

**BEFORE THE HEARING SUBCOMMITTEE
OF THE INTERIM LEGISLATIVE ETHICS COMMITTEE**

In re: Representative Carl Trujillo,

Respondent.

RESPONDENT'S MOTION TO EXCLUDE LAURA BONAR'S TESTIMONY

Representative Trujillo, by and through his counsel Jackson Loman Stanford & Downey, PC (Eric Loman and Travis Jackson) moves the Committee to exclude Laura Bonar from the formal hearing in this matter because of her refusal to appear for her deposition or to provide responses to Respondent's discovery requests. For his Motion, Respondent states the following:

Introduction

On May 2, 2018, Ms. Bonar intentionally ignored the Legislature's Anti-Harassment Policy, which required a confidential, sworn and detailed statement of her allegations. Instead, she opted to blindsides Rep. Trujillo with an open letter sent to various websites and media outlets just weeks before his primary election. Her allegations were so impossibly vague that for months Respondent did not know what he was actually accused of.

Since the Subcommittee announced it would conduct an investigation in this matter, Rep. Trujillo has been completely cooperative and forthright. He welcomes the formal hearing and looks forward to clearing his name. Rep. Trujillo has no interest in delaying the hearing; he wants it to commence on December 3rd as scheduled.

Ms. Bonar clearly does not have the same interest, her mission likely being accomplished months ago when her public shaming of Rep. Trujillo resulted in him losing his primary election. Ms. Bonar is now refusing to respond to discovery requests or to appear for her deposition. Rep.

Trujillo moves the Subcommittee to enforce its own Scheduling Order and strike Laura Bonar as a witness in this matter.

Procedural Background

The parties agreed on a Scheduling Order, which not only established the schedule for this matter but also set forth some ground rules, all of which were intended to promote a transparent and fair process. The Scheduling Order allows the parties to serve written discovery requests upon the other side's witnesses. Each party is also permitted to take the deposition of the other's witnesses. See Scheduling Order, p. 2. The "failure of a witness to appear or cooperate shall be grounds to preclude the witness from testifying at the formal hearing, or other sanctions." *Id.* The Subcommittee entered the Scheduling Order on September 26, 2018.

Special Counsel acting as the Charging Party identified a few witnesses, one of whom is Laura Bonar¹.

Rep. Trujillo's counsel worked with Special Counsel and Ms. Bonar's counsel to schedule her deposition. Everyone involved, including Ms. Bonar's counsel, agreed that the deposition would take place on October 22, 2018 at the office of undersigned counsel. See Email exchange between counsel, attached as Exhibit A. On October 2, 2018, a formal notice of the deposition was sent to Special Counsel, with a courtesy copy sent to Ms. Bonar's counsel. See Notice of Deposition, attached as Exhibit B. Ms. Bonar's counsel did not object to the deposition at that time.

As permitted by the Scheduling Order, on October 8, 2018 Rep. Trujillo sent written discovery requests to Ms. Bonar through her personal counsel as well as Special Counsel. The

¹ Charging Party's other witnesses so far have cooperated with written discovery and depositions.

responses were due on October 18th. Ms. Bonar's counsel asked for a one-day extension, which was granted as a matter of courtesy.

On October 19, 2018, Ms. Bonar's counsel, having never before expressed any concern with the Scheduling Order or her deposition, sent Rep. Trujillo's counsel a letter advising that Ms. Bonar refused to respond to the written discovery requests and would not appear at her deposition the following business day. See Letter from Monagle, attached as Exhibit C. Mr. Monagle's letter gave nonsensical reasons why Ms. Bonar would not respond to the written discovery², but gave no explanation whatsoever for why she refused to be deposed.

Argument

So far, Ms. Bonar has been permitted to say whatever she wants through whatever website or media outlet she chooses to embarrass Rep. Trujillo. She has never been questioned by anyone on behalf of Rep. Trujillo, nor has she had to answer for the many inconsistencies in her story. Basic principles of fairness and, more importantly, this Subcommittee's Scheduling Order, entitles Rep. Trujillo to take Ms. Bonar's deposition. Ms. Bonar's counsel agreed to the time and location of the deposition and then, for no legitimate reason, simply announced that she would not appear at the eleventh hour.

Ms. Bonar's recent stunt is nothing more than a stall tactic. Her attorney is demanding the Scheduling Order be thrown away, and that he be allowed to "attempt to negotiate" a new Scheduling Order with Rep. Trujillo and Special Counsel. Ms. Bonar is not a party in this matter; she is a witness. She has no more rights than any other witness. She does not have the authority to declare the Scheduling Order invalid. She does not have the right to respond to motions that

² Primarily, Mr. Monagle claims outrage that he was not involved in the formation of the Scheduling Order. But, of course, there was no reason to include him as he does not represent a party in this matter. He merely represents a witness being called by the Charging Party.

are filed by the parties. Ms. Bonar's counsel does not have the right to hijack this process from Special Counsel who serves the role of the Charging Party.

