

STATE OF VERMONT

SUPERIOR COURT
Orange Unit

CIVIL DIVISION
Docket No. 23-CV-02848

JOHN DURKEE, EXECUTOR OF)
THE ESTATE OF KENNETH H.)
BLAISDELL, JR.,)
Plaintiff,)
v.)
TRINI BRASSARD, COURTNEY)
BRASSARD, BRIAN FALZO, DANIEL)
BRASSARD, AND BRASSARD)
SUGARWORKS AND MAPLE)
SUPPLY, LLC,)
Defendants.)

**PLAINTIFF’S REPLY TO
DEFENDANT COURTNEY BRASSARD’S OPPOSITION TO
PLAINTIFF’S MOTION FOR SANCTIONS**

Defendant Courtney Brassard (“Defendant”) argues that Plaintiff John Durkee, Executor of the Estate of Kenneth H. Blaisdell, Jr.’s (“Movant”), *Motion for Sanctions* should be denied because: (1) Defendant was not asked to provide copies of check or deposit slips; (2) Defendant’s redactions were not objected to therefore are appropriate; and (3) the Parties have not conferred on these discovery disputes. Defendant’s basis for her opposition is fatally flawed. Plaintiff will be severely prejudiced if Defendant is permitted to continue in this action while failing to comply with her discovery obligations and the court order related to the same.

Legal Analysis

A motion for sanctions pursuant to Rule 37(b) and 37(f) may be granted at the discretion of the trial court when a party fails to obey an order to provide or permit discovery. V.R.C.P. 37(b)(2). “In relevant part, Rule 37(b)(2) states that if a party fails to obey a court order to provide or permit discovery, ‘the court in which the action is pending may make such orders in

regard to the failure as are just.” *State v. Howe Cleaners, Inc.*, 188 Vt. 303, 313 (2010), quoting V.R.C.P. 37(b)(2). The Court ordered the Defendant to produce all records that are responsive to Plaintiff’s discovery requests on April 30, 2025. Defendant has failed to comply with this order. This failure on its own is considered sufficient prejudice under Vermont law. *SynEcology Partners, LLC v. Business RunTime, Inc.*, 201 Vt. 424, 434 (2016). “Imposition of sanctions under this rule ‘is necessarily a matter of judicial discretion’ that is ‘not subject to appellate review unless it is clearly shown that such discretion has been abused or withheld.” *State v. Howe*, at 313, citing *John v. Med. Ctr. Hosp. of Vt., Inc.*, 136 Vt. 517, 519 (1978).

Defendant opposes Plaintiff’s motion for sanctions, claiming (1) Defendant was not asked to provide deposit slips, deposited checks, or other deposit transactional documentation; (2) Defendant’s redactions are admissible since Plaintiff did not specifically object to these; and, (3) the Parties have not conferred. Plaintiff argues that these statements are not factually correct. Further, Defendant’s behavior during discovery to delay, limit communications, and generally act in bad faith has severely prejudiced Plaintiff.

1. Defendant was asked to provide relevant documents related to deposits, and was ordered to do so in the April 30, 2025 Order.

Defendant was asked by Plaintiff through written discovery requests to provide all relevant documents, including deposit slips and other deposit documentation. This production was due on October 29, 2023. A year and a half later, Defendant was ordered to provide all relevant documents by May 30, 2025. Plaintiff is still awaiting this production.

The Vermont Supreme Court has held that a trial court may impose a default judgment as a discovery sanction when there is evidence of a violation of the duty to supplement discovery responses or other discovery abuses. *Trevor v. Icon Legacy Custom Modular Homes, LLC*, 210 Vt. 614 (2019). Plaintiff is still without a complete production set from this Defendant. The

case is trial-ready. Plaintiff will be prejudiced if this Defendant participates in mediation and defends herself and her business against the Estate's claims without fully complying with the April 30, 2025 discovery order.

2. Defendant was not entitled to redact these records.

The court ordered this Defendant to produce all responsive records by May 30, 2025, and this order included protections for Defendant to ensure her personal financial information was protected, therefore she is not entitled to any redactions. Defendant does not deny she produced redacted documents, but argues instead that since Plaintiff did not object specifically to this that she essentially does not have to follow the court order. This is false. As of the date of this filing she continues to be in contempt of that order.

3. Defendant contends a discovery conference is required.

Defendant finishes her opposition with the assertion that since the parties failed to confer she should not be penalized. Plaintiff will not belabor this point, but her contempt relates to a court order not a discovery request. The parties did attempt to confer, as professionals do, but Defendant's counsel was not available on the appointed time and day. Plaintiff should not be prejudiced with further delays, nor should Defendant be able to hide behind the veil of discovery conferences to further delay the inevitable.

Conclusion

The threshold question is whether or not this Defendant failed to comply with the court's April 30, 2025 order. There is no version of the facts as presented by Defendant that supports the argument that she complied with this order. Defendant has shown her contempt for the discovery process, the court's order, and Plaintiff's entitlement to discovery. The parties are now on the eve of trial, and Defendant's behavior will only persist without court intervention.

All of which will severely prejudice Plaintiff. Movant restates its request to dismiss the entire Counterclaim with prejudice.

DATED at Woodstock, Vermont, this 28th day of October, 2025.

PRIMMER PIPER EGGLESTON & CRAMER PC

By: /s/ Elizabeth A. Willhite
Richard J. Windish, Esq.
Elizabeth A. Willhite, Esq.
43 Lincoln Corners Way, Suite 205
Woodstock, Vermont 05091
rwindish@primmer.com | 802-457-8128
ewillhite@primmer.com | 802-371-5202
*Attorneys for John Durkee, Executor of the Estate
of Kenneth H. Blaisdell, Jr.*