

This material is part of a collection that documents the harassment, discrimination, and retaliation perpetrated against Alaska's women research scientists by their supervisor, with full knowledge (and arguably, "tacit approval") of their federal employer, the USDA Agricultural Research Service (ARS)

WITNESS AFFIDAVIT

I, Jania Contento, am X an employee of _____ applicant to _____ former employee of the:

(Agency) U. S. Department of Agriculture
(Office) Agricultural Research Service
(Division) Sub Arctic Agricultural Research Unit
(Branch) University of Alaska Fairbanks
Located in (city and state) Fairbanks, AK 99775

In the capacity of (show both your organization title and the classification of your job, if different):

Administrative Officer

Grade GS-341-12 between (date) November 2004 and (date) to the present time

My telephone number during working hours is: 907-474-6516

I HAVE BEEN ADVISED OF THE FOLLOWING:

I am required by Federal regulations and Department of Agriculture policy to cooperate fully and promptly with the investigator who has been assigned to conduct a thorough and impartial investigation into a complaint of discrimination against the Department of Agriculture. I must provide a statement for the investigative report which is true and complete to the best of my knowledge and which discloses all of my first-hand knowledge having a bearing on the merits of the complaint. My statement is provided under oath (or affirmation), without a pledge of confidentiality, in accordance with Equal Employment Opportunity Commission rules and regulations and Department of Agriculture policy. This means that any employee(s) whom I accuse of discrimination or other acts of impropriety may be shown relevant portions of my affidavit and be provided an opportunity to respond for the record. In addition, the complainant and the appropriate Department Officials involved in the EEO complaint process will receive the entire investigative file. I have the right to review my statement prior to signing it and may make initialized corrections if it is incomplete or inaccurate. I have the right to receive a copy of the signed statement.

Having been advised of the above information about my role as a witness in the investigative process, I solemnly swear X affirm _____ the statement which follows is true and complete to the best of my knowledge and belief, and addresses the issues and concerns raised with me by the investigator.

1. Please state your name for the record.

(Answer) My name is Janis Contento.

2. What is your gender?

(Answer) I am a female.

3. What are your job title, occupational series, and grade?

(Answer) I am an Administrative Officer, GS- 341-12.

4. What are your major duties? My major duties

(Answer) I provide administrative support to personnel in the management unit located in Fairbanks and Palmer, AK. Personnel include the scientists and their technicians. We also have an influx of STEP appointments which are students or LA appointments which are limited appointees that are 130 or 180 days. Appointments are budget related.

5. How long have you been in your present position? Date?

(Answer) I have been in my present position since November 2004.

6. How long have you worked for the Federal government?

(Answer) I will have 27 years as a Federal employee in April 2009.

7. What is the organizational name of the unit/branch/section/division to which you are assigned?

(Answer) I work for the USDA, Agricultural Research Service, Subarctic Agricultural Research Unit, University of Alaska Fairbanks.

8. Where is your duty station located? City/County/State?

(Answer) My duty station is located in Fairbanks, North Star Borough, Alaska.

9. Who is your immediate supervisor? Name and job title?

Throughout this document, Ms. Contento consistently credits all male Ph.D.s with the correct title "Dr.", but (consistently) omits this title of respect every time she refers to a female Ph.D. [Examples: Drs. Pantoja, Bechtel, Kuhl, and Ianson are men, whereas Drs. Robertson, Bower, Furman, and McHugh are women and therefore not accorded recognition as Ph.D. scientists. Dr. Winton is not (Answer) My immediate supervisor is Dr. Alberto Pantoja, Research Leader. mentioned at all, despite

10. How long has h/she been your immediate supervisor?

this being an affidavit about her EEO claim.]

(Answer) Dr. Pantoja has been my immediate supervisor since November 2004.

