

1 MARY DRYOVAGE (California Bar No. 112551)
 2 Law Offices of Mary Dryovage
 3 600 Harrison Street, Suite 120
 4 San Francisco, CA 94107
 5 Telephone: (415) 593-0095
 6 Facsimile: (415) 593-0096
 7 Email: mdryovage@igc.org

8 Attorney for Plaintiff
 9 KIMBERLY FREEMAN

10 JOSEPH P. RUSSONIELLO (California Bar No. 44332)
 11 United States Attorney
 12 JOANN M. SWANSON (California Bar No. 88143)
 13 Chief, Civil Division
 14 CLAIRE T. CORMIER (California Bar No. 154364)
 15 Assistant United States Attorney
 16 JENNIFER S. WANG (California Bar No. 233155)
 17 Assistant United States Attorney
 18 150 Almaden Boulevard, Suite 900
 19 San Jose, California 95113
 20 Telephone: (408) 535-5082
 21 Facsimile: (408) 535-5081
 22 Email: claire.cormier@usdoj.gov

23 Attorneys for Defendant
 24 MICHAEL J. ASTRUE

25 UNITED STATES DISTRICT COURT
 26 NORTHERN DISTRICT OF CALIFORNIA
 27 SAN FRANCISCO DIVISION

18	KIMBERLY FREEMAN,)	Case No. 06-4900 JSW
19	Plaintiff,)	REVISED JOINT EXHIBIT LIST WITH OBJECTIONS AND RESPONSES TO OBJECTIONS; ORDER RE OBJECTIONS
20	v.)	
21	MICHAEL J. ASTRUE, Commissioner, Social Security Administration,)	
22	Defendant.)	Trial Date: December 8, 2008 Courtroom: 2, 17 th Floor Hon. Jeffrey S. White
23)	

24 Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the Guidelines for Trial and
 25 Final Pretrial Conference in Civil Jury Cases Before the Honorable Jeffrey S. White, and the
 26 Court's instructions at the pretrial conference, and the Order on Objections filed December 2,
 27 2008 (CR 151), the parties submit the attached Revised Joint Exhibit List.

1 Exhibits 1 through 100 are offered by plaintiff, though some of the stipulated exhibits
2 were jointly offered by both parties. Exhibits 101 to 200 are offered by defendant. .

3 Objections and responses to objections are noted. Plaintiff acknowledges that the court
4 has ruled that the evidence on certain issues has been excluded and wishes to preserve the issues
5 for appeal.

6 Respectfully submitted,

7 FOR THE PLAINTIFF:

8 Law Offices of Mary Dryovage

9 Dated: December 4, 2008

10 _____
11 MARY DRYOVAGE

12 FOR THE DEFENDANT

13 JOSEPH P. RUSSONIELLO
14 United States Attorney

15 Dated: December 4, 2008

16 _____
17 CLAIRE T. CORMIER
18 Assistant United States Attorney

Exh. No.	Description/ Bates Nos./Sponsoring Witness(es)	Objection or Stipulation	Response	O or S
1	Timeline - <i>Freeman v. Astrue</i>	401, 403, 801, Def. Motion In Limine No. 2	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D	S
	Defendant's Discovery Responses			
2	Defendant's Objections and Responses to Plaintiff's First Set of Request for Production, dated June 25, 2007.	401, 403, Def. Motion In Limine No. 2; See also objections stated in the document	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
3	Defendant's Objections and Responses to Plaintiff's First Set of Request for Admission, dated June 25, 2007.	401, 403, Def. Motion In Limine No. 1, 2; See also objections stated in the document	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	RR O
4	Defendant's Responses to Plaintiff's First Set of Interrogatories, dated August 22, 2007.	401, 403, Def. Motion In Limine No. 2; See also objections stated in the document; No verification attached	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	RR O
5	Defendant's Objections and Responses to Plaintiff's Second Set of Request for Production, dated November 23, 2007.	401, 403; See also objections stated in the document	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
6	Defendant's Objections and Responses to Plaintiff's Second Set of Request for Admission, dated November 23, 2007.	401, 403, Def. Motion In Limine No. 2; See also objections stated in the document	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	RR O
7	Defendant's Responses to Plaintiff's Second Set of Interrogatories, dated November 23, 2007.	401, 403, Def. Motion In Limine No. 2; See also objections stated in the document; No verification attached	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	RR S

