

IN THE KOSCIUSKO CIRCUIT COURT  
KOSCIUSKO COUNTY, INDIANA

KOKOMO GRACE UNITED  
METHODIST CHURCH, INC.,  
Plaintiff,

v.

CAUSE NO: 43C01-1710-PL-000105

EPWORTH FOREST ADMINISTRATION  
COMMITTEE, INC.,  
Defendant.

**DEFENDANT'S ANSWERS TO PLAINTIFF'S  
FIRST SET OF INTERROGATORIES,  
REQUEST FOR PRODUCTION  
OF DOCUMENTS AND REQUEST FOR ADMISSIONS**

Come now the Defendant, Epworth Forest Administration Committee, Inc., and in answer to Defendant's First Set of Interrogatories, Request for Production of Documents and Request for Admissions (hereinafter collectively "Discovery") and states as follows:

**PREFATORY STATEMENT, GENERAL OBJECTIONS AND RESERVATIONS**

1. Defendant objects to Plaintiff's Discovery to the extent they are not limited to the claims of the Plaintiff or the defenses of Defendant. Such requests for production are overly broad, unduly burdensome, and neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

2. Defendant objects to Plaintiff's Discovery to the extent they call for disclosure of information and documents that would violate: the privacy of third parties; the confidentiality of financial records; and all applicable state and federal statutes and regulations that protect records, reports or information from disclosure.

3. Defendant objects to Plaintiff's Discovery to the extent they call for information and documents protected from disclosure by the attorney work product doctrine, the attorney-client privilege and any other applicable doctrines or privileges.

4. Defendant's responses are made solely for purposes of this action. They are subject to all objections as to competence, relevance, materiality, and admissibility, and to any and all other objections on any grounds that would require the exclusion of evidence in court, all of which objections and grounds are expressly reserved so that these may be made at trial.

5. Defendant objects to Plaintiff's Discovery to the extent they purport to require Defendant to conduct an investigation to obtain information beyond those records currently in their possession, as unduly burdensome and oppressive.

6. Defendant objects to Plaintiff's Discovery to the extent they purport to require Defendant to produce materials which are equally accessible to Plaintiff or are in Plaintiff's possession.

7. The following Interrogatory responses are given without prejudice to Defendant's right to produce information or documents which Defendant may later recall or subsequently discover. Defendant accordingly reserves the right to change his responses as additional facts are ascertained, analyses are made, legal research is completed and contentions are formulated. Defendant's responses are made in a good faith effort to supply information presently known, and should in no way be to the prejudice of Defendant in relation to further discovery, research or analysis, and are made without prejudice to Defendant using or relying on at the trial any subsequently discovered documents or information, any evidence or documents not currently existing, or any documents or information omitted from this response as a result of good faith oversight or error.

8. These general objections apply to and are deemed incorporated into each and every response below to Plaintiff's Discovery. To the extent that any of the above objections are cited specifically in response to an Interrogatory, those citations are provided because they are believed to be particularly applicable to that request for production and are not to be construed as a waiver of any of the other general or specific objections.

**INTERROGATORY NO. 1:** Please provide the name, address, and office or authority of the person signing this discovery on behalf of Epworth Forest Administration Committee, Inc. (hereinafter "EFAC").

**ANSWER:** Kara Lusby, Vice President, Off Shore Director, P.O. Box 214, North Webster, Indiana 46555.

**INTERROGATORY NO. 2:** Please provide the name(s) and address of any other person providing data, information, or documents for the purpose of preparing your discovery responses herein.

**ANSWER:** These Interrogatory responses were prepared with the assistance of our counsel Matthew R. Shipman.

**REQUEST FOR ADMISSION NO. 1:** Please admit that Real Estate located at 8521 East Wade Lane, North Webster, Indiana is:

- a) Within the jurisdiction of EFAC with regard to lakeshore frontage and pier assignments;
- b) Is listed in Exhibit E to the Court's January 21, 2014, Order as part of pier space 64.

