

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Tennessee

MID-AMERICA APARTMENT COMMUNITIES, INC.

Plaintiff(s)

v.

DENNIS MICHAEL PHILIPSON

Defendant(s)

Civil Action No. 2:23-CV-02186-SHL-cgc

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Dennis Michael Philipson
6178 Castletown Way
Alexandria, VA 22310

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Paige Waldrop Mills, BPR. No. 16218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201

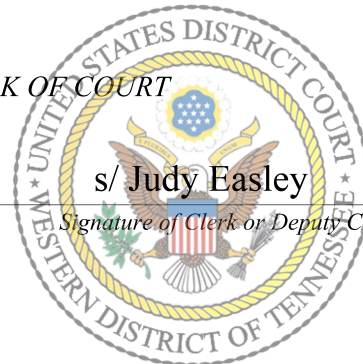
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: June 13, 2023

CLERK OF COURT

s/ Judy Easley

Signature of Clerk or Deputy Clerk



AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 2:23-CV-02186-SHL-cgc

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT
COMMUNITIES, INC.**

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendants.

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Docket No. 2:23-cv-02186-SHL-cgc

**MOTION AND MEMORANDUM FOR CONTEMPT AND SANCTIONS FOR FAILURE
TO RESPOND TO SUBPOENA**

The Plaintiff, Mid-America Apartment Communities, Inc. (“MAA”), moves this Honorable Court, pursuant to Fed. R. Civ. P. 45 for an Order holding Dennis Michael Philipson in Contempt for failing to respond to the subpoena served upon him, as well as an Order assessing Plaintiff’s attorney fees as a sanction, pursuant to Fed. R. Civ. P. 37(a)(5)(A) . In support of this Motion, MAA would show as follows:

1. On April 11, 2023, Philipson was personally served with a subpoena (the “Philipson Subpoena”).
The Philipson Subpoena is attached as **Exhibit A**.
2. The Philipson Subpoena provided that a response was due by April 27, 2023.
3. On April 17, 2023, Philipson filed a Motion to Quash (Dkt. 2, 3) without providing any other written objections to Plaintiff. Philipson’s Motion to Quash did not raise objections as to any particular document request but raised general objections to the Subpoena as a whole.
4. Plaintiff timely filed a Response to the Motion to Quash (Dkt. 13) on April 28, 2023.
5. On May 16, 2023, this Court issued an Order denying Mr. Philipson’s Motion to Quash (Dkt. 15).

6. On that same day, Plaintiff served the Court's Order on Mr. Philipson by email and requested performance under the Subpoena by May 22, 2023.
7. Although Mr. Philipson has used numerous email addresses to hide his identity and harass and intimidate MAA and its employees, Plaintiff's counsel used two email addresses for communication with him that it had previously used to correspond with him in this matter regarding the Motion to Quash: mphillyd@gmail.com and phillydee100@gmail.com.
8. Mr. Philipson did not respond to this email, nor did he make any production by May 22, 2023.
9. On May 30, 2023, Plaintiff's counsel again reached out to Mr. Philipson by email and stated as follows to him:

You are long past due in responding to the subpoena that MAA issued to you. Please provide some dates and times that you can have a meet and confer on your failure to respond. If you do not respond with dates and time to have a meet and confer before the week is out, I will take your failure to respond as an indication that you have no intention of complying with the subpoena and will proceed with the filing of a motion to compel.

10. Mr. Philipson did not provide any times for a meet and confer and made no response of any kind.

Plaintiff's email correspondence on the Motion to Quash is attached to this Motion as **Exhibit B**.
11. In the meantime, Plaintiff learned from productions from other third parties that the Infringing Domains and Infringing Website described in the Complaint (and now the First Amended Complaint), were set up and managed from an IP Address belonging to Mr. Philipson. Or to put it another way, it has now been definitely established that Mr. Philipson is John Does 1 and 2. Accordingly, Plaintiff amended its Complaint and named Mr. Philipson as the sole Defendant.
12. Plaintiff requests that the Court find Mr. Philipson in Contempt for failing to respond to a lawfully issued Subpoena of this Court and requests that it assess an award of Plaintiff's attorney fees as a sanction against him for his failure to comply.
13. Plaintiff plans to personally serve Mr. Philipson with this Motion, as well as serve him at the above described email addresses.

ARGUMENT

Rule 45 of the Federal Rules of Civil Procedure governs third-party subpoenas. Fed. R. Civ. P. 45. Rule 45 permits parties to command a non-party to attend a deposition, produce documents, and permit inspection of premises. Fed. R. Civ. P. 45(a)(1). “The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena.” Fed. R. Civ. P. 45(e); see also Painewebber Inc. v. Acstar Ins. Co., 211 F.R.D. 247, 249 (S.D.N.Y. 2002) (“The Court has the power under [Rule 45(e)] to impose contempt simply on the basis of failure to comply with a subpoena.”). Rule 45 provides that the person commanded to produce documents may serve an objection on the party or attorney designated in the subpoena: “The objection *must be* served before the earlier of the time specified for compliance or 14 days after the subpoena is served.” Fed. R. Civ. P. 45(c)(2)(B)(emphasis added).

“[F]ailure to serve written objections to a subpoena within the time specified by Rule 45 typically constitutes a waiver of such objections.” Am. Elec. Power Co., Inc. v. U.S., 191 F.R.D. 132, 136 (S.D. Ohio 1999) (citing Concord Boat Corp. v. Brunswick Corp., 169 F.R.D. 44, 48 (S.D.N.Y. 1996)); see also In re DG Acquisition Corp., 151 F.3d 75, 81 (2d Cir. 1998); Tuite v. Henry, 98 F.3d 1411, 1416 (D.C. Cir. 1996); Wang v. Hsu, 919 F.2d 130, 131 (10th Cir. 1990); Viking Yacht Co. v. Composites One LLC, 2007 U.S. Dist. LEXIS 21002, at *6 (E.D. Tenn. Mar. 21, 2007); Angell v. Shawmut Bank Connecticut Nat’l Assoc., 153 F.R.D. 585, 590 (M.D.N.C. 1994).

Because Mr. Philipson has failed to respond to the Subpoena or file timely objections to the documents it seeks, Rule 45 permits this Court to find him in Contempt. This Court has already entered an Order denying Mr. Philipson’s Motion to Quash. Accordingly, he was on notice that

performance under the Subpoena was required and a finding of Contempt is appropriate and necessary.

Moreover, Plaintiff asserts that it is entitled to its attorney fees in bringing this Motion. Federal Rule of Civil Procedure 37(a)(5)(A) provides as follows:

If the motion [to compel discovery] is granted—or if the disclosure or requested discovery is provided after the motion was filed—the court **must**, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees.

Fed. R. Civ. P. 37(a)(5)(A) (emphasis added).

The court must not award expenses, however, where (1) the movant failed to make a good faith effort to obtain the discovery without court intervention, (2) the non-movant's failure to provide discovery was “substantially justified,” or (3) the award would otherwise be unjust. Fed. R. Civ. P. 37(a)(5)(A)(i)-(iii). Here, none of the exceptions that would disallow an award of fees applies. Plaintiff made multiple good faith efforts to obtain the discovery from Mr. Philipson without Court intervention, which he ignored. His failure to respond was not substantially justified, in that this Court considered and denied his Motion to Quash. Further, the award would not be unjust as Mr. Philipson has spent two years harassing MAA and its employees using numerous false personas, bogus email accounts, and different platforms, which necessitated the filing of this action and the conduction of extensive third party discovery. Rather than unjust, an award of fees is justified and necessary to curtail similar conduct as this litigation proceeds.

For the foregoing reasons, Plaintiff requests that its Motion be granted.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 16218

John Golwen, BPR No. 014324

BASS, BERRY & SIMS PLC

Suite 2800; 150 3rd Ave. South

Nashville, Tennessee 37201

Tel: 615-742-6200

Fax: 615-429-0429

pmills@bassberry.com

jgolwen@bassberry.com

Counsel for Mid-America Apartment Communities, LLC

CERTIFICATE OF SERVICE

I hereby certify that the forgoing MOTION AND MEMORANDUM FOR CONTEMPT AND
FOR SANCTIONS was served on the undersigned by email and U.S. mail on June 14, 2023:

Dennis Philipson
6178 Castletown Way
Alexandria, VA 22310
mphillyd@gmail.com

In addition, undersigned counsel placed the document with a process server for personal service
on Mr. Philipson at the above physical address on June 14, 2023.

/s/ Paige Waldrop Mills

EXHIBIT A

UNITED STATES DISTRICT COURT

for the

Western District of Tennessee

Mid-America Apartment Communities, Inc.

Plaintiff

v.

John Doe 1

John Doe 2

Defendant

Civil Action No. 2:23-cv-02186

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Dennis Michael Philipson
6178 Castletown Way, Alexandria, VA, 22310

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attached Exhibit A

Place: Bass, Berry & Sims PLC; Attn: Paige Mills
150 3rd Ave. S.
Nashville, TN 37201; pmills@bassberry.com

Date and Time:
4/27/2023 5:00 p.m. CST

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 04/06/2023

CLERK OF COURT

OR

Paige Mills

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Mid-America Apartment Communities, Inc., who issues or requests this subpoena, are:

Paige Mills, Bass, Berry Sims PLC, 150 Third Ave. S., Suite 2800, Nashville, TN 37201; (615) 742 -6200;
pmills@bassberry.com

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:23-cv-02186

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*

on *(date)* .

☐ I served the subpoena by delivering a copy to the named person as follows:

on *(date)* ; or

☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$.

My fees are \$ for travel and \$ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT
COMMUNITIES, INC.**

Plaintiff,

V.

JOHN DOE 1 AND JOHN DOE 2,

Defendants.

Docket No. 2:23-cv-02186

JURY DEMAND

PHILIPSON SUBPOENA ATTACHMENT A

Please produce all documents showing:

1. All documents and things, including electronically stored information, that discuss or relate to Mid-America Apartment Communities, Inc. (“MAA”) created on or after March 15, 2021.

2. All documents and things, including electronically stored information, that discuss or relate to domain names with included terms:

- MAA
- mega
- fraud
- awesome
- apartments
- Mid-America Apartment Communities

3. All documents and things, including electronically stored information, that discuss or relate to the domains:

- a. maaapartments.com

- b. maa.apartments
 - c. maafraud.com
 - d. megaawesomeapartments.com
4. All documents and things, including electronically stored information, that emanate from or to, or discuss, include, or relate to any of the following email accounts:
- a. timmy.argo75@gmail.com
 - b. craigsilver25@outlook.com;
 - c. RunFromMAA@outlook.com
 - d. tomgrimey@outlook.com
 - e. melanieisgoingtojail@outlook.com
5. All documents and things, including electronically stored information, that discuss, include, or relate to:
- a. Craig Silver
 - b. Tim Argo
 - c. Tom Grimey
 - d. Melanie Carpenter
 - e. Any current employee of Mid-America Apartment Communities, Inc.
6. All documents and things, including electronically stored information, that emanate from or to, or discuss, include, or relate to any of the following LinkedIn accounts:
- <https://www.linkedin.com/company/maa-apartments/>
- <https://www.linkedin.com/in/craig-silver-8702b626a/>
- <https://www.linkedin.com/in/fred-casualty-loss-91ab57269/>
- <https://www.linkedin.com/in/maa-fraud-068a93269/>
- <https://www.linkedin.com/in/perry-johnson-b01a94269/>

EXHIBIT B

Mills, Paige

From: Mills, Paige
Sent: Tuesday, May 30, 2023 4:36 PM
To: 'Philly'
Cc: 'mphillyd@gmail.com'; McClanahan, Teresa
Subject: RE: Mid-America Apartment Communities - MAA

Mr. Philipson,

You are long past due in responding to the subpoena that MAA issued to you. Please provide some dates and times that you can have a meet and confer on your failure to respond. If you do not respond with dates and time to have a meet and confer before the week is out, I will take your failure to respond as an indication that you have no intention to complying with the subpoena and will proceed with the filing of a motion to compel.

Thank you,

Paige Mills

BASS BERRY+SIMS

Paige Mills

Member

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201

615-742-7770 phone

pmills@bassberry.com • www.bassberry.com

From: Mills, Paige
Sent: Tuesday, May 16, 2023 9:24 AM
To: 'Philly' <phillydee100@gmail.com>
Cc: mphillyd@gmail.com; McClanahan, Teresa <TMcClanahan@bassberry.com>
Subject: RE: Mid-America Apartment Communities - MAA

Mr. Philipson:

Attached please find Judge Lipman's Order from this morning denying your motion to quash. The subpoena required compliance on or before April 27, 2023. We are now more than two weeks past that date. Please provide all responsive documents on or before Monday, May 22, 2023.

Thank you,

Paige Mills

BASS BERRY+SIMS

Paige Mills

Member

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: Philly <phillydee100@gmail.com>
Sent: Friday, April 14, 2023 3:50 PM
To: Mills, Paige <PMills@bassberry.com>
Cc: mphillyd@gmail.com; McClanahan, Teresa <TMcClanahan@bassberry.com>
Subject: Re: Mid-America Apartment Communities - MAA

Thanks. Sounds good 👍

On Fri, Apr 14, 2023, 4:48 PM Mills, Paige <PMills@bassberry.com> wrote:

Yes, it is filed in the Western District of Tennessee, Docket NO. 2:23-cv-02186, in front of Judge Lipman. However, going forward, if you have retained a lawyer, I cannot correspond with you directly without his or her express permission.

Best Regards,

Paige Mills

BASS BERRY + SIMS

Paige Mills

Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: Philly <phillydee100@gmail.com>
Sent: Friday, April 14, 2023 3:42 PM
To: Mills, Paige <PMills@bassberry.com>
Cc: mphillyd@gmail.com; Mattern, Richard <rmattern@bassberry.com>; Ihde, Erin K. <Elhde@bassberry.com>;
Trademarks <Trademarks@bassberry.com>
Subject: Re: Mid-America Apartment Communities - MAA

Good afternoon Bass, Berry Pro,

Can I have the judge and courts contact info this was filed in? Several reasons my attorney's said this can be quashed. I did not see it anywhere in the attached or the 1/2 version I was served.

Thanks!

Dennis Philipson

On Wed, Apr 12, 2023, 8:45 AM Philly <phillydee100@gmail.com> wrote:

For seven years I watched MAA commit fraud, lie, cheat, steal, take advantage of residents. I watched them instruct me and others to miscode items, lie about storm damage, purposely avoid fire watch to save money. I was harassed over and over and over again.

There are 1000s of negative reviews. When the reviews got too bad, MAA asked employees to write new ones.

I saw a girl murdered in October of 2021. I saw MAA charge exorbitant late fees, no grace period, artificially inflate rent, etc, etc, etc.

I am not going to be intimidated by them, or any of their law firms. Especially ones that I submitted whistleblower complaints on.

So, see you then end of April.

Thanks for the opportunity.

Dennis Philipson

On Wed, Apr 12, 2023, 8:11 AM Philly <phillydee100@gmail.com> wrote:

<https://www.gbreb.com/MAA/About%20Us/History/Sites/MAA/About/History.aspx?hkey=344aedee-0beb-45a7-a2b0-d4c0d53fc042>

On Tue, Apr 11, 2023, 2:56 PM Philly <phillydee100@gmail.com> wrote:

Thanks. Happy to discuss any of this at anytime. I will take a look at specific instructions and respond by the deadline.

Most of these emails, names, accounts, I do not recall creating. I have been pretty open with my complaints. It is on Google, for all the world to see under my name. I have also been pretty open with communicating with MAA.

The information I provided to the SEC, DOJ, and IRS was regarding a whistleblower complaint against MAA, Baker Donelson and your law firm, Bass, Berry Pro shop as well.

Thank you Dennis

On Tue, Apr 11, 2023 at 2:42 PM Mills, Paige <PMills@bassberry.com> wrote:

Attached is what was provided to the process server to serve on you. The instructions for responding to a subpoena are also included.

Best,

Paige Mills

Paige Mills

Member

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201

615-742-7770 phone

pmills@bassberry.com • www.bassberry.com**From:** Philly <phillydee100@gmail.com>**Sent:** Tuesday, April 11, 2023 1:33 PM**To:** Mills, Paige <PMills@bassberry.com>**Cc:** mphillyd@gmail.com; Ihde, Erin K. <Elhde@bassberry.com>; Mattern, Richard <rmattern@bassberry.com>**Subject:** Re: Mid-America Apartment Communities - MAA

There is no exhibit A. Do you have a copy?

On Tue, Apr 11, 2023, 2:27 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

The items you have been ordered to produce are set forth in Exhibit A to the Subpoena. It doesn't matter if you have already produced it to someone else. It must still be produced to us in order to comply with the subpoena.

Best Regards,

Paige Mills

Paige Mills

Member

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201

615-742-7770 phone

pmills@bassberry.com • www.bassberry.com

From: Philly <phillydee100@gmail.com>

Sent: Tuesday, April 11, 2023 12:45 PM

To: Mattern, Richard <rmattern@bassberry.com>; Mills, Paige <PMills@bassberry.com>

Cc: mphillyd@gmail.com; Ihde, Erin K. <Elhde@bassberry.com>

Subject: Re: Mid-America Apartment Communities - MAA

I got a subpoena @ my house? For John Doe?

What exactly are you looking for? Most of this stuff has been provided to the DOJ and the SEC and the IRS? P Mills name is on this subpoena.

Thanks

On Fri, Apr 7, 2023, 3:08 PM Philly <phillydee100@gmail.com> wrote:

Hi Richard,

I have brought up issues with them since 2021 and gave them plenty of opportunities to respond. I also questioned their internal controls while I was at the company for almost five years. They should be able to describe what I am alleging.

There is also a pretty clear review of the headquarters on Google. My only concern was, Bass, Berry & Sims review of statements made in their financials. Some of those statements seemed inaccurate. I know Robert at MAA was a member of Bass Berry & Sims in 2005 and represented MAA. Was just curious the last time your firm reviewed those statements in documents submitted to the SEC.

I do not want to defame or speak poorly about anyone or any company unless what I am saying is true and accurate.

Thank you for your response.

Dennis

On Fri, Apr 7, 2023 at 2:51 PM Mattern, Richard <rmattern@bassberry.com> wrote:

Mr. Philipson,

Thank you for bringing this matter to our attention. I'm the lawyer that represents MAA. If you would like to send me the complaints that you reference, I would be happy to review it to develop an understanding of what MAA did.

Thanks in advance.

Best Regards,
Richard

Richard Mattern
Member

Bass, Berry & Sims PLC

The Tower at Peabody Place - 100 Peabody Place, Suite 1300
Memphis, TN 38103-3672
901-543-5933 phone
901-270-0263 mobile
rmattern@bassberry.com • www.bassberry.com

From: F T <mphillyd@gmail.com<<mailto:mphillyd@gmail.com>>>
Sent: Friday, April 7, 2023 10:22 AM
To: Ihde, Erin K. <EIhde@bassberry.com<<mailto:EIhde@bassberry.com>>>;
info@bassberry.com<<mailto:info@bassberry.com>>;
contact@bassberry.com<<mailto:contact@bassberry.com>>
Subject: Mid-America Apartment Communities - MAA

Hi Erin,

Who at Bass Berry Sims handles/represents MAA - Mid-America Apartment Communities Inc? We are about to publicly release a complaint we filed with the SEC, DOJ, and IRS regarding the accuracy of their financials in 2021. We brought this to the attention of MAA in 2021.

In these documents, it says that your firm reviewed statements made in their financials. We know and

have documentation that MAA's EVP of General Counsel represented your firm in 2005.

We are not here to upset anyone or make your law firm look bad. This is strictly about MAA.

Thank you for your assistance,

Dennis Philipson

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

UNITED STATES DISTRICT COURT

for the

Western District of Tennessee

MID-AMERICA APARTMENT COMMUNITIES, INC.

Plaintiff(s)

v.

DENNIS MICHAEL PHILIPSON

Defendant(s)

Civil Action No. 2:23-CV-02186-SHL-cgc

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Dennis Michael Philipson
6178 Castletown Way
Alexandria, VA 22310

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Paige Waldrop Mills, BPR. No. 16218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201

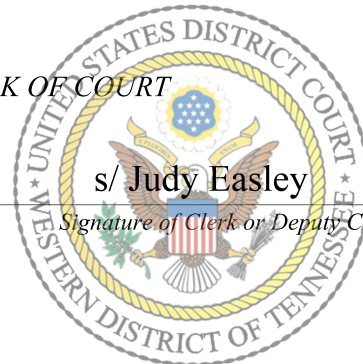
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: June 13, 2023

CLERK OF COURT

s/ Judy Easley

Signature of Clerk or Deputy Clerk



AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 2:23-cv-02186-SHL-cgc

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (f))

This summons for *(name of individual and title, if any)* Dennis Michael Philipson was received by me on *(date)* Jun 14, 2023

- ☒ I personally served the summons on the individual at *(place)* 6178 CASTLETOWN WAY, ALEXANDRIA, VA 22310-1634 on *(date)* Wed, Jun 14 2023; or
- ☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____, a person of suitable age and discretion who resides there, on *(date)* _____, and mailed a copy to the individual's last known address; or
- ☐ I served the summons on *(name of individual)* _____, who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____; or
- ☐ I returned the summons unexecuted because _____; or
- ☐ Other, _____, or

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: 06/14/2023

Allison Bernardo

Server's signature

Allison Bernardo

Printed name and title

107 S. West St. Ste 417, Alexandria, VA 22314

Server's address

Additional information regarding attempted service, etc..

1) Successful Attempt Jun 14, 2023, 12:44 pm EDT at 6178 CASTLETOWN WAY, ALEXANDRIA, VA 22310-1634 received by Dennis Michael Philipson Age 40, Ethnicity Caucasian; Gender: Male, Weight: 200, Height: 6', Hair: Black; Eyes: Brown,

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

**ORDER DIRECTING DEFENDANT DENNIS MICHAEL PHILIPSON TO
SHOW CAUSE**

Before the Court is Plaintiff Mid-America Apartment Communities, Inc.'s First Amended Complaint, filed June 13, 2023. (ECF No. 16.) Defendant Dennis Michael Philipson was served on June 14, 2023, (ECF No. 20), and thus his responsive pleading was due on or before July 5, 2023. However, to date, Defendant has not filed an answer or otherwise responded to Plaintiff's Complaint.

Defendant is **ORDERED TO SHOW CAUSE** within twenty-one (21) days of the date of this Order why default should not be entered against him. Failure to respond to this Order in a timely manner may result in an entry of default. The Clerk is **DIRECTED** to mail this Order to Show Cause to Defendant at the address at which he was served (see ECF No. 20 at PageID 296):

Dennis Michael Philipson
6178 Castletown Way
Alexandria, VA 22310-1634

IT IS SO ORDERED, this 10th day of July, 2023.

s/ Sheryl H. Lipman

SHERYL H. LIPMAN
CHIEF UNITED STATES DISTRICT JUDGE

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

RESPONSE to ORDER DIRECTING DEFENDANT DENNIS MICHAEL PHILIPSON TO SHOW CAUSE

Honorable Judge Lipman,

I humbly extend my apologies for not directly addressing the complaint made by MAA and the attorney at Bass, Berry, and Sims PLC. As explained in my motion to quash, I firmly assert that this entire complaint is a retaliatory measure aimed at intimidating me and obtaining evidence pertaining to the whistleblower complaints I filed in 2021 and 2022 against both firms.

To provide a concise overview of the events, in April 2021, I endeavored to bring to MAA's attention the harassment, accounting fraud, mistreatment of employees and residents, and other alarming matters that I had observed over the past several years. I also attempted to contact Employee Relations using my email address, mphillyd@gmail.com, but the COO blocked my communication with the company. Subsequently, in October 2021, Glenn Russell, their SVP of internal audit, reached out to me via email, expressing a desire to speak over the phone regarding the matter. However, when I declined the call, he assured me that a report of their findings would be sent, mentioning that he "just needed to get the formatting correct," but no such report materialized, and there was no follow-up. Consequently, I escalated the matter to the SEC, DOJ, and IRS, providing substantial supporting evidence of accounting, business, and securities fraud, and submitted whistleblower complaints against MAA, several employees, and two law firms, including Bass, Berry, and Sims PLC.

Over the ensuing years, despite my request for MAA not to contact me again in November 2021, I continued to receive persistent communication from various employees and contractors via phone, text messages, and even visits to my home. Furthermore, I became aware of rumors circulating about me within the company.

In March 2023, MAA's EVP of General Counsel, Robert DelPriore, sent me an email, but I opted not to respond. Mr. DelPriore was previously employed at Bass, Berry, and Sims PLC. Shortly after receiving his email, I was unexpectedly designated as a "witness" in MAA's unfounded complaint. To my surprise, my email addresses were then subpoenaed by Pam Mills and Bass, Berry, and Sims PLC (mphillyd@gmail.com & Phillydee100@gmail.com). I am perplexed by the alteration of the document presented to the court and submitted to Google (Exhibit A). Furthermore, I fail to comprehend why my email addresses were subpoenaed when I was merely a "witness." Additionally, I harbor skepticism about the source and method used to obtain my IP address, as well as the reliability of the claims derived from it.

Until all government investigations are concluded, I refrain from expressing further thoughts or statements regarding this matter. I had not anticipated the need to retain this evidence, as it had already been forwarded to various government agencies. Unfortunately, I misplaced the USB drive containing all the information related to the fraud. Nonetheless, I am confident that MAA or their attorneys can subpoena one of those agencies to retrieve the necessary data. Any judgment against me concerning these baseless claims should be perceived as further retaliation and a direct violation of my whistleblower protection. It is evident that MAA and their law firm, Bass, Berry, Sims PLC, persist in insinuating that I am "acting" in relation to this court and previously with the EEOC. Moreover, they appear to misinterpret my statements, attempting to present them as compelling arguments. Given these circumstances, I firmly believe this case should be entirely dismissed.

Thank you for your time and consideration.

Sincerely,

Sincerely,

Sincerely, Dennis Philipson
6178 Castletown Way
Alexandria, VA 22310

Exhibit A

From: google-legal-support@google.com
Sent: Tuesday, May 23, 2023 4:58 PM
To: phillydee100@gmail.com
Subject: Re: Google Internal Ref. No. 33616458
Attachments: Order Denying Philipson's Motion to Quash Subpoena.pdf; Subpoena dated 2024.04.06.pdf

Hello,

Thank you for your emails. Google has received the attached Order dated May 16, 2023, requiring Google's production of documents. Because Google has received compulsory legal process, Google intends to respond to the attached subpoena and may produce responsive non-content documents by May 30, 2023.

Regards,
Google Legal Investigations Support

On Wed, May 17, 2023 at 16:53 UTC phillydee100@gmail.com wrote:
Good afternoon,

Following up on this?
Can I please have a copy of the subpoena that was originally sent to me

Thank you..

On Sat, Apr 29, 2023, 1:43 PM phillydee100 <phillydee100@gmail.com> wrote:
Good afternoon,

Can I please have a copy of the subpoena that Google sent me last week regarding Mphillydgmail.com and Phillydee100@gmail.com? I have misplaced this after I sent it to the SEC.

What was filed with the court was different than the one I was sent. I attached the one filed in court.

Thank you very much for your assistance.

A/C 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Tennessee

Mid-America Apartment Communities, Inc.

Plaintiff

v.

John Doe 1

John Doe 2

Defendant

Civil Action No. 2:23-cv-02186

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To:

Google LLC - Corporation Service Company
2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833

(Name of person to whom this subpoena is directed)

☒ **Production: YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attached Exhibit A

Place: Bass, Berry & Sims PLC; Attn: Paige Mills
150 3rd Ave. S.
Nashville, TN 37201; pmills@bassberry.comDate and Time:
4/27/2023 5:00 p.m. CST

☐ **Inspection of Premises: YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 04/06/2023

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Mid-America Apartment Communities, Inc., who issues or requests this subpoena, are:

Paige Mills, Bass, Berry Sims PLC, 150 Third Ave. S., Suite 2800, Nashville, TN 37201; (615) 742-6200;
pmills@bassberry.com**Notice to the person who issues or requests this subpoena**

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 2:23-cv-02186

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for (name of individual and title, if any) _____

on (date) _____

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on (date) _____ ; or

☐ I returned the subpoena unexecuted because: _____Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature*_____
*Printed name and title*_____
Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

v.

JOHN DOE 1 AND JOHN DOE 2,

Defendants.

)
)
)
)
) Docket No. 2:23-cv-02186
) JURY DEMAND
)
)
)
)
)

GOOGLE SUBPOENA ATTACHMENT A

Please disclose the basic subscriber records (as set forth below at A-F) for the following three

Gmail accounts and three websites:

- mphillyd@gmail.com
- phillydee100@gmail.com
- timmy.argo75@gmail.com
- maafraud.com
- maa.apartments
- maaapartments.com

I affirm that these two email addresses belong to me. However, I maintain reservations regarding the adequacy of the grounds upon which they were subpoenaed. Furthermore, I am perplexed by MAA's inquiry into my intention to seek quashing or suppression of these email addresses.

(A) name;

(B) address;

(C) local and long distance telephone connection records, or records of session times and durations;

(D) length of service (including start date) and types of service utilized;

(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(F) means and source of payment for such service (including any credit card or bank account number)

35425530.1

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Tennessee

Mid-America Apartment Communities, Inc.

*Plaintiff*v.
John Doe 1
John Doe 2*Defendant*

Civil Action No. 2:23-cv-02186

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Google LLC - Corporation Service Company
2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attached Exhibit A

Place: Bass, Berry & Sims PLC; Attn: Paige Mills
150 3rd Ave. S.
Nashville, TN 37201; pmills@bassberry.comDate and Time:
4/27/2023 5:00 p.m. CST

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 04/06/2023

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Mid-America Apartment Communities, Inc., who issues or requests this subpoena, are:

Paige Mills, Bass, Berry Sims PLC, 150 Third Ave. S., Suite 2800, Nashville, TN 37201; (615) 742 -6200;
pmills@bassberry.com

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 2:23-cv-02186

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*I received this subpoena for *(name of individual and title, if any)* _____on *(date)* _____.☐ I served the subpoena by delivering a copy to the named person as follows: __________ on *(date)* _____; or☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature*_____
*Printed name and title*_____
Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

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(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

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(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186
	)	JURY DEMAND
JOHN DOE 1 AND JOHN DOE 2,)	
)	
Defendants.)	
)	
)	

GOOGLE SUBPOENA ATTACHMENT A

Google shall disclose the following basic subscriber records for Gmail account "timmy.argo75@gmail.com" and websites "maafraud.com", "maa.apartments" and "maaapartments.com":

(A) name;

(B) address;

(C) local and long distance telephone connection records, or records of session times and durations;

(D) length of service (including start date) and types of service utilized;

(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(F) means and source of payment for such service (including any credit card or bank account number)

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
Western Division
Office of the Clerk**

Wendy R. Oliver, Clerk
242 Federal Building
167 N. Main Street
Memphis, Tennessee 38103
(901) 495-1200

Deputy-in-Charge
U.S. Courthouse, Room 262
111 South Highland Avenue
Jackson, Tennessee 38301
(731) 421-9200

NOTICE OF SETTING
Before Chief Judge Sheryl H. Lipman, United States District Judge

August 1, 2023

RE: 2:23-cv-2186-SHL
Mid-America Apartment Communities, Inc. v Dennis Philipson

Dear Sir/Madam:

A **SCHEDULING CONFERENCE** pursuant to Rule 16(b) of the Federal Rules of Civil Procedure has been **SET** for **MONDAY, SEPTEMBER 11, 2023 at 9:30 A.M.** before **Chief Judge Sheryl H. Lipman.**

The conference will be held **via Microsoft Teams Video.** A link to the video conference will be emailed to the attorneys prior to the setting.

If the parties consent to have the case heard by the magistrate, please file your consent and this conference will be cancelled.

Counsel should be prepared to discuss all pending motions.

PLEASE REVIEW THE ATTACHED INSTRUCTIONS.

If you have any questions, please contact the case manager at the telephone number or email address provided below.

Sincerely,
WENDY R. OLIVER, CLERK
BY: s/Melanie Mullen,
Case Manager for Chief Judge Sheryl H. Lipman
901-495-1255
melanie_mullen@tnwd.uscourts.gov

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

CASE MANAGEMENT INSTRUCTIONS – STANDARD CIVIL CASES

Fed.R.Civ.P 26 and Local Rule 16 shall guide the conduct of the parties in their preparation of the case.

I. SCHEDULING CONFERENCE

A Rule 16 scheduling conference will be conducted by the Court as soon as possible, but no later than within 180 days after the filing of the complaint or within 60 days of the filing of the return of service or waiver of service of the last defendant, whichever is earlier.

II. ATTENDANCE REQUIRED

The attendance of counsel with significant knowledge of the case and all unrepresented parties is required at the scheduling conference. Counsel and unrepresented parties must be prepared to address any pending motions as well as motions which may be raised orally at the conference. Counsel and unrepresented parties must also be prepared to discuss the case in depth and make binding decisions regarding how the case will proceed. Although the Court prefers to have counsel in person at the conference, out-of-town counsel may request permission from the Court to participate in the conference by video or phone. The request to participate by video or phone must be in writing at least five (5) days prior to the conference and include the names and telephone numbers of all parties participating via video or phone.

III. BEFORE THE SCHEDULING CONFERENCE: MEET AND CONFER

Pursuant to Fed.R.Civ.P 26(f), the parties shall, at least twenty-one (21) days prior to the Rule 16 scheduling conference, meet for discussion and the preparation of a proposed discovery plan that outlines the discovery you need in this case. The parties shall file with the Court a written report outlining the proposed discovery plan and email a proposed scheduling order using the format of Exhibit “A” to ECF_Judge_Lipman@tnwd.uscourts.gov at least **seven (7) days** before the first scheduling conference. **Please propose appropriate deadlines for the specific case at issue, rather than simply default to the approximated schedule on the form order attached.** In addition, please refer to Rule 26(f) of the Fed.R.Civ.P, for a checklist of the items to be discussed at the Rule 26(f) meeting which should be included in your written report.

IV. SUBJECTS TO BE DISCUSSED AT SCHEDULING CONFERENCE

Generally, at the scheduling conference, the following subjects will be addressed:

The status of the case, the general nature of the claims and defenses, issues in the case, and potential use of experts;

Jurisdictional and statute of limitations issues (if motions have not already been filed, the Court should be advised at the scheduling conference that there are preliminary matters which require early disposition);¹

Setting of all deadlines in the case (see Exhibit “A”), as well as the trial date, pretrial conference and other appropriate deadlines. The court expects to set a definite trial date which does not conflict with criminal case settings. The trial date will be consistent with the particular needs of this case and will be no later than eighteen months from the date of filing, unless the court certifies that the court’s calendar does not so permit or the complexity of the case requires a later setting.

The desire of the parties to consent to all further proceedings in the case being handled by the magistrate judge in accordance with 28 U.S.C. § 636(c) (including entry of final judgment, with any appeal directly to the Sixth Circuit Court of Appeals);

The possibility of settlement, your position regarding settlement, your proposed deadline to engage in alternative dispute resolution and whether you have reached an agreement on the selection of a mediator;

Status of all document discovery (parties are encouraged to promptly exchange core document information and, where necessary, to promptly issue requests for production of documents and subpoenas duces tecum to third parties);

Any anticipated discovery problems (i.e., the necessity of protective orders, the necessity of inspection of facilities, witness unavailability, delays which may be occasioned because of an individual’s physical or mental condition, etc.);

Estimated trial time, and any special issues anticipated in connection with trial; and

Any pending motions or motions which may be raised orally at the conference.

¹ Similarly, questions of class certification, qualified immunity, or conflict of interest should be raised at the first possible occasion and no later than the initial Rule 16(b) scheduling conference.

V. ORDER TO BE ENTERED

An order will be entered by the Court following the scheduling conference. The order will be based on the proposed order submitted by counsel and the discussion at the conference. The dates adopted will be those that meet the needs of the specific case at issue, even if the dates provide for a shorter schedule for the matter.

VI. SANCTIONS FOR FAILURE TO APPEAR

Failure to appear at the scheduling conference, or to comply with the directions of the Court set forth herein, may result in an ex parte hearing being held and the entry of such order as is just, including a judgment of dismissal with prejudice or entry of a default judgment, or other appropriate sanctions, such as attorney's fees and expenses of opposing counsel, without further notice to the party who fails to appear.

EXHIBIT "A"

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

)	
)	
Plaintiff,)	
)	
vs.	)	No. _____
)	
)	
)	
Defendant.)	

MODEL SCHEDULING ORDER FOR ROUTINE CASES

Pursuant to written notice, a scheduling conference was held on [date]. Present were _____, counsel for plaintiff, and _____, counsel for defendant. At the conference, the following dates were established as the final deadlines for:

INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1): _____
(should be made before the Rule 16(b) conference, or as soon as possible thereafter but no later than two weeks following the conference)

MOTIONS TO JOIN PARTIES: _____
(within 2 months after conference)

MOTIONS TO AMEND PLEADINGS: _____
(within 2 months after conference)

MOTIONS TO DISMISS: _____
(within 3 months after conference)

ALTERNATIVE DISPUTE RESOLUTION:

(a) ADR DEADLINE PURSUANT TO ADR PLAN RULE 4.3(a): _____

(within 12 weeks after the scheduling conference)

Mediator must file Mediation Certification Form:

<https://www.tnwd.uscourts.gov/pdf/content/MediationCertificationForm.pdf>

(b) SELECTION OF MEDIATOR PURSUANT TO ADR PLAN RULE 5.4(c)2:

MEDIATOR'S NAME: _____

[insert name of mediator]

STIPULATION FILING DATE: _____

(if no mediator has been selected by the parties, within 1 week of scheduling conference)

(If the parties fail to agree upon a Mediator by this deadline, the Court shall select a Mediator for the case from the Court's Mediator list and shall issue an Order notifying the parties of the Mediator's identity)

COMPLETING ALL DISCOVERY: _____

(within 6 to 8 months after conference)

(a) DOCUMENT PRODUCTION AND INTERROGATORIES:

(Same as discovery deadline or at intervals during the discovery period)

(b) DEPOSITIONS AND REQUESTS FOR ADMISSIONS²:

(Same as discovery deadline or at intervals during the discovery period)

(c) EXPERT WITNESS DISCLOSURES (Rule 26):

(1) DISCLOSURE OF PLAINTIFF'S RULE 26 EXPERT INFORMATION: _____

(2 months before close of discovery)

(2) DISCLOSURE OF DEFENDANT'S RULE 26 EXPERT INFORMATION: _____

(1 month before close of discovery)

(3) EXPERT WITNESS DEPOSITIONS: _____

(by discovery deadline)

² The parties shall serve requests at least 45 days before the deadline to complete written discovery to allow sufficient time for responses by the deadline for completion of discovery.

MOTIONS TO EXCLUDE EXPERTS/DAUBERT MOTIONS: _____

(within 1 month after close of discovery)

FILING DISPOSITIVE MOTIONS: _____

(within 1 month after close of discovery)

JOINT PROPOSED PRETRIAL ORDER DUE: _____

(E-Mail Joint Proposed Pretrial Order in Word or WordPerfect format to:

ECF_Judge_Lipman@tnwd.uscourts.gov)

PRETRIAL CONFERENCE DATE: _____

NON/JURY TRIAL: _____, 20__ at 9:30 a.m. Trial is anticipated to last approximately ____ days.

The parties [**do**] / [**do not**] consent to trial before the Magistrate Judge.

OTHER RELEVANT MATTERS:

As required by Local Rule 26.1(e), the parties have conferred as to whether they will seek discovery of electronically stored information (“e-discovery”) and [have agreed that e-discovery is not appropriate in this case and therefore they will not seek e-discovery] / [have reached an agreement regarding e-discovery and hereby submit the parties’ e-discovery plan for the court’s approval] / [have not reached an agreement regarding e-discovery and will comply with the default standards described in Local Rule 26.1(e) until such time, if ever, the parties reach an agreement and the court approves the parties’ e-discovery plan].

[Pursuant to agreement of the parties, if privileged or protected information is inadvertently produced, the producing party may, by timely notice, assert the privilege or protection and obtain the return of the materials without waiver].

Pursuant to Local Rule 16.3(d), within 7 days of completion of ADR, the parties shall file a notice via ECF confirming that the ADR was conducted and indicating whether it was successful or unsuccessful, without disclosing the parties’ respective positions at the ADR.

Pursuant to Local Rule 7.2(a)(1)(A), all motions, except motions pursuant to Fed. R. Civ. P. 12, 56, 59, and 60 shall, be accompanied by a proposed order in a word processing format sent to the ECF mailbox of the presiding judge.

Pursuant to Local Rule 7.2(a)(1)(B), the parties are required to consult prior to filing any motion (except motions filed pursuant to Fed. R. Civ. P. 12, 56, 59, and 60).

The opposing party must file a response to any opposed motion. Pursuant to Local Rule 7.2(a)(2), a party’s failure to respond timely to any motion, other than one requesting dismissal of a

claim or action, may be deemed good grounds for granting the motion.

Neither party may file an additional reply to any motion, other than a motion filed pursuant to Fed. R. Civ. P. 12(b) or 56, without leave of the court. Pursuant to Local Rule 7.2(c), if a party believes that a reply is necessary, it shall file a motion for leave to file a reply within 7 days of service of the response, setting forth the reasons why a reply is required.

This order has been entered after consultation with the parties. Absent good cause shown, the deadlines set by this order will not be modified or extended.

IT IS SO ORDERED, this ____ day of _____, 20____.

SHERYL H. LIPMAN
UNITED STATES DISTRICT JUDGE

F:\Judges Chambers\Judge Lipman Chambers\shared folder\Cathy Shared\Forms\SHL Case Management Instructions - Standard Civil.docx

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,
COMMUNITIES, INC.
Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

)
)
)
)
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)
)
)
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)

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

**PLAINTIFF MID-AMERICA APARTMENT COMMUNITIES RESPONSE TO
COURT’S SHOW CAUSE ORDER AND MOTION FOR DEFAULT JUDGMENT**

Plaintiff, Mid-America Apartment Communities, Inc. (“MAA”) hereby offers the following for the Court’s consideration in Response to the Court’s Show Cause Order (Dkt. 21). MAA requests the entry of a default on the basis that the record in this case demonstrates that Philipson has failed to plead or otherwise defend as provided by Rule 55(a) of the Federal Rules of Civil Procedure. In support of this request, MAA would show as follows:

1. Plaintiff Mid-America Apartment Communities, Inc. (“MAA”) filed Case No. 2:23-cv-02186-SHL-cgc in this Court on April 3, 2023, alleging claims of trademark infringement and unfair competition against John Does 1 and 2. In short, the claims involved John Does 1 and 2 purchasing and setting up websites and domains that infringe on Plaintiff’s trademarks, creating false accounts on LinkedIn, and generally harassing and stalking Plaintiff on-line. In support of the allegations in this Pleading, MAA files the Declaration of Paige Waldrop Mills contemporaneously with this Response.

2. By issuing a series of third party subpoenas, MAA was able to determine that John Does 1 and 2 were actually a single person—Dennis Philipson. Mills Declaration at 4.

3. Mr. Philipson was aware of this action because he also received a third party subpoena and copy of the Complaint. *Id.* at 5.

4. Mr. Philipson filed a Motion to Quash (Dkt. 10) his third party subpoena, which was denied on May 16, 2023. *Id.* at 6.

5. Since that date, Mr. Philipson has failed to respond to the subpoena, failed to provide any times for a meet and confer after multiple requests, and failed to respond to the motion to compel that Plaintiff was forced to file as a result (Dkt. 19). *Id.* at 7.

6. On June 13, 2023, MAA filed its First Amended Complaint, naming Dennis Philipson as John Does 1 and 2. *Id.* at 8.

7. Mr. Philipson was personally served with the First Amended Complaint on June 14, 2023, and was served by email with the Motion to Compel (Dkt. 19) by undersigned counsel on this same date. Mr. Philipson replied to the email serving him with the Motion to Compel by requesting that he be served by mail on a going forward basis. *Id.* at 9.

8. Mr. Philipson was personally served with the Motion to Compel on June 21, 2023. *Id.* at 10.

9. After Mr. Philipson failed to plead or otherwise defend within fourteen days of being served with the Amended Complaint, as provided by the Federal Rules of Civil Procedure, on July 10, 2023, this Court entered an Order Directing Defendant Philipson to Show Cause within twenty-one (21) days why default should not be entered against him.

10. On July 31, 2023, some 47 days after the filing of the Amended Complaint, Mr. Philipson filed his Response to the Court's Show Cause Order (Dkt. 22). His response was not an Answer to the Amended Complaint in that it did not respond to the Complaint's allegations as required by Fed. R. Civ. P. 8(b) and 8(c) or comply with Fed. R. Civ. 10, but instead consisted of

a letter restating the same unsupported assertions he made in his Motion to Quash, which this Court denied on May 16, 2023 (Dkt. 15).

11. Since sending the above mentioned letter to the Court, Mr. Philipson has failed to provide any dates or respond to multiple requests for the parties to meet and confer on a discovery plan before the upcoming status conference set by this Court's order of August 1, 2023 (Dkt. 23), and has attempted to unilaterally have the matter transferred for trial by the Magistrate in contravention of the Local Rules. *Id.* at 13.

12. To date, Mr. Philipson has not responded to the Subpoena or the Motion to Compel. *Id.* at 14.

13. Because Mr. Philipson has flouted this Court's Rules and Orders, has failed to timely file an Answer to the Complaint, and has failed to respond to Plaintiff's Subpoena or the Motion to Compel, Plaintiff requests that an Order of Default be entered against him and that Plaintiff be permitted to prove its damages by sworn Declaration.

For the foregoing reasons, Plaintiff requests that the Court Clerk be directed to enter a judgment of default against Defendant Philipson and permit Plaintiff to submit a sworn Declaration setting forth its damages.

Respectfully Submitted,

/s/ Paige Waldrop Mills
Paige Waldrop Mills, BPR. No. 16218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing Response and Request for Entry of Default was served on the individual below by the Court's ecf filing system, by email, and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 14th Day of August, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

DECLARATION OF PAIGE WALDROP MILLS

I, Paige Waldrop Mills, testify as follows:

1. I am over eighteen years of age and have personal knowledge of the matters set forth herein.
2. I represent the Plaintiff, Mid-America Apartment Communities, Inc (“MAA”), in the above-styled action.
3. Plaintiff Mid-America Apartment Communities, Inc. (“MAA”) filed Case No. 2:23-cv-02186-SHL-cgc in this Court on April 3, 2023, alleging claims of trademark infringement and unfair competition against John Does 1 and 2. In short, the claims involved John Does 1 and 2 purchasing and setting up websites and domains that infringe on Plaintiff’s trademarks, creating false accounts on LinkedIn, and generally harassing and stalking Plaintiff on-line.
4. By issuing a series of third party subpoenas, MAA was able to determine that John Does 1 and 2 were actually a single person—Dennis Philipson.

5. Mr. Philipson was aware of this action because he also received a third party subpoena and copy of the Complaint.

6. Mr. Philipson filed a Motion to Quash his third party subpoena, which was denied on May 16, 2023.

7. Since that date, Mr. Philipson has failed to respond to the subpoena, failed to provide any times for a meet and confer after multiple requests, and failed to respond to the motion to compel that Plaintiff was forced to file as a result (Dkt. 19).

8. On June 13, 2023, MAA filed its First Amended Complaint, naming Dennis Philipson as John Does 1 and 2.

9. Mr. Philipson was personally served with the First Amended Complaint on June 14, 2023, and was served by email with the Motion to Compel (Dkt. 19) by undersigned counsel on this same date. Mr. Philipson replied to the email serving him with the Motion to Compel by requesting that he be served by mail on a going forward basis.

10. Mr. Philipson was personally served with the Motion to Compel on June 21, 2023.

11. After Mr. Philipson failed to plead or otherwise defend within fourteen days of being served with the Amended Complaint, as provided by the Federal Rules of Civil Procedure, on July 10, 2023, this Court entered an Order Directing Defendant Dennis Michael Philipson to Show Cause. The Court ordered Mr. Philipson to show cause within twenty-one (21) days why default should not be entered against him.

12. On July 31, 2023, some 47 days after the filing of the Amended Complaint, Mr. Philipson filed his Response to the Court's Show Cause Order (Dkt. 22). His response was not an Answer to the Amended Complaint in that it did not respond to the Complaint's allegations as required by Fed. R. Civ. P. 8(b) and 8(c) or comply with Fed. R. Civ. 10, but instead consisted of

a letter restating the same unsupported assertions he made in his Motion to Quash, which this Court denied on May 16, 2023 (Dkt. 15).

13. Since sending the above mentioned letter to the Court, Mr. Philipson has failed to provide any dates or respond to multiple requests for the parties to meet and confer on a discovery plan before the upcoming status conference set by this Court's order of August 1, 2023 (Dkt. 23), and has attempted to unilaterally have the matter transferred for trial by the Magistrate in contravention of the Local Rules.

14. To date, Mr. Philipson has not responded to the Subpoena or the Motion to Compel.

15. I verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated this 14th day of August, 2023

/s/ Paige Waldrop Mills
Paige Waldrop Mills (BPR No. 016218)

CERTIFICATE OF SERVICE

I hereby certify that the forgoing Declaration of Paige Waldrop Mills was served on the individual below by the Court's ecf filing system, by email, and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 14th Day of August, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

Response to Declaration of Paige Mills

Greetings, Honorable Judge Lipman,

I wish to address the following points:

- 1) The sole individual experiencing harassment and stalking is myself. Despite having requested MAA not to contact me again in 2021, employees have continued to send me messages, emails, calls, and visits to my residence. This unwarranted behavior appears to be in retribution for the whistleblower complaints I lodged with both companies.
- 2) While I hold the highest regard for the protocols of this court, I refuse to succumb to intimidation from the two companies against whom I filed whistleblower complaints. My actions included reaching out to the SEC, DOJ, and IRS.
- 3) I have diligently responded to all legal actions, including motions and subpoenas. I remain uncertain of Paige Mills and MAA's expectations of me beyond this.
- 4) My emails, mphillyd@gmail.com and Phillydee100@gmail.com, were subjected to subpoenas without proper court authorization, even though I was merely a witness. It was evident that MAA and Paige Mills were aware of my ownership of these email addresses.

- 5) Similarly, my IP address was also subpoenaed without the necessary court approval or valid cause.
- 6) My intention in seeking clarity regarding the process of requesting a jury via the magistrate was solely to comprehend the proper steps. It was never my intention to circumvent any procedure. The communication sent by the courthouse to the attorneys at Bass, Berry, and Sims PLC raises concerns about impartiality in their actions.
- 7) I emphasize once more that any adverse verdict directed at me would seem to be a continuation of retaliatory actions by both firms.
- 8) I am prepared to initiate an appeal in the event of an unfavorable ruling. This decision is grounded in my belief that my rights and due process are currently being infringed upon.

I extend my gratitude for your attention to this matter.

Sincerely,

Dennis Philipson

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

MOTION FOR ENTRY OF DEFAULT AGAINST DENNIS PHILIPSON

Plaintiff, Mid-America Apartment Communities, Inc (“MAA”) moves this Honorable Court pursuant to Fed. R. Civ. P. 55 for entry of a default against Defendant Dennis Philipson (“Philipson”). MAA requests the entry of a default on the basis that the record in this case demonstrates that Philipson has failed to plead or otherwise defend as provided by Rule 55(a) of the Federal Rules of Civil Procedure. Specifically, MAA would show as follows:

1. After Mr. Philipson failed to plead or otherwise defend within fourteen days of being served with the Amended Complaint as provided by the Federal Rules of Civil Procedure, this Court entered an Order on July 10, 2023, Directing Defendant Philipson to Show Cause within twenty-one (21) days why default should not be entered against him.

2. On July 31, 2023, some 47 days after the filing of the Amended Complaint, Mr. Philipson filed his Response to the Court’s Show Cause Order (Dkt. 22). His response was not an Answer to the Amended Complaint in that it did not respond to the Complaint’s allegations as required by Fed. R. Civ. P. 8(b) and 8(c) or comply with Fed. R. Civ. 10, but instead consisted of a letter restating the same unsupported assertions he made in his Motion to Quash, which this Court denied on May 16, 2023 (Dkt. 15).

3. Since sending the above mentioned letter to the Court, Mr. Philipson has failed to provide any dates or respond to multiple requests for the parties to meet and confer on a discovery plan before the upcoming status conference set by this Court's order of August 1, 2023 (Dkt. 23) and has attempted to unilaterally transfer the matter for trial by Magistrate without consulting with MAA.

4. To date, Mr. Philipson has not responded to the Subpoena or the Motion to Compel despite making numerous admissions in his papers that indicate that responsive documents should exist.

5. Because Mr. Philipson has flouted this Court's Rules and Orders, has failed to timely file an Answer to the Complaint, and has failed to respond to Plaintiff's Subpoena or the Motion to Compel, Plaintiff requests that an Order of Default be entered against him and that Plaintiff be permitted to prove its damages by sworn Declaration.

6. Accordingly, Plaintiff requests entry of default judgement and permission to put on proof of its damages by sworn Declaration.

In support of this Motion, MAA relies upon the Declaration of Paige Waldrop Mills (Dkt. 25) and Plaintiff's Response To Court's Show Cause Order And Motion For Default Judgment (Dkt. 24), and all pleadings and papers filed in this action.

Respectfully Submitted,

/s/ Paige Waldrop Mills
Paige Waldrop Mills, BPR. No. 16218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing Motion for Default was served on the individual below by the Court's ecf filing system, by email, and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 15th Day of August, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

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)

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

Response to MOTION FOR ENTRY OF DEFAULT AGAINST DENNIS PHILIPSON

Greetings, Honorable Judge Lipman,

Initially, I would like to extend my apologies for the formatting of this document; I am aware that it might not conform to the appropriate legal format. Should the court prefer an alternate format, kindly inform me, and I am more than willing to comply. My objective is to outline the following points:

- 1) I am presently trying to understand the basis for the argument that I have neglected to respond to the various motions, subpoenas, and additional documents that have been provided to me by both the court and Mid-America Apartment Communities, Inc. and attorney Pam Mills. I consider it unwarranted to construct a defense against allegations that rest upon speculative grounds and lack a substantial foundation. Furthermore, I am encountering difficulty in comprehending the underlying rationale that has prompted the initiation of this motion. I held the belief that a pre-trial conference had been scheduled for September 11, 2023. I am uncertain about the kind of information that Mid-America Apartment Communities, Inc., or their attorney Pam Mills, might present, especially considering their unjustified issuance of subpoenas for my email addresses and more.
- 2) Contrary to the assertions made by MAA and their attorney Pam Mills, I am the sole individual who has been subjected to harassment and stalking. Despite my explicit request to MAA in 2021 to cease all communication, employees have persisted in sending me messages, emails, making

calls, and even visiting my residence. This unwarranted conduct seems to be a form of reprisal in response to the whistleblower complaints I filed with both organizations.

- 3) Furthermore, throughout my tenure at MAA since 2019, I encountered persistent and continuous harassment. This involved not only my direct supervisor but also other employees engaging in repetitive derogatory behavior aimed at mocking my physical appearance, weight, disability, and similar attributes.
 - a. As outlined in my earlier responses, all the information I possessed was forwarded to the SEC, IRS, and DOJ. I did not retain this evidence because I did not foresee its potential requirement.
 - b. In addition, I was further instructed to participate in fraudulent accounting activities, coupled with a request to compromise the safety of residents. Overwhelmed by these circumstances, I proceeded to report this information to the agencies listed above.
- 4) While I hold the highest regard for the protocols of this court, I refuse to succumb to intimidation from the two companies against whom I filed whistleblower complaints. My actions included reaching out to the SEC, DOJ, and IRS.
- 5) I have diligently responded to all legal actions, including motions and subpoenas. I am still determining Paige Mills and MAA's expectations of me beyond this.
- 6) My emails, mphillyd@gmail.com and Phillydee100@gmail.com, were subjected to subpoenas without proper court authorization, even though I was merely a witness. It was evident that MAA and Paige Mills knew my ownership of these email addresses.
- 7) My IP address was also subpoenaed without the necessary court approval or valid cause.
- 8) My intention in seeking clarity regarding requesting a jury via the magistrate was to comprehend the proper steps. It was never my intention to circumvent any procedure. The communication sent by the courthouse to the attorneys at Bass, Berry, and Sims PLC raises concerns about impartiality in their actions.

9) I emphasize once more that any adverse verdict directed at me is a continuation of retaliatory actions by both firms.

10) I am prepared to initiate an appeal in the event of an unfavorable ruling. This decision is grounded in my belief that my rights and due process are currently being infringed upon.

Furthermore, I am currently planning to initiate a countersuit against MAA and its staff. I firmly believe that MAA has taken retaliatory actions against me due to my submission of a whistleblower complaint. Additionally, I endured several years of harassment and intimidation during my employment tenure. It seems that MAA holds the belief that intimidation can be employed to manipulate employees and residents into conforming to its wishes.

I extend my gratitude for your attention to this matter.

I am grateful for the court's assistance in guiding me through the appropriate procedures.

Sincerely,
Dennis Philipson

Civil No. 2:23-cv-2186-SHL-cgc

By: s/Anthony Johnson
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

DEFENDANT'S MOTION TO DISMISS UNDER FED. R. CIV. P. 12(b)(6)

Defendant, Dennis Philipson ("Defendant"), appearing pro se, respectfully moves this Court for an Order dismissing Plaintiff Mid-America Apartment Communities, Inc.'s ("Plaintiff" or "MAA") Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted.

INTRODUCTION

Plaintiff initiated this action in a manner that appears to be retaliatory and in violation of corporate whistleblower laws, specifically under the Sarbanes-Oxley Act of 2002 (18 U.S.C. § 1514A). This Act protects whistleblowers from retaliation when they lawfully disclose information regarding fraudulent activities. It is evident that the Plaintiff's action aims to intimidate the Defendant and to gather evidence previously submitted to multiple governmental agencies in 2021.

LEGAL ARGUMENT

I. Failure to State a Claim for Which Relief can be Granted

The Complaint fails to establish a plausible claim for relief as per the criteria set forth in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and further expounded upon in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

II. Improper Issuance and Unauthorized Alteration of Subpoenas

Plaintiff's improper issuance and alteration of subpoenas constitute a clear violation of Fed. R. Civ. P. 45, causing unwarranted privacy infringements upon the Defendant.

III. Violations of Due Process

A. Court's Failure to Maintain Impartiality

The Court's impartiality is compromised by directly copying opposing attorneys in emails, which is contrary to the standards of judicial conduct.

B. Inadequate Court Administration

The Court has administratively closed related dockets without a substantive judicial review, thereby undermining the Defendant's due process rights under the Fourteenth Amendment.

IV. Retaliatory Conduct and Violation of Whistleblower Protections

The initiation of this lawsuit by Plaintiff is a clear form of retaliation, violating 18 U.S.C. § 1514A of the Sarbanes-Oxley Act.

V. Ongoing Ethical Violations

A complaint has been filed against the Plaintiff's counsel with the Board of Professional Responsibility of the Supreme Court of Tennessee for ethical misconduct.

CONCLUSION

For the reasons stated above, Defendant respectfully requests this Court to grant this Motion to Dismiss the Plaintiff's Complaint with prejudice and to award any other relief that this Court deems just and appropriate. The submission of this Motion to Dismiss is not to be interpreted as a waiver of the Defendant's right to initiate future legal proceedings or to seek compensatory damages at a later date.

Dated: August 30, 2023

Respectfully submitted,

Dennis Philipson, Pro Se
6178 Castletown Way Alexandria VA, 22310
Phillydee100@gmail.com

AGREEMENT TO RECEIVE NOTICE OF ELECTRONIC FILING (NEF)

NOTE: This Form Does Not Authorize Electronic Filing.

RE: #: 2:23-cv-02186-SHL-cgc (case number)

By my signature and submission of a valid e-mail address, I agree to accept Notice(s) of Electronic Filing from the United States District Court, Western District of Tennessee.

Dennis Philipson

Printed name

Phillydee100@gmail.com

Email address (Please PRINT)

Dennis Philipson

Signature

If the NEF is returned as undeliverable, this agreement is null and void, and future documents will be mailed via U.S. Postal Service by Clerk's office upon notification of the undeliverable e-mail.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

THOMAS M. GOULD
Clerk of Court

JACKSON (731) 421-9200
MEMPHIS (901) 495-1200

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If you are interested in viewing your docket sheet or documents in your case, you must register for a Public Access to Court Electronic Records (PACER) Account.

To register for PACER, please visit the PACER Service Center website – www.pacer.uscourts.gov and click on the Registration tab. There is no registration fee.

PACER INFORMATION

E-Mail: pacer@psc.uscourts.gov

For assistance with registrations, technical issues, payments, etc... call

- San Antonio: (210) 301-6440
- Outside San Antonio: (800) 676-6856

The PACER Service Center hours of operation are 8 a.m. - 6 p.m. CT Monday - Friday.

Correspondence

PACER Service Center
P.O. Box 780549
San Antonio, TX 78278

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

DEFENDANT'S MOTION TO DISMISS UNDER FED. R. CIV. P. 12(b)(6)

Defendant Dennis Philipson ("Defendant"), representing himself pro se, hereby moves this Honorable Court to dismiss the Complaint lodged against him by Plaintiff Mid-America Apartment Communities, Inc. ("Plaintiff" or "MAA"). This motion is submitted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, which allows for the dismissal of a complaint for failure to state a claim upon which relief can be granted.

INTRODUCTION

The Plaintiff initiated this lawsuit against the Defendant, alleging causes of action that seemingly run afoul of federal whistleblower protection laws, specifically the Sarbanes-Oxley Act of 2002 (18 U.S.C. § 1514A). The Sarbanes-Oxley Act was enacted to protect whistleblowers from retaliation when they lawfully disclose fraudulent activities or other corporate misconduct. Notably, the Plaintiff's aim in this litigation appears dual in nature: first, to intimidate the Defendant, and second, to secure evidence that was submitted by the Defendant to various governmental agencies during 2021 and 2022. This is evidenced by Plaintiff's document request for "All documents and things, including electronically stored information, that discuss or relate to Mid-America Apartment Communities, Inc. ("MAA") created on or after March 15, 2021" (Docket No. 6, Exhibit F). The request suggests that the focus of this litigation extends beyond allegations of trademark infringement or cybersquatting and seeks to retrieve previously disclosed evidence.

Pursuant to the legal standards set forth by the United States Supreme Court in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), a complaint must contain "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." Under these precedents, a court is not obligated to accept as true legal conclusions or unwarranted inferences, and the Plaintiff must provide more than mere "labels and conclusions" to survive a motion to dismiss under Rule 12(b)(6).

Additionally, the Plaintiff's complaint frequently contends that the Defendant has been unresponsive to various forms of legal communications, including but not limited to complaints, subpoenas, and other legal notices. However, it is important to note that, under Federal Rule of Civil Procedure 12(b)(6), the Defendant is under no obligation to mount a defense against allegations that lack substantive merit and are frivolous in nature. Notably, the Defendant did not intentionally ignore communications; rather, emails from the Plaintiff's legal counsel, Attorney Paige Mills, were inadvertently blocked. Despite this, the Defendant actively engaged in correspondence with Attorney Mills' paralegal on three distinct occasions, as evidenced in (Exhibit A). Moreover, on June 14, 2023, in an effort to address concerns over potential breaches of email privacy due to unauthorized subpoenas, the Defendant explicitly indicated a preference for future communications to be conducted through the more secure medium of U.S. Postal Service mail, as documented in (Exhibit B).

LEGAL ARGUMENT

I. Inadequacy in Stating a Claim for Which Relief Can Be Granted

The Plaintiff's Complaint does not meet the well-established criteria for asserting a claim that warrants judicial relief, per leading U.S. Supreme Court cases like 'Bell Atlantic Corp. v. Twombly,' 550 U.S. 544 (2007), 'Ashcroft v. Iqbal,' 556 U.S. 662 (2009), and 'Erickson v. Pardus,' 551 U.S. 89 (2007).

A. The Plaintiff's Factual Allegations Are Insufficient

The Complaint submitted by the Plaintiff, MAA is notably deficient in its reliance on uncorroborated and speculative assertions. A key element of MAA's case is an affidavit provided by Leslie Wolfgang without documented interactions with the Defendant (Docket No. 14). Wolfgang's affidavit assumes that stylistic aspects of anonymous submissions could be used to attribute these to the Defendant. These claims lack empirical substantiation from any linguistic or stylometric experts and do not pass the rigorous Daubert standard for admitting scientific evidence ('Daubert v. Merrell Dow Pharmaceuticals, Inc.,' 509 U.S. 579 [1993]). This lack of expert corroboration severely undermines the Complaint's ability to meet the "plausibility" criteria dictated by 'Twombly' and 'Iqbal.'

B. Absence of Key Information Weakens Plaintiff's Case

It's significant to note that the Plaintiff's filings conspicuously omit references to key employees at MAA - specifically, Glenn Russell, Anwar Brooks, and EVP of General Counsel Robert DelPriore—with whom the Defendant has communicated in relation to whistleblowing activities submitted internally within MAA. The absence of these individuals from the Plaintiff's case not only raises credibility issues but also invites questions about the comprehensiveness and factual integrity of their allegations. Additionally, the Plaintiff's submissions fail to disclose Mr. DelPriore's former association with Bass, Berry & Sims PLC, leaving a potentially substantial conflict of interest unaddressed. Importantly, Mr. DelPriore is fully aware of the Defendant's whistleblower complaints against both firms and understands the gravity of the allegations.

C. Procedural Fairness and Transparency Concerns

The Plaintiff makes allegations grounded in a response from a third-party subpoena, which has not been officially entered into the court record. Such withholding of evidence raises significant concerns about procedural fairness and transparency, potentially violating Federal Rule of Civil Procedure 26(e)(1)(A). This Rule explicitly requires parties to correct or supplement incomplete or incorrect disclosures. The Plaintiff's inability to disclose this key piece of evidence impacts the overall plausibility of their claim, as has been highlighted in the Defendant's earlier response to the court's order to show cause (Docket No. 22). The only nexus between the Defendant, a former employee, and the purported harassment appears to emanate from the Defendant's whistleblower submissions to the company in 2021. Such meager and tangential evidence fails to meet the "plausibility" standard articulated by the U.S. Supreme Court in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). Consequently, it does not suffice to establish a valid claim for relief.

D. Subpoena Admissibility and Compliance

Assuming *arguendo* that the third-party subpoena in question accurately identifies the Defendant's IP address, the absence of clear documentation detailing the proper legal procedures for acquiring such sensitive information raises significant concerns. These concerns are heightened when considering the requirements of Federal Rule of Civil Procedure 45, which governs the issuance, service, and enforcement of subpoenas. Under Rule 45, subpoenas must be issued in accordance with specific guidelines, including, among others, appropriate notice to parties and adherence to jurisdictional bounds. Failure to comply with these mandates could lead to sanctions or, more critically, the exclusion of evidence obtained through the subpoena.

Should any of these procedural safeguards have been compromised in the acquisition of the Defendant's IP address, the admissibility of this pivotal evidence could be seriously jeopardized. Such a lapse would not only undercut the Plaintiff's case but could also raise questions about the Plaintiff's commitment to procedural integrity. Hence, the Plaintiff's failure to provide documentation validating the subpoena's compliance with Federal Rule of Civil Procedure 45 amplifies existing concerns about the sufficiency and credibility of their claims.

E. Unfounded Assumptions Regarding Defendant's Alleged Mental State and the Absence of Verifiable Proof

The Plaintiff posits conjectural theories about the Defendant's purported intentions in relation to online postings. It is important to emphasize that no verifiable proof linking the Defendant to these posts has been presented, particularly concerning given that such evidence—if it exists—would be crucial to substantiating the Plaintiff's claims at this critical juncture. The absence of this pivotal evidence during the complaint phase further undermines the Plaintiff's case, given that allegations of this nature should be substantiated at the earliest possible stage in the litigation process.

In the absence of definitive evidence or expert behavioral analysis, the Plaintiff's assumptions fall short of establishing "facial plausibility," as articulated by 'Erickson v. Pardus,' 551 U.S. 89 (2007). Furthermore, such speculative claims could be in violation of Federal Rule of Civil Procedure 11(b), which mandates that all allegations, claims, and other legal contentions must be substantiated by current law, or a non-frivolous argument for the extension, modification, or reversal of existing law. Therefore, the allegations concerning the Defendant's supposed mental state not only lack legal sufficiency but also call into question the overall validity of the Plaintiff's claims.

II. Violations Concerning the Issuance and Unauthorized Modification of Subpoenas

The Plaintiff's issuance and modification of subpoenas appear to be in conflict with Federal Rule of Civil Procedure 45 ("Fed. R. Civ. P. 45"). Such conduct leads to unjustifiable infringements on the Defendant's right to privacy.

A. Unauthorized Inclusion of Defendant's Email Addresses in Subpoena to Google

The Plaintiff amended a subpoena issued to Google Inc. to include email addresses that are acknowledged to be associated with the Defendant." Notably, the Defendant was serving solely in the capacity of a witness when the modification of said subpoenas transpired. The Defendant posits that the Plaintiff neither had just cause nor the requisite legal authorization to engage in such an alteration, as further elucidated in (Docket No. 22, Exhibit A).

B. Unlawful Procurement of Defendant's IP Address and Subsequent Subpoena to Defendant's ISP

The manner in which the Plaintiff has obtained the Defendant's Internet Protocol (IP) Address raises questions when compared to the information set forth in the initial complaint. Subsequently, the Plaintiff improperly served a subpoena on Defendant's ISP, lacking both just cause and the necessary legal authorization to do so.

By these actions, the Plaintiff has violated the provisions and the spirit of Fed. R. Civ. P. 45, which governs the issuance and modification of subpoenas within the context of civil litigation.

III. Potential Violation of Due Process Rights in Court Notifications

The defendant experienced deficiencies in notice concerning declined motions and likewise encountered ambiguous or completely missing notifications regarding the administrative closure of dockets. In accordance with Federal Rule of Civil Procedure 4 and the landmark due process case of Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950), it is critical for a defendant to receive accurate and timely information concerning pending actions. Failure to provide such essential notice potentially violates the defendant's due process rights under the Fifth and Fourteenth Amendments to the U.S. Constitution

A. Inadequate Court Communication and the Need for Enhanced Efficiency

The court failed to sufficiently address the Defendant's challenges in receiving electronic notifications through the Public Access to Court Electronic Records (PACER) system. This deficiency necessitated that the

Defendant manually track the court docket for significant motions and orders, thereby placing an unwarranted burden on him, as detailed in Exhibit C. This issue could have been expediently resolved if the Clerk's Office had effectively responded to the Defendant's inquiries. Nonetheless, the Defendant located the necessary form on the court's website on September 2nd.

Moreover, the Defendant was not provided with formal notice concerning the administrative closure of Docket No. 2:23-mc-00015-SHL-atc, the scheduling of the review for his Motion to Quash, or the eventual denial of that motion. This lack of communication left the Defendant unaware of these critical developments until much later, representing a court failure to maintain requisite communication.

B. Inappropriate Inclusion of Opposing Counsel in Email Correspondence

An email sent by the Defendant to the court regarding trial by a magistrate judge went unanswered for a duration of two business days. A misinterpretation of procedural rules led a case manager to improperly include the opposing counsel in this email exchange, as illustrated in Exhibit D. Although the Defendant does not allege malice, the inclusion of opposing counsel was inappropriate in this context, as the communication was intended solely for the court and not for direct correspondence with the judge. This procedural error was subsequently exploited by the opposing attorney, who falsely claimed that the Defendant was attempting to sidestep court rules, as documented in (Docket No. 24).

IV. Unlawful Retribution and Infringement of Whistleblower Protections

The instigation of the present civil lawsuit by Plaintiff Mid-America Apartment Communities, Inc. ("MAA") stands in direct contradiction to the anti-retaliation provisions outlined in Section 1514A of the Sarbanes-Oxley Act (18 U.S.C. § 1514A). This federal statute explicitly protects whistleblowers from retaliatory actions by employers when they lawfully report alleged misconduct, such as fraud or violation of federal regulations.

A. Unauthorized Public Disclosure of Defendant's Identity by Plaintiff

By filing this lawsuit, MAA has exposed the Defendant's identity without sufficient cause, in what appears to be a violation of federal whistleblower protection laws. The lawsuit is grounded in speculative allegations that are tied to the Defendant's lawful submission of internal whistleblower reports to MAA in the year 2021. Such an act of filing this legally unsubstantiated lawsuit can be construed as an additional retaliatory measure against the Defendant, potentially in violation of 18 U.S.C. § 1514A. The United States Supreme Court's decision in *Burlington Northern & Santa Fe Railway Co. v. White*, 548 U.S. 53 (2006), provides a broad interpretation of what constitutes retaliatory actions.

B. Sustained Harassment and Intimidation Targeted at the Whistleblower

Despite contrary assertions by MAA and its legal representative, Paige Mills, it is the Defendant who has been subject to persistent harassment and intimidation. After lawfully submitting internal whistleblower complaints to MAA in November 2021, and subsequently issuing a specific demand for the cessation of all

communications, MAA staff have disregarded this directive. They have continued to engage in unsolicited communications, including but not limited to text messages, emails, intrusive phone calls, and even unwelcome home visits. Such activities seem to be retaliatory in nature, initiated in direct response to the Defendant's filing of whistleblower complaints.

In addition to potentially breaching the Sarbanes-Oxley Act, the Plaintiff's conduct may also be construed as an abuse of the discovery process under Rule 26 of the Federal Rules of Civil Procedure, which governs the "duty to disclose; general provisions governing discovery."

C. Potential Abuse of the Discovery Process

The Plaintiff's conduct in this matter—including issuing wide-ranging document requests via subpoenas, motions, and other forms of communication—raises concerns of possible abuse of the discovery process as delineated by Rule 26 of the Federal Rules of Civil Procedure.

Legal Framework Under Rule 26: Rule 26(b)(1) states that parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense, provided it is proportional to the needs of the case. Rule 26(g), meanwhile, requires that discovery requests must be made in good faith and in compliance with existing laws and rules. Specifically, Rule 26(g) prohibits discovery requests that are intended to annoy, embarrass, or oppress the opposing party.

Evidence of Abuse: Such abuse is exemplified by the Plaintiff's document request for "All documents and things, including electronically stored information, that discuss or relate to Mid-America Apartment Communities, Inc. ("MAA") created on or after March 15, 2021" (Docket No. 6, Exhibit F). This request appears to be overly broad, capturing information that may be irrelevant to the present claims and defenses, and thus can be deemed disproportionate to the needs of the case. Further, the Plaintiff's continuous, unsolicited communications, even after explicit instructions from the Defendant to cease such actions, could be considered as harassment conducted under the cover of discovery.

V. Ongoing Ethical Violations by the Plaintiff's Legal Representative

A formal complaint has been filed against the legal counsel for the Plaintiff with the Board of Professional Responsibility of the Supreme Court of Tennessee. This complaint raises significant ethical concerns, as elaborated below:

A. Concerns Over Altered Subpoenas and Privacy Implications

The Defendant expresses reservations about modifications made to subpoenas by the Plaintiff. According to Federal Rule of Civil Procedure 45, which regulates the issuance of subpoenas, such alterations could impose an "undue burden or expense" on the subpoenaed party. The Defendant argues that these modified subpoenas may breach Rule 45, thereby raising questions about their validity and the potential infringement upon his privacy rights.

B. Questions Regarding Compliance with Federal Rule of Civil Procedure 11 and Ethical Guidelines

In line with Federal Rule of Civil Procedure 11, attorneys have a duty to ensure that all court filings, from pleadings to motions, are factually sound, legally tenable, and not designed for improper objectives such as harassment or delay. Some irregularities appear in the Plaintiff's submissions, both in the form of unclear allegations and possible factual inaccuracies. These issues not only raise questions about compliance with Rule 11 but might also touch on ethical considerations. Specifically, Rule 3.3 of the American Bar Association's Model Rules of Professional Conduct urges lawyers to maintain a standard of candor and honesty when engaging with the court.

These concerns resonate with the broader aim of the judiciary to preserve the integrity of the legal process. Landmark cases such as *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991), highlight the inherent authority that courts have to impose sanctions for behaviors that could compromise the judicial system. This inherent power allows the court to maintain the integrity of the legal process, even when specific statutes or rules don't cover the behaviors in question. As such, the *Chambers v. NASCO* case serves as an important legal touchstone for understanding the scope and boundaries of ethical conduct within the judicial system.

CONCLUSION AND REQUEST FOR RELIEF

In light of the legal standards articulated in *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal*, as well as Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Defendant asserts that the Plaintiff's Complaint fails to state a claim upon which relief can be granted. The Plaintiff has not offered sufficient factual matter to make their claim plausible and has instead relied on broad legal conclusions unsupported by evidence.

Therefore, the Defendant respectfully requests that this Honorable Court grant the Motion to Dismiss in its entirety. Moreover, the Court is further invited to grant any additional relief deemed just and appropriate under the circumstances. Submitting this Motion to Dismiss should in no way be interpreted as a waiver of the Defendant's right to engage in subsequent legal actions or to seek compensatory damages in future proceedings.

Respectfully submitted,
Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 2, 2023

9/2/23, 7:51 AM

Gmail - Re: Mid-America Apartment Communities v Dennis Philipson - Motion for Default



phillydee100 <phillydee100@gmail.com>

Re: Mid-America Apartment Communities v Dennis Philipson - Motion for Default

phillydee100 <phillydee100@gmail.com>

Fri, Aug 18, 2023 at 6:35 PM

To: "McClanahan, Teresa" <TMcClanahan@bassberry.com>

Cc: "Mills, Paige" <PMills@bassberry.com>

Good afternoon Pam and Teresa,

I received your documents in the mail. Have a nice weekend! Thank you

Dennis

On Tue, Aug 15, 2023, 3:52 PM phillydee100 <phillydee100@gmail.com> wrote:

Thank you! Have a good night and enjoy the rest of your week.

Dennis

On Tue, Aug 15, 2023, 3:50 PM McClanahan, Teresa <TMcClanahan@bassberry.com> wrote:

Mr. Philipson,

Attached are copies of documents filed with the Court today. A hard copy will follow via U.S. Mail.

Thank you.

 Bass Berry Sims**Teresa McClanahan**
Paralegal**Bass, Berry & Sims PLC**

150 Third Avenue South Suite 2800 • Nashville, TN 37201

615-259-6787 phone • 615-742-6293 fax •

tmccclanahan@bassberry.com • www.bassberry.com

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

Unless specifically indicated otherwise, this email, including any attachments, was not intended and cannot be used for the purpose of (A) avoiding U.S. tax-related penalties or (B) promoting, marketing or recommending to another party any tax-related matter addressed herein.

9/2/23, 7:52 AM

Gmail - Re: Mid-America Apartment Communities v Dennis Philipson - Motion for Default



phillydee100 <phillydee100@gmail.com>

Re: Mid-America Apartment Communities v Dennis Philipson - Motion for Default

phillydee100 <phillydee100@gmail.com>

Mon, Aug 14, 2023 at 5:57 PM

To: "McClanahan, Teresa" <TMcClanahan@bassberry.com>

Cc: "Mills, Paige" <PMills@bassberry.com>

Thank you both. Have a nice evening.

Dennis

On Mon, Aug 14, 2023, 5:08 PM McClanahan, Teresa <TMcClanahan@bassberry.com> wrote:

Mr. Philipson,

Attached are copies of documents filed with the Court today. A hard copy will follow via U.S. Mail.

Thank you.

 Bass Berry Sims**Teresa McClanahan**

Paralegal

Bass, Berry & Sims PLC

150 Third Avenue South Suite 2800 • Nashville, TN 37201

615-259-6787 phone • 615-742-6293 fax •

tmccclanahan@bassberry.com • www.bassberry.com

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2 attachments**BASS BERRY + SIMS** image001.gif
4K**BASS BERRY + SIMS** image001.gif
4K

9/2/23, 7:54 AM

Gmail - Re: Mid-America Apartment Communities v Dennis Philipson - Motion for Default



phillydee100 <phillydee100@gmail.com>

Re: Mid-America Apartment Communities v Dennis Philipson - Motion for Default

phillydee100 <phillydee100@gmail.com>

Mon, Aug 14, 2023 at 5:57 PM

To: "McClanahan, Teresa" <TMcClanahan@bassberry.com>

Cc: "Mills, Paige" <PMills@bassberry.com>

Thank you both. Have a nice evening.


Dennis

On Mon, Aug 14, 2023, 5:08 PM McClanahan, Teresa <TMcClanahan@bassberry.com> wrote:

Mr. Philipson,

Attached are copies of documents filed with the Court today. A hard copy will follow via U.S. Mail.

Thank you.

 Bass Berry Sims

Teresa McClanahan
Paralegal

Bass, Berry & Sims PLC
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615-259-6787 phone • 615-742-6293 fax •
tmccclanahan@bassberry.com • www.bassberry.com

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2 attachments

BASS BERRY + SIMS image001.gif
4K

BASS BERRY + SIMS image001.gif
4K

 **Mills, Paige**
to the: Teresa

Aug 7, 2023, 3:29 PM ★ ↶ ⋮

You have blocked PMills@bassberry.com. New messages from this sender will be sent to Spam.

Unblock sender

Move to spam

1

Mr. Philipson:

I am following up on the message below.

Thanks,

Paige Mills

BASS BERRY+SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: Mills, Paige
Sent: Thursday, August 3, 2023 8:13 AM
To: 'phillydee100' <phillydee100@gmail.com>
Cc: McClanahan, Teresa <TMcClanahan@bassberry.com>
Subject: RE: US Mail Re: FW: Activity in Case 2:23-cv-02186-SHL-cgc Mid-America Apartment Communities, Inc. v. DOE-1 et al "Motion for Miscellaneous Relief"

Mr. Philipson,

As per the Court's recent order, we must meet and confer regarding a discovery plan for this case. Can you provide several times and dates that might work for you in the next couple of weeks and I will do my best to accommodate something that works for you. This should only take 30 minutes or so.

Best Regards,

Paige Mills

BASS BERRY+SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>
Sent: Wednesday, June 14, 2023 2:30 PM
To: Mills, Paige <PMills@bassberry.com>
Subject: **US Mail Re: FW: Activity in Case 2:23-cv-02186-SHL-cgc Mid-America Apartment Communities, Inc. v. DOE-1 et al "Motion for Miscellaneous Relief"**

Please contact us by US Mail

Thank you.

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

↶ Reply

↶ Reply all

↷ Forward

9/2/23, 7:56 AM

Gmail - Please file MOTION to Dismiss 2:23-cv-02186-SHL-cgc



phillydee100 <phillydee100@gmail.com>

Please file MOTION to Dismiss 2:23-cv-02186-SHL-cgc

1 message

phillydee100 <phillydee100@gmail.com>
To: IntakeTNWD@tnwd.uscourts.gov
Cc: phillydee100 <phillydee100@gmail.com>

Wed, Aug 30, 2023 at 3:14 PM

Good afternoon,

Could you kindly proceed with filing the attached Motion to Dismiss for Case 2:23-cv-02186-SHL-cgc? If there are any court fees or additional information required, please inform me accordingly.

Thank you for your assistance on this matter. Wishing you a wonderful day!

Best regards,
Dennis Philipson

On Wed, Aug 16, 2023 at 9:36 AM phillydee100 <phillydee100@gmail.com> wrote:

Good morning,

I kindly request confirmation of receipt. I truly appreciate your assistance. Wishing you a wonderful day!

Best regards,
Dennis Philipson

----- Forwarded message -----

From: phillydee100 <phillydee100@gmail.com>
Date: Tue, Aug 15, 2023 at 5:35 PM
Subject: Response to MOTION 2:23-cv-02186-SHL-cgc
To: <IntakeTNWD@tnwd.uscourts.gov>
Cc: phillydee100 <phillydee100@gmail.com>

Good Afternoon,

Would you kindly submit this response for case 2:23-cv-02186-SHL-cgc? Additionally, could you please address my question below concerning Pacer? I have only received one notification, which was for the conference scheduled on 9/11. Thank you for your valuable assistance. Have a pleasant evening.

Best regards,
Dennis Philipson

----- Forwarded message -----

From: phillydee100 <phillydee100@gmail.com>
Date: Tue, Aug 15, 2023 at 10:33 AM
Subject: Response 2:23-cv-02186-SHL-cgc
To: <IntakeTNWD@tnwd.uscourts.gov>
Cc: phillydee100 <phillydee100@gmail.com>

Good morning,

Could you kindly file this response for case 2:23-cv-02186-SHL-cgc? Additionally, I wanted to inquire if I should expect to receive notifications when there are updates from Pacer. Your help with this issue is greatly appreciated. If I am overlooking any details, please don't hesitate to inform me.

Thank you for your support in this regard.

Dennis Philipson

9/2/23, 7:56 AM

Gmail - Please file MOTION to Dismiss 2:23-cv-02186-SHL-cgc



8-30-2023 - Motion to Dismiss Case.pdf

150K

9/2/23, 7:56 AM

Gmail - Fwd: Response to MOTION 2:23-cv-02186-SHL-cgc



phillydee100 <phillydee100@gmail.com>

Fwd: Response to MOTION 2:23-cv-02186-SHL-cgc

phillydee100 <phillydee100@gmail.com>
To: IntakeTNWD@tnwd.uscourts.gov
Cc: phillydee100 <phillydee100@gmail.com>

Wed, Aug 16, 2023 at 9:36 AM

Good morning,

I kindly request confirmation of receipt. I truly appreciate your assistance. Wishing you a wonderful day!

Best regards,
Dennis Philipson

----- Forwarded message -----

From: **phillydee100** <phillydee100@gmail.com>
Date: Tue, Aug 15, 2023 at 5:35 PM
Subject: Response to MOTION 2:23-cv-02186-SHL-cgc
To: <IntakeTNWD@tnwd.uscourts.gov>
Cc: phillydee100 <phillydee100@gmail.com>

Good Afternoon,

Would you kindly submit this response for case 2:23-cv-02186-SHL-cgc? Additionally, could you please address my question below concerning Pacer? I have only received one notification, which was for the conference scheduled on 9/11. Thank you for your valuable assistance. Have a pleasant evening.

Best regards,
Dennis Philipson

----- Forwarded message -----

From: **phillydee100** <phillydee100@gmail.com>
Date: Tue, Aug 15, 2023 at 10:33 AM
Subject: Response 2:23-cv-02186-SHL-cgc
To: <IntakeTNWD@tnwd.uscourts.gov>
Cc: phillydee100 <phillydee100@gmail.com>

Good morning,

Could you kindly file this response for case 2:23-cv-02186-SHL-cgc? Additionally, I wanted to inquire if I should expect to receive notifications when there are updates from Pacer. Your help with this issue is greatly appreciated. If I am overlooking any details, please don't hesitate to inform me.

Thank you for your support in this regard.

Dennis Philipson



8-15-23 - Response MOTION FOR ENTRY OF DEFAULT AGAINST DENNIS PHILIPSON.pdf
136K

8/14/23, 10:24 PM

Gmail - RE: Consent 2:23-cv-02186-SHL-cgc



phillydee100 <phillydee100@gmail.com>

RE: Consent 2:23-cv-02186-SHL-cgc**Melanie Mullen** <Melanie_Mullen@tnwd.uscourts.gov>

Mon, Aug 14, 2023 at 10:34 AM

To: phillydee100 <phillydee100@gmail.com>, IntakeTNWD <IntakeTNWD@tnwd.uscourts.gov>

Cc: "jgolwen@bassberry.com" <jgolwen@bassberry.com>, "jordan.thomas@bassberry.com"

<jordan.thomas@bassberry.com>, "pmills@bassberry.com" <pmills@bassberry.com>, Morgan Gloss

<Morgan_Gloss@tnwd.uscourts.gov>

Good morning,

Both parties must consent to trial by magistrate. Once the document that is attached is signed by both parties and returned to the Court, it can then be transferred to the magistrate judge.

Thanks,

Melanie Mullen

From: phillydee100 <phillydee100@gmail.com>**Sent:** Monday, August 14, 2023 7:14 AM**To:** IntakeTNWD <IntakeTNWD@tnwd.uscourts.gov>; Melanie Mullen <Melanie_Mullen@tnwd.uscourts.gov>**Subject:** Re: Consent 2:23-cv-02186-SHL-cgc**CAUTION - EXTERNAL:**

Good morning,

I trust you had a pleasant weekend. Could you kindly verify the receipt of the consent for case 23-cv-02186-SHL-cgc to be presented before the magistrate? It was sent via email on August 9, 2023. Your confirmation is much appreciated. Wishing you a wonderful Monday and a productive week ahead.

Regards,

Dennis Philipson.

8/14/23, 10:24 PM

Gmail - RE: Consent 2:23-cv-02186-SHL-cgc

On Wed, Aug 9, 2023, 7:14 PM phillydee100 <phillydee100@gmail.com> wrote:

----- Forwarded message -----

From: phillydee100 <phillydee100@gmail.com>

Date: Wed, Aug 9, 2023 at 6:34 PM

Subject: Consent 2:23-cv-02186-SHL-cgc

To: <melanie_mullen@tnwd.uscourts.gov>

Cc: phillydee100 <phillydee100@gmail.com>

Hello Melanie,

I trust you are having a good evening.

Kindly move forward with the submission of case 2:23-cv-02186-SHL-cgc to the magistrate. As I have previously indicated, I am of the opinion that this course of action is a direct result of the whistleblower complaints I made in 2021 and 2022 against MAA and Bass, Berry, Sims, PLC.

There are no supplementary details that I can offer beyond what has already been communicated. Should you require additional information, please feel free to get in touch.

Warm regards,

Dennis Philipson

----- Forwarded message -----

From: <cmecfhelpdesk@tnwd.uscourts.gov>

Date: Tue, Aug 1, 2023 at 3:55 PM

Subject: Activity in Case 2:23-cv-02186-SHL-cgc Mid-America Apartment Communities, Inc. v. DOE-1 et al "Setting Letter for Teams Hearing"

To: <courtmail@tnwd.uscourts.gov>

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U.S. District Court

Western District of Tennessee

Notice of Electronic Filing

The following transaction was entered on 08/01/2023 at 2:52:02 PM CDT and filed on 08/01/2023

Case Name: Mid-America Apartment Communities, Inc. v. DOE-1 et al

Case Number: 2:23-cv-02186-SHL-cgc

Filer:

8/14/23, 10:24 PM

Gmail - RE: Consent 2:23-cv-02186-SHL-cgc

Document Number: 23

Docket Text:

SETTING LETTER: A SCHEDULING CONFERENCE pursuant to Rule 16(b) of the Federal Rules of Civil Procedure has been SET for MONDAY, SEPTEMBER 11, 2023 at 9:30 A.M. before Chief Judge Sheryl H. Lipman.

The conference will be held via Microsoft Teams Video. A link to the video conference will be emailed to the attorneys prior to the setting.

If the parties consent to have the case heard by the magistrate, please file your consent and this conference will be cancelled.

Counsel should be prepared to discuss all pending motions.

PLEASE REVIEW THE ATTACHED INSTRUCTIONS.

The public may also access the video proceeding. If the public and/or media wish to attend in the video proceeding, please click on the following link to request access information: <https://www.tnwd.uscourts.gov/videohearings>. The access information will be delivered via email to the email address from which the request originated.

Parties should consult the instructions for Joining a Meeting in Teams or Joining a Meeting Without a Teams Account.(mmm)

2:23-cv-02186-SHL-cgc Notice has been electronically mailed to:

Dennis Philipson phillydee100@gmail.com

2:23-cv-02186-SHL-cgc Notice will not be electronically mailed to:

John S. Golwen
BASS BERRY & SIMS PLC- Memphis
The Tower at Peabody Place
100 Peabody Place
Ste. 1300
Memphis, TN 38103

Jordan Elizabeth Thomas
BASS, BERRY & SIMS PLC
100 Peabody Pl.
Ste 1300
Memphis, TN 38103

Paige Waldrop Mills
BASS BERRY & SIMS
150 3rd Ave S
Nashville, TN 37201

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1059513201 [Date=8/1/2023] [FileNumber=4661498-0]
[83f27989026ab5d9a101236be2990ce5ec72e1e46d3246ad884a73e649e661a61b84
261b263d93b7c7e513eb9742e761e50f45543264e06460cd88a7b8b532ad]]

8/14/23, 10:24 PM

Gmail - RE: Consent 2:23-cv-02186-SHL-cgc

This is a re-generated NEF. Created on 8/1/2023 at 2:54 PM CDT

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.



~AO-85 Form.pdf
250K

9/2/23, 8:04 PM

Gmail - Re: Consent 2:23-cv-02186-SHL-cgc



phillydee100 <phillydee100@gmail.com>

Re: Consent 2:23-cv-02186-SHL-cgc

phillydee100 <phillydee100@gmail.com>

Mon, Aug 14, 2023 at 9:14 AM

To: Judy Easley <judy_easley@tnwd.uscourts.gov>

Great - thanks!

On Mon, Aug 14, 2023 at 9:14 AM Judy Easley <judy_easley@tnwd.uscourts.gov> wrote:

The form is found on our website under Forms & Application – they are listed alphabetically – “Consent to Exercise Magistrate Judge Jurisdiction (AO 85 form).

From: phillydee100 <phillydee100@gmail.com>
Sent: Monday, August 14, 2023 8:12 AM
To: Judy Easley <judy_easley@tnwd.uscourts.gov>
Subject: Re: Consent 2:23-cv-02186-SHL-cgc

CAUTION - EXTERNAL:

Good morning Judy,

Am I missing the form I should use? Thank you.

Dennis

On Mon, Aug 14, 2023, 8:59 AM Judy Easley <judy_easley@tnwd.uscourts.gov> wrote:

I do not show on our list that you have ever submitted a consent to proceed before the magistrate. You can't just "say" that you consent, you must submit the form to:

Intaketnwd@tnwd.uscourts.gov

All parties must consent before it is presented to the district judge for their approval and signature.

9/2/23, 8:04 PM

Gmail - Re: Consent 2:23-cv-02186-SHL-cgc

From: phillydee100 <phillydee100@gmail.com>**Sent:** Monday, August 14, 2023 7:14 AM**To:** IntakeTNWD <IntakeTNWD@tnwd.uscourts.gov>; Melanie Mullen <Melanie_Mullen@tnwd.uscourts.gov>**Subject:** Re: Consent 2:23-cv-02186-SHL-cgc**CAUTION - EXTERNAL:****CAUTION - EXTERNAL:**

Good morning,

I trust you had a pleasant weekend. Could you kindly verify the receipt of the consent for case 23-cv-02186-SHL-cgc to be presented before the magistrate? It was sent via email on August 9, 2023. Your confirmation is much appreciated. Wishing you a wonderful Monday and a productive week ahead.

Regards,

Dennis Philipson.

