

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL **FILED**
STATE OF WYOMING

JUN 20 2007

IN THE MATTER OF THE APPEAL OF)
THE COPPERLEAF SUBDIVISION WATER)
SUPPLY, TREATMENT, STORAGE, AND)
BOOSTER PUMPING SYSTEMS,)
Permit No. 06-274RR/Reference No. 06-236RR)

Docket No. 06-804
Terri A. Lorenzon, Director
Environmental Quality Council

**WORTHINGTON GROUP OF WYOMING, LLC'S MOTION FOR
DISQUALIFICATION OF ENVIRONMENTAL QUALITY
COUNCILMAN MARK W. GIFFORD**

COMES NOW the Worthington Group of Wyoming, LLC (hereinafter Worthington) and respectfully moves for the disqualification of Environmental Quality Councilman Mark W. Gifford. This motion is filed pursuant to ENV PP Ch 2 § 14 and W.R.C.P. 40.1 and is supported by the Affidavit of Laurence W. Stinson filed herewith.

I. INTRODUCTION

This Board's procedures are dictated by the Wyoming Rules and Regulations for the Department of Environmental Quality, Rules of Practice and Procedure Applicable to Contested Case Hearings. Env. PP Ch. 2 § 14 invokes the Wyoming Rules of Civil Procedure, insofar as they may be applicable to matters before the Council. W.R.C.P. 40.1(b) states:

- 1) *Peremptory Disqualification.* A district judge may be peremptorily disqualified from acting in a case by the filing of a motion requesting that the judge be so disqualified. The motion designating the judge to be disqualified shall be filed by the plaintiff within five days after the complaint is filed; provided, that in multi-judge districts, the plaintiff must file the motion to disqualify the judge within five days after the name of the assigned judge has been provided by a representative of the court to counsel for plaintiff by personal advice at the courthouse, telephone call, or a mailed notice. The motion shall be filed by a

defendant at or before the time the first responsive pleading is filed by the defendant or within 30 days after service of the complaint on the defendant, whichever first occurs, unless the assigned judge has not been designated within that time period, in which event the defendant must file the motion within five days after the name of the assigned judge has been provided by a representative of the court to counsel for the defendant by personal advice at the courthouse, telephone call, or a mailed notice. One made a party to an action subsequent to the filing of the first responsive pleading by a defendant cannot peremptorily disqualify a judge. In any matter, a party may exercise the peremptory disqualification only one time and against only one judge.

(2) *Disqualification for Cause.* Whenever the grounds for such motion become known, any party may move for a change of district judge on the ground that the presiding judge: (A) has been engaged as counsel in the action prior to being appointed as judge; (B) is interested in the action; (C) is related by consanguinity to a party; (D) is a material witness in the action; or (E) is biased or prejudiced against the party or the party's counsel. The motion shall be supported by an affidavit or affidavits of any person or persons, stating sufficient facts to show the existence of such grounds. Prior to a hearing on the motion any party may file counter-affidavits. The motion shall be heard by the presiding judge, or at the discretion of the presiding judge by another judge. If the motion is granted, the presiding judge shall immediately call in another judge to try the action.

(3) *Effect of Ruling.* A ruling on a motion for a change of district judge shall not be an appealable order, but the ruling shall be entered on the docket and made a part of the record and may be assigned as error in an appeal of the case.

(4) *Motion by Judge.* The presiding judge may at any time on the judge's own motion order a change of judge when it appears that the ends of justice would be promoted thereby.

Additionally, Wyoming case law contemplates the recusal of members of administrative bodies, so long as the motion for removal is made before the agency's consideration of the dispute. See, e.g., *Gold v. Board of County Com'rs of Teton County*, 658 P.2d 690 (Wyo. 1983).

The Worthington Group of Wyoming, LLC respectfully moves for the peremptory recusal of Councilman Mark W. Gifford under W.R.C.P. 40.1(b)(1). Alternatively, Mr. Gifford should be disqualified for cause under Rule 40.1(b)(2).

