

February 25, 2025

ATTN: Rich Garman *(via email only)*
Shayden Akason *(via email only)*
Dave Lehman *(via email only)*
and Jim Albrecht *(via email only)*

CC: Governor Armstrong

(This matter will be of interest to the governor and his officers, so they have been copied on this notice as a courtesy, but neither he nor the State of North Dakota are targeted as defendants.)

RE: Notice of Planned Federal Civil Rights Deprivation Litigation by Hoefer Group, LLC and Charles Hoefer against Rich Garman, Shayden Akason, Dave Lehman, and Jim Albrecht

Gentlemen:

Our law firm, Sanders & Associates, LPA, represents Hoefer Group, LLC and Charles Hoefer in relation to the concerns addressed herein, and I am writing to notify you that federal litigation is imminent. You are the targeted defendants. A brief description of the claims follows below.

You should be cognizant of your preservation obligations as to any documents, data, information, and other items and materials that may be relevant to such litigation. I've attached specific details about those preservation obligations in Appendix A, which I request that you review. Please reply by email to confirm your understanding of those obligations.

My clients' lawsuit will seek damages from you, personally, and other redress for the deprivation of federal civil rights and other constitutional injuries which they have suffered at your hands, in some instances as a result of your individual, intentional actions undertaken in abuse of your state-given authority (seeking relief under 42 U.S.C. § 1983), and in other instances as the result of a conspiracy to deprive them of their civil rights (seeking relief under 42 U.S.C. § 1985). We will also be seeking punitive damages against you, again individually, because your acts against my clients have been malicious and exploitative. There is no objectively reasonable basis or excuse for the treatment my clients experienced while under your thumbs, nor is there any legal justification for the damage you wrought.

It is important that you and others who may have an interest in this matter recognize that these claims are being brought against each of you in your personal,

individual capacities. We are seeking to hold you personally liable for your wrongful conduct taken under color of law in the course of your official duties. My clients are not suing the State of North Dakota or any of its subsidiary departments, agencies, or governmental entities, nor are these claims being asserted against each of you in your official capacities. See *Hafer v. Melo*, 502 U.S. 21 (1991), as to the distinction and impact of that.

You should also note that federal law is clear that the qualified immunity defenses and the damages caps which might otherwise apply in an action brought against state officials in their *official* capacity, or against the State itself, will not apply here. You used your authority, wrongfully, to knowingly violate my clients' clearly established constitutional and statutory rights. In such circumstances, qualified immunity does not apply. See *Handt v. Lynch*, 681 F.3d 939, 943 (8th Cir. 2012). And these claims are against you, not the State, such that damages limits and administrative claim requirements governing claims against the State do not apply here because the State is not a party to the litigation.

You may wish to review NDCC 32-12.2-03(4,6,7) regarding your ability to request that the State of North Dakota indemnify and defend you, including as to indemnification against damages awards that exceed limits otherwise applicable in claims brought directly against the State. See, e.g., *Stoner v. Wis. Dep't of Agric., Trade & Consumer Prot.*, 50 F.3d 481, 482-83 (7th Cir. 1995). The State has, through State law, elected to be your indemnitor in certain circumstances, such that it may find itself having to fund up to \$1.39 billion in damages my clients will be seeking as a remedy for your misconduct. Punitive damages would not be subject to State indemnification, leaving you personally liable, of course.

The damages my clients seek, outlined below, are justified given industry precedents in RV startups, private RV builder equity exits, and my clients' business and industry-leading RVs and partnerships.

You misused State powers to deprive my clients of these economic benefits. And in the process, you have also caused residents of the State's most economically disadvantaged region to suffer; those State citizens desperately need the jobs my clients could otherwise offer to them.

Here are my clients' losses, both prior and anticipated, that you have caused by your self-serving efforts to destroy my clients' business, third party financing, reputation, future prospects, and Mr. Hoefer's career:

- Lost 2023-2030 Wage Income: \$18 million, Charles Hoefer
- Lost 2023-2030 Net Income: \$153 million, Hoefer Group
- Direct Business Financing Damages: \$39 million, Hoefer Group

- Lost Equity Exit in Hoefer Group: \$500 million, Charles Hoefer
- Sabotage of Industrial Complex Developments in Turtle Mountains, Canada Partnership: \$30 million (factories and housing)
- Worldwide Reputation Harms: \$200 million Charles Hoefer, \$200 million Hoefer Group
- Worldwide Public Humiliation Harms: \$100 million Charles Hoefer, \$100 million Hoefer Group
- Emotional Distress: \$50 million Charles Hoefer
- Punitive Damages: to be Determined by Jury (to be paid by yourselves, if successfully awarded)

Your actions are harming State taxpayers in extraordinary ways. My clients bring new industry with potential to lead new job creation in the State. My clients have attempted reasonable means of resolving your misconduct amicably, yet you have continued to deprive them of their rights.

Recent public records releases delivered to media requesters by parties protecting you raise new concerns, in that the records are arbitrarily incomplete, are redacted to conceal your misconduct from the media, cast my clients in a false light, and violate non-disclosure obligations and privacy laws for my client's personal and protected information. A few of those records, possibly by carelessness, reveal new evidence of your malicious conspiracy – expanding upon shared public records held between my clients and you, and other evidence.

Summary of Claims:

We are in the process of finalizing a comprehensive federal complaint, which includes some of the following claims for deprivations of my clients' U.S. Constitutionally protected and other federally protected rights:

- Deprivation and Conspiracy to Deprive Procedural Due Process (each of you to be named for multiple acts)
- Deprivation and Conspiracy to Deprive Equal Rights and Class-of-One Treatment (each of you to be named for multiple acts)
- Deprivation and Conspiracy to Deprive Free Speech Rights (Teigen, Akason, Lehman, and potentially others to be named)

- Deprivation and Conspiracy to Deprive Property and Liberty Rights (each of you to be named for multiple acts), including:
 - Deprivation and Conspiracy to Deprive Rights to Livelihood for Reporting Truthful Information to a Law Enforcement Officer (each of you to be named for multiple acts)
 - Attempt and Conspiracy to Deprive Rights through Wire Fraud (Akason, Garman, and potentially others to be named)
 - Attempt and Conspiracy to Deprive Rights through Entrapment (Akason, Garman, and potentially others to be named)
 - Deprivation and Conspiracy to Deprive Rights through Extortion (Teigen, Akason, and potentially others to be named)

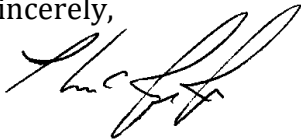
Appendix B to this letter contains an abridged summary of many of the factual allegations which will appear in greater detail in the lawsuit. The federal complaint, when filed, will be substantially more detailed as to the relevant facts concerning the misconduct.

Closing Thoughts:

In the interest of avoiding litigation against each of you for the immense damages you have caused, let me suggest that having a dialogue about how to avoid such a process might be prudent for all parties interested in this matter. And while we are not asserting claims against the State of North Dakota itself, we recognize that other officials connected with the State may well hold the influence to facilitate a resolution to this mess that could avoid the path we are all on. We invite your thoughts as to that, and those of the Governor, if he is interested. Please advise.

Be aware that, if no agreeable conclusion is reached by March 7, 2025, we will be ready to move forward with our filing.

Sincerely,



Thomas C. James, Jr.
Attorney for Hoefer Group, LLC and Charles Hoefer

Enclosures: Appendix A, Appendix B