

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
OGLE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 2016-CV-52
)	2016-CV-53
MARC MONGAN,)	
)	
Defendant)	

NOTICE OF LIMITED APPEARANCE PURSUANT TO 725 ILCS 120/4.5(c-5)(2)

CYNTHIA KOROLL of KOROLL LITIGATION GROUP, LTD., enters her appearance in the above captioned matters on behalf of DAVID and ROBIN SWAZIEK, the parents of Megan Wells, victims in the above named matter pursuant to 725 ILCS 120/4.5(c-5)(2).

BY: 
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**MOTION TO APPOINT DAVID AND ROBIN SWAZIEK AS CRIME VICTIMS,
PURSUANT TO 725 ILCS 120/3(a)**

NOW COMES, DAVID and ROBIN SWAZIEK, by and through their attorneys, KOROLL LITIGATION GROUP, LTD., and for their Motion to Appoint David and Robin Swaziek as Crime Victims, Pursuant to 725 ILCS 120/3(a), state as follows:

1. David and Robin Swaziek are the parents of Megan Wells, deceased, who is the victim in the above named matter.

2. Megan Wells died after a boat driven by Marc Mongan struck her boat. David and Robin Swaziek see this Court to honor their status as as crime victims under 725 ILCS 120/3. (a) *"Crime victim" or "victim" means: (1) any natural person determined by the prosecutor or the court to have suffered direct physical or psychological harm as a result of a violent crime perpetrated or attempted against that person or direct physical or psychological harm as a result of (i) a violation of Section 11-501 of the Illinois Vehicle Code or similar provision of a local ordinance or (ii) a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012; (3) in the case of an adult deceased victim, 2 representatives who may be the spouse, parent,*

child or sibling of the victim, or the representative of the victim's estate;

3. Marc Mongan was charged with Watercraft OUI/Alcohol (2016-CV-52) and Reckless Operation/Watercraft (2016-CV-53).

4. Article I, Section 8.1(a) of the Illinois Constitution guarantees a victim of a violent crime 12 specifically enumerated rights. One of those rights is the “right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process [.]” IL. Const., Art. I, Sec. 8.1 (a) (1). Crime victims have standing to assert this right. IL. Const., Art.I, Sec. 8.1(b).

5. The victim’s parents are victims as defined in Section 3(a) of the Rights of Crime Victims and Witnesses Act. 725 ILCS 120/3(a).

WHEREFORE, DAVID and ROBIN SWAZIEK, respectfully request this Court to grant their Motion to Appoint David and Robin SWaziek as Crime Victims Pursuant to 725 ILCS 120/3(a) and require the State’s Attorney or any special prosecutor to serve upon them any motions, pleadings and to give actual notice of any hearings or proceedings.

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MOTION TO APPOINT SPECIAL PROSECUTOR,
PURSUANT TO 55 ILCS 5/3-9008(a-10)

NOW COMES, DAVID and ROBIN SWAZIEK, by and through their attorneys,
KOROLL LITIGATION GROUP, LTD., and for their Motion to Appoint Special
Prosecutor, , state as follows:

1. Pursuant to 55 ILCS 5/3-9008(a-10): *The court on its own motion, or an interested person in a cause or proceeding, civil or criminal, may file a petition alleging that the State's Attorney has an actual conflict of interest in the cause or proceeding. The court shall consider the petition, any documents filed in response, and if necessary, grant a hearing to determine whether the State's Attorney has an actual conflict of interest in the cause or proceeding. If the court finds that the petitioner has proven by sufficient facts and evidence that the State's Attorney has an actual conflict of interest in a specific case, the court may appoint some competent attorney to prosecute or defend the cause or proceeding.*

2. David and Robin Swaziek are parents of Megan Wells, the victim in the above criminal cases,
3. The victim's parents are victims as defined in Section 3(a) of the Rights of Crime Victims and Witnesses Act. 725 ILCS 120/3(a).
4. Defendant Marc Mongan recklessly drove his boat into a boat upon which Megan was a passenger. Marc Mongan was charged with misdemeanor offenses as the Grand Jury failed to indict him on felony charges.
5. States Attorney Morrow has met with the parents on several occasions. He has asserted he lacks any relationship with Marc Mongan and has no affiliation with the Defendant. The parents queried Mr. Morrow on many of the issues in this case and asked if Mr. Morrow was familiar with the Defendant, the Defendant's Home Health Company and whether the Defendant's stature in the community would impact further decisions in this case.
6. Mr. Morrow advised the victim's parents that he "might recognize him on the street" but asserted that he had no relationship or affiliation with the Defendant, his business or his family.
7. However, shortly after the grand jury was convened and did not authorize an indictment David and Robin Swaziek became aware that Eric Morrow was the former Board President of Ogle County Hospice Association/Serenity Hospice and Home. States Attorney Morrow served on that Board for ten years.
8. On January 9, 2017, weeks after the Grand Jury did not return the Bill of Indictment, Marc Mongan made a "generous donation" to Serenity Hospice and Home.

