



May 11, 2018

**By Hand Delivery and Certified Mail**

TO: Katy Coba  
Chief Operating Officer and DAS Director  
Oregon Department of Administrative Services  
155 Cottage Street NE  
Salem, OR 97301-3966

TO: Ellen Rosenblum  
Attorney General  
Oregon Department of Justice  
1162 Court Street NE  
Salem, OR 97301-4096

TO: Jenny Madkour  
Multnomah County Attorney  
Multnomah County Attorney's Office  
501 SE Hawthorne Blvd, Suite 500  
Portland, OR 97214

TO: Multnomah County  
Risk Management  
501 SE Hawthorne Blvd, Suite 400  
Portland, OR 97214

**NOTICE OF TORT CLAIM PURSUANT TO ORS 30.275**

<b>Client:</b>	Tamara Rubin
<b>Date:</b>	January 2016 through present and ongoing
<b>Involved Agencies:</b>	Oregon Department of Justice, the Oregon Department of Human Services, the Multnomah County Sheriff's Office, and the Multnomah County District Attorney

**To Whom It May Concern:**

This tort claim notice is provided on behalf of Tamara Rubin pursuant to ORS 30.275. This letter serves as notice that Ms. Rubin may sue Oregon public entities and employees of those entities, including but not limited to the State of Oregon, the Oregon Department of Justice, the Oregon Department of Human Services, the Multnomah

County Sheriff, and the Multnomah County District Attorney for the wrongful prosecution and arrest of Ms. Rubin.

Ms. Rubin is a vocal and well-known activist for childhood lead poisoning prevention, and from 2011 through 2016 was the Executive Director of the non-profit Lead Safe America Foundation (LSAF). On March 23, 2016, Ms. Rubin and LSAF received a Civil Investigative Demand from the DOJ, informing them that the DOJ was investigating the activities of LSAF and requesting LSAF's financial accounting records. The Demand was signed by Assistant Attorney General Mark Kleyna and directed that any questions be directed to DOJ Financial Investigator Kris Kalanges.

LSAF produced records to the DOJ, but Kalanges asked that the records be reproduced in QuickBooks. Before LSAF and/or Ms. Rubin were able to fully reproduce the requested accounting records in QuickBooks, Kalanges completed a "Payments To/For Rubins Analysis." According to Kalanges' report, "[t]he purpose of the analysis was to determine the total dollar amount of payments made either to or for the benefit of Tamara and Leonard Rubin and their family." In this report, Kalanges estimated that the Rubins received approximately \$450,000 from LSAF between 2011 and 2016. However, Kalanges lacked or failed to review the documents necessary to identify, categorize, or substantiate the nature of LSAF transactions, e.g., whether they were cost reimbursements, principal loan repayments, or compensation. The resulting "payments analysis" was misleading in that it assigned income to the Rubins that they did not enjoy. Nevertheless, Kalanges forwarded this unsubstantiated and misleading "payments analysis" to Michael Glenn, a Criminal Fraud Investigator with the Oregon Department of Human Services (DHS), and to the Internal Revenue Service (IRS).

On June 13, 2016, Glenn opened and started a joint administrative DHS investigation based on his review of "a completed investigation report from Kris A. Kalanges who is a Financial Investigator for the Department of Justice Charitable Activities Section that showed DHS Client Tamara Rubin and her husband Leonard Rubin, between 2011 and 2016 have received payments to or for the benefit of themselves an amount of approximately \$450,248.13 from Lead Safe America." Neither Glenn nor anyone else at DHS performed any further substantive independent financial analysis of the transactions identified by Kalanges, but instead assumed that the transactions identified by Kalanges in his "Payments To/For Rubins Analysis" constituted "income" for purposes of their benefit eligibility determination. In turn, DHS incorrectly concluded that the Rubins' income made them ineligible for the state benefits they had received from 2011 to 2016.

