

EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA

JENNIFER JENKINS,

Plaintiff,

v.

CASE NO. 05-2023-CA-018437-XXXX-XX

BREVARD COUNTY SCHOOL
BOARD; and
MATTHEW SUSIN,
in his official and individual
capacity,

Defendants.

_____/

**JENNIFER JENKINS' MOTION FOR ORDER TO SHOW CAUSE
REQUIRING RANDY FINE TO SHOW WHY HE SHOULD NOT BE HELD IN
CONTEMPT OF COURT FOR FAILING TO APPEAR FOR DEPOSITION
AND FOR SANCTIONS**

COMES NOW Plaintiff JENNIFER JENKINS, by and through undersigned counsel Jessica J. Travis, and hereby moves this Court for an order to show cause: a) requiring non-party witness Randy Fine to show why he should not be held in contempt of court for failing to appear for deposition on November 29, 2023; and b) requiring Randy Fine and attorney Alan Landman to show why they should not be sanctioned. In furtherance thereof, Plaintiff states and asserts:

- 1) On November 29, 2023, Randy Fine failed to appear for Plaintiff's deposition. [Attachment A – Certificate of non-appearance.]
- 2) On October 30, 2023, valid substitute service was made on Randy Fine's wife pursuant to § 48.031(2)(a), Fla. Stat. [Attachment B - Return of Service [Dkt. 59, 11-27-23.]] The substitute service was also videotaped.

3) Fla. R. Civ. P. 1.410(f) allows the Court to hold a witness that fails to appear for deposition pursuant to subpoena to be held in contempt of court.

“(f) Contempt. Failure by any person without adequate excuse to obey a subpoena served on that person may be deemed contempt of the court from which the subpoena issued.”

4) Evidence establishes that Randy Fine is without adequate excuse and, rather, has engaged in a pattern of evasion, obstruction, and intimidation to avoid attending his deposition and, therefore, should be held in contempt of court.

a. On October 24, 2023, the deposition of Randy Fine was noticed for November 3, 2023. (At the time this deposition was noticed, trial was set to begin on December 11, 2023 and the parties had a discovery deadline of November 10, 2023.)

b. On October 26, 2023, investigator John Aiani went to the residence of Randy Fine to serve him with a subpoena for the November 3rd deposition. Investigator Aiani noted that Mr. Fine’s vehicle was in the garage and clearly visible through the open garage door. A male that was not Randy Fine answered the door, said Randy Fine was not home, and would not accept service stating he was only visiting. Investigator Aiani left a copy of the subpoena folded in the door handle. [Attachment C – Affidavit of Investigator John Aiani.]

- c. On October 27, 2023, Investigator Aiani again went to the Fine residence. A car was in the driveway and the lights were on, but no one answered the door.
- d. On October 30, 2023, Investigator Aiani again went to the Fine residence for a third time. Wendy Fine, Randy Fine's wife, answered the door and Investigator Aiani made substitute service. Service was documented by video recording and Investigator Aiani later executed a return of service.
- e. After service on Wendy Fine, Investigator Aiani drove by the office of Randy Fine and found that his vehicle was parked in the parking lot. Attorney Travis asked Investigator Aiani to obtain direct, personal service on Randy Fine. Investigator Aiani approached the front of the office, found the door was locked, knocked to get any occupant's attention, and looked in the glass door and windows. (Attachment D – Front of Randy Fine's office.) Twice, a blond woman, believed to be Randy Fine's secretary, was seen looking from a door in the hallway and then pulling back into the room she was looking from. (Attachment E – Screen capture showing blond woman peering from doorway.) Next, Randy Fine was seen diving behind the far-side of his desk where he stayed in an apparent effort to hide from Investigator Aiani. (Attachment F – Screen captures showing Randy Fine diving behind desk.) Investigator Aiani then called Attorney Travis and it was decided that Attorney Travis would

call the phone number posted on the front door. The call was made at 12:12 p.m. on October 30, 2023. No one answered. Attorney Travis left a voice message stating Investigator Aiani was present to serve a subpoena and asking Randy Fine to go to the door to accept service. Attorney Travis asked Investigator Aiani to reapproach the office to see if anyone would come to the door. Investigator Aiani did but no one came to the door. Instead, a man in a red shirt came from the neighboring office of County Commissioner John Tobia and began to take photos of Investigator Aiani. Investigator Aiani asked the man to ask Randy Fine to come to the door. The man claimed he was not communicating with Randy Fine. Investigator Aiani left. Again, these attempts to serve Randy Fine were video recorded.

- f. On October 31, 2023, Randy Fine filed a police report with the Brevard County Sheriff's Office claiming some unspecified crime had been committed against him by Investigator Aiani and/ or Attorney Travis. He also wrote a letter that was sent to the clerk of the court and forwarded to Chief Judge Crawford complaining about Investigator Aiani and demanding that Attorney Travis be disciplined.
- g. On November 1, 2023, Randy Fine, through attorney David Axelman, filed Notice Of Legislative Continuance Pursuant To Section 11.111, Florida Statutes [Dkt. 54, 11-1-23]. The grounds raised in Attorney Axelman's Notice were that Randy Fine, as a state

representative, could not be deposed during session, 15 days before and after session, during committee, or 1 day before or after committee, pursuant to § 11.111, Florida Statutes, and that the November 3rd deposition fell within a restricted timeframe.

- h. Upon reviewing the grounds, Attorney Travis filed Notice Cancelling And Rescheduling Audio-Visually Recorded Deposition [Dkt. 51, 11-2-23]. The Notice cancelled Mr. Fine's deposition of November 3rd and rescheduled it for November 29, 2023. With § 11.111 in mind, Attorney Travis had reviewed the legislative calendar and determined that November 29, 2023 was one of the few days available to reschedule Randy Fine's deposition.
- i. The Notice cancelling and rescheduling the deposition was mailed by certified and regular mail to Randy Fine's residence and office. Randy Fine did not sign or pick up the certified mail and he, or someone at both his home and office, marked the notices sent by regular mail with "return to sender" so that it was returned to Attorney Travis. (Attachment G – Returned mail.)
- j. Regardless of the returned mail, the Notice was e-served on Attorney Axelman. Further, witnesses who have already been deposed have admitted that they have spoken with Randy Fine about the deposition schedule in this case. Finally, Randy Fine has not claimed a lack of notice. If he should do so now, any lack of notice would only be caused by his own purposeful conduct.

