CONFIDENTIAL SETTLEMENT COMMUNICATION PURSUANT TO RULE 408 OF THE UTAH RULES OF EVIDENCE

December 3, 2024

VIA E-MAIL

PARK RECORD
PO Box 3688
Park City, UT 84060

Tatiana and Mathew Prince
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Don Rogers
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Michelle Deininger
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Re: Demand Letter on Behalf of Park City School District, Michael Tanner, and Lorie Pearce

Dear Mrs. and Mr. Prince, Mr. Rogers, and Ms. Deininger:

This firm represents the Park City School District ("PCSD") and two of its employees, Michael Tanner and Lorie Pearce. Our clients have asked that we convey to you our serious concerns regarding the false and misleading report you have published about them. We take this opportunity to address these concerns with you and demand that you take prompt action to remedy the injuries you have caused.

On November 19, 2024, the *Park Record* published a lengthy story with the title "Utah's highest-paid public schools COO lives and works part time in Chicago" (the "November Story"). It includes false statements of fact, manipulated figures, and distorted half-truths, all in service of a transparent objective – to bring public opprobrium to our clients and damage their reputations and livelihoods. We detail herein some of these issues.

The *Park Record*'s False Narrative

The November Story seeks to implant in the minds of the reading public an image of a school district that overpays negligent, absent, uncommitted, and conflicted employees who are hired and compensated based on unfair preferential treatment. This preset narrative is evident in numerous details and choices of wording. The foundation of the message is a set of factual assertions that are demonstrably false.

The first falsehood comes in the headline of the story. It is not true that Mr. Tanner "lives" or "works part time" in Chicago. Mr. Tanner lives with his family in Park City. His daughter attends school full-time in the school district, and Mr. Tanner drives her to school nearly every day. He travels to Chicago on occasion throughout the year, as he receives paid vacation time and district holidays like every other school district official in Utah. The November Story hangs a number of other misleading statements on this falsehood, including the following:

- "Tanner spends his summers mostly in Illinois, and during the school year he's regularly out of the office as well."
- A photo caption stating that "[a]ccording to school district documents and personnel, Tanner works much of the year from his home in Illinois."

Again, Mr. Tanner does not work any substantial amount of the year from Chicago, nor does he take more than standard vacation time away from the office.

The story adds additional embellishments intended to perpetuate the false narrative, such as by saying that Mr. Tanner "wasn't present" at the time a district bus driver violated district policies, and claiming backhandedly that Mr. Tanner only "returned to the district" the day before a problem construction site was scheduled to open. In fact, PCSD's real-time response to the bus driver incident mentioned in the article was directed and supervised by Mike Tanner, from his office, at PCSD headquarters, making the story's claim about his absence entirely untrue. And Mr. Tanner's return to the office before the school opening in question was not from a summer away, as is implied, but from a short weekend trip in which he missed zero workdays and checked in with the worksite frequently. Good faith inquiries on both of these topics would have uncovered this information. Ms. Deininger did not make such inquiries or ignored the mitigating information.

Similarly, the story states that Mr. Tanner was allowed to work remotely, and in that context asserts that he "spends his summers mostly in Illinois." The combined implication is that Mr. Tanner works remotely for several months of the year. In fact,

when he does go to Chicago in the summer, Mr. Tanner uses vacation days, just as most other employees take their allotted vacation time. Remote work is a rare part of Mr. Tanner's job, but the need certainly does arise for him to check in on work items while he is away *on vacation.* Ms. Deininger casts the false impression that this represents an unfortunate absence from work, rather than the diligent follow-up of a dedicated employee keeping things running while he takes earned leave time.

To complete the narrative about Mr. Tanner, the story also exaggerates his earnings. Ms. Deininger claims that Mr. Tanner earns compensation valued at $394,000 per year, purportedly based on information listed at Transparent Utah. It is both false that Transparent Utah contains any such report or ever did, and that he earns compensation in that amount. In fact, Mr. Tanner has never received compensation in that amount, even when benefits and separate contracts are aggregated. Furthermore, Transparent Utah does not report any such number, and to our knowledge, never has. Your story has left readers with a false impression of Mr. Tanner's compensation as a result of this glaring error, which is repeated not only in the story itself, but in the short story abstract that appears in search results on the paper's website.[1]

Ms. Deininger also tried to cast Mr. Tanner in a negative light by citing Fire Marshall Ryan Nelson stating that the on-time opening of a new school was "very close to a disaster." Follow-up communications with Mr. Nelson have confirmed that Mr. Nelson never made any such statement, calling into question Ms. Deininger's ability to reliably report on basic statements by sources. Her failing in this core aspect of her job is unsurprising in light of the significant prejudice she harbors toward the District and its officials, as set forth below.

