

## Diane Thomas

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**From:** Law Offices of Joseph Miller, LLC [millerlaw@acsalaska.net]  
**Sent:** Tuesday, September 01, 2009 5:00 PM  
**To:** Rene Broker  
**Cc:** Diane Thomas; Jim Whilaker; Mary Beth Overturf  
**Subject:** RE:

My original leave was submitted as personal leave during a time when there was nothing going on at the office. Of course I gave you an explanation – I don't think I've ever taken leave in the last seven years without telling you what I was doing. That's why you knew that I had an elk hunt with my sons scheduled for the end of this month (that you inappropriately canceled) and a bear hunt the following month with Josh. I understand that you must approve all leave – but I don't recall you ever denying my request when our internal office rules were complied with. I certainly wasn't trying to escape any pressing work project – because, as you very well know, there was none (the supplemental brief on preemption was not due until over two weeks after the return date on my leave slip).

As I noted in my email "out internal (legal department) rules are complied with as far as a leave slip goes; there are not more than two attorneys gone during any of the days that I'd be on leave." I also noted that I had "a contract that I need to review for CS and will get that done. . ." Again, although the reason for the leave was for my [REDACTED] (completed), [REDACTED] (completed), and [REDACTED] (canceled but being rescheduled locally), it was submitted as personal leave and that was what I was seeking. As I noted in my resignation letter dated August 28, 2009, the FMLA process was initiated and insisted upon by FNSB, not me. I applied for a few days of personal leave and, had I not told you why, we wouldn't be in this situation.

My personal leave-slip should not have been unilaterally modified by FNSB. If it had been honored as originally submitted, we wouldn't be having this conversation.

And from a more practical perspective, you already accepted my August 28, 2009, resignation that did not have me returning to work for FNSB. So, it appears this is just another retaliatory act due to our differences.

**From:** Rene Broker [mailto:renebroker@co.fairbanks.ak.us]  
**Sent:** Tuesday, September 01, 2009 3:56 PM  
**To:** Law Offices of Joseph Miller, LLC  
**Cc:** Diane Thomas; info@aklaw.us; Jill Dolan  
**Subject:** RE:

Joe—did you or did you not represent that the leave was requested due to your [REDACTED] That's certainly was what I understood and I commented on that specifically in my e-mail to you that given that representation there was no choice about you being granted the leave. You cannot obtain leave on the basis that you need [REDACTED]; immediately and keep the leave when that circumstance changes significantly. Instead you did not show up to work today and when requested to do so you resigned effective immediately. What exactly am I missing here? If I have misunderstood the facts then you need to correct them so I can consider those corrections. It is not helpful simply to state your disagreement. If and when you do so, I will reconsider my decision re: rehire.

**From:** Law Offices of Joseph Miller, LLC [mailto:millerlaw@acsalaska.net]  
**Sent:** Tuesday, September 01, 2009 3:30 PM  
**To:** Rene Broker

**Cc:** Diane Thomas; Andrea Fields; info@aklaw.us; Jill Dolan  
**Subject:** RE:

Although I have no present intention to return to FNSB for work, I strongly disagree with that conclusion. The circumstances of my departure, and my original personal leave request that was changed without my approval or request, speak for themselves.

**From:** Rene Broker [mailto:renebroker@co.fairbanks.ak.us]  
**Sent:** Tuesday, September 01, 2009 2:51 PM  
**To:** Law Offices of Joseph Miller, LLC; Jill Dolan  
**Cc:** Diane Thomas; Andrea Fields; info@aklaw.us  
**Subject:** RE:

Joe—O.k. resignation accepted. Given that you are no longer providing two weeks notice it is my understanding that your eligibility for rehire will be affected.

**From:** Law Offices of Joseph Miller, LLC [mailto:millerlaw@acsalaska.net]  
**Sent:** Tuesday, September 01, 2009 2:27 PM  
**To:** Jill Dolan  
**Cc:** Rene Broker; Diane Thomas; Andrea Fields; info@aklaw.us  
**Subject:**

My resignation is now effective today. I canceled my [REDACTED] with VA in Anchorage yesterday and am now trying to reschedule with Wade . I see him on Thursday. But I am not coming into the office before then and, since you changed my leave from personal to FMLA, Diane has stated that I must otherwise report for work today.

Diane, please start my COBRA coverage.

Thank you,

Joe Miller

**Diane Thomas**

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**From:** Rene Broker  
**Sent:** Friday, August 28, 2009 3:28 PM  
**To:** Diane Thomas  
**Subject:** FW: Letter to Rene

**From:** Rene Broker  
**Sent:** Friday, August 28, 2009 3:03 PM  
**To:** 'Law Offices of Joseph Miller, LLC'  
**Subject:** RE: Letter to Rene

Your resignation is accepted effective September 23<sup>rd</sup>, 2009. According to H.R. PERS rules do not allow terminal leave.

**From:** Law Offices of Joseph Miller, LLC [mailto:millerlaw@acsalaska.net]  
**Sent:** Friday, August 28, 2009 2:23 PM  
**To:** Rene Broker  
**Cc:** Sallie Stuvek; info@aklaw.us  
**Subject:** Letter to Rene

Rene,

I have not disseminated this letter to anyone beyond you and Sally. Nor do I presently intend to.

I'll contact HR and try to get any forms signed the week of the 21<sup>st</sup> unless you grant my request to use my remaining leave. I would also appreciate you removing and destroying the letter from my file that you promised to remove upon my resignation.

Thank you,

Joe

**Diane Thomas**

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**From:** Joe Miller  
**Sent:** Wednesday, August 26, 2009 2:15 PM  
**To:** Diane Thomas  
**Subject:** RE: Schedule tonight

Thanks, Diane. That's what I'll do then. I'll get the form back to you when I come back from Anchorage.

**From:** Diane Thomas  
**Sent:** Wednesday, August 26, 2009 2:08 PM  
**To:** Joe Miller  
**Subject:** RE: Schedule tonight

Yup... you have 15 days to get us the form. It can be faxed to me at 459-1187.... This is a confidential fax!

**Diane Thomas, PHR, CPP**  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone (907)459-1377  
fax: (907)459-1187  
[malko.d.thomas@co.fairbanks.ak.us](mailto:malko.d.thomas@co.fairbanks.ak.us)

**From:** Joe Miller  
**Sent:** Wednesday, August 26, 2009 1:56 PM  
**To:** Diane Thomas  
**Subject:** FW: Schedule tonight

Diane,

Please review and advise. Can I just fill out a regular leave slip and fax in the doctor's note tomorrow with the form?

Incidentally, our internal (legal department) rules are complied with as far as a leave slip goes; there are not more than two attorneys gone during any of the days that I'd be on leave.

Let me know.

Thanks,

Joe

**From:** Rene Broker  
**Sent:** Wednesday, August 26, 2009 9:29 AM  
**To:** Joe Miller  
**Cc:** Jill Dolan; Andrea Fields  
**Subject:** RE: Schedule tonight

Whatever follows personnel rules with respect to FMLA is fine.

**From:** Joe Miller  
**Sent:** Tuesday, August 25, 2009 5:52 PM  
**To:** Rene Broker

**Cc:** Jill Dolan; Andrea Fields  
**Subject:** RE: Schedule tonight

Rene

Got the FMLA form and, as I'm sure you know, it requires the doctor's certification. I won't see him (in Anchorage) until Thursday afternoon. The calendar reflects no other attorneys gone except Albert next week, and no other attorneys gone this week except Cynthia this Wednesday. I have a contract that I need to review for CS and will get that done tomorrow.

So here's what I'd propose: I'll fill out a leave slip from Thursday through Friday of next week, and will fax in the doctor's statement on Thursday. Although the [REDACTED] is serious, it's my understanding that this type of [REDACTED] does not have an extensive recovery period.

If you approve, I'll get Jill the leave slip tomorrow.

Thanks,

Joe

**From:** Rene Broker  
**Sent:** Tuesday, August 25, 2009 3:26 PM  
**To:** Joe Miller  
**Cc:** Andrea Fields; Jill Dolan  
**Subject:** RE: Schedule tonight

Ok it doesn't sound like this is something that there is any choice about. So, when you're in the office fill out a leave slip and you can note your return date is unknown. It sounds like this will also be categorized as FMLA leave so please contact Diane in personnel for the appropriate form.

**From:** Joe Miller  
**Sent:** Tuesday, August 25, 2009 3:21 PM  
**To:** Rene Broker  
**Subject:** RE: Schedule tonight

I'm scheduled for [REDACTED] in Anchorage on Monday. [REDACTED] is Thursday in Anchorage. I don't know what the recovery time is and won't know until after my [REDACTED] on Thursday. Apparently, the [REDACTED] my [REDACTED]

**From:** Rene Broker  
**Sent:** Tuesday, August 25, 2009 3:14 PM  
**To:** 'Law Offices of Joseph Miller, LLC'  
**Cc:** Joe Miller  
**Subject:** RE: Schedule tonight

OK what am I supposed to be e-mailing you about?

**From:** Law Offices of Joseph Miller, LLC [mailto:millerlaw@acsalaska.net]  
**Sent:** Tuesday, August 25, 2009 1:56 PM  
**To:** Rene Broker  
**Cc:** Joe Miller  
**Subject:** RE: Schedule tonight

Just got a call from the VA. They want me in Anchorage on Thursday and [REDACTED] on Monday. I'll be at the office in a few minutes – email me there.

**From:** Rene Broker [mailto:renebroker@co.fairbanks.ak.us]  
**Sent:** Tuesday, August 25, 2009 1:25 PM  
**To:** info@aklaw.us  
**Subject:** Schedule tonight

Job—it's starting to look like we'll go a bit late today and I have dinner arrangements with Dave Tyler tonight to catch up and quiz him a bit about some subjects in the preliminary Commerce annexation report. After that I have to pick up Rob at the airport as he's flying in from Hawaii. We may need to wait until Friday to talk.

