

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

)
NUSTAR FARMS, LLC,)
ANTHONY NUNES, JR., AND)
ANTHONY NUNES, III,)
)
Plaintiffs,) Case No.
) 5:20-cv-04003-CJW-
vs.) MAR
)
RYAN LIZZA, HEARST)
MAGAZINE MEDIA, INC.,)
)
Defendants.)

ZOOM VIDEOTAPED DEPOSITION OF DEVIN NUNES
Tulare, California
Tuesday, August 10, 2021
Volume I

Reported by:
LORI M. BARKLEY CSR No. 6426
Job No. 4751278

1 (Recess taken.)

2 VIDEO OPERATOR: We are now back on the record.
3 The time is 4:28 p.m.

4 MR. DONNELLAN: Congressman, that's all the
5 questions that I have for you today.

6 I am going to leave the deposition open subject
7 to, you know, taking up with the court, some of the
8 questions that you have either declined to answer or
9 have not answered on the basis of privilege or
10 otherwise, but that's going to be all for today.

11 THE WITNESS: Well, I've answered all your
12 questions, so I'm not sure what you would take up with
13 the court, but...

14 MR. DONNELLAN: Thank you very much for your
15 time.

16 MR. BISS: Okay, I've got just a couple of
17 questions to follow up on some of the things that were
18 asked during the deposition today, and let me see if I
19 can do this as smoothly as possible.

20

21 EXAMINATION

22 BY MR. BISS:

23 Q. Counsel asked you during the deposition whether
24 you had ever listened to the audiotapes that Mr. Lizza
25 produced. I think you said no. I want to play two of

1 those audiotapes for you and get your response --

2 MR. DONNELLAN: Hold on, Steve, I'll object to
3 that. That goes beyond the scope of my examination. I
4 did not ask the Congressman today about any matters that
5 were covered by the protective order in this case, and
6 he did not testify as to the substance of any matters
7 covered by the protective order in this case, and I want
8 it to stay that way.

9 So, that's beyond the scope of the examination,
10 so I object to any attempt to introduce to him or to
11 expose him to any of the evidence that's covered by the
12 protective order.

13 MR. BISS: All right, that's -- that's -- I
14 fully understand why you're making that objection. I
15 fully understand why you don't want to have him hear
16 these tapes. I think it will -- it will upset him more
17 than your questions have upset him today.

18 But you've asked him multiple times today, you
19 asked him about the audiotapes. You also asked him
20 about the sources. And so, it's absolutely fair game
21 for me to ask him --

22 MR. DONNELLAN: It is not fair game. Steven,
23 it's not fair game. And you can't unscramble the egg,
24 so I would say that we take this -- if you want to take
25 this up with the court, we take it up with the court,

1 but it's totally inappropriate. We have not asked him
2 to sign a protective order. He has not signed a
3 protective order. And it is beyond the scope of the
4 testimony that I elicited and I asked for, and so I
5 object to this and I will -- I will take great exception
6 if you try to proceed. I'm going to end the deposition.

7 MR. BISS: Why don't you want him to hear what's
8 on the tapes? What are you afraid of?

9 THE WITNESS: Aren't I the one being deposed,
10 doesn't my lawyer have a right to ask me questions? You
11 get to end it without my lawyer having time to ask me
12 questions, is that how this works?

13 MR. DONNELLAN: It's beyond the scope of the
14 examination and it's evidence that you are not entitled
15 to hear, Congressman.

16 MR. BISS: Why isn't he entitled to hear it?

17 MR. DONNELLAN: It's governed by the protective
18 order.

19 MR. BISS: He can sign the witness assurance
20 declaration, just like everyone else.

21 MR. DONNELLAN: Well, this is our deposition, we
22 called the deposition, and we have not asked about any
23 evidence that is covered, and it's completely beyond the
24 scope of the direct examination, so it's inappropriate.
25 You should take it up with the court if you feel that

1 strongly about it, Steve.

2 MR. BISS: I just don't understand how you could
3 possibly think that's a valid objection, how you could
4 possibly think that you can stop a witness from
5 listening to an audiotape that you referred to expressly
6 on your direct examination. You examined this witness
7 and you referred to the audiotapes. You also --

8 MR. DONNELLAN: No, I didn't. All I did was ask
9 him if he had heard them, and he said no.

10 THE WITNESS: You also asked me about some
11 documents, and I said no, I'd like to see them. So, I
12 have that on my testimony to you, that I would like to
13 see them. If they exist, what you're asking me, I have
14 every right to see them. If not, there needs to be
15 transparency in this process. Because if you're hiding
16 something from me, like you hid my response of my
17 subpoena, that's completely outrageous. You can't do
18 that.

