

IN THE CIRCUIT COURT, OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR ST. JOHNS COUNTY, FLORIDA

,

Plaintiffs,

v.

CASE NO:
DIVISION:

, an individual;

Defendants.

_____ /

PLAINTIFFS' FIRST REQUEST FOR PRODUCTION TO
DEFENDANTS, % AND @

Plaintiffs, * ("Plaintiffs"), by and through undersigned counsel, and pursuant to Rule 1.350, Florida Rules of Civil Procedure, hereby serves the following First Request for Production directed to Defendants, % ("#") and @ ("!") (collectively "Defendants"), to be answered in the manner provided for by Rule 1.350, Florida Rules of Civil Procedure, within thirty (30) days hereof.

INSTRUCTIONS AND DEFINITIONS

1. Pursuant to Florida Rules of Civil Procedure 1.350, these responses are to be produced by the Defendants within thirty (30) days from the date of service hereof "as they are kept in the usual course of business or shall identify them to correspond with the categories in the request". See *Cardenas v. Dorel Juvenile Group*, 230 F.R.D. 611, 618-19 (D. Kan. 2005).

2. Pursuant to Florida Rules of Civil Procedure 1.380, "if a party in response to a request for inspection submitted under rule 1.350 fails to respond that inspection will be permitted as requested or fails to permit inspection as requested ... the discovering party may move for an order compelling an answer, or a designation or an order compelling inspection, or an order compelling an examination in accordance with the request.

3. Any of the Documents that fall under electronic discovery should be produced in

compliance with the applicable laws including, but not limited to, the Florida Rules of Civil Procedure and any applicable case law.

4. In responding to this request, Defendants are required to furnish all information that is available to Defendants or subject to Plaintiffs' reasonable inquiry, including information in the possession of Defendant's attorneys, accountants, advisors, or other persons directly or indirectly employed by or connected with Defendants or Defendant's attorneys and anyone else otherwise subject to Defendant's control.

5. To the extent any of the Documents are in electronic or computer-generated or computer-stored format ("ESI"), unless specified otherwise in a specific request, please produce such documents in native format with metadata preserved on a CD-Rom or other recordable media, unless such format is unreadable with Adobe, Microsoft Office, or other commercially available software that is retailed at less than \$500. If unreadable with such software, please consult Defendant's counsel regarding format of production. Any documents as to which a claim of privilege is or will be asserted should be identified by author, signature, description, (e.g., letter, memorandum, telex, recording, etc.) title, (if any), date, addresses (if any), general subject matter, present depository and present custodian and a complete statement of the grounds for the claim of privilege should be set forth.

6. You are requested to produce each Document requested herein in its original file folder (for "ESI" this would be the containing directory), file jacket or cover (or designated in writing the titles of such folder, jacket or cover with respect to each such document), and indicate (where applicable) the company, division, department, or individual from whose files the document is being produced.

7. If it is maintained that any document which is requested, has been destroyed, set forth the contents of the document, the date of such destruction and the name of the person who authorized or directed such destruction.

8. Any of the documents that cannot be produced in full, should be produced to the extent possible, specifying the reasons for the inability to produce the remainder.

9. The time period for this document request shall be from the time which is material, to the period covered by the pleadings to the date of production.

10. This request is a continuing one. If after producing documents, you become aware of any further documents responsive to this request, you are required to produce such additional documents.

11. Unless otherwise defined herein, each word or term shall have the meaning ascribed to it in Webster's Ninth New Collegiate Dictionary.

12. The term "document" as used herein, means any written material or graphic matter, whether typed, handwritten, printed or otherwise, however produced, reproduced or stored (including materials stored by computers or computer discs), of every kind and description, whether produced internally or received from an outside source, including, without limitation any photographs, photostats, microfilms or any other reproductions thereof, notes, memorandum, letters, telegrams, circulars, releases, articles, reports, policies, charts, accounts, books, drafts, summaries, diaries, transcripts, agreements, contracts, orders, purchase and/or sale confirmations, monthly statements, invoices, books, manuals, pamphlets, notebooks, architectural plans, surveys, perspectives, specifications, drawings, blueprints, sketches, feasibility studies, objects, tangible things, correspondence, court or administrative agency orders, notes, notes of tape or sound recordings of any type, notes of telephone conversations, notes of meetings or conferences, notes of statements of witnesses or your employees or agents, minutes of meetings, memoranda, intra-office and interoffice communications, studies, analysis, results of investigations, reviews, licenses, permits, permit applications, warranty materials, transcripts, ledgers, books of accounts, proposals, suggestions, legal pleadings, deeds, mortgages, bills of sale, security agreements, legal documents, vouchers, records of inter-bank transfer of funds, bank checks, cashier's checks, bank

drafts, bank statements, check stubs, deposit slips, invoices, charge slips, receipts, freight bills, working papers, agendas, bids, job or transaction files, credit reports, notations, statistical records, cost sheets, abstracts of bids, stenographer's notebooks, calendars, appointment books, time sheets, logs, computer input and output data, disks, diskettes, back-up media, computer runs, work sheets, work papers, audio tapes, video tapes, photographs, email messages, files and other printed or graphic reports, recorded or written information of whatever nature or form and howsoever produced or reproduced including data on magnetic media.

