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BEFORE THE STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

TERENCE K. WOLFE,

Petitioner,

DOAH Case No. 06-4168

2006-00815

15DA600311

vs.

ST. JOHNS RIVER WATER  
MANAGEMENT DISTRICT

Respondent.

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**RESPONDENT'S RESPONSE TO PETITIONER'S MOTION TO QUASH  
RESPONDENT'S FIRST INTERROGATORIES TO PETITIONER AND  
SECOND REQUEST TO PRODUCE OR, IN THE ALTERNATIVE, MOTION  
FOR PROTECTIVE ORDER**

Respondent, St. Johns River Water Management District, by and through its undersigned counsel, hereby responds to Petitioner's motion for entry of an order quashing the Respondent's First Interrogatories to Petitioner and Respondent's Second Request to Produce, or, in the alternative, for a protective order under Florida Rule of Civil Procedure 1.280(c) providing that the Respondent's discovery not be had. Respondent responds as follows:

1. On April 13, 2007, this tribunal issued its Order On Pending Motions ("the Order"), which stated, "any further discovery requests contemplated by either party shall be served no later than 10 days from the date of this Order, and any responses to such discovery requests shall be served within 15 days thereafter." Thus, the Order set April 23, 2007 as the last day either party may serve discovery on the other.
2. The Order specifically permitted Respondent to serve discovery requests on Petitioner on April 23, 2007. Respondent timely served both the First Interrogatories to

Petitioner and Respondent's Second Request to Produce on April 23, 2007. Accordingly, Petitioner's assertion that Respondent was belated is completely without merit.

3. Petitioner also alleges that the Order unfairly affected him by requiring him to respond within 15 days to Respondent's discovery requests. Petitioner's claims are again baseless. The Order provided that *either* party could serve additional discovery requests until April 23. The Petitioner had the same opportunity as Respondent in serving discovery requests. Had Petitioner done so, Respondent would have also had 15 days to respond to the request. Moreover, this tribunal was well within its discretion in its decision to allow a time shorter than 30 days to respond. Fla. R. C. P. 1.340(a) and 1.350(b).

4. Respondent's discovery requests were in no way designed to annoy, harass or unreasonably burden the Petitioner. Respondent's interrogatories and request to produce complied not only with the Order but also with the Florida Rules of Civil Procedure. Respondent limited its discovery efforts to only ten document requests and six interrogatories – well within the limit permitted by Fla. R. C. P. 1.340. Respondent limited its discovery efforts so that it sought only information and documents that were relevant and necessary to form its defense.

5. Information pertaining to Respondent's previous employers is clearly relevant towards his qualifications as a paralegal. Respondent intentionally limited its request to the Petitioner's employers for just the past five years, although Petitioner's work history beyond that is undoubtedly relevant to his qualifications, as Petitioner himself acknowledges when he claims to have "some 14 years of experience serving attorneys in

various paralegal and legal assistant capacities, including seven years performing attorney level research and writing.” See Petitioner’s Pre-Hearing Stipulation, p. 2.

6. Respondent’s discovery requests are necessary for the preparation of its defense to Petitioner’s claims due to Petitioner’s lack of cooperation with Respondent’s prior discovery efforts. On January 24, 2007, Respondent first attempted to depose Petitioner. As discussed in prior motions, Petitioner unilaterally terminated that deposition before Respondent had concluded its questions. On February 23, 2007, Respondent continued its deposition of Petitioner. During the continuation of the deposition, the Petitioner repeatedly stated that he could not answer a question without referring to certain documents, which were not available during the deposition, to refresh his recollection. For instance, during the continuation of his deposition the Petitioner was asked a series of questions about the informal complaint he filed with the Florida Commission on Human Relations (“FCHR”). On the document, the Petitioner had responded to the question “Have you filed a complaint of discrimination with the FCHR, EEOC, HUD, or any local agency within the last year?” by answering “yes” and providing the single word “various” in response to the request for the date of any such complaint. When asked to describe the other discrimination complaints the Petitioner has filed with the FCHR, the Petitioner responded:

Well, they’re a matter of public record for one. For two, there’ve been more than one. And sitting here today, it’s not possible for me to remember without referring to the documents who they were against and what the specific jobs were.

There’s a very good possibility that they were all regarding paralegal jobs, and there’s also a very good possibility that they were all government agencies, simply by virtue of the fact that government agencies are subject to the Public Records Act and you can get information that you can’t with regard to private employers.

