

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOHN R. STELLY, II,	*	CIVIL ACTION NO. 2:23-cv-00772
Plaintiff,	*	
	*	JUDGE GREG G. GUIDRY
Versus	*	
	*	
STATE OF LOUISIANA, THROUGH,	*	MAGISTRATE JUDGE
DEPARTMENT OF PUBLIC SAFETY	*	JANIS VAN MEERVELD
AND CORRECTIONS, OFFICE OF	*	
STATE POLICE,	*	
Defendant.	*	

MEMORANDUM IN OPPOSITION TO DEFENDANT’S MOTION
TO STRIKE EVIDENCE AND MOTION FOR ATTORNEY FEES

MAY IT PLEASE THE COURT:

Plaintiff John R. Stelly, II (“Stelly”), by and through his undersigned counsel, hereby respectively submits this Memorandum in Opposition to Defendant State of Louisiana through Department of Public Safety and Corrections, Office of State Police (“Defendant” or “State Police” or “LSP”)’s Motion to Strike Plaintiff’s Summary Judgment Evidence. Stelly respectfully submits, for the reasons set forth below, that the Court should enter an Order denying Defendant’s motion, admitting into all the evidence that the Defendant challenged in this motion, and awarding Stelly attorney fees and sanctions for filing this opposition

The recent decision in this district of *Wilco Marsh Buggies & Draglines Inc. v. Weeks Marine, Inc.*, Civil Action 20-3135, at *12 (E.D. La. Dec. 21, 2022) cited the Fifth Circuit on the standard of authentication of evidence.

The Fifth Circuit has held that the “standard for authentication is not burdensome. *See United States v. Ceballos*, [789 F.3d 607, 618](#) (5th Cir. 2015). A proponent of evidence does not need to conclusively prove its authenticity. Rather, the proponent nearly needs to “produce

evidence sufficient to support a finding that the item is what the proponent is claimed it is.” [Fed.R.Evid. 901\(a\)](#). “

The general authentication requirement is governed by [Federal Rule of Evidence 901](#). As stated in this rule, “[t]o satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent is claimed it is.” [Fed. R. Evid. 901](#). The Rule goes on to list several examples of ways a party might satisfy this requirement, one being testimony by a witness with knowledge that the evidence “is what it is claimed to be.” [Fed. R. Evid. 901\(b\)\(1\)](#).

Walker v. Energy Transfer Partner, LLC, CIVIL ACTION No. 5:18-CV-0630, at *5 (W.D. La. Feb. 11, 2020)

Lt. Stelly is the witness with knowledge that the evidence he produced in his opposition to the motion for summary judgment is what he is claimed it is. Lt. Stelly was employed by LSP for over 26 years. Of that time, he was a lieutenant for 17 years. Having applied for and was denied promotion to captain at least 31 times, Lt. Stelly had knowledge of all the rules, policies and documents related to promotion to captain. Lt. Stelly also received over 1,300 pages of documents from the Defendant and over 700 pages of documents from the Louisiana State Police Commission. These two entities are public entities. The documents they produced to Lt. Stelly in this case are their business records kept in the normal course of their business. Also, Lt. Stelly obtained some documents from the Commission and the Defendant by making public records requests. These documents are authentic because they are business records of a public entity. Also, many of the Defendant’s policy documents were submitted to the EEOC by the Defendant. These documents are authentic because they are part of Lt. Stelly’s EEOC file, which was produced pursuant to a FOIA request.

Defendant has filed a frivolous motion with no individual description of each document challenged and no rationale as to why the documents produced and used in discovery could possibly not be authentic. Although Defendant stated in its motion was to strike “several” of

Stelly's exhibits, it actually moved to strike 36 exhibits. The Defendant cut and pasted stock objections without any analysis of why each individual document is not what Stelly claimed it is.

An example of the absurdity of this motion to strike is the attempt to strike Rec. Doc. 128-19, which is P.O. 229, the LSP's policy on promotions. (Rec. Doc. 138-1, p. 3) Every witness who was deposed was shown this document and asked if it was the LSP's promotion policy. After agreeing that P.O. 229 is the promotion policy of the LSP, the witnesses proceeded to answer questions about this policy and whether the LSP followed the policy. No witness suggested that this is not the policy. This policy has Bates numbers indicating that it was produced by the Defendant in discovery. LSP PO 229 Promotions, dated 10-15-12, LSP_STELLY 000386 – 000387.