Additionally, Ms. Deininger consistently makes use of clever terminology and elisions to serve the narrative in ways that have misled the public. For example, the November Story suggests that Mr. Tanner got his job through preferential treatment, wherein the former superintendent created a new job for him, a member of her "inner circle," before "tapping" him to take the spot. This is a wild distortion of the reality. In truth, Mr. Tanner was alerted to a public job posting by Ms. Gildea (with whom he had worked previously) and followed all of the proper steps to apply for and then interview for the position – a process from which Ms. Gildea recused herself throughout the initial vetting and culling of candidates. Mr. Tanner was well qualified for the position and

[1] The abstract reads: "A quarter-million-dollar executive assistant, and remote work for a $394,000/year role overseeing day-to-day operations, are among outsized pay and privileges former Park City Schools Superintendent Jill Gildea conferred on office staff." See https://www.parkrecord.com/author/michelle-deininger-for-the-park-record/, last visited November 27, 2024.

sought and secured it by his own merits. Your reading public now believes he was inserted into a job custom created for him via an easy preferential selection by a friend. All such conclusions are false. And Ms. Deininger's consistent use of apples-and-oranges comparisons, such as comparing prior *salary* compensation to current *total compensation*, to imply that employee payouts have ballooned, is transparently agenda-driven, rather than focused on simple fact-finding and truth-telling.

Lorie Pearce comes in for similar treatment in the November Story. The story's abstract portrays Ms. Pearce as a "quarter-million-dollar executive assistant" receiving "outsize pay and privileges" conferred on her by former Superintendent Gildea. Nearly every element of this characterization is false. Ms. Pearce does not make a quarter million dollars as an executive assistant. Rather, that is a total compensation number (again failing to clarify for readers that this is not a salary number) relating to her executive assistant role *and* her additional assignment as the District's GRAMA officer. The story makes no mention of her substantial extra work in the latter capacity. It is also not true that her compensation is "outsize[d]" as compared to peer employees. Ms. Pearce's compensation is higher than many because of her extremely long term of employment at the District, not because of a cozy relationship with the prior superintendent. Furthermore, recent compensation increases were driven not by preferential treatment, but by group negotiations by a number of employees, all of whom received similar concessions in pay. Once again, the story cherry-picks details and purposely creates negative inferences that are not supported by the facts on the ground.

Ms. Deininger also misreports details regarding Ms. Pearce's work-from-home arrangement, reporting that she was able to work from him with permission. On the contrary, Ms. Pearce has only had a work from home provision in her employment arrangement for a few months of her time with the District. It expired in June 2022. She does not work from home and never has. Again, the *Park Record*'s readers have been badly misled.

Ms. Deininger also reports, incorrectly, that Ms. Pearce claimed that "no records existed" regarding Mr. Tanner's employment agreements. This is simply false. Ms. Pearce was helpful in providing documents requested by Ms. Deininger in five separate GRAMA requests, and never used those words in reference to Mr. Tanner's agreements.

We have documented numerous other misstatements and distortions within the November Story. From our perspective having litigated defamation matters for over fifteen years, it stands out as uniquely marked by errors and overstatements in

comparison with many other media pieces we have litigated over.[2] The ubiquity of these problems leads to a strong conclusion that the piece's author is not acting as an objective reporter nor even a muckraking public conscience, but as an unscrupulous and motivated adversary with an axe to grind.

Ms. Deininger Has a History of Flawed and Biased Reporting

As you are well aware, Ms. Deininger has targeted PCSD for outsized negative attention for years now. We have reviewed 27 different stories authored by Ms. Deininger and published in different fora since 2021 that focus on the District. All 27 of these articles have a strong negative message about PCSD. The public who read Ms. Deininger's writing will conclude that the district suffers from corruption and mismanagement, endemic waste, and failures of accountability. This is not at all supported by the actual record of an organization that has enjoyed excellent outcomes and widespread praise as a leading school district. The disparity between the successes PCSD has achieved and the flow of criticism from Ms. Deininger should raise serious questions about her ability to impartially cover PCSD.

