

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS D'ANGELO,

Plaintiff,

vs.

PAUL PARENT, CLINTON TOWNSHIP,
a municipal entity, NICHOLAS DYKAS,
JASON FIGURSKI and KEITH WATSON,
in their official and individual capacities,
jointly and severally,

Defendants.

Case No. 2:10-c-12195

Hon. Lawrence P. Zatkoff

Magistrate Judge Mona Majzoub

Removed from Macomb County Circuit

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**DEFENDANTS CLINTON TOWNSHIP, NICHOLAS DYKAS,
JASON FIGURSKI and KEITH WATSON'S MOTION TO COMPEL PLAINTIFF'S ANSWERS
TO INTERROGATORIES AND/OR MOTION TO DISMISS**

NOW COME Defendants, CLINTON TOWNSHIP, NICHOLAS DYKAS, JASON FIGURSKI and KEITH WATSON (hereinafter referred to as "Defendant"), by and through their attorneys, Plunkett Cooney, and for their Motion to Compel Plaintiff's Answers to Interrogatories and/or Motion to Dismiss state as follows:

1. That on or about June 3, 2010 Interrogatories were submitted to the Plaintiff to be answered by Plaintiff, Thomas D'Angelo, within thirty (30) days from the date of service. (See attached Exhibit A).

2. That on or about August 5, 2010, defense counsel's office spoke with Plaintiff's counsel's office and requested the status of Plaintiff's discovery responses. Plaintiff's counsel's office advised that they have been unable to locate said discovery requests.

3. That on or about August 9, 2010, defense counsel's office forwarded a copy of the discovery requests to Plaintiff's counsel via email (See attached Exhibit B).

4. That on or about August 18, 2010, defense counsel's office spoke again to Plaintiff's counsel's office requesting the discovery responses. Plaintiff's counsel's office advised that they have not yet received the discovery requests. Defense counsel forwarded the discovery requests yet again via email. (See attached Exhibit C).

5. That more than thirty (30) days have passed since service of said Interrogatories and although requests for answers have been made, no answers have been filed or copies served upon defendant.

6. That concurrence to this Motion has been sought from Plaintiff's attorney on September 2, 2010 and same cannot be obtained and therefore, it is necessary to present this Motion.

7. That it is essential to the proper defense of this case that Defendant receives proper answers to the Interrogatories heretofore submitted.

WHEREFORE, Defendants respectfully request that this Honorable Court enter an order compelling Plaintiff to answer said interrogatories within 7 days and/or dismiss Plaintiff's suit with prejudice, together with costs and attorney fees.

BRIEF IN SUPPORT OF MOTION
TO COMPEL ANSWERS TO INTERROGATORIES
AND/OR MOTION TO DISMISS

Rule 33 of the Federal Rules of Civil Procedure provides that any party may serve written Interrogatories upon any adverse party. That Rule further provides that the party to whom the Interrogatories are directed shall answer said Interrogatories, serving a copy of the answers upon the

party submitting the Interrogatories within thirty (30) days after the service of the Interrogatories unless the Court extends or shortens the time upon Motion.

In this case, Interrogatories were served on the Plaintiff more than nine months ago, but answers thereto have not been received from Plaintiff, even though requests for said answers have been made.

This Defendant relies upon the applicable Federal Rules of Civil Procedure and would ask this Court to enter an Order compelling plaintiff to provide answers to interrogatories and award expenses of the Motion including attorney fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

WHEREFORE, Defendants respectfully request that this Honorable Court enter an order compelling Plaintiff to answer said interrogatories within 7 days and/or dismiss Plaintiff's suit with prejudice, together with costs and attorney fees.

PLUNKETT COONEY

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Dated: September 2, 2010