**Diane Thomas**

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**From:** Jill Dolan  
**Sent:** Wednesday, August 26, 2009 10:41 AM  
**To:** Diane Thomas  
**Subject:** FMLA question

Hi Diane,

I have a question. Joe Miller is requesting FMLA. Has he worked the minimum number of hours to qualify under our policy? My review of the law says that paid time off doesn't count toward the minimum number of hours worked for FMLA entitlement, and he has had a significant amount of paid leave this past year.

Jill S. Dolan  
Assistant Borough Attorney  
Fairbanks North Star Borough  
P.O. Box 71267  
Fairbanks, AK 99707  
(907) 459-1318/phone  
(907) 459-1155/fax

This message contains information that is confidential and within the Attorney-Client or Attorney Work Product privilege. Disclosure of its contents to third persons will adversely affect Borough interests and is prohibited by FNSB 2.25.140. If this message is received by someone other than the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. This communication is also covered by the Electronic Communications Privacy Act, 18 USC 2510, et seq.

**DO NOT FORWARD THIS E-MAIL without first discussing the consequences of such action with the sender.**

Diana Thomas

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**From:** Joe Miller  
**Sent:** Tuesday, August 25, 2009 4:47 PM  
**To:** Diane Thomas  
**Subject:** RE: Schedule tonight

Got it. I'll have it filled out ASAP.

**From:** Diane Thomas  
**Sent:** Tuesday, August 25, 2009 3:42 PM  
**To:** Joe Miller  
**Subject:** RE: Schedule tonight

Are you in the office now? I'll have to prepare the form and get it over to you.

**Diane Thomas, PHR, CPP**  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone (907)459-1377  
fax: (907)459-1187  
<mailto:dthomas@co.fairbanks.ak.us>

**From:** Joe Miller  
**Sent:** Tuesday, August 25, 2009 3:33 PM  
**To:** Diane Thomas  
**Subject:** FW: Schedule tonight

Diane,

Do you have the FMLA form that Rene refers to below?

Joe

**From:** Rene Broker  
**Sent:** Tuesday, August 25, 2009 3:26 PM  
**To:** Joe Miller  
**Cc:** Andrea Fields; Jill Dolan  
**Subject:** RE: Schedule tonight

Ok it doesn't sound like this is something that there is any choice about. So, when you're in the office fill out a leave slip and you can note your return date is unknown. It sounds like this will also be categorized as FMLA leave so please contact Diane in personnel for the appropriate form.

**From:** Joe Miller  
**Sent:** Tuesday, August 25, 2009 3:21 PM  
**To:** Rene Broker  
**Subject:** RE: Schedule tonight

I'm scheduled for [REDACTED] in Anchorage on Monday. [REDACTED] is Thursday in Anchorage. I don't know what the recovery time is and won't know until after my [REDACTED] on Thursday. Apparently, the [REDACTED] my [REDACTED]

**Diane Thomas**

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**From:** Sallie Stuvek  
**Sent:** Thursday, March 27, 2008 10:16 AM  
**To:** Diane Thomas  
**Subject:** Disciplinary Suspension

Diane,

Joe Miller has been suspended without pay for 3 days, March 27-31, 2008. He will return to work on April 1<sup>st</sup>, (recall he has been in admin leave status since the 13<sup>th</sup>).

The letter will be routed next week, just wanted to make sure you were aware.

Thanks,  
Sallie

**Sallie Stuvek**

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**From:** Sallie Stuvek  
**Sent:** Wednesday, March 26, 2008 1:29 PM  
**To:** Rene Broker  
**Subject:** RE: Miller\_suspension\_referral to EAP2.doc

Rene, That works for me.

Thanks,  
Sallie

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**From:** Rene Broker  
**Sent:** Wednesday, March 26, 2008 10:54 AM  
**To:** Sallie Stuvek  
**Subject:** Miller\_suspension\_referral to EAP2.doc

Sallie,

I made a couple of minor changes only. Joe is in Anchorage today for a TAPS meeting. Is it o.k. if I just e-mail it to him? He is expecting it today so it's not as tacky as it sounds. I will then put a signed copy in his chair for his signature when he returns.

Rene

Tracking:

1

**Recipient**  
Rene Broker

**Read**  
Read 3/26/2008 3 13 PM

**Sallie Stuvek**

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**From:** Sallie Stuvek  
**Sent:** Wednesday, April 16, 2008 12:44 PM  
**To:** Rene Broker  
**Cc:** 'info@aklaw.us'  
**Subject:** RE: leave/pay deduction

Rene/Joe,

I looked this up, 3 days (12 hours) was charged to LWOP, and there was no change or charge to your accrued leave balance. The timesheet did show leave, but payroll adjusted it based upon my instruction.

Joe, your leave balance is 208.94056 and your comp balance is 8 hours, as of this pay period.

Please let me know if you have any questions.

Thanks,

Sallie

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**From:** Rene Broker  
**Sent:** Wednesday, April 16, 2008 9:40 AM  
**To:** Sallie Stuvek  
**Cc:** 'info@aklaw.us'  
**Subject:** FW: leave/pay deduction

Sallie--  
can you help me out here? I'm not quite sure what happened. How could he be charged both leave and LWOP for the same days??

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**From:** Law Offices of Joseph Miller, LLC [mailto:millerlaw@acsalaska.net]  
**Sent:** Wednesday, April 16, 2008 9:35 AM  
**To:** Rene Broker  
**Cc:** Andrea Fields  
**Subject:** leave/pay deduction

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Rene,

HR took three days of pay out of my check so we need to get my three days of leave back. I'm scheduled for leave tomorrow and Friday, so that could take

care of two of those days. But I'm happy to deal with it in any appropriate way.

Thanks,

Joe

**Joseph Miller, Esq.**  
**Law Offices of Joseph Miller, LLC**  
**P.O. Box 83440**  
**Fairbanks, AK 99708**  
**(907) 451-8559**  
**(907) 457-8559 fax**  
**Please reply to: [info@aklaw.us](mailto:info@aklaw.us)**

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.519 / Virus Database: 269.22.13/1378 - Release Date: 4/15/2008 9:12 AM

Tracking:

2

**Recipient**  
**Rene Broker**  
**'info@aklaw.us'**

**Read**  
**Read: 4/16/2008 12:53 PM**

## Sallie Stuvek

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**From:** Rene Broker  
**Sent:** Wednesday, September 09, 2009 2:06 PM  
**To:** Steve Smith  
**Cc:** Jill Dolan; Sallie Stuvek; Jim Whitaker  
**Subject:** RE: User access

**Importance:** High

Uh, how can years of e-mails (e.g. public records) disappear? And when exactly did they disappear? I'm extremely alarmed now as we are only in 2006 of at least 4 subsequent years of TAPS litigation years which will mean that all of his e-mails dating back from 2006 through 2009 are discoverable but you're telling me they are no longer on the system? I need to get to the bottom of this immediately. If they were removed from the system I need to know when and by who????

**From:** Steve Smith  
**Sent:** Wednesday, September 09, 2009 2:01 PM  
**To:** Rene Broker  
**Subject:** RE: User access

Joe kept a clean mailbox. That's all that was there.

**From:** Rene Broker  
**Sent:** Wednesday, September 09, 2009 1:56 PM  
**To:** Steve Smith  
**Subject:** RE: User access

Steve—I was able to walk through your steps, thank you! My concern now is that I am only able to access the inbox and deleted files going back less than a month. There are no items in the sent file at all. Where are the historical e-mails?

**From:** Steve Smith  
**Sent:** Wednesday, September 09, 2009 9:56 AM  
**To:** Rene Broker  
**Subject:** RE: User access

Okay ..

Starting from a point where you are connected to Kenai1, logged in, and Outlook open:

Click on Tools. . Account Settings; Select the Data Files tab.

Click on Add...  
Select "Office Outlook Personal Folders File"

You'll get a standard-looking "Open..." box, with a "Save in..." field at the top. Pull down and select the U-drive, then the "millerj" folder. In there you will find the "JoeMiller.pst" file, which is the one we want.

You will then get another dialog box, with a chance to change the name. I suggest you name it Joe Miller or something. Click "OK", then "Close".

You should then see the "Joe Miller" file appear in the Folder List.

This same procedure will get your Desktop Outlook connected, as well.

Let me know...

**From:** Rene Broker  
**Sent:** Wednesday, September 09, 2009 9:27 AM  
**To:** Steve Smith  
**Subject:** RE: User access

Steve could you tell me how to do that remotely?

**From:** Steve Smith  
**Sent:** Monday, August 31, 2009 4:43 PM  
**To:** Rene Broker  
**Cc:** Mary Beth Overturf; Jill Dolan  
**Subject:** RE: User access

Rene --

The good news here is that Joe didn't store anything on his U-drive at all. There was one folder that had a handful of what looked to me like template documents. I moved the "millerj" folder to your U-drive. That is the sum total of his U-drive.

On your W-drive, under \Law, is a folder called Joseph. He has a TON of stuff there. But this is the W-drive; it will be there until someone in your department moves it or deletes it.

I then made a PST file of his entire mailbox (he seems to have kept it pretty clean), and put that in your U:\millerj folder. I can help you gain access to that through your Outlook whenever you like (including while you are working remotely, if you wish).

-Steve

**From:** Rene Broker  
**Sent:** Monday, August 31, 2009 1:27 PM  
**To:** Steve Smith; Jill Dolan  
**Cc:** Mary Beth Overturf  
**Subject:** RE: User access

Steve -- we need to take particular care with Joe's files because, if I recall correctly, all the TAPS stuff is under his name. That needs to be preserved at least for the next couple of years and perhaps beyond depending on events.

**From:** Steve Smith  
**Sent:** Monday, August 31, 2009 1:14 PM  
**To:** Jill Dolan  
**Cc:** Mary Beth Overturf; Rene Broker  
**Subject:** RE: User access

Joe's account has been disabled.

