

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

Andrew Gasser,)
Plaintiff)
v.)
Karen Lukasik, Individually and in her)
Capacity as Algonquin Township Clerk;)
Anna May Miller; and Robert Miller)
Defendants,)
Karen Lukasik, Individually and in her)
Capacity as Algonquin Township Clerk;)
Anna May Miller; and Robert Miller)
Defendants/Counter-Plaintiffs,)
v.)
Andrew Gasser,)
Plaintiff/Counter-Defendant,)
Karen Lukasik, Individually and in her)
Capacity as Algonquin Township Clerk,)
Defendant/Third Party Plaintiff)
v.)
Charles Lutzow,)
Third Party Defendant)

Case No. 17 CH 435

**MOTION FOR PROTECTIVE ORDER RELATING TO
PLAINTIFF'S DISCOVERY REQUESTS DATED
AUGUST 7, 2019 AND TO REVISE COURT ORDER**

COMES NOW, KAREN LUKASIK, individually, and in her capacity as Algonquin Township Clerk, and for their Motion for Protective Order Relating to Plaintiff's Discovery Requests dated August 7, 2019 and Revise Court Order, states as follows:

STANDARD

Illinois Supreme Court Rule 201(c)(1) states, "The Court may at any time on its own initiative, or on motion of any party or witness, make a protective order as justice requires, denying limiting, conditioning, or regulating discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression.

FACTUAL BACKGROUND

Procedural Background

1. On July 31, 2019, Karen Lukasik, in her capacity as Algonquin Township Clerk, filed an Amended Counter-Claim and Third Party Complaint for Declaratory and Injunctive Relief.

2. Pursuant to a Court Order entered on August 1, 2019, Plaintiff sought judgment on the pleadings of the Amended Counter-Claim and Third-Party Complaint for Declaratory and Injunctive Relief.

3. On or about August 7, 2019, Plaintiff tendered “Plaintiff’s 2nd Set of Interrogatories (“Interrogatories”) to Karen Lukasik.” See Exhibit A, Interrogatories, attached hereto and made a part hereof by reference.

4. Plaintiffs also tendered Plaintiff’s Second Request to Produce (“Requests”) to Defendant Karen Lukasik. See Exhibit B, Requests, attached hereto and made a part hereof by reference.

5. On or about August 28, 2019, Lukasik responded to the Interrogatories and Requests.

6. On August 29, 2019, the Court struck the Amended Counter-Claim and Third Party Complaint for Declaratory and Injunctive Relief stating it did not state a cause of action. See Exhibit C, Court Order, attached hereto and made a part hereof by reference.

7. On August 30, 2019, Plaintiff’s counsel sent an email requesting a 201(k) conference regarding the responses to the Interrogatories and Requests pertaining to allegations made in the Amended Counter-Claim and Third Party Complaint for Declaratory and Injunctive Relief.

8. On September 10, 2019, a Court Order stated, “Karen Lukasik not currently compliant,” ordered the parties to “comply with 201(k) conference requirements” and continued a “written discovery response deadline” to September 23, 2019. See Exhibit D, attached hereto and made a part hereof by reference.

Interrogatories at Issue

1. The Interrogatories are numbered 17-22. *Id.*

2. Interrogatory #17 requests, “Identify the present location of any file you alleged was missing from the “Township Office” in paragraph #16 of your AMENDED COUNTER-CLAIM AND THIRD PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.” *Id.*

3. Interrogatory #18 states in relevant part, “State with particularity the facts that support the belief contained in paragraph 19 of your AMENDED COUNTER-CLAIM AND THIRD PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF...” *Id.*

4. Interrogatory #19 states, “State whether or not Andrew Gasser has any control over the FOB system referenced in paragraphs 25-35 of your AMENDED COUNTER-CLAIM and THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.” *Id.*

5. Interrogatory #20 states, “To the extent that you believe Andrew Gasser has any control over the FOB system, identify the facts to support that contention.” *Id.*

6. Interrogatory #21 states in relevant part, “State with particularity the facts that support the belief contained in paragraph 37...” *Id.*

7. Interrogatory #22 states, “State with particularity the facts that demonstrate that Andrew Gasser has denied you access to any document of Algonquin Township.” *Id.*

Requests to Produce

8. Request #23 states, “Copies of any document discovered by you in the trash as alleged in paragraph 20 of your AMENDED COUNTER-CLAIM and THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.” *Id.*

9. Request #24 states, “Copies of the documents you identified as the “Missing Files” as alleged in paragraph 13 of your AMENDED COUNTER-CLAIM and THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.” *Id.*

