

IN THE COURT OF APPEALS OF
THE STATE OF NEW MEXICO

GALE COOPER, *pro se*
Plaintiff-Appellant,

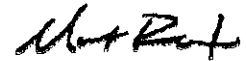
vs.

Ct. App. No. 33,876 from
13th Judicial Dist. Ct. No.
D-1329-CV-2007-01364

RICK VIRDEN, LINCOLN COUNTY SHERIFF
and CUSTODIAN OF THE RECORDS OF THE
LINCOLN COUNTY SHERIFF'S OFFICE;
and STEVEN M. SEDERWALL, FORMER
LINCOLN COUNTY DEPUTY SHERIFF

COURT OF APPEALS OF NEW MEXICO
ALBUQUERQUE
FILED

AUG 12 2015



Defendants-Appellees.

APPEAL FROM THE DISTRICT COURT
THIRTEENTH JUDICIAL DISTRICT COURT
HON. GEORGE P. EICHWALD PRESIDING

**PLAINTIFF-APPELLANT GALE COOPER'S MOTION
TO DISALLOW NEW MEXICO FOUNDATION FOR OPEN
GOVERNMENT FROM FILING AN AMICUS BRIEF FOR HER CASE**

Gale Cooper
Pro se Plaintiff-Appellant
P.O. Box 328
Sandia Park, NM 87047
(505) 286-8483 (phone)
(505) 281-5402 (fax)

Gale Cooper (“**Cooper**”), *pro se* Plaintiff-Appellant in the above-captioned matter, files this “Motion to Disallow New Mexico Foundation for Open Government (“**FOG**”) from Filing an *Amicus* Brief for Her Case,” since it is a party with opposing interests.

I. BACKGROUND

1. On August 12, 2015, Cooper filed her Brief in Chief as a prevailing Plaintiff appealing erroneously minimized IPRA damages and costs awards; and is confident that she adequately presented arguments for protecting her interests as well as interests of the Inspection of Public Records Act, NMSA 1978, §§ 14-2-1 to - 12 (“**IPRA**”).

2. Cooper’s case of extreme IPRA violation is against Lincoln County Sheriff’s Department Defendants past Sheriff Rick Virden (“**Virden**”), and past Deputies Steven M. Sederwall (“**Sederwall**”) and Thomas T. Sullivan (“**Sullivan**”) (dismissed in 2013 as deceased) (**collectively “lawmen”**), as conducting Lincoln County Sheriff’s Department murder Case No. 2003-274 or “Billy the Kid Case” (“**Case 2003-274**”, “**Billy the Kid Case**”).
(RP 2278 FOF 5)

3. Cooper had requested all DNA records of Case 2003-274 to expose it as a law enforcement fraud and historic/forensic hoax falsely claiming famous Sheriff Pat Garrett was a murderer of an innocent victim instead of

Billy the Kid on July 14, 1881, and as conducting illegal exhumations for alleged DNA matchings with Billy the Kid identity claimants while lacking true reference DNA for valid identity matching. **(RP 2278-2279 FOF 6-10)**

4. High-level political entanglements of Case 2003-274 were confirmed in a “Memorandum” of June 21, 2007 (“**Memorandum**”), sent to Cooper on June 22, 2007 as an attachment signed by Virden, Sullivan, and Sederwall in response to her IPRA records request of April 24, 2007. The “Memorandum” is an apparent admission of bribery in 2003 of past Lincoln County Sheriff Sullivan by then Governor Bill Richardson (“Richardson”) to “insure” that Case 2003-274 “goes forward”:

On September 1, 2003, the Governor, behind the scenes, supported the investigation, by instructing Billy Sparks to hand Sheriff Sullivan three checks, from private backers, totaling \$6,500.00. [Its Footnote 2 states: “Three checks handed to Sheriff Sullivan in Governor’s office by Billy Sparks”] Standing at the threshold of the Governor’s office, Sparks said, “*The governor wants to insure this investigation goes forward*”... The Governor also asked investigators to contact Ft. Sumner and get them *on board.*” [the lawmen’s italics] **(RP 25-26, 97, 104-105; 190-193; 216-219; TR. 12/18/12, Co-Plaintiff Exhibit 4 at 1).**

