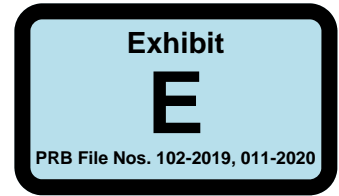


## Dalene Sacco

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**From:** Alexander, Jon <Jon.Alexander@vermont.gov>  
**Sent:** Thursday, July 6, 2023 10:47 AM  
**To:** Kaveh Shahi  
**Cc:** Navah C. Spero; charlotte dennett  
**Subject:** RE: Alibozek v. Watts



Hi Kaveh,

Hope you had a nice holiday.

I'm not raising any work product assertion on behalf of Charlotte or the Alibozeks, only Navah in her capacity as Special Disciplinary Counsel (SDC).

However, it was my understanding that Charlotte was contemplating filing a motion to quash, modify and/or for a protective order to prevent disclosure (via subpoena to non-party Navah) of work product generated by Charlotte and/or the Alibozeks in their correspondence to Navah. *See Ireh v. Nassau Univ. Med. Ctr.*, No. CV06-09 LDW/AKT, 2008 WL 4283344, at \*3 (E.D.N.Y. Sept. 17, 2008), *aff'd*, 371 F. App'x 180 (2d Cir. 2010) ("As a general rule, a party lacks standing to move to quash or modify a subpoena directed at a non-party. If, however, a party claims a 'personal right or privilege regarding the production ... sought by a subpoena directed to a nonparty, the party has standing to move to quash' the subpoena") (citations omitted); *see also Union Square Ltd. v. Mr. Bar-B-Q Prod. LLC*, No. 21-CV-11032 (VSB), 2023 WL 4187725, at \*2 (S.D.N.Y. June 26, 2023) ("Although Respondent may not challenge the third-party subpoena 'on grounds of relevance or burden, a subpoena served on a non-party,' may be challenged by a party on the basis of privilege") (citation omitted).

To your point about waiver Kaveh, I suppose any such motion by Charlotte/the Alibozeks would naturally address why transmission of any asserted work product to Navah as SDC would not waive the waive work product protection as to Kaveh/Norm Watts, but that's not my argument to make on behalf of Charlotte or the Alibozeks. *See Hartnett v. Med. Ctr. Hosp. of Vt.*, 146 Vt. 297, 299–300, 503 A.2d 1134, 1136 (1985) ("[W]ork product privilege waived by disclosure which substantially increases possibility that opposing party will obtain [work product] information") (citing *United States v. Am. Tel. & Tel. Co.*, 642 F.2d 1285, 1299 (D.C.Cir.1980)); *see also Am. Oversight v. United States Dep't of Justice*, 45 F.4th 579, 593 (2d Cir. 2022) ("Generally speaking, the work product privilege should not be deemed waived unless disclosure is inconsistent with maintaining secrecy from possible adversaries"); *Audet v. Fraser*, No. 3:16-cv-940 (MPS), 2019 WL 285400, at \*2 (D. Conn. Jan. 22, 2019) ("The test for waiver is whether the disclosure at issue has substantially increased the opportunities for potential adversaries to obtain the information.").

Charlotte, are you filing such a motion and, if so, when? I hesitate to produce to Kaveh/Norm Watts what you may claim to be the protected work product of you and your clients if you are about to ask the superior court to protect it (or already have). Kaveh, let me know if you disagree or have some contrary authority. However, if a motion from Charlotte/the Alibozeks is not shortly forthcoming, I will produce the responsive documents/

correspondence for which SDC Spero claims no work product protection, including all emails and other docs received by SDC Spero from Charlotte and the Alibozezs.

Thanks, Jon



Jon T. Alexander  
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(802) 859-3001 office  
(802)734-9484 mobile

**From:** Kaveh Shahi <kss@clearyshahi.com>  
**Sent:** Friday, June 30, 2023 5:26 PM  
**To:** Alexander, Jon <Jon.Alexander@vermont.gov>  
**Cc:** Navah C. Spero <nspero@gravelshea.com>; Dalene Sacco <das@clearyshahi.com>; charlotte dennett <chardennettlaw@gmail.com>; abachand <abachand@gravelshea.com>  
**Subject:** Re: Alibozek v. Watts

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**  
Hi Jon,

I am good with your request for a few more days to check on the handful of emails you may withhold as Navah's work product. I trust you will give me a privilege log and I can evaluate. However you have no standing to raise a work product objection for someone else such as Charlotte. If she gave your office her work product, its waived. You need to produce those emails per the agreed to deadline.

Have a good 4th.

Don't Get [Outlook for Android](#)

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**From:** Alexander, Jon <Jon.Alexander@vermont.gov>  
**Sent:** Friday, June 30, 2023 4:48:52 PM  
**To:** Kaveh Shahi <kss@clearyshahi.com>  
**Cc:** Navah C. Spero <nspero@gravelshea.com>; Dalene Sacco <das@clearyshahi.com>; charlotte dennett <chardennettlaw@gmail.com>; abachand <abachand@gravelshea.com>  
**Subject:** RE: Alibozek v. Watts

Hi Kaveh-

I wanted to let you know that I believe we will only be withholding from production in response to your subpoena just a few emails (about 3 or 4) that reflect SDC Spero's protected work product, but I have not yet been able to connect with Navah to confirm that today. Therefore, I'd ask for a few more days to provide you with descriptions of the emails we will withhold, in whole or in part, on work product grounds.