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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVEN E. KROLL,

Plaintiff,

vs.

INCLINE VILLAGE GENERAL IMPROVEMENT
DISTRICT, a/k/a IVGID, a governmental subdivi-
sion of the State of Nevada; et al.,

Defendants.

Case No. 3:08-cv-00166-ECR-RAM

**Plaintiff's Interrogatories to Defen-
dant IVGID (Second Set)**

and
Certificate of Service

Interrogatories to Defendant IVGID (Second Set)

TO: Defendant Incline Village General Improvement District (IVGID)

FROM: Plaintiff Steven E. Kroll

Plaintiff, by and through his attorney undersigned, requires that Defen-
dant IVGID¹ answer within 30 days of the service hereof the following Interroga-
tories² fully, under oath, and in accordance with FRCP Rule 33 and the other ap-

¹ As used in these Interrogatories, the term "defendant" and "IVGID" and "you" includes, in addition to the named defendant, the trustees, attorneys, agents, servants, employees, representatives, private investigators, or others who are in the possession of or who may have obtained information for or on behalf of the named defendant.

² These Interrogatories are continuing in character so as to require you to file supplementary an-
swers if you obtain further or different information before trial.

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plicable Federal Rules of Civil Procedure. Terms defined in the footnotes hereto apply to all interrogatories, not just the footnoted one. If the information furnished is not within the personal knowledge of the person who verifies the responses to this discovery request, please state the name of each person to whom the information is a matter of personal knowledge. In order to make your answers fully understandable, Plaintiff requests that you precede each answer by a restatement of the numbered Interrogatory you are answering. The Interrogatories are broken up into four distinct categories of information sought, namely:

I. Questions Pertaining to IVGID's "First Amendment Policy: Instructions to Gate Host" marked "Exhibit H in Evidence" attached hereto

II. Questions Pertaining to the Defendants' Conflict of Interest in Voting As Alleged in Plaintiff's Fourth Cause of Action

III. Questions Pertaining to IVGID's "Private Beach" Signs on its Beach Properties³

IV. Questions Pertaining to an Incident on September 11, 2008 in which Certain Members of the News Media Were Refused Entry to the Beach Properties to Cover the Crash of a Seaplane Into Lake Tahoe.

I. Questions Pertaining to IVGID's "First Amendment Policy: Instructions to Gate Host" marked "Exhibit H in Evidence" attached hereto

1. Please identify⁴ (a) who authored the "First Amendment Policy: Instructions to Gate Host" marked "Exhibit H in Evidence" attached hereto; (b) the date it was written; (c) the name and position of all persons known by IVGID to have read Exhibit H before it was dis-

³ "Beach Properties" refers to Burnt Cedar Beach, Incline Beach, Ski Beach, and Hermit Beach.

⁴ "Identify" when used to refer to a document means to state the title or description of the document, to identify the author, the date the document was authored, and to identify the present custodian of the document. When used to refer to a person, "identify" means the name, address if known, title or job description and name of employer of each person identified.

tributed; (d) the name and position of the person(s), if any, who authorized and/or reviewed the distribution of the “First Amendment Policy: Instructions to Gate Host”; (e) the name and position of the person who actually authorized the distribution of the “First Amendment Policy: Instructions to Gate Host”; (f) the name and position or title of each person to whom the person named in answer to (e) above reports in IVGID’s managerial chain of command; (g) the name and position or title of each person who reports to the individual named in answer to (e) above; and (h) the date on which the “First Amendment Policy: Instructions to Gate Host” was first distributed.

2. Please supply the name, address, and title or job description of each individual to whom a copy of the “First Amendment Policy: Instructions to Gate Host” marked “Exhibit H in Evidence” attached hereto was distributed at any time.

3. Please state (a) the period during which the “First Amendment Policy: Instructions to Gate Host” marked “Exhibit H in Evidence” attached hereto remained in effect; and (b) the name and position or title of the person or persons who withdrew or made inoperative those “Instructions to Gate Host”.

