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CALIFORNIA STATE BAR NO. 65235

Attorney for Defendant

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO**

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff

versus

CYNTHIA SOMMER,

Defendant

CASE NO. SCD195202
DA NO.

NOTICE OF AND REQUEST
FOR DISCOVERY

DATE:
TIME:
DEPT: Superior 39
Judge: Hon. Peter Deddeh

TO THE DISTRICT ATTORNEY OF THE COUNTY OF SAN DIEGO, please take notice that on the above date and time, the defendant will move to the court to issue an order the prosecution is provide the following:

1. All "Chain of custody" documentation in whatever form, from the United States Navy regarding any and all evidence including, body tissues, body fluids, microscopic slides, etc., taken from decedent Todd Sommer before, after or at the time of his autopsy from when they were first received (February, 2002) until the present, including all documentation of any such evidence transferred to AFIP-Environmental in March, 2003.

- 1 2. Access to all of the body tissues, fluids, or microscopic slides taken from decedent Todd
2 Sommer taken before, after, or at the time of his autopsy which are still in possession of the
3 United States Navy, including all tissues that Dr. Robinson stated that he caused to be
4 preserved and kept, so that they can be viewed and/or examined microscopically.
- 5 3. A list of names, addresses, and methods of locating any witnesses who participated in
6 creating the “Chain of Custody” documents requested in Item #1 above and who participated
7 in receiving, preserving, storing, maintaining, or transferring any of the tissues referenced in
8 Item #2 above.
- 9 4. A sample of a “known” DNA sample of Todd Sommer’s preserved by the Navy obtained at
10 or subsequent to his enlistment.
- 11 5. Access to all the body tissues, including the blood, urine, liver, kidney, bile, brain, and
12 muscle from Todd Sommer still in possession of AFIP-Environmental so that the defense
13 may conduct DNA testing on these tissues.
- 14 6. All data from AFIP-Environmental not already provided to the defense, specifically
15 including, but not limited to the following:
- 16 a. Records of Dr. Centeno wherein he’s ever have other arsenic speciation with results
17 similar to that he found in this case OR where he’s seen in any scientific literature
18 where he’s ever seen similar results;
- 19 b. At page 5597, the chain of custody is not recorded properly for blood, urine, liver,
20 and kidney. If additional documentation exists regarding this event it should be
21 provided.
- 22 c. **Conversion data during Speciation testing:** Dr. Centeno testified that when his lab
23 did the speciation testing it added each arsenic species at a known concentration to a
24 comparable matrix type and took these Quality Control samples through the
25 analytical procedure and then recovered each specie at the appropriate concentration
26 in the proper speciated form. He did not provide the data proving he did this.

1 d. **Standard addition Quality Control (p. 5616)** - Dr. Centeno testified that he utilized
2 something called “standard addition” in order to control for the variable that each
3 specimen tested is “unique” (i.e., there is variance amongst different liver tissues).
4 No data was submitted to confirm that this was done.

5 7. All current accreditation documents regarding AFIP-Environmental reflecting their
6 application for and action taken by any and all accreditation organization relating to AFIP-
7 Environmental’s ability to test human tissues for the presence of arsenic.

8 8. All 2002 and 2003 accreditation documents regarding AFIP-Environmental reflecting their
9 application for and action taken by any and all accreditation organization relating to AFIP-
10 Environmental’s ability to test human tissues for the presence of arsenic.

11 This motion will be based on this notice, the attached Points and Authorities and exhibits.

12
13 **Because this information is needed BEFORE the Motion for New Trial, it is requested**
14 **that this motion be scheduled and heard prior to the Motion for New Trial such that the**
15 **documents can be produced and the tissues be tested before the Motion for New Trial is heard.**

16 DATED: May 15, 2007

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Allen Bloom
Attorney for Defendant