

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
Case No. 18-CVS-11280

ROBERT M. PITTENGER and wife,  
SUZANNE B. PITTENGER

Plaintiff,

V.

GLENEAGLES HOME ASSOCIATION,  
a North Carolina Nonprofit Corporation,  
RICHARD B. BOOTH, JR., as an Officer  
and Director of GLENEAGLES HOMES  
ASSOCIATION, KEVIN J. ROCHE, as an  
Officer and Director of GLENEAGLES  
HOMES ASSOCIATION, DWIGHT H.  
BERG, individually and as an Officer and  
Director of GLENEAGLES HOMES  
ASSOCIATION, and DOUG L. LEBDA  
(a/k/a DOUGLAS R. LEBDA) AND MEGAN  
GRUELING,

Defendant.

## EXHIBIT C

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September 20, 2019

**VIA EMAIL AND USPS**

**Joseph A. Schouten**  
**WARD AND SMITH, P.A.**  
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**Post Office Box 33009**  
**Raleigh, NC 27636-3009**

**RE: Letter Dated September 10, 2019**

Dear Mr. Schouten:

I write to respond to your letter, dated September 10, 2019, in which you accuse my clients Doug Lebda and Megan Greuling (hereinafter called "the Lebdas") of misconduct. The allegations are incorrect. I hope this letter will provide you and your clients with clarity so this matter can be resolved without unnecessary litigation.

First, you assert that the Lebdas' home itself violates the Pittengers' privacy. The Pittengers' complaints about the construction of the Lebda home are already being litigated in the N.C. Business Court. Summary Judgement Motions will be filed by the various defendants shortly. I think it suffices to say the Lebdas built their dream home on a lot they purchased and did so by complying with the neighborhood restrictive covenants and getting the necessary HOA approval and building permits. The Pittengers chose to build their swimming pool close to the setback line, or potentially on it, knowing that someday a new homeowner could build on the adjacent lot. They are sophisticated people who must have known that the lot next to them would eventually be developed with a large home. The proximity of the Pittengers' pool to the property line caused the Lebdas to make design compromises in constructing their own home to ensure their own privacy. The Pittengers have also failed to mention that the Lebdas significantly modified the exterior of the south wing of the home, addressing the Pittengers' privacy concerns by changing most of the windows to transom windows.

Second, on the issue of the tax returns, Pittengers' counsel, Mr. Davies, has had the opportunity to ask both of my clients about this issue during their depositions, and I have also provided him with an explanation of the events as you undoubtedly know. To reiterate, on May 28, 2019 the parties had agreed to Mr. Davies' request to inspect the Lebda home. I arrived in mid-afternoon and had to park about four houses down from my clients' house because there were so many workers at both

the Pittenger and Lebda houses. Later that evening when Mrs. Greuling was walking her dogs, she saw a package in the road. When she walked over to the package, she noticed the Pittengers' name on it. She took it into her house to protect it. The Lebdas weren't sure what to do, so they called me around 7:00 p.m. They said there was a batch of papers directed to the Pittengers. I told them to keep it safe and not examine the documents, and they already had reached that conclusion on their own. I didn't want to bother Mr. Davies at home, so I sent my paralegal to the Lebda house early the next morning, and the package was delivered to Mr. Davies before 10:00 a.m. Neither Mr. Lebda nor Ms. Greuling looked at anything in the package nor did they discuss it with anyone. They kept none of the contents and to imply otherwise is just false. Given the Pittengers' demeanor towards my clients, they did not feel comfortable delivering the package directly to the Pittengers, and therefore I had it hand delivered early the next day to their attorney. If Mrs. Greuling had not picked the package up that evening, it could have been destroyed or fallen into the hands of people who might have misused it.

I was informed that Mr. Pittenger had left the package in his vehicle, unlocked. We were all at the Lebda residence that day for an inspection of the property. Again, I observed many workers on the Pittenger and Lebda property that day. My clients have absolutely no idea how the package ended up in the street. For the Pittengers to suggest otherwise is defamatory. If you have any evidence to the contrary, I challenge you to provide it. My clients did something appropriate and neighborly, and the Pittengers' suggestion to the contrary is simply wrong.

This act of neighborliness is not actionable. If by some stretch of the imagination, it could be construed as a tort, then Mr. Pittenger leaving the documents in an unlocked car in the presence of so many strangers would be contributory negligence.

