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April 1, 2024

Via e-mail and certified mail

Janet Robinson
City Clerk
City of Marion, Kansas
208 E. Santa Fe
Marion, KS 66861
JRobinson@marionks.net

Ashley Herpich
Marion County Clerk
Marion County, Kansas
200 S. Third St. - Suite 104
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AHerpich@marioncoks.net

Jeff Soyez
Sheriff
Marion County Sheriff's Office
202 S. Fourth St.
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Joel Ensey
Marion County Attorney
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JEnsey@marioncoks.net

RE: K.S.A. 12-105b Notice of Claims

Dear Ms. Robinson, Ms. Herpich, Sheriff Soyez, and Mr. Ensey:

I am the attorney for Eric Meyer;¹ the estate of Joan Meyer;² and Hoch Publishing Co., Inc., doing business as the *Marion County Record*. This letter constitutes notice to the City of Marion, Marion County, the Marion County Sheriff's Office, and the Marion County Attorney, pursuant to K.S.A. 12-105b, of numerous claims by my clients against the City of Marion, Marion County, the Marion County Sheriff's Office, the Marion County Attorney, and their officers, employees and agents arising out of the events described below.

I. The claimants' names and addresses, and the name and address of claimants' attorney.

The claimants' names and addresses are as follows:

- Eric Meyer: 425 Locust St., Marion, KS 66861.
- Joan Meyer (Deceased): Resided at 425 Locust St., Marion, KS 66861.
- The Hoch Publishing Co., Inc., doing business as the *Marion County Record*: 117 S. 3rd St., Marion, KS 66861.

¹ Mr. Meyer is a claimant (1) in his personal capacity, (2) as the executor of the estate of Joan Meyer, and (3) as heir at law to Joan Meyer.

² As noted above, Eric Meyer is the executor of Mrs. Meyer's estate.

Exhibit A

exhibitsticker.com

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My address is c/o Lathrop GPM LLP, 2345 Grand Blvd., Suite 2200, Kansas City, MO 64108. Please send any correspondence concerning these claims to me at this address.

II. The name and address of any public officer or employee involved, if known.

The names and addresses of the public officers and employees known to my clients to be involved in these claims are as follows:

- Former Marion Mayor David Mayfield; personal address unknown; former work address: 208 E. Santa Fe, Marion, KS 66861.
- Marion City Councilman Zach Collett; personal address unknown; work address: 208 E. Santa Fe, Marion, KS 66861.
- Former Marion Vice Mayor Ruth Herbel: 611 S. Freeborn St., Marion, KS 66861; former work address: 208 E. Santa Fe, Marion, KS 66861.
- Former Marion City Councilman Gerald Kline; personal address unknown; former work address: 208 E. Santa Fe, Marion, KS 66861.
- Marion City Councilman Kevin Burkholder; personal address unknown; work address: 208 E. Santa Fe, Marion, KS 66861.
- Former Marion City Administrator Brogan Jones; personal address unknown; former work address: 208 E. Santa Fe, Marion, KS 66861.
- Former Marion Police Chief Gideon Cody; personal address unknown former work address: 112 N. Fifth St., Marion, KS 66861.
- Acting Police Chief Zach Hudlin; personal address unknown; work address: 112 N. Fifth St., Marion, KS 66861.
- Former Marion Police Officer Jonathon Benavidez; personal address unknown; former work address: 112 N. Fifth St., Marion, KS 66861.
- Part-time Marion Police Officer & State Fire Marshall Investigator Chris Mercer, personal address unknown; work addresses: 112 N. Fifth St., Marion, KS 66861 and 800 S.W. Jackson St., Suite 104, Topeka, KS 66612.
- Marion County Commission Chair David Mueller; personal address unknown; work address: 200 S. Third St., Suite 104, Marion, KS 66861.
- Marion County Commission Vice-Chair Dave Crofoot; personal address unknown; work address: 200 S. Third St., Suite 104, Marion, KS 66861.
- Marion County Commissioner Jonah Gehring; personal address unknown; work address: 200 S. Third St., Suite 104, Marion, KS 66861.

