

EXHIBIT 1

CERTIFICATE OF ATTEMPTED RESOLUTION

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

CERTIFICATE OF ATTEMPTED RESOLUTION

I, Matthew O'Reilly, Plaintiff in the above-captioned matter, hereby certify pursuant to Maryland Rule 2-431 that I have made good faith efforts to resolve the discovery dispute with the WM Defendants prior to filing the accompanying Motion to Compel Production and Admission.

Attached to this Certificate are emails and letters between myself and Mr. Geoffrey Gamble, lead counsel for the WM Defendants. They detail the entirety of the conversations and attempts to resolve this dispute prior to initiating the motion to compel.

EFFORTS TO RESOLVE THE DISPUTE

I. INITIAL COMMUNICATION

The Court issued a Scheduling Order on July 15, 2024, establishing discovery deadlines. On July 25 and 26, 2024, I served the WM Defendants with Requests for Admission and Documents, due on August 26, 2024.

On August 1, 2024, the WM Defendants filed a Motion for Protective Order to Stay Discovery, seeking to delay discovery until 30 days after the ruling on their motion to dismiss.

II. MOTION FOR PROTECTIVE ORDER

On August 2, 2024, I participated in a phone conference with WM Defendants' counsel, Geoffrey Gamble, to discuss the motion to shorten time. We agreed to collaborate on a mutually beneficial discovery schedule, and I voluntarily submitted my response to the protective order motion early. The Court denied the motion on August 15, 2024.

III. JOINT MOTION TO MODIFY SCHEDULING ORDER

On August 7, 2024, Mr. Gamble proposed a joint motion to modify the Scheduling Order, which included a blanket stay of discovery until 30 days after all answers were filed. I agreed to the joint motion on the condition that discovery modification be separate or conditional. Mr. Gamble refused and abandoned the motion.

We continued to discuss potential solutions through August 16, 2024, but despite my offers to partially extend discovery timelines on the condition that some of the documents be delivered on time, the WM Defendants refused to produce or admit any items whatsoever.

IV. RESPONSES

The WM Defendants served their admissions and documents response filings on August 23rd. As detailed in the motion to compel, the filings were evasive, non-responsive, and non-compliant.

On August 26, 2024, I emailed Mr. Gamble to address my concerns, emphasizing my need to comply with the Scheduling Order and my expectation that they would comply with the Maryland Rules. As shown in the attached emails and letters, we have been in contact throughout the week, but have been unable to reach a workable compromise.

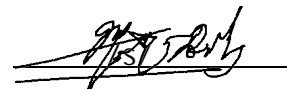
On August 28, I requested four simple items and offering additional time on the rest of discovery if these were provided within the week. I followed up with a second deficiency notice and repeated the offer on the 29th. I have not received a response from Mr. Gamble since.

CONCLUSION

Given these efforts and the WM Defendants' continued refusal to comply with discovery obligations, I am compelled to seek the Court's intervention through the attached Motion to Compel Production and Admission.

I solemnly affirm under penalty of perjury that to the best of my knowledge, understanding, and belief, the foregoing is true and correct.

Respectfully submitted this 31st day Of August, 2024.



Matthew O'Reilly

Plaintiff, Pro Se

Geoffrey M. Gamble
Saul Ewing, LLP
1001 Fleet Street, 9th Floor
Baltimore, Maryland 21202

Mr. Gamble:

I am in receipt of your letter sent at 16:40 on August 29th, 2024 regarding the WM Defendants' Responses and Objections to your Requests for Production and Requests for Admission. I, too, hope that we can come to an agreement without the need to trouble the Court with discovery issues at this time.

I fear I must take exception to the wording you use in the letter, that I "refused to grant a modest extension of the response deadline". In the draft joint motion you sent, you requested that I grant your clients a *guaranteed* extension of time to respond to discovery requests in exchange for, entirely at the Court's discretion, a *potential* modification of the Scheduling Order, something the Court openly and expressly disfavours.

What's more, while your motion to the Court for a stay of discovery asked that the WM Defendants be given a grace period of 30 days beyond the resolution of only your motion to dismiss, your proposed joint motion asked for my unconditional approval for a 30 day extension beyond the filing of *all* of the *answers* by *all* defendants. And when I refused that one stipulation, *you* walked away from the motion.

Considering that we are more than 30 days from the hearing on your most recent motion to dismiss alone, that would have guaranteed each defendant an extension of at least 75 days, with potentially no benefit to me. All discovery requests in this case must be submitted by December 22nd, 120 days from today. Your proposal would have consumed more than 70% of the entire time for discovery.

Despite this, in yesterday's email (attached to your letter), I offered an olive branch: I will agree to an extension in return for four simple, inexpensive, and easily-obtained items:

1. The current home address for defendant Roy Palmer.
2. An admission that the CNN Money interview at [https://www.youtube.com/watch?v=IxbUR4S_NCI] is authentic, and that at that time:
 - a. Steiner was the CEO/President of WMI;
 - b. he confirmed in the video that WMI does business in every state except Wyoming and Montana;
 - c. that Maryland is a state and is neither Wyoming or Montana;
 - d. and that a reasonable conclusion is therefore that WMI does business in Maryland.
3. Complete, un-altered, authenticated, and time-stamped copies of all the video, still photos, and audio recordings that have ever been in your clients' possession (including subsidiaries, former employees, affiliates, sister companies, etc.), from all recording sources that could have captured the incident or aftermath, including all of the DriveCam footage from all cameras/microphones on the truck present at the incident, for the entirety of October 16, 2017 (midnight to midnight).

4. Access logs showing who has viewed any of the DriveCam footage for October 16, 2017 (midnight to midnight) from the truck. This includes all access from October 16th, 2017 to the present.