11. Who is your second line supervisor? Name, job title, and grade?

Although the lack of respect shown toward the women scientists listed in this document was probably not

(Answer) My second line supervisor is Jeff Van Houten, Deputy Area Director, introduced maliciously, it should be recognized for what it is: part of ARS's culture of disrespect that some women

12. How long has h/she been your second line supervisor?

scientists (such as Dr.s Winton, Bower, and Robertson) encountered

(Answer) Mr. Van Houten has been my second line supervisor since November 2004.

on an

13. Do you work with complainant? If yes, in what capacity?

almost daily basis while working for the USDA Agricultural Research

(Answer) Yes. I provide administrative support to complainant.

Service (ARS) in Alaska.

14. How long have you worked with complainant?

(Answer) I have worked with complainant since November 2004.

15. Can you describe what kind of working relationship you have with complainant?

(Answer) I try to treat complainant the same as I would anyone else in the unit. I try to support her in my administrative abilities.

16. Can you describe what kind of working relationship you have with Alberto Pantoja, Research Leader?

(Answer) Dr. Pantoja has an open door policy. I discuss administrative issues with him on a daily basis since he is in charge of the unit.

17. Have you been asked to sit in on meetings between complainant and Dr. Pantoja? If yes, what was your role and why? What topics were discussed (e.g. utilization of space, travel, personnel matters, etc.)? Please describe the meetings you have attended involving complainant.


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(Answer) I am only a third party observer to ensure that the communication is professional at all times. I keep personal notes of the meeting. These are notes I don't keep. I can't remember when I started sitting in on the meetings between complainant and Dr. Pantoja. I have been doing this for about two or three years. I have been asked to be a third party observer with other scientists. They are Nancy Robertson and Cindy Bower. The meetings have all been very direct and business-like. I sit in on many meetings with scientists in an administrative capacity.

18. What was the tenor of the meeting(s)?

(Answer) The meetings have all been very direct and business-like.

19. Have you been asked to sit in on meetings between other Scientists and Dr. Pantoja? If yes, who and when?

(Answer) Yes, see my response to question 17.

20. How would you describe the work environment where complainant is situated?

(Answer) When I first arrive at ARS I shared an office with a secretary, small space, very crowded, and my chair would bump up against the Secretary's chair. As I found out at any university, space is scarce. After being with ARS for a year the university finally gave us some office space so that we could expand. Now I have an office by myself. My office is next to the complainant. The administrative staff of two people is next to the complainant. Across the hall is another scientist.

I just had my financial technician leave so that is a bummer. I try to keep things light and upbeat, but at the same time get our work done. We are so busy. I know the scientists are also very busy. By and large we get along fine. We have staff in Palmer and Fairbanks. The employees are great at supporting Birthday shouts and other

special occasions. For example we have a Chili Contest Cook-off in Fairbanks coming up. When I go to Palmer I bring doughnuts to show my appreciation to the employees in Palmer. University employees in Palmer also enjoy the treats!

21. Complainant alleges her supervisor, Dr. Alberto Pantoja, Research Leader treats females differently compared to her male counterparts (scientists). What have you observed?
Ms. Contento knew that discrimination against the women scientists was occurring, since only men (and never women) were allowed to serve as Acting Research Leader in Dr. Pantoja's absence, regardless of their rank, length of time in the unit, or probationary status.

(Answer) I have not observed that nor do I believe that. I suggest the investigator speak to Tara McHugh, Scientist and Research Leader, Albany, CA (510-559-5864). Dr. Pantoja has collaborated with her. She has worked on aquaculture project which is converting fish by products to value research. We have three CRIS projects and fish research is one of the projects. Dr. Pantoja has traveled to see her and talks to her about research. He has funded some of her research since the time that I have been working here. Her research also benefits our unit as well so it's a mutually respected collaboration. The National Program Staff will tell us, for example, here are three CRIS projects. This is what you are allowed to do. The projects generally run for about five years.

False

The EEO

complaints concern Alberto Pantoja's unlawful discriminatory practices against the women scientists that he supervised in ARS's Alaska unit. Dr. McHugh did not work in Alaska and therefore did not report to him.

