VERNON J. TATUM, JR.	*	**NO. 2001-CA-1072**
VERSUS	*	**COURT OF APPEAL**
THE ORLEANS PARISH SCHOOL BOARD	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**
	*	
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APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 96-2775, DIVISION "F-10"
Honorable Yada Magee, Judge
* * * * * *
Charles R. Jones
Judge
* * * * * *

(Court composed of Judge Charles R. Jones, Judge Patricia Rivet Murray and
Judge Max N. Tobias, Jr.)

TOBIAS, J. CONCURS

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APPEAL CONVERTED TO WRIT;
WRIT DENIED

Plaintiff/Appellant, Vernon J. Tatum, Jr., appeals the district court's denial of his Motion to Compel Discovery against the defendant/appellee, the Orleans Parish School Board (hereinafter "the Board"), along with the district court's denial of his Motion for Reconsideration and/or Rehearing of Denial of Motion to Compel Discovery.

FACTS AND PROCEDURAL HISTORY

Mr. Tatum is a former probationary teacher who was employed by the Board at Walter L. Cohen Senior High School (hereinafter "Cohen"). On February 22, 1996, plaintiff filed, in proper person, a Petition for Defamation of Character and/or Tort against the Board. Therein he sought damages for injuries allegedly suffered due to a letter placed in his personnel file by Mr. Leroy Gray, Cohen's principal. The Board answered, denying any defamation and asserting the defense of conditional privilege.

In June 2000, Mr. Tatum propounded a Request for Production of Documents on the Board seeking a copy of the letter placed in his file, along with a copy of his evaluation, which was prepared by Principal Gray. Mr.

Tatum also propounded interrogatories and requests for production of documents on the Board seeking information regarding the certification and education of hundreds of teachers, as well as seeking information from the personnel files of several particular school employees. The Board produced the entire contents of the July 9, 1990 letter, as well as a copy of the evaluation prepared by Principal Gray on January 12, 1990. The Board objected to the discovery pertaining to other teachers, however, on the grounds that the information sought was not relevant to Mr. Tatum's defamation claim, nor was it reasonably calculated to lead to the discovery of admissible evidence. Additionally, the Board argued that compilation of the information sought for the nine-year period specified by Mr. Tatum would be unduly burdensome. Finally, the Board argued that, pursuant to La. R.S. 17:1237, the information sought from the teachers' personnel files was confidential and protected by statute from disclosure to third parties, absent the written consent of the school employee or by court order or subpoena.

Mr. Tatum moved to compel and the matter was set for hearing on September 8, 2000. The Board filed a memorandum in opposition to Mr. Tatum's motion. The district court denied Mr. Tatum's motion, and an order to that effect was signed on September 14, 2000. On September 22, 2000,

Mr. Tatum filed a Motion for Reconsideration and/or Rehearing of the denial of his Motion to Compel Discovery, which the district court set for November 3, 2000. The Board opposed the motion. Following a hearing, the district court signed an order on November 3, 2000 denying Mr. Tatum's Motion for Reconsideration and/or Rehearing. On November 14, 2000, after receiving a Motion to Request Written Reasons of Mr. Tatum's Denial During Reconsideration and/or Rehearing Compelling Defendant's Discovery, the district court issued the following reasons for judgment:

> The Code of Civil Procedure does not recognize a motion for reconsideration and rehearing has been abolished in the trial court. However, if Mr. Tatum's motion was an attempt at a new trial, this motion was denied because the judgment denying the motion to compel was not contrary to the law and evidence presented; there was no new important evidence presented that could not have been presented, with due diligence, before the trial; nor was there any other good ground to grant a new trial. Accordingly the motion was DENIED.

Mr. Tatum filed his motion for appeal on November 30, 2000.

DISCUSSION

A judgment on a motion to compel discovery does not result in a final appealable judgment. Instead, the judgment is merely an interlocutory order not subject to immediate appeal unless it would cause irreparable injury. La. C.C.P. art. 2083; Krueger v. Chehadeh, 563 So. 2d 1358 (La. App. 4 Cir.

1990). The proper remedy for a party aggrieved by a discovery order is therefore a supervisory writ, rather than an appeal. Accordingly, we find that the district court erroneously ordered this appeal. Because the parties have briefed the issue, however, and in light of the fact that Mr. Tatum is representing himself, we will convert the appeal to a supervisory writ so that we may consider the merits of the district court's ruling. Evans v. Charity Hospital in New Orleans, 2000-0202 (La. App. 4 Cir. 11/14/01), __ So.2d __, 2001 WL 1459691.

The scope of discovery in Louisiana, in general, is set forth in La. C.C.P. art. 1422 which provides, in pertinent part, as follows:

> Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Trial courts in Louisiana have broad discretion when regulating pre-trial discovery. Absent a clear showing of an abuse of discretion, a ruling on

a discovery request will not be disturbed. Moak v. Illinois Cent. R. Co., 93-0783 (La. 1/14/94), 631 So.2d 401. Likewise, the denial of a motion for new trial should not be reversed unless there has been an abuse of the trial court's discretion. Perkins v. K-Mart Corp., 94-2065, pp. 8-10 (La. App. 1 Cir. 6/23/95), 657 So.2d 725, 731. Applying these precepts to the case before us, we find no error.

