



10-20-1999

Defendant's Notice to Plaintiff of Continuing Obligation to Supplement Discovery Responses

William D. Mason
Cuyahoga County Prosecutor

Marilyn B. Cassidy
Cuyahoga County Assistant Prosecutor

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~~FILED~~
10/20/99



IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ALAN DAVIS, EXCTR, ET. AL.	:	CASE NO. 312322
Plaintiff	:	
	:	JUDGE: RONALD SUSTER
V	:	
	:	DEFENDANT'S NOTICE TO PLAINTIFF
STATE OF OHIO	:	OF CONTINUING OBLIGATION TO
	:	SUPPLEMENT DISCOVERY
	:	RESPONSES
Defendant	:	

Defendant, State of Ohio, by and through counsel, William D. Mason, Prosecuting Attorney for Cuyahoga County , and Marilyn Cassidy, Assistant Prosecutor, submits herewith to plaintiff, copies of Interrogatories and Requests for Production, served on or about February 24, 1999. Some information has been supplied to defendant. However, plaintiff is reminded that he is under a continuing duty to supplement. Accordingly, Defendant requests that any and all supplemental answers and/or responses, or revisions be promptly provided to Defendant.

Respectfully Submitted,

WILLIAM D. MASON, PROSECUTING
ATTORNEY, CUYAHOGA COUNTY

Marilyn B. Cassidy (0014647)
 Assistant Prosecutor
 1200 Ontario Street - 8th Floor
 Cleveland, Ohio 44113
 (216) 443-7785

ATTORNEYS FOR DEFENDANT

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ALAN DAVIS, Administrator,	:	CASE NO. 312322
	:	
	:	JUDGE RONALD SUSTER
Plaintiff,	:	ANSWERS TO
	:	<u>DEFENDANT STATE OF OHIO'S</u>
vs.	:	<u>FIRST SET OF INTERROGATORIES</u>
	:	<u>AND FIRST REQUEST FOR</u>
STATE OF OHIO,	:	<u>PRODUCTION OF DOCUMENTS</u>
	:	<u>TO PLAINTIFF</u>
Defendants.	:	

Now comes Defendant State of Ohio, and propounds the following Interrogatories to Plaintiff, ALAN DAVIS, to be answered and/or responded to in writing and under oath within twenty-eight (28) days in accordance with Rules 33(A) and 34 of the Ohio Rules of Civil Procedure and in the form prescribed by Civ.R. 33(D).

INSTRUCTIONS FOR ANSWERING:

1. The terms "you" and "your," when used herein, refer to each respective party submitting answers to these Interrogatories.
2. The term "person," when used herein, means an individual, corporation, partnership, or association, or any other business or governmental entity.

3. The term "identify," when used herein, has the following meanings:

(A) When used in reference to an individual, it means to state a person's:

a) full name; b) present business address, or, if unavailable, last known business address; c) present home address, or, if unavailable, last known home address; and d) business or governmental affiliation and job title, or, if unavailable, last known business or governmental affiliation and job title.

(B) When used in reference to any person other than an individual, it means to state the person's: a) full name and d/b/a/, if any; and b) present address, or, if unavailable, last known address.

(C) When used in reference to corporate entities, it means to state the corporate name, date and place of incorporation, and all of its present business addresses.

(D) When used in reference to communications, it means to describe the statements and communications by: a) stating the date and place where they were made; b) identifying each of the makers and recipients thereof in addition to all the persons present; and, c) indicating the medium of communication. Note: When identifying the date of the statement or communication, the precise date must be given. If only an approximate date is given, it will be presumed that you have no recall or specific knowledge as to the exact date.

