

From: Brian Millikan <BMillikan@millikanwright.com>
Sent: Friday, June 2, 2017 7:33 AM
To: Levinson, Aaron; Steele, Robert
Cc: Neil Bruntrager
Subject: RE: Christina Wilson Depo

I'll ask for 6/8 or 6/9. I'll get back to you.

Brian P. Millikan
Millikan Wright, LLC
12180 Old Big Bend Rd
Kirkwood, MO 63122
314.621.0622 Office
866.640.0289 Fax
314.807.7576 Cell
www.millikanwright.com

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From: Levinson, Aaron [mailto:levinsona@stlouiscao.org]
Sent: Thursday, June 01, 2017 10:40 AM
To: Brian Millikan; Steele, Robert
Cc: Neil Bruntrager
Subject: RE: Christina Wilson Depo

Aside from tomorrow, any of those times will work. The contact who I set the previous deposition up with is Michael Schwade. Keep us posted on which date you pick.

From: Brian Millikan [mailto:BMillikan@millikanwright.com]
Sent: Friday, May 26, 2017 12:25 PM
To: Levinson, Aaron <levinsona@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>
Cc: Neil Bruntrager <njbatty@aol.com>
Subject: RE: Christina Wilson Depo

Aaron and Robert,

We are available for the Christina Wilson Depo all day on 6/2, 6/5 and 6/6, and in the morning on 6/8 and 6/9. Please let me know what your preference is and I will follow up with Al Watkins to set it up.

Thanks,

Brian P. Millikan

Millikan Wright, LLC
12180 Old Big Bend Rd
Kirkwood, MO 63122
314.621.0622 Office
866.640.0289 Fax
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From: Levinson, Aaron [<mailto:levinsona@stlouiscao.org>]
Sent: Tuesday, May 09, 2017 3:32 PM
To: Neil Bruntrager
Cc: Brian Millikan; Steele, Robert
Subject: RE: Christina Wilson Depo

Neil,

I have set this deposition for 5/16/17 at 9 AM in the law offices of Kodner Watkins located at 7800 Forsyth Blvd., St. Louis, MO 63105.

Regards,

Aaron Levinson

From: Levinson, Aaron
Sent: Friday, May 05, 2017 4:29 PM
To: Neil Bruntrager <njbatty@aol.com>
Cc: 'Brian Millikan' <BMillikan@millikanwright.com>; Steele, Robert <SteeleR@stlouiscao.org>
Subject: Christina Wilson Depo

Neil,

I just received a call-back from an attorney at Albert Watkins' office. He said he was unable for a deposition next week but could be available Tuesday the 16th. Would that work for you? They would want to do the deposition at their office in Clayton.

Regards,



Aaron Levinson
Assistant Circuit Attorney
St. Louis Circuit Attorney's Office
1114 Market St., Room 401
St. Louis, MO 63101
Office: (314)641-8231

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-----Original Message-----

From: Albert Watkins <albertwatkins@kwklaw.net>

Sent: Friday, January 12, 2018 8:03 AM

To: Steele, Robert <SteeleR@stlouisco.org>

Cc: Tony Bretz <tbretz@kwklaw.net>

Subject: Potential Misconduct-Eric Greitens

Dear Mr. Steele:

Attached hereto please find a an attachments comprised of the following:

1. A copy of the 10-20-15 email from Katrina Sneed to Eric Greitens;
2. A copy of an 8-25-15 email from Eric Greitens to Katrina Sneed;
3. A copy of the Administrative Contact page confirming the email and cell phone number for Eric

Greitens;

4. A copy of a screen shot taken of Katrina Sneed's phone reflecting the maintenance of Eric Greiten's personal cell phone number in Katrina Sneed's phone under a fictitious name.

Very truly yours,

Albert S. Watkins, LC
Kodner Watkins, LC
7800 Forsyth Blvd., Suite 700
St. Louis, MO 63105
Phone: 314-727-9111
Email: albertwatkins@kwklaw.net

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your request and with your consent. In the event you do not wish this form of communication in the future, upon your notification of same, no further E-Mail communication will be forthcoming.

Sent (1366 messages)



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- 10/13/15

Katrina Sneed

October 20, 2015 at 7:19 AM



To: ergreitenspersonal@gmail.com
Appointments

Eric,
I am asking you to please consider all who are involved and the circumstances around us. I need you to not book at the salon anymore. This isn't fair to me, nor anyone close to us. Please respect me and my wishes. I need to move forward in my life as I know you are doing as well. Take care,
Kitty

Sent from my iPhone

Katrina Sneed

October 20, 2015 at 7:18 AM



To: ergreitenspersonal@gmail.com
Appointments

Eric,
I am asking you to please consider all who are involved and the circumstances around us. I need you to not book at the salon anymore. This isn't fair to me, nor anyone close to us. Please respect me and my wishes. I need to move forward in my life as I know you are doing as well. Take care,
Kitty

Sent from my iPhone

match for search)

Q ergrei

Save

Eric Greitens Home

August 25, 2015 at 11:03 PM

To: Katrina Sneed

Inbox - Hotmail 



Thanks for getting me the appt.
with Theresa today!

And this is the link that I mentioned with the cool TED talks:

<http://www.businessinsider.com/9-ted-talks-for-when-youre-burned-out-2015-7>

The Shawn Anchor talk is particularly good.

I hope that you enjoy them!

Cheers, Kitty!

Best,
Eric

below (address, phone, email, etc)

Admin Contact

The Admin Contact is the person or organization who controls the domain.

Name Eric Greitens (9) (+2)

Org.

Email ergreitenspersonal@gmail.com (1)

Street 1141 South 7th Street (96) (+11)

Street 2

City St. Louis (78,655) (+6,867)

Region Missouri (466,248) (+49,333)

Zip / Post 63104 (3,969) (+339)

Country UNITED STATES (81,744,357) (+5,361,233)

Phone 12027256343 (1)

Fax

We can help

SEE THE DIFFERENCE

Search

Exit

Lauren; Dosantis Thon

work
(202) 626-8323

mobile
(314) 494-9703

mobile
(202) 731-1966

FaceTime

Name



-----Original Message-----

From: Albert Watkins <albertwatkins@kwklaw.net>

Sent: Friday, January 12, 2018 8:40 AM

To: Steele, Robert <SteeleR@stlouiscao.org>

Cc: Tony Bretz <tbretz@kwklaw.net>

Subject: Potential Misconduct-Eric Greitens

Dear Mr. Steele:

Attached hereto please find a screen shot of a social media published image of Katrina Sneed. Unfortunately, it contains derogatory commentary but I wanted to make sure you were provided with the image depicted therein.

There are other recordings between my client and his former spouse, however, it is understood these recordings do not contain information germane to the inquiry at hand.

Please let me know the date and time you desire to speak with my client. I will do all I can to accommodate your schedule.

Very truly yours,

Albert S. Watkins, LC
Kodner Watkins, LC
7800 Forsyth Blvd., Suite 700
St. Louis, MO 63105
Phone: 314-727-9111
Email: albertwatkins@kwklaw.net

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your request and with your consent. In the event you do not wish this form of communication in the future, upon your notification of same, no further E-Mail communication will be forthcoming.



Just now • Concord, Missouri • 📍

Looks like tomorrow morning on the Point 105.7 morning shows drive by whoring will be Moon's ex-wife.

🔍 🔒 kitty sneed



Complex Studios Salon and Spa in Map



Complex Studios Salon and Spa in Maplewood, MO - Salon Studio ...



From: SteeleR@stlouiscao.org <SteeleR@stlouiscao.org>
Sent: Friday, January 12, 2018 4:04 PM
To: GardnerK@stlouiscao.org
Subject: FW: Potential Misconduct-Eric Greitens

From: Albert Watkins [<mailto:albertwatkins@kwklaw.net>]
Sent: Friday, January 12, 2018 8:07 AM
To: Steele, Robert <SteeleR@stlouiscao.org>
Cc: Tony Bretz <tbretz@kwklaw.net>
Subject: Potential Misconduct-Eric Greitens

Dear Mr. Steele:

Attached please find copies of three emails corresponding to the above matter. The emails are described below:

1. A copy of the 7-8-15 email from Katrina Sneed to Philip Sneed;
2. A copy of the 3-24-15 and 3-26-15 email exchange between Katrina Sneed and Philip Sneed;
3. A copy of the 7-3-15 e-mail from Philip Sneed to Sheena Greitens and the auto-response thereto.

Very truly yours,

Albert S. Watkins, LC
Kodner Watkins, LC
7800 Forsyth Blvd., Suite 700
St. Louis, MO 63105
Phone: 314-727-9111
Email: albertwatkins@kwklaw.net

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From: Kitty Sneed <kittybella1@hotmail.com<mailto:kittybella1@hotmail.com>>
Date: July 8, 2015 at 1:11:35 AM CDT
To: Moon <moon@1057thepoint.com<mailto:moon@1057thepoint.com>>
Subject: Re:

I woke up to you not here and couldn't sleep so I decided to write. I apologize for this roller coaster we are on and have been on. I am willing to admit that what happened in March affected my decision making and I am saddened by a lot of it(my decisions). But I am not saddened by my decision to not continue our marriage while missing something. I couldn't pinpoint what it was, but the intricacies of who you are and who I am became a wedge between us instead of a bond.

By choosing to not continue to argue and feel consumed by emotions that hurt each of us, I chose what I felt was the only option. But All of the many moments that I have felt as if this decision is wrong and you and I can make it work and love each other without this wedge, I get so freaked out. I feel this way because I don't feel like it is deserved of me to express this to you and add to the confusion. I want you happy Phil. This has been a huge factor in my decisions all along. I'm sorry it hasn't made you feel happy the whole time, but I promise you that I want this. I think that Is why I feel so uncomfortable feeling jealous and sad by this predicament. Is it best if I just let go- for your sake? And let you move on in a way that could end up being fulfilling and what you need?

Of course my heart says hell no. What I would love ultimately is to come out of this path and river to a beautiful clearing where we can hold each other and experience years more of connection- true connection. Where each of us are letting go of what keeps us from loving vulnerably. Yes, I have lived with a part of my heart guarded. And I am tired of this. I need more love than this. You need more love than that. I hope that You can experience what I have to give and no other man. I have not loved the way I have loved you. This is one big factor in my continual holding onto you. Faith and hope that this horrible time can produce a path to loving each other vulnerably again.

But then my brain kicks in. Ha! And this is where I protect myself and you as well. Knowing that you may be more entangled than I had previously thought makes me so uncomfortable and not sure how to proceed. I am so worried that involving myself now could lead to horrible heartache at the expense of either of us or possibly both. I am willing to put my own heart on the line because I would regret it otherwise. I love you. Always have and always will. I think you are unique and special. I always have and always will. This goes way beyond your attractiveness Phil. I have just been more fearful to show you the other ways I find you irresistible. So while I am putting myself out there for Us, my brain does kick in and say, "maybe it is best if you let Phil move on." What does this mean about how we should progress? I'm not sure.

CAO-SOLOMON00068

On the selfish hand, I love the idea of exploring all feelings and thoughts of Us because we both deserve it and owe it to the kids as well. I think if we don't try when we do still have feelings for each other that we will both have regrets. I don't know how the rest of this week and weekend will go without there being some real feelings involved. Just Not going on Thursday is messing with me. I want to always be your support. I know it was my decision making that leaves me out of both Thursday and this weekend so I do not need to hear that. I am not mad about these days, just sad. I am sick about it because I didn't realize you had a close enough bond with someone to make them a fixture in your life enough to have them travel with you. Jealous isn't the right word. I think jealousy is smaller than what I feel and maybe you have felt? I think it's bigger because you and I are bigger than that. What we had/have is bigger than jealousy. Which is why I'm not sure how to proceed with this week/ weekend. I don't want to make decisions based on fear and emotion anymore. I want to sit in my emotion and see where I end up. I just want you to know that no matter what I have said, done, expressed and will continue to do... I do love you. Always always will. Even when my love looks scary and mean- God do I still love you. I can't get rid of it. It's there. A fixture in my heart. Can we utilize our love for one another to make it past these rough waters? Well we've made it this far so I guess I'll just have to sit in Our boat and see;) I know you have sat in it when I was swimming. It's just time we Both quit swimming and try paddling:-)
Love, Katrina Anne

Sent from my iPhone

From: katrina sneed <kittybella1@hotmail.com>
Sent: Thursday, March 26, 2015 8:50 PM
To: Philip 'Moon'
Subject: RE:

I know sorry doesn't cut it. I promise you that I hate what I've done to you (in everything the past few years) way more than I am sad for myself. I realized that when you were feeling down and needing me and I responded the way I did, I was ashamed in myself. I don't like that I feel that way about your sadness or needs. Please know that it is my goal to discover myself ASAP. Who I am and what I want. I know I wanted to get rid of the impure thoughts I had and I also wanted to get rid of my feelings towards you that I didn't want to have. I acted in a way that was cowardly. I need to figure myself out so I can be more clear and strong in my life. Hopefully these next few days, weeks or whatever it takes, I will find that clarity that helps me to be the best me I can be. Not just for the kids and myself, but to you. You deserve better. I know that and have felt that esp the past year that you have put so much effort in.

Take whatever time you need for yourself and know that I want a better me just as much as you do. I love you Phil. And have not loved anyone that way and it is my hope that I am able to discover a deeper love and kindness and caring for you that has been suppressed for too long.

Love, me

Sent from my iPhone

On Mar 24, 2015, at 5:13 AM, "Philip 'Moon'"
<taylorlortoday@hotmail.com> wrote:

I'm sorry you're hurting. I don't know how to respond to this as I don't really want to surmise what some of those sentences could

mean. I hope you find what you're looking for and need. Thank you for the kind words as you have been "my one and only true love" as well. Call if ya need me.

> From: kittybella1@hotmail.com
> Date: Tue, 24 Mar 2015 01:13:47 -0500
> To: taylorstoday@hotmail.com

>

> Still can't sleep. So many thoughts flying through my head. Us telling the kids and Lexi's bomb has me so upset. I don't want this to be true-either thing. You have been my one and only true love and it felt wrong to be telling the kids that last night. I felt closer to you yesterday than I have in a long time and I feel so confused. I hate hurting you. I hate hurting the kids. And I hate hurting me. I wanted a change in my overall feelings and I have it... Wtf. Life is bizarre. And I am so proud to be a part of yours and the kids. I want to fast forward these icky times and see what the proper thing to do and act is to achieve the

> Best outcome. I love you Phil. Always will and I'm hoping all of this is happening for a much greater reason that we just can't see yet.

>

>

> Sent from my iPhone

**The attachment file named
“July 3 2015 email and auto
response from Sheena
Greitens” could not be printed.**

From: Gardner, Kimberly <GardnerK@stlouiscao.org>
Sent: Wednesday, February 7, 2018 12:29 PM
To: Simmons, Eula; Dierker, Robert
Subject: Re: Watkins motion

Judge

I have the return.

Sent from my iPhone

On Feb 7, 2018, at 12:26 PM, Simmons, Eula <SimmonsE@stlouiscao.org> wrote:

Do you have this?

From: Dierker, Robert
Sent: Wednesday, February 07, 2018 12:10 PM
To: Simmons, Eula <SimmonsE@stlouiscao.org>
Subject: Watkins motion

Eula, Eric says he gave Kim the return of service on Al Watkins's subpoena. I will need a copy of that for the motion hearing this afternoon in Div. 16. I'll pick it up around 2:45 this afternoon. Thanks.

[REDACTED]

From: SimmonsE@stlouiscao.org
Sent: Wednesday, February 7, 2018 12:43 PM
To: DierkerR@stlouiscao.org
Subject: RE: Watkins motion

Hello Judge,

Kim don't want to release any paper work to the Court but Eric can come and testify that he served Al Watkins a subpoena since he is a process server of the Court, I notify Eric to meet you in Div 16 at 2:45, Thanks

From: Dierker, Robert
Sent: Wednesday, February 07, 2018 12:10 PM
To: Simmons, Eula <SimmonsE@stlouiscao.org>
Subject: Watkins motion

Eula, Eric says he gave Kim the return of service on Al Watkins's subpoena. I will need a copy of that for the motion hearing this afternoon in Div. 16. I'll pick it up around 2:45 this afternoon. Thanks.

STATE OF MISSOURI }
CITY OF SAINT LOUIS } SS

**MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT**
(ST. LOUIS CITY)

STATE OF MISSOURI,
Plaintiff

vs.

Defendant

)
) CAUSE NO.
)
)
) GRAND JURY, ROOM 401
)
)

GRAND JURY SUBPOENA

To: Jeff Smith
7th Orchards Lane
St. Louis, MO 63132

You Are Hereby Commanded, That, setting aside all manner of excuse and delay, you appear before the Missouri Circuit Court, Twenty-Second Judicial Circuit (City of St. Louis), Grand Jury, Room 401, Carnahan Court House, 1114 Market Street, in the City of St. Louis on **Tuesday, March 6, 2018, at 9:00am**, then and there to testify, and the truth to say, in a certain matter pending in said inquest, wherein said Grand Jury is inquiring into possible violations of the criminal laws of this State, pursuant to the charge of the Court heretofore given, and pursuant to Section 540.031, RSMo, and herein you are in no wise to fail.

WITNESS, Thomas Kloepfinger, CLERK OF THE CIRCUIT COURT, with the seal thereof hereto affixed at office, in the City of St. Louis this 13th day of February, 2018.



By Thomas Kloepfinger
Circuit Clerk

INFORMATION FOR WITNESS

You may be entitled to witness fees. Each day that you appear you should report to Room 401, Carnahan Court House, 1114 Market Street, contact number (314) 589-6222.

Once the subpoena has been served on you, you are bound by law to appear at all settings of the case until the case is disposed of or you are finally discharged by the court. If you fail to appear, you are liable to attachment (being taken into custody by the sheriff), or you may be subjected to punishment for contempt of court. See sections 545.360 and 545.370, RSMo. 2000

RETURN SHOWING PERSONAL SERVICE

I am a person over the age of 18 and I am not a party to the above captioned cause, and I served the subpoena herein by delivering a copy of it to _____

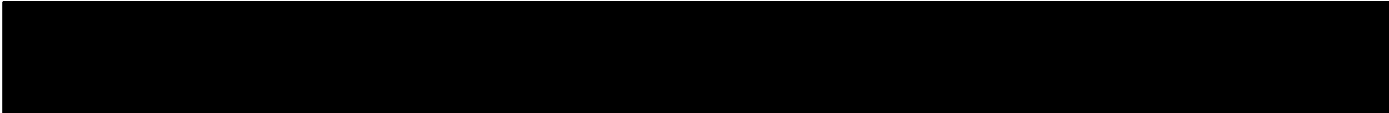
on the _____ day of _____, 20____ at _____ am/pm

Signature

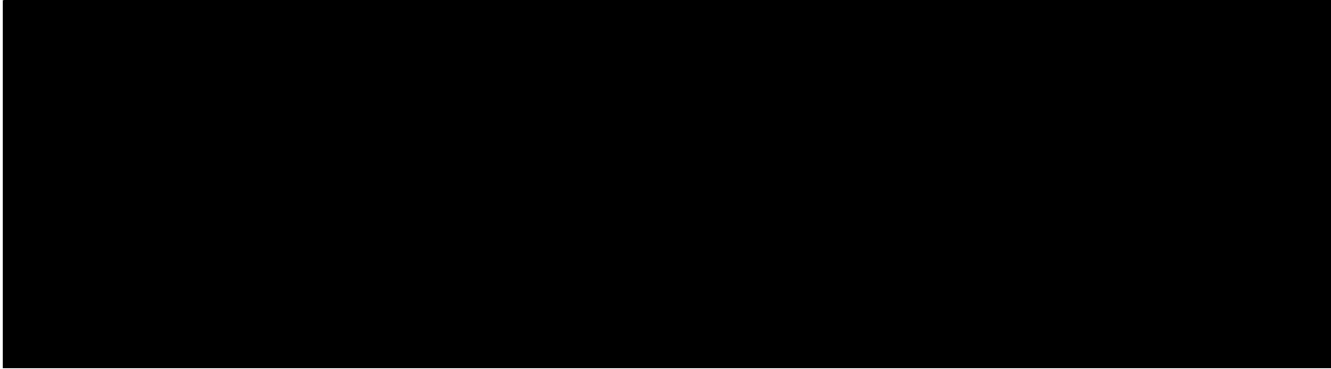
Subscribed and sworn to before me this _____ day of _____, 20____

My Commission Expires:

NOTARY PUBLIC



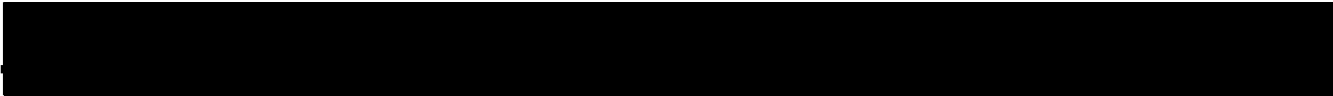
From: Herron, Courtney <HerronC@stlouiscao.org>
Sent: Wednesday, February 14, 2018 2:58 PM
To: Dierker, Robert
Subject: Phone messages



Al Watkins called. His callback number is (314) 727-9111.



Courtney Herron
Administrative Assistant
St. Louis Circuit Attorney's Office
1114 Market St., Room 401
St. Louis, MO 63101
(314) 589-6308 – office



From: DierkerR@stlouiscao.org
Sent: Friday, February 16, 2018 9:04 AM
To: GardnerK@stlouiscao.org
Subject: RE: Investigation

Will do. Why should we be surprised about disinformation from AI?

From: Gardner, Kimberly
Sent: Friday, February 16, 2018 9:01 AM
To: Dierker, Robert <DierkerR@stlouiscao.org>
Cc: Steele, Robert <SteeleR@stlouiscao.org>
Subject: Re: Investigation

Judge,

I have no idea what AI Watkins is talking about. There are no sources about a gag order coming from this office. Can u let the two attorneys know we are keeping it In house?

Thank you

On Feb 16, 2018, at 8:37 AM, Dierker, Robert <DierkerR@stlouiscao.org> wrote:

AI Watkins called me yesterday, asserting that the KC Star had a story about the "gag order" and that it was attributed to sources in our office. I referred him to you, giving Eula's number. He also wanted to talk about his testimony, if any, and his client's.

I may have misunderstood your last e-mail: have you told O'Malley and Haar of your decision to keep it in house? Thanks.

From: William Tisaby <williamtisaby@gmail.com>
Sent: Friday, February 16, 2018 2:30 PM
To: Kimberly Gardner; Maurice Foxworth
Subject: Fwd: People you may want to speak with

FYI

----- Forwarded message -----

From: **Jeff Smith** <jeffsmith2006@gmail.com>
Date: Wed, Feb 14, 2018 at 11:02 AM
Subject: People you may want to speak with
To: williamtisaby@gmail.com

Sen. Rob Schaaf
Sen. Gary Romine
Rep. Todd Richardson - call me to discuss
Jeff Layman (Greitens campaign finance chair)
Jeff Steurman (Greitens campaign treasurer)
Austin Chambers (Greitens campaign manager)
Danny Laub (initial Greitens campaign manager who was thrown under the bus in the MEC filing)

--

William Don Tisaby



From: Katrina Sneed <sneedk48@gmail.com>
Sent: Sunday, February 18, 2018 11:48 AM
To: gardnerk@stlouiscao.org
Cc: Scott Simpson <scott@knightsimpson.com>
Subject: Fwd:

Scroll to the bottom of this article. It clearly quotes Eric's attorney stating there was no photo right after the story came out.

<https://www.google.com/amp/s/amp.news-leader.com/amp/1023711001>

Sent from my iPhone

STATE OF MISSOURI }
CITY OF SAINT LOUIS } SS

**MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT**
(ST. LOUIS CITY)

STATE OF MISSOURI,
Plaintiff

vs.

Defendant

)
) CAUSE NO.
)
)
) GRAND JURY, ROOM 401
)
)

GRAND JURY SUBPOENA

To: Albert S. Watkins, LC
7800 Forsyth Blvd., Suite 700
St. Louis, MO 63105

You Are Hereby Commanded, That, setting aside all manner of excuse and delay, you appear before the Missouri Circuit Court, Twenty-Second Judicial Circuit (City of St. Louis), Grand Jury, Room 401, Carnahan Court House, 1114 Market Street, in the City of St. Louis on **Tuesday, February 20, 2018, at 11:00am**, then and there to testify, and the truth to say, in a certain matter pending in said inquest, wherein said Grand Jury is inquiring into possible violations of the criminal laws of this State, pursuant to the charge of the Court heretofore given, and pursuant to Section 540.031, RSMo, and herein you are in no wise to fail.

WITNESS, Thomas Kloepfing, CLERK OF THE CIRCUIT COURT, with the seal thereof hereto affixed at office, in the City of St. Louis this _____ day of February, 2018.



By Thomas Kloepfing
Circuit Clerk

INFORMATION FOR WITNESS

You may be entitled to witness fees. Each day that you appear you should report to Room 401, Carnahan Court House, 1114 Market Street, contact number (314) 589-6222.

Once the subpoena has been served on you, you are bound by law to appear at all settings of the case until the case is disposed of or you are finally discharged by the court. If you fail to appear, you are liable to attachment (being taken into custody by the sheriff), or you may be subjected to punishment for contempt of court. See sections 545.360 and 545.370, RSMo. 2000

RETURN SHOWING PERSONAL SERVICE

I am a person over the age of 18 and I am not a party to the above captioned cause, and I served the subpoena herein by delivering a copy of it to _____

on the _____ day of _____, 20____ at _____ am/pm

Signature

Subscribed and sworn to before me this _____ day of _____, 20____

My Commission Expires:

NOTARY PUBLIC

From: williamtisaby <williamtisaby@gmail.com>
Sent: Tuesday, February 20, 2018 8:40 AM
To: Kimberly Gardner; Jack Foley; Maurice Foxworth
Subject: Fwd: couple thoughts

Hello all. This is great food for thought.

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Jeff Smith <jeffsmith2006@gmail.com>
Date: 2/20/18 8:09 AM (GMT-06:00)
To: williamtisaby@gmail.com
Subject: couple thoughts

Don,

Hope you had a nice weekend.

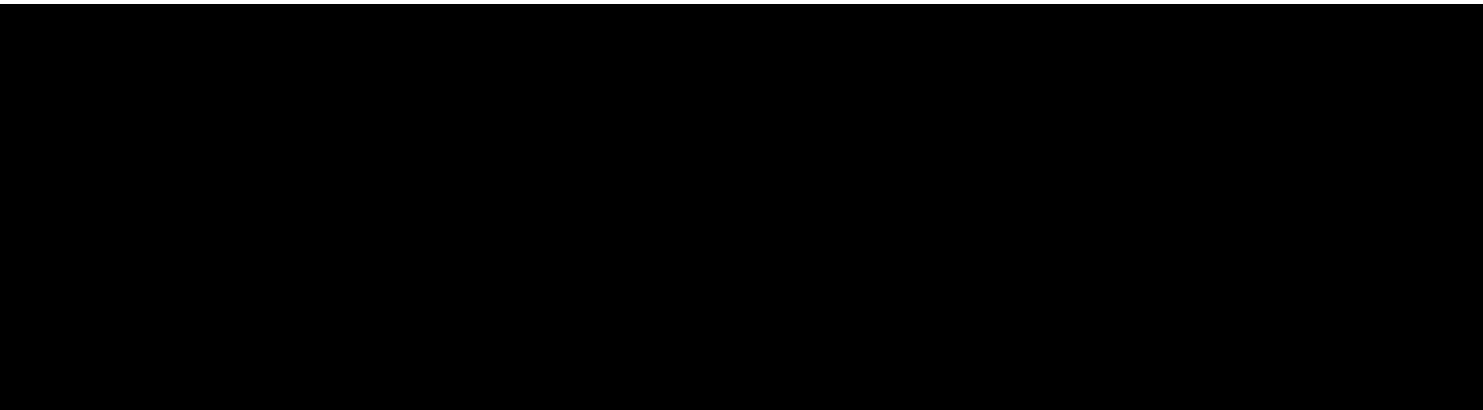
You may know most or all of this, but I wanted to offer a bit of context on some potentially fruitful lines of inquiry.

1) Evidence suggests that during his campaign, Greitens illegally coordinated with the allegedly independent PAC that spent several millions of dollars on his behalf in both the primary and the general. Background on that, including evidence suggesting likely coordination, is [here](#) and [here](#). The key person to interview would be Hank Monsees, a mid-level operative/hanger-on who has been involved in Republican campaigns for decades.

2) Austin Chambers has been the governor's campaign manager and chief political strategist. He was billed during and immediately after the campaign as a 21-year old wunderkind. However, he may have already admitted to breaking the law. In [this article](#), he says that he will be working three jobs related to Greitens - for the c(4) A New Missouri, for the governor's campaign committee, and for the governor's official state office. He says there will be coordination between the three, which is illegal. I could probably find the case law on this, if you like. I have heard that Eli Karabell, the young man who has already been contacted by the Feds, may have information about Austin, and emails.

Might it be helpful for you or someone else working on this to meet with Liz Ziegler, general counsel for the Missouri Ethics Commission, who knows all the fine print re: MO campaign finance law?

Best,
Jeff



From: SteeleR@stlouiscao.org <SteeleR@stlouiscao.org>
Sent: Tuesday, February 27, 2018 2:04 PM
To: GardnerK@stlouiscao.org
Subject: FW: Potential Misconduct-Eric Greitensh

From: Albert Watkins [<mailto:albertwatkins@kwklaw.net>]
Sent: Friday, January 12, 2018 7:57 AM
To: Steele, Robert <SteeleR@stlouiscao.org>
Subject: Potential Misconduct-Eric Greitensh

Dear Mr. Steele:

Attached hereto please find the full recording of the March 21, 2015 "confession" of Katrina Sneed.

Albert S. Watkins, LC
Kodner Watkins, LC
7800 Forsyth Blvd., Suite 700
St. Louis, MO 63105
Phone: 314-727-9111
Email: albertwatkins@kwklaw.net

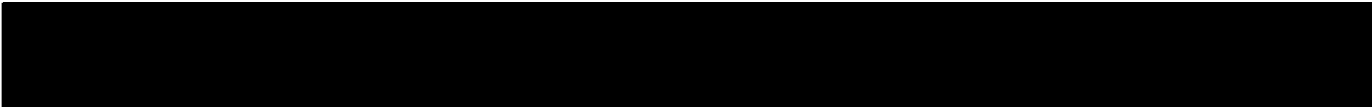
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request and with your consent. In the event you do not wish this form of communication in the future, upon your notification of same, no further E-Mail communication will be forthcoming.



From: Jeff Smith <jeffsmith2006@gmail.com>
Sent: Thursday, March 8, 2018 9:00 PM
To: boxa@stlouiscao.org
Subject: docs
Attachments: IRS Complaint The Mission Continues.pdf; LG PAC Info 3.2.docx

Tony, see the two attached docs. Let me know if you have questions. Thanks.

Tax-Exempt Organization Complaint (Referral) Form

1. NAME OF REFERRED ORGANIZATION: The Mission Continues

Street Address: 1141 S 7th St.

City/State/Zip Code: St. Louis, MO 63104

Date of Referral: 11/2/2016

2. ORGANIZATION'S EMPLOYER IDENTIFICATION NUMBER (EIN): #20-8742553

3. NATURE OF VIOLATION:

- Directors/officers/persons are using income/assets for personal gain
- Organization is engaged in commercial, for-profit business activities
- Income/assets are being used to support illegal or terrorist activities
- Organization is involved in a political campaign
- Organization is engaged in excessive lobbying activities
- Organization refused to disclose or provide a copy of Form 990
- Organization failed to report employment, income, or excise tax liability property
- Organization failed to file required federal tax returns and forms
- Organization engaged in deceptive or improper fundraising practices
- Other (describe): See attached document.

4. DETAILS OF VIOLATION:

Name(s) of Person(s) Involved: Eric Greitens

Organizational Title(s): Founder & CEO

Date(s): Multiple, 2008-2015

Dollar Amount(s) (if known): Unknown

Description of activities: See attached document.

5. SUBMITTER INFORMATION:

Name: Anonymous

Occupation or Business: _____

Street Address: _____

City/State/Zip Code: _____

Telephone: _____

- I am concerned that I might face retaliation or retribution if my identity is disclosed.

6. SUBMISSION AND DOCUMENTATION: The completed form, along with any supporting documentation, may be mailed to IRS EO Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1198, faxed to 214-413-5415 or emailed to eoclass@irs.gov.

Complaint Against The Mission Continues & CEO Eric Greitens

IRS Form 13909

Referred: 11/2/2016

It is my belief that Eric Greitens has intermingled his personal, business, and non-profit interests in violation of I.R.S. laws. This intermingling has reached its apex as Mr. Greitens began to plot a run for public office in Missouri. Whether or not Mr. Greitens is elected, I believe the following abuses of law need to be reported and addressed.

Most of the concern stems from Mr. Greitens' charity, The Mission Continues, and his business, the Greitens Group. Both institutions have been used to push Mr. Greitens as a candidate for Governor in Missouri, and from what I can gather, in an illegal fashion. Though, not all violations are tied to Mr. Greitens' run for office.

Beginning with The Mission Continues (TMC), it appears that Mr. Greitens was compensated at a level that exceeds that of similar charities. In 2013 alone, Mr. Greitens drew an annual salary of \$186,507 according to The Mission Continues' Form 990. For the sake of comparison, the President and CEO of Hope for Warriors made \$99,349 in 2013, Team Rubicon's President made \$98,000 in 2013, and The Navy SEAL Foundation's CEO made \$137,019 in 2013. Mr. Greitens' salary seems particularly excessive when one takes into account that much of the donations received by TMC came in the form of "in-kind" contributions, which means that he received an abnormally large salary when compared to actual monetary receipts. While this may not violate law, it sets a standard for further complaints.

As Mr. Greitens moved toward running for office in Missouri, the misuse of TMC became more egregious. Since registering his Missouri Ethics Commission campaign committee, as required by Missouri law, Mr. Greitens has received well in excess of \$1 million in donations from individuals who also donated to TMC. While not I.R.S. codes, this seems to violate MoRS 355.416 (Nonprofit Corporation Law – Director's Conflict of Interest) and MoRS 355.841 (Nonprofit Corporation Law – Use of Membership Lists). Individuals that Mr. Greitens had associated with through both TMC, Missouri Boy's State, and other organizations that have no affiliation with Mr. Greitens' campaign have claimed to receive emails and mailings on behalf of the campaign, which indicates that the campaign has utilized lists from charitable organizations, including TMC, for political purposes.

In reviewing I.R.S. Form 990s, I saw that in 2011, TMC stated that Mr. Greitens worked 50 hours per week for his \$203,801 salary that year. However, during that year, Mr. Greitens was also teaching at the University of Missouri and receiving \$36,000 in compensation through a fellowship, planning an August 2011 wedding, completing his book *The Heart and the Fist*, recording the audio version of his book, and doing an extensive publicity tour for his book. In 2012, his book tour grew more extensive in appearances, but the same 50 hour per week claim exists from TMC. If Mr. Greitens did not work 50 hours per week at TMC, he has perjured himself in the submission of this I.R.S. form. I was also not able to find a Form-1023, which may have shown that some of Mr. Greitens' activities would have been in conflict with the purpose and goals of TMC.

As *The Heart and the Fist* was released, TMC promoted it aggressively. In a self-enrichment scheme, TMC continues bought large volumes of the book from the Greitens Group, which helped to put the book on the New York Times Best Seller List. A portion of the book's proceeds were to be designated for TMC, but there is no record in TMC reporting that a contribution was made from either the Greitens Group or Mr. Greitens' publisher.

TMC became a publicity arm for Mr. Greitens and his brand, which is managed by the Greitens Group. In 2013, TMC spent \$305,382 for the services of Fleishman Hillard for public relations for TMC. TMC's website used its website to promote Mr. Greitens' books and book tours – even though they financially benefitted Mr. Greitens personally and the Greitens Group. During Mr. Greitens' tenure at TMC, the organization spent over \$800,000 in advertising expenses, and that does not even include fees for public relations.

When comparing all of the previous with the legal scrutiny that befell The Wounded Warrior Project, there are striking similarities. Mr. Greitens drew a significant salary, likely falsely reported his working hours with TMC, TMC spent lavishly to benefit Mr. Greitens, and a tremendous amount of money intended to serve veterans in need was spent on promoting Mr. Greitens while he readied for a run for office.

The facts also compare to the scandal that beset Greg Mortenson and his Central Asia Institute (CAI). In that case, Mortenson signed an agreement with publisher Viking Penguin to write a book, which became "Three Cups of Tea." The book became CAI's main outreach tool, and the charity paid over \$350,000 to produce the book. In the following years, CAI bought and gave away thousands of copies to libraries, schools, places of worship, and other institutions and organizations. Mortenson made hundreds of public appearances promoting his book, his story, and CAI's mission. The travel costs and promotion of the book were paid for by CAI for nearly seven years. The Montana Attorney General, Steve Bullock investigated and reached a settlement agreement with Mortenson and the CAI concluding that the CAI's board of directors failed to fulfill some of their responsibilities as board members of a non-profit charity and that Mortenson failed to fulfill many of his responsibilities as executive director of the organization.

A general concern underlying much of the troubling actions is the overlap in interests between Mr. Greitens' business, charity, and his campaign. The Greitens Group shared office space with TMC. According to the LinkedIn profile of a Ms. Rachel Wald, she worked as both the Staff Director for TMC while serving as a Senior Associate for the for-profit Greitens Group. This would be in direct conflict with 'Note G' on TMC's annual audited financial reports, which states, "Although Greitens Group employees may volunteer for the Organization, at no point is any Organization staff member or intern permitted to assist with any Greitens Group activities."

Early in 2016, a complaint was filed with the Missouri Ethics Commission against Greitens for Missouri (Mr. Greitens' campaign committee) for paying two campaign staffers through the Greitens Group; the complaint was filed due to non-disclosure of the amounts of work each had provided to his campaign. Although the complaint was eventually dropped, the reason for concern still exists.

One of the most troubling and apparent misuses of TMC funds came before the August 2016 primary for Governor, involving Mr. Greitens. Just before that time, there was a dramatic spike in advertising at high profile events, such as St. Louis Blues playoff games and at Wehrenberg movie theaters. The clear intent of this advertisement spike was to promote TMC, Mr. Greitens, and his newest book *Charlie Mike* in a way that would reach Missourians before the election. Instead of helping veterans, donated dollars to TMC were being used to promote their former CEO's status in the Missouri Governor's race. Although TMC is a national charity, it appears that a disproportionate amount of money was spent advertising to the 2% of the country's citizens living in Missouri.

October 2016 AP Article

<https://apnews.com/e7e6479b83a545bdafa0cd20a1a63174>:

From article: *Federal law bars 501(c)(3) charities such as The Mission Continues from intervening in political campaigns on behalf of candidates. The Internal Revenue Service has ruled charities cannot give donor lists to politicians but can rent them at fair market value if made available to all candidates...It's unclear exactly how Greitens' campaign staffer came into possession of the list...Mission Continues spokeswoman Laura L'Esperance said Monday that the St. Louis-based charity Greitens founded in 2007 did not share its donor list with Greitens or his campaign and, as a general practice, does not share, sell or rent the list to external parties.*

Truth: The list was NOT made available to any other campaigns at the time, and most certainly has not been made available to any other campaigns since then. TMC specifically said they did not make it available to any campaign. Greitens' personal assistant from Greitens Group had the list and supplied it directly to multiple members of the campaign, and likely supplied it on more than one occasion. Both the campaign and Greitens Group had access to the list. The only thing that remains unclear at this point is how Greitens' personal assistant received the list, but it is presumably either from Greitens himself, or from someone at TMC at the request of Greitens.

From article: *Greitens denied using the charity's donor database for his campaign*

Truth: The Greitens campaign developed fundraising plans and call lists for Greitens, directly based off the TMC donor list.

From article: *"No, we were not working off of a Mission Continues donor list," Greitens told The Associated Press. But Greitens acknowledged soliciting contributions for his campaign from some of the same people who supported his charity.*

Truth: Greitens and his staff went through the TMC donor list name-by-name and selected donor prospects for Greitens to reach out to. Donor prospects were selected solely on their financial worth/ability to give, and at the levels they could contribute - both of which were indicated on the TMC donor list.

From article: *"We were calling people who had become friends and gotten to know me over the course of seven years, who invested in The Mission Continues, and got to know me as a leader," said Greitens, a former Navy SEAL officer, author and motivational speaker who is making his political debut.*

Truth: It is true many donors from TMC could have been friends with Eric. There were also TMC donors who were Greitens' family members, had served with him, or were business associates, however, the TMC donor list had specific contact information listed as well as donor amounts. The donor list would not have been needed for individuals who were strictly "friends" of Eric Greitens.

From April 29, 2017 AP Article

<https://www.nytimes.com/aponline/2017/04/29/us/politics/ap-us-missouri-governor-donors.html? r=0>

From article: A consent order dated Friday between the Ethics Commission and Greitens said the commission found probable cause to believe a violation of law occurred. "This isn't a major ethics violation," Greitens campaign adviser Austin Chambers said Saturday. "This is a clerical error where a minor contribution wasn't reported on a campaign finance report." Greitens denied in an interview at that time that he had worked off The Mission Continues donor list but acknowledged soliciting campaign contributions from some people who supported the charity, which he founded in 2007.

Truth: There was not a clerical error. The campaign had a strict set of accounting and MEC reporting guidelines, put in place by Eric Greitens' Campaign Treasurer - Jeff Sturman, a former Edward Jones executive. Furthermore, Danny Laub most likely did not even request the list from TMC and he most likely was not the staffer who received the list from TMC. The list was provided to the campaign by a Greitens Group staffer. According to the October 2016 AP article, TMC "did not share its donor list with Greitens or his campaign". Someone from TMC had to supply either Greitens or his personal assistant with the list.

From article: Greitens campaign filed amended campaign finance reports Friday valuing the charity's donor list as a \$600 in-kind contribution received March 1, 2015, from Danny Laub, who was listed as Greitens' campaign manager at the time.

Truth: The list was received by the campaign well before March 1, as campaign staff was provided the list in early January.

From article: The donor list appears to have produced a campaign windfall many times that amount. But Chambers said it wouldn't have been as valuable in the hands of anyone besides Greitens. "The list is simply the information. The relationship that Eric has built over years with these people, who then decided they wanted to be a part of his mission in Missouri, is why the money was then given to the campaign," Chambers said.

Truth: Any TMC donors who Greitens had a personal relationship with should have already been in Eric's personal contacts, thus rendering the TMC donor list completely irrelevant. The TMC donor list was used to build a fundraising plan and call lists for Eric to solicit large campaign contributions. Regardless, the TMC donor list was NOT made available to any other campaigns, which it should have been in accordance with the law.

LG PAC

Expenditures and Background

LG PAC was organized as a Federal Super PAC (FEC ID C00617340), but was involved only in buying ads opposed to John Brunner during the 2016 Missouri gubernatorial primary. It raised a total of \$4,395,004 during 2016 and spent \$4,394,997.70.

Only four firms received money from the PAC:

- Clark Hill PLC, a DC law firm, received \$32,565.60
- Chain Bridge Bank, a small Virginia-based bank that has become the bank of choice for Super PACs, Presidential candidates, and other political organizations, received \$404 in bank fees
- Main Street Media Group, a behind-the-scenes media firm often tied to efforts led by Karl Rove's American Crossroads network, was paid \$4,320,327.50 for media purchases.
- Outlaw Media, which has a history of working on independent expenditure efforts, was paid \$41,500 for media production.

The entirety of LG PAC's funding (less \$4) came from Freedom Frontier, a Texas-based group whose only other 2016 cycle contributions included \$275,000 to the Security is Strength PAC (which supported Lindsey Graham's presidential campaign before ultimately becoming involved in US Senate races) and \$5,000 to The Palmetto PAC. Because Freedom Frontier is organized as a nonprofit organization, it is impossible to determine where the \$4.395 million they donated to LG PAC came from.

Ties to Greitens

After the PAC began spending money attacking the Brunner and Hanaway campaigns, some asserted that it was named "LG PAC" and emphasized "strong conservatives who have a proven track record and accomplishments in government" to create the assumption that it was tied to then-Lt. Gov. Peter Kinder.

However, many press outlets noted that it was likely tied to the Greitens campaign rather than to Kinder, which became clearer after the committee began defending Greitens when committee treasurer Hank Monsees was spotted attending a Greitens for Governor event and making calls for the campaign.

Monsees denied that the PAC was supporting any particular candidate and instead said that its "singular focus is helping to ensure that we elect a conservative that can win in November." Monsees dismissed the picture of him at a phone bank, claiming he "may have played with the phones or something" but did not make any calls for the campaign, though the denial was taken with a grain of salt by the press given the substantial evidence of ties between the two.

The ties became harder to deny after Nick Ayers – general consultant to Greitens and now Chief of Staff to VP Mike Pence – filed his federal financial disclosure, it was revealed that he received

at least \$5,000 from Freedom Frontier (the sole source of LG PAC's funds) through his firm, C5 Creative Consulting – the same firm paid by the Greitens campaign. Working for an independent expenditure effort and the campaign at the same time could be seen as evidence of coordination and makes it much harder to deny that LG PAC was not somehow involved in supporting the Greitens campaign.

What Makes This Situation Odd

Hank Monsees, while he has been active in Missouri politics for a long time, would not have the political ties to reach out to a national nonprofit like Freedom Frontier, nor to convince them to give 94% of their political expenditures for the cycle to a PAC he ran.

Moreover, it seems unlikely that Mr. Monsees – who is based in Kansas City – would choose to bank at an institution that has only one branch (located in McLean, VA) when there are certainly other Missouri-based options that would have been more convenient to him.

In reality, it seems far more likely that Mr. Monsees was simply a local face to put on a committee that was run by others.

Seals for Truth

As stated by **the St. Louis Post-Dispatch**, Eric Greitens' campaign received, at that time, the **single largest political contribution in Missouri history** to an individual candidate. Knowledge of where this money came from is not publicly available other than it came from "Seals for Truth". When Seals for Truth disclosed their donors, all of the group's money came from a Washington, D.C.,-based nonprofit called the American Policy Coalition Inc.

The American Policy Coalition website contains no information about the group at all, and it appears to have filed no paperwork with either the FEC or the Missouri Ethics Commission. But the group is connected to an Ohio attorney, David Langdon, who the Center for Public Integrity labeled the "nexus of one of the nation's most mysterious networks pouring secret money into elections."

Suggested Questions

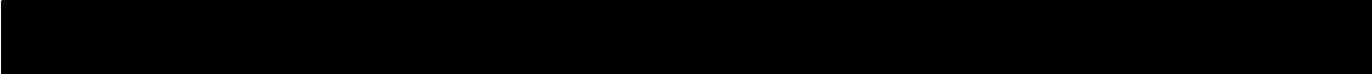
Should Hank Monsees be brought in for questioning, it would be interesting to know the following:

- Who approached him to be the treasurer for LG PAC?
- Did he form the PAC himself, or did someone else form the PAC? If he claims to have formed the PAC himself, why did he choose to set up the bank account at Chain Bridge Bank, which has only one location – its main office in McLean, VA?
- How did he hear about Freedom Frontier? Is he familiar with their leadership?

- Who solicited the donations from Freedom Frontier? If him, did someone instruct him to do so?
- Who determined messaging for the committee's ads? Was it Hank alone, or were others involved in the process? Can he provide proof that he directed the creativity and placement himself? Does he have any experience in ad placement?
- As the treasurer for a Super PAC involved in the gubernatorial race, why did he attend a campaign event for one of the candidates?
- Why was he pictured holding a campaign phone at the Greitens for Governor office? He denied making a phone call, but was he posing specifically for the campaign to use the picture? That would still indicate support for the Greitens campaign.
- Did you solicit money for Freedom Frontier? Do you know who are any of the donors to Freedom Frontier?
- Do you know Nick Ayers? How often have you communicated?
- Do you know Austin Chambers? How often have you communicated?

Should Austin Chambers be brought in for questioning, it would be interesting to hear his answers to the following:

- Did you have any involvement with LG PAC?
- Have you ever been in contact with Freedom Frontier?
- Your employer, Nick Ayers, was paid by Freedom Frontier through C5 Creative. Do you know what they paid him to work on?
- Have you ever spoken, met, or communicated with Hank Monsees? How often?
- Did you or anyone with the Greitens campaign solicit monies for Freedom Frontier?
- Do you know who donated money to Freedom Frontier?
- A significant amount of money was spent by LG PAC on the gubernatorial election. If claiming not to know anything about LG PAC, did you ever inquire about who was behind this large expenditure of money that could have changed the course of the election? If no, why not? If you claim not to know anything about this group, what would have stopped them from running ads against your candidate, Greitens? Wouldn't a prudent campaign manager at least have investigated who this group was?
- Have you communicated with a group called Seals for Truth? If so who?
- Do you know why they gave nearly \$2 million to the Greitens campaign?
- Do you know who the American Policy Coalition is? Have you ever spoken with anyone at the American Policy Coalition?
- Did you solicit money from the American Policy Coalition?
- Did you or any campaign staff solicit money to be given to the American Policy Coalition?
- Do you know or have you ever communicated with David Langdon?
- Do you know who BlugrassVotes.org is?
- If you did not ever communicate with the American Policy Coalition or David Langdon, were you surprised when a nearly \$2 million contribution arrived?
- Did you ever speak with anyone in the campaign about this contribution? Did you ask where it came from? If so, who gave the money to the American Policy Coalition?
- Did you speak with Nick Ayers about this contribution?



From: Box, Anthony <boxa@stlouiscao.org>
Sent: Friday, March 9, 2018 6:25 AM
To: Jeff Smith
Subject: RE: docs

Jeff,

Got it. Thanks.

Tony

From: Jeff Smith [mailto:jeffsmith2006@gmail.com]
Sent: Thursday, March 08, 2018 9:00 PM
To: Box, Anthony
Subject: docs

Tony, see the two attached docs. Let me know if you have questions. Thanks.



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ROCHESTER MI 48307

☎ 800.408.1730 🌐 ENTERRALLC.COM

INVESTIGATIVE NARRATIVE CONFIDENTIAL

Katrina Sneed (KS) was interviewed on January 29th, 2018. It was explained to her the nature of the interview, our duties and responsibilities with the Circuit Attorney's Office. KS stated that she met EG two years prior (2013) and that she styled EG's at least ten times as stylist. KS stated that when she first met EG, she thought that he was nice and interesting, that he volunteered like Mother Theresa. She added that EG told her that he was a motivational speaker, and that he would talk about being a Rhodes Scholar and navy seal.

KS stated that EG went a long time without booking and appointments from late 2014 until early 2015. She stated that in March 2015 EG booked again.

In March 2015, EG came in and brought a copy of his book.

KS stated that she was over at shampoo bowl washing EG's hair and speaking about a professor and something about an interesting topic. KS stated that EG started to feel and rubbing her leg and that EG kept going farther in between her leg and up and up by private part area.

KS stated that later same day EG returned to the salon with a suit on and a copy of his book signed and left at front desk of salon for her. EG wrote Enjoy! KS said that later that same day EG emailed her and saying, "Kitty great to see you, I left a book for you. Sometimes it's difficult getting an appointment. Do you have another way I can contact you"?

KS stated that in subsequent phone calls and email exchanges, she and EG discussed where to meet and how to contact each other because EG told her that he could not be seen in public with her.

KS stated that on March 21st, 2015, she met EG at his residence on Maryland Avenue. She stated that EG's home was a big CWE brick home, more than one level, about three levels.

KS stated EG instructed her to come through the back of the house. KS stated that she went in the back through the kitchen. She stated that EG opened door, he was silent and he put his finger over his mouth, indicating for her to be silent. She stated that EG grabs her purse and keys, and sits them down on the counter. She stated that EG kept indicating for her to be silent and whispering don't talk. EG then goes through her purse and says he was looking for bugs, looks outside to make sure no one followed her. She stated that EG then proceeds to pat her down, checking for bugs. KS stated that EG stated, "you said husband can be controlling and follow you".



KS stated that EG asked “how much time do you have”? She stated that EG said, “I want you to trust me and I want to make you feel good, and I want you to put on these clothes”. EG made her change clothes out. EG made her take off everything and she was shaky and nervous. EG kept saying he wants to take care of her. She stated that EG provided a white t shirt with a slit in the neck area and put on his pajama pants. KS said that she asked EG, “What are you talking about just want to talk”? She stated that EG said “I don’t think you have been taken care of and we don’t have much time”. KS stated that she trusted EG, did not want to have a crush, but was confused and never cheated on her husband.

KS stated that EG told her to follow him downstairs in basement. KS stated then started shouting demands, tells her to put her hands on these rings. KS stated that he taped her hands with gauze. KS stated that at this point, she was still thinking that EG just wanted to talk. KS stated that EG then puts blind fold over her eyes, never asked her for her permission. EG told her he wanted to teach her how to do a proper pull up. She then stated that EG takes water in his mouth and tries to put in her mouth then, she spits (at this point they have never kissed). KS said that EG stated, “not going to be a naughty girl”? She stated that EG did it again and she spat the water out again. KS stated that EG started to kiss her down her neck then rips shirt in half that she was wearing.

KS stated that at the point, she felt traumatized for the first time. KS then stated that EG pulls her pants down without saying anything. KS stated that she thought, “What the fuck, I’m naked, hands tied on rings, oh my God”. KS then states that all of the sudden she sees light flashes and picture sounds. She stated that she could see through the blind fold. KS stated that EG said to her, “Now if you tell anyone or mention my name, everyone will see what a little whore you are”. KS stated that she was so scared, and said, “Oh my God”.

KS stated that EG asked her, “Are you going to mention my name”? She then said that EG got real close spanking her. KS stated that through her teeth she says, “NO”.

KS stated that at this point, she is so angry, felt violated, and taken advantage of. KS stated that she told EG that she doesn’t even let her husband take a picture of her. KS stated that she was crying, wanted to get out of there. KS stated that she tries to leave. KS stated that she was so angry and crying. KS stated that EG grabs her and puts her in a fetal position. KS stated that while she is laying down sobbing, EG unzips his pants puts his penis by her face while she crying. KS stated that she then performs oral sex on EG.

KS stated that she is on the ground and she is grossed out. KS stated as she was trying to leave, EG grabbed her. KS stated that she felt so degraded, so embarrassed, and like



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cheap. KS stated that she got dressed and left. KS stated that she felt so bad, walked back to work. KS stated that she kept thinking, "He took a picture of me, oh my God". KS stated that she could not believe what had happened. KS stated that she felt that EG had control. KS stated that she never consented to EG taking pictures of her.

KS further advised that she kept thinking at work, "oh my God he took this picture and he could show it to a lot of people". KS stated that she forgot that she had left her keys and knew that EG said that she could not call him. KS stated that EG would say "I'll call you".

KS stated that she got off work at 4:00 p.m., and went back to EG house to retrieve her keys. KS stated that EG kept asking her, "Will she come back". KS told EG I'm so pissed at you and so angry. KS told EG that "nobody has ever taken a picture of me".

KS early April 2015, did EG's hair. KS stated that she was sitting outside of work near the fountain when EG pulled up in his car and said, "Can I see you"? KS stated that she asked him, "where is your wife"? KS stated that EG stated that "she works in Columbia".

KS stated that she went over to EG's home and went through the back door. KS stated that there was this high intensity about EG, like he was a tiger. KS stated that EG pounced on her and took her upstairs to his bathroom where they had oral sex.

KS stated that most of the time at salon when EG was at the salon, he would ask her, "Did you tell anybody"? KS stated that she did not know what he would do, seemed he only wanted to protect himself.

KS stated that EG contacted her and told her that he would like to see her that his wife was leaving for a week end of late June early July 2015. KS stated that EG tells her that "I want to see you; I'm going to get a burner phone to communicate with you".

KS stated that she went to EG house that Saturday. KS stated that EG guided her upstairs to a spare bedroom where they were making out. KS stated that she was kind of lying off the bed, when EG asked her "has she had sex with anybody else". KS stated that she replied, "Yes my husband". KS stated that EG just slapped her hard. KS stated that she remembered being startled and saying "What the fuck, you're married, how can you do that"?

KS stated on another occasion at the end of June 2015 or July 4, EG asked her to come over to workout at his house. KS stated that she came over and they worked out downstairs in his full gym. KS stated that after a full workout then EG turned it into sexual in nature. KS stated that they never had intercourse. KS stated that "EG got behind me like in a doggy style position and started fingering me, then he slapped my ass and hip hard, and shoved me on the ground". KS stated she started sobbing hysterically and asked EG, "what is wrong with you"? KS stated that she started to do the same thing in fetal



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position crying. KS stated that EG kept saying, “I just want to make you feel good”. KS stated that EG kept trying to coax her. KS stated that she then got ready for work and left. KS stated that she could not believe the slap and push, she just resented it.