- k. Though Randy Fine's prior service was valid pursuant to § 48.031(2)(a), Florida Statutes, Attorney Travis decided further attempts to *personally* serve Randy Fine would be in order given his conduct.
- l. On November 18, 2023, process server Glenda Stephenson attempted to serve Randy Fine at his residence but no one answered the door. (Attachment H – Amended Return of Due Diligence by Process Server Glenda Stephenson [Dkt. 65, 11-29-23].)
- m. On November 21, 2023, Process Server Stephenson attempted service at Randy Fine's office. No one came to the door and no one answered or returned her phone call.
- n. Also on November 21, 2023, Process Server Stephenson attempted service at Randy Fine's residence. No one answered the door.
- o. Later the same day, November 21, 2023, Process Server Stephenson found Randy Fine's vehicle at his residence but still no one came to the door.
- p. On November 22, 25, 27, and 28, 2023, Process Server Stephenson's attempts to serve Randy Fine at his home or office were unsuccessful.
- q. On November 28, 2023, Attorney Travis was contacted by Attorney Alan Landman who advised he had just been hired by Randy Fine and asked that the November 29th deposition be rescheduled. Attorney Travis declined and sent Attorney Landman a copy of the

notice filed by Attorney Axelman that set forth the limitations for scheduling legislators under §11.111, Florida Statutes.

- r. On the morning of the deposition, November 29th, Attorney Landman filed an Emergency Motion For Protective Order, asking that the court to issue an order cancelling Randy Fine's deposition that afternoon. The only basis for the request was that Mr. Landman had court that afternoon beginning at 2:00 p.m.
 - s. Attorney Travis filed an objection arguing grounds similar to those raised herein, though with less detail.
 - t. The Court did not rule on Attorney Landman's motion prior to the 1:30 deposition. Since the mere filing of a motion for a protective order in advance of deposition does not stay the deposition, see *Stables v. Rivers*, 559 So. 2d 440, 441 (Fla. 1st DCA 1990), the deposition was not cancelled.
 - u. At 1:30 p.m., Randy Fine did not appear. Plaintiff Jennifer Jenkins appeared with Attorney Travis. The defendants appeared via video through Attorneys Mora, as attorney for the Board and Susin, and Attorney Gibbs, as representative of the Board. Court reporting staff – a court reporter and videographer – appeared. After waiting over thirty minutes, Attorney Travis asked that a certificate of nonappearance be prepared as to Randy Fine.
- 5) The motion for a protective order was frivolous and not filed in good faith. Fla. R. Civ. P. 1.280(c), only allows a party or person to seek a protective

order “to protect the party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires.” None of these grounds were alleged with peculiarity in the motion. If given the benefit of the doubt, the argument would be based on undue burden or justice. However, this is not an instance in which a party sought the order as soon as the need for it became known. At no time prior to November 28, 2023, did Randy Fine or anyone else try to reschedule the deposition. Here, the only burden was that of Randy Fine’s new attorney – hired the day before the deposition. Randy Fine’s new attorney, Alan Landman, should have declined representation if he was not available for deposition.

- 6) In comparison, the burden placed on Ms. Jenkins, in addition to wasted time, effort, and money, is that she may never be able to depose Randy Fine due to the mechanism of § 11.111, Florida Statutes. Randy Fine is well aware of this mechanism since it was the subject of David Axelman’s filing and since Randy Fine has successfully continued other proceedings involving Jennifer Jenkins: a) Ms. Jenkins’ injunction hearings against Mr. Fine in Brevard County, Florida case 05-2021-DR-050417 (Attachment I – (Randy Fine’s) Emergency Motion For Continuance Of Hearing And Stay Pursuant to F.S. 11.111 [21-DR-050417, Dkt. 16, 11-3-21]; Attachment J – (Randy Fine’s) Notice Of Stay Pursuant To F.S. 11.111 [21-DR-050417, Dkt. 40, 11-12-21]); and b) the final administrative hearing in front of Florida Commission on Ethics in case 22-079 for which probable cause has been found to support Ms. Jenkins’ complaint that

Randy Fine abused the power of his office by threatening to veto funding for the people of West Melbourne because Ms. Jenkins was invited to a Special Olympics fundraiser. (Attachment K – Joint Response To Initial Order [22-079, 8-1-23]; Attachment L – Order Granting Extension of Time [22-079, 8-2-23];

<https://www.doah.state.fl.us/DocDoc/2023/002760/23002760C-072423-0436163.pdf>). Randy Fine is fully aware of the statutory

mechanism and that his failure to appear for the deposition will drag out proceedings likely allow him to use it again. Justice does not allow any person to abuse our laws. Justice required Randy Fine to respond to the lawful subpoena just as any other citizen would be obligated to do.

- 7) Pursuant to Florida Rule of Civil Procedure 1.380 and 1.410(f) and § 914.22, Ms. Jenkins is entitled to her reasonable attorneys’ fees and costs incurred as a result of Randy Fine and his attorney’s conduct. Randy Fine’s attorney, Alan Landman, is not exempt from sanctions.

“Counsel’s conduct during a case must always be so guarded that it will not impair or thwart the orderly processes of fair consideration and determination of the cause by a jury.” *Murphy v. Int’l Robotics Svs, Inc.*, 766 So. 2d 1010, 2021 (Fla. 2000).

- 8) It is in the Court’s inherent power to issue an order to show cause, to hold Randy Fine in contempt, and to impose sanctions.

“Clearly, a trial judge has the inherent power to do those things necessary to enforce its order, to conduct its business in proper manner, and to protect the court from acts obstructing the administration of justice.” *Moakley v. Smallwood*, 826 So. 2d 221 (Fla. 2022).

9) Pursuant to Florida Rule of Civil Procedure 1.380(4) the movant certifies that repeated good faith efforts were made to obtain the deposition of Randy Fine on November 29, 2023 without court action.

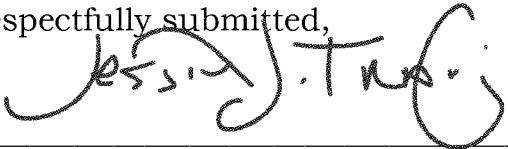
WHEREFORE, Plaintiff JENNIFER JENKINS respectfully moves this Court to:

- a) Enter and order to show cause to Randy Fine requiring him to establish why he should not be held in contempt of court;
- b) Upon due process, hold Randy Fine in indirect civil contempt for his failure to attend the duly subpoenaed deposition on November 29, 2023;
- c) Assess sanctions against Randy Fine and his attorney Alan Landman for failing to appear to the deposition of November 29, 2023 and for filing a motion for a protective order in bad faith, including attorneys' fees incurred in preparation for the deposition, in responding to the motion for an emergency protective order, and in the preparation and hearing of this motion; and court reporter and videographer costs incurred in connection with the deposition appearance;
- d) Require Randy Fine to appear within thirty (30) days from the date of the order for an oral deposition regardless of the parameters set forth in § 11.111, Florida Statutes, because without such an order, it is unlikely that the deposition will be accomplished;

- e) Set this motion or any contempt hearing for an emergency hearing;
and
- f) For such other relief as the Court deems just and proper.

