

IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

LAURA LYNN HAMMETT, an )  
individual, )  
 )  
Plaintiff-Appellant, )  
 )  
vs. )  
 ) Case Nos.: 23-2638 and 23-3093  
PORTFOLIO RECOVERY )  
ASSOCIATES, LLC, a Limited )  
Liability Company; DOES 1-99 )  
 )  
Defendant-Appellees )  
 )  
 )  
\_\_\_\_\_ )

**Laura Lynn Hammett’s Motion to Settle the Record and Reissue a Subpoena  
for Production of Exculpatory Evidence**

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## I. Grounds and Relief

There is a fundamental Constitutional right to an accurate record of court proceedings.

The Honorable Judge Lee P. Rudofsky (“Judge Rudofsky”) expressed the importance of an accurate record five times on page 2 of the Transcript.<sup>1</sup> Court: “Obviously making sure we have a good record of this is the most important thing [].”

Despite this well settled rule, important dialogue was omitted from the Transcript.

There is a strong presumption that the transcript is more accurate than an individual’s memory.

To verify that my memory is better than the transcript in this case, I sent this inquiry by email to Mr. Franklin:

“May I please listen to the recording of the 12/1/21 hearing.” (Affidavit ¶ 16, Exhibit 1)

Mr. Franklin responded: “This was a telephonic conference. We were not in the courtroom. If there were a recording, it would have been my personal laptop, and I

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<sup>1</sup> “The Transcript” refers here to the transcription made by Court Reporter Stephen Franklin of the telephonic hearing of December 1, 2021, (R. Doc. 260), unless specified as the *Pietrczak* Transcripts, referring to *Micheal Pietrczak v. Laura Lynn [Hammett]*, et al, Circuit Court of Searcy County, Arkansas, 65-CV-21-20, Arkansas Court of Appeals CV-22-435.

do not keep those, as the only official record is my stenographic notes." (Affidavit ¶ 17, Exhibit 2)

I filed the motion to settle the record in the District Court. (R. Docs. 267-269) (“MSR”)

The MSR was pursuant to FRAP Rule 10(e)(1),

“If any difference arises about whether the record truly discloses what occurred in the district court, the difference must be submitted to and settled by that court and the record conformed accordingly.”;

and FRAP Rule 10(e)(2)(B),

"If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded by the district court before or after the record has been forwarded[.]"

Judge Rudofsky denied my MSR in the District Court. (R. Doc. 279)

The Court said that in “an extreme abundance of caution” he listened to the audio recording of the hearing. (id., at 2, 3) If there is a recording, I and the public should be given an opportunity to hear it.

“The common law right of access applies to the recording. Disclosure, moreover, would advance the purposes that underlie both the common law and First Amendment rights of access: encouraging fair judicial proceedings and fostering informed civic engagement on matters of public importance. [] Though transcripts are available, the recordings provide the best and most accurate depiction of the [hearing].” *Brief of Amici Curiae of the Reporters Committee for Freedom of the Press and 35 Media Organizations in Support of Intervenor-Appellee KQED, Inc. Urging Affirmance, Perry v. Schwarzenegger, et al.*, 9<sup>th</sup> Cir. No. 18-15292 as dicta only. “Disclosure of the recordings would allow for more accurate reporting and provide a safeguard against inaccurate or misleading portrayals of the [hearing].”

Please mandate that copies of the recording of the hearing Judge Rudofsky supposedly listened to before denying my MSR be provided to me and entered into the record so there is a “good record”.

The omitted dialogue helps to prove my pending motion to remove privacy designations...that forms and information that is already in the public domain

cannot be deemed “confidential” or “under seal”. The omission of the dialogue helps to prove two other issues on appeal.

1. Whether the Court should have disqualified himself under 28 U.S. Code §455?
2. Whether damages include the emotional distress exacerbated by repeated gaslighting in court proceedings?

Having the audio would also ensure accuracy for my journalism concerning the case. (Affidavit ¶ 18)

PRA introduced an issue in its opposition to the MSR at the District Court. PRA attacked my credibility by claiming my motion was “part of Ms. Hammett’s litigation playbook” because I have the same issue in a separate case that is on appeal. (R. Doc. 276, at 6, footnote 1) (“Playbook Remark”)

I filed a motion for leave to reissue a subpoena to obtain recordings of the hearings in Pietrczak, to prove that my claim in that case was true. A motion to quash the original subpoena was found moot after the Court granted summary judgment. (R. Doc. 133 and 261, at 109 respectively)

Judge Rudofsky adopted PRA’s reasoning without allowing me that exculpatory evidence or other rebuttal of the defamatory comment.

Please mandate that the case be remanded to the District Court for the sole purpose of reissuing and enforcing a subpoena for the recordings in *Pietrczak*.

The fallacy that my claims in *Pietrczak* were merely a tactic becomes law of the case unless reversed on appeal. The obvious way to prove what was said in the *Pietrczak* hearings is to compare the *Pietrczak* transcripts to the recordings.