8	Defendant's Initial Disclosures, dated	403	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
9	Defendant's Supplemental Disclosures and Discovery Responses, dated October 30, 2007.	403	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
	Appointment of Kimberly Freeman in FCIP			
10	Application for Federal Employment [SSA 0246-0253] Freeman	Stipulated		
11	Form 50-B, Notification of Personnel Action, Executive Appointment, September 10, 2003 [SSA 0236] Freeman	Defendant will stipulate if salary information is redacted. Such information relates only to a bench issue.	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805, Best Evidence Rule.	O
12	SSA FCIP Statement of Understanding, dated September 15, 2005 signed by Freeman; SSA0241; Freeman	Stipulated		
13	Individual Development Plan for FCIP Participant San Francisco Region [SSA 0242-0245] Freeman	Stipulated		
	SSA Fresno District Office Performance			
14	SSA Fresno District Office Work Unit Log for May 2004	Authentication, 401, 403	402, 801(d)(1) A & B, 801(d)(2) A, B, C, D [Sylvia Norman]	
15	Title II Systems Processing Schedule for June 2004 [SSA 0191-0192]	Stipulated		
16	Relationship of Affiants, Fresno District Office [SSA 0066]	Stipulated as redacted	Stipulated	
17	Position Description, GS-962-8 Service Representative, amended February 11, 2003 [SSA 0156-0161]	Stipulated		

18	Trainee Evaluation Form for Freeman, 1/13/04 [SSA0167-0171]; Freeman, Corneliuz	Stipulated		
	Termination			
19	June 2004 documents re Harris complaint [SSA0564-567] Keag, Currey	Stipulated		
20	6/30/04 email, attaching 6/16/04 email from Currey to Singer and Summers [SSA0291] Currey, Singer, Summers	Stipulated		
21	Termination of Appointment letter to Kimberly Freeman from Bobbie Summers, dated July 9, 2004 [SSA 0271-0272] Freeman, Summers, Thompson	Stipulated		
22	Form 50-B Notification of Personnel Act, dated July 26, 2004 [SSA 0174] Freeman	Defendant will stipulate if salary information is redacted. Such information relates only to a bench issue.	402, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805. Salary information is relevant to show plaintiff is similarly situated to Galan. Best Evidence Rule.	O
	Efforts to Exhaust Administrative Remedies	Because Defendant does not contest that plaintiff exhausted administrative remedies, documents on that subject are irrelevant.	This evidence is offered to show that SSA failed to follow the federal regs and refused to process the EEO complaint and to refute defendant's affirmative defense that it would have taken the same action.	
23	E-mail sent to and from Scott Incardona to and from Sylvia Norman re: EEO Counseling for Freeman, dated July 23, 26, 29, August 18, 24 and 25, 2004 [not in ROI]	401, 403, 801	402, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	O

24	E-mail from Sandra Knox to Sylvia Norman, dated August 4, 2004 [SSA 0270] Knox, Norman	801	402, 612, 613, 801(d)(2) C	S
25	Letter to Senator Feinstein from Kimberly Freeman, dated August 20, 2004 [SSA 0268-0269]	401, 403, 801. Post-termination Congressional correspondence is irrelevant to whether the termination was discriminatory.	402, 801(c)	S
26	Letter to Peter D. Spencer from Senator Feinstein, dated September 7, 2004 [SSA 0267]	401, 403, 801. Post-termination Congressional correspondence is irrelevant to whether the termination was discriminatory.	402, 801(d)(2) A, B, C, D	S
27	Letter to Senator Feinstein from Peter D. Spencer, dated October 4, 2004 [SSA 0266]	401, 403, 801. Post-termination Congressional correspondence is irrelevant to whether the termination was discriminatory.	402, 612, 613, 801(c)	S
	Informal EEO Counseling	The manner of the investigation into plaintiff's claims is not relevant to the question of why she was terminated. Defendant thus objects to many of the exhibits in this section.		
28	SSA EEO Counseling Report from Jim Buyck, dated November 1, 2004 [SSA 0036-0045, 0054-0056]	401, 403, 801, 1002; Def. Motion In Limine No. 2	402, 801(d)(2) A, B, C, D, 803 (1), (2), (3), (5), (6), (7),(8), (10), 804(1), (3), 805	S
29	Formal Discrimination Complaint Filing Form, dated December 10, 2004 [SSA 0016]	401, 403, 801	402, 801(d)(2) A, B, C, D,803(6), (7),(8), (10), 804(1), (3), 805	S