Ms. Deininger's activism also confirms that there is cause for concern. During a community forum with candidates running for the Board of Education, Ms. Deininger submitted a question to the moderators expecting that it be asked of the candidates. The question, which focused on Mr. Tanner's supposed remote-work job, was so slanted that the moderators altered it heavily before reading it publicly. Ms. Deininger followed up to express her chagrin at the editing, further libeling Mr. Tanner with accusations that he "lives in Chicago" and fretting about another Uvalde happening in Park City while the PCSD's security chief "was at his home in Chicago."[3] Confirming her role not as a reporter but an activist, Ms. Deninger copied all Board of Education members, and candidates for the Board on her defamatory email as well, assuring that Mr. Tanner would need to make explanations and to those charged with running the district.

Ms. Deininger's history of hostility and confrontation toward PCSD have become an occupational hazard for those working there. Given her outspoken and long-running critiques of PCSD and its leaders, it is deeply irresponsible for the *Park Record* to continue giving her an influential public platform.

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[2] Furthermore, the above falsehoods are all statements of fact, rather than opinion. We feel confident that we can easily show that the *Park Record*'s readership is not reading Ms. Deininger's stories merely as editorial comment, but as containing real reporting of established facts. In short, these falsehoods are actionable defamation.

[3] A copy of this email is attached hereto as Exhibit A.

What is more, the *Park Record*'s trust in Ms. Deininger has now led to legal exposure. Because Mr. Tanner and Ms. Pearce are not public figures, they will not be required to prove malice on behalf of the *Park Record* and Ms. Deininger in a lawsuit over this story. But should PCSD be required to make such a showing, it will have little trouble doing so given the easily documented history of spite and ill will in Ms. Deininger's actions and writings. We feel confident a jury would join us in concluding that these critiques go far beyond standard shoe-leather reporting, especially in light of the clear misrepresentations detailed above.

It is distressing that the *Park Record* – a venerable organ of quality journalism for generations – plays host to an activist posing as a journalist with so clear a vendetta and so obvious a willingness to mislead the public in service of her aims. Park City deserves better.

Impacts on PCSD and its Employees

PCSD is a sophisticated, professional organization whose leaders work hard to serve the needs of its student population and the general public who are its constituents. As a government institution, it is public-facing and accountable to numerous stakeholders, state and municipal officials, regulators, and parents. The publication of the *Park Record*'s false narratives and defamatory assertions has caused enormous upheaval within these constituencies, leading the public to question and accuse District officials and to doubt their judgment and effectiveness. Furthermore, a number of inquiries to PCSD and social media postings have called into question the integrity of its leaders, raising intimations of corruption and incompetency, none of which are remotely supported by the facts.

The human cost to the individuals featured in the story has been even more severe. Mr. Tanner and Ms. Pearce are private individuals working as career employees at PCSD. They have never received or asked for political appointment, nor have they placed their names on a ballot. While both understand the unique realities of working for a public-facing government entity, they are not public figures and have reasonable expectations of privacy in their roles. The November Story has injected terrible negativity and disruption in their working and private lives. They have become targets for public abuse and online punching bags, though there is no basis to think either has done anything improper. They fear deep reputational harm, which puts at risk their ability to maintain their current jobs or to obtain employment elsewhere in their chosen field. Again, neither has done anything wrong. Both are highly qualified and deeply committed to their work. The attacks they are now facing from the public, as incited by the *Park Record*'s irresponsible reporting, are completely unwarranted. As a result, they have suffered significant harm.

We have advised our clients that they possess substantial legal claims against the *Park Record* and Ms. Deininger. At this stage, their damages likely rise to the level of multiple hundreds of thousands of dollars, with the likelihood of increasing substantially as long as the November Story remains in circulation.

Our clients have instructed us to prepare a formal complaint setting forth their legal claims, which would initiate litigation on their behalf. They would of course prefer not to pursue legal action, but the ongoing attacks on their reputations leave them without good alternatives.

Demand

If you would like to avoid litigation, you must take steps to repair the damage you have caused, as follows:

First, the *Park Record* must withdraw the November Story from online circulation. It should post a notice on its website visible on the landing page and including terms that would appear in topical web searches, stating that the story has been withdrawn due to multiple errors.

