

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT**

No. _____

**TOMMY RAY HOOK and
CHARLES MONTAÑO,**

Plaintiffs,

v.

**THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, d/b/a Los Alamos
National Laboratory, RICHARD MARQUEZ,
JOHN BRETZKE, VERNON BROWN,
PATRICK REED, and WILLIAM BARR**

Defendants.

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND FOR MONETARY DAMAGES**

INTRODUCTION

1. Tommy Ray Hook and Charles Montaña (“Plaintiffs”), senior auditing and accounting professionals at the Los Alamos National Laboratory (“Laboratory” or “LANL”), bring this civil action against the Regents of the University of California and five individual University of California officials – Richard Marquez, John Bretzke, Vernon Brown, Patrick Reed and William Barr – for violating Plaintiffs’ right, guaranteed by the First Amendment to the United States Constitution, through 42 U.S.C. § 1983, to speak freely on matters of public concern. Mr. Hook and Mr. Montaña allege that the University and these five officials have violated their free speech rights secured by the First Amendment to the U.S. Constitution and the California Whistleblower Protection Act, Cal. Gov’t Code § 8547 to § 8547.12, by

retaliating against them for protected disclosures they made to management, to the public, and to government representatives and investigators, including the Department of Energy Inspector General (“DOE IG”) and the United States Congress, about gross mismanagement, misconduct, fraud, waste, abuse, unallowable costs, and related cover-ups by UC management.

JURISDICTION AND VENUE

2. This Court has original subject matter jurisdiction over this matter pursuant to N.M. Const., art. VI, § 13.

3. This Court has personal jurisdiction over defendants, who reside or conduct business within the state of New Mexico.

4. Venue is proper in this district and county under N.M. Stat. Ann. § 38-3-1(A) and (F), because one or more of the plaintiffs or defendants in this case reside in Santa Fe County, New Mexico.

PARTIES

5. Plaintiff Tommy Ray Hook is a citizen of the United States and a resident of Los Alamos, New Mexico. At all times relevant to this complaint, Mr. Hook has been an employee of the University of California protected under the California Whistleblower Protection Act.

6. Plaintiff Charles Montaña is a citizen of the United States and a resident of Santa Fe, New Mexico. At all times relevant to this complaint, Mr. Montaña has been an employee of the University of California protected under the California Whistleblower Protection Act.

7. Defendant Regents of the University of California (“University” or “UC”) is a constitutional instrumentality of the State of California, Cal. Const., art. IX, § 9, which is

registered to do business in New Mexico. Defendant University is a corporate entity capable of being sued. N.M. Stat. Ann. § 53-8-5(B). Defendant University operates the Laboratory through a contract with the U.S. Department of Energy (“DOE”). Defendant University is an employer within the meaning of the California Whistleblower Protection Act.

8. Defendant Richard Marquez is a citizen of the United States and a resident of New Mexico. From 2001 until the present, he has been LANL’s Deputy Associate Director for Administration. Defendant Marquez is sued in his individual and official capacities.

9. Defendant John Bretzke is a citizen of the United States and a resident of New Mexico. From July 2003 through July 2004, he was the Acting Division Leader of the Supply Chain Management Division (“SUP Division”) of LANL’s Administration Directorate. Defendant Bretzke is sued in his individual and official capacities.

10. Defendant Vernon Brown is a citizen of the United States and a resident of New Mexico. From July 2003 until his resignation from LANL in September 2004, he was the acting group leader of the SUP-1 Group in the SUP Division. Defendant Brown is sued in his individual and official capacities.

11. Defendant Patrick Reed is a citizen of the United States and a resident of the State of California. At all times relevant to this complaint, he has been the Auditor of the University of California. Defendant Reed is sued in his individual and official capacities.

12. Defendant William Barr is a citizen of the United States and a resident of New Mexico. At all times relevant to this complaint until January 2004, when his employment with LANL was terminated, he was Group Project Leader of Quality Assurance for the Laboratory’s SUP-1 Group in the SUP Division. Defendant Barr is sued in his individual and official capacities.

FACTUAL ALLEGATIONS

BACKGROUND

13. Mr. Hook holds bachelor's and master's degrees in business administration, in accounting and management. He is a Certified Fraud Examiner and a member of the Institute of Internal Auditors. Mr. Hook joined the Laboratory in March 1989 as a Senior Administrative Specialist in the Controller's Office, and was promoted in July 1991 to the position of Internal Evaluation Office Leader. In 1992, the Laboratory also appointed Mr. Hook to serve concurrently as LANL's Whistleblower Officer.

14. Mr. Montaña holds a bachelor's degree in Accounting and Mathematics, and a master's degree in business administration, with honors. Mr. Montaña is a Certified Management Accountant, a Certified Internal Auditor, a Certified Information Systems Auditor, and a Certified Fraud Examiner, and is a member of the Institute of Management Accountants and the Institute of Internal Auditors. He joined the Laboratory in June 1978 as a specialist in the Safeguards & Security organization, transferred to the Accounting organization in 1982, and in 1987 the University of California Office of the President ("UCOP") hired him as a Senior Auditor in the Internal Audit Group. UCOP promoted Mr. Montaña to the position of Principal Auditor in 1991.

15. The Laboratory operates under a multi-billion dollar contract between DOE and the University. The contract limits the University's recovery of costs from DOE to those costs that are allowable, with all other unallowable costs having to be paid by the University.

16. In the early 1990s, the DOE IG began to question the Laboratory's allowable costs, its compliance with auditing standards, and the timeliness of its audit reports. LANL's internal audit function was at this time performed by an Internal Audit Group that worked

within UCOP. The University transferred the internal audit function from UCOP to LANL's Audits & Assessments Division in October 1992, a move that caused the internal audit staff to lose its ability to remain independent from, and objective toward, LANL and its management. As part of this move, Mr. Montaña was reclassified as a Senior Auditor.

17. In January 1994, LANL appointed Mr. Hook to head up the internal audit function as Senior Advisor for Audits and as acting Internal Audit Manager, a position he accepted while continuing to serve as Internal Evaluation Office Leader in LANL's Controller's office and as the Laboratory's Whistleblower Officer. Mr. Hook's supervisors told him that, in his new position, he was to train his team of eight auditors, including Mr. Montaña, and create a more aggressive internal audit function, which would accurately evaluate the Laboratory's costs, issue professional audit reports, and ensure full compliance with UC and LANL procedures, DOE regulations, and the terms of the DOE contract.

**The Laboratory Retaliates Against Messrs. Hook and Montaña
for Their Public Disclosures of the Laboratory's
Illegal Concealment of Unallowable Costs**

18. In October 1994, Katherine Brittin assumed the position of Director of Audits and Assessments, and thus became Mr. Hook's first-level supervisor. Within a few months, Ms. Brittin began criticizing the internal audit staff, including Messrs. Hook and Montaña, with no legitimate justification for her criticisms. For example, Ms. Brittin frequently and vocally berated Mr. Hook and his staff for failing to issue timely audit reports, when in fact she allowed audit reports to sit without action on her desk, and controlled the timing of their release. Ms. Brittin told Mr. Hook that his job was to ensure that the audit reports would in no way "bring embarrassment" to the University by questioning the allowability of costs incurred at LANL, or by otherwise questioning management practices, and warned him not to put the

DOE contract at risk. When Mr. Hook submitted audit or evaluation reports that highlighted unallowable costs, which many of the reports did, Ms. Brittin attempted to suppress those reports so that the DOE remained unaware of them.

19. In 1995, Michael Ares, an auditor on Mr. Hook's team, reported to the DOE IG concerns he had with internal audits being delayed, reports not being released, and findings being diluted by Ms. Brittin. Ms. Brittin was furious with Mr. Ares when she discovered Mr. Ares' contact with DOE IG, and told Mr. Hook that she "wanted to rip [Mr. Ares'] [expletive] face off." Although Ms. Brittin directed Mr. Hook to "get rid of" Mr. Ares, he refused to carry out that illegal directive, and told Ms. Brittin that Mr. Ares had the right to report improprieties to the DOE IG. Mr. Hook also pointed out to Ms. Brittin that the firing of Mr. Ares would amount to retaliation against him for the exercise of his protected rights. Ms. Brittin warned Mr. Hook that if any such disclosure happened again, Mr. Hook's "ass" would be "on the line" as well. When Mr. Hook reported other improprieties directly to Ms. Brittin, she responded, "You just don't get it. We don't want to report those things." Mr. Hook reported Ms. Brittin's threats on more than one occasion to senior Laboratory management, including James Jackson (Deputy Director), Mike Baker (Chief of Staff) and William Hughes (Laboratory Counsel). These LANL officials took no action to make Ms. Brittin cease her threats and intimidation aimed at Mr. Hook and his staff.

20. Starting in 1993 and continuing through 1999, Mr. Montañó made repeated disclosures to DOE officials and to the New Mexico Congressional delegation, including Senators Pete Domenici and Jeff Bingaman, and then-Representative Bill Richardson, regarding the illegal billing of costs to the DOE contract, and related financial illegalities at the

Laboratory, including questionable cost accounting practices identified as part of a Laboratory Recharge Services audit he performed (Audit No. 1077).

21. After issuing Audit No. 1077, Mr. Montaña applied for a promotion to the position of Team Lead for Cost Accounting but was not selected. The hiring manager for that position told Mr. Montaña that the reason for his non-selection was that the manager “had problems” with the fact that Mr. Montaña’s Audit No. 1077 had reported violations of accepted cost accounting standards, even though DOE examiners had reached a similar conclusion independently. Mr. Montaña filed an internal grievance challenging his non-selection, and the Laboratory’s investigator concluded that the selectee was no better qualified than was Mr. Montaña, who had thirteen years’ more seniority than the selectee and has a professional certification (the Certified Management Accountant designation) which renders him a cost accounting expert.