Respectfully submitted,

By: _____


Jessica J. Travis, FBN 76701
Attorney for JENNIFER JENKINS
DefendBrevard.com
1370 Bedford Drive, Suite 104
Melbourne, FL 32940
Ph: 321 – 728 – 7280
Fx: 321 – 728 – 8020
Direct email: Jessica@DefendBrevard.com
Eservice: eservice1@DefendBrevard.com
Eservice: eservice2@DefendBrevard.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was served by eservice on the 30th day of November, 2023 as set forth below:

Counsel for Brevard County School Board and Matthew Susin
Randy D. Mora and Jay Daigneault, Esquires
Trask, Daigneault, LLP,
at: randy@cityattorneys.legal, jay@cityattorneys.legal, and
jennifer@cityattorneys.legal.

Counsel for Randy Fine
Alan H. Landman, Esquire
At alan@alandmanpa.com

David Axelman, Esquire
David.axelman@myfloridahouse.gov

/s/ Jessica J. Travis
Jessica J. Travis, FBN 76701
Attorney for JENNIFER JENKINS

ATTACHMENTS

Attachment A – Certificate of non-appearance

Attachment B - Return of Service, Dkt. 59, 11-27-23

Attachment C – Affidavit of Investigator John Aiani

Attachment D - Front of Randy Fine's office

Attachment E – Screen capture showing blond woman peering from doorway

Attachment F – Screen captures showing Randy Fine diving behind desk

Attachment G – Returned mail

Attachment H – Amended Return of Due Diligence by Process Server Glenda Stephenson [Dkt. 65, 11-29-23]

Attachment I – Emergency Motion For Continuance Of Hearing And Stay Pursuant to F.S. 11.111, [21-DR-050417, Dkt. 16, 11-3-21]

Attachment J – Notice Of Stay Pursuant To F.S. 11.111 [21-DR-050417, Dkt. 40, 11-12-21]

Attachment K – 22-079, Joint Response To Initial Order, 8-1-23

Attachment L – 22-079, Order Granting Extension of Time, 8-2-23

Attachment A – Certificate of non-appearance
JENNIFER JENKINS vs BREVARD COUNTY SCHOOL BOARD, ET AL.
Randy Fine on 11/29/2023

1 THE CIRCUIT COURT FOR THE EIGHTEENTH JUDICIAL
2 CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA

3 CASE NO.: 05-2023-CA-018437-XXXX-XX

4 JENNIFER JENKINS,

5 Plaintiff,
6 vs.

7 BREVARD COUNTY SCHOOL
8 BOARD; and MATTHEW SUSIN,
9 in his individual capacity,

10 Defendants.

11

CERTIFICATE OF NONAPPEARANCE

12

In Re: DEPOSITION OF RANDY FINE

13

STATE OF FLORIDA)
COUNTY OF BREVARD)

14

I, Lori W. Pyron, FPR, do hereby certify
15 that I was present at 14 Suntree Place, Melbourne,
16 Florida, on the 29th day of November, 2023, at
1:30 p.m., and that Jessica Travis, Esq., was
17 present, and that the deponent, RANDY FINE,
did not appear by 2:00 p.m.

18

Copies have been provided to
19 Jessica J. Travis, Esquire
Defend Brevard, PA
1370 Bedford Drive, Suite 104
20 Melbourne, Florida 32940

21

Under penalties of perjury, I declare that I
22 have read the foregoing certificate, and that
the facts stated in it are true. DATED this 29th
23 day of November, 2023.

24



25

Lori W. Pyron, FPR
Huseby Global Litigation
14 Suntree Place, Suite 101
Melbourne, Florida 32940

Page 2

1 STATEMENT BY COUNSEL
JESSICA TRAVIS, ESQUIRE

2

3 MS. TRAVIS: So we're on the record in
4 the case of Jennifer Jenkins vs. Brevard
5 School Board and Matthew Susin, on Case No.
6 05-2023-CA-018437.

7 Today's date is Wednesday, November 29th, and
8 it is 2:01 p.m. I am here, Jessica Travis,
9 Attorney for Jennifer Jenkins. Jennifer Jenkins
10 is present.

11 We also have a court reporter present,
12 and does Counsel want to announce their
13 appearance?

14 MR. MORS: Randy Mors, on behalf of the
15 School Board of Brevard County and Matthew Susin.

16 MS. TRAVIS: Okay. And then also present
17 online is one of your clients?

18 MR. MORS: Attorney Paul Gibbs for the
19 School Board is also present.

20 MS. TRAVIS: And they are appearing by
21 video.

22 In any event, Randy Fine was scheduled to
23 begin his deposition today at 1:30. He was
24 served by substitute service on his wife,
25 Wendy Finn, on October 30, 2023, at 11:10 a.m.

Page 3

1 by my investigator John Iaini.

2 Yesterday, I did receive an email, a few
3 emails, from Attorney Allen Landman, stating
4 that he had just been hired to represent
5 Mr. Fine in this matter, and asked me for a
6 continuance.

7 I explained that I would not agree to a
8 continuance because Mr. Fine is a House
9 Representative, and can only be deposed within
10 a certain amount of timeframe.

11 Otherwise, his obligations as a House
12 Representative take priority, and cannot
13 brought in for a deposition, or brought into
14 court.

15 So I declined, and this morning Allan Landman
16 filed a emergency motion for protective order.
17 I filed an objection to that.

18 Since it was a last minute filing, there has
19 been no ruling on it by the court, and my
20 subpoena still stands, and Mr. Fine has not
21 appeared.

22 So at this time, I'm going to ask for a
23 Certificate of Non Appearance, or a CNA, to be
24 prepared and we'll move forward from there.
25 Thank you. We'll go off the record.

Page 4

1 CERTIFICATE OF REPORTER

2

3 STATE OF FLORIDA)
4 COUNTY OF BREVARD)

5


6 I, LORI W. PYRON, Florida Professional
7 Reporter, do hereby certify that I was authorized
8 to and did stenographically transcribe the
9 statement of Counsel on the Record..

