

2015 Nationals Case Updates

4/23/15 (final)

Corrections:

1. At the beginning of his/her witness statement, Hooper says s/he has worked for Detail Security since 2009. It appears to be an error. Hooper says elsewhere that Detail Security hired him in the fall of 2003.

You are correct; it was an error. Hooper was hired in 2003. The final version of the case will contain that correction to Hooper's statement. Thank you for advising us of this issue.

2. Plaintiff's expert, Kelly Blount signed and swore to the content of her/his witness statement on January 7, 2015. In the statement, Blount claims to have reviewed the statement of the other five witnesses. However, three of the other witnesses – Blair Hooper, Alex Lillington and Terry Spaight – did not sign and swear to the contents of their statements until days later: Hooper on January 9, Lillington on January 12, and Spaight on January 14. Did Blount actually review these statements?

Yes, Blount did review those statements, as stated. To avoid any confusion, we have added the following line to Blount's statement, following the Notarial signature, "Signed and sworn before me this 7th day of January, 2015, and modified this 17th day of January, 2015." This makes it clear that Blount gave the statement initially and then amended it once the other witnesses provided their statements. (To simply re-date Blount would raise the same question from Spaight) Thank you for advising us of this issue.

Q&A:

Q1. Must the plaintiff raise both claims -- the battery claim and the negligence claim? I expect that the plaintiff has to pursue both claims, but I didn't see anything in the case making that clear. It might make sense to clarify this so that teams don't try to pursue only one claim and then object to all evidence offered by the defense to rebut the other claim.

A1. The purpose of the pleadings is to frame the issues for trial, and the jury instructions define the issues which are submitted to the trier of fact. The rules contain no provision under which a team could formally amend the pleadings or abandon one of the causes of action. Accordingly, while teams may choose which evidence they wish to present and which arguments they wish to make or emphasize at trial, no team may object that particular evidence is irrelevant or otherwise inadmissible because that team or its opponent has chosen not to pursue one of the causes of action in the case materials.

Q2. The list of witnesses, on page 23, identifies Blair Hooper as the "party representative" for the defendant. However, Hooper is not the defendant listed in the Complaint or other legal documents, and the identification raises questions regarding Detail Security making Hooper its

spokesperson for the litigation, and the possibility that Hooper's out-of-court statements can be deemed party-opponent admissions.

A2. There is a distinction between being seated at counsel table as a party's representative for purposes of trial and whether and when an individual was a party representative for purposes of respondeat superior liability or Rule 801(d). The list of witnesses was intended to identify those individuals who could sit at counsel table during the trial, not for the latter purpose. Because Detail has no other representative present, teams portraying the defense may elect to have Hooper sit as their party representative. They may also elect to have Hooper sit as an ordinary witness.

In neither case does whether Hooper sits at counsel table impact on either substantive question. Those issues are determined by the standards established in the rules and the case materials, and they are based on the status of Hooper at the relevant points in time.

Q3. On Exhibit 7b, there appears to be a page missing. The paragraph 5-2.111 at the bottom of page 73 should continue on the following page, but it does not. I realize that Exhibit 7 consists of excerpts, so the omission could be intentional.

A3. Yes, it is intentional; as you noted, the pages are excerpts from different sections of the employee manual. The version of Section 5-2.111 presented in the case materials is both complete and accurate; no portion of that section is missing.

Q4. Also, for Exhibit 9, the exhibit consists of two pages. However, the two pages appear to come from two entirely different exhibits. For instance, page 1 appears to be from Andy Archer's Facebook page in March 2012, but page 2 appears to be a Facebook discussion between Blair Hooper and someone else over several months (February and August).

A4. You are correct that these pages are from different time periods. For purposes of clarity, the exhibit pages will be renumbered Exhibit 9a and 9b in the final case materials and the following text will be added as Stipulation 15, "Exhibit 9 may be entered into evidence collectively, or either side may offer one of the separately designated pages (9a or 9b)."

Q5. Quick question, could you tell us what ASAS stands for in Blounts fact statement?

A5. It no longer stands for anything. ASAS International is now the organization's trademarked name, not an acronym. However, since you asked, ASAS once stood for the American Society for Appurtenant Security. As the organization matured in the latter portion of the 20th century, "American" was too parochial. "Appurtenant" was both archaic and inaccurate; the organization had originally been for building security, hence the name, but had long since expanded into the personal security, personnel-based security, and security planning and training businesses. Accordingly, the organization was renamed ASAS International, retaining the good will of the old "ASAS" acronym while expanding both the topical and geographical reach the name reflects.

Q6. Our team has several questions about Exhibit 9: the facebook posts.

- When were the screenshots taken?
- Whose account were the screenshots taken from?
- On the second page, the name “Max” appears in the upper left hand side. Is this an error?
- On the first page, whoever’s account this is liked the photo posed by Archer.
- How is Archer familiar with the private messages between Sky Illuminati and Blair Hooper?
- How is Madison Hancock familiar with either screenshot?
- When were these screenshots taken?

A6. Language will be added to Stipulation 15 to the effect that Exhibit 9 contains documents exchanged in discovery during the suit. Exhibit 9a was produced by Andy Archer from Archer’s own Facebook account. Exhibit 9b was produced by Blair Hooper from Hooper’s Facebook account. This new language will be present in the final version of the case.

The reference to “Max” on Exhibit 9b is an error that will be corrected in the final version of the case.

With respect to the remaining questions, no additional information will be provided; the case stands as written.

Q7. In reference to last week’s update, since the defense can choose whether or not to have Blair Hooper as a party representative, does this mean if they choose not to, that plaintiff cannot use admission-by-party-opponent as a hearsay exception?

A7. As stated in the prior clarifications, A2, there is a distinction between being seated at counsel table for purposes of trial and whether and when an individual is a party opponent for purposes of Rule 801(d). As further stated in the prior clarifications, “in neither case does whether Hooper sits at counsel table impact on either substantive question.” So the decision of whether Hooper sits at counsel table has no impact on whether Hooper was a party opponent for purposes of 801(d).

Q8. Is Jordan Hooper assumed to be the same gender as Andy Archer?

A8. Yes

Q9. In Exhibit 9, is “Sky Illuminati” ever identified? Is it reasonable to assume it’s Hancock? Or is it intended to be anonymous?

A9. No additional information will be provided; the case stands as written.

Q10. In Blount’s testimony, it states that s/he has reviewed exhibits 2, 3, 4, 6, 7, and 11. But Blount testifies to having some knowledge of Exhibit 8. Is s/he only testifying to what has been written in other people’s affidavits or is s/he testifying to his/her own knowledge?

A10. Blount's statement will be amended to reflect that Blount also has knowledge of Exhibits 8 and 9. Spaight's testimony will likewise be amended to reflect that Spaight is familiar with Exhibits 8 and 9. These changes will be reflected in the final version of the case.

Q11. In what capacity was Marshal Reavis present at the event on July 4th, 2014 - was Reavis acting as a protector of the Governor or was Reavis a VIP himself? Spaight says in his affidavit that the Marshals were part of the security system in place, tasked with protecting the governor. "Overall, I thought it was a good, secure plan, and so did the Capitol Police and even the U.S. Marshals who provide security for US Supreme Court Justices," writes Spaight (p 57, ln 46-47). Later, Spaight writes "At 8:58 AM, all Detail personnel are tasked with protecting Mason and Reavis, the VIPs" (p 59, ln 118). Given these statements, we ask in what capacity Marshal Reavis was present at the event - was Reavis providing security at the event, or was Detail providing security for Reavis?

A11. No additional information will be provided; the case stands as written.

Q12. There are many contrasting statements in the case about how many VIPs were at the event on July 4th, 2014. In Spaight's affidavit, he writes "... all Detail personnel are tasked with protecting Mason and Reavis, the VIPs. ... There are also two platinum protectees on the way..." (p 59, ln 118-120). In Hooper's affidavit, he writes, "...I heard that three VIPs were inbound..." (p 47, ln 145). Since the VIPs were positioned at the top of the stairs at the time of the incident involving Archer and Hooper, we ask for clarification as to the number of VIPs at the event, and further clarification as to how many VIPs were positioned at the top of the stairs at the time of the incident in question.

A12. No additional information will be provided; the case stands as written.

Q13. On page 62 line 189-90, Spaight's declaration says s/he reviewed the exhibits. On line 197 it lists only 8 of the 12 exhibits. Need clarification on this please.

A13. Spaight is only familiar with the 8 exhibits listed on line 197.