22. In or around 1994, Mr. Montaña began, along with other employees of LANL, to raise complaints with LANL management about the Laboratory’s bias towards women and minorities in terms of hiring, compensation and promotion, in violation of the anti-discrimination provisions of UC’s contract with DOE. Mr. Montaña played a leadership role in these efforts, and, in response to a Laboratory-wide lay-off in 1995 which impacted Hispanic workers disproportionately, organized a group known as Citizens for LANL Employee Rights (“CLER”). CLER mounted a challenge to the 1995 lay-off and to projected further lay-offs, through legal challenges, lobbying efforts and media campaigns. As president of CLER and as a central leader of efforts to promote diversity at LANL, Mr. Montaña became very well known at the Laboratory, and throughout New Mexico, for his opposition to workplace abuses at LANL. Subsequent investigations by the DOE, the U.S. General Accounting Office, and the

U.S. Department of Labor's Office of Federal Contract Compliance Programs confirmed the validity of most, if not all, of Mr. Montaña's assertions.

23. Because Mr. Hook respected Mr. Montaña's audit work, and because he relied upon Mr. Montaña as the unofficial team leader of the internal audit group (Mr. Hook was performing three important roles at LANL and was working 70 to 80 hours per week at the time), he recommended to Ms. Brittin in January 1995 that LANL promote Mr. Montaña to the position of Internal Audit Team Leader. Ms. Brittin vehemently rejected this suggestion, and claimed falsely that Mr. Montaña used his internal audit position to obtain "incriminating" information about the Laboratory. On a number of occasions, Ms. Brittin also expressed to Mr. Hook her disapproval of Mr. Montaña's public advocacy on behalf of LANL workers. She continued to demand on numerous occasions that Mr. Hook "get rid of" Mr. Montaña, which he refused to do, even after Ms. Brittin threatened Mr. Hook's own job for not complying with her demand. Mr. Hook reported Ms. Brittin's threats to senior Laboratory management, including Messrs. Jackson, Hughes and Baker, but these officials did nothing to make Ms. Brittin cease her threats. As a result of Ms. Brittin's relentless harassment, as well as her pattern of delaying the issuance of audit reports and her attempts to cover up improprieties, Mr. Hook resigned his position as Senior Advisor for Audits and his unofficial position as acting Internal Audit Manager in March 1995.

24. Ms. Brittin continued to retaliate against Mr. Montaña after Mr. Hook's resignation as the manager of the Internal Audit group. In April 1996, Ms. Brittin rejected Mr. Montaña's application to be Mr. Hook's replacement in the position of Internal Audit Lead. She then transferred him from Internal Audit to Contract Audit, where he would no longer be in a position to uncover the Laboratory's illegal attempts to obtain reimbursement under the

DOE contract for unallowable costs or report on other non-compliance issues. Mr. Montaña told University Auditor Patrick Reed about the loss of independence and objectivity in the Lab's internal audit function, and about related difficulties the auditors were having with Ms. Brittin. He requested Mr. Reed's intervention, but Mr. Reed failed to take any action. Mr. Montaña made the same complaints about Ms. Brittin to Ron Archuleta, head of the local DOE IG office. Mr. Archuleta said that he was aware of the situation with Ms. Brittin, as others had approached him about her as well. He also said he would like to take action, but he would first have to obtain approval from his management, a prospect about which he was not optimistic given the fact that Ms. Brittin had high-level contacts in the DOE IG and the Department of Defense. Mr. Archuleta also said that he was inclined to rate the LANL Internal Audit function poorly for failing to meet its approved Audit Plan, as well as for failing to produce timely audit reports and meaningful findings.

25. In August 1996, Mr. Montaña received a "needs improvement" performance rating from Ron Rodriguez, whom Ms. Brittin had selected as Internal Audit Lead over Mr. Montaña. Ms. Brittin approved this negative rating, which was the first negative performance evaluation Mr. Montaña had ever received. Upon information and belief, Ms. Brittin directed Mr. Rodriguez to issue Mr. Montaña the negative rating. As a result of the negative evaluation and Ms. Brittin's other retaliatory actions, Mr. Montaña received the lowest salary increase in his career at the Laboratory, was removed from several prestigious Laboratory-wide projects and teams, and was issued a performance plan for the upcoming year, which restricted his ability to report on matters of public concern.

26. Also during 1996, Ms. Brittin directed all of the internal auditors to sign a "loyalty pledge" agreeing to do nothing that was contrary to the official position, "welfare," or

“interests” of the Laboratory or the University, and agreeing to “[e]xhibit loyalty in all matters pertaining to the affairs of the University of California, the Los Alamos National Laboratory, and the Audits and Assessments Office.” Some members of the audit staff described the loyalty oath mandated by Ms. Brittin as the “Chuck Montaña gag order.” Ms. Brittin made it very clear to Mr. Hook that the oath was specifically intended to muzzle Mr. Montaña and intimidate the rest of the audit staff. Mr. Hook told Ms. Brittin that it was not appropriate to make the signing of such an oath a job requirement, that DOE would view the requirement as an attempt to intimidate and silence LANL's audit staff, and that this requirement would violate the standards of the Institute of Internal Auditors (“IIA”). Ms. Brittin replied that she was not a member of IIA, denigrated IIA, and argued there was no requirement to follow its standards. Mr. Reed not only knew of this action by Ms. Brittin, but he was also well aware of the impropriety of requiring that the auditors sign such an oath, and of the chilling effect it would put on the auditors' independence and objectivity. He nonetheless approved of, and endorsed, the implementation of the loyalty oath, despite the clear objections from internal audit staff.

27. After stepping down from his position as Internal Audit Manager, Mr. Hook remained active in his two other positions – Internal Evaluations Office Leader and the Whistleblower Officer – both of which reported to Ms. Brittin. In his Internal Evaluations function, Mr. Hook continued to expose fraud and waste at the Laboratory over Ms. Brittin's strenuous objections. When Mr. Hook complained to Mr. Jackson about the numerous problems and cover-ups on Ms. Brittin's part, Mr. Jackson told Mr. Hook that he was doing an “outstanding job,” requested his patience, and reprimanded Ms. Brittin for what he called her “inappropriate management style.” Ms. Brittin, in turn, retaliated against Mr. Hook by loudly berating him for not being “a team player,” and stated that she would “never trust him.” In the

spring or summer of 1996, Ms. Brittin instructed Mr. Hook to stop reporting or exposing unallowable costs, a directive that the Laboratory's Deputy Counsel, Edward Walterscheid, reiterated in a memorandum he sent to Mr. Hook a short time later.

28. In 1996, during a meeting that included Ms. Brittin and LANL Counsel Reggie Hughes, DOE complained that the Laboratory was improperly "filtering" the audit and evaluation reports it sent to DOE and DOE IG, and warned that such doctoring of reports would not be tolerated. Ms. Brittin admitted at the meeting that the Laboratory was required to provide unfiltered information to DOE, and said that she would never do anything to "filter" the complaints or reports that LANL sent to the DOE/OIG. A few days after this meeting, however, Ms. Brittin told Mr. Hook, who had served as DOE's and DOE IG's contact with LANL for several years, that Mr. Hughes and LANL Chief of Staff Mike Baker had decided that all whistleblower complaints and audit or evaluation reports would now go to her before being sent to the DOE and DOE IG, and that she would now decide what information LANL would provide to DOE and the DOE IG.

29. As a result of Ms. Brittin's conduct, Mr. Hook informed DOE and the DOE IG that he would no longer be providing that office with unfiltered complaints or reports. The DOE IG questioned the legality of Ms. Brittin's actions, and promised to raise the issue with the U.S. Attorney's Office. Based on these discussions, the DOE IG asked Mr. Hook to "wear a wire" so that Ms. Brittin's illegal directives could be recorded. Mr. Hook refused to do so, but when he reported DOE IG's request to Mr. Jackson and Mr. Baker, he learned that Ms. Brittin already knew about the request because DOE IG's Washington Office had improperly leaked this information to her. Upon learning that Mr. Hook had been in communications with the DOE, Ms. Brittin became extremely angry with Mr. Hook.

30. In August 1996, in retaliation for Mr. Hook's refusal to comply with her illegal directives, Ms. Brittin pressured Mr. Hook to accept a position as Program Manager for Internal Controls. This transfer led to Mr. Hook's removal from his positions as Whistleblower Officer and Internal Evaluations Office Leader. Mr. Hook also was no longer able to discover and report illegalities under the DOE contract, as he was no longer the DOE IG's main contact at LANL, a status he had held since 1991.

31. Also in August 1996, Ms. Brittin gave Mr. Hook a "needs improvement" rating and reiterated that he was "not a team player." This was the first less-than-favorable performance evaluation Mr. Hook had ever received. With Mr. Reed's approval, the Laboratory then downgraded Mr. Hook's position from SSM-4, the mid-level management position he had held under Ms. Brittin, to an unassigned SSM-4 grade with no management responsibilities. Unassigned classifications are normally used by LANL only during short-term changes in status, but Mr. Hook occupied an unassigned status from 1996 until April 2003, during which time he held a series of temporary assignments. Mr. Hook's position was never reclassified during that period.

