

Professor Jennifer Keesler

PLA 2200

Group Project Assignment: Interrogatories

Due 10/5/14

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

MICRO-POWER TREASURE COAST PEACEKEEPERS

Plaintiff,

vs.

Case No. 6:09-CV-598-Orl-21-GAP-GJK

CENTRAL FLORIDA POLICE DEPARTMENT

Defendant.

_____ /

PLAINTIFF'S FIRST SET OF INTERROGATORIES DIRECTED TO DEFENDANT(S)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rule 3.03 of the Local Rules for the Middle District of Florida, Plaintiff Micro-power Treasure Coast Peacekeepers serves the following First Set of Interrogatories on the Defendant Central Florida Police Department and requests that they be answered separately, fully, and under oath within thirty (30) days of service.

Respectfully submitted,

Jose H. Cuervo, Jr.
Attorney for the Plaintiff

By: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing and all attachments was served via facsimile and first class U.S. Mail this 22nd day of October, 2009 on:

Jim M. Beam, Esq.

Jack P. Daniels, Esq.
Dekuyper Jewel Smirnoff, Esq.
298 East Grenadine Avenue
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Jose H. Cuervo, Jr.
Florida Bar No. 0418938

MICRO-POWER TREASURE COAST PEACEKEEPERS' FIRST SET OF INTEROGATORIES

DEFINITIONS

1. The words "Defendant," "you," and/or "your" means Defendant, The Central Florida Police Department, its agents, representatives, employees, subsidiaries, subcontractors or other entities acting, or purporting to act on the Central Florida Police Department's behalf.
2. The singular shall include the plural and vice versa; the terms "and" and "or" shall be both conjunctive and distinctive; the term "including" shall mean "including without limitation."
3. "Date" shall mean the exact date, month, and year, if ascertainable or, if not, the best approximation of the date (based upon relationship with other events).
4. The word "document" shall mean any writing, recording or photograph in your actual or constructive possession, custody, care or control, which pertains directly or indirectly, in whole or in part, either to any of the subjects listed below or to any other matter relevant to the issues in this action, or which are themselves listed below as specific documents, including, but not limited to: correspondence, memoranda, notes, messages, diaries, minutes, books, reports, charts, ledgers, invoices, computer printouts, microfilms, video tapes, or tape recordings.
5. "Person" shall mean any individual, corporation, proprietorship, partnership, trust, association, or any other entity.
6. The words "pertain to" or "pertaining to" mean relates to, refers to, contains, concerns, describes, embodies, mentions, constitutes, constituting, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts, or contradicts.
7. The term "complaint," "action" and or "lawsuit" shall mean the above mentioned case, pending in the United States District Court for the Middle District of Florida.
8. The word "identify," when used in reference to a document, means and includes the name and address of the custodian of the document, the location of the document, and a general

description of the document, including (1) the type of document (i.e., correspondence, memorandum, facsimile, etc.); (2) the general subject matter of the document; (3) the date of the document; (4) the author of the document; (5) the addressee of the document; and (6) the relationship of the author and addressee to each other.

9. The word "identify," when used in reference to a natural person, means and includes the full name and address (or, if the current address is unknown, the last known address), telephone number (or, if the current telephone number is unknown, the last known telephone number) of the person.
10. "Protesters" and/or "Plaintiffs" shall collectively refer to the Plaintiff, Micro-power Treasure Coast Peacekeepers.

