

states all she wanted was a number. She felt complainant could have talked to her directly. She told complainant that she was sorry and wanted to communicate that there was no wrongful intent on her part. She states she was definitely not trying to set up complainant for failure. She believes complainant was appreciative that she talked to her.

Claim 8: "She was subjected to having her peer-reviewed publications downgraded to research notes."

Ms. Contento states she does not have the knowledge to know the difference between the two. She believes the standards are consistent between the male and female scientists. She is not involved in any of those decisions.

Claim 9: "She was not allowed to hire permanent technicians."

Claim 10: "She was not allowed to hire technicians at GS-7 level."

Ms. Contento states when she came on board in November 2004, Dr. Pantoja told her that they might not exist in three months. This was not reassuring to her as a career employee. She states there were quite a few positions that were temporary when she came on board. Dr. Pantoja told her that due to the uncertainty the technician positions were to be hired as temporaries. She believes this was directed by the PWA office. The existing positions, prior to Dr. Pantoja's hire, were left as is.

She states in 2008, they were finally in a position to relax enough to convert some of the temporary positions over to permanent positions. 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. She believes they retain 20% of that money, the PWA office gets 20% and the Headquarters' office gets 60% of whatever is "lapsed." She states the rules do not consider the person is already in a temporary position. She states it is a complicated issue.

She gave as an example Dr. Kuhl, male scientist in Palmer, had a technician position that was temporary. The technician left because the job was temporary. When Dr. Kuhl was about to recruit for the position she asked him if he would be interested in making the position permanent. If he agreed 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. She also advised Dr. Kuhl that he would need to justify the position and changes to grade with Dr. Pantoja. She states this is the process expected of everyone.

She states the temporaries were driven because of the absence of a budget and the possible dismantling of the Unit. The Unit was closed in the past so it was a good possibility that it could happen again. It was fiscally responsible to hire temporary employees when the future of their Unit was uncertain. They had regular meetings on the closure of their Unit or possible closure of their Unit. She states morale stinks with the uncertainty. She states Dr. Pantoja's employment decisions were based on the ARMPS,

She states ideally if complainant had talked the technician position over with Dr. Pantoja and justified the position, she believes it would have been considered once their Unit stabilized. [...which doesn't explain why the men, (drawing funds from the same budget as the women) eventually hired permanent technicians, whereas the two women always had temporary techs.]

She states in 2004 it appears Mr. Krohn's position was a GS-5/6/7. Unfortunately due to a clerical error when it came time to recruit for her current technician it was recruited at GS-5/6. She states it was a flat-out clerical error. She identified Daniel Hall, GS-6, and Dr. Kuhl's technician as being in a GS-5/6 position.

Claim 11: She received unfair performance appraisals."

Ms. Contento states she has no knowledge of this claim.

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."

Ms. Contento states she has no knowledge of this claim. All contact information or EEO is posted on the Unit bulletin board. She is not the designated Civil Rights person. She states if an EEO issue was brought to her attention she would refer the person to Charmaine Scardina at the PWA office.

Dr. Cynthia Bower (female), Research Food Technologist, GS-1382-12, USDA, ARS, PWA, SARU, UAF, Fairbanks, AK has been in her present position since October 4, 2004. Her major duties include research being conducted in Aquaculture (ARS National Program 106) in a project titled Converting Alaska Fish By-Products into Value Added Ingredients and Products. Research in this broad and complex subject area includes developing economical methods to stabilize discarded fish for later processing, as well as producing new value-added products for industrial uses, agricultural animals, domestic pets, and human consumption. Dr. Alberto Pantoja, Research Leader (RL) has been her immediate supervisor since October 2004. Until January 2008, Dr. Andrew Hammond, Associate Area Director was her second line supervisor. However, after his promotion to Area Director, a series of ARS employees filled that position in a temporary capacity. Recently, Dr. Robert Matteri, Assistant Area Director was promoted to Associate Area Director. In her affidavit dated February 3, 2009 she affirms to the following in substance (Exhibit 14):