## **II. My Claim the Dialogue Occurred is Not Frivolous and Warrants Verification**

There is a stipulated protective order regarding confidentiality which was rendered on December 1, 2021 by Judge Rudofsky. (R. Doc. 46)

There was a protracted discussion of the protective order before the parties agreed to the operative version.

The discussion began with emails between PRA and me. (R. Doc. 27-2)

My opposition, R. Doc. 30, in full shows that my fierce objection to the proposed protective order did not wane. A sample is shown by affidavit at ¶¶ 19 – 20.

The quotes in the affidavit are not meant to prove the truth of the arguments, but that I made the arguments.

The 36 paragraphs in the opposition do not sound like the parties were close to an agreement.

According to the Transcript, there was two pages of dialogue discussing paragraph 22 and 24, that resulted in the Court convincing me to agree to permanent confidentiality. (R. Doc. 260, at 4-5)

That ended the discussion of the protective order, according to the Transcript. Supposedly, I said nothing about the PO being overbroad, “a Star Chamber”. There was no reassertion of my concerns that PRA can (and did) designate information that is already in the public domain as “confidential” and under seal noted. There was nothing persuasive said that would cause me to stipulate to the PO noted.

As PRA summed up the alleged discussion in its opposition to unsealing the record filed October 17, 2023, Entry ID: 5326414, at 7: “After the district court suggested minor revisions to the PO submitted by PRA, Plaintiff stipulated to entry of the revised protective order by the court.”

It is nonsensical that I would write and argue orally as much as I did in Pietrczak and in this case to advocate for myself, including my numerous explicit objections to a “Star Chamber”, and then agree to the PO, unless the Court assured me that forms and policies already known by the public would not be subject to confidentiality.

PRA wrote: “Under Rule 26(c) the burden is on the party claiming confidentiality to show ‘good cause’ for protection, but umbrella protective orders, like the one at issue in this case, place the onus on the party receiving materials



marked as confidential to challenge such designations in a targeted manner.” (id., at 17.) Not according to the assurances of the Court that I remember, but that don’t show in the Transcript.

Nine months later, I memorialized the dialogue that persuaded me to stipulate to the Protective Order.

“In an earlier hearing, the Court patiently explained confidentiality to Hammett.” (R. Doc. 163, at 3-4, 8/1/2022) See longer quote for the fact of what was said, not the truth of the arguments. (Affidavit ¶ 21)

My explicit concern that there might be a change of judge illustrates that I was still under the impression that the Court remembered and would honor what he said during the December 1, 2021 hearing. Litigation on a shoestring meant I could not afford to buy the transcripts unless absolutely necessary. (Affidavit ¶ 21)

PRA asked for leave to reply to R. Doc. 163, with a proposed reply, R. Doc. 165 and 165-1. PRA failed to argue against my claim of what the Court said “in an earlier hearing”. Therefore, PRA waived the argument. PRA tacitly agreed that there was dialogue that conveyed the stated sentiment earlier. (Affidavit ¶ 23)

Dialogue that fits the memorialized dialogue does not occur elsewhere.  
(Affidavit ¶ 23)

I ordered the Transcript because I wanted to use the Court’s exact words to describe the precedence for denying confidentiality to information that is already in the public record.

After filing my motion, I found substantially verbatim discussion that limits a party’s ability to confer confidentiality to matters that are in the public record. (Affidavit ¶ 25) It was in an opposition to a protective order in a case Judge Rudofsky advocated against Planned Parenthood when he was Solicitor General. PRA’s proposed protective order violated the well settled principles worse than Planned Parenthoods proposal. I filed the State’s opposition and an explanation as a supplemental authority, R. Doc. 278.

In opposition to my MSR, PRA wrote the Playbook Remark meant to discredit me. (R. Doc. 276, at 6.)

“This effort appears to be part of Ms. Hammett’s litigation playbook, as it is not the first time she has claimed that a transcript did not accurately reflect proceedings in a trial court and made significant efforts to change the content of that transcript in anticipation of appellate proceedings. See Dkt. Nos. 133-134, 136 ¶¶ 4, 11, 18-19, 22.”

I filed a motion for leave to reissue the subpoena for the recordings that I am certain will prove the *Pietrczak* Transcripts were fictionalized.

Before the subpoena motion was fully briefed, the Court denied my MSR by adopting PRA's "reasons" in total.

"For the reasons Defendant sets forth in its Response in Opposition to Plaintiff's Motion to Settle the Record, under the applicable precedent Ms. Hammett has not shown an entitlement to the relief she seeks." (R. Doc. 279, at 2. Citation omitted)

The plural of "reasons" means that the Court considered all the reasons as accurate.

Judge Rudofsky repeated that he listened to the "audio recording" three times. (R. Doc. 279, at 2, 3)

The Clerk of the Court, through deputy Crystal, informed me that no recording was made pursuant to the Guide to Judiciary Policy, Vol. 6, Ch. 3, § 350.40. (Affidavit ¶ 26)

The most expeditious way to obtain the copy of the audio recording to which Judge Rudofsky listened, for verification, is for the Eighth Circuit to mandate the District Court to transmit a copy to meet the published fee.