Ms. Bonar does, however, have the right to refuse to cooperate with the discovery process. Because the parties in this matter have no subpoena power they have no way to force an uncooperative witness to respond to written discovery requests or appear for her deposition. However, since he has chosen not to participate in this case, the Subcommittee should enforce its own Scheduling Order and "preclude the witness from testifying at the formal hearing." See Scheduling Order, §4(a).

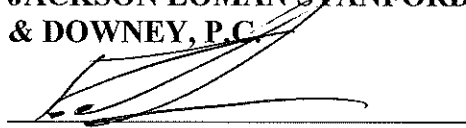
Conclusion

Ms. Bonar has chosen not to participate as a witness in this matter, and it is her legal right to do so. However, because she is not cooperating, Special Counsel should not be permitted to call her as a witness at the formal hearing.

WHEREFORE Rep. Trujillo respectfully requests that Laura Bonar be excluded from the formal hearing.

Respectfully submitted,

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



Eric Loman
Counsel for Rep. Carl Trujillo
201 Third St. N.W., Ste. 1500
Albuquerque, NM 87102
(505) 767-0577
(505) 242-9944 (fax)
eric@jacksonlomanlaw.com

We hereby certify that a true and correct copy of the foregoing pleading was emailed this 28th day of October, 2018, to:

Levi Monagle
Attorney at Law
Law Offices of Brad D. Hall, LLC
320 Gold Ave SW, Suite 1218
Albuquerque, NM 87102
levi@bhallfirm.com

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

JACKSON LOMAN STANFORD & DOWNEY, P.C.

By: /s/Eric Loman
Eric Loman

Eric Loman

From: Tom Hnasko <thnasko@hinklelawfirm.com>
Sent: Tuesday, October 2, 2018 4:22 PM
To: Travis G. Jackson
Cc: Levi Monagle; Eric Loman; Nancy Bourne
Subject: Re: draft scheduling order

Ok - thanks.

Sent from my iPhone

On Oct 2, 2018, at 3:15 PM, Travis G. Jackson <travis@jacksonlomanlaw.com> wrote:

Gentlemen,

Let's book Monday October 22 for Ms. Bonar's deposition. My office will send out a deposition notice shortly.

Travis G. Jackson
Jackson Loman Stanford Downey, P.C.
Telephone (505) 767-0577
travis@jacksonlomanlaw.com

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

From: Travis G. Jackson
Sent: Tuesday, October 02, 2018 2:38 PM
To: 'Levi Monagle'
Cc: Tom Hnasko; Eric Loman; Nancy Bourne
Subject: RE: draft scheduling order

Mr. Monagle,

I expect that Mr. Trujillo will be present at most or all of the depositions, including Ms. Bonar's. I also expect that he (and all attendees) will behave respectfully. I have no reason to believe he wouldn't. But I will specifically ask that he not engage Ms. Bonar verbally or otherwise. We will take the deposition in the main conference room but also set up a separate conference room for you and Ms. Bonar so that she can take breaks as needed and have a private space.

Travis G. Jackson
Jackson Loman Stanford Downey, P.C.
Telephone (505) 767-0577
travis@jacksonlomanlaw.com

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

From: Levi Monagle [<mailto:levi@bhallfirm.com>]
Sent: Tuesday, October 02, 2018 12:15 PM
To: Travis G. Jackson



Cc: Tom Hnasko; Eric Loman; Nancy Bourne
Subject: Re: draft scheduling order

Mr. Jackson,

I can't speak for Tom, obviously, but I don't have any problem with doing the deposition at your office. I would like to know whether Mr. Trujillo will be present at the deposition, though, so that I can inform my client.

Thanks,

Levi Monagle
Attorney at Law
Law Offices of Brad D. Hall, LLC
320 Gold Ave SW, Suite 1218
Albuquerque, NM 87102
(505) 255 6300

On Oct 2, 2018, at 11:25 AM, Travis G. Jackson <travis@jacksonlomanlaw.com> wrote:

Tom,

Thanks. Please hold both dates, and I will confirm one later today.

As for the location of the deposition, I expect to take her deposition at my office in Albuquerque, just as I would if this were a deposition taken in a court proceeding. I originally asked for dates to depose Ms. Bonar when we met in Santa Fe on September 7. I again asked for dates to depose her at my office on September 17 (email below). It has taken nearly a month to provide two dates, now with an unexplained condition that we depose her at her own attorney's office, which I don't agree to. Ms. Bonar is the key witness in this case. She has made serious accusations against my client, which have greatly damaged his reputation. We should be given every opportunity to fairly defend him. My understanding is that she resides in Albuquerque. All of the records and information that I may need to cross-examine Ms. Bonar are at my office in Albuquerque, and I see no good reason why she cannot be deposed here. I will issue the Notice of Deposition to be conducted in my office, just as I would normally do in any proceeding, unless you or her counsel promptly provide legitimate good cause to hold the deposition somewhere other than my office. If you have good cause, please tell me, and I'll consider it.

Where do we stand with respect to dates to depose Gene Grant? Also, in light of the dates now provided by Ms. Bonar, can you please ask for/provide some later dates to depose Lisa Jennings? As I indicated before, I'd like to first obtain testimony from Ms. Bonar to prevent her from later changing her story based on the testimony of others. I'm fine taking Ms. Jennings's deposition in early November if that is more convenient for her. I only need a half day.

