

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**DONNA CAVE, et al.,** **PLAINTIFFS**

**EUGENE LEVY, et al.,** **CONSOLIDATED PLAINTIFFS**

**THE SATANIC TEMPLE, et al.,** **INTERVENORS**

**v.** **Case No. 4:18-cv-00342-KGB**

**JOHN THURSTON, Arkansas Secretary  
of State, in his official capacity** **DEFENDANT**

**ORDER**

Before the Court is a motion to quash and for protective order filed by non-party witness Senator Jason Rapert (Dkt. No. 74). Plaintiffs Anne Orsi, Eugene Levy, Gale Stewart, Teresa Grider, the Arkansas Society of Freethinkers, American Humanist Association, and the Freedom from Religion Foundation (the “Orsi Plaintiffs”) filed a response in opposition to the motion (Dkt. No. 75). The Satanic Temple, Lucien Greaves, and Erika Robbins (the “Satanic Temple Intervenors”) have also filed a response in opposition to the motion (Dkt. No. 76).

Arkansas State Senator Rapert informs the Court that his deposition has been subpoenaed for Thursday, September 12, 2019, at 9:30 a.m. (Dkt. No. 74, at 1). On August 2, 2019, plaintiffs Donna Cave, Judith Lansky, Pat Piazza, and Susan Russell (the “Cave Plaintiffs”) served a subpoena for his deposition but did not request video or documents with the deposition (Dkt. No. 74-1). On August 14, 2019, the Orsi Plaintiffs caused to issue a deposition subpoena and subpoena *duces tecum* commanding the videotaped testimony of Arkansas State Senator Rapert (Dkt. No. 74-2). Arkansas State Senator Rapert represents that he was served with the subpoena on August 20, 2019 (Dkt. No. 74, at 1).

He moves to “(1) quash the subpoena commanding Senator Rapert’s attendance at a videotaped deposition noticed for 9:30 a.m. September 12, 2019, and (2) enter a protective order limiting the possession and use of any subsequent videotaped deposition to his personal attorneys and counsel of record in this matter only.” (*Id.*).

The Court attempted to convene a telephone hearing among counsel on September 11, 2019, with respect to this matter to discuss the status of the matter with all counsel (See Court’s Exhibit No. 1, at 3). Although lawyers for the *Cave* Plaintiffs, the *Orsi* Plaintiffs, the Satanic Temple Intervenors, and Arkansas State Senator Jason Rapert agreed to make themselves available for such a hearing (*Id.*, at 4-5, 7-8, 13), counsel for Mr. Thurston stated that there were prior engagements during that time and “request[ed] that the Court not hold a conference,” on that date (*Id.*, at 10). Counsel for Mr. Thurston represented that they would “work to reshuffle . . . prior commitments” if ordered to do so by the Court (*Id.*).

The Court has reviewed controlling and persuasive authorities, including but not limited to *Jones v. William Jefferson Clinton, et al.*, Case No. LR-C-94-290 (Dkt. No. 166), and *United States v. McDougal*, 940 F.Supp. 224 (E.D. Ark.), *aff’d* 103 F.3d 651 (8th Cir. 1996). For good cause shown, the Court orders as follows:

- (1) Arkansas State Senator Rapert’s deposition will proceed as subpoenaed by the *Cave* Plaintiffs and *Orsi* Plaintiffs;
- (2) That deposition may be videotaped in accordance with the *Orsi* Plaintiffs’ subpoena;
- (3) Immediately upon the conclusion of Arkansas State Senator Rapert’s deposition the original video recording shall be labeled, dated, and initialed by the individual responsible for operating the recording equipment and handed to counsel for the *Orsi* Plaintiffs. Counsel for the

*Orsi* Plaintiffs shall be responsible for maintaining the confidentiality of the video recording of Arkansas State Senator Rapert's deposition pursuant to this Order.

(4) No copies shall be made of the video recording of Arkansas State Senator Rapert's deposition except as provided by Order of the Court after reasonable notice to all parties, including counsel for Arkansas State Senator Rapert. This provision includes but is not limited to no copies of the video recording being made or distributed to any other counsel, parties, or third-parties in this litigation except as provided by Order of the Court.

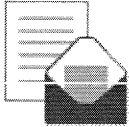
(5) This Order grants a temporary protective order, consistent with its terms. The Court has under advisement Arkansas State Senator Rapert's motion (Dkt. No. 74). The disposition of the video recording of Arkansas State Senator Rapert's deposition shall remain subject to further orders of this Court, and this Order is without prejudice to Arkansas State Senator Rapert's right to petition this Court for further protection. The parties have not fully briefed this issue, and the Court will grant all parties the opportunity to do so before ruling on the motion.

It is so ordered, this the 11th day of September 2019.



---

Kristine G. Baker  
United States District Judge



4:18-cv-00342-KGB Cave et al v. Thurston

Jared Lax to: aschultz, jburnett, josh, mstambaugh, dniouse,  
gerrysch, mmiller, patrick, dylan.jacobs,  
gary.sullivan, nicholas.bronni, hsasser,

09/10/2019 05:08 PM

Counsel:

Good afternoon. My name is Jared Lax, and I am a new law clerk in Judge Baker's chambers.

Based on telephone inquiries from counsel for multiple parties received this afternoon, the Court opts to respond to these inquiries by email to all counsel.

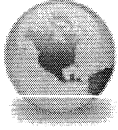
The Court has been made aware of a scheduled, subpoenaed deposition of Senator Rapert set for Thursday and the possibility of a forthcoming motion to quash regarding that deposition. The Court is also aware that counsel for multiple parties are scheduled to travel from out-of-state to attend and conduct this deposition, hence part of the concern about the possibility of a forthcoming motion to quash.

The Court is in chambers this week, with a few matters set on the docket for hearings in the next few days. If a motion to quash is filed, the Court will take it under advisement and provide all parties the opportunity to respond, if they choose to do so. Generally, the Court also makes itself available to conduct a telephone conference with counsel and the parties to sort out discovery matters.

The Court will continue to monitor the docket.

Jared Lax  
Law Clerk to the Honorable Kristine G. Baker  
U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
jared\_lax@ared.uscourts.gov  
(501) 604-5423

Exhibit 1



Re: 4:18-cv-00342-KGB Cave et al v. Thurston

Matthew A. Kezhaya to: Jared\_Lax

09/11/2019 09:47 AM

"John L. Burnett", "Andrew G. Schultz", "Joshua D. Gillispie",  
Cc: "Melanie B. Stambaugh", "David A. Niose", "James \"Gerry\"  
Schulze", Monica Miller, "Patrick C. Elliot", Dylan Jacobs, "Gary L.

---

History: This message has been replied to.

