

IN THE CIRCUIT COURT OF THE 22ND JUDICIAL COURT
MCHENRY COUNTY ILLINOIS

ANDREW GASSER, ALGONQUIN)
TOWNSHIP ROAD COMMISSIONER,)
Plaintiff,)

v.)

KAREN LUKASIK, INDIVIDUALLY)
AND IN HER CAPACITY AS)
ALGONQUIN TOWNSHIP CLERK,)
ANNA MAY MILLER, AND ROBERT)
MILLER,)
Defendants.)

Case No. 17 CH 000435

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KAREN LUKASIK,)
Cross-Plaintiff,)

v.)

CHARLES A. LUTZOW JR.,)
Cross-Defendant.)

ANDREW GASSER,)
Counter-Defendant.)

RESPONSE TO ROBERT MILLER'S PRODUCTION REQUEST

NOW COMES Plaintiff/Counter-Defendant, ANDREW GASSER, ALGONQUIN TOWNSHIP ROAD COMMISSIONER, by that through his attorneys, LAW OFFICES OF ROBERT T. HANLON & ASSOCIATES, P.C., with his response to Defendant Bob Miller's Request to Produce directed to Plaintiff Andrew Gasser, Algonquin Township Road Commissioner, herein states as follows:

I.

DEFINITIONS AND INSTRUCTIONS PROVIDED

The following Definitions and Instructions are to be considered applicable with respect to each request contained herein:

1. **ALGONQUIN TOWNSHIP** means the public entity of **ALGONQUIN**

TOWNSHIP and its agents, assigns, representatives, attorneys, or employees. **ALGONQUIN TOWNSHIP HIGHWAY DEPARTMENT (ROAD DISTRICT)** means the public entity of **ALGONQUIN TOWNSHIP'S DEPARTMENT OF HIGHWAYS AND ROADS a/k/a ALGONQUIN TOWNSHIP HIGHWAY DEPARTMENT OR ALGONQUIN TOWNSHIP ROAD DISTRICT**, and its agents assigns, representatives, attorneys or employees.

2. "Consultant[s]" means and refers to persons, whether retained as experts or as non-experts, contacted by you or on your behalf to provide information, opinions, and/or review of materials or tangible things relating or referring to the positions or potential positions taken by you in the litigation.

3. "Document[s]" means any written, graphic or recorded matter any object or tangible thing of every kind of description, or any combination thereof, and without limitation, whether draft, revision or final; whether original or reproduction; however produced and reproduced; whether such object, record or communication is written, typewritten, printed by hand or recorded, and including without limitation, correspondence, contracts, memorandums of understanding, term sheets, proposals, quotes, notes, memoranda, letters, reports, minutes, resolutions, summaries, telegrams, publications, invoices, purchase orders, estimations, accounting records and work papers, accounts, accounts payables, cash flow statements, commission agreements and commission statements, conferences (including but not limited to reports and/or summaries thereof), annual or other periodic reports, applications, appointment books, appraisals, assignments, assignment of beneficial interest, audit reports, calendar entries or notations, calendars, checks, checkbooks, canceled checks, cards, cartridges, cash flow statements, cassettes certificates, change orders, charts, release orders, checks, registers, receipts, statements, financial statements, filings with any government agency (including but not limited to federal, state, local or foreign governments) inventories, investigations and summaries of investigations, periodicals, photographs, slides or negatives, photographs and negatives, pictures or other matter which is able to be seen or read without mechanical or electrical assistance, plans, plates, pleadings, policies, press releases, proformas, programs, projections, promissory notes, promotional literature and materials, proof, proof of claims, records, records of meetings (including but not limited to notes, reports and summaries of conferences or interviews, whether formal or informal), recordings or transcriptions (including but n limited to notes, reports, and summaries of conferences or interviews, whether formal or informal), communiques, contracts, agreement, amendment, addendums, modifications and cancellations to contracts, recordings, transcriptions of recordings, inspection reports, videotapes, audiotapes, e-mails, facsimiles, diaries, schedules, files, file folders, original or preliminary notes, outlines, papers, personal records, loan documents, manuals or excerpts therefrom, retainer agreements, statements of income and expense, statements or books of account, statistical or information accumulations or compilations, tax returns, handbooks, and business records and shall include, without limitation, originals, duplicates, all file copies, all other copies (with or without notes or changes thereon) no matter how prepared, drafts, data, disks, tapes, databases, back-up tapes, zip-drives and disks, compilations, computer files, directories and any other computerized data or information, working papers, routing slips and similar materials, and including all documents which relate to the subject matter of this action;

4. "Communication" or "correspondence" refers to any verbal, written, electronic or other transmittal of words, thoughts, ideas or images between or among persons or groups of persons, whether in person, by letter, by telephone or by any other means.

