeding, that I urgently needed to go to Russia to obtain my pills Jeanine, and that I couldn't obtain my pills Jeanine in the United States because they were not FDA approved. Additionally, I informed Ms. Dunkelberger about my need to go to Russia for another free of charge IVF procedure.

Ms. Dunkelberger recorded my May 15, 2017 contact with her in the May 16, 2017 Report of Contact (Pet.App.26a.) In that Report of Contact, Ms. Dunkelberger erroneously stated that the date of contact was May 25, 2017. However, in the "Declaration of Carla Dunkelberger", the former AUSA Ms. Robinson corrected that mistake and explained that the true date of the contact was April 15, 2017 (Pet.App.24a), "The Report of Contact includes a typographical error. The date of the conversation was May 15, not May 25, 2017."

On May 17, 2017, Ms. Dunkelberger was out of office. On May 17, 2017, I had a medical emergency that was three pills of Jeanine left that were for three calendar days, my inability to obtain the pills in the United States because they were not FDA approved, and being at risk of heavy withdrawal gynecological bleeding that was not good for my health.

On May 17, 2017, I approached Assistant Manager Mr. Phil Johnson, and I explained to him that I was 50 yo, that I was married twice but my ex-husbands refused to give me children, that I dated

other guys with an attempt to get pregnant but unsuccessfully, that I performed 8 (eight) In-Utero Inseminations with donor's sperm at Kaiser Permanente in California but unsuccessfully, that I spent 2.5 years in Russia from 2014 to 2016 undergoing a full medical examination and performing In-Vitro Fertilization procedures with donor's sperm, that, as a citizen of the Russian Federation, I was in the Registry of the patients who were eligible for free of charge In-Vitro Fertilization procedures at the expense of the Russian Government, that my last IVF attempt in Russia was in 2016, that, in order for me to obtain another free of charge IVF attempt in Russia, I needed to wait in line for 8-10 months, that I already waited in line for approximately 8 months in order to receive another free of charge IVF procedure in Russia, that I called my Russian OB/GYN and found out that my turn in line to perform another free of charge IVF procedure in Russia had just come up, that I couldn't afford to perform an IVF procedure in the United States because of a very high price approximately 15 thousand U.S. dollars for one IVF attempt, that I was the only family member in the United States, that I didn't have a permanent place of living in the United States, that I didn't have a car, that I was taking hormonal pills Jeanine that were prescribed by my Russian physician and that were in aid of the IVF procedure, that I was running out of the hormonal pills, that, as of May 17, 2017, I had just three hormonal pills left that were for three calendar days, and that I couldn't obtain these pills in the United States, and that I couldn't afford to miss a pill because otherwise I would be subjected to heavy

withdrawal gynecological bleeding that was not good for my health. On May 17, 2017, I notified Ms. Johnson that I had spoken to Ms. Dunkelberger about all these issues.

On May 17, 2017, I notified Mr. Johnson that I would go to Russia on May 18, 2017 because I urgently needed to refill a prescription of my hormonal pills that were not available in the United States, and I would also perform an In-Vitro Fertilization procedure in Russia because my turn in line had just come up.

On May 17, 2017, Mr. Phil Johnson verbally allowed me to go to Russia for two reasons (Pet.App.27a):

- 1) To perform another free of charge IVF procedure, and
- 2) To obtain my hormonal pills Jeanine that were not available in the United States because they were not FDA approved and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

On November 18, 2020, judging Appeal No. 19-16395 after case No. 3:18-cv-03748-WHA, the United States Court of Appeals for the 9<sup>th</sup> Circuit held that my request for leave had been approved by my Supervisor (Pet.App.29a), “she made a proper request that was approved by her supervisor.”

During the EEO Investigation, the New Mexico VA Health Care System never provided the Office of Resolution Management with the Standard Forms 52

and 50 regarding the June 30, 2017 termination of my job (Pet.App.10a.) During the litigation of my underlying lawsuit from No. 3:18-cv-03748-WHA in the U.S. District Court for the Northern District of California through No. 1:21-cv-00761-WJ-JFR in the U.S. District Court for the District of New Mexico, Assistant U.S. Attorneys never presented to the attention of the Courts my SF-52 and SF-50 that were related to the June 30, 2017 termination of my job.

I got access to the SF-52 and SF-50 only during the litigation of my lawsuit No. 1:24-cv-01023-DLF in the U.S. District Court for the District of Columbia.

Please, *see* an Excerpt from the Standard Form 52 – Request for Personnel Action (Pet.App.30a.) Please, notice that the Proposing Officials who allegedly requested the termination of my job were (Pet.App.30a) Ms. Patricia Hamor and Ms. Cynthia Nuttall, Nurse.