13. "Plaintiff(s)" means and refers to Plaintiffs, *, identified in the Complaint, including any and all representatives, agents, and personnel of Plaintiffs.

14. "Defendant(s)," "You" or "Your" means and refers to the Defendants, % and @, individually, collectively, or in any combination, and any and all representatives, agents, partners, employees, attorneys, or any other persons acting or purporting to act on Defendants behalf.

15. "Subject Property" or "Project" means the real property and any work or improvements upon the same located at ~, which is the subject of the above-styled litigation.

16. "Complaint" means Plaintiffs' Complaint filed on &.

17. "Answer and Affirmative Defenses" means Defendants, % and @'s, Answer and Affirmative Defenses, filed on +.

18. The term "agent" shall mean: any agent, employee, officer, director, attorney, independent contractor or any other person acting at the direction of or on behalf of another.

19. The term "person" shall mean any individual, corporation, proprietorship, partnership, trust, association, or any other entity.

20. The words "pertain to" or "pertaining to" shall mean: relates to, refers to, contains, concerns, describes, embodies, mentions, constitutes, constituting, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts or contradicts.

21. The words "relating to" "relate to" "regarding" and "reflecting" mean concerning,

referencing, mentioning, alluding to, responding to, in connection with, commenting on, in response to, about, announcing, explaining, discussing, showing, describing, studying, reflecting, analyzing, illustrating, recording, memorializing, constituting, evidencing, refuting, supporting, and all other concepts of like import.

22. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

23. The singular and masculine form of all nouns and pronouns shall embrace, and be read and applied as, the plural or feminine or neuter, as circumstances may make appropriate.

24. The word “correspondence” means any letter, telegram, telex, notice, message, e-mail, memorandum, text message, instant message, Internet-based social network message, or other written communication or transcription or the notes of any communication.

CLAIMS OF PRIVILEGE

Pursuant to Fla. R. Civ. P. 1.280(6), if any information sought by this Request for Production is withheld from disclosure based on attorney-client privilege, work product immunity, or any other reason, you shall identify such information, communications, or documents by stating their nature (i.e. letter, conversation, etc.), date, and persons involved or having knowledge of the same and shall state the precise reason why its production is being withheld.

GENERAL OBJECTIONS TO BE CULLED FOR SPECIFIC RESPONSES

1. Plaintiff objects to this request, whether broadly or narrowly construed, to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the Florida Rules of Civil Procedure and the applicable Rules and Orders of the Court.

2. Plaintiff objects to this request as overly broad, unduly burdensome, and not relevant to any party’s claims or defense (pursuant to / in that...) (See 2021 Florida Handbook on Civil

Discovery, Appendix I-I. – also must describe HOW and WHY is overbroad or unduly burdensome.)

3. Plaintiff objects to this request as overbroad and unduly burdensome to the extent it seeks documents or information that is readily or more accessible to Defendant from Defendant's own files, from documents or information in Defendant's possession, or from documents or information that Plaintiffs previously produced to Defendant. Responding to such requests would be oppressive, unduly burdensome, and unnecessarily expensive, and the burden of responding to such requests is substantially the same or less for Defendant as for Plaintiffs.

4. Plaintiff objects to this request, whether broadly or more narrowly construed, to the extent it seeks production of information protected by the work product doctrine or attorney-client privilege. Such information includes notes of Plaintiff's attorneys and staff and draft and final internal memoranda of Plaintiff, including, but not limited to, interview memoranda, status memoranda, and recommendation memoranda.

5. Plaintiff objects to this request as vague and ambiguous to the extent that it relies on the term "*", which is not defined in *Defendant's First Set of Interrogatories or Defendant's Request to Produce*. Plaintiff will treat this request as if it called for ...

6. Plaintiff objects as to the compilation of documents currently in the possession, custody, or control of individuals, agencies, or entities other than the Plaintiff and their present employees, principals, officials, agents, attorneys, and consultants either assigned to or reviewing this case, and denies any constructive possession that may be conferred by the right or power to compel information or request production from other parties. Further requests shall be directed to the individual(s) maintaining this information pursuant to Fla. R. Civ. Proc. 1.280(b)(5)(C), Fla. R. Civ. Proc. 1.390, or Fla. R. Civ. Proc. 1.351. **OR** Plaintiff denies any constructive possession that may be conferred by the right or power to compel information not in its control. Further requests shall be directed to the individual(s) maintaining this information pursuant to Fla. R. Civ. Proc.

