
From: David Gingras <[REDACTED]>
Sent: Monday, May 6, 2024 1:48 PM
To: Randy Sue Pollock <[REDACTED]>
Subject: RE: Owens trial

Ms. Pollock,

I am writing to document our discussion just now and to explain my position. Per the email below, we spoke about your client Mike Marraccini about two weeks ago. At that time, I told you I just wanted to speak with Mike and hear his side of the story. I also explained that IF Mike was going to be a witness in the Arizona paternity matter, I could (and would) be willing to subpoena him for a deposition, if he was unwilling to have a simple phone conversation.

In response to that discussion, you sent me the email below stating that Mr. Marraccini was NOT going to testify at the trial in June.

Since then, counsel for Mr. Echard has indicated Mr. Marraccini WILL be testifying in person at trial in June. This is, of course, inconsistent with what you said below.

To clarify the situation, I called you again today to ask if it was possible for me to speak with Mr. Marraccini. Your response was (to paraphrase): "No, we are not willing to cooperate with you."

In light of that response I want to make two things clear:

1. If Mr. Marraccini intends to testify at trial, then I have an absolute right to know this, and I have a right to interview him. That interview can be done informally in a phone call, or it can be done formally in a deposition. Either way, refusing to cooperate is NOT an available option IF Mr. Marraccini wants to participate as a trial witness.
2. On the phone, you suggested Mr. Marraccini may just "show up" at trial rather than participating as a subpoenaed witness (i.e., he would simply choose to be there, either as a spectator, or as a non-subpoenaed witness).

If that is his plan, I need to be clear about our position – if Mr. Marraccini shows up as *either* a spectator or as a non-subpoenaed witness, Laura will ask the Phoenix Police to have Mr. Marraccini immediately arrested for violating the restraining order issued against him (copies attached).

In short, I agree Mr. Marraccini CAN testify at trial without fear of arrest, *provided* he complies with the rules of procedure. That means, among other things, I have the right to interview him and take his deposition if necessary.

If Mr. Marraccini does not want to comply with the procedural rules, that's 100% OKAY. I am more than happy if he wants to stay home (assuming he hasn't been lawfully summoned). But if

[REDACTED]

he comes within 100 yards of Laura without being compelled to appear by valid subpoena, then he will risk arrest and prosecution for violating the restraining order.

NOTE – Rule ER 3.4(f) of the Arizona Rules of Professional Conduct provides a lawyer shall not: “request a person other than a client to refrain from voluntarily giving relevant information to another party....”

Based on this rule, I *assume* Mr. Woodnick has not instructed you or Mr. Marraccini to refrain from speaking to me. If that has occurred, it would be a *per se* violation of the ethical rules.

Also, and just to be clear – I am not, under any circumstances, suggesting Mr. Marraccini should *not* participate in the trial if he has relevant information. All I am saying is that if he WANTS to testify, he needs to do so in a manner that complies with the rules and the law. This is mandatory to ensure basic fairness to ALL sides.

Finally, please note that it is a felony [under Arizona law](#) for any person to unlawfully withhold testimony, to evade legal process to appear, and/or to fail to appear when legally summoned. For avoidance of any doubt, nothing in this email should be construed as an attempt to cause Mr. Marraccini *not* to appear. On the contrary, I would very much like him to appear, provided he does so in a manner that complies with the rules (including the rule that requires the prompt disclosure of the substance of his testimony, and the rule which entitles me to interview him prior to trial).

If you have any questions, please let me know.

[REDACTED]

David Gingras, Esq.

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