

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
Northern District of California

DIWAN WILLIAMS,

No. C 10-03760 MEJ

Plaintiff,

**ORDER DENYING DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT (RE: DOCKET NO. 21)**

v.

SYSCO SAN FRANCISCO, INC.  
TEAMSTERS LOCAL 853,

Defendants.

**I. INTRODUCTION**

Pending before the Court is Sysco San Francisco Inc.'s (Defendant) Motion for Summary Judgment. Dkt. No. 21. Diwan Williams (Plaintiff) has filed an Opposition, to which Defendant filed a Reply. Dkt. Nos. 31 and 34. Having reviewed and considered the papers submitted by the parties, the Court **DENIES** Defendant's Motion in its entirety for the reasons explained below.

**II. BACKGROUND**

A. Procedural Background

Plaintiff initiated this lawsuit by filing a Complaint against Defendant, his former employer, on August 24, 2010.<sup>1</sup> Dkt. No. 1. Plaintiff alleged that Defendant discriminated against him and ultimately terminated his employment due to his military service. *Id.* The Complaint specifically asserted the following claims against Defendant: (1) discrimination in violation of the Uniform Services Employment and Reemployment Rights Act (USERRA), 42 U.S.C. § 4301 *et seq.*; (2) discrimination in violation of California Military & Veterans Code § 394 *et seq.*; (3) wrongful

---

<sup>1</sup> Plaintiff's Complaint also asserted a claim for breach of statutory duty of fair representation against his Union, Teamsters Local 853. Dkt. No. 1. But on May 6, 2011, Plaintiff dismissed the Union with prejudice from this action after the two parties reached a settlement. Dkt. No. 17.

1 termination in violation of public policy; and (4) breach of contract. *Id.* On June 30, 2011,  
2 Defendant moved for summary judgment on Plaintiff’s first three claims.<sup>2</sup> Dkt. No. 21.

3 B. Factual Background

4 Plaintiff began working for Defendant in 2006 as a warehouse order selector. Dkt. No. 28,  
5 Joint Statement of Undisputed Facts (JSF) ¶ 8. Throughout his employment, he worked the night  
6 shift from Sundays through Thursdays. JSF ¶ 9. In 2008, Plaintiff enlisted in the Army National  
7 Guard and informed Defendant’s Human Resources Director, Judith La Frenz, about his enlistment.  
8 JSF ¶¶ 16, 17. Defendant’s only written policy about military leaves of absence was contained in its  
9 employee handbook and provided that “[a]ll provisions under the [USERRA] will be followed.” JSF  
10 ¶ 13. Even though Defendant preferred that employees provide notification of military leave in  
11 writing, it allowed employees to take military leave without written notice, as long as there was  
12 advance notice pursuant to USERRA. JSF ¶¶ 14, 26.

13 Pursuant to company policy, Plaintiff notified La Frenz that he was taking an extended  
14 military leave from September 9, 2008, through April 14, 2009. JSF ¶ 18. Plaintiff’s request was  
15 granted, and he provided La Frenz with documents that confirmed he was scheduled for military  
16 leave for that period. JSF ¶¶ 18, 19. Plaintiff returned from military leave earlier than expected in  
17 March 2009 and his employment was reinstated. JSF ¶ 21. At that time, Plaintiff was provided with  
18 a copy of Defendant’s new attendance policy, including the call-in procedures for absences. JSF ¶¶  
19 22, 25.

20 Defendant’s new attendance policy defined a “No Call, No Show” as a failure to work a  
21 scheduled shift without properly notifying Defendant. JSF ¶ 23. An employee that received a “No  
22 Call, No Show” would be assessed three points for each violation. JSF ¶ 23. Under the policy,  
23 Defendant would take appropriate disciplinary steps based on the points accumulated by an  
24 employee. JSF ¶ 23. Specifically, during a 12-month period, two or more points would result in a  
25 written verbal warning, six or more points in a second written warning, eight or more points in a final  
26

---

27 <sup>2</sup> Both parties do not address the status of Plaintiff’s last claim for breach of contract, which  
28 was specifically alleged in the Complaint against Defendant and not the Union. Dkt. No. 1.