Dr. Bower states she and complainant work in the same Unit. However, they have different research specialties and therefore have never collaborated on any projects or publications. They are the only two female research scientists in SARU's Fairbanks office so they do share the distinction of being targets of discrimination. She states the SARU work environment is hostile to women scientists. ARS's own documentation supports the fact that women are treated differently from the men in job-related opportunities. She states complainant has been subject to harassment and extra scrutiny by Dr. Pantoja in an overt manner. In addition to damaging complainant's career and well-being, Dr. Pantoja's behavior has inflicted extreme stress on her, not just as another

Alberto Pantoja and Janis Contento were co-authors of SARU's Location Policy Manual, which clearly listed Ms. Contento as both the Primary and Secondary Contact for Civil Rights.

target of discrimination, but as a witness to the discrimination against complainant and Dr. Nancy Robertson (Research Plant Pathologist in Palmer, AK).

She states she has observed and experienced how Dr. Pantoja treats female scientists differently compared to the male scientists. a) She states discrimination in career-building opportunities because women scientists were never appointed as Acting Research Leader until August 2008, after all three female research scientists had filed formal EEO complaints with USDA. b) She states discrimination in Committee Assignments. Female scientists were given a disproportionate amount of low-level committee assignments, whereas male scientists were never asked to serve. c) She states discrimination in Program Resources. Women scientists in Fairbanks were subjected to discrimination while building their research programs when they were denied technicians equivalent to those provided to the male scientists. d) Discrimination in Supervisory Stature. Women research scientists were incorrectly coded in official paperwork as having no supervisory stature, "8" instead of "4" in Box 7 of the AD 332 Master Record/Individual Position Data form). e) Discrimination against women by Denying Mentoring. Women scientists were denied all forms of mentoring, predominantly due to the RL's lack of expertise in their scientific fields, but also due to the RL's propensity to mentor only male scientists for career advancement. f) Discrimination during Conflict Resolution Training. Women scientists were treated differently than the men when Dr. Pantoja scheduled each woman to speak first in her project group, and then verbally harassed each woman during questioning.

She states she was informed by complainant that she had been a target of reprisal by Dr. Pantoja. Complainant had engaged in a protected activity (grievance). The RL and ARS administrative personnel were aware that she had participated in protected activity. During complainant's annual appraisal the RL rated her lower than was warranted (adverse action). She believes the adverse action (loss of professional stature and denial of "bonus" income) was causally linked to the protected activity.

Claim 1: "On February 26, 2008, she was issued a letter of caution."

Dr. Bower states she was informed about the inappropriate Letter of Caution by the complainant. She states she has never heard of a letter of caution before. She states this is a form of local power available to supervisors who wish to unilaterally inflict punitive actions on their employees in a manner that is non-grievable through higher ARS administrative personnel. She states another SARU female research scientist (Dr. Robertson in Palmer, AK) also inappropriately received a Letter of Caution at approximately the same time. She states this suggests that Dr. Pantoja had recently discovered the letter of caution "tool" and was wielding it in a retaliatory manner against female scientists who had accused him of discriminatory behavior against women.

Claim 2: "She was subjected to threats of termination."

Dr. Bower states she was directly informed by complainant of the occurrence ("retain or not to retain). She was also at the same table when complainant informed ARS

administrative personnel at PWA's newly-hired scientist training in January 2005, Albany, CA.

Claim 3: "She was subjected to public humiliation."

Claim 4: "She was subjected to disrespectful behavior."

Claim 5: "She was subjected to open hostility."

Claim 6: "She was subjected to intimidation."

Dr. Bower states she was informed by complainant of several incidents of public humiliation by Dr. Pantoja but she was usually not present as a witness. However in January 2008 (Conflict Resolution training by visiting ARS employee Jeff Schmitt), Dr. Pantoja verbally harassed and humiliated complainant to the extent that two SARU employees (Dr. Jeff Conn and Janis Contento) had to intervene.

