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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91267937
Party	Defendant Stroll to the Polls, Inc.
Correspondence address	RAMONA PRIOLEAU STROLL TO THE POLLS INC 2266 FIFTH AVE #728 NEW YORK, NY 10037 UNITED STATES Primary email: gotv@strolltothepolls.org 2129277708
Submission	Motion for Discovery Sanctions
Filer's name	RAMONA PRIOLEAU
Filer's email	gotv@strolltothepolls.org
Signature	/RAMONA PRIOLEAU/
Date	01/26/2023
Attachments	MFS or MTC Deposition and Reopen Discovery 01262023.pdf(155691 bytes) Declaration of Ramona Prioleau re MFS or MTC Deposition-01262023.pdf(88192 bytes) Public MFS MTC Exhibits.pdf(1551489 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Alpha Kappa Alpha Sorority Opposer, v. Stroll to the Polls, Inc. Applicant.	Opposition No. 91267937 Mark: STROLL TO THE POLLS Serial No. 90012428 Filed: June 20, 2020 Published: Nov. 03, 2020

MOTION FOR SANCTIONS OR ALTERNATIVELY, TO COMPEL DEPOSITION OF NICOLE BARRETT AND REOPEN DISCOVERY

I. INTRODUCTION

Applicant Stroll to the Polls, Inc. ("Applicant") brings this motion for sanctions and/or to compel the attendance of the Alpha Kappa Alpha Sorority ("Opposer") Deputy Director, Nicole Barrett ("Deponent"), at her deposition pursuant to the Federal Rules of Civil Procedure and the Trademark Rules of Practice and to reopen the discovery deadline.

This motion is made necessary due to Opposer's refusal to produce Deponent for her deposition pursuant to a Notice of Deposition by Written Questions dated December 31, 2022.

According to Opposer's Second Amended Initial Disclosures, Deponent is the individual likely to have knowledge of discoverable information that the Opposer may use to support its claims in Opposition No. 91267937. The refusal to produce Deponent is an example of Opposer's efforts to block Applicant's rightful discovery efforts. This tactic should neither be tolerated nor approved by the Board.

Pursuant the Board Order dated January 11, 2023, the discovery cutoff in this matter was January 20, 2023, which coincided with the scheduled date of the Barrett deposition. However, Barrett failed to appear at the deposition on January 20, 2023.

Applicant hereby moves the Trademark Trial and Appeal Board ("the Board") for an order of sanctions dismissing Opposition No. 91267937 or other sanctions or, alternatively, for an order:

1. Compelling Opposer to produce Deponent for her deposition at a place and time mutually agreed upon by Applicant and Opposer and
2. Resetting the discovery cut-off for Applicant to a date thirty days after the issuance of the order (and resetting subsequent testimony and trial dates accordingly) to reschedule and take the deposition duly noted before the discovery cut-off date.

Applicant requests that any extension of the discovery deadline be solely for the purpose of allowing Applicant to complete its deposition of Nicole Barrett or such other parties as necessary.

II. STATEMENT OF FACTS

The Applicant

The Applicant is the owner and successor-in-interest to the trademark "STROLL TO THE POLLS" (the "**Applicant's Mark**") and Application Serial No. 90012428 (the "**Applicant's Application**"). The Applicant is a New York State Not-for-Profit Corporation which is formed as a charitable corporation.

This proceeding concerns a dispute regarding the Applicant's Mark in connection with "Aprons; Bibs, not of paper; Bodysuits; Dresses; Footwear; Hats; Jackets and socks; Pants; Shirts; Skirts; Swimwear" under International Class 25 (the "**Applicant's Goods**"). The Applicant's Application was filed on June 20, 2020, with a date of first use in commerce of 2018.

II. BACKGROUND

1. On March 7, 2022, Applicant served Opposer its initial disclosures (See Prioleau Decl. Exhibit A).

2. On March 18, 2022, Opposer served Applicant its initial disclosures, identifying then-Executive Director of Alpha Kappa Alpha Sorority, Cynthia D. Howell as its witness pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i) (See Prioleau Decl. Exhibit B).

3. On June 21, 2022, Applicant served Opposer a Notice of Deposition of Cynthia D. Howell, originally scheduled for July 22, 2022 (See Prioleau Decl. Exhibit C).

4. Pursuant to a Board Order dated August 11, 2022, the Opposer received an extension until August 8, 2022, to respond to Applicant's discovery requests (See 35 TTABVUE).

5. By email dated August 5, 2022, Applicant's former counsel noted that Opposer:

> failed to make Cynthia Howell available for her deposition scheduled for July 22, 2022. Again, Applicant reserves the right to seek all remedies available to it under the law and seek appropriate relief under the Federal Rules of Civil Procedure that spring from this failure.
>
> (See Prioleau Decl. Exhibit D).

6. By email dated August 10, 2022, Applicant's former counsel recapped an August 9, 2022 meeting during which Opposer's counsel acknowledged that Cynthia Howell will not be the person to act as Opposer's Fed. R. Civ. P. 26(a)(1)(A)(i) witness. Furthermore, in the same email, Applicant's former counsel requested:

> supplemental initial disclosure so that Applicant will know the identity of such AKA Witness and plan accordingly. As a reminder – as you know, Opposer had asked for an extension for the deposition until August 8th, Applicant opposed the extension, but in reality, we are now beyond Applicant's originally sought deposition date and Opposer's initially requested extension date.
>
> (See Prioleau Decl. Exhibit E)

7. By email dated August 10, 2022, Opposer's counsel emailed Applicant's former counsel, stating "AKA will amend its initial disclosures in due course when it identifies the individual(s) most likely to have relevant knowledge regarding this matter." (See Prioleau Decl. Exhibit F)

8. By email dated September 28, 2022, Applicant's former counsel emailed Opposer's counsel, requesting Opposer's Fed. R. Civ. P. 26(a)(1)(A)(i) witness, stating in relevant part:

> We note and remind you that our client had originally sought to depose the now former AKA president - Dr. Glover. AKA had offered, instead, the now former executive director - Cynthia Howell -- for deposition. Noting the recent changes in leadership within multiple levels of the AKA organization, STTP now seeks clarification on whom within the AKA organization will now be primarily responsible for the decision-making process with respect to these ongoing opposition proceedings. In particular, we would like you to advise us on the identity and position of … the individual(s) you will be offering for deposition(s) and that arguably such person have prior and has now / those persons had prior and have now all of the pertinent information regarding this matter for … meaningful deposition(s) ….
>
> (See Prioleau Decl. Exhibit G)

9. By email dated September 28, 2022, Opposer's counsel emailed Applicant's former counsel, stating "[a]s previously noted, AKA will amend its initial disclosures to identify the person(s) with relevant knowledge in due course." (See Prioleau Decl. Exhibit H).

10. On November 22, 2022, the Applicant filed a motion to compel Opposer to serve supplemental initial disclosures. (See TTABVUE 40)

11. On December 7, 2022, the Board denied Applicant's motion to compel supplemental initial disclosures as untimely. (See TTABVUE 41)

12. On December 8, 2022, Opposer served its First Amended Initial Disclosures. (See Prioleau Decl. Exhibit I).

13. On December 13, 2022, Applicant informed Opposer that its First Amended Initial Disclosures incorrectly claimed that Dr. Barrett was the Executive Director of the Opposer (See Prioleau Decl. Exhibit J).

14. On December 13, 2022, Opposer served its Second Amended Initial Disclosures. (See Prioleau Decl. Exhibit K).

15. On December 14, 2022, Applicant served Opposer deposition notice upon oral examination of Nicole Barrett. (See Prioleau Decl. Exhibit L).

16. On December 20, 2022, Applicant withdrew the deposition notice upon oral examination of Nicole Barrett in response to Opposer's request for a deposition date of January 20, 2023; Opposer's consent to the deposition of Nicole Barrett outside of the discovery period; Opposer's confirmation that Nicole Barrett will serve as Opposer's Rule 30(b)(6) witness; and Opposer's stipulation to the deposition of its Rule 30(b)(6) witness, Nicole Barrett, via written questions. In its notice Applicant reserved the right to notice the deposition of Nicole Barrett or any others in the future as permitted by the Federal Rules of Civil Procedure. (See Prioleau Decl. Exhibit M).

17. On December 31, 2022, the Applicant served Opposer the deposition notice upon written questions of Nicole Barrett, attaching a copy of the questions (See Prioleau Decl. Exhibit N) and filed a copy of the notice (excluding questions) with the TTAB. (See TTABVUE 42).

18. On January 3, 2023, the Opposer requested a copy of the Appendices. (See Prioleau Decl. Exhibit O).

19. On January 6, 2023, the Applicant emailed Opposer a copy of the Appendices. (See Prioleau Decl. Exhibit G).

20. In a Board order dated January 11, 2023 ("Board Order"), the Board reopened the discovery period through January 20, 2023, to allow the Barrett deposition to be conducted. (See TTABVUE 43)

21. In the Board Order, the Board suspended the proceeding; requested that the Applicant advise the Board about the completion of the deposition and directed Applicant to modify its correspondence address to include a telephone number. Id.

