

BEFORE THE HEARING SUBCOMMITTEE
OF THE INTERIM LEGISLATIVE ETHICS COMMITTEE

In re: Representative Carl Trujillo,

Respondent.

**RESPONDENT'S RESPONSE TO CHARGING PARTY'S
MOTION TO COMPEL DISCOVERY RE MARTHA TRUJILLO**

The Special Master should deny the Charging Party's Motion to Compel Answers to Interrogatories and Deposition Questions relating to Martha Trujillo (filed Thursday 11/8/18 at 4:53 p.m.) because they are wholly irrelevant to Ms. Bonar's claims of sexual harassment, are solely intended to threaten and harass the Respondent and his family, and reflect an abuse of the Charging Party's prosecutorial power.

Please let your client know that I encourage you to raise each and everything you can think of. Know, however, that I will respond accordingly and will now resort to offensive measures that I had hoped would be unnecessary. I think I've been more than fair to him up to this point and have tried to find a dignified exit. That appears to be over now, so I am moving a different strategy.

See 10/12/18 email from Hnasko to Jackson (Exhibit 1).

The Charging Party notably does not even attempt to claim that Martha has any personal knowledge about Ms. Bonar's sexual harassment claims. That is because, when acting as Special Counsel to the Investigative Subcommittee, Mr. Hnasko had authority to interview anyone he deemed relevant, and he ultimately

interviewed fifteen named witnesses, and an undisclosed number of anonymous witnesses, about Mr. Bonar's claims of sexual harassment against Respondent.¹ Special Counsel did not interview Martha or seek any records relating to her because no one has ever claimed that she has any personal knowledge about the claims made in the charge.

For these reasons, and those discussed below, Respondent respectfully requests that the Special Master deny the Motion.

Discussion

Martha Trujillo is the Respondent's sixty-five year old aunt. In September and October, Respondent's aunt apparently sent an email "blast" to legislators in which she essentially complained that she felt her nephew was not being treated fairly. In her second writing (dated October 7), Martha complained, *inter alia*, that the Charging Party/Special Counsel (Tom Hnasko) was not independent and has "conflicts" because he had made a political contribution and had represented a legislator's law firm, and for other reasons.

Tom Hnasko contributed to Speaker Egolf's campaign account (April 2018) recently. Tom Hnasko recently filed a case in Santa Fe District Court on 04/11/2018 representing Egolf firm (D-101-CV-2018-01157). This case is where Egolf is suing one of his previous clients, Donald Moya who was a whistle blower on Albuquerque Public Schools. Tom Hnasko represents Egolf in this case. So now the special counsel hired in multiple roles has several conflicts with

¹ See Recommendations at 12-13

Speaker Egolf, the lone person who voted to move you to this new process that now Tom Hnasko controls.

10/7/18 Letter from Martha Trujillo to “Dear Representative” (Exhibit C to Motion). From that time to now, the Charging Party has abused the power granted to him to retaliate against and harass Martha, including seeking to have her deposed.

The Charging Party has pursued Martha despite the fact that the Co-Chairs of the Hearing Committee have already declared *sua sponte* that Martha’s writings are irrelevant and will not be considered: “Legislative Council Service staff have advised the hearing subcommittee to ignore these letters.” 10/15/18 Letter from Subcommittee Co-Chairs (attached as Exhibit 2). “We can assure you that the subcommittee members are continuing to do just that.” *Id.* Respondent did not object because Martha’s writings are wholly immaterial to Respondent’s defense and are, quite frankly, a distraction.

A. “I want Martha.”

Mr. Hnasko first began to pursue Martha on 10/12/18 – within days of her above-referenced letter challenging his independence. Mr. Hnasko left a voice mail seeking to depose her. Undersigned counsel had no idea who Martha was, and originally thought that Mr. Hnasko was trying to depose a “Mark” Trujillo. By email, Mr. Hnasko responded: “it’s Martha Trujillo, not Mark. And I would like

you to produce her.” Counsel for Respondent then made inquiry to determine who Martha was and why Mr. Hnasko was now seeking to depose someone who had never previously come up in the case.

I have spoken with her, and she has no direct knowledge of Ms. Bonar’s allegations. She has had a couple conversations with Carl Trujillo over the past few months, but they were generally limited to Carl saying that the allegations are ridiculous and false. If that were the standard, there would probably be dozens or hundreds of people who could testify that Carl has denied the allegations and characterized them in that way.

Virtually everything that she knows about this matter is from what she’s read or is her own opinion.

I don’t see how she has any information that would be useful or admissible. If there is something specific that you think she can offer, please let me know.

Email 10/12/18 email from Loman to Hnasko (Exhibit 3). Mr. Hnasko’s response?

“I want Martha.”

The Scheduling Order provides that “[a]ny party may take the depositions of any witness designated by the other party” Early in this proceeding, Respondent moved for subpoena power to compel witnesses to appear and produce records. The Charging Party opposed the motion, and Respondent’s motion was summarily denied without explanation. *See* 10/25/18 Order (“The Hearing Subcommittee has considered the written submissions of the parties, finds a formal hearing is unnecessary and oral arguments are not required and hereby DENIES

Respondent's motions.”). As a result, one of the only discovery tools available is the right to depose “any witness designated by the other party.”

Respondent has never identified Martha as witness in this proceeding. Rather than refuse her deposition outright, Respondent repeatedly asked the Charging Party why he believes Martha is relevant, and he has repeatedly refused to answer:

Jackson: I don’t know or represent Martha Trujillo. I don’t have any control over her, and I am not going to call her as a witness. Why do you think her testimony is relevant to these proceedings?

Hnasko: I don’t think I need to persuade you or Eric why I want to depose her.

10/12/18 Email from Hnasko to Jackson (Ex. 1).

When the Charging Party complained that he had worked to make his witnesses available, Respondent explained why that was different:

I’ve only asked to depose witnesses that you, as the Charging Party, have formally identified as witnesses that you will call to testify against the Respondent at the Formal Hearing. Respondent is obviously entitled to cross-examine witnesses who will testify against him. The four “will call” witnesses that I’ve asked to depose are all people who provided information and records for your underlying investigation, and who you relied on and cited in your proposed findings and recommendations. While I appreciate your cooperation in scheduling depositions of your witnesses, let’s not overlook the fact that you are obligated under the scheduling order to make your witnesses available, otherwise I can and would move to strike them. I know that you see the difference, here.

The Scheduling Order provides that “Any party may take the depositions of any witness designated by the other party” I am

NOT calling this woman as a witness. I don't know anything about her or understand why you think she matters. I don't see that she's come up anywhere in the investigation. After making inquiries today following your call, my understanding from others is that she submitted some sort of constituent email to complain about all of this (unbeknownst to me). I now understand that some of her complaints go directly to claims of bias against you for client engagements/election contributions (arguments you'll note I did not make in our motion [to dismiss]). I understand being upset when someone questions your ethics, but (1) I haven't done that at all in my public filings; and (2) unless there is a good reason to take her deposition, it looks from the outside like you are trying to depose her in retaliation for whatever bad things she said about you (and others) in some email that no one has probably read. Bottom line, I don't have any reason to believe that she has any personal knowledge about any of the allegations against Respondent. Rather than just say "no" to the deposition, I've asked why she's relevant. I don't think you really believe she is"

It seemed obvious to undersigned counsel that the Charging Party was upset and acting on emotion, and therefore proposed that: "I can tell you are a little hot about this, so let's cool off over the weekend, and talk by phone on Monday."

