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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MOHAVE

<p>STATE OF ARIZONA, Plaintiff, vs. WARREN STEED JEFFS, Defendant.</p>	<p>MEMORANDUM IN OPPOSITION TO MOTION FOR DEPOSITION OF WITNESS LAMONT BARLOW No. CR-2007-743 Judge Steven F. Conn</p>
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Lamont Barlow, through his undersigned pro hac vice counsel respectfully submits this Memorandum in Opposition to Motion For Deposition of Witness Lamont Barlow.

Mr. Barlow recalls having a brief discussion with Shannon Price after Warren Jeffs' rape-as-an-accomplice trial in Utah. *See* Affidavit of Lamont Barlow, attached as Exhibit A, ¶ 1. He told Ms. Price that during the trial a lie was told to the jury. *Id.* at ¶ 2. The lie was about his wife [REDACTED] [REDACTED] medical records. *Id.*



The falsity about [REDACTED] medical records related to statements made at trial during closing argument. *Id.* at ¶ 3. The statements were that her records showed that certain medical conditions applied to her. *Id.* Mr. Barlow recalls that these false conditions included such things as past drug abuse, sexually transmitted diseases, and other medical conditions carrying highly negative inferences. *Id.* A copy of the transcript of Utah defense counsel's closing argument has been requested and will be filed in supplementation of this memorandum as soon as it can be obtained.

These statements, which Mr. Barlow characterized to Ms. Price as lies,¹ were made by Mr. Jeffs' Utah criminal defense lawyer, not by [REDACTED] *Id.* at ¶ 4. Indeed, Mr. Barlow does not recall his wife ever being asked questions at trial about her medical records. Moreover, he does not recall discussing anything else about [REDACTED] medical records with Ms. Price. *Id.*

The misleading statements were corrected by the Washington County Attorney during his closing argument in which he showed the jury that Mr. Jeffs' counsel had omitted the critical word "not" from [REDACTED] medical record, which, if included, would have correctly stated that those negative medical conditions did "not" apply to [REDACTED] *Id.* at ¶ 5. Still, the misstatements were a significant event at trial and were the subject of discussions afterward. *Id.* at ¶ 6. A copy of the transcript of the Washington County Attorney's rebuttal closing argument has been requested and will also be filed in supplementation of this memorandum as soon as it can be obtained.

¹In fairness, it is not known whether Mr. Jeffs' criminal defense lawyer intentionally attempted to mislead the jury or whether he had simply failed to closely read [REDACTED] medical records.

² Following closing argument and jury deliberations, Mr. Jeffs was convicted on all felony charges as an accomplice to [REDACTED] rapes in Utah.

Mr. Barlow finds it unfortunate that Mr. Jeffs' Arizona criminal defense counsel would tell this Court that Mr. Barlow is "understandably" not cooperating.³ This comment inaccurately and unfairly suggests that Mr. Barlow is complicit in a lie and cover up. Nothing could be further from the truth, and Mr. Barlow has not refused to cooperate, as required, for his deposition to be ordered. *See* Rule 15.3 of the Arizona Rules of Criminal Procedure. Rather, he has simply asked for clarification about the basis of defense counsel's proposed questions.

If, despite the attached Affidavit of what Mr. Barlow attempted to communicate with Ms. Price,⁴ Mr. Jeffs' counsel continues to insist on a second interview, Mr. Barlow will stipulate to being interviewed again on condition that:

1. Mr. Jeffs' counsel first show this Court that [REDACTED] testified about her medical records during the Utah trial;
2. The interview is limited to the issue of what he told Ms. Price about the misrepresentations at trial pertaining to his wife's medical records; and⁵
3. The interview take place in the Washington County Attorney's office where the Utah trial transcripts and recordings are available and where the Washington County Attorney, who had to correct the misstatement of defense counsel, can be present.

³ On August 19, 2008, Mr. Barlow voluntarily submitted to a lengthy interview by counsel for Mr. Jeffs.

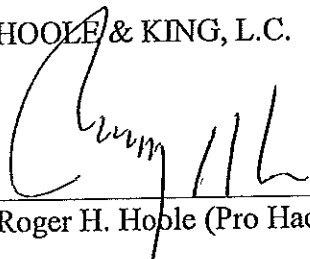
⁴ Ms. Price, who was not present at the trial, apparently misunderstood the nature and source of the misrepresentation at trial. Her confused, second-hand account is without foundation and irrelevant.

⁵ As the Court knows, the Diversity Foundation, which employees Ms. Price, was designated as a client representative pursuant to Utah Rule of Evidence 504(a)(4) by various persons represented by Hoole & King, L.C., including Mr. Barlow. The communication between Mr. Barlow and Ms. Price, which is the subject of the pending motion, was not in furtherance of privileged communications, and has thus far not been implicated. If in any interview or deposition Mr. Jeffs' counsel were to attempt to go beyond that communication, Mr. Barlow will assert the privilege and his right under Rule 504(a)(4).

For the reasons stated, Mr. Barlow objects to Mr. Jeffs' motion for an order compelling his deposition under Rule 15.3.

DATED this 25th day of February, 2010.

HOOLE & KING, L.C.



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