

Minneapolis
City of Lakes

Office of the City Attorney

Susan L. Segal
City Attorney

333 South 7th Street - Suite 300
Minneapolis MN 55402-2453

Office 612 673-2010
Civil Division Fax 612 673-3362
Criminal Division Fax 612 673-2189
CPED Fax 612 673-5112
TTY 612 673-2157

September 2, 2009

VIA FACSIMILE 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 an attempt to meet and confer regarding the issues relating to the computer search in this case, about which you have sent many emails. Please note that it is difficult to respond to your inquiries when you send email after email with new demands in each one. I write to respond to those made as of your email sent at 11:32 am on September 1, 2009.

Demand from email sent September 1, 2009 at 7:19 am:

Stepnes demands that all attorneys in this case immediately disclose all evidence (even attorney notes) that they have obtained from Ms. Stepnes' hard-drives.

The only evidence that our office has in this case from Mr. Stepnes' hard drives is the forensic computer report. You have an electronic copy of that report. It contains all such information.

As I have stated to you repeatedly, the image disks of the hard drive are not evidence in this case. I have never viewed them. The copy my office has is sealed with evidence tape. They were not provided to you pursuant to a discovery request in this case.



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I will not be turning over any attorney work product absent an order from the Court.

Demand from email sent September 1, 2009 at 10:25 am:

You must immediately give me a copy of every single thing that you have seen on the "forensic report." Plaintiffs are not accepting that the City-defendants, who have rifled through my client's hard-drives, cannot supply a readable version of it. If we have to move to compel a readable version of what was obtained in flagrant violation of the state court order, we will seek sanctions for that, as well.

You already have a copy of everything that I have seen on the computer forensic report, because all of those items are part of the forensic report. You have a copy of the computer forensic report. In fact, I have not seen everything on the computer forensic report, because I did not review the folders labeled emails between you and Mr. Stepnes.

With regard to whether the computer forensic report is readable, as I have told you several times, you do not need any special software to view that disk. You seem to be confusing, again, the computer forensic report with the image disks of the Stepnes hard drives. It is the disks of the images of Mr. Stepnes' hard drives that require special software. Again, as I have stated to you repeatedly, the image disks of the hard drive are not evidence in this case. I have never viewed them. The copies I have are sealed with evidence tape that has not been removed. Also, as you know those disks were not provided to you pursuant to a discovery request in this case. And I have given you information about how you could view them if you wished to do so.

As to your assertion that the image disks were "obtained in flagrant violation of the state court order," they were not. Judge Porter ordered the MPD to make those image disks. See the transcript of the June 2, 2008 hearing.

Demand from email sent September 1, 2009 at 11:32 am:

Please immediately identify the name(s) of all Hennepin County Sheriff office officials who had anything to do with this. Identify for me the name of the person that allegedly works for the Sheriff who allegedly told Ritschel that Judge Porter had given the go-ahead.

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I do not have the names of any officials with Hennepin County who were involved. As I stated in my letter dated August 31, 2009, Sgt. Ritschel understood that Hennepin County had assisted Judge Porter in reviewing the hard drives. I do not have any specific information beyond that.

As to your demand for "the name of the person that allegedly works for the Sheriff who allegedly told Ritschel that Judge Porter had given the go-ahead," I think you are working under a misunderstanding. As I wrote stated in my letter dated August 31, 2009, the information about a member of the Sherriff's office contacting Sgt. Ritschel was incorrect. The purpose of my August 31, 2009, letter to you was to correct that information. Based on the information I have now, there was no person that works for the Sheriff who told Sgt. Ritschel that Judge Porter had given the go-ahead to search the hard drives.

Demand from email sent September 1, 2009 at 11:32 am:

Also locate and provide information to me about all disks, who has them, whether they are hard-copy-disks or online on a system or computer. I need to identify each and every one of them, because we will be moving to have all of them returned to Mr. Stepnes.

As for copies of the forensic computer report disk: The MPD crime lab keeps the report on its server. According to the CAPRS report, a copy went into Property and Evidence, and a copy went to Sgt. Ritschel. I have a copy, and from that copy I recently made copies for you, John Borger, and Michael Sullivan.

As for copies of the image disks: The MPD crime lab keeps its copy on a disconnected hard drive in storage. The crime lab made you a copy, which you received nine months ago. My office has a copy (which, as noted above, we have never viewed and is sealed with evidence tape). I do not know of any other copies.

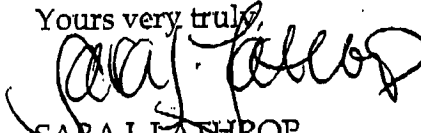
I am unsure of what other issues you think need to be resolved at this time. Please advise, via a letter please rather than an email, what other issues you intend to raise at a hearing so that we can attempt to resolve them before filing of a motion. One thing that I would like to know is what damage you claim your client has suffered as a result of the search of his hard drive. Every document, email, or other thing that is on the forensic computer report disk (except the emails between you and Mr. Stepnes, which I cannot comment upon because I have not viewed them) is something your client

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would have had to disclose and produce in this lawsuit. Mr. Stepnes has been not charged with any crime as a result of the search. I do not see how it affected Mr. Stepnes in this lawsuit such that it would be appropriate for sanctions in this lawsuit.

I look forward to receiving your response.

Yours very truly,



SARA J. LATHROP
Assistant City Attorney

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