19 MR. DONNELLAN: Steven, if you look at --

20 THE WITNESS: You have to show me. You brought
21 it up. If they exist, I get to see them. You don't get
22 to ask me questions about things that you know and that
23 I don't. You did it once, you got caught, now you're
24 doing it again. So, now I find out there are audiotapes
25 and there's -- are there documents? What kind of

1 documents have I not seen for this -- for this --

2 MR. BISS: You chose to depose this witness.

3 You opened the door. You --

4 MR. DONNELLAN: No, I did not. No, I did not,
5 Steve --

6 MR. BISS: Absolutely, you did.

7 MR. DONNELLAN: No, I did not --

8 MR. BISS: Absolutely, you did.

9 (Speaking simultaneously)

10 MR. BISS: Now you want to make sure that he
11 doesn't get to see that the -- gets to hear what's on
12 those audiotapes. You've listened to the audiotapes.
13 You know what's on them.

14 MR. DONNELLAN: If you go to the protective
15 order, paragraph 8E, that during the deposition
16 witnesses in the action to whom disclosure is reasonably
17 necessary shall be given access to the materials. It's
18 not reasonably necessary. I asked him if he'd heard
19 them. He said no. That's the end of it.

20 MR. BISS: That's not reasonable --

21 MR. DONNELLAN: It's not reasonably necessary to
22 play them.

23 THE WITNESS: Wait, I object to that. I have a
24 right, this is my deposition, I totally object to that.
25 They definitely -- I do have a reason to know. You've

1 sat on this deposition going through conspiracy theory
2 after conspiracy theory after conspiracy theory, whether
3 it's who's paying lawsuits, or frivolous ethics
4 violations, and then you do that bogus little game on me
5 where you show me a subpoena and then play some game
6 like I haven't complied, and now I find out that you had
7 it sitting next to you there as one of the exhibits.

8 You asked me if I had seen some type of
9 documents. I said no, but I'd like to see them, if I
10 want to see Lizza's notes or something like that. If
11 there's notes you're damn right I want to see them. And
12 it's wrong, it's not transparent, it's totally corrupt,
13 and I'm going to go to the judge. I want to go to the
14 judge myself. And I'm not ending this deposition. I
15 want Steve to continue to ask me questions.

16 MR. BISS: You asked him a question --

17 (Speaking simultaneously)

18 THE WITNESS: Who do the hell do you think you
19 are?

20 MR. BISS: Jon, you asked him questions about
21 the article. You asked him questions about illegal
22 immigration. You spent hours --

23 (Speaking simultaneously)

24 MR. BISS: You talked about the audiotapes. You
25 used every single word to open the door here for me to

1 ask him questions about that. You asked him about his
2 family, about the operation of the farm.

3 And the fact that you don't want these
4 audiotapes made public is -- it's beyond alarming. This
5 is a matter of extreme public concern. The public --

6 MR. DONNELLAN: Steve, you are using this --
7 look, you are using this to try to -- to try to publicly
8 disclose these and to try to expose them to a witness.
9 It's not reasonably necessary, it's not appropriate
10 under the order. And to play them right now would be a
11 violation of the order and I would move for sanctions
12 and move to hold you in contempt.

13 MR. BISS: You're not going to scare me with
14 your threats.

15 MR. DONNELLAN: I don't care whether I'm scaring
16 you or not. I'm just putting you on notice.

17 (Speaking simultaneously)

18 MR. BISS: Go write an article about it, tell
19 the Fresno Bee, go write an article --

20 MR. DONNELLAN: We should take it up with the
21 judge because this is a very serious step that you're
22 proposing to take. It's a violation of the protective
23 order. It's beyond the scope of the examination. You
24 can make your choice, but I would end this deposition
25 right now because this is absolutely inappropriate.

1 MR. BISS: You're trying to conceal material
2 information from the public. That's what you're trying
3 to do. You're trying to assure that the public knows
4 your half of the story.