4. Please identify each and every written “Instructions to Gate Host” on any subject which is now, or has been at any time during the past five years in effect for the Beach Properties, indicating the date each came into effect and the date and reason each ended (if applicable).

5. From April 1, 2008 to the date of your answers to these Interrogatories, list the date of each and every staff meeting between the beach hosts and Hal Paris, Janet Echols, or any other member of IVGID management to go over and discuss the rules, instructions, and policies involved with monitoring the gates at the Beach Properties. Include, if known, the name and position or title of each individual attending each said meeting.
6. Please identify (or in lieu thereof supply copies of) each and every IVGID record⁵ which was reviewed in order for you to answer each of the foregoing Interrogatories, or any other IVGID record (including specifically but without limitation email exchanges among IVGID personnel) reflecting, pertaining to, or connected with the "First Amendment Policy: Instructions to Gate Host" marked "Exhibit H in Evidence" attached hereto, and the preceding questions with respect thereto.
7. IVGID Policy and Procedure No. 136 permits the "District" to make additional rules governing speech and expression, and Section 15 of the Definitions in Ordinance 7 defines "District" to include duly authorized employees and agents of IVGID. In addition, Section 71 of Ordinance 7 gives such rule making power to the General Manager and delegates day to day administration of Recreation Pass matters to the Director of Parks and Recreation. State whether you agree or disagree with the foregoing founda-

⁵ The meaning of the word "record" or "document" shall include, but not be limited to, writings, emails, drawings, graphs, charts, photographs, reports, computer disks, and other data compilations from which information can be obtained or translated, if necessary, through devices or other equipment into reasonable, usable form.

tional statement of fact, and if there is any part with which you disagree, please identify what you disagree with, and the factual or legal basis for your disagreement.

8. On May 30, 2008 you filed in this case an Affidavit dated the day before and signed by Chairwoman of the Board of Trustees BEA EPSTEIN (Doc. 21 page 16-17). Was Mrs. Epstein speaking for herself alone in that Affidavit, or on behalf of the Board of Trustees as a whole?
9. Did the Board of Trustees ever adopt or approve Mrs. Epstein's sworn statement that Policy 136 "vests no discretion in the General Manager of IVGID concerning how the terms and conditions of this policy will be enforced" before that statement was made to the Court in Chairwoman Epstein's May 29, 2008 Affidavit? If your answer is other than "no", please give details of where and when the Board met and approved the conclusions made in Mrs. Epstein's Affidavit, and identify all other persons who were present at such meeting or meetings.
10. Do you contend that General Manager Bill Horn does not have the authority to issue rules such as the "Instructions to Gate Hosts" set forth in Exhibit "H" attached, and/or the implementing rules for Policy 136 set forth in his General Manager's Report dated May 15, 2008 attached hereto marked "Exhibit "F" in Evidence"?
11. Please explain in detail what provisions, if any, of IVGID's Ordinance 7 do not apply to Policy 136, and the factual or legal bases

on which you rely in making your conclusion on this point.

**II. Questions Pertaining to the Defendants' Conflict of Interest in Voting
As Alleged in Plaintiff's Fourth Cause of Action**

12. Is it true that IVGID's November 20, 2008 Agenda includes a discussion of and possible action on "the next step for Ordinance 7"? If your answer is other than "yes", please explain in detail.

13. Did you on or about September 17, 2006 receive a document with the plaintiff's signature entitled: "A Petition to the Hon. Trustees of the Incline Village General Improvement District to Recuse Themselves from Voting on Proposed Ordinance 7, As Required by Law and Propriety"?

14. Is it true that the District takes the position that members of the Board of Trustees who claim a property right under the 1968 Deed to enter and use the District's Beach Properties may legally vote on matters pertaining to the Beach Properties? If your answer is other than "yes", please explain.

15. State the date on which you learned that Magistrate Judge Robert A. McQuaid, Jr. had recused himself from further involvement in this lawsuit.

