

6/3/22, 6:37 PM

Gmail - Re: Harvey Cohen Affidavit



Donald Burdick [REDACTED]

Re: Harvey Cohen Affidavit

1 message

Chase T. Brockstedt <chase@bmbde.com>

To: [REDACTED]

Wed, May 12, 2021 at 5:21 PM

Cc: Erika Sneeringer <esneeringer@sfspa.com>

Don:

It is difficult for me to type. What is the best number to call you?

Chase T. Brockstedt
Baird Mandalas Brockstedt, LLC
1413 Savannah Road, Suite 1
Lewes, Delaware 19958
Tel. 302.645.2262
Fax. 302.644.0306

On May 12, 2021, at 5:11 PM, Nunya Bidness <dtburdick@gmail.com> wrote:

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Chase,

Your team did investigate the potential contamination from that facility. Dr. Cohen's affidavit included a map he developed that indicates sludge dumping occurred on the Inland Bays facility and shows my home directly in the path of the worst part of it. That is the reason I want a copy of his documents. They are the scientific basis behind his model. They weren't Mountaire's documents. They were his that he did for you.

His affidavit also says, "The area of groundwater concern was updated in the October 2018 letter to Chase Brockstedt based upon additional information, including records that indicated Mountaire had disposed of sludge on the southern portion of the Hettie Lingo field, on the south edge of the Inland Bays water treatment facility."

Given they provided that to you then I would think there is no problem with you providing it to me, otherwise it's all a big secret and there is nothing to base the lawsuit on other than a hidden pact between the attorneys. I can't imagine the legal system is designed such that I can't see the evidence that describes exactly what, when, and how much was dumped that poisoned me. Otherwise you're right. I would have no idea when it comes to the allocation process because I would have nothing to go on besides a secret that I'm not privy to.

Isn't that what this rule is for?

Rule 26 – Duty to Disclose; General Provisions Governing Discovery
(a) Required Disclosures.

(1) Initial Disclosure.

(A) In General. Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:

(ii) a copy—or a description by category and location—of **all documents, electronically stored**

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information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

Don

On Wed, May 12, 2021 at 12:34 PM Chase T. Brockstedt <chase@bmbde.com> wrote:

Don:

Thanks for the reminder. I am not back in the office yet and I am typing this response using the old “hunt and peck” method with one hand. I apologize in advance for the brevity and any typos.

As I mentioned, there are confidentiality agreements that control all of the document produced in discovery. When you say “the rules of disclosure require evidence to be provided to the defense,” I am not exactly sure what you mean. Most of the information that was discovered in the case came from the defense and is subject to the confidentiality orders I previously referenced. Separately, documents used as part of mediation are subject to a separate confidentiality order.

As to the issues raised about the Inland Bays facility, our team did not investigate potential contamination from that facility or location. That organization was not a defendant in the case, we did not investigate its wastewater treatment or disposal practices, or gather evidence related to ponding or stormwater runoff. I do not know if you are downgradient of that facility and we have no idea whether that facility could be causing elevated nitrates in your drinking water. The fact that your nitrates have increased 11% since we initiated litigation against Mountaire further confirms that any current contamination is not coming from Mountaire or its operations. This is something you should be mindful of during the allocation process as you seek compensation for groundwater contamination *caused by Mountaire*.

I see my surgeon on Monday and hope to be back in the office sometime next week. Things are a little up in the air for me right now.

Chase

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From: [REDACTED]
Sent: Wednesday, May 12, 2021 7:43 AM
To: Chase T. Brockstedt <chase@bmbde.com>
Cc: Erika Sneeringer <esneeringer@sfspace.com>
Subject: Re: Harvey Cohen Affidavit

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Chase,

I am sending a reminder regarding my request from last week. Until seeing the Generalized Groundwater Flow Map developed by Dr. Cohen at the fairness hearing I was unaware of the dumping that occurred on Hetti Lingo farm which is now part of the Inland Bays wastewater facility. Had you not discovered that I would not have inspected the facility and noticed that it may be being mismanaged. There are multiple large ponds of water and a great deal of runoff into the culvert along Canon Rd. That facility is very near and upstream of my home, which would explain why so many people on my street got sick and died. I just had my water checked and my nitrates have increased 11% since the start of the lawsuit. My home is directly in the main flow path.

People are getting sick and dying again. An elderly neighbor is once again bleeding all over her body. Another unexpectedly lost her fiance after having lost her spouse the first time. A man who developed ulcerative colitis when the poisoning first happened, far later in life than is usual, is having a recurrence. A woman has developed intractable urinary tract infections and unexplained digestive issues, which happened to other women in the neighborhood the last time. A man has sores on his legs that won't heal, which is something that happened to me before I got my water treatment system. A man has developed cancer and had a stroke. People are complaining of itching after they shower, which is also something I experienced.

Please send me the information I requested as I want to know all of the history behind that facility. I can't imagine why the courts would care if I saw the evidence you discovered. The rules of disclosure require evidence to be provided to the defense. Surely that must apply to the plaintiffs as well, especially in light of the health concerns involved.

I hope your surgery went well and you are on the mend.

Thank you,

Don

On Tue, May 4, 2021 at 2:21 PM Chase T. Brockstedt <chase@bmbde.com> wrote:

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Don, thanks for your email. I hope you and Gerry are well.

This request will take a little bit of time as I need to determine whether any of the information you seek may be subject to various court orders from the litigation that may preclude or limit making the information available. There are a myriad of orders covering different categories of information discovered or produced in the litigation that remain in effect.

A further complication is that I am leaving the office shortly to travel to Pennsylvania for left shoulder surgery tomorrow morning. I am going to be out of commission until early next week.

Chase

↳ Putting it after the date I could appeal the decision of the court.

From: [REDACTED]
Sent: Tuesday, May 4, 2021 10:00 AM
To: Chase T. Brockstedt <chase@bmbde.com>
Cc: esneeringer@sfspa.com
Subject: Harvey Cohen Affidavit

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Chase,

In the Motion for Final Approval of Class Action Settlement Agreement and Other Relief there is an affidavit by Dr. Harvey Cohen.

Please forward me a copy of the four reports mentioned in item 3.

I would also like a copy of the October 2018 letter mentioned in item 5 as well as the records referenced that indicated Mountaire had disposed of sludge on the southern portion of the Hettie Lingo field on the south edge of the Inland Bay water treatment facility.

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Thank you,

Don