I would like Rene to advise me of the disposition of his e-mail and his U-drive. We normally make a PST file of his mailbox, then attach that to someone's Outlook, so that person can peruse and copy whatever e-mails are deemed

necessary before deleting. We also would attach the U-drive as a subfolder to someone's U-drive, for much the same purpose. These two can go to the same person or two different people

This can be included on the Computer Security Update form, which is required for the eventual removal of the Userid

Steve

**From:** Mary Beth Overturf  
**Sent:** Monday, August 31, 2009 1:07 PM  
**To:** Steve Smith  
**Cc:** Jill Dolan  
**Subject:** FW: User access

Steve, please suspend Joe's compute access as described below and advise Jill when it is complete. Thanks.

Mary Beth

Mary Beth Overturf, CPPO  
Director, Computer Services/General Services  
Fairbanks North Star Borough  
PO Box 71267  
Fairbanks, AK 99707  
907 459-1290  
fax 907 459-1100

**From:** Jill Dolan  
**Sent:** Monday, August 31, 2009 12:30 PM  
**To:** Mary Beth Overturf  
**Subject:** User access

Hi Mary Beth,

Joe Miller resigned on Friday. Technically his resignation is not effective until 9/23 but he is on leave until 9/22. Rene and I discussed and would like to suspend his computer access since he is not performing any duties for the borough while on leave. Can you let me know the appropriate person to direct the request to (if it is not you)?

Also, just as an FYI, we did disable his key card access on Friday, and are submitting a request to change the door code for our department.

Thanks,

Jill S. Dolan  
Assistant Borough Attorney  
Fairbanks North Star Borough  
P O Box 71267  
Fairbanks, AK 99707  
(907) 459-1318/phone  
(907) 459-1155/fax



May 6, 2008

Sallie Stuvek  
Fairbanks North Star Borough  
P.O. Box 71267  
Fairbanks, AK 99707

Re: Joe Miller

Dear Ms. Stuvek:

This letter is to inform you that your employee, Joe Miller, has successfully complied with the requirements recommended by Magellan Health Services. We will be closing this specific case unless we hear from you by May 19, 2008 and receive further service requests.

Thank you for this referral. We have appreciated your concern for Mr. Miller and your ongoing coordination with Magellan. Please call if we can be of assistance in the future. I can be reached at 1-800-759-8302.

Sincerely,

Michael A. Kelley, M.S., L.P.A., C.E.A.P.  
Director of Clinical Services

Cc: Sup file  
Emp file

MEMORANDUM

To: Joe Miller, Assistant Borough Attorney  
From: Rene Broker, Borough Attorney  
Date: March 26, 2008  
Subject: **Disciplinary Suspension and Mandatory Referral to the Employee Assistance Program for Inappropriate Conduct and Inappropriate Use of Computer/Network Resources**

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You were issued a Notice of Intent to Investigate and if necessary, impose disciplinary action on March 14, 2008 for alleged infractions that occurred during the lunch hour on March 12, 2008.

This memo imposes discipline for your 1st offense under the FNSB Disciplinary Policy for Inappropriate Conduct and Inappropriate Use of Computer/Network Resources. You accessed three Legal Department employee computers for a non-borough related purpose and then you were dishonest both about your conduct and the reasons for the conduct. Shortly after this incident, however, you completely admitted the wrong doing, acknowledged the inappropriateness of your actions and have fully accepted responsibility.

It has been apparent in the last several months that you are under significant stress and it has affected your judgment, as evidenced by your actions on March 12, 2008.

I believe that this was an isolated event, and given your full acceptance of responsibility for your actions, I am imposing the following mitigated discipline: 3 day suspension, mandatory referral to the Employee Assistance Program for evaluation, and a six month probationary period. Please be advised that any further behaviors such as these will not be tolerated and will be grounds for further disciplinary action, up at and including termination of employment.

You will be suspended without pay for three (3) days, scheduled for **Thursday March 27, 2008 to Monday March 31, 2008**. You will be expected to return to work on Tuesday, April 1, 2008.

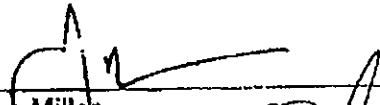
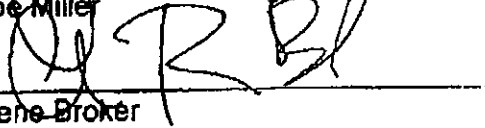
You are also required to participate in an assessment through the Employee Assistance Program (EAP) Mandatory Referral Process. Please call 1-800-759-8302 to schedule an appointment. Failure to fully cooperate with Magellan will be considered gross insubordination and will lead to immediate termination of your employment.

Page two, Miller Discipline

You will be required to serve a six (6) month probationary period, effective April 1, 2008 to October 1, 2008. During this period, if there are further issues or dissatisfaction with your performance, I have the discretion to non-retain you.

Finally, I expect that you will work hard to rebuild the co-worker relationships that were harmed due to your actions on March 12, 2008. It will take effort on your part to regain their trust.

This letter of Disciplinary action shall be removed for your personnel file no later than two (2) years from the date of this letter, provided there are no further incidents.

  
\_\_\_\_\_  
Joe Miller  
  
\_\_\_\_\_  
Rene Broker

4/1/08  
Date  
3/26/08  
Date

cc: Sallie Stuvek, Human Resources Director  
Joe Miller, Personnel File

3.14.08 TC from Joe

- yes, not truthful when asked
- offered to resign
- wished Rene told him Wed. not to resign
- lapse of judgment, total screw up
- taken aback
  
- doesn't know process w/ leave / healthcare
- wants to know range of options
  
- "I was on ass. I was beyond stupid"  
"out of character" "failure" "flaw" "extreme"

Primary TAPS - did Rene too much on his platter  
problems w/ Kathleen b/c "too flippin' busy"

If he knew NOI was going to be issued, would  
have resigned

→ says he already confirmed it, why look?

admitted to allegations → wants me to  
take away NOI + let him go on leave  
"not contesting anything"

No choice but to go thru computers, but why  
NOI?

2-14-08

TET Joe w/ Sallie

196 hours leave on books

Can he do terminal leave? NO - PERS

let Keneé make decision when she gets back →  
b/c of health coverage

admits NO1 - consistent w/ what he told Keneé  
& that he offered resignation

stay on admin leave until we contact him  
prob. will be 3/25 -



# Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

www.co.fairbanks.ak.us

## MEMORANDUM

March 14, 2008

TO: Joe Miller, Assistant Borough Attorney

FROM: Jill Dolan, Acting Borough Attorney *JJD*

SUBJECT: Notification of Intent to Investigate and If necessary, Impose Disciplinary Action

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The Borough plans to investigate your conduct and behavior on Wednesday, March 12, 2008. It has been alleged that you accessed several computers in the Legal Department to conduct political activities and that you were dishonest when questioned by staff. You will have an opportunity to respond to these allegations during this process.

Due to the seriousness of the allegations, and that your direct supervisor is out of the office until March 24, 2008, you are being placed on administrative leave status until the investigation is concluded. For the next couple weeks, please complete any time critical activities related to TAPS. This time should be tracked and reported to your timekeeper.

While on administrative leave you are not to enter the workplace area for any purpose, without first consulting with your supervisor, Rene Broker (or designee) and notifying Human Resources. This of course does not limit your access to Borough facilities for legitimate non-work related purposes, unless limited through other means. Your after-hours access to the BAC has been disabled at this time. If you need something out of the office please contact Rene or Jill to make proper arrangements.

In addition, while on administrative leave, you are required to make yourself available to the administration when requested to assist in completing the investigation.

We thank you in advance for your cooperation. Please contact me if you have any questions regarding the process.

cc: Rene Broker, Borough Attorney  
Sallie Stuvek, Human Resources Director

U:\investigations\Miller Joe\NOL\_Miller.doc 3/14/2008 10:33 AM

**Sallie Stuvek**

**From:** Miller [diakonos@acsalaska.net]  
**Sent:** Monday, March 17, 2008 8:09 AM  
**To:** Rene Broker  
**Cc:** Sallie Stuvek  
**Subject:** NOI

---

**Rene,**

**As we discussed Friday, here is my written statement concerning what happened last week. In short, I fully admit the allegations of the NOI and concur with Jill's recollection of events:**

**Over the lunch hour this past Wednesday, I got on three computers (not belonging to me) in the office. All of them were on and none of them were locked. I accessed my personal website, for political purposes (participated in a poll), and then cleared the cache on each computer. I did the same thing on my computer. Jill asked the office what happened. I lied about accessing all of the computers. I then admitted about accessing the computers, but lied about what I was doing. Finally, I admitted what I did.**

**I did not clear the cache to cause harm to anyone and was not aware of the impact that would cause to my fellow employees. I now understand that clearing the cache also cleared out passwords and id's for various websites that people were using and was very hurtful (as was the simple fact that I was on their computers). As I told you on Wednesday, I acknowledge that my access to others' computers was wrong, participating in the poll was wrong, lying was wrong, and there is absolutely no excuse for any of it.**

**I accept whatever punishment you feel is appropriate.**

**Joe**

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3/17/2008

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No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.519 / Virus Database: 269.21.7/1331 - Release Date: 3/16/2008 10:34 AM

3/17/2008

Joe Miller

3-14-08

honest with his answer <sup>and</sup>

accessed computer

cleared cache

admits

Jill

Joe (phone)

Sallie

TAPS info next week

admin leave next week

RB back on 3/24

Lack of judgment

Clearing of cache to clear record

discovery done - hard to do from home

just stupid - no excuse

scan/email to private office

would resign if <sup>taking</sup> steps to termination

RB - doesn't want to make decisions until

she sees the detail + back in the office.

