

LAW OFFICES
KRAMON & GRAHAM, P. A.
ONE SOUTH STREET
SUITE 2600
BALTIMORE, MARYLAND 21202-3201

GEOFFREY H. GENTH
DIRECT DIAL
(410) 347-7436

ALSO ADMITTED IN NY

TELEPHONE: (410) 752-6030
FACSIMILE: (410) 539-1269

www.kramonandgraham.com

E-MAIL
ggenth@kg-law.com

October 25, 2018

Via e-mail (wwmerc@hollandhart.com) and first-class mail
William W. Mercer, Esquire
Holland & Hart, LLP
401 North 31st Street, Suite 1500
Billings, Montana 59101

Re: Representative Greg Gianforte

Dear Bill:

On Ben Jacobs' behalf, I write to demand -- once again -- that Rep. Gianforte immediately cease and desist from further false and/or defamatory statements about Ben or transactions with Ben. I trust that you're still representing Rep. Gianforte in this matter, and that you'll please let me know immediately if I'm incorrect on that point.

To induce Ben to sign a General Release on June 7, 2017, Rep. Gianforte truthfully and specifically admitted in his June 7, 2017 letter to Ben that, on May 24, 2017:

- (1) Rep. Gianforte had given a false report to police deputies, and
- (2) his campaign spokesman, Shane Scanlon, had issued a false press release.

The police report and press release had falsely accused Ben of having initiated physical contact with Rep. Gianforte before Rep. Gianforte's assault on Ben. Rep. Gianforte and his campaign intended their lies to conceal Rep Gianforte's culpability for his totally unprovoked, violent attack on Ben.

Rep. Gianforte's June 7, 2017 letter of admission and apology states, in pertinent part:

Notwithstanding anyone's statements to the contrary, you did not initiate any physical contact with me, and I had no right to assault you.

* * *

I had no right to respond the way I did to your legitimate question about healthcare policy. You were doing your job.

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Copies of the General Release that Ben signed and Rep. Gianforte's letter are attached herewith. Subsequently, on June 12, 2017, Rep. Gianforte pleaded guilty to, and was convicted for, his criminal assault.

As you'll recall, in November 2017, Rep. Gianforte's spokesman, Travis Hall, falsely claimed that "[n]o one was misled [by the false statements made about Ben on May 24, 2017], and anyone who says otherwise is mistaken." Mr. Hall intended his statement to whitewash, with a falsehood, Rep. Gianforte's and his campaign's dishonesty on May 24, 2017.

On Ben's behalf, I wrote to you on November 27, 2017 to demand that Rep. Gianforte and persons affiliated with him or his campaign immediately cease and desist from making any further false statements about Ben. My November 27, 2017 letter concluded by asking you to please let my law partner Andy Graham or me know if you had any questions or concerns about this matter. Because Andy and I did not thereafter hear back from you, we concluded that you had instructed Rep. Gianforte about his legal obligation stop publicly lying about his assault of Ben, or about Rep. Gianforte's and his campaign's prior misstatements about Ben. We hoped that Rep. Gianforte would take responsibility for his prior acts and resist any temptation to lie about the matter any further.

Rep. Gianforte has disappointed our hopes. Rep. Gianforte is now once again repeating his prior lies in May 2017 about Ben, as well now lying about his transactions with Ben in June 2017. On October 23, 2018, *The Missoulian* reported that, in a meeting with that newspaper's editorial board during the week of October 15, 2018, Rep. Gianforte asserted, "the statement I gave [to police] was my recollection of what occurred and I also am bound by my settlement agreement with Ben Jacobs to not talk about the incident."

Unless -- as is impossible -- Rep. Gianforte's current "recollection of what occurred" on May 24, 2017 could somehow be more accurate than his recollection was when he wrote his June 7, 2017 letter of admission and apology, Rep. Gianforte's recent statement to *The Missoulian* is a further lie that he intended to conceal the extent of (1) his culpability for his totally unprovoked, criminal assault on an innocent journalist, as well as (2) his own repeated dishonesty about that assault.

As you know, Rep. Gianforte's assertion about the "settlement agreement" with Ben is the opposite of the truth. **The attached General Release and letter of admission and apology do not contain any confidentiality provision, and consequently Rep. Gianforte, contrary to his assertion to *The Missoulian*'s**

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editorial board, is *not* under any restriction barring him responding fully and honestly to questions about his assault and his lies to law enforcement. Indeed, as you'll recall, through counsel Rep. Gianforte and Ben specifically confirmed on June 7, 2017 that there are no limitations on disclosure of Ben's General Release or Rep. Gianforte's letter.

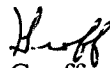
By way of his new falsehood about the "settlement agreement," Rep. Gianforte intended, during the last weeks before a contested election, to mislead the press and the electorate about his ability to respond to questions relevant to his candidacy.

Rep. Gianforte's continued lying this month has greatly aggravated the severe harm that Rep. Gianforte previously caused to Ben and Ben's reputation. The continued lying is unacceptable and actionable. **Please advise your client that he and his spokespersons need to stop -- immediately and forever -- telling lies about the assault, about their own prior lies, about your client's "settlement agreement" with Ben, or about any other aspect of this matter.** Ben reserves all rights, including the right to seek rescission of the General Release on the ground of Rep. Gianforte's fraudulent inducement.

Finally, to prevent the spoliation of evidence relevant to a potential imminent legal proceeding, Ben must insist that Rep. Gianforte, his agents, and his campaign take immediate, proactive steps to preserve any and all documents (including electronically-stored information) relating to Ben, the May 24 assault, or statements made by or on behalf of Rep. Gianforte about any aspect of this matter. I trust that you will please advise Rep. Gianforte of his obligations in this regard. If there will be any potential problem with or objection to such requested preservation of evidence, please so advise Andy and me no later than November 1, 2018.

