

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

CHRISTOPHER J. DRESSER

VERSUS

JOSEPH N. INGOLIA, ETC., ET AL

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CIVIL ACTION

NO. 07-1497, C/W 07-1536
APPLIES TO 07-1497

SECTION "C"

MAG. 5

AFFIDAVIT OF JEFFIE J. MASSEY

BEFORE ME, the undersigned Notary Public, personally came and appeared, Jeffie J. Massey, who after being first duly sworn by me, did depose and state the following.

1. I am over the age of eighteen (18) years. I have personal and direct knowledge of the facts set forth in this Affidavit.

2. I graduated high school in 1971 in San Antonio, Texas. The next fall, I began undergraduate studies at Southern Methodist University in Dallas, Texas. Three years later, I graduated with a Bachelor of Arts, major in political science. In August, 1974, I started law school at Southern Methodist University and graduated with a JD in May, 1977. I took the bar exam in the State of Texas in July, 1977. I had a provisional law license granted in January,

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1977, before I took the bar exam, because I was in criminal clinic, so I actually started representing clients under supervision in January 1977. I became a fully licensed lawyer in November, 1977 and opened my own law office.

3. My first position as an Administrative Law Judge began in September, 1997, with the Social Security Administration. I began in the Social Security Administration's Miami, Florida Hearing Office. I stayed in Miami until May, 1999. In May, 1999, I became the Chief Administrative Law Judge for the Social Security Administration's San Antonio, Texas Hearing Office. I resigned the Chief Judge position after 20 months and became a regular ALJ at that office in about January, 2001. I then interviewed for an ALJ position with the Federal Energy Regulatory Commission in Washington, D.C. I was offered the job, accepted it and began working at the Federal Energy Regulatory Commission as an Administrative Law Judge about September 30, 2001.

4. In about February, 2004, I applied for a position as a United States Coast Guard Administrative Law Judge in New Orleans, Louisiana. I was first interviewed in New Orleans, Louisiana, by Joseph N. Ingolia, the Chief Administrative Law Judge for the Coast Guard. CALJ Ingolia has an office at the ALJ Docket Center in Baltimore, Maryland, and an office in Washington, D.C., in the same building as the Commandant of the Coast Guard. As another part of the interview process for the Coast Guard ALJ position, I met the Commandant at his office in Washington, D.C., with CALJ Ingolia. (I was then offered the job, accepted it and began working as a Coast Guard ALJ about July 11, 2004.) I took over the Coast Guard ALJ position in New Orleans which had previously been held by ALJ Archie Boggs.)

5. Before I started as a Coast Guard ALJ, I went through a training and orientation seminar held in Baltimore, Maryland, which was a yearly get together of all Coast Guard ALJs. We had a speaker from the National Oceanic and Atmosphere Administration, a speaker from the Bureau of Industrial Science, a speaker on drug testing, a speaker on regulatory changes, and other updates.

6. {During the seminar, I learned about CALJ Ingolia's 10/22/01 Hemp Oil Cases Policy Memo and the *Dresser* case. After completing the seminar, it was very clear that, no matter what, hemp seed oil use was not a valid defense under any circumstances in a Coast Guard Suspension and Revocation action. Further, after completing the seminar, it was very clear that, no matter what, a Coast Guard ALJ should never find inadvertent hemp seed oil use as credible evidence in a Coast Guard Suspension and Revocation action.}

7. During this seminar, I met the Coast Guard ALJ from New York, Walter J. Brudzinski. ALJ Brudzinski was a relatively new Coast Guard ALJ, having come from the Social Security Administration as an ALJ at that agency for approximately one year. {I was told by CALJ Ingolia that even though the *Dresser* case was a New Orleans case, he was going to assign it to ALJ Brudzinski. }

8. Before the seminar, during the continued part of the interview process, I met the Commandant at his office in Washington, D.C. But, before going to his office I went to CALJ Ingolia's office in the same building. CALJ Ingolia was on the phone. {When he got off of the phone he told me that he was talking to ALJ Brudzinski and that he and ALJ Brudzinski, from time to time, talk about active cases being handled by ALJ Brudzinski. }

9. On December 7, 2004, ALJ Brudzinski held a hearing in *Coast Guard v. Christopher J. Dresser*, at the Regional Transit Authority Building in New Orleans East. I attended that hearing. Before the hearing, I met ALJ Brudzinski, and two attorneys from the ALJ Docket Center, Ken Wilson and Alyssa Paladino, at their hotel. I brought them to the hearing.

10. <When the hearing recessed for lunch, I accompanied ALJ Brudzinski, Mr. Wilson and Ms. Paladino to lunch. During lunch, ALJ Brudzinski was talking about the evidence that Mr. Dresser had presented that morning. ALJ Brudzinski and Mr. Wilson talked about the testimony of a doctor. It was clear that ALJ Brudzinski was struggling with that testimony in the sense that he found at least part of it compelling, and he was concerned about how it would impact his ruling in the case.><The sense that I got from what ALJ Brudzinski was saying was that he had been ready before the hearing to rule against Mr. Dresser and he found the doctor's testimony troublesome, how to reconcile that testimony with a ruling against Mr. Dresser.><ALJ Brudzinski then commented that a ruling in favor of Mr. Dresser would really be a boon to his products liability case.><Once ALJ Brudzinski mentioned the effect a ruling in favor of Mr. Dresser would have on his products liability case, he said "if I ruled that way, the Chief Judge would have my job."><He was not saying that in a kidding way. He was serious.>ALJ Brudzinski then repeated, while shaking his head, "if I ruled that way, the Chief Judge would have my job."

