

**IN THE COURT OF COMMON PLEAS
PROBATE DIVISION
CUYAHOGA COUNTY, OHIO**

ARTHUR P. DUECK, et al.,)	CASE NO.: 2012ADV179424
)	
Plaintiffs,)	JUDGE ANTHONY RUSSO
)	
v.)	
)	
THE CLIFTON CLUB COMPANY, et al.,)	RESPONSES TO THE CLIFTON CLUB COMPANY'S FIRST SET OF REQUEST FOR ADMISSIONS
)	
Defendants.)	PROPOUNDED UPON WILLIAM KELLER
)	

Pursuant to Rules 26 and 36 of the Ohio Rules of Civil Procedure, Plaintiff William Keller provides the following responses and objections to Defendant The Clifton Club Company's First Set of Requests For Admissions.

General Objections

The following General Objections are incorporated into each and every one of the below responses.

A. Plaintiff objects to these discovery requests to the extent they seek information that is subject to the Attorney/Client Privilege, that evidences or constitutes attorney Work Product, that evidences or constitutes material prepared in anticipation of litigation or for trial, or that is otherwise not discoverable under the Ohio Rules of Civil Procedure.

B. Plaintiff objects to these discovery requests to the extent that they attempt to impose obligations which are greater than the obligations set forth by the Ohio Rules of Civil Procedure and the Local Rules.

C. By answering any request or producing any information, Plaintiff does not hereby concede the relevance, materiality, or admissibility of the information sought or produced, and do not waive, but rather expressly reserve any and all objections to or with respect to the relevance, materiality, necessity, or admissibility of such information.

D. Rule 36(A) of the Ohio Rules of Civil Procedure permits a party to serve requests for admissions of the truth any matters within the scope of discovery that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the requests, and objection is made to the Clifton Club's pervasive attempt to broaden the scope of Rule 36(A) to include statements of historical fact the responses to which are ascertainable from public records which were not provided.

E. The sheer volume of repetitive and improperly-propounded discovery requests captioned here as "requests for admissions" is evidence of an intent to use the discovery process as a means to harass and subject this responding party to undue burden and expense which, if continued by the Clifton Club, will lead to the filing of a motion seeking sanctions including attorney fees for discovery abuse and frivolous litigation conduct. No effort on the part of this responding party to provide responses to the below discovery requests shall be evidence of this responding party's waiver of its right to seek relief from the Court if such subsequent motion practice becomes necessary.

REQUESTS FOR ADMISSIONS

1. Admit that the Clifton Club Company entered into a lease with the Clifton Park Land & Improvement Company on July 1, 1902.

ADMIT OR DENY:

Request For Admission No. 1 improperly seeks a response which is outside of the scope of Rule 36(A) of the Ohio Rules of Civil Procedure. Further responding, Plaintiff is unable to admit or deny Request For Admission No. 1, despite reasonable inquiry, because Plaintiff has no knowledge or information which would permit Plaintiff to take a position on whether the two identified entities intended to enter into any relationship, including on of a “lease”, on the date specified.

2. Admit that the document attached hereto as Exhibit A is a true and accurate copy of the Club Lease recorded for record at Volume 29, page 609, on January 13, 1903.

ADMIT OR DENY:

Denied in part. Further responding, the first five pages of the document attached as Exhibit A appear to be largely-illegible images of the described document. The final two pages are identified on their face as not being within the original contents of the described document.

3. Admit that the Club Lease was recorded with the Cuyahoga County Recorder’s Office (or its predecessor) on January 13, 1903.

ADMIT OR DENY:

Request For Admission No. 3 impermissibly seeks an admission of not a statement or opinion of fact or the application of law to facts and is objected to on that ground.

4. Admit that the Club Lease is a public record.

ADMIT OR DENY:

Admit.

5. Admit that the Clifton Park Land & Improvement Company had the right to enter into the Club Lease.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 5 on the grounds that it seeks an application of law to facts which cannot be ascertained by Plaintiff.

