

4. For such other and further relief as may be just, reasonable, and proper.

RESPECTFULLY SUBMITTED,



VINCENT DePASCALE, Trial Attorney
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(614) 298-8200 S.C. # 0013227
ATTORNEY FOR LYNDSEY HOWELL

SUPPORTING MEMORANDUM

On or about the 10th day of May, 2013, Plaintiff by and through her attorney submitted Interrogatories and a Demand for the Production of Documents to Defendant by and through its attorney of record, by hard copy and CD, a hard copy of which is enclosed herewith, incorporated herein and made a part hereof.

On or about the middle of June, 2013, counsel herein sent a letter to Mr Conomy (such letter apparently [and erroneously] carried the date of the prior letter concerning the transmittal of the discovery demands) advising him that he had not provided the requested discovery.

Again, on 13 August 2013, Mr Conomy was notified that he had not complied with the discovery demands.

For reasons unknown Mr Conomy makes a habit of not complying with the demands of the law and the Civil Rules. When Defendant was served with the

Summons and a copy of the Complaint Mr Conomy failed to file an Answer for more than 40 days past the Answer date, and then only filed after Plaintiff had filed a Motion for Default Judgment.

On 19 August 2013 Mr Conomy called the office of Plaintiff's counsel and related that his clients had *finally* provided the discovery demanded, but that due to his deposition schedule he would be unable to forward the documents until Monday of the following week. That did not occur.

Counsel herein sent multiple letters to Mr Conomy concerning his failures to provide discovery.

Plaintiff's counsel finds the following set of facts to have specific impact and importance in this issue:

The request for admissions, which were sent to Mr Conomy with the Interrogatories and Demand for the production of documents, were returned to counsel with responses within the time set by the Civil Rules. Many of the Requests for Admission were denied (which will be addressed at another time). The Civil Rules provide that when responses to Admissions are not provided within Rule the Admissions are deemed admitted. Apparently when Mr Conomy will suffer a detriment he does not desire to suffer he is able to comply with the Civil Rules, it is only when he desires to frustrate and impinge upon the rights, remedies, and due process of the Plaintiff that he is unable to comply.

Now, discovery is 90 days overdue and has not arrived.

Plaintiff cannot take depositions or otherwise comply with the Scheduling Order issued by this Court due to the wilful failure of Mr Conomy to follow the Civil Rules and provide discovery.

As Plaintiff's counsel understands the law, financial sanctions cannot be imposed upon the State itself by this Court. However, Mr Conomy is not the State, he is a licensed attorney and is subject to the penalties for his own misconduct. Until Mr Conomy is made to understand that he must comply with the same rules and laws as the rest of the bar he will continue to fail in his responsibilities to the Court and the profession.

Plaintiff should not be required to pay an attorney to do work that should not be necessary, and would not be necessary, if Mr Conomy followed the same rules as all other attorneys in Ohio. Counsel for Ms Howell should not be required to work without compensation simply because Mr Conomy does not believe he is bound by the laws and rules which he does not like or of which he does not approve.

Paying financial sanctions will get his attention and bring his conduct into line.


VINCENT DePASCALE
ATTORNEY FOR LYNDSLEY HOWELL

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the forgoing upon Christopher Conomy, Assistant Attorney General as attorney for Defendant, this 24TH day of September, 2013, by regular U.S. Mail.


VINCENT DEPASCALE
ATTORNEY FOR LYNDSEY HOWEL

Vincent DePascale
Attorney and Counselor at Law

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4 SEPTEMBER 2013

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No Fax

CHRISTOPHER CONOMY, ESQ.
COURT OF CLAIMS DEFENSE SECTION
150 EAST GAY STREET, 18TH FLOOR
COLUMBUS OH 43215-3130

Re: Howell v O U Police
2013-00001

Dear Mr Conomy:

On 19 August 2013 you called me at my office and advised me that your clients had finally sent you compliance with my discovery demands but that due to your deposition requirements I would receive my discovery on the following Monday, 26 AUG 13.

As of the 19th of August, 2013, much less the 26th of August, 2013, the discovery was 69 days late.

Today is 4 SEP 13 and I have nothing.

Other than making frivolous denials do you have any idea what the hell you are doing?

Vincent DePascale.

Vincent DePascale
Attorney and Counselor at Law

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10 JULY 2013

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150 EAST GAY STREET, 18TH FLOOR
COLUMBUS OH 43215-3130

Re: Howell v O U Police
2013-00001

Dear Mr Conomy:

As of today I have not received the responses to my Interrogatories or my Demand for the Production of Documents, nor have you requested an expansion of time. This discovery is 30 days overdue.

Please provide the discovery forthwith, or provide an explanation as to the cause of the delay.

Failing that, I shall file a Motion to Compel Discovery.


Vincent DePascale

Vincent DePascale
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13 AUGUST 2013

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COLUMBUS OH 43215-3130

Re: Howell v O U Police
2013-00001

Dear Mr Conomy:

As of today I have not received the responses to my Interrogatories or my Demand for the Production of Documents . This discovery is now more than 75 days overdue.

Please provide the discovery forthwith, as failing that, I shall file a Motion to Compel Discovery and for sanctions.

At this point it is obvious that you are delaying the processing of this case without just cause.

Vincent DePascale

Vincent DePascale

Attorney and Counselor at Law

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24 SEPTEMBER 2013

HON. HOLLY SHAVER, MAGISTRATE
COURT OF CLAIMS OF OHIO
THE OHIO JUDICIAL CENTER
65 SOUTH FRONT STREET, THIRD FLOOR
COLUMBUS OH 43215

FILED
COURT OF CLAIMS
OF OHIO
2013 SEP 25 AM 10:55

Re: Howell v Ohio University Police
Department
2013-00001

Magistrate Shaver:

Enclosed is a courtesy copy of the pleadings that I have this day sent to the Clerk for filing.

Vincent DePascale