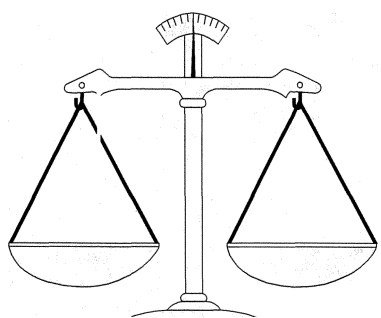
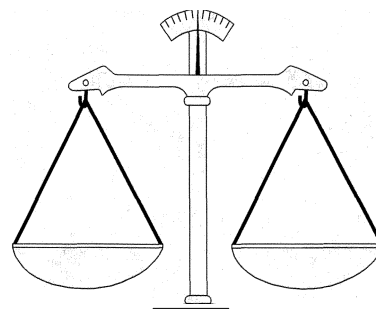


CASE MATERIALS

Official 2015 Mock Trial Materials
for the
THIRTY-FIFTH ANNUAL
UTAH LAW RELATED EDUCATION
MOCK TRIAL PROGRAM



Parker Smith



v.

*Pioneer Computers, Inc. &
Pine Crest Tech Services, Inc.*

Case No. 14cv5555

Rewritten and Adapted to Utah Law
by Kristina Kindl

**IN THE MOCK TRIAL COURT
BONNEVILLE COUNTY, STATE OF UTAH**

PARK.ER SMITH

Plaintiff,

v .

PIONEER COMPUTERS, INC.
& PINE CREST TECH SERVICES, INC.,

Defendants.

COMPLAINT

Case No. 14cv5555

Plaintiff Parker Smith, by and through his/her attorney of record, alleges as follows:

- I. Plaintiff is currently a high school student attending Riverdale High School and is a resident of Bonneville County of the State of Utah. Riverdale High School is part of the Bonneville Unified School District.
2. Defendants, Pioneer Computers, Inc. ("Pioneer") and Pine Crest Tech Services, Inc. ("Pine Crest"), are legal corporations authorized to conduct business within the State of Utah and with their principal place of business in Bonneville County, Utah.
3. During the fall of 2013, Defendants implemented a computer laptop program, for and on behalf of Riverdale High School, and issued a laptop computer with web camera ("webcam") to Plaintiff.
4. Unbeknownst to Plaintiff, and without her/his permission or consent, Defendants, through their indiscriminate use of and ability to remotely activate the webcams, used the computer webcams and other means, including but not limited to password and account access to spy on the personal activities of Plaintiff at her/his home, thereby invading and defeating Plaintiff's reasonable rights of privacy.
5. Defendants never disclosed to Plaintiff that Pioneer and Pine Crest had the ability to remotely activate the webcams and capture images from any location, including Plaintiff's personal residence.
6. Unbeknownst to Plaintiff, and without her/his permission or consent, Defendants, through their indiscriminate use of and ability to remotely access and track Plaintiff's

communications, did unlawfully intercept Plaintiff's communications to others, some of which were related to private and intimate matters.

7. As a direct result of the spying and interception of communications, Plaintiff suffered injuries and damages as set forth below.

COUNT ONE
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

8. The Plaintiff realleges paragraphs 1 through 7 of this complaint as if fully restated herein.
9. Pursuant to Utah law, Plaintiff had a reasonable expectation of privacy with respect to the use of the webcams embedded in the laptop computer issued by Pioneer (which was acting like a state entity by supplying laptops to a school) and to each of her/his accounts and their contents.
10. In particular, Plaintiff was never informed that the webcam and other technologies incorporated into the students' personal laptop computers could be remotely activated by Pioneer or Pine Crest and/or its agents, servants, workers, employees, or subcontractors indiscriminately at the whim of Pioneer and Pine Crest, and that such activation would naturally capture images of anything in front of the webcam at the time of its activation and give access to Plaintiff's communications with others.
11. Inasmuch as the personal laptop computers were used by students of the high school, it is believed, and therefore alleged, that Pioneer and Pine Crest have captured private images of Plaintiff without her/his permission and authorization and intercepted his/her communications with others, all of which is embarrassing, humiliating, and denigrating.
12. As the laptops at issue were routinely used by students and family members while in their homes, it is believed that many of the images captured and intercepted may consist of images of minors and their parents or friends in compromising or embarrassing positions, including but not limited to in various stages of dress or undress or engaged in other non-public activities.
13. Through extreme and outrageous conduct as alleged in this complaint, Pioneer and Pine Crest intentionally or recklessly caused Plaintiff severe emotional distress.

COUNT TWO
(INTERCEPTION OF COMMUNICATIONS)

14. The Plaintiff realleges paragraphs 1 through 13 of this complaint as if fully restated herein.
15. By monitoring and invading Plaintiff's computer, Defendants unlawfully and willfully intercepted the Plaintiff's communications, in violation of Utah Code Ann. §77-23a-4(1)(b).
16. Utah Code Ann. §77-23a-4(1)(b) provides that "[a] person commits a violation of this subsection who:
 - (a) intentionally or knowingly intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, electronic, or oral communication; [or]
 - (b) intentionally or knowingly discloses or endeavors to disclose to any other person the contents of any wire, electronic, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic, or oral communication in violation of this section.
17. Utah Code Ann. §77-23a-4(10) provides that a violation of section 4, subsection 1 is a third degree felony.
18. Furthermore, Utah Code Ann. §77-23a-11 provides:
 - (1) Except under Subsections 77-23a-4(3), (4), and (5), a person whose wire, electronic, or oral communication is intercepted, disclosed or intentionally used in violation of this chapter may in a civil action recover relief from the person, or entity that engaged in the violation.
 - (2) In an action under this section appropriate relief includes:
 - (a) preliminary and other equitable or declaratory relief as may be appropriate;
 - (b) damages under Subsection (3) and punitive damages in appropriate cases; and
 - (c) a reasonable attorney's fee and reasonably incurred litigation costs.

WHEREFORE, the Plaintiff, Parker Smith, prays for judgment against Defendants for relief in the form of:

1. Actual and punitive damages as the Court deems appropriate;
2. All damages allowed by statute;
3. A permanent injunction against Defendants prohibiting them from utilizing, accessing, or disseminating the data wrongfully acquired;

4. The destruction of **all** unlawfully acquired data;
5. The costs of bringing this action; and
6. Such further relief as the Court deems appropriate.

/s/ Ethan Christensen

Christensen & Barney

ATTORNEY FOR THE PLAINTIFF

**IN THE MOCK TRIAL COURT
BONNEVILLE COUNTY, STATE OF UTAH**

PARKER SMITH

Plaintiff,

v.

PIONEER COMPUTERS, INC.
& PINE CREST TECH SERVICES, INC.,

Defendants.

ANSWER

Case No. 14cv5555

Defendants, by and through their attorney of record, answer Plaintiff's Complaint as set out below.

1. Defendants admit paragraph 1 of the Complaint.
2. Defendants admit paragraph 2 of the Complaint.
3. Defendants admit paragraph 3 of the Complaint.
4. Defendants deny paragraph 4 of the Complaint.
5. Defendants deny paragraph 5 of the Complaint.
6. Defendants deny paragraph 6 of the Complaint.
7. Defendants deny paragraph 7 of the Complaint.

**COUNT ONE
(INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS)**

8. Defendants reassert their answers to paragraphs 1 through 7 as if each were fully set forth herein.
9. Defendants deny paragraph 9 of the Complaint.
10. Defendants deny paragraph 10 of the Complaint.
11. Defendants deny paragraph 11 of the Complaint.

12. Defendants deny paragraph 12 of the Complaint.

13. Defendants deny paragraph 13 of the Complaint.

COUNT TWO
(INTERCEPTION OF COMMUNICATIONS)

14. Defendants reassert their answers to paragraphs 1 through 13 as if each were fully set forth herein.

15. Defendants deny paragraph 15 of the Complaint.

16. Defendants state paragraph 16 of the Complaint is a section of the Utah Code. Said section requires no response and speaks for itself.

17. Defendants state paragraph 17 of the Complaint is a section of the Utah Code. Said section requires no response and speaks for itself.

18. Defendants state paragraph 18 of the Complaint is a section of the Utah Code. Said section requires no response and speaks for itself.

WHEREFORE, having fully answered Plaintiff's Complaint, these Defendants pray that the Complaint be dismissed with costs awarded to Defendants and for such other and further relief as the Court may deem just and proper.

AFFIRMATIVE DEFENSES

1. Defendants assert that any injuries or damages as may have been sustained by the Plaintiff, while denying the same, were due solely to, caused wholly by, and were a direct and proximate result of a third party not under these Defendants' control and not under the third party's scope of employment. Therefore, Plaintiff is barred from recovery against these Defendants.

2. Defendants assert that any invasion that may have been sustained by the Plaintiff, while denying the same, was consented to by Plaintiff. Therefore, Plaintiff is barred from recovery against these Defendants.

3. Defendants assert that any invasion that may have been sustained by the Plaintiff, while denying the same, was as the result of Plaintiff's own actions. Therefore, Plaintiff is barred from recovery against these Defendants.

/s/ Rebecca Jensen
Jensen, Alleman, and Associates

ATTORNEY FOR THE DEFENDANT

COPY TO:

Ethan Christensen
Christensen & Barney

ATTORNEY FOR THE PLAINTIFF

FACT SUMMARY

In 2013, Riverdale High School and Pioneer Computers, Inc. instituted the One2One laptop program to provide the students of Riverdale High School with a laptop computer for their use during the school year. Any assigned laptop was not to be taken home unless the student or parent paid the insurance deposit of \$60. If an insurance deposit was not paid, the student's laptop was not to leave the school campus, i.e. the student would check the laptop out each morning, but then check it back in at the end of the school day. Unbeknownst to the students, each laptop was equipped with the TheftTrack system which allowed Pine Crest Tech Services, Inc. to remotely take still photographs using the laptop's webcam and remotely access any communications sent on the computer. The stated purpose being that if the laptop were lost or stolen, photographs from the webcam might help authorities locate the laptop.

In September 2013, Parker Smith signed a Computer Lease Agreement and obtained a laptop, but s/he did not pay the insurance deposit. Several Riverdale students complained to their teachers that their laptops' green webcam light would flicker, but the answer they received indicated that it was a malfunction. One teacher suggested taping over the webcam, or exchanging the laptop for another one.

In March of 2014, Parker told Reese Johnson, Parker's teacher, that his/her laptop was missing, knowing that really his/her friend was using it. Nonetheless, Parker signed a "Notification of Lost Computer" that authorized the school and its contracted partners to activate TheftTrack to locate the missing laptop. Based on this notification, Riverdale alerted Pine Crest Tech Services, Inc. to turn on its TheftTrack system in an attempt to locate the laptop. (Pioneer Computers used Pine Crest to provide IT support, including running the TheftTrack system.)

Parker and his/her friends had been, somewhat jokingly, wondering if someone was spying on them because of the flickering green webcam light. In order to test their theory, they put up funny props in front of the webcam. In an attempt to "up the ante" to find out once and for all if they were being spied on, they pretended to be planning to bomb the school.

Pine Crest had asked some of its employees and other individuals to volunteer their time in order to review all the images that were being produced by this TheftTrack system. In order to get more people interested in doing this, some Pine Crest employees began holding parties to view the images they received from laptops and having contests for the best images found. They particularly enjoyed the earlier photos that Parker and his/her friends had arranged. However, once a Pine Crest employee saw the bomb-making images and the related IM conversation, s/he reported his/her findings to the Bonneville Principal.

The next morning, the Principal stopped Parker in the hallway and hauled him/her down the hall into the Principal's office. Based on the Principal's statements, Parker realized that someone really had been spying on the students, and s/he decided to file a lawsuit.

Parker has now brought a claim for intentional infliction of emotional distress arguing that Pioneer and Pine Crest intentionally captured and intercepted photographs of Parker, and

communications sent by Parker, without his/her permission or authorization, resulting in Parker's embarrassment, humiliation, denigration, and severe emotional distress. Pioneer and Pine Crest deny Parker's allegations, asserting that any invasion, if it occurred, was a result of Parker's own actions, or was consented to by Parker. Moreover, defendants argue that the Pine Crest employees who engaged in this behavior were acting outside the scope of their employment and were not under Pine Crest's control at the time they engaged in this behavior.

