ROBERT BURNS

VERSUS

LOUISIANA AUCTIONEER'S LICENSING BAORD,
CHARLES "HAL" McMILLIN, JAMES M SIMS,
DARLENE JACOBS-LEVY, GREGORY L. "GREG"
BORDELON, CHARLES "CLAYTON" BRISTER

NUMBER 616916 DOCKET: 25

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

* *

RULE TO SHOW CAUSE

Considering the foregoing, and upon motion of Plaintiff, Robert Edwin Burns:

IT IS ORDERED that Defendant's Attorney, Larry S. Bankston, show cause on the ___________ day of _______________, 2013 at ______________, why Plaintiff's Motion for Sanctions against Larry S. Bankston should not be granted pursuant to LA CCP 1420(D).

Baton Rouge, Louisiana, this ____________ day of _______________, 2013.

FILED
EAST BATON ROUGE PARISH
2013 SEP 17 PM 12:20
DEPUTY CLERK OF COURT

____
JUDGE

Please serve with Memorandum:

Larry S. Bankston
Bankston and Associates
8708 Jefferson Hwy Ste A
Baton Rouge LA 70809-2411

ROBERT BURNS

NUMBER 616916 DOCKET: 25

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

LOUISIANA AUCTIONEER'S LICENSING BAORD, CHARLES "HAL" McMILLIN, JAMES M SIMS, DARLENE JACOBS-LEVY, GREGORY L. "GREG" BORDELON, CHARLES "CLAYTON" BRISTER

STATE OF LOUISIANA

****

ORDER

Considering the foregoing, and upon motion of Plaintiff, Robert Edwin Burns:

IT IS ORDERED that Plaintiff's motion for a hearing to set a trial date for this matter and it be tried by preference and in a summary manner pursuant to LA R. S. 42:27(B) shall be heard by this Honorable Court on the _____ day of _____, 2013 at _____ .

Or in the alternative,

IT IS ORDERED that this matter is set for trial and shall be tried by preference and in a summary manner pursuant to LA R. S. 42:27(B) by this Honorable Court on the _____ day of _____ _____, 2013 at _____ .

Baton Rouge, Louisiana, this _____ day of _____, 2013.

_____
JUDGE

Please serve with Memorandum:

Larry S. Bankston
Bankston and Associates
8708 Jefferson Hwy Ste A
Baton Rouge LA 70809-2411

ROBERT BURNS

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LOUISIANA AUCTIONEER'S LICENSING BAORD, CHARLES "HAL" McMILLIN, JAMES M SIMS, DARLENE JACOBS-LEVY, GREGORY L. "GREG" BORDELON, CHARLES "CLAYTON" BRISTER

STATE OF LOUISIANA

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MOTION FOR SANCTIONS PURSUTANT TO LA CCP 1420(D) AND MOTION FOR HEARING TO SET TRIAL DATE, OR IN THE ALTERNATIVE, FOR SETTING TRIAL DATE FOR THE MATTER TO BE TRIED BY PREFERENCE AND IN A SUMMARY MANNER PURSUANT TO LA R. S. 42:27(B)

NOW UNTO COURT comes Plaintiff, Robert Edwin Burns, in proper person who, pursuant to Article 1420(D) of the Louisiana Code of Civil Procedure and for reasons expanded upon in the attached Memorandum, Moves this Honorable Court for Sanctions to be imposed against Defendants' attorney, Larry S. Bankston, for submitting discovery requests which violate Louisiana Code of Civil Procedure Article 1420(B)(2), with such requests failing to meet the criterion of "Not interposed for any improper purpose, such as to harass or to cause unnecessary or needless increase in the cost of litigation," and which also violate Louisiana Code of Civil Procedure Article 1420(B)(3), with such requests failing to meet the criterion of "Not unreasonable, unduly burdensome, or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation."

Plaintiff further, pursuant to Louisiana Revised Statute 42:27(B), Moves this Honorable Court to set a hearing for the purpose of establishing a trial date for this matter with said matter to be tried by preference and in a summary manner or, in the alternative, for this Honorable Court to issue an Order setting this matter for trial.

