

BEFORE THE HEARING SUBCOMMITTEE  
OF THE INTERIM LEGISLATIVE ETHICS COMMITTEE

In re: Representative Carl Trujillo,

Respondent.

**RESPONDENT’S RESPONSE TO CHARGING PARTY’S  
MOTION FOR CLARIFICATION**

The Special Master should deny the Charging Party’s Motion for Clarification (filed Friday 11/9/18 at 4:58 pm). The genesis of the Motion is that, on Friday November 9, Laura Bonar – through counsel – notified the parties that she would (1) not appear for her deposition which had been re-scheduled to proceed two days later on November 11; or (2) respond to written discovery or produce records despite the Special Master’s Order requiring that she do so “at least 2 days prior to Ms. Bonar’s deposition.” See Special Master Order of October 30, 2018 (Exhibit 1).

Notably, Ms. Bonar did not herself file a Motion for Clarification. That’s because Ms. Bonar does not claim that the Special Master’s Order was unclear. In fact, in an email that the Charging Party *omitted* from its Motion for Clarification, Ms. Bonar’s counsel stated the opposite: “Judge York has already ruled on the substance of my client’s objections, with specificity. Her rulings were not vague or ambiguous.” See email from Monagle to Hnasko dated 11/9/2018 (Exhibit 2). “I

understand Judge York's ruling, . . . and would not expect [her] to modify her ruling in response to a letter like this, and I have advised my client as such." *Id.*

This is the second time Ms. Bonar has failed to appear for her deposition and failed to cooperate with written discovery. Upon receiving Ms. Bonar's letter notifying Special Counsel that she would not produce records or appear for her re-scheduled deposition, the Charging Party (Tom Hnasko) called Ms. Bonar's counsel and left a voice mail encouraging her lawyer to instead (1) have Ms. Bonar appear for deposition; (2) object to lines of questioning that the Special Master has already ruled on; and (3) instruct Ms. Bonar not to answer the questions despite the Special Master's rulings. To his credit, Ms. Bonar's counsel (Levi Monagle) refused to do so, and responded to Special Counsel as follows:

To make myself perfectly clear:

I understand that I could reiterate written objections that I have already made, withhold responsive documents under those objections, and show up with my client on Sunday with the intent of instructing her not to answer certain lines of questioning. All of this would require me to play dumb and pretend that Judge York had not already ruled on the substance of my client's objections.

. . .

I have a great deal of respect for Judge York, and I think it would be disrespectful, unprofessional, bad-faith conduct on my part to show up with my client on Sunday and ignore Judge York's rulings. In a normal civil proceeding, I would be concerned about being sanctioned for such conduct, and I will not engage in it. Nor am I inclined to waste anyone's time, now that my client has made her decision in keeping with Judge York's deadline.

*See* email from Monagle to Hnasko dated 11/9/2018 (Exhibit 2) (emphasis added).

Ms. Bonar fully understood that her failure to appear for her re-scheduled deposition and failure to comply with the Special Master's discovery order by "Judge York's deadline" would exclude her as a witness: "Mr. Trujillo may make his motion for exclusion, and my client will not contest it beyond reiterating her position. But I will not implicate any additional sanctions by conducting myself in bad faith or instructing my client to do so." *Id.*

In an attempt to pre-empt Respondent from moving to exclude Ms. Bonar as a witness and to dismiss the charge, the Charging Party quickly filed a "Motion for Clarification" despite Ms. Bonar's acknowledgement that the Special Master's rulings "were not vague or ambiguous." Rather than accept the obvious fact that Ms. Bonar has made a conscious decision to not participate in these proceedings, the Charging Party claims that "Ms. Bonar and her counsel have 'incorrectly interpreted the Special's Master's Decision,'" and that Ms. Bonar's decision is based on a "misapprehension" of the Special Master's ruling on single interrogatory (Interrogatory No. 5)." There is no "misapprehension." Ms. Bonar has decided that she will not sit for deposition or comply with the Special Master's Order, and there must be consequences.

As the Special Master has already ruled, Respondent is entitled to know who Ms. Bonar communicated with regarding her claims of sexual harassment against

Respondent. Ms. Bonar delayed making these claims for years, and there are no first-hand witnesses except for Ms. Bonar and Respondent. Without any direct evidence, the Special Counsel’s Recommendations<sup>1</sup> to bring the remaining charges against Respondent relied *heavily* on Ms. Bonar’s hearsay communications with others:

- “Ms. Johnson stated that Ms. Bonar did not go into ‘details’ about Representative Trujillo’s alleged conduct at that time, but reported that he ‘came on to her and, after she refused his advances, he stopped returning phone calls.’” Recommendations at 19.
- “Ms. Johnson stated that Ms. Bonar reported Representative Trujillo’s request to have dinner in 2013, and that on a subsequent occasion he allegedly said she could sit next to him ‘near a fireplace’ . . . .” *Id.*
- “Ms. Johnson also reported that, during the meeting, Ms. Bonar said that Representative Trujillo had whispered into her ear some inappropriate comments.” *Id.*
- “Ms. Johnson then reported that Ms. Bonar told her Representative Trujillo, on a different occasion, tried to get her to leave with him and touched her on the elbow and pulled her to the side of a hallway when making the request.” *Id.*
- “Mr. Grant reported he vividly recalled the incident in 2014, when Representative Trujillo allegedly stopped Ms. Bonar in the hallway outside of the House Chambers. He stated that Ms. Bonar came home that evening “very upset,” pacing around the house without taking her jacket off, and she told him Representative Trujillo had made a specific ‘ask’ for her to go away with him.” *Id.* at 20.

