

## Schenkenberg, Philip

---

**From:** scott@swierlaw.com  
**Sent:** Wednesday, November 27, 2013 11:40 AM  
**To:** Schenkenberg, Philip; Patty VanGerpen; Karen Cremer; Patrick Steffensen; Jeff Holoubek; Bill Van Camp; Richard Coit; Meredith Moore; Knudson, Scott; Tom Tobin; Jason Topp; Thomas Welk; Diane Browning; Jason Sutton; Stephen Wald  
**Cc:** Lawson, William [LEG]  
**Subject:** RE: NOTICE OF RANDY FARRAR DEPOSITION (SDPUC TC 11-087)

Phil:

And you wonder why I have taken the step of feeling the need to record our telephone conversation.

Unbelievable.

Scott

**Scott R. Swier**

### SWIER LAW FIRM, PROF. LLC

202 N. Main Street  
P.O. Box 256  
Avon, SD 57315  
Telephone: (605) 286-3218  
Facsimile: (605) 286-3219  
[Scott@SwierLaw.com](mailto:Scott@SwierLaw.com)  
[www.SwierLaw.com](http://www.SwierLaw.com)



### Confidentiality Notice

*This message is being sent by or on behalf of Swier Law Firm, Prof. LLC. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, attorney-client privileged, confidential, or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by telephone at (605) 286-3218 or by reply transmission by e-mail, and delete all copies of the message.*

#### **IRS Circular 230 Disclosure:**

*To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (1) avoiding tax-related penalties under the U.S. Internal Revenue Code or (2) promoting, marketing or recommending to another party any tax-related matters addressed herein.*

----- Original Message -----

**Subject:** RE: NOTICE OF RANDY FARRAR DEPOSITION (SDPUC TC 11-087)  
**From:** "Schenkenberg, Philip" <[PSchenkenberg@Briggs.com](mailto:PSchenkenberg@Briggs.com)>  
**Date:** Wed, November 27, 2013 11:16 am  
**To:** "scott@swierlaw.com" <[scott@swierlaw.com](mailto:scott@swierlaw.com)>, Patty VanGerpen <[patty.vangerpen@state.sd.us](mailto:patty.vangerpen@state.sd.us)>, Karen Cremer <[karen.cremer@state.sd.us](mailto:karen.cremer@state.sd.us)>, Patrick Steffensen <[patrick.steffensen@state.sd.us](mailto:patrick.steffensen@state.sd.us)>, Jeff Holoubek <[jeff@nativeamericantelecom.com](mailto:jeff@nativeamericantelecom.com)>, Bill Van Camp <[bvancamp@olingerlaw.net](mailto:bvancamp@olingerlaw.net)>, Richard Coit <[richcoit@sdtaonline.com](mailto:richcoit@sdtaonline.com)>, Meredith Moore <[meredithm@cutlerlawfirm.com](mailto:meredithm@cutlerlawfirm.com)>, "Knudson, Scott"

<[SKnudson@Briggs.com](mailto:SKnudson@Briggs.com)>, "Tom Tobin" <[tobinlaw@gwtc.net](mailto:tobinlaw@gwtc.net)>, Jason Topp  
<[Jason.Topp@CenturyLink.com](mailto:Jason.Topp@CenturyLink.com)>, "Thomas Welk" <[tjwelk@bgpw.com](mailto:tjwelk@bgpw.com)>, Diane  
Browning <[diane.c.browning@sprint.com](mailto:diane.c.browning@sprint.com)>, "Jason Sutton"  
<[jrsutton@bgpw.com](mailto:jrsutton@bgpw.com)>, Stephen Wald <[wald@craigmacauley.com](mailto:wald@craigmacauley.com)>  
Cc: "Lawson, William [LEG]" <[Bret.Lawson@sprint.com](mailto:Bret.Lawson@sprint.com)>

The last record I have of a conversation about the deposition was on 10/29, when I indicated that date would work. I don't believe we have talked since on that topic. It is not our obligation to send a notice and thereby save a date, it is NAT's. We will not appear next Thursday.

I'm going to disregard the remainder of your email.