6. Admit that the Clifton Park Land & Improvement Company had the power to grant to the Clifton Club Company the right to use the land associated with the Lease as a social club.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 6 on the grounds that it does not define with sufficient particularity what it means when it refers to a “social club” in this context and, specifically, what rights or privileges would extend to members of said “social club”.

7. Admit that the Clifton Club Company is a social club.

ADMIT OR DENY:

Admitted in part that the Clifton Club Company was incorporated to operate as a social club and appears to operate as a social club currently.

8. Admit that since the date of the formation of the Clifton Club Company that the Clifton Club Company has admitted members.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 8, which seeks a response outside of the scope of Rule 36(A) and which is known solely by the propounding party.

9. Admit that there has never been a requirement of the Clifton Club Company that the members own land within the Clifton Park Allotment.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 9, which seeks an admission or denial of information known solely by the propounding party.

10. Admit that the Club Lease did not include any restrictions that would serve to prevent the Clifton Club Company from admitting members who are not also residents of the Clifton Park Allotment.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 10 on the grounds that the Club Lease attached to these discovery requests is illegible, may be incomplete, may not accurately record the entirety of the meeting of the minds which it purports to record, and may not include later understanding between the contracting parties.

11. Admit that the Club Lease extended to the Clifton Club Company the right to purchase land associated with the Club Lease.

ADMIT OR DENY:

Request For Admission No. 11 is objected to on the grounds that it seeks an admission or denial of matters outside the scope of Civil Rule 36(A). Further objecting, the Club Lease attached to these discovery requests is illegible. On the basis of those objections, this responding party can neither admit nor deny Request For Admission No. 11.

12. Admit that the Clifton Park Land & Improvement Company, as the Lessor, had the right to issue to the Clifton Club Company the right to purchase the property described within the Club Lease.

ADMIT OR DENY:

Request For Admission No. 12 is objected to on the grounds that it seeks an admission or denial of matters outside the scope of Civil Rule 36(A). Without waiving that objection, deny.

13. Admit that the Clifton Club Land & Improvement Company had the right to convey to the Clifton Club Company, via the Club Lease, the right to use the Beach.

ADMIT OR DENY:

Deny.

14. Admit that the Clifton Park Land & Improvement Company was, upon the execution and recording of the Club Lease, subject to the Clifton Club Company's right to purchase afforded under the Club Lease.

ADMIT OR DENY:

Request For Admission No. 14 is objected to on the grounds that it seeks an admission or denial of matters outside the scope of Civil Rule 36(A), including seeking a pure legal opinion and not the application of law to fact.

15. Admit that the Clifton Club Company had, from the period of July 1, 1902 through July 1, 1922, the right to purchase the property described in the Club Lease, which right included the right to use the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 15 on the grounds that the Club Lease attached to these discovery requests is illegible and Plaintiff lacks the ability to review all documents which may record or relate the rights which the Clifton Club Company may have had at that period of time.

16. Admit that the Beach contained within the Clifton Park Allotment is a common area in the Clifton Park Allotment.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 16 on the grounds that the term "common area" is not a defined term herein. Further responding, Plaintiff objects to, and denies, any attempt by the propounding party to characterize the Beach or access to the Beach as property to be used in common with any persons who are not subplot owners and beneficiaries under the subject Deed of Trust.

17. Admit that the Clifton Park Land & Improvement Company did not have power to convey to the Clifton Park Trustees any land in contravention to the obligation undertaken by the Clifton Park Land & Improvement Company in the Club Lease.

ADMIT OR DENY:

Despite reasonable inquiry, this responding party does not understand Request No. 17 and on that basis can neither admit or deny it.

18. Admit that the deed issued to the Clifton Park Trustees by the Clifton Park Land & Improvement Company is attached hereto as Exhibit B.

ADMIT OR DENY:

Admit.