In May 2017, Ms. Rubin's focus turned to an IRS audit of her personal returns that was initiated based on Kalanges' "analysis" of LSAF's financial transactions that the Rubins had received income or benefits from LSAF which were not reflected on their personal tax returns. Working with a tax attorney and third-party bookkeeper, and using personal funds, Ms. Rubin was able to provide the IRS with the completed LSAF

QuickBooks for all years in question, and substantiating documentation for the transactions in question. At the conclusion of the audit, in October 2017, the IRS reversed its position and made no changes to the Rubins' personal returns.

On October 5, 2017, Ms. Rubin provided the DOJ with a letter informing them of the outcome of the IRS audit, along with the IRS letter stating that no changes were made to her tax liability and a letter from her tax attorney summarizing the attorney's communications with the IRS, the meeting with the agent, and the outcome of the audit. Over the course of the next few weeks, Ms. Rubin's attorney corresponded with DOJ attorney Mark Klenya and Kris Kalanges to make sure they understood the exculpatory nature of the audit and had received all of the substantiating documents that the Rubins had provided the IRS, including a QuickBooks file with all of LSAF transactions. On November 13, 2017, Kalanges confirmed that he had received all of the substantiating records, and could access them.

That same day, on November 13, 2017, an Indictment was returned in Multnomah County Case Number 17CR75385, charging Ms. Rubin with multiple counts of Theft in the First Degree and welfare fraud based on allegations that she received income or benefits from LSAF that she failed to report on her applications for, and/or while receiving, Medicaid and SNAP benefits. Per the Indictment, Kalanges and Glenn were the only two witnesses examined before the Grand Jury. Ms. Rubin was arrested on these charges by officers from the Multnomah County Sheriff's office on November 28, 2017, booked into the Multnomah County jail and arraigned on November 29, 2017.

All of the indicted charges were based on the incorrect and unsubstantiated findings of Kalanges' preliminary "financial analysis" of LSAF's financial transactions, which he completed by June 2016. Kalanges did not have the necessary information and records from LSAF to substantiate or reconcile the transactions appearing on LSAF's bank statements at that time. Subsequently, but prior to the issuance of the Indictment, Kalanges received substantiating records from LSAF and/or Ms. Rubin that materially undermined his preliminary assumptions that nearly every transaction flowing from LSAF to the Rubins was income to or for the benefit of the Rubins—including the QuickBooks data Kalanges had requested. Prior to the issuance of the Indictment, Kalanges was also informed that his preliminary conclusions were inconsistent with the conclusions reached by the IRS after reviewing the additional materials.

Ms. Rubin hired me to represent her in the criminal matter on November 28, 2017. On February 8, 2018, I informed the assigned Deputy District Attorney (DDA), Sam Leineweber, that these exculpatory materials in the possession of the DOJ were not produced by the state in discovery. I also informed DDA Leineweber that the charges were based on the early and incomplete financial analysis of Kalanges that was rebutted by the IRS audit. At a subsequent meeting with DDA Leineweber, Michael Glenn, and Kris Kalanges, we learned that Kalanges had withheld the IRS conclusion and the substantiating financial records from DHS and the Multnomah County District

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Attorney's Office. Even still, it then took over three months for the District Attorney's Office to respond with a dismissal of the criminal case.

Due to the intentional, knowing, and/or negligent conduct of the Oregon Department of Justice, the Oregon Department of Human Services, the Multnomah County District Attorney, and/or the Multnomah County Sheriff, and the agents thereof including but not limited to Kris Kalanges, Mark Kleyna, Michael Glenn, and Sam Leineweber, Ms. Rubin has suffered economic and noneconomic damages, including but not limited to loss of income, damage to reputation, damage to future income, mental and emotional stress, and legal fees. Her claims include but are not limited to false arrest, false imprisonment, malicious prosecution, abuse of process, and denial of her civil right to liberty under the Sixth and Fourteenth Amendments of the United States Constitution, and her right to be free from unreasonable seizures under the Fourth Amendment of the United States Constitution.

HOEVET OLSON HOWES, PC



Celia Howes

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