

1 INTRODUCTION

2 1. LEGAL BASIS. This action is brought pursuant to the Public Records Act. Government
3 Code § 6250 et seq.

4 2. FUNDAMENTAL AND NECESSARY RIGHT. Government Code § 6250 provides:

5 “[A]ccess to information concerning the conduct of the people’s business is a
6 fundamental and necessary right of every person in this state.”

7 3. RELIEF SOUGHT. By this complaint, petitioner seeks a preliminary and permanent
8 order (injunction) enjoining defendants and each of them from: 1) Destroying the audio
9 recordings of City of Oakland Fire Department Emergency Medical Services Division
10 January 1st, 2009 to March 29th, 2011 weekly staff meetings, 2) Concealing said audio
11 recordings, and 3) Failing and refusing to provide plaintiff access to the audio recordings
12 for the purpose of inspecting and copying same. Government Code § 6252(d). Finally,
13 plaintiff seeks his fees and costs incurred in bringing this action to enforce fundamental
14 and necessary rights.

15
16 COMMON COUNT

17 4. PETITIONER. Petitioner Sheehan (Sean) Gillis (hereinafter Gillis) is an adult person, a
18 resident of Oakland, and a duly licensed paramedic (EMT-P) employed by the City of
19 Oakland Fire Department Emergency Medical Services Division.

20 5. RESPONDENTS. Respondent City of Oakland Fire Department (hereinafter Oakland
21 Fire) is a political subdivision of the State of California and a “local agency” and a “local
22 public agency” for purposes of Government Code § 6252(b) of the Public Records Act.
23 Defendant Anne C. Washington (hereinafter Washington) is an adult person and the
24 Chief of Staff of Oakland Fire.

1 6. RECORDS CUSTODIAN. Washington is the “records custodian” as that term is defined
2 by the Public Records Act for requests made to Oakland Fire.

3 7. DOES. Defendants Does 1-15 are entities whose identity and capacity is unknown to
4 plaintiff. Plaintiff will name said with specificity when such identity and capacity are
5 known to plaintiff.

6 8. AGENCY. Defendants are agents and/or employees each of the other and acted within
7 the scope of that agency and employment.

8 9. JURISDICTION. This court is the proper court because the records are located in its
9 jurisdictional area.

10 10. SUBJECT MATTER. Oakland Fire records all of its weekly Emergency Medical
11 Service Division staff meetings. The recordings are stored on Oakland Fire recording
12 pens known as “Lifescrives.” None of the recordings had been deleted at the time the
13 recordings were first requested. Duplicate copies of the recordings are stored on various
14 Oakland Fire computers.

15 11. PUBLIC RECORDS REQUEST. On or about March 29th, 2011, Gillis requested all the
16 audio recordings of City of Oakland Fire Department Emergency Medical Services
17 Division January 1st, 2009 to March 29th, 2011 weekly staff meeting recordings in order
18 to prepare for a proceeding—in which Gillis is a party—before the Civil Service Board
19 and because Gillis filed complaints regarding racist statements, including inappropriate
20 statements about Oscar Grant, made and tolerated by Gillis’ supervisor at the same
21 Oakland Fire staff meetings. The records support Gillis’ statements before the Civil
22 Service Board and in said complaints. A true copy of Gillis’ request is attached as
23 Exhibit One.

24 12. CONCEALMENT BY OAKLAND FIRE. On or about April 15th, 2011, Oakland Fire
25 responded to said request by letter from Washington to Gillis which falsely stated, “There

1 are no audio recordings of any staff meetings at the Oakland Fire Department from 2009
2 to present.” A true copy of Oakland Fire’s response is attached as Exhibit Two.

3 13. MEET AND CONFER. Even though Gillis is not required to “meet and confer” with a
4 public agency that fails and refuses to comply with the Public Records Act, Gillis met
5 and conferred with Oakland Fire in an attempt to resolve Oakland Fire’s failure. A true
6 copy of the email exchange, that constituted said meet and confer between Gillis and
7 Oakland Fire, is attached as Exhibit Three.