Thanks, Jared. Rapert filed his motion and I anticipate having a response out shortly. In the meantime, I'd like to get a conference call arranged with the Court. When is a good time for the Court, preferably today?

On Tue, Sep 10, 2019, 5:08 PM <[Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov)> wrote:

Counsel:

Good afternoon. My name is Jared Lax, and I am a new law clerk in Judge Baker's chambers.

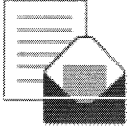
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Little Rock, Arkansas 72201  
[jared\\_lax@ared.uscourts.gov](mailto:jared_lax@ared.uscourts.gov)  
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**4:18-cv-00342-KGB Cave et al v. Thurston**

Jared Lax to: aschultz, jburnett, josh, mstambaugh, dniouse,  
gerrysch, mmiller, patrick, dylan.jacobs,  
gary.sullivan, nicholas.bronni, hsasser,  
Cc: Tracy Washington

09/11/2019 10:04 AM

Counsel:

Before the Court is non-party witness Senator Rapert's motion to quash and for protective order (Dkt. No. 74), which was filed this morning. The Court is available to conduct a telephone conference with counsel, the parties, and pertinent non-parties to discuss the matter at 11:00 a.m. or 2:30 p.m. today.

All counsel, including counsel for the parties and counsel for Senator Rapert, are directed to respond to this email and to provide the Court with information regarding their availability for a telephone conference at 11:00 a.m. and 2:30 p.m. today.

Jared Lax  
Law Clerk to the Honorable Kristine G. Baker  
U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
jared\_lax@ared.uscourts.gov  
(501) 604-5423



**Re: 4:18-cv-00342-KGB Cave et al v. Thurston**

**Matthew A. Kezhaya** to: Jared\_Lax

09/11/2019 10:10 AM

Cc: "Andrew G. Schultz", "John L. Burnett", "Joshua D. Gillispie",  
"Melanie B. Stambaugh", "David A. Niose", "James \"Gerry\"  
Schulze", Monica Miller, "Patrick C. Elliot", Dylan Jacobs, "Gary L.

I'm available at both times.

On Wed, Sep 11, 2019, 10:04 AM <[Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov)> wrote:

Counsel:

Before the Court is non-party witness Senator Jason Rapert's motion to quash and for protective order (Dkt. No. 74), which was filed this morning. The Court is available to conduct a telephone conference with counsel, the parties, and pertinent non-parties to discuss the matter at 11:00 a.m. or 2:30 p.m. today.

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Jared Lax

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U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
[jared\\_lax@ared.uscourts.gov](mailto:jared_lax@ared.uscourts.gov)  
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Re: 4:18-cv-00342-KGB Cave et al v. Thurston

Jared\_Lax@ared.uscourts.gov,  
John Burnett to: aschultz@rodey.com,  
josh@greenandgillispie.com,  
Cc: "Tracy\_Washington@ared.uscourts.gov"

09/11/2019 10:10 AM

Jared,

Cave Plaintiffs are available either time. Thanks.

John L. Burnett  
Lavey and Burnett  
904 W.2d St.  
Little Rock, AR 72201  
(501) 376-2269  
Fax: (501) 372-1134

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**From:** Jared\_Lax@ared.uscourts.gov <Jared\_Lax@ared.uscourts.gov>

**Sent:** Wednesday, September 11, 2019 10:04 AM

**To:** aschultz@rodey.com <aschultz@rodey.com>; John Burnett <jburnett@laveyandburnett.com>; josh@greenandgillispie.com <josh@greenandgillispie.com>; mstambaugh@rodey.com <mstambaugh@rodey.com>; dniose@americanhumanist.org <dniose@americanhumanist.org>; gerrysch@b-s-m-law.com <gerrysch@b-s-m-law.com>; mmiller@americanhumanist.org <mmiller@americanhumanist.org>; patrick@ffrf.org <patrick@ffrf.org>; dylan.jacobs@arkansasag.gov <dylan.jacobs@arkansasag.gov>; gary.sullivan@sos.arkansas.gov <gary.sullivan@sos.arkansas.gov>; nicholas.bronni@arkansasag.gov <nicholas.bronni@arkansasag.gov>; hsasser@firstliberty.org <hsasser@firstliberty.org>; lepatterson@firstliberty.org <lepatterson@firstliberty.org>; mberry@firstliberty.org <mberry@firstliberty.org>; michael.cantrell@arkansasag.gov <michael.cantrell@arkansasag.gov>; vincent.wagner@arkansasag.gov <vincent.wagner@arkansasag.gov>; william.bird@arkansasag.gov <william.bird@arkansasag.gov>; matt@kezhaya.law <matt@kezhaya.law>; stu.dehaan@gmail.com <stu.dehaan@gmail.com>; paul@paulbyrdlawfirm.com <paul@paulbyrdlawfirm.com>

**Cc:** Tracy\_Washington@ared.uscourts.gov <Tracy\_Washington@ared.uscourts.gov>

**Subject:** 4:18-cv-00342-KGB Cave et al v. Thurston

Counsel:



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Jared Lax  
Law Clerk to the Honorable Kristine G. Baker  
U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
jared\_lax@ared.uscourts.gov  
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Re: 4:18-cv-00342-KGB Cave et al v. Thurston  
Monica Miller to: Jared\_Lax

09/11/2019 10:47 AM

I am busy all afternoon but assuming Gerry Schulze is free, he has our full authority to represent the Orsi plaintiffs on the call.

On Wed, Sep 11, 2019 at 11:04 AM <[Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov)> wrote:

Counsel:

Before the Court is non-party witness Senator Jason Rapert's motion to quash and for protective order (Dkt. No. 74), which was filed this morning. The Court is available to conduct a telephone conference with counsel, the parties, and pertinent non-parties to discuss the matter at 11:00 a.m. or 2:30 p.m. today.

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Little Rock, Arkansas 72201  
[jared\\_lax@ared.uscourts.gov](mailto:jared_lax@ared.uscourts.gov)  
(501) 604-5423

--

**Monica L. Miller**  
Legal Director and Senior Counsel  
American Humanist Association  
1821 Jefferson Place NW, Washington, DC 20036  
(202) 238-9088 ext 120  
[www.americanhumanist.org](http://www.americanhumanist.org)  
*Member of the CA Bar and DC Bar*



**Re: 4:18-cv-00342-KGB Cave et al v. Thurston**

Paul Byrd to: John Burnett

09/11/2019 10:52 AM

"Jared\_Lax@ared.uscourts.gov", "aschultz@rodey.com",  
Cc: "josh@greenandgillispie.com", "mstambaugh@rodey.com",  
"dniouse@americanhumanist.org", "gerrysch@b-s-m-law.com",

Jared,

I had two long meetings this morning and am just catching up.

2:30pm is best for me.