On Wed, Aug 9, 2023, 7:14 PM phillydee100 <phillydee100@gmail.com> wrote:

----- Forwarded message -----

From: phillydee100 <phillydee100@gmail.com>**Date:** Wed, Aug 9, 2023 at 6:34 PM**Subject:** Consent 2:23-cv-02186-SHL-cgc**To:** <melanie_mullen@tnwd.uscourts.gov>**Cc:** phillydee100 <phillydee100@gmail.com>

Hello Melanie,

I trust you are having a good evening.

Kindly move forward with the submission of case 2:23-cv-02186-SHL-cgc to the magistrate. As I have previously indicated, I am of the opinion that this course of action is a direct result of the whistleblower complaints I made in 2021 and 2022 against MAA and Bass, Berry, Sims, PLC.

There are no supplementary details that I can offer beyond what has already been communicated. Should you require additional information, please feel free to get in touch.

9/2/23, 8:04 PM

Gmail - Re: Consent 2:23-cv-02186-SHL-cgc

Warm regards,

Dennis Philipson

----- Forwarded message -----

From: <cmecfhelpdesk@tnwd.uscourts.gov>

Date: Tue, Aug 1, 2023 at 3:55 PM

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U.S. District Court

Western District of Tennessee

Notice of Electronic Filing

The following transaction was entered on 08/01/2023 at 2:52:02 PM CDT and filed on 08/01/2023

Case Name: Mid-America Apartment Communities, Inc. v. DOE-1 et al

Case Number: 2:23-cv-02186-SHL-cgc

Filer:

Document Number: 23

Docket Text:

SETTING LETTER: A SCHEDULING CONFERENCE pursuant to Rule 16(b) of the Federal Rules of Civil Procedure has been SET for MONDAY, SEPTEMBER 11, 2023 at 9:30 A.M. before Chief Judge Sheryl H. Lipman.

The conference will be held via Microsoft Teams Video. A link to the video conference will be emailed to the attorneys prior to the setting.

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Counsel should be prepared to discuss all pending motions.

PLEASE REVIEW THE ATTACHED INSTRUCTIONS.

The public may also access the video proceeding. If the public and/or media wish to attend in the video proceeding, please click on the following link to request access information: <https://www.tnwd.uscourts.gov/videohearings>. The access information will be delivered via email to the email address from which the request originated.

9/2/23, 8:04 PM

Gmail - Re: Consent 2:23-cv-02186-SHL-cgc

Parties should consult the instructions for Joining a Meeting in Teams or Joining a Meeting Without a Teams Account.(mmm)**2:23-cv-02186-SHL-cgc Notice has been electronically mailed to:**

Dennis Philipson phillydee100@gmail.com

2:23-cv-02186-SHL-cgc Notice will not be electronically mailed to:

John S. Golwen
BASS BERRY & SIMS PLC- Memphis
The Tower at Peabody Place
100 Peabody Place
Ste. 1300
Memphis, TN 38103

Jordan Elizabeth Thomas
BASS, BERRY & SIMS PLC
100 Peabody Pl.
Ste 1300
Memphis, TN 38103

Paige Waldrop Mills
BASS BERRY & SIMS
150 3rd Ave S
Nashville, TN 37201

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**n/a**Electronic document Stamp:**

[STAMP dcecfStamp_ID=1059513201 [Date=8/1/2023] [FileNumber=4661498-0]
[83f27989026ab5d9a101236be2990ce5ec72e1e46d3246ad884a73e649e661a61b84
261b263d93b7c7e513eb9742e761e50f45543264e06460cd88a7b8b532ad]]

*This is a re-generated NEF. Created on 8/1/2023 at 2:54 PM CDT***CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.**CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.**CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.



Invoice

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BILL TO:

Dennis Philipson <phillydee100@gmail.com>
6178 Castletown Way
Alexandria, VA 22310

INVOICE# 14996741.100

DATE Sep 03, 2023

ACCOUNT# 168133

ATTENTION phillydee100@gmail.com

REFERENCE# REF-13605170

AMOUNT DUE **\$ 0.00**

CASE # N/A
CASE TITLE N/A
COURT N/A

SERVICES PERFORMED

DESCRIPTION	NOTE	AMOUNT
Prepare Suit		
Process Service - Web Upload	Uploaded File(s): Exhibit D.pdf, Exhibit C.pdf, Exhibit B.pdf, Exhibit A.pdf, 9-2-2023 - Amended Motion to Dismiss - 2-23-cv-02186-SHL-cgc.pdf Rush Requested: Yes Parties To Serve: 2	300.00
SUBTOTAL		\$ 300.00
SALES TAX		\$ 0.00
TOTAL CHARGES		\$ 300.00

PAYMENTS

SOURCE	DATE	AMOUNT
American Express ending in 2002	September 03, 2023	300.00
AMOUNT PAID		\$ 300.00
AMOUNT DUE		\$ 0.00

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

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)

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

**MOTION TO RESCHEDULE SCHEDULING CONFERENCE PURSUANT TO RULE 16(b)
(REQUEST FOR RELIEF)**

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure and any corresponding local rules, I respectfully move this Court for an order rescheduling the scheduling conference currently set for September 11, 2023. The reasons for this request are as follows:

1. **Preference for In-Person Conference:** This Court allows out-of-town counsel the option to participate via video or phone conference. However, I have a strong preference for in-person conferences and have not previously requested remote participation. I respectfully request that the rescheduled conference be conducted in person.
2. **Newborn's Medical Needs:** On July 25, 2023, I welcomed a new child into my family. Due to respiratory issues and episodes of Supraventricular Tachycardia (SVT), my newborn required an extended stay of nine days in the Neonatal Intensive Care Unit (NICU). Since his release, my primary focus has been attending to his medical needs and overall well-being. This commitment has severely limited my ability to adequately prepare for the scheduling conference. For documentation of my newborn's NICU stay, please see *Exhibit A* attached to the docket. If more detailed information is needed, I am happy to provide it to the court.

REQUESTED RELIEF

Based on the above reasons, I respectfully request the following relief:

1. That the scheduling conference be postponed to a later date, allowing me adequate time for preparation.
2. That the rescheduled scheduling conference be conducted in person.

CONCLUSION

For the reasons stated above, I respectfully request that this motion be granted.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 5, 2023

Note: A Certificate of Service will be attached to this motion once it is returned to me. The Plaintiff appears to be notified through PACER as well.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

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Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

**Clarification Regarding Deficiency in Reschedule Scheduling Conference Pursuant to Rule
16(b) - CASE #: 2:23-cv-02186-SHL-cgc**

Your Honorable Judge Lipman,

I hope this correspondence finds you well. I am writing to address the deficiency identified in the Reschedule Scheduling Conference Pursuant to Rule 16(b) that was filed by Dennis Philipson on September 5, 2023, in reference to the above-mentioned case. I appreciate the opportunity to provide further insights to address the deficiency and provide context to my previous submissions.

I want to begin by emphasizing that my intention is not to be difficult or confrontational; rather, I aim to ensure that the issues mentioned in my Motion to Dismiss (Docket No. 33) are appropriately addressed before any scheduling conference takes place. It is crucial to ensure that the fundamental matters related to the case's validity and substance are resolved prior to moving forward with any procedural conferences.

To clarify, my decision not to include a certificate of consultation between the parties, as required by Local Rule 7.2(a)(1)(B), arises from various considerations, including the legal framework established by Federal Civil Rules and relevant case law. I sincerely apologize for any confusion my prior submissions may have caused. I want to assure Your Honor that my aim is not to make baseless claims or unfounded allegations. My foremost objective is to express genuine and legitimate concerns that have surfaced during the course of this complaint.

While I fully appreciate the importance of consultation with counsel, I believed that initiating this process unilaterally was the most appropriate approach, given the intricacies involved in this case. My hesitation to engage in direct consultation with representatives from the Plaintiff or MAA (Mid-America Apartment Communities, Inc.) stems from a conscientious effort to ensure that all communications uphold transparency, accuracy, and strict adherence to the established procedures outlined in Federal Civil Rules. Upholding ethical behavior and maintaining the integrity of the legal process are paramount considerations.

Furthermore, I would like to draw attention to the issue of subpoenas. The alteration of subpoenas, especially when they pertain to sensitive subscriber information on personal emails and ISPs, presents a complex legal and procedural matter. It is essential to recognize that subpoenas are governed by the Federal Rules of Civil Procedure, particularly Rule 45, which outlines the requirements and procedures for issuing subpoenas to nonparties. Any alterations or modifications to these subpoenas must be undertaken in strict accordance with applicable rules to ensure the protection of parties' rights and privacy.

It is also worth noting that the issue of altered subpoenas has been addressed in case law, such as *Doe v. First National Bank of Chicago*, 865 F.2d 864 (7th Cir. 1989), where the court emphasized the importance of complying with proper procedures when issuing subpoenas and considering the privacy concerns of the parties involved.

Furthermore, I would like to address a pertinent matter. On several occasions, I have expressed uncertainty regarding the nature of information that MAA is seeking. Unfortunately, this aspect has not been adequately addressed. I wish to clarify that I have previously informed them that all evidence within my possession has been duly submitted to relevant authorities, namely the IRS, SEC, and DOJ. At present, I do not possess any additional material to provide to MAA.

In conclusion, my actions are rooted in a commitment to upholding the principles of integrity, adherence to established procedures, and transparent communication. By adhering to these principles, we can contribute to a just and equitable legal process that respects the rights and concerns of all parties involved. I also apologize to any of the attorneys, as it is not my intention to embarrass anyone. My focus has been to express legitimate concerns, particularly as a whistleblower with expressed fraud claims. I believe that the complaint against me has been baseless and hostile from the start, and my aim is to navigate this process ethically and responsibly.

Thank you for your attention to this matter, Your Honor. If you require further clarification or information, please feel free to contact me.

Sincerely,

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 5, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

**Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND**

**Clarification Regarding Deficiency in Reschedule Scheduling Conference Pursuant to Rule
16(b) - CASE #: 2:23-cv-02186-SHL-cgc**

Your Honorable Judge Lipman,

I hope this correspondence finds you well. I am writing to address the deficiency identified in the Reschedule Scheduling Conference Pursuant to Rule 16(b) that was filed by Dennis Philipson on September 5, 2023, in reference to the above-mentioned case. I appreciate the opportunity to provide further insights to address the deficiency and provide context to my previous submissions.

Before diving into the specifics, I'd like to underscore that my inability to thoroughly review all motions, complaints, rules, and other pertinent documents is a result of the circumstances outlined in (Docket No. 35). In addition, my intent is not to be confrontational or obstructive. Instead, my primary focus is to guarantee that the concerns raised in my Motion to Dismiss (Docket No. 33) are adequately considered before proceeding to any scheduling conferences.

Addressing these foundational issues concerning the case's validity and substance is imperative before advancing to procedural matters. To clarify, my decision not to include a certificate of consultation between the parties, as required by Local Rule 7.2(a)(1)(B), arises from various considerations, including the legal framework established by Federal Civil Rules and relevant case law. I sincerely apologize for any confusion my prior submissions may have caused. I want to assure Your Honor that my aim is not to make baseless claims or unfounded allegations. My foremost objective is to express genuine and legitimate concerns that have surfaced during the course of this complaint.

While I fully appreciate the importance of consultation with counsel, I believed that initiating this process unilaterally was the most appropriate approach, given the intricacies involved in this case. My hesitation to engage in direct consultation with representatives from the Plaintiff or MAA (Mid-America Apartment Communities, Inc.) stems from a conscientious effort to ensure that all communications uphold transparency, accuracy, and strict adherence to the established procedures outlined in Federal Civil Rules. Upholding ethical behavior and maintaining the integrity of the legal process are paramount considerations.

Furthermore, I would like to draw attention to the issue of subpoenas. The alteration of subpoenas, especially when they pertain to sensitive subscriber information on personal emails and ISPs, presents a complex legal and procedural matter. It is essential to recognize that subpoenas are governed by the Federal Rules of Civil Procedure, particularly Rule 45, which outlines the requirements and procedures for issuing subpoenas to nonparties. Any alterations or modifications to these subpoenas must be undertaken in strict accordance with applicable rules to ensure the protection of parties' rights and privacy.

It is also worth noting that the issue of altered subpoenas has been addressed in case law, such as *Doe v. First National Bank of Chicago*, 865 F.2d 864 (7th Cir. 1989), where the court emphasized the importance of complying with proper procedures when issuing subpoenas and considering the privacy concerns of the parties involved.

Furthermore, I would like to address a pertinent matter. On several occasions, I have expressed uncertainty regarding the nature of information that MAA is seeking. Unfortunately, this aspect has not been adequately addressed. I wish to clarify that I have previously informed them that all evidence within my possession has been duly submitted to relevant authorities, namely the IRS, SEC, and DOJ. At present, I do not possess any additional material to provide to MAA.

In conclusion, my actions are rooted in a commitment to upholding the principles of integrity, adherence to established procedures, and transparent communication. By adhering to these principles, we can contribute to a just and equitable legal process that respects the rights and concerns of all parties involved. I also apologize to any of the attorneys, as it is not my intention to embarrass anyone. My focus has been to express legitimate concerns, particularly as a whistleblower with expressed fraud claims. I believe that the complaint against me has been baseless and hostile from the start, and my aim is to navigate this process ethically and responsibly.

Thank you for your attention to this matter, Your Honor. If you require further clarification or information, please feel free to contact me.

Sincerely,

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 5, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

CERTIFICATION OF CONSULTATION PURSUANT TO LOCAL RULE 7.2(A)(1)(B)

I certify that I initially attempted to consult with the opposing parties' attorneys as required by Local Rule 7.2(a)(1)(B). I will continue making additional attempts until I receive a response. To address the time-sensitive nature of this request, I initiated this consultation via email on 9/6/2023 at 12:18 PM. Although I recognize that this may not fulfill the criteria for reasonable notice, I am prepared to refile the motion if it becomes necessary. Please also take note of Docket No 33, Exhibit A, and Exhibit B, which illustrate my responsiveness to Bass, Berry & Sims PLC through USPS in June 2023. Despite my preference for secure correspondence through USPS, these documents demonstrate my efforts to engage in communication.

In the initial communication, I made the following requests:

1. Postponement of the scheduling conference to a later date to allow for adequate time for thorough preparation.
2. Conducting the rescheduled scheduling conference in person, as I did not request a video meeting.

The email was sent to the following attorneys:

1. John S. Golwen Firm: BASS BERRY & SIMS PLC- Memphis Email: jgolwen@bassberry.com

2. Jordan Elizabeth Thomas Firm: BASS, BERRY & SIMS PLC Email: jordan.thomas@bassberry.com

3. Paige Waldrop Mills Firm: BASS BERRY & SIMS Email: pmills@bassberry.com

I will update the court as soon as opposing counsel confirms or denies my request.

Please reference the following docket entries as a point of reference in conjunction with this certificate.

- Docket No 35: Pro Se MOTION to Reschedule Scheduling Conference Pursuant to Rule 16(b)
- Docket No 38: Clarification Regarding Deficiency in Reschedule Scheduling Conference Pursuant to Rule 16(b)
- Exhibit A: Email to Opposing Counsel

Your attention to these matters is greatly appreciated.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com

Dated: September 6, 2023

9/6/23, 12:29 PM

Gmail - MOTION to Reschedule Scheduling Conference other Motions



phillydee100 <phillydee100@gmail.com>

MOTION to Reschedule Scheduling Conference other Motions

1 message

phillydee100 <phillydee100@gmail.com>

Wed, Sep 6, 2023 at 12:18 PM

To: "Mills, Paige" <pmills@bassberry.com>

Cc: jgolwen@bassberry.com, jordan.thomas@bassberry.com, "McClanahan, Teresa" <TMcClanahan@bassberry.com>

Bcc: phillydee100 <phillydee100@gmail.com>

Good afternoon,

I hope this message finds you well. I have attached several motions and related documents for your reference. I kindly request the following:

- 1) Postponement of the scheduling conference to a later date to ensure ample time for thorough preparation.
- 2) Conducting the rescheduled scheduling conference in person.

I have enclosed the necessary attachments for your review, and I would greatly appreciate your consideration of rescheduling the conference. Your professionalism in handling this request is sincerely appreciated.

Thank you for your attention to this matter.

Warm regards,

Dennis Philipson

7 attachments **33-2.pdf**
47K **33-1.pdf**
105K **33-4.pdf**
236K **33.pdf**
295K **35.pdf**
58K **38.pdf**
90K **33-3.pdf**
92K

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

ORDER DENYING MOTION TO RESCHEDULE SCHEDULING CONFERENCE

Before the Court is pro se Defendant Dennis Michael Philipson's Motion to Reschedule Scheduling Conference Pursuant to Rule 16(b), filed September 5, 2023. (ECF No. 35.) The motion seeks to reschedule the conference currently set for September 11, 2023. The same day of Mr. Philipson's filing, the Court entered a deficiency notice, explaining that the motion failed to include a certificate of consultation consistent with Local Rule 7.2(a)(1)(B). (ECF No. 36.) Mr. Philipson then filed what he characterized as a clarification regarding the deficiency (ECF No. 37) and a corrected clarification (ECF No. 38), both on September 5.

In the corrected clarification, Mr. Philipson explains that his "primary focus is to guarantee that the concerns raised in my Motion to Dismiss (Docket No. 33) are adequately considered before proceeding to any scheduling conferences." (ECF No. 38 at PageID 380.)¹ Mr. Philipson also reiterates the basis for his original request for a continuance, namely that his son was born July 25, 2023, spent nine days in the neonatal intensive care unit and that "[s]ince

¹ Mr. Philipson filed his motion to dismiss on August 30, 2023, and an amended motion to dismiss on September 2, 2023. (ECF Nos. 31 & 33.) Plaintiff's deadline to respond to the motion has yet to run.

his release, my primary focus has been attending to his medical needs and overall well-being.” (ECF No. 35 at PageID 362.) Mr. Philipson also asserts that his son’s birth and hospital stay “has severely limited my ability to adequately prepare for the scheduling conference.” (*Id.*) In his motion, Mr. Philipson also requests that the scheduling conference be converted from a remote proceeding to in-person. (*Id.* at PageID 362, 363.)² Although Mr. Philipson’s filings articulate multiple reasons for a continuance, none of them provide good cause. For the reasons explained below, his motion is **DENIED**.

Federal Rule of Civil Procedure 16 governs pretrial conferences, scheduling and case management. Under the Rule, a “judge must issue the scheduling order as soon as practicable, but unless the judge finds good cause for delay, the judge must issue it within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared.” Fed. R. Civ. P. 16(b)(2).³ “The rules make no mention of a requirement that the Court rule on pending motions or that Defendants file an answer before the Court conducts a [case management conference].” Allen v. Stark State Coll., No. 5:17CV02706, 2019 WL 3387772, at *5 (N.D. Ohio July 26, 2019).

The Court is not persuaded by Mr. Philipson’s stance that it must rule on his Motion to Dismiss before holding the scheduling conference. He asserts that “addressing the[]

² Although Mr. Philipson, who lists his address as being in Alexandria, Virginia, indicates he has a “strong preference for in-person conferences,” not only do judges in the Western District of Tennessee routinely conduct remote scheduling conferences, but also “a district court has broad discretion to manage its docket.” Am. C.L. Union of Kentucky v. McCreary Cnty., Ky., 607 F.3d 439, 451 (6th Cir. 2010) (citing Reed v. Rhodes, 179 F.3d 453, 471 (6th Cir. 1999)); Parchman v. SLM Corp., No. 2:15-cv-02819-JTF-cgc, 2018 WL 11416566, at *1 (W.D. Tenn. July 3, 2018).

³ Here, Mr. Philipson was personally served with the summons on June 14, 2023, (ECF No. 20 at PageID 296), which makes September 12, 2023, ninety days from the date of service.

foundational issues concerning the case's validity and substance is imperative before advancing to procedural matters." (ECF No. 38 at PageID 380.) As a starting point, without addressing the merits of Mr. Philipson's amended Motion to Dismiss, it appears to rely on similar arguments and legal authority that the Court previously rejected in denying his Motion to Quash Subpoena. (See ECF No. 15.) More important, Mr. Philipson provides no means of distinguishing this case from the many others where the Court has conducted scheduling conferences while a motion to dismiss was pending. The Court finds that a ruling on Mr. Philipson's Motion to Dismiss is not necessary prior to conducting the scheduling conference.

As to Mr. Philipson's assertion that the scheduling conference should be continued based on the recent birth of his son and the boy's nine-day stay in the NICU, the Court is sympathetic to Mr. Philipson's parenting obligations. However, the Court and the parties to this action are bound by the guidance that the Federal Rules "should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1. Conducting the scheduling conference in this matter is a necessary step toward ensuring that the Court abide by this fundamental directive.

In any event, it is not clear what granting Mr. Philipson's motion and continuing the scheduling conference would accomplish. Mr. Philipson asserts that he needs additional time to prepare for the scheduling conference, but to date he has failed to satisfy his obligations to prepare for the scheduling conference. On August 1, 2023, the Court entered its setting letter in this matter instructing the parties to discuss the schedule and other matters, explaining that "the parties shall, at least twenty-one (21) days prior to the Rule 16 scheduling conference, meet for discussion and the preparation of a proposed discovery plan that outlines the discovery you need in this case." (ECF No. 23 at PageID 311 (citing Fed. R. Civ. P. 26(f)).) Plaintiff represents that

“Mr. Philipson has failed to provide any dates or respond to multiple requests for the parties to meet and confer on a discovery plan before the upcoming status conference set by this Court’s order of August 1, 2023[.]” (ECF No. 28 at PageID 329.) Mr. Philipson confirmed as much, indicating that he “believed that initiating this process unilaterally was the most appropriate approach, given the intricacies involved in this case.” (ECF No. 38 at PageID 381.)⁴

Mr. Philipson has made other unilateral decisions in contravention of the local rules. Before he filed his motion to reschedule he ignored his obligation under the Local Rules to consult with Plaintiff’s counsel. After the Court noted the deficiency, Mr. Philipson explained that he consciously “deci[ded] not to include a certificate of consultation . . . as required by Local Rule 7.2(a)(1)(B)” based on “various considerations, including the legal framework established by Federal Civil Rules and relevant case law.” (*Id.* at PageID 380.) He did not cite to any rule or case law that supports his position.⁵

Although the Court recognizes that Mr. Philipson has elected to represent himself in this matter, his pro se status does not absolve him of his obligation to familiarize himself with and follow the Federal Rules of Civil Procedure and this Court’s Local Rules, and to abide by any orders the Court issues. Pro se litigants “are not exempt from the requirements of the Federal Rules of Civil Procedure.” Wright v. Penguin Random House, 783 F. App’x 578, 581 (6th Cir. 2019) (citing Fox v. Mich. State Police Dep’t, 173 F. App’x 372, 376 (6th Cir. 2006)). To that end, to the extent that Mr. Philipson continues to represent himself in this matter, he is

⁴ Furthermore, it is unclear to what extent Mr. Philipson unilaterally engaged in the process, as he did not submit a proposed scheduling order or Rule 26(f) Report before filing his motion to reschedule.

⁵ Mr. Philipson has since filed a certificate of consultation that documents an email he sent to Plaintiff’s counsel at 12:18 p.m. on September 6, 2023, requesting their position on the relief he requested in the motion to reschedule. (ECF No. 39-1 at PageID 385.)

ORDERED to familiarize himself with the Federal Rules of Civil Procedure and the Local Rules and to abide by them, and all Court orders, as the case proceeds.

For the foregoing reasons, the Court **DENIES** Mr. Philipson's Motion to Reschedule. The scheduling conference will proceed as scheduled at 9:30 a.m. Monday, September 11, 2023, via Microsoft Teams Video. A link to the video conference will be emailed prior to the setting.

IT IS SO ORDERED, this 7th day of September 2023.

s/ Sheryl H. Lipman
SHERYL H. LIPMAN
CHIEF UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,
COMMUNITIES, INC.
Plaintiff,

v.

DENNIS PHILIPSON
Defendant.

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Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

DEFENDANTS PROPOSED SCHEDULING ORDER

Your Honor,

First and foremost, my primary objective is to have the case against me by Mid-America Apartment Communities, Inc., the Plaintiff, dismissed. At this time, I do not intend to file a counterclaim. However, I reserve the right to initiate legal action for retaliation at a future date, particularly after the completion of ongoing investigations by relevant government agencies. I would like to bring to the Court's attention that I have been subject to harassment by MAA since 2019, and I am eager to bring an end to these unwarranted actions against me.

While the Plaintiff has submitted a proposed scheduling order, I, the Defendant, must respectfully dissent on several points. I would like to draw the Court's attention to the fact that a motion to dismiss was already filed on my behalf on September 2, 2023, which appears under

(Docket No 33). As this motion could be dispositive of the case in its entirety, I urge the Court to expedite its review and potentially adjust all subsequent deadlines accordingly.

1. **Initial Disclosures - September 15, 2023:** Before proceeding with any initial disclosures, I believe the motion to dismiss should be reviewed. If the Court decides in favor of the motion, the initial disclosures may become unnecessary.
2. **Alternative Dispute Resolution (ADR):** The Plaintiff proposes that the Court appoint a mediator, citing my supposed failure to confer. I must clarify that this assertion does not reflect the full picture of our interactions. More importantly, I am not amenable to mediation at this juncture for several reasons. First and foremost, the Plaintiff has not explicitly outlined their objectives beyond the retrieving evidence submitted to the SEC, DOJ, and IRS.

In addition, I would like to bring attention to the Sarbanes-Oxley Act of 2002, specifically 18 U.S.C. § 1514A, which affords whistleblower protections for employees of publicly traded companies who report violations of federal law. Given that the Plaintiff's claims involve allegations submitted to federal agencies, it is essential that any dispute resolution process fully comply with whistleblower protections under Sarbanes-Oxley. These protections not only shield whistleblowers from retaliation but also afford them specific avenues for redress, which could be undermined by premature or inadequately-structured mediation attempts. Furthermore, I request that any "privileged or protected information" be specifically defined and treated in accordance with

whistleblower protection laws, ensuring that there is no violation of Section 806 of the Sarbanes-Oxley Act, which protects the confidentiality of whistleblower complaints.

3. **Completing All Discovery - January 11, 2024:** I am keen to review all evidence cited in the Plaintiff's complaints. This includes but is not limited to the supposedly incriminating subpoena, details of how this subpoena was obtained, the alleged reviews that I am accused of writing, and any whistleblower complaints. These items are critical for my defense and for analysis by a linguistic expert. I propose an expedited discovery timeline for these specific elements to ensure adequate time for review and expert analysis.
4. **Expert Witness Disclosures:** In light of the Plaintiff's allegations, which include intricate claims requiring expert evaluation, a more realistic timeline should be established for the disclosure of expert witnesses. Specifically, I request that the Court extend the deadline for both Plaintiff's and Defendant's Rule 26 Expert Information to allow sufficient time for locating appropriate experts and preparing their contributions.
5. **Motions to Exclude Experts/Daubert Motions and Filing Dispositive Motions:** The proposed deadlines for these could be rendered moot depending on the Court's ruling on the motion to dismiss. I propose that these deadlines be revisited after a ruling on the motion to dismiss has been made.

6. **e-Discovery:** I disagree with the Plaintiff's assumption that we shall comply with the default standards described in Local Rule 26.1(e). I propose that a separate discussion or order concerning e-discovery be arranged once the Court decides on my motion to dismiss.

7. Local Rules: I fully intend to comply with Local Rules, but these should be considered in light of the current pending motion to dismiss and other concerns mentioned above.

Respectfully submitted,

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com

Dated: September 6, 2023

cc: Paige Waldrop Mills, John S. Golwen & Jordan Elizabeth Thomas Counsel for the Plaintiff,

IT IS SO ORDERED, this ____day of _____, 2023.

UNITED STATES DISTRICT JUDGE S. LIPMAN

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.		

INTENT to FILE MOTION FOR EXPEDITED DISCOVERY

Expedited Discovery Requests

The defendant will file a motion shortly after Consultation with Counsel depending on how quickly the request is fulfilled. The Defendant seeks expedited discovery, specifically requesting access to:

1. **Response from WIX subpoena (Docket No 15, Exhibit B):** I seek access to the actual response from Wix to the Plaintiff's subpoena, as ordered by this Court on May 16, 2023 (Dk. 15).
2. **Verizon's response to the subpoena:** I request access to Verizon's response to the subpoena issued by the Plaintiff, as mandated by federal law.
3. **Google's response to MAA's subpoena:** The Defendant seeks Google's response to the Plaintiff, MAA's subpoena as detailed in (Docket No 6 Exhibit A). Additionally, the court's authorization to

modify the subpoena to incorporate the Defendant's known email address, as indicated in (Docket No 22 Exhibit A), should be provided.

4. **Documentation related to Glassdoor reviews:** Documentation pertaining to reviews and the methodologies employed by MAA to authenticate their authorship by the Defendant:
5. **Compilation of Google reviews and related methodologies:** Collation of Google reviews and the strategies employed by MAA to establish their attribution to the Defendant:
6. **Additional reviews and materials:** Request for any other reviews or materials mentioned explicitly in "AMENDED COMPLAINT against Dennis Philipson (Docket No. 16) or "AFFIDAVIT Declaration of Leslie Wolfgang" (Docket No. 14).

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 7, 2023

1. On September 7, 2023, I reached out to the opposing counsel via email, seeking pertinent information and documents vital for our ongoing proceedings. To date, the sought-after materials have not been provided, nor has there been communication clarifying the delay (Exhibit C).
2. Awaiting a constructive response, I am willing to provide opposing counsel with a few additional days for compliance. Absent a timely response, I find myself compelled to move forward with my motion for expedited discovery.
3. On September 8, despite their tardiness, I felt compelled to respond to the Plaintiff's persistent allegations that I have documents pertaining to their subpoena. I managed to identify a few documents potentially relevant to the Plaintiff, MAA's request:
 - a) My Last Will and Testament, which references MAA.
 - b) The Reasonable Accommodation form that MAA had me complete in 2019, indicating my mental illness. This document was presented to my direct supervisors at the time and subsequently provided to the EEOC, SEC & DOJ in 2021. Concurrently, I

anticipate the validation of our updated case management plan, which I believe will facilitate an orderly progression of our trial.

4. On the same day, September 7, I also made a request to the court stating: "As I am appearing pro se, any accommodations or resources the court might offer would be greatly appreciated. I wish to express my gratitude for the court's ongoing guidance and support in this matter. I am fully committed to complying with the court's rules and procedures." Unfortunately, this request went unanswered (Exhibit D). I sincerely appreciate the court's assistance thus far, and perhaps I should have been clearer in articulating my request. I will look into this further to ensure better communication.
5. I cite historical precedents, such as *Haines v. Kerner*, 404 U.S. 519 (1972) and *Erickson v. Pardus*, 551 U.S. 89 (2007), to kindly request the court's leniency and understanding as I navigate this legal journey. Both cases underscore the traditional understanding extended to self-represented litigants. I am fully committed to adhering to all court rules, both local and federal. I assure the court that any oversight on my part is unintentional, and I will take immediate steps to rectify any such errors.

Attached herewith are Exhibits A (Transcript of Email Exchanges), B (Evidence Responsive to Subpoena Request), C (Requested Items from Opposing Counsel), and D (Correspondence to the Court) for the court's review.

Thank you for considering my request. I remain committed to due process and look forward to a constructive resolution and progression of our trial.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 8, 2023

9/8/23, 10:41 AM

Gmail - Re: Case Management/ Etc



phillydee100 <phillydee100@gmail.com>

Re: Case Management/ Etc

phillydee100 <phillydee100@gmail.com>

Fri, Sep 8, 2023 at 10:41 AM

To: "Mills, Paige" <PMills@bassberry.com>, "Golwen, John S." <jgolwen@bassberry.com>, "Thomas, Jordan" <jordan.thomas@bassberry.com>

Bcc: phillydee100 <phillydee100@gmail.com>

Good morning,

I was able to locate some documents responsive to your subpoena request regarding MAA. I found them in my file cabinet. There's a reasonable accommodation form from 2019 which was misdated. I had promptly communicated this to Amber Fairbanks and Kristin Ostrom, and the EEOC has this on record.

Additionally, I believe I possess the tracking details for the disk sent to the SEC, IRS, & DOJ. I think this might be of interest. I will inform you once I have them at hand.

Regarding our upcoming call on Monday, I hope for a straightforward and transparent discussion. I value open communication and aim to keep our interactions honest.

Thank you for your patience. I hope you have a good weekend!

Dennis Philipson

On Thu, Sep 7, 2023 at 10:38 PM phillydee100 <phillydee100@gmail.com> wrote:

Good evening everyone,

Having gone over the case management plan, I'm in agreement with the outlined suggestions. However, I'd kindly request an opportunity to review your final version once more prior to its submission to the court. While I am genuinely open to mediation, I must voice my reservations regarding the foundation of, frankly, about 98% of the allegations. It's hard not to view this situation as retaliatory, especially when reflecting on my whistleblower complaints against MAA and Bass, Berry & Sims PLC. A transparent dialogue might be the key to better understanding and possibly aligning our viewpoints.

After we complete the Initial Disclosures by September 15th, I'll propose a deposition date, likely in early October. It's essential for me to fully understand MAA's damage claims and the evidence supporting them. I'm awaiting the documents I've asked for to help our proceedings move smoothly. Additionally, I'm ready to review your second subpoena at a time that works best for you.

I'm preparing for Monday's conference, while I feel somewhat unprepared due to the issues highlighted in my previous motion, I will do my best to keep pace.

Wishing you all a pleasant weekend!

Best,

Dennis Philipson

On Thu, Sep 7, 2023 at 4:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello again,

I'll give the proposed plan a thorough review and aim to provide feedback at the earliest. Could I clarify if you plan to provide the documents I've inquired about, especially those related to the concerns raised in your complaint?

I don't have any of the documents you referred to in your subpoena. Anything I had was sent to the SEC, DOJ, and IRS. I'd recommend directing your subpoena towards them. I've made this point clear on multiple occasions. While I await the second subpoena, please be assured I'm ready to review it at your convenience.

I'm not experienced in a court setting, and I find your allegations both demeaning and unfounded.

9/8/23, 10:41 AM

Gmail - Re: Case Management/ Etc

Wishing you a pleasant day,

Thanks,

Dennis Philipson

On Thu, Sep 7, 2023 at 3:19 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

I am uncertain as to why you believe our interactions have been hostile. I have tried to maintain a professional demeanor in all my interactions with you and will continue to do so. Attached please find the Plaintiff's responses to your proposed Case Management Order. Please let me know if you are agreeable to these suggestions.

As far as the documents we are seeking, that is set out in Attachment A to the subpoena that we served upon you earlier in the case. I will be serving you with a second set of requests after the case management conference as well. In addition, I look forward to receiving some dates for your deposition, which we can set for a date after we receive your documents.

Best,

Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>

Sent: Thursday, September 7, 2023 10:22 AM

To: Mills, Paige <PMills@bassberry.com>

Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>

Subject: Case Management/ Etc

9/8/23, 10:41 AM

Gmail - Re: Case Management/ Etc

Ms. Mills,

I trust you're doing well. I would like to work with you on the proposed plan, aiming for a shared understanding and compliance with the court's rules. Would you be able to modify your plan to include my perspectives?

I believe in maintaining a cordial and cooperative relationship during this process. I consider myself an approachable and amicable person, but I have sensed a level of hostility from our interactions from the very beginning. I am genuinely uncertain about the cause and would like to understand any underlying issues so we can work effectively together.

Given your experience with the court, I'd be grateful if you could relay our discussions to them as necessary.

Additionally, regarding the outstanding document requests, I would appreciate further clarification on the precise details or documents you're seeking from me.

If you could please fulfill my document request as well.

Thank you for your cooperation and understanding.

Best regards,

On Wed, Sep 6, 2023 at 6:33 PM phillydee100 <phillydee100@gmail.com> wrote:

Dear Honorable Judge Lipman and Counsel,

I am writing to submit the attached case management plan from my perspective as the Defendant. Upon careful review, it has become apparent that there are significant discrepancies between my proposed plan and the one put forth by Attorney Mills representing the Plaintiff.

I have some differences with the Plaintiff's plan, outlined in the attached document. I've formally requested to postpone the scheduling conference via email and USPS, supported by a filed motion. I ask for this delay to prepare more thoroughly for the case and because I prefer in-person meetings over video calls.

Our plan also considers the pending review of the motion to dismiss filed on September 2, 2023 (Docket #33).

Thank you for considering my proposed timelines and conditions, especially given the case's sensitivity and its relevance to whistleblower laws. We look forward to discussing these issues further as the Court deems appropriate.

Best regards,

Dennis Philipson

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

phillydee100



9-8-2023 - MAA Documents.pdf
1250K

STATEMENT OF INTERMENT, CREMATION, and WISHES

I, Dennis Philipson, the undersigned, having previously executed a last will and testament on the date hereof, hereby state that, in addition to the directives and bequests set forth in said last will and testament, it is my desire that my remains be cremated.

My further wishes and directives are as follows:

Please cremate me after an autopsy is performed. I do not need anything fancy, no religious services, no obituary, or church masses. Please choose the least expensive cremation option.

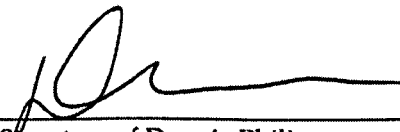
If I should die or something happens to me under mysterious circumstances, please look at employees or contractors connected to Mid-America Apartment Communities, MAA due to my EEOC and SEC claim.

Maxwell Massoud is Caitlyn and Marc Massoud's unborn child, due in March of 2022. At the time this Will was completed, they did not finalize a name. Most of our banking is performed at Ally Bank, and beneficiaries have been updated as of January 17, 2022.

Thank you,

Dennis Philipson

Dated: 4/17/2022



Signature of Dennis Philipson

ACKNOWLEDGMENT
OF NOTARY PUBLIC

State of Maryland
~~Commonwealth of Virginia~~

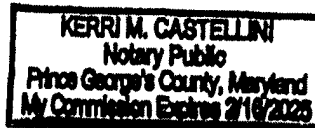
County of Prince George's

On this 17 day of April, 2023 before me, the undersigned Notary Public, personally appeared Dennis Philipson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the individual who signed the foregoing power of attorney and acknowledged to me that he or she executed the same in his or her authorized capacity, and that by such signature, the person executed the instrument.

Witness my hand and seal.

Signature of Notary Public:

Kerri M. Castellini



REASONABLE ACCOMMODATION VERIFICATION FOR ASSISTANCE ANIMAL

We are committed to the letter and spirit of the Fair Housing Act, which, among other things, prohibits discrimination against persons with disabilities. In accordance with our statutory responsibilities and management policies, we will make reasonable accommodations to our rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy their housing. If you are requesting such an accommodation with respect to an assistance animal, please fill out this form, have your health care provider complete Section 4 and return the completed form to management for consideration and evaluation.

1. RESIDENT INFORMATION

Resident's Name:
Current Address:
Date of Request:

Dennis Philipson
501 Holland Ln Alexandria VA 22314
2/12/19

2. ANIMAL INFORMATION

Type:
Breed:
Sex:
Name:
Color:
Weight:
Height:

Dog
Shih Tzu
Male: X Female: _____
Major
Brindle
Current 14 lbs Full Adult 14 lbs
Current 1 ft Full Adult 1 ft

3. HEALTH CARE PROVIDER-

Name:
Position:
Address:
Telephone:

Arun Bansal, MD
VHC Primary Care Alexandria
1400 N. Dumfries St Suite 300
Alexandria, VA 22314

Authorization

I AUTHORIZE MY HEALTH CARE PROVIDER TO DISCLOSE AND PROVIDE THE INFORMATION NECESSARY TO RESPOND TO THE QUESTIONS BELOW

Signature of Resident: _____

4. FOR COMPLETION BY HEALTHCARE PROVIDER

You have been authorized by the resident listed above to provide the information requested below.

a. Is the Tenant disabled according to the following definition:

The Fair Housing Act defines disability as a physical or mental impairment that substantially limits one or more major life activities. The Supreme Court has determined that to meet this definition a person must have an impairment that prevents or severely restricts the person from doing activities that are of central importance in most peoples' daily lives.

YES

☐

NO

☒
b. Please describe in what manner this disability impairs and/or restricts this resident in activities that are of central importance to his or her daily life:

(If needed, you may write on the back of this form or attach additional sheets of paper)

- c. A reasonable accommodation is an exception to the existing rules/policies of an apartment community that is necessary for the disabled resident to have equal opportunity to use and enjoy his/her apartment community and home. Applying this definition to a request for an animal requires a higher standard than merely stating that a resident would *benefit* from the presence of an animal in his/her home.

i. Is it your opinion that the presence of this animal is necessary in the Resident's home because of his or her disability?
YES ☒ NO ☐ DON'T KNOW ☐

ii. Does this animal have specialized training for the disability related need?

YES ☐ NO ☒ DON'T KNOW ☐

iii. Please describe how the presence/assistance of this animal in the apartment and community is necessary for the Resident's disability related need: Emotional Support Dog
Due to Mental Illness

_____. (If needed, you may write on the back of this form or attach additional sheets of paper)

I certify that the information contained in the responses to these requests are true and correct to the best of my knowledge, information and belief.

Signature of Healthcare Provider

Date:

4/13/18

License Number:

0101263736

VIRGINIA HOSPITAL
CENTER
PHYSICIAN GROUP

Primary Care
Alexandria

Arun Bansal, MD

vhcphysiciangroup.com/alexandria

T 703.717.4148

F 703.717.4149

1600 N. Beauregard St. | Suite 300 | Alexandria, VA 22311 | T: 703.717.4148

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

Docket No. 2:23-cv-02186-SHL-cgc

JURY DEMAND

Requested From Opposing Counsel on September 7, 2023

1. **Response from WIX subpoena (Docket No 15, Exhibit B):** I seek access to the actual response from Wix to the Plaintiff's subpoena, as ordered by this Court on May 16, 2023 (Dk. 15).
2. **Verizon's response to the subpoena:** I request access to Verizon's response to the subpoena issued by the Plaintiff, as mandated by federal law.
3. **Google's response to MAA's subpoena:** The Defendant seeks Google's response to the Plaintiff, MAA's subpoena as detailed in (Docket No 6 Exhibit A). Additionally, the court's authorization to modify the subpoena to incorporate the Defendant's known email address, as indicated in (Docket No 22 Exhibit A), should be provided.
4. **Documentation related to Glassdoor reviews:** Documentation pertaining to reviews and the methodologies employed by MAA to authenticate their authorship by the Defendant:

5. **Compilation of Google reviews and related methodologies:** Collation of Google reviews and the strategies employed by MAA to establish their attribution to the Defendant:
6. **Additional reviews and materials:** Request for any other reviews or materials mentioned explicitly in "AMENDED COMPLAINT against Dennis Philipson (Docket No. 16) or "AFFIDAVIT Declaration of Leslie Wolfgang" (Docket No. 14).

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 7, 2023

9/8/23, 11:02 AM

Gmail - Re: Proposed Case Management Order for Docket No. 2:23-cv-02186, Mid-America Apartment Communities, Inc. v. Denn...



phillydee100 <phillydee100@gmail.com>

Re: Proposed Case Management Order for Docket No. 2:23-cv-02186, Mid-America Apartment Communities, Inc. v. Dennis Philipson

phillydee100 <phillydee100@gmail.com>

Fri, Sep 1, 2023 at 8:19 PM

To: "ECF_Judge_Lipman@tnwd.uscourts.gov" <ecf_judge_lipman@tnwd.uscourts.gov>, melanie_mullen@tnwd.uscourts.gov
Cc: "McClanahan, Teresa" <TMcClanahan@bassberry.com>, IntakeTNWD@tnwd.uscourts.gov, jgolwen@bassberry.com, jordan.thomas@bassberry.com, Morgan_Gloss@tnwd.uscourts.gov, "Mills, Paige" <pmills@bassberry.com>
Bcc: phillydee100 <phillydee100@gmail.com>

Good Evening,

I extend my apologies for initially overlooking the attachment titled "CASE MANAGEMENT INSTRUCTIONS – STANDARD CIVIL CASES." I have since reviewed the document and understand it was intended for electronic transmission to your chambers.

Additionally, I should mention that my electronic correspondence has predominantly been with Attorney Paige Mills' paralegal, Teresa. I believe I have responded to all emails sent to me; however, it has come to my attention that I inadvertently blocked emails from Paige Mills in my inbox. This may explain any communication lapses on my end. Despite an initial request to communicate via the United States Postal Service, it seems this has not been consistently followed. I am inclined to consider this an inadvertent oversight.

I remain amenable to constructive engagement with Attorney Mills. In alignment with her views, I concur that the appointment of a court-sanctioned mediator would likely serve the best interests of all parties involved. I maintain serious concerns about the accuracy of the majority of statements and several elements cited in the filed motions. Moreover, I find myself uncertain as to what exact information or documents she anticipates receiving from me, especially given that I have reiterated multiple times that I have no additional materials to provide. Once again, I feel compelled to voice my concerns about the potential infringement upon my whistleblower rights, though I understand that this is not the focal point of the current proceedings.

Additionally, I have reached out to the court via email on three separate occasions inquiring about the lack of PACER notifications and have yet to receive a reply. Consequently, I find myself compelled to manually monitor PACER to prevent missing crucial documents.

As I am appearing pro se, any accommodations or resources the court might offer would be greatly appreciated. I wish to express my gratitude for the court's ongoing guidance and support in this matter. I am fully committed to complying with the court's rules and procedures.

I apologize if the contents of this email to your chambers have been overly detailed or expansive. At present, I am unsure as to the appropriate point of contact for these communications. Wishing you an enjoyable weekend ahead.

Sincerely,

Dennis Philipson

On Thu, Aug 31, 2023 at 6:55 PM phillydee100 <phillydee100@gmail.com> wrote:

Good Evening Judge Lipman,

I am in receipt of the Proposed Case Management Order as submitted by Attorney Pam Mills and kindly request your judicial decision pertaining to the proposal.

As for the subject of electronic communications with your chambers, I was led to understand based on the court's governing rules as well as an email communication dated April 2023, that such interactions may be restricted or impermissible. I kindly request clarification regarding the permissibility of this method of communication, as delineated by the applicable rule(s).

I am anticipating our prearranged meeting set for the 11th day of September, 2023. Concurrently, I await a forthcoming team meeting invitation from Ms. Melanie, as was previously communicated.

Should further clarification or additional inquiries be necessary prior to the aforementioned events, I kindly invite you to

9/8/23, 11:02 AM Gmail - Re: Proposed Case Management Order for Docket No. 2:23-cv-02186, Mid-America Apartment Communities, Inc. v. Denn...

contact me at your earliest convenience.

Respectfully Submitted,

Dennis Philipson

On Thu, Aug 31, 2023 at 6:32 PM Mills, Paige <PMills@bassberry.com> wrote:

Dear Judge Lipman,

Attached please find Plaintiff's Proposed Case Management Order. While undersigned counsel reached out twice to Mr. Philipson to confer on the matters in the order, he did not respond.

Best Regards,

Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
Western Division
Office of the Clerk**

Wendy R. Oliver, Clerk
242 Federal Building
167 N. Main Street
Memphis, Tennessee 38103
(901) 495-1200

Deputy-in-Charge
U.S. Courthouse, Room 262
111 South Highland Avenue
Jackson, Tennessee 38301
(731) 421-9200

NOTICE OF SETTING
Before Chief Judge Sheryl H. Lipman, United States District Judge

September 11, 2023

RE: 2:23-cv-2186-SHL
Mid-America Apartment Communities, Inc. v. Dennis Philipson

Dear Sir/Madam:

A NON-JURY TRIAL has been SET before **Chief Judge Sheryl H. Lipman** on **MONDAY, JUNE 17, 2024** at **9:30 A.M.** in **Courtroom No. 1, 11th floor** of the **Federal Building, Memphis, Tennessee.**

A PRETRIAL CONFERENCE will be held on **TUESDAY, JUNE 4, 2024** at **11:00 A.M.** in **Courtroom No. 1, 11th floor** of the **Federal Building, Memphis, Tennessee.**

A PROPOSED JOINT PRETRIAL ORDER must be furnished to the Court by **MAY 28, 2024.**

PLEASE SEE ATTACHED INSTRUCTIONS.

If you have any questions, please contact the case manager at the telephone number or email address provided below.

Sincerely,
WENDY R. OLIVER, CLERK
BY: s/Melanie Mullen,
Case Manager for Chief Judge Sheryl H. Lipman
901-495-1255
melanie_mullen@tnwd.uscourts.gov

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
Office of the Clerk**

PRETRIAL PROCEDURES: Non-Jury Trials

Prior to the pretrial conference, counsel must do the following:

- A. Complete all discovery.
- B. Exchange information as to the ultimate issues of law and fact, eliminate unnecessary or irrelevant issues that appear in the pleadings or discovery, arrive at all possible stipulations, and exchange documents and exhibits which will be offered in evidence at trial.
- C. Two weeks before the trial, file Motions in Limine. Responses are due five (5) days after the Motion is filed.
- D. One week before the pretrial conference, separately submit proposed findings of fact and conclusions of law. *See* Local Rule 16.4.
- E. Also, one week before the trial, submit a single proposed Joint Pretrial Order that covers the items listed below. If unable to agree, submit a proposed joint pre-trial order including all matters agreed upon and a list specifying items of disagreement. Plaintiff=s attorney is responsible for initiating the proposed pretrial order. All counsel are responsible for ensuring the proposed pretrial order is timely filed. The proposed pretrial order shall contain the following:
 - 1. In the caption, a complete listing of all parties who remain in the case as of the date the document is filed. Do not use "et al."
 - 2. Any remaining jurisdictional questions and the parties' positions on the issues;
 - 3. A list of pending motions;
 - 4. The respective contentions of the parties, including contentions as to liability and the nature and amount of damages;
 - 5. A statement of uncontested facts (possible sources include the pleadings, discovery, or admission of counsel);
 - 6. An agreed-upon list of contested issues of fact that explain the nature of the parties' dispute;

7. An agreed-upon list of contested issues of law, such as negligence, contributory negligence, etc., that will govern the trial. This is not to be a restatement of the disputed facts. If either party insists on a triable issue, include it in the pretrial order as a triable issue unless the court decides otherwise at the pretrial conference.
8. A list of exhibits (except documents for impeachment only) to be offered in evidence by the parties, and, to the extent possible, a stipulation on their admissibility. If the parties cannot stipulate, then the objections must be noted in the proposed pretrial order. To the extent possible, objections shall be ruled on at the pretrial conference.

The parties are expected to have complied with Federal Rules of Civil Procedure 26(a)(3)(C) on pretrial disclosures. That rule requires disclosures of witnesses, deposition testimony, and exhibits, (other than impeachment evidence), to the opposing counsel thirty days before trial. Within fourteen days thereafter, the opposing party must serve and file a list disclosing any objection, together with the grounds therefor, to the admissibility of any exhibit, deposition testimony, or witness testimony.

Before the conference, each party shall furnish to the other party for copying and inspection all exhibits which are to be offered in evidence.

9. A list of witnesses, indicating those who will be called, in the absence of reasonable notice to opposing counsel to the contrary, and those who only may be called. Any objection to a witness must be noted in the proposed joint pretrial order. If any Rule 702 (Aexpert@) witnesses, including treating physicians who will give expert testimony, are listed, the witness shall be identified as such, along with the subject matter of the expert testimony. Opposing counsel shall specify any objection to the witness=s expertise or testimony in the proposed joint pretrial order. To the extent possible, objections will be ruled on at the pretrial conference.

Deposition testimony to be offered at trial, and the basis for allowing such testimony. If a party desires to offer deposition testimony into evidence at the trial, s/he shall designate only those relevant portions to be read. All objections to any such testimony must be noted in the proposed joint pretrial document so that the court may rule prior to trial. To the extent possible, objections will be ruled on at the pretrial conference.

10. An estimate of the length of the trial.
11. The amount of the ascertainable damages. The listing of the amount of damages shall not constitute an agreement as to the recoverability of same unless so stated.
12. The names of all attorneys interested in the case and copies of all interested firms= letterheads.
13. A list of any special equipment such as video cassette recorders, overhead

projectors, easels, computers, etc. that the parties intend to bring for use at the trial. (The court provides a presentation system including counsel table monitors, witness monitor, an HD ceiling projector, a 75-inch HD television monitor for the jury, a document camera, and a video distribution system for these components. The court does not provide personal computers or laptops to counsel, however, at the Court's discretion, counsel may access the video distribution system with their own laptops to disseminate computer generated evidence. Connection types are HDMI, lightning, display port, mini display port, and USB-C.)

ALL ATTORNEYS WHO WILL TRY THE CASE ARE REQUIRED TO ATTEND THE PRETRIAL CONFERENCE. The parties are not required to attend the conference.

The attorneys will be generally familiar with pretrial procedures and come to the conference with full authority to accomplish the purpose of the conference, which is to simplify and define the triable issues, expedite the trial, and save expense. At the conference, counsel will report to the Court the prospects of settlement. For a discussion of pretrial conferences, see 23 Federal Rules Decisions 129-138.

If an attorney fails to appear at the pretrial conference or to comply with these directions set forth herein, an ex parte hearing may be held and judgment of dismissal or default or other appropriate sanctions entered.

After the pretrial conference, the Court will enter a Pretrial Order which shall govern the conduct at trial and will constitute the final statement of the issues involved.

These procedures apply to *pro se* litigants as well as attorneys.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

No. 2:23-cv-2186-SHL-cgc

SCHEDULING ORDER

Pursuant to written notice, a scheduling conference was held on September 11, 2023.

Present were Paige W. Mills and John S. Golwen, counsel for plaintiff, and Dennis Philipson, appearing pro se. At the conference, the following dates were established as the final deadlines for:

INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1): September 15, 2023

MOTIONS TO JOIN PARTIES: September 21, 2023

MOTIONS TO AMEND PLEADINGS: October 20, 2023

MOTIONS TO DISMISS: Filed

ALTERNATIVE DISPUTE RESOLUTION:

(a) ADR DEADLINE PURSUANT TO ADR PLAN RULE 4.3(a):

December 4, 2023

Mediator must file Mediation Certification Form:

<https://www.tnwd.uscourts.gov/pdf/content/MediationCertificationForm.pdf>

(b) SELECTION OF MEDIATOR PURSUANT TO ADR PLAN RULE 5.4(c)2:

Chief Magistrate Judge Tu M. Pham. Additional information and instruction will be provided separately.

COMPLETING ALL DISCOVERY: January 11, 2024

- (a) **WRITTEN DISCOVERY**¹: January 11, 2024
- (b) **DEPOSITIONS:** January 11, 2024
- (c) **EXPERT WITNESS DISCLOSURES (Rule 26):**
 - (1) **DISCLOSURE OF PLAINTIFF'S RULE 26 EXPERT INFORMATION:** November 10, 2023
 - (2) **DISCLOSURE OF DEFENDANT'S RULE 26 EXPERT INFORMATION:** December 8, 2023
 - (3) **EXPERT WITNESS DEPOSITIONS:** January 11, 2024

MOTIONS TO EXCLUDE EXPERTS/DAUBERT MOTIONS: February 9, 2024

FILING DISPOSITIVE MOTIONS: February 16, 2024

JOINT PROPOSED PRETRIAL ORDER DUE: May 28, 2024
(E-Mail Joint Proposed Pretrial Order in Word or WordPerfect format to:
ECF_Judge_Lipman@tnwd.uscourts.gov)

PRETRIAL CONFERENCE DATE: June 4, 2024 at 11:00 a.m.
(All counsel participating in the trial must be present in person at the pretrial conference.)

NON-JURY TRIAL: June 17, 2024 at 9:30 a.m. Trial is anticipated to last approximately 3 days.

The parties do not consent to trial before the Magistrate Judge.

OTHER RELEVANT MATTERS:

As required by Local Rule 26.1(e), the parties have conferred as to whether they will seek discovery of electronically stored information ("e-discovery") have not reached an agreement regarding e-discovery and will comply with the default standards described in Local Rule 26.1(e) until such time, if ever, the parties reach an agreement, and the court approves the parties' e-discovery plan.

Pursuant to agreement of the parties, if privileged or protected information is inadvertently produced, the producing party may, by timely notice, assert the privilege or protection and obtain the return of the materials without waiver.

¹ The parties shall serve requests at least 45 days before the deadline to complete written discovery to allow sufficient time for responses by the deadline for completion of discovery.

Pursuant to Local Rule 16.3(d), within 7 days of completion of ADR, the parties shall file a notice via ECF confirming that the ADR was conducted and indicating whether it was successful or unsuccessful, without disclosing the parties' respective positions at the ADR. The Mediator must file a Mediation Certification form, as noted above.

Pursuant to Local Rule 7.2(a)(1)(A), all motions, except motions pursuant to Fed. R. Civ. P. 12, 56, 59, and 60 shall, be accompanied by a proposed order in a word processing format sent to the ECF mailbox of the presiding judge.

Pursuant to Local Rule 7.2(a)(1)(B), the parties are required to consult prior to filing any motion (except motions filed pursuant to Fed. R. Civ. P. 12, 56, 59, and 60).

The opposing party must file a response to any opposed motion. Pursuant to Local Rule 7.2(a)(2), a party's failure to respond timely to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion.

Neither party may file an additional reply to any motion, other than a motion filed pursuant to Fed. R. Civ. P. 12(b) or 56, without leave of the court. Pursuant to Local Rule 7.2(c), if a party believes that a reply is necessary, it shall file a motion for leave to file a reply within 7 days of service of the response, setting forth the reasons why a reply is required.

This order has been entered after consultation with the parties. Absent good cause shown, the deadlines set by this order will not be modified or extended.

IT IS SO ORDERED, this 11th day of September, 2023.

s/ Sheryl H. Lipman

SHERYL H. LIPMAN
CHIEF UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

NOTICE TO Court & Plaintiff Attornies

In accordance with Judge Lipman's guidance, I diligently reviewed all my documents and emails for any mention of MAA or their associates. Regrettably, I couldn't locate any documents responsive to the request.

Again, For clarity, I've previously shared all relevant documents, emails, etc., with the SEC, DOJ, IRS, and any matters concerning employment discrimination were directed to the EEOC. Should the Plaintiff wish to access these documents, I recommend reaching out directly to these agencies. Of course, I'm available to assist further if needed.

Additionally, on September 12, 2023, I forwarded the following additional discovery requests to the Plaintiff's counsel via email, alongside (Dkt. No 43, Exhibit C). As directed by Judge Lipman, I am ensuring our communications are channeled through the Docket.

To foster transparency and ensure the productivity of our discussions, I've outlined several key topics I believe would be beneficial to cover during our initial disclosures. This would eliminate the need to file a motion of expedited discovery.

1. An inventory of the 30-40 email addresses you claim are linked to me, complemented by the related subpoenas and feedback from the email service providers.

2. Details of any other subpoenas you've sought that are relevant to this case.
3. Automatic replies, if any, from Mphillyd@gmail.com and phillydee100@gmail.com.
4. Summaries or notes from conversations with MAA staff about the allegations made about me.
5. The damages MAA are claiming that I have caused.
6. I want to highlight again the significance of the responses from Google, Wix, and Verizon,
primarily to ensure that there have been no mistakes.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 13, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

)

v.

)

Docket No. 2:23-cv-02186-SHL-cgc

JURY DEMAND

DENNIS PHILIPSON

)

Defendant.

**DEFENDANT'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND
OBJECTION TO IMPROPERLY ISSUED SUBPOENAS**

INTRODUCTION

Dennis Philipson, the Defendant, proceeding pro se, respectfully petitions the Court to compel the Plaintiff, MAA, to comply with the initial disclosure requirements stipulated under the Federal Rules of Civil Procedure. The Defendant asserts that the Plaintiff has failed to produce essential documents, even after specific requests, as outlined in Exhibit C, Certificate of Counsel. These documents are pivotal for the Defendant to mount a proper defense in this matter.

PRELIMINARY COMMUNICATIONS On September 13th, Defendant communicated electronically with the Plaintiff's attorneys, detailing the limited electronically stored information in his possession—a mere screenshot of Robert Delpriore's LinkedIn profile. Despite diligent efforts,

Defendant couldn't find additional relevant documents. In response, on September 15th, the Plaintiff expanded on their document requests (see Exhibits A & B) without addressing concerns regarding the potentially fraudulent and illegal acquisition of the Defendant's IP address.

BACKGROUND

1. On September 13th, the Defendant reached out to the Plaintiff's attorneys, detailing the only electronically stored information he had was a screenshot of Robert Delpriore's LinkedIn profile. Further searches yielded no other documents responsive to the Plaintiff's request.
2. On September 15th, the Plaintiff's attorneys issued a reply with a set of documents, as described in (Exhibit A & B). This expanded the Plaintiff's scope but overlooked concerns suggesting the Defendant's IP address might have been acquired improperly.
3. The Defendant, on September 7, 2023, began his request for the enumerated documents, to which the Plaintiff's attorney, Ms. Mills, acknowledged receipt on September 8, 2023.
4. To date, the Plaintiff has not furnished these documents, thereby hampering the Defendant's ability to prepare an adequate defense.
5. The Defendant has maintained his due diligence, promptly responding to electronic evidence inquiries and furnishing all germane information to the appropriate government agencies. The Defendant has acted diligently, responding to inquiries

regarding electronic evidence, and has shared all relevant information with the appropriate government entities.

REQUEST FOR DOCUMENTS

It is imperative to underscore the importance of the responses from Google, Wix, and Verizon in this matter. In accordance with Federal Rule of Evidence 602, which requires that a witness must have personal knowledge of the matter, and Federal Rule of Evidence hearsay provisions (Rules 801-807), it is essential that the Defendant is furnished with accurate information to ensure that any defenses are based on firsthand knowledge and not unsubstantiated hearsay. This adherence is crucial for preserving the integrity of the legal process and ensuring a fair trial.

Defendant urgently seeks the following from the Plaintiff, MAA:

1. **Response from WIX subpoena** (Docket No 15, Exhibit B): The actual response from Wix to Plaintiff's subpoena as ordered by this Court on May 16, 2023 (Dk. 15).
2. **Verizon's response:** Verizon's response to Plaintiff's subpoena, as mandated by federal law.
3. **Google's response to MAA's subpoena:** Google's response to Plaintiff's subpoena (Docket No 6 Exhibit A) and the Court's authorization to modify the subpoena to contain defendant's known email addresses (Docket No 22 Exhibit A).
4. **Documentation related to Glassdoor reviews:** Details on reviews and the methodologies employed by MAA to verify their authorship by Defendant.

5. **Compilation of Google reviews:** A collection of Google reviews and methods used by MAA to confirm their attribution to Defendant.
6. **Inventory of email addresses:** A listing of the 30-40 email addresses claimed to be linked to Defendant, along with related subpoenas and feedback from email providers.
7. **Other relevant subpoenas:** Details of any other subpoenas secured by MAA pertinent to this case.
8. **Automatic replies** sent to Plaintiff or Plaintiff attorney from Mphillyd@gmail.com and phillydee100@gmail.com, if any.
9. **Conversations with MAA staff:** Summaries or notes discussing allegations made against Defendant.
10. **Itemization of Damages:** Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A)(iii), which mandates the disclosure of "a computation of each category of damages claimed by the disclosing party," the Defendant requests a detailed and comprehensive breakdown of the damages MAA alleges were directly attributable to the Defendant's actions. Properly itemizing and specifying the nature and extent of these damages is essential to ensure transparency, provide clarity, and facilitate appropriate preparation for defense against such claims.

OBJECTIONS TO IMPROPERLY ISSUED SUBPOENAS

1. **Altered Subpoena Concerns:** The Defendant raises a significant objection over the Plaintiff's modification of the subpoena issued to Google. This was amended to enclose the Defendant's acknowledged email addresses, Mphillyd@gmail.com and Phillydee100@gmail.com, for reasons that raise concerns:
 - a. In April of 2021, MAA took measures to prevent mphillyd@gmail.com from interacting with the Employee Relations department, a move initiated when the Defendant sought to raise concerns about possible accounting discrepancies. Such an action from MAA raises potential whistleblower protection issues.
 - b. In early 2023, Robert Delpriore initiated correspondence with the Defendant using the aforementioned email addresses.
 - c. In the amended complaint (Docket No 16), the Plaintiff recognized that Phillydee100@gmail.com and Mphillyd@gmail.com are acknowledged email addresses of the Defendant.
- Just Cause and Proper Procedure:** Under Federal Rule of Civil Procedure 45, a subpoena must be issued properly and for a legitimate reason. The Defendant contends that the Plaintiff may have obtained certain subpoenas without just cause or proper procedure, infringing on Defendant's rights.
2. **Reservation of Rights to Introduce Evidence:** MAA has reserved the right to introduce and rely upon materials not currently within its possession, custody, or control but produced by other parties or third parties during this litigation. The Defendant objects to this broad reservation, arguing that such an approach denies the Defendant a fair opportunity to review, challenge, or prepare for the introduction of such evidence. It

may also be contrary to the principles of full disclosure and fairness embedded in the Federal Rules of Civil Procedure, potentially depriving the Defendant of a fair trial.

RELEVANT LAW

Pursuant to Federal Rule of Civil Procedure 37(a), "a party seeking discovery may move for an order compelling an answer, designation, production, or inspection" if a party fails to produce documents as requested under Rule 34 or 35. The Defendant has explicitly stipulated the necessary documents in Exhibit C, Certificate of Counsel. The Plaintiff's reluctance to produce these vital documents contravenes the Federal Rules and stymies the Defendant's preparation of an informed defense.

CONCLUSION

Highlighting the importance of the documents, especially those from entities like Google, Wix, and Verizon, becomes crucial to guarantee the integrity of the evidence. This is consistent with Federal Rules of Evidence 602 and the hearsay provisions (Rules 801-807). Given these documents' potential bearing on the case, the Defendant needs them without unwarranted delays.

Furthermore, the Plaintiff's intent to introduce evidence not in its immediate custody, possibly to be produced by other parties or third-parties in the litigation's progression, accentuates the need for exhaustive initial disclosures. This is pivotal for maintaining fairness and ensuring justice is dispensed without prejudice.

WHEREFORE, the Defendant, Dennis Philipson, urges this Court to grant this Motion to Compel and instruct the Plaintiff, MAA, to promptly provide the documents delineated in (Exhibit C), Certificate of Counsel.

WHEREFORE, the Defendant, Dennis Philipson, respectfully requests this Court to grant this Motion to Compel Initial Disclosures and mandate that the Plaintiff, MAA, produce the documents enumerated in Exhibit C, Certificate of Counsel, without further delay.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 15, 2023

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

)
)
)
)
) Docket No. 2:23-cv-02186-SHL-cgc
) JURY DEMAND
)
)
)

**PLAINTIFF MID-AMERICA APARTMENT COMMUNITIES, INC.'S
INITIAL DISCLOSURES**

Plaintiff Mid-America Apartment Communities, Inc. ("MAA") hereby provides its initial disclosures pursuant to Rules 26(a)(1) and 26(f) of the Federal Rules of Civil Procedure.

PRELIMINARY STATEMENT

These initial disclosures are based on information reasonably available to MAA as of the date of these disclosures. MAA's investigation of possible witnesses and documents is ongoing and it reserves the right to supplement and amend these disclosures to provide additional information acquired during the course of discovery, and to rely on such information and documents as evidence in this action. By making these disclosures, MAA does not represent that it is identifying every witness, document, tangible thing and/or piece of electronically-stored information ("ESI") possibly relevant to this lawsuit, nor does MAA waive his right to object to the production of any document or tangible thing on the basis of any privilege, the work product doctrine, relevancy, undue burden or any other valid objection. Rather, MAA's disclosures represent his good faith effort to identify information subject to the disclosure requirements of Rule 26(a)(1).

MAA's disclosures are made without in any way waiving: (1) the right to object on the grounds of competency, privilege, relevancy, materiality, hearsay, undue burden, or any other proper basis, to the use of any such information for any purpose, in whole or in part, in any subsequent stage or proceeding in this lawsuit or any other action; and (2) the right to object on any and all grounds, at any time, to any other discovery proceeding involving or relating to the subject matter of these disclosures. Furthermore, these disclosures are not an admission by MAA regarding any matter. All of the disclosures set forth below are made subject to the above objections and qualifications.

INITIAL DISCLOSURES

- I. **Rule 26(a)(1)(A)(i).** The name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

Witness Name/Contact Info	Substance of Knowledge	Availability
Timothy P. Argo Executive VP, Chief Strategy & Analysis Officer	This witness has knowledge of Defendant's harassing activities and his use of MAA employee names in email address to harass these individuals and to obtain the Infringing Domains and/or Website.	This individual is an MAA employee and is reachable through undersigned counsel.
Melanie M. Carpenter Executive VP, Chief Human Resources Officer	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Leslie B.C. Wolfgang Senior VP, Chief Ethics & Compliance Officer & Corporate Secretary	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.

Jackie Melnick Senior VP, East Division	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Jay Blackman, CAM Regional Vice President	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Anwar N. Brooks Director Employee Relations	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Amber Fairbanks EVP, Property Management	This witness has knowledge of Defendant's harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Glenn Russell Senior VP, Internal Audit	This witness has knowledge of Defendant's harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Eric Bolton Chairman and CEO	This witness has knowledge of Defendant's harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Unknown Individuals at Massage2Book	Upon information and belief, these individuals have knowledge of Defendant's attempts to impersonate and harass certain MAA employees.	Currently, Plaintiff has no contact information for these potential witnesses.
Unknown Individuals at Twitter.com	Upon information and belief, these individuals have knowledge of Defendant's attempts to impersonate and harass certain MAA employees.	Currently, Plaintiff has no contact information for these potential witnesses.
Unknown Individuals at Adultfriendfinder.com	Upon information and belief, these individuals have knowledge of Defendant's attempts to impersonate and	Currently, Plaintiff has no contact information for these potential witnesses.

	harass certain MAA employees.	
Unknown Individuals at AvalonBay Communities	Upon information and belief, these individuals have knowledge of Defendant's attempts to impersonate and harass certain MAA employees.	Currently, Plaintiff has no contact information for these potential witnesses.
Robin Breazier LinkedIn rbreazier@linkedin.com	Ms. Breazier provided information on behalf of LinkedIn regarding certain infringing activity that took place on LinkedIn involving the MAA Marks.	This witness is reachable via the contact information provided.
Karyna Yakushenko Custodian of Records Wix.com 40 Namal Tel-Aviv St. Beit Yoel Tel Aviv, Israel 63506	Ms. Yakushenko issued the Wix.com records that established the IP addresses associated with one or more of the Infringing Domains.	This witness is reachable via the contact information provided.
Rex Looney Verizon Security Subpoena Compliance 180 Washington Valley Road Bedminster, NJ 07921	Mr. Looney issued the Verizon records that established that one of the IP addresses used in one of the infringing domains belonged to Defendant	This witness is reachable via the contact information provided.
Alex Eppenauer Paralegal Davis Wright Tremain LLP 920 Fifth Avenue, Suite 3300 Seattle, WA 98104	Ms. Eppenauer has knowledge of certain Microsoft email addresses used in the harassment of MAA and their use in conjunction with the infringement of MAA's trademarks	This witness is reachable via the contact information provided.
Ra Bacchus Google Legal Investigations Support Google-legal-support@google.com	Mr. Bacchus provided certain Google records associated with the harassment of MAA and one or more of the Infringing Domains	This witness is reachable via the contact information provided.
Unknown Consumers/Customers	These individuals have knowledge of Defendant's attempt to confuse the marketplace and infringe on MAA's trademarks	Currently, Plaintiff has no contact information for these potential witnesses.

As discovery and further investigation proceed, MAA may identify additional individuals that it may use to support its defenses. MAA reserves the right to identify such persons as the issues in the case are developed. MAA also reserves the right to modify or supplement these disclosures and to use and introduce at the trial of this matter with respect to any individual (1) whose name or scope of knowledge are disclosed or ascertained through discovery or are otherwise identified by Defendant, (2) to conform to the evidence presented, or (3) subsequently identified or later produced as a witnesses.

II. Rule 26(a)(1)(A)(ii). A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

1. Documents referred to in, or attached to, the Complaint and Amended Complaint;
2. Third Party Subpoenas issued to various parties;
3. Documents produced in Response to numerous third party subpoenas issued in this case;
4. Harassing emails sent from Defendant to MAA, its employees, and third parties;
5. Records from the UDRP Proceeding relating to the Infringing Domains;
6. Records related to Defendant's purchase and use of the Infringing Domains and/or Websites;
7. Documents relating to Defendant's use of Google Reviews;
8. Documents relating to Defendant's attempts to impersonate and harass various MAA employees;
9. All documents identified or produced by Defendant in this action.
10. Any other documents that become necessary to respond to allegations, claims or defenses raised by Defendant.

MAA reserves the right to assert a claim of privilege or immunity and withhold from production any documents, whether or not included above, that are protected from discovery by

the attorney-client privilege, work-product immunity, common interest privilege, or any other privilege or immunity. MAA also reserves the right to introduce as evidence and rely upon materials that are not presently within its possession, custody, or control, but that are produced by the other Parties or third-parties in this litigation. As discovery and further investigation proceed, MAA may identify additional categories of documents, electronically-stored information, and/or tangible things that it may use to support its claims. Finally, MAA reserves the right to withhold production of documents until an appropriate protective order is entered by the Court to the extent confidential documents become at issue in this litigation.

III. Rule 26(a)(1)(A)(iii). A computation of each category of damages claimed by the disclosing party – who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

MAA expects to provide expert proof of its damages in accordance with the deadlines in the Court's Case Management Order. MAA will be seeking the damages available for the various claims that MAA has asserted in the Amended Complaint, including for its attorney fees and expenses, which it plans to present for the Court's consideration after trial or other appropriate disposition of the case. As discovery and further investigation proceed, MAA reserves the right to supplement this initial disclosure as permitted by the Federal Rules of Civil Procedure, the Court's Local Rules, and other applicable laws.

IV. Rule 26(a)(1)(A)(iv). For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

None.

DATED this 15th day of September, 2023.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324
Jordan Thomas, BPR. No. 039531
BASS, BERRY & SIMS PLC
100 Peabody Place, Suite 1300
Memphis, Tennessee 38103
Tel: (901) 543-5903
Fax: (615) 742-6293
jgolwen@bassberry.com
Jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing Initial Disclosures was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 15th Day of September, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT,
COMMUNITIES, INC.**

Plaintiff,

V.

DENNIS PHILIPSON

Docket No. 2:23-cv-02186-SHL-cgc

JURY DEMAND

Defendant.

FIRST SET OF DOCUMENT REQUESTS TO DEFENDANT PHILIPSON

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiff Mid-America Apartment Communities, Inc. (“MAA”), by and through its attorneys, Bass Berry & Sims PLC, hereby requests that Defendant Dennis Philipson produce the documents requested below for inspection and copying at the offices of Bass, Berry & Sims, within thirty (30) days after the service hereof.

INSTRUCTIONS

1. These requests apply to all Documents in your possession, custody or control, regardless of whether such Documents are held by you or your affiliates, corporate parents, corporate subsidiaries, divisions, directors, officers, partners, designees, agents, managers, employees, representatives, attorneys, or assigns.

2. Pursuant to Federal Rule of Civil Procedure 34(b), all Documents shall be produced as they are kept in the usual course of business, or shall be organized and labeled to correspond to the categories of Documents set forth in each request.

3. All electronically stored information responsive to a request shall be produced in single-page TIFF or color JPG format, as applicable, and in native file format. All corresponding metadata shall be produced in a load file compatible with Relativity.

4. Where any copy of any requested document is not identical to any other copy thereof, by reason of any alterations, marginal notes, comments, or material contained therein or attached thereto, or otherwise, all such non-identical copies shall be produced separately.

5. If no Documents exist that are responsive to a particular request, you shall state so in writing.

6. If any document or any portion of any document requested herein is withheld from production, describe the basis for withholding the document or portion thereof, including any claim of a privilege or protection, in sufficient detail to permit the Court to adjudicate the validity of your withholding the document, and identify each document so withheld by providing at least the following information:

- a. the type of document (*e.g.*, memorandum, letter, report, etc.);
- b. the date, title and subject matter of the document;
- c. the identity, affiliation, and position of the author, the addressee(s), and all recipients of the document; and
- d. a statement of (i) the nature of the legal privilege or protection from discovery claimed and (ii) the factual basis for that claim of privilege or protection from discovery, including the facts establishing the claim of privilege or protection from discovery, the facts showing that the privilege has not been waived, and a statement as to whether the subject matter of the contents of the document is limited to legal advice or contains other subject matter.

7. If a portion of an otherwise responsive document contains information subject to a claim of privilege or protection from discovery, those portions of the document shall be redacted

from the document, and the redacted portions shall be clearly marked as such, and the rest of the document shall be produced.

8. With respect to any responsive document that was formerly in your possession, custody or control and has been lost, destroyed or transferred out of your possession, custody or control, identify such document by setting forth its author(s), addressee(s), copyee(s), date, title, number of pages, subject matter, nature (*e.g.*, memorandum, letter, report, etc.), actual or approximate date on which the document was lost, destroyed or transferred, and, if destroyed, the conditions of and reasons for such destruction, and the names of the person authorizing and performing the destruction, and state the name and address of each person (if any) known to have possession, custody or control of such document.. The phrase “possession, custody or control” has the meaning set forth in Federal Rule of Civil Procedure 34 and should be interpreted as broadly as possible.

9. Each request herein shall be responded to separately and fully, unless it is in good faith objected to, in which case the objection and the bases therefore shall be stated with particularity. If an objection pertains only to a portion of a request, or to a word, phrase or clause contained therein, you shall state your objection to that portion only and respond to the remainder of the request. If, in answering these document requests, you claim that any document request, or a definition or instruction applicable thereto, is vague or ambiguous, you shall not use such claim as a basis for refusing to respond. Rather, you shall set forth as a part of the response the language claimed to be vague or ambiguous and the interpretation used to respond to the individual document request.

10. Each paragraph herein shall be construed independently and without reference to any other paragraph for the purpose of limitation.

11. The use of a verb in any tense shall be construed as the use of a verb in all other tenses wherever necessary to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

12. The use of the singular form of any word includes the plural and vice versa.

13. The terms “all,” “any,” and “each” shall each be construed as encompassing any and all.

14. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

15. These requests are deemed continuing in nature, and you are obliged to produce responsive Documents and to supplement your production whenever additional Documents are located or their existence ascertained.

16. MAA reserves the right to serve additional requests for the production of Documents at a later time.

17. Unless otherwise indicated, these requests concern the period from January 1, 2020 to the present.

DEFINITIONS

1. The terms “you” and “your” refer to Defendant Philipson.

2. “Plaintiff” means MAA and its present or former predecessors-in-interest, successors-in-interest, subsidiaries, divisions, affiliates, partners, officers, directors, employees, agents, attorneys, representatives, and/or assigns.

3. “GlassDoor” shall refer to the website located at <https://www.glassdoor.com>.

4. “Google Reviews” shall refer to reviews left on Google Maps.

5. "Avalonbay Communities" shall refer to the apartment communities company with a website located at <https://www.avaloncommunities.com/>.
6. "LinkedIn" shall refer to the social media application located at <https://www.linkedin.com>.
7. "Document" shall mean any document or electronically stored information, including but not limited to, writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.
8. "Communication" and "Communications" shall mean any oral or written utterance, notation, depiction, or statement of any nature whatsoever, including, but not limited to: correspondence, conversations, telephone calls, facsimiles, dialogues, discussions, interviews, consultations, telegrams, telexes, text messages, cables, e-mails, letters, voicemails, statements posted on or to the Internet, memoranda, agreements, and other verbal and non-verbal understandings.
9. "Identify" or "identity" means to state or a statement of:
 - a. in the case of a person other than a natural person, its name, the address of its principal place of business (including zipcode), its telephone number, and the name of its chief executive officer, as well as, if it has a person other than a natural person that ultimately controls it, that other person's name, the address of that person's principal place of business (including zipcode), that other person's telephone number, and the name of that other person's chief executive officer;
 - b. in the case of a natural person, his or her name, business address and telephone number, employer, and title or position;
 - c. in the case of a communication, its date, type (e.g., telephone conversation or discussion), the place where it occurred, the identity of the person who made the communication, the identity of the person who received the communication, the identity of each other person when it was made, and the subject matter discussed;

- d. in the case of a document, the title of the document, the author, the title or position of the author, the addressee, each recipient, the type of document, the subject matter, the date of preparation, and its number of pages; and
- e. in the case of an agreement, its date, the place where it occurred, the identity of all persons who were parties to the agreement, the identity of each person who has knowledge of the agreement and all other persons present when it was made, and the subject matter of the agreement.

DOCUMENT REQUESTS

1. All Documents and Communications concerning or sent to or from each of the following email addresses:

- A. Gender99999@hotmail.com
- B. Frankreso28@gmail.com
- C. MerryJerryBerry@outlook.com
- D. Thomas.Grimey51@outlook.com
- E. Maareviews@outlook.com
- F. conflictinterest682@gmail.com
- G. melanieisgoingtojail@outlook.com
- H. Berna6728@aol.com
- I. welcome@maaapartments.com
- J. TomGrimey@outlook.com
- K. blackcharlie099@gmail.com
- L. GreatDayatMAA@hotmail.com
- M. MAABstructs@outlook.com
- N. MAABstruct@outlook.com
- O. RexBlago78@hotmail.com
- P. bganderland1801@gmail.com
- Q. tdudleyP@gmail.com
- R. tigerprincessT@gmail.com
- S. denalitarnosh@gmail.com

T. rogerjackman278@gmail.com
U. hansonvincent43@gmail.com
V. sharksonp@gmail.com
W. info@maa.apartment
X. donniewillow652@gmail.com
Y. Jillianpow201@gmail.com
Z. WillBoi1526@gmail.com
AA. Bolling.pete12@gmail.com

RESPONSE:

2. All documents and communications you have sent to any third party concerning MAA and/or any employee of MAA.

RESPONSE:

3. All documents and communications you have sent or received from GlassDoor concerning MAA, including screenshots of reviews or other communications you have posted online.

RESPONSE:

4. All documents and communications you have sent or received using Google Reviews (via Google Maps) since 2020, including copies of any reviews you have posted, whether under your own name or an alias or other identity.

RESPONSE:

5. All documents and communications you have sent or received from Avalonbay Communities since 2020.

RESPONSE:

6. All documents and communications you have sent or received from LinkedIn since 2022.

RESPONSE:

7. All documents and communications you have sent or received from any present or past employee of MAA since 2021.

RESPONSE:

8. All documents and communications you have sent or received concerning any of the following domains and/or websites:

- A. megaawesomeapartments.com
- B. maaapartments.com
- C. maa.apartments
- D. maafraud.com

RESPONSE:

9. All documents and communications you have sent or received that relate to Craig Silver.

RESPONSE:

10. All documents which support or refute any allegations you have made against MAA, whether in this litigation or to any federal agency.

RESPONSE:

11. All documents that identify the IP address of your home computer and devices.

RESPONSE:

12. All documents upon which you plan to rely at trial.

RESPONSE:

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 16218

BASS, BERRY & SIMS PLC

Suite 2800; 150 3rd Ave. South

Nashville, Tennessee 37201

Tel: 615-742-6200

Fax: 615-429-0429

pmills@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing Request for Production of Documents was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 15th Day of September, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

Exhibit C

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc



D <phillydee100@gmail.com>

RE: Case Management/ Etc

D <phillydee100@gmail.com>

Tue, Sep 12, 2023 at 7:45 AM

To: "Mills, Paige" <PMills@bassberry.com>

Cc: "Golwen, John S." <jgolwen@bassberry.com>, "Thomas, Jordan" <jordan.thomas@bassberry.com>, "McClanahan, Teresa" <TMcClanahan@bassberry.com>, phillydee100@gmail.com

Good morning,

I hope you are well. I've got quite a busy day, but I wanted to connect early to share some thoughts and clarifications.

Firstly, it was indeed a pleasure discussing matters with you yesterday. Your patience and understanding throughout were much appreciated. Please know I'm committed to upholding court protocols and will ensure I'm abreast of the necessary procedures.

Reflecting on our conversation, I recognize the value of addressing potential ethical concerns directly with the court rather than the Board of Professional Responsibility of the Supreme Court of Tennessee. I see this as a valuable learning experience.

On the topic of my departure from MAA, for everyone's clarity, could you reaffirm whether MAA's stance is that I was terminated, as opposed to resigning? Additionally, I noted in one of Paige's complaints a suggestion about my statements' credibility or my beliefs' genuineness. I trust the government investigations will soon shed more light on these matters. I am amazed the CFO is retiring; I saw that in a press release a few days back.

I've been reviewing my Gmail for any mentions of MAA or their employees. While I found a LinkedIn screenshot from Mr. Delpriore linking him with Bass, Berry, and Sims, there hasn't been much beyond that. Rest assured, I will send over anything I find by Friday.

To foster transparency and ensure the productivity of our discussions, I've outlined several key topics I believe would be beneficial to cover during our initial disclosures. This would eliminate the need to file a motion of expedited discovery.

1. An inventory of the 30-40 email addresses you claim are linked to me, complemented by the related subpoenas and feedback from the email service providers.
2. Details of any other subpoenas you've sought that are relevant to this case.
3. Automatic replies, if any, from Mphillyd@gmail.com and phillydee100@gmail.com.
4. Summaries or notes from conversations with MAA staff about the allegations made about me.
5. The damages MAA are claiming that I have caused.
6. I want to highlight again the significance of the responses from Google, Wix, and Verizon, primarily to ensure that there have been no mistakes.

I recall interactions with my former supervisor involving former employees, particularly Lynette Harris. He had expressed concerns at times, like an incident involving Lynette and a damaged sliding glass door. There was also a moment in 2019 at Post Carlyle Square where my former boss offered a different narrative about a situation with a resident (Suggesting I

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

lie to MAA). I've also seen reviews post-departure where residents felt compelled to specifically identify themselves, perhaps addressing MAA's apprehensions regarding the review's credibility. These memories might provide context as our discussions progress. It will be enlightening to clarify these matters, potentially during depositions.

For clarity, I've attached my original request. Your cooperation and understanding in this matter have been invaluable. Have a good day and week!

Dennis Philipson

From: phillydee100 <phillydee100@gmail.com>

Sent: Saturday, September 9, 2023 6:11 AM

To: Mills, Paige <PMills@bassberry.com>

Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>; McClanahan, Teresa <TMcClanahan@bassberry.com>

Subject: Re: Case Management/ Etc

Good morning,

If you could allow me a few days, I'd be happy to review everything once more to ensure nothing has been overlooked. If there's a particular detail or item you have in mind, kindly bring it to my attention—it will expedite the process. Please note that my schedule is quite packed this week, but I'm committed to assisting you. I appreciate our mutual professionalism and cooperation.

Best,

Dennis Philipson

On Fri, Sep 8, 2023 at 8:06 PM phillydee100 <phillydee100@gmail.com> wrote:

Also to add:

I am not an attorney, but based on my understanding of federal civil law:

Regarding the subpoena mentioned in your complaint, it is my understanding that under FRCP Rule 26(a), parties have an obligation to automatically disclose specific information and documents to the opposing parties without the necessity of a discovery request. This would encompass all documents, electronically stored information, and tangible items that the disclosing party may use in support of its claims or defenses, and which are within its possession, custody, or control. Would the subpoenas in question not fall under this obligation? You've proposed September 15th for Initial Disclosures. It's worth noting that a separate motion for discovery may not even be necessary, as initial disclosures typically follow shortly after the Rule 26(f) scheduling conference. I trust we can work together to ensure a smooth and timely process. Am I understanding this correctly, or should I research it further?

Thank you again for your assistance and understanding.

Dennis

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

On Fri, Sep 8, 2023, 7:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello Attorney Mills,

I'd like to begin by expressing that ever since the complaint was served to me by MAA and yourself, I have diligently ensured to preserve all pertinent information. My intent with this email is to bring clarity and understanding to the situation. Might I propose that you share some of the specific documents in question? This would allow me to cross-reference and ensure that there hasn't been any oversight or misunderstanding. I'm trying to understand all of this, from song lyrics to Baskin Robbins reviews and supposed vast social media interactions, I'm at a loss.

While with MAA, I operated on multiple computers across different properties. I firmly believe that most, if not all, of the documents or emails I worked on, should still reside with MAA. My departure was rather sudden, leaving little opportunity to tie up all loose ends. From what I remember, I had a conversation with Anwar Brooks in April 2021, and I surmise he would have a record of that. Glenn Russell attempted to communicate with me in the latter part of 2021 through email, and I opted against a phone call. After MAA did not provide me with the findings from my complaints, I preferred not to be contacted further. I assume their whistleblower system would have a log of this.

Following November 2021, my recollections consist of interactions with many individuals and entities, including employees, ex-employees, and contractors, among others, plus emergency notifications associated with MAA's services. As for direct correspondence from MAA, nothing specific stands out. There was an email from Robert Delpriore earlier this year, which, to be honest, felt a bit out in left field. If you've found something specific in this regard, I'd appreciate it if you could point it out, and I'll certainly take a look.

Given my status as a private individual, I was under the impression that there was no obligation on my part to archive documents that had already been dispatched to agencies such as the EEOC, SEC, DOJ, and IRS. In retrospect, perhaps it might have been prudent to retain some of them, but I presumed that MAA would have the pivotal documents. I'd posit that agencies like the SEC, DOJ, and IRS should have a record of my communications regarding securities and accounting fraud, safety concerns, or dubious business behaviors.

The identity issues I encountered with Capital One and the Virginia Unemployment Commission in 2021 have underscored the importance of online vigilance. This sentiment is only exacerbated by the recent hacking attempts on my email and phone. If the emails in question are vital, maybe a subpoena to Google can provide clarity.

I genuinely wish to address and rectify this situation. Any misunderstandings or unintentional errors from my end are regretted. I'm grateful for your patience, and I am optimistic that we can collaboratively find a resolution. I realize what the judge ruled; thank you for reiterating.

Navigating legal intricacies isn't my forte, and I'm grateful for your understanding. A "reasonable timeframe" typically means a week, so your clarification on the law is valuable. On top of addressing these claims, which I perceive as unfounded, I sought an extension for the scheduling conference to acquaint myself with the legal nuances better. I had previously articulated a preference for communication via USPS in June. Unfortunately, several court notifications have eluded me, and I've been left in the dark about the review status of my motions, with no guidance from the court. Additionally, I'm now apprehensive about visiting places like Springfield Town Center or Alexandria Kohls due to fears of baseless accusations.

Please let me know if something does not make sense. Have a good weekend!

Dennis

On Fri, Sep 8, 2023 at 5:17 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

This will acknowledge receipt of your email. Are you aware that the term "document" includes electronic documents and would encompass any type of electronic file or record that discusses MAA and any of the email addresses set out in the subpoena? And is it your position that you do not have one single electronic document that discusses or relates to MAA? You have send a number of emails to the company, correct? Have you deleted all of those? If so, when? I'm confused as to how you cannot have any electronic documents given the level of your email correspondence with the company and its employees. Please state in writing what has happened to these documents.

Second, I have received your email request for certain documents on September 7, 2023. We will treat this as a set of document requests, despite the fact that they are not formatted as such or appropriately signed given your pro se status. However, as Judge Lipman indicated in her order, on a going forward basis you will need to comply

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

with the Rules. At any rate, under the Federal Rules, we have 30 days to respond to your request and/or provide our objections. Accordingly, your filing with the Court telling her we have not provided them to you in one day is not appropriate as they are not due until October 9, 2023, since the 30th day falls on a Saturday.

Sincerely,

Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>

Sent: Friday, September 8, 2023 9:41 AM

To: Mills, Paige <PMills@bassberry.com>; Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>

Subject: Re: Case Management/ Etc

Good morning,

I was able to locate some documents responsive to your subpoena request regarding MAA. I found them in my file cabinet. There's a reasonable accommodation form from 2019 which was misdated. I had promptly communicated this to Amber Fairbanks and Kristin Ostrom, and the EEOC has this on record.

Additionally, I believe I possess the tracking details for the disk sent to the SEC, IRS, & DOJ. I think this might be of interest. I will inform you once I have them at hand.

Regarding our upcoming call on Monday, I hope for a straightforward and transparent discussion. I value open communication and aim to keep our interactions honest.

Thank you for your patience. I hope you have a good weekend!

Dennis Philipson

On Thu, Sep 7, 2023 at 10:38 PM phillydee100 <phillydee100@gmail.com> wrote:

Good evening everyone,

Having gone over the case management plan, I'm in agreement with the outlined suggestions. However, I'd kindly request an opportunity to review your final version once more prior to its submission to the court. While I am genuinely open to mediation, I must voice my reservations regarding the foundation of, frankly, about 98% of the allegations. It's hard not to view this situation as retaliatory, especially when reflecting on my whistleblower complaints against MAA and Bass, Berry & Sims PLC. A transparent dialogue might be the key to better understanding and possibly aligning our viewpoints.

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

After we complete the Initial Disclosures by September 15th, I'll propose a deposition date, likely in early October. It's essential for me to fully understand MAA's damage claims and the evidence supporting them. I'm awaiting the documents I've asked for to help our proceedings move smoothly. Additionally, I'm ready to review your second subpoena at a time that works best for you.

I'm preparing for Monday's conference, while I feel somewhat unprepared due to the issues highlighted in my previous motion, I will do my best to keep pace.

Wishing you all a pleasant weekend!

Best,

Dennis Philipson

On Thu, Sep 7, 2023 at 4:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello again,

I'll give the proposed plan a thorough review and aim to provide feedback at the earliest. Could I clarify if you plan to provide the documents I've inquired about, especially those related to the concerns raised in your complaint?

I don't have any of the documents you referred to in your subpoena. Anything I had was sent to the SEC, DOJ, and IRS. I'd recommend directing your subpoena towards them. I've made this point clear on multiple occasions. While I await the second subpoena, please be assured I'm ready to review it at your convenience.

I'm not experienced in a court setting, and I find your allegations both demeaning and unfounded.

Wishing you a pleasant day,

Thanks,

Dennis Philipson

On Thu, Sep 7, 2023 at 3:19 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

I am uncertain as to why you believe our interactions have been hostile. I have tried to maintain a professional demeanor in all my interactions with you and will continue to do so. Attached please find the Plaintiff's responses to your proposed Case Management Order. Please let me know if you are agreeable to these suggestions.

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

As far as the documents we are seeking, that is set out in Attachment A to the subpoena that we served upon you earlier in the case. I will be serving you with a second set of requests after the case management conference as well. In addition, I look forward to receiving some dates for your deposition, which we can set for a date after we receive your documents.

Best,

Paige Mills

BASS BERRY+SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>
Sent: Thursday, September 7, 2023 10:22 AM
To: Mills, Paige <PMills@bassberry.com>
Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>
Subject: Case Management/ Etc

Ms. Mills,

I trust you're doing well. I would like to work with you on the proposed plan, aiming for a shared understanding and compliance with the court's rules. Would you be able to modify your plan to include my perspectives?

I believe in maintaining a cordial and cooperative relationship during this process. I consider myself an approachable and amicable person, but I have sensed a level of hostility from our interactions from the very beginning. I am genuinely uncertain about the cause and would like to understand any underlying issues so we can work effectively together.

