**Hypothetical**

Daniel Webster-Batchelder American Inn of Court Table 2 Presentation February 21, 2018

ABC Corp. is a specialty contractor based out of Bloomfield, Missouri. They specialize in supervising the construction of "Ozark-Style" hunting camps for their wealthy and well-connected clientele. James Joseph Bulger heard about ABC Corp. from a mutual friend in Boston, and after several preliminary meetings, hired them to construct a palatial hunting lodge on his 500 acre property in Pittsburgh, N.H. The lodge, Blackwater Manor, was and is the only property that ABC has ever built in the Northeast; they have mostly worked in the southeastern United States since 1999.

Mr. Bulger has purchased high-end locally-sourced millwork for improvements he has commissioned for Blackwater Manor, from a local sawmill, Bob's Sawmill Timber Products, LLC, throughout the past two decades. Bob's has also assisted local contractors with the construction of numerous outbuildings to take advantage of the property's commanding views of First Connecticut Lake in the intervening years. Bob's has an active Facebook page that contains numerous photos and videos of his sawmill in operation, his favorite milling projects, employee outings, and other similar content related to the operation of his business. There are several publically-available photographs on this Facebook page of the Blackwater Manor projects over the years.

Mr. Bulger had occasion to hire ABC Corp. again in 2014 when he inherited a vast tract of property in Eastern Kentucky; he hired ABC to design and build a 25,000 square foot hunting lodge to entertain Mr. Bulger's friends and business associates a few times a year. Mr. Bulger was not heavily involved in the initial design meetings, and when he first visited the property in late 2016, he was horrified to learn that the two grand staircases in the main foyer had much too short a run to match his vision. ABC eventually corrected this issue, but insisted on charging nearly $100,000 for a change order. Mr. Bulger paid this amount, but after sampling a few rare bourbons several months later, took it upon himself to write several scathing online reviews about ABC's workmanship and motives, accusing the company and several employees of being "crooks" bent on capitalizing on their intentionally careless design process.

ABC Corp. hired a local lawyer to pursue a defamation claim in the local Circuit Court in Stoddard County, MO, figuring that they would receive better treatment in Missouri than in Mr. Bulger's home state of Massachusetts.

During his deposition in the case, lawyers for ABC Corp. questioned Mr. Bulger about his satisfaction with the Blackwater Manor project to try to cast doubt on some of his online claims about ABC's shoddy work. Mr. Bulger came out swinging and noted that the only reason he was so happy with that project was the excellent work that his local contractor, Bob's, had done to improve the premises since Blackwater left the site.

ABC's lawyers have served voluminous discovery on Mr. Bulger in the Missouri lawsuit, but Mr. Bulger has stonewalled them, and they have not been able to compel production of discovery via their local court system. With several months remaining in the discovery period, they attempted to serve the attached subpoena on Bob's Sawmill Timber Products, LLC. Bob's lawyer promptly called counsel for ABC and politely told them she would not be providing any responses because of several defects in the subpoena which she would not enumerate. ABC's counsel has now called you to see if you could assist them in obtaining the discovery they need in New Hampshire to make their case. They would like your input as to how the subpoena at issue is defective, if at all; if you believe the subpoena is defective, they would like your help in crafting a subpoena that the New Hampshire courts will enforce.

ABC's lawyers have also suggested that where neither Mr. Bulger nor Bob's is aware of your role in the case, you may be well-situated to "like" Bob's Facebook page to investigate whether there may be communications between Mr. Bulger and Bob's that would be germane to the lawsuit. They are also asking for your input into a discovery request that would allow them to see all of Bob's social media sites and all postings on such sites, as they believe that it is likely that discoverable communications were exchanged via social media, because they know from the publically-available postings they have seen that Bob's is an active user of social media.