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<sup>1</sup> Report and Recommendations of Special Counsel to the Investigative Subcommittee of the Interim Legislative Ethics Committee Regarding Representative Trujillo (hereinafter “Recommendations”).

- “Mr. Grant also corroborated certain details of her encounter, including that Ms. Bonar had told him about Representative Trujillo stopping her in the hallway and pulling her to the side before he made the request.” *Id.*
- “Ms. Torza Condit reported that, during the 2014 session, she worked with Ms. Bonar, and Ms. Bonar reported she was “having issues with Representative Trujillo making advances toward her.” *Id.* at 21.
- “Mr. Abram recalled Ms. Jennings having described that [Ms. Bonar reported that] Representative Trujillo had propositioned Ms. Bonar on several occasions, including asking her out to dinner and requesting that they ‘get together.’” *Id.* at 25.
- “Mr. Abram reported that Ms. Bonar stated she went to sit down in an open seat in the front row of chairs in the committee room, and an open seat existed next to Representative Trujillo. She reported she asked Representative Trujillo if she could sit there, and Representative Trujillo answered, ‘She could sit down next to me anytime, by the pool, at home, at night by the fire.’” *Id.* at 27.

Special Counsel went on to explain/justify their heavy reliance on the hearsay statements of other. “In assessing the existence or absence of probable cause, Special Counsel must necessarily seek corroborating or exculpatory evidence . . . .” *Id.* at 34. According to Special Counsel, “[c]orroboration may exist through consistency of reports, or spontaneous or planned disclosures that have a certain temporal proximity to the event in question.” *Id.* In order to find probable cause to charge Respondent, Special Counsel – and ultimately the Investigative Subcommittee – relied on the fact that “virtually every witness with whom Ms. Bonar spoke repeated the same description Ms. Bonar provided, and

used the exact phrases ‘at dinner,’ ‘by the fire,’ ‘on the floor,’ and similar terms.”  
*Id.* at 35 (emphasis added).

Review of the report confirms that Special Counsel repeatedly relied on Ms. Bonar’s communications with others to support their probable cause recommendations: “Special Counsel also note that Ms. Johnson's recitation of the events alleged by Ms. Bonar to constitute harassment corresponds with Ms. Bonar's statement and is consistent with the isolated events of alleged harassment as stated by Ms. Bonar.” *Id.* (emphasis added). “Substantially identical descriptions of the incident appear in the Human Resources notes taken by Mr. Abram on March 16, 2018, the written report of Ms. Bonar to APV on March 19, 2018, and the various statements of witnesses with whom Ms. Bonar confided from 2014 through the present.” *Id.* at 36 (emphasis added).

Special Counsel went so far as to describe these hearsay statements as “independent evidence”:

Independent evidence supporting the allegation also exists. On the very day of the alleged incident, Ms. Bonar returned to her home and reported the incident in detail to Mr. Grant, her partner at the time. Mr. Grant described the location of the incident, substantially similar to the reporting by Ms. Bonar, he reported the physical encounter by which Representative Trujillo "pulled" Ms. Bonar to the side of the hallway, and he related the specific request to "get together." Mr. Grant's recollection of the incident is extremely persuasive [because] there is a compelling temporal proximity between the time of the alleged event and the reporting of the incident to Mr. Grant, i.e., that very evening.”

Of course, Mr. Grant was not there and Mr. Grant does not actually have any independent first-hand recollection of the “incident.” Nevertheless, Special Counsel recommended a finding of probable cause based on his hearsay statement because they deemed it “reasonable that Ms. Bonar accurately and fully reported the incident to her then-partner, Mr. Grant.” *Id.*

In a proceeding accusing a public official of misconduct five years ago where virtually all of the “evidence” is based on Ms. Bonar’s communications with others about her claims, the Respondent should be entitled to know everyone she talked to about those claims, and what she said, and when. The scope of discovery should not be limited to just those friendly witnesses she’s volunteered to identify and who she knows will support of her claims. Respondent asked for exactly that type of information, as well as other information that would confirm or refute claims made by witnesses, in written discovery served at the outset of this proceeding.