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- Marion County Commissioner Kent Becker; personal address unknown; work address: 200 S. Third St., Suite 104, Marion, KS 66861.
- Marion County Commissioner Randy Dallke; personal address unknown; work address: 200 S. Third St., Suite 104, Marion, KS 66861.
- Marion County Sheriff Jeff Soye; personal address unknown; work address: 202 S. 4th St. Marion, KS 66861.
- Former Marion County Sheriff's Detective Steve Janzen; personal address: 429 Locust St., Marion, KS 66861; former work address: 202 S. 4th St., Marion, KS 66861.
- Marion County Sheriff's Deputy Aaron Christner; personal address unknown; work address: 202 S. 4th St., Marion, KS 66861.
- Former Marion County Sheriff's Sergeant Matt Regier; personal address unknown; former work address: 202 S. 4th St., Marion, KS 66861.
- Marion County Sheriff's Deputy Kaylan Miles; personal address unknown; work address 202 S. 4th St., Marion, KS 66861.
- Marion County Attorney Joel Ensey; personal address unknown; work address: 202 S. Third St., Suite A, Marion, KS 66861.
- Morris County Magistrate Judge Laura Viar; personal address unknown; work address: 501 W. Main Street, Council Grove, KS 66846.

Additional public officers and employees may be identified through further investigation.

III. A concise statement of the factual basis of my clients' claims.

The Hoch Publishing Co., Inc., doing business as the *Marion County Record*, publishes a weekly newspaper based in Marion, Kansas. Eric Meyer and Joan Meyer co-owned the paper until Mrs. Meyer's unfortunate death. Mrs. Meyer was a regular contributor to the *Record* and Mr. Meyer is the *Record's* publisher and editor.

A. The scheme to frame the Record and Mr. Meyer³

The Marion City Council, at the direction and urging of Mayor David Mayfield, hired Gideon Cody as the Marion Police Chief in the spring of 2023, despite Mayor Mayfield's and the City Council's awareness of prior misconduct by then-Captain Cody in his previous role at the Kansas City, Missouri, Police Department. The City of Marion hired and retained Chief Cody even though it knew or should have known that he was incompetent or unfit to serve as police chief.

³ To the best of my clients' knowledge, the events detailed in this section all occurred in Marion County, Kansas.

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The City of Marion then failed to supervise Chief Cody even though it knew or should have known that he was incompetent or unfit to serve as police chief.

In early August 2023, a source provided the *Record* with a copy of a letter from the Kansas Department of Revenue addressed to Kari Newell. The source also alleged that law enforcement was “fully aware” that Ms. Newell was driving without a license for years. A *Record* reporter used the Department of Revenue’s public online Driver’s License Status Check tool to verify the authenticity of the letter—with the assistance of the KDOR.

Following this tip—and the KDOR’s confirmation that the letter was accurate—Mr. Meyer reached out to Chief Cody and Sheriff Soyez expressing concern about the tipster’s allegations, as well as concern that the tipster themselves may have wrongfully utilized law enforcement sources to obtain the letter.

Chief Cody, together with Mayor Mayfield and Sheriff Soyez, undertook a scheme to wrongfully accuse Mr. Meyer and the *Record* of identity theft and unlawful acts concerning computers. Chief Cody and Mayor Mayfield also falsely accused Mr. Meyer and the *Record* of providing this letter to Marion Vice Mayor Ruth Herbel.

At all times, Mayor Mayfield, Sheriff Soyez, and Chief Cody knew or should have known that their accusations were false, and that neither Mr. Meyer nor the *Record* had committed any crimes. In their actions concerning these made-up “crimes” and subsequent “investigation,” Mayor Mayfield, Sheriff Soyez, and Chief Cody acted intentionally, with actual malice, with reckless disregard or callous indifference to my clients’ rights, or were negligent.

According to Chief Cody, County Attorney Joel Ensey was aware of, and provided legal approval of, the allegations, investigation, affidavits, warrants, and raids.