II. PEREMPTORY DISQUALIFICATION

Although the Council's proceedings are dictated by the Wyoming Rules of Civil Procedure, including Rule 40.1, the Council does not adhere to the notice requirements referenced within this rule. That is, the Council does not provide notice of the identity of the individual council members who will serve on the case. A representative of the Environmental Quality Council, Mr. Joe Girardin advised the undersigned that the Council does not provide notice to participants as to which council members will sit for a particular hearing. Specifically, on June 18, 2007, the undersigned contacted Mr. Girardin to learn when the EQC, in accordance with Rule 40.1, would provide notice of the names of the members of the EQC that would hear and decide the above captioned matter so that any peremptory or cause motions could be filed. Mr. Girardin indicated that all of the council members *could* hear the case, but that by rule only a majority need hear and decide the matter. Mr. Girardin presumed that all of the EQC members would participate in some way in the case, either by attending the 3-day trial type hearing, or by reviewing the transcript of the matter.

The EQC's failure to provide the notice contemplated by Rule 40.1 means that Worthington is not advised of what EQC members will actually hear the case. In fact, because members may apparently participate without attending the hearing, Worthington would not actually know what members would decide the case solely by knowing who appears at the hearing. Worthington has, as a matter of right, the ability to peremptorily disqualify a judge by filing a motion for such within five days of the notice required by Rule 40.1.

The undersigned learned from Mr. Girardin on June 18, 2007 that it is presumed that Mr. Mark W. Gifford will either sit on the hearing on the above-captioned matter or read the transcript of the hearing, but that he will somehow participate in the proceedings. Assuming that such informal information qualifies as having thus received notice from the Council's representative of Mr. Gifford's participation on this matter, the Worthington Group moves to peremptorily disqualify Mr. Gifford from the proceedings pursuant to W.R.C.P. 40.1(b)(1).

III. DISQUALIFICATION FOR CAUSE

W.S. § 16-3-112 governs contested case hearings and the presiding officers. The statute requires that all contested cases be conducted in an impartial manner. Moreover, any officer who deems himself disqualified *shall* withdraw so long as there are other qualified presiding officers available to act.

The Wyoming Supreme Court has emphasized the importance of an unbiased tribunal in all proceedings, including quasi judicial proceedings such as this matter before the Council:

In accordance with the decisions of various jurisdictions and the Supreme Court of the United States, an unbiased tribunal is a **constitutional necessity** in a quasi-judicial hearing, and a denial of the same is a denial of due process. *Ward v. Village of Monroeville*, 409 U.S. 57, 93 S.Ct. 80, 34 L.Ed.2d 267; *Tumay v. Ohio*, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749; *In re Murchison*, 349 U.S. 133, 75 S.Ct. 623, 99 L.Ed. 942. **The requirement of an impartial tribunal applies to administrative proceedings no less than criminal trials.** *Goldbeg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 287. (emphasis added).

Quoting, *Sorin v. Board of Education*, 315 N.E.2d 848 (Ohio 1974). "With respect to a fair hearing, it is fundamental that principles of justice and fair play require 'an orderly proceeding appropriate to the case or adapted to its nature, just to the parties affected, and adapted to the ends to be attained, one in which a person has

an opportunity to be heard, and to defend, enforce, and protect his rights before a competent and impartial tribunal legally constituted to determine the right involved; representation by counsel; (and) procedure at the hearing consistent with the essentials of a fair trial according to established rules which do not violate fundamental rights." *Fallon v. Wyoming State Board of Medical Examiners*, 441 P.2d 322 (Wyo. 1968), *citing*, 2 Am.Jur.2d, Administrative Law, s 353, pp. 166-167.