30	Memorandum from Paula Singer to Jim Buyck re: management rebuttal to complaint, including statements from Ms. Singer, Ms. Curry, Mr. Corneliuz and Ms. Summers dated December 21, 2004 [SSA 0046-0053]	Portions of this exhibit offered by defendant as Ex. 102 and 103, and a portion is offered by plaintiff as Ex. 32. Defendant would not object to the use of the original memoranda from Currey, Summers, Singer, and Corneliuz that are incorporated into Exhibit 30, but defendant objects to this exhibit in its entirety under 801, 1002.	402, 612, 613, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805, Relevant to show motive, intent, pretext, scheme, pattern, lack of legitimate justification.	S
31	Reports of Contact by Corneliuz; [SSA0573-575] Corneliuz	Stipulated		
32	Notes on Kim Freeman by Corneliuz; [SSA0255-0256] Corneliuz	Stipulated		
33	Individual EEO Discrimination Complaint Form, dated January 14, 2005 [SSA 0015] Freeman	401, 403, 801	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805. Relevant to show motive, intent, pretext, scheme, pattern, lack of legitimate justification.	S
34	Letter to Director Civil Rights and Equal Opportunity, dated January 14, 2005 [SSA 0017] Freeman	401, 403, 801	402, 612, 613, 801(c)	S
35	Letter to Sylvia Norman dated January 31, 2005 [SSA 0021-0023] Norman	401, 403, Def. Motion In Limine No. 2	402, 801(c)	S
	Preservation of Documents	The ruling on defendant's Motion In Limine No. 5 should bar documents on this subject.		
36	E-mail to Paula Singer, Bobbie Summers from Sylvia Norman, dated July 16, 2004 re: Fresno Document Request for Information - Freeman Termination [Norman Ex. 2] Norman	401, 403, 801, Def. Motion In Limine No. 5	402, 612, 613, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S

37	Memorandum from Bobbie Summers to Sylvia Norman, dated July 27, 2004 re: Information Request dated July 15, 2004 - Kimberly Freeman (Termination) [Norman Ex.1] Norman	401, 403, 801, Def. Motion In Limine No. 5	402, 612, 613, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
38	E-mail to Paula Singer, Bobbie Summers from Sylvia Norman, dated July 30, 2004 re: Freeman: Response to Information Request. [Norman Ex. 3] Norman	401, 403, 801, Def. Motion In Limine No. 5	402, 612, 613, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
39	Letter to Pete Spencer, Regional Commissioner, dated September 9, 2004 [SSA 0283] Norman	401, 403, 801	402, 612, 613, 801(d)(2) A, B, C, D	S
	Investigators Discovery Requests to SSA	The manner of the investigation into plaintiff's claims is not relevant to the question of why she was terminated. Defendant thus objects to many of the exhibits in this section. In addition, the ruling on defendant's Motion In Limine No. 5 should bar many of these exhibits.	This evidence goes to the central issues before the jury, namely motive, intent, pretext, lack of legitimate justification, as well as defendant's affirmative defense that they would have taken the same action.	
40	Document and Data Request for Kimberly Freeman [SSA 0211-0212] Williams, Campbell	401, 403, 801, Def. Motion In Limine No. 5	402, 612, 613, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
41	Letter to Janice Campbell from Isaac Williams, Manager, CREO [SSA 0214]	401, 403, 801, Def. Motion In Limine No. 5	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
42	Report of Investigation (ROI) - Kimberly Freeman, Case No. 05-0102-SSA dated August 1, 2005 – EEO Counseling Report [SSA 0036-0065]	401, 403, 801, 1002, Def. Motion In Limine No. 2	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
	Document Tampering	The ruling on Defendant's Motion In Limine No. 4 should bar exhibits on this subject.		

43	Declaration of Noel P. Riggins, signed and dated July 28, 2005 [not in ROI]	401, 403, 801, Def. Motion In Limine No. 2	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
44	Declaration of Noel P. Riggins, [unsigned]	401, 403, 801, 1002, Def. Motion In Limine No. 2, 4	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
45	EEO Complaints filed by employees in the Fresno Office during the period 2001-2004 [SSA 0499]	401, 403, 801, Def. Motion In Limine No. 2	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805. Relevant to show motive, intent, pretext, scheme, pattern, lack of legitimate justification.	S
46	Memo to file from EEO Investigator Janice Campbell, re: Complainant's rebuttal affidavit dated July 28, 2005 [SSA 0217-0218]	401, 403, 801	402, 612, 613, 801(d)(2) A, B, C, D	S
47	Transmittal letter to Riggins from Campbell dated June 28, 2005 [SSA 0220-0221] Riggins, Campbell	401, 403, 801, Def. Motion In Limine No. 4	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
48	Transmittal letter to Galan from Campbell dated July 19, 2005 [SSA 0222-0223] Galan, Campbell	401, 403, 801	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
49	Letter to Sylvia Norman from EEO Investigator Janice Campbell, dated July 28, 2005 [SSA 0219] Norman	401, 403, 801	402, 612, 613, 801(d)(2) A, B, C, D	S
50	Affidavit of Vicky Curry [SSA 0103-0112]	Stipulated as redacted		
51	Affidavit of Bobbie Summers [SSA 0113-0121]	Stipulated as redacted		
52	Affidavit of Paula Singer [SSA 0122-0129]	Stipulated as redacted		