22. On January 12, 2023, the Applicant filed a change of correspondence address to include a telephone number. (See TTABVUE 44)

23. On January 20, 2023, at 9:02 AM CST, the Opposer's Counsel served certain objections to the Applicant's Notice of Written Questions. (See Prioleau Decl. Exhibit Q).

24. On January 20, 2023, Nicole Barrett of the Opposer failed to appear at the deposition noticed for January 20, 2023, at 9:30 AM CST (10:30 AM EST). (See Prioleau Decl. Exhibit R).

25. On January 23,2023, the Opposer emailed the Applicant potential dates to reschedule the deposition. (See Prioleau Decl. Exhibit S).

26. On January 24 & 25, 2023, the Applicant corresponded with the Opposer regarding rescheduling the Barrett deposition. Currently, the Opposer and the Applicant are not available on the same days. (See Prioleau Decl. Exhibit S).

27. As a follow-up to the Board's Order, the Applicant advises the Board that the deposition of Nicole Barrett was not completed because Nicole Barrett failed to appear for the deposition noticed for January 20, 2023. (See Prioleau Decl. Exhibit R).

28. In consideration of the Board's Order, the Applicant respectfully requests that the Board reopen discovery so that the deposition of Nicole Barrett can be completed.

On January 20, 2023 – twenty (20) days after receiving the Notice; 28 minutes before the start of the noticed deposition; and the same day of the Board-ordered deadline for discovery: Applicant received an email from Opposer's Counsel serving objections to the Notice. (See Prioleau Decl. Exhibit Q). In its correspondence, Opposer's Counsel did not inform Applicant that Opposer would not produce Dr. Barrett to testify on the topics included in the Notice.

Opposer did not file a motion to quash the Notice or a motion for a protective order. Applicant did not withdraw the Notice.

On January 20, 2023, at 9:30 a.m CST (10:30 a.m. EST), the court reporter from TSG, ·Steven J. Brickey, appeared via teleconference to take the deposition of Nicole Barrett. Prioleau Decl. ¶23. The court reporter remained on the teleconference until 10:37 a.m. CST (11:37 a.m. EST) on January 20, 2023. Dr. Barrett failed to appear. Id.

III. ARGUMENT

Applicant has a right to depose Deponent because Opposer's Second Amended Initial Disclosures identified her as the individual likely to have knowledge of discoverable information used to support its claims in the Opposition proceeding.

Opposer's objections were based on the grounds that the deposition questions are improper in form, substance and relevance. Opposer also seemed concerned that Applicant's written question that asks Dr. Barrett to disclose aspects of her knowledge with the Opposer and the general history of the Opposer is irrelevant to a 30(b)(6) deposition.

With respect to the form the form and substance of the deposition questions:

1. The substance of the questions relate directly to the matters at issue in the proceeding – entitlement, priority, likelihood of confusion.

2. Applicant's questions 28 – 37; 40 – 44; 48 – 75; and 78 relate to:
    a. The Deponent's knowledge of the Opposer.
    b. The organization, formation, and ownership of Opposer.
    c. The management and operations of Opposer.
    d. The officers, employees, and members of Opposer and their responsibilities at Opposer.
3. Applicant's questions 79 – 86 relate to:
    a. Entitlement.
    b. The Deponent's knowledge of the Opposer.
    c. The management and operations of Opposer.
    d. The officers, employees, and members of Opposer and their responsibilities at Opposer.
4. Applicant's questions 90 – 95; 98 – 105; relate to:
    a. The Deponent's knowledge of the Opposer.
    b. The organization, formation, and ownership of Opposer.
    c. The management and operations of Opposer.
    d. The officers, employees, and members of Opposer and their responsibilities at Opposer.
5. Applicant's questions 119 – 120; relate to – entitlement, priority, likelihood of confusion as well as Deponent's knowledge of the Opposer.
6. Applicant's questions 122 – 132; 144 – 154; relate to:
    a. The Deponent's knowledge of the Opposer.
    b. The organization, formation, and ownership of Opposer.

c. The management and operations of Opposer.

d. The officers, employees, and members of Opposer and their responsibilities at Opposer.

A. APPLICANT'S REFUSAL TO PRODUCE DEPONENT FOR DEPOSITION WAS COMPLETELY WITHOUT LEGAL MERIT

It has long been held that absent a court order preventing the taking of depositions, the depositions should go forward. Even the filing of a motion for a protective order would not stay the deposition. Only a properly issued court order has that effect. This issue was addressed in Pioche Mines Consol., Inc. v. Dolman, 333 F. 2d 257 (9th Cir. 1964). In discussing the effect of the mere filing of a motion for a protective upon the taking of a scheduled deposition, the court stated:

> "Counsel's view seems to be that a party need not appear if a motion under Rule 30(b), F.R.Civ.P. is on file, even though it has not been acted upon. Any such rule would be an intolerable clog upon the discovery process. Rule 30(b) places the burden on the proposed deponent to get an order, not just to make a motion. And if there is not time to have his motion heard, the least that he can be expected to do is to get an order postponing the time of the deposition until his motion can be heard. He might also appear and seek to adjourn the deposition until an order can be obtained. (Rule 30(d)). But unless he has obtained a court order that postpones or dispenses with his duty to appear, that duty remains. Otherwise, as this case shows, a proposed deponent, by merely filing motions under Rule 30(b), could evade giving his deposition indefinitely. Under the Rules, it is for the court, not the deponent or his counsel, to relieve him of the duty to appear.

Id. at 269.

This rule was made "crystal clear· by the court in F.A.A. v. Landy 705 F. 2d 624 (2d Cir. 1983), where the court stated:

> "It is clear, however, that it is not the filing of such a motion (motion for a protective order) that stays the deposition, but rather a court order."

Id. at 634.

Opposer's counsel, failed to produce Deponent for the scheduled deposition, which is the subject matter of this motion. At the time of its action, Opposer's counsel did not have any Board order preventing the taking of Deponent's deposition. At no time, between the time of the scheduling of the deposition and the scheduled deposition date, did Opposer's counsel file a motion to quash the Notice or appear at the scheduled deposition and seek to adjourn the deposition until an order can be obtained. The Board should rule on the instant motion to compel the deposition of Deponent.

These facts clearly show that Opposer's counsel, without any proper legal basis whatsoever, failed to produce Deponent for the deposition because of unjustified contentions. In no way can this action be defended. In fact, this is the second time that Opposer has failed to produce a deponent for a deposition. On June 21, 2022, the Applicant served a notice of deposition for the oral examination of Cynthia Howell for July 22, 2022. (See Prioleau Decl. Exhibit C). However, Cynthia Howell failed to appear.

On August 5, 2022, the Applicant through its former-counsel reserved its right to seek all remedies available to it under the law and to seek appropriate relief under the Federal Rules of Civil Procedure that sprung from that failure.

The Opposer's obstructionist conduct should not be condoned. The Board should sanction Opposer to deter such meritless tactics and behavior.

B. THE TRADEMARK TRIAL AND APPEAL BOARD IS AUTHORIZED TO HEAR AND DECIDE MOTIONS FOR SANCTIONS PURSUANT TO 37 C.F.R. § 2.120(g)(2) AND, ALTERNATIVELY, MOTIONS FOR ORDERS COMPELLING DEPOSITION

It is well settled that the Board has authority to compel the attendance of a witness at a discovery deposition. Trademark Rule of Practice 2.120(a) makes the Federal Rules of Civil Procedure, with respect to discovery, applicable to proceedings before the Board unless they are otherwise abrogated by the Trademark Rules:

> Wherever appropriate, the provisions of the Federal Rules of Civil Procedure relating to discovery shall apply in opposition, cancellation, interference and concurrent use registration proceedings except as otherwise provided in this section.

37 C.F.R. § 2.120(a).

Consequently, this provision makes Federal Rule of Civil Procedure 37 applicable to TTAB proceedings where a party fails to cooperate in the taking of discovery. Rule 37(d) states, in pertinent part:

> (d) Party's Failure to Attend Its Own Deposition, Serve Answers to Interrogatories, or Respond to a Request for Inspection. If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b) (6) or 31(a) to testify on behalf of a party fails (1) to appear before the officer who is to take the deposition, after being served with a proper notice ... the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under subparagraphs (A), (B), and (C) of subdivision (b)(2) of this rule.

Fed. R. Civ. P. 37(d) (emphasis original).

In Burnett v. Venturi, 903 F. Supp. 304 (N.D.N.Y.1995), the court specifically interpreted Federal Rule of Civil Procedure 37(d) relating to the failure to appear for a deposition, stating:

> "Federal Rule of Civil Procedure 37(d) allows the imposition of sanctions against a party for serious disregard of the obligations imposed by the federal discovery rules **even though the party has not violated any court order. Failure to appear at a deposition ... are examples of the kinds of violations cited**"

Id. at 308 (emphasis added).

The Burnett court went on to explain the purpose of this rule, stating:

> "Disciplinary sanctions under Rule 37 are intended to serve three functions. First, they ensure that a party will not benefit from its own failure to comply. Second, they are specific deterrents and seek to obtain compliance with either court orders or the ordinary standards of care appropriate for parties and their attorneys. Third, they are intended to serve as a general deterrent in the case that the party against whom they are imposed was in some sense at fault."