5. Cooper, a Billy the Kid expert, has functioned as a whistleblower since 2003 to protect New Mexico’s Old West history and tourist sites **(Tr. 12/18/13, 8, 13)** from Case 2003-274; eventually publishing Case 2003-274’s exposé books: *MegaHoax: The Strange Plot to Exhume Billy the Kid and Become President* (2010) (“**MegaHoax**”) **(TR. 1/21/11,**

35, Plaintiff's Ex. 2); and *Cracking the Billy the Kid Case Hoax: The Strange Plot to Exhume Billy the Kid, Convict Sheriff Pat Garrett of Murder, and Become President of the United States.* (**Tr. 12/18/13, 8**)

6. Because Cooper's investigation involved the lawmen's violations of her IPRA requests for Case 2003-274's records, she had contacted FOG for assistance. Assistance was consistently refused based on conflict of interest as documented in *MegaHoax*, as follows:

a. In 2006, FOG Director Bob Johnson refused to assist Cooper based on admitted shielding of then Governor Richardson from negative publicity on the Billy the Kid Case. (*MegaHoax*, **pp. 319, 343-344, 627**)

b. FOG Board of Directors member Kent Walz, Editor-in-Chief of the *Albuquerque Journal*, having published only pro-Richardson articles backing the Billy the Kid Case in his newspaper, refused Cooper's 2006 request to expose the hoax to protect state history and tourism. (*Id.*, **pp. 319-320, 323, 333, 343-344, 346, 353, 361, 363, 349, 485**)

c. In 2008, during Cooper's current litigation, Cooper was improperly pressured to dismiss Defendant Virden by threat of withholding FOG backing, in apparent political shielding of Virden by past FOG attorney, Pat Rogers (*Id.*, **pp. 357-363**), past FOG Director Attorney Leonard DeLayo (*Id.*, **pp. 344, 354-355, 357, 359, 361, 387, 485, 606-607,**

609), and past State Senator Rod Adair. Cooper refused; and FOG refused backing. (*Id.*, pp. 338, 355, 357-359, 361-364, 471, 485, 607)

d. During Cooper's litigation, FOG Board of Directors member and its past President, Attorney Marty Esquivel, was employed at the law firm of Henry Narvaez, Virden's defense lawyer for Cooper's case.

e. In 2009, FOG Director Sarah Welch refused filing an *amicus* brief for Cooper's IPRA litigation in apparent continuation of FOG's conflict of interest. (*Id.*, pp. 387, 485)

7. On September 30, 2014, Cooper met with FOG Director Gregory Williams ("**Williams**"). Cooper's District Court had already inappropriately applied *Faber v. King*, 2013-NMCA-080, 306 P.3d 519, cert. granted, 2013-NMCERT-007, 308 P.3d 134 (overruled by *Faber v. King*, 2015-NMSC-015, 348 P.3d 172) ("**Faber v. King**") to her IPRA damages in its May 15, 2014 *Findings of Fact and Conclusions of Law*" (**RP 2285 COL 20, 21, 24**), as was presented in her Docketing Statement for her appeal. (**RP 2354-2423**) When Williams stated that FOG would not file an *amicus* brief for Daniel Faber in *Faber v. King*. Cooper believed FOG was again evincing political bias. (*Id.* p. 485). Cooper told that to Williams, and repeated by e-mail of October 6, 2014 that she opposed FOG's filing an *amicus* brief for her appeal if requested by the Court of Appeals, since she

considered FOG too burdened by conflict of interest to protect her interests.
Williams acknowledged by e-mail on October 7, 2014. (**Exhibit 1**).

II. ARGUMENT


1. Cooper is aware that the Court of Appeals has, in the past, appointed FOG for *amicus* briefing for a *pro se* plaintiff, as for its “Brief of New Mexico Foundation For Open Government as Amicus Curiae in Support of Plaintiff/Appellant,” *Toomey v. Truth or Consequences*, N.M. Ct. Ap. No. 30,795, P.4. (2012).