19. Admit that the document attached hereto as Exhibit B was issued to the Clifton Park Trustees after the Club Lease was recorded.

ADMIT OR DENY:

Admit.

20. Admit that the parcel of real estate you own within the Clifton Park Allotment was first purchased from the Clifton Park Land & Improvement Company by its original purchaser after the Club Lease was recorded.

ADMIT OR DENY:

Admit.

21. Admit that the original purchaser of the parcel of real estate owned by you within the Clifton Park Allotment was on constructive notice that the Clifton Club Company was granted the right to operate within the Clifton Park Allotment as a social club.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 21 on the grounds that it is vague and ambiguous. Further responding, Request For Admission No. 21 is objected to on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A).

22. Admit that the original purchaser of the parcel of real estate owned by you within the Clifton Park Allotment had actual notice that the Clifton Club Company was granted the right to operate within the Clifton Park Allotment as a social club.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 22 on the grounds that it is vague and ambiguous. Further responding, Request For Admission No. 22 is objected to on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A).

23. Admit that the Clifton Club Company was granted through the Club Lease the right to use the Beach.

ADMIT OR DENY:

Deny that the Clifton Club Company or its members who are not also subplot owners have a right to use the Beach.

24. Admit that the original purchaser of the parcel of real estate owned by you within the Clifton Park Allotment was on constructive notice at the time he/she purchased said parcel that the Clifton Club Company operated as a social club.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 24 on the grounds that it is vague and ambiguous. Further responding, Request For Admission No. 24 is objected to on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the knowledge of parties long-dead and with whom the responding party has never communicated.

25. Admit that the original purchaser of the parcel of real estate owned by you within the Clifton Park Allotment was on constructive notice at the time he/she purchased said parcel that the Club Members used the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 25 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the knowledge of parties long-dead and with whom the responding party has never communicated.

26. Admit that the Clifton Club Company had the right contained within the Club Lease to purchase the property described in the Club Lease.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 26 on the grounds that the Club Lease attached to these discovery requests is illegible.

27. Admit that the Clifton Club Company's right to purchase the property associated with the Club Lease included the right to use the Beach.

ADMIT OR DENY:

Deny.

28. Admit that the original purchaser of the parcel of real estate owned by you within the Clifton Park Allotment consented to the Clifton Club Company's use of the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 28 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the voluntary actions of parties long-dead and with whom the responding party has never communicated.

29. Admit that the Clifton Club Company is a beneficiary of the Trust Deed.

ADMIT OR DENY:

Deny.

30. Admit that the beneficiary status of the Clifton Club Company under the Trust Deed extends to its members.

ADMIT OR DENY:

Deny.

31. Admit that the original purchaser of the parcel of real estate owned by you within the Clifton Park Allotment consented to the Club Members' use of the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 31 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the voluntary actions of parties long-dead and with whom the responding party has never communicated.

32. Admit that during the time that the original purchaser of the parcel of real estate now owned by you within the Clifton Park Allotment occupied said parcel, that the Clifton Club Company was operated as a social club.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 32 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the first-hand knowledge of parties long-dead and with whom the responding party has never communicated.

33. Admit that the original purchaser of the parcel of real estate owned by you within the Clifton Park Allotment had admitted members who did not also own land within the Clifton Park Allotment.

ADMIT OR DENY:

Request For Admission No. 33 appears to be mis-worded and does not make sense to such an extent that this responding party cannot respond other than to deny that this responding party has any reason to believe that the person(s) who originally occupied the dwelling the responding party now owns in the Clifton Park Allotment ever admitted any members.

34. Admit that members of the Clifton Club Company used the Beach prior to the date of March 26, 1912.

ADMIT OR DENY:

Deny on the basis that this responding party is aware of no evidence that any member of the Clifton Club Company used the Beach prior to March 26, 1912.

35. Admit that the original purchaser of the parcel of real estate now owned by you within the Clifton Park Allotment did not object to the Clifton Club Company or its members' use of the beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 35 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the voluntary actions of parties long-dead and with whom the responding party has never communicated.