Additionally, Defendant used P.O. 229 itself in its motion for summary judgment. This document is pages 22 and 23 of Exhibit F to the motion for summary judgment (Rec. Doc. 118-8, p. 22, 23). Does that mean the promotion policy P.O. 229 is authentic for the Defendant, but not authentic for Lt. Stelly?

Finally, Defendant also submitted to the EEOC copy of P.O. 229, Promotions Policy as Exhibit C of LSP's response to Stelly's charge of discrimination. See Exhibit 1 attached hereto, which is LSP's June 30, 2022 position paper to the EEOC, in which it attempts to show that Lt. Stelly was not discriminated against because of his race for the 30 times he was denied promotion to captain from 2006 to 2021.¹ Attached to the LSP's position paper is Exhibit A, B, C, and F, which documents in full or in part are being claimed to be not authentic in this motion.

In this circuit, however, while EEOC findings and reports are generally admissible evidence, documents in the EEOC file are not admissible absent an independent hearsay exception. [FED. R. EVID. 803\(8\)\(A\)\(iii\)](#) (delineating a

¹ In the case at bar Stelly is only claiming that race was a motivating factor in his being denied promotion to captain during the period of 2017-2021. (and not from 2006). The actionable is claimed are two non-promotions in 2021; however his denials of promotion from 2017-2021 show a pattern and practice of race discrimination in promotion.

hearsay exception for the "factual findings from a legally authorized investigation"); *McClure v. Mexia Indep. Sch. Dist.*, [750 F.2d 396, 400](#) (5th Cir. 1985) ("EEOC determinations and findings of fact, although not binding on the trier of fact, are admissible as evidence in civil proceedings However, neither under the [circuit] precedents nor under Rule [803(8)(A)(iii)] is the entire EEOC file admissible"); *see also Cruz v. Aramark Servs., Inc.*, [213 F. App'x 329, 332](#) (5th Cir. 2007) (holding that otherwise inadmissible EEOC statements and documents are only considered if they satisfy a hearsay exception).

Juneau v. Quality Christmas Tree, Ltd., CIVIL ACTION H-13-2535, at *6 (S.D. Tex. July 30, 2014)

Lt. Stelly is not attempting to admit hearsay statements contained in the EEOC file. He is using the position statement for the purposes of this Opposition to Motion in Limine to show that the Defendant submitted to the EEOC the same documents that it is now claiming are not authentic. These documents are policies of the LSP and a list of 30 promotions that Stelly was denied. They are not hearsay.

The LSP cannot claim that it can use documents to attempt to defeat Lt. Stelly's claims, but Lt. Stelly cannot use those same documents in proving his claims because they are not authentic. The only conclusion is that this is entire motion *in limine* is a frivolous motion by the Defendant. An award of attorney fees and sanctions are appropriate.

Now, Lt. Stelly will address the other documents claimed by the Defendant to be not authentic. For easier reference, Lt. Stelly will number the documents to be considered from 1-36. Lt. Stelly includes the Bates numbers to show if it a document that has been produced by Stelly to the LSP. Those documents are numbered Stelly 000001 forward. The documents produced by the LSP to Stelly are Bates numbered LSP_STELLY 000001 and forward. Documents produced by the Louisiana State Police Commission ("LSPC") are Bates numbered SPC 000001 and forward.