1 warning, and ten or more points in termination. JSF ¶ 23. Defendant would not issue attendance  
2 points if it had written verification for a leave of absence. JSF ¶ 24.

3 After his return to work, Plaintiff continued to participate in periodic military training  
4 exercises. JSF ¶ 21. During a meeting in April 2009, La Frenz instructed Plaintiff to give advance  
5 notice of any military leave and asked him to provide written confirmation of his military training  
6 dates. JSF ¶ 26. Based on the 2010 dates provided by Plaintiff's military supervisors, he was granted  
7 military leave from January 7 to 10, February 19 to 21, and March 4 to 7. JSF ¶ 31. As of March  
8 2010, Plaintiff was on notice that he had accumulated four points under Defendant's attendance  
9 policy and that ten points would result in termination. JSF ¶ 34.

10 Plaintiff's military training from March 4 to 7 was cancelled. JSF ¶ 44. Plaintiff did not  
11 inform Defendant about this cancellation, and Defendant learned about it for the first time through  
12 this lawsuit. JSF ¶ 45. Plaintiff worked his entire shift on Thursday, March 4, but he did not show up  
13 to work on Sunday, March 7. JSF ¶¶ 39, 40. Plaintiff also did not call in to explain his absence. JSF  
14 ¶ 43. Because Plaintiff's absence on March 7 was coded as military leave pursuant to the notice he  
15 had provided earlier, Defendant did not take any action at that time. JSF ¶ 41.

16 On March 7, plaintiff received an e-mail from his Sergeant that there would be a training  
17 exercise on March 11 to 14.<sup>3</sup> JSF ¶ 48. At work the next day, Plaintiff spoke to his supervisor,  
18 Michael Klag, who did not have authority to grant military leaves of absence. JSF ¶¶ 49, 76.  
19 Plaintiff claims that during this meeting he informed Klag that he would be out on military leave on  
20 March 11 and 14. Dkt. No. 32, Pl. Decl. ¶ 27. Klag denies this and asserts that in their meeting  
21 Plaintiff only requested to use a floater holiday for March 10, which he approved without asking why  
22 Plaintiff needed it. JSF ¶¶ 49, 50. Plaintiff never contacted the Human Resources Department  
23 regarding his need to take an additional military leave and never provided any written verification  
24 about the upcoming military training. JSF ¶ 60.

25

26

27

28

---

<sup>3</sup> The parties have agreed to this fact, but it appears that Plaintiff actually knew about the March 11 to 14 training on February 16, when his Sergeant explicitly informed him by e-mail that the March 4 to 7 training was postponed until the following weekend. *See* Pl. Decl. ¶ 23.

1 Plaintiff was not at work on March 11 and 14, and he did not call in for both absences. JSF ¶¶  
2 52, 59. On March 14, Klag e-mailed La Frenz about Plaintiff’s absences and asked if she had any  
3 further information. JSF ¶ 53. Plaintiff returned to work on March 15. JSF ¶ 54. When asked by  
4 Klag about his absences, he replied that he was at military training. JSF ¶ 55. Klag did not pass on  
5 this information to La Frenz or the Human Resources Department. JSF ¶ 66. Under Defendant’s  
6 attendance policy, Plaintiff was assessed six points for his two absences which resulted in him having  
7 ten total points. JSF ¶ 64. On March 16, Defendant, without Klag’s involvement, suspended Plaintiff  
8 with the intent to terminate him. JSF ¶¶ 61, 66. Plaintiff claims that when Sheri Sanchez,  
9 Defendant’s Warehouse Director, gave him the suspension letter, he notified her that he was at  
10 military training on March 11 and 14, which she disputes. Pl. Decl. ¶ 30. Six days later, Defendant  
11 officially terminated Plaintiff’s employment. JSF ¶ 69.