Chief Cody and Mr. Mayfield involved others in their scheme, including City Council Member Zach Collett, Police Officer Zach Hudlin, and Marion County Sheriff’s Detective Aaron Christner. Council Member Collett assisted Mayor Mayfield and Chief Cody by, among other things, helping Mayor Mayfield and Chief Cody convince the so-called “victim,” Ms. Newell, that Mr. Meyer and the *Record* had committed crimes against her. Chief Cody falsely told Ms. Newell that the *Record* had stolen her identity and had provided the letter to Vice Mayor Herbel.

Chief Cody, Officer Hudlin, Sheriff Soyez, and Det. Christner all participated in the “investigation” and/or the pursuit of search warrants for Mr. Meyer’s residence (shared with Joan Meyer) and the *Record*’s office based on fictional “crimes.”

At all times, Chief Cody, Mayor Mayfield, Council Member Collett, Officer Hudlin, Sheriff Soyez, and Det. Christner knew or should have known that the accusations against the *Record* and Mr. Meyer were false. These men likewise knew or should have known that the “investigation” was a sham and was part of a scheme to harass, intimidate, and retaliate against the *Record* and Mr. Meyer. These men acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients’ rights, or were negligent.

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Based on these malicious, false allegations, Chief Cody and Det. Christner drafted an affidavit for a search warrant for the *Record's* office. Sheriff Soyez suggested that they also draft an affidavit for the home Mr. Meyer shared with his 98-year-old mother, Mrs. Meyer; Chief Cody took Sheriff Soyez up on the suggestion.

These affidavits contained numerous misstatements of facts and law and omissions of material fact. The affidavits purposefully obfuscated the fact the KDOR made the letter publicly available via its Driver's License Status Check tool, and instead falsely claimed the letter could only be accessed via a crime. The affidavits stated that Mr. Meyer and/or the *Record* must have made material misrepresentations to the KDOR in order to obtain the letter, when that allegation was obviously false. The affidavits stated that the letter was protected by the Driver's Privacy Protection Act—the plain language of the Act establishes that this is also obviously false.

Additionally, because Chief Cody did not appear before Judge Viar to swear to the allegations in the affidavits, the resulting search warrants were not issued “upon the oral or written statement ... of any person under oath or affirmation” as required by the Fourth Amendment and Kansas law.

The search warrants issued pursuant to these falsified, legally erroneous affidavits were illegal, were not supported by probable cause, and violated the First Amendment, the Fourth Amendment, the federal Privacy Protection Act, and the Kansas Journalist Privilege Law.

Chief Cody, Officer Hudlin, Sheriff Soyez, and Det. Christner knew or should have known that the affidavits were false and defective, and the warrants were illegal. By nevertheless pursuing the warrants, they acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients' rights, or were negligent.

B. The search and seizures at the Record

Chief Cody then set about executing the illegal warrants at the *Record's* office and the Meyers' home with the help and assistance of Ofc. Hudlin, Det. Christner, Det. Janzen, Ofc. Benavidez, Ofc. Mercer, and Dep. Regier.

Around 11:00 a.m. on August 11, 2023, Chief Cody, Ofc. Hudlin, Det. Christner, Det. Janzen, and Ofc. Benavidez executed the illegal warrant at the *Marion County Record*, located at 117 S. 3rd St., Marion, KS 66861. Each of these individuals illegally trespassed onto the *Record's* property and into its offices and newsroom. When committing this trespass, the officers acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients' rights, or were negligent.

While at the *Record*, the officers illegally excluded the *Record's* staff from the office, including editor Eric Meyer, reporters Deb Gruver and Phyllis Zorn, and office manager Cheri Bentz. Chief Cody, with no legal basis, interrogated Ms. Zorn and Ms. Bentz and attempted to interrogate Ms. Gruver, all in a further attempt to harass and intimidate them. When doing so, the officers acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients' rights, or were negligent.

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While at the *Record*, the officers seized and kept the reporters' cell phones. The cell phones were not used to access the KDOR letter, and the warrants required law enforcement to screen electronic devices to determine whether the device had been used in the alleged "crimes" before seizure. The officers conducted no such screening but seized the phones anyway. When doing so, the officers acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients' rights, or were negligent.