### **III. This Case is Differentiated from the Cases the Court Relied Upon**

PRA's Argument, R. Doc. 276, at 3, compares my MSR to motions to correct the record in *Harris* and *Swinton*.

Both defendants Harris and Swinton were convicted of drug dealing and other sordid conduct. I have no criminal record. (Affidavit ¶ 27)

I've never been a defendant in a debt collection lawsuit and never filed for bankruptcy. (Affidavit ¶ 28)

I lost only one civil suit as a defendant, a small claims case 20 years ago over a dispute about the color of carpet installed in one of the many houses I restored. (Affidavit ¶ 29)

Mr. Swinton, a pro se defendant, filed two motions to settle the record. (W.D.N.Y. No. 6:15-CR-06055, 2019, Doc. 259 and Doc. 283) The first included an affidavit, asked for copies of the audio recordings and was granted. (Doc. 264) The second had no affidavit, was far inferior work, did not ask for the audio and did not cite where in any of the audio he already received that there was a discrepancy, and was denied. (id. Doc. 284)

Mr. Harris was represented by counsel. There was no request to hear the audio recordings. There was no affidavit. Only a letter from Mr. Harris to counsel. (N.D. No. 3:16-CR-00272, 2019, Doc. 155) The District Court denied the motion without prejudice stating, "it is less than clear whether the district court has jurisdiction to rule on the Defendant's motion. [] The undersigned believes this motion should first be presented to the Eighth Circuit Court of Appeals for instructions as to how to properly proceed. Specifically, it is unclear whether a response is first required

from the court reporter concerning the accuracy of the trial record and/or the need for a supplemental record certified by the court reporter. (id. Doc. 159) As PRA argued, the Eighth Circuit denied the motion, stating the assertion was “unsworn”. My motion at both District and Circuit Court included an affidavit.

The Eighth Circuit did not mention this, but the Harris jury found Mr. Harris guilty based upon what was said in the trial. Counsel for Mr. Harris did not argue that there would be a different outcome if the alleged inaccuracies were corrected.

In *Hammett v. PRA*, the discussion omitted supplies another basis for amending the protective order. Added transparency is meant to encourage fair adjudication. I did not impugn the Court as a conspirator in the falsification in my District Court motion, but his voluntary statements are new evidence that provide a basis for reasonable suspicion of foul play if they are not true.

In *Zichettello*, cited at R. Doc. 276, at 3, “the government did not, therefore, have a correct document that might be compared with the transcript produced.” Here we have the recording, according to Judge Rudofsky.

The last sentence of 28 U.S.C. 753(b) makes accessibility of the recording mandatory. “The original notes or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge.”

#### **IV. The Judge's Numerous False Statements Throughout the Proceedings Make Independent Verification Reasonable**

This is not argument concerning genuine disputes of material fact nor honest differences of opinion. It is by no means an exhaustive list of the Court's falsehoods. It is about one misquotation made by Judge Rudofsky. It is enough to cause deep concern and when coupled with my memory, makes taking my own cautionary measure of listening to the recording of the December 1, 2021 hearing prudent and reasonable.

There are numerous other falsehoods in Judge Rudofsky's opinions which will be enumerated in the appellate brief. Here, to stay within word limits, only one misquotation is analyzed in depth.

In the Consolidated Order, Judge Rudofsky came to the preposterous conclusion that "on this record, it does not appear to be genuinely disputed that Ms. Hammett owed PRA, LLC \$2,297.63." He truncated a sentence that I wrote to say I was a consumer according to the FDCPA, to make it sound like I agreed I had owed the debt. (R. Doc. 173, at 71)

In the hearing on MSJ and reconsideration, June 14, 2023, Judge Rudofsky admitted to making this misquotation. (R. Doc. 261, at 97)

"I will say I appreciate and accept Ms. Hammett's discovery that I had a drafting error in footnote 463. I said at one point in that footnote that Ms. Hammett in her

affidavit said, quote, I am a consumer in respect to any debt incurred by me on a credit card issued by Capital One Bank USA in or about 2001, period. And as Ms. Hammett correctly points out, that period was too early and chopped off the rest of the sentence. The full sentence is, I am a consumer in respect to any debt incurred by me on a credit card issued by Capital One Bank USA in or about 2001, comma, as I used any credit card to purchase household items, food, and other consumer items, period, close quote.

"I hope that is the correct -- is the correct iteration of it. I am going off of page 6 of Ms. Hammett's brief in support of opposition to the defendant's supplement (sic) motion for summary judgment. But I agree that I should not have chopped off the sentence with the period. I take responsibility for that."

The Court's apology was negated in the next sentence.

"Having said that, the last clause does not change anything in my mind. It does not create more -- a more favorable situation for Ms. Hammett were this to go to a jury than she had before. In fact, if it does anything, it hurts her, but I just don't think it makes any difference one way or the -- or the other."

The Court excused one lie with another lie. The Court did not say how the correct sentence could hurt me or my case if I am given my fundamental right to a jury trial.