The Charging Party then demonstrated a clear lack of impartiality and fitness to serve in any prosecutorial role by stating:

[W]e can talk about it, but I will raise it by motion if I need to do so. Finally, Travis, I really don't care about anything you raise and I am certainly not "hot" about any of it. Please let your client know that I encourage you to raise each and everything you can think of. Know, however, that I will respond accordingly and will now resort to offensive measures that I had hoped would be unnecessary. I think I've been more than fair to him up to this point and have tried to find a dignified exit. That appears to be over now, so I am moving a different strategy. I will want to take her deposition immediately after his.

10/12/18 Email from Hnasko to Jackson (Ex. 3) (emphasis).

The Charging Party never called to follow up about Martha's deposition, never filed any motion to compel Martha's deposition, and has never provided any good explanation for why Martha is remotely relevant to Ms. Bonar's claims of sexual harassment against Respondent. That's because she's not relevant. Ironically, she's been targeted because she publicly expressed her belief that Special Counsel is not fair or independent.

The Charging Party then served written discovery requests seeking information relating to Martha, all which Respondent timely and separately objected to on grounds of relevance. The Charging Party indicated that it would file a motion to compel. *See* 11/7/18 email from Hnasko to Jackson (Exhibit 4). Counsel for Respondent then notified the Charging Party *in advance of Respondent's deposition* that he would object to any lines of questioning about Martha Trujillo for all of the reasons outlined above, and asked whether the Charging Party wanted to defer the deposition until the issue was resolved. The Charging Party elected to proceed anyway:

Hnasko: . . . We can't agree with your refusal to answer interrogatory nos. 12-15 on the grounds of "relevance." These interrogatories seek highly relevant information that bears on Rep. Trujillo's credibility, defenses, and a potential attempt to improperly influence the hearing process. Please let me know if you will reconsider and provide answers. Otherwise, we will be filing a motion to compel answers.

Jackson: First, for all of the reasons already detailed in our prior emails of October 12, Respondent objects to your pursuit of discovery about Martha Trujillo. We stand by the objections made in written discovery. In light of your email, I want to advise you that I am also going to object if you attempt to question Respondent about Martha Trujillo at his deposition tomorrow. Knowing that, do you want to proceed tomorrow? Or do you want to file your motion and reschedule his deposition to proceed after we get a ruling from the Special Master? If you want to defer, I'll get you additional dates for later in November.

Hnasko: Ok. Thanks. I am going forward with the depo tomorrow.

See 11/7/18 Email from Hnasko to Jackson (Ex. 4).

The Charging Party makes a number of gross misrepresentations about the conduct of the deposition, including claiming that: “Rep. Trujillo has not made any claim that any of these deposition questions are in bad faith or calculated to unreasonably annoy or embarrass him” That representation to the Special Master and Subcommittee is flat out false – as proven by the transcript of the deposition itself:

MR. JACKSON: I'd like to make an objection on the record first, please. Respondent objects to any line of inquiry regarding Martha Trujillo **on grounds it is not relevant, it is intended to harass and annoy**. Counsel have discussed this objection on multiple occasions in advance of this deposition; charging party was aware of the objection before taking the deposition and elected to proceed anyway. Charging party has indicated that it is going to file a motion to compel regarding discovery on Martha Trujillo, and we're going to object to any type of questioning today until that motion is resolved.

See Excerpt of Rep. Trujillo Deposition at 61 (Exhibit 5)

The Charging Party also falsely claims that, “Counsel also instructed him not to answer whether Rep. Trujillo believes that the Legislature has the authority to conduct the investigation.” Motion at 4. Again, that is flat out false and grossly misstates what actually happened during the deposition. Review of the transcript reveals that the Charging Party was given extensive leeway to ask bad questions about Representative Trujillo’s “interpretation” of a Legislative Council Policy provision that Representative Trujillo does not even claim applies to this proceeding. Attached as Exhibit 6 are the excerpts from the transcript in which the Charging Party badgered Representative Trujillo for 28 pages about his “interpretation” Legislative Policy 16(H). Respondent welcomes independent review of the transcript to evaluate who acted improperly. The Charging Party’s representations about the conduct of the deposition are not true.

The Charging Party’s claim for attorney’s fees is baseless. The Charging Party has not come forward with any genuine, good faith explanation as to why Martha Trujillo is relevant to Ms. Bonar’s claims of sexual harassment. Moreover, Respondent advised the Charging Party in advance of the deposition that it would object to questions about Martha, proposed that those issues be presented to the Special Master first, and the Charging Party elected to proceed anyway.

If anyone should be sanctioned, it is the Charging Party. This Motion is part and parcel of an improper pursuit by the Charging Party of Respondent’s 65 year

old aunt who dared challenge his independence in an email blast that has already been formally disregarded by the Hearing Subcommittee. The Charging Party's pursuit of Respondent's aunt because she complained about him is, quite frankly, petty and small, and reflects an abuse of the authority granted by the Legislature. Moreover, the pursuit of Martha has revealed that the Charging Party has a personal axe to grind against Respondent.

Prosecutors are required to act impartially and in the interests of justice. A prosecutor's unique role was explained in *Berger v. United States*, 295 U.S. 78, 88, 55 S.Ct. 629, 79 L.Ed. 1314 (1935):

The [prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.

Because of their duty to pursue the public interest, the Supreme Court has recognized the "requirement of a disinterested prosecutor." *Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 808, 107 S.Ct. 2124, 95 L.Ed.2d 740 (1987). In *Wright v. United States*, 732 F.2d 1048, 1056 (2d Cir.1984) (Friendly, J.), the Second Circuit explained that a prosecutor is "not disinterested if he has, or is under the influence of others who have, an axe to grind against the Defendant, as distinguished from the appropriate interest that members of society have in

bringing a Defendant to justice with respect to the crime with which he is charged.”

Where, as here, a prosecutor writes that: “I will respond accordingly and will now resort to offensive measures that I had hoped would be unnecessary,” something is wrong. When that prosecutor then pursues a member of the Respondent’s family because she publicly complained about his independence and the treatment of her nephew, something is very wrong. Respondent respectfully requests that the Special Master put an end to these improper tactics.

Finally, the Charging Party’s complaints about “dilatory discovery practices” and “refusing to answer deposition questions” should fall flat in light of Ms. Bonar’s willful failure to appear for any deposition, and her willful failure to produce any records, in direct violation of the Special Master’s order. By contrast, Respondent did timely respond to discovery, did timely produce records, and did appear for his deposition – painful as it was. The only party that has been denied access to key witnesses and evidence is the Respondent. The Charging Party cannot credibly complain about Martha when they have failed to produce Laura Bonar – the primary and only first-hand witness against Representative Trujillo.

For all of these reasons, Respondent respectfully requests that the Special Master deny the motion.

