



# Court of Claims of Ohio

The Ohio Judicial Center  
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Columbus, OH 43215  
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TRANSAMERICA BUILDING  
COMPANY, INC.

Plaintiff/Counter Defendant

v.

OHIO SCHOOL FACILITIES  
COMMISSION, etc.

Defendant/Counter Plaintiff

Case No. 2013-00349

Judge Patrick M. McGrath  
Referee Samuel Wampler

ENTRY

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On April 17, 2014, defendant/counter plaintiff, Ohio School Facilities Commission (OSFC), filed "objections to the order of the referee denying defendant's motion to quash and motion for protective order." The court will treat OSFC's objections as a motion to set aside a referee's order pursuant to Civ.R. 53(D)(2)(b). In an April 11, 2014 order, Referee Wampler denied OSFC's motion to quash subpoenas for depositions of two former OSFC directors. The depositions are scheduled for April 21, 2014.

Inasmuch as plaintiff/counter defendant, TransAmerica Building Company, Inc. (TransAmerica), filed a response to OSFC's original motion, the issue has been fully briefed. OSFC argues that its former directors can provide no relevant information in this case and that in response to questions from counsel for OSFC regarding the purpose of the depositions, counsel for TransAmerica simply mentions an email which, on its face, seems to provide no relevant information.

However, Ohio's discovery rules are to be liberally construed in favor of allowing the gathering of all information relevant to the issues of the case. Civ.R. 26; *Ohio Consumers' Counsel v. PUC*, 111 Ohio St.3d 300, 2006-Ohio-5789, ¶ 83. TransAmerica's memorandum lists several general areas of administrative hierarchy, which might supply potential areas of relevant structural decision-making, however, that remains to be seen. The court believes the referee correctly ruled and OSFC's motion to set aside the referee's

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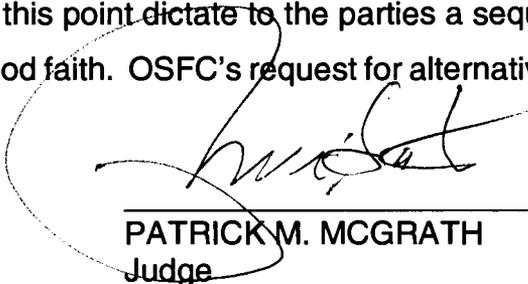
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ENTRY

order is DENIED. TransAmerica is reminded that abuse of discovery may result in sanctions.

OSFC suggests that Referee Wampler does not have authority to rule on a discovery matter. However, this court believes that a referee, duly appointed by the Chief Justice of the Ohio Supreme Court pursuant to R.C. 153.12 and R.C. 2743.03(C)(3) to preside over a trial of the case, does have the authority to make rulings on procedural, evidentiary, and discovery matters. *See Dugan & Meyers Constr. Co. v. Ohio Dept. of Admin. Servs.*, 113 Ohio St.3d 226, 2007-Ohio-1687; *Conn Constr. Co. v. Ohio Dept. of Transp.*, 14 Ohio App.3d 90 (10th Dist.1983); *George E. Kuhn & Co. v. Genslinger*, 2nd Dist. Montgomery No. 12786, 1992 Ohio App. LEXIS 3734.

Alternatively, OSFC is requesting the court to order the subpoenaed depositions to occur after the deposition of the present executive director scheduled for May 21, 2014. While that may be practically logical and perhaps eliminate the need for the disputed depositions, the court will not at this point dictate to the parties a sequence of discovery. All discovery must be taken in good faith. OSFC's request for alternative relief is DENIED.



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PATRICK M. MCGRATH  
Judge

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