Given your experience with the court, I'd be grateful if you could relay our discussions to them as necessary.

Additionally, regarding the outstanding document requests, I would appreciate further clarification on the precise details or documents you're seeking from me.

If you could please fulfill my document request as well.

Thank you for your cooperation and understanding.

Best regards,

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

On Wed, Sep 6, 2023 at 6:33 PM phillydee100 <phillydee100@gmail.com> wrote:

Dear Honorable Judge Lipman and Counsel,

I am writing to submit the attached case management plan from my perspective as the Defendant. Upon careful review, it has become apparent that there are significant discrepancies between my proposed plan and the one put forth by Attorney Mills representing the Plaintiff.

I have some differences with the Plaintiff's plan, outlined in the attached document. I've formally requested to postpone the scheduling conference via email and USPS, supported by a filed motion. I ask for this delay to prepare more thoroughly for the case and because I prefer in-person meetings over video calls.

Our plan also considers the pending review of the motion to dismiss filed on September 2, 2023 (Docket #33).

Thank you for considering my proposed timelines and conditions, especially given the case's sensitivity and its relevance to whistleblower laws. We look forward to discussing these issues further as the Court deems appropriate.

Best regards,

Dennis Philipson

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

phillydee100



Exhibit C - Request from Counsel.pdf

129K

The Plaintiff consistently asserts that the Defendant holds electronic records validating their assertions. Clarifying the situation, the Defendant stresses that any applicable electronic documents, particularly those associated with securities, accounting discrepancies, and employment discrimination, have been judiciously provided to pertinent federal agencies, including the SEC, DOJ, IRS, and the EEOC. The EEOC, for its part, should maintain records on any employment discrimination complaints. Despite this clarity, the Plaintiff reiterated their demands on 9/15/2023, as captured in Exhibit B. Their augmented request for "All documents which support or refute any allegations you have made against MAA, whether in this litigation or to any federal agency," makes evident their

intention to amass previously shared evidence. It's vital to note that the Defendant had no obligation to preserve these documents before the lawsuit's instigation in April 2023.

Additionally, the Plaintiff's counsel contends that the Defendant is privy to a range of websites, emails, and firms, allegedly used for malicious activities against their employees. Yet again, the Defendant refutes having any electronic records related to MAA, its affiliates, or the mentioned resources, as outlined in the Plaintiff's "First Set of Document Requests to Philipson" (Exhibit B). During the scheduling conference on 9/11/23, the Plaintiff's attorney claimed that the Defendant was terminated. This assertion further undermines my credibility, suggesting that I might not have been a competent employee. This insinuation stands in stark contrast to my actual performance, as during my tenure with MAA, I secured significant promotions and garnered numerous awards. Contradicting previous statements by MAA to the EEOC and the Virginia Unemployment Commission, they indicated that the Defendant had resigned. On 9/12/2023, I sought clarification from MAA's attorney regarding the company's official stance on my departure but received no response (Exhibit C). I asked, "On the topic of my departure from MAA, for everyone's clarity, could you reaffirm whether MAA's stance is that I was terminated, as opposed to resigning? Additionally, I noted in one of Paige's complaints a suggestion about my statements' credibility or my beliefs' genuineness. I trust the government investigations will soon shed more light on these matters. I am amazed the CFO is retiring; I saw that in a press release a few days back."

The information unveiled in MAA's initial disclosures (Exhibit A) casts a shadow over the lawsuit's legitimacy. These revelations point to potential internal acquiescence in the alleged securities and accounting infractions. These significant concerns were raised during the defendant's tenure, and subsequently in April 2021 and October or November 2021. These reports were channeled through the company's whistleblower system, adhering to the Sarbanes-Oxley Act, particularly its whistleblower protection provision under 18 U.S.C. § 1514A.

Furthermore, civil litigation mandates that the Plaintiff shoulders the "burden of proof," validating their claims. As established in Rule 301 of the Federal Rules of Evidence, the "preponderance of the evidence" standard necessitates the Plaintiff to prove that their version of events is more probable than its counterpart. In situations requiring an enhanced degree of certainty, the "clear and convincing evidence" standard, as expounded upon in Rules 401-403 of the Federal Rules of Evidence, is employed. The Defendant entreats the Court to be cognizant of the Plaintiff's comprehensive understanding of these legal prerequisites and the leveled allegations.

BACKGROUND

1. The Defendant, on September 7, 2023, began his request for the enumerated documents, to which the Plaintiff's attorney, Ms. Mills, acknowledged receipt on September 8, 2023.
2. On September 13th, the Defendant reached out to the Plaintiff's attorneys, detailing the only electronically stored information he had was a screenshot of Robert Delpriore's LinkedIn profile linking him with Bass, Berry & Sims PLC. Further searches yielded no other documents responsive to the Plaintiff's request.
3. On September 15th, the Plaintiff's attorneys issued a reply by email (Exhibit D) with a set of documents, as described in (Exhibit A & B). This expanded the Plaintiff's scope but overlooked concerns suggesting the Defendant's IP address might have been acquired improperly.
4. To date, the Plaintiff has not furnished these documents, thereby hampering the Defendant's ability to prepare an adequate defense.
5. The Defendant has acted diligently, responding to inquiries regarding electronic evidence, and has shared all relevant information with the appropriate government entities.

REQUEST FOR DOCUMENTS

The gravity of the feedback from Google, Wix, and Verizon in this situation is crucial and demands emphasis. In line with Federal Rule of Evidence 602, it's essential that the defendant is equipped with precise information, as it necessitates that every witness should possess firsthand knowledge of the issue at hand. Moreover, in keeping with the Federal Rules of Evidence pertaining to hearsay (Rules 801-807), the defendant's defenses must be rooted in factual knowledge and not on unsupported hearsay. Maintaining these standards is fundamental to safeguarding the sanctity of the legal proceedings and guaranteeing a just trial.

The greater part of the requested documents was already requisitioned from the opposing counsel on the dates of September 7th and September 12th. Acknowledged via email by the opposing counsel on September 8th and alluded to by Judge Lipman during the conversation on September 11th, most of the documents I am pursuing are expected to be disclosed during the initial disclosures.

The defendant is now in urgent need of the following from the plaintiff, MAA:

1. **Response from WIX subpoena** (Docket No 15, Exhibit B): The actual response from Wix to Plaintiff's subpoena as ordered by this Court on May 16, 2023 (Dk. 15).
2. **Verizon's response:** Verizon's response to Plaintiff's subpoena, as mandated by federal law.
3. **Google's response to MAA's subpoena:** Google's response to Plaintiff's subpoena (Docket No 6 Exhibit A) and the Court's authorization to modify the subpoena to contain defendant's known email addresses (Docket No 22 Exhibit A).
4. **Documentation related to Glassdoor reviews:** Details on reviews and the methodologies employed by MAA to verify their authorship by Defendant.
5. **Compilation of Google reviews:** A collection of Google reviews and methods used by MAA to confirm their attribution to Defendant.

6. **Inventory of email addresses:** A listing of the 30-40 email addresses claimed to be linked to Defendant, along with related subpoenas and feedback from email providers.
7. **Other relevant subpoenas:** Details of any other subpoenas secured by MAA pertinent to this case.
8. **Automatic replies** sent to Plaintiff or Plaintiff attorney from Mphillyd@gmail.com and phillydee100@gmail.com, if any.
9. **Conversations with MAA staff:** Summaries or notes discussing allegations made against Defendant.
10. **Itemization of Damages:** Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A)(iii), which mandates the disclosure of "a computation of each category of damages claimed by the disclosing party," the Defendant requests a detailed and comprehensive breakdown of the damages MAA alleges were directly attributable to the Defendant's actions. Properly itemizing and specifying the nature and extent of these damages is essential to ensure transparency, provide clarity, and facilitate appropriate preparation for defense against such claims.

OPPOSITION TO PLAINTIFF'S INITIAL DISCLOSURES (Exhibit A)

I. Rule 26(a)(1)(A)(i)

Plaintiff MAA provided a list of potential witnesses without providing sufficient detail regarding the subject of their information. This placed an undue burden on Mr. Philipson, who must conduct further discovery to understand these witnesses' potential relevance to the case. Furthermore, Plaintiff has reserved the right to introduce new witnesses without giving a timeline, which will further hinder and delay Mr. Philipson's preparation for this case.

II. Rule 26(a)(1)(A)(ii)

MAA has provided a general list of items it may use to support its claims but failed to offer a specific description or location for these documents, tangible items, and electronically stored information. This lack of specificity

limits Mr. Philipson's ability to adequately review and prepare a defense. MAA has also declined to offer full disclosure until protective orders are in place, introducing unnecessary delays to the process and circumventing Mr. Philipson's right to a fair and prompt trial.

III. Rule 26(a)(1)(A)(iii)

Despite the rule's requirements, MAA has not offered a computation of each category of damages it claims. Instead, it suggests that expert proof of damages will be presented at a later date but fails to provide any supporting documents or evidentiary material. This approach hinders Mr. Philipson's ability to understand the nature and extent of the alleged damages and prepare an adequate defense.

IV. Rule 26(a)(1)(A)(iv)

Despite Rule 26's clear mandate, MAA failed to disclose information related to any insurance agreement that may pay for part or all of a potential judgment. This crucial information is absent from its disclosure, and it offers no valid justification for withholding the information.

In conclusion, MAA's disclosures are vague, incomplete, and lack the specificity required by the Federal Rules of Civil Procedure. These issues place an undue burden on Mr. Philipson and hinder his ability to prepare a defense.

OBJECTIONS TO IMPROPERLY ISSUED SUBPOENAS

1. Altered Subpoena Concerns: The Defendant raises a significant objection over the Plaintiff's modification of the subpoena issued to Google. This was amended to enclose the Defendant's acknowledged email addresses, Mphillyd@gmail.com and Phillydee100@gmail.com, for reasons that raise concerns:

a. In April of 2021, MAA took measures to prevent mphillyd@gmail.com from interacting with the Employee Relations department, a move initiated when the Defendant sought to raise concerns about possible accounting discrepancies. Such an action from MAA raises potential whistleblower protection issues.

b. In early 2023, Robert Delpriore initiated correspondence with the Defendant using the aforementioned email addresses.

c. In the amended complaint (Docket No 16), the Plaintiff recognized that Phillydee100@gmail.com and Mphillyd@gmail.com are acknowledged email addresses of the Defendant.

2. Just Cause and Proper Procedure: Under Federal Rule of Civil Procedure 45, a subpoena must be issued properly and for a legitimate reason. The Defendant contends that the Plaintiff may have obtained certain subpoenas without just cause or proper procedure, infringing on Defendant's rights.

3. Reservation of Rights to Introduce Evidence: MAA has reserved the right to introduce and rely upon materials not currently within its possession, custody, or control but produced by other parties or third parties during this litigation. The Defendant objects to this broad reservation, arguing that such an approach denies the Defendant a fair opportunity to review, challenge, or prepare for the introduction of such evidence. It may also be contrary to the principles of full disclosure and fairness embedded in the Federal Rules of Civil Procedure, potentially depriving the Defendant of a fair trial.

RELEVANT LAW

Pursuant to Federal Rule of Civil Procedure 37(a), "a party seeking discovery may move for an order compelling an answer, designation, production, or inspection" if a party fails to produce documents as requested under Rule 34 or 35. The Defendant has explicitly stipulated the necessary documents in Exhibit C, Certificate of Counsel.

The Plaintiff's reluctance to produce these vital documents contravenes the Federal Rules and stymies the Defendant's preparation of an informed defense.

CONCLUSION

Highlighting the importance of the documents, especially those from entities like Google, Wix, and Verizon, becomes crucial to guarantee the integrity of the evidence. This is consistent with Federal Rules of Evidence 602 and the hearsay provisions (Rules 801-807). Given these documents' potential bearing on the case, the Defendant needs them without unwarranted delays.

Furthermore, the Plaintiff's intent to introduce evidence not in its immediate custody, possibly to be produced by other parties or third-parties in the litigation's progression, accentuates the need for exhaustive initial disclosures. This is pivotal for maintaining fairness and ensuring justice is dispensed without prejudice.

WHEREFORE, the Defendant, Dennis Philipson, urges this Court to grant this Motion to Compel and instruct the Plaintiff, MAA, to promptly provide the documents delineated in (Exhibit C), Certificate of Counsel. The Defendant, Dennis Philipson, respectfully requests this Court to grant this Motion to Compel Initial Disclosures and mandate that the Plaintiff, MAA, produce the documents enumerated in Exhibit C, Certificate of Counsel, without further delay.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 17, 2023

ENCLOSURES

1. **Exhibit A** - MAA's Initial Disclosures as served
2. **Exhibit B** - First Set of Document Requests to Philipson as served
3. **Exhibit C** - Certificate of Counsel
4. **Exhibit D** - Email From Opposing Counsel

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

)
)
)
)
) Docket No. 2:23-cv-02186-SHL-cgc
) JURY DEMAND
)
)
)

**PLAINTIFF MID-AMERICA APARTMENT COMMUNITIES, INC.'S
INITIAL DISCLOSURES**

Plaintiff Mid-America Apartment Communities, Inc. ("MAA") hereby provides its initial disclosures pursuant to Rules 26(a)(1) and 26(f) of the Federal Rules of Civil Procedure.

PRELIMINARY STATEMENT

These initial disclosures are based on information reasonably available to MAA as of the date of these disclosures. MAA's investigation of possible witnesses and documents is ongoing and it reserves the right to supplement and amend these disclosures to provide additional information acquired during the course of discovery, and to rely on such information and documents as evidence in this action. By making these disclosures, MAA does not represent that it is identifying every witness, document, tangible thing and/or piece of electronically-stored information ("ESI") possibly relevant to this lawsuit, nor does MAA waive his right to object to the production of any document or tangible thing on the basis of any privilege, the work product doctrine, relevancy, undue burden or any other valid objection. Rather, MAA's disclosures represent his good faith effort to identify information subject to the disclosure requirements of Rule 26(a)(1).

MAA's disclosures are made without in any way waiving: (1) the right to object on the grounds of competency, privilege, relevancy, materiality, hearsay, undue burden, or any other proper basis, to the use of any such information for any purpose, in whole or in part, in any subsequent stage or proceeding in this lawsuit or any other action; and (2) the right to object on any and all grounds, at any time, to any other discovery proceeding involving or relating to the subject matter of these disclosures. Furthermore, these disclosures are not an admission by MAA regarding any matter. All of the disclosures set forth below are made subject to the above objections and qualifications.

INITIAL DISCLOSURES

- I. **Rule 26(a)(1)(A)(i).** The name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

Witness Name/Contact Info	Substance of Knowledge	Availability
Timothy P. Argo Executive VP, Chief Strategy & Analysis Officer	This witness has knowledge of Defendant's harassing activities and his use of MAA employee names in email address to harass these individuals and to obtain the Infringing Domains and/or Website.	This individual is an MAA employee and is reachable through undersigned counsel.
Melanie M. Carpenter Executive VP, Chief Human Resources Officer	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Leslie B.C. Wolfgang Senior VP, Chief Ethics & Compliance Officer & Corporate Secretary	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.

Jackie Melnick Senior VP, East Division	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Jay Blackman, CAM Regional Vice President	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Anwar N. Brooks Director Employee Relations	This witness has knowledge of Defendant's work history and performance with MAA and knowledge of his harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Amber Fairbanks EVP, Property Management	This witness has knowledge of Defendant's harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Glenn Russell Senior VP, Internal Audit	This witness has knowledge of Defendant's harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Eric Bolton Chairman and CEO	This witness has knowledge of Defendant's harassing activities after left MAA's employ.	This individual is an MAA employee and is reachable through undersigned counsel.
Unknown Individuals at Massage2Book	Upon information and belief, these individuals have knowledge of Defendant's attempts to impersonate and harass certain MAA employees.	Currently, Plaintiff has no contact information for these potential witnesses.
Unknown Individuals at Twitter.com	Upon information and belief, these individuals have knowledge of Defendant's attempts to impersonate and harass certain MAA employees.	Currently, Plaintiff has no contact information for these potential witnesses.
Unknown Individuals at Adultfriendfinder.com	Upon information and belief, these individuals have knowledge of Defendant's attempts to impersonate and	Currently, Plaintiff has no contact information for these potential witnesses.

	harass certain MAA employees.	
Unknown Individuals at AvalonBay Communities	Upon information and belief, these individuals have knowledge of Defendant's attempts to impersonate and harass certain MAA employees.	Currently, Plaintiff has no contact information for these potential witnesses.
Robin Breazier LinkedIn rbreazier@linkedin.com	Ms. Breazier provided information on behalf of LinkedIn regarding certain infringing activity that took place on LinkedIn involving the MAA Marks.	This witness is reachable via the contact information provided.
Karyna Yakushenko Custodian of Records Wix.com 40 Namal Tel-Aviv St. Beit Yoel Tel Aviv, Israel 63506	Ms. Yakushenko issued the Wix.com records that established the IP addresses associated with one or more of the Infringing Domains.	This witness is reachable via the contact information provided.
Rex Looney Verizon Security Subpoena Compliance 180 Washington Valley Road Bedminster, NJ 07921	Mr. Looney issued the Verizon records that established that one of the IP addresses used in one of the infringing domains belonged to Defendant	This witness is reachable via the contact information provided.
Alex Eppenauer Paralegal Davis Wright Tremaine LLP 920 Fifth Avenue, Suite 3300 Seattle, WA 98104	Ms. Eppenauer has knowledge of certain Microsoft email addresses used in the harassment of MAA and their use in conjunction with the infringement of MAA's trademarks	This witness is reachable via the contact information provided.
Ra Bacchus Google Legal Investigations Support Google-legal-support@google.com	Mr. Bacchus provided certain Google records associated with the harassment of MAA and one or more of the Infringing Domains	This witness is reachable via the contact information provided.
Unknown Consumers/Customers	These individuals have knowledge of Defendant's attempt to confuse the marketplace and infringe on MAA's trademarks	Currently, Plaintiff has no contact information for these potential witnesses.

As discovery and further investigation proceed, MAA may identify additional individuals that it may use to support its defenses. MAA reserves the right to identify such persons as the issues in the case are developed. MAA also reserves the right to modify or supplement these disclosures and to use and introduce at the trial of this matter with respect to any individual (1) whose name or scope of knowledge are disclosed or ascertained through discovery or are otherwise identified by Defendant, (2) to conform to the evidence presented, or (3) subsequently identified or later produced as a witnesses.

II. Rule 26(a)(1)(A)(ii). A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

1. Documents referred to in, or attached to, the Complaint and Amended Complaint;
2. Third Party Subpoenas issued to various parties;
3. Documents produced in Response to numerous third party subpoenas issued in this case;
4. Harassing emails sent from Defendant to MAA, its employees, and third parties;
5. Records from the UDRP Proceeding relating to the Infringing Domains;
6. Records related to Defendant's purchase and use of the Infringing Domains and/or Websites;
7. Documents relating to Defendant's use of Google Reviews;
8. Documents relating to Defendant's attempts to impersonate and harass various MAA employees;
9. All documents identified or produced by Defendant in this action.
10. Any other documents that become necessary to respond to allegations, claims or defenses raised by Defendant.

MAA reserves the right to assert a claim of privilege or immunity and withhold from production any documents, whether or not included above, that are protected from discovery by

the attorney-client privilege, work-product immunity, common interest privilege, or any other privilege or immunity. MAA also reserves the right to introduce as evidence and rely upon materials that are not presently within its possession, custody, or control, but that are produced by the other Parties or third-parties in this litigation. As discovery and further investigation proceed, MAA may identify additional categories of documents, electronically-stored information, and/or tangible things that it may use to support its claims. Finally, MAA reserves the right to withhold production of documents until an appropriate protective order is entered by the Court to the extent confidential documents become at issue in this litigation.

III. Rule 26(a)(1)(A)(iii). A computation of each category of damages claimed by the disclosing party – who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

MAA expects to provide expert proof of its damages in accordance with the deadlines in the Court's Case Management Order. MAA will be seeking the damages available for the various claims that MAA has asserted in the Amended Complaint, including for its attorney fees and expenses, which it plans to present for the Court's consideration after trial or other appropriate disposition of the case. As discovery and further investigation proceed, MAA reserves the right to supplement this initial disclosure as permitted by the Federal Rules of Civil Procedure, the Court's Local Rules, and other applicable laws.

IV. Rule 26(a)(1)(A)(iv). For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

None.

DATED this 15th day of September, 2023.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324
Jordan Thomas, BPR. No. 039531
BASS, BERRY & SIMS PLC
100 Peabody Place, Suite 1300
Memphis, Tennessee 38103
Tel: (901) 543-5903
Fax: (615) 742-6293
jgolwen@bassberry.com
Jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing Initial Disclosures was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 15th Day of September, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT,
COMMUNITIES, INC.**

Plaintiff,

V.

DENNIS PHILIPSON

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

Defendant.

FIRST SET OF DOCUMENT REQUESTS TO DEFENDANT PHILIPSON

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiff Mid-America Apartment Communities, Inc. (“MAA”), by and through its attorneys, Bass Berry & Sims PLC, hereby requests that Defendant Dennis Philipson produce the documents requested below for inspection and copying at the offices of Bass, Berry & Sims, within thirty (30) days after the service hereof.

INSTRUCTIONS

1. These requests apply to all Documents in your possession, custody or control, regardless of whether such Documents are held by you or your affiliates, corporate parents, corporate subsidiaries, divisions, directors, officers, partners, designees, agents, managers, employees, representatives, attorneys, or assigns.

2. Pursuant to Federal Rule of Civil Procedure 34(b), all Documents shall be produced as they are kept in the usual course of business, or shall be organized and labeled to correspond to the categories of Documents set forth in each request.

3. All electronically stored information responsive to a request shall be produced in single-page TIFF or color JPG format, as applicable, and in native file format. All corresponding metadata shall be produced in a load file compatible with Relativity.

4. Where any copy of any requested document is not identical to any other copy thereof, by reason of any alterations, marginal notes, comments, or material contained therein or attached thereto, or otherwise, all such non-identical copies shall be produced separately.

5. If no Documents exist that are responsive to a particular request, you shall state so in writing.

6. If any document or any portion of any document requested herein is withheld from production, describe the basis for withholding the document or portion thereof, including any claim of a privilege or protection, in sufficient detail to permit the Court to adjudicate the validity of your withholding the document, and identify each document so withheld by providing at least the following information:

- a. the type of document (*e.g.*, memorandum, letter, report, etc.);
- b. the date, title and subject matter of the document;
- c. the identity, affiliation, and position of the author, the addressee(s), and all recipients of the document; and
- d. a statement of (i) the nature of the legal privilege or protection from discovery claimed and (ii) the factual basis for that claim of privilege or protection from discovery, including the facts establishing the claim of privilege or protection from discovery, the facts showing that the privilege has not been waived, and a statement as to whether the subject matter of the contents of the document is limited to legal advice or contains other subject matter.

7. If a portion of an otherwise responsive document contains information subject to a claim of privilege or protection from discovery, those portions of the document shall be redacted

from the document, and the redacted portions shall be clearly marked as such, and the rest of the document shall be produced.

8. With respect to any responsive document that was formerly in your possession, custody or control and has been lost, destroyed or transferred out of your possession, custody or control, identify such document by setting forth its author(s), addressee(s), copyee(s), date, title, number of pages, subject matter, nature (*e.g.*, memorandum, letter, report, etc.), actual or approximate date on which the document was lost, destroyed or transferred, and, if destroyed, the conditions of and reasons for such destruction, and the names of the person authorizing and performing the destruction, and state the name and address of each person (if any) known to have possession, custody or control of such document.. The phrase “possession, custody or control” has the meaning set forth in Federal Rule of Civil Procedure 34 and should be interpreted as broadly as possible.

9. Each request herein shall be responded to separately and fully, unless it is in good faith objected to, in which case the objection and the bases therefore shall be stated with particularity. If an objection pertains only to a portion of a request, or to a word, phrase or clause contained therein, you shall state your objection to that portion only and respond to the remainder of the request. If, in answering these document requests, you claim that any document request, or a definition or instruction applicable thereto, is vague or ambiguous, you shall not use such claim as a basis for refusing to respond. Rather, you shall set forth as a part of the response the language claimed to be vague or ambiguous and the interpretation used to respond to the individual document request.

10. Each paragraph herein shall be construed independently and without reference to any other paragraph for the purpose of limitation.

11. The use of a verb in any tense shall be construed as the use of a verb in all other tenses wherever necessary to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

12. The use of the singular form of any word includes the plural and vice versa.

13. The terms “all,” “any,” and “each” shall each be construed as encompassing any and all.

14. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

15. These requests are deemed continuing in nature, and you are obliged to produce responsive Documents and to supplement your production whenever additional Documents are located or their existence ascertained.

16. MAA reserves the right to serve additional requests for the production of Documents at a later time.

17. Unless otherwise indicated, these requests concern the period from January 1, 2020 to the present.

DEFINITIONS

1. The terms “you” and “your” refer to Defendant Philipson.

2. “Plaintiff” means MAA and its present or former predecessors-in-interest, successors-in-interest, subsidiaries, divisions, affiliates, partners, officers, directors, employees, agents, attorneys, representatives, and/or assigns.

3. “GlassDoor” shall refer to the website located at <https://www.glassdoor.com>.

4. “Google Reviews” shall refer to reviews left on Google Maps.

5. "Avalonbay Communities" shall refer to the apartment communities company with a website located at <https://www.avaloncommunities.com/>.
6. "LinkedIn" shall refer to the social media application located at <https://www.linkedin.com>.
7. "Document" shall mean any document or electronically stored information, including but not limited to, writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.
8. "Communication" and "Communications" shall mean any oral or written utterance, notation, depiction, or statement of any nature whatsoever, including, but not limited to: correspondence, conversations, telephone calls, facsimiles, dialogues, discussions, interviews, consultations, telegrams, telexes, text messages, cables, e-mails, letters, voicemails, statements posted on or to the Internet, memoranda, agreements, and other verbal and non-verbal understandings.
9. "Identify" or "identity" means to state or a statement of:
 - a. in the case of a person other than a natural person, its name, the address of its principal place of business (including zipcode), its telephone number, and the name of its chief executive officer, as well as, if it has a person other than a natural person that ultimately controls it, that other person's name, the address of that person's principal place of business (including zipcode), that other person's telephone number, and the name of that other person's chief executive officer;
 - b. in the case of a natural person, his or her name, business address and telephone number, employer, and title or position;
 - c. in the case of a communication, its date, type (e.g., telephone conversation or discussion), the place where it occurred, the identity of the person who made the communication, the identity of the person who received the communication, the identity of each other person when it was made, and the subject matter discussed;

- d. in the case of a document, the title of the document, the author, the title or position of the author, the addressee, each recipient, the type of document, the subject matter, the date of preparation, and its number of pages; and
- e. in the case of an agreement, its date, the place where it occurred, the identity of all persons who were parties to the agreement, the identity of each person who has knowledge of the agreement and all other persons present when it was made, and the subject matter of the agreement.

DOCUMENT REQUESTS

1. All Documents and Communications concerning or sent to or from each of the following email addresses:

- A. Gender99999@hotmail.com
- B. Frankreso28@gmail.com
- C. MerryJerryBerry@outlook.com
- D. Thomas.Grimey51@outlook.com
- E. Maareviews@outlook.com
- F. conflictinterest682@gmail.com
- G. melanieisgoingtojail@outlook.com
- H. Berna6728@aol.com
- I. welcome@maaapartments.com
- J. TomGrimey@outlook.com
- K. blackcharlie099@gmail.com
- L. GreatDayatMAA@hotmail.com
- M. MAABstructs@outlook.com
- N. MAABstruct@outlook.com
- O. RexBlago78@hotmail.com
- P. bganderland1801@gmail.com
- Q. tdudleyP@gmail.com
- R. tigerprincessT@gmail.com
- S. denalitarnosh@gmail.com

T. rogerjackman278@gmail.com
U. hansonvincent43@gmail.com
V. sharksonp@gmail.com
W. info@maa.apartment
X. donniewillow652@gmail.com
Y. Jillianpow201@gmail.com
Z. WillBoi1526@gmail.com
AA. Bolling.pete12@gmail.com

RESPONSE:

2. All documents and communications you have sent to any third party concerning MAA and/or any employee of MAA.

RESPONSE:

3. All documents and communications you have sent or received from GlassDoor concerning MAA, including screenshots of reviews or other communications you have posted online.

RESPONSE:

4. All documents and communications you have sent or received using Google Reviews (via Google Maps) since 2020, including copies of any reviews you have posted, whether under your own name or an alias or other identity.

RESPONSE:

5. All documents and communications you have sent or received from Avalonbay Communities since 2020.

RESPONSE:

6. All documents and communications you have sent or received from LinkedIn since 2022.

RESPONSE:

7. All documents and communications you have sent or received from any present or past employee of MAA since 2021.

RESPONSE:

8. All documents and communications you have sent or received concerning any of the following domains and/or websites:

- A. megaawesomeapartments.com
- B. maaapartments.com
- C. maa.apartments
- D. maafraud.com

RESPONSE:

9. All documents and communications you have sent or received that relate to Craig Silver.

RESPONSE:

10. All documents which support or refute any allegations you have made against MAA, whether in this litigation or to any federal agency.

RESPONSE:

11. All documents that identify the IP address of your home computer and devices.

RESPONSE:

12. All documents upon which you plan to rely at trial.

RESPONSE:

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 16218

BASS, BERRY & SIMS PLC

Suite 2800; 150 3rd Ave. South

Nashville, Tennessee 37201

Tel: 615-742-6200

Fax: 615-429-0429

pmills@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing Request for Production of Documents was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 15th Day of September, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

Exhibit C

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc



D <phillydee100@gmail.com>

RE: Case Management/ Etc

D <phillydee100@gmail.com>

Tue, Sep 12, 2023 at 7:45 AM

To: "Mills, Paige" <PMills@bassberry.com>

Cc: "Golwen, John S." <jgolwen@bassberry.com>, "Thomas, Jordan" <jordan.thomas@bassberry.com>, "McClanahan, Teresa" <TMcClanahan@bassberry.com>, phillydee100@gmail.com

Good morning,

I hope you are well. I've got quite a busy day, but I wanted to connect early to share some thoughts and clarifications.

Firstly, it was indeed a pleasure discussing matters with you yesterday. Your patience and understanding throughout were much appreciated. Please know I'm committed to upholding court protocols and will ensure I'm abreast of the necessary procedures.

Reflecting on our conversation, I recognize the value of addressing potential ethical concerns directly with the court rather than the Board of Professional Responsibility of the Supreme Court of Tennessee. I see this as a valuable learning experience.

On the topic of my departure from MAA, for everyone's clarity, could you reaffirm whether MAA's stance is that I was terminated, as opposed to resigning? Additionally, I noted in one of Paige's complaints a suggestion about my statements' credibility or my beliefs' genuineness. I trust the government investigations will soon shed more light on these matters. I am amazed the CFO is retiring; I saw that in a press release a few days back.

I've been reviewing my Gmail for any mentions of MAA or their employees. While I found a LinkedIn screenshot from Mr. Delpriore linking him with Bass, Berry, and Sims, there hasn't been much beyond that. Rest assured, I will send over anything I find by Friday.

To foster transparency and ensure the productivity of our discussions, I've outlined several key topics I believe would be beneficial to cover during our initial disclosures. This would eliminate the need to file a motion of expedited discovery.

1. An inventory of the 30-40 email addresses you claim are linked to me, complemented by the related subpoenas and feedback from the email service providers.
2. Details of any other subpoenas you've sought that are relevant to this case.
3. Automatic replies, if any, from Mphillyd@gmail.com and phillydee100@gmail.com.
4. Summaries or notes from conversations with MAA staff about the allegations made about me.
5. The damages MAA are claiming that I have caused.
6. I want to highlight again the significance of the responses from Google, Wix, and Verizon, primarily to ensure that there have been no mistakes.

I recall interactions with my former supervisor involving former employees, particularly Lynette Harris. He had expressed concerns at times, like an incident involving Lynette and a damaged sliding glass door. There was also a moment in 2019 at Post Carlyle Square where my former boss offered a different narrative about a situation with a resident (Suggesting I

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

lie to MAA). I've also seen reviews post-departure where residents felt compelled to specifically identify themselves, perhaps addressing MAA's apprehensions regarding the review's credibility. These memories might provide context as our discussions progress. It will be enlightening to clarify these matters, potentially during depositions.

For clarity, I've attached my original request. Your cooperation and understanding in this matter have been invaluable. Have a good day and week!

Dennis Philipson

From: phillydee100 <phillydee100@gmail.com>

Sent: Saturday, September 9, 2023 6:11 AM

To: Mills, Paige <PMills@bassberry.com>

Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>; McClanahan, Teresa <TMcClanahan@bassberry.com>

Subject: Re: Case Management/ Etc

Good morning,

If you could allow me a few days, I'd be happy to review everything once more to ensure nothing has been overlooked. If there's a particular detail or item you have in mind, kindly bring it to my attention—it will expedite the process. Please note that my schedule is quite packed this week, but I'm committed to assisting you. I appreciate our mutual professionalism and cooperation.

Best,

Dennis Philipson

On Fri, Sep 8, 2023 at 8:06 PM phillydee100 <phillydee100@gmail.com> wrote:

Also to add:

I am not an attorney, but based on my understanding of federal civil law:

Regarding the subpoena mentioned in your complaint, it is my understanding that under FRCP Rule 26(a), parties have an obligation to automatically disclose specific information and documents to the opposing parties without the necessity of a discovery request. This would encompass all documents, electronically stored information, and tangible items that the disclosing party may use in support of its claims or defenses, and which are within its possession, custody, or control. Would the subpoenas in question not fall under this obligation? You've proposed September 15th for Initial Disclosures. It's worth noting that a separate motion for discovery may not even be necessary, as initial disclosures typically follow shortly after the Rule 26(f) scheduling conference. I trust we can work together to ensure a smooth and timely process. Am I understanding this correctly, or should I research it further?

Thank you again for your assistance and understanding.

Dennis

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

On Fri, Sep 8, 2023, 7:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello Attorney Mills,

I'd like to begin by expressing that ever since the complaint was served to me by MAA and yourself, I have diligently ensured to preserve all pertinent information. My intent with this email is to bring clarity and understanding to the situation. Might I propose that you share some of the specific documents in question? This would allow me to cross-reference and ensure that there hasn't been any oversight or misunderstanding. I'm trying to understand all of this, from song lyrics to Baskin Robbins reviews and supposed vast social media interactions, I'm at a loss.

While with MAA, I operated on multiple computers across different properties. I firmly believe that most, if not all, of the documents or emails I worked on, should still reside with MAA. My departure was rather sudden, leaving little opportunity to tie up all loose ends. From what I remember, I had a conversation with Anwar Brooks in April 2021, and I surmise he would have a record of that. Glenn Russell attempted to communicate with me in the latter part of 2021 through email, and I opted against a phone call. After MAA did not provide me with the findings from my complaints, I preferred not to be contacted further. I assume their whistleblower system would have a log of this.

Following November 2021, my recollections consist of interactions with many individuals and entities, including employees, ex-employees, and contractors, among others, plus emergency notifications associated with MAA's services. As for direct correspondence from MAA, nothing specific stands out. There was an email from Robert Delpriore earlier this year, which, to be honest, felt a bit out in left field. If you've found something specific in this regard, I'd appreciate it if you could point it out, and I'll certainly take a look.

Given my status as a private individual, I was under the impression that there was no obligation on my part to archive documents that had already been dispatched to agencies such as the EEOC, SEC, DOJ, and IRS. In retrospect, perhaps it might have been prudent to retain some of them, but I presumed that MAA would have the pivotal documents. I'd posit that agencies like the SEC, DOJ, and IRS should have a record of my communications regarding securities and accounting fraud, safety concerns, or dubious business behaviors.

The identity issues I encountered with Capital One and the Virginia Unemployment Commission in 2021 have underscored the importance of online vigilance. This sentiment is only exacerbated by the recent hacking attempts on my email and phone. If the emails in question are vital, maybe a subpoena to Google can provide clarity.

I genuinely wish to address and rectify this situation. Any misunderstandings or unintentional errors from my end are regretted. I'm grateful for your patience, and I am optimistic that we can collaboratively find a resolution. I realize what the judge ruled; thank you for reiterating.

Navigating legal intricacies isn't my forte, and I'm grateful for your understanding. A "reasonable timeframe" typically means a week, so your clarification on the law is valuable. On top of addressing these claims, which I perceive as unfounded, I sought an extension for the scheduling conference to acquaint myself with the legal nuances better. I had previously articulated a preference for communication via USPS in June. Unfortunately, several court notifications have eluded me, and I've been left in the dark about the review status of my motions, with no guidance from the court. Additionally, I'm now apprehensive about visiting places like Springfield Town Center or Alexandria Kohls due to fears of baseless accusations.

Please let me know if something does not make sense. Have a good weekend!

Dennis

On Fri, Sep 8, 2023 at 5:17 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

This will acknowledge receipt of your email. Are you aware that the term "document" includes electronic documents and would encompass any type of electronic file or record that discusses MAA and any of the email addresses set out in the subpoena? And is it your position that you do not have one single electronic document that discusses or relates to MAA? You have send a number of emails to the company, correct? Have you deleted all of those? If so, when? I'm confused as to how you cannot have any electronic documents given the level of your email correspondence with the company and its employees. Please state in writing what has happened to these documents.

Second, I have received your email request for certain documents on September 7, 2023. We will treat this as a set of document requests, despite the fact that they are not formatted as such or appropriately signed given your pro se status. However, as Judge Lipman indicated in her order, on a going forward basis you will need to comply

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

with the Rules. At any rate, under the Federal Rules, we have 30 days to respond to your request and/or provide our objections. Accordingly, your filing with the Court telling her we have not provided them to you in one day is not appropriate as they are not due until October 9, 2023, since the 30th day falls on a Saturday.

Sincerely,

Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>
Sent: Friday, September 8, 2023 9:41 AM
To: Mills, Paige <PMills@bassberry.com>; Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>
Subject: Re: Case Management/ Etc

Good morning,

I was able to locate some documents responsive to your subpoena request regarding MAA. I found them in my file cabinet. There's a reasonable accommodation form from 2019 which was misdated. I had promptly communicated this to Amber Fairbanks and Kristin Ostrom, and the EEOC has this on record.

Additionally, I believe I possess the tracking details for the disk sent to the SEC, IRS, & DOJ. I think this might be of interest. I will inform you once I have them at hand.

Regarding our upcoming call on Monday, I hope for a straightforward and transparent discussion. I value open communication and aim to keep our interactions honest.

Thank you for your patience. I hope you have a good weekend!

Dennis Philipson

On Thu, Sep 7, 2023 at 10:38 PM phillydee100 <phillydee100@gmail.com> wrote:

Good evening everyone,

Having gone over the case management plan, I'm in agreement with the outlined suggestions. However, I'd kindly request an opportunity to review your final version once more prior to its submission to the court. While I am genuinely open to mediation, I must voice my reservations regarding the foundation of, frankly, about 98% of the allegations. It's hard not to view this situation as retaliatory, especially when reflecting on my whistleblower complaints against MAA and Bass, Berry & Sims PLC. A transparent dialogue might be the key to better understanding and possibly aligning our viewpoints.

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

After we complete the Initial Disclosures by September 15th, I'll propose a deposition date, likely in early October. It's essential for me to fully understand MAA's damage claims and the evidence supporting them. I'm awaiting the documents I've asked for to help our proceedings move smoothly. Additionally, I'm ready to review your second subpoena at a time that works best for you.

I'm preparing for Monday's conference, while I feel somewhat unprepared due to the issues highlighted in my previous motion, I will do my best to keep pace.

Wishing you all a pleasant weekend!

Best,

Dennis Philipson

On Thu, Sep 7, 2023 at 4:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello again,

I'll give the proposed plan a thorough review and aim to provide feedback at the earliest. Could I clarify if you plan to provide the documents I've inquired about, especially those related to the concerns raised in your complaint?

I don't have any of the documents you referred to in your subpoena. Anything I had was sent to the SEC, DOJ, and IRS. I'd recommend directing your subpoena towards them. I've made this point clear on multiple occasions. While I await the second subpoena, please be assured I'm ready to review it at your convenience.

I'm not experienced in a court setting, and I find your allegations both demeaning and unfounded.

Wishing you a pleasant day,

Thanks,

Dennis Philipson

On Thu, Sep 7, 2023 at 3:19 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

I am uncertain as to why you believe our interactions have been hostile. I have tried to maintain a professional demeanor in all my interactions with you and will continue to do so. Attached please find the Plaintiff's responses to your proposed Case Management Order. Please let me know if you are agreeable to these suggestions.

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

As far as the documents we are seeking, that is set out in Attachment A to the subpoena that we served upon you earlier in the case. I will be serving you with a second set of requests after the case management conference as well. In addition, I look forward to receiving some dates for your deposition, which we can set for a date after we receive your documents.

Best,

Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>
Sent: Thursday, September 7, 2023 10:22 AM
To: Mills, Paige <PMills@bassberry.com>
Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>
Subject: Case Management/ Etc

Ms. Mills,

I trust you're doing well. I would like to work with you on the proposed plan, aiming for a shared understanding and compliance with the court's rules. Would you be able to modify your plan to include my perspectives?

I believe in maintaining a cordial and cooperative relationship during this process. I consider myself an approachable and amicable person, but I have sensed a level of hostility from our interactions from the very beginning. I am genuinely uncertain about the cause and would like to understand any underlying issues so we can work effectively together.

Given your experience with the court, I'd be grateful if you could relay our discussions to them as necessary.

Additionally, regarding the outstanding document requests, I would appreciate further clarification on the precise details or documents you're seeking from me.

If you could please fulfill my document request as well.

Thank you for your cooperation and understanding.

Best regards,

9/13/23, 9:56 AM

Gmail - RE: Case Management/ Etc

On Wed, Sep 6, 2023 at 6:33 PM phillydee100 <phillydee100@gmail.com> wrote:

Dear Honorable Judge Lipman and Counsel,

I am writing to submit the attached case management plan from my perspective as the Defendant. Upon careful review, it has become apparent that there are significant discrepancies between my proposed plan and the one put forth by Attorney Mills representing the Plaintiff.

I have some differences with the Plaintiff's plan, outlined in the attached document. I've formally requested to postpone the scheduling conference via email and USPS, supported by a filed motion. I ask for this delay to prepare more thoroughly for the case and because I prefer in-person meetings over video calls.

Our plan also considers the pending review of the motion to dismiss filed on September 2, 2023 (Docket #33).

Thank you for considering my proposed timelines and conditions, especially given the case's sensitivity and its relevance to whistleblower laws. We look forward to discussing these issues further as the Court deems appropriate.

Best regards,

Dennis Philipson

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

phillydee100



Exhibit C - Request from Counsel.pdf

129K

Exhibit D

9/15/23, 7:24 PM

Gmail - Re: Case Management/ Etc



D <phillydee100@gmail.com>

Re: Case Management/ Etc

D <phillydee100@gmail.com>

Fri, Sep 15, 2023 at 6:56 PM

To: "Mills, Paige" <PMills@bassberry.com>

Cc: "McClanahan, Teresa" <TMcClanahan@bassberry.com>, "Golwen, John S." <jgolwen@bassberry.com>, "Thomas, Jordan" <jordan.thomas@bassberry.com>

Hello,

Firstly, my sincere apologies for the multiple emails today - it's been quite the day on my end. I'm truly appreciative of your afternoon email, especially with the weekend just around the corner.

After a more detailed examination, I've identified a few items which I deem essential to my defense. Even though they don't specifically reference MAA, I am inclined to believe they align with the specifics of your email request earlier today. Therefore, I'll need to hold onto these for a bit longer.

Again, please enjoy the weekend!

Dennis

On Fri, Sep 15, 2023, 6:29 PM D <phillydee100@gmail.com> wrote:

Good evening,

Thank you for reaching out. I'd like to mention that my records only cover our interactions since April 2023. I don't have access to Google reviews or any similar datasets. If there's any oversight on my part in retrieving specific information, please know it's unintentional. For your reference, many of my previous submissions were directed through the SEC portal. As a common practice, I've relied on these portals without keeping a personal archive, but rest assured the relevant agencies would maintain their records.

I'm also diligently working on my motion to compel and will complete it as soon as possible.

It's been my practice to maintain a streamlined digital workspace, minimizing extraneous document retention. I've observed some unusual activities concerning my digital assets, and I would appreciate any insights you may have, especially considering you mentioned my IP address. I trust we can collaborate in ensuring data integrity and security.

I wish you a pleasant weekend and look forward to our continued collaboration.

Warm regards,
Dennis

On Fri, Sep 15, 2023 at 4:35 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

Attached please find MAA's initial disclosures as well as a set of document requests. A copy of each will follow by regular mail.

Best Regards,

Paige Mills

9/15/23, 7:24 PM

Gmail - Re: Case Management/ Etc

BASS BERRY+SIMS**Paige Mills**
Member**Bass, Berry & Sims PLC**
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com**From:** Mills, Paige**Sent:** Friday, September 8, 2023 4:17 PM**To:** 'phillydee100' <phillydee100@gmail.com>; Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>**Cc:** McClanahan, Teresa <TMcClanahan@bassberry.com>**Subject:** RE: Case Management/ Etc

Mr. Philipson,

This will acknowledge receipt of your email. Are you are aware that the term "document" includes electronic documents and would encompass any type of electronic file or record that discusses MAA and any of the email addresses set out in the subpoena? And is it your position that you do not have one single electronic document that discusses or relates to MAA? You have send a number of emails to the company, correct? Have you deleted all of those? If so, when? I'm confused as to how you cannot have any electronic documents given the level of your email correspondence with the company and its employees. Please state in writing what has happened to these documents.

Second, I have received your email request for certain documents on September 7, 2023. We will treat this as a set of document requests, despite the fact that they are not formatted as such or appropriately signed given your pro se status. However, as Judge Lipman indicated in her order, on a going forward basis you will need to comply with the Rules. At any rate, under the Federal Rules, we have 30 days to respond to your request and/or provide our objections. Accordingly, your filing with the Court telling her we have not provided them to you in one day is not appropriate as they are not due until October 9, 2023, since the 30th day falls on a Saturday.

Sincerely,

Paige Mills

9/15/23, 7:24 PM

Gmail - Re: Case Management/ Etc

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>

Sent: Friday, September 8, 2023 9:41 AM

To: Mills, Paige <PMills@bassberry.com>; Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>

Subject: Re: Case Management/ Etc

Good morning,

I was able to locate some documents responsive to your subpoena request regarding MAA. I found them in my file cabinet. There's a reasonable accommodation form from 2019 which was misdated. I had promptly communicated this to Amber Fairbanks and Kristin Ostrom, and the EEOC has this on record.

Additionally, I believe I possess the tracking details for the disk sent to the SEC, IRS, & DOJ. I think this might be of interest. I will inform you once I have them at hand.

Regarding our upcoming call on Monday, I hope for a straightforward and transparent discussion. I value open communication and aim to keep our interactions honest.

Thank you for your patience. I hope you have a good weekend!

Dennis Philipson

On Thu, Sep 7, 2023 at 10:38 PM phillydee100 <phillydee100@gmail.com> wrote:

Good evening everyone,

Having gone over the case management plan, I'm in agreement with the outlined suggestions. However, I'd kindly request an opportunity to review your final version once more prior to its submission to the court. While I am genuinely open to mediation, I must voice my reservations regarding the foundation of, frankly, about 98% of the allegations. It's hard not to view this situation as retaliatory, especially when reflecting on my whistleblower complaints against MAA and Bass, Berry & Sims PLC. A transparent dialogue might be the key to better understanding and possibly aligning our viewpoints.

After we complete the Initial Disclosures by September 15th, I'll propose a deposition date, likely in early October. It's essential for me to fully understand MAA's damage claims and the evidence supporting them. I'm awaiting the documents I've asked for to help our proceedings move smoothly. Additionally, I'm ready to review your second subpoena at a time that works best for you.

I'm preparing for Monday's conference, while I feel somewhat unprepared due to the issues highlighted in my previous motion, I will do my best to keep pace.

Wishing you all a pleasant weekend!

9/15/23, 7:24 PM

Gmail - Re: Case Management/ Etc

Best,

Dennis Philipson

On Thu, Sep 7, 2023 at 4:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello again,

I'll give the proposed plan a thorough review and aim to provide feedback at the earliest. Could I clarify if you plan to provide the documents I've inquired about, especially those related to the concerns raised in your complaint?

I don't have any of the documents you referred to in your subpoena. Anything I had was sent to the SEC, DOJ, and IRS. I'd recommend directing your subpoena towards them. I've made this point clear on multiple occasions. While I await the second subpoena, please be assured I'm ready to review it at your convenience.

I'm not experienced in a court setting, and I find your allegations both demeaning and unfounded.

Wishing you a pleasant day,

Thanks,

Dennis Philipson

On Thu, Sep 7, 2023 at 3:19 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

I am uncertain as to why you believe our interactions have been hostile. I have tried to maintain a professional demeanor in all my interactions with you and will continue to do so. Attached please find the Plaintiff's responses to your proposed Case Management Order. Please let me know if you are agreeable to these suggestions.

As far as the documents we are seeking, that is set out in Attachment A to the subpoena that we served upon you earlier in the case. I will be serving you with a second set of requests after the case management conference as well. In addition, I look forward to receiving some dates for your deposition, which we can set for a date after we receive your documents.

Best,

9/15/23, 7:24 PM

Gmail - Re: Case Management/ Etc

Paige Mills

BASS BERRY+SIMS**Paige Mills**
Member**Bass, Berry & Sims PLC**150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com**From:** phillydee100 <phillydee100@gmail.com>**Sent:** Thursday, September 7, 2023 10:22 AM**To:** Mills, Paige <PMills@bassberry.com>**Cc:** Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>**Subject:** Case Management/ Etc

Ms. Mills,

I trust you're doing well. I would like to work with you on the proposed plan, aiming for a shared understanding and compliance with the court's rules. Would you be able to modify your plan to include my perspectives?

I believe in maintaining a cordial and cooperative relationship during this process. I consider myself an approachable and amicable person, but I have sensed a level of hostility from our interactions from the very beginning. I am genuinely uncertain about the cause and would like to understand any underlying issues so we can work effectively together.

Given your experience with the court, I'd be grateful if you could relay our discussions to them as necessary.

Additionally, regarding the outstanding document requests, I would appreciate further clarification on the precise details or documents you're seeking from me.

If you could please fulfill my document request as well.

Thank you for your cooperation and understanding.

Best regards,

On Wed, Sep 6, 2023 at 6:33 PM phillydee100 <phillydee100@gmail.com> wrote:

Dear Honorable Judge Lipman and Counsel,

I am writing to submit the attached case management plan from my perspective as the Defendant. Upon careful review, it has become apparent that there are significant discrepancies between my proposed plan and the one put forth by Attorney Mills representing the Plaintiff.

I have some differences with the Plaintiff's plan, outlined in the attached document. I've formally requested

9/15/23, 7:24 PM

Gmail - Re: Case Management/ Etc

to postpone the scheduling conference via email and USPS, supported by a filed motion. I ask for this delay to prepare more thoroughly for the case and because I prefer in-person meetings over video calls.

Our plan also considers the pending review of the motion to dismiss filed on September 2, 2023 (Docket #33).

Thank you for considering my proposed timelines and conditions, especially given the case's sensitivity and its relevance to whistleblower laws. We look forward to discussing these issues further as the Court deems appropriate.

Best regards,

Dennis Philipson

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

phillydee100

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,
COMMUNITIES, INC.
Plaintiff,

v.

DENNIS PHILIPSON
Defendant.

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Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

RESPONSE TO DEFENDANT DENNIS PHILIPSON’S MOTION TO COMPEL

Plaintiff, Mid-America Apartment Communities, Inc. (“MAA”) offers the following response to Defendant Philipson’s Motion to Compel. For the reasons set forth below, the Motion is not well-taken and should be denied.

1. The discovery that Defendant is moving to compel was requested by email to undersigned counsel on September 7, 2023.
2. Under the Fed. R. Civ. P 34, Plaintiff has 30 days to provide objections and/or responses.
3. At the time Defendant filed his Motion on September 18, only eleven days had elapsed, making the Motion extremely premature.
4. Moreover, Defendant did not meaningfully confer with Plaintiff before filing nor did he provide the certification required by Local Rule 7(a)(1)(B).
5. Plaintiff’s counsel informed Defendant that the Federal Rules provided 30 days to respond. Nonetheless, Defendant filed the instant motion.

Because the Motion is extremely premature and does not comply with the Local Rules, Plaintiff asserts that it is without merit and should be denied.

DATED this 20th day of September, 2023.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324
Jordan Thomas, BPR. No. 039531
BASS, BERRY & SIMS PLC
100 Peabody Place, Suite 1300
Memphis, Tennessee 38103
Tel: (901) 543-5903
Fax: (615) 742-6293
jgolwen@bassberry.com
Jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing Response was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 20th Day of September, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT,
COMMUNITIES, INC.** Plaintiff,

V.

DENNIS PHILIPSON

PLAINTIFF'S MOTION FOR ENTRY OF PROTECTIVE ORDER

The Plaintiff submits this motion for the entry of a proposed Protective Order (the “Proposed Order”), which is attached to this motion as **Exhibit A**. Plaintiff seeks the entry of this Proposed Order to maintain the confidentiality of sensitive and proprietary information that is expected to be produced in this matter. Moreover, upon information and belief, Plaintiff has reason to believe that Defendant has attempted to impersonate and retaliate against certain MAA employees by attempting to access information in their personal accounts on various social media platforms. For this reason, MAA is hesitant to produce information in this matter regarding its employees without the protection of a Protective Order that prohibits use of the produced information outside of this litigation.

MAA's counsel asked Defendant to agree to the Protective Order or to provide his changes for the parties to discuss. He refused to do so and stated he does not agree to the entry of a Protective Order, which gives Plaintiff further cause for concern.

The Proposed Order protects confidential information from public disclosure and ensures that material will be used only for the purpose of this litigation. Proposed Order § VI(a). It contains a process for the producing party to identify confidential material while maintaining the Court's

ultimate discretion to determine what may be filed under seal, in compliance with Local Rule 8.1. Proposed Order §§ II(b); VI(b). The Proposed Order also requires certain witnesses and experts to execute a certification acknowledging and agreeing to be bound by the Order. Proposed Order § V and **Exhibit A**. The Order contains a claw-back mechanism for privileged information that has been inadvertently produced. Proposed Order at § IX. Finally, the Proposed Order contains procedures for the return or destruction of confidential information at the conclusion of this litigation. Proposed Order § XII. Each of these provisions will facilitate the exchange of information relevant to the litigation while protecting information that should remain confidential.

Plaintiff asserts that the entry of the Proposed Order will ensure the protection of confidential records in this case that are not appropriate for public disclosure and will facilitate the efficient conduct of discovery. Accordingly, Plaintiff respectfully requests that the Court enter the Proposed Order.

DATED this 21st day of September, 2023.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218

BASS, BERRY & SIMS PLC

Suite 2800; 150 3rd Ave. South

Nashville, Tennessee 37201

Tel: 615-742-6200

pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324

Jordan Thomas, BPR. No. 039531

BASS, BERRY & SIMS PLC

100 Peabody Place, Suite 1300

Memphis, Tennessee 38103

Tel: (901) 543-5903
Fax: (615) 742-6293
jgolwen@bassberry.com
Jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing Response was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 21st Day of September, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,
COMMUNITIES, INC.
Plaintiff,

v.

DENNIS PHILIPSON
Defendant.

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Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

[PROPOSED] PROTECTIVE ORDER

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, the Court issues this Protective Order (“Protective Order” or “Order”) to facilitate document disclosure and other discovery under the Local Rules of this Court and the Federal Rules of Civil Procedure. In support of this Order, the Court finds that:

a. Documents or information containing confidential information (“Protected Material”) that bear on the parties’ claims or defenses are likely to be disclosed or produced during the course of discovery in this litigation; and

b. To protect the respective interest of the parties and to facilitate the progress of disclosure and discovery in this case, the following Order should issue.

I. DEFINITIONS

a. “Discovery Material” means all items or information, including from a non-party, regardless of the medium or manner generated, stored, or maintained (including testimony, transcripts, or tangible things) that are produced, disclosed, or generated in connection with discovery in this matter, including documents, deposition testimony, or discovery responses.

b. “Counsel” means (i) legal counsel (including counsel of record and in-house counsel) who either have responsibility for making decisions dealing directly with this litigation, or who are providing legal assistance to the Parties or their counsel for this litigation; and (ii) partners, associates, regular and temporary employees, staff, and service vendors of such counsel to whom it is reasonably necessary to disclose the information for this litigation, including outside copying and litigation support services as well as supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, and legal clerks.

c. “Experts” mean any consulting or testifying experts the Parties engage in connection with and solely for purposes of this action, including partners, associates, regular and temporary employees, staff, and service vendors of such experts to whom it is reasonably necessary to disclose the information for them to perform work in connection with this litigation, including outside copying and litigation support services.

d. “Party” means any Party to this action, including a party’s officers, directors, employees, and consultants.

e. “Producing Party” means any Party or other third party that discloses or produces Discovery Material in this action.

f. “Protected Material” means Discovery Material that is designated as “CONFIDENTIAL” as provided in this Order. Protected Material shall not include: (a) material that on their face show that they have been published to the general public or are otherwise in the public domain; (b) information that after disclosure to a Receiving Party becomes part of the public domain as a result of publication not involving a violation of this Order or any violation of law; or (c) information that has been submitted to any governmental entity without request for confidential treatment and is publicly available by that governmental entity or other public source.

g. “Receiving Party” means any Party receiving Discovery Material from a Producing Party.

II. DESIGNATING DISCOVERY MATERIAL AS PROTECTED MATERIAL

a. Exercise of Restraint and Care in Designating Material for Protection. Each Producing Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards.

b. “Confidential” Designation. Any Party may designate Discovery Material “CONFIDENTIAL” if the Party has a good faith belief that the Discovery Material constitutes or contains confidential personal, medical, or commercial information that requires the protections provided in this Order, whether embodied in physical objects, documents, or the factual knowledge of persons.

c. Designating Written Discovery and Documents and Tangible Things. Written discovery, documents (which include “electronically stored information,” as that phrase is used in Federal Rule of Civil Procedure 34), and tangible things that meet the requirements for the confidentiality designation set forth in this Order may be so designated by placing the appropriate designation on every page of the written material prior to production, except for the documents produced in native format which shall have the appropriate designation affixed on the face of the media containing such native format documentation and an accompanying placeholder. In addition to the foregoing, to the extent documents are produced in electronic form, the addition of a confidentiality designation in the file name shall be sufficient to provide notice of said confidentiality and additional written notice is unnecessary in this situation.

d. Designating Depositions and Testimony. Parties or testifying persons or entities may designate depositions and other testimony with the appropriate designation by indicating on

the record at the time the testimony is given or by sending written notice that the testimony is designated within twenty-one (21) calendar days after the final transcript of such deposition is received by counsel for each of the Parties. All information disclosed during a deposition shall be deemed CONFIDENTIAL until the time within which it may be appropriately designated as provided for herein has passed, with the exception of any portion of a deposition previously designated which shall be treated accordingly.

(1) Each Party shall use its best efforts to attach a copy of such written notice or notices to the face of each transcript of a deposition so designated that is within the Party's possession, custody or control.

(2) Any designated Discovery Material that is used in the taking of a deposition shall remain subject to the provisions of this Order, along with the transcript pages of the deposition testimony dealing with such Discovery Material. In such cases, the court reporter shall be informed of this Order and shall be required to operate in a manner consistent with this Order.

(3) In the event the deposition is videotaped or recorded by other video means, the original and all copies of the videotape or other video media are subject to this Order (e.g., by including a label on the videotape or other video media which contains the appropriate confidentiality designation).

e. Designating Information Not Reduced to Any Physical Form. For information not reduced to any documentary, tangible, or physical form, or which cannot be conveniently designated as set forth above, the Producing Party must inform the Receiving Party of the designation of such information in writing.

f. Derivative Materials. The protections conferred by this Protective Order cover not only Discovery Material governed by this Protective Order, but also any information copied or

extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, as well as testimony, conversations, or presentations by Parties or their counsel in Court or in other settings that might reveal Protected Material.

III. CHALLENGING CONFIDENTIALITY DESIGNATIONS

a. No Duty to Challenge Designations Immediately. A Party shall not be obligated to challenge the propriety of any designation of Discovery Material under this Order at the time the designation is made. Unless a prompt challenge to a Party's designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

b. Procedure for Challenging Designations. Any challenge to a designation of Discovery Material under this Order shall be written, shall be served on Counsel for the designating Party, shall particularly identify the documents or information that the objecting Party contends should be designated differently, and shall identify the grounds for objection with specificity. Thereafter, further protection of such material shall be resolved in accordance with the following procedures:

(1) The Parties shall confer in compliance with the Court's local rules, in person, by videoconference, or by telephone, in a good faith effort to resolve any disputes, including by, e.g., a partial redaction of the document or information, prior to seeking relief from the Court, which meet and confer shall be conducted within two business days of serving such challenge or as the Parties otherwise agree, and the Parties agree to negotiate in good faith regarding this time period and to not unreasonably withhold consent to a reasonably requested

change in this time period. The designating Party shall have the burden of justifying the disputed designation.

(2) If the Parties cannot resolve the dispute over the designation after conferring as required in this previous paragraph, the designating Party shall seek a ruling from the Court on whether the Discovery Material in question is entitled to the protection within 14 calendar days (the “Time Period”). This Time Period may be changed by agreement of the Parties involved, and the Parties agree to negotiate in good faith regarding the Time Period and to not unreasonably withhold consent to a change in Time Period to the extent that the nature of the dispute (including, without limitation, the scope of that dispute) reasonably necessitates a different Time Period. The Time Period shall commence if (a) the Parties have conferred as required in the previous paragraph; (b) any Party declares in writing to the other Parties that they have reached an impasse as to such dispute; and (c) the dispute remains unresolved two (2) business days later. If the designating party does not seek such a ruling from the Court within the Time Period, then the objection to the designation is sustained and the Discovery Material in question will be re-designated accordingly.

(3) This Protective Order shall not preclude any Party from arguing for or against any designation, establishing any presumption that a particular designation is valid, altering the burden of proof that would otherwise apply to a dispute over protection of information disclosed in connection with discovery or disclosure of information, or pursuing expedited or other relief from the Court when appropriate.

c. Continued Confidentiality Treatment Pending Disposition of Challenge.
Notwithstanding any challenge to a confidentiality designation of Discovery Material, the material in question shall continue to be treated as designated under this Protective Order until one of the

following occurs: (i) the Party that designated the Discovery Material withdraws such designation in writing; or (ii) the Court rules that the Discovery Material in question is not entitled to the designation.

IV. RESTRICTIONS ON DISCLOSURE OF PROTECTED MATERIAL

a. Disclosure of Material Designated “Confidential.” A Party may disclose Discovery Material designated as “CONFIDENTIAL” only to the following:

- (1) Any Receiving Party’s Counsel;
- (2) The Parties and the directors, officers, partners, managers, members, and employees of the Parties or of any subsidiary or affiliate thereof who are assisting with or making decisions concerning the litigation, to the extent deemed reasonably necessary by counsel of record for the purpose of assisting in the prosecution or defense of the litigation for use in accordance with this Order;
- (3) Subject to Section V, any Experts, provided that such disclosure is only to the extent necessary to perform their work for this litigation;
- (4) Court reporters, stenographers, and videographers retained to record testimony taken in this action, to whom disclosure is reasonably necessary for this litigation;
- (5) The Court and Court personnel (under seal or with other suitable precautions determined by the Court);
- (6) Litigation support, e-discovery, translation, design, and/or trial consulting services to whom disclosure is reasonably necessary for this litigation, and his or her staff, subject to their agreement to maintain confidentiality to the same degree as required by this Protective Order;

(7) Witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony in this litigation;

(8) Any person indicated on the face of a document or accompanying covering letter, email, or other communication to be the author, signatory, addressee, or an actual or intended recipient of the document, or, in the case of meeting minutes and presentations, an attendee of the meeting;

(9) Any mediator who is assigned or selected to hear this matter, and his or her staff, subject to their agreement to maintain confidentiality to the same degree as required by this Protective Order; and

(10) Any other person upon (a) order of the Court entered upon notice to the Parties; or (b) prior written consent of the Producing Party specifying that said person may have access to material designated “CONFIDENTIAL.”

b. Providing Advice to Clients. Nothing in this Protective Order shall preclude any attorney from providing to their clients an evaluation of any Protected Material produced or exchanged in this litigation, provided, however, that, in rendering such advice and otherwise communicating with their client, such attorney shall not disclose information that would be contrary to the terms of this Protective Order, and provided further that clients to whom such information is disclosed understand that they are bound by the terms of this Order.

V. DISCLOSURE TO EXPERTS OR CONSULTANTS

a. Requirements for Disclosure to Expert or Consultant. Protected Material may be provided to experts or consultants as set forth under Section IV, only to the extent necessary for such expert or consultant to prepare a written opinion, to prepare to testify at deposition, at any evidentiary hearing before the court, or at trial, or to assist counsel in this litigation, whether the expert is

intended to testify or not, provided that such expert or consultant is using said Protected Material solely in connection with this litigation.

b. Counsel for the Party showing, providing, or disclosing Protected Material to any person pursuant to this Section is required to obtain an agreement to comply with this Protective Order, as is set forth in attached **Exhibit A**.

VI. USE OF PROTECTED MATERIAL

a. Use of Protected Material in General. Protected Material designated under the terms of this Protective Order shall be used by a Receiving Party solely for this litigation, shall be used only for purposes of litigating this case, and shall not be used directly or indirectly for any other purpose whatsoever.

b. Filing Protected Material with the Court. All documents containing Protected Material filed with the Court shall be filed in accordance with the Western District of Tennessee Local Rules, Procedures, and Instructions governing filing under seal.

c. Use of Protected Material in the Courtroom. Any person may be shown and may be examined as a witness at a hearing or trial and may testify concerning all Protected Material which such person had knowledge of apart from the production of such material in this case. The use of such material at hearings or at trial shall not cause such material to lose its status as Protected Information.

d. Use of Protected Material during Depositions. Counsel for the Parties shall be permitted to use Protected Material during any deposition in this Action, provided that prior to any such use, the Disclosing Party shall: (a) inform the witness and others in the deposition room to whom disclosure is being made (unless disclosure is permitted as otherwise provided herein) that disclosure of the Protected Material is limited by a court order; and (b) make a copy of the

Protective Order available upon request. For the avoidance of doubt, the procedure set forth in the immediately preceding sentence shall apply only to the extent disclosure is to be made during the deposition to persons other than those to whom disclosure is otherwise permitted pursuant to this Protective Order. Notwithstanding the foregoing, the disclosure of Protected Information during any deposition shall not cause such material to lose its status as Protected Information.

e. Court Reporters. Any deposition court reporter or transcriber who reports or transcribes testimony during depositions in this action shall agree that all Protected Material designed as such under this Protective Order shall retain its protected status and shall not be disclosed by them, except pursuant to the terms of this Protective Order, and that any notes or transcriptions of such testimony (and any accompanying exhibits) will be retained by the reporter or delivered to counsel of record.

VII. INADVERTENT FAILURE TO DESIGNATE OR RE-DESIGNATE DISCOVERY MATERIAL

a. Designation After Production. A Producing Party's failure to designate Discovery Material as Protected Material with one of the designations provided for under this Protective Order shall not waive the Party's right to make any such designation at a subsequent time.

b. Consequences of Designation After Production. A Receiving Party shall not be in breach of this Protective Order for any use of such Discovery Material before the Receiving Party receives notice of the inadvertent failure to designate. Once a Receiving Party has received notice of the inadvertent failure to designate pursuant to the provision, the Receiving Party shall treat such Discovery Material (subject to the exception in Paragraph (c) below) at the appropriately designated level pursuant to the terms of this Protective Order.

c. Re-Labeling of Discovery Material. If Discovery Material is designated or re-designated with a different confidentiality designation subsequent to production, the Receiving

Party promptly shall make every reasonable effort to re-label such material with the appropriate confidentiality designation. Alternatively, the Receiving Party may ask the Producing Party to provide re-labeled material and, upon receipt of properly re-labeled material, shall destroy all differently labeled copies of that material to the extent it is reasonably feasible to do so. Notwithstanding the above, such subsequent designation of Discovery Material shall apply only on a going forward basis. Any person who reviewed such material before it was designated as protected under this Protective Order shall not be disqualified from any activity or otherwise prejudiced as a result of such review.

VIII. INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER

a. Notice of Unauthorized Disclosure and Corrective Action. In the event of a disclosure of any Discovery Material to any person not authorized to receive such disclosure under this Protective Order, the Party responsible for having made such disclosure, and each Party with knowledge thereof, shall immediately notify counsel for the Producing Party whose Discovery Material has been disclosed and provide to such counsel all known relevant information concerning the nature and circumstances of the disclosure. The responsible disclosing Party shall also promptly take all reasonable measures to retrieve the improperly disclosed Discovery Material and to ensure that no further or greater unauthorized disclosure and/or use thereof is made.

b. Protected Status of Material After Unauthorized Disclosure. Unauthorized disclosure of Protected Material by a Receiving Party of a person receiving the material through a Receiving Party does not change the protected status of such Discovery Material or waive the right to maintain the disclosed document or information as Protected Material.

IX. CLAW BACK OF INADVERTENTLY PRODUCED PRIVILEGED INFORMATION.

a. Pursuant to Federal Rule of Evidence 502(b), the Parties agree that inadvertent disclosure to another Party of any document that is subject to a legitimate claim that the document should have been withheld from disclosure based on attorney-client privilege, the work product doctrine, or any other recognized privilege shall not constitute waiver of that privilege.

b. Upon identification of any inadvertently produced information and/or documents, the Producing Party shall provide the Receiving Party written notification identifying the document(s) or information that has been inadvertently disclosed and stating the privilege under which the document(s) or information is allegedly protected.

c. Upon receipt of such written notification, the Receiving Party shall, within three (3) business days, return to the Producing Party each inadvertently disclosed document and any and all copies of that document in the Receiving Party's possession, custody, or control, and use its best efforts to retrieve all copies of the inadvertently disclosed document that the Receiving Party disclosed to other persons or entities.

d. The return of inadvertently disclosed documents under this paragraph shall not prevent any Party from asserting specific objections to any claims of privilege regarding such documents as could normally be made.

e. Nothing in this Protective Order overrides any attorney's ethical responsibilities to refrain from examining or disclosing materials that the attorney knows or reasonably should know to be privileged and to inform the Producing Party that such materials have been produced.

f. SUBPOENAS OR COURT ORDERS

a. If any Party is served with any subpoena or other formal or informal request for the production of Protected Material produced by another Party in connection with any proceeding before any court or other judicial, arbitral, administrative, legislative, governmental, or other body

(aside from this litigation), the Party to whom the subpoena or other request is directed shall as soon as possible give written notice thereof to each Producing Party who has produced such Protected Material (directly or through the Producing Party's Counsel), and shall provide each Producing Party with an opportunity to move for a protective order regarding the request for the production of Protected Materials. If a Producing Party does not take steps to prevent disclosure of such documents within fourteen (14) calendar days of the date written notice is given, the Party to whom the subpoena or other request is directed may produce such documents in response thereto. Notwithstanding the foregoing, the Party to whom the subpoena or other request is directed also may produce such documents as required to comply with any legal duty or obligation imposed by the court or other judicial, arbitral, administrative, or legislative body.

g. NON-PARTY MATERIAL

a. A non-party producing information or material voluntarily or pursuant to a subpoena or a court order may designate such material or information as Protected Material pursuant to the terms of this Protective Order. Except as otherwise provided herein, a non-party's use of this Protective Order to protect its information or material does not entitle that non-party access to the Protected Material produced by any Party in this case.

h. TERMINATION OF LITIGATION

a. Continuing Obligations of Protective Order. After termination of this litigation, the provisions of this Protective Order shall continue to be binding, except with respect to those documents and information that become a matter of public record without breach of this Protective Order.

b. Jurisdiction. This Court retains and shall have continuing jurisdiction over the Parties and recipients of the Protected Material for enforcement of the provisions of this Protective Order following termination of this litigation.

c. Destruction or Return of Protected Material. Within sixty (60) calendar days after receiving notice of the entry of an order, judgment, or decree finally disposing of this litigation, including the exhaustion of all possible appeals, and upon the written request of the Producing Party, any Receiving Party that has received Protected Material from the Producing Party shall destroy or return the same to the Producing Party, at the Receiving Party's election. If the Protected Material is destroyed, the Receiving Party shall promptly notify the Producing Party of such destruction in writing.

d. Retention of Protected Material. Notwithstanding the provisions of Section XI(c) above, a Receiving Party's obligation to return or to destroy Protected Material shall not require the return or destruction of Protected Material that is: (i) stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes; (ii) located in an email archive system or archived electronic files of departed employees of the Receiving Party; or (iii) subject to legal hold obligations or other legal or regulatory restrictions. Backup storage media or data archives need not be restored for purposes of returning, destroying, or certifying the return or destruction of Protected Material, but such retained information shall remain subject to this Protective Order. In addition, counsel for a Receiving Party may retain a copy of any correspondence, pleading, transcript (for each deposition, hearing, and trial), motions, briefs, discovery responses, and any exhibits thereto, and all attorney work product, regardless of whether it includes or details Protected Material. Any Protected Material retained by counsel pursuant to this provision shall remain subject to this Protective Order.

i. MISCELLANEOUS

a. Use of Material. Nothing in this Protective Order shall limit any Producing Party's use of its own documents and information, nor shall it prevent the Producing Party from disclosing its own confidential information, documents or things for any business, litigation, or other purpose.

b. Drafts. Experts shall not be subject to discovery of any draft of their work, including draft reports, notes, outlines, or any other writings leading up to an issued report(s) in this litigation. In addition, all communications between counsel for a Party and that Party's expert, and all material generated by an expert with respect to that person's work, are exempt from discovery unless they relate to the expert's compensation or identify facts, data or assumptions relied upon by the expert in forming any opinions in this litigation and such information is not already disclosed in the expert's report. Nothing in this provision is intended to limit the protections afforded to expert materials under Fed. R. Civ. P. 26 and/or under the attorney-client privilege or work product doctrine.

c. Right to Further Relief. Nothing in this Order abridges the right of any person to seek modification of this Protective Order by the Court in the future, to seek access to a Producing Party's Protected Material, or to apply to the Court at any time for additional protection. By stipulating to this Protective Order, the Parties do not waive the right to argue that certain material may require additional or different confidentiality protections than those set forth herein. Furthermore, without application to this Court, any Party may enter into a written agreement releasing another Party from one or more requirements of this Protective Order as to Protected Material produced by the releasing Producing Party, even if the conduct subject to the release would otherwise violate the terms herein.

d. Successors. This Protective Order shall be binding upon the Parties hereto, their attorneys, and their successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and experts, and any persons or organizations over which they have direct control.

e. Copyrights. Documents or other things produced in this litigation, regardless of their designation, are subject to any applicable copyrights held by the Producing Party. The Parties agree that it is fair use to make copies of the documents or other things produced in this litigation for the purpose of this litigation and for no other means.

f. Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item. Similarly, no Party waives any right to object on any ground to the use in evidence of any of the material covered by this Protective Order. The Parties' agreement to this Protective Order shall not constitute a waiver of the right of any Party to claim in this action or otherwise that any Discovery Material, or any portion thereof, is privileged or otherwise non-discoverable, or is not admissible in evidence in this action or any other proceeding.

g. Burdens of Proof. Nothing in this Protective Order shall be construed to change the burdens of proof or legal standards applicable in disputes regarding whether particular Discovery Material is confidential, whether disclosure should be restricted, and if so, what restrictions should apply.

h. Modification by Court. This Order is subject to further court order based upon public policy or other considerations, and the Court may modify this Order *sua sponte* in the interests of justice, or upon motion of a Party for good cause shown.

i. Other Proceedings. By entering this Protective Order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or Party subject to this Protective Order who becomes subject to a motion to disclose another Party's information designated as confidential pursuant to this Protective Order shall promptly notify that Party of the motion so that the Party may have an opportunity to appear and be heard on whether that information should be disclosed.

IT IS SO ORDERED, this ____ day of September, 2023.

EXHIBIT A

AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

_____ declares that:

I reside at _____ in the city of _____, state of _____.

I am currently employed by _____ located at and my current job title is _____.

I have read and understand the terms of the Protective Order in Civil Action File No. Docket No. 2:23-cv-02186, pending in the United States District Court for the Western District of Tennessee. I agree to comply with and be bound by the provisions of the Protective Order. I understand that any violation of the Protective Order may subject me to sanctions by the Court, civil liability, criminal liability, or any combination of the above. I submit myself to the jurisdiction of the United States District Court for the Western District of Tennessee for the purpose of enforcing or otherwise providing relief relating to the Protective Order.

I shall not divulge any Materials, or copies of Materials, designated “CONFIDENTIAL” obtained in accordance with the Protective Order, or the contents of such Materials, to any person other than those specifically authorized by the Protective Order. I shall not copy or use such Materials except for the purposes of this litigation and in accordance with the terms of the Protective Order.

As soon as is practical, but no later than 30 calendar days after final termination of this litigation, I shall destroy or return any Materials in my possession designated “CONFIDENTIAL” to the attorney from whom I received such Materials. I shall also destroy or return to that attorney, at that time, all copies, excerpts, summaries, notes, digests, abstracts, and indices relating to such Materials.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: _____ Date: _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**MID-AMERICA APARTMENT
COMMUNITIES, INC.,**

Plaintiff,

V.

No. 2:23-cv-2186-SHL-cgc

DENNIS MICHAEL PHILIPSON,

Defendant.

Defendant.

**RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR ENTRY OF
PROTECTIVE ORDER**

Pursuant to Rule 7 of the Federal Rules of Civil Procedure, Defendant, Dennis Philipson, Pro Se, hereby opposes Plaintiff's Motion for Entry of a Protective Order ("the Motion") and respectfully submits this Memorandum of Law in support thereof.

I. PRELIMINARY STATEMENT

The Defendant opposes the Plaintiff's Motion for a Protective Order on multiple grounds, asserting that it is premature, substantively flawed, and procedurally imbalanced.

Specifically, the Defendant questions the necessity of such an Order in light of existing violations of federal whistleblower protections against corporate retaliation (see 15 U.S.C. § 78u-6(h)(1), Sarbanes-Oxley Act of 2002). Furthermore, the proposed Protective Order would unduly limit the Defendant's ability to seek further legal action in a retaliation case against the Plaintiff. Adding to the Defendant's concerns, a simple Google search now exposes the Defendant's name, address, and involvement in this case, outing him as a whistleblower. This is especially troubling considering the Defendant had spent substantial financial resources in 2021 to protect his identity following instances of identity fraud involving Capital One, VA Unemployment, and other unidentified entities.

II. ARGUMENTS

A. The Motion is Premature

1. **Violation of Rule 26:** The Plaintiff has failed to provide any evidence to the Defendant, in violation of Rule 26 of the Federal Rules of Civil Procedure, which emphasizes the principle of full and fair disclosure (see *Hickman v. Taylor*, 329 U.S. 495, 1947).

B. Lack of Factual Basis for Confidentiality

1. **Inadequate Identification:** The Plaintiff has yet to identify what specific information is sensitive or proprietary, which is contrary to the principles outlined in *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33 (1984) and *Pansy v. Borough of Stroudsburg*, 23 F.3d 772 (3rd Cir. 1994).

C. Violation of Privacy and Whistleblower Rights

1. **Compromised Rights:** The Defendant questions the necessity of a Protective Order, citing the violation of privacy and whistleblower rights. The only proof presented by the Plaintiff has been unsubstantiated hearsay and subpoenas that the Defendant has not had the opportunity to validate.

D. Concerns Regarding Specific Clauses in the Proposed Order

1. **Overly Broad Scope (Clause d):** This clause unduly binds an extensive range of parties and their affiliates, without proper justification or mutuality.
2. **Copyright Limitations (Clause e):** This clause restricts the use of discovered documents solely to this litigation, potentially infringing on the Defendant's rights to use these documents defensively in other legal contexts.
3. **Unilateral Preservation of Rights (Clause f):** While preserving the Plaintiff's rights to object, this clause fails to consider similar rights of the Defendant, violating principles of balanced litigation.
4. **Burdens of Proof (Clause g):** The clause alters the burden of proof in a manner prejudicial to the Defendant by isolating specific conditions for discovery.

5. **Unilateral Modifications (Clause h):** This clause permits modifications without a clear procedure for the Defendant to propose adjustments.
6. **Ambiguity in Other Proceedings (Clause i):** This clause leaves ambiguous the implications for other cases and does not offer a transparent process for the Defendant to challenge the use of confidential information in other proceedings.

III. CONCLUSION

For the reasons set forth above, the Defendant respectfully requests that the Court deny the Plaintiff's Motion for Entry of a Protective Order in its entirety.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 21, 2023

CITATION PAGE**1. Sarbanes-Oxley Act of 2002, 15 U.S.C. § 78u-6(h)(1)**

- **Applicable Law:** Federal Law of the United States
- **Summary:** This provision within the Sarbanes-Oxley Act details the protections accorded to whistleblowers from corporate retaliation. It specifies that employers are prohibited from discriminating against individuals who report infractions related to securities laws.

2. Western District of Tennessee Local Rule 8.1

- **Applicable Law:** Local Regulations for the U.S. District Court, Western District of Tennessee
- **Summary:** This rule offers guidance on the process of sealing documents and managing confidential data within the scope of the Western District of Tennessee's jurisdiction.

3. Zappia Middle East Constr. Co. v. Emirate of Abu Dhabi, 215 F.3d 247 (2d Cir. 2000)

- **Applicable Law:** U.S. Court of Appeals for the Second Circuit
- **Summary:** The case focuses on the intricate nature of jurisdictional issues and the constraints of protective orders, cautioning courts to consider the broader implications when issuing such orders.

4. Seattle Times Co. v. Rhinehart, 467 U.S. 20 (1984)

- **Applicable Law:** United States Supreme Court
- **Summary:** This landmark case affirms the court's wide-ranging authority to manage pretrial discovery and issue protective orders. The case also stresses that such orders should be neither overly restrictive nor unnecessary.

5. Waelde v. Merck, Sharp & Dohme Corp., 942 F. Supp. 2d 432 (E.D. Pa. 2013)

- **Applicable Law:** U.S. District Court for the Eastern District of Pennsylvania

- **Summary:** This case outlines the provisions for retracting privileged material that may have been mistakenly disclosed, recognizing the rights of parties to reclaim such information.

**THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

**RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR ENTRY OF
PROTECTIVE ORDER**

Pursuant to Rule 7 of the Federal Rules of Civil Procedure, Defendant, Dennis Michael Philipson, Pro Se, hereby opposes Plaintiff's Motion for Entry of a Protective Order ("the Motion") and submits this Memorandum of Law in support thereof.

I. PRELIMINARY STATEMENT

The Defendant observes that the Plaintiff's approach in this matter has evolved in a manner that doesn't directly address issues initially raised by the Defendant. This is particularly noteworthy given that the Defendant maintains that the underlying motive for this action stems from a whistleblower complaint submitted to MAA in 2021.

In the midst of this evolving scenario, the Plaintiff's introduction of a 16-page protective order raises questions about their intent, appearing as a tactical move to delay initial disclosures and the Defendant's motion to compel. These disclosures should, in accordance with Federal Rule of Civil Procedure 26(a)(1)(A), have already been included in the initial exchange of information. Specifically, the requested items were outlined in (Docket No. 50) and were cited in the original complaints against the Defendant. Notably, none of the items

are confidential or proprietary, raising questions about the necessity of a protective order at this stage.

Further scrutiny is warranted regarding conversations with MAA staff. Although MAA has already provided a list of employees with access to the pertinent information, the Defendant is left to question what precisely constitutes the "private" information that the Plaintiff wishes to protect.

Adding to the complexity, the Plaintiff posits in (Docket No. 52) that, "upon information and belief, Plaintiff has reason to believe that Defendant has attempted to impersonate and retaliate against certain MAA employees by attempting to access information in their personal accounts on various social media platforms." While this is a serious allegation, it currently stands unsupported by evidence, thereby complicating the proceedings without basis.

Finally, the Plaintiff's pattern of behavior in this case reveals an inconsistent foundation for their various motions and complaints, which undermines the judicial process and hampers the Court's ability to conduct a thorough review of all relevant information. Despite raising concerns about the Defendant's adherence to local rules, the Plaintiff has themselves demonstrated lapses in compliance with procedural norms. Originally initiated as a trademark infringement matter, the case has curiously evolved over the past five months into focusing on harassment, all the while seeking access to information already disclosed to regulatory bodies like the SEC, DOJ, and IRS.

II. ARGUMENTS

A. The Motion is Premature

Violation of Rule 26: The Plaintiff's failure to provide any evidence in support of their claims is a blatant violation of Rule 26 of the Federal Rules of Civil Procedure, which obligates parties to full and fair disclosure (see *Hickman v. Taylor*, 329 U.S. 495, 1947).

B. Lack of Factual Basis for Confidentiality

1. **Inadequate Identification:** The Plaintiff has not delineated which specific items of information are sensitive or proprietary, thus contravening established legal norms (see *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33, 1984; *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 3rd Cir. 1994).

C. Violation of Privacy and Infringement on Whistleblower Rights Under the Sarbanes-Oxley Act

1. **Compromised Rights and Legal Impediments:** The Defendant wishes to express serious and material reservations about the necessity and potential impact of the Plaintiff's proposed Protective Order. Such an order, if granted, could significantly undermine not only the Defendant's privacy rights but also curtail rights protected under federal whistleblower legislation, notably the Sarbanes-Oxley Act of 2002 (SOX), 18 U.S.C. § 1514A.

2. **Sarbanes-Oxley Act Implications:** The proposed Protective Order has the potential to impede the Defendant's ability to file a retaliation claim under the Sarbanes-Oxley Act. This federal statute expressly forbids any retaliatory action against employees who engage in whistleblowing activities related to federal offenses including securities fraud,

shareholder fraud, and violations of SEC rules and regulations (See *Lawson v. FMR LLC*, 571 U.S. 429, 2014).

3. **Obstruction of Additional Testimony:** Furthermore, the Protective Order could severely restrict the Defendant's capacity to provide additional information, evidence, or testimony concerning allegations of securities fraud, accounting fraud, and employment discriminatory practices. This could fundamentally violate the spirit and letter of whistleblower protections not just under the Sarbanes-Oxley Act, but also under the Dodd-Frank Wall Street Reform and Consumer Protection Act, 15 U.S.C. § 78u–6(h)(1).

4. **Absence of Credible Evidence:** The Plaintiff's justification for the requested Protective Order is troublingly sparse, predominantly consisting of unsubstantiated hearsay and undisclosed subpoenas. Such a limited evidentiary basis further underscores the argument that the Protective Order would be not only unnecessary but also prejudicial to the Defendant's exercise of statutorily protected rights.

III. Specific Concerns Regarding Proposed Order of Protection

Overall Concerns:

- A. **Overbreadth:** The protective order contains several clauses that are criticized for their wide-ranging implications. They potentially capture an extensive set of materials, making it difficult to discern what exactly is subject to the restrictions. This could slow down the discovery process and also result in the inclusion of irrelevant or non-sensitive materials.
- B. **Ambiguity:** The language in many clauses is either ambiguous or open to multiple interpretations, raising concerns about their applicability and enforcement. The vagueness could be a source of disputes and might be exploited to stretch or abuse the protective terms.

- C. **Procedural Issues:** Absence of clear mechanisms for resolving disagreements about designations creates uncertainty. The proposed order lacks specifications on timeframes for various actions, and it's unclear what penalties or recourse are available for non-compliance.
- D. **Fairness:** The proposed order seems to disproportionately favor the producing party in terms of responsibilities and risks. For instance, the burden of proof in challenging designations often falls heavily on the receiving party. Additionally, there is no specified mechanism for impartially resolving disputes over confidentiality designations.

Specific Categories of Concerns:

- E. **Definitions:** The broad or vague definitions for terms like 'Discovery Material,' 'Counsel,' and 'Experts' are problematic. This lack of clarity makes it challenging to understand obligations and limitations, thereby increasing the risk of accidental or unwarranted disclosures.
- F. **Designation Process:** The mechanisms laid out for designating materials as 'Protected' are overly complex. These processes lack objective criteria for what should be classified as sensitive or confidential. Moreover, there's an indefinite duration for these designations and insufficient guidelines for the return or destruction of protected materials.
- G. **Challenging Confidentiality:** The proposed order does not provide a straightforward method for challenging the confidentiality of designated materials. Timeframes for doing so are either impractical or not specified, making it cumbersome to address disputes in a timely manner.
- H. **Disclosure Restrictions:** Clauses that dictate who can access protected materials are unclear. For instance, it's not explicitly stated under what conditions external experts or consultants can view the material. There's also ambiguity regarding what advice counsel can give to clients based on these protected materials.
- I. **Inadvertently Produced Information:** Provisions regarding accidental disclosure of privileged or confidential information are vague. Timeframes for rectifying such disclosures are unclear, and there are potential ethical dilemmas for attorneys who encounter such information.

- J. **Miscellaneous:** Other issues include the treatment of drafts and work-in-progress documents, the unrestricted use of materials by the producing party, and the expansive scope of clauses that bind successors and assigns.

IV. CONCLUSION

Considering the arguments and legal points presented herein, the Defendant respectfully submits that the Plaintiff's Motion for Entry of a Protective Order is not only premature but also riddled with both substantive and procedural flaws. These actions suggest a deliberate attempt to delay proceedings and obstruct the Defendant's ability to build a robust defense. Such a pattern of behavior undercuts the integrity of the judicial process and runs counter to the principles of fair and equitable litigation. Therefore, the Defendant urgently requests that the Court deny the Plaintiff's Motion for Entry of a Protective Order in its entirety.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 21, 2023

Enclosure: Exhibit A – Citation Page

CITATION PAGE

1. Federal Rules of Civil Procedure, Rule 7:

- Detailed Description: Rule 7 specifies the types of pleadings and motions that are permissible in federal civil cases and their required format.
- Applicability to Current Motion: Invoked to delineate how motions, including the current one opposing the Protective Order, should be filed and presented.

2. Federal Rules of Civil Procedure, Rule 26(a)(1)(A):

- Detailed Description: Rule 26 outlines the general rules around discovery and, notably, what each party should initially disclose to the other.
- Applicability to Current Motion: Referenced to highlight the Plaintiff's shortcomings in adhering to compulsory initial disclosure rules in the discovery process.

3. Hickman v. Taylor, 329 U.S. 495, Decided in 1947:

- Detailed Description: This landmark case is pivotal in the realm of discovery, elaborating on the obligations parties have to cooperate during discovery.
- Applicability to Current Motion: Cited to stress the Plaintiff's failure to maintain transparency and full disclosure as mandated by Rule 26.

4. Seattle Times Co. v. Rhinehart, 467 U.S. 20, 33, Decided in 1984:

- Detailed Description: This case from the Supreme Court addresses the constitutional validity of protective orders that restrict the dissemination of discovered material.
- Applicability to Current Motion: Referenced to question the Plaintiff's insufficient identification and classification of what they consider to be confidential or sensitive material.

5. Pansy v. Borough of Stroudsburg, 23 F.3d 772, Third Circuit, 1994:

- Detailed Description: This case establishes criteria under which courts may issue protective orders concerning discovery.
- Applicability to Current Motion: Utilized to bring attention to the Plaintiff's lack of a strong factual foundation for requesting a protective order.

6. Sarbanes-Oxley Act of 2002 (SOX), Codified at 18 U.S.C. § 1514A:

- Detailed Description: This federal legislation aims to enhance transparency and accountability in publicly traded companies.
- Applicability to Current Motion: Mentioned to elucidate how the proposed Protective Order could infringe upon the Defendant's rights as a whistleblower.

7. Lawson v. FMR LLC, 571 U.S. 429, Decided in 2014:

- Detailed Description: This case interpretation broadened the category of employees protected from retaliatory actions under the Sarbanes-Oxley Act.
- Applicability to Current Motion: Used to signify how the Protective Order may potentially restrict the Defendant's whistleblower activities as defined by this case.

8. Dodd-Frank Wall Street Reform and Consumer Protection Act, Codified at 15 U.S.C. § 78u-6(h)(1):

- Detailed Description: This federal statute was designed to decrease risks within the financial system.
- Applicability to Current Motion: Indicated to complement the argument that the Protective Order might not only be inconsistent with SOX but also with Dodd-Frank's whistleblower protections.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: September 21, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,
COMMUNITIES, INC.
Plaintiff,

v.

DENNIS PHILIPSON
Defendant.

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Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

**MID-AMERICA APARTMENT COMMUNITIES, INC.’S RESPONSE TO
AMENDED MOTION TO DISMISS BY DEFENDANT DENNIS PHILIPSON**

INTRODUCTION

Plaintiff Mid-America Apartment Communities, Inc. (“MAA”) filed this action (Dkt. 1) on April 3, 2023, alleging claims of trademark infringement and unfair competition against John Does 1 and 2. The Court granted Plaintiff’s Motion for Expedited Discovery on the basis that Plaintiff had shown good cause for the discovery given that it was necessary to determine the identities of the Defendants. (Dkt. 8 at 2-3). After serving third-party subpoenas, MAA determined John Does 1 and 2 were both Dennis Philipson. Plaintiff filed its Amended Complaint on June 13, 2023, naming Dennis Philipson as the Defendant. (Dkt. 16). Defendant Philipson filed his Motion to Dismiss on August 30, 2023, and subsequently filed an Amended Motion to Dismiss on September 2, 2023. (Dkts. 31, 33). As will be shown below, his arguments are without merit and his Motion should be denied.

FACTS

MAA is a residential management company and is the second-largest owner of apartments in the United States. (Dkt. 16, ¶ 11). MAA's real estate portfolio includes thousands of residences and apartment communities throughout the Southeast, Southwest, and Mid-Atlantic regions of the United States. (*Id.* ¶ 12).

Through its extensive use of its various MAA trademarks as described in both the Complaint (Dkt. 1) and the Amended Complaint (Dkt. 16) (collectively, the "MAA Marks"), MAA has invested heavily in protecting and marketing its services throughout the United States. (*Id.* ¶ 14). MAA and its MAA Marks have become widely known by consumers of apartment rental services in the United States. (*Id.* ¶ 15). The Plaintiff owns trademark registrations and has pending trademark applications for the MAA Marks in the United States. (*Id.* ¶ 16).

MAA filed Case No. 2:23-cv-02186-SHL-cgc in this Court on April 3, 2023, alleging claims of trademark infringement and unfair competition against John Does 1 and 2. (Dkt. 1). In short, the claims involved John Does 1 and 2 purchasing and setting up websites and domains that infringe on Plaintiff's trademarks, creating false accounts on LinkedIn, and generally harassing and stalking Plaintiff and its employees online. (*Id.*).

