

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

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
SEP 03 1998

JAMES W. McCORMACK, CLERK
By: _____
DEP CLERK

IN RE
PAULA CORBIN JONES,

Plaintiff,

v.

Case No. LR-C-94-290

WILLIAM JEFFERSON CLINTON
and DANNY FERGUSON,

Defendants.

STATEMENT OF JUDICIAL NOTICE¹

Comes now Landmark Legal Foundation², by and through the undersigned counsel, and pursuant to Federal Rules of Evidence 201 and 803 respectfully requests that the Court take judicial notice of the attached documents and immediately take appropriate action to investigate and sanction the apparent improper, if not unlawful, conduct perpetrated on the Court by the President of the United States in his January 17, 1998 deposition supervised by this Court in the above-captioned lawsuit.

Document 1 contains pertinent portions of the President's deposition transcript, subscribed and sworn to on or about January 17, 1998. Document 2 is the Court approved definition of the term "sexual relations" used in the President's deposition. Document 3 is an affidavit on file in the above-captioned civil matter subscribed and sworn to on or about January 7, 1998 by Monica Lewinsky. Document 4 is a transcript of the President's speech to the nation

¹ Given the advisory nature of this filing, Landmark Legal Foundation submits this as a friend of the court without the aid of local counsel and respectfully urges the Court accept this filing for its consideration.

² Founded in 1976, Landmark Legal Foundation is a national public interest law firm dedicated to the principles of limited, constitutional government and the protection of individual liberties. Landmark has a long history of defending the rule of law and promoting ethical conduct by governmental officials in all branches of government.

DOCUMENT
NUMBER
418
JAMES W. McCORMACK
CLERK OF COURT

on August 17, 1998. Document 5 is an August 22, 1998 *National Journal* article (Internet version). Document 6 is an August 19, 1998 *Washington Post* article (Internet version). Document 7 is an August 23, 1998 opinion article written by Landmark Legal Foundation President Mark R. Levin and Arthur F. Fergenson published in the *Washington Times*.

Landmark Legal Foundation respectfully requests that the Court invoke its inherent supervisory powers and its supervisory powers provided by Rule 26(b)(2)(D) and Rule 37, Fed.R.Civ.P., to *sua sponte* hold a hearing to determine whether the President should be held in contempt of court pursuant to 18 U.S.C. Section 401.

On January 17, 1998, President William Jefferson Clinton submitted to a sworn deposition in the above-captioned matter. Mr. Clinton appeared with his attorney and was questioned by attorneys representing the Plaintiff. United States District Judge Susan Webber Wright presided over the deposition, ruling on various matters including the areas and scope of questioning, definitions of certain terms at issue in the deposition, and objections raised throughout the proceeding.

Document 1 reflects that the Court approved a definition of the term "sexual relations"³ for use in the President's questioning by Plaintiff's attorney. In an exchange with Plaintiff's attorney, the President represented as follows:

Q. "Did you have an extramarital sexual affair with Monica Lewinsky?"

A. No.

Q. If she told someone that she had a sexual affair with you beginning in November of 1995, would that be a lie?

A. It's certainly not the truth. It would not be the truth.

³ The Plaintiff submitted the following "Definition of Sexual Relations" to the court: For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes -
(1) contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person;
(2) contact between any part of the person's body or an object and the genitals or anus of another person; or
(3) contact between the genitals or anus of the person and any part of another person's body. "Contact" means intentional touching, either directly or through clothing." (Document 2.)

Q. I think I used the term "sexual affair." And so the record is completely clear, have you ever had sexual relations with Monica Lewinsky, as that term is defined in Deposition Exhibit 1, as modified by the Court.

MR. BENNETT: I object because I don't know that he can remember.

JUDGE WRIGHT: Well, it's real short. He can – I will permit the question and you may show the witness definition number one.

A. I have never had sexual relations with Monica Lewinsky. I've never had an affair with her."

(Document 1, p. 78.)

Document 3 is the affidavit of Monica Lewinsky, also known as "Jane Doe Number 6."

During the course of the President's deposition, the President's counsel referred to Ms.

Lewinsky's affidavit in the President's presence. Ms. Lewinsky's affidavit was presented to the

Court in an effort to stave off questioning of the President on his relationship with Ms.

Lewinsky. The relevant exchange between the Court and the President's counsel as reflected in

Document 3 was as follows:

MR. BENNETT: Your Honor, excuse me, Mr. President, I need some guidance from the Court at this point. I'm going to object to the innuendo. I'm afraid, as I say, that this will leak. I don't question the predicates here. I question the good faith of counsel, the innuendo in the question. Counsel is fully aware that Ms. Jane Doe 6 has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind in any manner, shape or form, with President Clinton, and yet listening to the innuendo in the questions –

JUDGE WRIGHT: No, just a minute, let me make my ruling. I do not know whether counsel is basing this question on any affidavit, but I will direct Mr. Bennett not to comment on other evidence that might be pertinent and could be arguably coaching the witness at this juncture. Now, I, Mr. Fisher is an officer of this court, and I have to assume that he has a good faith basis for asking the question. If in fact he has no good faith basis for asking this question, he could later be sanctioned. If you would like, I will be happy to review in camera any good faith basis he might have.

MR. BENNETT: Well, Your Honor, with all due respect, I would like to know the proffer. I'm not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Jane Doe 6's affidavit, so I have not told him a single thing he doesn't know, but I think when he asks questions like this where he's sitting on an affidavit from the witness, he should at least have a good faith proffer.

JUDGE WRIGHT: Now, I agree with you that he needs to have a good faith basis for asking the question.

MR. BENNETT: May we ask what it is, Your Honor?

JUDGE WRIGHT: And I'm assuming that he does, and I will be willing to review this in camera if he does not want to reveal it to counsel.