(E) When used in reference to a document or documentary evidence, it means to state the type of document (e.g., letter, memorandum, telegram, chart),

its author or origination, its date or dates, all addresses and recipients, its present location or custodian, the topics dealt with therein, with such reasonable particularity as is sufficient for a specific demand for production, and any identifying marks, code words, numerals, or letters distinguishing it from other like documents. If any such document was but no longer is in your possession or subject to your custody or control, state what disposition was made of it. Documents to be identified shall include all those documents in your possession, custody, or control and all of the documents of which you have knowledge.

INTERROGATORIES

1. Please state the name, address and telephone number of all persons which you consulted in answering these interrogatories.

ANSWER:

Alan J. Davis
12800 Shaker Blvd.
Cleveland, Ohio 44120

2. Please state the name and address of each and every lay witness whom you intend to call at the trial of this action.

ANSWER:

A witness list will be provided on or before April 15, 1999 in compliance with the Court's Order.

3. Please state the nature and subject of the testimony you anticipate each of the persons listed in response to Interrogatory No. 2 to give at the trial of this matter.

ANSWER:

See answer to Interrogatory #2.

4. Please list the names and addresses of all persons whom you intend to call as expert witnesses at the trial of this matter.

ANSWER:

See answer to Interrogatory #2.

5. Please state the name and subject of the testimony you anticipate each of the persons listed in response to Interrogatory No. 4 to give at the trial of this matter.

ANSWER:

See answer to Interrogatory #2.

6. Please identify all exhibits which you intend to use at the trial and all documents which you will use in your cross-examination of the defendants.

ANSWER:

An exhibit list will be provided on or before April 15, 1999 in compliance with the Court's Order.

7. Please state with particularity whether or not you have ever been convicted of a state or federal offense.

If so, please specifically set forth your entire and complete record of state and/or federal convictions by stating the date of the conviction, the reason for the conviction, and the sentence.

ANSWER: No.

8. Please give the name and address of all trial witnesses whose testimony you intend to introduce by deposition or prior sworn testimony.

ANSWER: None at this time.

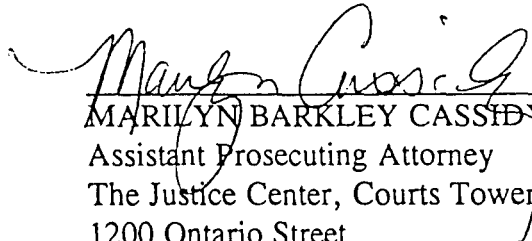
Pursuant to Civ.R. 34, defendant requests that you produce copies of the following documents within twenty-eight (28) days from the service hereof:

1. All documents identified in your answer to Interrogatory No. 6 above.

RESPONSE: In order to avoid unnecessary copying, please inform counsel of the documents appearing in the Exhibit List, that are not already possessed by the State; those documents will be produced.

Respectfully submitted,

WILLIAM D. MASON, Prosecuting Attorney
of Cuyahoga County, Ohio


MARILYN BARKLEY CASSIDY (0014647)
Assistant Prosecuting Attorney
The Justice Center, Courts Tower
1200 Ontario Street
Cleveland, Ohio 44113
(216) 443-7785
ATTORNEYS FOR DEFENDANT

STATE OF OHIO)
)
) :ss.
)
COUNTY OF CUYAHOGA)

I, Alan Davis being first duly cautioned and sworn, state that the answers to the foregoing interrogatories are true and correct to the best of my knowledge and belief.

Alan J. Davis

SWORN TO BEFORE ME, and subscribed in my presence this 16th day of April, 1999


George Carr
NOTARY PUBLIC



GEORGE CARR
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES ~~AUGUST 9, 1999~~
AUGUST 31, 2000

Certificate of Service

The undersigned certifies that the foregoing Answers to Defendant State of Ohio's First Set of Interrogatories and First Request for Production of Documents have been served on William Mason, Prosecuting Attorney, Justice Center, 9th Floor, 1200 Ontario Street, Cleveland, Ohio 44113 on this 19th day of April, 1999.