**RESPONSE:** Defendant objects to this Request for Admission as it is not compliant with Indiana Trial Rule 36. The purpose of an admission is not to "discover" a fact but rather to conclusively "establish" a fact. *F.W. Means & Co. v. Carstens*, 428 N.E.2d 251, 256 (Ind. Ct. App. 1981). In line with this reasoning, the *F.W. Means* Court stated, "the essential characteristic

of this ‘non-discovery’ mechanism is that the request for admission is a ‘close-ended’ inquiry. That is, the request for admission requires either by admission or denial, an answer which is unambiguous, unequivocal and without the evasion....” Because the purpose of a Request for Admission is to conclusively establish a fact, the burden of “artfully draft[ing] the statement of fact contained in the request for admission” in such a manner which is precise, unambiguous and not misleading to the answering party falls on the party submitting the Request for Admission. *Id.* at 257. With respect to Request No. 1, the term “jurisdiction” is an ambiguous term with respect to the rights and obligations of EFAC. EFAC’s rights and obligations are contained in the previous orders of this Court under Cause No. 43C01-9109-CP-732 and were further clarified under Cause No. 43C01-1511-MI-270 (Stine v. EFAC); Cause No. 43C01-1602-MI-47 (Powell v. EFAC) and Indiana Appellate Cause No. 43A03-1610-MI-02332 (Powell v. EFAC Appeal) (collectively the “Orders”). Without waiving these specific objections or the general objections, Defendant would respond as follows:

(a) Defendant admits that the Orders give it authority to manage the piers of properties within Epworth Forest and that 8521 East Wade Lane, North Webster, Indiana is within Epworth Forest. With respect to the remaining implications in this Request, Defendant denies the same.

(b) Defendant admits that that property at 8521 East Wade Lane, North Webster, Indiana is one of multiple properties that are listed in Exhibit E to the Court’s January 21, 2014, Order as part of pier space 64.

**INTERROGATORY NO. 3:** If either part of the preceding Request for Admission No. 1 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 1.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1:** If the preceding Request for Admission No. 1, or either subsection thereof, is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 1.

**REQUEST FOR ADMISSION NO.2:** Attached to these discovery materials is Exhibit 2 to the Complaint, which is a recorded deed from Indiana Conference of the United Methodist Church, Inc. to Kokomo Grace United Methodist Church, Inc. (hereinafter "Kokomo Grace"): Please admit this is a deed from the Conference to Kokomo Grace for the lakefront at 8521 East Wade Lane, North Webster, Indiana, and lying between Lot 15 in Block B of plat of Epworth Forest and the waters of Webster Lake.

**RESPONSE:** Defendant admits that the deed purports to be from the Indiana Conference of the United Methodist Church, Inc. to Kokomo Grace United Methodist Church, Inc. but is unable to admit or deny whether the legal description contained in the Quitclaim Deed is a description of the land lying between Lot 15 in Block B of plat of Epworth Forest and the waters of Webster Lake as they are not a licensed surveyor.

**INTERROGATORY NO.4:** If the preceding Request for Admission No. 2 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 2.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2:** If the preceding Request for Admission No. 2 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 2.

**REQUEST FOR ADMISSION NO. 3:** Please admit that Kokomo Grace is the owner of the lakeshore described in the attached deed (Exhibit A) from the Conference to Kokomo Grace.

**RESPONSE:** Defendant objects to this Request for Admission as it is not compliant with Indiana Trial Rule 36. The purpose of an admission is not to “discover” a fact but rather to conclusively “establish” a fact. *F.W. Means & Co. v. Carstens*, 428 N.E.2d 251, 256 (Ind. Ct. App. 1981). In line with this reasoning, the *F.W. Means* Court stated, “the essential characteristic of this ‘non-discovery’ mechanism is that the request for admission is a ‘close-ended’ inquiry. That is, the request for admission requires either by admission or denial, an answer which is unambiguous, unequivocal and without the evasion....” Because the purpose of a Request for Admission is to conclusively establish a fact, the burden of “artfully draft[ing] the statement of fact contained in the request for admission” in such a manner which is precise, unambiguous and not misleading to the answering party falls on the party submitting the Request for Admission. *Id.* at 257. With respect to Request No. 3, the terms “lakeshore” and “owner” are ambiguous terms subject to multiple meanings. EFAC’s rights and obligations are contained in the previous orders of this Court under Cause No. 43C01-9109-CP-732 and were further clarified under Cause No. 43C01-1511-MI-270 (*Stine v. EFAC*); Cause No. 43C01-1602-MI-47 (*Powell v. EFAC*) and Indiana Appellate Cause No. 43A03-1610-MI-02332 (*Powell v. EFAC Appeal*) (collectively the “Orders”). Without waiving these specific objections or the general objections, Defendant would respond as follows: Defendant is not able to admit or deny whether the legal description contained in the Quitclaim Deed is a description of the land lying between Lot 15 in Block B of plat of Epworth Forest and the waters of Webster Lake as they are not a licensed surveyor. Further, they are not certain where the actual “lakeshore” is in relation to this legal description. For that reason, Defendant denies this Request.