5. This request calls for the production of documents in the possession, control or custody of the Plaintiff or their agents, attorneys or other persons acting on their behalf.

6. Plaintiff shall produce the original copy of each document requested herein, as well as any drafts, revisions, or copies of the same which bear any mark or notation not present on the original, or which otherwise differ from the original.

7. If Plaintiff believes that any given document is responsive to more than one paragraph or subparagraph of this request, they shall produce such document only once in response to the first such request.

8. The Term "Plaintiff" means ANDREW GASSER ("GASSER"), and any attorney, employee or other agent of Plaintiff.

9. The term "Defendants" means KAREN LUKASIK, INDIVIDUALLY AND IN HER CAPACITY AS ALGONQUIN TOWNSHIP CLERK, ANNA MAY MILLER AND ROBERT MILLER, CHARLES A. LUTZOW JR., ("LUKASIK," "A. MILLER," "R. MILLER," "LUTZOW") and any attorney, employee or other agent of Defendants.

10. The term "pertaining to" shall mean referring to, reflecting, or to be related in any matter logically, factually, directly or indirectly to the matter.

11. The conjunctions "and," "or," and "and/or," shall be interpreted conjunctively and shall not be interpreted disjunctively to exclude any information otherwise within the scope of any request. Similarly, the singular shall include the plural, and the plural shall include the singular. Masculine, feminine, and neuter pronouns or descriptions shall not exclude and shall include all other genders.

12. "Identify" and "describe" means and refer to:

- a. Provide a detail of all facts and circumstances supporting your contentions, and/or the act, occurrence, statement, communication and/or conduct which is the subject of the interrogatory and provide the date of such act, occurrence, statement or communication, the persons present, persons involved, persons who witnessed and/or persons who have knowledge of such facts, circumstances, acts, occurrences, statements, and/or communications;
- b. Provide the name, address and telephone number of all persons having knowledge of such facts and circumstances and/or of all persons present, involved and/or who witnessed the same;

- c. Provide the title of any responsive documents relating to the subject of the interrogatory, the person who created such documents, the persons who were the recipients of such documents, the date such documents were created and the present location of the documents; and
- d. Provide the name, address, and telephone number of any company which is the subject of the interrogatory.

13. "Matter" refers to this suit or any suit or any underlying work performed or done or issues pertaining to or regarding ANDREW GASSER, ALGONQUIN TOWNSHIP ROAD COMMISSIONER v. KAREN LUKASIK, INDIVIDUALLY AND IN HER CAPACITY AS ALGONQUIN TOWNSHIP CLERK, ANNA MAY MILLER AND ROBERT MILLER, CHARLES A. LUTZOW JR., commonly known as McHenry County Case Number 17 CH 435.

14. "Objects" and "tangible things" means and refers to material items or assets capable of being perceived or capable of being appraised at an actual or approximate value.

15. "Person" or "person[s]" means and refer to any natural person, partnership, corporation, joint venture, business organization whether public or private, and/or other entity and including its officers, directors, partners, joint venturers, employees, consultants, representatives, and agents.

16. "Refer[ing]" or "relate[ing] to" means to be legally, factually and/or logically connected to.

17. "Task" means and refers to each discrete duty, assignment or job performed by you and/or any of your employees.

18. "You," "your," and "yours" means and refers to, **ANDREW GASSER, ALGONQUIN TOWNSHIP ROAD COMMISSIONER, your agents, assigns and/or employees**, whether acting in this name or any alias names or surnames used by you, and/or including your agents, representatives, attorneys, accountants, employees, and/or anyone acting at your direction and/or on your behalf or at your request.

19. "Your counsel" means and refers to your attorneys representing you in this case, and/or your counsel's agents, representatives and/or anyone acting at their direction or their request on your behalf.

20. Whenever used herein, the singular shall include the plural and vice versa.

21. Whenever used herein, "and" may be understood to mean "or" and vice versa whenever such construction results in a broader request for information.