George H. Carr (0069372)
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ALAN J. DAVIS, Special Administrator)	Judge Ronald Suster
of the Estate of)	
SAMUEL H. SHEPPARD)	Case No. 312322
)	
Plaintiff)	<u>PLAINTIFF'S</u>
)	<u>EXHIBIT LIST</u>
vs.)	
)	
STATE OF OHIO)	
)	
Defendant)	
)	

The Plaintiff may introduce the following exhibits in the trial of this action, but reserves the right to introduce additional evidence as it is discovered:

1. Birth Certificate - Richard Lenardic (Eberling)
2. Children's Aid Society Documents - Richard Lenardic (Eberling)
3. Death Certificate - George E. Eberling
4. Will - George E. Eberling
4A - Executor's Account 7/54-7/55
4B - Executor's Account 7/55-7/56
5. Change of Name - Richard Lenardic to Richard Eberling
6. High School Picture - Richard Eberling
7. Selective Service Documents - Richard Eberling
8. Accident Report - Kinzel/Eberling
9. Death Certificate - Barbara Kinzel
10. Newspaper Article - Kinzel/Eberling Accident

11. Corrigan File Notes - Barbara Kinzel/Sheppard
12. Cleveland Clinic, Dr. Louis J. Karnosh - Letter re: Eberling
13. HCA Valley Hospital, Dr. Mark W. Peterson - Letter re: Eberling
14. Cynthia Cooper Affidavit - George Jinda Interview
15. Richard Eberling Statement to Bay Village PD 11/10/59 - Theft
16. Richard Eberling Statement to Bay Village PD 11/10/59 - Marilyn Sheppard
- 16A. Bay Village Police Report - Ronald Perow 11/12/59
17. Ohio State Bureau of CI&I - Polygraph Report 11/20/59 - Eberling
18. Eaton - Letter to Gerber 11/30/59
Eaton - Letter to Gareau 11/30/59
19. Tompkins - 3/21/89 Letter requesting review of 11/19/59 polygraph test
20. Bay Village Police Report 9/89 - Re: Eberling
21. Polygraph Examiner Morris E. Ragus - Qualifications
22. Pre-Polygraph Examination Report - Eberling
23. Eberling Statement - Re: Marilyn Sheppard Murder
24. Bay Village Police Report 8/17/89 - Re: Lund/Eberling
25. Letter - Lund to Sam R. Sheppard
26. Lund Videotape
27. Lund Audiotape
28. Lund Audio/Video Transcript
29. Lund General Release
30. Lund Medical Release

31. Julie Schofield - Affidavit
32. Vern Lund - Affidavit
33. Lund Photograph - Video
34. Lund Photograph - Military
35. Lund - Military Records
36. Death Certificate - Vern Lund
37. Passport - Vern Lund
38. Marty & Pauline Eskins / Cooper Affidavit
39. Marty Eskins - Military Photograph
40. John Eberling/ Burkholder Affidavit
41. John Eberling/ Pedersen Affidavit
42. Edward Wilbert/ Gore Affidavit
43. Richard Eberling / Cooper Affidavit Re: 9/17/94 & 9/18/94 Interview
44. Paul Leland Kirk Affidavit
45. Richard Eberling / Cooper Affidavit Re: 8/91 Interview
46. Richard Eberling / Cooper Affidavit Re: 3/27/93 & 3/28/93 Interview
47. Richard Eberling / Cooper - 4/13/92 Letter
48. Richard Eberling / Cooper - 2/23/91 Letter
49. Coroner's Trace Evidence/Affidavit/Cooper
50. Dr. A.J. Kazlauckas Report to W.J. Corrigan
51. Peter R. DeForest - Curriculum Vitae