Mr. Montaña's Whistleblower Complaint (1996-1999)

32. On February 14, 1996, Mr. Montaña filed a whistleblower complaint with the DOE. In his complaint, Mr. Montaña alleged that the Laboratory had retaliated against him for his disclosures of financial improprieties to Laboratory management, to DOE, and to members of Congress and their staff. The complaint also alleged that LANL had retaliated against Mr. Montaña for his public advocacy on behalf of workers at LANL. In particular, Mr. Montaña alleged that he had made protected disclosures, both internally and to DOE IG and Congress, about the Laboratory's inappropriate, or fraudulent, accounting of costs, and that he had

reported that LANL was not complying with the Equal Employment Opportunity (“EEO”) provisions of its contract with DOE. Mr. Montañó’s whistleblower complaint also alleged LANL had retaliated against him in 1996 for these disclosures by issuing him a “needs improvement” rating, by denying him an appropriate pay raise, by non-selecting him for Internal Audit Manager, and by transferring him from Internal Audit to Contract Audit.

33. The DOE Office of Inspections conducted a thorough investigation of Mr. Montañó’s complaint, including conducting interviews with senior Laboratory management, one of whom, Deputy Director Thomas Garcia, candidly stated that Mr. Montañó did not have a career at the Laboratory because of his public advocacy. Based on a three-year investigation, the DOE Office of Inspections issued a finding in April 1999 that LANL had retaliated against Mr. Montañó for his public advocacy, through the actions described above, and recommended that DOE direct LANL to take corrective actions and to pay Mr. Montañó’s legal fees.

34. The Laboratory appealed the DOE’s determination to a DOE Administrative Law Judge, who scheduled a hearing in late 1999. Meanwhile, Mr. Montañó worked on temporary assignment in the Director’s Office, where he earned an “outstanding” performance evaluation, and also began a one-year sabbatical at New Mexico Highlands University, where he taught in the business program and assisted with Y2K computer issues.

35. In late November 1999, one week before a scheduled hearing before the DOE ALJ, the Laboratory settled Mr. Montañó’s whistleblower complaint. As part of the settlement agreement, the Laboratory agreed to remove the unfavorable performance evaluation, give Mr. Montañó a raise, pay his attorneys’ fees, and appoint him to be a Project Leader in the BUS-1 group (the accounting group at the Laboratory) in the BUS Division.

The Laboratory Continues to Retaliate Against Mr. Hook (1996-2002)

36. On February 18, 1997, Mr. Hook was deposed by the plaintiffs' attorneys in a lawsuit that challenged the Laboratory's reduction in force. During that deposition, Mr. Hook testified that Ms. Brittin, as Director of Audits and Assessments, pressured him to conceal from DOE various financial irregularities that they uncovered in their work as auditors. According to Mr. Hook's testimony, Ms. Brittin sought to exclude from the audit reports any findings of unallowable costs or other items that might embarrass the University, and threatened Mr. Hook with loss of raises, promotions and even his job, if he insisted on an aggressive audit approach and on issuing accurate reports that might cause "negative exposure" to the University. In addition, Mr. Hook testified in some detail about Ms. Brittin's insistence that he fire Mr. Ares, an internal audit staff member, for raising concerns with DOE IG, and that she told him (Mr. Hook) that he, too, would lose his job if he allowed his audit staff to communicate directly with the DOE IG's office, or if he issued reports with negative findings, embarrassing to the University.

37. Mr. Hook restated a number of these points when he testified at a court hearing in the reduction-in-force case in March 1997. Between sessions of the hearing, which was attended by LANL Deputy Director Jackson and other Laboratory management, Mr. Jackson directed Mr. Hook to "tone things down" and to "lighten up."

38. Like Mr. Hook, Mr. Montaña gave a deposition in February 1997 in the lawsuit challenging the reduction in force. At that deposition, Mr. Montaña testified that LANL management placed "tremendous" pressure on internal auditors to issue favorable rather than critical reports, that Laboratory management sought to avoid public scrutiny, and that he understood that Ms. Brittin would not tolerate internal audit staff members having contact with

DOE IG. He also testified that LANL intentionally discriminated against Hispanic employees in terms of promotions, as well as in the reduction in force, and that the Laboratory's grievance mechanism had proven "virtually futile," because potential grievants rightly feared management retaliation. In addition, Mr. Montaña testified that LANL management had unfairly prevented him from advancing into leadership positions for which he was highly qualified, and that since UCOP turned control of the internal audit function over to LANL management in 1992, the Internal Audit function could no longer be relied upon to be UC's on-site "eyes and ears," because auditors had lost their independence.

39. From late 1996 to 2000, after Mr. Hook resigned his positions in Audits and Assessments in response to LANL's retaliation against him, LANL assigned Mr. Hook to a series of temporary positions in the Information Management Division, which provided him with little work or responsibilities. Even though Mr. Hook no longer reported to Ms. Brittin, she continued to undermine him by informing his supervisors that he was "not a team player" and was "not to be trusted."

40. During the 1996-2001 time period, Mr. Hook applied for numerous other management and leadership positions at the Laboratory, including a BUS Division SSM-4 management position, BUS Division Budget Team positions at both SSM-4 and SSM-3 grades, an SSM-4 position in the Laboratory's Chief Financial Officer Directorate, and a project leader position in the BUS-1 Group. Despite Mr. Hook's exemplary performance and extensive experience as a senior manager, LANL denied him these positions, in some cases without any interview, and in other cases without a second interview. In the interviews he did receive, the hiring officials sometimes asked Mr. Hook inappropriate questions about his working relationship with Ms. Brittin.

41. From December 2001 to September 2002, the Laboratory gave Mr. Hook a temporary assignment in the Budget Group within the Business Division Office, a position that ended upon the departure of the deputy group leader. Mr. Hook applied for the Project Leader for Internal Controls position in Accounting, BUS Division, during the summer of 2002, but was rejected after only one interview. The candidate selected by the hiring manager, Banji Chatterjee, was far less qualified than Mr. Hook, as the candidate had only a few years of relevant experience as compared with Mr. Hook's 27 years of relevant experience and outstanding performance.

The Laboratory Continues to Retaliate Against Mr. Montañó (2001-2002)

42. After the Laboratory settled Mr. Montañó's whistleblower complaint in late 1999, Mr. Montañó promptly returned from his university sabbatical to the Laboratory at the urging of Joe Salgado, Director of the BAO Directorate. Pursuant to the terms of the settlement agreement, Mr. Salgado had his designee, Bill Wadt, arrange for Mr. Montañó to be appointed to the position of Project Leader for Internal Controls for BUS-1. Mr. Wadt told Mr. Montañó he would have career opportunities in BUS-1, and specifically mentioned the BUS-1 Deputy Group Leader position for BUS-1, which was vacant at the time.

43. In 2001 LANL promoted Joe Salgado to the position of Principal Deputy Director of LANL. Mr. Salgado then appointed Richard Marquez to succeed him as BAO Director. These moves made Mr. Marquez the highest-ranking manager in Mr. Montañó's directorate. On November 8, 2000, Mr. Montañó applied for the position of BUS-1 Deputy Group Leader, but the job posting was withdrawn after Mr. Montañó interviewed for the position.

44. In his capacity as Project Leader for Internal Controls for BUS-1, Mr. Montaña was tasked with implementing the DOE Financial Stewardship Program. DOE had criticized the Laboratory in previous years for not having implemented this program. In 2001 Dan Romero, a DOE official responsible for monitoring Lab financial accomplishments, gave the Laboratory an “outstanding” rating for implementing this program, measures for which Mr. Montaña was primarily responsible. UC officials also pointed out that the improvement in LANL business processes as a result of the program was a notable accomplishment.

45. In February 2002, BUS-1 Group Leader Mary Erwin asked Mr. Montaña if he would agree to be the acting Team Leader for the “General Accounting and Work for Others Team,” one of five teams in the BUS-1 Group, while the permanent Team Leader was on assignment to another project. The General Accounting and Work for Others Team, whose staff in its great majority were degreed accountants, was responsible for the monthly and yearly closing process, reconciliation for all bank accounts, maintaining the general ledger comprised of data from more than 50 feeder systems from throughout the entire Laboratory, and various other accounting and reporting activities. Mr. Montaña served as the co-lead for the FY 2002 closing process.

46. When Ms. Erwin resigned as BUS-1 Group Leader in early 2002, LANL advertised the position and Mr. Montaña applied. Despite the fact that he was highly qualified for the position, Mr. Montaña never received an interview. Instead, with Mr. Marquez’s approval, LANL hired Banji Chatterjee, an applicant with no formal accounting background or training, as the new BUS-1 Group Leader.

47. After her appointment, Ms. Chatterjee almost immediately announced her decision to compete the position of Team Leader for the General Accounting and Work for

Others Team, which Mr. Montaña was filling in an acting capacity. Mr. Montaña submitted an application, even though Ms. Chatterjee attempted to discourage him from doing so. Although Ms. Chatterjee had no choice but to grant Mr. Montaña an interview, she initially denied him the position by selecting a less qualified applicant. Upon review of Ms. Chatterjee's decision to award the position to a less qualified applicant, Laboratory Legal Counsel advised her not to proceed with her choice because it was too risky legally. As a result Mr. Montaña was offered and accepted the position in question. After Mr. Montaña's acceptance, Ms. Chatterjee became openly hostile toward him, constantly challenged his understanding of team responsibilities, requested him to commit to working extra hours on a more-or-less daily basis, and made an unnecessary number of e-mail requests for status updates and process details. At one point Ms Chatterjee treated Mr. Montaña in such a hostile manner in front of three members of his staff, that one of them broke into tears.

