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BY EMAIL, FACSIMILIE & FIRST CLASS MAIL

To: **Jeffrey R. Clark, Esq.**
Cummings, McClorey, Davis & Acho, P.L.C.
33900 Schoolcraft Road
Livonia, Michigan 48150

From: Nemer N. Hadous

Date: September 16, 2011

Pages: 3 + Enclosure

Re: *Saad v. City of Dearborn Heights, et al*
Improper Discovery Responses by Defendants

Dear Mr. Clark,

We have made repeated attempts to contact you during the past week by email and by telephone regarding Defendants' refusal to turn over the personnel files of the Defendants Gerald Skelton, Scott Keller, Greg Gondek, Al Nason, and Carrie Cates which we requested in the Plaintiffs' First Set of Interrogatories and Requests for Production of Documents to the Defendant City of Dearborn Heights. Regrettably, you have not responded to us.

We provided Defendants with a two-week extension to respond to Plaintiffs' First Set of Interrogatories and Requests for Production of Documents to Defendant City of Dearborn Heights (wherein we specifically sought production of the individually named Defendants' personnel files) (see enclosure). We provided this extension as a professional courtesy to you but noted that we would need this discovery in advance of Defendants' depositions.

In response, none of the individually named Defendants' personnel files were produced in the Defendant's Response to the foregoing discovery. Instead, the Defendant asserted a "privilege," though no "privilege log" was provided to us. As you may be aware, we made an identical request for Defendant Michael Krause's personnel file in the related action (Civil Case No. 10-12635). Our

request was not deemed objectionable to Defendants on the basis of any “privilege” at that time. And to our knowledge, nothing in the pertinent law has changed which now permits Defendants to assert a privilege here. Plaintiffs can only speculate that Defendants now seek to withhold the individually named Defendants’ personnel files because Michael Krause’s personnel file contained multiple complaints by Dearborn Heights residents for egregious instances of police misconduct (including one such complaint from a senior citizen who alleged Mr. Krause retaliated against her and stalked her).

In further response, and in lieu of responding to us regarding the foregoing matter, we received a correspondence from one of your associates Patrick R. Sturdy (with whom we have never corresponded with regarding either lawsuit) dated (purportedly) September 14, 2011 (though postmarked September 15, 2011 and received by us on September 16, 2011). This correspondence requested that Plaintiffs correct multiple discovery responses within seven days—the majority of which comprise requests to the Plaintiffs to re-answer questions already asked and answered during the Plaintiffs’ depositions last week.

We provided you with a same day correspondence dated September 16, 2011 and noted that each of the individually named Defendants provided the virtual identical responses by which they now complain of regarding the Plaintiffs’ Responses. Accordingly, we sought a similar correction of responses within seven days.

We presume you are aware of the discovery deadlines the Honorable Patrick J. Duggan has set in this matter. Accordingly, please construe this correspondence as having been made pursuant to Local Rule 37.1 to "narrow our areas of disagreement" regarding a discovery matter.

Specifically, we disagree with the Defendants' objections and assertion of a "privilege" regarding Plaintiffs' First Requests for Production of Documents to the Defendant City of Dearborn Heights Nos. 9-20 (regarding the personnel records of the individually named Defendants who were involved in the Saad incident).

It is our contention that the individually named Defendants’ personnel files are pertinent to this action, are fully discoverable within the purview of Fed. R. Civ. P. 26(b)(1), and do not seek the disclosure of “privileged information.” You would appear to concur with this assessment on the basis of the production of Defendant Krause’s personnel file in the related action as aforementioned.

We hope to avert filing a discovery-related motion and using the Court's limited resources for a dispute which can be resolved amongst counsel for the parties. However, if we must file a Motion to Compel Discovery, we will seek all appropriate costs and sanctions. Accordingly, please provide us with the individually named Defendants’ complete personnel files by no later than September 21, 2011.

Concurrence in a Motion to Compel Discovery and an Order for Sanctions will be assumed if you do not provide the discovery sought by the above date.

We look forward to your cooperation in this matter.

* * * * *

September 16, 2011

Cordially,

/s/Nemer N. Hadous

|AZ: 027529 | CA: 264431|

United States District Courts:

- District of Arizona
- Eastern District of Michigan

Enclosure.

Cc (w/enclosure):

Haytham Faraj (via haytham@puckettfaraj.com)

Patrick R. Sturdy (via psturdy@cnda-law.com)

Joseph H. Low, IV (via Joseph@jhllaw.com)

Ms. Marilyn Orem, Case Manager, Honorable Patrick J. Duggan (via first class mail)

United States District Court for the Eastern District of Michigan

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