The Court is a graduate of Cornell and Harvard Law. He is one of the youngest Federal Court judges. He writes eloquently. He understands English as well as ChatGBT<sup>2</sup> and I understand English.

Judge Rudofsky's interpretation of the sentence found in the consolidated order: (R.Doc. 173, at 71)

"But, on this record, it does not appear to be genuinely disputed that Ms. Hammett owed PRA, LLC \$2,297.63. [fn 463] That is, the Court (tentatively) believes that every rational juror would conclude that Ms. Hammett owed PRA, LLC this amount. In turn, there is good reason to think that no rational juror could conclude that PRA, LLC falsely represented to Ms. Hammett the amount of the debt."

The lengthy footnote 463 starts with the premise, "Ms. Hammett concedes that she 'probably' opened a Capital One account in 2001." True. Then the misquotation is added. "I am a consumer in respect to any debt incurred by me on a credit card issued by Capital One Bank (USA) in or about 2001."

This is a verbatim question and answer session with ChatGBT's OpenAI.

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<sup>2</sup> ChatGBT is a language based artificial intelligence program. AI makes errors in facts. But, it is language based and utterly remarkable at determining the meaning of phrases and sentences. ChatGBT could probably hang with SCOTUS Justices in the discussion of the meaning of "and" or the impact of a comma.



It is important to note that the meaning of "debt" in the context of the FDCPA is, inter alia, "any obligation or alleged obligation". (15 U.S.C. §1692a(5))

Q: I wrote, "I am a consumer in respect to any debt incurred by me on a credit card issued by Capital One Bank in or about 2001, as I used any credit card to purchase household items, food and other consumer items." Does this mean I agree that I owed a particular debt. Or does it mean that if I owed the debt, it was used to purchase consumer goods?

A: Based on the statement you provided, it seems that you are acknowledging that you used a credit card issued by Capital One Bank to make purchases for household items, food, and other consumer goods. However, it does not necessarily mean that you are admitting to owing a particular debt.

It is possible that you are acknowledging the use of the credit card but disputing the amount of the debt or any fees or charges that may have been added to the original debt. Alternatively, you may be acknowledging that you owed the debt, but you are simply explaining the nature of the purchases that were made using the credit card.

Overall, the statement you provided suggests that you used a Capital One credit card for consumer purchases, but it does not necessarily indicate whether you acknowledge or dispute any particular debt related to those purchases.

Q: How does the meaning change if I change the sentence to, "I am a consumer in respect to any alleged debt incurred by me on a credit card issued by Capital One

Bank in or about 2001, as I used any credit card to purchase household items, food and other consumer items.”

A: By changing the word "debt" to "alleged debt" in the sentence, you are indicating that you do not necessarily acknowledge that you owe the debt. The term "alleged" suggests that you are disputing the existence or validity of the debt and that you are not admitting to owing the debt.

The rest of the sentence remains the same, indicating that you used a Capital One credit card to make purchases for household items, food, and other consumer items. However, the addition of "alleged" before "debt" makes it clear that you are not admitting to owing the debt and that you may be disputing its validity or accuracy.

There was a reasonable inference that I meant I opened an account to use for consumer purchases but did not incur the alleged debt of \$2,297.63. Especially when taken in context with my verified complaint and my motion for partial summary judgment that centers on all the reasons PRA did not convince me, a reasonable person, that I owed a debt of which I have no independent recollection.

I asked ChatGBT what Judge Rudofsky’s misquotation means, to determine if it was better for me. The AI program broke the sentence down into four pieces.

A: [Piece 3] "any debt incurred by me": This part of the sentence is stating that you are responsible for any financial obligations (debt) that you accumulated.

Finally, ChatGBT, synthesized the parts.

A: So, in simpler terms, your sentence is essentially saying that you acknowledge being a consumer who used a credit card issued by Capital One Bank around 2001 and that you are responsible for any debts associated with that card. This statement may be used in a legal context to acknowledge your financial obligations.

Judge Rudofsky's misquotation hurts my case in front of a reasonable juror more than the true sentence that I wrote.

It is plausible that Judge Rudofsky also misquoted what he heard on the audio recording to make it comport with his narrative favoring PRA.

I can't rely on Judge Rudofsky to validate a verbatim record, because he has not made an honest accounting of the verbatim record in the past. Therefore, this Court should allow me to listen to the audio recording.

**V. The Court's Mischaracterization of My Claim as "Part of Hammett's Litigation Playbook" Demands Production of the Exculpatory Evidence**

PRA settled complaints against them for tens of millions of dollars. The complaints often concern false affidavits and unreliable documentation.

A jury awarded \$82 million in punitive damages against PRA for, amongst other conduct, non-disclosure of evidence.

When PRA wins a lawsuit, 90% of the time it is by default, according to a PRA executive.

My litigation practice, is civilized and professional.<sup>3</sup>

The fact “that a transcript did not accurately reflect proceedings in a trial court” was not disproven in *Pietrczak*.

I was dismissed with prejudice from *Pietrczak*, despite the Court Reporter falsifying the transcripts. (My property rights were violated after I was dismissed, and my counterclaim was dismissed sua sponte, hence the appeal)

Judge Rudofsky chose to mischaracterize my attempt to protect my rights in *Pietrczak* as something shameful.

