

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Paul Stepnes, *et al*,

Plaintiffs,

v.

Peter Ritschel, *et al*,

Defendants.

Civil Case No. 08-cv-5296 (ADM/JJK)

**DECLARATION OF THOMAS
EVENSTAD SUPPORTING
PLAINTIFFS' MOTION FOR
REMEDIES RE ATTORNEY-CLIENT
PRIVILEGE ISSUE: AMENDED 1/26/10**

Thomas W. Evenstad, under penalty of perjury, and based on personal knowledge except where indicated, certify that the following is true and accurate to the best of my ability.

1. I am a Legal Assistant at Jill Clark, P.A.
2. Following the September 24, 2009 hearing regarding Mr. Paul Stepnes' hard-drives ("the Hard-Drive issue"), Ms. Clark asked me to complete a project regarding those Hard-Drives. Using the Forensic Report disk, which I understand was prepared by Officer Hanson, I made sure I had printed hard-copies of all of the emails inside all of the following folders:

Converted Mbox messages

- Noted Inbox Messages
- Noted Inbox Messages (from Jill Clark)
- Noted Sent Messages
- Noted Sent Messages (from Jill Clark)
- Noted E-mail messages

I went back to double-check that I had hard copies of all of the files inside the above-listed folders.

3. I then reviewed the hard-copy printouts. I learned that some contained more than one email, and some contained only one email. Therefore, the total file count was different from the total email count.

4. In reviewing these printouts, I assigned a unique number to each file (hard copy). I also assigned a unique number to each email.

5. I numbered each file on the hard copies, and I also numbered each of the emails. That meant that each hard-copy had 2 numbers on it, x , which represented the number in sequences of the files, and y , which represented the number in sequence of emails. I marked the hard copies with x/y . For example, if I was on file 15, but several of those files had contained multiple emails, the numbering might look like the following:

15/18

Which represents the 15th file, and 18 total emails at this point.

6. I then created a chart of all emails, numbering them as noted above, and indicating the date, to and from, and a short re line. These included attorney-client emails, so I am not attaching the chart to this affidavit. I did, however, provide the chart to Ms. Clark for her analysis.

7. In particular, I was asked to determine where in the Forensic Report, emails to or from "Jill Clark" occurred. I made this analysis as I performed the work above. I also went back to check my work. Finally, I was asked by Ms. Clark to do a third audit.

8. My conclusion, based on the above-described review, and approximately 20 hours in performing this project, is that **the emails that are "to" or "from" "Jill Clark" appear only in the following BOLDED converted email folders:**

- Noted Inbox Messages
- **Noted In Messages (from Jill Clark)**
- Noted Sent Messages
- **Noted Sent Messages (from Jill Clark)**
- Noted E-mail messages

To clarify the above, "to" and "from" means to Jill Clark (attorney) from Paul Stepnes (client) or vice versa. There are 2 emails from Stepnes to Clark in a different folder, but they were also copied to others, so I did not include them in my definition of "to" or "from" attorney and client.

I did locate 2 emails on which Ms. Clark was *copied*, or where someone else sent an email to Jill Clark (and for example, Mr. Stepnes was copied) that were in a different folder. But these were not "to" or "from" "Jill Clark" as defined above I brought these 2 emails where "Jill Clark" was *copied* to Attorney Clark's attention.

In conclusion, I did not locate any emails “to” or “from” Jill Clark/Paul Stepnes (except as noted above) in any folders except those that have (Jill Clark) to the right of the name (see page 1 of this Declaration).

This concludes my declaration of 4 pages.

s/thomaswevenstad

Dated: January 26, 2010

Thomas W. Evenstad