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Attorneys for Defendant Maricopa County

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

SCOTT M. MCNAIR,
Plaintiff,

v.

MARICOPA COUNTY
DEPARTMENT OF
TRANSPORTATION; STATE OF
ARIZONA PERSONNEL BOARD;
KENNETH MEDLIN; TERRY
PETERSON; JENNIPHER RAMSEY,

Defendants.

NO. LC 2003-000530-002-DT

**SEPARTE RESPONSE TO MOTION
FOR TRIAL DE NOVO AND TRIAL BY
JURY OF DEFENDANT'S MARICOPA
COUNTY DEPARTMENT OF
TRANSPORTATION, MEDLIN,
PETERSON, AND RAMSEY**

(Assigned to the Honorable
Michael D. Jones)

Defendants Maricopa County Department of Transportation (MCDOT),
Kenneth Medlin, Terry Peterson and Jennipher Ramsey, by their counsel, hereby
responds to Plaintiff's Motion for trial de novo and trial by jury and requests that

1 this Court deny Plaintiff's motion. Defendants' request is based on the attached
2 memorandum of points and authorities.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **PLAINTIFF IS NOT ENTITLED TO A TRIAL DE NOVO OR TRIAL BY JURY.**

5 On February 10, 2003, a hearing was held before the Arizona State
6 Personnel Board. The hearing was recorded and Counsel for the Board will be
7 preparing a transcript and filing said transcript with this Court. (See paragraph V
8 of the Board's answer). Therefore, pursuant to the Administrative Procedures
9 Act, Plaintiff is not entitled to either a trial de novo or a jury trial. Specifically
10 A.R.S. §12-910(C) states:


11 The trial shall be de novo... if a hearing was not held by
12 the agency or the proceedings before the agency were
13 not stenographically reported or mechanically recorded
14 so that a transcript might be made.

15 In this case the Arizona State Personnel Board heard the matter, docket
16 number 02-056. Further the proceedings were mechanically recorded and
17 Plaintiff requested and received a transcript.

18 Defendants therefore respectfully request that this Court deny Plaintiff's
19 motion since he is not entitled to either a trial de novo or a jury trial.

20 RESPECTFULLY SUBMITTED this ___ day of July 2003.

21 RICHARD M. ROMLEY
22 MARICOPA COUNTY ATTORNEY

BY: 
DANIEL R.
Deputy County Attorney
Attorney for Defendants

1 ORIGINAL of the foregoing FILED
2 and copy HAND-DELIVERED this
3 23rd day of July 2003, to:

3 Honorable Michael D. Jones
4 Judge of the Superior Court
5 Central Court Building, Suite 10A
6 201 West Jefferson Street
7 Phoenix, Arizona 85003

8 and COPY mailed to:

9 Scott M. McNair

10 
11 Phoenix, Arizona 
12 Plaintiff Pro Per

13 
14 _____

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