Paul Byrd

On Sep 11, 2019, at 10:10 AM, John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)> wrote:

Jared,

Cave Plaintiffs are available either time. Thanks.

John L. Burnett

Lavey and Burnett

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**From:** Jared Lax@ared.uscourts.gov <[Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov)>

**Sent:** Wednesday, September 11, 2019 10:04 AM

**To:** [aschultz@rodey.com](mailto:aschultz@rodey.com) <[aschultz@rodey.com](mailto:aschultz@rodey.com)>; John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)>; [josh@greenandgillispie.com](mailto:josh@greenandgillispie.com) <[josh@greenandgillispie.com](mailto:josh@greenandgillispie.com)>; [mstambaugh@rodey.com](mailto:mstambaugh@rodey.com) <[mstambaugh@rodey.com](mailto:mstambaugh@rodey.com)>; [dniouse@americanhumanist.org](mailto:dniouse@americanhumanist.org) <[dniouse@americanhumanist.org](mailto:dniouse@americanhumanist.org)>; [gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com) <[gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com)>; [mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org) <[mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org)>; [patrick@ffrf.org](mailto:patrick@ffrf.org) <[patrick@ffrf.org](mailto:patrick@ffrf.org)>; [dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov) <[dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov)>; [gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov) <[gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov)>; [nicholas.bronni@arkansasag.gov](mailto:nicholas.bronni@arkansasag.gov) <[nicholas.bronni@arkansasag.gov](mailto:nicholas.bronni@arkansasag.gov)>; [hsasser@firstliberty.org](mailto:hsasser@firstliberty.org) <[hsasser@firstliberty.org](mailto:hsasser@firstliberty.org)>; [lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org) <[lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org)>;

[mberry@firstliberty.org](mailto:mberry@firstliberty.org) <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; [michael.cantrell@arkansasag.gov](mailto:michael.cantrell@arkansasag.gov) <[michael.cantrell@arkansasag.gov](mailto:michael.cantrell@arkansasag.gov)>; [vincent.wagner@arkansasag.gov](mailto:vincent.wagner@arkansasag.gov) <[vincent.wagner@arkansasag.gov](mailto:vincent.wagner@arkansasag.gov)>; [william.bird@arkansasag.gov](mailto:william.bird@arkansasag.gov) <[william.bird@arkansasag.gov](mailto:william.bird@arkansasag.gov)>; [matt@kezhaya.law](mailto:matt@kezhaya.law) <[matt@kezhaya.law](mailto:matt@kezhaya.law)>; [stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com) <[stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com)>; [paul@paulbyrdlawfirm.com](mailto:paul@paulbyrdlawfirm.com) <[paul@paulbyrdlawfirm.com](mailto:paul@paulbyrdlawfirm.com)>

**Cc:** [Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov) <[Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov)>

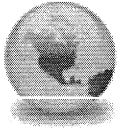
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(501) 604-5423



**RE: 4:18-cv-00342-KGB Cave et al v. Thurston**

Dylan Jacobs to: 'Paul Byrd', John Burnett

09/11/2019 11:01 AM

"Jared\_Lax@ared.uscourts.gov", "aschultz@rodey.com",  
Cc: "josh@greenandgillispie.com" , "mstambaugh@rodey.com",  
"dniose@americanhumanist.org", "gerrysch@b-s-m-law.com",

History: This message has been forwarded.

Mr. Lax,

Thank you for the email. Given the short notice, counsel for Defendant have prior engagements during both of those times and request that the Court not hold a conference today. Given the short notice, it's unlikely that Defendant will have an adequate opportunity to review that motion, Mr. Kezhaya's response he has indicated he plans to file, and respond before the hearing. If the Court directs otherwise, Defendant will work to reshuffle those prior commitments.

Defendant also believes that written briefing on this matter would be more beneficial and intends to respond within the time allowed by the rules, unless the Court directs otherwise. Indeed, Defendant doesn't understand the rush. The motion was filed this morning—apparently due to the *Orsi* Plaintiffs' failure to respond to inquiries concerning a protective order until yesterday. Additionally, there are no discovery deadlines that would seem to justify short-circuiting Defendant's opportunity to respond to the motion. Nor does Defendant understand the Satanic Temple Intervenor-Plaintiffs' basis for requesting a teleconference since they did not subpoena Senator Rapert.

Respectfully,

**Dylan L. Jacobs**

Assistant Solicitor General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas 72201

Office: 501.682.3661 | Fax: 501.682.2591 | [dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**From:** Paul Byrd [mailto:paul@paulbyrdlawfirm.com]

**Sent:** Wednesday, September 11, 2019 10:52 AM

**To:** John Burnett

**Cc:** Jared\_Lax@ared.uscourts.gov; aschultz@rodey.com; josh@greenandgillispie.com; mstambaugh@rodey.com; dniose@americanhumanist.org; gerrysch@b-s-m-law.com; mmiller@americanhumanist.org; patrick@ffrf.org; Dylan Jacobs; gary.sullivan@sos.arkansas.gov; Nicholas Bronni; hsasser@firstliberty.org; lepatterson@firstliberty.org; mberry@firstliberty.org; Michael Cantrell; Vincent Wagner; William C. Bird III; matt@kezhaya.law; stu.dehaan@gmail.com; Tracy\_Washington@ared.uscourts.gov

**Subject:** Re: 4:18-cv-00342-KGB Cave et al v. Thurston

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Fax: (501) 372-1134

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**From:** [Jared Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov) <[Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov)>  
**Sent:** Wednesday, September 11, 2019 10:04 AM  
**To:** [aschultz@rodey.com](mailto:aschultz@rodey.com) <[aschultz@rodey.com](mailto:aschultz@rodey.com)>; John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)>; [josh@greenandgillispie.com](mailto:josh@greenandgillispie.com) <[josh@greenandgillispie.com](mailto:josh@greenandgillispie.com)>; [mstambaugh@rodey.com](mailto:mstambaugh@rodey.com) <[mstambaugh@rodey.com](mailto:mstambaugh@rodey.com)>; [dniose@americanhumanist.org](mailto:dniose@americanhumanist.org) <[dniose@americanhumanist.org](mailto:dniose@americanhumanist.org)>; [gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com) <[gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com)>; [mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org) <[mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org)>; [patrick@ffrf.org](mailto:patrick@ffrf.org) <[patrick@ffrf.org](mailto:patrick@ffrf.org)>; [dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov) <[dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov)>; [gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov) <[gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov)>; [nicholas.bronni@arkansasag.gov](mailto:nicholas.bronni@arkansasag.gov) <[nicholas.bronni@arkansasag.gov](mailto:nicholas.bronni@arkansasag.gov)>; [hsasser@firstliberty.org](mailto:hsasser@firstliberty.org) <[hsasser@firstliberty.org](mailto:hsasser@firstliberty.org)>; [lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org) <[lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org)>; [mberry@firstliberty.org](mailto:mberry@firstliberty.org) <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; [michael.cantrell@arkansasag.gov](mailto:michael.cantrell@arkansasag.gov) <[michael.cantrell@arkansasag.gov](mailto:michael.cantrell@arkansasag.gov)>; [vincent.wagner@arkansasag.gov](mailto:vincent.wagner@arkansasag.gov) <[vincent.wagner@arkansasag.gov](mailto:vincent.wagner@arkansasag.gov)>; [william.bird@arkansasag.gov](mailto:william.bird@arkansasag.gov) <[william.bird@arkansasag.gov](mailto:william.bird@arkansasag.gov)>; [matt@kezhaya.law](mailto:matt@kezhaya.law) <[matt@kezhaya.law](mailto:matt@kezhaya.law)>; [stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com) <[stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com)>; [paul@paulbyrdlawfirm.com](mailto:paul@paulbyrdlawfirm.com) <[paul@paulbyrdlawfirm.com](mailto:paul@paulbyrdlawfirm.com)>