1) Record 128-14 – Demographics of LSP captains on Jan 1 of Every Year

- a) Bates numbered Stelly 00420.
 - b) Stelly listed this chart on his Witness and Exhibits List as Exhibit 102, “Demographics of LSP captains on Jan 1 of every year. Stelly 00420.”
 - c) Stelly created this chart based on data in documents produced by LSP via data from LSP_STELLY 001060-001065, 00139-00150, 00157-001192, 001196-001255 and data listed under LSP Exhibits 43, 48, and 50.
 - d) Under Federal Rules of Evidence 1006, Summaries are admissible to prove the content of other documents.
 - e) Stelly hereby testifies that this document is what he claimed it to be.
- 2) Record 128-15 – two pages of Stelly’s 08-03-22 letter to EEOC in rebuttal to LSP’s response to EEOC in reference to Stelly’s EEOC complaint.
- a) Bates numbered Stelly 00190, 00205.
 - b) LSP included the entirety of this document on its Witness and Exhibits List as Exhibit 106, “Stelly 1-257 - EEOC documentation;”
 - c) During his two depositions (his second deposition was as an expert witness), Stelly discussed this document and how he formed his opinions in this document. (See Stelly fact depo, pp 11-12, 237-238, 276; Stelly expert depo, pp 60-61, 85-90, 102-103, 143-147.)
 - d) Stelly hereby testifies that this document is what he claimed it to be.
- 3) Record 128-17 – LSPC response to Stelly’s public records request for information on the topics covered in its 2018 promotional test to captain that was given to all of the lieutenants

who applied for the posted positions for captain. Only the candidates who scored in the top seven grade groups were certified by the commission to be eligible for promotion.²

- a) Bates numbered Stelly 00417-00419.
 - b) LSP included the entirety of this document on its Witness and Exhibits List as Exhibit 91, “Ex. 2 Depo of Burns - 2018 LSP Captain Exam Test Plan & References.”
 - c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 99, “Stelly’s Public Records Request to LSP Commission and results therefrom for list of subjects on which the 2018 LSP captain examination was based, Stelly 00417 – 00419.”
 - d) LSP Commission sent this document to Stelly upon his public records request for the document as indicated on LSP Commission’s letter to Stelly on p 1 (Stelly 00417).
 - e) During LSP’s 30(b)(6) deposition, Robert Burns discussed the document. (See 30(b)(6) depo, pp 18-22.)
 - f) During his deposition, K Reeves discussed the document. (See Reeves depo, pp 44-48.)
 - g) Stelly hereby testifies that this document is what it is claimed to be.
- 4) Record 128-18 – LSP Commission rules, Chapter 7, Sections 7.1 – 7.7.
- a) Bates numbered Stelly 00331-00333.
 - b) LSP included the entirety of this Chapter on its Witness and Exhibits List as Exhibit 112, “Stelly 331 -346 – Chapter 7.”
 - c) Stelly included the entirety of this Chapter on his Witness and Exhibits List as Exhibit 90, “EEOC copy of Exhibit A for LSP’s response to Stelly’s charge of discrimination, LSPC Rules Chapter 7, Stelly 00222 – 00230, Stelly 00331 – 00338.”

² This was changed from the top 5 grade groups on June 1, 2018.

- d) LSP attached this document as Exhibit A to its position paper to the EEOC, which position paper responded to Stelly's EEOC charge. See Exhibit 1.
 - e) During his deposition, Davis discussed this document. (See Davis depo, pp 66-68.)
- 5) Record 128-19 – LSP PO 229, effective 10-15-12; LSPC Rules, Chapters 7 and 8
- a) See discussion of these documents on pages 3 and 4 above.
 - b) Stelly hereby testifies that this document is what it is claimed to be.
- 6) Record 128-20 – Bowman Group report on LSP
- a) Bates numbered Stelly 00376-00390.
 - b) Stelly included this document on his Witness and Exhibits List as Exhibit 5, "Louisiana State Police Assessment Report by The Bowman Group, dated October 2023, 00376 – 00390."
 - c) Stelly implicitly included this document on his Witness and Exhibits List as Exhibit 108, "All relevant publicly available Internet information."
 - d) Stelly downloaded this report from LSP's public website at the URL <https://www.lsp.org/about/leadershipsections/superintendent/strategic-support/professional-standards-compliance/tbg-report/> and selected desired pages from it.
 - e) During his deposition, VanBuren discussed it. (See VanBuren deposition, pp 36 – 42.)
 - f) Stelly hereby testifies that this document is what it is claimed to be.
- 7) Record 128-21 – Selected page of Stelly's journal
- a) Bates numbered Stelly 00286.
 - b) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 24, "Stelly's journal, Stelly 00282 – 00289."

