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### **BY EMAIL, FACSIMILIE & FIRST CLASS MAIL**

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

From: Nemer N. Hadous

Date: September 16, 2011

Pages: 8

**Re: *Saad v. City of Dearborn Heights, et al***  
***Response to Correspondence dated September 14, 2011***  
***Improper Discovery Responses by Defendants***

Dear Mr. Sturdy,

This is further to your correspondence dated September 14, 2011 wherein you request that we provide you with a signed copy of Plaintiffs' discovery disclosures and remedy Plaintiffs' Responses to Defendants' First Set of Interrogatories and Request for Production of Documents.

**We endeavor, as I am sure you do, to avoid the unnecessary litigation of discovery-related matters.** Accordingly, we will provide you with Plaintiffs' Amended Responses within a reasonable period of time. However, at this time, we would also request that Defendants amend their improper Discovery Responses.

As you are probably aware, Fed. R. Civ. P 26(b)(5) requires that a privilege log be provided any time a privilege is asserted as a basis for failing to provide discovery. No privilege log has been provided despite the assertion of a privilege as a basis for failing to provide discovery regarding multiple discovery requests.

The following is a more specific summary of Defendants' improper discovery responses. Please provide proper responses to each Interrogatory listed below:

### **Improper Discovery Responses by Defendant Gerald Skelton**

Interrogatory No. 1 requested personal information regarding Mr. Skelton's life such as his current address, marital status, social security number, and aliases (if any). This information is relevant and not privileged.

Interrogatory No. 3 requested information regarding Mr. Skelton's employment, including his employer's address and the nature of his job duties. Defendant Skelton was non-responsive regarding his employer's address and the nature of his job duties.

Interrogatory No. 4 seeks Defendant Skelton's earnings for the last five years. This information is discoverable and not protected by any existing privilege. As such, the assertion of a privilege as an answer is not appropriate.

Interrogatory No. 5 sought a detailed description of the incident giving rise to this lawsuit. Simply stating, "I provided back-up assistance in response to Officer Scott Keller's request. I assisted in the arrest of Joseph Saad" is insufficient. Instead, Defendant Skelton is obligated to describe what he believes happened.

Interrogatory No. 6 requested Defendant Skelton to describe what he had done during the 24 hour period leading up to his interaction with the Plaintiffs. Merely stating, "I do not recall" is an insufficient response. Instead, Defendant Skelton is obligated to state specifically what he did during the 24 hours prior to this incident.

Interrogatory No. 7 asked Defendant Skelton to list the name and address of attendant physicians, psychiatrists, psychologists, or therapists with the eight year period preceding the incident herein sued upon. This information is reasonably calculated to lead to the discovery of admissible evidence. As such, this information is discoverable. Further, this information is not protected by any existing privilege.

Interrogatory No. 11 sought information regarding any present or former lawsuits where Defendant Skelton was a named defendant including: (1) the plaintiff(s)' names; (2) the nature of the cause of action; (3) the date the lawsuit was filed; (4) the court in which the lawsuit was filed; (5) the names of the parties' attorneys; and (6) whether there was a judgment. Simply stating, "I recall being involved in two other lawsuits. Both were dismissed" is an insufficient response. Instead, Defendant Skelton is to respond to each of the queries.

Interrogatory No. 13 sought information regarding internal administrative procedures in place by the City of Dearborn Heights (Defendant Skelton's employer at the time) designed to prevent and/or correct instances of police misconduct. Specifically, we sought the: (1) nature of such procedures; (2) the person(s) responsible for implementing such procedures; (3) and whether there were any complaint made against Defendant Skelton that were handled through an internal administrative proceeding. Simply stating, "The Dearborn Heights Police Department has a Policies and Procedures Manual which contains internal administrative procedures" is insufficient and causes

Plaintiffs undue prejudice establishing whether the Defendant City of Dearborn Heights has violated applicable law.

Interrogatory No. 14 sought information regarding personal and/or employment liability insurance including the: (1) effective date(s) of each policy; and (2) the substance of disclaimers of liability contained in the policy. Simply stating, "The City of Dearborn Heights is a member of the Michigan Municipal Risk Management Authority which provides coverage in the amount of 15 million dollars" is an insufficient response. Instead, Defendant Skelton is to list the effective date(s) of the policy and describe any disclaimer (i.e., limitation) of liability in the policy.

Interrogatory No. 15 sought specific and detailed information regarding the sequence of events that took place during Defendant Skelton's interaction with the Plaintiffs. Simply stating, "I was called to assist at the scene. I discussed the situation with the responding officer, Scott Keller. I assisted in the arrest of Joseph Saad" is an insufficient response. Instead, Defendant Skelton is obligated to describe specifically what he believes took place during his interaction with the Plaintiffs.