12 Plaintiff filed a grievance regarding his termination with his Union, Teamsters Local 853.  
13 JSF ¶ 70. On March 26, a grievance hearing was held. JSF ¶ 70. At the hearing, La Frenz and Jeff  
14 Szostak, Defendant’s Vice President of Operations, learned for the first time that Plaintiff was  
15 claiming to have been at military training on March 11 and 14. JSF ¶ 71. Plaintiff, however, did not  
16 present any documentation to verify that he was on military leave. JSF ¶ 70. On April 7, Plaintiff  
17 received a copy of the military order that showed that he was at a training exercise from March 11 to  
18 14. JSF ¶ 73. Plaintiff claims that his Union Representative produced this document to Defendant at  
19 a Board of Adjustments meeting on April 9. Pl. Decl. ¶ 32. An arbitration regarding Plaintiff’s  
20 termination was held on May 18. JSF ¶ 74. At the arbitration, Plaintiff again did not present any  
21 documentation to prove that he was at a military training on March 11 and 14. JSF ¶ 74. The  
22 Arbitrator upheld Plaintiff’s termination as a “just cause” termination. JSF ¶ 78. This lawsuit  
23 followed.

24 **III. LEGAL STANDARD FOR SUMMARY JUDGMENT**

25 Summary judgment is appropriate only when there is no genuine dispute of material fact, and  
26 the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56. The moving party  
27 bears both the initial burden of production as well as the ultimate burden of persuasion to  
28

1 demonstrate that no genuine dispute of material fact remains. *Nissan Fire & Marine Ins. Co., Ltd. v.*  
2 *Fritz Cos., Inc.*, 210 F.3d 1099, 1102 (9th Cir. 2000). Once the moving party meets its initial burden,  
3 the nonmoving party is required “to go beyond the pleadings and by [its] own affidavits, or by the  
4 depositions, answers to interrogatories, and admissions on file, designate specific facts showing that  
5 there is a genuine issue for trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986) (internal  
6 quotations and citations omitted). On summary judgment, courts are required to view the evidence in  
7 the light most favorable to the nonmoving party. *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio*  
8 *Corp.*, 475 U.S. 574, 587 (1986). If a reasonable jury could return a verdict in favor of the  
9 nonmoving party, summary judgment is inappropriate. *Anderson v. Liberty Lobby, Inc.*, 477 U.S.  
10 242, 248 (1986).

#### 11 IV. DISCUSSION

12 In its Reply, Defendant argues that the only issue for the Court to consider on this Motion is  
13 whether it is liable for discrimination under USERRA because Plaintiff’s military status was a  
14 motivating factor in his termination. Dkt. 34 at 2 (“To decide this motion, the Court need only  
15 consider whether Williams’ termination for violating Defendant’s attendance policy was motivated  
16 by animus towards Williams’ military status). The Court agrees with Defendant and this is the only  
17 issue addressed in the Order.<sup>4</sup>

18 USERRA “prohibits discrimination against persons because of their service in the uniformed  
19 services.” *Leisek v. Brightwood Corp.*, 278 F.3d 895, 898 (9th Cir. 2002). A violation of USERRA  
20 occurs when a person’s:

---

21  
22 <sup>4</sup> Plaintiff’s California Military and Veterans Code § 394 claim is analyzed under the same  
23 legal standard as the USERRA claim. *See Flores v. Von Kleist*, 739 F.Supp.2d 1236, 1257-58 (E.D.  
24 Cal. 2010) (“However, it appears that claims brought under California Military and Veterans Code  
25 section 394 are analyzed under the framework applicable to claims brought under [USERRA]”)  
26 (citing *Tarin v. Los Angeles*, 123 F.3d 1259, 1266 (9th Cir. 1997)). Thus, the Court, similar to the  
27 parties, does not discuss the state law claim. Defendant moves to dismiss Plaintiff’s third claim for  
28 wrongful termination in violation of public policy solely on the grounds that Plaintiff’s first two  
claims, which are the predicate for the wrongful termination claim, cannot withstand summary  
judgment. Because the Court does not grant summary judgment on Plaintiff’s underlying claims,  
Defendant’s Motion on the third claim is also denied.

1 membership, application for membership, service, application for service, or  
2 obligation for service in the uniformed services is a motivating factor in the  
3 employer's action, unless the employer can prove that the action would have been  
4 taken in the absence of such membership, application for membership, service,  
5 application for service, or obligation for service . . . .

