

**MORRISON, MORRISON & COOPER**  
Attorneys at Law, A Professional Corporation  
1437 THIRD STREET  
EUREKA, CALIFORNIA 95501  
Telephone: (707) 443-8011  
Facsimile: (877) 344-3009

**RECEIVED**  
JUN 05 2014  
CITY CLERK

MARC F. MORRISON (1925-1945)  
ELIZABETH J. MORRISON (1925-1985)

**DANIEL E. COOPER**  
*Certified Specialist, Estate Planning,  
Trust and Probate Law\**

*\*California State Bar, Board of  
Legal Specialization*

June 4, 2014

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

City of Eureka, California  
531 K Street  
Eureka, California 95501

**Attention: City Council Members**  
**Marian Brady**  
**Linda Atkins**  
**Mike L. Newman**  
**Melinda Ciarabellini**  
**Chet Albin**

**RE: Affidavit of Lance C. Madsen**

Honorable Council Members:

Prior to his death, former council member, Lance C. Madsen, began an investigation into certain matters concerning what he considered improper and unethical (or perhaps even possible criminal) actions of City Attorney, Cindy Day Wilson. Mr. Madsen prepared a six (6) page summary describing his findings and analysis of his investigative efforts. At Mr. Madsen's request, I prepared an Affidavit so that Mr. Madsen's summary could be recorded as his sworn testimony made and given under penalty of perjury. I have enclosed six (6) true, correct, and complete copies of the Affidavit with Mr. Madsen's summary attached.

Mr. Madsen requested that I provide this information to the City Council after his death so that its present members would follow through on the investigation his declining

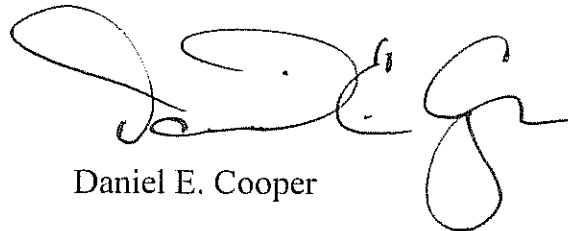
City of Eureka, California  
**Attention: City Council Members**  
**Marian Brady**  
**Linda Atkins**  
**Mike L. Newman**  
**Melinda Ciarabellini**  
**Chet Albin**

June 4, 2014  
Page Two

health had prevented him from completing. Mr. Madsen's request also directed that I allow his family "private time" to grieve and adjust to his passing before this Affidavit was delivered to the City Council.

The copies each of you has received were printed from the *pdf* file I created on the same day the document was executed by Mr. Madsen. At all times since, Mr. Madsen's *original* Affidavit has been securely sealed, protected, and safeguarded. Thus, if properly demanded by a lawful subpoena, the *original* document is readily available for inspection or analysis as may later become required by California law.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Daniel E. Cooper'. The signature is fluid and cursive, with a large initial 'D' and a long, sweeping tail.

Daniel E. Cooper

DEC\dc  
enclosures

**AFFIDAVIT  
OF  
LANCE C. MADSEN**

**Given Under Penalty of Perjury**

I, LANCE C. MADSEN, being duly sworn, and of sufficient age, do hereby say, declare, certify, and affirm as follows:

1. Due to health issues I have recently resigned my position as an elected member of the City Council of the City of Eureka, California.

2. My declining health and prognosis have caused me to be under Hospice care at this time.

3. The incidents that I witnessed and that I investigated to the best of my ability given my medical condition are to me of serious and significant concern for the City of Eureka, its elected officials, and its employees.

4. I provide my investigative information and statements in the sincere hope that other members of the City Council, employees of the City of Eureka, or other appropriate persons will take up the matters I have raised and see these matters to an appropriate and proper conclusion for the ultimate benefit of the City of Eureka.

