

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

SUPERIOR COURT

ST. JOSEPH HEALTH SERVICES OF :  
RHODE ISLAND, INC. :

vs. :

C.A. No: PC-2017-3856

ST. JOSEPHS HEALTH SERVICES OF :  
RHODE ISLAND RETIREMENT PLAN, :  
as amended :

**Hearing Date: May 24, 2018**  
**@ 2:00 pm**

**RESPONDENT'S MEMORANDUM IN SUPPORT OF ITS MOTION TO COMPEL  
DOCUMENTS FROM THE RHODE ISLAND DEPARTMENT OF HEALTH**

On March 28, 2018, Respondent, through its Special Counsel, served a subpoena duces tecum on the Rhode Island Department of Health ("RIDOH"). Exhibit 1. This subpoena seeks four narrowly drawn categories of documents relating to pensions and the petitioner's 2009 and 2014 hospital conversions act proceedings, and was returnable on April 17, 2018. RIDOH has not served any objections (timely or otherwise) to the subpoena.

On April 13, 2018, counsel for RIDOH emailed Special Counsel and requested 30 additional days for compliance:

The Department requests a new date to respond to your subpoena, as responsive documents are in storage. We anticipate being complete with our search within 30 days. Please let us know if this agreeable to you and your client.

Exhibit 2. Special Counsel responded and offered a new return date of May 13. Id.

On May 16, 2018, having not heard from RIDOH and having received no documents, Special Counsel emailed RIDOH's counsel to inquire whether it would be producing its documents:

We have not received any documents from the Department of Health pursuant to the subpoena we issued on March 27, as to the return date of which, on April 13, you requested an extension of 30 days.

Please confirm that the Department of Health will be producing its documents tomorrow, May 17.

Exhibit 3. Counsel for RIDOH replied:

RIDOH respectfully requests an additional 30 days. We are sorting through an enormous amount of information with limited resources.

Exhibit 3.

On May 18, 2018, having still received no documents, Special Counsel emailed RIDOH's counsel and requested specific information concerning RIDOH's efforts to comply with the subpoena conducted to date and inquiring when Special Counsel will receive any documents already reviewed by RIDOH:

We cannot agree to a further extension of the Department's time for compliance (which has already elapsed) without concrete information (including dates and numbers) about the specific efforts the Department has taken to comply with the subpoena.

When did the Department initiate retrieval of its documents from storage? When did it receive those documents? How many pages have not yet been retrieved? How many pages of potentially responsive documents did the Department have that were not in storage? How many pages of documents has the Department gathered? Has the Department begun reviewing documents? How many documents has the Department reviewed and on which dates? How many pages have yet to be reviewed? How many employees have been conducting that review? How many employees have been assigned to conduct that review going forward?

Please immediately send us whatever responsive documents the Department has already reviewed, as there is no reason to hold those up.

Please also respond by Monday, May 21 with the above information. If we cannot achieve a satisfactory arrangement, we intend to file the attached motion to compel on Monday.

Exhibit 3. RIDOH's counsel responded:

We received 10 boxes of documents from storage. With limited staff and a lot of agency activity at this time, we will require more time to respond to your subpoena. What compelling reasons prevent you from agreeing to an extension?

Exhibit 3. Special Counsel responded:

The reasons include at least two:

First, there are over 2,700 pensioners whose pensions are at stake.

Second, there is your failure to respond to any of the questions I asked you.

Consequently we will be filing the motion to compel on Monday.

Exhibit 3.

### CONCLUSION

For all the foregoing reasons, an order should issue compelling production of documents from the Rhode Island Department of Health forthwith.

Respondent,  
Stephen F. Del Sesto, Esq., Permanent  
Receiver of the Receivership Estate,  
By his Attorneys,

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Dated: May 21, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that, on the 21st day of May, 2018, I filed and served the foregoing document through the electronic filing system on the following users of record:

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The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Max Wistow