

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Rev. Dr. Thomas A. Summers, Rev. Dr.) Civil Action No. 3:08-2265-CMC
Robert M. Knight, Rabbi Sanford T.)
Marcus, Rev. Dr. Neal Jones, Hindu)
American Foundation, and American-Arab)
Anti-Discrimination Committee,)
)
Plaintiffs,)
)
vs.) **DEFENDANT MARCIA ADAMS'S**
) **RESPONSES TO PLAINTIFFS'**
) **SECOND SET OF**
) **INTERROGATORIES**
)
Marcia S. Adams, in her official capacity)
as Director of the South Carolina)
Department of Motor Vehicles, and Jon)
Ozmin, in his official capacity as the)
Director of the Department of Corrections)
of South Carolina,)
)
Defendants.)
)
_____)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant Marcia S. Adams, in her official capacity as Director of the South Carolina Department of Motor Vehicles (“Defendant”) answers the Plaintiffs' Interrogatories as follows:

OBJECTIONS AND DEFINITIONS

In setting forth their responses, Defendant does not waive the attorney-client, work product, or any other privilege or immunity from disclosure which may attach to information called for herein or responsive to the Interrogatory. Defendant does not concede the relevance or materiality of the Interrogatory, and/or the relevancy of or materiality of the subject matter to which the Interrogatory refers. These responses are submitted by Defendant subject to, and

without in any way waiving or intending to waive, but on the contrary, intending to reserve and reserving:

All questions as to competency, relevancy, materiality, privilege and admissibility as evidence for any purpose of any of the documents referred to or responses given, or the subject matter thereof and any subsequent proceeding in, or the trial of this action or any other action or proceeding;

The right to object to other discovery procedures involving or relating to the same subject matters; and

The right, at any time, to revise, correct, add to or clarify any of the responses set forth herein or documents referred to herein.

Further, Defendant objects to each and every Interrogatory and the definitions used therein as follows:

All responses to the discovery requests are subject to Defendant's general objections as set forth herein, in addition to any other ground which might be set forth in the actual answer to the specific discovery request.

Defendant objects to each request to the extent it seeks documents or information pertaining to communications between Defendant and her legal counsel on the grounds that such communications are privileged and are not subject to discovery. Defendant further objects to each request to the extent it seeks information concerning or resulting from preparation for litigation or for trial.

Defendant objects to each request to the extent it purports to require Defendant to produce any documents or do any act other than that which is properly required under the Federal Rules of Civil Procedure.

Defendant's objections and answers to each request are premised upon information and facts presently known to Defendant. Defendant will supplement her responses as required by the Federal Rules of Civil Procedure.

ANSWERS TO INTERROGATORIES

1. Explain the process by which DMV employee Lotte Devlin created the image in Bates-labeled document DMV-000147, including, but not limited to, the identities of persons with whom she communicated about the image, the contents of those communications, and the names and contents of any other resources she consulted.

RESPONSE: DMV asked its license plate vendor, 3M, to come up with some proposed license plate designs consistent with the requirements of the "I Believe" statute. The vendor considered a sample license plate from the state of Florida since it met the statutory requirements. The vendor was concerned with copyright infringement and chose not to use the Florida license as a template. In her capacity as Deputy Director for Motor Vehicles, Ms. Devlin searched the internet for public non-copyrighted stained-glass window clip art. She found a design with a stained-glass window, changed the colors, and added black outlines. She drew a cross and superimposed the cross on the stained-glass image. Ms. Devlin did not consult with any other person or group when she created the image.

2. Identify by name and title, and explain the role played by, any persons – including but not limited to Marsha [sic] Adams, Jimmy Earley Jr., John Padgett, Lotte Devlin, Cassandra Tucker, Steven Lake, any persons serving on the "Executive Steering Committee," or any other official or employee of the State of South Carolina or the DMV –

who participated in approving the design selected for the *I Believe license plate*, or who bore ultimate responsibility for that design's approval.

RESPONSE: The 3M Project Sponsor Team, composed of Jimmy Earley (Chief of Staff), Steven Lake (Deputy Director, Support Services), Lotte Devlin (Deputy Director, Vehicle Services), Cassandra Tucker (Manager, Project Management Office), Cathy Lucas (Procurement Manager) and John Padgett (3M Project Manager), is responsible for overseeing the DMV's contract with the license plate vendor, 3M. The 3M Project Sponsor Team conducted a preliminary review of the sample designs created by 3M based on Ms. Devlin's design. This review was based on legibility and aesthetics.

DMV's Executive Staff, composed of Marcia Adams (Executive Director), Jimmy Earley, Frank Valenta (General Counsel), Steven Lake, Lotte Devlin, Annie Phelps (Deputy Director, Driver Services) and Karl McClary (Director, Office of Integrity and Accountability), approved the final design of the "I Believe" license plate.

3. State whether any individual or organization submitted a request to the DMV or the South Carolina legislature, in any form, for creation or production of a license plate imprinted with the words "I" and "Believe," or the image of a cross, or the image of a stained-glass window, and if so, identify each requesting individual or organization, the words or images requested, and the individual or entity to which the request was made.