Also at the *Record*, Det. Christner engaged in a sham "preview search" of the computer's network server, purportedly to identify whether computers and/or the network had been used in the so-called "crimes." But the keywords for the "preview search" were so vague as to be meaningless. For example, Det. Christner searched for the words "Kansas" and "vehicle" to search a Kansas newspaper's network and used the positive search results to "justify" the seizure of the *Record's* newsroom computers, as well as the computer network server. Sheriff Soyez consulted via phone with Chief Cody and together the two decided to "just take [] all" of the *Record's* computers despite the lack of any evidence connecting the computers or the server to any crime. By seizing the computers, the officers effectively shut down the newspaper. When doing so, the officers acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients' rights, or were negligent.

While at the *Record*, the officers also spent considerable time rifling through the *Record's* papers and its reporters' confidential files, in violation of the First Amendment, the federal Privacy Protection Act, and the Kansas Journalist Privilege Law. Officer Hudlin identified *Record* reporter Deb Gruver's confidential file on Chief Cody, which included the identity of one or more confidential informants. Officer Hudlin took it upon himself to direct Chief Cody to review the file as well. When doing so, the officers acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients' rights, or were negligent.

The officers also wrongfully seized and kept the *Record's* newsgathering materials. When doing so, the officers acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients' rights, or were negligent.

C. The search and seizures at the Meyer home.

Also on August 11, 2023, beginning around 11:00 a.m., Chief Cody, Officer Hudlin, Officer Benavidez, Officer Mercer, Dep. Christner, and Sgt. Regier all participated in the illegal search and seizures at the Meyer home, located at 425 Locust St., Marion, KS 66861. Each of these individuals⁴ illegally trespassed into the Meyers' property. When doing so, the officers acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients' rights, or were negligent.

The warrants required the officers to screen electronic devices to determine whether the device had been used in the alleged "crimes" before seizure. At the Meyers' home, the officers seized and kept Mr. Meyer's phone, along with Mrs. Meyer's computer, Mr. Meyer's laptop, a portable

⁴ It is unclear from the available body camera footage whether Det. Janzen and Dep. Miles trespassed on the Meyers' property, but available bodycam footage does show them congregating with other officers at the front of the house.

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hard drive, and a router, without performing any sort of screening to determine whether the devices were used in the alleged “crimes.” When doing so, the officers acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients’ rights, or were negligent.

While at the Meyers’ home, the officers also rifled through, seized, and kept Mr. and Mrs. Meyer’s personal papers, and confidential newsgathering material in violation of the First Amendment, the federal Privacy Protection Act, and the Kansas Journalist Privilege Law. When doing so, they acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients’ rights, were reckless, or were negligent.

The officers committed an egregious invasion of privacy when armed law enforcement illegally invaded and searched the Meyer home for hours, despite my clients’ constant assertions of their rights and complaints that the search was illegal. This invasion of privacy and outrageous conduct caused immense physical and emotional distress to Mr. and Mrs. Meyer.

Mrs. Meyer sobbed, was visibly in tremendous distress (both physically and emotionally), and constantly warned present law enforcement that their illegal raid and occupation were going to kill her via heart attack or stroke. Despite this, law enforcement persisted with the illegal raid, worsening Mrs. Meyer’s physical and emotional distress.

The trauma and distress of the raid did not dissipate when law enforcement finally left. Mrs. Meyer remained highly distressed and inconsolable, refusing to eat, drink, and sleep. Within a day of the illegal raid, the trauma and distress caused by the raid killed Mrs. Meyer, who suffered a “sudden cardiac arrest” and died.

Mr. Meyer is devastated by the loss of his mother in such a brutal and unnecessary manner. Mr. Meyer has physical manifestation of the distress he is suffering. When the officers tormented Mr. and Mrs. Meyer with their illegal, outrageous conduct, they acted either intentionally, with actual malice, with reckless disregard or callous indifference to my clients’ rights, or were negligent.

