

CAUSE NO. 141-307474-19

VICTOR MIGNOGNA,
Plaintiff,

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IN THE DISTRICT COURT

v.

141st JUDICIAL DISTRICT

FUNIMATION PRODUCTIONS, LLC,
JAMIE MARCHI, MONICA RIAL,
AND RONALD TOYE,
Defendants

TARRANT COUNTY, TEXAS

PLAINTIFF’S MOTION TO QUASH

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff requests that the Court to quash the *Notice of Oral Deposition of Nonparty Christopher Slatosch* with subpoena duces tecum (the “Notice”) and would show the following:

(1) Despite knowing that Plaintiff’s counsel was out of town and unavailable to confer on dates,¹ Defendants Monica Rial and Ronald Toye served Plaintiff with the Notice on October 23, 2019 setting the deposition of Chris Slatosch less than 7 business days later and more than 300 miles away from the courthouse.²

(2) As a threshold matter, the Notice is legally improper. TEX. R. CIV. P. 176.3(a) (“A person may not be required by subpoena to appear or produce documents or other things in a county that is more than 150 miles from where the person resides or is served”). Plaintiff objects to the Notice, because it purports to subpoena Mr. Slatosch in violation of Rule 176.3(a).

(3) Plaintiff further objects to the time and place of the deposition set forth in the Notice. Moreover, Plaintiff objects to the Notice, because it is nothing more than

¹ Exhibit A hereto.

² The Notice is attached as Exhibit B hereto.

Defendants' using the legal system to harass and intimidate a non-party and drive up costs.

(4) In the interest of justice, Vic requests that the Court issue a protective order quashing the Notice in its entirety.

(5) Pursuant to Texas Rules of Civil Procedure 176.6(e) and 199.4, this motion stays the deposition, and Mr. Slatosch need not comply with the Notice unless the Court orders him to do so.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the Court enter an order quashing the Notice and for such other and further relief that may be awarded at law or in equity. Plaintiff prays for general relief.

Respectfully submitted,
BEARD HARRIS BULLOCK HUGHES
and MARTINEZ HSU

By: /s/ Ty Beard

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Texas Bar No. 00796181
Carey-Elisa Christie
Texas Bar No. 24103218
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(682) 224-7810 [T]
(682) 730-8998 [F]
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Attorneys for Plaintiff

Certificate of Conference

A conference was held via email with opposing counsel on the merits of this motion. A reasonable effort has been made to resolve the dispute without the necessity of court intervention, and the effort failed. Therefore, it is presented to the Court for determination.

/s/ Ty Beard

Date: October 28, 2019

Certificate of Service

The undersigned certifies that the foregoing motion was electronically filed today and served via electronic filing manager on counsel of record.

/s/ Ty Beard

Date: October 28, 2019

Exhibit A

Jim Bullock

From: Jim Bullock
Sent: Tuesday, October 22, 2019 11:25 AM
To: Sean Lemoine; Ty Beard
Cc: John Volney; Christian Orozco; Sam Johnson; Andrea N. Perez; ahsu@mhlegalgroup.com; Erick, Casey; Carey Christie
Subject: RE: Mignogna Fees and Sanctions Hearing Availability

Sean,

First, sincerely, we hope that you, Casey, Andrea, John and Christian were not harmed by Sunday's tornadoes (Sam, I omit you only because I believe, like me, you live north of the tornadoes' path – if I'm incorrect, then I definitely include you in the list as well). It is purely the grace of God that there was no loss of life. Not to make light of the situation, but when Pete Delkus takes off his jacket for the weather updates, you know it's going to be bumpy ride.

Ty and An Lee are both out of the office today and tomorrow (and yesterday). We'll get back to you ASAP on these dates.