10 I further certify that I am not a relative,
11 employee, or attorney, or counsel of
12 employee of any other parties' attorney or
13 counsel connected with this action, nor
14 am I financially interested in the action.

15

16 DATED this 29th day of November, 2023.

17
18
19
20
21
22
23
24
25



Lori W. Pyron
Florida Professional Reporter
Notary Public at Large

RETURN OF SERVICE

Attachment B - Return of Service [Dkt. 59, 11-27-23]

State of Florida

County of Brevard

18th Circuit Court

Case Number: 05-2023-CA-018437-XXX-XX
Division: Civil

Jennifer Jenkins,
Plaintiff

v

**Brevard County School Board
and Matthew Susin, in his individual capacity**
Defendants

For:
Jessica J. Travis, Esq.,
Attorney

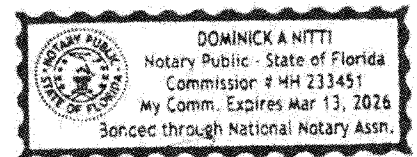
Received by John Aiani on October 27, 2023 at 9:25am to be served on **Randy Fine,**
103 Oak St Melbourne Beach FL 32951

I, John Aiani do hereby affirm that on October 30, 2023 at 11:10am, executed service by delivering a true copy of the:
Subpoena For Deposition in accordance with state statutes in the manner marked below:

- INDIVIDUAL/PERSONAL:** Served the within named person.
- SUBSTITUTE SERVICE:** By serving **Wendy Fine, spouse of Randy Fine**
- POSTED:** By attaching a true copy in a conspicuous place. Attempts as follows:
- NON SERVICE:**

I hereby certify that I am over eighteen years old and not party in this case, and, therefore, authorized to serve civil subpoenas pursuant to Florida Rule of Civil Procedure 1.410(d) and section 48.021, Florida Statutes. Further, I am a licensed investigator in good standing for the jurisdiction in which this service was made. Under penalties of perjury, I declare that I have read the foregoing Return of Service and that the facts stated in it are true.

John Aiani
John Aiani Lic# C1000533
Pinstripe Investigations Inc
PO Box 410645
Melbourne, Fl. 32941
321-288-6317



John Aiani
11/27/23

EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA

JENNIFER JENKINS,

Plaintiff,

v.

CASE NO. 05-2023-CA-018437-XXX-XX

BREVARD COUNTY SCHOOL
BOARD; and
MATTHEW SUSIN,
in his individual capacity,

Defendants.

*Served 10/30/23
11:10A.
to Wendy Fine
[Signature]*

SUBPOENA FOR DEPOSITION

TO: Randy Fine
103 Oak St., Melbourne Beach, FL 32951.

YOU ARE COMMANDED to appear in person at the following location, date, and time, and as may be necessary thereafter, to testify in this case. If you fail to appear, you may be held in contempt of court.

Friday, November 3rd, 2023, at 9:30 A.M.
Huseby Reporting, 14 Suntree Place, Melbourne, FL 32940.

You are subpoenaed to appear by the following attorney and, unless excused from this subpoena by this attorney or the Court, you shall respond to this subpoena as directed. By Florida Law, if this matter is rescheduled, this subpoena remains in effect for the new date, until the case is resolved, or you are otherwise notified.

Please confirm receipt of this subpoena to see if you may be excused from appearing and to provide the office with your phone number so that you may be contacted when your testimony is required for hearing. Please Call /Text: 321-728-7280; Email: Paralegal@DefendBrevard.com

DATED on this 24th day of October 2023.

DefendBrevard.com
1370 Bedford Drive, Suite 104
Melbourne, Florida 32940
(321) 728-7280/ Contact@DefendBrevard.com

[Signature]

Jessica J. Travis, Attorney for Plaintiff
Florida Bar No. 076701

Attachment C – Affidavit of Investigator John Aiani

AFFIDAVIT

1. My name is John Aiani. I am a licensed investigator. My license number is C1000533.
2. On October 26, 2023, investigator John Aiani went to the residence of Randy Fine, located at 103 Oak St Melbourne Beach FL 32951, to serve him with a subpoena provided to me by attorney Jessica Travis for deposition in the case of *Jennifer Jenkins v. Brevard County School Board and Matt Susin*, case no. 05-2023-CA-018437. I had located photos of Randy Fine and his wife. Upon arriving, the gate was open and I noted that Randy Fine's vehicle a blue Tesla FL tag# 83B-MTL (with a Harvard Alumni license plate cover) was clearly visible parked in the garage with the garage door open. The license tag was clearly visible from the driveway. When I knocked on the door a male who was not Randy Fine answered the door. The man stated he was only visiting and would not accept service. I left a copy of the subpoena folded and in the door handle but did not consider this valid service.
3. On October 27, 2023, I again went to the Fine residence. Earlier, Attorney Travis had given me an amended subpoena for the same date and time but indicating that the deposition was to be videotaped. A car was in the driveway but it was not the cars I had seen the day before. The lights were on, but no one answered the door when I knocked. I then proceeded to drive to the office of Randy Fine located at 2539 Palm Bay Rd Palm Bay FL 32905 to locate & serve Randy. At this time, I could observe that Mr. Fine's blue Tesla was not present and I departed the area.
4. On the morning of October 30, 2023, I went to the Fine residence for a third time. Wendy Fine, Randy Fine's wife, answered the door. I advised her I was recording and that I was serving her with a subpoena for Randy Fine. Though she refused to allow me to hand it

to her, the subpoena was folded and left in the door handle. Service was documented by video recording and I later executed a certificate of service.