16. Do you challenge or contest that the reason given by Judge McQuaid on November 6, 2008 for recusing himself herein was that he owns property in Incline Village and is a taxpaying member of IVGID which he believes creates the appearance of a conflict of interest in judging this case?

17. Please identify what factually or analytically differentiates the reasons for Judge McQuaid's recusal in this lawsuit from the District's assertion that its Trustees do not have an identical conflict of interest and are under no legal duty to recuse themselves from voting on Ordinance 7 or other Beach Properties matters.

III. Questions Pertaining to IVGID's "Private Beach" Signs

18. Plaintiff represents to you that the image attached hereto marked "Exhibit 203 for Identification" is a digital photograph taken on Friday, November 7, 2008 of certain signage erected at one of IVGID's Beach Properties, Hermit Beach. Do you have any reason to challenge the authenticity of this Exhibit 203? If your answer is not "no", please explain your answer in detail.

19. With respect to that part of the signage in Exhibit 203 which reads: "Private Beach/Incline Village Parks & Recreation", please state (a) the date on which this sign was first erected; (b) whether it was ever removed and replaced at any time since was erected, and if so the dates thereof; (c) whether there are as of the date of these Interrogatories any other similar "Private Beach" signs erected on Hermit Beach or any other of the Beach Properties, and if so where; (d) the dates on which any "Private Beach" signs were first erected at *any* of IVGID's Beach Properties from the date of their inception to today, including for each sign a history of when and why it was removed, and if replaced the date and reason therefor; (e) where each of the "Private Beach" signs was painted; and (f) identify all records reflecting or relating to the "Private Beach" signs erected by IVGID

over the years.

20. Please identify the individual or individuals who could testify most knowledgeably today about the history and reasons for posting of Private Beach signs by IVGID over the years.

IV. Questions Pertaining to an Incident on September 11, 2008 in which Certain Members of the News Media Were Refused Entry to the Beach Properties to Cover the Crash of a Seaplane Into Lake Tahoe

21. Plaintiff represents to you that the Exhibit marked 173 for identification attached hereto is an article appearing on the front page of the North Lake Tahoe Bonanza newspaper published Sunday, September 14, 2008, entitled: "Cleaning Up the Wreckage; Media Questions Beach Access Rule". Do you have any reason to question the authenticity of this Exhibit? If your answer is other than "no", please explain in detail.

22. Please state the names and title or position of each IVGID agent or employee who was physically present at any time on any of the Beach Properties on September 11, 2008.

23. Is it true as reported in the fourth paragraph of this news article (Ex. 173) that

"Brandon Rittiman, a reporter for KTVN Channel 2 News in Reno, and a KTVN photographer tried to gain entrance at Burnt Cedar Beach and Ski Beach to cover the incident. However, district beach staff and IVGID Parks and Recreation Director Hal Paris did not grant the news team access at either venue"?

If you cannot answer this question "yes", please explain in detail what part of the quoted material is true and what part false, to your knowledge.

24. Was IVGID General Manager Bill Horn quoted essentially correctly in the following excerpt from the Exhibit 173 news article?:

“Horn said the KTVN reporters and other non beach-access members of the media could have gained access to the defined public forum areas within Burnt Cedar and Ski Beaches. ‘All anybody from the media had to say was they were reporting under the First Amendment, and they would have been handed a copy of the policy,’ Horn said.”

25. Exhibit 204 attached hereto is an exchange of emails, supplied to plaintiff by your attorney, between the KTVN television reporter Brandon Rittiman and IVGID General Manager Bill Horn in which the latter responds to Mr. Rittiman’s September 12, 2008 inquiry into IVGID’s basis for preventing him from covering the seaplane crash from inside IVGID’s publicly owned park with the words:

“Mr. Rittiman, since you have chosen to threaten me with legal action, I am forwarding your e-mail threat to our attorney who handles our litigation.”