- c) During his deposition, Stelly discussed this document. (See Stelly fact deposition, pp 177-179.)
 - d) During LSP's 30(b)(6) deposition, Burns discussed this document. (See 30(b)(6) deposition, pp 98-101.)
 - e) During his deposition, Reeves discussed this document. (See Reeves deposition, pp 113-124.)
 - f) Stelly prepared this journal at or soon after the time that the events occurred. The journal is an accurate depiction of what occurred.
 - g) Stelly hereby testifies that this document is what it is claimed to be.
- 8) Record 128-22 – Captain vacancy announcement for Operational Development, closing 06-18-21.
- a) Bates numbered Stelly 00436.
 - b) Stelly downloaded this form from the LSP Bulletin Board, one of LSP's electronic bulletin boards managed under its Lotus Notes system, to apply for the position that was ultimately awarded to Burns on 07-09-21. Stelly printed this form, completed it, signed it and emailed it as the form directed. Stelly maintained a physical copy of the completed form at his residence. That is Stelly's signature on the document.
 - c) Stelly hereby testifies that this document is what it is claimed to be.
- 9) Record 128-23 – A Study of Promotional Statistics within State Police.
- a) Bates numbered LSP_STELLY 001001 – 001024.
 - b) LSP included this document on its Witness and Exhibits List as Exhibit 38, “(LSP_STELLY 001001-001024) A Study of Promotional Statistics Within State Police.”

- c) Stelly included this document on his Witness and Exhibits List as Exhibit 25, “A Study of Promotional Statistics within State Police, 2000 to Current, by Stelly and William Moragne, dated 04-05-13, LSP 001001 – 0010024.”
 - d) Stelly co-authored this document in early 2013 while still employed by LSP.
 - e) LSP provided Stelly a copy of this document.
 - f) During Stelly’s expert deposition, LSP introduced this document and questioned Stelly about it. (See Stelly expert deposition, pp 22-24, 30, 58 – 66, 92 – 94.)
 - g) Stelly hereby testifies that this document is what it is claimed to be.
- 10) Record 128-24 – Captain vacancy announcement for Gaming, closing 06-18-21.
- a) Bates numbered Stelly 00437.
 - b) Stelly downloaded this form from the LSP Bulletin Board, one of LSP’s electronic bulletin boards managed under its Lotus Notes system, to apply for the position that was ultimately awarded to El-Amin on 07-09-21. Stelly printed this form, completed it, signed it and emailed it as the form directed. Stelly maintained a physical copy of the completed form at his residence.
 - c) The signature on this document is Stelly’s signature.
 - d) Stelly hereby testifies that this document is what it is claimed to be.
- 11) Record 128-25 – Attendance roster for LSP leadership training
- a) Bates numbered LSP_STELLY 001410 – 001411.
 - b) These are from the entire set of training rosters that LSP provided Stelly during discovery which are Bates labeled LSP_STELLY 001359 – 001413.
 - c) LSP provided Stelly this document in entirety during discovery
 - d) As an instructor of this class, Stelly recognizes this class roster.

e) Stelly hereby testifies that this document is what it is claimed to be.

12) Record 128-26 – Stelly’s PES from PY 07-01-14 / 06-30-15 through 07-01-20 / 06-30-21.

These are Stelly’s performance evaluations.

a) Bates numbered Stelly 00155 – 00189.

b) LSP included this document on its Witness and Exhibits List as Exhibit 106, Stelly 1-257 - EEOC documentation.”

c) Stelly included the version of this document that LSP sent him on his Witness and Exhibits List as Exhibit 10, “Performance and Evaluation System forms and associated documents on John Stelly dated from 05-04-96 to 07-28-21, LSP_STELLY 000112 – 000192.”

d) This is a subset of the version that Stelly included on his Witness and Exhibits List as Exhibit 87, “EEOC copy of Stelly’s annual evaluations from 08-10-04 through 06-30-21, Stelly 00047 – 00189.” Stelly included his version because LSP’s version was not well-organized.

e) The source of Stelly’s version of the document from which this document comes is that Stelly, who as custodian of such documents, made a copy of the copy that Stelly was required to maintain in his office.

f) During his deposition, Archote identified these documents and discussed them. (See Archote deposition, pp 20 – 28.)

g) Stelly hereby testifies that this document is what it is claimed to be.