48. Over the course of Ms. Chatterjee's campaign to force Mr. Montaña out of the BUS-1 Group, Mr. Montaña contacted Mr. Marquez on more than one occasion for help with the problems he was having with Ms. Chatterjee and reminded Mr. Marquez that LANL had committed, as part of the settlement of his whistleblower complaint, not to retaliate against him. Mr. Marquez refused to take any corrective action.

49. LANL management also exhibited hostility towards Mr. Montaña in 2002 and 2003 for protected disclosures he made concerning the Laboratory's unlawful discrimination against women and minority workers. In 2002, Mr. Montaña became chairperson of the Hispanic Round Table of New Mexico ("HRT"), a consortium of some forty member organizations. A joint New Mexico-California legislative committee on LANL oversight invited Mr. Montaña, as HRT Chair, to testify at a public oversight hearing regarding

workforce issues at the Laboratory. Mr. Marquez attended as the highest LANL official at the hearing.

50. In his testimony, Mr. Montaña explained that HRT had concluded that LANL was in violation of federal anti-discrimination laws. He also testified that the Laboratory in November 2000 had commissioned a firm called Welch Consulting to conduct a study of pay disparities at LANL, but that the Laboratory had refused to release the report. When the Committee asked Mr. Marquez to explain the status of the study, he misrepresented that the study had not been completed, and assured the committee that LANL would provide it with the results upon completion. At the conclusion of the hearing, Mr. Marquez glared angrily at Mr. Montaña and, when Mr. Montaña approached and greeted Mr. Marquez by name, Mr. Marquez turned away without responding.

**The Walp-Doran Controversy and Congressional Interest
in the Laboratory's Treatment of Messrs. Hook and Montaña**

51. In early 2002, the Laboratory hired Glenn Walp and Steven Doran for the leadership of the Office of Security Inquiries. The hiring of Messrs. Walp and Doran, and the revamping of the Laboratory's security program, was mandated under the DOE's revisions to the Laboratory contract, which required LANL to demonstrate increased accountability in security and several other core areas. LANL hired Messrs. Walp and Doran not to improve security at LANL, but to control the harsh negative publicity and increased scrutiny arising from the Laboratory's severe mismanagement of the investigations into scientist Wen Ho Lee and a missing computer hard-drive.

52. Senior laboratory management, including Ms. Brittin and Messrs. Marquez and Salgado, thwarted Messrs. Walp's and Doran's investigations into mismanagement, fraud,

illegalities and security breaches, at every stage. Laboratory and University management repeatedly directed Messrs. Walp and Doran to stop their investigations and to stop providing information to the FBI and the U.S. Attorney's office, and directed other Laboratory staff to refuse to cooperate with their investigations. Laboratory management took these actions with the goals of protecting UC's contract with DOE, and preventing publicity that would embarrass LANL management.

53. In early November 2002, the *Albuquerque Journal* published a series of articles, based on anonymous reports, detailing the results of investigations that Messrs. Walp and Doran were conducting. In these articles, the newspaper disclosed that Mr. Hook and Mr. Montañó had testified at their depositions in 1997, that Ms. Brittin and other Laboratory managers had a history of concealing financial illegalities in order to obtain reimbursement on the DOE contract for unallowable costs, and to ensure that UC maintained its contract to run LANL.

54. In late November 2002, the DOE IG interviewed Messrs. Walp and Doran, which prompted the Laboratory immediately to terminate their employment in an effort to prevent them from talking with DOE or the DOE IG's office further about the gross mismanagement, fraud, and security breaches they had uncovered in their investigations.

55. As part of this cover-up, Laboratory management emailed all employees, including Messrs. Hook and Montañó, to encourage them to share any information they had about the DOE investigations with Laboratory managers, in particular with Ms. Brittin. Messrs. Hook and Montañó refused to share such information because they thought it improper to disclose investigative information to Ms. Brittin, as she was a primary target of the investigations, and would likely use the information to cover up her past misconduct. In

defense of his and Mr. Montañó's refusal to provide information to Ms. Brittin, Mr. Hook wrote a series of letters to Mr. Marquez and to then LANL Director John Browne, with copies to the University President Richard C. Atkinson. In these letters, Mr. Hook described the many illegalities and cover-ups for which Mr. Brittin had been responsible. Instead of responding to Mr. Hook's letters, Mr. Browne falsely told the press that the Laboratory had fully investigated all improprieties that had come to its attention.

56. In December 2002, the Subcommittee on Oversight and Investigation of the Committee on Energy and Commerce of the U.S. House of Representatives commenced an investigation into mismanagement, fraud and security breaches at LANL. As part of this investigation, a committee staffer discussed with Mr. Hook the possibility of his testifying about Ms. Brittin's illegal actions. Mr. Hook promptly informed Messrs. Brown and Marquez that Congress had contacted him, and, as a result, he had agreed to testify about these subjects. These managers did not respond to Mr. Hook for nearly one month, when Mr. Marquez and Mr. Reed met with him in mid-January 2003 to discuss his potential testimony. At this meeting, Mr. Hook again stated that he would testify if called, and showed Mr. Marquez and Mr. Reed various documents and notes regarding Ms. Brittin's mismanagement, dating back to 1995. Shortly thereafter, the University removed Ms. Brittin from her division-level management position, and announced her termination at the Congressional hearings. The University also fired Mr. Salgado after he refused to resign. As a result of Ms. Brittin's termination, the Congressional committee shifted the focus of its inquiry, and did not call Mr. Hook to testify at the February 26, 2003, hearing.

The Laboratory Establishes a New Assessment Organization Headed by Mr. Hook, But Prevents Messrs. Hook and Montañó from Performing Meaningful Work

57. In January 2003, in response to Congressional and DOE scrutiny arising from the Walp and Doran investigations, the Laboratory tasked Mr. Hook to create a new assessment and review unit within Business Operations Division. LANL management soon narrowed down the scope of the initiative, and the unit became a self-assessment team situated below the team level within the SUP-1 procurement group. The initiative eventually became known as the Self Assessment and Procurement Review Team (“SAPR Team”). Mr. Marquez transferred Mr. Hook to serve as the project lead for this unit, which was to be established by April 2003, as an independent program within the Business (BUS) Division, which would then report directly to the BUS Division Leader Jay Johnson. According to Mr. Johnson, Hook’s team would be responsible for auditing, reviewing, and assessing all finance and procurement operations in the BUS Division.

58. Mr. Montañó’s supervisor, Ms. Chatterjee, lobbied Mr. Hook to hire Mr. Montañó as a member of Mr. Hook’s team. Mr. Tuttle also pressured Mr. Hook to hire Mr. Montañó. Mr. Hook did so, albeit on his own initiative, and Mr. Montañó, based on Laboratory management’s representations regarding Mr. Hook’s team function and operation, resigned his position as a Team Leader, to join Mr. Hook’s staff in or around March 2003.

59. Mr. Hook’s team issued its first report in February 2003 before the team was fully assembled. In that report and several related analyses, his team identified problems with procurement transactions, in which vendors were double-billing for freight charges, resulting in potentially unallowable costs of \$1.4 million. In response to these reports, Lab management made no attempt to collect the improperly reimbursed money from the vendors, took no action

to correct the problem going forward, and took steps to ensure that further review was stopped. Mr. Hook's team's reports also criticized the Internal Audit program's failure to identify these improper freight charges, but when that shortcoming was presented to Mr. Reed, he became upset and accused Mr. Hook of "trying to build an empire." In fact, Mr. Reed was upset that Mr. Hook's team had found improper charges that the internal audit function had missed, a fact that was especially embarrassing with the approach of Congressional hearings.

60. Mr. Hook and his team prepared detailed self-assessment plans of the existing procedures and controls for the procurement operations for the current/coming fiscal year, which he forwarded to Mr. Barr, the designated quality assurance leader for procurement. Mr. Barr never responded to Mr. Hook's repeated inquiries about these plans, and Mr. Barr, nor Mr. Brown, and Mr. Bretzke, to whose attention Mr. Hook also brought these plans, never formally approved them.

61. In the Spring of 2003, the press reported that even after their terminations, Ms. Brittin and Mr. Salgado were listed in the Laboratory's business system as having the authority as Senior LANL Managers to approve procurement transactions. This lack of internal controls could have allowed purchases of millions of dollars. Mr. Tuttle told Mr. Hook that this internal control weakness could be embarrassing to the University, and asked Mr. Hook to review the matter quickly in case LANL Director Peter Nanos or Mr. Marquez needed to address the issue in upcoming Congressional testimony. When Mr. Hook issued a report, IM Division Leader Robert Newell criticized Mr. Hook for placing his organization in a negative light, and Mr. Tuttle said the report caused an unnecessary controversy. As a result of these complaints, LANL prohibited Mr. Hook from anything further in the IM Division.

62. By the time Mr. Hook's team was fully launched within the Business Division Office, in April 2003, Mr. Johnson and Mr. Marquez began retaliating against Mr. Hook and Mr. Montaña for their thorough reports. First, they removed finance issues from the focus of Mr. Hook's team, and limited its work to procurement problems. Later, they reduced the role of Mr. Hook's team, and downgraded Mr. Hook's reporting relationship so that he reported to someone at his own level, Mr. Barr, the Procurement Quality Assurance Project Leader. From that point on, Mr. Hook's team became known as the SAPR team, which reflected the limitation of the group's efforts to procurement, rather than broader finance, issues.

