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EMILY LANDERS, Individually : 14th JUDICIAL DISTRICT COURT
Vs. 2011-2893 : PARISH OF CALCASIEU

ENTERGY GULF STATES LOUISIANA,
LLC, PPG INDUSTRIES, INC. and
STATE OF LOUISIANA, DEPARTMENT
OF PUBLIC SAFETY & CORRECTIONS,
LOUISIANA STATE POLICE : STATE OF LOUISIANA

FILED: 9/11/17 : Shelby Hardy
DEPUTY CLERK LMF.

P1

**PLAINTIFF'S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
MOTION TO COMPEL STATE OF LOUISIANA DISCOVERY RESPONSES**

MAY IT PLEASE THE COURT:

NOW INTO COURT, through undersigned counsel comes, **EMILY G. LANDERS**, Individually, plaintiff in the above captioned cause, who submits this Supplemental Memorandum in support of her Motion to Compel to this Court. This Lawsuit arises from an automobile accident that occurred on December 1, 2010, on Interstate 10 in Calcasieu Parish. The Plaintiff was driving on Interstate 10 when her vehicle was struck by an electrical line that had fallen across the both sides of Interstate 10. The State of Louisiana Department of Public Safety & Corrections, Louisiana State Police (State), had several troopers onsite, but they were sitting on the shoulder of the road with their lights activated. The credibility of Troopers Jimmy Rogers, Derrick Cormier, Zack Matt and Paul Brady,—all listed as possible witnesses in this matter—are at issue.

A gentleman also involved in an accident with the electrical line, John Heurtevant, testified that I-210 was shut down and troopers were on site there, and two troopers were on the shoulder of the shoulder of the road near PPG drive. Trooper Rogers' testimony differs with numerous items of evidence regarding where his and Trooper Cormier's units were, and what the State knew at the time of the accident. The Plaintiff requested the Louisiana State Police policy and procedure manual, the personnel files, to include, but not limited to, reprimands and internal investigations on the following employees: (1) Jimmy Rogers, (2) Derrick Cormier, (3) Zack Matt, and (4) Paul Brady; and any information in the State's possession regarding the closure of I-210.

The State claims that it does not have any information regarding the closure of I-210. The State has finally complied, at the end of August 2017, in providing the undersigned counsel with the Louisiana Policy and Procedure Manual; however, the State



continues to object to the production of the police officer's personnel files, under the pretense that these files do not relate to any matters involving this litigation; however, the credibility of the above-mentioned officers is very relevant, and go to some of the core issues in this case.

First, let us discuss the relevance and importance of the information. The State's expert on police procedures, George Armbruster, Jr., testified that based upon Trooper Rogers' and Trooper Cormier's testimony, that "The testimony of the troopers make it clear that it was their opinion that the wire was heavy and not hot, and it was not moving around on the interstate." (See page 108 of Deposition of George Armbruster, whose deposition is attached as an exhibit to our Opposition to the State's Motion for Summary Judgment). Despite the fact that all the evidence demonstrates that the troopers parked their vehicles on the shoulder of the road, Trooper Jimmy Rogers' testimony and police diagram he filled out claims the units were parked in the exit lane. Although the State Police were not notified until approximately 5:50 a.m. when Entergy arrived on scene that the electrical line was a neutral line and not energized, Trooper Rogers testified that the police knew before the accident (5:33 a.m.) that the electrical line was neutral, yet, Warren Faulk with Entergy testified that the wire visibly looked similar to an energized transmission line.

Consequently, the State will be relying upon Trooper Rogers' testimony to support its position that the State handled the emergency properly, solely upon what Trooper Rogers wrote on his accident report and testimony, despite the fact that most evidence discredits his testimony. Other Troopers and the State's expert also try to rely upon Rogers' testimony; however, the undersigned counsel has obtained information from articles from the *Louisiana Voice* that demonstrates that Trooper Rogers has severe credibility, character, and integrity issues. According to an August 12, 2015, article, *Louisiana Voice* "has obtained documents from Louisiana State Police which reveal that a state trooper from Troop D in Lake Charles was given the symbolic slap on the wrist over a criminal complaint against him for sending threats of jail time and physical harm to and for conducting background checks on an individual with whom he had a running dispute." See Attached article as Exhibit 1. The article goes on to state, "Ironically, the token punishment meted out to State Trooper Jimmy Rogers coincided with the ongoing Painter investigation." "Rogers, on the other hand, admitted to not only obtaining telephone

numbers of the target of his wrath, but conducted a criminal background search on the individual, made threatening telephone calls to his residence and to his parents, threatened him on Facebook, in text messages, and phone calls, using his position as a state trooper to threaten the man with bodily harm, and even jail time, according to a nine-page, heavily redacted document (page three of the letter was redacted in its entirety) obtained from State Police.” The article goes on to report the disciplinary letter signed by Col. Edmonson was dated November 19, 2010, less than two weeks before our accident.

In one of Rogers’ May 6 texts, which was provided to investigators, he even identified himself as “Trooper.” The victim told investigators that in subsequent conversations, Rogers implied that he could “get away with anything” and could “do what you wanted, and no one could touch you because you are a state trooper,” Edmonson stated in his disciplinary letter. It further stated that Rogers said “I am in the position to do some damage. I know the right people.”