### **Improper Discovery Responses by Defendant Scott Keller**

Interrogatory No. 1 requested personal information regarding Defendant Keller's life such as his current address, marital status, social security number, and aliases (if any). This information is relevant and not privileged.

Interrogatory No. 3 requested information regarding Defendant Keller's employment, including his employer's address and the nature of his job duties. Defendant Keller was non-responsive regarding his employer's address and the nature of his job duties.

Interrogatory No. 4 seeks Mr. Keller's earnings for the last five years. This information is discoverable and not protected by any existing privilege. As such, the assertion of a privilege as an answer is not appropriate.

Interrogatory No. 5 sought a detailed description of the incident giving rise to this lawsuit. Referencing an unverified police report which contains statements that conflict with Defendant Keller's subsequent statements regarding the identical subject matter is not a proper discovery response, as such; Defendant Keller has an obligation to describe what he believes happened.

Interrogatory No. 6 requested Defendant Keller to describe what he had done during the 24 hour period leading up to his interaction with the Plaintiffs. Merely stating, "I do not recall" is an insufficient response. Instead, Defendant Keller is obligated to state specifically what he did during the 24 hours prior to this incident.

Interrogatory No. 7 asked Defendant Keller to list the name and address of attendant physicians, psychiatrists, psychologists, or therapists with the eight year period preceding the incident herein sued upon. This information is reasonably calculated to lead to the discovery of admissible evidence. As such, this information is discoverable. Further, this information is not protected by any existing privilege.

Interrogatory No. 11 sought information regarding any present or former lawsuits where Defendant Keller was a named defendant including: (1) the plaintiff(s)' names; (2) the nature of the cause of action; (3) the date the lawsuit was filed; (4) the court in which the lawsuit was filed; (5) the names of the parties' attorneys; and (6) whether there was a judgment. Simply stating, "I recall being

involved in two other lawsuits. I do not recall the Plaintiffs' names. One involved an automobile accident. The other involved my participation in an arrest during a domestic violence run. I believe both were filed in the United States District Court" is an insufficient response. Instead, Defendant Keller is to respond to each of the queries including describing the nature of the cause of action; the date (at least year) of the lawsuits; the venue; and the disposition of each action.

Interrogatory No. 13 sought information regarding internal administrative procedures in place by the City of Dearborn Heights (Defendant Keller's employer at the time) designed to prevent and/or correct instances of police misconduct. Specifically, we sought the: (1) nature of such procedures; (2) the person(s) responsible for implementing such procedures; (3) and whether there were any complaint made against Defendant Keller that were handled through an internal administrative proceeding. Simply stating, "The Dearborn Heights Police Department has a Policies and Procedures Manual which contains internal administrative procedures" is insufficient and causes Plaintiffs undue prejudice establishing whether the Defendant City of Dearborn Heights has violated applicable law.

Interrogatory No. 14 sought information regarding personal and/or employment liability insurance including the: (1) effective date(s) of each policy; and (2) the substance of disclaimers of liability contained in the policy. Simply stating, "The City of Dearborn Heights is a member of the Michigan Municipal Risk Management Authority which provides coverage in the amount of 15 million dollars" is an insufficient response. Instead, Defendant Keller is to list the effective date(s) of the policy and describe any disclaimer (i.e., limitation) of liability in the policy.

Interrogatory No. 15 sought specific and detailed information regarding the sequence of events that took place during Defendant Keller's interaction with the Plaintiffs. Simply stating, "My description of the incident is described in my police report attached as Exhibit 1" is an insufficient response. Referencing an unverified police report which contains statements that conflict with subsequent statements regarding identical subject matter is not a proper discovery response, as such; Defendant Keller has an obligation to describe specifically what he believes took place during his interaction with the Plaintiffs.

### **Improper Discovery Responses by Defendant Michael Gondek**

Interrogatory No. 1 requested personal information regarding Defendant Gondek's life such as his current address, marital status, and social security number. This information is relevant and not privileged.

Interrogatory No. 3 requested information regarding Defendant Gondek's employment, including his employer's address and the nature of his job duties. Defendant Gondek was non-responsive regarding his employer's address and the nature of his job duties.

Interrogatory No. 4 seeks Defendant Gondek's earnings for the last five years. This information is discoverable and not protected by any existing privilege. As such, the assertion of a privilege as an answer is not appropriate.

Interrogatory No. 5 sought a detailed description of the incident giving rise to this lawsuit. Simply stating, "I provided back-up assistance in response to Officer Scott Keller's request. I assisted in the arrest of Joseph Saad" is insufficient. Instead, Defendant Gondek is obligated to describe what he believes happened.