2. To Cooper’s knowledge and belief FOG cannot advocate for her appeal because of material facts of its conflicts of interest.

3. Cooper believes she is adequately able to argue on her own behalf.

III. CONCLUSION

WHEREFORE, given that FOG has historically proven conflicts of interest with Cooper’s case, Cooper requests that FOG be disallowed from filing an *amicus* brief for her appeal on the grounds that said brief could unjustly be to her case’s detriment.


Gale Cooper, *Pro se Plaintiff-Appellant*
P.O. Box 328
Sandia Park, NM 87047
(505) 286-8483 (telephone)
(505) 281-5402 (fax)

Subj: **RE: FOLLOW-UP TO LUNCH MEETING**
Date: 10/7/2014 10:03:50 A.M. Mountain Daylight Time
From: GWilliams@peiferlaw.com
To: GA5C@aol.com

Ms. Cooper - thank you for taking the time to meet with me. Thank you also for the copies of your books. I enjoyed meeting with you and hearing about your case about FOG and open government issues.

I understand your position regarding FOG's potential involvement in your case. Thank you for communicating these concerns to me.

Greg

Gregory P. Williams
Peifer, Hanson & Mullins, P.A.
Post Office Box 25245
Albuquerque, New Mexico 87125-5245
Office: (505) 247-4800
Fax: (505) 243-6458

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From: GA5C@aol.com [mailto:GA5C@aol.com]
Sent: Monday, October 06, 2014 12:11 PM
To: Gregory Williams
Subject: FOLLOW-UP TO LUNCH MEETING

Dear Attorney Greg Williams,

This is a follow-up to our enjoyable lunch meeting on Tuesday, September 30th. My hope is that your tenure as President will mark the start of FOG's much needed reformation.

As I told you, FOG's stock smoke-screen of "protecting taxpayers" is belied by my own district court IPRA case, where the two defense law firms, over seven years, have pocketed, without scrutiny or ceiling, about a half million taxpayer dollars to cover up IPRA violations and law enforcement fraud.

As FOG now exists - as I have learned personally and from others - it is merely a "For Our Guys" mutual protection society for corrupt public official cronies and defense lawyers (some FOG members) bilking taxpayers. FOG's anti-IPRA bias needs no more proof than its refusal to oppose outrageous *Faber vs. King* - where self-serving IPRA violator, AG King, may succeed in destroying IPRA law by removing its damage-penalties against violators.

So here is a repeat of my concern that the COA may try to appoint a FOG *amicus curiae* attorney to my case because I am *pro se*. As I told you, I cannot risk a FOG attorney's potentially biased attempt to shield my Defendant/Appellees (and their out-of-control lawyers) from the devastating IPRA damage-penalties they have accrued.

EXHIBIT
Plaintiff-Appellant Gale Cooper

Saturday, October 18, 2014 AOL: GA5C

Please communicate my feelings to FOG, and communicate to the COA my wish to handle my case alone. Private communication would be best, so that I can avoid future public and necessary disassociation from any FOG lawyer appointed by the COA.

Please respond in writing to guarantee clear communication. Hopefully you will reassure me that FOG will stay clear of my case.

Best wishes,
Gale Cooper

CERTIFICATE OF SERVICE

I, Gale Cooper, hereby certify that the foregoing document was hand-delivered by me on August 12, 2015 to the New Mexico Court of Appeals; and copies were sent by USPS mail to the following:

Clerk of the Court

Sandoval District Court
P.O. Box 600
Bernalillo, NM, 87004
Via Certified Mail
No. 7015-0640-0001-1803-3429

Attorney Gregory Williams,

Director N.M. Foundation for Open Government
Peifer, Hanson & Mullins, PA
20 First Plaza Center NW
Suite 725
Albuquerque, New Mexico 87102
Via Certified Mail
No. 7015-0640-0001-1803-3443

Attorney Henry Narvaez, for
Defendant-Appellee Rick Virden
P.O. Box 25967
Albuquerque, NM 87125-5967

Attorney Desiree Gurulé, for
Defendant-Appellee
Steven M. Sederwall
Brown Law Firm
3777 The American Road. NW,
Suite 100
Albuquerque, NM 87114