

IN THE COUNTY COURT OF THE 20th JUDICIAL CIRCUIT  
IN AND FOR LEE COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff(s),

vs.

Case No.: 23-CF-000937

RICKY LYNN MCGRAW,

Defendant(s).

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**TOWER HILL INSURANCE GROUP'S MOTION FOR PROTECTIVE ORDER**

Tower Hill Insurance Group, and its employee, Bruce Steptoe, by and through its undersigned counsel and pursuant to Rule 3.220(1), *Florida Rules of Criminal Procedure*, move this Court for a Protective Order in this matter, and state as follows:

1. This matter involves a Count alleging a Fraudulent Insurance Claim, in violation of § 817.234, *Florida Statutes* as well as a Count alleging First Degree Grand Theft, in violation of § 812.014, *Florida Statutes*. Both of these Counts are First Degree Felonies.

2. The alleged victim in these matters is Tower Hill Prime Insurance Company ("Tower Hill"), in that the allegation of these charges asserts that, between April 9, 2020 and July 12, 2020, the Defendant did unlawfully, with the intent to injure, defraud, or deceive an insurance company, to-wit: Tower Hill Insurance Group, and that during the same period of time, the Defendant did knowingly obtain or use, or endeavor to obtain or use, money or property valued at one hundred thousand dollars from Tower Hill Insurance Group.

3. Bruce Steptoe is an employee of Tower Hill who was scheduled for deposition in this matter on February 1, 2024 (since suspended pursuant to agreement of counsel), and, hence, is an employee of the alleged victim of these charges.

4. The undersigned counsel has filed a Notice of Limited Appearance in this matter, to represent Mr. Steptoe at the scheduled deposition and to assert any protections and privileges applicable to the interest of the alleged victim, Tower Hill, as well as its employees.

5. The allegations surrounding these charges relate to a matter between the Defendant, a Company owned and managed by the Defendant (SFR Services, LLC), and Tower Hill. The matter resulted in litigation between Tower Hill and SFR Services, LLC, and resulted in a Order issued by the Honorable Michael McHugh. See *Tower Hill Prime Insurance Company v. SFR Services, LLC a/a/o Rookery Pointe Homeowners Association, Inc.*, Case No. 2020-CA-006212, in the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida Civil Division (The “Rookery Point litigation”).

6. In connection with the Rookery Point litigation, Mr. Steptoe served purely as the litigation adjuster, and has limited personal knowledge regarding the facts giving rise to the lawsuit. Rather, by far the lion’s share of knowledge obtained by Mr. Steptoe was derived through conversations with counsel representing Tower Hill in connection with the litigation (Zinober, Diana & Monteverde, P.A.), as well as reviewing documents and notes that are privileged under the work-product privilege in connection with first party insurance litigation.

7. Tower Hill verily believes that, at the deposition of Mr. Steptoe, as well as other Tower Hill employees who likely will be scheduled for deposition, counsel for the Defendant may inquire into subject matter that is protected by the attorney client privilege, as well as work-product privileges.

8. The applicable privileges are not the type of privileges of which the Assistant State Attorney representing the State of Florida at the deposition would be aware or would necessarily be in a position to raise. Thus, it is essential that Mr. Steptoe, and any employees of Tower Hill

who may eventually be subpoenaed for deposition, have counsel to raise such privileges, and defend the victim, Tower Hill, from intrusion into information that is not relevant, and should not be inquired into in such depositions.

9. Pursuant to Article I, § 16(c), Florida Constitution, a victim, as well as “the retained attorney of the victim . . . may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court.”

10. Moreover, as set forth in Rule 3.220(b)(1), *Florida Rules of Criminal Procedure*, “the procedure for taking the deposition, including the scope of the examination, and the issuance of a subpoena for deposition by an attorney of record in the action, shall be the same as that provided in the Florida Rules of Civil Procedure and section 48.031, *Florida Statutes*.” Thus, insofar as any inquiry that would be made relating to the corporate knowledge of Tower Hill should conform to the requirements of Rule 1.310, *Florida Rules of Civil Procedure*, and related case law pertaining to scope and privileges as set forth under rules and case law pertaining to discovery in civil litigation. Consequently, the work-product and other privileges that have been developed in civil litigation pertaining to discovery are applicable to litigation of criminal matters (including the one at bar) as well.

11. Moreover, counsel for the Defendant has raised an objection to the representation of the Law Firm of Zinober, Diana & Monteverde, as well, specifically, of that of the undersigned counsel who is the senior partner of the firm, representing Tower Hill or any of its employees, in that one of the firm’s partners, Michael Monteverde, has been identified by the prosecution as a witness in the case.

12. The law firm of Zinober, Diana & Monteverde represented Tower Hill in the Rookery Point litigation, identified above. At this time, undersigned counsel identifies no adverse

interest that exists or would arise between Tower Hill or its employees and that of Zinober, Diana & Monteverde, or Mr. Monteverde. Thus, pursuant to the Rules of Professional Conduct and Rules Regulating the Florida Bar, there is no conflict that the undersigned counsel believes would disqualify either the firm or undersigned counsel from representing the interests of Tower Hill. Nevertheless, to avoid any issues moving forward in this litigation, Tower Hill requests that the Court address any issue relating to potential disqualification of the undersigned or Zinober, Diana & Monteverde from representing Tower Hill and its employees, and making any appropriate objections to discovery.

13. Finally, it is the undersigned counsel's understanding that certain documents and materials that Tower Hill deems confidential and privileged have been obtained by defense counsel through the course of discovery in this matter. Tower Hill has not waived any privileges or immunities, including but not being limited to attorney-client communications, attorney work product, work product of any kind, and any other privilege or immunity provided by law. Thus, Tower Hill seeks this Court Protective Order for return of such material, an Order that such material shall not be used in this proceeding, and an Order that such material shall not be disseminated to any other person or entity outside the confines of this matter. To the extent appropriate and necessary, Tower Hill respectfully requests that this Court conduct an in-camera review of such material.

14. Tower Hill verily believes that it has shown good cause for the issuance of a Protective Order in this case to protect the victim from disclosures protected by law.

WHEREFORE, Tower Hill Insurance Group respectfully requests that this Court issue a Protective Order, that discovery, including documents, interrogation, deposition questions, and other discovery measures of Tower Hill be restricted, that all privileges, including attorney-client,

work product, and other privileges are preserved, that privileged documents and materials disclosed to Defendant and/or his counsel be returned to Tower Hill, not utilized, and not disseminated to any other person or entity. Tower Hill further respectfully requests any other and further relief as would be appropriate under the circumstances.

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing pleading was sent electronic mail on this 31st day of January 2024, to Counsel for Defendant and the State listed below:

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**ZINOBER DIANA & MONTEVERDE, P.A.**

/s/ *Fredric S. Zinober*

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