Phil

Phil Schenkenberg  
Briggs and Morgan, P.A.  
Direct 612.977.8246  
Fax 612.977.8650  
[pschenkenberg@briggs.com](mailto:pschenkenberg@briggs.com)  
2200 IDS Center  
80 South 8th Street  
Minneapolis, MN 55402  
*Admitted in Minnesota and Iowa*

---

**From:** [scott@swierlaw.com](mailto:scott@swierlaw.com) [<mailto:scott@swierlaw.com>]

**Sent:** Wednesday, November 27, 2013 10:59 AM

**To:** Schenkenberg, Philip; Patty VanGerpen; Karen Cremer; Patrick Steffensen; Jeff Holoubek; Bill Van Camp; Richard Coit; Meredith Moore; Knudson, Scott; Tom Tobin; Jason Topp; Thomas Welk; Diane Browning; Jason Sutton; Stephen Wald

**Cc:** Lawson, William [LEG]

**Subject:** RE: NOTICE OF RANDY FARRAR DEPOSITION (SDPUC TC 11-087)

Phil:

First of all, you know that we've discussed on **numerous occasions** that we were taking Mr. Farrar's deposition on December 5, 2013. **I've never indicated otherwise.** If you are not going to honor our explicit agreement and make Farrar available during the date/time we agreed upon, please let me know immediately and I will request Commission intervention.

Second, if anything, Sprint should apologize to NAT for its continuously improper conduct in this docket. I have made it a point to "cut Sprint some slack" because it was using out-of-state counsel in this matter. However, some of Sprint's actions have closely bordered on our law office making a complaint to the South Dakota Bar Association's disciplinary board.

Please let me know immediately about Farrar's appearance on December 5, 2013.

Thank you.

Scott

Scott R. Swier

**SWIER LAW FIRM, PROF. LLC**

202 N. Main Street  
P.O. Box 256  
Avon, SD 57315  
Telephone: (605) 286-3218  
Facsimile: (605) 286-3219  
[Scott@SwierLaw.com](mailto:Scott@SwierLaw.com)  
[www.SwierLaw.com](http://www.SwierLaw.com)



## **Confidentiality Notice**

*This message is being sent by or on behalf of Swier Law Firm, Prof. LLC. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, attorney-client privileged, confidential, or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by telephone at (605) 286-3218 or by reply transmission by e-mail, and delete all copies of the message.*

### **IRS Circular 230 Disclosure:**

*To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (1) avoiding tax-related penalties under the U.S. Internal Revenue Code or (2) promoting, marketing or recommending to another party any tax-related matters addressed herein.*

----- Original Message -----

Subject: RE: NOTICE OF RANDY FARRAR DEPOSITION (SDPUC TC 11-087)  
From: "Schenkenberg, Philip" <[PSchenkenberg@Briggs.com](mailto:PSchenkenberg@Briggs.com)>  
Date: Wed, November 27, 2013 10:18 am  
To: "[scott@swierlaw.com](mailto:scott@swierlaw.com)" <[scott@swierlaw.com](mailto:scott@swierlaw.com)>, Patty VanGerpen <[patty.vangerpen@state.sd.us](mailto:patty.vangerpen@state.sd.us)>, Karen Cremer <[karen.cremer@state.sd.us](mailto:karen.cremer@state.sd.us)>, Patrick Steffensen <[patrick.steffensen@state.sd.us](mailto:patrick.steffensen@state.sd.us)>, Jeff Holoubek <[jeff@nativeamericantelecom.com](mailto:jeff@nativeamericantelecom.com)>, Bill Van Camp <[bvancamp@olingerlaw.net](mailto:bvancamp@olingerlaw.net)>, Richard Coit <[richcoit@sdtanline.com](mailto:richcoit@sdtanline.com)>, Meredith Moore <[meredithm@cutlerlawfirm.com](mailto:meredithm@cutlerlawfirm.com)>, "Knudson, Scott" <[SKnudson@Briggs.com](mailto:SKnudson@Briggs.com)>, "Tom Tobin" <[tobinlaw@qwtc.net](mailto:tobinlaw@qwtc.net)>, Jason Topp <[Jason.Topp@CenturyLink.com](mailto:Jason.Topp@CenturyLink.com)>, "Thomas Welk" <[tjwelk@bgpw.com](mailto:tjwelk@bgpw.com)>, Diane Browning <[diane.c.browning@sprint.com](mailto:diane.c.browning@sprint.com)>, "Jason Sutton" <[jrsutton@bgpw.com](mailto:jrsutton@bgpw.com)>, Stephen Wald <[wald@craigmacauley.com](mailto:wald@craigmacauley.com)>  
Cc: "Lawson, William [LEG]" <[Bret.Lawson@sprint.com](mailto:Bret.Lawson@sprint.com)>

Scott,

I just received this notice, which asks Randy Farrar to appear for a deposition next Thursday. We had talked about this date a month ago, but since you never sent a notice, Sprint assumed that you didn't intend go forward. We are now in a holiday week, the witness is getting on a plane, and we are just a few days short of the date in the notice. Mr. Farrar is tied up with other obligations to the Company next week and is not available to appear.