In her Order of October 30, 2018, the Special Master greatly limited the scope discovery to be provided to Respondent, but ordered that Ms. Bonar produce at least the following:

- communications with specific, named individuals for the period from January 1, 2018 forward that relate to sexual harassment allegations against Respondent (RFP No. 3);

- communications between Ms. Bonar and Gene Grant that relate to sexual harassment allegations against Respondent for the period between 1/24/14 and 3/15/14 (RFP No. 4);
- all communications that relate to Representative Trujillo (for the period of 1/24/14 and 7/24/18) or allegations of sexual harassment made by Ms. Bonar against Representative Carl Trujillo (for the period of 4/2/18 to 6/2/18) (RFP No. 5);
- copies of all social media postings from January 28, 2014 through March 15, 2014 (RFP No. 7);
- a copy of or release to obtain Ms. Bonar’s employment records from APNM and APV (RFP No. 8);
- a current resume or CV (RFP No. 9);
- a copy of Ms. Bonar’s mental health records to be reviewed *in camera* by the Special Master: “I am directing Mr. Monagle to immediately request copies of those records and further request that they be provided asap. I will conduct an *in camera* review of the records to determine if they are discoverable unless Mr. Hnasko advises me that he does not intend to introduce any evidence regarding the emotional and psychological effect of the alleged harassment” (RFP No. 10);
- the original electronic file, including all metadata, of your memo to Danial Abrams and Lisa Jennings dated March 19, 2018 (RFP No. 12)

Ex. 1. The Special Master ordered that: “This information is to be provided at least 2 days prior to Ms. Bonar’s deposition.” Ms. Bonar’s deposition was rescheduled for November 11, 2018, and thus this information was required to be produced by November 9.

Importantly, none of these requests ask Ms. Bonar to identify other women who claim that Representative Trujillo sexually harassed them, although

Respondent would absolutely be entitled to that information. Instead, these requests ask that Ms. Bonar disclose individuals with whom she discussed *her claims of sexual harassment against Representative Trujillo*, and produce records of those communications – information that the Special Master has already ordered that Ms. Bonar produce.

Ms. Bonar decided to produce nothing by the deadline. Ms. Bonar openly acknowledges that she made that “decision” because she had already met her goal: she publicly accused Respondent of sexual harassment to prevent him from being elected to office, and she succeeded.

On May 2, 2018, I made a very pointed, very public accusation against Mr. Trujillo - to stand up for myself after years of feeling powerless, and to protect other women at the Legislature from experiencing the same harassment that I experienced. As things stand, I believe that I have accomplished both of those objectives.

Bonar Letter at 1 (Exhibit 3). Having caused Respondent to lose his elected office, Ms. Bonar has now made it clear that she has no intent to appear for her deposition to be cross-examined or to produce records in compliance with the Special Master’s Order. “[K]nowing the approach that Mr. Trujillo has taken with his discovery and the approach he intends to take with my deposition, I respectfully decline to produce the requested documents, or to be deposed by Mr. Trujillo’s attorneys.” Bonar Letter at 2 (Exhibit 3).

Legislative Policy 16(K) provides that the “parties shall have an opportunity to be heard, to request the presence of witnesses and the production of relevant evidence and to cross-examine witnesses against them.” Legislative Policy 16(L) provides that “the hearing subcommittee shall establish and notify the parties of the . . . procedures to be followed.” The Scheduling Order entered by the Hearing Subcommittee expressly provides that each party may take the deposition and obtain written discovery from the other party’s witnesses, and that the failure of a party to appear for her deposition or to timely respond or cooperate with written discovery “shall be grounds to preclude the witness from testifying at the formal hearing . . . .” Scheduling Order at ¶¶ 4(a) and (b) (entered on September 26, 2018). On October 25, the Hearing Subcommittee directed the appointment of a Special Master “with authority to resolve all evidentiary and discovery matters.” On October 30, the Special Master ordered that Ms. Bonar appear for her deposition and produce certain records.

Both Ms. Bonar and her counsel openly admit that they understood that her decision to not appear for her re-scheduled deposition or produce records will disqualify her from testifying at the Formal Hearing. “Mr. Trujillo may make his motion for exclusion, and my client will not contest it . . . .” Ex. 2 (emphasis added). Because there is no other witness identified in this case who claims to have any first-hand evidence of sexual harassment by Respondent, Ms. Bonar also

understood that the exclusion of her as a witness will *and should* end this proceeding entirely: “If that means that this process must end, then so be it.” *Id.*

Fully understanding those consequences, Ms. Bonar *still* decided against appearing for re-scheduled deposition and decided again producing records:

[M]y client has agonized over this decision ever since the Special Master issued her ruling on October 20, 2018. I understand Judge York’s ruling, from perspective of a neutral arbiter, and would not expect [her] to modify her ruling in response to a letter like this, and I have advised my client as such - but I also fully understand and respect my client's decision, particularly in light of the limited options that are available to her.

Exhibit 2.