Please identify precisely by specific quotations what portions of Mr. Rittiman’s communication were deemed by Mr. Horn or IVGID to be “threatening legal action”.

26. Did IVGID’s attorney respond to Mr. Rittiman’s emails, and if so are there further records documenting the Rittiman-IVGID exchange which have not been turned over to plaintiff?

27. Please identify anywhere in IVGID’s public record prior to the date of these Interrogatories where the seaplane crash into Lake Tahoe on September 11, 2008 or the exchange of correspondence between IVGID and a member of the press was specifically mentioned. If no such references exist, please so state.

28. In the Incident Reports you submitted to plaintiff for the period June 13-September 12, 2008 (Exhibit "I" in evidence, plaintiff's Exhibit No. 185), there is no Incident Report included for the September 11, 2008 KTVN/Brandon Rittiman incident. Please state why not.

29. In his email to IVGID dated September 12, 2008 as set forth in Exhibit 204 attached hereto, KTVN Channel 2 reporter Brandon Rittiman writes: "A plane crashed off Burnt Cedar Beach on Thursday 9/11... and IVGID parks & rec staff denied us access to the beaches to shoot the stories. After some head-butting with Hal Paris, we eventually figured out that we could get in as guests. We found some people walking into the beach and asked them to sponsor us as guests. My photographer and I, having only \$10 in cash between us, could only afford one pass which I gave to my photographer." Please identify anything about Mr. Rittiman's email with which you disagree and spell out your version of the facts in detail.

30. Please identify the IVGID employee or employees who denied Mr. Rittiman access to the Beach Properties, and the name of the IVGID property owner who sponsored Mr. Rittiman's photographer as their guest.

31. In his email to IVGID dated September 12, 2008 as set forth in Exhibit 204 attached hereto, KTVN Channel 2 reporter Brandon Rittiman writes: "I'm not looking for a fight, but want you to know that I do take this very seriously. The First Amendment protects my job. My job yesterday was to inform the people about an emergency and to show them what was being done both to rescue people and miti-

gate an environmental hazard in Lake Tahoe. We weren't looking to recreate on your beaches yesterday. We didn't show up with beach balls and coolers- we had cameras and notepads. We were there to do our jobs- just like the first responders were." Please state IVGID's basis for permitting non-resident first responders to enter the Beach Properties but prohibiting non-resident credentialed reporters from so entering, and give the name and title or job description of the IVGID employee responsible for that determination on September 11, 2008.

32. Is IVGID aware of whether the Washoe County Sheriff's Department treats the Beach Properties as public property or private property? If your answer is "yes", please explain.

DATED: at Crystal Bay this 11th day of November 2008.

Respectfully submitted,



Steven E. Kroll

Attorney for Plaintiff

Note: Exhibits are not attached chronologically or in any other order)

Exhibit “H” In Evidence [Plaintiff’s Exhibit No. 191]

“First Amendment Policy: Instructions to Gate Host”

FIRST AMENDMENT POLICY Instructions to Gate Host

- Patron must say "I am here to exercise my First Amendment Rights".
- Patron may drive in and park inside gate. If there are more than one patron in car, all must say "First Amendment".
- Staff to hand-out copy of Policy 136. Topo map is attached. There is no designated area.
- If patron refuses to take the Policy packet, then they can only enter with a valid pass.
- Staff is **NOT** to comment or interpret policy for individual.
- If patron asks for an interpretation, staff is to say, "**We have been instructed not to interpret the Policy. The Policy states exactly what is permitted. If you have any questions, please call our General Manager, Bill Horn, at 832-1206**".
- Staff is **NOT** to comment to press regarding this policy. Refer to Hal Paris, Director of Parks & Recreation or Bill Horn.
- In the event of a problem or a complaint, staff should document in writing:
 - The date, time and location of the occurrence.
 - A description of incident or events,
 - A written statement from any complaining party & third-party witness if they desire.