36. Admit that the failure and/or refusal of the original purchaser of the parcel of real estate now owned by you within the Clifton Park Allotment to object to the Clifton Club Company and its members' use of the Beach constitutes legal consent.

ADMIT OR DENY:

Deny.

37. Admit that any consent to the use of the Beach by the Clifton Club Company and/or its members by the original purchaser of the parcel of real estate you now own within the Clifton Park Allotment runs with said parcel and extends to you as the current owner.

ADMIT OR DENY:

Deny.

38. Admit that all interim owners of the parcel of real estate owned by you within the Clifton Park Allotment were on constructive notice that the Clifton Club Company was granted the right to operate within the Clifton Park Allotment as a social club.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 38 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the constructive notice to unidentified persons over several decades and with whom the responding party has likely never communicated.

39. Admit that all persons who ever purchased a lot within the Clifton Park Allotment after January 13, 1903 were on constructive notice that the Clifton Club Company or its members used the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 39 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the constructive notice to unidentified persons over several decades and with whom the responding party has likely never communicated.

40. Admit that all persons who ever purchased a lot within the Clifton Park Allotment after January 13, 1903 had actual notice that the Clifton Club Company or its members used the Beach.

ADMIT OR DENY:

Request For Admission No. 40 is objected to on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the first-hand knowledge of dozens or hundreds of unidentified persons over several decades and with whom the responding party has likely never communicated.

41. Admit that all interim owners of the parcel of real estate now owned by you within the Clifton Park Allotment were on constructive notice that the Clifton Club Company operated as a social club.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 41 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the constructive notice to unidentified persons over several decades and with whom the responding party has likely never communicated.

42. Admit that all interim owners of the parcel of real estate now owned by you within the Clifton Park Allotment were on constructive notice at the time he/she purchased said parcel that the Club members used the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 42 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the constructive notice to unidentified persons over several decades and with whom the responding party has likely never communicated.

43. Admit that all interim owners of the parcel of real estate now owned by you within the Clifton Park Allotment consented to the Clifton Club Company's use of the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 43 on the grounds that it seeks an admission or denial outside the scope of Civil

Rule 36(A), including seeking an admission or denial of matters which go to the consent made by unidentified persons over several decades and with whom the responding party has likely never communicated.

44. Admit that all interim owners of the parcel of real estate now owned by you within the Clifton Park Allotment knew that the Clifton Club Company had admitted members who did not also own land within the Clifton Park Allotment.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 44 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the actual knowledge of unidentified persons over several decades and with whom the responding party has likely never communicated.

45. Admit that all persons who purchased a lot within the Clifton Park Allotment after January 13, 1903 were on constructive notice that the Clifton Club Company admitted members who did not own land within the Clifton Park Allotment.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 45 is objected to on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the constructive notice to unidentified persons over several decades and with whom the responding party has likely never communicated.

46. Admit that no interim owners of the parcel of real estate now owned by you within the Clifton Park Allotment ever objected to the Clifton Club Company or its members' use of the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 46 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), including seeking an admission or denial of matters which go to the acts or statements of unidentified persons over several decades and with whom the responding party has likely never communicated.

47. Admit that the failure and/or refusal of a lot owner within the Clifton Park Allotment to object to the Clifton Club Company or its members' use of the Beach, constitutes legal consent.

ADMIT OR DENY:

Deny.

48. Admit that any consent to use the Beach by the Clifton Club Company and/or its members by the original purchaser of the parcel of real estate or any owner within your chain of title runs with said parcel and extends to you as the current owner.

ADMIT OR DENY:

Deny.

49. Admit that the document attached hereto as Exhibit C is a true and accurate copy of the deed issued to the Clifton Club Company by the Clifton Park Land & Improvement Company and recorded in the Cuyahoga County Recorder's Office on July 9, 1912.

