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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Gary S. Duarte,

Plaintiff,

v.

Catalina Foothills School District No. 16,

Defendant.

No. CV-12-00844-TUC-JAS

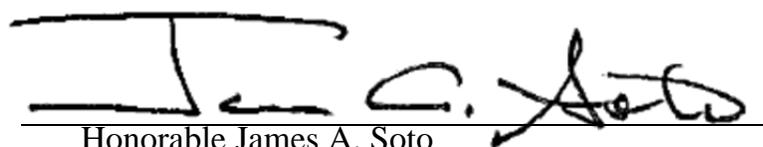
**ORDER**

On 11/3/14, the Court held a pretrial conference with the parties to discuss pending matters related to the jury trial set for 11/4/14. At the pretrial conference, the parties expressed their respective positions pertaining to the admissibility of Defendant's Exhibit 54 which is a "no cause" determination from the Arizona Civil Rights Division ("ACRD"). The determination is simply a fill-in-the-blank form which has an "X" marked next to a sentence that summarily states that based on the ACRD's investigation, "the information is not sufficient to establish violations of the statute(s)." The Ninth Circuit has held that such "no cause" determinations are not per se admissible, but require the trial court to weigh its probative value against Rule 403 considerations. *See Beachy v. Boise Cascade Corp.*, 191 F.3d 1010, 1015 (9<sup>th</sup> Cir. 1999). As the fill-in-the-blank form does not discuss the extent of any investigation by the ACRD and does not give any analysis whatsoever, the probative value is minimal at best. In light of the low probative value of the determination and upon consideration of the Rule 403 factors, the Court finds that the minimal relevance of the ACRD's decision is outweighed by Rule 403 factors such that it must be excluded at trial. *See Fed. R. Evid. 403* ("The court may

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exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”).

Dated this 3rd day of November, 2014.

  
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Honorable James A. Soto  
United States District Judge