**Cc:** [Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov) <[Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov)>

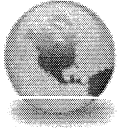
**Subject:** 4:18-cv-00342-KGB Cave et al v. Thurston

Counsel:

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All counsel, including counsel for the parties and counsel for Senator Rapert, are directed to respond to this email and to provide the Court with information regarding their availability for a telephone conference at 11:00 a.m. and 2:30 p.m. today.

Jared Lax  
Law Clerk to the Honorable Kristine G. Baker  
U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
[jared\\_lax@ared.uscourts.gov](mailto:jared_lax@ared.uscourts.gov)  
(501) 604-5423



**Re: 4:18-cv-00342-KGB Cave et al v. Thurston**

Gerry Schulze to: Jared\_Lax

09/11/2019 11:04 AM

Cc: "Andrew G. Schultz", John Burnett, Josh Gillispie, Melanie  
Stambaugh, David Niose, Monica Miller, Patrick Elliott, Dylan  
Jacobs, gary.sullivan, Nicholas Bronni, "Hiram S. Sasser III", Lea

I was in a hearing in Batesville this morning. I'm currently in a McDonalds checking my email. I hope to be back by 2:30.

Gerry

J.G. "Gerry" Schulze

Attorney at Law

Baker Schulze & Murphy

2311 Biscayne Drive

Little Rock, AR 72227

Telephone (501) 537-1000

Fax (501) 537-1001

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[www.bsmp.law](http://www.bsmp.law)

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Little Rock, Arkansas 72201

[jared\\_lax@ared.uscourts.gov](mailto:jared_lax@ared.uscourts.gov)

(501) 604-5423





**Re: 4:18-cv-00342-KGB Cave et al v. Thurston**

John Burnett to: Dylan Jacobs, 'Paul Byrd'

09/11/2019 11:14 AM

"Jared\_Lax@ared.uscourts.gov", "aschultz@rodey.com",  
Cc: "josh@greenandgillispie.com" , "mstambaugh@rodey.com",  
"dniose@americanhumanist.org", "gerrysch@b-s-m-law.com",

Jared,

The Cave plaintiffs are uncertain whether the Secretary of State's position amounts to a plea that this long-noticed deposition not go forward. If it is, the Cave plaintiffs strenuously object, as the matter at hand is not complicated, but even so, if the Court were to decide that more time is needed to address the issue, then the simple solution is to direct the parties not to use the video deposition in any way until the Court decides the motion. In no event should this motion present any grounds to continue the deposition.

Thanks.

John L. Burnett  
Lavey and Burnett  
904 W.2d St.  
Little Rock, AR 72201  
(501) 376-2269  
Fax: (501) 372-1134

---

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**From:** Dylan Jacobs <dylan.jacobs@arkansasag.gov>

**Sent:** Wednesday, September 11, 2019 11:00 AM

**To:** 'Paul Byrd' <paul@paulbyrdlawfirm.com>; John Burnett <jburnett@laveyandburnett.com>

**Cc:** Jared\_Lax@ared.uscourts.gov <Jared\_Lax@ared.uscourts.gov>; aschultz@rodey.com <aschultz@rodey.com>; josh@greenandgillispie.com <josh@greenandgillispie.com>; mstambaugh@rodey.com <mstambaugh@rodey.com>; dniose@americanhumanist.org <dniose@americanhumanist.org>; gerrysch@b-s-m-law.com <gerrysch@b-s-m-law.com>; mmiller@americanhumanist.org <mmiller@americanhumanist.org>; patrick@ffrf.org <patrick@ffrf.org>; gary.sullivan@sos.arkansas.gov <gary.sullivan@sos.arkansas.gov>; Nicholas Bronni <nicholas.bronni@arkansasag.gov>; hsasser@firstliberty.org <hsasser@firstliberty.org>; lepatterson@firstliberty.org <lepatterson@firstliberty.org>; mberry@firstliberty.org

<mberry@firstliberty.org>; Michael Cantrell <michael.cantrell@arkansasag.gov>; Vincent Wagner <vincent.wagner@arkansasag.gov>; William C. Bird III <william.bird@arkansasag.gov>; matt@kezhaya.law <matt@kezhaya.law>; stu.dehaan@gmail.com <stu.dehaan@gmail.com>; Tracy\_Washington@ared.uscourts.gov <Tracy\_Washington@ared.uscourts.gov>  
**Subject:** RE: 4:18-cv-00342-KGB Cave et al v. Thurston

Mr. Lax,

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Respectfully,

**Dylan L. Jacobs**  
Assistant Solicitor General  
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200  
Little Rock, Arkansas 72201  
Office: 501.682.3661 | Fax: 501.682.2591 | [dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

**From:** Paul Byrd [mailto:paul@paulbyrdlawfirm.com]  
**Sent:** Wednesday, September 11, 2019 10:52 AM  
**To:** John Burnett  
**Cc:** Jared\_Lax@ared.uscourts.gov; aschultz@rodey.com; josh@greenandgillispie.com; mstambaugh@rodey.com; dniiose@americanhumanist.org; gerrysch@b-s-m-law.com; mmiller@americanhumanist.org; patrick@ffrf.org; Dylan Jacobs; gary.sullivan@sos.arkansas.gov; Nicholas Bronni; hsasser@firstliberty.org; lepatterson@firstliberty.org; mberry@firstliberty.org; Michael Cantrell; Vincent Wagner; William C. Bird III; matt@kezhaya.law; stu.dehaan@gmail.com; Tracy\_Washington@ared.uscourts.gov  
**Subject:** Re: 4:18-cv-00342-KGB Cave et al v. Thurston

Jared,

I had two long meetings this morning and am just catching up.

2:30pm is best for me.