ADMIT OR DENY:

Admit.

50. Admit that the Clifton Club Company negotiated for the purchase of the land associated with the Club Deed.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 50 on the grounds that it is unclear what the propounding party means when it refers to "negotiated". Further responding, Request For Admission No. 50 is objected to on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), insofar as it seeks a pure legal opinion concerning the "negotiated" terms of the Club Deed.

51. Admit that the Clifton Club Company negotiated for the right to operate as a social club on the property associated with the Club Deed.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 51 on the grounds that it is unclear what the propounding party means when it refers to "negotiated". Further responding, Request For Admission No. 51 is objected to

on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), insofar as it seeks a pure legal opinion concerning the “negotiated” terms of the Club Deed.

52. Admit that the Clifton Club Company negotiated for the right to use common areas within the Clifton Park Allotment including the right to use the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 52 on the grounds that it is unclear what the propounding party means when it refers to “negotiated”. Further responding, Request For Admission No. 52 is objected to on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), insofar as it seeks a pure legal opinion concerning the “negotiated” terms of the Club Deed.

53. Admit that the Clifton Club Company paid fair value to purchase the land associated with the Club Deed.

ADMIT OR DENY:

Deny.

54. Admit that the deed granted to the Clifton Club Company authorized the Clifton Club Company to operate on said property as a social club.

ADMIT OR DENY:

Admit that the Club Deed authorizes the use of the land identified therein to be used for the purposes of private residence or social club.

55. Admit that the Clifton Club Company first operated as a social club prior to the date of March 27, 1912.

ADMIT OR DENY:

Admit.

56. Admit that the Clifton Club Company Members openly used the Beach prior to and after March 27, 1912.

ADMIT OR DENY:

Deny on the basis that this responding party is aware of no evidence that any member of the Clifton Club Company openly used the Beach prior to March 27, 1912.

57. Admit that the parcel of real estate now owned by you within the Clifton Park Allotment is obligated to pay assessments as assessed by the Clifton Park Trustees to be calculated as follows:

The cost of all ordinary care of the lands and buildings in the hands of the trustees, and their necessary expenses in carrying out their duties shall be divided among the several lot owners and collected from them by an annual assessment as follows: Each subplot, or part of subplot, in the allotment shall be charged with such proportion of the total annual expense as its value for taxation exclusive of buildings, is of the total tax value of all the sublots in said allotment, exclusive of buildings.

ADMIT OR DENY:

Admit.

58. Admit that the Clifton Club Company has, since the date you became an owner of the parcel of land owned by you within the Clifton Park Allotment, paid a greater assessment for the cost of all ordinary care of the lands and buildings in the hands of the Trustees and their necessary expenses in carrying out their duties than that authorized to be charged to the Clifton Club Company under the formula described in the Trust deed.

ADMIT OR DENY:

Deny.

59. Admit that you knew, prior to the date the instant lawsuit was filed, that the Clifton Club Company paid a greater share of the assessments associated with the common areas within the Clifton Park Allotment.

ADMIT OR DENY:

This responding party objects to the use of the term "common areas" without definition. Further responding, deny on the basis that this responding party does not believe that the Clifton Club Company pays any assessments.

60. Admit that the assessment leveraged against the Clifton Club Company by the Trustees caused the amount assessed against the parcel of real estate you own within the Clifton Park allotment to be reduced.

ADMIT OR DENY:

Deny on the basis that this responding party does not believe that the Clifton Club Company pays any assessments.

61. Admit that you accepted the benefit of a reduced assessment related to the use of the common areas by virtue of the greater assessment paid by the Clifton Club Company.

ADMIT OR DENY:

Deny on the basis that this responding party does not believe that the Clifton Club Company pays any assessments.

62. Admit that until the filing of the instant lawsuit, no person to ever have owned a parcel or parcels of real estate within the Clifton Park Allotment ever filed a lawsuit against the Clifton Club Company to challenge the right of the Clifton Club Company and/or its members to use the common areas associated with the land purchased by the Clifton Club Company.