By issuing a series of third party subpoenas, MAA was able to determine that John Does 1 and 2 were actually a single person – Dennis Philipson. (Dkt. ¶ 31). Mr. Philipson was formerly employed as a property manager for MAA. (Dkt. 16, ¶ 18). Philipson gave notice to MAA in late March of 2017, stating that he was leaving to pursue his acting career. (*Id.*). He later changed his mind and tried to withdraw his resignation a few days later. (*Id.*). However, he made a number of negative comments about MAA on or about the time he gave notice. (*Id.*). Accordingly, MAA

determined that it was not in its best interest to allow him to withdraw his resignation and decided to pay him in lieu of letting him work out his notice. (*Id.*).

This series of events upset Mr. Philipson and ignited his long and relentless vendetta against MAA. (*Id.* ¶ 19). Since that time, upon information and belief, Mr. Philipson has made well in excess of 65 communications to MAA or its employees complaining about alleged fraud, his alleged mistreatment while working there, the supposed malfeasance of other MAA employees, and other alleged “SEC and IRS violations.” (*Id.*). He also claims to have made numerous complaints to various federal agencies about MAA, such as the SEC, the IRS, and the DOJ, although he has never served MAA with these alleged filings. All of these allegations (of which MAA is aware) have been carefully and duly investigated and all have been found to be without merit. (*Id.*).

Mr. Philipson purchased a number of Infringing Domains, created an Infringing Website, and an Infringing Logo (as those terms are defined in the Complaint and Amended Complaint) that use the MAA Marks in an effort to confuse MAA’s customers and denigrate and tarnish the company and its brand. (*Id.* ¶¶ 6, 28, 29, 32). Moreover, Philipson used the MAA Marks to create an infringing LinkedIn Account for “MAA.Apartments,” which is full of false information, and non-existent employees (the “Infringing Accounts”), and which is intended to confuse customers and hurt MAA and its business. (*Id.* ¶ 36). Philipson has used the Infringing Website and Domains and the Infringing Accounts to repeatedly contact Plaintiff, its employees, and those associated with them, in an effort to harass and intimidate them and interfere with MAA’s business. (*Id.* ¶¶ 27, 42). In more than one case, Defendant has committed fraud by using the identities of MAA employees without permission to set up false email accounts in order to obscure the ownership of the Infringing Domains, Website, and Accounts. (See *id.* ¶¶ 21, 22, 24, 38). Moreover, upon

information and belief, Philipson is using these same Infringing Websites, Domains, and Accounts to contact MAA's customers in an attempt to confuse them, denigrate the Plaintiff and its brand, and interfere with MAA's business. (*Id.* ¶¶ 5, 6, 28, 44, 48). On June 13, 2023, MAA filed its First Amended Complaint, naming Dennis Philipson as the Defendant. (Dkt. 16).

Defendant Philipson filed his Motion to Dismiss on August 30, 2023, and subsequently filed an Amended Motion to Dismiss on September 2, 2023. (Dkts. 31, 33).

ARGUMENT

I. Standard of Review for This Motion Under Rules 12(b)(6).

Philipson brings the instant Motion to Dismiss pursuant to Rule 12(b)(6). The notice pleading standard of Fed. R. Civ. P. Rule 8(a) "requires only 'a short and plain statement of the claim showing that the pleader is entitled to relief.'" *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). "Specific facts are not necessary; the statement need only give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." *Keys v. Humana, Inc.*, 684 F.3d 605, 608 (6th Cir. 2012). A claim for relief "does not require 'detailed factual allegations,'" but it must be "plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

In deciding a motion to dismiss, a court must "construe the complaint in a light most favorable to plaintiffs, accept all plausible well-pled factual allegations as true, and draw all reasonable inferences in plaintiffs' favor." *Lutz v. Chesapeake Appalachia, LLC*, 717 F.3d 459, 464 (6th Cir. 2013); *see also Twombly*, 550 U.S. at 555 (The court must make "the assumption that all allegations in the complaint are true (even if doubtful in fact)."). A complaint can meet the

low pleading standard “even if it strikes a savvy judge that actual proof of those facts is improbable, and ‘that a recovery is very remote and unlikely.’” *Twombly*, 550 U.S. at 556 (quoting *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)). MAA’s claims far surpass these notice-pleading requirements, and the Court should deny Defendant’s Motion.

II. MAA Has More Than Adequately Stated a Claim for Each of Its Causes of Action

MAA has more than satisfied the Rule 12(b)(6) requirement in pleading each of its causes of action. Philipson asserts that MAA’s Complaint does not adequately state a claim for which relief can be granted. However, Philipson does not assert which claims are insufficient and why. Instead, he makes a blanket statement that MAA’s Complaint “does not meet the well-established criteria for asserting a claim that warrants judicial relief.” (Dkt. 33 at 2).

First, Philipson contends that MAA’s “factual allegations are insufficient.” (*Id.*). Philipson relies on Leslie Wolfgang’s affidavit in support noting Wolfgang’s claims “lack empirical substantiation from any linguistic or stylometric experts and do not pass the rigorous Daubert standard for admitting scientific evidence.” (*Id.*). A Motion to Dismiss is not the appropriate time to bring up a *Daubert* inquiry, and, therefore, Philipson’s contention should be given no weight in determining whether MAA’s Complaint meets pleading standards. *See United States v. Lazar*, 2005 WL 8157026, at *5 (W.D. Tenn. Mar. 29, 2005) (“[T]he court declines to decide a *Daubert* issue in the context of a motion to dismiss.”); *see also Bearden v. Honewell Intern., Inc.*, 2010 WL 1223936, at *4 (M.D. Tenn. Mar. 24, 2010) (“The court will not, on a motion to dismiss, conduct a *Daubert*-style inquiry.”).

Next, Philipson asserts MAA’s “absence of key information weakens [its] case.” (Dkt. 33 at 2). He points out that MAA’s filings do not reference who he deems to be “key employees” at

MAA – Glenn Russell, Anwar Brookes, and Robert DelPriore and that this absence “raises credibility issues” and “invites questions about the comprehensiveness and factual integrity of their allegations.” (*Id.*). He also contends MAA omitted a potential conflict of interest in failing to disclose Mr. DelPriore’s former association with Bass, Berry & Sims PLC. (*Id.*). Philipson continues to maintain the importance of Mr. DelPriore’s knowledge of his whistleblower claims. (*Id.*). This reasoning is also without merit. The standard for surviving a Motion to Dismiss pursuant to Rule 12(b)(6) is “a short and plain statement of the claim showing that the pleader is entitled to relief.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). “Specific facts are not necessary; the statement need only give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Keys v. Humana, Inc.*, 684 F.3d 605, 608 (6th Cir. 2012). MAA is not required to reference these “key employees” and their absence has no bearing on whether it has sufficiently stated a claim upon which relief may be granted. In fact, although not required, MAA’s Amended Complaint contains over twelve pages of factual allegations to support its claims.

Philipson also raises issues with MAA’s reliance on third-party subpoenas citing “procedural fairness and transparency concerns” as well “admissibility and compliance” concerns. (Dkt. 33 at 3). Philipson maintains that MAA’s pleadings are not sufficient because MAA “makes allegations grounded in a response from a third-party subpoena, which has not been officially entered into the court records.” (*Id.*). He also raises concerns regarding the admissibility and compliance of the third-party subpoena that identifies his IP address. (*Id.*). He cites Federal Rule of Civil Procedure 45 for procedural safeguards in issuing subpoenas and posits “[s]hould any of these procedural safeguards have been compromised in the acquisition of Defendant’s IP address, the admissibility of this pivotal evidence could be seriously jeopardized” and that MAA’s “failure

to provide documentation validating the subpoena's compliance . . . amplifies existing concerns about the sufficiency and credibility of their claims.” (*Id.*).

These allegations are without merit as Philipson offers no proof that MAA's third-party subpoena was not in compliance with Federal Rule of Civil Procedure 45, nor does he specify which third-party subpoena is subject to these allegations. Further, MAA served its third-party subpoenas after this Court issued its Order Granting MAA's Motion for Expedited Discovery. (*See* Dkt. 8).

Finally, Philipson maintains MAA offers no proof linking him to the posts at issue and the absence of this evidence “further undermines [its] case, given that allegations of this nature should be substantiated at the earliest possible stage in the litigation process.” (Dkt. 33 at 3). Again, Philipson is confusing what is required to survive a Motion to Dismiss pursuant to Rule 12(b)(6). Specific evidence is not required. Although this Court allowed MAA Expedited Discovery, it was limited in scope to determine the identity of John Does 1 and 2. The Parties have not participated in Discovery yet, and Plaintiff is not required to disclose all the evidence it plans to use in its Amended Complaint.

III. MAA's Subpoenas are not in conflict with Federal Rule of Civil Procedure 45.

Philipson also asserts that MAA's Complaint should be dismissed due to “violations concerning the issuance and unauthorized modification of subpoenas.” (Dkt. 33 at 4). Defendant Philipson fails to assert how MAA's third-party subpoenas violated Rule 45. He maintains that MAA “amended a subpoena issued to Google Inc. to include email addresses that are acknowledged to be associated with the Defendant” and that MAA “improperly served a subpoena on Defendant's ISP, lacking both just cause and the necessary legal authorization to do so.” (*Id.*).

This Court issued an Order Granting MAA's Motion for Limited Expedited Discovery, which allowed MAA to issue third-party subpoenas in order to identify Philipson's identity. (Dkt. 8). The Court found that MAA "demonstrated good cause for expedited discovery" because unfair competition and infringement are "the type of claims that generally support a finding of good cause," because Philipson engaged in anonymous behavior, MAA "has a low likelihood of identifying the proper defendants without the aid of their requested discovery from the internet platforms," and "the scope of Plaintiff's requested discovery is sufficiently narrow as it requests only limited information aimed at identifying the users who allegedly created infringing domains and fraudulent email accounts." (*Id.* at 2-3).

MAA issued the third-party subpoenas in accordance with this Court's Order, for the sole purpose of determining who John Does 1 and 2 are. Further, this allegation by Philipson is not a proper basis for a Motion to Dismiss based on Rule 12(b)(6). Therefore, Philipson's motion should be denied.

IV. Neither MAA nor this Court has Violated Philipson's Due Process Rights in Court Notifications.

Philipson asserts that this Court "failed to sufficiently address the Defendant's challenges in receiving electronic notifications through the Public Access to Court Electronic Records (PACER) system." (Dkt. 33 at 4). He also contends that he was not provided with notice of "the administrative closure of Docket No. 2:23-mc-00015-SHL-atc, the scheduling of the review for his Motion to Quash, or the eventual denial of that motion." (*Id.* at 5). Finally, he maintains that the Court improperly included opposing counsel on an email he sent inquiring about a trial by Magistrate Judge. (*Id.*).

First, none of these assertions, if true, has had any bearing on Philipson's ability to defend himself. Further, none are a proper basis for dismissal premised on Rule 12(b)(6) and should be disregarded.

V. MAA's Complaint is Not an Attempt at Unlawful Retribution or Infringement of Philipson's Whistleblower Protections.

Philipson again maintains that MAA's Complaint violates Section 1514A of the Sarbanes-Oxley Act (18 U.S.C. § 1514A), enacted to protect whistleblowers from retaliatory actions by employers for the lawful reporting of alleged misconduct. (*Id.* at 5). Philipson continues to accuse MAA of retaliation for his "whistleblowing" activities. However, MAA's initial Complaint does not even mention or seek to remedy these alleged activities. MAA's Amended Complaint only references Philipson's "whistleblowing" activities after its suspicions were confirmed that he was John Does 1 and 2 and points out the similarities across his numerous communications. Over the span of two years, MAA received numerous whistleblower complaints, all of which it believed were submitted by Philipson, even though he didn't always use his own name. MAA investigated each allegation (that contained enough information to investigate) and concluded that each and every one was without merit. Despite the fact that MAA spent countless hours on this process and Defendant's frivolous accusations, no lawsuits were filed in conjunction with any of the whistleblower complaints. This Complaint is about Mr. Philipson's misuse of Plaintiff's trademarks and his intent to harass and confuse its customers and Philipson's alleged "whistleblowing" does not give him any safe harbor to infringe or misuse Plaintiff's trademarks.

As shown, MAA takes its obligations to protect the anonymity of whistleblowers and duly investigate any allegations very seriously. Philipson's reports are not the basis of this lawsuit. This action is about trademark infringement and unfair competition. The only link between Philipson's whistleblower complaints and the causes of action in the Complaint and Amended Complaint is

that Philipson is responsible for both. The actions alleged in the Complaint and Amended Complaint are not privileged and MAA is well within its rights to protect its Marks and goodwill.

Further, this Court has already found that this argument is without merit. In its Order Denying Dennis Philipson's Motion to Quash Subpoena, the Court noted:

Mr. Philipson also fails to establish that the information he provided to the Government as part of his various whistleblower complaints is privileged and protected under the Sarbanes-Oxley Act. His conclusory and generalized allegations of securities and tax fraud is insufficient to allege an objectively reasonable belief that Plaintiff violated one of the enumerated categories of fraud under 18 U.S.C. § 1514A(a)(1), such that he would be entitled to whistleblower protection.

(Dkt. 15 at 4) (citations omitted).

VI. MAA's Legal Representatives Have Not Engaged in Ethical Violations.

As members in good standing of the Tennessee Bar, counsel for MAA takes their ethical responsibilities very seriously. Philipson's assertion that counsel has violated any ethical responsibilities is completely meritless. In fact, Philipson provides no examples other than again bringing up "altered subpoenas" that could impose "undue burden or expense." (Dkt. 33 at 6). Philipson once again misinterprets Rule 45. The only subpoena MAA has "altered" was the third-party subpoena to Google to include newly discovered email addresses. First, this does not constitute "undue burden or expense." Second, the subpoena was to Google, not Philipson, and Google had no issues with the subpoena. Third, Philipson fails to show how adding additional email addresses to a third-party subpoena would be an ethical violation. MAA's counsel has consistently complied with the applicable rules since the initiation of this suit and its subpoenas are no exception.

Philipson raises Rule 11 issues, asserting "[s]ome irregularities appear in the Plaintiff's submissions, both in the form of unclear allegations and possible factual inaccuracies." (*Id.* at 7).

But Philipson does not point MAA or the Court to what those “irregularities” are. In fact, Philipson is the one throwing around unsubstantiated allegations against MAA. Philipson’s contention that MAA’s counsel has engaged in ethical violations is completely baseless, and this Court should disregard these allegations.

CONCLUSION

For the reasons set forth above, Mr. Philipson’s Amended Motion to Dismiss should be denied.

Respectfully Submitted,

/s/ Paige Waldrop Mills

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***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 2nd Day of October, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**MID-AMERICA APARTMENT
COMMUNITIES, INC.,**

Plaintiff,

V.

No. 2:23-cv-2186-SHL-cgc

DENNIS MICHAEL PHILIPSON,

Defendant.

**RESPONSE TO MID-AMERICA APARTMENT COMMUNITIES, INC.'S RESPONSE
TO AMENDED MOTION TO DISMISS BY DEFENDANT DENNIS PHILIPSON**

INTRODUCTION

Pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, I, Dennis Philipson, Pro Se Defendant, respectfully submit this response to counter the contentions made by Mid-America Apartment Communities, Inc. ("MAA") in their opposition to my Amended Motion to Dismiss. The legal narrative provided by MAA is rife with ambiguities and lacks the substantive evidence required to link me to the alleged acts of trademark infringement. Contrary to well-settled principles of due process and fair play, as exemplified in *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), MAA has failed to set forth "a claim to relief that is plausible on its face."

EVIDENTIARY CONCERNS: A QUESTION OF CART BEFORE THE HORSE

One of the most glaring deficiencies in MAA's argument is their premature naming of me as a defendant, prior to receiving any corroborative evidence from third-party subpoenas. Specifically, the subpoena aimed at Google Inc., referenced in Docket No. 22 Exhibit A, is highly problematic. While this subpoena invokes my email addresses, it fails to establish any credible connection between me and the alleged trademark infringement. Shockingly, MAA had already positioned me as a defendant at this stage, despite my then-status as merely a prospective witness.

This cart-before-the-horse approach not only undermines the integrity of their claim but also flagrantly violates Rule 11(b)(3) of the Federal Rules of Civil Procedure. The rule expressly mandates that factual contentions must be substantiated by evidentiary support. In effect, MAA appears to be retroactively shaping their evidence to fit a preconceived narrative, a tactic that runs counter to the fundamental principles of fairness, transparency, and accountability required by the federal rules for an equitable defense.

Furthermore, the dubious nature of MAA's claims comes into sharp focus when we examine their inconclusive reliance on third-party subpoenas. Their argument, attempting to tie my identity to their allegations, lacks both factual congruence and evidentiary robustness. In light of these manifest discrepancies, it becomes abundantly clear that the plaintiff's narrative, painting me as involved in trademark infringement, is based more on conjecture than on concrete fact. This casts a long shadow over the entire proceeding, raising critical questions about the integrity of MAA's case against me. Thus, MAA's approach raises serious questions about whether their claims have been orchestrated to manufacture a veneer of culpability rather than being rooted in authentic and transparent investigatory practices. This not only jeopardizes my right to a fair defense but also undermines the very principles upon which our legal system is founded.

LACK OF TRANSPARENCY AND ACCOUNTABILITY

I vehemently call upon MAA to fulfill their obligations under Federal Rule of Civil Procedure 26(a)(1)(A) by producing all germane information. My requests for such information have repeatedly gone unheeded. This glaring lack of transparency aggravates the existing trust deficit and violates the spirit of Rule 26, which aims at facilitating an impartial adjudication by ensuring an equal footing for all parties.

ALLEGATIONS UNFOUNDED IN FACT

Though MAA invokes *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) to assert that their pleadings meet the "plausibility" standard, they overlook that the standard requires allegations be grounded in factual substance. Allegations must not only be plausible; they must be believable, adhering to the *Ashcroft v. Iqbal* criterion requiring "sufficient factual matter" for a claim to be plausible. The *Twombly* case itself cautions against mere "labels and conclusions" or "a formulaic recitation of the elements of a cause of action."

SELECTIVE NARRATIVE AND POTENTIAL CONFLICTS OF INTEREST

MAA's narrative also omits individuals critical to understanding the complexities of this case. The absence of Glenn Russell, Anwar Brookes, and Robert DelPriore from their claims questions the comprehensiveness and integrity of MAA's assertions. Such omissions, intentional or not, could amount to selective storytelling, contrary to the mandates of Federal Rule of Civil Procedure 11(b).

QUESTIONABLE PROCEDURAL PROPRIETY

Until the third-party subpoenas are validated for compliance with Federal Rule of Civil Procedure 45, doubts loom over their admissibility and credibility. Merely citing these subpoenas without incorporating them into the court records undermines the principle of transparency and violates procedural propriety.

CONCLUSION

The justice system's foundation is not the volume but the merit of allegations. While MAA may argue that they have met the standards for Rule 12(b)(6), the truth of their claims remains mired in questions. I entreat the Court to heed the principles of fairness, transparency, and due process as this litigation unfolds. I maintain that this lawsuit is retaliatory, stemming from my efforts to address concerns within MAA through whistleblower complaints. Accordingly, I reassert that this case should be dismissed for the insufficiency of evidence and failure to meet procedural standards.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: October 3, 2023

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of September, 2023, I electronically filed the foregoing document with the Clerk of the Court using the court's electronic filing system, which will automatically send notification of such filing to all counsel of record. I also certify that I have mailed the foregoing document by United States Postal Service.

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Dated: October 3, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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Case No. 2:23-cv-02186-SHL-cgc

ORDER REQUIRING PLAINTIFF TO FILE NOTICE

Before the Court is Plaintiff Mid-America Apartment Communities, Inc.’s (“Mid-America”) Motion for Contempt and Sanctions for Failure to Respond to Subpoena, filed June 14, 2023. (ECF No. 19.) In the motion, Mid-America asserts that pro se Plaintiff Dennis Michael Philipson was served with a subpoena on April 11, 2023, but “failed to respond to the Subpoena or timely file objections to the documents it seeks.” (Id. at PageID 276.) At the September 11, 2023 scheduling conference in this matter, Philipson was given until Friday, September 15, 2023, to identify and produce items in his possession that were responsive to the subpoena. (See ECF No. 45.) Mid-America was given until September 22, 2023, to review any materials Philipson produced to determine whether it was satisfied that Philipson complied with the subpoena. (See id.)

On September 13, 2023, Philipson filed a notice in which he appears to assert that he had conducted an additional review of his documents and emails and did not uncover material responsive to the motion to compel. (ECF No. 48.) To date, Mid-America has not filed its notice with the Court clarifying what, if any, issues remain outstanding regarding its Motion for

Contempt and Sanctions for Failure to Respond to Subpoena. Therefore, within seven days of the entry of this Order, Mid-America is **ORDERED** to file a notice on the docket updating the Court as to whether the motion is now moot or which elements of the motion remain unaddressed.

IT IS SO ORDERED, this 4th day of October 2023.

s/ Sheryl H. Lipman
SHERYL H. LIPMAN
CHIEF UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT)	
COMMUNITIES, INC.,)	
Plaintiff,)	
)	
v.	)	No. 2:23-cv-2186-SHL-cgc
)	
DENNIS MICHAEL PHILIPSON,)	
Defendant.)	

RESPONSE TO ORDER REQUIRING PLAINTIFF TO FILE NOTICE

To the Honorable Sheryl H. Lipman, Chief United States District Judge,

I, I write in response to Plaintiff Mid-America Apartment Communities, Inc.'s ("Mid-America") Motion for Contempt and Sanctions for Failure to Respond to Subpoena filed on June 14, 2023, (ECF No. 19), and the Court's Order requiring Mid-America to update the Court on the status of that Motion.

I would like to reiterate that I have conducted a thorough review of all documents and emails in my possession to find anything responsive to Mid-America's subpoena. The only material I could find that may be relevant is a screenshot of Robert Delpriore's LinkedIn page. All other documents that could potentially be relevant were already provided to Mid-America.

Additionally, I would like to bring to the Court's attention that the Securities and Exchange Commission (SEC) and the Department of Justice (DOJ) are in possession of more than 3,000 documents that I submitted as part of my whistleblower claims in 2021 and 2022. These documents are not within my control and are currently held by federal agencies due to ongoing investigations.

Regarding the Court's order dated September 11, 2023, I have acted in good faith to meet the September 15, 2023, deadline by reviewing the items in my possession and producing a screenshot of Robert Delpriore's LinkedIn page.

In conclusion, I have fully complied with the subpoena to the extent that I am able, and I have acted in good faith throughout this process. I have no additional documents in my possession that are responsive to the subpoena. Therefore, I respectfully submit that Mid-America's Motion for Contempt and Sanctions for Failure to Respond to Subpoena should be considered moot or, at a minimum, that I should not be subject to contempt or sanctions.

Thank you for considering my response. I await the Court's directions on how to proceed further in this matter.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: October 5, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

**DEFENDANT'S MOTION FOR EXPEDITED DISCOVERY OF SUBPOENA
RESPONSES AND ITEMIZATION OF DAMAGES**

INTRODUCTION

PRELIMINARY STATEMENT

Pursuant to Federal Rules of Civil Procedure 26(d) and 45, Defendant Dennis Michael Philipson, proceeding pro se, petitions this Honorable Court for an Order of Expedited Discovery. This motion is particularly aimed at hastening the production of subpoena responses from Wix, Google, Verizon, and other entities holding the Defendant's personally identifiable information or IP addresses, as well as compelling an itemized enumeration of alleged damages from the Plaintiff, Mid-America Apartment Communities, Inc. ("MAA").

LEGAL STANDARD

The Court retains broad authority to control and oversee the discovery process, including its timing and sequencing (*Graham v. Casey's General Stores*, 206 F.R.D. 251, 253 (S.D. Ind. 2002)). Expedited discovery is generally warranted when a pressing need is demonstrated that outweighs any undue prejudice to the opposing party (*Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273 (N.D. Cal. 2002)).

UNRESPONSIVENESS OF THE PLAINTIFF

Despite persistent efforts to secure these vital documents, the Plaintiff, Mid-America Apartment Communities, Inc. ("MAA"), has exhibited a disconcerting lack of responsiveness. Specifically, almost a month has elapsed since the Defendant formally requested the aforementioned documents from MAA, in accordance with Federal Rules of Civil Procedure 34 and 45. To date, MAA has failed to produce any of the requested documents or provide a reasonable timeframe for their delivery. This lack of cooperation not only hampers the Defendant's ability to prepare an adequate defense but also undermines the principles of expediency and fairness that are foundational to the American legal system.

FACTUAL BACKGROUND

1. **The Essentiality of the Subpoenas:** The Defendant believes that responses to these subpoenas are critical for two reasons:

- a. **Invalidity of IP-Based Identification:** Defendant avers that there have been errors in associating him with the alleged trademark infringement claims of the Plaintiff. Given the notoriously unreliable nature of IP-based identification (*United States v. Vosburgh*, 602 F.3d 512 (3rd Cir. 2010)), it is imperative to ascertain the factual basis of this association.

- b. **Impossibility of Independent Verification:** Without a valid court order, the Defendant has been unable to obtain pertinent information from Wix, Google, Verizon, or other relevant entities, thereby severely limiting the ability to verify or contest the Plaintiff's allegations.

2. **Questions Regarding Plaintiff's Credibility:** The Defendant possesses firsthand knowledge of the Plaintiff's operations, having worked for MAA for five years. During that period, Defendant observed instances where MAA potentially fabricated or misrepresented information. Moreover, the Defendant has also initiated whistleblower claims against MAA.

REQUEST FOR RELIEF

Documents Required:

1. **Wix Responses:** Immediate production of all subpoena responses from Wix that contain any IP addresses, personal information, or other potentially exculpatory evidence regarding the Defendant.
2. **Google Responses:** Immediate provision of all subpoena responses from Google, particularly those that pertain to the Defendant's alleged involvement in trademark infringement activities.
3. **Verizon Responses:** Accelerated production of subpoena responses from Verizon, in compliance with federal regulations and prior court mandates.
4. **Other Third Parties:** Prompt delivery of all subpoena responses from other entities that hold the Defendant's IP address or personal information.
5. **Itemized List of Damages:** In alignment with Federal Rule of Civil Procedure 26(a)(1)(A)(iii), a comprehensive, itemized list of damages claimed by MAA against the Defendant.

CONCLUSION

The Defendant's request for expedited discovery is both reasonable and necessary for a fair adjudication of this case. Accordingly, the Defendant respectfully requests that the Court issue an order granting this Motion for Expedited Discovery.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: October 5, 2023

Citation Page

Case Law Cited

Federal Rules of Civil Procedure 26(d) & 45

Summary: The Federal Rules of Civil Procedure 26(d) and 45 serve as the foundational rules for discovery and the subpoena process, respectively. They guide the Court's authority to regulate discovery timing and sequencing.

Graham v. Casey's General Stores, 206 F.R.D. 251, 253 (S.D. Ind. 2002)

Summary: This case emphasizes the broad authority that the Court retains to control and oversee the discovery process, including its timing and sequencing. This case law supports the Defendant's motion as it underscores the Court's ability to grant expedited discovery when deemed appropriate.

Semitool, Inc. v. Tokyo Electron Am., Inc., 208 F.R.D. 273 (N.D. Cal. 2002)

Summary: In Semitool, the Court granted expedited discovery due to the pressing need demonstrated by the movant that outweighed any undue prejudice to the opposing party. This case bolsters the Defendant's argument for the necessity of expedited discovery given the lack of cooperation from the Plaintiff and the critical nature of the documents in question.

United States v. Vosburgh, 602 F.3d 512 (3rd Cir. 2010)

Summary: This case highlights the issues related to the unreliability of IP-based identification. It is cited to substantiate the Defendant's claim that there have been errors in associating him with the alleged trademark infringement, thereby making the subpoena responses from Wix, Google, and Verizon critically important for verification purposes.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-02186-SHL-cgc

**ORDER DENYING MOTION TO COMPEL AND MOTION FOR EXPEDITED
DISCOVERY OF SUBPOENA RESPONSES AND ITEMIZATION OF DAMAGES**

Before the Court is pro se Defendant Dennis Michael Philipson's amended Motion to Compel Production of Documents and Objection to Improperly Issued Subpoenas, filed September 17, 2023. (ECF No. 50.)¹ Plaintiff Mid-America Apartment Communities, Inc. ("Mid-America"), filed its response on September 20, 2023. (ECF No. 51.) On October 5, 2023, Mr. Philipson filed a Motion for Expedited Discovery of Subpoena Responses and Itemization of Damages. (ECF No. 59.)² For the following reasons, the motions are **DENIED**.

In the portion of his motion relevant to this issue, Mr. Philipson explains the timeline of his document requests, including that he made the requests on September 7, 2023, and had yet to receive the documents he requested by the time he filed his amended motion on September 17,

¹ Mr. Philipson filed his original motion to compel on September 15, 2023. (ECF No. 49.) His amended motion renders his original motion moot.

² Although Mid-America's deadline to respond to that just-filed motion has yet to run, the Court addresses it here given that the deadline to respond to this motion occurs after the deadline to respond to the discovery itself. Mr. Philipson did not include a certificate of consultation with the motion.

2023. (Id.)³ Mr. Philipson then explains the importance of the documents he has requested. (Id. at PageID 480–81.)

In an email sent to Mr. Philipson on September 8, 2023, Mid-America’s counsel acknowledges receiving an email from Mr. Philipson and agrees to treat the email as containing document requests “despite the fact that they are not formatted as such or appropriately signed given your pro se status.” (ECF No. 50-3 at PageID 509.) Counsel then informs Mr. Philipson that, “under the Federal Rules, we have 30 days to respond to your request and/or provide our objections.” (Id. at PageID 509–10.) Counsel explains that the 30-day deadline falls on the weekend, rendering the responses due on October 9, 2023.⁴ (Id. at PageID 510.)

Despite receiving this information, Mr. Philipson filed his motion. In its response, Plaintiff again points out that its deadline to respond to the discovery requests has yet to run. (ECF No. 51 at PageID 521.) Mid-America also asserts that Mr. Philipson ran afoul of the Local Rules by failing to meaningfully confer with it before filing the motion, and by not providing a certificate of consultation. (Id.)

³ On September 7, 2023, Mr. Philipson also filed a document characterized as an “Intent to File Motion for Expedited Discovery.” (ECF No. 42.) The next day he filed an amended version of the same document. (ECF No. 43.) Mr. Philipson suggests in the amended filing from September 8 that Plaintiff had yet to respond to his discovery requests, which he issued the day before, asserting that there has been no “communication clarifying the delay.” (ECF No. 43 at PageID 397.) As is explained in more detail below, Plaintiff has thirty days to respond to Mr. Philipson’s discovery requests. The one-day window between Mr. Philipson’s service of his requests and the filing of his motion to compel constitutes something far short of a delay that would need clarification. Moreover, Mr. Philipson’s motion for expedited discovery, which he filed five days before the discovery is due, including a weekend and a federal holiday, has no merit. It is also **DENIED**.

⁴ Because October 9, 2023, is a federal holiday, Plaintiff’s responses are due October 10, 2023. See Fed. R. Civ. P. 6(a)(1)(C).

Consistent with Plaintiff's representations to Mr. Philipson, under Federal Rule of Civil Procedure 34(b)(2)(A), "[t]he party to whom the request is directed must respond in writing within 30 days after being served," with certain variances that are inapplicable here. Plaintiff's time to respond to Mr. Philipson's discovery requests has not yet run, and was weeks away from expiring when Mr. Philipson filed his initial and amended motions. To that end, Mr. Philipson's motion to compel is **DENIED** as premature.

Near the end of his motion, Mr. Philipson also objects to the sufficiency of Mid-America's initial disclosures and appears to seek an order directing Mid-America to supplement them. Those assertions, at this point, appear to be without merit.

To begin, Mr. Philipson takes issue with Plaintiff's failure to disclose information related to any insurance agreement that might be used to satisfy a judgment. (ECF No. 50 at PageID 482.) However, such information may not be relevant here because Mr. Philipson does not state any claims against Plaintiff that might entitle him to recover anything.

Mr. Philipson also asserts that Plaintiff's list of people likely to have discoverable information is deficient. Plaintiff listed fourteen known people and five groups of unknown individuals as potential witnesses, along with the subjects they have knowledge of and the means by which they may be contacted. Mr. Philipson challenges the robustness of this information, asserting it will require him to "conduct further discovery to understand these witnesses' potential relevance to the case." (*Id.* at PageID 481.) That, of course, is what the discovery process is for.

Mr. Philipson also takes issue with Plaintiff's adherence to its obligations to provide documents and electronically stored information and tangible things, or a description by category

and location of that information, as well as what he contends is a deficient description of Plaintiff's damages.⁵

A review of Plaintiff's initial disclosures reveals that it has satisfied its initial disclosure obligations under Federal Rule of Civil Procedure 26. As Plaintiff acknowledged in its responses, it is obligated to supplement those disclosures under the Federal Rules, and must do so going forward, if additional information becomes known. See Fed. R. Civ. P. 26(e). To the extent Mr. Philipson's Motion to Compel Production of Documents and Objection to Improperly Issue Subpoenas and his Motion for Expedited Discovery of Subpoena Responses and Itemization of Damages seek supplementation of Plaintiff's initial disclosures now, they are **DENIED**.

CONCLUSION

In an earlier order denying Mr. Philipson's request to reset the scheduling conference, the Court ordered Mr. Philipson "to familiarize himself with the Federal Rules of Civil Procedure and the Local Rules and abide by them, and all Court orders, as the case proceeds." (ECF No. 40 at PageID 390.) The Court reiterated that obligation at the scheduling conference. Mr. Philipson's motions reveal that he has failed to heed the Court's directive, resulting in a waste of Plaintiff and the Court's resources.

A review of the Federal Rules would have informed Mr. Philipson that Plaintiff was not required to respond to his discovery requests the day after he issued them, as he initially

⁵ In his October 5, 2023 motion, Mr. Philipson requests "a comprehensive, itemized list of damages claimed by MAA against the Defendant." (ECF No. 59 at PageID 583.) In its initial disclosures, Mid-America indicated that it "expects to provide expert proof of its damages in accordance with the deadlines in the Court's Case Management Order," and that it "will be seeking the damages available for the various claims [it] has asserted in the Amended Complaint, including for attorney fees and expenses, which it plans to present for the Court's consideration after trial or other appropriate disposition of the case." (ECF No. 50-1 at PageID 492.)

demanded, or even within eight days, when he filed his initial motion to compel. What is more, Mr. Philipson proceeded with the filing of his motion even after having been informed by Plaintiff's counsel that it was significantly premature.

The Court once again instructs Mr. Philipson that, to the extent he continues to proceed pro se in this matter, he must familiarize himself with the Federal Rules of Civil Procedure and this Court's Local Rules. He is further warned that, to the extent his future filings do not comply with the Local Rules, including, but not limited to, his obligation to consult with opposing counsel and to include a certificate of consultation with most types of motions, the motions may not be considered by the Court and he may open himself up to sanctions.

IT IS SO ORDERED, this 5th day of October 2023.

s/ Sheryl H. Lipman

SHERYL H. LIPMAN
CHIEF UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

NOTICE OF DEPOSITION OF DEFENDANT DENNIS PHILIPSON

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 26, 30, and 45, Plaintiff Mid-America Apartment Communities, Inc. (“MAA”), by and through its undersigned counsel, will take the deposition upon oral examination of Dennis Philipson, who is located at 6178 Castletown Way, Alexandria, Virginia 22310, on October 30, 2023 at 9:30 a.m. Eastern Time. The deposition will be held at Bass, Berry & Sims PLC, 1201 Pennsylvania Ave. NW #300, Washington, D.C. 20004.

The deposition will take place at the date and time indicated above, or such other date and time as is mutually acceptable to counsel for the parties, and will continue from day to day until completed. The deposition will be recorded by stenographic means and may also be recorded by audiovisual means. The deposition will proceed in accordance with the Federal Rules of Civil Procedure and shall be conducted before a person qualified to administer oaths.

Dated: October 6, 2023

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218

BASS, BERRY & SIMS PLC

Suite 2800; 150 3rd Ave. South

Nashville, Tennessee 37201

Tel: 615-742-6200

pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324

Jordan Thomas, BPR. No. 039531

BASS, BERRY & SIMS PLC

100 Peabody Place, Suite 1300

Memphis, Tennessee 38103

Tel: (901) 543-5903

Fax: (615) 742-6293

jgolwen@bassberry.com

jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 6, 2023, a copy of the foregoing was emailed to Defendant as well as a copy sent by regular mail at the following address:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310

/s/ Paige Waldrop Mills
Paige Waldrop Mills

36506488.1

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

**MID-AMERICA APARTMENT COMMUNITIES, INC.’S NOTICE REGARDING ITS
MOTION TO COMPEL**

Plaintiff Mid-America Apartment Communities (“MAA”) or (“Plaintiff”) files this Notice pursuant to this Court’s Order of October 4, 2023 (Dkt. No. 57). Plaintiff continues to believe that Defendant Philipson should be found in contempt of this Honorable Court’s subpoena. *See Exhibit A* for the Subpoena at Issue. As set out in Plaintiff’s Motion for Contempt and Sanctions for Failure to Respond to Subpoena (Dkt. 19), Defendant failed to respond or object to the Subpoena filed on him by the deadline of April 27, 2023. He did file a Motion to Quash raising general objections to the subpoena (Dkt. 2), which was denied (Dkt. 15).

Mr. Philipson still did not produce any documents to Plaintiff after his Motion was denied. However, months later, at or around the time of the Case Management Conference, he ultimately produced two documents that “he found in a file cabinet:” 1) A “Statement of Interment, Cremation, and Wishes,” which said “[i]f I should die or something happens to me under mysterious circumstances, please look at employees or contractors connected to [MAA]

due to my EEOC and SEC claim;” and 2) a “Reasonable Accommodation Verification for Assistance Animal,” which says he is entitled to a “[e]motional support dog due to mental illness.” Only the first of these two documents appear to be responsive to the Requests in the Subpoena because the second one does not relate to MAA.

What Philipson Did Not Produce

a. Documents Relating to the Infringing Domains

Defendant did not produce a single document relating to the Infringing Domains, despite the fact that Plaintiff has established via third party subpoenas that he is the one who set up and ran them.

b. Documents Related to His Alleged Whistleblowing Complaints

When he made his production of one responsive document, he indicated in an email (See **Exhibit B**) that he likely had other responsive documents:

Additionally, I believe I possess the tracking details for the disk sent to the SEC, IRS, & DOJ. I think this might be of interest. I will inform you once I have them at hand.

Despite this representation, no additional documents have ever been produced. Similarly, Mr. Philipson has written undersigned counsel’s law firm since this case was filed indicating he was going to “publicly release a complaint we filed with the SEC, DOJ, and IRS regarding the accuracy of [MAA] financials in 2021.” See **Exhibit C**. No such “complaint” was provided.

Moreover, Defendant has filed multiple pleadings in this case claiming that he is being retaliated against because he is a whistleblower, yet he has never served any of these “whistleblowing” documents on MAA and did not produce them in discovery, even though they

would have been responsive. Accordingly, either he is not a whistleblower or he is withholding or has destroyed responsive documents.

c. Documents Relating to MAA Employees

Mr. Philipson admitted that he had taken screenshots of at least one MAA employee's LinkedIn profile, Rob DelPriore, its General Counsel and has corresponded with him as well. *See Exhibits D and G.* These documents were not provided.

d. Documents Relating to this Litigation

Similarly, since the subpoena requested all documents discussing or relating to MAA since March 15, 2021, all documents in this litigation or related to this litigation would have been responsive, yet none were produced. Mr. Philipson even purports to have made complaints about undersigned counsel and the drafting of the subpoenas in this case to the Supreme Court's Board of Responsibility, yet this responsive tranche of documents has not been provided.

e. Documents Relating to Google Reviews of MAA

Likewise, all reviews Mr. Philipson made on Google relating to MAA would have been responsive, yet none were produced. *See Exhibit E*, referencing at least one Google review of which he is aware.

f. Documents Relating to Correspondence with MAA

When MAA expressed disbelief that no other responsive documents existed because it knew that Defendant had been corresponding with MAA employees (*see Exhibit F*), Defendant asked counsel to produce those documents so he could "recheck," clearly intending to conform his production to what MAA already knew about. *See Exhibit G.* None of these documents have been provided.

CONCLUSION

Plaintiff believes that despite his representations and having nearly six months to do so, Mr. Philipson has failed to produce responsive documents and thus is in contempt of this Court's subpoena. Accordingly, Plaintiff requests that this Court find that Defendant is in contempt of the subpoena, order him to comply with it, and award Plaintiff its reasonable attorney fees for bringing the instant motion. Plaintiff further requests any additional relief that the Court finds to be appropriate.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218

BASS, BERRY & SIMS PLC

Suite 2800; 150 3rd Ave. South

Nashville, Tennessee 37201

Tel: 615-742-6200

pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324

Jordan Thomas, BPR. No. 039531

BASS, BERRY & SIMS PLC

100 Peabody Place, Suite 1300

Memphis, Tennessee 38103

Tel: (901) 543-5903

Fax: (615) 742-6293

jgolwen@bassberry.com

Jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
phillydee100@gmail.com

This 11th Day of October, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

EXHIBIT A

UNITED STATES DISTRICT COURT

for the

Western District of Tennessee

Mid-America Apartment Communities, Inc.

Plaintiff

v

John Doe 1

John Doe 2

Defendant

Civil Action No. 2:23-cv-02186

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Dennis Michael Philipson
6178 Castletown Way, Alexandria, VA, 22310

(Name of person to whom this subpoena is directed)

☒ **Production** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material

See Attached Exhibit A

Place	Bass, Berry & Sims PLC; Attn: Paige Mills 150 3rd Ave S Nashville, TN 37201; pmills@bassberry.com	Date and Time	4/27/2023 5 00 p m CST
-------	---	---------------	------------------------

☐ **Inspection of Premises** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it

Place	Date and Time
-------	---------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date 04/06/2023

CLERK OF COURT

OR

Paige Mills

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Mid-America Apartment Communities, Inc., who issues or requests this subpoena, are

Paige Mills, Bass, Berry Sims PLC, 150 Third Ave. S., Suite 2800, Nashville, TN 37201; (615) 742 -6200;
pmills@bassberry.com

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:23-cv-02186

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*

on *(date)* .

☐ I served the subpoena by delivering a copy to the named person as follows:

on *(date)*

; or

☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$.

My fees are \$ for travel and \$ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT COMMUNITIES, INC.)	
)	
Plaintiff,)	
	)	Docket No. 2:23-cv-02186
v.)	
	)	JURY DEMAND
JOHN DOE 1 AND JOHN DOE 2,)	
)	
Defendants.)	
)	
)	

PHILIPSON SUBPOENA ATTACHMENT A

Please produce all documents showing:

1. All documents and things, including electronically stored information, that discuss or relate to Mid-America Apartment Communities, Inc. (“MAA”) created on or after March 15, 2021.
2. All documents and things, including electronically stored information, that discuss or relate to domain names with included terms:
 - a. MAA
 - b. mega
 - c. fraud
 - d. awesome
 - e. apartments
 - f. Mid-America Apartment Communities
3. All documents and things, including electronically stored information, that discuss or relate to the domains:
 - a. maaapartments.com

- b. maa.apartments
 - c. maafraud.com
 - d. megaawesomeapartments.com
4. All documents and things, including electronically stored information, that emanate from or to, or discuss, include, or relate to any of the following email accounts:
- a. timmy.argo75@gmail.com
 - b. craigsilver25@outlook.com;
 - c. RunFromMAA@outlook.com
 - d. tomgrimey@outlook.com
 - e. melanieisgoingtojail@outlook.com
5. All documents and things, including electronically stored information, that discuss, include, or relate to:
- a. Craig Silver
 - b. Tim Argo
 - c. Tom Grimey
 - d. Melanie Carpenter
 - e. Any current employee of Mid-America Apartment Communities, Inc.
6. All documents and things, including electronically stored information, that emanate from or to, or discuss, include, or relate to any of the following LinkedIn accounts:
- <https://www.linkedin.com/company/maa-apartments/>
 - <https://www.linkedin.com/in/craig-silver-8702b626a/>
 - <https://www.linkedin.com/in/fred-casualty-loss-91ab57269/>
 - <https://www.linkedin.com/in/maa-fraud-068a93269/>
 - <https://www.linkedin.com/in/perry-johnson-b01a94269/>

EXHIBIT B

Mills, Paige

From: phillydee100 <phillydee100@gmail.com>
Sent: Friday, September 8, 2023 9:41 AM
To: Mills, Paige; Golwen, John S.; Thomas, Jordan
Subject: Re: Case Management/ Etc
Attachments: 9-8-2023 - MAA Documents.pdf

Good morning,

I was able to locate some documents responsive to your subpoena request regarding MAA. I found them in my file cabinet. There's a reasonable accommodation form from 2019 which was misdated. I had promptly communicated this to Amber Fairbanks and Kristin Ostrom, and the EEOC has this on record.

Regarding our upcoming call on Monday, I hope for a straightforward and transparent discussion. I value open communication and aim to keep our interactions honest.

Thank you for your patience. I hope you have a good weekend!

Dennis Philipson

On Thu, Sep 7, 2023 at 10:38 PM phillydee100 <phillydee100@gmail.com> wrote:

Good evening everyone,

Having gone over the case management plan, I'm in agreement with the outlined suggestions. However, I'd kindly request an opportunity to review your final version once more prior to its submission to the court. While I am genuinely open to mediation, I must voice my reservations regarding the foundation of, frankly, about 98% of the allegations. It's hard not to view this situation as retaliatory, especially when reflecting on my whistleblower complaints against MAA and Bass, Berry & Sims PLC. A transparent dialogue might be the key to better understanding and possibly aligning our viewpoints.

After we complete the Initial Disclosures by September 15th, I'll propose a deposition date, likely in early October. It's essential for me to fully understand MAA's damage claims and the evidence supporting them. I'm awaiting the documents I've asked for to help our proceedings move smoothly. Additionally, I'm ready to review your second subpoena at a time that works best for you.

I'm preparing for Monday's conference, while I feel somewhat unprepared due to the issues highlighted in my previous motion, I will do my best to keep pace.

Wishing you all a pleasant weekend!

Best,

Dennis Philipson

On Thu, Sep 7, 2023 at 4:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello again,

I'll give the proposed plan a thorough review and aim to provide feedback at the earliest. Could I clarify if you plan to provide the documents I've inquired about, especially those related to the concerns raised in your complaint?

I don't have any of the documents you referred to in your subpoena. Anything I had was sent to the SEC, DOJ, and IRS. I'd recommend directing your subpoena towards them. I've made this point clear on multiple occasions. While I await the second subpoena, please be assured I'm ready to review it at your convenience.

I'm not experienced in a court setting, and I find your allegations both demeaning and unfounded.

Wishing you a pleasant day,

Thanks,

Dennis Philipson

On Thu, Sep 7, 2023 at 3:19 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

I am uncertain as to why you believe our interactions have been hostile. I have tried to maintain a professional demeanor in all my interactions with you and will continue to do so. Attached please find the Plaintiff's responses to your proposed Case Management Order. Please let me know if you are agreeable to these suggestions.

As far as the documents we are seeking, that is set out in Attachment A to the subpoena that we served upon you earlier in the case. I will be serving you with a second set of requests after the case management conference as well. In addition, I look forward to receiving some dates for your deposition, which we can set for a date after we receive your documents.

Best,

Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>
Sent: Thursday, September 7, 2023 10:22 AM
To: Mills, Paige <PMills@bassberry.com>
Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>
Subject: Case Management/ Etc

Ms. Mills,

I trust you're doing well. I would like to work with you on the proposed plan, aiming for a shared understanding and compliance with the court's rules. Would you be able to modify your plan to include my perspectives?

I believe in maintaining a cordial and cooperative relationship during this process. I consider myself an approachable and amicable person, but I have sensed a level of hostility from our interactions from the very beginning. I am genuinely uncertain about the cause and would like to understand any underlying issues so we can work effectively together.

Given your experience with the court, I'd be grateful if you could relay our discussions to them as necessary.

Additionally, regarding the outstanding document requests, I would appreciate further clarification on the precise details or documents you're seeking from me.

If you could please fulfill my document request as well.

Thank you for your cooperation and understanding.

Best regards,

On Wed, Sep 6, 2023 at 6:33 PM phillydee100 <phillydee100@gmail.com> wrote:

Dear Honorable Judge Lipman and Counsel,

I am writing to submit the attached case management plan from my perspective as the Defendant. Upon careful review, it has become apparent that there are significant discrepancies between my proposed plan and the one put forth by Attorney Mills representing the Plaintiff.

I have some differences with the Plaintiff's plan, outlined in the attached document. I've formally requested

to postpone the scheduling conference via email and USPS, supported by a filed motion. I ask for this delay to prepare more thoroughly for the case and because I prefer in-person meetings over video calls.

Our plan also considers the pending review of the motion to dismiss filed on September 2, 2023 (Docket #33).

Thank you for considering my proposed timelines and conditions, especially given the case's sensitivity and its relevance to whistleblower laws. We look forward to discussing these issues further as the Court deems appropriate.

Best regards,

Dennis Philipson

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

phillydee100

EXHIBIT C

Mills, Paige

From: Mattern, Richard
Sent: Friday, April 7, 2023 1:52 PM
To: mphillyd@gmail.com
Subject: RE: Mid-America Apartment Communities - MAA

Mr. Philipson,

Thank you for bringing this matter to our attention. I'm the lawyer that represents MAA. If you would like to send me the complaints that you reference, I would be happy to review it to develop an understanding of what MAA did.

Thanks in advance.

Best Regards,
Richard

[Richard Mattern](#)
Member

Bass, Berry & Sims PLC
The Tower at Peabody Place - 100 Peabody Place, Suite 1300
Memphis, TN 38103-3672
901-543-5933 phone
901-270-0263 mobile
rmattern@bassberry.com • www.bassberry.com

From: FT <mphillyd@gmail.com<<mailto:mphillyd@gmail.com>>>
Sent: Friday, April 7, 2023 10:22 AM
To: Ihde, Erin K <Elhde@bassberry.com<<mailto:Elhde@bassberry.com>>>;
info@bassberry.com<<mailto:info@bassberry.com>>; contact@bassberry.com<<mailto:contact@bassberry.com>>
Subject: Mid-America Apartment Communities - MAA

Hi Erin,

Who at Bass Berry Sims handles/represents MAA - Mid-America Apartment Communities Inc? [REDACTED]
[REDACTED]. We brought
this to the attention of MAA in 2021.

In these documents, it says that your firm reviewed statements made in their financials. We know and have documentation that MAA's EVP of General Counsel represented your firm in 2005.

We are not here to upset anyone or make your law firm look bad. This is strictly about MAA.

Thank you for your assistance,

Dennis Philipson

EXHIBIT D

Mills, Paige

From: D <phillydee100@gmail.com>
Sent: Tuesday, September 12, 2023 6:45 AM
To: Mills, Paige
Cc: Golwen, John S.; Thomas, Jordan; McClanahan, Teresa; phillydee100@gmail.com
Subject: RE: Case Management/ Etc
Attachments: Exhibit C - Request from Counsel.pdf

Good morning,

I hope you are well. I've got quite a busy day, but I wanted to connect early to share some thoughts and clarifications.

Firstly, it was indeed a pleasure discussing matters with you yesterday. Your patience and understanding throughout were much appreciated. Please know I'm committed to upholding court protocols and will ensure I'm abreast of the necessary procedures.

Reflecting on our conversation, I recognize the value of addressing potential ethical concerns directly with the court rather than the Board of Professional Responsibility of the Supreme Court of Tennessee. I see this as a valuable learning experience.

On the topic of my departure from MAA, for everyone's clarity, could you reaffirm whether MAA's stance is that I was terminated, as opposed to resigning? Additionally, I noted in one of Paige's complaints a suggestion about my statements' credibility or my beliefs' genuineness. I trust the government investigations will soon shed more light on these matters. I am amazed the CFO is retiring; I saw that in a press release a few days back.

I've been reviewing my Gmail for any mentions of MAA or their employees. [REDACTED]
Mr. Delpriore linking him with Bass, Berry, and Sims, there hasn't been much beyond that. Rest assured, I will send over [REDACTED]

To foster transparency and ensure the productivity of our discussions, I've outlined several key topics I believe would be beneficial to cover during our initial disclosures. This would eliminate the need to file a motion of expedited discovery.

1. An inventory of the 30-40 email addresses you claim are linked to me, complemented by the related subpoenas and feedback from the email service providers.
2. Details of any other subpoenas you've sought that are relevant to this case.
3. Automatic replies, if any, from Mphillyd@gmail.com and phillydee100@gmail.com.
4. Summaries or notes from conversations with MAA staff about the allegations made about me.
5. The damages MAA are claiming that I have caused.
6. I want to highlight again the significance of the responses from Google, Wix, and Verizon, primarily to ensure that there have been no mistakes.

I recall interactions with my former supervisor involving former employees, particularly Lynette Harris. He had expressed concerns at times, like an incident involving Lynette and a damaged sliding glass door. There was also a moment in 2019 at Post Carlyle Square where my former boss offered a different narrative about a situation with a resident (Suggesting I lie to MAA). I've also seen reviews post-departure where residents felt compelled to specifically identify themselves, perhaps addressing MAA's apprehensions regarding the review's credibility. These memories might provide context as our discussions progress. It will be enlightening to clarify these matters, potentially during depositions.

For clarity, I've attached my original request. Your cooperation and understanding in this matter have been invaluable. Have a good day and week!

Dennis Philipson

From: phillydee100 <phillydee100@gmail.com>

Sent: Saturday, September 9, 2023 6:11 AM

To: Mills, Paige <PMills@bassberry.com>

Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>; McClanahan, Teresa <TMcClanahan@bassberry.com>

Subject: Re: Case Management/ Etc

Good morning,

If you could allow me a few days, I'd be happy to review everything once more to ensure nothing has been overlooked. If there's a particular detail or item you have in mind, kindly bring it to my attention—it will expedite the process. Please note that my schedule is quite packed this week, but I'm committed to assisting you. I appreciate our mutual professionalism and cooperation.

Best,

Dennis Philipson

On Fri, Sep 8, 2023 at 8:06 PM phillydee100 <phillydee100@gmail.com> wrote:

Also to add:

I am not an attorney, but based on my understanding of federal civil law:

Regarding the subpoena mentioned in your complaint, it is my understanding that under FRCP Rule 26(a), parties have an obligation to automatically disclose specific information and documents to the opposing parties without the necessity of a discovery request. This would encompass all documents, electronically stored information, and tangible items that the disclosing party may use in support of its claims or defenses, and which are within its possession, custody, or control. Would the subpoenas in question not fall under this obligation? You've proposed September 15th for Initial Disclosures. It's worth noting that a separate motion for discovery may not even be necessary, as initial disclosures typically follow shortly after the Rule 26(f) scheduling conference. I trust we can work together to ensure a smooth and timely process. Am I understanding this correctly, or should I research it further?

Thank you again for your assistance and understanding.

Dennis

On Fri, Sep 8, 2023, 7:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello Attorney Mills,

I'd like to begin by expressing that ever since the complaint was served to me by MAA and yourself, I have diligently ensured to preserve all pertinent information. My intent with this email is to bring clarity and understanding to the situation. **Might I propose that you share some of the specific documents in question? This would allow me to cross reference and ensure that there hasn't been any oversight or misunderstanding. I'm trying to understand all of this,**

While with MAA, I operated on multiple computers across different properties. I firmly believe that most, if not all, of the documents or emails I worked on, should still reside with MAA. My departure was rather sudden, leaving little opportunity to tie up all loose ends. From what I remember, I had a conversation with Anwar Brooks in April 2021, and I surmise he would have a record of that.

After MAA did not provide me with the findings from my complaints, I preferred not to be contacted further. I assume their whistleblower system would have a log of this.

Following November 2021, my recollections consist of interactions with many individuals and entities, including employees, ex-employees, and contractors, among others, plus emergency notifications associated with MAA's services. As for direct correspondence from MAA, nothing specific stands out. There was an email from Robert Delpriore earlier this year, which, to be honest, felt a bit out in left field. If you've found something specific in this regard, I'd appreciate it if you could point it out, and I'll certainly take a look.

Given my status as a private individual, I was under the impression that there was no obligation on my part to archive documents that had already been dispatched to agencies such as the EEOC, SEC, DOJ, and IRS. In retrospect, perhaps it might have been prudent to retain some of them, but I presumed that MAA would have the pivotal documents. I'd posit that agencies like the SEC, DOJ, and IRS should have a record of my communications regarding securities and accounting fraud, safety concerns, or dubious business behaviors.

The identity issues I encountered with Capital One and the Virginia Unemployment Commission in 2021 have underscored the importance of online vigilance. This sentiment is only exacerbated by the recent hacking attempts on my email and phone. If the emails in question are vital, maybe a subpoena to Google can provide clarity.

I genuinely wish to address and rectify this situation. Any misunderstandings or unintentional errors from my end are regretted. I'm grateful for your patience, and I am optimistic that we can collaboratively find a resolution. I realize what the judge ruled; thank you for reiterating.

Navigating legal intricacies isn't my forte, and I'm grateful for your understanding. A "reasonable timeframe" typically means a week, so your clarification on the law is valuable. On top of addressing these claims, which I perceive as unfounded, I sought an extension for the scheduling conference to acquaint myself with the legal nuances better. I had previously articulated a preference for communication via USPS in June. Unfortunately, several court notifications have eluded me, and I've been left in the dark about the review status of my motions, with no guidance from the court. Additionally, I'm now apprehensive about visiting places like Springfield Town Center or Alexandria Kohls due to fears of baseless accusations.

Please let me know if something does not make sense. Have a good weekend!

Dennis

On Fri, Sep 8, 2023 at 5:17 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

This will acknowledge receipt of your email. Are you aware that the term "document" includes electronic documents and would encompass any type of electronic file or record that discusses MAA and any of the email addresses set out in the subpoena? And is it your position that you do not have one single electronic document that discusses or relates to MAA? You have sent a number of emails to the company, correct? Have you deleted all of those? If so, when? I'm confused as to how you cannot have any electronic documents given the level of your email correspondence with the company and its employees. Please state in writing what has happened to these documents.

Second, I have received your email request for certain documents on September 7, 2023. We will treat this as a set of document requests, despite the fact that they are not formatted as such or appropriately signed given your pro se

status. However, as Judge Lipman indicated in her order, on a going forward basis you will need to comply with the Rules. At any rate, under the Federal Rules, we have 30 days to respond to your request and/or provide our objections. Accordingly, your filing with the Court telling her we have not provided them to you in one day is not appropriate as they are not due until October 9, 2023, since the 30th day falls on a Saturday.

Sincerely,

Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
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To: Mills, Paige <PMills@bassberry.com>; Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>
Subject: Re: Case Management/ Etc

Good morning,

I was able to locate some documents responsive to your subpoena request regarding MAA. I found them in my file cabinet. There's a reasonable accommodation form from 2019 which was misdated. I had promptly communicated this to Amber Fairbanks and Kristin Ostrom, and the EEOC has this on record.

Additionally, I believe I possess the tracking details for the disk sent to the SEC, IRS, & DOJ. I think this might be of interest. I will inform you once I have them at hand.

Regarding our upcoming call on Monday, I hope for a straightforward and transparent discussion. I value open communication and aim to keep our interactions honest.

Thank you for your patience. I hope you have a good weekend!

Dennis Philipson

On Thu, Sep 7, 2023 at 10:38 PM phillydee100 <phillydee100@gmail.com> wrote:

Good evening everyone,

Having gone over the case management plan, I'm in agreement with the outlined suggestions. However, I'd kindly request an opportunity to review your final version once more prior to its submission to the court. While I am genuinely open to mediation, I must voice my reservations regarding the foundation of, frankly, about 98% of the allegations. It's hard not to view this situation as retaliatory, especially when reflecting on my whistleblower complaints against MAA and Bass, Berry & Sims PLC. A transparent dialogue might be the key to better understanding and possibly aligning our viewpoints.

After we complete the Initial Disclosures by September 15th, I'll propose a deposition date, likely in early October. It's essential for me to fully understand MAA's damage claims and the evidence supporting them. I'm awaiting the documents I've asked for to help our proceedings move smoothly. Additionally, I'm ready to review your second subpoena at a time that works best for you.

I'm preparing for Monday's conference, while I feel somewhat unprepared due to the issues highlighted in my previous motion, I will do my best to keep pace.

Wishing you all a pleasant weekend!

Best,

Dennis Philipson

On Thu, Sep 7, 2023 at 4:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello again,

I'll give the proposed plan a thorough review and aim to provide feedback at the earliest. Could I clarify if you plan to provide the documents I've inquired about, especially those related to the concerns raised in your complaint?

I don't have any of the documents you referred to in your subpoena. Anything I had was sent to the SEC, DOJ, and IRS. I'd recommend directing your subpoena towards them. I've made this point clear on multiple occasions. While I await the second subpoena, please be assured I'm ready to review it at your convenience.

I'm not experienced in a court setting, and I find your allegations both demeaning and unfounded.

Wishing you a pleasant day,

Thanks,

Dennis Philipson

On Thu, Sep 7, 2023 at 3:19 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

I am uncertain as to why you believe our interactions have been hostile. I have tried to maintain a professional demeanor in all my interactions with you and will continue to do so. Attached please find the Plaintiff's responses to your proposed Case Management Order. Please let me know if you are agreeable to these suggestions.

As far as the documents we are seeking, that is set out in Attachment A to the subpoena that we served upon you earlier in the case. I will be serving you with a second set of requests after the case management conference as well. In addition, I look forward to receiving some dates for your deposition, which we can set for a date after we receive your documents.

Best,

Paige Mills

BASS BERRY + SIMS

Paige Mills

Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>
Sent: Thursday, September 7, 2023 10:22 AM
To: Mills, Paige <PMills@bassberry.com>
Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>
Subject: Case Management/ Etc

Ms. Mills,

I trust you're doing well. I would like to work with you on the proposed plan, aiming for a shared understanding and compliance with the court's rules. Would you be able to modify your plan to include my perspectives?

I believe in maintaining a cordial and cooperative relationship during this process. I consider myself an approachable and amicable person, but I have sensed a level of hostility from our interactions from the very beginning. I am genuinely uncertain about the cause and would like to understand any underlying issues so we can work effectively together.

Given your experience with the court, I'd be grateful if you could relay our discussions to them as necessary.

Additionally, regarding the outstanding document requests, I would appreciate further clarification on the precise details or documents you're seeking from me.

If you could please fulfill my document request as well.

Thank you for your cooperation and understanding.

Best regards,

On Wed, Sep 6, 2023 at 6:33 PM phillydee100 <phillydee100@gmail.com> wrote:

Dear Honorable Judge Lipman and Counsel,

I am writing to submit the attached case management plan from my perspective as the Defendant. Upon careful review, it has become apparent that there are significant discrepancies between my proposed plan and the one put forth by Attorney Mills representing the Plaintiff.

I have some differences with the Plaintiff's plan, outlined in the attached document. I've formally requested to postpone the scheduling conference via email and USPS, supported by a filed motion. I ask for this delay to prepare more thoroughly for the case and because I prefer in-person meetings over video calls.

Our plan also considers the pending review of the motion to dismiss filed on September 2, 2023 (Docket #33).

Thank you for considering my proposed timelines and conditions, especially given the case's sensitivity and its relevance to whistleblower laws. We look forward to discussing these issues further as the Court deems appropriate.

Best regards,

Dennis Philipson

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

phillydee100

EXHIBIT E

Mills, Paige

From: Mills, Paige
Sent: Tuesday, April 11, 2023 1:27 PM
To: 'Philly'
Cc: mphillyd@gmail.com; Ihde, Erin K; Mattern, Richard
Subject: RE: Mid-America Apartment Communities - MAA

Mr. Philipson,

The items you have been ordered to produce are set forth in Exhibit A to the Subpoena. It doesn't matter if you have already produced it to someone else. It must still be produced to us in order to comply with the subpoena.

Best Regards,

Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: Philly <phillydee100@gmail.com>
Sent: Tuesday, April 11, 2023 12:45 PM
To: Mattern, Richard <rmattern@bassberry.com>; Mills, Paige <PMills@bassberry.com>
Cc: mphillyd@gmail.com; Ihde, Erin K <Ehde@bassberry.com>
Subject: Re: Mid-America Apartment Communities - MAA

I got a subpoena @ my house? For John Doe?

What exactly are you looking for? Most of this stuff has been provided to the DOJ and the SEC and the IRS? P Mills name is on this subpoena.

Thanks

On Fri, Apr 7, 2023, 3:08 PM Philly <phillydee100@gmail.com> wrote:

Hi Richard,

I have brought up issues with them since 2021 and gave them plenty of opportunities to respond. I also questioned their internal controls while I was at the company for almost five years. They should be able to describe what I am alleging.

There is also a pretty clear review of the headquarters on Google. My only concern was, Bass, Berry & Sims review of statements made in their financials. Some of those statements seemed inaccurate. I know Robert at

MAA was a member of Bass Berry & Sims in 2005 and represented MAA. Was just curious the last time your firm reviewed those statements in documents submitted to the SEC.

I do not want to defame or speak poorly about anyone or any company unless what I am saying is true and accurate.

Thank you for your response.

Dennis

On Fri, Apr 7, 2023 at 2:51 PM Mattern, Richard <rmattern@bassberry.com> wrote:

Mr. Philipson,

Thank you for bringing this matter to our attention. I'm the lawyer that represents MAA. If you would like to send me the complaints that you reference, I would be happy to review it to develop an understanding of what MAA did.

Thanks in advance.

Best Regards,
Richard

[Richard Mattern](#)
Member

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contact@bassberry.com<<mailto:contact@bassberry.com>>
Subject: Mid-America Apartment Communities - MAA

Hi Erin,

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In these documents, it says that your firm reviewed statements made in their financials. We know and have documentation that MAA's EVP of General Counsel represented your firm in 2005.

We are not here to upset anyone or make your law firm look bad. This is strictly about MAA.

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EXHIBIT E

Mills, Paige

From: Mills, Paige
Sent: Friday, September 8, 2023 4:17 PM
To: 'phillydee100'; Golwen, John S.; Thomas, Jordan
Cc: McClanahan, Teresa
Subject: RE: Case Management/ Etc

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Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

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To: Mills, Paige <PMills@bassberry.com>

Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>

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[REDACTED] Please note that my schedule is quite packed this week, but I'm committed to assisting you. I appreciate our mutual professionalism and cooperation.

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Hello Attorney Mills,

I'd like to begin by expressing that ever since the complaint was served to me by MAA and yourself, I have diligently ensured to preserve all pertinent information. My intent with this email is to bring clarity and understanding to the situation. Might I propose that you share some of the specific documents in question? This would allow me to cross-reference and ensure that there hasn't been any oversight or misunderstanding. I'm trying to understand all of this, from song lyrics to Baskin Robbins reviews and supposed vast social media interactions, I'm at a loss.

While with MAA, I operated on multiple computers across different properties. I firmly believe that most, if not all, of the documents or emails I worked on, should still reside with MAA. My departure was rather sudden, leaving little opportunity to tie up all loose ends. From what I remember, I had a conversation with Anwar Brooks in April 2021, and

I surmise he would have a record of that. [REDACTED]
[REDACTED] 1. After MAA did not provide me with the findings from my complaints, I preferred not to be contacted further. I assume their whistleblower system would have a log of this.

[REDACTED]
employees, ex-employees, and contractors, among others, plus emergency notifications associated with MAA's services. As for direct correspondence from MAA, nothing specific stands out. There was an email from Robert Delpriore earlier this year, which, to be honest, felt a bit out in left field. If you've found something specific in this regard, I'd appreciate it if you could point it out, and I'll certainly take a look.

Given my status as a private individual, I was under the impression that there was no obligation on my part to archive documents that had already been dispatched to agencies such as the EEOC, SEC, DOJ, and IRS. In retrospect, perhaps it might have been prudent to retain some of them, but I presumed that MAA would have the pivotal documents. I'd posit that agencies like the SEC, DOJ, and IRS should have a record of my communications regarding securities and accounting fraud, safety concerns, or dubious business behaviors.

The identity issues I encountered with Capital One and the Virginia Unemployment Commission in 2021 have underscored the importance of online vigilance. This sentiment is only exacerbated by the recent hacking attempts on my email and phone. If the emails in question are vital, maybe a subpoena to Google can provide clarity.

I genuinely wish to address and rectify this situation. Any misunderstandings or unintentional errors from my end are regretted. I'm grateful for your patience, and I am optimistic that we can collaboratively find a resolution. I realize what the judge ruled; thank you for reiterating.

Navigating legal intricacies isn't my forte, and I'm grateful for your understanding. A "reasonable timeframe" typically means a week, so your clarification on the law is valuable. On top of addressing these claims, which I perceive as unfounded, I sought an extension for the scheduling conference to acquaint myself with the legal nuances better. I had previously articulated a preference for communication via USPS in June. Unfortunately, several court notifications have eluded me, and I've been left in the dark about the review status of my motions, with no guidance from the court. Additionally, I'm now apprehensive about visiting places like Springfield Town Center or Alexandria Kohls due to fears of baseless accusations.

Please let me know if something does not make sense. Have a good weekend!

Dennis

On Fri, Sep 8, 2023 at 5:17 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

This will acknowledge receipt of your email. Are you aware that the term "document" includes electronic documents and would encompass any type of electronic file or record that discusses MAA and any of the email addresses set out in the subpoena? And is it your position that you do not have one single electronic document that discusses or relates to MAA? You have sent a number of emails to the company, correct? Have you deleted all of those? If so, when? I'm confused as to how you cannot have any electronic documents given the level of your email correspondence with the company and its employees. Please state in writing what has happened to these documents.

Second, I have received your email request for certain documents on September 7, 2023. We will treat this as a set of document requests, despite the fact that they are not formatted as such or appropriately signed given your pro se status. However, as Judge Lipman indicated in her order, on a going forward basis you will need to comply with the Rules. At any rate, under the Federal Rules, we have 30 days to respond to your request and/or provide our objections. Accordingly, your filing with the Court telling her we have not provided them to you in one day is not appropriate as they are not due until October 9, 2023, since the 30th day falls on a Saturday.

Sincerely,

Paige Mills

BASS BERRY + SIMS

Paige Mills

Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>

Sent: Friday, September 8, 2023 9:41 AM

To: Mills, Paige <PMills@bassberry.com>; Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan
<jordan.thomas@bassberry.com>

Subject: Re: Case Management/ Etc

Good morning,

I was able to locate some documents responsive to your subpoena request regarding MAA. I found them in my file cabinet. There's a reasonable accommodation form from 2019 which was misdated. I had promptly communicated this to Amber Fairbanks and Kristin Ostrom, and the EEOC has this on record.

Additionally, I believe I possess the tracking details for the disk sent to the SEC, IRS, & DOJ. I think this might be of interest. I will inform you once I have them at hand.

Regarding our upcoming call on Monday, I hope for a straightforward and transparent discussion. I value open communication and aim to keep our interactions honest.

Thank you for your patience. I hope you have a good weekend!

Dennis Philipson

On Thu, Sep 7, 2023 at 10:38 PM phillydee100 <phillydee100@gmail.com> wrote:

Good evening everyone,

Having gone over the case management plan, I'm in agreement with the outlined suggestions. However, I'd kindly request an opportunity to review your final version once more prior to its submission to the court. While I am genuinely open to mediation, I must voice my reservations regarding the foundation of, frankly, about 98% of the allegations. It's hard not to view this situation as retaliatory, especially when reflecting on my whistleblower complaints against MAA and Bass, Berry & Sims PLC. A transparent dialogue might be the key to better understanding and possibly aligning our viewpoints.

After we complete the Initial Disclosures by September 15th, I'll propose a deposition date, likely in early October. It's essential for me to fully understand MAA's damage claims and the evidence supporting them. I'm awaiting the documents I've asked for to help our proceedings move smoothly. Additionally, I'm ready to review your second subpoena at a time that works best for you.

I'm preparing for Monday's conference, while I feel somewhat unprepared due to the issues highlighted in my previous motion, I will do my best to keep pace.

Wishing you all a pleasant weekend!

Best,

Dennis Philipson

On Thu, Sep 7, 2023 at 4:17 PM phillydee100 <phillydee100@gmail.com> wrote:

Hello again,

I'll give the proposed plan a thorough review and aim to provide feedback at the earliest. Could I clarify if you plan to provide the documents I've inquired about, especially those related to the concerns raised in your complaint?

I don't have any of the documents you referred to in your subpoena. Anything I had was sent to the SEC, DOJ, and IRS. I'd recommend directing your subpoena towards them. I've made this point clear on multiple occasions. While I await the second subpoena, please be assured I'm ready to review it at your convenience.

I'm not experienced in a court setting, and I find your allegations both demeaning and unfounded.

Wishing you a pleasant day,

Thanks,

Dennis Philipson

On Thu, Sep 7, 2023 at 3:19 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

I am uncertain as to why you believe our interactions have been hostile. I have tried to maintain a professional demeanor in all my interactions with you and will continue to do so. Attached please find the Plaintiff's responses to your proposed Case Management Order. Please let me know if you are agreeable to these suggestions.

As far as the documents we are seeking, that is set out in Attachment A to the subpoena that we served upon you earlier in the case. I will be serving you with a second set of requests after the case management conference as well. In addition, I look forward to receiving some dates for your deposition, which we can set for a date after we receive your documents.

Best,

Paige Mills

BASS BERRY + SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: phillydee100 <phillydee100@gmail.com>
Sent: Thursday, September 7, 2023 10:22 AM
To: Mills, Paige <PMills@bassberry.com>
Cc: Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>
Subject: Case Management/ Etc

Ms. Mills,

I trust you're doing well. I would like to work with you on the proposed plan, aiming for a shared understanding and compliance with the court's rules. Would you be able to modify your plan to include my perspectives?

I believe in maintaining a cordial and cooperative relationship during this process. I consider myself an approachable and amicable person, but I have sensed a level of hostility from our interactions from the very beginning. I am genuinely uncertain about the cause and would like to understand any underlying issues so we can work effectively together.

Given your experience with the court, I'd be grateful if you could relay our discussions to them as necessary.

Additionally, regarding the outstanding document requests, I would appreciate further clarification on the precise details or documents you're seeking from me.

If you could please fulfill my document request as well.

Thank you for your cooperation and understanding.

Best regards,

On Wed, Sep 6, 2023 at 6:33 PM phillydee100 <phillydee100@gmail.com> wrote:

Dear Honorable Judge Lipman and Counsel,

I am writing to submit the attached case management plan from my perspective as the Defendant. Upon careful review, it has become apparent that there are significant discrepancies between my proposed plan

and the one put forth by Attorney Mills representing the Plaintiff.

I have some differences with the Plaintiff's plan, outlined in the attached document. I've formally requested to postpone the scheduling conference via email and USPS, supported by a filed motion. I ask for this delay to prepare more thoroughly for the case and because I prefer in-person meetings over video calls.

Our plan also considers the pending review of the motion to dismiss filed on September 2, 2023 (Docket #33).

Thank you for considering my proposed timelines and conditions, especially given the case's sensitivity and its relevance to whistleblower laws. We look forward to discussing these issues further as the Court deems appropriate.

Best regards,

Dennis Philipson

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

phillydee100

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

**MEMORANDUM/NOTICE TO THE COURT REGARDING EXTENDED
TEMPORARY ABSENCE AND REQUEST FOR SECURE COMMUNICATION**

I, Dennis Philipson, hereby provide this memorandum/notice to the court. I wish to inform both the court and all relevant parties about changes to my previously communicated travel plans. While I had initially informed the court and the attorneys of Mid-America Apartment Communities, LLC of an expected three-week absence, the situation has evolved. Currently, my travel schedule requires me to be on the move frequently, with brief stops at home approximately once a week, making my schedule exceptionally demanding.

This temporary absence is due to business commitments and the urgent need to assist an ill family member. I emphasize that it is not my intention to delay any proceedings or neglect any responsibilities or obligations to this court.

I have read Ms. Mills' objection to my request for evidence. I would like to express my concern and displeasure about this matter. From my perspective, such resistance does not adhere to the principle of good faith.

I anticipate my return and resumption of regular activities by October 28th. Upon my return, I am fully committed to addressing, reviewing, and catching up on any proceedings, matters, or responsibilities that I may have missed during my extended absence.

Since I know my email and IP address have been compromised, posing a significant risk to the integrity and confidentiality of electronic communications directed to me, I respectfully request that the court and all related parties send any crucial or sensitive communications to me via secure USPS to ensure their privacy and security.

For matters requiring immediate attention or of an urgent nature, I remain accessible and can be reached directly on my cell phone at 919-264-1061.

In consideration of the above, I respectfully request the court's understanding and accommodation regarding my extended temporary absence and the specified mode of communication.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: October 14, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

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Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
Dated: October 14, 2023

RECEIVED
10 2023
Wendy R. Oliver, Clerk
U.S. District Court
W.D. OF TN, Memphis

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

**MID-AMERICA APARTMENT COMMUNITIES, INC.’S RESPONSE TO
DEFENDANT’S OBJECTION TO NOTICE OF DEPOSITION OF DENNIS PHILIPSON AND
NOTICE OF INTENT TO PROCEED WITH DEPOSITION AS SCHEDULED**

INTRODUCTION

Plaintiff Mid-America Apartment Communities (“MAA”) or (“Plaintiff”) files this Response TO Defendant’s “Objection to Deposition Notice of Dennis Philipson” (the “Objection”) served by email on undersigned counsel on Saturday, October 28, 2023, at 2:24 pm CST, relating to a deposition long-scheduled for Monday, October 30, 2023 at 9:30 CST in Washington, DC. The Objection is attached as **Exhibit A** for the Court’s reference. The Objection appears to be an attempt to notify counsel that Defendant will not appear for a deposition scheduled by agreement for October 30, 2023, unless he receives a deposition notice that sets out the questions to be asked and the topics to be covered as per Fed. R. Civ. P. 30(b)(6). The deposition notice at issue is attached as **Exhibit B**.

While the Objection is styled as a pleading and indicates in its certificate of service that that it was uploaded to “Pacer” on October 28, 2023, Undersigned counsel has not received a copy via the Court’s ecf filing system and does not know whether Defendant actually filed it or

not. Plaintiff's counsel tried to respond to it by return email (since it was served via email). However, Defendant has undersigned counsel blocked so that she cannot reply via email and insists that he only receive correspondence by US Mail or the Court's ecf filing system. Given the time sensitivity of these issues, Plaintiff has no choice but to file its response via the Court's docket and apologizes for having to publicly address what should have been resolved with a meet and confer between counsel as per the Local Rules and this Court's previous orders. Accordingly, Plaintiff provides the following response to Defendant's meritless objections and hereby notifies Defendant that the deposition will go forward as long scheduled on Monday, October 30, 2023 at 9:30 CST. Plaintiff would further state as follows:

1. The deposition was set by agreement of the parties on October 2, 2023. See **Exhibit C**.
2. Plaintiff forwarded a formal deposition notice to Defendant on October 6, 2023 (**Ex. D**) and filed it with the Court on the same day (Dkt. 61).
3. Defendant raised no objections to any of this.
4. On Saturday afternoon, October 28, 2023, Defendant notifies Plaintiff for the first time that he has objections to the Deposition Notice. Plaintiff's counsel has already purchased plane tickets and made hotel reservations to travel to Washington, DC in time for Monday morning's deposition. To arrive in time, undersigned counsel will be leaving her home by noon on Sunday. Court reporters and videographers have been retained.
5. Although Defendant emails this eleventh hour Objection, he has blocked undersigned counsel so that she cannot *reply* by email, despite the time sensitive

nature of the issues involved. Plaintiff's emailed reply is attached as **Exhibit E**. The rejection notice of this emailed reply is attached as **Exhibit F**.

6. All of Defendant's Objections are without merit.
7. He asserts that the Deposition Notice is defective because it does not contain a list of the topics or questions that will be covered, citing to Fed. R. Civ. P. 30(b)(6). Of course, Rule 30(b)(6) is wholly inapplicable because Mr. Philipson is an individual and not a corporate representative. The notice to an individual is valid if it contains the time and place of the deposition, the name of the person to be deposed, and the method(s) that will be used to record it. Fed. R. Civ. P. 30 (a)(2)(b). Accordingly, his insistence that he is entitled to a list of topics to be covered or the questions to be asked is simply wrong.
8. He complains that he should not have to give his deposition until he has Plaintiff's documents. This also is not a valid objection. Plaintiff's counsel has repeatedly explained to Mr. Philipson that it will produce its documents upon the entry of a suitable protective order or the denial of Plaintiff's motion for a protective order (Dkt. 52). Plaintiff believes that Defendant has been electronically stalking its employees for nearly two years. It is not willing to hand over documents that contain personal information about its employees without a protective order that provides that no use may be made of the information except in this litigation. Moreover, third parties have responded to Plaintiff's subpoenas also requesting that the documents not be disseminated without a protective order. Accordingly, Plaintiff drafted a standard protective order and asked Defendant to provide comments, which he refused to do. It therefore was necessary for Plaintiff to file a motion for the entry of

a protective order (Dkt. 52). Defendant should not be able to halt Plaintiff's discovery efforts simply because he refuses to enter into a reasonable protective order. He is not entitled to Plaintiff's documents before he is deposed, particularly when it was his choice to refuse to agree to a protective order.

9. Defendant also complains that the "present notice, combined with other communications [he's] received, appears to stretch beyond its purported focus, casting a notably wide net." Ex. A, ¶ 1. Plaintiff interprets this as an objection that Plaintiff *might* go beyond the scope of permissible discovery. Of course, Plaintiff is generally permitted to take Mr. Philipson's deposition and ask about any non-privileged matter that it believes is relevant to its claims and is proportional to the needs of the case. See Fed. R. Civ. 26(b)(1). Plaintiff certainly is not permitted to avoid giving his deposition on the basis that he objects to hypothetical, theoretical questions and topics that have not even been asked. He goes on to state that "[g]iven these circumstances, I'm concerned that the upcoming deposition might feel more like an interrogation." *Id.* Obviously, a deposition *is* an interrogation—that is its purpose. Mr. Philipson's feelings and concerns about that are not valid objections.
10. Defendant also seems to have the impression that Plaintiff is not permitted to ask him about "areas that might violate anti-retaliation laws." First, Defendant has only produced one document in this litigation and it had nothing whatsoever to do with any alleged whistleblowing. Defendant claims not to have a single document that would relate to whistleblowing activity. Accordingly, he has either destroyed all such

documents or they don't exist. He has never served or provided MAA with any documents that would demonstrate he has participated in any activity that would be protected under whistleblower statutes. Nonetheless, even if one assumes Mr. Philipson is a whistleblower for the sake of argument, Plaintiff is certainly able to explore that in a deposition and Defendant's incorrect beliefs to the contrary do not provide a valid basis to avoid giving his deposition.

11. And finally, Defendant's actions in emailing this Objection at the eleventh hour and blocking Plaintiff's counsel email so that she cannot reply certainly does not constitute a meet and confer as required by the Local Rules. This Court has previously admonished Defendant about this and he continues to ignore this requirement. In fact, he states in his objection that he has "chosen to limit [his] communication with opposing counsel to official written methods, either via Pacer or USPS. This measure stems from past experiences where the essence of communication might have been inaccurately portrayed." In other words, he will not simply call or email to work out disagreements. Instead he wastes this Court's time and the party's resources by having to respond to baseless arguments like the ones in his last-minute Objection.

12. Because Defendant has not made any timely or valid objections to the deposition notice, Plaintiff hereby gives notice that it plans to proceed with the deposition as long scheduled. Airline tickets have been purchased, travel arrangements made, hotel accommodations booked, and court reporters and videographers have been retained. If Defendant does not appear, Plaintiff will seek sanctions for his failure to comply with the Rules of Civil Procedure and the Local Rules of this Court.

13. As for the arguments Defendant's Objection contains that relate to the documents he did not produce in response to Plaintiff's subpoena and motion to compel, these arguments are not timely. Plaintiff filed its Notice on October 12, 2023. Defendant should have had two weeks to respond, assuming a further response at this point was even appropriate. Nonetheless, he admits that he has "tracking data" to "pertinent bodies" such as the DOJ, IRS, SEC, and EEOC but he did not "discern the tracking data as pivotal to this case" because he felt the production of it was not proportional. He did not provide suitable explanations for the other known missing documents. He has clearly destroyed the other relevant documents. He is flouting the discovery process as further evidenced by his latest Objection and Plaintiff respectfully requests that this Court hold him in Contempt.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324
Jordan Thomas, BPR. No. 039531
BASS, BERRY & SIMS PLC
100 Peabody Place, Suite 1300
Memphis, Tennessee 38103
Tel: (901) 543-5903
Fax: (615) 742-6293
jgolwen@bassberry.com
Jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by filing with the Court's ecf filing system and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 28th Day of October, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

36646276.1

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

No. 2:23-cv-2186-SHL-cgc

OBJECTION TO NOTICE OF DEPOSITION OF DEFENDANT DENNIS PHILIPSON

Dear Attorneys, Golwen, Thomas, and Mills,

I am compelled to articulate my reservations and express concerns regarding the Notice of Deposition that your office, Bass, Berry & Sims PLC as legal counsel for Mid-America Apartment Communities, Inc. and Mid-America Apartment Communities, LLC ("MAA"), issued on October 6, 2023.

To shed light on the background of our interactions, I wish to bring attention to my communication dated September 20th as detailed in (**Exhibit A**). In that correspondence, I informed about my sporadic unavailability in the upcoming weeks but also ensured my intention to stay informed and responsive to the developments in our case. Nonetheless, despite this clear communication, Bass, Berry & Sims PLC proceeded to file a motion for a protective order, and consequently, all my subsequent requests for subpoenas and evidence were declined. The rationale provided was the pending status of the protective order under judicial consideration.

Furthermore, I experienced an undertone of pressure when I was prompted to furnish a date for the deposition, underscored by the assertion that we must adhere to a pre-established timeline. I would like to emphasize that the scheduling order permits depositions to be taken until January 2024. Therefore, I am puzzled by the seemingly hasty push to schedule a deposition without providing me with the necessary documents.

To add to the timeline, on October 14th, I duly notified the court of my sporadic absence, which would extend until October 28th. Given these circumstances, I hope you can understand my perspective and the need for this letter. My concerns and objections regarding the Notice of Deposition are as follows:

1. **Ambiguity in the Notice:** The Notice of Deposition lacks precision regarding its main subject matter. Rule 30(b)(2) of the Federal Rules of Civil Procedure (FRCP) stresses the importance of unambiguously defining examination topics. However, the present notice, combined with other communications I've received, appears to stretch beyond its purported focus, casting a notably wide net. This approach is perplexing, especially when the core allegations are supposed to center on harassment and trademark infringement. Instead, the expansive nature of their inquiries and the broad date ranges, as evidenced in **(Exhibit B)**, seem to diverge from these central issues. I have informed MAA, their counsel, and the court numerous times that the information and documents were shared with various governmental agencies, including the Securities and Exchange Commission (SEC), Department of Justice (DOJ), Internal Revenue Service (IRS), and Equal Employment Opportunity Commission (EEOC). Most of my interactions with these agencies were conducted through their official portals and have been largely one-sided. I haven't kept any of the data or documents I supplied them. I've consistently stated that I possess no electronic records to present. Given these circumstances, I'm concerned that the upcoming deposition might feel more like an interrogation.
2. **Deficiency in Deposition Topics:** As per FRCP Rule 30(b)(6), the notice should outline "the topics for examination with reasonable particularity." The current document does not provide the specific subjects or questions that will be addressed. This lack of particularity is concerning, especially considering the complexity of the allegations implied.

3. **Scope of Discovery and Potential Retaliation:** In line with FRCP Rule 26(b)(1), discovery should be "proportional to the needs of the case." The Notice of Deposition, in its current form, feels extensive and potentially solicits information beyond the reasonable confines of this litigation. Given my prior whistleblower complaints, it's crucial to ensure that the scope of this deposition does not inadvertently tread into areas that might violate anti-retaliation laws. I urge MAA to narrow down and clarify the specific issues and allegations they intend to explore, especially in light of the protections afforded to whistleblowers.

The Notice of Deposition's lack of clarity complicates my preparation efforts. The focus of the deposition, based on my understanding, should be on MAA's allegations of trademark infringement and harassment, though the specifics remain unclear to me. I can't help but feel that this entire process is overreaching, especially since I believe I have no pertinent information to offer besides what has already been conveyed to MAA and government entities. A more precise notice would be instrumental in fostering a constructive and rule-compliant dialogue.

I respectfully request that MAA furnish a detailed deposition notice clearly outlining the subject matter, topics, and scope, particularly in relation to the stated allegations. With these clarifications in place and in alignment with discovery rules, I am prepared to participate in the deposition.

To ensure clarity and avoid potential misinterpretations, I have chosen to limit my communication with opposing counsel to official written methods, either via PACER or USPS. This measure stems from past experiences where the essence of communication might have been inaccurately portrayed.

Furthermore, I wish to express my concern regarding the denial of my requests for copies of subpoenas (**Exhibit C**), with the rationale being the necessity for a protective order. It raises questions about the accuracy of the information or the legitimacy of how my IP address might have been sourced. It's imperative that I have the chance to review and verify these documents prior to the deposition.

Lastly, I want to stress my preference for using the secure services of USPS for communication. In the past, I have been alerted by Google about potential password breaches, and I experienced identity theft issues in 2021 involving both the Virginia Unemployment Commission and Capital One. Given my status as a whistleblower, my apprehensions about my personal security are even more pronounced.

Concerning the points raised in (Docket #62):

1. **Screenshot, Email from Robert Delpriore, and Tracking Information:** I wish to address the matter pertaining to the screenshot and tracking details related to a specific communication. I had extended an offer to supply this data to the opposing counsel but was met with silence. This led me to interpret their lack of response as a lack of interest in the said information. Additionally, the email I received from Robert Delpriore, EVP of General Counsel, was in March 2023. It wasn't until April 2023 that I was notified of a lawsuit. Regrettably, I didn't retain this email as its content perplexed me, leading me to presume it pertained to my whistleblower disclosures. The aforementioned screenshot was sourced from Mr. DelPriore's LinkedIn profile. LinkedIn, being a public professional network, generally deems shared information as public. On the topic of tracking details, I'd like to underscore that I endeavored sincerely to retrieve it, but to no avail. Considering the context of the communication and its prior disclosure to pertinent bodies such as the DOJ, IRS, SEC, and EEOC, I didn't discern the tracking data as pivotal to this case. This stance resonates with Rule 26(b)(1)'s principles of proportionality, which advocates for discovery's scope to be in alignment with the case's necessities.
2. **Google Review, Complaint, and Evidence:** I was under the impression that the Google review, the complaint, and the corresponding evidence were in the public domain and that MAA possessed these documents. Unfortunately, I didn't retain the review, though it merely reiterated points I'd previously relayed to MAA. The evidence pointing to attorney Mr. Matern from Bass, Berry & Sims PLC can be located within MAA's financial documents that have been filed with the SEC. These are readily accessible via MAA's official website as well as the SEC's online

portal. MAA's insurance claim wording underwent modifications in 2009, and their status as self-insured hasn't been publicly disclosed. I've elaborated on this matter several times prior.

3. **Emails with Opposing Counsel Regarding Case:** I find it reasonable to assume that opposing counsel already retains copies of our past email correspondences. As such, I'm puzzled by the request to provide emails that have already been exchanged between us. Currently, I don't have any intentions of disclosing these emails during discovery or utilizing them at trial. This ask seems somewhat redundant, given that these communications already exist in their records. I'm trying to understand the necessity of revisiting and resubmitting these communications when both parties already have access to them.

Moreover, I feel compelled to touch upon what I perceive as the overly broad and overarching tenor of the discovery requisitions, as reflected in Ms. Mills' second document request dated 10/16/2023 (**Exhibit B**). It seems the demands are for an all-encompassing sweep of any data I might have ever possessed that could be of any relevance to MAA. Such exhaustive solicitations arouse concerns in me about potentially overstepping discovery boundaries and impinging on my rights.

I strive earnestly to adhere to all relevant federal and local statutes and regulations. However, the fluctuating nature of the opposing counsel's allegations and document solicitations adds layers of complexity to my efforts. I eagerly await your feedback and elucidation on the issues I've outlined in this letter. I remain optimistic that transparent and fluid dialogue will simplify the discovery phase and ensure adherence to both legal and procedural guidelines. Thank you for giving these matters the urgency they deserve.

Warm regards,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
919-264-1061
Dated: October 28, 2023

CERTIFICATION OF SERVICE

I hereby certify that on October 28, 2023 a true and accurate copy of this letter, inclusive of all attachments, was sent via the United States Postal Service (USPS) and email to the following individuals:

John S. Golwen
BASS BERRY & SIMS PLC- Memphis
The Tower at Peabody Place
100 Peabody Place Ste. 1300
Memphis, TN 38103
Phone: 901-543-5900 Fax: 901-543-5999
Email: jgolwen@bassberry.com

Jordan Elizabeth Thomas
BASS, BERRY & SIMS PLC
100 Peabody Pl. Ste 1300
Memphis, TN 38103
Phone: 901-543-5966
Email: jordan.thomas@bassberry.com

Paige Waldrop Mills
BASS BERRY & SIMS
150 3rd Ave S
Nashville, TN 37201
Phone: 615-742-7770
Email: pmills@bassberry.com

I further certify that a copy of this letter, excluding attachments, was filed with the court to be uploaded to PACER (Public Access to Court Electronic Records) on October 28, 2023.

S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
919-264-1061

Dated: October 28, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

NOTICE OF DEPOSITION OF DEFENDANT DENNIS PHILIPSON

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 26, 30, and 45, Plaintiff Mid-America Apartment Communities, Inc. (“MAA”), by and through its undersigned counsel, will take the deposition upon oral examination of Dennis Philipson, who is located at 6178 Castletown Way, Alexandria, Virginia 22310, on October 30, 2023 at 9:30 a.m. Eastern Time. The deposition will be held at Bass, Berry & Sims PLC, 1201 Pennsylvania Ave. NW #300, Washington, D.C. 20004.

The deposition will take place at the date and time indicated above, or such other date and time as is mutually acceptable to counsel for the parties, and will continue from day to day until completed. The deposition will be recorded by stenographic means and may also be recorded by audiovisual means. The deposition will proceed in accordance with the Federal Rules of Civil Procedure and shall be conducted before a person qualified to administer oaths.