Jim

From: Sean Lemoine <slemoine@WickPhillips.com>
Sent: Tuesday, October 22, 2019 09:59 AM
To: Ty Beard <ty@beardandharris.com>
Cc: John Volney <jvolney@lynnllp.com>; Christian Orozco <corozco@lynnllp.com>; Sam Johnson <sam@johnsonsparks.com>; Jim Bullock <jim@beardandharris.com>; Andrea N. Perez <APerez@CCSB.com>; ahsu@mhlegalgroup.com; Erick, Casey <cerick@cowlesthompson.com>
Subject: Mignogna Fees and Sanctions Hearing Availability

Mr. Beard,

I am trying to coordinate the hearing on fees and sanctions. What is your availability for:

Nov. 11-15

Nov. 18-22

Sean Lemoine

Partner | [Wick Phillips](#)

Direct: 214.740.4053

Email: sean.lemoine@wickphillips.com

Exhibit B

CAUSE NO. 141-307474-19

VICTOR MIGNOGNA,

Plaintiff,

v.

**FUNIMATION PRODUCTIONS, LLC,
MONICA RIAL, RONALD TOYE, and
JAMIE MARCHI,**

Defendants.

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IN THE DISTRICT COURT OF

141st JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

NOTICE OF ORAL DEPOSITION OF NONPARTY CRISTOPHER SLATOSCH

TO: Nonparty Christopher Slatosch, 4017 E 37th Street Odessa, Texas 79762-7120, OR WHEREVER HE MAY BE FOUND.

PLEASE TAKE NOTICE that, pursuant to Texas Rule of Civil Procedure 199, Defendants Monica Rial and Ronald Toye, by and through their counsel of record, shall take the deposition of Christopher Slatosch, before a Notary Public or other officer authorized by law to administer oaths. The deposition shall commence on **November 1, 2019, at 10:30 a.m.**, and shall continue from day to day until completed. The deposition shall take place at 1401 Tradewinds Boulevard Midland, Texas 79706. The deposition may be videotaped, and the deposition may take place through remote electronic means.

Date: October 23, 2019

Respectfully submitted,

By: /s/ J. Sean Lemoine

J. Sean Lemoine

State Bar No. 24027443

sean.lemoine@wickphillips.com

WICK PHILLIPS GOULD & MARTIN, LLP

3131 McKinney Ave., Suite 100

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Casey S. Erick

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and

Carrington, Coleman, Sloman & Blumenthal, L.L.P.

Andrea Perez

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214.855.3070

APerez@CCSB.com

**ATTORNEYS FOR DEFENDANTS
MONICA RIAL AND RONALD TOYE**

CERTIFICATE OF SERVICE

I certify that on October 23, 2019, a true and correct copy of the foregoing document was served on all counsel of record by electronic service in accordance with Texas Rule of Civil Procedure 21a.

/s/ J. Sean Lemoine

J. Sean Lemoine

EXHIBIT 1

STATE OF TEXAS
DEPOSITION SUBPOENA DUCES TECUM
CAUSE NO. 141-307474-19

VICTOR MIGNOGNA, Plaintiff, v. FUNIMATION PRODUCTIONS, LLC, MONICA RIAL, RONALD TOYE, and JAMIE MARCHI, Defendants.	IN THE DISTRICT COURT 141ST JUDICIAL DISTRICT TARRANT COUNTY, TEXAS
TO ANY SHERIFF OR CONSTABLE OF THE STATE OF TEXAS OR OTHER PERSON AUTHORIZED TO SERVE AND EXECUTE - GREETINGS: YOU ARE HEREBY COMMANDED TO SUMMON:	
Christopher Slatosch, 4017 E 37th Street Odessa, Texas 79762-7120, OR WHEREVER HE MAY BE FOUND.	
<input checked="" type="checkbox"/> YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.	
PLACE OF DEPOSITION See EXHIBIT B 1401 Tradewinds Boulevard Midland, Texas 79706	DATE AND TIME November 1, 2019 at 10:30 a.m.
<input checked="" type="checkbox"/> YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or tangible things at the place, date, and time specified below (list documents or tangible things):	
SEE "EXHIBIT A" for a listing of documents to produce prior to the noticed deposition.	
PLACE Via electronic copy to Wick Phillips Gould & Martin, 3131 McKinney Avenue, Suite 100 Dallas, Texas 75204, or a copy service will be sent to the Place of Deposition to make copies of the documents.	DATE AND TIME October 30, 2019 at 5:00 p.m.
<input type="checkbox"/> YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.	
PREMISES	DATE AND TIME
Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both. Texas Rule of Civil Procedure 176.8(a).	
ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) <i>/s/ J. Sean Lemoine</i> Attorney for Defendants Monica Rial and Ronald Toye	DATE October 23, 2019
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER J. Sean Lemoine State Bar No. 24027443 sean.lemoine@wickphillips.com WICK PHILLIPS GOULD & MARTIN, LLP 3131 McKinney, Suite 100 Dallas, Texas 75204 Telephone: 214.692.6200 Facsimile: 214.692.6255	

