

Jill E. Clark

From: Jill E. Clark
Sent: Tuesday, September 08, 2009 5:22 PM
To: sara.lathrop@ci.minneapolis.mn.us
Cc: Michael Sullivan; 'Borger, John P.'; Jeanette Bead; Chad Bowman; james.moore@ci.minneapolis.mn.us
Subject: Your fax of today

Plaintiff Paul Stepnes is quite shocked that your idea of how we work through the terrible problem of police disobeying Judge Porter's order and rummaging through hard-drives, is to all look at the documents that should never have flowed into this case.

We should all look at the attorney-client privilege documents and decide if they are privileged? That is not tenable. No one should be looking at *any* documents inside that forensic report, or on the global images of the hard-drives.

It is indeed ironic that the City-defendants have declined to produce emails between Ritschel and counsel, due to privilege. What it seems that you are missing, Ms. Lathrop, is that because of police actions, I have lost all ability to protect my client's attorney-client privilege, to make the ****argument**** that documents are privileged.

It should never work the other way, where your clients first peruse my client's privileged documents, and then we need to make argument that they were privileged.

You have asked me to identify the documents that are privileged. I am not going to do that for you if it will send you out to do what you threaten – that you will look at them and then try to argue whether they are privileged or not. We have identified numerous emails that are ****unquestionably**** privileged. You cannot read them. The entire point is that you cannot read them. We will identify them for the Court by date and to/from, but I need your word now that you will not look at the disks that you have, and read the documents that we claim are privileged.

If the Court wants to review the emails we identify, in camera, that would be one solution. But I am not going to point City-Defendants toward the privileged emails so that they can make sure to read them.

I do thank you for rounding up the disks of the forensic report, but please, also round up the hard-drive with the entire image(s), and also please ensure that there are no copies kept in a computer environment, or on a server.

I just now received your second letter of today, which suggests that somehow I was not fast enough in responding to your earlier fax of today. You state that you asked me to identify the emails and I have not done so. I repeat, you cannot read the attorney-client privileged emails.

No, the emails that we identified as attorney-client privileged are not relying on any emails between Jill Clark and Paul Stepnes. We focused, instead, on emails with different attorneys.

I know that you said that you did not review the emails between Clark and Stepnes, but I note that you did not vouch for Sgt. Ritschel, that he has not read the emails between me and my client.

On the issue of non-discoverable emails, I think you need to remember that I had had limited time with the extremely large file in the forensic report. We are selecting some examples of non-discoverable emails. The problem is, I don't want to publicly file emails that evidence sensitive private information – as that would be counter-productive. I don't think it is fair that we look at all of the emails that I think are non-discoverable (first of all, that is a mammoth undertaking), and then you get to make an argument that they were. That is not the way discover works.

Your misstatement to me. Don't recraft the emails between us. I have them and I have read them recently. You represented me that Judge Porter had authorized the search of the hard-drives, and that was false. This is not just a "miscommunication." Where was your due diligence? You did not learn the truth and then "disclose" to me. You waited, perused the disks, showed them to Faegre & Benson, all when I was raising red flags. Then, once I was about to go to Judge Porter, you finally did your diligence.

If you had not made the misrepresentation to me, if you had told me the truth from the point I first requested information, that Ritschel never had affirmative authorization to go into those hard-drives, we would have been in court on this issue at that time. As it was, your misrepresentation cost my clients a lot.

I understand that your letters are attempting to minimize what has occurred. However, Plaintiffs continue to believe that we in this case cannot recover from the damage.

Finally, it is clear that you have some emails that were assisting you in putting together the timeline that you sent in your first letter of today. Please provide those emails to me. I had no idea there was ever any involvement of the Sheriff's Department, as apparently Mr. Dixon didn't think it was necessary to loop me on my case.

Jill Clark, Esq.

Jill Clark, P.A.

Telephone: **763/417-9102**

Fax: **763/417-9112**

jill@jillclarkpa.com

This email may contain confidential or privileged communications. If you are not the proper recipient of this email, please destroy it and let us know that you have done so. If you are a client and want to discuss the risks associated with emails, or if you do not wish to have us communicate via email, please let us know.

Jill E. Clark

From: Jill E. Clark
Sent: Monday, September 07, 2009 8:46 PM
To: Borger, John P.
Cc: Jeanette Bead; Michael Sullivan; Chad Bowman; Walker, Leita; sara.lathrop@ci.minneapolis.mn.us
Subject: RE: Stepnes v. Ritschel

I took just a moment to review the Second set of interrogatories (that Mr. Borger just forwarded), and I know that I have not seen it before.

Having used a fairly conservative method of count interrogatories (that is, for example, Interrogatory 14 asks about all of the request for admissions, but it was counted as one interrogatory, instead of 34 (I have my precise records of counting interrogatories, should that be of interest at some point), the Second set puts CBS-defendants over 50 interrogatories (and that is assuming that CBS is a "side").

With the Third set – CBS is well over 50 interrogatories.

I find it a professional courtesy to allow the party that serve over 50 interrogatories, to select which they will continue to propound.

Please let Plaintiff Stepnes know which of the Second and Third set interrogatories CBS wants him to answer. Once we receive that information, we will, of course, need some time to prepare answers.

If you want us to just chose which 50 to answer, we can do that – let us know.

Thank you,

Jill Clark
Jill Clark, P.A.
(O) 763 417-9102
From home computer

From: Borger, John P. [mailto:JBorger@faegre.com]
Sent: Monday, September 07, 2009 8:14 PM
To: Jill E. Clark
Cc: Jeanette Bead; Michael Sullivan; Chad Bowman; Walker, Leita; sara.lathrop@ci.minneapolis.mn.us
Subject: FW: Stepnes v. Ritschel

Your e-mail of earlier this evening indicates you were unable to locate the Second Set of Interrogatories to Stepnes. They were attached to Jeanette's July 13 e-mail to all counsel, as indicated below. They are attached again to this forwarded e-mail.

From: Jeanette Bead [mailto:JBead@lskslaw.com]
Sent: Monday, July 13, 2009 1:09 PM
To: 'Jill E. Clark'

Cc: Borger, John P.; Walker, Leita; Lathrop, Sara J; Michael Sullivan; Chad Bowman
Subject: Stepnes v. Ritschel

Jill,

I write to follow up about outstanding discovery. As you know, Michael and I wrote to you on June 30 regarding plaintiffs' discovery responses. We requested that you get back to us regarding our letter by Friday, July 10, but we have not received any correspondence from you indicating which responses would be supplemented. Please respond to our letter as soon as possible.

In addition, please send us without further delay the additional documents and digital pictures referenced in your July 2 email.

Finally, attached is a second set of interrogatories directed to Paul Stepnes.

Thank you.

Jeanette

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