



January 17, 2018

VIA EMAIL

The Honorable Charles Grassley
Chair
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C., 20510

Senator Dianne Feinstein
Ranking Member
Senate Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, D.C., 20510

Dear Senators Grassley and Feinstein,

On behalf of the National Women's Law Center (the Center), an organization that has fought to promote women's legal rights and protections for 45 years, I write to express serious concerns regarding the nomination of Eli Richardson to the United States District Court for the Middle District of Tennessee.

In particular, Mr. Richardson's meritless and harassing pursuit of a declaratory judgment against an individual who had won a default judgment against her employer in a case raising claims of sexual harassment raises concern. The individual, Ms. Woods, alleged that the president of the company, Bernard Bronner, had sexually harassed her, but did not name him as a defendant.¹ After the entry of default judgment and award of damages in the underlying case, Mr. Richardson filed a complaint seeking a declaratory judgment that his client, Mr. Bronner, did not commit any of the offenses alleged in the earlier lawsuit and was not liable for them.² Ms. Woods' attorney sent Mr. Richardson a letter stating that Ms. Woods was not planning to sue Mr. Bronner and was willing to sign a release of any claims against Mr. Bronner.³ Instead of obtaining such a release and withdrawing the lawsuit against Ms. Woods on behalf of Mr. Bronner, Mr. Richardson proceeded with the litigation.⁴ Ms. Woods' counsel filed a motion to dismiss, and a motion for sanctions under Federal Rule of Civil Procedure 11, and the court granted both those motions.⁵

The court found that if Mr. Bronner were allowed to litigate the declaratory judgment action, "[it] would serve no useful purpose and would in fact constitute a waste of the parties' and the court's resources."⁶ Further, the court found that sanctions against Mr. Richardson were appropriate, because once Ms. Woods' attorney notified him that she would not pursue any

¹ Memorandum Opinion, *Bronner v. Woods*, Civil Action No. CCB-97-2392 (D. Md. 1998).

² Mem. Op. at 2-3.

³ Mem. Op. at 3.

⁴ Mem. Op. at 3-4.

⁵ Mem. Op. at 4-14.

⁶ Mem. Op. at 12.

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claims against his client, “no justifiable basis for the complaint survived,” and the complaint should have been withdrawn.⁷ The court concluded that the lawsuit

amounts to nothing more than a request to ‘vindicate [Mr. Bronner’s] name by forcing Ms. Woods to relitigate a claim she had properly and finally litigated in federal court. This is an improper purpose, unfounded in law or fact, that would have allowed Mr. Bronner to harass and punish Ms. Woods for the failure of Mr. Bronner’s company to respond on time to Ms. Woods’ complaint in the prior litigation.⁸

In the decision awarding attorney’s fees as sanctions, the court further noted: “the seriousness of the violation warrants a significant sanction. Mr. Richardson’s purported belief in the correctness of his action suggests either willful denial or a dangerous lack of understanding of the proper purposes of litigation.”⁹

Despite the court’s admonition, Mr. Richardson persists in this purported belief, seventeen years later. At his hearing and in his answers to written questions for the record, Mr. Richardson stated that he understood the court’s decision to dismiss the complaint, but disagreed with the award of sanctions because “there was no intent to harass or punish the former employee”¹⁰ -- despite the fact that his decision to pursue the declaratory judgment even after Ms. Woods offered to release any claims against his client cost her thousands of dollars in legal fees.¹¹ Indeed, when reciting the “lessons learned” from the imposition of sanctions, Mr. Richardson cited the need to ensure “that no matter how personally supportive you are of your client and his desire for a favorable legal outcome, as counsel you should remain dispassionate,”¹² rather than, for example, the need to not pursue frivolous litigation that imposed tremendous legal costs on other people.

The concerns raised by Mr. Richardson’s failure to understand the harm to Ms. Woods and his willingness to pursue unfounded claims in litigation in order to vindicate his client’s reputation are heightened by the fact that his overzealous representation targeted an individual who, as a matter of law, had been determined to have experienced sexual harassment in the workplace at the hands of his client. It is difficult to imagine that a plaintiff alleging sexual harassment in the workplace in a case before Mr. Richardson, if he were to be confirmed, would feel that he or she would receive a fair hearing.

⁷ Mem. Op. at 13.

⁸ Mem. Op. at 14.

⁹ Memorandum Opinion, *Bronner v. Woods*, Civil No. CCB-97-2392 (D. Md. 2000).

¹⁰ *See, e.g.*, Senate Judiciary Committee, Nomination of Eli Jeremy Richardson to the U.S. District Court for the Middle District of Tennessee, Questions for the Record (Dec. 20, 2017), *available at* <https://www.judiciary.senate.gov/imo/media/doc/Richardson%20Responses%20to%20QFRs.pdf>.

¹¹ *See id.*

¹² *Id.* He also noted, in response to a question about whether he regretted any of his actions in connection with this case, “I ... regret that in deciding to pursue declaratory judgment action, I may have placed too much emphasis on my client’s heart-felt, evidentially-supported, and legitimate desire to vindicate his reputation, and not enough emphasis on how the decision to pursue the action could be viewed by the court.” *Id.*

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For the foregoing reasons, the nomination of Eli Richardson to a lifetime position on the U.S. District Court for the Middle District of Tennessee raises serious concerns for the National Women's Law Center. Please feel free to contact me, or Amy Matsui, Senior Counsel and Director of Government Relations at the Center, at (202) 588-5180, should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Fatima Goss Graves". The signature is written in a cursive, flowing style.

Fatima Goss Graves
President and CEO
National Women's Law Center

cc.: Judiciary Committee