STIPULATIONS

1. There is no issue of jurisdiction, venue, service of process, property of parties, or ownership or control of the premises.
2. The exhibits are true and accurate copies, and their authenticity may not be challenged. Unless stated otherwise herein, the admissibility of exhibits on other grounds may be challenged.
3. All signatures on letters, witness statements, and other documents are authentic. If asked, a witness must acknowledge signing the document(s) and must attest to the contents of the document(s) and the date(s) indicated thereon. The documents are deemed to be given under oath or affirmation.
4. No objections to the sufficiency of the pleadings will be entertained.
5. The trial is bifurcated. The court will not address the amount of damages or legal issues related solely to damages in this phase of the trial.
6. Whenever a rule of evidence requires that reasonable notice be given, it has been given.
7. Plaintiff was issued a Pioneer Computer, Inc. laptop.
8. Plaintiff did not pay the insurance deposit of \$60.
9. A separate lawsuit against the Bonneville Unified School District has been settled out of court for equitable relief.
10. At a prior hearing on Defendant's motion to dismiss, the court ruled that Utah recognizes a right to privacy that is applicable to this case. In this phase of the trial, the parties shall not challenge the court's ruling; however, that issue may be raised on appeal.
11. Parker Smith celebrated her/his birthday in September 2013 prior to the signing of the Computer Lease Agreement that same month.

WITNESSES

The following witnesses are available and must be called by the parties:

For the Plaintiff -

Parker Smith, Plaintiff
Kelly Sanchez
Reese Johnson

For the Defendants -

Jordan Young, Ed. D.
Sam Kaufusi
Morgan Bishop

All witnesses may be female or male.

EXHIBITS AVAILABLE TO BOTH PARTIES

The parties have stipulated to the authenticity of the trial exhibits listed below. The court will, therefore, not entertain objections to the authenticity of these trial exhibits. The parties have reserved any other objections to the admissibility of any of these exhibits until the trial of the above-captioned matter. The trial exhibits may be introduced by either Plaintiff or Defendant, subject to the Rules of Evidence and stipulations of the parties contained in the materials. The exhibits are pre-marked and are to be referred to by number, as follows:

<u>Exhibit No.</u>	<u>Exhibit Description</u>
1	Riverdale High School One20ne Program Information
2	Computer Lease Agreement
3	Pioneer Promotional Brochure
4	Inter-Office E-mail
5	Screen Shot of IM Conversation
6	Webcam Photo
7	Notification of Lost Computer Form
8	E-mail Thread Re: TheftTrack
9	E-mail Thread Re: Webcam/TheftTrack

APPLICABLE LAW

BURDEN OF PROOF

The burden of proof in this case is on plaintiff to prove all the elements of the cause of action by a preponderance of the evidence. In simple terms, a preponderance of the evidence is just enough evidence to make it more likely than not that the fact plaintiff seeks to provide is true. This means that the evidence that favors plaintiff's claim(s) outweighs the opposing evidence, i.e. that more than 50% of the evidence supports plaintiff's claim(s).

CLAIMS AND ELEMENTS

I. Liability of Employer

A corporate party is only responsible for the actions of its employee if the employee was acting within the scope of his or her employment. Plaintiff claims that defendants are responsible for the actions of their employees. To establish this claim, plaintiff must prove that:

1. The act was the kind the employee was employed to perform;
2. The act occurred substantially within the authorized time and space limit of the employment; and
3. The act was motivated at least in part by a purpose to serve the employer;

II. Intentional Infliction of Emotional Distress

Plaintiff's first claim is that defendants intentionally or recklessly caused him/her emotional distress. On this claim, in order to prevail, plaintiff must prove that:

1. Defendants' conduct was extreme and outrageous in that it offended generally accepted standards of decency and morality; and
2. Defendants intended to cause, or acted in reckless disregard of the likelihood of causing, emotional distress; and
3. Plaintiff suffered severe emotional distress; and
4. Defendants' conduct was a proximate cause of plaintiff's emotional distress.

Conduct is "intentional" if a person's actions are intended to, or cause emotional distress to an individual.

Conduct is "reckless" if a person is aware of and disregards the near certainty that his or her conduct would result in emotional distress.

Severe emotional distress is quantified by the intensity, duration, and any physical manifestations of the distress. For emotional distress to be "severe," it must be of such a substantial quantity or enduring quality that no reasonable person in a civilized society should be expected to endure it.

"Extreme and outrageous" conduct must be heinous and beyond the standards of civilized decency or utterly intolerable in a civilized society. Whether the conduct is illegal does not determine whether it meets this standard. The classic description of the standard is that the conduct must be such that it would cause a reasonable person to exclaim "Outrageous!" in response. Some general factors that will persuade the court that the conduct was extreme and outrageous are (1) there was a pattern of conduct, not just an isolated incident; (2) the plaintiff was vulnerable, and the defendant knew it; or (3) the defendant was in a position of power. Liability does not extend to mere insults, indignities, threats, annoyances, or petty oppressions.

Proximate cause is a cause which, in a natural and continuous sequence, produces a person's injury, and is a cause which a reasonable and prudent person could have foreseen would probably produce such injury or some similar injury. There may be more than one proximate cause of an injury, so long as each injury is an essential contributing factor in causing the injury.

III. Unlawful Interception of Communications

Plaintiff's second claim is that defendants unlawfully intercepted his/her communications. On this claim, in order to prevail, plaintiff must prove that:

1. Defendants either (i) intentionally or knowingly intercepted a wire or electronic communication of plaintiff s, or (ii) procured another person to intercept a wire or endeavored to intercept any wire or electronic communication of plaintiff s; and
2. Defendants were not a party to the intercepted communication; and
3. Neither a sender or receiver of the intercepted communication consented to such interception.

"Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature that is transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system, but that does not include any of the following:

- (a) Any wire or oral communication;
- (b) Any communication made through a tone-only paging device; or
- (c) Any other communication from an electronic or mechanical device.

"Wire communication" means any transfer containing the human voice that is made in whole or in part through the use of facilities for the transmission of communications by the aid of any wire, cable, or other like connection between the point of origin and the point of reception, including the use of a connection in a switching station, and that is furnished or operated by any person who is engaged in providing or operating the facilities for the transmission of communications.

"Oral communication" means a spoken communication that is uttered by a person who exhibits an expectation that the communication is not subject to interception under circumstances justifying the expectation, but does not include any electronic communication.

"Intercept" means the acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.

CASELAW

Ali v. Douglas Cable Communs, 929 F. Supp. 1362, 1376 (D. Kan. 1996)

In this case, a discharged employee sued his employer for unlawfully intercepting wire communications and for intentional infliction of emotional distress. The court, in examining whether the employee had consented to the interception, explained that consent to intercept a wire communication may be inferred from the totality of the circumstances. The circumstances giving rise to implied consent are case specific, but they "ordinarily include language or acts which tend to prove (or disprove) that a party knows of, assents to, encroachments on the routine expectations that conversations are private." The court, however, made it clear that consent is not necessarily "an all or nothing proposition," and limited by the understandings and facts of the parties. The court followed the majority rule that a personal call may not be intercepted (and its contents monitored) in the ordinary course of business unless the call is only intercepted in order to determine whether it is a business or personal call. Once the call is determined to be personal, all monitoring must be ended. In this case, because the calls were intercepted as part of an ordinary business decision and the monitoring ceased as soon as the call was determined to be of a personal nature, the court found no violation of plaintiffs' right to privacy, or unlawful interception of a wire communication. Moreover, the court found that the actions in this case were part of ordinary business decisions as opposed to "what a civilized society would call atrocious, indecent and utterly intolerable" behavior, and, therefore, intentional infliction of emotional distress was not a successful claim.

James v. Newspaper Agency Corp., 591F.2d 579 (10th Cir. 1979)

An employer installed telephone monitoring devices that resulted in employees' telephone conversations being recorded. An employee sued for unlawful interception of wire communication. The court found that the employees had implicitly consented to the interception because: (1) all affected employees were advised in advance, in writing, of the proposed installation, and there was no protest; (2) the installation was not done surreptitiously; and (3) there was a legitimate reason for the installation (a concern by management over the abusive language used by irate customers when called upon to pay their bills).

White v. Blackburn, 787 P.2d 1315 (Utah App. 1990)

In this case, plaintiff sued the defendant for intentional infliction of emotional distress based on the fact that severe emotional distress resulted from the defendant's intentional actions. However, the defendant had no intent to cause harm nor any substantial certainty that harm would result from his actions. The example the court gave was of a case where an individual was injured by a tootsie pop that a boy had intentionally thrown away out a second floor window

of an adjacent school. Although the boy committed an intentional act (throwing away the lollipop), he had no intent to harm. Similarly, in this case, because the defendant committed an intentional act without the intent to harm, his actions were only reckless, and, therefore, he was not liable for intentional infliction of emotional distress.

***Cabaness v. Thomas*, 232 P.3d 486 (Utah 2010)**

Plaintiff brought a claim for intentional infliction of emotional distress against the employer who failed to stop plaintiff's coworkers from inflicting emotional anguish on plaintiff in the workplace. The court held that plaintiff had no cause of action against the employer because, in Utah, a valid intentional infliction of emotional distress claim does not extend to situations where an individual fails to prevent another from engaging in conduct that inflicts emotional distress on a third person, even if the individual appears to have some duty or obligation to prevent the outrageous conduct (such as the employer/employee relationship). The court recognized that other jurisdictions have extended the reach of intentional infliction of emotional distress to include such situations, but held that the plaintiff had "simply failed to persuade us that we should expand the rule at this time."

***Jensen v. Sawyers*, 130 P.3d 325 (Utah 2005)**

The court explained that Utah's invasion of privacy jurisprudence comprises four distinct kinds of invasion of four different interests of an individual. In Utah, the four privacy-based torts are: (1) intrusion upon the plaintiff's seclusion or solitude, or into his private affairs; (2) public disclosure of embarrassing private facts about the plaintiff; (3) publicity which places the plaintiff in a false light in the public eye; and (4) appropriation for the defendant's advantage, of the plaintiff's name or likeness. The court went on to explain that each of these privacy-based torts owes its existence to the fundamental value society places on the right to be left alone.

IN THE MOCK TRIAL COURT
BONNEVILLE COUNTY, STATE OF UTAH

PARKER SMITH

Plaintiff,

v.

PIONEER COMPUTERS, INC.
& PINE CREST TECH SERVICES, INC.,

Defendants.

AFFIDAVIT OF
PARKER SMITH

Case No. 14cv5555

PARKER SMITH, having been duly sworn, hereby states the following:

1. My name is Parker Smith. I am a recent graduate of Riverdale High School in Tornahdo, Utah. I currently attend Bonneville College taking classes in graphics design and video game development. I rent a room at 700 East Temple Street in Tornahdo, Utah.
2. At the time of the incident that caused this lawsuit, I was a high school senior at Riverdale. I had turned 18 in September and was looking forward to skating through the final few months of my high school career before starting something fresh and new. When I look back on what the school and the computer company did to me, I feel completely violated. I still find myself constantly looking over my shoulder as if someone is watching me all the time. I think they call that paranoia. But am I paranoid if someone actually is spying on me? I am a very private person and really don't want the whole world to know my stuff. I'm not sure that I can ever fully recover from the trauma of being spied on--especially since I can never know what anyone saw or how many people saw me! I have flashes sometimes when I see people staring or laughing--even among a group of their friends--and think they must have seen me on the web, doing who knows what! Once that stuff is out there, who knows where it's sent. You can't track it.
3. So let me tell you how it all went down. It was my senior year at Riverdale. I don't have a large group of friends, but a few close buds who hang out. P'nut Z, Anderson Mundy, Lil E, and me are tight. We were all just counting our days before we could get out of school and start new adventures.
4. Early in the school year, the school announced a new computer program where every kid in the school got a new laptop. Heck yeah, I wanted free stuff! And it's not like I had any option. It sounded like all of the teachers were going to be giving assignments

on the computer and expected us to turn them in that way, too. So really, unless I already had a computer at home--which I did not--then I really had to get with the program.

