

1 BRIAN WARNER HAGEN
Nevada Bar No. 11389
2 California Bar No. 268691
9432 Double R Blvd.
3 Reno, NV 89521
775-453-6116
4 E-mail: bwhagen@gmail.com

5 *Attorney for Defendants Harvey Whittemore,*
6 *Annette Whittemore, Michael Hillerby, Vincent Lombardi,*
7 *Carli W. Kinne, UNEVX, Inc. and the Whittemore-Peterson Institute.*

8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 JUDY ANN MIKOVITS

12 Plaintiff,

13 v.

14 ADAM GARCIA, et al.,

15 Defendants.

Case No. CV14-08909-SVW(PLA)

**REQUEST FOR SUBMISSION IN LIEU OF
REPLY TO OPPOSITION TO MOTION TO
DISMISS**

16 COME NOW, Defendants Harvey Whittemore, Annette Whittemore, Michael Hillerby,
17 Carli W. Kinne, Vincent Lombardi, The Whittemore-Peterson Institute ("WPI") and UNEVX,
18 Inc., (hereinafter, "Whittemore Defendants") by and through counsel, Brian Warner Hagen
19 Esq., to hereby Request Submission of their Motion to Dismiss (#52) in lieu of a Reply to
20 Plaintiff Judy Ann Mikovits' Opposition to the Motions to Dismiss (#72).

21 The Whittemore Defendants' Motion to Dismiss was filed on two bases: first, that the
22 statute of limitations had long since run at the time of the filing of the Complaint (#1), and
23 second, that the Plaintiff failed to allege a conspiracy sufficient to subject the Whittemore
24 Defendants, none of whom are State actors, to liability under 42 U.S.C. § 1983. Plaintiff
25 Opposed (#72) and the Court received three Replies (#78, #79 and #80) to that Opposition.
26 Those replies adequately address all of the Plaintiff's contentions in her Opposition that
27 could apply to the Whittemores. For instance, Section II (A) of the Opposition filed on behalf
28 of Defendants Garcia, McGuire, Hunter and Pari (#79 at 1-6) and section II of the Opposition

1 filed by Defendant Dean (#78 at 3-8) thoroughly addresses the Plaintiff's arguments on
2 equitable tolling of the Statute of Limitations. Similarly, section III(B)(2) of the Opposition
3 filed by Garcia et al. (#79 at 10-11) and section I of that filed by Dean (#78 at 1-2)
4 meticulously address the conclusory nature of the Plaintiff's allegations of conspiracy.

5 Accordingly, as further briefing on this matter would offer only repetition of arguments
6 already presented, and thus no utility to the Court in deciding the Motions, the Whittemore
7 Defendants request that the Motions to Dismiss (#53, #56, #60 and #63) be submitted for
8 decision.

9 Dated this 12th Day of May, 2015.

10
11 By: 

BRIAN WARNER HAGEN

12 *Attorney for Defendants Harvey Whittemore,*
13 *Annette Whittemore, Michael Hillerby, Carli W.*
14 *Kinne, Vincent Lombardi, the WPI, and UNEVX,*
15 *Inc.*
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I have on this 12th Day of May, 2015 I caused a copy of the above document to be served upon counsel for all parties to this case, listed below, via the Court CM/ECF system.


BRIAN W. HAGEN

SERVED UPON

Robert J. Liskey
The Liskey Law Firm
51308 E. Colorado Blvd., Suite 232
Pasadena, CA 91106
Attorney for Plaintiff Judy Anne Mikovits
robliskey@liskeylawfirm.com

Mary Margaret Kandaras
Washoe County District Attorney
P. O. Box 11130
Reno, NV 89520-0027
Attorneys for Defendant Richard Gammick
mkandaras @da.washoecounty.us

James N. Procter II
Lisa N. Shyer
Jeffrey Held
Wisotsky, Procter & Shyer
300 Esplanade Drive, Suite 1500
Oxnard, CA 93036
Attorneys for Defendant Geoff Dean

Robert M. Dato
Buchalter Nemer
18400 Von Karman Avenue, Suite 800
Irvine, CA 92612-0514
Attorney for Defendants Adam Garcia, Jaime McGuire, Kenneth Hunter and Greg Pari