Mr. Tatum's appeal contains no arguments relative to the merits of the Motion to Compel he is attempting to have reviewed by this Court. Nevertheless, we have reviewed the record, the briefs of the parties and the applicable law, and we find no error in the district court's denial of Mr. Tatum's Motion to Compel, as well as the trial court's denial of Mr. Tatum's Motion for Reconsideration and/or Rehearing.

Mr. Tatum's petition, even as amended, only states a cause of action for defamation. The Board supplied Mr. Tatum with the information from his personnel file relative to his claim. The remaining information sought was totally irrelevant to Mr. Tatum's defamation claim and it was not likely to lead to the discovery of admissible evidence. In addition, much of the information sought was statutorily protected confidential information concerning other teachers. The Board rightfully objected to Mr. Tatum's requests for production. Accordingly, the district court's denial of Mr.

Tatum's Motion to Compel was proper. Likewise, because Mr. Tatum failed to allege, much less prove, any peremptory grounds on which a new trial should be granted, the district court properly denied his Motion for Reconsideration and/or Rehearing. La. C.C.P. art. 1972.

The bulk of Mr. Tatum's brief focuses on several alleged procedural irregularities, which he claims operated so as to deprive him of due process. Although he fails to allege that he suffered any harm as a result of these so-called procedural irregularities, we will briefly discuss each of his complaints.

First, Mr. Tatum argues that the district court erred in entertaining the Board's opposition to his Motion to Compel, despite the Board's failure to timely file its opposition pursuant to Local Rule 8, Section 2 of the Rules of the Civil District Court for the Parish of Orleans ("CDC Local Rule(s)"). That rule provides, in pertinent part, that "the opposing party shall file at least 72 hours prior to the time of the hearing a brief statement of the reasons in opposition…. Failure of counsel to comply with this rule **may** be deemed sufficient justification for a denial by the judge of the right to oral argument." (emphasis added). The hearing on the Motion to Compel was set for September 8, 2000 at 11:00 a.m. The Board's opposition to Mr. Tatum's motion was stamped as being filed in the district court's clerk of

court's office at 8:51 a.m. on September 8, 2000. Although the district court had the option of denying the Board the right to orally oppose the Motion to Compel, her allowing the Board to argue against the motion was clearly within the discretion of the district court.

Second, Mr. Tatum contends that the district court signed the judgments denying his Motion to Compel and his Motion for Reconsideration and/or Rehearing in violation of La. C.C.P. art. 253, because those judgments had not been properly filed with the district court's clerk of court. La. C.C.P. art. 253 applies to pleadings and documents to be filed in an action. A judgment is not a "pleading", but instead is a document, which is created by the court. Mr. Tatum cites no authority for the proposition that a judgment must be filed with the district court's clerk before the judge signs it. This argument is without merit.

Third, Mr. Tatum argues that the district court "orchestrated an attempt to deprive plaintiff's due process of time in (sic) responding to her denial ploy" pursuant to CDC Local Rule 8, Section 5. Here, he alleges that the judgment on his Motion to Compel was allegedly signed on September 14, 2000, mailed on September 19, 2000, and received by him on September 20, 2000, thus allowing him only two days to respond. Local rule 8, Section 5 provides the delay within which a party may file responsive pleadings

following the sustaining, overruling or referral to the merits of an exception. The matter before the district court in the case at bar was a Motion to Compel Discovery. Accordingly, Mr. Tatum's argument lacks merit.

Mr. Tatum next argues, without citing any authority, that the district court erred in failing to allow him to orally argue in support of his Motion for Reconsideration and/or Rehearing. We know of no requirement that a party be allowed to argue in support of such a motion. This argument is without merit.

Mr. Tatum also contends that the district court "continued her crusade to eliminate Pro Se' Mr. Tatum, Vernon J. Tatum, Jr. by not providing written reasons during her alleged 11-3-00 Judgment", compelling him to file a Request for Written Reasons pursuant to La. C.C.P. art. 1917. The distict court provided Mr. Tatum with reasons for the November 3, 2000 judgment within four days of the filing of his request for reasons. Accordingly, this argument is also lacking in merit.

Finally, Mr. Tatum argues that the district court strategically coordinated the docket by placing Mr. Tatum's matter last on the docket when the courtroom was void of other individuals to enhance her ability to ignore the rules of civil procedure at his expense. A court possesses inherently all of the power necessary for the exercise of its jurisdiction even

though not granted expressly by law. La. C.C.P. art. 191. Clearly the right to schedule the docket as district court sees fit is within the inherent power of the district court. This argument too is without merit.

For the reasons above indicated, the judgments made by the district court were correct and are hereby affirmed.

APPEAL CONVERTED TO WRIT;
WRIT DENIED