un-fleppig believable - his actions

invasion of privacy - didn't use passwords

To: Sallie Stuyek, HR Director  
From: Jill Dolan  
Re: JM incident  
Date: March 13, 2008

CONFIDENTIAL

[REDACTED]

Wednesday, March 12, 2008: Joe emailed [REDACTED] and me in the morning telling us he would be in before lunch. [REDACTED] and [REDACTED] left for lunch and I had decided to work through the hour. Joe came in my office right around noon and asked how I was. I asked if he was better today and he said things seemed to be settling down. He left and I continued working. I went into his office as I was eating lunch and we talked about a judgment and he seemed to be fine. A little before 1:00 I went to my meeting at the

mayor's office and on my way out the door yelled to him that I was leaving and he would be the only one in the office but the door was locked. When I came back, I sat at my desk, finished reviewing some documents and then went to use westlaw. When I went to the drop down menu on my internet search bar it had been cleared. I thought maybe computer services had done an update or something, but also thought it was weird since Joe had made the comments earlier in the week. I emailed [REDACTED], [REDACTED] and [REDACTED] and asked if anyone used my computer while I was in my meeting. [REDACTED] came into my office a minute later and told me the same thing happened to her computer. Then she said after lunch Joe had told her he needed to use her internet because he could not access a site on his computer. I then went into [REDACTED] office and asked if her computer had been used. The same thing happened on her internet—the history had been cleared. The three of us were talking about it and finally I yelled to Joe and asked if he had been on our computers. He came out of his office and said he had been on [REDACTED]. When I asked when, he first said it was after lunch because he couldn't get to a website on his computer. He said it was no big deal and not to worry about it. I asked why he was on my computer too and he said because the site didn't work on [REDACTED]. When I asked why he cleared our histories, he said it was because if you had been to a site before you had to clear the cache or it would be blocked sometimes. I told him that didn't make any sense and he was acting like it was no big deal and told me not to worry about it that he was not on a bad site. I asked why he was on [REDACTED] too and he denied it and then when she said her history was cleared too he said "Oh yeah I was on it" like he had just forgotten. I went back into my office and pulled the drop down bar again. This is when I realized I did not have another website listed, so he cleared my "cache" after whatever site he went on and not so he could access it. He came in my office and asked if I was mad. I told him it just didn't make any sense and I wanted to know what he had done. At this point we all realized that our passwords and saved websites had all been deleted too so we were all kind of upset and confused and trying to explain to him why it all wasn't okay (he was still insisting we were all overreacting). I'm a little unsure on timing but in one of these conversations he went to the econolabuaf.edu website and told me that was the site he went to (it is a UAF professor's site).

I went back to work and he came back in my office a few minutes later and shut the door. He sat down and asked if I had told anyone yet. I told him no, that quite frankly I was not sure who to tell or what to do. He asked me "please do not tell Rene yet and to give him 10 minutes". I kind of looked at him and he told me I didn't understand how big this thing had gotten and he just needed 10 minutes and he would explain it to me. He then left the office and [REDACTED] said he went down the back stairs. His truck never left the parking lot. I went to look for [REDACTED] as we hadn't seen her in a while and was worried.

[REDACTED] and I stood in the main area of the legal department talking, trying to figure out what happened and why he was acting so bizarre. He came back in while we were talking and said, "Is this conversation about me" and I said, yes. We all started talking and [REDACTED] and [REDACTED] both said how mad they were at him and I told him his explanation did not make sense. He sat down at [REDACTED] chair and started telling us that he did not violate any policy, that he went to a site to vote in a poll. He made some comments about being stressed and stupid and kept trying to justify what he did, something about Rhonda

Boyles being on the radio and telling lies and needing evidence. He admitted he was on all our computers and needed to use them so an opinion poll would have different urls. He maintained the whole time he did not violate the computer use policy and that actually all of us did for not securing our computers. I told him the door was locked and he is a confidential employee and we shouldn't have to worry about him using our computers. I explained to him I am not a political person and that I did not appreciate him injecting me into his mess by making it look like I voted in some poll to oust Ruedrich. During one of our conversations I asked him more about the threats he had received but he said he could not tell me.

We all tried to just go back to work and I went back to my office. He came in and told me he better call Rene and let her know what was going on. He went back in his office and closed the door and I guess called her [REDACTED] came back and we had her check her computer. It didn't appear to have been accessed. We also checked Rene's and it didn't appear to have been used either. When we asked Joe later, he said he didn't access [REDACTED] because her screen was locked and he did not know her password.

I had everyone change their computer passwords and [REDACTED] shredded the sheet where they were kept. Joe came in my office around 4 and told me he was leaving and might be back later and wanted to know what was going to happen to him. I told him I wasn't sure, that I was just really mad at him and confused by his behavior. I told him I didn't want it in our office and that it might be a good idea for him to be gone for a little while. We discussed his schedule as he is in Anchorage on TAPS today, and also I told him to have [REDACTED] cancel his PIO training next week. He kept saying he was sorry and he was stupid and asked what he should say to everyone else. I told him an apology might be a good start. I heard him and [REDACTED] talking and she asked him if he used her password and he said no and that everything he had told us now was the truth and that he did not do anything else on our computers. He also told us he was going to contact the webmaster for the opinion poll and have him change the results so they ended at noon and were accurate. At some point he told us he called the webmaster but that the webmaster was on the road and could not do it right then. I went to the site after he left for the day (joemiller.us) and it states it is hosted and designed by Joe Miller. I went to the site again this morning and the poll had been altered, now it is reflected in percentages instead of number of votes and says it is as of 3/12/08 at noon.

I emailed Rene yesterday and told her I did not want Joe at work. She responded it was my call but that he had to work on TAPS. She also said we could talk about discipline when she got back and that I should talk to Sallie if I was comfortable with it.

I went to Sallie's office first thing this morning. We then decided the mayor's office needed to know given the political activity that occurred and because we were going to change locks and access computers. After that meeting, I called GS and requested a lock change. Sallie contacted GS and had Joe's swipe card disabled. We met with [REDACTED] and requested he run reports on the involved computers between 11:30am and 1:30pm to be sure no other activity occurred.

Joe called the office several times this morning. He only asked to speak with me once, which he did. He asked "what's happening with my demise" and I told him I did not know yet. We then just talked about the hours he worked on TAPS and he told me he was not having any fun in Anchorage.

Jill Dolan

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**From:** Steve Smith  
**Sent:** Thursday, March 13, 2008 3:29 PM  
**To:** Jill Dolan; Sallie Stuvek  
**Cc:** Mary Beth Overturf  
**Subject:** Additional requests

Joe Miller does not have RDP access into the FNSB network. However, he (like everyone) has Web access to e-mail. This would be lost if I disabled his account. Would you like me to disable it, anyway?

He does NOT have an FNSB laptop checked out from us.

**Jill Dolan**

---

**From:** Steve Smith  
**Sent:** Thursday, March 13, 2008 1:44 PM  
**To:** Jill Dolan; Sallie Stuvek  
**Cc:** Mary Beth Overturf  
**Subject:** Investigation

I have finished looking at the U-drive as requested. There as been NO U-drive activity recently. In fact, no new data has been placed out there for more than a year.

I will start looking at the Internet activity next.

Jill Dolan

---

From: Rene Broker  
Sent: Wednesday, March 12, 2008 6:32 PM  
To: Jill Dolan  
Subject: RE: phone call

o.k.—I didn't want to reward him for his behavior but if you want him out of there go ahead and let him leave BUT he absolutely has to stay on top of TAPS. Where he does that I'll leave up to you. We'll need to talk about appropriate discipline when I return as I want to make sure I get the entire story before I make a decision. If you're comfortable with it raise the issue with Sallie.

---

From: Jill Dolan  
Sent: Wednesday, March 12, 2008 4:25 PM  
To: Rene Broker  
Subject: [REDACTED]

Hi Rene,

[REDACTED]

Thanks,

Jill S. Dolan  
Assistant Borough Attorney  
Fairbanks North Star Borough  
P.O. Box 71287  
Fairbanks, AK 99707  
(907) 459-1318/phone  
(907) 459-1155/fax

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DO NOT FORWARD THIS E-MAIL without first discussing the consequences of such action with the sender.

# FAIRBANKS NORTH STAR BOROUGH PERSONNEL ACTION FORM (PAF)

SS or ID # 00001046 - DEPARTMENT DIVISION Legal/042119

EMPLOYEE NAME MILLER JOSEPH W.  
Last First Middle Initial

BEGIN DATE \_\_\_\_\_ END DATE (If applicable) 9/1/09

**BARGAINING UNIT:**

MANAGEMENT (00)

APEA FLSA EXEMPT (05)

APEA (01)

LABORERS (02, 04, 06, 07)

CONFIDENTIAL (03)

TEMPORARY (99)

**EMPLOYEE TYPE:**

Regular FT

Regular PT  
( \_\_\_\_\_ hrs/wk)

Casual

**FTE:**

1.0 (8 hrs day)

.75 (6 hrs/day)

.50 (4 hrs/day)

Other \_\_\_\_\_ /day

**Reason:**

New-Hire

Re-Hire

Resignation / Termination  
(attach exit processing form)

Acting Status

Promotion

Lead Pay (add / remove)

ORG Key Change

Change (Explain):