63. In or around 2002 and 2003, in response to heightened public scrutiny, the University hired a team of outside CPAs to complete an internal control review of the Laboratory's business operations. The team was led by John Layton, former DOE Inspector General, and the DOE official who may have leaked to Ms. Brittin information regarding DOE's request that Mr. Hook wear a "wire" to document Ms. Brittin's wrongdoing. Mr. Hook complained to UC/LANL management about Mr. Layton's conflict of interest, but management refused to remove Mr. Layton from his new assignment. BUS Division senior managers, including Division Leader Jay Johnson and Mr. Tuttle, ordered Mr. Hook to prepare and sign a white paper, which would state that accepted accounting standards did not require a review of management controls. Laboratory management wanted this type of white paper so outside accountants could not delve into, or expose, the lack of effective management controls of LANL's business operations. Mr. Hook reviewed the relevant accounting standards and found that the standards did not support that position. When he told Mr. Tuttle that he would not prepare such a memorandum, Mr. Tuttle became angry at Mr. Hook.

64. As a result of Congressional hearings and ongoing DOE investigations, Lab management announced another new initiative, the Business Process Improvement Program (“BPIP”), which they publicly proclaimed as a “validation” process to ensure that all problems were being resolved. Mr. Tuttle, who headed the project, originally asked Mr. Hook to "validate" a limited number of findings for BPIP purposes, without undertaking the kind of in-depth review, based on statistical sampling, that generally accepted accounting practices required. In January or February 2004, LANL's Chief Financial Officer (“CFO”) Division gave Mr. Hook and Mr. Montaña over 200 BPIP findings related to procurement, and said these findings needed to be further “validated” under BPIP. When Mr. Hook and Mr. Montaña began sampling the work that underlay the findings, however, Mr. Tuttle discouraged them from such an in-depth review. Mr. Johnson and Mr. Bretzke then removed Mr. Hook and Mr. Montaña from this assignment. As a result of these retaliatory actions against Mr. Hook and Mr. Montaña, BPIP became another tool that the Laboratory could use in misrepresenting to Congress and the DOE that it was correcting problematic and illegal business practices at LANL.

65. In 2003 the SAPR team discovered that Laboratory procurement staff had improperly arranged for the Laboratory to provide almost \$200,000 in funding to a research group at Purdue University. This was improper because the funding amounted to an unrestricted gift, and, therefore, violated federal regulations. Mr. Hook reported this problem to Mr. Barr, who criticized him by stating that Mr. Hook was “supposed to be fixing things, not finding problems.”

66. During 2002 and 2003 Mr. Hook volunteered to serve as an advocate for students working in the IM Division under Mr. Newell. Mr. Marquez and Mr. Newell, who

was later reprimanded for his mistreatment of students, were extremely unhappy about Mr. Hook's efforts on the students' behalf, and attempted to pressure and intimidate Mr. Hook into abandoning his advocacy of the students' interests. Among other issues, Mr. Hook assisted students in an effort to contest a decision by LANL's Human Resources ("HR") office to pay the students less than they had been promised, based on an unannounced rule change at the Laboratory. Mr. Hook investigated the matter and reported to Brenda Montoya in HR that LANL's action was unfair, and was likely in violation of Public Employee Relations Board rules. Ms. Montoya responded by spreading the false rumor that Mr. Hook had accused Mr. Newell and one of his subordinates of having an affair. The Laboratory initiated an investigation of Mr. Hook, but was forced to drop the matter months later. Meanwhile, Mr. Newell stated that if he were going to be disciplined for his role in the pay dispute, he wanted a "joint public hanging" with Mr. Hook.

The Laboratory's Reorganization and Downgrading of the SAPR Team

67. In July 2003, in response to the SAPR team's remarkable success in identifying, analyzing, and reporting pervasive procurement and financial weaknesses at the Laboratory, senior Laboratory management "buried" the SAPR Team through a bureaucratic reorganization. Initially, Mr. Hook's team was an independent unit within the BUS Division, reporting directly to the Division Leader. In early 2003, Laboratory management modified the reporting relationship so that Mr. Hook reported to Mr. Barr, another Project Leader, rather than to the Division Leader. In this reorganization, LANL split the BUS Division into two divisions – a CFO Division for financial management and a SUP Division for supply chain management, and was tasked to split the SUP Division into several groups, one of which was a group called SUP-1, which handle all procurement matters. SAPR was placed within a project

team in the SUP-1 group, with Mr. Hook still reporting to Mr. Barr. As a result of these changes, SAPR went from being a division-level activity, to being a project within a team, within a group, within a division. Mr. Hook then had three levels of managers above him in SUP Division.

The SAPR Team's Fiscal Year 2003 Self-Assessment Project

68. SAPR's primary mandate coming out of the reorganization was to prepare a FY 2003 self-assessment report for all procurement programs by October 20, 2003. This report was contractually mandated by DOE, which met with LANL staff in July 2003 to discuss the project. At this meeting, attended by Mr. Hook and Mr. Barr, Dennis Martinez, DOE Deputy Manager for the Los Alamos DOE office, and his staff praised the SAPR Team's plans and vision. Mr. Martinez specifically expressed his confidence in Mr. Hook's improvement of procurement practices at LANL, and praised Mr. Hook's integrity. He told Mr. Barr that Mr. Hook was the "best auditor" at LANL, and said he would recommend to Mr. Marquez that the SAPR Team's staff be doubled. When Mr. Hook raised his concerns about independence and objectivity to Mr. Martinez during the meeting, Mr. Barr assured Mr. Martinez that Mr. Hook and his staff would have complete independence in performing SAPR work.

69. However, Mr. Marquez never made an effort to increase SAPR's staff. Moreover, despite Mr. Martinez's praise of the SAPR Team, and contrary to Mr. Barr's representations to DOE about the team's independence and objectivity, Mr. Barr repeatedly told Mr. Hook that Laboratory management, including Mr. Marquez, expected the SAPR team to give the Laboratory's procurement activities a "passing score" in the self-assessment project. Mr. Barr threatened Mr. Hook that without a "passing score" the University might lose the DOE contract, and Mr. Hook and others would lose their jobs. Mr. Hook responded that he

opposed any attempt to come up with any predetermined “score,” since the self-assessment project was designed to identify and examine problems, and to issue findings and recommendations. Mr. Hook told Mr. Barr that he did not want to “re-live” in SAPR his prior experience with Ms. Brittin.

70. Even though Mr. Hook made clear the need for independence and objectivity in the FY 2003 Self Assessment, Laboratory management withheld from DOE the information contained in the SAPR team’s reports. Mr. Barr and Vern Brown, the SUP-1 Group Leader, admitted to Mr. Hook that Mr. Marquez was “stonewalling” DOE.

71. In July and August of 2003, Mr. Hook provided LANL management and UCOP with status reports on the SAPR Team’s findings. The SAPR Team’s review of over 10,000 transactions identified numerous problems, including improper calculations, overpayment and underpayment of vendors, unauthorized purchases, and continuing problems with freight billings. Yet Laboratory management never provided Mr. Hook or the SAPR Team with any response to these reports, or any indication whether management would resolve these problems by recouping unallowed costs or by correcting internal control problems.

72. In August 2003, while Mr. Hook was out of town, Mr. Barr strongly pressured one of Mr. Hook’s staff, Michelle Cantu, to predetermine a “satisfactory score” on the FY 2003 Self Assessment. Ms. Cantu informed Mr. Hook, upon his return, of Mr. Barr’s conduct. She became so distraught by Mr. Barr’s coercion that she wanted to transfer out of the SUP Division. Mr. Hook immediately requested a meeting with Mr. Barr, in which he told Mr. Barr that his coercion of Ms. Cantu was unethical, that he was impairing the SAPR Team’s objectivity, and that his actions amounted to an attempt to cover up problems or calculate results based on management’s wishes rather than on the facts.

73. In September 2003, at a meeting attended by Ms. Cantu and Messrs. Hook, Montaña, Barr, and Brown, SUP Division Leader John Bretzke suggested that the SAPR team should confine its inquiries to those requested by Laboratory management, and conform its assessments to management's dictates. Mr. Hook expressed his disagreement with this improper approach, and outlined his vision for the independence of the SAPR Team, which included a proposal to upgrade the SAPR Team's position in the organizational hierarchy. Mr. Hook nonetheless told management that he would do as instructed. In a later conversation, Mr. Hook made it clear to Mr. Bretzke that he viewed the suggested change in SAPR's duties as being in retaliation for Mr. Hook's and the SAPR team's clearly expressed intention to issue an objective self-assessment report in coming weeks. Mr. Bretzke never responded to Mr. Hook's proposal for how best to ensure the independence and objectivity of the SAPR team.

74. As the October 2003 deadline for the FY 2003 procurement self-assessment report approached, Lab management further retaliated against Mr. Hook by denying him the resources he needed for completion of the project. For example, Mr. Brown attempted to assign SAPR staff to Mr. Tuttle's BPIP efforts, a move that would have ensured that the SAPR team could not meet its October 20, 2003, deadline. In addition, the SAPR team was forced to relocate offices in the middle of the self-assessment effort, losing several days of productive time. Meanwhile, Messrs. Brown and Barr repeatedly told Mr. Hook that he needed to be more "flexible" and allow managers the opportunity to "change facts" in the self assessment. Mr. Hook replied that he would not change any facts without justification or documentation. Messrs. Brown and Barr became angry with Mr. Hook's refusal to comply with their illegal directives.

