

REDACTED

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SUPERIOR COURT CLERK

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15 Nevada Bar No. 000886  
16 Attorney for Defendant

15 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

16 IN AND FOR THE COUNTY OF MOHAVE

18	STATE OF ARIZONA,	)	NO. CR-2007-743
		)	
19	Plaintiff,	)	REPLY TO RESPONSE AND
20	vs.	)	OPPOSITION TO MOTION FOR
		)	DEPOSITION OF WITNESS
21	WARREN STEED JEFFS,	)	LAMONT BARLOW
		)	
22	Defendant.	)	[Hon. Steven F. Conn]
23		)	

24 The defendant, Warren Jeffs, by and through counsel undersigned, hereby  
25 replies to the State's response and Lamont Barlow's opposition to his motion for  
26 deposition of Lamont Barlow.  
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28 The request for Lamont Barlow's deposition stems from the fact that Ms.



1 Shannon Price contacted County Attorney Brock Belnap of Washington County,  
2 Utah, "and she told him that [REDACTED] had lied during her testimony at the  
3 Warren Jeffs trial" in the state of Utah. [See Report of Washington County Sheriff  
4 Chief Deputy Jake Schultz, attached to Defendant's Motion for Deposition of  
5 Witness Lamont Barlow]. Mr. Belnap then instructed Washington County Sheriff  
6 Chief Deputy Jake Schultz to interview Ms. Price and she provided further  
7 information about this alleged false testimony. Specifically, Ms. Price stated that  
8 "Lamont told her that [REDACTED] medical records had all been created in one day, to  
9 make it look like she had seen a caretaker on several different occasions." [Id.]

13 This matter will obviously be admissible at trial as it relates directly to [REDACTED]  
14 [REDACTED] credibility, or lack thereof. Indeed, Arizona's rules of discovery are quite  
15 broad and allow the parties to pursue any matters that might lead to admissible  
16 evidence. "It is not a basis for objection 'that the information sought will be  
17 inadmissible at the trial if the information sought appears reasonably calculated to  
18 lead to the discovery of admissible evidence.'" *American Family Mutual*  
19 *Insurance Company v. Grant*, 222 Ariz. 507, \_\_\_, ¶ 12, 217 P.3d 1212, 1217 ¶ 12  
20 (App. 2009) [quoting Ariz. R. Civ. P. 26(b)(1)(A)]. Moreover, the Arizona  
21 Supreme Court has made it quite clear that, in criminal cases:

25 We believe that a trial court should exercise its discretion in favor of  
26 seeing that the accused is furnished with every fact necessary to  
27 prepare the best possible defense. The modern trend in discovery  
28 proceedings is to have the winner determined by the facts, rather than

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by which side is the most ingenious in 'playing the game.'

*State v. Ford*, 108 Ariz. 404, 409, 499 P.2d 699, 704 (1972).

The State correctly notes that it "suggested to defense counsel" that defense counsel move for Mr. Barlow's deposition. [State's Response, p. 3]. The State suggested this due to the fact that defense counsel had been unable to schedule Mr. Barlow's interview, despite repeated attempts. [See attached email correspondence]. Accordingly, the defendant has filed the present motion.

The defendant concedes that Mr. Barlow was, in fact, interviewed as to all matters known at that time. The new interview or deposition of Mr. Lamont Barlow will center on the recent report by Ms. Shannon Price to law enforcement about [REDACTED] false testimony. These matters will obviously be admissible at trial and the rules of discovery clearly contemplate that these matters will be explored through pretrial discovery and interviews.

In his opposition to the motion to depose Lamont Barlow, Mr. Hoole now attempts to re-write history and presents a new version of facts that directly contradicts Ms. Price's statements. However, the defendant is not obliged to accept the new version of events that Mr. Barlow, after consultation with Mr. Hoole, now presents. Nor is the defendant obliged to accept the numerous "conditions" that Mr. Hoole is attempting to place on the interview or deposition of Lamont Barlow. It must be remembered that the Mr. Hoole represents not only

