

1 Scott M. McNair (Complainant, Pro Se)
2 [REDACTED]
3 Phoenix, Arizona [REDACTED]

04/10/12 2:00:15
MARICOPA COUNTY
SECRETARY

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5 **MARICOPA COUNTY**
6 **EMPLOYEE MERIT SYSTEMS COMMISSION**

8 SCOTT M. MCNAIR
9 Complainant

CASE NO. MC-WB-2004-1

10 v.

**WITHDRAWAL OF COMPLAINANT'S
MOTION FOR CONTINUANCE**

11 MARICOPA COUNTY, et al
12 Respondents

Assigned to Hearing Officer David Gering

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14
15 **I. PLEA FOR LENIENCY AND WAIVER OF FORMAL REQUIREMENTS**

16 In that the Complainant (McNair) is neither represented by counsel nor had any formal legal
17 training, he does hereby request leniency from the Commission for the form and content of this
18 pleading, and requests that the Commission waive and/or suspend any formal procedural
19 requirement necessary in order to insure the Complainant due process and equitable justice, and
20 to insure that a fair and just determination can be made. (*"Pro se litigants' pleadings are not to be*
21 *held to the same high standards of perfection as lawyers."*)
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¹ Haines V. Keinei, 92 S.CL. 594; Jenkins V. McKeithen, 395 US 411, 421 (1969); Picking V. Penna. Rwy. Co. 151 F.2d 240; Puckett V. Cox, 456 F.2d 233.)

1 **II. WITHDRAWAL OF CONTINUANCE**

2 For the reasons set forth herein, the Complainant does hereby withdraw his motion for
3 continuance of the October 6 2004 hearing.

4 Furthermore, since the Respondents have failed to deny the charges against themselves and
5 failed to submit any evidence on their own behalf, the Complainant hereby demands that Hearing
6 Officer David Gering immediately issue a recommendation on behalf of the Complainant, based
7 upon the evidence of record submitted by him.

8 **III. MEMORANDUM**

9 On October 6 2004 a Hearing of the above captioned matter was held before Hearing Officer
10 David Gering.

11 Prior to those proceedings the Complainant filed a number of discovery and disclosure
12 requests with both the Commission and counsel for the Respondents. These requests included
13 requests for free copies of public records as allowed by ARS 39-122, and for copies of and access
14 to documents from the Commission as required to be made available to the Complainant by the
15 rules of the Maricopa County Employee Merit Commission. The Complainant also provided both
16 the Commission and Counsel for the Respondents notice that the individual Respondents would
17 be called as witnesses at the hearing.

18 Upon commencement of those proceedings, it was discovered that the Respondents were
19 refusing to appear on their own behalf, had no intention of ever appearing or answering the
20 charges against themselves, had deliberately withheld all documents and evidence requested by
21 the Complainant, and had every intention to continue to withhold such.

22 It was further noted by the Hearing Officer that both he and the Commission had deliberately
23 withheld all documents requested by the Complainant, and that they had every intention to
24 continue to withhold such.

1 The Complainant however did appear and submitted numerous documents to the Hearing
2 Officer to be included in the official record of this matter.

3 Upon recognizing the Respondents' refusal to appear or defend themselves against the
4 charges, and recognizing their commitment to inhibit all discovery and disclosure in this matter,
5 the Hearing Officer offered the Complainant the option of a continuance in order to compel their
6 appearance and production of records.

7 Hearing Officer David Gering went on further to state that he had no intention of issuing any
8 order to compel the Respondents to appear or to produce any records.

9 Additionally, Hearing Officer David Gering himself has refused to produce any records
10 requested by the Complainant that would establish Gering's authority to act as representative for
11 the Commission, or which would establish or refute his impartiality in this matter.

12 IV. CONCLUSION

13 The Respondents have failed to appear or deny the charges against themselves.

14 The Respondents (Maricopa County, Andrew Kunasek, David Smith, Fulton Brock, Mary
15 Rose-Wilcox, Max Wilson, Don Stapley, Richard Romley, David Smith, John/Jane Doe[s]),
16 through their own actions and those of their counsel, and through their failure to deny the
17 allegations, have made it apparent that they have deliberately violated the employment and
18 constitutional rights of the Complainant, criminally violated ARS 41-771 et. seq., and intend to
19 continue doing so.

20 Of his own accord, Hearing Officer David Gering has shown that he intends to allow, if not
21 assist, the Respondents in their criminal actions and continued violation of the Complainants
22 employment and constitutional rights, thereby making himself a willing accomplice to such.

23 The Commission members (Saul Larsen, Dan Reeb, Art Parker, Mort Maimon) and it's
24 Administrator (Janice Stratton), have ignored their obvious conflicts of interest in this matter, and

1 instead have chosen to abuse the authority of their positions in order to aide the Respondents in
2 their unlawful actions, thereby making themselves willing accomplices to such.

3 The Respondents (Maricopa County, Andrew Kunasek, David Smith, Fulton Brock, Mary
4 Rose-Wilcox, Max Wilson, Don Stapley, Richard Romley, David Smith, John/Jane Doe[s]) have
5 been afforded ample opportunity to appear and deny the charges, to provide testimony and
6 evidence on their own behalf, and have chosen not to.

7 In that the continuance was issued solely in response to the Complainant's request, he
8 therefore withdraws such, and demands that Hearing Officer David Gering immediately issue his
9 recommendation to the Commission, based solely upon the evidence contained in the record as of
10 October 6 2004.

11 Thereby expediting these matters, in order to allow the Complainant to pursue civil and
12 criminal prosecution of the Respondents, and all those that have aided or assisted them in their
13 unlawful actions.

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17 **RESPECTFULLY SUBMITTED this __12th__ day of __NOVEMBER__ 2004.**

18 By: _____

19 Scott M. McNair, Complainant (Pro Se)

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ORIGINAL of the foregoing FILED this day with:

Maricopa County Employee Merit System Commission
301 West Jefferson, Suite 219
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered this day to Counsel for Respondents:

Maricopa County, et. al.
Division of County Counsel
Attn: Mr. Daniel Brenden
222 North Central Avenue, Suite 1100
Phoenix, Arizona 85004

By: _____

Scott M. McNair, Complainant (Pro Se)