MR. BENNETT: Fine.

MR. FISHER: I would welcome an opportunity to explain to the Court what our good faith basis is in an in camera hearing.

JUDGE WRIGHT: All right.

MR. FISHER: I would prefer that we not take the time to do that now, but I can tell the Court I am very confident there is substantial basis.

JUDGE WRIGHT: All right, I'm going to permit the question. He's an officer of the Court, and as you know, Mr. Bennett, this Court has ruled on prior occasions that a good faith basis can exist notwithstanding the testimony of the witness, of the deponent, and the other party.

MR. BENNETT: Yes, Your Honor, but you understand, and I'm not arguing with you what my concern is, Your Honor, I wouldn't have any trouble with that if I knew that this deposition would be kept under seal. But when he mentions names, when he knows, or at least, you know, hearsay, hearsay, hearsay about something, they check it out, they get an affidavit from the woman, they ask these questions, and the Washington Times will have her name on the front page tomorrow or the day after.

JUDGE WRIGHT: As you know, I'm extremely sympathetic with your position, however this is a discovery deposition.

MR. BENNETT: I understand. That's all right, Your Honor. I'm sorry.

JUDGE WRIGHT: Go ahead.

MR. FISHER: Thank you, Your Honor.

(Document 1, pp. 53-56.)

Clearly, the Court was concerned that this line of questioning be conducted in good faith. Moreover, the Court's admonition regarding the responsibilities of all officers of the court to maintain the integrity of the proceeding was in the forefront of the Court's mind.

Under cross-examination, the following exchange took place between the President and his attorney:

Q. In paragraph eight of her affidavit, she says this, "I have never had a sexual relationship with the president, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for reflecting a sexual relationship." Is that a true and accurate statement as far as you know it?

A. That is absolutely true.

Q. Do you recall, do you recall –

MR. BENNETT: Your Honor, may I have this appended as an exhibit to this deposition, please?

(Document 1, p. 204.)

Document 4 is a transcript of President Clinton's August 17, 1998 address to the nation, which followed his sworn testimony before a Grand Jury. In that address, and apparently in his sworn testimony tendered earlier that day, the President acknowledged that

As you know, in a deposition in January, I was asked questions about my relationship with Monica Lewinsky. While my answers were legally accurate, I did not volunteer information. Indeed, I did have a relationship with Ms. Lewinsky that was not appropriate. In fact, it was wrong.

Widely reported media accounts indicate that the President now admitted to the Grand Jury a sexual relationship with Ms. Lewinsky. (Document 5.) The President's representatives have accepted these reports as truthful. (Document 6.) His sworn August 17, 1998 testimony, as represented in the President's address to the nation and in media reports, contradicts his January 17, 1998 deposition testimony presided over by this Court. Moreover, the public record -- and the President's own words -- now make clear that the President appears to have intentionally provided this Court with false testimony. (See Document 7.)

The President further appears to have misled the court by allowing his counsel to rely on the Lewinsky affidavit, which the President knew to be false. Despite ample opportunity to do so, the President apparently did not draw the Lewinsky affidavit's untruthfulness to the Court, or apparently to his counsel. The record reflects that the President's attorney represented that Mr. Clinton was "fully aware of [the content of] Ms. Jane Doe 6's affidavit" and that the President was questioned extensively about his relationship with Ms. Lewinsky by Plaintiff's counsel. Moreover, during Plaintiff's inquiry regarding the President's relationship with Ms. Lewinsky, the parties paused for a lunch break (see Document 1, pp. 51-53) giving the President additional opportunity to alert his attorney to the affidavit's untruthfulness. Still the President did not alert the Court to the falsity of the affidavit. Moreover, immediately following the lunch break, in the

Court's and the President's presence, the President's attorney cited the Lewinsky affidavit's declaration that "there is absolutely no sex of any kind in any manner, shape or form, with President Clinton. . . ." (Document 1, p. 54.) The record reflects the President's silence. Finally, in response to his own attorney's inquiry during cross-examination, the President directly asserted the Lewinsky affidavit was truthful. (Document 1, p. 204.)

The United States Supreme Court and the Eighth Circuit Court of Appeals have ruled that the Court has authority under 18 U.S.C. Section 401 to punish the conduct described above as contemptuous. Section 401 provides, in part, that:

A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as -

- (1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice

The United States Supreme Court held in *In re Michael*, 326 U.S. 224 (1945), that false testimony by a witness combined with further obstruction constitutes contempt under Section 401. Moreover, in *Howard v. U.S.*, 182 F.2d 908 (8th Cir. 1950), the Circuit Court, applying *In re Michael*, held that a district court may hold a witness in contempt where the witness's answers were "evasive, fantastic, and untrue, and that their effect and purpose was to obstruct" the inquiry. 182 F.2d at 914. "Whether this was perjury or false swearing, there is no occasion to inquire. It was a deliberate endeavor to thwart the process of inquiry" *Id.* (quoting *Clark v. United States*, 289 U.S. 1, 10 (1933)).

The President's apparent commissions and omissions in his January 17, 1998 deposition appear to meet and exceed the 8th Circuit's standard.

It is incumbent on this Court to ensure the integrity of proceedings over which it presides. As the Court stressed during the President's deposition, officers of the Court (of which the President is one) are bound to conduct themselves in good faith and are subject to sanctions in

the event they do not. Certainly the nation's chief law enforcement officer is bound by this standard of conduct.

Accordingly, Landmark Legal Foundation respectfully requests that this Court compel the President to appear before it and answer questions, in open court, on his use of the Lewinsky affidavit and his apparent false testimony. Moreover, respectfully, the Court should make further inquiry to determine whether the President's conduct was part of a broader effort to obstruct the court in the performance of its duty. For example, the Court may wish to determine whether the President knowingly participated in the return of his gifts to Ms. Lewinsky, which were subpoenaed by plaintiff's counsel in the above-captioned proceeding.

