

Pleban & Petruska Law, L.L.C.
Attorneys at Law

Lynette M. Petruska
[REDACTED]

November 1, 2016

Mr. [REDACTED], News Director
KMOV
One Memorial Dr.
St. Louis, MO 63102

SENT VIA FAX 444-6307
AND REGULAR MAIL

Re: Photograph in the Possession of Lauren Trager

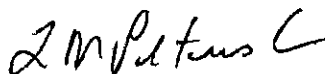
Dear Mr. [REDACTED]

This office represents the City of Vinita Park, to include the North County Police Cooperative (NCPC). Lauren Trager has contacted NCPC Chief Tim Swope on more than one occasion regarding a photograph that she claims to possess, requesting comment on the photo from the Chief. On each occasion, Chief Swope has told Ms. Trager that the NCPC has reasonable cause to believe that she is in possession of stolen property. Chief Swope has requested the return of the photograph and any copies to no avail. In her most recent email, Ms. Trager offered to let Chief Swope see the photograph, showing she possesses it, but has refused to return it to the NCPC.

The NCPC's investigation into the underlying case remains open, as do the circumstances under which photograph(s) of a scene investigated by the NCPC came into the possession of third parties, to include Ms. Trager. Under these circumstances, let me be clear: the NCPC is not going to provide comment to someone who has been told she is in possession of stolen property related to an open case. Once the NCPC has the photograph and all copies and the NCPC has completed its investigations into the underlying incident and how photographs related to it were obtained by third parties, to include but not be limited to Ms. Trager, the NCPC would be in a position to comment on this matter. Until these investigations are completed, it would be improper for the NCPC to comment upon any aspect of these matters, to include the stolen photograph.

It is my hope that KMOV will fully cooperate with these ongoing investigations by immediately returning the photograph(s) at issue, to include any copies. If KMOV is unwilling to cooperate with the NCPC, it may have no choice but to pursue other enforcement remedies available to it. I look forward to the surrender of the photograph(s) and a discussion with your station at the appropriate time.

Sincerely,



Lynette M. Petruska

cc: Lauren Trager

2010 S. Big Bend Blvd, St. Louis, MO 63117 Phone 314-645-6666 Fax 314-645-7376

Lauren S Trager

From: [REDACTED]
Sent: Wednesday, November 02, 2016 3:06 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Your Letter to KMOV-TV
Attachments: 201611021442.pdf

[REDACTED]

KMOV-TV forwarded me the attached letter that you sent them. Your letter is disturbing on both the law and facts, and I urge you to do some further research before you continue threatening KMOV-TV.

First, presuming for the moment that the photo actually was "stolen" (which we do not know nor do we concede), KMOV-TV's conduct is protected by the seminal U.S. Supreme Court case of *Bartnicki v. Vopper*, 532 U.S. (2001).

Second, your letter is in clear violation of the prohibition on prior restraints emanating from the First Amendment to the U.S. Constitution. *See Near v. Minnesota*, 283 U.S. 697 (1931).

Finally, Since you include a veiled threat in your letter to take "enforcement remedies", I wish to remind you that the federal Privacy Protection Act of 1980 (which applies to state and local law enforcement) prohibits the serving of warrants on newsrooms in situations such as these, especially when both *Bartnicki* rights and prior restraint rights are at issue. *See* 42 U.S.C. §§ 2000aa.

We will be sure to report that your client has no comment. In the meantime, you would be better served to address the circumstances at issue rather than unconstitutionally threatening media organizations.

Very truly yours,

[REDACTED]
General Counsel | Local Media Group
Meredith Corporation | [REDACTED]
[REDACTED]

Pleban & Petruska Law, L.L.C.
Attorneys at Law

Lynette M. Petruska
[REDACTED]

November 3, 2016

[REDACTED]
SENT VIA EMAIL ONLY

Re: Photograph in the Possession of Lauren Trager

Dear Mr. [REDACTED]

I am in receipt of your email dated November 2, 2016. Initially, I would appreciate clarification as to the authority by which you are practicing law in the State of Missouri, as I can find no evidence that you are licensed in the state.

I am perplexed as to your claim that the North County Police Cooperative ("NCPC") is attempting to engage in prior restraint. No effort has been made to involve the judiciary in the suppression of any KMOV news story or to even suppress any purported story. Rather, the NCPC is trying to recover stolen material that KMOV admits is in its possession. More specifically, KMOV has in its possession one or more photographs related to an open police investigation. These photograph(s) are closed records under Missouri law. Perhaps KMOV would like to explain how it came into possession of a closed police record, if it did not come into possession of stolen property. Stated otherwise, what reason does KMOV have to believe that the photograph was not stolen? Of course, the Chief of the NCPC has told your reporter the photograph was stolen and the subject of a separate criminal investigation, which would provide a reasonable person with knowledge the material is stolen.

We have been advised of KMOV's promotion for this story, calling it the "picture the police don't want you to see." This promotion is misleading and defamatory. This is not the picture police don't want you to see, it is the picture police want back because it was stolen. I trust that KMOV will report that the photograph was stolen, and therefore, it is in receipt of stolen property when it reports this story. If KMOV is not going to provide all of the facts about this photograph, I am sure that another news station will.

Additionally, KMOV should not report that the NCPC has "no comment" about this stolen photograph, as this would not be accurate or truthful. If KMOV chooses to air a story about the stolen photograph, it should read the letter provided by this office, to include that the NCPC does not believe it is appropriate to comment upon a matter related to 2 open criminal investigations (particularly to a person who is in possession of stolen property) but is willing to provide comment once both investigations are closed. If KMOV is not willing to report the

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November 3, 2016

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NCPC's position on this photograph accurately in order to sensationalize the story and boost ratings, I am sure that another station will. KMOV proceeds at its own peril should it report its purported "story" inaccurately.

To repeat so as to be perfectly clear: as the NCPC has told KMOV verbally and in writing, the NCPC wants the picture back so it can complete its investigation into the theft, and once its investigations are complete, it will be happy to provide comment for KMOV's "story." However, it will not provide comment on open investigations. As the reporter is well aware, Chief Swope provided an off the record explanation for the photograph, which he cannot state publicly because two investigations remain open. KMOV does not want to wait to air the story because Chief Swope's explanation takes the sensationalism out of the photograph, and KMOV cannot sensationalize the story if all of the facts are known, showing that KMOV is intent on airing a false and misleading story simply to boost ratings.

As a final matter, I trust that you are not trying to prevent an ongoing police investigation into criminal activity to justify KMOV's own false and defamatory story. Rest assured that the NCPC will pursue all enforcement remedies available to it to determine who stole the photograph(s) that are now in your client's possession.

Sincerely,



Lynette M. Petruska