

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

MIAMI TOWNSHIP BOARD OF TRUSTEES,

CASE NO.: 2019 CV 05444

Plaintiff(s),

JUDGE E. GERALD PARKER JR

-VS-

DARREN POWLETTE et al,

**DECISION, ENTRY AND ORDER  
GRANTING PLAINTIFF'S MOTION TO  
SHOW CAUSE AND AMENDED  
MOTION TO SHOW CAUSE**

Defendant(s).

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This matter is before the Court on remand from the Second District Court of Appeals for further proceedings consistent with the decision in C.A. No. 29596 to address the contempt sanction to be imposed. Following a hearing on August 30, 2022, Judge Richard S. Skelton filed his *Decision and Entry Holding Defendants in Contempt*.<sup>1</sup> In his *Decision and Entry Holding Defendants in Contempt*, Judge Skelton found by clear and convincing evidence that “the defendants have operated the barn located at 7757 Upper Miamisburg Road, Miami Township for celebratory events in defiance of this Court’s injunction.” *See Decision and Entry Holding Defendants in Contempt*. Judge Skelton further found that “the Defendant Powlette engaged in some type of “game playing” with the specific intent to “get around” the Court’s Order.” *Id.* As a result of Judge Skelton’s finding of civil contempt, the Court hereby imposes the following pursuant to ORC §2705.05(A)(1):

- As a result of the above finding of civil contempt (first offense) the Court hereby imposes pursuant to ORC §2705.05(A)(1) for this first civil contempt violation of the Court’s December 29, 2021 injunction a fine of \$250.00.

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<sup>1</sup> Judge Richard S. Skelton who has since recused himself. *See* Docket.

- The attorneys fee award of \$9,050.00 from the January 24, 2023 *Decision and Entry Awarding Attorney Fees* remains.

The second matter before the Court is the *Amended Motion to Show Cause* filed on May 16, 2023, by Plaintiff, Miami Township Board of Trustees. The Court having held a full evidentiary hearing and having addressed the stipulations by the parties, and as stated on the record, finds by clear and convincing evidence that Defendants-Darren Powlette, et. al. have disobeyed the Court's December 29, 2021 *Final Judgment Entry; Injunction* and the evidence demonstrates an intentional disregard for the Court's December 29, 2021 order. The Court finds the repeated violations and offenses reprehensible. As a result, the Court finds Defendants in civil contempt and hereby ORDERS sanctions pursuant to ORC §2705.05(A)(2) and ORC §2705.05(A)(3) for these findings of civil contempt as follows:

- a. Defendants are Ordered to refund the funds collected in the amount of \$48,950.00 within eighteen (18) months of the filing of this entry as stipulated by the parties;
- b. for the July 16, 2022 civil contempt offense (second offense), a fine of \$500.00;
- c. for the July 30, 2022 civil contempt offense (third offense), a fine of \$1,000.00;
- d. for the August 13, 2022 civil contempt offense (fourth offense) a fine of \$1,000.00;
- e. for the September 3, 2022 civil contempt offense (fifth offense) a fine of \$1,000.00;
- f. for the September 17, 2022 civil contempt offense (sixth offense) a fine of \$1,000.00;
- g. for the October 1, 2022 civil contempt offense (seventh offense) a fine of \$1,000.00;
- h. for the October 15, 2022 civil contempt offense (eighth offense) a fine of \$1,000.00;
- i. for the November 5, 2022 civil contempt offense (ninth offense) a fine of \$1,000.00;
- j. and for the December 3, 2022 civil contempt offense (tenth offense) a fine of \$1,000.00.

Additionally, the Court finds that due to Defendant-Darren Powlette's repeated conduct and violations an additional sanction for any potential future violations should be imposed as a coercive sanction intended to deter this type of conduct and repeated violations. As such, for any future contempt findings the Court will impose a \$10,000.00 fine for any future offense, to increase by \$5,000.00 for each additional offense. Furthermore, any additional requests for attorney fees by Plaintiff shall be considered by this Court.

Finally, the Court notes in Plaintiff's *Amended Motion to Show Cause* filed on May 16, 2023, Plaintiff requested sanctions to include, but not limited to, a lock on the premises and/or jail time.

While the Court is not going to impose either at this time, Defendants are advised and are hereby on notice that any subsequent violation(s) and the resulting appropriate sanction(s) will be determined and addressed based on a continuum of severity necessary to deter this disobedience pursuant to ORC §2705.02. To ensure compliance with this Court's order, a status hearing shall be set for *six (6) months* from the filing of this entry and order.

**THIS IS A FINAL APPEALABLE ORDER, AND THERE IS NO JUST CAUSE FOR DELAY FOR PURPOSES OF CIV. R. 54. PURSUANT TO APP. R. 4, THE PARTIES SHALL FILE A NOTICE OF APPEAL WITHIN THIRTY (30) DAYS.**

SO ORDERED:

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JUDGE E. GERALD PARKER JR

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DAWN M FRICK  
(937) 222-2333  
Attorney for Plaintiff, Miami Township Board of Trustees

CHRISTOPHER T HERMAN  
(937) 222-2333  
Attorney for Plaintiff, Miami Township Board of Trustees

NATHANIEL W ROSE  
Attorney for Plaintiff, Miami Township Board of Trustees

THERESA A BAKER  
(937) 226-1990  
Attorney for Defendant, Darren Powlette

GREGORY S PAGE  
(937) 434-1908  
Attorney for Defendant, Darren Powlette

THERESA A BAKER  
(937) 226-1990  
Attorney for Defendant, Stoney Hill Rustic Weddings LLC

GREGORY S PAGE  
(937) 434-1908  
Attorney for Defendant, Stoney Hill Rustic Weddings LLC

MONIQUE HARRIS, Bailiff (937) 225-4448 MONIQUE.HARRIS@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,