The shame is that the Arkansas Court of Appeals has not acted on an unanswered appeal of *Pietrczak* in 10 months, ARED dismissed a 42 U.S.C. 1983 claim against the Pietrczak Court, Court Reporter and opposing counsel based on immunities and Rooker Feldman, and the Eighth Circuit dismissed that appeal summarily. (The District Court wrote a misleading order of dismissal, and I was

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<sup>3</sup> Judge Rudofsky allowed PRA to introduce several of my blog posts as exhibits. My nonjudicial writings are allowed to express my honest opinion about the integrity of the court, using colorful language and sarcasm. My judicial writing is civil and professional, even while conveying disturbing information.

too ill and overwhelmed to write a motion for reconsideration or appeal to SCOTUS.)

There is no legitimate reason to keep the recordings on either case under wraps.

## **VI. Discrimination is an Abuse of Discretion**

Allowing the Public to hear the audio is easy and logical.

Attorneys often and easily obtain copies of audio recordings of hearings.

The Courts' and Court Reporters' protest against transparency gives the appearance of impropriety.

“Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.” *Department of Justice Ethics Handbook For On And Off-Duty Conduct*, quoting *5 C.F.R 2635.101 (b)*

“Abstain from all appearance of evil.” *1 Thessalonians 5:22*.

Audio recordings are cheap and easy and provide verification that we can trust the stenographer of the official record. The courts may need to be dragged into the twenty-first century, but the People demand improved disclosure of proceedings. (See the proposed Judicial Ethics and Anti-Corruption Act of 2022, Sec. 6(c)(2))

This is not the first time in this case that Judge Rudofsky denied equal protection and due process based upon my pro se status (which is a reflection of my inclusion in the group of people who cannot afford legal fees.)

My motion for leave to use the electronic filing system was denied, ostensibly because the Court had no discretion to allow it – which was false. (This will be argued on appeal.) When confronted a second time, the Court added the reason he truly excluded me. “And electronic filing rules distinguishing between counsel (who are officers of the court and members of the bar) and pro se parties (who are not) easily survives rational basis scrutiny for purposes of the Equal Protection Clause.” (R. Doc. 26, at 4)

Discriminating between the classification of “pro se” litigants and litigants who are represented by attorneys when providing equal protection should be subject to strict liability. It is a classification burdening a fundamental right, access to the courts.

Likewise, the Court may not discriminate against pro se litigants concerning access to audio recordings and cloak this discrimination as “discretion”.

“Discretion” defined by Noah Webster’s “Student’s Reference Dictionary” abridged from “American Dictionary of the English Language”, 1847, inter alia: “1. Prudence, or knowledge and prudence; that discernment which enables a

person to judge critically of what is correct and proper, united with caution. [] 2.

Liberty or power of acting without other control than one's own judgment; []”

“Discrimination” defined, id: “The act of distinguishing; the act of making or observing a difference, distinction; as the discrimination between right and wrong.” Or commoners and moneyed elite.

The Court did not give the reasoning behind his discrimination. Presumably the Court is prejudging “officers of the court and members of the bar” as competent and ethical. Arguendo, the bar vets out the incompetent and unethical. But the next step in the Court's apparent reasoning is a fallacy, that one who is not an attorney is incompetent or unethical.

In fact, the attorneys for PRA posted my credit report that I marked “CONFIDENTIAL” onto PACER. They failed to notice that the clerk filed the sealed copy of a transcript PRA redacted onto PACER. They filed PRA's MSJ (and mailed the same copies to me) that had no Statement of Uncontroverted Material Facts.

I am not perfect. But I demonstrated on several cases in state court and another District Court that allowed me to file electronically, that I am as qualified as expensive attorneys to use an electronic filing system. (Affidavit ¶ 30)

Being allowed to listen to the audio recording takes less competency and ethics than filing electronically. No legitimate reason was given to deny me the same

privilege that is often extended to attorneys. The Court Reporter said he had no recording, which does not address whether he would share the recording with me if he had one.

PRA knows it is at a huge advantage over victims who decide to represent themselves. The Court has broadened that gap by denying pro se litigants the same courtesy it grants to attorneys, including an auditory review of the recordings.

## **VII. The District Court Wrongfully Adopted PRA's Opposition to the Motion to Reissue Subpoena**

The Court denied my MSR at the District Court on October 6, 2023 by Text Entry Only. "ORDER denying 277 Ms. Hammett's Motion for Order to Revive Subpoena for each of the reasons set forth in 280 PRA's Response in Opposition."

(hyperlinks removed)

Each of PRA's reasons was wrong.<sup>4</sup>

**First**, if the Judge was a conspirator to altering the record, he would say the Transcript is accurate. Because of the numerous factual errors made by the Court, it is prudent to verify the Transcript against the audio myself.

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<sup>4</sup> PRA divines my motivation incorrectly, also. PRA opened the door to hearing the Pietrczak tapes, by the Playbook Remark. The Court accepted PRA's defamatory implication without any proof.