53	Affidavit of Sandra Knox [SSA 0130-0133]	801, Def. Motion In Limine No. 2	612, 613, 801(d)(2) A, B, C, 803(5), (7),(8), (10), 804(1), (3), 805 D	S
54	Affidavit of Teresa Galan [SSA 0134-0138]	801	612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
55	Map of Fresno SSA office (Singer Depo. Ex. 1); Freeman, Norman, Riggins, Currey, Summers, Singer	Stipulated		
56	Paula Singer's Application for Leave [SSA 0673-0676]	401, 403	402, 612, 613, 801(d)(1) A & B, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
	Statistical Evidence and Workforce Profile			
57	E-mail from CREO to EEO Investigator, dated July 18, 2005 [SSA 0175-0178]	401, 403, 801, Def. Motion In Limine No. 2	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S
58	Fresno District Office Workforce Data - 2 page document (Exhibit 5 in Paula Singer's deposition) [SSA 0067-0068]	401	402, 612, 613, 803(6), (7),(8), (10), 804(1), (3), 805	S
	SSA Policies and Procedures			
59	President Clinton's Executive Order 13162 re: Federal Career Intern Program, July 6, 2000 [SSA 0193-0194] Norman, Freeman	Stipulated		
60	SSA OCREO Policy for the Prevention and Elimination of Harassment in the Workplace [SSA 0358-0361] Norman, Freeman	401, 403. This document regarding harassment policies is irrelevant to this case, which is not a harassment case.	402, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805	S

61	SSA CREO Discrimination Complaint Process, SSA 437 [SSA 0380-0382] Norman, Freeman	401, 403	402, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805. Relevant to show that the defendant violated their own rules and to show motive, intent, pretext, scheme, pattern, lack of legitimate justification.	O
62	SSA Personnel Policy Manual re: SSA Federal Career Intern Program [SSA 0178-0186] [SSA 0383-396] Norman, Freeman	Stipulated		
63	SSA Policy Against Discrimination [SSA0407-415] Singer, Summers, Currey, Korn, Higdon; Jew	Stipulated		
64	Affidavit of Scott Foster, Lead Human Resources Specialist GS 13 [SSA 0151-0154]	Stipulated		
65	Excerpts from Annual Personnel Reminders, August 2002 [SSA 0300-0357] Norman, Freeman	Stipulated		
66	The Social Security Administration's Policy Prohibited Discrimination Against Employees and Applicants for Employment [SSA 0429-0436] Norman	Withdrawn		
	Discriminatory Treatment of Co-Workers			
67	Resignation Letter from Quiona Jamison, dated November 17, 2003 [SSA 0579-0580] Jamison	Stipulated		

68	ROI - Noel P. Riggins, Case No. 05-0048-SSA, dated July 5, 2005 Declaration of Paula Nanette Singer, dated July 1, 2005	401, 403, Def. Motion In Limine No. 1 and 2.	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805. Relevant to show motive, intent, pretext, scheme, pattern, lack of legitimate justification.	S
69	Letter from Mark Anderson re: Case No. SF-07-2125-SSA, dated November 15, 2007 [SSA 0599-0600]	401, 403, 801, Def. Motion In Limine No. 1 and 2.	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805. Relevant to show motive, intent, pretext, scheme, pattern, lack of legitimate justification.	S
	Damages			
70	Record of Leave Data for Kimberly Freeman, dated Sept. 14, 2004 [SSA 0224-0225] Freeman	401. Relates only to bench issue of back pay	AGREE	
71	Expert Report of Sally White, CPA, CVA, dated November 29, 2007 White	401. Relates only to bench issue of back pay	AGREE	
72	Form 50-B, Conversion to Career Conditional Appointment, dated August 31, 2005 [SSA 0298-0299] Galan	Defendant will stipulate if salary information is redacted. Such information relates only to a bench issue.	402, 612, 613, 801(d)(2) A, B, C, D, 803(6), (7),(8), (10), 804(1), (3), 805. Best Evidence Rule. Relevant to show that Galan is “similarly situated” to plaintiff.	O
	Defendant’s Exhibits			
101	Trainee Evaluation Form for Galan, 1/13/04 [SSA0568-572] Corneliuz, Galan	Stipulated		
102	12/15/04 memo from Summers to Singer re Freeman [SSA0257-258]; Summers, Singer	Stipulated		
103	12/22/04 memo from Currey to Singer re Freeman [SSA0259-261] Currey, Singer	Stipulated		

104	Map of Fresno SSA office (Unmarked version of the map - Ex. 55); Currey, Summers, Singer	Stipulated		
-----	--	------------	--	--

--	--	--	--	--

Defendant withdraws the following exhibits in light of the ruling on Defendant's Motion In Limine No. 4

105	Transmittal letter to Riggins from Campbell [SSA0220-221] Riggins	Withdrawn		
106	Page from Report of Investigation re attempts to collect affidavits [SSA0010] Jew	Withdrawn		

Dated: December 5, 2008