KS stated that in October 2015, EG came by salon. KS stated that she did his hair and that EG kept saying, “I keep thinking about you”. KS stated that EG also kept saying, “You did not tell anybody did you”? KS told stated that she told him, “no”. KS stated that she sent EG an email to EG that he should stop coming in the salon completely.

JODI WAGENER INTERVIEW

Jodi Wagener, Paralegal, was interviewed at her place of employment, Goldenberg, Heller, Antognoli, & Rowland, P.C., 2227 South State Route 157, Edwardsville, IL 62025 by William Don Tisaby. Also present was her supervisor, Attorney David L. Antognoli, who also stated that he was her Counsel. Antognoli requested that the interview should not be a taped recording.

Eric Greitens

Jodi Wagener stated that she has been employed for 13 years at Goldenberg, Heller, Antognoli, & Rowland; P.C. Wagener stated that she and her husband have been mutual friends with Katrina Anne Sneed (KS) and Philip Sneed (PS) for eight years. Wagener noted that her husband had been a friend of PS prior to their marriage.

When Wagener was asked about her knowledge of the relationship between KS and now Missouri Governor Eric Greitens, she advised that she first became aware in March 2015. Wagener stated that KS called her and told her of a customer (Greitens), who had written a book and that she had Googled his name. KS told her that he was good looking, a former Navy Seal, and a Rhodes Scholar. Wagener stated that KS told her that there had been some flirtation between the two. Wagener advised that on one occasion afterwards, KS informed her that during one of Greitens visits to the salon (Chase Park Plaza), while KS was shampooing Greitens hair, he, Greitens had felt her legs and had moved his hand up between her legs.

Wagener then related that KS had told her that Greitens wanted her, KS, to come over to his home, which was walking distance from the salon. KS further advised Wagener that she was very nervous about going over to Greitens home, but she agreed to do so. KS told Wagener that upon her arrival at Greitens home, Greitens assured her that he wanted to make her feel comfortable. KS then told Wagener of the events that followed. KS stated to Wagener that Greitens invited her downstairs to his basement, whereby he told her that he wanted to show her how to do pull ups. Greitens then blindfolded her, and then bound her wrists to the pull up equipment. Wagener stated that KS told her that Greitens had provided her with a Tee – Shirt and bottom pants. KS added that Greitens pulled down the pants and made a comment about her stomach. KS then stated that through the blindfold, she saw a flash and observed Greitens taking a picture. Wagener stated that KS said that “Greitens basically told KS, you’re not going to tell anybody, if you do, I will distribute the pictures”. Wagener stated that KS told her at that time that she was afraid of the photos being released to family and friends. Wagener stated that she remembered this conversation and that she advised KS that Greitens was “creepy”. Wagener also stated that she also confided in KS at that time, her concerns. Wagener stated that KS advised her that there was no intercourse but there was some oral sex at



that time. Wagener stated that KS was “freaked out” about the situation because she was still married. Wagener that KS was not normally involved in a situation like that. Wagener stated that in addition, KS told her that she went back to Greitens home to retrieve her keys later that day. KS related to Wagener that it was at that time that Greitens told her that he had deleted the pictures.

Wagner stated that not long after this incident, KS told her of another occasion whereby Greitens stopped by the salon before work hours and before the other employees showed up for work. KS told her that there was some “making out” between the two before the arrival of the other employees. Wagener also noted that KS told her that Greitens would on occasions walk by the salon. Wagener told her that she had seen Greitens at a supermarket and that he had a toddler with him, and that she, KS felt very weird at that time. Wagener then recalled that months later, KS had sent Greitens an email advising Greitens not to see her anymore.

Philip Sneed

Wagener related that she and KS had engaged in several conversations about their marital situation. Wagener noted that KS told her that her husband, PS, was living with his brother at the time of the Greitens encounter. KS told her that her husband was not a forgiving person and that he did not believe that she, KS, was not seeing Greitens. Wagener stated that she advised KS to tell her husband everything out of concern for their efforts to salvage the marriage.

Wagener stated that it was not uncommon for PS to send KS degrading texts and to publically degrade her. When asked specifically asked what she thought of PS’s behavior, Wagener stated that she felt that PS “held this over KS’s head for a long time before it became public”. Wagener stated KS was worried about PS’ an on air personality and the people that he knew. Wagener stated that she and her husband wondered why PS hadn’t disclosed the information about his wife long before it became public.

Post Disclosure of Alleged Affair

Wagener stated that hours before the story broke in January she had received a phone call at home that she did not answer. The phone call was unknown and from Washington, DC. The caller left a voice message advising that it was Politico. The message talked about the story. Wagener stated that she did not return the call and that another call was made to her home phone, at which time her husband answered and spoke to a female who wanted to talk to her off the record. Her husband took the message; however, Wagener stated that she did not return the call.

Wagener stated that before the story broke she went to KS’ Facebook page and Twitter, and they were gone. Wagener said she then texted KS and asked her about the story and asked KS if it was capital “G”, (code for Greitens), KS said “yes”.



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KS then added that she also recalled PS on occasion talked about Greitens being a “home wrecker” and boasted about “taking Greitens down”.

Wagener stated that since the story broke she has received several phone calls from reporters from CNN and the New York Times wanting to speak with her. Wagener then related that she had received a call instant date (01/29/2018), from the St. Louis Post Dispatch seeking an interview. The reporter left a message stating that they knew that it was KS and that they wanted to follow up with her friends.

Wagener then advised that during the week prior to the date of this interview, KS advised her of a “slapping” incident with Greitens for the first time. Wagener stated that KS during one her visits to Greitens home, Greitens asked her if she had “had sex with anyone”? and KS stated that she told Greitens, “yes, my husband”. KS related that Greitens then slapped her and that it was a hard slap. Wagener said that KS felt very bad at that time. Wagener could remember exactly the time of the incident, but did recall that

Greitens told KS she was a “whore”. Wagener stated that KS told her that the encounter occurred when Greitens wife was out of town. Wagener also noted that Greitens was utilizing a Trac Phone to communicate with KS, however, Greitens got wind of the affair and Greitens stopped utilizing that phone. KS also told her that Greitens flew out of town to where with his wife was when his found about the affair.

Finally, Wagener noted that she recalled PS on occasion arguing with KS and holding a phone over her head and stating that he could destroy Greitens in “30 minutes”. KS told her that she had no idea that she had been recorded by her husband when she revealed the affair to him.

Interview on January 29th, 2018, by William Don Tisaby.

From: Dierker, Robert <DierkerR@stlouiscao.org>
Sent: Tuesday, March 20, 2018 5:08 PM
To: Gardner, Kimberly; Steele, Robert; Smith, Rachel
Subject: FW: Phone message

From: Herron, Courtney
Sent: Tuesday, March 20, 2018 4:26 PM
To: Dierker, Robert <DierkerR@stlouiscao.org>
Subject: Phone message

Al Watkins is calling regarding a subpoena his client received in the Greitens matter. His office number is (314) 727-9111 and his cell phone number is (314) 283-5736.



Courtney Herron
Administrative Assistant
St. Louis Circuit Attorney's Office
1114 Market St., Room 401
St. Louis, MO 63101
(314) 589-6308 – office

From: HerronC@stlouisco.org
Sent: Tuesday, March 20, 2018 4:26 PM
To: DierkerR@stlouisco.org
Subject: Phone message

Al Watkins is calling regarding a subpoena his client received in the Greitens matter. His office number is (314) 727-9111 and his cell phone number is (314) 283-5736.



Courtney Herron
Administrative Assistant
St. Louis Circuit Attorney's Office
1114 Market St., Room 401
St. Louis, MO 63101
(314) 589-6308 – office

From: Gardner, Kimberly <GardnerK@stlouiscao.org>
Sent: Friday, March 23, 2018 10:56 AM
To: Jim Martin
Subject: RE: Scheduling depositions

Jim,

Those dates do not work for KS. I asked them to look at additional dates after April 13.

Thank you

From: Jim Martin [mailto:jmartin@dowdbennett.com]
Sent: Friday, March 23, 2018 2:40 PM
To: Gardner, Kimberly <GardnerK@stlouiscao.org>
Subject: RE: Scheduling depositions

Thanks---also here is my cell if you want to communicate over the weekend. 314-856-8091

From: Gardner, Kimberly [mailto:GardnerK@stlouiscao.org]
Sent: Friday, March 23, 2018 1:49 PM
To: Jim Martin <jmartin@dowdbennett.com>; Steele, Robert <SteeleR@stlouiscao.org>; Dierker, Robert <DierkerR@stlouiscao.org>
Subject: RE: Scheduling depositions

Jim,

Let me check and see if there are some dates that work.

Kim

From: Jim Martin [mailto:jmartin@dowdbennett.com]
Sent: Friday, March 23, 2018 1:33 PM
To: Gardner, Kimberly <GardnerK@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>; Dierker, Robert <DierkerR@stlouiscao.org>
Subject: RE: Scheduling depositions

Thanks. I understand the 13th is good for KS, but it may not be good for me so I was hoping the 6th or 7th might also be workable. As to PS, let us know

From: Gardner, Kimberly [mailto:GardnerK@stlouiscao.org]
Sent: Friday, March 23, 2018 1:29 PM
To: Jim Martin <jmartin@dowdbennett.com>; Steele, Robert <SteeleR@stlouiscao.org>; Dierker, Robert <DierkerR@stlouiscao.org>
Subject: RE: Scheduling depositions

Jim,

I know that April 13 is a good date for KS. I will make contact with PS's attorney and get some deposition dates.

Thank you

From: Jim Martin [mailto:jmartin@dowdbennett.com]
Sent: Friday, March 23, 2018 12:47 PM
To: Gardner, Kimberly <GardnerK@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>; Dierker, Robert <DierkerR@stlouiscao.org>
Subject: RE: Scheduling depositions

Kim

Can we discuss this. Seems it would be worthwhile before the hearing Monday. Also, we need a date for PS. As you saw Al Watkins is trying to oppose any deposition of PS, but as you know, he is an endorsed witness, and the judge will certainly allow his depo.

From: Jim Martin [mailto:jmartin@dowdbennett.com]
Sent: Thursday, March 22, 2018 1:51 PM
To: 'Gardner, Kimberly' <GardnerK@stlouiscao.org>; 'Steele, Robert' <SteeleR@stlouiscao.org>; 'Dierker, Robert' <DierkerR@stlouiscao.org>
Subject: Scheduling depositions

Kim

Since you don't want March, we would like to do KS's deposition the 6th or 7th of April. Would that work for you guys

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From: Scott Simpson <scott@knightsimpson.com>
Sent: Friday, March 30, 2018 10:20 AM
To: 'Jim Martin' <jmartin@dowdbennett.com>
Cc: 'Michelle Nasser' <mnasser@dowdbennett.com>; 'Gardner, Kimberly' <GardnerK@stlouiscao.org>; 'Dierker, Robert' <DierkerR@stlouiscao.org>; 'Steele, Robert' <SteeleR@stlouiscao.org>
Subject: RE: KS

Jim,
Thank you for the notice.

Thank you,
Scott

Scott Simpson

*Attorney at Law
Knight & Simpson
423 Jackson Street
Saint Charles, MO 63301
Phone: 636-947-7412
Fax: 636-947-7505
Email: scott@knightsimpson.com
www.knightsimpson.com*

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From: Jim Martin [<mailto:jmartin@dowdbennett.com>]
Sent: Friday, March 30, 2018 7:59 AM
To: scott@knightsimpson.com
Cc: Michelle Nasser; Gardner, Kimberly; Dierker, Robert; Steele, Robert
Subject: RE: KS


Scott

I know I already sent the subpoena. Here is the notice of deposition

From: Jim Martin [<mailto:jmartin@dowdbennett.com>]
Sent: Wednesday, March 28, 2018 9:42 AM
To: 'scott@knightsimpson.com' <scott@knightsimpson.com>
Cc: Michelle Nasser <mnasser@dowdbennett.com>; 'Gardner, Kimberly' <GardnerK@stlouiscao.org>; 'Dierker, Robert' <DierkerR@stlouiscao.org>; 'Steele, Robert' <SteeleR@stlouiscao.org>
Subject: KS

Scott

Attached is the subpoena for April 6. Thanking you for agreeing to accept it



From: Scott Simpson <scott@knightsimpson.com>
Sent: Wednesday, April 18, 2018 5:27 PM
To: 'Gardner, Kimberly' <GardnerK@stlouiscao.org>
Subject: State of Missouri v. E.G.

Kim,
Here are the test messages that I produced to E.G.'s attorney today.

Thank you,
Scott Simpson

Oh and heads up... more media calling to interview about you and your relationship with Eric Greitens. They are leaving messages on our daughters phone as well.

Per the media outlets... You are responsible for all of this and I hope you are satisfied.
Absolutely selfish and sad

Absolutely not in fact. I was told some things from one of their "sources" that I actually didn't even know about. So you can now take an objective stance and not try and project anything on me and take some responsibility. You had an affair with a married psychopath and it's coming out... and you still try to come out and take some responsibility. You had an affair with a married psychopath and it's coming out... and you still have the craziness in you to type the text above about it being my fault? The sadness lies in you and your actions and potential inability to accept responsibility for ruining your kids family and your "outstanding reputation."

I would stop right now. Don't say anything to anybody else considering you have told 8

Seney thing to me and don't say anything to anybody else considering you have told 8 million people whatever you want them to believe

Own something here and try to be a person that actually works with those around that have looked out for you even after being totally bent over by you

looked out for you even after being totally bent over by you... rather than trying to spear me with more bullshit unsubstantiated blame...

Say anything

I haven't told anyone. Believe what you need to to sleep at night kitty. Geez

Phil, I know way way more than you have any clue I know. Stop being selfish and consumed with your own feelings

Thought you were smarter than this.

And you're welcome for the heads up for gods sake

And you're welcome for the heads up for gods sake

There are a bunch of lies circulating. But none of it started until you acted selfishly

I don't have to help you with anything and yet still do

Jesus kitty

You sure are a case if you truly think that I am the one who acted selfishly. That's insane kitty. You have no heart or soul if that's where you think this started or stemmed. Good God.

Stop texting me and leave me alone

...

Stop texting me and leave me alone

Have a good day

Lastly, I didn't start or do any of this but will say. You cheat on your spouse and family and then try to make yourself the victim... you deserve all of it. And did it all to yourself. And the reason you couldn't sleep for so long is because you know it's true. Anyone else would've thrown you out on the street and you'd be depressed it

... ..

You sure are a case if you truly think that I am the one who acted selfishly. That's insane kitty. You have no heart or soul if that's where you think this started or stemmed. Good God.

Stop texting me and leave me alone

... ..

Stop texting me and leave me alone

Have a good day

Lastly, I didn't start or do any of this but will say. You cheat on your spouse and family and then try to make yourself the victim... you deserve all of it. And did it all to yourself. And the reason you couldn't sleep for so long is because you know it's true. Anyone else would've thrown you out on the street and you'd of deserved it. I chose to serve our kids by protecting you and all you were doing. And yet you still treat me like garbage. I pity you. Truly do.

Wed, Dec 13, 8:24 AM

Sun, Feb 18, 6:40 PM

Bella just called and said you won't let the girls come back here because Kalei is not allowed to be around me. Bella has a friend coming over and has dinner waiting for her. Please reconsider. I see no reason why Kalei can't hang here with them for a while and Bella can bring her home later.

That's not what I said as I wouldn't but it that way ever. That said, There unfortunately are a Couple reasons she isn't ok being at that house and it's not my mandate. I will uphold it though so, they are welcome here or I guess she can be dropped back off here now

This doesn't make sense at all

What are you saying?

Who is saying they are not allowed here? This is only hurting the girls

The many things that have been said and spread Tk me children make no sense at all. Out of my hands here kitty. No one is trying to hurt anyone... just prevent more hurt.

Let's try not to make drama where there is none. It's no big deal

Have em come here

It is a big deal because she wants to come here and you

are not allowing her to

And there's no reason. I've done nothing to the kids and they want to see each other. Bella's friend is here waiting

Oh kitty please. There are reasons. Please respect others decisions.

Are you insinuating it is Jessica that doesn't want Kalei here?

It doesn't make sense and really hurts the girls and causes a divide.

Kitty, take a moment to realize from where the divide came. You can now choose to make moves and use words to the kids that make things a bigger deal or less of a deal

Wed, Jan 24, 10:57 AM

Kitty, it may take weeks, months, years or may never happen but at some point when you're ready I think it'd be best for us to talk so you can hear legitimate facts and rational reasonings as to what actually happened and why. If for nothing else, our children. We need to speak about cannon seeing his counselor as I'm concerned for him and feel as co-parents we need communicate on this type of concern and be sure to help our son. If you don't wanna communicate via text but agree with the concern for him let me know how you'd like to do it as we are and forever will be co-parents to great kids that need

communicate on this type of concern and be sure to help our son. If you don't wanna communicate via text but agree with the concern for him let me know how you'd like to do it as we are and forever will be co-parents to great kids that need us both.

Let me know and I'm sorry for any hurt we are going through and wish it was all well behind us, which it will be.

I will make an appt for him

Ok thank you

Fri, Jan 26, 8:34 PM

Please have the kids call me

They are in bed

From: Gardner, Kimberly <GardnerK@stlouiscao.org>
Sent: Thursday, April 19, 2018 3:48 PM
To: Michelle Nasser
Cc: Albert Watkins; Scott Rosenblum; John Garvey; Ed Dowd; Dierker, Robert; Nena Kettler; Michael Schwade; Tony Bretz; Jim Martin; Steele, Robert; Patrick Brazill
Subject: Re: Deposition subpoena for PS
Attachments: image001.jpg

Michelle,

Al can provide that information for you. Al Watkins can send that directly to you.

Sent from my iPhone

On Apr 19, 2018, at 3:16 PM, Michelle Nasser <mnasser@dowdbennett.com> wrote:

Al – During P.S.'s deposition on April 11, 2018, you told Scott Rosenblum that the metadata for the recording that purportedly was made in March 2015 shows the date the recording was made, in the form that you provided the Circuit Attorney.

Kim—Please provide us by tomorrow the versions of the recordings that include the metadata reflecting the dates each recording was made.

Thank you,

MICHELLE NASSER | DOWD BENNETT LLP

7733 FORSYTH BLVD., SUITE 1900
ST. LOUIS, MO 63105
314.889.7345 OFFICE | 314.863.2111 FAX
MNASSER@DOWDBENNETT.COM

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From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Wednesday, April 18, 2018 12:26 PM
To: Michelle Nasser <mnasser@dowdbennett.com>
Cc: Scott Rosenblum <rosenblum@rsflawfirm.com>; Gardner, Kimberly <GardnerK@stlouiscao.org>; John Garvey <JGarvey@careydanis.com>; Ed Dowd <edowd@dowdbennett.com>; Dierker, Robert <DierkerR@stlouiscao.org>; Nena Kettler <nkettler@rsflawfirm.com>; Michael Schwade <mschwade@kwklaw.net>; Tony Bretz <tbretz@kwklaw.net>; Jim Martin <jmartin@dowdbennett.com>; Steele, Robert <SteeleR@stlouiscao.org>; Patrick Brazill <PBrazill@kwklaw.net>; Jonathan Dowd <jdowd@dowdbennett.com>
Subject: Re: Deposition subpoena for PS

I have no idea if metadata is included. The request I received sought solely my provision to you of a copy of the recordings given to the CA.

Sent from my iPhone

Albert S. Watkins LC
KODNER WATKINS LC
7800 Forsyth Boulevard, Suite 700
St. Louis, Missouri 63105
314-727-9111
314-727-9110 (Facsimile)
albertswatkins@kwklaw.net

www.kwklaw.net

On Apr 18, 2018, at 11:33 AM, Michelle Nasser <mnasser@dowdbennett.com> wrote:

Al – Jonathan Dowd from our office will be at your office (7800 Forsyth Blvd., Suite 700) at approximately 1pm or shortly thereafter to pick up the additional recording. Please first confirm that the recording will contain the metadata we requested. Thank you.

MICHELLE NASSER | DOWD BENNETT LLP

7733 FORSYTH BLVD., SUITE 1900
ST. LOUIS, MO 63105
314.889.7345 OFFICE | 314.863.2111 FAX
MNASSER@DOWDBENNETT.COM

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From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Wednesday, April 18, 2018 9:30 AM
To: Scott Rosenblum <srosenblum@rsflawfirm.com>
Cc: Michelle Nasser <mnasser@dowdbennett.com>; Gardner, Kimberly <GardnerK@stlouiscao.org>; John Garvey <JGarvey@careydanis.com>; Ed Dowd <edowd@dowdbennett.com>; Dierker, Robert <DierkerR@stlouiscao.org>; Nena Kettler <nkettler@rsflawfirm.com>; Michael Schwade <mschwade@kwklaw.net>; Tony Bretz <tbretz@kwklaw.net>; Jim Martin <jmartin@dowdbennett.com>; Steele, Robert <SteeleR@stlouiscao.org>; Patrick Brazill <PBrazill@kwklaw.net>
Subject: RE: Deposition subpoena for PS

I just attempted to drop off the CD-R of the March 2015 KS Confessional recording at the offices of Dowd Bennett. The elevators blocked access to the floor on which Dowd Bennett's offices are located. I will leave the CD-R at our front desk for pick-up today. Please confirm with me the name and approximate time of the pick-up to ensure that the recording is picked up by the proper person. Thank you.

Albert S. Watkins, LC
Attorney at Law
Kodner Watkins, LC
p: (314) 727-9111
f: (314) 727-9110
a: 7800 Forsyth Blvd., Suite 700
St. Louis, MO 63105
w: www.kwklaw.net e: albertwatkins@kwklaw.net
<image001.jpg>

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Subject: Re: Deposition subpoena for PS

Hand deliver to DB or my office would be great. Thanks.

Sent from my iPhone

On Apr 17, 2018, at 4:47 PM, Albert Watkins <albertwatkins@kwklaw.net> wrote:

Dear Scott:

I have provided you with copies of all recordings previously provided to the Circuit Attorney's Office except for the March 25, 2015 K.S. confessional recording. The size of same appears to be too large to transmit via e-mail. The link to the electronic recording expired. Accordingly, I have caused a CD-R version thereof to be created. I have same in my office. It is available for pick-up. I am also happy to mail it. In the alternative, I am happy to cause same to be hand delivered to the offices of Dowd Bennett.

Please confirm with me your preferred delivery protocol. Thank you.

Very truly yours,

Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

p: (314) 727-9111

f: (314) 727-9110

a: 7800 Forsyth Blvd., Suite 700

St. Louis, MO 63105

w: www.kwklaw.net e: albertwatkins@kwklaw.net

<image001.jpg>

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From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Thursday, April 19, 2018 4:19 PM
To: Scott Rosenblum
Cc: Gardner, Kimberly; Michelle Nasser; John Garvey; Ed Dowd; Dierker, Robert; NenaKettler; Michael Schwade; Tony Bretz; Jim Martin; Steele, Robert; Patrick Brazill
Subject: Re: Deposition subpoena for PS

Please send me a copy of the transcript. If you recall, your office or the office of your co-- council instructed the court reporter not to provide the witness with a copy of the transcript.

We have provided you with exactly that which was provided to the circuit attorneys office except to the extent that the confessional recording in March 2015 was too big to be transmitted over the email except by means of an expiring link.

Sent from my iPhone

Albert S. Watkins LC
KODNER WATKINS LC
7800 Forsyth Boulevard, Suite 700
St. Louis, Missouri 63105
314-727-9111
314-727-9110 (Facsimile)
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> On Apr 19, 2018, at 4:14 PM, Scott Rosenblum <srosenblum@rsflawfirm.com> wrote:

>

> We requested on the record on page 36,37 of ps depo that the cao
> provide the meta data. Both Mr. Steele and Mr Watkins both agreed
> this is acceptable. Please turn over the requested information

>

> Sent from my iPhone

>

>> On Apr 19, 2018, at 3:47 PM, Gardner, Kimberly <GardnerK@stlouiscao.org> wrote:

>>

>> Michelle,

>>

>> Al can provide that information for you. Al Watkins can send that directly to you.

>>

>> Sent from my iPhone

>>

>> On Apr 19, 2018, at 3:16 PM, Michelle Nasser <mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>>
wrote:

>>

>> Al – During P.S.'s deposition on April 11, 2018, you told Scott Rosenblum that the metadata for the recording that purportedly was made in March 2015 shows the date the recording was made, in the form that you provided the Circuit Attorney.

>>
>> Kim—Please provide us by tomorrow the versions of the recordings that include the metadata reflecting the dates each recording was made.
>>
>> Thank you,
>>
>> Michelle Nasser | Dowd Bennett LLP
>> 7733 Forsyth Blvd., Suite 1900
>> St. Louis, MO 63105
>> 314.889.7345 office | 314.863.2111 fax
>> mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>
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>> Patrick Brazill <PBrazill@kwklaw.net<mailto:PBrazill@kwklaw.net>>;
>> Jonathan Dowd <jdowd@dowdbennett.com<mailto:jdowd@dowdbennett.com>>
>> Subject: Re: Deposition subpoena for PS
>>
>> I have no idea if metadata is included. The request I received sought solely my provision to you of a copy of the recordings given to the CA.
>> Sent from my iPhone
>>
>> Albert S. Watkins LC
>> KODNER WATKINS LC
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>> 314-727-9111

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>> Patrick Brazill <PBrazill@kwklaw.net<mailto:PBrazill@kwklaw.net>>
>> Subject: RE: Deposition subpoena for PS
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The elevators blocked access to the floor on which Dowd Bennett's offices are located. I will leave the CD-R at our front
desk for pick-up today. Please confirm with me the name and approximate time of the pick-up to ensure that the
recording is picked up by the proper person. Thank you.
>>
>> Albert S. Watkins, LC

>>
>> Attorney at Law
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>> Kodner Watkins, LC
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>> w:
>>
>> www.kwklaw.net<http://www.kwklaw.net/> e:
>> albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>
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>> <image001.jpg>
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>> Kimberly <GardnerK@stlouiscao.org<mailto:GardnerK@stlouiscao.org>>;
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>> Ed Dowd <edowd@dowdbennett.com<mailto:edowd@dowdbennett.com>>;
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>> Very truly yours,
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From: Gardner, Kimberly <GardnerK@stlouiscao.org>
Sent: Thursday, April 19, 2018 4:29 PM
To: Scott Rosenblum
Cc: Michelle Nasser; Albert Watkins; John Garvey; Ed Dowd; Dierker, Robert; Nena Kettler; Michael Schwade; Tony Bretz; Jim Martin; Steele, Robert; Patrick Brazill
Subject: Re: Deposition subpoena for PS

Scott,

I will talk with Mr. Steele and Mr. Watkins.

Sent from my iPhone

> On Apr 19, 2018, at 4:26 PM, Scott Rosenblum <srosenblum@rsflawfirm.com> wrote:

>

> Kim ,

> Albert and Robert acknowledged on the record that the Meta data was provided to your office and it was acceptable that the meta data would be provided by your office to us.

> If that is no longer the case , we will seek a forensic examination of PS's phone. Thank you.

>

> Sent from my iPhone

>

>> On Apr 19, 2018, at 4:19 PM, Gardner, Kimberly <GardnerK@stlouiscao.org> wrote:

>>

>> Scott,

>>

>> How would I have metadata? I did not create this.

>>

>> -----Original Message-----

>> From: Scott Rosenblum [mailto:srosenblum@rsflawfirm.com]

>> Sent: Thursday, April 19, 2018 4:15 PM

>> To: Gardner, Kimberly <GardnerK@stlouiscao.org>

>> Cc: Michelle Nasser <mnasser@dowdbennett.com>; Albert Watkins

>> <albertwatkins@kwklaw.net>; John Garvey <JGarvey@careydanis.com>; Ed

>> Dowd <edowd@dowdbennett.com>; Dierker, Robert

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>>> On Apr 18, 2018, at 11:33 AM, Michelle Nasser
<mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>> wrote:
>>> AI – Jonathan Dowd from our office will be at your office (7800 Forsyth Blvd., Suite 700) at approximately 1pm or shortly thereafter to pick up the additional recording. Please first confirm that the recording will contain the metadata we requested. Thank you.
>>>
>>> Michelle Nasser | Dowd Bennett LLP
>>> 7733 Forsyth Blvd., Suite 1900
>>> St. Louis, MO 63105
>>> 314.889.7345 office | 314.863.2111 fax
>>> mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>
>>>
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>>>
>>>
>>>
>>> From: Albert Watkins
>>> <albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>>
>>> Sent: Wednesday, April 18, 2018 9:30 AM
>>> To: Scott Rosenblum
>>> <srosenblum@rsflawfirm.com<mailto:srosenblum@rsflawfirm.com>>
>>> Cc: Michelle Nasser
>>> <mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>>; Gardner,
>>> Kimberly <GardnerK@stlouiscao.org<mailto:GardnerK@stlouiscao.org>>;
>>> John Garvey <JGarvey@careydanis.com<mailto:JGarvey@careydanis.com>>;
>>> Ed Dowd <edowd@dowdbennett.com<mailto:edowd@dowdbennett.com>>;
>>> Dierker, Robert
>>> <DierkerR@stlouiscao.org<mailto:DierkerR@stlouiscao.org>>; Nena

>>> Kettler <nkettler@rsflawfirm.com<mailto:nkettler@rsflawfirm.com>>;
>>> Michael Schwade <mschwade@kwklaw.net<mailto:mschwade@kwklaw.net>>;
>>> Tony Bretz <tbretz@kwklaw.net<mailto:tbretz@kwklaw.net>>; Jim Martin
>>> <jmartin@dowdbennett.com<mailto:jmartin@dowdbennett.com>>; Steele,
>>> Robert <SteeleR@stlouiscao.org<mailto:SteeleR@stlouiscao.org>>;
>>> Patrick Brazill <PBrazill@kwklaw.net<mailto:PBrazill@kwklaw.net>>
>>> Subject: RE: Deposition subpoena for PS

>>>

>>> I just attempted to drop off the CD-R of the March 2015 KS Confessional recording at the offices of Dowd Bennett. The elevators blocked access to the floor on which Dowd Bennett's offices are located. I will leave the CD-R at our front desk for pick-up today. Please confirm with me the name and approximate time of the pick-up to ensure that the recording is picked up by the proper person. Thank you.

>>>

>>> Albert S. Watkins, LC

>>>

>>> Attorney at Law

>>>

>>> Kodner Watkins, LC

>>>

>>> p:

>>>

>>> (314) 727-9111

>>>

>>> f:

>>>

>>> (314) 727-9110

>>>

>>> a:

>>>

>>> 7800 Forsyth Blvd., Suite 700

>>>

>>>

>>>

>>> St. Louis, MO 63105

>>>

>>> w:

>>>

>>> www.kwklaw.net<http://www.kwklaw.net/> e:

>>> albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>

>>>

>>> <image001.jpg>

>>>

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>>>

>>> From: Scott Rosenblum [mailto:srosenblum@rsflawfirm.com]

>>> Sent: Tuesday, April 17, 2018 4:49 PM

>>> To: Albert Watkins

>>> <albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>>

>>> Cc: Michelle Nasser

>>> <mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>>; Gardner,

>>> Kimberly <GardnerK@stlouiscao.org<mailto:GardnerK@stlouiscao.org>>;

>>> John Garvey <JGarvey@careydanis.com<mailto:JGarvey@careydanis.com>>;

>>> Ed Dowd <edowd@dowdbennett.com<mailto:edowd@dowdbennett.com>>;

>>> Dierker, Robert

>>> <DierkerR@stlouiscao.org<mailto:DierkerR@stlouiscao.org>>; Nena

>>> Kettler <nkettler@rsflawfirm.com<mailto:nkettler@rsflawfirm.com>>;

>>> Michael Schwade <mschwade@kwklaw.net<mailto:mschwade@kwklaw.net>>;

>>> Tony Bretz <tbretz@kwklaw.net<mailto:tbretz@kwklaw.net>>; Jim Martin

>>> <jmartin@dowdbennett.com<mailto:jmartin@dowdbennett.com>>; Steele,

>>> Robert <SteeleR@stlouiscao.org<mailto:SteeleR@stlouiscao.org>>;

>>> Patrick Brazill <PBrazill@kwklaw.net<mailto:PBrazill@kwklaw.net>>

>>> Subject: Re: Deposition subpoena for PS

>>>

>>> Hand deliver to DB or my office would be great. Thanks.

>>> Sent from my iPhone

>>>

>>> On Apr 17, 2018, at 4:47 PM, Albert Watkins <albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>> wrote:

>>> Dear Scott:

>>>

>>> I have provided you with copies of all recordings previously provided to the Circuit Attorney's Office except for the March 25, 2015 K.S. confessional recording. The size of same appears to be too large to transmit via e-mail. The link to the electronic recording expired. Accordingly, I have caused a CD-R version thereof to be created. I have same in my office. It is available for pick-up. I am also happy to mail it. In the alternative, I am happy to cause same to be hand delivered to the offices of Dowd Bennett.

>>>

>>> Please confirm with me your preferred delivery protocol. Thank you.

>>>

>>> Very truly yours,

>>>

>>> Albert S. Watkins, LC

>>>

>>> Attorney at Law

>>>

>>> Kodner Watkins, LC

>>>

>>> p:

>>>

>>> (314) 727-9111

>>>

>>> f:
>>>
>>> (314) 727-9110
>>>
>>> a:
>>>
>>> 7800 Forsyth Blvd., Suite 700
>>>
>>>
>>>
>>> St. Louis, MO 63105
>>>
>>> w:
>>>
>>> www.kwklaw.net<http://www.kwklaw.net/> e:
>>> albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>
>>>
>>> <image001.jpg>
>>>

>>> ****PRIVACY NOTICE****

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>>> This e-mail message from the St. Louis Circuit Attorney's Office is intended only for named recipients. It contains information that may be confidential, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. Attorneys are required to notify all recipients of e-mail that (1) e-mail communication is not a secure method of communication, (2) any e-mail message that is sent may be copied and held by various computers it passed through, (3) persons not participating in our e-mail communications may intercept our e-mail communications by improperly accessing your computer or my computer or even some computer unconnected to either of us which the e-mail is passed through. If you would like future communications to be sent in a different fashion or if you receive this message in error, please let me know AT ONCE by calling 314-622-4941. If you have received this e-mail message in error, please delete the e-mail message immediately. Thank you.

>> This e-mail message from the St. Louis Circuit Attorney's Office is
>> intended only for named recipients. It contains information that may be confidential, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. Attorneys are required to notify all recipients of e-mail that (1) e-mail communication is not a secure method of communication, (2) any e-mail message that is sent may be copied and held by various computers it passed through, (3) persons not participating in our e-mail communications may intercept our e-mail communications by improperly accessing your computer or my computer or even some computer unconnected to either of us which the e-mail is passed through. If you would like future communications to be sent in a different fashion or if you receive this message in error, please let me know AT ONCE by calling 314-622-4941. If you have received this e-mail message in error, please delete the e-mail message immediately. Thank you.

[REDACTED]

From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Thursday, April 19, 2018 4:19 PM
To: Scott Rosenblum
Cc: Gardner, Kimberly; Michelle Nasser; John Garvey; Ed Dowd; Dierker, Robert; NenaKettler; Michael Schwade; Tony Bretz; Jim Martin; Steele, Robert; Patrick Brazill
Subject: Re: Deposition subpoena for PS

Please send me a copy of the transcript. If you recall, your office or the office of your co— council instructed the court reporter not to provide the witness with a copy of the transcript.

We have provided you with exactly that which was provided to the circuit attorneys office except to the extent that the confessional recording in March 2015 was too big to be transmitted over the email except by means of an expiring link.

Sent from my iPhone

Albert S. Watkins LC
KODNER WATKINS LC
7800 Forsyth Boulevard, Suite 700
St. Louis, Missouri 63105
314-727-9111
314-727-9110 (Facsimile)
albertswatkins@kwklaw.net

www.kwklaw.net

> On Apr 19, 2018, at 4:14 PM, Scott Rosenblum <srosenblum@rsflawfirm.com> wrote:

>

> We requested on the record on page 36,37 of ps depo that the cao
> provide the meta data. Both Mr. Steele and Mr Watkins both agreed
> this is acceptable. Please turn over the requested information

>

> Sent from my iPhone

>

>> On Apr 19, 2018, at 3:47 PM, Gardner, Kimberly <GardnerK@stlouiscao.org> wrote:

>>

>> Michelle,

>>

>> Al can provide that information for you. Al Watkins can send that directly to you.

>>

>> Sent from my iPhone

>>

>> On Apr 19, 2018, at 3:16 PM, Michelle Nasser <mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>> wrote:

>>

>> Al – During P.S.'s deposition on April 11, 2018, you told Scott Rosenblum that the metadata for the recording that purportedly was made in March 2015 shows the date the recording was made, in the form that you provided the Circuit Attorney.

>>

>> Kim—Please provide us by tomorrow the versions of the recordings that include the metadata reflecting the dates each recording was made.

>>

>> Thank you,

>>

>> Michelle Nasser | Dowd Bennett LLP
>> 7733 Forsyth Blvd., Suite 1900
>> St. Louis, MO 63105
>> 314.889.7345 office | 314.863.2111 fax
>> mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>

>>

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>>

>>

>>

>>

>> From: Albert Watkins
>> <albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>>
>> Sent: Wednesday, April 18, 2018 12:26 PM
>> To: Michelle Nasser
>> <mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>>
>> Cc: Scott Rosenblum
>> <srosenblum@rsflawfirm.com<mailto:srosenblum@rsflawfirm.com>>;
>> Gardner, Kimberly
>> <GardnerK@stlouiscao.org<mailto:GardnerK@stlouiscao.org>>; John
>> Garvey <JGarvey@careydanis.com<mailto:JGarvey@careydanis.com>>; Ed
>> Dowd <edowd@dowdbennett.com<mailto:edowd@dowdbennett.com>>; Dierker,
>> Robert <DierkerR@stlouiscao.org<mailto:DierkerR@stlouiscao.org>>;
>> Nena Kettler
>> <nkettler@rsflawfirm.com<mailto:nkettler@rsflawfirm.com>>; Michael
>> Schwade <mschwade@kwklaw.net<mailto:mschwade@kwklaw.net>>; Tony Bretz
>> <tbretz@kwklaw.net<mailto:tbretz@kwklaw.net>>; Jim Martin
>> <jmartin@dowdbennett.com<mailto:jmartin@dowdbennett.com>>; Steele,
>> Robert <SteeleR@stlouiscao.org<mailto:SteeleR@stlouiscao.org>>;
>> Patrick Brazill <PBrazill@kwklaw.net<mailto:PBrazill@kwklaw.net>>;
>> Jonathan Dowd <jdowd@dowdbennett.com<mailto:jdowd@dowdbennett.com>>
>> Subject: Re: Deposition subpoena for PS

>>

>> I have no idea if metadata is included. The request I received sought solely my provision to you of a copy of the recordings given to the CA.

>> Sent from my iPhone

>>

>> Albert S. Watkins LC
>> KODNER WATKINS LC
>> 7800 Forsyth Boulevard, Suite 700
>> St. Louis, Missouri 63105
>> 314-727-9111

From: Scott Rosenblum <srosenblum@rsflawfirm.com>
Sent: Thursday, April 19, 2018 4:30 PM
To: Gardner, Kimberly
Cc: Michelle Nasser; Albert Watkins; John Garvey; Ed Dowd; Dierker, Robert; NenaKettler; Michael Schwade; Tony Bretz; Jim Martin; Steele, Robert; Patrick Brazill
Subject: Re: Deposition subpoena for PS

Thank you

Sent from my iPhone

> On Apr 19, 2018, at 4:29 PM, Gardner, Kimberly <GardnerK@stlouisco.org> wrote:

>

> Scott,

>

> I will talk with Mr. Steele and Mr. Watkins.

>

> Sent from my iPhone

>

>> On Apr 19, 2018, at 4:26 PM, Scott Rosenblum <srosenblum@rsflawfirm.com> wrote:

>>

>> Kim ,

>> Albert and Robert acknowledged on the record that the Meta data was provided to your office and it was acceptable that the meta data would be provided by your office to us.

>> If that is no longer the case , we will seek a forensic examination of PS's phone. Thank you.

>>

>> Sent from my iPhone

>>

>>> On Apr 19, 2018, at 4:19 PM, Gardner, Kimberly <GardnerK@stlouisco.org> wrote:

>>>

>>> Scott,

>>>

>>> How would I have metadata? I did not create this.

>>>

>>> -----Original Message-----

>>> From: Scott Rosenblum [mailto:srosenblum@rsflawfirm.com]

>>> Sent: Thursday, April 19, 2018 4:15 PM

>>> To: Gardner, Kimberly <GardnerK@stlouisco.org>

>>> Cc: Michelle Nasser <mnasser@dowdbennett.com>; Albert Watkins

>>> <albertwatkins@kwklaw.net>; John Garvey <JGarvey@careydanic.com>; Ed

>>> Dowd <edowd@dowdbennett.com>; Dierker, Robert

>>> <DierkerR@stlouisco.org>; Nena Kettler <nkettler@rsflawfirm.com>;

>>> Michael Schwade <mschwade@kwklaw.net>; Tony Bretz

>>> <tbretz@kwklaw.net>; Jim Martin <jmartin@dowdbennett.com>; Steele,

>>> Robert <SteeleR@stlouisco.org>; Patrick Brazill

>>> <PBrazill@kwklaw.net>

>>> Subject: Re: Deposition subpoena for PS

>>>

From: Scott Simpson <scott@knightsimpson.com>
Sent: Thursday, April 19, 2018 8:45 AM
To: 'Jay Barnes' <Jay.Barnes@house.mo.gov>; rex.burlison@courts.mo.gov; chip.robertson@me.com; edowd@dowdbennett.com; gardnerk@stlouiscao.org
Subject: RE: Correspondence from the Missouri House Special Investigative Committee on Oversight

All,

I am writing in response to the email from Representative Barnes. My client is in favor releasing the entire transcript and video of her deposition to the House Committee pursuant to the subpoena that has been served upon all parties.

My client and I are not in possession of the transcript or the video. As such, we are not able to comply with the subpoena.

Thank you,
Scott Simpson

Scott Simpson

Attorney at Law

Knight & Simpson

423 Jackson Street

Saint Charles, MO 63301

Phone: 636-947-7412

Fax: 636-947-7505

Email: scott@knightsimpson.com

www.knightsimpson.com

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From: Jay Barnes [<mailto:Jay.Barnes@house.mo.gov>]

Sent: Wednesday, April 18, 2018 12:26 PM

To: rex.burlison@courts.mo.gov; chip.robertson@me.com; edowd@dowdbennett.com; scott@knightsimpson.com; gardnerk@stlouiscao.org

Subject: Correspondence from the Missouri House Special Investigative Committee on Oversight

Dear Judge Burlison and Counsel:

Please find attached correspondence from the Missouri House of Representatives Special Investigative Committee on Oversight. I also note that Mr. Chip Robertson is attached to this communication. He has been authorized by the Committee to speak on our behalf.

Sincerely,

Representative Jay Barnes

60th District

Missouri State Capitol, Room 306A

573-751-2412

Jay.Barnes@house.mo.gov

[REDACTED]

From: Steele, Robert <SteeleR@stlouisco.org>
Sent: Friday, April 20, 2018 2:26 PM
To: Michelle Nasser; Gardner, Kimberly; Scott Rosenblum
Cc: Albert Watkins; John Garvey; Ed Dowd; Dierker, Robert; Nena Kettler; MichaelSchwade; Tony Bretz; Jim Martin; Patrick Brazill
Subject: RE: Deposition subpoena for PS

Let me clear some things up. I don't have meta data. Scott's "request" for what I don't have was acceptable. You received the exact same copy that I received from Watkins so if you don't have but I don't have it either.

From: Michelle Nasser [mailto:mnasser@dowdbennett.com]
Sent: Thursday, April 19, 2018 4:27 PM
To: Gardner, Kimberly <GardnerK@stlouisco.org>; Scott Rosenblum <srosenblum@rsflawfirm.com>
Cc: Albert Watkins <albertwatkins@kwklaw.net>; John Garvey <JGarvey@careydanis.com>; Ed Dowd <edowd@dowdbennett.com>; Dierker, Robert <DierkerR@stlouisco.org>; Nena Kettler <nkettler@rsflawfirm.com>; Michael Schwade <mschwade@kwklaw.net>; Tony Bretz <tbretz@kwklaw.net>; Jim Martin <jmartin@dowdbennett.com>; Steele, Robert <SteeleR@stlouisco.org>; Patrick Brazill <PBrazill@kwklaw.net>
Subject: RE: Deposition subpoena for PS

Here is the portion of the rough transcript.

11 All right. Now, and we've talked about
12 some of the other recordings. I think there were
13 three other recordings that you turned over as you
14 mentioned to AW. We talked about those at times on
15 Monday. Would that be true?
16 A. Can you repeat the question?
17 Q. We talked on Monday about three other
18 recordings other than the recording on the 24th, the
19 initial recording, or the 25th about recordings that
20 you made that you turned over to -- you listed as
21 AW1, 2, and 3. We talked about that?
22 A. I remember talking about it.
23 Q. Okay.
24 A. I don't remember how many recordings.
25 Q. Do you remember making -- do you remember
1 making those particular recordings?
2 A. Not specifically.
3 Q. Do you remember when they were made other
4 than at -- I think your testimony was it was
5 sometime between --
6 A. Sometime --
7 Q. -- April and November.
8 A. Correct.
9 Q. But you don't -- you can't say exactly
10 when?
11 A. I can't say.
12 Q. Can you tell me when --

**13 MR. WATKINS: Scott, the meta data on the
14 electronic shape show the dates the recordings were
15 made. Those electronic --
16 MR. ROSENBLUM: We don't have the meta
17 data.
18 MR. WATKINS: They were given -- they were
19 given to the Circuit Attorneys. I guess they made a
20 DVD.
21 MR. ROSENBLUM: We would request on the
22 record that the Circuit Attorney's Office provide
23 the meta data. Is that acceptable, Mr. Steele?
24 MR. WATKINS: Your request is acceptable.
25 MR. ROSENBLUM: Pardon me?
1 MR. STEELE: Your request is acceptable.**

MICHELLE NASSER | DOWD BENNETT LLP

7733 FORSYTH BLVD., SUITE 1900
ST. LOUIS, MO 63105
314.889.7345 OFFICE | 314.863.2111 FAX
MNASSER@DOWDBENNETT.COM

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-----Original Message-----

From: Gardner, Kimberly <GardnerK@stlouiscao.org>
Sent: Thursday, April 19, 2018 4:20 PM
To: Scott Rosenblum <srosenblum@rsflawfirm.com>
Cc: Michelle Nasser <mnasser@dowdbennett.com>; Albert Watkins <albertwatkins@kwklaw.net>; John Garvey <JGarvey@careydanis.com>; Ed Dowd <edowd@dowdbennett.com>; Dierker, Robert <DierkerR@stlouiscao.org>; Nena Kettler <nkettler@rsflawfirm.com>; Michael Schwade <mschwade@kwklaw.net>; Tony Bretz <tbretz@kwklaw.net>; Jim Martin <jmartin@dowdbennett.com>; Steele, Robert <SteeleR@stlouiscao.org>; Patrick Brazill <PBrazill@kwklaw.net>
Subject: RE: Deposition subpoena for PS

Scott,

How would I have metadata? I did not create this.

-----Original Message-----

From: Scott Rosenblum [<mailto:srosenblum@rsflawfirm.com>]
Sent: Thursday, April 19, 2018 4:15 PM
To: Gardner, Kimberly <GardnerK@stlouiscao.org>
Cc: Michelle Nasser <mnasser@dowdbennett.com>; Albert Watkins <albertwatkins@kwklaw.net>; John Garvey <JGarvey@careydanis.com>; Ed Dowd <edowd@dowdbennett.com>; Dierker, Robert <DierkerR@stlouiscao.org>; Nena Kettler <nkettler@rsflawfirm.com>; Michael Schwade <mschwade@kwklaw.net>; Tony Bretz <tbretz@kwklaw.net>; Jim Martin <jmartin@dowdbennett.com>; Steele, Robert <SteeleR@stlouiscao.org>; Patrick Brazill <PBrazill@kwklaw.net>
Subject: Re: Deposition subpoena for PS

We requested on the record on page 36,37 of ps depo that the cao provide the meta data. Both Mr. Steele and Mr Watkins both agreed this is acceptable. Please turn over the requested information

Sent from my iPhone

> On Apr 19, 2018, at 3:47 PM, Gardner, Kimberly <GardnerK@stlouiscao.org> wrote:

>

> Michelle,

>

> Al can provide that information for you. Al Watkins can send that directly to you.

>

> Sent from my iPhone

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>

> Al – During P.S.'s deposition on April 11, 2018, you told Scott Rosenblum that the metadata for the recording that purportedly was made in March 2015 shows the date the recording was made, in the form that you provided the Circuit Attorney.

>

> Kim—Please provide us by tomorrow the versions of the recordings that include the metadata reflecting the dates each recording was made.

>

> Thank you,

>

> Michelle Nasser | Dowd Bennett LLP

> 7733 Forsyth Blvd., Suite 1900

> St. Louis, MO 63105

> 314.889.7345 office | 314.863.2111 fax

> mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>

>

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>

>

>

>

> From: Albert Watkins

> <albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>>

> Sent: Wednesday, April 18, 2018 12:26 PM

> To: Michelle Nasser

> <mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>>

> Cc: Scott Rosenblum

> <srosenblum@rsflawfirm.com<mailto:srosenblum@rsflawfirm.com>>;

> Gardner, Kimberly

> <GardnerK@stlouiscao.org<mailto:GardnerK@stlouiscao.org>>; John Garvey

> <JGarvey@careydanis.com<mailto:JGarvey@careydanis.com>>; Ed Dowd

> <edowd@dowdbennett.com<mailto:edowd@dowdbennett.com>>; Dierker, Robert

> <DierkerR@stlouiscao.org<mailto:DierkerR@stlouiscao.org>>; Nena

> Kettler <nkettler@rsflawfirm.com<mailto:nkettler@rsflawfirm.com>>;
> Michael Schwade <mschwade@kwklaw.net<mailto:mschwade@kwklaw.net>>;
> Tony Bretz <tbretz@kwklaw.net<mailto:tbretz@kwklaw.net>>; Jim Martin
> <jmartin@dowdbennett.com<mailto:jmartin@dowdbennett.com>>; Steele,
> Robert <SteeleR@stlouiscao.org<mailto:SteeleR@stlouiscao.org>>;
> Patrick Brazill <PBrazill@kwklaw.net<mailto:PBrazill@kwklaw.net>>;
> Jonathan Dowd <jdowd@dowdbennett.com<mailto:jdowd@dowdbennett.com>>
> Subject: Re: Deposition subpoena for PS
>
> I have no idea if metadata is included. The request I received sought solely my provision to you of a copy of the recordings given to the CA.
> Sent from my iPhone
>
> Albert S. Watkins LC
> KODNER WATKINS LC
> 7800 Forsyth Boulevard, Suite 700
> St. Louis, Missouri 63105
> 314-727-9111
> 314-727-9110 (Facsimile)
> albertswatkins@kwklaw.net<mailto:albertswatkins@kwklaw.net>
>
> www.kwklaw.net<http://www.kwklaw.net>
>
>
> On Apr 18, 2018, at 11:33 AM, Michelle Nasser <mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>> wrote:
> AI – Jonathan Dowd from our office will be at your office (7800 Forsyth Blvd., Suite 700) at approximately 1pm or shortly thereafter to pick up the additional recording. Please first confirm that the recording will contain the metadata we requested. Thank you.
>
> Michelle Nasser | Dowd Bennett LLP
> 7733 Forsyth Blvd., Suite 1900
> St. Louis, MO 63105
> 314.889.7345 office | 314.863.2111 fax
> mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>
>
> This email is from the law firm of Dowd Bennett LLP and may contain information that is confidential, privileged, attorney work product, or protected against disclosure under applicable law. The communication is solely for the use of the intended recipients. If this email is not intended for you, any reading, distribution, copying, or disclosure of it is strictly prohibited, and you are requested to delete it from your computer. If you have received this email in error, please immediately notify us at 314.889.7300.
>
>
>
> From: Albert Watkins
> <albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>>
> Sent: Wednesday, April 18, 2018 9:30 AM
> To: Scott Rosenblum
> <srosenblum@rsflawfirm.com<mailto:srosenblum@rsflawfirm.com>>
> Cc: Michelle Nasser
> <mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>>; Gardner,
> Kimberly <GardnerK@stlouiscao.org<mailto:GardnerK@stlouiscao.org>>;

> John Garvey <JGarvey@careydanis.com<mailto:JGarvey@careydanis.com>>;
> Ed Dowd <edowd@dowdbennett.com<mailto:edowd@dowdbennett.com>>;
> Dierker, Robert
> <DierkerR@stlouisco.org<mailto:DierkerR@stlouisco.org>>; Nena
> Kettler <nkettler@rsflawfirm.com<mailto:nkettler@rsflawfirm.com>>;
> Michael Schwade <mschwade@kwklaw.net<mailto:mschwade@kwklaw.net>>;
> Tony Bretz <tbretz@kwklaw.net<mailto:tbretz@kwklaw.net>>; Jim Martin
> <jmartin@dowdbennett.com<mailto:jmartin@dowdbennett.com>>; Steele,
> Robert <SteeleR@stlouisco.org<mailto:SteeleR@stlouisco.org>>;
> Patrick Brazill <PBrazill@kwklaw.net<mailto:PBrazill@kwklaw.net>>
> Subject: RE: Deposition subpoena for PS

> I just attempted to drop off the CD-R of the March 2015 KS Confessional recording at the offices of Dowd Bennett. The elevators blocked access to the floor on which Dowd Bennett's offices are located. I will leave the CD-R at our front desk for pick-up today. Please confirm with me the name and approximate time of the pick-up to ensure that the recording is picked up by the proper person. Thank you.

> Albert S. Watkins, LC
> Attorney at Law
> Kodner Watkins, LC

> p:
> (314) 727-9111

> f:
> (314) 727-9110

> a:
> 7800 Forsyth Blvd., Suite 700
> St. Louis, MO 63105

> w:
> www.kwklaw.net<http://www.kwklaw.net/> e:
> albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>

> <image001.jpg>

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>

> From: Scott Rosenblum [mailto:srosenblum@rsflawfirm.com]

> Sent: Tuesday, April 17, 2018 4:49 PM

> To: Albert Watkins

> <albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>>

> Cc: Michelle Nasser

> <mnasser@dowdbennett.com<mailto:mnasser@dowdbennett.com>>; Gardner,

> Kimberly <GardnerK@stlouiscao.org<mailto:GardnerK@stlouiscao.org>>;

> John Garvey <JGarvey@careydanis.com<mailto:JGarvey@careydanis.com>>;

> Ed Dowd <edowd@dowdbennett.com<mailto:edowd@dowdbennett.com>>;

> Dierker, Robert

> <DierkerR@stlouiscao.org<mailto:DierkerR@stlouiscao.org>>; Nena

> Kettler <nkettler@rsflawfirm.com<mailto:nkettler@rsflawfirm.com>>;

> Michael Schwade <mschwade@kwklaw.net<mailto:mschwade@kwklaw.net>>;

> Tony Bretz <tbretz@kwklaw.net<mailto:tbretz@kwklaw.net>>; Jim Martin

> <jmartin@dowdbennett.com<mailto:jmartin@dowdbennett.com>>; Steele,

> Robert <SteeleR@stlouiscao.org<mailto:SteeleR@stlouiscao.org>>;

> Patrick Brazill <PBrazill@kwklaw.net<mailto:PBrazill@kwklaw.net>>

> Subject: Re: Deposition subpoena for PS

>

> Hand deliver to DB or my office would be great. Thanks.

> Sent from my iPhone

>

> On Apr 17, 2018, at 4:47 PM, Albert Watkins <albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>> wrote:

> Dear Scott:

>

> I have provided you with copies of all recordings previously provided to the Circuit Attorney's Office except for the March 25, 2015 K.S. confessional recording. The size of same appears to be too large to transmit via e-mail. The link to the electronic recording expired. Accordingly, I have caused a CD-R version thereof to be created. I have same in my office. It is available for pick-up. I am also happy to mail it. In the alternative, I am happy to cause same to be hand delivered to the offices of Dowd Bennett.

>

> Please confirm with me your preferred delivery protocol. Thank you.

