

arbitration by initiating this lawsuit and also by its delay in invoking the arbitration clause. Therefore, this Court finds Defendant's argument well taken and that dismissal of Defendant's counterclaim is not proper.

The Court now addresses the Defendant's Motion to Compel Discovery Responses Pursuant to Civil Rule 37. First, Plaintiff objects to Defendant's Request for Production Number 13 as irrelevant, not likely to lead to the discovery of relevant evidence, and because Defendant seeks information that is overly burdensome to produce. Plaintiff avers that this Request is overly burdensome as the Appraisers' Board considers all investigative materials strictly confidential pursuant to O.R.C. §4763.03, and will only release such records upon a court order. This Court agrees that the production of this information by Plaintiff would be overly burdensome, if not impossible. Defendant's Motion to Compel Discovery regarding Request for Production Number 13 is therefore DENIED.

Next, Plaintiff objects to Defendant's Request for Production Numbers 19 and 33 as irrelevant, and not reasonably calculated to lead to discoverable evidence. This Court finds that these Requests are relevant to Defendant's employment discrimination claim against Plaintiff and therefore GRANTS Defendant's Motion to Compel Discovery regarding Request for Production Numbers 19 and 33.

Plaintiff next objects to Defendant's Request for Production Number 23. Plaintiff avers that this Request is overly burdensome on Plaintiff as the Appraisers' Board considers all investigative materials strictly confidential pursuant to O.R.C. §4763.03, and will only release such records upon a court order. This Court agrees that the production of this information by Plaintiff would be overly burdensome, if not impossible. Defendant's Motion to Compel Discovery regarding Request for Production Number 23 is therefore DENIED.

Plaintiff next objects to Defendant's Request for Production Number 24 as irrelevant, not reasonably calculated to lead to discoverable evidence, and overly burdensome to produce. The Court

finds that the information requested by Defendant in this Request is relevant to his claim of damages and therefore GRANTS Defendant's Motion to Compel Discovery regarding Request for Production Number 24.

Subsequently, Plaintiff objects to Defendant's Requests for Production Numbers 27 and 28 as irrelevant, not reasonably calculated to lead to discoverable evidence, and overly burdensome to produce. Defendant avers that the information requested is relevant in order to establish a defense to Plaintiff's claim of damages to its reputation. This Court agrees with Defendant that the information requested is relevant to his defense of Plaintiff's claim of damages to its reputation. However, given that Plaintiff has since dismissed all of its claims against Defendant, this Court does not find this information relevant to Defendant's counterclaims. Therefore, this Court DENIES Defendant's Motion to Compel Discovery regarding Requests for Production Numbers 27 and 28.

Plaintiff next objects to Defendant's Request for Production of Documents Number 29 as irrelevant, not likely to lead to relevant materials, and unduly burdensome. The Court acknowledges that the requested information could be somewhat relevant to Defendant in regards to claims of damages by Plaintiff. However, as Plaintiff has since dismissed all of its claims against Defendant, the Court does not find this information relevant to Defendant's counterclaims. Therefore, the Court DENIES Defendant's Motion to Compel Discovery regarding Requests for Production Number 29.

Next, Plaintiff objects to Defendant's Request for Production of Documents Number 32 as irrelevant, not likely to lead to relevant materials, and unduly burdensome. Defendant avers that with the requested information, he can refute Plaintiff's argument that Defendant would have made more money under the alternate payment arrangement imposed upon him by Plaintiff. This Court finds that the information in this Request is relevant to Defendant and likely to lead to admissible evidence. Therefore, Defendant's Request for Production Number 32 is GRANTED.

Plaintiff subsequently objects to Defendant's Request for Production Number 34 as irrelevant, not likely to lead to discoverable evidence, and overly burdensome. Defendant counters that the information requested in this Request is relevant to his breach of contract claim in which he asserts that he was not paid for work that he did. This Court finds that the information requested in this Request is relevant and likely to lead to admissible evidence, and cannot see how it would be overly burdensome upon Plaintiff to produce. Therefore, Defendant's Request for production Number 34 is GRANTED.

