

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

CIVIL DIVISION

JOHN DAVID TERRY

PLAINTIFF

VS.

Case No. CIV-07-1094-6

JOHN A. WHITE, in his capacity as Chancellor  
of the University of Arkansas at Fayetteville; and  
B. ALAN SUGG, in his capacity as President of  
the University of Arkansas System

DEFENDANT

SUPPLEMENTAL BRIEF IN SUPPORT  
MOTION TO PRESERVE EVIDENCE

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Introduction

The Plaintiff's Motion to Preserve Evidence, filed on July 5, 2007, is currently pending in this matter. In this particular case, the Plaintiff has previously issued and served a number of subpoenas duces tecum. Two of those individuals who are under subpoena are Teresa Prewett and Sherri Darby who, during the time frame relevant to the Plaintiff's motion, both resided at 6 Bertwood Drive in Little Rock, Arkansas 72205.

The subpoenas seek a number of items, including a request for the inspection and copying of the computer hard drives of Ms. Prewett and Ms. Darby so that a bit by bit computer reproduction or copy may be had of these particular computers. The subpoena for Teresa Prewett also includes a request for production of any cell phone, mobile phone, blackberry or personal messaging device; as well as any portable or removable memory sticks/chips or identification sticks/chips, Subscriber Identity Modules (SIM cards) and/or Re-Usable

Identification Module (RUIM cards) which were utilized by her. The subpoenas for Cricket Communications, Alltel Communications and Cingular Wireless include a request that the content of any text or instant messages be produced for the cell phones registered to Houston Nutt, Danny Nutt, and Teresa Prewett.

As will be demonstrated further below, the information for which preservation is sought is relevant to demonstrate, among other things, the nature of the relationship between the Nutt family and Teresa Prewett, and the complete absence of any investigation conducted by Houston Nutt, John White, or anyone at John White's direction.

Much of the information sought by the above-referenced Subpoenas Duces Tecum consist of digital evidence, or data which is subject to being lost, destroyed, erased, overwritten, and/or deleted. It was for this reason that the Plaintiff previously filed his Motion to Preserve Evidence in this case pursuant to Ark. Code Ann. §16-115-108 which authorizes the Court to make any temporary orders which appear to be expedient and proper to prevent injury, waste, or damage of whatsoever kind. This obviously would include damage or loss of relevant evidence.

#### Factual Background

On Monday, July 30, 2007, the Plaintiff obtained e-mails from the work computer ([sherri.darby@dfa.state.ar.us](mailto:sherri.darby@dfa.state.ar.us)) of Sherri Darby, who is employed by the Department of Finance and Administration. These e-mails were obtained by Plaintiff's counsel by way of a Freedom of Information Act request, as well as a Subpoena Duces Tecum. The Plaintiff's request for Ms. Darby's e-mails covered the period of time from October 23, 2006, through June 30, 2007. The

Plaintiff specifically requested e-mails which related to the University of Arkansas football program in any manner. In response, the Department of Finance and Administration produced in excess of eight hundred (800) e-mails.

These e-mails reveal that there is a close relationship which exists between Houston Nutt, Diana Nutt, Danny Nutt, and Prewett and Darby. It is clear that Prewett and Darby are “confidantes” and considered a part of the Nutt Family’s “inner circle” given the nature of the information that Houston, Diana and Danny trusted them with, as is evidenced by the subject matter they openly share with Prewett and Darby. To give the Court an example of the intimacy of the relationship of these individuals, the Plaintiff is attaching miscellaneous e-mails to the final Exhibit “AAA” in this brief.

#### Missing E-Mails

Counsel for the Plaintiff has now had an opportunity to examine these e-mails and has determined that a number of Ms. Darby’s have been deleted. The Plaintiff can prove the fact that e-mails have been deleted because the e-mail Teresa Prewett sent to Wally Hall on December 6, 2006, (Am. Comp. Exhibit “E”) and the e-mail Prewett sent to Mitch Mustain on December 7, 2006, (Am. Comp. Exhibit “H”) were both forwarded to Ms. Darby’s work e-mail ([sherri.darby@dfa.state.ar.us](mailto:sherri.darby@dfa.state.ar.us)). In addition, the Plaintiff is in possession of an exchange of several e-mails between Wally Hall and Sherri Darby which occurred on December 7th and 8th of 2006. (Attached Exhibit “RR”) The e-mails between Hall and Darby would have come within the scope of the Plaintiff’s Freedom of Information Act request and subpoena submitted to the

Department of Finance and Administration. However, none of the e-mails referenced in this paragraph were produced by the Department of Finance and Administration.

The Plaintiff's request for Darby's e-mail was limited to e-mails which contained information regarding the University of Arkansas football program. Most days there are anywhere from three to twelve e-mails per day which fit this description. However, there are also mysterious periods of time or "gaps," for which there were no e-mails produced whatsoever. For example, there were no e-mails produced for the period of time from Tuesday December 5, 2006, through Friday, December 8, 2006. This, of course, was the time frame in which the Hall and Mustain e-mails were sent. There are other "gaps" in the e-mail records, and most of these occur during time frames in which significant events (pertaining to matters at issue in this case) were taking place. The following are examples:

\*On January 5, 2007, Beck Campbell notified Chancellor White of the e-mail campaign of Teresa Prewett. There were no e-mails produced for that date or for the period of time from Monday, January 8, 2007, through Thursday, January 18, 2007.

\*On February 28, 2007, Ms. Campbell sent a letter to the Board of Trustees and President Alan Sugg requesting an investigation into these matters. In addition, from this date through March 14, 2007, there were ten Freedom of Information Act requests submitted to the University by various individuals. These FOI requests primarily concerned phone records, correspondence, e-mails, and text messages of both Houston Nutt and Danny Nutt. In addition, on March 6, 2007, Richard Newland (attorney for Prewett and Darby) filed his own FOI request asking for copies of all of the Freedom of Information Act requests which had been submitted to the University. There were no e-mails produced for the following period of time. Wednesday, February 28, 2007, through Friday, March 16, 2007.

\*On Thursday, May 3, 2007, Houston and Diana Nutt met with Thomas McAfee at Mr. McAfee's attorney's office. There are no e-mails produced for the following period of time. Tuesday, May 1, 2007, through Monday, May 21, 2007.

From this, it appears that there has been a mass deletion or withholding of any e-mails which were exchanged during these particular periods of time.

Plaintiff also has proof that e-mails have been deleted or withheld because the Plaintiff has been able to locate e-mails Ms. Darby actually sent from her work computer, but which were not provided to Plaintiff's counsel with Ms. Darby's "sent and received" e-mails. One of these was an e-mail sent to a Sherry Hamilton, who is a close friend of both Darby and Prewett. Ms. Hamilton was one of the fourteen e-mail addresses to whom Prewett forwarded the Mustain e-mail, just nineteen minutes after she sent it to Mustain. On Friday, January 19, 2007, at 10:02 a.m., Sherri Darby sent this particular e-mail to Ms. Sherry Hamilton. This e-mail was either deleted, or intentionally not provided to the Plaintiff. The following is part of that e-mail message:

*"If they put the email in the paper, how are they going to prove anything? The original email to Mitch went to his school account. The forwarded emails were on home computers. Unless the police come into our house and Danny's house and take the computers to prove the emails really went through that process, how do they know they were not spoofed? Who is going to be the one to say it is official?"*

Sherry Hamilton's reply (which was also an e-mail deleted from Darby's account) at 10:15 a.m. on Friday, January 19, 2007, was as follows:

*"I agree!! I thought they would have to take the computers, and that can't be done can it – there was no crime committed!!!!"*

Neither one of these e-mails were in the "sent" or "received" e-mails of Ms. Darby which were provided to Plaintiff's counsel by the Department of Finance and Administration. In other words, these particular e-mails had either been specifically deleted or were intentionally not provided to the Plaintiff. However, Plaintiff's counsel was able to locate these e-mails as they happened to be contained in a "string" of e-mails which had not been deleted. As a result, it is evident that Ms. Darby, or someone acting on her behalf, has engaged in an effort to delete or withhold electronic mail messages which are, or could be, relevant to the issues pending in this case. One of the e-mail "strings" in which the Plaintiff was able to locate the above-referenced e-mail is attached hereto as Exhibit "SS."