5. This Affidavit is attached to my typewritten account of the matters concerning lies told to me by Cindy Wilson, City Attorney, as well as my

investigation into matters in which I learned and confirmed that the City Attorney, Cindy Wilson, was in fact, attempting to influence another person to lie and to commit perjury themselves to assist her, Cindy Wilson, in covering up for the lies she had herself told to a number of people involved with Eureka city business matters.

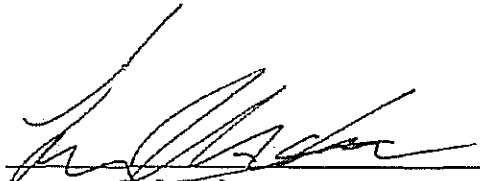
6. I provide this Affidavit as sworn testimony for no other purpose than to allow the Eureka City Council to have this information so that it will be able to continue to a proper conclusion my own investigative efforts; and if proper, to terminate for just and reasonable cause, any and all employees whose actions are improper, unlawful, and in any manner inconsistent with the purposes for which they are employed.

7. It is my solemn belief that any employee that lies to the council or any of its members should be considered for discharge due to reasonable cause. Where such person seeks to compel any other person to lie, it is my solemn belief that those actions constitute absolute cause for immediate dismissal. And, where such person's position of employment is based upon a license issued by the State of California and their sworn authenticity and position as an officer of the Court, such actions may also be grounds for discipline by the appropriate licensing agency and those same actions should also be addressed in a Court of law as an act suborning perjury.

8. I have directed that copies of this Affidavit be delivered to all members

of the Eureka City Council following my death so that they may complete the investigation that my health prevented me from accomplishing during my lifetime.

I declare under penalty of perjury under the laws of the State of California that the foregoing, and the six (6) pages of my investigative notes and information to which this Affidavit is attached, are true and correct. This Affidavit is executed by me at Eureka, Humboldt County, California, this 6<sup>th</sup> day of March, 2014.


  
Lance C. Madsen

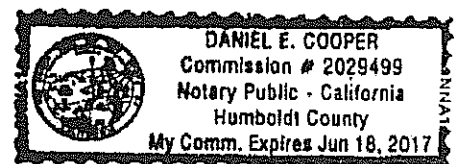
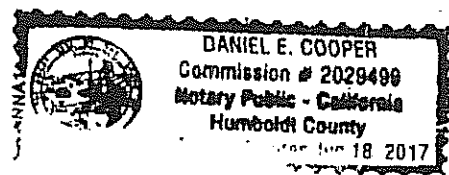
**JURAT**

State of California        )

County of Humboldt     ) ss.

Subscribed and sworn to (or affirmed) before me on this 6<sup>th</sup> day of March, 2014, by **LANCE C. MADSEN**, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

  
Daniel E. Cooper, Notary Public  
My Commission Expires June 18, 2017



## Inquiry into the Office of the Eureka City Attorney

Attached you will find an inquiry I conducted involving several interviews with staff persons. The inquiry concerns Bill Panos E-mailed Reorganization Document. Not its contents but the properness of its distribution and the attempted concealing of the distribution method. What I present to you, you can read; toss, act on it or ignore it. I share this information in this fashion because I could not get a special closed session to address it before resigning. I also could not speak to each of you individually due to the Brown Act. After I resigned, I felt that speaking to each of you individually, without documentation, could have left some of the employees in jeopardy. At least two had expressed fear of some form of retaliation for their cooperation and I could not say said fear was unwarranted. Other options would have required public accusations and required meetings and or hearings that I would have had great difficulty being present for as I expect the resolution of this issue to outlast my life time.

I believe that if you read through this; its relevance to the City's future and those whom serve her as employees and public servants will become clearer. Each of you will have received the same document. Since January 17 2014 its production has been a priority. Its delay speaks to my illness not to my will.

To me a willful or a malicious misrepresentation of the truth, no matter how artful the words used, is one of the acts of human behavior I hold in the lowest esteem. A lie told by a trusted employee in a position of power and responsibility should not be tolerated. Whether the lie was to conceal ones complicity in a regretted act at the expense of the credibility of others or if that lie was to conceal other questionable activity(s) by the liar and/or others; lying is unethical and the destruction of trust. You can also be assured that the first lie will be followed by another and another, etc. The persons in this incident are well known are known to each of you and I think each have talked to them directly or indirectly about but have not presented any action, possibly because of concern of litigation.