1 complaining witness [REDACTED], but also her husband Lamont Barlow, and also  
2 claims to have some type of privileged attorney-client relationship with Ms.  
3 Shannon Price's employer, the Diversity Foundation, whom Mr. Hoole claims is  
4 some sort of "client representative."<sup>1</sup> Mr. Hoole now has a statement from an  
5 employee of a "client representative," Ms. Shannon Price, that indicates that the  
6 client he represents, complaining witness [REDACTED] committed perjury, and Ms.  
7 Shannon Price's comments now also directly contradict the statements of Mr.  
8 Lamont Barlow, yet another client of Mr. Hoole's. Given all of these obvious  
9 conflicts, Mr. Hoole's desire to limit the inquiry is understandable, but not  
10 acceptable.  
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14 Indeed, it is obvious that there are issues of fact that will have to be  
15 explored and will have to be resolved, ultimately, by the jury concerning the  
16 problems with [REDACTED] credibility. Moreover, the defendant is not willing to  
17 accept the assertions by the State and counsel for Mr. Barlow that the allegations  
18 of [REDACTED] perjury are limited to simply medical matters. Ms. Shannon Price's  
19 report to Washington County Attorney Brock Belnap was not limited. As noted  
20 above, "she told him that [REDACTED] had lied during her testimony at the Warren  
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25 \_\_\_\_\_  
26 <sup>1</sup> Arizona, of course, does not recognize through rule, statute, or decisional law, any such  
27 privilege for a "client representative," outside the context of some sort of organization or  
28 entity. As noted in the defendant's pleadings concerning the depositions of Diversity  
Foundation's founder Dan Fischer and Mr. Sam Brower.

1 Jeffs trial.” Mr. Belnap then instructed Chief Deputy Schultz to interview Ms.  
2 Price, and this is where some statements were made about fabricated medical  
3 records. The defendant is entitled to fully explore all of these matters, and to  
4 further explore the issues of whether there have been any attempts to influence the  
5 testimony of any witness, including but not limited to, conversations with third  
6 parties.  
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9 In addition, the somewhat far-fetched version of events that Lamont Barlow  
10 now presents with Mr. Hoole’s help will, itself, be a factual matter for the jury to  
11 resolve. Mr. Barlow now claims that it was Mr. Jeffs’ attorney in the Utah case,  
12 Mr. Walter Bugden, and not [REDACTED] that provided false information in the  
13 Utah trial about [REDACTED] medical condition, and Ms. Shannon Price “simply  
14 misunderstood” what Lamont Barlow had told her. [Barlow’s Opposition, p. 2].  
15 The problem with Lamont Barlow’s new story is that Ms. Price never said  
16 anything about who may or may not have provided false information about [REDACTED]  
17 [REDACTED] medical condition at trial, she stated initially to Washington County  
18 Attorney Brock Belnap that [REDACTED] lied during her testimony. She later told  
19 the deputy that “Lamont told her that [REDACTED] medical records had all been created  
20 in one day, to make it look like she had seen a caretaker on several different  
21 occasions.” [Schultz Report]. This is obviously a quite separate, and also quite  
22 serious, matter. Again, while Mr. Hoole’s desire to wish this matter away is  
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1 understandable, the defendant is not required to accept this new version of events,  
2 and is not required to accept any limitations on his ability to fully explore this new  
3 matter.  
4