ADMIT OR DENY:

Plaintiff objects to Request For Admission No. 62 on the grounds that the term “common areas” is not defined. Further responding, Plaintiff believes Request For Admission 62 is true.

63. Admit that the Clifton Club Company improved the land associated with the purchase of real estate from the Clifton Park Land & Improvement Company, in part, because its purchase included the right to use the Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 63 is objected to on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), insofar as it seeks Plaintiff’s admission or denial of matters known solely by the propounding party.

64. Admit that the Clifton Club Company purchased the real estate within the Clifton Park Allotment for the purpose of enabling its members to use the land and Beach.

ADMIT OR DENY:

Despite reasonable inquiry, Plaintiff is unable to admit or deny Request For Admission No. 64 on the grounds that it seeks an admission or denial outside the scope of Civil Rule 36(A), insofar as it seeks Plaintiff's admission or denial of matters known solely by the propounding party.

**REQUEST FOR ADMISSION NO. 65 OMITTED FROM DISCOVERY REQUESTS
PROPOUNDED**

66. Admit that the Clifton Club Company engaged in no conduct that would cause the statute of limitations to be tolled or extended.

ADMIT OR DENY:

Deny and further deny that any statute of limitations applies to any of the claims for relief pursued by Plaintiff in this matter.

67. Admit that the Clifton Park Land & Improvement Company is no longer in existence.

ADMIT OR DENY:

Admit.

68. Admit that the Clifton Park Land & Improvement Company is a necessary party to any action that seeks to challenge the power of the Clifton Park Land & Improvement Company to issue a deed to the Clifton Club Company.

ADMIT OR DENY:

Deny.

69. Admit that the Clifton Club Company will suffer damages if its members are not permitted to use the Beach.

ADMIT OR DENY:

Deny.

70. Admit that the Ohio Supreme Court in *Wallace v. Clifton Land Co.*, 92 Ohio St. 349 (1915) held that the Clifton Park Land & Improvement Company's restrictive covenants upon the sub lots was for a period of 50 years.

ADMIT OR DENY:

Request For Admission No. 70 seeks an impermissible response based on a pure legal analysis. Further responding, there is no holding from the cited opinion for the factual proposition suggested in Request For Admission No. 70.

As to Objections,
Ross M. Babbitt Co., LPA

/s/ Ross M. Babbitt
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Attorney for Plaintiffs Arthur P.
Dueck, Todd Gilmore, Nancy Binder,
and William R. Keller and for
putative plaintiffs Rhonda Loje and
Jeffrey Mansell

CERTIFICATE OF SERVICE

I certify that the foregoing Responses to the Clifton Club Company's First Set Of Requests For Admissions To William Keller was served by email this 20th day of December, 2013 on:

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1400 Midland Building
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Cleveland, Ohio 44115

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/s/ Ross M. Babbitt
One of the Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS
PROBATE DIVISION
CUYAHOGA COUNTY, OHIO**

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Plaintiffs,)	JUDGE ANTHONY RUSSO
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Defendants.)	KELLER
)	

Pursuant to Rules 26 and 33 of the Ohio Rules of Civil Procedure, Plaintiff William R. Keller provides the following responses and objections to Defendant The Clifton Club Company's First Set of Interrogatories.

General Objections

The following General Objections are incorporated into each and every one of the below responses.

A. Plaintiff objects to these discovery requests to the extent they seek information that is subject to the Attorney/Client Privilege, that evidences or constitutes attorney Work Product, that evidences or constitutes material prepared in anticipation of litigation or for trial, or that is otherwise not discoverable under the Ohio Rules of Civil Procedure.

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C. By answering any request or producing any information, Plaintiff does not hereby concede the relevance, materiality, or admissibility of the information sought or produced, and do not waive, but rather expressly reserve any and all objections to or with respect to the relevance, materiality, necessity, or admissibility of such information.