Respectfully Submitted,

Robert Edwin Burns, in proper person
4155 Essen Lane, Apt 228
Baton Rouge, LA 70809-2152
(225) 201-0390 (office) (225) 235-4346
E-mail: rburnsbtr@hotmail.com

Robert Edwin Burns

Certificate of Service:

I certify that a copy of the foregoing has been served upon counsel for all parties to this proceeding by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 17th day of September, 2013.

Robert Edwin Burns

ROBERT BURNS

NUMBER 616916 DOCKET: 25

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

LOUISIANA AUCTIONEER'S LICENSING BAORD, CHARLES "HAL" McMILLIN, JAMES M SIMS, DARLENE JACOBS-LEVY, GREGORY L. "GREG" BORDELON, CHARLES "CLAYTON" BRISTER

STATE OF LOUISIANA

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MEMORANDUM IN SUPPORT OF MOTION FOR SANCTIONS PURSUANT TO LA CCP ARTICLE 1420(D) AND MOTION TO SET HEARING FOR THE PURPOSE OF SETTING THIS MATTER FOR TRIAL OR, IN THE ALTERNATIVE, ISSUING AN ORDER TO SET THIS MATTER FOR TRIAL BY PREFERENCE AND IN A SUMMARY MANNER PURSUANT TO LA R. S. 42:27(B)

MAY IT PLEASE THE COURT:

This matter arose from Plaintiff filing a Petition alleging a violation of Louisiana's Open Meetings Laws, specifically LA R. S. 42:17(A)(1), by Defendants.

Each party filed Motions for Summary Judgment for which oral arguments were heard on March 25, 2013. This Honorable Court denied both parties' Motions, and Plaintiff drafted a Judgment so reflecting which was signed on August 6, 2013.

Defense Counsel, Larry S. Bankston, as part of the "discovery" phase of this matter, has insisted that Plaintiff respond to discovery requests which, as pointed out to Mr. Bankston by Plaintiff, clearly violate LA CCP 1420(B)(3) which requires that such requests be "not unreasonable, unduly burdensome, or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation."

Specifically, on April 17, 2013, Larry S. Bankston, acting through his associate, Jenna Linn, requested six (6) Requests for Admissions of Fact, seven (7) Interrogatories, and nine (9) Requests for Production of Documents. Plaintiff responded to each of the 22 items in the following manners: Admissions, 2 "admits" and 4 objections based on relevance; Interrogatories, 4 responses (including a detailed 4 ½ page response on how Plaintiff was harmed by secretive deliberations) and 3 objections based on relevance; Production Requests, 3 statements that Defendants already possess the requested items, 5 objections based on relevance, and 1 statement that no such records exist. Though Plaintiff doesn't wish to belabor this Honorable Court with the excruciating details of what all Defendants requested by supplying the actual documents as an Exhibit to this

Memorandum, a representative sample follows: #1) copies of any and all communications, both written and oral, for the **past three years** between you and any current **or past** Board Member, #2) verbatim repeat of #1 but for employees, #3) all video, audio, or electronic recordings which are in any way related to the LALB; #4) all documents and electronically stored information reflecting, evidencing, or relating to the LALB. Regarding itemization #3, Plaintiff at the time had uploaded approximately 156 such audio/video files to You Tube (the total now exceeds 200),

Mr. Bankston, acting through his associate, Jenna Linn, expressed his displeasure with Plaintiff's responses and, accordingly, a Rule 10.1 Conference was conducted on May 28, 2013. Despite his firmly-held belief that the sought-after material was in direct violation of LA CCP 1420(B)(3) and was furthermore in violation of LA CCP 1420(B)(2) in that the requests were interposed for the purpose of harassing Plaintiff, Plaintiff nevertheless supplied extensive additional material to Defendants (irrelevant as it was) to thwart Mr. Bankston's threats to file a Motion to Compel Discovery.