The Worthington Group of Wyoming LLC enjoys a constitutional and statutory guarantee to a fair hearing in the administrative process, which must be heard before an unbiased, fair and impartial tribunal. The Council must be "free from bias and prejudice and imbued with the desire to accord to the parties equal consideration." *Lake De Smet Reservoir Co. v. Kaufmann*, 292 P.2d 482, 484 (Wyo. 1956), *citing*, *Inland Steel Co. v. Natl. Labor Relations Board*, 109 F.2d 9 (7th Cir. 1940). ***Disqualification is necessary not only in cases of actual conflicts of interest, but also where there is merely an appearance of conflicting interests or bias. Id.***

Mr. Girardin, representing the Environmental Council also advised the undersigned that the *entire* council would decide whether Mr. Gifford will recuse himself. Thus, the charge of bias directed against Mr. Gifford will be considered by Mr. Gifford himself. The Wyoming Supreme Court considered the practical problems of proving bias or prejudice in this situation, quoting *The Crime of Sylvester Bonnard-Anatole France*:

It was the thought of Anatole France that each of us has his own prejudice but the greatest prejudice is with him who says he has none:

"He flattered himself on being a man

Without any prejudice; and this

Pretension itself is a very great

Prejudice . . ."

Board of Trustee, Laramie County School Dist. No. 1 v. Spiegel, 549 P.2d at 1167.

The importance of properly addressing the Worthington Group's concerns of bias cannot be overstated:

" * * In our highly complex society, the usefulness of these (administrative) agencies is apparent. Their use and importance emphasize the necessity for their operation in a manner which will leave unblemished the faith of the American people in their government.

State ex rel. Beddall v. Lonctot, 384 P.2d 877, 883-884 (Wash. 1963).

Its impairment, ipso facto, brings the court, and administrative bodies as well, into public disrepute, and destroys the esteem and confidence which they have enjoyed so generally. Time and experience have demonstrated that the public, as well as litigants, will tolerate the honest mistakes of those who pass judgment, but not the biased acts of those who would deprive litigants of a fair and impartial trial. Foremost among the responsibilities imposed upon a reviewing court, is to make sure that this foundation of our judicial system be not undermined.

Inland Steel, supra, 109 F.2d at 20.

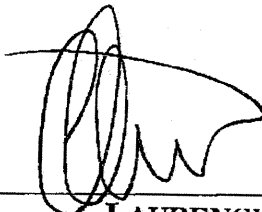
There exists a very real appearance of bias on Mr. Gifford's part as against the Worthington Group's counsel. Mr. Gifford has accused the undersigned of poor lawyering and has acted in an overtly hostile manner. His telephonic and in-person communications are barbed with expressions of extreme anger and hostility, which extend to the litigants in the proceedings. There is a genuine concern that the outcome of this case will be adversely affected by the antagonism Mr. Gifford expresses toward their lawyer. The personal aspect of the deteriorated rapport is underscored by Mr. Gifford's unusual interest in the undersigned's personal life.

Mr. Gifford's improperly intimate inquiries to the undersigned's law partner raise the red flag of unmitigated prejudice.

Members of administrative bodies must be fair and impartial. *See, Gold, supra, citing, Board of Trustees, Laramie County School Dist. No. 1 v. Spiegel*, 549 P.2d 1161 (Wyo. 1976), *Fallon v. Wyoming State Board of Medical Examiners*, 441 P.2d 322 (Wyo. 1968). **The party claiming bias, prejudice or possible conflicting interests need only raise these concerns prior to the agency's consideration of the dispute and the biased member is obligated to remove himself. *Id.*, citing, 3 Davis, Administrative Law Treatise, § 19.10, p. 405 (2d ed. 1980) (emphasis added)(the party who feels aggrieved must lodge his objection when knowledge of facts indicating bias arise).**

For these reasons and those set forth in the supporting affidavit, the Worthington Group requests that Mark W. Gifford be disqualified from serving as a council-member at the hearing on the above-captioned matter.

DATED this 20th day of June, 2007.