As of the time of this filing, Respondent faces a public Formal Hearing in twenty days. Despite having requested this deposition repeatedly since September 7, Respondent has never had the opportunity to cross-examine Ms. Bonar about the serious claims she’s made against him. The Charging Party’s suggestion in its Motion for Clarification that this is just a “scheduling issue” that can be resolved after some “clarification” of the Special Master’s order is outrageous and ignores the deep prejudice caused to Respondent’s defense. By contrast, Respondent sat for his deposition on the day that he committed to do so, testified under oath that none of this was true, and was repeatedly cross-examined about colleagues, constituents and other individuals with whom he discussed Ms. Bonar’s claims.

Set aside cross-examination, Ms. Bonar’s claims of misconduct against Respondent have never even been made under oath. Legislative Council Policy No. 16(F) requires that a member of the public filing a complaint against a legislator must do so “in writing, under oath or affirmation.” Legislative Policy No. 16(F) (emphasis added). On May 2, 2018, Ms. Bonar instead broadcast an open letter on the internet publicly accusing Representative Trujillo of sexually harassing her five years earlier. Ms. Bonar did not verify her claims under oath, as required, but this investigation followed nonetheless.

During the subsequent investigation, Special Counsel conducted only an informal interview of Ms. Bonar. Special Counsel repeatedly acknowledged that they considered the open letter to be a “formal complaint under the anti-harassment policy” but “purposely” did not verify her claims.

- “You filed, or sent, your open letter asking for Representative Trujillo's resignation. That was – under the legislative process that was considered to be a formal complaint under the anti-harassment policy that the legislature has developed, and let me explain how that works.” Transcript of Interview of Laura Bonar Interview at 4 (Exhibit 4).
- “In your case, your letter is deemed to be a formal complaint. So, that initiated a formal investigation.” *Id.* at 5.
- “So, what we do is we investigate the allegations in the complaint, or in your letter, which we consider to be a complaint.” *Id.*

Knowing that her “formal complaint” was not under oath, Special Counsel alerted Ms. Bonar that her interview was also not being conducted under oath: “And,

purposely, I'm not asking you to raise your right hand and affirm that you will be telling the truth.” *Id.* at 8. Now more than six months after she made these claims, and less than three weeks before a public Formal Hearing on them, it is incredible that Ms. Bonar has never been required to verify her claims.

### **Conclusion**

The Special Master should deny the Charging Party’s Motion for Clarification because, as Ms. Bonar’s counsel admits: “Judge York has already ruled on the substance of my client’s objections, with specificity. Her rulings were not vague or ambiguous.” *See* email from Monagle to Hnasko dated 11/9/2018 (Exhibit 2). In a case built on Ms. Bonar’s communications with others, Respondent is entitled to discovery about Ms. Bonar’s communications with others. The Special Master has already greatly limited the discovery requests based on Ms. Bonar’s objection.

Ms. Bonar did not file a motion<sup>2</sup> seeking clarification of the Special Master’s order – she instead simply wrote a letter to Special Counsel notifying them that she was not going to comply with it. To avoid dismissal, Special Counsel filed a “motion for clarification” which misstates the problem, and fails to accept that Ms.

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<sup>2</sup> The Scheduling Order entered by the Subcommittee expressly requires that “[a]ny objection to written discovery that cannot be resolved by the parties must be made by motion and filed with the Legislative Council Service . . . .” *Id.* at ¶ 4(b).

Bonar is not going to participate in this proceeding knowing that she will be excluded as a witness and knowing that the proceeding will end.

By contrast, Respondent responded to written discovery, produced communications with others discussing Ms. Bonar's claims, and appeared for his deposition where he was cross-examined about his communications with others about this claim. The Special Master should not reward the party whose witness has repeatedly failed to cooperate with discovery.

Representative Trujillo has been given a very short time and very few discovery tools to gather evidence to defend himself against Ms. Bonar's claims that he sexually harassed her nearly 5 years ago. Ms. Bonar's decision not to appear for her re-scheduled deposition, and her decision not to produce ordered records cannot be cured at this late stage, and should be dispositive. The discovery deadline closed on October 31. Respondent has no subpoena power. Any written discovery to follow-up on new information would be futile at this point in the proceedings. Ms. Bonar's notice that she would not appear for both depositions came only 48 hours before the deposition – demonstrating a purposeful delay to prejudice Respondent's rights. For all of these reasons, and those stated in Respondent's prior Motion to Exclude Ms. Bonar, the Special Master should recommend that the Hearing Subcommittee exclude Ms. Bonar as a witness at the

Formal Hearing, and further recommend that the charge against Respondent should be dismissed with prejudice.