Id.

Subparagraphs (A), (B), and (C) of Rule 37(b) (2), which are referenced in Rule 37(d} authorize the following sanctions:

> (A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;
> (B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;
> (C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

Fed. R. Civ. P. 37 (b) (2).

Trademark Rule 2.120(g)(2), the TTAB companion provision to Rule 37(d), states:

> If a party, or an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or 31(a) of the Federal Rules of Civil Procedure to testify on behalf of a party, fails to attend the party's or person's discovery deposition, after being served with proper notice, or fails to provide any response to a set of interrogatories or to a set of requests for production of documents and things, and such party or the party's attorney or other authorized representative informs the party seeking discovery that no response will be made thereto, the Board may make any appropriate order, as specified in paragraph (g)(1) of this section.

37 C.F.R. § 2.120(g)(1).

Subsection (g)(2) makes reference to Trademark Rule 2.120(g) (1), which states in relevant part:

> If a party fails to comply with an order of the Trademark Trial and Appeal Board relating to discovery, including a protective order, the Board may make any

> appropriate order, including any of the orders provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure.

37 C.F.R. § 2.120(g)(2).

Applying this statutory authority to the facts at hand, it is obvious that the Board has authority to issue an order compelling this deposition. The Board also has authority to make an order based on the sanctions authorized for the deterrence of such conduct, pursuant to Federal Rule of Civil Procedure 37, including an order compelling the deposition, striking any claim or defense of Opposer or entering judgment against Opposer. In light of Opposer's obstruction and the court's policy of using Federal Rule 37 as a deterrent to such conduct, Applicant respectfully requests that the Board issue its order for judgment in favor of Applicant in this matter. At a bare minimum, the Board should order that the deposition be taken as requested, with an appropriate sanction against Opposer to deter this type of conduct in the future.

C. THE BOARD SHOULD ISSUE AN ORDER DISMISSING OPPOSER'S NOTICE OF OPPOSITION

Subsection (g)(1) of Trademark Rule 2.120 and Federal Rule of Civil Procedure 37 authorize the Board to issue an appropriate sanction for the failure and refusal to appear at a deposition.

Here, Opposer failed to produce Deponent for her deposition. Opposer's refusal is meritless and justifies the issuance of a severe sanction by the Board to deter this obstructionist tactic.

D. OPPOSER HAS NOT DEMONSTRATED GOOD CAUSE TO JUSTIFY ITS ACTION IN BLOCKING THE LEGITIMATE DISCOVERY DEPOSITION SOUGHT TO BE TAKEN BY APPLICANT

In light of Opposer's unwarranted and obstructionist objections to discovery that denied Applicant the opportunity to depose Opposer, this Board should order an appropriate deterrent sanction (pursuant to Federal Rule of Civil Procedure 37) and dismiss Opposition Proceeding No. 91267937.

Alternatively, this Board should grant this motion and order that Applicant's discovery period be reopened and the trial deadlines be extended so that Applicant can complete its discovery deposition.[1] Fed. R. Civ. P. 6(b).

IV. CONCLUSION

For the reasons stated herein, the Board should issue an order granting Opposer the relief requested relating to discovery and sanctions.

Respectfully submitted,

Dated: January 26, 2023

By: /s/Ramona Prioleau
Ramona Prioleau
Stroll to the Polls, Inc.
2266 Fifth Ave., #728
New York, NY 10037
gotv@strolltothepolls.org

APPLICANT

[1] Applicant requests that any reopening of the discovery deadline be solely for the purpose of allowing Applicant to complete its timely discovery deposition.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this foregoing *Motion for Sanctions or Alternatively, to Compel Deposition of Nicole Barrett and Reopen Discovery* was served by email to the attorney for the Opposer on the date listed below:

Jessica A Ekhoff
Pattishall Mcauliff Newbury Hilliard & Geraldson LLP
200 South Wacker Drive Suite 2900
Chicago, IL 60606
jae@pattishall.com
fgt@pattishall.com
pam@pattishall.com

Dated: January 26, 2023

By: /s/Ramona Prioleau
Ramona Prioleau

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Declaration of Ramona Prioleau

I, Ramona Prioleau, declare under penalty of perjury as follows:

1. I am over the age of eighteen and competent to make this Declaration.

2. The facts stated in this Declaration are within my personal knowledge are true.

3. I am a life member of Alpha Kappa Alpha Sorority, Incorporated.

4. I am the founder ("Founder") of Applicant (Stroll to the Polls, Inc.), who, in the above referenced trademark opposition proceeding, is seeking registration for the mark STROLL TO THE POLLS in International Class 025 (the "Applicant's Mark"). In my position, I am authorized to assert to and confirm the activities and beliefs of Applicant.

5. Applicant offers the goods identified in Application No. 90/012,428 under Applicant's Mark.

6. On behalf of Applicant, I assert that the Applicant is located in New York.

7. The Opposer commenced this opposition on the ground of: (i) priority and likelihood of confusion; (ii) fraud on the USPTO; (iii) failure to function as a mark; and/or (iv) merely ornamental. (1 TTABVUE). In the Opposition, Opposer noted that "Opposer AKA is a member of the Divine Nine." Id at 4.

8. The Applicant filed a motion to dismiss with respect to the grounds for opposition as well as challenged the Opposer's standing to bring the opposition (4 TTABVUE).

9. In its response in opposition to the motion to dismiss, the Opposer stated "Opposer is a historically Black Sorority, and a member of the Divine Nine, which are nine African American fraternity and sorority organizations." (6 TTABVUE 4)

10. In ruling on the Applicant's motion to dismiss the Board granted the Applicant's motion on the fraud ground and denied the motion with respect to standing as well as (a) priority and likelihood of confusion; (b) failure to function as a mark; and/or (c) merely ornamental. (8 TTABVUE).

11. In its filings in throughout this proceeding, Opposer has referred to itself as "Alpha Kappa Alpha Sorority." (See 1 TTABVUE, 6 TTABVUE, 12 TTABVUE, 18 TTABVUE, 20 TTABVUE, 25 TTABVUE and 30 – 32 TTABVUE).

12. I, on behalf of the Applicant authenticate that attached as **Exhibit A** is a true and correct copy of Applicant's Initial Disclosures served on Opposer on March 7, 2022,

13. I, on behalf of the Applicant authenticate that attached as **Exhibit B** is a true and correct copy of Opposer's Initial Disclosures served on Applicant on March 18, 2022, identifying then-Executive Director of Alpha Kappa Alpha Sorority, Cynthia D. Howell as its witness pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i).

14. I, on behalf of the Applicant authenticate that attached as **Exhibit C** is a true and correct copy of the Notice of Deposition of Cynthia D. Howell served on the Opposer on June 21, 2022,

15. I, on behalf of the Applicant authenticate that attached as **Exhibit D** is a true and correct copy of a January 26, 2023 printout of an email dated August 5, 2022,

16. I, on behalf of the Applicant authenticate that attached as **Exhibit E** is a true and correct copy of a January 26, 2023 printout of an email dated August 10, 2022.

17. I, on behalf of the Applicant authenticate that attached as **Exhibit F** is a true and correct copy of a January 26, 2023 printout of an email dated August 10, 2022.

18. I, on behalf of the Applicant authenticate that attached as **Exhibit G** is a true and correct copy of a January 26, 2023 printout of an email dated September 28, 2022:

19. I, on behalf of the Applicant authenticate that attached as **Exhibit H** is a true and correct copy of a January 26, 2023 printout of an email dated September 28, 2022.

20. I, on behalf of the Applicant authenticate that attached as **Exhibit I** is a true and correct copy of Opposer's First Amended Initial Disclosures served on Applicant on December 8, 2022.

21. I, on behalf of the Applicant authenticate that attached as **Exhibit J** is a true and correct copy of a January 26, 2023 printout of an email dated December 13, 2022.

22. I, on behalf of the Applicant authenticate that attached as **Exhibit K** is a true and correct copy of Opposer's Second Amended Initial Disclosures served on Applicant on December 13, 2022.

23. I, on behalf of the Applicant authenticate that attached as **Exhibit L** is a true and correct copy of the Notice of Deposition of Nicole Barrett by oral examination served on December 14, 2022.

24. I, on behalf of the Applicant authenticate that attached as **Exhibit M** is a true and correct copy of the Notice of Withdrawal of the Deposition of Nicole Barrett by oral examination served on December 20, 2022.

25. I, on behalf of the Applicant authenticate that attached as **Exhibit N** is a true and correct copy of the Notice of Deposition of Nicole Barrett by written questions served on Opposer on December 31, 2022, attaching a copy of the questions.

26. I, on behalf of the Applicant authenticate that attached as **Exhibit O** is a true and correct copy of a January 26, 2023 printout of an email dated January 3, 2023.

27. I, on behalf of the Applicant authenticate that attached as **Exhibit P** is a true and correct copy of a January 26, 2023 printout of an email dated January 6, 2023, attaching a copy of the Appendices.

28. I, on behalf of the Applicant authenticate that attached as **Exhibit Q** is a true and correct copy of an email dated January 20, 2023, at 9:02 AM CST (10:02 AM EST), attaching a copy of Opposer's Objection of the Notice of Deposition of Nicole Barrett by written questions served on Applicant.