I offered to work with you if any of these turned out to be overly difficult. Roy Palmer is represented by you and is a named party in this case; thus item (1) is in your own possession and would require only your client's permission to send. Item (2) requires literally three minutes of your client's time to watch the video and acknowledge Mr. Steiner's words. Items (3) and (4) should have been on discovery hold by your clients since 2017, are cloud-based and instantly accessible from anywhere in the world, and were owed to me as *Brady* evidence nearly seven years ago. And all of these could have been provided in less time and for less expense than it took for you to compose your letter.

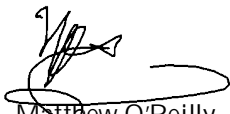
The disposition of the motions to dismiss is a red herring, and under the Maryland Rules, unlike the Federal Rules, they have no bearing on the timing of discovery. Your clients were required to respond substantively within 30 days of the requests and *still* have not provided a single responsive document.

Your clients admitted to only five true statements and provided zero documents in the time allotted, and I am nonplussed how that could be construed as anything *but* evasive and incomplete. While as a courtesy I will provide a more complete analysis of the shortcomings of both documents, this can be immediately addressed (to start) by supplementing the responses for each item for which your clients have claimed privilege in compliance with Rule 2-402(e).

Ultimately, it is not I who is not in compliance with the Rules. But my offer stands: deliver the four items tomorrow, I will not file the motion to compel, and we can work in good faith toward a more sustainable schedule for all involved. I have already delayed filing by more than 24 hours as a show of good faith on my part. But until your clients also produce a substantive show of good faith, I have absolutely no reason to – and many, many reasons not to – believe that any of this is any more than a stalling tactic and, as you say, “an abuse of the discovery process”.

I will, of course, keep you updated with the filing and schedule of the motion to shorten time, should it become necessary to file. But I sincerely hope that it will not come to that.

Respectfully,



Matthew O'Reilly

Plaintiff, O'Reilly v. Waste Management, Inc., et al.

P.S. while of course you are correct that the Court denied the protective order without prejudice, your clients indicated that they are simply refusing to produce more than 60% of the requested documents based on the very objections the Court found unpersuasive. Other than your clients suddenly having a change of heart and deciding to withdraw their objections, I am unaware of a way forward without a motion to compel, so the distinction of prejudice in that sense seems rather academic.

August 29th, 2024

August 29, 2024

VIA ELECTRONIC MAIL

Matthew O'Reilly
postmaster@moreilly.com
maryland.tylerhost.net@moreilly.com

RE: WM Defendants' Response to Plaintiff's August 27, 2024 Discovery Letter
O'Reilly v. Waste Management, et al., Case No. C-02-CV-24-000546
Circuit Court of Maryland for Anne Arundel County

Dear Mr. O'Reilly:

We are in receipt of your letter sent at 10:30PM on August 27, 2024 regarding the WM Defendants' Responses and Objections to your Requests for Production and Requests for Admission ("Responses and Objections"). We trust that this letter addresses your perceived concerns with the WM Defendants' discovery responses without the need to trouble the Court with an unnecessary discovery motion.

I. The WM Defendants Timely Served Objections and Responses to Plaintiff's Burdensome and Overbroad Discovery Requests

The Complaint in this action was filed on March 4, 2024, and the WM Defendants timely moved to dismiss the Complaint. You have amended your complaint twice, which has delayed the decision on the WM Defendants' preliminary motion. Discovery requests were propounded for the first time on July 25, 2024, when you served 134 Requests for Admission, followed the next day by 110 Requests for Production. Providing substantive responses to nearly 250 discovery requests required significant time. Yet, the WM Defendants served responses to the voluminous requests on August 23, 2024, three days before their due date, when you refused to grant a modest extension of the response deadline. On the very day that they were due (August 26, 2024), you threatened motions practice and sanctions. That type of litigation tactic is abusive and wholly inconsistent with the Maryland Discovery Guidelines.

Your suggestion that the WM Defendants did not avail themselves of opportunities to seek relief from the discovery requests is flatly wrong. *See Plaintiff's Letter at 3.* The WM Defendants

sought an agreement from you and a protective order from the Court; but you declined the former, and the Court denied the latter. The contention that the Court has rejected any of the WM Defendants' objections is equally untrue. *See id.* at 1. As a threshold matter, the Court denied the WM Defendants' motion to stay discovery *without prejudice*. Moreover, the Court did not "rule[] that jurisdiction, burden, prematurity, and volume are insufficient objections." *Id.* Your letter simply mischaracterizes the Court's Order. Nothing in that Order prevents the WM Defendants from preserving arguments in their motion to dismiss, particularly as to personal jurisdiction issues, or from objecting to the requests as premature or as otherwise improper.

II. The WM Defendants' Responses and Objections Are Not Deficient

With respect to the perceived "issues" with the WM Defendants' Responses and Objections, it is entirely appropriate and, in fact, necessary for the WM Defendants to object to your discovery requests. The WM Defendants identified general objections that apply to each of the discovery requests served. However, the WM Defendants also made specific, individualized objections to each request on grounds that are appropriate and recognized by the Rules and Discovery Guidelines, such as objections on the basis of privilege, relevance, and undue burden. Nevertheless, if you have a concern with a specific objection to a particular request, please so state. However, stating that *all* objections are improper and demanding that the WM Defendants withdraw every objection is absurd.

Many of your requests are overbroad and untethered to the claims or defenses in this action. By way of example only, you requested that Defendant Adam Tsottles produce medical documentation regarding his health, including physicals, drug testing, vision testing, or physical condition while affiliated with Waste Management; all of his health insurance claims, disability claims, or sickness or doctors excuses or his medical records chart for three years prior to the occurrence; and the contents of his social media accounts. *See* Requests for Production Nos. 27, 48, 55. These requests are not only beyond the scope of any conceivable issues in this case, but they are simply harassing. The objections to these requests, and many others like them, are warranted, appropriate, and necessary to protect against your blatant abuse of the discovery process.

