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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ROBERT SUAREZ and
CARIDAD ESPINOSA,

Petitioners,
v.

CASE NO: 12-1212
2012H0121
04-12-0099-8

HOUSING AUTHORITY OF THE CITY
OF MIAMI BEACH,

Respondent.
_____ /

**RESPONDENT, HOUSING AUTHORITY OF THE CITY OF MIAMI BEACH'S
RESPONSE TO PETITIONERS, ROBERT SUAREZ AND CARIDAD ESPINOSA'S,
MOTION FOR PROTECTIVE ORDER REGARDING INTERROGATORIES, WITH
SUPPORTING MEMORANDUM OF LAW**

COMES NOW, Respondent, HOUSING AUTHORITY OF THE CITY OF MIAMI BEACH (hereinafter "HACMB" or "Respondent"), by and through its undersigned counsel, hereby files this response to Petitioners', ROBERTO SUAREZ and CARIDAD ESPINOSA's (hereinafter "Petitioners"), Motion for Protective Order regarding Interrogatories, and in support thereof states as follows:

1. As this court is aware, this matter arises from Petitioners' housing discrimination complaint dual-filed with the U.S. Department of Housing and Urban Development ("HUD") and the Florida Commission on Human Relations ("FCHR") on November 9, 2011, wherein Petitioners alleged discrimination on the basis of national origin and age, in violation of the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, the Age Discrimination Action of 1975, 42 U.S.C. § 6102, *et seq.*, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d.

2. FCHR conducted an investigation as to Petitioners' allegations, and issued a No Cause Determination finding that there was no reasonable cause to believe a discriminatory housing practice occurred on March 5, 2012.

3. On or about April 2, 2012, Petitioners filed a Petition for Relief with the Florida Commission on Human Relations wherein this Court subsequently entered an Initial Order. Specifically, this Court stated that "[d]iscovery may be undertaken in the manner provided in the Florida Rules of Civil Procedure and, if desired, should be initiated immediately."

4. Pursuant to this Court's Initial Order, and in accordance with Rule 1.340 of the Florida Rules of Civil Procedure, Respondent served its First Set of Interrogatories to Petitioner Roberto Suarez on May 23, 2012, with responses due to same on June 27, 2012. Notably, while Petitioners seek a Protective Order from responding to Respondent's First Set of Interrogatories, they too have served written discovery.

5. On or about May 29, 2012, Petitioners served Respondent with Requests for Production after multiple informal requests for documents directly to HACMB throughout this process. It should be noted that HACMB has not only responded to each and every informal request for documents but has also responded to Petitioners' Request for Production that was served on May 29, 2012.

6. However, on June 21, 2012, in further tactics to delay Respondent from receiving relevant information as it relates to this matter, Petitioners filed the instant Motion for Protective Order regarding Interrogatories alleging this process is unfair, abusive, intimidating, stressful and causing them discomfort and uneasiness. Notably, these are the same allegations raised by Petitioners in their Motion for Protective Order filed on the eve of their depositions in an effort to avoid providing Respondent a meaningful opportunity to engage in permissible discovery

which this Court denied and compelled Petitioners to appear and participate in the discovery process.

7. In an effort to be cooperative, on June 27, 2012, Respondent offered Petitioner Roberto Suarez an extension until June 29, 2012 for Petitioner's responses to Respondent's First Request for Production and July 2, 2012 for Petitioner's responses to Respondent's First Set of Interrogatories in light of the upcoming hearing date of July 25, 2012. Petitioner agreed to abide by these amended deadlines. Despite Petitioner's representations to same, he filed a Motion for Extension of Time on June 28, 2012 to which Respondent objects.

8. Again, other than Petitioners conclusory assertions that constitute annoyance, embarrassment, oppression or undue burden, Petitioners have failed to demonstrate good cause for depriving Respondent of its right to engage in meaning discovery.

9. Petitioner's Motion for Protective Order regarding Interrogatories should be denied, and Petitioner should be order to respond as Petitioners have failed to demonstrate good cause for not providing responses to Respondent's First Set of Interrogatories.

WHEREFORE, for the reasons set forth herein, Respondent, HOUSING AUTHORITY OF THE CITY OF MIAMI BEACH, respectfully requests Petitioners' Motion for Protective Order regarding Interrogatories be denied, and Petitioner be ordered to respond to Respondent's First Set of Interrogatories.

MEMORANDUM OF LAW

I. LEGAL STANDARD

Rule 1.280(c) of the Florida Rules of Civil Procedure provide that "[u]pon motion by a party . . . , and for good cause shown, the court in which the action is pending may make any order to protect a party . . . from annoyance, embarrassment, oppression, or undue burden or

expense that justice requires. . . .” Fla.R.Civ.P. 1.280(c). However, the party moving for the protective order bears the burden to show good cause. *Medina v. Yoder Auto Sales, Inc.*, 743 So.2d 621 (Fla. 2d DCA 1999). A court has broad discretion in controlling discovery and in issuing protective orders. *Katzman v. Rediron Fabrication, Inc.*, 2011 WL 6373037 (Fla. 4th DCA 2011).

