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Secretary of State
Russel Mason
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BY

STRINDBERG & SCHOLNICK, LLC
employment and labor law

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SECRETARY OF STATE
STATE OF IDAHO

#24882

Via electronic mail (*colleen.zahn@ag.idaho.gov*) and U.S. Mail

Colleen Zahn
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Boise, Idaho 83720-0010

Idaho Secretary of State
700 W. Jefferson Street, Room E205
P.O. Box 83720
Boise, Idaho 83720-0010

COPY

Re: Notice of Claim on behalf of Lourdes Matsumoto

Dear Ms. Zahn:

As you know, we represent Lourdes Matsumoto (“Ms. Matsumoto”) with regard to her employment with the Idaho State Controller’s Office (“Controller”). After reviewing the circumstances surrounding Ms. Matsumoto’s employment, it appears that the Controller’s actions violate both State and Federal law. Specifically, Ms. Matsumoto was subject to harassment and discrimination based on her sex, race, and national origin in violation of her rights under Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), and the Idaho Human Rights Act, Idaho Code § 67-5901, *et. seq.* Ms. Matsumoto also has State law claims for assault and infliction of emotional distress. This letter will serve as a Notice of Claim, as required under Idaho Code §§ 6-907, 6-908, and associated provisions, with respect to Ms. Matsumoto’s claims against the Controller’s office and the State of Idaho.

Although Ms. Matsumoto is fully committed to pursuing her legal claims and is prepared to file charges of discrimination with the United States Equal Employment Opportunity Commission (“EEOC”), we write to determine whether the parties can reach a mutually agreeable resolution short of litigation.

The Controller hired Ms. Matsumoto on August 1, 2016 as Deputy Legal Counsel/Executive Assistant to the Controller. But the Controller never permitted her to serve in a legal counsel role. Instead, Controller Brandon Woolf (“Mr. Woolf”) ceded all authority in the office to his Chief of Staff, Dan Goicoechea (“Mr. Goicoechea”). Thus, Ms. Matsumoto communicated with both Mr. Wolfe and general counsel, Brian Benjamin, mostly through Mr. Goicoechea. Shortly after starting at the Controller’s office, Ms. Matsumoto was horrified to discover what many of her co-workers already knew, that Mr. Goicoechea often demeaned and



degraded women and minorities. What was even more disturbing was that the other men in senior administration, including the Controller himself, encouraged or did nothing to curb Mr. Goicoechea's deeds and sometimes violent acts, thereby condoning it.

Sex Discrimination & Harassment

Mr. Goicoechea's discriminating and harassing behavior towards women included remarking on their physical appearance, making vulgar sexual remarks in connection with their lack of abilities in the workplace, and making sexual overtures, both directly and indirectly. For example, Mr. Goicoechea often referred to women as "sluts" and similar epithets, commenting that specific women "would be begging him to get in [their] pants," and agreed with another state employee to record himself having sex with a Health and Welfare female employee. Mr. Goicoechea even wagered with Mr. Woolf on the time it would take him before a woman, Lori Woolf (no relation), would be "begging him to get in her pants." Mr. Goicoechea often made comments about women and their bodies and appearances describing many with sexually connected nicknames. For example, he called one woman "Grenade", explaining he slept with her for political gain but considered it to be jumping on a grenade for his buddies because she was unattractive. In discussing his preferences in women, Mr. Goicoechea commented that he "couldn't stand women with low self-esteem" but then clarified, "don't get me wrong, I would bend her over right there but she should have more self-esteem." He did not just reserve his comments for Controller employees but also commented on female political figures. Specifically, he repeated gossip he heard about State Representative Heather Scott that with her crazy eyes she should be in porn. He also disparaged Hilary Clinton and vice presidential candidate Tim Kane's wife saying they looked like "dogs" and then sexually demeaned them asking, "Who would want to get in bed with that? Can you imagine waking up to her?" Ms. Matsumoto, along with other female employees, overheard these vulgarities and understood that neither Mr. Goicoechea nor the male administrators in the office that laughed along with him regarded the women they worked with as professionals, only as sexual objects. He also gave disproportionately lower raises and promotions for female members of the staff.