INSTRUCTIONS

1. If you object to fully identifying a document or oral communication because of a privilege, you must nevertheless provide the information pursuant to M.D. Fla. L.R. 3.03 (c) – (e) unless divulging the information would disclose the privileged information:
 - a. the nature of the privilege claimed (including work product);
 - b. if the privilege is being asserted in connection with a claim or defense governed by state law, the state privilege rule being invoked:
 - i. For documents, to the extent the information is readily obtainable from the witness being deposed or otherwise:
 - (1) the type of document, e.g., letter or memorandum;
 - (2) the general subject matter of the document;
 - (3) the date of the document; and
 - (4) other information sufficient to identify the document for a subpoena duces tecum, including, if appropriate, the author, addressee, and any other recipient of the document, and, unless apparent, the relationship to each other of the author, addressee, and any other recipient.
 - ii. For oral communications:
 - (1) the name of the person making the communication and the names of persons present when the communication occurred, and unless apparent, the relationship of the persons present during the communication;
 - (2) the date and place of communication; and
 - (3) the general subject matter of the communication.
 - iii. Objection on the grounds of privilege asserted during a deposition may be amplified by the objecting party subsequent to the objection.

2. In the following Interrogatories where the identification of a document is required, such identification should be sufficient for the characterization of such a document in a Request for Production of Documents and should include, without limitation, the following information, namely:
 - a. the name and address of the author;
 - b. the date;
 - c. the general nature of the document, (i.e., whether it is a letter, a memorandum, a pamphlet, a report, etc.);
 - d. the general subject matter of the document;
 - e. the name and address of all recipients of copies of the documents;
 - f. the name and address of each person now having possession of the original and the location of the original;
 - g. the name and address of each person now having possession of a copy and the location of each such copy;
 - h. for each document which Defendant contends is privileged or otherwise excludable from discovery, the basis for such claim of privilege or other grounds for exclusion;
 - i. whether Defendant is willing to produce such document voluntarily to Plaintiff for inspection and copying.
3. Wherever the identification of documents is called for in these Interrogatories, Defendant may, in lieu of such identification, produce such document for inspection and copying by Plaintiffs at the time Defendant serves its answer to these Interrogatories, along with an identification of the corresponding Interrogatory number.

4. Whenever the Interrogatories call for an answer rather than the identification of documents, an answer is required and the production of documents in lieu of an answer will not satisfy the requirement that an answer be provided.
5. Each Interrogatory shall be answered separately and as completely as possible. The fact that investigation is continuing or that discovery is not complete is not an excuse for failure to answer each Interrogatory as fully as possible. If you are unable to answer an Interrogatory after you have attempted to obtain the information, answer to the extent possible.
6. You are under a continuous obligation to supplement your answers to these Interrogatories under the circumstances specified in Rule 26 (e) of the Federal Rules of Civil Procedure.

INTERROGATORIES

1. Please provide the name, address, telephone number, place of employment, and job title of any person who has, claims to have, or whom you believe may have knowledge or information pertaining to any fact alleged in the pleadings (as defined in Fed .R. Civ. P. 7 (a)) filed in this action, or any fact underlying the subject matter of this action.
2. Please state the specific nature and substance of the knowledge that you believe the person(s) identified in your response to interrogatory no. 1 may have.
3. Please identify and describe in detail all documents, photos, written affidavits as well as any other statements pertaining to any fact alleged in any pleading (as defined in Fed. R. Civ. P. 7 (a)).
4. Please state the nature of any factual statements made by James Neeson of which you have direct knowledge of regarding incidents of trespassing and posting of trespassing signs on his property.
5. Please state the specific nature and substance of any knowledge you have regarding the basis for the plaintiff's arrest, including any reason that led the arresting officers to believe that the plaintiffs were trespassing.
6. Please identify any and all prospective retained expert witnesses and provide a complete expert report (as defined in rule 26 (a) (2)).
7. Please identify any and all prospective lay witnesses and provide a complete report (as defined in rule 26 (a) (2) (B)).