There is other direct evidence that select e-mails have either been deleted or withheld. For example, there is a series of e-mails between Diana Nutt and Sherri Darby on May 25, 2007, which were deleted or "pulled" from the information which was provided to the Plaintiff. However, Plaintiff was able to locate some of these in several "un-sent drafts" which contained the e-mails that Dianna Nutt had sent to Darby. Since this information was retrieved from an un-sent draft, the plaintiff does not have the actual e-mails Darby sent to Nutt. The following (Attached Exhibit "TT") is a part of one of those drafts addressed to Diana Nutt, as well as a portion of Diana's response:

Darby's Draft (5/25/07)

"Last Friday when we were visiting my family in Jonesboro, my sister-in-law said that her granny asked her if that was 'our' Teresa that sent the e-mail to Mitch. Becky told her yes. Granny loved it. She said"

Diana Nutt's Reply (5/25/07 @ 9:10 a.m.)

"Those are 2 funny stories. *I like the way Granny thinks!*

The Plaintiff also located other "e-mail strings" for which it is obvious that preceding e-mails had been deleted or withheld. For example, on Wednesday, March 28, 2007, at 8:54 a.m. Sherri Darby replied to a message from Rita Johnson entitled "It was Laura!" (Attached Exhibit "UU") Darby's response was as follows:

"OH! Tell her we know *other friends of Houston* that emailed Mitch that day."

The original message from Rita Johnson was sent at 8:29 a.m. that same morning. This message has been deleted, or is being withheld, as it was not provided to the Plaintiff by the Department of Finance and Administration. However, the comment in this particular e-mail begs the question of how did Sherri Darby know there were *other friends of Houston that e-mailed Mitch that day*? Neither Mitch Mustain, his mother, or anyone else on his behalf has ever publicly acknowledged that Mustain received other harassing e-mails on, or around, December 7, 2007. Strangely, Teresa Prewett has also made the same claim. In her interview with Drive Time Sports, (a transcript is attached hereto as Exhibit "VV") which occurred on April 17, 2007, the following exchange took place:

"Marcus Elliott: Give us an opening statement. Tell us, in your opinion, why this is such a big deal?"

Teresa Prewett: I think it's a big deal because, um, I have an association as far as friendship with the Nutts and because, because I know that on the same day that I sent my e-mail to Mitch, he also got other e-mail, negative e-mails, and, but I'm the one that has been singled out."

Prewett made a similar statement in the article published in the Booneville Democrat on April 18, 2007, wherein she stated:

“If (the emails) weren’t from me, it wouldn’t be an issue, she adds. ‘I know that Mitch Mustain received other emails the same day and those people have not been blasted and had their names in the papers.’” (Am. Comp. Exhibit “CC”)

How is it that Sherri Darby and Teresa Prewett knew that other friends of Houston had e-mailed Mitch Mustain on this same day? Did Danny tell them? Did Houston tell them?

Apparently the use of e-mail correspondence to harass others is not limited to student-athletes. A number of Darby’s e-mails reflect that Prewett, Darby, and Diana Nutt are not fond of *Arkansas Democrat Gazette* sports editor, Wally Hall. On May 31, 2007, Diana and Darby exchanged several e-mails, (Attached Exhibit “WW”) including these two from Ms. Nutt:

“HERE HERE! Wally is an idiot. We’re all in agreement on that one.” (7:53 a.m.)

“Does any of *the posse* or anyone you all know ever write the idiot and harass him? I’d sure like to harass him.” (7:59 a.m.)

In response to this inquiry, Sherri Darby replied, in part:

“They have harassed him and called his boss, Jim Bailey. It does no good. He is too ignorant to know he is being harassed.”

It is peculiar that Diana Nutt, who states she would sure like to harass Mr. Hall, is inquiring as to whether any of the “*the posse*” has written to harass him. Is this what occurred with Mitch Mustain? Did one or more of the Nutts engage “*the posse*” to undertake a campaign of harassment against a student-athlete?

### Scheme to Deceive

In addition to direct evidence that Ms. Darby, or someone acting on her behalf, has deleted or withheld certain e-mails, there is also evidence that key witnesses have schemed to engage in a “cover up.” For example, on March 4, 2007, a Freedom of Information Act request was served on the University of Arkansas requesting the production of text messages for Houston Nutt and/or Danny Nutt. On Thursday, March 22, 2007, at 1:23 p.m. Sherri Darby sent an e-mail to Teresa Prewett, with a copy of the Freedom of Information Act attached. The e-mail contained the following message:

“I have highlighted in red the exemption of medical records. If any text message conversation you had with Danny or Houston could have contained wording related to Danny or Mama Nutt's health issues, I would think those messages would be exempt from the law. It seems to me that to request and review all of the those messages would mean that medical records would be requested if a text message conversation between you, Danny, or Houston could be deemed a medical record.

*Text messages between Danny and Houston could have included conversations about private family issues including health issues.”*

The Plaintiff has attached this e-mail, along with its attachment, as Exhibit “XX.” Later on this same date, March 22, 2007, at 1:55 p.m., Ms. Darby sent an e-mail to Cingular Wireless making the following inquiry:

“What is your policy with regard to the retrieval of transcripts of deleted sms text messages stored in your server? How long do you store the records? Can the cell phone customer request copies of the transcripts for personal use? Can the transcripts be requested by a third party without a court order or subpoena? If the transcripts can only be requested by a third party by court order or subpoena, are you required to notify the cell phone account holder of the request?”

Darby promptly forwarded the response she received from Cingular on to Prewett. This inquiry, Cingular's subsequent response and Darby's forward to Prewett are attached hereto as Exhibit "YY."

A review of the phone records of Houston Nutt reveals that from August 1, 2006, through December 5, 2006, he and Teresa Prewett exchanged (on average) one text message per week. This suddenly changed on December 6, 2006, when Houston Nutt and Prewett exchanged four text messages, followed by seven text messages the next day, December 7, 2006. By making the following statement, Sherri Darby was insinuating or suggesting to Prewett that she ought to claim that her text messages with Houston and Danny were "privileged" and therefore not subject to disclosure.

*"If any text message conversation you had with Danny or Houston could have contained wording related to Danny or Mama Nutt's health issues, I would think those messages would be exempt from the law."*

Why was Darby worried about the nature and content of the increased text messages between Prewett and Houston Nutt on December 6th and 7th? She was so concerned that she researched the FOI Act, in an effort to determine whether there were any exceptions which could be utilized by the Nutts or Prewett to keep them from having to turn over the content of their text messages. Following her "research," she forwarded a copy of the FOI Act to Prewett with the suggestion that "if" her communications were related to a medical condition of either Danny Nutt or his mother "Mama Nutt" they would be exempt and therefore not subject to production. Even more alarming, is the fact that Darby was also suggesting that Houston Nutt and Danny Nutt fabricate the purported content of their messages, when she wrote:

“Text messages between Danny and Houston *could have included* conversations about private family issues including health issues.”

Why is it necessary for Sherri Darby to be concocting a story that Houston and Danny were texting about health issues? Teresa Prewett is the only person who has publicly commented on the content of any of these text messages. The following are excerpts from Prewett’s interview with the Booneville Democrat published on Wednesday, April 18, 2007:

“(Some people) want so bad for it to be a conspiracy, and I can’t help them,” said Prewett. ‘It would be so easy for me if it were.’

