

**IN THE COMMON PLEAS COURT
MONTGOMERY COUNTY, OHIO**

MIAMI TOWNSHIP BOARD OF TRUSTEES,	:	CASE NO.: 2019 CV 05444
	:	Judge Richard Skelton
Plaintiffs,	:	
v.	:	
	:	
DARREN POWLETTE et al,	:	
	:	
Defendants.	:	

**PLAINTIFF MIAMI TOWNSHIP BOARD OF TRUSTEES MOTION TO COMPEL
DEFENDANTS DARREN POWLETTE AND STONEY HILL RUSTIC WEDDINGS
LLC, TO PROVIDE RESPONSES TO PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**

Now comes Plaintiff, Miami Township Board of Trustees, by and through counsel, and hereby moves this Court pursuant to Ohio Civ.R. 37 for an order compelling Defendant Darren Powlette and Defendant Stoney Hill Rustic Weddings, LLC, (collectively "Defendants") to fully respond to Plaintiff's First Set of Interrogatories and Request for Production of Documents served upon Defendants by Plaintiff. In addition, Plaintiff requests that this Court sanction Defendants and order that Defendants pay the fees and costs for the preparation and filing of this motion. A supporting Memorandum is attached hereto, as well as the Certification of Edward J. Dowd (Exhibit A), certifying extra judicial efforts were taken by Plaintiff to obtain Defendants' discovery responses.

Respectfully submitted,

SURDYK, DOWD & TURNER CO., L.P.A.

/s/ Edward J. Dowd

Edward J. Dowd (0018681)

Alex J. Hale (0091682)

8163 Old Yankee Street, Suite C

Dayton, Ohio 45458

(937) 222-2333, (937) 222-1970 (fax)

edowd@sdtlawyers.com

ahale@sdtlawyers.com

Trial Attorneys for Miami Township

Board of Trustees

MEMORANDUM IN SUPPORT

I. INTRODUCTION

a. Procedural History

This case arises out of the Defendants' illegal and continued use of a wedding barn at 7757 Upper Miamisburg Road Miamisburg, Ohio 45342, which is a nuisance within the meaning of Chapter 3767 of the Ohio Revised Code. Plaintiff filed its Complaint for Preliminary and Permanent Injunction on November 18, 2019, which named Defendant Darren Powlette, as the lone defendant to this action. Plaintiff instructed the Montgomery County Clerk of Court to serve Defendant Powlette at 7757 Upper Miamisburg Road Miamisburg, Ohio 45342, however, on December 6, 2019, Plaintiff was notified through the Court's electronic filing system that service has failed. As Plaintiff was unable to serve Defendant Powlette at the aforementioned address, it filed a motion to appoint a process server, Jeff Klitch, to serve Mr. Powlette personally on December 11, 2019, which the Court granted on December 12, 2019. Mr. Klitch personally served Defendant Powlette on December 22, 2019. Defendant filed its Answer on January 20, 2020.

On January 21, 2020, Plaintiff filed its First Amended Complaint for Preliminary and Permanent Injunction, which again named Darren Powlette as a defendant, and added Stoney Hill Rustic Weddings LLC (herein after "Stoney Hill"), c/o Darren Powlette as a defendant. Plaintiff instructed the Clerk of Court to issue to service to Stoney Hill through its statutory agent, Darren Powlette, at its business address, 7757 Upper Miamisburg Road Miamisburg, Ohio 45342. On February 5, 2020, Plaintiff was notified through the Court's electronic filing system that service had failed on Stoney Hill. Plaintiff then attempted service through the Ohio Secretary of State, which did not yield service. On May 28, 2020, Plaintiff filed a Motion to Appoint a process server, Jeff Klitch, to perfect service on Defendant Stoney Hill, c/o Darren

Powlette. Mr. Klitch served Defendant Stoney Hill through its statutory agent, Darren Powlette via personal service on June 3, 2020. Defendant Stoney Hill filed its Answer to Plaintiff's First Amended Complaint on June 29, 2020.

On April 24, 2020, Plaintiff served Defendant Powlette with Plaintiff's First Set of Requests for Interrogatories, Production of Documents, and Admissions directed to him. As Plaintiff did not caption the discovery requests to include requests for admissions, Plaintiff reserved said discovery with the proper caption and informed Defendant Powlette that Plaintiff had no objection to his twenty-eight day time for response starting from the most recent date of service. On June 8, 2020, Plaintiff served Defendant Powlette with its First Set of Requests for Interrogatories, Production of Documents, and Admissions directed to him, and served Defendant Stoney Hill with Plaintiff's First Set of Requests for Interrogatories and Production of Documents directed to it. (Attached hereto as Exhibits 1 and 2.)

Defendant Powlette responded to Plaintiff's First Set of Requests for Admissions on June 25, 2020, but did not provide responses to Plaintiff's First Set of Interrogatories or Requests for Production of Documents at that time. (Defendant's Service Letter attached hereto as Exhibit 3.)

On August 10, 2020, Plaintiff sent correspondence to Defendants notifying them that their discovery responses were more than thirty days overdue and requested that Defendants respond to the discovery requests as soon as possible. (Correspondence attached hereto as Exhibit 4.) By September 22, 2020, neither Defendant had responded to Plaintiff's Interrogatories nor Plaintiff's Requests for Production of Documents. (Correspondence attached hereto as Exhibit 5.) Defendants' Counsel responded that he had prepared responses from Defendant Powlette, but that he was waiting for Powlette to provide copies of his tax returns. (Id.) On October 5, 2020, Plaintiff requested that Defendant Powlette's current responsive

materials be sent and that he supplement as more materials became available, to which Defendants’ counsel responded he hoped to respond by October 6, 2020. (Id.) Defendant Powlette did not respond on October 6, 2020. (Id.) As such Plaintiff contacted Defendants and advised that if they did not respond to Plaintiff’s Interrogatories and Requests for Production of Documents by September 29, 2020, that Plaintiffs would involve the Court. (Id.) The Defendants did not produce any responses by September 29, 2020, but did contact the Plaintiff to advise that they would like a protective order based on some documents they intended to produce. (Correspondence attached hereto as Exhibit 6). As no documents were produced by September 29, 2020, conference with the Court was scheduled on October 23, 2020.

On October 16, 2020, Defendant Powlette served his responses to Plaintiff’s First Set of Interrogatories and Requests for Production of Documents. (Attached hereto as Exhibit 7.) These responses were non-responsive and incomplete at best. On October 19, 2020, this Court ordered that all parties’ counsel be on a conference call with the Court on October 23, 2020 at 9:20 A.M., Defendants’ counsel did not appear on the phone conference. On October 23, 2020, Plaintiff contacted the Defendants to inform them that their responses were incomplete and would require supplementation, and that Plaintiff did not want to have the trial delayed due to Defendants being dilatory in producing documents they were required to produce. (Id.) On November 9, 2020, Defendant Stoney Hill produced its Responses to Plaintiff’s First Set of Interrogatories and Requests for Productions of Documents. (Defendant’s Service Letter attached hereto as Exhibit 8.) In responding Defendants alleged that information sought by Plaintiff was protected information and requested that Plaintiff agree to a Protective Order so that such could safely be produced by Defendants. (See Exhibits 1 and 2, *generally*.) Plaintiff

agreed to a Protective Order and the Court filed an Order and Entry on November 11, 2020, that any such protected documents not be disclosed beyond the parties.

On November 18, 2020, Plaintiff again notified Stoney Hill and Powlette that their discovery responses were incomplete and needed to be supplemented in detailed deficiency letters which outlined the noted deficiencies in each response. (Correspondence attached hereto as Exhibits 9 and 10.) Plaintiff informed Defendants that if such were not supplemented within ten days, Plaintiff would file a motion to compel and request that the Court sanction Powlette and Stoney Hill. To date, Plaintiffs have failed to supplement their responses.

On December 4, 2020, Defendants' counsel informed the Plaintiff that he had met with his clients that day and believed he would be providing responses on the December 7, 2020. (Correspondence attached hereto as Exhibit 11.) In correspondence from December 9, 2020, defense counsel stated that at this time, he did not have any tax returns or bank records in his possession but that he had instructed Defendants to review their files to confirm they have provided all contracts through December 1, 2020. (Correspondence attached hereto as Exhibit 12.) Defendant Stoney Hill also provided its article of organization on December 9, 2020. On December 16, Defendants produced numerous photographs in their possession, but not tax records or financial records.

On December 17, 2020, the parties participated in a telephone conference with the Court. As a result of Powlette's and Stoney Hill's dilatory discovery tactics, the trial date had to be moved. Plaintiff requests that given the foregoing, that this Court Order Defendants to fully respond to Plaintiff's First Set of Interrogatories and Requests for Production of Documents and that Defendants Powlette and Stoney Hill be ordered to pay the cost of the preparation of this motion and any associated costs.

II. ARGUMENT

A motion to compel is governed by the Civil Rules and committed to the trial court's discretion. *Jeffries v. Toledo Area Regional Transit Authority*, 6th Dist. No. L-03-1318, 2004-Ohio-3739. *21. The general policy of the courts of Ohio is that discovery should be liberally allowed. *Arroyo v. Wagon Wheel Auto Sales* (Aug. 11, 2000), 2nd Dist. No. 18235. Thus, the burden is on the party resisting disclosure to show that protection is warranted. *Horton v. Addy* (Jan. 25, 1993), 2nd Dist. No. 13524, reversed on other grounds, (1994) Ohio St.3d 181. "Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." Civ.R. 26(B)(1). The determination of relevance is for the trial court, not the parties. *Menda v. Springfield Radiologists* (2nd Dist. 2000), 136 Ohio App.3d 656, 661.

