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September 20, 2017

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Certified Mail - Return Receipt Requested
Mr. James O'Rourke
[redacted]

Re: Libel and Defamation

Dear Mr. O'Rourke:

As you know, this firm acts as general municipal counsel to the Village of Allouez ("Village"). Over the course of the last several years, you have submitted hundreds of open records requests to the Village. Your requests are oftentimes redundant and are characterized in self serving ways.

The Village takes its open records responsibilities very seriously. Countless Village staff and attorney hours and related costs and fees have been incurred over the years in responding to your open records requests and your repeated unsubstantiated claims that the Village has not complied with its open records law obligations. Despite your claims to have the Village's best interests at heart, you have cost the Village and its residents thousands upon thousands of dollars in responding to your requests and false claims of Village violations of the open records law.

The Village will always respond to your proper open records requests in accordance with the open records law. The Village has not, and will not, shirk its responsibilities under either the open records or open meetings laws. The Village takes serious its obligations to insure open and transparent government.

For quite some time, your open records requests have crossed the line and contain defamatory statements. There is a legal difference and distinction between statements of opinion and false statements of fact. Defamation is an intentional false communication, either published or publicly spoken, that injures another's reputation or good name. In the recent past, your defamatory assertions against the Village and its representatives have increased substantially. The following are examples of the libelous statements you have put in writing in the context of open records requests:

1. **September 5, 2017 12:30 P.M. Email.** "I received the Village false (unlawful) invoices for records that the village clerk has refused to deliver." "MISCONDUCT: I am concerned about official misconduct and negligence as it relates to life safety issues and sidewalks in Allouez." "VILLAGE OPEN RECORDS FRAUD: The Village is extorting $1.50 in

a bizarre attempt to cover up official negligence and misconduct. The bizarre official cover up scheme is unacceptable." "It is my understanding that an unlawful scheme to circumvent the State of Wisconsin Open Records has been developed by village officials and it needs to stop. Negligence and official misconduct is not acceptable."

2. **September 4, 2017 6:51 A.M. Email.** "OPEN RECORDS REQUEST - VILLAGE ATTORNEY INVOICE OCT 2016 - NEGLIGENCE." "I am most concerned about issues relating to possible negligence and/or misconduct by state and/or village officials and/or village contractor(s)."

3. **September 11, 2017 11:21 A.M. Email.** "I believe that officials have devised a scheme to circumvent the State Open Records Law." "CLERK MISTAKE AGAIN TODAY: The clerk made another open records request mistake today." "I am most concerned about issues relating to possible negligence and/or misconduct by state and/or village officials and/or village contractor(s)." "I believe that petty fraud by government officials is bad for Allouez."

4. **September 13, 2017 7:09 A.M. Email.** "UNLAWFUL DENIAL: I have received your [clerk] unlawful denial for a copy of the 'snarky slide show' prepared by Jim Rafter that was projected by Trevor at the Village Board meeting." "2 FALSE INVOICES: You [clerk] have unlawfully billed me for 2 document sets that have not been delivered."

5. **September 14, 2017 9:47 A.M. Email.** "I believe that village officials have devised an unlawful scheme to circumvent the state open records law by sending substitute documents and not true copies of the documents requested under a lawful open records request." "I am willing to pay, under protest, the 2 false invoices that were prepared by village officials in order to force the village to comply with lawful open records requests." "2 FALSE INVOICES: Village officials have unlawfully billed me for 2 documents that have not been delivered." "UNLAWFUL DENIAL 2 DOCUMENTS SETS: I have received an unlawful constructive denial for a copy of the 'snarky slide show' that was prepared by pres. Jim Rafter and was projected by Trevor at the Village Board Meeting and the Public Works 'multi-year sidewalk map.' I believe that the clerk sent me substitute documents and not true copies of the slides . . . ."

6. **September 15, 2017 6:58 A.M. Email.** "I have requested that the clerk correct village records with regards to the false invoices that village officials have produced under a scheme to circumvent the State Open Records and Open Meetings laws."

Village representatives and employees take very seriously their public responsibilities and take great pride in the work that they do on behalf of the residents of the Village. Your defamatory statements injure the reputation and good standing of the Village and its officials and employees. You are, therefore, advised to immediately **CEASE AND DESIST** from making any further defamatory and libelous statements of and concerning the Village, its elected officials, and employees.

This does not mean that you cannot submit valid open records requests to the Village and does not mean that you cannot state your opinion of and concerning the Village and its operations. False statements of fact, such as the Village and its officials acting unlawfully or concocting schemes to circumvent their legal obligations, will not be tolerated further. If you do not abide by this cease and desist demand, the Village will consider its legal options, to include litigation. If litigation becomes necessary, in addition to actual damages, since the tort of defamation is intentional, the Village and its representatives would be entitled to recover punitive damages from you, as well. Punitive damages are not meant to necessarily compensate the victim for out-of-pocket losses, but are intended to punish the wrongdoer for egregious actions.

If you would like to discuss this matter further, please feel free to contact me. Otherwise, the Village fully expects that you will abide by this cease and desist letter so that further action proves unnecessary. The Village would prefer not to resort to litigation, but the Village will not further countenance false and defamatory statements issued by you.

Very truly yours,

HANAWAY ROSS, S.C.

By: _____
Randall L. Gast

RLG:cjl
c: Village of Allouez