11. <On December 9, 2004, I prepared a memo on what had been said at that lunch. I prepared the memo because what ALJ Brudzinski had said bothered me. It bothered me from the sense that I knew I was sitting next to a man who was not an independent fact finder.>It bothered me to the effect that we had a Chief ALJ who would dare to tell an ALJ how to rule in a case.> Attached hereto and made a part hereof as Exhibit "A" is a copy of the memo.

12. The outcome of the *Dresser* case was predetermined before Mr. Dresser ever put on any evidence at the 12/7/04 hearing before ALJ Brudzinski. From what was said by ALJ Brudzinski at the lunch on December 7, 2004, <the whole goal of the day was simply to go through the motions of holding a hearing.>The hearing didn't make any difference. There was never an issue of the outcome of the case. Mr. Dresser was going to lose and the Coast Guard was going to win.>

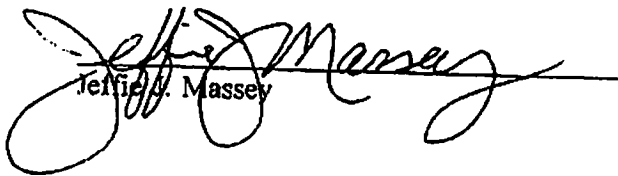
13. On February 24, 2005, a meeting was held in the Hale Boggs Building in New Orleans, Louisiana, under the pretext of a need to discuss my demeanor during Coast Guard hearings. <The real purpose of that meeting was to discuss how I was ruling on discovery issues in three pending cases, *Coast Guard v. Elsik*, *Coast Guard v. Rodgers* and *Coast Guard v. Boudreaux*, and to lobby CALJ Ingolia to pressure me to rule in favor of the Coast Guard.> Attached hereto and made a part hereof as Exhibit "B" is an April 4, 2005 Memorandum which I sent to CALJ Ingolia on the February 24, 2005 meeting.

14. After the February 24, 2005 meeting, on March 7, 2005, CALJ Ingolia issued a Policy Memo on Guidelines for Discovery Requests in Coast Guard Suspension and Revocation actions. Attached hereto and made a part hereof as Exhibit "C" is a copy of CALJ Ingolia's 3/7/05 Policy Memo on Guidelines for Discovery Requests in Coast Guard Suspension and Revocation actions. <That policy memo was almost a duplicate of the arguments that the Coast Guard and Coast Guard District 8 Legal had been making on the discovery issues which I had under active consideration in *Coast Guard v. Elsik*, *Coast Guard v. Rodgers* and *Coast Guard v. Boudreaux*.> On March 31, 2005, I sent a Memorandum to CALJ Ingolia discussing the improprieties of his Policy Memo on Guidelines for Discovery Requests. Attached hereto and made a part hereof as Exhibit "D" is a copy of my 3/31/05 Memorandum to CALJ Ingolia.

15. On April 8, 2005, after being summoned to come to Baltimore for a meeting with CALJ Ingolia, I attended that meeting. In attendance at that meeting were CALJ Ingolia, George Jordan, Ken Wilson and Megan Allison. At that meeting, CALJ Ingolia started in on me about how I obviously didn't understand what the program was about and that <my rulings were causing problems for his "big happy family" and that I needed to stop. CALJ Ingolia made it very clear in that meeting that "we're one big happy family" means I need to do my part to support the Coast Guard.> And by support the Coast Guard, I was specifically told that I should always rule for the Coast Guard and that if I ever found myself faced with a circumstance when I just absolutely positively could not find anyway to rule in favor of the Coast Guard on an issue, that I should rule against them, but word it delicately and just apologize for it as much as I could. <CALJ Ingolia informed me that I was the only Coast Guard ALJ making trouble for him.>the

Coast Guard and the Commandant, and that it had to stop. X CALJ Ingolia told me at that meeting that I should never ever make a ruling that caused the Coast Guard to do one more minute's work than they wanted to do and that I should never concern myself with how hard it was on a respondent to go through the discovery process or to get discovery, that was just not a concern of mine. All of CALJ Ingolia's statements at that meeting reinforced what I had observed and heard when I had lunch with ALJ Brudzinski on how CALJ Ingolia expected him to rule in the *Dresser* case, in favor of the Coast Guard and against Mr. Dresser. no matter what. Attached hereto and made a part hereof as Exhibit "E" is a typed copy of my notes I made on the plane ride home from the April 8, 2005 meeting with CALJ Ingolia. Attached hereto and made a part hereof as Exhibit "F" is a copy of my 5/31/05 Memorandum to CALJ Ingolia in Follow-Up to the April 8 meeting with CALJ Ingolia in Baltimore.

16. The facts contained in this Affidavit are true and correct to the best of my knowledge, information and belief.


Jeffrey J. Massey

Sworn to and subscribed before me,
on this 9th day of May,
2007.


Notary Public - Signature

