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Landowners Association, Inc.*

12  
13 **MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY**

14 DANIEL and VALERY O'CONNELL,  
15  
16 Plaintiffs,

16 v.

17 GLASTONBURY LANDOWNERS  
18 ASSOCIATION, INC. Board of Directors,  
19  
20 Defendants.

Cause No.: DV-2011-114  
Judge David Cybulski

**DEFENDANTS' MOTION FOR AN  
EXTENSION TO RESPOND TO  
PLAINTIFFS' INTERROGATORIES**

20 COMES NOW the above named Defendants Glastonbury Landowners Association, Inc. (GLA)  
21 and move this Court for an Order granting the a 30 day extension to respond to Plaintiffs'  
22 Interrogatories pursuant to Mont. R. Civ. P. 33(b)(2). Plaintiffs have been asked to grant extension for  
23 the reasons outlined below but have refused.

24 This is a unique situation because as the Court knows, attorneys in Montana routinely grant  
25 discovery extensions as a courtesy to one another, particularly when the discovery is extensive or during  
26 busy times like the holidays. Here, Plaintiffs filed Amended Requests for Admission to the GLA  
27 October 20, 2014 and mailed them to the Brown Law Firm which received them on October 22, 2014.  
28

1 Plaintiffs then filed Interrogatories to the GLA on October 31, 2014, and the Brown Law Firm received  
2 them November 3, 2014.

3 There were 50 requests for admission. Plaintiffs numbered 40 interrogatories, but many of those  
4 interrogatories contain several discrete subparts. (See Exhibit A). A conservative count of Plaintiffs'  
5 interrogatories numbers 71. Mont. R. Civ. P. 33 allows only 50 interrogatories unless stipulated or  
6 ordered by the court.  
7

8 The GLA diligently worked to answer the 50 requests for admission and did so within the 30  
9 days allowed by the Rules of Civil Procedure. However, it became apparent due to the excessive  
10 number of interrogatories, the overlap with extensive requests for admission, and the amount of  
11 information sought, it would take the GLA well past the December 3, 2014 deadline for answering the  
12 interrogatories. Additionally, the Thanksgiving Holiday posed an additional challenge.  
13

14 The GLA requested an extension from Plaintiffs to answer. The GLA pointed out Plaintiffs had  
15 exceeded the 50 limit once subparts were counted but offered to answer all of the interrogatories if  
16 Plaintiffs would agree to an extension. (See letter attached as Exhibit B). Plaintiffs responded by email  
17 saying they would only agree to an extension for five of the interrogatories but the rest must be  
18 answered by December 1st, 2nd, or 3rd, 2014. (See Exhibit C).  
19

20 This is an unworkable solution for the GLA. Answers for the interrogatories overlap in many  
21 areas. Further, answering the interrogatories as a block is more practical. An extension for all the  
22 interrogatories was a reasonable request. The GLA again contacted the Plaintiffs with its concerns and  
23 requested a total extension, and barring an agreement, informed the Plaintiffs it would have no choice  
24 but to seek an extension from the Court. (See Exhibit D). The Plaintiffs responded by email refusing an  
25 extension except for five interrogatories. (See Exhibit E).  
26  
27  
28

1 Attached as Exhibit A are Plaintiffs' interrogatories. It is immediately apparent that numbers 8,  
2 12, 15, 26, and 32 contain discrete subparts. Further many of the interrogatories are compound, phrased  
3 awkwardly, and ask questions that constitute discrete subparts. For example, interrogatory number 7  
4 states:

5  
6 For each affirmative defense set forth in GLA's Answer to this Amended Complaint, set forth in  
7 detail each fact or theory and identify each document which supports or relates to such  
8 defense(s), identify each person with knowledge of each such fact setting forth the facts you  
believe each individual is aware of.

9 The GLA has ten affirmative defenses. Providing for each defense the factual basis, theory, and  
10 identifying supporting and relative documents is a tremendous amount of work and answering this  
11 interrogatory for each affirmative defense constitutes a separate interrogatory. Plaintiffs have sent other  
12 multi-part interrogatories like this too.

13 The GLA has not refused to answer these interrogatories but simply asked for more time to do  
14 so. An extension is reasonable under these circumstances given the Plaintiffs' exceeding the allowed  
15 amount, the often confusing and compound questions, the amount of information sought and work  
16 necessary to provide it, the overlap with extensive requests for admission, the GLA is a non-profit  
17 corporation whose Board members responding to the discovery are volunteers, and the approaching  
18 holidays which makes arranging schedules to work on the discovery difficult.

19 Despite these reasons, Plaintiffs take the unreasonable position of refusing an extension. The  
20 GLA respectfully requests that the Court grant the GLA a 30 day extension until January 2, 2014 to  
21 answer Plaintiffs' interrogatories. A Proposed Order is has been submitted with this brief.

