

CAUSE NO. 14CV0395

LARRY TAYLOR,	§	IN THE DISTRICT COURT OF
IN HIS OFFICIAL CAPACITY	§	
AS STATE SENATOR	§	
FOR DISTRICT 11	§	
Plaintiff,	§	
V.	§	GALVESTON COUNTY, TEXAS
	§	
J. STEVE MOSTYN	§	
ATTORNEY FOR BROWNSVILLE	§	
INDEPENDENT SCHOOL DISTRICT,	§	
Defendant	§	212 TH JUDICIAL DISTRICT

**ORDER DENYING MOTION TO QUASH DEPOSITION SUBPOENA
AND/OR FOR PROTECTIVE ORDER AND
GRANTING MOTION TO COMPEL THE ORAL DEPOSITION OF
LARRY TAYLOR**

On this day, the Court considered Plaintiff Larry Taylor's Motion to Quash Deposition Subpoena and/or for Protective Order, Intervenor Brownsville Independent School District's Motion to Compel the Oral Deposition of Larry Taylor and Opposition to Taylor's Motion to Quash, Plaintiff's Response to the Motion to Compel and Reply in Support of Motion to Quash and/or for Protection, Intervenor's Reply in Support of the Motion to Compel, and the other papers and documents on file herein, and the argument and evidence presented by the parties.

The Court concludes that Plaintiff Larry Taylor's Motion to Quash Deposition Subpoena and/or for Protective Order should be, and it is hereby, **DENIED**.

The Court concludes that Intervenor Brownsville Independent School District's Motion to Compel the Oral Deposition of Larry Taylor should be, and it is hereby, **GRANTED**.

The Court bases its conclusions on the following:

1. On November 30, 2012, Intervenor Brownsville Independent School District (“BISD”) filed suit against Texas Windstorm Insurance Association (“TWIA”) and other certain individuals for its handling of BISD’s Hurricane Dolly claim, styled *Brownsville Independent School District v. Texas Windstorm Insurance Association, et al.*; Cause No. 2012- DCL-8605-A, in the 107th Judicial District of Cameron County, Texas (the “Underlying Suit”).
2. On February 28, 2014, James Oliver, TWIA’s former General Manager, was deposed in Cause No. 09-CV-0147, *In re Hurricane Ike Litigation*. Mr. Oliver’s deposition testimony shows that Senator Larry Taylor (“Senator Taylor”) pressured TWIA not to pay a category of claims that would include BISD’s claims.
3. On March 5, 2014, Intervenor BISD’s attorneys served Senator Taylor with a subpoena duces tecum requiring him to appear for oral deposition on April 7, 2014.
4. On April 3, 2014, Senator Taylor filed his Motion to Quash his oral deposition by bringing the instant proceeding in Galveston County against J. Steve Mostyn, attorney for BISD.
5. On June 6, 2014, Intervenor BISD filed its Motion to Compel the Oral Deposition of Larry Taylor and Opposition to Taylor’s Motion to Quash.
6. On June 19, the Court held a hearing on Senator Taylor’s Motion to Quash Deposition Subpoena and/or for Protective Order and Intervenor BISD’s Motion to Compel the Oral Deposition of Larry Taylor and Opposition to

Taylor's Motion to Quash. The Court examined all the evidence on the record, including all motions, responses, and replies, arguments of counsel, testimony of J. Steve Mostyn, pleadings in the Underlying Suit, and the deposition testimony of James Oliver.

7. Because Senator Taylor is a legislator, he has legislative immunity for any speech he makes under the Speech and Debate Clauses of the Texas and federal constitutions. *See* U.S. Const. art. I, § 6; Tex. Const. art. III, § 21. However, the preponderance of the evidence in the record establishes that Senator Taylor engaged in speech that was not part of any protected legislative function or any protected legislative or committee process. Instead, the preponderance of the evidence indicates that Senator Taylor engaged in political efforts to privately and personally influence the conduct TWIA, including specifically TWIA's then General Manager James Oliver and TWIA's lawsuit settlement policies and decisions. Courts have repeatedly ruled that this type of speech is not the type the Constitution sought to protect. *United States v. Brewster*, 408 U.S. 501, 512 (1972); *U.S. v. Johnson*, 383 U.S. 169, 172 (1966); *Gravel v. United States*, 408 U.S. 606, 625-26 (1972). Senator Taylor is not immune from the discovery deposition that BISD has sought to take concerning matters other than legislative functions or duties or legislative committee activities; specifically, he is not immune from such discovery under either the United States Constitution or the Texas Constitution.

It is therefore ORDERED that Larry Taylor shall appear for oral deposition and produce the documents requested on a date and at a location mutually agreeable to the parties. If the parties are unable to agree, they shall notify the Court in writing of their disagreement, and the Court will set the deposition date and location.

Signed this 3rd day of July, 2014.



JUDGE PRESIDING
212th Judicial District Court Judge