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

Albuquerque, NM 87102

(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 13th day of November, 2018, to:

Thomas M. Hnasko  
Hinkle Shanor LLP  
PO Box 2068  
Santa Fe, NM 87504  
[thnasko@hinklelawfirm.com](mailto:thnasko@hinklelawfirm.com)

Hearing Subcommittee of the Interim  
Legislative Ethics Committee  
c/o Raul Burciaga, Director  
Legislative Council Service  
State Capitol Building, 4<sup>th</sup> Floor  
Santa Fe, NM 87503  
[raul.burciaga@nmlegis.gov](mailto:raul.burciaga@nmlegis.gov)

Levi Monagle  
Law Offices of Brad D. Hall, LLC  
320 Gold Ave SW, Suite 1218  
Albuquerque, NM 87102  
[levi@bhallfirm.com](mailto:levi@bhallfirm.com)

JACKSON LOMAN STANFORD & DOWNEY, P.C.

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

## Travis G. Jackson

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**From:** Wendy E. York <wey@sheehansheehan.com>  
**Sent:** Tuesday, October 30, 2018 3:31 PM  
**To:** levi@bhallfirm.com; Travis G. Jackson; Eric Loman; thnasko@hinklelawfirm.com; tparrish@rodey.com  
**Cc:** raul.burciaga@nmlegis.gov; Boller, Jon (Jon.Boller@nmlegis.gov)  
**Subject:** FW: re: Decision on Laura Bonar's objection to discovery and Respondent's opposition to Objections

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**From:** Wendy E. York  
**Sent:** Tuesday, October 30, 2018 2:55 PM  
**To:** Wendy E. York  
**Cc:** Teresa M. Montoya  
**Subject:** re: Decision on Laura Bonar's objection to discovery and Respondent's opposition to Objections

Dear Counsel:

I know that the parties want this decision as quickly as possible so I am relaying via email. We will draft a formal order when I return from my trip.

I have considered the oral and written arguments of all attorneys. My ruling is regarding the Interrogatories and Requests for Production propounded by Respondent to Laura Bonar are as follows:

1. Interrogatory No. 1 is to be answered;
2. Interrogatory No. 2 is to be answered with general contact information. Ms. Bonar is not required to provide the residential address, business address, telephone number(s), etc. or a summary of their knowledge;
3. Interrogatory No. 3 is to be answered with the agreement of respondent's counsel that a "written statement" is an affidavit or statement that Ms. Bonar had the person write down;
4. Request for Production No. 1 is to be answered;
5. Interrogatory No. 4 is to be answered except that "documentation" is overly broad and may refer to information that is not otherwise discoverable;
6. Request for Production No. 2 is to be answered if the item is in Ms. Bonar's possession except to the extent that "documentation" is overly broad and my refer to information that is not otherwise discoverable;
7. Interrogatory No. 5 is to be answered except that "any action taken by you as a result of the communication" is not clear and is better asked in deposition. It need not be answered;
8. Request for Production No. 3, limited to communication related to sexual harassment allegations against the respondent, is to be answered;
9. Request for Production No. 4 is overly broad. It will be limited to communication relating to sexual harassment allegations against respondent between 1/24/14 and 3/15/14, if any. The email Mr. Grant sent to her on May 8, 2018 is to be produced;
10. Regarding Interrogatory No. 6, the objection is sustained;
11. Request for Production No. 5 is overly broad but is to be answered for communications in her possession between 1/24/14 and 7/24/18 and between 4/ 2/18 and 6/2/18;
12. Regarding Interrogatory No. 7 and Request for Production No. 6, the objections are sustained;
13. Interrogatory No. 8 is to be answered;
14. Request for Production No. 7 is to be answered from January 28, 2014 and March 15, 2014;
15. Interrogatory No. 9 is to be answered regarding where Ms. Bonar has worked from 2008 to present. However, the remaining information need not be provided;

16. Regarding Request for Production No 8 the objection is sustained except that respondent is entitled to receive Bonar's employment records from APNM and APV;
17. Request for Production No. 9 is to be answered if Ms. Bonar has a current resume or CV in her possession. However, she is not required to draft one to respond to this request;
18. Interrogatory No. 10 is to be answered;
19. Interrogatory No. 11 and Request for Production No. 10: If Mr. Hnasko intends to introduce any evidence regarding Ms. Bonar's emotional reaction to the alleged harassment, respondent is entitled to records that may exist to support or refute her testimony. That being said, I am extremely reluctant to have all psychological records of a non-party produced to a party. Therefore, I am directing Mr. Monagle to immediately request copies of those records and further request that they be provided asap. I will conduct an in camera review of the records to determine if they are discoverable unless Mr. Hnasko advises me that he does not intend to introduce any evidence regarding the emotional and psychological effect of the alleged harassment;
20. Interrogatory No. 12 is to be answered;
21. Regarding Interrogatory No. 13 the objection is sustained;
22. Regarding Request for Production No. 11, the objection is sustained;
23. Request for Production No. 12 is to be answered;
24. Regarding Requests for Production 13, 14 and 15, these requests are duplicative and are fully covered in previously asked Interrogatories and Requests for Production.