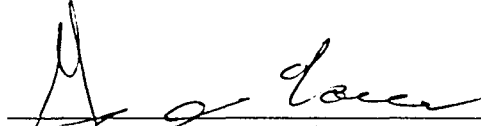
52. Eberling Letter - Description of Sheppard Home
53. Bay Village Drawing of Sheppard Home & Richard Eberling Drawings of Sheppard Home
54. Cleveland PD Report - Sgt. Lockwood 7/23/54
55. Leo Stawicki - Witness 7/10/54
56. Richard & Betty Knitter - Witness 7/10/54
57. Police Artist Drawing of Person Described by Knitters
58. Description Written by Office/Artist Adler (Knitters)
59. Police Drawing/Richard Eberling Drawing
60. Coroner's Verdict - Marilyn Sheppard
61. Autopsy Report - Marilyn Sheppard
62. Mary Cowan - Testimony - Partial Transcript
63. Marilyn Sheppard Blood Grouping Test
64. Richard Eberling - Cleveland Clinic Blood Test
65. Eberling/Durkin Murder - News Articles
66. Ethel Durkin - Coroner's Verdict 1/3/84
67. Ethel Durkin - Autopsy Report 9/10/88
68. Myrtle Fray - Police Report 5/10/62
69. Myrtle Fray - Death Certificate 5/25/62
70. Myrtle Fray - News Articles
71. Myrtle Fray - Coroner's Verdict
72. Myrtle Fray - Autopsy Report
73. Sarah Belle Farrow - Death Certificate

74. Ruth McNeil - News Articles
75. Ruth McNeil - Coroner's Verdict
76. Ruth McNeil - Death Certificate
77. Higgins/Cooper Affidavit - Re: Ruth McNeil
78. Arlene Campbell/Cooper Affidavit
79. Cooper Affidavit - Re: Eberling Letter 12/2/91
80. Cooper Affidavit - Interview w/ Kremperger 3/9/94
81. Dr. Stephen Sheppard - Statement re: Dr. Sam injuries 7/5/54
82. Mary Cowan Testimony re: wood chip (Ex. 84)
83. Summary of Dr. Gerber testimony re: Dr. Sam Sheppard injuries
84. Summary of Dr. Elkins testimony re: Dr. Sam Sheppard injuries
85. Summary of Bay Village PD Officer Drenkhan re: Dr. Sam Sheppard injuries
86. Report of Dr. Bashline re: Dr. Sam Sheppard injuries
87. Investigator Notes - medical personnel re: Dr. Sam Sheppard
88. Investigator Notes - Barbara Kinzel, nurse at Sheppard hospital, later killed in car accident in car driven by Richard Eberling
89. Nurses' records of Bayview, including statements of Barbara Kinzel
90. Cooper Affidavit re: Dombrowski report; Dombrowski report
91. Sam R. Sheppard Affidavit - Re: Ex. 84
92. Cooper Affidavit - Re: Ex. 84
93. Cooper Affidavit - Re:cellarway entrance to Sheppard home
94. Book - *Mockery of Justice, The True Story of the Sheppard Murder Case*

95. Paychecks to Katie Andrews (Kathy Collins)
96. Virginia Heskett - Affidavit
97. Eberling to Cooper correspondence
98. Dr. Mohammed Tahir DNA evidence report
99. U.S. Supreme Court decision, *Sheppard v. Maxwell*
100. Police report - re: discovery of flashlight
101. Crime scene photographs
102. Forensic evidence photographs
103. Trace Evidence reports
104. Sheppard 1954 trial transcript
105. Eberling autopsy report
106. Eberling autopsy photographs
107. Photographs of exhumation and transfer of evidentiary DNA
108. Evidence receipt report of John Murdock
109. Containers & wrappers re: wardrobe blood stain
110. Dateline NBC 9/97 interview w/ Eberling
111. Film clips of crime scene re-creation
112. Affidavits & correspondence between Parks & Eberling
113. Affidavits & correspondence between Parks & prosecutors
114. Bay Village police file
115. Curriculum vitae of expert witnesses

116. Photographs of evidence from Coroner Gerber's file

Respectfully submitted,



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