29. I, on behalf of the Applicant authenticate that attached as **Exhibit R** is a true and correct copy of a January 20, 2023, ·Affidavit re Failure of Nicole Barrett to Appear for Deposition, indicating that the Nicole Barrett failed to appear at the deposition noticed for January 20, 2023, at 9:30 AM CST (10:30 AM EST).

30. I, on behalf of the Applicant authenticate that attached as **Exhibit S** are true and correct copies of January 26, 2023 printouts of emails dated January 24 & 25, 2023.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the current cancellation proceeding, declares that all statements made of his or her own knowledge are true and that statements made on information are believed to be true.

Dated: January 26, 2023

By: /s/Ramona Prioleau
Ramona Prioleau
Founder
Stroll to the Polls, Inc.

Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Alpha Kappa Alpha Sorority Opposer, v. Stroll to the Polls, Inc. Applicant.	Opposition No. 91267937 Mark: STROLL TO THE POLLS Serial No. 90012428 Filed: June 20, 2020 Published: Nov. 03, 2020

APPLICANT'S RULE 26 INITIAL DISCLOSURES

Applicant, Stroll to the Polls, Inc. ("Applicant") hereby makes the following disclosures required under Fed.R.Civ.P. 26(a)(l) based upon information reasonably available to it at this time. These disclosures are preliminary and discovery is ongoing. The Applicant therefore reserves the right to correct, amend, or modify these disclosures based on new information.

A. The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.

Subject to the limitations set forth in Fed.R.Civ.P. 26(a)(l)(A), Applicant identifies the following individuals, each of whom is likely to have discoverable information that Applicant may use to support its claims or defenses:

Name/Title	Address & Phone Number	Subject Matter
Ramona Prioleau Chair	Stroll to the Polls, Inc. 2266 Fifth Ave., #728 New York, NY 10037	Adoption of STROLL TO THE POLLS mark, continuing use of mark in commerce, and type of goods associated with mark

Applicant reserves the right to amend the list of persons upon identification of other individuals through discovery or otherwise through the process of the proceedings.

B. A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

Subject to the limitations set forth in Fed.R.Civ.P. 26(a)(1)(B), Applicant identifies the following categories of documents which Applicant may use to support its claims or defenses. By making this disclosure, Applicant does not represent that it is identifying every potentially relevant document upon which it may rely for purposes of this proceeding. Applicant's continuing investigation and discovery may reveal additional relevant documents and Applicant therefore reserves the right to supplement this disclosure accordingly. Applicant does not waive its right to object to the production of any particular document disclosed herein on the basis of any valid objection as to its discoverability or admissibility. However, Applicant will not produce any documents that are privileged or otherwise protected from disclosure. Applicant will also only produce confidential documents in accordance with the Protective Order now in force as entered by the Board. Applicant identifies the following initial list of documents:

1. Documents concerning Applicant's ownership and use of its STROLL TO THE POLLS family of marks.
2. Documents concerning Applicant's priority in the STROLL TO THE POLLS marks.
3. Documents concerning the nature of the goods and/or services that are offered under Applicant's STROLL TO THE POLLS marks.
4. Documents concerning the marketing and promotion of the goods and services offered under Applicant's STROLL TO THE POLLS mark.
5. Documents concerning the facts and circumstances underlying Applicant's claims and defenses set forth in its Answer.

Applicant notes that there may be documents in the possession, custody or control of Opposer and/or third parties that are relevant to the claims and defenses in this proceeding, including but not limited to:

1. Documents associated with Opposer's claims in the Notice of Opposition;
2. Documents related to the use of Applicant's Mark by Opposer; and
3. Documents related to the marketing of Opposer's goods using Applicant's Mark.

Applicant reserves the right to amend this list of document categories upon identification of additional types of documents through discovery or otherwise through the process of the proceedings. In addition, Applicant may rely on documents in the public domain to support any of its claims or defenses.

C. A computation of any category of damages claimed by the disclosing party, making available for inspection and copying under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing the nature and extent of injuries suffered,

Applicant asserts that no damages are required to be claimed in this administrative action.

D. For inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Not applicable in this matter.

Respectfully submitted,

Dated: March 7, 2022

By: /s/Willard A Stanback

Willard A Stanback
Willard Alonzo Stanback PC
36 West Lafayette St Ste 103
Trenton, NJ 08608

Attorney for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Applicant's Rule 26 Initial Disclosures was served on the Attorney for the Applicant on the date listed below via email:

Jessica A. Ekhoff
Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP
200 South Wacker Drive, Suite 2900
Chicago, IL 60606
JAE@pattishall.com
fgt@pattishall.com
pam@pattishall.com

Dated: March 7, 2022

By: /s/Willard A Stanback
Willard A Stanback

Exhibit B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Serial No. 90/012,428	)	
	)	
Mark: STROLL TO THE POLLS	)	
	)	
ALPHA KAPPA ALPHA SORORITY,	)	
	)	Opposition No. 91,267,937
Opposer,	)	
	)	
v.	)	
	)	
STROLL TO THE POLLS, INC.	)	
	)	
Applicant.	)	
	)	
	)	
	)	

ALPHA KAPPA ALPHA SORORITY'S INITIAL DISCLOSURES

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure and 37 C.F.R. §2.120(a), Opposer, Alpha Kappa Alpha Sorority ("AKA") hereby submits its initial disclosures in this matter to Applicant, Stroll to the Polls, Inc., as follows:

INTRODUCTORY STATEMENT

The following disclosures are based upon the information reasonably available to AKA as of this date. By making these disclosures, AKA does not represent that it is identifying every witness or document possibly relevant to this proceeding. AKA's disclosures represent a good faith effort to identify information that AKA reasonably believes relevant to the factual disputes alleged with particularity in the pleadings, as required by Rule 26(a)(1). AKA's disclosures are made without in any way waiving: 1) the right to object on the grounds of competency, privilege, relevancy and materiality, hearsay, or any other proper ground, to the use of any such

information, for any purpose, in whole or in part, in this proceeding or in any other action; and 2) the right to object on any and all grounds, at any time, to any discovery request involving or relating to the subject matter of these disclosures. Pursuant to Rule 26(b) of the Federal Rules of Civil Procedure, AKA will not disclose or produce privileged communications or trial preparation materials.

1. Witnesses (Fed. R. Civ. P. 26(a)(1)(A)(i)). AKA identifies the following individual likely to have discoverable information that AKA may use to support its claims or defenses:

Witness	Title	Topics
Cynthia D. Howell	Executive Director, Alpha Kappa Alpha Sorority	AKA's use of "Stroll to the Polls"; third-party use of "Stroll to the Polls"; and the meaning of "Stroll to the Polls."

The above witness should only be contacted through AKA's counsel. AKA reserves the right to supplement these Initial Disclosures with the identities of other witnesses identified through the course of discovery and otherwise.

2. Documents (Fed. R. Civ. P. 26(a)(1)(A)(ii)). AKA discloses the following categories of documents in its possession, custody, or control that AKA may use to support its claims or defenses:

(a) Documents relating to AKA's use of "Stroll to the Polls";

(b) Documents relating to third-party uses of "Stroll to the Polls"; and

(c) Documents relating to the meaning of "Stroll to the Polls".

The foregoing documents are located at the offices of AKA or its counsel. AKA reserves the right to supplement these initial disclosures with additional categories of documents as appropriate.

3. **Damages (Fed. R. Civ. P. 26(a)(1)(A)(iii)).** Not applicable to proceedings before the Board. T.B.M.P. § 401.02.

4. **Insurance Agreements (Fed. R. Civ. P. 26(a)(1)(A)(iv).** Not applicable to proceedings before the Board. T.B.M.P. § 401.02.

Dated: March 18, 2022

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

By: /Jessica A. Ekhoff/

Jessica A. Ekhoff
Felicia G. Traub
200 South Wacker Drive, Suite 2900
Chicago, Illinois 60606
(312) 554-8000
jae@pattishall.com
fgt@pattishall.com

Attorneys for Opposer,
Alpha Kappa Alpha Sorority

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ALPHA KAPPA ALPHA SORORITY'S INITIAL DISCLOSURES was served upon the counsel for Stroll to the Polls, Inc. identified below by email on March 18, 2022:

Willard A. Stanback
WILLARD ALONZO STANBACK PC
36 West Lafayette St. Ste. 103
Trenton, NJ 08608
willardalonzo@stanback-pc.com

/Jessica A. Ekhoff/

Exhibit C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Alpha Kappa Alpha Sorority Opposer, v. Stroll to the Polls, Inc. Applicant.	Opposition No. 91267937 Mark: STROLL TO THE POLLS Serial No. 90012428 Filed: June 20, 2020 Published: Nov. 03, 2020

NOTICE OF DEPOSITION OF CYNTHIA HOWELL

Please take notice that, pursuant to Trademark Rule 2.120(b), 37 C.F.R. § 2.120(b), and Rule 30 of the Federal Rules of Civil Procedure, Applicant Stroll to the Polls, Inc. ("**Applicant**"), will take the deposition upon oral examination of Cynthia Howell in connection with the above-captioned proceeding. The deposition will commence on Friday, July 22, 2022 at 9:30 am, remotely via video teleconference for the safety and convenience of all parties during the ongoing Covid-19 pandemic, or at such time and place as may be agreed to by the parties. The deposition will continue from day to day until completed.