Thank you.

Travis G. Jackson
Jackson Loman Stanford Downey, P.C.
201 3rd St.
Suite 1500

BEFORE THE HEARING SUBCOMMITTEE
OF THE INTERIM LEGISLATIVE ETHICS COMMITTEE

In re: Representative Carl Trujillo,

Respondent.

NOTICE OF DEPOSITION

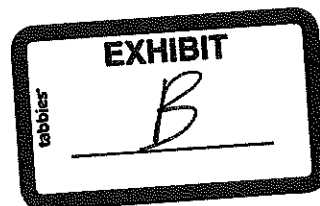
Please take notice that the Respondent's Attorneys will take the deposition of Laura Bonar on October 22, 2018, beginning at 9:30 a.m. and continuing until finished, at the offices of Jackson Loman Stanford & Downey, PC, 201 Third Street NW, Suite 1500, Albuquerque, New Mexico, before a notary public and certified court reporter. You are invited to attend.

JACKSON LOMAN STANFORD & DOWNEY, P.C.

By: /s/Travis G. Jackson
Travis G. Jackson
Meghan D. Stanford
Attorneys for Respondent
201 Third Street NW, Suite 1500
Albuquerque, New Mexico 87102
Telephone: (505) 767-0577
travis@jacksonlomanlaw.com

We hereby certify that a true and correct copy of the foregoing pleading was emailed this 2nd day of October, 2018, to:

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



Levi Monagle

Law Offices of Brad D. Hall, LLC
320 Gold Ave S,W, Suite 1218
Albuquerque, NM 87102
levi@bhallfirm.com

JACKSON LOMAN STANFORD & DOWNEY, P.C.

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

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BRAD D. HALL
brad@bhallfirm.com

LEVI A. MONAGLE
levi@bhallfirm.com

October 19, 2018

Travis G. Jackson
Jackson Loman Stanford & Downey PC
201 Third St. NW #1500
Albuquerque NM 87102-4382

Via Email Only

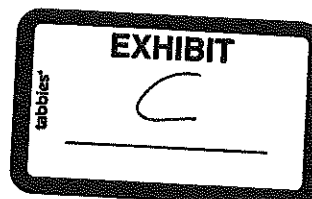
Re: Objections to Discovery Requests to Laura Bonar

Mr. Jackson,

I am writing to inform you that I object to the procedural validity of the interrogatories and requests for production that you sent to my client in this case.

The procedural validity of these interrogatories and requests for production relies entirely on the procedural validity of the Scheduling Order entered by the Subcommittee on September 26, 2018 – and the Scheduling Order appears to be the result of a negotiation between your office and the office of the Special Counsel, from which my client was entirely excluded. As Ms. Bonar's attorney, I was never included in any phase of this negotiation – or even alerted to the fact that a negotiation was ongoing – and only became aware of this negotiation recently, after it had long-since concluded.

Had I been included at any point in these negotiations regarding the substantive and procedural provisions of the Scheduling Order, I would have argued that the the scope of relevance in this case should be determined by reference to the Probable Cause Report, and I would have argued (in the unjustifiable and tremendously problematic absence of any rules of evidence) for significant preliminary limitations as to the scope of any contemplated discovery by either side. Unfortunately, I was not given the opportunity to make these arguments in the process of crafting the Scheduling Order, so I will likely be left to make these arguments to the co-chairs of the Subcommittee in the context of a ruling on these objections.



I also learned yesterday that your office has filed multiple procedural motions and motions to dismiss in this case. This was the first that I had heard of these motions. Your office never provided me with copies of these motions, or with the Special Counsel's responses to them, and I was therefore never given an opportunity to respond to any of these motions on my client's behalf. I only received copies of these motions this morning, after requesting them from the Legislative Counsel Service. This is completely improper. As an experienced and accomplished attorney, I am sure you know of the uniform expectation that copies of all motions are to be provided to all parties in interest, to allow them an opportunity to respond.

Until these procedural invalidities are addressed, my objections to your pending discovery requests will stand, and I will not be producing my client for a deposition. Once these procedural invalidities are addressed, I will be happy to revisit and attempt to negotiate a Scheduling Order with your office and the office of the Special Counsel. In the meantime, I would recommend that we bring these objections to the attention of the Subcommittee, so that they may be addressed in a timely manner.

In any event, the relevant documents and statements in this case have already been turned over to the Special Counsel's office, and can be obtained through that office. It nonetheless remains my duty to object to the manner in which this discovery process has been handled, and to request that these mistakes be remedied before we move forward.

If you would agree to re-open the Scheduling Order negotiations, so that all parties in interest may fairly participate in them, please let me know. If you intend to use these objections to discovery as an opportunity to file another motion to dismiss, please provide me with a copy this time, so that I may fairly respond.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Monagle', with a long horizontal flourish extending to the right.

Levi A. Monagle

cc. Tom Hnasko
Raul Burciaga
Jon Boller