

CAUSE NO. D-1-GN-16-004769

DAVID A. ESCAMILLA,
Travis County Attorney
Plaintiff

v.

KEN PAXTON
State of Texas Attorney General
Defendant

§ **IN THE DISTRICT COURT**
§
§
§
§ **OF TRAVIS COUNTY**
§
§
§ **261st JUDICIAL DISTRICT**

**CROSS-PLAINTIFF/ INTERVENOR TARA CORONADO'S SUPPLEMENTAL
OBJECTIONS & MOTION TO EXCLUDE TESTIMONY
OF PLAINTIFF'S UNTIMELY DESIGNATED EXPERTS**

Without waiving Cross-Plaintiff/Intervenor Tara Coronado (Coronado) Objections and Motion asking the Court to exclude the testimony of Mack Martinez and Randy Leavitt who were untimely designated as Plaintiff Travis County Attorney's expert witnesses, Cross-Plaintiff asks, in the alternative for Leave to Designate a Rebuttal Expert Witness.

SUMMARY

1. In a Response filed this date, the County Attorney asserts the Scheduling Order entered in this case (signed May 11, 2017) retroactively relieved the County Attorney of the need to timely respond to and timely supplement responses to a Request for Disclosure (including designation of expert witnesses) that was served two months earlier (March 9, 2017). Apparently, the County Attorney believes that even though he had indicated "None" in response to a request to identify expert witnesses, he could wait until 30 minutes before the deadline to identify witnesses under the Scheduling Order to, for the first time, reverse course and designate expert witnesses. The County Attorney asserts he also did not have comply with TRCP 195.2.

2. Coronado disagrees that was the effect of the Scheduling Order. The Scheduling Order did not indicate that it supplanted the parties' obligations to otherwise comply with the discovery rules, including the timely designation requirements of TRCP 194.2(f) and 195.2.

3. The County Attorney correctly points out that Coronado's designation of Bill Aleshire to

Coronado's Supplemental Objections/Motion to Exclude County Attorney's Experts

testify on reasonable and necessary attorney fees also occurred after the TRCP 194.2(f) and 195.2 deadlines, but before the deadline in the Scheduling Order. The request for, and citation to statutory basis for attorney fees, was included in Coronado's 1st Amended Petition on March 6, 2017. Coronado understands that she, and her attorney, may have to accept the concept that "what is good for the Goose, is good for the Gander." If the Court approves Coronado's Objections to the County Attorney's testifying experts, Coronado must accept approval of the County Attorney's objection to Mr. Aleshire's designation.

4. However, if the Court does permit either of the County Attorney's late-designated experts to testify, Coronado asks the Court to grant leave for Coronado to designate a testifying rebuttal expert regarding the law-enforcement effect of disclosure of the DPA. The expert is Margaret Bassett. (see attached EXHBIIT A- Supplemental Response to RFD).

PRAYER

For these reasons, Cross-Plaintiff/Intervenor asks the Court to exclude the testimony of the County Attorney's experts, Mack Martinez and Randy Leavitt. If the Court decides to permit the County Attorney's late-designated experts to testify over this objection, then Cross-Plaintiff/Intervenor asks the Court to grant her permission to designate one or more rebuttal expert witnesses to be heard at trial on August 8, 2017.

Respectfully submitted,



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ATTACHMENT: EXHIBIT A - 3RD Supplemental Response to RFD

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document has been served on Defendants by e-service on this 28th day of July, 2017.

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