Because the Controller did nothing to stop him, Mr. Goicoechea felt emboldened to increase the intensity of his harassment of Ms. Matsumoto, making unwanted disclosures to her of his sexual escapades. Mr. Goicoechea often bragged to her about whom he had sex with and pointed out that many of his sexual conquests were in their 20s, and were present or prior subordinate Controller employees. As Ms. Matsumoto also fit that description, when Mr. Goicoechea asked Ms. Matsumoto "Can we not be employer/employee for a minute?" and then said, "You have a great figure and adorable body." and "You know God was good to you and you are attractive." the overture both horrified and terrified her. For no apparent reason, he would often say "pretend we are married" in explaining, for example, how checks and warrants are drawn. This inappropriate treatment and comment made Ms. Matsumoto feel that she had become one of his targets.

Her feelings that Mr. Goicoechea treated her as nothing more than a potential sexual object was confirmed when he refused to give her work appropriate to her position and training. In February 2017, Mr. Goicoechea asked Ms. Matsumoto if she was happy with her work or bored. When Ms. Matsumoto replied that she could take on additional work. Mr. Goicoechea suggested she clean his office.

Ms. Matsumoto's concerns about and fear of Mr. Goicoechea was justified as he often engaged in behavior that was physically intimidating and threatening. For example, in December 2016, after learning that his daughter was re-admitted to the hospital Mr. Goicoechea punched a hole in the wall in a common space in the office. Mr. Goicoechea dismissed his behavior saying, "That is how I get when I'm angry" when the incident was discussed during a management meeting. Mr. Goicoechea minimized this violent outburst saying that when he was a police officer he and others would "shoot a certain wall" when they became angry. Even though he was aware of the incident, Mr. Woolf did not discipline Mr. Goicoechea for his violent behavior or for damaging public property. Instead, one of his deputies simply moved a picture to cover the hole in the wall.

Mr. Goicoechea often referred to his capacity for more harmful violence. For example, Mr. Goicoechea frequently stated that if anything happened to his daughter, he "would just start murdering people." The first time Ms. Matsumoto heard Mr. Goicoechea make this statement she thought he was joking and tried to laugh it off. Mr. Woolf was present and said, "No, he is serious. Mr. Woolf did not seek to reassure Ms. Matsumoto of her safety at work or discipline Mr. Goicoechea for his violent threats. Amazingly, Mr. Woolf suggested that if Mr. Goicoechea did lose control, Ms. Matsumoto "could just give him your list" of people to kill.

Mr. Goicoechea's violent tendencies were well known throughout the office. In addition to punching a hole in the wall, he intimidated employees, swearing at them while pounding his fists on desks or counters. Mr. Goicoechea also carried a firearm to work and showed it to Ms. Matsumoto on several occasions to further threaten and intimidate her.

Race Discrimination & Harassment

Mr. Goicoechea also overtly discriminated against and harassed those who were not Caucasian or did not appear to be of Western European national origin. For example, Mr. Goicoechea told Ms. Matsumoto that he did not trust the Health and Welfare Division "with tech stuff because they will hire any 'haji' or 'paji' off the street."¹ While discussing his own children, Mr. Goicoechea said, "I'm starting to sound like a black guy now by saying 'my baby's mama.'" Mr. Goicoechea also criticized an African-American participant in a reality TV show

¹ Both are derogatory terms referring to individuals of Arabic, Middle Eastern, or East Asian national origin.

by saying, "His name was like 'Samdarrellrick, he's named after his fathers.'" Mr. Goicoechea said this in front of Mr. Woolf, who, instead of reprimanding him, just laughed.

In a meeting with Mr. Woolf and other managers in November 2016, Mr. Goicoechea said that "'Orientals' and 'Chinamen' are making the country less secure." Mr. Goicoechea also yelled a question to a person standing near Ms. Matsumoto's desk, "Your family had a KKK laundry service right?" On another occasion, Mr. Goicoechea declared, "All this bullshit about the blacks, we elected a black president what more do they want? Where is our glass ceiling now?" Mr. Goicoechea's statement prompted a reply from Josh Whitworth,² a subordinate employee, who said, "Yeah, blacks voting for Obama is reverse racism."

