

Victor Villegas [ISB No. 5860]
Joseph Borton [ISB No. 5552]
Mitchell Coats [ISB No. 11666]
BORTON LAKEY LAW OFFICES
141 E. Carlton Ave.
Meridian, ID 83642
Office: (208) 908-4415
Fax: (208) 493-4610
Email: victor@borton-lakey.com
joe@borton-lakey.com
mitchell@borton-lakey.com

Attorneys for Plaintiff

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

CITY OF EAGLE, a municipal corporation of the
State of Idaho,

Plaintiff,

v.

EAGLE SENIOR CITIZENS, INC., an Idaho
nonprofit corporation,

Defendant/Counter-Claimant.

v.

JASON PIERCE, in his official capacity as Mayor
of the City of Eagle, and in his individual
capacity, HELEN RUSSELL, in her official
capacity as member of the Eagle City Council, and
in her individual capacity, JOHN DOES 1-10,
unidentified employees of the City of Eagle,

Third-Party Defendants.

Case No. CV01-23-10374

**PLAINTIFF'S FIRST SET OF
REQUESTS FOR DISCOVERY
TO DEFENDANT/COUNTER-
CLAIMANT**

PROPOUNDED TO: Defendant/Counter-Claimant, EAGLE SENIOR CITIZENS, INC.,
an Idaho nonprofit corporation, by and through its attorneys of

PLAINTIFF'S FIRST SET OF REQUESTS FOR DISCOVERY TO DEFENDANT/
COUNTER-CLAIMANT - 1

record, Brian A Ertz and Eileen R. Johnson of the firm Ertz Johnson, LLP, and Scott L. Rose of the firm Scott Rose, P.C.

PROPOUNDED BY: Plaintiff/Third-Party Defendants, by and through their attorneys of record, Borton-Lakey Law Offices.

DATE: August 2nd, 2023

COMES NOW, the above-named Plaintiff/Third-Party Defendants, pursuant to Rules 26, 33, and 34 of the Idaho Rules of Civil Procedure, hereby propound and requests that the Defendant/Counter-Claimant answers, under oath, the following Requests for Discovery within 30 days after service hereof in accordance with the Idaho Rules of Civil Procedure.

These Requests should be deemed continuing, and if the Defendant/Counter-Claimant or counsel discover additional information as to the matter inquired of in these Requests between the time the answers are made and the date of the trial, supplemental answers should be made informing the Plaintiff/Third-Party Defendants and counsel as to such newly discovered information prior to trial.

INSTRUCTIONS

A. When answering these Interrogatories and Requests for Production you are requested to furnish all information available to you, including information in the possession of your attorneys, investigators, employees, agents, representatives, or any other person or persons acting on your behalf, and not merely such information as is known by you on personal knowledge.

B. If you cannot answer any of the following Interrogatories in full, after exercising due diligence to secure the information to do so, so state, and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information or knowledge you have concerning the unanswered portions.

C. Each Interrogatory is intended to and does request that each and every, all and singular, the particulars and parts thereof, be answered with the same force and effect as if each part and particular were the subject of and were asked by a separate Interrogatory.

D. If any of the documents requested have been lost, misplaced or for any reason now not attainable, furnish a list identifying:

- (1) each such document,
- (2) the author and addressee,
- (3) each person to whom copies of the document were furnished or to whom the contents were communicated,
- (4) a summary of the substance of the document,
- (5) the date upon which it was destroyed,
- (6) the name of the person or persons who destroyed it, and
- (7) the reason the document was destroyed.

E. Documents shall be produced as they are kept in the regular course of business or; in the alternative, organized and labeled so as to correspond to the categories in this request.

F. These Interrogatories and Requests are deemed continuing. If after responding to these Interrogatories and Requests, you acquire any information responsive thereto, you must file and serve supplemental responses containing such information, as required by the governing rules of Civil Procedure.