Importantly, published reports indicate that the House of Representatives may soon consider evidence of possible impeachable offenses against the President under its Article I, Section 2 powers. To delay a hearing on possible contemptuous conduct by the President before this Court is to deny the House of Representatives information that may bear directly on its likely inquiry. For this reason, and for the reasons stated previously, we urge this court to conduct immediately an open hearing on these matters.

This case presents the unusual circumstance that the President may have acted contemptuously in the Court's presence. The Court's courtesy to the President, in which it directly supervised his deposition, was apparently met, literally, with contempt.

Dated: 9-2-98

Respectfully submitted on behalf of

Landmark Legal Foundation
Mark R. Levin, President
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By 

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CERTIFICATE OF SERVICE

A true and accurate copy of the foregoing was served this 2nd day of September, 1998 by first class, U.S. Mail, postage prepaid, to the following counsel of record:

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

PAULA CORBIN JONES

VS.

WILLIAM JEFFERSON CLINTON
and DANNY FERGUSON

)
)
)
)
)

CIVIL ACTION NO.
LR-C-94-290

Judge Susan Webber Wright

* * * * *
VIDEOTAPED ORAL DEPOSITION OF
WILLIAM JEFFERSON CLINTON
* * * * *

January 17, 1998

Washington, D.C.

Denise K. McNamara, CSR, RPR, RMR

COPY

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Page 51

1 all working there, and so I saw her on two or three
2 occasions then, and then when she worked at the White
3 House, I think there was one or two other times when
4 she brought some documents to me.

5 Q. Well, you also saw her at a number of
6 social functions at the White House, didn't you?

7 A. Could you be specific? I'm not sure. I
8 mean when we had, when we had like big staff things
9 for, if I had a, like in the summertime, if I had a
10 birthday party and the whole White House staff came,
11 then she must have been there. If we had a Christmas
12 party and the whole White House staff was invited,
13 she must have been there. I don't remember any
14 specific social occasions at the White House, but
15 people who work there when they're invited to these
16 things normally come. It's a -- they work long
17 hours, it's hard work, and it's one of the nice
18 things about being able to work there, so I assume
19 she was there, but I don't have any specific
20 recollection of any social events.

21 JUDGE WRIGHT: I want to interrupt because
22 I want a break. I also wanted to ask about the
23 luncheon break. We're not, we're not too far from
24 twelve. I personally don't care when we take it, but
25 has Skadden lawyers arranged for lunch to be brought

Page 52

1 up to us?

2 MR. BENNETT: I've arranged for lunch, Your
3 Honor. We can have it -- I don't know if it's there
4 right now. We were thinking twelve-thirty, but
5 whatever --

6 JUDGE WRIGHT: That's great. That's
7 perfect.

8 MR. BENNETT: And we have a room set aside
9 for you and your law clerk where you can eat
10 privately, and we have a separate room for their side
11 of the table, and our side.

12 JUDGE WRIGHT: All right, let's take a ten
13 minute break.

14 (Short recess.)

15 JUDGE WRIGHT: All right, Mr. Fisher, you
16 may resume.

17 MR. FISHER: Thank you, Your Honor.

18 Q. Mr. President, before the break, we were
19 talking about Monica Lewinsky. At any time were you
20 and Monica Lewinsky together alone in the Oval
21 Office?

22 A. I don't recall, but as I said, when she
23 worked at the legislative affairs office, they always
24 had somebody there on the weekends. I typically
25 worked some on the weekends. Sometimes they'd bring

Page 53

1 me things on the weekends. She -- it seems to me she
2 brought things to me once or twice on the weekends.
3 In that case, whatever time she would be in there,
4 drop it off, exchange a few words and go, she was
5 there. I don't have any specific recollections of
6 what the issues were, what was going on, but when the
7 Congress is there, we're working all the time, and
8 typically I would do some work on one of the days of
9 the weekends in the afternoon.

10 Q. So I understand, your testimony is that it
11 was possible, then, that you were alone with her, but
12 you have no specific recollection of that ever
13 happening?

14 A. Yes, that's correct. It's possible that
15 she, in, while she was working there, brought
16 something to me and that at the time she brought it
17 to me, she was the only person there. That's
18 possible.

19 Q. Did it ever happen that you and she went
20 down the hallway from the Oval Office to the private
21 kitchen?

22 MR. BENNETT: Your Honor, excuse me, Mr.
23 President, I need some guidance from the Court at
24 this point. I'm going to object to the innuendo.
25 I'm afraid, as I say, that this will leak. I don't

Page 54

1 question the predicates here. I question the good
2 faith of Counsel, the innuendo in the question.
3 Counsel is fully aware that Ms. [REDACTED] ^{Jane Doe 6} has filed,
4 has an affidavit which they are in possession of
5 saying that there is absolutely no sex of any kind in
6 any manner, shape or form, with President Clinton,
7 and yet listening to the innuendo in the questions --

8 JUDGE WRIGHT: No, just a minute, let me
9 make my ruling. I do not know whether counsel is
10 basing this question on any affidavit, but I will
11 direct Mr. Bennett not to comment on other evidence
12 that might be pertinent and could be arguably
13 coaching the witness at this juncture. Now, I, Mr.
14 Fisher is an officer of this Court, and I have to
15 assume that he has a good faith basis for asking this
16 question. If in fact he has no good faith basis for
17 asking the question, he could later be sanctioned.
18 If you would like, I will be happy to review in
19 camera any good faith basis he might have.