75. In early October 2003, Mr. Hook and an SAPR staff member conducted a contract audit of Frank's Supply, an Albuquerque business. They discovered that Frank's Supply was renting equipment to the Laboratory outside of its formal contract with the Laboratory, and that it was doing so on a "cost-plus percentage" basis, an arrangement that is not allowed under federal acquisition regulations. Mr. Hook reported this procurement rules violation to Mr. Barr, who claimed, falsely, that Laboratory attorneys had reviewed the contracts and concluded that it was not a cost-plus arrangement. Arguing that this was wrong, Mr. Hook offered to write a report documenting the arrangement, but Mr. Barr directed him not to write any report on the issue. Mr. Hook also raised the impropriety of the Frank's Supply arrangement with Mr. Brown and Mr. Bretzke, but LANL took no action to stop the improper arrangement.

76. Knowing that SAPR would likely issue a critical self-assessment report, Mr. Bretzke, Mr. Tuttle and other managers arranged in September and early October 2003, without the SAPR team's knowledge, for a separate, and more favorable, self-assessment report. This report, which was issued on October 10, 2003, just 10 days before the expected release of the SAPR team's report, falsely claimed that the BPIP process had made significant improvements in LANL's procurement activity, a claim that was not supported by the SAPR team's extensive investigation and findings. Mr. Marquez nonetheless sent the misleading report to DOE, and later withheld the SAPR report, in an intentional effort to mislead DOE about the state of affairs in the Lab's procurement operation.

77. Mr. Hook and the SAPR Team completed the FY 2003 self-assessment report on October 20, 2003. The report included a scoring system that assigned a failing grade to any area in which SAPR had found more than 30 percent of the transactions out of compliance.

The SAPR Team gave procurement a failing grade, based on a finding that 35 percent of procurement transactions were out of compliance, and detailed numerous problems in the control process which made it impossible to provide reasonable assurance that the procurement system could prevent fraud, waste, and abuse. The SAPR Team's report thus had the strong potential for embarrassing Laboratory management at the very time that the Laboratory and the University were publicly reassuring DOE, Congress and the public, that initiatives like the BPIP program had significantly remedied procurement weaknesses.

78. Upon receiving the SAPR report, Mr. Barr immediately told Mr. Hook that the report would cause "terrible" problems for the Laboratory, and refused to discuss the report further with Mr. Hook or other SAPR Team members. Upon information and belief, Laboratory management never transmitted the report to DOE. Laboratory management excluded Mr. Hook and his team from any discussions with DOE about the bogus report they had presented to the agency, which omitted the critical findings made by the SAPR team, based on months of work.

79. Later in 2003, Messrs. Barr and Brown continued to pressure Mr. Hook to change the facts in the self assessment report. Mr. Hook refused to do so. Mr. Hook told them that if management wanted to change the facts, they could do so, but that Mr. Hook and his team would no longer sign the report. Mr. Barr also continued to tell Mr. Hook that Mr. Marquez and Mr. Bretzke had said they would fire Mr. Hook if Mr. Hook released the SAPR report to the DOE. This threat constituted a direct violation of DOE whistleblower regulations, which give LANL employees the right to disclose to DOE information they reasonably believe to reveal gross mismanagement, fraud, gross waste of funds, abuse of authority or a violation of federal law. 10 C.F.R. §§ 708.2, 708.5.

80. As part of the FY 2003 procurement self-assessment effort, Mr. Hook issued an additional report referred to as a “cross functional” assessment. This report looked at 25 specific transactions that were pulled from the larger group of transactions examined in the self-assessment effort, and addressed additional questions for compliance purposes, in particular questions relating to the accounts payable cycle. Messrs. Tuttle and Johnson became furious that Mr. Hook had issued a critical supplemental report, and expressed their hostility towards him.

81. After the October 20, 2003 completion date, Mr. Romero, Mr. Martinez, and other DOE officials spoke with Mr. Hook on several occasions to find out when LANL planned to release to DOE the yet-unreleased Procurement Self Assessment Report. Mr. Hook told them that he had been warned not to release the report, and that he would be fired if he did so. Mr. Hook relayed DOE’s requests for the report to Messrs. Barr and Bretzke, but they refused to release the report, and Mr. Barr continued to threaten Mr. Hook with termination if he released the report to DOE.

82. As part of their attempt to discredit the SAPR Report, Laboratory management directed SUP-1 Deputy Group Leader Dick Stickler to prepare his own self assessment for the procurement programs. This self assessment, which Mr. Stickler took only one week to complete, falsely concluded that procurement should receive a 90 percent passing grade – a remarkable score, as it would suggest a highly improbable non-compliance rate of only 10 percent. Lab management refused to provide Mr. Hook with a copy of this report.

Laboratory Management Continues To Retaliate Against Messrs. Hook and Montaña

83. In October or November 2003, LANL retaliated against Mr. Hook by lowering his performance evaluation for the FY 2003 performance period without any basis for doing so.

Mr. Brown justified this action by telling Mr. Hook he had not met deadlines, when in fact Mr. Hook had met every deadline he had been given – including the October 20 deadline that DOE, the University and LANL had set for the self-assessment report. Mr. Brown also falsely claimed that Mr. Hook’s team had produced only one report during the fiscal year, when in fact the SAPR Team had issued 12 reports on business and procurement issues. Mr. Brown claimed he had not seen those reports, and insisted that it was too late to change Mr. Hook’s performance evaluation.

84. In November 2003, Mr. Hook requested a meeting with Messrs. Brown, Barr, and Bretzke to discuss Laboratory management’s failure to respond to the SAPR Team’s self-assessment report. At this meeting, Mr. Brown admitted that management was “scared” that the media would obtain a copy of the SAPR Team’s report. They told Mr. Hook that Mr. Marquez’s office had held up the report, even though DOE had specifically requested this report and even though UC and LANL had promised to provide DOE with the report. Mr. Bretzke threatened Mr. Hook by stating that it was his “understanding” that Mr. Martinez had already obtained the report, in a tone that made it clear that he thought that Mr. Hook had released the report to DOE, without authorization, which he had not done.

85. From November 2003 onward, Lab management gave virtually no work to the SAPR Team. Nor did Lab management provide any response to the SAPR Team’s plans for the upcoming fiscal year. Mr. Hook and his staff prepared a preliminary risk assessment to evaluate the most efficient ways to resolve the problems identified by the FY 2003 procurement self-assessment, which they provided to Messrs. Barr, Brown and Bretzke. These officials did not respond.

86. Mr. Hook then requested a meeting with Mr. Brown to complain that Mr. Barr was retaliating against him and his staff by refusing to communicate on the self-assessment, by refusing to approve the FY 2004 plans, and by denying work assignments to the SAPR Team. Although Mr. Brown was Mr. Barr's supervisor, he claimed he could not do anything about these issues.

87. In mid-November 2003, LANL management further retaliated against Mr. Hook and Mr. Montañó by stripping SAPR of significant responsibilities. The SAPR Team's self-assessment had recommended a review of internal controls at the Laboratory, and SAPR's plan for FY 2004 included that project. However, Mr. Marquez gave this project to John Tapia and Mr. Barr, even though he knew that the work would be duplicative of SAPR's work.

88. In early December 2003, Mr. Barr retaliated further against Mr. Hook by removing, without Mr. Hook's knowledge, the pre-award audit function that Mr. Hook and his staff had been performing. Mr. Barr falsely told SAPR staff members that Mr. Hook no longer wanted the function.

89. As of December 2003, the SAPR Team had no meaningful work to perform. After several requests by Mr. Hook, Mr. Marquez finally agreed to meet with Mr. Hook in January 2004 to discuss the SAPR Team's lack of work and lack of feedback on its reports and roles, and to receive a briefing on the self-assessment report. Mr. Marquez began the meeting by telling Mr. Hook, "I understand you're a problem." Mr. Hook stated that he simply wanted to have meaningful work for his group. With respect to the SAPR Team's report, Mr. Marquez stated that he did "not want to be presented with problems in procurement." He wanted only to know that "problems were being solved." Mr. Marquez asked Mr. Hook to provide a draft "vision" for the SAPR Team, which Mr. Hook did several days later. Despite Mr. Hook's

repeated requests over the next several months, Mr. Marquez never met with him to discuss the draft.

90. In mid-January 2004, Mr. Hook reported to Mr. Bretzke his concerns about the lack of work and the removal of functions from the SAPR Team. Mr. Hook also said he planned to file a complaint about Mr. Barr's retaliation against him. Mr. Bretzke replied, "Bill [Barr] is not the problem. You are." Mr. Bretzke also said that he did not want to hear complaints about Mr. Barr from Mr. Hook or his staff, including Mr. Montaña. Mr. Bretzke subsequently precluded Mr. Hook from initiating the complaint process against Mr. Barr.

91. Mr. Barr retired in late January 2004. Tony Pace, Mr. Barr's replacement, told Messrs. Hook and Montaña in February 2004 that the SAPR Team would no longer do self-assessments, which had been its primary mission. With Mr. Marquez's approval, Mr. Pace transferred this function to an independent contractor who was a close associate of Mr. Marquez, and who had falsely criticized the SAPR Team's work. Mr. Hook complained to Mr. Marquez about this retaliatory transfer of responsibilities, but Mr. Marquez refused to reverse the action. The SAPR team was thus left with little prospect of future work or responsibilities within the SUP Division.

92. In March 2004, Mr. Marquez held a meeting with Messrs. Pace, Brown, Bretzke, Hook and Montaña. Prior to that meeting, Mr. Pace told Mr. Hook that Mr. Barr had told him (Pace) that "you can't do anything with Tommy Hook" because he was a whistleblower. Mr. Pace also told Mr. Hook that he would fire Mr. Hook if he wrote emails and reports like ones he had sent to Mr. Barr, or if Mr. Hook became a problem for Mr. Pace. In advance of the meeting with Mr. Marquez, Messrs. Brown and Pace met with Messrs. Hook and Montaña, purportedly to discuss roles and responsibilities, and suggested that the SAPR

Team should do cross-functional reviews, but do no further procurement self-assessment projects, thus removing any reason for the SAPR team to continue as part of the SUP Division. At a meeting the following day with Mr. Marquez, Messrs. Hook and Montaña again raised their concerns about SAPR's increasingly limited role, but Mr. Marquez left the meeting abruptly without addressing the issue.