The deposition will be taken before a Notary Public (or another officer duly authorized to administer oaths) and will be recorded by stenographic means. Applicant reserves the right to use any information produced through the deposition process for the purpose of discovery or for other such purposes as may be permitted under the Federal Rules of Civil Procedure, the Federal Rules

of the Evidence, and/or the rules of the Trademark Trial and Appeal Board.

Respectfully submitted,

Dated: June 21, 2022

By: /s/Willard A Stanback

Willard A Stanback
Willard Alonzo Stanback PC
36 West Lafayette St Ste 103
Trenton, NJ 08608
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this foregoing *Notice of Deposition of Glenda Glover* was served by email to the attorney for the Opposer on the date listed below via email:

Jessica A. Ekhoff
Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP
jae@pattishall.com, fgt@pattishall.com, pam@pattishall.com

Dated: June 21, 2022

By: /s/Willard A Stanback
Willard A Stanback

Exhibit D

From: willardalonzo@stanback-pc.com <willardalonzo@stanback-pc.com>
Sent: Friday, August 5, 2022 9:25 PM
To: 'Jessica A. Ekhoff' <JAE@pattishall.com>
Cc: 'Caron Johnson' <caron@stanback-pc.com>; 'Felicia G. Traub' <FGT@pattishall.com>
Subject: RE: Deficiencies in STTP's Responses to AKA's First Set of Interrogatories and First Set of Requests for Production

Good evening, Jessica:

I am acknowledging today's receipt of Opposer's responses to Applicant's discovery requests, noting that Applicant has not yet had time to review the documents. Accordingly, Applicant must of course reserve its rights to provide its thoughts on the responses after such a review.

Noting the foregoing, please be advised that the primary focus of this email is your email below. Kindly note that Applicant continues to disagree with Opposer's assertions that Applicant's responses to Opposer's discovery requests were materially deficient. Clearly, Applicant responded to each request. Nevertheless, Applicant again reserves its right to amend, supplement, delete from, or otherwise change any response previously provided as this matter continues.

On another note, Applicant reminds Opposer that Opposer's discovery response deadline was effectively reset to July 18, 2022. As we know, Applicant did not consent to an extension. Accordingly, as it stands as of today, Opposer's August 5th service of its responses to Applicant's interrogatories and document production requests are untimely. Applicant reserves its rights to object, in part or in whole, to the untimely responses. Stating the obvious, Opposer also failed to make Cynthia Howell available for her deposition scheduled for July 22, 2022. Again, Applicant reserves the right to seek all remedies available to it under the law and seek appropriate relief under the Federal Rules of Civil Procedure that spring from this failure.

As you are aware, each party is required to supplement their initial disclosures "in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing." Fed. R. Civ. P. 26(e)(1)(A); quoted in Spier Wines (PTY) Ltd. v. Shepher, 105 USPQ2d 1239, 1241 (TTAB 2012). Applicant assumes that Opposer's counsel is aware that Opposer has made major changes in Opposer's administrative personnel. Specifically, on information and belief, Cynthia Howell is no longer authorized to act on behalf of Opposer. Given the significant changes that have occurred with Opposer during and/or since Boule, please let us know how Opposer's new administration would like to proceed. [redacted]

Restating, this correspondence is without prejudice to Applicant's rights and remedies, all of which are preserved.

All the best,

Willard

WILLARD ALONZO STANBACK

"BUILDING ON IDEAS"®

36 West Lafayette Street

Suite 103

Trenton, NJ 08608

willardalonzo@stanback-pc.com

O: 855-614-1111

F: 609-751-5121

M: 646-734-4204

S: willard.stanback2

Exhibit E

From: willardalonzo@stanback-pc.com <willardalonzo@stanback-pc.com>
Sent: Wednesday, August 10, 2022 12:43 PM
To: 'Jessica A. Ekhoff' <JAE@pattishall.com>
Cc: 'Caron Johnson' <caron@stanback-pc.com>; 'Felicia G. Traub' <FGT@pattishall.com>
Subject: [redacted] Discovery

Good afternoon, Jessica:

I have now had an opportunity to have a conversation with my client ("**Applicant**") about the highlights of the call you and I had yesterday - Tuesday. With the information I provided to Applicant, I am authorized to inform you of the following:

[redacted]

- Kindly note, however, that it is imperative for Applicant to understand who will be speaking on behalf of Opposer [redacted]. It's my understanding from the call you and I had that Cynthia Howell will not be that person [redacted] to act as Opposer's Fed. R. Civ. P. 26(a)(1)(A)(i) witness (the "**AKA Witness**"). Accordingly, Applicant respectfully requests that Opposer identify the person [redacted]. We assume – you can of course let me know if my assumption is flawed -- that the person speaking on behalf of Opposer [redacted] would be the newly designated AKA Witness. Kindly provide, as soon as possible, a supplemental initial disclosure so that Applicant will know the identity of such AKA Witness and plan accordingly. As a reminder – as you know, Opposer had asked for an extension for the deposition until August 8th, Applicant opposed the extension, but in reality, we are now beyond Applicant's originally sought deposition date and Opposer's initially requested extension date.

- It is Applicant's understanding that Ms. Howell has not been authorized to act on behalf of Opposer in this matter since last month. Noting also that Opposer served discovery responses on August 5, 2022. Applicant would like to understand if the responses were prepared with the input of Ms. Howell and/or by one or more other representatives of Opposer. Applicant respectfully requests that the names of the Opposer's representatives that provided meaningful input into the responses (including Ms. Howell if applicable) be provided so Applicant can better prepare for the AKA Witness deposition.

- [redacted]

Kindly let me know if the approach outlined above (AKA's provision of a supplemental initial disclosure, [redacted] the identity of the [redacted] possible AKA Witness, [redacted] works for AKA. If not, STTP will shift its resources [redacted] to seeking the long-awaited deposition of the AKA Witness.

All the best,

Willard

WILLARD ALONZO STANBACK
"BUILDING ON IDEAS"®
36 West Lafayette Street
Suite 103
Trenton, NJ 08608
willardalonzo@stanback-pc.com
O: 855-614-1111
F: 609-751-5121
M: 646-734-4204
S: willard.stanback2

Exhibit F

From: Jessica A. Ekhoff <JAE@pattishall.com>
Sent: Wednesday, August 10, 2022 3:34 PM
To: 'willardalonzo@stanback-pc.com' <willardalonzo@stanback-pc.com>
Cc: 'Caron Johnson' <caron@stanback-pc.com>; Felicia G. Traub <FGT@pattishall.com>
Subject: RE: [redacted] Discovery

Willard,

Thank you for your message. I have discussed it with AKA and they have asked me to provide the following response:

- [redacted]
- AKA will amend its initial disclosures in due course when it identifies the individual(s) most likely to have relevant knowledge regarding this matter.
- [redacted]

Regards,

Jessica

PATTISHALL McAULIFFE

Jessica A Ekhoff
Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP
200 South Wacker Drive
Suite 2900
Chicago, IL 60606-5896
Direct: (312)554-7942 Main: (312) 554-8000 Fax: (312) 554-8015
JAE@pattishall.com www.pattishall.com

Exhibit G

From: willardalonzo@stanback-pc.com <willardalonzo@stanback-pc.com>
Sent: Wednesday, September 28, 2022 12:58 AM
To: 'Jessica A. Ekhoff' <JAE@pattishall.com>
Cc: 'Caron Johnson' <caron@stanback-pc.com>; 'Felicia G. Traub' <FGT@pattishall.com>
Subject: RE: AKA/ Stroll to the Polls, Inc. -- Opposition [redacted]

Good (early) morning, Jessica:

This email is in further response to your email of September 20th (thanks for it), including an inquiry arising from what you wrote.

[redacted]

[redacted]

We note and remind you that our client had originally sought to depose the now former AKA president - Dr. Glover. AKA had offered, instead, the now former executive director - Cynthia Howell -- for deposition. Noting the recent changes in leadership within multiple levels of the AKA organization, STTP now seeks clarification on whom within the AKA organization will now be primarily responsible for the decision-making process with respect to these ongoing opposition proceedings. In particular, we would like [redacted] confirmation that that person / those persons will be the individual(s) you will be offering for deposition(s) and that arguably such person have prior and has now / those persons had prior and have now all of the pertinent information regarding this matter for both meaningful deposition(s) [redacted]

Thank you for your attention to this matter.

All the best,

Willard

WILLARD ALONZO STANBACK
"BUILDING ON IDEAS"®
36 West Lafayette Street
Suite 103
Trenton, NJ 08608
willardalonzo@stanback-pc.com
O: 855-614-1111
F: 609-751-5121
M: 646-734-4204
S: willard.stanback2

Exhibit H

From: Jessica A. Ekhoff <JAE@pattishall.com>
Sent: Wednesday, September 28, 2022 11:39 AM
To: 'willardalonzo@stanback-pc.com' <willardalonzo@stanback-pc.com>
Cc: 'Caron Johnson' <caron@stanback-pc.com>; Felicia G. Traub <FGT@pattishall.com>
Subject: RE: AKA/ Stroll to the Polls, Inc. -- Opposition [redacted]

Dear Willard,

[redacted]

As previously noted, AKA will amend its initial disclosures to identify the person(s) with relevant knowledge in due course.