Next, Mr. Bankston desired to schedule a Deposition of Plaintiff. Plaintiff made what he thought was a routine acquiescence to that Deposition with his only stipulation that he be permitted to videotape it as requested by Rev. Freddie Lee Phillips, President and Founder of the Louisiana Association of Professional Auctioneers (LAPA). Plaintiff serves as Vice President of LAPA. Mr. Bankston then objected vehemently to Plaintiff videotaping the deposition but relayed that he would permit a professional videographer to do so. Plaintiff obtained pricing quotes from videographers and, as demonstrated in Exhibit S-1, which is attached hereto and made a part hereof, an email exchange between Plaintiff and Jeffrey Homer, a certified videographer, the **minimum** cost would be $570.

When Plaintiff informed LAPA President Rev. Freddie Lee Phillips of the cost of a videographer, Rev. Phillips indicated that the cost was unacceptable as LAPA, which charges members no membership fee, would be paying for the service. Accordingly, Rev. Phillips volunteered his own services to videotape the meeting, along with his top-notch video recording equipment used to record his church worship services, as a compromise to Mr. Bankston's adamant stand that a certified videographer be utilized. As evidenced by Exhibit S-2, an email from Mr. Bankston to Plaintiff dated September 3, 2013, which is attached hereto and made a part hereof, Mr. Bankston's emphatic answer

was "no." Mr. Bankston further stated that the law is "clear" in that a certified videographer must be utilized; however, he provided no Louisiana Statute to back up his contention. Furthermore, as evidenced by Exhibit S-3, a printout from the "Q & A" webpage of Advanced Legal Video, a videography firm in Louisiana, the obvious answer to the first question under #2) of "Can't I use my law firm's video camera to videotape a deposition?" is "**Yes**!" This fact, combined with Mr. Bankston's unwillingness to cite a Statue by which he can mandate the use of a certified videographer, prompted Plaintiff, as evidenced at the bottom of the first page of Exhibit S-1, to inform Mr. Bankston to follow through with his treat to file a Motion to Compel and Motion for Sanctions.

Here's the bottom line: This case entails an Open Meetings Law violation for which LA R. S. 42:27(B) specifically states that the case shall be tried "by preference and in a summary manner." Nevertheless, Mr. Bankston has consistently demonstrated that his LALB clients and he intend to conduct LALB meetings as they see fit irrespective of conformity with Louisiana's Open Meetings laws. Thereafter, should anyone dare challenge Defendants as Plaintiff has done via this Petition and several similar Petitions, Mr. Bankston will merely harass such individuals with a plethora of irrelevant Interrogatories, Requests for Admissions of Fact, and Document Production Requests in a misguided attempt to make such an individual regret challenging their illegal acts of showing reckless disregard for Louisiana's Open Meetings Laws.

There is a reason the Louisiana Legislature enacted LA R. S. 42:27(B), and that reason is because Open Meetings cases tend to be rather simplistic and black and white. In this case, Defendants have readily admitted that they broke the law; moreover, they have demonstrated a pattern of, in direct defiance of LA CCP 1420(B)(2) and LA CCP 1420(B)(3), harassing anyone who challenges their breaking of the law by seeking material which is irrelevant and for which the sole purpose is to harass and needlessly increase the cost of the litigation.

Mr. Bankston's absurd mandate that a certified videographer be utilized to videotape a deposition is designed solely to negate any monetary award Plaintiff could conceivable obtain from this Honorable Court in that the maximum he can obtain is $500 (5 x $100 per Board Member), yet Mr. Bankston would have Plaintiff spend $570 merely to be able to videotape a needless deposition. Plaintiff and Rev. Freddie Lee Phillips are

jointly suing Defendants (Docket # 619707 pending before Judge Hernandez) for Defendants' adamant refusal, in defiance of LA R. S. 42:14(D), to permit Rev. Phillips to speak regarding his desire that Minutes of the November 5, 2012 LALB meeting reflect the verbatim roll call responses of "I's here," and "I's here too," made by Board Members James Sims and Greg Bordelon, respectively. Rev. Phillips and Plaintiff do not file these Petitions for monetary gain as such gain is miniscule and not worth the extensive effort. Instead, Rev. Phillips and Plaintiff file these Petitions to ensure LALB transparency and enlighten Louisiana auction licensees on matters affecting their profession. That goal of Rev. Phillips and Plaintiff is consistently stonewalled by Defendants and is stonewalled in a very dogmatic fashion as exhibited by Mr. Bankston both by his actions and the words he utters in meetings and thereafter in his blatant violations of LA CCP 1420(B)(2) and LA CCP 1420(B)(3)..