But without looking at the file, I'm not able to sit here and testify with any particularly reliable accuracy on the question of specifics of submissions to other government agencies.

(Tr: 96-97). In his response, the Petitioner admitted that his other complaints filed with the FCHR likely involved similar facts as the complaint he filed against Respondent -- the Petitioner applied for a position as a paralegal with a government agency and subsequently filed a charge of discrimination. Respondent believes that if given the opportunity to pursue discovery into these other complaints the Respondent may learn information valuable in forming and asserting its defense. In particular, Respondent could learn additional information regarding Petitioner's qualifications as a paralegal, which would certainly be as applicable here as in any other instance in which the Petitioner alleges an employer failed to hire him due to a discriminatory reason. This information also may bear upon Petitioner's credibility in filing the instant complaint. However, the Petitioner refused to provide any further information about these complaints in his deposition, including how many complaints he filed or even the name of just one agency that he filed a complaint against.

Q. You're telling me you cannot tell me anything about any of the complaints you filed; is that correct?

A. Without having reference to a document to refresh my recollection, no.

Q. You can't even recall the agencies that you filed complaints against?

A. No. Not without referring to the document.

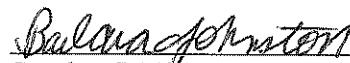
(Tr: 99). As Petitioner could not, or would not, answer any questions concerning his other complaints during his deposition, Respondent could only pursue other avenues of discovery.

7. Petitioner's motion further alleges that Respondent has not cooperated with the discovery propounded to it. Petitioner has again made a claim that is contrary to the facts. Respondent has fully and timely complied with Respondent's discovery requests. Petitioner's statement that Respondent "has failed to produce a single document in response to the requests for production propounded to it" appears designed to deliberately mislead this tribunal. Respondent served a complete response to each of Petitioner's requests and advised Petitioner "Respondent will make responsive documents available at Respondents headquarters, located at 4049 Reid Street, Palatka, FL, 32177, at a time and date mutually agreeable to the parties. See Exhibit A, Respondent's Response to Petitioner's First Request for the Production of Documents. In so doing, Respondent fully complied with Florida Rule of Civil Procedure 1.350. Respondent served this response on Petitioner on March 13, 2007. In the nearly nine weeks since then, Petitioner has yet to advise Respondent of a time and date agreeable to him or even of the fact that he wishes to examine the responsive documents at all. Petitioner has made no other indication that he believed Respondent has not cooperated with his discovery efforts. Respondent is particularly surprised at his recent allegations in light of the fact that Petitioner's Response to Respondent's First Request to Produce contained language nearly identical to that of Respondent's response: "[f]or any response herein in which the Petitioner indicates that production of any responsive document will be made Petitioner will make such responsive document available at Petitioner's office, located at 644 Bridal Avenue, Jacksonville, FL 32205, at a time and date mutually agreeable to the parties." See Exhibit B, Petitioner's Response to Respondent's First Request to Produce.

8. Respondent is also entitled to information pertaining to Petitioner's efforts at seeking employment since he made application to the Respondent. Petitioner has sought damages in this matter and has therefore made his duty to mitigate his damages relevant. Petitioner has offered no evidence other than his statement that he has made "easily in excess of 1,000 such inquiries" to support his claim that providing this information is unduly burdensome. Petitioner has not offered even the name of one employer he has contacted in this time.

9. Petitioner has attempted to avoid its obligation to cooperate with Respondent's discovery efforts at every turn. Respondent's discovery efforts were made in accordance with the orders of this tribunal and the Florida Rules of Civil Procedure. Simply put, Petitioner has put forth no valid argument in support of its Motion, which should therefore be denied.

Respectfully submitted:



Stanley J. Nfego, Esq.

Fla. Bar No. 0193830

Barbara A. Johnston, Esq.

Fla. Bar No. 589225

4049 Reid Street

Palatka, Florida 32177

Tel: (386) 329-4153

Fax: (386) 329-4485

Attorneys for Respondent, St. Johns River  
Water Management District

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original pleading has been filed via electronic filing with the clerk of the State of Florida Division of Administrative Hearings, Fax No. (850) 921-6847, and that a true and correct copy of the foregoing was furnished to Terence K. Wolfe, Petitioner, 644 Bridal Avenue, Jacksonville, FL 32205, by electronic mail and regular U.S. Mail, this 11<sup>th</sup> day of May, 2007.