Respectfully submitted,

**JACKSON LOMAN STANFORD
& DOWNEY, P.C.**

/s/Travis G. Jackson

Travis Jackson

Eric Loman

Counsel for Representative Carl Trujillo

201 Third St. N.W., Ste. 1500

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(505) 767-0577

(505) 242-9944 (fax)

travis@jacksonlomanlaw.com

eric@jacksonlomanlaw.com

We hereby certify that a true and correct copy of the foregoing pleading was emailed this 14th day of November, 2018, to:

Thomas M. Hnasko
Hinkle Shanor LLP
PO Box 2068
Santa Fe, NM 87504
thnasko@hinklelawfirm.com

Hearing Subcommittee of the Interim
Legislative Ethics Committee
c/o Raul Burciaga, Director
Legislative Council Service
State Capitol Building, 4th Floor
Santa Fe, NM 87503
raul.burciaga@nmlegis.gov

JACKSON LOMAN STANFORD & DOWNEY, P.C.

By: /s/Travis G. Jackson
Travis G. Jackson

From: Tom Hnasko <thnasko@hinklelawfirm.com>
Sent: Friday, October 12, 2018 8:07 PM
To: Travis G. Jackson
Subject: Re: In re Representative Carl Trujillo: Deposition Availability for Trujillo

I'm good with that, but I really think she is relevant to your client's defense. And, I can assure you, I have no problem with anyone questioning my role. I want to ask her questions only about your client, not me. So, we can talk about it, but I will raise it by motion if I need to do so. Finally, Travis, I really don't care about anything you raise and I am certainly not "hot" about any of it. Please let your client know that I encourage you to raise each and everything you can think of. Know, however, that I will respond accordingly and will now resort to offensive measures that I had hoped would be unnecessary. I think I've been more than fair to him up to this point and have tried to find a dignified exit. That appears to be over now, so I am moving a different strategy. I will want to take her deposition immediately after his.

Sent from my iPhone

On Oct 12, 2018, at 7:44 PM, Travis G. Jackson <travis@jacksonlomanlaw.com> wrote:

Tom,

I've only asked to depose witnesses that you, as the Charging Party, have formally identified as witnesses that you will call to testify against the Respondent at the Formal Hearing. Respondent is obviously entitled to cross-examine witnesses who will testify against him. The four "will call" witnesses that I've asked to depose are all people who provided information and records for your underlying investigation, and who you relied on and cited in your proposed findings and recommendations. While I appreciate your cooperation in scheduling depositions of your witnesses, let's not overlook the fact that you are obligated under the scheduling order to make your witnesses available, otherwise I can and would move to strike them. I know that you see the difference, here.

The Scheduling Order provides that "Any party may take the depositions of any witness designated by the other party . . ." I am NOT calling this woman as a witness. I don't know anything about her or understand why you think she matters. I don't see that she's come up anywhere in the investigation. After making inquiries today following your call, my understanding from others is that she submitted some sort of constituent email to complain about all of this (unbeknownst to me). I now understand that some of her complaints go directly to claims of bias *against you* for client engagements/election contributions (arguments you'll note I did not make in our motion). I understand being upset when someone questions your ethics, but (1) I haven't done that at all in my public filings; and (2) unless there is a good reason to take her deposition, it looks from the outside like you are trying to depose her in retaliation for whatever bad things she said about you (and others) in some email that no one has probably read. Bottom line, I don't have any reason to believe that she has any personal knowledge about any of the allegations against Respondent. Rather than just say "no" to the deposition, I've asked why she's relevant. I don't think you really believe she is, but I can tell you are a little hot about this, so let's cool off over the weekend, and talk by phone on Monday.

Travis

From: Tom Hnasko [<mailto:thnasko@hinklelawfirm.com>]
Sent: Friday, October 12, 2018 7:02 PM
To: Travis G. Jackson
Cc: Eric Loman
Subject: Re: In re Representative Carl Trujillo: Deposition Availability for Trujillo

Travis - I know you don't represent her. I don't represent anyone you want to depose, but told you I would make every effort to get them to appear. Certainly Mr. Trujillo can get her to appear for a short deposition. And I don't think I need to persuade you or Eric why I want to depose her. BTW, if I thought we could do it, I would join in your motion for subpoena power.

Sent from my iPhone

On Oct 12, 2018, at 6:21 PM, Travis G. Jackson <travis@jacksonlomanlaw.com> wrote:

Tom,

I don't know or represent Martha Trujillo. I don't have any control over her, and I am not going to call her as a witness. Why do you think her testimony is relevant to these proceedings?

Travis

Travis G. Jackson
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Telephone (505) 767-0577
travis@jacksonlomanlaw.com

***Foster, Rieder & Jackson P.C. is now Jackson Loman Stanford & Downey, P.C.**

From: Tom Hnasko [<mailto:thnasko@hinklelawfirm.com>]
Sent: Friday, October 12, 2018 5:59 PM
To: Travis G. Jackson
Cc: Eric Loman; Nancy Bourne
Subject: Re: In re Representative Carl Trujillo: Deposition Availability for Trujillo

Thanks. How about Martha?

Sent from my iPhone

On Oct 12, 2018, at 4:18 PM, Travis G. Jackson <travis@jacksonlomanlaw.com> wrote:

Tom,

Representative Trujillo and I can be available for his deposition on November 1, 2, 6, 7, 8, and 12. He's out of town after the 13th and out the week of Thanksgiving.

Travis G. Jackson
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***Foster, Rieder & Jackson P.C. is now Jackson Loman Stanford & Downey, P.C.**



New Mexico State Legislature

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Santa Fe

October 15, 2018

File No. 202.211369

The Honorable Brian Egolf
brian.egolf@nmlegis.gov

The Honorable Stuart Ingle
stuart.ingle@nmlegis.gov

The Honorable Nate Gentry
nateformn@gmail.com

The Honorable Mary Kay Papen
marykay.papen@nmlegis.gov

The Honorable Sheryl Williams Stapleton
sheryl.stapleton@nmlegis.gov

The Honorable Peter Wirth
peter.wirth@nmlegis.gov

Dear Madam President, Mr. Speaker and Leaders:

Many if not all of you, along with several members of the house and senate, have received letters from a Martha Trujillo of Santa Fe, describing in one letter a "hypothetical" situation through which she claims a legislator could be the subject of a harassment complaint, and how the Interim Legislative Ethics Committee's process is fraught with political machinations and manipulation. While couched in hypothetical terms, the content of both letters is clearly based on a false narrative involving the current investigation of one legislator. In the process, the letters impugn the integrity of the hearing subcommittee, house leadership, counsel to the subcommittee and committee staff, as well as the legislature as a whole. Such erroneous characterization of the current process as described in the letters, and the use of innuendo, personal attacks and falsehoods regarding the hearing subcommittee's current work, should not be allowed to interfere with the ethics committee's important work.

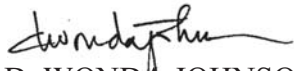
Legislative Council Service staff have advised the hearing subcommittee to ignore these letters; that the false accusations contained therein have been dealt with; and that the subcommittee members must proceed to carry out their function under the established rules and procedures. We can assure you that the subcommittee members are continuing to do just that.