Another theory is that she was asked to write the email, a statement which Prewett characterizes as ‘completely false.’

‘They wouldn’t ask me to do that,’ she said.

While she wouldn’t discuss specific conversations between she and the Nutts about the email, the email was not condoned by the Nutts, she said.

Belief is also widespread that Nutt lied when he said he knew nothing of the email prior to being told by UA officials in January.

‘I didn’t ever tell him,’ said Prewett.

Then what were all those emails and phone calls about?

‘About 30 minutes after I sent the email, I got a text message from (Houston Nutt’s wife) Dianna,’ said Prewett. ‘It said “Mom died.”’

‘The rest of the messages and phone calls was regarding the funeral arrangements. When Houston was going to go to Oklahoma City. How Houston’s mother was going to get to Oklahoma City,’ said Prewett.” (Am. Comp. Exhibit “CC”)

If Prewett was telling the Booneville Democrat the truth and the text messages between Prewett, Houston and Danny Nutt primarily related to the death of Diana's mother, then why (one month earlier) is Sherri Darby fabricating a different story and advocating that they claim the content of their text messages "*could have contained wording related to Danny or Mama Nutt's health issues?*" If the text messages were related to the death of Diana's mother, there would be no reason for Houston Nutt, Danny Nutt, and Prewett to worry about having to produce those messages. Indeed it would seem that they would want to produce those messages and resolve any lingering questions. Instead, and quite to the contrary, Sherri Darby researched the Freedom of Information Act in an effort to determine how Teresa Prewett, Danny Nutt, and Houston Nutt could avoid producing their text messages.

There are other reasons to believe that Prewett's public comments have not been truthful. For example, during the interview with the Booneville Democrat Prewett told the reporter that the Nutts did not condone the e-mail she sent to Mustain. Specifically the article states:

*"While she wouldn't discuss specific conversations between she and the Nutts about the email, the email was not condoned by the Nutts, she said."* (Am. Comp. Exhibit "CC")

However, when Dianna Nutt is told of *the Granny* in Jonesboro who loved the fact that Teresa had sent the email to Mitch, Dianna replies "*I like the way Granny thinks.*" (Attached Exhibit "TT") Another example indicative of whether the Nutts approved of Prewett's actions occurred in late January when a small group of fans organized a protest on the Fayetteville campus. The protest, in part, concerned Prewett's e-mail and how it had been handled by the University. On January 25, 2007, the day after this event, Darby e-mailed Hamilton (Exhibit

“ZZ”) telling her that Diana Nutt had parked nearby to observe the protest and call in “reports” to Prewett and Darby. She noted:

“Diana was parked nearby so she could watch the protest. She was calling to give us updates. She said a guy was holding a sign that said *Teresa, e-mail me. We were cracking up!*”

From their actions and comments, it is quite apparent that Prewett’s e-mail is nothing more than a big joke to her, Darby, and Diana Nutt. Obviously (and in contradiction with Prewett’s statement to the Booneville Democrat) the wife of the Head Coach of the University of Arkansas condones and approves of this specific act of harassment which was carried out against a student-athlete, who at the time was a member in good standing on the football team and under the tutelage and care of her husband.

#### Probative Evidence

Darby’s January 19, 2007, e-mail sent at 10:02 a.m. to Sherry Hamilton strongly implies that there is some type of proof and/or evidence which is contained on Darby and Prewett’s home computer(s), as well as the home computer of Danny Nutt. Once again, Darby wrote:

“Unless the police come into our house and Danny’s house and *take the computers to prove the emails really went through that process*, how do they know they were not spoofed?”

Ms. Hamilton’s reply at 10:15 a.m. that “*I thought they would have to take the computers*” leads one to believe that she too is aware that there is evidence located on the computer(s) of Prewett, Darby and Danny Nutt. Darby responds at 10:18 a.m., stating “*I really may be wrong, but I just don’t think without confirmation from TP, they can do anything.*” What

is it that Prewett can confirm? It is obviously known that Prewett was involved. Can she confirm who else was complicit in this scheme.

Darby's statement that the Police would have to "*take the computers to prove the emails really went through that process,*" obviously begs the question of just what "process" the e-mails went through? Remember, in her e-mail of December 7, 2006, Prewett wrote to Mustain that if she were Coach Nutt today, she would:

"Let you hang out face to face in a private meeting with the offensive and defensive linemen – I think I'd even throw Butu in for the meeting." (Am. Comp. Exhibit "H")

The very next day, Friday, December 8, 2006, a meeting such as the one described by Ms. Prewett in her December 7th e-mail actually occurred. The meeting was lead by defense linemen Keith Jackson and Sam Olajabutu, also known as "Butu." Was it during this "process" that Prewett was advised that a players' only meeting was going to be called in the near future, at which time Mustain would be confronted by the linemen and Sam Olajabutu? If so, which members of the coaching staff relayed that information to her?

### Conclusion

The computers, or hard drives, of Sherry Darby, Teresa Prewett and Danny Nutt (as well as other witnesses) are currently under a Subpoena Duces Tecum. The data contained on those hard drives is fragile in nature and subject to being lost, destroyed, erased, overwritten and/or deleted. Ms. Darby, or someone acting on her behalf, has already deleted or withheld select e-mails from her work e-mail. This fact, combined with the inclination of key witnesses to provide

false information in order to avoid the production of other evidence (i.e., the content of the text messages) is why an order ensuring the preservation of evidence is necessary in this matter. This Court should grant the Plaintiff's Motion to Preserve Evidence pursuant to Arkansas Code Annotated §16-115-108 in order to prevent injury, waste, or damage of whatsoever kind to evidence which is relevant to the issues before this Court; and so that the truth may be ascertained.

Respectfully submitted,

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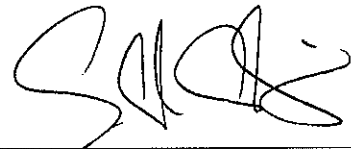
CERTIFICATE OF SERVICE

This is to certify that on this 8th day of August, 2007, I delivered a copy of the above and foregoing pleading by U.S. Mail to:

Mr. Woody Bassett  
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EDDIE CHRISTIAN, JR.

**From:** Sherri Darby <sherri.darby@dfa.state.ar.us>  
**Date:** December 8, 2006 7:45:43 AM CST  
**To:** "whall@arkansasonline.com" <whall@arkansasonline.com>  
**Subject:** RE:

Believe me.

It is okay.

Springdale needs an attitude adjustment. This isn't high school anymore. A lot of kids are wearing state championship rings. This is the SEC. They need to get it done on the practice field in order to get it done on game day. Snide comments published in a book are not helping much. How does the fence get mended after that? I'm not sure why he came here. Maybe it was the only place he stood a chance to play.

This is just my opinion.

-----Original Message-----

**From:** whall@arkansasonline.com [mailto:whall@arkansasonline.com]  
**Sent:** Thursday, December 07, 2006 7:53 PM  
**To:** Sherri Darby  
**Subject:** RE:

Okay.  
Just trying to help.

-- Original Message --

**From:** Sherri Darby <sherri.darby@dfa.state.ar.us>  
**To:** "Wally Hall" <whall@arkansasonline.com>  
**Subject:** RE:  
**Date:** Thu, 7 Dec 2006 16:05:59 -0600

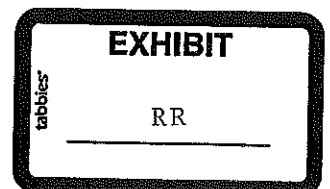
How do you think she got Mitch's email address?

She emails Frank all the time.

-----Original Message-----

**From:** Wally Hall [mailto:whall@arkansasonline.com]  
**Sent:** Thursday, December 07, 2006 3:34 PM  
**To:** Sherri Darby  
**Subject:**

This is between you and me.  
Please, please keep an eye on Theresa, she's e-mailing Mitch, Frank and of course me.