5 Again, this matter will be brought out at trial as neither Mr. Barlow nor Mr.  
6 Hoole can prevent the defendant from questioning all of the witnesses involved  
7 about these matters during the trial. Obviously, this matter can be dealt with more  
8 efficiently at trial if, as the rules of criminal discovery clearly contemplate, the  
9 issues are narrowed and the factual matters are fully explored during pretrial  
10 discovery. Accordingly, the defendant categorically rejects the proposed  
11 limitations Mr. Hoole is suggesting for Mr. Barlow's interview. In addition, the  
12 defendant specifically objects to Mr. Barlow's interview being conducted in St.  
13 George, Utah, at Mr. Belnap's offices. Indeed, the defendant's request to depose  
14 Mr. Barlow in Salt Lake City was specifically designed to accommodate him and  
15 his attorney. Ms. Shannon Price will be interviewed in Salt Lake City where she  
16 lives and works, the prosecutor and defense counsel will be present in Salt Lake  
17 City for this interview, Mr. Hoole's offices are in Salt Lake City, and it was  
18 thought that Lamont Barlow did reside or currently resides in Salt Lake City  
19 although counsel is not certain. Mr. Hoole will presumably be present for Mr.  
20 Barlow's interview and he is certainly free to bring to the interview whatever  
21 transcripts he wishes.  
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1 This is a very serious matter when the executive director of Diversity, an  
2 entity that has worked diligently to harm Mr. Jeffs and other FLDS members, feels  
3 compelled to advise the previous prosecutor of Mr. Jeffs, Washington County  
4 Attorney Brock Belnap, that [REDACTED] the same accuser in this case, had lied  
5 during the Warren Jeffs trial. She later provided additional information regarding  
6 statements from Lamont Barlow and creation of a false document relating to [REDACTED]  
7 [REDACTED] medical records. Lamont Barlow, after consultation with his and [REDACTED]  
8 [REDACTED] counsel, provides an affidavit claiming she is mistaken. Defense counsel is  
9 entitled to explore this very serious matter and also to explore what, if any,  
10 communications any of these parties had with third parties discussing these issues.  
11 The witnesses' positions can be clarified during the interview process so that the  
12 matters can be presented properly at trial. It would not be fair or appropriate to  
13 deny the defendant the right to investigate such serious allegations made against  
14 the key witness and accuser of Mr. Jeffs and certainly should not be limited by  
15 artificial restrictions proposed by their lawyer who is highly motivated to limit the  
16 disclosure of information.  
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22 For the foregoing reasons, the defendant, Warren Jeffs, by and through his  
23 counsel undersigned, hereby respectfully requests this Court to order the  
24 deposition of Lamont Barlow to take place on March 16, 2010, at Parsons, Behle  
25 & Latimer, One Utah Center, 201 South Main Street, Suite 1800, Salt Lake City,  
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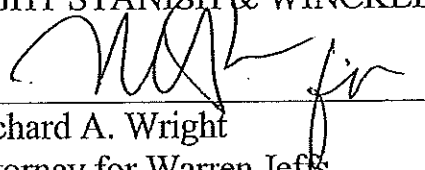
1 Utah 84111, following the interview of Shannon Price. See proposed order  
2 attached to Motion for Deposition of Witness Lamont Barlow.  
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4 RESPECTFULLY SUBMITTED this 1st day of March, 2010.

5 WRIGHT STANISH & WINCKLER

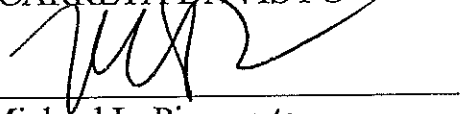
PICCARRETA DAVIS PC

6 By



7 Richard A. Wright  
8 Attorney for Warren Jeffs

By



9 Michael L. Piccarreta  
10 Jefferson Keenan  
11 Attorneys for Warren Jeffs ;

12 Original of the foregoing mailed  
13 this 1st day of March, 2010, to:

14 Clerk of Mohave County Superior Court  
15 401 East Spring Street  
16 Kingman, AZ 86401

17 Copy of the foregoing emailed  
18 this 1st day of March, 2010, to:

19 Hon. Steven F. Conn  
20 Mohave County Superior Court  
21 401 East Spring Street  
22 Kingman, AZ 86401

23 Matthew J. Smith, Esq.  
24 Mohave County Attorney's Office  
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27 Kingman, AZ 86402-7000

28 Roger Hoole, Esq.  
4276 South Highland Drive  
Salt Lake City, UT 84124

## Barbara Polowetz

---

**From:** Michael Piccarreta  
**Sent:** Thursday, February 18, 2010 11:32 AM  
**To:** BEVERLY BROOKS  
**Cc:** Barbara Polowetz  
**Subject:** RE: Jeffs: Shannon Price

Sounds good. Can I say that the State has no objection to accelerated telephonic oral argument on the motion so if it is granted it can be set in SLC on the same day as Shannon Price. MLP

**From:** BEVERLY BROOKS [mailto:BEVERLY.BROOKS@co.mohave.az.us]  
**Sent:** Thursday, February 18, 2010 10:57 AM  
**To:** Michael Piccarreta  
**Subject:** RE: Jeffs: Shannon Price

Mike, why don't you go ahead and file your motion to depose Lamont Barlow. That way you will have the issue preserved in case Lamont decides he does not want to be interviewed for a second time. I am not sure what my position is at this time because I have not gotten any solid information on exactly what Shannon Price has said and where she got any information she might possess. Once I find that out, I will let you know. So go ahead and file your motion for a deposition, I'll see what I can find out including whether or not Lamont wants to be interviewed and then decide what type of response I will file. We can do Shannon Price's interview on the scheduled date. I also at this time will be contacting [REDACTED] to find out whether or not she wants to be interviewed on this narrow issue. Matt