Unfortunately, Mr. Goicoechea's discriminating statements were not limited to individuals of just one or two ethnicities. In January 2017, Mr. Goicoechea told Scott Phillips (who had a beard), "You better shave if they start rounding up the Arabs" and then warned everyone in the management meeting that "The cops are nervous [about] an angry Muslim community in Boise" and that "We are low on antidote to a nerve gas attack." Mr. Goicoechea then adjourned the meeting by telling everyone to buy a gun in reference to the "angry Muslim group." Mr. Goicoechea also implied that Native American Indians were a threat when, in another January management meeting, he said "You better watch out when the Indians start whooping" then proceeded to hit his open mouth with the palm of his hand making a fake Native American war cry.

Constructive Termination

In March 2017, Ms. Matsumoto was able to move to a work area farther away from Mr. Goicoechea's office. Although this reduced the amount of coincidental contact she had with Mr. Goicoechea, he purposely sought her out to make offensive, negative statements and suggestions regarding women and minorities.

In April of 2017, the Controller's office received a records request that asked for the number of women and minorities the Controller's office employed. Mr. Goicoechea ordered Ms. Matsumoto to tell the requester that the information could not be released without each employee's approval. When the requester clarified that he needed only numbers not any employee identities, Mr. Goicoechea claimed, without basis, that employees do not always designate that they are minorities on the hiring paperwork. Mr. Goicoechea then asked Ms. Matsumoto, "You don't say you're a minority on those papers do you?" When Ms. Matsumoto replied in the affirmative, Mr. Goicoechea said, "Really? Why? Well I guess we could all be minorities, like technically I am one because I am Basque." Mr. Goicoechea called the requestor on the phone, in the presence of Ms. Matsumoto, and told him that he "could not tell who was a

² Indicative of an ongoing refusal to remedy a hostile work environment in the Controller's office, Mr. Woolf selected Whitworth to replace Mr. Goicoechea as Chief of Staff.

minority because he couldn't ask that and that many times people don't put on paper what we would consider a minority." He told the person on the phone "I have a Hispanic Japanese in here and she doesn't say she identifies as a minority" directly contradicting the conversation minutes earlier with Ms. Matsumoto. Mr. Goicoechea referenced the records request in a management meeting and said, "We aren't going to just give that information out because the little brown boy asks for it."³

On July 14, 2017, the Department of Labor requested an agency visit to the Controller's office. Ms. Matsumoto advised Mr. Woolf and, separately, Mr. Goicoechea about the request. Initially Mr. Goicoechea talked through several scenarios to facilitate the agency visit and then said that the management team would discuss the issue the following Monday. Then, in an abrupt change of discussion and with a seething tone of voice, Mr. Goicoechea turned on Ms. Matsumoto and said, "Never fucking tell Brandon (Mr. Woolf) anything!" Ms. Matsumoto tried to explain that she had only advised Mr. Woolf of the request and did not have complete information to do more than that. Mr. Goicoechea's demeanor was hostile and aggressive towards Ms. Matsumoto. His face was red, his body posture was tense, his hands were clenched into fists, he leaned menacingly towards Ms. Matsumoto pointing down at her, and said, "You need to shut the fuck up and say 'Yes, Sir' to me. You don't know what is going on in my brain when my voice gets like this. You say, 'Yes Sir.'" Given Mr. Goicoechea's prior statements about losing his temper and his physical intimidation of other employees, Ms. Matsumoto understandably felt threatened. Mr. Goicoechea repeated his demand to "fucking say 'yes, sir'" several times. Ms. Matsumoto only replied by saying "okay." Mr. Goicoechea glared at Ms. Matsumoto for approximately 20 seconds and then ordered her to go to his office. Once in Mr. Goicoechea's office Ms. Matsumoto again explained her actions regarding the agency visit request. Mr. Goicoechea asked, "Are we going to be okay?" Ms. Matsumoto replied, "yes" and walked out of the office, shaken by the whole experience.

Mr. Goicoechea's behavior and Mr. Woolf's inaction cause Ms. Matsumoto significant stress and anxiety. Unwilling to continue to submit to Mr. Goicoechea's violent, demeaning, and harassing behavior any longer, Ms. Matsumoto went to Brian Benjamin ("Mr. Benjamin"), who is General Counsel for the Controller's office, and reported all of Mr. Goicoechea's illegal actions and then resigned from the Controller's office. Mr. Benjamin told Ms. Matsumoto that Mr. Goicoechea had previously been the subject of other harassment complaints and asked Ms. Matsumoto to continue at the Controller's office pending an investigation.