According to Ohio Civil Rule 37(A), a party may move for an order compelling discovery responses if another party fails to answer interrogatories submitted pursuant to Civ.R. 33 or fails to respond to requests for production of documents submitted pursuant to Civ.R. 34. See Civ.R. 37(A)(3)(a)(iii)-(iv). In order to be proper, such a motion to compel must include certification that the movant has "in good faith conferred or attempted to confer with the person or party failing to make discovery in an effort to obtain it without court action." See Civ.R. 37(A)(1). If a party's motion to compel is granted, the court shall, after the opportunity for a hearing, require the party opposing the motion to pay the moving party the reasonable expenses incurred in obtaining the order, including attorney fees, unless the court finds that the opposition to the motion was "substantially justified" or that other circumstances would make the award of expenses unjustified. Civ. R. 37(A)(5)(a). The sanctions imposed by Civ.R. 37(A)(5) are "not discretionary, but are mandated by the language of Civ.R.37[] itself." *Mays v. Dunaway*, 2nd Dist.

Montgomery No. 19922, 2003-Ohio-6900, *128, quoting *Soloman v. Excel Marketing Inc.*, 114 Ohio App.3d 20, 28 (2d Dist. 1996).

Pursuant to the above, this Court should compel Defendants to respond to Plaintiff's First Set of Interrogatories and Request for Production of Documents. As discussed above, these discovery requests were initially served upon Defendants over six months ago. After receiving no response to its discovery requests, Plaintiff sent numerous correspondence to Defendants and has attempted to resolve the matter without involving this Court. Finally, when the Plaintiff has involved the Court on two separate occasions, this has not resolved the issue. Additionally, the delay in response by the Defendants has caused the trial date in this matter to be moved.

As illustrated above, Plaintiff began sending correspondence to Defendants in August of 2020, then again in September and October. Defendant Powlette finally provided some responses in October, but these responses were incomplete and evasive. On November 9, 2020 Defendant Stoney Hill provided some responses, but these responses were also incomplete and evasive. Plaintiff corresponded with the Defendants on November 18, 2020, detailing every responses that was deficient and how such was deficient, and requested that Defendants supplement. The Defendants continue to ignore their duty to respond to Plaintiff's requests. Plaintiff believes this is a dilatory tactic by the Defendants. To be clear, the Plaintiff does not believe that Defendants' Counsel is the cause of the delay, Plaintiff believes that the delay is being caused by the Defendants themselves.

As is outlined in the deficiency letters sent on November 18, 2020, the information sought in these requests by Plaintiff is reasonable, relevant, and discoverable. Plaintiff believes the responses will lead to discoverable information which will allow it to prosecute its case against the Defendant. The business records of the Defendants will allow the Plaintiff to present

its case showing that the Defendants are maintaining a nuisance within the meaning of Ohio Revised Code § 3767. Defendants' discovery responses are necessary to establish the facts underlying Plaintiffs claims. Accordingly, this Court should issue an order compelling Defendants to respond to Plaintiff's First Set of Interrogatories and Requests for Production of Documents. Plaintiff has made a good faith efforts to obtain this discovery and Defendants have simply refused to cooperate.

III. CONCLUSION

For the foregoing reasons, Plaintiff Miami Township Board of Trustees requests that Defendants be ordered, by this Court, to respond to Plaintiff's First Set of Interrogatories and Requests for Production of Documents and that Defendants be ordered to pay the reasonable costs of preparation and filing if this motion.

Respectfully submitted,

SURDYK, DOWD & TURNER CO., L.P.A.

/s/ Edward J. Dowd
Edward J. Dowd (0018681)
Alex J. Hale (0091682)
8163 Old Yankee Street, Suite C
Dayton, Ohio 45458
(937) 222-2333, (937) 222-1970 (fax)
edowd@sdtlawyers.com
ahale@sdtlawyers.com
*Trial Attorneys for Miami Township
Board of Trustees*

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2020, a copy of the foregoing Motion to Compel was served via the Montgomery County e-filing system on all registered parties of record and via U.S. First Class Regular mail on parties not registered as e-file system users.

/s/ Edward J. Dowd
Edward J. Dowd (0018681)

**IN THE COMMON PLEAS COURT
MONTGOMERY COUNTY, OHIO**

MIAMI TOWNSHIP BOARD OF
TRUSTEES,

Plaintiffs,

v.

DARREN POWLETTE et al,

Defendants.

: CASE NO.: 2019 CV 05444

: Judge Richard Skelton

: **CERTIFICATION OF EXTRA
JUDICIAL EFFORTS BY PLAINTIFF
TO OBTAIN DEFENDANTS'
DISCOVERY RESPONSES**

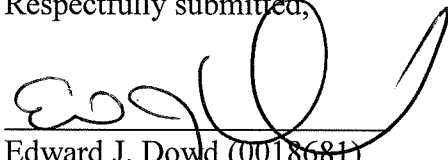
:

Now comes Edward J. Dowd, who certifies the following:

1. My name is Edward J. Dowd and I am the Law Director for the Plaintiff, Miami Township Board of Trustees ("Plaintiff"), in the above-captioned case.
2. On June 8, 2020, I submitted Plaintiff's First Set of Interrogatories, Requests for Production of Documents, and Requests for Admissions upon Defendant Darren Powlette and Plaintiff's First Set of Interrogatories and Requests for Production of Documents upon Defendant Stoney Hill Rustic Weddings ("Stoney Hill"). (See attached Exhibit 1 and Exhibit 2).
3. On June 25, 2020, I received Defendant Powlette's responses to Plaintiff's First Set of Requests for Admissions. (See attached Exhibit 3).
4. On August 10, 2020, I sent correspondence to Defendants notifying them that their responses to Plaintiff's First Set of Interrogatories and Requests for Production of Documents were more than thirty days overdue and requested that Defendants respond to the discovery requests as soon as possible. (See attached Exhibit 4).
5. By September 22, 2020, I had not received responses to Plaintiff's First Set of Interrogatories and Requests for production of Documents from either Defendant, as such I sent correspondence to Defendants' counsel informing him that his clients' responses were more than three months overdue and that if his clients did not provide responses by September 29, 2020, that I would request a telephone conference with the Court to resolve the matter. Defendants' counsel informed me that he had the responses prepared but had not received the requested tax documents from Defendant Powlette for production, and I requested that counsel send me the responses that he had prepared and supplement the rest once they were done. On October 5, Defendants' counsel stated he had the responses and would get them verified by October 6, and would provide them then. The responses were not provided at that time. (See attached Exhibit 5).

6. On October 16, 2020, Defendant Powlette served his responses to Plaintiff's First Set of Interrogatories and Requests for Production of Documents. On October 23, 2020, the Court held a scheduling conference to attempt to resolve the discovery issues described herein, Defendants' counsel did not appear for the telephone conference. I corresponded with Defendants' counsel to explain that Plaintiff did not want to have the trial delayed due to Defendants being dilatory in producing documents they were required to produce. (See attached Exhibit 7).
7. On November 9, 2020, Defendant Stoney Hill produced its responses to Plaintiff's First Set of Interrogatories and Requests for Production of Documents. (See attached Exhibit 8).
8. The discovery produced by both Defendants was deficient. Requested documents related to the taxes of both Defendants were not provided, nor were other financial documents, these deficiencies were further detailed, request by request, in very detailed letters sent to each Defendants on November 11, 2020. (See attached Exhibits 9 and 10).
9. On December 4, 2020, Defendants' counsel informed me that he had met with his clients and believed he would be providing responses on the December 7, 2020. In correspondence from December 9, 2020, defense counsel stated that at this time, he did not have any tax returns or bank records in his possession but that he had instructed Defendants to review their files to confirm they have provided all contracts through December 1, 2020. Additionally, Defendant Stoney Hill provided its article of organization on December 9, 2020. On December 16, Defendants produced numerous photographs in their possession, but not tax records or financial records. (See attached Exhibits 11 and 12).
10. As of the filing of this motion, neither Defendant has supplemented their responses to Plaintiff's First Set of Interrogatories and Requests for Production of Documents as to any financial or tax information, nor has either provided a verification page for their responses.
11. As evidenced by the above and the attached exhibits, I have attempted in good faith to confer with the party failing to make discovery in an effort to obtain it without court action, pursuant to Civ.R. 37(A)(1).

Respectfully submitted,



Edward J. Dowd (0018681)
8163 Old Yankee Street, Suite C
Dayton, Ohio 45458
(937) 222-2333, (937) 222-1970 (fax)
edowd@sdtlawyers.com
*Trial Attorney for Miami Township
Board of Trustees*

**IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO**

MIAMI TOWNSHIP BOARD OF TRUSTEES,	: CASE NO. 2019 CV 05444
Plaintiff,	: Judge: Richard Skelton
v.	: DEFENDANT’S OBJECTIONS AND RESPONSES TO
DARREN POWLETTE, <i>et al.</i> ,	: PLAINTIFF MIAMI TOWNSHIP BOARD OF TRUSTEES AMENDED
Defendant.	: COMBINED DISCOVERY REQUESTS, INCLUDING INTERROGATORIES,
	: REQUESTS FOR PRODUCTION OF DOCUMENTS AND REQUESTS FOR ADMISSIONS TO DEFENDANT DARREN POWLETTE

Now comes Defendant, Darren Powlette, by and through Counsel, and hereby submits the following Objections and Responses to Plaintiff, Miami Township Board of Trustees, Interrogatories, Requests for Admission and Request for Production of Documents in accordance with Rules 33, 34 and 36 of the Ohio Rules of Civil Procedure.