10. Request #25 states, “Copies of each document you removed from Charles Lutzow’s office as shown on the video referenced in paragraph 38 of your AMENDED COUNTER-CLAIM and THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.” *Id.*

ARGUMENT

The above Interrogatories and Requests specifically reference or seek discovery relating to the Amended Counter-Claim and Third Party Complaint for Declaratory and Injunctive Relief. That pleading was dismissed by this Court on August 29, 2019. As such, Plaintiff’s email requesting a 201(k) conference relating to discovery of allegations in a dismissed pleading and this Court’s Order of September 10, 2010 requiring written answers and stating “Lukasik not currently compliant,” are improper.

In *Owen v. Mann*, the Illinois Supreme Court dealt with a very similar factual issue as found in this Motion. *See Owen v. Mann*, 105 Ill.2d 525 (1985). In *Owen*, the “record” revealed that the trial court had issued an Order directing a party to comply with a discovery request when “there was no complaint on file.” *Id.* The complaint had previously been dismissed “for failure to state a cause of action.” *Id.*

When confronted with these facts, the Illinois Supreme Court looked to Supreme Court Rule 201(b)(1) for guidance and stated the “objective of discovery is the ‘expeditious and final determination of controversies in accordance with the substantive rights of the parties.’” *Id.* Additionally the Court stated, “discovery should only be utilized to ‘illuminate the actual issues in the case.’” *Id.* The Court then held, “Without a complaint on file, the trial court could not determine whether the respondent’s discovery request was relevant to any issue in the case.” *Id.* **“It was, therefore, error for the trial court to grant respondent’s motion before an amended complaint was filed.”** *Id.* A “trial court does not have discretion to order discovery of information

that does not meet the threshold requirement of relevance to matters actually at issue in the case.” *Manns v. Briell*, 349 Ill.App.3d 358 (4th Dist. 2004).

Similarly, here, this Court dismissed the underlying pleading at issue in the discovery requests for failing to state a cause of action. Without that pleading being an “actual issue in the case” further discovery pertaining to the dismissed pleading is improper and a protective order must be entered denying Plaintiff continued insistence on additional discovery responses related thereto under Illinois Supreme Court Rule 201(c)(1). With the dismissal of that pleading, the Plaintiff’s Interrogatories and Requests seeking further discovery of its specific allegations do not meet the minimum “threshold requirement of relevancy to matters actually at issue in the case.” This Court does not have discretion to order further responses to discovery that is no longer relevant to the actual issues pending in the case. As in *Owen*, to do so would be error. *Owen v. Mann*, 105 Ill.2d 525.

To the extent the September 10, 2019 Court Order states Karen Lukasik is “not currently compliant” or orders her to respond to “all outstanding written discovery” including Interrogatories #17-22 and Requests #23-25 referenced above, that Court Order must be revised or amended pursuant to Illinois law.

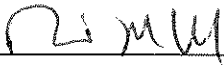
WHEREFORE, KAREN LUKASIK, individually, and in her capacity as Algonquin Township Clerk prays this Honorable Court will:

1. Enter a Protective Order denying or striking Plaintiff’s Interrogatories (#17-22) and Requests (#23-25) pursuant to Illinois law and Illinois Supreme Court Rule 201(c);
2. Enter an Order revising the Court Order dated September 10, 2019, pursuant to Illinois law, to the extent this Court stated Karen Lukasik was “not currently compliant” and

Ordering written discovery responses by Lukasik on “all outstanding discovery” by
September 23, 2019;

3. Any other relief this Court finds just and warranted.

KAREN LUKASIK
ALGONQUIN TOWNSHIP CLERK
By Zukowski, Rogers, Flood & McArdle

By  _____
One of her attorneys

David W. McArdle, Attorney No. 06182127
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IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
MCHENRY COUNTY ILLINOIS

ANDREW GASSER, ALGONQUIN)
TOWNSHIP HIGHWAY)
COMMISSIONER, AND ALGONQUIN)
TOWNSHIP ROAD DISTRICT,)
Plaintiffs,)

V.)

CASE NO. 17 CH 435

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

KAREN LUKASIK,)
Cross-Plaintiff,)

V.)

CHARLES A. LUTZOW JR.,)
Cross-Defendant,)
ANDREW GASSER,)
Counter-Defendant.)