Obviously, Service Chief of the New Mexico VA Health Care System Allean Raneta Bonin didn't request the termination of my job. I am reminding that Service Chief of the New Mexico VA Health Care System Allean Raneta Bonin was a Proposing Official who was authorized to request an Adverse Action that was the termination of my job in accordance with the VA HANDBOOK 5021/21, PART I, February 19, 2016, [APPENDIX C. OFFICIALS AUTHORIZED TO PROPOSE AND DECIDE ACTIONS FOR VETERANS HEALTH

ADMINISTRATION (VHA) FIELD OFFICES  
(Pet.App.2a.)

Please, notice that in Part A, Box 5 of the SF-52 (Pet.App.30a) the date when Nurse Ms. Nuttall requested the termination of my job was July 05, 2017. However, on June 30, 2017 (Pet.App.12a) Mr. Thomas E. Harris, Sr. who was an Acting Human Resources Officer of the New Mexico VA Health Care System already terminated my job. Obviously, June 30, 2017 when my job was actually terminated was before July 05, 2017 when Nurse Ms. Nuttall requested the termination of my job. It is indisputable that:

- 1) Nurse Ms. Nuttall was not a Proposing Official, and she didn't have a power to request the termination of my job, and
- 2) Nurse Ms. Nuttall was ineligible to request the termination of my job on July 05, 2017 when on June 30, 2017 my job was already terminated.

Please, take a Judicial notice of (Pet.App.31a) Part C of the SF-52, Box C. Placement – Anderson, Rhonda R., 07/06/2017. Obviously,

- 1) Ms. Anderson who was an employee of the Human Resources of the New Mexico VA Health Care System was not eligible to be a Proposing Official within the meaning of the VA HANDBOOK 5021/21, PART I, February 19, 2016, [APPENDIX C. OFFICIALS AUTHORIZED TO PROPOSE AND DECIDE ACTIONS FOR VETERANS HEALTH ADMINISTRATION (VHA) FIELD OFFICES

(Pet.App.2a.) I am reminding that Service Chief of the New Mexico VA Health Care System Allean Raneta Bonin was eligible to be a Proposing Official and to request a termination of my job

- 2) Ms. Anderson was ineligible to place the termination of my job on July 06, 2017 whereas my job was already terminated on June 30, 2017 (Pet.App.10a.)

Please, take a Judicial Notice of (Pet.App.31a) Part C of the SF-52, Box A. Position Authorized – Speakman, Clifford L., 07/06/2017. Obviously:

- 1) Mr. Clifford Speakman who was an Employee Relations Specialist of the New Mexico VA Health Care System (Pet.App.33a and 34a) was not eligible to be a Deciding Official within the meaning of the VA HANDBOOK 5021/21, PART I, February 19, 2016, [APPENDIX C. OFFICIALS AUTHORIZED TO PROPOSE AND DECIDE ACTIONS FOR VETERANS HEALTH ADMINISTRATION (VHA) FIELD OFFICES (Pet.App.2a.) I am reminding that only two persons were eligible to be Deciding Officials and to approve the termination of my job:
  - a) Director of VISN 22 Mr. Stan Johnson, and
  - b) The former Director of the New Mexico VA Health care System Mr. Andrew Welch
- 2) Mr. Speakman was ineligible to approve the termination of my job on July 06, 2017 whereas my job was already terminated on June 30, 2017 (Pet.App.10a.)

Please, take a Judicial Notice of the March 02, 2018 EEO Affidavit of Mr. Clifford Speakman (Pet.App.33a.)

*See* Pet.App.33a, “3. What unit or section of the facility do you work in?  
Employee Relations”

*See* Pet.App.34a, “4. Please identify your position and grade at the facility where you are employed.  
Employee Relations Specialist GS-12.”

As I discussed above, Employee Relations Specialist of the New Mexico VA Health Care System Mr. Clifford Speakman was ineligible to be a Deciding Official, and he was ineligible to approve the termination of my job.

*See* Pet.App.34a, “5. Please describe your working relationship with the complainant, Tatyana Dreyaleva<sup>1</sup>, during that period.  
Do not know Tatyana Dreyaleva.”

Please, take a Judicial Notice that prior to the July 06, 2017 approval of the termination of my job Mr. Clifford Speakman didn't know me.

*See* Pet.App.34a, “7. What is the complainant's position and grade?  
Medical Instrument Technician GS-07.”

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<sup>1</sup> Typo as in an original.

Please, take a Judicial Notice that prior to the July 06, 2017 approval of the termination of my job Mr. Clifford Speakman didn't even know that I was a full-time permanent Excepted Service Hybrid Medical Instrument Technician Electrocardiograph who was appointed by Secretary of the U.S. Department of VA to one of the Field Offices of the Veterans Health Administration pursuant to 38 U.S.C. § 7401(3) and pursuant to the Public Law 108-170, December 06, 2003, Title III, Section 301(a)(1)(B)(3) with the grade GS-7.

*See* Pet.App.34a, "8. Was the complainant a probationary employee?"