Your demand that all documents be produced immediately is untenable. As you know, on August 26, 2024, the WM Defendants began a rolling production. We are in the process of collecting and reviewing documents responsive to the voluminous document requests you served. As previously explained, this is not an overnight endeavor. It takes significant time to collect documents, review them for responsiveness, and examine them for privilege. We will produce a privilege log in connection with our rolling productions but doing so piecemeal is inefficient and not useful.

We similarly disagree with your bald contention that the WM Defendants' responses to the Requests for Admission were evasive and incomplete. Nothing could be further from the truth. If

you believe that certain responses require additional detail than is already provided, let us know and we will revisit that particular response.

III. The WM Defendants Have Offered Reasonable Resolutions of the Perceived Discovery Issues

The WM Defendants have attempted (and continue to attempt) to work cooperatively with you to respond to your discovery requests and resolve potential discovery disputes. Initially, we proposed that the parties jointly request that certain discovery deadlines be extended to afford flexibility in the time for responding to your discovery requests before you have to disclose experts. We secured the agreement of the other defendants and prepared a draft motion, only to learn that you would not agree to extend our deadline to respond to the discovery requests. More recently, on August 26, 2024, we invited you to identify documents that you believe you need at this time. You did not respond to that invitation. Instead, you opted to sling threats of motions practice and sanctions, as well as accusations of bad faith, which are not well received. You have since (at 8:36PM on August 29, 2024) requested that the WM Defendants produce certain documents, along with an admission that Waste Management, Inc. (“WMI”) does business in Maryland (thereby subjecting it to personal jurisdiction), within 48 hours in exchange for your agreement to “hold off” on filing a motion to compel. *See* e-mail enclosed. While we remain open to negotiating a reasonable resolution of your perceived discovery issues, your request that we concede the legal defense of lack of personal jurisdiction is wildly improper. A federal court has already found that WMI is not subject to personal jurisdiction in the State, and your attempt to negotiate around that decision in the context of a threatened frivolous discovery motion is nothing short of bad faith.

Again, we strenuously object to burdening the Court with a motion to compel. If, however, you elect to abuse the discovery process and waste judicial resources by seeking Court intervention days after the WM Defendants responded to nearly 250 discovery requests, then we will seek recovery of all fees and costs we are forced to unnecessarily expend in responding to any such motion pursuant to Rule 2-433(d). Moreover, if any contact is made with the Court regarding such motion or a motion to shorten time, we insist on being present for such communications.

Please let me know if you would like to discuss further.

Sincerely,



Geoffrey M. Gamble

Enclosure

Subject: Re: Waste Management Defendants' Motion to Dismiss Second Amended Complaint

From: "postmaster@moreilly.com" <postmaster@moreilly.com>

Date: 28/08/2024 20:35

To: "Gamble, Geoffrey M." <geoff.gamble@saul.com>

CC: "maryland.tylerhost.net@moreilly.com" <maryland.tylerhost.net@moreilly.com>, "Chammas, Nicole" <nicole.chammas@saul.com>

Geoff -

Thank you for the thoughtful response. Obviously, I cannot agree that your clients are in compliance - as you have no doubt read in the deficiency letter I sent last night, the objections for the vast majority of the responses are improper according to the plain text of the Maryland Rules.

I have acknowledged from the beginning that these requests would be difficult to complete within the 30 days mandated by the Rules. I have offered alternative solutions repeatedly that would have lessened the burden on your clients in time, expense, and scope, but each of my proposals has been refused or ignored. Ultimately, unfortunately, the deadlines are not malleable simply because we wish them to be. Without a modification of the timeline by the Court, I don't have the ground to give, and must hold you to the same standards to which I am held. The Rules dictate 30 days, and we are bound by the Rules.

Thank you for letting me know that the rolling production has begun. As a gesture of good faith, I will hold off on the motions to compel and shorten time if the following can be produced in the next 48 hours:

1. Complete, un-altered, authenticated, and time-stamped copies of all the video, still photos, and audio recordings that have ever been in your clients' possession (including subsidiaries, former employees, affiliates, sister companies, etc.), from all recording sources that could have captured the incident or aftermath, including all of the DriveCam footage from all cameras/microphones on the truck present at the incident, for the entirety of October 16, 2017 (midnight to midnight).
2. Access logs showing who has viewed any of the DriveCam footage for October 16, 2017 (midnight to midnight) from the truck. This includes all access from October 16th, 2017 to the present.
3. The current home address for Roy Palmer.
4. An admission that the CNN Money interview at https://www.youtube.com/watch?v=IxbUR4S_NCI is authentic, and that at that time: Steiner was the CEO/President of WMI; that he confirmed in the video that WMI does business in every state except Wyoming and Montana; that Maryland is a state and is neither Wyoming or Montana; and that a reasonable conclusion is therefore that WMI does business in Maryland.

All four of these items are readily, easily, and cheaply available to your clients. (Online viewing and/or direct download access through the DriveCam web portal is an acceptable stopgap if providing video files takes too long.) I am not trying to be intractable or unreasonable here - if any item proves to be problematic, give me a heads-up and let me know what the issue is so we can work through an alternative.

While I would like to think you and I have developed a decent rapport, the entire reason we are embroiled in this suit is because your clients have, for years, been less than honest with me. Having these four items in my hands by Friday will go a long way toward establishing trust all the

Geoffrey M. Gamble
Saul Ewing, LLP
1001 Fleet Street, 9th Floor
Baltimore, Maryland 21202

Nicole E. Chammas
Saul Ewing, LLP
1919 Pennsylvania Avenue, NW Suite 550
Washington, DC 20006

Mr. Gamble & Ms. Chammas:

I have had an opportunity to review the WM Defendants' Responses to the Requests for Production and Admission, and as I mentioned in my email, there are (quite) a few deficiencies that need to be addressed.