>

> Very truly yours,

>

> Albert S. Watkins, LC

>

> Attorney at Law

>

> Kodner Watkins, LC

>

> p:
>
> (314) 727-9111
>
> f:
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> (314) 727-9110
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> a:
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> 7800 Forsyth Blvd., Suite 700
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> St. Louis, MO 63105
>
> w:
>
> www.kwklaw.net<http://www.kwklaw.net/> e:
> albertwatkins@kwklaw.net<mailto:albertwatkins@kwklaw.net>
>
> <image001.jpg>
>

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CIRCUIT ATTORNEY
CITY OF ST. LOUIS

Kimberly M. Gardner

CARNAHAN COURTHOUSE
1114 Market St. Room 401
St. Louis, Missouri 63101
(314) 622-4941
FAX: (314) 622-3369

Received by _____ on _____

April 19, 2018

Mr. Jack Garvey
Mr. James Martin
7733 Forsyth Blvd., Suite 1900
St. Louis, MO 63105

Re: State v. Eric Greitens
Cause Number: 1822-CR00642

Dear: Jack Garvey and James Martin

My records reflect that you are in possession of the following discovery:

1. Grand Jury Indictment filed on February 22, 2018
2. Please find enclosed KS's phone records (26 pages)
3. A copy of DVD with the Channel 2 News interview has been delivered to your office at the State's request
4. Notes of Kim Gardner, January 24, 2018 (6 pages)
5. Request for Discovery (2 pages);
6. Transcripts of taped recordings of P.S and K.S (47 pages);
7. Email questions and answers for KMOV interview of P.S. (5 pages);
8. Email of K.S. to P.S dated March 24, 2015 (1page)
9. Email of K.S to P.S dated March 26, 2015 (1page)
10. Email of K.S to P.S dated July 8, 2015; (1page)
11. E.G's statements to the public (1 DVD);
12. Taped statements of K.S (1 DVD);
13. Picture of admin contact of E.G (1 page);
14. Picture of K.S (1page);
15. Picture of email from E.G. to K.S dated August 25, 2015 (1page);
16. Picture of email of K.S to E.G dated October 20, 2015 (1page);
17. E.G's Facebook post (3 pages);
18. Amended Consultant agreement (3 pages)
19. P.S. Transcripts (41 pages)
20. A.W. Transcripts (20 pages)
21. Expert Reports and files (1 CD)
22. Apple records (1 CD)
23. Google records (4 pages)
24. KTVI Eric Grieten's Interview 1/20/2018 includes outtakes (1 CD)
25. K.S. last known address
26. P.S. last known address

CAO-SOLOMON00684

27. J.W. last known address
28. A.W. last known address
29. K.S. is Katrina Sneed, C/O Att. Scott Simpson, 423 Jackson St, St. Charles, MO 63301
30. P.S. is Phillip Sneed, C/O Att. Albert Watkins, 7800 Forsyth Blvd, Clayton, MO 63105
31. J.W. is Jodi Wagener, C/O David L. Antognoli Esq., 2227 S. State Rte 157, P.O. Box 959, Edwardsville, IL 62025
32. Albert Watkins, Attorney at Law, 7800 Forsyth Blvd, Clayton, MO 63105
33. Photos (6 photos)
34. Verizon Wireless phone records (18 pages)
35. Grand jury transcripts (41 pages)
36. Grand jury transcripts (90 pages)
37. P.S./A.W. notes (10 pages)
38. K.S. notes (6 pages)
39. J.W. notes (1 page)
40. Mr. Tisaby Report (1 flash drive)
41. Picture of Email of EG to KS (1 page)
42. Picture of Email of EG to KS (1 page)
43. Picture of admin contacts (1 page)
44. Picture of a phone
45. Text messages of JW and Mr. Tisaby
46. Email, regarding Jodi Wagener, dated February 19, 2018 ((2 pages)
47. Email, regarding Jodi Wagener, dated April 3, 2018 (5 pages)
48. Expert resume of Mary Anne Franks (19 pages)
49. The flash drive of 1/29/2018 video interview of KS
50. Mr. Tisaby's notes (7 pages)
51. Questions/notes (2 pages) in video
52. Email of voicemail of Jay Barnes, left on JW's phone
53. Email JW's attorney Mr. Tisaby notes of JW's interview
54. Attach notes Mr. Tisaby notes of JW interview

I have not received any discovery from you to date. Please forward any discovery you may have. If you have any questions or would like to discuss the case, please call me at. I look forward to speaking with you.

Sincerely,

/s/ Robert Steele

Robert Steele
Assistant Circuit Attorney
MO Bar # 42418

cc: Court File

CAO-SOLOMON00685

From: Scott Simpson <scott@knightsimpson.com>

Sent: Monday, April 23, 2018 9:52 PM

To: 'Adam Simon' <asimon@dowdbennett.com>; rex.burlison@courts.mo.gov

Cc: steeler@stlouiscao.org; gardnerk@stlouiscao.org; dierkerr@stlouiscao.org; 'Ed Dowd' <edowd@dowdbennett.com>; 'Jim Martin' <jmartin@dowdbennett.com>; 'Michelle Nasser' <mnasser@dowdbennett.com>; 'Scott Rosenblum' <srosenblum@rsflawfirm.com>; 'John Garvey' <JGarvey@careydanis.com>; albertwatkins@kwklaw.net

Subject: RE: Proposed forensic expert

All,
I have prepared a Writ of Prohibition on behalf of K.S. A copy of all the attached documents were filed with the court at approximately 9:40 pm.

Adam Simon indicated in an earlier email that a second court order was issued compelling me to turn over the phone at 9:00 am tomorrow morning. (I have not actually been provided with a copy of that order) As I discussed in my response to that email, I am scheduled to start a bench trial in St. Charles at 9:00 am. I cannot be downtown at 9:00 am on that short of notice. I have offered to bring the phone on Wednesday but I have not heard back from anyone.

Thank you,
Scott Simpson

Scott Simpson

Attorney at Law

Knight & Simpson

423 Jackson Street

Saint Charles, MO 63301

Phone: 636-947-7412

Fax: 636-947-7505

Email: scott@knightsimpson.com

www.knightsimpson.com

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From: Adam Simon [<mailto:asimon@dowdbennett.com>]

Sent: Monday, April 23, 2018 3:43 PM

To: rex.burlison@courts.mo.gov

Cc: steeler@stlouiscao.org; gardnerk@stlouiscao.org; dierkerr@stlouiscao.org; Ed Dowd; Jim Martin; Michelle Nasser; Scott Rosenblum; John Garvey; Scott Simpson; albertwatkins@kwklaw.net

Subject: Proposed forensic expert

Judge Burlison,

Attached is the CV for the proposed forensic expert, Brian Koberna. He is available to be at the courthouse tomorrow at 9:00 AM.

Thank you,
Adam Simon

asimon@dowdbennett.com

314.889.7340 (office)

314.224.9944 (mobile)

**IN THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT OF MISSOURI**

| | | |
|-------------------------------|---|-----------|
| STATE of Missouri ex rel. |) | |
| K.S., |) | |
| Relator, |) | Cause No. |
| |) | |
| v. |) | |
| |) | |
| The Honorable Rex Burlison., |) | |
| Judge of the Circuit Court of |) | |
| St. Louis City, Missouri, |) | |
| Respondent. |) | |

WRIT SUMMARY

1. K.S. is the Relator in the above styled cause of action. She is the victim in a criminal case pending in the Circuit Court of St. Louis City known as State of Missouri v. Eric Greitens cause number 1822- CR000642. K.S. is represented by Scott Simpson. The State of Missouri is represented by Kimberly Gardner, St. Louis City circuit attorney and her office. The defendant is represented by the Dowd Bennett law firm, N. Scott Rosenblum and John F. Garvey, Jr.
2. The defendant is charged with one count of Invasion of Privacy – 1st degree, a Class D felony.
3. Relator is challenging the Respondent’s April 23, 2018 court order, which compels the Relator to produce her cellular telephone for cloning and forensic examination.
4. Counsel for Relator received an email from attorney Adam Simon of Dowd Bennett law firm stating that the Respondent issued an order compelling the Relator to produce her cellular phone at 9:00 am on Tuesday, April 24, 2018 for

cloning and a forensic examination. Counsel has not been provided a copy of the order referenced in the email; therefore, in lieu of the order the email is attached as Exhibit D.

KNIGHT & SIMPSON
423 Jackson Street
St. Charles, Missouri 63301
(636) 947-7412 Phone / (636) 947-7505 Fax
scott@knightsimpson.com
Attorneys for Respondent

By /s/ Scott Simpson
SCOTT SIMPSON #59828

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was emailed this 23rd day of April, 2018 to: Honorable Rex Burlison, Respondent; Scott Rosenblum, attorney for Defendant; James Martin, attorney for Defendant; Kimberly Gardner, Circuit Attorney; and Robert Dierker, Assistant Circuit attorney.

/s/ Scott Simpson

**IN THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT OF MISSOURI**

| | | |
|-------------------------------|---|-----------|
| STATE of Missouri ex rel. |) | |
| K.S., |) | |
| Relator, |) | Cause No. |
| |) | |
| v. |) | |
| |) | |
| The Honorable Rex Burlison., |) | |
| Judge of the Circuit Court of |) | |
| St. Louis City, Missouri, |) | |
| Respondent. |) | |

PETITION FOR WRIT OF PROHIBITION

1. Relator is the victim in a criminal cause of action pending in the St. Louis City Circuit Court with the cause number 1822-CR00642.
2. K.S. had previously produced to the defendant's attorneys all texts between she and her ex-husband that are currently available on her cellular phone.
3. Nevertheless, on April 16, 2018, the defendant's attorney made a request to the court asking for the court to order K.S. to produce not only any text messages between she and her ex-husband, but her entire cellular telephone to defendant's attorney.
4. K.S. was not given notice that defendant's counsel was going to make the request and K.S. was not given notice of the April 16, 2018 hearing.
5. On April 19, 2018, the court issued a written court order compelling K.S. to produce her phone to counsel for the defendant. (Exhibit A April 19, 2018 court order.)

6. On April 20, 2018, Relator objected to the court order by filing a motion to quash the April 19, 2018 order. (Exhibit B Relator's motion to quash.)
7. Relator asserts the order compelling her to produce her cellular telephone for a forensic examination violates her rights under the Fourth Amendment to the U.S. Constitution and made applicable to the States through the Fourteenth Amendment. Further, Relator asserts the order violated her rights as set forth in Article 1 Section 15 of the Missouri Constitution.
8. On April 23, 2018, at 9:00am, the court took oral arguments on the motion to quash and took the matter under advisement.
9. The court issued a revised order late in the afternoon of April 23, 2018. The revised order compels K.S. to produce her phone for cloning and a forensic examination. The results of the forensic examination are to be placed in a digital file for review by a special master for relevance and privilege. (Exhibit C April 23, 2018 court order.)
10. Counsel for Relator received an email from attorney Adam Simon of Dowd Bennett which states the Respondent issued a separate order compelling the Relator to produce her cellular phone at 9:00 am on Tuesday, April 24, 2018. Counsel has not been provided the order referenced in the email; therefore, the email is attached as Exhibit D in lieu of the court order. (Exhibit D email from Adam Simon.)

11. Relator is seeking an order prohibiting the Respondent from ordering her to produce her cellular phone for a forensic examination, cloning or otherwise forcing her to subject her phone to a search.
12. A Writ of Prohibition is appropriate because the Relator has a Constitutional right to privacy and to be free from an unreasonable search and seizure of her telephone.
13. If the private information contained on the telephone is released, the Relator's injury cannot be remedied on appeal because the search and seizure of her phone is a violation of her Constitutional rights for which there is not adequate remedy. Additionally, once her personal information is disclosed it will never regain its confidential status.

WHEREFORE Relator prays for an Order of this court prohibiting the Respondent from ordering her to produce her cellular telephone for a forensic examination.

KNIGHT & SIMPSON
423 Jackson Street
St. Charles, Missouri 63301
(636) 947-7412 Phone / (636) 947-7505 Fax
scott@knightsimpson.com
Attorneys for Respondent

By /s/ Scott Simpson
SCOTT SIMPSON #59828

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was emailed this 23rd day of April, 2018 to: Honorable Rex Burlison, Respondent; Scott Rosenblum, attorney for Defendant; James Martin attorney for Defendant; Kimberly Gardner, Circuit Attorney; and Robert Dierker, Assistant Circuit attorney.

/s/ Scott Simpson



MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)

State of Missouri

VS

Eric Greitens

CASE NO. 1822-CR0006-12 DIVISION 16 April 19 20 18

COURT ORDER

Pursuant to the Court's ruling on Monday, April 16, 2018, witness K.S. is hereby ordered to produce to the Defendant any phone currently in her possession on which she received or has at any time been able to view the text messages from witness P.S. as referenced in K.S.'s interview conducted by William Don Tisby in January 2018.

[Handwritten signature]

PT
ACA

SO ORDERED:

[Handwritten signature]

DIV. 16



STATE OF MISSOURI)
) ss.
CITY OF ST. LOUIS)

IN THE TWENTY – SECOND JUDICIAL COURT, STATE OF MISSOURI
CIRCUIT JUDGE DIVISION

STATE OF MISSOURI,)
)
Plaintiff,) Cause No. 1822-CR00642
vs.) Division No. 16
ERIC GREITENS,)
)
Defendant.)

K.S.’S MOTION QUASH OR SET ASIDE THE APRIL 19, 2018 COURT ORDER
RELATED TO HER CELLULAR TELEPHONE

COMES NOW, K.S., by and through counsel, Scott Simpson, and hereby moves this
Court to quash or set aside the April 19, 2018, court order compelling her phone to the
Defendant. In support of said motion K.S. states:

- 1. On April 16, 2018 the Court ruled that witness K.S. is required to produce her phone to
the Defendant.
2. The Court’s order was reduced to writing on April 19, 2018 and a copy was provided to
counsel for K.S.
3. The Court’s order should be quashed or set aside because it violates her Fourth
Amendment rights. Further, the telephone in question contains privileged communication
between K.S. and counsel; it contains private information related to K.S.’s clients and
private information related to K.S. which is wholly unrelated to this case.
4. The defendant is charged with one felony count accusing him of invasion of privacy.
5. The purpose of the April 19, 2018 order appears to be aimed at providing the defendant
with the text messages between her and P.S. that were referenced in the interview
conducted by William Don Tisaby in January 2018. However, if K.S. is required to
provide the defendant with her phone, the defendant will be able to obtain more than just

A2

the text messages in question. In fact, the defendant will also receive privileged communication.

6. The Fourth Amendment to the United States Constitution guarantees the right of all citizens to be free from unreasonable searches and seizures. Article I, section 15 of the Missouri Constitution guarantees that same right.
7. The unyielding purpose of the Fourth Amendment is to protect individuals from unreasonable invasions of legitimate privacy interests at the hands of government. *United States v. Chadwick*, 433 U.S. 1 (1977).
8. The courts have found that individuals have a reasonable expectation of privacy in their cell phones and the information stored therein, including text messages. *State v. Clampitt*, 364 S.W.3d 605 (Mo. App. 2012).
9. K.S. has a reasonable expectation of privacy in her cell phone and that privacy interest is constitutionally protected.
10. K.S. acknowledges the Fourth Amendment was not intended to interfere with this Court's power to compel the production of evidence; however, the Fourth Amendment still applies.

WHEREFORE K.S. moves this Court to enter an order setting aside the April 19, 2018 court order compelling her to produce her phone and for any further relief this Court deems proper and just under the circumstances.

KNIGHT & SIMPSON
423 Jackson Street
St. Charles, Missouri 63301
(636) 947-7412 Phone / (636) 947-7505 Fax
scott@knightsimpson.com
Attorneys for Respondent

By /s/ Scott Simpson
SCOTT SIMPSON #59828

A3

CERTIFICATE OF SERVICE

The undersigned certifies that on the 20th day of April, 2018, I electronically filed the foregoing with the Clerk of the St. Louis City, Missouri Court, using Missouri eFiling System and delivered via the same to: All parties that have entered their appearance through the eFiling System.

/s/ Scott Simpson

A4/

CAO-SOLOMON00697

EXHIBIT
C

MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)

FILED
APR 23 2018
22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE
BY _____ DEPUTY

State of Missouri

VS

Greiteus

CASE NO. 1822-CR642 DIVISION 16 4/23 2018

COURT ORDER

Witness K.S. + P.S. are ordered to submit their respective phones to Court approved forensic expert for forensic examination.

Defendant shall tender the name of its forensic expert for Court approval.

Phones will not be turned over to Def. and shall remain with forensic expert until forensic exam completed.

Phones shall be cloned by forensic expert w/ contents placed in digital file for review by special master for relevance and privilege.

Def shall provide a list of contents expected to be found on the phones and will provide to the special

master.
~~_____~~
33390

So ordered:

Div. 16

ENTERED

APR 23 2018

CRH

_____ AEA

A5



Scott Simpson

From: Adam Simon [asimon@dowdbennett.com]
Sent: Monday, April 23, 2018 4:18 PM
To: Scott Simpson; albertwatkins@kwklaw.net
Cc: Ed Dowd; Jim Martin; Michelle Nasser; Scott Rosenblum; John Garvey
Subject: Forensic Expert

Scott and Albert,

Judge Burlison has approved the forensic expert performing the forensic examination and cloning of your clients' respective phones tomorrow at 9:00 AM at the courthouse.

Regards,

ADAM J. SIMON | DOWD BENNETT LLP
7733 FORSYTH BLVD., SUITE 1900
ST. LOUIS, MO 63105
314.889.7340 OFFICE | 314.863.2111 FAX
ASIMON@DOWDBENNETT.COM

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**IN THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT OF MISSOURI**

| | | |
|-------------------------------|---|-----------|
| STATE of Missouri ex rel. |) | |
| K.S., |) | |
| Relator, |) | Cause No. |
| |) | |
| v. |) | |
| |) | |
| The Honorable Rex Burlison., |) | |
| Judge of the Circuit Court of |) | |
| St. Louis City, Missouri, |) | |
| Respondent. |) | |

RELATOR’S SUGGESTIONS IN SUPPORT OF HER PETITION

FOR A WRIT OF PROHIBITION

FACTUAL BACKGROUND:

Relator is the victim in the criminal case styled State of Missouri v. Eric Greitens, cause number 1822-CR000642. The indictment alleges the defendant invaded the privacy of K.S. by knowingly photographing her in a state of full or partial nudity without the knowledge and consent of K.S. and in a place where a person would have a reasonable expectation of privacy, and the defendant subsequently transmitted the image contained in the photograph in a manner that allowed access to that image via a computer. On April 16, 2018, without providing notice or an opportunity for Relator to be heard, the trial court ruled that Relator is required to produce her cellular telephone to the defendant for cloning and forensic examination. The court reduced the order to writing on April 19, 2018. (Exhibit A April 19, 2018 court order.) On April 20, 2018, Relator filed her motion to quash the April 19, 2018 order and on April 23, 2018, the trial court heard arguments on the motion. (Exhibit B Relator’s motion to quash) After taking the matter under

advisement, the trial court issued a revised order compelling Relator to produce her phone. (Exhibit C April 23, 2018 court order.)

Subsequent to the order, counsel for Relator received an email from Attorney Adam Simon of Dowd Bennett law firm claiming that Respondent issued an order for the cellular phone to be produced at 9:00 am on Tuesday, April 24, 2018. (Exhibit D Email from Adam Simon) Counsel for Relator has not been provided a copy of the order referenced in Exhibit D, so it is not attached to this Petition for Writ of Prohibition.

ARGUMENT AND ANALYSIS:

The court exceeded its authority by ordering the Relator to produce her cellular phone for cloning and forensic examination in violation of her rights under the United States Constitution and the Constitution of the state of Missouri.

The Fourth Amendment to the United States Constitution guarantees the right of all citizens to be free from unreasonable searches and seizures. Article I, section 15 of the Missouri Constitution guarantees that same right. The unyielding purpose of the Fourth Amendment is to protect individuals from unreasonable invasions of legitimate privacy interests at the hands of government. United States v. Chadwick, 433 U.S. 1 (1977). The Fourth Amendment of the Constitution is made applicable to the states via the Fourteenth Amendment which provides in part: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.”

“The Fourth Amendment of the United States Constitution ensures against “unreasonable search and seizures” and provides that “no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” State v. Johnson, 354 S.W.3d 627, 630 (Mo. banc 2011). Missouri’s General Assembly recognized these constitutional protections and enacted a statute providing a search warrant is invalid “[i]f it was issued without probable cause.” Section 542.276.10(3), RSMo.

Missouri courts, for their part, have clearly recognized that individuals have a reasonable expectation of privacy in their cellular phones and the information stored therein, including text messages. State v. Clampitt, 364 S.W.3d 605 (Mo. App. 2012).

The April 23, 2018 court order is a de facto search warrant because it allows the Relator’s cellular phone to be seized and subsequently searched pursuant to state action under the color of law. The last paragraph in the order proves the court does not have probable cause to lawfully order the search and seizure of Relator’s cellular phone. Specifically the order states, “[d]ef shall provide a list of contents expected to be found on the phones and will provide to the special master.” Probable cause must be found prior to issuing the order, not after. If the court had probable cause prior to issuing the order, there would be no need for the defendant to provide a list of contents that are expected to be discovered after the search and seizure has occurred.

The court order authorizing the search and seizure of the Relator’s phone is not issued upon probable cause, supported by Oath or affirmation, particularly describing the place to be searched, and the persons or things to be seized. Without probable cause, the

search and seizure of Relator's phone violates her constitutional rights as well as Section 542.276.10(3) RSMo.

The order is not only constitutionally defective, but it is grossly overbroad under any applicable discovery rules. The defendant's attorneys made their original request to the court under the guise of seeking texts between Relator and her ex-husband that they allege are relevant to the defense. Relator has already produced to the defendant's attorneys all texts between she and her ex-husband that are currently available on her phone. Requiring the Relator to submit the entire contents of her phone – which includes highly personal information, such as pictures of her children and software that is vital for her to run her small business – is unduly burdensome, a gross invasion of her privacy that victimizes her yet again, and wholly unnecessary when narrower means of discovery are available.

By ordering the Relator to submit her phone to be cloned and forensically examined, the trial court abused its discretion by acting in excess of its jurisdiction and the threatened injury cannot be remedied after the search and seizure of her cellular phone. Therefore, a Writ of Prohibition is appropriate and Relator moves this court to enter an order prohibiting the trial court from ordering Relator to submit her cellular phone to the court approved forensic expert for cloning and forensic examination.

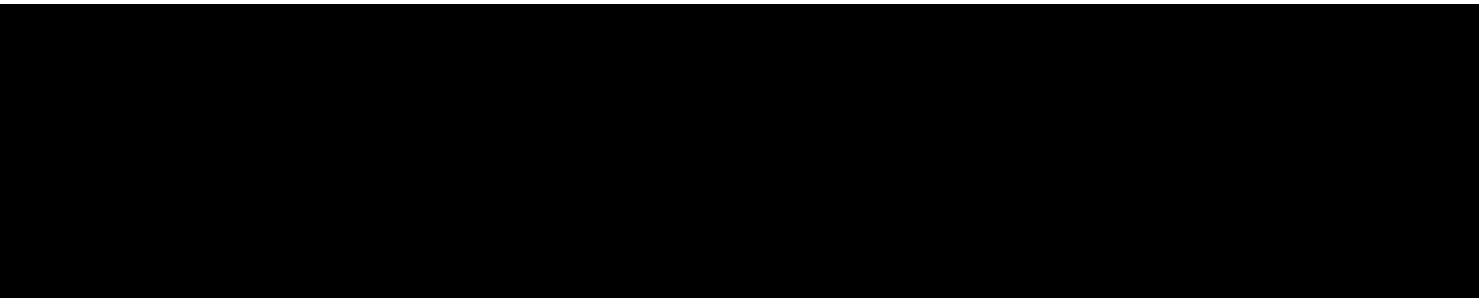
KNIGHT & SIMPSON
423 Jackson Street
St. Charles, Missouri 63301
(636) 947-7412 Phone / (636) 947-7505 Fax
scott@knightsimpson.com
Attorneys for Respondent

By /s/ Scott Simpson
SCOTT SIMPSON #59828

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was emailed this 23rd day of April, 2018 to: Honorable Rex Burlison, Respondent, Scott Rosenblum, attorney for Defendant, James Martin attorney for Defendant, Kimberly Gardner, Circuit Attorney and Robert Dierker, Assistant Circuit attorney.

/s/ Scott Simpson



From: Adam Simon <asimon@dowdbennett.com>

Sent: Monday, April 23, 2018 3:43 PM

To: rex.burlison@courts.mo.gov

Cc: steeler@stlouiscao.org; gardnerk@stlouiscao.org; dierkerr@stlouiscao.org; Ed Dowd <edowd@dowdbennett.com>; Jim Martin <jmartin@dowdbennett.com>; MichelleNasser <mnasser@dowdbennett.com>; Scott Rosenblum <rosenblum@rsflawfirm.com>; John Garvey <JGarvey@careydanis.com>; ScottSimpson <scott@knightsimpson.com>; albertwatkins@kwklaw.net

Subject: Proposed forensic expert

Judge Burlison,

Attached is the CV for the proposed forensic expert, Brian Koberna. He is available to be at the courthouse tomorrow at 9:00 AM.

Thank you,
Adam Simon

asimon@dowdbennett.com

314.889.7340 (office)

314.224.9944 (mobile)

CURRICULUM VITAE

Brian Koberna

Affirmed Forensics LLC

Voice 618.789.3181

Email bdkoberna@affirmedforensics.com

PROFESSIONAL EXPERIENCE

Affirmed Forensics LLC

Owner / Certified Forensic Examiner

September 2013 to Present

Affirmed Forensics provides comprehensive digital forensic services which include identifying, locating, preserving, analyzing, and reporting on electronic evidence using methods acceptable in courts of law. Affirmed Forensics has assisted law firms, businesses, and individuals in the St. Louis metropolitan area and across the country. These types of cases include, but not limited to insurance fraud cases, sexual harassment cases, intellectual property disputes, employee activity, employee theft, business fraud, cyberstalking, corporate employee embezzlement, incident and negligence investigations, corporate e-mail investigations and correspondence and much more.

Madison County Sheriff's Office

Deputy Sheriff

Edwardsville, Illinois

February, 2003 to Present

Hired as a Deputy Sheriff and initially assigned to the patrol division. In June of 2006, I was transferred into the investigative division and assigned to Metro East Auto Theft Task Force, where I began investigating motor vehicle related crimes and technical operations relating to motor theft investigations (e.g. tracking devices, overhears, bait car operations, etc.). I was subsequently promoted to a Supervisory Agent position where I oversaw a team of agents, assist in managing cases and approve reports. In August of 2009, I was transfer back to the Detective Division and began investigating general crimes (e.g. homicides, robberies, burglaries, thefts, etc.) While in the Detective Division I became specialized in computer related crimes to include fraud, identity theft, and child pornography. I am currently a Sergeant, assigned as a Forensic Examiner to the Computer Crimes Division of the Madison County Sheriff's Office.

Federal Bureau of Investigation

Investigator/Member

Fairview Heights, Illinois

May 2010 to Present

I joined the F.B.I Cyber Crime and Analysis Task Force in May 2010. My current assignment is to assist the FBI with both current and past cases involving computer related investigations, specializing in Computer Forensics and Data Recovery. I have also assisted with Forensic Analysis of computers on Federal cases. Responsibilities include taking the role of primary investigator of many computer related crimes throughout the metro-east area.

Major Case Squad of Greater St. Louis

Command, Report Writer

St. Louis, Missouri

January 2010 to Present

I am an active member of the Major Case Squad of Greater St. Louis. Current assignment includes investigating serious felony cases such as homicide and child abduction. During investigations, I have acted in the position of a Technical Operations Group member, where I have generated search warrants relating to the cases, analyzed cellular tower data and assisted in providing leads relating to the data for the team.

Lewis and Clark Community College

Instructor

Godfrey, Illinois

2014 to Present

Teach Criminal Justice related classes, to include, but not limited to, high tech crime that relates to digital technology, principles in digital forensics, digital devices and how they can be involved in crimes or be a source of evidence.

EDUCATION

October 2013 –
December 2015 **Lindenwood University**
Belleville, Illinois
Master of Science in Criminal Justice

August 1994 –
December 1999 **University of Illinois**
Champaign, Illinois
Bachelors of Science in Biochemistry

TESTIMONY EXPERIENCE

February 2003 –
Present As a Deputy Sheriff, I have participated in the execution of hundreds of Search Warrants and seizure operations. I have provided testimony in federal court and state court as related to my work as a Deputy Sheriff. I have conducted a large number of criminal investigations, including numerous homicide investigations. I have investigated hundreds of Internet related crimes, analyzing computers, cellular phones, mobile devices, and GPS units in furtherance of the investigations.

PROFESSIONAL CERTIFICATIONS & AWARDS

2002 - Microsoft Certified Professional (MCP)
2012 – Access Data Certified Examiner (ACE)
2013 – Access Data Certified Mobile Phone Examiner (AME)
2012 – Lead Homicide Investigator
2015 – SILEC and SIPCA Unit Award for Computer Forensics Division
2016 – SILEC and SIPCA Medal of Valor Award
2016 – Major Case Squad Certificate of Merit Award
2017 – Berla iVe Vehicle System Forensics

DIGITAL FORENSICS PROFESSIONAL TRAINING

February 2007 Advanced Cyber Terrorism Training - Fairview Heights, Illinois
February 2007 Identity Theft and Online Investigative Techniques – Collinsville, Illinois
January 2011 Cyber Investigation 101 (STOP) – Collinsville, Illinois
January 2011 TUX Forensics Training – Collinsville, Illinois
April 2011 Mac Marshal Forensics-Macintosh Forensic Preview Tool - St. Charles County Sheriff's Department
May 2011 ICAC National Conference - Google and Firefox laboratory training, Facebook laboratory training Wireless Investigations, Windows 7 Shadow Copy laboratory training, Windows Live Investigation laboratory training, GPS Interrogation laboratory training, Adobe Photoshop laboratory training - San Jose, California

| | |
|----------------|--|
| December 2011 | Access Data 5 Day Boot Camp - FTK, PRTK, and Registry Viewer - Houston, Texas |
| December 2011 | Advanced Cell Phone Technology and Forensic Data Recovery for Investigators - Public Agency Training Council - St. Charles, Missouri |
| February 2012 | Peer to Peer Network Investigations from the Illinois Attorney General's Office - Springfield Illinois |
| February 2012 | Mobile Phone Examiner Analysis – Access Data |
| March 2012 | Major Case Squad Technical Operations Group Cellular Phone Training – St. Louis, Missouri |
| May 2012 | Windows 7 Forensics – Access Data |
| July 2012 | Windows Registry Forensics – Access Data |
| July 2012 | iOS Forensic Examination - Access Data |
| July 2012 | Android Examination - Access Data |
| August 2012 | Blackberry Forensics – Access Data |
| August 2012 | Call Detail Records and GPS Device Analysis – Access Data |
| August 2012 | FBI-CART- Imagescan System version 3, DriveQuest System – Belleville, Illinois |
| December 2012 | Cell Phone Technology and Forensic Data Recovery for Investigators - Collinsville, Illinois |
| May 2014 | Mac Forensic Imaging – Chesterfield, MO |
| May 2014 | iOS Forensics – Chesterfield, MO |
| May 2015 | Location Information Extracted From Mobile Devices – Cellebrite |
| August 2015 | Virtual Machines Laboratory ICAC Training – Dallas, TX |
| September 2015 | Cloud Related Training – FBI |
| September 2015 | Tracing Email Addresses – FBI |
| December 2015 | FBI Integrated Program Management Training – Fairview Heights, Illinois |
| February 2016 | Southern Illinois Criminal Justice Summit-Effingham, Illinois-Teen Killers-Phil Chalmers Gordon Graham-Risk Management |
| March 2016 | Advanced High Tech Investigation Techniques – Collinsville, Illinois |
| March 2016 | Major Case Squad-Open Source Intelligence Techniques – O'Fallon, Illinois |
| March 2016 | Peer-to-Peer Investigative Training – Chicago, Illinois |
| April 2016 | Investigating Missing, Exploited, and Abducted Children-NCMEC-Fairview Heights, Illinois |
| May 2016 | Investigation Techniques for Unmasking TOR Hidden Services and Other Dark Web-Matt Lucas-Telestrategies-Online Training |
| March 2017 | Apple iDevice Forensics CC 225 – St. Louis, Missouri |
| April 2017 | Cellular Phone Investigations – Online - NW3C |

| | |
|---------------|--|
| April 2017 | GPS Interrogation – Online - NW3C |
| May 2017 | Macintosh Forensic Analysis – St. Louis, Missouri |
| August 2017 | Project VIC and Victim Identification Practices Using Griffeye Analyze – Dallas, Texas |
| August 2017 | osTriage Forensic Training – Dallas, Texas |
| August 2017 | Magnet AXIOM 101: Fundamentals - Dallas, Texas |
| August 2017 | Magnet AXIOM 201: File System Analysis - Dallas, Texas |
| October 2017 | Dark Web |
| December 2017 | Vehicle System Forensics Training – Kansas City, Missouri |

In addition to the aforementioned training, I received annual recertification training in other area as mandated by department policies through the Madison County Sheriff's Department, FBI, Major Case Squad of Greater St. Louis, etc.

From: Scott Simpson <scott@knightsimpson.com>
Sent: Monday, April 23, 2018 5:48 PM
To: 'Dierker, Robert' <DierkerR@stlouiscao.org>; 'Albert Watkins' <albertwatkins@kwklaw.net>
Cc: 'Gardner, Kimberly' <GardnerK@stlouiscao.org>; 'Steele, Robert' <SteeleR@stlouiscao.org>; 'jmartin' <jmartin@dowdbennett.com>; 'ScottRosenblum' <srosenblum@rsflawfirm.com>
Subject: RE: PS/KS phones

All,

Yes, I am filing a petition for writ of prohibition. I expect it to be filed in the next few hours. Further, I am scheduled to start a bench trial tomorrow at 9:00 am in St. Charles County. Can we agree that I do not need to appear with the phone until the court of appeals rules on the writ? If they deny the writ, before 9:00 am can we agree that I will provide the phone at a mutually agreed upon time? I suggest Wednesday when we appear for my client's deposition.

Thank you,
Scott Simpson

Scott Simpson

*Attorney at Law
Knight & Simpson
423 Jackson Street
Saint Charles, MO 63301
Phone: 636-947-7412
Fax: 636-947-7505
Email: scott@knightsimpson.com
www.knightsimpson.com*

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From: Dierker, Robert [<mailto:DierkerR@stlouiscao.org>]
Sent: Monday, April 23, 2018 3:53 PM
To: scott@knightsimpson.com; Albert Watkins
Cc: Gardner, Kimberly; Steele, Robert; jmartin; Scott Rosenblum
Subject: PS/KS phones

Judge Burlison entered an order for KS and PS to turn over phones for imaging. Defense expert Koberna is available tomorrow morning to do the imaging. The images will be entrusted to the special master for review in camera. Scott, please let us know if you're going to apply for a writ. Otherwise, Al and Scott let us know if the phones can be produced tomorrow morning. If not, let us know when they can be produced.

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-----Original Message-----

From: SteeleR@stlouiscao.org <SteeleR@stlouiscao.org>
Sent: Wednesday, April 25, 2018 11:13 AM
To: GardnerK@stlouiscao.org
Subject: FW: Please send me a copy of my grand jury testimony.

-----Original Message-----

From: Steele, Robert
Sent: Wednesday, April 25, 2018 11:13 AM
To: 'Albert Watkins' <albertwatkins@kwklaw.net>
Subject: RE: Please send me a copy of my grand jury testimony.

As much as I would like to help you I can't. Section 5 of the Court's March 8th Order provides, "[n]o discovery, depositions, items of discovery or evidence will be secondarily distributed to any person or entity not employed by or working directly for the parties legal team". The Court indicated we violated this Order and were subject to a contempt sanction because we gave Scott Simpson a copy of KS' videotaped statement which he had attended. This prevents the State from assisting you with a copy.

-----Original Message-----

From: Albert Watkins [mailto:albertwatkins@kwklaw.net]
Sent: Wednesday, April 25, 2018 9:07 AM
To: Steele, Robert <SteeleR@stlouiscao.org>
Subject: Please send me a copy of my grand jury testimony.

Sent from my iPhone

Albert S. Watkins LC
KODNER WATKINS LC
7800 Forsyth Boulevard, Suite 700
St. Louis, Missouri 63105
314-727-9111
314-727-9110 (Facsimile)
albertswatkins@kwklaw.net

www.kwklaw.net



From: DierkerR@stlouiscao.org <DierkerR@stlouiscao.org>
Sent: Thursday, April 26, 2018 2:55 PM
To: scott@knightsimpson.com
Cc: SteeleR@stlouiscao.org
Subject: RE: KS phone writ

OK. I'll draft something.

From: Scott Simpson [<mailto:scott@knightsimpson.com>]
Sent: Thursday, April 26, 2018 12:40 PM
To: Dierker, Robert <DierkerR@stlouiscao.org>
Cc: Steele, Robert <SteeleR@stlouiscao.org>
Subject: RE: KS phone writ

Yes, I am going to file a Writ of Prohibition in the Missouri Supreme Court. As for the protective order, I think the deposition yesterday had very little focus on the video. She was cross examined about her prior deposition and her grand jury testimony for a majority of the time. I think a motion to terminate the deposition is warranted.

Scott Simpson

*Attorney at Law
Knight & Simpson
423 Jackson Street
Saint Charles, MO 63301
Phone: 636-947-7412
Fax: 636-947-7505
Email: scott@knightsimpson.com
www.knightsimpson.com*

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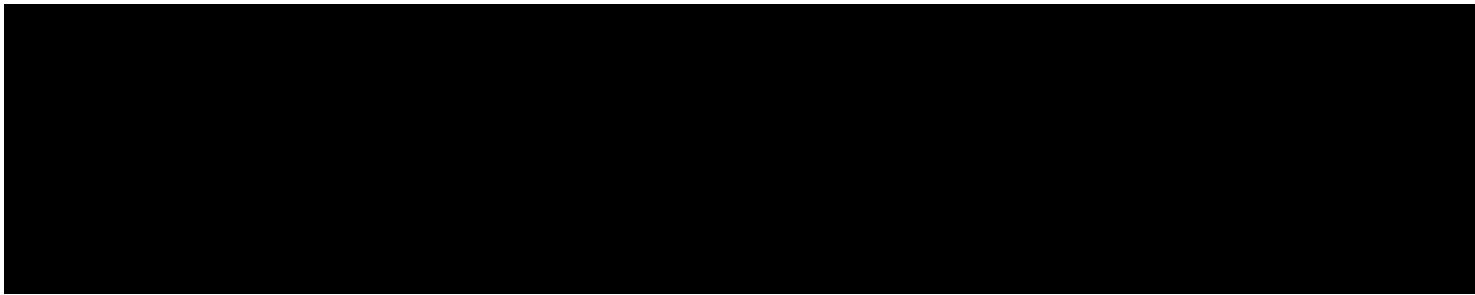
From: Dierker, Robert [<mailto:DierkerR@stlouiscao.org>]
Sent: Thursday, April 26, 2018 10:52 AM
To: scott@knightsimpson.com
Cc: Steele, Robert
Subject: KS phone writ

Scott, are you going to re-apply in the Supreme Court? If the KS depo. resumes next week, would that be when we could do the phone dump. Rich Callahan, I am told, will be the master.

I am told that the resumed depo. of KS did not focus on the Tisaby "tape" but went into other matters. If so, do you think we should ask for an order terminating the depo.?

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From: Dierker, Robert <DierkerR@stlouiscao.org>

Sent: Friday, April 27, 2018 2:55 PM

To: jmartin <jmartin@dowdbennett.com>; John Garvey <JGarvey@careydanis.com>; Ed Dowd <edowd@dowdbennett.com>; Scott Simpson <scott@knightsimpson.com>; Scott Rosenblum <srosenblum@rsflawfirm.com>

Cc: Ryan, Susan <susan.c.ryan@att.net>; Sullivan, Ron <rsullivan@law.harvard.edu>

Subject: KS deposition motion

Attached will be e-filed today. The depositions will be sent directly to Judge Burlison by e-mail for in camera review.

MISSOURI CIRCUIT COURT
TWENTY-SECOND CIRCUIT
(City of St. Louis)

STATE OF MISSOURI,)
)
 Plaintiff,)
)
v.) No. 1822-CR00642
) Div. 16
ERIC GREITENS,)
)
 Defendant.)

MOTION FOR PROTECTIVE ORDER AND NOTICE OF HEARING

The State of Missouri respectfully moves the Court to enter a protective order terminating further deposition of victim K.S. Regrettably, the further deposition of K.S. has become an exercise in going over thrice-plowed ground and has not conformed to the limitations expressly stated by the Court in its sanctions order of April 19.

In its order awarding sanctions to the defendant by reason of the State's lapse in failing to provide the videotaped interview of K.S. by Mr. Tisaby, together with Mr. Tisaby's notes, the Court declared:

Although the conduct that has been seen in the discovery of this case is not to be condoned, is serious, it is, however, in the Court's opinion capable of being cured. Therefore, the Court, in considering sanctions, will not dismiss this case. The Court will order lesser sanctions, that being that the parties, or that the defendant will be allowed to retake depositions.

* * *

With regard to the conduct that's been alleged in this courtroom. There are other venues and authorities that have jurisdiction. We're not going to try what at the end of the day Mr. Tisaby's conduct equals in this case. We're not going to try at the end of the day what the State's conduct equals in this case. The Court's only going to

weigh the effect of that conduct as it relates to the defendant's right to a fair trial.

At this point, the Court believes that the tilting of the playing field that has occurred by the conduct of the State is curable.

* * *

I would expect that with this order into the record that the parties would be able to work out the reconvening of the depositions. **Also, I would expect that the nature and extent of the inquiry be limited to address the -- any prejudice that the defendant alleges by the late tender and disclosure of Rule 25 and Brady material.** [April 19 Hearing Tr. 26-27, emphasis added.]

The deposition of K.S. reconvened on April 25 and consumed two hours. The course of the examination had almost nothing to do with the late-tendered videotape and notes. Rather, it rehashed earlier deposition testimony of K.S. regarding her grand jury appearances, it included mere argument between defense counsel and the witness about whether she lied or was deceitful, and it injected the totally irrelevant issue of the supposed payment of \$100,000 to the attorney for the victim's ex-husband. It also featured extensive questioning about whether the witness knew about note-taking, even though counsel has all notes (and had the Circuit Attorney's notes of the January 24 interview well before the first deposition). Further, whether somebody else took notes of an interview has nothing whatever to do with the victim's testimony on the core issues of this case. No effort was made by defense counsel to focus on the January 29 video interview. Instead, the defense appears to have embarked upon another quest to attack the grand jury indictment and invite this Court to

usurp the jury's role in determining credibility of witnesses. That effort was previously rejected summarily by this Court.

The Missouri Constitution and statutes recognize rights of victims in criminal cases. While those rights do not trump the defendant's Sixth Amendment rights, the latter rights are not at stake here. What is at stake here is prevention of burdensome, oppressive and wholly unnecessary pretrial discovery. The *Brady* rule does not create a general constitutional right to discovery. E.g., *United States v. Agurs*, 427 U.S. 97 (1976) (outlining scope of constitutional rules post-*Brady*). The defendant has had ample opportunity, both before and after the disclosure of the video interview, to examine K.S. about any and all interviews with the State. The defense has obtained the video interview of January 29. The defense has grand jury transcripts, the Circuit Attorney's notes, and all known notes taken by Mr. Tisaby during the January 29 interview. The defense could and should have dealt with any "prejudice" resulting from the belated disclosure of the video and related notes in the two hours' additional deposition of K.S. If the defense chose to devote that time to repetitive questions, or questions on issues not raised by the late disclosures, that was the choice of defendant's counsel. The Court gave the defense all the opportunity that was needed to address the disclosure of the video and notes. Neither the Constitution nor the rules of criminal procedure requires more.

Enough is enough. The State urges the Court to terminate further deposition of K.S. In the alternative, the State requests that

further examination be limited to a maximum of 20 written questions to be answered by K.S. under oath, as permitted by Mo.R.Ct. 57.04.

The State is tendering the deposition of K.S. from April 6, 2018, and the further deposition of April 24, 2018. The State will submit those transcripts for review in camera; the State also would ask the Court to bear in mind the transcripts of grand jury testimony and the videotape interview previously submitted in connection with defendant's prior motion for sanctions.

WHEREFORE, the State hereby notifies counsel for the defense that this motion will be presented on April 30, 2018, at the standing hearing session, and the State respectfully requests that further deposition of K.S. be terminated or limited to written questions as set forth herein.

Respectfully submitted,
KIMBERLY M. GARDNER
CIRCUIT ATTORNEY OF THE
CITY OF ST. LOUIS


/s/ Robert Steele MBE 42418
Assistant Circuit Attorney
steeler@stlouiscao.org

/s/ Robert H. Dierker 23671
Assistant Circuit Attorney
1114 Market St., Rm. 230
St. Louis, MO 63101
314-622-4941

Certificate of Service

The undersigned counsel certifies that a copy of the foregoing was served on counsel for defendant by e-mail this 28 day of April 2018.

/s/Robert H. Dierker



From: Dierker, Robert <DierkerR@stlouiscao.org>

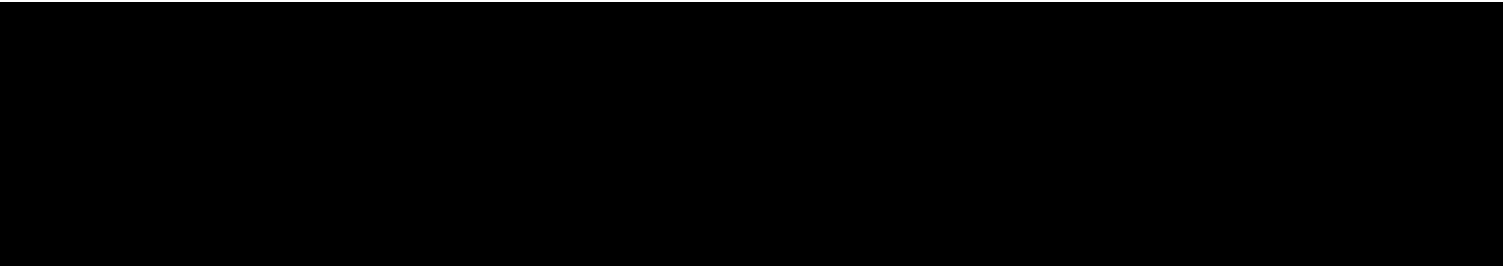
Sent: Friday, April 27, 2018 10:41 AM

To: Scott Simpson <scott@knightsimpson.com>

Cc: Gardner, Kimberly <GardnerK@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>; Box, Anthony <boxa@stlouiscao.org>

Subject: KS phone

Scott, Judge Burlison this morning ordered production of KS' phone Monday at 9:00 a.m. barring intervention by writ . The Judge indicated that the defense expert can do the dump, transmit it to the Court's custody, and Rich Callahan will be the master to review the material. We will be filing a motion to terminate the deposition continuation and will present that on Monday morning.



From: GardnerK@stlouiscao.org <GardnerK@stlouiscao.org>
Sent: Friday, April 27, 2018 2:12 PM
To: DierkerR@stlouiscao.org; SteeleR@stlouiscao.org; rsullivan@law.harvard.edu
Cc: scott@knightsimpson.com
Subject: RE: KS protective order

Judge,

It is good.

Thank you

From: Dierker, Robert
Sent: Friday, April 27, 2018 1:55 PM
To: Gardner, Kimberly <GardnerK@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>; Sullivan, Ron <rsullivan@law.harvard.edu>
Cc: Scott Simpson <scott@knightsimpson.com>
Subject: KS protective order

I have drafted the attached. I will file it once I've been able to review the 4/25 session with KS so that I don't mis-state anything. I don't have much hope that Burlison will cut it off, but maybe he'll put a time limit on them finally. This e-mail message from the St. Louis Circuit Attorney's Office is intended only for named recipients. It contains information that may be confidential, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. Attorneys are required to notify all recipients of e-mail that (1) e-mail communication is not a secure method of communication, (2) any e-mail message that is sent may be copied and held by various computers it passed through, (3) persons not participating in our e-mail communications may intercept our e-mail communications by improperly accessing your computer or my computer or even some computer unconnected to either of us which the e-mail is passed through. If you would like future communications to be sent in a different fashion or if you receive this message in error, please let me know AT ONCE by calling 314-622-4941. If you have received this e-mail message in error, please delete the e-mail message immediately. Thank you.



From: Dierker, Robert <DierkerR@stlouiscao.org>
Sent: Friday, April 27, 2018 2:52 PM
To: Scott Simpson <scott@knightsimpson.com>
Subject: RE: KS protective order

Good point.

From: Scott Simpson [<mailto:scott@knightsimpson.com>]
Sent: Friday, April 27, 2018 2:49 PM
To: Dierker, Robert <DierkerR@stlouiscao.org>
Subject: RE: KS protective order

The only change I have is on page two. The paragraph that begins with; "The deposition of K.S. reconvened..." The third sentence says "no effort was made by defense." I would say "Little effort was made..." because they touched on the video a little bit.

Scott Simpson

*Attorney at Law
Knight & Simpson
423 Jackson Street
Saint Charles, MO 63301
Phone: 636-947-7412
Fax: 636-947-7505
Email: scott@knightsimpson.com
www.knightsimpson.com*

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transmission and its attachments. Opinions, conclusions and other information in this message that do not relate to the official business of Knight & Simpson shall be understood as neither given nor endorsed by it.

From: Dierker, Robert [<mailto:DierkerR@stlouiscao.org>]

Sent: Friday, April 27, 2018 1:55 PM


To: Gardner, Kimberly; Steele, Robert; Sullivan, Ron

Cc: Scott Simpson

Subject: KS protective order

I have drafted the attached. I will file it once I've been able to review the 4/25 session with KS so that I don't mis-state anything. I don't have much hope that Burlison will cut it off, but maybe he'll put a time limit on them finally.

This e-mail message from the St. Louis Circuit Attorney's Office is intended only for named recipients. It contains information that may be confidential, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. Attorneys are required to notify all recipients of e-mail that (1) e-mail communication is not a secure method of communication, (2) any e-mail message that is sent may be copied and held by various computers it passed through, (3) persons not participating in our e-mail communications may intercept our e-mail communications by improperly accessing your computer or my computer or even some computer unconnected to either of us which the e-mail is passed through. If you would like future communications to be sent in a different fashion or if you receive this message in error, please let me know AT ONCE by calling 314-622-4941. If you have received this e-mail message in error, please delete the e-mail message immediately. Thank you.



From: Dierker, Robert <DierkerR@stlouiscao.org>

Sent: Friday, April 27, 2018 1:55 PM

To: Gardner, Kimberly <GardnerK@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>; Sullivan, Ron <rsullivan@law.harvard.edu>

Cc: Scott Simpson <scott@knightsimpson.com>

Subject: KS protective order

I have drafted the attached. I will file it once I've been able to review the 4/25 session with KS so that I don't mis-state anything. I don't have much hope that Burlison will cut it off, but maybe he'll put a time limit on them finally.

MISSOURI CIRCUIT COURT
TWENTY-SECOND CIRCUIT
(City of St. Louis)

STATE OF MISSOURI,)
)
 Plaintiff,)
)
v.) No. 1822-CR00642
) Div. 16
ERIC GREITENS,)
)
 Defendant.)

MOTION FOR PROTECTIVE ORDER

The State of Missouri respectfully moves the Court to enter a protective order terminating further deposition of victim K.S. Regrettably, the further deposition of K.S. has become an exercise in going over thrice-plowed ground and has not conformed to the limitations expressly stated by the Court in its sanctions order of April 19.

In its order awarding sanctions to the defendant by reason of the State's lapse in failing to provide the videotaped interview of K.S. by Mr. Tisaby, together with Mr. Tisaby's notes, the Court declared:

Although the conduct that has been seen in the discovery of this case is not to be condoned, is serious, it is, however, in the Court's opinion capable of being cured. Therefore, the Court, in considering sanctions, will not dismiss this case. The Court will order lesser sanctions, that being that the parties, or that the defendant will be allowed to retake depositions.

* * *

With regard to the conduct that's been alleged in this courtroom. There are other venues and authorities that have jurisdiction. We're not going to try what at the end of the day Mr. Tisaby's conduct equals in this case. We're not going to try at the end of the day what the State's conduct equals in this case. The Court's only going to

weigh the effect of that conduct as it relates to the defendant's right to a fair trial.

At this point, the Court believes that the tilting of the playing field that has occurred by the conduct of the State is curable.

* * *

I would expect that with this order into the record that the parties would be able to work out the reconvening of the depositions. **Also, I would expect that the nature and extent of the inquiry be limited to address the -- any prejudice that the defendant alleges by the late tender and disclosure of Rule 25 and Brady material.** [April 19 Hearing Tr. 26-27, emphasis added.]

The deposition of K.S. reconvened on April 25 and consumed two hours. The course of the examination had almost nothing to do with the late-tendered videotape and notes. Rather, it rehashed earlier deposition testimony of K.S. regarding her grand jury appearances. No effort was made by defense counsel to focus on the January 29 video interview. Instead, the defense appears to be embarked upon another quest to attack the grand jury indictment. That effort was previously rejected summarily by this Court.

The Missouri Constitution and statutes recognize rights of victims in criminal cases. While those rights do not trump the defendant's Sixth Amendment rights, the latter rights are not at stake here. What is at stake here is prevention of burdensome, oppressive and wholly unnecessary pretrial discovery. The *Brady* rule does not create a general constitutional right to discovery. E.g., *United States v. Agurs*, 427 U.S. 97 (1976) (outlining scope of constitutional rules post-*Brady*). The defendant has had ample opportunity, both before and after the disclosure of the video interview, to examine

K.S. about any and all interviews with the State. The defense has obtained the video interview of January 29. The defense has grand jury transcripts, the Circuit Attorney's notes, and all known notes taken by Mr. Tisaby during the January 29 interview. The defense could and should have dealt with any "prejudice" resulting from the belated disclosure of the video and related notes in the two hours' additional deposition of K.S. If the defense chose to devote that time to repetitive questions, that was the choice of defendant's counsel. The Court gave the defense all the opportunity that was needed to address the disclosure of the video. Neither the Constitution nor the rules of criminal procedure requires more.

Enough is enough. The State urges the Court to terminate further deposition of K.S. In the alternative, the State requests that further examination be limited to a maximum of 20 written questions to be answered by K.S. under oath, as permitted by Mo.R.Ct. 57.04.

The State is tendering the deposition of K.S. from April 6, 2018, and the further deposition of April 24, 2018. The State will submit those transcripts for review in camera; the State also would ask the Court to bear in mind the transcripts of grand jury testimony and the videotape interview previously submitted in connection with defendant's prior motion for sanctions.

WHEREFORE, the State respectfully requests that further deposition of K.S. be terminated or limited to written questions as set forth herein.

Respectfully submitted,

CAO-SOLOMON00728

KIMBERLY M. GARDNER
CIRCUIT ATTORNEY OF THE
CITY OF ST. LOUIS

/s/ Robert Steele MBE 42418
Assistant Circuit Attorney
steeler@stlouiscao.org

/s/ Robert H. Dierker 23671
Assistant Circuit Attorney
1114 Market St., Rm. 230
St. Louis, MO 63101
314-622-4941

Certificate of Service

The undersigned counsel certifies that a copy of the foregoing was served on counsel for defendant by e-mail this 28 day of April 2018.

/s/Robert H. Dierker

From: Scott Simpson <scott@knightsimpson.com>

Sent: Friday, April 27, 2018 1:24 PM

To: 'Adam Simon' <asimon@dowdbennett.com>; rex.burlison@courts.mo.gov

Cc: steeler@stlouiscao.org; gardnerk@stlouiscao.org; dierkerr@stlouiscao.org; 'Ed Dowd' <edowd@dowdbennett.com>; 'Jim Martin' <jmartin@dowdbennett.com>; 'Michelle Nasser' <mnasser@dowdbennett.com>; 'Scott Rosenblum' <srosenblum@rsflawfirm.com>; 'John Garvey' <JGarvey@careydanic.com>; albertwatkins@kwklaw.net

Subject: RE: Proposed forensic expert

All,

I have filed a request for writ of prohibition in the Missouri Supreme Court. Copies of the documents that were filed are attached.

