

Redaction Notice: This page, and the following 12 pages of this document ,include redactions of telephone numbers and e-mail addresses

**ATTACHMENT "A"**

EXHIBIT A

**Eli Gray**

**From:**  
**Sent:**  
**To:**  
**Subject:**

Anonymous-Remailer@See Comment Header  
Tuesday, November 05, 2002 11:01 AM  
[REDACTED]  
ELI GRAY WEARING STRIPES :)

gray-

aka/POPE'

Now all that remains are the criminal charges and resulting indictments.

Conspiracy, racketeering, to name a few ;)

You best think about telling the truth 'boy' :-)

Turn yourself in before we have to hunt you down like a dog.

11/07/2002 16:15 FAX [REDACTED]  
NOV-06-2002 15:57

FRIDAY ELDREDGE & CLARK  
MCA HOME OFFICE

012  
P.02

Larry Cole

From: Anonymous [nobody@mail.jmbcv.net]  
Sent: Tuesday, November 05, 2002 1:48 AM  
To: [REDACTED]  
Subject: JUDGEMENT DAY PALLY :)

"protected species, tippy toe around, sit there and do nothing  
and he will go away. Take all of his written and verbal crap  
and turn the other cheek"

"I should have asked him 'do I need to tell them to bring an ambulance  
or a hearst'

Learn how to spell you ignoramus.

Most useful information though. (thank)  
Certain to be 'Properly desiminated'  
throughout the transportation industry. :)

**From:** Bunker Boy <nobody@mixmaster.thebunker.net>  
**To:** [REDACTED]  
**Date:** 10/18/02 12:30PM  
**Subject:** search engine progress report

davis (you dumb-ass redneck):

moving right along as scheduled

they just love you turkey!

[http://msxml.excite.com/\\_1\\_2SLTTIB04JW1ME5\\_info.xcite/dog/results?otmpl=dog/webresults.htm&qkw=oscar+davis&qcat=web&top=1&start=&ver=27551](http://msxml.excite.com/_1_2SLTTIB04JW1ME5_info.xcite/dog/results?otmpl=dog/webresults.htm&qkw=oscar+davis&qcat=web&top=1&start=&ver=27551)

**Larry Cole**

**From:**  
**Sent:**  
**To:**  
**Subject:**

Anonymous via the Cypherpunks Tonga Remailer: [nobody@cypherpunks.to]  
Tuesday, October 08, 2002 9:14 PM  
[REDACTED]  
"Every breath you take, every move you make, I'll be watching you"

You asked for it \*shithead\*, now you gotta BELLY-FULL of trouble.  
(You ain't seen nothin yet)

<http://www.altamahariver.net/guestbook/guestbook.html>

For those of you who are interested in learning THE TRUTH about just what kind of a person MR. LARRY COLE REALLY is, (behind the hypocritical [nauseating] satire posted here) I suggest you examine the INFORMATIVE URLs listed below. Cole is TRULY evil. Cole FIRES ATTACKS AND Retaliates against whistleblowers that keep america's workplaces safe. Larry Cole is guilty of EXTREME perjury in a FEDERAL TRUCK SAFETY CASE (2002-STA-44 somerson v. Mail Contractors of America) Cole is deceitful and a born liar. This individual (and others like him in the trucking industry) are personally responsible for needless carnage that is occuring on our nation's highways due to fatigue and unsafe equipment. Mr. Cole (a 'Safety Director') and his employer (Mail Contractors of America) are engaged in a pattern and practice of harassing their truck drivers, intimidating them to operate unsafe equipment and work when ill and/or fatigued or face losing their jobs. Cole's company, (MCoFA) is one of the most willful DOT/DOL violators in the trucking business today. These Websites will inform all who are interested of Mr. Cole's tyranny.

May the Altamaha River and this organization never (again) have to know of such a lawless and evil man as Mr. Larry Cole.

Carolyn Wallace - you're chicken

Page 1

**From:** OSCAR DAVIS SUCKS! <Anonymous-Remailer@See.Comment.Header>  
**To:** [REDACTED]  
**Date:** 10/8/02 12:54PM  
**Subject:** you're chicken

You're chicken davis ;-)

click--> <http://www.truckingsolutions.com/chicken.wav>

nothing closer to the truth pecker-head!

Carolyn Wallace - Here on Happy Halloween

Page 1

**From:** <mailcontractorssucks@yahoo.com>  
**To:** [REDACTED]  
**Date:** 9/24/02 10:28AM  
**Subject:** Here on Happy Halloween

There is a Greeting Card waiting for you !  
It's from Mail Contractors Sucks! at (mailcontractorssucks@yahoo.com).

To see your card try one of these ways

click on the link below

<http://www.ohmygoodness.com/cgi-bin/g-card.pl?020924DAMAMMQWLUA2>

or copy and paste the entire line into your browser's window

for AOL Users and for those who could not click on the above link, click below

<A HREF="http://www.ohmygoodness.com/cgi-bin/g-card.pl?020924DAMAMMQWLUA2">  
<http://www.ohmygoodness.com/cgi-bin/g-card.pl?020924DAMAMMQWLUA2> </A>

If you can't retrieve your card by clicking, go to our "View Your Card" page at  
<http://www.ohmygoodness.com/getcard.htm>  
and enter your key card code in the pickup window.  
Your key card code is: 020924DAMAMMQWLUA2

Cards will be available for 2 weeks only. If you haven't picked up your card by then,  
or if you need assistance, write to [biagio@ohmygoodness.com](mailto:biagio@ohmygoodness.com) and include the keycode in the subject.