6 38 U.S.C. § 4311(c); see *Leisek*, 278 F.3d at 898. The Ninth Circuit has instructed that courts  
7 analyzing USERRA claims should use the scheme of burden of proof allocations approved by the  
8 Supreme Court in *NLRB v. Transportation Management Corp.*, 462 U.S. 393, 401 (1983). *Leisek*,  
9 278 F.3d at 898-99. The Ninth Circuit explained as follows:

10 Under the scheme set forth in *Transportation Management*, the employee first has the  
11 burden of showing, by a preponderance of the evidence, that his or her protected status  
12 was "a substantial or motivating factor in the adverse [employment] action;" the  
13 employer may then avoid liability only by showing, as an affirmative defense, that the  
14 employer would have taken the same action without regard to the employee's  
15 protected status.

16 *Id.* (citations omitted). Under USERRA, the employer's discriminatory motivation:

17 may be reasonably inferred from a variety of factors, including proximity in time  
18 between the employee's military activity and the adverse employment action,  
19 inconsistencies between proffered reason and other actions of the employer, an  
20 employer's expressed hostility towards members protected by the statute together with  
21 knowledge of the employee's military activity, and disparate treatment of certain  
22 employees compared to other employees with similar work records or offenses.

23 *Leisek*, 278 F.3d at 900 (quoting *Sheehan v. Dep't of the Navy*, 240 F.3d 1009, 1014 (Fed. Cir.  
24 2001)). "[M]ilitary status is a motivating factor if the defendant relied on, took into account,  
25 considered, or conditioned its decision on that consideration." *Coffman v. Chugach Support Servs.*,  
26 411 F.3d 1231, 1238 (11th Cir. 2005). "The court may consider 'all record evidence,' including the  
27 employer's 'explanation for the actions taken.'" *Leisek*, 278 F.3d at 900 (quoting *Sheehan*, 240 F.3d  
28 at 1014).

29 In arguing that Plaintiff's military duty was not a factor in his termination, Defendant first  
30 takes the position that Plaintiff was fired solely because he had accumulated ten points under its  
31 attendance policy. According to Defendant, because this has no relation to Plaintiff's military status,  
32 it cannot be liable under USERRA. This argument is misplaced. "An employer cannot escape  
33 liability under USERRA by claiming that it was merely discriminating against an employee on the  
34

1 basis of his absence when that absence was for military service.” *Erickson v. U.S. Postal Serv.*, 571  
2 F.3d 1364, 1368 (Fed. Cir. 2009) (“To permit an employer to fire an employee because of his military  
3 absence would eviscerate the protections afforded by USERRA . . .”). In other words, because  
4 Plaintiff’s military absences caused him to be in violation of Defendant’s attendance policy and  
5 directly resulted in his termination, Defendant cannot shift the blame for Plaintiff’s termination to  
6 only the attendance policy.

7           Nonetheless, Plaintiff must still establish that there is a genuine dispute as to whether his  
8 military service was a motivating factor in his termination. Defendant argues that it could not have  
9 been since none of its “decision makers” knew that Plaintiff was claiming he was at military training  
10 on March 11 and 14 before he was fired. But this is not the case. Viewing the evidence in a light  
11 most favorable to Plaintiff, the Court must consider that Plaintiff specifically told Sanchez when she  
12 suspended him on March 16 that his two absences stemmed from him attending military training. *See*  
13 Pl. Decl. ¶ 30. Defendant admits that Sanchez, along with La Frenz and Szostak, was involved in  
14 the decision to terminate Plaintiff. JSF ¶ 66. This means that Sanchez knew that Plaintiff claimed  
15 that he was on military leave when Defendant officially terminated his employment on March 22.  
16 *See* JSF ¶ 69. While Sanchez disputes Plaintiff’s version of their meeting, this is an issue of fact that  
17 the Court cannot evaluate at the summary judgment stage. *See T.W. Elec. Serv. v. Pacific Elec.*  
18 *Contractors Ass’n*, 809 F.2d 626, 630-31 (9th Cir. 1987) (“Thus, at this stage of the litigation, the  
19 judge does not weigh conflicting evidence with respect to a disputed material fact. Nor does the  
20 judge make credibility determinations with respect to statements made in affidavits, answers to  
21 interrogatories, admissions, or depositions”) (internal citations omitted).