**From:** Sherri Darby  
**Sent:** Friday, January 19, 2007 3:37 PM  
**To:** 'Sherry Hamilton'  
**Subject:** RE:

That is what I heard too.

That probably means all this crap will die.

Are they going to have to go through this with him every year? What a weird deal!

-----Original Message-----

**From:** Sherry Hamilton [mailto:Sherry.Hamilton@nuvell.com]  
**Sent:** Friday, January 19, 2007 1:14 PM  
**To:** Sherri Darby  
**Subject:** RE:

Okay-I just got back from lunch and my boys told me that it's being reported that Mitch is probably going to stay???????? NO WAY!!! That infuriates me!!!

---

**From:** Sherri Darby [mailto:sherri.darby@dfa.state.ar.us]  
**Sent:** Friday, January 19, 2007 10:18 AM  
**To:** Sherry Hamilton  
**Subject:** RE:

There has been no crime committed and according to the attorney there is nothing to charge her with. Her apology letter and the reprimand override a lot of issues.

The paper would be crazy to print something without proof. I really may be wrong, but I just don't think without confirmation from TP, they can do anything. If she refuses to take the calls, I just don't see how it will happen. Stay tuned!!

-----Original Message-----

**From:** Sherry Hamilton [mailto:Sherry.Hamilton@nuvell.com]  
**Sent:** Friday, January 19, 2007 10:15 AM  
**To:** Sherri Darby  
**Subject:** RE:

I agree!! I thought they would have to take the computers and that can't be done can it-there was no crime committed!!!!

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**From:** Sherri Darby [mailto:sherri.darby@dfa.state.ar.us]  
**Sent:** Friday, January 19, 2007 10:02 AM  
**To:** Sherry Hamilton  
**Subject:**

If they put the email in the paper, how are they going to prove anything? The original email to Mitch went to his school account. The forwarded emails were on home computers. Unless the police come into our house and Danny's house and take the computers to prove the emails really went through that process, how do they know they were not spoofed? Who is going to be the one to say it is official?

They are trying to make a story about the forwarded emails to Diana and Carla and then the fact they forwarded the emails. Well everyone else that got the email has forwarded it to someone. Are they not guilty as well?

I'm hoping that whatever publication wants to attempt to print it will go through the University first. I don't think they will allow it. They will tell them a letter of apology has been written and a reprimand has been issued and as far as they are concerned the matter is closed.

**EXHIBIT**

SS

Yesterday T and I went to watch the Razorback baseball game at the Embassy Suites. Three guys were sitting close to us dogging out Wally Hall. Then they started talking about how Arkansas athletics had a 10 win season in football, a 20 win season in basketball, and a 40 win season in baseball. One guy said that this will be the most successful overall year in Arkansas Razorback history and he is sick of the way Houston and his family have been treated. Of course they all figured out who T is and they did not have one negative thing to say to her. I honestly think most people understand what Houston and the team went through with that circus act.

Last Friday when we were visiting my family in Jonesboro, my sister-in-law said the her granny asked her if that was "our" Teresa that sent the e-mail to Mitch. Becky told her yes. Granny loved it. She said

-----Original Message-----

**From:** Hdnx6@aol.com [mailto:Hdnx6@aol.com]  
**Sent:** Friday, May 25, 2007 9:10 AM  
**To:** sherri.darby@dfa.state.ar.us  
**Subject:** Re: (no subject)

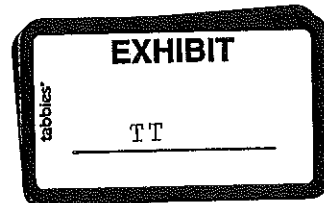
Those are 2 funny stories. I like the way Granny thinks! I had a bad experience yesterday. Went to the new mall at Rogers and when I paid with my credit card the lady asked if I was Houston Nutts' wife.

[REDACTED]

[REDACTED]

[REDACTED]

NOTE: Plaintiff has blacked out portions of this e-mail due to the discussion of personal matters which are not relevant to the Plaintiff's Motion to Preserve Evidence.



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**From:** Sherri Darby  
**Sent:** Wednesday, March 28, 2007 8:44 AM  
**To:** Rita Johnson  
**Subject:** RE: It was LAURA!

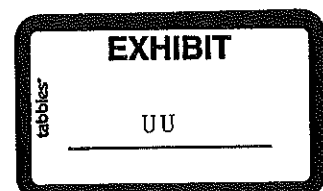
**Tracking:** Recipient Read  
Rita Johnson Read: 3/28/2007 8:50 AM

OH!

Tell her we know other friends of Houston that emailed Mitch that day.

-----Original Message-----

**From:** Rita Johnson  
**Sent:** Wednesday, March 28, 2007 8:29 AM  
**To:** Sherri Darby  
**Subject:** It was LAURA!



TRANSCRIPT OF AUDIO - DRIVE TIME SPORTS  
RE: TERESA PREWETT

RR: And let's go to Teresa in Little Rock. Teresa, good afternoon.

TP: Hi, guys, how are ya'll?

RR: Good evening.

ME: Hi.

TP: Well, here I am, so ask away, whatever you want to know.

ME: Now this is Teresa who?

TP: Teresa Prewett.

ME: Okay. This is the Teresa Prewett?

TP: This is the Teresa Prewett. I'm just - I've been silent long enough and, uh, I kept thinkin' it would go away, it would go away, and it just continues to show up on the front page of a paper and so here I am.

ME: Give us an opening statement. I didn't mean to cut you off

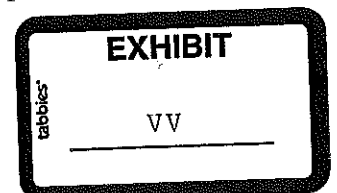
RR: No, no. Go ahead.

ME: Give us an opening statement. Tell us, in your opinion, why this is such a big deal.

TP: I think it's a big deal because, um, I have an association as far as friendship with the Nutts and because I know that on the same day that I sent my e-mail to Mitch, he also got other e-mail, negative e-mails, and, but I'm the one that's been singled out. And my e-mail was horrible, you know, I made a mistake, I -

ME: Here's the question: Why did you send that e-mail?

TP: I sent it, um, the day before, um, Wally had written an article, and his article, I was completely disgusted with his article. I mean we just finished, you know, winning ten in a row and he was very negative, uh, towards Houston and towards the program in general and I responded by sending him an e-mail, which he receives hundreds a day, and I can assure you they're not always to his liking neither. I mean, he puts his e-mail address in the newspaper for goodness sake. And I responded and that wasn't supposed to be for public viewing either, but that was my response to him. Wednesday, I get up, I read the newspaper and I see quotes that



Mitch had made regarding Houston, regarding the recruiting process, and I think that probably just because all the negativity throughout the season towards my friend who just happens to be the coach. I think that Wally got a dose of me being fed up and Mitch got the other dose, and it was wrong, especially the one to Mitch. You know, I don't normally do that, but I just had had enough of a friend being absolutely torn apart and I thought that his lack of respect for the recruiting process, those guys are never home during the year, and what it takes to recruit, and I just had enough and I sat down and I made a mistake, you know, I should have not have ever sent it, um, I've apologized until I'm purple in the face, um, you know, I don't really know what else to do, I mean I've apologized, that's all I know to do. I've actually stayed quiet through this whole thing. I've taken my lumps. I've taken the phone calls, the e-mails, and most of them I will say are from 479 area codes, and I've taken – I've taken it and I just sat there and taken it and –

ME: Teresa, can I ask you a question? Not to cut you off.

TP: You can ask me any question. That's why I called in.

ME: I appreciate you calling in, too. This is very informative. Here's what a lot of fans are wondering, okay, your e-mail to Mitch.

TP: Mm-hum.

ME: Was like you said very detailed, very virulent – fans were wondering, because you do communicate and you are friends with the coaching staff, fans are wondering, had the coaches, at any point, shared similar feelings with you.