13) Record 128-27 – Selected page of Stelly’s journal

a) Bates numbered Stelly 00282 – 00283.

b) As Stelly provided LSP this document in entirety during discovery.

- c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 24, “Stelly’s journal, Stelly 00282 – 00289.”
- d) During his deposition, Stelly discussed this document. (See Stelly fact deposition, pp 177-179.)
- e) During LSP’s 30(b)(6) deposition, Burns discussed this document. (See 30(b)(6) deposition, pp 98-101.)
- f) During his deposition, Reeves discussed this document. (See Reeves deposition, pp 113-124.)
- g) Stelly hereby testifies that this document is what it is claimed to be.

14) Record 128-28 – Disciplinary letter to Burns dated 06-13-17.

- a) Bates labeled LSP_STELLY 00392 – 00396.
- b) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 28, “Notice of 64-hour suspension to Robert Burns, dated 06-13-17, LSP_STELLY 000392 – 000396.”
- c) LSP provided Stelly a copy of this letter. LSP marked the initial version confidential but was persuaded to remove that confidential designation because the document is publicly available and then re-issued the same document without that designation.
- d) Stelly also procured a non-Bates labeled version by submitting a public records request to LSP for this document.
- e) Stelly hereby testifies that this document is what it is claimed to be.

15) Record 128-29 – Certificate of Eligibles for 21-1453 with scores redacted.

- a) Bates labeled SPC 000645.

- b) LSP included this document on its Witness and Exhibits List as Exhibit 87, “Ex. 15 Depo of Davis - Certification of Eligibles, BOI GED”; Exhibit 102, “Ex. 13 Depo of Burns – Official Certification of Eligibles, BOI GED”; Exhibit 122, “Documents produced by the State Police Commission in response to a subpoena regarding same and bates labeled SPC000001-000727”; and Exhibit 124, “State Police Commission Subpoena Duces Tecum Response.”
- c) Stelly included the unredacted version of this document that the LSP Commission sent him on his Witness and Exhibits List as Exhibit 68, “Official Certificate of Eligibles and Interview Summary Form for certificate 21-1453, SPC 000645 – 000646.”
- d) During LSP’s 30(b)(6) deposition, Burns discussed this document. (See 30(b)(6) deposition, p 165.)
- e) During his deposition, VanBuren discussed this document. (See VanBuren deposition, pp 65-66.)
- f) This document was Exhibit 15 of Davis’ deposition. (See Davis deposition, pp 126-127.)
- g) This is a document that is self-authenticating because it is certified by the Executive Director of the State Police Commission. FRE 902(8).

16) Record 128-30 – Selected page of Stelly’s journal.

- a) Bates numbered unreadable but matches Stelly 00283.
- b) Stelly provided LSP this document in entirety during discovery,
- c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 24, “Stelly’s journal, Stelly 00282 – 00289.”
- d) Stelly authored this document on his iPhone starting around late September 2017 and continuing throughout after his retirement.

- e) During his deposition, Stelly discussed this document. (See Stelly fact deposition, Exhibit 10, pp 177-179.)
- f) During LSP's 30(b)(6) deposition, Burns discussed this document. (See 30(b)(6) deposition, Exhibit 7, pp 98-101.)
- g) During his deposition, Reeves discussed this document. (See Reeves deposition, Exhibit 24, pp 113-124.)
- h) Stelly hereby testifies that this document is what it is claimed to be.

17) Record 128-31 – Stelly's 10-16-18 meeting notes.

- a) Bates labeled Stelly 00421 – 00435.
- b) Stelly provided LSP this document in entirety during discovery.
- c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 111, "Stelly's Cellphone Meeting Topics for Meeting with Reeves prepared by Stelly prior to meeting Stelly 00421-00435."
- d) During his expert deposition, Stelly discussed this document. (See Stelly expert deposition, pp 175-206.)
- e) Stelly authored this document on his iPhone prior to and up to just before his meeting with K Reeves and M Noel on 10-16-18. Stelly did not edit this file after the meeting began.
- f) Stelly hereby testifies that this document is what it is claimed to be.