22 DATED this 20th day of November, 2014.

23 BROWN LAW FIRM, PC

24 BY   
25

26 Michael P. Heringer  
27 Seth M. Cunningham  
28 The Brown Law Firm, PC  
*Attorneys for Glastonbury  
Landowners Association, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was duly served by U.S. mail, postage prepaid, and addressed as follows this 20th day of November, 2014:

Daniel and Valery O'Connell  
PO Box 77  
Emigrant, MT 59027  
*Plaintiffs pro se*

Daniel and Valery O'Connell  
PO Box 774  
Cayucos, CA 93430  
*Plaintiffs pro se*

Alanah Griffith  
Pape & Griffith, PLLC  
26 E. Mendenhall  
Bozeman, MT 59715  
*Attorneys for Respondents Glastonbury  
Landowners Association, Inc.*

Honorable Judge David Cybulski  
573 Shippe Canyon Road  
Plentywood, MT 59254

By: \_\_\_\_\_

  
Michael P. Heringer  
Seth M. Cunningham  
The Brown Law Firm, PC

NOV 03 2014

PARK COUNTY CLERK  
OF DISTRICT COURT  
JUNE LITTLE

pdf  
ed: 12/1/14 ✓

Daniel & Val O'Connell  
P.O. Box 77  
Emigrant, Mt. 59027  
406-577-6339

2014 OCT 31 PM 2 01

FILED  
**SHILLY BALES**  
DEPUTY

MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

Daniel K. O'Connell & Valery A. O'Connell )  
& on behalf of themselves as members of )  
Glastonbury Landowners Association. )

Plaintiff(s), )

Cause No. DV-11-114

v. )

Glastonbury Landowners Association, Inc. )  
& current GLA Board of Directors )

Defendant(s) )

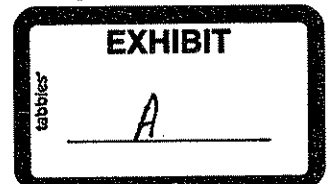
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PLAINTIFFS' INTERROGATORIES TO GLA DEFENDANTS

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COMES NOW, Plaintiff in the above styled action, and serves these Interrogatories (with attached Addendum 1 of Interrogatory pre-discovery disclosure) upon the Glastonbury Landowners Association Director Defendants. **The undersigned certifies that he or she:**

1. (1) Has read the discovery requests;
2. (2) Is not making any discovery request for any improper purpose;
3. (3) Reasonably needs the discovery requests for this litigation; or else and reasonably calculated to lead to the discovery of admissible evidence.
4. These interrogatories are intended to provide for the exchange of relevant information regarding any non-privileged matter that is relevant to any party's claim or defense without unreasonable expense to either party.
5. None of the questions or instructions change existing law relating to discovery nor do they affect the Answering Party's right to assert any privilege or make any objection.
6. None of the questions or instructions change existing law relating to discovery nor do they affect the Answering Party's right to assert any



privilege or make any objection. (See Civil Rule 26 & 33. Responses are due within 30 days of the date you were served with these documents. Any objections or privileges the Answering Party may wish to assert should be stated in writing and served by the due date. It is not a valid objection to assert that the information is already available to the Requesting Party. Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.)

### DEFINITIONS

All terms in these discovery requests are to be construed in their broadest sense. The examples given are not exhaustive as to all possible definitions.

1. "DEBT" includes any obligation. DEBT also includes all amounts owed to another person or entity and can include charge cards, contracts or loans
2. "INCOME" includes money from any source, whether wages, self-employment, dividends, interest, capital gains, support, state aid, etc., whether or not taxable. It also includes overtime and bonuses.
3. The word "each" or "any" shall be construed to include "every" and vice versa.
4. "Communication(s)" means any and all inquiries, discussions, conferences, conversations, negotiations, agreements, meetings, interviews, telephone conversations, letters correspondence, notes telegrams, facsimiles, electronic mail, memoranda, or other forms of communications, including but not limited to both oral and written communications.
5. "Defendant", or "you" or "your" or "yours" shall refer to and include Defendant, as well as agents, servants, employees, associates, investigators, attorneys, representatives, shareholders, directors, officers and all others who may have obtained information for or on behalf of those named above.
6. **PERSON** includes a natural person, firm, association, organization, general or limited or professional joint venture, partnership, business, trust, limited liability company, corporation, or public entity.
7. "Identify" or "state the identity of":
  - 7.1. When used in reference to a natural person means: that person's full name, present or last known business and residence address, present or last known business and residence telephone number, present or last known occupation, employer, and position and that person's occupation or position during the time relevant to the particular interrogatory.

7.2. When used in reference to an entity means: its full and complete name, its type of entity (i.e., corporation, partnership, unincorporated association, trade name, etc.), the location of its principal place of business, its mailing address, and its telephone number.

7.3. When used in reference to a document means: a description of the type of document, the identity of the person or persons who authored, prepared, signed, and received the document, the date, title, and general description of the subject matter of the document, present location or custodian of the original and each copy of the document, the identity of any persons who can identify the document, and if a privilege is claimed, the specific basis for such claim, in addition to the information set forth above.