  
\_\_\_\_\_  
Barbara A. Johnston



BEFORE THE STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

TERENCE K. WOLFE,

Petitioner,

DOAH Case No. 06-4168

2006-00815

15DA600311

vs.

ST. JOHNS RIVER WATER  
MANAGEMENT DISTRICT

Respondent.  
\_\_\_\_\_ /

**RESPONDENT'S RESPONSE TO PETITIONER'S  
FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS**

The Respondent, St. Johns River Water Management District, by and through the undersigned counsel, hereby files its response to Petitioner's First Request for the Production of Documents as follows:

**Introductory Statements and Objections**

- A. Respondent makes these responses subject to reservation of the right to object to introduction into evidence, in this or any other action, of any of the information contained or referenced herein or produced hereunder on any ground, including, but not limited to, relevancy, materiality, hearsay and authenticity. Respondent makes these responses subject to the further reservation that such answers shall not waive its right to object to additional discovery in this case.
- B. Respondent does not intend by these responses to waive any claim of privilege, including work product. If any response is made for which any claim of privilege is applicable, such response shall be deemed inadvertent, and not a waiver of any claim of privilege.

- C. Respondent objects to the scope of the requests presented to the extent the requests are outside the scope of discovery, irrelevant and immaterial.
- D. The fact that Respondent has responded to a request in whole or in part is not intended and shall not be construed as a waiver by Respondent of all or any part of any objection to any request.
- F. To the extent any instructions contained in Petitioner's First Request for Production of Documents requires Respondent to go beyond what is required by the Florida Rules of Civil Procedure, then, and in that event, Respondent objects to all such instructions.
- G. Respondent objects to the following instructions in Petitioner's First Request for Production of Documents as going beyond what is required by the Florida Rules of Civil Procedure: "In lieu of producing the items at the designated place and time, copies of the requested items can be mailed to the undersigned, so long as the copies are mailed by certified mail 5 days prior to the date designated above."
- H. Respondent expressly reserves the right to supplement its responses.

#### **Responses to Specific Requests**

1. All documents identified in your responses to interrogatories served herein.  
**RESPONSE:** Respondent will make responsive documents available at Respondent's headquarters, located at 4049 Reid Street, Palatka, FL, 32177, at a time and date mutually agreeable to the parties. Petitioner may obtain copies of the documents at a rate of \$0.15 per sheet of single-sided 8 ½ inch by 11 inch paper and \$0.20 per sheet of double-sided 8 ½ inch by 11 inch paper, which constitutes Petitioner's reasonable cost of duplication.
2. A complete copy of all materials in any file maintained by the Respondent on the Petitioner.  
**RESPONSE:** Respondent objects to this request overbroad and encompassing materials subject to privilege and attorney work product protection. Subject to and without waiving that objection, Respondent will make non-privileged

responsive documents available at Respondent's headquarters, located at 4049 Reid Street, Palatka, FL, 32177, at a time and date mutually agreeable to the parties. Petitioner may obtain copies of the documents at a rate of \$0.15 per sheet of single-sided 8 ½ inch by 11 inch paper and \$0.20 per sheet of double-sided 8 ½ inch by 11 inch paper, which constitutes Petitioner's reasonable cost of duplication.

3. Any and all documents in the possession of the Respondent, by whoever created, that refer or relate to the Petitioner in any manner whatsoever that are not within the scope of paragraph 2. above and that have not been previously produced.

**RESPONSE:** See Response to Request Number 2.

4. The curriculum vitae and complete personnel file of the following respondent personnel:

A. Robin Hudson

**RESPONSE:** See Response to Request Number 1.

B. Kris Davis

**RESPONSE:** See Response to Request Number 1.

C. Kevin Seamon

**RESPONSE:** See Response to Request Number 1.

D. Tywana McGee

**RESPONSE:** See Response to Request Number 1.

E. Pamela Perry

**RESPONSE:** See Response to Request Number 1.

F. Cynthia Vogt

**RESPONSE:** See Response to Request Number 1.

G. Stanley Niego

**RESPONSE:** Respondent objects to this Request as seeking documents not relevant to the proceeding in violation of Rules 1.280(b) and 1.350 of the Florida Rules of Civil Procedure.

H. Kathryn Mennella

**RESPONSE:** See Response to Request Number 4(G).

I. Barbara Johnston

**RESPONSE:** See Response to Request Number 4(G).

5. All documents which refer or relate to the Respondent's equal employment opportunities data or reports for the years 2001 through the present. This includes, but is not limited to, any Standard Form 100, or "EEO-1" reports.

