Electronically Filed - ST LOUIS COUNTY - November 03, 2023 - 12:01 PM

Joshua Kolb

From: Ryan L. Munro <rmunro@lakemunrolaw.com>
Sent: Tuesday, October 24, 2023 4:07 PM
To: Joshua Kolb
Cc: [redacted]
Subject: RE: Zwiener, Michael/St. Louis County Case No. 22SL-DR01019

Joshua,

1) We would like the records requested in the custodian of records subpoenas. As of yet we do not believe they have been fully responded to as we continued to receive documents up to the day prior to the last deposition with further statements that release was bring made subject to objections, implying there may be further documents that were requested but not released.

2) We have yet to receive the requested custodian of records affidavit under which #1 would be answered.

3) As we are now short on time due to Mr. [redacted] failure to produce a witness under subpoena for deposition, we will be inviting the witnesses that chose not to show, as well as an additional witness to trial under subpoena. These will be served on Milliman's registered agent unless you tell us we are authorized to serve those differently.

4) We will be filing a motion for sanctions for failure to appear requesting reimbursement for fees and costs related to the non-appearance. I am sure this will be in the 1-2k range plus the cost of the motion itself which will likely be around $1,500 when all filed and heard. If your client is willing to forgo the motion and agree to pay the fees and costs associated with the non-appearance, please advise and I will get you an itemized accounting for payment. Otherwise we will also be asking for an additional amount commiserate to discourage this kind of behavior from Milliman in the future.

This is as far as I can distill them.

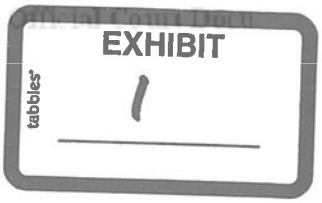
Kind Regards,

Ryan L. Munro, Attorney at Law

Direct: (314) 806-2602
Main: (314) 863-0077
email: RMunro@LakeMunroLaw.com

St. Louis County:
1650 Des Peres Rd., Ste. 220, St. Louis, MO 63131

St. Charles County:
6 Westbury Dr., St. Charles, MO 63301



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From: Joshua Kolb <JKolb@wwbhlaw.com>
Sent: Tuesday, October 24, 2023 12:41 PM
To: Ryan L. Munro <rmunro@lakemunrolaw.com>
Cc: [redacted]
Subject: RE: Zwiener, Michael/St. Louis County Case No. 22SL-DR01019

Ryan – I am still catching up on everything, but a couple of things of note. First, it's Kolb not Kob. Second, please make sure you include [redacted] on any communications with me. Third, it's hard to decipher through the name calling, self-adulation, etc. below exactly what you think the issues are here.

Do you want additional depos? Do you just want a custodian of record affidavit? What exactly remains incomplete about the prior document production? Etc.

If you care to distill those issues down, I think I can be of some help here. Thanks.

Joshua Kolb | Attorney
email : jkolb@wwbhlaw.com
phone : 636-798-0651 Ext: 2078

600 Kellwood Pkwy, Suite 120
Saint Louis, Missouri 63017

From: Ryan L. Munro <rmunro@lakemunrolaw.com>
Sent: Friday, October 20, 2023 9:15 AM
To: Joshua Kolb <JKolb@wwbhlaw.com>
Cc: [redacted]
Subject: RE: Zwiener, Michael/St. Louis County Case No. 22SL-DR01019

IRONSCALES couldn't recognize this email as this is the first time you received an email from this sender rmunro@lakemunrolaw.com

Mr. Kob,

The below email should have been sent directly to you as you have been designated as associate counsel and are the only attorney connected with Milliman, Inc. ("Milliman"), licensed or authorized to practice law in Missouri cases. As you are new to this matter, this information was contained on an Exhibit A, and [redacted] petition has not been granted

yet, I think that caused the error. Please accept our apologies and see the below for the chain of emails. If you need to set that motion with the court, please let me know and we will figure out a time to go hear that.