INTERROGATORIES

1. Please identify the person answering these interrogatories.

SPECIFIC OBJECTION:

Interrogatory No. 1 is calculated to invade the attorney-client relationship and does not seek the discovery of material relevant to any claim or defense at issue in this matter.

ANSWER:

Subject to the foregoing objection, no individuals will be identified in response to Interrogatory No. 1. Further responding, and as is the case with all discovery responses exchanged by represented parties in civil matters, responses to the discovery propounded by the Clifton Club in this matter were prepared in conjunction with counsel and with reference to the pleadings, related documents, and knowledge of the responding parties.

2. Is there any person who is currently a party to this action with whom you have had communications (oral or in writing) in relation to this action that you contend are attorney-client communications to which a privilege attaches?

SPECIFIC OBJECTION:

Interrogatory No. 2 is calculated to invade the attorney-client relationship and does not seek the discovery of material relevant to any claim or defense at issue in this matter.

ANSWER:

Subject to the foregoing objections, no response to Interrogatory No. 2 will be provided.

3. If the answer to the previous Interrogatory is in the affirmative, please identify each such party which you contend you have communicated with to which an attorney-client privilege attaches.

ANSWER:

n/a

4. Please state the name, address and phone number for each person you have discussed and/or complained about the subject of beach access, beach overcrowding, and/or the use of the beach by Clifton Club members and their guests.

SPECIFIC OBJECTION:

Interrogatory No. 4 seeks a response suited to a narrative reply at deposition.

ANSWER:

Over the last few years I have spoken with various neighbors concerning the crowding at the beach.

5. For each person identified in previous Interrogatory, please state the date of each discussion and the general subject matter of the discussion had.

ANSWER:

I don't remember the exact dates.

6. Please identify each person with whom you corresponded in writing, including e-mail, texts, instant messages and other social media, concerning issues surrounding the subject matter of the instant lawsuit, including access to the beach, beach overcrowding, and/or the use of the beach by Club Members.

SPECIFIC OBJECTION:

Interrogatory No. 6 seeks a response suited to a narrative reply at deposition.

ANSWER:

Pursuant to Civil Rule 33(C), Plaintiff will produce business records from which the response to Interrogatory No. 6 may be ascertained.

7. For each person identified in previous Interrogatory, please identify the date of such correspondence, the subject matter of each letter, e-mail, text or other posting via social media or website or, in lieu thereof, please produce a copy of each correspondence.

ANSWER:

Pursuant to Civil Rule 33(C), Plaintiff will produce business records from which the response to Interrogatory No. 7 may be ascertained.

8. Please identify the specific parcel of real estate you own within the Clifton Club Park Allotment together with the date that you purchased said parcel of real estate.

ANSWER:

There is no such thing as the Clifton Club Park Allotment. I own Parcel 311-07-019 in the Clifton Trust, which was purchased October 1976

9. Please identify any and all real estate agents, title agents, legal professionals, and/or other person involved in the marketing, sale, and/or purchase of your real estate.

ANSWER:

Gary and Jean Kumler.

10. Please state the date which you first became aware that Clifton Club members used the Beach.

ANSWER:

I am not sure what you mean by "used" the Beach, but some time in the 1980's, to the best of my recollection.

11. What is the first date upon which the parcel of real estate that you currently own was sold by the Clifton Park Land & Improvement Company to the original purchaser for value?

ANSWER:

The response to Interrogatory No. 11 may be ascertained by reference to public records.

12. Please identify any and all acts, omissions, and/or conduct of the Clifton Club Company, its officers and/or members of the Clifton Club Company that you believe to be unlawful and/or in violation of the rights afforded to the Clifton Club Company under the Club Deed.