8 14. SECOND PUBLIC RECORDS ACT REQUEST. Even though Gillis is not required to
9 make a second request for the same records to an agency that fails and refuses to comply
10 with the Public Records Act, on or about May 3rd, 2011, Gillis made a second request
11 (hereinafter Second Request) for the same records. A true copy of the Second Request is
12 attached as Exhibit Four.

13 15. DIS-ALLOWED RESPONSE. On or about Friday, May 13th, 2011, Oakland Fire
14 responded to the Second Request by a letter from Washington which states, “[Before we
15 can respond,] we need to consult with another agency[.]” A true copy of the response to
16 the Second Request is attached as Exhibit Five. Said response is dis-allowed by the
17 Public Records Act. Government Code § 6253.3 (“[A] local agency may not allow
18 another party to control the disclosure of information[.]”).

19 16. NO EXTENSION. To the extent the dis-allowed response is a request for an extension
20 and on or about Monday, May 16th, 2011, Gillis denied the request by letter. A true copy
21 of said letter is attached as Exhibit Six.

22 17. COLLECTING ALL COPIES. Oakland Fire is in the process of gathering all copies of
23 the same records from Oakland Fire personnel. The collection of duplicates seems un-
24 necessary unless Oakland Fire intends to destroy, conceal, or alter the recordings.

25 18. NO OBJECTIONS. Oakland Fire made no objections to producing the recordings.

1 19. NO ADEQUATE MONETARY REMEDY. Gillis has no adequate remedy at law in that
2 monetary damages cannot compensate Gillis for the access to information Oakland Fire
3 refuses to provide.

4 20. INCURRED FEES. Gillis incurred reasonable attorney's fees in excess of \$7,500.00 in
5 this matter.

6 21. CASE AND CONTROVERSY. As set forth above, a case and controversy exists
7 between Gillis and Oakland Fire. Defendants refused to comply with a Public Records
8 Act request.

9
10 PRAYER

11 Gillis prays relief against defendants and each of them as follows:

12 A. INJUNCTIVE RELIEF. For a preliminary and permanent injunction enjoining
13 defendants and each of them from: 1) Destroying the audio recordings of City of
14 Oakland Fire Department Emergency Medical Services Division January 1st, 2009 to
15 March 29th, 2011 weekly staff meetings, 2) Concealing said audio recordings, and 3)
16 Failing and refusing to provide plaintiff access to the audio recordings for the purpose of
17 inspecting and copying same. Government Code § 6252(d).

18 B. DECLARATORY RELIEF. For a finding that the audio recordings of City of Oakland
19 Fire Department Emergency Medical Services Division January 1st, 2009 to March 29th,
20 2011 weekly staff meetings are subject to disclosure under the Public Records Act
21 pursuant to the requests by Gillis and otherwise.

22 ///

23 ///

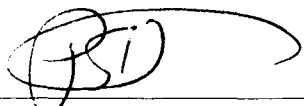
24 ///

25 ///

1 C. COSTS. For reasonable attorney's fees and costs incurred in bringing this action to
2 enforce fundamental and necessary rights.

3 D. OTHER AND FURTHER. For such other and further relief as this court deems proper.
4

5
6 May 17th, 2011



Philip Horne, Esq.
ATTORNEY FOR PLAINTIFF
SHEEHAN (SEAN) GILLIS, EMT-P

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8
9 VERIFICATION

10 I, Sheehan (Sean) Gillis, EMT-P, hereby declare:

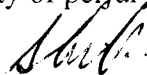
11 I am the petitioner herein. I read the foregoing Complaint for Injunctive and Declaratory
12 Relief. The Complaint is true of my own knowledge. Each exhibit is true and complete and was
13 served on and received by the recipient on or about the date stated herein. If called upon, I could
14 and would so testify. I make this declaration under penalty of perjury under the laws of the State
15 of California in San Francisco this May 17th, 2011. 
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Exhibit 1

