



Nebraska Intergovernmental Risk Management Association

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Serving County Government

Craig L. Nelson, Executive Director

November 24, 2020

Agenda Item # 16
Date 12/16/20

Dodge County Attorney's Office
Attn: Oliver Glass
PO Box 147
Fremont, NE 68026-0147

RECEIVED
20 DEC -1 AM 11:21
DODGE COUNTY, NEBRASKA
COUNTY CLERK

RE: Preservation of Tangible Items and Documents (Litigation Hold) Related to
The potential claim of the Estate of Ethan J. Knoell

Dear Mr. Glass:

We have been notified by Dodge County of a suicide involving inmate Ethan C. Knoell
which occurred in the Dodge County Corrections facility on November 17, 2020.

The purpose of this letter is to request that all County representatives immediately place
a "litigation hold" on all tangible and intangible items, including physical evidence,
documents, records and other information, including electronically produced and/or
stored materials, which may be related to the above-referenced claim.
A "litigation hold" means that the County will immediately take all necessary steps to
identify and preserve all tangible and intangible items, documents and other information
which are related to this claim. This litigation hold will remain in effect pending the
resolution of any investigation of this claim and any possible litigation arising out of or
related to this claim. This means that the County and any individual Department with
relevant information must suspend its ordinary and customary document retention
policies with respect to these items and documents until this claim is resolved and
closed. No tangible or intangible items may be destroyed by the County or any
individual possessing such items until the matter is resolved and you have advised them
that the litigation hold is no longer in effect.

The purpose of the litigation hold is to ensure that the County, NIRMA, and any
attorneys that may be assigned to this claim now or in the future have all the necessary
physical evidence, documents, records, and tangible evidence necessary to investigate,
evaluate, and, if necessary, defend this claim. Failure to preserve these items could
result in additional claims and/or court-imposed sanctions against the County or its
employees.

We are asking you, as County Attorney, to undertake the important responsibility
of communicating this litigation hold to each County official, employee,
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- Doris Karloff Saunders County, Larry Cerny Fillmore County, Beth Fiegenschuh Cheyenne County, Jean Andrews Dodge County, Kathy Brandt Morrill County, Tim McDermott Saline County, Bonnie Moore Sarpy County, Jim Peterson Cass County, Becky Richter Hamilton County, Ron Schmidt Madison County, R. Buddy Small Brown County

volunteer, independent contractor, or other agent of the County, who may have any items, documents or other information related to the above-referenced claim. Since you are in the best position to identify persons who may have such items, we are requesting that you communicate with them in writing and advise each of them that a litigation hold is in effect and they must comply with its terms. We recommend that you maintain a record of each person's acknowledgment of receipt of this request. Please inform each individual who has custody of any items subject to the litigation hold that he or she must take all necessary steps to retain the items in the form in which they presently exist, and not destroy any item, and that any such items must be made available to NIRMA, the County, and/or retained defense counsel, as necessary. Please also immediately advise your IT department or the individuals responsible for maintaining back-ups of your computer system that they must preserve electronically stored back ups.

Please take great care to inform each and every individual who may have any information relating to the claim of the litigation hold, keeping in mind that the items which are subject to the litigation hold may be found in various offices and departments or may be in the possession of various individuals who are elected or appointed officials, employees, independent contractors or other agents of the County.

To assist you in considering who may need to be informed of this notice, the items which are subject to this litigation hold include but are not limited to the following: hard and electronic copies of all letters, emails, text messages on cell phones, notes, records and reports, transcripts or records of witness interviews, video recordings, tape recordings, minutes of meetings, meeting agenda, voicemails, faxes, calendar entries, telephone logs, call histories, Internet usage files, network access information, and drafts of any of the documents described above. Past and present policy and procedure manuals or employee handbooks (both those that pertain to all County employees and those working in a particular office or Department), labor or collective bargaining (union) agreements or contracts, rules & regulations, Merit Commission rules, and any other "policy" related documents are also subject to this litigation hold. **Also included in this litigation hold are any emails and electronic copies of documents which may be retained on the personal computers of elected or appointed officials, employees, volunteers, and other agents, including internet posts and/or messages on Facebook or other social networking sites, internet blogs, listservs, or other sites. This category is of particular importance because electronic data can be an irreplaceable source of discovery and evidence.** Particularly if a claim is made by an employee of the County, payroll records, the contents of personnel files, timesheets, signed receipts of policy manuals, and job descriptions are also included. In addition, if there are any tangible items in the form of physical evidence, in addition to documents which relate to this claim, these also must be preserved and are subject to the litigation hold.

If appropriate, any items identified may be placed in the custody of you or some other individual who will be responsible for their preservation, along with a catalogued list of

such items, so that they may be made available to NIRMA and defense counsel, as necessary and appropriate.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Bill Hilton, CPCU, AIC
NIRMA Senior Property / Liability Claims Adjuster

cc: Steve Hespen, Dodge County Sheriff
✓ Fred Mytty, Dodge County Clerk