**RESPONSE:** See Response to Request Number 1.

6. All documents which refer or relate to the name, job title, age, race and sex of every person hired by the Respondent from in the last five years.

**RESPONSE:** Respondent objects to this request as overly broad and unduly burdensome.

7. Copies of all reports received from experts respondent intends to call at hearing to testify and copies of all documents the experts have reviewed in preparation for rendering any opinions in this case.

**RESPONSE:** See Response to Request Number 1.

8. Any and all resumes or curriculum vitae for all experts respondent intends to utilize at the hearing of this cause.

**RESPONSE:** See Response to Request Number 1.

9. All documents which refer or relate to Respondent's policies requiring the inclusion of specific qualifications in job announcements including, without limitation, all documents which refer or relate to the Respondent's requirement that paralegal candidates have pursued paralegal training to completion in order to be hired into such positions.

**RESPONSE:** Respondent objects to this request as vague, overly broad and unduly burdensome. Subject to and without waiving this objection, Respondent will make available any of Respondent's policies that Petitioner wishes to examine in accordance with the Response to Request Number 1.

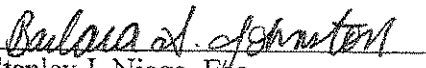
10. Any and all documents which refer or relate to the Respondent's hiring, retention, promotion and termination policies not otherwise responsive to any other discovery request served herein.

**RESPONSE:** See Response to Request Number 9.

11. All documents which refer or relate to the Senior Paralegal or Paralegal Positions advertised in the autumn of 2005.

**RESPONSE:** Respondent will make its recruitment files for these positions available in accordance with its Response to Request No. 1. To the extent this request is intended to encompass materials that are outside these recruitment files, if any, see Response to Request Number 9.

Respectfully submitted:

  
Stanley J. Niego, Esq.  
Fla. Bar No. 0193830  
Barbara A. Johnston, Esq.  
Fla. Bar No. 589225  
4049 Reid Street  
Palatka, Florida 32177  
Tel: (386) 329-4153  
Fax: (386) 329-4485  
Attorneys for Respondent, St. Johns River  
Water Management District

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by United States mail and e-mail to: Terrence K. Wolfe, Petitioner, 644 Bridal Avenue, Jacksonville, FL 32205 this 13th day of March, 2007.

  
\_\_\_\_\_  
Barbara A. Johnston

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

**TERENCE K. WOLFE,**

**Petitioner,**

**v.**

**Case No. 06-4168  
P. Michael Ruff, ALJ**

**ST. JOHNS RIVER WATER  
MANAGEMENT DISTRICT,**

**Respondent.**

**PETITIONER'S RESPONSE TO RESPONDENT'S FIRST REQUEST TO PRODUCE**

**Introductory Statements and Objections**

A. Petitioner makes these responses subject to reservation of the right to object to introduction into evidence, in this or any other action, of any of the information contained or referenced herein or produced hereunder on any ground, including, but not limited to, relevancy, materiality, hearsay and authenticity. Petitioner makes these responses subject to the further reservation that such answers shall not waive his right to object to additional discovery in the case.

B. Petitioner does not intend by these responses to waive any claim of privilege, including work product. If any response is made for which any claim or privilege is applicable such response shall be deemed inadvertent, and not a waiver of any claim of privilege.

C. Petitioner objects to the scope of the requests presented to the extent requests are outside the scope of discovery, irrelevant and immaterial.

D. The fact that Petitioner has responded to a request in whole or in part is not intended and shall not be construed as a waiver by Petitioner of all or any part of any objection to any request.

E. To the extent any instructions contained in Respondent's First Request for Production of Documents requires Petitioner to go beyond what is required by the Florida Rules of Civil Procedure, then, and in that event, Petitioner objects to all such instructions.

Exhibit B

*Filed May 11, 2007 4:46 PM Division of Administrative Hearings.*

F. Petitioner objects to the following instructions in Respondent's First Request for Production of Documents as going beyond what is required by the Florida Rules of Civil Procedure: "Respondent . . . request that Petitioner produce the following documents for examination and copying to the undersigned attorneys for Respondent by mail at 4049 Reid Street, Palatka, Florida, 32177."