Paul Byrd

On Sep 11, 2019, at 10:10 AM, John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)> wrote:  
Jared,

Cave Plaintiffs are available either time. Thanks.

John L. Burnett  
Lavey and Burnett  
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Little Rock, AR 72201  
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Fax: (501) 372-1134

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**Cc:** [Tracy Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov) <[Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov)>

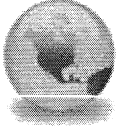
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Matthew A. Kezhaya to: John Burnett  
Dylan Jacobs, Paul Byrd, "Jared\_Lax@ared.uscourts.gov",  
Cc: "aschultz@rodey.com", "josh@greenandgillispie.com",  
"mstambaugh@rodey.com", "dniiose@americanhumanist.org",

09/11/2019 11:20 AM

TST agrees with Cave plaintiffs.

Matthew A. Kezhaya  
Kezhaya Law PLC  
1202 NE McClain Rd  
Bentonville, AR 72712  
p: (479) 431-6112  
f: (479) 282-2892  
e: matt@kezhaya.law

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Assistant Solicitor General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

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**From:** [Jared Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov) <[Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov)>  
**Sent:** Wednesday, September 11, 2019 10:04 AM  
**To:** [aschultz@rodey.com](mailto:aschultz@rodey.com) <[aschultz@rodey.com](mailto:aschultz@rodey.com)>; John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)>; [josh@greenandgillispie.com](mailto:josh@greenandgillispie.com) <[josh@greenandgillispie.com](mailto:josh@greenandgillispie.com)>; [mstambaugh@rodey.com](mailto:mstambaugh@rodey.com) <[mstambaugh@rodey.com](mailto:mstambaugh@rodey.com)>; [dniose@americanhumanist.org](mailto:dniose@americanhumanist.org) <[dniose@americanhumanist.org](mailto:dniose@americanhumanist.org)>; [gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com) <[gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com)>; [mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org) <[mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org)>; [patrick@ffrf.org](mailto:patrick@ffrf.org) <[patrick@ffrf.org](mailto:patrick@ffrf.org)>; [dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov) <[dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov)>; [gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov) <[gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov)>; [nicholas.bronni@arkansasag.gov](mailto:nicholas.bronni@arkansasag.gov) <[nicholas.bronni@arkansasag.gov](mailto:nicholas.bronni@arkansasag.gov)>; [hsasser@firstliberty.org](mailto:hsasser@firstliberty.org) <[hsasser@firstliberty.org](mailto:hsasser@firstliberty.org)>; [lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org) <[lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org)>; [mberry@firstliberty.org](mailto:mberry@firstliberty.org) <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; [michael.cantrell@arkansasag.gov](mailto:michael.cantrell@arkansasag.gov) <[michael.cantrell@arkansasag.gov](mailto:michael.cantrell@arkansasag.gov)>; [vincent.wagner@arkansasag.gov](mailto:vincent.wagner@arkansasag.gov) <



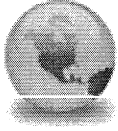
[vincent.wagner@arkansasag.gov](mailto:vincent.wagner@arkansasag.gov)>; [william.bird@arkansasag.gov](mailto:william.bird@arkansasag.gov) <  
[william.bird@arkansasag.gov](mailto:william.bird@arkansasag.gov)>; [matt@kezhaya.law](mailto:matt@kezhaya.law) <[matt@kezhaya.law](mailto:matt@kezhaya.law)>;  
[stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com) <[stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com)>; [paul@paulbyrdlawfirm.com](mailto:paul@paulbyrdlawfirm.com) <  
[paul@paulbyrdlawfirm.com](mailto:paul@paulbyrdlawfirm.com)>  
**Cc:** [Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov) <[Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov)>  
**Subject:** 4:18-cv-00342-KGB Cave et al v. Thurston

Counsel:

Before the Court is non-party witness Senator Jason Rapert's motion to quash and for protective order (Dkt. No. 74), which was filed this morning. The Court is available to conduct a telephone conference with counsel, the parties, and pertinent non-parties to discuss the matter at 11:00 a.m. or 2:30 p.m. today.

All counsel, including counsel for the parties and counsel for Senator Rapert, are directed to respond to this email and to provide the Court with information regarding their availability for a telephone conference at 11:00 a.m. and 2:30 p.m. today.

Jared Lax  
Law Clerk to the Honorable Kristine G. Baker  
U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
[jared\\_lax@ared.uscourts.gov](mailto:jared_lax@ared.uscourts.gov)  
(501) 604-5423



**Re: 4:18-cv-00342-KGB Cave et al v. Thurston**

Gerry Schulze to: Matthew A. Kezhaya

09/11/2019 02:02 PM

John Burnett, Dylan Jacobs, Paul Byrd,  
Cc: "Jared\_Lax@ared.uscourts.gov", "aschultz@rodey.com",  
"josh@greenandgillispie.com", "mstambaugh@rodey.com",

---

History: This message has been forwarded.

We all know from years of experience that once an Order is entered, the psychological, if not the legal, burden is on the party seeking a change. The cancellation of this deposition would work an undue and unwarranted hardship on all of us. However, if you'll agree to allow me to *show* the video to my clients [not give, but show them in my office] in addition to the other uses I have previously requested, I'll agree to the relief suggested by the Cave Plaintiffs in order to get this deposition going.

If not I hereby request that the 2:30 hearing be held. The Attorney General is not the movant, and has five lawyers and three outside counsel who have appeared in this case. It is simply not reasonable that not one of eight lawyers can be present. I was in Batesville this morning. Nevertheless, with the help of my co-counsel, I filed a response to this motion.

This issue is no surprise to any of the litigants. It is my position that the witness is demanding relief to which he is not entitled under the law. Further, it is my position that in the absence of a ruling by the Court, this deposition should go forward as noticed. *See Stephen L. LaFrance Holdings, Inc. v. Sorensen* , 278 F.R.D. 420 (E.D. Ark. 2011).

Gerry Schulze  
J.G. "Gerry" Schulze  
Attorney at Law  
Baker Schulze & Murphy  
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Little Rock, AR 72227  
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[gschulze@b-s-m-law.com](mailto:gschulze@b-s-m-law.com)  
[gschulze@bsmp.law](mailto:gschulze@bsmp.law)  
[www.bsmp.law](http://www.bsmp.law)

On Wed, Sep 11, 2019 at 11:20 AM Matthew A. Kezhaya <[matt@kezhaya.law](mailto:matt@kezhaya.law)> wrote:  
TST agrees with Cave plaintiffs.

Matthew A. Kezhaya  
Kezhaya Law PLC  
1202 NE McClain Rd  
Bentonville, AR 72712  
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f: (479) 282-2892  
e: [matt@kezhaya.law](mailto:matt@kezhaya.law)

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intended for a particular recipient. If it appears that I sent this to you in error, please inform me and delete this message.