She states she was informed by complainant of numerous occasions of shouting and other disrespectful behavior by Dr. Pantoja. She was usually not present as a witness. She states Syrilyn Tong, Alaska Police Officer, presented information to SARU personnel in September 2008 concerning the nature of workplace violence. She states complainant recognized that from a legal standpoint she had been recently "assaulted" by Dr. Pantoja when his behavior had turned verbally abusive.

She states with Dr. Pantoja disrespect can escalate into open hostility. She also states with Dr. Pantoja, intimidation can escalate into disrespect and open hostility.

Claim 7: "She was denied the opportunity to act as Research Leader."

Dr. Bower states all female research scientists at SARU were excluded from career-building opportunity of serving as acting Research Leader which has a negative impact on promotion potential, as well as being detrimental to professional stature and future employment opportunities. ARS documents conclusively prove that Dr. Pantoja does not equally apportion opportunities among the research scientists he supervises. She states no woman had ever been appointed acting RL in Alaska whereas every male research scientist in Fairbanks had been asked to serve, including GS-12 level scientists and those still on probation.

She states ARS administrative personnel at PWA (Drs. Buxton, Hammond, and Matteri) have known about this discriminatory treatment against women since at least 2005 and the issue has been raised in grievances and communiqués many times since.

Claim 8: "She was subjected to having her peer-reviewed publications downgraded to research notes,"

Dr. Bower states she was informed of this situation by complainant. She does not publish her research in the plant pathology journals that are affected by Dr. Pantoja's policy (nor do any of the male scientists in the Unit).

Claim 9: "She was not allowed to hire permanent technicians."

Claim 10: "She was not allowed to hire technicians at GS-7 level."

Dr. Bower states women scientists in Fairbanks were subjected to discrimination while building their research programs when they were denied resources equivalent to those provided to the male scientists. In 2004 and 2005, four newly hired scientists (two women and two men) were instructed to hire technicians as GS-5, temporary employees. By 2007, every male scientist in Fairbanks (regardless of GS level, length of time in Alaska's ARS unit, or CRIS project assignment) had a permanent technician, whereas the two female scientists still have technicians with limited term appointments, (ensuring continual program disruption as the technicians are recruited, hired, trained, then lost to permanent employment elsewhere). To combat growing complaints of discrimination with the Unit (after all three women scientists filed formal EEO complaints with the USDA), the RL announced that all research scientists were now allowed to hire permanent technicians. It is now 2009 and the two female scientists in Fairbanks still have technicians with term positions, despite having requested permanent appointments in the budget (ARMPS) every year. The proposed upgrade to permanent technicians offered by the RL last August was disingenuous since technician positions cannot be changed noncompetitively from temporary to permanent without advertising the position to all qualified applicants. The affected technicians were unwilling to risk losing their jobs prematurely. Consequently the disparate treatment of the two female research scientists in Fairbanks will persist until both technician positions are re-announced at the end of their term appointments. She states there is documentation of the events listed above. She states Dr. Pantoja does not apportion resources equally among the scientists he supervises.

Claim 11: "She received unfair performance appraisals."

Dr. Bower states she was informed of the situation by complainant. She states all of the women research scientists in Fairbanks believe that they have received unfair performance appraisals (i.e. she has also submitted an EEO claim of reprisal against Dr. Pantoja since she believes she was the target of retaliation when he issued her a lower than warranted annual appraisal). To the best of her knowledge none of SARU's male research scientists have ever filed complaints concerning their performance appraisals during Dr. Pantoja's reign.

Claim 12: "On September 8, 2008, she was threatened for communicating EEO issues to various other people including the designated contact person for Civil Rights and Workplace Violence issues."

Dr. Bower states she is one of many people complainant confided in after she was subjected to abusive treatment by Dr. Pantoja. The form of "direct communication" after an incident was labeled as "gossip" by Dr. Pantoja and they were repeatedly cautioned against it. She states in an attempt to stop the spread of information within the unit, she was once "counseled" by Dr. Pantoja not to associate with certain scientists. She states

although Dr. Pantoja did not specifically list complainant by name the conversation clearly specified complainant.