93. Mr. Hook continued to request that Mr. Bretzke provide the SAPR Team with work, but Mr. Bretzke refused to do so. In April 2004, Mr. Hook wrote to Mr. Marquez that Mr. Bretzke continued to refuse to give the SAPR team any work assignments or feedback. Mr. Marquez did not respond to any of these concerns.

94. In May 2004, Mr. Marquez allowed Mr. Hook to work in the Prime Contract Office in a temporary capacity. Mr. Montaña stayed behind in SUP-1 as the only remaining member of the SAPR Team, and continued to have absolutely no work to do. Mr. Hook accepted the temporary assignment, but continued his efforts to obtain meaningful responsibilities for himself and Mr. Montaña, and to resolve their outstanding complaints with Mr. Marquez.

95. During this same period, Mr. Brown admitted to Mr. Hook that Mr. Bretzke had prohibited Mr. Brown from giving him (Hook) or SAPR any work, and from responding to his emails. Mr. Marquez later admitted that Mr. Bretzke had told Mr. Brown to remove the self-assessment work, SAPR's main responsibility, from Messrs. Hook and Montaña.

96. In late May 2004, Messrs. Hook and Montaña proposed to Mr. Marquez that LANL adjust their performance evaluations for FY 2004 to match those for FY 2003, since their lack of work for FY 2004 was likely to have a negative impact on their evaluations for the current year. They also proposed that Laboratory management provide a written apology for

their mistreatment, along with a five percent salary raise and performance award based on the SAPR Team's self-assessment report. Mr. Marquez never responded to their proposal.

97. In the spring and summer of 2004, Mr. Hook complained about the foregoing retaliation in e-mails he sent to LANL Director Peter Nanos and to the UCOP office, with copies to DOE and the DOE IG. Mr. Montaña separately lodged complaints with UCOP officials Bruce Darling, Bob Van Ness, and Patrick Reed, with California Congresswoman Anna Eshoo, and with DOE IG official Ron Archuleta. In June 2004, Mr. Hook provided information about his complaints to Senator Domenici, who had asked for a report from the Laboratory. On or around July 1, 2004, the University responded by assigning Jim Hirahara, a University official with close ties to Mr. Johnson, Mr. Bretzke, and Mr. Marquez, to investigate Messrs. Hook's and Montaña's complaints.

98. In August 2004, Mr. Montaña learned that Bani Chatterjee directed computer technicians, without consultation, explanation, or advance notice, to disconnect Mr. Montaña's computer from a color printer located near her office. When Mr. Montaña found out and questioned the decision, Ms. Chatterjee claimed she had done it for security reasons, which falsely implied that Mr. Montaña presented a security risk.

99. In August 2004, LANL also retaliated against Mr. Montaña by paying him less than it pays similarly situated employees who have not made protected disclosures, and less than the Laboratory's own study indicates he should be paid. Mr. Hook, as Mr. Montaña's supervisor, requested an upward salary adjustment for Mr. Montaña in 2003 based on a salary survey and on his knowledge of SAPR team members' pay levels, but LANL denied the request. Based on the results of the Welch study, moreover, which LANL finally released under pressure from the state's joint legislative oversight committee, Mr. Montaña was able to

demonstrate in August 2004 that LANL was underpaying him by at least \$6,000 per year. He requested an adjustment, which LANL also denied. Mr. Hook later provided this and related information directly to Mr. Marquez, and requested that Mr. Marquez take action to adjust Mr. Montaña's salary upward. Mr. Marquez refused to do so.

100. In late August 2004, LANL management further retaliated against Mr. Montaña by assigning him to serve as a recruiter of accounting and finance staff for LANL's CFO Division, a position which he did not request and for which he was greatly overqualified. Although management first told Mr. Montaña he would serve as a Project Leader for CFO Division recruitment, mentoring and training, the position to which they assigned Mr. Montaña was actually a project administrator position which constituted only a lateral move with no increase in salary and no leadership responsibilities. On September 3, 2004, Mr. Montaña requested that the University Auditor, Patrick Reed, intervene to ensure that Mr. Montaña receive fair consideration for the position of Group Leader in Internal Audit, but Mr. Reed failed to do so even though a DOE whistleblower investigation concluded in 1999 that LANL had previously denied Mr. Montaña leadership of the Internal Audit function in retaliation for having made protected disclosures. Katherine Brittin appointed Ron Rodriguez to be the "acting" Internal Audit Group Leader, even though Mr. Montaña was better qualified for the position. Mr. Montaña was then again passed over for advancement in April 1996 when Mr. Rodriguez was selected by Ms. Brittin to be the permanent Internal Audit Group Leader. Mr. Reed was fully aware of Ms. Brittin's efforts to diminish the independence and objectivity of the internal audit function, including efforts to derail the respective careers of Messrs. Montaña and Hook, but took no actions to remedy the problem. It was not until after the Walp-Doran

controversy attracted attention from the U.S. Congress that UC removed Ms. Brittin from her job in 2003.

101. Mr. Montaña submitted an application for the Internal Audit Group Lead position when LANL advertised it as a permanent position in 2004. LANL refused to consider him for the position, including refusing to grant him an interview. LANL chose a less qualified individual for the job, who resigned after a few months in the position. When the Internal Audit Group Leader position became vacant for a second time in 2004, Mr. Montaña requested Mr. Reed's intervention to prevent continuing retaliation. Mr. Reed again chose to do nothing to stop the ongoing retaliation against Mr. Montaña.

102. Like Mr. Montaña, Mr. Hook faced further retaliation by LANL management during August and early September 2004, when Bill Wadt, head of the Prime Contract Office, asked Mr. Hook to work on a review of an internal evaluation performed by Laboratory business operations units. In light of Mr. Hook's complaints against BUS management, Mr. Wadt specifically asked Mr. Hook if he could conduct the review objectively. Mr. Hook replied that he could, and assured Mr. Wadt that he would notify him if he began to believe otherwise in the course of the review. During the week of August 30, 2004, Mr. Hook spent several days working enthusiastically on the project, only to learn late in the week that Mr. Marquez had directed Mr. Wadt to remove him from the project, and, on information and belief, instructed Mr. Wadt not to assign Mr. Hook to other important projects. This action sent a signal that Mr. Hook could not be trusted, and caused him significant humiliation and embarrassment in front of his peers in the Prime Contract Office. Given Mr. Hook's qualifications, experience and exemplary performance record, Mr. Marquez's actions were

clearly motivated by an intent to retaliate against Mr. Hook for the protected disclosures he had made as described above.

103. On September 7, 2004, Mr. Montaña and Mr. Hook timely filed a formal whistleblower retaliation complaint with the University under the University of California Whistleblower Protection Policy, alleging that the University had retaliated against them, in violation of the California Whistleblower Protection Act, Cal. Gov't Code § 8547 to § 8547.12, for making disclosures protected by the Act. On September 7, 2004, the University assigned Jim Hirahara to serve as the Retaliation Complaint Officer responsible for investigating the complaint, two months after UC's first notified Messrs. Hook and Montaña that he would be conducting an investigation into their complaints.

104. More than 120 days have passed since the University assigned the investigation of the complaints that Messrs. Hook and Montaña filed with a Retaliation Complaint Officer pursuant to the University of California Whistleblower Protection Policy.

105. Since the time Messrs. Hook and Montaña filed their formal whistleblower retaliation complaint in September 2004, LANL management has continued to retaliate against them by denying them work that is commensurate with their qualifications and experience, in Mr. Montaña's case by relegating him to a recruiting position for which he is highly overqualified, and in Mr. Hook's case by refusing to provide him with any meaningful responsibilities at all. Mr. Montaña was unilaterally assigned his current responsibilities effective August 27, 2004, and met with his new immediate supervisor, Carolyn Romero and his new second-level supervisor, Jay Johnson, the following Monday, August 30, 2004. Since that meeting through January 2005, Mr. Montaña has not met with Ms. Romero, nor has he been included in any team or group meetings under her supervision.

106. Mr. Montaña's 2003/2004 performance evaluation was completed without his previous immediate supervisor, Tommy Hook, to provide any input, or any involvement by his current supervisor, Ms. Romero. This evaluation was largely erroneous as it gave Mr. Montaña credit for work he did not do or work he may have done at one point, but not during the 2003/2004 performance period. Furthermore, Mr. Montaña was kept idle for nine out of the twelve month period under evaluation, an important fact that was not documented in any manner in the evaluation.

107. LANL management have further retaliated against Mr. Hook by issuing him a negative performance evaluation containing false criticisms of his performance. On November 12, 2004, Mr. Hook received an annual performance summary that was purportedly based on the six months he had worked in the SUP-1 Division prior to his transfer in May 2004 to the Prime Contract Office. In that summary, LANL management falsely accused Mr. Hook of habitually behaving in an unprofessional and agitated manner, and of being unable to get along with his subordinates, supposedly requiring "intervention meetings" with management to address this alleged behavior. In fact, none of these allegations was true, and no such meetings took place; SUP-1 management, including ex-Division Leader Vernon Brown and acting Division Leader Albert Jiron, fabricated these criticisms solely in order to discredit Mr. Hook and retaliate against him for the protected disclosures he had made about their division's improper and illegal business practices. When Mr. Hook met with Mr. Jiron to discuss the summary in November 2004, Mr. Jiron insisted that he had evidence to support management's criticisms of Mr. Hook's performance, but he refused to show or even describe that supposed evidence when Mr. Hook requested it.

