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October 21, 2011

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RE: Saad, Joseph & Zihra v City of Dearborn Heights, et al.  
Case No: 2:11-cv-10103/Hon. Patrick J. Duggan  
CMDA File No: 100741

The following is provided in response to your September 16, 2011 request for more specific answers to interrogatories put to Defendants. This response is provided as Defendants' Rule 26 good faith effort. As more thoroughly discussed below, Defendants' Answers, as provided, are complete and appropriate under the Court Rules and the law interpreting those Court Rules:

Interrogatory No. 1 sought to invade Defendants' 14th Amendment Right to Privacy. Courts have recognized that police officers have a Constitutional Right that precludes from discovery personally identifiable information, specifically including addresses where the police officer has resided. Kallstrom v. City of Columbus, 136 F.3d 1055 (6th Cir. 1998). Accordingly, the information is thus privileged and not subject to discovery. Furthermore, the information requested by this interrogatory is not relevant as it has no tendency to prove or disprove a fact of consequence to the determination of this action. Additionally, discovery of this personal information will not lead to the discovery of admissible evidence. Therefore, all of the Defendants' Answers to Interrogatory No. 1 are proper.

Interrogatory No. 3 requests information related to Defendants' employment history. In addition to the information provided in the Answers, and in accordance with Fed. R. Civ. P. 33(d), Defendants' personnel files, which contain the responsive information, have already been provided and are in Plaintiffs' possession. Defendants' personnel files contain responsive information related to Defendants' employment history. Therefore, Defendants' Answers satisfy the requirements of the Federal Court Rules and case law interpreting those rules.

Interrogatory No. 4 requests Defendants' earnings for the last five years. No claim or defense has been asserted in this case which is in any way relates to Defendants' earning for the last five years. The issues to be decided in the present case involves whether the Defendants' violated Plaintiffs' Constitutional Rights under the Fourth Amendment when Plaintiffs were arrested. Defendants' earning have no tendency to prove or disprove whether Plaintiffs' rights were violated during their arrest. As such, Defendants' earnings are not relevant. Additionally, because the earnings of the Defendants are so unrelated to any fact of consequence to the determination of this action, the request is not reasonably calculated to lead to the discovery of admissible evidence and are therefore beyond the scope of discovery. Please see Oppenheimer Fund v. Sanders, 437 U.S. 340, 352 (1978). Given the complete lack of any logical connection between the Defendants' earnings and the issues to be decided in this case, it appears the Interrogatory was posed for no other purpose than to harass, annoy, embarrass and unduly burden Defendants.

Interrogatory No. 5 requests Defendants to provide a written description of the incident from which this case arises. Defendants have provided sufficient responses. Defendant Keller and Defendant Cates have provided their police reports. Defendants Nason, Gondek and Skelton plainly state their involvement in the matter. This is sufficient. Furthermore, any clarification regarding these answers may be obtained through the Depositions of the witnesses which have already been scheduled.

Interrogatory No. 6 Answers are complete and appropriate and no further information is warranted. Defendants responded by stating "I do not recall." Since Defendants cannot recall what they did during the 24 hour period prior to this incident, it is impossible for them to "specifically state what [they] did during the 24 hour period prior to this incident."

Interrogatory No. 7 requests information related to any medical, psychiatric treatment regarding Defendants during the last eight years. Defendants' medical and/or psychiatric conditions are not an issue to be litigated in this matter. There is no logical connection between any condition Defendants may or may not have and the determination of whether a Constitutional violation occurred during Plaintiffs' arrest. As such, the request seeks information that is not relevant, nor reasonably calculated to lead to the discovery of admissible evidence. Stanford v. Parker, 266 F.3d 442, 460 (6th Cir. 2001); KW Muth Co. v. Bing-Lear Mfg. Group, L.L.C., 219 F.R.D. 554 (E.D. Mich. 2003). Furthermore, the request for all records for this period is not sufficient limited in scope and therefore overly broad. *Please see, Ameli-Tehrani v. Whiteman*, Case No. 09-cv-14126,



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2010 U.S. Dist. LEXIS 135459 (December 22, 2010), wherein this court denied a similar request for such records because the medical condition of the party was not at issue in the case.

Interrogatory No. 11 sought Defendants' participation in prior litigation. Defendants provided the information that they could recall regarding that prior litigation. This response is sufficient under the Court Rules. Plaintiffs could not recall many details during their depositions. Therefore, unless you are conceding Plaintiffs' statement that they could not recall details was inappropriate and/or false, you must agree that Defendants' Answers to this Interrogatory are appropriate and sufficient.

Interrogatory No. 13 seeks discovery of Dearborn Heights internal policies and procedures designed to prevent and/or correct instances of police misconduct. The disclosure of police policies and procedures are subject to the executive/deliberative process privilege. However, notwithstanding said objection, Dearborn Heights Police Department has a Policies and Procedures Manual. A copy of the index of said Manual is attached. Defendants agree to produce those policies which Plaintiffs would like to review subject to entry of the attached proposed protective order.

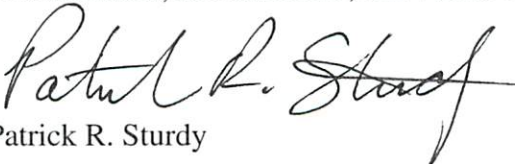
Interrogatory No. 14 seeks information regarding insurance information. The information which is discoverable under the Court Rules and Case law has been provided to Plaintiffs in Defendants' Answer. Accordingly, please withdraw this request for additional information.

Interrogatory No. 15 repeats Interrogatory No. 5's request for a written statement detailing what happened during the incident from which this case arises. Defendants have provided sufficient responses. Defendant Keller and Defendant Cates have provided their police reports. Defendants Nason, Gondek and Skelton plainly state their involvement in the matter. This is sufficient. Furthermore, any clarification regarding these answers may be obtained through the Depositions of the witnesses which have already been scheduled.

Furthermore, it is our intention to proceed with the Independent Medical Examination of your clients without the presence of a third-party or tape recording. Accordingly, please provide the dates when your clients are available to appear for their IME so that arrangements can be made. I look forward to your cooperation.

Very truly yours,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.



Patrick R. Sturdy

PRS/dmw

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