DEFINITIONS

A. The term DOCUMENT means and includes any kind of written, typewritten, or printed material whatsoever (or material stored magnetically or otherwise on computer hard drive, computer disk, computer backup tape, computer network, or word processor) including, but without limitation, papers, agreements, computer back-up tapes, contracts, notes, memoranda, correspondence, e-mail, cell phone text messages, letters, telegrams, statements, books, reports, studies, minutes, records, accounting books, maps, plans, drawings, diagrams, photographs (moving or still), videotapes, analyses, surveys, studies, transcriptions, and recordings of which you have any knowledge or information, whether in your possession or under your control or not, relating or pertaining in any way to the subject matters in connection with which it is used, and includes without limitation, originals, all file copies, and all other copies, no matter how or by whom prepared, and all drafts prepared in connection with such writings, whether used or not.

B. IDENTIFY or SPECIFY THE IDENTITY, when referring to a person, means to set forth:

- (1) the name;
- (2) the present or last known business address;
- (3) if a corporation, the principal place of business;

- (4) the telephone number;
- (5) the fax number (if any);
- (6) the e-mail address (if any); and
- (7) if an individual, his or her present employer, and his or her job title.

C. IDENTIFY or SPECIFY THE IDENTITY, when used with respect to a document, means to produce the document according to the accompanying Request for Production, or to set forth the following information with respect to any document produced:

- (1) the nature and substance of the document with sufficient particularity to enable it to be precisely identified;
- (2) the date which the document bears, or if none, the date upon which it was prepared;
- (3) the persons executing the document and the identity of all persons participating in the preparation thereof;
- (4) the person to whom the document is addressed;
- (5) the present location of the original or a legible copy of the document; and
- (6) the full name, present address, and telephone number of the persons having custody or possession of each original or copy.

D. If any of the documents requested are withheld under a CLAIM OF PRIVILEGE, identify each such document and state the date of the document; identify its author and addressee and each person to whom copies of the document were furnished or to whom the contents were communicated; provide a summary of the subject matter of the document, its present location and custodian; the basis upon which the asserted privilege is claimed, and the requests to which the document is or might be responsive.

E. PERSON, INDIVIDUAL or ENTITY means every natural person or legal entity, notwithstanding its legal status.

F. EVIDENCING means in any relating to or pertaining to the specified subject matter.

G. YOU means the Defendant/Counter-Claimant, Eagle Senior Citizens, Inc., and any of its representatives, agents or assigns.

SUPPLEMENTAL INSTRUCTIONS

A. You are requested to segregate the documents produced pursuant to this request according to the paragraphs hereof in response to and under which they are produced.

B. All documents are to be produced and all information is to be divulged which are in your possession, custody, or control, or to which you have access, or which are in the possession, custody, or control of any of your attorneys, investigators, agents, employees, or other representatives, or any of their attorneys, investigators, agents, employees, or other representatives, or to which any of them have access.

C. If for any reason you are unable to produce in full any documents requested:

- (1) produce each such document to the fullest extent possible;
- (2) specify the reason for your inability to produce the remainder; and
- (3) state in detail whatever information, knowledge, or belief you have concerning the whereabouts and substance of each document not produced in full.

D. For each document requested which you are unable to produce and which was at any time within your possession, custody, or control, or to which you had access at any time, specify in detail:

- (1) the nature of the document (i.e., letter, memorandum);
- (2) the author of the document;
- (3) all recipients of the document or any copy thereof;
- (4) a summary of the information contained in the document;
- (5) the date upon which you lost, relinquished, or otherwise ceased to have possession, custody, control of, or access to the document;
- (6) the circumstances whereby you lost, relinquished, or otherwise ceased to have possession, custody, control of, or access to the document;
- (7) identify all persons having knowledge of the circumstances whereby you lost, relinquished, or otherwise ceased to have possession, custody, or control of, or access to the document; and
- (8) identify all persons who have or have had knowledge of the contents of the document, in full or in part.