DEFINITIONS AND INSTRUCTIONS

1. The terms “you,” “your,” “Defendant” or “Powlette” shall mean and refer to Defendant Darren Powlette and/or all persons, agents, and representatives acting or purporting to act on his behalf for any purpose whatsoever.
2. The terms “venue” or “barn” shall mean the structure constructed by you at 7757 Upper Miamisburg Rd (St. Rt. 725), Miamisburg, OH 45342, in which events are held.
3. The term “property” shall mean the whole property located at 7757 Upper Miamisburg Rd (St. Rt. 725), Miamisburg, OH 45342.

Exhibit 1

4. The term “event” or “events” shall mean weddings, wedding receptions, rehearsal dinners, graduation parties, birthday parties, reunions, group fund raisers and other special occasions.
5. The term “Plaintiff,” “Township,” “Trustees,” or “Board” shall mean and refer to Plaintiff Miami Township, Montgomery County, Ohio, and/or all persons, agents, employees, and representatives acting or purporting to act on behalf of Miami Township Board of Trustees for any purpose whatsoever.
6. The term “Complaint” shall mean and refer to the Complaint filed by Miami Township Board of Trustees in the Common Pleas Court for Montgomery County, Ohio, captioned *Miami Township Board of Trustees v. Darren Powlette*, Case No. 2019 CV 05444.
7. "Document" shall mean each and every document as defined in Ohio Rule of Civil Procedure 34 in your possession, custody or control, however and by whomever prepared, produced, reproduced, disseminated or made, in any form (including without limitation electronically or magnetically stored data), wherever located, whether a copy, draft or original, including, but not limited to the following: letters, minutes, correspondence, notes or summaries of conversations, memoranda, agreements, desk calendars, appointment books, diaries, books, manuals, bulletins, circulars, catalogs, charts, electronic mail or e-mail transcripts, reports, studies, evaluations, analyses, graphs, notices, notes, notebooks, journals, statistical records, maps, laboratory results, medical records, radiology studies, paraffin blocks, glass slides, sketches, data sheets, data compilations, computer data sheets, photographs, movie film, videotapes, sound

recordings, microphone, microfiche and any other written, printed, typed, recorded or graphic matter from which information can be obtained or can be translated through detection devices in a reasonably useful form.

8. The term "person" is defined as any natural person or any business, legal or governmental entity or association.
9. The term "concerning" means relating to, referring to, describing, evidencing or constituting.
10. "Address" shall mean street number and street name, office or suite number, city or town, state and zip code.
11. The word "communication" means each and every disclosure, transfer or exchange of information (in the form of fax, e-mails, text messages, or otherwise), whether oral or in writing, and whether in person, by telephone, by mail, electronic communication or otherwise. The words "relating to" mean constituting or evidencing and directly or indirectly mentioning, describing, referring to, pertaining to, being connected with or reflecting upon the stated subject matter.
12. To "identify" a document means to state the type of document (e.g., letter, memo, notes, etc.), the date of the document, its author or originator, its addressee, those persons to whom copies were sent, a description of the subject matter of the document, and the identity of its custodian or present location. Please give this information in sufficient detail to enable a request for production or subpoena to sufficiently identify the documents sought. Instead of identifying the document in the manner set forth above, you may attach to your answers copies of the

documents for which identification is sought, and specify the particular interrogatory to which the document is responsive.

13. To "identify" a person means to state the person's full name and present or last known home and business address and telephone numbers, the person's present or last known employer and position, and the nature and dates of any past or present affiliation between the person and any party to this lawsuit.
14. In answering these discovery requests, you must disclose information which is in your possession, custody or control or within the possession, custody or control of your attorneys, agents, experts, investigators, or other representatives of you or your legal counsel. If you are able to answer part but not all of a discovery request, you must nevertheless answer to the maximum extent possible. If you are unable to answer any discovery request because you lack sufficient information, you must describe what information you cannot provide and state what efforts you have made to obtain the unknown information. Further, if any part of any answer is based on information or belief, you must identify the source of your information or the basis for your belief.
15. If you refuse to answer a discovery request on the grounds of privilege or work product, describe the basis of the claim fully and in detail in a privilege log so that Defendant may make an informed judgment about whether to move to compel the answer.
16. Pursuant to Rule 26(E) of the Ohio Rules of Civil Procedure, you are under a continuing duty to seasonably supplement all discovery responses. In addition, if you later discover or obtain additional information that is responsive to any

interrogatory or request to produce, you must submit supplemental answers disclosing that information as promptly and as long before the trial date as possible.

FIRST SET OF INTERROGATORIES

1. What is your full name, residential address, and date of birth?

ANSWER:

Darren Mark Powlette, 03/13/1968, 7757 Upper Miamisburg Road, Miamisburg, OH 45342

2. Identify the titled owner of the property located at 7757 Upper Miamisburg Rd (St. Rt. 725), Miamisburg, OH 45342

ANSWER:

Darren Powlette

3. If you own, operate or lease the venue under another name, corporation of other entity, please state the name of said entity or corporation?

ANSWER:

In the past, the venue has been used by Stoney Hill Rustic Weddings LLC.

4. Please describe your relationship if any, to or with Stoney Hill Rustic Weddings LLC?

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Answering subject to objection, I am the sole member.

5. Please identify all owners of Stoney Hill Rustic Weddings, LLC?

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Answering subject to objection, I am the sole member.

6. Are you an officer and/or employee of Stoney Hill Rustic Weddings, LLC?

ANSWER:

No.

7. If the answer to the proceeding interrogatories is in the affirmative, please provide the following:
 - a. Your position and/or title? N/A
 - b. Your job responsibilities? N/A
 - c. The manner in which you compensated by Stoney Hill Rustic Weddings, LLC (ie. Salary, draw, distribution of profit? N/A
8. How much income did you receive from Stoney Hill Rustic Weddings, LLC in the calendar years 2018 and 2019?

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing, the term “income” is not defined.

9. Identify all employees of Stoney Hill Rustic Weddings, LLC between 2017 and the present?

ANSWER:

None.

10. What is the name and address of each person you expect, hope or anticipate calling as a lay and/or expert witness at trial and what is the subject on which each such witness is expected to testify?

ANSWER:

Unknown at this time. Will supplement pursuant to Court’s Pre-Trial Scheduling Order. At least, Darren Powlette, representatives from the Ohio Department of Commerce, representatives from the Ohio Farm Bureau, Miami Township Trustees, as if upon cross examination. Such others as discovery may reveal. Defendant reserves the right to supplement this response.

11. For all events conducted at the venue since May 1, 2018 to the present, please provide the following:
 - a. The date of the event?

- b. The name, address and phone number of the renter/customer?
- c. The nature of the event (ie. wedding, rehearsal dinner, graduation)?
- d. The amount of the rental fee or other compensation charged to the renter/customer?

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome.

12. If the property is being farmed, please provide the following:
- a. The type of crop being farmed?
 - b. The number of acres being farmed?
 - c. The identity of the person farming if you are not personally farming the property, or entity performing the farming operations?
 - d. How you are compensated for the farming operations taking place on the property?
 - e. Whether you report the farm income on your federal, state and/or federal tax returns?

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing, the term “farmed” is not defined. Objection. Calls for a narrative response.

Answering subject to objection, the property is used for a wide range of agricultural purposes, including, but not limited to, growing, harvesting and baling of hay; rearing turkeys and chickens and selling them and their produce; viticulture; agritourism; and raising alpacas.

13. Please identify by what means and where, the venue is advertised.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing, the term “advertised” is not defined. Objection. Calls for a narrative response.

Answering subject to objection, the property has a Facebook page and a website.

14. Please identify all form(s) of social media used to advertise or document the happenings of the venue, (Including Facebook, Twitter, Instagram, Pinterest, etc.)

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing, the terms “advertise” and “happenings” are not defined. Objection. Calls for a narrative response.

Answering subject to objection, the venue has a Facebook page.

15. Please provide the identity the insurance agency or agencies that you used to obtain property, casualty and/or liability insurance regarding your ownership, management maintenance and/or operation of the property and/or venue from 2015 to present?

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Answering subject to objection, I don’t know if there is an insurance agency through whom insurance was purchased, but the entire property is insured by State Farm.

FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS

1. Please produce all documents related to the incorporation of Stoney Hill Rustic Weddings, LLC.

ANSWER:

Objection. Stoney Hill Rustic Weddings LLC is a limited liability company. It has never been incorporated.

Answering subject to objection, see attached organizational documents. Defendant reserves the right to supplement this response.

2. Please produce copies all personal, business and/or farming federal, state and local tax returns, and all attachments thereto, filed by you from 2015 to the present.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant reserves the right to supplement this response.

3. Please produce copies of any W-2s and/or 1099s issued by you to any contractors, employees, tenants or lessees of the Property or the Venue from 2015 to the present.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant reserves the right to supplement this response.

4. Please produce copies of any Form 943s submitted or filed by you with the Internal Revenue Service from 2015 to the present.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant reserves the right to supplement this response.

5. Please produce copies of all contracts, agreements or other written documentation between you and any individuals or entities which have rented, leased, used or otherwise occupied the property or the venue in any manner.

ANSWER:

See attached. Defendant reserves the right to supplement this response.

6. Please produce copies of all contracts, agreements or other written documentation between you and any individuals or entities for the future rental, lease, use or other occupation of the property and or venue.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant reserves the right to supplement this response.