5. So we went to a school assembly where they talked about the program. From what I heard, it sounded cool. The presenters went through a PowerPoint slideshow pretty quickly. I have to admit that the whole thing was pretty boring, so we kind of tuned it out and messed around with our phones--taking pics, sending IM's to each other, and updating Facebook with random stuff. After the presentation, they handed out some brochures about the free computers. I did look at it at some point, but really can't remember any details other than I know there was nothing in it about me agreeing to let anyone spy on me! I think I would have remembered that!
6. Anyway, I brought some other papers home a little while later and some forms to sign. They told us to give them to our parents to sign, but because I had just turned 18, they didn't need to sign anything for me. I took care of it all. Mostly, I looked for the places where it said "Sign here" and did. It's not like I had a lot of choices, right? I mean if I didn't sign, I wouldn't get the computer and if I didn't get the computer, I really couldn't do any school work. So how complicated could it be--sign the form, get the computer. I assume they didn't want me to trash it or anything, but other than that, I was pretty sure it was mine for the year. So I signed on the dotted and gave back the form.
7. So the laptops were given out by one of my teachers, Reese Johnson. S/he asked something about an insurance payment. I've been to the BuyMore and know never to sign up for any of those extended warranty things. So I said no. Johnson said something about not being able to take the laptop home, but I thought that was bogus. It was mine, right? And I promised to take good care of the thing. So I didn't see any problem with me carting it back and forth from home to school every day. No one really hassled me about it again. I mean, there were a few times that someone mentioned insurance and not taking the laptop home, but I really just blew them off and did my thing.
8. So we get these new laptops, and there is a series of mandatory classes to show us how they work and what we can and can't do on the thing. Did they think we were idiots? We've all used computers before; heck, we all have cell phones that do more complicated stuff than most basic laptops! Anyway, I'm sure they went over the rules and stuff--you know the basics plus what sites not to go to, what sites were blocked on the laptops, no cyberbullying or sexting, and just stuff like that. I really didn't pay much attention. I think I was probably downloading music files, updating Facebook, or IMing friends.
9. I do remember someone asking about the little button-looking thing at the top of the screen when the laptop was open. Duh! That was the webcam! The teacher explained that all laptops now have a built-in web camera, but that you would know if it was

active when the green light next to it was lit. S/he said something about school policy, blah, blah, blah--that's when I tuned out again.

10. So I got my computer home, set it up on my desk in my bedroom, plugged it in, turned it on, and pretty much just forgot about it. Every morning I got in the habit of stuffing it in my backpack, and every afternoon I'd plug it back in on my desk, leave it on, and forget it. I left it on pretty much all the time because it takes so long for the thing to boot up. I wanted ready access when I needed it.
11. Now my crew and I are not what you would call computer savvy. But even with just a little goofing around, we were able to take out some of the parent and school blocks that they had put in place. We were able to get the webcam working and got all of the other social networking stuff up and running, too. I used it to download some stuff to my cell faster, and I think I bought my mom's birthday present on it from this bizarre site she likes. After a weekend of playing around with the thing, we each had a fully functioning laptop to use. From what I heard in class and in the hallways at school, it sounded like pretty much everyone else had done the same thing with theirs.
12. There were a couple of times, when I was in my room and not using the computer, when I noticed the green webcam light flicker on and off for a few seconds. I didn't think much of it at the time since these computers make all kinds of strange sounds at odd hours. I also figured it could have been one of my friends pinging me to see if I was around to chat.
13. There were a few kids who asked about the green-light thing in class. Johnson said that s/he would investigate, but that it was probably just some sort of faulty installation and that if it kept up, they should either bring the laptops in to be fixed or if they were really screwed up, they could exchange them. Johnson also told us that we could do what s/he had done. Since s/he doesn't ever use a webcam, s/he had simply put a piece of duct tape over the camera.
14. No way! I wanted to be able to use the camera to talk to my friends, so I just let it all slide--flickering light and all. That was until P'Nut mentioned that s/he thought that someone might be spying on her/him through the computer. I told her/him that I thought s/he was nuts (ha, ha--get it? P'Nut, nuts??!). S/he was always investigating some new conspiracy and all, so I chalked this up to that. But s/he insisted that s/he wasn't crazy. S/he said that s/he had started to get dressed in the closet and threw a towel or some dirty clothes over the computer when s/he wasn't using it, just to be safe.
15. That's when we decided to have some fun with it. We decided to stage some stuff for the webcam--and whoever was on the other end--to see. We had this great idea to model a spoof from a website that we love that's all about Peeps--you know those weird marshmallow candies that come in different shapes and colors? Anyway, there was this website out there where people create scenes from movies using Peeps. Crazy, huh?! So we decided to build a few sets of our own and place them in front of our webcams when we weren't using the computers. That way anyone spying would know

that we were on to them--and get a few laughs out of it, too. So we did Lord of the Peeps; Silence of the Peeps; 12 Angry Peeps; Spider Peep; Harry Peeper--all kinds of bizarro stuff. Around Christmas, my favorite was "How the Peep Stole Christmas." It was a blast and an excellent waste of time! It worked a little to help P'Nut chill, but s/he was still a little worried about who might be watching.

16. S/he was so concerned that it was the school spying on her/him using the school computer, that s/he just stopped using her/his laptop altogether--unplugged it and stuffed it under the bed. So I let her/him borrow mine whenever s/he really needed it for an assignment.
17. There was a day in March, just after Spring Break, that s/he needed a laptop for class. I gave her/him mine to use, of course. Wouldn't you know it, the same day, Johnson assigned something for my class to do on the computer, and I didn't have mine. S/he asked me where my laptop was--and I could tell that s/he wasn't too happy about my not having one. So I made up a story, and I made it up quick. I told her/him that I think I might have lost it over Break. Well, Johnson made me fill out a form that s/he said allowed the school to locate it for me. I couldn't very well say that I knew exactly where it was--down the hall in another class at the moment--so I filled out the form. When P'Nut gave me the computer back the next day, I told Johnson that I had found it. I don't remember filling out another "Found" form, just filling out the "Lost" one.
18. Now that I think about it, it does seem that after I reported my laptop as missing, the webcam light seemed to go on and off a lot more frequently. I just didn't notice it, I guess, since by then I was pretty used to it turning on and off randomly anyway. I did mention it to P'Nut--and that really freaked her/him out even more. So s/he and I came up with a plan to test the spying theory once and for all.
19. P'Nut and I decided to up the ante. Not by threatening the school or anything, but by testing our suspicions. School safety is such a big issue all around the country that I got an idea. I gathered as much stuff as I could about making bombs and scattered them in front of the webcam--where the peeps had been--on my desk. I also made sure that when I got home, I googled "homemade explosives" and bookmarked a few **s i t** that I would have a good list on my "history" cache. Finally, s/he and I sent a s back and forth about "the event" and the "big bang"--but we were just goofing around!
20. Wouldn't you know it, P'nut was right all along! I came into school on Monday, April 14, 2014, and before I could even open my locker, Principal Young was all in my face demanding that I go immediately with her/him to the office and to bring all of my stuff. I had no idea what was going on. This was before classes started, so there were quite a few people just hanging around the halls. They saw it all--how I was berated and frog-marched down to the office. Once in the office, Jordan Young demanded that I empty my backpack and take everything out of my trench coat and my pockets. While I was doing as I was told, I asked what was up. Young said that s/he'd seen my Facebook page and a blog about what sites I had visited recently and some books that I found

interesting (including the Anarchists Cookbook from the 1960's). She said she thought I was planning on bombing the school with another student! Then s/he produced a photo of my desk in my bedroom! And a copy of the IM exchange with P'Nut! So they WERE spying on us all the time!!

21. I'm sure I had a few choice comments for the Principal. I tried to explain that it was all a joke--a trap--and that it was a big misunderstanding. I demanded to know how s/he had gotten a photo of my room, at my house, and a copy of my private conversation. Young started backpedalling pretty quickly after that and said something about not calling the cops, not pressing criminal charges, and just letting it be a lesson to me.
22. That just got me even more ticked off! Here s/he was getting all maternal/paternal on me and making sure of the safety of the school and that load of bull and making sure that I got the attention that I needed from professionals! I didn't know what was going on--but I knew that I was getting played here. I was the victim, and yet I was being accused! I asked if I could leave. Young said that I could and wanted to make sure that we had an agreement or an understanding or something. I sure had an understanding all right! As soon as I got out of the office, I called my friends, and we chatted a little about our options. We finally agreed that the best course of action would be to call the Utah Civil Liberties Union for help.
23. And that's where we are today. I think there has been a deal with the school to stop spying on us, and I know some people got fired over the whole thing. But no one has ever apologized to me or my friends or any students for that matter. No one has given us any assurance that it won't happen again. And that computer company that was doing all of this on behalf of the school--you know that mega-bazillion-dollar empire--they haven't forked over any cash! They need to do what's right and come clean. And they need to pay for what they've done!

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed by me on October 22, 2014, in Tornahdo, Utah.

/s/ Parker Smith

Subscribed and sworn before me on this, the 22nd of October, 2014.

Susan Zollinger

Susan Zollinger, Notary Public

IN THE MOCK TRIAL COURT
BONNEVILLE COUNTY, STATE OF UTAH

PARKER SMITH

Plaintiff,

v.

PIONEER COMPUTERS, INC.
& PINE CREST TECH SERVICES, INC.,

Defendants.

AFFIDAVIT OF
KELLY SANCHEZ

Case No. 14cv5555

KELLY SANCHEZ, having been duly sworn, hereby states the following:

1. My name is Kelly Sanchez. I had been employed at Pioneer Computers, Inc. and Pine Crest Tech Services, Inc. for five years prior to being fired in April. I keep looking, but, since April, I haven't been able to find any permanent employment. I currently live in Bear Mountain, having moved from Prescott once I was fired. I'm originally from Oregon and joined Pioneer Computers in 2008 after graduation from Reed College.
2. When the company moved its headquarters from Oregon to Utah, I decided to move to Utah and still be at corporate headquarters. Since I like to be in the thick of the action, and I had nothing to tie me down in the Pacific Northwest, I decided to go for the adventure. I don't regret the decision to move, but I do think that I am being wrongly blamed for all of this. I admit I made a few mistakes and probably took things a little farther than I should, but really I don't think I did anything that should have resulted in my losing my job. Yeah, we looked at the photos taken by those webcams--but wasn't that our jobs? Admittedly, we shouldn't have made a big party out of the whole thing, but the pies were already out there; what harm did it cause?
3. But let me back up and describe my part in this whole mess. After I moved from Oregon, I continued to work for Pioneer Computers, but I also signed as a Tech Services Supervisor for Pine Crest, a separate subsidiary of Pioneer. This isn't as unusual as it sounds. It's not like I had two full-time jobs, rather I split my time working on developing software and support systems for Pioneer and managing a group of techies trouble shooting the same systems for Pine Crest. All told, I probably worked an average of 70 hours per week. I really didn't mind it, though, since it was work I really enjoyed. And really, what else is there to do out in the sticks? About twice a month, a group of us would take a long weekend and go up to Salt Lake City or

down to St. George for some real fun. That is until we found some homegrown fun of our own!

4. I was not on the taskforce or any team that had a part in developing the One2One laptop program for the local high school. Those decisions were made higher up on the food chain. However, I was part of the group of techies assigned to monitor the new version of TheftTrack, our state-of-the-art security software, as it related to the Riverdale High School units. We were tasked with monitoring those units on which we had received search requests. Our information came from the school's IT department. They forwarded the computer ID information and user info to us and requested that we activate the TheftTrack system.
5. It was my understanding that the computers involved may have been lost, stolen, missing, or did not have the proper insurance to leave the school grounds. You know, my job as a supervisor was not to question WHY we were doing things, simply to get the techies in my work group to do the job. TheftTrack is actually a pretty basic concept. Rather than simply tracking the LAN and IP address of a computer, TheftTrack also utilizes both remote webcam and remote screen-shot capabilities to try to identify location and user information. It is comprehensive in scope and tedious in information analysis, but highly effective in its functionality--it's really good at finding lost computers!
6. The system that we had devised for the Riverdale High School One2One program was fairly straightforward. They would give us the go-ahead to activate the program. We would keep the program active and forward relevant data to the school until they requested us to deactivate. Our data-analysis group was tasked with searching through captured images and deleting those with no value. Those with discernible images were set aside for further review. A second tech would then scan through these to determine the relative potential value to the client. Part of our contract and our goal was not to overwhelm the client with so much data that they would not be able to sort through it all. Therefore, we had to sort through many thousands of images taken from Riverdale One2One program users. After both the cursory and secondary analyses, useful information was forwarded to the school server for their IT personnel to identify or forward to law enforcement authorities. Further steps in the process were out of our control.
7. I think we all were surprised by the high volume of activation requests from this program. Either high school students were irresponsibly losing lots of computers or the IT department was not being very diligent about weeding out the high priority cases for us to deal with. Instead, it seemed like we got everything. As far as I could tell, we pretty much had free reign to access whatever we wanted, whenever we wanted. The built-in technology is programmed for a screenshot or webcam activation in as little as 15 minutes. That time could be increased to a view every hour or two hours or even twelve hours. It could not be lessened, however. That is a misconception; under no circumstances were we able to view webcam or screen-shot pictures in any type of streaming video capacity. We only had access to still images.