8. The word "document" is used herein in its broader sense to mean every book, document or other tangible thing, including without limitation the following items, whether printed, typed, recorded, photographed, filmed or reproduced by any process, namely: agreements, communications, letters, memoranda, magnetic tapes, computer readable material, business records, notes, reports, photographs, and/or summaries of investigations, drawings, corporate records, desk calendars, appointment books, and any other information containing papers, writings or physical things.

9. The word "describe", used in connection with any act, occurrence, or physical facts, shall include but not be limited to the following: the identity of every person known to have been involved in or to have witnessed the act or occurrence, the date or dates of any such act or occurrence, and a description of any documents, records, or things documenting or involved in such act, occurrence, or fact.

## INSTRUCTIONS

These interrogatories are served upon you pursuant to M.R.Civ.P., Rule 33 and ¶26-2-302 MCA. You are required to answer the following interrogatories separately and fully in writing under oath, within the time permitted by the provisions of M.R.Civ.P., Rule 33 and to serve copies of your responses upon all parties. These interrogatories are continuing and if at any time after you have answered these interrogatories, new or additional information responsive to any of these interrogatories comes to your attention, you are required to furnish such new or additional information to this propounding party and serve upon all parties supplemental answers to these interrogatories.

These interrogatories, and answers hereto, are to include and are to be based upon, information in the possession of or gathered by you, your agents, servants, representatives, investigators, attorneys, and all other persons who have investigated or gathered information at your request or on your behalf. When an exact answer to an interrogatory is not known, state the best estimate available, state that it is an estimate, and state the basis for such estimate.

You are advised that the propounding party understands the attorney client privilege and the attorney work product privilege. The propounding party is not

seeking information which is truly attorney client or attorney work product privileged. However, your response will be considered insufficient and a motion to compel will be filed if you respond generally that the information sought is attorney client or attorney work product privileged.

If in response to a particular interrogatory or request there is some information which is privileged and some information which is not privileged a general objection is not acceptable. The propounding party is seeking only non-privileged information and documents. Further, "costs of proof" may be requested by Plaintiffs after a motion for summary judgment or a trial which were necessary for proving that which was denied without a reasonable basis for doing so.

If you contend that any admission has been made by any party to this action and/or defense, with respect to each such admission, describe and explain the substance and date thereof, identify the person or entity making the admission, and identify and describe all individuals who were witnesses or have knowledge regarding the admission.

For each request for admission in the request for admissions served concurrently herewith for which your response is anything but an unqualified admission, state the facts and theories which support your denial, the individuals with knowledge of these facts and theories, and the documents which support or relate to these facts and theories.

In lieu of providing a full description of a document, you may attach a copy of the document for which a description is requested, and in your answer to the interrogatory only provide those items of description requested which do not appear on the face of the document. Documents are to be labeled to indicate the interrogatory to which they respond.

**NOTE: IF ANY INTERROGATORY OR REQUEST IS OBJECTIONABLE, PLEASE CALL or EMAIL PLAINTIFFS BEFORE OBJECTING, IN ORDER TO ATTEMPT TO NARROW THE QUESTION OR AVOID THE OBJECTIONABLE PORTION OR ASPECT.**

### **INTERROGATORIES**

You GLA DEFENDANT DIRECTORS are requested to respond to the following interrogatories:

1. Identify the individual executing the Verification of the responses to each of these interrogatories and identify all individuals who assisted in providing any information concerning or relating to your answers to these interrogatories.



2. Identify any written or recorded statements or transcripts of oral statements of any person relevant to this complaint which you or your attorney possess or believe to exist, identify each document recording or relating to such statements and documents. (Note: If you instead claim the attorney work product privilege for any document, identify the author, date of creation, possessor of the original, possessor of each copy, describe the nature of the document, and explain the purpose of the creation of the document whether in anticipation of litigation or otherwise.)
3. Identify by full name, address, and telephone number all witnesses whom the GLA will or may have at trial, including expert and impeachment witnesses. For each lay witness, include a description of the issues to which the witness' testimony will relate. For each expert witness, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.
4. List the name, **ADDRESS** and phone number of all **YOUR GLA** Board of Directors for the past 10 years by the date they took office.
5. State all facts in support of your counterclaim contention that any or all Plaintiffs complaints against the GLA Defendants were "frivolous" & "vexatious." (note: If you contend that the GLA has been injured or damaged, provide a separate statement for each item of damage, the dollar amount claimed, and citation to the statute, rule, regulation or case law authorizing a recovery for that particular item of damage.)
6. For the counterclaim, describe in detail all statutes, codes, regulations, legal principles, standards ad customs or usages, and illustrative case law which you contend are applicable to this counterclaim action, that state precisely the classification of the cause of action being filed, a brief factual outline of the case; including your contentions as to what the other party or parties did or failed to do, and a succinct statement of the legal issues in the case. (Note: you can describe or produce for inspection each document in your custody or control or of which you have knowledge which you contend supports your counterclaim.)
7. For each affirmative defense set forth in GLA's Answer to this Amended Complaint, set forth in detail each fact or theory and identify each document which supports or relates to such defense(s), identify each person with knowledge of each such fact setting forth the facts you believe each individual is aware of.
8. Did the **GLA Defendant(s)** prepare or make for any of its members any written notices of "due process" disclosures, written or oral fact finding, or other "due process" pursuant to GLA Bylaw XI(C) activities from 2011 through 2013? If so,
  - (a) identify any written notices of "due process" disclosures, written or oral "fact finding", or other "due process" activities disclosures;