PLAINTIFFS' SECOND SET OF INTERROGATORIES
TO DEFENDANT KAREN LUKASIK

NOW COME Plaintiffs, ANDREW GASSER, ALGONQUIN TOWNSHIP HIGHWAY COMMISSIONER, AND ALGONQUIN TOWNSHIP ROAD DISTRICT, by that through their attorneys, LAW OFFICES OF ROBERT T. HANLON & ASSOCIATES, P.C., and with their Second Set of Interrogatories to Defendant, KAREN LUKASIK, pursuant to Supreme Court Rule 213, demands that Defendant, KAREN LUKASIK, answer the interrogatories within twenty-eight (28) days of service.

Definitions and Instructions

1. The definitions and instructions herein are intended to strictly govern Defendant's answers to these Interrogatories. Thus, in answering any particular interrogatory, Defendant must heed the definitions of defined terms.

2. In answering these Interrogatories, even though the questions may be directed to "You," as defined below, You must furnish all information that is available to You, including information in the possession of Your attorneys, agents, and/or investigators acting on Your behalf. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

3. In answering these interrogatories, include all information available to you, your representatives, employees, agents, attorneys, and consultants without regard to the admissibility of such information in evidence.

4. If You cannot answer any of the following interrogatories in full after exercising due diligence to secure the information, so state and answer to the extent possible, specifying Your inability to answer the remainder and stating whatever information or knowledge You have concerning the unanswered portions. Also identify the person(s) who does or might have additional knowledge or information to complete the answer.

5. If you have only incomplete knowledge of the answer to an interrogatory, please:
- a. answer to the extent of your knowledge;
 - b. state specifically what part or area of the interrogatory you have only incomplete knowledge of; and
 - c. identify the person(s) who does or might have additional knowledge or information to complete the answer.

6. "Person[s]" means any natural person, firm, corporation, partnership, joint venture, organization, association, group, or legal entity.

7. The word "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.

8. When the answer to an interrogatory may be obtained from documents in your possession or control, it shall be a sufficient answer to the interrogatory to produce those documents responsive to the interrogatory. If you elect to answer an interrogatory by the production of documents, then that production shall comply with the requirements of Illinois Supreme Court Rule 214, and you must identify the documents which are responsive to the interrogatory.

9. The word "correspondence" means all documents whereby communications are attempted or effectuated. "Correspondence" includes not only letters, memoranda and facsimile transmissions, but also electronic or paperless communications such as computer messages and voicemail messages. The term "correspondence" shall be given the broadest construction possible.

10. As used herein, the terms "communicate," "communicated," "communication," "communicate with," or any derivation thereof, shall include any type of communication whatsoever, whether oral or written, including, but not limited to, conversations, discussions, telephone calls, interviews, letters, memoranda, negotiations, agreements, understandings, correspondence, telexes, telegrams or any other exchange of information of any kind, whether oral, written, electronic, or otherwise.

11. "Concerning," "relating to," "relate to," "evidence(s)," or "evidencing" mean pertaining to, referring to, reflecting upon, evidencing, discussing, describing, mentioning, summarizing, or connecting in any way logically or factually to, the matter described in the interrogatory.

12. "Financial Statements" shall include income statements, Statement of Cash Flows, Balance Sheet, and Tax Returns including IRS quarterly 941's, W-2's and IRS form 1099.

13. "Knowledge" means firsthand information acquired through the five senses and not information, other than firsthand information, deriving from any source.

14. "Statement" means any oral, written, court-reported, recorded or other expression of opinion, and any oral, written, court-reported, recorded, or other description of fact, which pertains to the occurrences alleged in the complaint, or counterclaim, or to the damages claimed to have resulted therefrom.

15. The term "pertaining to" means referring to, reflecting or to be related in any manner logically, factually, indirectly, or directly to the matter discussed.

16. "Identify" and its various verb forms mean the following:

- a. When used in reference to a natural person, "identify" means stating the individual's full name, and all other names by which she has ever been

known, her last known home and business addresses, and hers job positions and business affiliations, from the date of the occurrence alleged in the complaint or the counterclaim to the present date;