8. It quickly became apparent to Sam Kaufusi, the Pioneer and Pine Crest head honcho, that our initial staffing estimation for this project was seriously low. S/he and I met about this, and we both agreed that after the initial shock to the system, we were confident that the number of requests from the school would go down to levels that we could handle easily.
9. In the meantime, what we really needed, I said semi-facetiously, was overtime! I was pretty shocked that Sam agreed! S/he authorized a maximum overtime budget for the group--which we always used up pretty quickly, but tried to spread around all members of the work group. I went to Sam again and told her/him of the situation, and s/he asked if we might have any volunteers to continue the monitoring and sorting project. S/he said that it would count toward the company's stated goal of a certain number of hours of community service per employee. It sure didn't sound like community service to me, but I said that I might have some takers--we geeks like to do our volunteer work in geekdom whenever possible! But I told Sam that I wasn't sure that would completely solve the problem. Sam, in typical Sam fashion, simply said, "Well, think creatively about it." I took that to mean do whatever I felt was necessary to get the job done.
10. I convened a meeting of the work group and let them know that the overtime hours would not be increased, but that Sam was looking for volunteers. I took the lead and said I would volunteer over the weekend, and anyone was welcome to join me. Like many other employees at Pioneer and Pine Crest, we have remote offices set up, so we can work from home. I offered to network more computers at my house if anyone wanted to join me over the weekend to sort through the collected data. I didn't get too many takers that first weekend. But gradually, word got out that we were actually having fun with it!
11. My way of being "creative" was to challenge all of the volunteers to find what they considered to be the most bizarre pictures from their analysis, and then, every hour or so, we would have a contest to see who had struck the most gold. The hourly winners got to wear Burger King crowns, and anyone addressing them had to refer to them as "your majesty." As time went on, our contests got better and better and the number of volunteers more numerous. It finally became a weekend ritual--Friday and Saturday nights at my house were the weekly Riverdale Festival. The highlight every weekend was the slideshow of "winning" images. It was supposed to be just from the weekend while we were volunteering, but, pretty soon, the other workgroup members started saving their favorite images from their work time as well and bringing them for all to see. I had a few qualms about that initially, but I thought, what the heck, we're getting the job done! We would set up our collected PowerPoint slideshows on the big screen, get out the munchies and the beverages, and all have a great time!
12. I really don't know if Sam Kaufusi knew about our little get-togethers on the weekends or about our own version of the Bonneville County Reality Show. S/he certainly never

said anything about it to me. Sam was very pleased that we seemed to have found a way to get all of the work done in a timely manner. S/he's one of those bosses who doesn't ask a whole lot of questions, just demands answers and results. As long as we were producing results, it was all good.

13. In a number of the TheftTrack monitoring situations, there were instances where I knew that the computer had been located, or that it had never been lost in the first place. However, we were under strict instructions not to deactivate the system until we received the proper notification from the school to do so. Even though we knew there was no issue, we continued to monitor--and, in many cases, continued to enjoy the show! We got to see quite a bit of Riverdale High! We had screen captures of websites that users were visiting at the time--quite a few of them inappropriate for the under-18 crowd! We had a few screen shots of IM conversations involving plans for parties, details on how dates went, what looked like a few drug deals, and lots of general teen angst. The webcam captures were a real hoot, too! The best, by far, were these series of computers that had little dioramas or scene vignettes featuring what looked to be those candy Peeps! Those were outrageous! Every week at least someone from the group would have an update for us on the Peep show! It really was hilarious!
14. On Saturday, April 12, I was at home monitoring and sorting through some of the Riverdale High School TheftTrack pies, while also planning for that night's weekly review of "the show." I came across a webcam shot of a really messy desk--nothing unusual there! But then, while still on the same account, I came across a screenshot capture that featured part of an IM conversation that obviously dealt with a plan or plot at the school on that next Monday, April 14. I then took a closer look at the messy desk picture and found that it could be the makings for a homemade explosive device.
15. Well, I found the information to be rather disturbing and quite alarming. It seemed like some students were planning to bomb the school. Holy cow! I didn't think just forwarding the information to the school IT department would work in this case. For one, it was a Saturday. I wasn't even sure if they worked on the weekend. Second, by the time they sorted through all of the stuff we sent them over the weekend, they might not have time to take any action. Third, I thought this was just the type of information the police might need to get ahead of these criminals and prevent a school tragedy. So I couldn't just let it go.
16. I phoned Sam Kaufusi on her/his cell phone on Saturday evening and asked if s/he could meet me in her/his office right away. I think s/he must have heard the panic in my voice because s/he didn't ask any questions, just said, "Sure thing; right away." We met in her/his office about 20 minutes later. I showed Sam both the screenshot of the IM conversation and the photo from the webcam and confirmed that both were taken from the same Riverdale High School One2One TheftTrack monitoring account and that both were from roughly the same period of time. Sam thanked me for my team's diligence and said that this was the exact type of situation that TheftTrack was meant for. While I was still in her/his office, Sam called the school Principal, Jordan Young, and informed her/him of the situation. Principal Young asked that we send both images

to both the school server and to his/her personal e-mail account. I accessed the file from Sam's computer and sent it while they were still on the phone. Once I had done that, Sam thanked me again and let me get back to my party.

17. I was a little startled by the reference to "my party," thinking that perhaps Sam knew what was going on. But the more I thought about it, I just figured it was Saturday night, I'm in my 20's and not working--of course, I would be at a party or something. I'm sure it was just a random comment.
18. Shortly after that incident, I heard that Pioneer and Pine Crest were being sued by one of the kids from Riverdale High School. And then, wouldn't you know it, I was being called in to Sam's office and told that my team was being suspended and that, as the Supervisor, I had to be fired because of the situation. I think Sam felt bad about the whole situation, but must have been put into a situation where s/he had to do something to look like s/he was taking action and avoid losing a lot of cash. I have no hard feelings about it. I hope after this lawsuit is done with, I can reapply to Pioneer and Pine Crest and maybe get my old job back.

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed by me on October 24, 2014, in Tomahdo, Utah.

/s/ Kelly Sanchez

Subscribed and sworn before me on this, the 24th of October, 2014.

Susan Zollinger

Susan Zollinger, Notary Public

IN THE MOCK TRIAL COURT
BONNEVILLE COUNTY, STATE OF UTAH

PARKER SMITH

Plaintiff,

v.

PIONEER COMPUTERS, INC.
& PINE CREST TECH SERVICES, INC.,

Defendants.

AFFIDAVIT OF
REESE JOHNSON

Case No. 14cv5555

REESE JOHNSON, having been duly sworn, hereby states the following:

1. My name is Reese Johnson. I am 32 years old and a teacher at Riverdale High School in Tornahdo, Utah. I have taught Computer Science at Riverdale High for the past six years. Prior to that, I taught Computer Science in Bear Mountain, Utah, at both the high school and community college there.
2. I was part of the staff review panel for the proposed One20ne laptop program for students at Riverdale High School in the summer of 2013. The group of teachers and staff that I was part of met with Sam Kaufusi and other experts from Pioneer Computers about the details and specifications for the laptops themselves, the programs and software that would be loaded, and the policies that they envisioned would be in place to regulate computer usage. We asked a lot of questions about parental-style blocks to prevent access to inappropriate sites.
3. I raised a few concerns about privacy issues. Pioneer assured us that the servers were secure and hacker proof. Moreover, we were assured that the students and school would control the content on the laptops up until the time that they were returned at the end of the year. At a later time in our meetings, Kaufusi mentioned that the units with the One20ne program would be loaded with their latest theft-prevention device, TheftTrack. I asked for specifics on how the program worked, again thinking in terms of privacy issues. Kaufusi described it as a kind of computer LoJack system. I assumed that it would include some sort of homing device that could be activated if the unit was reported lost or stolen. It was only later in the review process, pretty much when things were already a done deal, when I learned the specifics of how the TheftTrack system actually works.
4. I was taken aback by the invasive process. I advocated for a less invasive means of locating lost or stolen computers. I know I referenced the LoJack description and

asked, specifically, why some sort of basic tracking device couldn't simply be installed. I copied the Principal, Jordan Young, on all of the exchanges with Sam Kaufusi. I really think Jordan didn't want to rock the boat too much with Kaufusi and Pioneer. S/he felt that any real intensive review of the proposed program might just make Kaufusi take her/his computers and go home. I understood that, but I wanted to be on record just in case something really bad happened--and, of course, it has!

5. Even with my concerns over the privacy issues, I was still in favor of the One20ne program. The benefits received by the school and by the students would far outweigh my few issues. After the school announced the laptop program, there were even more presentations to faculty and staff--those were pretty much the "good parts" versions of what our review team had already heard--but, notably, no mention was made of the TheftTrack program or any ability to monitor laptops. There were also presentations by Pioneer made to the PTO. Jordan asked me to join our IT staff and the folks from Pioneer to conduct programs for students to get them up to speed on the technology and details of the plan.
6. During these sessions with students, we went over all of the policies and protocols for using the computer. We explained about the insurance provisions, the contracts, and the like. We laid out the policy for reporting a missing computer and told the students, very generally, that there was a system in place to locate missing units and that if theirs were lost, they would have to agree to allow us to begin the tracking process. I don't know whether it was because this discussion was buried toward the end of a rather lengthy presentation or whether teens being teens had already tuned us out, but there were no questions from any of the groups of students about privacy issues.
7. Now I will say that for a "mandatory" session for students, we were lax in our oversight. There were no sign-in sheets, no attendance taken, no quizzes or tests to check for their understanding of any details. Basically, what it boiled down to for most students was if you signed the form, you got a laptop; if you paid the insurance fee, you got to take the thing home with you. I'm not entirely convinced that even that last part struck home with most students. There were a number of instances where I know students did not complete the insurance form or pay the money and yet were taking their laptops home with them. I have no idea how we were supposed to police that. I was not involved in any policy discussion the school may have had with Pioneer about tracking computers of students who had not paid the insurance fee.
8. As a staff, we teachers were encouraged to find ways to incorporate the laptops into our daily instruction and to give homework assignments that would encourage use of the technology. Obviously, as a computer science teacher, that was easy for me to do! Students were told that any issues they had with their laptops should be brought to the attention of the IT department at the school. If it were a complicated problem, the question would be forwarded to Pine Crest Tech Services--the troubleshooting wing of Pioneer Computers. I'm sure many students did go to or call our IT helpdesk, but I also know there were a number of students who were uncomfortable talking with the IT people. In my experience, teens are much more likely to talk to or ask questions of

people that they know--like a teacher--than a relative stranger--like the IT people. So I did get some questions from students about a wide variety of issues.

9. After the initial flurry of pretty basic questions, the predominant one directed toward me had to do with the light located next to the built-in web camera on the Pioneer laptop units. I know that webcams are standard issue with new laptops these days and am familiar with the basic functionality. If the webcam is on, the little light glows green. If it is not active, either there is a red light lit or no light at all. A few of the student questions were of the very basic nature--what is that thing? But more of them expressed concern and confusion over the green light and said that it flickered on and off randomly--even when the webcam was not in use.
10. A couple of students asked me point blank whether the school was spying on them for some reason and asked whether the school or the computer company had the technological capability to do so. I promised to check with our IT staff and with Pioneer or Pine Crest to find out if this was a system malfunction, a design flaw, or some sort of weirdness of the system. I told the students that if the problem persisted, they should either bring their laptop back to the school IT department to get it fixed or return it for a different unit. After trying a number of times to get to the bottom of the mysterious green flickering light situation, I finally gave up and counseled the students to do as I have done with my own One2One school-issued laptop and put a piece of duct tape over the webcam lens. Of course, when I expressed my frustrated fix to the Pioneer and Pine Crest techs, I was surprised to get an e-mail reply from Sam Kaufusi her/himself! I thought s/he was going a bit overboard in the response, but I wasn't offended in any way by the tone of the comments. It just is what it is.
11. One of the policies we had regarding the One2One program involved reporting any computers that were lost or stolen, so that Pioneer could protect its investment and so that the authorities might track down the missing units. I only had three situations in my class involving a lost or stolen computer. One was actually left on a school vehicle after a sporting event trip and was quickly reunited with its rightful owner. A second was a case of mistaken computer identity. Another student had picked up the wrong laptop in the cafeteria, only to find the next day that s/he now had two laptops. That was also quickly resolved. The third situation may have a lot to do with the current lawsuit.
12. Shortly after Spring Break, I believe it was on March 20, I noticed that Parker Smith did not have her/his computer in class. I went over to her/his desk and simply asked where the computer might be. I figured it had been left at home or perhaps in a locker. Parker got a frightened look on her/his face and told me that the laptop may have been stolen. We didn't panic at all. I got the form that s/he needed to fill out. I signed it, too, and then sent it over to the IT Department for processing. I assumed that they would notify Pioneer or Pine Crest to initiate the basic tracking function and then assumed that if it were not immediately accounted for, then the more invasive tracking steps would be taken.