Yes

- a. If yes, please explain the dates of her probationary employment and what probationary employment means.

Station Entrance on Duty was April 2, 2017, and was terminated on June 30, 2017. Probationary period is 1 year."

Please, take a Judicial Notice that in his March 02, 2018 EEO Affidavit Mr. Clifford Speakman failed to distinguish between (Pet.App.3a) an "Effective Date" that was April 02, 2017 and a "Reporting Date" that was April 03, 2017, and Mr. Speakman illiterately used a phrase "Station Entrance." Please, take a Judicial Notice that there is no any definition of the "Station Entrance" in the March 27, 2017 Appointing Letter (Pet.App.3a.)

Also, Mr. Speakman failed to clarify that, because I was a Title 38 Hybrid appointee (Pet.App.7a), my

probationary period was 1 year as opposed to Title 38 appointees who had a probationary period two years.

*See* Pet.App.34a, “9. What unit or section is the complainant assigned to?

Nursing Service<sup>2</sup>.”

Please, take a Judicial Notice that prior to approving an Adverse Action that was a termination of my job Employee Relations Specialist Mr. Speakman even didn’t know that I was working at the 5D Telemetry Unit of the New Mexico VA Health Care System.

*See* Pet.App.35a, “17. Are you aware of the complainant's disability she describes as being infertile **to the point of needing In Vitro Fertilization?**

No.”

Please, take a Judicial Notice that prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my job Employee Relations Specialist Mr. Speakman even didn’t know that I was infertile to the point that I needed In-Vitro Fertilization procedures in Russia, that I took a time off to go to Russia to obtain my hormonal pills Jeanine and to perform another free of charge IVF procedure in Russia, that my pregnancy leave was an absolute statutory bar for the termination of my job, and that Mr. Speakman was absolutely statutorily prohibited to fire me, please, *see*:

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<sup>2</sup> Typo as in an original.

- 1) 38 CFR § 23.530(d)
- 2) 29 CFR Appendix to Part 1604, Questions and Answers on the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978), Questions 7 and 9,

*See* Pet.App.35a, “18. How and when did you become aware of the complainant's disability?

When I reviewed record 3/1/2018.”

Please, take a Judicial Notice that Mr. Speakman learned about my infertility only on March 01, 2018 that was during the EEO Investigation. I am repeating that on July 06, 2017 Employee Relations Specialist Mr. Speakman intentionally, criminally, maliciously, and unlawfully signed Part C of the SF-52 (Pet.App.31a) and approved an Adverse Action that was a termination of my full-time job even though Mr. Speakman didn't have any redelegated authority<sup>3</sup> that was vested on him in writing by the former Director of the New Mexico VA Health Care System Mr. Welch and even though Mr. Speakman was absolutely statutorily prohibited to fire me, please, *see*:

- 1) 38 CFR § 23.530(d)
- 2) 29 CFR Appendix to Part 1604, Questions and Answers on the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978), Questions 7 and 9,

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<sup>3</sup> *See* my explanations about Delegation of Authority below in this Motion.

See Pet.App.36a, “23. Did the complainant use medication and/or assistive devices for his disability? If yes,

- a. Identify and describe their purpose.  
Unknown to me.”

Please, take a Judicial Notice that prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment Employee Relations Specialist Mr. Speakman even didn't know that my “assistive devices” were:

- 1) my hormonal pills Jeanine that I could have obtained only in Russia because these pills were not FDA approved and because I was unable to obtain these pills in the United States, and
- 2) In-Vitro Fertilization procedures that I could have undergone only in Russia because I could not financially afford to undergo IVF procedures in the United States.

See Pet.App.36a, “24. To your knowledge did the complainant's medication and/or assistive devices affect any of the complainant's normal life functions? If yes,

- a. Describe the normal life function.  
Unknown to me.”

Please, take a Judicial Notice that prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment Employee Relations Specialist Mr. Speakman even didn't know that, because of my disability that was my infertility, I needed to take a

time off to go to Russia to obtain my hormonal pills Jeanine and to perform an IVF attempt, and therefore my major life activity “working [at the New Mexico VA Health Care System from May 18 through August 17, 2017]” was impaired, *see* 38 CFR § 15.103, *see* a definition of an “*Individual with handicaps*”, Subdivision (2) – “**Major life activities** includes ... working.”

*See* Pet.App.36a, “26. Was the complainant able to perform the essential duties of her position?

Unknown to me.”

Please, take a Judicial Notice that prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment Employee Relations Specialist Mr. Speakman even didn’t know whether or not I was able to perform the essential duties of my position as a Medical Instrument Technician Electrocardiograph observing cardiac monitors with or without reasonable accommodations.

*See* Pet.App.36a, “27. If not, please identify the duty or duties the complainant was unable to perform.

Unknown to me.”