Dated: October 6, 2023

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218

BASS, BERRY & SIMS PLC

Suite 2800; 150 3rd Ave. South

Nashville, Tennessee 37201

Tel: 615-742-6200

pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324

Jordan Thomas, BPR. No. 039531

BASS, BERRY & SIMS PLC

100 Peabody Place, Suite 1300

Memphis, Tennessee 38103

Tel: (901) 543-5903

Fax: (615) 742-6293

jgolwen@bassberry.com

jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 6, 2023, a copy of the foregoing was emailed to Defendant as well as a copy sent by regular mail at the following address:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310

/s/ Paige Waldrop Mills
Paige Waldrop Mills

36506488.1

Mills, Paige

From: Mills, Paige
Sent: Monday, October 2, 2023 10:05 PM
To: 'D J'
Cc: McClanahan, Teresa; Golwen, John S.; Thomas, Jordan
Subject: RE: Mid-America Apartment Communities v Dennis Philipson - Motion for Protective Order

Mr. Philipson,

The third party subpoenas contain IP address, and account and contact information. If it is not your information, it belongs to someone else and shouldn't be used outside of this litigation. Moreover, you have requested other documents that don't just relate to the subpoenas. The entry of a protective order is standard in commercial litigation and we will not be producing documents without one in place or without an order from Judge Lipman denying the motion for one. Thank you for providing deposition dates. We will plan on taking your deposition on October 30, 2023. We will send a notice out this week with time and address.

Thank you,

Paige Mills

BASS BERRY + SIMS

Paige Mills

Member

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201

615-742-7770 phone

pmills@bassberry.com • www.bassberry.com

From: D J <phillydee100@gmail.com>

Sent: Monday, October 2, 2023 9:55 PM

To: Mills, Paige <PMills@bassberry.com>

Cc: McClanahan, Teresa <TMcClanahan@bassberry.com>; Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>

Subject: Re: Mid-America Apartment Communities v Dennis Philipson - Motion for Protective Order

Hello,

I appreciate your perspective, but I still fail to see the necessity of a protective order in this situation. The documents I've requested are related to third-party companies, and there should be no inherent privacy concerns in providing subpoena responses from entities like Wix.

Regarding the deposition dates, I am available on October 30th and 31st, and I'm willing to cooperate within the court-ordered schedule. However, I maintain my stance that a protective order is unnecessary for the majority of requested documents.

Let's proceed with the deposition planning based on my availability, and if you have any further concerns about document disclosure, please feel free to address them.

Thank you,

Dennis

On Mon, Oct 2, 2023, 10:45 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

The documents are not yet due. Our objections/response are due on October 7, 2023. I have further told you that we will produce once a suitable protective order is entered, yet you have opposed the entry of a protective order. That issue is teed up for the Judge to decide. In the meantime, we have a court ordered schedule that we must follow. To that end, I will need to take your deposition. Please provide convenient dates in the month of October or we will have no choice but to notice the deposition without your input on the date. If you will agree to the entry of a protective order similar to what we have suggested, we can produce the documents on or around October 7, 2023.

Best Regards,

Paige Mills

BASS BERRY + SIMS

Paige Mills

Member

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201

615-742-7770 phone

pmills@bassberry.com • www.bassberry.com

From: D J <phillydee100@gmail.com>

Sent: Monday, October 2, 2023 9:20 PM

To: Mills, Paige <PMills@bassberry.com>

Cc: McClanahan, Teresa <TMcClanahan@bassberry.com>; Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>

Subject: Re: Mid-America Apartment Communities v Dennis Philipson - Motion for Protective Order

Dear Attorney Mills,

I trust this message finds you in good health. As a pro se defendant in this case, I want to express my concern regarding the lack of document production in accordance with the initial disclosure requirements. To date, I have not received any documents, which are crucial for me to prepare adequately for any deposition.

Given this circumstance and the fact that essential information has not been provided, I respectfully request that we delay the scheduling of any deposition until I have received the necessary documents and had a reasonable opportunity to review them. It is my sincere belief that this will enable us to engage in a more productive and fair deposition process once the required information is available.

I appreciate your understanding in this matter and hope we can work together to ensure that all necessary materials are exchanged promptly. Please feel free to reach out if you have any questions or require further clarification on my position.

Thank you,

I hope that you have a great week!

Dennis Philipson

On Mon, Oct 2, 2023, 10:06 PM Mills, Paige <PMills@bassberry.com> wrote:

Mr. Philipson,

Can you please provide dates in October for your deposition? We would like to set it at a time convenient to you. I look forward to hearing from you at your earliest convenience.

Best Regards,

Paige Mills

BASS BERRY + SIMS**Paige Mills**

Member

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201

615-742-7770 phone

pmills@bassberry.com • www.bassberry.com**From:** D <phillydee100@gmail.com>**Sent:** Thursday, September 21, 2023 1:38 PM**To:** McClanahan, Teresa <TMcClanahan@bassberry.com>**Cc:** Mills, Paige <PMills@bassberry.com>; Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>**Subject:** Re: Mid-America Apartment Communities v Dennis Philipson - Motion for Protective Order

Dear Ms. McClanahan,

I acknowledge receipt of the documents pertaining to the Protective Order and the Proposed Motion that you recently forwarded. I intend to review these materials and will subsequently file my formal response in accordance with applicable deadlines and procedures.

If we do not have further communication prior, I wish you an enjoyable day and upcoming weekend.

Sincerely,
Dennis

On Thu, Sep 21, 2023 at 2:29 PM McClanahan, Teresa <TMcClanahan@bassberry.com> wrote:

Mr. Philipson,

Attached is the Motion for Entry of a Protective Order filed with the Court today. A hard copy will follow via U.S. Mail.

Thank you.

Teresa McClanahan

Paralegal

Bass, Berry & Sims PLC

150 Third Avenue South Suite 2800 • Nashville, TN 37201

615-259-6787 phone • 615-742-6293 fax •

tmccclanahan@bassberry.com • www.bassberry.com

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

Unless specifically indicated otherwise, this email, including any attachments, was not intended and cannot be used for the purpose of (A) avoiding U.S. tax-related penalties or (B) promoting, marketing or recommending to another party any tax-related matter addressed herein.

Mills, Paige

From: Mills, Paige
Sent: Friday, October 6, 2023 1:40 PM
To: D J
Cc: McClanahan, Teresa; Thomas, Jordan; Golwen, John S.
Subject: MAA's Notice of Deposition of Philipson(36506488)
Attachments: MAA's Notice of Deposition of Philipson(36506488).pdf

Mr. Philipson,

As previously agreed upon, please find a deposition notice for your deposition on October 30, 2023. We will also send a copy by regular mail.

Best Regards,

Paige Mills

BASS BERRY + SIMS

Paige Mills

Member

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201

615-742-7770 phone

pmills@bassberry.com • www.bassberry.com

Mills, Paige

From: Mills, Paige
Sent: Saturday, October 28, 2023 4:01 PM
To: Philly Dee; Golwen, John S.; Thomas, Jordan; McClanahan, Teresa
Subject: RE: Objection to Notice of Deposition & Communication to Opposing Counsel

Mr. Philipson:

We set the deposition by agreement on a date that you said would work for you nearly four weeks ago on October 2, 2023. You were promptly provided with a written notice after the agreement on the date was made. You have not raised an objection until now--on the Saturday afternoon before--once plane tickets have been purchased and hotel reservations are made. Moreover, the only real objection you raise is that you don't want to give your deposition until you have a chance to review our documents. That is not a valid objection.

Further, we have repeatedly told you that we will provide the documents once a protective order is entered. We drafted a protective order, provided it to you, and asked for your comments. You refused to provide any. Given our client's belief that you are electronically stalking and harassing its employees, it is not willing to turn over documents to you that contain personal information about other individuals without a protective order that provides that these documents can only be used in this litigation and for no other purpose. Moreover, at least one of the third party subpoenas you seek also requires that the information be kept subject to a protective order. For example, the Wix Subpoena response (emphasis in original) provides as follows:

PLEASE NOTE THAT THIS LETTER CONTAINS PERSONAL INFORMATION, AND YOU ARE THEREFORE REQUESTED TO MAINTAIN IT IN CONFIDENCE AND TO USE AND DISCLOSE IT SOLELY FOR THE LAWFUL PURPOSES OF THE REQUEST AND AS INSTRUCTED BY THE COURT.

And finally, your objection to the deposition notice is without merit because you are not being deposed as a 30(b)6 witness. A 30(b)(6) witness is a representative of a corporation. A corporate representative is entitled to a notice that spells out the topics of the deposition. You are being deposed in your individual capacity. The notice to an individual is valid if it contains the time and place of the deposition, the name of the person to be deposed, and the method(s) that will be used to record it. Fed. R. Civ. P. 30 (a)(2)(b). Moreover, generally we are permitted to take your deposition and ask about any non-privileged matter that we believe is relevant to our claim and is proportional to the needs of the case. See Fed. R. Civ. 26(b)(1). The fact that you are concerned the upcoming deposition "might feel like an interrogation" is also not a valid objection. It most definitely will be an interrogation and that is entirely permissible.

Given the late notice of your objection and the failure to raise any valid objections, we will go forward with the deposition as long scheduled. If you do not appear, we will be seeking sanctions for your failure to comply with the notice.

I also note that you are willing to correspond via email when it suits you. You served these objections by email, but when I will attempt to reply, I will likely receive a notice that I have been blocked. To ensure that you cannot complain you did not receive this email, I will also serve it by mail and will file a copy so there is no question that the deposition is going forward on Monday morning as long scheduled.

Sincerely,

Paige Mills

BASS BERRY + SIMS**Paige Mills**

Member Th

Bass, Berry & Sims PLC

150 Third Avenue South, Suite 2800 • Nashville, TN 37201

615-742-7770 phone

pmills@bassberry.com • www.bassberry.com**From:** Philly Dee <phillydee100@gmail.com>**Sent:** Saturday, October 28, 2023 2:34 PM**To:** Golwen, John S. <jgolwen@bassberry.com>; Thomas, Jordan <jordan.thomas@bassberry.com>; Mills, Paige <PMills@bassberry.com>; McClanahan, Teresa <TMcClanahan@bassberry.com>**Subject:** Objection to Notice of Deposition & Communication to Opposing Counsel

Dear Attorneys Golwen, Thomas, and Mills,

I trust this message finds you well and that you are enjoying your weekend. My apologies for the delay; I've been working to catch up on several matters.

Enclosed, please find the relevant documents for your review. I appreciate your attention to this matter and thank you in advance for your understanding.

Wishing you a pleasant evening ahead.

Warm regards,

Dennis Philipson

Mills, Paige

From: Microsoft Outlook
<MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@bassberry.com>
To: Philly Dee
Sent: Saturday, October 28, 2023 4:01 PM
Subject: Undeliverable: RE: Objection to Notice of Deposition & Communication to Opposing Counsel



Your message to phillydee100@gmail.com couldn't be delivered.

[phillydee100](mailto:phillydee100@gmail.com) wasn't found at [gmail.com](https://www.gmail.com).

PMills**Office 365****phillydee100****Action Required**

Recipient

Unknown To address

How to Fix It

The address may be misspelled or may not exist. Try one or more of the following:

- Send the message again following these steps: In Outlook, open this non-delivery report (NDR) and choose **Send Again** from the Report ribbon. In Outlook on the web, select this NDR, then select the link **"To send this message again, click here."** Then delete and retype the entire recipient address. If prompted with an Auto-Complete List suggestion don't select it. After typing the complete address, click **Send**.
- Contact the recipient (by phone, for example) to check that the address exists and is correct.
- The recipient may have set up email forwarding to an incorrect address. Ask them to check that any forwarding they've set up is working correctly.
- Clear the recipient Auto-Complete List in Outlook or Outlook on the web by following the steps in this article: [Fix email delivery issues for error code 5.1.1 in Office 365](#), and then send the message again. Retype the entire recipient address before selecting **Send**.

If the problem continues, forward this message to your email admin. If you're an email admin, refer to the **More Info for Email Admins** section below.

Was this helpful? [Send feedback to Microsoft.](#)

More Info for Email Admins

Status code: 550 5.1.1

This error occurs because the sender sent a message to an email address outside of Office 365, but the address is incorrect or doesn't exist at the destination domain. The error is reported by the recipient domain's email server, but most often it must be fixed by the person who sent the message. If the steps in the **How to Fix It** section above don't fix the problem, and you're the email admin for the recipient, try one or more of the following:

The email address exists and is correct - Confirm that the recipient address exists, is correct, and is accepting messages.

Synchronize your directories - If you have a hybrid environment and are using directory synchronization make sure the recipient's email address is synced correctly in both Office 365 and in your on-premises directory.

Errant forwarding rule - Check for forwarding rules that aren't behaving as expected. Forwarding can be set up by an admin via mail flow rules or mailbox forwarding address settings, or by the recipient via the Inbox Rules feature.

Mail flow settings and MX records are not correct - Misconfigured mail flow or MX record settings can cause this error. Check your Office 365 mail flow settings to make sure your domain and any mail flow connectors are set up correctly. Also, work with your domain registrar to make sure the MX records for your domain are configured correctly.

For more information and additional tips to fix this issue, see [Fix email delivery issues for error code 550 5.1.1 in Office 365](#).

Original Message Details

Created Date:	10/28/2023 9:01:10 PM
Sender Address:	PMills@bassberry.com
Recipient Address:	phillydee100@gmail.com
Subject:	RE: Objection to Notice of Deposition & Communication to Opposing Counsel

Error Details

Error: *550-5.1.1 The email account that you tried to reach does not exist. Please try 550-5.1.1 double-checking the recipient's email address for typos or 550-5.1.1 unnecessary spaces. Learn more at 550 5.1.1*

https://support.google.com/mail/?p=NoSuchUser z11-
20020a05600c220b00b003fe9eb22077si3205559wml.110 - gsmtg

Message rejected by: mx.google.com

Notification Details

Sent by: MN2PR06MB6735.namprd06.prod.outlook.com

Message Hops

HOP	TIME (UTC)	FROM	TO	WITH
1	10/28/2023 9:01:10 PM	PH7PR06MB9320.namprd06.prod.outlook.com	PH7PR06MB9320.namprd06.prod.outlook.com	mapi
2	10/28/2023 9:01:10 PM	PH7PR06MB9320.namprd06.prod.outlook.com	SN7PR06MB9250.namprd06.prod.outlook.com	Microsoft SMTP Ser cipher=TLS_ECDHE_
3	10/28/2023 9:01:13 PM	NAM12-DM6- obe.outbound.protection.outlook.com	BNAMBX02.bassberry.com	Microsoft SMTP Ser cipher=TLS_ECDHE_
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Original Message Headers

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ARC-Authentication-Results: i=2; mx.microsoft.com 1; spf=pass (sender ip is
4.14.81.65) smtp.rcpttodomain=gmail.com smtp.mailfrom=bassberry.com;

dmarc=pass (p=none sp=none pct=100) action=none header.from=bassberry.com;
dkim=pass (signature was verified) header.d=bassberry.com; arc=pass (0 oda=1
ltdi=1 spf=[1,1,smtp.mailfrom=bassberry.com]
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by MN2PR06MB6735.namprd06.prod.outlook.com (2603:10b6:208:207::24) with
Microsoft SMTP Server (version=TLS1_2,
cipher=TLS_ECDHE_RSA_WITH_AES_256_GCM_SHA384) id 15.20.6907.33; Sat, 28 Oct
2023 21:01:15 +0000
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smtp.mailfrom=bassberry.com; dkim=pass (signature was verified)
header.d=bassberry.com; dmarc=pass action=none header.from=bassberry.com;
Received-SPF: Pass (protection.outlook.com: domain of bassberry.com designates
4.14.81.65 as permitted sender) receiver=protection.outlook.com;
client-ip=4.14.81.65; helo=mail.bassberry.com; pr=C
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SA2PEPF000015C6.mail.protection.outlook.com (10.167.241.196) with Microsoft
SMTP Server (version=TLS1_2, cipher=TLS_ECDHE_RSA_WITH_AES_128_GCM_SHA256) id
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(172.16.51.26) with Microsoft SMTP Server (version=TLS1_2,
cipher=TLS_ECDHE_RSA_WITH_AES_128_GCM_SHA256) id 15.1.2375.34; Sat, 28 Oct
2023 16:01:13 -0500
Received: from NAM12-DM6-obe.outbound.protection.outlook.com (104.47.59.169)
by BNAMBX02.bassberry.com (172.16.51.26) with Microsoft SMTP Server
(version=TLS1_2, cipher=TLS_ECDHE_RSA_WITH_AES_128_GCM_SHA256) id
15.1.2375.34 via Frontend Transport; Sat, 28 Oct 2023 16:01:13 -0500
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ARC-Authentication-Results: i=1; mx.microsoft.com 1; spf=pass

smtp.mailfrom=bassberry.com; dmarc=pass action=none

header.from=bassberry.com; dkim=pass header.d=bassberry.com; arc=none

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s=selector1;

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by SN7PR06MB9250.namprd06.prod.outlook.com (2603:10b6:806:2e3::13) with

Microsoft SMTP Server (version=TLS1_2,

cipher=TLS_ECDHE_RSA_WITH_AES_256_GCM_SHA384) id 15.20.6933.24; Sat, 28 Oct
2023 21:01:10 +0000

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([fe80::2567:6cae:b165:46db%6]) with mapi id 15.20.6933.025; Sat, 28 Oct 2023
21:01:10 +0000

From: "Mills, Paige" <PMills@bassberry.com>

To: Philly Dee <phillydee100@gmail.com>, "Golwen, John S."

<jgolwen@bassberry.com>, "Thomas, Jordan" <jordan.thomas@bassberry.com>,

"McClanahan, Teresa" <TMcClanahan@bassberry.com>

Subject: RE: Objection to Notice of Deposition & Communication to Opposing
Counsel

Thread-Topic: Objection to Notice of Deposition & Communication to Opposing
Counsel

Thread-Index: AQHaCdXmoIQJEYpXUkadlyvpWzfyT7Bfn6RA

Date: Sat, 28 Oct 2023 21:01:10 +0000

Message-ID:

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Accept-Language: en-US

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X-MS-Has-Attach: yes

X-MS-TNEF-Correlator:

x-processedbytemplafy: true

x-templafyemailsigtoversion: 8.28.0.0

Authentication-Results-Original: dkim=none (message not signed)

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X-MS-Exchange-SenderADCheck: 1
X-MS-Exchange-AntiSpam-Relay: 0
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X-Microsoft-Antispam-Message-Info-Original:
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X-MS-Office365-Filtering-Correlation-Id-Prvs:
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X-OriginatorOrg: bassberry.com

X-MS-Exchange-CrossTenant-OriginalArrivalTime: 28 Oct 2023 21:01:14.5374

(UTC)

X-MS-Exchange-CrossTenant-Network-Message-Id: f989e329-dd4f-4f60-b7dc-08dbd7f905c1

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X-MS-Exchange-CrossTenant-OriginalAttributedTenantConnectingIp: TenantId=da589384-d54c-4816-82fd-e4d6d77f4ee1;Ip=[4.14.81.65];Helo=[mail.bassberry.com]

X-MS-Exchange-CrossTenant-AuthSource:

SA2PEPF000015C6.namprd03.prod.outlook.com

X-MS-Exchange-CrossTenant-AuthAs: Anonymous

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

No. 2:23-cv-2186-SHL-cgc

OBJECTION TO NOTICE OF DEPOSITION OF DEFENDANT DENNIS PHILIPSON

Dear Attorneys, Golwen, Thomas, and Mills,

I am compelled to articulate my reservations and express concerns regarding the Notice of Deposition that your office, Bass, Berry & Sims PLC as legal counsel for Mid-America Apartment Communities, Inc. and Mid-America Apartment Communities, LLC ("MAA"), issued on October 6, 2023.

To shed light on the background of our interactions, I wish to bring attention to my communication dated September 20th as detailed in (**Exhibit A**). In that correspondence, I informed about my sporadic unavailability in the upcoming weeks but also ensured my intention to stay informed and responsive to the developments in our case. Nonetheless, despite this clear communication, Bass, Berry & Sims PLC proceeded to file a motion for a protective order, and consequently, all my subsequent requests for subpoenas and evidence were declined. The rationale provided was the pending status of the protective order under judicial consideration.

Furthermore, I experienced an undertone of pressure when I was prompted to furnish a date for the deposition, underscored by the assertion that we must adhere to a pre-established timeline. I would like to emphasize that the scheduling order permits depositions to be taken until January 2024. Therefore, I am puzzled by the seemingly hasty push to schedule a deposition without providing me with the necessary documents.

To add to the timeline, on October 14th, I duly notified the court of my sporadic absence, which would extend until October 28th. Given these circumstances, I hope you can understand my perspective and the need for this letter. My concerns and objections regarding the Notice of Deposition are as follows:

1. **Ambiguity in the Notice:** The Notice of Deposition lacks precision regarding its main subject matter. Rule 30(b)(2) of the Federal Rules of Civil Procedure (FRCP) stresses the importance of unambiguously defining examination topics. However, the present notice, combined with other communications I've received, appears to stretch beyond its purported focus, casting a notably wide net. This approach is perplexing, especially when the core allegations are supposed to center on harassment and trademark infringement. Instead, the expansive nature of their inquiries and the broad date ranges, as evidenced in **(Exhibit B)**, seem to diverge from these central issues. I have informed MAA, their counsel, and the court numerous times that the information and documents were shared with various governmental agencies, including the Securities and Exchange Commission (SEC), Department of Justice (DOJ), Internal Revenue Service (IRS), and Equal Employment Opportunity Commission (EEOC). Most of my interactions with these agencies were conducted through their official portals and have been largely one-sided. I haven't kept any of the data or documents I supplied them. I've consistently stated that I possess no electronic records to present. Given these circumstances, I'm concerned that the upcoming deposition might feel more like an interrogation.
2. **Deficiency in Deposition Topics:** As per FRCP Rule 30(b)(6), the notice should outline "the topics for examination with reasonable particularity." The current document does not provide the specific subjects or questions that will be addressed. This lack of particularity is concerning, especially considering the complexity of the allegations implied.

3. **Scope of Discovery and Potential Retaliation:** In line with FRCP Rule 26(b)(1), discovery should be "proportional to the needs of the case." The Notice of Deposition, in its current form, feels extensive and potentially solicits information beyond the reasonable confines of this litigation. Given my prior whistleblower complaints, it's crucial to ensure that the scope of this deposition does not inadvertently tread into areas that might violate anti-retaliation laws. I urge MAA to narrow down and clarify the specific issues and allegations they intend to explore, especially in light of the protections afforded to whistleblowers.

The Notice of Deposition's lack of clarity complicates my preparation efforts. The focus of the deposition, based on my understanding, should be on MAA's allegations of trademark infringement and harassment, though the specifics remain unclear to me. I can't help but feel that this entire process is overreaching, especially since I believe I have no pertinent information to offer besides what has already been conveyed to MAA and government entities. A more precise notice would be instrumental in fostering a constructive and rule-compliant dialogue.

I respectfully request that MAA furnish a detailed deposition notice clearly outlining the subject matter, topics, and scope, particularly in relation to the stated allegations. With these clarifications in place and in alignment with discovery rules, I am prepared to participate in the deposition.

To ensure clarity and avoid potential misinterpretations, I have chosen to limit my communication with opposing counsel to official written methods, either via PACER or USPS. This measure stems from past experiences where the essence of communication might have been inaccurately portrayed.

Furthermore, I wish to express my concern regarding the denial of my requests for copies of subpoenas (**Exhibit C**), with the rationale being the necessity for a protective order. It raises questions about the accuracy of the information or the legitimacy of how my IP address might have been sourced. It's imperative that I have the chance to review and verify these documents prior to the deposition.

Lastly, I want to stress my preference for using the secure services of USPS for communication. In the past, I have been alerted by Google about potential password breaches, and I experienced identity theft issues in 2021 involving both the Virginia Unemployment Commission and Capital One. Given my status as a whistleblower, my apprehensions about my personal security are even more pronounced.

Concerning the points raised in (Docket #62):

1. **Screenshot, Email from Robert Delpriore, and Tracking Information:** I wish to address the matter pertaining to the screenshot and tracking details related to a specific communication. I had extended an offer to supply this data to the opposing counsel but was met with silence. This led me to interpret their lack of response as a lack of interest in the said information. Additionally, the email I received from Robert Delpriore, EVP of General Counsel, was in March 2023. It wasn't until April 2023 that I was notified of a lawsuit. Regrettably, I didn't retain this email as its content perplexed me, leading me to presume it pertained to my whistleblower disclosures. The aforementioned screenshot was sourced from Mr. DelPriore's LinkedIn profile. LinkedIn, being a public professional network, generally deems shared information as public. On the topic of tracking details, I'd like to underscore that I endeavored sincerely to retrieve it, but to no avail. Considering the context of the communication and its prior disclosure to pertinent bodies such as the DOJ, IRS, SEC, and EEOC, I didn't discern the tracking data as pivotal to this case. This stance resonates with Rule 26(b)(1)'s principles of proportionality, which advocates for discovery's scope to be in alignment with the case's necessities.
2. **Google Review, Complaint, and Evidence:** I was under the impression that the Google review, the complaint, and the corresponding evidence were in the public domain and that MAA possessed these documents. Unfortunately, I didn't retain the review, though it merely reiterated points I'd previously relayed to MAA. The evidence pointing to attorney Mr. Matern from Bass, Berry & Sims PLC can be located within MAA's financial documents that have been filed with the SEC. These are readily accessible via MAA's official website as well as the SEC's online

portal. MAA's insurance claim wording underwent modifications in 2009, and their status as self-insured hasn't been publicly disclosed. I've elaborated on this matter several times prior.

3. **Emails with Opposing Counsel Regarding Case:** I find it reasonable to assume that opposing counsel already retains copies of our past email correspondences. As such, I'm puzzled by the request to provide emails that have already been exchanged between us. Currently, I don't have any intentions of disclosing these emails during discovery or utilizing them at trial. This ask seems somewhat redundant, given that these communications already exist in their records. I'm trying to understand the necessity of revisiting and resubmitting these communications when both parties already have access to them.

Moreover, I feel compelled to touch upon what I perceive as the overly broad and overarching tenor of the discovery requisitions, as reflected in Ms. Mills' second document request dated 10/16/2023 (**Exhibit B**). It seems the demands are for an all-encompassing sweep of any data I might have ever possessed that could be of any relevance to MAA. Such exhaustive solicitations arouse concerns in me about potentially overstepping discovery boundaries and impinging on my rights.

I strive earnestly to adhere to all relevant federal and local statutes and regulations. However, the fluctuating nature of the opposing counsel's allegations and document solicitations adds layers of complexity to my efforts. I eagerly await your feedback and elucidation on the issues I've outlined in this letter. I remain optimistic that transparent and fluid dialogue will simplify the discovery phase and ensure adherence to both legal and procedural guidelines. Thank you for giving these matters the urgency they deserve.

Warm regards,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
919-264-1061
Dated: October 28, 2023

CERTIFICATION OF SERVICE

I hereby certify that on October 28, 2023 a true and accurate copy of this letter, inclusive of all attachments, was sent via the United States Postal Service (USPS) and email to the following individuals:

John S. Golwen
BASS BERRY & SIMS PLC- Memphis
The Tower at Peabody Place
100 Peabody Place Ste. 1300
Memphis, TN 38103
Phone: 901-543-5900 Fax: 901-543-5999
Email: jgolwen@bassberry.com

Jordan Elizabeth Thomas
BASS, BERRY & SIMS PLC
100 Peabody Pl. Ste 1300
Memphis, TN 38103
Phone: 901-543-5966
Email: jordan.thomas@bassberry.com

Paige Waldrop Mills
BASS BERRY & SIMS
150 3rd Ave S
Nashville, TN 37201
Phone: 615-742-7770
Email: pmills@bassberry.com

I further certify that a copy of this letter, excluding attachments, was filed with the court to be uploaded to PACER (Public Access to Court Electronic Records) on October 28, 2023.

S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
919-264-1061
Dated: October 28, 2023



D <phillydee100@gmail.com>

Re: Mid-America Apartment Communities v Dennis Philipson - Response to Motion to Compel

D <phillydee100@gmail.com>

Wed, Sep 20, 2023 at 4:46 PM

To: "McClanahan, Teresa" <TMcClanahan@bassberry.com>

Cc: "Mills, Paige" <PMills@bassberry.com>, "Golwen, John S." <jgolwen@bassberry.com>, "Thomas, Jordan" <jordan.thomas@bassberry.com>

Bcc: D <phillydee100@gmail.com>

Good afternoon Teresa,

Thank you for sending the materials over. I remain optimistic for a positive outcome and hope you have a pleasant evening ahead. I will be away intermittently during the next few weeks but will make every effort to stay updated on any developments. Should additional information be required, please don't hesitate to inform me. To reiterate, as of now, I have not made any initial disclosures. However, this may change depending on the evidence that the Plaintiff produces, which could reveal elements important to my defense.

Again, for your information, if you are seeking documents or information concerning MAA and its employees, you may want to consider subpoenaing the SEC, DOJ, IRS, and EEOC, as it can be challenging for these agencies to comment on ongoing investigations.

Best regards,
Dennis Philipson

On Wed, Sep 20, 2023 at 3:43 PM McClanahan, Teresa <TMcClanahan@bassberry.com> wrote:

Mr. Philipson,

Attached is a response filed with the Court today. A hard copy will follow via U.S. Mail.

Thank you.

 Bass Berry Sims

Teresa McClanahan

Paralegal

Bass, Berry & Sims PLC

150 Third Avenue South Suite 2800 • Nashville, TN 37201

615-259-6787 phone • 615-742-6293 fax •

tmccclanahan@bassberry.com • www.bassberry.com

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

Unless specifically indicated otherwise, this email, including any attachments, was not intended and cannot be used for the purpose of (A) avoiding U.S. tax-related penalties or (B) promoting, marketing or recommending to another party any tax-related matter addressed herein.

2 attachments

BASS BERRY+SIMS image001.gif
4K

BASS BERRY+SIMS image001.gif
4K

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT,
COMMUNITIES, INC.,**

Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

SECOND SET OF DOCUMENT REQUESTS TO DEFENDANT PHILIPSON

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiff Mid-America Apartment Communities, Inc. ("MAA"), by and through its attorneys, Bass Berry & Sims PLC, hereby requests that Defendant Dennis Philipson produce the documents requested below for inspection and copying at the offices of Bass, Berry & Sims, within thirty (30) days after the service hereof.

INSTRUCTIONS

1. These requests apply to all Documents in your possession, custody or control, regardless of whether such Documents are held by you or your affiliates, corporate parents, corporate subsidiaries, divisions, directors, officers, partners, designees, agents, managers, employees, representatives, attorneys, or assigns.

2. Pursuant to Federal Rule of Civil Procedure 34(b), all Documents shall be produced as they are kept in the usual course of business, or shall be organized and labeled to correspond to the categories of Documents set forth in each request.

3. All electronically stored information responsive to a request shall be produced in single-page TIFF or color JPG format, as applicable, and in native file format. All corresponding metadata shall be produced in a load file compatible with Relativity.

4. Where any copy of any requested document is not identical to any other copy thereof, by reason of any alterations, marginal notes, comments, or material contained therein or attached thereto, or otherwise, all such non-identical copies shall be produced separately.

5. If no Documents exist that are responsive to a particular request, you shall state so in writing.

6. If any document or any portion of any document requested herein is withheld from production, describe the basis for withholding the document or portion thereof, including any claim of a privilege or protection, in sufficient detail to permit the Court to adjudicate the validity of your withholding the document, and identify each document so withheld by providing at least the following information:

- a. the type of document (e.g., memorandum, letter, report, etc.);
- b. the date, title and subject matter of the document;
- c. the identity, affiliation, and position of the author, the addressee(s), and all recipients of the document; and
- d. a statement of (i) the nature of the legal privilege or protection from discovery claimed and (ii) the factual basis for that claim of privilege or protection from discovery, including the facts establishing the claim of privilege or protection from discovery, the facts showing that the privilege has not been waived, and a statement as to whether the subject matter of the contents of the document is limited to legal advice or contains other subject matter.

7. If a portion of an otherwise responsive document contains information subject to a claim of privilege or protection from discovery, those portions of the document shall be redacted

from the document, and the redacted portions shall be clearly marked as such, and the rest of the document shall be produced.

8. With respect to any responsive document that was formerly in your possession, custody or control and has been lost, destroyed or transferred out of your possession, custody or control, identify such document by setting forth its author(s), addressee(s), copyee(s), date, title, number of pages, subject matter, nature (e.g., memorandum, letter, report, etc.), actual or approximate date on which the document was lost, destroyed or transferred, and, if destroyed, the conditions of and reasons for such destruction, and the names of the person authorizing and performing the destruction, and state the name and address of each person (if any) known to have possession, custody or control of such document. The phrase "possession, custody or control" has the meaning set forth in Federal Rule of Civil Procedure 34 and should be interpreted as broadly as possible.

9. Each request herein shall be responded to separately and fully, unless it is in good faith objected to, in which case the objection and the bases therefore shall be stated with particularity. If an objection pertains only to a portion of a request, or to a word, phrase or clause contained therein, you shall state your objection to that portion only and respond to the remainder of the request. If, in answering these document requests, you claim that any document request, or a definition or instruction applicable thereto, is vague or ambiguous, you shall not use such claim as a basis for refusing to respond. Rather, you shall set forth as a part of the response the language claimed to be vague or ambiguous and the interpretation used to respond to the individual document request.

10. Each paragraph herein shall be construed independently and without reference to any other paragraph for the purpose of limitation.

11. The use of a verb in any tense shall be construed as the use of a verb in all other tenses wherever necessary to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

12. The use of the singular form of any word includes the plural and vice versa.

13. The terms "all," "any," and "each" shall each be construed as encompassing any and all.

14. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

15. These requests are deemed continuing in nature, and you are obliged to produce responsive Documents and to supplement your production whenever additional Documents are located or their existence ascertained.

16. MAA reserves the right to serve additional requests for the production of Documents at a later time.

17. Unless otherwise indicated, these requests concern the period from January 1, 2020 to the present.

DEFINITIONS

1. The terms "you" and "your" refer to Defendant Philipson.

2. "Plaintiff" means MAA and its present or former predecessors-in-interest, successors-in-interest, subsidiaries, divisions, affiliates, partners, officers, directors, employees, agents, attorneys, representatives, and/or assigns.

3. "Document" shall mean any document or electronically stored information, including but not limited to, writings, drawings, graphs, charts, photographs, sound recordings, images, and

other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

4. "Communication" and "Communications" shall mean any oral or written utterance, notation, depiction, or statement of any nature whatsoever, including, but not limited to: correspondence, conversations, telephone calls, facsimiles, dialogues, discussions, interviews, consultations, telegrams, telexes, text messages, cables, e-mails, letters, voicemails, statements posted on or to the Internet, memoranda, agreements, and other verbal and non-verbal understandings.

5. "Identify" or "identity" means to state or a statement of:

- a. in the case of a person other than a natural person, its name, the address of its principal place of business (including zipcode), its telephone number, and the name of its chief executive officer, as well as, if it has a person other than a natural person that ultimately controls it, that other person's name, the address of that person's principal place of business (including zipcode), that other person's telephone number, and the name of that other person's chief executive officer;
- b. in the case of a natural person, his or her name, business address and telephone number, employer, and title or position;
- c. in the case of a communication, its date, type (e.g., telephone conversation or discussion), the place where it occurred, the identity of the person who made the communication, the identity of the person who received the communication, the identity of each other person when it was made, and the subject matter discussed;
- d. in the case of a document, the title of the document, the author, the title or position of the author, the addressee, each recipient, the type of document, the subject matter, the date of preparation, and its number of pages; and
- e. in the case of an agreement, its date, the place where it occurred, the identity of all persons who were parties to the agreement, the identity of each person who has knowledge of the agreement and all other persons present when it was made, and the subject matter of the agreement.

DOCUMENT REQUESTS

1. All Documents and Communications that support your contentions that your computer, devices, or systems have been hacked or otherwise compromised or violated.

RESPONSE:

2. All documents and communications demonstrating the security and/or procedures you employ to secure your computers, devices, or systems.

RESPONSE:

3. Documents and communications sufficient to demonstrate the names and contact information for all individuals that have access to your computers, devices, and systems.

RESPONSE:

4. All Documents and communications demonstrating when you deleted all information relating to MAA from your computers, devices, and systems.

RESPONSE:

5. All documents and communications demonstrating you have blocked Paige Mills or Teresa McClanahan from sending emails and other communications to any of your numerous email addresses.

RESPONSE:

6. All documents and communications you have sent or received from any third party mentioning or relating to MAA since 2020.

RESPONSE:

7. All documents not previously requested in your possession, custody or control that relate to the issues in this lawsuit and the allegations in the Amended Complaint in any way.

RESPONSE:

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 16218

BASS, BERRY & SIMS PLC

Suite 2800; 150 3rd Ave. South

Nashville, Tennessee 37201

Tel: 615-742-6200

Fax: 615-429-0429

pmills@bassberry.com

*Counsel for Mid-America Apartment Communities,
LLC*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Second Request for Production of Documents was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
nphilly@gmail.com
phillydec100@gmail.com

This 16th Day of October, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

36570901 |

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT,
COMMUNITIES, INC.**

Plaintiff,

v.

DENNIS PHILIPSON

Defendant.

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

**MID-AMERICA APARTMENT COMMUNITIES, INC.'S RESPONSE AND
OBJECTIONS TO DEFENDANT'S FIRST SET OF DOCUMENT REQUESTS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedures and the Local Rules of the Court, Plaintiff Mid-America Apartment Communities ("MAA") or ("Plaintiff"), by and through its undersigned counsel, responds to Defendant Denis Philipson's Document Requests as follows:

GENERAL OBJECTIONS AND STATEMENTS

1. Plaintiff objects to each of the Requests to the extent they seek to expand the scope and obligations of discovery beyond that provided for in the Federal Rules of Civil Procedure.
2. Plaintiff objects to each of the Requests to the extent they seek disclosure of attorney/client or accountant/client privileged communications; an attorney's legal theories and mental impressions; or attorney work product. Defendants do not waive and intend to preserve the attorney-client privilege, the work product doctrine, and every other privilege with respect to all information protected by any of such privileges.

3. Plaintiff objects to each of the Requests to the extent they seek or reference information, documents or things not in their possession, custody or control, including, without limitation, personal files, documents, records or other things, of its employees, officers, directors or agents or things which are readily available from another source, including Defendant.

4. Plaintiff objects to each of the Requests to the extent they seek disclosure of information that would violate rights of privacy and other statutorily or judicially recognized protections and privileges, confidentiality agreements, or court orders restricting dissemination of information, or result in disclosure of materials prepared in anticipation of litigation or confidential settlement discussions or conduct. Plaintiff will identify and produce this information subject to a protective order.

5. Plaintiff objects to each of the Requests to the extent they call for legal conclusions or documents that Plaintiff has created in anticipation of litigation.

6. Plaintiff objects to each of the Requests to the extent they seek to expand the duty of supplementation beyond that required by the Federal Rules of Civil Procedure.

7. Plaintiff objects to each of the Requests on the grounds that they are overly-broad, unduly burdensome, or oppressive.

8. Plaintiff objects to the Requests to the extent they seek information or items that are more easily and/or less expensively obtained through deposition testimony or other discovery methods.

9. Plaintiff objects to the Requests to the extent that they seek documents that no longer exist due to the passage of time.

10. Plaintiff objects to the Requests to the extent they are unbounded in time and seek information, evidence, or documents that have no bearing on this dispute.

11. All of these General Objections apply to each numbered response below as if fully set forth therein unless otherwise specified.

12. Plaintiff reserves the right to supplement its Responses as additional information becomes known during discovery in this action.

13. Plaintiff objects to producing these documents because Defendant has refused to negotiate and enter a protective order.

Subject to the foregoing statements and objections, and without waiving the same, Plaintiff responds as follows:

OBJECTIONS TO LACK OF DEFINITIONS:

1. Plaintiff objects to the Requests because no definitions of any of the terms were provided and the requests were not limited in time or scope. Plaintiff has interpreted the requests in accordance with counsel's own understanding of the terms used.

**OBJECTIONS AND RESPONSES TO REQUESTS FOR
PRODUCTION OF DOCUMENTS**

REQUEST 1

Response from WIX subpoena (Docket No 15, Exhibit B): I seek access to the actual response from Wix to the Plaintiff's subpoena, as ordered by this Court on May 16, 2023 (Dk. 15).

RESPONSE: Any non-privileged, responsive documents that Plaintiff is able to find after a reasonable search will be provided upon the entry of a suitable protective order.

REQUEST 2

Verizon's response to the subpoena: I request access to Verizon's response to the subpoena issued by the Plaintiff, as mandated by federal law.

RESPONSE: Plaintiff objects to this Request because Defendant has not provided definitions for these terms and Plaintiff is unaware of what "mandate" Defendant is referencing. Subject to this objection, any non-privileged, responsive documents that Plaintiff is able to find after a reasonable search will be provided upon the entry of a suitable protective order.

Google's response to MAA's subpoena: The Defendant seeks Google's response to the Plaintiff, MAA's subpoena as detailed in (Docket No 6 Exhibit A). Additionally, the court's authorization to modify the subpoena to incorporate the Defendant's known email address, as indicated in (Docket No 22 Exhibit A), should be provided.

RESPONSE: Plaintiff objects to this Request to the extent it implies Plaintiff improperly "modified" a subpoena. This Court's Order granting Plaintiff's Motion for Expedited Discovery (Dkt. 8) expressly permitted Plaintiff to take the discovery necessary to determine the identities of John Does 1 and 2, which Plaintiff did. This document is equally available to both parties. Subject to the foregoing objections, any non-privileged, responsive documents that Plaintiff is able to find after a reasonable search will be provided upon the entry of a suitable protective order.

REQUEST 4

Documentation related to Glassdoor reviews: Documentation pertaining to reviews and the methodologies employed by MAA to authenticate their authorship by the Defendant.

RESPONSE:

Plaintiff objects to this Request because "Glassdoor Reviews" is not a defined term nor is the Request limited in time or scope. Thus, the request is vague, overbroad, and unduly burdensome. Plaintiff further objects to this Request to the extent it seeks "methodologies" employed by MAA to "authenticate their authorship by the Defendant." Such documents are protected by the attorney client and/or work product privileges and will not be provided. Subject to the foregoing objections, samples of any non-privileged documents that Plaintiff is able to find after a reasonable search that Plaintiff believes is responsive based on undersigned counsel's understanding of these undefined terms will be provided upon the entry of a suitable protective order.

REQUEST 5

Compilation of Google reviews and related methodologies: Collation of Google reviews and the strategies employed by MAA to establish their attribution to the Defendant:

RESPONSE:

Plaintiff objects to this Request because "Collation" and Google "reviews" are not a defined terms, nor is the Request limited in time or scope. Thus the request is vague, overbroad, and unduly burdensome. Plaintiff further objects to this Request to the extent it seeks "methodologies" or "strategies" employed by MAA to "establish their attribution to the Defendant." Such documents are protected by the attorney client and/or work product privileges and will not be provided. Subject to the foregoing objections, samples of any non-privileged documents that Plaintiff is able

to find after a reasonable search that Plaintiff believes is responsive based on undersigned counsel's understanding of these undefined terms will be provided upon the entry of a suitable protective order.

REQUEST 6

Additional reviews and materials: Request for any other reviews or materials mentioned explicitly in "AMENDED COMPLAINT against Dennis Philipson (Docket No. 16) or "AFFIDAVIT Declaration of Leslie Wolfgang" (Docket No. 14).

RESPONSE: Plaintiff objects to this Request because "reviews" or "materials" are not defined terms, thus the request is vague, overbroad, and unduly burdensome. Subject to the forgoing objections, any non-privileged documents that Plaintiff is able to find after a reasonable search that Plaintiff believes is responsive based on undersigned counsel's understanding of these undefined terms will be provided upon the entry of a suitable protective order.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324
Jordan Thomas, BPR. No. 039531
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Memphis, Tennessee 38103
Tel: (901) 543-5903
Fax: (615) 742-6293
jgolwen@bassberry.com
jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 10th Day of October, 2023.

/s/ Paige Waldron Mills
Paige Waldrop Mills

36532280.1



10/10/2023
US POSTAGE \$001.59
ZIP 37201
041M1 1299642

BASS
BERRY+
SIMS.

Paige Waterp Mills
150 Third Avenue South Suite 2800
Nashville TN 37201

Mr. Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-02186-SHL-cgc

ORDER GRANTING MOTION FOR PROTECTIVE ORDER

Before the Court is Plaintiff Mid-America Apartment Communities, Inc.’s (“Mid-America”) Motion for Entry of Protective Order, filed September 21, 2023. (ECF No. 52.) Pro se Defendant Dennis Michael Philipson responded in opposition the next day. (ECF Nos. 53 & 54.)¹ Mr. Philipson asserts that the motion should be denied because it is “premature but also riddled with both substantive and procedural flaws.” (ECF No. 54 at PageID 557.) As is explained below, Mr. Philipson’s objections to the motion are not well-taken. The motion is therefore **GRANTED**. The terms of the Protective Order are provided below, after the Court addresses Mr. Philipson’s objections.

MR. PHILIPSON’S OBJECTIONS

Mr. Philipson’s response includes a “Preliminary Statement” that only tangentially addresses the motion and provides no basis for denying Mid-America’s motion. (See ECF No. 54 at PageID 552–53.) His general objections that follow are also not well-taken.

¹ Mr. Philipson filed a response and an amended response.

First, he asserts that Plaintiff has failed to abide by its Rule 26 obligations (id. at PageID 554), an argument the Court previously considered and rejected (see ECF No. 60 at PageID 587–88).

Mr. Philipson also asserts that Plaintiff has yet to identify what information is sensitive or proprietary (ECF No. 54 at PageID 554), but disregards that the Protective Order demands it do just that. If he believes Mid-America is overzealous with such designations, the Protective Order provides a means for asserting such a challenge. See *infra* § III.

Next, Mr. Philipson objects to the entry of the Protective Order because it violates his privacy rights, as well as his whistleblower rights under the Sarbanes-Oxley Act. Those assertions are not well founded. The Protective Order stands to protect, rather than limit, the privacy rights of the Parties. Although the Protective Order contains a provision that limits any protected materials to use only for purposes of litigating this case (see *infra* § VI.a), it does not impede Mr. Philipson’s right to file a retaliation claim or obstruct his ability to offer additional testimony, as he argues.

Finally, Mr. Philipson contends that there is an absence of credible evidence that would support the entry of a Protective Order, but that ignores the rule that allows the entry of a protective order. See Fed. R. Civ. P. 26(c)(1)(A) (allowing that “[a] party or any person from whom discovery is sought may move for a protective order in the court where the action is pending” that, *inter alia*, “forbid[s] the disclosure of discovery”).

The “Overall” and “Specific Categories of Concerns” Mr. Philipson includes also do not provide a basis for challenging the entry of the Protective Order. Among Mr. Philipson’s overall concerns, he complains that the Protective Order is overbroad and could thus slow down the discovery process and could encompass “irrelevant or non-sensitive materials.” (ECF No. 54 at

PageID 555.) As is explained above, there is a process to challenge overuse of confidential designations, and Mr. Philipson does not otherwise explain how the discovery process would be slowed by designating certain materials as confidential.

Mr. Philipson also complains that the language is “either ambiguous or open to multiple interpretations,” but provides no such examples. He also cites to “Procedural Issues,” namely that there are not “clear mechanisms for resolving disagreements about designations” and that the Protective Order lacks “Fairness” and a “specified mechanism for impartially resolving disputes over confidentiality designations.” (*Id.* at PageID 556.) In so doing, Mr. Philipson ignores the specific section of the Protective Order Titled “Procedure for Challenging Designations,” which outlines the very specific mechanism for resolving any such disputes. See infra § III(a), (b).

Mr. Philipson’s specific categories of concerns are redundant with his overall categories of concerns. He again complains of overbreadth and vagueness, and complains that many of the provisions are overly complex or unclear, but those objections are baseless. The Protective Order is specific and contains non-controversial positions that provide sufficient detail to allow the Parties to abide by its terms. In summary, Mr. Philipson fails to provide a basis for denying Mid-America’s motion. The Parties are therefore bound by the terms of the Protective Order provided below.

PROTECTIVE ORDER

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, the Court issues this Protective Order to facilitate document disclosure and other discovery under the Local Rules of this Court and the Federal Rules of Civil Procedure. In support of this Order, the Court finds that:

a. Documents or information containing confidential information (“Protected Material”) that bear on the Parties’ claims or defenses are likely to be disclosed or produced during the course of discovery in this litigation; and

b. To protect the respective interests of the Parties and to facilitate the progress of disclosure and discovery in this case:

IT IS THEREFORE ORDERED that this Protective Order, which includes the Court’s revisions to Plaintiff’s proposed order reflecting the role of the Court in protecting the public’s interest in open courts, shall apply as follows:

I. DEFINITIONS

a. “Discovery Material” means all items or information, including from a non-party, regardless of the medium or manner generated, stored, or maintained (including testimony, transcripts, or tangible things) that are produced, disclosed, or generated in connection with discovery in this matter, including documents, deposition testimony, or discovery responses.

b. “Counsel” means (i) legal counsel (including counsel of record and in-house counsel) who either have responsibility for making decisions dealing directly with this litigation, or who are providing legal assistance to the Parties or their counsel for this litigation; and (ii) partners, associates, regular and temporary employees, staff, and service vendors of such counsel to whom it is reasonably necessary to disclose the information for this litigation, including outside copying and litigation support services as well as supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, and legal clerks.

c. “Experts” mean any consulting or testifying experts the Parties engage in connection with and solely for purposes of this action, including partners, associates, regular and

temporary employees, staff, and service vendors of such experts to whom it is reasonably necessary to disclose the information for them to perform work in connection with this litigation, including outside copying and litigation support services.

d. “Party” means any Party to this action, including a party’s officers, directors, employees, and consultants.

e. “Producing Party” means any Party or other third party that discloses or produces Discovery Material in this action.

f. “Protected Material” means Discovery Material that is designated as “CONFIDENTIAL” as provided in this Order. Protected Material shall not include: (a) material that on their face show that they have been published to the general public or are otherwise in the public domain; (b) information that after disclosure to a Receiving Party becomes part of the public domain as a result of publication not involving a violation of this Order or any violation of law; or (c) information that has been submitted to any governmental entity without request for confidential treatment and is publicly available by that governmental entity or other public source.

g. “Receiving Party” means any Party receiving Discovery Material from a Producing Party.

II. DESIGNATING DISCOVERY MATERIAL AS PROTECTED MATERIAL

a. Exercise of Restraint and Care in Designating Material for Protection. Each Producing Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards.

b. “Confidential” Designation. Any Party may designate Discovery Material “CONFIDENTIAL” if the Party has a good faith belief that the Discovery Material constitutes or contains confidential personal, medical, or commercial information that requires the protections provided in this Order, whether embodied in physical objects, documents, or the factual knowledge of persons.

c. Designating Written Discovery and Documents and Tangible Things. Written discovery, documents (which include “electronically stored information,” as that phrase is used in Federal Rule of Civil Procedure 34), and tangible things that meet the requirements for the confidentiality designation set forth in this Order may be so designated by placing the appropriate designation on every page of the written material prior to production, except for the documents produced in native format which shall have the appropriate designation affixed on the face of the media containing such native format documentation and an accompanying placeholder. In addition to the foregoing, to the extent documents are produced in electronic form, the addition of a confidentiality designation in the file name shall be sufficient to provide notice of said confidentiality and additional written notice is unnecessary in this situation.

d. Designating Depositions and Testimony. Parties or testifying persons or entities may designate depositions and other testimony with the appropriate designation by indicating on the record at the time the testimony is given or by sending written notice that the testimony is designated within twenty-one calendar days after the final transcript of such deposition is received by counsel for each of the Parties. All information disclosed during a deposition shall be deemed CONFIDENTIAL until the time within which it may be appropriately designated as provided for herein has passed, with the exception of any portion of a deposition previously designated which shall be treated accordingly.

(1) Each Party shall use its best efforts to attach a copy of such written notice or notices to the face of each transcript of a deposition so designated that is within the Party's possession, custody or control.

(2) Any designated Discovery Material that is used in the taking of a deposition shall remain subject to the provisions of this Order, along with the transcript pages of the deposition testimony dealing with such Discovery Material. In such cases, the court reporter shall be informed of this Order and shall be required to operate in a manner consistent with this Order.

(3) In the event the deposition is videotaped or recorded by other video means, the original and all copies of the videotape or other video media are subject to this Order (e.g., by including a label on the videotape or other video media which contains the appropriate confidentiality designation).

e. Designating Information Not Reduced to Any Physical Form. For information not reduced to any documentary, tangible, or physical form, or which cannot be conveniently designated as set forth above, the Producing Party must inform the Receiving Party of the designation of such information in writing.

f. Derivative Materials. The protections conferred by this Protective Order cover not only Discovery Material governed by this Protective Order, but also any information copied or extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, as well as testimony, conversations, or presentations by Parties or their counsel in Court or in other settings that might reveal Protected Material.

III. CHALLENGING CONFIDENTIALITY DESIGNATIONS

a. No Duty to Challenge Designations Immediately. A Party shall not be obligated to challenge the propriety of any designation of Discovery Material under this Order at the time the designation is made. Unless a prompt challenge to a Party's designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

b. Procedure for Challenging Designations. Any challenge to a designation of Discovery Material under this Order shall be written, shall be served on Counsel for the designating Party, shall particularly identify the documents or information that the objecting Party contends should be designated differently, and shall identify the grounds for objection with specificity. Thereafter, further protection of such material shall be resolved in accordance with the following procedures:

(1) The Parties shall confer in compliance with the Court's Local Rules, in person, by videoconference, or by telephone, in a good faith effort to resolve any disputes, including by, e.g., a partial redaction of the document or information, prior to seeking relief from the Court, which meet and confer shall be conducted within two business days of serving such challenge or as the Parties otherwise agree, and the Parties shall negotiate in good faith regarding this time period and to not unreasonably withhold consent to a reasonably requested change in this time period. The designating Party shall have the burden of justifying the disputed designation.

(2) If the Parties cannot resolve the dispute over the designation after conferring as required in this previous paragraph, the designating Party shall seek a ruling from the Court on whether the Discovery Material in question is entitled to the protection within 14 calendar days (the “Time Period”). This Time Period may be changed by agreement of the Parties involved, and the Parties shall negotiate in good faith regarding the Time Period and to not unreasonably withhold consent to a change in Time Period to the extent that the nature of the dispute (including, without limitation, the scope of that dispute) reasonably necessitates a different Time Period. The Time Period shall commence if (a) the Parties have conferred as required in the previous paragraph; (b) any Party declares in writing to the other Parties that they have reached an impasse as to such dispute; and (c) the dispute remains unresolved two business days later. If the designating party does not seek such a ruling from the Court within the Time Period, then the objection to the designation is sustained and the Discovery Material in question will be de-designated accordingly.

(3) This Protective Order shall not preclude any Party from arguing for or against any designation, establishing any presumption that a particular designation is valid, altering the burden of proof that would otherwise apply to a dispute over protection of information disclosed in connection with discovery or disclosure of information, or pursuing expedited or other relief from the Court when appropriate.

c. Continued Confidentiality Treatment Pending Disposition of Challenge.

Notwithstanding any challenge to a confidentiality designation of Discovery Material, the material in question shall continue to be treated as designated under this Protective Order until one of the following occurs: (i) the Party that designated the Discovery Material withdraws such

designation in writing; or (ii) the Court rules that the Discovery Material in question is not entitled to the designation.

IV. RESTRICTIONS ON DISCLOSURE OF PROTECTED MATERIAL

a. Disclosure of Material Designated “Confidential.” A Party may disclose Discovery Material designated as “CONFIDENTIAL” only to the following:

- (1) Any Receiving Party’s Counsel;
- (2) The Parties and the directors, officers, partners, managers, members, and employees of the Parties or of any subsidiary or affiliate thereof who are assisting with or making decisions concerning the litigation, to the extent deemed reasonably necessary by counsel of record for the purpose of assisting in the prosecution or defense of the litigation for use in accordance with this Order;
- (3) Subject to Section V, any Experts, provided that such disclosure is only to the extent necessary to perform their work for this litigation;
- (4) Court reporters, stenographers, and videographers retained to record testimony taken in this action, to whom disclosure is reasonably necessary for this litigation;
- (5) The Court and Court personnel (under seal or with other suitable precautions determined by the Court);
- (6) Litigation support, e-discovery, translation, design, and/or trial consulting services to whom disclosure is reasonably necessary for this litigation, and his or her staff, subject to their agreement to maintain confidentiality to the same degree as required by this Protective Order;
- (7) Witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony in this litigation;

(8) Any person indicated on the face of a document or accompanying covering letter, email, or other communication to be the author, signatory, addressee, or an actual or intended recipient of the document, or, in the case of meeting minutes and presentations, an attendee of the meeting;

(9) Any mediator who is assigned or selected to hear this matter, and his or her staff, subject to their agreement to maintain confidentiality to the same degree as required by this Protective Order; and

(10) Any other person upon (a) order of the Court entered upon notice to the Parties; or (b) prior written consent of the Producing Party specifying that said person may have access to material designated “CONFIDENTIAL.”

b. Providing Advice to Clients. Nothing in this Protective Order shall preclude any attorney from providing to their clients an evaluation of any Protected Material produced or exchanged in this litigation, provided, however, that, in rendering such advice and otherwise communicating with their client, such attorney shall not disclose information that would be contrary to the terms of this Protective Order, and provided further that clients to whom such information is disclosed understand that they are bound by the terms of this Order.

V. DISCLOSURE TO EXPERTS OR CONSULTANTS

a. Requirements for Disclosure to Expert or Consultant. Protected Material may be provided to experts or consultants as set forth under Section IV, only to the extent necessary for such expert or consultant to prepare a written opinion, to prepare to testify at a deposition, at any evidentiary hearing before the court, or at trial, or to assist counsel in this litigation, whether the expert is intended to testify or not, provided that such expert or consultant is using said Protected Material solely in connection with this litigation.

b. Counsel for the Party showing, providing, or disclosing Protected Material to any person pursuant to this Section is required to obtain an agreement to comply with this Protective Order, as is set forth in attached **Exhibit A**.

VI. USE OF PROTECTED MATERIAL

a. Use of Protected Material in General. Protected Material designated under the terms of this Protective Order shall be used by a Receiving Party solely for this litigation, shall be used only for purposes of litigating this case, and shall not be used directly or indirectly for any other purpose whatsoever.

b. Filing Protected Material with the Court. All documents containing Protected Material filed with the Court shall be filed in accordance with the Western District of Tennessee Local Rules, Procedures, and Instructions governing filing under seal.

c. Use of Protected Material in the Courtroom. Any person may be shown and may be examined as a witness at a hearing or trial and may testify concerning all Protected Material which such person had knowledge of apart from the production of such material in this case. The use of such material at hearings or at trial shall not cause such material to lose its status as Protected Information, absent a Court ruling to the contrary.

d. Use of Protected Material during Depositions. Counsel for the Parties shall be permitted to use Protected Material during any deposition in this Action, provided that prior to any such use, the Disclosing Party shall: (a) inform the witness and others in the deposition room to whom disclosure is being made (unless disclosure is permitted as otherwise provided herein) that disclosure of the Protected Material is limited by a court order; and (b) make a copy of the Protective Order available upon request. For the avoidance of doubt, the procedure set forth in the immediately preceding sentence shall apply only to the extent disclosure is to be made during

the deposition to persons other than those to whom disclosure is otherwise permitted pursuant to this Protective Order. Notwithstanding the foregoing, the disclosure of Protected Information during any deposition shall not cause such material to lose its status as Protected Information.

e. Court Reporters. Any deposition court reporter or transcriber who reports or transcribes testimony during depositions in this action shall agree that all Protected Material designed as such under this Protective Order shall retain its protected status and shall not be disclosed by them, except pursuant to the terms of this Protective Order, and that any notes or transcriptions of such testimony (and any accompanying exhibits) will be retained by the reporter or delivered to counsel of record.

VII. INADVERTENT FAILURE TO DESIGNATE OR RE-DESIGNATE DISCOVERY MATERIAL

a. Designation After Production. A Producing Party's failure to designate Discovery Material as Protected Material with one of the designations provided for under this Protective Order shall not waive the Party's right to make any such designation at a subsequent time.

b. Consequences of Designation After Production. A Receiving Party shall not be in breach of this Protective Order for any use of such Discovery Material before the Receiving Party receives notice of the inadvertent failure to designate. Once a Receiving Party has received notice of the inadvertent failure to designate pursuant to the provision, the Receiving Party shall treat such Discovery Material (subject to the exception in Paragraph (c) below) at the appropriately designated level pursuant to the terms of this Protective Order.

c. Re-Labeling of Discovery Material. If Discovery Material is designated or re-designated with a different confidentiality designation subsequent to production, the Receiving Party promptly shall make every reasonable effort to re-label such material with the appropriate

confidentiality designation. Alternatively, the Receiving Party may ask the Producing Party to provide re-labeled material and, upon receipt of properly re-labeled material, shall destroy all differently labeled copies of that material to the extent it is reasonably feasible to do so.

Notwithstanding the above, such subsequent designation of Discovery Material shall apply only on a going forward basis. Any person who reviewed such material before it was designated as protected under this Protective Order shall not be disqualified from any activity or otherwise prejudiced as a result of such review.

VIII. INADVERTENT DISCLOSURE NOT AUTHORIZED BY ORDER

a. Notice of Unauthorized Disclosure and Corrective Action. In the event of a disclosure of any Discovery Material to any person not authorized to receive such disclosure under this Protective Order, the Party responsible for having made such disclosure, and each Party with knowledge thereof, shall immediately notify counsel for the Producing Party whose Discovery Material has been disclosed and provide to such counsel all known relevant information concerning the nature and circumstances of the disclosure. The responsible disclosing Party shall also promptly take all reasonable measures to retrieve the improperly disclosed Discovery Material and to ensure that no further or greater unauthorized disclosure and/or use thereof is made.

b. Protected Status of Material After Unauthorized Disclosure. Unauthorized disclosure of Protected Material by a Receiving Party or a person receiving the material through a Receiving Party does not change the protected status of such Discovery Material or waive the right to maintain the disclosed document or information as Protected Material.

IX. CLAW BACK OF INADVERTENTLY PRODUCED PRIVILEGED INFORMATION

a. Pursuant to Federal Rule of Evidence 502(b), inadvertent disclosure to another Party of any document that is subject to a legitimate claim that the document should have been withheld from disclosure based on attorney-client privilege, the work product doctrine, or any other recognized privilege shall not constitute waiver of that privilege.

b. Upon identification of any inadvertently produced information and/or documents, the Producing Party shall provide the Receiving Party written notification identifying the document(s) or information that has been inadvertently disclosed and stating the privilege under which the document(s) or information is allegedly protected.

c. Upon receipt of such written notification, the Receiving Party shall, within three business days, return to the Producing Party each inadvertently disclosed document and any and all copies of that document in the Receiving Party's possession, custody, or control, and use its best efforts to retrieve all copies of the inadvertently disclosed document that the Receiving Party disclosed to other persons or entities.

d. The return of inadvertently disclosed documents under this paragraph shall not prevent any Party from asserting specific objections to any claims of privilege regarding such documents as could normally be made.

e. Nothing in this Protective Order overrides any attorney's ethical responsibilities to refrain from examining or disclosing materials that the attorney knows or reasonably should know to be privileged and to inform the Producing Party that such materials have been produced.

X. SUBPOENAS OR COURT ORDERS

a. If any Party is served with any subpoena or other formal or informal request for the production of Protected Material produced by another Party in connection with any

proceeding before any court or other judicial, arbitral, administrative, legislative, governmental, or other body (aside from this litigation), the Party to whom the subpoena or other request is directed shall as soon as possible give written notice thereof to each Producing Party who has produced such Protected Material (directly or through the Producing Party's Counsel), and shall provide each Producing Party with an opportunity to move for a protective order regarding the request for the production of Protected Materials. If a Producing Party does not take steps to prevent disclosure of such documents within fourteen calendar days of the date written notice is given, the Party to whom the subpoena or other request is directed may produce such documents in response thereto. Notwithstanding the foregoing, the Party to whom the subpoena or other request is directed also may produce such documents as required to comply with any legal duty or obligation imposed by the court or other judicial, arbitral, administrative, or legislative body.

XI. NON-PARTY MATERIAL

a. A non-party producing information or material voluntarily or pursuant to a subpoena or a court order may designate such material or information as Protected Material pursuant to the terms of this Protective Order. Except as otherwise provided herein, a non-party's use of this Protective Order to protect its information or material does not entitle that non-party access to the Protected Material produced by any Party in this case.

XII. TERMINATION OF LITIGATION

a. Continuing Obligations of Protective Order. After termination of this litigation, the provisions of this Protective Order shall continue to be binding, except with respect to those documents and information that become a matter of public record without breach of this Protective Order.

b. Jurisdiction. This Court retains and shall have continuing jurisdiction over the Parties and recipients of the Protected Material for enforcement of the provisions of this Protective Order following termination of this litigation.

c. Destruction or Return of Protected Material. Within sixty calendar days after receiving notice of the entry of an order, judgment, or decree finally disposing of this litigation, including the exhaustion of all possible appeals, and upon the written request of the Producing Party, any Receiving Party that has received Protected Material from the Producing Party shall destroy or return the same to the Producing Party, at the Receiving Party's election. If the Protected Material is destroyed, the Receiving Party shall promptly notify the Producing Party of such destruction in writing.

d. Retention of Protected Material. Notwithstanding the provisions of Section XII(c) above, a Receiving Party's obligation to return or to destroy Protected Material shall not require the return or destruction of Protected Material that is: (i) stored on backup storage media made in accordance with regular data backup procedures for disaster recovery purposes; (ii) located in an email archive system or archived electronic files of departed employees of the Receiving Party; or (iii) subject to legal hold obligations or other legal or regulatory restrictions. Backup storage media or data archives need not be restored for purposes of returning, destroying, or certifying the return or destruction of Protected Material, but such retained information shall remain subject to this Protective Order. In addition, counsel for a Receiving Party may retain a copy of any correspondence, pleading, transcript (for each deposition, hearing, and trial), motions, briefs, discovery responses, and any exhibits thereto, and all attorney work product, regardless of whether it includes or details Protected Material. Any Protected Material retained by counsel pursuant to this provision shall remain subject to this Protective Order.

XIII. MISCELLANEOUS

a. Use of Material. Nothing in this Protective Order shall limit any Producing Party's use of its own documents and information, nor shall it prevent the Producing Party from disclosing its own confidential information, documents or things for any business, litigation, or other purpose.

b. Drafts. Experts shall not be subject to discovery of any draft of their work, including draft reports, notes, outlines, or any other writings leading up to an issued report(s) in this litigation. In addition, all communications between counsel for a Party and that Party's expert, and all material generated by an expert with respect to that person's work, are exempt from discovery unless they relate to the expert's compensation or identify facts, data or assumptions relied upon by the expert in forming any opinions in this litigation and such information is not already disclosed in the expert's report. Nothing in this provision is intended to limit the protections afforded to expert materials under Federal Rule of Civil Procedure 26 and/or under the attorney-client privilege or work product doctrine, or to prevent the Court from issuing orders pursuant to applicable law.

c. Right to Further Relief. Nothing in this Order abridges the right of any person to seek modification of this Protective Order by the Court in the future, to seek access to a Producing Party's Protected Material, or to apply to the Court at any time for additional protection. The Parties do not waive the right to argue that certain material may require additional or different confidentiality protections than those set forth herein. Furthermore, without application to this Court, any Party may enter into a written agreement releasing another Party from one or more requirements of this Protective Order as to Protected Material produced

by the releasing Producing Party, even if the conduct subject to the release would otherwise violate the terms herein.

d. Successors. This Protective Order shall be binding upon the Parties hereto, their attorneys, and their successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions, employees, agents, retained consultants and experts, and any persons or organizations over which they have direct control.²

e. Copyrights. Documents or other things produced in this litigation, regardless of their designation, are subject to any applicable copyrights held by the Producing Party. It is fair use to make copies of the documents or other things produced in this litigation for the purpose of this litigation and for no other means.³

f. Right to Assert Other Objections. No Party waives any right it otherwise would have to object to disclosing or producing any information or item. Similarly, no Party waives any right to object on any ground to the use in evidence of any of the material covered by this Protective Order. This Protective Order shall not constitute a waiver of the right of any Party to claim in this action or otherwise that any Discovery Material, or any portion thereof, is

² Mr. Philipson objects to this provision as “unduly bind[ing] an extensive range of parties and their affiliates, without proper justification or mutuality.” (ECF No. 53 at PageID 548.) The range of entities to whom the protective Order applies is not overly broad, but rather is based on those over whom the Party has control. Moreover, generally speaking, the Court does not have the authority to require non-parties to this action to act in certain ways, and Mr. Philipson’s concerns about “mutuality” are addressed in the requirement that if a party shows, provides, or discloses Protected Material to any person, that person must first agree to comply with the Protective Order.

³ Mr. Philipson objects to this provision as “potentially infringing on the Defendant’s rights to use these documents defensively in other legal contexts.” (*Id.*) To the extent Mr. Philipson seeks to use the documents in other proceedings, he can seek them through the proper means in that forum. However, he should be mindful that documents produced as confidential here may only be used in connection with this litigation, absent a specific court ruling that allows use for another purpose.

privileged or otherwise non-discoverable, or is not admissible in evidence in this action or any other proceeding.⁴

g. Burdens of Proof. Nothing in this Protective Order shall be construed to change the burdens of proof or legal standards applicable in disputes regarding whether particular Discovery Material is confidential, whether disclosure should be restricted, and, if so, what restrictions should apply.⁵

h. Modification by Court. This Order is subject to further court order based upon public policy or other considerations, and the Court may modify this Order sua sponte in the interests of justice, or upon motion of a Party for good cause shown.⁶

i. Other Proceedings. By entering this Protective Order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or Party subject to this Protective Order who becomes subject to a motion to disclose another Party's information designated as confidential pursuant to this Protective Order shall promptly notify that Party of the motion so that the Party may have an opportunity to appear and be heard on whether that information should be disclosed.⁷

⁴ Mr. Philipson objects to this provision by inaccurately asserting that it assigns rights to Plaintiff that he does not similarly enjoy. (Id.) However, it has bilateral application.

⁵ Mr. Philipson objects to this provision by inaccurately asserting that it "alters the burden of proof in a manner prejudicial to [him] by isolating specific conditions for discovery." (Id.) It does not and legally could not.

⁶ Mr. Philipson objects to this provision by inaccurately asserting that it "permits modifications without a clear procedure for [him] to propose adjustments." (Id. at PageID 549.) It clearly states he may do so via motion.

⁷ Mr. Philipson objects to this provision as being ambiguous and not offering a "transparent process for [him] to challenge the use of confidential information in other

Nothing contained in this Order shall prevent any Party or non-party from seeking additional relief from the Court, including (but not limited to) amendments broadening or restricting the rights of access to and the use of Confidential Information or contesting the designation of a confidential document or qualified persons. Nothing in this Protective Order shall be deemed to be a decision by the Court as to how documents and other material will be handled at the trial of this matter.

IT IS SO ORDERED, this 1st day of November 2023.

s/ Sheryl H. Lipman

SHERYL H. LIPMAN

CHIEF UNITED STATES DISTRICT JUDGE

proceedings.” (Id.) Instead, the provision provides the precise means for challenging the revelation of any confidential information in another proceeding.

EXHIBIT A**AGREEMENT TO BE BOUND BY PROTECTIVE ORDER**

_____ declares that:
I reside at _____ in the city of _____, state of _____.
I am currently employed by _____ located at and my current job title is _____.

I have read and understand the terms of the Protective Order in Civil Action File No. Docket No. 2:23-cv-02186, pending in the United States District Court for the Western District of Tennessee. I agree to comply with and be bound by the provisions of the Protective Order. I understand that any violation of the Protective Order may subject me to sanctions by the Court, civil liability, criminal liability, or any combination of the above. I submit myself to the jurisdiction of the United States District Court for the Western District of Tennessee for the purpose of enforcing or otherwise providing relief relating to the Protective Order.

I shall not divulge any Materials, or copies of Materials, designated “CONFIDENTIAL” obtained in accordance with the Protective Order, or the contents of such Materials, to any person other than those specifically authorized by the Protective Order. I shall not copy or use such Materials except for the purposes of this litigation and in accordance with the terms of the Protective Order.

As soon as is practical, but no later than 30 calendar days after final termination of this litigation, I shall destroy or return any Materials in my possession designated “CONFIDENTIAL” to the attorney from whom I received such Materials. I shall also destroy or return to that attorney, at that time, all copies, excerpts, summaries, notes, digests, abstracts, and indices relating to such Materials.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: _____ Date: _____

RECEIVED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

NOV 02 2023

Wendy R. Oliver, Clerk
U.S. District Court
W.D. OF TN, Memphis

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

No. 2:23-cv-2186-SHL-cgc

OBJECTION TO NOTICE OF DEPOSITION OF DEFENDANT DENNIS PHILIPSON

Dear Attorneys, Golwen, Thomas, and Mills,

~~I am compelled to articulate my reservations and express concerns regarding the Notice of Deposition that~~
your office, Bass, Berry & Sims PLC as legal counsel for Mid-America Apartment Communities, Inc. and
Mid-America Apartment Communities, LLC ("MAA"), issued on October 6, 2023.

To shed light on the background of our interactions, I wish to bring attention to my communication dated
September 20th as detailed in (**Exhibit A**). In that correspondence, I informed about my sporadic
unavailability in the upcoming weeks but also ensured my intention to stay informed and responsive to
the developments in our case. Nonetheless, despite this clear communication, Bass, Berry & Sims PLC
proceeded to file a motion for a protective order, and consequently, all my subsequent requests for
subpoenas and evidence were declined. The rationale provided was the pending status of the protective
order under judicial consideration.

Furthermore, I experienced an undertone of pressure when I was prompted to furnish a date for the
deposition, underscored by the assertion that we must adhere to a pre-established timeline. I would like to
emphasize that the scheduling order permits depositions to be taken until January 2024. Therefore, I am
puzzled by the seemingly hasty push to schedule a deposition without providing me with the necessary
documents.

To add to the timeline, on October 14th, I duly notified the court of my sporadic absence, which would extend until October 28th. Given these circumstances, I hope you can understand my perspective and the need for this letter. My concerns and objections regarding the Notice of Deposition are as follows:

1. **Ambiguity in the Notice:** The Notice of Deposition lacks precision regarding its main subject matter. Rule 30(b)(2) of the Federal Rules of Civil Procedure (FRCP) stresses the importance of unambiguously defining examination topics. However, the present notice, combined with other communications I've received, appears to stretch beyond its purported focus, casting a notably wide net. This approach is perplexing, especially when the core allegations are supposed to center on harassment and trademark infringement. Instead, the expansive nature of their inquiries and the broad date ranges, as evidenced in (**Exhibit B**), seem to diverge from these central issues. I have informed MAA, their counsel, and the court numerous times that the information and documents were shared with various governmental agencies, including the Securities and Exchange Commission (SEC), Department of Justice (DOJ), Internal Revenue Service (IRS), and Equal Employment Opportunity Commission (EEOC). Most of my interactions with these agencies were conducted through their official portals and have been largely one-sided. I haven't kept any of the data or documents I supplied them. I've consistently stated that I possess no electronic records to present. Given these circumstances, I'm concerned that the upcoming deposition might feel more like an interrogation.
2. **Deficiency in Deposition Topics:** As per FRCP Rule 30(b)(6), the notice should outline "the topics for examination with reasonable particularity." The current document does not provide the specific subjects or questions that will be addressed. This lack of particularity is concerning, especially considering the complexity of the allegations implied.

3. **Scope of Discovery and Potential Retaliation:** In line with FRCP Rule 26(b)(1), discovery should be "proportional to the needs of the case." The Notice of Deposition, in its current form, feels extensive and potentially solicits information beyond the reasonable confines of this litigation. Given my prior whistleblower complaints, it's crucial to ensure that the scope of this deposition does not inadvertently tread into areas that might violate anti-retaliation laws. I urge MAA to narrow down and clarify the specific issues and allegations they intend to explore, especially in light of the protections afforded to whistleblowers.

The Notice of Deposition's lack of clarity complicates my preparation efforts. The focus of the deposition, based on my understanding, should be on MAA's allegations of trademark infringement and harassment, though the specifics remain unclear to me. I can't help but feel that this entire process is overreaching, especially since I believe I have no pertinent information to offer besides what has already been conveyed to MAA and government entities. A more precise notice would be instrumental in fostering a constructive and rule-compliant dialogue.

I respectfully request that MAA furnish a detailed deposition notice clearly outlining the subject matter, topics, and scope, particularly in relation to the stated allegations. With these clarifications in place and in alignment with discovery rules, I am prepared to participate in the deposition.

To ensure clarity and avoid potential misinterpretations, I have chosen to limit my communication with opposing counsel to official written methods, either via PACER or USPS. This measure stems from past experiences where the essence of communication might have been inaccurately portrayed.

Furthermore, I wish to express my concern regarding the denial of my requests for copies of subpoenas (**Exhibit C**), with the rationale being the necessity for a protective order. It raises questions about the accuracy of the information or the legitimacy of how my IP address might have been sourced. It's imperative that I have the chance to review and verify these documents prior to the deposition.



Lastly, I want to stress my preference for using the secure services of USPS for communication. In the past, I have been alerted by Google about potential password breaches, and I experienced identity theft issues in 2021 involving both the Virginia Unemployment Commission and Capital One. Given my status as a whistleblower, my apprehensions about my personal security are even more pronounced.

Concerning the points raised in (Docket #62):

1. **Screenshot, Email from Robert Delpriore, and Tracking Information:** I wish to address the matter pertaining to the screenshot and tracking details related to a specific communication. I had extended an offer to supply this data to the opposing counsel but was met with silence. This led me to interpret their lack of response as a lack of interest in the said information. Additionally, the email I received from Robert Delpriore, EVP of General Counsel, was in March 2023. It wasn't until April 2023 that I was notified of a lawsuit. Regrettably, I didn't retain this email as its content perplexed me, leading me to presume it pertained to my whistleblower disclosures. The aforementioned screenshot was sourced from Mr. DelPriore's LinkedIn profile. LinkedIn, being a public professional network, generally deems shared information as public. On the topic of tracking details, I'd like to underscore that I endeavored sincerely to retrieve it, but to no avail. Considering the context of the communication and its prior disclosure to pertinent bodies such as the DOJ, IRS, SEC, and EEOC, I didn't discern the tracking data as pivotal to this case. This stance resonates with Rule 26(b)(1)'s principles of proportionality, which advocates for discovery's scope to be in alignment with the case's necessities.
2. **Google Review, Complaint, and Evidence:** I was under the impression that the Google review, the complaint, and the corresponding evidence were in the public domain and that MAA possessed these documents. Unfortunately, I didn't retain the review, though it merely reiterated points I'd previously relayed to MAA. The evidence pointing to attorney Mr. Matern from Bass, Berry & Sims PLC can be located within MAA's financial documents that have been filed with the SEC. These are readily accessible via MAA's official website as well as the SEC's online

portal. MAA's insurance claim wording underwent modifications in 2009, and their status as self-insured hasn't been publicly disclosed. I've elaborated on this matter several times prior.

3. **Emails with Opposing Counsel Regarding Case:** I find it reasonable to assume that opposing counsel already retains copies of our past email correspondences. As such, I'm puzzled by the request to provide emails that have already been exchanged between us. Currently, I don't have any intentions of disclosing these emails during discovery or utilizing them at trial. This ask seems somewhat redundant, given that these communications already exist in their records. I'm trying to understand the necessity of revisiting and resubmitting these communications when both parties already have access to them.

Moreover, I feel compelled to touch upon what I perceive as the overly broad and overarching tenor of the discovery requisitions, as reflected in Ms. Mills' second document request dated 10/16/2023 (**Exhibit B**). It seems the demands are for an all-encompassing sweep of any data I might have ever possessed that could be of any relevance to MAA. Such exhaustive solicitations arouse concerns in me about potentially overstepping discovery boundaries and impinging on my rights.

I strive earnestly to adhere to all relevant federal and local statutes and regulations. However, the fluctuating nature of the opposing counsel's allegations and document solicitations adds layers of complexity to my efforts. I eagerly await your feedback and elucidation on the issues I've outlined in this letter. I remain optimistic that transparent and fluid dialogue will simplify the discovery phase and ensure adherence to both legal and procedural guidelines. Thank you for giving these matters the urgency they deserve.

Warm regards,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
919-264-1061
Dated: October 28, 2023



CERTIFICATION OF SERVICE

I hereby certify that on October 28, 2023 a true and accurate copy of this letter, inclusive of all attachments, was sent via the United States Postal Service (USPS) and email to the following individuals:

John S. Golwen
BASS BERRY & SIMS PLC- Memphis
The Tower at Peabody Place
100 Peabody Place Ste. 1300
Memphis, TN 38103
Phone: 901-543-5900 Fax: 901-543-5999
Email: jgolwen@bassberry.com

Jordan Elizabeth Thomas
BASS, BERRY & SIMS PLC
100 Peabody Pl. Ste 1300
Memphis, TN 38103
Phone: 901-543-5966
Email: jordan.thomas@bassberry.com

Paige Waldrop Mills
BASS BERRY & SIMS
150 3rd Ave S
Nashville, TN 37201
Phone: 615-742-7770
Email: pmills@bassberry.com

I further certify that a copy of this letter, excluding attachments, was filed with the court to be uploaded to PACER (Public Access to Court Electronic Records) on October 28, 2023.

S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria VA 22310
Phillydee100@gmail.com
919-264-1061
Dated: October 28, 2023



D <phillydee100@gmail.com>

Re: Mid-America Apartment Communities v Dennis Philipson - Response to Motion to Compel

D <phillydee100@gmail.com>

Wed, Sep 20, 2023 at 4:46 PM

To: "McClanahan, Teresa" <TMcClanahan@bassberry.com>

Cc: "Mills, Paige" <PMills@bassberry.com>, "Golwen, John S." <jgolwen@bassberry.com>, "Thomas, Jordan"

<jordan.thomas@bassberry.com>

Bcc: D <phillydee100@gmail.com>

Good afternoon Teresa,

Thank you for sending the materials over. I remain optimistic for a positive outcome and hope you have a pleasant evening ahead. I will be away intermittently during the next few weeks but will make every effort to stay updated on any developments. Should additional information be required, please don't hesitate to inform me. To reiterate, as of now, I have not made any initial disclosures. However, this may change depending on the evidence that the Plaintiff produces, which could reveal elements important to my defense.

Again, for your information, if you are seeking documents or information concerning MAA and its employees, you may want to consider subpoenaing the SEC, DOJ, IRS, and EEOC, as it can be challenging for these agencies to comment on ongoing investigations.

Best regards,
Dennis Philipson

On Wed, Sep 20, 2023 at 3:43 PM McClanahan, Teresa <TMcClanahan@bassberry.com> wrote:

Mr. Philipson,

Attached is a response filed with the Court today. A hard copy will follow via U.S. Mail.

Thank you.

 Bass Berry Sims

Teresa McClanahan
Paralegal

Bass, Berry & Sims PLC
150 Third Avenue South Suite 2800 • Nashville, TN 37201
615-259-6787 phone • 615-742-6293 fax •
tmccclanahan@bassberry.com • www.bassberry.com

This email may contain privileged and confidential information and is meant only for the use of the specific intended addressee(s). Your receipt is not intended to waive any applicable privilege. If you have received this email in error, please delete it and immediately notify the sender by separate email.

Unless specifically indicated otherwise, this email, including any attachments, was not intended and cannot be used for the purpose of (A) avoiding U.S. tax-related penalties or (B) promoting, marketing or recommending to another party any tax-related matter addressed herein.

2 attachments

BASS BERRY + SIMS image001.gif
4K

BASS BERRY + SIMS image001.gif
4K

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT,
COMMUNITIES, INC.**

Plaintiff,

4.

DENNIS PHILIPSON

Docket No. 2:23-cv-02186-S11-cgc
JURY DEMAND

Defendant.

SECOND SET OF DOCUMENT REQUESTS TO DEFENDANT PHILIPSON

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiff Mid-America Apartment Communities, Inc. ("MAA"), by and through its attorneys, Bass Berry & Sims PLC, hereby requests that Defendant Dennis Philipson produce the documents requested below for inspection and copying at the offices of Bass, Berry & Sims, within thirty (30) days after the service hereof.

INSTRUCTIONS

1. These requests apply to all Documents in your possession, custody or control, regardless of whether such Documents are held by you or your affiliates, corporate parents, corporate subsidiaries, divisions, directors, officers, partners, designees, agents, managers, employees, representatives, attorneys, or assigns.
2. Pursuant to Federal Rule of Civil Procedure 34(b), all Documents shall be produced as they are kept in the usual course of business, or shall be organized and labeled to correspond to the categories of Documents set forth in each request.

3. All electronically stored information responsive to a request shall be produced in single-page TIFF or color JPG format, as applicable, and in native file format. All corresponding metadata shall be produced in a load file compatible with Relativity.

4. Where any copy of any requested document is not identical to any other copy thereof, by reason of any alterations, marginal notes, comments, or material contained therein or attached thereto, or otherwise, all such non-identical copies shall be produced separately.

5. If no Documents exist that are responsive to a particular request, you shall state so in writing.

6. If any document or any portion of any document requested herein is withheld from production, describe the basis for withholding the document or portion thereof, including any claim of a privilege or protection, in sufficient detail to permit the Court to adjudicate the validity of your withholding the document, and identify each document so withheld by providing at least the following information:

- a. the type of document (*e.g.*, memorandum, letter, report, etc.);
- b. the date, title and subject matter of the document;
- c. the identity, affiliation, and position of the author, the addressee(s), and all recipients of the document; and
- d. a statement of (i) the nature of the legal privilege or protection from discovery claimed and (ii) the factual basis for that claim of privilege or protection from discovery, including the facts establishing the claim of privilege or protection from discovery, the facts showing that the privilege has not been waived, and a statement as to whether the subject matter of the contents of the document is limited to legal advice or contains other subject matter.

7. If a portion of an otherwise responsive document contains information subject to a claim of privilege or protection from discovery, those portions of the document shall be redacted

from the document, and the redacted portions shall be clearly marked as such, and the rest of the document shall be produced.

8. With respect to any responsive document that was formerly in your possession, custody or control and has been lost, destroyed or transferred out of your possession, custody or control, identify such document by setting forth its author(s), addressee(s), copyee(s), date, title, number of pages, subject matter, nature (e.g., memorandum, letter, report, etc.), actual or approximate date on which the document was lost, destroyed or transferred, and, if destroyed, the conditions of and reasons for such destruction, and the names of the person authorizing and performing the destruction, and state the name and address of each person (if any) known to have possession, custody or control of such document.. The phrase "possession, custody or control" has the meaning set forth in Federal Rule of Civil Procedure 34 and should be interpreted as broadly as possible.

9. Each request herein shall be responded to separately and fully, unless it is in good faith objected to, in which case the objection and the bases therefore shall be stated with particularity. If an objection pertains only to a portion of a request, or to a word, phrase or clause contained therein, you shall state your objection to that portion only and respond to the remainder of the request. If, in answering these document requests, you claim that any document request, or a definition or instruction applicable thereto, is vague or ambiguous, you shall not use such claim as a basis for refusing to respond. Rather, you shall set forth as a part of the response the language claimed to be vague or ambiguous and the interpretation used to respond to the individual document request.

10. Each paragraph herein shall be construed independently and without reference to any other paragraph for the purpose of limitation.

11. The use of a verb in any tense shall be construed as the use of a verb in all other tenses wherever necessary to bring within the scope of the request all responses which might otherwise be construed to be outside its scope.

12. The use of the singular form of any word includes the plural and vice versa.

13. The terms "all," "any," and "each" shall each be construed as encompassing any and all.

14. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

15. These requests are deemed continuing in nature, and you are obliged to produce responsive Documents and to supplement your production whenever additional Documents are located or their existence ascertained.

16. MAA reserves the right to serve additional requests for the production of Documents at a later time.

17. Unless otherwise indicated, these requests concern the period from January 1, 2020 to the present.

DEFINITIONS

1. The terms "you" and "your" refer to Defendant Philipson.

2. "Plaintiff" means MAA and its present or former predecessors-in-interest, successors-in-interest, subsidiaries, divisions, affiliates, partners, officers, directors, employees, agents, attorneys, representatives, and/or assigns.

3. "Document" shall mean any document or electronically stored information, including but not limited to, writings, drawings, graphs, charts, photographs, sound recordings, images, and

other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

4. "Communication" and "Communications" shall mean any oral or written utterance, notation, depiction, or statement of any nature whatsoever, including, but not limited to: correspondence, conversations, telephone calls, facsimiles, dialogues, discussions, interviews, consultations, telegrams, telexes, text messages, cables, e-mails, letters, voicemails, statements posted on or to the Internet, memoranda, agreements, and other verbal and non-verbal understandings.

5. "Identify" or "identity" means to state or a statement of:

- a. in the case of a person other than a natural person, its name, the address of its principal place of business (including zipcode), its telephone number, and the name of its chief executive officer, as well as, if it has a person other than a natural person that ultimately controls it, that other person's name, the address of that person's principal place of business (including zipcode), that other person's telephone number, and the name of that other person's chief executive officer;
- b. in the case of a natural person, his or her name, business address and telephone number, employer, and title or position;
- c. in the case of a communication, its date, type (e.g., telephone conversation or discussion), the place where it occurred, the identity of the person who made the communication, the identity of the person who received the communication, the identity of each other person when it was made, and the subject matter discussed;
- d. in the case of a document, the title of the document, the author, the title or position of the author, the addressee, each recipient, the type of document, the subject matter, the date of preparation, and its number of pages; and
- e. in the case of an agreement, its date, the place where it occurred, the identity of all persons who were parties to the agreement, the identity of each person who has knowledge of the agreement and all other persons present when it was made, and the subject matter of the agreement.

DOCUMENT REQUESTS

1. All Documents and Communications that support your contentions that your computer, devices, or systems have been hacked or otherwise compromised or violated.

RESPONSE:

2. All documents and communications demonstrating the security and/or procedures you employ to secure your computers, devices, or systems.

RESPONSE:

3. Documents and communications sufficient to demonstrate the names and contact information for all individuals that have access to your computers, devices, and systems.

RESPONSE:

4. All Documents and communications demonstrating when you deleted all information relating to MAA from your computers, devices, and systems.

RESPONSE:

5. All documents and communications demonstrating you have blocked Paige Mills or Teresa McClanahan from sending emails and other communications to any of your numerous email addresses.

RESPONSE:

6. All documents and communications you have sent or received from any third party mentioning or relating to MAA since 2020.

RESPONSE:

7. All documents not previously requested in your possession, custody or control that relate to the issues in this lawsuit and the allegations in the Amended Complaint in any way.

RESPONSE:

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 16218

BASS. BERRY & SIMS PLC

Suite 2800; 150 3rd Ave. South

Nashville, Tennessee 37201

Tel: 615-742-6200

Fax: 615-429-0429

pmills@bassberry.com

*Counsel for Mid-America Apartment Communities,
LLC*



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CERTIFICATE OF SERVICE

I hereby certify that the forgoing Second Request for Production of Documents was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mp Philly@gmail.com
phillydee100@gmail.com

This 16th Day of October, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

36570901.1

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

3. Plaintiff objects to each of the Requests to the extent they seek or reference information, documents or things not in their possession, custody or control, including, without limitation, personal files, documents, records or other things, of its employees, officers, directors or agents or things which are readily available from another source, including Defendant.

4. Plaintiff objects to each of the Requests to the extent they seek disclosure of information that would violate rights of privacy and other statutorily or judicially recognized protections and privileges, confidentiality agreements, or court orders restricting dissemination of information, or result in disclosure of materials prepared in anticipation of litigation or confidential settlement discussions or conduct. Plaintiff will identify and produce this information subject to a protective order.

5. Plaintiff objects to each of the Requests to the extent they call for legal conclusions or documents that Plaintiff has created in anticipation of litigation.

6. Plaintiff objects to each of the Requests to the extent they seek to expand the duty of supplementation beyond that required by the Federal Rules of Civil Procedure.

7. Plaintiff objects to each of the Requests on the grounds that they are overly-broad, unduly burdensome, or oppressive.

8. Plaintiff objects to the Requests to the extent they seek information or items that are more easily and/or less expensively obtained through deposition testimony or other discovery methods.

9. Plaintiff objects to the Requests to the extent that they seek documents that no longer exist due to the passage of time.

10. Plaintiff objects to the Requests to the extent they are unbounded in time and seek information, evidence, or documents that have no bearing on this dispute.

11. All of these General Objections apply to each numbered response below as if fully set forth therein unless otherwise specified.

12. Plaintiff reserves the right to supplement its Responses as additional information becomes known during discovery in this action.

13. Plaintiff objects to producing these documents because Defendant has refused to negotiate and enter a protective order.

Subject to the foregoing statements and objections, and without waiving the same, Plaintiff responds as follows:

OBJECTIONS TO LACK OF DEFINITIONS:

1. Plaintiff objects to the Requests because no definitions of any of the terms were provided and the requests were not limited in time or scope. Plaintiff has interpreted the requests in accordance with counsel's own understanding of the terms used.

**OBJECTIONS AND RESPONSES TO REQUESTS FOR
PRODUCTION OF DOCUMENTS**

REQUEST 1

Response from WIX subpoena (Docket No 15, Exhibit B): I seek access to the actual response from Wix to the Plaintiff's subpoena, as ordered by this Court on May 16, 2023 (Dk. 15).

RESPONSE: Any non-privileged, responsive documents that Plaintiff is able to find after a reasonable search will be provided upon the entry of a suitable protective order.

REQUEST 2

Verizon's response to the subpoena: I request access to Verizon's response to the subpoena issued by the Plaintiff, as mandated by federal law.

RESPONSE: Plaintiff objects to this Request because Defendant has not provided definitions for these terms and Plaintiff is unaware of what "mandate" Defendant is referencing. Subject to this objection, any non-privileged, responsive documents that Plaintiff is able to find after a reasonable search will be provided upon the entry of a suitable protective order.

Google's response to MAA's subpoena: The Defendant seeks Google's response to the Plaintiff, MAA's subpoena as detailed in (Docket No 6 Exhibit A). Additionally, the court's authorization to modify the subpoena to incorporate the Defendant's known email address, as indicated in (Docket No 22 Exhibit A), should be provided.

RESPONSE: Plaintiff objects to this Request to the extent it implies Plaintiff improperly "modified" a subpoena. This Court's Order granting Plaintiff's Motion for Expedited Discovery (Dkt. 8) expressly permitted Plaintiff to take the discovery necessary to determine the identities of John Does 1 and 2, which Plaintiff did. This document is equally available to both parties. Subject to the foregoing objections, any non-privileged, responsive documents that Plaintiff is able to find after a reasonable search will be provided upon the entry of a suitable protective order.

REQUEST 4

Documentation related to Glassdoor reviews: Documentation pertaining to reviews and the methodologies employed by MAA to authenticate their authorship by the Defendant.