Following the tortious and illegal raids, Chief Cody destroyed evidence concerning his involvement in the sham investigation and raids by, among other things, directing Ms. Newell, the so-called “victim,” to delete her text messages with him. And Sheriff Soyez purposefully misled *Record* reporter Phyllis Zorn in an attempt to hide his personal involvement in the illegal raids. The City further obfuscated the public officers’ wrongdoing by wrongfully refusing to produce relevant text messages concerning the raid in violation of Kansas Open Records Act.

When the above-identified actors engaged in the conduct described herein, they were acting on their own personal behalf, on behalf of the City of Marion, on behalf of Marion County, on behalf of the Marion County Sheriff’s Office, and/or on behalf of the Marion County Attorney.

K.S.A. 12-105b requires only a “concise statement of the factual basis” of a claim. Accordingly, the above description does not, and cannot, identify every detail of the tortious conduct. Additional details are included in the Complaint filed today in the United States District Court for the District of Kansas, which is enclosed and incorporated by reference.

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Based on the aforementioned conduct, the aforementioned individuals and entities are liable to my clients for, among other things, wrongful death; abuse of process; outrage; negligent infliction of emotional distress; negligent hiring and retention; negligent supervision; invasion of privacy by intrusion upon seclusion; trespass; trespass to chattels; conversion; negligence; negligence per se for violation of the Kansas Journalist Privilege Law (K.S.A. 60-480 et seq.) and the federal Privacy Protection Act (42 U.S.C. § 2000aa et seq.); and respondeat superior.

IV. A concise statement of the nature and extent of the injuries suffered by my clients.

This tortious conduct caused my clients severe and extensive injuries.

Joan Meyer: Mrs. Meyer's home was illegally invaded, and her personal effects were illegally seized and kept by law enforcement. Mrs. Meyer's life-long business, the *Marion County Record*, was also illegally invaded and its property seized. Mrs. Meyer's privacy was outrageously invaded.

The illegal occupation of her home and seizure of her personal effects, and illegal invasion and seizures at the *Record*, caused Mrs. Meyer tremendous physical, mental, and emotional distress. Mrs. Meyer was so distressed that she could not eat, drink, or sleep. Mrs. Meyer was so distraught by the invasions of her rights and privacy that she died of "sudden cardiac arrest" after spending the final hours of her life in unspeakable distress over the raids.

Before her death, she noted her devastation that after living peaceably in her home for 70 years, law enforcement's Third Reich-style⁵ tactics were going to cause her death via a heart attack or stroke. Despite her age, Mrs. Meyer was a vivacious woman. After a lifetime of service to the Marion community, Mrs. Meyer deserved to live out her golden years with her son, grandchild, great grandchildren, and other family members, with dignity and joy. The aforementioned tortious conduct stripped her of the opportunity to do so, made her last hours on earth a misery, and had literal grave consequences.

The claims brought on behalf of the tortious conduct toward Mrs. Meyer are brought both as survivor claims and as wrongful death claims.

Eric Meyer (personally and as the heir-at-law of Mrs. Meyer): Mr. Meyer's home was illegally invaded and his personal effects were illegally seized and kept by law enforcement, as was confidential newsgathering material found in his home. Mr. Meyer's business, the *Marion County Record*, was also illegally invaded and its property seized. Mr. Meyer's privacy was outrageously invaded, and he was prohibited from contacting his attorney.

Mr. Meyer was forced to navigate the trampling of his own personal rights, the violations of the First and Fourth Amendment with respect to the *Record*, and his mother's heartbreaking distress.

⁵ Mrs. Meyer lived through World War II, so her statement is not mere hyperbole.

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Mr. Meyer suffered extreme emotional distress as the result of the aforementioned tortious conduct, has suffered the devastating loss of his mother after witnessing her grueling final hours, and has physical manifestation of his distress, including requiring additional medication for his Type II diabetes.

After suffering the extreme indignity of the raids, Mr. Meyer then had to organize and fund funeral services for his mother. Mr. Meyer was deprived of the filial relationship with his mother, with whom he lived and who was also his business partner.