Gillis v. City of Oakland
Verified Complaint for Preliminary and Permanent Injunction
and Declaratory Relief to Enforce Right to Public Records

Philip S. Horne, Esq.
377 Hermann Street, San Francisco, CA 94117
v: 415.874.9800; e/f: vikinglawyer1@gmail.com; m: 415.786.4769
Over 15 Years Litigating Premises and Labor Claims

✓ March 29, 2011 via Mail

Mr. John Russo, Esq.
CITY ATTORNEY
Office of the City Attorney
1 Frank Ogawa Plaza
Oakland, CA 94612

RE: CITY EMPLOYEE SHEEHAN GILLIS, EMT-P
FOIA Request, Preservation of Documents

Mr. Russo:

I represent City of Oakland Employee Sheehan Gillis. Mr. Gillis and I request copies of all audio recordings of 2009-to-present staff meetings at the Fire Department. Said request is made pursuant to the Freedom of Information Act and related state and local laws and including the Ralph M. Brown Act and Public Records Act.

Mr. Gillis and I further request the following documents under the same federal, state, and local authority. As used herein, the term DOCUMENTS includes letters, memoranda, reports, agreements, pictures moving and still, email, and any other recorded transfer of information. As used herein, the term AMR means American Medical Response, Inc. dba National College of Technical Instruction, or, NCTI.

1. All DOCUMENTS regarding Sheehan Gillis (hereinafter Gillis) sent from Fire Department personnel, including but not limited to William Sugiyama (herein after Sugiyama) and Steve Danziger (hereinafter Danziger), to Local 21 Representative Vickie Carson (hereinafter Carson).
2. All DOCUMENTS regarding Gillis sent to Fire Department personnel, including but not limited Sugiyama and Danziger, from Carson.
3. All DOCUMENTS related to the purchase of Lifescribe pens by the Fire Department.
4. All DOCUMENTS sent from Fire Department personnel, including but not limited to Sugiyama, to Merritt College from September 2008 to present.
5. All DOCUMENTS sent to Fire Department personnel, including but not limited to Sugiyama, from Merritt College from September 2008 to present.

FOIA Request of March 29, 2011 to City Attorney John Russo

6. All DOCUMENTS sent from Fire Department personnel, including but not limited to Sugiyama, to AMR from September 2008 to present.
7. All DOCUMENTS sent to Fire Department personnel, including but not limited to Sugiyama, from AMR from September 2008 to present.
8. All DOCUMENTS related to services provided to Oscar Grant on January 1st, 2009—including the Patient Care Report.
9. All DOCUMENTS related to City of Oakland Medical Director Dr. Howard Michaels' January 30th, 2009 order for a mandatory call review of the services provided to Oscar Grant on January 1st, 2009.
10. All DOCUMENTS related to the August 2009 Letter of Caution issued to Gillis by Sugiyama.
11. All DOCUMENTS related to and including Gillis' reports (3) made during June/July 2009 and June/July 2010 of missing narcotics at the Fire Department.
12. All DOCUMENTS related to the May 2010 Performance Appraisal of Gillis by Sugiyama.
13. All DOCUMENTS related to the failure to hire Carolina Green during August to September 2010.
14. All DOCUMENTS related to any investigation of the complaints of Gillis that Carolina Green suffered racial discrimination.
15. All DOCUMENTS related to the decision to move and the moving of Gillis' office to a trailer on or about September 22nd, 2010.
16. All DOCUMENTS related to the disciplining of Gillis by Sugiyama on September 27th, 2010.
17. All DOCUMENTS related to Sugiyama's September 2010 accusation that Gillis left his computer at the wrong office.
18. All DOCUMENTS related to Sugiyama's September 2010 accusation that Gillis left a storage space "disarrayed."
19. All DOCUMENTS related to and including the letter of resignation Sugiyama presented to Gillis for signing on or about October 4th, 2010.
20. All DOCUMENTS related to billing Gillis over \$600.00 for texting on Fire Department equipment.

