

DBS:mls
W82/74-010

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 502016CA014473XXXXMB
Division: AE

JOHN LEOPOLDO FIORILLA
as trustee f/b/o JOHN LEOPOLDO
FIORILLA TRUST U/A/D 06-25-2003,

Plaintiff,

vs.

KLAYMAN & TOSKES, P.A., a Florida
Corporation; LAWRENCE L. KLAYMAN;
and STEVEN D. TOSKES,

Defendants.

**DEFENDANT, KLAYMAN & TOSKES, P.A.'S, RESPONSE TO
PLAINTIFF'S FIRST REQUEST FOR PRODUCTION**

Defendant, KLAYMAN & TOSKES, P.A., by and through undersigned counsel, hereby responds to Plaintiff, JOHN LEOPOLDO FIORILLA as trustee f/b/o JOHN LEOPOLDO FIORILLA TRUST U/A/D 06-25-2003's, First Request for Production served with the Summons and Complaint as follows:

GENERAL OBJECTIONS

1. Defendant objects to the definitions of "K&T", "Klayman", "Toskes" and "Manasseh" due to the inclusion of "attorneys" in their definitions. All communications between K&T, Klayman, Toskes, Manasseh and their attorneys are attorney-client protected communications.

2. Defendant objects to the definition of "document" or "documents" as it is overbroad in scope with respect to subject matter. The definition also includes items which are

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irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

3. Defendant objects to the definition of “communication” to the extent it includes any communications which are attorney-client protected communications.

4. Defendant objects to Plaintiff’s instruction in Paragraph Number 30 of the Request for Production which states that: “[T]he relevant time period for the creation and/or transmission of any Documents is January 1, 2010 through the present.” This time period is overbroad in scope. This time period includes matters after Plaintiff terminated the attorney-client relationship with Defendants and is therefore overbroad. Any time period following Plaintiff’s termination of the attorney-client relationship with Defendants is irrelevant and immaterial to the matters at issue in this cause and is not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSES TO FIRST REQUEST FOR PRODUCTION

1. All agreements between any of the Defendants and Fiorilla.

RESPONSE: All responsive documents are being produced.

2. All communications between any of the Defendants and Fiorilla.

RESPONSE: All responsive documents are being or will be produced.

3. All communications between any of the Defendants and Annie.

RESPONSE: All responsive documents are being or will be produced.

4. All communications between any of the Defendants and Conway.

RESPONSE: All responsive documents are being or will be produced.

5. All communications between any of the Defendants and Mazer.

RESPONSE: All responsive documents are being or will be produced.

6. All communications between any of the Defendants and Bressler reflecting or relating to Fiorilla, the FINRA Arbitration, the Settlement, the UBP Lawsuit, the Bar Complaints, or the Petition to Vacate.

RESPONSE: All responsive documents are being or will be produced.

7. All internal K&T communications (i.e., not involving non-K&T attorneys or employees) reflecting or relating to Fiorilla, the FINRA Arbitration, the Settlement, the Bar Complaints, the UBP Lawsuit, or the Petition to Vacate.

RESPONSE: RESPONSE: Objection. The Request as it is overbroad in scope with respect to subject matter and time. The Request includes information protected by the work-product doctrine and the attorney-client privilege. To the extent the Request seeks any communications after Plaintiff's termination of the attorney client-relationship with Defendants on May 11, 2012, the Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving any objection, all responsive documents prior to Plaintiff's termination of the attorney client-relationship not otherwise privileged are being or will be produced.

8. All communications between any of the Defendants and Paul Weiss reflecting or relating to the Settlement, UBP Lawsuit, Bar Complaints, FINRA Arbitration, the Petition to Vacate, or Fiorilla.

RESPONSE: All responsive documents are being or will be produced.

9. All communications with Citigroup reflecting or relating to Fiorilla or the FINRA Arbitration before April 20, 2012.

RESPONSE: All responsive documents are being or will be produced.

10. All communications with Citigroup reflecting or relating to Fiorilla, the Settlement, UBP Lawsuit, Bar Complaints, FINRA Arbitration, or the Petition to Vacate from April 20, 2012 to present.

RESPONSE: All responsive documents are being or will be produced.

11. All communications with FINRA reflecting or relating to the FINRA Arbitration.

RESPONSE: All responsive documents are being or will be produced.

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12. All communications with the Florida Bar reflecting or relating to Fiorilla, the FINRA Arbitration, or the Bar Complaints.

RESPONSE: All responsive documents are already in the possession of Plaintiff. Nonetheless, all responsive documents are being or will be produced.

13. All documents or communications reflecting or relating to any settlement demands made by Plaintiff regarding the FINRA Arbitration.

RESPONSE: All responsive documents are being or will be produced.