[redacted]

Regards,

Jessica

PATTISHALL McAULIFFE

Jessica A Ekhoff
Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP
200 South Wacker Drive
Suite 2900
Chicago, IL 60606-5896
Direct: (312)554-7942 Main: (312) 554-8000 Fax: (312) 554-8015
JAE@pattishall.com www.pattishall.com

Exhibit I

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Serial No. 90/012,428	)	
	)	
Mark: STROLL TO THE POLLS	)	
	)	
ALPHA KAPPA ALPHA SORORITY,	)	
	)	Opposition No. 91,267,937
Opposer,	)	
	)	
v.	)	
	)	
STROLL TO THE POLLS, INC.	)	
	)	
Applicant.	)	
	)	
	)	
	)	

ALPHA KAPPA ALPHA SORORITY'S FIRST AMENDED INITIAL DISCLOSURES

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure and 37 C.F.R. §2.120(a), Opposer, Alpha Kappa Alpha Sorority ("AKA") hereby submits its amended initial disclosures in this matter to Applicant, Stroll to the Polls, Inc., as follows:

INTRODUCTORY STATEMENT

The following disclosures are based upon the information reasonably available to AKA as of this date. By making these disclosures, AKA does not represent that it is identifying every witness or document possibly relevant to this proceeding. AKA's disclosures represent a good faith effort to identify information that AKA reasonably believes relevant to the factual disputes alleged with particularity in the pleadings, as required by Rule 26(a)(1). AKA's disclosures are made without in any way waiving: 1) the right to object on the grounds of competency, privilege, relevancy and materiality, hearsay, or any other proper ground, to the use of any such

information, for any purpose, in whole or in part, in this proceeding or in any other action; and 2) the right to object on any and all grounds, at any time, to any discovery request involving or relating to the subject matter of these disclosures. Pursuant to Rule 26(b) of the Federal Rules of Civil Procedure, AKA will not disclose or produce privileged communications or trial preparation materials.

1. Witnesses (Fed. R. Civ. P. 26(a)(1)(A)(i)). AKA identifies the following individual likely to have discoverable information that AKA may use to support its claims or defenses:

Witness	Title	Topics
Nicole Barrett	Executive Director, Alpha Kappa Alpha Sorority	AKA's use of "Stroll to the Polls"; third-party use of "Stroll to the Polls"; and the meaning of "Stroll to the Polls."

The above witness should only be contacted through AKA's counsel. AKA reserves the right to supplement these Initial Disclosures with the identities of other witnesses identified through the course of discovery and otherwise.

2. Documents (Fed. R. Civ. P. 26(a)(1)(A)(ii)). AKA discloses the following categories of documents in its possession, custody, or control that AKA may use to support its claims or defenses:

(a) Documents relating to AKA's use of "Stroll to the Polls";

(b) Documents relating to third-party uses of "Stroll to the Polls"; and

(c) Documents relating to the meaning of "Stroll to the Polls".

The foregoing documents are located at the offices of AKA or its counsel. AKA reserves the right to supplement these initial disclosures with additional categories of documents as appropriate.

3. **Damages (Fed. R. Civ. P. 26(a)(1)(A)(iii)).** Not applicable to proceedings before the Board. T.B.M.P. § 401.02.

4. **Insurance Agreements (Fed. R. Civ. P. 26(a)(1)(A)(iv).** Not applicable to proceedings before the Board. T.B.M.P. § 401.02.

Dated: December 8, 2022

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

By: /Jessica A. Ekhoff/

Jessica A. Ekhoff
Felicia G. Traub
200 South Wacker Drive, Suite 2900
Chicago, Illinois 60606
(312) 554-8000
jae@pattishall.com
fgt@pattishall.com

Attorneys for Opposer,
Alpha Kappa Alpha Sorority

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ALPHA KAPPA ALPHA SORORITY'S FIRST AMENDED INITIAL DISCLOSURES was served upon Stroll to the Polls, Inc. at the email address below on December 8, 2022:

Stroll to the Polls, Inc.
Ramona Prioleau
2266 Fifth Ave. #728
New York, NY 10037
gotv@strolltothepolls.org

/Jessica A. Ekhoff/

Exhibit J

Subject **Re: AKA's First Amended Initial Disclosures**
From <gotv@strolltothepolls.org>
To Jessica A. Ekhoff <JAE@pattishall.com>
Cc Felicia G. Traub <FGT@pattishall.com>, Docket <DocketMail@pattishall.com>
Date 2022-12-13 00:21

The Applicant has received a PDF document with the file name "AKA's First Amended Initial Disclosures."

That document names Nicole Barrett as the witness with a claimed title of Executive Director, Alpha Kappa Alpha Sorority.

On information and belief, Nicole Barrett is not the Executive Director of the Opposer.

> Parties are required to supplement their respective initial disclosures "in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing." Fed. R. Civ. P. 26(e)(1)(A); Trademark Rules 2.116(a) and 2.120(a)(1). See also Great Seats, Inc. v. Great Seats, Ltd., 100 USPQ2d 1323, 1326 (TTAB 2011); Galaxy Metal Gear Inc. v. Direct Access Technology Inc., 91 USPQ2d 1859, 1861 (TTAB 2009).

Please provide corrected supplemental disclosures so that the Applicant can serve a notice of deposition for the Opposer's witness.

Stroll to the Polls, Inc.

On 2022-12-08 11:30, Jessica A. Ekhoff wrote:

> Ramona,
>
> Please find enclosed AKA's First Amended Initial Disclosures.
>
> Regards,
>
> Jessica
>
> Jessica A Ekhoff (she/her/hers)
> Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP
> 200 South Wacker Drive
> Suite 2900
> Chicago, IL 60606-5896
> Direct: (312)554-7942 Main: (312) 554-8000 Fax: (312) 554-8015
> JAE@pattishall.com www.pattishall.com [1]
>
> Pattishall Ranks GOLD in the United States and in Illinois in the prestigious
> WTR 1000
>
>
>
> Links:
> ---
> [1] http://www.pattishall.com

Exhibit K

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Serial No. 90/012,428	)	
	)	
Mark: STROLL TO THE POLLS	)	
	)	
ALPHA KAPPA ALPHA SORORITY,	)	
	)	Opposition No. 91,267,937
Opposer,	)	
	)	
v.	)	
	)	
STROLL TO THE POLLS, INC.	)	
	)	
Applicant.	)	
	)	
	)	
	)	

ALPHA KAPPA ALPHA SORORITY'S SECOND AMENDED INITIAL DISCLOSURES

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure and 37 C.F.R. §2.120(a), Opposer, Alpha Kappa Alpha Sorority ("AKA") hereby submits its amended initial disclosures in this matter to Applicant, Stroll to the Polls, Inc., as follows:

INTRODUCTORY STATEMENT

The following disclosures are based upon the information reasonably available to AKA as of this date. By making these disclosures, AKA does not represent that it is identifying every witness or document possibly relevant to this proceeding. AKA's disclosures represent a good faith effort to identify information that AKA reasonably believes relevant to the factual disputes alleged with particularity in the pleadings, as required by Rule 26(a)(1). AKA's disclosures are made without in any way waiving: 1) the right to object on the grounds of competency, privilege, relevancy and materiality, hearsay, or any other proper ground, to the use of any such

information, for any purpose, in whole or in part, in this proceeding or in any other action; and 2) the right to object on any and all grounds, at any time, to any discovery request involving or relating to the subject matter of these disclosures. Pursuant to Rule 26(b) of the Federal Rules of Civil Procedure, AKA will not disclose or produce privileged communications or trial preparation materials.

1. Witnesses (Fed. R. Civ. P. 26(a)(1)(A)(i)). AKA identifies the following individual likely to have discoverable information that AKA may use to support its claims or defenses:

Witness	Title	Topics
Nicole Barrett	Deputy Director, Alpha Kappa Alpha Sorority	AKA's use of "Stroll to the Polls"; third-party use of "Stroll to the Polls"; and the meaning of "Stroll to the Polls."

The above witness should only be contacted through AKA's counsel. AKA reserves the right to supplement these Initial Disclosures with the identities of other witnesses identified through the course of discovery and otherwise.

2. Documents (Fed. R. Civ. P. 26(a)(1)(A)(ii)). AKA discloses the following categories of documents in its possession, custody, or control that AKA may use to support its claims or defenses:

(a) Documents relating to AKA's use of "Stroll to the Polls";

(b) Documents relating to third-party uses of "Stroll to the Polls"; and

(c) Documents relating to the meaning of "Stroll to the Polls".

The foregoing documents are located at the offices of AKA or its counsel. AKA reserves the right to supplement these initial disclosures with additional categories of documents as appropriate.