The responses I have received do not represent a good faith effort by the WM Defendants to provide discovery. Every single admission and document request was subject to a host of generalised objections, and the vanishingly few specifics sprinkled throughout the document do not adhere to either the spirit or the letter of the Maryland Rules for discovery.

This appears to be an exercise in legal gamesmanship rather than the real, good faith effort to provide discovery that is required by the Maryland Rules and precedent. As I mentioned in my August 26th email, due to the strict deadlines imposed by the Case Management Order, I have no choice but to file a Motion to Compel production, but I am hopeful you can convince your clients to provide meaningful answers and documentation before the Court is involved.

General Objections

[Applies to: ALL RESPONSES]

First and foremost are the "general objections", which the Maryland Rules do not permit. General objections do not become specific simply by copying identical, cookie-cutter wording and pasting each of those blocks into the numbered response, as has been done in the WM Defendants' responses to both requests.

Objections must be specific to the particular item being withheld or denied (even in part), and provide a compelling, individualised, and particularised reason for each and every refusal to comply.

I have attached a copy of your responses with the boilerplate wording from each response replaced (using a simple text search-and-replace function) with a uniform designation code. As you can easily see, once the cruft has been filtered out, almost nothing remains – certainly not enough for myself (or the Court) to understand why your client refused to produce or admit to any particular item.

Maryland Rule 2-422(c) requires that the specific grounds for any refusal to produce must be fully stated in response to each specific request for that specific item. In denying the recent motion to stay discovery, the Court has already ruled that jurisdiction, burden, prematurity, and volume are insufficient objections in this instance by which to base a refusal to produce or answer. By relying upon those objections for each and every document, you are forcing the Court to expend its resources to correct issues already decided, which unfortunately from the outside looks very much like a bad-faith attempt to skirt both the Rules and rulings of the Court. All of the general objections should be withdrawn.

Discovery and the Motion to Dismiss

[Applies to: ALL RESPONSES]

Maryland Rule 2-402(a) states: "A party may obtain discovery regarding any matter that is not privileged, including the existence, description, nature, custody, condition, and location of any documents, electronically stored information, and tangible things and the identity and location of persons having knowledge of any discoverable matter, if the matter sought is relevant to the subject matter involved in the action, *whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party.*"

Your clients have proclaimed loudly at every turn that discovery should be paused until the dispositive motions are adjudicated, but this incorrect interpretation is not only contrary to both the Maryland Rules and Maryland Supreme Court precedent, but the decision of the Court in this case.

Many of the items which have been labelled as objectionable are fair requests for discovery to address the defences your clients themselves have already claimed, including *res judicata*, the statute of limitations, and jurisdiction. All of these items are expressly within the scope of discovery even while dispositive motions are pending. The objections are invalid and must be withdrawn.

Privilege

[Applies to: 45 Admission Requests (Response Nos.: 20, 24, 25, 53-60, 62-76, 78-86, 105-107, 110-114, and 118-120) and 32 Production Requests (Request Nos.: 6, 9, 14, 17-19, 21, 25, 26, 28, 30-33, 35-40, 58, 60, 62, 63, 79, 81, 83, and 96-100)]

Seventy-seven of the admissions responses object that the information is privileged, but do not comply with the requirements of Rule 2-402(e), which states, "A party who withholds information on the ground that it is privileged or subject to protection *shall describe the nature of the documents, electronically stored information, communications, or things not produced or disclosed in a manner that, without revealing the privileged or protected information, will enable other parties to assess the applicability of the privilege or protection.*"

None of the responses describe the nature of the documents, nor do they divulge any of the non-privileged portions of the documents. Non-privileged information must include the names of the parties between whom privilege is being claimed; and any other metadata about the communication that gives rise to the privilege, including third parties present; times, dates, communications length, addresses (physical or ephemeral), etc. And bearing in mind that Maryland law specifically allows for the intrusion upon privilege for information that cannot be obtained by other means, detailing the particularised harm that disclosure would cause for that individual truth, document, or information morsel will reduce your burden for defending the non-disclosures at a later time.

Legal Conclusions

[Applies to: 40 Admission Requests (Response Nos.: 10-17, 21, 24, 77, 79-86, 91, 93, 96, 97, 115, 116, and 120-134)]

Requests for legal conclusions are not a basis for objection in Maryland. Rule 2-402(a) states in part that a request "is not objectionable merely because the response involves an opinion or contention that relates to fact or the application of law to fact". Once the rest of the boilerplate objections are removed, this is the sole objection that remains for these items. The objections must be withdrawn and the items answered.

Availability

[Applies to: 43 Admission Requests (Response Nos.: 11, 18-23, 32-42, 47, 50, 51, 65, 88, 90, 92, 98, 115, 116, and 120-134) and two Production Requests (Request Nos.: 7, 25)]

I have specifically requested only items either directly in scope or reasonably calculated to lead to discoverable material. Thus per Maryland Rule 2-402(a), it is not a valid ground for objection that the information sought is already known to or otherwise obtainable by the party seeking discovery. The objections are inappropriate and must be withdrawn.

Time and Responsiveness

[Applies to: ALL RESPONSES]

Rule 2-422(c) states: "The party to whom a request is directed shall serve a written response within 30 days after service of the request [...] If the refusal relates to part of an item or category, the part shall be specified." The requests were served on July 25th and 26th and the responses were due August 26th. While the two documents returned contained dense walls of inappropriate, inapplicable, impermissible, and redundant objections, what little other content there was can hardly be considered "responsive". Nearly all of the admissions were both evasive and incomplete, and there was not a single complete or un-evasive response in the entire production.

Rule 2-402(b)(2) provides that: "[A]n evasive or incomplete answer is to be treated as a failure to answer." Neither of the documents can reasonably be considered "responses" in any meaningful manner, and sending them smacks of malicious compliance. They are practically nothing but a duplicitous and *pro forma* attempt to circumvent the WM Defendants' obligations under the guise of conformity.