Exhibit “F” in Evidence (Plaintiff’s #102)

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General Manager's Report
Meeting of May 15, 2008
Page 8

XVIII. POLICY 136 – FIRST AMENDMENT: RULES

District General Counsel Scott Brooke and I met to discuss some basic rules to support the successful execution of Policy 136. When someone, desiring to express their First Amendment rights at Burnt Cedar Beach, Incline Beach and Ski Beach, walks up to the entrance kiosk, they will be asked to sign in and they will be handed a success list of what is allowed and what will not be allowed along with a map showing the specific area they may express their First Amendment rights. Those requesting this right will be asked to wear a wrist band which will allow Staff to know who has been granted their request to express their First Amendment rights. At the end of their expression, upon leaving these three beaches, they will be asked to sign out. The three basic requirements will be (1) not get in the way of operations; (2) going outside of the designated area; and (3) violating the space of those who are not interested in hearing or receiving their expression of their First Amendment rights. Staff anticipates no challenges with those who desire to express their First Amendment rights.

Exhibit 203 for Identification

“Private Beach Photo at Hermit Beach, November 7, 2008”

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Plaintiff's Exhibit 203 for Identification

Plaintiff's Exhibit 173

for Identification

North Lake Tahoe Bonanza Article dated Sep-
tember 14, 2008 on Seaplane Crash into Lake
Tahoe

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Cleaning up the wreckage

Media questions beach access rule

By Kevin MacMillan
BONANZA INTERIM EDITOR

A seaplane flipping over and sinking into Lake Tahoe Thursday brought the Incline Village General Improvement District's beach access and First Amendment policies back into the spotlight, a few weeks before the summer season ends for the district's beaches.

Thursday's incident was covered by the local and regional media. District officials reiterated the policy, per Ordinance No. 7, that Incline, Ski and Burnt Cedar beaches are "public with restrictions." Only beach-access residents of IVGID, with their recreation pass or punch card can get into the beaches under the reduced recreation fee. Non beach-access residents must be admitted as guests of beach-access residents and pay an \$8 entry fee.

The district's policy was questioned Thursday by

"It makes no difference whether you're a Channel 2 news photographer or a Nevada Senator ... everyone is handled the same."

Hal Paris
IVGID Parks and Recreation Director

some members of the Reno media. Brandon Ritiman, a reporter for KTVN Channel 2 News in Reno, and a KTVN photographer tried to gain access at Burnt Cedar Beach and Ski Beach to cover the incident. However, district beach staff and IVGID Parks and Recreation Director Hal Paris did not grant the news team access at either venue.

"It makes no difference whether you're a Channel 2



Bonanza Photo - Jen Schmidt

Pilot and owner of the 1946 Republic Seabee seaplane, Frank Hubblou, talks to bystanders onshore while local rescuers work in the background Thursday to bring the plane onto dry land.

Veteran airmen thankful for local help

By Kyle Magin
BONANZA STAFF WRITER

"I never thought something like this could happen," Hubblou said.

Frank Hubblou and John Schottenheimer were thankful to walk away after Hubblou's 1946 Republic Seabee seaplane flipped over and sank into Lake Tahoe Thursday.

Both men were on hand about 7 p.m. Thursday as the plane was pulled out of the water by a Hummer and onto Ski Beach in Incline Village, about eight hours after their plane took on water

right after landing on Lake Tahoe. Hubblou, 71, is a veteran pilot with more than 45 years of flying experience and multiple FAA certifications. The Carson City resident flew missions for the U.S. Air

See **Plane - Page 13**

Bonanza

File

Photo

Golfers participate

Candidate forum

ide

2

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2,13

GID vs. town: What

are the differences?

See **Media - Page 13**

Media

continued from page 1

news photographer or a Nevada senator or just a visitor — everyone is handled the same," Paris said. "Everybody, when they come to (the beaches), is required to present their IVGID card. If you don't have it, you don't get in."