Thank you,
Scott Simpson

Scott Simpson

Attorney at Law

Knight & Simpson

423 Jackson Street

Saint Charles, MO 63301

Phone: 636-947-7412

Fax: 636-947-7505

Email: scott@knightsimpson.com

www.knightsimpson.com

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From: Adam Simon [<mailto:asimon@dowdbennett.com>]

Sent: Monday, April 23, 2018 3:43 PM

To: rex.burlison@courts.mo.gov

Cc: steeler@stlouiscao.org; gardnerk@stlouiscao.org; dierkerr@stlouiscao.org; Ed Dowd; Jim Martin; Michelle Nasser; Scott Rosenblum; John Garvey; Scott Simpson; albertwatkins@kwklaw.net

Subject: Proposed forensic expert

Judge Burlison,

Attached is the CV for the proposed forensic expert, Brian Koberna. He is available to be at the courthouse tomorrow at 9:00 AM.

Thank you,
Adam Simon

asimon@dowdbennett.com

314.889.7340 (office)

314.224.9944 (mobile)

MO 63105; (314) 889-7301; James Martin; jmartin@dowdbenett.com; 7733 Forsyth Blvd., Suite 1900, St. Louis, MO 63105; (314) 889-7301; N. Scott Rosenblum: srosenblum@rsflawfirm.com; 120 South Central Ave., Suite 130, Clayton, MO 63105; (314)862-4332 and John F. Garvey, Jr.: jgarvey@careydanis.com; 8235 Forsyth Blvd. Ste 1100, St. Louis, MO 63105; (314) 725-7700.

2. The defendant is charged with one count of Invasion of Privacy – 1st degree, a Class D felony.
3. Relator is challenging the Respondent’s April 23, 2018 court order, which compels the Relator to produce her cellular telephone for cloning and forensic examination.
4. April 27, 2018, the Court ordered Relator to produce her phone for forensic examination on April 30, 2018 at 9:00 am. (Exhibit E Court Order compelling the cellular phone be produced)
5. The Eastern District Missouri Court of Appeals entered an order on April 26, 2018 quashing the preliminary Writ of Prohibition and denied Relator’s Writ of Prohibition. (Exhibit D Court Order quashing the preliminary writ of prohibition and denying the Relator’s Writ of Prohibition)

KNIGHT & SIMPSON
423 Jackson Street
St. Charles, Missouri 63301
(636) 947-7412 Phone / (636) 947-7505 Fax
scott@knightsimpson.com
Attorneys for Respondent

By /s/ Scott Simpson
SCOTT SIMPSON #59828

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was emailed this 27th day of April, 2018 to: Honorable Rex Burlison, Respondent; Scott Rosenblum, attorney for Defendant; James Martin, attorney for Defendant; Kimberly Gardner, Circuit Attorney; and Robert Dierker, Assistant Circuit attorney.

/s/ Scott Simpson

IN THE SUPREME COURT OF MISSOURI

| | | |
|-------------------------------|---|-----------|
| STATE of Missouri ex rel. |) | |
| K.S., |) | |
| Relator, |) | Cause No. |
| |) | |
| v. |) | |
| |) | |
| The Honorable Rex Burlison., |) | |
| Judge of the Circuit Court of |) | |
| St. Louis City, Missouri, |) | |
| Respondent. |) | |

PETITION FOR WRIT OF PROHIBITION

1. Relator is the victim in a criminal cause of action pending in the St. Louis City Circuit Court with the cause number 1822-CR00642.
2. K.S. had previously produced to the defendant’s attorneys all texts between she and her ex-husband that are currently available on her cellular phone.
3. Nevertheless, on April 16, 2018, the defendant’s attorney made a request to the court asking for the court to order K.S. to produce not only any text messages between she and her ex-husband, but her entire cellular telephone to defendant’s attorney.
4. K.S. was not given notice that defendant’s counsel was going to make the request and K.S. was not given notice of the April 16, 2018 hearing.
5. On April 19, 2018, the court issued a written court order compelling K.S. to produce her phone to counsel for the defendant. (Exhibit A April 19, 2018 court order.)

6. On April 20, 2018, Relator objected to the court order by filing a motion to quash the April 19, 2018 order. (Exhibit B Relator's motion to quash.)
7. Relator asserts the order compelling her to produce her cellular telephone for a forensic examination violates her rights under the Fourth Amendment to the U.S. Constitution and made applicable to the States through the Fourteenth Amendment. Further, Relator asserts the order violated her rights as set forth in Article 1 Section 15 of the Missouri Constitution.
8. On April 23, 2018, at 9:00am, the court took oral arguments on the motion to quash and took the matter under advisement.
9. The court issued a revised order late in the afternoon of April 23, 2018. The revised order compels K.S. to produce her phone for cloning and a forensic examination. The results of the forensic examination are to be placed in a digital file for review by a special master for relevance and privilege. (Exhibit C April 23, 2018 court order.)
10. Relator petitioned the Eastern District Missouri Court of Appeals for relief but the request was denied. (Exhibit D Court Order quashing the preliminary writ of prohibition and denying the Relator's Writ of Prohibition)
11. Counsel for Relator received a phone call from the St. Louis Circuit Attorney notifying him that the Respondent has ordered the Relator's cellular phone be produced at 9:00 am on Monday, April 30, 2018. Counsel does not have a copy of the order.

12. Relator is seeking an order prohibiting the Respondent from ordering her to produce her cellular phone for a forensic examination, cloning or otherwise forcing her to subject her phone to a search.
13. A Writ of Prohibition is appropriate because the Relator has a Constitutional right to privacy and to be free from an unreasonable search and seizure of her telephone.
14. If the private information contained on the telephone is released, the Relator's injury cannot be remedied on appeal because the search and seizure of her phone is a violation of her Constitutional rights for which there is not adequate remedy. Additionally, once her personal information is disclosed it will never regain its confidential status.

WHEREFORE Relator prays for an Order of this court prohibiting the Respondent from ordering her to produce her cellular telephone for a forensic examination.

KNIGHT & SIMPSON
423 Jackson Street
St. Charles, Missouri 63301
(636) 947-7412 Phone / (636) 947-7505 Fax
scott@knightsimpson.com
Attorneys for Respondent

By /s/ Scott Simpson
SCOTT SIMPSON #59828

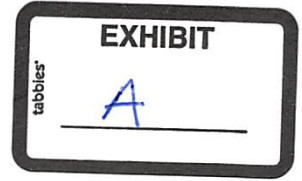
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was emailed this 27th day of April, 2018 to: Honorable Rex Burlison, Respondent; Scott Rosenblum, attorney for Defendant; James Martin attorney for Defendant; Kimberly Gardner, Circuit Attorney; and Robert Dierker, Assistant Circuit attorney.

/s/ Scott Simpson

INDEX OF EXHIBITS

| | | |
|-----------|---|---------|
| Exhibit A | Court Order dated April 19, 2018 compelling the Relator to produce her phone for forensic examination | Page A1 |
| Exhibit B | Relator's Motion to Quash the April 19, 2018 order | Page A2 |
| Exhibit C | Court Order dated April 23, 2018 revising the April 19, 2018 order. | Page A5 |
| Exhibit D | Order from the Missouri Court of Appeals Denying the Writ of Prohibition | Page A6 |
| Exhibit E | Order from the Trial Court ordering the cellular phone produced on April 30, 2018 at 9:00 am | Page A7 |



MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)

State of Missouri

VS

Eric Greitens

CASE NO. 1822-CR0006-12 DIVISION 16 April 19 20 18

COURT ORDER

Pursuant to the Court's ruling on Monday, April 16, 2018, witness K.S. is hereby ordered to produce to the Defendant any phone currently in her possession on which she received or has at any time been able to view the text messages from witness P.S. as referenced in K.S.'s interview conducted by William Don Tiseby in January 2018.

[Signature]

PI
ACA

SO ORDERED:

[Signature]

DIV. 16



STATE OF MISSOURI)
) ss.
CITY OF ST. LOUIS)

IN THE TWENTY – SECOND JUDICIAL COURT, STATE OF MISSOURI
CIRCUIT JUDGE DIVISION

STATE OF MISSOURI,)
)
 Plaintiff,)
) Cause No. 1822-CR00642
vs.)
) Division No. 16
ERIC GREITENS,)
)
 Defendant.)

K.S.’S MOTION QUASH OR SET ASIDE THE APRIL 19, 2018 COURT ORDER
RELATED TO HER CELLULAR TELEPHONE

COMES NOW, K.S., by and through counsel, Scott Simpson, and hereby moves this Court to quash or set aside the April 19, 2018, court order compelling her phone to the Defendant. In support of said motion K.S. states:

1. On April 16, 2018 the Court ruled that witness K.S. is required to produce her phone to the Defendant.
2. The Court’s order was reduced to writing on April 19, 2018 and a copy was provided to counsel for K.S.
3. The Court’s order should be quashed or set aside because it violates her Fourth Amendment rights. Further, the telephone in question contains privileged communication between K.S. and counsel; it contains private information related to K.S.’s clients and private information related to K.S. which is wholly unrelated to this case.
4. The defendant is charged with one felony count accusing him of invasion of privacy.
5. The purpose of the April 19, 2018 order appears to be aimed at providing the defendant with the text messages between her and P.S. that were referenced in the interview conducted by William Don Tisaby in January 2018. However, if K.S. is required to provide the defendant with her phone, the defendant will be able to obtain more than just

A2

the text messages in question. In fact, the defendant will also receive privileged communication.

6. The Fourth Amendment to the United States Constitution guarantees the right of all citizens to be free from unreasonable searches and seizures. Article I, section 15 of the Missouri Constitution guarantees that same right.
7. The unyielding purpose of the Fourth Amendment is to protect individuals from unreasonable invasions of legitimate privacy interests at the hands of government. *United States v. Chadwick*, 433 U.S. 1 (1977).
8. The courts have found that individuals have a reasonable expectation of privacy in their cell phones and the information stored therein, including text messages. *State v. Clampitt*, 364 S.W.3d 605 (Mo. App. 2012).
9. K.S. has a reasonable expectation of privacy in her cell phone and that privacy interest is constitutionally protected.
10. K.S. acknowledges the Fourth Amendment was not intended to interfere with this Court's power to compel the production of evidence; however, the Fourth Amendment still applies.

WHEREFORE K.S. moves this Court to enter an order setting aside the April 19, 2018 court order compelling her to produce her phone and for any further relief this Court deems proper and just under the circumstances.

KNIGHT & SIMPSON
423 Jackson Street
St. Charles, Missouri 63301
(636) 947-7412 Phone / (636) 947-7505 Fax
scott@knightsimpson.com
Attorneys for Respondent

By /s/ Scott Simpson
SCOTT SIMPSON #59828

A3

CERTIFICATE OF SERVICE

The undersigned certifies that on the 20th day of April, 2018, I electronically filed the foregoing with the Clerk of the St. Louis City, Missouri Court, using Missouri eFiling System and delivered via the same to: All parties that have entered their appearance through the eFiling System.

/s/ Scott Simpson

A4

CAO-SOLOMON00743

EXHIBIT
C

MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT 2018

(City of St. Louis)

22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE
BY _____ DEPUTY

State of Missouri

VS

Greitens

CASE NO. 1822-CR642 DIVISION 16 4/23 2018

COURT ORDER

Witness K.S. + P.S. are ordered to submit their respective phones to Court approved forensic expert for forensic examination.

Defendant shall tender the name of its forensic expert for Court approval.

Phones will not be turned over to Def. and shall remain with forensic expert until forensic exam completed.

Phones shall be cloned by forensic expert w/ contents placed in digital file for review by special master for relevance and privilege.

Def shall provide a list of contents expected to be found on the phones and will provide to the special master.

~~_____~~
33390

So ordered:

ENTERED

APR 23 2018

CRH

Div. 16

RT in AEA

A5

SCANNED



In the Missouri Court of Appeals Eastern District

| | | |
|------------------------------------|---|---------------------------------|
| STATE OF MISSOURI EX REL. K.S., |) | No. ED106626 |
| RELATOR, |) | |
| |) | Writ of Prohibition |
| |) | |
| |) | CITY OF ST. LOUIS CIRCUIT COURT |
| vs. |) | Cause No. 1822-CR00642 |
| |) | |
| THE HONORABLE REX M. BURLISON, |) | |
| JUDGE OF THE CIRCUIT COURT OF |) | |
| THE CITY OF ST. LOUIS, RESPONDENT. |) | |

AMENDED ORDER

Relator has filed a Petition for Writ of Prohibition along with Suggestions in Support and Exhibits. Respondent has filed answer to Relator K.S.'s Petition for Writ of Prohibition. Respondent has also filed Suggestions in Opposition to Relator K.S.'s Petition for Writ of Prohibition along with Exhibits and Motion For Leave to File Exhibits to Answer Under Seal.

The preliminary order issued April 24, 2018 is quashed and Relator's Petition for Writ of Prohibition is DENIED. The Motion For Leave to File Exhibits to Answer Under Seal is Denied as Moot.

SO ORDERED.

DATED: 4/26/18

Roy L. Richter, Presiding Judge
Writ Division VI
Missouri Court of Appeals, Eastern District

- cc: Hon. Rex M. Burlison
- Robert Dierker, Jr.
- John F. Garvey
- James G. Martin
- Michelle Nasser
- Kimberly Gardner
- N. Scott Rosenblum
- Scott Simpson



AG



MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(City of St. Louis)

FILED
APR 27 2018
22ND JUDICIAL CIRCUIT
CIRCUIT CLERK'S OFFICE
DEPUTY

State of Missouri
VS

Eric Greitens

CASE NO. *1822-CR* ⁰⁰⁶⁴² DIVISION *16* *April 27 2018*

COURT ORDER

*The Court orders K.S.
to produce her phone to
the Defendant's expert
on April 30 at 9:00 a.m.
in Division 16.*

*So ordered.
[Signature]
Div. 16*

*Edward Z. Dowd
Attorney for Eric
Greitens
28785*

IN THE SUPREME COURT OF MISSOURI

| | | |
|-------------------------------|---|-----------|
| STATE of Missouri ex rel. |) | |
| K.S., |) | |
| Relator, |) | Cause No. |
| |) | |
| v. |) | |
| |) | |
| The Honorable Rex Burlison., |) | |
| Judge of the Circuit Court of |) | |
| St. Louis City, Missouri, |) | |
| Respondent. |) | |

RELATOR’S SUGGESTIONS IN SUPPORT OF HER PETITION

FOR A WRIT OF PROHIBITION

FACTUAL BACKGROUND:

Relator is the victim in the criminal case styled State of Missouri v. Eric Greitens, cause number 1822-CR000642. The indictment alleges the defendant invaded the privacy of K.S. by knowingly photographing her in a state of full or partial nudity without the knowledge and consent of K.S. and in a place where a person would have a reasonable expectation of privacy, and the defendant subsequently transmitted the image contained in the photograph in a manner that allowed access to that image via a computer. On April 16, 2018, without providing notice or an opportunity for Relator to be heard, the trial court ruled that Relator is required to produce her cellular telephone to the defendant for cloning and forensic examination. The court reduced the order to writing on April 19, 2018. (Exhibit A April 19, 2018 court order.) On April 20, 2018, Relator filed her motion to quash the April 19, 2018 order and on April 23, 2018, the trial court heard arguments on the motion. (Exhibit B Relator’s motion to quash) After taking the matter under

advisement, the trial court issued a revised order compelling Relator to produce her phone. (Exhibit C April 23, 2018 court order.)

Subsequent to the order, counsel for Relator filed a petition for writ of prohibition in the Missouri Court of Appeals, Eastern District. On April 26, 2018, the Court issued an order quashing the preliminary writ and denying Relator's request. This appeal follows.

ARGUMENT AND ANALYSIS:

The court exceeded its authority by ordering the Relator to produce her cellular phone for cloning and forensic examination in violation of her rights under the United States Constitution and the Constitution of the state of Missouri.

The Fourth Amendment to the United States Constitution guarantees the right of all citizens to be free from unreasonable searches and seizures. Article I, section 15 of the Missouri Constitution guarantees that same right. The unyielding purpose of the Fourth Amendment is to protect individuals from unreasonable invasions of legitimate privacy interests at the hands of government. United States v. Chadwick, 433 U.S. 1 (1977). The Fourth Amendment of the Constitution is made applicable to the states via the Fourteenth Amendment which provides in part: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."

"The Fourth Amendment of the United States Constitution ensures against "unreasonable search and seizures" and provides that "no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to

be searched, and the persons or things to be seized.” State v. Johnson, 354 S.W.3d 627, 630 (Mo. banc 2011). Missouri’s General Assembly recognized these constitutional protections and enacted a statute providing a search warrant is invalid “[i]f it was issued without probable cause.” Section 542.276.10(3), RSMo.

Missouri courts, for their part, have clearly recognized that individuals have a reasonable expectation of privacy in their cellular phones and the information stored therein, including text messages. State v. Clampitt, 364 S.W.3d 605 (Mo. App. 2012).

The April 23, 2018 court order is a de facto search warrant because it allows the Relator’s cellular phone to be seized and subsequently searched pursuant to state action under the color of law. The last paragraph in the order proves the court does not have probable cause to lawfully order the search and seizure of Relator’s cellular phone. Specifically the order states, “[d]ef shall provide a list of contents expected to be found on the phones and will provide to the special master.” Probable cause must be found prior to issuing the order, not after. If the court had probable cause prior to issuing the order, there would be no need for the defendant to provide a list of contents that are expected to be discovered after the search and seizure has occurred.

The Respondent has previously argued that the search of Relator’s phone is not a violation of the Relator’s rights because the defendant in the underlined case is a private actor. That argument fails to acknowledge that the search is being compelled by a court order. The U.S. Supreme Court has held that a private actor can be classified as a state actor if the private party has obtained significant aid from state officials. Lugar v. Edmondson Oil Company, Inc. 457 U.S. 922 (1982). If the Relator does not comply she

could be held in contempt of court which could mean incarceration. The Respondent's ability to jail Relator for refusing to produce the cellular phone for the forensic examination is a significant benefit by a state actor to the private party. Therefore the violation of Relator's constitutional rights is directly attributable to the State.

The court order authorizing the search and seizure of the Relator's phone is not issued upon probable cause, supported by Oath or affirmation, particularly describing the place to be searched, and the persons or things to be seized. Without probable cause, the search and seizure of Relator's phone violates her constitutional rights as well as Section 542.276.10(3) RSMo.

The order is not only constitutionally defective, but it is grossly overbroad under any applicable discovery rules. The defendant's attorneys made their original request to the court under the guise of seeking texts between Relator and her ex-husband that they allege are relevant to the defense. Relator has already produced to the defendant's attorneys all texts between she and her ex-husband that are currently available on her phone. Requiring the Relator to submit the entire contents of her phone – which includes highly personal information, such as pictures of her children and software that is vital for her to run her small business – is unduly burdensome, a gross invasion of her privacy that victimizes her yet again, and wholly unnecessary when narrower means of discovery are available.

By ordering the Relator to submit her phone to be cloned and forensically examined, the trial court abused its discretion by acting in excess of its jurisdiction and the threatened injury cannot be remedied after the search and seizure of her cellular

phone. Therefore, a Writ of Prohibition is appropriate and Relator moves this court to enter an order prohibiting the trial court from ordering Relator to submit her cellular phone to the court approved forensic expert for cloning and forensic examination.

KNIGHT & SIMPSON
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scott@knightsimpson.com
Attorneys for Respondent

By /s/ Scott Simpson
SCOTT SIMPSON #59828

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was emailed this 27th day of April, 2018 to: Honorable Rex Burlison, Respondent, Scott Rosenblum, attorney for Defendant, James Martin attorney for Defendant, Kimberly Gardner, Circuit Attorney and Robert Dierker, Assistant Circuit attorney.

/s/ Scott Simpson

From: Dierker, Robert <DierkerR@stlouiscao.org>
Sent: Sunday, April 29, 2018 3:31 PM
To: REX BURLISON <rburli@sbcglobal.net>; Adam Simon <asimon@dowdbennett.com>; rex.burlison@courts.mo.gov; Scott Simpson <scott@knightsimpson.com>
Cc: Gardner, Kimberly <GardnerK@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>; Jim Martin <jmartin@dowdbennett.com>; Ed Dowd <edowd@dowdbennett.com>; richgcallahan@gmail.com
Subject: RE: State v. Greitens - List of contents for Special Master

Judge, the State may wish to be heard on the scope of the materials to be disclosed. I assume Master Callahan will not order disclosure without some prior notice to the parties.

From: REX BURLISON [<mailto:rburli@sbcglobal.net>]
Sent: Saturday, April 28, 2018 8:44 AM
To: Adam Simon <asimon@dowdbennett.com>; rex.burlison@courts.mo.gov
Cc: Gardner, Kimberly <GardnerK@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>; Dierker, Robert <DierkerR@stlouiscao.org>; Jim Martin <jmartin@dowdbennett.com>; Ed Dowd <edowd@dowdbennett.com>; richgcallahan@gmail.com
Subject: Re: State v. Greitens - List of contents for Special Master

Thanks Adam. By this email I am forwarding this information to Judge Callahan. Please have the forensic technician forward the download from the telephone directly to Judge Callahan, today if possible. The technician can make arrangements directly with Judge Callahan at 573.680.3111.

RexMB

From: Adam Simon <asimon@dowdbennett.com>
To: rex.burlison@courts.mo.gov
Cc: gardnerk@stlouiscao.org; steeler@stlouiscao.org; dierkerr@stlouiscao.org; Jim Martin <jmartin@dowdbennett.com>; Ed Dowd <edowd@dowdbennett.com>
Sent: Friday, April 27, 2018 6:17 PM
Subject: State v. Greitens - List of contents for Special Master

Judge Burlison,

Pursuant to your Order dated April 23, 2018, Defendant submits the following lists of contents expected to be found on P.S.'s phone that are relevant to the defense in this case. Please pass this along to the Special Master, or if you would prefer, we can pass it along to him at your request.

- **Non-privileged communications, sent or received, relating to this case in any way.**

Communications include emails, texts, iMessages, SMS messages, MMS messages, Chats, logs of FaceTime calls, voicemails, and logs of phone calls. This includes communications to or from any endorsed witnesses, potential witnesses, the defendant, grand jury witnesses from 2014 (when Witness K.S. testified she first met the Defendant) through the present. This also includes communications to or from any person where the subject of the communication relates to this case.

- **Pictures or videos related to this case.**

This includes pictures or videos of K.S., P.S., or of others that would call into question testimony given by K.S. and P.S. regarding whether either has engaged in any activity similar to the alleged events in this case.

- **Audio recordings between K.S. and P.S.**

Based on representations by counsel in this case, at least one of the audio recordings that have been disclosed in this case was recorded by one of the witnesses cell phones. For example, there should be a recording from March 2015 that is over one hour long that pertains to this case.

All of the above materials are not privileged and are relevant to Defendant's defense in this case. Furthermore, these requests fall within the categories of information requested in the deposition subpoenas for both K.S. and P.S.

Thank you,

ADAM J. SIMON | DOWD BENNETT LLP

7733 FORSYTH BLVD., SUITE 1900

ST. LOUIS, MO 63105

314.889.7340 OFFICE | 314.863.2111 FAX

ASIMON@DOWDBENNETT.COM

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From: Dierker, Robert <DierkerR@stlouiscao.org>
Sent: Sunday, April 29, 2018 10:31 AM
To: REX BURLISON <rburli@sbcglobal.net>; Adam Simon <asimon@dowdbennett.com>; rex.burlison@courts.mo.gov; Scott Simpson <scott@knightsimpson.com>
Cc: Gardner, Kimberly <GardnerK@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>; Jim Martin <jmartin@dowdbennett.com>; Ed Dowd <edowd@dowdbennett.com>; richgcallahan@gmail.com
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Thank you,

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-----Original Message-----

From: Hatfield, Charles <chuck.hatfield@stinson.com>

Sent: Monday, April 30, 2018 10:51 PM

To: Edward L. Dowd <edowd@dowdbennett.com>; James G. Martin <jmartin@dowdbennett.com>;
rex.burlison@courts.mo.gov

Cc: steeler@stlouiscao.org; garnerk@stlouiscao.org <steeler@stlouiscao.org>; garnerk@stlouiscao.org; Scavotto,
Andrew J. <andrew.scavotto@stinson.com>; Scheipeter, Julie C. <julie.scheipeter@stinson.com>

Subject: SXR Watkins v. Burlison (II)

All, apologies if you are getting this twice. But attached are writ papers filed this evening in the eastern district court of appeals.

From: "Scavotto, Andrew J." <andrew.scavotto@stinson.com<mailto:andrew.scavotto@stinson.com>>

Subject: FW: PDF Finals

Date: 30 April 2018 22:46

To: "Hatfield, Charles" <chuck.hatfield@stinson.com<mailto:chuck.hatfield@stinson.com>>

Here are final PDFs of all filings

Andrew J. Scavotto

Partner

St. Louis

314.719.3048

x64048

From: Scheipeter, Julie C.

Sent: Monday, April 30, 2018 10:22 PM

To: Scavotto, Andrew J.

Subject: PDF Finals

Julie C. Scheipeter

Attorney

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x64589

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T: 573.636.6827 | M: 573.230.2610 | F: 573.556.3632 chuck.hatfield@stinson.com | www.stinson.com Legal
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MISSOURI COURT OF APPEALS
EASTERN DISTRICT

STATE *ex rel.* ALBERT WATKINS)

Relator,)

v.)

HONORABLE REX BURLISON,)

Respondent.)

CASE NO. _____)

CERTIFICATE OF PROOF OF SERVICE FOR WRIT OF PROHIBITION

The undersigned certifies that a copy of the Petition for Writ of Prohibition, the Writ Summary, and Suggestions in Support of Petition for Writ of Prohibition was served via electronic mail upon Respondent and all parties to the underlying action on April 30, 2018 as follows:

Hon. Rex M. Burlison
St. Louis City Circuit Court
22nd Judicial Circuit
Rex.Burlison@courts.mo.gov

Respondent

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Attorneys for Defendant Eric R. Greitens

By:

STINSON LEONARD STREET LLP

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Attorneys for Relator Albert Watkins

IN THE MISSOURI COURT OF APPEALS FOR THE EASTERN DISTRICT OF
MISSOURI

STATE *ex rel.* ALBERT WATKINS)
)
 Relator,)
)
v.)
)
HONORABLE REX BURLISON,)
)
 Respondent.) CASE NO. _____
)
)
)
)

APPENDIX TO PETITION FOR WRIT OF PROHIBITION
OF RELATOR ALBERT WATKINS

Respectfully submitted,

STINSON LEONARD STREET LLP

/s/ Charles W. Hatfield
Charles W. Hatfield, Mo. Bar No. 40363
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Attorneys for Non-Party Albert Watkins

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MISSOURI COURT OF APPEALS
EASTERN DISTRICT

STATE *ex rel.* ALBERT WATKINS)
)
 Relator,)
)
v.) CASE NO. _____
)
HONORABLE REX BURLISON,)
)
 Respondent.)

AFFIDAVIT OF ALBERT WATKINS

1. In early January, 2018, I met with Scott Faughn. At that time, I discussed an attorney-client relationship with Mr. Faughn and he sought my advice on matters, including legal issues relating to the payment of legal fees by third parties. During those conversations, I provided Mr. Faughn with legal advice.

2. In early January, 2018, after my meeting with Mr. Faughn, I received two payments, each in the amount of fifty-thousand dollars (\$50,000.00). The first payment was delivered to me by Mr. Faughn. The second payment arrived the next day, and was delivered by a person I believed to be a courier.

3. During my conversations with Mr. Faughn, we discussed the purpose of the payments and why the money was being delivered, in connection with the advice I provided to Mr. Faughn.

4. My understanding is the payments were delivered to me in connection with my representation of P.S., the victim's ex-husband.

Further affiant sayeth not.



Name: Albert Watkins

Subscribed and sworn to before me this 30th day of April, 2018.



Notary Public

Commissioned in St. Louis County

My commission expires:

SCOTT T. FILMORE
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
Commission # 15386385
My Commission Expires: 8/21/2019

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI
Honorable Rex M. Burlison, Judge**

STATE OF MISSOURI,

Plaintiff,

vs.

ERIC GREITENS,

Defendant.

)
)
) Cause No. 1822-CR00642
)
)

TRANSCRIPT OF MOTION HEARING

April 30, 2018

**JENNIFER A. DUNN, RPR, CCR #485
OFFICIAL COURT REPORTER
CITY OF ST. LOUIS CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT**

A P P E A R A N C E S

FOR THE DEFENDANT ERIC GREITENS:

MR. JAMES MARTIN

MR. EDWARD DOWD

Dowd Bennett LLP

7733 Forsyth Blvd. #1900

St. Louis, MO 63105

FOR THE WITNESS ALBERT WATKINS:

MR. CHARLES W. HATFIELD

MR. JOHN R. MUNICH

Stinson Leonard Street

7700 Forsyth Blvd., Suite 1100

St. Louis, MO 63105

MR. CHARLES INSLER

Hepler Broom LLC

211 N. Broadway

St. Louis, MO 63102

1 (The following proceedings were had in open
2 court at 3:10 p.m., on the afternoon of April 30, 2018:)

3 THE COURT: Thank you. Court will be back in
4 session, please be seated.

5 We're back on the record in Cause Number
6 1822-CR00642, State of Missouri versus Eric Greitens. What
7 do we have going on here?

8 MR. MARTIN: Judge, that is the videotape of
9 Mr. Watkins when he was on the courthouse steps a couple of
10 weeks ago. And the interview. We have it synced up to the
11 time frame that you were curious about, which is the -- when
12 he said a courier came and dropped off the money and he
13 didn't know who it was for or whatever.

14 We were setting it up there because we thought we
15 had the microphone system working in the courthouse and it
16 might be if the other attorneys needed to hear what you were
17 seeing.

18 THE COURT: Okay. When we get to it we'll
19 see what can be heard on there. What do we have?

20 MR. MARTIN: So, Judge, we don't have any
21 other attorneys that have shown up, maybe Mr. Hatfield can
22 address that issue.

23 MR. HATFIELD: No.

24 THE COURT: Okay. So for the record, we had
25 a discussion about 2 o'clock here today regarding something

1 that came up in Mr. Watkins' deposition, and there was an
2 issue of whether or not parties and attorneys should be
3 present, and the Court gave everyone about 50 minutes, until
4 3 o'clock, it's 10 after 3:00, to make contact for those
5 parties, or for those people and attorneys that may need to
6 be here.

7 MR. HATFIELD: And, your Honor, I have
8 communicated that message as best I can with the information
9 that I have, and I don't expect anybody to be here. As far
10 as I know no one is here.

11 THE COURT: Okay. So let's put on the record
12 what you need to, Mr. Martin.

13 MR. MARTIN: And, your Honor, I assume I can
14 name names without jeopardy then?

15 THE COURT: Let's set forth first, let's
16 frame the issues.

17 MR. MARTIN: Okay.

18 THE COURT: And then we'll get to that.

19 MR. MARTIN: Okay. Judge, as you know,
20 Mr. Al Watkins is being deposed right now. He's being
21 deposed in significant part because he went on the
22 courthouse steps and announced to the world that he had
23 received two anonymous \$50,000 payments, implying that they
24 were on behalf of at least his client, though he said a
25 multitude of clients, P.S., who he represents in this

1 matter, and presumably other people related to this matter.

2 We have asked him about the delivery of that
3 money. He has indicated that the first 50,000 was delivered
4 by a person he knew by name. He has provided that name.
5 And then said the second one was delivered by courier.

6 We are trying to ascertain from him both the
7 source because he claims that the person that delivered the
8 money was not the actual source of the funds. We are
9 attempting to find out the source of the funds, and as well
10 as what instructions he was given, Mr. Watkins was given
11 that the purpose of the money and what he could or could not
12 do with the money.

13 Judge, it's -- the name that has been given is a
14 highly connected political individual, and it -- I'm
15 trying -- I'll say nothing more until you bless it.

16 THE COURT: Okay. So you're telling --
17 you're saying in deposition that Mr. Watkins said the first
18 50,000 came from this individual that you haven't named that
19 he knew?

20 MR. MARTIN: That's correct.

21 THE COURT: Is that what was said on the
22 courthouse stairs?

23 MR. MARTIN: No. On the courthouse steps he
24 simply says an unnamed courier came by. He did not know --
25 he said he did not know when the package was delivered, what

1 was in it, and he didn't know until he went back to his
2 office and opened it up. He said he didn't know who it was
3 from, whose account it was for, or for what purpose it was
4 supposed to be used.

5 Now, candidly, that is contradicted what he is
6 saying in this deposition about the first 50,000.

7 THE COURT: Okay. So on the -- what you have
8 here I guess on the computer, on the stick drive,
9 Mr. Watkins said unknown courier delivered for an unknown
10 reason.

11 MR. MARTIN: Correct.

12 THE COURT: Was he saying that that was the
13 first or second delivery?

14 MR. MARTIN: He was referring to that as the
15 only delivery. He did not reference a first and a second in
16 that video.

17 THE COURT: So if we assume that the first
18 delivery, what he testified to today was 50,000 cash was
19 delivered by someone that he knew, and I think you told me
20 in chambers that he knows the purpose it was delivered.

21 MR. MARTIN: No. He claims -- he refuses to
22 answer that question.

23 THE COURT: I know. But didn't you ask him
24 did he know, not what he knew.

25 MR. MARTIN: And he hasn't answered that

1 question yet either.

2 THE COURT: Okay. So if we track what was
3 said today in deposition, he knew the person that delivered
4 it, then it would be presumed that the second delivery was
5 known because he knew the first delivery, and so when he
6 says an unknown courier for purpose unknown, it seems to
7 contradict what he's saying today.

8 MR. MARTIN: And in addition, he says it's an
9 unnamed courier and he hasn't supplied the name of the
10 courier.

11 THE COURT: Okay. So it's still unclear
12 which delivery, whether the courier's delivery was first or
13 second?

14 MR. MARTIN: That is correct. Or whether at
15 the time he was claiming both were.

16 THE COURT: Okay. All right.

17 MR. MARTIN: I will say we think the
18 individual that delivered -- that Mr. Watkins has identified
19 is an individual who has put his name in the game and that
20 there is absolutely no reason why his name should be
21 protected. He is not in any way some sort of alleged
22 victim, the delivery of money referred to in the video as an
23 intermediary is not done for the purpose of seeking legal
24 advice, and that, candidly, the name, because of his
25 connections, his political connections, and candidly his

1 actions during the course of the last two months is highly
2 relevant to the credibility of the case overall, and
3 particularly of the witnesses and the ability to believe
4 that the witnesses are not motivated by money.

5 THE COURT: All right. So what we have here
6 is -- what I've got is three items here. Who delivered the
7 funds, what was the source of the funds, and what was the
8 purpose of the funds.

9 MR. MARTIN: Those are where we wanted to
10 start, and we're short on --

11 THE COURT: Mr. Hatfield.

12 MR. HATFIELD: Thank you, your Honor. Just
13 at the risk of reframing a little bit --

14 THE COURT: Okay.

15 MR. HATFIELD: -- what was said. I assume
16 that what the defense is asking you is to compel Mr. Watkins
17 to answer certain questions today. We have -- I have
18 instructed him not to answer certain questions in the
19 deposition. And that's where we are. We objected and we
20 instructed him not to answer.

21 So, your Honor just framed three questions. Who
22 delivered the money. I believe that your Honor ordered
23 Mr. Watkins to answer that question last Friday. He has
24 answered that question.

25 THE COURT: Okay. Are you claiming any

1 privilege over that name?

2 MR. HATFIELD: Over the first name, yes, we
3 are.

4 THE COURT: As to who delivered?

5 MR. HATFIELD: As to who delivered the money,
6 no, sir, no, sir, I misunderstood. He has answered the
7 question who delivered the money by giving the name. We are
8 not claiming that that is privileged. We told them in
9 court.

10 THE COURT: That's the name that you were
11 restraining yourself from saying?

12 MR. MARTIN: Yes.

13 MR. HATFIELD: The issue of whether we say
14 the name, your Honor in chambers instructed me to try to
15 contact. I have sent a message that your Honor delivered
16 about whether to be here. That person is not here, nor is
17 an attorney here on their behalf.

18 So I do think on behalf of Mr. Watkins, because I
19 derivatively have an obligation to his client. I don't see
20 any reason that that name needs to be released right now.
21 It's not important to this motion. The fact that a name has
22 been disclosed is important to this motion, whether the
23 person had attorney-client privilege will be important to
24 this motion. The name is not important to this motion.

25 So the only reason to do it right now is because

1 of who's sitting in the audience. That's the only reason to
2 do it right now.

3 THE COURT: Is that the only reason,
4 Mr. Martin?

5 MR. MARTIN: No, your Honor. There are
6 significant connections that he has that once we explain
7 those to you make clear why there should be more information
8 forthcoming from Al Watkins, and why the deposition should
9 continue in earnest beyond just those three questions.

10 THE COURT: And do we know the name of the
11 courier?

12 MR. HATFIELD: Mr. Watkins believes he knew
13 the name of -- the first name of the courier, which he has
14 said in the deposition. But he did not know the last name
15 of the courier.

16 THE COURT: Okay. I'm going to allow both
17 those names to be announced.

18 MR. HATFIELD: Do you want to do that now?

19 THE COURT: No, I want to take these one step
20 at a time.

21 MR. HATFIELD: Okay, great.

22 MR. MARTIN: Your Honor, the individual that
23 Mr. Watkins has identified as having delivered \$50,000 in
24 cash is Scott Faughn. And Scott Faughn is the owner of a
25 publication, if we can honor it with that name, Missouri

1 Times. Missouri Times has been trashing the governor.

2 THE COURT: Okay. What's the -- what's the
3 courier's first name?

4 MR. MARTIN: According to Mr. Watkins,
5 Skyler.

6 THE COURT: All right. I'm going to go to
7 the second, the source of the funds. That was part of the
8 deposition questioning today.

9 MR. MARTIN: Yes, your Honor.

10 THE COURT: And did anybody write down
11 exactly what the question was, or can you give me an idea?

12 MR. HATFIELD: Your Honor, I don't know if he
13 wrote it down, but it was asked three times. Mr. Watkins
14 has said he does not know the ultimate source of the funds,
15 and that -- I have allowed him to answer that question
16 because --

17 MR. MARTIN: The ultimate source of the funds
18 is different than does he have some hint, was there a
19 description of who the source was, was there any indication
20 as to whether it was from Democrats or Republicans.

21 There's a lot of questions when you ask about the
22 source. All he said is I don't know who the ultimate source
23 is.

24 THE COURT: All right. Ultimate source, can
25 there be sources, more than one ultimate source, or

1 intermediate sources or --

2 MR. HATFIELD: I wasn't meaning to play games
3 with that, Judge, if I did. He has said that he knows Scott
4 Faughn handed him the first money, that a courier brought
5 the second money. He doesn't know beyond that. I don't
6 know if he's asked the question that specifically. He
7 doesn't know beyond that where it came from.

8 If we're still talking source, Judge, I just want
9 to make sure. We were here Friday, the issue was, according
10 to the transcript, and this is your Honor: The identity of
11 the donor of the \$50,000 cash payments is relevant in the
12 Court's balancing and consideration believes that if the
13 source of those are GoFundMe funds as opposed to the source
14 being from a political operative, I think this is very
15 relevant at this stage. We've answered that question.

16 THE COURT: No, you haven't.

17 MR. HATFIELD: He doesn't know what the
18 source was. He knows Mr. Faughn brought the first 50 and
19 Skyler brought the second 50. That's all he knows, and he's
20 answered that in the deposition. If they want to know that,
21 they can go ask Skyler and Mr. Faughn.

22 MR. MARTIN: Judge, we need to ask further
23 questions because the credibility of saying he doesn't know
24 the source is highly suspect, in part, because as the Court
25 knows, he has an ethical obligation to understand whose he

1 getting paid for.

2 MR. HATFIELD: No, he doesn't. No, he
3 doesn't. It happens all the time. Somebody comes in and
4 said I got some money from my friend, I want to pay my legal
5 bill. The attorney doesn't have any obligation.

6 MR. MARTIN: The client didn't come in with
7 this money. An unknown courier came in with some of the
8 money. He put it into an account, and if he doesn't have
9 any clue as to the source of those funds, that's not
10 credible. And we have a right to at least ask a series of
11 questions to test that credibility.

12 MR. HATFIELD: By the way, Judge, since we're
13 talking about what he said on the steps, he's been
14 completely consistent on this every time he's talked. Jim
15 Salter in the AP on April 23rd, said a courier delivered
16 each 50,000 payment, the word "courier" there. This is not
17 in quotes, by the way.

18 THE COURT: Isn't that the first sentence,
19 isn't that not accurate to what your client testified to
20 today?

21 MR. HATFIELD: It's not a quote. But if you
22 think the word "courier" means another person.

23 THE COURT: No. Mr. Hatfield, my problem is
24 reading media accounts that the first sentence you read
25 contradicts what was testified to. Because a courier did

1 not deliver both, did it?

2 MR. HATFIELD: Depends on if you think of Mr.
3 Faughn as a courier, somebody delivering for somebody else.
4 But he said two payments, not one payment, which is where
5 this all started, that they say he said on the steps one
6 payment. He also says it was anonymous, the source was
7 anonymous. That's according to the AP. He's been
8 consistent on that. He doesn't know the ultimate source of
9 this money.

10 Now they want to ask him about the source and the
11 purpose, and as we discussed with your Honor, Mr. Faughn had
12 a client relationship that predates the payment of this
13 first money, and we'd like to make a record on that however
14 your Honor thinks that's appropriate.

15 He had an attorney-client relationship that
16 predates the payment of this money that he sought advice,
17 including advice on how to pay attorneys' fees for someone
18 else, and he sought advice on all of that before he
19 delivered money.

20 He received advice on those issues, and then he
21 delivered money, and he talked about what he was doing and
22 what the purpose was. And that's privileged communication.
23 And that's why we've instructed him not to answer. And we
24 can make a record in whatever form your Honor feels
25 appropriate, either by affidavit or continuing in the

1 deposition, that we shouldn't have to discuss the purpose.

2 We answered who delivered. We answered everything
3 that he knows about the source. But the conversations
4 between him and Mr. Faughn are privileged.

5 MR. MARTIN: Judge, he just described Mr.
6 Faughn as a courier. He said if you look at who delivered
7 the money, he was a courier.

8 MR. HATFIELD: A client courier.

9 MR. DOWD: And an intermediary.

10 MR. HATFIELD: And a client intermediary.

11 MR. MARTIN: Give me a second. A client can
12 seek attorney-client counsel. But a client can also act
13 outside the relationship of the attorney-client
14 relationship, and if he's a courier or an intermediary, he's
15 not acting as the client with Mr. Watkins. And, therefore,
16 what Mr. Watkins was told by the courier, by the
17 intermediary, is not attorney-client privilege.

18 MR. DOWD: We also intend to ask him, Judge,
19 including the questions that Mr. Martin was just describing
20 to you, which clearly are admissible, but what -- where do
21 you believe the source of these funds were. He can say I
22 don't know. I'm sure he has a belief. And I'm sure he
23 knows as well.

24 THE COURT: So when asked about the source of
25 either or both of the 50,000, he said he didn't know,

1 Mr. Watkins said he didn't know.

2 MR. HATFIELD: I believe that's correct.

3 MR. MARTIN: He's been asked that question,
4 what's the source. But we have not been able to probe
5 either his credibility or whether he knew of the
6 intermediaries.

7 The reason Scott Faughn was important to name is
8 because of his position in Missouri. In this Missouri
9 Times. This publication that has been trashing Mr.
10 Greitens, the governor, for months.

11 And Mr. Faughn has direct connections with a group
12 that has been very hurt and upset that their tax credits
13 have been taken away, and so if Mr. Watkins has some
14 indication that that group is behind this push to give money
15 to P.S. and others, then that is highly relevant and it's
16 not privileged.

17 MR. HATFIELD: So, Judge, of course they can
18 ask Mr. Faughn all those questions.

19 THE COURT: Right.

20 MR. HATFIELD: As we've explained before.
21 That's the way to handle this.

22 THE COURT: And they'll be allowed to ask
23 Mr. Watkins about the source of the funds with follow-up
24 questions to be able to test his credibility when he says he
25 doesn't know.

1 MR. HATFIELD: Okay. So on the source, he
2 can -- you're directing him to answer questions about the
3 source of the funds?

4 THE COURT: Well, you said he doesn't know.

5 MR. HATFIELD: He doesn't know.

6 THE COURT: Well, that's his answer. He's
7 already answered that question.

8 MR. HATFIELD: Yes, sir, he's asked and
9 answered that three times.

10 THE COURT: But the defense is able to probe
11 his veracity on that answer.

12 MR. HATFIELD: Okay. And the problem I have
13 is if that probing means that he would have to talk about
14 what Mr. Faughn told him in the source of seeking this
15 advice on how he could make a third-party donation,
16 donation, whatever word you want to use, how he could pay
17 these fees, then we're into the privilege and that's the
18 problem, and that's where I'm instructing him not to answer.

19 So, I mean, they can ask him do you know the
20 purpose, we've done that. I'm sorry, do you know the
21 source, purpose is next. Do you know the source. How do
22 you know -- if he had said, yes, how do you know the source?
23 Mr. Faughn explained it to me. What did Mr. Faughn say?

24 Core privilege, core privilege. And that's where
25 we are. Do you know who the source was? No, I don't know.

1 Now they want to ask him more questions about what Mr.
2 Faughn said. That's what they want to ask him.

3 THE COURT: So the information would
4 originally come from a -- from the original source of the
5 fund, that information is delivered to Mr. Faughn.

6 MR. HATFIELD: I don't know the answer to
7 that question, Judge.

8 THE COURT: Well, Mr. Faughn you would assume
9 got that -- whatever information from this original donor.

10 MR. HATFIELD: Hypothetically, yeah, I don't
11 know. I don't know what Mr. Faughn might say about that.

12 THE COURT: Well, but whatever information
13 Mr. Faughn would have received from the original donor of
14 that money, that's not -- you're not claiming that
15 information be privileged, are you?

16 MR. HATFIELD: I don't know what Mr. Faughn's
17 relationship was with that donor. But I know that Mr.
18 Faughn had a relationship with Mr. Watkins that was
19 privileged. So if Mr. Watkins is there, I think I'm
20 following your Honor, as an agent for somebody else.

21 THE COURT: No. What I'm saying is it seems
22 that you're asserting that the -- that you can make
23 privileged a non-privileged communication. Because the
24 communication from the original source to Mr. Faughn doesn't
25 seem to be a privileged communication.

1 The fact that a client of Mr. Watkins delivers
2 that non-privileged communication, I don't see that it turns
3 it into attorney-client privilege.

4 MR. HATFIELD: I think I'm following your
5 Honor's hypothetical. So a client's sitting in front of me,
6 he's accused of robbing a bank, and the client says to me, I
7 robbed a bank because my boss Joe told me to rob the bank.
8 The communication from my client to me, my boss Joe told me
9 to rob the bank, it's privileged communication.

10 THE COURT: Sure it is, because it attaches
11 for a particular purpose, but if your client's sitting in
12 front of you having not robbed a bank and says, hey, this
13 original donor gave me this money to give to you and he said
14 keep my name out of it, that's not privileged.

15 MR. HATFIELD: Well, I mean, your Honor, I
16 think it is.

17 THE COURT: No, it's a non-privileged
18 communication that your client would then try to protect it
19 by turning it into privileged. The privilege attaches on
20 the original, the original announcement of the information.
21 Originally it was announced by an original donor, which I
22 didn't hear was a lawyer, to Mr. Faughn, who I haven't
23 heard's a lawyer.

24 MR. HATFIELD: I don't think Mr. Faughn is a
25 lawyer. I'm not asserting that he is.

1 THE COURT: So I just -- tell me how you can
2 turn non-privileged communication into privilege.

3 MR. HATFIELD: Well, I can't do that, Judge.
4 But Mr. Faughn is asking for privileged advice on how to
5 fund this -- I want to -- I want to give money that is --

6 THE COURT: I've got a friend who wants to
7 give money.

8 MR. HATFIELD: Okay. I don't know what he
9 said exactly. But I want to hand you money that's going to
10 go wherever. And I want legal advice on whether I can do
11 that and how I would do that.

12 THE COURT: Yeah.

13 MR. HATFIELD: And then in the course of
14 providing that legal advice, he and Mr. Watkins, if they
15 talked about what the source was, or gave him any hints on
16 what the source was, they're doing that for legal advice.

17 So, for example, if Mr. Faughn had said I want to
18 provide some money to -- and I'm pretty sure he didn't say
19 what I'm going to say, just for everybody, I want to provide
20 some money to you and it's from a drug cartel in Mexico.
21 Can I do that? I'm assuming the attorney would advise no,
22 you can't do that. We can't engage in that.

23 THE COURT: But Mr. Watkins didn't,
24 Mr. Watkins took the money.

25 MR. HATFIELD: Mr. Watkins took the money

1 after whatever conversation they had. So if they had a
2 conversation around this money where he didn't tell him what
3 the source was, but he told him some things about where it
4 was coming from whatever, in order to get legal advice,
5 privileged.

6 THE COURT: And when did the privilege
7 attach, the first delivery?

8 MR. HATFIELD: No, the privilege attached
9 before the money was ever brought in. There were
10 conversations days before the money where Mr. Faughn had
11 approached, and it may have been longer than that, we'll
12 have to see what the testimony is, but it was not the same
13 day.

14 There was a conversation before the money where
15 the attorney-client privilege relationship was established,
16 client relationship was established. Then later the money
17 was delivered.

18 THE COURT: Okay.

19 MR. MARTIN: Well, number one, that story
20 would be completely different than what he said on the
21 courthouse steps. Because then he would have known exactly
22 when that money was delivered, who it was coming from, and
23 what the purpose of it was for.

24 Number two. I think the Court's point is directly
25 on in that no matter what legal advice he was soliciting, he

1 still, in the course of that, was also sharing information
2 he had learned from somebody else. And that portion isn't
3 privileged.

4 It might be privileged that he sought the advice
5 of can I do that, which they may have just waived right
6 there, but I got money from X and X wants you to use it for
7 this amount, and I'm giving you X's money, that isn't part
8 of the question of can I get legal advice from you. That's
9 here. I have been asked to give you this money, and I'm
10 giving it to you.

11 MR. HATFIELD: Judge, the same issue will
12 come up with purpose, and that was the third one on your
13 list. But it's the same issue. Right? If they want to
14 know what the purpose of the funds was, Mr. Faughn gave it,
15 they want to ask about conversations that were had. Skyler
16 didn't say anything, so Skyler's off the table. But there
17 were conversations between Mr. Faughn and Mr. Watkins, and
18 those are the ones that we don't think -- and I think we're
19 pretty far away here.

20 We talked about this last Friday, but we're pretty
21 far away from the elements of this crime. We're now into
22 the conversations that an attorney for a witness who has
23 been endorsed solely for the purpose of authenticating an
24 audiotape, whether that attorney had conversations with
25 another client about some money. They can go get all this

1 from Mr. Faughn, if they can find Skyler, they can talk to
2 Skyler. That's the way this ought to be handled, and then
3 we don't have any of these privileged problems.

4 But privilege is a pretty important concept, even
5 if your Honor has concerns about how all this went down,
6 privilege is still a pretty darn important concept.

7 MR. MARTIN: What he just said was if we ask
8 Mr. Faughn it would be all right. So if we ask Mr. Faughn
9 then what he told Al is also all right.

10 MR. HATFIELD: He can waive the privilege,
11 Mr. Watkins can't.

12 MR. MARTIN: It's not a privilege.

13 MR. HATFIELD: It's his choice, not
14 Mr. Watkins' choice.

15 THE COURT: Mr. Hatfield, I think the
16 information -- if it was delivered from Mr. Faughn, that I
17 have some money from a third party that I'm giving to you
18 and here's the purpose, I don't believe that that's
19 privileged. I'm not going to find it privileged, and you're
20 going to have to find a judge on a higher court to find that
21 privilege.

22 I think that -- I think that that scenario where
23 someone comes to a lawyer and says I have Mr. X's money, or
24 Mrs. X's money, I'm delivering it to you for this particular
25 purpose, I don't believe that is privileged. And as such, I

1 believe that the witness, Mr. Watkins, has to answer that,
2 and I believe it's going to have to be a higher court to say
3 that he doesn't.

4 MR. HATFIELD: Would your Honor allow us to
5 continue the rest of the deposition by written examination
6 rather than by oral testimony so we can take these questions
7 one at the time? Otherwise I'm afraid we're going to be
8 right back down here.

9 MR. MARTIN: Judge, with all due respect to
10 Al Watkins, he is a slippery fellow. Written questions is
11 not going to be able to pin him down.

12 THE COURT: We'll be right back on written
13 questions. Mr. Hatfield, what I can offer is some time to
14 get a writ.

15 MR. HATFIELD: Yes, sir, I appreciate that.
16 We'll file a writ as quickly as we can.

17 THE COURT: Because it is a critical issue,
18 but I just feel that a higher court's going to be the one
19 that's going to say that the source of those funds is
20 protected.

21 MR. HATFIELD: I understand. We would
22 appreciate some time to get a writ, your Honor, as we did on
23 Friday. I will file one as soon as we can. It's now 4:40.

24 THE COURT: What kind of accommodations are
25 you prepared to offer?

1 MR. MARTIN: Well, I guess if we put it to
2 tomorrow afternoon. They moved very quickly on the first
3 set of writs, so if we put it --

4 THE COURT: 1 p.m. tomorrow.

5 MR. HATFIELD: Is today Tuesday? Yeah.

6 MR. MARTIN: Is that doable?

7 MR. HATFIELD: I'm on another deposition, but
8 we'll discuss that on our side and figure that out.

9 THE COURT: I think that's the proper way to
10 handle it. Let's give you until 1 o'clock tomorrow. Seek
11 your writs, and we'll see what the higher courts say.