7. Please produce all contact information for individuals who have, or plan to, rent, lease, or otherwise use the property and /or the venue.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Such information is confidential and proprietary. Defendant reserves the right to supplement this response.

8. Please produce any and all documents, which pertain, refer or relate to your expenses associated in any way to your operation of the venue.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Defendant reserves the right to supplement this response.

9. If applicable, please produce all IRS Schedule C Forms, also known as a "Profit and Loss" forms, relating to property for the past 5 years.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Defendant reserves the right to supplement this response.

10. If applicable, please produce all IRS Schedule F Forms, also known as a "farm income" forms, relating the claimed farm activities at the property for the past

five years.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Defendant reserves the right to supplement this response.

11. Please produce copies all insurance policies covering you for the ownership, management, maintenance and/or operation of the property and/or venue between 2015 and the present.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Defendant reserves the right to supplement this response.

12. Please produce all farm produce receipts for the property for the past five years.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Defendant reserves the right to supplement this response.

13. Please produce any and all documents that pertain to crop insurance policies issued to you or that have been caused to be obtained by you, through you, or pursuant to a lease or other agreement with another party or parties from 2015 to the present.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Defendant reserves the right to supplement this response

14. Produce all business records of Stoney Hill Rustic Weddings, LLC in your possession, custody or control from 2017 to present.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “business records” is not defined. Objection. Overly broad and unduly burdensome. Objection. Defendant reserves the right to supplement this response

15. Produce all financial records of Stoney Hill Rustic Weddings, LLC in your possession, custody or control from 2017 to present.

ANSWER:

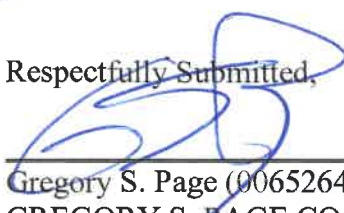
Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “financial records” is not defined. Objection. Overly broad and unduly burdensome. Objection. Defendant reserves the right to supplement this response

16. Produce all federal, state and local tax returns filed by Stoney Hill Rustic Weddings, LLC from 2017 to present.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Defendant reserves the right to supplement this response

As to objections: 

Respectfully Submitted, 

Gregory S. Page (0065264)
GREGORY S. PAGE CO., LPA
7501 Paragon Road
Dayton, OH 45459
Telephone: (937) 434-1908
Facsimile: (937) 436-0008
Email: greg@gsplaw.com
Attorney for Defendant

VERIFICATION

State of Ohio)
) ss:
County of Montgomery)

Darren Powlette, BEING FIRST DULY SWORN, states that he is authorized to answer these Interrogatories and Request for Production of Documents; that he has read the answers; and the answers are true, as he verily believes.



Darren Powlette

SWORN TO AND SUBSCRIBED BEFORE ME THIS 8th day of October,
2020.



Notary Public
My Commission Expires:

FIRST SET OF REQUESTS FOR ADMISSIONS

1. Admit that an event was hosted at the venue on June 1, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “hosted” is not defined.

Answering subject to objection, admit an event occurred.

2. Admit that an event was hosted at the venue on June 14, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “hosted” is not defined.

Answering subject to objection, deny an event occurred.

3. Admit that an event was hosted at the venue on June 15, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “hosted” is not defined.

Answering subject to objection, deny an event occurred.

4. Admit that an event was hosted at the venue on June 25, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “hosted” is not defined.

Answering subject to objection, deny an event occurred.

5. Admit that an event was hosted at the venue on July 5, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “hosted” is not defined.

Answering subject to objection, deny an event occurred.

6. Admit that an event was hosted at the venue on August 10, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “hosted” is not defined.

Answering subject to objection, admit an event occurred.

7. Admit that an event was hosted at the venue on August 31, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “hosted” is not defined.

Answering subject to objection, deny an event occurred.

8. Admit that an event was hosted at the venue on September 14, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term “hosted” is not defined.

Answering subject to objection, admit an event occurred.

9. Admit that an event was hosted at the venue on October 15, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term "hosted" is not defined.

Answering subject to objection, deny an event occurred.

10. Admit that an event was hosted at the venue on October 18, 2019.

ADMIT or DENY:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing. The term "hosted" is not defined.

Answering subject to objection, deny an event occurred.

11. Admit that you are the statutory agent upon whom process may be served for Stoney Hill Rustic Weddings, LLC

ADMIT OR DENY:

Objection. As "you" is defined in these discovery requests, multiple people would be statutory agent.

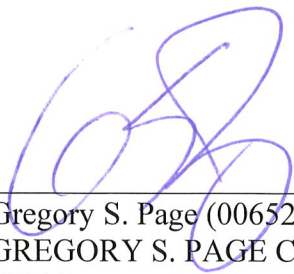
Answering subject to objection, Admit Darren Powlette is statutory agent.

As to Objections:

As to Admissions:



Respectfully Submitted,



Gregory S. Page (0065264)
GREGORY S. PAGE CO., LPA
7501 Paragon Road
Dayton, OH 45459
Telephone: (937) 434-1908
Facsimile: (937) 436-0008
Email: greg@gsplaw.com
Attorney for Defendant

Certificate of Service

I hereby certify that the foregoing Objections and Responses to Request for Admissions was served upon Edward J. Dowd, Esq., 8163 Old Yankee Street, Suite C, Dayton, OH 45458, Attorney for Plaintiff, on this 22nd day of June 2020 by ordinary U.S. Mail.

/s/Gregory S. Page
Gregory S. Page (0065264)

**IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO**

MIAMI TOWNSHIP BOARD OF TRUSTEES, Plaintiff, v. DARREN POWLETTE, <i>et al.</i> , Defendant.	:	CASE NO. 2019 CV 05444 Judge: Richard Skelton DEFENDANT STONEY HILL RUSTIC WEDDINGS, LLC'S OBJECTIONS AND RESPONSES TO PLAINTIFF MIAMI TOWNSHIP BOARD OF TRUSTEES FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT STONEY HILL RUSTIC WEDDINGS, LLC
---	---	--

Now comes Defendant, Stoney Hill Rustic Weddings, LLC, and hereby submits the following Objections and Responses to the attached Interrogatories and Request for Production of Documents in accordance with Rules 33 and 34 of the Ohio Rules of Civil Procedure.

DEFINITIONS AND INSTRUCTIONS

1. The terms “you,” “your,” or “Defendant” shall mean and refer to Defendant Stoney Hill Rustic Weddings, LLC and/or all persons, agents, and representatives acting or purporting to act on his behalf for any purpose whatsoever.
2. The terms “venue” or “barn” shall mean the structure constructed by you at 7757 Upper Miamisburg Rd (St. Rt. 725), Miamisburg, OH 45342, in which you hold events.
3. The term “property” shall mean the whole property located at 7757 Upper Miamisburg Rd (St. Rt. 725), Miamisburg, OH 45342.
4. The term “event” or “events” shall mean weddings, wedding receptions, rehearsal dinners, graduation parties, birthday parties, reunions, group fund raisers and other special occasions.
5. The term “Plaintiff,” “Township,” “Trustees,” or “Board” shall mean and refer to Plaintiff Miami Township, Montgomery County, Ohio, and/or all persons, agents, employees, and representatives acting or purporting to act on behalf of Miami Township Board of Trustees for any purpose whatsoever.
6. The term “Complaint” shall mean and refer to the Complaint filed by Miami Township Board of Trustees in the Common Pleas Court for Montgomery County, Ohio, captioned *Miami Township Board of Trustees v. Darren Powlette, et al.*, Case No. 2019 CV 05444.
7. "Document" shall mean each and every document as defined in Ohio Rule of Civil Procedure 34 in your possession, custody or control, however and by whomever prepared, produced, reproduced, disseminated or made, in any form (including without limitation electronically or magnetically stored data), wherever located,

whether a copy, draft or original, including, but not limited to the following: letters, minutes, correspondence, notes or summaries of conversations, memoranda, agreements, desk calendars, appointment books, diaries, books, manuals, bulletins, circulars, catalogs, charts, electronic mail or e-mail transcripts, reports, studies, evaluations, analyses, graphs, notices, notes, notebooks, journals, statistical records, maps, laboratory results, medical records, radiology studies, paraffin blocks, glass slides, sketches, data sheets, data compilations, computer data sheets, photographs, movie film, videotapes, sound recordings, microphone, microfiche and any other written, printed, typed, recorded or graphic matter from which information can be obtained or can be translated through detection devices in a reasonably useful form.

8. The term "person" is defined as any natural person or any business, legal or governmental entity or association.
9. The term "concerning" means relating to, referring to, describing, evidencing or constituting.
10. "Address" shall mean street number and street name, office or suite number, city or town, state and zip code.
11. The word "communication" means each and every disclosure, transfer or exchange of information (in the form of fax, e-mails, text messages, or otherwise), whether oral or in writing, and whether in person, by telephone, by mail, electronic communication or otherwise. The words "relating to" mean constituting or evidencing and directly or indirectly mentioning, describing, referring to, pertaining to, being connected with or reflecting upon the stated subject matter.