G. Petitioner expressly reserves the right to supplement his responses.

H. For any response herein in which the Petitioner indicates that production of any responsive document will be made, Petitioner will make such responsive documents available at Petitioner's office, located at 644 Bridal Avenue, Jacksonville, FL 32205, at a time and date mutually agreeable to the parties. Respondent may obtain copies of the documents at a rate of \$0.15 per sheet of single-sided 8½ inch by 11 inch paper, which constitutes Petitioner's reasonable cost of duplication.

1. Any and all documents that were provided to the Florida Human Relations Commission in relation to Case No. 200600815.

**RESPONSE:** Objection. This request requests information which is neither relevant nor likely to lead to the discovery of admissible evidence. Objection further that the request is overbroad and encompasses materials subject to privilege and work product protection. Subject to the foregoing objections, none.

2. Any and all documents that were provided to the Equal Employment Opportunity Commission in relation to Case No. 15DA6003311.

**RESPONSE:** See the response to the foregoing request.

3. Any and all documents that Petitioner claims support his charges of discrimination.

**RESPONSE:** Objection. This request requests information which is neither relevant nor likely to lead to the discovery of admissible evidence. Objection further that the request is overbroad and encompasses materials subject to privilege and work product protection. Subject to and without waiving the

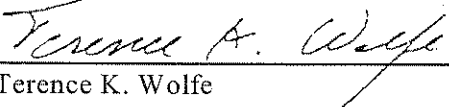


foregoing objections, the Petitioner will make non-privileged responsive documents available as indicated above in paragraph "H".

4. Any and all documents which Petitioner intends to use as evidence in Case No. 06-4168.

**RESPONSE:** See the response to the foregoing request.

**TERENCE K. WOLFE**

  
Terence K. Wolfe  
644 Bridal Avenue  
Jacksonville, FL 32205  
(904) 388-8064

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

TERENCE K. WOLFE,

Petitioner,

v.

Case No. 06-4168  
P. Michael Ruff, ALJ

ST. JOHNS RIVER WATER  
MANAGEMENT DISTRICT,

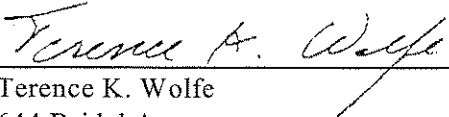
Respondent.

CERTIFICATE OF DISCOVERY

I certify that I have this 27<sup>th</sup> day of April, 2007, caused to be served a true copy of the *Petitioner's Response to Respondent's First Request to Produce* upon Stanley Niego, counsel for the Respondent, by mailing a copy thereof, postage prepaid, to the St. Johns River Water Management District, 4049 Reid Street, Palatka, FL 32177, or by faxing it to (386) 329-4485, or by emailing it to [sniego@sjrwmd.com](mailto:sniego@sjrwmd.com).

Respectfully submitted.

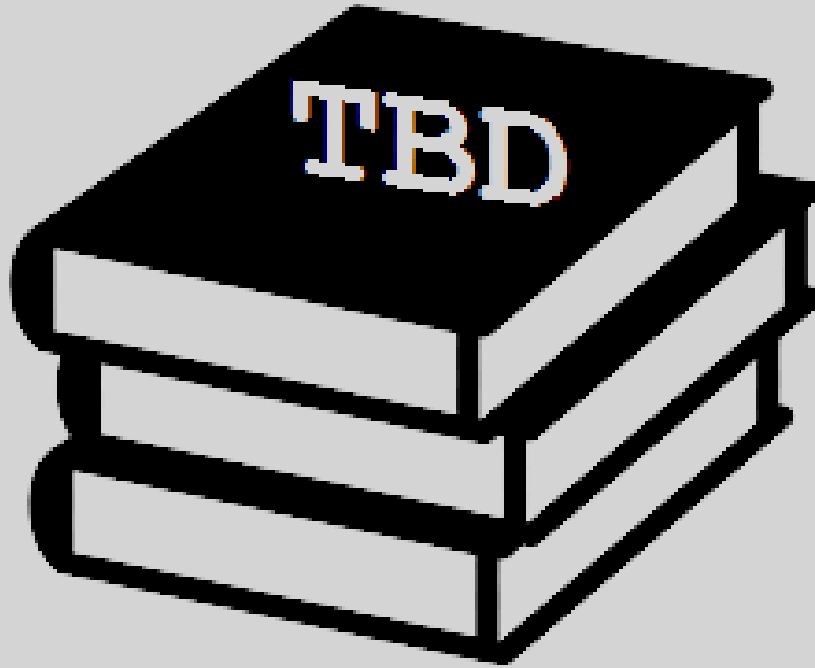
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