

STATE OF NEW MEXICO  
COUNTY OF SOCORRO  
SEVENTH JUDICIAL DISTRICT

KATHY TORRES,

Plaintiff,

v.

Case No. D 725-CV-2011-120

SOCORRO ELECTRIC COOPERATIVE, INC.,  
PAUL BUSTAMANTE and CHARLES WAGNER,

Defendants.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 4<sup>TH</sup> day of June, 2013 Defendant Socorro Electric Cooperative's Eighth Requests For Production to Plaintiff Kathy Torres was mailed to all counsel, and this Certificate of Service was filed via the electronic filing system of the Seventh Judicial District Court, which caused counsel of record to be served by electronic means.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By /s/ Aaron C. Viets

Aaron C. Viets

Krystle A. Thomas

Post Office Box 1888

Albuquerque, New Mexico 87103

Telephone: (505) 765-5900

*Attorneys for Defendants Socorro Electric Cooperative,  
Inc. and Paul Bustamante*

7TH JUDICIAL DISTRICT COURT  
SOCORRO COUNTY NM  
FILED IN MY OFFICE  
6/6/2013 2:32:40 PM  
VIRGINIA VIVIAN  
DISTRICT COURT CLERK  
/s/ Olga Needy 6/6/2013

STATE OF NEW MEXICO  
COUNTY OF SOCORRO  
SEVENTH JUDICIAL DISTRICT

KATHY TORRES,

Plaintiff,

v.

Case No. D 725-CV-2011-120

SOCORRO ELECTRIC COOPERATIVE, INC.,  
PAUL BUSTAMANTE and CHARLES WAGNER,

Defendants.

**SUPPLEMENT TO**  
**DEFENDANT SOCORRO ELECTRIC COOPERATIVE'S MOTION FOR**  
**PROTECTIVE ORDER AS TO MARCH 2013 REPORT BY IRA BOLNICK**

Defendant Socorro Electric Cooperative ("SEC") hereby supplements its Motion For Protective Order As To March 2013 Report By Ira Bolnick, in accordance with Rule 1-026(C).

The discovery request at issue is attached as Exhibit 1.

Respectfully submitted,

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By: /s/ Aaron C. Viets

Aaron C. Viets

P.O. Box 1888

Albuquerque, New Mexico 87103

Phone: (505) 765-5900

Fax: (505) 766-7527

*Attorneys for Defendants Socorro Electric Cooperative,  
Inc. and Paul Bustamante*

I HEREBY CERTIFY that on the 6th day of June 2013  
I filed the foregoing pleading electronically through the  
electronic filing system of the Seventh Judicial District Court,  
which caused counsel of record to be served by electronic  
means, as more fully reflected on the Notice of Electronic Filing.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By: /s/ Aaron C. Viets  
Aaron C. Viets

6-4

SEVENTH JUDICIAL DISTRICT  
STATE OF NEW MEXICO  
COUNTY OF SOCORRO

KATHY TORRES,

Plaintiff,

vs.

Case No. D 725-CV-2011-120

SOCORRO ELECTRIC COOPERATIVE, INC.,  
PAUL BUSTAMANTE AND CHARLES WAGNER,  
Defendants.

**SOCORRO ELECTRIC COOPERATIVE, INC.'S RESPONSE TO PLAINTIFF'S SEVENTH (EIGHTH) SET OF REQUESTS FOR PRODUCTION TO DEFENDANT SEC**

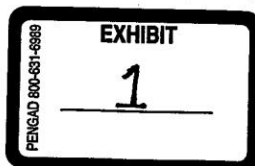
Socorro Electric Cooperative, Inc. responds to Plaintiff's Seventh/Eighth Set of Requests for Production as follows:

**REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION No. 43:** Produce reports, findings, conclusions and any other documents provided to Attorney Ira Bolnick, relating to his investigation of Charles Wagner as authorized by the Board of Trustees on or about December 27, 2012, and this request includes all communication, emails, reports, findings from Ira Bolnick to Board of Trustees and/or its President regarding any investigation of Charles Wagner.

**RESPONSE:**

Attorney Ira Bolnick prepared two responsive reports. One, dated March 27, 2013, part of which was discussed during an open session of the Board meeting that evening, is privileged as more particularly described in an enclosed privilege log. In addition, this report is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because it is connected to an investigation that post-dated the termination of Plaintiff and, therefore, could not have and did not have any bearing on the termination. This report does not concern the employment decisions about Plaintiff nor does it concern the audits undertaken at or around the time of Plaintiff's termination nor does it relate to any allegations of discrimination or retaliation.