ANSWER:

Subject to further response in deposition and in conjunction with the allegations made throughout this proceeding, Plaintiff maintains that: (1) members of the Clifton Club who are not also subplot owners are not entitled to the rights of Trust beneficiaries; (2) members of the Clifton Club who are not also subplot owners have no legal right to use Trust property, including the beach; and (3) any provisions of the Clifton Club Deed purporting to allow use of Trust property by members of the Clifton Club who are not also subplot owners is null and void.

13. Please identify the date which you first complained to the Trustees or the Clifton Club Company about the right of Club Members to access the Beach.

ANSWER:

During the Spring Trustees meeting at the Beach in 2012.

14. On which date did you first become aware of the existence of the Club Lease?

ANSWER:

During the Spring Trustees meeting at the Beach in 2012.

15. Does the term "household member" as contained in the deed issued by the Clifton Park Land and Development Company to the Trustees include the right of household members to invite guests to the beach? If the answer is in the affirmative, please describe on the basis with which you believe that right is derived.

SPECIFIC OBJECTION:

Interrogatory No. 15 is not reasonably calculated to lead to the discovery of admissible evidence and also seeks a response which is not relevant to any claim or defense at issue in this matter, which is a declaratory judgment action relating to the Plaintiffs' claims that Clifton Club members, among other things, do not have a right to use the beach. Interrogatory No. 15 further seeks a purely legal opinion not suitable for imposition as an interrogatory under Civil Rule 33.

ANSWER:

Based on the foregoing objection, no further response to Interrogatory No. 15 will be provided at this time.

16. State the name, address and telephone number of each person from whom you have obtained a statement (orally, in writing or otherwise recorded) related to the beach or any of the allegations, claims or damages asserted in the Complaint or defenses in the Answer, and for each such statement obtained state: a) the date the statement was made; and b) the substance of the statement.

ANSWER:

None.

17. Identify all individuals who have provided information for or otherwise updated the website <http://cliftonparkpreservation.com>.

ANSWER:

Authorship of content on that website is attributed on the site; further responding, Plaintiffs.

18. Identify all individuals who have provided information for or otherwise updated the website <http://cliftonbeach.com>.

ANSWER:

Plaintiff objects to this Interrogatory on the grounds that it is not relevant to this litigation and is interposed purely for harassment. Without waiving that objection, authorship of content on that website is attributed on the site.

19. Identify all club members you know who are not also sub lot owners.

ANSWER:

I do not know Club members who are not also sub-lot owners.

20. Identify any and all fact witnesses who you intend to call at any trial of this case.

SPECIFIC OBJECTION:

Interrogatory No. 20 is premature.

ANSWER:

Response to Interrogatory No. 20 will be provided pursuant to the timelines set out by civil rule and court order.

21. Identify all experts you intend to call at trial.

SPECIFIC OBJECTION:

Interrogatory No. 21 is premature.

ANSWER:

Response to Interrogatory No. 21 will be provided pursuant to the timelines set out by civil rule and court order.

22. Identify and describe each document or exhibit that you or your attorney(s) expect to introduce into evidence at the trial of this case.

SPECIFIC OBJECTION:

Interrogatory No. 22 is premature.

ANSWER:

Response to Interrogatory No. 22 will be provided pursuant to the timelines set out by civil rule and court order.

23. Identify all documents which were used to answer these Interrogatories or that were reviewed prior to answering these interrogatories.

See specific objection and response to Interrogatory No. 1

24. Identify all documents that you have in your possession or control that relate to the Complaint and/or the Answer filed in this action not already identified herein.

ANSWER:

The documents themselves will be made available for inspection and copying at a mutually agreeable place and time.

As to Objections,
Ross M. Babbitt Co., LPA

/s/ Ross M. Babbitt

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putative plaintiffs Rhonda Loje and
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CERTIFICATE OF SERVICE

I certify that the foregoing Responses to the Clifton Club Company's First Set Of Interrogatories Propounded To William R. Keller was served by email this 20th day of December, 2013 on:

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/s/ Ross M. Babbitt
One of the Attorneys for Plaintiffs

