

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

GEORGE MUDROVICH, Complainant,

vs.

D.C. EVEREST AREA SCHOOL DISTRICT, Respondent.

Case 53
No. 57582
MP-3522

Decision No. 29946-G

Appearances:

Mr. George A. Mudrovich, 826½ Steuben Street, Wausau, Wisconsin 54403, appearing on his own behalf.

Ruder, Ware & Michler, S.C., by **Attorney Ronald J. Rutlin**, 500 Third Street, P.O. Box 8050, Wausau, Wisconsin 54402-8050, appearing on behalf of the Respondent.

**ORDER GRANTING RESPONDENT'S MOTION
TO QUASH SUBPOENA DUCES TECUM**

On May 26, 1999, Complainant filed a prohibited practice complaint with the Wisconsin Employment Relations Commission alleging that the Respondent had violated Secs. 111.70(3)(a)1 and 3, Stats., by the administration recommending Complainant's layoff and the school board members approving the same and rejecting Complainant's application for full-time employment, in part, due to Complainant's protected, concerted activity. On August 1, 2000, Coleen A. Burns was appointed by the Commission to act as Examiner in this case. Complainant has served a Subpoena Duces Tecum on the law firm of Ruder, Ware & Michler, S.C. On December 8, 2000, Respondent filed a Memorandum of Law in Support

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of Respondent's Motion to Quash Subpoena Duces Tecum. Thereafter, Complainant filed a Brief and Reply Brief in opposition to the Motion to Quash. Having considered the argument of the parties, and the record as a whole, the Examiner makes and issues the following

ORDER

Respondent's Motion to Quash Subpoena Duces Tecum is granted.

Dated at Madison, Wisconsin, this 29th of March, 2001.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Coleen A. Burns /s/

Coleen A. Burns, Examiner

D. C. EVEREST SCHOOL DISTRICT

MEMORANDUM ACCOMPANYING
ORDER GRANTING RESPONDENT'S MOTION
TO QUASH SUBPOENA DUCES TECUM

Complainant's Subpoena Duces Tecum seeks "Any and all papers and documentation, including but not limited to the following: letters, correspondence, notes, memoranda, file entries, billing statements, time records, progress reports, reports, litigation summaries, telephone entries and electronic data compilations involving the lawsuit of George A. Mudrovich v. Shar Soto and Holly Martin, Marathon County Court, Case number 97-CV-432 and disclosed or otherwise communicated by any attorney, associate, member or employee of the law firm of Ruder, Ware & Michler, A limited Liability S.C. to any and all members of the D.C. Everest Area School Board, its administrators or employees." A review of the Subpoena and attachments to the Subpoena demonstrate that, additionally, Complainant seeks access to materials relating to disclosures or communications of members of the D.C. Everest Area School Board, its administrators or employees to attorneys, associates, members or employees of the law firm of Ruder, Ware & Michler.

Having considered the record and the materials filed in support of, and in opposition to, Respondent's Motion to Quash the Subpoena Duces Tecum, the Examiner is persuaded that the materials sought by Complainant are irrelevant, immaterial, and/or are privileged under Sec. 905.03, Wis. Stats. The Examiner is further persuaded that the law firm of Ruder, Ware & Michler has standing to assert this privilege on behalf of Shar Soto, Holly Martin, and Respondent School District and has asserted this privilege. Accordingly, the Examiner has granted Respondent's Motion to Quash Subpoena Duces Tecum that was served by Complainant on the Ruder, Ware & Michler law firm.

Dated at Madison, Wisconsin, this day 29th of March, 2001.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Coleen A. Burns /s/

Coleen A. Burns, Examiner