RESPONSE:

Plaintiff objects to this Request because "Glassdoor Reviews" is not a defined term nor is the Request limited in time or scope. Thus, the request is vague, overbroad, and unduly burdensome. Plaintiff further objects to this Request to the extent it seeks "methodologies" employed by MAA to "authenticate their authorship by the Defendant." Such documents are protected by the attorney client and/or work product privileges and will not be provided. Subject to the forgoing objections, samples of any non-privileged documents that Plaintiff is able to find after a reasonable search that Plaintiff believes is responsive based on undersigned counsel's understanding of these undefined terms will be provided upon the entry of a suitable protective order.

REQUEST 5

Compilation of Google reviews and related methodologies: Collation of Google reviews and the strategies employed by MAA to establish their attribution to the Defendant:

RESPONSE:

Plaintiff objects to this Request because "Collation" and Google "reviews" are not a defined terms, nor is the Request limited in time or scope. Thus the request is vague, overbroad, and unduly burdensome. Plaintiff further objects to this Request to the extent it seeks "methodologies" or "strategies" employed by MAA to "establish their attribution to the Defendant." Such documents are protected by the attorney client and/or work product privileges and will not be provided. Subject to the forgoing objections, samples of any non-privileged documents that Plaintiff is able

to find after a reasonable search that Plaintiff believes is responsive based on undersigned counsel's understanding of these undefined terms will be provided upon the entry of a suitable protective order.

REQUEST 6

Additional reviews and materials: Request for any other reviews or materials mentioned explicitly in "AMENDED COMPLAINT" against Dennis Philipson (Docket No. 16) or "AFFIDAVIT Declaration of Leslie Wolfgang" (Docket No. 14).

RESPONSE: Plaintiff objects to this Request because "reviews" or "materials" are not defined terms, thus the request is vague, overbroad, and unduly burdensome. Subject to the forgoing objections, any non-privileged documents that Plaintiff is able to find after a reasonable search that Plaintiff believes is responsive based on undersigned counsel's understanding of these undefined terms will be provided upon the entry of a suitable protective order.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324
Jordan Thomas, BPR. No. 039531
BASS, BERRY & SIMS PLC
100 Peabody Place, Suite 1300
Memphis, Tennessee 38103
Tel: (901) 543-5903
Fax: (615) 742-6293
jpgolwen@bassberry.com
Jordan.thomas@bassberry.com

**Counsel for Mid-America Apartment Communities,
LLC**

CERTIFICATE OF SERVICE

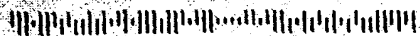
I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 10th Day of October, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

36532280.1



10/10/2023
US POSTAGE \$001.59⁰
ZIP 37201
041M11299642

BASS
BERRY+
SIMS.

Paige Waldrop Mills
150 Third Avenue South, Suite 2800
Nashville, TN 37201

Mr. Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310



PRST FIRST CLASS

U.S. POSTAGE

PAID

WBG

Dennis Philipson
6178 Castletown Way
Alexandria VA 22310-1634

RECEIVED

NOV - 2 2023

Wendy R. Oliver, Clerk
U.S. District Court
W.D. OF TN, Memphis

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CLERKS OFFICE

WESTERN DISTRICT OF TENNESSEE FEDERAL COURT

DOCKET# 2:23-CV-2186-SHL-CGC

167 N MAIN ST

MEMPHIS TN 38103-1816



IBBLSP1 38103



**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

ORDER DENYING MOTION TO DISMISS

Before the Court is pro se Defendant Dennis Michael Philipson's amended Motion to Dismiss, filed September 2, 2023.¹ (ECF No. 33.) Plaintiff Mid-America Apartment Communities, Inc. ("MAA"), filed its response on October 2, 2023. (ECF No. 55.) Mr. Philipson did not file a reply. Because the amended complaint contains sufficient allegations which, if accepted as true, state a claim for relief that is plausible on its face, the motion is **DENIED**.

BACKGROUND²

Mr. Philipson was formerly employed as a property manager for MAA, one of the largest residential management companies in the nation and the second largest owner of apartments in the United States. (ECF No. 16 at PageID 175, 177.) In March 2021, Mr. Philipson gave notice to MAA that he was leaving to pursue his acting career. (Id. at PageID 177.) A few days later,

¹ Mr. Philipson filed his original motion to dismiss on August 30, 2023. (ECF No. 31.)

² The Court only discusses the facts that are pertinent to Defendant's motion. The facts are taken from the amended complaint (ECF No. 16), and are accepted as true for purposes of ruling on the motion.

Mr. Philipson attempted to rescind his resignation but, based on negative comments that he made at the time he tendered his resignation, MAA denied his attempt and paid him instead of allowing him to work during his notice period. (Id.)

Since his resignation, according to MAA, Mr. Philipson has engaged in numerous acts of harassment against MAA and its employees, as well as attempts to divert, harass and confuse MAA's customers. These alleged acts include, but are not limited to, sending more than sixty-five communications to MAA or its employees complaining about alleged fraud, his alleged mistreatment while working there, the supposed malfeasance of other MAA employees and other alleged SEC and IRS violations. (Id.) Mr. Philipson also claims to have made complaints about MAA to various federal agencies, including the Securities and Exchange Commission, the Internal Revenue Service, and the Department of Justice. (Id.) He is alleged to have pursued multiple false whistleblower complaints against MAA, left false reviews about MAA on the Internet and sent emails under a fake name to an MAA board member. (Id. at PageID 178–79.) According to MAA, Mr. Philipson has used MAA's valid and registered trademarks on websites without its permission, including on websites tied to several Internet domain names he purchased in March 2023, as well as on a fictitious LinkedIn webpage. (Id. at PageID 174, 180–85.)

MAA filed its original complaint on April 4, 2023, in which it named John Doe 1 and John Doe 2 as Defendants. (ECF No. 1.) It filed its amended complaint on June 13, 2023, replacing the anonymous Defendants with Mr. Philipson. (ECF No. 16.)³ The amended complaint states the following claims against Mr. Philipson: trademark infringement and unfair competition under federal law; trademark infringement, unfair competition and misappropriation

³ In its response, MAA explains that it “was able to determine that John Does 1 and 2 were actually a single person,” i.e., Mr. Philipson, through the issuance of a series of third-party subpoenas. (ECF No. 55 at PageID 561.)

under Tennessee law; deceptive trade practices and fraudulent misrepresentation under Tennessee law; negligence per se for violations of the federal law protecting the public from cyber harassment; defamation; tortious interference with prospective business relationships; deceit; and violations under the Tennessee Personal and Commercial Computer Act of 2003. (Id. at Page ID 185–93.) MAA also seeks injunctive relief. (Id. at PageID 188.)

STANDARD

A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). It must contain sufficient facts to “state a claim to relief that is plausible on its face,” meaning it includes “factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556, 570 (2007)). The complaint need not set forth “detailed factual allegations,” but it must include more than “labels and conclusions,” “a formulaic recitation of the elements of a cause of action,” and “‘naked assertion[s]’ devoid of ‘further factual enhancement.’” Id. (citing Twombly, 550 U.S. at 555, 557).

Federal Rule of Civil Procedure 12(b)(6) allows the Court to dismiss a complaint for failure to comply with the requirements of Rule 8(a)(2). Fed. R. Civ. P. 12(b)(6). When considering a 12(b)(6) motion, the Court must accept all factual allegations in the complaint as true and construe them in the light most favorable to the plaintiff. Adkisson v. Jacobs Eng’g Grp., Inc., 790 F.3d 641, 647 (6th Cir. 2015) (internal citation omitted).

ANALYSIS

Mr. Philipson argues five separate, but often interrelated, grounds for dismissal of the amended complaint, none of which specifically address any of MAA's causes of action.⁴ First, he broadly asserts that MAA's factual allegations are insufficient. (ECF No. 33 at PageID 340.) Second, he asserts that an absence of key information in the amended complaint weakens MAA's case and casts doubt on the "comprehensiveness and factual integrity" of its allegations. (Id.) His third argument is based on the fact that some of the allegations in the amended complaint are based on a response from a third-party subpoena. According to Mr. Philipson, this third-party subpoena is not in the record because MAA is withholding it, which, according to him, potentially violates Federal Rule of Civil Procedure 26(e)(1)(A), but also "impacts the overall plausibility of [MAA's] claim." (Id. at 341.) Relatedly, Mr. Philipson's fourth argument asserts that MAA might have used improper means to gather information through that third-party subpoena, which might render any such evidence excludable. (Id.) Finally, as a fifth basis for dismissal, Mr. Philipson asserts that, although the amended complaint includes allegations about his mental state, it fails to provide proof that would substantiate those claims. (Id. at 341–42.) According to Mr. Philipson, the absence of such proof casts doubt on the facial plausibility of MAA's claims and might even violate Federal Rule of Civil Procedure 11(b)(2)'s requirement

⁴ Only the first section of Mr. Philipson's motion address whether MAA has stated a claim upon which relief can be granted under Rule 12(b)(6). The subsequent sections address a panoply of unrelated issues. So, Mr. Philipson asserts that MAA "violated the provisions and the spirit of Fed. R. Civ. P. 45" in issuing subpoenas to third parties (ECF No. 33 at PageID 342); argues that MAA and the Court violated his Due Process rights (id. at 342–43); alleges that MAA instigated the lawsuit for improper purposes, and has harassed him and abused the discovery process (id. at 344); and suggests that MAA's attorneys have engaged in ongoing ethical violations (id. at 344–45). Because none of these allegations bear on whether MAA has stated a plausible claim for relief under Rule 12(b)(6), the Court does not address them.

that an attorney certifies that, under the circumstances, “the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.” (Id. at 342.)⁵

The bulk of Mr. Philipson’s arguments in favor of dismissal are undermined when the procedural posture of the case is considered. When considering the motion to dismiss, the Court must construe the amended complaint in the light most favorable to MAA, accept all of the factual allegations as true, and draw all reasonable inferences in favor of MAA. See L. C. v. United States, 83 F.4th 534, 550 (6th Cir. 2023) (citations omitted). In other words, at this stage, MAA need not marshal the proof that would demonstrate it is entitled to the relief sought in the amended complaint. Instead, it need only plead “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ammex, Inc. v. McDowell, 24 F.4th 1072, 1079 (6th Cir. 2022) (quoting Iqbal, 556 U.S. at 678); see also Iqbal, 556 U.S. at 696 (explaining that the plausibility standard under Twombly requires courts to accept as true everything short of “allegations that are sufficiently fantastic to defy reality as we know it: claims about little green men, or the plaintiff’s recent trip to Pluto, or experiences in time travel.”) (Souter, J., dissenting).

In support of his general argument that MAA’s factual allegations are insufficient, Mr. Philipson asserts that the content within the affidavit that MAA relies upon to support its claims would “not pass the rigorous Daubert standard for admitting scientific evidence.” (ECF No. 33

⁵ To the extent Mr. Philipson intends to seek sanctions against MAA under Rule 11, a motion to dismiss is an inappropriate means for doing so. See Fed. R. Civ. P. 11(c)(2) (“A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets.”)

at PageID 340.) However, the ultimate truth of the contention is not relevant here, as the Supreme Court's decision in Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993) and the cases applying it address the admissibility of expert testimony at trial, and have no place at the motion to dismiss stage. See United States v. Lazar, No. 04-cv-20017-BBD-dkv, 2005 WL 8157026, at *5 (W.D. Tenn. Mar. 29, 2005), report and recommendation adopted, 2005 WL 8157024 (W.D. Tenn. Apr. 14, 2005) (declining "to decide a Daubert issue in the context of a motion to dismiss" and explaining that the "motion to dismiss based on the lack of expert testimony is premature"); Bearden v. Honeywell Int'l, Inc., No. 3:09-01035, 2010 WL 1223936, at *4 (M.D. Tenn. Mar. 24, 2010) (finding that conducting a Daubert-style inquiry on the sufficiency of expert testimony was inappropriate at the motion to dismiss stage). Mr. Philipson's arguments based on Daubert are unpersuasive.

The same holds true for Mr. Philipson's argument that MAA's allegations about his mental state are unsupported by definitive evidence or "expert behavioral analysis." (ECF No. 33 at Page ID 342.) Mr. Philipson does not identify which allegations from the amended complaint suggest unfounded assumptions about his mental state. Yet, even assuming there are such allegations, at this stage they would not need to be supported by "definitive evidence" or "expert behavioral analysis." To survive a motion to dismiss, MAA need only assert a short and plain statement of its claim showing that it is entitled to relief. See Fed. R. Civ. P. 8(a)(2). It has done so here. Mr. Philipson's assertion that "allegations of this nature should be substantiated at the earliest possible stage in the litigation process" has no basis in the law or the federal rules. He has failed to satisfy his burden of demonstrating that MAA has failed to state a claim upon which relief can be granted on these grounds.

Mr. Philipson asserts elsewhere that the absence of key information weakens MAA's case, as MAA has "conspicuously omit[ted] references to key employees at MAA" which "not only raises credibility issues but also invites questions about the comprehensiveness and factual integrity of their allegations." (ECF No. 33 at PageID 340.) Relatedly, Mr. Philipson argues that MAA has withheld evidence from the record related to the response to a third-party subpoena, and characterizes this as "an inability to disclose this key piece of evidence," which "impacts the overall plausibility of their claim." (*Id.* at 341.) Mr. Philipson again overstates MAA's burden at the pleading stage. A motion to dismiss is not the vehicle to test the comprehensiveness or the veracity of a complaint. Rather, such factual disputes are ripe for determination at the summary judgment stage or at trial after discovery is complete and the record has been thoroughly developed. Mr. Philipson's assertion that there is a lack of evidence in the record or that MAA has failed to disclose evidence that would support the claims in its amended complaint do not support the granting of his motion.

Finally, to the extent Mr. Philipson grounds the motion to dismiss in assertions that MAA may not have complied with its obligations under Federal Rule of Civil Procedure 45, that also does not provide him a basis for the relief he seeks. Mr. Philipson argues that, even assuming that the information gleaned from the third-party subpoena is accurate, there is an "absence of clear documentation detailing the proper legal procedures for acquiring such sensitive information," which "raises legal concerns." (*Id.*) However, even assuming MAA did not abide by "procedural safeguards," as Mr. Philipson alleges, that does not address whether its amended complaint plausibly states a claim for relief, which is the lone legal concern at issue here. Ultimately, even if that evidence is inadmissible, as Mr. Philipson suggests (*see id.*), it does not form a basis for dismissing the amended complaint.

CONCLUSION

For the foregoing reasons, Defendant's Motion to Dismiss is **DENIED**.

IT IS SO ORDERED, this 6th day of November, 2023.

s/ Sheryl H. Lipman

SHERYL H. LIPMAN
CHIEF UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

V.

No. 2:23-cv-2186-SHL-cgc

DENNIS MICHAEL PHILIPSON,

Defendant.

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Defendant.

ORDER REFERRING CASE TO CHIEF MAGISTRATE JUDGE TU M. PHAM FOR MEDIATION

Pursuant to Local Rule 16.3(c) and the Scheduling Order entered on September 11, 2023, the parties are required to engage in mediation with Chief Magistrate Judge Tu M. Pham by December 4, 2023. (ECF No. 47 at PageID 437.) This case is therefore **REFERRED** for mediation. Representatives who have full settlement authority are expected to attend the mediation. Moreover, the parties must adhere to Local Rule 16.3(d) and file a notice with the Court within seven days of the mediation, confirming that mediation took place and indicating whether it was successful, without revealing the Parties' respective positions at the mediation.

December 4, 2023. (ECF No. 47 at PageID 437.) This case is therefore **REFERRED** for

mediation. Moreover, the parties must adhere to Local Rule 16.3(d) and file a notice with the

whether it was successful, without revealing the Parties' respective positions at the mediation.

s/ Sheryl H. Lipman

SHERYL H. LIPMAN

CHIEF UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
Western Division
Office of the Clerk**

Wendy R. Oliver, Clerk
242 Federal Building
167 N. Main Street
Memphis, Tennessee 38103
(901) 495-1200

Deputy-in-Charge
U.S. Courthouse, Room 262
111 South Highland Avenue
Jackson, Tennessee 38301
(731) 421-9200

NOTICE OF SETTING
Before Tu M. Pham, Chief Magistrate Judge

November 17, 2023

RE: **2:23-cv-2186-SHL/cgc**
MID-AMERICA APARTMENT COMMUNITIES, INC. v. DENNIS
PHILIPSON, et al.

Dear Sir/Madam:

A **MEDIATION HEARING** on is hereby **SET** on **WEDNESDAY, NOVEMBER 29, 2023 at 10:30 A.M., via Zoom** before Chief Magistrate Judge Tu M. Pham.

The Zoom invitation will be sent one day before the hearing. If you have any questions, please contact the case manager at the number provided below. *****Defendant is instructed to contact the case manager at the email/phone number below, and provide him with a working email address by Monday, November 27, 2023.*****

Sincerely,
THOMAS M. GOULD, CLERK

BY: **s/Terry Haley**
Terry Haley
Case Manager to Magistrate Judge Tu M. Pham
terry_haley@tnwd.uscourts.gov
901-495-1276

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT
COMMUNITIES, INC.,

Plaintiff,

v.

DENNIS MICHAEL PHILIPSON,

Defendant.

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No. 2:23-cv-2186-SHL-cgc

**REQUEST FOR CONTINUANCE OF MEDIATION
IN DOCKET NO. 2:23-CV-2186-SHL-CGC**

Dear Court Officials,

I am writing in relation to case number 2:23-cv-2186-SHL-cgc, which is before the United States District Court for the Western District of Tennessee, Western Division. My efforts to obtain case information have been primarily through Google and Casetext.com, where I accessed available details free of charge. However, these sources have provided limited insights, and I am seeking guidance on the appropriate point of contact for more comprehensive information regarding the mediation dates.

Firstly, I wish to extend my apologies for any confusion or inconvenience caused by my recent unavailability. As previously communicated to Ms. Mills in early November, my commitments during November and December have rendered me unavailable. This was mentioned either during the deposition or in a subsequent email. During the deposition, I provided Ms. Mills with both of my contact numbers and an alternate email address. However, I have not received any calls or emails regarding mediation dates or other case-related updates.

Moreover, I had requested dates to depose MAA executives, which Ms. Mills acknowledged, but to my understanding, these dates have not been provided. My access to PACER has been limited due to my ongoing travels and responsibilities in assisting a family member who lives in a rural area and lacks

internet access. As a result, my ability to stay consistently updated through email and PACER has been compromised. Financially, the costs associated with frequent PACER access have been burdensome; my last bill amounted to approximately \$190. I have also been saving any money I can towards the trial in June.

Recently, upon reviewing my case status online, I realized that I inadvertently missed a mediation session, a development that was unexpected. During our initial scheduling conference, I understood that all pertinent dates had been finalized, and it was my impression that we had collectively agreed to forego mediation. However, after reviewing the local rules, specifically LR 16.3, I now recognize that the court has the discretion to order mediation at any stage of the proceedings.

I must disclose, as mentioned to Ms. Mills during the deposition, that I have been dealing with significant mental health challenges since at least 2014, including anxiety, depression, bipolar disorder, and manic episodes. The plaintiff has been aware of these issues since 2019. Under the circumstances, which I believe align with the Americans with Disabilities Act (ADA) definition of a disability, I respectfully request additional time to comprehend and navigate the legal processes of our case adequately. I want to assure the court that I feel more than capable of managing the case against me; a little extra time to review and understand the proceedings would be greatly appreciated.

I apologize for any misunderstandings or gaps in communication from my end. I had believed that our case was proceeding smoothly, particularly following my active participation in the deposition and the ensuing discussions with Ms. Mills. I aim to stay engaged and responsive in our case, and I hope for a considerate accommodation of my circumstances in line with the principles of fairness and accessibility.

Considering these circumstances, I respectfully request that any mediation be deferred until early February.

Additionally, I would like to reiterate that ALL future communications from opposing counsel be sent via USPS mail. I will attend to all mail correspondence when I have more time in January.

Regarding the motions previously marked as moot, I recognize that my initial approach may have been overly assertive and perhaps somewhat impatient. In retrospect, I understand the importance of a more measured and considerate pace in legal proceedings. Therefore, I am now adopting a more patient approach, and accordingly, I am formally requesting a postponement of the mediation to early February.

Furthermore, due to continued security concerns and previous hacking attempts on my computer, I strongly prefer communication via USPS. This preference was also discussed with Ms. Mills during the deposition, particularly in the context of conducting a forensic analysis of my computer. On another note, Ms. Mills mentioned a separate lawsuit against me during the deposition, details of which I have not yet received.

Finally, I have established this email address due to issues with my Google accounts, possibly linked to a subpoena served to Google in April. I believe that at least a 30-day notice would be appropriate for significant updates like a mediation session.

Thank you for your understanding and assistance in this matter.

** I would like to inform you that I am also dispatching a physical copy of this letter through the mail.

Please consider this email as an additional means of ensuring its receipt rather than a duplication of efforts. My intention is merely to guarantee that my correspondence is received and acknowledged.

Respectfully submitted,
S/Dennis Philipson, Pro Se Defendant
6178 Castletown Way, Alexandria, VA 22310
Dphilipson1982@yahoo.com
Dated: December 2, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MID-AMERICA APARTMENT COMMUNITIES, INC.,)	
)	
Plaintiff,)	
)	
v.	)	No. 23-cv-2186-SHL-cgc
)	
DENNIS MICHAEL PHILIPSON,)	
)	
Defendant.)	

MEDIATION STATUS REPORT

On November 8, 2023, the presiding district judge referred this case to the undersigned for judicial mediation. (ECF No. 71.) The undersigned scheduled a video status conference for Tuesday, November 14, 2023, via Zoom and notified the parties of the conference on November 13, 2023, via email. (ECF No. 70.) The court sent the invitation notice to the defendant's email address on record: phillydee100@gmail.com. However, the court received an email indicating that the message was undeliverable. The court re-sent the invitation to the same email address along with a second email address that the court identified as being associated with the defendant: mphillyd@gmail.com. Again, the message was returned as undeliverable. On November 14, 2023, the video status conference took place; plaintiff's counsel appeared but the defendant did not attend.

On November 17, 2023, the undersigned scheduled mediation for November 29, 2023, via Zoom, with the following instruction to the defendant:

A **MEDIATION** is hereby **SET** on **WEDNESDAY, NOVEMBER 29, 2023 at 10:30 A.M., via Zoom before Chief United Magistrate Judge Tu M. Pham.**

The Zoom invitation will be sent one day before the hearing. If you have any questions, please contact the case manager at the number provided below. *****Defendant is instructed to contact the case manager at the email/phone number below, and provide him with a working email address by Monday, November 27, 2023.*****

(ECF No. 73) (emphasis in original.) The court directed the clerk's office to send this notice of setting via certified mail, number 9590 9402 6391 0303 6893 45, to the defendant's address of record. The court never received a return notice from the certified mail, and the defendant never provided a working email address to receive future notices from the court.

After conducting a review of the *pro se* filings, the court identified a third email address associated with the defendant: mphilly@gmail.com. In addition to delivering notice of the mediation via certified mail, the court sent the invitation via email to all three email addresses associated with the defendant. The messages to the email address phillydee00@gmail.com and mphillyd@gmail.com returned as undeliverable. However, the message to mphilly@gmail.com was successfully delivered. Despite the court's extensive effort to contact the defendant, he failed to

appear at the mediation on November 29, 2023 and failed to contact to court explaining his absence. Counsel for the plaintiff as well as the corporate representative appeared as directed. Due to the non-appearance of the defendant, the undersigned could not conduct the mediation.

Respectfully submitted,

s/Tu M. Pham

TU M. PHAM

Chief United States Magistrate Judge

December 6, 2023

Date

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,)	
COMMUNITIES, INC.)	
Plaintiff,)	
)	
v.	)	Docket No. 2:23-cv-02186-SHL-cgc
	)	JURY DEMAND
DENNIS PHILIPSON)	
)	
Defendant.)	

**MID-AMERICA APARTMENT COMMUNITIES, INC.’S RESPONSE TO
DEFENDANT’S MOTION FOR REASONABLE ACCOMODATION
AND CONTINUANCE OF MEDIATION**

Defendant Dennis Philipson (“Defendant” or “Philipson”) has filed several pleadings (Dkt. Nos 75-77) seeking to obtain some sort of “reasonable accommodation” from this Honorable Court. Plaintiff Mid-America Apartment Communities, Inc. (“MAA”) does not believe that any such accommodations are necessary or appropriate. First, Defendant’s pleadings are merely unsworn assertions from a lay person as to his alleged mental health conditions, the medications he is taking, and the interactions of those medications with one another. He states that he suffers from anxiety, depression, bipolar disorder, manic episodes, alcoholism, antisocial personality disorder, and some unknown, “serious but confidential” ailment. Despite these unsworn assertions, he provides evidence from a medical doctor stating that he is *not* disabled. (See Dkt. 77-1, p. 3). This document was allegedly completed by an individual identified as “Arun Bensal, M.D.”. Dr. Bensal’s responses on this form indicated that Defendant was not disabled in that his alleged mental impairment did not limit one or more of his major life

activities, nor did he have an impairment that prevents or severely restricts [Defendant] from doing activities that are of central importance in most people's lives." *Id.*

The remainder of his alleged proof also does not support the allegations he makes in his pleadings, i.e. that he is experiencing serious side effects from his medications that limit his ability to attend to his responsibilities. *See* Dkt. 77-3, pg. 12 (patient denies any side effects; patient is negative for decreased concentration, depression, sleep disturbance and suicidal ideas; *Id.* at pg. 13 (Behavior, thought content, and Judgment: all normal); *Id.* at pg. 34 (Attention, Mood, speech, behavior, thought content, and judgment: all normal).

Consequently, even if the relief Defendant is seeking is possible or appropriate, he has not proved his entitlement to any special accommodations. There is absolutely no reason that Defendant cannot pay attention to the docket and Local Rules in this matter and comply with the orders and directives of this Court and Magistrate Pham like every other litigant is required to do. Defendant has simply tried to confuse matters by constantly blocking and unblocking various email accounts and insisting upon service by U.S. Mail so that he can claim he did not know about certain orders or communications. This Court's docket is available to everyone via Pacer and Defendant should be held accountable for monitoring it for filings and orders that pertain to him and this case. All litigants are required to follow this Court's Rules and Orders and Defendant should be no exception.

As for Defendant's Motion for a Continuance of the Mediation, this should be denied as moot. Judge Lipman entered an order (Dkt. 71) referring this case to Magistrate Pham for mediation on November 8, 2023. Magistrate Pham filed a setting letter (Dkt. 70) requiring the parties to attend a status conference on November 14, 2023 at 10:00 am. Defendant did not attend the status conference. Magistrate Pham then set the mediation for November 29, 2023,

and filed a notice of same on the docket (Dkt. 73). Defendant did not attend the mediation. *See* Mediation Status Report (Dkt. 78). Defendant did not file his request to continue the mediation until after it had already occurred. (Dkt. 75). For this reason, his motion should be denied as moot.

CONCLUSION

For the reasons set forth above, Mr. Philipson's Motions for Reasonable Accommodation and to Continue the Mediation should be denied.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324
Jordan Thomas, BPR. No. 039531
BASS, BERRY & SIMS PLC
100 Peabody Place, Suite 1300
Memphis, Tennessee 38103
Tel: (901) 543-5903
Fax: (615) 742-6293
jgolwen@bassberry.com
Jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 19th Day of December, 2023.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

36981275.1

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT,
COMMUNITIES, INC.** Plaintiff,

V.

DENNIS PHILIPSON,

Defendant.

MOTION FOR STATUS CONFERENCE

Plaintiff, Mid-America Apartment Communities, Inc, (“MAA”) brings this motion requesting a status conference in this matter. MAA requests this status conference for the following reasons:

1. Defendant Philipson has made repeated accusations against this Court, its employees, and undersigned counsel of unethical or improper behavior.
2. Although it is unclear whether Defendant has formally notified this Court (he did not serve undersigned counsel), he is widely circulating the accusations set out in **Exhibit A**.
3. **Exhibit A** is an email sent under the false name “Miles Cyprus” on January 7, 2024, purporting to have been served on the “Circuit Executive,” complaining that one of this Court’s law clerks was formerly an employee of Bass, Berry & Sims several years ago and that the involvement of this law clerk in this matter is unethical and improper.
4. It is clear that “Miles Cyprus” is Denis Philipson because he continually makes references to “my case” when discussing what is obviously the case at bar.

5. Philipson states that he has filed complaints with the Tennessee Ethics Board and the Judicial Board “outlining specific ethical and procedural transgressions.” Undersigned counsel has not been served with any such complaints.
6. In addition to these ethical complaints, he mentions other documents that have not been produced in response to either of Plaintiff’s two sets of Requests for Production of Documents. As set out in Plaintiff’s earlier Motion to Compel, Defendant was to produce any documents relating to MAA dated after he left its employment in 2021. He has only produced one responsive document thus far, claiming to have no others. Yet in **Exhibit A**, he states that he has made multiple ethical complaints; he has had contacts with the Department of Justice about this matter; he has “dispatched” two formal complaints to the Circuit Executive’s office, each containing a USB drive with a “substantial amount of evidence and information;” and he has compiled and overnighted a “comprehensive dossier” to someone’s office and to Fox 13 Memphis for “further investigation.” None of these responsive documents have been provided to Plaintiff and his admissions in this email establish he is continuing to flout the discovery rules and the Rules of this Court.
7. Defendant Philipson then made these same accusations (among many other spurious claims) in a January 11, 2024 email, using the fake name “Piper Savage.” See attached **Exhibit B**. According to MAA’s IT professionals, **Exhibit B** went to more than 1,200 people at MAA alone.
8. MAA believes a status conference is necessary for several reasons:
 - a. To ensure that the Court is aware of these ethics accusations against one of her law clerks;

- b. To ensure that the Court is aware that Defendant has failed to produce responsive documents;
 - c. To set an imminent date and briefing schedule for an injunction hearing, the motion for which is forthcoming next week;
 - d. And to set a briefing schedule for Plaintiff's forthcoming motion for relief from the Protective Order so that Plaintiff may provide its expert report and Defendant Philipson's deposition to agents from the FBI who have requested these documents for their investigation of Philipson's cyber stalking and other suspected crimes.
9. Plaintiff notified Defendant by US Mail that it would be filing this Motion today and to give notice if he objected. He did not provide any notice of objection.
10. For the foregoing reasons, Plaintiff requests a status conference at the Court's earliest convenience.

Respectfully Submitted,

/s/ Paige Waldrop Mills
Paige Waldrop Mills, BPR. No.
016218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201
Tel: 615-742-6200
pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324

Jordan Thomas, BPR. No. 039531

BASS, BERRY & SIMS PLC

100 Peabody Place, Suite 1300

Memphis, Tennessee 38103

Tel: (901) 543-5903

Fax: (615) 742-6293

jgolwen@bassberry.com

Jordan.thomas@bassberry.com

*Counsel for Mid-America Apartment
Communities, LLC*

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
mphilly@gmail.com

This 12th Day of January, 2024

/s/ Paige Waldrop Mills
Paige Waldrop Mills

EXHIBIT A

Mills, Paige

From: Golwen, John S.
Sent: Sunday, January 7, 2024 4:26 PM
To: Mills, Paige; Thomas, Jordan
Subject: FW: Potential Conflict of Interest in Legal Proceedings – Western District Court of Tennessee

BASS BERRY + SIMS

John Golwen

Member

Bass, Berry & Sims PLC
The Tower at Peabody Place - 100 Peabody Place, Suite 1300
Memphis, TN 38103-3672
901-543-5903 phone • (866)-627-4696 fax
jgolwen@bassberry.com • www.bassberry.com

From: Miles Cyprus <MilesCyrpus2020@outlook.com>
Sent: Sunday, January 7, 2024 2:21 PM
To: Miles Cyprus <milescyrpus2020@outlook.com>
Subject: Potential Conflict of Interest in Legal Proceedings – Western District Court of Tennessee

Good afternoon, Circuit Executive,

I am reaching out to you with an urgent concern regarding a potential conflict of interest in a case being handled by the United States District Court, Western District of Tennessee. This issue involves Mr. Michael Kapellas, who is currently a Judicial Law Clerk within this court, and his previous association with Bass, Berry & Sims PLC.

Before his current role as a Judicial Law Clerk, Mr. Kapellas was an associate at Bass, Berry & Sims PLC. The attorneys representing the plaintiffs in my case are from the same law firm. These attorneys are:

1. Jordan Elizabeth Thomas, BPR Number: 039531, licensed in Tennessee since 2021, working from the same address as Mr. Golwen in Memphis, TN, and a graduate of the University of Mississippi - School of Law.
2. John Stone Golwen, BPR Number: 014324, licensed in Tennessee since 1990, with an office at 100 Peabody Pl Ste 1300, Memphis, TN 38103-3649, in Shelby County.
3. Paige Waldrop Mills, BPR Number: 016218, licensed in Tennessee since 1993, operating from 150 3rd Ave S Ste 2800, Nashville, TN 37201-2017, in Davidson County, and a graduate of the University of Tennessee - College of Law.

The direct connection between Mr. Kapellas's former employer and the attorneys involved in my case raises serious ethical concerns. According to the American Bar Association's Model Rules of Professional Conduct, Rule 1.12, and the

Tennessee Code of Judicial Conduct, Canon 2, Rule 2.11, there are clear guidelines about conflicts of interest involving court personnel. These rules are in place to prevent any semblance of bias or partiality in the judicial process.

Given Mr. Kapellas's prior employment with the law firm representing the opposing party in my case, there is a reasonable basis to question the impartiality of the proceedings. This situation not only potentially violates the ethical guidelines but also threatens the integrity of the judicial process and the public's confidence in our legal system. Mr. Kapellas has been substantially involved in the civil lawsuit against me.

In the course of my ongoing legal battle, I have encountered multiple instances where my rights, as guaranteed under the law, have been compromised. These violations, which range in nature and severity, have prompted me to seek intervention from various authoritative bodies. I have reached out to the Department of Justice (DOJ), highlighting potential federal law infringements. Most recently, in this absurd judicial process against me, there was a third attempt to serve my wife with a subpoena by an individual identifying himself as Agent Barber. He wears a badge around his neck and arrived with flashing lights on his car. My wife has no idea what this is about, and we perceive this as continued harassment by the attorneys named in my case. I have provided video evidence of this incident, as well as footage of him sneaking around my house with a flashlight.

Additionally, I have filed complaints with the Tennessee Ethics Board and the Judicial Board, outlining specific ethical and procedural transgressions. Recognizing the gravity of these issues, I have also escalated my concerns to the Sixth Circuit, Circuit Executive. These actions are in line with the rights afforded to me under the Constitution and the legal recourse available in such situations, as delineated in both federal and state legal frameworks. My aim in contacting these entities is not only to seek redress for the violations I have faced but also to contribute to the broader effort of upholding justice, transparency, and fairness within the judicial system.

Additionally, in October and December, I dispatched two formal complaints to the Circuit Executive's office, each accompanied by a USB drive containing a substantial amount of evidence and information.

I have compiled and overnighted a comprehensive dossier of this information to your office and to Fox 13 Memphis for further investigation. It is imperative that this matter be examined thoroughly to uphold the principles of fairness and justice.

The circumstances warrant a prompt and impartial review to ensure that all legal proceedings are conducted in accordance with the highest ethical standards.

I trust that the court will take the necessary steps to address this potential conflict of interest and maintain the integrity of the judicial process. I look forward to your response and the appropriate actions that will be taken in this regard. I will also follow-up by phone, later this week.

Thank you for your attention to this critical issue.

Sincerely,

EXHIBIT B

Mills, Paige

From: Mills, Paige
Sent: Tuesday, January 9, 2024 1:48 PM
To: DeLPriore, Rob; Golwen, John S.; McGown, Gigi
Subject: RE: [EXTERNAL] Critical Review: Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns in Western District of Tennessee

BASS BERRY+SIMS

Paige Mills
Member

Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800 • Nashville, TN 37201
615-742-7770 phone
pmills@bassberry.com • www.bassberry.com

From: DeLPriore, Rob <rob.delpriore@maac.com>
Sent: Tuesday, January 9, 2024 1:16 PM
To: Mills, Paige <PMills@bassberry.com>; Golwen, John S. <jgolwen@bassberry.com>; McGown, Gigi <Gigi.McGown@maac.com>
Subject: FW: [EXTERNAL] Critical Review: Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns in Western District of Tennessee

From: Patrick, Jennifer <Jennifer.Patrick@maac.com>
Sent: Tuesday, January 9, 2024 12:45 PM
To: DeLPriore, Rob <rob.delpriore@maac.com>
Subject: FW: [EXTERNAL] Critical Review: Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns in Western District of Tennessee



Jennifer Patrick
Investor Relations
6815 Poplar Ave, Suite 500
Germantown, TN 38138
P: 901-435-5371
www.maac.com

From: Investor Relations <investorrelations@maac.com>
Sent: Tuesday, January 9, 2024 12:41 PM
To: Patrick, Jennifer <Jennifer.Patrick@maac.com>; Schaeffer, Andrew <Andrew.Schaeffer@maac.com>

Subject: FW: [EXTERNAL] Critical Review: Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns in Western District of Tennessee

From: Piper Savage <rogervkint2024@outlook.com>

Sent: Tuesday, January 9, 2024 12:26:01 PM (UTC-06:00) Central Time (US & Canada)

To: Investor Relations <investorrelations@maac.com>

Subject: [EXTERNAL] Critical Review: Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns in Western District of Tennessee

Hi there!

This is your e-mail body. Remember to include the most important elements of your press release to engage your recipients.

We wish you successful PR outreach.

Regards!

Your friends at Prowly



Observations and Inquiries into Mid-America Apartment Communities, Inc. Activities

Tennessee - January 9 2024

Developments have surfaced around Mid-America Apartment Communities, Inc. (MAA), a prominent property management company based in Memphis, TN, which may merit further journalistic investigation. These developments include significant stock transactions by company insiders and other actions that have raised questions within the community and among stakeholders.

On January 7, 2023, a notification to Mid-America Apartment Communities, Inc. and Bass, Berry & Sims PLC about concerns regarding the company's Executive, notable stock sales by company insiders were observed. One significant transaction involved the EVP of General Counsel selling stock valued at a million dollars.

These financial activities occur amidst a backdrop of various challenges faced by Mid-America Apartment Communities in recent years. The company has encountered several issues, ranging from financial concerns to safety incidents. These included alleged financial and securities fraud, business fraud, and safety concerns at various properties.

A recent incident at one of their Texas properties in November 2021, which involved the tragic death of a young woman, has been linked to the company's lease policies. This and other legal matters, including a lawsuit filed under docket number 2:2023cv02186, highlight the need for greater transparency and oversight of the company's legal and operational practices.

The involvement of a judicial law clerk, with historical ties to Bass, Berry & Sims PLC and a role as a Judicial Law Clerk in the Western District of Tennessee in these legal proceedings, has also been noted. His name appears in the metadata of several court documents related to this lawsuit, raising a potential conflict of interest that could affect the judicial process's integrity.

The scale of Mid-America Apartment Communities, Inc.'s operations, impacting approximately 100,000 households across around 30 states, means the implications of these developments are far-reaching. The intricate nature of these events suggests a multifaceted story that warrants public interest.

We encourage members of the press to utilize resources such as the Freedom of Information Act (FOIA) to investigate these matters further. We are prepared to offer additional information and assistance to support a comprehensive exploration of these developments.



Examination of Judicial Integrity and Ethical Conduct in the Western District of Tennessee

is being drawn to the United States District Court, Western District of Tennessee, concerning potential conflicts of interest and the conduct of court personnel. Central to these concerns is the intersection between a Judicial Law Clerk's past association with the law firm B & C and their involvement in ongoing proceedings within this court.

This situation draws into question compliance with the ethical guidelines as set forth in the American Bar Association's Model Rules of Professional Conduct, Rule 1.12, and the Tennessee Code of Judicial Conduct, Canon 2, Rule 2.11. These regulations are integral to maintaining the integrity and impartiality within the judicial process, ensuring that justice is served without bias or the appearance thereof.

Compounding these concerns are reports of atypical legal service methods and actions potentially amounting to harassment, which have been brought to the attention of various authoritative bodies. These include the Department of Justice (DOJ), Tennessee Ethics Commission, and the Judicial Board. The aim is to ensure a thorough review of these practices and their alignment with legal standards.

In addition to the existing concerns, there have been reports of several instances that could potentially indicate a compromise of legal rights and the rule of law. Notably, a situation has been highlighted involving repeated attempts to serve a subpoena in a manner that raises questions of propriety. An individual, referred to as Agent Barber, reportedly made these attempts, marked by the use of a badge and a vehicle.

hts. The nature of these service attempts, including one directed at the spouse of an involved party who reportedly lacks clarity, has been perceived as unusual and potentially overreaching. Documented evidence, including video footage, has been submitted to the court to examine these actions. This situation forms part of a broader pattern of events that are being scrutinized for potential legal and ethical concerns within the ongoing judicial process.

In response to these issues, a comprehensive dossier has been assembled and dispatched to the Circuit Executive's office and a local news station. This dossier includes pertinent details of case number No. 2:23-cv-2186-SHL-cgc, which is currently being adjudicated in the United States District Court, Western District of Tennessee. The objective is to conduct an independent and transparent examination of these matters to ensure transparency and uphold judicial fairness and integrity.

The investigation further highlights the need for rigorous adherence to ethical guidelines in legal proceedings. The integrity of the judicial process is crucial for maintaining public trust and confidence in the legal system. An impartial and thorough investigation is essential to address any potential conflicts of interest and ensure the highest standards of legal and ethical conduct are upheld.

The watchdog organization is focused on promoting transparency, fairness, and ethical conduct within judicial and legal proceedings. By continuing to identify and address potential conflicts of interest and ethical violations, the organization aims to strengthen public confidence in the judicial system.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.** Plaintiff,

V.

DENNIS PHILIPSON

**MID-AMERICA APARTMENT COMMUNITIES, INC.'S MOTION FOR
PRELIMINARY INJUNCTION**

The Plaintiff, Mid-America Apartment Communities, Inc. (“MAA” or “Plaintiff”) moves this Honorable Court pursuant to Fed. R. Civ. P. 65 for a Preliminary Injunction to enjoin Defendant Dennis Philipson (“Philipson” or “Defendant”) from harassing and stalking MAA and its employees and counsel. Except for lawful whistleblowing activities through the appropriate channels, MAA further seeks to stop Philipson’s defamatory and deceitful communications concerning MAA to its employees and third parties.

The Court's immediate protection is necessary because Defendant's harassment, defamation, and deceit have been ongoing but now are sharply escalating. As set forth herein, Defendant has taken steps to destroy MAA and its relationships with its employees and the community. Philipson's continuing and escalating stalking and cyber-harassment indicate a dangerous individual and MAA, its employees, and counsel seek protection from him.

MAA asserts that it can show that it has a likelihood of success on the merits of its claims for negligence *per se* for Philipson's repeated violations of the federal law that prohibits stalking

(18 U.S.C. §§ 2261a), for common law deceit, and for defamation. Moreover, MAA can show that it is subject to irreparable and immediate harm to its reputation, its good will, and its relationships with its employees and the community if the relief is not granted. MAA can also show that the granting of an injunction to preclude Philipson from harassing and stalking MAA and its employees and counsel does not work a hardship to Philipson because he is already prohibited by law from doing the acts of which MAA complains. And finally, it would serve the public interest to grant the requested injunction because the public interest is always served by enhancing public safety.

Attached to this Motion as **Exhibit A** is a Proposed Order granting the requested relief. In addition, Plaintiff has filed the following in support of its Motion:

1. A Memorandum of Fact and Law in Support of the Motion;
2. The Deposition of Dennis Philipson with Exhibits;
3. The Declaration of Paige Mills;
4. The Second Declaration of Leslie Wolfgang;
5. The Declaration of Jay Blackman;
6. The Declaration of Johnathan Bridbord

Plaintiff respectfully requests that its Motion be granted for the reasons set forth in its Memorandum of Fact and Law, as well as the facts presented in the supporting declarations.

Respectfully Submitted,

/s/ Paige Waldrop Mills
Paige Waldrop Mills, BPR. No. 016218
BASS, BERRY & SIMS PLC
Suite 2800; 150 3rd Ave. South
Nashville, Tennessee 37201

Tel: 615-742-6200
pmills@bassberry.com

/s/ John Golwen

John Golwen, BPR. No. 014324

Jordan Thomas, BPR. No. 039531

BASS, BERRY & SIMS PLC

100 Peabody Place, Suite 1300

Memphis, Tennessee 38103

Tel: (901) 543-5903

Fax: (615) 742-6293

jgolwen@bassberry.com

Jordan.thomas@bassberry.com

***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
Phillydee100@gmail.com

This 25th Day of January, 2024.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.** Plaintiff,

V.

DENNIS PHILIPSON

Defendant.

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

ORDER OF PRELIMINARY INJUNCTION

This matter came before the Court on the Motion of Plaintiff, Mid-America Apartment Communities, Inc. (“MAA” or “Plaintiff”) for Preliminary Injunction against Defendant Dennis Philipson (“Defendant”); and based upon the Amended Complaint and exhibits thereto, the Motion for Preliminary Injunctive Relief, the Memorandum in Support thereof, the exhibits and Declarations, from all of which the Court finds that MAA has met its burden that:

1. there is a likelihood of success on the merits on MAA's claims of defamation, negligence *per se*, and deceit against Defendant;
2. MAA will suffer irreparable harm if Defendant is not enjoined from posting false and defamatory statements concerning MAA, its employees, and its counsel, and from stalking and intimidating MAA, its employees, and counsel;
3. the harm suffered by MAA, its employees and counsel in the absence of injunctive relief outweighs any perceived prejudice to Defendant; and
4. the public interest is served by granting the injunction.

It is therefore hereby **ORDERED, ADJUDGED AND DECREED** that MAA's Motion for a Preliminary Injunction is GRANTED and the Court ENJOINS Defendant in this action as follows:

1. Defendant, whether under his own name or a false name, and those in active concert with him, are enjoined and barred from creating or setting up any social media account or any other type of account in the name, or a confusingly similar name, of any Mid-America Apartment Communities, Inc., Mid-America Apartments, L.P., any of their respective affiliates, and its and their respective present or past shareholders, directors, officers, managers, partners, employees (other than Defendant), agents and professional advisors (including but not limited to attorneys, accountants and consultants (collectively, "MAA Persons")), without such individual's or entity's express written permission.
2. Defendant, whether under his own name or a false name, and those in active concert with him, are enjoined and barred from attempting to access or take control of any social media account or any other type of account or device, or to change the login credentials of any account or device, in the name of any MAA Person without such individual's or entity's express written permission.
3. Defendant, whether under his own name or a false name, and those in active concert with him, are enjoined and barred from applying for jobs in the name of any individual MAA Person without the individual's express written permission.
4. Defendant, whether under his own name or a false name, and those in active concert with him, are enjoined and barred from applying for credit cards or any other type of financial instrument or loan in the name of any MAA Person without the individual's or entity's express written permission.

5. Defendant, whether under his own name or a false name, and those in active concert with him, are enjoined and barred from purchasing domain names that contain the MAA trademarks¹ and/or from setting up and/or publishing a website that uses MAA's trademarks in an infringing manner or in a manner that is likely to cause confusion among MAA customers and the apartment rental marketplace.
6. Defendant, whether under his own name or a false name, and those in active concert with him, are enjoined and barred from setting up social media accounts, whether on LinkedIn or otherwise, that falsely purport to be a MAA-sanctioned account or that uses the MAA trademarks in a manner that is infringing or likely to cause confusion among MAA customers and the apartment rental marketplace.
7. Defendant, whether under his own name or a false name, and those in active concert with him, are enjoined and barred from accessing or attempting to access MAA's computer systems or servers.
8. Defendant, whether under his own name or a false name, and those in active concert with him, are enjoined and barred from contacting any individual MAA Person in-person or by phone, electronic mail, text message, social media, direct message, or any other method, without the express written consent of such person.
9. Defendant, whether under his own name or a false name, and those in active concert with him, are enjoined and barred from committing any threats, stalking, cyberstalking or intimidating behavior as described in 18 U.S.C. §§ 2261a.
10. Defendant shall not come within 500 feet of any MAA office, to include parking structures.

¹ The MAA trademarks for the purposes of this Injunction are MAA, MID-AMERICA APARTMENT COMMUNITIES, MAA A BRIGHTER VIEW, and MAA COMMUNITIES. The use of a trademark that is confusingly similar to these trademarks is also prohibited by ¶ 5 of this Injunction.

11. Defendant Philipson, whether under his own name or a false name, and those in active concert with him, are hereby enjoined and prohibited from using, posting, publicizing, disseminating, or distributing statements, including but not limited to e-mails, the leaving of a review on an Internet platform, or assisting another in doing same, that state or imply that:

- a. MAA's General Counsel, Rob DelPriore has participated in illegal or improper stock transactions;
- b. That it was unethical or improper for Rob DelPriore to have previously been employed at Bass, Berry & Sims;
- c. there is something improper, illegal, or untoward about the corporate structure of MAA;
- d. that MAA lacks proper insurance coverage;
- e. that MAA and its corporate activities have compromised "tenant safety;"
- f. that MAA has inadequate mold and water remediation such that they threaten tenant health and "property integrity";
- g. that MAA spends lavishly at the expense of the tenants;
- h. that MAA has dangerous policies with regard to residents' pets;
- i. that MAA has inadequate grill safety measures;
- j. that MAA or its counsel has committed wrongful or improper conduct by attempting to serve a subpoena in his lawsuit.

12. Nothing in this Order shall in any way limit Defendant's rights to make whistleblowing complaints or to otherwise communicate with a government agency, as provided for, protected under, or warranted by applicable law.

13. This Preliminary Injunction shall be effective as of the date and time set forth below and upon the posting by Plaintiff pursuant to Federal Rule of Civil Procedure 65(c) of a bond in the amount of Five Thousand and 00/100 Dollars (\$5,000.00), which amount this Court finds is appropriate security to pay the costs and damages sustained by any Defendant in the event he were to be wrongfully enjoined or restrained.

IT IS SO ORDERED this _____ day of _____, 2024, at _____ a.m./p.m.

Judge Sheryl Lipman

SUBMITTED FOR ENTRY BY:

/s/ Paige Waldrop Mills

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Counsel for Mid-America Apartment Communities, LLC

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
Phillydee100@gmail.com

This 25th Day of January, 2024.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,
COMMUNITIES, INC.
Plaintiff,

v.

DENNIS PHILIPSON
Defendant.

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Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

**MID-AMERICA APARTMENT COMMUNITIES, INC.’S MEMORANDUM IN
SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

I. INTRODUCTION

The Plaintiff, Mid-America Apartment Communities, Inc. (“MAA” or “Plaintiff”) submits this Memorandum in Support of its Motion for Preliminary Injunction to enjoin Defendant Dennis Philipson (“Philipson” or “Defendant”) from harassing and stalking MAA and its employees and counsel. Except for lawful whistleblowing activities through the appropriate channels, MAA further seeks to stop Philipson’s defamatory and deceitful communications concerning MAA to its employees and third parties.

The Court’s immediate protection is necessary because Defendant’s harassment, defamation, and deceit have been ongoing but now are sharply escalating. As set forth herein, Defendant has taken steps to destroy MAA and its relationships with its employees and the community. Philipson’s continuing and escalating stalking and cyber-harassment indicate a dangerous individual and MAA, its employees, and counsel seek protection from him.

II. FACTS

Procedural History

MAA is a residential management company and is the second-largest owner of apartments in the United States. (Dkt. 16, ¶ 11). MAA's real estate portfolio includes thousands of residences and apartment communities throughout the Southeast, Southwest, and Mid-Atlantic regions of the United States. (*Id.* ¶ 12). MAA filed Case No. 2:23-cv-02186-SHL-cgc in this Court on April 3, 2023, alleging claims of trademark infringement and unfair competition against John Does 1 and 2. (Dkt. 1). The original Complaint described how an unknown individual or individuals had purchased and set up Infringing Domains and Websites and fake LinkedIn Accounts that used MAA's trademarks in order to defame MAA and confuse its customers with false information. Dkt. 1 at ¶¶ 20-32.

The Complaint further described how this unknown individual(s) used these Infringing Domains and Websites in an attempt to intimidate it by threatening to use its "vast social media following" to destroy MAA's goodwill. Dkt. 1 at ¶ 41; *see also* Dkt. 16 at 49-50; Dkt. 14 at 22.

MAA sought and received permission from this Court to take third party discovery to learn the identity of the individual(s) behind the trademark infringement and other harassing conduct. Dkt. 6, 8.

On June 13, 2023, MAA filed an Amended Complaint naming Dennis Philipson as John Does 1 and 2. Dkt. 16. In support of this determination, MAA provided the sworn Declaration of Leslie Wolfgang, MAA's Senior Vice President, Chief Ethics and Compliance Officer and Corporate Secretary (Dkt. 14), and summarized in the Amended Complaint (Dkt. 16) Philipson's history and pattern of escalating harassment against MAA and its employees as shown below.

MAA's History with Dennis Philipson

Dennis Philipson was formerly a property manager for MAA. In early 2021, he submitted notice to leave MAA, made numerous negative statements regarding MAA, changed his mind about leaving, and MAA declined to let him withdraw his notice (Decl. of Leslie Wolfgang, Dkt. 14 at ¶¶ 4-6; FAC, Dkt. 16 at ¶ 18).

This refusal to allow him to withdraw his notice appears to have spawned a simmering hatred by Philipson of MAA and its employees (Dkt. 14 at ¶ 7; Dkt. 16 at ¶ 19). Philipson has since used a raft of false identities and fake email addresses to contact MAA and its employees at least 65 times alleging false or misleading information. Many of these fake email addresses and identities contain insulting play on words of MAA employee's names or contain the MAA trademarks (Dkt. 16 at ¶ 20, 21; Dkt. 14 at ¶¶ 7-8, 20). When given the chance in his deposition, Philipson declined to deny any of this conduct and said he could not recall having done it. *See generally* Declaration of Paige Mills (compiling deposition citations) and Deposition of Dennis Philipson, filed contemporaneously with Plaintiff's Motion for a Preliminary Injunction.

Whistleblowing Activities

Philipson has made numerous "whistleblowing" complaints to MAA via its whistleblower's portal and repeatedly claims that he has made reports to various federal agencies, such as the SEC, the IRS, the DOJ, although he has never served MAA with these complaints, nor has he produced them in discovery. (*See* Dkt. 16 at ¶ 19; Dkt. 14 at ¶¶ 7-8).

MAA acknowledges and confirms that Philipson's whistleblowing activity discussing MAA's business activities through the proper channels was lawful and MAA does not assert that these communications were improper or harassing, although it does assert that they were all without merit. Philipson made numerous such complaints without incident over a two year period. The

whistleblowing complaints are mentioned here solely because much of Philipson's unlawful, harassing and cyberstalking communications have similar complaints, themes, syntax, content, and misrepresentations, providing further evidence that all of the contact is coming from Philipson.

As for the complaints he has made to MAA via the whistleblower portal, he has made several using his own name and several he has made "anonymously." Even where he does not use his own name, some of these complaints reference an email address known to have been used by Philipson or contain documents with his name on them. Nonetheless, the verbiage, content, syntax and sentence structure are extremely similar among the various complaints and, comparing them as a whole, it is obvious they are all coming from Philipson. (*See* Dkt. 16 at ¶ 19; Dkt. 14 at ¶¶ 9-12).

MAA has investigated each and every one of Phillipson's complaints and have found them all to be without merit. Some of these communications via the whistleblowing portal are not protected activities because they do not purport to discuss MAA's business activities and are frivolous on their face, i.e. the complaints consist solely of song lyrics or images from a movie. (Dkt. 14 at ¶¶ 9-10). Some contain statements that Philipson does not wish to be contacted or receive a response, indicating a lack of serious concern regarding the allegations but evidencing an intent to harass or stalk MAA and its employees. (Dkt. 16 at ¶ 19; Dkt. 14 at ¶¶ 9-10).

Strange Google Reviews

Over time in addition to his whistleblowing activities, Philipson began to leave strange Google reviews that targeted establishments near MAA and near the homes of certain employees in an attempt to intimidate and frighten them (Dkt. 16 at ¶ 27). The Declaration of Jay Blackman (filed contemporaneously with Plaintiff's Motion) more fully sets forth the circumstances surrounding these reviews and the reviews themselves are attached as Collective **Exhibit 3** to the Blackman Declaration. Some of these Google reviews contained personal information about the employee

that was not generally known and indicated to them that Philipson was listening in on conversations, possibly reading their mail and emails, and stalking them, either via the computer or in person. Blackman Decl. at ¶¶ 17-20, 24, 29. One of these Google reviews was a location where an employee's young children went after school. *Id.* at ¶ 21. The review contained pictures of the location, indicating Philipson had actually been on the premises. Another was from a Baskin Robbins that this same employee frequently took his children. *Id.* at ¶ 13. Philipson declined to deny this conduct when given the opportunity in his deposition but stated he did not recall doing it. *See* Mills Decl. at ¶ 7 (compiling deposition citations). His denial would have been futile because one of the reviews contained a selfie of Philipson's own face. *Id.* at 10; Blackman Decl. at ¶ 10, Ex. 3 at page 34.

Creation of Accounts or Attempts to Take Control of Accounts

Philipson began to set up social media and other internet accounts in the names of MAA employees and/or attempted to take control of accounts that belong to MAA employees without the employee's authorization (Dkt. 16 at ¶ 22; Dkt. 14 at ¶¶ 9-10). Philipson declined to deny this conduct when given the opportunity in his deposition, claiming he couldn't remember whether he did it or not. Philipson Depo. at 112.14-113.1; 142.16-145.22.

Defamatory Glass Door Reviews

Philipson left fake and defamatory Glassdoor reviews about MAA (Dkt. 16 at ¶ 23). Philipson declined to deny this conduct when given the opportunity in his deposition, claiming he couldn't remember whether he did it or not. Philipson Depo. at 113.5-24, Ex. 3; Second Declaration of Leslie Wolfgang, filed contemporaneously with Plaintiff's Motion at ¶ 5.

Applying for Jobs in Others' Names or Under Fake Names

He applied for jobs at MAA's competitors in the names of its employees, without their permission and under false and misleading pretenses. (Dkt. 16 at ¶ 24); Second Wolfgang Decl. at ¶ 6. Philipson declined to deny this conduct when given the opportunity in his deposition, claiming he couldn't remember whether he did it or not. Philipson Depo at 114.2-10.

Upon information and belief, Philipson even applied for a job in the name of undersigned counsel, Paige Mills. Mills Decl. at ¶ 20. Philipson declined to deny that he did this, claiming he could not recall whether he did it or not. Philipson Depo. at 114.2-18.

Interference with Board Member Relationships

Philipson attempted to interfere with MAA's relationships with its board members by emailing false and defamatory allegations (Dkt. 16 at ¶ 26). Second Wolfgang Decl. at ¶ 7. Philipson declined to deny this conduct when given the opportunity in his deposition, claiming he couldn't remember whether he did it or not. Philipson Depo. at 114.19-115.13.

The Purchase of the Infringing Domains and Website

Philipson purchased four infringing Domains and created an infringing website using MAA's registered trademarks in an attempt to confuse its customers and harass MAA. (Dkt. 16 at ¶¶ 29-35). Philipson declined to deny this conduct when given the opportunity in his deposition, claiming he couldn't remember whether he did it or not. Philipson Depo. at 104.16-105.2; 105.2-3; 118.11-119.4. It would have been futile to deny it, however, given that Plaintiff learned from subpoenas to Wix and Verizon that Philipson controlled the IP address from which the Infringing Website was set up and managed. Bridbord¹ Declaration at ¶ 32.

¹ Johnathan Bridbord is Plaintiff's technical/cybersecurity expert and his declaration and report are filed contemporaneously with Plaintiff's Motion.

The Infringing LinkedIn Page

Philipson also created an infringing LinkedIn page using MAA's trademarks and created false and fraudulent accounts associated with this LinkedIn page in an attempt to confuse consumers and harass MAA. (Dkt. 16 at ¶¶ 36-41).² Philipson declined to deny this conduct when given the opportunity in his deposition, and claimed to have no memory of doing it. Philipson Depo. at 123.4-124.20; 125.16 – 126.21; 128.7-8; 128.24-129.9; and 175.24-176.16.

It would have been futile to deny it, however, because Plaintiff learned through subpoenas to various third parties that the fake identity "Craig Silver" was used in both the purchase and management of the Infringing Domain and Websites as well as in the fake LinkedIn Accounts, indicating that the individual responsible for the LinkedIn activity was the same individual responsible for the Infringing Website—Dennis Philipson. Bridbord Decl. at ¶ 32, 49. Moreover, MAA learned that the same individual logged into both the fraudulent LinkedIn Accounts and Philipson's known email address. Bridbord Decl. at ¶ 51.

Attempted Access of MAA's Computer System

Further, Philipson attempted to compromise certain MAA employee's account credentials and breach its systems on January 2, 2023. Second Wolfgang Decl. at ¶ 10. Philipson declined to deny this conduct when given the opportunity in his deposition, and claimed to have no memory of doing it. Philipson Depo. at 145.13-22. His denial would have been futile however, because MAA learned through its expert, that this attempted access was attempted by an individual who was controlling one of Philipson's known email addresses. *See* Bridbord Decl. at ¶ 49.

² MAA obtained the return of the Infringing Domains via a UDRP proceeding through ICANN. After examining the situation, the panel concluded that Respondent [now known to be Philipson] had no legitimate interest in the Infringing Domains and that his use was in bad faith. *See* UDRP Decision attached to Mills Declaration at **Ex. 4**.

MAA has also learned that Dennis Philipson repeatedly used techniques to evade on-line detection that were also used in numerous communications with MAA that were not explicitly from Philipson, such as fake identities, disposable email accounts, virtual private networks, and privacy browser technologies. *See* Bridbord Decl. at ¶ 18.

Philipson's Sworn Testimony

As set forth above, Philipson claimed not to have any knowledge or memory of doing any of the acts alleged in the Amended Complaint when he gave his deposition on October 30, 2023. However, he was not willing to actually deny that he committed these acts. *See generally* Mills Decl. throughout. After being confronted with evidence that he was the individual responsible for the Google reviews, he became agitated and stated that he did not want to plead the 5th and “look bad to the Court” so he was simply going to say that he could not recall anything. Philipson Depo. at 98.2-8.

When asked what his theory was about the allegations made in this case, Philipson said, “I have no theory...My theory is I’m screwed. *Id.* at 173.12-16.

When asked at the end of his deposition if he had anything he wanted to say on the record before the deposition ended, he stated:

A. If I --- I mean, I’m being all honest. I don’t recall a lot of this stuff. And if I did do it, I – I---I—I—I don’t like the way I’m being – the way this is being portrayed. And some of it is pretty terrible. So it’s making me think even I got more mental problems that I really do if I did do this. So that’s about it.

Id. at 184.25-185.6.

Accordingly, given the technical evidence amassed and described in the Bridbord Report and Philipson’s repeated failure to deny it, there is no question that Philipson is responsible for the ongoing harassment and infringement.

Philipson's Escalating Activities

Philipson's conduct has continued to escalate since his deposition on October 30, 2023.

In this litigation, Philipson has half-heartedly tried to argue that he was set up or hacked, but readily admits he has no evidence of this. He admitted he has no evidence that anyone got into his emails accounts or has spoofed his IP address. *Id.* at 11.20-24; 46.23-47. Other than unfounded, unsupported suspicions about MAA, he has no reason to believe that anyone impersonated him and did these things in order to get him in trouble. *Id.* at 171.1-7. He has no evidence that MAA did anything to try and guess his passwords. *Id.* at 59.1-59.5.

When asked in his deposition why he thought he might have been hacked, he mentioned a data breach that occurred at Capital One nearly five years ago and represented that someone had made unauthorized charges to his Capital One credit card. *Id.* at 50.15-51.25; 55.18-19.

Suspected Credit Card Fraud

Within slightly more than 24 hours after the deposition, on November 1, 2023, someone had made an application for two Capital One credit cards, each with a \$30,000 limit, in the name of Paige Mills and her husband, Craig Mills, using their personal information, including dates of birth and social security numbers. Neither of the Mills were previous Capital One customers and thus their information would not have been a part of any Capital One hack. The Mills did not complete the applications. Upon information and belief, this was done by Philipson to lend credence to his "hacking" claims. Mills Decl. at ¶¶ 40-43.

The individual who applied for the credit cards used all of the Mills' own contact information so that the credit cards would go to the Mills' home address, rather than to the alleged thief, further indicating that this bank fraud was committed for a reasons more than monetary gain. *Id.*

Capital One conducted an investigation and found the applications to be fraudulent. *Id.* at ¶ 43. As a result MAA was forced to purchase credit monitoring services for the Mills family. *Id.* at ¶ 44.

Defamatory Emails

Meanwhile, Philipson's harassing and stalking activities have further escalated in the last week. As set out in Plaintiff's Motion for a Status Conference, using the fake name "Miles Cyprus," Philipson has made new defamatory allegations against Plaintiff's counsel, claiming he has encountered "multiple instances where [his] rights, as guaranteed under law, have been compromised." He has apparently has made new frivolous reports to the "Tennessee Ethics Board" and the "Judicial Board" because one of this Court's law clerks used to work at undersigned counsel's law firm. Dkt. 80. He has disseminated this particular email to unknown parties. *Id.* It is clear these allegations are coming from Philipson because he makes repeated reference to "his case" in the email referring to the case at bar.

Next, upon information and belief, he signed up one of Plaintiff's Bass, Berry & Sims' counsel, Jordan Thomas, to MAA's investor email alert, without her permission or request. Mills Decl. at ¶ 46.

Upon information and belief, on January 9, 2024, Philipson used the fake email address rogervkint2024@outlook.com, the fake business name "Piper Savage," and a software platform called Prowly to disseminate widely a defamatory email filled with the following misrepresentations and innuendo:

- a. The email falsely implies that principals at MAA have participated in questionable stock transactions that amount to insider trading;

- b. It falsely implies that MAA has committed financial and securities fraud, antitrust violations, business fraud, and safety violations;
- c. It falsely implies that MAA's lease policies have caused the death of a young woman.
- d. It falsely implies that this Court's employment of a law clerk that used to work at Bass, Berry and Sims is an ethical violation that "affects the judicial processes' integrity."
- e. It falsely implies that Philipson has a "team" working on this matter, in an attempt to give heft and credence to his false and defamatory content;
- f. It falsely identifies Philipson as "Piper & Savage," a "watchdog organization."

See Second Wolfgang Decl. at ¶ 12 and Ex. 1 thereto. These allegations are all false. *Id.* at ¶¶ 13-16.

Next, upon information and belief, Philipson purchased the domain fairhousingdaily.com on January 10, 2024, and sent a new "Piper and Savage" email to more than 1,200 MAA employees. Philipson had this email sent from the email suemiyoung@fairhousingdaily.com, in an effort to make the allegations appear to have come from some sort of legitimate news source. *Id.* at ¶ 17. Upon information and belief, this email was also sent to individuals outside MAA, including customers and tenants and was sent for the purpose of disrupting MAA's relationships with these people. *Id.* This email also contained false and defamatory information, for example:

- g. It falsely implies that there is something nefarious about MAA's General Counsel's prior employment at Bass, Berry & Sims, and his stock transactions;
- h. It falsely implies that there is something untoward about the corporate structure of MAA;

- i. It falsely implies that MAA lacks insurance coverage;
- j. It falsely implies that MAA and its corporate activities raise concerns about “tenant safety;”
- k. It falsely implies that MAA has inadequate mold and water remediation, which threatens tenant health and “property integrity”;
- l. It falsely implies that MAA spends lavishly at the expense of the tenants;
- m. It falsely implies that MAA has dangerous policies with regard to pit bulls;
- n. It falsely implies that MAA has inadequate grill safety measures;
- o. It falsely implies that this Court’s employment of a law clerk that used to work at Bass, Berry and Sims is an ethical violation that “affects the judicial processes’ integrity.”
- p. It falsely implies that MAA has committed wrongful conduct by attempting to serve a subpoena in his lawsuit.
- q. It falsely implies that it is coming from a “team” at Fair Housing Daily, a so-called “watchdog organization committed to promoting transparency, fairness, and ethical conduct within judicial and legal processes.”

See Second Wolfgang Decl at ¶¶ 17-26 and **Ex. 2** thereto.

Upon information and belief, on January 11, 2024, Philipson sent out a new defamatory email from “Piper & Savage,” which contained many of the same false and defamatory statements and innuendo about MAA’s General Counsel, its corporate structure, its alleged lack of insurance coverage; its alleged “alarming gaps” in tenant safety and property maintenance; its alleged lavish spending at the expense of its tenants; its allegedly deficient pet and grill safety policies, and

further unfounded complaints about this Court’s judicial clerk and the fact that Plaintiff attempted to serve a subpoena on his wife. This email also went to in excess of 1,200 MAA employees

See Second Wolfgang Decl at ¶¶ 28-29 and **Ex. 3** thereto

On January 19, 2024, Philipson bought a new domain: <https://www.mfaan.com> and set up a website he called “Multifamily News.” Upon information and belief, he then created a number of entries about housing and backdated them, in order to make the website look legitimate. He then wrote several entries about MAA, including one that falsely claims a fire at an MAA property in Atlanta was caused by MAA’s policies and the fact that it places “water heaters and electrical closets on balconies across various MAA properties.” He quotes an “anonymous whistleblower” who brought these issues to light, obviously referring to himself. On January 22, 2024, Philipson sent an email to an email group at MAA under the false name “Steve Bosh,” asking “Is what is on MFAAN legit? This email references yet another domain, reit.news, purchased by Philipson on January 22, 2024, indicating yet another defamatory website is on the way. *See* Second Wolfgang Decl at ¶¶ 30-31 and **Ex. 4** thereto.

This conduct, taken as a whole, amounts to a pattern and practice of cyberstalking, defamation, and deceit, all executed with malicious intent, and Plaintiff requests that this Court enjoin Philipson from his continuing harassment and stalking and the dissemination of false information concerning MAA.

III. ARGUMENT

Plaintiff is entitled to injunctive relief. In deciding a motion for preliminary injunction, the Court should consider the following: (i) whether plaintiff has a strong likelihood on the merits; (ii) whether plaintiff would suffer irreparable injury without an injunction; (iii) whether issuance of the injunction would cause substantial harm to others; and (iv) whether the public interest would

be served by issuance of an injunction. *Rock & Roll Hall of Fame & Museum, Inc. v. Gentile Prods.*, 134 F.3d 749, 753 (6th Cir. 1998); Fed. R. Civ. P 65. Plaintiff can establish each of these elements, and, therefore, is entitled to injunctive relief.

A. Plaintiff Has a Strong Likelihood of Success on the Merits of Its Negligence, Defamation, and Deceit Claims.

Plaintiff is likely to succeed on the merits of its negligence and deceit claims because Defendant's use of false and defamatory information to stalk and harass MAA and its employees and counsel constitutes the federal crime of cyberstalking, demonstrating that Philipson is negligent *per se*. Moreover, his distribution of defamatory emails constitutes the torts of deceit and Defamation, all of which will be shown below.

1. CLAIM FOR NEGLIGENCE PER SE ARISING FROM VIOLATIONS OF FEDERAL STATUTE TO PROTECT THE PUBLIC FROM CYBER HARASSMENT (18 U.S.C. §§ 2261A).

Philipson's prior and continued actions constitute negligence *per se* because they violate 18 U.S.C. § 2261a, involving use of interactive computer services, electronic communication services, and an electronic communication system of interstate commerce with the intent to injure, harass, and intimidate MAA and its employees by engaging in a course of conduct that caused, attempted to cause, and would be reasonably expected to cause substantial emotional distress.

The negligence *per se* doctrine does not create a new cause of action. Rather, it is a form of ordinary negligence that enables the courts to use a penal statute to define a reasonably prudent person's standard of care. Negligence *per se* arises when a legislative body pronounces in a penal statute what the conduct of a reasonable person must be, whether or not the common law would require similar conduct. *Rains v. Bend of the River*, 124 S.W.3d 580, 589 (Tenn. Ct. App. 2003)(internal citations omitted). In Tennessee, the violation of a penal statute is negligence *per se* and will sustain an action for civil wrong where it affirmatively appears that the violation was

the proximate cause of the injury for which recovery is sought. *Mitchell v. Ketner*, 54 Tenn. App. 656, 393 S.W.2d 755 (1964); *Brookins v. The Round Table, Inc.*, 624 S.W.2d 547, 550 (Tenn. 1981)³.

The federal statute that prohibits stalking, 18 U.S.C. §§ 2261a, defines a reasonably prudent person's standard of care. It prohibits using the mail, any interactive computer service, electronic communication service, or electronic communication system of interstate commerce in a course of conduct with the intent to harass or intimidate another person which causes or attempts to cause, or would be reasonably be expected to cause substantial emotional distress to the person, the person's immediate family member, his or her intimate partner, or a family pet. 18 U.S.C. §§ 2261a (2).

Defendant breached this standard of care on numerous occasions and his breach of this standard is the proximate cause of the injuries for which MAA is seeking recovery in this proceeding. He has stalked MAA employees by visiting and leaving dozens of creepy and strange reviews via the internet on establishments near their homes, including locations where the employee's children stay after school or visit frequently. These reviews made reference to information that Philipson had no legitimate basis for knowing, other than by impermissibly stalking, following, or shadowing the individual.⁴ See Blackman Decl. throughout.

³ The Tennessee General Assembly later restricted the scope of the court's negligence *per se* holding in this case but the statute did not alter the proposition for which this case is cited here. See *Worley v. Weigels, Inc.*, 919 S.W.2d 589, 592–93 (Tenn.1996).

⁴ See generally, Philipson Depo. at 68.1-6; 72.10-23; 75.4-7; 75.22-25; 76.18-20; 77.5-10; 78.11-13; 78.18-21; 80.11-81.4; 82.10-15; 82.22-83.1; 83.9-11; 83.19-20; 84.22-25; 85.23-25; 86.14-24; 89.3-4; 89.19-20; 90.6-8; 90.12-15; 90.23-24; 91.15-15; 91.20-22; 92.6-7; 93.3-5; 93.10-12; 93.16-22; 94.8-15.

He left false and defaming Glassdoor Reviews on the Internet. Philipson Depo. at 113.5-24. He attempted to compromise certain MAA employee's account credentials and breach its systems. *Id.* at 145.13-22. He used a computer or other computing device and internet to set up social media accounts for MAA employees and attempt to gain access to several employees' existing social media and other internet accounts, without permission. *Id.* at 112.14-113.1; 142.16-145.22. He used a computing device and the internet in an attempt to breach MAA's systems. *See* Bridbord Decl. at ¶ 49, He used the internet and a computer or other computing device to apply for jobs in the name of MAA employees and MAA's counsel, without permission. Philipson Depo. at 114.2-10; 114.11-18. He used the internet and a computer or other computing device to fraudulently apply for credit cards in the name of MAA's counsel and her husband. Mills Decl. at 41-44. He used the internet and a computer or other computing device to purchase Infringing Domains and to set up an Infringing Website and fake LinkedIn Accounts to spread false and defamatory information about MAA and to confuse and annoy its customers and employees. *See* Philipson Depo. at 120.5-11; 105.2-3; 118.11-119.4; 128.7-8; 129.10-18; and 131.2-11; Bridbord Decl. at ¶ 32. He sent communications intimating that he was going to use his "vast social media following" to destroy MAA's goodwill. Dkt. 14 at 22.

He used the internet and a computer or other computing device on several occasions to send in excess of 1,200 emails to MAA employees full of false and defamatory information in an effort to cause distress and create doubt about their employer and employment and to encourage them to terminate their employment with MAA. *See* Second Wolfgang Decl. at ¶ 12-33.

Given Philipson's history and his simmering vendetta against MAA, it is clear his intent is to harass and intimidate and to cause substantial emotional distress to MAA and its employees

and legal counsel. Thus, Philipson has violated 18 U.S.C. §§ 2261a (2) on numerous occasions and will continue to do so in the future if not enjoined by this Court.

Plaintiffs in negligence per se cases must still establish causation in fact, legal cause, and damages. *McIntyre v. Balentine*, 833 S.W.2d 52, 59 (Tenn.1992); *Steagall v. Dot Mfg. Corp.*, 223 Tenn. 428, 436, 446 S.W.2d 515, 518 (1969); *Kim v. Boucher*, 55 S.W.3d 551, 557 (Tenn.Ct.App.2001). *Rains*, 124 S.W.3d 580 at 590. The concept of “legal cause” was formerly known as “proximate cause.” An actor's negligent conduct is the legal cause of harm to another if the conduct is a substantial factor in bringing about the harm and there is no rule of law relieving the actor from liability because of the manner in which the actor's negligence resulted in the harm. *Smith v. Gore*, 728 S.W.2d 738, 749 (Tenn.1987); *593 *Waste Mgmt., Inc. of Tenn. v. South Cent. Bell Tel. Co.*, 15 S.W.3d 425, 431 (Tenn.Ct.App.1997); Restatement (Second) of Torts § 431 (1965); *Rains*, 124 S.W.3d at 592–93.

Philipson’s conduct is both the cause in fact and the legal cause of MAA’s damages. His stalking conduct has directly caused substantial emotional harm to MAA and its employees. His conduct is also the legal cause because it is a substantial factor in bringing about the harm and there is no rule of law relieving him for liability because of the manner in which his negligence resulted in the harm.

To the extent he argues his conduct is protected, this is not the case. The Supreme Court has carved out limited categories of speech that are not protected by the First Amendment, “including obscenity, defamation, fraud, incitement, and speech integral to criminal conduct.” *United States v. Meredith*, 685 F.3d 814, 819 (9th Cir. 2012), *cert. denied*, 133 S. Ct. 563, 184 L.Ed.2d 366 (2012) sub. nom., *Giordano v. United States* (citations, alteration, and internal quotation marks omitted); *United States v. Osinger*, 753 F.3d 939, 946 (9th Cir. 2014)(Defendant’s

conduct in sending harassing text messages, setting up a false Facebook page and sending emails to victim's coworkers was not protected by First Amendment because these acts were "integral to criminal conduct" in intentionally harassing, intimidating, or causing substantial emotional distress to the victim).

And finally, Philipson's stalking conduct has caused damage to MAA. It has had to purchase credit monitoring services for employees and outside counsel. It has had to employ cyberstalking experts to trace Philipson's activities in order to determine that he was the one performing the stalking and infringing activity. It has had to incur substantial attorney fees to stop willful trademark infringement, it has had to take measures to protect its systems from Philipson's spamming of defamatory emails. These acts have resulted in quantifiable monetary damages to MAA. But more importantly for the purposes of this Motion, MAA and its employees and counsel have experienced fear, intimidation, reputational damage, and substantial emotional distress, irreparable harm that is difficult to quantify or compensate with money damages—harm that is irreparable. Philipson has caused will continue to cause irreparable harm unless his conduct is enjoined. Accordingly, MAA has shown it is likely to succeed on its claims of negligence *per se*.

2. COMMON LAW DECEIT

MAA is also likely to succeed on its claim for common law deceit. *First Nat. Bank of Louisville v. Brooks Farms*, 821 S.W.2d 925, 927 (Tenn. 1991) sets forth the elements of the common law action for fraud and deceit:

When a party intentionally misrepresents a material fact or produces a false impression in order to mislead another or to obtain an undue advantage over him, there is a positive fraud. The representation must have been made with knowledge of its falsity and with a fraudulent intent. The representation must have been to an existing fact which is material and the plaintiff must have reasonably relied upon that representation to his injury.

Philipson purchased the domain fairhousingdaily.com on January 10, 2024, and, falsely representing himself to be “Piper and Savage,” emailed more than 1,200 MAA employees an email that contained false and defamatory information and produced a number of false impressions:

- a. It falsely implies that there is something nefarious about MAA’s General Counsel’s prior employment at Bass, Berry & Sims, and his stock transactions;
- b. It falsely implies that there is something untoward about the corporate structure of MAA;
- c. It falsely implies that MAA lacks insurance coverage;
- d. It falsely implies that MAA and its corporate activities raise concerns about “tenant safety;”
- e. It falsely implies that MAA has inadequate mold and water remediation, which threatens tenant health and “property integrity”;
- f. It falsely implies that MAA spends lavishly at the expense of the tenants;
- g. It falsely implies that MAA has dangerous policies with regard to pit bulls;
- h. It falsely implies that MAA has inadequate grill safety measures;
- i. It falsely implies that this Court’s employment of a law clerk that used to work at Bass, Berry and Sims is an ethical violation that “affects the judicial processes’ integrity.”
- j. It falsely implies that MAA has committed wrongful conduct by attempting to serve a subpoena in his lawsuit.

See Second Wolfgang Decl., **Ex. 2**.

Philipson knows these misrepresentations are false and he made them with fraudulent intent. One must look only to Philipson's long history of stalking and harassment and his infringing use of MAA's trademarks to know that he has malicious and fraudulent intent. All of these representations are regarding existing present facts and they are material. Philipson took great pains to make the communication look legitimate, including using a PR platform to send it and using the fake name "Piper and Savage" to imply the communication came from a reputable sounding company. He has set up at least two websites to try and make the emails appear to come from a legitimate, journalistic source. Numerous MAA's employees have reached out to their supervisors and/or management team to express concerns and questions as to whether these statements are valid and true. Undoubtedly many have not reached out with questions but these employees now have a damaged and inaccurate view of the company and its activities. There is imminent danger that these employees will rely on these statements, causing them to leave or lose confidence in the company, which can be devastating to MAA's reputation and employee relationships. *See* Second Wolfgang Decl. at ¶¶ 27 and 34 and Blackman Decl. at ¶ 30. Accordingly, Plaintiff has established it is likely to prevail on its claims of deceit.

3. DEFAMATION

MAA is also likely to succeed on its claims of defamation. To establish a *prima facie* case of defamation in Tennessee, the plaintiff must establish that: 1) a party published a statement; 2) with knowledge that the statement is false and defaming to the other; or 3) with reckless disregard for the truth of the statement or with negligence in failing to ascertain the truth of the statement." *Seaton v. TripAdvisor LLC*, 728 F.3d 592, 596-97 (6th Cir. 2013) (citing *Sullivan v. Baptist Mem'l Hosp.*, 995 S.W.2d 569, 571 (Tenn.1999)).

MAA can meet these elements. The emails of January 9th and 10th both contain numerous false and defaming statements about MAA. *See* Second Wolfgang Decl at ¶¶ 17-26 for a full description of the defamatory statements and why they are false. These emails were sent by Philipson to in excess of 1,200 people with reckless disregard for the truth and with the intent to harm MAA. Philipson has been repeatedly told that his allegations have been investigated and are without merit. He has been told that repeatedly in this lawsuit, as that allegation is in both Complaints. It is also obvious that these communications, like so many others, were done with actual malice, born out of his hatred of MAA.

To the extent that Philipson tries to argue that his statements are true (which they are not), the statements are clearly defamatory by implication. Defamation by implication occurs when statements that are true are nevertheless actionable because they imply facts that are not true. *Aegis Scis. Corp. v. Zelenik*, No. M2012-00898-COA-R3-CV, 2013 WL 175807, at *11 (Tenn. Ct. App. Jan. 16, 2013). The Tennessee Court of Appeals recently explained:

[t]o prevail on [a] defamation by implication or innuendo claim, [the plaintiff] must establish [] that [the defendant] published the statements and that the meaning reasonably conveyed by the statements was defamatory. Nichols, 569 S.W.2d at 420 [I]f the statements at issue are true but they imply facts that are not true, a defendant who made the statements may be liable for defamation by implication or innuendo.

Hudik v. Fox News Network, LLC, 512 F. Supp. 3d 816, 836, 2021 WL 62832 (M.D. Tenn. 2021) citing *Grant v. Commercial Appeal*, No. W2015-00208-COA-R3-CV, 2015 WL 5772524, at *12 (Tenn. Ct. App. Sept. 18, 2015).

All of the Defamatory Emails imply that Philipson is privy to facts that are very negative and that MAA is guilty of serious misconduct, which is false. For example,

they imply that MAA's General Counsel has participated in some type of insider trading or that the corporate structure of MAA is somehow illegal or nefarious. The purpose of the emails is to destroy the confidence of MAA's employees and customers. The emails are rife with false and defamatory statements and Philipson should be enjoined from further spreading them in his tireless efforts to harm MAA.

a. Injunctions Against Defamatory Speech Are Constitutionally Permissible.

Injunctions against defamatory speech are constitutionally permissible. In 2014, the Tennessee Court of Appeals officially adopted the "modern rule," which allows for appropriately narrow injunctions against false and defamatory speech. *See In re Conservatorship of Turner*, No. M2013-01665-COA-R3-CV, 2014 WL 1901115, *20 (Tenn. Ct. App. May 9, 2014). *Turner* concerned a mother who consistently made false allegations that her older son was sexually abusing her younger son. *See id.*, at *1. In *Turner*, the court relied on the analysis and reasoning of *Lothschuetz v. Carpenter*, 898 F.2d 1200 (6th Cir. 1990)) wherein the "Sixth Circuit . . . authorized a limited injunction prohibiting an individual 'from continuing and reiterating the same libelous and defamatory statements[.]'" *Turner* (quoting *Lothschuetz*, 898 F.2d at 1206). After extensive analysis, the Court in *Turner* officially adopted the modern rule, and ***the Court of Appeals declared that "defamatory speech may be enjoined after a determination that the speech is, in fact, false."*** *Turner* at 2014 WL 1901115, *20 (emphasis added).

Furthermore, "the finding that the enjoined speech is false does not, necessarily, have to be made after a full evidentiary hearing specifically in a defamation lawsuit." *Id.* Instead, the Court must simply find that "the enjoined speech is defamatory," by a preponderance of the evidence. *Id.* Once the Court is satisfied that the speech is false, the Court may grant a "sufficiently narrow" injunction. *Id.* Therefore, following *Turner*, injunctions barring false and defamatory speech are

constitutionally permissible and MAA has established it is likely to succeed on its defamation claims as well.

B. Plaintiff Will Suffer Irreparable Injury if Injunctive Relief is Not Granted.

The harm Plaintiff from Philipson's cyberstalking, defamation, and deceit is irreparable and not fully compensable by money damages, particularly given Philipson's limited financial means. Given the sheer volume of Philipson's activities and their pattern and history, it is very likely that he will not stop his tortious activity without an order from this Court. Thus the harm is likely to continue and increase if he is not enjoined. In particular, the harm caused by Philipson's defamation and deceit is the potential for extreme damage to Plaintiff's reputation and loss of goodwill among the 1,200+ employees who received the defamatory email of January 10, 2023. *See* Second Wolfgang Decl. at ¶¶ 27 and 34; Blackman Decl. at ¶ 30. Reputational harm can constitute irreparable harm if not fully compensated by money damages and thus can serve as the basis for injunctive relief. *Bristol Preservation, LLC v. IGC-Bristol, LLC*, 2017 WL 2773663, *10 (E.D. Tenn., June 26, 2017); *Doherty v. City of Maryville*, No. 3:07-cv-157, 2009 WL 2823670, at *4 (E.D.T.N. Aug. 28, 2009); *ACT, Inc. v. Worldwide Interactive Network, Inc.*, 46 F.4th 489, 503–04 (6th Cir. 2022). Reputational harm is very difficult if not impossible to repair. As the Declarations of Leslie Wolfgang make clear, Philipson's actions have harmed and will continue to harm MAA's reputation if not enjoined.

Likewise, the fear and intimidation that Philipson is causing through his cyberstalking activities is impossible to quantify and calculate. *See e.g., Basicomputer Corp. v. Scott*, 973 F.2d 507, 512 (6th Cir. 1992)(injuries that are difficult to quantify can constitute irreparable harm). Thus,

the harm that Philipson is causing from his cyberstalking activities is also irreparable and MAA is entitled to injunctive relief from it.

C. Balance of Hardships Favors Plaintiff.

The harm to Plaintiff from Defendant's tortious activities outweighs any inconvenience to Defendant if he is no longer able to stalk, harass, defame, or be deceitful in his communications to MAA, its employees, counsel, and customers. Defendant has no vested right in continuing his illegal campaign to damage Plaintiff, its employees, and counsel. Moreover, he is free to continue legitimate whistleblowing activities through the proper channels.

D. The Public Interest Favors an Injunction.

The public interest is always served by enhancing public safety. The public, including Plaintiff, its employees, and counsel, all have a right to be protected against Philipson's cyberstalking, defamation, and deceit. To protect the public Philipson's tortious and illegal activities, the Court should issue the requested injunction.

IV. CONCLUSION

For the reasons set forth above, the Court should issue a preliminary injunction against Defendant that specifically forbids Philipson from cyberstalking MAA and its employees and counsel. He should further be enjoined from contacting MAA or its employees except through the appropriate whistleblower portal. A proposed order is being contemporaneously submitted with MAA's Motion for a Preliminary Injunction.

Respectfully Submitted,

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Counsel for Mid-America Apartment Communities, LLC

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
Phillydee100@gmail.com

This 25th Day of January, 2024.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

MID-AMERICA APARTMENT ,
COMMUNITIES, INC.
Plaintiff,

v.

DENNIS PHILIPSON
Defendant.

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Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

SECOND DECLARATION OF LESLIE WOLFGANG

I am of majority age and have first-hand knowledge of the following facts from the performance of my duties as described below:

1. My name is Leslie Wolfgang.
2. I have been employed by Mid-America Apartment Communities, Inc. (“MAA”) since 2000.
3. Currently I hold the positions of Senior Vice President, Chief Ethics and Compliance Officer, and Corporate Secretary of MAA.
4. I previously gave a Declaration in this matter on April 28, 2023 (Dkt. 14). This Second Declaration will provide information that has occurred or been learned since the earlier Declaration.
5. In addition to the conduct described in my earlier Declaration, upon information and belief, Dennis Philipson left false and defamatory reviews concerning MAA on the website Glassdoor.com. For example, one review he left indicated he was a “cost accountant.” Philipson was never employed as a cost accountant at MAA. *See* Ex. 3 to Philipson Deposition.

6. Upon information and belief, Philipson applied for jobs at MAA's competitors in the names of MAA employees, without their permission and under false and misleading pretenses. He also applied for jobs at MAA under false names. I understand that Philipson did not deny this when asked about it under oath in his deposition.

7. Upon information and belief, Philipson attempted to interfere with MAA's relationships with its board members by emailing false and defamatory allegations using the name "Charlie Black." I understand that Philipson did not deny this when asked about it under oath in his deposition.

8. Upon information and belief, Philipson purchased four infringing Domains and created an infringing website using MAA's registered trademarks in an attempt to confuse its customers and harass MAA. *See generally* Amended Complaint. I understand that Philipson did not deny this when asked about it under oath in his deposition.

9. Upon information and belief, Philipson also created an infringing LinkedIn page using MAA's trademarks and created false and fraudulent accounts associated with this LinkedIn page in an attempt to confuse consumers and harass MAA. Philipson was sending "invitations to connect" to our employees using these false accounts. I believe this was an attempt to mislead our employees and interfere with the employee's relationship with MAA. *Id.* I understand that Philipson did not deny this when asked about it under oath in his deposition.

10. Upon information and belief, Philipson attempted to compromise certain MAA employee's account credentials and breach its systems on January 2, 2023. I understand that Philipson did not deny this when asked about it under oath in his deposition.

11. Philipson's conduct has continued to escalate since his deposition on October 30, 2023, and have further escalated in the last two weeks.

12. Upon information and belief, on January 9, 2024, Philipson used the fake email address rogervkint2024@outlook.com, the fake business name “Piper Savage,” and a software platform called Prowly to disseminate widely a defamatory email filled with the following misrepresentations and innuendo:

- a. The email falsely implies that principals at MAA have participated in questionable stock transactions that amount to insider trading;
- b. It falsely implies that MAA has committed financial and securities fraud, anti trust violations, business fraud, and safety violations;
- c. It falsely implies that MAA’s lease policies have caused the death of a young woman.
- d. It falsely implies that this Court’s employment of a law clerk that used to work at Bass, Berry and Sims is an ethical violation that “affects the judicial processes’ integrity.”
- e. It falsely implies that Philipson has a “team” working on this matter, in an attempt to give heft and credence to his false and defamatory content;
- f. It falsely identifies Philipson as “Piper & Savage,” a “watchdog organization.”

See **Ex. 1** to this Declaration.

13. The allegation that MAA’s General Counsel participated in inappropriate stock transactions is false and defamatory because Mr. DelPriore and all other officers who want to sell their stock have complied with Rule 10b5-1 of the Securities Exchange Act of 1934, including, but not limited to, the required cooling off periods and affirmative representations that they are not aware of any material nonpublic information at the time of the adoption of their respective plan. In fact, Mr. DelPriore entered into his trading plan on September 8, 2023, which was

publicly disclosed in MAA's SEC-filed Form 10-Q for the third quarter of 2023, even though the sales were not effectuated until January 2024. As such, the stock transactions were entirely legal and appropriate and Philipson's innuendos to the contrary are false.

14. Upon information and belief, the allegations or implications that MAA has committed financial and securities fraud, antitrust violations, business fraud, and safety violations are false and defamatory. MAA has investigated all of Philipson's complaints of this nature and found them all to be without merit. MAA has policies and procedures to prevent any such conduct and these measures have been followed. There is no evidence whatsoever that any such conduct has ever taken place. MAA has a robust code of conduct and corporate governance guidelines to prevent the type of situations alleged.

15. Upon information and belief, the allegations that MAA's lease policies have caused the death of a young woman are false and defamatory. There is no evidence that MAA's lease policies have ever caused anyone physical harm and, in fact, they have not done so.

16. Upon information and belief, the email is false and defamatory because it implies that a "team" of journalists from a legitimate company that is a "watchdog organization" has uncovered these false "facts." This misrepresentation tends to give the allegations a legitimacy to which they are not entitled. These are the same false and baseless allegations that Philipson has repeatedly made that have been found to be without merit.

17. Next, upon information and belief, Philipson purchased the domain fairhousingdaily.com on January 10, 2024, and sent a new "Piper and Savage" email to more than 1,200 MAA employees. Philipson had this email sent from the email suemiyoung@fairhousingdaily.com, in an effort to make the allegations appear to have come from some sort of legitimate news source. Upon information and belief, this email was also sent to individuals outside MAA, including

customers and tenants and was sent for the purpose of disrupting MAA's relationships with these people. This email also contained false and defamatory information, for example:

- a. It falsely implies that there is something nefarious about MAA's General Counsel's prior employment at Bass, Berry & Sims, and his stock transactions;
- b. It falsely implies that there is something untoward about the corporate structure of MAA;
- c. It falsely implies that MAA lacks insurance coverage;
- d. It falsely implies that MAA and its corporate activities raise concerns about "tenant safety;"
- e. It falsely implies that MAA has inadequate mold and water remediation, which threatens tenant health and "property integrity";
- f. It falsely implies that MAA spends lavishly at the expense of the tenants;
- g. It falsely implies that MAA has dangerous policies with regard to pit bulls;
- h. It falsely implies that MAA has inadequate grill safety measures;
- i. It falsely implies that this Court's employment of a law clerk that used to work at Bass, Berry and Sims is an ethical violation that "affects the judicial processes' integrity."
- j. It falsely implies that MAA has committed wrongful conduct by attempting to serve a subpoena in his lawsuit.
- k. It falsely implies that it is coming from a "team" at Fair Housing Daily, a so-called "watchdog organization committed to promoting transparency, fairness, and ethical conduct within judicial and legal processes."