14. All documents or communications reflecting or relating to any settlement offers made by Citigroup regarding the FINRA Arbitration.

RESPONSE: All responsive documents are being or will be produced.

15. All documents or communications reflecting or relating to any analysis of the value or settlement value of Plaintiff's claims in the FINRA Arbitration.

RESPONSE: Objection. To the extent this Request seeks any documents or communications after Plaintiff's termination of the attorney client-relationship with Defendants on May 11, 2012, the Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence. The request includes information protected by the work-product doctrine and the attorney-client privilege. Subject to and without waiving any objection, all responsive documents prior to Plaintiff's termination of the attorney client-relationship not otherwise privileged are being or will be produced.

16. All communications reflecting or relating to the Bar Complaints.

RESPONSE: Objection. The Request seeks information protected by the work-product doctrine and the attorney-client privilege. Subject to and without waiving any objection, all non-privileged responsive documents are being or will be produced.

17. All documents and communications reflecting or relating to the Petition to Vacate.

RESPONSE: Objection. The Request seeks documents protected by the work-product doctrine and the attorney-client privilege. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible

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evidence. Subject to and without waiving any objection, all non-privileged responsive documents, if any, are being or will be produced.

18. All contracts or employment agreements between K&T and:

a. Klayman,

RESPONSE: Objection. The Request seeks confidential proprietary business information. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

b. Toskes, or

RESPONSE: Objection. The Request seeks confidential proprietary business information. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

c. Manasseh.

RESPONSE: Objection. The Request seeks confidential proprietary business information. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

19. All bonus or compensation plans between K&T and:

a. Klayman,

RESPONSE: Objection. The Request seeks confidential proprietary business information. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information protected by privacy interests under the Florida Constitution.

b. Toskes, or

RESPONSE: Objection. The Request seeks confidential proprietary business information. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information protected by privacy interests under the Florida Constitution.

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- c. Manasseh.

RESPONSE: Objection. The Request seeks confidential proprietary business information. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information protected by privacy interests under the Florida Constitution.

- 20. Manasseh's personnel file.

RESPONSE: Objection. The Request seeks confidential proprietary business information. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

- 21. All resumes or curriculum vitae for:

- a. Klayman,

RESPONSE: All responsive documents are being or will be produced.

- b. Toskes, or

RESPONSE: All responsive documents are being or will be produced.

- c. Manasseh.

RESPONSE: To the extent responsive documents in possession of Klayman & Toskes, P.A., all responsive documents are being or will be produced.

- 22. All documents or communications reflecting or relating to any client complaints made against:

- a. Klayman,

RESPONSE: Objection. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

- b. Toskes, or

RESPONSE: Objection. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

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c. Manasseh.

RESPONSE: Objection. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

23. All marketing materials, including advertisements, for any of the Defendants from 2009 through 2012.

RESPONSE: Objection. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

24. Your litigation file concerning the FIRNA Arbitration, including all notes, research, filings, expert communications and reports, and other documents prepared or collected in relation to representing Plaintiff.

RESPONSE: Objection. To the extent this Request seeks any communications, documents or file materials after Plaintiff's termination of the attorney client-relationship with Defendants on May 11, 2012, the Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence. The Request is overbroad in scope with respect to subject matter and time. The Request seeks information and documents protected by the work-product doctrine and the attorney-client privilege. Subject to and without waiving any objection, all responsive documents prior to Plaintiff's termination of the attorney client-relationship not otherwise privileged are being or will be produced.

25. All insurance policies that may cover any of the Defendants for the actions alleged in the Complaint, including excess insurance or umbrella policies.

RESPONSE: Objection. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

26. All reservation of rights letters or any other document that might limit the coverage of the insurance carriers to whom you have submitted Plaintiff's claim for coverage.

RESPONSE: Objection. The Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

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27. All documents or communications reflecting or relating to Fiorilla or the FINRA Arbitration that are not responsive to Request Nos. 1-26 above.

RESPONSE: Objection. To the extent this Request seeks any communications, documents or file materials after Plaintiff's termination of the attorney client-relationship with Defendants on May 11, 2012, the Request seeks documents which are irrelevant and immaterial to the matters at issue in this cause and which are not reasonably calculated to lead to the discovery of admissible evidence. The Request is overbroad in scope with respect to subject matter and time. The Request seeks information and documents protected by the work-product doctrine and the attorney-client privilege. Subject to and without waiving any objection, all responsive documents prior to Plaintiff's termination of the attorney client-relationship not otherwise privileged are being or will be produced.

WE HEREBY CERTIFY that on this 20th day of March, 2017, I electronically filed the foregoing with the Clerk of the Court by using the Florida Court's E-Filing Portal which will send a notice of electronic filing to all counsel on the attached Service List.

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