TP: No.

ME: About that player.

TP: No, no. No, they're always talking about –

ME: Do you see how fans could, do you see how fans could –

TP: Well, you gotta understand that a) I played college ball. I got, my school was paid for, okay, my dad was a football coach, and then a principal. My brother played football; sports is all I know; sports is all we were allowed to do; sports and academics was it at my house. I have had a great knowledge especially as a – I guess I know just enough to be dangerous regarding football. I've been a hog fan way before Houston Nutt came to town, way before, and no, those were my opinions, those are my opinions based on watching football, reading articles, I have friends that live in Northwest Arkansas, other than the Nutts, you know, that would watch prac going, would watch practice when they were allowed to, blah, blah, blah. It didn't come from the Nutts.

ME: Well, here's what - Randy, I'm sorry, Randy, go ahead.

RR: Teresa, the questions also, I know there's been this issue over the timeline of the communication you had with Danny, with Houston, before

TP: Mm, huh.

RR: And the specific times when this e-mail was sent off, and then there was conversations, text messages after the fact.

TP: That's right.

RR: All right. Go into those.

TP: Okay.

RR: And explain what was being said and how, and I got to get this logic, on the other hand, when the IP addresses were verified, Mrs. Herring, Cathy,

TP: Mrs. what.

RR: Pardon me.

TP: I didn't hear what you just said about.

RR: When the IP addresses were verified who all this was sent to. It almost defies logic that somehow, somehow, that Houston Nutt would not be aware – if all these people receiving this e-mail, how the head coach, and then you had communication, with the, before and after, including his brother before and after, how that Houston didn't know what was going on. Please help us fill in those blanks

TP: Sure.

RR: What was being said so that it doesn't, I mean, it appears he had to know.

TP: No, he didn't know, I mean, that's not, he would have told me not to do it, I mean, he would have said do not do that. So, he didn't know. Actually, when I talked, I talked to him briefly that morning. It was about Diana's mother who was gravely ill and I mean I had been told today it was gonna be any day and when I read Mitch's article I called Houston and I told him, I said I am so mad that this is in the paper. Yesterday Wally wrote a bad one, today Mitch wrote a bad one, it's in here, but his comments this isn't fair to you, and he told me do not worry about it, everything's okay. That was our extent of it. That was the extent of it.

I did that on my own because I was taking up for my friend. I am, I guess, I'm compassionate towards them, I'm passionate about the Hogs. I'm very opinionated, and, um, I had just had it. I just had had and I sent it, and no, he didn't know.

RR: Teresa, but you said in that e-mail you wanted him gone.

TP: Well.

RR: Did you feel that way?

TP: No, I mean, I was just mad. Have you ever done something when you were mad and you regret it?

ME: Don't ask me that question and expect me to tell you the truth.

TP: No, I'm asking you. Have you ever done anything spontaneous that you regret?

RR: Sure. Obviously.

TP: Okay. I'm human, too, and you know, no, you know, I was just, I was very angry and I –

ME: Did you realize afterwards and I think you answered this a little bit, but did you realize afterward that this, I mean Houston being your friend.

TP: No.

ME: He's recruited that quarterback.

TP: No.

RR: Did you think that, wow, this could cost him more than his quarterback?

TP: No, no. I mean, okay, um, so everybody that ever gets a negative anything, you get a negative e-mail, a negative letter, you get a negative phone call, are you gonna quit?

ME: No.

TP: Huh?

ME: No.

TP: I think you're dead in that arena. You're not gonna quit, are ya?

ME: No.

TP: Okay. I was wrong. Okay, I was way wrong, way out there, now, I sent that e-mail and within thirty minutes of sending it I got a text message from Diana Nutt that said that mom just died, okay. So at that point there was not another thought process that's about me sending an e-mail to Mitch Mustain. I mean, I have lost my mother tragically nine months before, and if you've ever lost somebody that you just absolutely adore, while the world still spins around, your world stops.

ME: Right.

TP: And all of a sudden there is nothing. Nothing. So there was nothing ever said again about any e-mail and, hey, I thought nothing of it as far as the Nutts knowing, as far as Houston - I didn't send it to Danny, I didn't send it to Houston, I sent it to Carla, Danny was in Orlando at the \_\_\_\_\_ Walker awards with Darron. He didn't know, I didn't tell him because, from that moment on everything after that was about Diana's mother. That happened on a Thursday, on Saturday, we have had multiple conversations. I'm the one that carried Imogene and took her to Jonesboro to catch a ride with Cathy Nutt to go to Oklahoma City. It was about travel arrangements. I'm telling ya, even my friends, if you wanna FOI, you need to FOI for nine years. I talk to these people all the time and you know, it's not about football. They came to my mother's funeral. My brother was killed four years ago, Houston, Sr. and Imogene came to my brother's visitation. These people are friends and this just happens to be –

ME: Teresa, we gotta go to break. Can you hold on for a moment.

TP: Well, if you want me to.

ME: All right. Back in a moment.

ME: Drive Time Sports. Marcus Elliott and Randy Rainwater. I do want to thank Teresa Prewett for stepping up and being part of today's program.

ME: Teresa, this is Marcus, I think you are showing a tremendous amount of courage and caring to call in in this situation and kind of speak your mind. I do want to ask you a few questions, though.

TP: Okay.

ME: If you don't mind. The problem with this type of situation there is so much information out there, you know, a lot of fans want to get clarity. Now you mentioned before we went to the break that the coach didn't know about it and then there was this FOI information I think that everybody in the world has gotten and then they e-mailed, they FOI e-mails and then it shows via FOI that on December 7th, uh, 2006, at, it shows at 11:28 a.m. that same day, it says here FOI

that you forwarded the e-mail to 15 other people, including Danny Nutt, Lisa Herring, Cathy Nutt, Dickie Nutt.

TP: One, e-mail didn't go to Dickie, it went to Cathy. It didn't go to Danny, it went to Carla.

ME: Okay. So it did - you did not send that e-mail to Danny Nutt.

TP: Listen to me closely: No, no, no. I told a reporter that wrote the article when he called me to get some information, he asked me that because I think it was Thomas McAfee or whomever wrote all that, um, said that I had sent it to Danny. I did not send it to Danny. I sent it to Carla's e-mail. Not to Danny's office, not to Danny. Danny was in Orlando. The only thing that Danny and I talked about basically was getting to have lunch with Tony Dorsett and Carla, not Carla, Diana's mother dying.

ME: Okay.

TP: But no, you know, I think somebody called in, I guess it was a e-mail, saying that if he had a female friend and they were letting me e-mail messages between them somebody would have some, you know, splainin' to do. Me and Danny text message all the time.

ME: Mm. Okay. This is not a question. This is from one of our callers. This is from \_\_\_\_\_ and she says how did you know about the senior meeting the day before it happened?

TP: I didn't.

ME: Okay, Nutt said he knew nothing, that it wasn't planned.

TP: I didn't either.

ME: And yet she knew before.

TP: No. I said that in that letter, I've spoken aptly, I've been in team meetings where there had to be a team meeting called because not everybody was on the same page. I've been involved with many of those in my playing days. My dad was a coach, a very tough and disciplined coach at that and, you know, team meetings are a part of every team sport at some point. You call a meeting, you air it out, you get everybody on the same page and let's go. That just happened to be coincidence, and that's a weird coincidence, I know, but that was just me speaking of a former athlete.

ME: Teresa, tell us, you know, we don't want to keep you too long, tell us, sum up this whole thing to you and have you communicated it with the Nutts recently and talk about how they are feeling now with all this going on.