In another *Louisiana Voice* article dated June 1, 2016, it discusses three Louisiana State Police officers with investigations: Captain Chris Guillory, Lt. Paul Brady, and Trooper Jimmy Rogers. In this article, it discloses that Trooper Jimmy Rogers suddenly resigned amid the beginning of a massive investigation regarding Troop D. Although the *Louisiana Voice* was denied access to Rogers’ records because the Louisiana State Police did not complete its investigation due to his resignation, sources report Rogers resigned after it was discovered he was committing payroll fraud on parish-funded overtime details known as Local Agency Compensated Enforcement (LACE). Rogers was reportedly issuing citations on his regular shift, but claiming them on different dates in order to accrue overtime. See attached article as Exhibit 2. Undersigned counsel is also aware of Trooper Jimmy Rogers filing a incident report with false information on it. Consequently, this information is very relevant regarding the character, honesty, and integrity of major witness/employee of the State who was allegedly negligent in this accident that led to the plaintiff’s accident and injuries.

In *City of Baton Rouge*, a newspaper sought Internal Affairs Division (“IAD”) files of the Baton Rouge Police Department. The trial court determined that the IAD files were confidential under La. R.S. 40:2532 and therefore not subject to disclosure under the Public Records Act. The First Circuit Court reversed, finding that the police officers under

investigation had no individual privacy interest in these files and recognized a strong public interest in disclosure. However, it should be noted that the Court went on to conclude that the officers' personal information was not subject to review.

Specifically, the Court stated:

... [T]he following information contained in the IAD files was properly deemed confidential pursuant to La. R.S. 40:2532: 1) **7 personal information relative to the names, addresses, and identifying information of alleged victims, witnesses, and complainants, including the names of police officers who are complainants; 2) photographs of police officers or others; 3) any home addresses, *353 home telephone numbers, social security numbers, and drivers' license numbers; and 4) any medical information. Further, records pertaining to pending or reasonably anticipated criminal litigation or arrest records that have not resulted in a final judgment of conviction are expressly exempt pursuant to La. R.S. 44:3 A(1) and (4)(a). Accordingly, we find it is necessary for the IAD records to be redacted prior to their release. La. R.S. 44:32 B.

City of Baton Rouge, 2007–1088, 2007–1089, p. 22–23, 4 So.3d at 822.

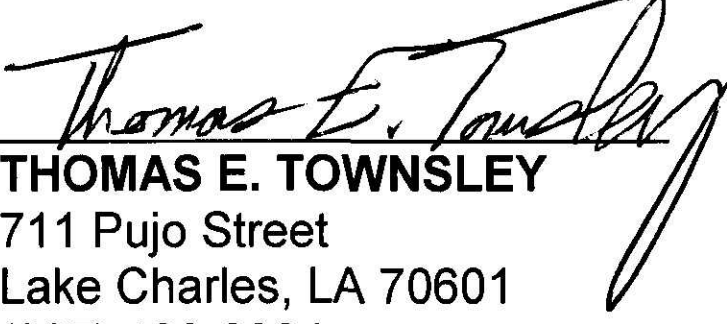
Clearly, a law enforcement officer has a reasonable expectation of privacy as to certain personal information, *i.e.*, home address, telephone number, Social Security number, medical information, etc. Consequently, Beckett cannot be given unfettered review of the PIB files without the redaction of the officers' private information contained therein.

Beckett v. Serpas, 2012-1349 (La.App. 4 Cir. 3/20/13, 6–7), 112 So.3d 348, 352–53

The credibility of the State Troopers testimony is very relevant and outweighs any concerns of the individuals' privacy concerns. The Court could do an en-camera inspection if necessary; however, the materials are highly relevant as to credibility of witnesses in this case. Accordingly, Emily Landers seeks an order compelling the State to produce the personnel files discussed above and sought in this matter, and the plaintiff is entitled to such documentation.

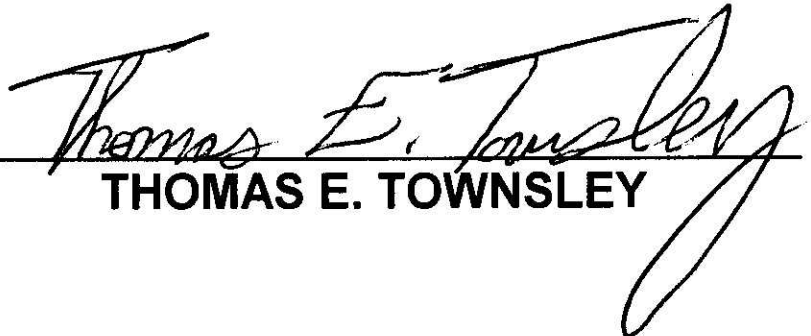
Respectfully submitted,

LAW OFFICE OF THOMAS E. TOWNSLEY


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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties by mailing the same to each, properly addressed and postage pre-paid on this 11TH day of September, 2017.


THOMAS E. TOWNSLEY