She states grievances and other communiqués conclusively demonstrate that complainant and all female Category I Research Scientists at SARU have complained about the egregious discrimination against women. She states this level of abuse could not have occurred without the tacit approval of ARS administrative personnel (Dr. Andrew Hammond, Dr. Robert Matteri, and Dr. Dwayne Buxton, retired.)

Dr. Nancy Robertson (female), Research Plant Pathologist, GS-0434-12, USDA, ARS, PWA, SARU, Palmer, AK has been in her present position since September 1998. She has been employed by the Federal government for about 15 years. Her major duties include identification and characterizing plant pathogens (emphasis on plant viruses) in plant species in the Subarctic Plant Germplasm Collection, crops, and native plants in Alaska. Her immediate supervisor is Dr. Alberto Pantoja, Research Leader. Dr. Pantoja has been her immediate supervisor since April 2003. Her second line supervisor is Dr. Robert Matteri, Associate Area Director. Dr. Matteri has been her second line supervisor since December 2008. In her affidavit dated February 3, 2009 she affirms to the following in substance (Exhibit 15).

Dr. Robertson states she works with complainant and has worked with her since June 2004. They are both plant pathologists with different specialties. Complainant's research focuses on fungal pathogens and she studies plant viruses. She states her duty station is 300 miles away from the Fairbanks site. They discuss research projects by phone and e-mail and conduct on-site field surveys together in Fairbanks and Palmer. There are three plant pathologists in Alaska. The third plant pathologist is a professor with UAF. They discuss and share information pertaining to Alaska diseases in general. They also collaborate on research projects that require both of their specialties. As an example, complainant is an assigned collaborator on her five year Project Plan associated with diseases of small fruits in Alaska. They also collaborate with a UAF professor on diseases of peony plants in Fairbanks.

She states the work environment for all three female research scientists (complainant, Dr Bower, and herself) is extremely hostile, especially when compared to their male counterparts. She states complainant's office is next to Dr. Pantoja's secretary's office and within 20 feet of Dr. Pantoja's office. She states complainant's movements are so closely monitored and scrutinized that she is forced to close her door. This is in sharp contrast with a neighboring male scientist, Dr. Steven Seefeldt, whose door is left open without fear of being watched.

She states Dr. Pantoja has zero tolerance for female scientists as researchers when compared to male counterparts. The Unit currently has four female scientists (three Cat. 1 (research) and one Category 4 (service) and six male Category 1). She believes that female scientists are only hired by Dr. Pantoja to fulfill the quota and unfortunately, within a short time after their arrival, Dr. Pantoja openly displays his overall contempt

and disrespect toward female scientists by practicing the following discriminatory acts that are not leveled against male research scientists:

Supervisory Roles:

- Female scientists are only allowed to create new technician positions at non-permanent and lower rank than their male counterparts.
- Only male scientists (Dr. Bechtel, Dr. Fielding, and Dr. Pantoja) have had Post-Doctorate scientists work in their laboratory.
- Dr. Kuhl (entry level scientist) was assigned three technicians to supervise, and she was allowed only one technician.
- No female scientist was allowed to be acting research leader until August 2008, and that was only after all the female scientists had filed with the ARS informal EEO complaints.

Public Humiliation During staff meetings (that also include technicians and office personnel) or in front of other scientists, Dr. Pantoja openly criticizes female scientists on their research. For example, Dr. Pantoja is currently campaigning against complainant and her for discovering novel pathogens of plants, and publicly denounces their efforts as not important.

Committee Assignments: Female scientists are assigned to time consuming committees that are not beneficial for career-building and promotion.

Research Project meetings: Denial of active participation in meetings relevant to research (i.e. not allowed to speak without first being chastised or ostracized in general). To her knowledge, all three research scientists have experienced this type of discrimination from Dr. Pantoja.