IVGID's beach access policy, outlined in Ordinance No. 7, includes members of the media who are non beach-access IVGID residents, Paris said.

Rittiman and his photographer first went to Burnt Cedar Beach to cover the seaplane mishap, then later went to Ski Beach, where the seaplane was to be towed out of the water.

At Ski Beach, an unidentified IVGID resident approached and offered to have Rittiman and his photographer in as guests, under her recreation pass. The photographer obliged, paid the \$8 guest fee and was granted access to Ski Beach.

Once the photographer was recognized as a guest and paid the \$8, he was allowed access to Ski Beach, Paris said.

Meanwhile, *North Lake Tahoe Bonanza* photographer Jen Schmidt and videographer CJ Drago, who earlier had gained access to Burnt Cedar Beach, already had gained access to Ski Beach to record the recovery effort. As Drago and Schmidt are beach-access IVGID residents, they were granted access to both beaches. Schmidt used her IVGID recreation pass, while Drago used his IVGID recreation punch card to gain access.

Bonanza reporter Kyle Magin was granted access to the beaches as Drago's guest.

The lone exception to IVGID's beach policy, per Ordinance No. 7, is made for public safety officials, Paris said, which is why members of the Washoe County Sheriff's Office,

North Lake Tahoe Fire Protection District, U.S. Coast Guard and other emergency officials were granted access to both Ski and Burnt Cedar beaches.

Because they were, at the time of access, uniformed and "doing their jobs," Paris said, they were granted access to the beaches without paying a guest fee.

IVGID General Manager Bill Horn, who wasn't present during Thursday's incident, reiterated that point.

"If there is an emergency that requires the sheriff, the fire district or other public safety officials, they have the authority to take over the community," said Horn, adding that this exception applies to all district venues, not just the beaches. "Those people have access to the beaches without question ... It's no question that public safety officials don't need to ask."

An exception to Ordinance No. 7 is Policy and Procedure 136, the district's First Amendment policy for all district venues, which was adopted by the IVGID Board of Trustees on April 30. The policy designates certain "public forum areas" within the district where people (whether they have access or not to the public areas) can exercise their First Amendment rights, including the three beaches.

Horn said the KTVN reporters and other non beach-access members of the media could have gained access to the defined public forum areas within Burnt Cedar and Ski beaches.

"All anybody from the media had to say was they were reporting under the First Amendment, and they would have been handed a copy of the policy," Horn said.

T. Scott Brooke, IVGID's legal counsel, had a similar response.

"The policy would apply to the press as well as other

members of the public," Brooke said.

Rittiman said Thursday's incident wasn't the first time KTVN has come across IVGID's beach policy; however, Thursday's situation was different, he said, because of the large potential for personal injury and/or environmental damage.

"From my perspective as a working journalist who was not there to recreate, but rather to do my job, I don't see the harm in allowing media access," Rittiman said. "I don't see how allowing a member of the press access to a beach can jeopardize IVGID's restricted access policy."

Rittiman said the policy seemed unnecessary.

"I don't see how it's such a big deal, considering there was an emergency, with the potential of people being hurt and the fact there was pollutants in the lake, something everyone up there cares about," Rittiman said.

Rittiman said he contacted IVGID General Manager Bill Horn via e-mail about the incident, asking Horn to clarify the district's beach policy in regards to the media.

"He responded that no exceptions can be made," Rittiman said.

Rittiman said he would like to come to an agreement with IVGID, in the event potential emergencies occur in the future at one or more of the IVGID beaches, so the media can gain free access. He communicated that request to Horn via e-mail.

In Saturday's phone interview, Horn shared his response with the *Bonanza*.

"I don't remember the exact e-mail, but I'll tell you this. If there ever was a deal to be struck with the press, it would go before the trustees," Horn said. "As always, the board has the power to make policy, to make procedure and to make ordinances, and staff has to adhere to them."



JDSUPRA

Pilot Frank Hublou, who was in the 194 near Burnt Cedar Beach, watches as lo afternoon at Ski Beach.