This information is to be provided at least 2 days prior to Ms. Bonar's deposition. To the extent the information cannot be provided at that time it may be that Ms. Bonar's deposition would have to be reconvened for the narrow purpose of questioning on that information not able to be produced. Unfortunately, it is unlikely that any psychological records will be received and reviewed by me prior to her November 9 deposition.

Sincerely,  
Wendy York

**Travis G. Jackson**

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**From:** Levi Monagle <levi@bhallfirm.com>  
**Sent:** Friday, November 09, 2018 12:28 PM  
**To:** Tom Hnasko; Travis G. Jackson; Eric Loman  
**Subject:** Re: Respectfully Declining to Produce Names in Discovery

To make myself perfectly clear:

I understand that I could reiterate written objections that I have already made, withhold responsive documents under those objections, and show up with my client on Sunday with the intent of instructing her not to answer certain lines of questioning. All of this would require me to play dumb and pretend that Judge York had not already ruled on the substance of my client's objections. However, Judge York *has* already ruled on the substance of my client's objections, with specificity. Her rulings were not vague or ambiguous. They require the production of victims' names and information that my client is not willing to produce. That is fair enough, from the perspective of a neutral arbiter, but it leaves us at this crossroads.

I have a great deal of respect for Judge York, and I think it would be disrespectful, unprofessional, bad-faith conduct on my part to show up with my client on Sunday and ignore Judge York's rulings. In a normal civil proceeding, I would be concerned about being sanctioned for such conduct, and I will not engage in it. Nor am I inclined to waste anyone's time, now that my client has made her decision in keeping with Judge York's deadline.

If Judge York is inclined to reconsider her rulings, given the importance of these confidences to my client, then that is her prerogative as Special Master. Otherwise, Mr. Trujillo may make his motion for exclusion, and my client will not contest it beyond reiterating her position. But I will not implicate any additional sanctions by conducting myself in bad faith or instructing my client to do so.

Respectfully,

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 Nov 9, 2018, at 11:03 AM, Levi Monagle <[levi@bhallfirm.com](mailto:levi@bhallfirm.com)> wrote:

Counsel:

Please find attached correspondence from my client, Laura Bonar, directed to the Special Counsel.

I don't have much to add to it, other than to say that my client has agonized over this decision ever since the Special Master issued her ruling on October 20, 2018. I understand Judge York's ruling, from perspective of a

neutral arbiter, and would not expect to modify her ruling in response to a letter like this, and I have advised my client as such - but I also fully understand and respect my client's decision, particularly in light of the limited options that are available to her. It is more important to my client to protect the women who confided in her than it is for her to complete a process which ultimately offers no threat of meaningful sanction to Rep. Trujillo.

I will be out of the office today, but I can be reached on my cell (if necessary) at (505) 803 1274.

Respectfully,

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

<11.9.18 LB Letter to Special Counsel.pdf>

November 9, 2018

Thomas M. Hnasko

Hinkle Shanor LLP  
P.O. Box 2068  
Santa Fe, NM 87504-2068

Theresa W. Parrish

Rodey, Dickason, Sloan, Akin & Robb, P.A.  
P.O. Box 1888  
Albuquerque, NM 87103-1888

Via Email Only

Re: Respectfully Declining to Produce Names and Communications

Mr. Hnasko and Ms. Parrish:

On May 2, 2018, I made a very pointed, very public accusation against Mr. Trujillo – to stand up for myself after years of feeling powerless, and to protect other women at the Legislature from experiencing the same harassment that I experienced. As things stand, I believe that I have accomplished both of those objectives.

You thoroughly investigated my allegations against Mr. Trujillo. The Report that you submitted on July 25, 2018, and which was agreed to and adopted by the Investigative Subcommittee on July 27, 2018, was thorough and fact-oriented. While I do not agree with every conclusion drawn in that Report, it is the end result of a meticulous process: the collection of evidence from both sides, the weighing of evidence from both sides, and the drawing of conclusions based on the assessed weight of evidence, all by experienced legal professionals. Based on the assessed weight of evidence, the Report – which is analytical, rather than personal or political – found probable cause that Mr. Trujillo violated our Legislature’s Anti-Harassment Policy on multiple occasions. The truth of my account has been corroborated by multiple credible witnesses, with nothing to gain and a great deal to lose by standing with me.

Furthermore, I was not the only woman to accuse Mr. Trujillo of sexual harassment. At least two other women have publicly accused Mr. Trujillo of sexual harassment as well. That they felt compelled to do so anonymously is a testament to the intense public pressure, scrutiny, and attempts at humiliation and attack that women face in these circumstances for telling the truth. Perhaps, one day, these other women who have accused Mr. Trujillo will feel that it is safe for them to tell their stories publicly, as I have done – but that is entirely up to them. I respect them and stand with them no matter what.