**INTERROGATORY NO.5:** If the preceding Request for Admission No. 3 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 3.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO.3:** If the preceding Request for Admission No. 3 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 3.

**REQUEST FOR ADMISSION NO. 4:** Attached to these discovery materials is Exhibit 2 to the Complaint, which is a recorded deed from Indiana Conference of the United Methodist Church, Inc. to Trinity United Methodist Church of Huntington, Inc.: Please admit this is a deed from the Conference to Trinity United Methodist Kokomo Grace for the lakefront at 8557 East Wesley Lane, North Webster, Indiana, and lying between Lot 15 in Block B of plat of Epworth Forest and the waters of Webster Lake.

**RESPONSE:** Defendant admits that the deed purports to be from the Indiana Conference of the United Methodist Church, Inc. to Trinity United Methodist Church of Huntington, Inc. but is unable to admit or deny whether the legal description contained in the Quitclaim Deed is a description of the land lying between Lot 15 in Block B of plat of Epworth Forest and the waters of Webster Lake as they are not a licensed surveyor.

**INTERROGATORY NO.6:** If the preceding Request for Admission No. 4 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 4.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO.4:** If the preceding Request for Admission No. 4 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 4.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO.5:** Please produce legible and unaltered copies of all documents, memoranda, drawings or written/electronic records which depict the location of any community pier or group pier administered/supervised by EFAC and/or by Indiana Annual Conference of the United Methodist Church, Inc. from 2005 to current date.

**RESPONSE:** We will supplement this response as discovery continues.

**REQUEST FOR ADMISSION NO.5:** Please admit that a community pier/group pier was maintained by the Indiana Annual Conference of United Methodist Church, Inc. and its predecessors prior to April 15, 2014.

**RESPONSE:** Defendant objects to this Request for Admission as it is not complaint with Indiana Trial Rule 36. The purpose of an admission is not to “discover” a fact but rather to conclusively “establish” a fact. *F.W. Means & Co. v. Carstens*, 428 N.E.2d 251, 256 (Ind. Ct. App. 1981). In line with this reasoning, the *F.W. Means* Court stated, “the essential characteristic



of this ‘non-discovery’ mechanism is that the request for admission is a ‘close-ended’ inquiry. That is, the request for admission requires either by admission or denial, an answer which is unambiguous, unequivocal and without the evasion....” Because the purpose of a Request for Admission is to conclusively establish a fact, the burden of “artfully draft[ing] the statement of fact contained in the request for admission” in such a manner which is precise, unambiguous and not misleading to the answering party falls on the party submitting the Request for Admission. *Id.* at 257. With respect to Request No. 3, the term “maintained” is an ambiguous terms subject to multiple meanings. EFAC’s rights and obligations are contained in the previous orders of this Court under Cause No. 43C01-9109-CP-732 and were further clarified under Cause No. 43C01-1511-MI-270 (Stine v. EFAC); Cause No. 43C01-1602-MI-47 (Powell v. EFAC) and Indiana Appellate Cause No. 43A03-1610-MI-02332 (Powell v. EFAC Appeal) (collectively the “Orders”). Without waiving these specific objections or the general objections, Defendant would respond as follows: Defendant believes that there was a prior community pier but does not know that specifically that it was maintained by the Indiana Annual Conference of United Methodist Church, Inc. but is without specific information to know this definitively as this question should be directed to the Indiana Annual Conference of United Methodist Church, Inc, not EFAC. It is Defendant’s understanding that The Epworth Forest Pier Administration Committee was in charge of the community pier but they didn’t really “maintain” the community pier as the individuals using the community pier primarily provided the maintenance.

