

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In re: Norman E. Watts

PRB File Nos. 2019-102 and 2020-011

RESPONDENT'S REPLY TO DISCIPLINARY COUNSEL'S MOTION,
MEMORANDUM AND RESPONSE

Respondent Replies to Counsel's several motions to the Panel, as follows:

1. Motion to Extend Scheduling Order.
2. Supplemental Memorandum to Resolve Discovery Dispute Related to Document Request 5.
3. Response to Notice to the Panel and Request for Sanctions.

Preface

Disciplinary Counsel's (DC) portrayal of Respondent's motivations and actions misrepresent actual life. She seeks sanctions against Respondent for bad faith conduct. She alleges that the delays in the discovery process are due to "Respondent's refusal to comply with the discovery deadlines."

As Respondent pointed out previously to the Panel, he has been unable to comply because of his heavy litigation schedule and the community emergency that was unforeseen and distracted from his concentration on litigation requirements and the preparation of discovery responses. (Respondent's Notice to the Panel 8/30/21).

While the circumstances persist, Respondent devoted as much time as possible to preparing his responses to the 40 discovery requests that contain requests for hundreds of documents and emails stretching over a six-year period. DC's requests require significant time for Respondent and his paralegal to review and organize the hundreds of

documents and emails. Respondent believes it is important to produce the documents and emails simultaneously rather than sporadically.

Respondent is eager to reach the hearing stage of this proceeding to clear the charges and his name. He points out that the Internet publication of the Petition, without the Answer has already led to public attacks on Respondent, damaging his professional and personal reputation. (Internet Ad Attached).

Respondent was quite open and frank about the reasons for discovery delays. And the Panel recognized the difficulty of complying voluminous documents when it agreed to his deadline postponements. Again, Respondent is grateful for the Panel's gracious and flexible approach in providing additional time for his preparations.

But there is no "refusal to comply with discovery deadlines." The accusation is false.

The discovery disputes did not result from any "refusal to comply with discovery deadlines." Nor did Respondent "lie" to the DC, as claimed in her Petition. (Answer p.2 Count IV).

Specific Responses to DC's Motion, Supplemental Memorandum and Response

1. Motion to Extend Scheduling Order. Respondent does not oppose DC's motion. He reiterates that he is not refusing to comply with discovery deadlines."
2. Supplemental Memorandum. Respondent does not oppose DC's request for information concerning his personal compensation from the law firm.

3. DC's Response and Request for Sanctions. Respondent opposes the request for sanctions because they are premised on the false notion that he has "refused" to follow the discovery process or "chosen not to follow the discovery process." And the request is based on the allegation that he acted in bad faith. Sanctions are inappropriate based on the facts in the discovery process.

As his productions will establish, Respondent's intention is not to avoid the discovery process.

Indeed, avoiding the discover process is impossible or, at least, fruitless. The Panel or a court has the ultimate authority to impose sanctions for deliberate undermining of the discovery process. But that does not exist here.

There is no benefit to attempts to avoid production of documents. The documents are integral to his defense in this action.

Based upon the DC's perspective Respondent's actions, one can understand how she reaches the conclusion that the delays in document production are intentional – the materials have not been delivered to her.

Respondent explained the circumstances that impact his actions. He did not control the extend and depth of DC's discovery requests. Rather, they presented significant distractions from his litigation schedule as exaggerated by the disaster that impacted his community.

He continues to seek, review and organize the materials that the DC requested, devoting as much time as possible to the effort, given the circumstances.

Accordingly, Respondent requests that the Panel delay its sanctions decision until after he produces the discovery materials. It will be apparent then that Respondent acts in good faith and sanctions are not justified.

Dated: September 7, 2021.

s/s Norman E. Watts

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