18) Record 128-32 – Selected page of Stelly's journal.

- a) Bates numbered Stelly 00287.
- b) Stelly provided LSP this document in entirety during discovery.

- c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 24, “Stelly’s journal, Stelly 00282 – 00289.”
 - d) Stelly authored this document on his iPhone starting around late September 2017 and continuing throughout after his retirement.
 - e) During his deposition, Stelly discussed this document. (See Stelly fact deposition, Exhibit 10, pp 177-179.)
 - f) During LSP’s 30(b)(6) deposition, Burns discussed this document. (See 30(b)(6) deposition, Exhibit 7, pp 98-101.)
 - g) During his deposition, Reeves discussed this document. (See Reeves deposition, Exhibit 24, pp 113-124.)
 - h) Stelly hereby testifies that this document is what it is claimed to be.
- 19) Record 128-33 – Selected pages of Stelly’s journal.
- a) Bates numbered Stelly 00282 – 00283.
 - b) Stelly provided LSP this document in entirety during discovery,
 - c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 24, “Stelly’s journal, Stelly 00282 – 00289.”
 - d) Stelly authored this document on his iPhone starting around late September 2017 and continuing throughout after his retirement.
 - e) During his deposition, Stelly discussed this document. (See Stelly fact deposition, Exhibit 10, pp 177-179.)
 - f) During LSP’s 30(b)(6) deposition, Burns discussed this document. (See 30(b)(6) deposition, Exhibit 7, pp 98-101.)

g) During his deposition, Reeves discussed this document. (See Reeves deposition, Exhibit 24, pp 113-124.)

h) Stelly hereby testifies that this document is what it is claimed to be.

20) Record 128-34 – A Study of Promotional Statistics within State Police.

a) Bates numbered LSP_STELLY 001001 – 001024.

b) LSP included this document on its Witness and Exhibits List as Exhibit 38, “(LSP_STELLY 001001-001024) A Study of Promotional Statistics Within State Police.”

c) Stelly included this document on his Witness and Exhibits List as Exhibit 25, “A Study of Promotional Statistics within State Police, 2000 to Current, by Stelly and William Moragne, dated 04-05-13, LSP 001001 – 0010024.”

d) Stelly co-authored this document for LSP in early 2013 while still employed by LSP.

e) LSP provided Stelly a copy of this document.

f) During Stelly’s expert deposition, LSP introduced this document and questioned Stelly about it. (See Stelly expert deposition, pp 22-24, 30, 58 – 66, 92 – 94.)

g) Stelly hereby testifies that this document is what it is claimed to be.

21) Record 128-35 – LSP promotions with Stelly since 2008.

a) Bates labeled Stelly 00251.

b) LSP included this document on its Witness and Exhibits List as Exhibit 53, “Stelly Deposition, Ex. 2 - LSP Captain Promotion Data” and Exhibit 106, “Stelly 1-257 - EEOC documentation.”

- c) Stelly included this document on his Witness and Exhibits List as Exhibit 95, “EEOC copy of Exhibit F for LSP’s response to Stelly’s charge of discrimination, LSP Captain Promotion Data, Stelly 00251.”
- d) This document is Exhibit F to LSP’s response to EEOC Stelly’s EEOC charge.
- e) During his deposition, Davis discussed this document. (See Davis deposition, Exhibit 8, pp 66-68.)
- f) During his deposition, Stelly discussed this document. (See Stelly fact deposition, Exhibit 2, pp 79-80.)
- g) Stelly hereby testifies that this document is what it is claimed to be.

22) Record 128-36 – Stelly’s 08-03-22 letter to EEOC in rebuttal to LSP’s response to EEOC in reference to Stelly’s EEOC charge.

- a) Bates numbered Stelly 00190 – 00217.
- b) This document is Stelly’s 08-03-22 letter to EEOC Sirwanda Hall in rebuttal to LSP’s response to EEOC in reference to Stelly’s EEOC charge.
- c) During his depositions, Stelly mentioned its existence and discussed it. (See Stelly fact deposition, pp 11-12, 237-238, 276; Stelly expert deposition, pp 60-61, 85-90, 102-103, 143-147.)
- d) Stelly hereby testifies that this document is what it is claimed to be.

