

IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

POMPANO SENIOR SQUADRON FLYING CLUB, INC.
(aka POMPANO BEACH FLYING CLUB)

Plaintiff/Counter-Defendant,

and

Case No.: CACE 20-005993
Division (8)

CARL L. KENNEDY, II

Defendant/Counter-Plaintiff.

**DEFENDANT'S MOTION TO COMPEL AND FOR SANCTIONS
DUE TO PLAINTIFF'S FAILURE TO PROVIDE DISCOVERY**

Defendant/Counter-Plaintiff, Carl L. Kennedy, II ("Mr. Kennedy"), by his undersigned counsel, respectfully requests this Court impose appropriate sanctions upon Plaintiff, and in support of his Motion respectfully represents as follows:

1. On May 8, 2021, Mr. Kennedy properly served upon Plaintiff his third set of Interrogatories and third Request for Production of Documents. See attached Exhibits A and B, respectively. As of the filing of this Motion to Compel, Plaintiff has not filed a Motion for Extension of Time or received any Protective Order with respect to these discovery requests, to which responses were due on June 7, 2021.
2. Plaintiff has failed to provide any responses whatsoever to the discovery requests properly served upon it on May 8, 2021.
3. Plaintiff's "general objection" to Mr. Kennedy's representation by undersigned counsel is both without merit and completely irrelevant to Plaintiff's obligation to provide timely discovery responses to the attached properly propounded discovery requests.
4. Fl. R. Civ. P. 1.380 authorizes the Court to impose sanctions for failure to

comply with the requirements of the Rules regarding discovery. Plaintiff should be sanctioned for its vexatious litigation and meritless refusal to comply with its discovery obligations in this matter.

5. Mr. Kennedy is being significantly and materially prejudiced by Plaintiff's failure to provide discovery, as this matter is now on track for trial.

WHEREFORE, Mr. Kennedy, Defendant/Counter-Plaintiff, respectfully requests that this Court enter an Order:

A. Compelling Plaintiff to provide proper and complete responses to the Interrogatories and Request for Production properly propounded upon it on May 8, 2021, without any objection thereto (except as to privilege and/or scope), and to serve all documentation referred to or required thereby upon Mr. Kennedy, by ensuring delivery of same to him, on or before 5:00 p.m. no more than ten (10) calendar days after the hearing on this Motion;

B. Imposing appropriate sanctions upon Plaintiff, in accordance with Fla. R. Civ. P. 1.380, for its failure to provide the required discovery responses; and

C. Granting such other and further relief as this Court deems just and proper under the facts and circumstances of this matter.

I hereby certify that I sent a copy of the foregoing via the e-portal to Edward Holodak, Esquire at pleadings@holodakpa.com, on the _____ day of June, 2021.

Respectfully submitted,
/s/ Wendy A. Hausmann
Wendy A. Hausmann, Esquire
Attorney for Defendant
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Boca Raton, Florida 33498
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CARL L. KENNEDY

Defendant/Counter-Plaintiff.

THIRD SET OF INTERROGATORIES
DIRECTED TO PLAINTIFF/COUNTER-DEFENDANT

CARL L. KENNEDY, II, Defendant and Counter-Plaintiff, hereby propounds the following Interrogatory to Plaintiff/Counter-Defendant and requests that the following Interrogatory be answered under oath or affirmation as to its truthfulness within thirty (30) days, in accordance with the Florida Rules of Civil Procedure:

1. With respect to the allegation contained in paragraph #3 of Plaintiff's Motion to Appoint Special Magistrate" filed March 25, 2021, in which it is alleged that Plaintiff has "unturned over \$340,000 of unaccounted for monies", state what is meant by the terms (a) "unturned" and (b) "unaccounted for" as used in the allegation.

2. Specifically identify and describe each component that comprises the \$340,000 of alleged "unaccounted for monies" (hereinafter in this interrogatory referred to as "AUFM") contained in paragraph #3 of Plaintiff's Motion to Appoint Special Magistrate filed March 25, 2021, by stating:

- a. the date and the amount of the transaction(s) or event(s) giving rise to the AUFM;
- b. the type and description of all documents which show the AUFM, including but not limited to checks, receipts, invoices, contracts, journals, ledgers, spreadsheets, notes, statements, books, correspondence, records and agreements;
- c. the names, addresses and telephone numbers of each person who "unturned" the AUFM;