12. To "identify" a document means to state the type of document (e.g., letter, memo, notes, etc.), the date of the document, its author or originator, its addressee, those persons to whom copies were sent, a description of the subject matter of the document, and the identity of its custodian or present location. Please give this information in sufficient detail to enable a request for production or subpoena to sufficiently identify the documents sought. Instead of identifying the document in the manner set forth above, you may attach to your answers copies of the documents for which identification is sought, and specify the particular interrogatory to which the document is responsive.
13. To "identify" a person means to state the person's full name and present or last known home and business address and telephone numbers, the person's present or last known employer and position, and the nature and dates of any past or present affiliation between the person and any party to this lawsuit.
14. In answering these discovery requests, you must disclose information which is in your possession, custody or control or within the possession, custody or control of your attorneys, agents, experts, investigators, or other representatives of you or your legal counsel. If you are able to answer part but not all of a discovery request, you must nevertheless answer to the maximum extent possible. If you are unable to answer any discovery request because you lack sufficient information, you must describe what information you cannot provide and state what efforts you have made to obtain the unknown information. Further, if any part of any answer is based on information or belief, you must identify the source of your information or the basis for your belief.

15. If you refuse to answer a discovery request on the grounds of privilege or work product, describe the basis of the claim fully and in detail in a privilege log so that Defendant may make an informed judgment about whether to move to compel the answer.
16. Pursuant to Rule 26(E) of the Ohio Rules of Civil Procedure, you are under a continuing duty to seasonably supplement all discovery responses. In addition, if you later discover or obtain additional information that is responsive to any interrogatory or request to produce, you must submit supplemental answers disclosing that information as promptly and as long before the trial date as possible.

FIRST SET OF INTERROGATORIES

1. Identify all persons who assisted in responding to these Interrogatories and Request for Production of Documents.

ANSWER:

Darren Powlette, with the assistance of Counsel.

2. Please state the name and contact information for the statutory agent of Stoney Hill Rustic Weddings, LLC.

ANSWER:

Darren Powlette, 7757 Upper Miamisburg Road, Dayton, OH 45342

3. Please identify all owners, shareholders, officers, and employees of Stoney Hill Rustic Weddings, LLC. from date of incorporation to present time.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Answering subject to objection, Darren Powlette is sole member.

4. State the nature of the business in which Stoney Hill Rustic Weddings, LLC. is engaged.

ANSWER:

Its purpose is for any purpose for which a limited liability company in the State of Ohio may operate.

5. Please identify the name and address of each person you expect, hope or anticipate calling as a lay and/or expert witness at trial and what is the subject on which each such witness is expected to testify?

ANSWER:

Unknown at this time. Will supplement pursuant to Court's Pre-Trial order. At least, Darren Powlette; all Miami Township trustees, as if upon cross examination; all Miami Township Board of Zoning Appeals members, as if upon cross-examination; representatives of Miami Township Zoning Department, as if upon cross examination.

Peggy Hall
Representatives of the Ohio Department of Commerce

Such others as discovery may reveal. Defendant reserves the right to supplement this response.

6. For all events conducted at the venue since the date of the inception of Stoney Hill Rustic Weddings, LLC, provide the following:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Vague and Confusing.

- a. The date of the event?

ANSWER:

- b. The name, address and phone number of the renter/customer?

ANSWER:

- c. The nature of the event (ie. wedding, rehearsal dinner, graduation)?

ANSWER:

- d. The amount of the rental fee or other compensation charged to the renter/customer?

ANSWER:

7. If you own, operate or lease the venue under another name, corporation or other entity, please state the name of said entity and the details of its incorporation.

ANSWER:

Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Answering subject to objection, none.

8. Please provide the identity the insurance agency or agencies that Stoney Hill Rustic Weddings LLC used to obtain property, casualty and/or liability insurance regarding its ownership, management maintenance and/or operation of the venue?

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome.

9. Do you have any future events scheduled to take place at the barn within the next 12 months?

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome.

10. If the answer to the preceding interrogatory is in the affirmative, please provide the following information with regard to each such event:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome.

- a. The identity of the person or entity that has scheduled the event;

ANSWER:

- b. The date of each event;

ANSWER:

- c. The number of guests or attendees reserved for each event;

ANSWER:

- d. The nature of each event (i.e., wedding, wedding reception, rehearsal dinner, graduation, re-union etc.)

ANSWER:

FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS

1. Please produce all documents related to the incorporation of Stoney Hill Rustic Weddings, LLC.

ANSWER:

Objection. Stoney Hill Rustic Weddings LLC is not a corporation and was therefore not incorporated. See attached Articles of Organization for Stoney Hill Rustic Weddings, LLC, which are a matter of public record and which are readily available to the Plaintiff.

2. Please produce all federal and state tax returns for Stoney Hill Rustic Weddings, LLC, from the date of its incorporation to the present time, including all attachments to said returns.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome.

3. Please produce copies of any W-2s and/or 1099s issued by Stoney Hill Rustic Weddings, LLC to any contractors, employees, tenants or lessees of the Property and or venue from the date of incorporation to the present time.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome.

4. Please produce copies of any Form 943s submitted or filed with the Internal Revenue Service since the date of incorporation to the present time.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome.

5. Please produce copies of all contracts, agreements or other written documentation between Stoney Hill Rustic Weddings, LLC and any individuals or entities which have rented, leased, used or otherwise occupied the venue in any manner from the date of incorporation to the present time.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Confidential and proprietary business information which is not subject to disclosure. Objection. Stoney Hill Rustic Weddings, LLC was never incorporated.

Answering subject to objection, all responsive documents have been previously produced.

6. Please produce copies of all contracts, agreements or other written documentation between Stoney Hill Rustic Weddings, LLC and any individuals or entities for the future rental, lease, use or other occupation of the venue.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Confidential and proprietary business information which is not subject to disclosure. Objection. Stoney Hill Rustic Weddings, LLC was never incorporated.

7. Please produce all contact information for individuals who have, or plan to, rent, lease, or otherwise use the venue offered by Stoney Hill Rustic Weddings, LLC.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Confidential and proprietary business information which is not subject to disclosure. Objection. Stoney Hill Rustic Weddings, LLC was never incorporated.

8. Please produce all documents, which pertain, refer or relate to your expenses associated in any way to your operation of the venue from the date of incorporation to the present time.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Confidential and proprietary business information which is not subject to disclosure. Objection. Stoney Hill Rustic Weddings, LLC was never

incorporated.

9. If applicable, please produce all IRS Schedule C Forms, also known as a “Profit and Loss” forms, relating to Stoney Hill Rustic Weddings, LLC from the date of incorporation to the present time.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Confidential and proprietary business information which is not subject to disclosure. Objection. Stoney Hill Rustic Weddings, LLC was never incorporated.

10. If applicable, please produce all IRS Schedule F Forms, also known as a “farm income” forms, relating to Stoney Hill Rustic Weddings, LLC’s, claimed farm activities at the property for the past five years or since the date of incorporation?

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Confidential and proprietary business information which is not subject to disclosure. Objection. Stoney Hill Rustic Weddings, LLC was never incorporated.

11. Please produce copies all insurance policies covering Stoney Hill Rustic Weddings, LLC, for the ownership, management, maintenance and/or operation of the venue since its incorporation to the present time.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Confidential and proprietary business information which is not subject to disclosure. Objection. Stoney Hill Rustic Weddings, LLC was never incorporated.

12. Please produce all farm produce receipts for the property or venue from the date of incorporation to the present time.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Confidential and proprietary business information which is not subject to disclosure. Objection. Stoney Hill Rustic Weddings, LLC was never incorporated.

13. Please produce any and all documents that pertain to crop insurance policies issued to Stoney Hollow Rustic Weddings LLC or that have been caused to be obtained by it, through it, or pursuant to a lease or other agreement with another party or parties since the date of its incorporation.

ANSWER:

Objection, Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome. Objection. Confidential and proprietary business information which is not subject to disclosure. Objection. Stoney Hill Rustic Weddings, LLC was never incorporated.

As to Objections



Respectfully Submitted,



Gregory S. Page (0065264)
GREGORY S. PAGE CO., LPA
7501 Paragon Road
Dayton, OH 45459
Telephone: (937) 434-1908
Facsimile: (937) 436-0008
Email: greg@gsplaw.com
Attorney for Defendant

GREGORY S. PAGE CO., LPA

7501 Paragon Road
Dayton, Ohio 45459
T: (937) 434-1908
F: (937) 436-0008
Greg@gsplaw.net

June 22, 2020

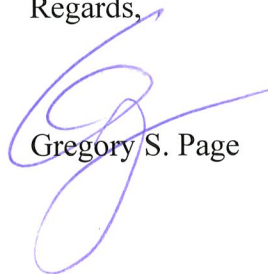
Edward J. Dowd, Esq.
8163 Old Yankee Street
Suite C
Dayton, OH 45458

Re: *Miami Township Board of Trustees v. Darren Powlette, et al.,*
Case No. 2019CV0544

Dear Ned:

Enclosed, please find my client's Objections and Responses to the Request for Admissions. We are finalizing the other responses and should have complete responses to you by the middle of next week. Please let me know if you have any questions..

Regards,



Gregory S. Page

From: [Edward Dowd](#)
To: greg@gsplaw.net
Cc: [Alex Hale](#)
Subject: Miami Township/Powlette
Date: Monday, August 10, 2020 4:45:14 PM

Greg,

On June 8 I served you with the townships discovery requests to Stoney Hallow. Responses are now more than 30 days overdue. Please respond ASAP.

Edward J. (Ned) Dowd
Surdyk, Dowd & Turner Co. LPA
8163 Old Yankee St., Suite C
Dayton, Oh. 45458
(937) 222-2333
(937) 222-1970(fax)
edowd@sdtlawyers.com
www.sdtlawyers.com

Cincinnati Area Office

7681 Tylers Place Blvd., Suite 3
West Chester, OH 45069
Phone: 513-206-9998

NOTICE: The information contained in this electronic mail transmission is intended by Surdyk, Dowd & Turner Co., L.P.A. for the use of the named individual or entity to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmission to, or receipt by, anyone other than the named addressee (or a person authorized to deliver it to the named addressee). If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply email or by calling Surdyk, Dowd & Turner Co., L.P.A. at (937) 222-2333, so that our address record can be corrected.