5 MR. DONNELLAN: If you would like to go to the
6 court and make a motion, you should do it.

7 MR. BISS: (Speaking simultaneously).

8 MR. DONNELLAN: Just the same way that I'm going
9 to go to the court and make a request with respect to
10 matters that the Congressman didn't want to answer
11 today, if you have issues that you would like to take up
12 with the court in connection with this deposition, you
13 should do that, too. And then we'll come back and we
14 will ask questions, and if the court allows you, you can
15 ask questions and play the deposition -- play the tapes
16 for the deposition. But --

17 MR. BISS: He has a right to know what you did
18 to his family.

19 MR. DONNELLAN: (Speaking simultaneously)

20 MR. BISS: That, he has a right to know.

21 MR. DONNELLAN: He has no right to know this
22 information because it's covered by a protective order
23 that you and I are subject to, and our clients are
24 subject to, and that this would be a violation of the
25 protective order.

1 THE WITNESS: You asked me questions about
2 documents that I don't know about and now you're trying
3 to claim that now we don't have to do that --

4 MR. DONNELLAN: With all due respect,
5 Congressman, I can't discuss this with you, this is
6 between me and your lawyer, and he and I need to work
7 this out. Okay? So, I'm not going to respond to
8 anything that you have to say.

9 THE WITNESS: Well, I also have --

10 MR. DONNELLAN: If you feel the need to make a
11 speech, you can make a speech.

12 THE WITNESS: I'm not making a speech, but you
13 continue to say that I didn't answer your questions. I
14 answered every single one of your questions, so I want
15 to make sure that that's on this deposition. Hopefully,
16 the judge will read this deposition, 'cause there's
17 nothing that I didn't answer. Matter of fact, I
18 answered all your psychobabble questions about things
19 that have nothing to do, zero relevance whatsoever,
20 including about trips to the White House. Like what --

21 MR. DONNELLAN: Every single word that you've
22 said is reflected in the transcript and he'll have an
23 opportunity to read it, and your lawyer will have an
24 opportunity to point them out to him.

25 MR. BISS: I'm concerned with what you're trying

1 to keep out of the transcript and --

2 MR. DONNELLAN: Well, take it up with the court.
3 Take it up with the court, Steve, that's where it
4 belongs.

5 MR. BISS: This witness has a right to know
6 what's on those audiotapes, just like the public does.

7 MR. DONNELLAN: No, he does not.

8 MR. BISS: The public has a right --

9 MR. DONNELLAN: It is subject to a court
10 order --

11 (Speaking simultaneously)

12 MR. DONNELLAN: It's subject to a court order
13 and it should be taken up with the court.

14 MR. BISS: Jon, what I find most astounding is,
15 you represent a member of the press, and here we have a
16 classic example, maybe another classic example of the
17 press trying to keep the truth from the people, and
18 including this witness, trying to keep the truth from
19 this witness. And he's entitled to know what's on the
20 audiotapes and to respond to what's on the audiotapes,
21 as part of his testimony in this case, including on the
22 question of damages, on the question of --

23 MR. DONNELLAN: This witness is not even a party
24 to this case --

25 MR. BISS: He's a witness.

1 MR. DONNELLAN: -- Steve.

2 MR. BISS: He's a witness. He's a witness
3 and --

4 MR. DONNELLAN: He has no entitlement under this
5 order to have access to these materials. If you would
6 like to have a discussion offline about lifting the
7 protective order so that all materials subject to the
8 protective order are disclosed, let's have that
9 discussion.

10 But for right now, we have a protective order,
11 it's in place, it's signed by the judge, and if you were
12 to play this tape right now it would be a violation of
13 that order.

14 MR. BISS: Well, I can tell you this, I am --
15 I'm shocked by this response. I'm shocked by it, but
16 I'm not surprised. And I'm not going to put myself or
17 my clients, or the witness, in the position of violating
18 a federal court order. I'm not going to give you the
19 satisfaction of preparing a motion for sanctions, but I
20 will tell you this:

21 We are definitely, definitely going to the judge
22 on this, and we're going to seek attorney's fees and
23 costs for you tying up this deposition. We have a few
24 more days left to finish up discovery. How am I going
25 to get to examine this witness on these audiotapes

1 because of what you're doing? You're effectively
2 running out the clock, that's what you're doing here.
3 And unless you --

4 MR. DONNELLAN: If you have a valid claim, you
5 take it up with the court, and I'm sure the court will
6 give you relief to pursue that questioning if he deems
7 that it's appropriate, as he's done in other instances
8 where there's been an appropriate request to push out
9 the discovery schedule. So, that's certainly your right
10 and you can make that request. And if the court grants
11 it, we'll come back and we'll finish it.