The Honorable Brian Egolf
The Honorable Nate Gentry
The Honorable Sheryl Williams Stapleton
October 15, 2018
Page 2

The Honorable Stuart Ingle
The Honorable Mary Kay Papen
The Honorable Peter Wirth

We therefore advise you of these developments and urge that you exercise your authority to also advise your caucuses to restrain comment, to leave the subcommittee free to perform its duties, with due regard for the legislatively established hearing process, and to protect the deliberative security of the Interim Legislative Ethics Committee's important institutional role.

Sincerely,



D. WONDA JOHNSON
State Representative, District 5
Co-Chair, Interim Legislative Ethics
Hearing Subcommittee



GAIL ARMSTRONG
State Representative, District 49
Co-Chair, Interim Legislative Ethics
Hearing Subcommittee

DWJ/GA:ar

Travis G. Jackson

From: Tom Hnasko <thnasko@hinklelawfirm.com>
Sent: Friday, October 12, 2018 6:05 PM
To: Eric Loman
Cc: Travis G. Jackson; Nancy Bourne
Subject: Re: In re Representative Carl Trujillo: Deposition Availability for Trujillo

Yes - I emailed you back. I want Martha.

Sent from my iPhone

On Oct 12, 2018, at 6:02 PM, Eric Loman <eric@jacksonlomanlaw.com> wrote:

Hi tom

I emailed you earlier today about Martha. If you missed it, here it is:

Tom,

Travis will respond to you with dates on which he and our client are both available for his deposition.

With respect to Martha Trujillo, I can produce her, but I'm not sure she's worth anyone's time. I have spoken with her, and she has no direct knowledge of Ms. Bonar's allegations. She has had a couple conversations with Carl Trujillo over the past few months, but they were generally limited to Carl saying that the allegations are ridiculous and false. If that were the standard, there would probably be dozens or hundreds of people who could testify that Carl has denied the allegations and characterized them in that way.

Virtually everything that she knows about this matter is from what she's read or is her own opinion.

I don't see how she has any information that would be useful or admissible. If there is something specific that you think she can offer, please let me know.

Thanks,

Eric Loman

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[\(505\) 242-9944](#) (fax)

Sent from my iPhone

On Oct 12, 2018, at 5:58 PM, Tom Hnasko <thnasko@hinklelawfirm.com> wrote:

Thanks. **How about Martha?**

Sent from my iPhone

On Oct 12, 2018, at 4:18 PM, Travis G. Jackson <travis@jacksonlomanlaw.com> wrote:

Tom,

Representative Trujillo and I can be available for his deposition on November 1, 2, 6, 7, 8, and 12. He's out of town after the 13th and out the week of Thanksgiving.

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***Foster, Rieder & Jackson P.C. is now Jackson Loman Stanford & Downey, P.C.**

Travis G. Jackson

From: Tom Hnasko <thnasko@hinklelawfirm.com>
Sent: Wednesday, November 07, 2018 8:05 PM
To: Travis G. Jackson
Cc: Eric Loman
Subject: Re: Interrogatory answers

Ok. Thanks. I am going forward with the depo tomorrow.

Sent from my iPhone

On Nov 7, 2018, at 5:44 PM, Travis G. Jackson <travis@jacksonlomanlaw.com> wrote:

Tom,

First, for all of the reasons already detailed in our prior emails of October 12, Respondent objects to your pursuit of discovery about Martha Trujillo. We stand by the objections made in written discovery. In light of your email, I want to advise you that I am also going to object if you attempt to question Respondent about Martha Trujillo at his deposition tomorrow. Knowing that, do you want to proceed tomorrow? Or do you want to file your motion and reschedule his deposition to proceed after we get a ruling from the Special Master? If you want to defer, I'll get you additional dates for later in November.

Second, we are in receipt of your discovery responses, and I am also writing to meet and confer about those. We served a number of interrogatories and requests for production seeking information and records relating to the manner in which the "complaint" was filed and then referred by legislative leadership to the Investigative Subcommittee (Interrogatory Nos. 1-3 RFP Nos. 1-3). We also asked for information about whether and how other sexual harassment claims have been investigated (Interrogatory Nos. 4, 5 RFP Nos. 4, 5). You provided no answers or documents. Instead in, you simply claimed that you either "were not involved and have no personal knowledge" of such events, or that you do not have "custody or control" over responsive documents. That is not good enough. You have been engaged as Special Counsel to the Investigative Subcommittee by the Legislative Council Service. You have the practical ability to obtain this information. *United Nuclear Corp. v. Gen. Atomic Co.*, 1980-NMSC-094, ¶ 58, 96 N.M. 155, 170–71, 629 P.2d 231, 246–47 ("[I]t is immaterial under Rules 33 and 34 that the party subject to the discovery orders does not own the documents, or that it did not prepare or direct the production of the documents, or that it does not have actual physical possession of them. It is also clear that the mere fact that the documents are in the possession of an individual or entity which is different or separate from that of the named party is not determinative of the question of availability or control."). Please provide answers and responsive records, otherwise we will file a motion to compel.

Thanks,

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From: Tom Hnasko [<mailto:thnasko@hinklelawfirm.com>]
Sent: Wednesday, November 07, 2018 3:50 PM
To: Eric Loman; Travis G. Jackson
Subject: Interrogatory answers

Travis and Eric,

I believe Rule 1-033, set forth in the scheduling order, incorporates the meet and confer requirement of Rule 1-037. We can't agree with your refusal to answer interrogatory nos. 12-15 on the grounds of "relevance." These interrogatories seek highly relevant information that bears on Rep. Trujillo's credibility, defenses, and a potential attempt to improperly influence the hearing process. Please let me know if you will reconsider and provide answers. Otherwise, we will be filing a motion to compel answers. Thank you.

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BEFORE THE HEARING SUBCOMMITTEE
OF THE INTERIM LEGISLATIVE ETHICS COMMITTEE

In re: Representative Carl
Trujillo,

Respondent.

DEPOSITION OF CARL TRUJILLO
November 8, 2018

9:01 a.m.

201 Third Street, Northwest, Suite 1630
Albuquerque, New Mexico

PURSUANT TO THE NEW MEXICO RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: MR. THOMAS M. HNASKO
Special Counsel

REPORTED BY: Peggy Jo Gonzales, RMR, CCR #145
Bean & Associates, Inc.
Professional Court Reporting Service
201 Third Street, Northwest, Suite 1630
Albuquerque, New Mexico 87102

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1 Q. (By Mr. Hnasko) Could you briefly review
2 and identify Exhibit 3, please.

3 MR. JACKSON: I'd like to make an objection
4 on the record first, please. Respondent objects to
5 any line of inquiry regarding Martha Trujillo on
6 grounds it is not relevant, it is intended to harass
7 and annoy. Counsel have discussed this objection on
8 multiple occasions in advance of this deposition;
9 charging party was aware of the objection before
10 taking the deposition and elected to proceed anyway.
11 Charging party has indicated that it is going to file
12 a motion to compel regarding discovery on Martha
13 Trujillo, and we're going to object to any type of
14 questioning today until that motion is resolved.