Thank you,  
This is a FREE service from  
<http://www.ohmygoodness.com>

Postcard

Page 1 of 1

Here on happy halloween  
willful liars could be seen  
Each wriggled and squirmed  
with no end in sight  
But at Hallowecm's end  
all was made right  
Donning the cuffs  
and leg irons for all  
Now 10 halloweens  
to make sense of it all.

Mail Contractors Sucks! sent it on:  
Sep 24, 2002 at 08:29 \*  
It is now: Sep 24, 2002 - 14:35  
\* PST time

**From:** OSCAR DAVIS SUCKS!/MAIL CONTRACTORS SUCKS-! Now in Brazil  
<Anonymous-Remailer@See.Comment.Header>  
**To:** [REDACTED]  
**Date:** 9/22/02 2:16AM  
**Subject:** (No Subject)

Folks:

The internet brings us all closer together.

Small world isn't it?

<http://www.mailcontractorssucks.hpg.ig.com.br/>

<http://www.oscardavissucks.hpg.ig.com.br/>

From: Frog <FrogRemailer@bigfoot.com>  
To: [REDACTED]  
Date: 9/21/02 4:09AM  
Subject: choke on this

CHOKER ON THIS CRACKER-HEAD!

for every '1' you take down I upload 3 more:

<http://www.oscardavissucks.20m.com/>

<http://www.oscardavissucks.4t.com/>

<http://www.geocities.com/oscardavisreallysucks/>

I'll bet you run out of bacon around your blubber-ball waist  
before I run out of server space--you peckerhead!

**From:** Anonymous User <anonymous@remailer.havenco.com>  
**To:** [REDACTED]  
**Date:** 9/21/02 9:31PM  
**Subject:** "YOU DONT HAVE THE BALLS"

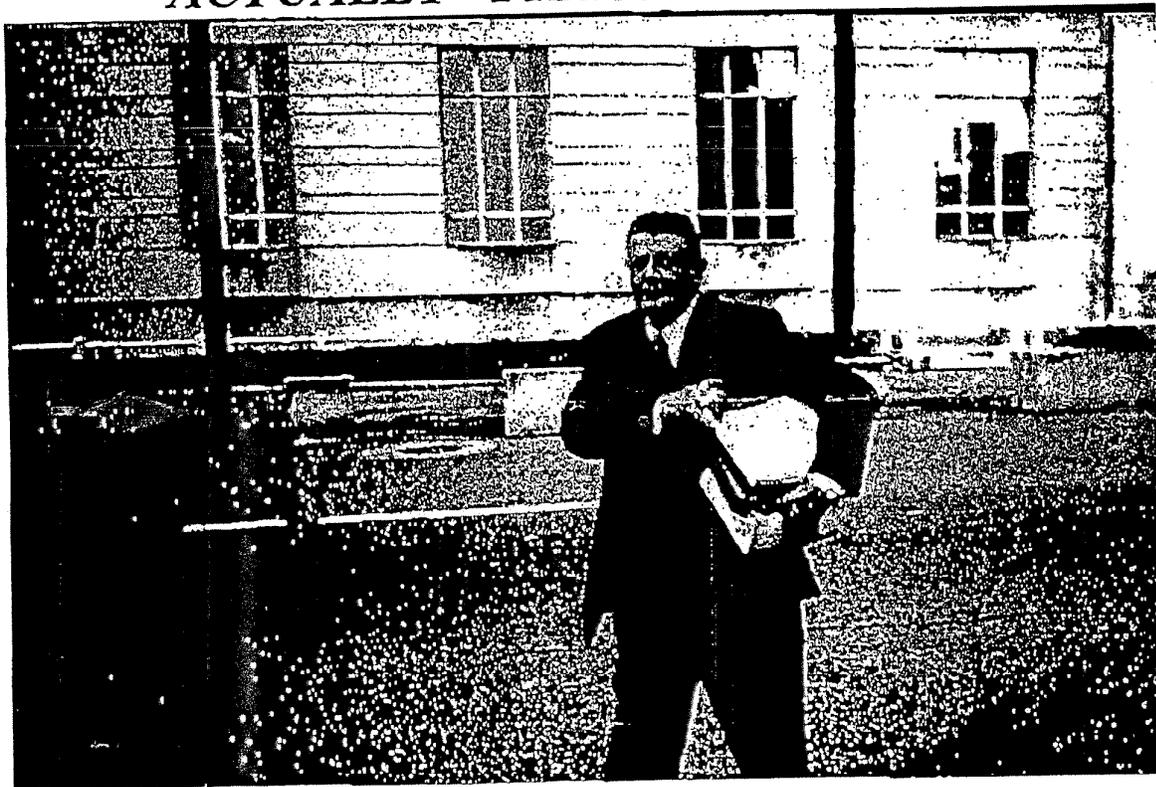
<http://members.lycos.nl/mailcontractorsssucks/no-balls.wav>