LAURENCE W. STINSON
BONNER STINSON, P.C.
128 East Second
P.O. Box 799
Powell, Wyoming 82435
Attorney for The Worthington Group
of Wyoming, LLC

CERTIFICATE OF SERVICE

I, Laurence W. Stinson, attorney for the Defendant, Worthington Group of Wyoming, LLC, hereby certify that on the 20th day of June, 2007, I served a true and correct copy of the foregoing as follows:

Mark Gordon
Chairman of the Environmental
Quality Council
122 West 25th Street
Herschler Building, Room 1714
Cheyenne, Wyoming 82002
via facsimile and overnight mail

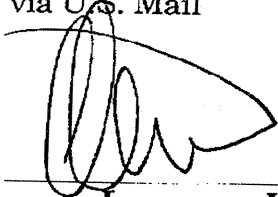
Terri A. Lorenzon
Director of the Environmental
Quality Council
122 West 25th Street
Herschler Building, Room 1714
Cheyenne, Wyoming 82002
via facsimile and overnight mail

John Wagner, Director DEQ
122 West 25th Street
Herschler Building
Cheyenne, Wyoming 82002
via U.S. Mail

Debra J. Wendtland
Wendtland & Wendtland, LLP
2161 Coffeen Avenue, Suite 301
Sheridan, Wyoming 82801
via U.S. Mail

Bryan Skoric
Park County Attorney
1002 Sheridan Avenue
Cody, Wyoming 82414
via U.S. Mail

John S. Burbridge
Office of the Wyoming
Attorney General
123 Capitol Building
Cheyenne, Wyoming 82002
via U.S. Mail



Laurence W. Stinson

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

IN THE MATTER OF THE APPEAL OF)
THE COPPERLEAF SUBDIVISION WATER)
SUPPLY, TREATMENT, STORAGE, AND) Docket No. 06-3814
BOOSTER PUMPING SYSTEMS,)
Permit No. 06-274RR/Reference No. 06-236RR)

**AFFIDAVIT OF LAURENCE W. STINSON IN SUPPORT OF
WORTHINGTON GROUP OF WYOMING, LLC'S MOTION FOR
DISQUALIFICATION OF ENVIRONMENTAL QUALITY COUNCILMAN
MARK W. GIFFORD**

STATE OF WYOMING)
) :ss
COUNTY OF PARK)

I, Laurence W. Stinson, being first duly sworn upon his oath, depose and state as follows:

1. I represent the Worthington Group of Wyoming, LLC in the above-captioned matter, which is an appeal brought by David Jamison, Robert Hoszwa and the Northfork Citizen's for Responsible Development group challenging the issuance of Permit No. 06-274RR by the Department of Environmental Quality.

2. The permit at issue in this case was issued for a subdivision which is owned and developed by my client, the Worthington Group. The permit is important for the development of this residential subdivision, as it provides for the water source and sewage treatment for all of the residences.

3. I also represent Frontier Neurosciences and Dr. Allen Gee in a hotly contested and heavily litigated lawsuit, *Frontier Neurosciences v. Sherry Reid, M.D.*, before the District Court, Shcridan County, Civil No. 2005-74. Mr. Gifford is

representing Dr. Reid in that case. In that case, Plaintiff alleges that Dr. Reid breached a contract and, in so doing, caused the Plaintiff several hundred thousand dollars in damages.

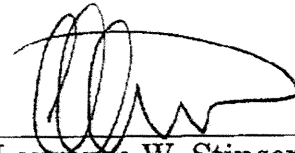
4. Mr. Gifford and I have both been zealously representing our clients in the *Frontier* case. In doing so, we have had several heated arguments over various matters concerning the litigation. Some of these arguments have deteriorated to personal attacks by Mr. Gifford regarding my client and my integrity. Mr. Gifford has expressed extreme animosity towards me, personally, in the *Frontier* litigation. Further, Mr. Gifford has accused me of poor lawyering and shoddy work. Examples of this bias and accusation is reflected in the emails dated March 1, 2007, May 11, 2007 and May 15, 2007 attached hereto as Exhibit A, and a portion of the deposition of Dr. Allen Gee which reflects when Mr. Gifford temporarily stopped questioning the deponent and started attacking me as not doing my job, attached as Exhibit B.