**Second**, an appeal does not divest the District Court of all jurisdiction. The Court exercised jurisdiction over the MSR but the District Court in *Harris* did not. The sole purpose of hearing the Pietrczak recordings at this point is to dispel the inference that can be made from PRA's opposition. PRA chose to attack my character for lack of a viable opposition. It is fair to allow me to show that my reason for hearing the Pietrczak recordings that has thus far been denied, is valid. I did not ask to subpoena the Pietrczak recordings in my motion to settle at the District Court, because even though I am certain the Pietrczak Court conspired to change the record, that in no way proves this District Court acted corruptly. For purposes of this appeal, proving my efforts to hear the Pietrczak recordings were warranted shows only that my request to hear the PRA recording is sincere, not part of a playbook.

**Third**, my request is not for discovery. The subpoena I issued was a trial subpoena. My intended use of the Pietrczak recordings pre-judgment was purely for impeachment. I anticipated, correctly, that PRA would attack my character and say I was paranoid to deflect from the emotional distress damages PRA caused when it forced me to litigate to stop its abusive conduct.

## Conclusion

There is good reason to believe the Transcript is inaccurate. My claim is not part of a Playbook. It is unconstitutional discrimination to deny me a hearing of the audio for verification and, assuming my memory is accurate, to correct the record.

Respectfully submitted,

October 18, 2023

/s/Laura Lynn Hammett

Laura Lynn Hammett  
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Conway, Arkansas 72032  
760-966-6000  
Bohemian\_books@yahoo.com  
Plaintiff Pro Se

CERTIFICATION OF WORD COUNT PURSUANT TO FRAP 32(G)

I, Appellant in pro se Laura Lynn Hammett, certify that this Motion is 5,035 words excluding the documents authorized by Rule 27(a)(2)(B) and FRAP Rule 32.1(f), which is in compliance with the 5,200 word limit in Rule 27.

October 18, 2023

/s/ Laura Lynn Hammett

Laura Lynn Hammett

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760-966-6000

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Plaintiff Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

/s/Laura Lynn Hammett

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Plaintiff Pro Se

IN THE UNITED STATES COURT OF APPEALS  
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**Affidavit of Laura Lynn Hammett in Support of Motion to Settle the Record  
and Reissue a Subpoena for Production of Exculpatory Evidence**

Affidavit of Laura Lynn Hammett in Support of Motion to Settle the Record and Reissue a  
Subpoena for Production of Exculpatory Evidence Case Nos. 23-2638 and 23-3093

1. I, Laura Lynn Hammett am the self-represented plaintiff in the above captioned case.
2. I am over 21 years old, competent to testify and if called to do so would testify to the following facts under penalty of perjury.
3. The facts are within my own personal knowledge.
4. I participated in a telephonic conference on December 1, 2021. (“the Hearing”)
5. I remember occasions when I felt as if I was being railroaded in court. I did not have that feeling during the Hearing.
6. I remember that before and up to the hearing, I thought PRA’s proposed protective order was overbroad and not like other protective orders in cases against PRA. I conveyed this to PRA in emails and to the Court by a response to PRA’s motion to grant the restraining order. (R. Doc. 30)
7. During the hearing, the Court entertained any questions or comments I had. I asked whether information that is already in the public domain could be made confidential under the terms of the proposed protective order.
8. The Court gave a thorough answer that alleviated my concerns that had been expressed by email and motion practice.
9. After I filed a motion to settle the record at the District Court, I read an opposition to a proposed protective order in a case on which Judge Rudofsky was

Affidavit of Laura Lynn Hammett in Support of Motion to Settle the Record and Reissue a Subpoena for Production of Exculpatory Evidence Case Nos. 23-2638 and 23-3093

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an advocate during his time as Solicitor General of Arkansas. (Planned Parenthood of Arkansas & Eastern Oklahoma Inc., et al v. Cindy Gillespie, Director, Arkansas Department of Human Services, USDC ARED Case No. 4:15-CV-00566-KGB, Doc. 217 and 217-1) There was a sample protective order attached as an exhibit. (R. Doc. 278, at 6-21.)

10. Reading the document triggered memory of Judge Rudofsky’s assurances of what could not be deemed confidential or under seal. Judge Rudofsky had gone to work as counsel to Walmart before the document was filed. It is likely that he either helped draft the document or has seen these documents many times.

11. In particular, “publicly available documents and information cannot be subject to such protection” (id. at 2), “party may disseminate the identical information covered by the protective order as long as the information is gained through means independent of the court's processes” (id. at 2 – 3), “Classified Information shall not include information that either: 1. is in the public domain at the time of disclosure, as evidenced by a written document” (id. at 14), and “A party shall designate as Classified Information only such information that the party in good faith believes in fact is confidential. Information that is generally available to the public, such as public filings, catalogues, advertising materials, and the like, shall not be designated as Classified.” (id. at 15)

12. I understood the Court's instruction to mean that PRA would not be allowed to abuse the privilege the proposed order bestowed upon them, and so I agreed.