PROOF OF SERVICE		
SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Texas that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER:

Exhibit A

Instructions and Definitions:

1. The terms “communication(s),” means any oral or written utterance, notation or statement of any nature whatsoever, by or to whomsoever made, including, but not limited to correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings, between two or more persons.
2. The term “document” is used in the broadest sense and includes, but is not limited to, all originals, non-identical copies and drafts thereof. The term “document” includes, but is not limited to, the following items, whether printed, recorded, or reproduced by mechanical or electronic process, or written or produced by hand: agreements; communications, including intercompany and intracompany communications; letters; **electronic mail, instant messages, text messages,** correspondence; **applications of any type that exchange communications,** telegrams; cables; telexes; memoranda; records; books; summaries of records or papers; graphs; charts; maps; blueprints; diagrams; tables; indices; pictures; recordings; tapes; computer storage media; accounts; analyses and analytical records; memoranda of telephone calls; minutes or records of meetings or conferences; reports or summaries of interviews; transcripts; reports; microfilm; microfiche; telecopies; faxes; computer printouts; ledgers; photographs; videotapes; photographs; schedules; wiring diagrams; logic diagrams; diaries; calendars; day-timers; logs; reports or summaries of investigations; opinions or reports of consultants; appraisals; evaluations; reports or summaries of negotiations; brochures; bulletins; pamphlets; circulars; advertising literature; magazine and newspaper articles or advertisements; trade letters; press releases; contracts; notes; drafts; projections; working papers; ledgers; checks (front and back); check stubs; receipts; and other documents, papers, or writings of whatever description including, but not limited to, any information contained in any computer or electronic information storage and retrieval device.
3. The term “You” or “Your” as used herein shall mean Christopher Slatosch.
4. The term “Litigation” as used herein shall mean the action cited above, Cause No. 141-307474-19; *Mignogna v. Funimation, et al.*; currently pending in the 141st Judicial District Court of Tarrant County, Texas.
5. The term “Kameha Con” as used herein shall mean the annual unofficial Dragon Ball convention based out of Irving, Texas and hosted at the Irving Convention Center.
6. The term “Kameha Con 2019” as used herein shall mean the Kameha Con convention hosted at the Irving Convention Center on April 12-14, 2019.
7. The term “Mignogna” as used herein shall mean Plaintiff Vic Mignogna.
8. The term “Defendants” as used herein shall mean Defendants Funimation Productions, LLC, Monica Rial, Ronald Toye, and Jamie Marchi.
9. The term “Rekieta” as used herein shall mean Nicholas Robert Rekieta, as well as his entities including Rekieta Law, Rekieta Law, LLC, and Rekieta Media, LLC.
10. The term “BHBH” as used herein shall mean the law firm of Beard Harris Bullock Hughes, including any of its agents, employees, or consultants, which include Ty Beard, Carey-Elisa Christie, Kristina M. Ross, and Jim E. Bullock.
11. Unless otherwise indicated, the use in these requests of the name or identity of any person, business organization, or other entity (including, but not limited, to those entities and persons identified in this definitions) shall specifically include all of that entity’s or person’s present or former employees, officers, directors, agents, representatives, members, partners, attorneys, departments, sections, affiliates, subsidiaries, parents, and all others acting on its/their behalf.

