

In the
Maryland Circuit Court
for
Anne Arundel County

Matthew O'Reilly

Plaintiff, Pro Se

v.

Waste Management, *et al.*

Defendants

Case No.: C-02-CV-24-000546

PLAINTIFF'S REPLY TO WM DEFENDANTS'
OPPOSITION TO THE MOTION TO COMPEL
PRODUCTION AND ADMISSION

Plaintiff O'Reilly respectfully submits this Reply to the WM Defendants' Opposition to the Motion to Compel Production and Admission in support of his request that this Honorable Court require the WM Defendants to comply with the Maryland Rules for discovery.

INTRODUCTION

As of the date of this Reply, 64 days have elapsed since Mr. O'Reilly's Requests were served. In that time, the four WM Defendants have collectively produced three (3) documents containing a sum total of twelve

(12) pages, averaging one page of output every twenty-one days¹ (see Exhibit 6: *Relevant Production by WM Defendants*). Stated differently, in the course of two months, each WM Defendant has managed to produce just three pages of responsive material.

On September 16th, Mr. O'Reilly asked the WM Defendants to confer to schedule depositions, but in the intervening time (twelve days as of the date of this Reply) has yet to receive a response on the topic.

In Exhibit L of their Opposition, the WM Defendants represent to this Court – once more in boilerplate, copy-and-paste language – that for each and every Request, the “WM Defendants have met their discovery obligations”; ergo, there is nothing left to produce, and they will not be revising or supplementing their admissions or production further.

The WM Defendants' responses are more disco than discovery, and it is against this backdrop that the WM Defendants, characterizing Mr. O'Reilly as “unreasonable” and his requests “onerous” and “burdensome”, dance around the actual issues in an attempt to distract the Court from their stonewalling.

¹ Included with the responses were 25 redundant pages of public records and a duplicate copy of a video served to Mr. O'Reilly in 2019.

PROCEDURAL POSTURE

This Court signed a Scheduling Order on July 12th, 2024, setting discovery deadlines for all parties. Trial is set for little more than eleven months from the date of this Reply, and all discovery, including depositions and interrogatories, must be served by December 22nd, 2024. The WM Defendants have yet to file a responsive pleading.

On August 2nd, the WM Defendants filed a motion for a protective order to stay discovery, which the Court denied in full.

Lacking substantive discovery from the WM Defendants, Mr. O'Reilly has now missed the September 13th deadline for identifying expert witnesses, and the October 13th deadline for amendments and the addition of parties – both of which will be directly affected by documents and facts that will come to light as a result of discovery – will have long passed by the time of the hearing on this motion.

The WM Defendants now claim that they have entirely complied with their discovery obligations and will not produce or revise anything further, and have ignored Mr. O'Reilly's request to confer regarding depositions.

Without the intervention of the Court, the entire case remains in limbo, and each wasted day disproportionately and unfairly taxes Mr. O'Reilly's dwindling time.

ARGUMENT

I. THE REQUESTS ARE REASONABLE AND FAIR

The July 26th Request for Production averaged sixteen (16) requests per defendant, and the Requests for Admission averaged nineteen (19) per. Together they amount to less than one request per defendant per cause of action.

This is the “onerous”, “burdensome”, and “oppressive” volume of discovery objected to 150 separate times in the response to the Request for Admissions and 160 times in their response to the Request for Production.

The WM Defendants have spent multiples of the time, effort, and energy required to simply produce the documents and admissions requested on their objections and filings, and have cost Mr. O’Reilly months of discovery and dozens of needless hours of negotiation and paperwork, not to mention wasting the Court’s time resolving this matter. This throws the WM Defendants’ true intentions into sharp relief: it is neither the burden nor the expense of production they wish to be spared, but the disclosure of the discoverable items themselves.

II. THE WM DEFENDANTS HAVE PRODUCED TWELVE PAGES IN TOTAL

The WM Defendants’ response to the Request for Production states that 60% (10 each) of the items requested are “not being produced”. Of the

remaining 40% (6 each) of the items that they “will produce”, only three new documents have been produced, and not one is fully responsive to any Request.

III. THE RESPONSES ARE NOT COMPLIANT WITH THE MARYLAND RULES

a. ZERO DOCUMENTS WERE PRODUCED WITHIN 30 DAYS

Maryland Rule 2-422(c) imposes a 30-day deadline for production, yet not a single new document was produced in that time. Three new documents were produced on day 41, but nothing has been offered in the three weeks since, and the WM Defendants now claim that their discovery obligations are entirely satisfied.