5. On the same day, just after serving on Wendy Fine, I drove by the office of Randy Fine located at 2539 Palm Bay Rd Palm Bay FL 32905 arriving at approx 11:36am and noted a blue Tesla with FL tag# 83B-MTL was parked in the parking lot in front of Mr Fine's office. I called Attorney Travis and she asked me to attempt personal service of Randy Fine. I approached the front of the office. The door to Randy Fine's office is glass and the front of the office has several large windows. I found the door was locked and looked in the door and windows. I knocked to get the attention of any occupants. Twice, I saw a blond woman looking from a doorway but she did not come to the door. When I looked to see if there were any other occupants, I saw Randy Fine dive behind his desk in an apparent effort to hide from me. I called Attorney Travis and reported my observations. It was decided that she would call, advise them of why I was present, and ask Randy Fine to come to the door. We hung up but she quickly called me back to say no one had answered but she had left a voicemail with details as to why I was there. During this time, I had stayed in the area parking my vehicle in the parking lot of Randy Fine's office, allowing to me have a clear view to Mr. Fine's office. She asked me to reapproach the office. At approx. 12:18pm I approached the office door a 2nd time. In doing so, I knocked, stated my name, and held my credentials – my Florida driver's license, Florida private investigator license and business cards – up to the glass. Still no one came to the door. At approx. 12:35pm a man in a red shirt came from the neighboring office of John Tobia and appeared to be photographing or videotaping me while he was on his cell phone. Based on his conduct, it appeared he may have been asked by Randy Fine to do so. I

asked the man to ask Randy Fine to come to the door but the man claimed he was not talking to Randy Fine. At 12:44pm I departed the parking lot area of Mr. Fine's office and left the area. I drove north on Palm Bay Rd and immediately observed 2 PBPD police vehicles in a parking lot on the north side of Palm Bay Rd within a short distance from Mr. Fine's office. I had thought that perhaps Randy Fine would call the police, so I could show the officers my credentials and obtain service. However, no police officers appeared during the approximately 1 hour and 8 minutes I was present. These attempts were also videotaped.

6. I made no further efforts to personally serve Randy Fine.

John J. Aiani

Printed Name

[Signature]

Legal Signature

Subscribed and sworn to before me this 30 day of November, 2023.

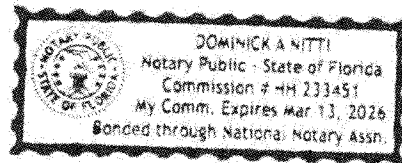
[Signature]

Notary Public

Brevard, FL

County, State

NOTARY SEAL



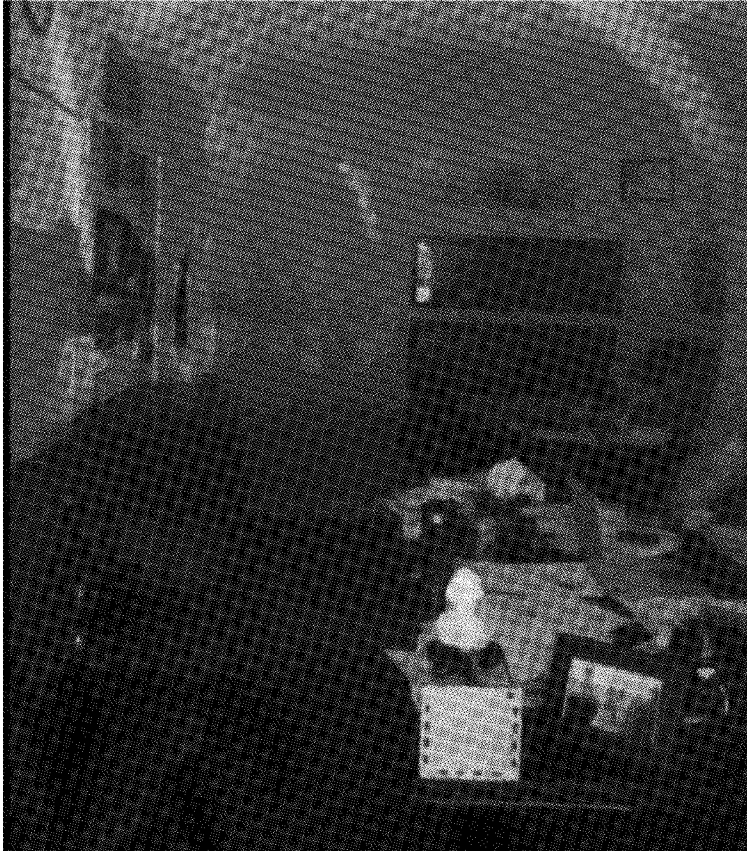
Attachment D - Front of Randy Fine's office