22. How is the morale of the unit?

(Answer) I get the impression that everyone works very well together. I think gossip hurts our unit and lowers morale. Since we are co-located with the university it also damages the overall reputation of ARS.

When ARS's women scientists disseminated information about the unlawful activities being perpetrated by Dr. Pantoja, their messages were labeled as "gossip", (despite the ARS ethics requirement that obligated every employee, including Ms. Contento, to report all instances of illegal discrimination)

23. Were you aware of complainant's allegation of reprisal (opposition to discriminatory practices)? If yes, what knowledge, role, or involvement do you have of this claim?

(Answer) I do not believe that I was aware of the specifics until the investigator sent me these questions. I was not contacted by the EEO Counselor during the informal stage of this complaint.

Whether the agency subjected the complainant to discrimination and harassment, based on sex (female) and reprisal (unspecified prior EEO activity or opposition of discrimination) when:

Claim 1: on February 26, 2008 she was issued a letter of caution

24. What knowledge, role, or involvement did you have with this claim?

(Answer) I sat in on the delivery of the form. I believe complainant was cautioned that she should not try to influence the grade with the Human Resources Department. I do not think complainant was trying to influence the grade. I believe complainant followed established procedures. I also believe Dr. Pantoja followed established procedures. The ARMP showed the position as a GS-5/6 and that is what he wanted to recruit at.

In hindsight, if anyone (Scientist or Administrative Staff) calls the Human Resource Division (HRD) and talks about a higher grade, HRD is the final authority for announcing positions. HRD should remind callers that any deviations to the ARMPS must be approved by the Area Office. The SF-52 action that was signed by Dr. Pantoja was in concert with ARMP as a 5/6. HRD should not have announced the job as a GS-5/6/7. There should have been some checks and balances and that did not happen.

25. Are the scientists allowed to contact HRD or are they required to go through Dr. Pantoja?

(Answer) I think they need to talk to him first, but scientist can assist HRD in clarifying job requirements. I have talked to other AO's nationwide and it seems that scientists do want higher grades for the technicians because they want to pay them as much as they can.

26. Did you and Dr. Pantoja ~~indicate to complainant~~ that the full promotion potential of her technician was to remain GS-7 and was she ever informed the position had been downgraded? Please explain.

(Answer) I think this situation was a combination of errors. When the recruit action went forward Dr. Pantoja was basing it on Annual Resources Management Plan System (ARMPS). That is part of our budget process. I do not think anyone was aware there was a clerical error. The same thing happened to Dr. Bechtel (male scientist). That is to say as far as the grade being wrong in the ARMPS from one year to the other. Once the grade is established in ARMPS it would need to get approval at the Area Office for a higher grade. The SF-52 action went in as a GS-5/6 which was in accordance with the ARMPS. The job was announced as a GS-5/6 with full potential to a GS-7. The SF-52 was correct according to the ARMPS. However, when all of this came out with the delivery of the caution letter, unfortunately after the fact, the position was originally recruited as a GS-5/6/7. Nobody knows how it ended up as a GS-5/6. I do not believe it was Dr. Pantoja's decision. It was just a clerical error.

27. Did complainant follow/did not follow established procedures? Please explain.

(Answer) I think she did follow established procedures. See my response above.

28. Did you provide complainant a copy of the SF-52 after the letter of caution was issued?

(Answer) When I receive actions from HRD I normally stick them in the scientist's mail box for their review and distribution. The scientist looks it over and gets back to me if there is something wrong. To be honest, there have been several occasions where the HRD paperwork has been wrong. HRD is located in Beltsville, Maryland. Cindy Prucha or Rita Atta are our contacts in Beltsville. When it comes down to a problem we contact Ms. Atta.

