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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

OHIO COLLABORATIVE LEARNING SOLUTIONS,
INC. ET AL
Plaintiff

BLUE TECHNOLOGIES SMART SOLUTIONS, LLC.
Defendant

Case No: CV-20-933999

Judge: CASSANDRA COLLIER-WILSON

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CUYAHOGA COUNTY

JOURNAL ENTRY

ORDER ATTACHED. OSJ.

OSJ

Judge Signature

Date

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

BLUE TECHNOLOGIES SMART SOLUTIONS, LLC)	CASE NO. CV-18-902719
)	
Plaintiff,)	JUDGE CASSANDRA COLLIER-WILLIAMS
)	
v.)	
)	
OHIO COLLABORATIVE LEARNING SOLUTIONS, INC., et al.)	
)	
Defendants.)	

OHIO COLLABORATIVE LEARNING SOLUTIONS, INC., et al)	CASE NO. CV-20-933999
)	
Plaintiff,)	JUDGE CASSANDRA COLLIER-WILLIAMS
)	
v.)	
)	
BLUE TECHNOLOGIES SMART SOLUTIONS, LLC, et al.)	<u>ORDER</u>
)	
Defendants.)	

JUDGE C. COLLIER-WILLIAMS:

This case was called for a hearing on all outstanding motions on 04/23/2024. All parties appeared through counsel. Court reporter Angela Cudo was present.

Ohio Collaborative Learning Solutions Inc. and Anand Julka’s Motion to Quash Subpoenas to Thomas Zucker and Dominic DiPuccio and for Protective Order, filed 09/28/2023, is DENIED.

Upon further consideration, and for the reasons stated below, Ohio Collaborative Learning Solutions Inc. and Anand Julka’s Motion to Compel Defendants to Comply with Discovery Requests (“Motion to Compel”), filed 10/20/2023, is DENIED.

I. FACTUAL AND PROCEDURAL BACKGROUND

Although counsel for Ohio Collaborative Learning Solutions Inc. and Anand Julka (“Ohio Collaborative”) argues that this motion be granted because of its purported compliance with this court’s journal entry dated 05/07/2021 which stated: “as to document request no. 6 to all defendants, the motion is denied. Plaintiffs are free to re-write this discovery request with specificity as to whom they are seeking the information from and what information they are seeking.” This court does not agree.

After the entry dated 05/07/2021, Blue Technologies Smart Solutions, L.L.C. and Paul Hanna (“Blue Technologies”) appealed the case on 05/14/2021. This court, in an entry dated 05/19/2021, ordered: “a notice of appeal has been filed in this case, therefore all matters in this case are hereby stayed. all pending motions are hereby denied as moot. Upon return to the active docket, the parties may re-file the motions that are being denied as moot.”

On 08/03/2022, the case was remanded to the Cuyahoga Court of Common Pleas and returned to this court’s docket. The same day, a notice of appeal to the Ohio Supreme Court was filed in this case. On 11/18/2022, the case was remanded to the court of Cuyahoga Court of Common Pleas and returned to this court’s docket. On 01/09/2023, the court set a case schedule, including a discovery deadline of 05/05/2023.

Ohio Collaborative sent their Third Discovery Requests on 02/23/2023. This included the two requests for production (“RFP”) at issue in this motion: RFP No. 1 requests “electronically stored information relating to allegations outlined in the pleadings regarding the following ten (10) individuals: Anand Julka; Vijay Julka; Paul Sems; Paul Hanna; Clara Nader; Ed Furcolow; Megan Cornelius; David Morrill; Beth Palamara; and Bill Nelson.” RFP No. 2 seeks, for the same 10 individuals above, all emails, their attachments in the sent, inbox, deleted and archived folders for every email account utilized at Blue Technologies that were responsive to a list of 27 search terms: MBE, Asset Purchase Agreement, Earn-Out, Employment Agreement, Minority Business Enterprise, EdgePoint, Zucker, Support Agreement, Service Agreement, Janitorial Services, JSI, Taft, DiPuccio, Szabo, EBITDA, CAT, OCLS, Bill Julka, Julka Irrevocable Trust, Julka Revocable Trust, 2013 Transaction, 2013 APA, Vijay Julka, OCLS Litigation, Julka Litigation, Skoda, and Marcum.

On 04/11/2023, Blue Technologies sent their responses and objections. On 04/27/2023, parties filed a joint motion to extend all scheduled dates for an additional ninety (90) days. Following a Telephone Conference with the court on 06/29/2023, an entry dated 06/30/2023 extended the discovery deadline to 11/01/2023. During this 06/29/2024 Telephone Conference, Ohio Collaborative did not notify the court of any discovery issue related to RFP Nos. 1 or 2.