On Wed, Sep 11, 2019 at 11:14 AM John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)> wrote:  
Jared,

The Cave plaintiffs are uncertain whether the Secretary of State's position amounts to a plea that this long-noticed deposition not go forward. If it is, the Cave plaintiffs strenuously object, as the matter at hand is not complicated, but even so, if the Court were to decide that more time is needed to address the issue, then the simple solution is to direct the parties not to use the video deposition in any way until the Court decides the motion. In no event should this motion present any grounds to continue the deposition.

Thanks.

John L. Burnett  
Lavey and Burnett  
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Little Rock, AR 72201  
(501) 376-2269  
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---

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**From:** Dylan Jacobs <[dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov)>  
**Sent:** Wednesday, September 11, 2019 11:00 AM  
**To:** 'Paul Byrd' <[paul@paulbyrdlawfirm.com](mailto:paul@paulbyrdlawfirm.com)>; John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)>  
**Cc:** Jared Lax <[Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov)>; [aschultz@rodey.com](mailto:aschultz@rodey.com) <[aschultz@rodey.com](mailto:aschultz@rodey.com)>; [josh@greenandgillispie.com](mailto:josh@greenandgillispie.com) <[josh@greenandgillispie.com](mailto:josh@greenandgillispie.com)>; [mstambaugh@rodey.com](mailto:mstambaugh@rodey.com) <[mstambaugh@rodey.com](mailto:mstambaugh@rodey.com)>; [dniose@americanhumanist.org](mailto:dniose@americanhumanist.org) <[dniose@americanhumanist.org](mailto:dniose@americanhumanist.org)>; [gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com) <[gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com)>; [mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org) <[mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org)>; [patrick@ffrf.org](mailto:patrick@ffrf.org) <[patrick@ffrf.org](mailto:patrick@ffrf.org)>; [gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov) <[gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov)>; Nicholas Bronni <[nicholas.bronni@arkansasag.gov](mailto:nicholas.bronni@arkansasag.gov)>; [hsasser@firstliberty.org](mailto:hsasser@firstliberty.org) <[hsasser@firstliberty.org](mailto:hsasser@firstliberty.org)>; [lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org) <[lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org)>; [mberry@firstliberty.org](mailto:mberry@firstliberty.org) <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; Michael Cantrell <[michael.cantrell@arkansasag.gov](mailto:michael.cantrell@arkansasag.gov)>; Vincent Wagner <[vincent.wagner@arkansasag.gov](mailto:vincent.wagner@arkansasag.gov)>; William C. Bird III <[william.bird@arkansasag.gov](mailto:william.bird@arkansasag.gov)>;

matt@kezhaya.law <matt@kezhaya.law>; [stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com) <stu.dehaan@gmail.com>;  
[Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov) <Tracy\_Washington@ared.uscourts.gov>  
**Subject:** RE: 4:18-cv-00342-KGB Cave et al v. Thurston

Mr. Lax,

Thank you for the email. Given the short notice, counsel for Defendant have prior engagements during both of those times and request that the Court not hold a conference today. Given the short notice, it's unlikely that Defendant will have an adequate opportunity to review that motion, Mr. Kezhaya's response he has indicated he plans to file, and respond before the hearing. If the Court directs otherwise, Defendant will work to reshuffle those prior commitments.

Defendant also believes that written briefing on this matter would be more beneficial and intends to respond within the time allowed by the rules, unless the Court directs otherwise. Indeed, Defendant doesn't understand the rush. The motion was filed this morning—apparently due to the *Orsi* Plaintiffs' failure to respond to inquiries concerning a protective order until yesterday. Additionally, there are no discovery deadlines that would seem to justify short-circuiting Defendant's opportunity to respond to the motion. Nor does Defendant understand the Satanic Temple Intervenor-Plaintiffs' basis for requesting a teleconference since they did not subpoena Senator Rapert.

Respectfully,

**Dylan L. Jacobs**

Assistant Solicitor General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas 72201

25

Office: 501.682.3661 | Fax: 501.682.2591 | [dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov) |  
[ArkansasAG.gov](http://ArkansasAG.gov)

**From:** Paul Byrd [<mailto:paul@paulbyrdlawfirm.com>]

**Sent:** Wednesday, September 11, 2019 10:52 AM

**To:** John Burnett

**Cc:** [Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov); [aschultz@rodey.com](mailto:aschultz@rodey.com); [josh@greenandgillispie.com](mailto:josh@greenandgillispie.com); [mstambaugh@rodey.com](mailto:mstambaugh@rodey.com); [dniose@americanhumanist.org](mailto:dniose@americanhumanist.org); [gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com); [mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org); [patrick@ffrf.org](mailto:patrick@ffrf.org); Dylan Jacobs; [gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov); Nicholas Bronni; [hsasser@firstliberty.org](mailto:hsasser@firstliberty.org); [lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org); [mberry@firstliberty.org](mailto:mberry@firstliberty.org); Michael Cantrell; Vincent Wagner; William C. Bird III; [matt@kezhaya.law](mailto:matt@kezhaya.law); [stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com); [Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov)

**Subject:** Re: 4:18-cv-00342-KGB Cave et al v. Thurston

Jared,

I had two long meetings this morning and am just catching up.

2:30pm is best for me.

Paul Byrd

On Sep 11, 2019, at 10:10 AM, John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)> wrote:  
Jared,

Cave Plaintiffs are available either time. Thanks.