29. Did you tell complainant the fault was yours since it was your job to check? If yes, please explain.

(Answer) Yes, I did. Again, in hindsight 20-20, my understanding was that HRD processed an action according to ARMPS. I really didn't check their work. Any deviation from ARMPS would have to go the Area Office. The ARMPS indicated the recruit action should be a 5/6 so I never compared what was in the file, what was done before I got here, or what was done in previous years. Now that I know that mistakes are being made I am printing out the job announcements so I can follow up to make sure what goes forward agrees with what is being announced. I felt badly this happened because it could have been avoided if someone did some checking. So, I will take the blame.

30. Do you have any additional information related to this claim?

(Answer) No

Claim 2: she was subjected to threats of termination (dates not provided)

31. What knowledge, role, or involvement did you have with this claim?

(Answer) I do not have any knowledge. I have never heard Dr. Pantoja say to any scientist, male or female, that "I'm going to fire you."

32. Do you have any additional information related to this claim?

(Answer) No

Claim 3: she was subjected to public humiliation (dates not provided)

33. What knowledge, role, or involvement did you have with this claim?

(Answer) I do not have any knowledge of this. ~~Dr. Pantoja~~ by nature does not try to humiliate anyone.

34. Do you sit in on the presentations made by the scientists concerning their research?

Specifically can you recall the presentations that were made in January 2008?

(Answer) Yes. I was at the January 2008 meeting. Dr. Pantoja has an accent and tries to ask scientific questions. If you don't understand him, he asks the question again. He does repeat himself but it is not to humiliate a person. He is just trying to get the scientific information. I have 27 years in the government and worked for DOD for 22 years, which is culturally diverse. If I don't understand Dr. Pantoja or I just don't get it, I keep after him in a respectful manner until I do get it. I guess that is the difference in my working relationship with him. He has a heavy accent. Sometimes he really has to concentrate on getting the words out and will say, "What is the word I am looking for? In Spanish it means this." So, we work at it. There is give and take. He is not offended because I do not understand him, nor am I offended if he doesn't understand me. ARS preaches embracing diversity in the workplace and being inclusive mean recognizing that we are as different as we are similar. We must be willing to be authentic and communicate openly.

35. Do you have any additional information related to this claim?

(Answer) No

Claim 4: she was subjected to disrespectful behavior (dates not provided)

36. What knowledge, role, or involvement did you have with this claim?

(Answer) I do not have any knowledge of this.

37. Do you have any additional information related to this claim?

(Answer) No

Claim 5: she was subjected to open hostility (dates not provided)

38. What knowledge, role, or involvement did you have with this claim?

(Answer) I have no knowledge of this. I have never seen Dr. Pantoja hostile to anyone, male or female. On the contrary and I am ashamed to admit this but this one is on me. A couple of weeks ago I came to work in a cranky mood. Again in hindsight, I should have stayed home. I got into a discussion with Dr. Pantoja and I was the one who became argumentative with him. So what did he say to me? He didn't raise his voice with me and said, "I can see that you are upset. Let's talk about this later." He diffused the situation. I came in that morning feeling a little bit stressed. I later apologized to him.

39. Do you have any additional information related to this claim?

(Answer) No

Claim 6: she was subjected to intimidation (dates not provided)

40. What knowledge, role, or involvement did you have with this claim?

(Answer) I do not have any knowledge of this.

41. Do you have any additional information related to this claim?

(Answer) No

Claim 7: she was denied the opportunity to act as Research Leader (dates not provided).

42. What knowledge, role, or involvement did you have with this claim?

(Answer) I do not think there is any requirement, to my knowledge, to do so. I think he tries to accommodate the management unit personnel to his detriment. I do not think serving as a Research Leader has any impact on a scientist. For example, complainant was promoted last year from a GS-12 to a GS-13.

~~Is the Acting Research Leader position now being rotated?~~

(Answer) Yes. I can't remember exactly when that started. Again, Dr. Pantoja is trying to accommodate the management unit.

44. Do you have any addition information related to this claim?

(Answer) No

Claim 8: she was subjected to having her peer-reviewed publications downgraded to research notes (dates not provided).