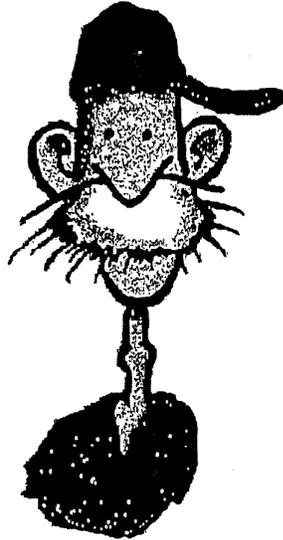
<http://members.lycos.nl/oscardavissucks/no-balls.wav>

# ***OSCAR DAVIS SUCKS!***

***"IT'S A WITCH HUNT YOUR HONOR!"  
"THEY'RE ON NOTHIN' MORE THAN A DERN FISHIN'  
EXPEDITION!"***

***THIS RUDE, LOUDMOUTHED  
HAY-SEED RACIST BAFFOON  
FROM ARKANSAS  
ACTUALLY "PRACTICES" LAW?***





**OFF FOR ANOTHER BOURBON!**

This website is currently under construction.  
Please check back soon.



**CONTACT US:**

**OSCARDAVISSUCKS@YAHOO.COM**



Xcount.com Free Counters  
Sponsored by:

**CORPSITE CUSTOMER SPOTLIGHT**  
CLICK TO VISIT  
**WBAL Radio 11 Baltimore**  
<http://www.wbal.com>

04/09/02 01:31 757 873 3634  
APR-09-2002 10:31 FROM:US ATTORNEYS OFFICE 9042322620

TO:757 873 3634 P.1/6

Main Office  
400 North Tampa Street, Suite 9200  
Tampa, Florida 33602  
813/274-6000  
813/274-6558 (Fax)



Post Office Box 600  
200 West Forsyth Street, Suite 700  
Jacksonville, Florida 32201  
904/232-3509  
904/232-2620 (Fax)

2110 First Street, Suite 3-137  
Fort Myers, Florida 33901  
941/461-2200  
941/461-2219 (Fax)

U.S. Department of Justice  
United States Attorney  
Middle District of Florida

80 North Hughey Avenue, Room 201  
Orlando, Florida 32801  
407/648-7300  
407/648-7645 (Fax)

Reply to Jacksonville, FL

April 9, 2002

FACSIMILE: (757) 873-3634  
and  
FIRST CLASS MAIL

Richard E. Huddleston  
Administrative Law Judge  
Office of Administrative Law Judges  
603 Pilot House Drive - Suite 300  
Newport News, Virginia 23606-1904

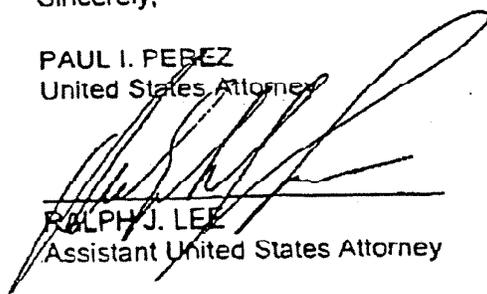
Re: In Re: Daniel Somerson  
Case No. 3:02-cv-121-J-20TEM

Dear Judge Huddleston:

Enclosed is your copy of the Consent Order issued by Harvey E. Schlesinger, United States District Judge, Middle District of Florida. Also enclosed are copies of letters of apology from Mr. Somerson that his attorney indicated to me would be sent upon the Court's issuance of the Consent Order (though they bear a date of March 7, 2002). Hopefully, this adequately addresses the circumstances giving rise to this action and will prove beneficial for the future. Should you require further discussion, please do not hesitate to contact me at your earliest convenience.

Sincerely,

PAUL I. PEREZ  
United States Attorney

  
RALPH J. LEE  
Assistant United States Attorney

Enclosures  
As stated

EXHIBIT B

FILED

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

2002 APR -8 P 12:51

IN RE:

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE, FLORIDA

CASE NO.: 3:02-cv-121-J-20-TEM

DANIEL S. SOMERSON

CONSENT ORDER

COMES NOW the parties to Consent to the entry of the following terms as an Order of this Court regarding the circumstances giving rise to this action.

This action was commenced with the filing of the Order Certifying Facts of the United States District Court for the Middle District of Florida by Richard E. Huddleston, Administrative Law Judge, U.S. Department of Labor, pursuant to 29 C.F.R. §18.29(b). Thereafter, this cause came to be heard before this Court on February 27, 2002 pursuant to the Order to Show Cause entered on February 14, 2002. Having been duly advised in the premises and based on the consent of the parties, the Court now finds that:

Daniel S. Somerson has engaged in unacceptable conduct in connection with certain communications with the Office of Administrative Law Judges, U.S. Department of Labor, with Administrative Law Judge Huddleston and his staff, and has acted in non-compliance with certain orders and directives associated with proceedings conducted under the authority of the Office of Administrative Law Judges, U.S. Department of Labor. Specifically, Daniel S. Somerson did

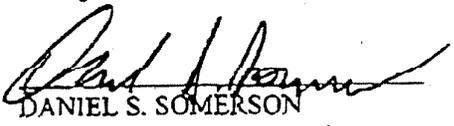
1. Present for filing certain papers via facsimile instead of by U.S. Mail in violation of Administrative Law Judge Huddleston's prehearing orders and directives prohibiting the filing of said papers by facsimile,
2. Interrupt hearing proceedings and engage in impertinent conduct and discourse with Administrative Law Judge Huddleston and other hearing participants during the proceedings, and
3. Engage in impertinent and derogatory conduct and discourse during a telephone conversation with Administrative Law Judge Huddleston's law clerk.