**INTERROGATORY NO.7:** If the preceding Request for Admission No. 5 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 5.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO.6:** If the preceding Request for Admission No. 5 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 5. Also, please see the meeting minutes of the Epworth Forest Pier Administration Committee located at <http://efpier.org/documents>.

**REQUEST FOR ADMISSION NO. 6:**Please admit that EFAC has in its possession or has access to the January 21, 2014, Order in Cause Number 43C01-9109-CP-732.

**RESPONSE:** Admit that EFAC has access to the January 21, 2014, Order in Cause Number 43C01-9109-CP-732.

**INTERROGATORY NO. 8:** If the preceding Request for Admission No. 6 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** N/A.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO.7:** If the preceding Request for Admission No. 6 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** N/A.

**REQUEST FOR ADMISSION NO.7:** Please admit that, among other things, and notwithstanding that “the document speaks for itself”, the January 21, 2014 Order referred to above states specifically at page 3 that “The onshore owners get first choice as to where they get to put their piers because they are the owner of the fee”.

**RESPONSE:** Defendant admits that the January 21, 2014, Order contains the language cited in this Request but denies this Request for the remaining implications contained in the Request.

**INTERROGATORY NO. 9:** If the preceding Request for Admission No. 7 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 7.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO.8:** If the preceding Request for Admission No. 7 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 7.

**REQUEST FOR ADMISSION NO. 8:**Please admit that Exhibit 3to the Complaint herein (duplicate is attached for your convenience) is:

- a) An application for pier assignment from Kokomo Grace and directed to Indiana Conference of the United Methodist Church Epworth Forest Pier Administration.
- b) A true and accurate copy of the document.

**RESPONSE:** Defendant has no specific knowledge of the applications for pier assignment that may be directed to Indiana Conference of the United Methodist Church Epworth Forest Pier Administration and for that reason denies this Request.

**INTERROGATORY NO. 10:** If either part of the preceding Request for Admission No. 8 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 8.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO.9:** If either part of the preceding Request for Admission No. 8 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 8.

**REQUEST FOR ADMISSION NO. 9:**Please admit that EFAC is the successor in interest to the Indiana Conference United Methodist Church with regard to the administration of pier locations within Epworth Forest pursuant to the April 15, 2014 Agreed Order entered in Cause Number 43C01-9109-CP-732.

**RESPONSE:** Defendant objects to this Request for Admission as it is not compliant with Indiana Trial Rule 36. The purpose of an admission is not to “discover” a fact but rather to conclusively “establish” a fact. *F.W. Means & Co. v. Carstens*, 428 N.E.2d 251, 256 (Ind. Ct. App. 1981). In line with this reasoning, the *F.W. Means* Court stated, “the essential characteristic

of this ‘non-discovery’ mechanism is that the request for admission is a ‘close-ended’ inquiry. That is, the request for admission requires either by admission or denial, an answer which is unambiguous, unequivocal and without the evasion....” Because the purpose of a Request for Admission is to conclusively establish a fact, the burden of “artfully draft[ing] the statement of fact contained in the request for admission” in such a manner which is precise, unambiguous and not misleading to the answering party falls on the party submitting the Request for Admission. *Id.* at 257. With respect to Request No. 3, the term “successor in interest” is an ambiguous term. EFAC’s rights and obligations are contained in the previous orders of this Court under Cause No. 43C01-9109-CP-732 and were further clarified under Cause No. 43C01-1511-MI-270 (Stine v. EFAC); Cause No. 43C01-1602-MI-47 (Powell v. EFAC) and Indiana Appellate Cause No. 43A03-1610-MI-02332 (Powell v. EFAC Appeal) (collectively the “Orders”). Without waiving these specific objections or the general objections, Defendant would respond as follows: the April 15, 2014 Agreed Order speaks for itself and the trier of fact is ultimately the one charged with interpreting those Orders.

**INTERROGATORY NO. 11:** If the preceding Request for Admission No. 9 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 9.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 10:** If the preceding Request for Admission No. 9 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 9.

**REQUEST FOR ADMISSION NO. 10:** Please admit that Exhibit 4 to the Complaint (duplicate copy attached for your convenience) contains a communication from Suzann Montovani to Kokomo Grace dated January 29, 2016.

