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March 2, 2015

Via U.S. Mail and Email (nicsteag@mtco.com)

Richard L. Steagall
Nicoara & Steagall
Commerce Bank Building
416 Main Street, Suite 815
Peoria, Illinois 61602-1115

Re: *Terry Hoffman v. DeWitt County et al.*
Case No.: 15 CV 3026
Conflicts of Interest

Dear Mr. Steagall:

We represent DeWitt County, Sheriff Shofner, Deputies Monaghan, Hardwick, and Wilford, and Director Barnett-Hall in a lawsuit filed by Terry Hoffman in the Central District of Illinois. I am writing to memorialize our conversation from Friday, February 20, 2015 and to set forth a non-exhaustive list of topics and issues in which the County's interests are in conflict with Mr. Hoffman's interests during the pendency of this lawsuit.

Mr. Hoffman's lawsuit alleges that his rights under the First, Fourth, and Fourteenth Amendments were violated. He also alleges various state torts, including false arrest and malicious prosecution. He makes these allegations against DeWitt County, Sheriff Shofner, a number of the Sheriff's deputies, and Director Barnett-Hall. Mr. Hoffman requests \$750,000 in compensatory damages, plus attorneys' fees, be paid by the County. He also requests punitive damages totaling \$100,000 from Sheriff Shofner, his deputies, and Director Barnett-Hall.

Mr. Hoffman's factual allegations in his complaint, his claims, and his requests for monetary damages place Mr. Hoffman's interests directly in conflict with the interests

of DeWitt County, Sheriff Shofner and his employees, and Director Barnett-Hart. Although Mr. Hoffman is a County Board Member, the conflicts of interest between him and the Defendants preclude Mr. Hoffman from participating in certain County business and any such participation violates the Illinois Public Officer Prohibited Activities Act, 50 ILCS 105/1 et seq.

You have already agreed that Mr. Hoffman would recuse himself from any decisions related to his lawsuit. It is the position of DeWitt County that Mr. Hoffman has a conflict of interest to, and should recuse himself from, participation in County business, including debates and votes, related to the following non-exhaustive topics:

1. **All Business Related to Pending Litigation, Including But Not Limited to His Current Litigation, and Settlements of Disputes.** Obviously, any decisions on how to handle Hoffman's pending litigation with the County are in conflict with Hoffman's interests. But, more broadly, decisions in other litigation may relate to and depend on decisions in Hoffman's litigation. The County may have to prioritize settlement, and has an interest in litigating weaker cases to discourage future lawsuits. Such decisions and strategy require a comparison of pending cases and discussion of all pending lawsuits. The handling of all lawsuits are in conflict with Hoffman's interests. Hoffman should recuse himself from all business related to any pending litigation and settlement of disputes.
2. **All Business Related to the DeWitt County Sheriff and His Employees.** Hoffman has sued the Sheriff and his employees, and seeks \$750,000 in compensatory and \$100,000 in punitive damages from those defendants. His interests are directly in conflict with the interests of the Sheriff and his employees, including but not limited to the financial interests of the Sheriff and his employees. Hoffman should recuse himself from all business related to the Sheriff and his employees, including all decisions related to the Sheriff's finances.
3. **All Business Related to the Department of Emergency Management.** Hoffman sued the Director of the Department of Emergency Management, Ms. Barnett-Hart, related to acts that allegedly took place in Ms. Barnett-Hart's office. His lawsuit also implicates her Department's operations. He seeks \$100,000 punitive damages from Director Barnett-Hart. Hoffman's interests conflict directly with the Department and with the interests of Director Barnett-Hart. He should recuse himself from all business related to the Department of Emergency Management and to Director Barnett-Hall, including but limited to the Department's finances.

4. **All Business Related to the Landfill and Peoria Disposal Company.** Hoffman's complaint makes specific allegations related to the Landfill and Peoria Disposal Company. His participation in business related to the Landfill and Peoria Disposal Company conflict with the County's handling of the factual allegations in complaint (for example, if the County denies Hoffman's factual allegations in the complaint). His allegation that the Defendants' actions violated his First Amendment rights conflicts with the County's defense of Hoffman's lawsuit and the County's handling of all litigation related to the Landfill. His allegations undermine current negotiations between the County and the Landfill. Hoffman should recuse himself from all business related to the Landfill and the Peoria Disposal Company.
5. **All Business Related to DeWitt County's Finances.** Hoffman requests payment by the County of compensatory damages in the amount of \$750,000. Although the County has insurance, much of that damages award would be paid out-of-pocket by the County pursuant to its deductible, funded by County taxpayers. Further, any payment may affect future premiums owed by the County. The ability of the County to pay out-of-pocket for damages is directly related to the availability of County funds, which in turn relates to County revenue and expenditures. Mr. Hoffman's interests lie in ensuring that the County has available funds to pay his settlement, which are in conflict with the County's interests in making expenditures and generally engaging in financial decisions. Hoffman should recuse himself from participating in all business related to DeWitt County's finances including, but not limited to, authorization of contracts and expenditures.
6. **Refrain from Discussing the Above Issues with Other County Board Members and the DeWitt County State's Attorney.** Every DeWitt County Board Member and the DeWitt County State's Attorney, as agents of the County and whose obligations are to the County, has a conflict of interest with Hoffman in the above topics. Hoffman should refrain from discussing any of the above issues with any current County Board Member or the County State's Attorney.

These issues became readily apparent at the February 19, 2015 County Board Meeting, where Mr. Hoffman participated in County financial business, business related to the Sheriff's Department, and business related to the Department of Emergency Management. He even went so far as to question directly Director Barnett-Hall during the County Board Meeting.

Finally, we note that you made statements online in comment to an article published by the DeWitt Daily News,

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http://dewittdailynews.com/news/details.cfm?clientid=22&id=164863#.VPCbo_nF9J1
. Your disparaging remarks regarding the Sheriff and his employees are inappropriate. Typically, we will abstain from “trying this case in the press,” but if you continue to make remarks in the media of this nature, then we will have no choice but to notify the public of the incredible waste of taxpayer money that Mr. Hoffman has caused by filing this lawsuit. We will highlight Mr. Hoffman’s seeming dereliction of duty to the taxpayers who elected him by filing such a wasteful lawsuit, and the enormous conflict of interest that this lawsuit raises between Mr. Hoffman and his role as a County Board Member.

The next County Board Meeting is scheduled for March 19, 2015. Also, Mr. Hoffman sits on the Property Committee, which meets on March 11, 2015. As early as this morning, Mr. Hoffman corresponded with the DeWitt County State’s Attorney regarding business related to the Landfill. Please advise ASAP whether Mr. Hoffman will agree to recuse himself from the above business. If he does not, then the County will have no choice but to seek the appropriate legal remedy including but not limited to an emergency claim for mandamus and/or protective order.

Very truly yours,

O’HALLORAN KOSOFF GEITNER & COOK, LLC

/s/Benjamin M. Jacobi

Benjamin M. Jacobi

cc: DeWitt County State’s Attorney Dan Markwell
Sheriff Shofner
Deputy Monaghan
Deputy Hardwick
Deputy Wilford
Director Barnett-Hall