- (b) state the name, **ADDRESS**, and telephone number of the **PERSON** who has each version of each **DOCUMENT** containing such materials;
- (c) describe any notices of “due process” disclosures, written or oral fact finding, or other “due process” activities YOU GLA Defendant(s) gave to member(s);
- (d) identify any **PERSON** who made any notices of “due process” disclosures, written or oral fact finding, or other “due process” activities given to member(s) and when and where they were made.
- (e) Since 2011, describe how, when, and to whom the GLA Defendants communicated with its members to give members notice of Board **impending** actions.
9. Was GLA Defendant(s) performance of the 2012 Settlement agreement to give O’Connells requested documents terminated by mutual agreement, release, accord and satisfaction, or novation? If so, identify each agreement terminated, the date of the termination, and the basis of the termination.
10. Was any GLA Defendant(s) performance of the 2012 Settlement agreement to give O’Connells requested documents unenforceable? If so, identify each unenforceable agreement and state why it was unenforceable.
11. Describe any GLA documents generated in the last three years that the GLA Defendants consider are not to be viewed or copied by GLA members (such as financial records of delinquent members payment plans with the GLA, how much such delinquent member paid and owe in past due assessments, ect).
12. Other than from O’Connells, did GLA Board Defendant(s), or anyone acting on behalf of the defendant(s), receive any reports or complaints from any source from June 2011 through June 2014, concerning GLA or its members? If so, state:
- (a) When:
- (b) From whom received:
- (c) The nature of each such member report, or complaint:
- (d) Any action(s) taken by GLA defendant(s) in response thereto:
- (e) The name, address and job title of the person(s) who has custody, possession and/or control of such reports or complaints.
13. Identify such dates and names of any GLA Defendants who did not receive O’Connell members emails of written GLA document requests dated October 7, 2012, October 11, 2012, December 27, 2012, and/or June 8th, 2014, and/or June

11th, 2014, and/or July 7th, 2014, and/or July 12th, 2014, and/or July 29th, 2014, and/or September 26, 2014.

14. For each O'Connell Member written request made via email for GLA documents (made not for discovery), explain in detail GLA Defendants reasons to NOT allow O'Connells" members to inspect or copy such requested documents, and why this GLA action was or was not pursuant to the 2012 settlement agreement or Laws §35-2-906 MCA.

15. Since October 2012, state the name, **ADDRESS**, and telephone number of each **PERSON** who has agreed to withhold or deny the following member written requests for GLA documents (below\*) requested by its members-O'Connells:

\* a. GLA member complaint/suggestion letters to the Board" for the last 36 months

b. "GLA communication with members" (per §35-2-906 MCA called "resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members.")

c. "GLA member account balances" (per §35-2-906 MCA called "accounting records" and "financial statements.")

d. "GLA payment plans with members" (per §35-2-906 MC called "accounting records" and "financial statements;" or else called "resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members.")

e. "GLA Board committee minutes" & Board "closed secession" meeting minutes" or "confidential Board meetings" for the last 36 months (per §35-2-906 MCA called "minutes of meetings.")

16. From January 2009 through September 2011, describe why the GLA Defendant(s) failed to "mail to each [GLA] Member within thirty (30) days after the end of the fiscal year" (per Bylaw VIII.F & H) its GLA "Receipts & Expenditures" documents.

17. From January 2009 through September 2011, describe why the GLA Defendant(s) failed to "present at the [GLA] Annual Meeting" (per GLA Bylaw VIII.F & H) any GLA "Receipts & Expenditures" documents.

18. Describe each type of GLA financial document (such as GLA check details, GLA deposit checks, GLA cancelled checks, GLA credit card and bank statements) that the GLA considers to NOT be GLA "Receipts & Expenditures" (per GLA Bylaw VIII.F & H) and state YOUR facts and legal reasons for such considerations.

19. State why or why not it is a breach of duty and loyalty to the members or Association or a good business practice for the GLA Defendants to NOT give its

members copies for each of the following financial documents: GLA check details, GLA deposit checks, GLA cancelled checks, GLA credit card and bank statements.