20 MR. BENNETT: Well, Your Honor, with all
21 due respect, I would like to know the proffer. I'm
22 not coaching the witness. In preparation of the
23 witness for this deposition, the witness is fully ^{Jane Doe 6}
24 aware of Ms. [REDACTED]'s affidavit, so I have not told
25 him a single thing he doesn't know, but I think when

Page 55'

1 he asks questions like this where he's sitting on an
2 affidavit from the witness, he should at least have a
3 good faith proffer.

4 JUDGE WRIGHT: Now, I agree with you that
5 he needs to have a good faith basis for asking the
6 question.

7 MR. BENNETT: May we ask what it is, Your
8 Honor?

9 JUDGE WRIGHT: And I'm assuming that he
10 does, and I will be willing to review this in camera
11 if he does not want to reveal it to Counsel.

12 MR. BENNETT: Fine.

13 MR. FISHER: I would welcome an opportunity
14 to explain to the Court what our good faith basis is
15 in an in camera hearing.

16 JUDGE WRIGHT: All right.

17 MR. FISHER: I would prefer that we not
18 take the time to do that now, but I can tell the
19 Court I am very confident there is substantial
20 basis.

21 JUDGE WRIGHT: All right, I'm going to
22 permit the question. He's an officer of the Court,
23 and as you know, Mr. Bennett, this Court has ruled on
24 prior occasions that a good faith basis can exist
25 notwithstanding the testimony of the witness, of the

Page 56

1 deponent, and the other party.

2 MR. BENNETT: Yes, Your Honor, but you
3 understand, and I'm not arguing with you what my
4 concern is, Your Honor, I wouldn't have any trouble
5 with that if I knew that this deposition would be
6 kept under seal. But when he mentions names, when he
7 knows, or at least, you know, hearsay, hearsay,
8 hearsay about something, they check it out, they get
9 an affidavit from the woman, they ask these
10 questions, and the Washington Times will have her
11 name on the front page tomorrow or the day after.

12 JUDGE WRIGHT: As you know, I'm extremely
13 sympathetic with your position, however this is a
14 discovery deposition.

15 MR. BENNETT: I understand. That's all
16 right, Your Honor, I'm sorry.

17 JUDGE WRIGHT: Go ahead.

18 MR. FISHER: Thank you, Your Honor.

19 THE WITNESS: What was your question again,
20 sir?

21 MR. FISHER: I've forgotten, Mr. President,
22 I'm sorry.

23 JUDGE WRIGHT: Something about Ms. Jane Doe b
24 in the hallway.

25 Q. Do you recall ever walking with Jane Doe b

Page 78

1 inappropriate for counsel to comment, so I will
2 sustain the objection.

3 MR. FISHER: I understand.

4 Q. Did you have an extramarital sexual affair
5 with Monica Lewinsky?

6 A. No.

7 Q. If she told someone that she had a sexual
8 affair with you beginning in November of 1995, would
9 that be a lie?

10 A. It's certainly not the truth. It would not
11 be the truth.

12 Q. I think I used the term "sexual affair."
13 And so the record is completely clear, have you ever
14 had sexual relations with Monica Lewinsky, as that
15 term is defined in Deposition Exhibit 1, as modified
16 by the Court?

17 MR. BENNETT: I object because I don't know
18 that he can remember --

19 JUDGE WRIGHT: Well, it's real short. He
20 can -- I will permit the question and you may show
21 the witness definition number one.

22 A. I have never had sexual relations with
23 Monica Lewinsky. I've never had an affair with her.

24 Q. Have you ever had a conversation with
25 Vernon Jordan in which Monica Lewinsky was

Page 202

1 you, to make your acquaintance, would you not want
2 Mr. Ferguson to bring that to your attention, or any
3 other member of your Security Detail, if a
4 prospective voter or a taxpayer had made such a
5 request?

6 A. Yes, or a child, or anybody from the state,
7 of course I would.

8 MR. BRISTOW: Mr. President, that's all the
9 questions I have, thank you.

10 CROSS-EXAMINATION

11 BY MR. BENNETT:

12 Q. Mr. President, all right, you recall
13 earlier today that ~~Mr. Fisher~~ asked you several
14 questions about Miss Lewinsky?

15 A. Yes, sir, I do.

16 Q. And do you recall there was a discussion
17 about an affidavit of Miss Lewinsky, generally?

18 A. Yes, sir, I remember that.

19 Q. I'm going to read you certain portions of
20 Miss Lewinsky's affidavit, and ask you about them.

21 In paragraph six of her affidavit, Miss
22 Lewinsky, also known as Jane Doe Number 6, says as
23 follows: "In the course of my employment at the
24 White House I met President Clinton several times. I
25 also saw the President at a number of social

Page 203

1 functions held at the White House. When I worked as
2 an intern, he appeared at occasional functions
3 attended by me and several other interns. The
4 correspondence I drafted while I worked at the Office
5 of Legislative Affairs was seen and edited by
6 supervisors who either had the President's signature
7 affixed by mechanism or, I believe, had the President
8 sign the correspondence itself."

9 Is that an accurate and true statement, to
10 the best of your knowledge?

11 A. It's an accurate and true statement about
12 how the correspondence is handled in the
13 Congressional Affairs Division. I can't -- I know of
14 no reason why the rest of it's not accurate.

15 MR. FISHER: Your Honor, excuse me --

16 A. I don't know directly whether it's all
17 accurate.

18 MR. FISHER: Just wanted to make clear,
19 Your Honor, that since this is a discovery
20 deposition, that hearsay objections are reserved and
21 need not be made.

22 MR. BENNETT: I agree with that.

23 JUDGE WRIGHT: Absolutely, and that's the
24 reason I was trying to say when I came back from
25 lunch that even though I'm permitting Mr. Bennett to

Page 204

1 do this, if this is ever used at trial, the Rules of
2 Evidence would apply, and as stated before, the Rules
3 of Evidence don't apply in this discovery
4 deposition. Go ahead.