On 07/21/2023, more than three months after Blue Technologies responded to Ohio Collaborative's Third Discovery Requests, Ohio Collaborative sent a discovery deficiency letter to Blue Technologies indicating that responses to RFP Nos. 1 and 2 were deficient. On 07/28/2023, Blue Technologies responded. On 08/08/2023 and 09/19/2024, Ohio Collaborative sent letters to Blue Technologies. On 09/20/2023, Blue Technologies responded and declined to produce supplemental responses. On 10/20/2023, one month after Blue Technologies declined to produce additional responses to RFP Nos. 1 and 2, and less than two weeks before the amended 11/01/2023 discovery deadline, Ohio Collaborative filed the Motion to Compel. Ohio Collaborative sought an order compelling Blue Technologies to fully respond to RFP Nos. 1 and 2.

II. APPLICABLE LAW AND ANALYSIS

A. Motion to Compel Standard of Review

Ohio Collaborative moved Pursuant to Civ.R. 37(A)(1) which states: "On notice to other parties and all affected persons, a party may move for an order compelling discovery. The motion shall include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make discovery in an effort to obtain it without court action."

The scope of discovery is governed by Civ.R. 26(B)(1) which states: "Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the

proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.”

B. Analysis

Despite including Anand Julka, Ed Furcolow and Vijay Julka in their Motion to Compel, Ohio Collaborative had already received the complete email accounts of Anand Julka, Ed Furcolow, and Vijay Julka from Blue Technologies' server, a production that encompassed approximately 224,000 emails. In addition, in April 2021, Blue Technologies produced emails from the accounts of Paul Hanna, Beth Palamara, Clara Nadar, and Dave Vitaz from March 1, 2013 through September 15, 2013 using the following search terms: Julka, Zucker, DiPuccio, Carfagna, Szabo, Novak, Mesnick, Stump, EdgePoint, Smart, Solutions, SSI, Asset, Purchase, Due Diligence, and Earnout. This undercuts Ohio Collaborative's argument regarding the purported benefit of the discovery sought in its Motion to Compel. They have already received numerous emails relevant to these requests.

Coupled with the redundancy of their request, the information sought in RFP Nos. 1 and 2 remains extremely extensive, covering email accounts from ten (10) individuals limited only by 27 search terms, including search terms that will generate privileged information that Blue Technologies will need to review. The burden and expense to Blue Technologies to produce and review the documents will be significant.

Further, despite receiving Blue Technologies' responses and objections to Ohio Collaborative's Third Discovery Requests on 04/11/2023, Ohio Collaborative did not notify Blue Technologies of the perceived discovery deficiency until 07/21/2023. Then on 10/20/2023, Ohio Collaborative filed its Motion to Compel only only eleven (11) days before the amended discovery deadline; Blue Technologies' compliance with Ohio Collaborative's request would inevitably result in additional amendments to the case schedule.

For the foregoing reasons, the Motion to Compel is DENIED.

III. CONCLUSION

As discussed during the hearing on 04/23/2024, parties will have 30 days to conduct depositions, during which time Ohio Collaborative will have the opportunity to depose individuals, including those whose emails they requested in RFP Nos. 1 and 2. Blue Technologies will have the opportunity to depose individuals, including Thomas Zucker and Dominic DiPuccio.

The court sets the following schedule:

Parties may conduct depositions until 05/24/2024.

Dispositive motion to be filed by 06/07/2024. Response due 30 days after service of the motion. Reply brief due 10 days after service of response. Copies of all dispositive motions and briefs are to be provided to the court upon filing.

Final Pretrial set for 09/25/2024 at 02:00 p.m. Courtroom 23-A. All parties including those with settlement authority must be present.

Trial by Jury set for 11/04/2024 at 8:30 a.m.

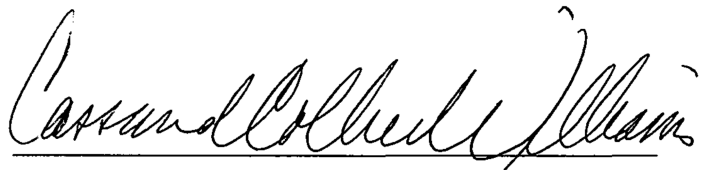
No further extensions will be granted.

Failure to appear at any court scheduled event in the future may result in dismissal of plaintiff's claims for want of prosecution or judgment rendered against defendant.

IT IS SO ORDERED.

4/29/2024

DATE



JUDGE CASSANDRA COLLIER-WILLIAMS