Project Plans: She was continuously badgered and unjustly criticized by Dr. Pantoja in preparing over five years Project Plan in 2007/08. Had she not involved the PWA Area Director, Dr. Dwayne Buxton, Dr. Pantoja would have eliminated all molecular research in her program, and reduced it to non-publishable surveys. She states complainant is now experiencing a similar problem in writing her new Project Plan.

Peer-Reviewed Publications No male scientist in SARU has been threatened for job loss by lack of publications. For example, complainant was continuously threatened that she would not be retained during her first two years in SARU if she did not meet the two publications/year. In contrast, Dr. Joel Kuhl was never threatened (he did not meet the requirements during his first two years whereas complainant exceeded the minimum requirements). In addition she states to her knowledge, she and complainant are the only ARS scientists nationwide that were not allowed

to have published Disease Notes (in the journal Plant Disease) count as peer-reviewed as determined by Dr. Pantoja.

She states she was initially made aware of Dr. Pantoja's unfair practices toward complainant in June 2005. Complainant phoned her perhaps for the first time and asked if she had experienced discrimination from Dr. Pantoja. She states complainant was fairly shaken about an incident with Dr. Pantoja shouting at her in the UAF parking lot. Complainant then outlined how he was continuously threatening her of losing her job if she did not publish. She states she was shocked that Dr. Pantoja would duplicate the same discriminatory tactics he practiced against her. She states she filed a complainant against Dr. Pantoja in 2004 and only dropped the case when she felt the Agency did not take discriminatory issues seriously (i.e. the EEO Counselor told her to live with it and the Assistant Area Director, Dr. Andrew Hammond, treated her with sarcastic behavior.) When she received a telephone call from complainant's informal EEO investigator (Shirley Fletcher) in 2008 she confirmed the discriminatory practices toward all the female scientists by Dr. Pantoja in the unit. Ms. Fletcher encouraged her to file a complaint with EEO again.

Claim 1: "On February 26, 2008, she was issued a letter of caution."

Dr. Robertson states complainant notified her about the Letter of Caution soon after she received it. Complainant had told her about Dr. Pantoja's unjustifiable claim in the letter. She states based on Dr. Pantoja's predictable pattern of retaliation, she also received an inappropriate Letter of Caution that week. She believes this was an act of reprisal from Dr. Pantoja when she requested a Cooperative Resolution Program mediation session with Dr. Pantoja and the Conflict Resolution Training for the Unit in January 2008.

Claim 2: "She was subjected to threats of termination."

Dr. Robertson states complainant phoned her on June 16, 2005 and stated that Dr. Pantoja was continuously threatening her that she would not be retained (i.e. lack of publications, non-communication, etc.) Threats of termination were also stated in the Letter of Caution to complainant.

Claim 3: "She was subjected to public humiliation."

Dr. Robertson states she witnessed (along with all the technicians, office, staff and Jeff Schmitt, Human Resources) Dr. Pantoja's unjustified attack on complainant's research presentation. She believes that everyone was shocked and embarrassed with perhaps the exception of Mr. Schmitt. She states complainant, Dr. Bower, and herself continue to be humiliated in front of co-workers. She believes that it is especially unprofessional when Dr. Pantoja actively involves research technicians and office staff to witness his degrading discriminatory actions toward female scientists.

Claim 4: "She was subjected to disrespectful behavior."

Dr. Robertson states complainant has reported Dr. Pantoja's ubiquitously disrespectful behavior to her. As previously stated, she witnessed Dr. Pantoja's attack on complainant in January 2008. She states all female research scientists were questioned by Dr. Pantoja in such a condescending and disrespectful manner during their presentations.

Claim 5: "She was subjected to open hostility."

Dr. Robertson states complainant reported a number of incidents to her that were obviously open hostility. One incident in particular that occurred in 2008, involved Dr. Pantoja barging into complainant's office without knocking and shouting demands. She states all female research scientists are treated with open hostility by Dr. Pantoja.