15 MR. HNASKO: All right, I'll make my
16 record.

17 Q. (By Mr. Hnasko) Could you identify
18 Exhibit 3, please.

19 MR. JACKSON: I'm going to object and
20 instruct the witness not to answer.

21 MR. HNASKO: To identification of the
22 exhibit? We need to have a record of what you're
23 objecting to. Let him identify the exhibit.

24 Q. (By Mr. Hnasko) Can you identify the
25 exhibit?

BEFORE THE HEARING SUBCOMMITTEE
OF THE INTERIM LEGISLATIVE ETHICS COMMITTEE

In re: Representative Carl
Trujillo,

Exhibit 6

Respondent.

DEPOSITION OF CARL TRUJILLO
November 8, 2018

9:01 a.m.

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1 confidentiality policy wasn't followed by Ms. Bonar
2 or any others that submitted letters.

3 Q. So I'm talking about at the time you wrote
4 this letter, correct?

5 A. That's -- that's correct.

6 Q. Okay.

7 A. I felt that legislative council had
8 breached my confidentiality on May 2nd by
9 contacting the media.

10 I felt Ms. Bonar had breached my
11 confidentiality that same day by sending this out to
12 X amount of news outlets.

13 I felt that the --

14 Q. Let me -- keep going.

15 A. I felt that there was -- as I read the
16 policy, that -- that formal complaint should be
17 followed -- filed, which it never was.

18 I felt that even if we used the other
19 section of the anti-harassment policy or legislative
20 council Rule 16, that even if it's just an open
21 complaint, that reasonable particularity must be
22 stated.

23 Q. Okay.

24 A. I felt that there was other legislators who
25 had signed the policy that had submitted letters to

1 the media and so -- and, also, on May 8th, when the
2 policy says exclusively that this needs to remain
3 confidential, they send out a press release.

4 And so the whole idea of the inaction for
5 six days on some open letter that was never submitted
6 to legislative council, had no reasonable
7 particularity, was meant for embarrassment in the
8 media, which did take place with 10s or 20 or 30, I
9 could count them, articles of misrepresentation.

10 Q. Does that cover the waterfront?

11 A. For the most part.

12 Q. All right, let's go back. Let me just
13 clean up some of it, make sure I understand. You
14 talked about legislative council policy number 16 and
15 you said the part that does not require a formal
16 complaint, but in your estimation requires
17 "reasonable particularity"?

18 A. It says it in the policy.

19 Q. That's -- that's what you're relying on,
20 correct?

21 A. I am -- I don't have the policy in front of
22 me --

23 Q. Well, we'll get to that, but I just want to
24 know what you're feelings are. That you felt that
25 even if the other -- you mentioned the other part of

1 legislative council policy 16 was followed, you think
2 there was not reasonable particularity, and as a
3 result it was -- something's wrong there?

4 MR. JACKSON: So I'm going to object here.
5 These are legal arguments about whether or not
6 policies been violated, and those are legal questions
7 for his lawyers and not fact questions for a
8 deposition.

9 MR. HNASKO: No, I didn't ask the question.
10 He's the one who brought it up, not me.

11 Q. (By Mr. Hnasko) So I'm asking what your
12 perception of that is? I just want to make sure I
13 understand --

14 A. I feel I was violated.

15 Q. Pardon?

16 A. I feel the policy was violated.

17 Q. Because there was not reasonable
18 particularity in this open letter?

19 A. Yes.

20 Q. All right. Fair enough.

21 And is it your belief that the House of
22 Representatives does not have the authority to
23 investigate allegations of harassment unless a
24 complainant comes forward with specific allegations,
25 reasonable specificity of those?

1 MR. JACKSON: Same objection.

2 Q. Is that your belief?

3 A. I believe that these are arguments that
4 need to be made by lawyers on the policy.

5 Q. Well, we'll be making them. I just want to
6 know what your belief is. I'm not holding you to a
7 legal standard.

8 A. I'll refrain from -- to seeing the
9 arguments after --

10 Q. So you don't have a view on that, so can I
11 scratch that off as one of the reasons why you felt
12 this was politically motivated if you don't have a
13 view on whether --

14 A. No, I think I --

15 Q. -- there is a requirement of reasonable
16 particularity?

17 MR. JACKSON: Same objection.

18 A. I've laid the statements as far as why I
19 believe that -- that it was.

20 Q. And you mentioned one of them being that
21 the other part, I'm using your words, of legislative
22 policy rule number 16 requires a complaint with
23 reasonable particularity.

24 A. It says that in the policy.

25 Q. And that's one of the reasons why you

1 believe this a politically-motivated allegation,
2 correct, at least at the time you wrote the letter?

3 A. I believe that it's suspect to the timing.

4 Q. And I'm -- I'm asking you a general
5 question, Representative. Do you believe, as a
6 member of the House of Representatives, that the
7 leadership in the House does not have the ability or
8 duty to investigate allegations of harassment unless
9 those allegations are stated with reasonable
10 particularity?

11 MR. JACKSON: Same objection.

12 Q. You may have -- you may not have a belief.
13 I just want to know where you are on it.

14 A. I stand with my lawyer.

15 Q. He's not -- he's not directing you not to
16 answers the question.

17 MR. JACKSON: He's answered the question
18 that he thinks the policies were violated, and that's
19 sufficient for purposes today. Let's move on.

20 MR. HNASKO: No, it's not.

21 Q. (By Mr. Hnasko) I want to know, as a
22 legislator, sitting legislator, whether you believe
23 that the House of Representatives does not have the
24 ability to investigate its own members based on
25 allegations of harassment unless those allegations

1 are stated with reasonable particularity?

2 MR. JACKSON: Same objection. This is a
3 legal question for lawyers.

4 MR. HNASKO: I agree with that, but it
5 doesn't matter. I want to know what he believes.

6 MR. JACKSON: You're asking him a legal
7 question, and I'm objecting to it. I'm going to
8 instruct you not to answer. Move on.

9 MR. HNASKO: You're instructing the witness
10 not to answer a non-privileged question?

11 MR. JACKSON: Yeah.

12 MR. HNASKO: Okay, we'll take that up
13 later. Are you sure you want to do that?

14 MR. JACKSON: I am. I've let you ask this
15 question ten times.

16 MR. HNASKO: All right, well, he's --

17 MR. JACKSON: Let me finish. Don't talk
18 over me.

19 MR. HNASKO: Don't talk to me that way.

20 MR. JACKSON: I've let you ask --

21 MR. HNASKO: Don't talk to me that way.

22 MR. JACKSON: I've let you ask this
23 question ten times.

24 (Simultaneous cross-talk.)

25 MR. JACKSON: I've let you ask this

1 question ten times, and he's given you his answer.
2 I've objected. You've got your answer which is he
3 thinks the policies were violated, and that's the
4 reason why he thinks it was politically motivated.