Accordingly, Plaintiff submits this Memorandum in Support of his Motion to schedule a hearing at which he may pose arguments and submit the evidence of the aforementioned discovery requests of Mr. Bankston with the ultimate goal of this Honorable Court imposing Sanctions against Mr. Larry S. Bankston as provided for in LA CCP 1420(E).

Plaintiff further submits this Memorandum in Support of this Honorable Court scheduling a hearing at which a trial date may be set for this matter or, in the alternative, for an Order to be issued by this Court as provided in this filing, for a trial date to be set for this matter to be tried by preference and in a summary manner as provided for by LA R. S. 42:27(B).

WHEREFORE, Plaintiff, ROBERT EDWIN BURNS, prays that this Honorable Court grant Plaintiff's Rule to Show Cause accompanying this Memorandum to schedule a hearing for Mr. Bankston to provide evidence, if any he should have, why this Honorable Court should not impose Sanctions against him pursuant to LA CCP 1420(D) and for purposes of either scheduling a hearing for setting a trial date for this matter to occur by preference and in a summary manner as provided for by LA R. S. 42:27(B) or, in the alternative, setting a trial date on the Order page accompanying this Memorandum.

Respectfully Submitted,

Robert Edwin Burns, in proper person
4155 Essen Lane, Apt 228
Baton Rouge, LA 70809-2152
(225) 201-0390 (office) (225) 235-4346
E-mail: rburnsbtr@hotmail.com

Robert Edwin Burns

Certificate of Service:

I certify that a copy of the foregoing has been served upon counsel for all parties to this proceeding by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 17th day of September, 2013.

Robert Edwin Burns

Robert Burns

From: Robert Burns <robert@auctionsellsfast.com>
Sent: Tuesday, September 03, 2013 1:05 PM
To: 'Larry Bankston'
Cc: Freddie Phillips (freddiephillips@bellsouth.net); 'Janet Robert'; 'Jenna Linn'
Subject: FW: Price Guideline for Videographer Services for Deposition

Mr. Bankston:

As you will recall, you sent me an email last week relaying an objection to my bringing a video camcorder and tripod to videotape the deposition scheduled for last Wednesday (Aug. 28). You indicated a willingness to permit a professional videographer to come and videotape the deposition and relayed that the dates of September 11, 12, and 13 were open for you thereafter for that purpose.

The cost of videotaping of the deposition would be covered by LAPA funds. As you no doubt know, LAPA charges no membership fee and, accordingly, everything is funded out of the pockets of founder and President Rev. Freddie Lee Phillips and myself.

Rev. Phillips, whom I've copied on this email, has asked me to relay that the cost of hiring a videographer ($570 minimum as outlined by the quote below) is unacceptable. Rev. Phillips also relayed that, just as I believe, the licensees of this state are fully entitled to view a videotape of the deposition, which LAPA intends to provide over its website the very same day as the deposition is taken.

Rev. Phillips has asked me to inform you that he is volunteering his services at no charge to videotape the deposition. He also asked that I relay that he has top-notch video equipment which he utilizes for the broadcasting of his church services which he will be utilizing for videotaping the deposition.

We are happy to provide this avenue of Rev. Phillips videotaping the deposition as a compromise to your objection to an unmanned tripod and camcorder for videotaping purposes. Rev. Phillips indicated that he is readily available for such services; however, he emphasized that he needs to depart your office no later than 1 p.m. in order that he make his bus route runs later on the afternoon of any such videotaping.

Accordingly, If you will supply a date convenient to all parties with the understanding that Rev. Phillips needs to depart no later than 1 p.m., we can line up the deposition.