22. To the extent any paragraph is objected to, please set forth all reasons for your objection, specifically identifying the legal basis for any objection based upon a claim of work product or any common law or statutory privilege as required by Supreme Court Rule 201 (n).

In doing so, all objections or answers which fail or refuse to fully respond on the ground of any claim of privilege of any kind whatsoever shall:

- a) state the nature of the privilege;
- b) state the facts relied upon in support of the claim of privilege;
- c) identify all persons having knowledge of any facts relating to the claim of privilege; and
- d) identify all persons who have possession of the documents claimed to be privileged.

23. Duplicitous Request: It is not the intention of this production request to duplicate responses. If any request duplicates another request, only one response is required. Reference may be made to the previous response.

24. The responsive party shall provide an affidavit indicating whether such request is complete in accordance with the request, as provided in Supreme Court Rule 214.

II. GENERAL OBJECTIONS

1. Defendant objects to the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant to the extent that any request therein seeks to impose obligations on Defendant beyond those imposed by the Federal Rules of Civil Procedure or any Rule of Evidence or any Federal Rule related to discovery.

2. Defendant objects to the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant to the extent that it, and/or the definitions or instructions related thereto, purport to impose any obligation in excess of the requirements set forth in any statute, rule, or order applicable to this proceeding.

3. Defendant objects to the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant as unduly burdensome to the extent that it is vague, ambiguous, or overly broad and imposes an undue burden on Defendant.

4. Defendants object to the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant to the extent that it seeks information protected from disclosure by any applicable privilege, immunity, or privacy right, including but not limited to the marital privilege, the attorney-client privilege, and/or the attorney work product doctrine. Nothing contained in these answers is intended to be, nor should be construed as, a waiver of any such privilege or immunity.

5. Defendant objects to the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant to the extent that it seeks information that is: (a) not in Defendant's possession, custody, or control; (b) in Plaintiffs' possession; (c) publicly available or otherwise equally available to Defendant and Plaintiff; or (d) more appropriately obtained from sources other than Defendant or by other means of discovery.

6. Defendant objects to the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant to the extent that it seeks information outside the scope of the claims and defenses asserted in this action.

7. Defendant objects to the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant to the extent that any of the specific requests assume facts that are or may be inaccurate.

8. Defendant objects to the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence. By responding to this Request for Admissions, Interrogatories or Request to Produce directed to Defendant, Defendant does not waive, but rather expressly reserves, all of its reservations and objections, both general and specific, as set forth in these responses, even

though Defendant may provide information or admissions over the reservations and objections contained herein.

9. Defendant objects to the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant to the extent that it seeks proprietary, confidential information belonging to Defendant. Such information, if non-privileged and responsive, will be produced upon execution by the parties of an appropriate protective order.

10. Defendant's investigation with respect to this case is ongoing. Defendant, therefore, reserves its right to modify, amend, or supplement any of the following responses in light of information developed or learned at a later date.

11. To the extent that the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant create a cumulative burden on Defendant, it objects to producing large quantities of documents or reviewing large quantities of documents.

12. Defendant objects to the extent that the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant call for speculation.

13. Defendant objects to the extent that the Requests for Admissions, Interrogatories or Request to Produce directed to Defendant call for admissions of hearsay statements of others.

14. Each of the foregoing General Objections is incorporated into each of the following specific answers, responses and objections.

RESPONSES TO REQUEST FOR PRODUCTION

1. Produce all bit by bit mirror images of all hard drives and the computer network of Algonquin Township or Algonquin Township Highway Department (Road District), as alleged in Paragraph 7 of the Amended Complaint.

RESPONSE: In addition to the General objections which are incorporated herein by reference, Plaintiff objects on the basis that the request is overly broad and unduly burdensome. Plaintiff has secured copies for your inspection and review at the Offices of Wav-Tek in Crystal Lake, Illinois. Because of the cost of making additional copies we will make the existing copy available to you for your review at a time that can be scheduled. Should you wish to have your own copy, you may inquire of Wav-Tek as to the cost of making such a copy and pay them the fee accordingly. Wav-Tek will accordingly provide you a copy.

2. All documents in your possession or under you control which relate in any way to, and including describing, the records allegedly taken by Robert Miller at the conclusion of his term in office, as alleged in your Amended Complaint.