12 MR. BISS: Just so I'm clear, so you're refusing
13 to go forward with the deposition, you're threatening
14 me, and perhaps the witness, you're threatening me with
15 sanctions and other types of remedies if I proceed with
16 the audiotapes, with showing him and asking him
17 questions about what's on those audiotapes.

18 MR. DONNELLAN: I'm not threatening you. I'm
19 telling you that it would be --

20 MR. BISS: Sounds like a threat to me.

21 MR. DONNELLAN: Don't mischaracterize it. I am
22 telling you that it would be a violation of the court
23 order and that I will seek relief from the court if you
24 proceed with that.

25 MR. BISS: And what other grounds, other than

1 what you've stated, what other grounds do you have that
2 it's a violation of the court order?

3 MR. DONNELLAN: As I've already told you,
4 it's -- you can go read the protective order yourself.
5 It's right in there --

6 MR. BISS: Well, are there any other grounds --

7 MR. DONNELLAN: And it's also beyond the scope
8 of the direct examination to begin with, so it's
9 completely inappropriate.

10 MR. BISS: Well, it's definitely not beyond the
11 scope, but any other grounds under the protective order
12 that you want to put on the record? This is your
13 opportunity.

14 MR. DONNELLAN: I would just direct you to the
15 protective order, Steve. You've got it. You can read
16 it. You are a party to it and you were part of putting
17 it forward to the court. So --

18 MR. BISS: I don't think it restricts me at all
19 in the examination of the witness. This witness can
20 sign a witness assurance declaration and he can receive
21 any counsel's eyes only information at all. He's a
22 witness to the deposition. You agree with that, right?

23 MR. DONNELLAN: No, absolutely not.

24 MR. BISS: You don't think -- because you called
25 this witness, I can't show him counsel's eyes only

1 information?

2 MR. DONNELLAN: Absolutely not. This is my
3 deposition. This is defendants' deposition. I called
4 it. I did not show him those materials and I did not
5 reveal any materials that are subject to the
6 confidentiality order, whether attorney's eyes only or
7 under any lesser standard. And so, there's no basis for
8 him to sign, it's not reasonably necessary to the
9 deposition, and it's beyond the scope of anything that
10 I've asked about.

11 THE WITNESS: So, just so I'm clear, so now,
12 Steve, you don't get to ask me any questions, and
13 anything that he asked of me, he gets to decide whether
14 or not it's relevant or not. So, I'm being treated
15 differently than all the other people that got deposed,
16 which is totally ridiculous and wrong.

17 And I don't know what the hell you guys at
18 Hearst are trying to cover up, but you asked me about
19 audiotapes, you asked me about notes, you asked me about
20 documents, so I get a right to see those documents and
21 hear those tapes, that I now know exist. And if not,
22 you're keeping them from me, a witness, who you've made
23 a witness. And you're the one that called me for a
24 deposition, not Steve.

25 You asked me 90 percent of questions that are

1 not relevant at all to this case, that are completely
2 just fishing, things that you want to try to push out to
3 all your fake news people. And now you're threatening
4 my lawyer with me on the line. You threatened me a
5 couple times with going to the judge. And then you said
6 that I didn't answer your questions and you're going to
7 the judge, so you're full of threats.

8 But I know this much, those tapes need to get
9 out. If you continue to hide them, I don't know what my
10 legal remedies are, but as far as I'm concerned, this
11 deposition is not complete because of your illegal cover
12 up and activity here, that continues to cover up your
13 lies for the sex predator that you sent out to harass my
14 family.

15 And now there's actual tapes that exist of this?
16 I've never heard of them. So, why do I not get to hear
17 them? I don't know what the court's going to say about
18 this, but this seems totally unfair, that my lawyer
19 doesn't get to ask me any questions. This is absurd.
20 And I don't know what game you think this is, but maybe
21 you should send ICE out to Hearst winery and Hearst
22 ranch or something. What a joke.

23 (Speaking simultaneously)

24 MR. DONNELLAN: I don't agree with your
25 ad hominum characterizations, Congressman, but I think

1 we can agree --

2 (Speaking simultaneously).