13. The very next day, Parker reported to me that her/his computer had been found--that it had all been a mistake. I called the school IT Department and left a message that the unit belonging to Parker Smith had been located and that the search could be called off. I heard nothing further from IT about this issue, so assumed that, in fact, had happened.
14. As a habit at the end of each week, I access the history and cache of each of the computer-lab computers and clear them of all personal information. On Friday, April 11, 2014, I was clearing out computer files when I came across a Facebook page that contained a lot of information and imagery of homemade bombs, a blog about books and resources for constructing explosives, and a little chat about "bangs." Given the climate of every school around the country with regard to violence in our schools, I tried to identify the owner of the site. I was confident that the site belonged to Parker Smith. I immediately reported what I had found to Jordan. S/he accompanied me back to the lab, where we tried without luck to access a refreshed version of the Facebook site. At that point, Jordan thanked me for bringing it to her/his attention and that s/he would handle the matter from there.
15. I heard about the confrontation between Jordan and Parker Smith on the following Monday. I also heard about the lawsuit against the school pretty quickly. Infact, after consultation with the school's lawyers, Jordan asked me to conduct an internal review of both what information may have been stored on the school servers and on the policies and practices that we had in place.
16. I was given full cooperation from the school and complete access to all documents and data from two school servers as well as the individual computers of the IT Department staff and Principal Jordan Young. I requested access to the Pioneer Computer and Pine Crest Tech Services servers and computers used for the Riverdale High School account, but that request was denied--ironically citing privacy concerns. I reviewed a very large cache (more than 17,000 images) of photos, screenshots, and other identifying information that had been forwarded by Pine Crest Tech Services relating to the identification of lost or missing laptop computers.
17. It appeared that TheftTrack had been triggered on at least 127 computers. In slightly more than half of the cases, it seems that only the minimal tracking--the IP address tracker--was used. However, in almost half of the cases, the full system was used--including not only IP address tracking, but also screenshot and webcam pictures. I found absolutely no evidence that the system was used in any gratuitous way to spy on students or staff. It is difficult to know what information may have existed prior to my being granted access. I am aware that many images were deleted immediately after the lawsuit, and, of course, I have no way of knowing at all what is or was stored on the Pioneer or Pine Crest servers.
18. In my review of activation requests and comparing these with reports logged on successful location of computers, it appears that more than 40% of the pictures

recovered were taken after the laptops had been recovered or found. In most instances, the date stamp indicated an average of only a day or two, but in some situations, the TheftTrack device remained active for weeks after the unit had been reported located and recovered. Some of this is accounted for by overzealousness and questionable authority of the school IT staff. However, the bulk of the responsibility has to fall on the computer companies actually monitoring the situation. I mean, once it's clear to them that the laptop is safely located, they should stop the surveillance.

19. On our end, Riverdale High School has taken a number of positive steps to ensure that this situation will not happen again. We have reviewed and instituted new policies guaranteeing the privacy of computer users. District staff may only access computers either upon specific request of the user or when the unit is turned in at the end of the agreement period. Both our IT Department and Pine Crest Tech Services seemingly had little or no procedures governing the use of TheftTrack and which level of search should be undertaken. The decision on whether to activate the full protocol or just a minimally invasive IP search varied widely on a case-by-case basis. The record keeping at both Riverdale High School and at Pine Crest was very inefficient and inconsistent.
20. As a result of my informal review, we have established a new set of policies, and we have severed all ties to Pine Crest Tech Services. The One2One program will continue, and students will continue to get this valuable educational experience. I honestly believe that Pioneer and Pine Crest were using Riverdale High School as guinea pigs for their new technology and that they got carried away by the techs and by what they were seeing in their surveillance. Their own lack of policies and protocol caused immense harm to Riverdale High School students.

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed by me on October 22, 2014, in Tomahdo, Utah.

Isl Reese Johnson

Subscribed and sworn before me on this, the 22nd of October, 2014.

Susan Zollinger

Susan Zollinger, Notary Public

IN THE MOCK TRIAL COURT
BONNEVILLE COUNTY, STATE OF UTAH

PARKER SMITH

Plaintiff,

v.

PIONEER COMPUTERS, INC.
& PINE CREST TECH SERVICES, INC.,

Defendants.

AFFIDAVIT OF
JORDAN YOUNG

Case No. 14cv5555

JORDAN YOUNG, having been duly sworn, hereby states the following:

1. My name is Jordan Young. I am 47 years old and am the Principal of Riverdale High School in Tornahdo, Utah. I have been Principal at this school for six years. Prior to this position, I served as Principal at Hancock High School in Hancock, Minnesota, for four years. I held a number of administrative positions prior to that time, including Assistant Superintendent for the Bay County Schools in Panama City, Florida. I received an undergraduate degree from University of Minnesota Morris in 1988, a Masters Degree in Educational Administration in 1995, and a Doctorate in Educational Supervision in 2002. For the latter two degrees, I attended Florida International University.
2. During my time at Riverdale, I have had frequent long-range planning meetings with the school board and the PTO. These sessions have usually resulted in a kind of wish list of programs, educational materials, and strategies to improve educational services to students. One item at the top of the most recent list was the idea to issue all students a laptop computer to enhance communication and to allow for greater investigation and skill development in new technology--towards the end of creating 21st century learners. The big sticking point to having that type of program at Riverdale High, of course, was money. So for me, the idea was always pie in the sky.
3. When Sam Kaufusi moved back to the area to relocate her/his computer empire, we thought we might have a chance to interest her/him in the idea. A small delegation, made up of school board president Bob Waterman, PTO representative Morgan Bishop, and I went to meet with Kaufusi in the Spring of 2013. We had a productive meeting and left with a little glimmer of hope that perhaps we might make some headway. Realistically, we were anticipating starting off with something small--maybe a program

only for freshman or something along those lines. I was shocked and delighted to hear Kaufusi's proposal for the One20ne Program! It went well beyond our wildest dreams--and saved the district at least a half million dollars.

4. We worked through the plan to provide every student in grades 9 through 12 at Riverdale High School a laptop computer for educational use. The units would be loaded with all current software and would include parental-style blocks to prevent access to inappropriate sites. Pioneer Computers, Kaufusi's company, was eager to try out its advanced theft-tracking program, TheftTrack, on these computers as well. Kaufusi saw this, I think, as a way of piloting both a school laptop program in rural America and to field test in greater numbers the TheftTrack capabilities. For free computers, you bet we were willing to play along!
5. We did develop a plan by which students could take the computers home with them on a regular basis through the use of an insurance fee. Pioneer recommended a nominal fee of \$60 for the academic year--they had done some market analysis to determine the likelihood that computer units might be lost, stolen, or damaged. The \$60 fee represented their actual anticipated cost--again, they were not interested in making a profit off of public schools. We worked it out that any student who qualified for the free or reduced lunch program would be exempt from the insurance provision. Any other student had the option of paying the insurance fee and being able to take the computer home or not paying and checking the computer into the computer lab each afternoon.
6. There were a few exceptions--for example, when a teacher assigned a specific project that would mandate the use of a computer. In those situations, the students affected could borrow a loaner laptop for use at home. In addition to the computer loan program, we also signed a contract with Pine Crest Tech Services, a subsidiary of Pioneer Computers, to provide advanced technical support, and to activate and implement the TheftTrack program when necessary.
7. We ran the program ideas past the other district administrators, the school board, our PTO, and our faculty and staff. Each group was excited about the One20ne program and gave its enthusiastic support. The PTO offered to conduct a series of informational forums for parents. Our school IT personnel agreed to work with Pioneer and Pine Crest to train staff and work with students on the basics of the laptop programs' operations. I am confident that every stake holder in this enterprise was fully briefed and comfortable with the details of the program. I wanted to impress upon everyone that the laptops issued by the school remained school property--similar to a textbook. Users should not expect that files stored on District resources would remain, in any way, private.
8. We posted information about the One20ne Program on the school website, we sent brochures home with students to read and to share with their parents and guardians, and

when the program officially kicked off, we sent home the contracts and insurance forms to be signed and returned. A signed contract meant that student received a computer. An insurance form and check or cash meant that computer could be taken home.

9. Throughout the rollout of the One2One program, individual teachers and staff received a number of questions from students and parents regarding various aspects of the plan. A recurring question dealt with what appeared to be a technical glitch in the laptops regarding a flickering green light next to the web camera. Many of the questions could be addressed by our school IT staff. The more technical questions regarding program specifics and this particular glitch were forwarded to Pioneer and to Pine Crest for their explanation. I received a copy of an e-mail communication between Sam Kaufusi and Reese Johnson about the green-light issue.
10. We developed some internal policies regarding use of the computers and encouraged teachers to think creatively about assignments that could be done electronically. We also established a policy with our IT department regarding any computers reported lost or stolen and any users who were suspected of violating the usage code of conduct. Basically, any computer reported lost or stolen to a teacher or staff member resulted in a report to the IT department. Upon receipt of this report, Riverdale High School's IT supervisor was to contact Pine Crest Tech Services and request activation of the TheftTrack program in order to locate the lost or stolen unit.
11. Moreover, any unit for which there was no insurance form received that was not checked in to the computer lab after school hours also resulted in a report to Pine Crest. Further, if there were sufficient cause to suspect misuse or substantial violation of one of the computer-use policies, we also would notify Pine Crest, not necessarily to activate TheftTrack in these circumstances, but simply to put them on notice in case they came across any further evidence of misuse. In each of these instances, Pine Crest would continue the TheftTrack procedure and forward to our school's secure server any information that might be useful in locating missing laptops.
12. In some instances, we were able to identify that the computers in question were not lost. In other situations, we notified the local law enforcement authorities to help. I think in the first six months of the program, we contacted the local police on seven occasions. In every other instance, we were able to locate the computers ourselves. Once a computer was located, we were to notify Pine Crest to discontinue the TheftTrack procedure. We didn't always do this immediately, since we wanted to make sure we actually had the missing computer in hand, but once the unit was secure, we would send over notification.
13. In the situation involving Parker Smith, we had activated TheftTrack on at least four occasions because we had no insurance information on file. Once we were confident that the computer was at the Smith residence, we requested that the tracking program be deactivated. In a separate incident, Parker Smith was asked by a teacher why s/he

didn't have her/his laptop in class. Parker indicated that the laptop had been either lost or stolen. Acting on this information, the teacher, Reese Johnson, filed a report to the IT department. IT, in turn, contacted Pine Crest to activate TheftTrack. My records indicate that the missing computer was reported on March 20, 2014, just a few days after Spring Break. I was unable to locate any notification that the computer had been found. To the best of my knowledge then, the TheftTrack program was still running on the computer issued to Parker Smith at the time of the incident that occurred a little more than three weeks later. I have taken action with our IT department about a potential lack of oversight, but, as it turns out, our mistake in this instance may have been a blessing in disguise, averting potential disaster.