5 MR. HNASKO: All right.

6 MR. JACKSON: Asked and answered. Move on.

7 MR. HNASKO: You're not directing my
8 deposition, so just relax, okay. And mind your
9 manners here.

10 MR. JACKSON: Mind your own manners, Mr. --

11 MR. HNASKO: You be a professional, all
12 right. Let me tell you what he said. I've asked him
13 for a laundry list of reasons why he thought this
14 complaint is politically motivated. One of them was
15 he felt that the other part of Rule 16 did not allow
16 investigation unless the allegations were stated with
17 reasonable particularity. I've asked him --

18 MR. JACKSON: That's your testimony, not
19 his.

20 MR. HNASKO: I've asked him a follow-up
21 question as to whether the legislature, in his
22 judgment, has the ability to investigate allegations
23 of harassment unless those allegations are made with
24 reasonable particularity? It's yes or no.

25 MR. JACKSON: He's asked and answered.

1 I've objected to the question ten times.

2 I'm instructing you not to answer.

3 Q. (By Mr. Hnasko) Are you going to follow
4 that instruction?

5 A. Yes.

6 Q. All right. And if you're going to follow
7 that instruction, I want you to know that you're
8 running the risk of coming back here, and we're going
9 to ask for attorney's fees when you do that a second
10 time. Just so you know that.

11 A. Can we take a break?

12 Q. Let's go back and talk about -- he's
13 instructed you not to answer. You can follow your
14 attorney's advice.

15 MR. JACKSON: He asked if we could take a
16 break.

17 MR. HNASKO: Oh, you did? I'm sorry.
18 Yeah, you can take a break. Off the record.

19 (A recess was taken from 9:46 to 9:53 a.m.)

20 Q. (By Mr. Hnasko) All right, Mr. Trujillo,
21 when you went through the list of reasons why you
22 tell Ms. Bonar's open letter was politically
23 motivated, you mentioned a man by the name of Michael
24 Corwin. Did I get that right?

25 A. Correct.

1 A. Yes.

2 Q. Okay.

3 (Exhibit 4 marked.)

4 Q. (By Mr. Hnasko) Let me hand you what will
5 be marked as Exhibit 4. In the interest of time, let
6 me represent to you this is part of the legislative
7 council rules, including Rule 16. Do you recognize
8 this rule?

9 (Ms. Julie Sakura left the deposition.)

10 A. I do.

11 Q. (By Mr. Hnasko) You've seen it before?

12 A. Yes.

13 Q. I'm going to direct your attention over to
14 what is denominated as page 25 of Exhibit 4,
15 paragraph H. Do you see that?

16 A. Yes.

17 Q. Could you read it to yourself and make sure
18 you've been through it all.

19 A. Okay, I've read it.

20 Q. All right. Paragraph H, is this the
21 paragraph, Mr. Trujillo, to which you referred when
22 you stated that the allegations of Ms. Bonar in her
23 open letter were required to be with reasonable
24 particularity?

25 A. I see the words reasonable particularity in

1 here, and so I will say that that is one of the -- it
2 says "shall state with reasonable particularity," but
3 I'm not an attorney and I'll let my attorney and
4 other attorneys argue on what is needed to meet that
5 standard, but I do read "shall state with reasonable
6 particularity."

7 Q. Okay. Let's look at that a little more
8 carefully, shall we. Let's take it part by part, if
9 we could. First of all, it states that "During the
10 interim" -- I'm quoting. "During the interim, the
11 Speaker of the House of Representatives or the
12 President Pro Tempore of the Senate, in conjunction
13 with the appropriate majority and minority leaders,
14 may also refer any ethics matter affecting a member
15 of the respective House which might require an
16 investigation to the Interim Legislative Ethics
17 Committee." Did I read that correctly?

18 A. Yes, you did.

19 Q. All right. Do you understand that to be
20 that any matter that comes to the attention of the
21 leaders -- leadership may be referred by the
22 leadership to the interim Legislative Ethics
23 Committee?

24 MR. JACKSON: Objection. Mr. Trujillo is
25 not a lawyer.

1 Q. Is that how you understand that?

2 A. I'm not a lawyer. I mean, I'm -- I
3 don't -- I'm not a lawyer.

4 Q. I understand you're not a lawyer. You're a
5 research technology level III, right?

6 A. Correct.

7 Q. All right. So you're not a lawyer, I
8 understand. I'm not asking you a legal conclusion, I
9 want you to know. You are a sitting member of the
10 legislature, correct?

11 A. Correct.

12 Q. And you understand that first clause to
13 allow the leadership to refer a matter to
14 investigation -- to the investigative subcommittee if
15 they deem it appropriate?

16 A. What I read here is you have to read the
17 whole paragraph.

18 Q. Well, we're going to get there, but I just
19 want to focus on that first clause.

20 A. I'm not an attorney, and so I -- I'm not an
21 attorney.

22 Q. That clause, at least standing alone, would
23 tell you that they can do that, correct, they can
24 refer any matter they deem appropriate --

25 MR. JACKSON: Same objection.

1 Q. -- to the interim legislative investigative
2 committee or ethics committee? Would you agree with
3 me on that, that clause standing alone would appear
4 to give them that authority, correct?

5 MR. JACKSON: Same objection. Counsel is
6 asking for a legal conclusion.

7 Q. Yes or no?

8 A. I'm not going to give you a legal
9 conclusion here.

10 Q. I don't want one. I just want your -- I
11 want your conclusion as a sitting legislator, can the
12 matter be referred to the interim Ethics --
13 Legislative Ethics Committee if leadership deems it
14 appropriate to do so?

15 A. Let's go on.

16 Q. We're going to.

17 A. Let's read the second part.

18 Q. We're going to.

19 MR. JACKSON: Don't interrupt him, please.
20 If he think he needs to read those two clauses in
21 tandem, let him answer the question.

22 MR. HNASKO: We're going to give him the
23 chance to combine them both, believe me.

24 MR. JACKSON: Well, if combining them is
25 his answer, let him answer the question.

1 A. So my answer is, in combining these -- and
2 I will read the second part.

3 Q (By Mr. Hnasko) Okay, why don't you read
4 that.

5 A. "Such requests shall be in writing" --

6 Q. No, no, no, no, go back and read the whole
7 thing, beginning with "including when appropriate."
8 Do you see that language?

9 A. I see the language.

10 Q. Okay, why don't you read it into the
11 record.

12 A. Read?

13 Q. Counsel wanted you to read the whole thing,
14 so read --

15 MR. JACKSON: Why don't you just read the
16 entire paragraph.

17 Q. We've already read the first part, it says
18 "they may always refer any ethics matter affecting a
19 member of the respective House, which might require
20 investigation, to the Interim Legislative Ethics
21 Committee, including, when appropriate" -- now you
22 take it up from there.

23 A. If you want me -- I will proceed.

24 Q. Okay, proceed.

25 A. Okay, "During the interim, the Speaker of

1 the House of Representatives, or the President Pro
2 Tempore of the Senate, in conjunction with the
3 appropriate majority and minority leaders, may also
4 refer any ethics matter affecting a member of the
5 respective House which might require investigation to
6 the interim Legislative Ethics Committee, including,
7 when appropriate, requests from legislators" --

8 Q. "Requests by legislators."

9 A. Oh, "...requests by legislators which ask
10 the Speaker or the President Pro Tempore, to provide
11 an investigation of the requesting legislator's own
12 conduct."