20. State why or why not the GLA Defendants consider it a good business practice to hire a CPA (Certified Public Accountant), and include reason(s) why the GLA from 2007 through May 2012 did NOT hire a CPA to maintain its GLA accounting records.
21. In calendar years 2010 through 2013, state the reason(s) GLA Board (Defendant(s)) spent more than \$12,000 member assessments for grading (labor and costs), road repair (labor & costs), snowplowing (labor & cost), weed spraying (labor and costs) to maintain Hercules Road & Polaris Road & Sagittarius Roads (High South Glastonbury roads)
22. For each calendar year 2011 through 2013, state the GLA costs to print, mail, & labor costs to send member payment notices, member notices of meetings and activities of the GLA, & GLA newsletters.
23. Since 2010, state any reason(s) or decisions of the GLA Board (Defendant(s)) to NOT utilize the GLA website to print, mail, & labor costs to send member payment notices, member notices of meetings and activities of the GLA, & GLA newsletters.
24. In calendar years 2010 through 2013, Generally state any subject matter that the GLA Defendants considered to be "confidential matters" at GLA "closed session" Board meetings. If consideration of what constituted "confidential matters" differed in years 2010 through 2013, then state why they differ and generally what those differences were.
25. State any reason and authority as to why the GLA Board routinely denied its members to see or copy GLA Board meeting minutes from "closed session" (or private) Board meetings.
26. Did GLA defendant(s), or anyone acting on behalf of the defendant(s), take or receive any GLA committee minutes reflecting "all committee members attending and the actions taken" from any source from June 2011 through June 2014, concerning the GLA? If so, state:
  - (a) When:
  - (b) From whom received:
  - (d) Any action(s) taken by GLA defendant(s) in response thereto:
  - (e) The name, address and job title of the person(s) who has custody, possession and/or control of such reports or complaints.

27. State why or why not, such GLA election ballots can be viewed without referencing member names and addresses by assigning a member number, and that (by members viewing the GLA election ballots), and state if this is the only means for O'Connell members to factually prove the actual number of votes each GLA election matter or each GLA Board candidate receives.
28. Since 2010, state any reason explaining why the GLA election ballots are NOT counted by a neutral 3<sup>rd</sup> party (see January 2011 GLA Board newsletter as the only written source to give the names of Board candidates reelected to the Board & January 2012 GLA newsletter that gave "Specific Voting Results;" as an unverifiable report on the # of votes each GLA Board candidate received).
29. Explain why or why not it is a breach of duty and loyalty to the members or Association or a good business practice for the GLA Defendants to deny O'Connell members request (from 2011 through 2013) to view GLA election ballots; and state why the GLA Board instead published its January 2011 GLA newsletter that only gave the names of Board candidates reelected to the Board & January 2012 GLA newsletter that gave unverifiable "Specific Voting Results" on the # of votes each GLA Board candidate received).
30. State the name of each GLA Board member since 2011 through October 2014 that have either quit the Board, decided not to run for office of GLA Board, or were voted out of office.
31. Describe the original June 2012 GLA / Minnick Management contract clause that was amended December 2012; which refers to removing the 1st paragraph clause that referred to, "Minnick Management" [agent] having "exclusive control over all GLA ...parcels...."
32. Describe how any of the following are NOT considered fiduciary duties of the GLA Board (this list is not intended to be exclusive):
- Read and follow the associations governing documents – declaration, articles of incorporation, bylaws, rules, regulations, guidelines and policies;
  - Be familiar with whether action can be taken outside of open board meetings, and if so, how;
  - Make sure all meetings, other than "closed sessions," are open to all owners, and make sure "closed sessions," are only conducted to address confidential issues.
  - Exercise business judgment when making decisions;
  - Obtain advice and opinions of experts concerning matters that are beyond the general nature of the board's knowledge;
  - Maintain all GLA meeting minutes approved as to form and content;
  - Obtain professional assistance when negotiating contracts;
  - Act in accordance with contracts;

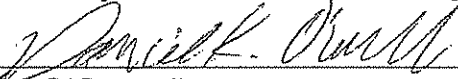
- Maintain copies of all contracts;
  - Make sure the association has appropriate insurance;
  - Maintain copies of all insurance policies;
  - Require certificates of insurance directly from the independent contractors and vendors;
  - Maintain financial records so as to comply with GLA Bylaw VIII(I);
  - Meet with professionals who advise the board (insurance, CPA, attorney) at least annually;
  - 'Maintenance and repair of [GLA] roads and snowplowing (as the first priority for use of annual assessment funds' per Covenant 11.05).
  - Diligently pursue collection of assessments and delinquent assessments using professionals who are trained & knowledgeable in the law concerning collections;
  - Provide annual education of association operations to the members.
33. For calendar years 2010 through 2013, describe the scope of work that Rich Spallone performed for the GLA, and the total amount GLA paid to Rich Spallone for such work (payment meaning GLA assessments, income, profit, remuneration, compensation, consideration, or other form of payment including any materials that the GLA or any GLA Director supplied to Rich Spallone).
34. For calendar years 2010 through 2013, describe the scope of work that Alyssa Allen performed for the GLA, and the total amount of GLA paid to Alyssa Allen for such work (payment meaning GLA assessments, income, profit, remuneration, compensation, consideration, or other form of payment including any materials that the GLA or any GLA Director supplied to Alyssa Allen).
35. For calendar years 2010 through 2013, describe the scope of work that Paul Rantallo performed for the GLA, and the total amount GLA paid to Paul Rantallo for such work (payment meaning GLA assessments, income, profit, remuneration, compensation, consideration, or other form of payment including any materials that the GLA or any GLA Director supplied to Paul Rantallo).
36. For calendar years 2010 through 2013, describe the scope of work that Gerald Dubiel performed for the GLA, and the total amount of GLA paid to Gerald Dubiel for such work (payment meaning GLA assessments, income, profit, remuneration, compensation, consideration, or other form of payment including any materials that the GLA or any GLA Director supplied to Gerald Dubiel).
37. In calendar years 2010 through 2013 for work done by GLA Directors (Alyssa Allen, Gerald Dubiel, Rich Spallone, Paul Rantallo), identify any policy, vote, or reason(s) why the GLA did NOT get written bids from other competitors, and describe written bids the GLA Defendants did received from other competitors at that time.