Please, take a Judicial Notice that prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment Employee Relations Specialist Mr. Speakman even didn’t know what my duties as a Monitor Technician with a grade GS-7 were.

*See* Pet.App.36a, “28. Indicate how the disability impacted accomplishing these duties.

Unknown to me.”

Please, take a Judicial Notice that prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment Employee Relations Specialist Mr. Speakman even didn’t know that, because of my disability that was my infertility, I needed Reasonable Accommodations in a form of taking a leave of absence (whether paid or not) to go to Russia to obtain my hormonal pills Jeanine and to perform an IVF attempt.

*See* Pet.App.36a, “29. Have you received training on EEO policy and procedure?

No.”

Please, take a Judicial Notice that prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment Employee Relations Specialist Mr. Speakman even didn’t undergo an EEO training, he had no idea about the Reasonable Accommodations, and he had no idea what Reasonable Accommodations I needed (a leave of absence.)

*See* Pet.App.37a, “Please identify the individual responsible for terminating the complainant?

[no answer].”

Please, take a Judicial Notice that in his March 02, 2018 EEO Affidavit Employee Relations Specialist Mr. Speakman refused to identify an individual who worked at the New Mexico VA Health Care System and who was responsible for the termination of my full-time appointment (Pet.App.3a.)

*See* Pet.App.37a, “2. ...[Ms. Drevaleva] told Ms. Dunkelberger that she could not wait for 12 months because it was her turn for a free IVF attempt in Russia.”

Please, take a Judicial Notice that during the EEO Investigation EEO Investigator Mr. Hayo explicitly explained to Employee Relations Specialist Mr. Speakman that I needed to go to Russia to perform an IVF attempt.

*See* Pet.App.37a-38a, “[Ms. Drevaleva] only had 3 hormonal pills left and she would start bleeding if she did not go to Russia.”

Please, take a Judicial Notice that during the EEO Investigation EEO Investigator Mr. Hayo explicitly explained to Employee Relations Specialist Mr. Speakman that as of May 17, 2017 I’d had only three pills of Jeanine left that were for three calendar days, and that I would start bleeding if I stop taking these pills and if I don’t obtain these pills in Russia.

*See* Pet.App.38a, “What was your role and the circumstances surrounding this event?

None.”

Please, take a Judicial Notice that during the EEO Investigation Employee Relations Specialist of the New Mexico VA Health Care System Mr. Speakman confirmed that, prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment, he had no idea that the purpose of my May 18, 2017 trip to Russia was a medical emergency that was related to two reasons:

- 1) To obtain my hormonal pills Jeanine that were not available in the United States because they were not FDA approved and thus to avoid a heavy withdrawal gynecological bleeding, and
- 2) To perform another free of charge IVF attempt in Russia at the expense of the Russian Government.

*See* Pet.App.38a, “Did you discuss this with the complainant?

No.”

Please, take a Judicial Notice that during the EEO Investigation Employee Relations Specialist of the New Mexico VA Health Care System Mr. Speakman confirmed that, prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment, he didn't speak to me, and he didn't obtain my version of the facts in violation of the VA HANDBOOK 5021/6, PART III, NOVEMBER 20, 2007, CHAPTER 2. TITLE 5 PROBATIONARY/TRIAL PERIOD EMPLOYEES and in violation of 5 CFR § 315.805. Therefore, the

M.S.P.B. had jurisdiction over my case No. DE-0752-19-0097-1-1.

*See* Pet.App.39a, “7. Did you discuss this with Ms. Dunkelberger?  
No.”

Please, take a Judicial Notice that prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment Employee Relations Specialist Mr. Speakman even didn’t speak to my former Supervisor Ms. Dunkelberger.

*See* Pet.App.39a, “10. Did you discuss this with Mr. Johnson?  
No.”

Please, take a Judicial Notice that prior to signing Part C of the SF-52 (Pet.App.31a) and prior to approving an Adverse Action that was a termination of my appointment Employee Relations Specialist Mr. Speakman even didn’t speak to my former Supervisor Mr. Phil Johnson.

*See* Pet.App.39a, “What policy or regulation supports terminating the complainant in these circumstances? (Please provide that policy to the investigator for the record).  
MCM-05-11, MCM 05-8 and MCM 05-48.”

Please, take a Judicial Notice that during the EEO Investigation Mr. Speakman failed to precisely

cite the provisions of the MCM<sup>4</sup> 05-11, MCM 05-8, and MCM 05-48 that I had allegedly violated, and he failed to explain how exactly I allegedly violated the Memorandums.

*See* Pet.App.39a, “14. Where<sup>5</sup> the Agency and Facility policies regarding termination followed in this instance?

Agency web page in the MCM library.

a. If no, please explain why?

N/A.”