**RESPONSE:** Defendant denies this Request as it appears from an examination of Exhibit 4 that is cut and paste from multiple emails, including but not limited to an email from Cindy Lovegrove to Gail Hart; an email from Sue Montavoni to the email [kokomograce@kokomograce.org](mailto:kokomograce@kokomograce.org); and an email from Sue Montavoni to Sharon Anson, Lindsey Grossnickle, Kara Lusby and Richard Presser.

**INTERROGATORY NO. 12:** If the preceding Request for Admission No. 10 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 10.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 11:** If the preceding Request for Admission No. 10 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 10.

**REQUEST FOR ADMISSION NO. 11:** Please admit that Suzann Montovani, on January 29, 2016, was the treasurer and a board member of EFAC.

**RESPONSE:** Admit.

**INTERROGATORY NO. 13:** If the preceding Request for Admission No. 11 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** N/A.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 12:** If the preceding Request for Admission No. 11 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** N/A.

**REQUEST FOR ADMISSION NO. 12:**Please admit that Exhibit 5 to the Complaint (copy attached for your convenience) is a true, accurate and unaltered copy of an email communication from Larry Murrell to the EFAC board dated April 19, 2017.

**RESPONSE:** Defendant denies this Request as upon examination of Exhibit 5, it appears to be an email from Larry Murrell to [efpier@gmail.com](mailto:efpier@gmail.com), Steve Hart, Kathy Rebber and [kokomograce@kokomograce.org](mailto:kokomograce@kokomograce.org).

**INTERROGATORY NO. 14:** If the preceding Request for Admission No. 12 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Response to Request for Admission No. 12.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 13:** If the preceding Request for Admission No. 12 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Response to Request for Admission No. 12.

**REQUEST FOR ADMISSION NO. 13:** Please admit that Exhibit 6 to the Complaint (copy attached for your convenience) is a true, unaltered and accurate copy of an email communication from EFAC to Kokomo Grace dated April 14, 2017.

**RESPONSE:** Admit.

**INTERROGATORY NO. 15:** If the preceding Request for Admission No. 13 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** N/A.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 14:** If the preceding Request for Admission No. 13 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** N/A.



**REQUEST FOR ADMISSION NO. 14:** Please admit that Exhibit 7 to the Complaint (copy attached for your convenience) is a true, unaltered and accurate copy of an email communication from EFAC to Indiana United Methodist Church Conference, with a copy to Huntington Trinity and Kokomo Grace, dated April 13, 2017, and showing it is specifically from “EFAC Board of Directors”.

**RESPONSE:** Admit.

**INTERROGATORY NO. 16:** If the preceding Request for Admission No. 14 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** N/A.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 15:** If the preceding Request for Admission No. 14 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** N/A.

**INTERROGATORY NO.17:** Do you claim that EFAC owns the fee title to the shoreline on Webster Lake immediately South of Lot 15 in Block B of Epworth Forest (Kokomo Grace property)?

**ANSWER:** No.

**INTERROGATORY NO. 18:** Do you claim that EFAC owns the fee title to the shoreline on Webster Lake, immediately South of Lots 13 and 14 in Block B of Epworth Forest (Trinity United Methodist Church of Huntington property)?

**ANSWER:** No.

**INTERROGATORY NO. 19:** If the answer to either of the above two preceding interrogatories is in the affirmative, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** N/A.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 16:** If your response to either Interrogatory No. 17 or Interrogatory No. 18 is in the affirmative, please provide production of all documents which you rely upon for your response.

**RESPONSE:** N/A.

**INTERROGATORY NO. 20:** Does EFAC claim any property rights in the lakeshore within the plat of Epworth Forest other than those declared in the judgments and/or orders of the Kosciusko Circuit Court in 1994, January 2014, and April 2014 all under Case Number 43C01-9109-CP-732?

**ANSWER:** EFAC only claims to have the authority that was granted it by the Kosciusko Circuit Court in its Orders.

**INTERROGATORY NO. 21:** If your response to the preceding Interrogatory No. 20 is in the affirmative, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Answer to Interrogatory No. 20.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 17:** If the preceding Interrogatory No. 20 is answered in the affirmative, please provide production of all documents which you rely upon for your response.