A second report, dated April 24, 2013, regarding Mr. Wagner and the allegations unique to him in the cases of *Torres v. SEC*, Case No. D-725-CV-2011-120, and *Pineda v. SEC*, Case No. CV-2011-11975, was presented to the Board in executive session at its regular meeting of that date and is not produced because it is privileged and otherwise protected from discovery, as more particularly described in an enclosed privileged log. In addition, this report is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because it is connected to an investigation that post-dated the termination of Plaintiff and any allegations of discrimination/retaliation, therefore, could not have and did not have any bearing on the termination. Moreover, the documents provided to Mr. Bolnick do not concern the employment decisions about Plaintiff nor do they concern the audits undertaken at or around the time of Plaintiff's termination.

Documents provided to Mr. Bolnick include but are not limited to: CD and tape logs from the Oct. 11, 2012 Writ of Mandamus hearing in *West v. SEC*, No. D-725-CV-2012-89; CD, tape logs, and transcript from the Dec. 12, 2012 continued Writ of Mandamus hearing in *West v. SEC*, No. D-725-CV-2012-89; June 24, 2011 Order on Hearing on Partial Merits in *SEC v. West*, No. D1314-CV-2010-0849; all written discovery in the cases of *Torres v. Socorro Electric Cooperative, Inc. et al.*, Case No. D 725-CV-2011-120, and *Pineda v. Socorro Electric Cooperative, Inc. et al.*, Case No. D-202-CV-2011-11975; Defendant Wagner's Motion for Protective Order in the *Torres* case; Letter from Judge Parsons to all counsel in the *Torres* case dated Nov. 13, 2012; Plaintiff's Reply to Defendant Socorro Electric Cooperative, Inc.'s Response to Plaintiff's Motion for Partial Summary Judgment in *Pineda*, undated. Some other documents are privileged, as more particularly described in an enclosed privilege log. The materials provided to Mr. Bolnick that Plaintiff does not already have are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because they are connected to an investigation that post-dated the termination of Plaintiff and, therefore, could not have and did not have any bearing on the termination. Moreover, the documents provided to Mr. Bolnick that Plaintiff does not already have do not concern the employment decisions about Plaintiff nor do they concern the audits undertaken at or around the time of Plaintiff's termination.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By Aaron C. Viets  
Aaron C. Viets

Krystle A. Thomas

*Attorneys for Defendants Socorro Electric Cooperative, Inc. and Paul Bustamante*

Post Office Box 1888

Albuquerque, New Mexico 87103

Telephone: (505) 765-5900

[aviets@rodey.com](mailto:aviets@rodey.com)

[kthomas@rodey.com](mailto:kthomas@rodey.com)

**SEC's PRIVILEGE LOG re: BOLNICK REPORTS**

*Torres v. Socorro Electric Cooperative, Inc. et al. & Pineda v. Socorro Electric Cooperative, Inc. et al.*

DOCUMENT	SUBJECT	COMMENTS	APPLICABLE PRIVILEGE
<p>“Investigative Report to Lorna Wiggins, Counsel for the Socorro Electric Cooperative” dated Mar. 27, 2013 &amp; exhibits (all portions other than section entitled “witness summaries”)</p>	<p>Trustee Charles Wagner’s recording of executive sessions of Board meetings; contact with SEC vendor; claims for reimbursement of trustee expenses; conflict of interest; allegations of unprofessional (not discriminatory) conduct; and his retaliation allegation</p>	<p>This report was prepared at the request of general counsel for SEC, Wiggins, Williams and Wiggins, PC (Lorna Wiggins, Esq.) so that she could provide advice to her client regarding Trustee Wagner.</p> <p>The investigator verbally summarized these portions of the report at an open session of the Board meeting on March 27, 2013. Counsel distributed the report only to Board members and management, including Trustee Wagner, at the start of the March 27, 2013 meeting, and it was collected from them at the conclusion of that meeting.</p>	<p>Attorney-client privilege</p>
<p>“Investigative Report to Lorna Wiggins, Counsel for the Socorro Electric Cooperative” dated Mar. 27, 2013 (section entitled “witness summaries”)</p>	<p>Witness comments to the investigator regarding Trustee Charles Wagner</p>	<p>This report was prepared at the request of general counsel for SEC, Wiggins, Williams and Wiggins, PC (Lorna Wiggins, Esq.) so that she could provide advice to her client regarding Trustee Wagner.</p> <p>This portion of the report has never been discussed publicly and was compiled in anticipation of the <i>Torres &amp; Pineda</i> cases. Counsel distributed the report only to Board members and management, including Trustee Wagner, at the start of the March 27, 2013 meeting, and it was collected from them at the conclusion of that meeting.</p>	<p>Attorney-client privilege  Work product</p>