21. All DOCUMENTS related to billing any other employee for texting on Fire Department equipment.
22. All DOCUMENTS related to and including the written reprimand of Gillis dated October 15, 2010.
23. All DOCUMENTS related to the imposition of 30-day performance reviews for Gillis.
24. All DOCUMENTS related to Sugiyama's order that Gillis vacate his office and convert it to storage (leaving Gillis with no office) made on or about November 3rd, 2010.
25. All DOCUMENTS related to the January 14th, 2011 30-Day Review by Sugiyama of Gillis.
26. All DOCUMENTS related to the February 3rd, 2011 Letter of Intent for Gillis by Sugiyama and the Skelly hearing related thereto.
27. All DOCUMENTS related to the scheduling of a personnel mediation for Gillis during 2011.
28. All DOCUMENTS related to the cancelling of a personnel mediation for Gillis during 2011.
29. All DOCUMENTS sent to William Sugiyama from Kaiser Employee (and wife of William Sugiyama) Julie Sugiyama regarding Gillis' Kaiser medical records.
30. All DOCUMENTS related to paying Fire Department personnel for uniforms by padding time cards.
31. All DOCUMENTS related to providing Fire Department personnel with "comp" time.
32. All DOCUMENTS related to Fire Department investigations of Sugiyama for calling Native American employees "off the reservation" or "just off the reservation."
33. All DOCUMENTS related to Fire Department investigations of personnel for using the term "Flip" to describe people from the Philippines.
34. All DOCUMENTS related to Fire Department investigations related to an employee recommending other employees check the rear and underwear of homosexual male patients for blood.

I make this request with your office in the hope that you can ensure that requested documents are provided and are not destroyed. It is my understanding that the Federal Bureau of Investigation recently criticized the Fire Department for failing to retain documents regarding narcotics and other matters.

I am happy to pay all costs associated with this request.

Sincerely,

A handwritten signature in black ink, appearing to read "PHH", enclosed within a hand-drawn oval.

/s/Philip Horne, Esq.

Philip Horne, Esq.

ATTORNEY FOR EMT-P SHEEHAN GILLIS

OAKLAND FIRE DEPARTMENT

Exhibit 2

Gillis v. City of Oakland
Verified Complaint for Preliminary and Permanent Injunction
and Declaratory Relief to Enforce Right to Public Records

Oakland Fire Department

April 15, 2011

OFFICE: 510-238-3858
FAX: 510-238-7924
TDD: 510-238-7924

By email: vikinglawyer1@gmail.com
Philip S. Horne, Esq.
377 Hermann Street
San Francisco, CA 94117

SUBJECT: Public Records Request #4682 – Sheehan Gillis

Dear Mr. Horne:

Although you have titled your request a FOIA request, the City assumes that you are requesting information pursuant to the California Public Records Act, which applies to local government agencies, rather than FOIA, which applies to federal government agencies. Please refer to the CPRA, Cal. Gov't Code Section 6450 et seq., as a number of your requests are exempt from disclosure under the Act. The above captioned request was received by the Oakland Fire Department via public records software on April 5, 2011. We are writing to inform you of our response to your requested items and the status of our research. There are no audio recordings of any staff meetings at the Oakland Fire Department from 2009 to present. The following is in response to your numbered items:

1. The only documents in existence are exempt from disclosure pursuant to Gov't Code Section 6254(c), which exempts personnel records.
2. The only documents in existence are exempt from disclosure pursuant to Gov't Code Section 6254(c), which exempts personnel records.
3. Enclosed are an invoice and encumbrance liquidation related to Lifescribe pens.
4. This request is overly broad and overly burdensome. OFD is continuing to search for responsive documents and requires an additional 10 days to comply with this request. Furthermore, because of the scope of the request, OFD will conduct the search assuming that it calls for records related to Sugiyama and NCTI, but will require another 10 days to comply with this request.
5. This request is overly broad and overly burdensome. OFD is continuing to search for responsive documents and requires an additional 10 days to comply with this request. Furthermore, because of the scope of the request, OFD will conduct the search assuming that it calls for records related to Sugiyama and NCTI, but will require another 10 days to comply with this request.
6. This request is overly broad and overly burdensome. OFD is continuing to search for responsive documents and requires an additional 10 days to comply with this request. Furthermore, because of the scope of the request, OFD will conduct the search assuming that it calls for records related to Sugiyama and NCTI, but will require another 10 days to comply with this request.
7. This request is overly broad and overly burdensome. OFD is continuing to search for responsive documents and requires an additional 10 days to comply with this request. Furthermore, because of the scope of the request, OFD will conduct the search assuming that it calls for records related to Sugiyama and NCTI, but will require another 10 days to comply with this request.

Enclosed is an Agreement with AMR dba NCTI.


8. Pursuant to Government Code Section 6254(c), medical records are exempt from disclosure.
9. The City has no such records.
10. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure
11. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure
12. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure.
13. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure
14. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure
15. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure.
16. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure.
17. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure.
18. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure.
19. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure.
20. Enclosed is a statement for 8/10/9 – 9/9/9; correspondence, check and AI 977.
21. Enclosed are itemized charges for Renee Domingo and Chief James Williams.
22. Pursuant to Gov't Code Section 6254 (c), personnel records are exempt from disclosure.
23. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure.
24. Pursuant to Gov't Code Section 6254 (c), personnel records are exempt from disclosure.
25. Pursuant to Gov't Code Section 6254 (c), personnel records are exempt from disclosure.
26. Pursuant to Gov't Code Section 6254 (c), personnel records are exempt from disclosure.
27. Pursuant to Gov't Code Section 6254(c), personnel records are exempt from disclosure.
28. Pursuant to Gov't Code Section 6254 (c), personnel records are exempt from disclosure.
29. The City has no such records.
30. The City has located no such records and requests another ten days to continue to search for responsive documents.

Philip S. Horne, Esq.
April 15, 2011

Page 3

31. The City has no such records.
32. Pursuant to Gov't Code Section 6254 (c), personnel records are exempt from disclosure.
33. Pursuant to Gov't Code Section 6254 (c) personnel records are exempt from disclosure.
34. Pursuant to Gov't Code Section 6254 (c), personnel records are exempt from disclosure.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne Campbell Washington". The signature is written in a cursive, flowing style with some loops and flourishes.

Anne Campbell Washington
Chief of Staff

ACW:rk
Enclosures

Exhibit 3

Gillis v. City of Oakland
Verified Complaint for Preliminary and Permanent Injunction
and Declaratory Relief to Enforce Right to Public Records



Phil Horne <vikinglawyer1@gmail.com>

Public Records Request #4682 - Sheehan Gillis - DESTRUCTION OF DOCUMENTS

6 messages

Phil Horne <vikinglawyer1@gmail.com>

Tue, Apr 26, 2011 at 4:24 AM

To: "Kozak, Rebecca" <RKozak@oaklandnet.com>

Cc: "Campbell Washington, Anne" <ACampbell-Washington@oaklandnet.com>, "Laden, Vicki" <VLaden@oaklandcityattorney.org>, "Flores-Medina, Arlette" <AFlores@oaklandcityattorney.org>

Bcc: Moises Montoya <mmontoya98@aol.com>

Ms. Kozak,

I am in the process of researching a public records action against the Fire Department over the Public Records Act response. Now is the time for the City and Fire Department to avoid the cost of such a suit.