If for any reason the above-outlined scenario remains objectionable to you, file the Motion to Compel and Motion for Sanctions you referenced that you would file in your email to me last week. I will respond with an appropriate Opposition Memorandum and any other associated filing which I deem appropriate.

Hope your extended Labor Day Weekend was enjoyable.

S-1

LOUISIANA ASSOCIATION OF
PROFESSIONAL AUCTIONEERS

Robert Edwin Burns, Vice President
LA Association of Professional Auctioneers (LAPA)
4155 Essen Lane, Ste 228
Baton Rouge, LA 70809-2152
(225) 201-0390 (225) 235-4346
www.auctioneer-la.org

From: Jeffrey Horner [mailto:jeffrey@videoreflectionsstudio.com]
Sent: Monday, August 26, 2013 3:52 PM
To: Robert Burns
Subject: RE: Price Guideline for Videographer Services for Deposition

Hey Robert, I will be glad to help you out with this deposition. My rates are $285 for up to two hours, with a two hour minimum, and $85 per hr after that. Thank you for asking about my trip. I'm still on the road but I wanted to let you know that I'm available.

Thank you,
Jeffrey Horner, CLVS
225.216.3456
Www.videoreflectionsstudio.com

-------- Original message --------
From: Robert Burns <robert@auctionsellsfast.com>
Date: 08/26/2013 3:33 PM (GMT-06:00)
To: jeffrey@videoreflectionsstudio.com
Subject: Price Guideline for Videographer Services for Deposition

Mr. Homer:

I just called and spoke with Tammy at your office. She relayed that you are on a trip to Tennessee and that I could likely speak with you late-afternoon tomorrow.

Robert Burns

From: Larry Bankston <larry@bblawyers.net>
Sent: Tuesday, September 03, 2013 2:51 PM
To: Robert Burns
Subject: Re: Price Guideline for Videographer Services for Deposition

The answer is No.
I think the law is clear in this matter. If you want to video the deposition it must be an independent videographer. We will set your deposition for a date at our convenience. If you fail to appear we will file the appropriate motion.

Larry Bankston
Larry S. Bankston
Bankston & Associates, L.L.C.
8708 Jefferson Highway, Suite A
Baton Rouge, LA 70809
(225)766-3800
(225) 766-7800-fax
larry@bblawyers.net

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On Sep 3, 2013, at 1:04 PM, Robert Burns wrote:

Mr. Bankston:

Frequently Asked Questions

1. About Videography

Why videotape depositions?

The reading of a transcript fails to convey non-verbal queues such as body language, voice inflection, facial expressions and interaction with visual aids.

Why hire a videographer?

Federal Rules of Civil Procedure require that a disinterested third party record video testimony in order for the recorded testimony to be admissible in court.

Does a videographer replace a court reporter?

The court reporter is the only participant in a deposition qualified to produce a transcript. Videographers work in tandem with court reporters and certainly do not replace them.

2. Regarding Video Depositions

Can't I use my law firm's camcorder to video a deposition?

It comes down to THE MOMENT of facial expression, THE MOMENT of zooming in on a ruptured disc, THE MOMENT the tone of voice or inflection was more important than what was said. If you miss that moment - if you just clicked record on an unmanned camcorder - that moment is gone forever.

obvious answer is "yes!"

Will an onboard microphone pick up the audio in a deposition?

Cheap equipment will pick up buzzes, can't be adjusted when someone whispers and can't be monitored for over-modulation. Professional videographers always use multiple high-quality microphones and continually monitor them for volume levels, clarity and unwanted noise. The result is crisp, clean and understandable audio.

What will show up on the video screen?

We only film the witness and any referenced exhibits during the deposition. When necessary, background distractions are eliminated by using a backdrop placed behind the witness.

What happens if your recording equipment malfuntions?

Our videographers double master video recordings (two originals on two different devices) and continually monitor them to guarantee a good recording. In the rare event of equipment failure, we have backup contingencies in place and backup equipment on site so the deposition can continue.

S-3