(Dictated but not read)

>>> Michael Piccarreta <mlp@pd-law.com> 2/18/2010 8:10 AM >>>

Let me know Today re Lamont as I will file the depo motion Mon. so we can do them all at the same time . MLP

**From:** BEVERLY BROOKS [mailto:BEVERLY.BROOKS@co.mohave.az.us]  
**Sent:** Wednesday, February 17, 2010 2:22 PM  
**To:** Michael Piccarreta  
**Subject:** RE: Jeffs: Shannon Price

Mike, I will be talking to [REDACTED] to find out if she will consent to an interview, as she still has her victim's right not to be interviewed. I also don't know if you would have the right to re-interview Lamont Barlow since you already interviewed him in this case. I realize that you would at least have an argument to re-interview him in this case due to this recent development; however, from what I have heard it is very possible that Shannon Price did not get any information from [REDACTED] Lamont directly, and, therefore there may be no need to interview Lamont in any event. I will contact Roger Hoole and get back to you on [REDACTED] and Lamont very soon. Matt

(Dictated but not read)

>>> Michael Piccarreta <mlp@pd-law.com> 2/17/2010 11:56 AM >>>

Based on Matt's schedule. We are on for March 16 at 9:30 at your office. Hopefully to be followed by Lamont and [REDACTED] [if she agrees] MLP

**From:** Dryer, Randy [mailto:RDryer@parsonsbehle.com]  
**Sent:** Tuesday, February 16, 2010 8:59 AM  
**To:** Michael Piccarreta; Barbara Polowetz

**Cc:** MATT SMITH; BEVERLY BROOKS, .ck@wswlawlv.com; Debbie@wswlawlv.com, rogerh@hooleking.com; Micha Barach (bmicha@ultradent.com)  
**Subject:** RE: Jeffs: Shannon Price

Mike...

Both Shannon and I are available March 8, 10 or 11 at 9:30 a.m. for the interview. I am happy to make a conference room available at my office. If you want to use my office to also do the interviews of Lamont Barlow and Elissa Wall let me know.

Randy

Randy L. Dryer  
Parsons Behle & Latimer  
One Utah Center  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111  
Phone: (801) 532-1234  
Fax: (801) 536-6111  
<mailto:rdryer@parsonsbehle.com>

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**From:** Michael Piccarreta [<mailto:mlp@pd-law.com>]  
**Sent:** Monday, February 15, 2010 9:53 AM  
**To:** Dryer, Randy; Barbara Polowetz  
**Cc:** MATT SMITH; BEVERLY BROOKS; rick@wswlawlv.com; Debbie@wswlawlv.com; rogerh@hooleking.com; Micha Barach (bmicha@ultradent.com)  
**Subject:** RE: Jeffs: Shannon Price

Randy, Matt is unavailable this week and I am unavailable on the 23-24. How about the week of March 8? I am also trying to schedule Lamont and [REDACTED] at the same time in SLC to avoid multiple trips. [REDACTED] has the right to refuse but she may wish to clear up this issue or maybe not depending on what she knows. In any event give some dates that week that work for you and hopefully the others can make it. MLP

**From:** Dryer, Randy [<mailto:RDryer@parsonsbehle.com>]  
**Sent:** Tuesday, February 09, 2010 1:51 PM  
**To:** Barbara Polowetz  
**Cc:** Michael Piccarreta; MATT SMITH; BEVERLY BROOKS; rick@wswlawlv.com; Debbie@wswlawlv.com; rogerh@hooleking.com; Micha Barach (bmicha@ultradent.com)  
**Subject:** RE: Jeffs: Shannon Price

Mike...

Sorry about the delay in responding. Yes, Shannon will voluntarily provide an interview in Salt Lake City, subject to an agreed upon scope of examination. I assume the reason for your request is to examine her about the subject matter set forth in the memo to Brock Belnap from Washington County Deputy Sheriff Jake Schultz dated January 26, 2010. I have no problem with her responding to questions related to the subject of this memo, but I would object to any examination beyond the identified subject. If you see a need to question her on other subjects please advise. Otherwise, let's find a convenient date. I have checked with Shannon and both she and I are available on the following dates: February 16, 17, 19, 23 or 24. I suggest we schedule the interview for 10:30 a.m. or 11:00 a.m. at my office. Let me know if the scope of the interview as described above is acceptable and which of these dates works.