



Judy
Qualls/24/Courts/Judicial
07/28/2009 03:05 PM

To Morgan Adams/24/Courts/Judicial@JUDICIAL
cc
bcc
Subject Judge Ray's Assigned cases

I forgot to tell you this morning that the Judge said to also put the case he just got assigned for announcement. It's case #08WA-CC00527.

Thanks, and have a good evening!

Judy Qualls
Chief Division Clerk
St. Francois County
Circuit Court Division III
1 N. Washington, Room 301
Farmington, MO 63640
573-756-5755

NOTICE OF ENTRY
(SUPREME COURT RULE 74.03)

In The 24th Judicial Circuit Court, Washington County, Missouri

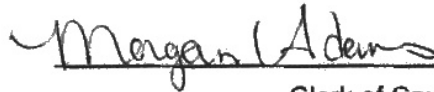
WOODLAND LAKES TRUSTEESHIP V CAROL ANDERSON ETAL

CASE NO : 08WA-CC00527

To: File

YOU ARE HEREBY NOTIFIED that the court duly entered the following:

<u>Filing Date</u>	<u>Description</u>
28-Jul-2009	Judge/Clerk - Note Per telephone conference call with the Honorable Thomas L. Ray's clerk on July 28, 2009 cause set for announcement on August 6, 2009 at 4:00 p.m. Hearing Scheduled Scheduled For: 06-Aug-2009 4:00 PM; THOMAS L RAY JR; Washington For Announcement



Clerk of Court

CC: File
DAVID L BAYLARD
JEROME CHARLES COLEMAN
THOMAS G. LEMLEY

Date Printed : 28-Jul-2009

IN THE CIRCUIT COURT OF THE COUNTY OF WASHINGTON

FILED

STATE OF MISSOURI

____ O'clock ____ Minutes ____ M.

JUL 28 2009

WOODLAND LAKES TRUSTEESHIP,
INC.

Plaintiff,

vs.

CAROL ANN ANDERSON, et al.

Defendants.

By *Pamela J. Bayes*

Cause No. 08WA-CC00527

Division No. Judge Thomas L. Ray

CERTIFICATE OF SERVICE

Comes now David L. Baylard, Attorney for Plaintiff, and hereby certifies that Plaintiff's Answers to Defendants' First Set of Interrogatories Directed to Plaintiff and Response to Defendants' First Request for Production Directed to Plaintiff were mailed, postage prepaid and faxed to Mr. Thomas G. Lernley, 7777 Bonhomme Avenue, Suite 1600, Clayton, MO 63105, Fax Number 314-863-0720 on this 27th day of July, 2009.

BAYLARD, BILLINGTON, DEMPSEY & JENSEN, P.C.

By: 

DAVID L. BAYLARD - #25595

30 SOUTH MCKINLEY

UNION, MO 63084

UNION LINE: 636-583-5103

ST. LOUIS LINE: 636-938-6500

FAX LINE: 636-583-1877

E-MAIL: dbaylard@bbd-law.com

ATTORNEY FOR PLAINTIFF

7777 Bonhomme Avenue, Suite 1600
Clayton, Missouri 63105
314-863-4151
314-863-0720 Facsimile

**Tremayne, Lay &
Coleman, LLP**

Fax

To:

Clerk of Court

From:

Tom Lemley

By *Patricia J. Boyer*

FILED
— O'clock — Minutes — M.
AUG 03 2009

Fax: (573) 438-7900

Pages: 7 (including cover sheet)

Phone: (573) 438-4171

Date: 8/3/2009

Re: Woodland Lakes
Trusteeship v. Anderson
Cause No.
08WA-CC00527

CC: David Baylard
Fax (636) 583-1877
Tel (636) 583-5103

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Dear Ms. Boyer,

Please find attached for filing in the above-styled matter the following:

- (1) Cover Letter re Filing
- (2) Motion to Compel and for Sanctions

Thank you,
Tom Lemley

ERIC F. TREMAYNE
JEROME C. COLEMAN
THOMAS G. LEMLEY

TRMAYNE & COLEMAN, LLP

IN REPLY TO:

LISA D. FAULSTICH

TREMAYNE, LAY & COLEMAN, LLP

ATTORNEYS AT LAW

SUITE 1600

7777 BONHOMME AVENUE

ST. LOUIS (CLAYTON), MISSOURI 63105

TELEPHONE 314 863-4151

August 3, 2009

FILED

CLAYTON W. TREMAYNE, JR. (1914-1998)
A. WINNER CASE (1999-1998)
KENNETH S. LAY (1931-1998)
WELYN G. BAUER (RETIRED) M.
AUG 11 2009 863-0720
FACSIMILE
E-MAIL: LAWYERS@TREMAYNE.ORG

By Patricia J. Boyer

Ms. Patty Boyer, Circuit Clerk
24th Judicial Circuit Court
Washington County Courthouse
102 North Missouri Street
Potosi, MO 63664

RE: WOODLAND LAKES TRUSTEESHIP,
INC. V. CAROL ANN ANDERSON, et al,
Cause No. 08WA-CC00527, Div. No. III

Dear Ms. Boyer:

We have prepared and hereby enclose for filing in the above-referenced matter the following:

(i) Motion to Compel and for Sanctions

Please file the originals and return file-stamped copies in the self-addressed envelope provided.

Thank you for your assistance with this matter. If you have any questions or concerns, please contact this office.

Sincerely,

TREMAYNE, LAY & COLEMAN, LLP



By: Thomas G. Lemley

CC: Mr. David L. Baylard
Attorney for Plaintiff
30 South McKinley
Union, Missouri 63084.

TGL: Enclosures

TREMAYNE, LAY & COLEMAN, LLP
 ATTORNEYS AT LAW
 SUITE 1800
 7777 BONHOMME AVENUE
 ST. LOUIS (CLAYTON), MISSOURI 63105
 TELEPHONE 314 863-4151

BERTRAM W. TREMAYNE, JR. (1914-1996)
 A. WIMMER GARR (1929-1993)
 KENNETH S. LAY (1921-1999)
 HELEN G. BAIER (RETIRED)

FACSIMILE 314 863-0720
 E-MAIL: LAW FIRM@TREMAYNE.ORG

FILED
 O'clock _____ Minutes _____ M

AUG 03 2009

By PATRICIA J. ROYER

August 3, 2009

Mr. David L. Baylard
 Baylard, Billington, Dempsey & Jensen, P.C.
 30 South McKinley
 Union, Missouri 63084
 VIA Facsimile and US Mail

RE: Woodland Lakes Trusteeship v. Anderson, et al

Dear Mr. Baylard:

Thank you for providing the responses to Defendants First Request for Production of Documents and First Interrogatories. I am writing to attempt to informally resolve some issues we have regarding the responses.

REQUEST FOR PRODUCTION:

In response to Requests nos. 1, 2, 3, 4, 6 and 7, Plaintiff responded: "What Plaintiff has shall be made available at Plaintiff's attorney's office for review by Defendants at a mutually convenient time." We expect that the number of pages of documents that exist that are responsive to the requests is relatively small and would therefore request that you have the documents copied and mailed to us. We would be happy to reimburse you for costs. Alternatively, we would be happy to arrange for Quality Copy Service in Union to pick up the documents at your office, make copies and return them to you at our expense.

Request for Production no. 5 sought information surrounding "a vehicle accident or injuries sustained by Mr. Yancy Stark during October, 2008, or his activities and travel during the five days following such vehicle accident" Plaintiff responded "Objection - irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence." My clients inform me that Plaintiff's damages allegedly include a payment for mileage made to Mr. Stark in connection with Mr. Stark not being allowed to report for work following a vehicle accident during October, 2008. My clients maintain that any actions they took regarding Mr. Stark were appropriate and they dispute that Mr. Stark incurred the alleged mileage expense. Therefore, the information sought is relevant to my clients' defense to this alleged claim.

INTERROGATORIES:

Interrogatory no. 5 states, "Please describe in detail all facts underlying the claim of damages in the amount of \$6618.32." Plaintiff answered, "To be supplemented."