Interrogatory No. 6 requested Defendant Gondek to describe what he had done during the 24 hour period leading up to his interaction with the Plaintiffs. Merely stating, "I do not recall" is an insufficient response. Instead, Defendant Gondek is obligated to state specifically what he did during the 24 hours prior to this incident.

Interrogatory No. 7 asked Defendant Gondek to list the name and address of attendant physicians, psychiatrists, psychologists, or therapists with the eight year period preceding the incident herein sued upon. This information is reasonably calculated to lead to the discovery of admissible evidence. As such, this information is discoverable. Further, this information is not protected by any existing privilege.

Interrogatory No. 11 sought information regarding any present or former lawsuits where Defendant Gondek was a named defendant including: (1) the plaintiff(s)' names; (2) the nature of the cause of action; (3) the date the lawsuit was filed; (4) the court in which the lawsuit was filed; (5) the names of the parties' attorneys; and (6) whether there was a judgment. Simply stating, "I recall being involved in one other lawsuit, which, I believe, was filed in Federal Court and was dismissed by the Judge" is an insufficient response. Instead, Defendant Gondek is to respond to each of the queries presented.

Interrogatory No. 13 sought information regarding internal administrative procedures in place by the City of Dearborn Heights (Defendant Gondek's employer at the time) designed to prevent and/or correct instances of police misconduct. Specifically, we sought the: (1) nature of such procedures; (2) the person(s) responsible for implementing such procedures; (3) and whether there were any complaint made against Defendant Gondek that were handled through an internal administrative proceeding. Simply stating, "The Dearborn Heights Police Department has a Policies and Procedures Manual which contains internal administrative procedures" is insufficient and causes Plaintiffs undue prejudice establishing whether the Defendant City of Dearborn Heights has violated applicable law.

Interrogatory No. 14 sought information regarding personal and/or employment liability insurance including the: (1) effective date(s) of each policy; and (2) the substance of disclaimers of liability contained in the policy. Simply stating, "The City of Dearborn Heights is a member of the Michigan Municipal Risk Management Authority which provides coverage in the amount of 15 million dollars" is an insufficient response. Instead, Defendant Gondek is to list the effective date(s) of the policy and describe any disclaimer (i.e., limitation) of liability in the policy.

Interrogatory No. 15 sought specific and detailed information regarding the sequence of events that took place during Defendant Gondek's interaction with the Plaintiffs. Simply stating, "I was called to assist at the scene. I discussed the situation with the responding officer, Scott Keller. I assisted in the arrest of Joseph Saad. I do not recall any discussions with either of the Plaintiffs" is an insufficient response. Instead, Defendant Gondek is obligated to describe specifically what he believes took place during his interaction with the Plaintiffs.

### **Improper Discovery Responses by Defendant Al Nason**

Interrogatory No. 1 requested personal information regarding Defendant Nason's life such as his current address, marital status, aliases (if any), and social security number. This information is relevant and not privileged.

Interrogatory No. 3 requested information regarding Defendant Nason's employment, including his employer's address and the nature of his job duties. Defendant Nason was non-responsive regarding his employer's address and the nature of his job duties.

Interrogatory No. 4 seeks Defendant Nason's earnings for the last five years. This information is discoverable and not protected by any existing privilege. As such, the assertion of a privilege as an answer is not appropriate.

Interrogatory No. 5 sought a detailed description of the incident giving rise to this lawsuit. Simply stating, "On the day of the incident, I was a reserve officer with Officer Gondek. We assisted Officer Keller in the arrest of Joseph Saad and I assisted officer Cates in the arrest of Zihra Saad" is insufficient. Instead, Defendant Nason is obligated to describe what he believes happened.

Interrogatory No. 6 requested Defendant Nason to describe what he had done during the 24 hour period leading up to his interaction with the Plaintiffs. Merely stating, "I do not recall" is an insufficient response. Instead, Defendant Nason is obligated to state specifically what he did during the 24 hours prior to this incident.

Interrogatory No. 7 asked Defendant Nason to list the name and address of attendant physicians, psychiatrists, psychologists, or therapists with the eight year period preceding the incident herein sued upon. This information is reasonably calculated to lead to the discovery of admissible evidence. As such, this information is discoverable. Further, this information is not protected by any existing privilege.

Interrogatory No. 13 sought information regarding internal administrative procedures in place by the City of Dearborn Heights (Defendant Nason's employer at the time) designed to prevent and/or correct instances of police misconduct. Specifically, we sought the: (1) nature of such procedures; (2) the person(s) responsible for implementing such procedures; (3) and whether there were any complaint made against Defendant Nason that were handled through an internal administrative proceeding. Simply stating, "The Dearborn Heights Police Department has a Policies and Procedures Manual which contains internal administrative procedures" is insufficient and causes Plaintiffs undue prejudice establishing whether the Defendant City of Dearborn Heights has violated applicable law.