The WM Defendants attempt to blame Mr. O’Reilly for their lack of responsiveness, for refusing to grant them an unreciprocated and essentially un-bounded extension of time, entirely on their terms. In truth, Mr. O’Reilly has offered on numerous occasions to extend the production period substantially in return for information and documents it would take less than a half a day to produce, but they have steadfastly and repeatedly refused.

The WM Defendants were denied additional time by the Court and have consistently refused additional time when it has been offered. Their lack of compliance is deliberate, calculated, and contemptuous.

b. THE MARYLAND RULES DO NOT ALLOW FOR BOILERPLATE OBJECTIONS

The responses to the Requests included 2,640 generic objections, most simply copied and pasted into each response. Not a single objection meets the specificity requirements of Rules 2-422 and 2-424.

c. SPECIFICITY OF THE OBJECTIONS

In spectacularly disingenuous form, the WM Defendants complain that the Motion to Compel “fails to identify the specific objections to the specific responses”. But on August 31st, weeks before they filed their Opposition, they were served with the “Replies to WM Document Objections”, attached as Exhibit 7, which provided explicit foundations for the objections to each and every one of the inadequate responses.

d. PRODUCTION DEFICIENCIES

The assault, battery, and defamation of Mr. O’Reilly are clearly evidenced in the “DriveCam” videos the WM Defendants have admitted were recorded on October 16th, 2017. These documents are in-scope for discovery, are relevant to numerous causes of action, and were specifically requested, but the WM Defendants refuse to produce them. This is just one glaring example of the dozens of relevant and discoverable documents that have not been produced.

e. ADMISSION DEFICIENCIES

Maryland Rule 2-424 allows for partial admissions or denial only “when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested”.

The WM Defendants partially admitted to forty Requests without explanation of why “good faith” required only a partial admission or denial. For example:

REQUEST NO. 15: WM vehicles operated at 9E33rd on average three times per week throughout 2017.

RESPONSE NO. 15: Admitted only that WMMD’s business operations included the removal of waste from 3200 St. Paul Street, Baltimore, Maryland 21218 on or around October 16, 2017.

This non-answer, archetypal of the defendants’ responses, fails to admit to more than 150 events (directly related to multiple causes of action) without a word of explanation. These are not “good faith” partial admissions; they are intentionally incomplete and evasive non-answers.

f. PRIVILEGE IS DEFICIENTLY CLAIMED FOR EACH AND EVERY REQUEST

Items 12 and 16 in the “General Responses and Objections” of the WM Defendant’s Response to the Request for Production and Admission, respectively, claim privilege for every single Request. Maryland Rule 2-402(e)(1) outlines specific criteria for claims of privilege, but the WM Defendants have produced no privilege-related information whatsoever.

IV. ITEMS TO COMPEL

Sixty-five (65) of the requests for production were designated in the WM Defendants' response with the caption "This item is not being produced" in contrast to the remainder, which were designated "will be produced", but have not been. Mr. O'Reilly asks that the rest of the requested documents be produced.

V. REASONS TO COMPEL

A detailed explanation of the deficiencies in the WM Defendants' responses are found in Exhibit 1 of this motion. The WM Defendants ironically complain that Mr. O'Reilly's objections to their objections are not specific enough, as if this somehow justifies their initial failure to respond properly (Opposition, p.12 at ¶12). Plaintiff's Exhibit 7, served to the WM Defendants four weeks ago, provides explicit and specific details.

VI. SCOPE OF DISCOVERY

The WM Defendants have yet to file an answer in this action. As such, the only issues so far contested before the Court are those preliminary issues raised in the WM Defendants' motion to dismiss: jurisdiction over Waste Management, Inc. (WMI); privity between WMI, Waste Management of Maryland, Inc., (WMM), Tsottles, and Palmer; res judicata; the statute of limitations for each cause of action; and the service status of the defendants.

As Mr. O'Reilly has stated previously both in responding to the WM Defendants' unsuccessful motion for a protective order and in this motion, a number of the requested documents are directly relevant to the disposition of the issues the WM Defendants have raised in the dismissal motion, as clarified below.

a. PRIVACY AND JURISDICTION

WMI claims that Tsottles and Palmer have never been employees of any Waste Management-owned entity that was not at arms' length, and as such, WMI is not subject to jurisdiction in Maryland. But in the same breath, WMI attempts to claim privity with Tsottles in the federal action. These concepts are mutually exclusive, and the WM Defendants have put the relationships between WMI, WMM, Tsottles, and Palmer directly at issue in their motion to dismiss.