II. LEGAL ANALYSIS

A. PETITIONER HAS FAILED TO DEMONSTRATE GOOD CAUSE FOR PROTECTIVE ORDER

Florida courts have consistently held that Rule 1.280(c) of the Florida Rules of Civil Procedure permits a court to issue a protective order upon a showing of good cause. See *Bush v. Schiavo*, 866 So.2d 136 (Fla. 2d DCA 2004); *Florida v. Millennium Communications & Fulfillment, Inc.*, 800 So.2d 255 (Fla. 3d DCA 2001); *Maris Distrib. Co. v. Anheuser-Busch, Inc.*, 710 So.2d 1022 (Fla. 1st DCA 1998).

Petitioners have failed to demonstrate good cause for not providing responses to Respondent’s First Set of Interrogatories. To the contrary, the vague and ambiguous reasons proffered by Petitioners are insufficient to deprive Respondent from exercising its right to engage in discovery. Specifically, Petitioners contend that “the process is unfair and abusive. . . .; [w]e feel intimidated. It has caused us discomfort, uneasiness and oppression due to the undue burden that are forced (sic) for these unnecessarily (sic) methods of interrogatories. This is a recurring attitude of bad faith.” Petitioners go on to state that “[t]he process is way too stressful to be performed by the petitioner Caridad Espinosa, who is a sick old lady; and for myself petitioner Roberto Suarez, since we have suffered way too (sic) during the past period of time.”

The reasons cited by Petitioners are inadequate to serve as good cause for excusing Petitioner from responding to Respondent’s First Set of Interrogatories. Aside from conclusory

assertions lacking factual support, Petitioners have not indicated what conduct or action Respondent has engaged in that would constitute annoyance, embarrassment, oppression, or undue burden or expense, as required by Rule 1.280(c). Moreover, the mere fact that discovery is inconvenient is insufficient to preclude a party from obtaining discoverable information. See *Beekie* at 697. While Petitioners contend that they are without legal representation, this does not detract from their obligation to adhere to the rules of procedure. See *Barrett v. City of Margate*, 743 So.2d 1160 (Fla. 4th DCA 1999) (finding that an individual is entitled to represent himself or herself in a civil proceeding but he or she must not proceed without regard for the rules of procedure).

B. GRANTING OF PETITIONERS' MOTION FOR PROTECTIVE ORDER WILL CAUSE IRREPARABLE HARM AND PREJUDICE RESPONDENT IN ITS ABILITY TO ADEQUATELY DEFEND ITS POSITION AT THE SCHEDULED ADMINISTRATIVE HEARING.

Courts have found when the discovery sought is reasonably calculated to lead to the discovery of admissible evidence and the party requesting the discovery is denied the opportunity to obtain such reasonably calculated discovery, such denial constitutes an irreparable harm to the requesting party. *Somarriba v. Ali*, 941 So.2d 526 (Fla. 3d DCA 2006); *Beekie v. Morgan*, 751 So.2d 694 (Fla. 5th DCA 2000); *Medero v. Fla. Power & Light Co.*, 568 So.2d 566 (Fla. 3d DCA 1995).

Petitioners have had ample time to provide a response to Respondent's First Set of Interrogatories, and Petitioner's Motion for Protective Order is merely a tactic to preclude Respondent from adequately preparing its defense in anticipation of the hearing scheduled for July 25, 2012. Petitioners are aware of the importance of engaging in meaningful discovery in that Petitioners have also served a Request for Production, as well as other multiple informal requests for documents, and has demanded that such production be made. In an effort to comply

with Petitioners' Request for Production, Respondent has served responses to same on June 28, 2012.

Notably, Petitioners acknowledge that they are preparing for the evidentiary hearing scheduled for July 25, 2012. To this end, it would be incredibly prejudicial to allow Petitioners to present evidence at the hearing without allowing Respondent the opportunity to engage in meaningful discovery. Granting Petitioners' Motion for Protective Order regarding Interrogatories would function to allow Petitioners to "ambush" Respondent at the hearing with evidence that would have been permitted to be discovered in accordance with the Florida Rules of Civil Procedure, and as Respondent has sought to do.

III. CONCLUSION

Petitioners' Motion for Protective Order regarding Interrogatories should be denied, and discovery permitted to occur. Petitioners have not satisfied their burden of demonstrating good shown for the issuance of a protective order as required under the Florida Rules of Civil Procedure. Therefore, based upon the aforementioned Respondent, HOUSING AUTHORITY OF THE CITY OF MIAMI BEACH, respectfully requests that Petitioners, ROBERT SUAREZ and CARIDAD ESPINOSA's, Motion for Protective Order regarding Interrogatories be DENIED, and Petitioners be ordered to respond to Respondent's First Set of Interrogatories by July 2, 2012.

Dated: June 28, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served a true and correct copy of the foregoing via U.S. Mail to Roberto Suarez, Apartment 209, Miami, Florida 33126; and Denise Crawford, Florida Commission on Human Relations, Suite 100, Tallahassee, Florida 32301, on this 28th day of June, 2012.

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