In addition, I received the transcript from Monday's deposition of Mr. Holoubek. In that deposition, you accused me of specifically representing to him that a set of call diagrams were created by him. You said the following:

"Hang on a second because you just specifically told him that these documents were provided by him through discovery."

"You told him when we first went to these documents these were provided by you through your discovery that you signed. You just told him that. Now, if that's not correct, then I want to know if that's not right because then you either negligently or intentionally just misrepresented to him where these came from."

"Phil, you need to not make intentional misrepresentations to my client."

What I said to your client was the following:

All right. I'm going to try something, and it may work and it may not. If it doesn't, I apologize in advance. But let's turn to Tab 3, and let's mark this as Exhibit 3, NAT 3.

MR. SWIER: I'm sorry. Did you say "Tab 3"?

MR. SCHENKENBERG: Tab No. 3, yes.

MR. SWIER: Okay. Thank you.

BY MR. SCHENKENBERG:

Q. This is a diagram that is not intended to be -- well, intended to be -- allow us to facilitate a discussion of some calls and the authority under which services are provided, at least based on your understanding as president of the company and signer of discovery responses. So the first one is tribal member to tribal member. The "O" means the call originates there on the reservation. The "T" means we assume the call terminates on the reservation. So tribal member to tribal member. In that case, as I understand it, NAT is providing a service to the originating caller. It allows it to make a call to its neighbor, his or her neighbor, and then a service to the receiver, the call end party, to allow that call to be completed and the parties communicate. Does that call diagram make sense?

A. I think I understand what you are saying.

Scott, I believe you owe me an apology.

Phil

Phil Schenkenberg  
Briggs and Morgan, P.A.  
Direct 612.977.8246  
Fax 612.977.8650  
[pschenkenberg@briggs.com](mailto:pschenkenberg@briggs.com)  
2200 IDS Center  
80 South 8th Street  
Minneapolis, MN 55402  
*Admitted in Minnesota and Iowa*

---

**From:** [scott@swierlaw.com](mailto:scott@swierlaw.com) [<mailto:scott@swierlaw.com>]

**Sent:** Wednesday, November 27, 2013 8:09 AM

**To:** Patty VanGerpen; Karen Cremer; Patrick Steffensen; Jeff Holoubek; Bill Van Camp; Richard Coit; Meredith Moore; Knudson, Scott; Schenkenberg, Philip; Tom Tobin; Jason Topp; Thomas Welk; Diane Browning; Jason Sutton; Stephen Wald

**Subject:** NOTICE OF RANDY FARRAR DEPOSITION (SDPUC TC 11-087)

Counsel:

Please see attached document.

Scott

Scott R. Swier

**SWIER LAW FIRM, PROF. LLC**

202 N. Main Street  
P.O. Box 256  
Avon, SD 57315  
Telephone: (605) 286-3218  
Facsimile: (605) 286-3219  
[Scott@SwierLaw.com](mailto:Scott@SwierLaw.com)  
[www.SwierLaw.com](http://www.SwierLaw.com)



**Confidentiality Notice**

*This message is being sent by or on behalf of Swier Law Firm, Prof. LLC. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, attorney-client privileged, confidential, or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by telephone at (605) 286-3218 or by reply transmission by e-mail, and delete all copies of the message.*

**IRS Circular 230 Disclosure:**

*To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (1) avoiding tax-related penalties under the U.S. Internal Revenue Code or (2) promoting, marketing or recommending to another party any tax-related matters addressed herein.*

CONFIDENTIALITY NOTICE: The information contained in this e-mail communication and any attached documentation may be privileged, confidential or otherwise protected from

disclosure and is intended only for the use of the designated recipient(s). It is not intended for transmission to, or receipt by, any unauthorized person. The use, distribution, transmittal or re-transmittal by an unintended recipient of this communication is strictly prohibited without our express approval in writing or by e-mail. If you are not the intended recipient of this e-mail, please delete it from your system without copying it and notify the above sender so that our e-mail address may be corrected. Receipt by anyone other than the intended recipient is not a waiver of any attorney-client or work-product privilege.

CONFIDENTIALITY NOTICE: The information contained in this e-mail communication and any attached documentation may be privileged, confidential or otherwise protected from disclosure and is intended only for the use of the designated recipient(s). It is not intended for transmission to, or receipt by, any unauthorized person. The use, distribution, transmittal or re-transmittal by an unintended recipient of this communication is strictly prohibited without our express approval in writing or by e-mail. If you are not the intended recipient of this e-mail, please delete it from your system without copying it and notify the above sender so that our e-mail address may be corrected. Receipt by anyone other than the intended recipient is not a waiver of any attorney-client or work-product privilege.