Dalene Sacco

From: Alexander, Jon <Jon.Alexander@vermont.gov>
Sent: Friday, July 7, 2023 4:19 PM
To: Kaveh Shahi
Cc: Navah C. Spero; charlotte dennett
Subject: RE: Alibozek v. Watts
Attachments: 2023 07 07 Subpoena Privilege Log.pdf

Kaveh-

Per my 6/7 email to you below and our 6/30 email exchange below, this constitutes the written objections, per VRCP 45(c)(2)(B) and our agreed extensions, of Special Disciplinary Counsel Spero and the Office of Disciplinary Counsel to the 5/18/23 subpoena duces tecum of Defendants Watts and Watts Law Firm to SPC Spero ("Subpoena"):

1. The Subpoena impermissibly seeks production of 5 emails – dated 1/29/23, 3/20/23, 3/23/23, 4/18/23, and 4/23/23 – written by SPC Spero to Gary Alibozek and Charlotte Dennett that are exempt from discovery under the work product privilege and such privilege has not been waived by virtue of their transmission to Mr. Alibozek or to Attorney Dennett; and

2. The Subpoena impermissibly seeks production of 5 emails – dated 1/29/23, 3/20/23, 3/23/23, 4/18/23, and 4/23/23 – written by SPC Spero to Gary Alibozek and Charlotte Dennett that are non-discoverable because these emails and their content are not apparently relevant to any claim or defense in the Alibozek v Watts legal malpractice action.

Per VRCP 45(d)(2)(A), I have attached a Privilege Log describing the 5 withheld emails.

As for the remaining documents in the possession of SPEC Spero and my Office that are responsive to the Subpoena, which number approximately 400 emails, their attachments, and a handful of text messages, we are prepared to produce them to you in compliance with the Subpoena, subject to Plaintiff Alibozek's right to timely challenge the Subpoena before the Superior Court on the basis that it seeks his own privileged documents, or that of his legal counsel, Ms. Dennett.

My understanding from the below 7/6 email from Attorney Dennett is that she will be filing, with respect to the Subpoena, a "Motion for a Protective Order to withhold a small number of emails based on attorney work product." In a subsequent telephone call I had with Attorney Dennett this morning she represented that she would be filing that Motion today, although I have not yet seen any such filing. She did not specify the "small number of emails" that she contends constitute her protected work product and that will be the subject of the forthcoming Motion.

However, based on her assertion of privilege and representation of an imminent filing , I feel it incumbent upon me to delay our production in response to the Subpoena a very short while longer to see if Attorney Dennett makes the represented Motion filing today. If that Motion is filed, it would seem that the propriety of producing Attorney Dennett's asserted work product to Defendants would then be a decision for the Superior Court to make, not a third-party subpoena respondent.

In my 7/6 email to you below, I asked if you were able to provide me with any authority to the contrary, e.g. that a subpoena respondent must immediately produce to a party those documents that an opposing party contends are its privileged material and will be the subject of a shortly forthcoming motion for protective order, but have received no such authority from you. Indeed, VRCP 45(d)(2)(B) suggests that if we produced to you documents that Plaintiff Alibozek contends are the privileged work product of his attorney, Ms. Dennett, Defendants, as the receiving parties, would be obligated to " promptly return, sequester, or destroy" the asserted work product documents and "not use or disclose the information until the claim is resolved" by the parties or the Superior Court.

I had also suggested and hoped that you and Attorney Dennett could have negotiated between yourselves an agreed filing/briefing schedule on any motion for protective order with respect to the Subpoena, but it seems that this has not come to pass.

Thank you for your patience Kaveh. Charlotte, if you have made your Motion filing already, please send me a copy. If you have not made the filing yet, please send it to me once it is filed today, as you represented it would be.

Regardless of whether Plaintiff makes the Motion for Protective Order filing today or not, we will be producing a substantial number of documents responsive to the Subpoena over the weekend or early Monday morning.

Thanks, Jon

VERMONT JUDICIARY
Jon T. Alexander
Disciplinary Counsel, Professional Responsibility Program
Costello Courthouse, 32 Cherry Street, Suite 213
Burlington, VT 05401
(802) 859-3001 office
(802)734-9484 mobile

From: Charlotte Dennett <chardennettlaw@gmail.com>
Sent: Thursday, July 6, 2023 4:05:51 PM
To: Kaveh Shahi <kss@clearyshahi.com>; Jon Alexander <jalexander@healaw.com>
Subject: heat stroke and response to Kaveh's subpoena

You don't often get email from chardennettlaw@gmail.com. Learn why this is important

Just kidding...but our ACs are not working now and I'm on the fourth floor facing west and am functioning in a veritable HOT BOX.

Need to run out and get more fans.