3. **Damages (Fed. R. Civ. P. 26(a)(1)(A)(iii)).** Not applicable to proceedings before the Board. T.B.M.P. § 401.02.

4. **Insurance Agreements (Fed. R. Civ. P. 26(a)(1)(A)(iv).** Not applicable to proceedings before the Board. T.B.M.P. § 401.02.

Dated: December 13, 2022

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

By: /Jessica A. Ekhoff/

Jessica A. Ekhoff
Felicia G. Traub
200 South Wacker Drive, Suite 2900
Chicago, Illinois 60606
(312) 554-8000
jae@pattishall.com
fgt@pattishall.com

Attorneys for Opposer,
Alpha Kappa Alpha Sorority

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ALPHA KAPPA ALPHA SORORITY'S SECOND AMENDED INITIAL DISCLOSURES was served upon Stroll to the Polls, Inc. at the email address below on December 13, 2022:

Stroll to the Polls, Inc.
Ramona Prioleau
2266 Fifth Ave. #728
New York, NY 10037
gotv@strolltothepolls.org

/Jessica A. Ekhoff/

Exhibit L

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Alpha Kappa Alpha Sorority Opposer, v. Stroll to the Polls, Inc. Applicant.	Opposition No. 91267937 Mark: STROLL TO THE POLLS Serial No. 90012428 Filed: June 20, 2020 Published: Nov. 03, 2020

NOTICE OF DEPOSITION OF NICOLE BARRETT

Please take notice that, pursuant to Trademark Rule 2.120(b), 37 CFR § 2.l20(b), and Rule 30 of the Federal Rules of Civil Procedure, Applicant Stroll to the Polls, Inc. ("Applicant") will take the deposition upon oral examination of Nicole Barrett in connection with the above-captioned proceeding. The deposition will commence on Wednesday, December 21, 2022, at 9:30 am, remotely via video teleconference for the safety and convenience of all parties during the Covid-19 pandemic, or at such time and place as may be agreed to by the parties. The deposition will continue from day to day until completed.

The deposition will be taken before a Notary Public (or another officer duly authorized to administer oaths) and will be recorded by stenographic means. Applicant reserves the right to use any information produced through the deposition process for the purpose of discovery or for other such purposes as may be permitted under the Federal Rules of Civil Procedure, the Federal Rules of Evidence and/or the rules of the Trademark Trial and Appeal Board.

Respectfully submitted,

Dated: December 14, 2022

By: /s/Ramona Prioleau

Ramona Prioleau
Stroll to the Polls, Inc.
2266 Fifth Ave., #728
New York, NY 10037
gotv@strolltothepolls.org

APPLICANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the attached Notice of Deposition of Nicole Barrett was served on the Attorney for the Opposer on the date listed below via email:

Jessica A Ekhoff
Pattishall Mcauliff Newbury Hilliard & Geraldson LLP
200 South Wacker Drive Suite 2900
Chicago, IL 60606
jae@pattishall.com
fgt@pattishall.com
pam@pattishall.com

Dated: December 14, 2022 By: /s/Ramona Prioleau
Ramona Prioleau

Exhibit M

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Alpha Kappa Alpha Sorority Opposer, v. Stroll to the Polls, Inc. Applicant.	Opposition No. 91267937 Mark: STROLL TO THE POLLS Serial No. 90012428 Filed: June 20, 2020 Published: Nov. 03, 2020

NOTICE OF WITHDRAWAL OF THE DEPOSITION NOTICE OF NICOLE BARRETT

Applicant Stroll to the Polls, Inc. ("Applicant"), hereby gives notice that it is withdrawing the deposition notice upon oral examination of Nicole Barrett in connection with the above-captioned proceeding in response to Opposer's request for a deposition date of January 20, 2023; Opposer's consent to the deposition of Nicole Barrett outside of the discovery period; Opposer's confirmation that Nicole Barrett will serve as Opposer's Rule 30(b)(6) witness; and Opposer's stipulation to the deposition of its Rule 30(b)(6) witness, Nicole Barrett, via written questions. Applicant reserves the right to notice the deposition of Nicole Barrett or any others in the future as permitted by the Federal Rules of Civil Procedure.

Respectfully submitted,

Dated: December 20, 2022

By: /s/Ramona Prioleau
Ramona Prioleau
Stroll to the Polls, Inc.
2266 Fifth Ave., #728
New York, NY 10037
gotv@strolltothepolls.org

APPLICANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the attached Notice of Withdrawal of the Deposition Notice of Nicole Barrett was served on the Attorney for the Opposer on the date listed below via email:

Jessica A Ekhoff
Pattishall Mcauliff Newbury Hilliard & Geraldson LLP
200 South Wacker Drive Suite 2900
Chicago, IL 60606
jae@pattishall.com
fgt@pattishall.com
pam@pattishall.com

Dated: December 20, 2022

By: /s/Ramona Prioleau
Ramona Prioleau

Exhibit N

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Alpha Kappa Alpha Sorority Opposer, v. Stroll to the Polls, Inc. Applicant.	Opposition No. 91267937 Mark: STROLL TO THE POLLS Serial No. 90012428 Filed: June 20, 2020 Published: Nov. 03, 2020

NOTICE TO TAKE DEPOSITION UPON WRITTEN QUESTIONS

Applicant Stroll to the Polls, Inc. withdrew its earlier notice of deposition upon oral examination of Nicole Barrett in connection with the above-captioned proceeding in response to Opposer's request for a deposition date of January 20, 2023; Opposer's consent to the deposition of Nicole Barrett outside of the discovery period; Opposer's confirmation that Nicole Barrett will serve as Opposer's Rule 30(b)(6) witness; and Opposer's stipulation to the deposition of its Rule 30(b)(6) witness, Nicole Barrett, via written questions. Upon withdrawal of its notice of deposition upon oral examination of Nicole Barrett, Applicant reserved the right to notice the deposition of Nicole Barrett or any others in the future as permitted by the Federal Rules of Civil Procedure.

Please take notice that, pursuant to Trademark Rule 2.120, 37 C.F.R. § 2.120, and Rule 30 as well as Rule 31 of the Federal Rules of Civil Procedure, Applicant will take the discovery deposition on written questions of Nicole Barrett, Deputy Director, Alpha Kappa Alpha Sorority in connection with the above-captioned proceeding.

The deposition will commence on Friday, January 20, 2023, at 9:30 am, Central Time, remotely via video teleconference for the safety and convenience of all parties during the Covid-19 pandemic, or at such time and place as may be agreed to by the parties. The deposition will continue from day to day until completed.

The January 20, 2023 deposition will be taken before a person authorized to administer oaths in the jurisdiction where the deposition is to be held from the office of TSG Reporting, Inc., 320 W. Ohio St. Suite 3W, Chicago, IL 60654. Pursuant to Fed. R. Civ. P. 30(b)(6), Opposer is required to designate one or more persons knowledgeable about the following matters:

1. The organization, formation, and ownership of Opposer.
2. The management and operations of Opposer.
3. The officers, employees, and members of Opposer and their responsibilities at Opposer.
4. Opposer's decision to adopt the Stroll to the Polls mark.
5. Knowledge of Opposer and its business.
6. Opposer's first alleged use of and current alleged use of the Stroll to the Polls mark for Class 25 goods.
7. Opposer's advertising, marketing, and promotion of Class 25 goods offered by Opposer under the Stroll to the Polls mark.
8. Ownership and operation of Opposer's website, aka1908.com, by Opposer.
9. Opposer's intended uses, future uses, and business plans for the Stroll to the Polls mark.
10. Instances of actual confusion between Applicant's Stroll to the Polls mark and Opposer's the Stroll to the Polls mark, if any.
11. Opposer's history of enforcement of its rights in the Stroll to the Polls mark.
12. Documents produced by Opposer in this proceeding.
13. Opposer's responses to Applicant's Interrogatories and Requests for Admission in this proceeding.
14. Transactions related to its alleged Class 25 goods offered under the Stroll to the Polls mark.

15. The bases for the allegations in Opposer's Notice of Opposition.
16. The type of users who actually use Opposer's alleged class 25 goods offered under the Stroll to the Polls mark.
17. The type of intended users who Opposer targets for its alleged class 25 goods offered under the Stroll to the Polls mark.
18. Opposer's actual and intended channels of trade.
19. Opposer's documents and records retention policies, if any.

Further, pursuant to Rule 2.124(b)(1) of the Trademark Rules of Practice, copies of Applicant's direct questions are attached to Opposer's copy of this notice, but not to the copy filed with the Trademark Trial and Appeal Board. Applicant reserves the right to use any information produced through the deposition process for the purpose of discovery or for other such purposes as may be permitted under the Federal Rules of Civil Procedure, the Federal Rules of the Evidence, and/or the rules of the Trademark Trial and Appeal Board.

