

BEFORE THE ALLEGHENY COUNTY HEALTH DEPARTMENT

THE CRACK'D EGG, LLC,

Appellant,

v.

No. ACHD-22-023

THE ALLEGHENY COUNTY
HEALTH DEPARTMENT

Appellee.

RESPONSE TO MOTION TO COMPEL DISCOVERY

AND NOW, The Crack'd Egg, LLC, by its Counsel, James R. Cooney, submits the within Response to Motion to Compel Discovery:

1. Admitted.
2. Admitted.
3. Denied. The Appellant denies that its answers were non-responsive.
4. Admitted in part. Appellant admits that the ACHD has properly set forth a portion of Pa.R.Civ.P. 4019.
5. Admitted in part. Appellant admits that the ACHD has properly set forth a portion of Pa.R.Civ.P. 4019.
6. Denied. The Appellant denies that its objections are "specious."
7. Admitted.
8. Admitted in part and denied in part. Appellant admits that it posited the objection but denies that the documents are necessary to determine the "responsible party" for Appellant. To the contrary, as set forth in Answer to

Interrogatory Number 3, Appellant has identified its owners/members as Kimberly Waigand and Donald Waigand. Appellant believes that this is a sufficient answer.

9. Admitted.

10. Admitted in part and denied in part. Appellant admits that it posited the objection but denies that the requested information, the educational and job history of the Cracked Egg's employees, has any relevance to any of the issues in this case. To the contrary, the ACHD's request is nothing more than an attempt to require Appellant and its Counsel to engage in "busy work." As such, the request results in an unreasonable annoyance and burden upon the Appellant. See, Pa.R.Civ.P 4011.

11. Denied. The "level of expertise" of the Cracked Egg's employees has no relevance to any of the issues in this case. By way of further response, Appellant incorporates its response to Paragraph 10 above.

12. Admitted.

13. Admitted in part and denied in part. Appellant admits that it posited the objection but denies that the requested information, correspondence with E.A.T., has any relevance to any of the issues in this case. In any event, and in an effort to resolve this particular issue, the Appellant has no documents reflecting correspondence with E.A.T.

14. Admitted.

15. Denied. The Appellant does not understand this request or how any correspondence engaged in by the Appellant "would tend to show the

compliance status of other restaurants,” which information is known solely to the ACHD.

16. Admitted.

17. Denied. The Appellant denies that its position constitutes an “obtuse and outdated reading of the term ‘document.’” See, Pa.R.Civ.P. 4009.1. See also, Pa.R.Civ.P. 4014 (a) which provides in relevant part that:

A party may serve upon any other party a written request for the admission ... including the genuineness, authenticity, correctness, execution, signing, delivery, mailing or receipt of any document...

A video cannot be executed or signed. Accordingly, a video is obviously not within the scope of the rule.

18. Admitted in part. As indicated, Rule 4009.1 makes no reference to a video.

19. Denied. This argument is contrary to the clear wording of the Pa. Rules of Civil Procedure.


20. This is irrelevant. The definitions set forth in the requests cannot override the Rules of Civil Procedure.

21. Denied. Appellant hereby incorporates its response to paragraph 17.

22. Denied. The Appellant does not understand this request. The Appellant also denies that it is withholding any information responsive to the requests.

Wherefore, the Appellant respectfully requests that the Hearing Officer deny the Motion to Compel Discovery.

Respectfully Submitted,


James R. Cooney
PA I.D. #32706

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CERTIFICATE OF SERVICE

18th

I, James R. Cooney, hereby certify, that on the 17th day of August, 2022, I served a true and correct copy of the foregoing **Response** upon Counsel for the Appellee, by E-mail, addressed as follows:

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James R. Cooney