12. The term “relating to” (or any variant of “relating to”) means reflecting, referring to, regarding, having any relationship to, pertaining to, evidencing, or constituting, in whole or in part, the subject matter of the particular request, as well as any document which contains, records, states, reflects, interprets, identifies, confirms, contradicts, or otherwise concerns that subject in any fashion whatsoever.
13. Pursuant to Texas Rule of Civil Procedure 196.4, for any responsive documents that are in electronic or magnet form, please produce in both (i) hard copy (with Bates-stamps) or .pdf (with Bates-stamps); and (ii) the native magnetic or electronic form.
14. Unless otherwise indicated, the use in these requests of the name or identity of any person, business organization, or other entity shall specifically include all of that entity’s present or former employees, officers, directors, agents, representatives, members, attorneys, departments, sections, affiliates, subsidiaries, parents, and all other persons acting on its behalf.
15. The time period relevant to these requests is January 1, 2019 **through the date of your deposition**, unless otherwise stated and/or obvious from the context of the Request.
16. For the purpose of interpreting and construing the scope of these Requests, you are instructed to give words their most expansive and inclusive meanings, unless otherwise specifically limited by the language of an individual request. Accordingly: (a) construe the words “and” as well as “or” in the disjunctive or conjunctive, as necessary to make the request more inclusive; (b) construe the term “including” to mean “including, but not limited to;” (c) construe the singular form of a word to include the plural and the plural form to include the singular; (d)construe a masculine noun or adjective to include the feminine and vice versa; and (e) construe the words “all” and “each” to mean both all and each.
17. If, in answering a Request, you object to any part of a Request, each part of said Request shall be treated separately. If an objection is made to a portion of a Request, the remaining portion(s) shall be answered.
18. These Requests are intended to cover all documents or things that are in your possession, custody, or control. A document or thing is deemed to be in your possession, custody, or control if:
 - a. it is in your physical control; or
 - b. it is in the physical control of any other person or entity, and you, individually or otherwise:
 - (1) own the document or thing in whole or in part;
 - (2) have a right by contract, statute, or otherwise, to use, inspect, examine, or copy that document or thing on any terms; or
 - (3) have been able to use, inspect, examine, or copy that document or thing when you have sought to do so.

Documents:

1. Documents, and communications (including emails, texts, or any other type of communication), between You and Ty Beard (or anyone working at or for BHBH), and/or Rekieta, Mignogna, Chuck Huber, or Stan Dahlin concerning the Litigation, Mignogna, any of the Defendants, and/or the affidavits/declarations executed by you in the Litigation.
2. Documents, and communications, concerning Kameha Con 2019 that reference or discuss Mignogna, Defendants, Rekieta, or Ty Beard (or anyone working at or for BHBH).
3. Recordings or transcriptions of any telephone calls between you and Mignogna, Defendants, Rekieta, or Ty Beard (or anyone working at or for BHBH).

EXHIBIT B

CAUSE NO. 141-307474-19

VICTOR MIGNOGNA,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	
	§	141st JUDICIAL DISTRICT
FUNIMATION PRODUCTIONS, LLC,	§	
MONICA RIAL, RONALD TOYE, and	§	
JAMIE MARCHI,	§	
Defendants.	§	TARRANT COUNTY, TEXAS

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TO: Nonparty Christopher Slatosch, 4017 E 37th Street Odessa, Texas 79762-7120, OR WHEREVER HE MAY BE FOUND.

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EXHIBIT B

Date: October 23, 2019

Respectfully submitted,

By: /s/ J. Sean Lemoine

J. Sean Lemoine

State Bar No. 24027443

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APerez@CCSB.com

ATTORNEYS FOR DEFENDANTS

MONICA RIAL AND RONALD TOYE

CERTIFICATE OF SERVICE

I certify that on October 23, 2019, a true and correct copy of the foregoing document was served on all counsel of record by electronic service in accordance with Texas Rule of Civil Procedure 21a.

/s/ J. Sean Lemoine

J. Sean Lemoine