Produced Documents

[Applies to: ALL RESPONSES]

As of the sending of this missive, I have received exactly one produced document from the WM Defendants – a video that was in the public record and was in counsel's possession as early as 2019. Your clients have failed to produce ANY documents within the thirty-day window provided by the Rules; failed to work with me, despite half a dozen or more of my requests, to extend that deadline for some documents while producing others on time; had a motion to stay discovery denied; and have not requested an extension of time from the Court.

Your clients have had ample opportunity to allow for a less restrictive discovery schedule than the Rules provide, but have stubbornly refused to avail themselves of a single one. The conundrum they now find themselves in is one entirely of their own making, and one from which they have the power to escape at any time.

Resolutions

I have offered on no less than six occasions to work with the WM Defendants to adjust the timeline for producing some of the more difficult documents, or even to reduce the number produced, provided they make a good faith effort to produce even *some* easily-retrieved, cloud-based, electronic evidence. Rather than work with me, however, the WM Defendants have stonewalled and steadfastly refuse to comply with the Maryland Rules or the orders of the Court.

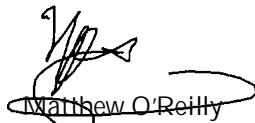
I am asking this last time for your clients to withdraw their objections and immediately produce full responses to the requests for admission and production. My deadlines under the Case Management Order (which has now been in place for more than six weeks) are fast approaching, and I am forced to involve the Court as long as your clients continue to act in bad faith.

I would much rather work together to reach less expensive, more efficient, and productive solutions during this litigation, as I believe that would benefit all parties and the Court, but I can only meet anyone halfway.

As every hour that ticks away without the discovery the WM Defendants are obligated to produce causes me further undue and unfair prejudice, I cannot wait. I will be filing the motion to compel shortly and walking through an emergency motion to shorten time to respond around 1:00pm on Thursday, August 29th, 2024. I will be happy to hear from you before that time if there is a way we can avoid involving the Court.

Thank you for your time, and I submit – once again – that I am still willing to work with your clients to resolve these disputes amicably.

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew O'Reilly", with a large, sweeping flourish underneath.

Matthew O'Reilly

Plaintiff

O'Reilly v. Waste Management, Inc., et al.

August 27th, 2024

way around.

As always, I appreciate your input and will do my best to accommodate as much as I am able.

Regards,
Matt

On 26/08/2024 20:48, Gamble, Geoffrey M. wrote:

Matt:

I am glad to hear that you are feeling a little better.

Thank you for your e-mail regarding the WM Defendants' discovery responses that were served on August 23, 2024 – three days before their due date. As you might imagine, I disagree with most of the assertions in your e-mail below, particularly your claims that (1) the WM Defendants are not complying with the discovery rules, or (2) the objections to your voluminous discovery served during the pendency of a dispositive motion to dismiss are inappropriate. While the Court may have denied our motion for a protective order, without prejudice, we have every right to object to the discovery requests on grounds that, among other things, they are premature given the procedural posture of this case.

While the original action was filed by you in federal court several years ago, the first time any discovery requests were served in any matter was on July 25, 2024. As we mentioned elsewhere, the discovery you served is both voluminous (244 total requests) and overbroad. It took significant time to provide substantive written responses to the nearly 250 discovery requests. We are now in the process of collecting and reviewing documents responsive to the 110 document requests you served. This is not an overnight endeavor as you suggest. To the contrary, it takes significant time to collect documents from the clients, to review the records for responsiveness, and to examine the documents for privilege.

We have advised you of the time that it takes to respond to these discovery requests and requested a modest extension of time to so respond. You declined, citing the discovery deadlines in the scheduling order. We identified a solution, whereby the parties would jointly request an extension of the discovery deadlines in exchange for an extension of the defendants' time to respond to your discovery requests. You declined that proposal as well. Now, the day that the discovery responses are due (all defendants responded ahead of time), you have threatened a motion to compel and for sanctions. Your threats are not warranted and are not at all in the spirit of the Maryland Discovery Guidelines.

Despite your threats and unreasonable demands, we would like to avoid burdening the Court with a discovery dispute, particularly this early in the case when motions to dismiss have not yet been resolved. Accordingly, we will begin a rolling production starting this evening. If there are specific documents that you believe you need sooner rather than later, please let us know.

I am hopeful that we can resolve your perceived concerns without troubling the Court with unnecessary and inappropriate discovery motions.

I am available should you wish to discuss these matters by phone.

Thanks,

Geoff

Geoffrey M. Gamble
Partner

SAUL EWING LLP | Baltimore

Office: (410) 332-8848 Cell: (443) 995-6957

-----Original Message-----

From: postmaster@moreilly.com <postmaster@moreilly.com>

Sent: Monday, August 26, 2024 3:30 PM

To: Gamble, Geoffrey M. <geoff.gamble@saul.com>

Cc: maryland.tyl erhost.net@moreilly.com; Chammas, Nicole <nicole.chammas@saul.com>

Subject: Re: Waste Management Defendants' Motion to Dismiss Second Amended Complaint

****EXTERNAL EMAIL**** - This message originates from outside our Firm. Please consider carefully before responding or clicking links/attachments.

Good afternoon, Geoff - I hope you had an enjoyable weekend.

I apologise for being out of touch last week; the "under the weather" I was feeling turned out to be a rather nasty bout of COVID. I am finally feeling slightly better today.

Thank you for sending the discovery responses along - I can see that your client is still being difficult about being willing to comply with the Rules. Obviously many of the objections are inappropriate, not the least of which are those the Court has already rejected in the denial of the stay. I can't say I understand why they're intent on making the process longer and more expensive, but I guess that's not really for me to fathom.