14. One of my biggest concerns in being a principal is protecting our students and making sure that my school is a safe haven for these kids. I don't want any violent tragedies to happen here, not on my watch. I provide this background as a way of explanation of the actions taken on April 14, 2014, with regard to Parker Smith. On Friday, April 11, 2014, Reese Johnson reported to me that in the process of resetting the computer lab after an afternoon class, s/he noticed that a Facebook page had been bookmarked on a lab computer. S/he clicked on it and discovered photos and commentary that led her/him to believe there might be a serious issue developing involving weapons of some sort. It was unclear from the Facebook page what type of action was going to take place or when. The page was found in the history cache of the computer; when we attempted to refresh to access the current page, we found that it had been deleted or blocked in some way. We didn't know whether to take this seriously or not.
15. The next evening on Saturday, April 12, I received a troubling phone call from Sam Kaufusi about something discovered during the operation of the TheftTrack device on the computer issued to Parker Smith. Kaufusi indicated that a Pine Crest Tech supervisor, in reviewing images captured from that computer, identified a web camera photograph of what appeared to be the makings of a bomb. Further, a review of screen shots taken from that same computer revealed part of an Instant Message communication between two individuals discussing action to take place on Monday, April 14, 2014, at 10 a.m.
16. Based on what I considered to be sufficient and disturbing evidence of action threatening the school, students, teachers, and staff, I knew that I had to take action. On the morning of April 14, I waited outside the main office until I saw Parker Smith. S/he was accompanied, at the time, by her/his friend P'Nut Zahradnik. I did not want to make a scene or cause any undue alarm, so I waited until P'Nut had gone off to class before confronting Parker. I stopped Parker in the hall and asked her/him if s/he had anything that s/he would like to tell me about. I saw a look of panic on her/his face, so I took her/him by the arm and escorted her/him into my office. I closed the door and proceeded to lay out what I had found on Facebook, on the webcam, and on the IM screen shot. I was surprised by Parker's reaction. Instead of a look of dismay and

guilt, s/he flashed me a broad grin and said something to the effect of "Gotcha!" I admit I was confused.

17. Parker told me that s/he had wondered who had been spying on her/him since the day s/he got his/her laptop and that finally this trap worked. S/he asked me some strange questions about peeps, or a peepshow, or not saying a peep. I was taken aback. I asked permission to search her/his backpack and her/his locker for evidence of contraband. S/he replied, "Sure, knock yourself out," and flipped me her/his bag. I did a cursory search and found no evidence of weapons or bomb materials. I accompanied her/him to her/his locker and had her/him open it. Again, there was no evidence of bomb materials or weapons. S/he asked if s/he was free to go, and I indicated that we were done for the moment.
18. The next morning I received a notice of claim from a local attorney that a lawsuit would be filed against the school and against me personally and that there might be criminal charges filed against me for invasion of privacy! Apparently, Parker had contacted the Utah Civil Liberties Union almost immediately after leaving my office on Monday morning and had been working to get the lawsuit process underway immediately.
19. Upon the advice of the school district's attorneys and other experts consulted, we settled the civil lawsuit out of court. I instructed one of our best computer teachers, Reese Johnson, to undertake a thorough internal review of the situation and our policies. As a result of Reese's investigation, we agreed to change our policies regarding access to computer information. We agreed to destroy all filed images on our server from the TheftTrack program. We have severed all ties with Pine Crest Tech Services and asked our new technical services provider to remove the TheftTrack system and install a less invasive technology to track lost or stolen computers. The civil lawsuit did not ask for any monetary damages. There have never been any criminal charges filed. I believe the only remaining issue is this lawsuit against Pioneer Computers and Pine Crest Tech Services.

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed by me on October 20, 2014, in Tornahdo, Utah.

/s/ Jordan Young

Subscribed and sworn before me on this, the 20th of October, 2014.

Susan Zollinger

Susan Zollinger, Nortary Public

IN THE MOCK TRIAL COURT
BONNEVILLE COUNTY, STATE OF UTAH

PARKER SMITH

Plaintiff,

v.

PIONEER COMPUTERS, INC.
& PINE CREST TECH SERVICES, INC.,

Defendants.

AFFIDAVIT OF
SAM KAUFUSI

Case No. 14cv5555

SAM KAUFUSI, having been duly sworn, hereby states the following:

1. My name is Sam Kaufusi. I am 42 years old. I am the Chief Executive Officer of Pioneer Computers, Inc. and the Chair of Pine Crest Tech Services. I have held the position with Pioneer since the company's inception in 1998. Pine Crest is a more recent corporate entity which I founded in 2010 to provide advanced technical support for users of Pioneer computers and our software products.
2. I grew up in rural Bonneville County and went to school in the Bonneville School District. My family farmed, so we had a number of out buildings on our property. Growing up, I was real interested in how things worked. I used to take apart all kinds of machines and equipment (and put them back together again, of course--sometimes better than the original!). I became interested in computers and spent quite a bit of time out in one of the barns taking apart old CPUs that I found around the county. In all of this investigation, I discovered a better process to build computers. Right after graduation from high school in 1989, I left for Silicon Valley, California, and worked in a number of computer shops. I found that the managers and CEO's of most of the existing companies really were not that interested in what a rural Utah hick had to offer, but the jobs paid the bills and gave me the expertise I needed to finally open my own shop.
3. I began Pioneer Computers in 1998, at the age of 27, in a strip-mall storefront with two other employees in Corvallis, Oregon. Little did we know that the new process we had developed for streamlining production and delivery of smaller and faster laptops with more power would revolutionize the industry. Within three years, Pioneer was among the leaders in the laptop-power PC field. We constantly expanded our business and

were always on the look-out for new field offices--closer to the consumer, to speed delivery, and away from the traditional computer markets. Our niche quickly became computing services to rural America. In the spring of 2012, I made the decision to relocate our corporate headquarters--accompanied by a field office and our Tech Services company, Pine Crest, back where it all began--intimate Tomahdo, Utah. We were open for business in Spring 2013. We brought a lot of jobs to that community--something that I am proud of.

4. Shortly after we set up shop in Tomahdo, I was approached by a delegation of school officials about an idea they had to give each student at the local high school a laptop computer to facilitate the communication between students and staff. Given our corporate mission, I felt that this might be a great opportunity to pilot a project locally and then potentially expand it to other rural locations. I continued talking with the school principal, Jordan Young, and things quickly fell into place. Young was a little more cautious and wanted to roll out the program in small increments--maybe start with just the staff and then slowly expand to each grade level. I told her/him that when Pioneer takes on a project, we go all in!
5. I think it surprised some folks that we moved so quickly. By the fall and the start of the 2013-2014 school year, we were all ready to start the One2One program at Riverdale High School. We presented the idea to the School Board, the Parent-Teacher Organization (PTO), and to a select group of staff and students. All were completely supportive of the program, and all were gung-ho on starting immediately.
6. We assisted the school with a series of presentations on the new One2One Program for school staff at in-service workshops, for students at all-school assemblies and in specific classrooms, and for parents at forums put together by the local PTO. We fielded questions about the specifics of the program, basic workings of the computers, the insurance-fee situation, and, in a few instances, were asked about the theft-recovery program. In response to the latter, we did not discuss in any detail the specific functionality of TheftTrack--only that it was installed on all the computers used in the One2One Program, and that it had been successful in the past in locating lost or stolen units. In fact, there is a story that I always tell at these trainings if a question arises about the TheftTrack device. Don't want to give away any trade secrets, you know.
7. With the Riverdale High School One2One Program, we agreed to load all current technology onto the laptops; to provide filtering screens to allow for parental and administrative controls; and we decided to load our newest theft-recovery program, TheftTrack, on these computers as well.
8. In addition to providing the computers, we also contracted with the school through a separate subsidiary, Pine Crest Tech Services, to provide advanced IT support. The school helpdesk could answer basic questions--lost passwords, simple software problems, difficulty with web access, and the like. The more technical, sophisticated

problems were to be referred to our own helpdesk personnel. In addition to the normal queries, I do remember one topic in particular related to the green light on the webcam.

9. Now, there are a variety of reasons for the flickering green light next to the webcam--not all associated with the actual use of the camera itself. Often, IM programs will make the light flicker since a number of the IM programs include a webcam option. Even if not activated, the webcam will go into a "standby" mode, and that may make the green light appear to flicker on and off. Other programs have similar functions--if there is a video option, for example, even if it is not activated, the light again may flicker in "standby" mode. I confess that I may have expressed my frustration at the rudimentary "fix" applied and recommended by some of the teachers at Riverdale High School. I explained that by covering the webcam, they effectively disabled a major feature of TheftTrack and hindered our efforts to retrieve lost or stolen units.
10. TheftTrack is the most advanced cyber-security product commercially available (There are, no doubt, more sophisticated programs used by law enforcement and national security agencies.)--it allows for three different functions to attempt to track and locate computers. These include webcam functionality, screenshot capability, and IP and DNS tracking capabilities.
11. If a computer is reported lost or stolen, we can mark it "lost" on our server, and that will then activate the TheftTrack feature. We can select the various means by which to track and locate the missing computer. We can track by IP address and/or by screen shots and web pictures of the user with the built-in camera, and then we can transmit that information back to our server along with information about the user's internet connection. That information, once sorted by our staff, can be transferred to the client and to the authorities, if necessary.
12. One other feature of the TheftTrack technology is that after sending an image to our server, all history of that transfer from the laptop is erased, so that the user does not have any record that files or pictures have been transferred. This prevents thieves from taking further steps to hide or relocate the stolen computer.
13. When TheftTrack functions were activated for a particular computer, at each "heartbeat"--if the computer was powered on, "awake," and connected to the internet--it would send to the server the information selected to retrieve. TheftTrack has no capability to capture video or audio, and it does not permit an administrator to take a photograph from a computer's webcam or capture a screenshot from any computer on command--images retrieved could be captured only through the automated process.
14. With this many units and such a new computer-share program, One2One, we knew that we would get lots of calls. Rather than hire extra staff, I asked our existing techs if they would be willing to take a little overtime, perhaps volunteering some of their time--and, in exchange, we would allow them to do quite a bit of their work from home-based office suites.

15. The overtime idea and the opportunity to work from home generated a lot of good will, as you can imagine! The volunteer idea didn't really fly at first, but it eventually caught on--so eventually not only did they not mind doing some volunteer work, but a few were requesting volunteer assignments. I chalked that up to the spirit of community and the giving nature of our company and our employees.
16. The TheftTrack security feature had a defined protocol for activation. A student, teacher, or school employee who reported a computer lost or stolen filed a claim or report to the Principal's office. The Principal would then inform the school's IT department to contact Pine Crest Tech Services with the identifying information needed to turn on the tracking device. As we continued to receive data, a tech would scan through the information--deleting any unusable or incomplete data--and then forward our findings back to the school. Presumably, they were in contact with law enforcement to take action on the identifying information we had gained through TheftTrack. Once a computer was located, or otherwise accounted for, the Riverdale High School IT Department was to notify us, and we would then discontinue the tracking procedure.
17. Under no circumstances was my company ever to activate the tracking software on our own; and under no circumstances were we to discontinue the process until notified by the school. In many circumstances, the webcam and screenshot pictures would be worthless in the tracking process--if a computer was closed, for example, the web photo would produce no result. If the room in which the computer was located was unoccupied or the lights not turned on, the photos similarly would not produce usable results.
18. It was a tedious process to review all of the photos and screenshots, but our employees were up to the task. They were to quickly review each picture--if it was useless in the tracking process, it would be deleted. If it was deemed to have some value, however marginal, it would be forwarded to the school server.
19. On extremely rare occasions, an employee would bring to my attention information outside the scope of the tracking process, but which, nonetheless, raised some concern. One such instance involved the computer of Parker Smith, a student at Riverdale High School and a participant in the One2One laptop program at the school.
20. We received notification from the school IT department to initiate the TheftTrack function on the computer registered to Parker Smith on Thursday, March 20, 2014. The notification included information that Smith's computer had been reported lost or stolen and that the unit in question was not part of the insurance program. Smith had violated the terms of agreement by removing the laptop from school grounds, and then, apparently, it was lost, misplaced, or stolen. Beginning the evening of March 21, we began to forward information to the school on the possible location of the computer. We were not instructed to discontinue the TheftTrack procedure until Tuesday, April 15.

21. Shortly before that date, on the evening of Saturday, April 12, I was contacted by one of my employees, Kelly Sanchez, who requested an immediate meeting. It was not unusual for me to be contacted on weekends or even late at night when there were technical glitches and such. What caused me some concern was that Sanchez seemed overwrought and was adamant about meeting me in the office immediately. I, of course, excused myself from my evening guests and went to the office.
22. There, Sanchez delivered a photo taken by the webcam embedded in the laptop computer reported lost or stolen by Parker Smith and a screenshot of what appeared to be an Instant Message conversation between the user and an unknown messaging partner. The webcam photo showed an array of materials that are used to produce homemade explosives. The screenshot conversation seemed to indicate that a plot of some sort was being hatched--that the target was Riverdale High School, the date of Monday, April 14, and the time as 10 a.m.
23. Even though this information was not necessarily relevant to the TheftTrack procedure, I, nonetheless, felt it required immediate attention. I phoned the principal, Jordan Young, and described the photos that I had in my possession. Young asked that I forward the files directly to her/his computer via e-mail and that s/he would handle the situation from that point. I asked if s/he wished me to contact either the local police or perhaps even the FBI for assistance. Young replied that s/he would have the situation under control. That was the extent of our involvement in that situation. As I indicated, we received notice to disable the TheftTrack function on that same laptop on Tuesday, April 15. We did as requested shortly after the delivery of that notice.
24. I was unaware of any extracurricular activities of my employees. Many have the equipment and permission to work remotely, either from home offices or wherever they might be when a helpdesk call, for example, is routed to their phone or computer. All employees are under strict guidelines and policies only to do the work explicitly assigned to them. In the instance of the employees assigned to or those who volunteered to monitor the TheftTrack service for the Riverdale High School One2One Program, this included scanning through data and either deleting or forwarding, as necessary. I required each employee to document his or her work through a summary of the number of entries processed by them in a given shift and the number deleted as unusable or forwarded on as potentially useful to the location of the unit in question.
25. I understand that a claim has been made by one of my employees that they frequently went beyond the assigned protocol. As a result of my initial investigation into this claim, I have suspended four employees and terminated the services of both an IT supervisor as well as the Tech who made that claim, coincidentally Kelly Sanchez, the employee who found the evidence of the school plot. To say that I was appalled by this behavior is an understatement. I am disappointed in the actions of valued employees. Swift and firm action has been taken to rectify the situation. They were certainly not doing this while on the clock. This was a completely rogue action on their parts.

26. I defend the actions of Pioneer Computer and Pine Crest Tech Services. We did nothing other than what was requested and expected of us. Let's face it--most people familiar with electronic technology will tell you that in cyberspace there is little or no expectation of privacy. Once something is out on the web, it is there for all to see.

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed by me on October 22, 2014, in Tomahdo, Utah.

Isl Sam Kaufusi

Subscribed and sworn before me on this, the 22nd of October, 2014.

Susan Zollinger

Susan Zollinger, Notary Public

IN THE MOCK TRIAL COURT
BONNEVILLE COUNTY, STATE OF UTAH

PARKER SMITH

Plaintiff,

v .

PIONEER COMPUTERS, INC.
& PINE CREST TECH SERVICES, INC.,

Defendants.

AFFIDAVIT OF
MORGAN BISHOP

Case No. 14cv5555

MORGAN BISHOP, having been duly sworn, hereby states the following:

1. My name is Morgan Bishop. I live in Tomahdo, Utah. My daughter, Julia, goes to the same high school as Parker Smith, the person bringing the lawsuit in this case. They were in some classes together. My daughter is very involved at school. She is a member of the National Honor Society and choir. She has always been on the Honor Roll, and, as a current senior, she is already accepted into six colleges. Needless to say, we raised her right.
2. I also serve on the Riverdale High School Parent-Teacher Organization (PTO). I am a realtor, so my hours are pretty flexible. This allows me to be quite active in my daughter's school and, through the PTO, to try my best to make it a great school.
3. A few years ago, a group of parents (myself included) sat down to chat with the school principal, Jordan Young, about ways to enhance the overall learning experience for all students. Collectively, we came up with a wish list--this included an idea that every student at the school would be issued a laptop computer for use on homework and school projects, and to communicate to each other and to teachers and staff, both in and out of school. We took that idea and ran with it. I did a little research into cost, though, and quickly found that even just the price of the computers would run the district more than half a million dollars. Obviously, we didn't have that kind of money to spend. But the idea was there, and I think all of us on the PTO kept our eyes and ears open if an opportunity came our way.
4. And opportunity did come knocking! Ask and you shall receive, I always say! In the Spring of 2013, a former graduate of the Bonneville Schools, who had founded her/his own computer company, decided to move back to Prescott and set up shop. I didn't

remember Sam Kaufusi from her/his high school days--I suspect s/he was a bit of a geek--I mean really, building computers in your barn?! But we sure loved the idea of a computer company setting up in our neighborhood! Shortly after the company relocated, the school board President, Bob Waterman, Principal Young, and myself met with Sam about our idea to give all high school students a laptop. Sam said that s/he would think about it, but that the idea had some merit and might also be a good way to introduce the company to the community and serve as a pilot program for other schools.

5. The next I heard, in the summer of 2013, Pioneer announced a partnership with Riverdale High School to provide laptops for students and staff as part of the One2One Project. The PTO was thrilled by the quickness of the decision. We never expected that it would happen so soon! I guess I figured that deals like this take time. Not necessarily in the idea stage, but in the implementation process--you know, a chance to think through all the various kinks. But here it was--August 2013--and they were talking about the upcoming school year!
6. The PTO assembled a committee of interested parents to assist with the roll out of the program. We met with school officials and with folks from Pioneer Computers and its subsidiary, Pine Crest Tech Services, which would be providing the bulk of the IT support beyond what the school could do. Principal Young asked the PTO to provide forums, Q/A sessions, and instruction on how the system would work to interested parents. We organized three different meetings at three different times--one was a noon session, one was a 6 p.m. session, and the last was a Saturday morning program at 10 a.m. We gave interested parents every opportunity to come and learn and ask questions. We did not take attendance at any of the meetings, nor was attendance compulsory. All three sessions were extremely well attended--it seems that most parents were eager to learn about the program.
7. Most of the presentation dealt with the distribution process, the types of software that would be installed, a discussion of parental controls to block inappropriate sites, and the insurance plan that would allow for computers that were lost or stolen to be replaced. I remember that the presentation included talk about the computers essentially being a school textbook, that they remained the property of the school, but, like a textbook, was issued to a specific user for the school year. At the end of the year, the laptop had to be turned in, and any personal information stored on the unit would be reviewed and erased. Because a laptop costs a lot more than a Geometry text book, though, and because the computers were being donated by Pioneer at a sizeable cost, an insurance plan was implemented. Any student who wanted to bring the laptop home on a regular basis had to sign a waiver and pay a nominal fee--\$60 for a whole year of use seems like a very small price! Any students who did not pay the insurance would have to leave their laptops in a secure location in the computer lab overnight. If there was a specific homework assignment or project due, those students could check out a loaner laptop overnight.

8. In the briefings that I received, there was little, if any, mention of privacy concerns or monitoring. At the PTO forums, there were a few questions about privacy, safety, and monitoring, but the IT presenters--from both the school and Pioneer--assured parents that the tracking system (likened to a car LoJack system) would only be turned on if the laptop was lost or reported stolen.
9. I do not recall any extensive mention of computer monitoring by any outside agency. I remember someone from either the District IT department or Pioneer Computer talking about theft recovery, but I don't remember any specifics being given on how they tracked the laptops down. At one of the forums, I do recall a parent who expressed concern about "Big Brother" monitoring the actions of teens while they were outside the school. The way he presented his problems, though, did not garner much support or sympathy. The person in question frequently interrupts our monthly PTO meetings with rants about coded street signs, hidden cameras, ultra-sensitive microphones, and a lot of other "black ops" type surveillance fears. I'm afraid that just like the boy who cried wolf, we all had heard enough from that particular parent to give him much credence.
10. After Labor Day when the program was ready to be implemented, I felt that parents, students, and staff were fully up to speed about the One2One program and what all it involved. There were more presentations to the students themselves about proper use of the laptops, school policies, and those sorts of things. My daughter brought home all the promotional material and contracts for us to look over. There also was information about the program on the school's website.
11. Julia brought home a brochure about the program, and inside was a small insert from a presentation they were given at school. I read both of them, of course. The promotional material stated that the laptops were only to be used for school purposes. Furthermore, the brochure mentioned a monitoring notice and the insurance requirement.
12. This seemed like pretty standard stuff. From that, I could see that Pine Crest Tech Services, Sam Kaufusi's other company, was going to monitor the laptops and provide any advanced IT support. This made absolute sense to me. Since Pioneer was so generous in providing our students with the laptops, they should have the service contract and be able to keep tabs on their investment. If I were the one giving that much money, I would want to know how it was being used, especially with high school students. You never know what they are up to!
13. A couple of weeks later, this would have been around the end of September, Julia came home with the "official" informational packet and contract for the leased laptop program. Even in the contract, it talked about how Pioneer and Pine Crest had the ability to remotely access the computers. If parents are complaining now about that, they obviously did not read the contracts they signed.

14. After receiving all the information, my daughter and I sat down to talk about the responsibilities of having a laptop. I mean, my daughter is one of the most trustworthy kids, but she is still a high schooler. And being a high schooler, you do not know everything yet. We discussed whether she thought she would want to bring the laptop home. She said she would, so that meant we needed to pay the insurance deposit. Even though it was only \$60, my daughter agreed to pay it from her own summer job money. So I ended up reading and signing the contract for the laptop.
15. I've learned to read everything, especially all of that legal jargon on websites and on contracts--you'd be amazed what you "agree" to when you blindly click, "I agree!" I've tried to teach my children to be equally cautious. My daughter understood that Pioneer and Pine Crest could access her computer, but we paid the insurance deposit, so I did not think we needed to worry about the remote access unless someone really stole her laptop.
16. As part of my PTO responsibilities, I've really tried to keep up with all of the tips, rules, and advice to try to keep kids safe from cyber predators. I have had the opportunity to attend a few national conferences on these issues. When the laptop program was first being considered by the district, I attended a conference put on by the computer industry on cyber safety--particularly for children and teens. I learned a lot of great tips--shared them with the rest of the PTO and have implemented many of them in our own home. I've encouraged every other parent who I've talked with to do the same. But again, it's not compulsory--just good common sense!
17. More than anything, I've found that the best way to keep my child and my family safe is to polish my own computer skills. It's real easy for teens to keep up with new technology, but it requires a lot more effort for us old-fogies. But I know that if I don't, I'll be putting my family at risk.
18. When Julia brought her laptop home, we set it up in the dining room, and we all took turns familiarizing ourselves with the various programs and functions. All of the laptops include built-in web cameras--they're standard these days. We noticed that the green light--indicating that the camera was on--would flicker on and off at random times. It would never stay on for more than a few seconds at a time, but it did give me some concern. I told Julia that she should consider returning the laptop--figuring it was some sort of malfunction or loose wire or something.
19. I also encouraged her to talk to one of her teachers, Reese Johnson, about the green light and possible solutions. Reese really seems to know what s/he's doing, and I'm sure would give Julia good information and advice. After consulting with her teacher, Julia told me that since she never uses the webcam anyway, we could solve the issue by placing a piece of duct tape over the camera. We did just that and didn't think any more about it.

20. Knowing what Parker Smith has claimed happened to her/him, I guess we should have been more careful. In retrospect, we parents clearly did not ask the right questions regarding privacy issues related to this project. Perhaps if we had asked better, more pointed, questions, we would have been better informed and had a chance to avoid this whole spying debate. Having said that, though, I honestly do not think that the school district or the computer company did anything wrong. We were informed of the monitoring process, we knew that the computers belonged to the school, we agreed to a set of policies--if these were violated in any way, they should have a right to locate their property.
21. So in balance, if finding something on someone's laptop means that a school tragedy can be averted, I'm all for that kind of "spying." I'd much rather infringe on one student's privacy than to jeopardize the safety of hundreds of students--including my child.

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed by me on October 26, 2014, in Tomahdo, Utah.

Isl Morgan Bishop

Subscribed and sworn before me on this, the 26th of October, 2014.

Susan Zollinger

Susan Zollinger, Notary Public

EXHIBITS

EXHIBIT 1

Riverdale High School One2One Program Information

Overview

Pioneer Computers, Inc. (“Pioneer”) is pleased to offer a laptop computer checkout service to students. Laptops are available for the purpose of study, work, and research.

Limits & Availability

All students are eligible to participate in this program.

In the event all laptops are not leased to students, the reserve (excluding those held as repair backups) may be used to support faculty. Faculty checking out the laptops for school work will not be assessed a fee. Students using the leased laptops, however, will be assessed the insurance deposit fee if the laptop will be taken off school grounds. The faculty check out of a leased laptop will be for one academic term.

Pioneer currently leases 675 laptop computers. This number can increase based upon need and available resources. The leased laptop will include a carrying case and power supply/cord. The laptop will be loaded with all current operating systems, Office functions, and Antivirus/Anti-Spyware software.

Checkout Procedure

- A student leasing a laptop should read and sign a copy of the Pioneer Computer Lease Agreement. A copy of this agreement will be given to the student.
- A student leasing a laptop is required to present a valid school ID card. There are no exceptions to this policy unless approved by the Principal.
- At the time of checkout, the laptop should be inspected by the student to make sure it is intact and functioning properly. Verify that the power supply/cable is in the case. They will be responsible for the laptop after it leaves Pioneer.
- The student ID # and Laptop # will be included in the Leased Laptop Database.

Lease Period

The student will return the computer and all other equipment by the end of the due date or upon discharge. A charge of \$5.00 per day will be assessed for any equipment returned after the due date.

Pioneer Student One2One Program Information (cont'd)

Check-in Procedure

- When returning the computer, the student should allow at least five minutes for the Pioneer staff to check the equipment.
- Remind the student that all information will be lost on the system and a back up should be done.
- Students must return the laptop to a Pioneer staff member. A laptop should not be left unattended at the counter.
- A staff member will verify that all parts are present and that the computer and all accessories are in good working order.
- The laptop will be booted up and checked for functionality upon return.
- The laptop will then be checked in on the Leased Laptop Database.
- Verify that the service tag # matches the case # on the Leased Laptop Spreadsheet.
- Pioneer staff will re-image the hard drive, clean the exterior of the laptop, and verify that Anti-Virus, Anti-spyware, and Windows Updates have been updated. The laptop will then be placed on the storage shelf.

Fines & Liability

- The student will return the computer and all other equipment by the end of the due date. A charge of \$5.00 per day will be assessed for any equipment returned after the due date.
- At the end of the term of this Lease, the student will return the Computer to Pioneer in as a good condition as when received; wear from reasonable use is expected.
- The student will be responsible for any damage to the Computer while in the student's possession, and shall pay Pioneer the value of the Computer or any part thereof, as may be lost, stolen, damaged, or destroyed. Removal or defacing of serial numbers or other identification markings shall constitute damage to the equipment.
- The student is responsible for making sure that the laptop is in working order and without physical damage when it is checked out.
- Under no circumstances should a student leave the laptop unattended.

Troubleshooting Problems & Questions

- If students experience problems with laptop hardware or application or have questions, they should contact the Pioneer Helpdesk at ext. 4357.
- The student will be fiscally responsible for damage to a laptop if he/she tries to troubleshoot problems.

Pioneer Student One2One Program Information (cont'd)

Disclaimer

- **Pioneer is not responsible for damage to any removable drive (i.e. floppy, CD, or flash drive) or loss of data that may occur due to malfunctioning hardware or software.**

EXHIBIT 2

Laptop # 500

COMPUTER LEASE AGREEMENT

STUDENT NAME: Parker Smith
FIRST MIDDLE LAST

STUDENT # W4213865S

THIS LEASE is entered into between Pioneer Computer, Inc. and the Student for the lease of a Laptop Computer, Windows operating system, Microsoft Office, Norton Antivirus enterprise edition, associated cables and parts, and labor onsite warranty.

1. Lease the Computer. Pioneer leases the Computer to the Student for no charge. If the Student would like to take the laptop off school grounds, there is a \$60.00 insurance deposit. Students are responsible for the purchase of expendable supplies, such as paper, removable disks, print cartridges, etc.
2. Ownership. Pioneer will deliver the Computer to the Student at the school at no cost to the Student; however, ownership of the Computer shall at all times remain with Pioneer.
3. Maintenance. Hardware support for the leased laptops will be provided by the warranty and maintained by Pioneer. Students will be allowed to borrow a reserve laptop (a limited number are in reserve) during periods while the leased machine is under repair.
4. Storage and Distribution. Laptops will be checked-in at the school when the Student leaves school at the end of the each semester. At this time, the laptop will be examined to ensure it is in working condition and that all parts are returned. Damaged and missing parts will be charged to the Student. The Student will download his or her data onto a disk and retain it because the same machine may not be reissued after the break.
5. Obligations of the Student. The Student promises Pioneer that during the term of the Lease:

Pioneer Student One2One Program Contract (cont'd)

- (a) The Student will cause the Computer to be operated only in accordance with applicable instructions provided by the Pioneer representative or the manufacturer of the Computer and shall not modify the computer in any way.
 - (b) The Student will allow authorized personnel, at all reasonable times, to service or otherwise examine the condition of the Computer.
 - (c) The Student will be responsible for any damage to the Computer while in the Student's possession and shall pay to Pioneer the value of the Computer, or any part thereof, as may be lost, stolen, damaged, or destroyed. Removal or defacing of barcodes, serial numbers, or other identification marking shall constitute damage to the equipment.
 - (d) At the end of the term of this Lease, the Student will return the Computer to Pioneer in as a good condition as when received; wear from reasonable use is expected.
 - (e) The Student will return the computer and all other equipment by the end of the due date. A charge of \$5.00 per day will be assessed for any equipment returned after the due date.
6. Termination for Default. Pioneer may terminate this Lease, without notice or demand, if the Student damages the Computer under the terms of this Lease. Such termination, however, shall not release the Student from the payment of any damages sustained by Pioneer. If the Lease is terminated for abuse of the Computer, a representative of Pioneer may remove the Computer from the Student without liability to Pioneer.
7. Costs and Fees. The Student will be responsible for the payment of any reasonable costs and fees incurred by Pioneer in enforcing any of the terms of this lease.
8. Monitoring Notice. Pioneer retains the right to remotely activate the laptop in the case of a possible lost or stolen laptop. This remote activation will help protect Pioneer's investment and ensure a quick recovery time.
9. Governing Law. This Lease will be governed by the laws of the State of Utah, and constitutes the entire agreement between Pioneer and the Student with respect to the furnishing of the Computer by Pioneer.

Pioneer Student One2One Program Contract (cont'd)

In consideration of Pioneer leasing the Computer to the above-named Student, the undersigned personally and unconditionally guarantees the payment and performance of, and agrees to be subject to, all the terms and conditions of this Lease until all obligations under the Lease are fulfilled, including payment of any reasonable costs and fees incurred by Pioneer in enforcing any of the terms of this Lease, and agrees that the execution of this Guaranty by the undersigned constitutes the transaction of business in the State of Utah.

STUDENT SIGNATURE Parker Smith

PARENT SIGNATURE _____
(Required if Student under the age of 18)

END OF SCHOOL YEAR DUE DATE: **Friday, May 24, 2014**

ACKNOWLEDGED BY: Pat Andrews DATE: 9/17/13

INSURANCE DEPOSIT: Yes: _____ No: X

NOTICE

***The computers involved in this pilot program have the best technology currently available to learn and understand the needs of students. Part of this pilot program is tracking the use of the laptops.

Consequently, each laptop has a shared link to Pioneer Computers, Inc. This link helps track the location, use, and other important information regarding the company's large investment in America's youth. ***

EXHIBIT 3

Company History



Pioneer Computers, Inc. is a successful company in computer innovation.

In 1998, Sam Kaufusi incorporated Pioneer Computers, Inc. S/he first employed ten people in a small building. Now Pioneer employs over 850 and serves more than sixteen states.

**Pioneer
Computers, Inc.
122 N. Midway Ave.,
Tornahdo, Utah 84137
Phone: 385.322.4555
Fax: 385.322.4556
www.PioneerComp.c
om**

**Pioneer
Computers, Inc**

**One2One
Pilot Program**



More innovation per
byte.

Investing in Our Future



Pilot Program

Pioneer Computers, Inc. has been a true pioneer in continuously investing in and supporting the needs of our upcoming leaders – students. Now Pioneer has taken a step further. We are proud to announce that Pioneer will sponsor a student laptop pilot program for Riverdale High School students.

Safe

This exciting new project will provide laptops to all high school students to use for schoolwork. Each laptop will be safe, private, and secure with pre-installed spam, firmware, and virus protection.

Purpose

The heart and soul of this initiative is to provide tomorrow's leaders with the innovation to learn and grow today.

Students may use the laptops for activities such as researching and



writing papers, creating presentations, or even accessing online classes, tutorials. Additionally, general computer skills are needed not only to access everyday needs, but also for most of the students' future jobs.

Portable

Because Pioneer is supplying laptops, the students are not confined to computer rooms in the school. This allows students the ability to work anywhere! For students to take the laptops off school grounds, the student must deposit \$60 for insurance.

Parents –

If you have any questions pertaining to the laptop use contract, monitoring notice, insurance requirement, or any general information about the company, feel free to call. Our goal is to help our students, but by helping our students, we also aim to help you!

- Pioneer Computers, Inc.

EXHIBIT 4

Inter-office E-mail between Pioneer/Pine Crest Employees

From: Kelly Sanchez
To: Undisclosed List
Date: March 7, 2014
Subject: Peep Show!

Hey Kids! Don't forget the weekly Peep Show Party at my house! It's the reality show that's sweeping Bonneville County! Come One, Come All! Bring your fav photos and scenes from the past week to share!

BYOB - Munchies Provided

10 PM Friday & Saturday. Be There or Be Square!

EXHIBIT 5

Screen Shot of IM Conversation

pnutz: wassup?!

winsome SHOWTIME!

pnutz: got it?

winsome: All Set

pnutz: whas the plan?

winsome: Monday @ 10

pnutz: big bang?

winsome: A few fireworks for sure!

pnutz: kool

winsome: C u @ school for the Event!

pnutz: kapow!

winsome: LOL

EXHIBIT 6

Webcam Photo



EXHIBIT 7

**Riverdale High School One2One
Computer Program**

Notification of Lost Computer

Date: March 20, 2014

Name (user): Parker Smith

ID#: W4213865S

X Lost

 Believed Stolen

Approximate Date Last Seen: March 17, 2014

I hereby authorize Riverdale High School and its contracted partners to activate TheftTrack to locate this missing computer.

User Signature: Parker Smith

Reported to: Reese Johnson

EXHIBIT 8

E-mail Thread

From: S. Kaufusi
To: J. Young
To: R. Johnson
Date: 9/25/13

Re: TheftTrack

I will tell you that the TheftTrack feature is only used to track equipment that is reported lost or stolen. The only information that this feature captures is IP and DNS info from the network it is connected to and occasional screen/camera shots of the computer being operated. This information is provided to police to hopefully assist in getting the laptop back to us. This feature has already been used to retrieve laptops that would have otherwise been lost and can only be activated by qualified techs at Pine Crest. Once again, it is only activated in the case where a laptop is reported as stolen or missing.

The tracking feature does NOT do things like record web browsing, chatting, e-mail, or any other type of “spyware” features that you might be thinking of. The police stated concern is certainly a valid one. But I assure you that we in no way shape or form employ any of these tactics ESPECIALLY with computers off the network.

From: J. Young
To: R. Johnson
To: S. Kaufusi
Date: 9/25/13

Re: TheftTrack

Reese - I'm not sure that what you've found is correct. What I know for certainty is that there is absolutely no way that the District Tech people are going to monitor students at home. There is no plan, no staff, no desire, and I believe no technical way to do that. I will definitely confirm the technical pieces. If we were going to monitor students at home, we would have stated so. Think about it - why would we do that? There is no purpose - we are not a police state! Riverdale has always been ahead of the curve when it comes to the privacy and safety of our students and staff. There is no way that I would approve or advocate for the monitoring of students at home. I suggest you take a breath and relax.

EXHIBIT 9

E-mail Thread

From: S. Kaufusi
To: J. Young
To: R. Johnson
Date: 10/19/13

Re: Webcam/TheftTrack

In my opinion, in the interest of theft protection, teachers should not even be allowed to cover the camera like they do now - and certainly not recommend that to students. If their laptop gets stolen, that is a major piece of the theft tracking gone bye bye just because someone is uninformed on what the use of the camera is.

The camera can NOT be used without the little green light being on so if it is on, they will know it. And only the administrators here at Pioneer and Pine Crest have the ability to enable the TheftTrack program which does not record video, only a snapshot every 15 minutes or so.

Is someone afraid that we're spying on them?

We do not publicize the capabilities of TheftTrack for obvious reasons. Telling students how we might track lost or stolen machines would defeat the purpose of the device. If you're controlling someone's machine, you don't want them to know what you're doing. I trust you to keep the specific functionality of TheftTrack to yourself and let our expert techs handle the situation