Exhibit 4

From: [Edward Dowd](#)
To: [Alex Hale](#)
Subject: FW: Miami Township/Powlette
Date: Tuesday, December 22, 2020 11:20:29 AM

Edward J. (Ned) Dowd
Surdyk, Dowd & Turner Co. LPA
8163 Old Yankee St., Suite C
Dayton, Oh. 45458
(937) 222-2333
(937) 222-1970(fax)
edowd@sdtlawyers.com
www.sdtlawyers.com

PLEASE NOTE OUR NEW CINCINNATI OFFICE ADDRESS - PLEASE DIRECT ALL MAIL TO OUR DAYTON OFFICE

Cincinnati Office

9078 Union Centre Blvd., Suite 350
West Chester, Ohio 45069
Ph. 513-206-9998

NOTICE: The information contained in this electronic mail transmission is intended by Surdyk, Dowd & Turner Co., L.P.A. for the use of the named individual or entity to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmission to, or receipt by, anyone other than the named addressee (or a person authorized to deliver it to the named addressee). If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply email or by calling Surdyk, Dowd & Turner Co., L.P.A. at (937) 222-2333, so that our address record can be corrected.

From: Greg Page [mailto:greg@gsplaw.net]
Sent: Monday, October 05, 2020 11:16 AM
To: Edward Dowd <edowd@sdtlawyers.com>
Subject: RE: Miami Township/Powlette

Ned,

I am, am getting them verified hopefully today or tomorrow latest. Thanks.

Greg

From: Edward Dowd <edowd@sdtlawyers.com>
Sent: Monday, October 5, 2020 11:15 AM

Exhibit 5

To: Greg Page <greg@gsplaw.net>
Subject: RE: Miami Township/Powlette

Please send responses with what you have, and can supplement once returns are done.

Edward J. (Ned) Dowd
Surdyk, Dowd & Turner Co. LPA
8163 Old Yankee St., Suite C
Dayton, Oh. 45458
(937) 222-2333
(937) 222-1970(fax)
edowd@sdtlawyers.com
www.sdtlawyers.com

Cincinnati Area Office

7681 Tylers Place Blvd., Suite 3
West Chester, OH 45069
Phone: 513-206-9998

NOTICE: The information contained in this electronic mail transmission is intended by Surdyk, Dowd & Turner Co., L.P.A. for the use of the named individual or entity to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmission to, or receipt by, anyone other than the named addressee (or a person authorized to deliver it to the named addressee). If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply email or by calling Surdyk, Dowd & Turner Co., L.P.A. at (937) 222-2333, so that our address record can be corrected.

From: Greg Page [<mailto:greg@gsplaw.net>]
Sent: Tuesday, September 22, 2020 11:31 AM
To: Edward Dowd <edowd@sdtlawyers.com>
Subject: RE: Miami Township/Powlette

Ned,

I do have the actual responses prepared. When we spoke I thought Darren was getting copies of his returns. As it turns out, he had not filed returns and was having his accountant prepare them for filing. I understand your position but wanted to let you know the reason for the delay. Thanks.

Greg

From: Edward Dowd <edowd@sdtlawyers.com>
Sent: Tuesday, September 22, 2020 10:31 AM
To: Greg Page <greg@gsplaw.net>
Subject: Miami Township/Powlette

Greg,

The discovery responses of Stoney Hill are 3 months overdue. If I do not have complete responses by next Tuesday I plan to call Judge Skelton per his suggestion during the recent phone status conference.

Edward J. (Ned) Dowd
Surdyk, Dowd & Turner Co. LPA
8163 Old Yankee St., Suite C
Dayton, Oh. 45458
(937) 222-2333
(937) 222-1970(fax)
edowd@sdtlawyers.com
www.sdtlawyers.com

Cincinnati Area Office

7681 Tylers Place Blvd., Suite 3
West Chester, OH 45069
Phone: 513-206-9998

NOTICE: The information contained in this electronic mail transmission is intended by Surdyk, Dowd & Turner Co., L.P.A. for the use of the named individual or entity to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmission to, or receipt by, anyone other than the named addressee (or a person authorized to deliver it to the named addressee). If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply email or by calling Surdyk, Dowd & Turner Co., L.P.A. at (937) 222-2333, so that our address record can be corrected.

From: [Edward Dowd](#)
To: [Alex Hale](#)
Subject: FW: Documents
Date: Tuesday, December 22, 2020 11:22:02 AM

Edward J. (Ned) Dowd
Surdyk, Dowd & Turner Co. LPA
8163 Old Yankee St., Suite C
Dayton, Oh. 45458
(937) 222-2333
(937) 222-1970(fax)
edowd@sdtlawyers.com
www.sdtlawyers.com

PLEASE NOTE OUR NEW CINCINNATI OFFICE ADDRESS - PLEASE DIRECT ALL MAIL TO OUR DAYTON OFFICE

Cincinnati Office

**9078 Union Centre Blvd., Suite 350
West Chester, Ohio 45069
Ph. 513-206-9998**

NOTICE: The information contained in this electronic mail transmission is intended by Surdyk, Dowd & Turner Co., L.P.A. for the use of the named individual or entity to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmission to, or receipt by, anyone other than the named addressee (or a person authorized to deliver it to the named addressee). If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply email or by calling Surdyk, Dowd & Turner Co., L.P.A. at (937) 222-2333, so that our address record can be corrected.

From: Greg Page [mailto:greg@gsplaw.net]
Sent: Thursday, October 29, 2020 3:56 PM
To: Edward Dowd <edowd@sdtlawyers.com>
Subject: Documents

Ned,

I have a number of documents that are ready for transmittal. Please let me know on the Agreed Protective Order. Not all of the documents are subject to the order but some are and I would like that in place prior to producing, thanks.

I will be sending documents under separate cover. Thanks.

Exhibit 6

Greg

From: [Edward Dowd](#)
To: [Greg Page](#)
Subject: RE: Miami Township v. Powlette et al.
Date: Friday, October 23, 2020 11:30:55 AM

Now that I have reviewed the "responses" I will include the non-responsive as part of the motion to compel. I have no intention of moving the trial date to accommodate your clients desire to delay the proceeding. I will request court guidance to expedite a proper response to obviously relevant information

Edward J. (Ned) Dowd
Surdyk, Dowd & Turner Co. LPA
8163 Old Yankee St., Suite C
Dayton, Oh. 45458
(937) 222-2333
(937) 222-1970(fax)
edowd@sdtlawyers.com
www.sdtlawyers.com

Cincinnati Area Office

7681 Tylers Place Blvd., Suite 3
West Chester, OH 45069
Phone: 513-206-9998

NOTICE: The information contained in this electronic mail transmission is intended by Surdyk, Dowd & Turner Co., L.P.A. for the use of the named individual or entity to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmission to, or receipt by, anyone other than the named addressee (or a person authorized to deliver it to the named addressee). If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply email or by calling Surdyk, Dowd & Turner Co., L.P.A. at (937) 222-2333, so that our address record can be corrected.

From: Greg Page [mailto:greg@gsplaw.net]
Sent: Friday, October 23, 2020 11:14 AM
To: Edward Dowd <edowd@sdtlawyers.com>
Subject: Re: Miami Township v. Powlette et al.

Ned

Did you not get this? Just want to be sure. Thanks.

Greg

Get [Outlook for iOS](#)

From: Greg Page
Sent: Friday, October 16, 2020 11:23:20 AM
To: Edward Dowd <edowd@sdtlawyers.com>

Exhibit 7

Subject: Miami Township v. Powlette et al.

Ned,

Please see the attached discovery responses. Thanks.

Greg

Edward Dowd

From: Greg Page <greg@gsplaw.net>
Sent: Monday, November 09, 2020 10:00 AM
To: Edward Dowd
Subject: Miami Township v. Powlette
Attachments: STONEY HILL RESPONSES.pdf

Ned,

Here are the responses from Stoney Hill. Please note the verification page is not yet attached. I do have email approval of the responses from Mr. Powlette and expect the verification page signed today or tomorrow. I wanted to get these to you as soon as possible. No additional documents at this time, other than those previously supplied. Thanks.

Greg



Surdyk | Dowd | Turner

ATTORNEYS AT LAW

Dayton Office

8163 Old Yankee Street
Suite C
Dayton, OH 45458

(937) 222-2333
Fax (937) 222-1970

Cincinnati Office

7681 Tylers Place Blvd.
Suite 3
West Chester, OH 45069

(513) 206-9998
Fax (513) 282-4462

EDWARD J. DOWD*
JEFFREY C. TURNER
DAWN M. FRICK
JENNIFER A. KIRBY**
DAVID B. SHAVER
CHRISTOPHER T. HERMAN**
MICHAEL D. RICE
ALEX J. HALE
ADAM M. LAUGLE

*Also admitted in New York
**Also admitted in Kentucky

November 18, 2020

Sent by email only to:

Gregory S. Page
Gregory S. Page Co., L.P.A.
7501 Paragon Road
Dayton, Ohio 45459
greg@gsplaw.com

Re: **Miami Township Board of Trustees v. Darren Powlette et al.**
Montgomery County Common Pleas Court; Case No. 2020CV54444
SD&T File No. 2782.010

Greg,

After reviewing Darren Powlette's discovery responses in the above referenced matter, it is clear that they are deficient and require immediate supplementation. These deficiencies include the following:

Deficiency #1: In response to Interrogatory No. 8, you objected on Mr. Powlette's behalf stating, "Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing, the term "income" is not defined." To aid Mr. Powlette in responding to said interrogatory "income" is defined as "money that an individual or business receives, usually in exchange for providing a good or service." Based on this definition, please instruct Mr. Powlette to supplement his response to this interrogatory.