5. Beyond conduct in the *Frontier Neurosciences v. Sherry Reid, M.D.* case, Mr. Gifford has demonstrated an unusual interest in my personal life. My current partner, Brad Bonner, was formerly Mr. Gifford's law partner. Within the past year, Mr. Gifford has gossiped to Mr. Bonner about my personal life even going so far as to offer his opinions of whom I was dating.

6. Mr. Gifford has expressed in no uncertain terms his bias against me. For that reason, I do not believe the Worthington Group will be appearing before a fair and unbiased tribunal in the above-captioned matter should Mr. Gifford remain on the Council for this particular proceeding. Moreover, it is my opinion that even the appearance of bias is sufficient for this council, or any tribunal, to remove a decision maker from a particular matter.

Further affiant sayeth naught.

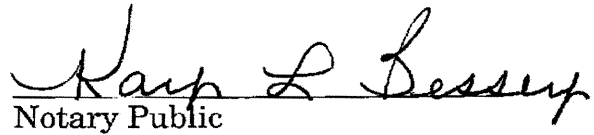
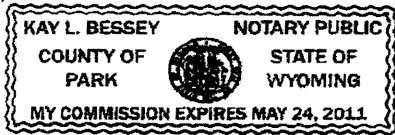
DATED this 20th day of June, 2007.



Laurence W. Stinson

STATE OF WYOMING)
) ss.
COUNTY OF PARK)

Subscribed and sworn by Laurence W. Stinson before me this 20th day of June, 2007.


Notary Public

My commission expires: May 24, 2007

Thu, May 17, 2007 1:01 PM

Subject: Re: Gee v. Reid depositions**Date:** Tuesday, May 15, 2007 9:36 AM**From:** Laurence Stinson <laurence@bonnerstinsonpc.net>**To:** Mark Gifford <mark@giffordlawoffices.com>**Conversation:** Gee v. Reid depositions

May 15, 2007

Mark: I don't know why this case is so personal for you, or why you feel the need to attack me personally. I've dealt with your lack of courtesy and the way you have behaved in this case by simply ignoring your poor conduct, mainly because of what I hear you are suffering in your personal life. Frankly, I have never seen another attorney act this way. After the deposition of Dr. Gee you literally stomped out the door like a preschool child. I expect you to confer with me before sending out deposition notices, it doesn't seem too much to ask. You did not do this with regard to Bohneblust's deposition even though you knew I was out of the office for a week. I note, further, that you called Attorney Bohneblust to discuss his deposition date but did not call me. Nor did you offer any follow-up on the Buss/Cloud depositions. You can try and paint whatever picture you like about yourself and your "beliefs" about professionalism, but your conduct paints the real picture.

I understand you will withdraw the notice of deposition for Buss and Cloud on the 25th. Mr. Buss will voluntarily attend his deposition on June 5. His office, however, is not available for the deposition. I have tracked down Ms. Cloud. She has retired from her accounting practice. Ms. Cloud will be out of Cody on a family vacation from May 25th to July 5th. Ms. Cloud also advised me that Mr. Buss could testify to anything she could. If you want to take her deposition after you depose Buss, she indicated that could happen after July 5th.

Because you have not contacted me to discuss what documents Mr. Bohneblust will or will not produce, and you have not withdrawn the notice or subpoena related to his deposition, I will file a motion to quash or, in the alternative, limit the scope of Attorney Bohneblust's deposition.

--

Laurence W. Stinson

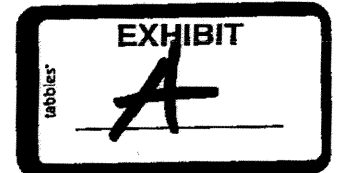
Bonner Stinson, P.C.

PO Box 799

Powell, Wyoming 82435

307.754.4950

In Cody: 307.587.0300



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telephone at 307.587.0300 and delete this message.