108. Since assigning Mr. Hook to the Prime Contract Office in May 2004, LANL management have also retaliated against him by forcing him, over his objection and despite the recommendations contained in a LANL ergonomic evaluation, to work at an ergonomically unsafe work station that has caused serious injuries to his wrist and forearm, requiring ongoing medical treatment.

109. On January 15, 2005, in connection with a physical examination, Mr. Montaña's primary care physician prescribed a three-month medical leave of absence from LANL, along with medication for sleeplessness and depression.

110. As a result of LANL's unlawful actions, Messrs. Hook and Montaña have suffered loss of opportunities for career advancement, significant loss of income, and harm to their professional reputations. LANL's unlawful actions have subjected Mr. Hook and Mr. Montaña to pain and suffering, emotional distress, and, for Mr. Hook, to serious adverse health effects, including the ergonomic injuries described above, cardiac arrhythmias, cardio conversions which required treatments and hospital stays, and a stroke from which he lost partial eyesight. LANL's unlawful actions have caused Mr. Montaña to suffer, among other things, sleep disturbances and chronic fatigue.

111. Defendants' unlawful actions described above were taken, and continue to be taken, with the intent of making plaintiffs' working conditions so intolerable that they will be forced to resign their positions with LANL.

COUNT I

**(Deprivation of Plaintiff's Rights Under the California Whistleblower Protection Act,
Cal. Gov't. Code Ann. §§ 8547 to 8547.12, Against Defendants University,
Marquez, Bretzke, Brown, Reed and Barr.)**

112. Plaintiffs incorporate as though fully restated herein each of the factual allegations in paragraphs 1 through 111, above.

113. The California Whistleblower Protection Act prohibits the University of California and its entities, including the Laboratory, from taking a prohibited personnel action, or otherwise to retaliate against a UC employee because of the employee's protected disclosures to a supervisor or a public body, including law enforcement agencies, that the employee reasonably believes evidences gross mismanagement, gross misuse or waste of public resources or funds, abuse of authority in connection with the administration of a public program, or a violation of a federal, state, or local law, rule, or regulation.

114. Plaintiffs, as University employees, held the rights guaranteed by the California Whistleblower Protection Act, to freely express their opinions on all public issues and to engage in protected disclosures as defined by the Act.

115. Plaintiffs' right to engage in protected disclosures and speak publicly on matters of public concern was clearly established under law at all times relevant to this Complaint.

116. Defendants University, Marquez, Bretzke, Brown, Reed, and Barr, and other University officials, retaliated against plaintiffs by downgrading their performance evaluations, denying them meaningful work, repeatedly threatening them with termination, and denigrating their work to DOE officials, in order to retaliate against them for their public disclosures and to

prevent them from speaking further to the DOE IG investigators about these matters of public concern.

117. Plaintiffs exercised their statutory right under the California Whistleblower Protection Act to speak internally within the Laboratory and to outside public agencies, such as the DOE, about gross waste and misuse of public funds, and gross mismanagement, in order to protect the University's public image and its contract with the DOE.

118. Plaintiff Montaña exercised his statutory right under the California Whistleblower Protection Act to speak internally within the Laboratory and to outside public agencies, such as the DOE, about the Laboratory's non-compliance with the EEO and pay equity requirement of its contract with DOE, which constituted abuse of authority in connection with the administration of a public program, and a violation of a federal and state law.

119. By retaliating against plaintiffs for their disclosures, defendants University, Marquez, Bretzke, Brown, Reed, and Barr exhibited an extreme reckless disregard of, and callous indifference to, plaintiffs' rights under the Act. In fact, defendants' actions described above were in willful and wanton disregard of plaintiffs' rights, and taken in order specifically to injure plaintiffs for what defendants perceived as plaintiffs' public disclosures of University officers' gross mismanagement, gross waste of public funds, and illegal actions.

120. Defendants' conduct, as described herein, was done maliciously, with unlawful purpose to cause such damage and loss, and without right or justifiable cause, thereby warranting punitive damages against defendants Marquez, Bretzke, Brown, Reed, and Barr.

121. Defendants' actions described above have injured plaintiffs by causing them loss of income, great public embarrassment, pain and suffering and public humiliation and by damaging their professional reputation.

122. Defendants' actions described above have also caused plaintiffs to lose significant future earnings and benefits.

COUNT II

(Deprivation of Plaintiffs' First Amendment Rights of Free Speech on Matters of Public Concern Under 42 U.S.C. § 1983 Against Defendants University, Marquez, Bretzke, Brown, Reed, and Barr.)

123. Plaintiffs incorporate as though restated each of the allegations in paragraphs 1 through 122 above.

124. Plaintiffs are employees of the University, an entity of the State of California, and have a right guaranteed by the First Amendment to the United States Constitution, through 42 U.S.C. § 1983, to speak freely on matters of public concern, including the gross waste of public funds, and gross misconduct, incompetency, or inefficiency in governmental operations, and illegal orders to employees directing them to violate federal law.

125. Plaintiffs' rights to speak on matters of public concern and to be free from retaliation for the exercise of their right to free speech were clearly established under the First Amendment and by judicial precedent at all times relevant to events stated in this Complaint.

126. Plaintiffs exercised their First Amendment right to speak on the following matters of public concern: gross waste and misuse of public funds; gross mismanagement; and the Laboratory's non-compliance with the EEO requirement of its contract with DOE and antidiscrimination laws.

127. Defendants Marquez, Bretzke, Brown, Reed, and Barr were officers of the University of California and the Laboratory, at the times of the actions ascribed to defendants in this Complaint.

128. Defendants University, Marquez, Bretzke, Brown, Reed, and Barr retaliated against plaintiffs for their public speech by downgrading their performance evaluations, denying them positions and promotions for which they applied, denying them meaningful work, repeatedly threatening them with termination, and denigrating them to DOE officials, in order to silence them from speaking out publicly about matters of public concern, to punish them for plaintiffs' past and perceived disclosures on matters of public concern, and to prevent them from talking further to DOE, the DOE IG, or the U.S. Congress.

129. Defendants' actions described above were taken under color of state law.

130. By retaliating against plaintiffs for raising concerns about misuse of government funds, gross waste and misuse of public funds, and gross mismanagement, defendants acted intentionally and exhibited an extreme reckless disregard of, and callous indifference to, plaintiffs' clearly established constitutionally protected First Amendment rights.

131. Defendants knew, or should have known, that retaliation against a public employee for disclosing matters of public concern is illegal, unlawful, and in violation of such employee's constitutionally protected First Amendment rights.

132. Any reasonable public official in defendants' position would have known that retaliation against a public employee for disclosing matters of public concern is illegal, unlawful, and in violation of such employee's constitutionally protected First Amendment rights.

133. Defendants' actions described above have injured plaintiffs by causing them loss of income, public humiliation and embarrassment, pain and suffering, extreme emotional distress, and damage to their professional reputation.

134. Defendants' actions described above were intentional and taken in willful and wanton disregard of plaintiffs' rights, and were taken specifically in order to injure plaintiffs for their disclosures of the Laboratory's gross waste and misuse of public funds, mismanagement, fraud and other illegalities.

135. Defendants' conduct, as described herein, was done maliciously, with unlawful purpose to cause such damage and loss, and without right or justifiable cause, thereby warranting punitive damages against defendants Marquez, Bretzke, Brown, Reed, and Barr.

REQUESTED RELIEF

NOW, WHEREFORE, plaintiffs pray this court for the following relief:

1. With respect to defendants University, Marquez, Bretzke, Brown, Reed and Barr, jointly and severally, award plaintiffs economic and compensatory damages to redress injuries suffered as a result of defendants' adverse employment actions taken against plaintiffs, in an amount appropriate to the proof presented at trial, but in no event less than \$2.0 million each;

2. With respect to defendants Marquez, Bretzke, Brown, Reed and Barr, jointly and severally, award plaintiffs punitive damages to redress injuries suffered as a result of defendants' adverse employment actions taken against plaintiffs, in an amount appropriate to the proof presented at trial, but in no event less than \$2.0 million each;

3. Award plaintiffs their attorneys' fees and costs incurred in bringing this action pursuant to 42 U.S.C. § 1988 and Cal. Gov't Code § 8547.10(c);

4. With respect to defendant University, award plaintiffs injunctive relief by directing the University to remove, from all of its records, all references to the adverse employment actions taken against plaintiffs, including but not limited to downgraded performance evaluations.

5. Issue a declaratory judgment declaring that defendants violated plaintiffs' constitutional and statutory rights;

6. Grant trial by jury on all issues so triable; and

7. Grant such other relief as this court deems just and necessary.

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**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT**

No. _____

**TOMMY RAY HOOK and
CHARLES MONTAÑO,**

Plaintiffs,

v.

**THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, d/b/a Los Alamos
National Laboratory, RICHARD MARQUEZ,
JOHN BRETZKE, VERNON BROWN,
PATRICK REED, and WILLIAM BARR**

Defendants.

PLAINTIFFS' JURY DEMAND

Plaintiffs Tommy Ray Hook and Charles Montaño, through undersigned counsel, pursuant to Rule 1-038, N.M. R. Civ. P., demand a six person jury trial as to all claims so triable.

Respectfully submitted,

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