12 MR. DOWD: Thank you, your Honor.

13 THE COURT: Anything further today?

14 MR. HATFIELD: No. Thank you, Judge.

15 THE COURT: Court will be adjourned.

16 (The hearing was concluded.)
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| <p>MR. DOWD: [3] 15/8 15/17 25/11 MR. HATFIELD: [46] MR. MARTIN: [32] THE COURT: [58]</p> | <p>accurate [2] 13/19 26/10 accused [1] 19/6 act [1] 15/12 acting [1] 15/15 actions [1] 8/1 actual [1] 5/8 addition [1] 7/8 address [1] 3/22 adjoined [1] 25/15 admissible [1] 15/20 advice [14] 7/24 14/16 14/17 14/18 14/20 17/15 20/4 20/10 20/14 20/16 21/4 21/25 22/4 22/8 advise [1] 20/21 affidavit [1] 14/25 afraid [1] 24/7 after [2] 4/4 21/1 afternoon [2] 3/2 25/2 agent [1] 18/20 ago [1] 3/10 Al [4] 4/20 10/8 23/9 24/10 ALBERT [1] 2/7 all [16] 7/16 8/5 11/6 11/22 11/24 12/19 13/3 14/5 14/18 16/18 22/25 23/5 23/8 23/9 24/9 26/6 alleged [1] 7/21 allow [2] 10/16 24/4 allowed [2] 11/15 16/22 already [1] 17/7 also [5] 14/6 15/12 15/18 22/1 23/9 am [1] 26/4 amount [1] 22/7 announced [3] 4/22 10/17 19/21 announcement [1] 19/20 anonymous [3] 4/23 14/6 14/7 another [3] 13/22 22/25 25/7 answer [13] 6/22 8/17 8/18 8/20 8/23 11/15 14/23 17/2 17/6 17/11 17/18 18/6 24/1 answered [9] 6/25 8/24 9/6 12/15 12/20 15/2 15/2 17/7 17/9 any [9] 3/20 7/21 8/25 9/20 11/19 13/5 13/9 20/15 23/3 anybody [2] 4/9 11/10 anything [2] 22/16 25/13 AP [2] 13/15 14/7 appreciate [2] 24/15 24/22 approached [1] 21/11 appropriate [2] 14/14 14/25 April [4] 1/13 3/2 13/15 26/5</p> | <p>are [16] 5/6 5/8 8/4 8/9 8/19 8/25 9/3 9/7 10/5 12/13 15/4 15/20 17/25 18/15 22/18 24/24 around [1] 21/2 as [28] ascertain [1] 5/6 ask [15] 6/23 11/21 12/21 12/22 13/10 14/10 15/18 16/18 16/22 17/19 18/1 18/2 22/15 23/7 23/8 asked [7] 5/2 11/13 12/6 15/24 16/3 17/8 22/9 asking [2] 8/16 20/4 asserting [2] 18/22 19/25 assume [4] 4/13 6/17 8/15 18/8 assuming [1] 20/21 attach [1] 21/7 attached [1] 21/8 attaches [2] 19/10 19/19 attempting [1] 5/9 attorney [12] 9/17 9/23 13/5 14/15 15/12 15/13 15/17 19/3 20/21 21/15 22/22 22/24 attorney-client [7] 9/23 14/15 15/12 15/13 15/17 19/3 21/15 attorneys [4] 3/16 3/21 4/2 4/5 attorneys' [1] 14/17 audience [1] 10/1 audiotape [1] 22/24 authenticating [1] 22/23 away [3] 16/13 22/19 22/21</p> | <p>24/1 24/2 believes [2] 10/12 12/12 Bennett [1] 2/5 best [1] 4/8 between [2] 15/4 22/17 beyond [3] 10/9 12/5 12/7 bill [1] 13/5 bit [1] 8/13 bless [1] 5/15 Blvd [2] 2/5 2/10 boss [2] 19/7 19/8 both [5] 5/6 7/15 10/16 14/1 15/25 Broadway [1] 2/9 Broom [1] 2/9 brought [4] 12/4 12/18 12/19 21/9 Burlison [1] 1/2</p> | <p>19/18 20/2 compel [1] 8/16 completely [2] 13/14 21/20 computer [1] 6/8 concept [2] 23/4 23/6 concerns [1] 23/5 concluded [1] 25/16 connected [1] 5/14 connections [4] 7/25 7/25 10/6 16/11 consideration [1] 12/12 consistent [2] 13/14 14/8 contact [2] 4/4 9/15 contain [1] 26/10 continue [2] 10/9 24/5 continuing [1] 14/25 contradict [1] 7/7 contradicted [1] 6/5 contradicts [1] 13/25 conversation [3] 21/1 21/2 21/14 conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>\$ \$50,000 [3] 4/23 10/23 12/11 / /s/JENNIFER [1] 26/16</p> | <p>1 1 o'clock [1] 25/10 1 p.m [1] 25/4 10 [1] 4/4 1100 [1] 2/10 1822-CR00642 [3] 1/6 3/6 26/8 1900 [1] 2/5</p> | <p>2 2 o'clock [1] 3/25 2018 [3] 1/13 3/2 26/5 211 [1] 2/9 23rd [1] 13/15</p> | <p>C came [6] 3/12 4/1 5/18 5/24 12/7 13/7 can [29] can't [4] 20/3 20/22 20/22 23/11 candidly [3] 6/5 7/24 7/25 cartel [1] 20/20 case [2] 8/2 26/6 cash [3] 6/18 10/24 12/11 Cause [3] 1/6 3/5 26/8 CCR [2] 1/23 26/16 certain [2] 8/17 8/18 CERTIFICATE [1] 26/1 Certified [1] 26/3 certify [2] 26/3 26/9 chambers [2] 6/20 9/14 CHARLES [2] 2/8 2/8 choice [2] 23/13 23/14 CIRCUIT [4] 1/1 1/24 1/25 26/4 CITY [3] 1/1 1/24 26/5 claiming [4] 7/15 8/25 9/8 18/14 claims [2] 5/7 6/21 clear [1] 10/7 clearly [1] 15/20 client [23] 4/24 9/19 9/23 13/6 13/19 14/12 14/15 15/8 15/10 15/11 15/12 15/12 15/13 15/15 15/17 19/1 19/3 19/6 19/8 19/18 21/15 21/16 22/25 client's [2] 19/5 19/11 clients [1] 4/25 clue [1] 13/9 come [3] 13/6 18/4 22/12 comes [2] 13/3 23/23 coming [2] 21/4 21/22 communicated [1] 4/8 communication [9] 14/22 18/23 18/24 18/25 19/2 19/8 19/9</p> | <p>19/18 20/2 compel [1] 8/16 completely [2] 13/14 21/20 computer [1] 6/8 concept [2] 23/4 23/6 concerns [1] 23/5 concluded [1] 25/16 connected [1] 5/14 connections [4] 7/25 7/25 10/6 16/11 consideration [1] 12/12 consistent [2] 13/14 14/8 contact [2] 4/4 9/15 contain [1] 26/10 continue [2] 10/9 24/5 continuing [1] 14/25 contradict [1] 7/7 contradicted [1] 6/5 contradicts [1] 13/25 conversation [3] 21/1 21/2 21/14 conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>3 3 o'clock [1] 4/4 30 [3] 1/13 3/2 26/5 3:00 [1] 4/4 3:10 [1] 3/2</p> | <p>3 3 o'clock [1] 4/4 30 [3] 1/13 3/2 26/5 3:00 [1] 4/4 3:10 [1] 3/2</p> | <p>B back [5] 3/3 3/5 6/1 24/8 24/12 balancing [1] 12/12 bank [5] 19/6 19/7 19/7 19/9 19/12 be [30] because [17] 3/14 4/21 5/7 7/5 7/24 9/18 9/25 11/16 12/23 12/24 13/25 16/8 18/23 19/7 19/10 21/21 24/17 been [13] 5/13 9/22 11/1 13/13 14/7 16/3 16/4 16/9 16/12 16/13 21/11 22/9 22/23 before [5] 14/18 16/20 21/9 21/10 21/14 behalf [3] 4/24 9/17 9/18 behind [1] 16/14 being [3] 4/20 4/20 12/14 belief [1] 15/22 believe [8] 8/3 8/22 15/21 16/2 23/18 23/25</p> | <p>24/1 24/2 believes [2] 10/12 12/12 Bennett [1] 2/5 best [1] 4/8 between [2] 15/4 22/17 beyond [3] 10/9 12/5 12/7 bill [1] 13/5 bit [1] 8/13 bless [1] 5/15 Blvd [2] 2/5 2/10 boss [2] 19/7 19/8 both [5] 5/6 7/15 10/16 14/1 15/25 Broadway [1] 2/9 Broom [1] 2/9 brought [4] 12/4 12/18 12/19 21/9 Burlison [1] 1/2</p> | <p>19/18 20/2 compel [1] 8/16 completely [2] 13/14 21/20 computer [1] 6/8 concept [2] 23/4 23/6 concerns [1] 23/5 concluded [1] 25/16 connected [1] 5/14 connections [4] 7/25 7/25 10/6 16/11 consideration [1] 12/12 consistent [2] 13/14 14/8 contact [2] 4/4 9/15 contain [1] 26/10 continue [2] 10/9 24/5 continuing [1] 14/25 contradict [1] 7/7 contradicted [1] 6/5 contradicts [1] 13/25 conversation [3] 21/1 21/2 21/14 conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>4 485 [2] 1/23 26/16 4:40 [1] 24/23</p> | <p>4 485 [2] 1/23 26/16 4:40 [1] 24/23</p> | <p>5 50 [3] 4/3 12/18 12/19 50,000 [6] 5/3 5/18 6/6 6/18 13/16 15/25</p> | <p>5 50 [3] 4/3 12/18 12/19 50,000 [6] 5/3 5/18 6/6 6/18 13/16 15/25</p> | <p>5 50 [3] 4/3 12/18 12/19 50,000 [6] 5/3 5/18 6/6 6/18 13/16 15/25</p> |
| <p>6 63102 [1] 2/10 63105 [2] 2/6 2/10</p> | <p>6 63102 [1] 2/10 63105 [2] 2/6 2/10</p> | <p>7 7700 [1] 2/10 7733 [1] 2/5</p> | <p>7 7700 [1] 2/10 7733 [1] 2/5</p> | <p>7 7700 [1] 2/10 7733 [1] 2/5</p> |
| <p>A ability [1] 8/3 able [4] 16/4 16/24 17/10 24/11 about [23] 3/11 3/25 4/3 5/2 6/6 9/16 11/21 13/13 14/10 14/21 15/3 15/24 16/23 17/2 17/13 18/1 18/11 20/15 21/3 22/15 22/20 22/25 23/5 absolutely [1] 7/20 accommodations [1] 24/24 according [3] 11/4 12/9 14/7 account [2] 6/3 13/8 accounts [1] 13/24</p> | <p>A ability [1] 8/3 able [4] 16/4 16/24 17/10 24/11 about [23] 3/11 3/25 4/3 5/2 6/6 9/16 11/21 13/13 14/10 14/21 15/3 15/24 16/23 17/2 17/13 18/1 18/11 20/15 21/3 22/15 22/20 22/25 23/5 absolutely [1] 7/20 accommodations [1] 24/24 according [3] 11/4 12/9 14/7 account [2] 6/3 13/8 accounts [1] 13/24</p> | <p>8 8/19 8/25 9/3 9/7 10/5 12/13 15/4 15/20 17/25 18/15 22/18 24/24 around [1] 21/2 as [28] ascertain [1] 5/6 ask [15] 6/23 11/21 12/21 12/22 13/10 14/10 15/18 16/18 16/22 17/19 18/1 18/2 22/15 23/7 23/8 asked [7] 5/2 11/13 12/6 15/24 16/3 17/8 22/9 asking [2] 8/16 20/4 asserting [2] 18/22 19/25 assume [4] 4/13 6/17 8/15 18/8 assuming [1] 20/21 attach [1] 21/7 attached [1] 21/8 attaches [2] 19/10 19/19 attempting [1] 5/9 attorney [12] 9/17 9/23 13/5 14/15 15/12 15/13 15/17 19/3 20/21 21/15 22/22 22/24 attorney-client [7] 9/23 14/15 15/12 15/13 15/17 19/3 21/15 attorneys [4] 3/16 3/21 4/2 4/5 attorneys' [1] 14/17 audience [1] 10/1 audiotape [1] 22/24 authenticating [1] 22/23 away [3] 16/13 22/19 22/21</p> | <p>8 8/19 8/25 9/3 9/7 10/5 12/13 15/4 15/20 17/25 18/15 22/18 24/24 around [1] 21/2 as [28] ascertain [1] 5/6 ask [15] 6/23 11/21 12/21 12/22 13/10 14/10 15/18 16/18 16/22 17/19 18/1 18/2 22/15 23/7 23/8 asked [7] 5/2 11/13 12/6 15/24 16/3 17/8 22/9 asking [2] 8/16 20/4 asserting [2] 18/22 19/25 assume [4] 4/13 6/17 8/15 18/8 assuming [1] 20/21 attach [1] 21/7 attached [1] 21/8 attaches [2] 19/10 19/19 attempting [1] 5/9 attorney [12] 9/17 9/23 13/5 14/15 15/12 15/13 15/17 19/3 20/21 21/15 22/22 22/24 attorney-client [7] 9/23 14/15 15/12 15/13 15/17 19/3 21/15 attorneys [4] 3/16 3/21 4/2 4/5 attorneys' [1] 14/17 audience [1] 10/1 audiotape [1] 22/24 authenticating [1] 22/23 away [3] 16/13 22/19 22/21</p> | <p>8 8/19 8/25 9/3 9/7 10/5 12/13 15/4 15/20 17/25 18/15 22/18 24/24 around [1] 21/2 as [28] ascertain [1] 5/6 ask [15] 6/23 11/21 12/21 12/22 13/10 14/10 15/18 16/18 16/22 17/19 18/1 18/2 22/15 23/7 23/8 asked [7] 5/2 11/13 12/6 15/24 16/3 17/8 22/9 asking [2] 8/16 20/4 asserting [2] 18/22 19/25 assume [4] 4/13 6/17 8/15 18/8 assuming [1] 20/21 attach [1] 21/7 attached [1] 21/8 attaches [2] 19/10 19/19 attempting [1] 5/9 attorney [12] 9/17 9/23 13/5 14/15 15/12 15/13 15/17 19/3 20/21 21/15 22/22 22/24 attorney-client [7] 9/23 14/15 15/12 15/13 15/17 19/3 21/15 attorneys [4] 3/16 3/21 4/2 4/5 attorneys' [1] 14/17 audience [1] 10/1 audiotape [1] 22/24 authenticating [1] 22/23 away [3] 16/13 22/19 22/21</p> |
| <p>9 9/6 12/15 12/20 15/2 15/2 17/7 17/9 any [9] 3/20 7/21 8/25 9/20 11/19 13/5 13/9 20/15 23/3 anybody [2] 4/9 11/10 anything [2] 22/16 25/13 AP [2] 13/15 14/7 appreciate [2] 24/15 24/22 approached [1] 21/11 appropriate [2] 14/14 14/25 April [4] 1/13 3/2 13/15 26/5</p> | <p>9 9/6 12/15 12/20 15/2 15/2 17</p> | | | |

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| <p>D</p> <p>defense [2] 8/16 17/10 deliver [1] 14/1 delivered [25] 5/3 5/5 5/7 5/25 6/9 6/19 6/20 7/3 7/18 8/6 8/22 9/4 9/5 9/7 9/15 10/23 13/15 14/19 14/21 15/2 15/6 18/5 21/17 21/22 23/16 delivering [2] 14/3 23/24 delivers [1] 19/1 delivery [10] 5/2 6/13 6/15 6/18 7/4 7/5 7/12 7/12 7/22 21/7 Democrats [1] 11/20 Depends [1] 14/2 deposed [2] 4/20 4/21 deposition [12] 4/1 5/17 6/6 7/3 8/19 10/8 10/14 11/8 12/20 15/1 24/5 25/7 derivatively [1] 9/19 described [1] 15/5 describing [1] 15/19 description [1] 11/19 did [12] 5/24 5/25 6/15 6/24 10/14 11/10 12/3 13/25 14/1 17/23 21/6 24/22 didn't [12] 3/13 6/1 6/2 6/23 13/6 15/25 16/1 19/22 20/18 20/23 21/2 22/16 different [2] 11/18 21/20 direct [1] 16/11 directing [1] 17/2 directly [1] 21/24 disclosed [1] 9/22 discuss [2] 15/1 25/8 discussed [1] 14/11 discussion [1] 3/25 do [23] 3/7 3/19 5/12 9/18 9/25 10/2 10/10 10/18 10/18 15/20 17/19 17/20 17/21 17/21 17/22 17/25 20/3 20/10 20/11 20/21 20/22 22/5 26/3 doable [1] 25/6 does [2] 11/14 11/18 doesn't [14] 12/5 12/7 12/17 12/23 13/2 13/3 13/5 13/8 14/8 16/25 17/4 17/5 18/24 24/3 doing [2] 14/21 20/16 don't [19] 3/20 4/9 9/19 11/12 11/22 12/5 15/22 17/25 18/6 18/10 18/11 18/16 19/2 19/24 20/8 22/18 23/3 23/18 23/25 donation [2] 17/15 17/16 done [2] 7/23 17/20 donor [6] 12/11 18/9 18/13 18/17 19/13</p> | <p>19/21 DOWD [2] 2/4 2/5 down [5] 11/10 11/13 23/5 24/8 24/11 drive [1] 6/8 dropped [1] 3/12 drug [1] 20/20 due [1] 24/9 DUNN [3] 1/23 26/2 26/16 during [1] 8/1</p> <p>E</p> <p>each [1] 13/16 earnest [1] 10/9 EDWARD [1] 2/4 either [4] 7/1 14/25 15/25 16/5 elements [1] 22/21 else [4] 14/3 14/18 18/20 22/2 endorsed [1] 22/23 engage [1] 20/22 ERIC [4] 1/7 2/3 3/6 26/7 established [2] 21/15 21/16 ethical [1] 12/25 even [1] 23/4 ever [1] 21/9 every [1] 13/14 everybody [1] 20/19 everyone [1] 4/3 everything [1] 15/2 exactly [3] 11/11 20/9 21/21 examination [1] 24/5 example [1] 20/17 expect [1] 4/9 explain [1] 10/6 explained [2] 16/20 17/23</p> <p>F</p> <p>fact [2] 9/21 19/1 far [3] 4/9 22/19 22/21 Faughn [33] Faughn's [1] 18/16 feel [1] 24/18 feels [1] 14/24 fees [2] 14/17 17/17 fellow [1] 24/10 figure [1] 25/8 file [2] 24/16 24/23 find [5] 5/9 23/1 23/19 23/20 23/20 first [19] 4/15 5/3 5/17 6/6 6/13 6/15 6/17 7/5 7/12 9/2 10/13 11/3 12/4 12/18 13/18 13/24 14/13 21/7 25/2 follow [1] 16/23 follow-up [1] 16/23 following [3] 3/1 18/20 19/4 foregoing [1] 26/9 form [1] 14/24 Forsyth [2] 2/5 2/10 forth [1] 4/15</p> | <p>forthcoming [1] 10/8 frame [2] 3/11 4/16 framed [1] 8/21 Friday [4] 8/23 12/9 22/20 24/23 friend [2] 13/4 20/6 front [2] 19/5 19/12 fund [2] 18/5 20/5 funds [15] 5/8 5/9 8/7 8/7 8/8 11/7 11/14 11/17 12/13 13/9 15/21 16/23 17/3 22/14 24/19 further [3] 12/22 25/13 26/9</p> <p>G</p> <p>game [1] 7/19 games [1] 12/2 gave [4] 4/3 19/13 20/15 22/14 get [7] 3/18 4/8 18 21/4 22/8 22/25 24/14 24/22 getting [1] 13/1 give [8] 11/11 15/11 16/14 19/13 20/5 20/7 22/9 25/10 given [3] 5/10 5/10 5/13 giving [4] 9/7 22/7 22/10 23/17 go [4] 11/6 12/21 20/10 22/25 GoFundMe 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individual [5] 5/14 5/18 7/18 7/19 10/22 information [10] 4/8 10/7 18/3 18/5 18/9 18/12 18/15 19/20 22/1 23/16 INSLER [1] 2/8 instructed [4] 8/18 8/20 9/14 14/23 instructing [1] 17/18 instructions [1] 5/10 intend [1] 15/18 intermediaries [1] 16/6 intermediary [5] 7/23 15/9 15/10 15/14 15/17 intermediate [1] 12/1 interview [1] 3/10 is [66] isn't [4] 13/18 13/19 22/2 22/7 issue [7] 3/22 4/2 9/13 12/9 22/11 22/13 24/17 issues [2] 4/16 14/20 it [55] it's [15] 4/4 5/13 7/8 7/11 9/21 13/21 16/15 19/9 19/17 20/20 22/13 23/12 23/13 24/2 24/23 items [1] 8/6</p> <p>J</p> <p>JAMES [1] 2/4 JENNIFER [3] 1/23 26/2 26/16 jeopardy [1] 4/14 Jim [1] 13/14 Joe [2] 19/7 19/8 JOHN [1] 2/9 judge [18] 1/2 3/8 3/20 4/19 5/13 12/3 12/8 12/22 13/12 15/5 15/18 16/17 18/7 20/3 22/11 23/20 24/9 25/14 JUDICIAL [1] 1/25 just [11] 8/12 8/21 10/9 12/8 15/5 15/19 20/1 20/19 22/5 23/7 24/18</p> <p>K</p> <p>keep [1] 19/14 kind [1] 24/24 knew [8] 5/4 5/19 6/19 6/24 7/3 7/5 10/12 16/5 know [41] known [2] 7/5 21/21 knows [7] 6/20 12/3 12/18 12/19 12/25 15/3 15/23</p> <p>L</p> <p>last [4] 8/1 8/23 10/14 22/20 later [1] 21/16</p> |
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| <p>L lawyer [4] 19/22 19/23 19/25 23/23 learned [1] 22/2 least [2] 4/24 13/10 legal [8] 7/23 13/4 20/10 20/14 20/16 21/4 21/25 22/8 Leonard [1] 2/9 let's [4] 4/11 4/15 4/15 25/10 like [1] 14/13 list [1] 22/13 little [1] 8/13 LLC [1] 2/9 LLP [1] 2/5 longer [1] 21/11 look [1] 15/6 lot [1] 11/21 LOUIS [6] 1/1 1/24 2/6 2/10 2/10 26/5</p> | <p>Mrs. [1] 23/24 Mrs. X's [1] 23/24 multitude [1] 4/25 MUNICH [1] 2/9 my [7] 13/4 13/4 13/23 19/7 19/8 19/8 19/14</p> <hr/> <p>N name [24] 4/14 5/4 5/4 5/13 7/9 7/19 7/20 7/24 9/1 9/2 9/7 9/10 9/14 9/20 9/21 9/24 10/10 10/13 10/13 10/14 10/25 11/3 16/7 19/14 named [1] 5/18 names [2] 4/14 10/17 need [3] 4/5 4/12 12/22 needed [1] 3/16 needs [1] 9/20 next [1] 17/21 no [22] 1/6 3/23 4/10 5/23 6/21 7/20 9/6 9/6 10/5 10/19 12/16 13/2 13/2 13/23 17/25 18/21 19/17 20/21 21/8 21/25 25/14 26/8 non [4] 18/23 19/2 19/17 20/2 non-privileged [4] 18/23 19/2 19/17 20/2 not [40] not know [1] 5/24 nothing [1] 5/15 now [10] 4/20 6/5 9/20 9/25 10/2 10/18 14/10 18/1 22/21 24/23 number [3] 3/5 21/19 21/24</p> | <p>18/13 18/24 19/13 19/20 19/20 19/21 originally [2] 18/4 19/21 other [3] 3/16 3/21 5/1 others [1] 16/15 Otherwise [1] 24/7 ought [1] 23/2 our [1] 25/8 out [3] 5/9 19/14 25/8 outside [1] 15/13 over [2] 9/1 9/2 overall [1] 8/2 owner [1] 10/24</p> <hr/> <p>P p.m [2] 3/2 25/4 P.S [2] 4/25 16/15 package [1] 5/25 pages [1] 26/9 paid [1] 13/1 part [4] 4/21 11/7 12/24 22/7 particular [2] 19/11 23/24 particularly [1] 8/3 parties [2] 4/2 4/5 party [2] 17/15 23/17 pay [3] 13/4 14/17 17/16 payment [5] 13/16 14/4 14/6 14/12 14/16 payments [3] 4/23 12/11 14/4 people [2] 4/5 5/1 person [6] 5/4 5/7 7/3 9/16 9/23 13/22 pin [1] 24/11 Plaintiff [2] 1/5 26/7 play [1] 12/2 please [1] 3/4 point [1] 21/24 political [3] 5/14 7/25 12/14 portion [1] 22/2 position [1] 16/8 predates [2] 14/12 14/16 prepared [1] 24/25 present [2] 4/3 26/6 4/11 4/17 4/19 5/16 6/7 7/2 7/11 7/16 8/14 8/25 10/16 10/21 11/2 17/1 17/12 20/8 21/18 once [1] 10/6 one [11] 4/10 5/5 10/19 11/25 14/4 14/5 21/19 22/12 24/7 24/18 24/23 ones [1] 22/18 only [4] 6/15 9/25 10/1 10/3 open [1] 3/1 opened [1] 6/2 operative [1] 12/14 opposed [1] 12/13 oral [1] 24/6 order [1] 21/4 ordered [1] 8/22 original [8] 18/4 18/9</p> | <p>17/12 17/18 problems [1] 23/3 proceedings [3] 3/1 26/6 26/10 Professional [1] 26/2 proper [1] 25/9 protect [1] 19/18 protected [2] 7/21 24/20 provide [2] 20/18 20/19 provided [1] 5/4 providing [1] 20/14 publication [2] 10/25 16/9 purpose [18] 5/11 6/3 6/20 7/6 7/23 8/8 14/11 14/22 15/1 17/20 17/21 19/11 21/23 22/12 22/14 22/23 23/18 23/25 push [1] 16/14 put [5] 4/11 7/19 13/8 25/1 25/3</p> | <p>represents [1] 4/25 reproduction [1] 26/10 Republicans [1] 11/20 respect [1] 24/9 rest [1] 24/5 restraining [1] 9/11 Rex [1] 1/2 right [16] 4/20 7/16 8/5 9/20 9/25 10/2 11/6 11/24 13/10 16/19 22/5 22/13 23/8 23/9 24/8 24/12 risk [1] 8/13 rob [2] 19/7 19/9 robbed [2] 19/7 19/12 robbing [1] 19/6 RPR [2] 1/23 26/16</p> |
| <p>M make [7] 4/4 10/7 12/9 14/13 14/24 17/15 18/22 MARTIN [4] 2/4 4/12 10/4 15/19 matter [3] 5/1 5/1 21/25 may [3] 4/5 21/11 22/5 maybe [1] 3/21 me [12] 6/19 9/14 11/11 15/11 17/23 19/5 19/6 19/7 19/8 19/8 19/13 20/1 mean [2] 17/19 19/15 meaning [1] 12/2 means [2] 13/22 17/13 media [1] 13/24 message [2] 4/8 9/15 Mexico [1] 20/20 microphone [1] 3/15 might [3] 3/16 18/11 22/4 minutes [1] 4/3 MISSOURI [8] 1/1 1/4 3/6 10/25 11/1 16/8 16/8 26/7 misunderstood [1] 9/6 MO [3] 2/6 2/10 2/10 money [44] months [2] 8/1 16/10 more [4] 5/15 10/7 11/25 18/1 motion [5] 1/12 9/21 9/22 9/24 9/24 motivated [1] 8/4 moved [1] 25/2 MR [41] Mr. [34] Mr. Al [1] 4/20 Mr. Martin [3] 4/12 10/4 15/19 Mr. Watkins [27] Mr. Watkins' [2] 4/1 23/14 Mr. X's [1] 23/23</p> | <p>O o'clock [3] 3/25 4/4 25/10 objected [1] 8/19 obligation [3] 9/19 12/25 13/5 off [2] 3/12 22/16 offer [2] 24/13 24/25 office [1] 6/2 official [2] 1/24 26/4 Okay [19] 3/18 3/24 4/11 4/17 4/19 5/16 6/7 7/2 7/11 7/16 8/14 8/25 10/16 10/21 11/2 17/1 17/12 20/8 21/18 once [1] 10/6 one [11] 4/10 5/5 10/19 11/25 14/4 14/5 21/19 22/12 24/7 24/18 24/23 ones [1] 22/18 only [4] 6/15 9/25 10/1 10/3 open [1] 3/1 opened [1] 6/2 operative [1] 12/14 opposed [1] 12/13 oral [1] 24/6 order [1] 21/4 ordered [1] 8/22 original [8] 18/4 18/9</p> | <p>p.m [2] 3/2 25/4 P.S [2] 4/25 16/15 package [1] 5/25 pages [1] 26/9 paid [1] 13/1 part [4] 4/21 11/7 12/24 22/7 particular [2] 19/11 23/24 particularly [1] 8/3 parties [2] 4/2 4/5 party [2] 17/15 23/17 pay [3] 13/4 14/17 17/16 payment [5] 13/16 14/4 14/6 14/12 14/16 payments [3] 4/23 12/11 14/4 people [2] 4/5 5/1 person [6] 5/4 5/7 7/3 9/16 9/23 13/22 pin [1] 24/11 Plaintiff [2] 1/5 26/7 play [1] 12/2 please [1] 3/4 point [1] 21/24 political [3] 5/14 7/25 12/14 portion [1] 22/2 position [1] 16/8 predates [2] 14/12 14/16 prepared [1] 24/25 present [2] 4/3 26/6 4/11 4/17 4/19 5/16 6/7 7/2 7/11 7/16 8/14 8/25 10/16 10/21 11/2 17/1 17/12 20/8 21/18 once [1] 10/6 one [11] 4/10 5/5 10/19 11/25 14/4 14/5 21/19 22/12 24/7 24/18 24/23 ones [1] 22/18 only [4] 6/15 9/25 10/1 10/3 open [1] 3/1 opened [1] 6/2 operative [1] 12/14 opposed [1] 12/13 oral [1] 24/6 order [1] 21/4 ordered [1] 8/22 original [8] 18/4 18/9</p> | <p>Q question [13] 6/22 7/1 8/23 8/24 9/7 11/11 11/15 12/6 12/15 16/3 17/7 18/7 22/8 questioning [1] 11/8 questions [15] 8/17 8/18 8/21 10/9 11/21 12/23 13/11 15/19 16/18 16/24 17/2 18/1 24/6 24/10 24/13 quickly [2] 24/16 25/2 quote [1] 13/21 quotes [1] 13/17</p> | <p>S said [30] Salter [1] 13/15 same [3] 21/12 22/11 22/13 say [13] 5/15 7/17 9/13 14/5 15/21 17/23 18/11 20/18 20/19 22/16 24/2 24/19 25/11 saying [7] 5/17 6/6 6/12 7/7 9/11 12/23 18/21 says [8] 5/24 7/6 7/8 14/6 16/24 19/6 19/12 23/23 scenario [1] 23/22 Scott [4] 10/24 10/24 12/3 16/7 seated [1] 3/4 second [10] 1/25 5/5 6/13 6/15 7/4 7/13 11/7 12/5 12/19 15/11 see [5] 3/19 9/19 19/2 21/12 25/11 seeing [1] 3/17 seek [2] 15/12 25/10 seeking [2] 7/23 17/14 seem [1] 18/25 seems [2] 7/6 18/21 sent [1] 9/15 sentence [2] 13/18 13/24 series [1] 13/10 session [1] 3/4 set [2] 4/15 25/3 setting [1] 3/14 sharing [1] 22/1 short [1] 8/10 should [4] 4/2 7/20 10/7 10/8 shouldn't [1] 15/1 shown [1] 3/21 side [1] 25/8 significant [2] 4/21 10/6 simply [1] 5/24 since [1] 13/12 sir [4] 9/6 9/6 17/8 24/15 sitting [3] 10/1 19/5 19/11</p> |

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| <p>S</p> <p>Skylar [6] 11/5 12/19 12/21 22/15 23/1 23/2</p> <p>Skylar's [1] 22/16</p> <p>slippery [1] 24/10</p> <p>so [28]</p> <p>solely [1] 22/23</p> <p>soliciting [1] 21/25</p> <p>some [12] 7/21 11/18 13/4 13/7 16/13 20/18 20/20 21/3 22/25 23/17 24/13 24/22</p> <p>somebody [5] 13/3 14/3 14/3 18/20 22/2</p> <p>someone [3] 6/19 14/17 23/23</p> <p>something [1] 3/25</p> <p>soon [1] 24/23</p> <p>sorry [1] 17/20</p> <p>sort [1] 7/21</p> <p>sought [3] 14/16 14/18 22/4</p> <p>source [39]</p> <p>sources [2] 11/25 12/1</p> <p>specifically [1] 12/6</p> <p>ST [6] 1/1 1/24 2/6 2/10 2/10 26/5</p> <p>stage [1] 12/15</p> <p>stairs [1] 5/22</p> <p>start [1] 8/10</p> <p>started [1] 14/5</p> <p>STATE [4] 1/1 1/4 3/6 26/7</p> <p>step [1] 10/19</p> <p>steps [6] 3/9 4/22 5/23 13/13 14/5 21/21</p> <p>stick [1] 6/8</p> <p>still [4] 7/11 12/8 22/1 23/6</p> <p>Stinson [1] 2/9</p> <p>story [1] 21/19</p> <p>Street [1] 2/9</p> <p>such [1] 23/25</p> <p>Suite [1] 2/10</p> <p>supplied [1] 7/9</p> <p>supposed [1] 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23/22 23/22 25/9</p> <p>thinks [1] 14/14</p> <p>third [3] 17/15 22/12 23/17</p> <p>third-party [1] 17/15</p> <p>this [36]</p> <p>those [12] 4/4 4/5 8/9 10/7 10/9 10/17 12/13 13/9 14/20 16/18 22/18 24/19</p> <p>though [1] 4/24</p> <p>thought [1] 3/14</p> <p>three [5] 8/6 8/21 10/9 11/13 17/9</p> <p>time [8] 3/11 7/15 10/20 13/3 13/14 24/7 24/13 24/22</p> <p>times [5] 11/1 11/1 11/13 16/9 17/9</p> <p>today [9] 3/25 6/18 7/3 7/7 8/17 11/8 13/20 25/5 25/13</p> <p>told [8] 6/19 9/8 15/16 17/14 19/7 19/8 21/3 23/9</p> <p>tomorrow [3] 25/2 25/4 25/10</p> <p>took [2] 20/24 20/25</p> <p>track [1] 7/2</p> | <p>transcript [2] 1/12 12/10</p> <p>trashing [2] 11/1 16/9</p> <p>true [1] 26/10</p> <p>try [2] 9/14 19/18</p> <p>trying [2] 5/6 5/15</p> <p>Tuesday [1] 25/5</p> <p>turn [1] 20/2</p> <p>turning [1] 19/19</p> <p>turns [1] 19/2</p> <p>TWENTY [1] 1/25</p> <p>TWENTY-SECOND [1] 1/25</p> <p>two [4] 4/23 8/1 14/4 21/24</p> <hr/> <p>U</p> <p>ultimate [6] 11/14 11/17 11/22 11/24 11/25 14/8</p> <p>unclear [1] 7/11</p> <p>understand [2] 12/25 24/21</p> <p>unknown [5] 6/9 6/9 7/6 7/6 13/7</p> <p>unnamed [2] 5/24 7/9</p> <p>until [4] 4/3 5/15 6/1 25/10</p> <p>up [7] 3/10 3/14 3/21 4/1 6/2 16/23 22/12</p> <p>upset [1] 16/12</p> <p>us [1] 24/4</p> <p>use [2] 17/16 22/6</p> <p>used [1] 6/4</p> <hr/> <p>V</p> <p>veracity [1] 17/11</p> <p>versus [1] 3/6</p> <p>very [3] 12/14 16/12 25/2</p> <p>victim [1] 7/22</p> <p>video [2] 6/16 7/22</p> <p>videotape [1] 3/8</p> <hr/> <p>W</p> <p>waive [1] 23/10</p> <p>waived [1] 22/5</p> <p>want [17] 10/18 10/19 12/8 12/20 13/4 14/10 17/16 18/1 18/2 20/5 20/5 20/9 20/10 20/17 20/19 22/13 22/15</p> <p>wanted [1] 8/9</p> <p>wants [2] 20/6 22/6</p> <p>was [71]</p> <p>wasn't [1] 12/2</p> <p>WATKINS [31]</p> <p>Watkins' [2] 4/1 23/14</p> <p>way [6] 7/21 13/12 13/17 16/21 23/2 25/9</p> <p>we [52]</p> <p>we'd [1] 14/13</p> <p>we'll [7] 3/18 4/18 21/11 24/12 24/16 25/8 25/11</p> <p>we're [9] 3/5 8/10 12/8 13/12 17/17 22/18 22/20 22/21 24/7</p> <p>we've [4] 12/15 14/23</p> | <p>16/20 17/20</p> <p>weeks [1] 3/10</p> <p>well [10] 5/9 15/23 17/4 17/6 18/8 18/12 19/15 20/3 21/19 25/1</p> <p>went [3] 4/21 6/1 23/5</p> <p>were [12] 3/1 3/11 3/14 3/16 4/24 7/15 9/10 12/9 15/21 21/9 22/15 22/17</p> <p>what [53]</p> <p>what's [3] 11/2 11/2 16/4</p> <p>whatever [7] 3/13 14/24 17/16 18/9 18/12 21/1 21/4</p> <p>when [10] 3/9 3/11 3/18 5/25 7/5 11/21 15/24 16/24 21/6 21/22</p> <p>where [12] 8/9 8/19 12/7 14/4 15/20 17/18 17/24 21/2 21/3 21/10 21/14 23/22</p> <p>wherever [1] 20/10</p> <p>whether [10] 4/2 7/12 7/14 9/13 9/16 9/22 11/20 16/5 20/10 22/24</p> <p>which [7] 3/11 7/12 10/13 14/4 15/20 19/21 22/5</p> <p>who [18] 3/13 4/25 6/2 7/19 8/6 8/21 9/4 9/5 9/7 11/19 11/22 15/2 15/6 17/25 19/22 20/6 21/22 22/22</p> <p>who's [1] 10/1</p> <p>whose [2] 6/3 12/25</p> <p>why [4] 7/20 10/7 10/8 14/23</p> <p>will [6] 3/3 7/17 9/23 22/11 24/23 25/15</p> <p>without [1] 4/14</p> <p>witness [3] 2/7 22/22 24/1</p> <p>witnesses [2] 8/3 8/4</p> <p>word [3] 13/16 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IN THE MISSOURI COURT OF APPEALS FOR THE
EASTERN DISTRICT OF MISSOURI

STATE *ex rel.* ALBERT WATKINS)
)
 Relator,)
)
v.)
)
HONORABLE REX BURLISON,)
)
 Respondent.) CASE NO. _____
)

PETITION FOR WRIT OF PROHIBITION

Pursuant to Missouri Supreme Court Rule 97, Relator Albert Watkins petitions this Court for a writ prohibiting the Honorable Rex Burlison (“Respondent”) from compelling Watkins’ to testify at his continued deposition set for May 1, 2018, at 1:00 p.m about conversations Watkins had with his client, Scott Faughn. This Court’s intervention is required to protect and defend the attorney-client privilege, and to prevent Watkins from being interrogated about confidential, privileged client conversations with his client.

The Missouri Supreme Court “has spoken clearly of the sanctity of the attorney-client privilege.” *State ex rel. Peabody Coal Co. v. Clark*, 863 S.W.2d 604, 607 (Mo. banc 1993). Watkins—and the courts—have an ethical responsibility to protect clients, who—like all who seek the assistance of attorneys—have a right to expect the privilege that comes from communications with attorneys. As discussed below and in Watkins’

Suggestions accompanying this Petition, the relevant discussions between Watkins and Faughn occurred within the sacred boundaries of an attorney-client relationship.

For these reasons, the Court should issue its preliminary order prohibiting any requirement that Watkins disclose attorney-client communications between himself and Faughn during the deposition scheduled to resume on Tuesday, May 1 at 1:00 pm.

FACTUAL AND PROCEDURAL BACKGROUND

1. The charges against Greitens arise from his alleged photographing of a woman referred to as K.S. Watkins serves as the attorney for P.S., the ex-husband of K.S. The charges were filed in late February, 2018.

2. In early January, 2018, over a month prior to the Greitens indictment, Watkins met with Faughn. Specifically, Watkins and Faughn engaged in conversations that established an attorney client relationship. Faughn sought Watkins' legal advice on matters, including legal issues relating to the payment of legal fees by third parties – *i.e.*, one individual paying the legal fees of another. During those conversations, Watkins provided Faughn with legal advice. (A-1, Affidavit of Albert Watkins).

3. Several days later, Watkins received two payments, each in the amount of fifty-thousand dollars (\$50,000.00). The first payment was delivered to Watkins by Faughn. The second payment arrived the next day, and was delivered by a person Watkins believed to be a courier. (A-1). Watkins testified to these facts in the first part of the deposition.

4. During Watkins' conversations with Faughn, they discussed the purpose of the payments and why the money was being delivered, in connection with the advice

Watkins provided to Faughn. (A-1). Watkins' understanding is the payments were delivered to him in connection with his representation of P.S., which he has stated publicly.

5. Watkins has publicly stated the funds were available for P.S's attorneys' fees. Over a month after these funds were provided, Greitens was indicted.

6. Pursuant to a subpoena issued by Greitens, Watkins appeared at a deposition on April 30, 2018, after Respondent denied Watkins' Motion to Quash and Watkins' requests for relief in the appellate courts were denied.

7. Watkins testified regarding the issues set forth above, including that Faughn made the first payment. Watkins also testified he does not know whose money was delivered. Watkins refused to answer questions about information conveyed to him by his client, Faughn.

8. Now, Respondent has ordered Watkins to testify regarding details of the conversations he had with his client, Faughn. Watkins' continued deposition is scheduled for 1:00 pm on Tuesday, May 1. (A-3, Hearing Transcript).

THE RELIEF SOUGHT

9. Watkins seeks a Writ of Prohibition prohibiting Respondent from compelling Watkins' to disclose conversations Watkins had with his client, Faughn, during Watkins' continued deposition set for May 1, 2018, at 1:00 p.m, along with any other relief the Court deems appropriate.

WHY THE WRIT SHOULD ISSUE

10. A writ of prohibition is an appropriate remedy when a subpoena has issued in a circuit court proceeding requesting material that is protected from discovery. *State ex rel. Boone Ret. Ctr., Inc. v. Hamilton*, 946 S.W.2d 740, 741 (Mo. banc 1997). “This is because the damage to the party against whom discovery is sought is both severe and irreparable if the privileged material is produced and this damage cannot be repaired on appeal.” *Id.* (internal quotes omitted).

11. “Prohibition has long been available to prevent a trial court from abusing its discretion by ordering discovery of privileged matters or of work product.” *St. Louis Little Rock Hosp., Inc. v. Gaertner*, 682 S.W.2d 146, 148 (Mo. App. E.D. 1984) (citing *State ex rel. Gonzenbach v. Eberwein*, 655 S.W.2d 794, 795 (Mo. App. E.D. 1983)).

12. If not prohibited, the proceedings below will violate fundamental policies protecting attorney-client communication.

13. An attorney-client relationship is established when a prospective client seeks and receives legal advice and assistance from an attorney who intends to provide legal advice and assistance to the prospective client. *Polish Roman Catholic St. Stanislaus Par. v. Hettenbach*, 303 S.W.3d 591, 601 (Mo. Ct. App. 2010). In determining whether the legal advice and assistance of an attorney is sought and received, courts look to the substantive nature of the contacts within the relationship, “regardless of what formal or procedural incidents have occurred.” *Id.* (quoting *McFadden v. State*, 256 S.W.3d 103, 107 (Mo. banc 2008)).

14. The attorney-client privilege is to be construed broadly to encourage its fundamental policy of encouraging uninhibited communication between the client and his attorney.” *Id.* The attorney-client privilege “protects the client from a disclosure of *any information which has been derived from the client by the attorney, by reason of his employment, whether by words, acts, or deeds.*” *Weinschenk v. Sullivan*, 100 S.W.2d 66, 70 (Mo. App. 1937).

15. Watkins’ conversations with Faughn occurred in the context of an attorney-client relationship. Faughn met with Watkins in early January, 2018, prior to delivering the first payment to Watkins. At that time, they engaged in conversations that established an attorney-client relationship. Faughn sought Watkins’ legal advice on matters, including legal issues relating to the payment of legal fees by third parties – *i.e.*, one individual paying the legal fees of another. During those conversations, Watkins provided Faughn with legal advice. (*See* A-1, Watkins Affidavit).

16. Requiring Watkins to testify regarding details of the conversations he had with Faughn will force Watkins to violate bedrock principles of attorney-client communication and professional responsibility.

17. Moreover, Greitens has no substantial need for this privileged testimony as the information sought can be obtained from other sources, without the need to compel Watkins to violate the attorney-client privilege. Specifically, Greitens may attempt to obtain information from Faughn, who may have information that was not given for the purpose of receiving legal advice. Faughn might also simply choose to waive the

privilege and discuss his full conversations with Watkins. It is Faughn's decision whether to waive privilege, not Watkins and not the Courts.

WHEREFORE, Relator Albert Watkins pray that this Court issue a preliminary order prohibiting any required disclosure by Watkins of conversations between Watkins and his client during the continued deposition scheduled for Tuesday, May 1 at 1:00 pm along with any additional relief the Court deems appropriate under the circumstances.

Respectfully submitted,

STINSON LEONARD STREET LLP

/s/ Charles W. Hatfield

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Attorneys for Relator Albert Watkins

deliveries, Faughn had met with Watkins, and they engaged in conversations establishing an attorney-client relationship. Specifically, Faughn sought legal advice on matters including the payment of legal fees by a third-party, and Watkins provided legal advice to Faughn. During their conversations, and in connection with the advice provided by Watkins, they discussed the purpose of the payments and why the money was being delivered.

Unsatisfied with knowing who delivered the payments, Greitens now intends to fish even deeper. Shortly after Watkins' deposition started, Watkins refused to reveal any conversations he had with Faughn. Respondent allowed a break in the deposition, but ordered it continue on Tuesday, May 1 at 1:00 pm. Specifically, Respondent ordered Watkins to answer questions regarding his conversations with Faughn, *i.e.*, what Faughn told Watkins about where the money came from, who provided it, and other details about the payments—an exercise that necessarily invades the attorney-client privilege. However, the privilege is not Mr. Watkins' to waive. If Greitens wishes to know about communications with Faughn, he should attempt to obtain that information from Faughn, who could choose to waive the privilege should he wish to answer Greitens' questions.

The Missouri Supreme Court “has spoken clearly of the sanctity of the attorney-client privilege.” *State ex rel. Peabody Coal Co. v. Clark*, 863 S.W.2d 604, 607 (Mo. banc 1993). Watkins has a duty to his client and professional responsibility not to disclose attorney-client communications. Watkins—and the courts—have an ethical responsibility to protect clients, who—like all who seek the assistance of attorneys—have a right to expect the privilege that comes from communications with attorneys. Because

Faughn and Watkins established an attorney-client relationship, their conversations are privileged and further details should not be disclosed—certainly not here, simply to enable Greitens’ crusade for sensational, irrelevant testimony that might benefit him in the media or political arena.

Greitens has strayed far from the relevant issues in his criminal trial. Greitens has argued that this line of inquiry is relevant to the credibility of P.S., who was endorsed by the State solely for the purpose of authenticating audiotapes P.S. made of the alleged victim discussing the relevant interactions with Greitens.

However, it has been established P.S. did not pay for his legal representation. Greitens learned this through a deposition of P.S. Now Watkins has identified who delivered the money used to pay P.S.’ legal fees, and testified he does not know whose money was delivered. It is also clear the legal fees were paid more than a month before Greitens was indicted, during a time when P.S. was engaged in public discussions about the alleged activity. Nothing relevant or material to this proceeding will be gained from revealing conversations between Mr. Watkins and his client, although plenty will be lost if the sanctity of the privilege is thrown aside and discarded so readily. The relevant discussions occurred within the sacred boundaries of an attorney-client relationship, and thus are entitled to protection.

For these reasons, the Court should issue its preliminary order prohibiting Respondent from requiring Watkins to disclose conversations with his client.

FACTUAL/PROCEDURAL SUMMARY

1. The charges against Greitens arise from his alleged photographing of a woman referred to as K.S. Watkins serves as the attorney for P.S., the ex-husband of K.S. The charges were filed in late February, 2018.

2. In early January, 2018, over a month prior to the Greitens indictment, Watkins met with Faughn. Specifically, Watkins and Faughn engaged in conversations that established an attorney client relationship. Faughn sought Watkins' legal advice on matters, including legal issues relating to the payment of legal fees by third parties – *i.e.*, one individual paying the legal fees of another. During those conversations, Watkins provided Faughn with legal advice. (A-1, Affidavit of Albert Watkins).

3. Several days later, Watkins received two payments, each in the amount of fifty-thousand dollars (\$50,000.00). The first payment was delivered to Watkins by Faughn. The second payment arrived the next day, and was delivered by a person Watkins believed to be a courier. (A-1). Watkins testified to these facts in the first part of the deposition.

4. During Watkins' conversations with Faughn, they discussed the purpose of the payments and why the money was being delivered, in connection with the advice Watkins provided to Faughn. (A-1). Watkins' understanding is the payments were delivered to him in connection with his representation of P.S., which he has stated publicly.

5. Watkins has publicly stated the funds were available for P.S.'s attorneys' fees. Over a month after these funds were provided, Greitens was indicted.

6. Pursuant to a subpoena issued by Greitens, Watkins appeared at a deposition on April 30, 2018, after Respondent denied Watkins' Motion to Quash and Watkins' requests for relief in the appellate courts were denied.

7. Watkins testified regarding the issues set forth above, including that Faughn made the first payment. Watkins also testified he does not know whose money was delivered. Watkins refused to answer questions about information conveyed to him by his client, Faughn.

8. Now, Respondent has ordered Watkins to testify regarding details of the conversations he had with his client, Faughn. Watkins' continued deposition is scheduled for 1:00 pm on Tuesday, May 1. (A-3, Hearing Transcript).

WHY THE WRIT SHOULD ISSUE

I. Standard of Review

A writ of prohibition is an appropriate remedy when a subpoena has issued in a circuit court proceeding requesting material that is protected from discovery. *State ex rel. Boone Ret. Ctr., Inc. v. Hamilton*, 946 S.W.2d 740, 741 (Mo. banc 1997). "This is because the damage to the party against whom discovery is sought is both severe and irreparable if the privileged material is produced and this damage cannot be repaired on appeal." *Id.* (internal quotes omitted). More specifically, "[p]rohibition has long been available to prevent a trial court from abusing its discretion by ordering discovery of privileged matters or of work product." *St. Louis Little Rock Hosp., Inc. v. Gaertner*, 682 S.W.2d 146, 148 (Mo. App. E.D. 1984) (citing *State ex rel. Gonzenbach v. Eberwein*, 655 S.W.2d 794, 795 (Mo. App. E.D. 1983)). The role of the reviewing court is limited to

ensuring the trial court is not acting arbitrarily or unjustly. *State ex rel. Metropolitan Transportation Services, Inc. v. Meyers*, 800 S.W.2d 474, 476 (Mo.App.1990).

II. The Continuing Deposition should be Prohibited Because Greitens seeks to Discover Privileged Attorney-Client Communications.

If not prohibited, the upcoming deposition will violate fundamental policies protecting attorney-client communication. The Missouri Supreme Court “has spoken clearly of the sanctity of the attorney-client privilege.” *State ex rel. Behrendt v. Neill*, 337 S.W.3d 727, 729 (Mo. Ct. App. 2011) (quoting *State ex rel. Peabody Coal Co. v. Clark*, 863 S.W.2d 604, 607 (Mo. banc 1993)). The relevant policy concerns are straightforward and well-established:

The relationship and the continued existence of the giving of legal advice by persons accurately and effectively trained in the law is of greater societal value ... than the admissibility of a given piece of evidence in a particular lawsuit. Contrary to the implied assertions of the evidence authorities, the heavens will not fall if all relevant and competent evidence cannot be admitted.

Id. (quoting *State ex rel. Great American Ins. Co. v. Smith*, 574 S.W.2d 379, 383 (Mo. banc 1978)). Confidentiality is essential if attorney-client relationships are to be fostered and effective. *Great American*, 574 S.W.2d at 383–84.

The scope of the privilege is broad. It attaches to (1) information transmitted by voluntary act of disclosure; (2) between a client and his lawyer; (3) in confidence; and (4) by a means which, so far as a client is aware, discloses the information to no third parties other than those reasonably necessary for the transmission of the information or for the accomplishment of the purpose for which it is to be transmitted. *State v. Longo*, 789 S.W.2d 812, 815 (Mo. Ct. App. 1990).

“The attorney-client privilege is to be construed broadly to encourage its fundamental policy of encouraging uninhibited communication between the client and his attorney.” *Longo*, 789 S.W.2d at 815. The attorney-client privilege “protects the client from a disclosure of *any information which has been derived from the client by the attorney, by reason of his employment, whether by words, acts, or deeds.*” *Weinshenk v. Sullivan*, 100 S.W.2d 66, 70 (Mo. App. 1937).

An attorney-client relationship is established when a prospective client seeks and receives legal advice and assistance from an attorney who intends to provide legal advice and assistance to the prospective client. *Polish Roman Catholic St. Stanislaus Par. v. Hettenbach*, 303 S.W.3d 591, 601 (Mo. Ct. App. 2010). In determining whether the legal advice and assistance of an attorney is sought and received, courts look to the substantive nature of the contacts within the relationship, “regardless of what formal or procedural incidents have occurred.” *Id.* (quoting *McFadden v. State*, 256 S.W.3d 103, 107 (Mo. banc 2008)). Payment for legal services is not a prerequisite to the formation of an attorney-client relationship. *U.S. v. Bailey*, 327 F.3d 1131, 1139 (10th Cir.2003) (“For there to have been an attorney-client relationship, the parties need not have executed a formal contract. Nor is the existence of a relationship dependent upon the payment of fees.”).

Here, Watkins’ conversations with Faughn occurred in the context of an attorney-client relationship. Faughn met with Watkins in early January, 2018, prior to delivering the first payment to Watkins. At that time, they engaged in conversations that established an attorney client relationship. Faughn sought Watkins’ legal advice on matters,

including legal issues relating to the payment of legal fees by third parties. During those conversations, Watkins provided Faughn with legal advice. (*See* A-1, Watkins Affidavit). The parties established an attorney-client relationship, and the sought-after communications are privileged.

During the hearing that followed today's deposition, Respondent Burlison suggested the conversations between Faughn and Watkins are not privileged because they presumably involve discussions between Faughn and another individual. According to Respondent, "it's a non-privileged communication that your client would then try to protect it by turning it into privileged." (A-3, Hearing Transcript at 18-19). But this reasoning is flawed. According to the Missouri Supreme Court:

When a client goes to an attorney...subsequent communications by the attorney to the client should be privileged. **Some of the advice given by the attorney may be based on information obtained from sources other than the client.** Some of what the attorney says will not actually be advice as to a course of conduct to be followed. Part may be analysis of what is known to date of the situation. Part may be a discussion of additional avenues to be pursued. Part may be keeping the client advised of things done or opinions formed to date. All of these communications, not just the advice, are essential elements of attorney-client consultation. All should be protected.

State ex rel. Great Am. Ins. Co. v. Smith, 574 S.W.2d 379, 384–85 (Mo. 1978). It does not matter whether Faughn was relaying information based on his personal knowledge, or information provided to him by someone else—Faughn was communicating with his attorney, and their conversations are entitled to protection.

CONCLUSION

Greitens can pursue the sought-after information sought through other channels, without forcing Watkins and the courts to abandon the attorney-client privilege. Respondent's directive to continue Watkins' deposition forces Watkins to violate bedrock principles of attorney-client communication and professional responsibility, all to enable Greitens' pursuit of irrelevant testimony.

The Greitens defense is entitled to pursue and present information relevant to their theories, but this court must intervene to protect the sanctity of attorney-client privilege from an inquiry that has strayed far from the issues at trial. Pursuing the details of what was said between an attorney and his client, who was delivering funds for the payment of attorneys' fees for a witness who was endorsed solely to authenticate tapes, is more than a fishing expedition—it stretches out of the pond, and into the desert. Even if the information sought were relevant, its confidentiality is held inviolate by the long-standing principle of attorney-client privilege. For the reasons discussed above, the Court should issue its preliminary order prohibiting any requirement that Watkins disclose attorney-client communications between himself and Faughn during the deposition scheduled to resume on Tuesday, May 1 at 1:00 pm.

Respectfully submitted,

STINSON LEONARD STREET LLP

/s/ Charles W. Hatfield

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Attorneys for Relator Albert Watkins

**IN THE MISSOURI COURT OF APPEALS FOR THE EASTERN
DISTRICT OF MISSOURI**

STATE OF MISSOURI ex rel.

Albert Watkins

Relator,

vs.

No. _____

The Honorable Rex Burlison

Respondent.

WRIT SUMMARY

Identity of parties and their attorneys in the underlying action, if any:

Relator was represented by Charles W. Hatfield and John R. Munich of
Stinson Leonard Street, LLP.

Nature of underlying action, if any:

The underlying action is State of Missouri v. Eric Greitens, Cause No.
1822-CR00642. The State of Missouri charged Defendant Greitens with
violation of Section 565.252, RSMO, for invasion of privacy in the first
degree. Relator is counsel for the husband of the victim in the underlying
action.

Action of Respondent being challenged, including date thereof:

Respondent's Order (made orally at a hearing on April 30, 2018)
compelling Watkins' appearance at his continued deposition scheduled for
May 1, 2018 at 1:00 p.m.

Relief sought by Relator or Petitioner:

Respondent seeks an order from the Court prohibiting Respondent from compelling Relator's appearance at the continued deposition presently set for May 1, 2018, at 1:00 p.m.

Date case set for trial, if set, and date of any other event bearing upon relief sought (e.g., date of deposition or motion hearing):

Relator's continued deposition is set for May 1, 2018, at 1:00 p.m. Trial in the matter is set to begin May 14, 2018.

Date, court and disposition of any previous or pending writ proceeding concerning the action or related matter:

Related Writ filed April 27, 2018 in the Missouri Court of Appeals, Eastern District, No. ED106651; denied by the Court of Appeals on April 30, 2018.

Related Writ filed April 30, 2018 in the Missouri Supreme Court, No. SC07115, denied by the Supreme Court on April 30, 2018.



From: Scavotto, Andrew J. <andrew.scavotto@stinson.com>

Sent: Monday, April 30, 2018 10:47 PM

To: Rex.Burlison@courts.mo.gov; jbenett@dowdbennett.com; edowd@dowdbennett.com;
jmartin@dowdbennett.com; mnasser@dowdbennett.com; steeler@stlouiscao.org; gardnerk@stlouiscao.org;
jgarvey@careydanis.com; nkettler@rsflawfirm.com

Subject: State ex rel. Watkins - Recent Filings

All,

Attached are copies of materials we just filed on behalf of Albert Watkins in the Missouri Court of Appeals.

