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**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

TERRINICA N. MOSS,

Petitioner,

vs.

Case No.: 11-003983

**HCA, INC., and CAPITAL
REGIONAL MEDICAL CENTER,**

Respondents.

**RESPONSE TO PETITIONER'S MOTION TO SUPPRESS
DEPOSITION OF DIANE WADE AND
MOTION FOR PROTECTIVE ORDER**

Respondents hereby respond to Petitioner's Motion to Suppress the Deposition of Diane Wade and Motion for Protective Order, as follows:

1. The Respondents acknowledge that Petitioner's Motion to Suppress Deposition of Diane Wade and Motion for Protective Order has already been ruled upon and denied by Administrative Law Judge Diane Cleavinger.
2. Nevertheless, the Respondents file this response to put the Respondents' position on the record.
3. At the time that Ms. Wade's deposition was being scheduled for December 5, 2012, the final hearing was scheduled for December 14, 2011. Therefore, the undersigned counsel was anxious to get the deposition scheduled as quickly as possible.
4. As set forth in an email attached hereto as Exhibit A, the undersigned counsel contacted the Petitioner's qualified representative, Shay Alexander, on November 26, 2011, regarding the possibility of setting the Wade deposition on December 2, 2011. Ms. Alexander

replied that she could not do it that day, so the undersigned suggested the “following Monday,” which was December 5, 2011. The undersigned also stated that he would have no objection if Ms. Alexander wanted to appear by telephone. Ms. Alexander agreed to December 5th by responsive email on November 28, 2011, as indicated on Exhibit A. Subsequently, by order of December 1, 2011, the final hearing was continued.

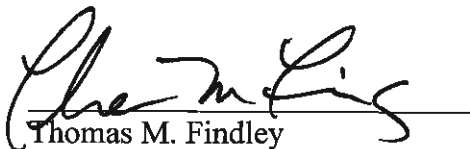
5. The undersigned offers this information as an explanation for the short notice on the Wade deposition. The Respondents have been as flexible as possible in setting depositions in this case. In fact, the Petitioner reported that she would only be available for deposition on a Saturday, and the Respondents respected that position and took her deposition on a Saturday afternoon.

6. Based on the foregoing agreement as to the December 5th date, the deposition was set and Ms. Wade was deposed. When the deposition commenced, counsel for the undersigned attempted to contact Ms. Alexander, but could not get through to her. Ms. Wade is not a party to this case, but she was present at the time and place noticed for her deposition. Therefore, the deposition proceeded.

7. Whether the Petitioner is a properly certified radiology tech or mammography tech is certainly a relevant issue. If Ms. Wade did not verify the application for Petitioner’s certification, then such evidence would counter Petitioner’s claim that she was fully qualified to perform mammographies. Such evidence may also be probative as to Petitioner’s credibility and her qualifications to work in that field. Therefore, the Respondents will continue to explore this avenue of discovery with the understanding that Petitioner may offer her own evidence.

Wherefore, the Respondents submit that the motion was properly denied and further contend that the deposition of Ms. Wade will constitute admissible and relevant evidence at the final hearing.

Respectfully submitted,



Thomas M. Findley

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Counsel for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been furnished by electronic transmission and by U.S. Mail to: Ms. Terrinica N. Moss, 8611 Roberts Rd., Tallahassee, FL 32309, house.of.terrific@gmail.com; and Doris Moss, MBA, 8611 Roberts Rd., Tallahassee, FL 32309, moss.dorris@gmail.com this 19 day of December, 2011.

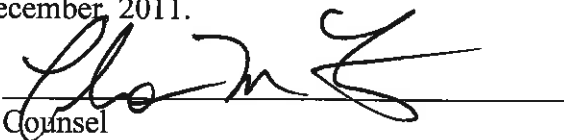

Counsel

Exhibit A

Thomas Findley

From: Shay Alexander <shayalexanderesq@gmail.com>
Sent: Monday, November 28, 2011 12:56 PM
To: Thomas Findley
Subject: Re: Dec. 2 deposition

Yes. Thank you. I am also filing for a continuance for the hearing. May I file an unopposed motion?

Sent from my iPhone

On Nov 26, 2011, at 11:57 AM, Thomas Findley <tfindley@lawfla.com> wrote:

> Would the following Monday work for you? You could phone in if you want.

>

> ----- Original Message -----

> From: Shay Alexander [<mailto:shayalexanderesq@gmail.com>]

> Sent: Saturday, November 26, 2011 11:55 AM

> To: Thomas Findley

> Subject: Dec. 2 deposition

>

> Good afternoon. Will you be able to change that date so that I am available?

>

> Sent from my iPhone

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