Interrogatory no. 6 states, "Please identify, specifically, any documents used on calculating your alleged damages in the amount of \$6618.32." Plaintiff answered, "See number 5." These responses are evasive insofar as supplementing responses applies where a party learns that a previous discovery responses is incomplete or incorrect. An initial answer of "To be supplemented" in response to discovery on issues central to a party's claims constitutes failure to answer. We would therefore request that your client respond to Interrogatories nos. 5 and 6

Interrogatory no. 8 states, "Please identify (i) when (ii) by whom and (iii) the detailed circumstances under which the Woodland Lakes Trusteeship bank account or accounts at Bank of Sullivan were closed, frozen or the funds therein otherwise rendered inaccessible in connection with the semi-annual owners meeting of October 2008." Plaintiff responded "See numbers 5, 6, and 7" Numbers 5 and 6 are discussed above. Response no. 7 provides some information on the freezing of the accounts, but does not state either when or by whom the account or accounts were closed, frozen or the funds rendered inaccessible. We would therefore request that your client identify when and by whom such action or actions were taken.

I look forward to hearing from you. If you have any questions or concerns, please call.

Sincerely,

TREMAVNE, LAY & COLEMAN, LLP



By: Thomas G. Lemley

FILED
 O'clock _____ Minutes _____ M.
AUG 03 2009

IN THE CIRCUIT COURT OF THE COUNTY OF WASHINGTON
 STATE OF MISSOURI

By Patricia J. Boyer

WOODLAND LAKES
 TRUSTEESHIP, INC.

Plaintiff

VS.

CAROL ANN ANDERSON, et al

Defendants,

Cause No. 08WA-CC00527

Division No. III

**DEFENDANTS' MOTION TO COMPEL AND
 FOR SANCTIONS**

COME NOW Defendants by and through undersigned counsel, and for their Motion to Compel and for Sanctions, pursuant to Rule 61.01 of the Missouri Rules of Civil Procedure, states and alleges, as follows:

1. On June 26, 2009, Defendants served their First Interrogatories Directed to Plaintiff to which Plaintiff responded on July 27, 2009.
3. Defendants' interrogatory no. 5 states, "Please describe in detail all facts underlying the claim of damages in the amount of \$6618.32."
4. Plaintiff responded to interrogatory no. 5, "To be supplemented."
5. Interrogatory no. 6 states, "Please identify, specifically, any documents used on calculating your alleged damages in the amount of \$6618.32."
6. Plaintiff answered, "See number 5."
7. Plaintiff's responses to interrogatories no. 5 and no. 6 are evasive insofar as supplementing responses is applicable only where a party learns that a previous discovery responses is incomplete or incorrect. Rule 56.01(e) of the Missouri Rules of

Civil Procedure Rule. Initial responses of "To be supplemented" to discovery on issues central to a party's claims constitute failure to answer.

8. Defendants' interrogatory no. 8 states, "Please identify (i) when (ii) by whom and (iii) the detailed circumstances under which the Woodland Lakes Trusteeship bank account or accounts at Bank of Sullivan were closed, frozen or the funds therein otherwise rendered inaccessible in connection with the semi-annual owners meeting of October 2008."

9. Plaintiff responded "See numbers 5, 6, and 7" (Numbers 5 and 6, were responded to with, "To be Supplemented, as set out above.") Plaintiff's Response no. 7, while providing some information on the freezing of the accounts, failed to state either (i) when or (ii) by whom the account or accounts were closed, frozen or the funds rendered inaccessible.

10. Defendants have incurred attorney fees in pursuing this motion.

11. That Defendants will be unable to adequately prepare this case for trial without Plaintiff's discovery responses.

12. Defendants' counsel's letter attempting to resolve the discovery dispute is attached and incorporated herein by reference.

WHEREFORE, Respondent prays that the Court enter an Order (1) requiring and compelling Plaintiff to answer interrogatories no. 5, 6 and 8; (2) striking Plaintiff's pleadings, and (3) for attorney fees and for any further relief the Court deems appropriate.

TREMAYNE, LAY & COLEMAN, L.P.

By: 

Thomas G. Lemley, MBE #35470

Attorney for Plaintiffs

7777 Bonhomme Ave, Suite 1600

Clayton, Missouri 63105

(314) 863-4151 telephone

(314) 863-0720 facsimile

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served by facsimile to (636) 583-1877 and by depositing such, postage prepaid, regular US mail, this 3rd day of August, 2009 to David L. Baylard, Attorney for Plaintiff, 30 South McKinley, Union, Missouri 63084