RESPONSE: In addition to the General Objections which are incorporated herein by reference Plaintiff objects on the basis the request is overly broad and therefore unduly burdensome and further objects on the basis of attorney work product and on the basis the request is vague and ambiguous and fails to set forth a time frame. Without waiving said objections Plaintiff produces the full contents of the anonymous package, makes available the copies of the computers referenced in response to request #1. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, Copies will be forwarded to you.

Investigation continues.

3. All documents in your possession or under your control, including the mailing labels for any "anonymous package" received by Plaintiff Andrew Gasser, as alleged in Paragraph 14 of the Amended Complaint.

RESPONSE: In addition to the General Objections which are incorporated herein by reference plaintiff objects on the basis the request is overly broad and therefore unduly burdensome and further objects on the basis of attorney work product. Without waiving said objections Plaintiff produces the full contents of the "anonymous package" and photographs taken of the outside of the Package. The original package is in the possession of Federal Authorities. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you.

4. All documents in your possession or under your control relating to the contents of the "anonymous package" as alleged in Paragraph 14 of the Amended Complaint.

RESPONSE: In addition to the General Objections which are incorporated herein by reference plaintiff objects on the basis the request is overly broad and therefore unduly

burdensome and further objects on the basis of attorney work product. Without waiving said objections Plaintiff produces the full contents of the anonymous package and images of its packaging. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you.

5. All documents in your possession or under your control relating to any credit card formerly in the name of Robert Miller and/or the Algonquin Township Highway Department (Road District) from January 1, 2010 to the present date.

RESPONSE: In addition to the General Objections which are incorporated herein by reference plaintiff objects on the basis the request is overly broad and therefore unduly burdensome and further objects on the basis of attorney work product. Without waiving said objections Plaintiff produces the full contents of the anonymous package and makes available the computer images as well as all documents produced in response to any subpoena. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you.

6. All documents in your possession or under your control relating to Board approval of credit card statements from January 1, 2010 to May 15, 2017, including but not limited to the warrants submitted to the Board of Trustees of the Township for the same period of time set forth in in this request.

RESPONSE: In addition to the General Objections which are incorporated herein by reference plaintiff objects on the basis the request is overly broad and therefore unduly burdensome and further objects on the basis of attorney work product. Without waiving said objections Plaintiff produces the full contents of the anonymous package and makes available the computer images as well as all documents produced in response to any subpoena. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

7. All documents in your possession or under your control which relate to any clothing allowances given to employees of the Algonquin Township Highway Department (Road District) prior to May 15, 2017.

RESPONSE: The clothing allowance information sheet retained on the server's imaged immediately upon taking office provides that a clothing allowance will be produced. Also to be produced is the Algonquin Township Road District Personnel Policies and Procedures Handbook dated June 20, 2012. This was the policy that was in effect during the term of Robert Miller. Nowhere in the Algonquin Township Road District Personnel Policies and Procedures Handbook is there a reference to any clothing allowance. Importantly, the policy contains a dress code requiring that the employees wear clean and not torn clothing. The Clothing Allowance Information sheet reads as follows:

Clothing Allowance Information

Safety Boots - \$ 150.00 Annually (Must be approved by 405)

Covered Items - All Steel Toed Safety Shoes or Boots

Clothing Allowance - \$250.00 Annually/ For employees not receiving uniform service. (Must be approved by 408)

Covered Items - Carhart or Similar Brand - Outerwear

Under Armour or Similar Brand - Undergarments

Work Gloves

Work Hats

Cargo Shorts

The Clothing identified in the "Clothing Allowance Information" sheet is not the type of clothing identified in the First Amended Complaint or in the "Anonymous Package".

Also to be produced is a clothing allowance spreadsheet depicting each employee by number and the amount of the respective period for such approved allowances. Nothing contained in the Spreadsheet material identifies the clothing referenced in the complaint.

Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

8. All documents in your possession or under your control relating to any policy manual in force prior to May 15, 2017 covering employees and operations of the Algonquin Township Highway Department (Road District).

RESPONSE: See employee policy manual believed to be prepared by Robert Miller entitled Algonquin Township Road District Personnel Policies and Procedures Handbook dated June 20, 2012. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

9. All documents in your possession or under your control relating to minutes of regularly scheduled or specially scheduled meetings of the Board of Trustees of Algonquin Township wherein credit card purchases complained of in the Amended Complaint were approved.