John L. Burnett  
Lavey and Burnett

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---

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**From:** [Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov) <Jared\_Lax@ared.uscourts.gov>  
**Sent:** Wednesday, September 11, 2019 10:04 AM  
**To:** [aschultz@rodey.com](mailto:aschultz@rodey.com) <[aschultz@rodey.com](mailto:aschultz@rodey.com)>; John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)>; [josh@greenandgillispie.com](mailto:josh@greenandgillispie.com) <[josh@greenandgillispie.com](mailto:josh@greenandgillispie.com)>; [mstambaugh@rodey.com](mailto:mstambaugh@rodey.com) <[mstambaugh@rodey.com](mailto:mstambaugh@rodey.com)>; [dniose@americanhumanist.org](mailto:dniose@americanhumanist.org) <[dniose@americanhumanist.org](mailto:dniose@americanhumanist.org)>; [gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com) <[gerrysch@b-s-m-law.com](mailto:gerrysch@b-s-m-law.com)>; [mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org) <[mmiller@americanhumanist.org](mailto:mmiller@americanhumanist.org)>; [patrick@ffrf.org](mailto:patrick@ffrf.org) <[patrick@ffrf.org](mailto:patrick@ffrf.org)>; [dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov) <[dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov)>; [gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov) <[gary.sullivan@sos.arkansas.gov](mailto:gary.sullivan@sos.arkansas.gov)>; [nicholas.bronni@arkansasag.gov](mailto:nicholas.bronni@arkansasag.gov) <[nicholas.bronni@arkansasag.gov](mailto:nicholas.bronni@arkansasag.gov)>; [hsasser@firstliberty.org](mailto:hsasser@firstliberty.org) <[hsasser@firstliberty.org](mailto:hsasser@firstliberty.org)>; [lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org) <[lepatterson@firstliberty.org](mailto:lepatterson@firstliberty.org)>; [mberry@firstliberty.org](mailto:mberry@firstliberty.org) <[mberry@firstliberty.org](mailto:mberry@firstliberty.org)>; [michael.cantrell@arkansasag.gov](mailto:michael.cantrell@arkansasag.gov) <[michael.cantrell@arkansasag.gov](mailto:michael.cantrell@arkansasag.gov)>; [vincent.wagner@arkansasag.gov](mailto:vincent.wagner@arkansasag.gov) <[vincent.wagner@arkansasag.gov](mailto:vincent.wagner@arkansasag.gov)>; [william.bird@arkansasag.gov](mailto:william.bird@arkansasag.gov) <[william.bird@arkansasag.gov](mailto:william.bird@arkansasag.gov)>; [matt@kezhaya.law](mailto:matt@kezhaya.law) <[matt@kezhaya.law](mailto:matt@kezhaya.law)>; [stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com) <[stu.dehaan@gmail.com](mailto:stu.dehaan@gmail.com)>; [paul@paulbyrdlawfirm.com](mailto:paul@paulbyrdlawfirm.com) <[paul@paulbyrdlawfirm.com](mailto:paul@paulbyrdlawfirm.com)>  
**Cc:** [Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov) <[Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov)>  
**Subject:** 4:18-cv-00342-KGB Cave et al v. Thurston

Counsel:

Before the Court is non-party witness Senator Jason Rapert's motion to quash and for protective order (Dkt. No. 74), which was filed this morning. The Court is available to conduct a telephone conference with counsel, the parties, and pertinent non-parties to discuss the matter at 11:00 a.m. or 2:30 p.m. today.

27

All counsel, including counsel for the parties and counsel for Senator Rapert, are directed to respond to this email and to provide the Court with information regarding their availability for a telephone conference at 11:00 a.m. and 2:30 p.m. today.

Jared Lax  
Law Clerk to the Honorable Kristine G. Baker  
U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
[jared\\_lax@ared.uscourts.gov](mailto:jared_lax@ared.uscourts.gov)  
(501) 604-5423



Re: 4:18-cv-00342-KGB Cave et al v. Thurston  
Matthew A. Kezhaya to: Jared\_Lax

09/11/2019 02:33 PM

History:

This message has been replied to.

Thanks, Jared. I left you a voicemail a few minutes ago which is resolved by this email.

Matthew A. Kezhaya

Kezhaya Law PLC

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p: (479) 431-6112

f: (479) 282-2892

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On Wed, Sep 11, 2019 at 2:30 PM <[Jared\\_Lax@ared.uscourts.gov](mailto:Jared_Lax@ared.uscourts.gov)> wrote:

Counsel:

The Court is emailing to inform all parties that there will not be a telephone conference today at 2:30 p.m. The Court will file a separate Order regarding the underlying motion to quash and for protective order (Dkt. No. 74) this afternoon.

Jared Lax

Law Clerk to the Honorable Kristine G. Baker

U.S. District Court, Eastern District of Arkansas

500 West Capitol Avenue, Room D444

Little Rock, Arkansas 72201

[jared\\_lax@ared.uscourts.gov](mailto:jared_lax@ared.uscourts.gov)

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Re: 4:18-cv-00342-KGB Cave et al v. Thurston

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John Burnett to: aschultz@rodey.com,  
josh@greenandgillispie.com,  
Cc: "Tracy\_Washington@ared.uscourts.gov"

09/11/2019 02:56 PM

Jared,

In the motion to quash, on page 2, 3rd full paragraph, it should read that the counsel for the *Orsi* plaintiffs, rather than the *Cave* plaintiffs, will not agree. . . .

Although this alignment should be clear from the context and other documents in the case, I want the information to the Court to be clear here.

Thanks.

John L. Burnett  
Lavey and Burnett  
904 W.2d St.  
Little Rock, AR 72201  
(501) 376-2269  
Fax: (501) 372-1134

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---

**From:** Jared\_Lax@ared.uscourts.gov <Jared\_Lax@ared.uscourts.gov>

**Sent:** Wednesday, September 11, 2019 2:30 PM

**To:** aschultz@rodey.com <aschultz@rodey.com>; John Burnett <jburnett@laveyandburnett.com>; josh@greenandgillispie.com <josh@greenandgillispie.com>; mstambaugh@rodey.com <mstambaugh@rodey.com>; dnoise@americanhumanist.org <dnoise@americanhumanist.org>; gerrysch@b-s-m-law.com <gerrysch@b-s-m-law.com>; mmiller@americanhumanist.org <mmiller@americanhumanist.org>; patrick@ffrf.org <patrick@ffrf.org>; dylan.jacobs@arkansasag.gov <dylan.jacobs@arkansasag.gov>; gary.sullivan@sos.arkansas.gov <gary.sullivan@sos.arkansas.gov>; nicholas.bronni@arkansasag.gov <nicholas.bronni@arkansasag.gov>; hsasser@firstliberty.org <hsasser@firstliberty.org>; lepatterson@firstliberty.org <lepatterson@firstliberty.org>; mberry@firstliberty.org <mberry@firstliberty.org>; michael.cantrell@arkansasag.gov <michael.cantrell@arkansasag.gov>; vincent.wagner@arkansasag.gov <vincent.wagner@arkansasag.gov>; william.bird@arkansasag.gov <william.bird@arkansasag.gov>; matt@kezhaya.law <matt@kezhaya.law>; stu.dehaan@gmail.com <stu.dehaan@gmail.com>; paul@paulbyrdlawfirm.com <paul@paulbyrdlawfirm.com>

**Cc:** Tracy\_Washington@ared.uscourts.gov <Tracy\_Washington@ared.uscourts.gov>

30

**Subject:** 4:18-cv-00342-KGB Cave et al v. Thurston

Counsel:

The Court is emailing to inform all parties that there will not be a telephone conference today at 2:30 p.m. The Court will file a separate Order regarding the underlying motion to quash and for protective order (Dkt. No. 74) this afternoon.

Jared Lax  
Law Clerk to the Honorable Kristine G. Baker  
U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
jared\_lax@ared.uscourts.gov  
(501) 604-5423



Re: 4:18-cv-00342-KGB Cave et al v. Thurston 

Jared Lax to: John Burnett

09/11/2019 02:57 PM

Mr. Burnett,

Noted. Thank you for the clarification.