Deficiency #2: In Interrogatory No. 11, Mr. Powlette was to identify, for all events conducted at the venue since May 1, 2018 to the present, the date of the event, the name, address and phone number of the renter/customer, the nature of the event, and the amount of the rental fee or other compensation charged to the renter/customer. Mr. Powlette replied "Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Overly broad and unduly burdensome." While Mr. Powlette provided no written answer to this interrogatory, I note that he did provide several rental agreement documents. While this is helpful in identifying the amount of the rental fee and the name(s) of the renter(s)/customer(s), it does not provide any renters' addresses or contact information, nor does it specify in all cases the nature of the rental. Additionally, Mr. Powlette has only produced three such forms from

Exhibit 9



Surdyk | Dowd | Turner

ATTORNEYS AT LAW

May 1, 2018 to December 31, 2018, please verify that there are no other such agreements between the aforementioned dates. I find it hard to believe that Mr. Powlette did not require contact information from any of the renters/customers, however, if this is the case, please advise. Further, this question is calculated to lead to discoverable information as these individuals may be potential witnesses for Plaintiff in this matter, as such we demand that you provide responses to this interrogatory.

Deficiency #3: In Interrogatory No. 12, Plaintiff requested that in addition to identifying the type of crop being farmed at the property, that Mr. Powlette provide the number of acres farmed, the individuals performing the farming operations, the compensation for the farming operations taking place on the property, and whether such farm income is reported on Mr. Powlette's state and/or federal tax returns. You objected on Mr. Powlette's behalf stating, "Objection. Irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection. Vague and confusing, the term "farmed" is not defined. Objection. Calls for a narrative response." To aid Mr. Powlette in responding to said interrogatory "farmed" is defined as "the growing and harvesting of crops or keeping, husbandry, sale or slaughter of livestock." Based on this definition, please instruct Mr. Powlette to supplement his response to this interrogatory. I also note that this information is relevant in allowing Plaintiff to assess whether Mr. Powlette is engaged in agritourism.

Deficiency #4: In response to Request for Production (Request") No. 1, Mr. Powlette has not produced any "organizational documents" as stated in the responses. Please remedy this by producing said documents.

Deficiency #5: In response to Request No. 2, Mr. Powlette has not produced any copies of personal, business, and/or farming federal, state and local tax returns, nor any attachments thereto, filed by him at any time from 2015 to the present. While you have objected to the relevance of this request, Plaintiff asserts that this will aid it in its ability to determine whether Mr. Powlette is engaged in agritourism. For Mr. Powlette's reference, please refer to the definition of "farming" as defined in Deficiency No. 3. Please supplement this response.

Deficiency #6: In response to Request No. 4, Mr. Powlette has not produced any IRS 943 Forms. Please produce said documents or simply indicate that Mr. Powlette has not filed such with the IRS from 2015-present. If such exist, these documents are relevant in allowing Plaintiff to assess whether Mr. Powlette is engaged in agritourism.

Deficiency #7: In response to Requests Nos. 5 and 6, please verify that Mr. Powlette has produced all such agreements since May 1, 2018, as noted above, there are only three documents produced from May 1, 2018 to December 31, 2018. These documents will allow Plaintiff to determine if there are any witnesses Plaintiff wishes to name, and will allow Plaintiff to assess whether Mr. Powlette is engaged in agritourism. Please supplement these responses.



Deficiency #8: In response to Request No. 7, Mr. Powlette has not produced any contact information of any individuals who have, or plan to, rent, lease, or otherwise use the property and/or the venue. This information will allow Plaintiff to determine if there are any witnesses Plaintiff wishes to name, and will allow Plaintiff to assess whether Mr. Powlette is engaged in agritourism. Please supplement this response.

Deficiency #9: In response to Request No. 8, Mr. Powlette has failed to produce any documents, which pertain, refer or relate to his expenses associated in any way to his operation of the venue. This information will allow Plaintiff to assess whether Mr. Powlette is engaged in agritourism. Please supplement this response.

Deficiency #10: In response to Request Nos. 9 and 10, Mr. Powlette has failed to produce any IRS Schedule C or Schedule F Forms relating to property for any of the past five years. These documents will allow Plaintiff to assess whether Mr. Powlette is engaged in agritourism. Please supplement this response.

Deficiency #11: In response to Request No. 11, Mr. Powlette has failed to produce any copies of insurance policies covering Mr. Powlette for the ownership, management, maintenance and/or operation of the property and/or venue between 2015 and the present. These documents will aid Plaintiff in assessing whether Mr. Powlette is engaged in agritourism. Please supplement this response.

Deficiency #12: In response to Request No. 12, Mr. Powlette has failed to produce any farm produce receipts for the property for the any of the past five years. These documents are relevant as they will aid Plaintiff in assessing whether Mr. Powlette is engaged in agritourism. Please supplement this response.

Deficiency #13: In response to Request No. 13, Mr. Powlette has failed to produce any documents pertaining to crop insurance policies issued to him or that have been caused to be obtained by him, for any of the past five years. These documents are relevant as they aid Plaintiff in assessing whether Mr. Powlette is engaged in agritourism. Please supplement this response.

Deficiency #14: In response to Request Nos. 14 and 15, Mr. Powlette has failed to produce any business and financial records of Stoney Hill Rustic Weddings, LLC, from 2017 to present, save for the produced rental agreements. Please produce these records or state that such do not exist so that Plaintiff may respond accordingly. These documents are relevant as they will aid Plaintiff in assessing whether Mr. Powlette is engaged in agritourism. In response to your objection that the terms “business records” and “financial records” are vague and undefined terms, please see the following definitions:

“Business records” means all files, documents, instruments, papers, books, reports, records, photographs, letters, ledgers, journals, financial statements, tax returns, other tax work papers and files, and other documents of Stoney Hill Rustic Weddings, LLC, in whatever form, physical, electronic or otherwise.



Surdyk | Dowd | Turner

ATTORNEYS AT LAW

“Financial records” means any document or summary of information contained in a document, including electronic documents, that contains information about the financial activities of Stoney Hill Rustic Weddings, LLC including, but not limited to, information about the assets, balance sheets, budgets, cash flow, earnings, revenue, expenditures, income, investments, losses, liabilities, payroll, profits, retained earnings, and/or taxes of Stoney Hill Rustic Weddings, LLC.

These documents are relevant as they will aid Plaintiff in assessing whether Mr. Powlette is engaged in agritourism. Please supplement this response.

Deficiency #15: In response to Request No. 16, Mr. Powlette has failed to produce any local, state, or federal tax returns filed by Stoney Hill Rustic Weddings, LLC from 2017 to present. These documents are relevant as they will aid Plaintiff in assessing whether Mr. Powlette is engaged in agritourism. Please supplement this response.

Please produce or supplement the aforementioned responses by November 25, 2020, or I will file a motion to compel with the Court.

Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

SURDYK, DOWD & TURNER CO., L.P.A

/s/ Edward J. Dowd, Esq.

EJD/ajh



Surdyk | Dowd | Turner

ATTORNEYS AT LAW

November 18, 2020

Dayton Office

8163 Old Yankee Street
Suite C
Dayton, OH 45458

(937) 222-2333
Fax (937) 222-1970

Cincinnati Office

7681 Tylers Place Blvd.
Suite 3
West Chester, OH 45069

(513) 206-9998
Fax (513) 282-4462

EDWARD J. DOWD*
JEFFREY C. TURNER
DAWN M. FRICK
JENNIFER A. KIRBY**
DAVID B. SHAVER
CHRISTOPHER T. HERMAN**
MICHAEL D. RICE
ALEX J. HALE
ADAM M. LAUGLE

*Also admitted in New York
**Also admitted in Kentucky

Sent by email only to:

Gregory S. Page
Gregory S. Page Co., L.P.A.
7501 Paragon Road
Dayton, Ohio 45459
greg@gsplaw.com

Re: **Miami Township Board of Trustees v. Darren Powlette et al.**
Montgomery County Common Pleas Court; Case No. 2020CV54444
SD&T File No. 2782.010

Greg,

After reviewing Stoney Hill Rustic Weddings, LLC's, discovery responses in the above referenced matter, it is clear that they are deficient and require immediate supplementation. These deficiencies include the following:

Deficiency #1: Interrogatory No.4 asks that your client state the nature of the business in which Stoney Hill Rustic Weddings, LLC, is engaged, you objected on your client's behalf stating, "its purpose is for any purpose for which a limited liability company in the State of Ohio may operate." This is a non-responsive answer that does not in any way address the interrogatory. Please revise and supplement this response to state the nature of the business that Stoney Hill Rustic Weddings, LLC, is engaged. I also note that this information is relevant in allowing Plaintiff to assess whether Stoney Hill is engaged in agritourism.