38. Explain why or why not it is a breach of duty and loyalty to the members or Association or else a good business practice for the GLA Defendants to NOT get written bids from other competitors for the work done by each of the following Directors in calendar years 2010 through 2013: Alyssa Allen, Gerald Dubiel, Rich Spallone, Paul Rantallo.

39. For calendar years 2011 through 2013, describe the average yearly income, profit, remuneration, compensation, consideration, or other form of payment that the GLA receives from members owning lots in each of the three Glastonbury areas described as South Glastonbury, North Glastonbury, and High South Glastonbury. (Note: High South area roads include only: Hercules Road, Polaris Road, Scorpion Way, & Sagittarius Roads.)

40. For calendar years 2011 through 2013, describe the total amount of member assessments spent on maintaining all GLA roads in each area (of the three Glastonbury areas described as South Glastonbury, North Glastonbury, and High South Glastonbury) for grading (labor and costs), road repair (labor & costs), snowplowing (labor & cost), weed spraying (labor and costs).

Respectfully submitted this 31st day of October, 2014,

By:   
Daniel O'Connell

By:   
Valery O'Connell

**Certificate of Service**

A true and correct copy of forgoing document(s) were sent to the following parties via first class mail on this same day to:

Sixth Judicial District Clerk of Court  
414 E. Callender St.  
Livingston, Mt. 59047

Alannah Griffith  
26 E. Mendenhall  
Bozeman, Mt. 59715

Hon. Judge David Cybulski  
573 Shippe Canyon Rd.  
Plentywood, Mt. 59254

Brown Law Firm, P.C.  
315 N. 24th St. (PO Drawer 849)  
Billings, MT. 59103-0849

By:   
Valery O'Connell

# BROWN LAW FIRM, PC

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John J. Russell  
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Kelly J.C. Gallinger  
Jeffrey T. McAllister  
Jon A. Wilson  
Seth M. Cunningham  
Shane A. MacIntyre  
Thomas R. Martin  
Andrew J. Miller  
Adam M. Shaw

November 19, 2014

Daniel and Valery O'Connell  
PO Box 77  
Emigrant, MT 59027  
[dko@mac.com](mailto:dko@mac.com)

## Via U.S. Mail and Email

### Retired

Rockwood Brown  
John Walker Ross  
Margy Bonner

**RE: O'Connell v. Glastonbury Landowners Association  
Our File No. 73200.005**

Dear Mr. and Ms. O'Connell:

This letter is in regards to your interrogatories sent October 31, 2014. We are going to object to the number of interrogatories you have sent. Mont. R. Civ. P. 33(a)(1) states:

Unless otherwise stipulated or ordered by the court, a party may serve on any other party no more than 50 written interrogatories, including all discrete subparts.

Your interrogatories are numbered 1 through 40, but several include numerous discrete subparts which count as separate interrogatories. Numbers 8, 12, 15, 26, and 32 all contain subparts which are counted as separate interrogatories. Further, several of your interrogatories contain multiple questions within the paragraphs. Therefore, the total number of interrogatories is at least 71 which is in excess of the 50 allowed.

However, in the interest of moving this case forward, the GLA is willing to answer these interrogatories as best it can under the Montana Rules of Civil Procedure if you are willing to stipulate to an extension until December 19, 2014 to answer these interrogatories. Given the excessive number and the Thanksgiving holiday, the GLA will need the additional time to answer. Any agreement does not constitute an agreement to answer further interrogatories or waive any objections thereto.

If you do not agree to an extension, we will seek an order from Court relieving the GLA of any duty to respond to these interrogatories. Therefore, this letter is the GLA's good faith attempt to confer with you in an effort to resolve this issue as required by Mont. R. Civ. P. 26(c)(1).

EXHIBIT

tabbles

B

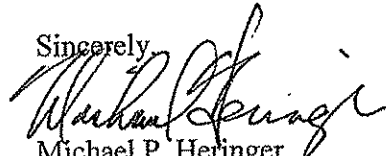


Daniel and Valery O'Connell  
November 19, 2014  
Page 2

Finally, we received your November 18, 2014 email in regards to the due date to the Amended Requests for Admission. We appreciate the reminder, and we served those on November 17, 2014, via U.S. Mail.

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Please let me know how you want to proceed.

