

**Office of the City Attorney**

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September 8, 2009  
VIA FAX AND U.S. MAIL

Jill Clark, Esq.  
2005 Aquila Avenue North  
Golden Valley, MN 55427

Re: *Paul Stepnes vs. Peter Ritschel & City of Minneapolis*  
Court File No.: 08-CV-5296 ADM/JJK

Dear Ms. Clark:

I write in a continued effort to meet and confer regarding the issues you are raising regarding the search of Mr. Stepnes' computer. I write today specifically to respond to your email sent Sunday, Sept. 6, 2009 at 7:39 a.m.

**Attorney-client privileged emails**

*We spent about 12 hours yesterday reviewing the "Forensic report." Due to the high volume of data obtained illegally by the MPD, we were only able to perform a cursory review. Even this cursory review netted about 45 attorney-client privileged emails. There are numerous other emails between Stepnes and his attorneys, which would need to be analyzed in order to determine whether he would assert a privilege.*

I have asked you before to identify the emails you claim were privileged. To date you have not done so. It is difficult for me to assess this claim since you have not stated which emails in particular are privileged. Are they emails in the folders marked as emails between you and Stepnes? If so, you know that I have never reviewed those emails and have never attempted to use them as evidence in this case.



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I think it is incumbent upon you to identify these particular messages with specificity before filing a motion to obtain some relief regarding the same. Otherwise you will have not fulfilled your duty to meet and confer before seeking intervention of the court.

**Emails otherwise not discoverable**

*Further, numerous emails are not discoverable. The City-defendants and their counsel have invaded Mr. Stepnes' privacy, and the privacy of numerous other individuals.*

Similarly, despite my request you have not identified these "otherwise not discoverable" emails to date. It is difficult for me to assess this claim since you have not stated which emails in particular are privileged.

As with the allegedly privileged emails, I think it is incumbent upon you to identify these non-discoverable emails with specificity before filing a motion to obtain some relief regarding the same. Otherwise you will have not fulfilled your duty to meet and confer before seeking intervention of the court.

**My communications**

*Ms. Lathrop, you further made a misrepresentation to me that Judge Porter had reviewed the disks and authorized their perusal by the MPD. My client relied on this to his detriment. Mr. Stepnes needs to know who told you that Judge Porter had released the disks, and what due diligence you did to ensure that he had - particularly in light of the red flags that I was raising.*

In May 2009, you sent me an email inquiring why Sgt. Ritschel told the MPD crime lab to do the forensic search. I asked my client, and from our conversation I understood that the Hennepin County Sherriff's Office helped Judge Porter review the hard drive in camera, and that Sgt. Ritschel learned from someone at Hennepin County Sherriff's Office that Judge Porter had given approval for the hard drives to be examined by the crime lab. I relayed that information to you.

More recently, on August 26, 2009, you emailed asking for "any documentation as to when Judge Porter allegedly cleared police to view the hard-drive contents." On Friday, August 28, 2009, I learned that there had been some miscommunication during my earlier inquiries, and that Sgt. Ritschel had never affirmatively heard that Judge Porter okayed the search of the computers. On

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Monday, August 31, 2009, I wrote to disclose to you, in accordance with Minnesota Rule of Professional Conduct 3.3, that my earlier representations had been incorrect.

I hope this information is helpful. I look forward to your response.

Yours very truly,



SARA J. LATHROP  
Assistant City Attorney

cc: Michael Sullivan, Esq.  
John Berger, Esq.



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# CONFIDENTIAL

## FACSIMILE TRANSMITTAL

To: Jill Clark (763-417-9112) From: Sara J. Lathrop  
Michael Sullivan (202-861-9888)  
John Borger (612-766-1600)

Date: September 8, 2009 Pages: 4 including cover

Re:

CC:

Fax:

- Urgent     For Review     Please Comment     Please Reply     Please Recycle

Notes: \_\_\_\_\_  
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