Claim 6: "She was subjected to intimidation."

Dr. Robertson states complainant informed her about incidents that involved intimidation that usually included detrimental consequences and threats of dismissal if not carried out as ordered. She states intimidation is one of the most common elements included in Dr. Pantoja's tactics to frighten female research scientists mainly aimed at eventual job dismissal.

Claim 7: "She was denied the opportunity to act as Research Leader."

Dr. Robertson states female scientists were not selected to act as Research Leader by Dr. Pantoja during his absences until August 1, 2008, following complainant's informal EEO complaint in which she made this an issue. She states she was the first female allowed to act as Research Leader on August 1-4, 2008 (note, after she had been with the unit over 10 years). She states this was a half-hearted token since she was notified on a Thursday to act for the following Friday afternoon, weekend, and Monday. To her knowledge, no male scientist has acted as RL during a weekend. She states when an appointment includes a weekend the dates of that weekend are excluded from the appointment dates.

Claim 8: "She was subjected to having her peer-reviewed publications downgraded to research notes."

Dr. Robertson states complainant informed her that some of her peer-reviewed publications were downgraded to research notes on the dates they were submitted. She believes Dr. Pantoja's attempts to discredit her publications in his efforts to remove her from her position, he downgraded all peer-reviewed journal articles that were published as Disease Notes (including two articles that had been approved as peer-reviewed by the former Research Leader).

Claim 9: "She was not allowed to hire permanent technicians."

Claim 10: "She was not allowed to hire technicians at GS-7 level."

Dr. Robertson states she had knowledge from complainant that she was not allowed to hire permanent technicians (two-year term and at a low grade of GS-5). She states all other research scientists were given permission to hire permanent technicians. Dr. Pantoja hired his technicians in Fairbanks as permanent and higher grades (GS-9); his technician on the Palmer site was initially hired as two-year term, promoted to GS-6 after the first year, then after two years, reinstated as a permanent.

She states complainant told her about the hiring restriction (GS-7 level) implemented by Dr. Pantoja. She states at this time, all the male research scientists have permanent GS-7 level technicians (or higher) while complainant has a term GS-5/6 technician. She states her technician left in December 2008 and was at a GS-8 level (permanent) because the position was created before Dr. Pantoja's arrival to the Unit.

Claim 11: "She received unfair performance appraisals."

Dr. Robertson states complainant informed her about her unfair performance appraisal ratings as they occurred. She states in 2006, Dr. Pantoja was so eager to give complainant a poor performance appraisal that he added the total points incorrectly (lower) and PWA actually approved the poor rating based on faulty arithmetic. She states this demonstrates the administrator's indifference to poor ratings by not checking all the facts for verification. She states performance appraisals are exceedingly subjective with Dr. Pantoja making up the rules as he rates the appraisals. She states Dr. Pantoja unfairly rewards the male scientists when compared to female scientists.

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."

Dr. Robertson states complainant informed her of the incident. She states a monthly SARU newsletter contained an article that alerted employees not to gossip or listen to gossip with possible implications directed toward the female scientists.

She states if she had the time she could write a book on Dr. Pantoja's discriminatory behavior toward female research scientists on a daily basis since his arrival over five years ago. She states readers would be amazed that this type of behavior is allowed, tolerated, and supported by Dr. Pantoja's administrative superiors.

Dr. Jeffrey Conn (male), Research Agronomist, GS-0471-13, USDA, ARS, PWA, SARU, UAF, Fairbanks, AK has been in his present position since January 2003. He worked for ARS from October 1980 to December 1994. The Research location was disbanded and he went to work for the State of Alaska in the interim. His major duties include research on invasive plants. His immediate supervisor is Dr. Alberto Pantoja, Research Leader who has supervised him for about 5 ½ years. He states his working relationship with Dr. Pantoja is that they are generally polite to each other. They do not have any joint projects and do not have any outside interaction to speak of. Their relationship is professional and he states he is wary because of several different firings