

**IN THE CIRCUIT COURT FOR THE
TWENTY-SECOND JUDICIAL CIRCUIT
CITY OF ST. LOUIS
STATE OF MISSOURI**

STATE OF MISSOURI,)	
)	
Plaintiff,)	
)	Cause No. 1822-CR00642-01
v.)	
)	
ERIC GREITENS,)	
)	
Defendant.)	

DEFENDANT’S MOTION FOR PRESERVATION OF EVIDENCE

COMES NOW defendant, by and through undersigned counsel, and hereby requests the Court order the Circuit Attorney’s Office to preserve records and documents being sought by Defendant’s Supplemental Request for Discovery. In support of this motion, defense counsel states as follows:

1. Defense counsel has filed this day Defendant’s Supplemental Request for Discovery. Included within that request is production for various grand jury materials and also investigative materials generated by a Michigan private investigation company.
2. Defense believes all of these materials should be produced in this case. However, because no discovery has yet been produced, and because the Circuit Attorney’s Office may argue that Defendant is not entitled to such materials, we seek a Court order for the evidence’s preservation to ensure such materials are available for production.

5. While defense counsel is still attempting to research this matter, there is grave concern that the Circuit Attorney's avoidance of using the SLMPD and instead using a private investigator from Michigan to carry out her investigation has and will impact the admissibility of evidence in this case. Additionally, the use of this private investigator may eliminate any argument the Circuit Attorney would have to a claim of privilege regarding communications between Enterra and the Circuit Attorney.
6. For all of these reasons, it is imperative that defense counsel have access to the records of Enterra. Therefore, in anticipation of the Circuit Attorney resisting production of these records, defense counsel respectfully request an order that all such records be preserved.
7. As to the grand jury material at issue, the charge in the indictment is a violation of Section 565.252 RSMo which prohibits the invasion of privacy "where a person would have a reasonable expectation of privacy." However, the statute defines the "place where a person would have a reasonable expectation of privacy" as **"any place where a reasonable person would believe that a person could disrobe in privacy, without being concerned that the person's undressing was being viewed, photographed or filmed by another."** § 565.250(3) RSMo. (2015), (emphasis added). However, the indictment makes no reference to this definitional mandate of the statute.
8. If the grand jury was improperly instructed on the law, or the CAO failed to provide any instructions on the law or specifically failed to provide the grand jury with the statutory definition of a place where a person would have a reasonable

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the City of St. Louis Circuit Attorney's Office this 27th day of February, 2018.

/s/ James F. Bennett

January 18, 2018

Kimberly M. Gardner
Circuit Attorney, City of St. Louis
1114 Market Street
St. Louis, MO 63130

Re: Criminal Investigation of Gov. Eric Greitens

Dear Mr. William Don Tisaby:

This engagement letter agreement ("Agreement") confirms that The St. Louis Circuit Attorney Office ("CAO") has retained Enterra, LLC ("Enterra") as a consultant in connection with the above-captioned matter. The following paragraphs outline the terms and conditions of the Engagement.

Enterra is engaged to: (a) provide consulting advice to CAO to the extent requested, (b) to conduct an independent investigation into potential criminal (and civil) liability of the Governor under the guidance of the CAO provide, and to provide such litigation support (including expert testimony) as may be requested by CAO in connection with the above-captioned matter. Enterra shall prepare written reports regarding its work should this become necessary.

Terms and Conditions of the Engagement of Enterra, LLC

1. Fees and Expenses – Enterra will be compensated for time spent on this engagement at an hourly rate of \$250 per for each individual working on the matter. CAO will also reimburse Enterra for all reasonable expenses incurred in the course of its work on this engagement at Enterra's actual cost.

CAO will pay Enterra a retainer of \$10,000 to commence work. Enterra will initially bill against this retainer, which CAO agrees to replenish at such time as \$5,000 or less remains available thereunder. Enterra will bill CAO monthly, and to the extent not covered by funds remaining in the retainer, CAO will pay Enterra's invoices within 15 days after the date thereof. The monthly invoices will set out all fees and expenses incurred in the period and will provide an itemized breakdown of Enterra's hours billed. If requested, the invoices will also include a brief description of daily tasks performed. Unpaid invoices shall bear interest at the "prime rate" announced from time-to-time in the Wall Street Journal, plus two percent (2%).

2. Timing of Services – Enterra agrees to perform its consulting services in a timely fashion and will report directly to Kimberly M. Gardner, Circuit Attorney, City of St. Louis on the progress of its work either orally or, if requested, in written form.

If this Agreement meets with Enterra's approval, please indicate Enterra's acceptance by the signature of its authorized representative below and return to me. If Enterra has any questions, I would be pleased to discuss them with Enterra.

AGREED TO AND CONFIRMED:

ENTERRA, LLC

By: 
WILLIAM DON TISABY, CGSO and Founder

Date: 1/18/2018

CIRCUIT OFFICE ATTORNEY

By: 
KIMBERLY GARDNER, CIRCUIT ATTORNEY CITY OF ST. LOUIS

Date: 1/18/2018