13. I filed the Planned Parenthood opposition to proposed protective order as a notice of supplemental authority. (R. Doc. 278)

14. I could not afford to buy transcripts, food, homeopathic and functional medicine not covered by insurance on my \$639 per month pension. So, I did not buy the transcript. I knew what was said at the Hearing and all the other transcripts were provided by the Court or PRA until the June 14, 2023 hearing.

15. When I bought the Transcript for this appeal, I immediately noticed that there was dialogue missing, and a few possible inaccuracies. I make mistakes, like everyone else, and might have misspoke.

16. To verify that my memory is better than the transcript in this case, I sent this inquiry by email to Mr. Franklin: "May I please listen to the recording of the 12/1/21 hearing." (A true and correct copy of the email is filed as Exhibit 1)

17. Mr. Franklin responded: "This was a telephonic conference. We were not in the courtroom. If there were a recording, it would have been my personal laptop, and I do not keep those, as the only official record is my stenographic notes." (A true and correct copy of the email is filed as Exhibit 2)

18. I have a degree in journalism. Journalists must write responsibly, just as officers of the court must maintain professional ethics. Producing the recording allows me to verify my own notes and recollection.
19. I argued adamantly against the protective order being overbroad by email and reiterated by opposition in response to PRA's motion, R.Doc. 30.

6. This response incorporates several paragraphs, verbatim from Hammett's email response.
7. "The provisions of FRCP 26 (c) are succinct and accessible."
8. "Your proposed protective order does not comply with the Court's final scheduling order, Docket No. 23, paragraph 5. It does not avoid legalese, It is long and complicated. It makes filing under seal the norm, instead of redaction."
9. "Making anything 'Confidential - for Attorneys Eyes Only' prohibits me, as a prose litigant from access to that information."
10. "Paragraph 4, as I wrote twice before, turns this litigation into a star chamber. I am not an attorney, but I am a journalist. I think the issues in this litigation are of importance to the general population, and should be discussed freely."
11. "I renew the objections I made to the earlier version, which is quite similar to this one. Thank you for adding in the one year limitation." (Hammett's objections to the earlier version follow, excerpted from Motion Exhibit B, ECF No. 27-2, incorporated herein as if set forth verbatim.)



13. "If I ask for anything sensitive and confidential, I'm sure you have a template motion for protective order you have used numerous times, and you can electronically file it in minutes. Thus far, I have not asked for a single item from PRA except their initial disclosures. Asking for a blanket confidentiality order is oppressive."

14. From the first set of objections: "Regarding the proposed stipulated confidentiality agreement, no. PRA may not increase the burden to the unrepresented, modest means litigant by deeming everything 'Confidential' without first asking agreement of the other party or the Court."

15. "The authors of the Federal Rules of Civil Procedure in their combined wisdom wrote Rule 26( c) for a reason." 16. "I, as a journalist find PRAs proposed paragraph 4 to be particularly abhorrent. Considering that PRAs only non-frivolous defense to making harassing phone calls is "freedom of speech", its hypocrisy is astounding. PRA wants to make the entire proceedings confidential. Sorry, but I will not stipulate to a Star Chamber."

20. I then wrote 20 more paragraphs of authorities.

21. Nine months after the Hearing I wrote about what I remembered from the December 1, 2021 hearing. (R. Doc. 163, at 3 – 4.)

In an earlier hearing, the Court patiently explained confidentiality to Hammett. Hammett's understanding of that explanation is that she is not bound to confidentiality of the portions of "confidential"

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documents that are already a matter of public record. But Hammett is still uncomfortable because sealing publicly available information shifts the burden of proving its non-confidentiality to Hammett. Hammett does not want to face motions for contempt, even if the court should dismiss them and especially if there is a change in judge.

For example, Hammett told PRA about finding PRANet and call log documents extremely similar to those filed under seal in this case in a case called *Evans v. PRA*, USDC New Jersey, 1:15-cv-1455. (Doc 159-3, page 105) Those documents are attached as Exhibits D and E. The similar documents were filed in this case as Exhibits D and E to the Motion for Summary Judgment, Doc 76-7 and 76-8) PRA refused to remove the confidential designation from these documents without Hammett filing a motion.

It is notable that in *Evans*, Mr. Evans claimed PRA called him as many as six or seven times per day, but the PRA generated "call history" shows a maximum of three calls on one day and no more than two calls any other day.

In the *Evans* case, PRA filed a data load document of the same nature as the data load document filed in this case Doc. 76-6. Exhibit C in both cases. The difference between the two data load documents is that in *Evans*, there was a note at the bottom stating, "Data printed by Portfolio Recovery Associates, LLC from electronic records provided by FIA CARD SER VIVES, N .A. pursuant to the sale of accounts from FIA CARD SERVICES, N.A. to Portfolio Recovery Associates, LLC on 9/28/2021". PRA omitted this type of notice from the 6049 Capital One Account data load.

22. I was still under the impression that the Court remembered and would honor what he said during the December 1, 2021 hearing.

23. PRA wrote a reply that did not include a contradiction of this lengthy argument about what was said in an earlier hearing.