Please, take a Judicial Notice that during the EEO Investigation Mr. Speakman refused to answer the EEO Investigator’s question about whether or not the policies of the New Mexico VA Health Care System were followed when Mr. Speakman signed Part C of the SF-52 (Pet.App.31a) and when he unlawfully approved the termination of my job.

*See* Pet.App.39a, “15. Did you discriminate against the complainant because of her **age, race or disability** when this occurred?

**No.**”

Please, take a Judicial Notice that the EEO Investigator incorrectly asked Mr. Speakman whether or not Mr. Speakman had discriminated me against my race. In fact, the EEO Investigator was supposed to ask Mr. Speakman whether or not he

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<sup>4</sup> Medical Center Memorandum.

<sup>5</sup> Typo as in an original. The question was supposed to be, “**Were** the Agency and Facility policies regarding termination followed in this instance?”

had discriminated me against my desire to have a child and against my sex/gender.

Please, take a Judicial Notice that in his EEO Affidavit, Mr. Speakman intentionally, criminally, maliciously, and unlawfully lied that he had not discriminated me against my “age”, against my “race” (that was supposed to be “pregnancy” and “sex/gender”), and against my “disability”. In fact, the direct discrimination occurred because on July 06, 2017 Mr. Speakman who didn’t have any redelegated appointing authority in writing that was signed by the former Director of the New Mexico VA Health Care System Mr. Welch unlawfully signed Part C of the SF-52 (Pet.App.31a) and approved an Adverse Action that was a termination of my full-time job.

*See* Pet.App.40a, “19. Do you have anything to offer the complainant in resolution of this claim?

No.”

Because Employee Relations Specialist Mr. Speakman didn’t have any redelegated appointing authority in writing that was signed by the former Director of the New Mexico VA Health Care System Mr. Welch, it means that Mr. Speakman was ineligible to reverse the SF-52 (Pet.App.30a) and the SF-50 (Pet.App.32a), he was ineligible to reverse the June 30, 2017 Termination Letter (Pet.App.10a), and Mr. Speakman was ineligible to reinstate me back to work at the VAMC.

Please, take a Judicial Notice of Mr. Speakman's March 09, 2018 Supplemental EEO Affidavit (Pet.App.41a.)

See Pet.App.41a, "1. What is the Agency's justification for terminating the complainant? Absent Without Leave."

Please, take a Judicial Notice that "Absent Without Leave" can't be a justification for the termination of my probationary appointment.

5. The Department may terminate an employee on a probationary or trial period because of his/her performance or conduct. The employee shall be notified in writing as to why he/she is being terminated and the effective date of the action. The information in the notice shall, at a minimum, consist of the conclusions as to the inadequacies of the employee's performance or conduct.

The A.F.G.E. Master Agreement, ARTICLE 33 - TEMPORARY, PART-TIME, AND PROBATIONARY EMPLOYEES, Section 2 - Title 5 and Hybrid Employees, B. Probationary Employees.

"Shall" is a mandatory obligation, see the following precedents of the U.S. Supreme Court:

- a) *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 69 (2004)

- b) *Minis v. United States*, 40 U.S. (15 Pet.) 423 (1841)
- c) *Lopez v. Davis*, 531 U.S. 230 (2001)
- d) *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998.)

I am repeating again that “Absent Without Leave” is not a proper justification for the termination of my probationary appointment.

I am reminding that prior to signing Part C of the SF-52 (Pet.App.31a) on July 06, 2017 that was after the June 30, 2017 (Pet.App.10a) termination of my job Employee Relations Specialist of the New Mexico VA Health Care System Mr. Speakman didn't give me a Notice in writing as to why I was being terminated, and Mr. Speakman didn't list the conclusions as to the alleged inadequacies of my performance or conduct.

Therefore, I am repeating again that, pursuant to the VA HANDBOOK 5021/6, PART III, NOVEMBER 20, 2007, CHAPTER 2. TITLE 5 PROBATIONARY/TRIAL PERIOD EMPLOYEES, Subdivision (b) that extended the protection of 5 CFR § 315.805<sup>6</sup> to me as to a Probationary Permanent Full-Time **Excepted Service** Title 38 Hybrid

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<sup>6</sup> 5 CFR § 315.805 applies to the probationers who are appointed to the Competitive Service. However, the VA HANDBOOK 5021/6, PART III, NOVEMBER 20, 2007, CHAPTER 2. TITLE 5 PROBATIONARY/TRIAL PERIOD EMPLOYEES extended the protection to 5 CFR 315.805 to me as to a Probationary Full-Time Excepted Service Title 38 Hybrid Medical Instrument Technician who was working at the Veterans Health Administration of the U.S. Department of VA.

Medical Instrument Technician who was appointed pursuant 38 U.S.C. § 7401(3) and who was working at the Veterans Health Administration of the U.S. Department of VA, the M.S.P.B. clearly had jurisdiction over my Appeal No. DE-0752-19-0097-1-1 (improper procedure.)