My original concern began when Cindy Day Wilson denied her threats to sue the City Et al, over her dissatisfaction with the Councils work evaluation process. Unfortunately, my health and absence from the city hindered further research. From my view point, the City Council tacitly accepts Cindy's version of the truth. This means that two or more long term and trusted City employees should no longer be trusted. This conclusion is based upon the fact that if Cindy is to be believed then the other employees either: 1) made up a story and lied about the accusations concerning the lawsuit threats, 2) or they totally misheard what too them was a very clearly stated declaration; 3) or the employees demonstrated an acute memory distortion which may affect their future performance and thus should be evaluated. The persons in this incident are well known are known to each of you and I think each of you have communicated with them directly or indirectly about but have not presented any action, possibly because of concerns of litigation. Whom would you talk to about this concern? The City Attorney?

## Inquiry into the Office of the Eureka City Attorney

10-04 2013

The members the City Council and the Mayor of Eureka each received an E-mail marked as Confidential and as a Reorganization Blueprint from the past city manager Bill Panos. The first paragraph of the cover letter contained two statements that drew my concern and delayed my opening of the E-mail: "Attachment. They were". *"The information contained in the document [attachment] is confidential as it involves personnel matters. As such, please use discretion with the information in this email and the attached document."* To date I still have not opened the attachment.

Because of my health and resulting absences from the City and City Hall; I was not aware of how divisive this document was to the Council and until the latter part of October, I was not aware that it had been released to Staff. It was not till the week of 10-21-2013 that while in City Hall I began to hear mutterings about the document, from various employee's in the halls concerning the document and staff morale. Those muttering led me to a series of enquiries.

Below a summary of the information, I received from Individual enquiries in Chronological order.

10-30-2013

During the afternoon, I spoke to Pam Powell in her office. She related that almost everyone in City Hall was aware of the documents and had knowledge of at least the essence of its contents. She said that she believed that the Human Relations Department (HR) Director Gary Byrd had a copy or at least had seen a copy. I went to Gary's office and spoke to him. He related the following:

He and Rob Wall were conducting a meeting in Gary's office concerning the rumored E-mail document by Panos. As their meeting broke up and they began to leave Gary's office, they observed City Attorney Cindy Wilson at the front counter of the HR office where she was collating a document into several stacks. As Cindy saw them, she asked them to holdup; that she had something they needed to see. She took them into Gary's office. She gave a copy to Gary and she started reading or referring to statements about Rob from a separate copy at which point Rob asked for a copy and he was provided one. The three of them continued to discuss the document for a period, after which Cindy left the office with her Copy(s) and Rob Left with his.

Gary said that he did not read his copy and told Cindy he would take it home and read it that night. Gary told me that he did take it home and read at least portions of it. The next morning he brought it back to City Hall where he immediately shredded it. Gary also said he did not know where Cindy got it from but that it was clearly marked and directed to the Council, not for general consumption. The City Attorney was clear to them that it was not a confidential document but a public document because of its E-mail delivery and it did not qualify as such under personnel matter rules.

Thursday, 1500hrs 10/31/13

## **Inquiry into the Office of the Eureka City Attorney**

I just met with Cyndy Wilson, in her office and asked her directly who provided her with a copy of the memo written by Bill Panos. She was hesitant to give me an answer. I explained to her that the memo had been sent by e-mail to only the Council and Mayor. It was my assumption one of the Council had provided her with the copy. As one of her five bosses, I had a right to know. She asked if she could phone the person first to get permission. I expressed that she could phone, but in the end it was City business, City e-mail, not a Charter violation and it is not confidential and she needed to tell me.