**RESPONSE:** N/A.

**INTERROGATORY NO. 22:** Giving regard to Exhibit 6 of the Complaint, copy attached for your convenience, do you still claim that the “Epworth League Institute of the North Indiana Annual Conference of the Methodist Episcopal Church” is the owner of the shoreline south of Lot 15, Block B in Epworth Forest (Kokomo Grace property)?

**ANSWER:** EFAC only claims to have the authority that was granted it by the Kosciusko Circuit Court in its Orders and it is the Judge’s duty to interpret those orders. Since the April 14, 2017 email was sent, this Court has provided further guidance which has further illustrated to EFAC that the locations of all piers are meant to be permanent pursuant to the Orders.

**INTERROGATORY NO. 23:** If your response to the preceding Interrogatory No. 22 was affirmative, i.e. indicates you still claim the Epworth Forest League Institute is the owner of the lakefront of the Kokomo Grace cottage, please provide any and all factual basis for your response,

and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Answer to Interrogatory No. 22.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 18:** If the preceding Interrogatory No. 22 is answered by anything other than an unqualified negative, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Answer to Interrogatory No. 22.

**INTERROGATORY NO. 24:** Does EFAC have in its possession or have access to the August 2, 1994 “Record of Submission, Findings of Fact with Opinion and Judgment” of the Kosciusko Circuit Court in Cause Number 43C01-9109-CP-732 (“The 1994 Judgment”).

**ANSWER:** EFAC has access to the August 2, 1994 “Record of Submission, Findings of Fact with Opinion and Judgment” of the Kosciusko Circuit Court in Cause Number 43C01-9109-CP-732.

**REQUEST FOR ADMISSION NO. 15:** With reference to the 1994 Judgment please admit that it provides, in part, at page 12, that “Offshore owners and conference piers may not be placed...to create unreasonable inconvenience to onshore owners and the use of their own piers.

**RESPONSE:** Defendant admits that the 1994 Judgment contains the language “Offshore owners and conference piers may not be placed...to create unreasonable inconvenience to onshore owners and the use of their own piers.”

**REQUEST FOR ADMISSION NO. 16:** Do you admit that Kokomo Grace is an onshore owner?

**RESPONSE:** It is not entirely clear as to how the Court will interpret the ownership interest of Kokomo Grace, whether as an onshore owner, offshore owner, etc. However, this decision is the Court's decision and based off of the Court's previous Orders EFAC believes that the community pier is permanent and meant to remain in its current location, therefore Defendant denies this Request.

**INTERROGATORY NO. 25:** If the preceding Request for Admission No. 16 is answered by anything other than an unqualified admission, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Answer to Request for Admission No. 16.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 19:** If the preceding Request for Admission No. 16 is answered by anything other than an unqualified admission, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Answer to Request for Admission No. 16.

**INTERROGATORY NO.26:** Do you admit that a community pier/ group pier containing 24 slips for boats and placed on 50 feet of frontage is an unreasonable inconvenience to the onshore owner?

**ANSWER:** Defendant objects to this Interrogatory to the extent that the term "unreasonable inconvenience" is not a defined term and subject to multiple meaning. Without

waiving this objection or the general objections, Defendant does not believe that location of the community pier is an unreasonable inconvenience as the Court ordered it to be placed in its current location with its previous Orders.

**INTERROGATORY NO.27:** If your response to the preceding Interrogatory No. 26 is other than an unqualified affirmative, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Answer to Interrogatory No. 26.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 20:** If the preceding Interrogatory No. 26 is answered by anything other than an unqualified affirmative, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Answer to Interrogatory No. 26.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 21:** Please produce legible, unaltered, accurate and complete copies of the EFAC application to the Department of Natural Resources/National Resources Commission for a group pier permit(s) including all subsequent filings and pleadings in that cause of action which are part of the public record pending before the Administrative Law Judge.

**RESPONSE:** See attached.

**INTERROGATORY NO. 28:** With regard to Exhibit 11 to the Complaint (copy attached for your convenience) is this exhibit an accurate and unaltered copy of the By-laws of Epworth Forest Administration Committee, Inc.?