23) Record 128-40 – one page of Stelly’s 08-03-22 letter to EEOC in rebuttal to LSP’s response to EEOC in reference to Stelly’s EEOC complaint.

- a) Bates numbered Stelly 00205. This is one page of the document described in 22 above.
See above argument
- b) Stelly hereby testifies that this document is what it is claimed to be.

- 24) Record 128-41 – Stelly’s PES from PY 07-01-16 / 06-30-17 through 07-01-20 / 06-30-21.
- a) Bates numbered Stelly 00165 – 00189.
 - b) These are Lt Stelly’s performance evaluations.
 - c) The source of Stelly’s version of the document from which this document comes is that Stelly, who as custodian of such documents, made a copy of the copy that Stelly was required to maintain in his office while still employed by LSP as Troop B’s Executive Officer.
 - d) During his deposition, Archote identified these documents and discussed them. (See Archote deposition, pp 20 – 28.)
 - e) Stelly hereby testifies that this document is what it is claimed to be.
- 25) Record 128-42 – LSPC response to Stelly’s public records request for information on its 2018 promotional test.
- a) Bates numbered Stelly 00417-00419.
 - b) LSP Commission sent this document to Stelly upon his public records request to it for same as indicated on LSP Commission’s letter to Stelly on p 1 (Stelly 00417).
 - c) During LSP’s 30(b)(6) deposition, Robert Burns discussed the document. (See 30(b)(6) deposition, Exhibit 2, pp 18-22.)
 - d) During his deposition, K Reeves discussed the document. (See Reeves deposition, Exhibit 99, pp 44-48.)
 - e) Stelly hereby testifies that this document is what it is claimed to be.
- 26) Record 128-43 – LSP Commission Rules, Chapter 7, Rule 7.7(a)
- a) Bates numbered Stelly 00333.

- b) LSP included the entirety of LSP Commission Rules, Chapter 7 on its Witness and Exhibits List as Exhibit 112, “Stelly 331 -346 – Chapter 7.”
 - c) This document is Exhibit A to LSP’s response to the EEOC, responding to Stelly’s EEOC charge.
 - d) During his deposition, L Davis discussed this document. (See Davis deposition, Exhibit 8, pp 66-68.)
 - e) Stelly hereby testifies that this document is what it is claimed to be.
- 27) Record 128-44 – LSP PO 229, effective 10-15-12; LSP Commission Rules, Chapters 7 and 8. Duplication of No. 5 above.
- 28) Record 128-45 – Stelly’s PES from PY 07-01-14 / 06-30-15 through 07-01-20 / 06-30-21.
- a) Bates numbered Stelly 00047 – 00189.
 - b) These are Stelly’s performance evaluations. Stelly included his version because LSP’s version was not well-organized.
 - c) The source of Stelly’s version of the document from which this document comes is that Stelly, who as custodian of such documents, made a copy of the copy that Stelly was required to maintain in his office while still employed by LSP as Troop B’s Executive Officer.
 - d) During his deposition, Archote identified these documents and discussed them. (See Archote deposition, pp 20 – 28.)
 - e) Stelly hereby testifies that this document is what it is claimed to be.
- 29) Record 128-46 – Stelly’s PES from PY 07-01-14 / 06-30-15 through 07-01-20 / 06-30-21.
- a) Bates numbered Stelly 00155 – 00189.
 - b) This is a subset of No 28 above. See arguments there.