- b. When used in reference to a corporation or other entity “identify” means stating the full name of the corporation and the principal place of business, state of incorporation, date of incorporation, and chief executive officer thereof;
- c. When used in reference to a document or other written communication, “identify” means stating the date of preparation of the document, the date Defendant acquired the document, if applicable, and the author, title (if any), subject matter, nature (*e.g.*, letter, memorandum, telegram, chart, computer input or printout, photograph, sound reproduction, etc.), place of preparation, present location, and present custodian of the document. “Identify” also means identifying each and every person, other than the author of the document, who participated in the preparation of the document, directed the preparation of the document, or received a copy of the document; stating whether any copy of the document is not identical to the original by reason of markings or modifications not on the original or for any other reason; and stating whether responsive documents no longer within his access, possession, or control are missing, lost destroyed, transferred or disposed of otherwise. For each missing, lost, or transferred document and each document disposed of otherwise, he must state the circumstances and reasons pertaining to said disposition. For each destroyed document, he must identify each and every person who destroyed the document or participated in the destruction of the document and state the date or approximate date of destruction;
- d. When used in reference to an instrumentality, “identify” means providing a photograph of the instrumentality and the date said photograph was taken, listing the date on which the instrumentality was acquired, identifying the person who acquired the instrumentality, identifying the person under whose direction the instrumentality was acquired, identifying each person who has possession of the instrumentality, and identifying each person having knowledge or claiming to have knowledge concerning the instrumentality; and
- e. When used in reference to a location, “identify” means stating the street address, city, state, suite, and/or room number pertaining to the location, as applicable.
- f. When used in connection with a verbal communication “identify” means to state the following: the date of that communication;
 - (1) the date of that communication;

- (2) the identity of the persons who were parties to that communication;
 - (3) the identity of the persons who were witnesses (other than the parties) to that communication;
 - (4) whether that communication was face-to-face and/or over the telephone, and if face-to-face, describe the location of that communication; and
 - (5) the identity of any documents which pertain to that communication.
- g. When used in reference to a natural person (i.e., a human being), "identify" means to state:
- (1) the person's full name;
 - (2) present (or last known) address;
 - (3) present (or last known) occupation or position; and
 - (4) name of present (or last known) employer.
- h. When used in reference to a business or entity "identify" means to state:
- (1) its full name;
 - (2) its present (or last known) address; and
 - (3) its present (or last known) telephone number.
- i. When used in reference to a document, "identify" means to state:
- (1) its date;
 - (2) its subject and its substance;
 - (3) its author;
 - (4) its recipients;
 - (5) the type of document (e.g., letter, memorandum, telegram, chart, computer input or print-out, photograph, sound reproduction, etc.); and
 - (6) if the document is no longer in your possession or subject to your control, then identify the present (or last known) custodian of the document and state whether the document:
 - (a) is missing or lost;
 - (b) has been destroyed;
 - (c) has been transferred, voluntarily or involuntarily, to others; or
 - (d) otherwise disposed of; and in each instance, explain the circumstances surrounding the authorization for disposition thereof and state the date or approximate date thereof.

17. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the interrogatories all information and/or documents which might otherwise be construed to be outside her scope.

18. Reference to the singular shall include the plural and reference to the plural shall include the singular.

19. A masculine, feminine, or neuter pronoun or description shall not exclude and shall include all other genders.

20. If You claim that the attorney-client privilege or any other privilege is applicable to any document, the identification of which is sought by these Interrogatories, the substance of that document need not be disclosed in Your answers to the interrogatories, but You shall with respect to that document:

- a. State the date of the document;
- b. Identify each and every author of the document;
- c. Identify each and every other person who prepared or participated in the preparation of the document;
- d. Identify each and every person who received the document;
- e. Identify each and every person from whom the document was received;
- f. State the present location of the document and all copies thereof;
- g. Identify each and every person having custody or control of the document and all copies thereof; and
- h. Provide sufficient further information concerning the document and the circumstances thereof to explain the claim or privilege and to permit the adjudication of the propriety of the claim.

21. In answering these Interrogatories, Defendant must make a diligent search of her records and of other papers and materials in her possession or within her access and furnish all responsive information therefrom.

22. If an interrogatory has subparts, Defendant must answer each part separately and completely, rather than limit the answer to the interrogatory as a whole. If an interrogatory

cannot be answered or denied in full, Defendant must answer to the full extent of her knowledge and information.

23. For the convenience of this Court and the parties, each interrogatory shall be answered separately and fully. You must set forth in full each interrogatory being answered immediately preceding the answer. Where an interrogatory calls for an answer in more than one part, separate the parts in your answer accordingly so that each part is clearly set out and understandable.

24. These Interrogatories are to be construed as broadly as possible.

25. Unless otherwise indicated within the interrogatories, the relevant time period shall be from January 1, 2017 to the present, unless specifically limited otherwise within a particular interrogatory.