Plane

continued from page 1

Force during the Vietnam War and was out for a morning excursion with fellow Carson resident Schottenheimer, 62, when the two landed the plane on Lake Tahoe. They touched down about one mile off of Burnt Cedar Beach in Incline about 10:30 a.m.

"We had just been tooling around for about 20 or 30 minutes and I was sitting in the water when I noticed my left pontoon (right from a frontal-view of the plane) was sitting a little lower in the water than the other," Hublou said. "And as I looked at the pontoon it kept going down and then it kinked. At that point it opened up like a can and started taking on water."

Hublou and Schottenheimer decided they would drive the plane back to shore for repairs. That wasn't the case, however.

"I thought that once the pontoon sunk in, the wing would float and we'd be able to get back to shore," Hublou said. "But, the wing started taking on water, it's not sealed or anything, and then I could see what was coming."

What was coming was a complete rollover of Hublou's plane — both he and Schottenheimer found themselves inside the now-upside down aircraft, which was taking on water.

"When it was apparent the plane would roll, I put in a mayday call to civil air patrol and called 9-1-1 on my cell phone to let them know we were out there," Schottenheimer said. The call was recorded at 11 a.m., said local rescue officials.

Town

continued from page 2

those ordinances into a town code. It can also punish breaches of ordinances.

ing of animals; and the limiting of competition by providing or franchising for the fol-

and sewage treatment (unless regulated in that town by an agency of the

Plaintiff's Exhibit 204 for Identification

Exchange of Emails dated September 12, 2008
between KTVN Channel 2 Reporter Brandon
Rittiman and IVGID General Manager Bill
Horn

Steven E. Kroll • Attorney at Law
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From: Brandon Rittiman [mailto:BRittiman@KTVN.com]
Sent: Friday, September 12, 2008 2:12 PM
To: Horn, Bill; Brooke_At_Office, Scott
Cc: nvpress@callatg.com; wmagrath@mcdonaldcarano.com
Subject: RE: Media Access to IVGID facilities

Mr. Horn:

I have not threatened you with legal action.

I was simply requesting IVGID's legal grounds for your "no exceptions" claim.

I do take this seriously, but I don't have the desire to get litigious. I would simply like some one to explain to me what allows the legal exclusion of the press from these facilities. If it turns out that there is not, I'd like to establish a way for the media to work with IVGID to establish a policy that allows access in situations like the one that arose yesterday.

I'm sorry you interpreted my request for information as a threat, but if you read it carefully you will find that all I have done is ask for an explanation.

Could you please provide the statutory or other law that would apply to my request?

If that explanation is best provided by IVGID's attorney, I understand completely.

Thank you,

Brandon Rittiman
Reporter
KTVN Channel 2 News
4925 Energy Way
Reno, NV 89502

Direct Line: (775) 861-4236
Newsroom: (775) 861-4290

brittiman@ktvn.com<<mailto:brittiman@ktvn.com>>

From: Horn, Bill [mailto:Bill_Horn@ivgid.org]
Sent: Friday, September 12, 2008 12:05 PM
To: Brandon Rittiman; Brooke_At_Office, Scott
Cc: Horn, Bill
Subject: RE: Media Access to IVGID facilities
Mr. Rittiman, since you have chosen to threaten me with legal action, I am forwarding your e-mail threat to our attorney who handles our litigation. Thank you, Bill Horn

From: Brandon Rittiman [mailto:BRittiman@KTVN.com]
Sent: Friday, September 12, 2008 10:19 AM
To: Horn, Bill
Cc: nvpress@callatg.com
Subject: RE: Media Access to IVGID facilities

Bill:

Thanks for replying to me while on the road...

While I appreciate your prompt response, I find your answer disappointing and unsatisfactory.

Could you please share what specific legal justification IVGID feels allows it to exclude the press (or anyone else) from accessing these publicly-owned lands?