The purpose of Fed. R. Civ. P. 26 (a) is to make sure both the defendant and plaintiff have access to case information prior to waiting for a request for discovery. This is a speedy and inexpensive determination of every action consistent with FED. R. CIV. P. 1 (2003). However, the exchange of discovery cannot occur until commencement of the conference between attorneys. Fed. R. Civ. P. 26 (f). The requirement of releasing case information early in the litigation process assists counsel in determining if a settlement can be reached, and also reduces the amount of time involved in conducting formal discovery. This rule was also put into place to prevent delays in the litigation process. Although it helps eliminate unnecessary legal fees and costs to the parties, it places the burden of a short time in which to comply on the shoulders of their attorneys. This rule is beneficial in a case in which there is a possibility of third parties being added to the lawsuit. Disclosure information might reveal the names of potential third parties to the action, prompting the need to file a third party complaint and answer. Time restrictions are imposed for third party practice. Fed. R. Civ. P. 14 (a), Fed. R. Civ. P. 14 (b).

Civil Litigation: Process and Procedures, 2 Edition, Thomas Goldman and Alice Hart Hughes, Pearson Publishing. Pages 261, 262.

http://www.law.cornell.edu/rules/frcp/rule_26

http://www.law.cornell.edu/rules/frcp/rule_14

What is discoverable is not always admissible at trial. Although the Federal Rules of Civil Procedure indicate everything except privileged information and attorney-client work product is discoverable, the Federal Rules of Evidence require it to be real, reliable, and relevant in order for it to be admissible. Probative value outweighs prejudice. Proven facts that determine the outcome of a case are discoverable and relevant. These facts are admissible because they are relevant. Fed. R. Evid. 401 and Fed. R. Evid. 402. Although hearsay is discoverable information, it is inadmissible in court because it is unreliable. Fed. R. Evid. 802.

Although discovery cannot begin before the attorneys hold a conference to discuss the case, time limits to produce discovery are imposed thereafter. Fed. R. Civ. P. 26 (f). A written request for the production of documents is made to the other party in an action, and a written response is required. Documents or items requested during discovery are not required to meet the requirements of the Federal Rules of Evidence. However, the Federal Rules of Evidence dictate whether or not such documents or items are admissible in court. For this reason, the legal team may end up with many more documents during discovery than will be admissible in court.

Information obtained during discovery can be the same information that is admissible to be entered in as evidence, but the latter is presented in a way in which the court can deem it reliable. In order for discoverable information to have any effect on the case, it has to be admissible, and to be admissible the information needs to be formatted in a way that complies with the Federal Rules of Evidence. Turning information obtained through discovery into evidence is the only way to get that information heard in open court.

There is potential that the court can order discovery of "any matter that's not privileged relevant to the subject." If it could be potential to the case that you may have to produce it in discovery. Everything has the potential to be considered discoverable. When discoverable evidence can be considered admissible, it must adhere to the following five evidentiary rules. (1) it must be relevant to the case, (2) the evidence must be authentic, (3) the evidence is not hearsay pursuant to Federal Rule of Evidence 801, (4) the

evidence is an original or a duplicate under the original writing rule, and (5) the evidence has probative value that is substantially outweighed by the danger of unfair prejudice or one of the factors identified by Federal Rule of Evidence 403.

I read that anything and everything is potentially discoverable and it differs from what is admissible by 5 general guidelines that spurred from the Lorraine v Markel American Insurance Company case. These admission requirements are:

1. Relevance to the case as defined by Federal Rule of Evidence 401
2. Is it authentic as defined by Federal Rule of Evidence 901 (a)
3. Is it hearsay pursuant to Federal Rule of Evidence 801
4. Is it an original or duplicate under the original rule
5. Does it have probative value that is substantially outweighed by the danger of unfair prejudice or one of the other factors as identified by Fed Rule of Evidence 403, such that it should be excluded despite its relevance.

Civil Litigation: Process and Procedures, 2 Edition, Thomas Goldman and Alice Hart Hughes, Pearson Publishing. Chapters 6 & 11. Pages 123, 132, 253-254, 260-262, 265.

http://www.law.cornell.edu/rules/fre/rule_401

http://www.law.cornell.edu/rules/fre/rule_402

http://www.law.cornell.edu/wex/inadmissible_evidence