As always, thank you for your professional courtesies.

Sincerely,



Geoffrey H. Genth

GHG:ms

Enclosures

GENERAL RELEASE

RELEASOR: Benjamin Jacobs

RELEASEE: Gregory R. Gianforte

DATES OF INCIDENTS: From May 24, 2017 through and including June 7, 2017

DESCRIPTION OF INCIDENTS: Assault on May 24, 2017 and subsequent publication through June 7, 2017 of statements re: May 24, 2017 assault ("Incidents")

SUM OF SETTLEMENT: Charitable donation of fifty thousand dollars (\$50,000) by Releasee to the Committee to Protect Journalists, 330 7th Avenue, 11th Floor, New York, NY 10001

1. Release

In consideration of and contingent on (a) Releasee's above-referenced charitable donation, to be made on or before June 9, 2017 and thereafter confirmed in writing by the donee organization to Releasor and (b) Releasee's delivery to Releasor of Releasee's signed letter attached hereto, Releasor fully and forever releases and discharges Releasee, Releasee's political campaign ("Greg for Montana"), Releasee's heirs, personal representatives, successors, assigns, agents, partners, employees, campaign staff, and attorneys for any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the above-described Incidents on accounts of any acts or omissions through and including the date of this General Release. Notice of transmittal of the check as described in subsection (a) by counsel for Releasee and receipt of the letter described in subsection (b) by Releasor are the only conditions that Releasee must meet in order for Releasor to send the e-mail described in paragraph 3.

2. Future Damages

Inasmuch as the injuries, damages, and losses resulting from the events described herein may not be fully known and may be more numerous or more serious than it is now understood or

expected, the Releasor agrees, as a further consideration of this agreement, that this Release applies to any and all injuries, damages and losses resulting from the Incidents described herein, even though now unanticipated, unexpected and unknown, as well as any and all injuries, damages and losses which have already developed and which are now known or anticipated.

3. Acceptance of apology

Contingent on Releasee's performance as set forth in paragraph 1 of this General Release, Releasor accepts Releasee's apology for the above-described Incidents and wishes to put the Incidents behind him to resume his career in journalism. In addition, as requested by Releasee, Releasor shall state in an e-mail to the Gallatin County Attorney, a copy of which is attached hereto, that Releasor does not object to allowing Releasee to enter a plea of "no contest" or "nolo contendere" to the pending charge of misdemeanor assault against Releasee.

4. Disclaimer

Releasor has carefully read the foregoing, discussed its legal effect with Releasor's attorneys, understands the contents thereof, and signs the same of Releasor's own free will and accord.

This Release shall be binding upon Releasor's heirs, successors, personal representatives, and assigns.

DATED this 7th day of June, 2017.

CAUTION: READ BEFORE SIGNING!



RELEASOR

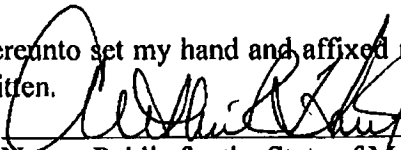
cc: Andrew Jay Graham, Esquire
William W. Mercer, Esquire

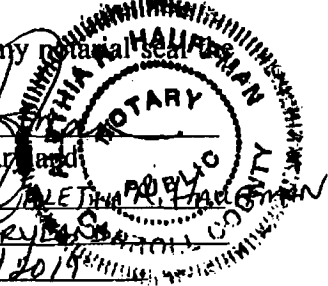
WESTMINSTER
BALTIMORE CITY, MARYLAND)

CARROLL COUNTY : ss
City of Baltimore)

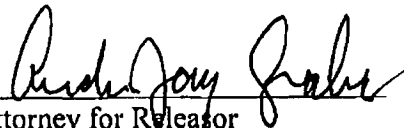
On this 7th day of June, 2017, before me, a notary public of the State of Maryland, personally appeared BENJAMIN JACOBS, known to me to be the person named in the foregoing Release, and acknowledged to me that he executed the same as his free act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notary seal day and year in this certificate first above written.


Notary Public for the State of Maryland
Printed/Typed Name of Notary CALETHA R. HALPERN
Residing at WESTMINSTER, MARYLAND
My commission expires 5/27/2019



APPROVED BY:


Attorney for Releasor

Greg Gianforte
Bozeman Montana

June 7th, 2017

VIA ELECTRONIC MAIL

Mr. Benjamin Jacobs
The Guardian
900 17th Street NW
Washington, DC 20006

Dear Mr. Jacobs:

I write to express my sincere apology for my conduct on the evening of May 24. My physical response to your legitimate question was unprofessional, unacceptable, and unlawful. As both a candidate for office and a public official, I should be held to a high standard in my interactions with the press and the public. My treatment of you did not meet that standard.

Notwithstanding anyone's statements to the contrary, you did not initiate any physical contact with me, and I had no right to assault you. I am sorry for what I did and the unwanted notoriety this has created for you. I take full responsibility.

I understand the critical role that journalists and the media play in our society. Protections afforded to the press through the Constitution are fundamental to who we are as a nation and the way government is accountable to the people. I acknowledge that the media have an obligation to seek information. I also know that civility in our public discourse is central to a productive dialogue on issues. I had no right to respond the way I did to your legitimate question about healthcare policy. You were doing your job.

In the hope that perhaps some good can come of these events, I am making a \$50,000 contribution to the Committee to Protect Journalists, an independent non-profit organization that promotes press freedom and that protects the rights of journalists worldwide.

I made a mistake and humbly ask for your forgiveness.

Sincerely,


Greg Gianforte