The Record: Law enforcement illegally excluded the *Record's* employees from the newspaper's office, interrogated the *Record's* staff with no basis, engaged in an illegal search of the premises, and seized the *Record's* papers, computers, and server, rendering the *Record* effectively unable to engage in newsgathering and reporting.

During the illegal raid of the newsroom, Chief Cody and Officer Hudlin discovered the identity of one or more of the *Record's* confidential sources who provided confidential information about Chief Cody. This breach of confidentiality is devastating to a newspaper, as newsgathering depends heavily on reporter's constitutionally protected right to keep their sources confidential and the forcible disclosure of a confidential source breaches the trust essential to newsgathering.

The raid caused the death of one of the paper's co-owners, Mrs. Meyer.

The *Record* also lost one of its reporters, Deb Gruver, who was so traumatized by her experiences at the *Record* on August 11 that she could no longer return to Marion or her job. The remaining staff of the *Record* is under constant stress, is extremely overworked, and remains under threat of criminal charges.

The raid also disrupted the *Record's* accounting system, causing \$125,145.24 in damages.

As a result of the tortious conduct, the *Record* has required legal representation by experienced legal counsel; the value of the legal services provided to date is \$152,212.50 in fees and \$20,287.96 in expenses, and is continuing to accrue.

V. A statement of the amount of monetary damages that is being requested.

Estate of Joan Meyer: Ms. Meyer's estate is entitled to recover damages for the injuries she suffered before her death, including but not limited to extreme and severe distress and physical injuries. Mrs. Meyer's estate is entitled to damages in excess of \$1 million for intentional infliction of emotional distress, outrage, negligent infliction of emotional distress, invasion of privacy, negligence per se, abuse of process, and negligence. Mrs. Meyer's estate is also entitled to damages in excess of \$500,000 for trespass to Mrs. Meyer's home, trespass to chattels, and the conversion of her property.

Mr. Meyer as heir to Mrs. Meyer: Mr. Meyer is entitled to recover damages under the wrongful death statute for the loss of Mrs. Meyer, as well as the costs for Mrs. Meyer's funeral. Mr. Meyer, as heir to Mrs. Meyer, is entitled to damages in excess of \$1 million for the loss of his relationship with his mother, as well as \$13,533.06 paid for Mrs. Meyer's funeral expenses.

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Mr. Meyer personally: Mr. Meyer personally is entitled to recover damages for the injuries he suffered, including but not limited to extreme and severe distress. Mr. Meyer is entitled to damages to in excess of \$1 million for intentional infliction of emotional distress, outrage, negligent infliction of emotional distress, invasion of privacy, negligence per se, abuse of process, and negligence. Mr. Meyer is also entitled to damages in excess of \$500,000 for trespass to Mr. Meyer's home, trespass to chattels, and conversion of his property.

The Record: The *Marion County Record* is entitled to damages for the injuries it suffered. The *Record* is entitled to damages in excess of \$1 million for trespass, trespass to chattels, conversion, negligence per se, abuse of process, and negligence, including breach of the *Record's* confidential investigative file on Chief Cody.

The *Record* is also entitled to recover in excess of \$1 million for other foreseeable harm to the business, including the vast drain on the *Record's* resources as they deal with the aftermath of the illegal raids.

The *Record* is also entitled to recover \$125,145.24 in damages caused by the interference with the *Record's* billing system.

The *Record* is also entitled to recover the value of the legal services incurred in responding to the illegal raids. To date, the value of these services amounts to \$152,212.50 in fees and \$20,287.96 in expenses; these amounts continue to accrue.

Given the egregiousness of the tortious conduct, my clients are likewise entitled to punitive damages. Punitive damages depend in part on as-yet-undiscovered information including defendants' assets. However, at this time we estimate that punitive damages will exceed \$4 million.

Please be advised that the claimants will pursue a civil action on the basis of these claims if these claims are denied or after 120 days have passed following this notice, whatever occurs first.

Sincerely,

Lathrop GPM LLP



Bernard J. Rhodes
Partner

Enclosure