The responses to items 1, 2, 3, 4, 6, 7, 10, 14, 15, 17, 18, 20, 21, 25, 28, 30, 32, 41, 58, 60, 79, 81, 107, and 108 in the request for documents leave me slightly baffled, however. Based on the wording of the responses, your client is not refusing to provide the documents requested, but have not provided them, and have offered no time when they will be provided. The documents are due by midnight tonight - shall I expect them by then? If not, the responses are inadequate under Rule 2-432(b)(2), as (of course) are the responses to items 9, 12, 22, 26, 27, 29, 31, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 80, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 104, 105, and 106.

This email is just an informal courtesy to let you know that I will be filing a motion to compel for both the admissions and document requests shortly, and given the short timeline we have, it will have to include a request for sanctions based on your clients' refusals. I will follow up with a more formal notice to you detailing the deficiencies and requesting corrections.

I am of course still amenable to working with you to extend the discovery deadline on some of the more difficult items, but there are basics here that are low-lift that there really is no excuse not to provide.

If you have any questions, please feel free to email at your convenience.

Regards,
Matt

On 15/08/2024 21:35, Gamble, Geoffrey M. wrote:

Matt:

I am attaching a courtesy copy of the above-referenced documents, which were filed this afternoon with the Court.

Thanks,

Geoff

*Geoffrey M. Gamble*****

Partner

(410) 332-8848 <tel:(410)%20332-8848>

(443) 995-6957 <tel:+14439956957>

geoff.gamble@saul.com <mailto:geoff.gamble@saul.com>

Read my bio <<https://www.saul.com/professionals/geoffrey-m-gamble>>

*>> *

<https://www.saul.com/>

1001 Fleet Street, 9th Floor

Baltimore

MD

21202-4359

Subject: Re: O'Reilly v. Waste Management, et al.; Case No.: C-02-CV-24-000546

From: "postmaster@moreilly.com" <postmaster@moreilly.com>

Date: 16/08/2024 08:59

To: "Gamble, Geoffrey M." <geoff.gamble@saul.com>, "Chammas, Nicole" <nicole.chammas@saul.com>

CC: "maryland.tylerhost.net@moreilly.com" <maryland.tylerhost.net@moreilly.com>

Good morning, Geoff -

Ahh, I think I understand now. I was under the impression that modifying the CMO was equally beneficial for everyone, or nearly so. The practical effect of not having enough information prior to the deadline is that my expert witness list will simply be much longer - I've had witnesses selected and vetted for years. My hope was simply to pare down that list prior to the deadline, which would have saved you a fair bit of work researching my list and lining up rebuttal witnesses. I thought it would be a net positive for all parties.

We have five months in which to complete discovery, which is an aggressive timeline by any measure. Without the guarantee of a modification by the court, I don't think any of the parties would benefit from a delay at this point.

Apologies for the confusion.

I'll have a read through the MtD and try to have a response sorted before the 26th so we don't lose our hearing date.

Regards,
Matt

On 15/08/2024 17:09, Gamble, Geoffrey M. wrote:

Matt:

I'm sorry to hear that you are not feeling well. There is definitely something going around.

I understand your points, particularly your desire to receive something in exchange for what you are providing. I am simply seeking the same. By giving you more time to disclose an expert, we are asking for more time to respond to your discovery requests. In the absence of a reciprocal modification of our discovery deadline obligation, we are receiving nothing in return. We have crafted the joint motion in a way that we both get something. If the Court extends deadlines, then you get more time to disclose experts and we get more time to respond to the discovery requests. I understand that there is a risk that the Court does not grant our motion, but it is a risk that we bear equally.

We can probably live with certain of your modifications to the joint motion, but without an agreement in the motion to delay our discovery responses until our answers are due, we cannot agree to extend the scheduling order deadlines.

Thanks,

Geoff

Geoffrey M. Gamble
Partner
SAUL EWING LLP | Baltimore

Office: (410) 332-8848 Cell: (443) 995-6957

-----Original Message-----

From: postmaster@moreilly.com <postmaster@moreilly.com>

Sent: Thursday, August 15, 2024 4:29 PM

To: Gamble, Geoffrey M. <geoff.gamble@saul.com>; Chammas, Nicole <nicole.chammas@saul.com>

Cc: maryland.tylerhost.net@moreilly.com

Subject: Re: O'Reilly v. Waste Management, et al.; Case No.: C-02-CV-24-000546

Hi, Geoff - unfortunately, I'm afraid it's my turn to be under the weather. I am available via email, but I think my voice may be out of commission for a few days.

I agree that the Case Management Order doesn't jibe well with the current procedural posture of the case, and that all parties will benefit from at least some modification. But we have no guarantee that the Court will, even with all of our agreement, modify the Order: "the Court will not be guided by any agreements made between counsel to modify this Order". So we're in a bit of a hope-for-the-best-but-expect-the-worst position here.

Your notes from our call are correct: if the Court relieves the pressure from my deadlines (plural, not just the expert witness disclosure), we can extend the discovery response deadlines... but that's still an enormous "if". So *if* the Court agrees to a modification of the Scheduling Order, I'll be able to be more flexible about discovery, but as long as I'm up against the clock, I simply can't afford unilateral concessions.

Of course this would be easier under the Federal Rules, which don't start discovery until after 12(b) motions are cleared. But this Court clearly expects us to work within the Maryland Rules, and under the Maryland Rules the discovery requests are not early, and the deadlines are very unforgiving.

So from the position of the joint motion, it's important to keep the scheduling order and discovery separate.

I'll say again, I'm happy to work with you to relieve the burden somewhat for those items that are considerably more difficult or expensive to provide, but I deliberately crafted the majority of the admissions and a fair bit of the documents to enable them to be collected in an afternoon. And I'm sure you will agree it would be more than a bit daft of me to agree to give up anything without getting something in return.

Email is definitely the best way to reach me over the next 48 hours. I'll keep an extra sharp eye out for the next draft of the joint motion.