See **Exhibit 2** to this Declaration.

18. The allegation that there was something improper or untoward about Robert DelPriore having worked many years ago at Bass, Berry & Sims is false. There is no basis whatsoever to conclude it was improper for him to take a job at a client he was introduced to by virtue of his job as a member at Bass, Berry & Sims and there is no evidence to the contrary. The false allegation about Mr. DelPriore's stock transactions are addressed above at ¶13.

19. The allegation that there is something inappropriate or improper about MAA's corporate structure is also false and defamatory. The company is duly organized in accordance with Tennessee and federal law and there is no evidence to the contrary.

20. The allegation that MAA lacks sufficient insurance coverage is false and defamatory. MAA maintains insurance with appropriate retentions and coverages for a company of its size and in its industry.

21. Upon information and belief, the allegation or implication that MAA and its corporate activities raise concerns about "tenant safety" is false and defamatory. MAA takes the safety of its residents very seriously and has numerous policies and procedures together with a risk management group that are focused on minimizing risks to residents and other visitors to our properties.

22. The allegation or implication that MAA has inadequate mold and water remediation that threatens tenant health and "property integrity" is false. MAA has numerous policies and procedures designed to mitigate the likelihood of mold growth or water intrusion at its properties. In 2023, we spent \$111,685,000 million in capital expenditures relating to maintaining our properties.

23. The allegation or implication that MAA spends lavishly at the expense of tenants is false and defamatory because MAA's expenditures are carefully budgeted and monitored in accordance with a company in its industry and of its size. As a public company, MAA must meet the capital markets' expectations for its performance. If MAA was to "spend lavishly" it would not be tolerated by MAA's shareholders.

24. The allegation or implication that MAA has dangerous policies with regard to pit bulls or any other type of dog is false and defamatory. MAA does not have a policy regarding pit bulls. Like many other apartment owners, MAA does not restrict the type of dog breed that a resident may own but does require the resident to make robust representations that the dog (regardless of breed) has not injured another animal, human or property and if the representations change the resident will have to remove the dog from the property.

25. Upon information and belief, the allegation or implication that MAA has inadequate grill safety measures is false and defamatory because MAA has numerous policies and procedures regarding grill safety including but not limited to, pre-Memorial Day and pre-Labor Day grill inspections to check all equipment, signage and cleanliness, requirement for the installation of all grills to meet or exceed manufacturer's specifications for venting, and all onsite staff being on notice to check for grill cleanliness on a regular basis and having the ability to yellow tag (discontinue use) a grill in need of cleaning or maintenance.

26. Upon information and belief, the statement that falsely implies that the email is coming from a "team" at Fair Housing Daily, a so-called "watchdog organization committed to promoting transparency, fairness, and ethical conduct within judicial and legal processes," is false and is made to ensure that MAA's employees believe the false allegations and terminate their employment so as to harm MAA and its interests.

27. Upon information and belief, numerous MAA's employees have reached out to their supervisors and/or management team to express concerns and questions as to whether these statements are valid and true. Undoubtedly many have not reached out with questions but these employees now have a damaged and inaccurate view of the company and its activities. MAA's leadership team has spent hours reviewing the emails and assuring employees that the allegations are baseless. There is imminent danger that these employees will rely on these statements, causing them to leave or lose confidence in the company, which can be devastating to MAA's reputation and employee relationships as well as its financial performance.

28. Upon information and belief, on January 11, 2024, Philipson sent out a new defamatory email from "Piper & Savage," which contained many of the same false and defamatory statements and innuendo about MAA's General Counsel, its corporate structure, its alleged lack of insurance coverage; its alleged "alarming gaps" in tenant safety and property maintenance; its alleged lavish spending at the expense of its tenants; its allegedly deficient pet and grill safety policies, and further unfounded complaints about this Court's judicial clerk and the fact that Plaintiff attempted to serve a subpoena on his wife. *See Exhibit 3* to this Declaration.

29. These allegations are also false and misleading for the reasons set forth above.

30. Upon information and belief, on January 19, 2024, Philipson bought a new domain: <https://www.mfaan.com> and set up a website he called "Multifamily News." Upon information and belief, he then created a number of entries about housing and backdated them, in order to make the website look legitimate. He then wrote several entries about MAA, including one that falsely claims a fire at an MAA property in Atlanta was caused by MAA's policies and the alleged "fact" that it places "water heaters and electrical closets on balconies across various MAA properties." *See Exhibit 4* to this Declaration.

31. He gives the original “source” for this “story” as ‘Reit.news,’ which, upon information and belief, does not yet exist and is not a legitimate news source but is instead another domain recently purchased by Philipson on January 20, 2024. *Id.*

32. This allegation is false and defamatory because, upon information and belief, there is no evidence whatsoever that the fire he mentions had anything to do with a water heater or electrical closet or that the water heater or electrical closet was located on the balcony at the location that suffered a fire. No news stories indicate a reason for the fire. There are an endless number of reasons why tenants experience a fire and there is no evidence that the fire he references was caused in any way by MAA and its policies.


33. He quotes an “anonymous whistleblower” who brought these issues to light, obviously referring to himself. On January 22, 2024, upon information and belief, Philipson sent an email to hundreds of MAA employees under the false name “Steve Bosh,” asking “Is what is on MFAAN legit?”. Several employees were concerned that this was an email from a resident. This email references yet another domain, reit.news, purchased by Philipson on January 22, 2024, indicating yet another defamatory website is on the way. *See Exhibit 4* to this Declaration. Moreover, if this email did not come from Philipson himself, it is evidence he is disseminating this false information to third parties.

34. It could be extremely harmful to MAA if its employees believe these false allegations as described above and doubt its long-term viability or even leave the company as a result. MAA makes an enormous investment in finding and retaining well-trained, competent employees and losing them can cause real damage to the company that is difficult to repair because it causes us to lose institutional knowledge and the time it takes to find, hire and train new people. The job market is tight in our industry, making recruiting and retention difficult and very important

under the best of circumstances. At the very least, these repeated emails full of false statements serve as an enormous distraction to our employees and their management teams because it requires a near constant need to correct the statements so that our employees are not mislead and confused by them.

I declare the foregoing is true and correct under penalty of perjury pursuant to 28 U.S.C. § 1746.

Dated this 24th of January, 2024



Leslie Wolfgang

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
Phillydee100@gmail.com

This 25th Day of January, 2024.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

EXHIBIT 1

From: Piper Savage <rogervkint2024@outlook.com>

Sent: Tuesday, January 9, 2024 12:26 PM

To: Thomas, Jordan <jordan.thomas@bassberry.com>

Subject: Critical Review: Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns in Western District of Tennessee

Hi there!

This is your e-mail body. Remember to include the most important elements of your press release to engage your recipients.

We wish you successful PR outreach.

Regards!

Your friends at Prowly



Observations and Inquiries into Mid-America Apartment Communities, Inc. Activities

Memphis, Tennessee - January 9 2024

Recent developments have surfaced around Mid-America Apartment Communities, Inc. (MAA), a prominent property management company headquartered in Memphis, TN, which may merit further journalistic investigation. These developments include significant stock transactions by company insiders and other actions that have raised questions within the community and among stakeholders.

Following a notification to Mid-America Apartment Communities, Inc. and Bass, Berry & Sims PLC on January 7, 2023, about concerns raised to the Circuit Executive, notable stock sales by company insiders were observed. One significant transaction involved the EVP of General Counsel, who liquidated stock valued at a million dollars.

These financial activities occur amidst a backdrop of various challenges faced by Mid-America Apartment Communities in recent years. In 2021, the company encountered several issues, ranging from financial concerns to safety incidents. These included alleged financial and securities fraud, anti-trust violations, business fraud, and safety concerns at various properties.

Notably, an incident at one of their Texas properties in November 2021, which involved the tragic death of a young woman, has been linked to the company's lease policies. This and other legal matters, including a lawsuit filed under docket number 2:2023cv02186, highlight the need for closer examination of the company's legal and operational practices.

The involvement of a judicial law clerk, with historical ties to Bass, Berry & Sims PLC and a role as a Judicial Law Clerk in the Western Tennessee Courts, in these legal proceedings, has also been noted. His name appears in the metadata of several court documents related to this lawsuit, indicating a potential conflict of interest that could affect the judicial process's integrity.

Given the scale of Mid-America Apartment Communities, Inc.'s operations, impacting approximately 100,000 households across around 300 properties, the implications of these developments are far-reaching. The intricate nature of these events suggests a multifaceted story that could be of significant public interest.

We encourage members of the press to utilize resources such as the Freedom of Information Act (FOIA) to investigate these matters further. Our team is prepared to offer additional information and assistance to support a comprehensive exploration of these developments.



Further Examination of Judicial Integrity and Ethical Conduct in the Western District of Tennessee

Attention is being drawn to the United States District Court, Western District of Tennessee, concerning potential conflicts of interest and the ethical conduct of court personnel. Central to these concerns is the intersection between a Judicial Law Clerk's past association with the law firm Bass, Berry & Sims PLC and their involvement in ongoing proceedings within this court.

The connection draws into question compliance with the ethical guidelines as set forth in the American Bar Association's Model Rules of Professional Conduct, Rule 1.12, and the Tennessee Code of Judicial Conduct, Canon 2, Rule 2.11. These regulations are integral to

maintaining impartiality and integrity within the judicial process, ensuring that justice is served without bias or the appearance thereof.

Further compounding these concerns are reports of atypical legal service methods and actions potentially amounting to harassment, which have been documented and brought to the attention of various authoritative bodies. These include the Department of Justice (DOJ), Tennessee Ethics Board, and the Judicial Board. The aim is to ensure a thorough review of these practices and their alignment with legal standards.

In addition to the existing concerns, there have been reports of several instances that could potentially indicate a compromise of legal rights as outlined by the law. Notably, a situation has been highlighted involving repeated attempts to serve a subpoena in a manner that raises questions about procedural propriety. An individual, referred to as Agent Barber, reportedly made these attempts, marked by the use of a badge and a vehicle with flashing lights. The nature of these service attempts, including one directed at the spouse of an involved party who reportedly lacks clarity on the matter, has been perceived as unusual and potentially overreaching. Documented evidence, including video footage, has been submitted to relevant authorities to examine these actions. This situation forms part of a broader pattern of events that are being scrutinized for potential legal and ethical implications within the ongoing judicial process.

In response to these issues, a comprehensive dossier has been assembled and dispatched to the Circuit Executive's office and a local news station in Memphis. This dossier includes pertinent details of case number No. 2:23-cv-2186-SHL-cgc, which is currently being adjudicated in the United States District Court, Western District of Tennessee. The objective is to conduct an independent and transparent examination of these matters, with an emphasis on upholding judicial fairness and integrity.

This situation highlights the need for rigorous adherence to ethical guidelines in legal proceedings. The integrity of the judicial process is crucial in maintaining public trust and confidence in the legal system. An impartial and thorough investigation is essential to address any potential conflicts of interest and to ensure the highest standards of legal and ethical conduct are upheld.

Piper & Savage is a watchdog organization focused on promoting transparency, fairness, and ethical conduct within judicial and legal processes. We are dedicated to identifying and addressing potential conflicts of interest and ethical violations, thereby strengthening public confidence in the legal system.

EXHIBIT 2

From: Wolfgang, Leslie
To: DelPriore, Rob; Carpenter, Melanie
Subject: FW: [EXTERNAL] Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns
Date: Friday, January 12, 2024 4:40:00 PM
Attachments: image001.png

Another one just came through.

**Leslie Wolfgang**

SVP, CECO and Corporate Secretary
6815 Poplar Avenue, Suite 500
Germantown, TN 38138
901-248-4126
www.maac.com

From: Sue Mi Young <suemiyong@fairhousingdaily.com>

Sent: Thursday, January 11, 2024 4:07 PM

To: info@maac.com

Subject: [EXTERNAL] Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns



Exploration and Inquiries into Mid-America Apartment Communities, Inc. Activities

Memphis, Tennessee - January 11, 2024

Recent events have emerged concerning Mid-America Apartment Communities, Inc. (MAA), a well-known property management firm headquartered in Memphis, TN, prompting interest for investigative journalism. These events encompass significant stock

transactions executed by insiders of the company and other actions that have generated inquiries within the community and among stakeholders.

Following a communication sent to Mid-America Apartment Communities, Inc. and Bass, Berry & Sims PLC on January 7, 2023, outlining concerns conveyed to the Circuit Executive of the Sixth Circuit Federal Court, noteworthy stock sales by company insiders have been detected. Notably, one substantial transaction involved the EVP of General Counsel, who divested stock valued at one million dollars.

Furthermore, a complex network of subsidiaries within the company's organizational structure has raised eyebrows among observers. This intricate web of subsidiaries appears to facilitate the movement of funds and assets within the company, giving rise to concerns about financial transparency and accountability. Investigating the purpose and implications of this complex subsidiary system is crucial to understanding how funds are managed and allocated within Mid-America Apartment Communities.

In addition to these financial intricacies, there is an apparent lack of comprehensive property insurance coverage across certain properties under the company's management. This absence of insurance raises questions about the financial security and protection of both residents and property owners in the event of unforeseen incidents such as fires, natural disasters, or accidents.

Intriguingly, the company's financial landscape also raises questions about its self-insurance practices. There appears to be a major internal law in place, allowing Mid-America Apartment Communities to self-insure certain aspects of its operations. This complex internal arrangement warrants further scrutiny to ensure that it adheres to legal and regulatory standards and that it provides adequate protection to all stakeholders involved.

Only after considering these financial challenges and complexities does it become evident that grill safety concerns have also surfaced at several Mid-America Apartment Communities properties. Reports have emerged of inadequate safety measures and incidents related to grill usage within the premises, posing potential risks to residents and their properties.

Given the combination of these multifaceted challenges, a comprehensive investigation into Mid-America Apartment Communities, Inc. becomes increasingly imperative. The interplay of financial issues, self-insurance practices, subsidiary structures, and safety concerns raises significant questions about the company's operations, governance, and overall impact on its residents and stakeholders.

These financial activities transpire against the backdrop of diverse challenges that Mid-America Apartment Communities has encountered in recent years. In 2021, the company faced various issues, encompassing financial matters and safety incidents. These included alleged financial and securities improprieties, anti-competitive actions, business misrepresentation, and safety concerns at various properties.

Of significance, an incident at one of their Texas properties in November 2021, which resulted in the tragic loss of a young woman, has been connected to the company's lease policies. This, alongside other legal matters, including a lawsuit filed under docket number 2:2023cv02186, underscores the necessity for a more in-depth examination of the company's legal and operational procedures.

Further Examination of Judicial Integrity and Ethical Conduct in the Western District of Tennessee

The involvement of a judicial law clerk, with prior affiliations with Bass, Berry & Sims PLC and a role as a Judicial Law Clerk in the Western Tennessee Courts, in these legal proceedings has also come to attention. His name appears in the metadata of several court documents related to this lawsuit, potentially indicating a conflict of interest that could impact the integrity of the judicial process.

Considering the extensive scope of Mid-America Apartment Communities, Inc.'s operations, which affect approximately 100,000 households across approximately 300 properties, the ramifications of these developments are extensive. The intricate nature of these events hints at a complex narrative that could be of substantial public interest.

We urge members of the press to utilize available resources, such as the Freedom of Information Act (FOIA), to delve deeper into these matters. Our team stands ready to provide supplementary information and support for a comprehensive exploration of these developments.

Further Examination of Judicial Integrity and Ethical Conduct in the Western District of Tennessee

Attention has been drawn to the United States District Court, Western District of Tennessee, regarding potential conflicts of interest and ethical behavior of court personnel. Central to these concerns is the intersection of a Judicial Law Clerk's previous association with the law firm Bass, Berry & Sims PLC and their involvement in ongoing proceedings within this court.

This connection raises questions about adherence to ethical guidelines established in the American Bar Association's Model Rules of Professional Conduct, Rule 1.12, and the Tennessee Code of Judicial Conduct, Canon 2, Rule 2.11. These regulations are crucial to maintaining impartiality and integrity within the judicial process, ensuring justice is administered without bias or any appearance thereof.

These concerns are further compounded by reports of unconventional legal service methods and actions that could potentially be perceived as harassment. These matters have been documented and reported to various authorities, including the Department of Justice (DOJ), Tennessee Ethics Board, and the Judicial Board. The objective is to ensure a comprehensive review of these practices and their alignment with legal standards.

In addition to the existing concerns, there have been reports of several incidents that may indicate a compromise of legal rights as outlined by the law. Specifically, there is a situation involving repeated attempts to serve a subpoena in a manner that raises questions about procedural correctness. An individual referred to as Agent Barber purportedly made these attempts, marked by the use of a badge and a vehicle with flashing lights. The nature of these service attempts, including one directed at the spouse of an involved party who reportedly lacks clarity on the matter, has been seen as unconventional and potentially excessive. Documented evidence, including video footage, has been submitted to relevant authorities for examination. This situation is part of a broader pattern of events under scrutiny for potential legal and ethical implications within the ongoing judicial process.

In response to these issues, a comprehensive dossier has been compiled and forwarded to the Circuit Executive's office and a local news station in Memphis. This dossier includes pertinent details of case number No. 2:23-cv-2186-SHL-cgc, currently under adjudication in the United States District Court, Western District of Tennessee. The goal is to conduct an impartial and transparent examination of these matters, with a focus on upholding judicial fairness and integrity.

This situation underscores the imperative need for unwavering adherence to ethical guidelines in legal proceedings. The integrity of the judicial process is pivotal in maintaining public trust and confidence in the legal system. An unbiased and thorough investigation is essential to address any potential conflicts of interest and to ensure the highest standards of legal and ethical conduct are upheld.

For the latest updates and news on multifamily matters, make sure to visit FairHousingDaily. com

Fair Housing Daily is a watchdog organization committed to promoting transparency, fairness, and ethical conduct within judicial and legal processes. We are dedicated to identifying and addressing potential conflicts of interest and ethical breaches, thereby bolstering public confidence in the legal system.

To Unsubscribe, please click [here](#).

EXHIBIT 3

Mills, Paige

From: DelPriore, Rob <rob.delpriore@maac.com>
Sent: Thursday, January 11, 2024 5:13 PM
To: Mills, Paige; Golwen, John S.
Cc: McGown, Gigi
Subject: FW: [EXTERNAL] Mid-America Apartment Communities Under the Microscope: Unveiling the Mystery

I just received this.

From: Piper Savage <piperandsavage@gmail.com>
Sent: Thursday, January 11, 2024 5:11 PM
To: Piper Savage <piperandsavage@gmail.com>
Subject: [EXTERNAL] Mid-America Apartment Communities Under the Microscope: Unveiling the Mystery

Behind the Facade: Mid-America Apartment Communities' Tangled Tale

Today, we're venturing into the heart of Memphis to unravel the corporate enigma that is Mid-America Apartment Communities, Inc. What lies beneath the surface of this well-known property management firm? Join us as we probe into the intricate financial transactions and operational decisions that have set the stage for a riveting investigative journey.

We will soon delve into the unfolding saga at Mid-America Apartment Communities, Inc. (MAA), a prominent property management firm based in the heart of Memphis. A series of curious financial maneuvers and operational decisions at MAA have sparked a wave of intrigue and raised eyebrows across the community.

It began with a simple communication to MAA and the renowned law firm Bass, Berry & Sims PLC, a note that would unravel a tapestry of complex transactions and raise questions about the very fabric of corporate governance. At the center of this intricate web is the company's EVP of General Counsel, a pivotal figure with a significant history. His professional journey stretches back to the early 2000s at Bass, Berry & Sims PLC, where he represented MAA. This period was marked not just by legal representation, but also by regulatory scrutiny. Both he and the CEO of MAA were questioned by regulatory authorities about the company's unique structure, spotlighting the intricate and potentially contentious nature of MAA's corporate setup. Among this backdrop of inquiry and oversight, a standout transaction by the EVP of General Counsel, involving the divestment of a million dollars' worth of stock, has thrust him and the company into the limelight, paving the way for a deeper, more comprehensive investigation. His longstanding ties to MAA, against the backdrop of early regulatory interests, paint a complex picture of intertwined corporate governance and legal representation.

Beneath the surface lies a network of subsidiaries, a maze within MAA's organizational structure that seems designed for more than just business as usual. This intricate framework, shaping the flow of

funds and assets, beckons a closer look, challenging our understanding of financial transparency in the corporate world.

In a twist that adds to the mystery, MAA's approach to property insurance—or the lack thereof—has surfaced. This gap in the armor, potentially leaving residents and property owners vulnerable, is a puzzle piece in the larger picture of the firm's operational integrity.

As we delve deeper into the inner workings of Mid-America Apartment Communities, Inc., the layers of complexity and concern continue to unfold. Our investigation takes a turn into the realms of insurance and subsidiary management, where MAA's practices raise critical questions about corporate responsibility and tenant safety.

At the heart of these concerns lies Brighter View Insurance Company LLC, a self-insurance entity nestled within MAA's expansive network. This company is just one piece in a vast puzzle comprising over 100 subsidiaries. Such a sprawling corporate structure, while not uncommon in large enterprises, brings to light issues of transparency and accountability. How does this labyrinth of subsidiaries, with Brighter View Insurance at its core, impact the lives of thousands residing in MAA properties?

Further scrutiny reveals alarming gaps in MAA's approach to tenant safety and property maintenance. Reports have surfaced of an inadequate mold and water remediation program, a critical shortfall that could have dire implications for tenant health and property integrity. This concern is compounded by the revelation of MAA's apparent prioritization of lavish expenditures, such as corporate jets and extravagant company retreats to Orlando studios. These opulent outlays stand in stark contrast to the company's reluctance to waive late fees or prevent rent hikes for their tenants, painting a picture of skewed corporate priorities.

Another concerning aspect of MAA's operations is their pet policy. Despite allowing potentially high-risk breeds like pit bulls on their properties, there seems to be a lack of adequate insurance coverage to address incidents that may arise from such animals. This is particularly troubling given that most standard renters' insurance policies do not cover incidents involving breeds deemed 'restricted'. The question then arises: Is MAA adequately safeguarding its residents and itself against potential liabilities?

As we navigate through this intricate corporate maze, the juxtaposition of MAA's apparent luxury spending against the backdrop of tenant-centric issues like insufficient safety measures, inadequate insurance coverage, and the handling of restricted animal breeds, paints a complex picture. It's a narrative that prompts us to question the balance between corporate profitability and social responsibility, especially in the realm of property management where the stakes involve the very homes and safety of thousands.

But the plot thickens with MAA's internal law allowing self-insurance for certain aspects of their operations. This self-insurance practice, far from standard, warrants a careful examination, probing its legal standing and the shield it offers to those under MAA's umbrella.

As we peel back the layers, safety issues at several MAA properties add another dimension to the story. Reports of insufficient grill safety measures sketch a concerning narrative of oversight and hazard, making us question the safety standards in these living spaces.

The backdrop to these financial and operational intricacies is a history peppered with challenges. In 2021, a tragic incident at one of MAA's Texas properties, tied to its lease policies, marked a turning point, spotlighting the need for a thorough review of the company's legal and operational framework.

The plot takes another turn with the involvement of a judicial law clerk, previously associated with Bass, Berry & Sims PLC, in legal proceedings related to MAA. This connection, revealed through court document metadata, whispers of a potential conflict of interest that could tarnish the integrity of the judicial process.

This sprawling narrative of Mid-America Apartment Communities, with a reach impacting around 100,000 households, is more than just a corporate story—it's a tapestry of lives, decisions, and actions interwoven in a complex pattern of governance and ethics.

As we stand at the crossroads of this investigation, we call upon the guardians of truth in the press, armed with the Freedom of Information Act, to join us in unraveling the mysteries of MAA. Our pursuit of transparency and accountability in this intricate corporate saga continues, guided by the principles of justice and ethical integrity.

Further Examination of Judicial Integrity and Ethical Conduct in the Western District of Tennessee

The spotlight now turns to the United States District Court, Western District of Tennessee. Here, the crux of the matter lies in the intersection of a Judicial Law Clerk's past and their present role in the legal labyrinth of MAA. The link to Bass, Berry & Sims PLC beckons questions about the sanctity of ethical conduct and judicial impartiality.

Amidst these concerns are murmurs of unorthodox legal service methods. Reports of attempts to serve a subpoena, marked by the use of a badge and a vehicle with flashing lights, paint a picture of a process that might stray from the norm. This incident, seemingly part of a broader narrative, adds to the intrigue and complexity of the ongoing judicial process.

In response, a dossier, comprehensive and telling, has been compiled and dispatched to the Circuit Executive's office and a local news outlet in Memphis. This file, encompassing the details of case number No. 2:23-cv-2186-SHL-cgc, aims to shed light on the truth, seeking an impartial and transparent examination of the unfolding events.

As we navigate this intricate maze of corporate and legal intricacies, our commitment to uncovering the truth remains unwavering. The path ahead promises revelations and insights, as we continue to uphold the highest standards of transparency and integrity in our quest for justice and accountability.

EXHIBIT 4



Cindy 2 days ago 3 min read

Fire at MAA Spring Apartments exposes long-standing safety concerns, highlighting their 'insurance program'

Original Source: REIT.news

The recent blaze at MAA Spring Apartments in Cobb County, which resulted in the displacement of 18 individuals, has cast a spotlight on deep-seated fire safety issues within the MAA property network. As reported by Atlanta News First, the fire broke out on a balcony and rapidly spread to the attic, creating a complex situation for firefighters who valiantly fought to contain it.

A key aspect of this incident, still shrouded in mystery, is the fire's origin. Video footage and witness statements have yet to clarify the cause. However, a deeper probe into the matter reveals insights from an insider intimately acquainted with MAA's properties. This individual, choosing to remain anonymous for safety and privacy concerns, disclosed a critical design flaw: the placement of water heaters and electrical closets on balconies across various MAA properties. Such a setup significantly heightens the risk of fires.

The same insider, who came to prominence through whistleblower revelations documented in court records [accessible here](#), had previously underscored similar fire safety concerns within MAA's operations. Initially, these critical alerts were largely overlooked. However, in the wake of the recent Cobb County fire, these previously ignored warnings have now attracted significant attention and have become a matter of urgent concern.

The informant's revelations paint a comprehensive picture that goes beyond mere structural concerns, highlighting a systemic issue entrenched in MAA's management practices. This issue particularly pertains to the handling of fire-related incidents and the subsequent financial implications for those affected. The insider points to an increasing pattern within MAA's operations where the economic burden of fire damages is strategically shifted onto residents. This shift is reportedly facilitated by policies that compel tenants to rely on their own renters' insurance, thereby relieving MAA from bearing any direct financial responsibility. This practice, as vehemently criticized by the insider, mirrors MAA's overarching philosophy that "safety is the resident's responsibility." Such a policy, according to the whistleblower, significantly downplays MAA's essential role in ensuring the safety and well-being of its tenants.

The depth of the issue extends to MAA's internal risk management strategies. The company, as revealed by the insider, operates as a self-insured entity and has established its own unique "insurance program." This self-insurance model could have a profound impact on how MAA addresses incidents of fire, both in terms of immediate response and handling of financial

liabilities. It raises questions about the adequacy and effectiveness of safety measures and maintenance protocols implemented across MAA properties, given the potential conflict of interest in their internal insurance handling.

The implications of this strategy are far-reaching. It not only presents ethical dilemmas but also poses legal challenges, particularly in the realms of tenant safety and rights. The corporate culture at MAA, as depicted by these revelations, seems to favor cost-cutting measures over the safety and security of its residents. This approach potentially places tenants in vulnerable positions, exposing them to risks that could otherwise be mitigated or avoided if the company assumed a more proactive role in ensuring safety standards.

Furthermore, the whistleblower's account underscores a concerning trend in MAA's approach to risk management and safety compliance. By shifting financial responsibilities onto tenants through a reliance on renters' insurance, MAA effectively minimizes its direct involvement in rectifying and addressing the consequences of fire incidents. This policy not only questions MAA's commitment to tenant safety but also highlights a potential gap in their responsibility towards providing a secure living environment.

In summary, the insider's disclosures call for a critical examination of MAA's corporate practices, particularly in relation to fire safety management and financial liability strategies. It underscores the need for a reassessment of how MAA balances its operational efficiencies with the imperative of ensuring tenant safety and upholding ethical management practices.

Despite the scale of the fire, there were no casualties, a fact attributed to the swift and efficient response of the Cobb County firefighters. The American Red Cross is actively involved in providing support to those affected by the fire, helping them navigate through this challenging period.

As the investigation into the fire's exact cause progresses, the insights provided by the whistleblower add a crucial dimension to the narrative. They suggest that the fire hazards at MAA properties could be indicative of broader, systemic safety lapses rather than being random, isolated occurrences.

This event, therefore, demands a thorough examination of MAA's safety protocols and emergency response strategies. It calls for a critical evaluation of the company's commitment to tenant safety, accountability in incident management, and adherence to fire safety regulations.



Cobb Count Fire Services Facebook Page

For further details on the fire and its implications, refer to the original report by Atlanta News First, published on [publication date of the original article], which offers an in-depth look at the incident and its aftermath: Atlanta News First Article.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT,
COMMUNITIES, INC.**

Plaintiff,

 γ_1 **DENNIS PHILIPSON**

Defendant.

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

DECLARATION OF JAY BLACKMAN

My name is Jay Blackman, I am of majority age and have first-hand knowledge of the following events.

1. I am currently employed by Mid-America Apartments, L.P., a subsidiary of Mid-America Apartment Communities, Inc. (collectively, "MAA") as a Regional Vice President in Virginia and Maryland.
2. When Dennis Philipson worked for MAA, he reported to me.
3. I am the one who conveyed the news to him that MAA would not allow him to rescind his resignation and he seems to have focused a lot of his resulting anger on me.
4. On January 1, 2023, I received an email from tommyLgrimey51@hotmail.com. I believe this email was from Defendant Philipson using a made-up email account. The email implied very negative things about the leadership of MAA and stated that many shocking things were going to be coming out about the company. The email recommended "looking elsewhere for a more ethical employer." It implied the emails would be uploaded through apartment websites if "an announcement was not made soon." This email was attached as **Exhibit 7** to the Philipson Depo.

5. On January 2, 2023, I received a text notice asking me to verify that my Okta account had been unlocked. Okta is an identity management system that MAA uses to secure our systems. I did not request this and promptly reported it. See Ex. 1 to this Declaration.

6. Also on January 2, 2023, I received two Verizon text messages including a temporary code to reset my phone's password. I did not request this, nor did anyone else in my household. These text messages are attached as Ex. 2 to this Declaration.

7. On February 22, 2023, I received another email that I believe was from Dennis Philipson. This one was from the email address maaisfullofshit@outlook.com. This email was written in a very sarcastic tone that was intended to give a very negative impression of the company, as indicated by the email account it came from. This email mentioned many of the things that Philipson continually complained about: the competency of MAA's IT team, the fact that Rob DelPriore used to work at Bass, Berry and Sims, the company's casualty insurance, MAA's alleged failure to ask for proof that a renter's insurance covers restricted dog breeds, grill maintenance, and water remediation. This email is attached as Exhibit 16 to the Philipson Deposition.

8. I noticed that someone who I believed to be Dennis was leaving a number of disturbing Google Reviews on places near MAA's offices and other places that my family and I would frequent.

9. The Google reviews are attached as Collective Ex. 3 to this Declaration.

10. Philipson left some of the reviews under the account name "DD" and some under the name "C "Chachi Fuego F". I know these two accounts belong to Dennis because they have some identical reviews between them (compare Ex. 3 page 1 and 2) and Dennis took a selfie of himself outside the Securities and Exchange Commission on the DD account. Although he quickly deleted it, I managed to copy it with a screen shot. *Id.* Ex. 3, page 34. Accordingly, it became clear that Dennis Philipson was both "DD" and "C Chachi Fuego F."

11. Using the “DD” account, Phillipson left a number of reviews on locations in Memphis (Mr. Philipson lives in Virginia) near MAA—The Hilton Garden Inn at TraVure, which is the same set of buildings where the corporate offices are located; the Bonefish Grill; Johnson Road Park Germantown; Neils Music Room; the Hobby Lobby; Pimento’s Burgers and Bar Grill; One and Only BBQ; TJ Mulligans; the Walmart Supercenter; Babalu, Zaxbys’ and Trader Joes. *Ex. 3*, pages 3, 4-5, 8-12. He used the “C Chachi Fuego F” account to leave reviews of Evernest Property Management; and Reed and Associates of TN. *Id. Ex. 3*, page 13.

12. I then noticed Philipson was using the DD accounts to leave reviews near my home, as well as near the homes of Amber Fairbanks and Jackie Melnick, two other MAA employees. Again, I knew the DD account was Dennis Philipson because he accidentally published a selfie of himself using that account outside the Securities and Exchange Commission. *Ex. 3*, page 34.

13. “DD” left a review of the Baskin Robins that is within walking distance of my home. My wife and I frequently take our children to this Baskin Robins. *Ex. 3*, page 6.

14. I noticed “DD” left a review of Huntsman Park, a park within my neighborhood. He quickly took this review down before I could take a screen shot of it. He described it as a “good place to take kids.” At the time he left this review, Dennis did not have any children to my knowledge.

15. The DD account left reviews of Amazon Fresh and HomeSense, which are in the same shopping center where my children go to the dentist. *Ex. 3*, pages 19 and 20.

16. My wife visited the Old Navy in Springfield and not long afterwards, “DD” wrote a review of it. *Ex. 3*, page 21.

17. There was another review that I found particularly unsettling. It was the DD account’s review of the Dulles Town Center Crossing *Ex. 3*, page 27. In this review, he writes, “I swear that I saw ZZ [T]op here playing near the entrance, with the sign asking for donations. It was great to see ZZ, I have not seen him in a long time.” This out-of-the-blue, non-sequitur mention of ZZ Top

was very strange because I had recently had my sister and her family visit my home and we were reminiscing about the fact that ZZ Top attended our cousin's wedding over twenty years ago.

18. Similarly, there was a review of Lowes, in which the DD account makes reference to "every light bulb in the place was on which made it seem like Heaven," and that he was "surprised by all the trinkets and treats [he] bought," and that he "made it a boy's day out." *Ex. 3*, page 17. Recently, I had taken my son to the Home Depot near my home to pick up some items for a "fidget board" that I had been making for him. My son is autistic and he is fascinated by lights and lightbulbs and will point to them and call out if one is missing or burned out. On that day, I did pick up "random trinkets" for the fidget board. These comments, like the ZZ Top reference and the visits to the same locations my children frequented indicated to me that Philipson was stalking my family and caused me to be extremely concerned.

19. The DD account wrote a review of the Home Depot that I frequently visit. *Ex. 3*, page 23. He referred to "hours he spent in the kitchen design center" or words to that effect and how he sat down and "talked for an hour and a half about my kitchen and possibly redoing it in the future." I had also recently asked a plumber who came to my house for his advice on where to start if my wife and I wanted to redo our kitchen. He recommended that we go to the Home Depot because they have a kitchen design center and can help with all kitchen options. I had not been to the design center yet, but Dennis' review seemed to mirror this conversation in an uncanny way. Dennis' review also states that he spoke to a man with a red beard. My brother has a very distinctive red beard.

20. Using the DD account, Philipson also wrote a review of our local Barnes and Noble. *Ex. 3*, page 24. His review mentions how much he likes Danielle Steele and a book she wrote about Kennebunkport, Maine. I can find no evidence that Danielle Steele ever wrote a book about or based in Kennebunkport. Just prior to this, however, my wife had mailed a thank you card to her

grandmother in Kennebunkport from our outgoing mail box. Dennis also states that he was shopping for books on mental health and ADHD and, as mentioned above, our son has autism and ADHD.

21. Using the DD account, Philipson reviewed American Family Centers-Karate. My daughter had just gotten her orange belt at a different facility for Tae Kwon Do which is in the same shopping center across from my home where the Baskin Robbins is and where my daughter attends after school care. **Ex. 3**, page 25. This was unsettling to me because of the timing of this review.

22. Using the DD account, Philipson reviewed the Home Goods right after my daughter and I went there to purchase a frame for a piece of art she made. **Ex. 3**, page 28.

23. The DD account left a review of Lake Norman Tavern in Mooresville, NC. This is near Amber Fairbanks' home and she is familiar with this restaurant. **Ex. 3**, page 7.

24. On February 2, 2023, Jackie Melnick, who is a Senior Vice President of MAA, shared that a former employee was trying to reset account passwords. The next day, Jackie's email shared a nautical-themed inspirational quote. **Ex. 4** to this Declaration. Shortly after, Philipson changed his MAA corporate reviews (See **Ex. 3**, pages 1 and 2) so that they referred to nautical themes with "Ahoy," "Avast," and "Batten Down the Hatches." two things Dennis seemed to be fixated on. I and other employees felt that Philipson was somehow in our systems and was seeing our emails, which we found very unsettling.

25. Using the DD account, Dennis left a review of DareDeli & Steamhouse in Yorktown, Va, a restaurant frequented by Jackie Melnick. **Ex. 3**, page 26.

26. The DD account also left several reviews on MAA Properties—Post Tysons Corners; Post Corners; and Post Carlyle. In these reviews, he mentions several of the things he normally complains about—the fire remediation company we used, he mentioned the MAA CEO and refers

to voucher payments not being on time and refers to the ESA dog policy. Ex. 3, pages 15, 16 and 30.

27. The DD account's strange review of a Walmart Supercenter focused on water remediation and fire systems, two things Dennis seemed to be fixated on, and uploaded more than 50 pictures of the Walmart's interior. See Ex. 3, page 18.

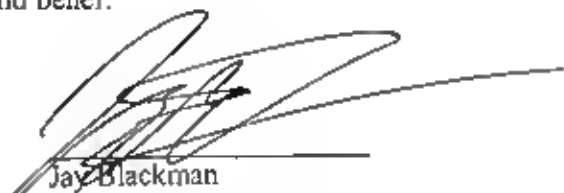
28. The DD account's review of MAA Corporate Apartments refers to MAA's general counsel and employee relations, two things Dennis also repeatedly mentions. Similarly, his review of Lowes refers to mold and water remediation, two other issues he has brought up on numerous occasions. Ex. 3, page 30 and 31.

29. All of these things together indicated to me, Ms. Melnick, Amber Fairbanks, and other MAA employees that he was stalking us and our families. I found this extremely disturbing and it caused me and my family substantial emotional distress.

30. I am aware that Philipson has continued his behavior of cyberstalking MAA. For example, I was one of the recipients of the email he sent on January 10, 2024, that implied many false and negative things about MAA. This email looked like it came from a legitimate source and reputable company, and not simply a disgruntled former employee. On its face, the email implies many false facts and is likely to mislead our employees about the company, its leadership, and activities.

31. I have made this Declaration under penalty of perjury and I swear and affirm that it is true and correct to the best of my information, knowledge, and belief.

Dated this 24th day of January, 2024.



Jay Blackman

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
phillydee100@gmail.com

This 25th day of January, 2024

/s/ Paige Waldrop Mills
Paige Waldrop Mills

EXHIBIT 1

Blackman, Jay

From: Okta <noreply@okta.com>
Sent: Monday, January 2, 2023 7:34 PM
To: Blackman, Jay
Subject: [EXTERNAL] Account password reset



Mid America Apartments - Okta Password Reset Requested

Hi Jay,

A password reset request was made for your Windows Active Directory account. If you did not make this request, please contact your system administrator immediately.

Click this link to reset the password for 12945@maac.com:



This link expires in 7 days.

If you experience difficulties accessing your account, send a help request to your administrator:

Go to your Sign-in Help page. Then click the Request help link.

Information, get [Okta](#) help
answered.

Blackman, Jay

From: Okta <noreply@okta.com>
Sent: Monday, January 2, 2023 7:34 PM
To: Blackman, Jay
Subject: [EXTERNAL] Account password reset

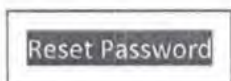


Mid America Apartments - Okta Password Reset Requested

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Click this link to reset the password for 12945@maac.com:



This link expires in 7 days.

If you experience difficulties accessing your account, send a help request to your administrator:

Go to your Sign-in Help page. Then click the Request help link.

... is on our helpfully generated page. [Okta](#) ...
answered

Blackman, Jay

From: Okta <noreply@okta.com>
Sent: Monday, January 2, 2023 7:35 PM
To: Blackman, Jay
Subject: [EXTERNAL] Unlock Account

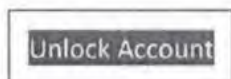


Mid America Apartments - Okta Account Unlock Requested

Hi Jay,

An account unlock request was made, by you, for your Okta user account. If you did not make this request, please contact your system administrator immediately.

Click this link to unlock the account for your username, 12945@maac.com:



This link expires in 7 days.

Your Okta account is configured to use the same password you currently use for logging in to your organization's Windows network. Use your Windows account password to sign in to Okta.

If you experience difficulties accessing your account, send a help request to your administrator:

Go to your Sign-in Help page. Then click the Request help link.

For an automated response, click the [Okta](#) link in the message.
If you need help, click the [Request help](#) link.

EXHIBIT 2

Mon, Jan 2 at 8:32 PM

Verizon Residential Message: Your Temporary password is 92508504. You can now sign into Verizon using this password. This password expires in 2 hours.

Verizon Residential Message: Your Temporary password is 10264921. You can now sign into Verizon using this password. This password expires in 2 hours.



Text Message



EXHIBIT 3

MAA

Property management company

PLACE DETAILS



D D

an hour ago

BATTEN DOWN THE HATCHES! Quick, there is a named storm a coming. Code everything to Casualty LOSS!

Your previously shared guidance is a smoke screen. Just like your press release in Oct 2021...ESG...yeah 🙄

The Whistleblower submission system and whistleblower policy are a joke.

Their internal controls are non-existent, and their ethics training is for show. Many of the items outlined below were reported to them in April and September 2021, and they should have addressed the concerns outlined. They even prevented communication with the ER office by blocking emails.

They seem like a community & culture of risk-takers. They have a beautiful new headquarters with a nice little break room with great snacks; I believe they also have the Jonestown brand Flavor-Aid.

They must have a very skilled and large IT team. They hired a Senior VP of IT operations that spent a great deal of time working for EY. It did not appear he had previous IT experience. When other companies were hacked a few years back, their IT team supposedly stopped this before any of the thousands of resident files and information was stolen.

Their senior employees are long-tenured, and their CEO is so good at property management that the board of directors made him the board's chairman. The board said it was because of his past 20 years of experience in





C "Chachi Fuego" F



an hour ago



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Their senior employees are long-tenured, and their CEO is so good at property management that the board of directors made him the board's chairman. The board said it was because of his vast 30 years of experience in



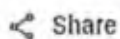
Hilton Garden Inn Memphis East Germantown
6811 TraVure Dr E, Germantown, TN 38138

★★★★★ 2 weeks ago

Very nice hotel. The staff is friendly and the rooms were extremely clean. It is great for a longer stay, because it is close to everything. ... More



1




Share



D D

Local Guide · Level 7

7,009 points >


5,000

15,000


Reviews

Photos



Bonefish Grill

1250 N Germantown Pkwy, Cordova, TN 38016

 2 weeks ago

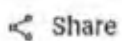
Always a great meal and service!! More

Service

Dine in...



1



Share



DD

Local Guide · Level 7

7,009 points >

5,000

15,000

Reviews

Photos

**Johnson Road Park**

2970 Johnson Rd, Germantown, TN 38139

★★★★★ 2 weeks ago

Great Park, quiet. Good place to think.



1

Share

**Nell's Music Room**

5725 Quince Rd, Memphis, TN 38119

★★★★★ 2 weeks ago

Awesome place!! Met a lot of cool people. More

Food: 5...

1

Share

**T J Mulligans**

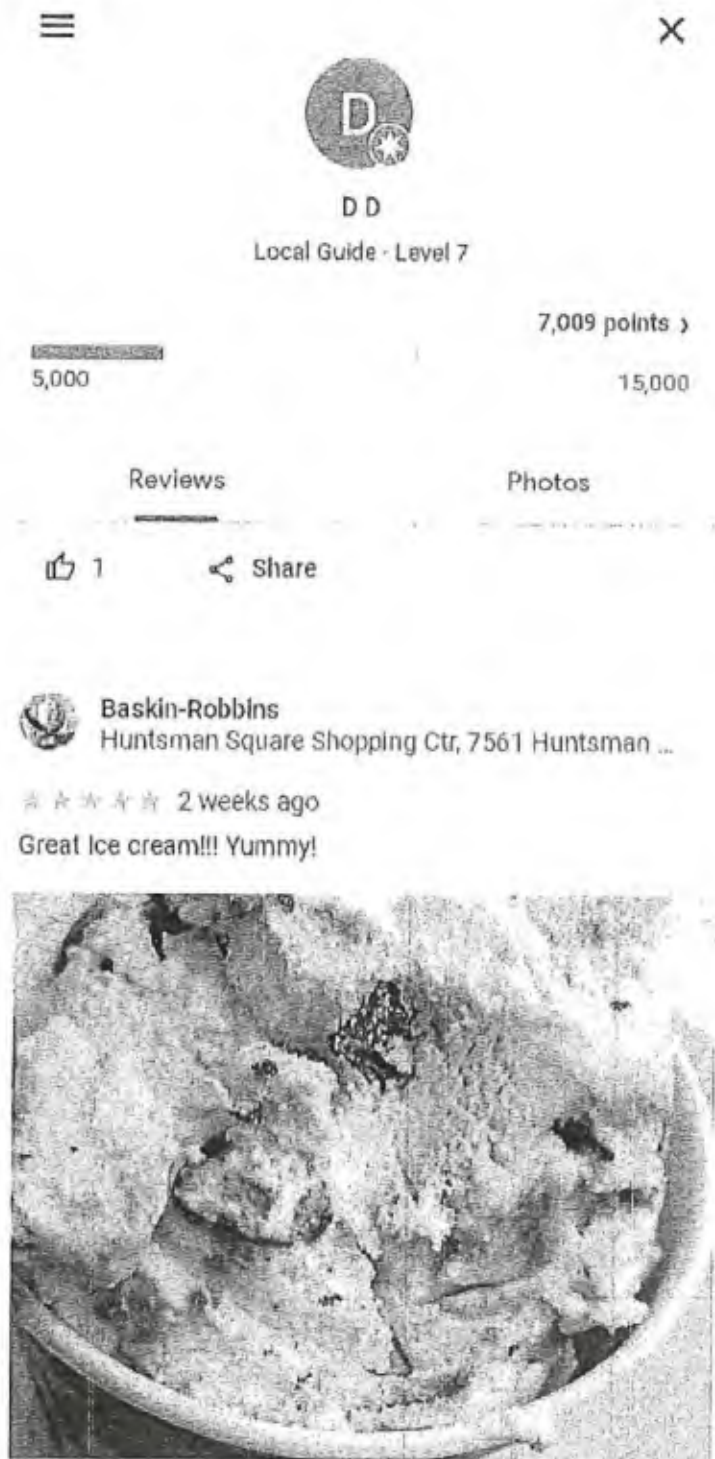
1817 Kirby Pkwy, Memphis, TN 38138



★★★★★ 2 weeks ago


Great, quick lunch spot. Philly cheese steak was yum.
Staff was friendly! Good spot for a quick drink also. More

1


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D D
Local Guide · Level 7





5,000


7,009 points >
15,000


Reviews

Photos



 1


 Share




Lake Norman Tavern
1468 Brawley School Rd, Mooresville, NC 28117

2 weeks ago

Great food! Had wings and the tavern burger. Were both very good. Service and atmosphere great as well.

 1

 Share

**Hobby Lobby**

1991 Exeter Rd, Germantown, TN 38138

4 days ago

They have to be the friendliest people I have ever had the pleasure of doing business with. I went into this hobby lobby to purchase some faux flowers. I ended up being in there for a about 5 hours More



Share





DD
Local Guide · Level 7

7,009 points >

5,000 15,000

Reviews Photos



Pimento's Burgers, Bar & Grill
6450 Poplar Ave #123, Memphis, TN 38119

★★★★☆ a week ago

Great burgers and friendly staff. More

Service
Take out...

👍 1 ➦ Share



One & Only BBQ
1779 Kirby Pkwy #1A, Memphis, TN 38138

★★★★☆ a week ago

The BBQ is out of this world! One of the best I have had. More

Service
Dine i...

👍 1 ➦ Share

0009



Walmart Supercenter
7525 Winchester Rd, Memphis, TN 38125

★★★★★ 2 hours ago

Wow! This was a great Walmart! There was so much to see in so much to do. The team members were so nice and friendly. They all were very talkative and helpful.

There was a great selection of clearance items. I was able to get many different items. I got some new gloves, some dishes, and some great Christmas lights for 75% off. I also spent a great deal of time looking in the cosmetics aisles and trying on different shades of lipstick. Now I normally don't wear lipstick, but I was intrigued by the money different brands and shades they had.

I also spent about an hour looking at new work pants. They had lots of styles and brands to choose from. It was very difficult to make a concrete decision. Thankfully, three associates helped me make this decision easy. I tried on different pants and modeled them to the employees and even some of the customers. Someone had a boombox and played a model song and I walked around the store and did a twirl.

Anywho, I just wanted to say this was a great Walmart. So much to see so much to do and so little time. They had many great items and I thank Walmart for having me in.

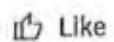
Great job Walmart!



BABALU - East Memphis
6450 Poplar Ave #4882, Memphis, TN 38119

☆☆☆☆☆ a day ago

Absolutely amazing tapas restaurant. The food was so good, I thought I'd died and went to heaven. The service was amazing as well. Very friendly and outgoing people. ...
More



Like



Share



Trader Joe's

2130 Exeter Rd Ste 101, Germantown, TN 38138

☆☆☆☆ 2 days ago

Absolutely amazing location. They have awesome peaches. Probably some of the best peaches I've ever had in my life. They were very, very tasty and sweet. I have never had a peach like this before More



1

Share



C "Chachi Fuego" F

Local Guide · Level 7

7,031 points ›

5,000

15,000

Reviews

Photos



Evernest Property Management Memphis

5050 Poplar Ave Suite 1517, Memphis, TN 38157

★★★★★ an hour ago

Unbelievable property management company! The best in the area!

👍 Like

↪ Share



Reed & Associates of TN, LLC

269 Germantown Bend Cove, Cordova, TN 38018

★★★★★ an hour ago

Such a wonderful experience renting from Reed and Associates of Tennessee. From start to finish, the experience was wonderful. Thank you so much!

👍 Like

↪ Share



DD

Local Guide · Level 7

7,009 points >

5,000

15,000

Reviews

Photos



1



Share



The Executive Diner

1400 Duke St, Alexandria, VA 22314

5 days ago

This morning I had breakfast at the executive diner. Let me tell you, I really felt like an executive. I had a classic eggs benedict. This was delicious. The hollandaise was creamy and perfectly seasoned. The poached egg was firm on the ... More



1



Share



Post Tysons Corner

1526 Lincoln Cir, McLean, VA 22102



2 days ago

Great property! Great new fire system! LS did great work!



Like



Share

**Post Corners at Trinity Center**

5804 Post Corners Trail, Centreville, VA 20120



15 hours ago

The problem is at the top, CEO...Jo El is just trying to make a living and do what he is told. ... More



1



Share

Response from the owner 27 minutes ago

Hi, it's upsetting to hear that you did not receive the top-notch service we strive to provide. Please contact us at ResidentCare@maac.com when you have an opportunity and we will be more than happy to try and turn your experience around. We take your time seriously so please allow us 48 business hours to respond to your inquiry. Thank you.



D D

Local Guide · Level 7

7,009 points >



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Reviews

Photos



1

Share

**Lowe's Home Improvement**

45430 Dulles Crossing Plaza, Sterling, VA 20166

a week ago


This has got to be one of the most organized and cleanest Lowe's I have ever visited. The aisles were stuffed to the rafters. The floors were as clean as a whistle. Every light bulb in the place was on which made it seem like heaven.

I went in looking for some screws, but oh was I surprised with all the trinkets and treats I bought. They had a lot of clearance items so I made it a boy's day out and went crazy.


They have some of the cleanest bathrooms I have ever seen in a hardware store. Most hardware stores where you go to the bathrooms are a disaster. You can tell whoever cleaned these bathrooms took pride and what they did. The bathroom smelled like lavender and vanilla. The urinals shined like the sun over the horizon in the long last land of Atlantis.

The tool section was very vast and had everything that you were looking for. Everything was perfectly positioned and priced correctly. It really was the best Lowe's I have ever gone to. They had free air outside. An ample parking area for loading and unloading. And much much more.

X


DD
Local Guide · Level 7

7,009 points ›


5,00015,000

[Reviews](#)[Photos](#)**Walmart Supercenter**

45415 Dulles Crossing Plaza, Sterling, VA 20166

☆☆☆☆☆ a week ago

What an amazing Walmart this was. They had everything you need. They had a stop firespray in case you had a fire at your apartment and your fire alarms are broken with no firewatch. They had residential dehumidifiers, in case you need to do water remediation. They had snow salt and snow equipment in case they had a named storm, you can charge it to that.. So many different items Items!

The employees were very friendly and they have a ton of self check-outs!. Hopefully all the pictures are helpful. Very clean and well ran Walmart.





D D

Local Guide · Level 7

7,009 points >

5,000

15,000

Reviews

Photos



Amazon Fresh

7005 Manchester Blvd, Franconia, VA 22310



a week ago


Amazon fresh is great. When you need to return something you bought from Amazon. They seemed obsessed with these \$10 off coupons. I do not find their items to be cheaper than other stores. Walmart is much much less expensive and fully stocked.


Not one employee said hello to me, ask me how I'm doing, or anything. There was probably 30 employees there filling online orders. The store was lacking selection. Not very stocked up.


I would only recommend this if you needed to return something to Amazon online. Or, if you want to see a bunch of people working.

Sorry Amazon, this is why you're brick and mortar stores are not working?






DD
Local Guide · Level 7




5,000

7,009 points >

15,000

Reviews

Photos

 1  Share

**Homesense**

7005 Manchester Blvd, Franconia, VA 22310


 a week ago


I just love HomeSense. It is the best store I've ever been into in my life. It is part of the TJ Maxx and HomeGoods collection and it is absolutely wonderful. They always have something new and I love to go around the store for hours and hours.

They had so many pillows, I just love pillows, every time I'm there I buy another pillow, me and my family collect pillows and this is the best place to go. They also had a large selection of bathroom items, including towels, tumblers and different odds and ends.

They had a great furniture selection and a lot of items on clearance. I took a lot of pictures so you can see how great their items are. If you need candles or picture frames. This is also a great place to go. So many things so little time.

There were plenty of carts clean and ready when you walked in. They have a great little credit card that offers 5% cash back on anything you purchase from any of their stores. Me and all the members of my family have one of their credit cards. It definitely makes it worth shopping there.




D D
Local Guide · Level 7

7,009 points >

5,000

15,000

Reviews

Photos

**Old Navy**

6711 Frontier Dr, Springfield, VA 22150

★★★★★ 4 days ago

I ran to Old Navy today to look at some clothing for a new winter look. When I first walked in the door there was a mannequin of a dog, it was very ferocious looking.

A girl welcomed me to Old Navy and asked me if I needed help finding anything. I replied to her, no, I'm good. Thank you for asking. Asking. We then talked about the weather, which it was raining, but other than that it was pretty nice. It was about 40° out that day .

Anywho, I proceeded to look around the store to check out everything. The store was in. Very good order, very organized, and very well laid out. They had a huge clearance section with a lot of end of the season items on sale .

The fitting rooms were very clean and organized and the person watching them promptly helped me. I was in the fitting room for about 45 minutes trying on different clothing and the person was more than happy to help .

There was another mannequin that I saw wearing some new clothing. That mannequin startled me as well. Unfortunately, I have a fear of mannequins. Ever since that show on Nickelodeon Special Delivery, mannequins have frightened me. Other than that this Old Navy was a great

**Buffalo Wild Wings**

6385 Carlisle Pike, Mechanicsburg, PA 17050

★ ★ ★ ★ ★ a week ago

Had awesome wings for lunch today. The service was great, Jennifer was very friendly. Jennifer made a lot of small talk and suggested some items that sounded absolutely delicious. The service was prompt and quick even though it was very busy. The food came out piping hot and the wings were some of the best I've had in my life

I got a diet soda for my drink and the amount of ice they put in it was just perfect. The lemon slice they gave me was also just perfect.

I have been to several Buffalo wild wings and this is by far the best I have ever been to. I will be visiting this once to twice a week from now on. Great job Buffalo wild wings. You made me a long time customer.

Always enjoy the wings here.

Service

Dine in

Meal type

Lunch



D D

2 hours ago

What a great trip to home Depot. I needed a couple items. When I got there I was greeted with a smile by a cashier. She asked me how my day was and asked me if I needed help finding anything. I asked her which way to the paint aisle and I was on my way .

I needed some 6-in paid trays and a thin-tipped caulk. I was able to find both but I must say there was quite the selection of caulk. There was white caulk, brown caulk, clear caulk, gray caulk, red caulk and more. They had the biggest selection of caulk I have ever seen!!

They also had a great flooring department, they had hardwood laminate tile and many different selection of flooring. They had a great appliance area with lots of appliances. They had washers, dryers, dishwashers, fridges, freezers, and more. They had a kitchen design center & an associate asked me if I needed help with anything. We sat down and talked for about an hour and a half about my kitchen and possibly redoing it in the future. She showed me many selections of cabinet fronts, granite, quartz, and other selections of countertops. She was very, very very very helpful.

I also spent about an hour and a half in the tool department. I worked with the guy, I don't remember his name, but he had a red beard, he was very helpful as well. Very talkative and new his stuff. We talked about tools, and different types of screws. He was a very, very helpful .

Everyone at this home Depot was so very friendly. I really appreciate it. I will be back in the near future.

Like

Share

5 days ago

Super nice. Very organized, lots of great deals, and a great staff. It's in a nice little shopping center, with plenty of parking.

I went in looking for the new Debbie Gibson record, but was excited to see they had the Michael Jackson thriller record. I picked up this record and about 7 or 8 more.

I then decided to check out the psychology books and spent a great deal of time. Perusing through them. I bought about 7 or 8 books on mental health as well as three three books on ADHD.

I then spent about an hour or two wandering the store looking at different books and trying to decide what I wanted to read next. Every book shelf was in perfect order. Someone took great pride and making sure the store was perfectly organized. Everything was clean, crisp and smelled of new paper.

Sometimes I wish I was an author like Danielle Steele. Daniel Steele was my favorite author and has written so many great books. I particularly liked the one she wrote about the farmer living in Kennebunkport Maine. That was a great book.

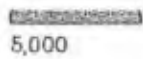
Anywho, I would highly recommend this Barnes& Noble to anyone that wants to spend a day with books. Books. The staff is great and the store is impeccable.

Great job! 😊



**D D**

Local Guide • Level 7



7,009 points ›

15,000

Reviews

Photos



1



Share

**Dare Deli & Steamhouse**

800 Dare Rd, Yorktown, VA 23692

★ ★ ★ ★ ★ 2 weeks ago

Great food! Crab cake sandwich to die for! More

Service

Take out...






1




Share







DD
Local Guide · Level 7





5,000


7,009 points ›
15,000

Reviews

Photos

 Like


 Share




HomeGoods
5944 Kingstowne Blvd, Kingstowne, VA 22315

★★★★★ 2 hours ago

Always a great trip to HomeGoods! The staff is friendly.
The store is clean and organized.

 Like

 Share



1.7 19 reviews

People often mention

All property 7 leasing 5

Sort by

Most relevant Newest Highest Lowest



D D
Local Guide · 81 reviews · 909 photos

2 hours ago NEW

An employer who encourages embracing opportunities and doing the right thing, at the right time, for the right reason.


They are not even close.


Their General Counsel and Employee Relations departments should be gone.....no integrity

I rather have been associated with Theranos...



6


DD
Local Guide · Level 7


7,009 points
5,00015,000

Reviews

Photos

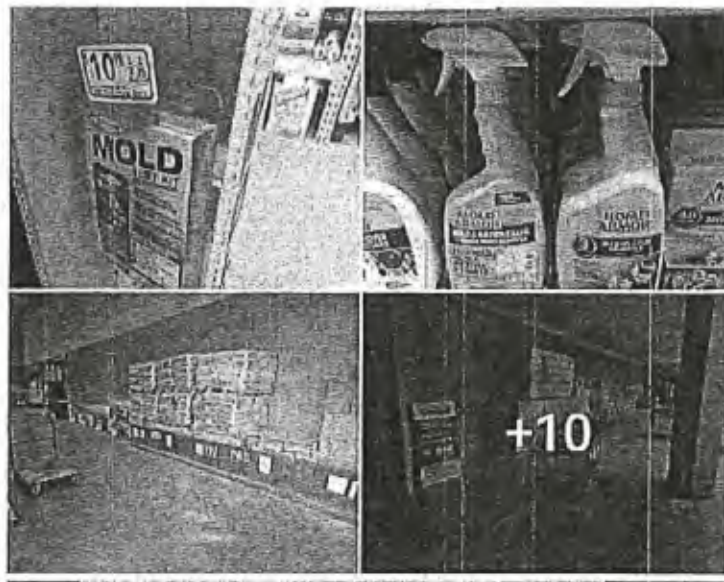
**Lowe's**

6750 Richmond Hwy, Alexandria, VA 22306

★★★★★ a week ago

Great Lowe's Store! Have everything needed. I was asked several times if I needed help with anything, which was awesome 👍 They recently added several more self checkouts. They have a large selection of appliances, lighting, paint and tools.

I definitely enjoy this place. They had a mold detection kit and also some other mold items. I read the instructions on the back and they sounded pretty great. I picked up some of these items so I can practice water remediation in my own home in Kentucky.





DD
Local Guide · Level 7
7,009 points


5,000 15,000

Reviews

Photos



1

 Share

ServiceMaster National Capital Restoration
7551 Fordson Rd, Alexandria, VA 22306


★★★★★ a week ago

Service Master did a great job on a flood I had in an apartment. They were very professional and courteous. They used an infrared camera to check for moisture in the walls. They made sure to properly sanitize the area with a mold inhibitor. They cut out the wood that they could not save.

You can tell these guys were very well trained And knew what they were doing. Great job!



1

 Share



DD
Local Guide · Level 7


7,009 points >

 5,000 15,000

Reviews Photos

**Giant Food**

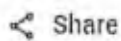
3131 Duke St, Alexandria, VA 22314

 a week ago

Giant is a great grocery store. Clean and friendly associates.




1



Share

**Alexandria Commons**

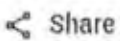
3233 Duke St, Alexandria, VA 22314

 a week ago

Great little shopping center! Plenty of parking.



1



Share

Ex 1 (BCi)

X



DD

Local Guide · Level 6

2,399 points ›

5,000

)

Reviews

Photos

Date ▼

4 5,104

U.S. Securities and Exchange Commission
100 F St NE, Washington, DC 20549



EXHIBIT 4

Blackman, Jay

From: Melnick, Jackie
Sent: Thursday, February 23, 2023 5:24 PM
To: Locklear, Thannie; Hughes, Sarah; Bowers, Denise; Blackman, Jay; Kee, Kristine; Pitsenbarger, Jenna
Subject: Great Quote by John Maxwell | Vacation Note

Hey Team,

I am off to Kansas and excited to see my nephew and family – Before I cut out, I wanted to let you know that if there is anything I can solve for you in a few minutes, do not hesitate to reach out if you need me. I will be approving P2P and Workday as I am out, so please feel free to text me if you have an offer that needs immediate attention or something you need.

Warren recently used the analogy that we need to “right the ship” and I called for “all hands on deck.”

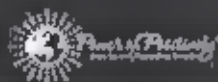
I saw this quote that resonated with me and fits the theme (LOL) , so and I wanted to share and ask you to continue to adjust your sails as needed! I know we have been fighting a bit of an occupancy fight at a few properties, but I am confident we have this!

Have a great weekend!

Jackie

**The pessimist
complains about the
wind. The optimist
expects it to change.
The leader adjusts
the sails.**

John Maxwell



**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT
COMMUNITIES, INC.**

Plaintiff,

V.

DENNIS MICHAEL PHILIPSON,

Defendant.

Docket No. 2:23-cv-02186-SHL-cgc

I, Johnathan Bridbord, declare:

1. I am employed as a Managing Director at FTI Consulting, Inc. (“FTI”), a global business consultancy firm where I provide expertise to clients in digital forensics and investigations. I have personal knowledge of the facts contained herein.

2. I am over the age of 18 and not a party to this action.

3. Before joining FTI, I worked for five years at Ankura Consulting Group, leading its Cybersecurity Investigations and Expert Services Team.

4. I have provided expertise and leadership to clients in data forensic acquisition, forensic analysis, incident response management, malware reverse engineering, threat intelligence, cybersecurity operations, and security policy development. I have managed complex computer intrusion and breach matters through investigation and develop strategies to respond to and mitigate current and emergent cyber security risks and threats.

5. I have worked in the computer forensic industry for over 20 years, including a decade of cyber-investigative leadership and supervisory roles in the Criminal Division of the United States Department of Justice (“DOJ”). I served as Assistant Director of the DOJ’s High Technology Investigative Unit. In this capacity, I supervised Digital Investigative Analysts

engaged in forensic examinations of computer systems, mobile devices, and digital media; provided nationwide expertise to federal prosecutors and agents on cutting-edge data forensic issues; and provided expert witness testimony in federal district courts across the country.

6. My work at DOJ also included researching and developing investigative techniques that have been implemented to counter encryption and malware, and to identify forensic artifacts of attribution from exit routers on the darknet.

7. I also developed and presented innovative coursework as an instructor at DOJ's National Advocacy Center, in Columbia, South Carolina. I trained hundreds of federal prosecutors, agents, and forensic examiners on best practices involving computer forensic evidence acquisition, analysis, and expert witness trial testimony. I have been recognized by the United States Attorney General, Deputy Attorney General, Associate Attorney General, Assistant Attorneys General, and FBI Director for my performance of duty, contributions to cases, and implementation of special projects.

8. Prior to my service at DOJ, I worked as the senior forensic examiner at DOAR Litigation Consulting, in New York City. At DOAR, I established the firm's in-house data forensic capability, which involved creating processes and procedures for data acquisition, analysis, and expert reporting.

9. Prior to working at DOAR, I served as a special investigator and security engineer in the Citywide Information Security Architecture, Formulation and Enforcement Unit, within the New York City Department of Investigation. I conducted computer and network security vulnerability assessments of New York City government agencies and performed computer forensic examinations of seized computer systems and digital media, in support of the inspectors general.

10. I have served honorably in the New York Air National Guard.

11. I hold a bachelor's degree in computer science, from Queens College of the City University of New York, and a master's degree in forensic computing and cybercrime investigation from University College Dublin.

12. I hold numerous professional certifications in cybersecurity and digital forensics, and I am affiliated with several cybersecurity and digital forensic industry organizations. Attached hereto as Exhibit A is a true and correct copy of my CV.

13. On or about April 3, 2023, FTI was engaged with Mid-America Apartment Communities, Inc. ("MAA") to provide digital investigative analysis in support of this case. Specifically, MAA was concerned that an individual or individuals (the "Threat Actor" or "Threat Actors") were trying to obtain unauthorized access to its computer systems, cyberstalking its employees, and misappropriating its trademarks to create an infringing website, "magaawesomeapartments[.]com" (the "Infringing Website"), and false LinkedIn accounts. I was tasked with determining the identity of the Threat Actor.

14. I reviewed various evidence in order to identify indicators of compromise, and user attribution associated with domains, email accounts, IP addresses, unique device identifiers, and tactical observations underlying the captioned matter.

15. I have worked approximately 60 hours on this matter to date and my professional rate is \$785 per hour.

SUMMARY OF FINDINGS

16. I identified evidence that Dennis Philipson created, owned, and controlled the Infringing Website "megaawesomeapartments[.]com" between March 5, 2023, and April 12, 2023.

17. I identified evidence that Dennis Philipson attempted to compromise user account credentials of various MAA user accounts on January 2, 2023.

18. I identified evidence that Dennis Philipson used techniques to evade online detection, including usage of fake identities, disposable email accounts, virtual private networks, and privacy browser technology.

EVIDENCE ITEMS EXAMINED

19. I examined the following items:

A) A copy of the Amended Complaint, case no: 2:23-cv-02186-SHL-cgc, filed in the United States District Court for the Western District of Tennessee.

B) Wix subscriber records; provided on May 3, 2023, by Karyna Yakushenko, Custodian of Records; File name: “2023.03.05 Wix Request Response Letter – www[.]megaawesomeapartments[.]com.pdf”; SHA-256 value “704296501DF7D630383A2C81229C3134CB2E78679435260B7FB168947388839B”.

C) Verizon subscriber records; provided on May 30, 2023, by Rex Looney, Custodian of Records; File name “23277757_RELEASE.pdf”; SHA-256 value “13240282558F81D109F7EB3F8361078834F775B1AE946AAD5D0129D16BDAF985”.

D) Okta logs; provided on April 17, 2023, by Alex Tartera, VP Cybersecurity MAA; file name “syslog_query (3).csv”; SHA-256 value

“3C631E407041FE2E4220D288E426FEC60A27A312254867285448C
F5BE7F1B40C”.

E) Google subscriber records; provided on June 5, 2023, by Ra Bacchus,
Custodian of Records; File name
“mphillyd@gmail.com.417090617324.GoogleAccount.SubscriberInfo_0
01.001.zip”; SHA-256 value
“251A83661DE9EB0CB513CF97064643462C043B400CB95690A7525
7460246E972”.

F) LinkedIn subscriber records; provided on April 21, 2023, by Robin
Breazier, Custodian of Records; File name “LI Records.zip”; SHA-256
value
“6327C822C907F5A4115AA6265CE569636FFEAC86C2B5464296F7
3A9B416208FC”.

WIX SUBSCRIBER RECORDS

20. A Whois domain lookup allows a user to trace the ownership and tenure of a domain name. Similar to how houses are registered with a governing authority, domain name registries maintain a record of information about each domain name purchased through them. The Whois database contains details such as the registration date of the domain name, when it expires, ownership and contact information, nameserver information of the domain, and the registrar via which the domain was purchased.

21. I conducted a whois lookup on the Infringing Website www[.]megaawesomeapartments[.]com and determined that on March 5, 2023, the domain name was registered through WIX.

22. MAA obtained and I subsequently reviewed WIX Subscriber Records, including logs for user account logins to the WIX administrative portal, for website [www\[.\]megaawesomeapartments\[.\]com](http://www[.]megaawesomeapartments[.]com), during the date range March 4, 2023, through March 15, 2023. The following chart was included within the WIX subscriber records showing the various IP addresses and when they were used to access the WIX website administrator portal:

date_created	ip	signin_or_signup_or_logout
2023-03-15 1:20:00	209.107.103.64	signin
2023-03-15 0:30:24	209.107.103.64	signin
2023-03-13 1:37:16	68.9.247.134	signin
2023-03-12 23:28:40	209.107.101.157	signin
2023-03-12 16:41:37	108.31.205.70	signin
2023-03-12 14:17:17	209.107.101.197	signin
2023-03-12 2:44:36	209.107.103.104	signin
2023-03-12 2:05:57	209.107.103.104	signin
2023-03-12 0:04:17	108.31.205.70	signin
2023-03-11 23:45:20	108.31.205.70	signin
2023-03-11 21:08:52	209.107.101.129	signin
2023-03-11 21:04:58	209.107.101.129	signin
2023-03-11 20:37:45	108.31.205.70	signin
2023-03-11 20:29:20	108.31.205.70	signin
2023-03-11 19:37:00	209.107.101.160	signin
2023-03-11 19:27:57	209.107.101.160	signin
2023-03-11 18:25:42	209.107.103.128	signin
2023-03-11 17:58:14	108.31.205.70	signin
2023-03-11 17:17:28	209.107.101.132	signin
2023-03-11 15:38:54	209.107.101.132	signin

2023-03-07 2:31:20	209.107.103.177	signin
2023-03-07 1:11:56	209.107.103.177	signin
2023-03-06 18:09:20	108.31.205.70	signin
2023-03-06 1:36:51	209.107.101.153	signin
2023-03-05 0:10:24	108.31.205.70	signin
2023-03-04 23:59:30	108.31.205.70	signin
2023-03-04 22:56:08	209.107.101.42	signin
2023-03-04 22:16:14	108.31.205.70	signin
2023-03-04 20:52:23	209.107.103.176	signin

23. A Whois internet protocol (“IP”) address lookup allows a user to trace the organization to which the IP address has been assigned. IP address numbers are assigned to networking organizations with a record maintained by governing bodies for each IP address number and the organization to which it has been assigned. An IP address is a unique address of a server or computer on the internet. An IP address, similar to how a telephone number allows one

to connect to a specific phone on the telecom network, allows a computer to connect to a specific server on the internet.

24. I conducted a whois lookup on IP address “108.31.205[.]70” contained within the WIX subscriber records. I determined IP address “108.31.205[.]70” traced back to Verizon FiOS.

25. I conducted a whois lookup on IP address “64.9.247[.]134” contained within the WIX subscriber records. I determined the IP address “64.9.247[.]134” traced to Google Wi-Fi.

26. I conducted a whois lookup on IP range “209.107.176[.]0” - “209.107.191[.]255” contained within the WIX subscriber records. I determined IP range “209.107.176[.]0” - “209.107.191[.]255” traced to Google VPN.

27. I reviewed the WIX user information, billing and payment information. The following chart was included within the subscriber records:

User Information:

User Name frankreso28

Email frankreso28@gmail.com

Billing and Payment Information:

Prod_Name	Prod_Status	email	phone_number	address	city	postal_code	country	credit_card	exp_date
5 sup	Silver	emmanuel5@outlook.com	13011847670	1845 Woodmont Lane NW	Atlanta	30318	US-USA	999 9999 9999 9999	12/31/2023

28. I reviewed WIX Subscriber Records, and determined that on March 15, 2023, the administrator for the Infringing Website, www[.]megaawesomeapartments[.]com, transferred ownership to the following user identity:

ACCOUNT WHERE DOMAIN WAS TRANSFERRED TO:

User Information:

User Name jerrylinds8

Email qatkmq34@duck.com

29. I determined that the same IP addresses, previously used to signin under user name “frankreso28”, were used to signin under the new user name “jerrylinds8” on March 15, 2023, and

on April 12, 2023. The following chart was included within the WIX subscriber records for the new user name “jerrylinds8”:

date_created	ip	signin_or_signup_or_logout
2023-04-12 15:22:38	185.203.219.131	signin
2023-03-15 2:33:36	108.31.205.70	signin
2023-03-15 1:28:28	209.107.183.64	signup

30. I conducted a whois lookup on IP address “185.203.219[.]131” contained within the WIX subscriber records. I determined the IP address “185.203.219[.]131” traced to Packethub VPN service.

VERIZON FIOS SUBSCRIBER RECORDS

31. MAA obtained and I subsequently reviewed the Verizon FiOS subscriber records for IP address “108.31.205[.]70” for the date period March 10, 2023, through March 16, 2023. The following chart was contained within the subscriber records:

```

Verizon Case #: 23277757 0          Target #: 108.31.205.70
Docket/File #: 2:23-cv-02186-SHL-cgc    All Times Are: UTC
=====
Search Value: IP Address: 108.31.205.70
Start Time: 2023-03-10 13:09:56Z
Stop Time: 2023-03-16 11:38:38Z
Duration: 5d 22h 28m 42s
=====
Customer Information:
=====
Account Creation Date: 02/01/2020
Vision Customer Id: 156166456
Vision Account Id: 0001
Customer Name: Dennis Philipson
Account Address: 6178 CASTLETOWN WAY, ALEXANDRIA, VA 223100000
Daytime Telephone: 7035815689
Email Address: mphillyd@gmail.com
Description: VZ Fios Consumer Internet Plan

Primary      UserID: wzrpigec8ze9
              UserName: VZWiredMP152011

```

32. I determined IP address “108.31.205[.]70” traced back to customer name “Dennis Philipson”, account address “6178 Castletown Way, Alexandria, VA 22310”, daytime telephone “7035815689”, and email address “mphillyd[.]gmail[.]com”. I understand from MAA’s counsel that Dennis Philipson has admitted that he lives at this address and

has used this email address in his recent deposition. This indicates that Dennis Philipson was the individual controlling the Infringing Website, “megaawesomeapartments[.]com.”

OKTA LOGS

33. MAA had reason to believe that someone was trying to gain unauthorized access to its computer systems. Okta is an identity and access management cloud software that provides managed user authentication into applications, web services and devices. MAA uses Okta for these purposes. I obtained and reviewed the Okta system logs for indicators of compromise and determined password reset actions were initiated on January 2, 2023, from the following IP addresses:
- 209.107.191[.]184
 - 185.93.0[.]153
34. I conducted a whois lookup on IP address “209.107.191[.]184” and determined the same IP address “209.107.191[.]184” traced to the same Google VPN services previously identified in the WIX IP logs.
35. I conducted a whois lookup on IP address “185.93.0[.]153” and determined the IP address “185.93.0[.]153” traced to DataPacket VPN service.
36. A “user agent” string is a unique identifier that gets transmitted over web communication request to let servers and network peers identify the application, operating system, vendor, and/or version of the requesting device conducting the web communication request.
37. I determined both IP addresses contained the same user agent string, indicating that the same source device was conducting the credential access in both cases:
- “Mozilla/5.0 (Linux; Android 13) AppleWebKit/537.36 (KHTML, like

Gecko) Version/4.0 Chrome/108.0.5359.128 Mobile DuckDuckGo/5
Safari/537.36”

38. I determined the same user agent string, used to conduct credential access to various MAA users, was the unique identifier for an Android 13 device using the DuckDuckGo internet browser. I understand from MAA’s counsel that Mr. Philipson has admitted to owning and using an Android 13 device.

GOOGLE SUBSCRIBER RECORDS

39. MAA obtained and I subsequently reviewed Google subscriber records for Gmail account “mphillyd[.]gmail[.]com”. The Gmail account “mphillyd[.]gmail[.]com” was previously identified in the Verizon FiOS subscriber records associated with “Dennis Philipson”.
40. I reviewed the Google subscriber information and determined that the account was created on January 3, 2015, using IP address “72.209.248[.]18”.
41. I conducted a whois lookup on IP address “72.209.248[.]18” and determined the IP address “72.209.248[.]18” traced to Cox Communications.
42. I reviewed the Google subscriber information and determined that the account was recently deleted on April 14, 2023, using the IP address “136.22.13[.]118”.
43. I conducted a whois lookup on IP address “136.22.13[.]118” and determined the IP address “136.22.13[.]118” traced to Google WiFi VPN service.
44. I determined the IP address “185.93.0[.]153”, previously identified in the Okta system logs, was used to login to the Gmail account “mphillyd[.]gmail[.]com” on February 21, 2023. This indicates that the individual controlling the email address mphillyd[.]gmail[.]com—Dennis Philipson—was the same individual that

attempted to gain unauthorized access to MAA's systems.

45. In addition, I determined the following user agent string, previously identified in the Okta system logs, was used to login and access Gmail account "mphillyd[.]gmail[.]com" on December 21, 23 and 29, 2022:

- "Mozilla/5.0 (Linux; Android 13) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/108.0.5359.128 Mobile DuckDuckGo/5 Safari/537.36"

46. This provides additional evidence that Dennis Philipson is responsible for the unauthorized attempt to access MAA's system.

47. I determined the user agent string was a unique identifier for an Android 13 device using the DuckDuckGo internet browser. This was the same device characteristics previously seen conducting the credential access on the MAA use accounts.

48. Again, I understand that Mr. Philipson admitted in his deposition that he uses an Android 13 device.

LINKEDIN SUBSCRIBER RECORDS

49. MAA obtained and I subsequently reviewed LinkedIn subscriber records for the fake company "maa-apartments" (the 'Fake LinkedIn Accounts'). I determined that the company profile was created on March 12, 2023, by user "Craig Silver" with an email address "6w060ruq[.]duck[.]com". The identity "Craig Silver" was previously used as an identity in the WIX billing and payment information. This would indicate that the individual who controlled the Infringing Website in the Wix Account—Dennis Philipson—also controlled the fake LinkedIn Accounts.

50. I identified the IP address "2607:fb90:18d8:a7a6:0:50:b7b4:6a01" was used to logon

on to the Fake LinkedIn Accounts March 14, 2023. I conducted a whois lookup on this IP address and determined that it traced back to T-Mobile USA, Inc.

51. I determined the following user agent string was used to login to the “Craig Silver” LinkedIn account on March 14, 2023:

- “Mozilla/5.0 (Linux; Android 13) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/110.0.5481.154 Mobile DuckDuckGo/5 Safari/537.36”

52. I determined the user agent string was a unique identifier for an Android 13 device using the DuckDuckGo internet browser. This was the same device characteristics previously seen conducting the credential access on the MAA use accounts and used to login to the Gmail account “mphillyd[.]gmail[.]com”.

CONCLUSIONS

53. I reviewed the WIX subscriber records and determined the IP address “108.31.205[.]70” was used to login to the administrative portal for Infringing Website “megaawesomeapartments[.]com” between March 11, 2023, and March 15, 2023.

54. I reviewed the Verizon FiOS subscriber records for IP address “108.31.205[.]70” during the time period between March 10, 2023 and March 16, 2023, and determined the customer name to be “Dennis Philipson”; the Account Address to be “6178 CASTLETOWN WAY, ALEXANDRIA, VA 22310”; The Daytime Telephone to be “7035815689”; and the Email Address to be “mphillyd[.]gmail[.]com”.

55. I reviewed the MAA Okta logs and determined on January 3, 2023, password reset attempts were made against MAA user accounts from a Threat Actor with IP address

“185.93.0[.]153” and user agent “Mozilla/5.0 (Linux; Android 13) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/108.0.5359.128 Mobile DuckDuckGo/5 Safari/537.36”.

56. I reviewed the Google subscriber logs for “mphillyd[.]gmail[.]com” and determined IP address “185.93.0[.]153” and user agent “Mozilla/5.0 (Linux; Android 13) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/108.0.5359.128 Mobile DuckDuckGo/5 Safari/537.36” were used to login to the Gmail account.
57. The same IP address and user agent, identified in both Okta logs and “mphillyd[.]gmail[.]com” Google logs, were used by the Threat Actor.
58. I determined the Threat Actor used VPN services, DuckDuckGo private browser, and duck[.]com disposable email accounts as tactics to conceal their true location and prevent online tracking.
59. Based on my analysis and expertise, the above facts indicate to me that Dennis Philipson is the Threat Actor who controlled the Infringing Website and attempted the unauthorized access of MAA’s computer system.
60. I declare under penalty of perjury that the foregoing is true and correct.

DATE: 11/10/2023

BY:

DecuSigned by

#30AD838D5B043A
JOHNATHAN BRIDBORD

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
phillydee100@gmail.com

This 25th day of January, 2024

/s/ Paige Waldrop Mills
Paige Waldrop Mills

EXHIBIT A

I. Johnathan Bridbord

555 12th Street NW, Suite 700
Washington, DC 20004
(202) 346-8859
Johnathan.Bridbord@fticonsulting.com

Experience	Managing Director FTI Consulting, Inc.	2021 - present Washington, DC
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I manage and conduct digital forensic investigations in various technology-based disputes for FTI Consulting's Technology segment. I provide expertise to clients in data forensic acquisition, analysis, and expert reporting. I provide expert services as a disclosed expert, third party neutral expert, and privileged expert in criminal, civil or regulatory disputes.

Managing Director Ankura Consulting Group, LLC	2017 - 2021 Washington, DC
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I managed the cybersecurity investigations and expert services team within the cybersecurity practice group. I provided cybersecurity expertise leadership in data forensic acquisition, forensic analysis, incident response management, malware reverse engineering, threat intelligence, cybersecurity operations, security policy development and expert witness testimony.

I managed complex cyber investigations from scope to resolution. I was responsible for aligning and developing cyber practice capabilities and offerings to respond to and mitigate current and emergent cyber and privacy risks and threats. I designed, architected, calibrated, and manage the Washington, DC cyber forensic lab consisting of virtual and physical hosts, secure evidence storage, and processing and analysis servers. I designed and deployed logical and physical access controls ensuring secure segmentation, evidence integrity and chain of custody.

Assistant Director, High Technology Investigative Unit U.S. Department of Justice, Criminal Division	2007 - 2017 Washington, DC
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I supervised the High Technology Investigative Unit consisting of digital investigative analysts in conducting forensic analysis of seized computer systems, servers, mobile devices, and other media to provide investigative and analytical support to prosecutors and law enforcement agents.

I supervised and conducted online investigations and analysis of Internet technologies used to commit federal offenses. I conducted investigations of high technology crimes on the Internet.

I developed and implemented strategies for gathering and preserving electronic evidence. I supervised and used tools and other investigative techniques to document the contents of web sites, physical location, and other identifying information to produce concise and detailed reports.

I supervised, prepared, and served appropriate legal process to electronic communication services and remote computer services associated with ongoing criminal investigations. I provided technical advice to prosecutors and federal law enforcement agents.

I provide expert witness testimony in federal district courts. I managed the procurement of forensic tools, resources, and training for the High Technology Investigative Unit.

I managed FISMA certification and accreditation of forensics and investigations local area networks.

**Senior Forensic Examiner
DOAR Litigation Consulting**

2004 - 2007
Lynbrook, NY

I was responsible for managing the firm's forensic capability. I provided data forensic consultation in support of litigation and investigative matters.

I managed the division comprised of forensic analysts and associates. I designed and implemented the forensic lab providing data recovery, analysis and secure chain of custody evidence handling and storage.

I designed the firm's standard operating procedures and chain of custody documentation including evidence handling, acquisition, authentication, analysis, and expert reporting. I supervised all forensic investigative assignments, static and network-based image captures and data preservation.

**Special Investigator
City of New York Department of Investigation
Citywide Information Security and Forensic Unit**

2002 - 2004
New York, NY

I was responsible for participating in the development, deployment, and maintenance of the Electronic Crime Investigation program. I served as forensic examiner and Team Lead responsible for planning, coordinating, and directing forensic seizure, acquisition, and analysis of data.

I examined and performed comprehensive technical analyses of computer-related evidence in support of the Inspectors General and prosecutors. I served as a technical consultant and provided training in computer examinations and techniques to Inspector General Offices.

I was responsible for the management, design and build of the Communications Assistance for Law Enforcement Act (CALEA) lab.

I planned and executed information security audits of citywide agencies. I assessed computer security vulnerabilities, determined risk, and provided direction in mitigation and remediation. I executed network, web application, database, 802.11x, and policy scans.

I formulated and enforced citywide information security policy, directives and standards. I consulted citywide project developers on information security planning, design and quality assurance testing.

**Senior Airman
106th Rescue Wing
New York Air National Guard**

1998-2002
Westhampton Beach, NY

I managed base communications-computer systems projects and ensure communications computer systems architecture, configuration, and integration conformity. I managed, supervised, and performed communications-computer systems planning and implementation activities.

Education	M.Sc., Forensic Computing & Cybercrime Investigation, University College Dublin	
	B.A., Computer Science, Queens College of the City University of New York	
Professional Certifications	X-Ways Professional in Evidence Recovery Techniques (X-PERT)	2022
	X-Ways Software Technology AG	
	Certified Cyber Crime Investigator (3CI)	2022
	National White Collar Crime Center	
	Certified Cyber Crime Examiner (3CE)	2022
	National White Collar Crime Center	
	Cryptocurrency Tracing Certified Examiner (CTCE)	2021
	CipherTrace, Inc.	
	GIAC Network Forensic Analyst (GNFA)	2020
	Global Information Assurance Certification Program	
	Certified Forensic Security Responder (CFSR)	2020
	Open Text Corporation	
	GIAC Advanced Smartphone Forensics (GASF)	2017
	Global Information Assurance Certification Program	
	Certified Cyber Forensics Professional (CCFP)	2013
	International Information Systems Security Certification Consortium	
	Certified Information Security Manager (CISM)	2012
	Information Systems Audit and Control Association	
	Certified AccessData Mobile Examiner (AME)	2012
	AccessData Corporation	
	GIAC Certified Forensic Analyst (GCFA)	2012
	Global Information Assurance Certification Program	
	Digital Forensic Certified Practitioner (DFCP)	2009
	National Center for Forensic Science, Digital Forensics Certification Board	
	Computer Hacking Forensic Investigator (CHFI)	2009
	International Council of Electronic Commerce Consultants (EC-Council)	
	CERT Certified - Computer Security Incident Handler (CSIH)	2008
	Carnegie Mellon University, Software Engineering Institute	
	AccessData Certified Examiner (ACE)	2007
	AccessData Corporation	
	EnCase Certified Examiner (EnCE)	2005
	Guidance Software	
	Certified Information Forensics Investigator (CIFI)	2005
	International Information Systems Forensics Association	

Certified Information Systems Security Professional (CISSP) 2003
International Information Systems Security Certification Consortium

Information Assurance Security Officer (IASO) 2003
Department of the Army, School of Information Technology
Fort Gordon, Georgia

Presentations *Cyber Hacking and Cyber Breaches – Panelist*
2022 White Collar Crime Symposium
New Jersey Institute for Continuing Legal Education (NJSBA)
New Brunswick, NJ, August 2022.

Cyber Forensic Expert Witness Testimony – guest lecturer
“Trial Practice and Applied Evidence” course
Georgetown University Law Center
Washington, DC, February 2022.

Distinguished Subject Matter Expert
Certified Information Systems Security Professional (CISSP)
Remote Item Writing Workshop
International Information Systems Security Certification Consortium
June 2021 – July 2021.

CFAA Challenges after Van Buren – What’s on the Horizon?
A webinar exploring how the SCOTUS Van Buren decision will impact insider threat investigations and the related legal considerations.
June 2021.

Cyber Forensic Expert Witness Testimony – guest lecturer
“Trial Practice and Applied Evidence” course
Georgetown University Law Center
Washington, DC, March 2021.

Biometrics: Before and After COVID-19 – Panelist
NetDiligence Cyber Risk Summit
Santa Monica, CA, September 2020.

Cyber Forensic Expert Witness Testimony – guest lecturer
“Trial Practice and Applied Evidence” course
Georgetown University Law Center
Washington, DC, February 2020.

Distinguished Subject Matter Expert
Certified Information Systems Security Professional (CISSP) Item Rework Workshop
International Information Systems Security Certification Consortium
Tampa, FL, December 2019.

Cyber Forensic Expert Witness Testimony – guest lecturer
“Trial Practice and Applied Evidence” course
Georgetown University Law Center
Washington, DC, February 2019.

Beyond eDiscovery – Creating Context by Connecting Disparate Data
2018 Ingenious South Central Retreat

Austin, TX, July 2018.

Core Components of Computer Forensics

Pace University

Seidenberg School of Computer Science and Information Systems

New York, NY, May 2017.

Encrypted and Locked Mobile Device Strategies

National Law Enforcement Training on Child Exploitation

Atlanta, GA, April 2016.

Beating Encryption: Investigative Strategies

PSC Advanced Online Child Exploitation Seminar

National Advocacy Center, Columbia, SC, August 2015.

Unlocking Mobile Devices

PSC Advanced Online Child Exploitation Seminar

National Advocacy Center, Columbia, SC, August 2015.

Beating Encryption: Investigative and Legal Strategies

National Law Enforcement Training on Child Exploitation

Atlanta, GA, June 2015.

Proving Your Case and Meeting Common Defenses with Computer Forensics

National Law Enforcement Training on Child Exploitation

Atlanta, GA, June 2015.

Dealing with Encryption and Anonymization

U.S. Attorney's Office, District of Maryland, PSC Training

Glen Bernie, MD, April 2015.

Distinguished Subject Matter Expert

Certified Cyber Forensics Professional Writing Workshop

International Information Systems Security Certification Consortium

Miami, FL, December 2014.

Seizing a Locked Mobile Device

PSC Advanced Online Child Exploitation Seminar

National Advocacy Center, Columbia, SC, June 2014.

Advanced Forensic Artifacts and Emerging Capabilities

PSC Advanced Online Child Exploitation Seminar

National Advocacy Center, Columbia, SC, June 2014.

Distinguished Subject Matter Expert

Certified Cyber Forensics Professional Writing Workshop

International Information Systems Security Certification Consortium

Miami, FL, April 2014.

Proving Your Case and Meeting Common Defenses with Computer Forensics

HSI-ICE, Child Exploitation Investigations Group, Training Seminar

San Juan, Puerto Rico, January 2014.

Beating Encryption: Investigative Strategies

HSI-ICE, Child Exploitation Investigations Group, Training Seminar

San Juan, Puerto Rico, January 2014.

Beating Encryption: Investigative and Legal Strategies
PSC Forensics Advocacy Seminar
National Advocacy Center, Columbia, SC, September 2012.

Courtroom Exercises: Direct Examination of Witness Presenting Digital Evidence, Digital Exhibits and Demonstrative Aids, and Cross Examination of a Defense Digital Expert
PSC Forensics Advocacy Seminar
National Advocacy Center, Columbia, SC, September 2012.

Obtaining and Protecting Evidence
Protect Our Children Conference
Omaha, NE, September 2012.

Countering Anonymization : Investigative, Forensic and Legal Issues
Crimes Against Children Conference
Dallas, TX, August 2012.

Breakpoint to Encryption: Utilizing Advanced Investigative Techniques to Circumvent Encryption, Crimes Against Children Conference
Dallas, TX, August 2012.

Reasonable and Probable Emerging Fourth Amendment Issues
2012 National Law Enforcement Training on Child Exploitation
Atlanta, GA, April 2012.

Breakpoint to Encryption: Utilizing Advanced Investigative Techniques to Circumvent Encryption, 2012 National Law Enforcement Training on Child Exploitation
Atlanta, GA, April 2012.

Current Trends in Child Sexual Exploitation Cases: Wireless Technology and Encryption for Investigators, W.D. VA PSC Conference
Weyers Cave, VA, November 2011.

Catch Him With His Encryption Down: Strategies and Techniques for Addressing Encryption, National Strategy Conference on Combating Child Exploitation
San Jose, CA, May 2011.

Breaking the Code: Using Legal and Technological Strategies to Counter Encryption Technologies, Advanced Child Exploitation Seminar
National Advocacy Center, Columbia, SC, February 2011.

Breaking the Code: Using Legal and Technological Strategies to Counter Encryption Technologies, Advanced Child Exploitation Seminar
National Advocacy Center, Columbia, SC, September 2010.

Catch Him With His Encryption Down: Strategies and Techniques for Addressing Encryption, Crimes Against Children Conference, Dallas, TX, August 2010.