The WM Defendants now unilaterally and categorically refuse to produce discoverable documents that will have a direct bearing on this Court's adjudication of these issues, claiming that they are "far beyond the scope of any conceivable issues in this case."

The Court cannot make a fair and just determination of either privity or jurisdiction as a matter of law without the opportunity for Mr. O'Reilly to discover and present this information.

b. RES JUDICATA

The entirety of the federal suit was dismissed procedurally; despite the WM Defendants' desperate claims, there has never been a prior final, valid decision on the merits for any cause of action in this suit.

Additionally, almost seventy years ago in *Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955), the United States Supreme Court held that res judicata does not bar suit, even if it involves the same course of wrongful conduct alleged earlier, if the suit alleges new facts or a worsening of the earlier conditions.

While the present action is *fundamentally* similar to the federal action, the instant complaint alleges new relevant facts, some of which are only now coming to light after being intentionally withheld by the defendants for nearly seven years. It also reports the worsening of conditions for Mr. O'Reilly as a direct result of the WM Defendants' actions since they committed the initial offenses.

Some of these new facts would not have come to light at all if Defendants BMG and COCM had not already been required to produce them prior to ruling on their motions to dismiss.

The Request for Production includes documents that are now known to contain information that has been deliberately and continuously denied to Mr. O'Reilly despite their relevance, and will very likely affect the

disposition of the motion to dismiss with relation to res judicata. Fair and just enforcement of the Rules requires that the WM Defendants produce the documents prior to adjudication of the motion to dismiss, however damning for them they might be.

c. STATUTE OF LIMITATIONS

As a result even of the paltry portions of discovery already produced, Mr. O'Reilly can now show conclusively that the statutes of limitation for some causes of action were tolled due to deliberate concealment on the part of the WM Defendants. What's more, evidence of other, related offenses that were committed against Mr. O'Reilly but intentionally suppressed have now come to light.

The specific, targeted requests for production may seem irrelevant to the WM Defendants, but they are intended to lead precisely to discoverable evidence, and the WM Defendants are not, despite their present behavior, the ultimate arbiters of relevance or discoverability.

d. SERVICE OF THE DEFENDANTS

Service of Process for all defendants in this case is now unequivocally complete. The Request for Production requested multiple ways by which the defendants' serviceable addresses would have been disclosed, but the WM Defendants flatly refused to produce any such information, hoping the Court's jurisdiction would expire before service could be effected.

Mr. O'Reilly was forced to waste thousands of dollars and countless unnecessary hours serving the *represented* WM Defendants who actively evaded it for months.

Had the WM Defendants simply produced the documents requested in good faith and in a timely manner, Mr. O'Reilly would not have been required to waste his time, energy, and money to achieve the same end result. Exhibit 8 shows the WM Defendants' stonewalling over weeks of communication.

CONCLUSION

The WM Defendants refuse to comply with their discovery obligations under the Maryland Rules, almost completely obstructing Mr. O'Reilly's ability to move forward with this case.

Their refusal to further produce or to adhere to deadlines, and blatantly non-responsive objections amplify an already astronomically unfair disparity. The WM Defendants' obstructionist approach undermines the discovery process and violates the principles of fairness and justice.

For these reasons, Mr. O'Reilly respectfully requests that this Honorable Court grant the relief requested in the Motion to Compel and any other the Court deems just or appropriate.

I, Matthew O'Reilly, solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

Respectfully submitted this 27th day Of September, 2024.



Matthew O'Reilly
Plaintiff, Pro Se

EXHIBIT LIST

EXHIBIT 6 – RELEVANT PRODUCTION BY WM DEFENDANTS

EXHIBIT 7 – REPLY TO WM DEFENDANTS' DOCUMENT
RESPONSES

EXHIBIT 8 – SAMPLE EMAILS SHOWING WM DEFENDANTS'
REFUSAL OF ADDITIONAL TIME OFFERED

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day Of September, 2024, a copy of the foregoing was served via MDEC or via first class mail, postage prepaid, to:

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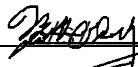
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