TP: Well, I think it's sad. I think that our priorities are way out of line. I made a mistake, um, you know, basically, I put my name on an e-mail that was very negative. Uh, I listen periodically to these call-in shows. The things I hear on these call-in shows are horrid. Some of the things I read on message boards are worse than horrid, and other people send e-mails, uh, they don't attach their names to it, they hide behind fake e-mails, they call anonymously or as someone else, you know, I think that I was guilty, I know I'm guilty for having sent it but I've been put at a different level than everybody else even though it happens often because I have friendship with the Nutts.

RR: It's guilty by association.

TP: Yes, I am. I'm guilty by association and --

RR: Because of his relationship with Mitch Mustain as head football coach it would certainly seem to be inappropriate.

TP: It's inappropriate?

RR: By his relationship as head football coach to Mitch Mustain, based upon what you said to Mitch, it would be inappropriate - it would be deemed inappropriate that he should allow that to happen, but if he didn't know that --

TP: Well, he didn't know it happened.

RR: I'm connecting the dots for you.

TP: I understand. I'm very spontaneous, I mean, you can ask Wally Hall who has known me for several years. Of course, I'm going to voice my opinion, and when I get mad it's upset, I say something. I try not to chew fat. A very good lesson has been learned and I can assure you that, you know, I took up for a friend and I did it the wrong way, and I've apologized. Houston and Danny didn't know anything about it. If they had of, they would have been screaming 'don't do it, I assure you.

RR: Teresa, one last, maybe a couple last questions. Have you tried to communicate at all with either Mrs. Campbell or Mitch himself?

TP: I have not.

RR: Okay.

TP: Well, Mrs. Campbell sent me an e-mail saying do not communicate with us.

RR: Okay.

ME: Teresa, one last question. It is reported that Coach Nutt reprimanded you following the e-mail. Talk about that.

TP: Well,

ME: Was it a phone conversation? Was it just a letter and then after that letter did you visit with him again?

TP: Well, yeah, all of the above.

ME: Okay.

TP: Yes, it was a phone conversation. Yes, it was a letter that I have, and yes, we communicated since then.

ME: Talk about the tone of that initial conversation.

TP: Well, it wasn't very good. I mean, he was not happy that I had sent that e-mail especially since he had told me not to worry about all this, you know, it all will get handled, don't worry about it, and I went and did it, you know, so he was not happy with me at all.

RR: Teresa, thank you for taking time out to clarify your side of what has occurred over these last several months and, again, thank you for calling Drive Time Sports.

TP: Thanks.

RR: That was Teresa Prewett.

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**From:** Sherri Darby  
**Sent:** Thursday, May 31, 2007 8:12 AM  
**To:** 'Hdnx6@aol.com'  
**Subject:** RE: (no subject)

They have harassed him and called his boss, Jim Bailey. It does no good. He is too ignorant to know he is being harassed. I really wish someone here in LR that is really big in the Komen Foundation would call him on his blooper this morning. That just might embarrass him.

-----Original Message-----

**From:** Hdnx6@aol.com [mailto:Hdnx6@aol.com]  
**Sent:** Thursday, May 31, 2007 7:59 AM  
**To:** sherri.darby@dfa.state.ar.us  
**Subject:** Re: (no subject)

Does any of the posse or anyone you all know ever write the idiot and harass him? I'd sure like to harass him. As Roy D Mercer might say, do some "sexy harris-ment"

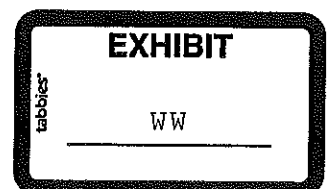
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**From:** Hdnx6@aol.com  
**Sent:** Thursday, May 31, 2007 7:53 AM  
**To:** Sherri Darby  
**Subject:** Re: (no subject)

HERE HERE! Wally is an idiot, we're all in agreement on that one.

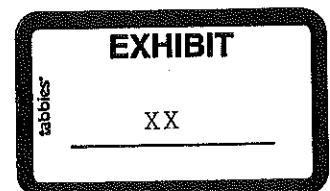
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**From:** Sherri Darby  
**Sent:** Thursday, March 22, 2007 2:23 PM  
**To:** 'tppt@swbell.net'  
**Subject:** Document1

I have highlighted in red the exemption of medical records. If any text message conversation you had with Danny or Houston could have contained wording related to Danny or Mama Nutt's health issues, I would think those messages would be exempt from the law. It seems to me that to request and review all of the those messages would mean that medical records would be requested if a text message conversation between you, Danny, or Houston could be deemed a medical record.

Text messages between Danny and Houston could have included conversations about private family issues including health issues.



**. Examination and copying of public records.**

(a)(1)(A) Except as otherwise specifically provided by this section or by laws specifically enacted to provide otherwise, all public records shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the custodian of the records.

(B)(i) However, access to inspect and copy public records of the Department of Correction and the Department of Community Correction shall be denied to:

(a) A person who at the time of the request has pleaded guilty to or been found guilty of a felony and is incarcerated in a correctional facility; and

(b) The representative of a person under subdivision (a)(1)(B)(i)(a) of this section unless the representative is the person's attorney who is requesting information that is subject to disclosure under this section.

(ii) Access to inspect and copy public records of the Department of Correction and the Department of Community Correction shall be denied to a person under subdivision (a)(1)(B)(i)(a) of this section regardless of whether the records are in the possession of the Department of Correction, the Department of Community Correction, or another agency of the state.

(2)(A) A citizen may make a request to the custodian to inspect, copy, or receive copies of public records.

(B) The request may be made in person, by telephone, by mail, by facsimile transmission, by electronic mail, or by other electronic means provided by the custodian.

(C) The request shall be sufficiently specific to enable the custodian to locate the records with reasonable effort.

(3) If the person to whom the request is directed is not the custodian of the records, the person shall so notify the requester and identify the custodian, if known to or readily ascertainable by the person.

(b) It is the specific intent of this section that the following shall not be deemed to be made open to the public under the provisions of this chapter:

(1) State income tax records;

(2) Medical records, adoption records, and education records as defined in the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, unless their disclosure is consistent with the provisions of that act;

(3) The site files and records maintained by the Arkansas Historic Preservation Program of the Department of Arkansas Heritage and the Arkansas Archeological Survey;

(4) Grand jury minutes;

(5) Unpublished drafts of judicial or quasi-judicial opinions and decisions;

(6) Undisclosed investigations by law enforcement agencies of suspected criminal activity;

(7) Unpublished memoranda, working papers, and correspondence of the Governor, members of the General Assembly, Supreme Court Justices, Court of Appeals Judges, and the Attorney General;

(8) Documents that are protected from disclosure by order or rule of court;

(9)(A) Files that if disclosed would give advantage to competitors or bidders and records maintained by the Arkansas Economic Development Commission related to any business entity's planning, site location, expansion, operations, or product development and marketing, unless approval for release of those records is granted by the business entity.

(B) However, this exemption shall not be applicable to any records of expenditures or grants made or administered by the commission and otherwise disclosable under the provisions of this chapter;

(10)(A) The identities of law enforcement officers currently working undercover with their agencies and identified in the Arkansas Minimum Standards Office as undercover officers.

(B) Records of the number of undercover officers and agency lists are not exempt from this chapter;

(11) Records containing measures, procedures, instructions, or related data used to cause a computer or a computer system or network, including telecommunication networks or applications thereon, to perform security functions, including, but not limited to, passwords, personal identification numbers, transaction authorization mechanisms, and other means of preventing access to computers, computer systems or networks, or any data residing therein;

(12) Personnel records to the extent that disclosure would constitute a clearly unwarranted invasion of personal privacy;

(13) Home addresses of nonelected state employees, nonelected municipal employees, and nonelected county employees contained in employer records, except that the custodian of the records shall verify an employee's city or county of residence or address on record upon request;

(14) Materials, information, examinations, and answers to examinations utilized by boards and commissions for purposes of testing applicants for licensure by state boards or commissions;

(15) Military service discharge records or DD Form 214, the Certificate of Release or Discharge from Active Duty of the United States Department of Defense, filed with the county recorder as provided under § 14-2-102, for veterans discharged from service less than seventy (70) years from the current date; and

(16)(A) Records, including analyses, investigations, studies, reports, recommendations, requests for proposals, drawings, diagrams, blueprints, and plans, containing information relating to security for any public water system.