1.280(b)(5)(C), Fla. R. Civ. Proc. 1.390, or Fla. R. Civ. Proc. 1.351.

7. Plaintiff makes these responses and objections herein without in any way implying that it considers the requests, and responses to the requests, to be relevant or material to the subject matter of this action.

8. Discovery is ongoing and Plaintiff reserves the right to amend or change this answer at any time during this process.

9. Plaintiff objects to this request as it improperly seeks information protected by personal rights to privacy. *Allstate Ins. Co. v. Langston*, 655 So. 2d 91, 95 (Fla. 1995); *Straub v. Matte*, 805 So. 2d 99, 100 (Fla. 4th DCA 2002); *Friedman v. Heart Inst. of Port St. Lucie, Inc.*, 863 So. 2d 189, 194 (Fla. 2003)

10. Plaintiff objects to this request as it contains compound, conjunctive, or disjunctive questions.

11. Plaintiff objects to this request because it is broad, uncertain, and unintelligible that the plaintiff cannot determine the nature of the information sought. Therefore, plaintiff cannot provide an answer and requests clarification.

12. Objection. Any suggestion that social security numbers are routinely discoverable as “background information,” is no longer correct. *Bacchus v. Benson*, 2007 WL 9736176 (N.D. Fla. Nov. 29, 2007)

13. Objection. This discovery request seeks information not relevant to the subject matter of this lawsuit.

14. Plaintiff objects to this document request to the extent that it calls for production of a privilege log for internal documents of Plaintiff. A request for such a log is unreasonable and unduly burdensome in light of the work product doctrine and other privileges protecting such internal documents from discovery. Such documents include notes of Plaintiff's attorneys and staff and draft and final internal memoranda of Plaintiff, including, but not limited to, interview

memoranda, status memoranda, and recommendation memoranda. Such notes and/or memoranda of interviews have not been reviewed by or considered by the potential testifying expert(s). Nor have such notes and/or memoranda of interviews been seen by anyone other than the case staff and other attorneys and staff of Plaintiff assisting with or reviewing the investigation. Thus, these materials were created and maintained in a manner consistent with maintaining the protections afforded work product. This is a construction matter which is necessarily document intensive, and such a log would include virtually every internal document created by Plaintiff over the course of Plaintiff's civil investigation of the current litigation.

15. Objection. This discovery request has, in substance, been previously propounded. (See Interrogatory/Request No. ____.) Duplicative discovery into the same matter constitutes oppression, and Plaintiff further objects on that ground. Fla. R. Civ. P. 1.280(d)(2).

16. (Request for Settlement Docs) Objection. This discovery request seeks information that is not admissible or not relevant to any party's claims or defense. Plaintiffs object to this request, whether broadly or narrowly construed, to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the Florida Rules of Civil Procedure and the applicable Rules and Orders of the Court. Plaintiffs further object to this request, whether broadly or more narrowly construed, to the extent it seeks production of information protected by the work product doctrine or attorney-client privilege. Such information includes notes of Plaintiffs' attorneys and staff and draft and final internal memoranda of Plaintiff, including, but not limited to, interview memoranda, status memoranda, and recommendation memoranda. Discovery is ongoing and Plaintiffs reserve the right to amend or supplement this response at any time during this process. *Allen v. State Farm Florida Ins. Co.*, 198 So. 3d 871, 874 (Fla. 2d DCA 2016); *Allstate Ins. Co. v. Langston*, 655 So. 2d 91, 93 (Fla. 1995); Fla. R. Civ. P. 1.280 (b)(1).

17. Objection: interrogatory would necessitate the preparation of a compilation, abstract, audit, or summary from documents in plaintiff's possession; because such preparation would be similarly

burdensome and/or expensive to both the propounding and responding parties, plaintiff herewith

a. provides Bates Stamped documents ***, produced in a form or forms in which they are ordinarily maintained, from which propounding party can audit, inspect, copy, or summarize. Fla. R. Civ. P. 1.340 (c)

b. offers to permit review of the following documents, _____, from which propounding party can audit, inspect, copy or summarize. Responding party will make said documents available for review upon reasonable request. Fla. R. Civ. P. 1.340 (c)

18. Objection. This interrogatory fails to comply with Fla. R. Civ. P. 1.340 (a) as the propounding party has exceeded the limit of special interrogatories. "The interrogatories must not exceed 30, including all subparts, unless the court permits a larger number on motion and notice and for good cause."