Respectfully submitted,

Dated: December 31, 2022

By: /s/Ramona Prioleau
Ramona Prioleau
Stroll to the Polls, Inc.
2266 Fifth Ave., #728
New York, NY 10037
gotv@strolltothepolls.org

APPLICANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the attached Notice to Take Deposition Upon Written Questions was served on the Attorney for the Opposer on the date listed below via email:

Jessica A Ekhoff
Pattishall Mcauliff Newbury Hilliard & Geraldson LLP
200 South Wacker Drive Suite 2900
Chicago, IL 60606
jae@pattishall.com
fgt@pattishall.com
pam@pattishall.com

Dated: December 31, 2022

By: /s/Ramona Prioleau
Ramona Prioleau

Exhibit O

Subject	**RE: Opposition No. 91267937: incomplete deposition questions**
From	Jessica A. Ekhoff <JAE@pattishall.com>
To	<gotv@strolltothepolls.org>
Cc	Felicia G. Traub <FGT@pattishall.com>, Docket <DocketMail@pattishall.com>
Date	2023-01-03 10:46

Ramona,

The Appendices referenced in the deposition questions you served were not included. Please serve the Appendices at your earliest convenience. Since the deposition questions are currently incomplete, we will consider them served on the day we receive the Appendices.

Regards,
Jessica

Jessica A
Ekhoff
Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP
200 South Wacker Drive
Suite 2900
Chicago, IL 60606-5896
Direct: (312)554-7942 Main: (312) 554-8000 Fax: (312) 554-8015
mailto:JAE@pattishall.com www.pattishall.com Follow us on Twitter: www.twitter.com/Pattishall

-----Original Message-----
From: gotv@strolltothepolls.org <gotv@strolltothepolls.org>
Sent: Saturday, December 31, 2022 10:15 PM
To: Jessica A. Ekhoff <JAE@pattishall.com>
Cc: Felicia G. Traub <FGT@pattishall.com>; Phyllis A. Mireles <PAM@pattishall.com>
Subject: Opposition No. 91267937

External email, exercise caution.

Please see attached

Exhibit P

Subject	**Re: Opposition No. 91267937: incomplete deposition questions**
From	<gotv@strolltothepolls.org>
To	Jessica A. Ekhoff <JAE@pattishall.com>
Cc	Felicia G. Traub <FGT@pattishall.com>, Docket <DocketMail@pattishall.com>
Date	2023-01-06 07:57

- Appendices A-G.pdf(~32 MB)

The Applicant served the deposition questions on December 31, 2022.

As a courtesy, please see attached.

Stroll to the Polls, Inc.

On 2023-01-03 10:46, Jessica A. Ekhoff wrote:

> Ramona,
>
> The Appendices referenced in the deposition questions you served were not included. Please serve the Appendices at your earliest convenience. Since the deposition questions are currently incomplete, we will consider them served on the day we receive the Appendices.
>
> Regards,
> Jessica
>
> Jessica A
> Ekhoff
> Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP
> 200 South Wacker Drive
> Suite 2900
> Chicago, IL 60606-5896
> Direct: (312)554-7942 Main: (312) 554-8000 Fax: (312) 554-8015
> mailto:JAE@pattishall.com www.pattishall.com Follow us on Twitter:
> www.twitter.com/Pattishall
>
> The preceding message and any attachments may contain confidential information protected by the attorney-client or other privilege. You may not forward this message or any attachments without the permission of the sender. If you believe that it has been sent to you in error, please reply to the sender that you received the message in error and then delete it. Nothing in this email message, including the typed name of the sender and/or this signature block, is intended to constitute an electronic signature unless a specific statement to the contrary is included in the message.
>
> -----Original Message-----
> From: gotv@strolltothepolls.org <gotv@strolltothepolls.org>
> Sent: Saturday, December 31, 2022 10:15 PM
> To: Jessica A. Ekhoff <JAE@pattishall.com>
> Cc: Felicia G. Traub <FGT@pattishall.com>; Phyllis A. Mireles <PAM@pattishall.com>
> Subject: Opposition No. 91267937
>
> External email, exercise caution.
>
> Please see attached

Exhibit Q

Subject	**Objections to Deposition on Written Questions of Nicole Barrett**
From	Jessica A. Ekhoff <JAE@pattishall.com>
To	<gotv@strolltothepolls.org>
Cc	Felicia G. Traub <FGT@pattishall.com>
Date	2023-01-20 10:02

- Objections to Deposition on Written Questions of Nicole Barrett.pdf(~91 KB)

Ramona,

Please find enclosed AKA's Objections to Deposition on Written Questions of Nicole Barrett.

Regards,
Jessica

PATTISHALL McAULIFFE

Jessica A Ekhoff (she/her/hers)
Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP
200 South Wacker Drive
Suite 2900
Chicago, IL 60606-5896
Direct: (312)554-7942 Main: (312) 554-8000 Fax: (312) 554-8015
JAE@pattishall.com www.pattishall.com

Exhibit R

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application:
Serial No. 90/012,428
Applicant: Stroll to the Polls, Inc.
Filed: June 20, 2020
Mark: Stroll to the Polls

Alpha Kappa Alpha Sorority,
Opposer,
vs. Opposition No. 91267937
Stroll to the Polls, Inc.,
Applicant.

Affidavit re Failure of NICOLE BARRETT
to Appear for Deposition
Chicago, Illinois
Friday, January 20, 2023

Reported By:
Steven J. Brickey, CSR #084-004675

Job No. 220931

I, Steven J. Brickey, C.S.R. No. 084-004675, RPR, RMR CRR, a Certified Shorthand Reporter in and for the State of Illinois, do hereby respectfully report as follows:

That at the request of Ramona Prioleau representing Stroll to the Polls, Inc.in the above-entitled cause, I appeared at Zoom link 816 1589 0600, Chicago, Illinois, at 9:30:00 a.m., on Friday, January 20, 2023, for the purpose of placing under oath and taking the deposition of NICOLE BARRETT;

that I remained until 10:37 a.m. on said date, during which time the witness did not appear.

Dated this 20th day of January, 2023.

Respectfully submitted, 

_____

Steven J. Brickey, CSR, RPR, RMR, CRR

Exhibit S

Subject **Re: Dr. Nicole Barrett's Failure to Appear for the January 20, 2023 Deposition**
From <gotv@strolltothepolls.org>
To <jae@pattishall.com>
Cc <fgt@pattishall.com>, <pam@pattishall.com>
Date 2023-01-25 23:49

The Applicant maintains that Nicole Barrett failed to appear for the deposition. Applicant reserves the right to seek all remedies available to it under the law and seek appropriate relief under the Federal Rules of Civil Procedure that result from this failure.

The Applicant served the written questions on December 31, 2022 and disagrees with the Opposer's claims to the contrary. January 20, 2023 was the date that the Opposer requested for the Barrett deposition and the date that the Board referenced in its January 11, 2023 order.

The Applicant is not available on February 3rd, but is available February 20 or 24th.

Taking into account the January 11th Board Order, the Board will have to reopen discovery for the deposition of Dr. Barrett.

Restating, this correspondence is without prejudice to Applicant's rights and remedies, all of which are preserved.

Stroll to the Polls, Inc.

On 2023-01-24 10:02, Jessica A. Ekhoff wrote:

> Ramona,
>
> Dr. Barrett did not "fail" to attend the deposition on January 20. You served the complete set of deposition questions on January 6. Pursuant to Fed. R. Civ. P. 31(a)(5), AKA had until the end of the day on January 20 to serve cross-questions. The deposition could not have taken place on that day. Moreover, we advised you on January 6 that we would confer with Dr. Barrett regarding her availability for the deposition and get back to you (email attached for reference.)
>
> Dr. Barrett is not available on February 17. Please re-issue the deposition notice for February 3.
>
> Regards,
>
> Jessica
>
> Jessica A Ekhoff (she/her/hers)
> Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP
> 200 South Wacker Drive
> Suite 2900
> Chicago, IL 60606-5896
> Direct: (312)554-7942 Main: (312) 554-8000 Fax: (312) 554-8015
> JAE@pattishall.com www.pattishall.com [1]
>
> Pattishall Ranks GOLD in the United States and in Illinois in the prestigious
> WTR 1000
>
> ---
> The preceding message and any attachments may contain confidential information protected by the attorney-client or other privilege. You may not forward this message or any attachments without the permission of the sender. If you believe that it has been sent to you in error, please reply to the sender that you received the message in error and then delete it. Nothing in this email message, including the typed name of the sender and/or this signature block, is intended to constitute an electronic signature unless a specific statement to the contrary is included in the message.
> ---
>
> From: gotv@strolltothepolls.org <gotv@strolltothepolls.org>
> Sent: Tuesday, January 24, 2023 6:06 AM
> To: Jessica A. Ekhoff <JAE@pattishall.com>
> Cc: Felicia G. Traub <FGT@pattishall.com>; Phyllis A. Mireles <PAM@pattishall.com>
> Subject: Dr. Nicole Barrett's Failure to Appear for the January 20, 2023 Deposition
>
> External email, exercise caution.
>
> Dr. Barrett's failure to appear for the January 20, 2023 deposition prevented the Applicant from completing the deposition during the discovery period as reopened by the Board through January 20, 2023.
>
> As such, the Board will have to be advised of Dr. Barrett's failure to appear and reopen discovery so that the deposition can be taken.
>
> Currently, the Applicant is available February 17th and possibly February 3rd.
>
> Please advise by close of business today whether the Opposer is available on February 17th.
>
> Stroll to the Polls, Inc.

Links:
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[1] http://www.pattishall.com