Press articles gathered at the time state that Marc Mongan “had the honor of choosing the charity to which the donation would be made. (See Exhibit)

9. Mr. Morrow is a member of the Oregon Masonic Lodge. On information and belief Marc Mongan is also a member of the Oregon Masonic Lodge.

10. Mr. Morrow is a member of the Tebala Shriners. On information and belief, Marc Mongan is also a member.

11. On information and belief, Mr. Morrow had a meeting with office staff shortly after the incident and advised personnel of his conflict and of his intention to seek a special prosecutor. Ni such actions occurred.

12. Nr. Morrow had now advised Megan’s parents that he will not oppose a motion to dismiss the DUI count and reckless operation counts. This deprives the victims family of their day in court and is contrary to the evidence in this case.

13. Article I, Section 8.1(a) of the Illinois Constitution guarantees a victim of a violent crime 12 specifically enumerated rights. One of those rights is the “right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process [.]” IL. Const., Art. I, Sec. 8.1 (a) (1). Crime victims have standing to assert this right. IL. Const., Art.I, Sec. 8.1(b).

14. Fairness in the criminal justice process includes a prosecutor who is unbiased. Illinois recognizes the importance of a an unbiased prosecuting attorney in Section 3-9008 of the Counties Code, which authorizes the court to appoint a special prosecutor whenever the State’s Attorney “is interested in any cause or proceeding, civil or criminal,

which it is or may be his duty to prosecute or defend[.]” 55 ILCS 5/3-9008] The intent of this statutory provision is to “prevent any influence upon the discharge of the duties of the State’s Attorney by reason of personal influence upon the discharge of the duties of the State’s Attorney by reason of personal interest.” *In re Appointment of a Special Prosecutor*, 388 Ill.App.3d 220, 223, 902 N.E.2d 730, 735 (2009). A private citizen has standing to petition for appointment of a special prosecutor, even though the citizen may not be a party to the case. *In re Appointment of a Special State’s Attorney*, 305 Ill.App.3d 749, 758, 713 N.E.2d 168 (1999). A victim in a criminal case, although not having party status, has standing as a private citizen to invoke section 3-9008 of the Counties Code.

WHEREFORE, DAVID and ROBIN SWAZIEK, respectfully request this Court to allow time to brief this issue, provide affidavits and set a hearing to grant their Motion to Special Prosecutor.

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**Serenity Hospice and Home Foundation Board of Directors
Biographies**

President



Eric Morrow

Eric is employed by the Ogle County State's Attorney Office as the State's Attorney. He graduated from Western Illinois University with a B.S. in Law Enforcement/Justice Administration and attended the Southern Illinois University School of Law.

Eric previously worked as the Assistant State's Attorney for Ogle County from 2000-2002 and also worked in private practice at Smith & Morrow, P.C. from 2002-2014.

Eric was the former Board President of Ogle County Hospice Association Serenity Hospice and Home. He served on that board for 10 years. Eric is a member of the Oregon Rotary Club, Oregon Masonic Lodge, and a Tabala Shriner (Rockford).

Eric lives in Oregon, IL and is married to Trish, who is the Executive Director of CASA. They have two children, Gavin and Kylie.

In his leisure time, Eric enjoys hunting, fishing, and spending time with his family outdoors.



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Donation

Marc Mongan (right), owner of Oregon Healthcare Pharmacy and his employee Charlene Loescher (middle) presented a generous donation recently to Serenity Hospice and Home. Loescher had the honor of choosing the charity to which the donation would be made. Serenity Hospice is very grateful to serve a community with such generous businesses. Accepting the donation is Lynn Knodle, executive director of Serenity Hospice and Home. (Submitted photo)

Exhibit 1