Your response to the request contains false information. That information was supplied knowingly and, therefore, fraudulently.

"The City has no such records" is your response to my and Mr. Gillis' request for recorded staff meetings. All staff meetings are recorded by the secretary and stored on her Lifescribe pen.

After you sent that response, you created a memorandum to the secretary in which you asked her to send you the recordings for the City Attorney to review.

Did the City Attorney advise you to lie to me? If you refuse to provide a response to my question, I will interpret that failing as an affirmative response.

Please be aware that the recordings are evidence in a state proceeding. Willful destruction of evidence (which includes concealment) is a felony each time it is committed.

Without any further delay, Mr. Gillis and I demand the recordings.

/s/Philip Horne, Esq.

Phil Horne <vikinglawyer1@gmail.com>

Tue, Apr 26, 2011 at 4:25 AM

To: Sheehan Gillis <sobaysean@gmail.com>

Share with secretary, so she is aware.

[Quoted text hidden]

Laden, Vicki <VLaden@oaklandcityattorney.org>

Tue, Apr 26, 2011 at 8:31 AM

To: Phil Horne <vikinglawyer1@gmail.com>, "Kozak, Rebecca" <RKozak@oaklandnet.com>

Cc: "Campbell Washington, Anne" <ACampbell-Washington@oaklandnet.com>, "Flores-Medina, Arlette" <AFlores@oaklandcityattorney.org>

Mr. Horne,

I am requesting that you cease communicating with my clients. Communicate only with me. You are to desist from threatening them.

Vicki Laden
Supervising Deputy City Attorney

-----Original Message-----

From: Phil Horne [mailto:vikinglawyer1@gmail.com]
Sent: Tue 4/26/2011 4:24 AM
To: Kozak, Rebecca
Cc: Campbell Washington, Anne; Laden, Vicki; Flores-Medina, Arlette
Subject: Public Records Request #4682 - Sheehan Gillis - DESTRUCTION OF DOCUMENTS

>

[Quoted text hidden]

Phil Horne <vikinglawyer1@gmail.com>

Thu, Apr 28, 2011 at 6:40 AM

To: "Laden, Vicki" <VLaden@oaklandcityattorney.org>
Cc: "Kozak, Rebecca" <RKozak@oaklandnet.com>, "Campbell Washington, Anne" <ACampbell-Washington@oaklandnet.com>, "Flores-Medina, Arlette" <AFlores@oaklandcityattorney.org>
Bcc: Sheehan Gillis <sobaysean@gmail.com>, Moises Montoya <mmontoya98@aol.com>

You have no authority to order me to do anything. You certainly have no authority to order me to cease **responding to** communications regarding a lawful Public Records request.

You are not the Public Records czar.

You are unlawfully interfering with a lawful Public Records request. First, by participating in the response to the request--the Public Records Act does not grant your office the power to interfere with a Public Records request. Second, by participating in a fraudulent response. Thirdly, by obstructing my meet and confer and purporting to order me to cease contacting the agency responsible for handling the request.

The Personnel Board informed me that I should obtain records for our hearing by making Public Records requests. I have done that.

The response, "no records" is false.

The agency knows it is false, because the agency, in writing, ordered the custodian of the records to make copies of the requested records and forward them to you.

I demand the recordings and other requested documents be turned over without further delay so I may prepare for the Personnel Board hearing.

[Quoted text hidden]

Laden, Vicki <VLaden@oaklandcityattorney.org>

Thu, Apr 28, 2011 at 8:43 AM

To: Phil Horne <vikinglawyer1@gmail.com>
Cc: "Kozak, Rebecca" <RKozak@oaklandnet.com>, "Campbell Washington, Anne" <ACampbell-Washington@oaklandnet.com>, "Flores-Medina, Arlette" <AFlores@oaklandcityattorney.org>

You have received everything that is in the office's possession. At this point, I am telling you that you should direct all communications to me, and to nobody else. I am the attorney for these clients.