Accordingly, based on the foregoing findings and the further consent of the parties, it is hereby **ORDERED**

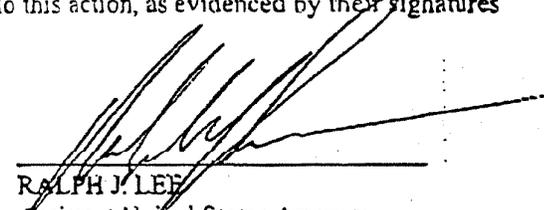
1. That Daniel Somerson shall conduct himself within the bounds of appropriate respect and decorum, albeit with allowance for appropriate zeal and vigor, during any proceedings, and any matters related thereto, held under the authority of the Office of Administrative Law Judges, U.S. Department of Labor, and regarding any other official purpose with any person or organization of the Office of Administrative Law Judges, U.S. Department of Labor, wherein Daniel S. Somerson is a party, a representative, a witness or other participant,
2. That Daniel S. Somerson shall issue written apologies, based on the foregoing, to
  - a. Judge Huddleston.
  - b. Judge Huddleston's law clerk, and
  - c. John M. Vittone, Chief Administrative Law Judge, U.S. Department of Labor, and

- 3. That this Court shall retain jurisdiction to enforce any violation by Daniel S. Somerson of this Consent Order and to impose any such sanction as may be provided for by law.

The following hereby CONSENT to and AGREE to the foregoing terms as an Order of this Court regarding the circumstances giving rise to this action, as evidenced by their signatures having been affixed below on the dates indicated.

  
 DANIEL S. SOMERSON

Date: April 4, 2002

  
 RALPH J. LEE

Assistant United States Attorney

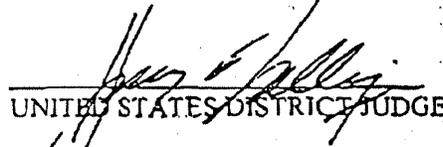
Date: 4/4/02

  
 MITCHELL A. STONE

Attorney for Daniel S. Somerson

Date: 4/4/02

APPROVED, DONE and ORDERED this 8<sup>th</sup> day of April, 2002  
 at Jacksonville, Florida. *The Clerk shall close this case.*

  
 UNITED STATES DISTRICT JUDGE

cc:  
 Daniel Somerson  
 Mitchell A. Stone, Esq.  
 Ralph J. Lee, AUSA

IT IS ORDERED

[REDACTED]  
Jacksonville, FL [REDACTED]

Daniel S. Somerson

Direct Dial:  
[REDACTED]

Fax:  
[REDACTED]

March 7, 2002

Chief Judge John Vittone  
OALJ  
800 K Street NW, Suite 400-N  
Washington, DC 20001-8002

Dear Judge Vittone:

This letter is intended to address my conduct with respect to 2002-STA-18&19. While precipitated by my passion for truck safety on America's highways, *specific comments, remarks and behavior* on my part before and during the hearing were in fact inappropriate and counterproductive.

Therefore please accept my most sincere apologies.

Sincerely,

  
Daniel S. Somerson

[REDACTED]  
Jacksonville, FL [REDACTED]

Daniel S. Somerson

Direct Dial:  
[REDACTED]

Fax:  
[REDACTED]

March 7, 2002

Judge Richard E. Huddleston  
Ms. Valerie Harris  
OALJ  
603 Pilot House Drive-Suite 300  
Newport News, VA 23606

Dear Judge Huddleston and Ms. Harris:

This letter is intended to address my conduct with respect to 2002-STA-18&19. While precipitated by my passion for truck safety on America's highways, *specific comments, remarks and behavior* on my part before and during the hearing were in fact inappropriate and counterproductive.

Therefore please accept my most sincere apologies.

Sincerely,

  
Daniel S. Somerson



EDWARD A. SLAVIN, JR.  
P.O. BOX 3084  
ST. AUGUSTINE, FLORIDA 32085-3084  
(904) 471-7023

November 20, 2002  
Honorable Edward Terhune Miller  
United States Administrative Law Judge  
800 K Street, N.W. Suite 400-N  
Washington, D.C. 20001 *via fax/mail*

**RE: Mr. DANIEL S. SOMERSON v. MAIL CONTRACTORS OF AMERICA. 2002-STA-44  
MR. SOMERSON'S SUPPLEMENTAL CITATIONS, MOTION TO LIFT STAY AND  
MOTION TO LIST RESPONDENT'S WEBSITE SURVEILLANCE AS ISSUE FOR TRIAL**

Dear Judge Miller:

Mr. Somerson respectfully stands on his prior responses to the Respondent's filings and the Court's Show Cause Order and moves for the Court to lift the stay and to kindly rule on discovery matters. Mr. Somerson has complied with the Consent Order and should not be further queried or stigmatized by lawbreaking Respondent seeking to chill his free speech rights on his web site <[www.truckingsolutions.com](http://www.truckingsolutions.com)>. The Court has emphatically ruled that Mr. Somerson's post-firing website is irrelevant and will not be considered. There was no violation of the Consent Order. There are no sanctions in DOL proceedings, e.g., for willful labor law violators like Mail Contractors of America to invoke to threaten whistleblower free speech and civil rights. See Rex v. EBASCO Services, Inc., 87-ERA-6 (Sec'y, March 4, 1994); Parshley v. America West Airlines, Inc., 2002-AIR-10 (Honorable Richard T. Stansell-Gamm RDO, August 2, 2002). It is not a crime in America for a worker to criticize disgruntled employers' actions.