Also, pursuant to the VA HANDBOOK 5021/6, PART III, NOVEMBER 20, 2007, CHAPTER 2. TITLE 5 PROBATIONARY/TRIAL PERIOD EMPLOYEES, Subdivision (5)(a)<sup>7</sup>, the M.S.P.B. clearly had jurisdiction over my Appeal No. DE-0752-19-0097-1-1 because the New Mexico VA Health Care System discriminated against my marital status and fired me (I am a twice divorced woman who attempted to have a child using donor's sperm.)

*See* Pet.App.41a, "2. Who was responsible for terminating the complainant?

Service request the action/Due to the employee being on Trial/Probation the HRO approves the action."

Please, take a Judicial Notice that in his March 09, 2018 Supplemental EEO Affidavit Employee

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<sup>7</sup> The VA HANDBOOK 5021/6, PART III, NOVEMBER 20, 2007, CHAPTER 2. TITLE 5 PROBATIONARY/TRIAL PERIOD EMPLOYEES, Subdivision (5)(a) extended the protection of 5 CFR § 315.806, Subdivision (b) to me as to a Probationary Permanent Full-Time Excepted Service Title 38 Hybrid Medical Instrument Technician who was appointed pursuant 38 U.S.C. § 7401(3) and who was working at the Veterans Health Administration of the U.S. Department of VA. Therefore, I was eligible to appeal to the M.S.P.B. discrimination based on my marital status.

Relations Specialist Mr. Speakman still refused to identify the names and the titles of the persons who were employed by the New Mexico VA Health Care System and who were responsible for the termination of my full-time permanent probationary appointment as an Excepted Service Title 38 Hybrid Medical Instrument Technician Electrocardiograph.

*See* Pet.App.41a-42a, “3. What specific Agency/Facility policy supports termination in instances such as this?

Title 5 Leave Policy MCM 05-11 / Tours of duty MCM 05-8 / Employee courtesy and Conduct MCM 05-48.”

Please, take a Judicial Notice that during the EEO Investigation Mr. Speakman failed to precisely cite the provision of the MCM 05-11, MCM 05-8, and MCM 05-48 that I had allegedly violated, and he failed to explain how exactly I allegedly violated the mentioned above Memorandums.

*See* Pet.App.42a, “4. Where<sup>8</sup> the Agency/Facility policy's followed when this termination occurred?  
Yes.”

Please, take a Judicial Notice that in his March 09, 2018 Supplemental EEO Affidavit Employee Relations Specialist Me. Speakman intentionally, criminally, maliciously, and unlawfully lied that the policies of terminating my full-time permanent

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<sup>8</sup> Typo as in an original. The question was supposed to be, “**Were** the Agency/Facility policy's followed when this termination occurred?”

probationary appointment as an Excepted Service Title 38 Hybrid Medical Instrument Technician had been followed. Here, Mr. Speakman intentionally, criminally, maliciously, and unlawfully concealed that the following policies that applied to me had not been followed:

- 1) the VA HANDBOOK 5021/6, PART III, NOVEMBER 20, 2007, CHAPTER 2. TITLE 5 PROBATIONARY/TRIAL PERIOD EMPLOYEES, and
- 2) the A.F.G.E. Master Agreement, ARTICLE 33 - TEMPORARY, PART-TIME, AND PROBATIONARY EMPLOYEES, Section 2 - Title 5 and Hybrid Employees, B. Probationary Employees, Subdivision (5.)

*See* an Excerpt from the SF-52 (Pet.App.31a), Box 5-D. Legal Authority – REG 315.804. Please, take a Judicial Notice that in the SF-52 Mr. Speakman cited the legal authority 5 CFR § 315.804. However, Mr. Speakman was ineligible to fire me using 5 CFR § 315.804 because that code section applied only to appointments to a Competitive position.

I am reminding that I was appointed to the Excepted Service (Pet.App.3a and 5a), and I was not appointed to the Competitive Service. Therefore, 5 CFR § 315.804 was inapplicable to me.

*See* Pet.App.32a that is an Excerpt from the SF-50 – Notification of Personnel Action. Please, take a Judicial Notice that the Approval Date in Box 49 is July 06, 2017 that was after the June 30, 2017 termination of my job (Pet.App.10a.)

The Legal Authority that was listed in Box 5-D of the SF-50 (Pet.App.32a) was 5 CFR § 315.804. As I explained above, the New Mexico VA Health Care System was ineligible to fire me using 5 CFR § 315.804 because I was not appointed to the Competitive Service.