5 Q. In paragraph eight of her affidavit, she
6 says this, "I have never had a sexual relationship
7 with the President, he did not propose that we have a
8 sexual relationship, he did not offer me employment
9 or other benefits in exchange for a sexual
10 relationship, he did not deny me employment or other
11 benefits for rejecting a sexual relationship."

12 Is that a true and accurate statement as
13 far as you know it?

14 A. That is absolutely true.

15 Q. Do you recall, do you recall --

16 MR. BENNETT: Your Honor, may I have this
17 appended as an exhibit to this deposition, please?

18 MR. FISHER: No objection, Your Honor.

19 JUDGE WRIGHT: All right, it may be.

20 MR. BENNETT: All right.

21 Q. Now you're aware, are you not, of the
22 allegations against you by Paula Corbin Jones in this
23 lawsuit; is that correct?

24 A. Yes, sir, I am.

25 Q. Mr. President, did you ever make any sexual

Paula Jones v. William Jefferson Clinton and Danny Ferguson
No. LR-C-94-290 (E.D. Ark.)

DEPOSITION OF WILLIAM JEFFERSON CLINTON

Definition of Sexual Relations

For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes -

- (1) contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person;
- (2) contact between any part of the person's body or an object and the genitals or anus of another person; or
- (3) contact between the genitals or anus of the person and any part of another person's body.

"Contact" means intentional touching, either directly or through clothing.

~~EXHIBIT~~



The Lewinsky Affidavit

Released on Friday, March 13, 1998

Following is the full text of Monica S. Lewinsky's affidavit, signed on Jan. 7, 1998, and submitted to lawyers for Paula Jones on Jan. 16. The statement was one of several documents made public by Jones's lawyers on March 13 as part of their opposition to a motion by Clinton's lawyers to dismiss the case.

Attorneys for Jones referred to Lewinsky as a "Jane Doe".

1. My name is Jane Doe # . I am 24 years old and I currently reside at 700 New Hampshire Avenue, N.W. Washington, D.C. 20037.
2. On December 19, 1997, I was served with a subpoena from the plaintiff to give a deposition and to produce documents in the lawsuit filed by Paula Corbin Jones against President William Jefferson Clinton and Danny Ferguson.
3. I can not fathom any reason that the plaintiff would seek information from me for her case.
4. I have never met Ms. Jones, nor do I have any information regarding the events she alleges occurred at the Excelsior Hotel on May 8, 1991 or any other information concerning any of the allegations in her case.
5. I worked at the White House in the summer of 1995 as a White House intern. Beginning in December, 1995, I worked in the Office of Legislative Affairs as a staff assistant for correspondence. In April, 1996, I accepted a job as assistant to the Assistant Secretary for Public Affairs at the U.S. Department of Defense. I maintained that job until December 26, 1997. I am currently unemployed but seeking a new job.
6. In the course of my employment at the White House I met President Clinton several times. I also saw the President at a number of social functions held at the White House. When I worked as an intern, he appeared at occasional functions attended by me and several other interns. The correspondence I drafted while I worked at the Office of Legislative Affairs was seen and edited by supervisors who either had the President's signature affixed by mechanism or, I believe, had the President sign the correspondence itself.
7. I have the utmost respect for the President who has always behaved appropriately in my presence.
8. I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any other person who had a sexual relationship with the President, was offered employment or other benefits in exchange for a sexual relationship, or was denied employment or other benefits for rejecting a sexual

relationship. The occasions that I saw the President after I left employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

9. Since I do not possess any information that could possibly be relevant to the allegations made by Paula Jones or lead to possible admissible evidence in this case, I asked my attorney to provide this affidavit to plaintiff's counsel. Requiring my disposition in this matter would cause disruption to my life, especially since I am looking for employment, unwarranted attorney's fees and costs, and constitute an invasion of my right to privacy.

I declare under the penalty of perjury that the foregoing is true and correct.

(signed)

Monica S. Lewinsky

President Clinton's National Address, August 17, 1998

Good evening

This afternoon, in this room, from this chair, I testified before the office of independent counsel and the grand jury. I answered their questions truthfully. I answered their questions truthfully, including questions about my private life, questions no American citizen would ever want to answer.

Still, I must take complete responsibility for all my actions, both public and private and that is why I'm speaking to you tonight.

As you know, in a deposition in January, I was asked questions about my relationship with Monica Lewinsky. While my answers were legally accurate, I did not volunteer information. Indeed, I did have a relationship with Ms. Lewinsky that was not appropriate. In fact, it was wrong.

It constituted a critical lapse of judgment and a personal failure on my part for which I am solely and completely responsible. But I told the grand jury today and I say to you now that at no time did I ask anyone to lie, to hide or destroy evidence or to take any other unlawful action.

I know my public comments and my silence about this matter gave a false impression. I misled people, including even my wife. I deeply regret that. I can only tell you I was motivated by many factors. First by a desire to protect myself from the embarrassment of my own conduct. I was also very concerned about protecting my family. The fact that these questions were being asked in a politically inspired lawsuit, which has since been dismissed, was a consideration too.

In addition, I had real and serious concerns about an independent counsel investigation that began with private business dealings twenty years ago. Dealings, I might add, about which an independent federal agency found no wrongdoing by me or my wife, over two years ago.

The independent counsel investigation moved on to my staff and friends and then into my private life and now the investigation itself is under investigation. This has gone on too long, cost too much and hurt too many innocent people.

Now this matter is between me, the two people I love most — my wife and our daughter — and our God. I must put it right and I am prepared to do whatever it takes to do so. Nothing is more important to me personally. But it is private and I intend to reclaim my family life for my family. It's nobody's business but ours. Even presidents have private lives.