RESPONSE: Objects to the request to produce on the basis that the request fails to set forth a time frame and therefore is overly broad and in essence seeks documents commencing at the formation of Algonquin Township to the present. Moreover, the definitions and instructions provided fail to set forth a time frame. As such the request could span over 100 years of monthly meetings as written. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be

forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

10. All documents in your possession or under your control relating to the destruction of any records of Algonquin Township and/or the Algonquin Township Highway Department (Road District).

RESPONSE: Objects to the request to produce on the basis that the request fails to set forth a time frame and therefore is overly broad and in essence seeks documents commencing at the formation of Algonquin Township to the present. Moreover, the definitions and instructions provided fail to set forth a time frame and therefore is overly broad. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

11. All documents in your possession or under your control relating in any way to the purchase of gift cards, and the subsequent purchase of personal goods by any employee of Algonquin Township and/or the Algonquin Township Highway Department (Road District).

RESPONSE: In addition to the General Objections which are incorporated herein by reference plaintiff objects on the basis the request is overly broad and therefore unduly burdensome and further objects on the basis of attorney work product and seeks documents covered under applicable work product doctrines. Without waiving said objections Plaintiff produces the full contents of the anonymous package. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

12. All documents in your possession or under your control relating to any type of "scheme" or "artifice" utilized by employees of Algonquin Township and/or the Algonquin Township Highway Department (Road District) to receive additional compensation beyond salaries, as well as bonuses.

RESPONSE: In addition to the General Objections which are incorporated herein by reference plaintiff objects on the basis the request is overly broad and therefore unduly burdensome and further objects on the basis of attorney work product and seeks documents covered under applicable work product doctrines.. Without waiving said objections Plaintiff produces the full contents of the anonymous package. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record. In addition, Plaintiff will produce series of e-mails to and from Robert Bakken of Standard Equipment company connected with the facilitation of bid rigging on a Elgin Crosswinds Street Sweeper.

Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

13. All documents in your possession or under your control relating to or consisting of any exhibit you intend to introduce during any deposition taken or to be taken or to be used at trial.

RESPONSE: In addition to the General Objections which are incorporated herein by reference plaintiff objects on the basis the request is overly broad and therefore unduly burdensome and further objects on the basis of attorney work product and seeks documents covered under applicable work product doctrines. Without waiving said objections Plaintiff produces the full contents of the anonymous package.

Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

In addition, Plaintiff will produce any document obtained pursuant to subpoena.

Plaintiff's investigation continues.

14. All documents in your possession or under your control not otherwise produced pursuant to the above requests, which relate in any way to the allegations of the First Amended Complaint brought by you.

RESPONSE: In addition to the General Objections which are incorporated herein by reference plaintiff objects on the basis the request is overly broad and therefore unduly burdensome and further objects on the basis the request seeks attorney work product and seeks documents lacking in specificity. Notwithstanding the objections Plaintiff will produce thousands of documents that relate to the allegations of this case. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

15. If the claim of privilege is made to the production of any document requested herein please provide a privilege log in accordance with the Rules of the Illinois Code of Civil Procedure and the common law promulgated thereunder.

RESPONSE: no response is required and no response is provided.


16. Please produce an affidavit indicating your production is complete in accordance with the request.

RESPONSE: Plaintiffs investigation is pending and therefore the production is not complete. Prior to or at the close of discovery, Plaintiff will tender a detailed log of

documents setting forth the completed discovery. Plaintiff is in the process of bates stamping thousands of documents. Upon completion of the Bates Stamping, copies will be forwarded to you. You are directed to Karen Lukasik for complete copies of all documents contained in the public record.

Respectfully submitted,

ANDREW GASSER, Plaintiff/Counter-Defendant

By: 

Robert T. Hanlon, One of Plaintiff's Attorneys

Robert T. Hanlon, ARDC#6286331
LAW OFFICES OF ROBERT T. HANLON & ASSOC., P.C.
131 East Calhoun Street
Woodstock, IL 60098
(815) 206-2200; (815) 206-6184 (FAX)

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned, ANDREW GASSER, certifies that the statements set forth in the foregoing instrument are true and correct, except as to matters therein stated to be on information and belief and, as to such matters, the undersigned certifies as aforesaid that I verily believe the same to be true. I further state that the statements made in the foregoing as to want of knowledge sufficient to form a belief are true.

Dated: October 30, 2017.

A handwritten signature in black ink, appearing to read 'Andrew Gasser', written over a horizontal line.

Andrew Gasser, Plaintiff