22           Defendant disingenuously argues in its Reply that this disputed fact is not material because  
23 both Plaintiff and Sanchez agree that she did not know about his military training before the  
24 suspension letter was issued on March 16. Dkt. No. 34 at 7. As highlighted above, this argument  
25 ignores the elephant in the room that Sanchez allegedly knew about Plaintiff’s “military excuse” from  
26 March 16 until he was officially terminated on March 22, but she did not do anything about it. *See*  
27 Dkt. No. 23, La Frenz Decl. ¶ 41 (“On March 22, 2010, I sent Diwan Williams a termination letter. . .

28

1 . . . Prior to making the decision to terminate Mr. Williams for violation of the attendance policy, I  
2 conferred with Sheri Sanchez and Jeff Szostak”). This material fact may lead a reasonable juror to  
3 conclude that Defendant had some animus towards Plaintiff and it may have been due to his military  
4 status. *See Leisek*, 278 F.3d at 900 (noting that discrimination may be inferred from a variety of  
5 factors, including inconsistencies between the proffered reason and other actions of the employer).

6 Other factual issues may also permit a reasonable juror to infer that Plaintiff’s termination  
7 stemmed from his military status. For instance, Plaintiff claims that he told his supervisor on March  
8 8 that he would be absent on March 11 and 14 due to military training. Pl. Decl. ¶ 27. Even though  
9 Klag denies this, and Defendant points to his March 14 e-mail as contemporaneous evidence that he  
10 had no idea why Plaintiff was absent, this factual dispute, if resolved in favor of Plaintiff, may lead a  
11 reasonable juror to conclude that something other than the absences, such as discrimination, may  
12 have been a motivating factor in Plaintiff’s termination. In the same manner, Defendant’s decision  
13 not to consult with Klag — who, as Plaintiff’s direct supervisor, explicitly knew on March 15 that  
14 Plaintiff’s absences were due to military training — before terminating Plaintiff’s employment may  
15 lead to the inference that Defendant purposefully chose not to fully investigate the circumstances  
16 behind Plaintiff’s absences. *See JSF* ¶ 55.

17 Defendant concedes that Plaintiff was not required to provide advanced written notice of his  
18 military leave. *JSF* ¶ 14. It argues that summary judgment is still appropriate because Plaintiff  
19 “failed to provide verification of his service until long after he commenced litigation.” Dkt. No. 21 at  
20 18. Notably, while Plaintiff was verbally instructed at one point by La Frenz that he needed to  
21 provide such verification (*JSF* ¶ 26), this was not the usual policy for Defendant. *See* Dkt. No. 22,  
22 Ex. C, Szostak Depo. at 99 (confirming that as a general rule Defendant does not require written  
23 documentation to be provided for military leave). Moreover, Plaintiff claims that Defendant was  
24 provided with written verification of his military absences at a Board of Adjustments meeting on  
25 April 9. Pl. Decl. ¶ 32. Defendant’s denial of this claim only raises another factual issue for a juror.

26 Based on the above disputed facts, Plaintiff has shown that there is a triable issue about  
27 whether his military status was a motivating factor in his termination. Much of Defendant’s  
28

1 argument and evidence points to the fact that Plaintiff is not credible, particularly because his story is  
2 so far-fetched. A more rationale explanation as to what transpired, from Defendant’s perspective, is  
3 that Plaintiff never provided notice about his leave, as he had a practice of doing in the past, and that  
4 he did not want to provide any written verification afterwards because Defendant would then discover  
5 that he had an unexcused absence on March 7 when his military training was cancelled. But  
6 Defendant will have the opportunity to present this argument and evidence to the jury, which can  
7 properly evaluate the credibility of all witnesses and weigh the conflicting evidence — something  
8 that this Court cannot do — to determine the motivating factor behind Plaintiff’s termination.

9 Defendant’s last resort is to argue that it would have terminated Plaintiff’s employment  
10 regardless of his military status due to its attendance policy, a lack of written verification for his  
11 absences, and after-acquired evidence. As explained above, the first two arguments are not  
12 persuasive. With respect to after-acquired evidence, Defendant argues that it would have fired  
13 Plaintiff after it learned in discovery that he had an unexcused absence on March 7 since his military  
14 training was cancelled, something that Plaintiff never reported to Defendant. But, as the parties  
15 agree, this after-acquired evidence would only limit the amount of damages that Plaintiff could  
16 recover and would not dismiss his claim. *See McKennon v. Nashville Banner Pub. Co.*, 513 U.S. 352  
17 (1995). Because Defendant’s Motion, and consequently Plaintiff’s Opposition, do not specifically  
18 address the issue of how Plaintiff’s damages should be limited (e.g., when Defendant specifically  
19 discovered Plaintiff’s unethical conduct), the Court declines to rule on the issue. *See id.* at 362 (“The  
20 beginning point in the trial court’s formulation of a remedy should be calculation of backpay from the  
21 date of the unlawful discharge to the date the new information was discovered. In determining the  
22 appropriate order for relief, the court can consider taking into further account extraordinary equitable  
23 circumstances that affect the legitimate interests of either party”).

24 Finally, the Court considers Defendant’s objections to the evidence submitted by Plaintiff in  
25 support of his Opposition. *See* Dkt. No. 35. In ruling against Defendant, the Court only relies on  
26 three facts outside of the JSF and each of these are contained in Plaintiff’s Declaration. Because  
27 ruling on each of Defendant’s objections would not narrow the issues for trial, the Court only rules on  
28

1 Defendant’s objections for the three facts below, which were the facts considered by the Court.

2 First, Plaintiff testifies that he informed Klag on March 8 about his upcoming military leave.  
3 Pl. Decl. ¶ 27. Defendant does not object to this part of Plaintiff’s testimony and no ruling is needed.  
4 See Dkt. No. 35 (Defendant only objects to the use of the word “acknowledged”). Second, Plaintiff  
5 testifies that written verification of his March 11 and 14 training was provided to Defendant at the  
6 Board of Adjustments meeting on April 9. Pl. Decl. ¶ 32. Defendant objects that under the best  
7 evidence rule the document itself should have been presented. This objection is overruled for the  
8 purposes of this Motion. The parties do not dispute whether there are written documents that  
9 corroborate Plaintiff was at military training on March 11 and 14. The issue is whether Plaintiff  
10 provided verification of this training to Defendant. Thus, the contents of the document are not  
11 material to the Court’s decision. And there is no objection from Defendant that Plaintiff lacks the  
12 personal knowledge to make this statement. The third fact relied on by the Court is that Plaintiff told  
13 Sanchez on March 16 that his absences were due to military training. Pl. Decl. ¶ 30. Defendant  
14 objects to this testimony because “it contradicts Plaintiff’s prior deposition testimony.” Dkt. No. 35  
15 at 15 (“Despite extensive questioning regarding his conversation with Sheri Sanchez at the time of  
16 suspension, Plaintiff withheld details at his deposition that he now conveniently testifies to in his  
17 declaration”). While the Court is troubled by what appears to be evasive and potentially untruthful  
18 testimony by the Plaintiff throughout his deposition, this particular objection is meritless. When  
19 asked at the deposition what transpired when Sanchez gave him the suspension letter, Plaintiff, after  
20 stating that he did not really remember the conversation, testified that: “To the best of my  
21 recollection, I told [Sanchez] that I was at the military drill.” Dkt. No. 36, Szostak Supp. Decl., Ex. 1  
22 at 166-67. This is consistent with Plaintiff’s declaration and Defendant’s objection is overruled.<sup>5</sup>

23 ///

24 ///

25 \_\_\_\_\_

26 <sup>5</sup> Defendant’s other objections to paragraph 30 of Plaintiff’s Declaration appear to only take  
27 issue with Plaintiff’s use of the term “again,” which insinuates that Plaintiff had told Sanchez that he  
28 was absent due to military training before March 16. The Court has not considered this testimony in  
its decision and therefore does not rule on the objections.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**V. CONCLUSION**

For the foregoing reasons, Defendant's Motion is **DENIED** in its entirety. The parties are hereby REFERRED to a randomly assigned magistrate judge for a settlement conference. The parties shall file a joint status report within 14 days of completion of the mediation process.

**IT IS SO ORDERED.**

Dated: December 8, 2011

  
\_\_\_\_\_  
Maria-Elena James  
Chief United States Magistrate Judge