It is illegal to punish or censor Mr. Somerson for criticizing large organizations. This is a matter of First Amendment rights, which this Court is duty-bound to protect. 5 U.S.C. § 3105. No Government may punish citizens because of their views. See, e.g., Bond v. Floyd, 385 U.S. 116 (1966). Fair trial rights must be protected. Goldfarb v. Virginia State Bar, 421 U.S. 773, 792 (1975). Litigation performs a vital role in protecting First Amendment rights. In re Primus, 436 U.S. 412, 431-32 (1978); In re Sawyer, 360 U.S. 622, 631-36 (1958). Litigation is itself a form of freedom of expression protected by the First Amendment. In re Halkin, 598 F.2d, 176, 187 (D.C. Cir. 1979); see also NAACP v. Button, 317 U.S. 415, 429-31 (1963). Litigation is often "a vehicle for effective political expression and association, as well as a means of conveying useful information to the public." In re Primus, 436 U.S. 412, 431 (1978). Whistleblower laws are like other labor laws patterned after the First Amendment.<sup>1</sup> See, e.g.

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<sup>1</sup> Worker protection laws protect free speech and are "modeled on the First Amendment." The Courts defer to this principle in legislative construction, e.g., by borrowing the statute of limitations used in 42 U.S.C. § 1983 civil rights actions. See Reed v. United Transportation Union (UTU), 488 U.S. 319, 334 (1989): Congress modeled Title I after the Bill of Rights, and that the legislators intended s 101(a)(2) to restate a principal First Amendment value--the right to speak one's mind without fear of reprisal." Steelworkers v. Sadlowski, 457 U.S. 102, 111, 102 S.Ct. 2339, 2345, 72 L.Ed.2d 707 (1982)....

(continued...)

EXHIBIT C

Republican Party of Minnesota v. White, 534 U.S. --- (June 27, 2002) (finding unconstitutional the Code of Judicial Conduct's "announce clause" barring judicial candidates from criticizing judges' decisions). Criticism of government officials (and even government contractors and judges) is favored under our First Amendment. See, e.g., New York Times v. Sullivan, 376 U.S. 254 (1964); Martin Marietta Corp. v. Evening Star Newspaper, 417 F.Supp. 947 (D.D.C. 1976); see also Ramsey v. Bd. of Professional Responsibility, 771 S.W. 2d 116, 121 (Tenn. 1989); Wood v. Georgia, 370 U.S. 375 (1962); Bridges v. California, 314 U.S. 242 (1941); Pennekamp v. Florida, 328 U.S. 331 (1946); Craig v. Harney, 331 U.S. 367 (1941); Standing Committee on Discipline of the United States District Court for the Central District of California v. Yagman, 55 F.3d 1430 (9th Cir. 1995); Oklahoma Bar Assn. v. Porter, 766 P.2d 958 (Okla. 1988).

As Justice William O. Douglas stated in Craig, even "Judges are supposed to be [people] of fortitude, able to thrive in a hardy climate." 331 U.S. at 376; In re: Little, 404 U.S. 553, 555 (1972). Respondent would best heed Justice Douglas' sage 1941 advice in Craig. Instead, Respondent is thin-skinned and squealing -- in ancient Arkansas argot, "like a hog caught under a gate." Respondent seeks to gag, chill, silence, taunt and punish criticism of Mail Contractors of America, evidently not a company "of fortitude," one unwilling (or unable) to "thrive in a hardy climate." 331 U.S. at 376. Respondent is an oligopolist USPS contractor, begging the Court to stifle criticism. Therefore, Mr. Somerson filed a new OSHA complaint, requesting investigation of Respondent's speech-chilling defense tactics, a "witch hunt" (in Mr. Davis' words). Respondent begs the Court to intrude into protected activity, stop the trial, and evade the implications of the Respondent's own acts, words and admissions during eight days of trial and intensified E-mail searches -- the very "hardy climate" that Respondent fears, loathes and seeks to chill, depriving the Constitution of "breathing space." See *Id.*<sup>2</sup> Both the First Amendment

<sup>1</sup> (... continued)

Reed v. UTU, 488 U.S. at 325 (Emphasis added). The Sixth Circuit held in a Railway Labor Act (RLA) case that it would apply the NLRA statute of limitations to an action brought pursuant to RLA. The Sixth Circuit stated that the "**same principles and rationale logically follow under each Act dealing [with] ... employer-employee relations.**" Bailey v. Chesapeake & Ohio Railway Co., 852 F.2d 185, 186 (6th Cir. 1988) (Emphasis added). See also Legislative history of the Federal Water Pollution Control Act cited in Conference Report of Clean Air Act, 1977 U.S. Code Cong. & Ad. News, 1077, 1404. In so delaying, prolonging and distorting the whistleblower process, Respondent has flouted "First Amendment values," Sadlowski, supra.