45. What knowledge, role, or involvement did you have with this claim?

(Answer) I do not have the knowledge to know the difference between the two. I believe the standards are consistent between the male and female scientists. I am not involved in any of those decisions. I believe Dr. Pantoja judges his submissions as he would any scientists. The file would speak for itself.

46. Do you have any additional information related to this claim?

(Answer) No

Claim 9: she was not allowed to hire permanent technicians (dates and provided).

47. What knowledge, role, or involvement did you have with this claim?

(Answer) I left DOD after 22 years of civil service and came on board with ARS. Dr. Pantoja was upfront with me and told me that we might not exist in three months. That was not reassuring to me as a career employee. There were quite a few positions that were temporary when I came on board. Dr. Pantoja told me that since we were under so much uncertainty the technician positions were to be hired as temporaries. I believe he was directed by the Area Office to do so. The existing technician positions were left as is. ~~These positions were established before his time.~~ In 2008 we were finally in a position to relax enough to convert some of the temporary positions over to permanent. However, there is a glitch called the Salary Lapse. This is an ARS policy on how they track salaries. If a position is changed from a temporary position to a permanent position in mid year, the money identified to fund the permanent position would be an 80% loss to the unit. I believe we retain 20% of that money, the Area Office gets 20%, and the Headquarters office gets 60% of whatever is "lapsed." The rules do not consider ~~the person is already in a temporary position.~~ It is a complicated issue. ~~Dr. Kuhl, male scientist in Palmer, technician left because her position was temporary.~~ When Dr. Kuhl was about to recruit and due to the climate change ~~in the status of the unit~~ I asked him if he was interested in making the position permanent. The only glitch was that he would have to leave the position vacant for 6 months until approved in ARMPS and the person could start at the beginning of the fiscal year which started on October 1, 2008. I also advised him that he would need to justify the position and changes to grade to Dr. Pantoja. That is the process that is expected of everyone. ~~The whole salary lapse is very complex.~~

48. Do you any additional information related to this claim?


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(Answer) No

Claim 10: she was not allowed to hire technicians at GS-7 level (dates not provided)

49. What knowledge, role or involvement did you have with this claim? _____

(Answer) The temporaries were driven because of the absence of a budget and the possible dismantling of our unit. The unit was closed in the past so it was a good possibility that it could happen again. Anyhow, it was good fiscal responsibility to hire temporary employees when the future of our unit was uncertain. We had regular meetings on the closure of our unit or possible closure of our unit. As an example, Susan Emmert wanted to buy a house but because of the uncertainty of the unit she backed out of buying a house. We had to write a letter to the bank so she could get out of the loan. There were fearful things going on at that time. Morale stinks when you have to go through things like that. Anyway, my Financial Tech position opened in 2006 and we were up-front with the person we were going to hire. Our first selection was a veteran but she told us that she could not afford the possibility of being without a job so she declined the offer. This was a serious time in our unit. There was a lot of uncertainty. It was terrible. Again, Dr. Pantoja's employment decisions were based on the ARMPS. Ideally if complainant had talked it over with Dr. Pantoja and justified the position I believe it would have been considered once our unit stabilized. The ARMPS is based on our budget situation.

50. Do you have any additional information related to this claim?

(Answer) No

51. At what grade level has complainant been allowed to recruit/hire technicians?

(Answer) If you go back before my time (2004) it appears Andrew Krohn who was a technician came on board as a GS-5/6/7. Unfortunately due to the clerical error when it came to recruit again her current technician was recruited as a GS-5/6. That was due to a mistake in ARMPS. It was just a flat-out clerical error.

52. At what grade level have the male scientists been allowed to recruit/hire technicians?

(Answer) Dave Ianson, who was here before my arrival at ARS, was a curator in Palmer. Bonnie Furman is Ianson's replacement. Dr. Ianson's technician is Dan Hall and he is a GS-5/6. In talking with Dr. Pantoja it will not go any higher than a 5/6 because his duties do not warrant anything higher than a 5/6. Joe Kuhl, a male scientist in Palmer (he recently left ARS employment) technician position was a 5/6 until the 2009 ARMPS. Do you have any additional information related to this claim?

