

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**  
**PROVIDENCE, SC. SUPERIOR COURT**

**JOHANNA HARRIS,**

**Plaintiff,**

**v.**

**JEFFREY DANA, in his capacity as  
City Solicitor of the City of Providence;  
JORGE O. ELORZA, in his capacity as  
Mayor of the City of Providence;  
SAMUEL D. ZURIER, in his capacity  
as Chairman of the Committee on  
Claims and Pending Suits, Providence  
City Council; and JAMES J.  
LOMBARDI III, in his capacity as  
Treasurer of the City of Providence,  
Defendants.**

**Case No. PC-2015-3821**

**MOTION TO COMPEL ATTENDANCE OF DEFENDANT SAMUEL D. ZURIER**  
**AT HIS CONTINUED DEPOSITION**

1. On February 23, 2016, Defendant Samuel D. Zurier appeared and gave testimony at his deposition. Acting *pro se*, Plaintiff Johanna Harris deposed him.
2. Mr. Dennis E. Carley, counsel for Defendant Zurier, suspended the deposition without a valid basis.
3. Mr. Carley entered the deposition on a false pretense. After 36 minutes of factual questions about the operation of the Claims Committee of the Providence City Council, Mr. Zurier's role in the claims process and the nature of Ms. Harris' claim for indemnification, Mr. Carley stated:

“I want to put on the record that I think the questions that you are providing this witness have absolutely nothing to do with the merits of any issue in your case and I will just put that on the record so that we're very clear about it, and it's my intent when this deposition is concluded to use this deposition to form an argument about restricting your questions in other depositions.”

4. Mr. Carley's conduct during the deposition interfered with Plaintiff's ability to obtain complete and honest responses from Mr. Zurier. Mr. Carley gave several speaking objections. He interrupted pending questions to advise Deponent Zurier. Although each and every one of Ms. Harris' questions had a factual basis, Mr. Carley repeatedly claimed that they were improper.

5. At a June 17, 2015 meeting, Deputy Solicitor Adrienne Southgate and Defendant Jeffrey Dana told Ms. Harris that her invoice for legal services from the law firm of Oliverio and Marcaccio was inappropriate and exaggerated. At Mr. Zurier's deposition, he testified that he had been Of Counsel to the Oliverio and Marcaccio firm. Ms. Harris then inquired:

"Q. Did you ever know Oliverio and Marcaccio to overbill or pad bills?"

Mr. Carley: Objection.

A. No.

Q. So, in your estimation in your dealings with them, their billings were market rate, fair rates?

Mr. Carley: Objection. Actually, you're getting into expert opinion again because that's designed to elicit his opinion as a lawyer about some other lawyer's work and he's not your expert. ... I've gotta finish. I've gotta finish. ... You are eliciting expert opinion testimony from a witness who does not want to be your expert witness. Under *Ondis v. Pion*, that's privileged information. You're not entitled to it. He's not going to answer that question. Next question."

Plaintiff's question was entirely appropriate, fact-based and relevant to a central issue in the present case. In *Onders v Pion* 497 A.2d 13 (1985), the Rhode Island Supreme Court ruled that an unwilling physician did not have to testify as an expert witness at trial seeking damages for a disfiguring physical injury.

6. Mr. Zurier testified that he had served as an attorney in seven different organizations. When Ms. Harris asked Mr. Zurier whether any partners or associates in any of those firms complained about him, Mr. Zurier recalled one incident in which he had a disagreement with a fellow attorney about work assignments at the firm of Tillinghast Licht and then, in the middle of his answer, asked to speak to Mr. Carley.

Without giving Mr. Zurier an opportunity to respond fully, Mr. Carley suspended the deposition.

7. Ms. Harris has documentary evidence that contradicts Mr. Zurier's testimony. Ms. Harris did not have an opportunity to confront Mr. Zurier with those documents.

8. Accordingly Plaintiff Johanna Harris moves to compel Defendant Samuel D. Zurier's attendance at his continuing deposition.

Respectfully submitted,



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JOHANNA HARRIS      2/25/2016  
PO Box 9483  
Providence, Rhode Island 02940

**CERTIFICATE OF SERVICE**

I hereby certify that on February 25, 2016, I filed and served this document through the Superior Court's Odyssey File and Serve electronic filing system on Defendants Jeffrey Dana, Jorge O. Elorza, Samuel D. Zurier and James J. Lombardi III and their attorney Dennis E. Carley, Roberts, Carroll, Feldstein & Peirce Inc., [decarley@rcfp.com](mailto:decarley@rcfp.com).

PLAINTIFF, PRO SE,



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