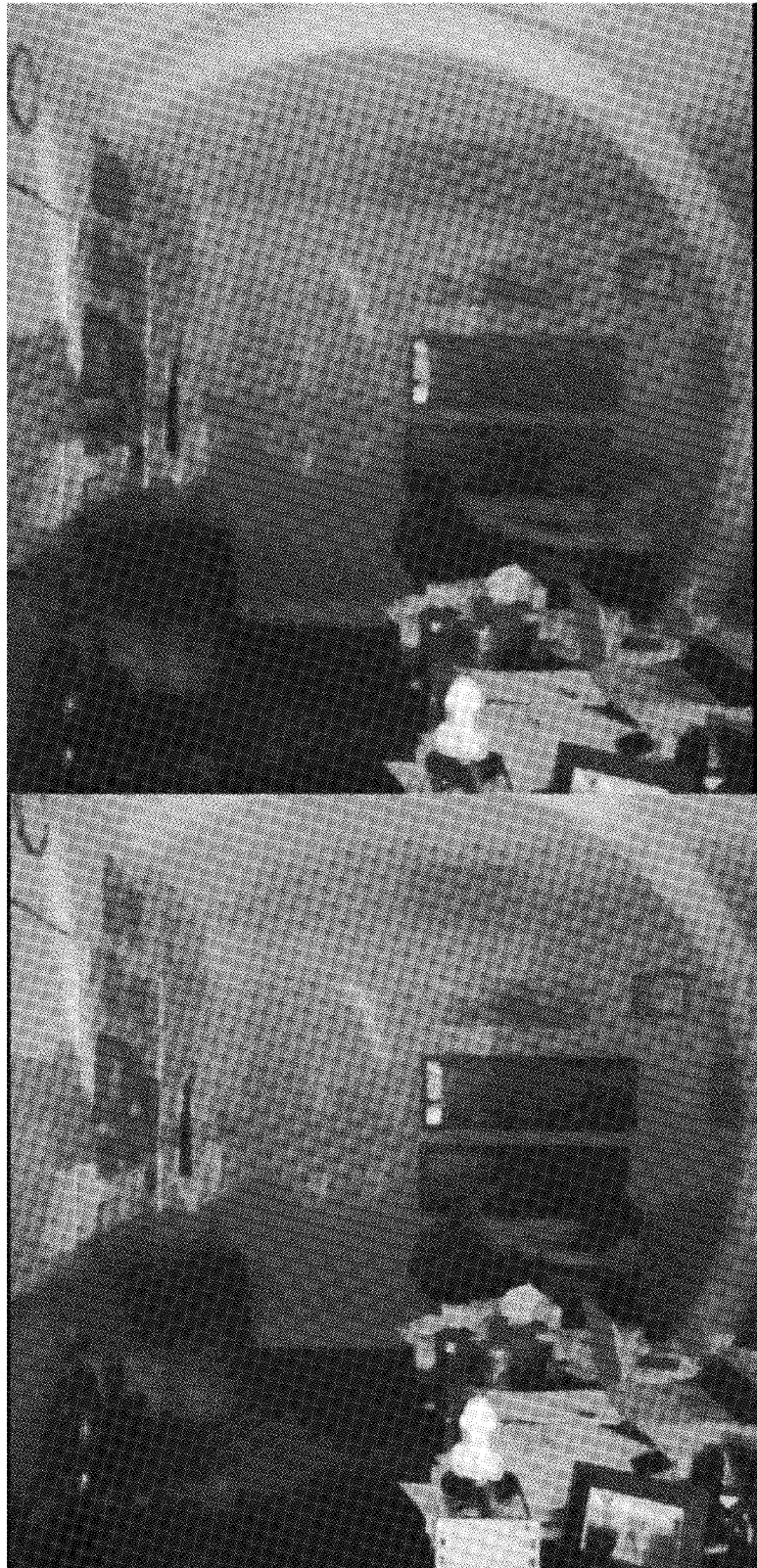


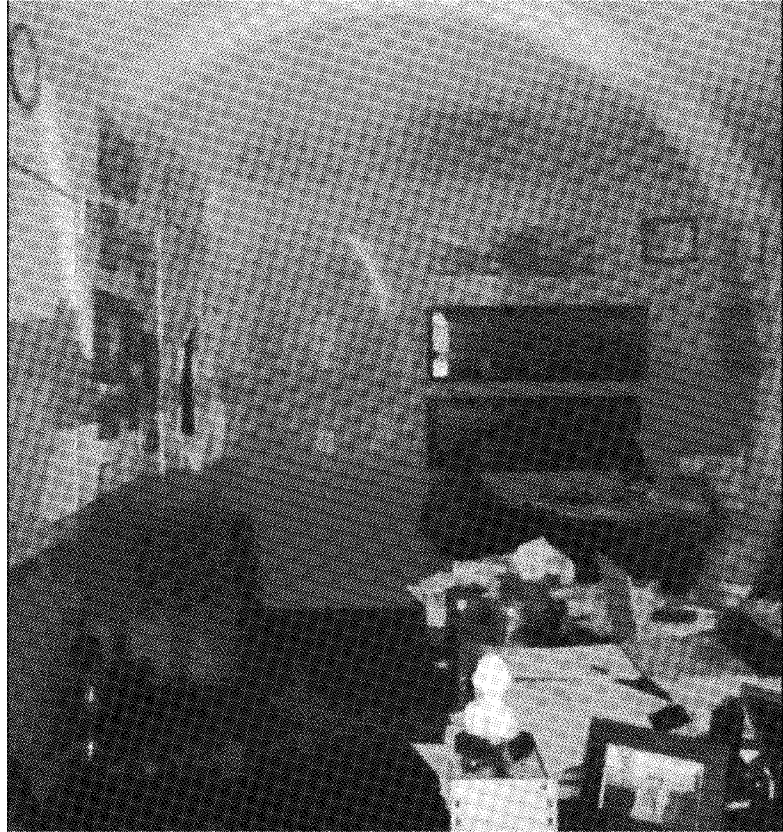
Attachment E – Screen capture showing blond woman peering from doorway



Attachment F – Screen captures showing Randy Fine diving behind desk (to the right)







Jessica J. Travis, Esq.
DefendBrevard.com
1370 Bedford Drive, Suite 104
Melbourne, FL 32940

SCANNED

RECEIVED

NOV 14 2023

DefendBrevard.com

ORLANDO FL 328
2 NOV 2023 PM 4 L

RETURN TO
sender

Randall Fine
2539 Palm Bay Road Northeast
Palm Bay, FL 32909 0524

NIXIE 339 FE 1 0011/09/23

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

UTC EC: 32940199329 *0474-05662-02-41



Jessica J. Travis, Esq.
DefendBrevard.com
1370 Bedford Drive, Suite 104
Melbourne, FL 32940

RECEIVED

NOV 28 2023

DefendBrevard.com

ORLANDO FL 328
2 NOV 2023 PM 3 L

Return to sender

Randall Fine
103 Oak Street
Melbourne

NIXIE 339 FE 1 0011/11/23

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

UTC EC: 32940199329 *0374-01094-02-41



Attachment H – Amended Return of Due Diligence by Process Server
Glenda Stephenson [Dkt. 65, 11-29-23]

>==>> AMENDED RETURN OF DUE DILIGENCE

State of Florida

County of Brevard

Circuit Court

Case Number: 05-2023-CA-018437-XXXX-XX Court Date: 11/29/2023 1:30 pm

Plaintiff:
JENNIFER JENKINS

vs.

Defendant:
**BREVARD COUNTY SCHOOL BOARD AND MATTHEW SUSIN IN HIS INDIVIDUAL
CAPACITY,**

For:
Jessica J. Travis, Esq.
Defendbrevard
1370 Bedford Drive
Suite 104
Melbourne, FL 32930

Received by CALIBER COURT SERVICES, LLC on the **16th day of November, 2023 at 4:43 pm** to be served on **RANDY FINE, 103 OAK STREET, MELBOURNE BEACH, FL 32951.**

I, G. L. Stephenson, CPS #190, do hereby affirm that on the **29th day of November, 2023 at 2:00 pm, I:**

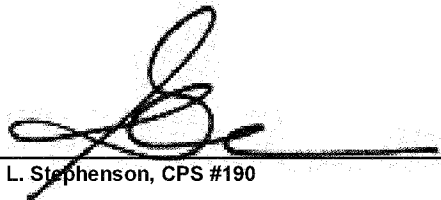
NON-SERVED the **SUBPOENA FOR AUDIO-VISUALLY RECORDED DEPOSITION** for the reason that I failed to find **RANDY FINE** or any information to allow further search. Read the comments below for further details.