Andrew J. Scavotto | Partner | Stinson Leonard Street LLP

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IN THE MISSOURI COURT OF APPEALS FOR THE EASTERN DISTRICT OF
MISSOURI

STATE *ex rel.* ALBERT WATKINS)
)
 Relator,)
)
v.)
)
HONORABLE REX BURLISON,)
)
 Respondent.) CASE NO. _____
)
)
)
)

APPENDIX TO PETITION FOR WRIT OF PROHIBITION
OF RELATOR ALBERT WATKINS

Respectfully submitted,

STINSON LEONARD STREET LLP

/s/ Charles W. Hatfield
Charles W. Hatfield, Mo. Bar No. 40363
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Attorneys for Non-Party Albert Watkins

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Transcript of April 30, 2018 Hearing A-3

MISSOURI COURT OF APPEALS
EASTERN DISTRICT

STATE *ex rel.* ALBERT WATKINS)
)
 Relator,)
)
v.) CASE NO. _____
)
HONORABLE REX BURLISON,)
)
 Respondent.)

AFFIDAVIT OF ALBERT WATKINS

1. In early January, 2018, I met with Scott Faughn. At that time, I discussed an attorney-client relationship with Mr. Faughn and he sought my advice on matters, including legal issues relating to the payment of legal fees by third parties. During those conversations, I provided Mr. Faughn with legal advice.

2. In early January, 2018, after my meeting with Mr. Faughn, I received two payments, each in the amount of fifty-thousand dollars (\$50,000.00). The first payment was delivered to me by Mr. Faughn. The second payment arrived the next day, and was delivered by a person I believed to be a courier.

3. During my conversations with Mr. Faughn, we discussed the purpose of the payments and why the money was being delivered, in connection with the advice I provided to Mr. Faughn.

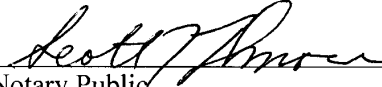
4. My understanding is the payments were delivered to me in connection with my representation of P.S., the victim's ex-husband.

Further affiant sayeth not.



Name: Albert Watkins

Subscribed and sworn to before me this 30th day of April, 2018.



Notary Public

Commissioned in St. Louis County

My commission expires:

SCOTT T. FILMORE
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
Commission # 15386385
My Commission Expires: 8/21/2019

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI
Honorable Rex M. Burlison, Judge**

STATE OF MISSOURI,

Plaintiff,

vs.

ERIC GREITENS,

Defendant.

)
)
) Cause No. 1822-CR00642
)
)
)

TRANSCRIPT OF MOTION HEARING

April 30, 2018

**JENNIFER A. DUNN, RPR, CCR #485
OFFICIAL COURT REPORTER
CITY OF ST. LOUIS CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT**

A P P E A R A N C E S

FOR THE DEFENDANT ERIC GREITENS:

MR. JAMES MARTIN

MR. EDWARD DOWD

Dowd Bennett LLP

7733 Forsyth Blvd. #1900

St. Louis, MO 63105

FOR THE WITNESS ALBERT WATKINS:

MR. CHARLES W. HATFIELD

MR. JOHN R. MUNICH

Stinson Leonard Street

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St. Louis, MO 63105

MR. CHARLES INSLER

Hepler Broom LLC

211 N. Broadway

St. Louis, MO 63102

1 (The following proceedings were had in open
2 court at 3:10 p.m., on the afternoon of April 30, 2018:)

3 THE COURT: Thank you. Court will be back in
4 session, please be seated.

5 We're back on the record in Cause Number
6 1822-CR00642, State of Missouri versus Eric Greitens. What
7 do we have going on here?

8 MR. MARTIN: Judge, that is the videotape of
9 Mr. Watkins when he was on the courthouse steps a couple of
10 weeks ago. And the interview. We have it synced up to the
11 time frame that you were curious about, which is the -- when
12 he said a courier came and dropped off the money and he
13 didn't know who it was for or whatever.

14 We were setting it up there because we thought we
15 had the microphone system working in the courthouse and it
16 might be if the other attorneys needed to hear what you were
17 seeing.

18 THE COURT: Okay. When we get to it we'll
19 see what can be heard on there. What do we have?

20 MR. MARTIN: So, Judge, we don't have any
21 other attorneys that have shown up, maybe Mr. Hatfield can
22 address that issue.

23 MR. HATFIELD: No.

24 THE COURT: Okay. So for the record, we had
25 a discussion about 2 o'clock here today regarding something

1 that came up in Mr. Watkins' deposition, and there was an
2 issue of whether or not parties and attorneys should be
3 present, and the Court gave everyone about 50 minutes, until
4 3 o'clock, it's 10 after 3:00, to make contact for those
5 parties, or for those people and attorneys that may need to
6 be here.

7 MR. HATFIELD: And, your Honor, I have
8 communicated that message as best I can with the information
9 that I have, and I don't expect anybody to be here. As far
10 as I know no one is here.

11 THE COURT: Okay. So let's put on the record
12 what you need to, Mr. Martin.

13 MR. MARTIN: And, your Honor, I assume I can
14 name names without jeopardy then?

15 THE COURT: Let's set forth first, let's
16 frame the issues.

17 MR. MARTIN: Okay.

18 THE COURT: And then we'll get to that.

19 MR. MARTIN: Okay. Judge, as you know,
20 Mr. Al Watkins is being deposed right now. He's being
21 deposed in significant part because he went on the
22 courthouse steps and announced to the world that he had
23 received two anonymous \$50,000 payments, implying that they
24 were on behalf of at least his client, though he said a
25 multitude of clients, P.S., who he represents in this

1 matter, and presumably other people related to this matter.

2 We have asked him about the delivery of that
3 money. He has indicated that the first 50,000 was delivered
4 by a person he knew by name. He has provided that name.
5 And then said the second one was delivered by courier.

6 We are trying to ascertain from him both the
7 source because he claims that the person that delivered the
8 money was not the actual source of the funds. We are
9 attempting to find out the source of the funds, and as well
10 as what instructions he was given, Mr. Watkins was given
11 that the purpose of the money and what he could or could not
12 do with the money.

13 Judge, it's -- the name that has been given is a
14 highly connected political individual, and it -- I'm
15 trying -- I'll say nothing more until you bless it.

16 THE COURT: Okay. So you're telling --
17 you're saying in deposition that Mr. Watkins said the first
18 50,000 came from this individual that you haven't named that
19 he knew?

20 MR. MARTIN: That's correct.

21 THE COURT: Is that what was said on the
22 courthouse stairs?

23 MR. MARTIN: No. On the courthouse steps he
24 simply says an unnamed courier came by. He did not know --
25 he said he did not know when the package was delivered, what

1 was in it, and he didn't know until he went back to his
2 office and opened it up. He said he didn't know who it was
3 from, whose account it was for, or for what purpose it was
4 supposed to be used.

5 Now, candidly, that is contradicted what he is
6 saying in this deposition about the first 50,000.

7 THE COURT: Okay. So on the -- what you have
8 here I guess on the computer, on the stick drive,
9 Mr. Watkins said unknown courier delivered for an unknown
10 reason.

11 MR. MARTIN: Correct.

12 THE COURT: Was he saying that that was the
13 first or second delivery?

14 MR. MARTIN: He was referring to that as the
15 only delivery. He did not reference a first and a second in
16 that video.

17 THE COURT: So if we assume that the first
18 delivery, what he testified to today was 50,000 cash was
19 delivered by someone that he knew, and I think you told me
20 in chambers that he knows the purpose it was delivered.

21 MR. MARTIN: No. He claims -- he refuses to
22 answer that question.

23 THE COURT: I know. But didn't you ask him
24 did he know, not what he knew.

25 MR. MARTIN: And he hasn't answered that

1 question yet either.

2 THE COURT: Okay. So if we track what was
3 said today in deposition, he knew the person that delivered
4 it, then it would be presumed that the second delivery was
5 known because he knew the first delivery, and so when he
6 says an unknown courier for purpose unknown, it seems to
7 contradict what he's saying today.

8 MR. MARTIN: And in addition, he says it's an
9 unnamed courier and he hasn't supplied the name of the
10 courier.

11 THE COURT: Okay. So it's still unclear
12 which delivery, whether the courier's delivery was first or
13 second?

14 MR. MARTIN: That is correct. Or whether at
15 the time he was claiming both were.

16 THE COURT: Okay. All right.

17 MR. MARTIN: I will say we think the
18 individual that delivered -- that Mr. Watkins has identified
19 is an individual who has put his name in the game and that
20 there is absolutely no reason why his name should be
21 protected. He is not in any way some sort of alleged
22 victim, the delivery of money referred to in the video as an
23 intermediary is not done for the purpose of seeking legal
24 advice, and that, candidly, the name, because of his
25 connections, his political connections, and candidly his

1 actions during the course of the last two months is highly
2 relevant to the credibility of the case overall, and
3 particularly of the witnesses and the ability to believe
4 that the witnesses are not motivated by money.

5 THE COURT: All right. So what we have here
6 is -- what I've got is three items here. Who delivered the
7 funds, what was the source of the funds, and what was the
8 purpose of the funds.

9 MR. MARTIN: Those are where we wanted to
10 start, and we're short on --

11 THE COURT: Mr. Hatfield.

12 MR. HATFIELD: Thank you, your Honor. Just
13 at the risk of reframing a little bit --

14 THE COURT: Okay.

15 MR. HATFIELD: -- what was said. I assume
16 that what the defense is asking you is to compel Mr. Watkins
17 to answer certain questions today. We have -- I have
18 instructed him not to answer certain questions in the
19 deposition. And that's where we are. We objected and we
20 instructed him not to answer.

21 So, your Honor just framed three questions. Who
22 delivered the money. I believe that your Honor ordered
23 Mr. Watkins to answer that question last Friday. He has
24 answered that question.

25 THE COURT: Okay. Are you claiming any

1 privilege over that name?

2 MR. HATFIELD: Over the first name, yes, we
3 are.

4 THE COURT: As to who delivered?

5 MR. HATFIELD: As to who delivered the money,
6 no, sir, no, sir, I misunderstood. He has answered the
7 question who delivered the money by giving the name. We are
8 not claiming that that is privileged. We told them in
9 court.

10 THE COURT: That's the name that you were
11 restraining yourself from saying?

12 MR. MARTIN: Yes.

13 MR. HATFIELD: The issue of whether we say
14 the name, your Honor in chambers instructed me to try to
15 contact. I have sent a message that your Honor delivered
16 about whether to be here. That person is not here, nor is
17 an attorney here on their behalf.

18 So I do think on behalf of Mr. Watkins, because I
19 derivatively have an obligation to his client. I don't see
20 any reason that that name needs to be released right now.
21 It's not important to this motion. The fact that a name has
22 been disclosed is important to this motion, whether the
23 person had attorney-client privilege will be important to
24 this motion. The name is not important to this motion.

25 So the only reason to do it right now is because

1 of who's sitting in the audience. That's the only reason to
2 do it right now.

3 THE COURT: Is that the only reason,
4 Mr. Martin?

5 MR. MARTIN: No, your Honor. There are
6 significant connections that he has that once we explain
7 those to you make clear why there should be more information
8 forthcoming from Al Watkins, and why the deposition should
9 continue in earnest beyond just those three questions.

10 THE COURT: And do we know the name of the
11 courier?

12 MR. HATFIELD: Mr. Watkins believes he knew
13 the name of -- the first name of the courier, which he has
14 said in the deposition. But he did not know the last name
15 of the courier.

16 THE COURT: Okay. I'm going to allow both
17 those names to be announced.

18 MR. HATFIELD: Do you want to do that now?

19 THE COURT: No, I want to take these one step
20 at a time.

21 MR. HATFIELD: Okay, great.

22 MR. MARTIN: Your Honor, the individual that
23 Mr. Watkins has identified as having delivered \$50,000 in
24 cash is Scott Faughn. And Scott Faughn is the owner of a
25 publication, if we can honor it with that name, Missouri

1 Times. Missouri Times has been trashing the governor.

2 THE COURT: Okay. What's the -- what's the
3 courier's first name?

4 MR. MARTIN: According to Mr. Watkins,
5 Skyler.

6 THE COURT: All right. I'm going to go to
7 the second, the source of the funds. That was part of the
8 deposition questioning today.

9 MR. MARTIN: Yes, your Honor.

10 THE COURT: And did anybody write down
11 exactly what the question was, or can you give me an idea?

12 MR. HATFIELD: Your Honor, I don't know if he
13 wrote it down, but it was asked three times. Mr. Watkins
14 has said he does not know the ultimate source of the funds,
15 and that -- I have allowed him to answer that question
16 because --

17 MR. MARTIN: The ultimate source of the funds
18 is different than does he have some hint, was there a
19 description of who the source was, was there any indication
20 as to whether it was from Democrats or Republicans.

21 There's a lot of questions when you ask about the
22 source. All he said is I don't know who the ultimate source
23 is.

24 THE COURT: All right. Ultimate source, can
25 there be sources, more than one ultimate source, or

1 intermediate sources or --

2 MR. HATFIELD: I wasn't meaning to play games
3 with that, Judge, if I did. He has said that he knows Scott
4 Faughn handed him the first money, that a courier brought
5 the second money. He doesn't know beyond that. I don't
6 know if he's asked the question that specifically. He
7 doesn't know beyond that where it came from.

8 If we're still talking source, Judge, I just want
9 to make sure. We were here Friday, the issue was, according
10 to the transcript, and this is your Honor: The identity of
11 the donor of the \$50,000 cash payments is relevant in the
12 Court's balancing and consideration believes that if the
13 source of those are GoFundMe funds as opposed to the source
14 being from a political operative, I think this is very
15 relevant at this stage. We've answered that question.

16 THE COURT: No, you haven't.

17 MR. HATFIELD: He doesn't know what the
18 source was. He knows Mr. Faughn brought the first 50 and
19 Skyler brought the second 50. That's all he knows, and he's
20 answered that in the deposition. If they want to know that,
21 they can go ask Skyler and Mr. Faughn.

22 MR. MARTIN: Judge, we need to ask further
23 questions because the credibility of saying he doesn't know
24 the source is highly suspect, in part, because as the Court
25 knows, he has an ethical obligation to understand whose he

1 getting paid for.

2 MR. HATFIELD: No, he doesn't. No, he
3 doesn't. It happens all the time. Somebody comes in and
4 said I got some money from my friend, I want to pay my legal
5 bill. The attorney doesn't have any obligation.

6 MR. MARTIN: The client didn't come in with
7 this money. An unknown courier came in with some of the
8 money. He put it into an account, and if he doesn't have
9 any clue as to the source of those funds, that's not
10 credible. And we have a right to at least ask a series of
11 questions to test that credibility.

12 MR. HATFIELD: By the way, Judge, since we're
13 talking about what he said on the steps, he's been
14 completely consistent on this every time he's talked. Jim
15 Salter in the AP on April 23rd, said a courier delivered
16 each 50,000 payment, the word "courier" there. This is not
17 in quotes, by the way.

18 THE COURT: Isn't that the first sentence,
19 isn't that not accurate to what your client testified to
20 today?

21 MR. HATFIELD: It's not a quote. But if you
22 think the word "courier" means another person.

23 THE COURT: No. Mr. Hatfield, my problem is
24 reading media accounts that the first sentence you read
25 contradicts what was testified to. Because a courier did

1 not deliver both, did it?

2 MR. HATFIELD: Depends on if you think of Mr.
3 Faughn as a courier, somebody delivering for somebody else.
4 But he said two payments, not one payment, which is where
5 this all started, that they say he said on the steps one
6 payment. He also says it was anonymous, the source was
7 anonymous. That's according to the AP. He's been
8 consistent on that. He doesn't know the ultimate source of
9 this money.

10 Now they want to ask him about the source and the
11 purpose, and as we discussed with your Honor, Mr. Faughn had
12 a client relationship that predates the payment of this
13 first money, and we'd like to make a record on that however
14 your Honor thinks that's appropriate.

15 He had an attorney-client relationship that
16 predates the payment of this money that he sought advice,
17 including advice on how to pay attorneys' fees for someone
18 else, and he sought advice on all of that before he
19 delivered money.

20 He received advice on those issues, and then he
21 delivered money, and he talked about what he was doing and
22 what the purpose was. And that's privileged communication.
23 And that's why we've instructed him not to answer. And we
24 can make a record in whatever form your Honor feels
25 appropriate, either by affidavit or continuing in the

1 deposition, that we shouldn't have to discuss the purpose.

2 We answered who delivered. We answered everything
3 that he knows about the source. But the conversations
4 between him and Mr. Faughn are privileged.

5 MR. MARTIN: Judge, he just described Mr.
6 Faughn as a courier. He said if you look at who delivered
7 the money, he was a courier.

8 MR. HATFIELD: A client courier.

9 MR. DOWD: And an intermediary.

10 MR. HATFIELD: And a client intermediary.

11 MR. MARTIN: Give me a second. A client can
12 seek attorney-client counsel. But a client can also act
13 outside the relationship of the attorney-client
14 relationship, and if he's a courier or an intermediary, he's
15 not acting as the client with Mr. Watkins. And, therefore,
16 what Mr. Watkins was told by the courier, by the
17 intermediary, is not attorney-client privilege.

18 MR. DOWD: We also intend to ask him, Judge,
19 including the questions that Mr. Martin was just describing
20 to you, which clearly are admissible, but what -- where do
21 you believe the source of these funds were. He can say I
22 don't know. I'm sure he has a belief. And I'm sure he
23 knows as well.

24 THE COURT: So when asked about the source of
25 either or both of the 50,000, he said he didn't know,

1 Mr. Watkins said he didn't know.

2 MR. HATFIELD: I believe that's correct.

3 MR. MARTIN: He's been asked that question,
4 what's the source. But we have not been able to probe
5 either his credibility or whether he knew of the
6 intermediaries.

7 The reason Scott Faughn was important to name is
8 because of his position in Missouri. In this Missouri
9 Times. This publication that has been trashing Mr.
10 Greitens, the governor, for months.

11 And Mr. Faughn has direct connections with a group
12 that has been very hurt and upset that their tax credits
13 have been taken away, and so if Mr. Watkins has some
14 indication that that group is behind this push to give money
15 to P.S. and others, then that is highly relevant and it's
16 not privileged.

17 MR. HATFIELD: So, Judge, of course they can
18 ask Mr. Faughn all those questions.

19 THE COURT: Right.

20 MR. HATFIELD: As we've explained before.
21 That's the way to handle this.

22 THE COURT: And they'll be allowed to ask
23 Mr. Watkins about the source of the funds with follow-up
24 questions to be able to test his credibility when he says he
25 doesn't know.

1 MR. HATFIELD: Okay. So on the source, he
2 can -- you're directing him to answer questions about the
3 source of the funds?

4 THE COURT: Well, you said he doesn't know.

5 MR. HATFIELD: He doesn't know.

6 THE COURT: Well, that's his answer. He's
7 already answered that question.

8 MR. HATFIELD: Yes, sir, he's asked and
9 answered that three times.

10 THE COURT: But the defense is able to probe
11 his veracity on that answer.

12 MR. HATFIELD: Okay. And the problem I have
13 is if that probing means that he would have to talk about
14 what Mr. Faughn told him in the source of seeking this
15 advice on how he could make a third-party donation,
16 donation, whatever word you want to use, how he could pay
17 these fees, then we're into the privilege and that's the
18 problem, and that's where I'm instructing him not to answer.

19 So, I mean, they can ask him do you know the
20 purpose, we've done that. I'm sorry, do you know the
21 source, purpose is next. Do you know the source. How do
22 you know -- if he had said, yes, how do you know the source?
23 Mr. Faughn explained it to me. What did Mr. Faughn say?

24 Core privilege, core privilege. And that's where
25 we are. Do you know who the source was? No, I don't know.

1 Now they want to ask him more questions about what Mr.
2 Faughn said. That's what they want to ask him.

3 THE COURT: So the information would
4 originally come from a -- from the original source of the
5 fund, that information is delivered to Mr. Faughn.

6 MR. HATFIELD: I don't know the answer to
7 that question, Judge.

8 THE COURT: Well, Mr. Faughn you would assume
9 got that -- whatever information from this original donor.

10 MR. HATFIELD: Hypothetically, yeah, I don't
11 know. I don't know what Mr. Faughn might say about that.

12 THE COURT: Well, but whatever information
13 Mr. Faughn would have received from the original donor of
14 that money, that's not -- you're not claiming that
15 information be privileged, are you?

16 MR. HATFIELD: I don't know what Mr. Faughn's
17 relationship was with that donor. But I know that Mr.
18 Faughn had a relationship with Mr. Watkins that was
19 privileged. So if Mr. Watkins is there, I think I'm
20 following your Honor, as an agent for somebody else.

21 THE COURT: No. What I'm saying is it seems
22 that you're asserting that the -- that you can make
23 privileged a non-privileged communication. Because the
24 communication from the original source to Mr. Faughn doesn't
25 seem to be a privileged communication.

1 The fact that a client of Mr. Watkins delivers
2 that non-privileged communication, I don't see that it turns
3 it into attorney-client privilege.

4 MR. HATFIELD: I think I'm following your
5 Honor's hypothetical. So a client's sitting in front of me,
6 he's accused of robbing a bank, and the client says to me, I
7 robbed a bank because my boss Joe told me to rob the bank.
8 The communication from my client to me, my boss Joe told me
9 to rob the bank, it's privileged communication.

10 THE COURT: Sure it is, because it attaches
11 for a particular purpose, but if your client's sitting in
12 front of you having not robbed a bank and says, hey, this
13 original donor gave me this money to give to you and he said
14 keep my name out of it, that's not privileged.

15 MR. HATFIELD: Well, I mean, your Honor, I
16 think it is.

17 THE COURT: No, it's a non-privileged
18 communication that your client would then try to protect it
19 by turning it into privileged. The privilege attaches on
20 the original, the original announcement of the information.
21 Originally it was announced by an original donor, which I
22 didn't hear was a lawyer, to Mr. Faughn, who I haven't
23 heard's a lawyer.

24 MR. HATFIELD: I don't think Mr. Faughn is a
25 lawyer. I'm not asserting that he is.

1 THE COURT: So I just -- tell me how you can
2 turn non-privileged communication into privilege.

3 MR. HATFIELD: Well, I can't do that, Judge.
4 But Mr. Faughn is asking for privileged advice on how to
5 fund this -- I want to -- I want to give money that is --

6 THE COURT: I've got a friend who wants to
7 give money.

8 MR. HATFIELD: Okay. I don't know what he
9 said exactly. But I want to hand you money that's going to
10 go wherever. And I want legal advice on whether I can do
11 that and how I would do that.

12 THE COURT: Yeah.

13 MR. HATFIELD: And then in the course of
14 providing that legal advice, he and Mr. Watkins, if they
15 talked about what the source was, or gave him any hints on
16 what the source was, they're doing that for legal advice.

17 So, for example, if Mr. Faughn had said I want to
18 provide some money to -- and I'm pretty sure he didn't say
19 what I'm going to say, just for everybody, I want to provide
20 some money to you and it's from a drug cartel in Mexico.
21 Can I do that? I'm assuming the attorney would advise no,
22 you can't do that. We can't engage in that.

23 THE COURT: But Mr. Watkins didn't,
24 Mr. Watkins took the money.

25 MR. HATFIELD: Mr. Watkins took the money

1 after whatever conversation they had. So if they had a
2 conversation around this money where he didn't tell him what
3 the source was, but he told him some things about where it
4 was coming from whatever, in order to get legal advice,
5 privileged.

6 THE COURT: And when did the privilege
7 attach, the first delivery?

8 MR. HATFIELD: No, the privilege attached
9 before the money was ever brought in. There were
10 conversations days before the money where Mr. Faughn had
11 approached, and it may have been longer than that, we'll
12 have to see what the testimony is, but it was not the same
13 day.

14 There was a conversation before the money where
15 the attorney-client privilege relationship was established,
16 client relationship was established. Then later the money
17 was delivered.

18 THE COURT: Okay.

19 MR. MARTIN: Well, number one, that story
20 would be completely different than what he said on the
21 courthouse steps. Because then he would have known exactly
22 when that money was delivered, who it was coming from, and
23 what the purpose of it was for.

24 Number two. I think the Court's point is directly
25 on in that no matter what legal advice he was soliciting, he

1 still, in the course of that, was also sharing information
2 he had learned from somebody else. And that portion isn't
3 privileged.

4 It might be privileged that he sought the advice
5 of can I do that, which they may have just waived right
6 there, but I got money from X and X wants you to use it for
7 this amount, and I'm giving you X's money, that isn't part
8 of the question of can I get legal advice from you. That's
9 here. I have been asked to give you this money, and I'm
10 giving it to you.

11 MR. HATFIELD: Judge, the same issue will
12 come up with purpose, and that was the third one on your
13 list. But it's the same issue. Right? If they want to
14 know what the purpose of the funds was, Mr. Faughn gave it,
15 they want to ask about conversations that were had. Skyler
16 didn't say anything, so Skyler's off the table. But there
17 were conversations between Mr. Faughn and Mr. Watkins, and
18 those are the ones that we don't think -- and I think we're
19 pretty far away here.

20 We talked about this last Friday, but we're pretty
21 far away from the elements of this crime. We're now into
22 the conversations that an attorney for a witness who has
23 been endorsed solely for the purpose of authenticating an
24 audiotape, whether that attorney had conversations with
25 another client about some money. They can go get all this

1 from Mr. Faughn, if they can find Skyler, they can talk to
2 Skyler. That's the way this ought to be handled, and then
3 we don't have any of these privileged problems.

4 But privilege is a pretty important concept, even
5 if your Honor has concerns about how all this went down,
6 privilege is still a pretty darn important concept.

7 MR. MARTIN: What he just said was if we ask
8 Mr. Faughn it would be all right. So if we ask Mr. Faughn
9 then what he told Al is also all right.

10 MR. HATFIELD: He can waive the privilege,
11 Mr. Watkins can't.

12 MR. MARTIN: It's not a privilege.

13 MR. HATFIELD: It's his choice, not
14 Mr. Watkins' choice.

15 THE COURT: Mr. Hatfield, I think the
16 information -- if it was delivered from Mr. Faughn, that I
17 have some money from a third party that I'm giving to you
18 and here's the purpose, I don't believe that that's
19 privileged. I'm not going to find it privileged, and you're
20 going to have to find a judge on a higher court to find that
21 privilege.

22 I think that -- I think that that scenario where
23 someone comes to a lawyer and says I have Mr. X's money, or
24 Mrs. X's money, I'm delivering it to you for this particular
25 purpose, I don't believe that is privileged. And as such, I

1 believe that the witness, Mr. Watkins, has to answer that,
2 and I believe it's going to have to be a higher court to say
3 that he doesn't.

4 MR. HATFIELD: Would your Honor allow us to
5 continue the rest of the deposition by written examination
6 rather than by oral testimony so we can take these questions
7 one at the time? Otherwise I'm afraid we're going to be
8 right back down here.

9 MR. MARTIN: Judge, with all due respect to
10 Al Watkins, he is a slippery fellow. Written questions is
11 not going to be able to pin him down.

12 THE COURT: We'll be right back on written
13 questions. Mr. Hatfield, what I can offer is some time to
14 get a writ.

15 MR. HATFIELD: Yes, sir, I appreciate that.
16 We'll file a writ as quickly as we can.

17 THE COURT: Because it is a critical issue,
18 but I just feel that a higher court's going to be the one
19 that's going to say that the source of those funds is
20 protected.

21 MR. HATFIELD: I understand. We would
22 appreciate some time to get a writ, your Honor, as we did on
23 Friday. I will file one as soon as we can. It's now 4:40.

24 THE COURT: What kind of accommodations are
25 you prepared to offer?

1 MR. MARTIN: Well, I guess if we put it to
2 tomorrow afternoon. They moved very quickly on the first
3 set of writs, so if we put it --

4 THE COURT: 1 p.m. tomorrow.

5 MR. HATFIELD: Is today Tuesday? Yeah.

6 MR. MARTIN: Is that doable?

7 MR. HATFIELD: I'm on another deposition, but
8 we'll discuss that on our side and figure that out.

9 THE COURT: I think that's the proper way to
10 handle it. Let's give you until 1 o'clock tomorrow. Seek
11 your writs, and we'll see what the higher courts say.

12 MR. DOWD: Thank you, your Honor.

13 THE COURT: Anything further today?

14 MR. HATFIELD: No. Thank you, Judge.

15 THE COURT: Court will be adjourned.

16 (The hearing was concluded.)
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CERTIFICATE

1
2 I, Jennifer A. Dunn, Registered Professional
3 Reporter and Certified Court Reporter, do hereby certify
4 that I am an official court reporter for the Circuit Court
5 of the City of St. Louis; that on April 30, 2018, I was
6 present and reported all the proceedings had in the case of
7 STATE OF MISSOURI, Plaintiff, vs. ERIC GREITENS, Defendant,
8 Cause No. 1822-CR00642.

9 I further certify that the foregoing pages
10 contain a true and accurate reproduction of the proceedings.
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16 **"/s/JENNIFER A. DUNN, RPR, CCR #485"**
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| <p>MR. DOWD: [3] 15/8 15/17 25/11 MR. HATFIELD: [46] MR. MARTIN: [32] THE COURT: [58]</p> | <p>accurate [2] 13/19 26/10 accused [1] 19/6 act [1] 15/12 acting [1] 15/15 actions [1] 8/1 actual [1] 5/8 addition [1] 7/8 address [1] 3/22 adjoined [1] 25/15 admissible [1] 15/20 advice [14] 7/24 14/16 14/17 14/18 14/20 17/15 20/4 20/10 20/14 20/16 21/4 21/25 22/4 22/8 advise [1] 20/21 affidavit [1] 14/25 afraid [1] 24/7 after [2] 4/4 21/1 afternoon [2] 3/2 25/2 agent [1] 18/20 ago [1] 3/10 Al [4] 4/20 10/8 23/9 24/10 ALBERT [1] 2/7 all [16] 7/16 8/5 11/6 11/22 11/24 12/19 13/3 14/5 14/18 16/18 22/25 23/5 23/8 23/9 24/9 26/6 alleged [1] 7/21 allow [2] 10/16 24/4 allowed [2] 11/15 16/22 already [1] 17/7 also [5] 14/6 15/12 15/18 22/1 23/9 am [1] 26/4 amount [1] 22/7 announced [3] 4/22 10/17 19/21 announcement [1] 19/20 anonymous [3] 4/23 14/6 14/7 another [3] 13/22 22/25 25/7 answer [13] 6/22 8/17 8/18 8/20 8/23 11/15 14/23 17/2 17/6 17/11 17/18 18/6 24/1 answered [9] 6/25 8/24 9/6 12/15 12/20 15/2 15/2 17/7 17/9 any [9] 3/20 7/21 8/25 9/20 11/19 13/5 13/9 20/15 23/3 anybody [2] 4/9 11/10 anything [2] 22/16 25/13 AP [2] 13/15 14/7 appreciate [2] 24/15 24/22 approached [1] 21/11 appropriate [2] 14/14 14/25 April [4] 1/13 3/2 13/15 26/5</p> | <p>are [16] 5/6 5/8 8/4 8/9 8/19 8/25 9/3 9/7 10/5 12/13 15/4 15/20 17/25 18/15 22/18 24/24 around [1] 21/2 as [28] ascertain [1] 5/6 ask [15] 6/23 11/21 12/21 12/22 13/10 14/10 15/18 16/18 16/22 17/19 18/1 18/2 22/15 23/7 23/8 asked [7] 5/2 11/13 12/6 15/24 16/3 17/8 22/9 asking [2] 8/16 20/4 asserting [2] 18/22 19/25 assume [4] 4/13 6/17 8/15 18/8 assuming [1] 20/21 attach [1] 21/7 attached [1] 21/8 attaches [2] 19/10 19/19 attempting [1] 5/9 attorney [12] 9/17 9/23 13/5 14/15 15/12 15/13 15/17 19/3 20/21 21/15 22/22 22/24 attorney-client [7] 9/23 14/15 15/12 15/13 15/17 19/3 21/15 attorneys [4] 3/16 3/21 4/2 4/5 attorneys' [1] 14/17 audience [1] 10/1 audiotape [1] 22/24 authenticating [1] 22/23 away [3] 16/13 22/19 22/21</p> | <p>24/1 24/2 believes [2] 10/12 12/12 Bennett [1] 2/5 best [1] 4/8 between [2] 15/4 22/17 beyond [3] 10/9 12/5 12/7 bill [1] 13/5 bit [1] 8/13 bless [1] 5/15 Blvd [2] 2/5 2/10 boss [2] 19/7 19/8 both [5] 5/6 7/15 10/16 14/1 15/25 Broadway [1] 2/9 Broom [1] 2/9 brought [4] 12/4 12/18 12/19 21/9 Burlison [1] 1/2</p> | <p>19/18 20/2 compel [1] 8/16 completely [2] 13/14 21/20 computer [1] 6/8 concept [2] 23/4 23/6 concerns [1] 23/5 concluded [1] 25/16 connected [1] 5/14 connections [4] 7/25 7/25 10/6 16/11 consideration [1] 12/12 consistent [2] 13/14 14/8 contact [2] 4/4 9/15 contain [1] 26/10 continue [2] 10/9 24/5 continuing [1] 14/25 contradict [1] 7/7 contradicted [1] 6/5 contradicts [1] 13/25 conversation [3] 21/1 21/2 21/14 conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>\$ \$50,000 [3] 4/23 10/23 12/11 / /s/JENNIFER [1] 26/16</p> | <p>1 1 o'clock [1] 25/10 1 p.m [1] 25/4 10 [1] 4/4 1100 [1] 2/10 1822-CR00642 [3] 1/6 3/6 26/8 1900 [1] 2/5</p> | <p>2 2 o'clock [1] 3/25 2018 [3] 1/13 3/2 26/5 211 [1] 2/9 23rd [1] 13/15</p> | <p>C came [6] 3/12 4/1 5/18 5/24 12/7 13/7 can [29] can't [4] 20/3 20/22 20/22 23/11 candidly [3] 6/5 7/24 7/25 cartel [1] 20/20 case [2] 8/2 26/6 cash [3] 6/18 10/24 12/11 Cause [3] 1/6 3/5 26/8 CCR [2] 1/23 26/16 certain [2] 8/17 8/18 CERTIFICATE [1] 26/1 Certified [1] 26/3 certify [2] 26/3 26/9 chambers [2] 6/20 9/14 CHARLES [2] 2/8 2/8 choice [2] 23/13 23/14 CIRCUIT [4] 1/1 1/24 1/25 26/4 CITY [3] 1/1 1/24 26/5 claiming [4] 7/15 8/25 9/8 18/14 claims [2] 5/7 6/21 clear [1] 10/7 clearly [1] 15/20 client [23] 4/24 9/19 9/23 13/6 13/19 14/12 14/15 15/8 15/10 15/11 15/12 15/12 15/13 15/15 15/17 19/1 19/3 19/6 19/8 19/18 21/15 21/16 22/25 client's [2] 19/5 19/11 clients [1] 4/25 clue [1] 13/9 come [3] 13/6 18/4 22/12 comes [2] 13/3 23/23 coming [2] 21/4 21/22 communicated [1] 4/8 communication [9] 14/22 18/23 18/24 18/25 19/2 19/8 19/9</p> | <p>19/18 20/2 compel [1] 8/16 completely [2] 13/14 21/20 computer [1] 6/8 concept [2] 23/4 23/6 concerns [1] 23/5 concluded [1] 25/16 connected [1] 5/14 connections [4] 7/25 7/25 10/6 16/11 consideration [1] 12/12 consistent [2] 13/14 14/8 contact [2] 4/4 9/15 contain [1] 26/10 continue [2] 10/9 24/5 continuing [1] 14/25 contradict [1] 7/7 contradicted [1] 6/5 contradicts [1] 13/25 conversation [3] 21/1 21/2 21/14 conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>3 3 o'clock [1] 4/4 30 [3] 1/13 3/2 26/5 3:00 [1] 4/4 3:10 [1] 3/2</p> | <p>3 3 o'clock [1] 4/4 30 [3] 1/13 3/2 26/5 3:00 [1] 4/4 3:10 [1] 3/2</p> | <p>B back [5] 3/3 3/5 6/1 24/8 24/12 balancing [1] 12/12 bank [5] 19/6 19/7 19/7 19/9 19/12 be [30] because [17] 3/14 4/21 5/7 7/5 7/24 9/18 9/25 11/16 12/23 12/24 13/25 16/8 18/23 19/7 19/10 21/21 24/17 been [13] 5/13 9/22 11/1 13/13 14/7 16/3 16/4 16/9 16/12 16/13 21/11 22/9 22/23 before [5] 14/18 16/20 21/9 21/10 21/14 behalf [3] 4/24 9/17 9/18 behind [1] 16/14 being [3] 4/20 4/20 12/14 belief [1] 15/22 believe [8] 8/3 8/22 15/21 16/2 23/18 23/25</p> | <p>24/1 24/2 believes [2] 10/12 12/12 Bennett [1] 2/5 best [1] 4/8 between [2] 15/4 22/17 beyond [3] 10/9 12/5 12/7 bill [1] 13/5 bit [1] 8/13 bless [1] 5/15 Blvd [2] 2/5 2/10 boss [2] 19/7 19/8 both [5] 5/6 7/15 10/16 14/1 15/25 Broadway [1] 2/9 Broom [1] 2/9 brought [4] 12/4 12/18 12/19 21/9 Burlison [1] 1/2</p> | <p>19/18 20/2 compel [1] 8/16 completely [2] 13/14 21/20 computer [1] 6/8 concept [2] 23/4 23/6 concerns [1] 23/5 concluded [1] 25/16 connected [1] 5/14 connections [4] 7/25 7/25 10/6 16/11 consideration [1] 12/12 consistent [2] 13/14 14/8 contact [2] 4/4 9/15 contain [1] 26/10 continue [2] 10/9 24/5 continuing [1] 14/25 contradict [1] 7/7 contradicted [1] 6/5 contradicts [1] 13/25 conversation [3] 21/1 21/2 21/14 conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>4 485 [2] 1/23 26/16 4:40 [1] 24/23</p> | <p>4 485 [2] 1/23 26/16 4:40 [1] 24/23</p> | <p>5 50 [3] 4/3 12/18 12/19 50,000 [6] 5/3 5/18 6/6 6/18 13/16 15/25</p> | <p>5 50 [3] 4/3 12/18 12/19 50,000 [6] 5/3 5/18 6/6 6/18 13/16 15/25</p> | <p>5 50 [3] 4/3 12/18 12/19 50,000 [6] 5/3 5/18 6/6 6/18 13/16 15/25</p> |
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| <p>9 9/6 12/15 12/20 15/2 15/2 17/7 17/9 any [9] 3/20 7/21 8/25 9/20 11/19 13/5 13/9 20/15 23/3 anybody [2] 4/9 11/10 anything [2] 22/16 25/13 AP [2] 13/15 14/7 appreciate [2] 24/15 24/22 approached [1] 21/11 appropriate [2] 14/14 14/25 April [4] 1/13 3/2 13/15 26/5</p> | <p>9 9/6 12/15 12/20 15/2 15/2 17/</p> | | | |

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| <p>D</p> <p>defense [2] 8/16 17/10 deliver [1] 14/1 delivered [25] 5/3 5/5 5/7 5/25 6/9 6/19 6/20 7/3 7/18 8/6 8/22 9/4 9/5 9/7 9/15 10/23 13/15 14/19 14/21 15/2 15/6 18/5 21/17 21/22 23/16 delivering [2] 14/3 23/24 delivers [1] 19/1 delivery [10] 5/2 6/13 6/15 6/18 7/4 7/5 7/12 7/12 7/22 21/7 Democrats [1] 11/20 Depends [1] 14/2 deposed [2] 4/20 4/21 deposition [12] 4/1 5/17 6/6 7/3 8/19 10/8 10/14 11/8 12/20 15/1 24/5 25/7 derivatively [1] 9/19 described [1] 15/5 describing [1] 15/19 description [1] 11/19 did [12] 5/24 5/25 6/15 6/24 10/14 11/10 12/3 13/25 14/1 17/23 21/6 24/22 didn't [12] 3/13 6/1 6/2 6/23 13/6 15/25 16/1 19/22 20/18 20/23 21/2 22/16 different [2] 11/18 21/20 direct [1] 16/11 directing [1] 17/2 directly [1] 21/24 disclosed [1] 9/22 discuss [2] 15/1 25/8 discussed [1] 14/11 discussion [1] 3/25 do [23] 3/7 3/19 5/12 9/18 9/25 10/2 10/10 10/18 10/18 15/20 17/19 17/20 17/21 17/21 17/22 17/25 20/3 20/10 20/11 20/21 20/22 22/5 26/3 doable [1] 25/6 does [2] 11/14 11/18 doesn't [14] 12/5 12/7 12/17 12/23 13/2 13/3 13/5 13/8 14/8 16/25 17/4 17/5 18/24 24/3 doing [2] 14/21 20/16 don't [19] 3/20 4/9 9/19 11/12 11/22 12/5 15/22 17/25 18/6 18/10 18/11 18/16 19/2 19/24 20/8 22/18 23/3 23/18 23/25 donation [2] 17/15 17/16 done [2] 7/23 17/20 donor [6] 12/11 18/9 18/13 18/17 19/13</p> | <p>19/21 DOWD [2] 2/4 2/5 down [5] 11/10 11/13 23/5 24/8 24/11 drive [1] 6/8 dropped [1] 3/12 drug [1] 20/20 due [1] 24/9 DUNN [3] 1/23 26/2 26/16 during [1] 8/1</p> <hr/> <p>E</p> <p>each [1] 13/16 earnest [1] 10/9 EDWARD [1] 2/4 either [4] 7/1 14/25 15/25 16/5 elements [1] 22/21 else [4] 14/3 14/18 18/20 22/2 endorsed [1] 22/23 engage [1] 20/22 ERIC [4] 1/7 2/3 3/6 26/7 established [2] 21/15 21/16 ethical [1] 12/25 even [1] 23/4 ever [1] 21/9 every [1] 13/14 everybody [1] 20/19 everyone [1] 4/3 everything [1] 15/2 exactly [3] 11/11 20/9 21/21 examination [1] 24/5 example [1] 20/17 expect [1] 4/9 explain [1] 10/6 explained [2] 16/20 17/23</p> <hr/> <p>F</p> <p>fact [2] 9/21 19/1 far [3] 4/9 22/19 22/21 Faughn [33] Faughn's [1] 18/16 feel [1] 24/18 feels [1] 14/24 fees [2] 14/17 17/17 fellow [1] 24/10 figure [1] 25/8 file [2] 24/16 24/23 find [5] 5/9 23/1 23/19 23/20 23/20 first [19] 4/15 5/3 5/17 6/6 6/13 6/15 6/17 7/5 7/12 9/2 10/13 11/3 12/4 12/18 13/18 13/24 14/13 21/7 25/2 follow [1] 16/23 follow-up [1] 16/23 following [3] 3/1 18/20 19/4 foregoing [1] 26/9 form [1] 14/24 Forsyth [2] 2/5 2/10 forth [1] 4/15</p> | <p>forthcoming [1] 10/8 frame [2] 3/11 4/16 framed [1] 8/21 Friday [4] 8/23 12/9 22/20 24/23 friend [2] 13/4 20/6 front [2] 19/5 19/12 fund [2] 18/5 20/5 funds [15] 5/8 5/9 8/7 8/7 8/8 11/7 11/14 11/17 12/13 13/9 15/21 16/23 17/3 22/14 24/19 further [3] 12/22 25/13 26/9</p> <hr/> <p>G</p> <p>game [1] 7/19 games [1] 12/2 gave [4] 4/3 19/13 20/15 22/14 get [7] 3/18 4/8 18 21/4 22/8 22/25 24/14 24/22 getting [1] 13/1 give [8] 11/11 15/11 16/14 19/13 20/5 20/7 22/9 25/10 given [3] 5/10 5/10 5/13 giving [4] 9/7 22/7 22/10 23/17 go [4] 11/6 12/21 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IN THE MISSOURI COURT OF APPEALS FOR THE
EASTERN DISTRICT OF MISSOURI

STATE *ex rel.* ALBERT WATKINS)
)
 Relator,)
)
v.)
)
HONORABLE REX BURLISON,)
)
 Respondent.) CASE NO. _____
)

PETITION FOR WRIT OF PROHIBITION

Pursuant to Missouri Supreme Court Rule 97, Relator Albert Watkins petitions this Court for a writ prohibiting the Honorable Rex Burlison (“Respondent”) from compelling Watkins’ to testify at his continued deposition set for May 1, 2018, at 1:00 p.m about conversations Watkins had with his client, Scott Faughn. This Court’s intervention is required to protect and defend the attorney-client privilege, and to prevent Watkins from being interrogated about confidential, privileged client conversations with his client.

The Missouri Supreme Court “has spoken clearly of the sanctity of the attorney-client privilege.” *State ex rel. Peabody Coal Co. v. Clark*, 863 S.W.2d 604, 607 (Mo. banc 1993). Watkins—and the courts—have an ethical responsibility to protect clients, who—like all who seek the assistance of attorneys—have a right to expect the privilege that comes from communications with attorneys. As discussed below and in Watkins’

Suggestions accompanying this Petition, the relevant discussions between Watkins and Faughn occurred within the sacred boundaries of an attorney-client relationship.

For these reasons, the Court should issue its preliminary order prohibiting any requirement that Watkins disclose attorney-client communications between himself and Faughn during the deposition scheduled to resume on Tuesday, May 1 at 1:00 pm.

FACTUAL AND PROCEDURAL BACKGROUND

1. The charges against Greitens arise from his alleged photographing of a woman referred to as K.S. Watkins serves as the attorney for P.S., the ex-husband of K.S. The charges were filed in late February, 2018.

2. In early January, 2018, over a month prior to the Greitens indictment, Watkins met with Faughn. Specifically, Watkins and Faughn engaged in conversations that established an attorney client relationship. Faughn sought Watkins' legal advice on matters, including legal issues relating to the payment of legal fees by third parties – *i.e.*, one individual paying the legal fees of another. During those conversations, Watkins provided Faughn with legal advice. (A-1, Affidavit of Albert Watkins).

3. Several days later, Watkins received two payments, each in the amount of fifty-thousand dollars (\$50,000.00). The first payment was delivered to Watkins by Faughn. The second payment arrived the next day, and was delivered by a person Watkins believed to be a courier. (A-1). Watkins testified to these facts in the first part of the deposition.

4. During Watkins' conversations with Faughn, they discussed the purpose of the payments and why the money was being delivered, in connection with the advice

Watkins provided to Faughn. (A-1). Watkins' understanding is the payments were delivered to him in connection with his representation of P.S., which he has stated publicly.

5. Watkins has publicly stated the funds were available for P.S's attorneys' fees. Over a month after these funds were provided, Greitens was indicted.

6. Pursuant to a subpoena issued by Greitens, Watkins appeared at a deposition on April 30, 2018, after Respondent denied Watkins' Motion to Quash and Watkins' requests for relief in the appellate courts were denied.

7. Watkins testified regarding the issues set forth above, including that Faughn made the first payment. Watkins also testified he does not know whose money was delivered. Watkins refused to answer questions about information conveyed to him by his client, Faughn.

8. Now, Respondent has ordered Watkins to testify regarding details of the conversations he had with his client, Faughn. Watkins' continued deposition is scheduled for 1:00 pm on Tuesday, May 1. (A-3, Hearing Transcript).

THE RELIEF SOUGHT

9. Watkins seeks a Writ of Prohibition prohibiting Respondent from compelling Watkins' to disclose conversations Watkins had with his client, Faughn, during Watkins' continued deposition set for May 1, 2018, at 1:00 p.m, along with any other relief the Court deems appropriate.

WHY THE WRIT SHOULD ISSUE

10. A writ of prohibition is an appropriate remedy when a subpoena has issued in a circuit court proceeding requesting material that is protected from discovery. *State ex rel. Boone Ret. Ctr., Inc. v. Hamilton*, 946 S.W.2d 740, 741 (Mo. banc 1997). “This is because the damage to the party against whom discovery is sought is both severe and irreparable if the privileged material is produced and this damage cannot be repaired on appeal.” *Id.* (internal quotes omitted).

11. “Prohibition has long been available to prevent a trial court from abusing its discretion by ordering discovery of privileged matters or of work product.” *St. Louis Little Rock Hosp., Inc. v. Gaertner*, 682 S.W.2d 146, 148 (Mo. App. E.D. 1984) (citing *State ex rel. Gonzenbach v. Eberwein*, 655 S.W.2d 794, 795 (Mo. App. E.D. 1983)).

12. If not prohibited, the proceedings below will violate fundamental policies protecting attorney-client communication.

13. An attorney-client relationship is established when a prospective client seeks and receives legal advice and assistance from an attorney who intends to provide legal advice and assistance to the prospective client. *Polish Roman Catholic St. Stanislaus Par. v. Hettenbach*, 303 S.W.3d 591, 601 (Mo. Ct. App. 2010). In determining whether the legal advice and assistance of an attorney is sought and received, courts look to the substantive nature of the contacts within the relationship, “regardless of what formal or procedural incidents have occurred.” *Id.* (quoting *McFadden v. State*, 256 S.W.3d 103, 107 (Mo. banc 2008)).

14. The attorney-client privilege is to be construed broadly to encourage its fundamental policy of encouraging uninhibited communication between the client and his attorney.” *Id.* The attorney-client privilege “protects the client from a disclosure of *any information which has been derived from the client by the attorney, by reason of his employment, whether by words, acts, or deeds.*” *Weinschenk v. Sullivan*, 100 S.W.2d 66, 70 (Mo. App. 1937).

15. Watkins’ conversations with Faughn occurred in the context of an attorney-client relationship. Faughn met with Watkins in early January, 2018, prior to delivering the first payment to Watkins. At that time, they engaged in conversations that established an attorney-client relationship. Faughn sought Watkins’ legal advice on matters, including legal issues relating to the payment of legal fees by third parties – *i.e.*, one individual paying the legal fees of another. During those conversations, Watkins provided Faughn with legal advice. (*See* A-1, Watkins Affidavit).

16. Requiring Watkins to testify regarding details of the conversations he had with Faughn will force Watkins to violate bedrock principles of attorney-client communication and professional responsibility.

17. Moreover, Greitens has no substantial need for this privileged testimony as the information sought can be obtained from other sources, without the need to compel Watkins to violate the attorney-client privilege. Specifically, Greitens may attempt to obtain information from Faughn, who may have information that was not given for the purpose of receiving legal advice. Faughn might also simply choose to waive the

privilege and discuss his full conversations with Watkins. It is Faughn's decision whether to waive privilege, not Watkins and not the Courts.

WHEREFORE, Relator Albert Watkins pray that this Court issue a preliminary order prohibiting any required disclosure by Watkins of conversations between Watkins and his client during the continued deposition scheduled for Tuesday, May 1 at 1:00 pm along with any additional relief the Court deems appropriate under the circumstances.

Respectfully submitted,

STINSON LEONARD STREET LLP

/s/ Charles W. Hatfield

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Attorneys for Relator Albert Watkins

deliveries, Faughn had met with Watkins, and they engaged in conversations establishing an attorney-client relationship. Specifically, Faughn sought legal advice on matters including the payment of legal fees by a third-party, and Watkins provided legal advice to Faughn. During their conversations, and in connection with the advice provided by Watkins, they discussed the purpose of the payments and why the money was being delivered.

Unsatisfied with knowing who delivered the payments, Greitens now intends to fish even deeper. Shortly after Watkins' deposition started, Watkins refused to reveal any conversations he had with Faughn. Respondent allowed a break in the deposition, but ordered it continue on Tuesday, May 1 at 1:00 pm. Specifically, Respondent ordered Watkins to answer questions regarding his conversations with Faughn, *i.e.*, what Faughn told Watkins about where the money came from, who provided it, and other details about the payments—an exercise that necessarily invades the attorney-client privilege. However, the privilege is not Mr. Watkins' to waive. If Greitens wishes to know about communications with Faughn, he should attempt to obtain that information from Faughn, who could choose to waive the privilege should he wish to answer Greitens' questions.

The Missouri Supreme Court “has spoken clearly of the sanctity of the attorney-client privilege.” *State ex rel. Peabody Coal Co. v. Clark*, 863 S.W.2d 604, 607 (Mo. banc 1993). Watkins has a duty to his client and professional responsibility not to disclose attorney-client communications. Watkins—and the courts—have an ethical responsibility to protect clients, who—like all who seek the assistance of attorneys—have a right to expect the privilege that comes from communications with attorneys. Because

Faughn and Watkins established an attorney-client relationship, their conversations are privileged and further details should not be disclosed—certainly not here, simply to enable Greitens’ crusade for sensational, irrelevant testimony that might benefit him in the media or political arena.

Greitens has strayed far from the relevant issues in his criminal trial. Greitens has argued that this line of inquiry is relevant to the credibility of P.S., who was endorsed by the State solely for the purpose of authenticating audiotapes P.S. made of the alleged victim discussing the relevant interactions with Greitens.

However, it has been established P.S. did not pay for his legal representation. Greitens learned this through a deposition of P.S. Now Watkins has identified who delivered the money used to pay P.S.’ legal fees, and testified he does not know whose money was delivered. It is also clear the legal fees were paid more than a month before Greitens was indicted, during a time when P.S. was engaged in public discussions about the alleged activity. Nothing relevant or material to this proceeding will be gained from revealing conversations between Mr. Watkins and his client, although plenty will be lost if the sanctity of the privilege is thrown aside and discarded so readily. The relevant discussions occurred within the sacred boundaries of an attorney-client relationship, and thus are entitled to protection.

For these reasons, the Court should issue its preliminary order prohibiting Respondent from requiring Watkins to disclose conversations with his client.

FACTUAL/PROCEDURAL SUMMARY

1. The charges against Greitens arise from his alleged photographing of a woman referred to as K.S. Watkins serves as the attorney for P.S., the ex-husband of K.S. The charges were filed in late February, 2018.

2. In early January, 2018, over a month prior to the Greitens indictment, Watkins met with Faughn. Specifically, Watkins and Faughn engaged in conversations that established an attorney client relationship. Faughn sought Watkins' legal advice on matters, including legal issues relating to the payment of legal fees by third parties – *i.e.*, one individual paying the legal fees of another. During those conversations, Watkins provided Faughn with legal advice. (A-1, Affidavit of Albert Watkins).

3. Several days later, Watkins received two payments, each in the amount of fifty-thousand dollars (\$50,000.00). The first payment was delivered to Watkins by Faughn. The second payment arrived the next day, and was delivered by a person Watkins believed to be a courier. (A-1). Watkins testified to these facts in the first part of the deposition.

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5. Watkins has publicly stated the funds were available for P.S.'s attorneys' fees. Over a month after these funds were provided, Greitens was indicted.

6. Pursuant to a subpoena issued by Greitens, Watkins appeared at a deposition on April 30, 2018, after Respondent denied Watkins' Motion to Quash and Watkins' requests for relief in the appellate courts were denied.

7. Watkins testified regarding the issues set forth above, including that Faughn made the first payment. Watkins also testified he does not know whose money was delivered. Watkins refused to answer questions about information conveyed to him by his client, Faughn.

8. Now, Respondent has ordered Watkins to testify regarding details of the conversations he had with his client, Faughn. Watkins' continued deposition is scheduled for 1:00 pm on Tuesday, May 1. (A-3, Hearing Transcript).

WHY THE WRIT SHOULD ISSUE

I. Standard of Review

A writ of prohibition is an appropriate remedy when a subpoena has issued in a circuit court proceeding requesting material that is protected from discovery. *State ex rel. Boone Ret. Ctr., Inc. v. Hamilton*, 946 S.W.2d 740, 741 (Mo. banc 1997). "This is because the damage to the party against whom discovery is sought is both severe and irreparable if the privileged material is produced and this damage cannot be repaired on appeal." *Id.* (internal quotes omitted). More specifically, "[p]rohibition has long been available to prevent a trial court from abusing its discretion by ordering discovery of privileged matters or of work product." *St. Louis Little Rock Hosp., Inc. v. Gaertner*, 682 S.W.2d 146, 148 (Mo. App. E.D. 1984) (citing *State ex rel. Gonzenbach v. Eberwein*, 655 S.W.2d 794, 795 (Mo. App. E.D. 1983)). The role of the reviewing court is limited to

ensuring the trial court is not acting arbitrarily or unjustly. *State ex rel. Metropolitan Transportation Services, Inc. v. Meyers*, 800 S.W.2d 474, 476 (Mo.App.1990).

II. The Continuing Deposition should be Prohibited Because Greitens seeks to Discover Privileged Attorney-Client Communications.