She then said that Mayor Jagger already knew and then after some hesitation said the person who provided her with the memo was Melinda. I expressed that was unfortunate. I told her that I knew the issue was coming up on the Tuesday meeting and this inquiry was hopefully to head off a contentious meeting or continuing investigation. I told her that she should call Melinda and let her know that I knew and that I hope she would just admit to the act at the beginning of the meeting.

We talked briefly about the impact of the memo on City hall and I explained that I had not read the memo. She stated that the memo was very negative about her and a number of department heads. She stated that it was unfortunate that it got distributed and she wasn't sure how that happened. She said that her copy was in Gary's files, locked away with a hostile workplace complaint filed on her behalf by councilperson Atkins. There were another few minutes of general conversation about the impacts of the memo on City Hall and the motivation of its author.

**Thursday, 1610hrs, 10/31/13**

I met with Gary again. In response to my questions, he informed me the only copy of the document he had was the one he destroyed the day after receiving it. He said that a hostile workplace complaint filed on Cindy's behalf by councilperson Atkins did not and had never existed. He further informed me that Councilperson Atkins had never asked for such a file to be created and only Cindy could ask for such a file to be created, which she had not.

**Friday 11-01-13**

I received a phone call from Councilperson Malinda Ciarabellini and a meeting was set for that afternoon at my residence at 1500 hrs. The two hour conversation involved many varied topics as Malinda and I have many shared interests and historic events in common. Concerning the document, Malinda said that she took it to Cindy, the City Attorney, because she was concerned that the document may result in litigation by those named in the document and because the City Attorney was one of those addressed in the document. Malinda did not express any knowledge as to how it had been distributed to staff.

When I told her about Gary's statement, she said she didn't believe it and clearly accused Gary of making the whole story up. I pointed out that Gary had no known motivation to do so but



## Inquiry into the Office of the Eureka City Attorney

she insisted that Cindy would not have distributed the document. My response was there was a third person in the room. Malinda's response was that I, myself hadn't talked to him yet. I agreed and said I would have to do so. I also pointed out that if Gary's statement was true then the Council as a group and she, Malinda had been poorly served and it needed to be addressed.

Monday, 1550hrs, 11-04-1013

I met with Rob Wall as he was preparing to leave work. I asked Rob about his knowledge, if any, of the Panos document. He said that on the Sunday evening of 10-06-1013, he and his family had just gotten home from visiting his mother when the phone rang and his wife answered it. The call was for him. He said the called was female but she did not identify herself. He said it may have been one of two friends but also may have been someone else.

This person told him about what she described as a Bill Panos "hit list" and that he held a prominent position on that list. She went into some detail describing the contents of the "hit list". Rob said he and his wife lost sleep that night over the issue and he had what he described as the most uncomfortable drive to work that he's ever experienced.

Rob said upon arriving at work it seems like everybody in City Hall knew about it including Paul Rodriguez. That morning Rob had a meeting with Gary Byrd of human resources (*this is the same meeting Gary referred to in his statement and involved some discussion of yet to be seen hit list.*). As the meeting ended, they exited Gary's office and saw the City Attorney at the HR reception counter collating papers. She made comments to both of them saying something to the effect that boy if I got something for you guys to read, inferring the document involved both of them. She gathered her papers and joined them in Gary's office. Cindy gave a copy to Gary and started talking about the document and its contents, emphasizing those areas that addressed Rob. Rob asked if he could have a copy of the document and Cindy provided him one. The discussion concerning the document continued but eventually broke up with Rob and Gary retaining their individual copies and Cindy leaving with whatever number of copies she had left. Rob stated that he held on to his copy for a while but found it depressing to have around and destroyed it.

Tuesday 11-05-2013

There was an attempt to bring the issue of the document forward for discussion on the bases that the document presented to the City potential litigation. This was based upon the advice of Rick Bolzano's an attorney who specializes in HR litigation. His advice was sought after it became clear that the City Attorney could be one of the possible litigants as she had threatened law suits against the city in the past and that there were other employees named in the document who had expressed possible litigation that would involve the City. The agenda item never got addressed as two Council persons walked out in defense of the City attorney and in protest over using Rich Bolzano's.