From: Mark Gifford <mark@giffordlawoffices.com>
Date: Fri, 11 May 2007 06:59:21 -0600
To: Laurence Stinson <laurence@bonnerstinsonpc.net>
Conversation: Gee v. Reid depositions
Subject: Gee v. Reid depositions

Laurence:

I have your letter of May 10, 2007 regarding the deposition notices I sent some time ago.

I attempted to gain acceptable dates from you for the Buss/Cloud depositions. I first proposed dates that were inconvenient for you. You suggested alternate dates and told me you would get back to me once you had checked with the witnesses. I waited two weeks for you to do that before noticing the depositions for May 23, one of the dates you said were open for you.

I was not surprised when you didn't get back to me as you said you would. I have come to expect this for you. I am a firm believer in professional courtesy with respect to scheduling, but I have rarely experienced anything like the lack of follow-through you have shown in this case.

I will reschedule the Buss/Cloud depositions for June 5 as you have requested. With respect to Kevin Bohnenblust's deposition, the law is clear that a party seeking attorney's fees is obligated to produce documents, including itemized billing statements, in support of such claim. If you are not going to produce those at the deposition, please file a motion before I travel to Cheyenne for the deposition.

Mark Gifford

----- End of Forwarded Message

Frontier News / Reid

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Search:

Web Search

YAHOO! MAIL

Welcome, iambercrombie [Sign Out, My Account]

Mail Home - Mail Tutorials - Help

Mail Addresses Calendar Notepad

Mail For Mobile - Mail Upgrades - Options

Check Mail

Compose

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Search the Web

Earn a degree in less than 1 yr.

Previous | Next | Back to Messages

Delete Reply Forward Spam Move...

Folders [Add - Edit]	
Inbox (54)	
Draft	
Sent	
Bulk (3) [Empty]	
Trash [Empty]	

This message is not flagged. [Flag Message - Mark as Unread] Printable View

To: "Mark Gifford" <mark@giffordlawoffices.com>

Subject: Re: Sherry Reid deposition

From: "Laurence Stinson" <laurence@bonnerstinsonpc.net> Add to Address Book Add Mobile Alert

Date: Thu, 1 Mar 2007 21:01:47 +0000

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I did not think it would be a problem with thirteen days advance notice. No one is trying to be rude, certainly not me. Again, when I spoke with you about this yesterday you did not indicate this would be a problem.

See your credit score - free

You have gotten unreasonably worked up a couple of times in this case and I have ignored it. But I will not tolerate your name calling or suggesting I intended some slight to your client by a routine rescheduling of a deposition. I would not treat a colleague in that manner and I do not expect to be treated in that manner. Let's just focus on the case.

Earn a degree in 1 yr

Bad Credit Refinance Rates

Laurence W. Stinson
Bonner Stinson P.C.
307.587.0300

Sent from a Blackberry Handheld. Information is attorney privileged and confidential.

Working? Degrees fast as 1 yr.

-----Original Message-----

From: "Mark Gifford" <mark@giffordlawoffices.com>

Date: Thu, 1 Mar 2007 13:25:36

To: <laurence@bonnerstinsonpc.net>

Subject: RE: Sherry Reid deposition

Nice display of humility, Laurence. It was rude of Gee to cavalierly cancel Dr. Reid's depo. I doubt that would occur to him -- but I would expect better from you.

-----Original Message-----

From: Laurence Stinson [mailto:laurence@bonnerstinsonpc.net]

Sent: Thursday, March 01, 2007 1:10 PM

To: Mark Gifford

Subject: Re: Sherry Reid deposition

I got to thinking that it is probably your client making the issue about the depo and not you. She can reschedule and is hoodwinking you if she says otherwise. Take care.

Laurence W. Stinson
Bonner Stinson P.C.
307.587.0300

Sent from a Blackberry Handheld. Information is attorney privileged

Yahoo! Mail - iambercrombie@yahoo.com

Page 2 of 2

and confidential.