After Ms. Matsumoto's report, the Controller placed her on leave while an investigation was conducted. However, Mr. Goicoechea, who was not placed on leave to remove him from the

³ Mr. Goicoechea and Mr. Woolf both personally know the requestor's race and ethnicity because the requestor has a distinctive Indian name and is the son of another state department head.

office, immediately began to intimidate other employees who Ms. Matsumoto identified as having experienced similar treatment. Since it was apparent that Mr. Woolf was in cahoots with Mr. Goicoechea, Ms. Matsumoto was highly suspicious when Mr. Woolf hired a private law firm to investigate Ms. Matsumoto's complaint, instead of consulting the Attorney General's office.

Finally, Mr. Goicoechea retaliated against Ms. Matsumoto by immediately restricting some of her email access and access to Controller social media accounts she managed, and cancelling most of her meetings and projects. In addition, during the weekend following Ms. Matsumoto's complaint, Mr. Goicoechea called Ms. Matsumoto's coworkers threatening their jobs if they assisted or made statements in support of Ms. Matsumoto's complaint. Mr. Goicoechea also called Mr. Benjamin demanding to know the specifics of Ms. Matsumoto's complaint. Fearing further retaliation by Mr. Goicoechea, and possibly physical violence given his prior behavior, Ms. Matsumoto was forced to resign on July 20, 2017.

Nature of the Claims

Based on the foregoing, the Controller has violated Ms. Matsumoto's rights under Title VII and the Idaho Human Rights Act. First, Title VII protects an employee from discrimination or hostile work environment, based on race, color, sex, or national origin. The Controller knew of Mr. Goicoechea's discrimination and harassment, not only due to Ms. Matsumoto's and the earlier report but because senior management observed and participated. The Controller utterly failed in its obligation to take corrective action to end the harassment and remedy the ongoing discrimination.

Ms. Matsumoto also has claims arising under both the U.S. Constitution and Idaho constitutions. The Controller infringed on Ms. Matsumoto's constitutionally protected liberty interest in her good name, reputation, and continued and future employment by forcing her constructive termination and allowing its personnel to make false and disparaging allegations against her. Since Ms. Matsumoto left the Controller's office, Mr. Goicoechea has made false statements regarding the reason for her leaving the Controller's office and disparaged her work abilities, including telling others that she is "irrational" and that is why he cannot work with women.

As set forth above, Ms. Matsumoto is committed to resolving this matter and is prepared to pursue her legal claims. However, prior to filing a Charge of Discrimination, Ms. Matsumoto has requested that we attempt to resolve this matter. To that end, Ms. Matsumoto will release her claims against Controller in exchange for:

- Removal of Mr. Goicoechea from any supervisory role in State government.
- A neutral, written employment reference along with an agreement that the Controller's office will provide her a verbal reference, if requested, in substantial

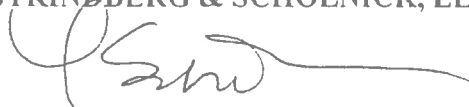
compliance with the written one:

- Harassment and discrimination training for all Controller's office employees with a separate training for its upper level managers performed by individuals outside the Controller's office;
- A change in policy for internal grievances to go directly to Mr. Woolf and for any discrimination or harassment report to be disclosed to the Attorney General's office.
- A lump sum payment of \$136,500, which is roughly the equivalent of 18 months of Ms. Matsumoto's salary and benefits;
- \$50,000 emotional distress; and
- A payment of \$5,000 for her attorney's fees.

This offer will remain open until September 22, 2017, at 5:00 p.m. Please also be advised that if we are unable to resolve this matter, this is your formal notice to preserve any and all evidence and documentation regarding this matter. I can be reached at 801-359-4169, ext. 111. We look forward to working with you toward resolution of this matter.

Sincerely,

STRINDBERG & SCHOLNICK, LLC



Lauren I. Scholnick

At all times relevant hereto
Lourdes Matsumoto has resided at:

1530 W. Ann Taylor St. A-103
Meridian, Idaho 83646

cc: Client