Sincerely,  
  
Michael P. Heringer

MPH:amr

## Seth Cunningham

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**From:** Daniel OConnell [dko@mac.com]  
**Sent:** Wednesday, November 19, 2014 11:40 AM  
**To:** Anna Robertus  
**Subject:** Re: O'Connells v. GLA / Nov. 19, 2014 Correspondence

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Date: November 19, 2014  
To: Brown Law Firm  
From: Dan and Val O'Connell  
Re: Response to Brown Law Firm Nov. 19, 2014 letter requesting Extension of time to answer interrogatories

Your November 19, 2014 letter signed by Mr. Heringer identify only "Numbers 8, 12, 15, 26, and 32 all contain subparts." While Plaintiffs do not necessarily agree with this, no other interrogatories were identified as having subparts.

Therefore to avoid any undue burden on Defendants and to avoid unnecessary delay of Plaintiffs' discovery, Plaintiffs agree to an extension of time only for these five interrogatory numbers and only these five interrogatories "Numbers 8, 12, 15, 26, and 32" to be answered on or before December 19, 2014. All other interrogatory numbers not so identified as having subparts must be answered by the 30 day deadline (per M.R.Civ.P., Rule 33) of approx. December 3, 2014. Any agreement does not constitute an agreement to waive objections regarding the interrogatories.

Pursuant to M.R.Civ.P., Rule 26(c)(1), this response to your request is Plaintiffs good faith attempt to confer with you in an effort to resolve your alleged issue above.

Sincerely,  
Dan and Val O'Connell  
[dko@mac.com](mailto:dko@mac.com)

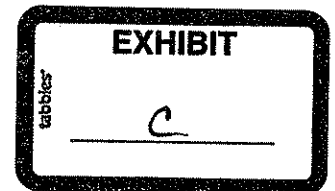
On Nov 19, 2014, at 10:48 AM, Anna Robertus <[ARobertus@BrownFirm.com](mailto:ARobertus@BrownFirm.com)> wrote:

Good morning, Mr. and Mrs. O'Connell,

Please see the attached correspondence from Michael Heringer. The original letter has been placed in the U.S. Mail today.

Thank you,  
Anna

Anna Robertus\*  
ASSISTANT TO MICHAEL HERINGER AND JEFFREY MCALLISTER  
<image003.png>  
315 N. 24th Street | PO Drawer 849 | Billings, Montana 59103-0849  
210 E. Pine Street, Suite 200 | Missoula, Montana 59802  
Phone: 406.248.2611 | Fax: 406.248.3128 | Direct Dial: 406.247.2817  
\*Not licensed to practice law



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<2014-11-19 To Dan and Valery OConnell.pdf>

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# BROWN LAW FIRM, PC

315 N. 24th Street | PO Drawer 849 | Billings, Montana 59103-0849  
Phone: 406.248.2611 | Fax: 406.248.3128

John J. Russell  
Michael P. Heringer  
Guy W. Rogers  
Scott G. Gratton  
Kelly J.C. Gallinger  
Jeffrey T. McAllister  
Jon A. Wilson  
Seth M. Cunningham  
Shane A. MacIntyre  
Thomas R. Martin  
Andrew J. Miller  
Adam M. Shaw  
Christine M. Cole

November 19, 2014

Daniel and Valery O'Connell  
PO Box 77  
Emigrant, MT 59027  
[dko@mac.com](mailto:dko@mac.com)

## Via U.S. Mail and Email

### Retired

Rockwood Brown  
John Walker Ross  
Margy Bonner

**RE: O'Connell v. Glastonbury Landowners Association  
Our File No. 73200.005**

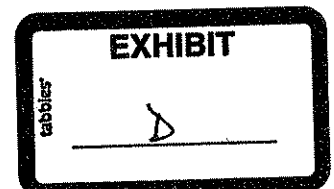
Dear Mr. and Ms. O'Connell:

This letter is in response to your email on November 19, 2014 where you declined to grant the GLA an extension to respond to your interrogatories except for numbers 8, 12, 15, 26, and 32. We identified these as the interrogatories that obviously contained discrete subparts, but noted others contained multiple questions within the paragraphs. For example, interrogatory number 7 states:

For each affirmative defense set forth in GLA's Answer to this Amended Complaint, set forth in detail each fact or theory and identify each document which supports or relates to such defense(s), identify each person with knowledge of each such fact setting forth the facts you believe each individual is aware of.

Answering this interrogatory for each affirmative defense constitutes a separate interrogatory. There are others like this too.

Therefore we find your proposed selective extension to be unworkable as a total extension would be much more reasonable and practical. If you will stipulate to an extension to December 19, 2014, that would be agreeable. Although because of the work involved, an extension to this date still requires a lot of work in a short period of time. Therefore, if you do not agree to an extension, we will file a motion with the Court asking for a 30 day extension to respond to Plaintiffs' Interrogatories to GLA Defendants.



Daniel and Valery O'Connell

November 19, 2014

Page 2

Please let me know how you want to proceed.

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Sincerely,

A handwritten signature in cursive script, appearing to read "Michael P. Heringer".