It is time to stop the pursuit of personal destruction and the prying into private lives and get on with our national life. Our country has been distracted by this matter for too long and I take my responsibility for my part in all of this. That is all I can do.

Now it is time, in fact it is past time to move on. We have important work to do. Real opportunities to seize, real problems to solve, real security matters to face. And so, tonight, I ask you to turn away from the spectacle of the past seven months... to repair the fabric of our national discourse and to return our attention to all the challenges and all the promise of the next American century.

Thank you for watching and good night.

He's Still Doing It: Clinton's Defining Lie

By Stuart Taylor Jr., *National Journal*

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As you know, "**President Clinton** told the American people Monday night, "in a deposition in January, I was asked questions about my relationship with **Monica Lewinsky**. While my answers were legally accurate, I did not volunteer information." With those words, Clinton guaranteed that at least part of his historical reputation will be as an incorrigible liar.

We should dread the prospect of impeachment. But that doesn't mean we should call the whole business off.

Did he also lie to the grand jury that day, cementing the case for impeachment? Or did he manage to avoid that, by spurning, as "too private," all of the questions that he would have had to answer falsely to avoid helping Starr prove that he had lied in his Jan. 17 deposition? That's one of the questions Congress will soon ponder.

Two other questions are ponderable today: Did the president in fact lie in that Jan. 17 deposition? Did he commit the felony of perjury? No, he said Monday night, he certainly did not: "My answers were legally accurate." But this was another, defining, lie. And this time, Clinton was lying not about sex, but about lying itself; he was lying to protect, not anyone's privacy, but his own image.

"Legally accurate"? Consider some excerpts from the Jan. 17 deposition, as Clinton bobbed and weaved and misled and -- yes -- lied his way through dozens of questions aimed at uncovering whether he had engaged in sex with Lewinsky and had encouraged her to conceal evidence that the judge in the **Paula Jones** lawsuit had held to be relevant:

Q: At any time, were you and Monica Lewinsky together alone in the Oval Office?

A: I don't recall, but as I said, when she worked at the legislative affairs office,... it seems to me she brought things to me once or twice on the weekends. In that case, whatever time she would be in there, drop it off, exchange a few words and go, she was there....

Q: So I understand, your testimony is that it was possible, then, that you were alone with her, but you have no specific recollection of that ever happening.

A: Yes, that's correct....

Q: At any time, have you and Monica Lewinsky ever been alone together in any room in the White House?

A:... I have no specific recollection,...

Q: Did she tell you she had been served with a subpoena in this case?

A: No....

Q: Well, have you ever given any gifts to Monica Lewinsky?

A: I don't recall. Do you know what they were?...

Q: Did you have an extramarital sexual affair with Monica Lewinsky?

A: No.

Q: If she told someone that she had a sexual affair with you beginning in November of 1995, would that be a lie?

A: It's certainly not the truth. It would not be the truth.

Q: I think I used the term sexual affair. And, so the record is completely clear: Have you ever had sexual relations with Monica Lewinsky, as that term is defined in Deposition Exhibit 1, as modified by the court?...

[The modified definition states: "For the purposes of this deposition, a person engages in 'sexual relations' when the person knowingly engages in or causes... contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person."]

A: I have never had sexual relations with Monica Lewinsky. I've never had an affair with her.

This is the progression of lies that the president claims was "legally accurate."

The main rationale floated by the president's hairsplitters for that claim is that, while Lewinsky had "sexual relations" with Clinton, he had no "sexual relations" with her. Only in America, land of a million lawyers, could so preposterous a proposition be presented with a straight face.

This one-way-sex, look-Ma-no-hands defense requires both a tortured reading of the definition and a factual premise both ludicrous on its face and explicitly contradicted by Lewinsky's reported account of reciprocal sexual contacts: the premise that while being sexually serviced by her for many months, Clinton never once reciprocated, never once touched her intimately.

If Starr's prosecutors did ask intrusive questions on Monday about the Clinton-Lewinsky sexual encounters -- as suggested by leaks from the Clinton camp -- Clinton left them little choice. Had he been willing to admit that his Jan. 17 answers were false, no exploration of the salacious details would have been necessary.

In any event, even indulging the improbable notion that Clinton was "legally accurate" when he denied having "sexual relations" with Lewinsky, that would support only the first sentence of the final answer quoted above. It has no bearing on Clinton's lies in denying a "sexual affair" with her; in denying any "specific recollection" of ever having been alone with her; in asserting that if they ever were alone it was only briefly, on routine, official business; and more.

Those lies clearly fit even a narrow reading of the Supreme Court's definition of perjury as a literally false, unambiguous statement made with intent to deceive. And contrary to a myth recently popularized by the Clinton camp, perjury convictions -- including that of Watergate defendant **Dwight Chapin**, for example -- can be based on "I-don't-recall" answers when, as here, the circumstances make the claimed lapse of recollection utterly incredible.

To be sure, the perjury statute also requires that the defendant's lie be "material," a term defined by courts to include testimony having "a natural tendency" to affect a judge's or jury's decision, even slightly, at the time the testimony was given. It can be argued that even though Clinton lied repeatedly on Jan. 17, he did not commit perjury, because the Lewinsky evidence was not "material" to the Paula Jones lawsuit.

This argument rests on the subsequent decisions (now being appealed) of Judge **Susan Webber Wright** to exclude the Monica Lewinsky evidence and, later, to dismiss the entire Jones lawsuit. Contrary to some news reports, Judge Wright did not hold the Lewinsky evidence to be immaterial; rather, she ruled that it "might be relevant" but was "not essential to the core issues in the case."

While reasonable lawyers disagree about whether Clinton's materiality argument is plausible or weak, some precedents hold that lying under oath in a civil deposition can be material even if the testimony is later excluded or the case is dismissed.