**TO BE COMPLETED BY PERSONNEL:**

Pay Class 100 PCN# LS-402-05

Prior PCN# \_\_\_\_\_

**GRADE / LEVEL**

L4 / L12

Salary: 545,904.33  Hourly  Annual

CLASSIFICATION TITLE: ASSISTANT BOROUGH ATTORNEY

G/L ORG KEY: \_\_\_\_\_ Old \_\_\_\_\_ Diff \_\_\_\_\_ New  
CALCULATION =

COMMENTS: \_\_\_\_\_

**COMPLETE THIS SECTION FOR TERMINATION ONLY:**

Termination Date: 9/1/09

**Reason:**

01 Resignation  06 Special Grant

02 Involuntary Separation  07 Lay Off

03 Term Funded  08 Deceased

04 Casual  09 Retired

05 Intern

**Eligible for rehire: NO YES (Y3Y) Y7Y YWC**  
(Circle One) See Policy FNSB 65.12 for definition

If YWC, note conditions: insufficient notice given

**AUTHORIZED SIGNATURES:**

Immediate Supervisor [Signature] Date 9/3/09

Department Director [Signature] Date 9/3/09

Human Resources Director \_\_\_\_\_ Date \_\_\_\_\_

EEO Officer (regular new hires and promotions only) \_\_\_\_\_ Date \_\_\_\_\_

Entered By [Signature] Date 9/9/09

Time & Date Position Accepted By: \_\_\_\_\_ H/R Initials \_\_\_\_\_

LAW OFFICES OF JOSEPH MILLER, LLC

Telephone 907.437.6530 • Facsimile 907.437.6530 • Alt. Facsimile 907.437.6530  
P.O. Box 83440, Fairbanks, Alaska 99708-3440  
E-mail: info@ablavus

August 28, 2009

VIA E-MAIL (renebroker@co.fairbanks.ak.us)

A. René Broker  
Borough Attorney  
Fairbanks North Star Borough  
809 Pioneer Road  
Fairbanks, AK 99701

René,

Twice now, within the last week, you have taken inappropriate actions with regard to my work with the Fairbanks North Star Borough. Last week, you stated that you had asked Assistant Borough Attorney Jill Dolan to have me draft a memorandum on FNSB's options in the *Jones vs. Atrol, et al.* case. This was *after* I notified FNSB that I was involved in a related case involving the Jones' children and *after* I had voiced concerns about potential conflict. This was also *after* I had talked to bar counsel about any potential conflicts and was told that there was no conflict. Apparently, you communicated this "assignment" to bar counsel.

Human Resources is Ms. Dolan's assigned department. I have never been assigned any projects under Ms. Dolan's direction nor have I ever been assigned any HR projects of this nature. I believe you were attempting to force a conflict where none needed to exist.

Now, this morning, you told me that you had canceled my long-time preapproved leave for my boys' elk hunts on Afognak, in apparent response to the FMLA paperwork that I submitted today (although I had previously submitted a regular leave slip, the FMLA submission was required by HR). Ostensibly, this was because you needed me to prepare for the annexation hearing in November. However, as I noted in my email this morning, you had already told me that you would handle the annexation hearing, if necessary, because it had been rescheduled to a time where I had preapproved leave. Moreover, I was also told just two days ago that the City had met FNSB's demands regarding funding of the University Fire Service Area and that the annexation case was likely to be dismissed.

The backdrop to all of this is our significant differences of opinion regarding the North Haven Community PILT, continued retention of Brena's firm (last year), and the partial contingency fee agreement, matters directly and indirectly related to the ongoing TAPS litigation.

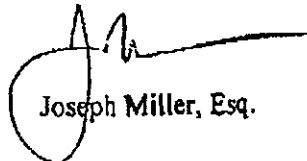
It's time for me to leave this public service. I request permission to take terminal leave (i.e., use all of my remaining leave that I have been unable to take over the last seven years). If this is

A. René Broker  
August 28, 2009  
Page 2 of 2

denied, my resignation will be effective on September 23, 2009, the day after my current leave ends.

Finally, if there is anything I can do to assist in on-going or future projects, please do not hesitate to contact my firm. I am committed to seeing the Fairbanks North Star Borough succeed in all of its endeavors.

Sincerely,



Joseph Miller, Esq.

cc: Sallie Stuvek (via e-mail: [SStuvek@co.fairbanks.ak.us](mailto:SStuvek@co.fairbanks.ak.us))

Diane Thomas

---

**From:** Diane Thomas  
**Sent:** Thursday, September 03, 2009 11:00 AM  
**To:** 'Law Offices of Joseph Miller, LLC'  
**Subject:** RE: COBRA

Joe... I faxed a little while ago.... Sorry we grabbed the wrong form the first go around.

**Diane Thomas, PHR, CPP**  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone: (907)458-1377  
fax: (907)458-1187  
<mailto:dthomas@co.fairbanks.ak.us>

**From:** Law Offices of Joseph Miller, LLC [<mailto:millerlaw@acsafaska.net>]  
**Sent:** Wednesday, September 02, 2009 11:14 PM  
**To:** Diane Thomas  
**Subject:** COBRA

Diane,

Thank you for the fax on 9/1/09. Unfortunately, I could not find the COBRA application form, only the COBRA application with the reduction provisions under ARRA. Unless FNSB is construing my departure as involuntary, that form doesn't work for me.

Could you fax me (457-8559) just the general COBRA application form?

Thank you,

Joe

**To:** Joe Miller  
**Cc:** Andrea Fields; Jill Dolan  
**Subject:** RE: Schedule tonight

Ok it doesn't sound like this is something that there is any choice about. So, when you're in the office fill out a leave slip and you can note your return date is unknown. It sounds like this will also be categorized as FMLA leave so please contact Diane in personnel for the appropriate form.

**From:** Joe Miller  
**Sent:** Tuesday, August 25, 2009 3:21 PM  
**To:** Rene Broker  
**Subject:** RE: Schedule tonight

I'm scheduled for [REDACTED] in Anchorage on Monday. [REDACTED] is Thursday in Anchorage. I don't know what the recovery time is and won't know until after my [REDACTED] on Thursday. Apparently, the [REDACTED] [REDACTED], my [REDACTED]

**From:** Rene Broker  
**Sent:** Tuesday, August 25, 2009 3:14 PM  
**To:** 'Law Offices of Joseph Miller, LLC'  
**Cc:** Joe Miller  
**Subject:** RE: Schedule tonight

OK what am I supposed to be e-mailing you about?

**From:** Law Offices of Joseph Miller, LLC [mailto:millerlaw@acsalaska.net]  
**Sent:** Tuesday, August 25, 2009 1:56 PM  
**To:** Rene Broker  
**Cc:** Joe Miller  
**Subject:** RE: Schedule tonight

Just got a call from the VA. They want me in Anchorage on Thursday and [REDACTED] on Monday. I'll be at the office in a few minutes – email me there.

**From:** Rene Broker [mailto:renebroker@co.fairbanks.ak.us]  
**Sent:** Tuesday, August 25, 2009 1:25 PM  
**To:** info@aklaw.us  
**Subject:** Schedule tonight

Job—it's starting to look like we'll go a bit late today and I have dinner arrangements with Dave Tyler tonight to catch up and quiz him a bit about some subjects in the preliminary Commerce annexation report. After that I have to pick up Rob at the airport as he's flying in from Hawaii. We may need to wait until Friday to talk.

**Diane Thomas**

---

**From:** Diane Thomas  
**Sent:** Monday, March 24, 2008 9:52 AM  
**To:** Payroll  
**Subject:** Admin notification

Hi there... sorry I forgot to pass this on.

Please be sure that Joe Miller in legal has 5 days admin leave on his timesheet from March 17 thru March 21... Thank you!

***Diane Thomas, PHR, CPP***  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone: (907)459-1377  
fax: (907)459-1187  
<mailto:dthomas@co.fairbanks.ak.us>

Jill Dolan

---

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 2:45 PM  
**To:** Jill Dolan  
**Subject:** RE: J.M.

That's how I read it.

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 2:38 PM  
**To:** Rene Broker  
**Subject:** RE: J.M.

So do we just consider him to have quit without notice today then?

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 2:38 PM  
**To:** Jill Dolan  
**Subject:** RE: J.M.

I accepted his resignation (via e-mail with a copy to Sallie) effective September 23<sup>rd</sup>, 2009.

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 2:36 PM  
**To:** Rene Broker  
**Subject:** RE: J.M.

My blood is boiling at his continued misrepresentations here. Regardless, I suppose we need to accept his resignation?

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 2:15 PM  
**To:** Jill Dolan  
**Subject:** RE: J.M.

If he shows don't alter his work assignments with respect to TAPS at all. In other words, I expect, to the extent he's in the office that he will work on the surreply pursuant to my earlier instructions. I do not, however, want him copied on or otherwise included in any thing else with respect to TAPS. ((Please make sure Andrea understands this point) I will manage any ongoing work. I have advised Brena's office not to copy him with any future communications. It also appears (or at least I'm highly suspicious of) that Joe may have discussed the contingency fee proposal with Craig (Valdez counsel). According to Brena, Craig last week made the cryptic comment to him that he "had heard about his shenanigans". If that happened, am I wrong to think that inappropriate?

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 10:42 AM  
**To:** Rene Broker  
**Subject:** RE: J.M.

I asked Diane to give him a call. I told her to let him know about the message, confirm it and why the [REDACTED] was cancelled, and find out what he intends to do about working between now and his resignation date. I'll let you know what I find out.

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 8:57 AM  
**To:** Jill Dolan  
**Subject:** RE: J.M.

I'd like a neutral party—maybe Diane to call perhaps with an additional witness listening in. If he cancelled it then I can only conclude that his earlier representation essentially that it was [REDACTED] because the problem was [REDACTED] is bogus.

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 8:51 AM  
**To:** Rene Broker  
**Subject:** RE: J.M.

Unfortunately I had the same thought. There is absolutely no reason he shouldn't have called here or emailed by now to let you know, especially since a brief he was supposed to work on is due and he is now available to work on it. He called Lisa at home on Sat. and was in town, asking about places to go eat...kind of weird since he has never called her before.

I am thinking we call him this morning and find out, especially since we suspended his email. If he can work on TAPS do you want him to? Or do you just want to email him?

The message Diane got from the doctor sounds like Joe cancelled the [REDACTED] not the doctor. It was phrased something like "re the FMLA certification, I just wanted to let you know that Joe Miller cancelled his [REDACTED] scheduled for today."

