

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**BARBARA ORBAN,**

**Plaintiff,**

**v.**

**CASE NO.: 8:04-CV-1904-T-23MA**

**CITY OF TAMPA, FLORIDA,**

**Defendant.**

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**AFFIDAVIT OF PETER POMPONIO**

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

BEFORE ME, the undersigned authority personally appeared PETER POMPONIO, who, by me being first duly sworn, deposes and says:

1. This affidavit is being made pursuant to Rule 56(f) of the Federal Rules of Civil Procedure.

2. I retired as a sergeant for the Tampa Police Department in September 2004. I had been employed by the Tampa police since 1979. I was promoted to sergeant in 1985.

3. As part of my supervisory responsibility I am aware that Tampa police officers write citations at traffic crashes. Officers are trained to investigate crashes and make conclusions about fault and violations of traffic laws based on vehicle damage, debris, and interviewing witnesses, passengers and drivers.

4. The training at the Tampa Police Department's Field Training and Evaluation Program (FTEP) in recent years instructed new recruits that they must write a



traffic citation every time an officer investigates a crash. FTEP taught recruits that discretion does not exist in whether or not to write a traffic citation as traffic citations are always required as part of crash investigations. I am aware of this teaching since I have had approximately five or six new recruits under my supervision in recent years and all have explained this FTEP training to me. In addition, Tampa police policy requires that if the officer believes a citation should not be written in a crash investigation, the officer must obtain approval from their supervisor to not write a citation. Frequently, officers investigate crashes and do not perceive a traffic law violation or do not know who violated a traffic law (for example, an unwitnessed crash in which both drivers claim to have the right of way). If a supervisor requires a citation, consistent with the FTEP training, then the officer is forced to write a citation and record the violation as the contributing cause on the crash report despite the officer's inability to conclude a traffic law violation occurred or know who violated a traffic law.

6. Citation and crash report documentation are presumed to be objective and reasonably accurate by parties who use this information. It would not be possible to differentiate a citation and crash report that an officer wrote based on objective conclusions from a personal crash investigation from a citation and crash report ordered by a supervisor.

7. In 2003, I had two new recruits begin under my supervision. Both initially asked for my verbal concurrence that they will write traffic citations at every crash investigation, consistent with their FTEP training. I asked them what they would tell a judge when subpoenaed to a traffic hearing over a citation for which reasonable evidence did not exist to conclude a traffic law violation occurred. Both recruits responded that

this would not be a problem because they would not testify in front of a judge. Instead of appearing in person, they explained they would send the crash report and therefore would not be required to testify before a judge about the citation. Both claimed their FTEP training instructed them that personal testimony would not be required regarding such citations.

8. Officers receive subpoenas to attend traffic hearings for citations written as part of crash investigations. When an officer receives a subpoena for a citation regarding a crash the officer did not witness, the officer completes a form that the crash was not witnessed. The form is signed by both the officer and the officer's supervisor. The form is then forwarded with the subpoena and crash report to the traffic hearing. The crash report serves as the officer's testimony at the hearing. The officer does not attend the hearing.

9. In such traffic hearings, a judge uses the citation and crash report documentation, along with testimony from drivers, passengers and/or witnesses, to determine the merits of the citation and/or whether reasonable doubt exists regarding the issuance of the citation.

10. I re-trained all five or six recruits who were assigned to me in recent years since a citation cannot be written unless the officer has reasonable and objective information that a traffic law violation occurred. In the absence of such, a citation cannot be written. As a supervisor, I approved all requests by my officers to not write a citation. The patrol officer personally conducts a crash investigation and has facts on whether a traffic law was or was not violated. As a supervisor, I am not present at crash investigations and would not have a reasonable basis to provide a contrary opinion to the

investigating officer. I fully intended for crash investigations written by my squad to be accurate and complete.

11. During the summer of 2004, I was advised that each officer should write 80 hazardous moving violation citations, unrelated to crash investigations, in order to achieve a "meets expectation" in traffic law enforcement on their annual evaluation. The previous standard had been approximately 52 such citations. Although I was required to comply with this standard, I believe more effective traffic law enforcement is to place highly visible officers at high crash locations, which results in more conservative driving. Further, affiant sayeth naught.

Peter Pomponio  
PETER POMPONIO

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

BEFORE ME, the undersigned authority, personally appeared PETER POMPONIO, who is personally known to me or who produced FL DL P515-660-50-335-0 as identification, and who did take an oath, and who being by me first duly sworn, deposes and says that he is the person who executed the foregoing document and that the matters alleged therein are true and correct to the best of his knowledge.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of said County and State, this 31<sup>st</sup> day of October, 2005.

Angela S. Merkle  
NOTARY PUBLIC

My Commission expires on:

