

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 RULE 37 MOTION TO COMPEL  
DEFENDANTS COURTNEY BRASSARD, and  
DANIEL BRASSARD’S  
RESPONSES TO DISCOVERY MADE PURSUANT TO RULE 26**

NOW COMES Plaintiff John Durkee, Executor of the ESTATE OF KENNETH H. BLAISDELL, JR., (“Estate”), by and through counsel PRIMMER PIPER EGGLESTON & CRAMER PC, and pursuant to V.R.C.P. 37, hereby MOVES this Honorable Court to COMPEL Defendants Courtney Brassard and Daniel Brassard to respond to discovery requests. In support of this motion, Plaintiff submits the within Memorandum of Law, and further hereby states as follows.

**Introduction**

This action was filed on June 30, 2023, and arises out of Plaintiff’s claims that Defendants owe the Estate of Kenneth H. Blaisdell, Jr. monetary damages for fraudulent transactions initiated by Defendant Trini Brassard between July 18, 2013 and April 21, 2021, while she was serving as an agent under a Durable Power of Attorney for Decedent Kenneth H.

Blaisdell, Jr. (“Decedent”). These claims also pertain to the improper use of Estate funds and assets following the death of Decedent Kenneth H. Blaisdell, Jr., from April 21, 2021 to the present.

Plaintiff has sought formal discovery through interrogatories, request to produce, depositions (with *duces tecum* noticed). Defendants Courtney Brassard and Daniel Brassard have failed to respond to these discovery requests. Plaintiff now seeks the Court’s intervention to compel answers to all outstanding discovery requests.

### **Procedural Background**

On September 29, 2023, Plaintiff served Defendants Courtney Brassard and Dan Brassard with written discovery requests. See Plaintiff’s First Set of Interrogatories and Requests to Produce to Defendant Courtney Brassard, attached hereto as **Exhibit A**; and Plaintiff’s First Set of Interrogatories and Requests to Produce to Defendant Daniel Brassard, attached hereto as **Exhibit B**. To date, none of these Defendants have served Plaintiff with their responses; leaving all of these responses outstanding for more than 15 months.

Plaintiff has been more than generous with Defendants, granting extensions and discussing possible routes to settle these claims<sup>1</sup>. On February 8, 2024, Plaintiff emailed Defendants inquiring about these responses. See February 8, 2024 email from E. Willhite to Parties, attached hereto as **Exhibit C**. Plaintiff reached out to the parties again on March 25, 2024. See March 25, 2024 email from E. Willhite to Parties, attached hereto as **Exhibit D**. On April 3, 2024, having received nothing, the undersigned counsel emailed the parties again in an

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<sup>1</sup> The parties have attended multiple all-day mediation sessions with Mediator Greg Eaton in an effort to settle these claims prior to the initiation of this lawsuit, as part of the related probate action before the Orange Probate Division, *in re: Estate of Kenneth H. Blasidell, Jr.* Docket No.: 21-PR-04895.

effort to streamline the conversation, and provided a bullet point list of discovery items requested by Plaintiff. See April 3, 2024 email from E. Willhite to Parties, attached hereto as **Exhibit E.**

After months of delay, Plaintiff sent a formal Rule 26 letter to the Parties. See April 12, 2024 Letter from R. Windish to Parties, attached hereto as **Exhibit F.** Defendants did not respond to this letter.

Plaintiff persisted and emailed Defendants on May 10, 2024 to amend the discovery schedule and schedule depositions. See May 10, 2024 email from E. Willhite to Parties, attached hereto as **Exhibit G.**

Defendants have consistently claimed that the discovery sought by Plaintiff is duplicative and includes items Plaintiff already has in its possession. For clarity, Plaintiff voluntarily produced the documents in its possession. Plaintiff made this production on April 12, 2024. This production included 377 documents totaling more 3,911 pages, all of which support Plaintiff's claims that Defendant Trini Brassard used her authority as agent to transfer property, equipment, income, and other monies to either herself or the other Defendants. Plaintiff seeks discovery into banking accounts, tax returns, and other personal financial records for all Defendants, which it does not have. Plaintiff will be filing a separate motion related to Defendant Trini Brassard's responses which are incomplete.

With respect to Defendants Courtney Brassard and Daniel Brassard the discovery requested is relevant, as these records will track the funds that were taken; the farm income that was diverted; the equipment sales that were converted; and/or the gravel and sand income that was diverted from the Estate. Plaintiff is entitled to this information.

Initially, Plaintiff sought to avoid the need for a motion to compel seeking costs and attorneys fees, and sought court intervention in the form of a status conference. *Plaintiff's*

*Motion for Status Conference*, filed June 27, 2024. Defendant Trini Brassard responded to this request via motion on July 11, 2024. The bulk of this objection related to Plaintiff's prayer for relief, which included the usual phrase "*and further requests all such other relief as this Court deems just and appropriate, including but not limited to costs and attorneys' fees.*" The only other objection from Defendant Trini Brassard in that motion was the "characterization of communications," and not the actual substance of the underlying issue. The other two defendants never responded to this motion. On July 11, 2024, the court scheduled a discovery conference for September 16, 2024.

Plaintiff once again attempted to resolve these discovery issues prior to the September hearing, and was able to get the defendants to agree on an extension of the discovery schedule. An amended discovery schedule was filed September 3, 2024. Plaintiff withdrew the motion for status conference and updated the court on the remaining discovery issues on September 16, 2024. Unfortunately, Plaintiff's counsel was unable to attend the hearing on September 16, 2024, due to personal illness. However, as indicated in that motion, defendants had agreed to provide discovery responses to Plaintiff within thirty-days, and as such, Plaintiff believed it was able to move forward without court intervention. Defendant Trini Brassard did not respond to written requests for discovery until December 31, 2024. Defendants Courtney Brassard and Daniel Brassard have not provided responses, and remain delinquent as of this filing.

Therefore, Plaintiff is seeking the court's intervention to compel Defendants to respond. Plaintiff is prejudiced by further delays.

### **Memorandum of Law**

Under both Vermont statutory and common law, a party is entitled to discovery through any means outlined in the Rules on any subject that "is relevant to any party's claim." V.R.C.P.

26(b)(1). Further, a party is entitled to a discovery conference after meeting the threshold professional courtesies. V.R.C.P. 26(h).

Specifically, parties are entitled to obtain discovery “regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” V.R.C.P. 26(b)(1). In this instance, the discovery requests are for records which pertain to the claims in that it is believed that they will show how Defendant Trini Brassard conveyed funds, land, farm income, equipment, and other assets belonging to the Decedent or Estate to the Defendants. Plaintiff does not have these records, nor does it have access to these records, since they are not Estate assets or former assets of the Decedent.

***A. Discovery Requests for Financial Accounts***

Plaintiff seeks information about the personal banking accounts belonging to these Defendants. This request is limited by time, and only requests banking or financial statements of personal and business accounts from July 18, 2013 to the present. This request includes copies of deposited checks, because it is believed that Defendant Trini Brassard collected payments with the assistance of Defendant Daniel Brassard and possibly Defendant Courtney Brassard to divert funds owed to the Decedent and deposited these funds into accounts belonging to her or the other defendants.

***B. Discovery Request related to Real Estate Transactions***

Plaintiff has requested information about all real estate transactions made by these defendants from July 18, 2013 to present. This is limited in time, but includes property that is

owned by Defendants, not the Decedent/Estate. Plaintiff believes Defendant Trini Brassard used the Decedent's funds to purchase property for herself. Plaintiff has produced evidence already of this fraudulent conveyance. *See*, Affidavit of John Durkee Exhibit G, filed June 30, 2023. Upon information and belief, Defendant Daniel Brassard obtained financing for a storage business using real estate owned by the Decedent. Upon information and belief, Defendant Courtney Brassard obtained real estate legally owned by the Decedent through unauthorized transactions and then sold these assets or collected income from these assets. Plaintiff is entitled to all records related to the Defendants' purchase of real estate during the relevant time.

***C. Discovery Requests for Conversion of Farm Income***

Plaintiff has asked for a list of farm customers, and copies of various farm operation documents (invoices, customer checks, and customer communications). Defendants claim that these documents are already in Plaintiff's possession. However, Plaintiff is missing many categories including, but not limited to, invoicing for hay, customer checks for hay, and customer communications. Plaintiff believes that the Defendants sold the Decedent/Estate's hay and kept the income from these sales. One of the Decedent/Estate's largest hay customers was Eustis Cable. This customer consistently bought hay from the Decedent every year, however in 2021 following the death of Decedent, Eustis Cable hay income drops off substantially while other customers hay purchases are nonexistent. Plaintiff believes that income was received and retained by one or more of the Defendants. Therefore, Plaintiff has requested information and records related to farm operations. Plaintiff intends to issue third-party subpoenas if Defendants delay any further, but believes it is inappropriate for the Estate to bear these costs given that Defendants have that information readily available to them.

Further, it has been established that Defendant Courtney Brassard and Brian Falzo received a parcel of land from the Decedent without any consideration in a transaction that Defendant Trini Brassard engineered while serving as the Decedent's agent under his POA. This parcel of land includes a gravel pit, which generates annual income. Plaintiff has requested records of all gravel sales, since the parcel and its gravel continue to belong to the Estate notwithstanding the defendants contention that the current title is valid. Plaintiff has records from W.B. Rogers, the operator of the pit, but believes these defendants have sold gravel/sand to unknown third-parties as well. Plaintiff is entitled to these records.

***D. Discovery Requests for Transfer of Equipment and Personal Property***

Defendant Courtney Brassard received a \$48,000 piece of personal property through another transaction engineered by Defendant Trini Brassard. These facts have already been established, and show that Defendants used the Decedent's funds to purchase a mobile home trailer which they then titled to both the Decedent and Defendant Courtney Brassard. Upon the death of the Decedent, title passed to Defendant Courtney Brassard, and she sold this mobile home for a profit. Plaintiff has requested all records that relate to the use, upkeep, maintenance, and sale of this item.

***E. Discovery Requests for Tax and Income Records***

Due to the nature of Defendants' actions during the time period that Defendant Trini Brassard served as Agent for the Decedent, it is imperative that Plaintiff be able to track all sources of income received by each Defendant during this same time period. As such, Plaintiff has asked for tax returns from all Defendants, including all supporting documents that relate to each annual return. Plaintiff is entitled to these documents, as they directly relate to how the Defendants were able to make certain purchases during the relevant time.

WHEREFORE, for all the foregoing reasons, and pursuant to V.R.C.P. 26 Plaintiff hereby respectfully MOVES this Honorable Court for the following relief:

- A. COMPEL Defendants Courtney Brassard and Daniel Brassard to respond to the discovery requests;
- B. AWARD Plaintiff all costs and attorneys' fees associated with this motion per Rule 37(a)(4), and
- C. ALL such other relief as this Court deems just and appropriate.

DATED at Woodstock, Vermont, this 14<sup>th</sup> day of February, 2025.

PRIMMER PIPER EGGLESTON & CRAMER PC

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