

BEFORE THE HEARING SUBCOMMITTEE  
OF THE INTERIM LEGISLATIVE ETHICS COMMITTEE

In re: Representative Carl Trujillo,

Respondent.

**SCHEDULING ORDER**

THIS MATTER came before the Hearing Subcommittee based on the determinations of probable cause by the Investigative Subcommittee of the Interim Legislative Ethics Committee, dated July 27, 2018. Pursuant to Legislative Council Policy No. 16, the Hearing Subcommittee hereby adopts the determinations of the Investigative Subcommittee and issues a written finding of probable cause, consistent with the Report and Recommendations of Special Counsel to the Investigative Subcommittee, dated July 25, 2018.

Pursuant to Legislative Council Policy No. 16, Section J, a formal hearing is hereby initiated, and the Hearing Subcommittee establishes the following procedures for the hearing:

**1. Formal Hearing Date/Location.** The Formal Hearing in this matter shall be held in Room 307, at the State Capitol, beginning **December 3, 2018, beginning at 9:00 a.m.** The Formal Hearing shall last for no more than two (2) days. Pursuant to Legislative Council Policy No. 16(J)(1), the Special Counsel to the Investigative Subcommittee “are hereby appointed to be the charging party and present the case against the legislator being charged.” The time shall be divided equally between the Charging Party’s presentation of its case-in-chief and any rebuttal case, and Respondent’s presentation of its case-in-chief and any sur-rebuttal.

**2. Pre-Hearing Motions.** The parties may file written motions before the Hearing Subcommittee. The party against whom the motion is filed may file a response no later than seven (7) days after service of the motion. All pre-hearing motions must be filed by October 31, 2018.

The Hearing Subcommittee shall hold a hearing on all outstanding motions (“Motion Hearing”) before the Formal Hearing.

**3. Presiding Officers.** Representative D. Wonda Johnson and Representative Gail Armstrong, as Co-Chairs of the Hearing Subcommittee, shall preside over the Motion Hearing and Formal Hearing, and render decisions on motions concerning evidentiary and discovery matters. All other motions shall be heard and determined by the Hearing Subcommittee.

**4. Discovery.** In advance of the formal hearing, the parties may engage in written and oral discovery, including:

(a) Depositions. Any party may take the depositions of any witness designated by the other party by issuing a Notice of Deposition in substantially the same form required by Rule 1-030 NMRA. The deposition shall be taken under oath, and requirements of Rule 1-030 shall apply except that the deponent shall have ten (10) days from the receipt of transcript to review and make any changes. Failure of a witness to appear or cooperate shall be grounds to preclude the witness from testifying at the formal hearing, or other sanctions.

(b) Written Discovery. Any party may serve upon the other party or that party’s witness (1) written interrogatories, not exceeding twenty-five (25) in number; and (2) requests for production, not exceeding twenty-five (25) in number. Service upon a party’s witness shall be accomplished by serving the attorney for the party calling the witness. The requirements of Rules 1-033 and 1-034 NMRA shall apply, except that the responding party shall serve a written response and produce any responsive records and information within 10 days after service. Failure of a witness to timely respond or cooperate with written discovery shall be grounds to preclude the witness from testifying at the formal hearing, or other sanctions. Any objection to written discovery that cannot be resolved by the parties must be made by motion and filed with the

Legislative Council Service, and shall be decided following a preliminary hearing held sufficiently in advance of the Formal Hearing to allow the party seeking such information to obtain and consider use of it at the formal hearing.

(c) Discovery Deadline. The deadline to serve discovery is October 31, 2018.

**5. Witness Disclosures.**

(a) On or before September 28, 2018, the Charging Party shall disclose to Respondent and to the Hearing Subcommittee all witnesses intended to be called by the Charging Party for the case-in-chief at the hearing (this designation shall not apply to rebuttal witnesses called by the Charging Party whose testimony cannot be reasonably anticipated).

(b) On or before October 19, 2018, Respondent shall disclose to the Charging Party and to the Hearing Subcommittee all witnesses Respondent intends to call for Respondent's case-in-chief at the hearing (this designation shall not apply to sur-rebuttal witnesses called by Respondent whose testimony cannot be reasonably anticipated).

**6. Exhibit Disclosure.**

(a) On or before October 5, 2018, the Charging Party shall submit to Respondent copies of all documents Special Counsel intends to introduce as evidence at the hearing.

(b) On or before October 19, 2018, Respondent shall submit to the Charging Party copies of all documents Respondent intends to introduce as evidence in the hearing.

(c) Either party may supplement this disclosure if relevant information or records are subsequently obtained through discovery or by order of the Hearing Subcommittee.

**7. Trial Brief.** Each party may submit a trial brief to the Hearing Subcommittee no later than five (5) business days before the Formal Hearing. The purpose of such briefs is to

explain each party's position on the applicable law to assist the Hearing Subcommittee render its determination.

8. Respondent does not agree to all proposed procedures in this Order, and reserves the right to contest them and propose alternative procedures by motion.

HEARING SUBCOMMITTEE OF THE INTERIM  
LEGISLATIVE ETHICS COMMITTEE



---

Representative D. Wonda Johnson, Co-Chair

Date: 9/26/18



---

Representative Gail Armstrong, Co-Chair

Date: 9/26/18

HINKLE SHANOR LLP

/s/ Thomas M. Hnasko

Thomas M. Hnasko  
P.O. Box 2068  
Santa Fe, NM 87504-2068  
(505) 982-4554  
[thnasko@hinklelawfirm.com](mailto:thnasko@hinklelawfirm.com)

RODEY, DICKASON, SLOAN, AKIN  
& ROBB, P.A.

/s/ Theresa W. Parrish  
Theresa W. Parrish  
P.O. Box 1888  
Albuquerque, NM 87103-1888

(505) 765-5900  
[tparrish@rodey.com](mailto:tparrish@rodey.com)

*Charging Party*

JACKSON LOMAN STANFORD & DOWNEY, P.C.

/s/ Travis G. Jackson/s/ \_\_\_\_\_  
Travis G. Jackson  
Eric Loman  
P.O. Box 1607  
Albuquerque, NM 87103-1607  
(505) 767-0577  
[travis@jacksonlomanlaw.com](mailto:travis@jacksonlomanlaw.com)  
[eric@jacksonlomanlaw.com](mailto:eric@jacksonlomanlaw.com)

*Attorneys for Representative Carl Trujillo*