E. In the event you seek to withhold or do withhold any documents, in whole or in part, on the basis that it is not subject to discovery, produce a list of all such documents and, as to each such document, state:

- (1) the name of each author, writer, sender, or initiator of the documents;

- (2) the name of each recipient, addressees, or party to whom such document was sent or intended to be sent;
- (3) the name of each and every person who received a copy of the document;
- (4) the date of the document or, if not date appears on the document, when the document was prepared;
- (5) the title of the document, or if it has not title then such other description of the document and its subject matter as shall be sufficient to identify the document; and
- (6) the grounds claimed for withholding the document from discovery (e.g., attorney/client privilege, work product, or any other grounds), and the factual basis for such claim.

F. These requests for production shall be deemed continuing so as to require supplemental production of any documents (or, where applicable, other information) obtained by you or to which you obtain access at any time hereafter and which are responsive to any portion hereof. Any such documents (or any other information) are to be produced at Borton-Lakey Law Offices, 141 E. Carlton Ave., Meridian, Idaho 83642.

INTERROGATORIES

INTERROGATORY NO. 1: Identify every person, by complete name, address, telephone number and email, that you believe has personal knowledge which supports any of your affirmative defenses, and for each person identified please place the number of your affirmative defense that you believe their knowledge supports and also set forth the specific personal knowledge that you believe they possess in support of that specific affirmative defense.

INTERROGATORY NO. 2: Identify every person, by complete name, address, telephone number and email, that you believe has personal knowledge which supports any of your eight (8) counterclaims, and for each person identified please place the number of your affirmative defense that you believe their knowledge supports and also set forth the specific personal knowledge that you believe they possess in support of your eight (8) counterclaims.

INTEROGATORY NO. 3: Please identify all officers and board members of the Eagle Senior Citizens, Inc from 20200 to present, indicating for each the office or position held, and their dates of service.

REQUEST FOR DOCUMENTS

REQUEST FOR DOCUMENTS NO. 1: Please produce all documents, including but not limited to writings, audio, video, notes, emails, texts or DMs, that you believe support your allegations set forth within any of your affirmative defenses. Please segregate all documents produced to each specific affirmative defense by number. By this request we seek to see the specific bates numbers of documents produced associated with the affirmative defenses you believe those documents support

REQUEST FOR DOCUMENTS NO. 2: Please produce all documents, including but not limited to writings, audio, video, notes, emails, texts or DMs, that you believe support your allegations set forth within any of your eight (8) counterclaims. Please segregate all documents produced to each specific affirmative defense by number. By this request we seek to see the specific bates numbers of documents produced associated with the affirmative defenses you believe those documents support.

REQUEST FOR DOCUMENTS NO. 3: Please produce all documents which evidence any communications between any of the persons you've identified within Interrogatory No 3 that relates to or concerns any of the allegations set forth in your Affirmative Defenses and/or your Counterclaim.

REQUEST FOR DOCUMENTS NO. 4: Please produce the Bylaws of the Eagle Senior Citizens, Inc as of 2020 and any amendments from that time to the present.

REQUEST FOR DOCUMENTS NO. 5: Please produce the minutes of the Eagle Senior Citizens, Inc as of 2020 and any amendments from that time to the present.

DATED THIS 2nd day of August, 2023.

BORTON-LAKEY LAW OFFICES

BY: /s/ Victor S. Villegas
Victor S. Villegas
Attorneys for Plaintiff/Third-Party Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of August, 2023, a true and correct copy of the within and foregoing instrument was served upon:

Brian A. Ertz
Eileen R. Johnson
Ertz Johnson, LLP
380 South 4th Street, Ste. 104
Post Office Box 665
Boise, Idaho 837012
Telephone: (208) 918-1663
Email: brian@ertzjohnson.com
eileen@ertzjohnson.com

- U.S. Mail
- Facsimile
- Hand Delivery
- Overnight Delivery
- Email/e-Filing

Scott L. Rose
Scott Rose, P.C.
300 West Main Street, Ste. 153
Boise, Idaho 83702
Telephone: (208) 342-2552
Email: scott@idahoiplaw.com

- U.S. Mail
- Facsimile
- Hand Delivery
- Overnight Delivery
- Email/e-Filing



Ashley Hunsinger