<sup>2</sup> See also, Barry Tarlow, "First Amendment Prevents Federal Judge From Muzzling Outspoken Lawyer," 19 NACDL Champion 30 (1995); Jeffrey A. White, "Note: Standing Committee on Discipline v. Yagman: The Ninth Circuit Provides Substantial First Amendment Protection for Attorney Criticism of The Judiciary," 26 Golden Gate U.L. Rev. 115 (Spring 1996); Dean Edward McGlynn Gaffney, Jr., "Professionalism in The Practice of Law: A Symposium on Civility and Judicial Ethics in the 1990s: The Importance of Dissent and The Imperative of Judicial Civility," 28 Valparaiso, U.L. 583 (Winter 1994); Chief Judge Judith S. Kaye, "A Symposium on Judicial Independence: Safeguarding A Crown Jewel: Judicial Independence and Lawyer Criticism of Judges," 25 Hofstra L. Rev. 703 (Spring 1997); Erwin Chemerinsky, "Silence is Not Golden: Protecting Lawyer Free Speech Under The First Amendment," 47 Emory L.J. 859

(continued...)

and whistleblower law require "breathing space." New York Times v. Sullivan, 376 U.S. 254, 271-72 (1964). The environmental whistleblower laws, like the First Amendment, are entitled to considerable "breathing space" to prevent a "chilling effect" on protected activity.<sup>3</sup> Respondent not give "breathing space" to Mr. Somerson's whistleblower rights: like a boa constrictor, it tried to suffocate him and thus halt his protected activity, and is now seeking to abuse this Court to extinguish his concerns, violate his rights and undermine the whistleblower laws.

As our American Founder Benjamin Franklin said, our critics are our friends" and we should learn from them. As Dr. Karl Z. Morgan, the father of Health Physics (radiation protection) wrote in his memoirs not long before his death:

**No society that severely restricts freedom of speech will ultimately survive.<sup>4</sup>**

Karl Z. Morgan, The Angry Genie: One Man's Walk Through the Nuclear Age (Oklahoma University Press 1999). Dr. Morgan writes about how free speech was (sometimes) treasured in the early days of Oak Ridge, as when Dr. Alvin Weinberg was Director of Oak Ridge National Laboratory. Dr. Morgan writes that Dr. Weinberg

**not only tolerated but sought employees who had the guts to disagree with them.**

They did not behave like so many other [ORNL] directors who only want to look in the mirror and see a reflection of their own views. Morgan at 66.

As President Harry S Truman said, if Respondents "can't stand the heat, they should get out of the kitchen." Contrary to the American spirit, Respondent oligopolist USPS contractor wants to punish disagreement: it wants the Court compliant and the whistleblower silenced: it wants this

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<sup>2</sup> (...continued)

(Summer 1998); W. Bradley Wendel, "Free Speech for Lawyers," 28 Hastings L.Q. (Winter 2001).

<sup>3</sup> Gasparinetti v. Kerr, 568 F.2d 311, 314-17 (3d Cir. 1977)(illegal restrictions on policemen's First Amendment rights); Philadelphia Newspapers, Inc. v. Hepps, 479 767, 772, 777 (1986)(O'Connor, J.)(newspaper entitled to breathing space defamation case); Hustler Magazine v. Falwell, 485 U.S. 46, 52, 56 (1988) (Rehnquist, J.) (magazine parody of TV preacher entitled to breathing space).; Keefe v. Ganeakos, 418 F.2d 359, 362 (1st Cir. 1969)(Aldrich, C.J.)(chilling effect on First Amendment illegal suspension of teacher over Atlantic Monthly article on Vietnam War); Parducci v. Rutland, 316 F.Supp. 352, 355, 357 (M.D. Ala 1970)(Johnson, C.J.)(chilling effect in illegal firing of English teacher over Kurt Vonnegut's Welcome to the Monkey House).

<sup>4</sup> See also, U.S. Constitution, Amendments. I, IV, V, VI, VIII, IX, XIV;  
Tennessee Constitution:

"Government being instituted for the common benefit, the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of humankind." Art. I, § 2.

"...The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject..." Art. I § 19.

If our Constitution had followed the style of Saint Paul, it would have said, "But the greatest of these is speech." In the darkness of tyranny, this is the key to the sunlight. If it is granted, all doors open. If it is withheld, none.

--- Robert F. Kennedy, January 22, 1963, Center for Study of Democratic Institutions.

Honorable Court to act as its short order cook, or its amanuensis in a "witch hunt." See, e.g., Arthur Miller, The Crucible. Under whistleblower and First Amendment law, there can be no "gag orders" or "prior restraint" on DOL environmental protected activity. Any requests for such unconstitutional orders should be referred to the FBI and the United States District Court, whose duty is to protect free speech rights. Meanwhile, Mr. Somerson's case should not be delayed any further by Respondent's diversion.

Any effort to compel Mr. Somerson to give testimony on his own (or others') web activities would invade the First Amendment and violate DOL whistleblower precedents. Before Respondent asks any questions relating to protected activity, Respondent should be ordered to post a bond equal to the lifetime future income (with retirement benefits) of all persons concerned, so as to protect against retaliation. See, Management Information Technologies v. Alyeska Pipeline Service Co., 151 F.R.D. 478 (D.D.C. 1993)(Judge Stanley K. Sporkin) (barring employers asking whistleblower identification questions unless defendants post a bond equal to whistleblowers' lifetime future income, benefits and pension and other retirement, protecting them from retaliation). Mr. Somerson also respectfully notes the Respondent's latest round of retaliation bears on the need for relief sought in his Motions in Limine 1,2,3,4,5,6,7,8,9,10,12.