13 Q. Can we stop it right there?

14 A. "Such" -- please.

15 MR. JACKSON: Let him finish.

16 A. "Such requests" --

17 MR. HNASKO: Don't ask questions -- or
18 direct the witness --

19 MR. JACKSON: Don't interrupt the witness
20 when he's answering the question.

21 MR. HNASKO: I've got a series of
22 questions, and it's my right to do so, but finish
23 reading this. And then I want you to calm down.

24 A. Could you please let me finish reading --
25 answering the --

1 Q (By Mr. Hnasko) Okay, read the whole thing,
2 and we'll get --

3 A. Okay, but you keep --

4 Q. We're going to -- we're going to take it
5 point by point anyway. You want to read the whole
6 thing, read the whole thing.

7 A. Okay. "Such requests shall be in writing
8 addressed to the Speaker or President Pro Tempore,
9 and shall state with reasonable particularity the
10 conduct to be investigated and the reason for the
11 request."

12 Q. All right, you've done it. Okay, now let's
13 separate out what's trying to be accomplished here,
14 okay. Going back up, you read the language that said
15 any matter can be referred to the Interim Legislative
16 Ethics Committee, including, when appropriate,
17 requests by legislators. Do you see that language?

18 MR. JACKSON: That's not what it says.

19 MR. HNASKO: It says "requests by
20 legislators."

21 MR. JACKSON: It doesn't say any matter.

22 MR. HNASKO: Oh, my God.

23 Q. (By Mr. Hnasko) All right, let me start
24 over again. "...may also refer any ethics matter
25 affecting a member of the respective House which

1 might require investigation to the interim

2 Legislative Ethics Committee." Are you with me so

3 far?

4 A. (Witness nods head.)

5 Q. So based on that clause, any matter could
6 be referred, correct?

7 MR. JACKSON: Objection, calls for a legal
8 conclusion.

9 Q. Correct? Mr. -- Mr. Trujillo, correct?

10 A. I think --

11 Q. Based on that clause, any matter can be
12 referred? We're going to get to the other clause in
13 a moment. Based on that clause, any matter can be
14 referred that might require investigation?

15 A. I think this is a legal interpretation.

16 Q. All right, and you --

17 A. Any matter.

18 Q. Okay, let's continue, because you're --
19 you're a smart guy, right? You understand what the
20 language means of your own rules. So it says,
21 "...including, when appropriate, requests by
22 legislators." Do you see that language which asks
23 the Speaker and the President Pro Tempore to provide
24 for an investigation of the requesting legislator's
25 own conduct. So that clause is referring to a

1 request by a legislator to the Speaker and the
2 President Pro Tempore to investigate his or her own
3 conduct, correct?

4 A. I'm listening to you. You're the one
5 interpreting --

6 Q. Read it.

7 A. I'm reading it.

8 Q. Do you agree with that interpretation?

9 MR. JACKSON: Same objection.

10 Q. Do you agree? It's clearly referring to a
11 request by a legislator that his or her own conduct
12 be investigated. Do you see that language?

13 A. I see language, yes.

14 Q. Do you see that language?

15 A. Yes.

16 Q. All right. And you agree that's what it
17 means, a request by a legislator for the Speaker or
18 the President Pro Tempore to investigate that
19 legislator's conduct?

20 MR. JACKSON: Same objection.

21 Q. In other words, if a legislator believes he
22 or she is doing something that may raise an ethical
23 concern, he or she has the ability to make a request
24 for an investigation of that matter, correct?

25 MR. JACKSON: Same.

1 A. You're interpreting this for me, so -- I
2 mean, you're the one saying correct.

3 Q. I want your --

4 A. I'm not going to --

5 Q. -- interpretation.

6 MR. JACKSON: Same objection.

7 A. -- to make a legal opinion at this point.

8 Q. You're the one who said time and time in
9 your submittals and in this deposition that
10 Ms. Bonar's open letter did not have reasonable
11 particularity. I'm entitled to get to the basis for
12 that position.

13 MR. JACKSON: I believe he's referring to
14 paragraph F --

15 MR. HNASKO: I don't care what -- don't
16 testify for the witness. I'm going to paragraph H.

17 MR. JACKSON: You're claiming that
18 paragraph H has to do with --

19 (Simultaneous cross-talk.)

20 MR. HNASKO: Stop testifying for the
21 witness.

22 Q. (By Mr. Hnasko) So, Mr. Trujillo, I want to
23 go to that last line that you quoted earlier on H.
24 Please go back to it. It says, "Such requests...", "
25 correct?"

1 A. I see "such requests."

2 Q. And "such requests" is referring to the
3 requests by the legislators we just referenced,
4 correct, the preceding sentence?

5 A. I can't make that conclusion, but if you
6 are.

7 Q. You can't make that conclusion? I'm not
8 going to argue with you about it. I just want to
9 know whether you can't put those two -- connect those
10 dots and come to the conclusion that such requests
11 refers to the request made by a legislator for the
12 Speaker and President Pro Tempore to investigate
13 their own conduct, then it requires reasonable
14 particularity so they can do so.

15 A. What request are you speaking of?

16 Q. I just pointed you to the language, "such
17 requests" in the last sentence of paragraph --
18 subparagraph H. Correct?

19 A. I see "such requests."

20 Q. And I want you to refer to the previous
21 sentence where it says "when appropriate, requests by
22 legislators," for an investigation of their own
23 conduct. Then the language "such requests" refers,
24 quite logically, to the requests by the legislators
25 for an investigation of their own conduct. I want to

1 know if you agree with that.

2 MR. JACKSON: Same objection.

3 A. I don't know what requests you're even
4 talking about.

5 Q. Do you understand paragraph H?

6 A. Not in the context you're putting it in.

7 Q. Well, we read the language talking about
8 requests by legislators for an investigation of their
9 own conduct, we read that, didn't we?

10 A. You say "such requests." What are the
11 requests?

12 Q. I'm asking you, because --

13 A. I don't know.

14 Q. -- we just went back and referred to
15 "requests by legislators" in the middle of paragraph
16 H, the only time "requests" appears before the last
17 sentence where it says "such requests."

18 MR. JACKSON: Is there a question?

19 Q. Do you see that?

20 A. I see that, but I don't understand your
21 question.

22 Q. So you don't understand how "such requests"
23 relates to a request by a legislator for an
24 investigation of his or her own conduct?

25 A. You're -- I feel that you're making a jump

1 here from both "requests," and I don't even know what
2 request you're talking about.

3 Q. What both "requests"?

4 A. As I understand it, you're saying "requests
5 by legislators" and "such requests."

6 Q. Yeah, and I'm asking does "such requests"
7 logically refer to "requests by legislators" in the
8 preceding sentence?

9 MR. JACKSON: Same objection.

10 Q. I mean, there's no -- there's no
11 reference -- you would agree with me that there's no
12 reference to any request in the first clause of the
13 first paragraph of -- of paragraph H where it
14 indicates that the Speaker and Pro Tem can refer any
15 matter to the Interim Legislative Ethics Committee;
16 however, when the matter involves a legislator
17 seeking a determination of his or her own conduct,
18 they have to make a request and it has to state it
19 with reasonable particularity? Isn't that a fair
20 reading of paragraph H?