-----Original Message-----

From: "Mark Gifford" <mark@giffordlawoffices.com>
Date: Thu, 1 Mar 2007 11:39:12
To: "Laurence Stinson" <laurence@bonnerstinsonpc.net>
Cc: "SHERRY REID" <sherryreid3052@msn.com>
Subject: Sherry Reid deposition

Laurence:

I let Dr. Reid know you've changed your mind about depositing her in Cody on March 12. Needless to say, it is upsetting to have made plans to come to Cody for the deposition - including canceling Dr. Reid's office schedule on that day - only to be told never mind. When her deposition is rescheduled, it will have to be in Bozeman.

Regards,

Mark

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Subject: FW: Sherry Reid deposition**Date:** Monday, March 5, 2007 1:16 PM**From:** Laurence Stinson <laurence@bonnerstinsonpc.net>**To:** 'Barb' <bjc@bonnerstinsonpc.net>**Conversation:** Sherry Reid deposition

Please print for frontier file.

—Original Message—

From: Mark Gifford [mailto:mark@giffordlawoffices.com]**Sent:** Thursday, March 01, 2007 1:28 PM**To:** laurence@bonnerstinsonpc.net**Cc:** SHERRY REID**Subject:** RE: Sherry Reid deposition

If you want to hold Dr. Reid's deposition in Cody, it will have to be on Monday March 12 as scheduled. Otherwise it will have to be in Bozeman. And if there is information to which you are entitled that Dr. Reid hasn't produced, I'd like to know what it is.

—Original Message—

From: Laurence Stinson [mailto:laurence@bonnerstinsonpc.net]**Sent:** Thursday, March 01, 2007 12:53 PM**To:** Mark Gifford; Allen Gee; Barb Curless**Subject:** Re: Sherry Reid deposition

When we spoke yesterday you said it would be no problem to change the date. I would have appreciated your being direct with me on the phone, and not saying one thing then and another today by email.

I also find it unbelievable that Dr. Reid cannot reschedule clinic. I represent many doctors and it is universally easy to schedule a formerly cancelled clinic. With thirteen days notice she can easily accomplish this reschedule. You can assure Dr. Reid that no one is trying to purposefully inconvenience her in Plaintiffs' attempts to recover the monies that she owes. I mean it.

I cannot agree that her deposition will be in Bozeman. We can fight about that after we finish the fight about Dr. Reid's failure to produce financial information. Thanks, Mark, and have a great weekend.

Laurence W. Stinson
Bonner Stinson P.C.
307.587.0300

Sent from a Blackberry Handheld. Information is attorney privileged and confidential.

—Original Message—

From: "Mark Gifford" <mark@giffordlawoffices.com>**Date:** Thu, 1 Mar 2007 11:39:12**To:** "Laurence Stinson" <laurence@bonnerstinsonpc.net>

Cc: "SHERRY REID" <sherryreid3052@msn.com>
Subject: Sherry Reid deposition

Laurence:

I let Dr. Reid know you've changed your mind about deposing her in Cody on March 12. Needless to say, it is upsetting to have made plans to come to Cody for the deposition - including canceling Dr. Reid's office schedule on that day - only to be told never mind. When her deposition is rescheduled, it will have to be in Bozeman.

Regards,

Mark

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1 Q. Do you agree that's a complete list of the
 2 start-up costs?
 3 A. No, the complete list is here, in Bates
 4 Numbers 712, 711 and 713.
 5 Q. So when your lawyer wrote to me and told
 6 me the start-up costs are those yellow highlighted
 7 items on these pages, who was he speaking for?
 8 A. I don't believe the lawyer said this was a
 9 complete list of costs.
 10 Q. Oh, okay. So I should have made sure that
 11 he said, This is a complete list of start-up
 12 costs, instead of, The start-up costs are
 13 indicated by the highlighted portion.
 14 MR. STINSON: Objection to form.
 15 BY MR. GIFFORD:
 16 Q. That's the way this works?
 17 MR. STINSON: Objection to form.
 18 THE WITNESS: You've been
 19 provided with the entire expenses of the Bozeman
 20 office.
 21 BY MR. GIFFORD:
 22 Q. The entire expenses of the Bozeman office,
 23 \$337,000, are what Dr. Gee says the start-up costs
 24 were, correct?
 25 A. That is my testimony based on the