Additional Information pertaining to this Service:

11/18/2023 9:30 am No cars in drive; no answer to door knock.
11/21/2023 10:00 am Attempted service at 2539 Palm Bay Rd., Palm Bay, FL 32905. Sign on door to call for appointment. 321-409-2017 Called telephone number, left message. Went to home address: 103 Oak St., Melbourne Beach, FL at 11:10 am. No cars; no answer. Front gate open.
11/21/2023 11:30 am Attempted Service. Front gate to property open; one vehicle in driveway, one vehicle in garage (garage door open) Blue Tesla, FL Tag RAF7. No answer to door knock. Rang bell. No response. Cameras on front of home. Stayed on premises until 11:55 am. No one would come to door.
11/22/2023 3:00 pm Attempted service. 2539 Palm Bay Rd., Palm Bay, FL. Office not open.
11/25/2023 5:53 pm Attempted service at home address. No cars in drive. Gate open.
11/27/2023 11:00 am Attempted service at business address; office not open. Called telephone number on the front door:
11/28/2023 9:45 am Attempted service. Gate open. No cars in drive. Did not approach door, waited on premises for any movement. Stayed on premises until 10:15 am. No movement: egress/ingress. Stopped by 2539 Palm Bay Rd., Palm Bay, FL 32905. Office not open.
11/29/2023 1:30 pm Arrived at 14 Suntree Place, Melbourne, FL 32940 to meet witness. By 2:00 pm, the witness had not appeared for the deposition. Non Served.
>=> 11/29/2023 2:00 pm AMENDMENT: TELEPHONE MESSAGES LEFT ON THE BUSINESS OFFICE TELEPHONE NUMBER FOR RANDY FINE: (321) 409-2017 REMAINED UNRETURNED. NO RETURN CALLS TO ARRANGE FOR SERVICE WAS RECEIVED BY THIS SERVER.

I hereby certify that I am over eighteen years old, not interested in this action and authorized to serve process pursuant to State Statutes and by Order signed by Circuit Judge in aforementioned county.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.



G. L. Stephenson, CPS #190

CALIBER COURT SERVICES, LLC
163 Anderson Ave N.E.
Palm Bay, FL 32907
(321) 243-9072

Our Job Serial Number: PFC-2023001668

Attachment I – (Randy Fine’s) Emergency Motion For Continuance Of Hearing And Stay Pursuant to F.S. 11.111 [21-DR-050417, Dkt. 16, 11-3-21]

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA
DOMESTIC RELATIONS/FAMILY DIVISION

JENNIFER JENKINS,

Petitioner,

v.

RANDY FINE,

Respondent.

CASE NO. 05-2021-DR-050417

(Stalking/Cyberstalking Injunction)

EMERGENCY MOTION FOR CONTINUANCE OF HEARING AND STAY
PURSUANT TO F.S. 11.111

COMES NOW, pursuant to limited appearance, Aaron D. Lyons, Esq., as counsel for Defendant, Randy Fine, and hereby moves this Honorable Court to continue the hearing set for Friday, November 5, at 1:30 PM, and stay this matter pursuant to Florida Statute section 11.111, and in support thereof, as good cause shown, states as follows:

1. Petitioner, Jennifer Jenkins, is a highly visible political figure, the most vocal and publicly known Brevard County School Board member, having appeared in print media and on local and national cable news networks expressing her controversial opposition to various policies established by the Governor and the Florida Department of Education.

2. Randy Fine is the 53rd district’s Representative to the Florida House of Representatives, and the nature of the opinions expressed on Representative Fine’s Facebook page (which Ms. Jenkins can choose not to look at) regarding Ms. Jenkin’s public policies, statements and activities speak for themselves, as protected speech pursuant to the United States and Florida Constitutions.

3. The significant issues regarding the Petitioner’s failure to state a claim and regarding the Constitutional ramifications of the claims in the Petition constitute good cause for the hearing on

the merits of Petitioner's claims to be continued pending a determination of whether Petitioner has or can state a claim, which will be promptly raised upon sufficient time for preparation thereof following service of process and the conclusion of the legislative session, as explained below.

3. Service of process of Petitioner's pending Petition has not been accomplished, which, pursuant to Florida Statutes Chapter 39, is good cause shown for continuance of the pending and imminent hearing in and of itself.

4. As a matter of public record, the Florida Legislature begins a special session on November 15, 2021. <https://www.flgov.com/2021/10/29/governor-ron-desantis-announces-date-of-special-session-to-protect-florida-jobs/>

5. Florida Statutes section 11.111 provides in pertinent part as follows:

Continuance of certain causes for term of Legislature and period of time prior and subsequent thereto and committee workdays.—Any proceeding before any court, municipality, or agency of government of this state shall stand continued, without the continuance being charged against any party, during any session of the Legislature and for a period of time 15 days prior to any session of the Legislature and 15 days subsequent to the conclusion of any session of the Legislature, and during any period of required committee work and for a period of time 1 day prior and 1 day subsequent thereto, when either attorney representing the litigants is a legislator or when a member of the Legislature is a party or witness or is scheduled to appear before any municipal government, administrative board, or agency, when notice to that effect is given to the convening authority by such member.

6. Florida Statutes section 11.111 requires, as a matter of law, that proceedings on this matter be stayed pending conclusion of the legislative session and committee workdays thereafter plus fifteen (15) days. The undersigned will provide prompt notice to the Court of when such time period will expire once the end of the legislative session and committee workdays have been determined.

WHEREFORE, the undersigned Counsel Respondent, by way of limited appearance pending service of process, moves this Honorable Court for entry of an Order continuing the pending

hearing scheduled for November 5 at 1:30 PM be continued for good cause shown the proceedings stayed pursuant to Florida Statutes section 11.111 as requested herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to all counsel of record via the Florida e-filing system and by email or regular mail to any attorney of record not registered on this 3rd day of November 2021.

LACEY | LYONS | REZANKA

/s/ Aaron D. Lyons

AARON D. LYONS, ESQUIRE

Florida Bar No. 85758

Email: alyons@llr.law

Secondary: rdaniels@llr.law

Other: Filings@llr.law

6023 Farcenda Pl

Suite 102

Melbourne, FL 32940

Phone: (321) 608-0890

Fax: (321) 608-0891

Counsel for Defendant, Randy Fine

Attachment J – (Randy Fine’s) Notice Of Stay Pursuant To F.S. 11.111
[21-DR-050417, Dkt. 40, 11-12-21]

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA
DOMESTIC RELATIONS/FAMILY DIVISION

JENNIFER JENKINS,

CASE NO. 05-2021-DR-050417

Petitioner,

(Stalking/Cyberstalking Injunction)

v.

RANDY FINE,

Respondent.

_____ /

NOTICE OF STAY PURSUANT TO F.S. 11.111

COMES NOW, the undersigned counsel for Respondent, Randy Fine, and hereby provides notice of stay of this matter pursuant to Florida Statutes section 11.111, and in support thereof, states as follows:

1. Respondent is the 53rd district’s Representative to the Florida House of Representatives.
2. As a matter of public record, the Florida Legislature begins a special session on November 15, 2021. <https://www.flgov.com/2021/10/29/governor-ron-desantis-announces-date-of-special-session-to-protect-florida-jobs/>
3. Florida Statutes section 11.111 provides in pertinent part as follows:

Continuance of certain causes for term of Legislature and period of time prior and subsequent thereto and committee workdays.—Any proceeding before any court, municipality, or agency of government of this state shall stand continued, without the continuance being charged against any party, during any session of the Legislature and for a period of time 15 days prior to any session of the Legislature and 15 days subsequent to the conclusion of any session of the Legislature, and during any period of required committee work and for a period of time 1 day prior and 1 day subsequent thereto, when either attorney representing the litigants is a legislator or when a member of the Legislature is a party or witness or is scheduled to appear before any municipal government, administrative board, or agency, when notice to that effect is given to the convening authority by such member.

Florida Statutes section 11.111 (emphasis added).

3. As a matter of law, Florida Statutes section 11.111 automatically stays this matter for 15 days before and after the conclusion of the special legislative session that begins on November 15, and for 1 day prior to and after committee work, as a matter of law.

4. This is a non-emergency case. The Court denied Petitioner's requests for entry of a temporary injunction six (6) times, specifically finding the absence of an emergency or immediate harm: "[T]here is no appearance of an immediate and present danger." Order dated October 29, 2021, p. 1; see also Order dated October 28, 2021; First Amended Order dated October 29, 2021; Order dated November 3, 2021; Order dated November 4, 2021; and Order dated November 5, 2021. See A.B.C. Business Forms, Inc. v. Spaet, 201 So.2d 890, 892 (Fla. 1967) ("[I]n non-emergency cases F.S. s 11.111, F.S.A. is constitutional and should be liberally construed."). Not only is this a non-emergency case, but on its face, it fails to state a claim and solicits the Court to violate the First Amendment to the Florida and United States Constitutions. See Krapacs v. Bacchus, 301 So.3d 976, 978-79 (Fla. 4th DCA 2020) (holding that "social media posts" are "constitutionally protected activities and do not qualify as ... stalking"); Logue v. Book, 297 So.3d 605, 611 (Fla. 4th DCA 2020) ("[I]njunctive relief is not available to stop someone from uttering [alleged] insults or falsehoods...[because]... there is an adequate remedy at law: an action for damages...[but]... tossing insults, as Respondent [allegedly] did in this case, is not defamation.... Even if it were, an injunction is not the appropriate remedy.").

5. Liberally construing section 11.111, all substantive matters in this case "shall stand continued." Florida Statutes section 11.111. "Although there is no fixed construction of the word 'shall,' it is normally meant to be mandatory in nature." S.R. v. State, 346 So.2d 1018, 1019 (Fla. 1977)(citations omitted).

WHEREFORE, the undersigned counsel for Respondent hereby provides notice of stay pursuant to Florida Statutes section 11.111.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to all counsel and pro se of record via the Florida e-filing system and by email or regular mail to any attorney or person not registered on this 12th day of November 2021.

LACEY | LYONS | REZANKA

/s/ Aaron D. Lyons

AARON D. LYONS

Florida Bar No. 85758

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ETHAN B. BABB

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Melbourne, FL 32940

Phone: (321) 608-0890

Fax: (321) 608-0891

Counsel for Respondent, Randy Fine

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**In re: Randall Fine,
Respondent.**

**DOAH Case No.: 23-2760EC
Complaint No.: 22-079**

JOINT RESPONSE TO INITIAL ORDER

COMES NOW, Advocate for the Commission on Ethics and Respondent's Counsel, and file the following response to the Initial Order.

- a. There are no other related cases currently pending before the Division of Administrative Hearings.
- b. The parties estimate three (3) days will be required for formal hearing in this case.
- c. The parties recommend conducting the hearing conducting the hearing in Brevard County which is the county of residence for Respondent and potential witnesses.
- d. Due to the accelerated schedule of the upcoming 2024 Regular Session of the Legislature, the attendant advance committee weeks and bill filing and appropriation requests deadlines, all Parties cannot provide suggested hearing dates within the time frames set forth in the Initial Order. The Parties agree that discovery should proceed as the availability of the Parties will allow. The Parties suggest that the Parties file a joint status report by the sixtieth (60th) day after the date of the Initial Order.
- e. The parties are unaware of the need for ADA accommodations.

Signed, dated, and entered into:
this 1st day of August, 2023.

Signed, dated, and entered into:
this 1st day of August, 2023.

_____/s/
Melody A. Hadley
Advocate for the Florida
Commission on Ethics
Florida Bar No. 0636045
Office of the Attorney General
The Capitol, PL-01
Tallahassee, Florida 32399-1050
(850) 414-3300
melody.hadley@myfloridalegal.com

_____/s/
Richard Coates, Esquire
Florida Bar No. 0930032
Coates Law Firm, PL
115 East Park Avenue, Suite 1
Tallahassee, Florida 32301
(850) 681-1029
rcoates@rcoateslaw.com
Attorney for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the forgoing was sent to Counsel for Respondent, Richard Coates, 115 East Park Avenue, Suite 1, Tallahassee, Florida 32301, rcoates@rcoateslaw.com, via e-mail only, this 1st day of August, 2023.



Melody A. Hadley

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

IN RE: RANDALL FINE,

Case No. 23-2760EC

Respondent.

ORDER GRANTING EXTENSION OF TIME

Upon consideration of the parties' Joint Response to the Initial Order filed August 1, 2023 (Joint Response), requesting additional time to file a status report providing available hearing dates, it is

ORDERED:

1. The Joint Response is considered a waiver of the statutory timeframes within which a hearing in this case should be held.
2. The request for additional time is GRANTED.
3. The parties shall file a Joint Status Report on or before September 25, 2023, setting forth multiple mutually available dates for a three-day hearing in this case.

DONE AND ORDERED this 2nd day of August, 2023, in Tallahassee, Leon County, Florida.



JAMES H. PETERSON, III
Administrative Law Judge
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
www.doah.state.fl.us

COPIES FURNISHED:

Millie Wells Fulford, Agency Clerk
(eServed)

Richard E. Coates, Esquire
(eServed)

Melody A. Hadley, Esquire
(eServed)