RESPONSE: DMV has not received an organizational request for creation or production of a license plate with the words "I" and "Believe," the image of a cross, or the image of a stained-glass window.

4. State whether the joint legislative committee referenced in S.C. Code Section 56-3-8000(F) has ever reviewed a DMV decision concerning a specialty license plate, ordered

the DMV to cease issuing or renewing a specialty plate, or sought information from the DMV regarding an existing or proposed specialty plate; and if so, describe the nature, scope, and content of the review, order, or request.

RESPONSE: Upon information and belief, the joint legislative committee has not reviewed a DMV decision concerning specialty license plates. Further, the joint legislative committee has not ordered DMV to cease issuance or renewal of a specialty license plate. The joint legislative committee has not sought information from DMV regarding an existing or proposed specialty license plate.

5. State whether the DMV has ever rejected a proposed specialty license plate design, whether as "offensive" or outside "community standards" pursuant to S.C. Code Section 56-3-8000(F), or under any of the design criteria listed on page 8, Section III.B.3. of DMV Policy RG-504; and if so, identify the applicant, describe the design, and state the specific basis for rejection.

RESPONSE: DMV has not rejected an organizational license plate request under S.C. Code Ann. § 56-3-8000 as "offensive" or "outside community standards." The South Carolina Farm Bureau AG in the Classroom ("Farm Bureau") submitted an application for a specialty license plate. Pursuant to DMV Policy RG-504, Section III.B.3.p, DMV rejected the Farm Bureau's license plate request because the proposed design "interfere[d] with [the] legibility or readability" of the license plate.

6. DMV Policy RG-504 states that organizational plate designs "may include only an emblem, a seal, logo, or other symbol" and "may not include slogans, names or other text, except if such text appears within the sponsoring organization's emblem, seal, logo, or other representative symbol." This same policy confines the "emblem, seal, logo, or other

representative symbol" to a 3.0" x 3.6" area specified on DMV's organizational plate "design template." Provide the dates on which the DMV approved the specialty plate designs for the Secular Humanists of the Low Country, Choose Life S.C., Donate Life, South Carolina Chiropractic Association, MUSC Children's Hospital, National Multiple Sclerosis Society, Surfrider Foundation, and West Point, and in light of the DMV policy provisions set forth above, explain why each plate bears text (specifically, "In Reason We Trust," "Choose Life S.C.," "Become an organ and tissue donor," "Hands on Healing," "MUSC Children's Hospital," "National MS Society," "Surfrider Foundation," and "West Point") that appears outside the area specified on the DMV's design template.

RESPONSE: The following license plates were approved before DMV Policy RG-504 was created: Secular Humanists of the Lowcountry, on or about August 30, 2004; Donate Life, on or about the 4th quarter, 2006; South Carolina Chiropractic Association, on or about November 3, 2004; and West Point, on or about the 4th quarter, 2002. The West Point license plate was approved by the South Carolina Department of Public Safety, when DMV was a division of that agency.

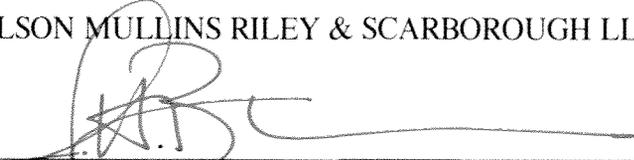
The remaining license plates were approved after the DMV Policy RG-504 went into effect: Choose Life S.C., on or about July 2008; MUSC Children's Hospital, on or about March 2008; National Multiple Sclerosis Society, on or about December 2007; and Surfrider Foundation, on or about September 2007. Consistent with DMV Policy RG-504, DMV has long interpreted S.C. Code § 56-3-8000 to permit the name of the sponsoring organization on the top of the license plate.

7. State whether any DMV agent or employee, or any other individual or organization, submitted or created a marketing plan for the *I Believe license plate*, and if so, identify the employee, agent, individual, or organization.

RESPONSE: Faith in Teaching, Inc. submitted a marketing plan for the “I Believe” license plate as part of its request to be the recipient of a sponsorship fee. DMV denied this request pursuant to statutory guidance because the enabling legislation did not provide for a sponsoring organization. DMV listed the license plate on the DMV website and announced the beginning and ending period for accepting orders through press releases. DMV did not develop a specific marketing plan, and thus, there was not a DMV employee responsible for a marketing plan.

SIGNATURE PAGE ATTACHED

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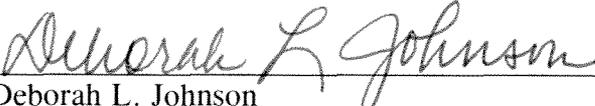
Columbia, South Carolina
February 5, 2009

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Defendant Marcia Adams, in her official capacity as Director of the South Carolina Department of Motor Vehicles, do hereby certify that I have served all counsel with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleading: **DEFENDANT MARCIA ADAMS'S RESPONSES TO PLAINTIFFS SECOND SET OF INTERROGATORIES**

Counsel: Ayesha N. Khan, Esquire
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Deborah L. Johnson

February 5, 2009