21 MR. JACKSON: Same objection.

22 Q. Is that a fair reading?

23 A. If we're trying to get into the semantics
24 and you're trying to ask me for a legal opinion on
25 these semantics, I can't give you one.

1 Q. I'm not asking for a legal opinion. I'm
2 not the one who raised this; you've raised it every
3 chance you can get. On reasonable particularity, I
4 want to know the basis for --

5 MR. JACKSON: You're referring to the wrong
6 paragraph is the problem. Paragraph F relates to
7 when somebody else files a complaint against a
8 legislator.

9 MR. HNASKO: That's different. That's a
10 different process. That's a charge seeking
11 discipline. We're not -- we're not proceeding under
12 subparagraph F. That's why I'm under H.

13 Q. (By Mr. Hnasko) Are you able to answer the
14 question, Mr. Trujillo, that "such requests" under
15 paragraph H refers to the requests made by a
16 legislator for an investigation of his or her own
17 conduct --

18 MR. JACKSON: Same objection.

19 Q. -- and in that instance requires reasonable
20 particularity?

21 MR. JACKSON: Same objection.

22 A. Once again, I'm not going to -- I can't
23 give you an answer on trying to make a legal
24 determination of each exact word. As we all know
25 policy is interpreted different; that's why there's

1 attorneys to argue these.

2 Q. So do I understand you correctly, when the
3 legislature is enforcing its own rules on its own
4 members, it needs to get legal advice on every step
5 of the way; it can't make the determination
6 whether --

7 MR. JACKSON: Object to form.

8 Q. -- it has the power to move forward --

9 MR. JACKSON: That's not what he said at
10 all.

11 Q. -- it has the power to go forward and
12 conduct the investigation?

13 A. That's not what I'm saying at all.

14 Q. What are you saying?

15 A. I'm saying that you're asking me to make a
16 determination on the nuances of this particular
17 paragraph, which I am not an attorney here to sit
18 here and argue those small nuances and differences of
19 what -- how we actually both, or independently,
20 believe this policy to read.

21 Q. All right, fair enough. If you're not able
22 to make that determination on these "nuances," why
23 are you raising the issue in your defense of these
24 claims?

25 MR. JACKSON: Same objection.

1 Q. And I'm not talking about your attorneys
2 raising it as a legal matter, I'm talking about you
3 raising it in your submittals to the press, the
4 public, and to the interim investigative committee.

5 A. The -- you can read the open letter, as you
6 have, as I have, and you can make your own
7 determination there.

8 Q. And you don't have an answer as to why you
9 are suggesting, on more than one occasion, that
10 Ms. Bonar's open letter is deficient because it
11 didn't state the allegations with reasonable
12 particularity?

13 MR. JACKSON: Same objection. Asks for a
14 legal conclusion.

15 Q. You're not able to answer that question; is
16 that fair?

17 A. We both have Laura Bonar's open letter; we
18 both have read it. We can both look at the
19 statement, the paragraph in there, and determine --
20 or make our own judgments as far as what we feel
21 meets that burden.

22 Q. And your judgment is that her letter was
23 required to state the allegations with reasonable
24 particularity because it follows the same rule as a
25 legislator making a request for an investigation of

1 his or her own conduct?

2 A. I don't -- I'd have to go through and read
3 this policy in and out from these type of exact
4 detail --

5 Q. H, I'm asking you just within the confines
6 of paragraph H.

7 A. At this point, I can't sit here and answer
8 the exact determination of what you are trying to ask
9 me at this point.

10 Q. You're not able to do that?

11 A. Well, I'm -- at this point, I --

12 Q. It's fine if you're not. I just want to
13 know. You're not able to do it?

14 A. I will not say that I'm not able to do it.
15 What I'm saying is I will have to read through this
16 and speak with an attorney, or my attorney, to make
17 sure I understand exactly what you're trying to
18 suggest that I say.

19 Q. I'm not trying to suggest you say anything.
20 I'm just trying to get you to acknowledge that the
21 term "such requests" refers to a request by a
22 legislator for an investigation of his or her own
23 conduct. That's -- I'm just asking you --

24 MR. JACKSON: Same objection.

25 Q. -- is that a fair reading of paragraph H?

1 MR. JACKSON: Same objection. I think
2 you've got your answer, counsel.

3 Q. Is that a fair reading of paragraph H?

4 MR. JACKSON: Same objection.

5 A. As I've mentioned once before, I would have
6 to go through this with my attorney to understand the
7 question that you're asking, and at this point --

8 Q. Can't do it without going -- with your
9 attorney here?

10 A. At this point, I'm not an attorney.

11 Q. Okay, I understand that. I just --

12 A. I'm not an attorney; I'm not going to
13 pretend or play to be an attorney, and so -- I'm not
14 trained in that field, and so I would want to make
15 sure that I understand the question that you're
16 asking. You're asking me for a legal opinion.

17 Q. I'm not, but...

18 A. Well, it feels like that.

19 Q. That's a fair answer --

20 A. Okay.

21 Q. -- that you are unable to do it without
22 conferring with your lawyer. Is that --

23 MR. JACKSON: He already answered the
24 question.

25 Q. Is that -- is that a fair -- is that where

1 we are? You're not going to do it because you've got
2 to confer with Mr. Jackson on the interpretation to
3 make sure that he concurs?

4 MR. JACKSON: Objection.

5 A. I feel like I've answered the question
6 already.

7 Q. Well, you have. This is a different
8 question to end this line of questioning. You're not
9 able to answer the questions because you'd have to
10 confer with a lawyer first?

11 MR. JACKSON: Objection. That's not what
12 he said.

13 A. I didn't say that I'm not able. I said I
14 would like to get opinions of understanding
15 completely.

16 Q. Okay. Okay, fair enough. I don't want to
17 say you're not able, then. I thought you said that.

18 A. No, I didn't say I'm not able.

19 Q. Would it be fair to say you would prefer
20 not to answer the question until you had the ability
21 to confer with an attorney and get some legal
22 interpretation on that?

23 A. Yes, I think it would be highly --

24 Q. Okay.

25 A. -- unacademic to --

1 Q. I don't have any problem with that. I just
2 want to know if that's where we are. You'd rather
3 talk to your lawyer about that before you made an
4 opinion?

5 A. Correct.

6 Q. All right, fair enough. Not that hard, is
7 it?

8 (Exhibits 5-6 marked.)

9 Q. (By Mr. Hnasko) Exhibit 5. And I want to
10 simultaneously hand you Exhibit 6.

11 Could you can identify Exhibits 5 and 6,
12 please?

13 A. So Exhibit Number 5 is the new
14 Anti-Harassment Policy dated January 15, 2018, and
15 Exhibit 6 is the No Harassment Policy dated May 2,
16 2008.

17 Q. And is it your understanding that the No
18 Harassment Policy, Exhibit 6, was in effect when you
19 entered the legislature in 2013?

20 A. Please restate the question.

21 Q. Was it your understanding that the No
22 Harassment Policy, Exhibit 6, was in effect when you
23 entered the legislature in 2013?

24 A. When I entered the legislature in 2013, we
25 did have an ethics training, and I'm not sure if we