

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

LINCOLN OF TROY,

Plaintiff/Counter-Defendant,

Case No. 13-136774-CK
Hon. Wendy Potts

v

DAVID A. HYDE,

Defendant/Counter-Plaintiff.

OPINION AND ORDER RE: LINCOLN OF TROY'S MOTION TO COMPEL

At a session of Court
Held in Pontiac, Michigan

On
JUN 04 2014

The matter is before the Court on Plaintiff Lincoln of Troy's motion to compel responses to its written discovery and to compel Defendant David Hyde to produce for inspection his cell phone, home computer, and other electronic devices. The Court has discretion to compel discovery. *Cabrera v Ekema*, 265 Mich App 402, 406; 695 NW2d 78 (2005). "Michigan follows an open, broad discovery policy that permits liberal discovery of any matter, not privileged, that is relevant to the subject matter involved in the pending case." *Reed Dairy Farm v Consumers Power Co*, 227 Mich App 614, 616; 576 NW2d 709 (1998).

Lincoln served Hyde with discovery seeking information about a mass email Hyde sent announcing that he was leaving Lincoln. Hyde produced a copy of the email and a list of all the email addresses it was sent to. Lincoln now asks the Court to compel Hyde to produce the names and contact information for the persons associated with the email addresses and other customer information Hyde possesses. Lincoln also asks the Court to order Hyde to permit electronic

inspection of his cell phone, home computer, and AOL account where he claims he stored contact information for Lincoln's customers.

The Court agrees with Hyde that Lincoln's requests are overbroad, burdensome, and will likely result in discovery of information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. MCR 2.302(B)(1). Hyde's personal electronic devices and email account most likely contain a substantial amount of confidential information that has no relevance to this case. Allowing Lincoln unfettered access to this electronic information would be unjustifiably intrusive. Nonetheless, the Court agrees with Lincoln that it is entitled to additional information about the more than 700 recipients of Hyde's mass email. At a minimum, Lincoln should be allowed to determine whether Hyde has names and contact information for the email recipients and whether they are Lincoln's customers. Further, to the extent that any of those email addresses belong to Lincoln's customers, Lincoln is entitled to know what other information Hyde has about these customers.

Given this framework, the Court believes that the parties should be able to craft a method for Lincoln to conduct reasonable discovery about the customer information Hyde possesses and his use of that information in a manner that is not unduly burdensome or oppressive to Hyde. The Court orders the parties to confer and attempt to come to an agreement on the method and scope of the discovery. If the parties are unable to reach an agreement after good faith negotiations, Lincoln may repropose its motion or after June 18, 2014. If the motion is repropose, each side must file a supplemental brief with details of their attempts to reach an agreement and how they propose that the discovery be accomplished.

Dated:

JUN 04 2014

IT IS SO ORDERED.

Hon. Wendy Potts