Next, Plaintiff objects to Defendant's Request for Production of Documents Number 35 as irrelevant, not likely to lead to admissible evidence, and overly burdensome to produce. Defendant claims that the information is relevant to refute Plaintiff's claim of damages resulting from Defendant's letter to the Appraiser's Board which alleged that Plaintiff and its employees engaged in "blatant disregard for the rules, regulations, and laws from the multiple governing bodies and enforcement agencies of the appraisal field." This Court agrees with Defendant that this information is relevant for those purposes. However, Plaintiff has since dismissed all of its claims against Defendant and this Court does not find this information relevant to Defendant's counterclaims. Therefore, the Court DENIES Defendant's Request for Production of Documents Number 35.

Plaintiff next objects to Defendant's Request for Production of Documents Number 36 as irrelevant, not likely to lead to admissible evidence, overly burdensome to produce, and as confidential trade secret information. Defendant counters that client lists of Plaintiff show what clients were lost or gained while Defendant was employed by Plaintiff and therefore are relevant in establishing whether or not Plaintiff suffered damages to its reputation as a result of Defendant's representations to the Appraiser's Board. The Court agrees with Defendant in that the requested information is relevant for those purposes. However, as Plaintiff has since dismissed all of its claims against Defendant, the Court does not find this information relevant to Defendant's counterclaims. Therefore, the Court DENIES

Defendant's Request for Production of Documents Number 36.

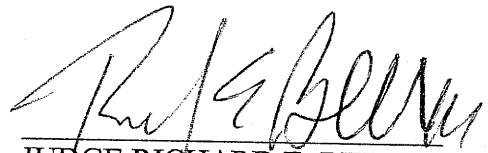
Plaintiff subsequently objects to Defendant's Interrogatories Numbers 26-30 as irrelevant and not reasonably calculated to lead to discoverable evidence. Defendant avers that it is entitled to full answers to these interrogatories. The Court agrees with Defendant as this information is relevant to Defendant's employment discrimination claim and therefore **OVERRULES** Plaintiff's objections to Defendant's Interrogatories Numbers 26-30.

Next, Plaintiff objects to Defendant's Requests for Admission Number 22 as irrelevant, not reasonably calculated to lead to discoverable information, and confusing in that the definition of the term "affiliate" is not readily ascertainable. Defendant avers that the word "affiliate" is a commonly used term with a commonly understood meaning. Defendant further avers that he merely wants Plaintiff to admit that Heartland Security Mortgage is associated with National City Mortgage Company, or works with National City Mortgage Company on a regular basis. The Court finds that the requested admissions are reasonably calculated to lead to discoverable information and therefore **OVERRULES** Plaintiff's objection to Defendant's Requests for Admission Number 22.

Lastly, Plaintiff objects to Defendant's Requests for Admission Numbers 37, 38 and 39 as being outside the scope of permissible requests as defined in Civ.R. 36. Plaintiff further avers that it "can hardly know the intent of the drafters of the referenced standards, and the standards speak for themselves." The Court agrees with Plaintiff and therefore **SUSTAINS** Plaintiff's objection to Defendant's Requests for Admission Numbers 37, 38, and 39.

Therefore, Plaintiff's Motion to Dismiss Defendant's Counterclaim is **DENIED**; Defendant's Motion to Compel Discovery Responses Pursuant to Civil Rule 37 is **GRANTED** in part and **DENIED** in part; Plaintiff is hereby **ORDERED** to fully and truthfully respond to Defendant's Interrogatories 26-30 and Requests for Admissions Number 22; further, Plaintiff is

ORDERED to produce and/or permit the inspection and copying by Defendant of certain documents in the possession, custody or control of Plaintiff as requested by Defendant in his Requests for Production of Documents Numbers 19, 24, 32, 33, 34. These responses and documents should be produced and received by counsel for Defendant within fourteen (14) days of the filing of this Entry. **Failure of Plaintiff to comply with this order will result in sanctions.** At that time, the Court will consider Defendant's motion regarding the assessment of attorney's fees for bringing this motion. This matter shall proceed accordingly.


JUDGE RICHARD E. BERENS

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