Regards,
Matt

On 15/08/2024 11:38, Gamble, Geoffrey M. wrote:

Good morning, Matt:

Thanks for getting back to us. It may be productive to have a brief call to discuss your revisions, rather than going back and forth by e-mail. If your schedule permits, please let me know a few times today that work best for you.

We appreciate you working with us on a proposed modification of the scheduling order, which is generally unworkable given its issuance during the pendency of multiple motions to dismiss. However, your revisions to the joint motion contemplate no extension of our discovery responses. I had understood from our conversation last week that, if the Court relieved the pressure from your deadline to disclose experts (the driver for the early discovery requests), then we could extend our discovery response deadlines. Perhaps I misunderstood, but that is what my notes reflect.

In any event, hopefully we can clear this up by phone.

Thanks,

Geoff

Geoffrey M. Gamble
Partner
SAUL EWING LLP | Baltimore
Office: (410) 332-8848 Cell: (443) 995-6957

-----Original Message-----

From: postmaster@moreilly.com <postmaster@moreilly.com>
Sent: Thursday, August 15, 2024 11:15 AM
To: Gamble, Geoffrey M. <geoff.gamble@saul.com>; Chammas, Nicole <nicole.chammas@saul.com>
Cc: maryland.tylerhost.net@moreilly.com
Subject: Re: O'Reilly v. Waste Management, et al.; Case No.: C-02-CV-24-000546

Good morning! As promised, here are my proposed revisions for the Joint Motion. This is only a return draft, and I will of course need to give additional, specific approval after seeing any final document before it is submitted. My proposed modifications are fully contextual and should not be considered partial or full acquiescence to any other fact or proposed wording, or even to themselves separately.

The major change is the removal of references to the discovery timeline - we are simply not going to come to an agreement on a blanket discovery moratorium. That said, I don't want to make your clients spend money unnecessarily, so if you want to identify some items on the admissions or document production lists that are especially cumbersome, expensive, or would require unusually long lead times to produce, I'd be willing to work with you to extend the deadline on those particular things.

I look forward to the next revision for review.

Regards,
Matt

On 13/08/2024 16:54, Gamble, Geoffrey M. wrote:

Hi Matt:

I hope all is well.

I have been in meetings the past two days, but am getting caught up on e-mails and wanted to follow up on the draft joint motion to modify the scheduling order that I sent over last week. I recognize you are in a busy spell and do not want to rush you, but I would like to file the motion sooner rather than later if we can agree on the form, given the approaching deadline to respond to the discovery requests.

Please let us know if you have any questions or comments on the draft motion, or would otherwise like to discuss.

Thanks,

Geoff

Geoffrey M. Gamble
Partner
SAUL EWING LLP | Baltimore
Office: (410) 332-8848 Cell: (443) 995-6957 -----Original
Message-----
From: postmaster@moreilly.com <postmaster@moreilly.com>
Sent: Monday, August 12, 2024 1:26 PM
To: Chammas, Nicole <nicole.chammas@saul.com>
Cc: maryland.tylerhost.net@moreilly.com; Gamble, Geoffrey M.
<geoff.gamble@saul.com>
Subject: Re: O'Reilly v. Waste Management, et al.; Case No.:
C-02-CV-24-000546

Good afternoon, Nicole - your timing is impeccable. I am only after submitting my response to the motion to stay discovery within the last two minutes.

Because I have been working on my response for the last few days to get it done by today as requested, I have not yet had a moment to look over the proposed changes to the scheduling order. I have a few obligations to attend to over the next couple of hours, but will peruse it in full this evening and provide my feedback and questions as soon as possible.

Thanks for following up. I'll be in touch soon.

Cheers,
Matt

On 12/08/2024 12:47, Chammas, Nicole wrote:

Good afternoon, Mr. O'Reilly,

I hope you had a good weekend. We are writing to follow up on the draft joint motion to modify the scheduling order we circulated last week (reattached), and whether you approve of the draft or have any questions or comments.

Thank you,

Ni col e

Ni cole Chammas
Associate
SAUL EWING LLP | Washington
Office: (202) 295-6613

-----Original Message-----

From: postmaster@moreilly.com <postmaster@moreilly.com>
Sent: Friday, August 9, 2024 12:33 PM
To: Gamble, Geoffrey M. <geoff.gamble@saul.com>
Cc: Chammas, Nicole <nicole.chammas@saul.com>;
maryland.tylerhost.net@moreilly.com
Subject: Re: O'Reilly v. Waste Management, et al.; Case No.:
C-02-CV-24-000546

Thanks for sending it on.

I'm in a class for the next few hours, but will read it through as soon as it's done.

I know you're aware already, but for the sake of saying it out loud: I am not consenting to anything wrt modifying the scheduling order yet. I'll email you with questions or comments as soon as I am able.

Appreciate it, as always.

Cheers,
Matt

On 09/08/2024 11:15, Gamble, Geoffrey M. wrote:

Good morning, Matt:

I am attaching for your comment a draft joint motion to modify the scheduling order. Three notes on the motion. First, I included a request to extend all scheduling order deadlines by 90 days on the theory that we should be able to secure a decision on the motions to dismiss within that 90-day period. Second, I tied the deadline for the defendants to respond to your pending discovery requests to our filing of our answers. Third, I have sent this to my client and am awaiting comments, so we may have a few minor edits to this draft. In the interest of time, I wanted to get it to you now.

Thanks,

Geoff

*Geoffrey M. Gamble*****

Partner

SAUL EWING LLP

|

Baltimore

*Office: *

(410) 332-8848 <tel:(410)%20332-8848>

* Cell: *

(443) 995-6957

*From: * postmaster@moreilly.com <postmaster@moreilly.com>
*Sent: * Wednesday, August 7, 2024 4:02 PM
*To: * Gamble, Geoffrey M. <geoff.gamble@saul.com>
*Cc: * Chammas, Nicole <nicole.chammas@saul.com>;
maryland.tylerhost.net@moreilly.com
*Subject: * RE: O'Reilly v. Waste Management, et al.; Case No.:
C-02-CV-24-000546

Hi, Geoff - sorry for the delay in responding, and thanks for the update.