- 30) Record 128-47 – Disciplinary letter to Burns dated 06-13-17.
- a) Bates labeled LSP_STELLY 00392 – 00396.
 - b) Duplicate. See arguments at No. 14 above.
- 31) Record 128-48 – Attendance roster for LSP leadership training
- a) Bates numbered LSP_STELLY 001410 – 001411.
 - b) Duplicate, see arguments at No. 11.
- 32) Record 128-49 – Selected pages of Stelly’s journal
- a) Bates numbered but unreadable but matches Stelly 00283-00284.
 - b) Stelly provided LSP this document in entirety during discovery.
 - c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 24, “Stelly’s journal, Stelly 00282 – 00289.”
 - d) Stelly authored this document on his iPhone starting around late September 2017 and continuing throughout after his retirement.
 - e) During his deposition, Stelly discussed this document. (See Stelly fact deposition, Exhibit 10, pp 177-179.)
 - f) During LSP’s 30(b)(6) deposition, Burns discussed this document. (See 30(b)(6) deposition, Exhibit 7, pp 98-101.)
 - g) During his deposition, Reeves discussed this document. (See Reeves deposition, Exhibit 24, pp 113-124.)
 - h) Stelly hereby testifies that this document is what it is claimed to be.
- 33) Record 128-50 – Stelly’s 10-16-18 meeting notes
- a) Bates labeled Stelly 00421 – 00435.
 - b) Stelly provided LSP this document in entirety during discovery.

- c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 111, “Stelly’s Cellphone Meeting Topics for Meeting with Reeves prepared by Stelly prior to meeting Stelly 00421-00435.”
- d) During his expert deposition, Stelly discussed this document. (See Stelly expert deposition, pp 175-206.)
- e) Stelly authored this document on his iPhone prior to and up to just before his meeting with K Reeves and M Noel on 10-16-18. Stelly did not edit this file after the meeting began.
- f) Stelly hereby testifies that this document is what it is claimed to be.

34) Record 128-51 – Disciplinary letter to Stelly dated 01-09-98.

- a) Bates labeled LSP_STELLY 00388.
- b) LSP included this document on its Witness and Exhibits List as Exhibit 4, “(LSP_STELLY 000388) 1998-01-09 Stelly Ltr of Reprimand”. and Exhibit
- c) LSP provided Stelly this document.
- d) This document is publicly available via a simple public records request to LSP for it.
- e) During his deposition, Stelly discussed this document. (See Stelly fact deposition, Exhibit 1, p 75.)
- f) Stelly hereby testifies that this document is what it is claimed to be.

35) Record 128-52 – Selected pages of Stelly’s journal.

- a) Bates numbered Stelly 00284-00285.
- b) Stelly provided LSP this document in entirety during discovery.
- c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 24, “Stelly’s journal, Stelly 00282 – 00289.”

- d) Stelly authored this document on his iPhone starting around late September 2017 and continuing throughout after his retirement.
- e) During his deposition, Stelly discussed this document. (See Stelly fact deposition, Exhibit 10, pp 192.)
- f) During LSP's 30(b)(6) deposition, Burns discussed this document. (See 30(b)(6) deposition, Exhibit 7, pp 98-101.)
- g) Stelly hereby testifies that this document is what it is claimed to be.

36) Record 128-53 – Selected pages of Stelly's journal.

- a) Bates numbered Stelly 00286-00287.
- b) Stelly provided LSP this document in entirety during discovery.
- c) Stelly included the entirety of this document on his Witness and Exhibits List as Exhibit 24, "Stelly's journal, Stelly 00282 – 00289."
- d) Stelly authored this document on his iPhone starting around late September 2017 and continuing throughout after his retirement.
- e) During his deposition, Stelly discussed this document. (See Stelly fact deposition, Exhibit 10, pp 234, 241, 245.)
- f) During LSP's 30(b)(6) deposition, Burns discussed this document. (See 30(b)(6) deposition, Exhibit 7, pp 98-101.)
- g) During his deposition, Cammon discussed this document. (See Cammon deposition, Exhibit 13, pp 9-13.)
- h) Stelly hereby testifies that this document is what it is claimed to be.

WHEREFORE, Stelly requests the Court deny the motion in limine and award Plaintiff attorney fees and sanctions for filing this opposition to such a frivolous motion.

Respectfully submitted,

/s/Victor R. Farrugia
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*Labor Law Specialist and
Employment Law Specialist
Certified by the Louisiana
Board of Legal Specialization*

CERTIFICATE OF SERVICE

Adams hereby certify that a copy of the above and foregoing has been electronically filed with the Clerk of Court using the CM/ECF system which will send notice of electronic FILING to all counsel of record this this 16th day of July 2024.

/s/ Victor R. Farrugia
VICTOR R. FARRUGIA