Analyzing Computer Systems and Recovering Data
Massachusetts ICAC Taskforce
Anna Maria College, Paxton, MA, June 2010.

Computer Forensic Fundamentals

Basic Online Child Exploitation Seminar

National Advocacy Center, Columbia, SC, June, 2010.

Proving Your Case and Meeting Common Defenses with Computer Forensics

Internet Crimes and Against Children National Conference

Jacksonville, FL, May 2010.

Tactical Approaches to Encryption Technology

Department of Homeland Security, ICE Attaché Mexico City, Training Seminar

Puerto Vallarta, Mexico, April 2010.

Making Case with Computer Forensics

Department of Homeland Security, ICE Attaché Mexico City, Training Seminar

Puerto Vallarta, Mexico, April 2010.

Core Components of Computer Forensics

Department of Homeland Security, ICE Attaché Mexico City, Training Seminar

Puerto Vallarta, Mexico, April 2010.

Forensic Analysis Using EnCase EnScripts

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar

National Advocacy Center, Columbia, SC, April, 2010.

Live Forensic Acquisition: Addressing Counter-Forensic Technologies

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar

National Advocacy Center, Columbia, SC, March, 2010.

Forensic Analysis Using EnCase EnScripts

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar

Maryland ICAC Taskforce, Columbia, MD, February 2010.

Live Forensic Acquisition: Addressing Counter-Forensic Technologies

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar

Maryland ICAC Taskforce, Columbia, MD, February 2010.

Core Components of Computer Forensics

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar

Maryland ICAC Taskforce, Columbia, MD, February 2010.

Forensic Analysis Using EnCase EnScripts

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar

National Advocacy Center, Columbia, SC, January 2010.

Live Forensic Acquisition: Addressing Counter-Forensic Technologies

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar

National Advocacy Center, Columbia, SC, January 2010.

Core Components of Computer Forensics

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar

National Advocacy Center, Columbia, SC, January 2010.

Anatomy of a Computer Forensic Case

University of Maryland, Department of Computer Science

College Park, MD, November 2009.

Forensic Analysis Using EnCase EnScripts

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar
National Advocacy Center, Columbia, SC, November 2009.

Making Case with Computer Forensics

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar
National Advocacy Center, Columbia, SC, November 2009.

Live Forensic Acquisition: Addressing Counter-Forensic Technologies

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar
National Advocacy Center, Columbia, SC, November 2009.

Core Components of Computer Forensics

Computer Forensics & Forfeiture for Child Exploitation Investigators Seminar
National Advocacy Center, Columbia, SC, November 2009.

Mobile Cell Phone Seizure and Forensics

ICAC and Computer Crimes Training, Spokane, WA, October 2009.

Social Networking Sites: What Can You Find, How to Use This Information in Investigations

ICAC and Computer Crimes Training, Spokane, WA, October 2009.

Evaluating Digital Evidence in Investigations

Regional PSC Conference, Richmond, VA, September 2009.

Catch Him With His Encryption Down: Strategies and Techniques for Addressing

Encryption Use by Offenders, Crimes Against Children Conference
Dallas, TX, August 2009.

Core Components of Computer Forensics

University of Maryland, Department of Computer Science
College Park, MD, November 2008.

Working with Digital Evidence

Regional PSC Conference, Annapolis, MD, October 2008.

Making Case with Computer Forensics

Regional PSC Conference, Annapolis, MD, October 2008.

Making Case with Computer Forensics

W.D.Va PSC Conference, Roanoke, VA, September 2008.

Working with Digital Evidence

National Advocacy Center, Columbia, SC, July 2008.

Working with Digital Evidence

Regional PSC Conference, Boston, MA, April 2008.

Making Case with Computer Forensics

Regional PSC Conference, Boston, MA, April 2008.

Working with Digital Evidence

Regional PSC Conference, Cleveland, OH, February 2008.

Making Case with Computer Forensics

Regional PSC Conference, Cleveland, OH, February 2008.

Working with Digital Evidence
Regional PSC Conference, Houston, TX, January 2008.

Making Case with Computer Forensics
Regional PSC Conference, Houston, TX, January 2008.

A Discovery Primer: Avoiding Pitfalls of Electronic Discovery
TechnoForensics Conference, National Institute of Standards and Technology,
Gaithersburg, MD, November 2006.

Professional Training	X-Ways Forensics II	2022
	X-Ways Software Technology AG	
	SANS Pen Test HackFest Summit	2022
	SANS Institute (12 hours)	
	Cybersecurity Leadership Summit	2022
	SANS Institute (6 hours)	
	SANS Blockchain Security Summit 2022	2022
	SANS Institute (12 hours)	
	Digital Forensics and Incident Response Summit	2022
	SANS Institute (12 hours)	
	FIU Connect: Cryptoassets Course	2022
	ManchesterCF Financial Intelligence (8 hours)	
	X-Ways Forensics	2021
	X-Ways Software Technology AG (32 hours)	
	Cybersecurity Leadership Summit	2021
	SANS Institute (6 hours)	
	Threat Hunting Summit	2021
	SANS Institute (12 hours)	
	DFIR Summit & Training	2021
	SANS Institute (12 hours)	
	CloudSecNext Summit & Training	2021
	SANS Institute (12 hours)	
	Purple Team Summit & Training	2021
	SANS Institute (12 hours)	
	ICS Security Summit & Training	2021
	SANS Institute (12 hours)	
	Open-Source Intelligence Summit & Training	2021
	SANS Institute (12 hours)	
	Cyber Threat Intelligence Summit & Training	2021
	SANS Institute (12 hours)	

Cryptocurrency Tracing Certified Examiner Training CipherTrace, Inc. (8 hours)	2021
Advanced Network Forensics: Threat Hunting Analysis, and Incident Response SANS Digital Forensics & Incident Response (DFIR) Summit (36 hours)	2019
In-System Programming (ISP) For Mobile Device Forensics (32 hours) Teel Technologies	2016
Windows Malware and Memory Forensics (40 hours) The Volatility Project	2015
Managing Cyber Investigation Units (30 hours) Defense Cyber Investigations Training Academy (DCITA)	2015
International Child Sexual Exploitation Database (16 hours) INTERPOL Washington	2013
Mobile Device Repair and JTAG Forensics (40 hours) Teel Technologies and Wild PCS	2013
Advanced Computer Forensic Analysis and Incident Response (36 hours) SANS FIRE 2011 Conference	2011
Reverse-Engineering Malware: Malware Analysis Tools and Techniques (40 hours) SANS 2010 Network Security Conference	2010
Advanced File System Recovery and Memory Forensics (8 hours) SANS 2010 Network Security Conference	2010
Windows Live Memory Forensics and Malware Analysis (16 hours) HBGary, Inc	2009
Mac Skills for Forensic Examiners (16 hours) BlackBag Technologies, Inc.	2009
Cell Phone Forensics Workshop (16 hours) Mobile Forensics, Inc.	2009
AccessData FTK 2 Transition Day (7 hours) AccessData Corp.	2008
Advanced Linux for Forensic Examiners (36 hours) National White Collar Crime Center	2008
EnCase NTFS Artifacts & File System (32 hours) Guidance Software Inc.	2007
EnCase Advanced Internet Examinations (32 hours) Guidance Software Inc.	2007
EnCase Network Intrusion Investigations I (32 hours) Guidance Software Inc.	2007

EnCase Network Intrusion Investigations II (32 hours) Guidance Software Inc.	2007
EnCase Advanced Computer Forensics (32 hours) Guidance Software Inc.	2007
AccessData Internet Forensics (24 hours) AccessData Corp.	2006
AccessData Windows Forensics (24 hours) AccessData Corp.	2006
AccessData Boot Camp (24 hours) AccessData Corp.	2006
Advanced Information Security for Technical Staff (40 hours) Software Engineering Institute	2006
Advanced Incident Handling (40 hours) Software Engineering Institute	2006
Creating a Computer Security Incident Response Team (8 hours) Software Engineering Institute	2005
Managing Computer Security Incident Response Teams (24 hours) Software Engineering Institute	2005
Seized Computer Evidence Recovery Specialist Training Program (80 hours) Federal Law Enforcement Training Center	2004
Internet Forensics Investigations Training Program (72 hours) Federal Law Enforcement Training Center	2003
Advanced Data Recovery and Analysis, Windows NT through XP (32 hours) National White Collar Crime Center	2003
Advanced Data Recovery and Analysis, Internet Trace Evidence (24 hours) National White Collar Crime Center	2003
Solaris System Administration (40 hours) Sun Microsystems	2002
Checkpoint VPN/Firewall Management NG (50 hours) Check Point Software Technologies Ltd	2002
Cisco Networking Academy (60 hours) Cisco Systems	2000

Awards

National Center for Missing & Exploited Children Law Enforcement Award, 2014
 Crime Victims Federal Service Award, U.S. Department of Justice, 2013
 Distinguished Service Award, Criminal Division, U.S. Department of Justice, 2012
 Distinguished Service Award, Criminal Division, U.S. Department of Justice, 2011
 Special Achievement Award, U.S. Department of Justice, 2010
 Meritorious Award, U.S. Department of Justice, 2009
 Special Commendation Award, Criminal Division, U.S. Department of Justice, 2008

Professional International Association of Computer Investigative Specialists (IACIS)
Affiliations High Technology Crime Investigation Association (HTCIA)
High Tech Crime Consortium (HTCC)
Information Systems Audit and Control Association (ISACA)
International Information Systems Security Certification Consortium (ISC2)
Association for Computing Machinery (ACM)

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT,
COMMUNITIES, INC.** Plaintiff,

V.

DENNIS PHILIPSON,

Defendant.

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

DECLARATION OF PAIGE WALDROP MILLS

My name is Paige Waldrop Mills, I am of majority age, and I have first-hand knowledge of the following facts:

1. I am one of several attorneys from Bass, Berry & Sims that represent MAA in this action.
2. I took Dennis Philipson’s deposition on October 30, 2023, in Washington, DC.
3. MAA has filed Philipson’s deposition in support of its Motion for Injunctive Relief.
4. Philipson made a number of admissions and statements in his deposition that bear on the issues in MAA’s Motion. At the outset, he testified that he was not taking any medications that would impair his ability to understand the questions or to answer truthfully. Philipson 8.21-9.2. Yet, he was “unable to recall” whether he did any of the acts about which MAA is complaining in this case.
5. The Amended Complaint mentions a number of strange Google reviews (the “Google Reviews”). *See also generally* Declaration of Jay Blackman and **Exhibit 3** thereto. Philipson “couldn’t recall” whether the Google Account “DD” that completed all the strange

reviews near the homes of MAA employees was his or not, even though it contained numerous statements consistent with his other communications. Philipson at 66.17-67.2; 67.3-18. *See* Blackman Decl. Ex. 3.¹

6. He also was “unable to recall” whether he used the Google Account name “Chaci Fuego,” even though that account was leaving Google Reviews identical to Google Account “DD.” Philipson at 71.20-72.6; see also **Blackman Decl. Ex. 3** at page 1 and 2.

7. He couldn’t recall leaving any of the Google Reviews and thus was unable to either “confirm or deny” that he was the one leaving them, even though many of them mentioned things he has complained about like fire safety, mold detection, and water remediation, were very elaborate and detailed, and many required being on the premises of the business, and the uploading of numerous pictures. Philipson Depo. at 68.1-6; 72.10-23; 75.4-7; 75.22-25; 76.18-20; 77.5-10; 78.11-13; 78.18-21; 80.11-81.4; 82.10-15; 82.22-83.1; 83.9-11; 83.19-20; 84.22-25; 85.23-25; 86.14-24; 89.3-4; 89.19-20; 90.6-8; 90.12-15; 90.23-24; 91.15-15; 91.20-22; 92.6-7; 93.3-5; 93.10-12; 93.16-22; 94.8-15.

8. Although he was unable to admit or deny that he was the one that left the Google Reviews, he testified he “highly doubted” that it was him. Philipson Depo. at 87.22-88.3.

9. When pressed as to how he could not remember leaving very bizarre and elaborate Google Reviews on places he had never been, he testified:

Within the last couple of years based on everything that’s gone on and all the medications I’ve been on, I don’t think I would do it, but I can’t say for certain.

Philipson Depo. at 77.11-16.

¹ These Google Reviews are also attached to Philipson’s Deposition at Exhibit 1 and are reattached to the Blackman Declaration with page numbers for ease of reference.

10. When presented with a Google Review by “DD” that contained a selfie of his own face, Philipson still would not admit that he was the one leaving the Google Reviews, insisting “lots of people can have [the photo]”. Philipson 95-96. *See* Blackman Decl. **Ex. 3**, page 34.

11. After he was presented with his selfie from the final Google Review, he became agitated and insisted he would not answer any questions unrelated to trademark infringement, and from then on out, he was going to state that he couldn’t recall. *See* Philipson Depo. at 96.24-98.8.

12. When pressed as to whether he left the false Glassdoor reviews (the “Glassdoor Reviews”), he stated:

And I can just plead the fifth the whole time, and then I could look bad in front of the Court. I understand how the rules work. So instead of sitting here and going through all this stuff and me saying I don’t recall and all that, we can just switch it around *because I’m just not going to recall anything anymore*.

Philipson Depo. at 98.2-8 (emphasis added). The Glassdoor Reviews are attached Philipson’s Depo. at **Exhibit 3**.

13. The Glassdoor Reviews were false because they involved a job he did not have and made statements that were not true. Philipson Depo. at 99.22-100.3 He went to testify he did not recall leaving the Glassdoor reviews, even though they detailed many of the things he had repeatedly complained about, such as the company not “calibrating” his salary and “when you mention you are stressed, they immediately accept your notice.” Philipson Depo. at 100.4-103.10. He was unable to deny leaving the false Glassdoor reviews. *Id.* at 113.5-24.

14. He could not recall whether he created the Infringing Website and purchased the Infringing Domains described in the Complaint, although he was unable to deny it. *Id.* at 104.16-105.2. He stated “I’ve asked for the subpoena. So, if it’s me, it’s me; we can move on. But I don’t recall doing it.” *Id.* at 105.2-3; 118.11-119.4.

15. He did not deny using the false name Craig Silver, the name used on one of the fake LinkedIn Accounts, as well as on the contact information for the Infringing Website. *Id.* at 105. 4-11.

16. He was unable to deny that he set up the numerous email addresses using the MAA Marks and fake names. *Id.* at 111.2-112.13; 148.18-25

17. He was unable to deny that he attempted to control MAA employee's social media accounts or created new accounts for these employees without their authorization. *Id.* at 112.14-113.1; 142.16-145.22

18. He was unable to deny that he applied for jobs in other's names under false pretenses. *Id.* at 114.2-10.

19. He was unable to deny that he applied for jobs at MAA under false names and false pretenses. *Id.* at 114.11-18.

20. Upon information and belief, Philipson applied for a job at MAA in my name. When given the opportunity, he was unable to deny this. Philipson Depo. at 143.20-144.7.

21. He was unable to deny that he sent the false and defamatory communication to the MAA board member in an attempt to get her to quit. *Id.* at 114.19-115.13.

22. He was unable to deny that the IP address associated with the Infringing Website was registered to Dennis Philipson. *Id.* at 120.5-11.

23. He was unable to deny that he created the Infringing LinkedIn site and associated fake accounts. *Id.* at 123.4-124.20; 175.24-176.16.

24. When asked whether he created the false accounts, he testified as follows:

A: I do not remember creating this person. I am not going to deny anything. I'm not going to say I did anything until I get to view everything. Whether we have to go and we have to sign a protective order and I can view that. I don't remember anything and that's –

Q: Well, here's where I'm lost because if somebody came in and accused me of doing this and I didn't do it, I would come here and say I did not do that ---

[* * *]

A: Right.

Q: And I don't understand why you're not doing that.

A: Because I don't trust MAA. That's --- that's --- why. I don't --- I don't. They're very smart. They come up with different ways to get out of certain things. Again, I've sent that to the SEC, concrete proof of what they've done. They come and tell me my allegations aren't true. Someone gets murdered in November.

They reach back out to me in October. They want to talk on the phone multiple times. I don't ----

Q: But why does that – why would that prevent you from denying that you did this?

A: I'm not confirming or denying anything. Because then you are going to slap a picture on me [referring to the selfie on the Google Reviews] and tell me, here's a picture of you. So I'm not adamantly denying anything. I could have done some of these reviews, I could have, you know, but I'm not coming in and I don't remember a lot of stuff and that's where I stand.

Id. at 125.16 – 126.21 [bracketed text not in original].

25. He was unable to deny that he created the LinkedIn Account MAA Lies. *Id.* at 128.7-8.

26. He was unable to deny he sent the Craig Silver email and that its intent was to annoy and harass MAA. *Id.* at 128.24-129.9

27. He was unable to deny that he sent invitations to connect with MAA customers and employees in an effort to cause confusion in the marketplace. *Id.* at 129.10-18.

28. He was unable to deny that he had received communications through the website megaawesomeapartments.com. *Id.* at 131.2-11.

29. He does not deny sending the Gerry Gensleer email that says “If we do not see some sort of announcement by 1/6/2022, we will be releasing further information, videos, audio,

pictures, emails to the public media other governmental agencies. *Id.* at 141.20 – 142.15. This email is located at **Ex. 5** to the Philipson Depo.

30. He was unable to deny he sent an email to MAA employees that encouraged them to quit their jobs. *Id.* at 149.1-21. This email is located at **Ex. 7** to the Philipson Depo.

31. He was unable to deny he set up a LinkedIn Account for Jackie Melnick and tried to connect with her son. *Id.* at 150.1-11.

32. He was unable to deny he created the email account MAAreviews@outlook.com, which went to employees and falsely alleged fraud and mentioned casualty insurance and dog policies and a number of other things Philipson had complained about. *Id.* at 150.13-153.17. This email is located at **Ex. 8** to the Philipson Depo.

33. He was unable to deny that he created the email address conflictofinterest682 and the emails that emanated from there. *Id.* at 154.20-155.25. This email is located at **Exs. 9-10** to the Philipson Depo.

34. He was unable to deny that he created the email address melanieisgoingtojail@outlook.com and the emails that came from that address. *Id.* at 156.1-16.

35. When asked what his theory was about the allegations made in this case, he said, “I have no theory...My theory is I’m screwed. *Id.* at 173.12-16.

36. When asked if he created the welcome@maaapartments.com, he stated, “Not that I recall. I’m not giving any definitive answers at this time.” *Id.* at 174.25-175.1. He was unable to deny he sent the submission about the Infringing Domain that came in over the whistleblower portal. *Id.* at 175.2-23. This email is located at **Ex. 15** to the Philipson Depo.

37. When asked at the end of his deposition if he had anything he wanted to say on the record before the deposition ended, he stated:

A. If I --- I mean, I'm being all honest. I don't recall a lot of this stuff. And if I did do it, I – I---I—I—I don't like the way I'm being – the way this is being portrayed. And some of it is pretty terrible. So it's making me think even I got more mental problems that I really do if I did do this. So that's about it.

Id. at 184.25-185.6.

38. Philipson's conduct has continued to escalate since his deposition on October 30, 2023.

39. In this litigation, Philipson has half-heartedly tried to argue that he was set up or hacked, but readily admits he has no evidence of this. He admitted he has no evidence that anyone got into his emails accounts or has spoofed his IP address. *Id.* at 11.20-24; 46.23-47. Other than unfounded, unsupported suspicions about MAA, he has no reason to believe that anyone impersonated him and did these things in order to get him in trouble. *Id.* at 171.1-7. He has no evidence that MAA did anything to try and guess his passwords. *Id.* at 59.1-59.5.

40. When asked in his deposition why he thought he might have been hacked, he mentioned a data breach that occurred at Capital One nearly five years ago and represented that someone had made unauthorized charges to his Capital One credit card. *Id.* at 50.15-51.25; 55.18-19.

41. Within slightly more than 24 hours, on November 1, 2023, someone had made an application for two Capital One credit cards, each with a \$30,000 limit, in my name and the name of my husband, using our personal information, including date of birth and social security numbers. Neither of us were previous Capital One customers and thus our information would not have been a part of any Capital One hack. Neither my husband nor I completed the applications. Upon information and belief, this was done by Philipson to lend credence to his "hacking" claims.

42. The individual who applied for the credit cards used our contact information so that the credit cards would go to our home address, rather than to the alleged thief, ensuring that I was aware of the fraud and indicating that it was committed for reasons in addition to monetary gain.

43. Capital One conducted an investigation and found the applications to be fraudulent.

44. As a result, MAA was forced to purchase credit monitoring services for my family.

45. When my husband and I found out that someone had used our confidential information to fraudulently apply for credit cards, it was extremely unsettling and caused us both substantial worry and emotional distress. We are constantly checking our credit and that of our children to ensure that more fraudulent activity does not occur at the expense of our family.

46. Next, upon information and belief, Philipson signed up one of Plaintiff's Bass, Berry & Sims' counsel, Jordan Thomas, to MAA's investor email alert, without her permission or request.

47. On January 7, 2024, using the fake name "Miles Cyrpus," Philipson has made new defamatory allegations against Plaintiff's counsel, claiming he has encountered "multiple instances where [his] rights, as guaranteed under law, have been compromised." He has apparently has made new frivolous reports to the "Tennessee Ethics Board" and the "Judicial Board" because one of this Court's law clerks used to work at undersigned counsel's law firm. Dkt. 80. He has disseminated this particular email to unknown parties. *Id.* It is clear these allegations are coming from Philipson because he makes repeated reference to "his case" in the email referring to the case at bar. *See* Dkt. 80, **Ex. 1**.

48. If this law clerk was assigned to our case, I was not aware of it and have not spoken to this individual about this or any other matter. Moreover, no one from our team at Bass, Berry & Sims has spoken to this individual about this case.

49. Upon information and belief, immediately after sending the above “Miles Cyrpus” email, Philipson sent these same allegations and misrepresentations to upwards of 1,200 employees at MAA using the fake email address rogervkint2024@outlook.com, the fake business name “Piper Savage,” and a software platform called Prowly. This email is attached hereto as **Ex. 1**.

50. Next, upon information and belief, Philipson purchased the domain fairhousingdaily.com on January 10, 2024, and sent a new “Piper and Savage” email with very similar false or misleading allegations to more than 1,200 MAA employees. Philipson had this email sent from the email suemiyoung@fairhousingdaily.com, in an effort to make the allegations appear to have come from some sort of legitimate news source. *See Ex. 2* hereto.

51. Upon information and belief, on January 11, 2024, Philipson sent out a new defamatory email from “Piper & Savage,” which contained many of the same false and defamatory statements and innuendo about MAA’s General Counsel, its corporate structure, its alleged lack of insurance coverage; its alleged “alarming gaps” in tenant safety and property maintenance; its alleged lavish spending at the expense of its tenants; its allegedly deficient pet and grill safety policies, and further unfounded complaints about this Court’s judicial clerk and the fact that Plaintiff attempted to serve a subpoena on his wife.

52. All efforts to serve Philipson and his wife were properly made through a third party process server and all actions taken were appropriate and consistent with normal and lawful litigation practice.

53. On January 19, 2024, Philipson bought a new domain: <https://www.mfaan.com> and set up a website he called “Multifamily News.” Upon information and belief, he then created a number of entries about housing and backdated them, in order to make the website look legitimate.

He then wrote several entries about MAA, including one that falsely claims a fire at an MAA property in Atlanta was caused by MAA's policies and the alleged "fact" that it places "water heaters and electrical closets on balconies across various MAA properties." *See Ex. 3.*

54. He quotes an "anonymous whistleblower" who brought these issues to light, obviously referring to himself. On January 22, 2024, Philipson sent an email to an email group at MAA under the false name "Steve Bosh," asking "Is what is on MFAAN legit? This email references yet another domain, reit.news, purchased by Philipson on January 22, 2024, indicating yet another defamatory website is on the way. If this email did not come from Philipson himself, it is evidence he is disseminating this false information to third parties.

55. Since the filing of the Amended Complaint, MAA obtained the return of the Infringing Domains via a UDRP proceeding through ICANN. After examining the situation, the panel concluded that Respondent [now known to be Philipson] had no legitimate interest in the Infringing Domains and that his use was in bad faith. *See UDRP Decision at Ex. 4.*

56. I declare the foregoing is true and correct under penalty of perjury pursuant to 28 U.S.C. § 1746.

Dated this 25th of January, 2024



Paige Waldrop Mills

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
Phillydee100@gmail.com

This 25th Day of January, 2024.

/s/ Paige Waldrop Mills
Paige Waldrop Mills

EXHIBIT 1

From: Piper Savage <rogervkint2024@outlook.com>

Sent: Tuesday, January 9, 2024 12:26 PM

To: Thomas, Jordan <jordan.thomas@bassberry.com>

Subject: Critical Review: Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns in Western District of Tennessee

Hi there!

This is your e-mail body. Remember to include the most important elements of your press release to engage your recipients.

We wish you successful PR outreach.

Regards!

Your friends at Prowly



Observations and Inquiries into Mid-America Apartment Communities, Inc. Activities

Memphis, Tennessee - January 9 2024

Recent developments have surfaced around Mid-America Apartment Communities, Inc. (MAA), a prominent property management company headquartered in Memphis, TN, which may merit further journalistic investigation. These developments include significant stock transactions by company insiders and other actions that have raised questions within the community and among stakeholders.

Following a notification to Mid-America Apartment Communities, Inc. and Bass, Berry & Sims PLC on January 7, 2023, about concerns raised to the Circuit Executive, notable stock sales by company insiders were observed. One significant transaction involved the EVP of General Counsel, who liquidated stock valued at a million dollars.

These financial activities occur amidst a backdrop of various challenges faced by Mid-America Apartment Communities in recent years. In 2021, the company encountered several issues, ranging from financial concerns to safety incidents. These included alleged financial and securities fraud, anti-trust violations, business fraud, and safety concerns at various properties.

Notably, an incident at one of their Texas properties in November 2021, which involved the tragic death of a young woman, has been linked to the company's lease policies. This and other legal matters, including a lawsuit filed under docket number 2:2023cv02186, highlight the need for closer examination of the company's legal and operational practices.

The involvement of a judicial law clerk, with historical ties to Bass, Berry & Sims PLC and a role as a Judicial Law Clerk in the Western Tennessee Courts, in these legal proceedings, has also been noted. His name appears in the metadata of several court documents related to this lawsuit, indicating a potential conflict of interest that could affect the judicial process's integrity.

Given the scale of Mid-America Apartment Communities, Inc.'s operations, impacting approximately 100,000 households across around 300 properties, the implications of these developments are far-reaching. The intricate nature of these events suggests a multifaceted story that could be of significant public interest.

We encourage members of the press to utilize resources such as the Freedom of Information Act (FOIA) to investigate these matters further. Our team is prepared to offer additional information and assistance to support a comprehensive exploration of these developments.



Further Examination of Judicial Integrity and Ethical Conduct in the Western District of Tennessee

Attention is being drawn to the United States District Court, Western District of Tennessee, concerning potential conflicts of interest and the ethical conduct of court personnel. Central to these concerns is the intersection between a Judicial Law Clerk's past association with the law firm Bass, Berry & Sims PLC and their involvement in ongoing proceedings within this court.

The connection draws into question compliance with the ethical guidelines as set forth in the American Bar Association's Model Rules of Professional Conduct, Rule 1.12, and the Tennessee Code of Judicial Conduct, Canon 2, Rule 2.11. These regulations are integral to

maintaining impartiality and integrity within the judicial process, ensuring that justice is served without bias or the appearance thereof.

Further compounding these concerns are reports of atypical legal service methods and actions potentially amounting to harassment, which have been documented and brought to the attention of various authoritative bodies. These include the Department of Justice (DOJ), Tennessee Ethics Board, and the Judicial Board. The aim is to ensure a thorough review of these practices and their alignment with legal standards.

In addition to the existing concerns, there have been reports of several instances that could potentially indicate a compromise of legal rights as outlined by the law. Notably, a situation has been highlighted involving repeated attempts to serve a subpoena in a manner that raises questions about procedural propriety. An individual, referred to as Agent Barber, reportedly made these attempts, marked by the use of a badge and a vehicle with flashing lights. The nature of these service attempts, including one directed at the spouse of an involved party who reportedly lacks clarity on the matter, has been perceived as unusual and potentially overreaching. Documented evidence, including video footage, has been submitted to relevant authorities to examine these actions. This situation forms part of a broader pattern of events that are being scrutinized for potential legal and ethical implications within the ongoing judicial process.

In response to these issues, a comprehensive dossier has been assembled and dispatched to the Circuit Executive's office and a local news station in Memphis. This dossier includes pertinent details of case number No. 2:23-cv-2186-SHL-cgc, which is currently being adjudicated in the United States District Court, Western District of Tennessee. The objective is to conduct an independent and transparent examination of these matters, with an emphasis on upholding judicial fairness and integrity.

This situation highlights the need for rigorous adherence to ethical guidelines in legal proceedings. The integrity of the judicial process is crucial in maintaining public trust and confidence in the legal system. An impartial and thorough investigation is essential to address any potential conflicts of interest and to ensure the highest standards of legal and ethical conduct are upheld.

Piper & Savage is a watchdog organization focused on promoting transparency, fairness, and ethical conduct within judicial and legal processes. We are dedicated to identifying and addressing potential conflicts of interest and ethical violations, thereby strengthening public confidence in the legal system.

EXHIBIT 2

From: Wolfgang, Leslie
To: DelPriore, Rob; Carpenter, Melanie
Subject: FW: [EXTERNAL] Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns
Date: Friday, January 12, 2024 4:40:00 PM
Attachments: image001.png

Another one just came through.

**Leslie Wolfgang**

SVP, CECO and Corporate Secretary
6815 Poplar Avenue, Suite 500
Germantown, TN 38138
901-248-4126
www.maac.com

From: Sue Mi Young <suemiyoung@fairhousingdaily.com>

Sent: Thursday, January 11, 2024 4:07 PM

To: info@maac.com

Subject: [EXTERNAL] Mid-America Apartment Communities, Inc. Operations and Judicial Conduct Concerns



Exploration and Inquiries into Mid-America Apartment Communities, Inc. Activities

Memphis, Tennessee - January 11, 2024

Recent events have emerged concerning Mid-America Apartment Communities, Inc. (MAA), a well-known property management firm headquartered in Memphis, TN, prompting interest for investigative journalism. These events encompass significant stock

transactions executed by insiders of the company and other actions that have generated inquiries within the community and among stakeholders.

Following a communication sent to Mid-America Apartment Communities, Inc. and Bass, Berry & Sims PLC on January 7, 2023, outlining concerns conveyed to the Circuit Executive of the Sixth Circuit Federal Court, noteworthy stock sales by company insiders have been detected. Notably, one substantial transaction involved the EVP of General Counsel, who divested stock valued at one million dollars.

Furthermore, a complex network of subsidiaries within the company's organizational structure has raised eyebrows among observers. This intricate web of subsidiaries appears to facilitate the movement of funds and assets within the company, giving rise to concerns about financial transparency and accountability. Investigating the purpose and implications of this complex subsidiary system is crucial to understanding how funds are managed and allocated within Mid-America Apartment Communities.

In addition to these financial intricacies, there is an apparent lack of comprehensive property insurance coverage across certain properties under the company's management. This absence of insurance raises questions about the financial security and protection of both residents and property owners in the event of unforeseen incidents such as fires, natural disasters, or accidents.

Intriguingly, the company's financial landscape also raises questions about its self-insurance practices. There appears to be a major internal law in place, allowing Mid-America Apartment Communities to self-insure certain aspects of its operations. This complex internal arrangement warrants further scrutiny to ensure that it adheres to legal and regulatory standards and that it provides adequate protection to all stakeholders involved.

Only after considering these financial challenges and complexities does it become evident that grill safety concerns have also surfaced at several Mid-America Apartment Communities properties. Reports have emerged of inadequate safety measures and incidents related to grill usage within the premises, posing potential risks to residents and their properties.

Given the combination of these multifaceted challenges, a comprehensive investigation into Mid-America Apartment Communities, Inc. becomes increasingly imperative. The interplay of financial issues, self-insurance practices, subsidiary structures, and safety concerns raises significant questions about the company's operations, governance, and overall impact on its residents and stakeholders.

These financial activities transpire against the backdrop of diverse challenges that Mid-America Apartment Communities has encountered in recent years. In 2021, the company faced various issues, encompassing financial matters and safety incidents. These included alleged financial and securities improprieties, anti-competitive actions, business misrepresentation, and safety concerns at various properties.

Of significance, an incident at one of their Texas properties in November 2021, which resulted in the tragic loss of a young woman, has been connected to the company's lease policies. This, alongside other legal matters, including a lawsuit filed under docket number 2:2023cv02186, underscores the necessity for a more in-depth examination of the company's legal and operational procedures.

Further Examination of Judicial Integrity and Ethical Conduct in the Western District of Tennessee

The involvement of a judicial law clerk, with prior affiliations with Bass, Berry & Sims PLC and a role as a Judicial Law Clerk in the Western Tennessee Courts, in these legal proceedings has also come to attention. His name appears in the metadata of several court documents related to this lawsuit, potentially indicating a conflict of interest that could impact the integrity of the judicial process.

Considering the extensive scope of Mid-America Apartment Communities, Inc.'s operations, which affect approximately 100,000 households across approximately 300 properties, the ramifications of these developments are extensive. The intricate nature of these events hints at a complex narrative that could be of substantial public interest.

We urge members of the press to utilize available resources, such as the Freedom of Information Act (FOIA), to delve deeper into these matters. Our team stands ready to provide supplementary information and support for a comprehensive exploration of these developments.

Further Examination of Judicial Integrity and Ethical Conduct in the Western District of Tennessee

Attention has been drawn to the United States District Court, Western District of Tennessee, regarding potential conflicts of interest and ethical behavior of court personnel. Central to these concerns is the intersection of a Judicial Law Clerk's previous association with the law firm Bass, Berry & Sims PLC and their involvement in ongoing proceedings within this court.

This connection raises questions about adherence to ethical guidelines established in the American Bar Association's Model Rules of Professional Conduct, Rule 1.12, and the Tennessee Code of Judicial Conduct, Canon 2, Rule 2.11. These regulations are crucial to maintaining impartiality and integrity within the judicial process, ensuring justice is administered without bias or any appearance thereof.

These concerns are further compounded by reports of unconventional legal service methods and actions that could potentially be perceived as harassment. These matters have been documented and reported to various authorities, including the Department of Justice (DOJ), Tennessee Ethics Board, and the Judicial Board. The objective is to ensure a comprehensive review of these practices and their alignment with legal standards.

In addition to the existing concerns, there have been reports of several incidents that may indicate a compromise of legal rights as outlined by the law. Specifically, there is a situation involving repeated attempts to serve a subpoena in a manner that raises questions about procedural correctness. An individual referred to as Agent Barber purportedly made these attempts, marked by the use of a badge and a vehicle with flashing lights. The nature of these service attempts, including one directed at the spouse of an involved party who reportedly lacks clarity on the matter, has been seen as unconventional and potentially excessive. Documented evidence, including video footage, has been submitted to relevant authorities for examination. This situation is part of a broader pattern of events under scrutiny for potential legal and ethical implications within the ongoing judicial process.

In response to these issues, a comprehensive dossier has been compiled and forwarded to the Circuit Executive's office and a local news station in Memphis. This dossier includes pertinent details of case number No. 2:23-cv-2186-SHL-cgc, currently under adjudication in the United States District Court, Western District of Tennessee. The goal is to conduct an impartial and transparent examination of these matters, with a focus on upholding judicial fairness and integrity.

This situation underscores the imperative need for unwavering adherence to ethical guidelines in legal proceedings. The integrity of the judicial process is pivotal in maintaining public trust and confidence in the legal system. An unbiased and thorough investigation is essential to address any potential conflicts of interest and to ensure the highest standards of legal and ethical conduct are upheld.

For the latest updates and news on multifamily matters, make sure to visit FairHousingDaily. com

Fair Housing Daily is a watchdog organization committed to promoting transparency, fairness, and ethical conduct within judicial and legal processes. We are dedicated to identifying and addressing potential conflicts of interest and ethical breaches, thereby bolstering public confidence in the legal system.

To Unsubscribe, please click [here](#).

EXHIBIT 3



Cindy 2 days ago 3 min read

Fire at MAA Spring Apartments exposes long-standing safety concerns, highlighting their 'insurance program'

Original Source: REIT.news

The recent blaze at MAA Spring Apartments in Cobb County, which resulted in the displacement of 18 individuals, has cast a spotlight on deep-seated fire safety issues within the MAA property network. As reported by Atlanta News First, the fire broke out on a balcony and rapidly spread to the attic, creating a complex situation for firefighters who valiantly fought to contain it.

A key aspect of this incident, still shrouded in mystery, is the fire's origin. Video footage and witness statements have yet to clarify the cause. However, a deeper probe into the matter reveals insights from an insider intimately acquainted with MAA's properties. This individual, choosing to remain anonymous for safety and privacy concerns, disclosed a critical design flaw: the placement of water heaters and electrical closets on balconies across various MAA properties. Such a setup significantly heightens the risk of fires.

The same insider, who came to prominence through whistleblower revelations documented in court records [accessible here](#), had previously underscored similar fire safety concerns within MAA's operations. Initially, these critical alerts were largely overlooked. However, in the wake of the recent Cobb County fire, these previously ignored warnings have now attracted significant attention and have become a matter of urgent concern.

The informant's revelations paint a comprehensive picture that goes beyond mere structural concerns, highlighting a systemic issue entrenched in MAA's management practices. This issue particularly pertains to the handling of fire-related incidents and the subsequent financial implications for those affected. The insider points to an increasing pattern within MAA's operations where the economic burden of fire damages is strategically shifted onto residents. This shift is reportedly facilitated by policies that compel tenants to rely on their own renters' insurance, thereby relieving MAA from bearing any direct financial responsibility. This practice, as vehemently criticized by the insider, mirrors MAA's overarching philosophy that "safety is the resident's responsibility." Such a policy, according to the whistleblower, significantly downplays MAA's essential role in ensuring the safety and well-being of its tenants.

The depth of the issue extends to MAA's internal risk management strategies. The company, as revealed by the insider, operates as a self-insured entity and has established its own unique "insurance program." This self-insurance model could have a profound impact on how MAA addresses incidents of fire, both in terms of immediate response and handling of financial

liabilities. It raises questions about the adequacy and effectiveness of safety measures and maintenance protocols implemented across MAA properties, given the potential conflict of interest in their internal insurance handling.

The implications of this strategy are far-reaching. It not only presents ethical dilemmas but also poses legal challenges, particularly in the realms of tenant safety and rights. The corporate culture at MAA, as depicted by these revelations, seems to favor cost-cutting measures over the safety and security of its residents. This approach potentially places tenants in vulnerable positions, exposing them to risks that could otherwise be mitigated or avoided if the company assumed a more proactive role in ensuring safety standards.

Furthermore, the whistleblower's account underscores a concerning trend in MAA's approach to risk management and safety compliance. By shifting financial responsibilities onto tenants through a reliance on renters' insurance, MAA effectively minimizes its direct involvement in rectifying and addressing the consequences of fire incidents. This policy not only questions MAA's commitment to tenant safety but also highlights a potential gap in their responsibility towards providing a secure living environment.

In summary, the insider's disclosures call for a critical examination of MAA's corporate practices, particularly in relation to fire safety management and financial liability strategies. It underscores the need for a reassessment of how MAA balances its operational efficiencies with the imperative of ensuring tenant safety and upholding ethical management practices.

Despite the scale of the fire, there were no casualties, a fact attributed to the swift and efficient response of the Cobb County firefighters. The American Red Cross is actively involved in providing support to those affected by the fire, helping them navigate through this challenging period.

As the investigation into the fire's exact cause progresses, the insights provided by the whistleblower add a crucial dimension to the narrative. They suggest that the fire hazards at MAA properties could be indicative of broader, systemic safety lapses rather than being random, isolated occurrences.

This event, therefore, demands a thorough examination of MAA's safety protocols and emergency response strategies. It calls for a critical evaluation of the company's commitment to tenant safety, accountability in incident management, and adherence to fire safety regulations.



Cobb Count Fire Services Facebook Page

For further details on the fire and its implications, refer to the original report by Atlanta News First, published on [publication date of the original article], which offers an in-depth look at the incident and its aftermath: Atlanta News First Article.

EXHIBIT 4

ARBITRATION
AND
MEDIATION CENTER



ADMINISTRATIVE PANEL DECISION

Mid-America Apartment Communities, Inc. v. Timmy Argo and Craig Silver,
MAA Apartments
Case No. D2023-1171

1. The Parties

Complainant is Mid-America Apartment Communities, Inc., United States of America ("United States"), represented by Bass, Berry & Sims PLC, United States.

Respondent is Timmy Argo, United States, and Craig Silver, MAA Apartments, United States. Respondents will be individually and collectively referred to as "Respondent".

2. The Domain Names and Registrars

The disputed domain names <maa.apartments>, <maaapartments.com>, <maafraud.com> (the "MAA Domain Names") are registered with Google LLC

The disputed domain name <megaawesomeapartments.com> (the "Mega Domain name") is registered with Wix.com Ltd.

Both Registrars are collectively identified as the "Registrar".

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 16, 2023. On March 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 16, 2023, and March 27, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251 and Redacted for Privacy, Wix.com Ltd) and contact information in the Complaint. The Center sent an email to Complainant on March 27, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. The Parties explored settlement negotiations and the proceedings were suspended on April 4, 2023. After several requests of extension of the suspension, on September 6, 2023, Complainant requested the reinstitution of the proceedings, and the proceedings were reinstituted on September 8, 2023. Complainant filed an amended Complaint on September 23, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on September 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2023. Respondent did not submit any response. Accordingly, the Center notified sent the communication of Commencement of Panel Appointment Process on October 19, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on October 25, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

According to the Complaint:

"Mid-America Apartment Communities, Inc., also known as ("MAA"), is one of the largest residential management companies in the nation and is the second-largest owner of apartments in the United States. MAA's real estate portfolio includes thousands of residences and luxury apartment communities throughout the Southeast, Southwest, and Mid-Atlantic regions of the United States. With a network of over 100,000 homes and 296 communities across 16 states in their real estate portfolio, MAA is a residential management leader."

Complainant asserts that it has been in business since 1994, and it holds a number of registered trademarks, including United States Patent and Trademark Office ("USPTO") Reg. No. 4,009,475 for MAA, registered on August 9, 2011, in connection with "Leasing of apartments" with a March 11, 2011, date of first use in commerce. Complainant also holds USPTO Reg. No. 3,268,349 for MID-AMERICA APARTMENT COMMUNITIES, registered on July 24, 2007, in connection with "Leasing of apartments; Leasing of real estate; Rental of Apartments" with a September 1994 date of first use in commerce.

Complainant operates a commercial website to promote its business via the domain name <maac.com>.

The disputed domain names were registered on March 4, 2023 (the MAA Domain Names) and March 5, 2023 (the Mega Domain Name). The MAA Domain Names are redirected to the website located at the Mega Domain Name. At that site, the user sees the header "MAA Mega Awesome Apartments," and "FIND YOUR MEGA AWESOME APARTMENT!" The site also invites visitors to provide their contact information to seek employment with Respondent's purported company.

Complainant states that it has not licensed or otherwise authorized Respondent to use its MAA mark in a domain name or otherwise. Complainant further alleges as follows:

"Upon information and belief, the Disputed Domain Names resolve to a website containing information and rank apartment management companies. [...] The Disputed Domain Names currently resolves [*sic*] to a website containing links to third-party apartment management companies and disparages the Complainant's services. [...] Respondent lists Mid-America Apartment Communities, Inc. as one of its 'least favorite companies' on the home page of the megaawesomeapartments.com website."

Complainant also alleges:

“Respondent, or someone acting on its behalf, is emailing Complainant through an anonymous portal by making veiled threats and disparaging comments about Complainant’s employees. At least one of these messages reference the Disputed Domains and its alleged ‘[h]uge social media following,’ and imply that the plan is for the Disputed Domains to harass and disrupt Complainant’s business and intentionally confuse its customers. [...] Complainant asserts that such conduct is not indicative of any legitimate business activity but instead supports the assertion Respondent has actual knowledge of Complainant’s business and wants to destroy it. In addition, the owner of the Disputed Domains has set up a LinkedIn Account that includes false details which are obviously intended to mislead customers into believing the false account belongs to Complainant, such as stating that Respondent’s business is based in Memphis (as is Complainant), that is far larger than it actually is (falsely states it has 11-60 employees), and that its CEO is a non-existent person named ‘Craig Silver.’ [...] Mr. Silver’s photograph is that of a clip art picture of ‘older man,’ rather than belonging to a real individual.”

Complainant supplies annexes to the Complaint in support of the foregoing allegations. Respondent has not denied any of the foregoing allegations or questioned any of the documents annexed to the Complaint.

On March 28, 2023, Respondent wrote to the Center, stating:

“If Bass Berry [Complainant’s counsel] would like the domains. They can have them. We did not intend to violate any copyright infringement. We did not intend to profit in any way from the use of the acronym MAA. MAA was an acronym for our company, Mega Awesome Apartments. We understood several other companies use the acronym MAA—notably Mathematical Association of America: Homepage. We respectfully allow the transfer of the four websites listed above to Bass, Berry, or their client.”

In its amended Complaint, filed after the proceedings were resumed, Complainant made additional allegations about Respondent:

“Respondent Philipson was formerly employed as a property manager for MAA. Philipson gave notice to MAA in late March of 2021, stating that he was leaving to pursue his acting career. He later changed his mind and tried to withdraw his resignation a few days later. However, he made a number of negative comments about MAA on or about the time he gave notice. Accordingly, MAA determined that it was not in its best interest to allow him to withdraw his resignation and decided to pay him in lieu of letting him work out his notice. This series of events upset Mr. Philipson and ignited his long and relentless vendetta against MAA. [...]

Mr. Philipson continues to make complaints, some using his own name, some not, via an anonymous whistleblower portal. [...] It is notable that one of the email addresses that Respondent gave to Google for the Disputed Domains [corresponds to the real person who] is an MAA’s Chief Strategy and Analysis Officer and did not purchase the Disputed Domains. [...] Not content with simply making bogus complaints, he set about confuse and alienate MAA customers by misappropriating and using the MAA Marks as part of several Uniform Resource Locators (“URL’s”) that resolve to the infringing website www.megaawesomeapartments.com.”

Respondent has not disputed these additional allegations.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of each of the disputed domain names.

B. Respondent

Apart from the March 28, 2023, email quoted above, Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to each of the Domain Names:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the trademarks MAA and MID-AMERICA APARTMENT COMMUNITIES, through registration and use demonstrated in the record.

With respect to identity or confusing similarity, it is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Panel concludes that the MAA Domain Names are identical or confusingly similar to Complainant's MAA trademark. In the case of the domain name <maa.apartments>, the domain name is identical to the mark, because typically the Top-Level Domain (here, ".apartments") is not considered when determining confusing similarity. In the case of the domain names <maaapartments.com> and <maafraud.com>, the domain names entirely incorporate the MAA mark, and the MAA mark is recognizable within these domain names. Accordingly, the three MAA Domain Names are identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

With respect to the Mega Domain Name, <megaawesomeapartments.com>, the Panel reaches a different conclusion. Complainant's relevant trademarks are MAA and MID-AMERICA APARTMENT COMMUNITIES. In the Panel's view, neither of these trademarks is recognizable within the Mega Domain Name. Only the word "apartment" appears in both the Domain Name and one of Complainant's trademarks. That word, on its own, is descriptive of the services offered by Complainant. The fact that it appears in both the Mega Domain Name and one of Complainant's marks is not enough, in the Panel's view, to make the mark recognizable within the Domain Name.

In sum, Complainant has established Policy paragraph 4(a)(i) with respect to the three MAA Domain Names but has not done so with respect to the Mega Domain Name. The Panel will not consider the Mega Domain Name in its discussion, below, of the second and third elements of the Policy. Going forward, the Panel will refer to the "MAA Domain Names" as the "Domain Names."

B. Rights or Legitimate Interests

For each of the Domain Names, pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Names, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent does not have a legitimate interest in respect of the Domain Names. On the record presented, it appears to the Panel that Respondent had no authority to use Complainant's MAA mark in a domain name or otherwise, but did so because he had a personal vendetta against Complainant and sought to wreak economic harm on Complainant by creating consumer confusion between the MAA mark and the website to which the Domain Names resolve. Such conduct does not vest Respondent with a legitimate interest vis-à-vis the Domain Names.

Complainant has not established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

For each of the Domain Names, paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Names in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Names primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registrations to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Names; or
- (ii) that Respondent has registered the Domain Names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Names primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Names, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Names in bad faith. The Panel incorporates here its discussion above in the "Rights or Legitimate Interests" section. It is clear that Respondent had Complainant's mark in mind when registering the Domain Names. It was plausibly alleged, and not denied, that Respondent was formerly affiliated with Complainant. Further, Respondent's website specifically identifies Complainant's company by name in a disparaging comment.

With respect to bad faith use, the Panel finds that Respondent set up a website purporting to be a business (including an invitation to apply for employment with Respondent), and to offer real estate locating services and provide hyperlinks to unrelated firms offering apartment management services. The Panel concludes that Respondent's registration and use of the Domain Name falls within the above-quoted Policy paragraph 4(b)(iv), and hence constitutes bad faith registration and use of the Domain Name.

Complainant has established Policy paragraph 4(a)(iii).

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names <maa.apartments>, <maaapartments.com>, and <maafraud.com> be transferred to Complainant.

With respect to the disputed domain name <megaawesomeapartments.com>, the Complaint is denied.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: November 8, 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS**

**MID-AMERICA APARTMENT ,
COMMUNITIES, INC.**

Plaintiff,

V.

DENNIS PHILIPSON

Defendant.

Docket No. 2:23-cv-02186-SHL-cgc
JURY DEMAND

**MID-AMERICA APARTMENT COMMUNITIES, INC.'S
NOTICE OF FILING**

The Plaintiff, Mid-America Apartment Communities, Inc. (“MAA” or “Plaintiff”), gives notice that it has filed the transcript of Dennis Philipson’s deposition given October 30, 2023, including exhibits. A copy of the transcript and exhibits are attached as **Exhibit A**.

Respectfully Submitted,

/s/ Paige Waldrop Mills

Paige Waldrop Mills, BPR. No. 016218

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***Counsel for Mid-America Apartment Communities,
LLC***

CERTIFICATE OF SERVICE

I hereby certify that the forgoing was served on the individual below by email and regular mail:

Dennis Philipson
6178 Castletown Way
Alexandria, Virginia 22310
Phillydee100@gmail.com

This 25th Day of January, 2024.

/s/ Paige Waldrop Mills
Paige Waldrop Mills



Planet Depos
We Make It Happen™

Transcript of Dennis Philipson

Date: October 30, 2023

Case: Mid-America Apartment Communities, Inc. -v- Philipson

Planet Depos

Phone: 888.433.3767

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www.planetdepos.com

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
AT MEMPHIS

-----x
MID-AMERICA APARTMENT :
COMMUNITIES, INC., :
Plaintiff, : Case No.
vs. : 2:23-cv-02186-SHL-cgc
DENNIS PHILIPSON, :
Defendant. :
-----x

VIDEOTAPED DEPOSITION OF DENNIS PHILIPSON

Washington, DC

Monday, October 30, 2023

9:31 AM

Job No.: 510480

Pages: 1 - 187

Recorded By: Adam Schuman

Transcript of Dennis Philipson
Conducted on October 30, 2023

2

1 Deposition of DENNIS PHILIPSON,
2 held at the offices of:

3
4
5
6 BASS BERRY & SIMS PLC
7 1201 Pennsylvania Avenue NW, Suite 300
8 Washington, DC 20004
9
10
11

12 Pursuant to Notice, before
13 Adam Schuman, Notary Public in and for the
14 District of Columbia.
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Transcript of Dennis Philipson
Conducted on October 30, 2023

3

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

PAIGE WALDROP MILLS, ESQUIRE

BASS BERRY & SIMS PLC

150 Third Avenue South, Suite 2800

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615.742.6200

ON BEHALF OF THE DEFENDANT:

DENNIS PHILIPSON, PRO SE

6178 Castletown Way

Alexandria, Virginia 22310

919.264.1061

ALSO PRESENT:

DIAMANTE PARRISH, VIDEOGRAPHER

LHASSAN ELMILKI, VIDEOGRAPHER

Transcript of Dennis Philipson
Conducted on October 30, 2023

4

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Transcript of Dennis Philipson
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6

1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Here begins media
3 number 1 in the videotaped deposition of Dennis
4 Philipson in the matter of Mid-America Apartment
5 Communities, Inc. versus Philipson in the United
6 States District Court for the Western District of
7 Tennessee at Memphis, case number
8 2:23-CV-02186-SHL-CGC.

9 Today's date is October 30th, 2023. The
10 time on the video monitor is 9:31 a.m. Eastern.
11 The videographer today is Diamante Parrish
12 representing Planet Depos. This video deposition
13 is taking place at 1201 Pennsylvania Avenue
14 Northwest, Suite 300, Washington DC 20004.

15 Will counsel please voice identify
16 himself and state whom they represent?

17 MS. MILLS: Yes. My name is Paige
18 Mills. I am of the law firm Bass, Berry & Sims,
19 and I represent the plaintiff, Mid-America
20 Apartment Communities.
21 Whereupon,

22 DENNIS PHILIPSON,
23 being first duly sworn or affirmed to testify to
24 the truth, the whole truth, and nothing but the
25 truth, was examined and testified as follows:

Transcript of Dennis Philipson

Conducted on October 30, 2023

7

1 EXAMINATION BY COUNSEL FOR THE PLAINTIFF

2 BY MS. MILLS:

3 Q Mr. Philipson, would you please state
4 your full name for the record.

5 A Dennis Michael Philipson.

6 Q And you and I have never met in person
7 before today; is that correct?

8 A Correct.

9 Q But we've corresponded, and we have met
10 on video, for example.

11 A Correct.

12 Q Okay. And I understand from our
13 correspondence that you've never given a
14 deposition before; is that correct?

15 A No, I have not.

16 Q I'll just give you a little background
17 and lay down the rules as -- as to how things will
18 go so -- so that we're all on the same page. Our
19 court reporter, Adam, is -- is taking down
20 everything we say, and it's very difficult for him
21 to do that if we talk over one another. So, I ask
22 that if I ask a question, that you wait and then
23 answer. And I will try to do the same.

24 Sometimes that's hard, and it's -- it's --
25 it's very easy for us to talk over each other, but

Transcript of Dennis Philipson
Conducted on October 30, 2023

8

1 we'll have a much easier and clearer record if we
2 -- if we endeavor to speak one at a time. If you
3 don't -- if you don't understand a question,
4 please let me know.

5 A Okay.

6 Q I'm happy to rephrase it. If you don't
7 ask me to rephrase it or -- or don't tell me you
8 don't understand it, I'll assume you understood it
9 --

10 A Okay.

11 Q -- okay? If you need to take a break,
12 let me know. We're happy to do that. This is not
13 an endurance contest --

14 A Okay.

15 Q -- but I just asked -- ask that if any
16 breaks or requests for breaks not be with a
17 question pending --

18 A Okay.

19 Q -- okay?

20 A I got it.

21 Q Are you taking any medication today that
22 would impair your ability to understand the
23 questions?

24 A No, not that would do that.

25 Q Are you taking any medication today that

Transcript of Dennis Philipson
Conducted on October 30, 2023

9

1 would impair your ability to answer truthfully?

2 A No.

3 Q The -- the dep that -- in a deposition,
4 you are giving testimony just as if you were
5 giving testimony in court.

6 A Right.

7 Q So, this testimony can be used later in
8 court just as if you gave it in court on the
9 witness stand.

10 A Okay.

11 Q And you are under oath, and anything
12 that you -- any testimony you give in this
13 deposition is given under penalty of perjury. Do
14 you understand what that means?

15 A Yes.

16 Q Okay. Now, can you state your address
17 for the record, please?

18 A 6178 Castletown Way, Alexandria,
19 Virginia 22310.

20 Q Okay. And what is your mobile phone
21 number?

22 A So, (919) 264 -- I got it not too long
23 ago -- 1061.

24 Q Okay. Do you have any other phone
25 numbers?

Transcript of Dennis Philipson
Conducted on October 30, 2023

10

1 A (703) 581-5689.

2 Q 5689. And what is your date of birth?

3 A May 21st, 1982.

4 Q What is your primary e-mail address now?

5 A Now it's phillyd100@gmail.com. I did
6 have mphillyd@gmail.com, but because of concerns I
7 -- I got rid of that e-mail address.

8 Q And what concerns are you referring to?

9 A I -- I -- hacking, stuff like that. I
10 -- I mean, I'm mentioning I do have anxiety issues
11 and stuff like that. I am on medication for that.
12 So, whether that be the concern -- but I got some
13 e-mails that said someone guessed my password, to
14 change it immediately. The only thing that
15 stopped them from getting in was my two-step
16 verification.

17 Q When did you receive that?

18 A I've gotten several times. I don't
19 recall the actual dates.

20 Q Well -- okay. You don't have to give me
21 an actual -- you know, actual date or exact date,
22 but approximately when have you received that?

23 A I -- I -- I really don't recall, the
24 beginning of 2023.

25 Q Okay. Would it be in -- before this

Transcript of Dennis Philipson
Conducted on October 30, 2023

11

1 lawsuit was filed?

2 A I -- I believe so; yes, I think.

3 Q And it was only in reference to the
4 mphilid@gmail?

5 A Well, now I've gotten other -- I've
6 gotten the same thing with philid100@gmail.com.

7 Q And when did you receive that?

8 A I've received two of them within the
9 last couple months.

10 Q And did you have two-factor
11 authentication on that e-mail, as well?

12 A Not the first time, but then I added it.

13 Q So, you had it for the -- the philid100
14 account but not the --

15 A Mphilid I had it.

16 Q Oh.

17 A Philid100 I didn't have it at first, and
18 I added it after I got that first message. So,
19 whether someone got in or not, I don't know.

20 Q Okay. Have you any reason to believe
21 that someone got in the account? In other words,
22 have you seen any evidence that someone was in
23 your accounts?

24 A Not to my knowledge.

25 Q Okay. How about -- what other e-mail

Transcript of Dennis Philipson
Conducted on October 30, 2023

12

1 accounts do you have besides those two that we've
2 discussed?

3 A I had mphilid2@gmail.com, which that --
4 the only reason that was created was to correspond
5 with MAA back in 2021.

6 Q Why did you create a special e-mail just
7 to correspond with them?

8 A At that time, someone blocked me from
9 communicating, which I felt I was communicating
10 very professionally. And someone blocked me
11 because I was mentioning things related to fraud,
12 is what I'm assuming. So, I was blocked. And I
13 let them know I was blocked. And that's when ER
14 reached out to me, and we spoke over the phone
15 about my concerns.

16 Q Okay. So, did you create the -- the
17 mphilid2 Gmail after you were blocked so that you
18 could communicate?

19 A I -- I may have had it before. I -- I
20 -- I don't -- I don't recall if I created it -- I
21 -- I don't think I created it specifically. I may
22 have had that one, as well. I don't -- I don't
23 remember.

24 Q Did you -- after you told the company
25 that you had been blocked, did you -- and they

Transcript of Dennis Philipson
Conducted on October 30, 2023

13

1 called you, did you continue to communicate with
2 the company?

3 A I don't -- I -- I actually remember
4 sending Mr. Brooks a very nice e-mail talking
5 about how I would miss MAA, the holiday hams, how
6 I would miss everyone, tell Amber good luck, tell
7 everyone, you know, wish you the best. Sorry it
8 didn't work out. I've been with you five years.
9 I did really well for you, and on my way, so --

10 Q Okay. So, you did communicate with them
11 after that point?

12 A I just sent Ona (phonetic) a thank you
13 for talking to me over the phone and --

14 Q Okay. When you left the company, did
15 you take any e-mails with you?

16 A Did I take any e-mails with me at that
17 time? Yes, I did.

18 Q What did you take with you? What did
19 you decide -- how did you decide what --

20 A There was the e-mails regarding
21 accounting fraud.

22 THE VIDEOGRAPHER: Counsel, I'm having a
23 little difficulty. Can we go off the record for a
24 moment?

25 THE WITNESS: Yes.

Transcript of Dennis Philipson
Conducted on October 30, 2023

14

1 THE VIDEOGRAPHER: Okay. We are going

2 --

3 (OFF THE RECORD)

4 THE VIDEOGRAPHER: We are back on the
5 record. The time is 9:42 a.m.

6 BY MS. MILLS:

7 Q Okay. Just to be clear, when we go on
8 and off the record like that, when we come back on
9 the record you are still considered to be sworn.
10 Do you understand?

11 A Okay. Yeah.

12 Q Okay. All right. So, we were talking
13 about e-mails that you have, and you mentioned
14 mphilid2@gmail. And that's the one you created to
15 communicate with the company after termination;
16 right?

17 A Well, like I said, I -- I didn't -- I'm
18 not sure if I created it specifically to
19 communicate with them. I had mphilid and
20 mphilid2.

21 Q Okay.

22 A So, I -- I don't remember if --

23 Q Around that time frame you had it.

24 A Around that time frame. I may have had
25 it before that time. I -- I mean, I just -- I

Transcript of Dennis Philipson
Conducted on October 30, 2023

15

1 don't remember. It was --

2 Q Okay. All right. Other -- we've talked
3 about three e-mails that you use. What else do
4 you use? What other e-mail addresses?

5 A I mean, I have dmp15. That's my
6 original AOL account from 1995. I don't use it,
7 but I still have it because it's nostalgic.

8 Q Okay.

9 A That's all I can really recall. Work
10 e-mails, I -- I don't have a work e-mail address
11 any longer. I -- I can't remember if I have it
12 right.

13 Q So, you don't -- your testimony is you
14 don't recall having any other e-mail addresses?

15 A My testimony is I don't recall, but I
16 may have had other e-mail addresses. I -- I -- I
17 just don't remember.

18 Q Okay.

19 A Thank you.

20 Q We'll keep moving here. And just so
21 that I'm clear, the mphilid@gmail.com is one
22 you're currently using?

23 A No. Right now --

24 Q No.

25 A -- I'm using philid100@gmail.com. And,

Transcript of Dennis Philipson
Conducted on October 30, 2023

16

1 yes, I do have another one now that you mention
2 it: [REDACTED] and outlook.com. I use
3 those primarily for my banking and all the, like,
4 important stuff.

5 Q And that's [REDACTED], [REDACTED]

6 A [REDACTED]

7 Q Okay. At both --

8 A And --

9 Q -- gmail and outlook?

10 A Yes. And I just want to say I -- I
11 don't know how to say this, but I want that to
12 remain private. I don't want that e-mail address
13 used, like I said, because of my other suspicions
14 before.

15 Q You and I have had some correspondence
16 about a protective order in this case, and that's
17 one reason for a protective order. The protective
18 order, if -- if there is one, either party can
19 designate certain things confidential that can't
20 be shared. And so that would be one reason to
21 have one, so I just put that out there. If you
22 want to change your mind and agree to --

23 A I mean, I'm --

24 Q -- a protective order --

25 A -- I'm happy to go through that

Transcript of Dennis Philipson
Conducted on October 30, 2023

17

1 protective order, but there's a lot of -- I mean,
2 a simple protective order to me is a page long,
3 not 27 pages long or whatever it was. That's --
4 that's a little -- I -- I don't need all of this
5 legal mumbo jumbo. Just say don't disclose this
6 shit. I won't -- sorry, excuse my language and --
7 I won't disclose it. That's all you got to say.

8 Like -- but I'm not going to go through that.
9 I can't use this here. I can't use this there. I
10 get you're trying to -- we're trying to cover all
11 the legal, but that's the reason for me not
12 wanting to sign it.

13 Q Well, the reason a lot of that's in
14 there is because the courts require that. So,
15 it's -- the courts have particular requirements
16 for protective orders and procedures for how
17 they're followed. So, that's what all that is.

18 A Understood.

19 Q Okay. So, other than the -- so we -- I
20 -- I -- it's fine with me if you -- if you want to
21 revisit the protective order issue; and if, for
22 the purposes of this deposition, you want to
23 designate those two e-mail addresses as
24 confidential -- is that what you'd like to do?

25 A I would like to; yeah.

Transcript of Dennis Philipson
Conducted on October 30, 2023

18

1 Q Okay. One of the reasons -- you and I
2 had correspondence over the weekend about -- that
3 -- that you wanted to postpone this deposition.
4 One of the reasons you gave for wanting to
5 postpone was you were experiencing family
6 bereavement. What was the -- what's the -- what
7 are you referring to there? What happened?

8 A I don't -- I -- I mean, that's -- I
9 don't think that's relevant to the case, and I --
10 I don't want to speak about that. It's very
11 traumatic right now, so I don't want to bring that
12 up. I'm here. I made it, but --

13 Q Okay. When you recently filed with the
14 court, you filed a couple of -- of documents
15 saying that you were traveling and unavailable.
16 Where were you?

17 A I was between New York, where my mom and
18 dad are and a lot of my family, and back home,
19 mostly in New York.

20 Q Were you vacationing?

21 A No.

22 Q Work?

23 A No.

24 Q Just visiting family?

25 A Visiting family. Again, I -- there's

Transcript of Dennis Philipson
Conducted on October 30, 2023

19

1 issues going on up there that I -- I really don't
2 wish to talk about.

3 Q Okay.

4 A I don't think it has anything to do with
5 this.

6 Q What is your educational background?

7 A I am a high school dropout at the age of
8 15. I have my GED. I went to culinary school.

9 Q Hold on. Just hold that thought.

10 A Sure.

11 THE REPORTER: We'll go off the record.

12 BY MS. MILLS:

13 Q Yeah.

14 (OFF THE RECORD)

15 THE REPORTER: We are back on the
16 record. The time is 9:51 a.m.

17 BY MS. MILLS:

18 Q Okay. I interrupted you, Mr. Philipson,
19 while you were talking because we had a little
20 microphone snafu. If you could, just sort of
21 start over with your educational background.

22 A So, I dropped out of high school, age of
23 15, got my GED, went to the Culinary Institute of
24 America in 2000, graduated there from 2020 --
25 sorry, graduated in 2002, did not get my degree.

Transcript of Dennis Philipson
Conducted on October 30, 2023

20

1 I was supposed to go back to get my degree. I
2 went back ten years later, I had an emergency at
3 work, did not get my degree again, and just gave
4 up on trying to get my degree.

5 At the time, they had very short classes
6 where they were seven to 14 days long. I missed a
7 14-day class, and I -- I just didn't get around to
8 it. And then I also went to Empire State College
9 for maybe -- online, maybe eight months. That was
10 back in 2006 or 2007, from what I remember. And
11 that was general stuff.

12 Q And didn't -- you didn't obtain a degree
13 there?

14 A I did not, no.

15 Q All right. Have you ever worked in the
16 culinary arts?

17 A Yes.

18 Q What -- what have you done?

19 A I was a chef right out of school. I was
20 a sous-chef. I was a chef, a weekend chef -- I
21 had two jobs. I was a chef during the week at a
22 cafe, dinner, fancy place, and I don't remember
23 the other place, it was a weekend chef. I just
24 remember working my -- working very hard. And
25 then I was a chef in the Adirondacks for six or

Transcript of Dennis Philipson
Conducted on October 30, 2023

21

1 seven years, and then I moved down here.

2 I don't really -- I worked at Au Bon Pain as
3 a manager, and then Pot Belly as a manager, and
4 then I was promoted to a district manager. And
5 then in 2014, I think that's when I left -- I
6 think I left Pot Belly in 2014. I just had a lot
7 of -- again, traumatic things happen in 2014,
8 medical things with myself, and I decided to take
9 some time off and reassess what I wanted to do.

10 And then in 2016, I went and worked for Post
11 Properties at the time, and then MAA merged with
12 Post Properties, as they called it, in 2016.

13 Q All right. What -- what were you doing
14 for Post Properties?

15 A I started as a leasing consultant.

16 Q And does that involve leasing apartments
17 --

18 A Yes.

19 Q To folks?

20 A Yes.

21 Q All right. What -- you say you started
22 as a leasing consultant? What -- what happened
23 next? Tell me your progression.

24 A Leasing consultant. I worked maybe
25 two-and-a-half years, and then I went to an

Transcript of Dennis Philipson
Conducted on October 30, 2023

22

1 assistant manager. And I think I did that maybe
2 for six months or so. And then I was a property
3 manager for the rest of my tenure there.

4 Q And what -- what property were you
5 managing?

6 A So, as an assistant, I was at Pentagon
7 -- Post Pentagon Row. And then I got promoted to
8 property manager, and that was at Post Corners in
9 Centreville. And then I got moved to Post Tysons
10 Corner, which is Tysons Corner, McLean, Virginia.
11 And then I was there for the remainder of the
12 time.

13 Q So, you were property manager or --
14 yeah, at both Post Corners in Centreville and Post
15 Tysons Corner?

16 A Correct.

17 Q Does being property manager involve you
18 living on site?

19 A You don't have to, no.

20 Q Did -- did you live on site?

21 A I lived at Post Carlyle Square. You
22 didn't -- so, you can live at any of their
23 properties, basically, and -- and work at another
24 one.

25 Q Okay. How long did you live there?

Transcript of Dennis Philipson
Conducted on October 30, 2023

23

1 A Three years, maybe -- 2000, I don't even
2 remember. I know we moved out of there in 2020,
3 because we, we -- we bought a house in 2020. I
4 would say probably three years.

5 Q When you say we, are you married?

6 A Yes.

7 Q What's your wife's name?

8 A Kerrie.

9 Q Kerrie, how do you spell it?

10 A K-E-R-R-I-E.

11 Q And is she Philipson, Kerrie Philipson?

12 A Correct.

13 Q Did she also live in this property?

14 A Yes.

15 Q I know you mentioned in a filing that
16 you had recently had a baby.

17 A Correct.

18 Q Do you have other children?

19 A No. First one.

20 Q Okay. Are you working currently?

21 A Currently, no, I'm -- I'm not, because
22 of the family reasons I mentioned, and the
23 traveling. I've been looking and trying to decide
24 next steps. I help -- I assist my wife, so I'm
25 her assistant, I guess.

Transcript of Dennis Philipson
Conducted on October 30, 2023

24

1 Q What do you mean, like --

2 A I helped her -- you know, I've -- I've
3 done some work for her, I mean, and just some
4 reviewing. She's --

5 Q What is her job?

6 A I mean, she's in HR, so she does
7 recruitment.

8 Q Where does she work?

9 A I don't think all that matters, does it?

10 Q Yeah. We're -- we're allowed to ask
11 that.

12 A Where my wife works? She works at the
13 CSBS, which is Conference State Banking
14 Supervisors.

15 Q So have you been working for them as her
16 assistant?

17 A No. I mean, I just like -- read through
18 this type, okay, and then the baby, and then the
19 household stuff, so I've been basically a stay at
20 home dad, but I'm still looking for a job remote.
21 And then I'm traveling a lot. And then, when I'm
22 in New York, sometimes I do some odd jobs, because
23 I used to have a landscaping company up there back
24 in the day. So, I went up -- when I went up, I
25 was helping with the deck.

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1 Q Helping with the deck for family?

2 A No, that was -- there's a gentleman that
3 I was -- used to work closely with when I lived in
4 the Adirondacks, so if he can throw me some money,
5 come up, help out for three days, I've done that.

6 Q And is that part of what you were doing
7 (crosstalk) --

8 A That was part of it, yeah.

9 Q Okay. What kind of phone do you use?

10 A What kind of phone?

11 Q Yeah.

12 A Pixel.

13 Q Pixel?

14 A Pixel, Google Pixel.

15 Q Uber Pixel?

16 A Google.

17 Q Oh, Google. Okay, I'm sorry. That's an
18 Android?

19 A Yes.

20 Q Do you know what -- what version of
21 Android it is? Is it a new phone? Is it --

22 A It's a -- it's a Pixel 8.

23 Q Pixel 8? That -- is that a new one?

24 A Yes.

25 Q When did you get that phone?

Transcript of Dennis Philipson
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1 A It just came out in October.
2 Q Okay. So, brand new?
3 A Brand new.
4 Q Okay. What did you have prior to that?
5 A Pixel 7 Pro.
6 Q Pixel 7 Pro?
7 A Yes.
8 Q Do you know what version of Android?
9 A That I don't remember.
10 Q Okay. How old was that phone? When did
11 you get it?
12 A That was a year old.
13 Q It was a year old when you got the new
14 one?
15 A That came out, so -- the 8 came out this
16 year, and then the 7, I believe, came out the year
17 before.
18 Q And you bought it new?
19 A Correct.
20 Q And then had it a year, and then got the
21 8?
22 A Correct.
23 Q All right. What kind of phone does your
24 wife use?
25 A I'm not sure, because it's a company

Transcript of Dennis Philipson
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1 phone.

2 Q Is it an Android or a Apple product?

3 A I'm not --

4 Q You don't know?

5 A I'm not really sure. I don't -- I stay
6 out of her stuff. She -- yeah, I don't know.

7 Q Okay. What kind of computer do you use?

8 A I don't have a computer right now. I
9 used to use my work computer, and she has a Dell.
10 It's -- but it's a highly secured Dell with her
11 job.

12 Q Do you ever use that computer?

13 A Just if she has a, like, technical
14 problem, if she can't get her mic -- just to help
15 her with that.

16 Q But you don't --

17 A No.

18 Q Use it. Okay.

19 A I'm -- again, I'm very big on security
20 and stuff like that. I don't -- since 2021 and
21 this identity theft thing that I've mentioned, I
22 don't like to use -- I'm like a hermit when it
23 comes to some of that stuff.

24 Q So your testimony is, you do not have a
25 computer; right?

Transcript of Dennis Philipson
Conducted on October 30, 2023

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1 A I do have a computer, but I don't use
2 it.

3 Q Okay. What -- what computer do you have
4 that you don't use?

5 A There's a Dell.

6 Q That's your -- that's the wife's
7 computer?

8 A Yes.

9 Q Okay. I'm sorry. Your wife's computer.
10 I (indiscernible).

11 A Yes.

12 Q So, that's the only computer in your
13 household?

14 A Unless there's an old one somewhere, or
15 up in the attic, I -- I don't, I don't know.
16 There could be one, I'm not sure.

17 Q When did -- did your wife obtain this
18 Dell computer?

19 A She's had it for -- she had -- she's
20 been with her job since 2016 as well, so she got a
21 new one maybe in, two years after she started.
22 They all got new ones. So maybe she got it in
23 2018.

24 Q And is this computer -- does she work at
25 home, or work in an office?

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1 A Right now, she works at home. She goes
2 to the office once a week. Right now, she's still
3 on maternity leave actually, so --

4 Q Okay. And so this computer, her Dell
5 computer is at your home, and that's where it
6 primarily resides?

7 A Correct.

8 Q Okay. And -- and as far as you know,
9 this Dell was new in 2018?

10 A I don't think it was brand new, but it
11 was given to her as --

12 Q She -- she obtained it 2018.

13 A Correct.

14 Q Do you have any other devices that can
15 access the Internet?

16 A I have a tablet.

17 Q And what kind of tablet?

18 A Android.

19 Q Do you know what -- what brand it is?

20 A I have no idea. It's one of the cheapie
21 Amazon deal of the day.

22 Q Okay. And -- how long have you had it?

23 A Maybe a year, two years.

24 Q What do you use that for?

25 A Home stuff, like control the lights,

Transcript of Dennis Philipson
Conducted on October 30, 2023

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1 stream movies, check my security cameras, mostly
2 home stuff.

3 Q Do you e-mail from the tablet?

4 A I do not, no.

5 Q Do you send e-mails from the Dell
6 computer.

7 A Her computer?

8 Q Uh-huh.

9 A I don't remember if I ever have, I -- I
10 don't remember. In the five -- what year are we?
11 In the seven years, I -- I could have, I don't
12 remember.

13 Q Okay. Other than this tablet and the
14 one phone, do you have any other devices that can
15 access the Internet?

16 A I mean, I got a ton of old phones and --
17 like, I mean, I don't trade in my phones, so I
18 keep them as backup. I mean, I probably have five
19 or six.

20 Q And can you tell me what they are?

21 A I don't.

22 Q Are they all Android products?

23 A I have an old iPhone. I don't even
24 think -- I have one that wasn't even an Android,
25 like, I don't even know what it was. I mean,

Transcript of Dennis Philipson
Conducted on October 30, 2023

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1 there's like a drawer full of just old -- older
2 phones.

3 Q Do you typically have an Android? I
4 mean, is that what you primarily --

5 A I typically use an Android. I'm not too
6 great with iPhones and sort of --

7 Q Okay. So, other than your current
8 Google Pixel phone, the Dell home computer that
9 belongs to your wife, the tablet, the drawer full
10 of phones, are there any other devices that can
11 access the --

12 A I mean, there, there -- there could be.
13 I'm not really sure. I mean, I don't -- I don't
14 know if there is. There could be another
15 computer. There could be a laptop, I, I -- I'm
16 not really sure, I'd have to go and look.

17 Q Why -- why is it you don't know if you
18 have other computers?

19 A Because I have a lot of shit I don't
20 know about. Sorry again about my language.

21 Q Okay.

22 A I, I -- I just have a lot of stuff, I'm
23 -- you know, I like to buy electronics. I got
24 VCRs that I've transferred, like I have, I have
25 stuff, like I --

Transcript of Dennis Philipson
Conducted on October 30, 2023

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1 Q So, it's possible you have some other
2 computers, but you just can't remember them today?

3 A Correct.

4 Q Okay. What browser do you typically
5 use?

6 A Usually Chrome.

7 Q Any others?

8 A Not that I remember. I mean, sometimes,
9 like, you got to use the edge, and then you tell
10 them to stop telling you to use it, and then they
11 tell you again the next week they want you to use
12 that. Like, just yeah.

13 Q Yeah. The Microsoft Edge?

14 A Right.

15 Q Do you use Firefox?

16 A Not that I remember.

17 Q Do you use Safari?

18 A What is Safari, ma'am?

19 Q It's a --

20 A I don't know that one.

21 Q -- it's a Apple --

22 A If I used it, it was on, like, a work
23 computer that had Apple or something like that.

24 Q Okay. That -- is that something you've
25 used in the last three years?

Transcript of Dennis Philipson
Conducted on October 30, 2023

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1 A I worked for Bozzuto at one point, and
2 they had them in their residence center. So
3 probably.

4 Q What does Bozzuto do?

5 A Property management company.

6 Q When did you work for them?

7 A Right after MAA.

8 Q Right after what?

9 A Right after MAA.

10 Q How long were you there?

11 A I don't -- maybe six, eight months.

12 Q What were you doing for them?

13 A Property manager.

14 Q As a PM?

15 A Yes.

16 Q Why did you leave there?

17 A Someone from MAA came over there that I
18 didn't know was there, and I didn't like being
19 associated with anyone from MAA, and he was good
20 friends with my old boss.

21 Q Who was it?

22 A Michael Hayes.

23 Q H-A-Y-E-S?

24 A I think so.

25 Q And what position did he have?

Transcript of Dennis Philipson
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1 A I don't know. I heard he came from
2 another property manager at MAA. I heard -- I
3 think Bozzuto -- I think he was working for
4 another company. Bozzuto bought -- they buy --
5 someone bought that property because Bozzuto's
6 primary just the management company. Bozzuto
7 bought his property.

8 So now he became a part of Bozzuto because of
9 the -- the buyout. So another property manager
10 from MAA told me that he was coming over, can I
11 give him your number? And I didn't say yes. I
12 didn't say no. I just sort of pretended like he
13 didn't ask me that. And then --

14 Q And -- and you left because this guy was
15 joining?

16 A Yes.

17 Q Did -- what if -- if you had wanted to,
18 could you have stayed?

19 A Yes. Yeah.

20 Q Where did you go from there? Did you
21 have another job to go to?

22 A I -- I got another job. Wegmans.

23 Q Wegmans?

24 A Wegmans Grocery.

25 Q Okay.

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Conducted on October 30, 2023

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1 A If you have not been, you need to check
2 it out.

3 Q Okay. What were you doing for them?

4 A So I was supposed -- so they opened --
5 they were opening a new store, and I was supposed
6 to go open their new store. And I was going to
7 manage -- they have, like, different, like, they
8 had a burger bar, and I was going to manage that.
9 Just -- it wasn't -- I only was there for, like,
10 two weeks. It's a great company, great culture,
11 everything like that. It just wasn't -- so I just
12 can't be on my feet like I used to be, so --

13 Q So you left your own volition?

14 A Yes.

15 Q And where did you go from there?

16 A I think I took a little bit of time off,
17 and then I went to Hometown America.

18 Q And what -- what do they do?

19 A So they manage -- so basically people
20 can build a modular, and then they own the
21 property where you put your modular. So they
22 charge you rent for the property.

23 Q And what were you doing for them?

24 A I think my title was regional assistant.

25 Q And what did that involve?

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1 A Reports, helping out -- helping other
2 properties if they were short staffed, helping
3 fill -- fill in. Stuff like that. I worked for
4 two -- two people. They were both regional
5 managers, and I was their assistant, basically.
6 So --

7 Q How long did you stay there?

8 A I want to say four months.

9 Q Why did you leave that job?

10 A Anxiety. Pretty much anxiety. I -- I
11 don't like -- I don't like speaking of this. I
12 basically was an alcoholic for the last 20 years
13 of my life. And I quit drinking.

14 Q When did you quit drinking?

15 A 2000 -- I should know this because
16 you're supposed to, like, have a chip, but I don't
17 -- I don't, like, I don't -- 2020. I think during
18 when COVID hit. I -- might have been before then.
19 No, it was -- it was right -- when did I leave In
20 MAA? 2021? It was towards the end of 2020. I
21 would -- I -- I think that sounds about right.

22 Q And have you remained sober all this
23 time?

24 A Yes.

25 Q Well, congratulations. That's a big

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1 accomplishment.

2 A Thank -- thank you.

3 Q So you've been sober since 2020. You
4 went to Bozzuto, went to Wegmans Grocery, Hometown
5 America, and you were telling me that you left
6 Hometown America due to anxiety.

7 A So basically, when I quit drinking, the
8 reason -- I -- I feel the reason for drinking came
9 out, which was anxiety and -- and stuff like that.
10 So in 2014, I had some big episodes of anxiety,
11 stress, all this stuff. And I went on medication
12 then, and I was able to get out of that.

13 And then I was put back in that from working
14 with MAA. And then I quit drinking, and it -- it
15 was just, like, it was all, like, one big --

16 Q What medication are you on for your
17 anxiety?

18 A Paxil. And they were experimenting,
19 like, before they found a combination that worked.
20 But I'm on Paxil and I'm on bupropion.

21 Q Okay. Anything else?

22 A As far as for anxiety? No.

23 Q Any other medications?

24 A I don't want to disclose my personal
25 health. Yeah.

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1 Q Is it -- or -- is it any -- do you have
2 any health concerns that relate to MAA?

3 A I mean, I had anxiety with MAA and, you
4 know, working with them gave me bigger anxiety.
5 So I mean -- I mean, yeah.

6 Q So what -- what other health concerns
7 related to MAA?

8 A Related to MAA?

9 Q Yeah.

10 A I don't really know. I -- I -- I don't
11 -- can you rephrase? I don't know.

12 Q Yeah. Okay. So you talked about --
13 you've mentioned anxiety several times --

14 A Yeah.

15 Q -- you know, today and elsewhere in the
16 case, and we've just talked about that started in
17 2014, and you went through several episodes of --
18 of that, worked on getting medication for that,
19 got -- got a combination that worked, quit
20 drinking in 2020, which seemed to exacerbate the
21 anxiety because you were self medicating with
22 alcohol.

23 And -- but -- but your -- as I understand it,
24 your testimony is your situation with MAA created
25 more anxiety --

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1 A Right.

2 Q -- the leaving.

3 A Right.

4 Q Other than this -- this sort of ongoing
5 anxiety, do you have any other health concerns --

6 A I --

7 Q -- caused by MAA?

8 A I would say they -- because in 2014, I
9 was able to quit drinking. I would say they made
10 me drink. Anxiety got high, and the stress, the
11 depression, like, all the mental stuff, you know,
12 started in 2014. It got better for a couple of
13 years, and then I just got, you know, made fun of
14 for three or four years with MAA.

15 So it just progressively got worse and worse
16 and worse.

17 Q So do you -- do I -- are you saying that
18 -- that MAA caused your alcoholism?

19 A I would say they were a part of it,
20 yeah.

21 Q Okay.

22 A I mean, they were the ones to bring it
23 back because I did -- I was able to quit for a
24 little bit.

25 Q How long had you quit?

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1 A Two years. I'd quit in, like, 2014,
2 2015. Yeah.

3 Q So you quit a couple of times before
4 that?

5 A I mean, that -- that was the -- the
6 other -- again, something very traumatic happened
7 in 2014, and --

8 Q What happened in 2014?

9 A I -- I don't wish to -- I don't wish to
10 share that. It's private health information.

11 Q Does that have anything to do with MAA?

12 A No, it does not.

13 Q Okay.

14 A So I don't want to talk about that. But
15 basically, I quit drinking at the time because,
16 you know, the reason that happened was a lot to do
17 with drinking. So I quit drinking. I was sober
18 for awhile. I was good. I worked for Post
19 Properties. I worked for MAA. I was good for a
20 while. And then, you know, I got back to
21 drinking.

22 Q So I'm still trying to figure out if
23 there are any other medications you're on related
24 to what you claim are MAA-related elements?

25 A I don't -- I don't believe so. Other

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1 than the -- other than the stress and anxiety and
2 depression, that's -- that's really what MAA
3 caused. I was on -- in order to quit drinking, I
4 did have to take naltrexone. It was -- it
5 basically cut off the receptors in your brain that
6 gives you pleasure for drinking.

7 Naltrexone's what they give people taking
8 heroin. So yes, I did -- was on that when I quit
9 in 2020. And -- but I'm not on that any longer.

10 Q Okay. We got -- I got sidetracked there
11 a bit. We were talking about your devices, and
12 you said that, you know, there may be other
13 computers that you're just not remembering that
14 you've got. I think that's where --

15 A Correct.

16 Q -- we stopped off. Then we started
17 talking about browsers. You said you typically
18 use Google Chrome. Do you ever use DuckDuckGo?

19 A No.

20 Q Never?

21 A When it first came out, maybe, but I
22 don't remember really using it now.

23 Q You don't recall ever using it in --

24 A I -- I don't recall using DuckDuckGo.

25 Q Is it possible you've used it in the

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1 last year?

2 A It's possible I may have tried it, but I
3 -- I don't remember specifics behind it.

4 Q Is it possible you've used it in the
5 last six months?

6 A I don't -- I don't think so, no. Not
7 that I -- I -- I -- I don't remember using it.

8 Q So you don't remember -- you -- you
9 can't testify that you haven't used it. You're
10 testifying that you don't --

11 A I'm testifying I don't -- I don't
12 remember using it. Again, you know, these last
13 few months have been a whirlwind. So I -- I -- I
14 -- I don't recall using it. I -- I like to --
15 when I get it, you know, I -- I -- I just don't
16 recall using it, no.

17 Q Do you use Firefox?

18 A I -- I don't remember ever using
19 Firefox, no.

20 Q Are you aware that certain browsers are
21 more secure than other browsers?

22 A I would guess so, yes.

23 Q Can you tell me a little bit about your
24 understanding about that? What's your -- what's
25 your understanding?

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1 A Some are more -- they have private
2 browsers. I know Google, you got to go through
3 and get rid of some of the settings and stuff like
4 that or else they're tracking you everywhere you
5 where you go. But I know some browsers are more
6 private than others.

7 Q What's your understanding of the most
8 private browser that -- that's available?

9 A I -- I -- I don't really have a huge
10 understanding of that. I mean, I know there's the
11 incognito mode on Chrome that you can use, but I
12 -- I don't know that much about specifics of
13 browsers. I just know anyone could find anything
14 about anyone anytime through e-mails, through
15 whatever.

16 I was able to pull up an IP address that
17 belonged to Bass Berry Pro from an e-mail. So, I
18 know that much.

19 Q Okay. Do you use a VPN?

20 A Yes.

21 Q What VPN do you use?

22 A It -- it's through Google. Google One.

23 Q Google One VPN is what it's called?

24 A It's called Google One VPN, yeah.

25 Q Why do you use a VPN?

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1 A It comes free with my Google One
2 subscription, and it's supposed to be more
3 private.

4 Q Do you do everything through that Google
5 VPN?

6 A I mean, it's -- it's on usually. I -- I
7 think it goes off when I'm on my home. I think
8 when I connect to my home network, it goes off.

9 Q Do you have an understanding of whether
10 Google One VPN allows others to see your IP
11 address?

12 A Does Google One -- I don't understand.

13 Q Do you know whether or not Google VPN
14 allows others to see your IP address?

15 A I would think if they go through Google,
16 Google would know. But I -- I don't really know.
17 I would think if you say, hey, Google, who did
18 this and such, and I -- I'm guessing, that Google
19 could pull it up and say it was such and such at
20 this person at this time. But I -- I don't really
21 -- I -- I know -- can you ask the question one
22 more time? Sorry.

23 Q Yeah. I mean, what's your -- I guess --
24 starting over, strike that.

25 Do you believe using the Google VPN prevents

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1 others from seeing your IP address?

2 A I know it makes things more private and
3 it makes people -- you know, it's harder to get
4 into your devices because it's not -- I think it
5 says, like, it doesn't show your -- don't let
6 others see, like, when I downloaded it, like,
7 don't let others see your IP address. But Google
8 really tries to get you to get it when you have
9 Google One and the Pixel and stuff like that.

10 So I mean, I would think that it would mask
11 it. I've also read that IP addresses aren't very
12 reliable and there's a way to spoof them, and
13 stuff like that, so I -- I don't --

14 Q Well, what do you know about that?
15 Let's talk about spoofing IP addresses. What do
16 you know? What is your understanding?

17 A I mean, I looked at that when all this
18 happened and you were claiming that my IP address
19 was happening. I mean, it says anyone could spoof
20 anyone's. I mean, you can download a tool that
21 spoofs [sic] it. You can put -- I can put in
22 Bass Berry Pros, say I'm, you know, doing this and
23 it comes from Bass Berry Pro. So it can be --

24 Q What -- what devices, is your
25 understanding, can be download?

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1 A I -- I don't know. I just looked into
2 it. And I was looking into, like, how did my IP
3 address get involved? MAA used to brag how great
4 their IT department was. That's why this whole
5 thing's very shady to me. So --

6 Q So are you saying it's your belief that
7 MAA spoofed your IP address?

8 A I'm not saying anything. I'm not making
9 any accusations like that. But being what I
10 shared with regulation agencies, I -- I have no
11 idea what MAA would do. I mean, they're --
12 they're a billion dollar company, a many billion
13 dollar company. They bragged in 2019 how they
14 were the only company that didn't get hacked out
15 of all these big companies and they were able to
16 stop it.

17 So I -- I -- I don't know. I mean, I -- I --
18 I don't know. I've seen a lot of weird stuff
19 happen and things happen, and what companies go to
20 to shut up a whistleblower. So I -- I mean, I
21 don't -- I honestly don't know what they -- what
22 they would do, what they're capable of doing.

23 Q Do you have any evidence as we sit here
24 today, that -- that someone has spoofed your IP
25 address?

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1 A I don't have any evidence, no.

2 Q Okay.

3 A Not at this time.

4 Q Do you have an understanding of whether
5 DuckDuckGo allows others to see an IP address?

6 A No idea.

7 Q How -- how do you secure your own
8 systems? I think we talked about that. We
9 touched on it earlier, but what do you do to
10 secure your own system?

11 A I mean, like I said, I don't really use
12 my own system too much. My parents have Norton
13 subscription and I'm -- you know, you get five
14 computers. I've used Norton before.

15 Q And would you also say that using the
16 Google VPN is a way to secure your system?

17 A I would think, that's what they
18 advertise, but most likely it's probably to track
19 what you're doing, where you are, who's -- where
20 you're shopping. So I -- I don't -- that's you
21 know, I don't believe any of this stuff sometimes.

22 Q Do you use disposable e-mail accounts?

23 A What do you mean?

24 Q Have you ever created a disposable
25 e-mail through something like duck.com?

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1 A Duck.com. I just spoke -- I -- I don't
2 understand what disposable --

3 Q Do you know what a disposable e-mail
4 address is?

5 A No idea.

6 Q It's my understanding that there are
7 certain services like duck.com where you can go
8 and create a e-mail address that is not permanent.
9 It -- it creates a string of characters on the
10 duck.com domain and you can create e-mails of that
11 -- in that way.

12 A No. I -- never even knew. No.

13 Q You've never done that before?

14 A If I did, I -- it might have been a
15 feature when I tried a private browser. I -- I
16 don't -- I don't believe I have. I don't remember
17 though.

18 Q Do you -- you've -- but do you know what
19 disposable e-mail is?

20 A Now that you told me, I mean, it -- it
21 -- it rings a bell. Seeing something about not
22 giving you really -- but no, I -- I don't remember
23 using it. I don't remember.

24 Q Your testimony is you don't recall using
25 it?

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1 A I don't recall using it.

2 Q It's not that you did not use it.

3 A It's not that I didn't use it. I -- I
4 -- I don't -- I don't recall if I have.

5 Q Okay. We touched on this earlier, but I
6 just want to make -- I want to close the loop
7 here.

8 You -- you've made references in this
9 litigation to having your systems compromised.
10 And is -- is the extent of that that you've
11 received, I think, a couple on the philid or the
12 mphili -- I'm not sure if we're using the right
13 references. You received a couple of notices on
14 mphilid@gmail.com that someone was trying to login
15 and you had two-factor authentication on that
16 account.

17 And then, you received after that a couple of
18 notices that somebody was trying to login to phili
19 --

20 A Philid100.

21 Q Yeah, philid100. That account did not
22 have two-factor authentication; correct?

23 A I forgot to set it up right when I first
24 set up the e-mail.

25 Q Okay.

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1 A And then, I put it on when I got back.

2 Q All right. Other than those two
3 instances, is there any other, you know,
4 compromised, you know, any other thing that makes
5 you think your systems have been compromised?

6 A I mean, I'm -- I'm -- now that this has
7 all started, I'm paranoid all the time. Like, I
8 mean, I'm -- so my screen flashes and I'm worried
9 someone's -- like, so I -- I -- I don't -- I don't
10 know. I don't -- then you go and you read about
11 it, what people can do and how to -- yeah. So I
12 mean, nothing concrete, no direct, you know, and
13 no notifications, but, you know, I do worry
14 sometimes that --

15 Q So you're concerned about it, but you --
16 you haven't -- other than those two incidents, you
17 haven't seen any actual evidence that anybody's
18 logged into your accounts? No one's charged
19 something to your credit card --

20 A Yes.

21 Q -- or that type of thing.

22 A Yes.

23 Q Okay. What -- what -- what --

24 A I mean, I had -- I -- I'm disputing a
25 charge as we speak about some company in