Glad to hear about the stipulation, and I'll ensure that my response is filed on the 13th at the latest.

I'll keep an eye out for the proposed joint motion.

Cheers,
Matt

On August 7, 2024 3:43:40 PM UTC, "Gamble, Geoffrey M." <geoff.gamble@saul.com>
<<mailto:geoff.gamble@saul.com>>> wrote:

Matt:

We spoke with the Court this morning and they expressed the view that, given our agreement on the response deadline, the Court does not require a submission from the parties. As such, we will not plan on filing the stipulation given our agreement on an August 13 response deadline.

In addition, all defendants have now agreed to join in a motion to modify the scheduling order. We will prepare a joint motion for your consideration.

Thanks,

Geoff

Geoffrey M. Gamble
Partner
SAUL EWING LLP | Baltimore
Office: (410) 332-8848 Cell: (443) 995-6957

-----Original Message-----
From: Gamble, Geoffrey M.

Sent: Wednesday, August 7, 2024 9:11 AM
[To: postmaster@moreilly.com](mailto:postmaster@moreilly.com) <<mailto:postmaster@moreilly.com>>
[Cc: Chammas, Nicole](mailto:nicole.chammas@saul.com) <<mailto:nicole.chammas@saul.com>>;
maryland.tylerhost.net@moreilly.com <<mailto:maryland.tylerhost.net@moreilly.com>>
Subject: RE: O'Reilly v. Waste Management, et al.; Case No.:
C-02-CV-24-000546

Matt:

Attached please find a draft stipulation setting August 13 as the time for your response to our motion for protective order. I believe that a stipulation is the appropriate form for this type of filing (it is in most of the courts where I practice), but Nicole will call the court to confirm that they do not require a joint motion in lieu of a stipulation. Our agreement to the deadline by e-mail is sufficient for our purposes, but I do like to keep the Court informed of such agreements.

Thanks, and let us know if you have any comments on the stipulation.

Geoff

Geoffrey M. Gamble
Partner
SAUL EWING LLP | Baltimore
Office: (410) 332-8848 Cell: (443) 995-6957

-----Original Message-----

[From: postmaster@moreilly.com](mailto:postmaster@moreilly.com) <<mailto:postmaster@moreilly.com>>
<postmaster@moreilly.com> <<mailto:postmaster@moreilly.com>>
Sent: Tuesday, August 6, 2024 10:00 AM
[To: Gamble, Geoffrey M.](mailto:geoff.gamble@saul.com) <<mailto:geoff.gamble@saul.com>>
[Cc: Chammas, Nicole](mailto:nicole.chammas@saul.com) <<mailto:nicole.chammas@saul.com>>;
maryland.tylerhost.net@moreilly.com <<mailto:maryland.tylerhost.net@moreilly.com>>
Subject: Re: O'Reilly v. Waste Management, et al.; Case No.:
C-02-CV-24-000546

That sounds grand. I appreciate your flexibility as well.

Cheers,
Matt

On 06/08/2024 09:07, Gamble, Geoffrey M. wrote:

Matt:

Thanks for accommodating. We can agree to a response date of August 13. I think it may be best to memorialize that agreement in a stipulation filed with the Court given our prior filing of a motion to shorten time. We will prepare a draft for your review.

On a somewhat related note, I am making progress regarding a joint request to extend the scheduling order deadlines in an effort to resolve the discovery issue by agreement.

Thank you,

Geoff

Geoffrey M. Gamble
Partner
SAUL EWING LLP | Baltimore
Office: (410) 332-8848 Cell: (443) 995-6957

-----Original Message-----

From: postmaster@moreilly.com <<mailto:postmaster@moreilly.com>>
<postmaster@moreilly.com <<mailto:postmaster@moreilly.com>>>
Sent: Monday, August 5, 2024 9:16 PM
To: Gamble, Geoffrey M. <geoff.gamble@saul.com>
<<mailto:geoff.gamble@saul.com>>
Cc: Chammas, Nicole <nicole.chammas@saul.com>
<<mailto:nicole.chammas@saul.com>>>; maryland.tylerhost.net@moreilly.com
<<mailto:maryland.tylerhost.net@moreilly.com>>
Subject: Re: O'Reilly v. Waste Management, et al.; Case
No.: C-02-CV-24-000546

****EXTERNAL EMAIL**** - This message originates from outside our Firm. Please consider carefully before responding or clicking links/attachments.

Doing my best to save you and the court some time and money here. This is unfortunately just generally a rough week and weekend, time-wise.

I can commit to having my response ready by the 13th, if that works for you. Additionally, I will do my very best to provide the response by the 12th.

I can make time to be available between 11 and 2 tomorrow, but hopefully that won't be necessary.

Thanks again for making the effort. It is appreciated.

Cheers,
Matt

On 05/08/2024 19:11, Gamble, Geoffrey M. wrote:

Matt:

As you may have seen, the Court denied our motion to shorten time because the e-mail exchange I attached to the motion did not include our agreement on a time to call the Court on Friday. As a result, we are going to re-file our motion to shorten time in the morning, unless you would be willing to agree to set a response deadline of August 9 or August 12. The current deadline is August 17, so we are only asking to shorten the time by a few days.

If you are unable to agree to a shortened response time, then please

Let me know what time you are available tomorrow to call the Court to walk our motion through.

Thank you,

Geoff

*Geoffrey M. Gamble*****

Partner

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<tel:(410)%20332-8848>>

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<<https://www.saul.com/professionals/geoffrey-m-gamble>>>*

*>> *

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21202-4359

"Saul Ewing LLP (saul.com)" has made the following annotations:

+-----+

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