Second, Ms. Deininger and *Park Record* management must issue a written apology to Mr. Tanner and to Ms. Pearce for the publication of the November Story, including the errors made therein. This apology letter would be accessible for them to circulate or publish in their sole discretion.

Third, in light of her obvious bias and demonstrable errors in reporting, the *Park Record* must agree that it will not publish any story authored by Ms. Deininger relating to PCSD or its employees, at any time.

Finally, as a modest signal of good faith, the *Park Record* should pay the small sum of $5,000 to fund reparative communications meant to restore the reputations of the District, Mr. Tanner, and Ms. Pearce.

If you accept this demand and act accordingly, our clients will forego litigation over this matter. If you will not, we will promptly begin preparations for legal action. This offer expires on Wednesday, December 11, 2024.

Conclusion

PCSD has long tolerated the dishonest reporting of Ms. Deininger and the misleading stories published by the *Park Record*, recognizing the obvious role of

journalism in holding government entities accountable. At this point, it can no longer do so. Dedicated employees are being unfairly smeared in service of an agenda that has now eclipsed the basic functions of journalism. The *Park Record* must retract the November Story and apologize. It must also make changes to ensure that coverage in the future, no matter how negative, will be truthful. We intend to take action if the *Park Record* is unwilling to take these crucial steps.

Finally, please be aware that you are now on notice of potential claims against you. This means that you have legal obligations to preserve, and not to discard or delete, all documents, materials, and information relevant to the claims discussed herein. Courts impose significant penalties on those who, with notice of legal claims, destroy or discard information relevant to the claims. Prudence advises consulting with legal counsel.

Sincerely,

KUNZLER BEAN & ADAMSON, PC

Ryan B. Bell

RBB:mh

EXHIBIT A

to Demand Letter on Behalf of Park City School District, Michael Tanner, and Lorie Pearce

---------- Forwarded message ---------
From: Michael Tanner <mtanner@pcschools.us>
Date: Mon, Oct 14, 2024 at 10:22 PM
Subject: Is the BOE going to help me out or am I on my own?
To: Caleb Fine <cfine@pcschools.us>

Greetings newsroom,

First, Kudos on hosting the debate - vitally important, and not easy.

Second, I did chuckle at being called out by name and ribbed by Ashton live in the debate (she announced I was criticizing paraphrasing of my online question and she'd be hearing from me); I was not offended and feel like our small-town vibe made that fine, albeit unusual.

Third: I sent my question to the KPCW live chat and Connor replied privately asking for proof regarding PCSD COO pay from the state employe website. I immediately sent him a link and screenshots to Transparent Utah - though fact-checking is traditionally on candidates, not community members.

Fourth: Ashton, friend, you watered down my question so thoroughly that when the candidates repeated it back they answered something entirely different. I asked specifically about Mike Tanner, district COO, working remotely. Candidate Eileen Gallagher answered (after you took the COO reference out of my question) "I assume Michelle is referring to the superintendent." None of the candidates received or answered the question I asked.

Mike Tanner's remote work from Chicago - and comp of $357k per year, the highest COO pay in Utah's K-12 system (and reflecting a $27k raise over last year) for a guy whose social media says he's a Chicago-based independent contractor, who is not registered to vote in Utah and whose Utah property taxes are sent to his primary residence in Evanston, IL, all of which you can find easily online - is a taxpayer accountability story you have missed related not just to construction fails but perhaps more fundamentally to building safety and security, which fall under his purview. (God forbid there is ever a security breach of the sort we read about daily across the country, and families want to know, like in Uvalde, how things happened here and PCSD's answer is the guy in charge was at his home in Chicago.)

The community should know Tanner lives in Chicago and holds down other paid contract work and the construction project he oversees is millions over budget, years behind schedule and beset by endless fails. Consider a text from an employee today: "I'm hearing Ecker and likely McPolin & PCHS are going to have to go back and replace all the glass classroom partitions. With bullet proof glass. Can you imagine how much that will run?!"

The Tribune has been working on this story since summer and I believe is nearing publication. This was yet another chance for KPCW to report some of our own local news before the Tribune.

MD

Michelle Deininger
Park City, Utah
C 781-336-8750

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