Third, and most perplexingly, you complain that we took drone pictures. Your clients took drone photographs and videos of the Lebda home on at least two occasions, and contrary to your belief, these were done without permission from anyone on our side. A drone operator was hired by our firm to shoot video footage of what the homes look like from the street and golf course for potential use as an illustrative exhibit at trial should the matter proceed that far. There were no photos taken from a drone as suggested by your letter, only video footage from the street and golf course. There are no photos or videos of the Pittengers themselves or any footage of anyone in the home as you suggest. The video footage has not been disseminated or published to anyone as we have barely reviewed it at this point and are undecided if it will even be used. The drone never touched the Pittengers' property or flew over it, and the video simply shows a street level view that can be seen if you drove your car down Baltusrol Lane or if you were standing on the golf course. The drone never crossed over the Pittengers' property and the operator shot no footage close enough to see anything inside the home. Security for the neighborhood was alerted that we would be out on the street at this time and the operator was provided with the requisite FAA approval required by federal law. Finally, you insinuated in your letter that the Lebdas somehow picked the time and day to have the drone videos taken based on the Pittengers' schedule. This is false. The time and day were selected by the professionals we hired based upon their availability. Neither the Lebdas nor anyone at our law firm know of the Pittengers' schedule or when they are at home. That allegation is baseless and ridiculous. I cannot see why the Pittengers are surprised that we would want to have video footage for potential use at trial. They sued the Lebdas and have put the issue of the appearance of the houses into contention, and it would be rational to assume that we would gather photographic evidence just as they did.

In fact, the Pittengers produced approximately 36 photos from the first drone photoshoot they

conducted, along with at least two videos. There is also a second drone photoshoot that yielded 14 additional photos that were provided to us. Despite what your clients may have told you, consent was never given for the drone photography and video of the Lebda and surrounding neighbor's property. Nevertheless, the Lebdas never threatened to sue the Pittengers over these photographs or videos obtained. Consent was exchanged from both sets of counsel when requests to inspect the interior of their respective properties were submitted under the N.C. Rules of Civil Procedure. But this was the ONLY instance when consent to do any photography/inspection was sought and approved by anyone from the Lebdas' legal counsel.

The photos and videos obtained by your clients have been published to us in discovery. Again, we have not disseminated, nor published, any of the drone footage. The Lebdas have not seen the footage, nor has it been provided to anyone else. Under N.C. Gen Stat. 15A-300.1 (e) the photos or videos must have been published or disseminated to recover under the statute. In any event, we do not believe this statute provides an action for the type of conduct in question.

On the subject of improper behavior, I also advise you that at least twice that we know of, and as supported by sworn testimony of the surveyors involved, the Pittengers dispatched surveyors who trespassed upon the Lebda property and performed surveys without their consent. This, of course, is actionable. We had not intended to pursue it, but if you file your threatened suit, then you will leave us with no choice.

Finally, you assert a potential cause of action for intrusion into the Pittengers' seclusion. The case cited and your analysis are inapposite. In the *Keyzer* case that you cite, the Court notes that "The kinds of intrusions that have been recognized under this tort include 'physically invading a person's home or other private place, eavesdropping by wiretapping or microphones, peering through windows, persistent telephoning, unauthorized prying into a bank account, and opening personal mail of another.'" *Keyzer v. Amerlink, Ltd.*, 173 N.C. App. 284, 288 (N.C. Ct. App. 2005). This case has absolutely nothing to do with the use of drone video from a public street and it does not stand for the proposition that drone video, when a significant distance from a house, is the "modern equivalent of peering through windows." The Plaintiffs' claims were dismissed in this case because the court found their allegations failed to set forth any facts that "defendants had investigated their personal affairs; had spied on, observed, or otherwise obtained any information about their private concerns; had actually obtained any information protected by attorney-client privilege; had entered personal, non-commercial, areas of their houses; or had in any other way involved themselves in any of the plaintiffs' private or personal lives." *Id.* at 289. The Lebdas have not seen the drone footage nor have they in anyway intruded upon the Pittengers' seclusion. They were simply created for potential illustrative purposes at trial or hearing, a trial or hearing that your clients demanded. Finally, we do not anticipate the production of any other videos, so please tell your client to rest assured that no other drone videography will take place.

My clients are not litigious and are not looking to engage in an additional lawsuit over something so petty, but please know that should your clients attempt to pursue a claim against Mr. Lebda and Ms. Greuling, we will counterclaim for the Pittengers' unauthorized use of drone photos and videos over their property and the trespasses.

I hope you will seriously consider the merit of the allegations you have set forth in your letter and that you and your clients will decide not to proceed. The parties have already expended significant resources on the first lawsuit filed by the Pittengers, and we are not looking to engage in a second action that appears to be frivolous. It is very clear that the Pittengers have strong feelings about the

new house. It appears they are letting their emotions get away from them. They have initiated one lawsuit and sought a remedy related to their grievances with the Lebda residence. That suit provides them with whatever remedy they may have for the construction of my clients' home. The Lebdas have legitimate claims against the Pittengers that I would think that the Pittengers would prefer not to have adjudicated. In my view, all of us should proceed with the existing suit and leave further disputation alone.

Please contact me if you have additional questions or want to discuss this matter any further.

Sincerely,

A handwritten signature in black ink that reads "Rob Wilder". The signature is written in a cursive, slightly slanted style.

Rob Wilder

RW/alv