(B) The records shall include:

(i) Risk and vulnerability assessments;

(ii) Plans and proposals for preventing and mitigating security risks;

(iii) Emergency response and recovery records;

(iv) Security plans and procedures; and

(v) Any other records containing information that if disclosed might jeopardize or compromise efforts to secure and protect the public water system.

(C) This subdivision (b)(16) shall expire on July 1, 2007.

(c)(1) Notwithstanding subdivision (b)(12) of this section, all employee evaluation or job performance records, including preliminary notes and other materials, shall be open to public inspection only upon final administrative resolution of any suspension or termination proceeding at which the records form a basis for the decision to suspend or terminate the employee and if there is a compelling public interest in their disclosure.

(2) Any personnel or evaluation records exempt from disclosure under this chapter shall nonetheless be made available to the person about whom the records are maintained or to that person's designated representative.

(3)(A) Upon receiving a request for the examination or copying of personnel or evaluation records, the custodian of the records shall determine within twenty-four (24) hours of the receipt of the request whether the records are exempt from disclosure and make efforts to the fullest extent possible to notify the person making the request and the subject of the records of that decision.

(B)(i) If the subject of the records cannot be contacted in person or by telephone within the twenty-four-hour period, the custodian shall send written notice via overnight mail to the subject of the records at his or her last known address. Either the custodian, requester, or the subject of the records may immediately seek an opinion from the Attorney General, who, within three (3) working days of receipt of the request, shall issue an opinion stating whether the decision is consistent with this chapter.

(ii) In the event of a review by the Attorney General, the custodian shall not disclose the records until the Attorney General has issued his or her opinion.

(C) However, nothing in this subsection shall be construed to prevent the requester or the

subject of the records from seeking judicial review of the custodian's decision or the decision of the Attorney General.

(d)(1) Reasonable access to public records and reasonable comforts and facilities for the full exercise of the right to inspect and copy those records shall not be denied to any citizen.

(2)(A) Upon request and payment of a fee as provided in subdivision (d)(3) of this section, the custodian shall furnish copies of public records if the custodian has the necessary duplicating equipment.

(B) A citizen may request a copy of a public record in any medium in which the record is readily available or in any format to which it is readily convertible with the custodian's existing software.

(C) A custodian is not required to compile information or create a record in response to a request made under this section.

(3)(A)(i) Except as provided in § 25-19-109 or by law, any fee for copies shall not exceed the actual costs of reproduction, including the costs of the medium of reproduction, supplies, equipment, and maintenance, but not including existing agency personnel time associated with searching for, retrieving, reviewing, or copying the records.

(ii) The custodian may also charge the actual costs of mailing or transmitting the record by facsimile or other electronic means.

(iii) If the estimated fee exceeds twenty-five dollars (\$25.00), the custodian may require the requester to pay that fee in advance.

(iv) Copies may be furnished without charge or at a reduced charge if the custodian determines that the records have been requested primarily for noncommercial purposes and that waiver or reduction of the fee is in the public interest.

(B) The custodian shall provide an itemized breakdown of charges under subdivision (d)(3)(A) of this section.

(e) If a public record is in active use or storage and therefore not available at the time a citizen asks to examine it, the custodian shall certify this fact in writing to the applicant and set a date and hour within three (3) working days at which time the record will be available for the exercise of the right given by this chapter.

(f)(1) No request to inspect, copy, or obtain copies of public records shall be denied on the ground that information exempt from disclosure is commingled with nonexempt information.

(2) Any reasonably segregable portion of a record shall be provided after deletion of the exempt information.

(3) The amount of information deleted shall be indicated on the released portion of the

record and, if technically feasible, at the place in the record where the deletion was made.

(4) If it is necessary to separate exempt from nonexempt information in order to permit a citizen to inspect, copy, or obtain copies of public records, the custodian shall bear the cost of the separation.

(g) Any computer hardware or software acquired by an entity subject to § 25-19-103(5)(A) after July 1, 2001, shall be in full compliance with the requirements of this section and shall not impede public access to records in electronic form.

(h) Notwithstanding any Arkansas law to the contrary, at the conclusion of any investigation conducted by a state agency in pursuit of civil penalties against the subject of the investigation, any settlement agreement entered into by a state agency shall be deemed a public document for the purposes of this chapter. However, the provisions of this subsection shall not apply to any investigation or settlement agreement involving any state tax covered by the Arkansas Tax Procedure Act, § 26-18-101 et seq.

**History.** Acts 1967, No. 93, § 4; 1977, No. 652, § 2; A.S.A. 1947, § 12-2804; Acts 1987, No. 49, § 1; 1989 (3rd Ex. Sess.), No. 8, § 1; 1993, No. 895, § 1; 1997, No. 540, § 52; 1997, No. 873, § 1; 1997, No. 1335, § 1; 1999, No. 1093, § 1; 2001, No. 1259, § 1; 2001, No. 1336, § 1; 2001, No. 1653, § 2; 2003, No. 213, § 1; 2003, No. 275, § 2; 2003, No. 763, § 2; 2003, No. 1214, § 1; 2005, No. 259, § 2; 2005, No. 2003, § 1.

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**From:** Sherri Darby  
**Sent:** Thursday, March 22, 2007 2:37 PM  
**To:** 'tppt@swbell.net'  
**Cc:** 'jrnewland@newlandassociatespllc.com'  
**Subject:** FW: deleted sms text message retrieval policy

FYI

Email from the Cingular Privacy Department regarding the retrieval of stored text messages.

Sherri

-----Original Message-----

**From:** PRIVACY [mailto:privacy@cingular.com]  
**Sent:** Thursday, March 22, 2007 2:29 PM  
**To:** Sherri Darby  
**Subject:** RE: deleted sms text message retrieval policy

Dear Ms. Darby,

Cingular does not typically store the content of a text message or an email once delivered for more than a week as determined by our record retention policies and technical constraints. In many cases the retention period is much shorter than a week. We also do not typically release any content information without proper legal process which requires a court order. Court order requests should be submitted to the following address for processing.

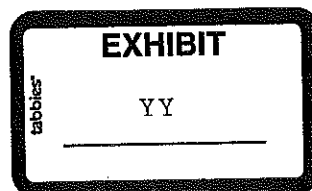
Cingular Wireless  
National Compliance Center  
P.O. Box 24679  
West Palm Beach, FL 33416-4679  
Fax number: 888-938-4715

Thank you.  
The Privacy Team  
Cingular Wireless, now the new AT&T

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**From:** Sherri Darby [mailto:sherri.darby@dfa.state.ar.us]  
**Sent:** Thursday, March 22, 2007 1:55 PM  
**To:** PRIVACY  
**Subject:** deleted sms text message retrieval policy

What is your policy with regard to the retrieval of transcripts of deleted sms text messages stored in your server? How long do you store the records? Can the cell phone customer request copies of the transcripts for personal use? Can the transcripts be requested by a third party without a court order or subpoena? If the transcripts can only be requested by a third party by court order or subpoena, are you required to notify the cell phone account holder of the request?



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**From:** Sherri Darby  
**Sent:** Thursday, January 25, 2007 10:33 AM  
**To:** 'Sherry Hamilton'  
**Subject:** RE:

That looks about right to me. I don't think Heath has anything to worry about this season. Frank will probably just let things roll. He has probably aged 10 years in two months. He has been so irate over the Springdale parents and the protestors. None of this is Houston's fault. Those Springdale people are cultish and evil.