<p>“Investigative Report to Lorna Wiggins, Counsel for the Socorro Electric Cooperative” dated Apr. 24, 2013</p>	<p>Allegations of discrimination against Charlie Wagner that are the subject of the <i>Torres &amp; Pineda</i> cases</p>	<p>This report was prepared at the request of general counsel for SEC, Wiggins, Williams and Wiggins, PC (Lorna Wiggins, Esq.) so that she could provide advice to her client regarding Trustee Wagner. It was prepared in connection with, and in anticipation of, the <i>Torres &amp; Pineda</i> cases. It was presented to the Board, not including Trustee Wagner, only in executive session of the Board at its April 2013 meeting. All trustees other than Mr. Wagner were provided with copies during that meeting, which were collected at the conclusion of the meeting.</p>	<p>Attorney-client privilege  Work product  Executive session privilege/immunity (see NMSA 1978, § 10-15-1(H); <i>Romero v. City of Santa Fe</i>, 2006-NMSC-028, 139 N.M. 671, 137 P.3d 611.)</p>
--	--	---	---

**SEC's PRIVILEGE LOG re: DOCUMENTS TO IRA BOLNICK**

*Torres v. Socorro Electric Cooperative, Inc. et al. & Pineda v. Socorro Electric Cooperative, Inc. et al.*

<b>DOCUMENT</b>	<b>SUBJECT</b>	<b>COMMENTS</b>	<b>APPLICABLE PRIVILEGE</b>
Letter from Hunz, Plitt, Hyland & Demlong, attorneys at law, dated July 24, 2012	Coverage opinion from SEC's insurer's law firm listing Charles Wagner as claimant re: cross claim in <i>SEC v. West</i> , No. D-1314-CV-2010-849		Attorney-client privilege  Work product
July 22, 2010 letter from D. Franchish to SEC Trustees	K. Torres' charge of discrimination	Attorney provides advice to his clients re: charge	Attorney-client privilege  Work product
Aug. 26, 2011 letter from D. Franchish to SEC Trustees	reimbursement requests by Mr. Wagner	Attorney provides advice to his clients re: reimbursements to Trustee Wagner	Attorney-client privilege
Email strings dated Feb. 14, 2013 to Mar. 22, 2013 between investigator and Trustee Wagner	Reimbursement to Trustee Wagner re: NRECA Directors Conference in Biloxi	Communications between agent for lawyer and SEC Trustee to facilitate the giving of legal advice to her client	Attorney-client privilege
Email strings dated Feb. 12, 2013 to Feb. 25, 2013 between Eileen Latasa and investigator	Reimbursement to Trustee Wagner re: NRECA Directors Conference in Biloxi	Communications between agent for lawyer and SEC employee to facilitate the giving of legal advice to her client	Attorney-client privilege



<p>Email strings dated Feb. 12, 2013 between investigator and Trustee Wagner</p>	<p>Hearing with Judge Reynolds at which Trustee Wagner testified; police report filed by Trustee Wagner against Trustee Ulibarri; 2010 Policy &amp; Finance Committee meeting; replacing the interim general manager</p>	<p>Communications between agent for lawyer and SEC Trustee to facilitate the giving of legal advice to her client</p>	<p>Attorney-client privilege</p>
<p>Message from Joseph Herrera to investigator re: 2-12-12 email from Wagner to Herrera &amp; re: 4-20-12 email from Wagner to Fredericks &amp; Herrera</p>	<p>Comments re: Trustee Wagner's knowledge of policies</p>	<p>Communications between agent for lawyer and SEC employee to facilitate the giving of legal advice to her client</p>	<p>Attorney-client privilege</p>
<p>Email from Trustee Wagner to investigator, undated</p>	<p>Re: advance review of report</p>	<p>Communications between agent for lawyer and SEC Trustee to facilitate the giving of legal advice to her client</p>	<p>Attorney-client privilege</p>

Memo from Wiggins, Williams, and Wiggins to Joseph Herrera and Donald Wolberg undated	Re: talking points for April 25, 2012 Board meeting discussion re: removal of Trustee Wagner from committees	Communications between lawyer and SEC employee and SEC Trustee to facilitate the giving of legal advice to her client	Attorney-client privilege Work product
Email and letter dated Aug. 2, 2012 from Trustee Wagner to Lorna Wiggins, Esq.	Re: 2012 annual meeting	Communications between lawyer and SEC Trustee to facilitate the giving of legal advice to her client	Attorney-client privilege
letter dated Aug. 7, 2012 from Trustee Wagner to Lorna Wiggins, Esq.	Re: censure of Trustee Wagner	Communications between lawyer and SEC Trustee to facilitate the giving of legal advice to her client	Attorney-client privilege
Email from Lorna Wiggins, Esq. to investigator	Re: Trustee Wagner's position regarding iPads	Communications between lawyer and her agent to facilitate the giving of legal advice to her client	Attorney-client privilege Work product