

BUY™

SELL™

SHOP™



Downloaded From
www.TextBookDiscrimination.com



SELL YOUR OWN SAMPLES

(help others get the justice that they deserve)



BUY™

SELL™

SHOP™

www.TextBookDiscrimination.com

Get ***Booked Up*** on Justice!

© TBD Corporation. All Rights Reserved.

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

RENAISSANCE CHARTER SCHOOL, INC.)
and RENAISSANCE)
CHARTER SCHOOL AT ST. LUCIE,)
)
Petitioners,)
)
vs.)
)
THE SCHOOL BOARD OF ST. LUCIE)
COUNTY, FLORIDA)
)
Respondent.)
_____)

Case No.: 20-0326RX

**RESPONDENT’S PARTIALLY OPPOSED EMERGENCY MOTION FOR
CONTINUANCE AND TO EXTEND DISCOVERY RESPONSE DEADLINES**

Respondent, **the School Board of St. Lucie County, Florida** (“Board”), by and through its undersigned counsel, hereby files this Partially Opposed Emergency Motion for Continuance of Hearing and to Extend Discovery Response Deadlines pursuant to Rule 28-106.204, Fla. Admin. Code, and Rule 1.460 of the Florida Rules of Civil Procedure. In support hereof, the Board states as follows:

1. This Motion is filed as an emergency due to the monumental impact that the Novel Coronavirus Disease 2019 (COVID-19) pandemic has and will continue to have on the School District’s operations.
2. As the Division is well aware, COVID-19 is now a global pandemic. Health experts advise that it is a severe acute respiratory illness that can be spread easily among humans through respiratory transmission. The World Health Organization declared COVID-19 a Public Health Emergency of International Concern.
3. On March 1, 2020, Florida Governor Ron DeSantis issued Executive Order

number 20-51 directing the Florida Department of Health to issue a Public Health Emergency, and the State Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of COVID-19.

4. On March 7, 2020, Governor DeSantis directed the Director of the Division of Emergency Management to activate the State Emergency Operations Center to Level 2 to provide coordination and response to the COVID-19 emergency.

5. On March 9, 2020, Governor DeSantis issued Executive Order 20-52 declaring a state of emergency in the State of Florida due to the emergency health risks posed by COVID-19.

6. On March 12, 2020, Petitioner's served written discovery consisting of a Second Request for Admissions (25 total), First Set of Interrogatories (18 total), and First Request for Production (36 total). Responses would ordinarily be due within 30 days (April 13, 2020).

7. On March 13, 2020, adhering to Centers for Disease Control and Prevention (CDC) guidelines, Florida Department of Education Commissioner Richard Corcoran recommended school districts across the state cancel classes for two weeks as well all extracurricular activities and deep clean all buildings. At the time, the Board, in response to the COVID-19 threat, responded by extending Spring Break and cancelling school for two weeks through March 27, 2020.

8. On March 16, 2020, the Division issued Administrative Order AODOAH20-01 that provides, *in pertinent part*, as follows:

3. For DOAH hearings scheduled outside of Tallahassee, where telephone or video would be impractical, the hearings will be continued until the expiration of the Governor's initial travel prohibition. If the travel prohibition is extended, the need for additional continuances will be evaluated on a case-by-case basis.

7. Any party that may have concerns or requirements in regard to his or her ability to appear for a live hearing should communicate those concerns or requirements by motion to the Administrative Law Judge or Judge of Compensation Claims assigned to his or her case.

8. Administrative Law Judges and Judges of Compensation Claims are directed to provide the greatest deference possible to parties requiring individual accommodations.

9. On March 17, 2020, Commissioner Corcoran announced that K-12 students may not return to campuses until April 15, 2020. After Spring Break, students will be required to participate in distance learning.

10. The impact of COVID-19 on the Board is nothing short of monumental. The Board is, among numerous other things, currently working to provide Board employees options to work from home, arranging for serving students through distance learning, and providing lunches to students in the community during the school shutdown. With 41,000 students and 5,400 employees, the Board simply does not have any time to devote to non-essential functions such as responding to the discovery requests that Petitioners issued in this matter. Likewise, the undersigned counsel has been unable to meet with any Board employees since mid-March and is unlikely to be able to meet with staff to prepare for the April 14, 2020, hearing or respond to pending discovery until at least the beginning of April.

11. Even before COVID-19 reached global pandemic levels, Petitioners acknowledged in their Opposed Emergency Motion to Immediately Require Respondent to Allow Entering All Students in Respondent's Database, filed March 3, 2020, that COVID-19 was set to greatly impact the Board and Petitioners, stating as follows:

The SCHOOL BOARD's refusal to allow RENAISSANCE to enter these students' information into its SIS *directly endangers their health, safety, and welfare in these emergency times* where it may well be necessary to communicate with, and have access to,

all students via the SIS *in case schools need to be closed because of the threat of the Coronavirus pandemic.*

* * *

Indeed, the ongoing Coronavirus threat is a practical and realistic example of how the SCHOOL BOARD's illegal action of failing to allow entry into its SIS system of a small population of students can seriously and significantly cause irreparable harm to RENAISSANCE, the students, and their families. Governor Ron DeSantis issued Executive Order Number 20-51 on March 1, 2020, declaring the *Coronavirus Disease 19 a public health emergency in the state of Florida. Should parents, the SCHOOL BOARD, and RENAISSANCE need to coordinate efforts to prevent the spread of this disease to the vulnerable population that elementary children are, the burden will fall squarely on the shoulders of the SCHOOL BOARD* who cannot and will not account for all students attending school within the District. This is wrong on so many levels, and a direct threat to public health. [Emergency Motion, pg. 5, 9].

12. Simply stated, all Board resources are needed to attend to the current unprecedented pandemic. Given the emergency and uncertain nature of this global pandemic, it would be completely irresponsible of the Board to divert its resources and attention to this hearing and not to the crisis situation at hand to protect the health, safety, and welfare not just of its students and its staff, but also of the community at large. In turn, however, the Board will be significantly prejudiced in its ability to meaningfully participate in discovery and prepare for hearing if a continuance is not granted.

13. On January 27, 2020, the Division issued an Order of Pre-hearing Instructions, which provides that a “[c]ontinuance of the hearing shall be only by agreement of the parties or for good cause shown.” [Order at ¶1]. On February 11, 2020, the Division issued an Amended Order of Pre-hearing Instructions that did not speak to the matter of continuances.

14. In light of the foregoing, the Board respectfully requests that the deadline for the Board to respond to written discovery be extended from April 13, 2020, to May 28, 2020 (a total

of 45 days) and that the April 14, 2020, hearing be extended until sometime after May 28, 2020. Even after the immediate crisis is over, whenever that may be, the Board will be charged with extra tasks as it tries to resume normal operation and bring everyone back to school and work. The 45-day discovery extension and continuance of hearing is the Board's best estimate as to when it may reasonably be able to meaningfully participate in discovery and the hearing.

15. Petitioners will in no way be harmed by the requested extension as the Division will still be able to resolve this matter well in advance of the 2020-2021 school year. Likewise, when the Board inquired as to Petitioners' position with regard to the Board's request for an extension, Petitioners did not state that the requested extension would cause prejudice. Even more, the Board, as of March 11, 2020, enrolled all of the 13 oversubscribed students attending school at Renaissance Charter School at St. Lucie. Therefore, any previous concerns about the current health, safety, and welfare of the students have been resolved. As the Petitioners readily acknowledged in their own Notice of Withdrawal of Petitioners' Emergency Motion, "[t]he Emergency Motion is withdrawn as the issues raised within the Emergency Motion are moot because the School Board of St. Lucie County, Florida ("School Board") has since enrolled all students attending Renaissance in the School Board's student information system." [Notice of Withdrawal at pg. 1].

16. Likewise, the Board did not vote on proposed amendments to Rule 3.90 at its Board meeting on March 10, 2020. In good faith, it continued the public hearing until April 14, 2020. It now appears that the Board meeting cannot be held on April 14, 2020, in light of the COVID-19 pandemic as the Commission of Education has cancelled all School Board meetings through June 30, 2020, except emergency meetings. The Board again submits that it will proceed with deleting the Rule 3.90 provisions at issue in this case and will not implement those provisions as currently written.

17. Factors to be considered in determining whether a continuance is appropriate include whether the denial would create an injustice for the movant, whether the cause of the request for the continuance was unforeseeable by the movant and not the result of any dilatory practices, and whether opposing counsel would suffer any prejudice as a result of the continuance. *See, e.g., SSJ Mercy Health Sys., Inv., v. Posey*, 756 So.2d 177, 179 (Fla. 4th DCA 2000); *See, also, Myers v. Siegel*, 920 So. 2d 1241, 1242 (Fla. 5th DCA 2006).

18. Considering all the factors, it would be unjust to not allow the Board to meaningfully participate in discovery and appropriately prepare for the hearing, instead requiring it to divert its attention to the hearing during this time of crisis. The COVID-19 pandemic has been completely unforeseeable and indeed it's unclear how it will continue to affect the Board. And finally, there is no evidence whatsoever that the requested brief delay would in any way prejudice or harm the Petitioners. It is completely unclear to Respondent how Petitioners would be even the slightest bit prejudiced by holding the hearing in May instead of April, especially given that all concerns for the health, safety and welfare of students at the Renaissance Charter School at St. Lucie have already been ameliorated by action of the Board to enroll the oversubscribed students.

19. The proposed discovery extension and continuance of the hearing would also allow the Division to conserve its resources during this time of crisis, as many judiciaries around the State are currently shutting down or limiting their operations in response to the COVID-19 pandemic.

CERTIFICATE OF GOOD FAITH CONFERENCE

20. The undersigned contacted Petitioners' counsel on March 16, 2020, to ascertain Petitioners' position regarding the Board's request to continue the hearing and stay discovery for

45 days. Petitioners' counsel advised that Petitioners opposed the requested continuance and stay of discovery for 45 days but agreed to a continuance of the hearing for 21 days.¹

WHEREFORE, Respondent respectfully requests the entry of an Order continuing the April 14 2020, hearing to a mutually agreeable date and time no earlier than May 29, 2020, extending the deadline for the Board to respond to Petitioners' current written discovery requests to May 28, 2020, and any other relief that is just and proper.

RESPECTFULLY SUBMITTED this 18th day of March, 2020.

/s/ Molly Shaddock
MOLLY L. SHADDOCK
Florida Bar No.: 28358
E-mail: mshaddock@sniffenlaw.com
TERRY J. HARMON
Florida Bar No.: 0029001
E-mail: tharmon@sniffenlaw.com
SNIFFEN & SPELLMAN, P.A.
123 North Monroe Street
Tallahassee, Florida 32301
Telephone: (850) 205-1996
Facsimile: (850) 205-3004

and

JOHNATHAN A. FERGUSON
Florida Bar No.: 529036
Email: john.ferguson@stlucieschools.org
9461 Brandywine Lane
Port St. Lucie, FL 34986
Telephone: (772) 429-4567
Facsimile: (772) 429-4515

Attorneys for the School Board of St. Lucie County,
Florida

¹ For the reasons stated throughout this Motion, a 21-day continuance of the hearing is simply not enough time in light of the current, unprecedented global health emergency and corresponding impact to the Board's operations.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished on this 18th day of March, 2020, to Petitioners' legal counsel through the Division's E-Service portal.

/s/ Molly Shaddock

MOLLY SHADDOCK

BUY™

SELL™

SHOP™



Downloaded From
www.TextBookDiscrimination.com



SELL YOUR OWN SAMPLES

(help others get the justice that they deserve)



BUY™

SELL™

SHOP™

www.TextBookDiscrimination.com

Get ***Booked Up*** on Justice!

© TBD Corporation. All Rights Reserved.