Interrogatory No. 14 sought information regarding personal and/or employment liability insurance including the: (1) effective date(s) of each policy; and (2) the substance of disclaimers of liability contained in the policy. Simply stating, "The City of Dearborn Heights is a member of the Michigan Municipal Risk Management Authority which provides coverage in the amount of 15 million dollars" is an insufficient response. Instead, Defendant Nason is to list the effective date(s) of the policy and describe any disclaimer (i.e., limitation) of liability in the policy.

Interrogatory No. 15 sought specific and detailed information regarding the sequence of events that took place during Defendant Nason's interaction with the Plaintiffs. Simply stating, "On the day of the incident, I was a reserve officer riding with Officer Gondek. We assisted Officer Keller in the arrest of Joseph Saad and I assisted officer Cates in the arrest of Zihra Saad" is an insufficient response. Instead, Defendant Nason is obligated to describe specifically what he believes took place during his interaction with the Plaintiffs.

**Improper Discovery Responses by Defendant Carrie Cates**

Interrogatory No. 1 requested personal information regarding Defendant Cates's life such as her current address, marital status, and social security number. This information is relevant and not privileged.

Interrogatory No. 3 requested information regarding Defendant Cates's employment, including his employer's address and the nature of her job duties. Defendant Cates was non-responsive regarding his employer's address and the nature of her job duties.

Interrogatory No. 4 seeks Defendant Cates's earnings for the last five years. This information is discoverable and not protected by any existing privilege. As such, the assertion of a privilege as an answer is not appropriate.

Interrogatory No. 5 sought a detailed description of the incident giving rise to this lawsuit. Referencing an unverified police report which contains statements that conflict with Defendant Cates's subsequent statements regarding the identical subject matter is not a proper discovery response, as such; Defendant Cates has an obligation to describe what she believes happened.

Interrogatory No. 6 requested Defendant Cates to describe what he had done during the 24 hour period leading up to his interaction with the Plaintiffs. Merely stating, "I do not recall" is an insufficient response. Instead, Defendant Cates is obligated to state specifically what she did during the 24 hours prior to this incident.

Interrogatory No. 7 asked Defendant Cates to list the name and address of attendant physicians, psychiatrists, psychologists, or therapists with the eight year period preceding the incident herein sued upon. This information is reasonably calculated to lead to the discovery of admissible evidence. As such, this information is discoverable. Further, this information is not protected by any existing privilege.

Interrogatory No. 13 sought information regarding internal administrative procedures in place by the City of Dearborn Heights (Defendant Cates's employer at the time) designed to prevent and/or correct instances of police misconduct. Specifically, we sought the: (1) nature of such procedures; (2) the person(s) responsible for implementing such procedures; (3) and whether there were any complaint made against Defendant Gondek that were handled through an internal administrative proceeding. Simply stating, "The Dearborn Heights Police Department has a Policies and Procedures Manual which contains internal administrative procedures" is insufficient and causes Plaintiffs undue prejudice establishing whether the Defendant City of Dearborn Heights has violated applicable law.

Interrogatory No. 14 sought information regarding personal and/or employment liability insurance including the: (1) effective date(s) of each policy; and (2) the substance of disclaimers of liability contained in the policy. Simply stating, "The City of Dearborn Heights is a member of the Michigan Municipal Risk Management Authority which provides coverage in the amount of 15 million dollars" is an insufficient response. Instead, Defendant Cates is to list the effective date(s) of the policy and describe any disclaimer (i.e., limitation) of liability in the policy.

Interrogatory No. 15 sought specific and detailed information regarding the sequence of events that took place during Defendant Cates's interaction with the Plaintiffs. Simply stating," Please see

response to Interrogatory No. 5” is an insufficient response. Referencing an unverified police report which contains statements that conflict with Defendant Cates’s subsequent statements regarding the identical subject matter is not a proper discovery response, as such; Defendant Cates has an obligation to describe specifically what she believes took place during her interaction with the Plaintiffs.

The above identify each specific interrogatory which Defendants have failed to provide appropriate responses. Please provide the requested discovery. **Concurrence in a Motion for Discovery Sanctions Seeking Dismissal will be assumed if you do not provide corrected responses by September 22, 2011.**

**Cordially,**

**/s/Nemer N. Hadous**

|AZ: 027529 | CA: 264431|

United States District Courts:

- District of Arizona
- Eastern District of Michigan

Cc:

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