Michael P. Heringer

MPH:amr

## Seth Cunningham

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**From:** Daniel OConnell [dco@mac.com]  
**Sent:** Wednesday, November 19, 2014 7:22 PM  
**To:** Anna Robertus  
**Subject:** Re: O'Connells v. GLA / Nov. 19, 2014 Correspondence

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Date: November 19, 2014  
To: Brown Law Firm  
From: Dan and Val O'Connell  
Re: Response to Brown Law Firm Nov. 19, 2014 letter requesting Extension of time to answer interrogatories

Again your November 19, 2014 letter signed by Mr. Heringer identify only "Numbers 8, 12, 15, 26, and 32 all contain subparts." While Plaintiffs do not necessarily agree with this, no other interrogatories were identified as having subparts. However your prior letter stated that you perceive a total of 71 questions including all subparts. Now you claim that #7 has subparts too, but such parts are not discrete (meaning individually separate and distinct). You may yet also delay answering this question, which brings the total number of question to 34 interrogatories due by Dec. 1, or 2, or 3rd, 2014.

EVEN IF YOU IDENTIFY ANY MORE SUBPARTS THEY DO NOT ADD UP TO MORE THAN 16 subpart questions which shows the total to be less than 50 questions due by the Dec. 1, 2, or 3rd deadline.

Therefore this solution avoids any undue burden on Defendants and avoids unnecessary delay of Plaintiffs' discovery, so that Plaintiffs agree to an extension of time only for these six interrogatory numbers and only these six interrogatories "Numbers 7, 8, 12, 15, 26, and 32" to be answered on or before December 19, 2014. All other interrogatory numbers not so identified as having subparts must be answered by the 30 day deadline (per M.R.Civ.P., Rule 33) of approx. December 3, 2014. Any agreement does not constitute an agreement to waive objections regarding the interrogatories.

Pursuant to M.R.Civ.P., Rule 26(c)(1), this response to your request is Plaintiffs good faith attempt to confer with you in an effort to resolve your alleged issue above.

Sincerely,  
Dan and Val O'Connell

On Nov 19, 2014, at 11:40 AM, Daniel OConnell <dco@mac.com> wrote:

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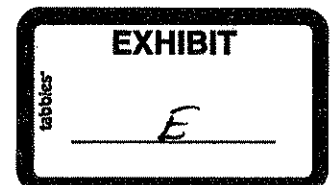
Date: November 19, 2014  
To: Brown Law Firm  
From: Dan and Val O'Connell  
Re: Response to Brown Law Firm Nov. 19, 2014 letter requesting Extension of time to answer interrogatories

Your November 19, 2014 letter signed by Mr. Heringer identify only "Numbers 8, 12, 15, 26, and 32 all contain subparts." While Plaintiffs do not necessarily agree with this, no other interrogatories were identified as having subparts.

Therefore to avoid any undue burden on Defendants and to avoid unnecessary delay of Plaintiffs' discovery, Plaintiffs agree to an extension of time only for these five interrogatory numbers and only these five interrogatories "Numbers 8, 12, 15, 26, and 32" to be answered on or before December 19, 2014. All other interrogatory numbers not so identified as having subparts must be answered by the 30 day deadline (per M.R.Civ.P., Rule 33) of approx. December 3, 2014. Any agreement does not constitute an agreement to waive objections regarding the interrogatories.

Pursuant to M.R.Civ.P., Rule 26(c)(1), this response to your request is Plaintiffs good faith attempt to confer with you in an effort to resolve your alleged issue above.

Sincerely,  
Dan and Val O'Connell



1 HON. DAVID CYBULSKI  
2 District Judge  
3 Fifteenth Judicial District  
4 573 Shippe Canyon Road  
5 Plentywood, Montana 59254  
6 (406) 286-5615

7 **MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY**

8 DANIEL K. O'CONNELL and VALERY A.  
9 O'CONNELL,

10 Plaintiffs,

11 v.

12 GLASTONBURY LANDOWNERS  
13 ASSOCIATION, INC. & Current GLA Board  
14 of Directors,

15 Defendants.

Cause No.: DV-2011-114  
Judge David Cybulski

**ORDER GRANTING DEFENDANTS'  
MOTION FOR AN EXTENSION TO  
RESPOND TO PLAINTIFFS'  
INTERROGATORIES**

16 THE COURT, having reviewed Defendant Glastonbury Landowners Association, Inc.'s (GLA)  
17 Motion for an Extension to Respond to Plaintiffs' Interrogatories, the file and the law, now makes the  
18 following Order:

19 1. The GLA's Motion for an Extension to Respond to Plaintiffs' Interrogatories is granted  
20 pursuant to Mont. R. Civ. P. 33(b)(2).

21 2. The GLA has an additional 30 days to respond to Plaintiff's Interrogatories dated October 31,  
22 2014. The GLA's responses are to be mailed on or before January 2, 2014.

23 SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

24 \_\_\_\_\_  
25 DAVID CYBULSKI, District Judge

26  
27 cc: Daniel and Valery O'Connell  
28 Michael P Heringer  
Alanah Griffith