26. The term "you", whether capitalized or not, shall mean KAREN LUKASIK.

27. The term "Complaint" whether capitalized or not, shall mean the *Fourth Amended Complaint for Breach of Fiduciary Duty, Conversion, Constructive Fraud, and an Accounting.*

28. Reference to "this case" shall mean the litigation now pending in the Circuit Court of McHenry County commenced by Plaintiffs, ANDREW GASSER, ALGONQUIN TOWNSHIP HIGHWAY COMMISSIONER, AND ALGONQUIN TOWNSHIP ROAD DISTRICT, with McHenry County Case No. 17 CH 000435.

29. The term "Plaintiff" or "Plaintiffs" means ANDREW GASSER, ALGONQUIN TOWNSHIP HIGHWAY COMMISSIONER, AND ALGONQUIN TOWNSHIP ROAD DISTRICT, or and any attorney, employee or other agent of Plaintiffs.

30. The term "Defendant" means KAREN LUKASIK, INDIVIDUALLY AND IN

HER CAPACITY AS ALGONQUIN TOWNSHIP CLERK. The term "Defendants" means KAREN LUKASIK, INDIVIDUALLY AND IN HER CAPACITY AS ALGONQUIN TOWNSHIP CLERK, ANNA MAY MILLER, AND ROBERT MILLER.

SPECIFIC INTERROGATORIES

17. Identify the present location of any file you alleged was missing from the "Township Office" in paragraph 16 of your AMENDED COUNTER-CLAIM AND THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.

ANSWER:

18. State with particularity the facts that support the belief contained in paragraph 19 of your AMENDED COUNTER-CLAIM AND THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF that the Township began scanning bills and other records in Lutzow's office, including the precise location of "Lutzow's office" as alleged in said paragraph.

ANSWER:

19. State whether or not Andrew Gasser has any control over the FOB system referenced in paragraphs 25-35 of your AMENDED COUNTER-CLAIM AND THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.

ANSWER:

20. To the extent that you believe Andrew Gasser has any control over the FOB system, identify the facts to support that contention.

ANSWER:

21. State with particularity the facts that support the belief contained in paragraph 37 that the offices of Gasser and Lutzow contain numerous original records and identify any record contained therein that you do not have a copy.

ANSWER:

22. State with particularity the facts that demonstrate that Andrew Gasser has denied you access to any document of Algonquin Township.

ANSWER:

Respectfully submitted,

ANDREW GASSER, ALGONQUIN TOWNSHIP
HIGHWAY COMMISSIONER, AND
ALGONQUIN TOWNSHIP ROAD DISTRICT,
Plaintiffs

By: /s/ Robert T. Hanlon
Robert T. Hanlon, One of Plaintiffs' Attorneys

PROOF OF SERVICE

I, Robert T. Hanlon, an attorney, on oath, state that I served a copy of *PLAINTIFFS' SECOND SET OF INTERROGATORIES TO DEFENDANT KAREN LUKASIK*, upon all attorneys of record as listed on the attached Service List, to their business addresses as listed on the attached Service List, by depositing the same in the U.S. mail in Woodstock, Illinois, with proper postage prepaid and via electronic e-mail to the e-mail addresses listed on the attached Service List on this 7th day of August, 2019.

/s/ Robert T. Hanlon

Robert T. Hanlon, ARDC #6286331
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TOWNSHIP HIGHWAY)
COMMISSIONER, AND ALGONQUIN)
TOWNSHIP ROAD DISTRICT,)
Plaintiffs,)

V.)

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CAPACITY AS ALGONQUIN)
TOWNSHIP CLERK, ANNA MAY)
MILLER AND ROBERT MILLER,)
Defendants,)

KAREN LUKASIK,)
Cross-Plaintiff,)

V.)

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

ANDREW GASSER,)
Counter-Defendant.)

PLAINTIFFS' SSECOND REQUEST TO PRODUCE
TO DEFENDANT KAREN LUKASIK

Now Come Plaintiffs, ANDREW GASSER, ALGONQUIN TOWNSHIP HIGHWAY COMMISSIONER, AND ALGONQUIN TOWNSHIP ROAD DISTRICT, by and through their attorney, LAW OFFICES OF ROBERT T. HANLON & ASSOCIATES, P.C., with their Second Request to Produce to Defendant KAREN LUKASIK, and pursuant to Illinois Supreme Court Rule 214, demands that Defendant, KAREN LUKASIK, produce the documents called for in this request to the Law Offices of Robert T. Hanlon, 131 East Calhoun Street, Woodstock, Illinois, within twenty-eight (28) days of service hereof.

Definitions and Instructions

1. The definitions and instructions herein are intended to strictly govern Defendant's responses to this Request to Produce. Thus, in answering any particular request Defendant must heed the definitions of defined terms.

