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January 25, 2023

Sent via email to: [ahosmerhenner@mcdonaldcarano.com](mailto:ahosmerhenner@mcdonaldcarano.com)

McDonald Carano LLP  
Attn: Adam Hosmer-Henner  
100 West Liberty Street, Tenth Floor  
Reno, Nevada 89501

Re: *Hillary Schieve v. David McNeely et al.*  
Case No. CV22-02015

Dear Mr. Hosmer-Henner:

Please be advised that this office has recently been retained to represent David McNeely (“*McNeely*”) and 5 Alpha Industries, LLC (“*Alpha*”)(collectively the “*Clients*”) with respect to the foregoing matter. As such, please direct all future correspondence to this office. We are informed that McNeely was served on Monday, January 23, 2023. McNeely was served with the following documents: (i) a Complaint filed December 15, 2022; (ii) a Summons for McNeely, (iii) a Subpoena Duces Tecum to McNeely; and (iv) a Subpoena Duces Tecum to Alpha. Omitted from the packet served upon McNeely is a summons for Alpha and any applications or motions filed with the court which would have given your client a basis for issuing subpoenas to parties in the action prior to effectuating service of the Complaint. As such, we request that you provide this office with copies of all documents filed in the action to date. Moreover, to facilitate your office in properly effectuating service upon Alpha, this office is willing to accept service of both the Summons for Alpha and the Complaint as soon as you remit the same with an Acceptance of Service for us to execute.

Our Clients are anxious to move this matter forward so that the court (and the public) will have an opportunity to hear both sides of the case and to address the ill-founded allegations and causes of action brought against them. Our Clients have reviewed the video interview of your client and have significant concerns relative to comments and admissions made therein. Despite the allegations in the Complaint, my Clients never “trespassed on Schieve’s private property in order to install a sophisticated GPS tracking device on her personal vehicle”. Rather, my Clients installed a GPS tracking device while Mayor Schieve’s vehicle was in a public right of way and it was installed exclusively to allow our Clients to legally surveil Mayor Schieve to ascertain the validity of certain allegations of misconduct. Simply put, all of the actions undertaken by my Clients were legal and Mayor Schieve was fully informed of the same repeatedly during her interview by Sparks’

detectives.<sup>1</sup> Nevertheless, she appears to have brought this civil action for the sole purpose of forcing our Clients to disclose the identity of their client. Something my Clients will not provide absent an opportunity to be heard on the issue in court.

Accordingly, after reviewing the subpoenas, McNeely and Alpha object to your requests pursuant to NRCPC 45(c)(2)(B) which affirms that when an objection is made, “the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued.” Simply put, the requests call for our Clients to disclose confidential trade secret information protected under Nevada law. Specifically, the requests seek information which would lead to the identity of their client. As I am sure you are aware, the Nevada Supreme Court has held that client information may be considered a trade secret. Such a determination is generally a question of fact to be decided on the following relevant factors: (1) the extent to which the information is known outside of the business and the ease or difficulty with which the acquired information could be properly acquired by others; (2) whether the information was confidential or secret; and (3) the extent and manner in which the party guarded the secrecy of the information. *Finkel v. Cashman Profl, Inc.*, 128 Nev. 68, 75 (2012) (citing *Frantz v. Johnson*, 116 Nev. 455, 467 (2000)).

Upon consideration of these factors, a court is likely to agree that the requested information constitutes a trade secret. NRS 49.325 provides a privilege “to refuse to disclose and to prevent other persons from disclosing a trade secret owned by him or her, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice.” Here, our Clients’ refusal to disclose the identity of their trade secret does not conceal any fraud (clearly none is alleged in the Complaint) nor does it “otherwise work any type of injustice.”

Moreover, NRS 600A.070 clearly provides that “[i]n any civil or criminal action, the court **shall** preserve the secrecy of an alleged trade secret by reasonable means, which may include, without limitation:

1. Granting protective orders in connection with discovery proceedings;
2. Holding hearings in camera;
3. Sealing the records of the action;
4. Determining the need for any information related to the trade secret before allowing discovery;
5. Allowing the owner of the trade secret to obtain a signed agreement of confidentiality from any party who obtains knowledge of the trade secret;
6. Ordering a person who obtains knowledge of the trade secret to return to the owner of the trade secret any writing which reflects or contains the trade secret; and
7. Ordering any person involved in the litigation not to disclose an alleged trade secret without previous court approval.”

Emphasis added.

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<sup>1</sup> See <https://thenevadaglobe.com/articles/video-reveals-sparks-police-prioritized-investigation-for-reno-mayor/> providing a link to the video <https://rumble.com/v270tuo-extraction-1.1-outside-agency-assist.mp4.html>.

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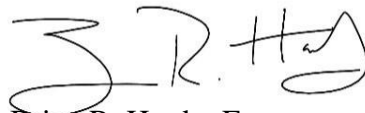
Here, it appears the express purpose of your client seeking this information is to make the same public by, among other things, filing a publicly available civil complaint. As such, it does not appear there are any mechanisms available in which my client can provide the information to your office without the trade secret information becoming public.

Finally, our Clients object to these subpoenas on the grounds that they are a blatant *ex parte* attempt to seek discovery without allowing any opportunity for them to respond to the baseless allegations contained in the Complaint. The Complaint fails to allege any conduct that supports a claim upon which relief can be granted and it is our Clients' intention to timely file an appropriate motion to dismiss the same. I am sure you can appreciate the fact that when people hire a private investigator, they often do not want their identity known and if my Clients were to become known as a private investigator that openly provides its client information it will soon have no clients. While it may be the intent of your client to drive them out of business, our Clients will not sit idly by allowing this to happen.

While the objection above serves to stop the production of the required information, please provide a time when we can conduct a meet and confer on your request as it is also our intention to additionally seek judicial intervention to quash or modify the subpoenas pursuant to NRCP 45(c)(3). Should you have any questions, please feel free to contact the undersigned directly.

Sincerely,

MARQUIS AURBACH

A handwritten signature in black ink, appearing to read "B.R. Hardy". The signature is stylized with a large, looping initial "B" and "H".

Brian R. Hardy, Esq.

BRH: WRL/jjm

Cc: Chelsea Latino  
Philip Mannelly  
Jane Susskind

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