If not prohibited, the upcoming deposition will violate fundamental policies protecting attorney-client communication. The Missouri Supreme Court “has spoken clearly of the sanctity of the attorney-client privilege.” *State ex rel. Behrendt v. Neill*, 337 S.W.3d 727, 729 (Mo. Ct. App. 2011) (quoting *State ex rel. Peabody Coal Co. v. Clark*, 863 S.W.2d 604, 607 (Mo. banc 1993)). The relevant policy concerns are straightforward and well-established:

The relationship and the continued existence of the giving of legal advice by persons accurately and effectively trained in the law is of greater societal value ... than the admissibility of a given piece of evidence in a particular lawsuit. Contrary to the implied assertions of the evidence authorities, the heavens will not fall if all relevant and competent evidence cannot be admitted.

Id. (quoting *State ex rel. Great American Ins. Co. v. Smith*, 574 S.W.2d 379, 383 (Mo. banc 1978)). Confidentiality is essential if attorney-client relationships are to be fostered and effective. *Great American*, 574 S.W.2d at 383–84.

The scope of the privilege is broad. It attaches to (1) information transmitted by voluntary act of disclosure; (2) between a client and his lawyer; (3) in confidence; and (4) by a means which, so far as a client is aware, discloses the information to no third parties other than those reasonably necessary for the transmission of the information or for the accomplishment of the purpose for which it is to be transmitted. *State v. Longo*, 789 S.W.2d 812, 815 (Mo. Ct. App. 1990).

“The attorney-client privilege is to be construed broadly to encourage its fundamental policy of encouraging uninhibited communication between the client and his attorney.” *Longo*, 789 S.W.2d at 815. The attorney-client privilege “protects the client from a disclosure of *any information which has been derived from the client by the attorney, by reason of his employment, whether by words, acts, or deeds.*” *Weinshenk v. Sullivan*, 100 S.W.2d 66, 70 (Mo. App. 1937).

An attorney-client relationship is established when a prospective client seeks and receives legal advice and assistance from an attorney who intends to provide legal advice and assistance to the prospective client. *Polish Roman Catholic St. Stanislaus Par. v. Hettenbach*, 303 S.W.3d 591, 601 (Mo. Ct. App. 2010). In determining whether the legal advice and assistance of an attorney is sought and received, courts look to the substantive nature of the contacts within the relationship, “regardless of what formal or procedural incidents have occurred.” *Id.* (quoting *McFadden v. State*, 256 S.W.3d 103, 107 (Mo. banc 2008)). Payment for legal services is not a prerequisite to the formation of an attorney-client relationship. *U.S. v. Bailey*, 327 F.3d 1131, 1139 (10th Cir.2003) (“For there to have been an attorney-client relationship, the parties need not have executed a formal contract. Nor is the existence of a relationship dependent upon the payment of fees.”).

Here, Watkins’ conversations with Faughn occurred in the context of an attorney-client relationship. Faughn met with Watkins in early January, 2018, prior to delivering the first payment to Watkins. At that time, they engaged in conversations that established an attorney client relationship. Faughn sought Watkins’ legal advice on matters,

including legal issues relating to the payment of legal fees by third parties. During those conversations, Watkins provided Faughn with legal advice. (*See* A-1, Watkins Affidavit). The parties established an attorney-client relationship, and the sought-after communications are privileged.

During the hearing that followed today's deposition, Respondent Burlison suggested the conversations between Faughn and Watkins are not privileged because they presumably involve discussions between Faughn and another individual. According to Respondent, "it's a non-privileged communication that your client would then try to protect it by turning it into privileged." (A-3, Hearing Transcript at 18-19). But this reasoning is flawed. According to the Missouri Supreme Court:

When a client goes to an attorney...subsequent communications by the attorney to the client should be privileged. **Some of the advice given by the attorney may be based on information obtained from sources other than the client.** Some of what the attorney says will not actually be advice as to a course of conduct to be followed. Part may be analysis of what is known to date of the situation. Part may be a discussion of additional avenues to be pursued. Part may be keeping the client advised of things done or opinions formed to date. All of these communications, not just the advice, are essential elements of attorney-client consultation. All should be protected.

State ex rel. Great Am. Ins. Co. v. Smith, 574 S.W.2d 379, 384–85 (Mo. 1978). It does not matter whether Faughn was relaying information based on his personal knowledge, or information provided to him by someone else—Faughn was communicating with his attorney, and their conversations are entitled to protection.

CONCLUSION

Greitens can pursue the sought-after information sought through other channels, without forcing Watkins and the courts to abandon the attorney-client privilege. Respondent's directive to continue Watkins' deposition forces Watkins to violate bedrock principles of attorney-client communication and professional responsibility, all to enable Greitens' pursuit of irrelevant testimony.

The Greitens defense is entitled to pursue and present information relevant to their theories, but this court must intervene to protect the sanctity of attorney-client privilege from an inquiry that has strayed far from the issues at trial. Pursuing the details of what was said between an attorney and his client, who was delivering funds for the payment of attorneys' fees for a witness who was endorsed solely to authenticate tapes, is more than a fishing expedition—it stretches out of the pond, and into the desert. Even if the information sought were relevant, its confidentiality is held inviolate by the long-standing principle of attorney-client privilege. For the reasons discussed above, the Court should issue its preliminary order prohibiting any requirement that Watkins disclose attorney-client communications between himself and Faughn during the deposition scheduled to resume on Tuesday, May 1 at 1:00 pm.

Respectfully submitted,

STINSON LEONARD STREET LLP

/s/ Charles W. Hatfield

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Attorneys for Relator Albert Watkins

**IN THE MISSOURI COURT OF APPEALS FOR THE EASTERN
DISTRICT OF MISSOURI**

STATE OF MISSOURI ex rel.

Albert Watkins

Relator,

vs.

No. _____

The Honorable Rex Burlison

Respondent.

WRIT SUMMARY

Identity of parties and their attorneys in the underlying action, if any:

Relator was represented by Charles W. Hatfield and John R. Munich of
Stinson Leonard Street, LLP.

Nature of underlying action, if any:

The underlying action is State of Missouri v. Eric Greitens, Cause No.
1822-CR00642. The State of Missouri charged Defendant Greitens with
violation of Section 565.252, RSMO, for invasion of privacy in the first
degree. Relator is counsel for the husband of the victim in the underlying
action.

Action of Respondent being challenged, including date thereof:

Respondent's Order (made orally at a hearing on April 30, 2018)
compelling Watkins' appearance at his continued deposition scheduled for
May 1, 2018 at 1:00 p.m.

Relief sought by Relator or Petitioner:

Respondent seeks an order from the Court prohibiting Respondent from compelling Relator's appearance at the continued deposition presently set for May 1, 2018, at 1:00 p.m.

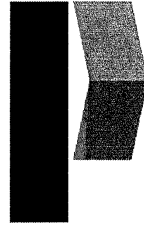
Date case set for trial, if set, and date of any other event bearing upon relief sought (e.g., date of deposition or motion hearing):

Relator's continued deposition is set for May 1, 2018, at 1:00 p.m. Trial in the matter is set to begin May 14, 2018.

Date, court and disposition of any previous or pending writ proceeding concerning the action or related matter:

Related Writ filed April 27, 2018 in the Missouri Court of Appeals, Eastern District, No. ED106651; denied by the Court of Appeals on April 30, 2018.

Related Writ filed April 30, 2018 in the Missouri Supreme Court, No. SC07115, denied by the Supreme Court on April 30, 2018.



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Litigation Services**

Albert Watkins, Volume II

May 1, 2018

CONFIDENTIAL

State of Missouri

vs.

Eric Greitens

MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(ST. LOUIS CITY)

STATE OF MISSOURI,

Plaintiff,

v.

Case No. 1822-CR00642

Division No. 16

ERIC GREITENS,

Defendant.

CONFIDENTIAL
VIDEOTAPED DEPOSITION OF ALBERT WATKINS, ESQ.
TAKEN ON BEHALF OF THE DEFENDANT
MAY 1, 2018

VOLUME II

TRACI M. MERTENS, CSR, RDR, CRR
CSR NO. 084-003234
CCR NO. 857

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15 (Photograph)

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5 STATE OF MISSOURI,
6
7 Plaintiff,
8 v. Case No. 1822-CR00642
9 Division No. 16
10
11 ERIC GREITENS,
12
13 Defendant.
14
15
16
17 VIDEOTAPED DEPOSITION OF ALBERT WATKINS,
18 ESQ., VOLUME II, produced, sworn, and examined on
19 behalf of the Defendant at the Office of the Circuit
20 Attorney, Carnahan Courthouse, 1114 Market Street,
21 Room 401, in the City of St. Louis, State of
22 Missouri, 63101, on May 1, 2018, before Traci M.
23 Mertens, CRR, MO-CCR, IL-CSR.
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A P P E A R A N C E S

The Plaintiff was represented by Messrs. Robert Dierker and Robert Steele of the Circuit Attorney's Office, 1114 Market Street, Room 401, St. Louis, MO 63101.

The Defendant was represented by Messrs. Edward Dowd, Jr., Mr. James Martin, and Mr. Jimmy Martin of the law offices of Dowd Bennett LLP, 7733 Forsyth Boulevard, Suite 1900, St. Louis, MO 63105.

The Witness was represented by Messrs. Charles W. Hatfield and John R. Munich of the law offices of Stinson Leonard Street LLP, 7700 Forsyth Boulevard, Suite 1100, St. Louis, MO 63105 and by Mr. Charles N. Insler of the law offices of HeplerBroom, LLC, One Metropolitan Square, 211 North Broadway, Suite 2700, St. Louis, MO 63102.



From: Scavotto, Andrew J. <andrew.scavotto@stinson.com>

Sent: Tuesday, May 1, 2018 9:48 AM

To: Rex.Burlison@courts.mo.gov; jbenett@dowdbennett.com; edowd@dowdbennett.com;
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Cc: Hatfield, Charles <chuck.hatfield@stinson.com>; Munich, John R. <john.munich@stinson.com>

Subject: SXR Watkins v. Burlison (II)

All,

We just filed the attached motion to submit an amended writ summary (also attached).

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IN THE MISSOURI COURT OF APPEALS FOR THE
EASTERN DISTRICT OF MISSOURI

STATE *ex rel.* ALBERT WATKINS)
)
 Relator,)
)
v.) CASE NO. ED106658
)
HONORABLE REX BURLISON,)
)
 Respondent.)

MOTION FOR LEAVE TO FILE CORRECTED WRIT SUMMARY

Relator Albert Watkins, by and through undersigned counsel, hereby moves this Court for an Order allowing him to file a Corrected Writ Summary. The Writ Summary filed on April 30, 2018, contained minor errors in the “Action of Respondent being challenged” and “Relief Requested” sections. The Action of Respondent being challenged and Relief Requested are correctly set forth in Relator’s Petition for Writ of Prohibition and Suggestions in Support. Relator respectfully requests that he be allowed to file the Corrected Writ Summary attached hereto as Exhibit 1 to correct these minors and accurately state the Action of Respondent being challenged and Relief Requested.

Respectfully submitted,

STINSON LEONARD STREET LLP

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Attorneys for Relator Albert Watkins

CERTIFICATE OF SERVICE

The undersigned certifies that an accurate copy of the foregoing was served via electronic mail upon Respondent and all parties to the underlying action on May 1, 2018 as follows:

Hon. Rex M. Burlison
St. Louis City Circuit Court
22nd Judicial Circuit
Rex.Burlison@courts.mo.gov

Respondent

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Robert Steele
Robert Dierker
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St. Louis, MO 63101
Facsimile: (314) 622-3369
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Attorneys for Defendant Eric R. Greitens

/s/Charles W. Hatfield
Attorney for Relator Albert Watkins

**IN THE MISSOURI COURT OF APPEALS FOR THE EASTERN
DISTRICT OF MISSOURI**

STATE OF MISSOURI ex rel.

Albert Watkins

Relator,

vs.

No. ED106658

The Honorable Rex Burlison

Respondent.

CORRECTED WRIT SUMMARY

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Relator was represented by Charles W. Hatfield and John R. Munich of
Stinson Leonard Street, LLP.

Nature of underlying action, if any:

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1822-CR00642. The State of Missouri charged Defendant Greitens with
violation of Section 565.252, RSMO, for invasion of privacy in the first
degree. Relator is counsel for the husband of the victim in the underlying
action.

Action of Respondent being challenged, including date thereof:

Respondent's Order (made orally at a hearing on April 30, 2018)
compelling Relator to disclose the contents of certain attorney-client
communications at his continued deposition scheduled to resume on May 1,
2018 at 1:00 p.m.

Exhibit 1

Relief sought by Relator or Petitioner:

Relator seeks a preliminary order from the Court prohibiting any requirement that Relator disclose attorney-client communications between himself and his client Scott Faughn during the deposition scheduled to resume on Tuesday, May 1 at 1:00 pm.

Date case set for trial, if set, and date of any other event bearing upon relief sought (e.g., date of deposition or motion hearing):

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From: Scheipeter, Julie C. <julie.scheipeter@stinson.com>

Sent: Tuesday, May 1, 2018 11:33 AM

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Subject: State ex rel (Al) Watkins v. Burlison Writ Papers

Your honor and counsel,

Attached please find writ papers filed with the Missouri Supreme Court moments ago.

Thank you,
Julie

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IN THE SUPREME COURT OF THE STATE OF MISSOURI

| | | |
|-------------------------------------|---|----------------|
| STATE <i>ex rel.</i> ALBERT WATKINS |) | |
| |) | |
| Relator, |) | |
| |) | |
| v. |) | |
| |) | |
| HONORABLE REX BURLISON, |) | |
| |) | |
| Respondent. |) | CASE NO. _____ |
| |) | |

CERTIFICATE OF PROOF OF SERVICE FOR WRIT OF PROHIBITION

The undersigned certifies that a copy of the Petition for Writ of Prohibition, the Writ Summary, and Suggestions in Support of Petition for Writ of Prohibition was served via electronic mail upon Respondent and all parties to the underlying action on May 1, 2018 as follows:

Hon. Rex M. Burlison
St. Louis City Circuit Court
22nd Judicial Circuit
Rex.Burlison@courts.mo.gov

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Further affiant sayeth not.



Name: Albert Watkins

Subscribed and sworn to before me this 30th day of April, 2018.



Notary Public

Commissioned in St. Louis County

My commission expires:

SCOTT T. FILMORE
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
Commission # 15386385
My Commission Expires: 8/21/2019

**IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI
Honorable Rex M. Burlison, Judge**

STATE OF MISSOURI,

Plaintiff,

vs.

ERIC GREITENS,

Defendant.

Cause No. 1822-CR00642

TRANSCRIPT OF MOTION HEARING

April 30, 2018

**JENNIFER A. DUNN, RPR, CCR #485
OFFICIAL COURT REPORTER
CITY OF ST. LOUIS CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT**

A P P E A R A N C E S

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MR. EDWARD DOWD

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FOR THE WITNESS ALBERT WATKINS:

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MR. CHARLES INSLER

Hepler Broom LLC
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1 (The following proceedings were had in open
2 court at 3:10 p.m., on the afternoon of April 30, 2018:)

3 THE COURT: Thank you. Court will be back in
4 session, please be seated.

5 We're back on the record in Cause Number
6 1822-CR00642, State of Missouri versus Eric Greitens. What
7 do we have going on here?

8 MR. MARTIN: Judge, that is the videotape of
9 Mr. Watkins when he was on the courthouse steps a couple of
10 weeks ago. And the interview. We have it synced up to the
11 time frame that you were curious about, which is the -- when
12 he said a courier came and dropped off the money and he
13 didn't know who it was for or whatever.

14 We were setting it up there because we thought we
15 had the microphone system working in the courthouse and it
16 might be if the other attorneys needed to hear what you were
17 seeing.

18 THE COURT: Okay. When we get to it we'll
19 see what can be heard on there. What do we have?

20 MR. MARTIN: So, Judge, we don't have any
21 other attorneys that have shown up, maybe Mr. Hatfield can
22 address that issue.

23 MR. HATFIELD: No.

24 THE COURT: Okay. So for the record, we had
25 a discussion about 2 o'clock here today regarding something

1 that came up in Mr. Watkins' deposition, and there was an
2 issue of whether or not parties and attorneys should be
3 present, and the Court gave everyone about 50 minutes, until
4 3 o'clock, it's 10 after 3:00, to make contact for those
5 parties, or for those people and attorneys that may need to
6 be here.

7 MR. HATFIELD: And, your Honor, I have
8 communicated that message as best I can with the information
9 that I have, and I don't expect anybody to be here. As far
10 as I know no one is here.

11 THE COURT: Okay. So let's put on the record
12 what you need to, Mr. Martin.

13 MR. MARTIN: And, your Honor, I assume I can
14 name names without jeopardy then?

15 THE COURT: Let's set forth first, let's
16 frame the issues.

17 MR. MARTIN: Okay.

18 THE COURT: And then we'll get to that.

19 MR. MARTIN: Okay. Judge, as you know,
20 Mr. Al Watkins is being deposed right now. He's being
21 deposed in significant part because he went on the
22 courthouse steps and announced to the world that he had
23 received two anonymous \$50,000 payments, implying that they
24 were on behalf of at least his client, though he said a
25 multitude of clients, P.S., who he represents in this

1 matter, and presumably other people related to this matter.

2 We have asked him about the delivery of that
3 money. He has indicated that the first 50,000 was delivered
4 by a person he knew by name. He has provided that name.
5 And then said the second one was delivered by courier.

6 We are trying to ascertain from him both the
7 source because he claims that the person that delivered the
8 money was not the actual source of the funds. We are
9 attempting to find out the source of the funds, and as well
10 as what instructions he was given, Mr. Watkins was given
11 that the purpose of the money and what he could or could not
12 do with the money.

13 Judge, it's -- the name that has been given is a
14 highly connected political individual, and it -- I'm
15 trying -- I'll say nothing more until you bless it.

16 THE COURT: Okay. So you're telling --
17 you're saying in deposition that Mr. Watkins said the first
18 50,000 came from this individual that you haven't named that
19 he knew?

20 MR. MARTIN: That's correct.

21 THE COURT: Is that what was said on the
22 courthouse stairs?

23 MR. MARTIN: No. On the courthouse steps he
24 simply says an unnamed courier came by. He did not know --
25 he said he did not know when the package was delivered, what

1 was in it, and he didn't know until he went back to his
2 office and opened it up. He said he didn't know who it was
3 from, whose account it was for, or for what purpose it was
4 supposed to be used.

5 Now, candidly, that is contradicted what he is
6 saying in this deposition about the first 50,000.

7 THE COURT: Okay. So on the -- what you have
8 here I guess on the computer, on the stick drive,
9 Mr. Watkins said unknown courier delivered for an unknown
10 reason.

11 MR. MARTIN: Correct.

12 THE COURT: Was he saying that that was the
13 first or second delivery?

14 MR. MARTIN: He was referring to that as the
15 only delivery. He did not reference a first and a second in
16 that video.

17 THE COURT: So if we assume that the first
18 delivery, what he testified to today was 50,000 cash was
19 delivered by someone that he knew, and I think you told me
20 in chambers that he knows the purpose it was delivered.

21 MR. MARTIN: No. He claims -- he refuses to
22 answer that question.

23 THE COURT: I know. But didn't you ask him
24 did he know, not what he knew.

25 MR. MARTIN: And he hasn't answered that

1 question yet either.

2 THE COURT: Okay. So if we track what was
3 said today in deposition, he knew the person that delivered
4 it, then it would be presumed that the second delivery was
5 known because he knew the first delivery, and so when he
6 says an unknown courier for purpose unknown, it seems to
7 contradict what he's saying today.

8 MR. MARTIN: And in addition, he says it's an
9 unnamed courier and he hasn't supplied the name of the
10 courier.

11 THE COURT: Okay. So it's still unclear
12 which delivery, whether the courier's delivery was first or
13 second?

14 MR. MARTIN: That is correct. Or whether at
15 the time he was claiming both were.

16 THE COURT: Okay. All right.

17 MR. MARTIN: I will say we think the
18 individual that delivered -- that Mr. Watkins has identified
19 is an individual who has put his name in the game and that
20 there is absolutely no reason why his name should be
21 protected. He is not in any way some sort of alleged
22 victim, the delivery of money referred to in the video as an
23 intermediary is not done for the purpose of seeking legal
24 advice, and that, candidly, the name, because of his
25 connections, his political connections, and candidly his

1 actions during the course of the last two months is highly
2 relevant to the credibility of the case overall, and
3 particularly of the witnesses and the ability to believe
4 that the witnesses are not motivated by money.

5 THE COURT: All right. So what we have here
6 is -- what I've got is three items here. Who delivered the
7 funds, what was the source of the funds, and what was the
8 purpose of the funds.

9 MR. MARTIN: Those are where we wanted to
10 start, and we're short on --

11 THE COURT: Mr. Hatfield.

12 MR. HATFIELD: Thank you, your Honor. Just
13 at the risk of reframing a little bit --

14 THE COURT: Okay.

15 MR. HATFIELD: -- what was said. I assume
16 that what the defense is asking you is to compel Mr. Watkins
17 to answer certain questions today. We have -- I have
18 instructed him not to answer certain questions in the
19 deposition. And that's where we are. We objected and we
20 instructed him not to answer.

21 So, your Honor just framed three questions. Who
22 delivered the money. I believe that your Honor ordered
23 Mr. Watkins to answer that question last Friday. He has
24 answered that question.

25 THE COURT: Okay. Are you claiming any

1 privilege over that name?

2 MR. HATFIELD: Over the first name, yes, we
3 are.

4 THE COURT: As to who delivered?

5 MR. HATFIELD: As to who delivered the money,
6 no, sir, no, sir, I misunderstood. He has answered the
7 question who delivered the money by giving the name. We are
8 not claiming that that is privileged. We told them in
9 court.

10 THE COURT: That's the name that you were
11 restraining yourself from saying?

12 MR. MARTIN: Yes.

13 MR. HATFIELD: The issue of whether we say
14 the name, your Honor in chambers instructed me to try to
15 contact. I have sent a message that your Honor delivered
16 about whether to be here. That person is not here, nor is
17 an attorney here on their behalf.

18 So I do think on behalf of Mr. Watkins, because I
19 derivatively have an obligation to his client. I don't see
20 any reason that that name needs to be released right now.
21 It's not important to this motion. The fact that a name has
22 been disclosed is important to this motion, whether the
23 person had attorney-client privilege will be important to
24 this motion. The name is not important to this motion.

25 So the only reason to do it right now is because

1 of who's sitting in the audience. That's the only reason to
2 do it right now.

3 THE COURT: Is that the only reason,
4 Mr. Martin?

5 MR. MARTIN: No, your Honor. There are
6 significant connections that he has that once we explain
7 those to you make clear why there should be more information
8 forthcoming from Al Watkins, and why the deposition should
9 continue in earnest beyond just those three questions.

10 THE COURT: And do we know the name of the
11 courier?

12 MR. HATFIELD: Mr. Watkins believes he knew
13 the name of -- the first name of the courier, which he has
14 said in the deposition. But he did not know the last name
15 of the courier.

16 THE COURT: Okay. I'm going to allow both
17 those names to be announced.

18 MR. HATFIELD: Do you want to do that now?

19 THE COURT: No, I want to take these one step
20 at a time.

21 MR. HATFIELD: Okay, great.

22 MR. MARTIN: Your Honor, the individual that
23 Mr. Watkins has identified as having delivered \$50,000 in
24 cash is Scott Faughn. And Scott Faughn is the owner of a
25 publication, if we can honor it with that name, Missouri

1 Times. Missouri Times has been trashing the governor.

2 THE COURT: Okay. What's the -- what's the
3 courier's first name?

4 MR. MARTIN: According to Mr. Watkins,
5 Skyler.

6 THE COURT: All right. I'm going to go to
7 the second, the source of the funds. That was part of the
8 deposition questioning today.

9 MR. MARTIN: Yes, your Honor.

10 THE COURT: And did anybody write down
11 exactly what the question was, or can you give me an idea?

12 MR. HATFIELD: Your Honor, I don't know if he
13 wrote it down, but it was asked three times. Mr. Watkins
14 has said he does not know the ultimate source of the funds,
15 and that -- I have allowed him to answer that question
16 because --

17 MR. MARTIN: The ultimate source of the funds
18 is different than does he have some hint, was there a
19 description of who the source was, was there any indication
20 as to whether it was from Democrats or Republicans.

21 There's a lot of questions when you ask about the
22 source. All he said is I don't know who the ultimate source
23 is.

24 THE COURT: All right. Ultimate source, can
25 there be sources, more than one ultimate source, or

1 intermediate sources or --

2 MR. HATFIELD: I wasn't meaning to play games
3 with that, Judge, if I did. He has said that he knows Scott
4 Faughn handed him the first money, that a courier brought
5 the second money. He doesn't know beyond that. I don't
6 know if he's asked the question that specifically. He
7 doesn't know beyond that where it came from.

8 If we're still talking source, Judge, I just want
9 to make sure. We were here Friday, the issue was, according
10 to the transcript, and this is your Honor: The identity of
11 the donor of the \$50,000 cash payments is relevant in the
12 Court's balancing and consideration believes that if the
13 source of those are GoFundMe funds as opposed to the source
14 being from a political operative, I think this is very
15 relevant at this stage. We've answered that question.

16 THE COURT: No, you haven't.

17 MR. HATFIELD: He doesn't know what the
18 source was. He knows Mr. Faughn brought the first 50 and
19 Skyler brought the second 50. That's all he knows, and he's
20 answered that in the deposition. If they want to know that,
21 they can go ask Skyler and Mr. Faughn.

22 MR. MARTIN: Judge, we need to ask further
23 questions because the credibility of saying he doesn't know
24 the source is highly suspect, in part, because as the Court
25 knows, he has an ethical obligation to understand whose he

1 getting paid for.

2 MR. HATFIELD: No, he doesn't. No, he
3 doesn't. It happens all the time. Somebody comes in and
4 said I got some money from my friend, I want to pay my legal
5 bill. The attorney doesn't have any obligation.

6 MR. MARTIN: The client didn't come in with
7 this money. An unknown courier came in with some of the
8 money. He put it into an account, and if he doesn't have
9 any clue as to the source of those funds, that's not
10 credible. And we have a right to at least ask a series of
11 questions to test that credibility.

12 MR. HATFIELD: By the way, Judge, since we're
13 talking about what he said on the steps, he's been
14 completely consistent on this every time he's talked. Jim
15 Salter in the AP on April 23rd, said a courier delivered
16 each 50,000 payment, the word "courier" there. This is not
17 in quotes, by the way.

18 THE COURT: Isn't that the first sentence,
19 isn't that not accurate to what your client testified to
20 today?

21 MR. HATFIELD: It's not a quote. But if you
22 think the word "courier" means another person.

23 THE COURT: No. Mr. Hatfield, my problem is
24 reading media accounts that the first sentence you read
25 contradicts what was testified to. Because a courier did

1 not deliver both, did it?

2 MR. HATFIELD: Depends on if you think of Mr.
3 Faughn as a courier, somebody delivering for somebody else.
4 But he said two payments, not one payment, which is where
5 this all started, that they say he said on the steps one
6 payment. He also says it was anonymous, the source was
7 anonymous. That's according to the AP. He's been
8 consistent on that. He doesn't know the ultimate source of
9 this money.

10 Now they want to ask him about the source and the
11 purpose, and as we discussed with your Honor, Mr. Faughn had
12 a client relationship that predates the payment of this
13 first money, and we'd like to make a record on that however
14 your Honor thinks that's appropriate.

15 He had an attorney-client relationship that
16 predates the payment of this money that he sought advice,
17 including advice on how to pay attorneys' fees for someone
18 else, and he sought advice on all of that before he
19 delivered money.

20 He received advice on those issues, and then he
21 delivered money, and he talked about what he was doing and
22 what the purpose was. And that's privileged communication.
23 And that's why we've instructed him not to answer. And we
24 can make a record in whatever form your Honor feels
25 appropriate, either by affidavit or continuing in the

1 deposition, that we shouldn't have to discuss the purpose.

2 We answered who delivered. We answered everything
3 that he knows about the source. But the conversations
4 between him and Mr. Faughn are privileged.

5 MR. MARTIN: Judge, he just described Mr.
6 Faughn as a courier. He said if you look at who delivered
7 the money, he was a courier.

8 MR. HATFIELD: A client courier.

9 MR. DOWD: And an intermediary.

10 MR. HATFIELD: And a client intermediary.

11 MR. MARTIN: Give me a second. A client can
12 seek attorney-client counsel. But a client can also act
13 outside the relationship of the attorney-client
14 relationship, and if he's a courier or an intermediary, he's
15 not acting as the client with Mr. Watkins. And, therefore,
16 what Mr. Watkins was told by the courier, by the
17 intermediary, is not attorney-client privilege.

18 MR. DOWD: We also intend to ask him, Judge,
19 including the questions that Mr. Martin was just describing
20 to you, which clearly are admissible, but what -- where do
21 you believe the source of these funds were. He can say I
22 don't know. I'm sure he has a belief. And I'm sure he
23 knows as well.

24 THE COURT: So when asked about the source of
25 either or both of the 50,000, he said he didn't know,

1 Mr. Watkins said he didn't know.

2 MR. HATFIELD: I believe that's correct.

3 MR. MARTIN: He's been asked that question,
4 what's the source. But we have not been able to probe
5 either his credibility or whether he knew of the
6 intermediaries.

7 The reason Scott Faughn was important to name is
8 because of his position in Missouri. In this Missouri
9 Times. This publication that has been trashing Mr.
10 Greitens, the governor, for months.

11 And Mr. Faughn has direct connections with a group
12 that has been very hurt and upset that their tax credits
13 have been taken away, and so if Mr. Watkins has some
14 indication that that group is behind this push to give money
15 to P.S. and others, then that is highly relevant and it's
16 not privileged.

17 MR. HATFIELD: So, Judge, of course they can
18 ask Mr. Faughn all those questions.

19 THE COURT: Right.

20 MR. HATFIELD: As we've explained before.
21 That's the way to handle this.

22 THE COURT: And they'll be allowed to ask
23 Mr. Watkins about the source of the funds with follow-up
24 questions to be able to test his credibility when he says he
25 doesn't know.

1 MR. HATFIELD: Okay. So on the source, he
2 can -- you're directing him to answer questions about the
3 source of the funds?

4 THE COURT: Well, you said he doesn't know.

5 MR. HATFIELD: He doesn't know.

6 THE COURT: Well, that's his answer. He's
7 already answered that question.

8 MR. HATFIELD: Yes, sir, he's asked and
9 answered that three times.

10 THE COURT: But the defense is able to probe
11 his veracity on that answer.

12 MR. HATFIELD: Okay. And the problem I have
13 is if that probing means that he would have to talk about
14 what Mr. Faughn told him in the source of seeking this
15 advice on how he could make a third-party donation,
16 donation, whatever word you want to use, how he could pay
17 these fees, then we're into the privilege and that's the
18 problem, and that's where I'm instructing him not to answer.

19 So, I mean, they can ask him do you know the
20 purpose, we've done that. I'm sorry, do you know the
21 source, purpose is next. Do you know the source. How do
22 you know -- if he had said, yes, how do you know the source?
23 Mr. Faughn explained it to me. What did Mr. Faughn say?

24 Core privilege, core privilege. And that's where
25 we are. Do you know who the source was? No, I don't know.

1 Now they want to ask him more questions about what Mr.
2 Faughn said. That's what they want to ask him.

3 THE COURT: So the information would
4 originally come from a -- from the original source of the
5 fund, that information is delivered to Mr. Faughn.

6 MR. HATFIELD: I don't know the answer to
7 that question, Judge.

8 THE COURT: Well, Mr. Faughn you would assume
9 got that -- whatever information from this original donor.

10 MR. HATFIELD: Hypothetically, yeah, I don't
11 know. I don't know what Mr. Faughn might say about that.

12 THE COURT: Well, but whatever information
13 Mr. Faughn would have received from the original donor of
14 that money, that's not -- you're not claiming that
15 information be privileged, are you?

16 MR. HATFIELD: I don't know what Mr. Faughn's
17 relationship was with that donor. But I know that Mr.
18 Faughn had a relationship with Mr. Watkins that was
19 privileged. So if Mr. Watkins is there, I think I'm
20 following your Honor, as an agent for somebody else.

21 THE COURT: No. What I'm saying is it seems
22 that you're asserting that the -- that you can make
23 privileged a non-privileged communication. Because the
24 communication from the original source to Mr. Faughn doesn't
25 seem to be a privileged communication.

1 The fact that a client of Mr. Watkins delivers
2 that non-privileged communication, I don't see that it turns
3 it into attorney-client privilege.

4 MR. HATFIELD: I think I'm following your
5 Honor's hypothetical. So a client's sitting in front of me,
6 he's accused of robbing a bank, and the client says to me, I
7 robbed a bank because my boss Joe told me to rob the bank.
8 The communication from my client to me, my boss Joe told me
9 to rob the bank, it's privileged communication.

10 THE COURT: Sure it is, because it attaches
11 for a particular purpose, but if your client's sitting in
12 front of you having not robbed a bank and says, hey, this
13 original donor gave me this money to give to you and he said
14 keep my name out of it, that's not privileged.

15 MR. HATFIELD: Well, I mean, your Honor, I
16 think it is.

17 THE COURT: No, it's a non-privileged
18 communication that your client would then try to protect it
19 by turning it into privileged. The privilege attaches on
20 the original, the original announcement of the information.
21 Originally it was announced by an original donor, which I
22 didn't hear was a lawyer, to Mr. Faughn, who I haven't
23 heard's a lawyer.

24 MR. HATFIELD: I don't think Mr. Faughn is a
25 lawyer. I'm not asserting that he is.

1 THE COURT: So I just -- tell me how you can
2 turn non-privileged communication into privilege.

3 MR. HATFIELD: Well, I can't do that, Judge.
4 But Mr. Faughn is asking for privileged advice on how to
5 fund this -- I want to -- I want to give money that is --

6 THE COURT: I've got a friend who wants to
7 give money.

8 MR. HATFIELD: Okay. I don't know what he
9 said exactly. But I want to hand you money that's going to
10 go wherever. And I want legal advice on whether I can do
11 that and how I would do that.

12 THE COURT: Yeah.

13 MR. HATFIELD: And then in the course of
14 providing that legal advice, he and Mr. Watkins, if they
15 talked about what the source was, or gave him any hints on
16 what the source was, they're doing that for legal advice.

17 So, for example, if Mr. Faughn had said I want to
18 provide some money to -- and I'm pretty sure he didn't say
19 what I'm going to say, just for everybody, I want to provide
20 some money to you and it's from a drug cartel in Mexico.
21 Can I do that? I'm assuming the attorney would advise no,
22 you can't do that. We can't engage in that.

23 THE COURT: But Mr. Watkins didn't,
24 Mr. Watkins took the money.

25 MR. HATFIELD: Mr. Watkins took the money

1 after whatever conversation they had. So if they had a
2 conversation around this money where he didn't tell him what
3 the source was, but he told him some things about where it
4 was coming from whatever, in order to get legal advice,
5 privileged.

6 THE COURT: And when did the privilege
7 attach, the first delivery?

8 MR. HATFIELD: No, the privilege attached
9 before the money was ever brought in. There were
10 conversations days before the money where Mr. Faughn had
11 approached, and it may have been longer than that, we'll
12 have to see what the testimony is, but it was not the same
13 day.

14 There was a conversation before the money where
15 the attorney-client privilege relationship was established,
16 client relationship was established. Then later the money
17 was delivered.

18 THE COURT: Okay.

19 MR. MARTIN: Well, number one, that story
20 would be completely different than what he said on the
21 courthouse steps. Because then he would have known exactly
22 when that money was delivered, who it was coming from, and
23 what the purpose of it was for.

24 Number two. I think the Court's point is directly
25 on in that no matter what legal advice he was soliciting, he

1 still, in the course of that, was also sharing information
2 he had learned from somebody else. And that portion isn't
3 privileged.

4 It might be privileged that he sought the advice
5 of can I do that, which they may have just waived right
6 there, but I got money from X and X wants you to use it for
7 this amount, and I'm giving you X's money, that isn't part
8 of the question of can I get legal advice from you. That's
9 here. I have been asked to give you this money, and I'm
10 giving it to you.

11 MR. HATFIELD: Judge, the same issue will
12 come up with purpose, and that was the third one on your
13 list. But it's the same issue. Right? If they want to
14 know what the purpose of the funds was, Mr. Faughn gave it,
15 they want to ask about conversations that were had. Skyler
16 didn't say anything, so Skyler's off the table. But there
17 were conversations between Mr. Faughn and Mr. Watkins, and
18 those are the ones that we don't think -- and I think we're
19 pretty far away here.

20 We talked about this last Friday, but we're pretty
21 far away from the elements of this crime. We're now into
22 the conversations that an attorney for a witness who has
23 been endorsed solely for the purpose of authenticating an
24 audiotape, whether that attorney had conversations with
25 another client about some money. They can go get all this

1 from Mr. Faughn, if they can find Skyler, they can talk to
2 Skyler. That's the way this ought to be handled, and then
3 we don't have any of these privileged problems.

4 But privilege is a pretty important concept, even
5 if your Honor has concerns about how all this went down,
6 privilege is still a pretty darn important concept.

7 MR. MARTIN: What he just said was if we ask
8 Mr. Faughn it would be all right. So if we ask Mr. Faughn
9 then what he told Al is also all right.

10 MR. HATFIELD: He can waive the privilege,
11 Mr. Watkins can't.

12 MR. MARTIN: It's not a privilege.

13 MR. HATFIELD: It's his choice, not
14 Mr. Watkins' choice.

15 THE COURT: Mr. Hatfield, I think the
16 information -- if it was delivered from Mr. Faughn, that I
17 have some money from a third party that I'm giving to you
18 and here's the purpose, I don't believe that that's
19 privileged. I'm not going to find it privileged, and you're
20 going to have to find a judge on a higher court to find that
21 privilege.

22 I think that -- I think that that scenario where
23 someone comes to a lawyer and says I have Mr. X's money, or
24 Mrs. X's money, I'm delivering it to you for this particular
25 purpose, I don't believe that is privileged. And as such, I

1 believe that the witness, Mr. Watkins, has to answer that,
2 and I believe it's going to have to be a higher court to say
3 that he doesn't.

4 MR. HATFIELD: Would your Honor allow us to
5 continue the rest of the deposition by written examination
6 rather than by oral testimony so we can take these questions
7 one at the time? Otherwise I'm afraid we're going to be
8 right back down here.

9 MR. MARTIN: Judge, with all due respect to
10 Al Watkins, he is a slippery fellow. Written questions is
11 not going to be able to pin him down.

12 THE COURT: We'll be right back on written
13 questions. Mr. Hatfield, what I can offer is some time to
14 get a writ.

15 MR. HATFIELD: Yes, sir, I appreciate that.
16 We'll file a writ as quickly as we can.

17 THE COURT: Because it is a critical issue,
18 but I just feel that a higher court's going to be the one
19 that's going to say that the source of those funds is
20 protected.

21 MR. HATFIELD: I understand. We would
22 appreciate some time to get a writ, your Honor, as we did on
23 Friday. I will file one as soon as we can. It's now 4:40.

24 THE COURT: What kind of accommodations are
25 you prepared to offer?

1 MR. MARTIN: Well, I guess if we put it to
2 tomorrow afternoon. They moved very quickly on the first
3 set of writs, so if we put it --

4 THE COURT: 1 p.m. tomorrow.

5 MR. HATFIELD: Is today Tuesday? Yeah.

6 MR. MARTIN: Is that doable?

7 MR. HATFIELD: I'm on another deposition, but
8 we'll discuss that on our side and figure that out.

9 THE COURT: I think that's the proper way to
10 handle it. Let's give you until 1 o'clock tomorrow. Seek
11 your writs, and we'll see what the higher courts say.

12 MR. DOWD: Thank you, your Honor.

13 THE COURT: Anything further today?

14 MR. HATFIELD: No. Thank you, Judge.

15 THE COURT: Court will be adjourned.

16 (The hearing was concluded.)
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CERTIFICATE

1
2 I, Jennifer A. Dunn, Registered Professional
3 Reporter and Certified Court Reporter, do hereby certify
4 that I am an official court reporter for the Circuit Court
5 of the City of St. Louis; that on April 30, 2018, I was
6 present and reported all the proceedings had in the case of
7 STATE OF MISSOURI, Plaintiff, vs. ERIC GREITENS, Defendant,
8 Cause No. 1822-CR00642.

9 I further certify that the foregoing pages
10 contain a true and accurate reproduction of the proceedings.
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16 **"/s/JENNIFER A. DUNN, RPR, CCR #485"**
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| <p>MR. DOWD: [3] 15/8 15/17 25/11 MR. HATFIELD: [46] MR. MARTIN: [32] THE COURT: [58]</p> | <p>accurate [2] 13/19 26/10 accused [1] 19/6 act [1] 15/12 acting [1] 15/15 actions [1] 8/1 actual [1] 5/8 addition [1] 7/8 address [1] 3/22 adjourned [1] 25/15 admissible [1] 15/20 advice [14] 7/24 14/16 14/17 14/18 14/20 17/15 20/4 20/10 20/14 20/16 21/4 21/25 22/4 22/8</p> | <p>are [16] 5/6 5/8 8/4 8/9 8/19 8/25 9/3 9/7 10/5 12/13 15/4 15/20 17/25 18/15 22/18 24/24 around [1] 21/2 as [28] ascertain [1] 5/6 ask [15] 6/23 11/21 12/21 12/22 13/10 14/10 15/18 16/18 16/22 17/19 18/1 18/2 22/15 23/7 23/8 asked [7] 5/2 11/13 12/6 15/24 16/3 17/8 22/9</p> | <p>24/1 24/2 believes [2] 10/12 12/12 Bennett [1] 2/5 best [1] 4/8 between [2] 15/4 22/17 beyond [3] 10/9 12/5 12/7 bill [1] 13/5 bit [1] 8/13 bless [1] 5/15 Blvd [2] 2/5 2/10 boss [2] 19/7 19/8 both [5] 5/6 7/15 10/16 14/1 15/25 Broadway [1] 2/9 Broom [1] 2/9 brought [4] 12/4 12/18 12/19 21/9 Burlison [1] 1/2</p> | <p>19/18 20/2 compel [1] 8/16 completely [2] 13/14 21/20 computer [1] 6/8 concept [2] 23/4 23/6 concerns [1] 23/5 concluded [1] 25/16 connected [1] 5/14 connections [4] 7/25 7/25 10/6 16/11 consideration [1] 12/12 consistent [2] 13/14 14/8 contact [2] 4/4 9/15 contain [1] 26/10 continue [2] 10/9 24/5 continuing [1] 14/25 contradict [1] 7/7 contradicted [1] 6/5 contradicts [1] 13/25 conversation [3] 21/1 21/2 21/14 conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1</p> |
| <p>\$ \$50,000 [3] 4/23 10/23 12/11</p> | <p>addition [1] 7/8 address [1] 3/22 adjourned [1] 25/15 admissible [1] 15/20 advice [14] 7/24 14/16 14/17 14/18 14/20 17/15 20/4 20/10 20/14 20/16 21/4 21/25 22/4 22/8</p> | <p>asking [2] 8/16 20/4 asserting [2] 18/22 19/25 assume [4] 4/13 6/17 8/15 18/8 assuming [1] 20/21 attach [1] 21/7 attached [1] 21/8 attaches [2] 19/10 19/19 attempting [1] 5/9 attorney [12] 9/17 9/23 13/5 14/15 15/12 15/13 15/17 19/3 20/21 21/15 22/22 22/24 attorney-client [7] 9/23 14/15 15/12 15/13 15/17 19/3 21/15 attorneys [4] 3/16 3/21 4/2 4/5 attorneys' [1] 14/17 audience [1] 10/1 audiotape [1] 22/24 authenticating [1] 22/23 away [3] 16/13 22/19 22/21</p> | <p>came [6] 3/12 4/1 5/18 5/24 12/7 13/7 can [29] can't [4] 20/3 20/22 20/22 23/11 candidly [3] 6/5 7/24 7/25 cartel [1] 20/20 case [2] 8/2 26/6 cash [3] 6/18 10/24 12/11 Cause [3] 1/6 3/5 26/8 CCR [2] 1/23 26/16 certain [2] 8/17 8/18 CERTIFICATE [1] 26/1 Certified [1] 26/3 certify [2] 26/3 26/9 chambers [2] 6/20 9/14 CHARLES [2] 2/8 2/8 choice [2] 23/13 23/14 CIRCUIT [4] 1/1 1/24 1/25 26/4 CITY [3] 1/1 1/24 26/5 claiming [4] 7/15 8/25 9/8 18/14 claims [2] 5/7 6/21 clear [1] 10/7 clearly [1] 15/20 client [23] 4/24 9/19 9/23 13/6 13/19 14/12 14/15 15/8 15/10 15/11 15/12 15/12 15/13 15/15 15/17 19/1 19/3 19/6 19/8 19/18 21/15 21/16 22/25 client's [2] 19/5 19/11 clients [1] 4/25 clue [1] 13/9 come [3] 13/6 18/4 22/12 comes [2] 13/3 23/23 coming [2] 21/4 21/22 communicated [1] 4/8 communication [9] 14/22 18/23 18/24 18/25 19/2 19/8 19/9</p> | <p>conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>/ /s/JENNIFER [1] 26/16</p> | <p>advise [1] 20/21 affidavit [1] 14/25 afraid [1] 24/7 after [2] 4/4 21/1 afternoon [2] 3/2 25/2 agent [1] 18/20 ago [1] 3/10 AI [4] 4/20 10/8 23/9 24/10 ALBERT [1] 2/7 all [16] 7/16 8/5 11/6 11/22 11/24 12/19 13/3 14/5 14/18 16/18 22/25 23/5 23/8 23/9 24/9 26/6 alleged [1] 7/21 allow [2] 10/16 24/4 allowed [2] 11/15 16/22 already [1] 17/7 also [5] 14/6 15/12 15/18 22/1 23/9 am [1] 26/4 amount [1] 22/7 announced [3] 4/22 10/17 19/21 announcement [1] 19/20 anonymous [3] 4/23 14/6 14/7 another [3] 13/22 22/25 25/7 answer [13] 6/22 8/17 8/18 8/20 8/23 11/15 14/23 17/2 17/6 17/11 17/18 18/6 24/1 answered [9] 6/25 8/24 9/6 12/15 12/20 15/2 15/2 17/7 17/9 any [9] 3/20 7/21 8/25 9/20 11/19 13/5 13/9 20/15 23/3 anybody [2] 4/9 11/10 anything [2] 22/16 25/13 AP [2] 13/15 14/7 appreciate [2] 24/15 24/22 approached [1] 21/11 appropriate [2] 14/14 14/25 April [4] 1/13 3/2 13/15 26/5</p> | <p>are [16] 5/6 5/8 8/4 8/9 8/19 8/25 9/3 9/7 10/5 12/13 15/4 15/20 17/25 18/15 22/18 24/24 around [1] 21/2 as [28] ascertain [1] 5/6 ask [15] 6/23 11/21 12/21 12/22 13/10 14/10 15/18 16/18 16/22 17/19 18/1 18/2 22/15 23/7 23/8 asked [7] 5/2 11/13 12/6 15/24 16/3 17/8 22/9 asking [2] 8/16 20/4 asserting [2] 18/22 19/25 assume [4] 4/13 6/17 8/15 18/8 assuming [1] 20/21 attach [1] 21/7 attached [1] 21/8 attaches [2] 19/10 19/19 attempting [1] 5/9 attorney [12] 9/17 9/23 13/5 14/15 15/12 15/13 15/17 19/3 20/21 21/15 22/22 22/24 attorney-client [7] 9/23 14/15 15/12 15/13 15/17 19/3 21/15 attorneys [4] 3/16 3/21 4/2 4/5 attorneys' [1] 14/17 audience [1] 10/1 audiotape [1] 22/24 authenticating [1] 22/23 away [3] 16/13 22/19 22/21</p> | <p>C came [6] 3/12 4/1 5/18 5/24 12/7 13/7 can [29] can't [4] 20/3 20/22 20/22 23/11 candidly [3] 6/5 7/24 7/25 cartel [1] 20/20 case [2] 8/2 26/6 cash [3] 6/18 10/24 12/11 Cause [3] 1/6 3/5 26/8 CCR [2] 1/23 26/16 certain [2] 8/17 8/18 CERTIFICATE [1] 26/1 Certified [1] 26/3 certify [2] 26/3 26/9 chambers [2] 6/20 9/14 CHARLES [2] 2/8 2/8 choice [2] 23/13 23/14 CIRCUIT [4] 1/1 1/24 1/25 26/4 CITY [3] 1/1 1/24 26/5 claiming [4] 7/15 8/25 9/8 18/14 claims [2] 5/7 6/21 clear [1] 10/7 clearly [1] 15/20 client [23] 4/24 9/19 9/23 13/6 13/19 14/12 14/15 15/8 15/10 15/11 15/12 15/12 15/13 15/15 15/17 19/1 19/3 19/6 19/8 19/18 21/15 21/16 22/25 client's [2] 19/5 19/11 clients [1] 4/25 clue [1] 13/9 come [3] 13/6 18/4 22/12 comes [2] 13/3 23/23 coming [2] 21/4 21/22 communicated [1] 4/8 communication [9] 14/22 18/23 18/24 18/25 19/2 19/8 19/9</p> | <p>conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>1 1 o'clock [1] 25/10 1 p.m [1] 25/4 10 [1] 4/4 1100 [1] 2/10 1822-CR00642 [3] 1/6 3/6 26/8 1900 [1] 2/5</p> | <p>2 2 o'clock [1] 3/25 2018 [3] 1/13 3/2 26/5 211 [1] 2/9 23rd [1] 13/15</p> | <p>B back [5] 3/3 3/5 6/1 24/8 24/12 balancing [1] 12/12 bank [5] 19/6 19/7 19/7 19/9 19/12 be [30] because [17] 3/14 4/21 5/7 7/5 7/24 9/18 9/25 11/16 12/23 12/24 13/25 16/8 18/23 19/7 19/10 21/21 24/17 been [13] 5/13 9/22 11/1 13/13 14/7 16/3 16/4 16/9 16/12 16/13 21/11 22/9 22/23 before [5] 14/18 16/20 21/9 21/10 21/14 behalf [3] 4/24 9/17 9/18 behind [1] 16/14 being [3] 4/20 4/20 12/14 belief [1] 15/22 believe [8] 8/3 8/22 15/21 16/2 23/18 23/25</p> | <p>can [29] can't [4] 20/3 20/22 20/22 23/11 candidly [3] 6/5 7/24 7/25 cartel [1] 20/20 case [2] 8/2 26/6 cash [3] 6/18 10/24 12/11 Cause [3] 1/6 3/5 26/8 CCR [2] 1/23 26/16 certain [2] 8/17 8/18 CERTIFICATE [1] 26/1 Certified [1] 26/3 certify [2] 26/3 26/9 chambers [2] 6/20 9/14 CHARLES [2] 2/8 2/8 choice [2] 23/13 23/14 CIRCUIT [4] 1/1 1/24 1/25 26/4 CITY [3] 1/1 1/24 26/5 claiming [4] 7/15 8/25 9/8 18/14 claims [2] 5/7 6/21 clear [1] 10/7 clearly [1] 15/20 client [23] 4/24 9/19 9/23 13/6 13/19 14/12 14/15 15/8 15/10 15/11 15/12 15/12 15/13 15/15 15/17 19/1 19/3 19/6 19/8 19/18 21/15 21/16 22/25 client's [2] 19/5 19/11 clients [1] 4/25 clue [1] 13/9 come [3] 13/6 18/4 22/12 comes [2] 13/3 23/23 coming [2] 21/4 21/22 communicated [1] 4/8 communication [9] 14/22 18/23 18/24 18/25 19/2 19/8 19/9</p> | <p>conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>2 2 o'clock [1] 3/25 2018 [3] 1/13 3/2 26/5 211 [1] 2/9 23rd [1] 13/15</p> | <p>3 3 o'clock [1] 4/4 30 [3] 1/13 3/2 26/5 3:00 [1] 4/4 3:10 [1] 3/2</p> | <p>back [5] 3/3 3/5 6/1 24/8 24/12 balancing [1] 12/12 bank [5] 19/6 19/7 19/7 19/9 19/12 be [30] because [17] 3/14 4/21 5/7 7/5 7/24 9/18 9/25 11/16 12/23 12/24 13/25 16/8 18/23 19/7 19/10 21/21 24/17 been [13] 5/13 9/22 11/1 13/13 14/7 16/3 16/4 16/9 16/12 16/13 21/11 22/9 22/23 before [5] 14/18 16/20 21/9 21/10 21/14 behalf [3] 4/24 9/17 9/18 behind [1] 16/14 being [3] 4/20 4/20 12/14 belief [1] 15/22 believe [8] 8/3 8/22 15/21 16/2 23/18 23/25</p> | <p>C came [6] 3/12 4/1 5/18 5/24 12/7 13/7 can [29] can't [4] 20/3 20/22 20/22 23/11 candidly [3] 6/5 7/24 7/25 cartel [1] 20/20 case [2] 8/2 26/6 cash [3] 6/18 10/24 12/11 Cause [3] 1/6 3/5 26/8 CCR [2] 1/23 26/16 certain [2] 8/17 8/18 CERTIFICATE [1] 26/1 Certified [1] 26/3 certify [2] 26/3 26/9 chambers [2] 6/20 9/14 CHARLES [2] 2/8 2/8 choice [2] 23/13 23/14 CIRCUIT [4] 1/1 1/24 1/25 26/4 CITY [3] 1/1 1/24 26/5 claiming [4] 7/15 8/25 9/8 18/14 claims [2] 5/7 6/21 clear [1] 10/7 clearly [1] 15/20 client [23] 4/24 9/19 9/23 13/6 13/19 14/12 14/15 15/8 15/10 15/11 15/12 15/12 15/13 15/15 15/17 19/1 19/3 19/6 19/8 19/18 21/15 21/16 22/25 client's [2] 19/5 19/11 clients [1] 4/25 clue [1] 13/9 come [3] 13/6 18/4 22/12 comes [2] 13/3 23/23 coming [2] 21/4 21/22 communicated [1] 4/8 communication [9] 14/22 18/23 18/24 18/25 19/2 19/8 19/9</p> | <p>conversations [6] 15/3 21/10 22/15 22/17 22/22 22/24 core [2] 17/24 17/24 correct [4] 5/20 6/11 7/14 16/2 could [4] 5/11 5/11 17/15 17/16 counsel [1] 15/12 couple [1] 3/9 courier [22] 3/12 5/5 5/24 6/9 7/6 7/9 7/10 10/11 10/13 10/15 12/4 13/7 13/15 13/16 13/22 13/25 14/3 15/6 15/7 15/8 15/14 15/16 courier's [2] 7/12 11/3 course [4] 8/1 16/17 20/13 22/1 court [14] 1/1 1/24 1/24 3/2 3/3 4/3 9/9 12/24 23/20 24/2 25/15 26/3 26/4 26/4 court's [3] 12/12 21/24 24/18 courthouse [6] 3/9 3/15 4/22 5/22 5/23 21/21 courts [1] 25/11 CR00642 [3] 1/6 3/6 26/8 credibility [5] 8/2 12/23 13/11 16/5 16/24 credible [1] 13/10 credits [1] 16/12 crime [1] 22/21 critical [1] 24/17 curious [1] 3/11</p> |
| <p>3 3 o'clock [1] 4/4 30 [3] 1/13 3/2 26/5 3:00 [1] 4/4 3:10 [1] 3/2</p> | <p>4 485 [2] 1/23 26/16 4:40 [1] 24/23</p> | <p>back [5] 3/3 3/5 6/1 24/8 24/12 balancing [1] 12/12 bank [5] 19/6 19/7 19/7 19/9 19/12 be [30] because [17] 3/14 4/21 5/7 7/5 7/24 9/18 9/25 11/16 12/23 12/24 13/25 16/8 18/23 19/7</p> | | |

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| <p>D</p> <p>defense [2] 8/16 17/10 deliver [1] 14/1 delivered [25] 5/3 5/5 5/7 5/25 6/9 6/19 6/20 7/3 7/18 8/6 8/22 9/4 9/5 9/7 9/15 10/23 13/15 14/19 14/21 15/2 15/6 18/5 21/17 21/22 23/16 delivering [2] 14/3 23/24 delivers [1] 19/1 delivery [10] 5/2 6/13 6/15 6/18 7/4 7/5 7/12 7/12 7/22 21/7 Democrats [1] 11/20 Depends [1] 14/2 deposed [2] 4/20 4/21 deposition [12] 4/1 5/17 6/6 7/3 8/19 10/8 10/14 11/8 12/20 15/1 24/5 25/7 derivatively [1] 9/19 described [1] 15/5 describing [1] 15/19 description [1] 11/19 did [12] 5/24 5/25 6/15 6/24 10/14 11/10 12/3 13/25 14/1 17/23 21/6 24/22 didn't [12] 3/13 6/1 6/2 6/23 13/6 15/25 16/1 19/22 20/18 20/23 21/2 22/16 different [2] 11/18 21/20 direct [1] 16/11 directing [1] 17/2 directly [1] 21/24 disclosed [1] 9/22 discuss [2] 15/1 25/8 discussed [1] 14/11 discussion [1] 3/25 do [23] 3/7 3/19 5/12 9/18 9/25 10/2 10/10 10/18 10/18 15/20 17/19 17/20 17/21 17/21 17/22 17/25 20/3 20/10 20/11 20/21 20/22 22/5 26/3 doable [1] 25/6 does [2] 11/14 11/18 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| <p>S</p> <p>Skyler [6] 11/5 12/19 12/21 22/15 23/1 23/2</p> <p>Skyler's [1] 22/16</p> <p>slippery [1] 24/10</p> <p>so [28]</p> <p>solely [1] 22/23</p> <p>soliciting [1] 21/25</p> <p>some [12] 7/21 11/18 13/4 13/7 16/13 20/18 20/20 21/3 22/25 23/17 24/13 24/22</p> <p>somebody [5] 13/3 14/3 14/3 18/20 22/2</p> <p>someone [3] 6/19 14/17 23/23</p> <p>something [1] 3/25</p> <p>soon [1] 24/23</p> <p>sorry [1] 17/20</p> <p>sort [1] 7/21</p> <p>sought [3] 14/16 14/18 22/4</p> <p>source [39]</p> <p>sources [2] 11/25 12/1</p> <p>specifically [1] 12/6</p> <p>ST [6] 1/1 1/24 2/6 2/10 2/10 26/5</p> <p>stage [1] 12/15</p> <p>stairs [1] 5/22</p> <p>start [1] 8/10</p> <p>started [1] 14/5</p> <p>STATE [4] 1/1 1/4 3/6 26/7</p> <p>step [1] 10/19</p> <p>steps [6] 3/9 4/22 5/23 13/13 14/5 21/21</p> <p>stick [1] 6/8</p> <p>still [4] 7/11 12/8 22/1 23/6</p> <p>Stinson [1] 2/9</p> <p>story [1] 21/19</p> <p>Street [1] 2/9</p> <p>such [1] 23/25</p> <p>Suite [1] 2/10</p> <p>supplied [1] 7/9</p> <p>supposed [1] 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| A32 | | | | | | | | | |

For these reasons, the Court should issue its preliminary order prohibiting any requirement that Watkins disclose attorney-client communications between himself and Faughn during the deposition scheduled to resume on Tuesday, May 1 at 1:00 pm.