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 8:44 AM  
**To:** Jill Dolan  
**Subject:** RE: J.M.

I guess if we give him the benefit of the doubt maybe the [REDACTED] was cancelled at the last minute? I guess I'm left wondering exactly why the [REDACTED] was cancelled. That would tell us a lot. I'm starting to think this was deliberately scheduled so that he wouldn't have to come to work.

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 7:59 AM  
**To:** Rene Broker  
**Subject:** RE: J.M.

Yes, and that means he was away without approved leave yesterday. I signed his slip and said it was pending FMLA approval. I would hope he not only plans to be here today but plans to be here through the 23<sup>rd</sup>.

**From:** Rene Broker  
**Sent:** Monday, August 31, 2009 8:38 PM  
**To:** Jill Dolan  
**Subject:** FW: J.M.

FYI—I'm assuming then that he will be at work tomorrow?

**From:** Diane Thomas  
**Sent:** Monday, August 31, 2009 5:17 PM  
**To:** Rene Broker  
**Subject:** J.M.

Rene... I just got notification from Joe's Dr. that his [REDACTED] was cancelled.

**Diane Thomas, PHR, CPP**  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone: (907)459-1377  
fax: (907)459-1187  
<mailto:dthomas@co.fairbanks.ak.us>

## **Jill Dolan**

---

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 3:18 PM  
**To:** Jill Dolan  
**Subject:** RE:

Can we delay that part with a note that I am out of town? I want to carefully consider this and perhaps even discuss with Sallie as I want to be accurate but not overly weigh the last couple of months.

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 3:11 PM  
**To:** Rene Broker  
**Subject:** RE:

I am a little uncomfortable rating Joe's performance. Can you take a look at the form and let me know how you want some of this answered?

<http://co.fairbanks.ak.us/HumanResources/Forms/Exit%20Processing%20Form.pdf>

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 3:03 PM  
**To:** Diane Thomas; Jill Dolan  
**Subject:** RE:

Jill-can you get Andrea to complete the necessary paperwork? Let her know that it's urgent.

**From:** Diane Thomas  
**Sent:** Tuesday, September 01, 2009 3:01 PM  
**To:** Rene Broker; Jill Dolan  
**Subject:** RE:

I need you to get me Joe's terming doc's ASAP... Final Timesheet, PAF with term date effective today, and exit processing form.

Thanks!

**Diane Thomas, PHR, CPP**  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone: (907)459-1377  
fax: (907)459-1187  
<mailto:dthomas@co.fairbanks.ak.us>

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 2:51 PM  
**To:** 'Law Offices of Joseph Miller, LLC'; Jill Dolan  
**Cc:** Diane Thomas; Andrea Fields; 'info@aklaw.us'  
**Subject:** RE:

Joe—O.k. resignation accepted. Given that you are no longer providing two weeks notice it is my understanding that your eligibility for rehire will be affected.

**Jill Dolan**

---

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 3:20 PM  
**To:** Rene Broker  
**Subject:** RE:

It's Y3Y (yes after 3 years) for resigning without adequate notice.

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 3:19 PM  
**To:** Jill Dolan  
**Subject:** RE:

But I definitely want the eligibility for rehire addressed. I can't remember the correct classification.

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 3:11 PM  
**To:** Rene Broker  
**Subject:** RE:

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**To:** Rene Broker; Jill Dolan  
**Subject:** RE:

I need you to get me Joe's terming doc's ASAP... Final Timesheet, PAF with term date effective today, and exit processing form.

Thanks!

**Diane Thomas, PHR, CPP**  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone: (907)459-1377  
fax (907)459-1187  
<mailto:djthoms@co.fairbanks.ak.us>

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 2:51 PM  
**To:** 'Law Offices of Joseph Miller, LLC'; Jill Dolan

**Jill Dolan**

---

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 3:21 PM  
**To:** Rene Broker  
**Subject:** RE:

I talked to Diane and she is fine with that. We'll send the final timesheet and PAF then you can do the exit form upon your return.

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 3:18 PM  
**To:** Jill Dolan  
**Subject:** RE:

Can we delay that part with a note that I am out of town? I want to carefully consider this and perhaps even discuss with Sallie as I want to be accurate but not overly weigh the last couple of months.

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 3:11 PM  
**To:** Rene Broker  
**Subject:** RE:

I am a little uncomfortable rating Joe's performance. Can you take a look at the form and let me know how you want some of this answered?

<http://co.fairbanks.ak.us/HumanResources/Forms/Exit%20Processing%20Form.pdf>

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 3:03 PM  
**To:** Diane Thomas; Jill Dolan  
**Subject:** RE:

Jill-can you get Andrea to complete the necessary paperwork? Let her know that it's urgent.

**From:** Diane Thomas  
**Sent:** Tuesday, September 01, 2009 3:01 PM  
**To:** Rene Broker; Jill Dolan  
**Subject:** RE:

I need you to get me Joe's terming doc's ASAP... Final Timesheet, PAF with term date effective today, and exit processing form.

Thanks!

**Diane Thomas, PHR, CPP**  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone (907)459-1377  
fax: (907)459-1187  
<mailto:dthomas@co.fairbanks.ak.us>

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 2:51 PM

59

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 7:58 PM  
**To:** Jill Dolan  
**Subject:** RE:

That was exactly my thought.

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 6:50 PM  
**To:** Rene Broker  
**Subject:** RE:

I think that further conversation with him is unwise at this point, and that we should just document the events for his file.

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 5:34 PM  
**To:** Jill Dolan  
**Subject:** FW:

FYI

**From:** Law Offices of Joseph Miller, LLC [mailto:millerlaw@acsalaska.net]  
**Sent:** Tuesday, September 01, 2009 5:00 PM  
**To:** Rene Broker  
**Cc:** Diane Thomas; Jim Whitaker; Mary Beth Overturf  
**Subject:** RE:

My original leave was submitted as personal leave during a time when there was nothing going on at the office. Of course I gave you an explanation – I don't think I've ever taken leave in the last seven years without telling you what I was doing. That's why you knew that I had an elk hunt with my sons scheduled for the end of this month (that you inappropriately canceled) and a bear hunt the following month with Josh. I understand that you must approve all leave – but I don't recall you ever denying my request when our internal office rules were complied with. I certainly wasn't trying to escape any pressing work project – because, as you very well know, there was none (the supplemental brief on preemption was not due until over two weeks after the return date on my leave slip).

As I noted in my email "out internal (legal department) rules are complied with as far as a leave slip goes; there are not more than two attorneys gone during any of the days that I'd be on leave." I also noted that I had "a contract that I need to review for CS and will get that done. . ." Again, although the reason for the leave was for my [REDACTED] (completed), [REDACTED] (completed), and [REDACTED] (canceled but being rescheduled locally), it was submitted as personal leave and that was what I was seeking. As I noted in my resignation letter dated August 28, 2009, the FMLA process was initiated and insisted upon by FNSB, not me. I applied for a few days of personal leave and, had I not told you why, we wouldn't be in this situation.

My personal leave-slip should not have been unilaterally modified by FNSB. If it had been honored as originally submitted, we wouldn't be having this conversation.

And from a more practical perspective, you already accepted my August 28, 2009, resignation that did not have me returning to work for FNSB. So, it appears this is just another retaliatory act due to our differences.

Jill Dolan

---

**From:** Joe Miller  
**Sent:** Wednesday, August 26, 2009 2:50 PM  
**To:** Jill Dolan  
**Cc:** Andrea Fields; Rene Broker  
**Subject:** RE: Schedule tonight

My [REDACTED] is tomorrow in Anchorage. Assuming everything goes as planned, my [REDACTED] is on Monday in Anchorage. I know little about the [REDACTED] but do know it's under [REDACTED]

**From:** Jill Dolan  
**Sent:** Wednesday, August 26, 2009 2:40 PM  
**To:** Joe Miller  
**Cc:** Andrea Fields; Rene Broker  
**Subject:** RE: Schedule tonight

Right—I was confirming that the whole time requested is because you plan to be out for [REDACTED] and not for personal leave. I will sign it as FMLA subject to personnel approval, since HR doesn't yet have the info to make that determination.

Thanks,  
Jill

**From:** Joe Miller  
**Sent:** Wednesday, August 26, 2009 2:35 PM  
**To:** Jill Dolan  
**Cc:** Andrea Fields; Rene Broker  
**Subject:** RE: Schedule tonight

I believe that the leave slip I gave you is consistent with Diane's emails – a regular leave slip that will, as I understand the below exchange, convert into FMLA leave (still charged against my annual leave, of course) depending on the doctor's responses. Let me know if you have any other questions.

Thanks,

Joe

**From:** Jill Dolan  
**Sent:** Wednesday, August 26, 2009 2:24 PM  
**To:** Joe Miller  
**Cc:** Andrea Fields; Rene Broker  
**Subject:** RE: Schedule tonight

So is the leave slip you gave me for 8/27-9/4 your request, pending FMLA approval from personnel?

**From:** Joe Miller  
**Sent:** Wednesday, August 26, 2009 2:10 PM  
**To:** Jill Dolan  
**Cc:** Andrea Fields; Rene Broker  
**Subject:** FW: Schedule tonight

## Jill Dolan

---

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 2:40 PM  
**To:** Rene Broker  
**Subject:** FW: Schedule tonight

This is what he must be referring to in stating I converted his leave??

**From:** Jill Dolan  
**Sent:** Wednesday, August 26, 2009 2:40 PM  
**To:** Joe Miller  
**Cc:** Andrea Fields; Rene Broker  
**Subject:** RE: Schedule tonight

Right—I was confirming that the whole time requested is because you plan to be out for [REDACTED] and not for personal leave. I will sign it as FMLA subject to personnel approval, since HR doesn't yet have the info to make that determination.