-----Original Message-----

**From:** Sherry Hamilton [mailto:Sherry.Hamilton@nuvell.com]  
**Sent:** Thursday, January 25, 2007 10:33 AM  
**To:** Sherri Darby  
**Subject:** RE:

Yeah you never no if Jekel or Hyde or Skitso or Frinic is going to show up!! (can't spell those words)

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**From:** Sherri Darby [mailto:sherri.darby@dfa.state.ar.us]  
**Sent:** Thursday, January 25, 2007 10:29 AM  
**To:** Sherry Hamilton  
**Subject:** RE:

Me too! Hopefully things will calm down. It would help if the basketball team could get it together. They are so sporadic.

-----Original Message-----

**From:** Sherry Hamilton [mailto:Sherry.Hamilton@nuvell.com]  
**Sent:** Thursday, January 25, 2007 10:31 AM  
**To:** Sherri Darby  
**Subject:** RE:

I agree-great point you make!! These people just need to shut up and go away-I am sick to death of all of this!!!!!!!

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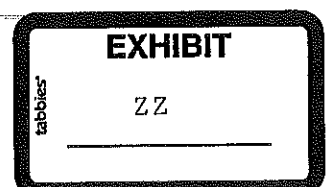
**From:** Sherri Darby [mailto:sherri.darby@dfa.state.ar.us]  
**Sent:** Thursday, January 25, 2007 10:26 AM  
**To:** Sherry Hamilton  
**Subject:** RE:

How is that any different from what Teresa did?

-----Original Message-----

**From:** Sherry Hamilton [mailto:Sherry.Hamilton@nuvell.com]  
**Sent:** Thursday, January 25, 2007 10:12 AM  
**To:** Sherri Darby  
**Subject:** RE:

That cracks me up!!! Yeah it was huge wasn't it?? You are so right-what a joke!!!



**From:** Sherri Darby [mailto:sherri.darby@dfa.state.ar.us]  
**Sent:** Thursday, January 25, 2007 10:06 AM  
**To:** Sherry Hamilton  
**Subject:**

I hope the 50 people that showed up for the protest yesterday are proud. What a joke!

Diana was parked nearby so she could watch the protest. She was calling to give us updates.

She said a guy was holding a sign that said Teresa, email me. We were cracking up!

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**From:** Sherri Darby  
**Sent:** Monday, November 27, 2006 9:56 AM  
**To:** 'Sherry Hamilton'  
**Subject:** RE:

Exactly!! We are playing for the friggin' SEC Championship with a legitimate chance to WIN!!!!!!!!!!!!!!!!!!!!!!  
 McFadden probably sealed the Doak Walker award and he will be a finalist for the Heisman in NY partaking in major interviews and sitting on stage with the BEST in the country. These are exciting times for Razorback football. I love Houston, but a huge part of me will be pissed if he leaves now after getting us this far. If he was going to leave, I wish he would have gone to Nebraska. We would be over it by now. This will hurt!!!!!!!!!!

-----Original Message-----

**From:** Sherry Hamilton [mailto:Sherry.Hamilton@nuvell.com]  
**Sent:** Monday, November 27, 2006 9:52 AM  
**To:** Sherri Darby  
**Subject:** RE:

I will be devastated, but I understand if that happens!!! We just have to hope for the best and prepare to play Florida on Saturday!!!!

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**From:** Sherri Darby [mailto:sherri.darby@dfa.state.ar.us]  
**Sent:** Monday, November 27, 2006 9:43 AM  
**To:** Sherry Hamilton  
**Subject:** RE:

Teresa just said if the job is offered, he is taking it. He will not interview. It will have to be offered. He wants the job from a recruiting standpoint. It recruits itself. I still think they will go after Spurrier first.

-----Original Message-----

**From:** Sherry Hamilton [mailto:Sherry.Hamilton@nuvell.com]  
**Sent:** Monday, November 27, 2006 9:41 AM  
**To:** Sherri Darby  
**Subject:** RE:

DITO!!! AMEN, sista-my thoughts exactly!!!

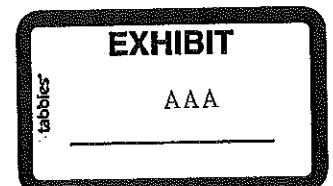
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**From:** Sherri Darby [mailto:sherri.darby@dfa.state.ar.us]  
**Sent:** Monday, November 27, 2006 9:37 AM  
**To:** Sherry Hamilton  
**Subject:** RE:

I think that is one job that might interest him, but I really think they will go after Spurrier hard. Houston has too much happening here. Why would he go to another SEC school and have to come back here to play? I just don't see it. I wouldn't blame him for leaving because people are being so negative today and our team is playing for the SEC Championship Saturday. I DON'T GET IT!!! I didn't think we could beat LSU and we almost did. I really think we can beat Florida with consistent QB play.

-----Original Message-----

**From:** Sherry Hamilton [mailto:Sherry.Hamilton@nuvell.com]  
**Sent:** Monday, November 27, 2006 9:35 AM



**To:** Sherri Darby  
**Subject:** RE:

Oh my gosh-I've been worried about that! The rumor mill had started this a.m. on the morning show about H going to Bama.

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**From:** Sherri Darby [mailto:sherri.darby@dfa.state.ar.us]  
**Sent:** Monday, November 27, 2006 9:32 AM  
**To:** Sherry Hamilton  
**Subject:**

Shula got the axe at Alabama. Houston's name is being mentioned as a possible replacement. I think they will go after Spurrier.

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**From:** Sherri Darby  
**Sent:** Monday, December 04, 2006 1:45 PM  
**To:** 'Sherry Hamilton'  
**Subject:** RE: Good mornin'!

Houston is frustrated here because depth is a huge problem. They can't recruit enough of what they need. One injury at a position is devastating. NC St. and Miami are very interested, but NC St. is a lateral move and I don't think he wants to live in Miami. I think Alabama is the only job he would seriously consider. Nobody else seems to want the Alabama job. I don't know what will happen with that.

PH has a serious injury, but he also, according to Danny, "needs to learn to be a better team player" so something else is going on.

We are going to Orlando. New Orleans would have been much cheaper, but we are biting the bullet to go in case it is Houston's last game.

Just let me know when you want to come get the shirt.

-----Original Message-----

**From:** Sherry Hamilton [mailto:Sherry.Hamilton@nuvell.com]  
**Sent:** Monday, December 04, 2006 8:59 AM  
**To:** Sherri Darby  
**Subject:** Good mornin'!

Hey Girl,

Welcome Home!!! Man, once again that was a tough one to take!!! So close-everything going our way-then slapped up side the head with a muffed punt!!! Oh well, guess you'll be spending New Year's in Orlando!! Sounds like fun. I'm worried about H. He's looking really tired and in his last few interviews-I'm not sensing his normal enthusiasm. I hope he's still not going to consider residence somewhere else, if you know what I mean!!! What's up with PH? Not even at the game to support his team from the sideline. In my opinion, that's ridiculous!!! Oh well, I could ramble on forever. Hope you have a great day and I'll get hooked up with you to pay you for my T-shirt. Thanks for getting one for me!!  
LOL,

Sherry R. Hamilton  
Staff Accountant  
Nuvell Financial Services Corporation  
Phone: (501) 821-5252 Ext. 11001  
Fax: (501) 821-5225  
E-mail: Sherry.Hamilton@nuvell.com

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**From:** Sherri Darby

**Sent:** Friday, June 08, 2007 9:57 AM

**To:** 'Hdnx6@aol.com'

Dana Caldwell is going to be in Fayetteville on Wednesday, June 20 and has planned a happy hour gathering at Hutch's in Colt Square at 4:00 that day. He has announced it on his Razorback Talk website. He keeps talking about filming some documentary on the football program. Do you know anybody that could go there to try to discreetly listen in on the conversation and take pictures with their cell phone?