

IN THE COURT OF COMMON PLEAS, MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

Miami Township Board of Trustees,	:	Case No. 2019 CV 5444
Plaintiff,	:	Hon. Richard S. Skelton
v.	:	
Darren Powlette,	:	
Defendant.	:	

DECISION AND ENTRY GRANTING PLAINTIFF’S MOTION
TO COMPEL DISCOVERY

This matter is before the Court on the motion of plaintiff to compel discovery from defendant in this matter and includes a certification of extra-judicial efforts to resolve the discovery dispute. 12/23/2020. The Court has held phone conferences with counsel regarding discovery.

Plaintiff served its initial discovery requests on 4/24/2020 and sent letters to defense counsel regarding the lack of response. The Court entered a protective order as requested by defendant on 11/11/2020. On 11/18/2020 plaintiff again provided notice to defendant that discovery was incomplete, and requested that it be provided within ten days or a motion would have to be filed to prevent unnecessary delay in prosecuting this action. In plaintiff’s motion and memorandum it states: “To date, Plaintiffs (*sic*) have failed to supplement their responses.” Then defendant produced photographs but not tax records or financial records. Again, the Court conducted a telephone conference on 12/17/2020. Defendant then provided response on 1/5/2021 asserting deficiencies in plaintiff’s requests. Plaintiff filed a reply memorandum on 1/11/2021

noting that defendants are not claiming privilege or work product but primarily that the discovery seeks information they **do not** believe is relevant to the subject matter of this action or would reasonably lead to discoverable evidence. Plaintiff discusses those alleged deficiencies on pages 5-9 of its reply memorandum. It asserts that it is trying to determine from defendants' records whether defendant is engaging in "agritourism" and has failed to meet safety and fire measures under the applicable building codes. It requests that the Court overrule the alleged deficiencies presented by defendants as reasons not to provide the requested discovery.

The Court has reviewed the motion and memoranda and arguments of counsel. The Court finds the defendants' objections to the discovery to be unjustified and adopts the positions advanced by the plaintiff in pages 5 through 9 of plaintiff's reply memorandum. Therefore, the Court hereby:

ORDERS defendants to respond fully to plaintiff's discovery requests within fourteen days from this entry and further

ORDERS that defendants reimburse plaintiff all costs incurred in the preparation and prosecution of its motion to compel, including reasonable attorney fees and expenses, as directed in Civ. R. 37, Ohio R. Civ. P. Plaintiff's counsel shall present such costs to defense counsel and then advise the Court concerning payment of the same, within thirty days after submission of the same to defense counsel.

SO ORDERED.

Richard S. Skelton, Judge

Cc: Edward J. Dowd
Alex Hale
937 222-2333
Attorneys for Plaintiff

Gregory S. Page
937 434-1908
Attorney for Defendants

Cynthia Miller, Bailiff, 225-4368; Cynthia.miller@montcourt.oh.gov



General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Case Number:
2019 CV 05444

Case Title:
MIAMI TOWNSHIP BOARD OF TRUSTEES vs DARREN
POWLETTE

Type:

Decision

So Ordered,