2. In answering this Request to Produce, even though the questions may be directed to "You," as defined below, You must furnish all information that is available to You, including information in the possession of Your attorneys, agents, and/or investigators acting on Your behalf. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

3. In answering this Request to Produce, include all information available to you, your representatives, employees, agents, attorneys, and consultants without regard to the admissibility of such information in evidence.

4. If You cannot answer any of the following requests in full after exercising due diligence to secure the information, so state and answer to the extent possible, specifying Your inability to answer the remainder and stating whatever information or knowledge You have concerning the unanswered portions. Also identify the person(s) who does or might have additional knowledge or information to complete the response.

5. If you have only incomplete knowledge of the response, please:

- a. answer to the extent of your knowledge;
- b. state specifically what part or area of the interrogatory you have only incomplete knowledge of; and
- c. identify the person(s) who does or might have additional knowledge or information to complete the answer.

6. "Person[s]" means any natural person, firm, corporation, partnership, joint venture, organization, association, group, or legal entity.

7. The word "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.

8. The word "correspondence" means all documents whereby communications are attempted or effectuated. "Correspondence" includes not only letters, memoranda and facsimile transmissions, but also electronic or paperless communications such as computer messages and voicemail messages. The term "correspondence" shall be given the broadest construction possible.

9. As used herein, the terms "communicate," "communicated," "communication," "communicate with," or any derivation thereof, shall include any type of communication whatsoever, whether oral or written, including, but not limited to, conversations, discussions, telephone calls, interviews, letters, memoranda, negotiations, agreements, understandings, correspondence, telexes, telegrams or any other exchange of information of any kind, whether oral, written, electronic, or otherwise.

10. "Concerning," "relating to," "relate to," "evidence(s)," or "evidencing" mean pertaining to, referring to, reflecting upon, evidencing, discussing, describing, mentioning, summarizing, or connecting in any way logically or factually to, the matter described in the discovery request.

11. "Financial Statements" shall include income statements, Statement of Cash Flows, Balance Sheet, and Tax Returns including IRS quarterly 941's, W-2's and IRS form 1099.

12. "Knowledge" means firsthand information acquired through the five senses and not information, other than firsthand information, deriving from any source.

13. "Statement" means any oral, written, court-reported, recorded or other expression of opinion, and any oral, written, court-reported, recorded, or other description of fact, which pertains to the occurrences alleged in the complaint, or counterclaim, or to the damages claimed to have resulted therefrom.

14. The term "pertaining to" means referring to, reflecting or to be related in any manner logically, factually, indirectly, or directly to the matter discussed.

15. "Identify" and its various verb forms mean the following:

- a. When used in reference to a natural person, "identify" means stating the individual's full name, and all other names by which he has ever been known, his last known home and business addresses, and his job positions and business affiliations, from the date of the occurrence alleged in the complaint or the counterclaim to the present date;
- b. When used in reference to a corporation or other entity "identify" means stating the full name of the corporation and the principal place of business, state of incorporation, date of incorporation, and chief executive officer thereof;
- c. When used in reference to a document or other written communication, "identify" means stating the date of preparation of the document, the date Defendant acquired the document, if applicable, and the author, title (if

any), subject matter, nature (e.g., letter, memorandum, telegram, chart, computer input or printout, photograph, sound reproduction, etc.), place of preparation, present location, and present custodian of the document. "Identify" also means identifying each and every person, other than the author of the document, who participated in the preparation of the document, directed the preparation of the document, or received a copy of the document; stating whether any copy of the document is not identical to the original by reason of markings or modifications not on the original or for any other reason; and stating whether responsive documents no longer within Defendant's access, possession or control are missing, lost, destroyed, transferred or disposed of otherwise. For each missing, lost, or transferred document and each document disposed of otherwise, Defendant must state the circumstances and reasons pertaining to said disposition. For each destroyed document, Defendant must identify each and every person who destroyed the document or participated in the destruction of the document and state the date or approximate date of destruction;

- d. When used in reference to an instrumentality, "identify" means providing a photograph of the instrumentality and the date said photograph was taken, listing the date on which the instrumentality was acquired, identifying the person who acquired the instrumentality, identifying the person under whose direction the instrumentality was acquired, identifying each person who has possession of the instrumentality, and identifying each person having knowledge or claiming to have knowledge concerning the instrumentality; and
- e. When used in reference to a location, "identify" means stating the street address, city, state, suite, and/or room number pertaining to the location, as applicable.
- f. When used in connection with a verbal communication "identify" means to state the following:
 - (1) the date of that communication;
 - (2) the identity of the persons who were parties to that communication;
 - (3) the identity of the persons who were witnesses (other than the parties) to that communication;
 - (4) whether that communication was face-to-face and/or over the telephone, and if face-to-face, describe the location of that communication; and
 - (5) the identity of any documents which pertain to that communication.
- g. When used in reference to a natural person (i.e., a human being), "identify" means to state:

- (1) the person's full name;
- (2) present (or last known) address;
- (3) present (or last known) occupation or position; and
- (4) name of present (or last known) employer.

h. When used in reference to a business or entity "identify" means to state:

- (1) its full name;
- (2) its present (or last known) address; and
- (3) its present (or last known) telephone number.

i. When used in reference to a document, "identify" means to state:

- (1) its date;
- (2) its subject and its substance;
- (3) its author;
- (4) its recipients;
- (5) the type of document (e.g., letter, memorandum, telegram, chart, computer input or print-out, photograph, sound reproduction, etc.); and
- (6) if the document is no longer in your possession or subject to your control, then identify the present (or last known) custodian of the document and state whether the document:
 - (a) is missing or lost;
 - (b) has been destroyed;
 - (c) has been transferred, voluntarily or involuntarily, to others;
or
 - (d) otherwise disposed of; and in each instance, explain the circumstances surrounding the authorization for disposition thereof and state the date or approximate date thereof.

16. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the Requests all information and/or documents which might otherwise be construed to be outside her scope.

17. Reference to the singular shall include the plural and reference to the plural shall include the singular.

18. A masculine, feminine, or neuter pronoun or description shall not exclude and shall include all other genders.

19. If You claim that the attorney-client privilege or any other privilege is applicable to any document, the identification of which is sought by the Request to Produce, the substance of that document need not be disclosed in Your answers to the Request to Produce, but You shall with respect to that document:

- a. State the date of the document;
- b. Identify each and every author of the document;
- c. Identify each and every other person who prepared or participated in the preparation of the document;
- d. Identify each and every person who received the document;
- e. Identify each and every person from whom the document was received;
- f. State the present location of the document and all copies thereof;
- g. Identify each and every person having custody or control of the document and all copies thereof; and
- h. Provide sufficient further information concerning the document and the circumstances thereof to explain the claim or privilege and to permit the adjudication of the propriety of the claim.

20. In answering this Request to Produce, Defendant must make a diligent search of her records and of other papers and materials in her possession or within her access and furnish all responsive information therefrom.

21. If a Request has subparts, Defendant must answer each part separately and completely, rather than limit the answer to the Request as a whole. If a Request cannot be answered or denied in full, Defendant must answer to the full extent of her knowledge and information.

22. This Request to Produce is to be construed as broadly as possible.

23. For the convenience of this Court and the parties, each Request should be responded to separately and fully. You must set forth in full each request immediately preceding your response. When a request calls for a response in more than one part, separate the parts in your response accordingly so that each part is clearly set out and understandable.

24. Unless otherwise indicated within the Request to Produce, the relevant time period shall be from January 1, 2017 to the present, unless specifically limited otherwise within a particular Request.

25. The term "you", whether capitalized or not, shall mean Defendant, KAREN LUKASIK.

26. The term "Complaint" whether capitalized or not, shall mean the *Fourth Amended Complaint for Breach of Fiduciary Duty, Conversion, Constructive Fraud, and an Accounting.*

27. Reference to "this case" shall mean the litigation now pending in the Circuit Court of McHenry County commenced by Plaintiffs, ANDREW GASSER, ALGONQUIN TOWNSHIP HIGHWAY COMMISSIONER, AND ALGONQUIN TOWNSHIP ROAD DISTRICT, with McHenry County Case No. 17 CH 000435.

28. The term "Plaintiff" or "Plaintiffs" means ANDREW GASSER, ALGONQUIN TOWNSHIP HIGHWAY COMMISSIONER, AND ALGONQUIN TOWNSHIP ROAD DISTRICT, or and any attorney, employee or other agent of Plaintiffs.

29. The term "Defendant" means KAREN LUKASIK, INDIVIDUALLY AND IN HER CAPACITY AS ALGONQUIN TOWNSHIP CLERK. The term "Defendants" means KAREN LUKASIK, INDIVIDUALLY AND IN HER CAPACITY AS ALGONQUIN TOWNSHIP CLERK, ANNA MAY MILLER, AND ROBERT MILLER.

