

FILED

STATE OF WISCONSIN

FEB 01 2021

IN SUPREME COURT

**CLERK OF SUPREME COURT
OF WISCONSIN**

IN THE MATTER OF DISCIPLINARY PROCEEDINGS
AGAINST WALTER W. STERN, III, ATTORNEY AT LAW.

CASE CODE: 30912

OFFICE OF LAWYER REGULATION,
Complainant,

CASE NO.: 2020AP201-D

WALTER W. STERN, III,
Respondent.

ORDER RELATED TO SUBPOENA DUCES TECUM OF DANIEL STORM

The Office of Lawyer Regulation (OLR), Complainant, by Jonathan Hendrix, Esq., asked the undersigned Referee to sign a subpoena duces tecum for Daniel Storm to produce documents and give testimony in this matter during a deposition scheduled for the afternoon of January 28, 2021. The subpoena was signed on January 21, 2021. The signed copy was scanned and emailed to Mr. Hendrix and Mr. Robert Sfasciotti, Respondent's counsel, that same day as well as being placed in the U.S. Mail. On the afternoon of January 23, 2021, Mr. Storm was served with a copy of the scanned subpoena.

On January 27, 2021, the undersigned received a 5-page document by mail (postmarked two days earlier) from Mr. Storm in which he lodged numerous facial and substantive objections to the subpoena duces tecum. He also asserted that he had a doctor's appointment the next afternoon which conflicted with the time set for his deposition.

The undersigned scanned the 5-page document and emailed it to counsel asking for their responses. Mr. Hendrix responded by email that same afternoon indicating that he was canceling the January 28th deposition in view of Mr. Storm's assertion of a conflicting doctor's

appointment. He further indicated that he would reschedule the deposition and would respond in further detail to Mr. Storm's 5-page submission the following day.

On January 28, 2021, Mr. Hendrix on behalf of OLR did indeed make a more thorough response to Mr. Storm's submission which he emailed to the undersigned, Mr. Sfasciotti, the two assistants to counsel, and Mr. Storm. Mr. Hendrix accurately characterized Mr. Storm's submission as a "*pro se* objection and motion to quash the subpoena for his deposition." Mr. Hendrix then addressed *ad seriatim* all but two of Mr. Storm's objections.

Because Mr. Hendrix's responses are organized, clear, correct and accurate, I adopt OLR's January 28th letter in total and incorporate it herein rather than repeat the content of the letter in this recitation. I add that the greenish-blue color of the print on the subpoena with which Mr. Storm was served and about which he also complains is unusual but the print is legible and therefore does not invalidate the subpoena. Similarly, the size of the document compared with the size of the page it is printed on is unusual but inconsequential.

Mr. Hendrix also offered Mr. Storm four different dates in February for the deposition and further indicated that he was willing to conduct the deposition by video if Mr. Storm can delineate how he will deliver the subpoenaed documents to the parties.

NOW, THEREFORE, IT IS ORDERED:

1. Mr. Storm's *pro se* objections to the subpoena duces tecum are overruled and his request/motion to quash the subpoena are denied.
2. No later than Monday, February 1, 2021, at 3:00 p.m., Mr. Storm shall respond by email to Mr. Hendrix with copies to the undersigned, Mr. Sfasciotti, and both assistants to the attorneys (Deborah White and Deidre Vanheirsele) as to his availability for his deposition to be taken on the afternoon of either February 3, 4, 9, or 11, 2021. He may also express his preference for which of those days works best for him.

3. Mr. Storm may have his deposition conducted by video if he first specifies in writing how he will produce the subpoenaed documents to the attorneys.
4. Mr. Hendrix may submit a new subpoena for Mr. Storm's deposition.

Dated this 29th day of January 2021.

SUPREME COURT OF WISCONSIN



HON. JEAN A. DiMOTTO
REFEREE