And even if Clinton's Jan. 17 lies were not material, and thus not perjury, they may still have been criminal violations of the obstruction of justice statute -- especially if Starr can prove them to be part of a broader pattern of efforts by Clinton to hide evidence or encourage others to do so. More to the point here, Clinton did not content himself on Monday with contending that his Jan. 17 lies may not have been material enough to amount to perjury as a matter of law. He claimed that he had not lied at all. Thus did he lie yet again.

Clinton's coverup of his sexual activities is not in a league with Watergate. But there are some parallels. One is suggested by the first article of impeachment against **President Nixon**, charging him with obstruction of justice. In addition to Nixon's "false or misleading statements" to investigators, and his withholding of evidence, and his encouragement of similar actions by others, that article cited Nixon for making "false or misleading public statements for the purpose of deceiving the people of the United States."

Clinton's persistence in lying to the nation, as well as under oath, therefore strengthens the case for impeachment.

We should nonetheless dread the prospects of an actual House vote to impeach and of a Senate trial. That would paralyze our polity, embolden foreign enemies, and bring many years of bitter, partisan recriminations no matter what the outcome. The closer we get to the natural end of Clinton's term, the more the costs of such a battle would outweigh the benefits.

That doesn't mean we should just call the whole business off and turn to "healing." The law, and the truth, have their claims. Starr has a statutory mandate to send to the House any evidence that "may [emphasis added] constitute grounds for an impeachment." The law appears to oblige him to do that, regardless of whether Starr himself would (were he a Congressman) vote to impeach. It will then fall to the House to expose and explore, in public hearings, the evidence for and against the president.

As Starr's evidence cuts through the fog of lies and spin, Democratic leaders will have to decide whether to palliate the president's lies or to denounce them. They must also consider whether, at long last, to give him some advice: For God's sake, go.

Stuart Taylor Jr. is a senior writer for National Journal magazine, where "Opening Argument" appears.

Aides Worry About Effect of Clinton's Speech

By John F. Harris

Washington Post Staff Writer

Wednesday, August 19, 1998; Page A01

In a meeting at the White House on Sunday, presidential confidant and lawyer Mickey Kantor arrived clutching papers. It was a speech draft, written in Bill Clinton's own hand, and Kantor waved it for emphasis.

Everyone, according to several people in the room, understood Kantor's point: The president of the United States knew exactly what he wanted to say when he addressed the nation about his relationship with former White House aide Monica S. Lewinsky.

Throughout the next day, there would be new drafts written by advisers, cautious edits insisted upon by lawyers, and urgings to Clinton from staff to discard his defiant criticism of independent counsel Kenneth W. Starr. In the White House solarium Monday evening, the wrangling between different White House factions over the wording of the speech continued until less than an hour before the 10 p.m. air time.

In the end, however, the speech Clinton gave was emphatically his own – too much so for his own good, some aides worried yesterday.

The consensus among numerous Clinton loyalists, both in the White House and outside, was that Clinton had effectively addressed the concerns of a majority of Americans with his televised statement that his relationship with Lewinsky was "not appropriate" and that he took "complete responsibility" for a "critical lapse in judgment."

But several advisers also agreed that the second half of Clinton's speech – with its seething tone toward Starr and the president's insistence that his adulterous sexual relationship with the former intern was "nobody's business" but his family's – had inflamed an already hostile environment in Washington.

In the assessment of White House political advisers, Republicans and the news media wanted Clinton to be held, and to hold himself, accountable for his transgressions with Lewinsky. That being the case, they argued, why would he want to muddy a speech intended to signal remorse and the acceptance of responsibility with words of victimhood and grievance?

The answer – and the last word on the subject – was that Clinton himself wanted it that way. In the end political advisers persuaded Clinton to tone down some of his rhetoric, but the gist of it stayed intact.

"People complain Clinton is programmed," said one Clinton adviser, "but it does not get any more authentic than this. He said exactly what he thinks."

Numerous sources with firsthand or close secondhand knowledge of the speech deliberations discussed the evolution of the speech yesterday under the condition they not be quoted by name.

Several described three clusters of advisers with different interests in the speech. One cluster included White House political advisers such as Rahm Emanuel and Paul Begala, who felt that Clinton's most important task was to try to bring closure to the Lewinsky controversy with an unambiguous display of contrition. A second cluster, led by Clinton's private attorney, David E. Kendall, wanted Clinton above all to do nothing that might increase his legal jeopardy. This meant limiting apologies and being vague about precisely what actions he was expressing regret about.

A third cluster, which included White House aide Sidney Blumenthal and apparently had the support of first lady Hillary Rodham Clinton, was eager to take the offensive against Starr with expressions of outrage about the roaming nature of his four-year investigation and condemnation of his alleged violations of privacy. Blumenthal faxed in his suggestions from a European vacation.

Amid this barrage of advice, aides said Hillary Clinton urged her husband to simply say what he felt.

Yet even a speech as intimately personal as this was, like all Clinton speeches, a committee product.

Begala, a political consultant who joined the White House staff last year, was tapped as editor of the effort. Begala, colleagues said, had been crafting passages for a hypothetical contrition speech all weekend. His versions, sources said, contained far more forceful language of regret than the one Clinton finally gave, and none of the attacks on Starr.

But Begala was working only in the abstract. It was not until Monday, after Clinton had begun testifying, that Kantor was given the green light to actually share with him Clinton's proposed speech. The president's handwritten notes had by then been put into typed form.

Only then, just several hours before the speech, did White House officials learn of the harsh language Clinton wanted to include against Starr.

Even some aides who wanted Clinton to take a softer line were wary of overdoing any words of apology. They rejected as undignified a draft faxed in by Democratic political consultant Robert Shrum, who has written speeches for Sen. Edward M. Kennedy (D-Mass.).