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1 accounting, what the accountants informed me, yes.
 2 Q. You say that Sherry Reid is entitled to
 3 \$216,000 worth of credit for her
 4 revenue-production efforts. Your own books show
 5 that her efforts brought \$248,000 in the door,
 6 correct?
 7 A. During the time of the contract that we
 8 are discussing today, it's \$216,080.12.
 9 Q. But over time, it was \$248,000, correct?
 10 That's what your books say.
 11 MR. STINSON: Objection to form.
 12 THE WITNESS: The amount
 13 collected from that endeavor during that time of
 14 that report is 248, what you said.
 15 BY MR. GIFFORD:
 16 Q. Right. That's how much money Frontier
 17 Neurosciences benefited from Sherry Reid's
 18 efforts, according to your own books, correct?
 19 MR. STINSON: Objection to form.
 20 THE WITNESS: We are, I believe,
 21 discussing the contract here today. And so, no,
 22 Frontier Neurosciences did not benefit to that
 23 degree from Dr. Reid's endeavors.
 24 BY MR. GIFFORD:
 25 Q. You need to answer my question. And the

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1 judge will tell you that and your lawyer will tell
 2 you that. Listen to my question.
 3 How many dollars went into
 4 Frontier Neurosciences' bank account from Sherry
 5 Reid's efforts? That's my question.
 6 A. We lost \$121,000.
 7 MR. GIFFORD: You know what,
 8 Laurence --
 9 THE WITNESS: I'm answering your
 10 question.
 11 MR. STINSON: I actually think he
 12 is, oddly enough. I think you already got your
 13 answer from earlier testimony, myself.
 14 MR. GIFFORD: I haven't. I need
 15 him to answer the question. And if we need to
 16 adjourn and do this in front of the judge, maybe
 17 this is the time to do that.
 18 MR. STINSON: I think he is
 19 responsive. You asked what he earned and he said
 20 he had a loss.
 21 MR. GIFFORD: No, I didn't ask
 22 what he earned. I asked how many dollars --
 23 MR. STINSON: Calm down, Mark.
 24 MR. GIFFORD: Oh, you calm down,
 25 Laurence.

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1 MR. STINSON: You can ask
 2 questions to the witness in a nice manner. You
 3 can ask him any way you want, but ask him in a
 4 nice manner.
 5 MR. GIFFORD: And don't point at
 6 me.
 7 MR. STINSON: I have been very
 8 lenient in letting you ask any question you want.
 9 And I don't mind if you rephrase it, but I don't
 10 want you to raise your voice to the witness.
 11 MR. GIFFORD: I don't need to
 12 rephrase it. He needs to answer the question.
 13 BY MR. GIFFORD:
 14 Q. How many dollars went into Frontier
 15 Neurosciences' bank account as a result of Sherry
 16 Reid's efforts?
 17 MR. STINSON: Objection to form.
 18 MR. GIFFORD: What is wrong with
 19 the form of that question?
 20 MR. STINSON: It assumes facts
 21 not in evidence, and I'm objecting to form.
 22 Go ahead and answer if you
 23 understand it.
 24 THE WITNESS: Frontier
 25 Neurosciences lost \$121,294.31.



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DATE: June 20, 2007

TO: Mark Gordon
Terri Lorenzon
Environmental Quality Council

FROM: Laurence W. Stinson

RE: Appeal of the Copperleaf Water Supply, et al.
Docket No. 06-3814

MESSAGE: Please see the following *Motion for
Disqualification and Affidavit of Laurence W.
Stinson*

If you do not receive the number of pages indicated above, or if the document is unreadable, please contact Suzi at 307-587-0300.

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