## **Inquiry into the Office of the Eureka City Attorney**

**Wednesday 11-5<sup>th</sup> or Thursday 7<sup>th</sup> of 11-2013**

**(Inquiry made after receiving info on  
11-05-2013, just prior to the opening of  
The Closed Session)**

I again talked with Rob Wall in his office. I asked him to verify that a meeting had taken place between himself and the City Attorney on Tuesday morning; 11-06-2013. He told me that a meeting had taken place. That The City Attorney had entered his office that morning and told him that "he had to have her back". Cindy told him if anyone enquired about him seeing the document (hit list) he was supposed to say that he had. That a he had walked into her office on some other city business but she was not there. While waiting he and saw the document on her desk and that he had picked it up and read it. He told Cindy he could not comply with her request as her story was not what happened and it was not the truth.

**11-20-2013 Wednesday**

I met with Paul Rodriguez at City Hall. I brought up Robs comment about Paul's knowledge of the "hit list" on the morning of 10-07-13. Paul explained that he had never seen the document in question but he had received a phone call from a female over that weekend. The female was known to him but was not presently an employee of the city. She had informed him of the "hit list" and the essence of its contents. Allegations contained within are those made by others and could be confirmed by a third party ( I would recommend a neutral party) with the exception of those made to me by Cindy Day Wilson, who I would expect a straight out denial or a statement of confusion or delusion on my part.

Consider this my dying declaration. I do. I am dying and doubt I will see the far end of the estimated time span provided by my doctors; around April 1<sup>st</sup> 2014. The actual time is in God's hands but I will be surprised if I am still here mid-March 2014. I believe that either I will be dead or in such a physical condition that will not allow me to testify. I Declare that everything in this document is truthful and correct to the best of my ability and I am aware of the potential ramifications it may have on the person(s) named within and as a practicing Roman Catholic, the impact it would have on my own after life. I do not do this out of any feelings of spite or some unresolved contest but solely out of concern for the people of the City of Eureka, its Council and its employees.

## Inquiry into the Office of the Eureka City Attorney

The statement I attribute to Cindy Day Wilson about her concern for the staff of city hall and her complete lack of knowledge how it got distributed, is as close her direct quote as it could make. The fact that she wanted to refuse to give me the source of the document and I had to be as assertive as I was surprised me. Then she said that the Mayor Frank Jagger already knew as part of the reason for telling me which made me wonder for whom she was working. . Seems like a charter issue as well as a contract violation. It is for that reason I provide this document.


If the statements within are deemed truthful then I was told an unsolicited lie to cover up and how the document was distributed by the City Attorney. Then in an attempt to cover up that lie, Rob Wall was asked to lie about how he got his copy or knowledge. The lie to me as a sitting City Councilperson is a lie told the whole Council and an attempt to further conceal the original lie is another act against the whole Council. I believe The City Attorneys behavior was/is unethical and is a breach of good faith and of the contract with the Council.

The distributed documents cover letter was clearly addressed to the Councilmembers. It expressed the need to use discretion both in its use and in distribution. The fact that the City Attorney was apparently was one of the employees denigrated in the document should have caused some pause before presenting her with the document. I will not address in this cover letter, the results of the



Lance Madsen

I declare under penalty of perjury under the laws of the State of California that the six (6) pages of my investigative notes and information to which this Declaration and is attached, are true and correct. This Declaration is executed by me at Eureka, Humboldt County, California, this 6<sup>th</sup> day of March, 2014.




Lance C. Madsen

JURAT

State of California )

County of Humboldt ) ss.

Subscribed and sworn to (or affirmed) before me on this 6<sup>th</sup> day of March, 2014, by **LANCE C. MADSEN**, proved to me on the basis of satisfactory evidence to be the person who appeared before me.



Daniel E. Cooper, Notary Public  
My Commission Expires June 18, 2017