Because Milliman did not appear when ordered in Seattle, and failed to appear when agreed in Dallas, we were unable to get the requested information under sworn testimony. To my knowledge, Milliman still refuses to provide even a Custodian of Records Affidavit for the records that were produced (which remain incomplete). Because [redacted] does not have a clear understanding of how to make objections and motions under Missouri law, Milliman continues to operate in contempt of several subpoenas, none of which were timely and procedurally quashed. Of the records and/or depositions that were taken, none have any properly reserved objections or are covered under any protective order. We have agreed to hold these in confidence and an order should likely be worked out but because [redacted] does not fully understand what he is doing under Missouri rules and case law, he continues to provide incomplete documents, without custodian of records, offer his word and/or a "declaration document" which is likely not sufficiently admissible at trial, fails to file and draft necessary motions and orders, and then agrees to depositions, which he then changes at the last minute or makes demands that are not agreed to, then refuses to produce the agreed to parties causing both expense and delay.

Please advise your client and associated counsel that if we cannot work this out through quick cooperation, by receipt of all subpoenaed documents being provided under a custodian of records affidavit, then we will have to default to live depositions. This continues to be the problem we are attempting to resolve with pushing on this discovery. We know of no other way to get the information we are looking for in an admissible fashion. If we need to do additional live depos, we are not willing to acquiesce to further demands by Milliman as we did prior when we travelled to Seattle, McKinney, and Dallas for their convenience. Future depositions will be live, here in our conference room, with my coffee, and non-appearance will be met with requests for sanctions against both your clients and counsels if proper steps are not taken to secure non-appearance.

Further, although [redacted] has applied for a pro hac vice, kindly advise him to leave the practice of Missouri law to you until the judge has signed that order. Otherwise, he continues to practice law in Missouri without a license or authority, which based on all the above, we felt compelled to advise him about directly a few weeks ago.

Kind Regards,

Ryan L. Munro, Attorney at Law

Lake Munro
Attorneys at Law

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Main: (314) 863-0077
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St. Charles County:

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From: [redacted]
Sent: Friday, October 20, 2023 7:40 AM
To: [redacted]
Cc: [redacted] Ryan L. Munro <rmunro@lakemunrolaw.com>; jkolb@wwbhlaw.com
Subject: RE: Zwiener, Michael/St. Louis County Case No. 22SL-DR01019

No… but I was not copied on the underlying email to you, either. Thank you for including me.

[redacted]

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From: [redacted]
Sent: Thursday, October 19, 2023 6:39 PM
To: [redacted]
Cc: [redacted] Ryan L. Munro <rmunro@lakemunrolaw.com>; [redacted] jkolb@wwbhlaw.com
Subject: RE: Zwiener, Michael/St. Louis County Case No. 22SL-DR01019

[redacted] please point me to the depo testimony. I would note that testimony was not from Milliman and may not be accurate. What's accurate is what's in the declaration. Happy to try to answer questions about that documentation. I'm happy to try to clarify anything in the declaration with another declaration or documentation (to the extent it exists beyond what we've given you), but we have been over all this. \

[redacted] s there a dispute about the content of the declaration that you are aware of?

[redacted]

WASHINGTON OREGON

From: [redacted]
Sent: Thursday, October 19, 2023 1:31 PM
To: [redacted]
Cc: [redacted] Ryan L. Munro <rmunro@lakemunrolaw.com>
Subject: Zwiener, Michael/St. Louis County Case No. 22SL-DR01019

Dear Mr. [redacted]

At the depositions for the above referenced matter, we were told that Michael Zwiener receives an approximate [redacted] from the sale of 2 divisions. If you would please forward to us documentation of these transactions, including but not limited to the terms of each sale, along with the payments from these sales he has received and is expected to receive, the compensation perimeters outlining how he is paid and how payments are calculated and the timeline for distribution of the compensation.

As we are quickly approaching the trial for this matter, we will need this information ***no later than October 26, 2023,*** to meet all Trial Order deadlines. Please let me know if you have any questions. Thank you for your anticipated cooperation.

Very truly yours,

Lake Munro
Attorneys at Law

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