My intention is to file a Motion for a Protective Order to withhold a small number of emails based on attorney work product.
Just got off the hearing so you will probably get this by tomorrow morning.

Hoping for your forbearance,
Charlotte

Alibozek v. Norman E. Watts and Watts Law Firm, P.C., **Docket No. 22-CV-00493 (Vt. Super. Ct., Civil Division, Windsor Unit)**

Office of Disciplinary Counsel's Privilege Log of Documents Withheld from Production in Response to Defendants' Subpoena to Special Disciplinary Counsel ("SDC") Navah C. Spero dated May 18, 2023 demanding production of "all communications, including but not limited to emails, text messages, correspondence, letters, attachments, and other documents to/from Gary A. Alibozek, Sharon K. Alibozek, and/or Charlotte Dennett."

July 7, 2023

Date	Author	Addressee(s)/ Recipient(s)	# Pages/ Length	General Subject Matter of Withheld Material	General Description of Withheld Material	Privilege Asserted	Doc. Nos.
1/29/23	SDC Spero	Gary Alibozek	1 para. redacted/ withheld from 2 para. email reproduced in 3 multi-page email string documents	Attorney Disciplinary Proceedings in PRB Docket Nos. 2019-102, 2020-011, In re: Norman Watts	SDC Spero's interpretation and legal analysis to G. Alibozek concerning (1) PRB Hearing Panel pre-hearing order on SDC Spero's motion *in limine* re evidence of G. Alibozek's alleged behavior toward Norman Watts's paralegal Margaux Reckard; and (2) ramifications of order on motion *in limine* for SDC Spero's presentation of rebuttal evidence at disciplinary hearing	Work Product Privilege	201.0_#2062.1 202.0_#1169.1 203.0_#1159.1 (N.B. withheld/redacted paragraph from 1/29/23 email reproduced in 3 above-noted email string documents)

3/20/23	SDC Spero	Gary Alibozek	1 para. email redacted/ withheld from 8 email string documents 1-4 pages in length	Attorney Disciplinary Proceedings in PRB Docket Nos. 2019-102, 2020-011, In re: Norman Watts	SDC Spero's (1) analysis and prediction to G. Alibozek of possible dates for scheduling of disciplinary hearing; and SDC Spero's (2) analysis and assessment to G. Alibozek of possible tribunal and party-related causes for delay in scheduling of disciplinary hearing	Work Product Privilege	237.0_#2020.1 240.0_#1888.1 241.0_#2044.1 242.0_#1903.1 246.0_#1915.1 247.0_#2026.1 256.0_#1820.1 257.0_#1811.1 (N.B. withheld/redacted 3/20/23 email reproduced in 8 above-noted email string documents)
3/23/23	SDC Spero	Gary Alibozek	1 para. email redacted/ withheld from 6 multi-page email string documents	Attorney Disciplinary Proceedings in PRB Docket Nos. 2019-102, 2020-011, In re: Norman Watts	SDC Spero's (1) analysis and prediction to G. Alibozek of possible dates for scheduling of disciplinary hearing; and SDC Spero's (2) analysis and assessment to G. Alibozek of possible tribunal and party-related causes for delay in scheduling of disciplinary hearing, including pending motions and requested deposition of SDC Spero's expert witness	Work Product Privilege	241.0_#2044.1 242.0_#1903.1 246.0_#1915.1 247.0_#2026.1 256.0_#1820.1 257.0_#1811.1 (N.B. withheld/redacted 3/23/23 email reproduced in 6 above-noted email string documents)

					by Respondent Watts		
4/18/23	SDC Spero	Charlotte Dennett, Esq.	2-sentence email redacted/withheld from 2 multi-page email string documents	Attorney Disciplinary Proceedings in PRB Docket Nos. 2019-102, 2020-011, In re: Norman Watts	SDC Spero's request to Attorney Dennett for copy of document served and/or filed in *Alibozek v. Watts* malpractice lawsuit allegedly containing Respondent Watts's characterization or opinion of attorney disciplinary proceedings against him in PRB Docket Nos. 2019-102, 2020-011	Work Product Privilege	256.0_#1820.1 257.0_#1811.1 (N.B. withheld/redacted /20/23 email reproduced in 8 above-noted email string documents)
4/23/23	SDC Spero	Charlotte Dennett, Esq.	1-sentence email redacted/withheld from 1 multi-page email string document	Attorney Disciplinary Proceedings in PRB Docket Nos. 2019-102, 2020-011, In re: Norman Watts	SDC Spero's inquiry to Attorney Dennett concerning Respondent Watts's alleged characterization or opinion of attorney disciplinary proceedings against him in PRB Docket Nos. 2019-102, 2020-011 in document served and/or filed in *Alibozek v. Watts* malpractice lawsuit	Work Product Privilege	257.0_#1811.1