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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

GERALD M. HALL and PAMELA J. HALL,
husband and wife,

Plaintiffs,

v.

ELVIRA J. MANSCHOT and ROBERT H.
MANSCHOT, husband and wife and Arizona
residents,

Defendants.

Case No.: CV-06-205-PHX-FJM

**PLAINTIFFS' REPLY TO SUPPORT
MOTION TO COMPEL
PRODUCTION OF DOCUMENTS**

Defendants do not raise any legitimate argument to avoid their obligation to produce documents that were requested months ago. This Court should therefore grant the Motion to Compel.

I. Legal Analysis.

A. Defendants' Counsel Agreed to Produce the Requested Documents.

Defendants argue that they are not obligated to produce the requested documents because the Halls never propounded a formal request for production. This argument is unpersuasive, however, considering the Halls' efforts to obtain the requested documents.

As the Affidavit accompanying the Motion to Compel explains, defendants' former and present counsel agreed to produce the documents. To permit defendants to escape having to produce the documents because the Halls relied upon their counsel's own word would work a

1 serious injustice, particularly since counsel deliberately chose to wait until after the close of
2 discovery to inform the Halls that he has no intentions of producing the documents. This Court
3 should not accept this type of conduct.

4 **B. The Halls Are Not Required To Explain Why The Documents Are Discoverable.**

5 The second proffered basis upon which defendants seek to avoid producing the requested
6 documents is the Halls' alleged failure to explain why the documents are discoverable. This
7 argument fails for two reasons. First, a party is not required to demonstrate the relevance of
8 discovery unless the answering party has already objected to the request on relevance grounds,¹ and
9 at no time has defendants' counsel objected due to relevancy. Second, pursuant to this Court's
10 Rule 16 Scheduling Order, discovery motions, including responses and replies, are not to exceed
11 two pages each.² Had the Court wanted a more in-depth explanation, it presumably would not have
12 limited discovery motions to two pages. Put simply, the discovery sought here is relevant, as it
13 relates to the facts and legal theories of this case.

14 **II. Conclusion.**

15 The Halls have no alternative but to file the Motion because defendants refuse to provide
16 the requested discovery. Defendants have not offered any reason for their refusal to comply. This
17 Court should therefore grant the Motion to Compel.

18 RESPECTFULLY SUBMITTED this 4th day of October 2007.

19 HARPER, CHRISTIAN, DICHTER & GRAIF, P.C.

20 By /s/ Jeffrey C. Matura
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26 ¹ See Fed. R. Civ. P. 33(b)(5); 34(b); 36(a); see also Westchester Fire Ins. Co. v. Household Int'l, Inc., 167 Fed. Appx. 895 (3rd
27 Cir. 2006) (denying motion to compel for failure to demonstrate relevance only after answering party objected to discovery
request on such grounds); Valley Eng'rs v. Elec. Eng'g Co., 158 F.3d 1051, 1056 (9th Cir. 1999) (holding that party waived
objections to request for production where it did not respond to request).

² Interestingly, defendants violated this Court's Scheduling Order without any explanation when it filed a 6-page response.

1 **ORIGINAL** of the foregoing
2 electronically filed this 3rd day
of October 2007 with:

3 Clerk of Court
4 United States District Court
5 401 West Washington St.
Phoenix, Arizona 85003

6 **COPY** of the foregoing
7 electronically delivered this 3rd day
8 of October 2007 to:

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13 s/ Trina Bentley