Mr. Trujillo has made it clear from the outset that he wants the names of all the women who contacted me regarding the allegations I made on May 2, 2018. I have refused to divulge the names of these women, or any other victims of sexual harassment, knowing in my heart that it was not my place to do so. Now, after months of fighting to protect these names, I have been ordered to disclose them, and to submit to a deposition where I am forced to disclose the contents of conversations of the most personal and painful nature – conversations that unfolded in strictest confidence, due to fear of retaliation that I believe to be well-justified.

To disclose these names and submit to such a deposition would inevitably require me either to violate my commitment to women who placed their trust in me, or to perjure myself. I refuse to do either. To betray the trust these women placed in me, and to expose them to the same attacks that I have experienced from Mr. Trujillo's supporters inside and outside of this process, would be an unacceptable violation of my own personal integrity. Therefore, knowing the approach that Mr. Trujillo has taken with his discovery and the approach he intends to take with my deposition, I respectfully decline to produce the requested documents, or to be deposed by Mr. Trujillo's attorneys. If the Special Master's discovery order is revisited, I may reconsider this position. But as things stand, I cannot move forward.

If that means that this process must end, then so be it. To both of you, I will say that I appreciate the manner in which you approached your task. Moving forward, I believe that the utilization of trauma-informed special counsel should play a major part in legislative investigations under any anti-harassment policies that the Legislature may formulate or re-formulate. But I cannot violate the trust of other victims. My integrity, and the safety, security, and privacy of victims, takes precedence.

Thank you for your work.

Sincerely,

A handwritten signature in black ink, appearing to read "Bonar", with a long horizontal flourish extending to the right.

Laura Bonar

Exhibit 4

INTERVIEW OF LAURA BONAR  
(CONFIDENTIAL)

June 7, 2018  
1:38 p.m.  
201 Third Street NW, Suite 2200  
Albuquerque, New Mexico 87102

REPORTED BY: KATHLEEN H. O'DONNELL, RPR  
New Mexico CCR No. 75  
Arizona CR No. 50177  
PAUL BACA PROFESSIONAL COURT REPORTERS  
500 Fourth Street NW, Suite 105  
Albuquerque, New Mexico 87102

PAUL BACA PROFESSIONAL COURT REPORTERS  
500 FOURTH STREET NW - SUITE 105, ALBUQUERQUE, NM 87102

APPEARANCES

RODEY DICKASON SLOAN AKIN & ROBB, PA  
201 Third Street NW, Suite 2200  
Albuquerque, NM 87102  
BY: THERESA W. PARRISH, ESQ.  
(505) 768-7202  
tparrish@rodey.com

HINKLE HENSLEY SHANOR & MARTIN, LLP  
218 Montezuma  
P.O. Box 2068  
Santa Fe, NM 87504  
BY: THOMAS M. HNASKO, ESQ.  
(505) 982-4554  
thnasko@hinklelawfirm.com

LAW OFFICES OF BRAD D. HALL, LLC  
320 Gold SW, Suite 1218  
Albuquerque, NM 87102  
BY: LEVI A. MONAGLE, ESQ.  
(505) 255-6300  
levi@bhallfirm.com

be a member of the House or whether it be a member of the Senate. And as you're aware more than most people at the table here, you know, our legislature meets sporadically. We're at 30 days, 60 days. So, by and large, the function of the legislative branch is done outside of the session, and it's controlled by the Legislative Council, and which is comprised of the Speaker of the House, the Senate President Pro Tempore, majority, minority leaders, and whips and other appointed leadership within each caucus. So, they kind of run the affairs of the second branch of government outside of sessions.

And when things occur outside the sessions, they refer things to interim committees. So, there is an interim legislative ethics committee. And that interim committee has particular rules that go to ethical conduct. And one of them is they -- if there is a -- typically, it's a formal complaint. One would file the complaint with Legislative Council Service, which you know that body. They serve the legislature, pretty much do all the bill drafting and all that. And, then, they have to act on that. And all matters of acting on it are confidential.

The anti-harassment policy is new. So, we use, basically, the same procedures as the ethical

(A discussion was held off the record.)

Q. BY MR. HNASKO: Laura, you can just call me Tom. All right?

A. Okay. Thank you.

Q. Last name's Hnasko. There's the spelling. I'll give you my card. Check the spelling, don't forget the H.

May I call you Laura?

A. Yes.

MR. HNASKO: And, Levi, you can call me Tom.

MR. MONAGLE: Yes, sir.

MR. HNASKO: You cannot call me sir.

MR. MONAGLE: All right. I won't do that anymore.

Q. So, what we're doing today, and I thank you so much for coming in. I appreciate it very much.

You filed, or sent, your open letter asking for Representative Trujillo's resignation. That was -- under the legislative process, that was considered to be a formal complaint under the anti-harassment policy that the legislature has developed, and let me explain to you how that works.

Before that policy was developed, there was always a mechanism in place to bring an ethical violation complaint against a legislator, whether it

violation allegations. So, when -- but except for one -- one minor exception. The anti-harassment policy, basically, allows anything to constitute a complaint. It can be oral. It's a recognition that particularity with sexual harassment, that women, in particular, would -- may feel hesitant to come forward with a formalized complaint. That's recognized in the policy. So, they can make it oral. And it would get to the Council Service, and they would act on it. In your case, your letter is deemed to be a formal complaint. So, that initiated a formal investigation.