24. I have read through all earlier hearings and found nothing about the documents that have similar documents filed in other cases. There was another monologue by Judge Rudofsky explaining that documents I obtained through another source could not be made confidential. That was immediately before threatening me with sanctions if I accidentally violate the protective order. I remembered that monologue because the Court gave a hypothetical where owed \$100,000. It did not give me the same sense of comfort as the December 1, 2021 monologue.

25. After filing my motion, I found substantially verbatim discussion that limits a party's ability to confer confidentiality to matters that are in the public record. It was in an opposition to a protective order in a case Judge Rudofsky advocated against Planned Parenthood when he was Solicitor General. I was shocked and appalled that the Court allowed a protective order that was far more overbroad and oppressive than the one his past colleagues argued was against the People they represented.

26. I asked the Clerk of the Court, through deputy Crystal, for a recording made pursuant to the Guide to Judiciary Policy, Vol. 6, Ch. 3, § 350.40. She said the Clerk did not make one because there was a Court Reporter.

27. I have no criminal record.

28. I've never been a defendant in a debt collection lawsuit and never filed for bankruptcy.

29. I lost only one civil suit as a defendant, a small claims case 20 years ago over a dispute about the color of carpet installed in one of the many houses I restored.

30. I have experience using electronic filing at the Arkansas State court, the Federal District Court in Southern California, the Ninth Circuit and this court. My privileges have never been revoked.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct to the best of my personal knowledge.

Dated October 18, 2023

/s/ Laura Lynn Hammett

Laura Lynn Hammett  
16 Gold Lake Club Road  
Conway, Arkansas 72032

Affidavit of Laura Lynn Hammett in Support of Motion to Settle the Record and Reissue a Subpoena for Production of Exculpatory Evidence Case Nos. 23-2638 and 23-3093

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760-966-6000  
Bohemian\_books@yahoo.com  
Plaintiff Pro Se

I hereby certify that on October 18, 2023, a true and exact copy of the foregoing was filed with the Clerk of the Court for entry on the electronic filing system which will cause service upon all counsel of record via email.

/s/ Laura Lynn Hammett

Laura Lynn Hammett  
16 Gold Lake Club Road  
Conway, Arkansas 72032  
760-966-6000  
Bohemian\_books@yahoo.com  
Plaintiff Pro Se

IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

LAURA LYNN HAMMETT, an )  
individual, )  
 )  
Plaintiff-Appellant, )  
 )  
vs. )  
 ) Case Nos.: 23-2638 and 23-3093  
PORTFOLIO RECOVERY )  
ASSOCIATES, LLC, a Limited )  
Liability Company; DOES 1-99 )  
 )  
Defendant-Appellees )  
 )  
 )  
\_\_\_\_\_ )

**Exhibit 1**

**Email from Mrs. Hammett to Mr. Franklin**

**Laura Lynn Hammett's Motion to Settle the Record and Mandate Production  
of Exculpatory Evidence**

Laura Lynn Hammett's Motion to Settle the Record and Mandate Production of Exculpatory  
Evidence Case Nos. 23-2638 and 23-3093 1



Laura Lynn Hammett <thenext55years@gmail.com>

**TRANSCRIPT ATTACHED: Hammett v. PRA**

**Laura Lynn Hammett** <thenext55years@gmail.com>  
To: Stephen Franklin <sfranklinusdc@aol.com>

Tue, Aug 15, 2023 at 7:53 PM

Dear Mr. Franklin,

May I please listen to the recording of the 12/1/21 hearing.

Thank you,

Laura Hammett  
[Quoted text hidden]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

LAURA LYNN HAMMETT, an )  
individual, )  
 )  
Plaintiff-Appellant, )  
 )  
vs. )  
 ) Case Nos.: 23-2638 and 23-3093  
PORTFOLIO RECOVERY )  
ASSOCIATES, LLC, a Limited )  
Liability Company; DOES 1-99 )  
 )  
Defendant-Appellees )  
 )  
 )  
\_\_\_\_\_ )

**Exhibit 2**

**Email from Mr. Franklin to Mrs. Hammett**

**Laura Lynn Hammett's Motion to Settle the Record and Mandate Production  
of Exculpatory Evidence**

Laura Lynn Hammett's Motion to Settle the Record and Mandate Production of Exculpatory  
Evidence Case Nos. 23-2638 and 23-3093 1





Laura Lynn Hammett <thenext55years@gmail.com>

## TRANSCRIPT ATTACHED: Hammett v. PRA

**Stephen Franklin** <sfranklinusdc@aol.com>  
To: Laura Lynn Hammett <thenext55years@gmail.com>

Wed, Aug 16, 2023 at 9:03 AM

Ms. Hammett,

This was a telephonic conference. We were not in the courtroom. If there were a recording, it would have been my personal laptop, and I do not keep those, as the only official record is my stenographic notes.

Regards,

Stephen W. Franklin, RMR, CRR, CPE  
Official Court Reporter  
Northern District of California  
San Francisco, California  
561-313-8439

[Quoted text hidden]