I have a hard time believing that whatever legal means used to restrict access to these facilities supercedes the First Amendment of the United States Constitution.

I'm not looking for a fight, but want you to know that I do take this very seriously. The First Amendment protects my job.

My job yesterday was to inform the people about an emergency and to show them what was being done both to rescue people and mitigate an environmental hazard in Lake Tahoe.

We weren't looking to recreate on your beaches yesterday. We didn't show up with beach balls and coolers- we had cameras and notepads. We were there to do our jobs- just like the first responders were.

Again, the press generally carries credentials around here. Perhaps you could direct staff to check credentials of media wishing to enter facilities in the course of their work duties?

I don't see how allowing working press with credentials to enter will jeopardize your ability to restrict recreational use of these facilities.

Also- I'd like my 8 bucks back.

Thank you,

Brandon Rittiman
Reporter
KTVN Channel 2 News
4925 Energy Way
Reno, NV 89502

Direct Line: (775) 861-4236
Newsroom: (775) 861-4290

brittiman@ktvn.com<<mailto:brittiman@ktvn.com>>

From: Horn, Bill [mailto:Bill_Horn@ivgid.org]
Sent: Friday, September 12, 2008 6:14 AM
To: Brandon Rittiman
Cc: Horn, Bill
Subject: RE: Media Access to IVGID facilities
Brandon

I am still traveling this week. The challenge we have is the beaches you wanted access to are restricted to use by residents of Incline Village only. As a result no exceptions can be made under any circumstances, other than becoming the guest of a resident. I apologize for any inconvenience this may have created for you. Thank you, Bill

From: Brandon Rittiman [<mailto:BRittiman@KTVN.com>]
Sent: Thursday, September 11, 2008 7:04 PM
To: Horn, Bill
Cc: nvpress@callatg.com
Subject: Media Access to IVGID facilities

Hi Bill:

I heard you're out of the office this week, but I wanted to get in touch with you.

A plane crashed off Burnt Cedar Beach on Thursday 9/11... and IVGID parks & rec staff denied us access to the beaches to shoot the stories. After some head-butting with Hal Paris, we eventually figured out that we could get in as guests.

We found some people walking into the beach and asked them to sponsor us as guests. My photographer and I, having only \$10 in cash between us, could only afford one pass which I gave to my photographer.

One of your members twice offered to pay for my pass, but I turned her down.

I'd like to find a way to avoid such trouble in the future. The press generally has credentials in our area. Would it be possible to direct IVGID staff to check for credentials/ID in the future to admit media to your facilities?

I look forward to hearing from you.

Thanks,

Brandon Rittiman
Reporter
KTVN Channel 2 News
4925 Energy Way
Reno, NV 89502

Direct Line: (775) 861-4236
Newsroom: (775) 861-4290

brittiman@ktvn.com<<mailto:brittiman@ktvn.com>>

KTVN Channel 2, 4925 Energy Way, Reno, NV 89502
Phone: 775-858-2222 Fax: 775-861-4298

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CC: "Horn, Bill" <Bill_Horn@ivgid.org>

CERTIFICATE OF SERVICE BY MAIL and EMAIL

Pursuant to Rule 5(b) FRCP, I certify that I am the attorney for Plaintiff in the above entitled action, and that on this date I caused a true and correct copy of the “ **Plaintiff’s Interrogatories to Defendant IVGID (Second Set)**” herein to be served upon the parties or attorneys by depositing the same with the U.S. Post Office from a point within the State of Nevada, first class postage pre-paid, and addressed to:

**Stephen C. Balkenbush, Esq.
Thorndal, Armstrong, Delk, Balkenbush & Eisinger
6590 South McCarran Blvd. Suite B
Reno, Nevada 89509**

and also electronically by eMail to said parties or attorneys addressed to:

**Stephen C. Balkenbush
sbalkenbush@thorndal.com
smb@thorndal.com**

DATED: at Crystal Bay this 11th day of November, 2008.


STEVEN E. KROLL