In Box 50 of the SF-50 (Pet.App.32a), Mr. Thomas Harris who is a Human Resources Officer of the New Mexico VA Health Care System electronically approved the termination of my job on July 06, 2017 (Box 49.) I am reminding that Human Resources Officer Mr. Harris was not a Deciding Official within the meaning of the VA HANDBOOK 5021/21, PART I, February 19, 2016, [APPENDIX C. OFFICIALS AUTHORIZED TO PROPOSE AND DECIDE ACTIONS FOR VETERANS HEALTH ADMINISTRATION (VHA) FIELD OFFICES (Pet.App.2a.) I am reminding that the Deciding Officials who were authorized to sign in Box 50 of the SF 50 were:

- 1) Director of VISN 22 Mr. Stan Johnson, and
- 2) The former Director of the New Mexico VA Health Care System Mr. Andrew Welch.

Moreover, Mr. Harris was ineligible to approve the termination of my job on July 06, 2017 (Pet.App.32a, Box 49) that was after the same Mr. Harris already terminated my job on June 30, 2017 (Pet.App.10a.) *See* the U.S. Office of Personnel Management's (the OPM's) General Instructions for Processing Personnel Actions (the GPPA), Chapter 3: General Instructions for Processing Personnel Actions, Subchapter 1. General Instructions, 4.

Approval of Personnel Actions, “**a. Requirement for approval.** As explained in \*\*\* >the “Prior Approval” paragraph above<, most personnel actions must be approved by the appointing officer on or before their effective dates.”

## LEGAL STANDARD

### A. Delegation of Authority

The delegation of authority is described in 5 U.S. Code § 302. That code section is applicable to 5 U.S. Code § 5721. In turn, 5 U.S. Code § 5721 uses the definition of an Executive Agency. I am reminding that the U.S. Department of VA is an Executive Agency within the meaning of 5 U.S. Code § 105. Additionally, delegation of authority in the U.S. Department of VA is described at 38 U.S.C. § 512.

Delegation of authority in the Veterans Health Administration of the U.S. Department of VA is described at 38 CFR Part 2 - PART 2—DELEGATIONS OF AUTHORITY, and, please, *see* 38 CFR § 2.6 - Secretary's delegations of authority to certain officials (38 U.S.C. 512.)

Pursuant to the U.S. Office of Personnel Management’s (the OPM’s) General Instructions for Processing Personnel Actions (the GPPA), Chapter 3: General Instructions for Processing Personnel Actions, Subchapter 1. General Instructions, 4. Approval of Personnel Actions, b. Delegation of appointing authority, and pursuant to the U.S. Office of Personnel Management’s (the OPM’s) General

Instructions for Processing Personnel Actions (the GPPA), Chapter 4: Requesting and Documenting Personnel Actions, 4. Completing the SF-50, c. Approval of Personnel Actions, Subdivision (2), Secretary of the U.S. Department of Veterans Affairs was permitted (the word "may") to delegate appointing authority to Director of the New Mexico VA Health Care System Mr. Welch who in turn had a power to redelegate the authority to other members of the personnel staff, as necessary. Mr. Welch was permitted (the word "may") to redelegate the appointing authority to a specific individual, for example, to Ms. Anderson, to Mr. Speakman, and/or to Mr. Harris. However, Mr. Welch was mandatorily obligated (the word "must") to redelegate the appointing authority to Ms. Anderson, to Mr. Speakman, and/or to Mr. Harris only in writing and to clearly define the extent of the authority being granted, for example, the authority for Ms. Anderson, for Mr. Speakman, and for Mr. Harris to be Deciding Officials, to approve an Adverse Action that was a termination of my job, and to sign Part C of the SF-52 and Blocks 49 and 50 of the SF-50 to approve the action.

However, in the EEO Investigation File, there is no evidence that:

- 1) Secretary of the U.S. Department of VA or Acting Under Secretary for Health of the Veterans Health Administration (the VHA) of the U.S. Department of Veterans Affairs Dr. Poonam L. Alaigh redelegated the authority to fire me on Mr. Speakman, Ms. Anderson, and Mr. Harris

- 2) the former Director of the New Mexico VA Health Care System Mr. Welch re delegated the authority to fire me on Mr. Speakman, Ms. Anderson, and Mr. Harris.

### **B. The Termination Of My Job Was Void**

Therefore, the SF-52, the SF-50, and the June 30, 2017 Termination Letter are void within the meaning of U.S. Office of Personnel Management's (the OPM's) General Instructions for Processing Personnel Actions (the GPPA), Chapter 3: General Instructions for Processing Personnel Actions, Subchapter 2. Cancellations and Retroactive Personnel Actions, 2. Definitions, "**g. A void action** is an action which should never have occurred because of an absolute statutory bar<sup>9</sup> to it, such as appointment of a male who has not registered, as required, for Selective Service, or because the employee was guilty of fraud regarding the action or deliberately misrepresented or falsified a material matter<sup>10</sup>."

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<sup>9</sup> The absolute statutory bars for the termination of my appointment were:

- 1) 38 CFR § 23.530(d)
- 2) 29 CFR Appendix to Part 1604, Questions and Answers on the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978), Questions 7 and 9.