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Jill

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**To:** Jill Dolan  
**Cc:** Andrea Fields; Rene Broker  
**Subject:** RE: Schedule tonight

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Joe

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**Sent:** Wednesday, August 26, 2009 2:10 PM  
**To:** Jill Dolan  
**Cc:** Andrea Fields; Rene Broker  
**Subject:** FW: Schedule tonight

Jill Dolan

---

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 2:01 PM  
**To:** Diane Thomas  
**Cc:** Jill Dolan  
**Subject:** RE: J.M.

Well he's supposed to be at work at 2:00 today so we'll see if he shows. That might actually give us a better understanding of what's going on here than actually talking to him before he's supposed to show up. Also, can you tell me when exactly (date/time) that the Dr. sent the notification?

**From:** Diane Thomas  
**Sent:** Tuesday, September 01, 2009 1:58 PM  
**To:** Rene Broker  
**Subject:** RE: J.M.

I'm assuming so but I have been unable to reach him so far!

**Diane Thomas, PHR, CPP**  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone: (907)459-1377  
fax: (907)459-1187  
<mailto:dthomas@co.fairbanks.ak.us>

**From:** Rene Broker  
**Sent:** Monday, August 31, 2009 8:49 PM  
**To:** Diane Thomas  
**Subject:** RE: J.M.

Diane--I'm assuming then that he should be at work tomorrow?

**From:** Diane Thomas  
**Sent:** Monday, August 31, 2009 5:17 PM  
**To:** Rene Broker  
**Subject:** J.M.

Rene... I just got notification from Joe's Dr. that his [REDACTED] was cancelled.

**Diane Thomas, PHR, CPP**  
Personnel / Payroll Manager  
Fairbanks North Star Borough  
phone: (907)459-1377  
fax: (907)459-1187  
<mailto:dthomas@co.fairbanks.ak.us>

Jill Dolan

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 2:22 PM  
**To:** Rene Broker  
**Subject:** RE: J.M.

Well, I guess it depends. It sounds inappropriate, but then again Craig is technically on our side. I guess the inappropriate part is that the fee agreement doesn't involve Valdez at all, so why discuss it with him unless you are just complaining...if he had a valid reason to discuss it, I might feel differently.

Diane called as a I was typing this. Joe said he is no longer doing FMLA but that if we are forcing him to be back at 2 today, he will resign effective immediately. He told Diane he is sending an email and copying me on it...I'll let you know if/when I get it. This behavior is bizarre.

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 2:15 PM  
**To:** Jill Dolan  
**Subject:** RE: J.M.

If he shows don't alter his work assignments with respect to TAPS at all. In other words, I expect, to the extent he's in the office that he will work on the surreply pursuant to my earlier instructions. I do not, however, want him copied on or otherwise included in any thing else with respect to TAPS. ((Please make sure Andrea understands this point) I will manage any ongoing work. I have advised Brena's office not to copy him with any future communications. It also appears (or at least I'm highly suspicious of) that Joe may have discussed the contingency fee proposal with Craig (Valdez counsel). According to Brena, Craig last week made the cryptic comment to him that he "had heard about his shenanigans". If that happened, am I wrong to think that inappropriate?

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 10:42 AM  
**To:** Rene Broker  
**Subject:** RE: J.M.

I asked Diane to give him a call. I told her to let him know about the message, confirm it and why the [REDACTED] was cancelled, and find out what he intends to do about working between now and his resignation date. I'll let you know what I find out.

**From:** Rene Broker  
**Sent:** Tuesday, September 01, 2009 8:57 AM  
**To:** Jill Dolan  
**Subject:** RE: J.M.

I'd like a neutral party—maybe Diane to call perhaps with an additional witness listening in. If he cancelled it then I can only conclude that his earlier representation essentially that it was [REDACTED] because the problem was [REDACTED] is bogus.

**From:** Jill Dolan  
**Sent:** Tuesday, September 01, 2009 8:51 AM  
**To:** Rene Broker  
**Subject:** RE: J.M.

## Jill Dolan

---

**From:** Jill Dolan  
**Sent:** Wednesday, September 09, 2009 3:51 PM  
**To:** Rene Broker  
**Subject:** RE: User access

I remember he asked for over a week off and I had PB and PC meetings so I got him to work through those so I would have some sort of back-up here. Those were August 18 and 19 so it was probably late the week before that he asked me, around August 13 or 14.

I'm confused as to why he would do that. Is there somewhere on his hard drive they could be saved? I know Sallie keeps her emails stored somewhere other than just on outlook. Back when we had the other issue with Joe, he had been in my office asking me lots and lots of questions about how the borough's servers work, what back ups we do, what data we store, etc. He said he wanted to know because he was paranoid about someone hacking into the system and that he needed to know what protections he had. I remember I even called Steve Smith and had him explain it all to me so I could tell Joe. That was partly why when Joe had gotten on all of our computers I was so suspicious that something else had happened, but Steve never found anything. I must have notes on that in the investigation file from that incident.

The only other thing I can think to do is check with Andrea and see if he printed all the emails out for her—maybe he deleted them because he had a hard copy.

**From:** Rene Broker  
**Sent:** Wednesday, September 09, 2009 3:43 PM  
**To:** Jill Dolan  
**Subject:** RE: User access

I guess the cleanup of the electronic data happened first then he cleaned his office. According to Steve's calculations this happened sometime during the week before he went on leave pursuant to your approval which as I recall he wanted to start earlier in the week but that you denied. So in other words the cleanup occurred only days before he began requesting the additional leave.

**From:** Jill Dolan  
**Sent:** Wednesday, September 09, 2009 3:39 PM  
**To:** Rene Broker  
**Subject:** RE: User access

I don't think so actually. I was in there speaking with him about his conflict around the 25<sup>th</sup> of August and remember it was not cleaned out at that point, or at least not to the extent it is now. I think Andrea had told me the same thing when I commented on it after he resigned, she had been in there to put a box in there and made the comment that it hadn't been cleaned out.

**From:** Rene Broker  
**Sent:** Wednesday, September 09, 2009 2:50 PM  
**To:** Jill Dolan  
**Subject:** FW: User access

FYI—I wonder was that about the same time that he cleaned out his office?

**From:** Steve Smith  
**Sent:** Wednesday, September 09, 2009 2:47 PM

**To:** Rene Broker  
**Subject:** RE: User access

We combed through backup, and the weekend of August 1 we found a bunch of files that were not on the subsequent backups, indicating they were deleted the following week. I will restore Joe's e-mail as of that date, and will make another PST from that.

**From:** Rene Broker  
**Sent:** Wednesday, September 09, 2009 2:23 PM  
**To:** Steve Smith  
**Subject:** RE: User access

I know that they existed electronically when we did the production for the 2006 litigation which was only last year and our office stores these records electronically because of discovery issues which is the whole reason we purchased ISYS. In fact we used Joe's electronic e-mail records as a substitute for mine for discovery purposes because (if you remember) mine were inadvertently removed from the system several years ago because at that time I was storing them in my deleted file. So there is no way he was regularly deleting files from the electronic storage system on a monthly basis as those records went back years. Something is very wrong here.

**From:** Steve Smith  
**Sent:** Wednesday, September 09, 2009 2:11 PM  
**To:** Rene Broker  
**Subject:** RE: User access

I'll check though some backups, but I'm pretty sure that Joe pruned things pretty much all the time. I assumed he printed or filed "keepers" someplace else....

**From:** Rene Broker  
**Sent:** Wednesday, September 09, 2009 2:06 PM  
**To:** Steve Smith  
**Cc:** Jill Dolan; Sallie Stuvek; Jim Whitaker  
**Subject:** RE: User access  
**Importance:** High

Uh, how can years of e-mails (e.g. public records) disappear? And when exactly did they disappear? I'm extremely alarmed now as we are only in 2006 of at least 4 subsequent years of TAPS litigation years which will mean that all of his e-mails dating back from 2006 through 2009 are discoverable but you're telling me they are no longer on the system? I need to get to the bottom of this immediately. If they were removed from the system I need to know when and by who????

**From:** Steve Smith  
**Sent:** Wednesday, September 09, 2009 2:01 PM  
**To:** Rene Broker  
**Subject:** RE: User access

Joe kept a clean mailbox. That's all that was there.

**From:** Rene Broker  
**Sent:** Wednesday, September 09, 2009 1:56 PM  
**To:** Steve Smith  
**Subject:** RE: User access

Jill Dolan

---

**From:** Law Offices of Joseph Miller, LLC [millerlaw@acsalaska.net]  
**Sent:** Friday, August 28, 2009 10:07 AM  
**To:** Rene Broker  
**Subject:** RE: FMLA form

Remember, the annexation hearing was rescheduled to a time during my preapproved leave (for my son's Afognak brown bear hunt) in November. You already stated to me directly that if I didn't voluntarily return early from that leave you would handle it. Why does FMLA leave change what you told me before? I really don't want to cancel my other two boys' elk hunts. Those are once in a lifetime opportunities.

---

**From:** Rene Broker [mailto:renebroker@co.fairbanks.ak.us]  
**Sent:** Friday, August 28, 2009 8:28 AM  
**To:** Law Offices of Joseph Miller, LLC  
**Subject:** RE: FMLA form

That will effectively mean, given the amount of leave you have scheduled for the rest of September, October and November that you will not be able to help at all on the annexation which really needs this office's attention. Accordingly, I am going to cancel your 2.5 weeks of leave scheduled immediately following your return.

---

**From:** Law Offices of Joseph Miller, LLC [mailto:millerlaw@acsalaska.net]  
**Sent:** Friday, August 28, 2009 2:50 AM  
**To:** Rene Broker  
**Cc:** Andrea Fields  
**Subject:** FMLA form

Rene,

The VA doctor I saw yesterday has my return-to-work date as 9/22/09. (I faxed the form to Diane Thomas a few minutes ago). I depart for 2.5 weeks of preapproved leave just a day later. How do you want to handle this?