Deficiency #2: Interrogatory No. 6 requests that your client produce, for all events conducted at the venue since the date of the inception of Stoney Hill Rustic Weddings, LLC, the date of the event, the name and address of the renter/customer, the nature of the event, and rental fee. You stated the question was irrelevant, vague, confusing, overly broad, and unduly burdensome. This information is relevant to the Plaintiff's claims and should be produced. Please provide the date of the event, the name and address of the renter/customer, the nature of the event, and rental fee since for all events that have occurred since May 1, 2018. While Mr. Powlette has provided some responsive documents to this interrogatory, I note that he only provided a few rental agreement documents. While this is helpful in identifying the amount of the rental fee and the name(s) of the renter(s)/customer(s), it does not provide any renters' addresses or contact information, nor does it specify the nature of the rental in all cases. Additionally, Mr. Powlette only produced three such forms from

Exhibit 10



May 1, 2018 to December 31, 2018, please verify that there are no other such agreements between the aforementioned dates. I find it hard to believe that Mr. Powlette or Stoney Hill did not require contact information for any of the renters/customer, however, if this is the case, please advise. Further, this question is calculated to lead to discoverable information as these individuals may be potential witnesses for the Plaintiff in this matter, as such we demand that you provide responses to this interrogatory.

Deficiency #3: Interrogatory No.8 asked for the insurance agency that is used to insure the building. Please provide the insurance agency, or in lieu of that, please provide the insurance policy. I fail to see how this request imposes any undue burden to the Defendant in this matter. Further, this information is likely to provide Plaintiff with information to aid it in determining whether or not this venue is engaged in agritourism.

Deficiency #4: Please revise and supplement your client's response to Interrogatory No.9 related to future events at your client's venue. Additionally, please have your client supplement its response to Interrogatory No. 10 as well. This information will allow Plaintiff to determine if there are any witnesses Plaintiff wishes to name, interview, or depose, and will allow Plaintiff to assess whether your client is engaged in agritourism.

Deficiency #5: In response to Request for Production ("Request") No. 1, your client has not produced any "organizational documents" as stated in the responses. Please remedy this by producing said documents.

Deficiency #6: In response to Request No. 2, your client has not produced any copies of federal or state tax returns, nor any attachments thereto, filed by it since the date of its inception. While you have objected to the relevance of this request, Plaintiff asserts that this will aid it in its ability to determine whether your client is engaged in agritourism. Please supplement this response.

Deficiency #7: In response to Request No. 3, your client has failed to produce any W-2s and/or 1099s issued by it to any contractors, employees, tenants or lessees of the Property and or venue from the date of incorporation to the present time. While you have objected to the relevance of this request, Plaintiff asserts that this will aid it in its ability to determine if there are witness that Plaintiff may name or interview, as well as help Plaintiff determine if your client is engaged in agritourism. Please supplement this response, or if no such documents exist, please state such.

Deficiency #8: In response to Request No. 4, your client has not produced any IRS 943 Forms. Please produce said documents or indicate that your client has not filed such with the IRS from the date of its inception to present. If such exist, these documents are relevant in allowing Plaintiff to assess whether your client is engaged in agritourism.

Deficiency #9: In response to Requests Nos. 5, 6, and 7, please verify that your client has produced all such agreements since the date of its inception, as noted above the documents



produced name some renter(s)/customer(s), but fail to contain any contact information for such. A customer list is hardly proprietary information as it relates to this matter, and further, as the parties have agreed to a protective order, such objection is now irrelevant. These documents will allow Plaintiff to determine if there are any witnesses Plaintiff wishes to name, and will allow Plaintiff to assess whether your client is engaged in agritourism. Please supplement these responses.

Deficiency #10: In response to Request No. 8, your client has failed to produce all documents, which pertain, refer or relate to its expenses associated in any way to its operation of the venue from the date of its inception to the present time. Again, I note that we have entered into a protective order via the Court which prevents disclosure of your client's claimed "proprietary information," and such objection is now irrelevant. These documents will allow Plaintiff to assess whether your client is engaged in agritourism. Please supplement this response.

Deficiency #11: In response to Request Nos. 9 and 10, your client has failed to produce any IRS Schedule C or Schedule F Forms relating to the property from the date of its inception to present. These documents will allow Plaintiff to assess whether your client is engaged in agritourism. Again, I note that we have entered into a protective order via the Court which prevents disclosure of your client's claimed "proprietary information," and such objection is now irrelevant. Please supplement this response.

Deficiency #12: In response to Request No. 11, your client has failed to produce any copies of insurance policies relating to its ownership, management, maintenance and/or operation of the property and/or venue between its time of inception and the present. These documents will aid Plaintiff in assessing whether your client is engaged in agritourism. Again, I note that we have entered into a protective order via the Court which prevents disclosure of your client's claimed "proprietary information," and such objection is now irrelevant. Please supplement this response.

Deficiency #13: In response to Request No. 12, your client has failed to produce any farm produce receipts for the property from its inception to present. These documents are relevant as they will aid Plaintiff in assessing whether your client is engaged in agritourism. Please supplement this response, or if such do not exist, please state such. Again, I note that we have entered into a protective order via the Court which prevents disclosure of your client's claimed "proprietary information," and such objection is now irrelevant. Please supplement this response.

Deficiency #14: In response to Request No. 13, your client has failed to produce any documents pertaining to crop insurance policies issued to it or that have been caused to be obtained by it, for any time since its inception to present. These documents are relevant as they will aid Plaintiff in assessing whether your client is engaged in agritourism. Again, I note that we have entered into a protective order via the Court which prevents disclosure of your client's claimed "proprietary information," and such objection is now irrelevant. Please supplement this response, or if such documents do not exist, please state such.



Surdyk | Dowd | Turner

ATTORNEYS AT LAW

Please produce or supplement the aforementioned responses by November 25, 2020, or I will file a motion to compel with the Court.

Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

SURDYK, DOWD & TURNER CO., L.P.A

/s/ Edward J. Dowd, Esq.

EJD/ajh

From: [Edward Dowd](#)
To: [Alex Hale](#)
Subject: FW: Powlette
Date: Tuesday, December 22, 2020 1:15:44 PM

Edward J. (Ned) Dowd
Surdyk, Dowd & Turner Co. LPA
8163 Old Yankee St., Suite C
Dayton, Oh. 45458
(937) 222-2333
(937) 222-1970(fax)
edowd@sdtlawyers.com
www.sdtlawyers.com

PLEASE NOTE OUR NEW CINCINNATI OFFICE ADDRESS - PLEASE DIRECT ALL MAIL TO OUR DAYTON OFFICE

Cincinnati Office

9078 Union Centre Blvd., Suite 350
West Chester, Ohio 45069
Ph. 513-206-9998

NOTICE: The information contained in this electronic mail transmission is intended by Surdyk, Dowd & Turner Co., L.P.A. for the use of the named individual or entity to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmission to, or receipt by, anyone other than the named addressee (or a person authorized to deliver it to the named addressee). If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply email or by calling Surdyk, Dowd & Turner Co., L.P.A. at (937) 222-2333, so that our address record can be corrected.

From: Greg Page [mailto:greg@gsplaw.net]
Sent: Friday, December 04, 2020 4:02 PM
To: Edward Dowd <edowd@sdtlawyers.com>
Subject: Powlette

Ned

I met with Darren today. We will be supplementing some responses in response to your letters. I will ha e all out Monday. I do want to alert that I still have no tax records.

Have a nice weekend.

Greg

Exhibit 11

Get [Outlook for iOS](#)

From: [Edward Dowd](#)
To: [Alex Hale](#)
Subject: FW: Other records
Date: Tuesday, December 22, 2020 1:05:09 PM

Edward J. (Ned) Dowd
Surdyk, Dowd & Turner Co. LPA
8163 Old Yankee St., Suite C
Dayton, Oh. 45458
(937) 222-2333
(937) 222-1970(fax)
edowd@sdtlawyers.com
www.sdtlawyers.com

PLEASE NOTE OUR NEW CINCINNATI OFFICE ADDRESS - PLEASE DIRECT ALL MAIL TO OUR DAYTON OFFICE

Cincinnati Office

**9078 Union Centre Blvd., Suite 350
West Chester, Ohio 45069
Ph. 513-206-9998**

NOTICE: The information contained in this electronic mail transmission is intended by Surdyk, Dowd & Turner Co., L.P.A. for the use of the named individual or entity to which it is directed and may contain information that is privileged or otherwise confidential. It is not intended for transmission to, or receipt by, anyone other than the named addressee (or a person authorized to deliver it to the named addressee). If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply email or by calling Surdyk, Dowd & Turner Co., L.P.A. at (937) 222-2333, so that our address record can be corrected.

From: Greg Page [mailto:greg@gsplaw.net]
Sent: Wednesday, December 09, 2020 10:11 AM
To: Edward Dowd <edowd@sdtlawyers.com>
Subject: Other records

Ned,

At this time, as we discussed, I do not have any tax returns in my possession. I also do not have bank records or other financial records of the Company in my possession. I do have Darren reviewing all of his files to confirm he has provided all contracts through December 1, 2020. He is not renting the barn for several months (I think until April) so I am trying to get confirmation that you have every contract from inception to today's date that he has in his possession or control.

Exhibit 12

On a side note, while we want to move this matter forward, many of our witnesses will be coming from Columbus and other areas of the State. Given the current COVID conditions in our county, and across Ohio, I do not know whether we should risk exposing all of these disinterested witnesses to the virus. We seem to be at an apex right now with heightened restrictions and increasing cases almost on a daily basis.

We will need to start issuing subpoenas very soon if we are really going to stick to the January 4, trial date. When the date was first set, I recall Judge Skelton indicating he would have some flexibility on moving the date. We have not yet conducted a single deposition and it is unlikely that we will be able to conduct them between now and the current trial date.

What are your thoughts on these issues? Please let me know.

Thanks.

Greg