

# HEENAN & COOK

## TRIAL LAWYERS

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August 6, 2024

Attorney General Merrick Garland  
US Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Secretary Deb Haaland  
US Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Re: *L.B. v. United States of America, CV-18-74 (Dist. of Montana)*

Dear Attorney General Garland and Secretary Haaland:

This office represents L.B. in a long-standing case against the United States involving the conduct of a government police officer who wrongfully impregnated L.B. under the color of law. Please accept this correspondence as my direct request, on behalf of my client, that each of you individually, and the federal government collectively, intercede and bring this case to its rightful end.

On October 30, 2015- eight and a half years ago- BIA Officer Dana Bullcoming was policing on the Northern Cheyenne reservation. In uniform and armed, Officer Bullcoming responded to L.B.'s house to investigate a complaint she was violating the law, he placed her in custody and threatened to arrest her and take away her children if she didn't agree to have sex with him. Nine months later, L.B. gave birth to a child who is the product of that encounter.

In 2016, with L.B.'s child a young baby, the claim was submitted to the government for review and acceptance. Of primary concern and importance, L.B. sought financial assistance to help provide for and raise the child wrongfully created but lovingly born. Unfortunately, the government- under a previous administration and leaders- rejected the claim, thus forcing L.B. to bring a lawsuit against Officer Bullcoming and the United States. The federal judge in Montana held a hearing and determined that L.B. was entitled to \$1,611,854.00- a significant amount of money in general, but certainly modest given the harm and damages which were inflicted on L.B. by the federal officer.

Consistent with the law and the doctrine of vicarious liability- which holds that the employer is liable for the actions of its employees- we asked the United States to pay the judgment

*Offices in Billings, Bozeman, Missoula and Kalispell*

entered against its employee, Officer Bullcoming. Over the last several years, the United States Attorney's Office has vigorously resisted paying L.B. what the federal judge determined she was owed. It has staked out extreme and offensive positions, including victim-shaming, to avoid paying the judgment. The United States Attorney's Office has expended countless time and resources fighting L.B. over the past several years, which has included two trips to the Ninth Circuit and one to the Montana Supreme Court. Last month, a unanimous Ninth Circuit panel including a Clinton, a Trump and a Biden appointee again rejected the United States' position.

I know that you have each been to Montana recently and visited Native communities. I know that you, Attorney General Garland, came to Billings last year to discuss issues involving crime on Montana reservations. I know that you, Secretary Haaland, were in Bozeman last year to meet with survivors of government-backed Native boarding schools. You have both publicly stated your concern and support for Native people. But words, I would submit, are hollow unless bolstered by action. L.B.'s child turned 8 years old last month. Every day that this case drags on, L.B. doesn't have the money she needs to raise the child that was conceived the night of her encounter with Officer Bullcoming. As L.B. said following the Ninth Circuit decision, *"I don't know why the government has spent 7 years fighting me instead of paying what the Judge ordered I was owed. My daughter is now 8 years old and I hope they stop dragging this out so that I can get the money and use it to help raise my daughter."*

The United States' multi-year fight against L.B. sends a loud and clear message not just to L.B., but to all Native people, none of which is good for your respective offices, this Administration, or the federal government as a whole. Each of you have the power to end this case by paying L.B. the judgment amount. I would ask you to exercise your power and do the right thing.

With Hope,

A handwritten signature in black ink, appearing to read "John Heenan", with a long horizontal flourish extending to the right.

John Heenan