(Answer) No

Claim 11: she received unfair performance appraisals (dates not provided).

53. What knowledge, role, or involvement did you have with this claim?

(Answer) I do not have any knowledge of this claim.

54. Do you have any additional information related to this claim?

(Answer) No

Claim 12: on September 5, 2008 she was threatened for communicating EEO issues to various other people including the designated contact person for Civil Rights and Workplace Violence issues.

55. What knowledge, role, or involvement did you have with this claim?

Alberto Pantoja and Janis Contento co-authored a location policy manual for the Subarctic Agricultural Research Unit (SARU). Ms. Contento was listed as both the primary and secondary contact person for EEO issues

in the unit. It is not clear why she is disavowing that knowledge in this sworn affidavit.

(Answer) I do not have any knowledge of this. All the contact information for EEO is posted on our unit bulletin board. I am not the designated Civil Rights person. If an issue came to my attention, I would refer the person to Charmaine Scardina at the Area Office or to the telephone number listed on our Management Unit bulletin board.

56. Are you the designated Civil Rights/workplace Violence contact for the unit? If yes, what is your role? If no, who is?

(Answer) See my response above.

57. On September 5, 2008, complainant states you and Dr. Pantoja visited her in her office regarding her comments about Dr. Pantoja's alleged unprofessional conduct. Can you describe what happened in that meeting?

(Answer) I think this was the meeting about asking the complainant for a property number on a form letter. This is a form that I received from another location. I was just using it to collect data. Complainant was gone the day I put the form in her distribution box and I was going to be gone the following week. It was a hectic 2008. The complainant took offense and included Dr. Pantoja a response back to me in her e-mail. It basically said the Administrative Office was trying to set her up. I was taken back a little bit by this because I use the same form in the management unit for everyone. I really didn't try to second guess that this form might offend someone. If someone brought it to my attention I would try to re-word or revise it. I know I was acting for the right reason, with good intention, and all I needed was a number. I felt complainant could have talked to me directly. To keep communication open, and now that Dr. Pantoja was directly involved we both talked


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to the complainant. I told her that I was sorry and wanted to communicate to her that there was no wrongful intent on my part. I told her all I was trying to do was to get a property number, used the same form I use for everyone in the Management Unit, and that I was not treating her any differently than anyone else. I was definitely not trying to set her up for failure. I just don't think like that. I believe complainant was appreciative that I talked to her. I truly want to be able to do my job so the scientists can do their science.

Dr. Pantoja most likely was required to schedule these diversity trainings in response to (at least four) visits from the agency's conflict resolution employees, whose arrival each time was prompted by complaints of illegal discrimination against Dr. Pantoja.

58. Do you have any additional information related to this claim?

(Answer) No

59. Do you have any additional relevant information?

(Answer) As to the character of Dr. Pantoja, I believe he would give you the shirt off of his back. He has tried to promote unity in the management unit by holding diversity training, team building, and alternative dispute resolution. He has really opened himself up for attack. He tries to be accommodating. We are the Federal government. We are not the University of Alaska who go by a different set of rules. We have a lot of rules and regulations. He has not made decisions based on female or male status. We are all accountable, especially so since we are "feds." I think he tries to do the right thing. He talks to the Area Office and Headquarters a lot to make sure he understands rules. We see all this stuff in the newspapers like Senator Stevens and it is like a knock on the door that we need to make sure were doing all the right things. This whole thing is very unfortunate.

I have reviewed this statement, which consists of 16 pages, and hereby solemnly X swear affirm that it is true and complete to the best of my knowledge and belief. I understand that the information I have given will not be held confidential and may be shown to the interested parties as well as made a permanent part of the investigation

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Janis V. Conto
(Signature of Deponent)

2/15/2009
(Date)

Signed before me at (Street and City) Fairbanks Wedgewood Drive
on this 15 day of February, 2009

Shaine Janice Gersuch
(Signature of Investigator/Witness)