Respondent's continued discovery stonewalling is without foundation. Further E-mail searches must be ordered of the two backup tapes not yet searched. As documented, the value of the information sought outweighs any annoyance or expense on the part of the Respondent. See Seff v. General Outdoor Advertising, 11 F.R.D. 597 (D. Ohio 1951). Mail Contractors of America -- by its retaliation, blacklisting, evidence withholding and delays -- violates civil and constitutional rights to Due Process and to present evidence in a civil case. See Adams v. St. Francis Regional Hospital Center, 955 P.2d 1169 (Kansas 1998); Edward J. Imwinkelreid, "The blockbuster Adams decision," TRIAL, October 1998, 26-30. Its hardball anti-whistleblower litigation tactics themselves violate the whistleblower laws. See Connecticut Light & Power Co. v. Secretary of the United States Department of Labor, 85 F.3d. 89 (2d Cir. 1996). Respondent government contractor is on notice that its actions could give rise to liability under federal civil and criminal civil rights laws as well as under DOL truck safety whistleblower law.

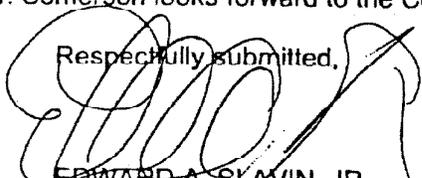
Mr. Somerson hereby respectfully moves to include Respondent's admitted website surveillance as an issue for trial due to Respondent's injection of it into this litigation and their chilling effect on Mr. Somerson's operation of a website that criticizes Respondents. As Mr. Somerson stated in support of his renewed August 28, 2002 Motion in Limine:

...the Court has the power to order Respondents not to create the impression among employees that their protected activity is under surveillance, and not to engage in such surveillance. Consolidated Edison Company, 4 NLRB 71, 94 (1937), enforced, 305 U.S. 197 (1938); Atlas Underwear Co. v. NLRB, 116 F.2d 1020, 1023 (6th Cir. 1941); NLRB v. Ford Motor Co., 119 F.2d 326 (5th Cir. 1941); Press Co. v. NLRB, 118 F.2d 937 (D.C. Cir. 1940), cert. denied 61 S.Ct. 1118; NLRB v. Baldwin Locomotive Works, 128 F.2d 39, 49 (3d Cir. 1942); NLRB v. Jasper Chair Co., 138 F.2d 756 (7th Cir. 1943); NLRB v. Collins & Aikman Corp., 146 F.2d 454, 455 (4th Cir. 1944). It is well known by DOL that: **whistleblowers often face some type of surveillance** ...The experience can be very frightening and can add an ominous presence to the misery of blowing the whistle.... We often advise that if someone is watching you, he or she wants you to become affected by the surveillance and to act irrationally about it. It can be another way of bullying you into a mistake.

Government Accountability Project, et al. Courage Without Martyrdom -- A Survival Guide for Whistleblowers 5 (1989)(Emphasis added). An Order barring surveillance or giving the impression of surveillance will protect the integrity of the proceedings and will deter future lawbreaking. See NLRB v. Anchorage Times Publishing Co., 637 F.2d 1359, 1365-6 (9th Cir.), cert. denied, 454 U.S. 835 (1981); NLRB v. Randall P. Kane Co., 581 F.2d 1124, 1131 (9th Cir. 1978); NLRB v. Squire Shops, Inc., 559 F.2d 486, 487 (9th Cir. 1977); NLRB v. Miller Redwood Co., 407 F.2d 215, 218 (9th Cir. 1978); NLRB v. Intertherm, 596 F.2d 267 (8th Cir. 1979); Russell Stover Candies, Inc. v. NLRB, 551 F.2d 204, 207 (8th Cir. 1977); NLRB v. Speed Queen, 469 F.2d 189, 191 (8th Cir. 1973); NLRB v. Hawthorn Co., 404 F.2d 1205, 1208-09 (8th Cir. 1969); Olsen Rug Co. v. NLRB, 304 F.2d 710, 714-15 (7th Cir. 1962); NLRB v. Tidelands Marine Service, 339 F.2d 291 (5th Cir. 1964); National Phosphate Corp., 211 NLRB 567 (1974); Fotomat Corp., 207 NLRB 461 (1973); J.P. Stevens & Co., 245 NLRB 198 (1979); Laidlaw Waste Systems, 305 NLRB No. 5 (1991); see also Local 309, United Furniture Workers v. Gates, 75 F.Supp. 620, 625-26 (N.D. Ind. 1948); Alliance to End Repression v. City of Chicago, 742 F.2d 1007 (7th Cir. 1984); Handschu v. Special Services Divn, 349 F.Supp. 766 (S.D.N.Y. 1972); Presbyterian Church (USA) v. United States, 870 F.2d 518 (9th Cir. 1989); Philadelphia Yearly Meeting of the Religious Society of Friends v. Tate, 519 F.2d 1335 (3d Cir. 1975); Paton v. LaPrade, 524 F.2d 862 (3d Cir. 1975); Cf. Fr. Robert F. Drinan, "First Amendment Endangered" (book review) 78 Geo L.J. 2057 (1990).  
 Injunctive relief against Mail Contractors of America engaging in surveillance or giving the impression of surveillance must be ordered by DOL....

