



On July 9, 2015, Plaintiff filed the original complaint.<sup>4</sup> On November 12, 2015, Plaintiff served Penske with Plaintiff's first set of interrogatories and first request for production of documents.<sup>5</sup> On January 19, 2016, Penske responded.<sup>6</sup>

On February 26, 2016, Plaintiff filed a motion to compel Penske to answer several of the original interrogatories and requests for production.<sup>7</sup> Plaintiff argues that Defendant Penske's responses to Plaintiff's interrogatories and requests for production are late, inadequate, and do not allow Plaintiff to properly oppose Penske's February 15, 2016 motion for summary judgment.<sup>8</sup> At a March 3, 2016, conference, the Court instructed Plaintiff to file a motion to compel if Plaintiff believed Penske had not provided discovery to Plaintiff.<sup>9</sup> On March 4, 2016, Plaintiff filed the motion for sanctions.<sup>10</sup>

On March 7, 2016, Penske filed an opposition to Plaintiff's motion to compel and Plaintiff's motion for sanctions.<sup>11</sup>

## II. Discussion

Parties may obtain discovery as to any unprivileged matter relevant to any party's claim or defense and proportional to the needs of the case.<sup>12</sup>

### *Plaintiff's Interrogatories*

Plaintiff seeks "complete answers to Interrogatory Nos. 4, 5, 8, 11, 12, 20 and 23."<sup>13</sup>

Defendant Penske makes no additional argument other than its objections to these interrogatories

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<sup>4</sup> Doc. 1.

<sup>5</sup> Doc. 62 at 2.

<sup>6</sup> Doc. 43. Plaintiff attaches a copy of Plaintiff's interrogatories and requests for production and Penske's answers. Doc. 62-2.

<sup>7</sup> Doc. 62.

<sup>8</sup> Doc. 57. *See Fed. R. Civ. P. 56(d)* (giving district courts authority to defer consideration of or deny a motion for summary judgment if the non-movant demonstrates the unavailability of essential facts).

<sup>9</sup> This Court instructed Plaintiff to file the motion during the parties' status conference. *See* Doc. 66.

<sup>10</sup> Doc. 67.

<sup>11</sup> Doc. 70.

<sup>12</sup> *Fed. R. Civ. P. 26(b)(1)*.

<sup>13</sup> Doc. 62 at 11. *See* Doc. 62-2 at 2-6.

as to why Plaintiff is not entitled to the discovery. Furthermore, this Court finds the subjects of these interrogatories to be relevant to Plaintiff's negligence claims against Penske. Therefore, this Court **GRANTS** Plaintiff's motion to compel as to the interrogatories without prejudice to Penske's ability to withhold privileged and work-product materials. Defendant will provide a listing of any information or materials withheld on privilege or work-product grounds.

*Plaintiff's Requests for Production*

Plaintiff also seeks "all documents responsive to Requests For Production Nos. 17, 18, 19, 20, 21, 22, 25, 31, 32, 33, 34, 46, 47, 48, and 49."<sup>14</sup> This Court finds that requests for production 18, 19, 20, 21, 22, 25 and 31 are relevant to Plaintiff's negligence claim. The Court **GRANTS** Plaintiff's motion as to these requests for production without prejudice to Penske's ability to withhold privileged and work-product materials. Defendant will provide a listing of any information or materials withheld on privilege or work-product grounds.

Requests for production 17, 32, 33, 34 and 49 seek manuals related to the truck involved in the February 5, 2015 crash and items removed from the truck. In response, Penske says either that it does not have the requested materials or that the request is overboard, burdensome, and irrelevant. This Court finds these materials to be relevant to Plaintiff's negligence claims and **GRANTS** Plaintiff's motion to compel subject to the condition that Penske has possession of the materials.

Requests for production 46 and 47 seek all documents ever exchanged between Penske and AST and "all documents related to [Penske's] customer account with [AST]."<sup>15</sup> This Court finds that these requests are overbroad and therefore **DENIES** Plaintiff's motion to compel responses to requests 46 and 47.

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<sup>14</sup> Doc. 62 at 11. See Doc. 62-2 at 11-16.

<sup>15</sup> Doc. 62-2 at 15.

Request 48 seeks “a list of any and all employees and their job titles who worked at the Penske facility located [in] Northwood, OH . . .”<sup>16</sup> This request is overboard but contains some relevant information. The Court therefore **GRANTS** Plaintiff’s motion to compel production 48 only as to Northwood, Ohio Penske employees who have a connection to the February 5, 2015, trucking accident or truck purchase. This Court **DENIES** the motion for the remainder of request 48.

### **III. Conclusion**

For the foregoing reasons, this Court **GRANTS** in part and **DENIES** in part Plaintiff’s motion to compel and **DENIES** Plaintiff’s motion for sanctions.

IT IS SO ORDERED.

Dated: March 9, 2016

*s/ James S. Gwin*  
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JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>16</sup> *Id.*