<sup>10</sup> Employees of the New Mexico VA Health Care System Ms. Anderson, Mr. Speakman, and Mr. Harris were "guilty of fraud regarding the action or deliberately misrepresented or falsified a material matter" within the meaning of the OPM's GPPA, Chapter 3: General Instructions for Processing Personnel Actions, Subchapter 2. Cancellations and Retroactive Personnel Actions, 2. Definitions because Ms. Anderson, Mr. Speakman

For the reasons stated above, I am respectfully asking the U.S. Supreme Court to cancel the void SF-52, SF-50, and the June 30, 2017 Termination Letter and to award me with a full amount of my lost salary and benefits as well as the past, present, and future medical expenses pursuant to the U.S. Office of Personnel Management's (the OPM's) General Instructions for Processing Personnel Actions (the GPPA), Chapter 3: General Instructions for Processing Personnel Actions, Subchapter 2. Cancellations and Retroactive Personnel Actions, 2. Definitions, Subdivision (g.)

**C. In The Title VII Lawsuits, The Preliminary Injunction Shall Be Issued Pursuant to the F.R.C.P. Rule 65(a)**

*See* Title VII of the Civil Rights Act of 1964 or 42 U.S.C. § 2000e-5(f)(2), also *see* 42 U.S.C. § 2000e-16(d.)

Because I presented sufficient material facts of the case that demonstrated that the termination of my job was void, I am respectfully asking the U.S. Supreme Court to issue a Preliminary Injunction in a form of cancelling the void SF-52, SF-50, and the June 30, 2017 Termination Letter in accordance with the F.R.C.P. Rule 65(a) and to reinstate me back to work at the VAMC, and to award me with a full amount of my lost salary and benefits, and to award

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intentionally, criminally, maliciously, and unlawfully signed Part C of the SF-52, and Mr. Harris intentionally, criminally, maliciously, and unlawfully signed Blocks 49 and 50 of the SF-50, and Mr. Harris also intentionally, criminally, maliciously, and unlawfully signed the June 30, 2017 Termination Letter.

me with past, present, and future medical expenses as a result of the Direct Evidence (as opposed to a Prima Facie Case) of the intentional discrimination against my sex/gender, against my desire to have a child, against my age, and against my disability that was related to taking a time off to go to Russia for two reasons:

- 1) To obtain my hormonal pills Jeanine that were not available in the United States and thus to present heavy withdrawal gynecological bleeding that was not good for my health, and
- 2) To perform another IVF attempt.

#### **REASONS FOR GRANTING THE MOTION**

**A. The Motion Should Be Granted Because Secretary of the U.S. Department of VA Has a Mandatory Obligation (the word “shall”) to Reinstate Me Back to Work After I returned From a Pregnancy Leave, see 38 CFR § 23.530(d.) Also, see 29 CFR Appendix to Part 1604, Questions and Answers on the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978), Questions 7 and 9**

For the reasons stated above, I am respectfully asking the U.S. Supreme Court to grant my Motion. The material facts of the case are so clear that they do not require further investigation and delay in the decision. I am suffering from an irreparable harm that are being ineligible to continue a treatment of

my infertility and defamation about the reasons is the termination of my job.

**B. I am Respectfully Asking the U.S. Supreme Court to Reinstate Me Back to Work at the VAMC on a Paid *Non-Duty* Status.**

During the litigation of the underlying lawsuit No. 1:21-cv-00761-WJ-JFR, Assistant U.S. Attorney Ms. Lyman asserted that reinstating me back to work at the VAMC “is not appropriate if the continuing hostility between a plaintiff and a defendant or its employees renders the plaintiff’s continued employment nonviable” or “if the litigation irreparably damages the employer-employee relationship” because I filed multiple lawsuits against Secretary of the U.S. Department of VA and multiple other individuals (Pet.App.43a.)

Therefore, I am respectfully asking the U.S. Supreme Court to reinstate me back to work at the VAMC on a paid *non-duty* status pursuant to the U.S. Office of Personnel Management’s (the OPM’s) Guide to Processing Personnel Actions (the GPPA); Chapter 32: Interim Relief Actions, Corrections, Cancellations and Replacement Actions for Cancellations Natures of Action 001, 002, 198, 199, 293, 867, and 868; Subchapter 7. Actions to Provide Interim Relief; Figure 32-3. Actions to Provide Interim Relief, Situation No. 6.

**CONCLUSION**

The Motion for a Preliminary Injunction should be granted.

Respectfully submitted,



s/ Tatyana Drevaleva,  
Petitioner Pro Se  
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Palo Alto, CA, 94306  
628-688-6167; [tatyana.drevaleva@gmail.com](mailto:tatyana.drevaleva@gmail.com)

Date: June 30, 2026.

## **APPENDIX**

**Additional material  
from this filing is  
available in the  
Clerk's Office.**