Jared Lax  
Law Clerk to the Honorable Kristine G. Baker  
U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
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John Burnett

Jared, In the motion to quash, on page 2, 3rd f...

09/11/2019 02:56:09 PM

From: John Burnett <jburnett@laveyandburnett.com>  
To: "Jared\_Lax@ared.uscourts.gov" <Jared\_Lax@ared.uscourts.gov>, "aschultz@rodey.com" <aschultz@rodey.com>, "josh@greenandgillispie.com" <josh@greenandgillispie.com>, "mstambaugh@rodey.com" <mstambaugh@rodey.com>, "dniouse@americanhumanist.org" <dniouse@americanhumanist.org>, "gerrysch@b-s-m-law.com" <gerrysch@b-s-m-law.com>, "mmiller@americanhumanist.org" <mmiller@americanhumanist.org>, "patrick@ffrf.org" <patrick@ffrf.org>, "dylan.jacobs@arkansasag.gov" <dylan.jacobs@arkansasag.gov>, "gary.sullivan@sos.arkansas.gov" <gary.sullivan@sos.arkansas.gov>, "nicholas.bronni@arkansasag.gov" <nicholas.bronni@arkansasag.gov>, "hsasser@firstliberty.org" <hsasser@firstliberty.org>, "lepatterson@firstliberty.org" <lepatterson@firstliberty.org>, "mberry@firstliberty.org" <mberry@firstliberty.org>, "michael.cantrell@arkansasag.gov" <michael.cantrell@arkansasag.gov>, "vincent.wagner@arkansasag.gov" <vincent.wagner@arkansasag.gov>, "william.bird@arkansasag.gov" <william.bird@arkansasag.gov>, "matt@kezhaya.law" <matt@kezhaya.law>, "stu.dehaan@gmail.com" <stu.dehaan@gmail.com>, "paul@paulbyrdlawfirm.com" <paul@paulbyrdlawfirm.com>  
Cc: "Tracy\_Washington@ared.uscourts.gov" <Tracy\_Washington@ared.uscourts.gov>  
Date: 09/11/2019 02:56 PM  
Subject: Re: 4:18-cv-00342-KGB Cave et al v. Thurston

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Jared,

In the motion to quash, on page 2, 3rd full paragraph, it should read that the counsel for the *Orsi* plaintiffs, rather than the *Cave* plaintiffs, will not agree. . . .

Although this alignment should be clear from the context and other documents in the case, I want the information to the Court to be clear here.

Thanks.

John L. Burnett  
Lavey and Burnett  
904 W.2d St.  
Little Rock, AR 72201  
(501) 376-2269  
Fax: (501) 372-1134

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**From:** Jared\_Lax@ared.uscourts.gov <Jared\_Lax@ared.uscourts.gov>  
**Sent:** Wednesday, September 11, 2019 2:30 PM  
**To:** aschultz@rodey.com <aschultz@rodey.com>; John Burnett <jburnett@laveyandburnett.com>; josh@greenandgillispie.com <josh@greenandgillispie.com>; mstambaugh@rodey.com <mstambaugh@rodey.com>; dniose@americanhumanist.org <dniose@americanhumanist.org>; gerrysch@b-s-m-law.com <gerrysch@b-s-m-law.com>; mmiller@americanhumanist.org <mmiller@americanhumanist.org>; patrick@ffrf.org <patrick@ffrf.org>; dylan.jacobs@arkansasag.gov <dylan.jacobs@arkansasag.gov>; gary.sullivan@sos.arkansas.gov <gary.sullivan@sos.arkansas.gov>; nicholas.bronni@arkansasag.gov <nicholas.bronni@arkansasag.gov>; hsasser@firstliberty.org <hsasser@firstliberty.org>; lepatterson@firstliberty.org <lepatterson@firstliberty.org>; mberry@firstliberty.org <mberry@firstliberty.org>; michael.cantrell@arkansasag.gov <michael.cantrell@arkansasag.gov>; vincent.wagner@arkansasag.gov <vincent.wagner@arkansasag.gov>; william.bird@arkansasag.gov <william.bird@arkansasag.gov>; matt@kezhaya.law <matt@kezhaya.law>; stu.dehaan@gmail.com <stu.dehaan@gmail.com>; paul@paulbyrdlawfirm.com <paul@paulbyrdlawfirm.com>  
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**Subject:** 4:18-cv-00342-KGB Cave et al v. Thurston

Counsel:

The Court is emailing to inform all parties that there will not be a telephone conference today at 2:30 p.m. The Court will file a separate Order regarding the underlying motion to quash and for protective order (Dkt. No. 74) this afternoon.

Jared Lax  
Law Clerk to the Honorable Kristine G. Baker  
U.S. District Court, Eastern District of Arkansas  
500 West Capitol Avenue, Room D444  
Little Rock, Arkansas 72201  
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(501) 604-5423



**Re: 4:18-cv-00342-KGB Cave et al v. Thurston**

Paul Byrd to: John Burnett

09/11/2019 02:58 PM

Cc: "Jared\_Lax@ared.uscourts.gov", "aschultz@rodey.com",  
"josh@greenandgillispie.com", "mstambaugh@rodey.com",  
"dniiose@americanhumanist.org", "gerrysch@b-s-m-law.com",

John is correct. My mistake.

Paul Byrd

On Sep 11, 2019, at 2:56 PM, John Burnett <[jburnett@laveyandburnett.com](mailto:jburnett@laveyandburnett.com)> wrote:

Jared,

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**Cc:** [Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov) <[Tracy\\_Washington@ared.uscourts.gov](mailto:Tracy_Washington@ared.uscourts.gov)>

**Subject:** 4:18-cv-00342-KGB Cave et al v. Thurston

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Jared Lax

Law Clerk to the Honorable Kristine G. Baker  
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Little Rock, Arkansas 72201  
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(501) 604-5423



**RE: 4:18-cv-00342-KGB Cave et al v. Thurston**  
'Jared\_Lax@ared.uscourts.gov',  
Dylan Jacobs to: aschultz@rodey.com,  
jburnett@laveyandburnett.com,  
Cc: "Tracy\_Washington@ared.uscourts.gov"

09/11/2019 02:59 PM

Mr. Lax—

Just to clarify since the Defendant hasn't had an opportunity to respond to the motion, is the Court requiring us to file a response this afternoon?

**Dylan L. Jacobs**

Assistant Solicitor General  
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas 72201

Office: 501.682.3661 | Fax: 501.682.2591 | [dylan.jacobs@arkansasag.gov](mailto:dylan.jacobs@arkansasag.gov) | [ArkansasAG.gov](http://ArkansasAG.gov)

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