**ANSWER:** Those By-laws attached as Exhibit 11 appear to be a draft dated June 2, 2014.

**INTERROGATORY NO. 29:** If your response to the preceding Interrogatory No. 28 is in the negative, please provide any and all factual basis for your response, and the names and addresses of any witnesses who will provide any part of those factual basis, and a description of any documents which you believe provide a factual basis for your response.

**ANSWER:** See Answer to Interrogatory No. 28.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 22:** If the preceding Interrogatory No. 28 is answered by anything other than an unqualified affirmative, please provide production of all documents which you rely upon for your response.

**RESPONSE:** See Answer to Interrogatory No. 28.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 23:** Please produce a legible, unaltered copies of all of the minutes of Board of Directors and any committees of the Epworth Forest Administration Committee, Inc. from April 15, 2014, to current date.

**RESPONSE:** These documents are all available for downloading on our website at <http://efpier.org/documents>.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO. 24:** Please produce legible, unaltered copies of any and all records (such as but not limited to writings, memoranda, letters, e-mails) within the possession or control of EFAC which mention either a community pier, a group

pier, or Kokomo Grace United Methodist Church, Inc. (including abbreviations such as but not limited to “Kokomo Grace”).

**RESPONSE:** These documents are all available for downloading on our website at <http://efpier.org/documents>.

**REQUEST FOR PRODUCTION OF DOCUMENTS NO.25:** With regard to the preceding Request for Production of Documents No. 24, please provide any and all such records and/or communications by, among, or between EFAC board members.

**RESPONSE:** Defendant is still evaluating whether responsive documents to this Request exist and will supplement this response.

**INTERROGATORY NO.30:** With regard to an e-mail from Epworth Forest Administration Committee sent Thursday, April 13, 2017, at 9:36 a.m., to a number of persons listed, please provide the following information:

- a) Is the attachment, Discovery Exhibit A, a true copy of the communication?
- b) What was the purpose of this communication?
- c) To what specific “vested interest” does the last sentence in the communication speak? Please describe the specific vested interest and the persons perceived to hold the vested interest.

**ANSWER:**

- (a) Yes.
- (b) To inform the people affected.
- (c) Those people who received the April 13, 2017, email were those people who were going to be affected by the location and/or relocation of the community pier.



**INTERROGATORY NO. 30:** With regard to an e-mail from Epworth Forest Administration Committee sent Thursday, April 13, 2017, at 9:36 a.m., to a number of persons listed, please provide the following information:

- a) Is the attachment, Discovery Exhibit A, a true copy of the communication?
- b) What was the purpose of this communication?
- c) To what specific "vested interest" does the last sentence in the communication speak? Please describe the specific vested interest and the persons perceived to hold the vested interest.

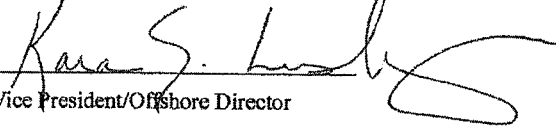
**ANSWER:**

- (a) Yes.
- (b) To inform the people affected.
- (c) Those people who received the April 13, 2017, email were those people who were going to be affected by the location and/or relocation of the community pier.

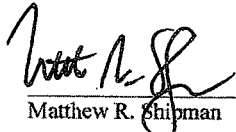
VERIFICATION

The undersigned affirms, under the penalties for perjury, that the above and foregoing representations are true to the best of my knowledge and belief this 4th day of January, 2018.

EPWORTH FOREST ADMINISTRATION COMMITTEE, INC.

By:   
Its: Vice President/Offshore Director

AS TO OBJECTIONS,

  
Matthew R. Shipman  
Attorney No. 20664-49

BLOOM GATES SHIPMAN & WHITELEATHER, LLP  
119 S. Main Street, P.O. Box 807  
Columbia City, Indiana 46725  
(260) 248-8900  
ATTORNEY FOR DEFENDANT

**Certificate of Service**

I hereby certify that a copy of the foregoing document was served upon Richard K. Helm, 105 East Main Street, Warsaw, IN 46580, Attorney for Plaintiff, in accordance with Trial Rule 5, this 4<sup>th</sup> day of January, 2018.



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Matthew R. Shipman