

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JOSEPH R. REISINGER,</b>	:	<b>CIVIL ACTION – LAW</b>
<b>Plaintiff</b>	:	
	:	<b>JURY TRIAL DEMANDED</b>
<b>v.</b>	:	
	:	
<b>THE CITY OF WILKES BARRE;</b>	:	
<b>THOMAS LEIGHTON;</b>	:	
<b>FRANCES KRATZ;</b>	:	<b>(Honorable Richard P. Conaboy)</b>
<b>GREGORY BARROUK;</b>	:	
<b>MICHAEL KERMEC and</b>	:	
<b>THE CADLE COMPANY II, INC.</b>	:	
<b>Defendants</b>	:	<b>No. 3:09-CV-210</b>

**BRIEF IN SUPPORT OF MOTION TO COMPEL PRODUCTION OF DOCUMENTS  
DIRECTED TOWARD CITY DEFENDANTS, TO ENLARGE THE TIME TO  
COMPLETE DISCOVERY AND TO AMEND THE AMENDED CASE MANAGEMENT  
PLAN AND OPPOSING CITY DEFENDANTS’ MOTION TO AMEND THE CASE  
MANAGEMENT PLAN**

The Plaintiff, JOSEPH R. REISINGER, *pro se*, hereby moves this Honorable Court to enter an appropriate Order compelling the Defendants, The City of Wilkes-Barre, Thomas Leighton, Frances Kratz and Gregory Barrouk (“City Defendants”) to produce the documents requested by Plaintiff pursuant to Rule 37 of the Federal Rules of Civil Procedure, to enlarge the time to complete discovery, and to amend the other deadlines in the Amended Case Management Plan accordingly, and, as such, to deny the City Defendants’ Motion to Amend the Case Management Plan, and in support thereof, avers as follows:

**FACTS**

The Plaintiff filed a Complaint on February 2, 2009 against the City Defendants and the Cadle Defendants alleging that a conspiracy exists between all Defendants to defraud the Plaintiff out of his properties.

The Plaintiff, through his then counsel Peter G. Loftus, Esq. served on Defendants a Request for a Production of Documents. A copy of those requests is attached hereto as Exhibit A, Loftus Request, and is incorporated herein. The City Defendants failed to comply with this request in any meaningful way and only produced a very limited number of the documents that were requested by Plaintiff's then counsel.

The Plaintiff then terminated his representation by the Attorney Loftus for various reasons. Then upon assessing the fact that the Plaintiff still did not have the documents from the City Defendants that are necessary for him to adequately develop his case, the Plaintiff, *pro se* filed another Request for a Production of Documents to the City Defendants once again requesting the documents that are necessary to establish the Plaintiff's case. A copy of which is attached hereto as Exhibit B Request #2 and is incorporated herein.

The City Defendants responded to Plaintiff's Request #2 by reproducing for the Plaintiff copies of the documents that they had provided in response to the Loftus Request, which while very accommodating, still failed to provide to Plaintiff the necessary and relevant information that he needed to build his case.

The Plaintiff informed the City Defendants that this was not an appropriate response and requested that the City Defendants provide the documents that had been requested in Plaintiff's Request #2, and the City Defendants then objected to all of Plaintiff's Request #2 on June 3, 2010 claiming that the requests were duplicative of the first Loftus Request and that it was overly broad, unduly burdensome, and sought information and documents which are privileged and/or irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. The City Defendants indicated that they will not provide any further documents to the Plaintiff absent an order compelling them to do so by this Honorable Court.

Plaintiff has taken an inventory of the documents he has in his possession that he received from his former attorney and has concluded that the City Defendants failed to provide him with any of the relevant information that he requested in either of the Requests for Production of Documents that were served on the City Defendants. The Plaintiff has attached a copy of Exhibit C List of Documents Produced, which is a list that demonstrates what he has actually received from the City Defendants, which is largely irrelevant and incomplete.

Plaintiff has made several attempts to get the City Defendants to comply with these requests without court action being needed, but the City Defendants have, thus far, refused to produce these documents to the Plaintiff and have indicated that they will provide no further documents to the Plaintiff without an order from this Honorable Court.

Discovery for this case was scheduled to end on June 30, 2010 and Plaintiff still has not received this information from the City Defendants, which is absolutely vital to the Plaintiff's case. The Plaintiff cannot conduct depositions of the City Defendants without first receiving the information that is contained in these documents in order to be able to prepare fully for the depositions. Also, the Plaintiff cannot fully and accurately calculate his damages without first receiving these documents. Also, the Plaintiff cannot prepare his expert reports for this case to then turn them over to the Defendants without receiving these documents. Therefore, the Plaintiff needs this information as soon as possible and is now filing this Motion to Compel Production of Documents and to Enlarge the Time to Complete Discovery and To Amend The Amended Case Management Schedule Accordingly.

#### DISCUSSION

Rule 26 of the Federal Rules of Civil Procedure allows for liberal discovery of materials and allows "parties to obtain discovery regarding any non-privileged matter that is relevant to

any party's claim or defense, including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter” Rule 26 also provides that “relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence”. *Hickman v. Taylor*, 329 U.S. 495 (1947).

As stated above, the information sought by Plaintiff is highly relevant and is absolutely germane, to his cause of action in this case. This information is not privileged or protected by the work product doctrine or does not constitute a trade secret, and is, therefore, clearly within the admissible bounds of discovery in this case.

The information sought by these requests is relevant and essential to the Plaintiff's preparation for trial and is within the knowledge and control of the Defendants. Most importantly, the Plaintiff is seeking proof to establish that a conspiracy exists between the City Defendants and the Cadle Defendants to defraud the Plaintiff of property and money through deceptive and unlawful tactics. He cannot do this unless the City Defendants produce these documents to him as soon as possible.

Also, the Plaintiff is unable to fully and accurately calculate his damages without first receiving the information contained in these documents.

Rule 37 of the Federal Rules of Civil Procedure requires that the parties make a good faith effort to obtain the documents without Court assistance. Plaintiff has attempted to obtain this information from the City Defendants without the assistance of this Honorable Court, but has thus far been unsuccessful. Plaintiff is entitled to these documents and is therefore seeking and order from this Honorable Court that compels the City Defendants to produce the documents.

Also, the Plaintiff will require sixty (60) days from the day that he receives these documents from the Defendants to fully review the documents and to prepare his expert reports to then turn them over to the Defendants.

The Plaintiff will then upon the creation of the expert reports will give the expert reports to all Defendants, who will then have sixty (60) days to review them and prepare their own expert reports in response. During those sixty (60) days, the Plaintiff will conduct his depositions of all the Defendants.

The Plaintiff is substantially limited by his health, and as a result, can only work approximately twenty-five (25) hours per week, instead of the usual forty (40) plus work week that most attorneys routinely work.

The City Defendants wish to have the Amended Case Management Plan amended in such a way that would unfairly prejudice the Plaintiff, which would be most unjust.

#### CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Honorable Court grant Plaintiff's Motion to Compel Production of Documents, To Enlarge the Time to Complete Discovery, and To Amend the Amended Case Management Plan accordingly, and to also deny the City Defendants' Motion to Amend the Amended Case Management Plan.

Respectfully submitted by,

/s/Joseph R. Reisinger  
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