The interim ethics committee has a subcommittee within it. It's called the investigative subcommittee of the ethics interim committee. And that subcommittee is comprised of part of the interim ethics committee. And their job is to go forward and investigate your complaint. And to that end, they hire special counsel to assist them, and Tad and I have been hired to do that. And that's why we're here. Okay?

So, what we do is we investigate the allegations in the complaint, or in your letter, which we consider to be a complaint, and wherever that takes us, in terms of interviews, and so forth.

1 We will make a recommendation, a report, to the  
2 subcommittee, investigative subcommittee, who, in  
3 turn, will either adopt our recommendation, they  
4 could change it. They could do what they want with  
5 it.

6 A. Uh-huh.

7 Q. If they take our report and they read it,  
8 they have to make a determination as to whether  
9 there's probable cause. And they submit that  
10 recommendation to the hearing subcommittee of the  
11 interim ethics committee, which it all gets kind of  
12 complicated, but the reality is that that  
13 subcommittee, the hearing subcommittee, is really the  
14 entire ethics --

15 A. Okay.

16 Q. -- committee. That's how it works.

17 And if the hearing subcommittee determines  
18 there's probable cause, then they will hold a  
19 hearing. They will commission a hearing. And that  
20 will be done, then, the special counsel, we would --  
21 we act as similar to a prosecutor. We actually  
22 present the case based on their determinations.

23 The difference is everything up to that  
24 finding of probable cause is confidential. So, we  
25 wouldn't disclose to anyone that we've interviewed

1 having provided her testimony previously?

2 MR. HNASKO: Well, she won't have provided  
3 her testimony previously. This is not testimony.

4 MR. MONAGLE: It's not treated as testimony?

5 MR. HNASKO: No.

6 Q. And, purposely, I'm not asking you to raise  
7 your right hand and affirm that you will be telling  
8 the truth.

9 A. Okay.

10 Q. Because this is simply an interview.

11 The court reporter is here for Tad and my  
12 convenience only. As a matter of fact, if you didn't  
13 want the court reporter here, if she made you  
14 uncomfortable, we would say she could go home.

15 MS. PARRISH: Yeah, just say so. I mean,  
16 our thought was just it was easier than each of us  
17 trying to make notes. Everybody would have the same  
18 transcription of what was said, but we aren't trying  
19 to turn it into anything more than a transcription of  
20 what's been said in this particular conversation.

21 MR. HNASKO: Right.

22 MR. MONAGLE: What about the alternative  
23 option of actually swearing Laura in now so that she  
24 has provided testimony and doesn't have to do it?

25 MR. HNASKO: That won't work. She's not

1 you, for instance, other than people we, obviously --  
2 obviously, know you know the other people are being  
3 interviewed. So, that's common among us.

4 A. Uh-huh.

5 Q. But we wouldn't disclose that to a third  
6 party or to a newspaper or anything of that nature.  
7 That wouldn't occur nor, of course, would the  
8 substance of the interview.

9 A. Okay.

10 Q. But after -- if a finding of probable cause  
11 has been made --

12 A. Uh-huh.

13 Q. -- which is the hearing subcommittee's --

14 A. Determination.

15 Q. -- ultimate determination, from that point  
16 forward, anything that is used is public, because it  
17 all comes out in public.

18 So, if you were to appear and say the same  
19 things that you told us today, or a document that you  
20 gave us today was used after that, that would become  
21 public at that time, but not until that time.

22 A. Okay.

23 Q. Does that make sense?

24 MR. MONAGLE: Yeah. Would there be a  
25 requirement that Laura show up and testify in person,

1 subject to cross-examination.

2 MR. MONAGLE: This isn't a criminal  
3 proceeding.

4 MR. HNASKO: It doesn't matter, because in  
5 the -- that's part of the way that the rules work in  
6 terms of having the hearing. You have the right to  
7 confront your witnesses.

8 MR. MONAGLE: Okay. That's part of the  
9 policy?

10 MR. HNASKO: Yeah.

11 MR. MONAGLE: Okay.

12 MR. HNASKO: That's how we've always done  
13 it. So, and this is not -- this is -- although this  
14 is the first time we've done the anti-harassment  
15 policy complaint, there have been other ethical --

16 MR. MONAGLE: Sure.

17 MR. HNASKO: -- investigations. For  
18 instance, Former Senator Griego and others, and  
19 Olguin, and others have been subject to the same sort  
20 of procedure. So, we use that same sort of  
21 procedure. So, the question is, you know, I don't  
22 know, you know, who would be called and who wouldn't  
23 be called.

24 MR. MONAGLE: Fair enough. Yeah, no, I  
25 mean, I don't have any problems with any of this.