Joe

## Jill Dolan

---

**From:** Jill Dolan  
**Sent:** Wednesday, August 19, 2009 3:26 PM  
**To:** Rene Broker  
**Subject:** RE: Conflict

Joe and I discussed and while he is adamant there is no conflict, I don't have the warm and fuzzies on it. I asked him to write me up who he represents, the nature of the claim, and why he doesn't think it conflicts with the borough's interests, and he's getting a copy of his conflict form from HR. The borough's interest is the health plan subrogation lien, his client is not the employee but the employee's minor child who has a loss of consortium claim arising from the incident. I'll see what he comes up with. He wasn't real happy I was addressing it and I did tell him I had raised it with you, so you might hear from him on your own.

Also—I reviewed a complaint for Albert against Voytilla (trespass on the levee property). Are you okay with it being filed prior to your return or should it wait until Friday?

**From:** Rene Broker  
**Sent:** Wednesday, August 19, 2009 1:19 PM  
**To:** Jill Dolan  
**Subject:** RE: Conflict

Please attempt it as I don't think it's something I can handle by e-mail and we're planning on going until 5:30 today.

**From:** Jill Dolan  
**Sent:** Wednesday, August 19, 2009 11:49 AM  
**To:** Rene Broker  
**Subject:** RE: Conflict

Joe is out after today until next week—do you want to handle via phone or email, or do you want me to attempt it?

**From:** Rene Broker  
**Sent:** Wednesday, August 19, 2009 11:28 AM  
**To:** Jill Dolan  
**Subject:** RE: Conflict

I admit I'm a bit puzzled too. He is not, under our agreement, to take on any cases that conflict with Borough interest. Obviously I cannot have an employee that can't work on a Borough matter because they have a conflict unless somehow the conflict developed under some subsequent fact pattern e.g., he is representing Joe in a divorce and then Joe sues us for some reason. Thus, if he is asserting that he has a conflict it appears he is not in compliance with our agreement and I would like an explanation.

**From:** Jill Dolan  
**Sent:** Wednesday, August 19, 2009 11:22 AM  
**To:** Rene Broker  
**Subject:** Conflict

Rene, I think I need to make you aware of a situation with Joe. The School District Health Plan has a fairly large subrogation lien for a former employee who was injured in a home accident. Ken Ringstad represents the former employee. I was having a general subrogation discussion with Joe, mentioned some facts (including the amount of the lien), and he said he has a conflict and couldn't talk to me. Looking at the court docs, he represents a dependent in a loss of consortium from the same incident. Ringstad has represented that there might not be enough money to make li.

client whole. I don't know much about subrogation law but am pretty sure if the money goes to the kids the borough can't assert its lien against those sums, which potentially means Joe's interests are adverse to the borough's. I guess it isn't a direct conflict but I am not familiar with Joe's agreement here to know if this is an issue.

Jill S. Dolan  
Assistant Borough Attorney  
Fairbanks North Star Borough  
P.O. Box 71267  
Fairbanks, AK 99707  
(907) 459-1318/phone  
(907) 459-1155/fax

This message contains information that is confidential and within the Attorney-Client or Attorney Work Product privilege. Disclosure of its contents to third persons will adversely affect Borough interests and is prohibited by FNSB 2.25.140. If this message is received by someone other than the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. This communication is also covered by the Electronic Communications Privacy Act, 18 USC 2510, et seq.

**DO NOT FORWARD THIS E-MAIL without first discussing the consequences of such action with the sender.**

**Jill Dolan**

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**From:** Law Offices of Joseph Miller, LLC [millerlaw@acsalaska.net]  
**Sent:** Friday, August 21, 2009 11:26 AM  
**To:** Rene Broker  
**Cc:** Jill Dolan; Joe Miller  
**Subject:** Jones

Rene,

I spoke with Louise this morning after she apparently spoke with you. She seems to think that you are now assigning me the Jones' subrogation case. Is that true?

Incidentally, Merdes and I are going to dismiss the kids' complaints. We're planning to file next week. As I mentioned before, this has been contemplated for some time, well before I found out about FNSB involvement in Ringstad's separate suit this week. The dismissal has absolutely no connection to the FNSB conflict question, but thought you might like to know.

Joe

**Jill Dolan**

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**From:** Jill Dolan  
**Sent:** Wednesday, August 19, 2009 3:42 PM  
**To:** Rene Broker; Joe Miller  
**Subject:** RE: Jones vs. Altrol

He did represent that she might not be made whole due to insufficient insurance and assets of at least two of the defendants—he did not state who.

**From:** Rene Broker  
**Sent:** Wednesday, August 19, 2009 3:40 PM  
**To:** Joe Miller  
**Cc:** Jill Dolan  
**Subject:** RE: Jones vs. Altrol

I'm sorry, but I thought at least Mr. Ringstad has represented to the Borough that there are insufficient funds available????

**From:** Joe Miller  
**Sent:** Wednesday, August 19, 2009 3:39 PM  
**To:** Rene Broker  
**Cc:** Jill Dolan  
**Subject:** RE: Jones vs. Altrol

With several multimillion dollar companies as defendants, I sincerely doubt it.

**From:** Rene Broker  
**Sent:** Wednesday, August 19, 2009 3:37 PM  
**To:** Joe Miller; Jill Dolan  
**Subject:** RE: Jones vs. Altrol

Joe—as I would analyze it, the conflict would arise from the fact that both your client and the Borough would be competing over the same, limited funds that are not big enough to provide complete relief to all parties. Is that accurate?

**From:** Joe Miller  
**Sent:** Wednesday, August 19, 2009 3:35 PM  
**To:** Jill Dolan  
**Cc:** Rene Broker  
**Subject:** Jones vs. Altrol

Jill,

Yesterday and today we discussed a possible conflict based upon my involvement in the Jones, et. al vs. Alaska Inland Properties, et. al, case no. 4FA-09-1289 CI. I am providing this notice consistent with our discussions.

In my private law practice (the Law Offices of Joseph Miller, LLC) I represent Brian D. Jones, the seventeen year old son of Gaylene Jones. Ward Merdes represents Aerich w. Jones, Ms. Jones' thirteen year old son. We have asserted emotional distress and loss of consortium claims. This case has not been consolidated with the related matter in which the borough apparently has a subrogated lien.

Whether or not the borough succeeds in its subrogation in 4FA-08-0877 CI does not affect my claims on behalf of Ms. Jones' minor son. Mr. Brian Jones is not the "insured" under the FNSB policy, is not seeking reimbursement for his medical expenses, and is not participating in any settlement negotiations with Mr. Ringstad. I have not personally talked to Mr. Ringstad since the last deposition this past Spring.

In other words, I do not think this rises to a conflict as described by borough code or my employment agreement. Nevertheless, in an abundance of caution, I disclose the above facts and welcome your comments.

Do not hesitate to contact me with additional questions.

Joe

**Jill Dolan**

---

**From:** Joe Miller  
**Sent:** Wednesday, August 19, 2009 5:23 PM  
**To:** Rene Broker  
**Cc:** Jill Dolan  
**Subject:** RE: Jones vs. Altrol

Rene,

Just got off the phone with Louise at the Bar Association. At worst, "potential" conflicts are not conflicts of interest. But from her perspective, based upon the below facts, it's not a conflict.

I was also thinking more about the broader concept of conflicts as suggested below. If the conflicts test were to be construed so broadly that part-time FNSB attorneys would be barred from taking any claim against a party whom the borough had some sort of financial claim against, then my firm would be pretty much conflicted from all suits against FNSB taxpayers. At the very least, a financial analysis would need to be first conducted to determine whether my claim could compromise that adverse party's ability to pay FNSB taxes (i.e., "are there insufficient funds to satisfy all claims?"). That may seem to be a stretch but it is the ultimate end of the "broad construction" approach. Just food for thought until we talk.

Joe

**From:** Joe Miller  
**Sent:** Wednesday, August 19, 2009 4:19 PM  
**To:** Rene Broker  
**Cc:** Jill Dolan  
**Subject:** RE: Jones vs. Altrol

Rene,

Because Brian my client, not his mom. Nor has my firm (or Merdes) moved to merge this case with his Mom's. We don't represent anyone that the borough has a subrogated claim against.

I'll talk to bar counsel this afternoon and fill you in when we can have a face-to-face.

Thanks,

Joe

**From:** Rene Broker  
**Sent:** Wednesday, August 19, 2009 3:48 PM  
**To:** Joe Miller  
**Subject:** RE: Jones vs. Altrol

OK, let's talk about this when I get back, I'm a bit confused about why it wasn't foreseeable.

**From:** Joe Miller  
**Sent:** Wednesday, August 19, 2009 3:47 PM  
**To:** Rene Broker  
**Subject:** RE: Jones vs. Altrol

I knew you were going to say that right after I hit "send." FNSB not a party to my suit. Nor was/is it foreseeable that there is any conflict.

**From:** Rene Broker  
**Sent:** Wednesday, August 19, 2009 3:46 PM  
**To:** Joe Miller  
**Subject:** RE: Jones vs. Altrol

I'm sorry but you also care about your client the Borough right?

**From:** Joe Miller  
**Sent:** Wednesday, August 19, 2009 3:43 PM  
**To:** Rene Broker  
**Cc:** Jill Dolan  
**Subject:** RE: Jones vs. Altrol

Beats me. I haven't talked to him since last spring. Nor have I analyzed the financial capacity of the companies in question. However, I do know that they're big. All I care about is my client, Brian.

**From:** Rene Broker  
**Sent:** Wednesday, August 19, 2009 3:40 PM  
**To:** Joe Miller  
**Cc:** Jill Dolan  
**Subject:** RE: Jones vs. Altrol

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**Sent:** Wednesday, August 19, 2009 3:35 PM  
**To:** Jill Dolan  
**Cc:** Rene Broker  
**Subject:** Jones vs. Altrol

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