3 MR. BISS: Do you think that it's ethical for
4 you to stop a deposition based on the grounds that the
5 cross-examination exceeds the scope of your direct? Do
6 you think that's a legitimate response? I don't think
7 that's a legitimate response, and I don't think --

8 MR. DONNELLAN: I think it's a legitimate
9 response when you're about to violate a protective order
10 that's been put in place by the court.

11 MR. BISS: I'm not about to violate anything.
12 You know I'm not about to violate anything. You know
13 that the only reason you're doing this is to hide the
14 truth. That's it.

15 MR. DONNELLAN: I know, Steve, I know, Steve, I
16 understand all the points that you and your client want
17 to make right now and that's --

18 MR. BISS: So, why not let us make them? Why
19 not?

20 MR. DONNELLAN: No, no, no, no, if you can get
21 off your soapbox right now, I think we have said what we
22 have to say for the record, let's close the deposition,
23 we can take it up with the court, and anything that you
24 want to say to the court in terms of playing attorneys'
25 eyes only material that was not covered by this

1 deposition, you can make those arguments to the court.

2 MR. BISS: Hey, Jon, so much for the First
3 Amendment.

4 THE WITNESS: Well, hold on a second. I have
5 another question for my lawyer, since we're still in the
6 deposition, but I guess you have the right to just shut
7 it off, you can just shut me off.

8 So, I want to know, I brought up the goons that
9 were out in my district that you sent to harass my
10 constituents. How did those people know of these people
11 that worked for my family years and years and years ago
12 unless it was something that my family had provided to
13 you --

14 MR. DONNELLAN: I'm going to stop you,
15 Congressman, and I'm going to --

16 (Speaking simultaneously)

17 MR. DONNELLAN: Mr. Biss, would you please
18 instruct your client to stop with the speeches? There's
19 no question pending. We're suspending this deposition
20 at this point.

21 MR. BISS: Well, the problem is, is that you're
22 the one who talks about counsel's eyes only and the
23 protective order, and what he's pointing out is the
24 hypocrisy of your statement. The fact is, that you sent
25 goons out to California and you gave them -- you gave

1 them counsel's eyes only information. That's his point.

2 It doesn't -- it's hypocrisy. That's what he's
3 concerned about. That's what he's trying --

4 MR. DONNELLAN: This is not the right place for
5 speeches, okay, we're done. You can take it up with the
6 court.

7 MR. BISS: We will, we definitely will take it
8 up with the court, no question.

9 MR. DONNELLAN: The deposition is ended.

10 MR. BISS: Thanks for hiding the truth, Jon,
11 thanks for trying to hide it. We'll get it out, okay,
12 we'll get it out.

13 VIDEO OPERATOR: We are now going off the record
14 at 4:48 p.m. and this concludes today's testimony given
15 by Devin Nunes. The total number of media units used
16 was three and will be retained by Veritext Legal
17 Solutions. Thank you.

18
19 (TIME NOTED: 4:48 p.m.)
20
21
22
23
24
25

1 I declare under penalty of perjury
2 under the laws of the State of
3 California that the foregoing is true
4 and correct.

5 Executed on _____, 2021, at

6 _____, _____.

7
8
9
10 _____
11 SIGNATURE OF WITNESS
12
13
14
15
16
17
18
19
20
21
22
23
24

25 Job No. CS4751278

1 STATE OF CALIFORNIA) ss.

2 COUNTY OF LOS ANGELES)

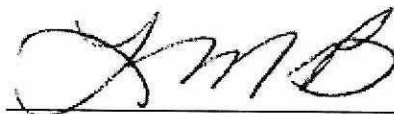
3
4 I, Lori M. Barkley, CSR No. 6426, do hereby
5 certify:

6 That the foregoing deposition testimony taken
7 before me at the time and place therein set forth and at
8 which time the witness was administered the oath;

9 That the testimony of the witness and all
10 objections made by counsel at the time of the
11 examination were recorded stenographically by me, and
12 were thereafter transcribed under my direction and
13 supervision, and that the foregoing pages contain a
14 full, true and accurate record of all proceedings and
15 testimony to the best of my skill and ability.

16 I further certify that I am neither counsel for
17 any party to said action, nor am I related to any party
18 to said action, nor am I in any way interested in the
19 outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name
21 this 12th day of August 2021.

22
23 

24 LORI M. BARKLEY, CSR No. 6426
25