FACTUAL AND PROCEDURAL BACKGROUND

1. The charges against Greitens arise from his alleged photographing of a woman referred to as K.S. Watkins serves as the attorney for P.S., the ex-husband of K.S. The charges were filed in late February, 2018.

2. In early January, 2018, over a month prior to the Greitens indictment, Watkins met with Faughn. Specifically, Watkins and Faughn engaged in conversations that established an attorney client relationship. Faughn sought Watkins' legal advice on matters, including legal issues relating to the payment of legal fees by third parties – *i.e.*, one individual paying the legal fees of another. During those conversations, Watkins provided Faughn with legal advice. (A-1, Affidavit of Albert Watkins).

3. Several days later, Watkins received two payments, each in the amount of fifty-thousand dollars (\$50,000.00). The first payment was delivered to Watkins by Faughn. The second payment arrived the next day, and was delivered by a person Watkins believed to be a courier. (A-1). Watkins testified to these facts in the first part of the deposition.

4. During Watkins' conversations with Faughn, they discussed the purpose of the payments and why the money was being delivered, in connection with the advice Watkins provided to Faughn. (A-1). Watkins' understanding is the payments were

delivered to him in connection with his representation of P.S., which he has stated publicly.

5. Watkins has publicly stated the funds were available for P.S.'s attorneys' fees. Over a month after these funds were provided, Greitens was indicted.

6. Pursuant to a subpoena issued by Greitens, Watkins appeared at a deposition on April 30, 2018, after Respondent denied Watkins' Motion to Quash and Watkins' requests for relief in the appellate courts were denied.

7. Watkins testified regarding the issues set forth above, including that Faughn made the first payment. Watkins also testified he does not know whose money was delivered. Watkins refused to answer questions about information conveyed to him by his client, Faughn.

8. Now, Respondent has ordered Watkins to testify regarding details of the conversations he had with his client, Faughn. Watkins' continued deposition is scheduled for 1:00 pm on Tuesday, May 1. (A-3, Hearing Transcript).

9. This morning, the Missouri Court of Appeals denied Watkins' Petition for a Writ of Prohibition. (ED106658).

THE RELIEF SOUGHT

10. Watkins seeks a Writ of Prohibition prohibiting Respondent from compelling Watkins' to disclose conversations Watkins had with his client, Faughn, during Watkins' continued deposition set for May 1, 2018, at 1:00 p.m, along with any other relief the Court deems appropriate.

WHY THE WRIT SHOULD ISSUE

11. A writ of prohibition is an appropriate remedy when a subpoena has issued in a circuit court proceeding requesting material that is protected from discovery. *State ex rel. Boone Ret. Ctr., Inc. v. Hamilton*, 946 S.W.2d 740, 741 (Mo. banc 1997). “This is because the damage to the party against whom discovery is sought is both severe and irreparable if the privileged material is produced and this damage cannot be repaired on appeal.” *Id.* (internal quotes omitted).

12. “Prohibition has long been available to prevent a trial court from abusing its discretion by ordering discovery of privileged matters or of work product.” *St. Louis Little Rock Hosp., Inc. v. Gaertner*, 682 S.W.2d 146, 148 (Mo. App. E.D. 1984) (citing *State ex rel. Gonzenbach v. Eberwein*, 655 S.W.2d 794, 795 (Mo. App. E.D. 1983)).

13. If not prohibited, the proceedings below will violate fundamental policies protecting attorney-client communication.

14. An attorney-client relationship is established when a prospective client seeks and receives legal advice and assistance from an attorney who intends to provide legal advice and assistance to the prospective client. *Polish Roman Catholic St. Stanislaus Par. v. Hettenbach*, 303 S.W.3d 591, 601 (Mo. Ct. App. 2010). In determining whether the legal advice and assistance of an attorney is sought and received, courts look to the substantive nature of the contacts within the relationship, “regardless of what formal or procedural incidents have occurred.” *Id.* (quoting *McFadden v. State*, 256 S.W.3d 103, 107 (Mo. banc 2008)).

15. The attorney-client privilege is to be construed broadly to encourage its fundamental policy of encouraging uninhibited communication between the client and his attorney.” *Id.* The attorney-client privilege “protects the client from a disclosure of *any information which has been derived from the client by the attorney, by reason of his employment, whether by words, acts, or deeds.*” *Weinshenk v. Sullivan*, 100 S.W.2d 66, 70 (Mo. App. 1937).

16. Watkins’ conversations with Faughn occurred in the context of an attorney-client relationship. Faughn met with Watkins in early January, 2018, prior to delivering the first payment to Watkins. At that time, they engaged in conversations that established an attorney-client relationship. Faughn sought Watkins’ legal advice on matters, including legal issues relating to the payment of legal fees by third parties – *i.e.*, one individual paying the legal fees of another. During those conversations, Watkins provided Faughn with legal advice. (*See* A-1, Watkins Affidavit).

17. Requiring Watkins to testify regarding details of the conversations he had with Faughn will force Watkins to violate bedrock principles of attorney-client communication and professional responsibility.

18. Moreover, Greitens has no substantial need for this privileged testimony as the information sought can be obtained from other sources, without the need to compel Watkins to violate the attorney-client privilege. Specifically, Greitens may attempt to obtain information from Faughn, who may have information that was not given for the purpose of receiving legal advice. Faughn might also simply choose to waive the

privilege and discuss his full conversations with Watkins. It is Faughn's decision whether to waive privilege, not Watkins and not the Courts.

WHEREFORE, Relator Albert Watkins pray that this Court issue a preliminary order prohibiting any required disclosure by Watkins of conversations between Watkins and his client during the continued deposition scheduled for Tuesday, May 1 at 1:00 pm along with any additional relief the Court deems appropriate under the circumstances.

Respectfully submitted,

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deliveries, Faughn had met with Watkins, and they engaged in conversations establishing an attorney-client relationship. Specifically, Faughn sought legal advice on matters including the payment of legal fees by a third-party, and Watkins provided legal advice to Faughn. During their conversations, and in connection with the advice provided by Watkins, they discussed the purpose of the payments and why the money was being delivered.

Unsatisfied with knowing who delivered the payments, Greitens now intends to fish even deeper. Shortly after Watkins' deposition started, Watkins refused to reveal any conversations he had with Faughn. Respondent allowed a break in the deposition, but ordered it continue on Tuesday, May 1 at 1:00 pm. Specifically, Respondent ordered Watkins to answer questions regarding his conversations with Faughn, *i.e.*, what Faughn told Watkins about where the money came from, who provided it, and other details about the payments—an exercise that necessarily invades the attorney-client privilege. However, the privilege is not Mr. Watkins' to waive. If Greitens wishes to know about communications with Faughn, he should attempt to obtain that information from Faughn, who could choose to waive the privilege should he wish to answer Greitens' questions.

The Missouri Supreme Court “has spoken clearly of the sanctity of the attorney-client privilege.” *State ex rel. Peabody Coal Co. v. Clark*, 863 S.W.2d 604, 607 (Mo. banc 1993). Watkins has a duty to his client and professional responsibility not to disclose attorney-client communications. Watkins—and the courts—have an ethical responsibility to protect clients, who—like all who seek the assistance of attorneys—have a right to expect the privilege that comes from communications with attorneys. Because

Faughn and Watkins established an attorney-client relationship, their conversations are privileged and further details should not be disclosed—certainly not here, simply to enable Greitens’ crusade for sensational, irrelevant testimony that might benefit him in the media or political arena.

Greitens has strayed far from the relevant issues in his criminal trial. Greitens has argued that this line of inquiry is relevant to the credibility of P.S., who was endorsed by the State solely for the purpose of authenticating audiotapes P.S. made of the alleged victim discussing the relevant interactions with Greitens.

However, it has been established P.S. did not pay for his legal representation. Greitens learned this through a deposition of P.S. Now Watkins has identified who delivered the money used to pay P.S.’ legal fees, and testified he does not know whose money was delivered. It is also clear the legal fees were paid more than a month before Greitens was indicted, during a time when P.S. was engaged in public discussions about the alleged activity. Nothing relevant or material to this proceeding will be gained from revealing conversations between Mr. Watkins and his client, although plenty will be lost if the sanctity of the privilege is thrown aside and discarded so readily. The relevant discussions occurred within the sacred boundaries of an attorney-client relationship, and thus are entitled to protection.

For these reasons, the Court should issue its preliminary order prohibiting Respondent from requiring Watkins to disclose conversations with his client.

FACTUAL/PROCEDURAL SUMMARY

1. The charges against Greitens arise from his alleged photographing of a woman referred to as K.S. Watkins serves as the attorney for P.S., the ex-husband of K.S. The charges were filed in late February, 2018.

2. In early January, 2018, over a month prior to the Greitens indictment, Watkins met with Faughn. Specifically, Watkins and Faughn engaged in conversations that established an attorney client relationship. Faughn sought Watkins' legal advice on matters, including legal issues relating to the payment of legal fees by third parties – *i.e.*, one individual paying the legal fees of another. During those conversations, Watkins provided Faughn with legal advice. (A-1, Affidavit of Albert Watkins).

3. Several days later, Watkins received two payments, each in the amount of fifty-thousand dollars (\$50,000.00). The first payment was delivered to Watkins by Faughn. The second payment arrived the next day, and was delivered by a person Watkins believed to be a courier. (A-1). Watkins testified to these facts in the first part of the deposition.

4. During Watkins' conversations with Faughn, they discussed the purpose of the payments and why the money was being delivered, in connection with the advice Watkins provided to Faughn. (A-1). Watkins' understanding is the payments were delivered to him in connection with his representation of P.S., which he has stated publicly.

5. Watkins has publicly stated the funds were available for P.S.'s attorneys' fees. Over a month after these funds were provided, Greitens was indicted.

6. Pursuant to a subpoena issued by Greitens, Watkins appeared at a deposition on April 30, 2018, after Respondent denied Watkins' Motion to Quash and Watkins' requests for relief in the appellate courts were denied.

7. Watkins testified regarding the issues set forth above, including that Faughn made the first payment. Watkins also testified he does not know whose money was delivered. Watkins refused to answer questions about information conveyed to him by his client, Faughn.

8. Now, Respondent has ordered Watkins to testify regarding details of the conversations he had with his client, Faughn. Watkins' continued deposition is scheduled for 1:00 pm on Tuesday, May 1. (A-3, Hearing Transcript).

9. This morning, the Missouri Court of Appeals denied Watkins' Petition for a Writ of Prohibition. (ED106658).

WHY THE WRIT SHOULD ISSUE

I. Standard of Review

A writ of prohibition is an appropriate remedy when a subpoena has issued in a circuit court proceeding requesting material that is protected from discovery. *State ex rel. Boone Ret. Ctr., Inc. v. Hamilton*, 946 S.W.2d 740, 741 (Mo. banc 1997). "This is because the damage to the party against whom discovery is sought is both severe and irreparable if the privileged material is produced and this damage cannot be repaired on appeal." *Id.* (internal quotes omitted). More specifically, "[p]rohibition has long been available to prevent a trial court from abusing its discretion by ordering discovery of privileged matters or of work product." *St. Louis Little Rock Hosp., Inc. v. Gaertner*, 682

S.W.2d 146, 148 (Mo. App. E.D. 1984) (citing *State ex rel. Gonzenbach v. Eberwein*, 655 S.W.2d 794, 795 (Mo. App. E.D. 1983)). The role of the reviewing court is limited to ensuring the trial court is not acting arbitrarily or unjustly. *State ex rel. Metropolitan Transportation Services, Inc. v. Meyers*, 800 S.W.2d 474, 476 (Mo.App.1990).

II. The Continuing Deposition should be Prohibited Because Greitens seeks to Discover Privileged Attorney-Client Communications.

If not prohibited, the upcoming deposition will violate fundamental policies protecting attorney-client communication. The Missouri Supreme Court “has spoken clearly of the sanctity of the attorney-client privilege.” *State ex rel. Behrendt v. Neill*, 337 S.W.3d 727, 729 (Mo. Ct. App. 2011) (quoting *State ex rel. Peabody Coal Co. v. Clark*, 863 S.W.2d 604, 607 (Mo. banc 1993)). The relevant policy concerns are straightforward and well-established:

The relationship and the continued existence of the giving of legal advice by persons accurately and effectively trained in the law is of greater societal value ... than the admissibility of a given piece of evidence in a particular lawsuit. Contrary to the implied assertions of the evidence authorities, the heavens will not fall if all relevant and competent evidence cannot be admitted.

Id. (quoting *State ex rel. Great American Ins. Co. v. Smith*, 574 S.W.2d 379, 383 (Mo. banc 1978)). Confidentiality is essential if attorney-client relationships are to be fostered and effective. *Great American*, 574 S.W.2d at 383–84.

The scope of the privilege is broad. It attaches to (1) information transmitted by voluntary act of disclosure; (2) between a client and his lawyer; (3) in confidence; and (4) by a means which, so far as a client is aware, discloses the information to no third parties other than those reasonably necessary for the transmission of the information or for the

accomplishment of the purpose for which it is to be transmitted. *State v. Longo*, 789 S.W.2d 812, 815 (Mo. Ct. App. 1990).

“The attorney-client privilege is to be construed broadly to encourage its fundamental policy of encouraging uninhibited communication between the client and his attorney.” *Longo*, 789 S.W.2d at 815. The attorney-client privilege “protects the client from a disclosure of *any information which has been derived from the client by the attorney, by reason of his employment, whether by words, acts, or deeds.*” *Weinshenk v. Sullivan*, 100 S.W.2d 66, 70 (Mo. App. 1937).

An attorney-client relationship is established when a prospective client seeks and receives legal advice and assistance from an attorney who intends to provide legal advice and assistance to the prospective client. *Polish Roman Catholic St. Stanislaus Par. v. Hettenbach*, 303 S.W.3d 591, 601 (Mo. Ct. App. 2010). In determining whether the legal advice and assistance of an attorney is sought and received, courts look to the substantive nature of the contacts within the relationship, “regardless of what formal or procedural incidents have occurred.” *Id.* (quoting *McFadden v. State*, 256 S.W.3d 103, 107 (Mo. banc 2008)). Payment for legal services is not a prerequisite to the formation of an attorney-client relationship. *U.S. v. Bailey*, 327 F.3d 1131, 1139 (10th Cir.2003) (“For there to have been an attorney-client relationship, the parties need not have executed a formal contract. Nor is the existence of a relationship dependent upon the payment of fees.”).

Here, Watkins’ conversations with Faughn occurred in the context of an attorney-client relationship. Faughn met with Watkins in early January, 2018, prior to delivering

the first payment to Watkins. At that time, they engaged in conversations that established an attorney client relationship. Faughn sought Watkins' legal advice on matters, including legal issues relating to the payment of legal fees by third parties. During those conversations, Watkins provided Faughn with legal advice. (*See* A-1, Watkins Affidavit). The parties established an attorney-client relationship, and the sought-after communications are privileged.

During the hearing that followed today's deposition, Respondent Burlison suggested the conversations between Faughn and Watkins are not privileged because they presumably involve discussions between Faughn and another individual. According to Respondent, "it's a non-privileged communication that your client would then try to protect it by turning it into privileged." (A-3, Hearing Transcript at 18-19). But this reasoning is flawed. According to the Missouri Supreme Court:

When a client goes to an attorney...subsequent communications by the attorney to the client should be privileged. **Some of the advice given by the attorney may be based on information obtained from sources other than the client.** Some of what the attorney says will not actually be advice as to a course of conduct to be followed. Part may be analysis of what is known to date of the situation. Part may be a discussion of additional avenues to be pursued. Part may be keeping the client advised of things done or opinions formed to date. All of these communications, not just the advice, are essential elements of attorney-client consultation. All should be protected.

State ex rel. Great Am. Ins. Co. v. Smith, 574 S.W.2d 379, 384–85 (Mo. 1978). It does not matter whether Faughn was relaying information based on his personal knowledge, or information provided to him by someone else—Faughn was communicating with his attorney, and their conversations are entitled to protection.

CONCLUSION

Greitens can pursue the sought-after information sought through other channels, without forcing Watkins and the courts to abandon the attorney-client privilege. Respondent's directive to continue Watkins' deposition forces Watkins to violate bedrock principles of attorney-client communication and professional responsibility, all to enable Greitens' pursuit of irrelevant testimony.

The Greitens defense is entitled to pursue and present information relevant to their theories, but this court must intervene to protect the sanctity of attorney-client privilege from an inquiry that has strayed far from the issues at trial. Pursuing the details of what was said between an attorney and his client, who was delivering funds for the payment of attorneys' fees for a witness who was endorsed solely to authenticate tapes, is more than a fishing expedition—it stretches out of the pond, and into the desert. Even if the information sought were relevant, its confidentiality is held inviolate by the long-standing principle of attorney-client privilege. For the reasons discussed above, the Court should issue its preliminary order prohibiting any requirement that Watkins disclose attorney-client communications between himself and Faughn during the deposition scheduled to resume on Tuesday, May 1 at 1:00 pm.

Respectfully submitted,

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Attorneys for Relator Albert Watkins

IN THE SUPREME COURT OF THE STATE OF MISSOURI

STATE OF MISSOURI ex rel.

Albert Watkins

Relator,

vs.

No. _____

The Honorable Rex Burlison

Respondent.

WRIT SUMMARY

Identity of parties and their attorneys in the underlying action, if any:

Relator was represented by Charles W. Hatfield and John R. Munich of Stinson Leonard Street, LLP.

Nature of underlying action, if any:

The underlying action is State of Missouri v. Eric Greitens, Cause No. 1822-CR00642. The State of Missouri charged Defendant Greitens with violation of Section 565.252, RSMO, for invasion of privacy in the first degree. Relator is counsel for the husband of the victim in the underlying action.

Action of Respondent being challenged, including date thereof:

Respondent's Order (made orally at a hearing on April 30, 2018) compelling Relator to disclose the contents of certain attorney-client communications at his continued deposition scheduled to resume on May 1, 2018 at 1:00 p.m.

Relief sought by Relator or Petitioner:

Relator seeks a preliminary order from the Court prohibiting any requirement that Relator disclose attorney-client communications between himself and his client Scott Faughn during the deposition scheduled to resume on Tuesday, May 1 at 1:00 pm.

Date case set for trial, if set, and date of any other event bearing upon relief sought (e.g., date of deposition or motion hearing):

Relator's continued deposition is set for May 1, 2018, at 1:00 p.m. Trial in the matter is set to begin May 14, 2018.

Date, court and disposition of any previous or pending writ proceeding concerning the action or related matter:

Related Writ filed April 27, 2018 in the Missouri Court of Appeals, Eastern District, No. ED106651; denied by the Court of Appeals on April 30, 2018.

Related Writ filed April 30, 2018 in the Missouri Supreme Court, No. SC07115; denied by the Supreme Court on April 30, 2018.

Related Writ filed April 30, 2018 in the Missouri Court of Appeals, Eastern District, No. ED106658; denied by Court of Appeals on May 1, 2018.

From: Scott Rosenblum <srosenblum@rsflawfirm.com>
Sent: Wednesday, May 2, 2018 2:19 PM
To: Scott Simpson <scott@knightsimpson.com>
Cc: steeler@stlouiscao.org; gardnerk@stlouiscao.org
Subject: Re: Deposition of K.S. scheduled for Thursday, May 3

I have been informed that Judge B is in possession of texts etc. I may want a break to review any deemed relevant to avoid further inconvenience to your client.

Sent from my iPhone

On May 2, 2018, at 2:16 PM, Scott Simpson <scott@knightsimpson.com> wrote:

Thank you. I will plan on being there with K.S. at 9:00 am.

Scott Simpson

*Attorney at Law
Knight & Simpson
423 Jackson Street
Saint Charles, MO 63301
Phone: 636-947-7412
Fax: 636-947-7505
Email: scott@knightsimpson.com
www.knightsimpson.com*

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or telephone (636-947-7412 and promptly destroy the original transmission and its attachments. Opinions, conclusions and other information in this message that do not relate to the official business of Knight & Simpson shall be understood as neither given nor endorsed by it.

From: Scott Rosenblum [<mailto:srosenblum@rsflawfirm.com>]
Sent: Wednesday, May 02, 2018 10:11 AM
To: Scott Simpson
Cc: steeler@stlouiscao.org; gardnerk@stlouiscao.org
Subject: Re: Deposition of K.S. scheduled for Thursday, May 3

Fine with me

Sent from my iPhone

On May 2, 2018, at 9:12 AM, Scott Simpson <scott@knightsimpson.com> wrote:

All,
We originally scheduled tomorrow's deposition of K.S. to start at 10:00 am. Can we change the start time to 9:00 am?

Thank you,
Scott Simpson

Scott Simpson

*Attorney at Law
Knight & Simpson
423 Jackson Street
Saint Charles, MO 63301
Phone: 636-947-7412
Fax: 636-947-7505
Email: scott@knightsimpson.com
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From: Albert Watkins <albertwatkins@kwklaw.net>

Sent: Friday, May 4, 2018 2:00 PM

To: Scott Simpson <scott@knightsimpson.com>; 'Adam Simon' <asimon@dowdbennett.com>

Cc: steeler@stlouiscao.org; gardnerk@stlouiscao.org; dierkerr@stlouiscao.org; 'Ed Dowd' <edowd@dowdbennett.com>; 'Jim Martin' <jmartin@dowdbennett.com>; 'Michelle Nasser' <mnasser@dowdbennett.com>; 'Scott Rosenblum' <srosenblum@rsflawfirm.com>; 'John Garvey' <JGarvey@careydanis.com>; TonyBretz <tbretz@kwklaw.net>

Subject: RE: St. of Mo. v. Greitens

Counsel:

By email correspondence dated May 2, 2018 (embedded below) I confirmed with counsel for the defendant the need to ensure that the transcript of the deposition testimony of PS is provide to permit the review of same by PS. No response has been forthcoming.

Your direct attention to the foregoing request is anticipated and appreciated.

Very truly yours,

Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

p: (314) 727-9111

f: (314) 727-9110

a: 7733 Forsyth Blvd., Suite 600

St. Louis, MO 63105

w: www.kwklaw.net e: albertwatkins@kwklaw.net



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From: Albert Watkins

Sent: Wednesday, May 02, 2018 8:06 AM

To: 'Scott Simpson' <scott@knightsimpson.com>; 'Adam Simon' <asimon@dowdbennett.com>

Cc: steeler@stlouiscao.org; gardnerk@stlouiscao.org; dierkerr@stlouiscao.org; 'Ed Dowd' <edowd@dowdbennett.com>;

'Jim Martin' <jmartin@dowdbennett.com>; 'Michelle Nasser' <mnasser@dowdbennett.com>; 'Scott Rosenblum'

<rosenblum@rsflawfirm.com>; 'John Garvey' <JGarvey@careydanis.com>; Tony Bretz <tbretz@kwklaw.net>

Subject: St. of Mo. v. Greitens

Counsel:

Mr. Sneed's deposition was concluded with PS not waiving his signature. PS has not reviewed the transcript of his testimony. Obviously, he has not signed same.

I previously shared with the Court the email chain I exchanged with the court reporter service advising they had been instructed by Dowd Bennet not to release Mr. Sneed's deposition transcript to us.

It is understood (and prefer to believe) that this may have been the result of some miscommunication or confusion.

Please take whatever steps are required to ensure that the transcript of the deposition testimony of PS is provided to permit the review of same by PS. Thank you.

Very truly yours,

Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

p: (314) 727-9111

f: (314) 727-9110

a: 7733 Forsyth Blvd., Suite 600

St. Louis, MO 63105

w: www.kwklaw.net e: albertwatkins@kwklaw.net



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From: Jennifer Shprintz <jennifers@pohlmanusa.com>
Sent: Monday, May 7, 2018 4:59 PM
To: 'albertwatkins@kwklaw.net' <albertwatkins@kwklaw.net>
Cc: Amber S. Leuschke <amberl@pohlmanusa.com>; 'jgarvey@careydanis.com' <jgarvey@careydanis.com>; 'jmartin@dowdbennett.com' <jmartin@dowdbennett.com>; 'edowd@dowdbennett.com' <edowd@dowdbennett.com>; 'gardnerk@stlouiscao.org' <gardnerk@stlouiscao.org>; 'steeler@stlouiscao.org' <steeler@stlouiscao.org>; 'tbretz@kwklaw.net' <tbretz@kwklaw.net>; 'srosenblum@rsflawfirm.com' <srosenblum@rsflawfirm.com>; 'scott@knightsimpson.com' <scott@knightsimpson.com>
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Good Afternoon,

Our apologies for the delay in response. Unfortunately our instructions on this matter have not changed. We are unable to release any materials in this matter without a written order from the Judge. This includes the transcripts and videos taken of the witness P.S. on April 9, 2018, April 11, 2018, and April 24, 2018. Once a written order from the judge is received providing specific instructions on which transcripts we are authorized to release, we would be happy to provide you with the cost for the materials as well as the materials upon confirmation of payment.

Thank you,

Jennifer Shprintz
Production & Billing Manager



10 South Broadway, Suite 1400 | St. Louis, MO 63102
☎ **Direct:** 314.296.5411 | ☎ **Toll Free:** 877.421.0099
jennifers@pohlmanusa.com | www.pohlmanUSA.com

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♻️ Please consider the environment before printing this e-mail.

From: Albert Watkins <albertwatkins@kwklaw.net>

Sent: Monday, May 07, 2018 7:16 AM

To: Amber S. Leuschke <amberl@pohlmanusa.com>

Cc: 'John Garvey' <JGarvey@careydanis.com>; 'Jim Martin' <jmartin@dowdbennett.com>; 'Ed Dowd' <edowd@dowdbennett.com>; gardnerk@stlouisco.org; steeler@stlouisco.org; Tony Bretz <tbretz@kwklaw.net>; 'Scott Rosenblum' <rosenblum@rsflawfirm.com>; Scott Simpson <scott@knightsimpson.com>

Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Dear Amber:

I represent PS in connection with the State of Missouri v. Greitens case ("Case").

P.S. is a witness in the Case.

P.S. was deposed in this case. As a matter of record, P.S. did not waive signature in connection with his deposition taken in the Case.

I previously requested the transcript. You refused to provide same advising, "[your] office has received notification that we can only release the transcript and/or video to the named parties within this case." When pressed for disclosure of the genesis of your office's notification in this regard, you advised, "Any questions can be directed to James Bennett." A copy of our prior e-mail exchange in this regard is embedded below for your ease of reference.

Trial of the above case is scheduled to commence on May 14, 2018. It is understood the transcript of the deposition testimony elicited from P.S. was completed in real time and produced in final form to the defendant's counsel shortly thereafter.

Please permit this to serve as a follow-up request for the immediate provision to the undersigned of a copy of the transcript of the deposition testimony elicited from P.S. in connection with the Case.

Kindly confirm by reply e-mail that you will promptly comply with this request. Thank you.

Very truly yours,

Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

p: (314) 727-9111

f: (314) 727-9110

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From: Amber S. Leuschke [<mailto:amberl@pohlmanusa.com>]
Sent: Monday, April 09, 2018 4:41 PM
To: Albert Watkins <albertwatkins@kwklaw.net>
Subject: RE: Deposition of P.S. - 4/9/2018

Mr. Watkins,

Any questions can be directed to James Bennett.

Thank you,

Amber S. Leuschke
Assistant Production Manager



10 South Broadway, Suite 1400 | St. Louis, MO 63102
☎ **Direct:** 314.450.5504 | ☎ **Toll Free:** 877.421.0099

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From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Monday, April 09, 2018 4:37 PM
To: Amber S. Leuschke <amberl@pohlmanusa.com>
Subject: Re: Deposition of P.S. - 4/9/2018

That's funny Amber. From whom did you receive this notification?

The favor of a prompt reply is anticipated.

Sent from my iPhone

Albert S. Watkins LC
KODNER WATKINS LC
7800 Forsyth Boulevard, Suite 700
St. Louis, Missouri 63105
314-727-9111
314-727-9110 (Facsimile)
albertswatkins@kwklaw.net

www.kwklaw.net

On Apr 9, 2018, at 4:23 PM, Amber S. Leuschke <amberl@pohlmanusa.com> wrote:

Good afternoon Mr. Watkins,

Our office has received notification that we can only release the transcript and/or video to the named parties within this case. Since your client is not named in this case we cannot proceed with delivery of the rough draft, final transcript or video.

Thank you and have a good day!

Amber S. Leuschke
Assistant Production Manager

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From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Monday, April 09, 2018 3:22 PM
To: Amber S. Leuschke <amberl@pohlmanusa.com>
Subject: Re: Deposition of P.S. - 4/9/2018

Ok

Sent from my iPhone

Albert S. Watkins LC
KODNER WATKINS LC
7800 Forsyth Boulevard, Suite 700
St. Louis, Missouri 63105
314-727-9111
314-727-9110 (Facsimile)
albertswatkins@kwklaw.net

www.kwklaw.net

On Apr 9, 2018, at 3:05 PM, Amber S. Leuschke <amberl@pohlmanusa.com> wrote:

Good afternoon Mr. Watkins,

Our reporter has notified our office that you would like to receive a rough draft of today's testimony as well as an expedited video. By receiving a rough draft you agree to also automatically ordering the final transcript. Please note that if your order for rush video includes the synchronization of the transcript to the video, this will incur expedited costs for the transcript as well.

If you are in agreement of the charges that will be incurred from this order, please provide the completed attached order form to our office. Upon receipt, we will coordinate delivery of your requested order.

Sincerely,

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P.S. is a witness in the Case.

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From: Ed Dowd <edowd@dowdbennett.com>
Sent: Tuesday, May 8, 2018 3:21 PM
To: Hatfield, Charles
Cc: jmartin@dowdbennett.com; srosenblum@rsflawfirm.com; steeler@stlouiscao.org; Munich, John R.
Subject: Re: Al Watkins Trial Subpeona

Chuck, Will do. Thank you. Ed

Ed Dowd
314.330.5160 (mobile)
edowd@dowdbennett.com

This email is from the law firm of Dowd Bennett LLP and may be privileged.


On May 8, 2018, at 2:28 PM, Hatfield, Charles <chuck.hatfield@stinson.com> wrote:

Counsel,

Pursuant to your trial subpoena for Mr. Watkins to appear as a witness for the Defense, would you please let me know what day you anticipate calling him to testify? Mr. Watkins has other court obligations he may need to re-arrange.

Charles W. Hatfield | Partner | Stinson Leonard Street LLP
230 W. McCarty Street | Jefferson City, MO 65101-1553
T: 573.636.6827 | M: 573.230.2610 | F: 573.556.3632
chuck.hatfield@stinson.com | www.stinson.com
Legal Administrative Assistant: Bethany Cox | 573.556.3604 | bethany.cox@stinson.com

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From: Tony Bretz <tbretz@kwklaw.net>
Sent: Thursday, May 10, 2018 9:31 AM
To: Steele, Robert <SteeleR@stlouiscao.org>
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Thank you.

From: Steele, Robert [<mailto:SteeleR@stlouiscao.org>]
Sent: Wednesday, May 09, 2018 6:27 PM
To: Tony Bretz
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

We just finished our pretrial for the day. I can have a copy for someone to pick up tomorrow a.m.

From: Tony Bretz [<mailto:tbretz@kwklaw.net>]
Sent: Wednesday, May 09, 2018 3:45 PM
To: Steele, Robert <SteeleR@stlouiscao.org>
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Mr. Steele,

Please advise if the transcripts of the deposition testimony of both PS and Albert Watkins are available for someone from our firm to pick up from your office this afternoon. Thank you for your time.

From: Albert Watkins
Sent: Tuesday, May 08, 2018 12:06 PM
To: gardnerk@stlouiscao.org; steeler@stlouiscao.org
Cc: Tony Bretz
Subject: FW: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Kindly make available for pick up at your office the transcript of the deposition testimony of PS. Please reply to confirm when it will be available for pick up. Thank you.

Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

p: (314) 727-9111

f: (314) 727-9110

a: 7733 Forsyth Blvd., Suite 600

St. Louis, MO 63105

w: www.kwklaw.net e: albertwatkins@kwklaw.net



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From: Jennifer Shprintz [<mailto:jennifers@pohlmanusa.com>]
Sent: Tuesday, May 08, 2018 9:52 AM
To: Albert Watkins <albertwatkins@kwklaw.net>
Cc: Amber S. Leuschke <amberl@pohlmanusa.com>; jgarvey@careydanis.com; jmartin@dowdbennett.com; edowd@dowdbennett.com; gardnerk@stlouiscao.org; steeler@stlouiscao.org; Tony Bretz <tbretz@kwklaw.net>; srosenblum@rsflawfirm.com; scott@knightsimpson.com
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Good Morning,

We are aware of the signature or waiver of signature request for all deposition transcripts. The court reporter handling this matter did confirm with us that the read and sign for P.S. was to be sent to the following address:

Circuit Attorney's Office
Ms. Kimberly Gardner
1114 Market Street Room 401
St. Louis, MO 63101

A copy of the transcripts and the related errata sheets for each date were sent to the above address.

Our instruction regarding distribution of transcripts is again from Mr. James Bennett with Dowd Bennett.

Thank you and have a great day.

Jennifer Shprintz
Production & Billing Manager



10 South Broadway, Suite 1400 | St. Louis, MO 63102
☎ Direct: 314.296.5411 | ☎ Toll Free: 877.421.0099
jennifers@pohlmanusa.com | www.pohlmanUSA.com

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♻️ Please consider the environment before printing this e-mail.

From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Monday, May 07, 2018 7:27 PM
To: Jennifer Shprintz <jennifers@pohlmanusa.com>
Cc: Amber S. Leuschke <amberl@pohlmanusa.com>; jgarvey@careydanis.com; jmartin@dowdbennett.com; edowd@dowdbennett.com; gardnerk@stlouiscao.org; steeler@stlouiscao.org; Tony Bretz <tbretz@kwklaw.net>; rosenblum@rsflawfirm.com; scott@knightsimpson.com
Subject: Re: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

My client is the witness. As a court reporter service surely you are cognizant of the deponent’s signature or waiver of signature requirement being a condition precedent to the use of a deposition at trial. Moreover, a witness is not to be charged for a transcript for which review and signature is needed.

Your office representative previously indicated another reason for the withholding of the transcript.

Please provide me with the name of the individual who provided you with the “instructions” referenced in the second sentence of your email embedded below.

A promptly response is appreciated.

Very truly yours,

Sent from my iPhone

Albert S. Watkins LC
KODNER WATKINS LC
7733 Forsyth Boulevard, Suite 600
St. Louis, Missouri 63105
314-727-9111

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On May 7, 2018, at 4:59 PM, Jennifer Shprintz <jennifers@pohlmanusa.com> wrote:

Good Afternoon,

Our apologies for the delay in response. Unfortunately our instructions on this matter have not changed. We are unable to release any materials in this matter without a written order from the Judge. This includes the transcripts and videos taken of the witness P.S. on April 9, 2018, April 11, 2018, and April 24, 2018. Once a written order from the judge is received providing specific instructions on which transcripts we are authorized to release, we would be happy to provide you with the cost for the materials as well as the materials upon confirmation of payment.

Thank you,

Jennifer Shprintz
Production & Billing Manager

<pohlmansignaturelogo.png>

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☎ **Direct:** 314.296.5411 | ☎ **Toll Free:** 877.421.0099
jennifers@pohlmanusa.com | www.pohlmanUSA.com

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<2017 twp.jpg> <mrr-124x96.jpg> <linkedinicon.png> <twittericon.png> <facebookicon3.png>

<park.png>Please consider the environment before printing this e-mail.

From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Monday, May 07, 2018 7:16 AM
To: Amber S. Leuschke <amberl@pohlmanusa.com>
Cc: 'John Garvey' <JGarvey@careydanis.com>; 'Jim Martin' <jmartin@dowdbennett.com>; 'Ed Dowd' <edowd@dowdbennett.com>; gardnerk@stlouiscao.org; steeler@stlouiscao.org; Tony Bretz <tbretz@kwklaw.net>; 'Scott Rosenblum' <srosenblum@rsflawfirm.com>; Scott Simpson <scott@knightsimpson.com>
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Dear Amber:

I represent PS in connection with the State of Missouri v. Greitens case (“Case”).

P.S. is a witness in the Case.

P.S. was deposed in this case. As a matter of record, P.S. did not waive signature in connection with his deposition taken in the Case.

I previously requested the transcript. You refused to provide same advising, “[your] office has received notification that we can only release the transcript and/or video to the named parties within this case.” When pressed for disclosure of the genesis of your office’s notification in this regard, you advised, “Any questions can be directed to James Bennett.” A copy of our prior e-mail exchange in this regard is embedded below for your ease of reference.

Trial of the above case is scheduled to commence on May 14, 2018. It is understood the transcript of the deposition testimony elicited from P.S. was completed in real time and produced in final form to the defendant’s counsel shortly thereafter.

Please permit this to serve as a follow-up request for the immediate provision to the undersigned of a copy of the transcript of the deposition testimony elicited from P.S. in connection with the Case.

Kindly confirm by reply e-mail that you will promptly comply with this request. Thank you.

Very truly yours,

Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

p: (314) 727-9111

f: (314) 727-9110

a: 7733 Forsyth Blvd., Suite 600

St. Louis, MO 63105

w: www.kwklaw.net e: albertwatkins@kwklaw.net

<image001.jpg>

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From: Amber S. Leuschke [<mailto:amberl@pohlmanusa.com>]
Sent: Monday, April 09, 2018 4:41 PM
To: Albert Watkins <albertwatkins@kwklaw.net>
Subject: RE: Deposition of P.S. - 4/9/2018

Mr. Watkins,

Any questions can be directed to James Bennett.

Thank you,

Amber S. Leuschke
Assistant Production Manager

<image002.png>

10 South Broadway, Suite 1400 | St. Louis, MO 63102
☎ **Direct:** 314.450.5504 | ☎ **Toll Free:** 877.421.0099
AmberL@pohlmanUSA.com | www.pohlmanUSA.com

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<image008.png> Please consider the environment before printing this e-mail.

From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Monday, April 09, 2018 4:37 PM

To: Amber S. Leuschke <amberl@pohlmanusa.com>

Subject: Re: Deposition of P.S. - 4/9/2018

That's funny Amber. From whom did you receive this notification?

The favor of a prompt reply is anticipated.

Sent from my iPhone

Albert S. Watkins LC
KODNER WATKINS LC
7800 Forsyth Boulevard, Suite 700
St. Louis, Missouri 63105
314-727-9111
314-727-9110 (Facsimile)
albertswatkins@kwklaw.net

www.kwklaw.net

On Apr 9, 2018, at 4:23 PM, Amber S. Leuschke <amberl@pohlmanusa.com> wrote:

Good afternoon Mr. Watkins,

Our office has received notification that we can only release the transcript and/or video to the named parties within this case. Since your client is not named in this case we cannot proceed with delivery of the rough draft, final transcript or video.

Thank you and have a good day!

Amber S. Leuschke
Assistant Production Manager

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[124x96.jpg](#)> <[linkedinicon.png](#)> <[twittericon.png](#)> <[image007.png](#)>

<[park.png](#)>Please consider the environment before printing this e-mail.

From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Monday, April 09, 2018 3:22 PM
To: Amber S. Leuschke <amberl@pohlmanusa.com>
Subject: Re: Deposition of P.S. - 4/9/2018

Ok

Sent from my iPhone

Albert S. Watkins LC
KODNER WATKINS LC
7800 Forsyth Boulevard, Suite 700
St. Louis, Missouri 63105
314-727-9111
314-727-9110 (Facsimile)
albertswatkins@kwklaw.net

www.kwklaw.net

On Apr 9, 2018, at 3:05 PM, Amber S. Leuschke <amberl@pohlmanusa.com> wrote:

Good afternoon Mr. Watkins,

Our reporter has notified our office that you would like to receive a rough draft of today's testimony as well as an expedited video. By receiving a rough draft you agree to also automatically ordering the final transcript. Please note that if your order for rush video includes the synchronization of the transcript to the video, this will incur expedited costs for the transcript as well.

If you are in agreement of the charges that will be incurred from this order, please provide the completed attached order form to our office. Upon receipt, we will coordinate delivery of your requested order.

Sincerely,

Amber S. Leuschke
Assistant Production Manager

<pohlmansignaturelogo.png>

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[124x96.jpg](#) <[linkedinicon.png](#)> <[twittericon.png](#)> <[facebookicon3.png](#)>

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may intercept our e-mail communications by improperly accessing your computer or my computer or even some computer unconnected to either of us which the e-mail is passed through. If you would like future communications to be sent in a different fashion or if you receive this message in error, please let me know AT ONCE by calling 314-622-4941. If you have received this e-mail message in error, please delete the e-mail message immediately. Thank you.

From: Tony Bretz <tbretz@kwklaw.net>
Sent: Friday, May 11, 2018 2:51 PM
To: Steele, Robert <SteeleR@stlouiscao.org>
Cc: Albert Watkins <albertwatkins@kwklaw.net>
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Mr. Steele:

In anticipation of P.S.'s testimony, could you please advise what day and time and where you would like us to bring P.S. on the day of his testimony?

Also, we were previously advised that with respect to P.S.'s cellphone the Special Master handed over a number of photographs and video to the Defense. Kindly identify for our office what these files (pictures/videos) consist of and please provide us with a copy in advance of P.S.'s testimony.

Also, with respect to the below-embedded email if you could please have P.S.'s deposition transcripts available at the front desk for someone from our office to procure prior to P.S.'s testimony as well that would be greatly appreciated.

We understand you and the Circuit Attorney's Office have been very busy and we appreciate your time.

From: Steele, Robert [<mailto:SteeleR@stlouiscao.org>]
Sent: Wednesday, May 09, 2018 6:27 PM
To: Tony Bretz
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

We just finished our pretrial for the day. I can have a copy for someone to pick up tomorrow a.m.

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Sent: Wednesday, May 09, 2018 3:45 PM
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Mr. Steele,

Please advise if the transcripts of the deposition testimony of both PS and Albert Watkins are available for someone from our firm to pick up from your office this afternoon. Thank you for your time.

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To: gardnerk@stlouiscao.org; steeler@stlouiscao.org

Cc: Tony Bretz

Subject: FW: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

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Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

p: (314) 727-9111

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Cc: Amber S. Leuschke <amberl@pohlmanusa.com>; jgarvey@careydanis.com; jmartin@dowdbennett.com; edowd@dowdbennett.com; gardnerk@stlouiscao.org; steeler@stlouiscao.org; Tony Bretz <tbretz@kwklaw.net>; srosenblum@rsflawfirm.com; scott@knightsimpson.com

Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Good Morning,

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Circuit Attorney's Office
Ms. Kimberly Gardner

1114 Market Street Room 401
St. Louis, MO 63101

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Our instruction regarding distribution of transcripts is again from Mr. James Bennett with Dowd Bennett.

Thank you and have a great day.

Jennifer Shprintz
Production & Billing Manager



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Thank you,

Jennifer Shprintz
Production & Billing Manager

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<park.png>Please consider the environment before printing this e-mail.

From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Monday, May 07, 2018 7:16 AM
To: Amber S. Leuschke <amberl@pohlmanusa.com>
Cc: 'John Garvey' <JGarvey@careydanis.com>; 'Jim Martin' <jmartin@dowdbennett.com>; 'Ed Dowd' <edowd@dowdbennett.com>; gardnerk@stlouiscao.org; steeler@stlouiscao.org; Tony Bretz <tbretz@kwklaw.net>; 'Scott Rosenblum' <srosenblum@rsflawfirm.com>; Scott Simpson <scott@knightsimpson.com>
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Dear Amber:

I represent PS in connection with the State of Missouri v. Greitens case ("Case").

P.S. is a witness in the Case.

P.S. was deposed in this case. As a matter of record, P.S. did not waive signature in connection with his deposition taken in the Case.

I previously requested the transcript. You refused to provide same advising, "[your] office has received notification that we can only release the transcript and/or video to the named parties within this case." When pressed for disclosure of the genesis of your office's notification in this regard, you advised, "Any questions can be directed to James Bennett." A copy of our prior e-mail exchange in this regard is embedded below for your ease of reference.

Trial of the above case is scheduled to commence on May 14, 2018. It is understood the transcript of the deposition testimony elicited from P.S. was completed in real time and produced in final form to the defendant's counsel shortly thereafter.

Please permit this to serve as a follow-up request for the immediate provision to the undersigned of a copy of the transcript of the deposition testimony elicited from P.S. in connection with the Case.

Kindly confirm by reply e-mail that you will promptly comply with this request. Thank you.

Very truly yours,

Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

p: (314) 727-9111

f: (314) 727-9110

a: 7733 Forsyth Blvd., Suite 600

St. Louis, MO 63105

w: www.kwklaw.net e: albertwatkins@kwklaw.net

<image001.jpg>

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From: Amber S. Leuschke [<mailto:amberl@pohlmanusa.com>]

Sent: Monday, April 09, 2018 4:41 PM

To: Albert Watkins <albertwatkins@kwklaw.net>

Subject: RE: Deposition of P.S. - 4/9/2018

Mr. Watkins,

Any questions can be directed to James Bennett.

Thank you,

Amber S. Leuschke
Assistant Production Manager

<image002.png>

10 South Broadway, Suite 1400 | St. Louis, MO 63102
☎ Direct: 314.450.5504 | ☎ Toll Free: 877.421.0099
AmberL@pohlmanUSA.com | www.pohlmanUSA.com

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<image003.jpg> <image004.jpg> <image005.png> <image006.png> <image007.png>

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Subject: Re: Deposition of P.S. - 4/9/2018

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The favor of a prompt reply is anticipated.

Sent from my iPhone

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albertswatkins@kwklaw.net

www.kwklaw.net

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Assistant Production Manager

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From: Tony Bretz <tbretz@kwklaw.net>
Sent: Friday, May 11, 2018 2:51 PM
To: Steele, Robert <SteeleR@stlouiscao.org>
Cc: Albert Watkins <albertwatkins@kwklaw.net>
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Mr. Steele:

In anticipation of P.S.'s testimony, could you please advise what day and time and where you would like us to bring P.S. on the day of his testimony?

Also, we were previously advised that with respect to P.S.'s cellphone the Special Master handed over a number of photographs and video to the Defense. Kindly identify for our office what these files (pictures/videos) consist of and please provide us with a copy in advance of P.S.'s testimony.

Also, with respect to the below-embedded email if you could please have P.S.'s deposition transcripts available at the front desk for someone from our office to procure prior to P.S.'s testimony as well that would be greatly appreciated.

We understand you and the Circuit Attorney's Office have been very busy and we appreciate your time.

From: Steele, Robert [<mailto:SteeleR@stlouiscao.org>]
Sent: Wednesday, May 09, 2018 6:27 PM
To: Tony Bretz
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

We just finished our pretrial for the day. I can have a copy for someone to pick up tomorrow a.m.

From: Tony Bretz [<mailto:tbretz@kwklaw.net>]
Sent: Wednesday, May 09, 2018 3:45 PM
To: Steele, Robert <SteeleR@stlouiscao.org>
Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Mr. Steele,

Please advise if the transcripts of the deposition testimony of both PS and Albert Watkins are available for someone from our firm to pick up from your office this afternoon. Thank you for your time.

From: Albert Watkins
Sent: Tuesday, May 08, 2018 12:06 PM
To: gardnerk@stlouiscao.org; steeler@stlouiscao.org
Cc: Tony Bretz
Subject: FW: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Kindly make available for pick up at your office the transcript of the deposition testimony of PS. Please reply to confirm when it will be available for pick up. Thank you.

Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

p: (314) 727-9111

f: (314) 727-9110

a: 7733 Forsyth Blvd., Suite 600
St. Louis, MO 63105

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From: Jennifer Shprintz [<mailto:jennifers@pohlmanusa.com>]

Sent: Tuesday, May 08, 2018 9:52 AM

To: Albert Watkins <albertwatkins@kwklaw.net>

Cc: Amber S. Leuschke <amberl@pohlmanusa.com>; jgarvey@careydanis.com; jmartin@dowdbennett.com; edowd@dowdbennett.com; gardnerk@stlouiscao.org; steeler@stlouiscao.org; Tony Bretz <tbretz@kwklaw.net>; srosenblum@rsflawfirm.com; scott@knightsimpson.com

Subject: RE: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

Good Morning,

We are aware of the signature or waiver of signature request for all deposition transcripts. The court reporter handling this matter did confirm with us that the read and sign for P.S. was to be sent to the following address:

Circuit Attorney's Office
Ms. Kimberly Gardner
1114 Market Street Room 401
St. Louis, MO 63101

A copy of the transcripts and the related errata sheets for each date were sent to the above address.

Our instruction regarding distribution of transcripts is again from Mr. James Bennett with Dowd Bennett.

Thank you and have a great day.

Jennifer Shprintz
Production & Billing Manager



10 South Broadway, Suite 1400 | St. Louis, MO 63102
☎ Direct: 314.296.5411 | ☎ Toll Free: 877.421.0099
jennifers@pohlmanusa.com | www.pohlmanUSA.com

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Subject: Re: Deposition of P.S. - 4/9/2018 [State of Missouri v. Eric Greitens]

My client is the witness. As a court reporter service surely you are cognizant of the deponent's signature or waiver of signature requirement being a condition precedent to the use of a deposition at trial. Moreover, a witness is not to be charged for a transcript for which review and signature is needed.

Your office representative previously indicated another reason for the withholding of the transcript.

Please provide me with the name of the individual who provided you with the "instructions" referenced in the second sentence of your email embedded below.

A promptly response is appreciated.

Very truly yours,

Sent from my iPhone

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KODNER WATKINS LC
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On May 7, 2018, at 4:59 PM, Jennifer Shprintz <jennifers@pohlmanusa.com> wrote:

Good Afternoon,

Our apologies for the delay in response. Unfortunately our instructions on this matter have not changed. We are unable to release any materials in this matter without a written order from the Judge. This includes the transcripts and videos taken of the witness P.S. on April 9, 2018, April 11, 2018, and April 24, 2018. Once a written order from the judge is received providing specific instructions on which transcripts we are authorized to release, we would be happy to provide you with the cost for the materials as well as the materials upon confirmation of payment.

Thank you,

Jennifer Shprintz
Production & Billing Manager

<pohlmansignaturelogo.png>

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From: Albert Watkins <albertwatkins@kwklaw.net>
Sent: Monday, May 14, 2018 9:34 AM
To: Dierker, Robert <DierkerR@stlouiscao.org>; steeler@stlouiscao.org
Cc: Gardner, Kimberly <GardnerK@stlouiscao.org>; Scott Simpson <scott@knightsimpson.com>
Subject: USA v. Greitens

Dear Mr. Dierker and Mr. Steele:

On behalf of my client, witness PS, please be advised that the court reporter has not produced the original of the PS deposition transcript for review and signing.

It is trusted that the PS deposition transcript will be subjected to a motion filed by the State to suppress its use by the Defendant's counsel at trial.

Also, on behalf of my client, witness PS, please be advised that we have not received word about that which was purportedly identified on his cell phone nor have we received copies of that which was released to the parties for use at trial in this matter. Please advise me of same. Please provide me with copies of same.

Thank you.

Very truly yours,

Albert S. Watkins, LC

Attorney at Law

Kodner Watkins, LC

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From: Dierker, Robert [<mailto:DierkerR@stlouiscao.org>]
Sent: Monday, April 23, 2018 3:53 PM
To: scott@knightsimpson.com; Albert Watkins <albertwatkins@kwklaw.net>
Cc: Gardner, Kimberly <GardnerK@stlouiscao.org>; Steele, Robert <SteeleR@stlouiscao.org>; jmartin <jmartin@dowdbennett.com>; Scott Rosenblum <rosenblum@rsflawfirm.com>
Subject: PS/KS phones

Judge Burlison entered an order for KS and PS to turn over phones for imaging. Defense expert Koberna is available tomorrow morning to do the imaging. The images will be entrusted to the special master for review in camera. Scott, please let us know if you're going to apply for a writ. Otherwise, Al and Scott let us know if the phones can be produced tomorrow morning. If not, let us know when they can be produced.

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From: Jeff Smith <jeffsmith2006@gmail.com>
Sent: Thursday, May 9, 2019 12:52 AM
To: Bob Fox
Cc: Samantha Stangl; Marcel Hagens; Anthony D'Agostino; Wesley Bell (wesleyjcbell@gmail.com); Alton, Sam; Mike Wolff (mike77wolff@gmail.com); Kim Gardner; redditt_hudson@yahoo.com; megan.e.kraatz@gmail.com
Subject: Re: [STLtoday.com] Lohmar: Don't handcuff law enforcers by restricting civil forfeitures

Bob,

There's a young, conservative Republican attorney who represents St. Charles County in the House who has sponsored and pushed CJ reform legislation this year- clean slate/expungement legislation, etc. (His name is Nick Schroer; some background [here](#).) He attended the program you hosted for the regional delegation before session. I've gotten to know him a bit this session and he might be a good messenger to approach the county prosecutor on this, especially if he can cite support from constituents for his legislative efforts - or at least note that he has not heard local opposition.

Jeff

On Wed, May 8, 2019 at 1:15 PM Bob Fox <bob@clark-fox.com> wrote:

Disappointing but not totally surprising. He tends to be somewhat more reform oriented than other traditional prosecutors. If civil asset forfeiture was exclusively used to deal with drug dealers that would be one thing, but way too often it is used to fleece the poor. Unless something has changed in Missouri you have to sue in civil court to get your property back even if not convicted of a crime. Hard to do when law enforcement has taken away what little you already have and the price of a good lawyer is often more than you'll recover.

Any thoughts?

Bob

https://www.stltoday.com/opinion/columnists/lohmar-don-t-handcuff-law-enforcers-by-restricting-civil-forfeitures/article_c58f8925-8ca5-501a-899f-c4301c10f421.html?utm_medium=social&utm_source=email&utm_campaign=user-share