Any order against Mr. Somerson by the Court based upon Respondent's website surveillance would be poisoned by that surveillance, not unlike the proverbial "fruit of the poisonous tree." The Court must reject all proposed First Amendment violations, "prior restraints," and improper attempts to use this forum for discovery on some inchoate actions Respondent retaliator Allison Brewer hinted at during trial. The Court must reject all civil rights violations. The Court must reject all censorship orders as outside the Court's *in personam* and subject matter jurisdiction. Otherwise, "[o]nly a brave soul would dare to express anything other than orthodoxy under such circumstances." White v. Davis, 120 Cal. Rptr. 94 (1975). Any and all licit or illicit pressures upon the Court to punish, inquire into, refer or sanction any alleged out-of-court protected activity must be rejected as outside the Court's jurisdiction: that is the law of the case. The stay should be lifted. Respondent's self-confessed website surveillance must be scrutinized by the Court at trial to see if Respondent's web surveillance activities may give rise to further liability and remedies under the Surface Transportation Act and DOL whistleblower precedents.

Mr. Somerson looks forward to the Court's further orders, hearing and RDO in this action.

Respectfully submitted,  


EDWARD A. SLAVIN, JR.  
 COUNSEL FOR COMPLAINANT DANIEL S. SOMERSON

CERTIFICATE OF SERVICE

This document was on November 20, 2002 mailed/faxed to this Honorable Court and to Messrs Somerson, Davis, Moore, Bachman and Ms. Brewer, Esquires and mailed to Senior Special Agent Robert E. Tyndall (Retired) and the USPS Inspector General.  
 Edward A. Slavin, Jr.



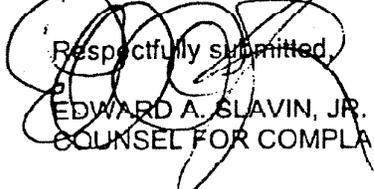
EDWARD A. SLAVIN, JR.  
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(904) 471-7023

December 2, 2002  
Honorable Edward Terhune Miller  
United States Administrative Law Judge  
800 K Street, N.W. Suite 400-N  
Washington, D.C. 20001 *via fax/mail*

**RE: Mr. DANIEL S. SOMERSON v. MAIL CONTRACTORS OF AMERICA. 2002-STA-44**  
**MR. SOMERSON'S SUPPLEMENTAL CITATIONS**

Dear Judge Miller:

Mr. Somerson hereby respectfully provides the following supplemental citations: Talley v. California, 362 U.S. 60(1960)(First Amendment right to circulate anonymous handbills); McIntyre v. Ohio Elections Commission, 514 U.S. 334 (1995)(First Amendment protects anonymous political speech that is not actionably false); Buckley v. American Constitutional Law Foundation Inc., 525 U.S. 182 (1999)(petition circulators cannot be required to identify themselves or their funders); Reno v. ACLU, 521 U.S. 844, 117 S.Ct. 2329, 2335, 138 L. Ed. 2d 874 (1997). (Internet "constitutes a vast platform from which to address and hear from a worldwide audience of millions of readers, viewers, researchers, and buyers."); New York Times Co. v. United States, 403 U.S. 713, 718-726 (1971)(refusing prior restraint in Pentagon Papers case); Carafano v. Metrosplash.com, Inc., 207 F. Supp. 2d 1055 (C.D. Cal. 2002) ✓ (summary judgment for defendants on alleged website invasion of privacy); Yahoo!, Inc. v. La Ligue Contre Le Racisme et L'Antisemitisme, 169 F. Supp. 2d 1181 (N.D. Cal. 2001)(First Amendment precludes enforcement of French order directed against website selling Nazi memorabilia in violation of French law); Tzougrakis d/b/a Offtherunway.com v. Cyveillance, Inc., 145 F. Supp. 2d 325 (S.D.N.Y. 2001)(summary judgment for defendants' using Internet to publish allegations of counterfeit fashion designs); Amway Corp. v. Procter & Gamble Co., 2001 U.S. Dist. LEXIS 14455 (W.D. Mich. 2001)(dismissing claims against corporations and law firm for providing litigation documents to consultant who posted them with criticism of Amway on website); I. M. L. v. Utah, 2002 UT 110, 2002.Utah LEXIS 171 (Utah Supreme Court November 15, 2002)(dismissing criminal libel charge against high school student for website satirizing, criticizing and mocking high school principal, teachers and students, applying "actual malice" standard and invalidating century old criminal libel statute resembling Alien and Sedition Acts); Mathis a/k/a "duelly41" v. Cannon, 2002 Ga. LEXIS 1071 (Georgia Supreme Court, November 25, 2002)(limited public figure status for Internet speech regarding public controversy and public funds precludes any punitive damages for web posting). Demands to criminalize, punish or censor protected activity, violate the First Amendment and delay justice should be rejected.

Respectfully submitted,  
  
EDWARD A. SLAVIN, JR.  
COUNSEL FOR COMPLAINANT DANIEL S. SOMERSON

CERTIFICATE OF SERVICE

This document was on December 2, 2002 mailed/faxed to the Court and to Messrs Somerson, Davis, Moore, Bachman and Ms. Brewer, Esquires and mailed to Senior Special Agent Robert E. Tyndall (Retired) and the DOL and USPS IGs. Edward A. Slavin, Jr.

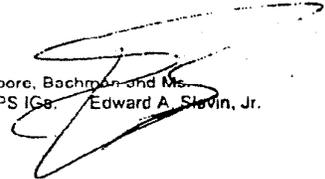


EXHIBIT D