- d. the method(s) used by each person identified in 2(c) to “unturn” the AUFM;
- e. the names, addresses and telephone numbers of all individuals who identified, determined, designated, declared or represented the money to be “unaccounted for”, and as to each, identify all documents upon which they relied in making such identification, determination, designation, declaration or representation, including the date, the issuer of the document and the type of document;
- f. the method(s) used by each person identified in 2(e) to determine, designate, declare or represent the money to be AUFM;
- g. the names, addresses and telephone numbers of the creator(s) of all documents in which the existence of the AUFM is shown to exist or to have existed, and the date of issue of such documents;
- h. the names, addresses and telephone numbers of all persons identified in 2(c), 2(e) and 2(g) now having, or any time since February 12, 2020 had, possession, custody or control of the document(s) from which the AUFM was “unturned”; and
- i. all prior and current location(s) of any existing AUFM, including the names, addresses and telephone numbers of any individual, business or institution where the AUFM is now, and where the AUFM is known to have ever been, located.

I hereby certify that on the 8th day of May, 2021, I sent a copy of the foregoing via the Florida e-portal to Edward Holodak, Esquire at pleadings@holodakpa.com.

BY:

/s/ Carl L. Kennedy, II
Carl L. Kennedy, II
2929 S. Ocean Blvd., #510
Boca Raton, FL 33432
304-552-0206
E-Mail Address: clktax@aol.com

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CARL L. KENNEDY

Defendant/Counter-Plaintiff.

**DEFENDANT/COUNTER-PLAINTIFF'S
THIRD REQUEST FOR PRODUCTION OF DOCUMENTS**

CARL L. KENNEDY, II, Defendant/Counter-Plaintiff, requests pursuant to Rule 1.350 of the Florida Rules of Civil Procedure, that Plaintiff/Counter-Defendant, POMPANO SENIOR SQUADRON FLYING CLUB, produce to me the following items for copying and inspection the originals or exact copies of all of the documents, 30 days from the date hereof, at 2929 S. Ocean Blvd., #510, Boca Raton, FL 33432.

Plaintiff/Counter-Defendant should comply with the mandates of Florida Rules of Procedure 1.350, which provide in pertinent part as follows:

Rule 1.350(b): "The party to whom the request is directed shall file a written response within 30 days after service of the request.... For each item or category the response shall state that inspection and related activities will be permitted as requested unless the request is objected to, in which event the reasons for the objection shall be stated. If an objection is made to part of an item or category, the part shall be specified. When producing documents, the producing party shall either produce them as they are kept in the usual course of business or shall identify them to correspond with the categories in the request."

The following items requested should be construed with the preliminary definitions set forth below:

A. Unless otherwise indicated, the term "documents" shall mean the original (and any copy with notations or addenda not on the original) of any written, printed, typed, photocopied, photographic, and recorded matter of any kind or character, and any recorded material, however produced or reproduced, including without limiting the generality of the foregoing, all drafts, contracts, diaries, appointment books, calendars, desk pads, correspondence, communications, telegrams, teletypes, memoranda, notes, studies, reports, minutes of meetings, invoices, credits, debits, transcripts, inventories, drawings, graphs, charts, photographs, films, microfilms, slides,

magnetic and electronic recordings, sound recordings, lists, minutes, checks and entries in books of account relating or in any way referring to the subject matter of this request.

B. Where a particular document is described, e.g., agreement, minutes, etc., such description shall be deemed to include any and all drafts of such documents.

C. If any document requested herein is not produced due to a claim of privilege, each such document should be identified by date, number of pages, author, recipients, and the nature of the privilege so claimed.

With respect to the allegation contained in paragraph #3 of Plaintiff's Motion to Appoint Special Magistrate" filed March 25, 2021, in which it is alleged that Plaintiff has "unturned over \$340,000 of unaccounted for monies" (hereinafter called "AUFM"), provide the following:

1. All documents showing any component of which the AUFM is comprised.
2. All documents showing each and any portion of every component of which the AUFM is comprised.
3. All documents which show or contain reference to the AUFM, including but not limited to checks, receipts, invoices, contracts, journals, ledgers, spreadsheets, notes, statements, books, correspondence, records and agreements.
4. All documents upon which all individuals who identified, determined, designated, declared or represented any monies to be "unaccounted for", relied in making such identification, determination, designation, declaration or representation.
5. All documents in which the existence of the AUFM is shown to currently exist or to have ever existed.

I hereby certify that on the 8th day of May, 2021, I sent a copy of the foregoing via the Florida e-portal to Edward Holodak, Esquire at pleadings@holodakpa.com.

BY:

/s/ Carl L. Kennedy, II
Carl L. Kennedy, II
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