**Rebuttal to Affidavit of Witness Donald J. Simko**

**From: Max J. Meindl**  
**Date: April 16, 2025**

Dear LaKisha Wilson,

This rebuttal contests the affidavit of Donald J. Simko, Public Assistance Branch Chief, dated April 14, 2025, in connection with my EEO complaint (HS-FEMA-02430-2024). As a FEMA leader involved in the confidential ADR process, Mr. Simko’s affidavit misrepresents my capabilities and fails to address FEMA’s procedural failures, which led to the denial of my Reasonable Accommodation (RA) request (RAR0046767) on August 16, 2024, and my termination on January 6, 2025. Below, I refute his claims with evidence from my affidavit (April 16, 2025), chats, and supporting documents, respecting ADR confidentiality. A table of key contradictions is included for clarity.

**Rebuttal to Mr. Simko’s Claims**

* **False Claim of My Refusal to Deploy**
  + Mr. Simko claims I stated I “would not travel,” barring essential functions (Simko Affidavit, p. 7, Q41-43). I performed remotely for 38 months (March 2020–May 2023), and for my final year, managing closeouts, as endorsed by Anthony In.
  + On May 23, 2024, I agreed to deploy to Houston when In asked, overruled within nine minutes. On July 9, 2024, I offered to deploy despite storm damage.
  + My virtual success (e.g., 4611DR, Sep 2021–May 2023) proves deployment was feasible remotely, ignored by Simko.
* **Lack of Oversight in RA Denial Process**
  + Mr. Simko claims no knowledge of the August 16, 2024 denial, stating In processed it (Simko Affidavit, p. 6, Q2-5). As a leader, he should have ensured compliance, given his oversight above my first-line supervisor, In, and second-line supervisor, Jodi Hunter.
  + RAR0046767 faced a 194-day delay (January 2–July 10, 2024), violating FEMA’s 45-day policy. The denial lacked hardship analysis, which he failed to address.
  + No interactive process considered my virtual capabilities, breaching 29 C.F.R. § 1630.9.
* **Mischaracterization of Termination**
  + Mr. Simko claims I was terminated for lack of reassignment and declined a non-deployment role (Simko Affidavit, p. 7, Q38-44). No transfer offer is documented; I agreed to explore reassignment on August 22, 2024.
  + Termination, 17 days after my December 20, 2024 EEO complaint, suggests retaliation.
  + FEMA’s reassignment failure ignored my remote record, which Simko, in his leadership role, should have scrutinized.
* **Unsupported Denial of Discrimination**
  + Mr. Simko denies age (74) or disability factored into the denial or termination (Simko Affidavit, p. 3, Q5; p. 7, Q34). FEMA’s remote job ads (August 17, 2023) suggest bias toward younger employees.
  + Five RAs faced delays up to 1,203 days, indicating discriminatory neglect. Mark Underhill’s 2022 endorsement was ignored, violating the Rehabilitation Act and ADEA.
* **Omission of Systemic Issues**
  + Mr. Simko adds no further information, ignoring premature OAST surveys for RAR0023278.
  + Disaster welfare neglect during FEMA-4781-DR-TX, despite my updates, breached OSHA and Stafford Act duties.
  + HIPAA violations in Clemons’ emails (July 10, 2024) went unaddressed under his leadership.

**Discrepancies in Donald J. Simko’s Affidavit**

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| Simko’s Claim | Evidence Contradicting Claim |
| Refused to travel (p. 7, Q41-43). | Agreed to deploy May 23, July 9, 2024; 38-month remote success. |
| No denial knowledge (p. 6, Q2-5). | Leadership role; ignored 194-day delay, no hardship analysis. |
| Declined transfer (p. 7, Q38-44). | No offer documented; agreed to reassignment August 22, 2024. |
| No age/disability bias (p. 3, Q5). | Remote job ads, systemic delays suggest bias. |
| No systemic issues (p. 3, Q8). | Surveys, welfare neglect, HIPAA breaches unaddressed. |

**Conclusion**

Mr. Simko’s affidavit misrepresents my deployment willingness, ignores my remote success, and sidesteps FEMA’s delays, lack of oversight, and retaliatory termination. Evidence—my 38-month virtual record, EEO filing proximity, and ignored endorsements—points to Rehabilitation Act and ADEA violations. I urge the investigator to review Mr. Simko’s leadership communications, interview Mark Underhill and Darla Dickerson, and probe the “stand down” order for accountability, while respecting ADR confidentiality.

Sincerely,  
Max J. Meindl  
5 E. Austin St., Bellville, TX 77418  
Phone: 832-293-3671