-----Original Message-----

From: Phil Horne [mailto:vikinglawyer1@gmail.com]

[Quoted text hidden]

[Quoted text hidden]

Laden, Vicki <VLaden@oaklandcityattorney.org>

Thu, Apr 28, 2011 at 8:46 AM

To: Phil Horne <vikinglawyer1@gmail.com>

Cc: "Kozak, Rebecca" <RKozak@oaklandnet.com>, "Campbell Washington, Anne" <ACampbell-Washington@oaklandnet.com>, "Flores-Medina, Arlette" <AFlores@oaklandcityattorney.org>

Actually, some additional documents are being scanned for you today.

-----Original Message-----

From: Phil Horne [<mailto:vikinglawyer1@gmail.com>]

Sent: Thu 4/28/2011 6:40 AM

To: Laden, Vicki

Cc: Kozak, Rebecca; Campbell Washington, Anne; Flores-Medina, Arlette

[Quoted text hidden]

[Quoted text hidden]

Exhibit 4

Gillis v. City of Oakland
Verified Complaint for Preliminary and Permanent Injunction
and Declaratory Relief to Enforce Right to Public Records

Philip Horne, Esq.
377 Hermann Street, San Francisco, CA 94117
Voice: 415.VPH.9800; Elec./Facs.: vikinglawyer1@gmail.com; m: 415.786.4769
Over 15 Years Litigating Premises and Labor Claims

2011 May 03 Personal and Electronic Service

Ms. Anne Campbell Washington
Chief of Staff—Oakland Fire Department
150 Frank H. Ogawa Plaza, Suite 1334
Oakland, CA 94612

RE: CITY EMPLOYEE SHEEHAN GILLIS, EMT-P
FURTHER PUBLIC RECORDS ACT REQUEST
(GOVT CODE § 6250 ET SEQ.)

Ms. Washington:

Please recall that I represent City of Oakland Employee Sheehan Gillis. Mr. Gillis and I requested copies of all audio recordings of 2009-to-present staff meetings at the Fire Department. Said request was made pursuant to the Public Records Act and the Ralph M. Brown Act.

The PRA requires the custodian of records to answer the request. You answered the request. That reasonably made and makes me suspicious that a filter was placed on the production. I make this new request to you without waiving challenges to your process in order to expedite my request.

The audio recordings were made by OFD Secretary Silvia Dillards on her OFD Lifescribe equipment (recording pen). Ms. Dillards saved all such recordings and deleted none. She uses the recordings to create paper writings, or, “minutes” of every meeting.

Your response to my request was, “There are no audio recordings of any staff meetings at the Oakland Fire Department from 2009 to present.”

I now believe that I know what happened. You asked Supervisor William Sugiyama if there were any such recordings. He responded, “No.” You then created the response to me described above.

What you may not know is that Sugiyama sent a written memorandum to Silvia Dillard. He asked Ms. Dillard to download the recordings onto her computer. Ms. Dillard did not know how to so download, so she asked my client for assistance.

My client helped Ms. Dillard download the recordings to her computer.

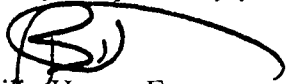
I now re-request the recordings. I request all the audio recordings of all the OFD staff meetings from 2009 to current. You may obtain your copy from the PC of Ms. Dillard. I am happy to bring an IT person over to do it for you.

I also request a copy of that memorandum, dated between April 5th and April 25th (2011) from Sugiyama to Dillard. Again, Sugiyama requested that Dillard copy all the staff meeting audio recordings or made some similar statement to Ms. Dillard. My client read that memorandum, so I know it exists.

I appreciate your attention to this matter. Since your original response was false and this is a follow up, I do not believe you deserve or should need 10 (ten) days to respond.