Shrum proposed that Clinton say that "I let too many people down" – including his family, the American people and Lewinsky – and that "none of this ever should have happened." Clinton would have acknowledged "sexual contact," said there was "no excuse" for his behavior and expressly apologized for his behavior.

But Clinton aides dismissed this language, saying it would have amounted to groveling that would have weakened Clinton's reputation both at home and overseas. Having concluded that this language went too far, the question confronting the White House yesterday was whether the language Clinton did use went far enough.

While most of the country likes Clinton and is rooting for him, one aide said, Republicans and many reporters are driven to distraction by their fear that Clinton is getting away with something.

It was largely to overcome the response emanating from Washington that White House political advisers worked yesterday to generate a public perception that Clinton has indeed paid for his sins. This is one reason, aides said, why Clinton loyalists such as consultant James Carville kept stressing publicly how angry Hillary Clinton is over her husband's deception.

And the White House prodded Democrats on Capitol Hill to spread the message that Clinton has paid a grievous price for what they describe as private sexual follies. Among those whom political advisers prompted to make a statement was Sen. Robert G. Torricelli (D-N.J.), who called a reporter unsolicited from a trip to England.

"As a husband, father and a man, Bill Clinton has been humiliated," said Torricelli. "I see no value in compounding the pain."

Torricelli said he spoke with Clinton yesterday and discerned a deep "sense of relief: Bill Clinton probably always knew he was going to face this moment of truth."

White House aides, meanwhile, said they were coming to terms with their own feelings about Clinton's Monday night admission. Some expressed astonishment, not merely at Clinton, but at White House lawyers. For nearly seven months, aides said, they had been given assurances by lawyers that when Clinton denied in January having "sexual relations with that woman, Miss Lewinsky," he was not relying on legalistic language that made a distinction between intercourse and other forms of intimate physical relations. Over the weekend, they learned that Clinton and his lawyers apparently were making precisely such a distinction.

But in a sign of how carefully the White House plots public relations strategy, aides drafted talking points for how to answer questions about their own reactions to Clinton's deceptions about Lewinsky.

"Do you forgive him for misleading you and the country?" read one sample question.

The talking points suggested the following answer: "It's been said that 'He who cannot forgive others breaks the bridge over which he must pass himself.' Of course I do."

Another Woman Wronged
By Mark R. Levin and Arthur F. Fergenson
(*Washington Times*, August 24, 1998)

One of the many women Bill Clinton has wronged has the power to take immediate action against him - United States District Court Judge Susan Webber Wright. She presided over the suit brought against Mr. Clinton by Paula Corbin Jones.

Judge Wright attended Mr. Clinton's deposition in Washington, D.C. She issued a ruling on the definition of sexual relations and ruled on objections, all in her official capacity as a federal judge. As we all know, during the course of the deposition Mr. Clinton was asked about sexual relations with Monica Lewinsky. Bob Bennett, Mr. Clinton's attorney, objected to the question. In doing so, Mr. Bennett relied on Miss Lewinsky's affidavit, which falsely and categorically denied that she had had sex with Mr. Clinton. Of course, Mr. Clinton was present throughout the proceedings. He was being deposed. Yet, he made no objection to the use of Miss Lewinsky's affidavit, which he knew was false, to obtain a favorable judicial ruling. Mr. Clinton then testified that he had no sexual relations with Miss Lewinsky, echoing her affidavit.

Mr. Clinton now admits to having sex with Miss Lewinsky. Importantly, while he claims that oral sex performed on him did not fit the definition of sexual relations approved by Judge Wright and, therefore, his testimony was "legally accurate," Mr. Clinton makes no comparable claim that Miss Lewinsky's affidavit was truthful. Through the agency of his lawyer, Mr. Clinton knowingly used a false affidavit to secure a favorable judicial ruling. This is a contempt of court. This is true whether or not Clinton himself committed perjury. It is true whether or not the lawsuit is ultimately dismissed.

Judge Wright has the power to punish a contempt of court committed in her presence. She can immediately convene a hearing. She need not wait for the appellate court's decision in the pending Jones appeal. The courts have ruled that any act calculated to embarrass, hinder, or obstruct justice or to lessen the court's authority or dignity is a contempt, punishable by direct court action under Section 401 of the criminal code, Title 18.

Judge Wright should order Mr. Clinton to appear before her at once, and she should question him in open court on his use of the Lewinsky affidavit, and his own false testimony. She has a right to know whether Mr. Clinton obstructed justice in her presence. She can, and should, make a further inquiry to determine whether Mr. Clinton's actions in court were part of a broader effort to obstruct the court in the performance of its duty. Mr. Clinton's knowing participation in the return of subpoenaed presidential gifts is relevant to the inquiry. Miss Lewinsky and Betty Currie should be called to testify, in addition to Mr. Clinton.

Inasmuch as the contempt of court hearing that Judge Wright has the power to conduct could result in the imposition of criminal sanctions, Mr. Clinton could refuse to testify by asserting his Fifth Amendment privilege against self-incrimination. However, he has no privacy privilege.

Mr. Clinton's defenders have claimed repeatedly and falsely that lying in a deposition in a civil suit is seldom punished by criminal sanctions. Nonetheless, this case presents the unusual circumstance of Mr. Clinton acting contemptuously in front of the judge during the deposition. Rarely do federal judges preside over depositions.

Ironically, Mr. Clinton relied on Judge Wright to protect him during his deposition. He used her for his own purposes at the same time he treated her with, literally, contempt. Sound familiar? Judge Wright has a responsibility to set right wrongs committed against the court.

Arthur F. Fergenson attended Yale Law School with Hillary Rodham Clinton. Mark R. Levin is president of Landmark Legal Foundation.