DOCUMENTS TO BE PRODUCED

20. All inventory records for the records of Algonquin Township and Algonquin Township Road District.

RESPONSE:

21. Any document showing the date any record inventory for either Algonquin Township Records or Algonquin Township Road District was prepared

RESPONSE:

22. Any document reflecting any instruction given to any staff member of Algonquin Township to prepare any record Inventory.

RESPONSE:

23. Copies of any document discovered by you in the trash as alleged in paragraph 20 of your AMENDED COUNTER-CLAIM AND THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.

RESPONSE:

24. Copies of the documents you identified as the "Missing Files" as alleged in paragraph 13 of your AMENDED COUNTER-CLAIM AND THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.

RESPONSE:

25. Copies of each document you removed from Charles Lutzow's office as shown on the video referenced in paragraph 38 of your AMENDED COUNTER-CLAIM AND THIRD-PARTY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.

RESPONSE:

Respectfully submitted,

ANDREW GASSER, ALGONQUIN TOWNSHIP
HIGHWAY COMMISSIONER, AND ALGONQUIN
TOWNSHIP ROAD DISTRICT, Plaintiffs

By: /s/ Robert T. Hanlon
Robert T. Hanlon, One of Plaintiffs' Attorneys

PROOF OF SERVICE

I, Robert T. Hanlon, an attorney, on oath, state that I served a copy of *PLAINTIFFS' SECOND REQUEST TO PRODUCE TO DEFENDANT KAREN LUKASIK*, upon all attorneys of record as listed in the attached Service List, to their business addresses as listed in the attached Service List, by depositing the same in the U.S. mail in Woodstock, Illinois, with proper postage prepaid and via electronic e-mail to the e-mail addresses listed on the attached Service List on this 7th day of August, 2019.

/s/ Robert T. Hanlon

Robert T. Hanlon, ARDC #6286331
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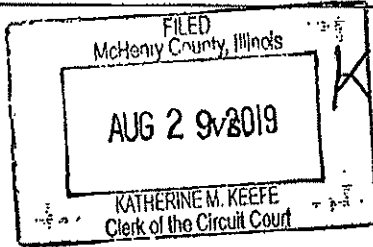
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IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

GEN. NO. 17 CH 435
 Jury Non-Jury

A. Grasser et al



Karen Lukasik

Date: 8/29/19 Plaintiff's Attorney Amador Defendant's Attorney McArdle

ORDER

This matter comes on for hearing on Andrew Grasser's Motion for judgment on the pleadings and ~~Defendant's Motion to Amend the amended counter-complaint on its face~~ and Motion to rule on Objections, It is ordered:

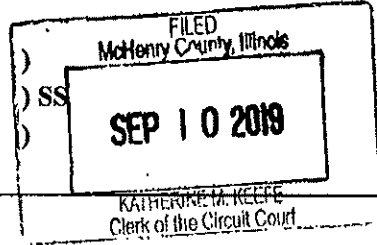
- 1) On the court's own Motion, the Amended counter-complaint is stricken due to the fact it fails to state a cause of action. Lukasik granted to 9/20/19 to file Amended Counter-complaint.
- 2) Plaintiff's Motion for judgment on the pleadings is therefore moot.
- 3) by Agreement ^{Lukasik's} answer to Plaintiff's request to Admit ~~to~~ ^{HH} stands.
- 4) This cause continued to 9/24/19 at 9:00a for status on the pleadings.

Prepared by: R. Hanlon
Attorney for: 11
Attorney Registration No.: 6286331

Judge: [Signature]

IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT

STATE OF ILLINOIS
COUNTY OF MCHENRY



GEN. NO. 17 CH 435
 Jury Non-Jury

Andrew Gussor
etal.

VS.

Karen Lukaski, etal

Date: 9/10/19

Plaintiff's Attorney HANLON

Defendant's Attorney M. A. Pate - for Lukaski
Walczyk - for R. Miller
Bobby Joe A. M. Miller

ORDER

This matter came before this court for status of Discovery, Robert Miller representing compliance, ANDREW MAY MILLER AND Karen Lukaski not currently compliant, Andrew Gussor ^{compliance in dispute} ~~not compliant~~. ~~It is hereby~~ this court being fully ADVISED, it is hereby ORDERED that

- 1) By 9/17/19 EACH party seeking Discovery that remains outstanding shall comply with Rule 201K conference REQUIREMENTS.
- 2) ^{Written} Discovery Response DEADLINE CONTINUED to 9/23/19 for all outstanding written Discovery.
- 3) Status of ^{Written} Discovery compliance set for 9/24/19 at 10:00 AM.

Prepared by: _____
Attorney for: _____
Attorney Registration No.: _____

Judge: