

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA
CIVIL DIVISION**

KNIGHT NEWS, INC.,
Petitioner,

v.

Case No: 19-CA-925-O

THE UNIVERSITY OF CENTRAL FLORIDA
BOARD OF TRUSTEES,
Respondent. /

KNIGHT NEWS'S FIRST INTERROGATORIES

Petitioner Knight News, pursuant to Rule 1.340, Florida Rules of Civil Procedure, hereby requests that Respondent UCF respond in writing and under oath to the attached interrogatories within thirty (30) days of service or such shorter time as may be ordered by the Court. *See Fla. R. Civ. P. 1.340(a)*. I HEREBY CERTIFY that on this date a true and correct copy of the foregoing was sent via e-mail only to those listed below.

Richard E. Mitchell, Esq.

Andy Bardos, Esq.

GRAYROBINSON, P.A.

301 East Pine Street, Suite 1400

Orlando, FL 32801

E-mail: rick.mitchell@gray-robinson.com

E-mail: maryann.hamby@gray-robinson.com

E-mail: andy.bardos@gray-robinson.com

E-mail: vanessa.reichel@gray-robinson.com

Attorneys for the UCF Board of Trustees

Assigned Attorney

FLORIDA OFFICE OF THE ATTORNEY
GENERAL

E-mail: oag.civil.eserve@myfloridalegal.com

Kamilah Perry, Esq.

Executive Director/General Counsel

OFFICE OF THE STATE ATTORNEY,
NINTH JUDICIAL CIRCUIT

415 North Orange Avenue

Orlando, FL 32801-1526

E-mail: kperry@sao9.org

E-mail: gacosta@sao9.org

Dated: February 28, 2019

J.S. HEMLEPP, P.A.

/s/ Justin S. Hemlepp

Justin S. Hemlepp, Esq.

Fla. Bar No.: 58991

4154 Laurel Oak Circle

Tallahassee, FL 32331

Telephone: (813) 438-6103

E-mail: jhemlepp@hemlepplaw.com

Attorney for Knight News, Inc.

KNIGHT NEWS'S FIRST INTERROGATORIES TO UCF

Respondent's responses to interrogatories shall be in accordance with the Instructions and Definitions set forth below.

INSTRUCTIONS AND DEFINITIONS

(a) "Petitioner" and "Plaintiff" and "Knight News" means Knight News, Inc. "Respondent" and "Defendant" and "UCF" mean The University of Central Florida Board of Trustees. Whenever reference is made to a person or entity, it includes any and all of such person's principals, employees, agents, attorneys, consultants and other representatives.

(b) "Document(s)" means all materials within the full scope of discovery and public records law, including but not limited to: all writings and recordings, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including but without limitation to, email and attachments, correspondence, memoranda, notes, diaries, minutes, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, telegrams, receipts, returns, summaries, pamphlets, books, interoffice and intraoffice communications, offers, notations of any sort of conversations, working papers, applications, permits, file wrappers, indices, telephone calls, meetings or printouts, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments of any of the foregoing), graphic or aural representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic, mechanical, magnetic, optical or electronic records or representations of any kind (including without limitation, computer files and programs, tapes, cassettes, discs, recordings), including metadata, and all discoverable information within the scope of Fed. R. Civ. P. 34(a), including "all writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained." Accordingly, both paper-based documents and electronically stored information-including, but not limited to, emails, attachments, databases, word documents, spreadsheets and graphic files-are covered by this definition.

(c) "Relate(s) to," "related to" or "relating to" means to refer to, reflect, concern, pertain to or in any manner be connected with the matter discussed.

(f) These discovery requests are not intended to be duplicative. All requests should be responded to fully and to the extent not covered by other requests. If there are responses that are responsive to more than one request, please note and produce each such response first in response to the request that is more specifically directed to the subject matter of the particular document.

(h) Any word written in the singular herein shall be construed as plural or vice versa when necessary to facilitate the response to any request.

(i) "And" as well as "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

(j) Unless otherwise indicated, the date range for these requests is January 1, 2014 to the present day.

(k) "Subject Audio Recordings" means all matters related to the scheduling, making, creating, copying, editing, broadcasting, publishing, destroying, deleting, archiving, preserving, handling, maintaining, or otherwise having any relation to UCF's audio recording of:

(i) The April 3, 2014 meeting of the UCF Board of Trustees Finance and Facility Committee; and

(ii) All meetings of the UCF Board of Trustees and its committees.

(l) "Application" means a collection of one or more related software programs that enable a user to enter, store, view, modify or extract information from files or databases. The term is commonly used in place of "program," or "software." Applications may include word processors, Internet browsing tools and spreadsheets.

(m) "Backup" means to create a copy of data as a precaution against the loss or damage of the original data. Most users backup some of their files, and many computer networks utilize automatic backup software to make regular copies of some or all of the data on the network. Some backup systems use digital audio tape (DAT) as a storage medium. Backup Data is information that is not presently in use by an organization and is routinely stored separately upon portable media, to free up space and permit data recovery in the event of disaster.

(n) "Deleted Data" means data that, in the past, existed on the computer as live data and which has been deleted by the computer system or end-user activity. Deleted data remains on storage media in whole or in part until it is overwritten by ongoing usage or "wiped" with a software program specifically designed to remove deleted data. Even after the data itself has been wiped, directory entries, pointers, or other metadata relating to the deleted data may remain on the computer.

(o) "Hard Drive" drive means the primary storage unit on PCs, consisting of one or more magnetic media platters on which digital data can be written and erased magnetically.

(p) "Mirror Image" -- Used in computer forensic investigations and some electronic discovery investigations, a mirror image is a bit-by-bit copy of a computer hard drive that ensures the operating system is not altered during the forensic examination.

(q) "Network" means a group of computers or devices that is connected together for the exchange of data and sharing of resources.

(r) “Operating system (OS)” means the software that the rest of the software depends on to make the computer functional. On most PCs this is Windows or the Macintosh OS. Unix and Linux are other operating systems often found in scientific and technical environments.

(s) “Spoliation” means the destruction of records which may be relevant to ongoing or anticipated litigation, government investigations or audits. Courts differ in their interpretation of the level of intent required before sanctions may be warranted.

(t) “Software” means coded instructions (programs) that make a computer do useful work.

(u) “Public Records Request” means Knight News’s September 25, 2018 public records request, directed to UCF Assistant Vice President Chad Binette and attached to the Complaint as Exhibit 1-A.

INTERROGATORIES

1. What is the name and address of the person answering these interrogatories, and, if applicable, the person’s official position or relationship with the party to whom the interrogatories are directed?

Answer:

2. Describe in detail, chronologically and with specificity, how UCF handled the Public Records Request for:

- a. “[A]ny public record identifying whether someone from the general counsel’s office was present during the board of trustees meeting where Trevor Colbourn Hall funding was approved, as well as the facilities committee meeting where it was favorably recommended[;]” and
- b. “[A]ll UCF VP calendars . . . from two weeks before and after the date the BOT approved Trevor Colbourn Hall funding.”

Answer:

3. List the names and addresses of all persons who are believed or known by you, your agents, or your attorneys to have any knowledge concerning UCF’s handling of the Public Records Request and maintenance of the Subject Audio Recordings; and specify the subject matter about which the witness has knowledge.

Answer:

4. Have you heard or do you know about any statement or remark made by or on behalf of any party to this lawsuit, other than yourself, concerning UCF's handling of the Public Records Request and maintenance of the Subject Audio Recordings? If so, state the name and address of each person who made the statement or statements, the name and address of each person who heard it, and the date, time, place, and substance of each statement.

Answer:

5. State the name and address of every person known to you, your agents, or your attorneys, who has knowledge about, or possession, custody, or control of, any model, plat, map, drawing, motion picture, videotape, or photograph pertaining to UCF's handling of the Public Records Request and maintenance of the Subject Audio Recordings; and describe as to each, what item such person has, the name and address of the person who took or prepared it, and the date it was taken or prepared.

Answer:

6. Do you intend to call any expert witnesses at the trial of this case? If so, state as to each such witness the name and business address of the witness, the witness's qualifications as an expert, the subject matter upon which the witness is expected to testify, the substance of the facts and opinions to which the witness is expected to testify, and a summary of the grounds for each opinion.

Answer:

7. State the facts upon which you rely for each factual allegation in your Response to Alternative Writ of Mandamus and your Motion to Strike Claim for Attorneys' Fees.

Answer:

8. Do you contend any person or entity other than you is, or may be, liable in whole or part for the claims asserted against you in this lawsuit? If so, state the full name and address of each such person or entity, the legal basis for your contention, the facts or evidence upon which your contention is based, and whether or not you have notified each such person or entity of your contention.

Answer:

9. Identify and attach any and all versions of document/data retention or destruction policies used by UCF and identify documents or classes of documents related to the Subject Audio Recordings that were subject to scheduled destruction.

- a. Attach copies of document destruction inventories/logs/schedules containing documents related to the Subject Audio Recordings.
- b. Attach a copy of any disaster recovery plan.
- c. Also state whether any company-wide instruction regarding the suspension of the data retention/destruction policy occurred after or related to the date of the Public Records Request, commencement of this litigation, or otherwise. If so, identify the individual responsible for enforcing the suspension.

Answer:

10. Identify any data related to the Subject Audio Recordings that has been deleted, physically destroyed, discarded, damaged (physically or logically), or overwritten, whether pursuant to a document retention or destruction policy or otherwise, since April 1, 2014. Specifically identify those documents that relate to or reference the Subject Audio Recordings.

Answer:

11. List the job title, description, business address, telephone number, and email address of any individuals or organizations that are/were responsible for creating, implementing or retaining any and all versions of your document retention or destruction policies.

Answer:

12. Identify with specificity any meetings or conversations referencing document spoliation in relation to the Subject Audio Recordings.

- a. Identify and attach any and all related meeting minutes/notes.
- b. List the job title, description, business address, telephone number, and email address of any individuals or organizations that are/were responsible for retaining the meeting minutes/notes.

Answer:

13. For any server, workstation, laptop, or home operating system related to the Subject Audio Recordings that has been “wiped clean”, defragmented, or reformatted such that you claim that the information on the hard drive is permanently destroyed, identify the following:

- a. The date on which each drive was wiped, reformatted, or defragmented;
- b. The method or program used (i.e., WipeDisk, WipeFile, BurnIt, Data Eraser, etc.).

Answer:

14. Identify the person(s) responsible for maintaining any schedule of redeployment or circulation of existing equipment and describe the system or process for redeployment.

Answer:

15. Describe all training UCF Communications and General Counsel staff receive, if any, on complying with Public Records Act requests, including, but not limited to, their duty to respond in good faith, how to interpret the scope of a request, and when and whether UCF should follow up with the requester for clarification of the request. Attach all UCF Public Records Act training material received by either the General Counsel or UCF Communications staff.

Answer:

16. Identify any application, software, content management system, plan, internal spreadsheet, internal operating procedures, practices etc., used to track Public Records Act requests, and UCF's responses to them. Attach any documents concerning the operation of same, such as an operating manual of software.

Answer:

17. Explain in detail, chronologically and with specificity, why UCF is not today in possession of an audio recording of the entire April 3, 2014 Finance and Facilities Committee meeting.

Answer:

END OF FIRST INTERROGATORIES TO UCF

VERIFICATION

STATE OF FLORIDA)
COUNTY OF _____)

I, _____, having produced
_____ as identification and being duly sworn, do hereby swear
or affirm the answers to these interrogatories are true, correct and based upon my own personal
knowledge.

(signed)
Printed Name: _____
Title: _____
Date: _____

Sworn and subscribed before me, _____ on this the ____
day of _____, 2019.

(seal)

(signed)
Printed Name: _____
My commission expires: _____