OFD should take steps to protect its electronic data from Mr. Sugiyama. These recordings are incriminating. I will ask any future fact finder to draw inferences against OFD if it lets Sugiyama destroy this evidence.

As always respectfully yours,



/s/Philip Horne, Esq.

PHILIP HORNE, Esq.

ATTORNEY FOR OFD EMPLOYEE

PARAMEDIC SHEEHAN (SEAN) GILLIS, EMT-P

cc:

DFEH

DCA Vicki Larsen (electronic only)

Exhibit 5

Gillis v. City of Oakland
Verified Complaint for Preliminary and Permanent Injunction
and Declaratory Relief to Enforce Right to Public Records

MUNICIPALITY OF OAKLAND - OFFICE OF THE CITY ATTORNEY - 1500 CALIFORNIA STREET, SUITE 1000, OAKLAND, CA 94612-4242

Telephone: 415.774.2000

May 13, 2011

415.774.2000
415.774.2000
415.774.2000

By email
Vikinglawyer1@gmail.com

Philip Horne
377 Herman Street
San Francisco, CA 94117

Subject: Public Records Request #5026 – your letter of May 3, 2011
Request for Extension of Time to Respond

Dear Mr. Horne,

We need additional time to answer the above request because of the need to consult with another agency with an interest in the records.

We will provide a response within the next 14 days.

Sincerely yours,



Anne Campbell Washington
Chief of Staff
Oakland Fire Department

cc: Ariette Flores-Medina, Open Government Coordinator
Office of the City Attorney

Exhibit 6

Gillis v. City of Oakland
Verified Complaint for Preliminary and Permanent Injunction
and Declaratory Relief to Enforce Right to Public Records

~~CONFIDENTIAL~~

Philip Horne, Esq.

377 Hermann Street, San Francisco, CA 94117

Voice: 415.VPH.9800 Elec./Facs.: vikinglawyer1@gmail.com

Over 15 Years Litigating Premises and Labor Claims

Monday 2011 May 16 via Electronic Mail to Laden Only (Due to Objection by Laden)

Ms. Anne Campbell Washington
Chief of Staff—Oakland Fire Department
150 Frank Ogawa Plaza, Suite 1334
Oakland, CA 94612

Ms. Vicki Laden, DCA
Oakland City Attorney
One Frank Ogawa Plaza
Oakland, CA 94612

RE: CITY EMPLOYEE SHEEHAN GILLIS, EMT-P
**DENIAL OF REQUEST FOR EXTENSION TO
RESPOND TO REQUEST FOR RECORDINGS**

Ms. Washington and Ms. Laden:

This letter is emailed to Ms. Laden even though it responds to Ms. Washington's request, because Ms. Laden asked me to refrain from responding to Ms. Washington directly.

On Friday afternoon, Ms. Washington requested a fourteen (14) day extension of time to respond to a Public Records Act request for recorded staff meetings. Ms. Washington was careful to not admit the existence of the requested recordings; instead of asking for fourteen (14) days to "produce" the records, Ms. Washington asked for fourteen (14) days to "respond" to the request.

Ms. Washington's request is DENIED. The recordings were originally requested on March 29th, 2011. The City granted itself a Government Code § 6353 "exceptional circumstances" extension only to finally respond, "there are no audio recordings" on April 15th, 2011

In the month since the City gave that false response, I documented the City's collection and dissemination of the same recordings. While the City shares the recordings with managers and others, it refuses to provide the recordings to the public—including a worker who is preparing his legal case.

The City's conduct constitutes wrongful interference with legal process in violation of Civil Service Board rules and Labor Code § 1198.5.

Sincerely,

/s/Philip Horne, Esq.

PHILIP HORNE, Esq.

ATTORNEY FOR OFD EMPLOYEE

PARAMEDIC SHEEHAN (SEAN) GILLIS, EMT-P

2011 May 16 Letter to Washington re. Denial of Request for Extension to
Respond to Request for Recordings